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City Council Agenda

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

September 5, 2006
6:00 PM

City Manager: Norton N. Bonaparte, Jr.

Mayor: William W. Bunten

Councilmembers

Lana Kennedy	District No. 1	Clark Duffy	District No. 6
John Alcala	District No. 2	Brett Blackburn	District No. 7
Sylvia E. Ortiz	District No. 3	Jeff Preisner	District No. 8
John Nave	District No. 4	Richard Harmon	District No. 9
Bill Haynes	District No. 5		

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

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

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

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

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

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INVOCATION:

PLEDGE OF ALLEGIANCE:

1. PROCLAMATIONS:

2. ROLL CALL:

3. CONSENT AGENDA:

A. Communication - Board of Plumbing Examiners

☐ [ATTACHMENTS](#)

A COMMUNICATION recommending the appointment of Doug Snook, 3216 SW Westwood Court, to the Board of Plumbing Examiners for a two-year term that would expire on September 30, 2008. *(Council District No. 5)*

B. Communication - Board of Zoning Appeals

A COMMUNICATION recommending the re-appointment of John Williams, 2435 SE Madison to the Board of Zoning Appeals for a three-year term that would expire on September 30, 2009. *(Council District No. 3)*

C. Communication - Board of Zoning Appeals

☐ [ATTACHMENTS](#)

A COMMUNICATION appointing Ivan Weichert, 1932 SW Collins, to the Board of Zoning Appeals for a three-year term that would expire on May 31, 2009. *(Council District No. 6)*

(The communication corrects the term of service initially approved in May 2006. The length of service would change from a one-year term to a three-year term.)

D. Communication - Washburn University Board of Regents

☐ [ATTACHMENTS](#)

A COMMUNICATION recommending the appointment of James Lagerberg, 1811 Campbell, to the Washburn University Board of Regents to fill an unexpired term that would expire on June 30, 2007. *(Council District No. 6)*

E. Communication - Workers' Compensation Settlement

A COMMUNICATION authorizing a Workers' Compensation Settlement for Mark Meier in the amount of \$28,000.

(The communication would permit the legal department to settle the claim.)

F. Resolution - Burlington Northern Santa Fe-Noise Exception

☐ [ATTACHMENTS](#)

A RESOLUTION introduced by Councilmember Lana Kennedy, granting Burlington Northern Santa Fe an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions. *(Council District No. 1)*

(The United Way Kick-Off and Pledge Drive will take place during the hours of 11:00 am and 2:00 pm on September 11, 2006)

G. MINUTES of the regular meeting of August 22, 2006

H. APPLICATIONS:

4. UNFINISHED BUSINESS:

Ordinance - Court Costs/Fees, Warrant Fees, Municipal Court Procedure

☐ [ATTACHMENTS](#)

- A. AN ORDINANCE** introduced by City Manager, Norton N. Bonaparte, Jr., relating to court ordered costs and fees, witness fees, contempt powers, warrants, arrest procedures, sentencing procedures and parole, repealing City of Topeka Code Sections 50-47, 50-49 and 50-50, amending City of Topeka Code Sections 50-26, 50-41, 50-54, 50-60, 50-64, 50-99 and 50-101, and repealing said original sections. Final Reading. *(Deferred from the meeting of August 22, 2006)*

(The Kansas Legislature has made significant changes recently to provisions of state law concerning increased court costs. While reviewing these new provisions for compliance, city staff also discovered other changes that need to be incorporated in City Code to better comply with state law relating to Municipal Court powers, costs, fees and procedures. Additionally, amendments are proposed to reduce duplicative and potentially contradictory provisions of City Code related to costs and fees.)

B. Ordinance - Police Department Equipment Fund

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by Councilmember Brett Blackburn amending City of Topeka Code Section 2-336 by establishing a police department equipment fund. Final Reading.

(The fund would provide a depository for monies to be used for police department equipment purchases.

5. NEW BUSINESS:

A. Communication-Civil Claim Appeal

DENIAL OF CLAIM APPEAL by Steve Rothrock seeking \$300.00 for damages sustained to the sprinkler system pipes at his residence located at 5956 S.W. Clarion Lane.

(Claimant is appealing the denial of his claim against the City of Topeka.)

B. Communication-Civil Claim Appeal

DENIAL OF CLAIM APPEAL by Robert D. Ediger seeking \$486.11 for damages sustained to the sprinkler system pipes at his residence located at 5957 SW Clarion.

(Claimant is appealing the denial of his claim against the City of Topeka.)

C. Petition, Project Budget and Resolution for Project No. 40936-01

☐ [ATTACHMENTS](#)

A PUBLIC IMPROVEMENT PETITION, A PROJECT BUDGET in the amount of \$470,000 and **A RESOLUTION** introduced by City Manager Norton N. Bonaparte, Jr., authorizing Sanitary Sewer Improvement Project No. 40936-01, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. *(Council District No. 5)*

(This project is located two blocks northwest of SE 45th Street and SE Adams Street in the Horseshoe Bend Subdivision.)

D. Resolution - Transfer of Softball Trust Account Funds

☐ [ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing an expenditure from the Softball/Sports Facilities Reserve Fund for ongoing maintenance at any Parks and Recreation of Topeka softball facilities, pursuant to City of Topeka Ordinance No. 16269.

(Resolution that transfers \$17,160 from the Softball/Sports Facilities Reserve Fund to the Topeka Parks and Recreation Foundation, Softball Improvement Account.)

E. Resolution Setting Public Hearing for Project No. 60619-00

☐ [ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., setting the public hearing for Street Improvement Project No. 60619-00 which provides for paving certain streets located in Horseshoe Bend Subdivision, as more specifically described herein.

(The public hearing is set for October 10, 2006. The project is located two blocks northwest of SE 45th Street and SE Adams Street in the Horseshoe Bend Subdivision.)

F. Ordinance - Weekly Expenditures for August 7-13, 2006

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 7, 2006, through August 13, 2006, and enumerating said expenditures therein. First and Final Reading.

G. Ordinance - Weekly Expenditures August 14-20, 2006

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period August 14, 2006, through August 20, 2006, and enumerating said expenditures therein. First and Final Reading.

6. PLANNING:

A. Ordinance- Team II L.L.C. (Z06/10)

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 713 SW Topeka Blvd. in the City of Topeka, Kansas from "C-3" Commercial District TO "O&I-3" Office and Institutional District. Final Reading (Z06/10)(Council District No. 1) *(The Planning Commission recommended approval by a vote of 7-0-1 on August 21, 2006.) (The Planning Department recommended approval.)*

(Approval would allow the property to continue to be utilized for the existing vehicle surface parking lot in conjunction with the proposed Conditional Use Permit, CU06/5.)

B. Resolution- Team II L.L.C. (CU06/5)

☐ [ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr. in accordance with Section 48-14.02(c)(10) of the Code of the City of Topeka, approving a Conditional Use Permit for the purpose of a vehicle surface parking lot on property zoned "O&I-3" Office and Institutional District and located at 713 SW Topeka Boulevard in the City of Topeka, Kansas. Final Reading. (CU06/5) (Council District No. 1) *(The Planning Commission recommended approval by a vote of 7-0-1 on August 21, 2006.) (The Planning Department recommended approval.)*

(Approval would allow the property to continue to be used as a vehicle surface parking lot in conjunction with the rezoning of the property to the "O&I-3" Office and Institutional District, Z06/10.)

7. FIRST READINGS:

A. Ordinance - Construction of Parking Lots

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by Councilmember Lana Kennedy, relating to construction of parking lots and establishing Topeka City Code Chapter 26, Article XIV and Sections 26-660 and 26-662. First Reading.

(The ordinance would require a permit to be obtained prior to the construction of a stand alone parking lot.)

B. Ordinance - Grease Hauler Licensing

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, amending City of Topeka Codes Section 146-196, 146-283 and reserved sections 146-354 through 146-367, and specifically repealing said original sections. First Reading.

(This ordinance amends language relating to record keeping, reporting and additive use in grease traps/interceptors. The licensing of grease haulers is also addressed.)

C. Ordinance - Improvement Project No. 30260-00

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30260-00, which provides for design and construction services for a new Animal Health Clinic at the City of Topeka Zoo to create a total minimum working environment of 2,400 square feet, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. First reading. *(Council District No. 9)*

(This Ordinance will allow for the construction of additional building space to provide for improved animal veterinary care at the City of Topeka Zoo.)

D. Ordinance - LEC Improvement Project No. 13144-01

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the project budget and authorizing as amended Improvement Project No. 13144-01 which provides for improvements to the Law Enforcement Center. First Reading.

(The original project budget included improvements to City Hall and the LEC. Council split the project budget into two budgets, one for each building. The budget for the LEC was exceeded by \$7,665.51 while the budget for City Hall was under run resulting in no increases to the original GO bonded requirement.)

E. Ordinance - Mexican Independence Day Celebration - CMB

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by Councilmember Lana Kennedy authorizing the purchase, possession and consumption of cereal malt beverages during the Celebration of Mexican Independence Day on September 16, 2006, in downtown Topeka. First reading. *(Council District No. 1)*

(The Mexican Independence Day Celebration is an event sponsored by Downtown Topeka, Inc.)

F. Ordinance - Prepaid Motor Fuel

☐ [ATTACHMENTS](#)

AN ORDINANCE introduced by Deputy Mayor Jeff Preisner, relating to the payment of gasoline and/or diesel fuel, amending City of Topeka Code Chapter 30. First reading.

(The ordinance would require prepayment for gasoline and/or diesel fuel sold to the public or at retail.)

G. Ordinance - Trafficway Improvement Project No. 70200-01

☐ [ATTACHMENTS](#)

An ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing an amendment to the project budget for Project No. 70200-01, which provides for reconstruction of S.W. Wanamaker Road from S.W. 37th Street to S.W. 39th Street, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, and repealing City of Topeka Ordinance No. 18089. First reading.

(This Ordinance amends the project budget for Trafficway Improvement Project No. 70200-01, which widens S.W. Wanamaker Road from S.W. 37th Street to S.W. 39th Street. The amendment increases the project budget to account for additional funding to the project from the ½ Cent Sales Tax.)

8. MISCELLANEOUS:

-

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

-

10. PUBLIC COMMENT:

-

11. ADJOURNMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 11, 2006

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DATE:	August 11, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Topeka, Kansas 66603

August 11, 2006

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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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August 11, 2006

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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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Topeka, Kansas 66603

August 11, 2006

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DATE:	August 11, 2006	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

August 15, 2006

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DATE:	August 11, 2006	
CONTACT PERSON:	Celeste Benton	DOCUMENT #:
SECOND PARTY/SUBJECT:	Board of Plumbing Examiners	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the appointment of Doug Snook, 3216 SW Westwood Court, to the Board of Plumbing Examiners for a two-year term that would expire on September 30, 2008. *(Council District No. 5)*

POLICY ISSUE:

NA

STAFF RECOMMENDATION:

The Mayor is recommending the appointment of Mr. Doug Snook, 3216 SW Westwood Ct., to the Board of Plumbing Examiners for a two-year term that would expire September 30, 2008. A resume is attached for review.

BACKGROUND:

Section 26-236 and Ordinance 18382. The Board of Plumbing Examiners reviews applications and approves the issuance of licenses in accordance with the City Code. The board is empowered to hear and determine interpretations of applicable codes and to permit exceptions, variances or waivers therefrom, provided they meet the intent of the adopted code.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[Board of Plumbing Examiners-Snook Bio](#)

Dave Lundry
City of Topeka

August 4, 2006

RE: City of Topeka Plumbing Board

Dear Mr. Lundry,

My name is Douglas L. Snook Jr., as per your request; this is a brief description about myself and work history. I am a third generation plumber. I started my apprenticeship in 1984, and I am currently a co-owner of Plumbing by Snook and Warren, Inc. I have been a Master Plumber for nineteen years.

Work Experience

I served my apprenticeship with Piping Contractors of Kansas and was employed with them for seven years. I worked on commercial and industrial projects.

I served as maintenance plumber for nine years at Stormont Vail Hospital. While employed at the hospital, I was responsible for all plumbing issues.

I have owned and operated my own commercial plumbing business for the past eight years, specializing in residential remodel and repair, new home construction and small commercial projects.

Thank you for your consideration,

Douglas L. Snook Jr.
3216 SW Westwood Ct.
Topeka, KS 66614
(785) 228-0228 (w)
(785) 273-4356 (h)



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 8, 2006

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DATE: August 11, 2006
CONTACT PERSON: Celeste Benton
SECOND PARTY/SUBJECT: Board of Zoning Appeals
CATEGORY/SUBCATEGORY
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the re-appointment of John Williams, 2435 SE Madison to the Board of Zoning Appeals for a three-year term that would expire on September 30, 2009. *(Council District No. 3)*

POLICY ISSUE:

NA

STAFF RECOMMENDATION:

The Mayor is recommending the re-appointment of John Williams, 2435 SE Madison, to the Board of Zoning Appeals for a three-year term that would expire September 30, 2009. The attendance policy states that any member missing three consecutive meetings without extenuating circumstances shall be reported by the chair to the appointing authority for possible replacement. Mr. Williams missed one meeting in 2005 and attended all meetings in 2006.

BACKGROUND:

Section 48-34.00 et seq. and Ordinance 18288. The Board of Zoning Appeals administers the details of appeals from, or other matters referred to it, regarding the application of the zoning regulations of the city and conducts business in accordance with the Comprehensive Zoning Regulations as codified in the City of the Topeka Code 48-34.00 et seq.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

No Attachments Available



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 21, 2006

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DATE: August 11, 2006
CONTACT PERSON: Celeste Benton
SECOND PARTY/SUBJECT: Board of Zoning Appeals
CATEGORY/SUBCATEGORY
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION appointing Ivan Weichert, 1932 SW Collins, to the Board of Zoning Appeals for a three-year term that would expire on May 31, 2009. *(Council District No. 6)*

(The communication corrects the term of service initially approved in May 2006. The length of service would change from a one-year term to a three-year term.)

POLICY ISSUE:

NA

STAFF RECOMMENDATION:

The Mayor is recommending the appointment of Ivan Weichert, 1932 SW Collins, to the Board of Zoning Appeals for a three-year term that would expire on May 31, 2009. Resume is attached.

BACKGROUND:

Topeka City Code 48-34.00 et seq and Ordinance 18382. The Board of Zoning Appeals administers appeals referred to it regarding the application of the zoning regulations of the city and conducts business in accordance with the comprehensive zoning regulations as codified in the Topeka City Code 48-34.00 et seq.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[Information Sheet](#)

Ivan L. Weichert
1932 SW Collins Avenue
Topeka KS 66604-3223
Home: (785) 232-9261
Work: (785) 296-0257

Current position: Director, Geographic Information Systems, Kansas Information Technology Office, State of Kansas.

Previously served as Zoning Administrator for Shawnee County 1993-1999.

Previously served on the Topeka-Shawnee County Metropolitan Planning Commission prior to and after the Zoning Administrator appointment, as well as the Joint Zoning Appeals Board.

I also currently serve as:

Director, Topeka Habitat for Humanity
President, North Topeka Housing Corporation (Shorey Villa HUD Housing Project)
Member, Community Housing Resources Board
Corporate Secretary, Mid America GIS Consortium
Past President, Kansas Association of Mappers

I would again consider it an honor to serve our community, the City Council, and the Mayor, on the Topeka Zoning Appeals Board. Thank you for your consideration.

Regards, Ivan L. Weichert.



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 18, 2006

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DATE:	August 11, 2006	
CONTACT PERSON:	Celeste Benton	DOCUMENT #:
SECOND PARTY/SUBJECT:	Washburn University Board of Regents	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the appointment of James Lagerberg, 1811 Campbell, to the Washburn University Board of Regents to fill an unexpired term that would expire on June 30, 2007. (Council District No. 6)

POLICY ISSUE:

NA

STAFF RECOMMENDATION:

The Mayor is recommending the appointment of James Lagerberg, 1811 Campbell, to the Washburn University Board of Regents to fill an unexpired term, which will end June 30, 2007. Mr. Lagerberg resides in the 18th Senatorial District. A resume is attached for review.

BACKGROUND:

KSA 13-13a01 et seq, which created The Washburn University Board of Regents requires that three members be appointed by the Mayor with the approval of Council and be registered voters; residents of the city and that one member be appointed from each of the three districts from which state senators are elected by the residents of the city. Other current Mayoral appointees are as follows: Blanche Parks - 19th Senatorial District and Bob Storey - 20th Senatorial District.

BUDGETARY IMPACT:

NA

SOURCE OF FUNDING:

NA

ATTACHMENTS:

[WBOR - Lagerberg Bio](#)

JIM (JAMES P.) LAGERBERG

1811 Campbell

Topeka, Kansas 66604

785-235-6123

e-mail: mjlag@cox.net

Born: December 14, 1929

Attended Topeka Public Schools, graduating from Topeka High School in 1948. Graduated from Washburn University in 1953. Upon graduation, was commissioned a 2nd Lt. in the U.S.A.F. and served 2 years active duty and 6 years in the reserve.

Married Mary Powell Lagerberg in 1952. She attended W.U. for 2 years and has been active in the Washburn Women's Alliance, Mulvane Woman's Board and Delta Gamma Alums.

Daughters, Cathy Smith and Cindy Lines, both attended W.U. with Cindy graduating in 1980

Employed part-time by Capital Iron Works in 1953 and full time in 1956 until retirement in 2004. Served as President for 17 years

Active in the following organizations:

Phi Delta Theta Fraternity

Topeka Jaycees

Topeka Chamber of Commerce

20-30 Club

Washburn University Alumni Assn. (Past Board Member)

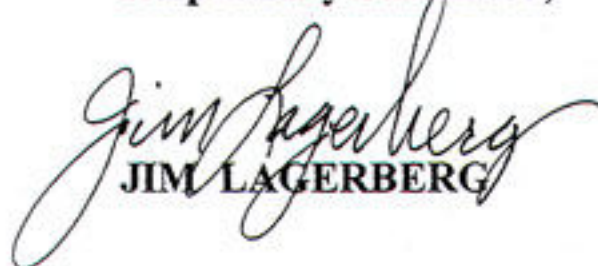
Ichabod Club (Past Board Member)

Precinct Committeeman

Topeka Country Club

Member of West Side Baptist Church for 65 years and presently serving as Deacon and Treasurer

Respectfully Submitted,


JIM LAGERBERG



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214 SE 8th Street
Topeka, Kansas 66603

August 22, 2006

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DATE:	August 11, 2006	
CONTACT PERSON:	Eric Smith, Assistant City Attorney	DOCUMENT #:
SECOND PARTY/SUBJECT:	Mark Meier	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION authorizing a **Workers' Compensation Settlement** for Mark Meier in the amount of \$28,000.

(The communication would permit the legal department to settle the claim.)

POLICY ISSUE:

Whether the City Council wants to agree to settle a current Workers' Compensation Claim. The alternative would be to fully defend the matter through the Workers' Compensation system.

STAFF RECOMMENDATION:

Staff recommends the Council approve the proposed settlement offer.

BACKGROUND:

The City Attorney's Office has reached a conditional agreement, subject to Council approval, to settle Mark Meier's Workers' Compensation claim in the amount of \$28,000.00.

BUDGETARY IMPACT:

\$28,000.00

SOURCE OF FUNDING:

City's self-insured workers' compensation fund.

ATTACHMENTS:

No Attachments Available



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 22, 2006

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DATE:	August 11, 2006	
CONTACT PERSON:	Lana Kennedy	DOCUMENT #:
SECOND PARTY/SUBJECT:	Richard Goodwin-BNSF	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember Lana Kennedy, granting Burlington Northern Santa Fe an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions. (Council District No. 1)

(The United Way Kick-Off and Pledge Drive will take place during the hours of 11:00 am and 2:00 pm on September 11, 2006)

POLICY ISSUE:

None

STAFF RECOMMENDATION:

None

BACKGROUND:

Noise exception for amplified music during the United Way Kick-Off and Pledge Drive at the northeast corner of 11th Street and Quincy Street during the hours of 11:00 am and 2:00 pm on September 11, 2006.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

None

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION introduced by Councilmember Lana Kennedy, granting Burlington Northern Santa Fe an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions.

WHEREAS, City of Topeka Code Section 54-148 makes it unlawful for any person to make, continue or cause to made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health or safety or others within the limits of the city; and

WHEREAS, City of Topeka Code Section 54-148 authorizes the City Council to grant exceptions to the prohibitions of this code section upon request and a showing that the proposed activity does not offend the spirit of the findings of City of Topeka Code Section 54-146; and

WHEREAS, Burlington Northern Santa Fe has requested that it be granted an exception to the provisions of City of Topeka Code Section 54-148 for the purposes, dates and times described herein, and

WHEREAS, upon review of the application of Burlington Northern Santa Fe, the Council of the City of Topeka does hereby find that the requested activity does not offend the spirit of the findings of City of Topeka Code Section 54-146.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that Burlington Northern Santa Fe is hereby granted an exception from the provisions of City of Topeka Code Section 54-148 for a deejay and amplified

26 music at the United Way Kick-Off and Pledge Drive located at 11th and Quincy
27 during the hours of 11:00 a.m. and 2:00 p.m. on September 11, 2006. The event
28 will be held in the lot on the northeast corner.

29 ADOPTED and APPROVED by the City Council _____.

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31

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33

William W. Bunten, Mayor

34

35

36

Iris E. Walker, City Clerk

37



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 11, 2006

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DATE:	August 11, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
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Topeka, Kansas 66603

August 23, 2006

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DATE:	August 11, 2006	
CONTACT PERSON:	Steven R. Ebberts	DOCUMENT #:
SECOND PARTY/SUBJECT:	Court Costs 2006	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:	First Reading (07/11) Deferred 1 week (07/18) Deferred 3 weeks (07/25) Deferred 1 week (08/22)	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to court ordered costs and fees, witness fees, contempt powers, warrants, arrest procedures, sentencing procedures and parole, repealing City of Topeka Code Sections 50-47, 50-49 and 50-50, amending City of Topeka Code Sections 50-26, 50-41, 50-54, 50-60, 50-64, 50-99 and 50-101, and repealing said original sections. Final Reading. *(Deferred from the meeting of August 22, 2006)*

(The Kansas Legislature has made significant changes recently to provisions of state law concerning increased court costs. While reviewing these new provisions for compliance, city staff also discovered other changes that need to be incorporated in City Code to better comply with state law relating to Municipal Court powers, costs, fees and procedures. Additionally, amendments are proposed to reduce duplicative and potentially contradictory provisions of City Code related to costs and fees.)

POLICY ISSUE:

Whether the Council desires to approve ordinance changes that would allow the Municipal Court to comply with state law concerning increased court costs effective July 1, 2006, codify a warrant fee surcharge, and generally "clean-up" provisions of Municipal Court procedure.

STAFF RECOMMENDATION:

Staff from the City Attorney's Office and Municipal Court recommend approval of all provisions.

BACKGROUND:

The Kansas Legislature has made significant changes recently to provisions of state law concerning increased costs for municipal court cases. While reviewing these provisions for compliance, City staff discovered other changes that need to be amended in City Code to better comply with state law, reduce duplicative and potentially contradicting provisions of City Code and add provisions of the City Code relating to Municipal Court powers, costs, fees and procedures.

BUDGETARY IMPACT:

Three provisions of the proposed ordinance have a budgetary impact. First, increased court costs. Although court costs are to be increased by \$10, this amount is a "pass through" to persons convicted of crimes and should have little, if any, effect on the court's budget. Second, increasing the warrant from the current \$5.00 to \$25.00 will increase General Fund revenue and should ultimately help defer costs for warrant processing. Third, increased witness fees. This will increase the court's expenditures, but by a projected increase amount of less than \$1000 per year.

SOURCE OF FUNDING:

Persons convicted of crimes in court and the court's budget.

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News_____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to court costs and fees, search warrants, arrest procedures, and sentencing procedures, repealing City of Topeka Code §§ 50-47, 50-49 and 50-50, amending City of Topeka Code §§ 50-26, 50-41, 50-54, 50-60, 50-64, 50-99, and 50-101, and repealing said original sections.

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

Section 1. Topeka City Code § 50-26, Court costs and fees, is hereby amended to read as follows:

Court costs and fees.

The following costs and fees shall be charged in the municipal court:

(1) ~~Costs per case:~~ Unless otherwise prohibited by City ordinance or Kansas law, persons who plead no contest, plead guilty, or who are convicted shall be assessed costs for the administration of justice in any municipal court case, including:

a. Each case, except as described in ~~\$38.00~~61.00

subsection b without regard to the
number of counts.

b. Each criminal misdemeanor case ~~\$105.00~~128.00

equivalent to an A or B
misdemeanor as defined by state
law or a misdemeanor defined by City ordinance

c. ~~Each continuance requested by~~ ~~_____~~ ~~\$5.00~~

29 ~~defendant~~.....

30 d. ~~Failure to appear~~..... ~~\$10.00~~

31 (2) For mileage, subpoena and witness costs for defense witnesses:

32 a. Per day or any part thereof for an ~~\$2.50~~ 5.00

33 appearance

34 b. Plus, per mile actually driven over Reimbursement

35 ten (10) miles consistent with Internal

36 Revenue Service allowed

37 rate.

38 (3) For mileage driven by a law Reimbursement

39 enforcement officer to serve a consistent with Internal

40 subpoena or warrant or to transport Revenue Service allowed

41 a person arrested or detained in the rate.

42 state under a warrant issued by the

43 municipal court, per mile actually

44 driven over ten (10) miles outside the

45 city limits

46 (4) For each warrant issued \$25.00

47 (5) ~~For each commitment warrant~~..... ~~\$25.00~~

48 ~~issued for failure to pay a fine or~~

49 ~~abide by a sentence of the court~~.....

50 (6) State mandated fees:

- a. Judicial branch education fund
(K.S.A. 12-4116 and
amendments thereto): Each
case, without regard to the
number of counts, shall be
assessed an amount fixed by
order of the state supreme
court. Funds collected pursuant
to this assessment shall be
distributed as required by state
law.
- b. Local law enforcement ~~training~~
~~center funds~~, ~~local law~~
~~enforcement reimbursement~~
~~fund~~, ~~juvenile detention facilities~~
~~fund~~, ~~protection from abuse~~
~~fund~~, ~~and crime victims~~
~~assistance fund~~ (as required by
state law): Each case, without
regard to the number of counts,
charging a criminal or public
offense or charging an offense

73 defined as a moving traffic
74 offense pursuant to state law
75 shall be assessed an amount
76 fixed by state law. Funds
77 collected shall be distributed as
78 required by state law.

79 e. ~~Domestic violence shelter shall~~
80 ~~be assessed an amount fixed~~
81 ~~pursuant to state law. Funds~~
82 ~~collected shall be distributed as~~
83 ~~required by state law~~

84 (76) Crime Prevention Fund. \$3.50

85 (7) Except as provided herein, the judge or clerk of the municipal court shall
86 remit at least monthly the appropriate assessments received pursuant to this section as
87 required by state law, supreme court order or City of Topeka ordinance.

88 (8) For the purpose of determining the amounts to be assessed according to
89 this section, if more than one (1) complaint is filed against one (1) individual arising out
90 of the same incident, all such complaints shall be considered as one (1) case.

91 Section 2. Topeka City Code § 50-41, Municipal judge; powers and duties,
92 hereby amended to read as follows:

Municipal judge; powers and duties.

(a) The municipal judge shall have the power to administer the oaths and enforce all orders, rules and judgments made by such municipal judge; may issue search warrants based on probable cause for violations of municipal ordinance, excluding warrants sought by the public works director or designated employees of that department; and may fine or imprison for contempt ~~committed in court or for failure to obey process issued by such municipal judge, the city attorney or an assistant city attorney, a law enforcement officer, an animal control officer, parking control officer as specifically authorized by Topeka City Code section 142-429, property maintenance inspectors as specifically authorized by Topeka City Code section 142-355 or a fire department employee with authority to enforce the uniform fire code,~~ in the same manner and to the same extent as a judge of the district court.

(b) The municipal judge shall have the power to hear and determine all cases properly brought before such municipal judge and to: issue search or arrest warrants for violations of municipal ordinance, excluding warrants sought by the environmental code services director or employees of that agency; grant continuances; sentence those found guilty to a fine or confinement in jail, or both; commit accused persons to jail in default of bond; determine applications for parole; release on probation; grant time in which a fine may be paid; correct a sentence; suspend imposition of a sentence; set aside a judgment; permit time for post trial motions; and discharge accused persons.

(c) The municipal judge shall maintain a docket in which every cause commenced before such municipal judge shall be entered. Such docket shall contain

the names of the accused persons and complainant, the nature or character of the offense, the date of trial, the names of all witnesses sworn and examined, the finding of the court, the judgment and sentence, the date of payment, the date of issuing commitment, if any, and every other fact necessary to show the full proceedings in each case.

(d) The municipal judge shall promptly make such reports and furnish the information requested by any departmental justice or the judicial administrator, in the manner and form prescribed by the ~~S~~supreme ~~C~~court.

(e) The municipal judge shall ensure that information concerning dispositions of city ordinance violations that result in convictions comparable to convictions for class A and B misdemeanors under Kansas Criminal Statutes is forwarded to the Kansas Bureau of Investigation central repository. This information shall be transmitted, on a form or in a format approved by the attorney general, within thirty (30) days of final disposition.

Section 3. Topeka City Code § 50-47, Costs, is hereby specifically repealed:

~~Costs.~~

~~Persons who plead no contest, plead guilty, or who are convicted shall be assessed costs for the administration of justice in any municipal court case, including, but not limited to: witness fees and mileage as set forth in K.S.A. 12-4411, and amendments thereto; the assessments required by K.S.A. 1998 Supp. 20-1a11 for the Judicial Branch Education Fund; the assessment required by K.S.A. 1998 Supp. 12-~~

~~4117 and amendments thereto for the Law Enforcement Training Center Fund established pursuant to K.S.A. 74-5619 and amendments thereto; the Local Law Enforcement Training Reimbursement Fund established pursuant to K.S.A. 74-5620; the Juvenile Detention Facilities Fund as provided in K.S.A. 1998 Supp. 12-4117 and amendments thereto; and for the assessment required by K.S.A. 1998 Supp. 12-16, 119, and amendments thereto, for the detention facility processing fee.~~

Section 4. Topeka City Code § 50-49, Judicial branch education fund; assessments against municipal cases, is hereby specifically repealed.

~~Judicial branch education fund; assessments against municipal cases.~~

~~In each case filed in municipal court where there is a finding of guilty or a plea of guilty, a plea of no contest, forfeiture of bond, or a diversion, a sum in an amount not to exceed \$1.00 shall be assessed for the training, testing and continuing judicial education of municipal judges as provided in K.S.A. 12-4114, and amendments thereto. Except as provided herein, the judge or clerk of the municipal court shall remit at least monthly all assessments received pursuant to this section to the state treasurer for deposit in the state treasury to the credit of the judicial branch education fund. If the amount of assessments collected in a month are less than \$250.00, the municipal court may delay remitting its assessments until a month in which the cumulative amount of assessments collected equals or exceeds \$250.00. If the cumulative amount of assessments collected never equals or exceeds \$250.00 for the year, the amount of assessments collected and on hand on December 31 of the year shall be remitted to the state treasurer. The specific amount of the assessment shall be fixed by order of the~~

supreme court. For the purpose of determining the amount to be assessed according to this section, if more than one complaint is filed against one individual arising out of the same incident, all such complaints shall be considered as one case. For the purpose of this section, parking violations shall not be considered as cases.

Section 5. Topeka City Code § 50-50, Municipal Court assessments, is hereby specifically repealed.

Municipal court assessments.

(a) ~~In each case filed in municipal court charging a criminal or public offense or charging an offense defined to be a moving violation by rules and regulations adopted pursuant to K.S.A. 8-249 and amendments thereto, where there is a finding of guilty or a plea of guilty, a plea of no contest, forfeiture of bond or a diversion, a sum in the amount of \$10.50 shall be assessed and such assessment shall be credited as follows:~~

~~One dollar to the Local Law Enforcement Training Reimbursement Fund established pursuant to K.S.A. 74-5620 and amendments thereto, \$2.00 to the Law Enforcement Training Center Fund established pursuant to K.S.A. 74-5619 and amendments thereto, \$2.00 to the Juvenile Detention Facilities Fund established pursuant to K.S.A. 79-4803 and amendments thereto to be expended for operational costs of facilities for the detention of juveniles, \$0.50 to the Protection from Abuse Fund established pursuant to K.S.A. 74-7325 and amendments thereto, \$0.50 to the Crime Victims Assistance Fund established pursuant to K.S.A. 74-7334 and amendments thereto, and \$1.00 to the Trauma Fund established pursuant to K.S.A. 1999 Supp. 75-~~

5670, and amendments thereto, and \$3.50 to the Crime Prevention Fund established pursuant to City of Topeka Code [section] 2-231.

~~(b) The judge or clerk of the municipal court shall remit at least monthly the appropriate assessments received pursuant to this section to the city treasurer for deposit in the Crime Prevention Fund or to the state treasurer for deposit in the state treasury to the credit of the Local Law Enforcement Training Reimbursement Fund, the Law Enforcement Training Center Fund, the Juvenile Detention Facilities Fund, the Crime Victims Assistance Fund and the Trauma Fund, as provided in this section.~~

~~(c) For the purpose of determining the amount to be assessed according to this section, if more than one complaint is filed in the municipal court against one individual arising out of the same incident, all such complaints shall be considered as one case.~~

Section 6. Topeka City Code § 50-54, Same; how used; issuance of warrant; refusal to issue; effect, is hereby amended to read as follows:

Same; how used; issuance of warrant; refusal to issue; effect.

A copy of the complaint shall be served, together with a notice to appear or a warrant, by a law enforcement officer, the city attorney, an assistant city attorney, an animal control officer, or a fire department employee with authority to enforce the uniform fire code, upon the accused person, and forthwith, the complaint shall be filed with the municipal court, except that a complaint may be filed initially with the municipal court, and if so filed, a copy of the complaint shall forthwith be delivered to the city attorney. ~~The city attorney shall cause a notice to appear to be issued, unless he or she~~

~~has good reason to believe that the accused person will not appear in response to a notice to appear, in which case the city attorney may request that a warrant be issued. Such warrant will be issued if the complaint is positively sworn to and the municipal judge has probable cause to believe that (a) there has been the commission of a violation of a municipal ordinance, (b) the accused person committed such violation and (c) the accused person will not appear in response to a notice to appear.~~

If a city attorney fails either to cause a notice to appear or to request a warrant to be issued, on a complaint initially filed with the municipal court, the municipal judge may, upon affidavits filed with him or her alleging the violation of an ordinance, order the city attorney to institute proceedings against any person. Any such municipal judge shall be disqualified from sitting in any case wherein such order was entered and is further prohibited from communicating about such case with the municipal judge pro tem appointed by the municipal judge to preside therein.

Section 7. Topeka City Code § 50-60, Warrants; when issued; limitations, is hereby amended to read as follows:

Warrants; when issued; limitations.

A warrant may be issued:

~~(1) When an accused person fails to appear as required in a notice to appear after its service.~~

~~(2) In all other cases where a complaint has been filed and the municipal judge determines that a warrant should be issued. No warrant~~

223 ~~shall issue unless the complaint giving rise to its issuance is supported by~~
224 ~~oath or affirmation.~~

225 (a) The city attorney shall cause a notice to appear to be issued, except that,
226 if requested by the city attorney, a warrant for the accused shall be issued if the
227 municipal judge finds from the complaint, or from an affidavit or affidavits filed with the
228 complaint or from other evidence that there is probable cause to believe both that a
229 crime has been committed and that the defendant has committed such crime.

230 (b) More than one (1) warrant or notice to appear may be issued on the same
231 complaint.

232 (c) If a defendant fails to appear in response to a notice to appear, a warrant
233 shall be issued.

234 (d) Affidavits or sworn testimony in support of the probable cause
235 requirements of this section shall not be made available for examination without a
236 written order of the municipal judge, except that such affidavits or testimony, when
237 requested, shall be made available to the defendant or the defendant's counsel.

238 (e) No warrant shall issue for an ordinance traffic infraction or an ordinance
239 cigarette or tobacco infraction unless the person charged has received service of a
240 notice to appear and has failed to appear for the infraction.

241 Section 8. Topeka City Code § 50-64, Persons under arrest; procedures; right
242 to post bond; release on personal recognizance, is hereby amended to read as follows:

243 **Persons under arrest; procedures; right to post bond; release on personal**
244 **recognizance.**

(a) Any person arrested by a law enforcement officer shall be taken immediately by the law enforcement officer to the police station of the city or the office in the city designated by the municipal judge. At that time, the person shall have the right to post bond for the person's appearance, in accordance with Topeka City Code section § 50-66 and section § 50-67, and amendments thereto except as hereinafter provided. ~~However, if the law enforcement officer has probable cause to believe that such person may cause injury to oneself or others, or damage to property, and there is no responsible person or institution to which the person might be released, the person shall remain in the protective custody of the law enforcement officer, in a city or county jail for a period not to exceed six hours, at which time such person shall be given an opportunity to post bond for the person's appearance. While so held in protective custody, the person shall be permitted to consult with counsel or other persons on the person's behalf. Any person who does not make bond for the person's appearance shall be placed in the city or county jail, to remain there until the person makes bond for the person's appearance, or appears before the municipal court at the earliest practical time, except that the person shall be released on the person's personal recognizance to appear at a later date if the person has not made bond, has not appeared before the municipal court within 18 hours after arrest and if no warrant has been issued for the person's arrest.~~

(b) A law enforcement officer may detain a person arrested for violation of a municipal ordinance in protective custody for a period not to exceed six (6) hours, including custody in a city or county jail, if such officer has probable cause to believe

267 that: (1) Such person may cause injury to oneself or others, or damage to property; and
268 (2) There is no responsible person or institution to which such person might be
269 released. Any person so held in protective custody shall be permitted to consult with
270 counsel or other persons who may act on such person's behalf. Such person held in
271 protective custody for six (6) hours shall be given an opportunity to post bond for such
272 person's appearance in the municipal court at the end of six (6) hours or sooner if a
273 responsible person or institution presents to take defendant.

274 (c) Any person held in custody pursuant to the provisions of this section, and
275 who has not made bond for such person's appearance, may be held in custody until the
276 earliest practical time for such person's appearance in municipal court if a warrant is
277 issued by the municipal court in accordance with Topeka City Code § 50-60, and
278 amendments thereto.

279 (d) Any person who remains in custody for forty-eight (48) hours pursuant to
280 the provisions of this section after arrest, and who is awaiting a first appearance before
281 a municipal judge in the absence of a warrant being issued, shall be released on the
282 person's personal recognizance. Bond shall be set within eighteen (18) hours of the
283 person being placed in custody.

284 Section 9. Topeka City Code § 50-99, Sentence; possible disposition, is
285 hereby amended to read as follows:

286 **Sentence; possible disposition.**

287 (a) Whenever a person is found guilty of the violation of an ordinance, the
288 municipal judge may:

289 (1) Release the person without imposition of sentence;

290 (2) Release the person on probation after the imposition of sentence,
291 without imprisonment or the payment of a fine or a portion thereof, subject
292 to conditions imposed by the court as provided in subsection (e); ~~or~~

293 (3) Impose such sentence of fine or imprisonment, or both, as
294 authorized for the ordinance violation; or

295 (4) Order the person to make reparation or restitution to the aggrieved
296 party or other for the damage or loss caused by the defendant's crime, in an
297 amount and manner determined by the court and to the person specified by
298 the court.

299 (b) In addition to or in lieu of any other sentence authorized by law, whenever
300 a person is found guilty of the violation of an ordinance and there is evidence that the
301 act constituting the violation of the ordinance was substantially related to the
302 possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person,
303 the judge may order such person to attend and satisfactorily complete an alcohol or
304 drug education or training program certified by the chief judge of the judicial district or
305 licensed by the secretary of social and rehabilitation services.

306 (c) Except as provided in subsection (d), in addition to or in lieu of any other
307 sentence authorized by law, whenever a person is convicted of having violated, while
308 under twenty-one (21) years of age, an ordinance prohibiting an act prohibited by the
309 uniform controlled substances act (K.S.A. 65-4101 *et seq.* and amendments thereto) or

K.S.A. 41-719, 41-727, 65-4152, 65-4153, 65-4154 or 65-4155 or K.S.A. 1998 Supp. 8-1599, and amendments thereto, the municipal judge shall order such person to submit to and complete an alcohol and drug evaluation by a community-based alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto and to pay a fee not to exceed the fee established by that statute for such evaluation. If the judge finds that the person is indigent, the fee may be waived.

(d) If the person is eighteen (18) or more years of age but less than twenty-one (21) years of age and is convicted of a violation of ~~K.S.A. 41-727~~, or section § 10-55 of the Code of the City of Topeka (1994), as amended, and amendments thereto, involving cereal malt beverage, the provisions of subsection (c) are permissive and not mandatory.

(e) The court may impose any conditions of probation or suspension of sentence that the court deems proper, including, but not limited to, requiring that the defendant:

- (1) Avoid such injurious or vicious habits, as directed by the court or the probation officer;
- (2) Avoid such persons or places of disreputable or harmful character, as directed by the court or the probation officer;
- (3) Report to the probation officer as directed;
- (4) Permit the probation officer to visit the defendant at home or elsewhere;
- (5) Work faithfully at suitable employment insofar as possible;

- 332 (6) Remain within the state unless the court grants permission to leave;
- 333 (7) Pay a fine or costs, applicable to the ordinance violation, in one or
- 334 several sums and in the manner as directed by the court;
- 335 (8) Support the defendant's dependents;
- 336 (9) Reside in a residential facility located in the community and
- 337 participate in educational counseling, work and other correctional or
- 338 rehabilitative programs;
- 339 (10) Perform community or public service work for local governmental
- 340 agencies, private corporations organized not for profit, or charitable
- 341 or social service organizations performing services for the
- 342 community;
- 343 (11) Perform services under a system of day fines whereby the
- 344 defendant is required to satisfy fines, costs or reparation or
- 345 restitution obligations by performing services for a period of days
- 346 determined by the court on the basis of ability to pay, standard of
- 347 living, support obligations and other factors;
- 348 (12) Make reparation or restitution to the aggrieved party for the damage
- 349 or loss caused by the defendant's crime, in an amount and manner
- 350 determined by the court and to the person specified by the court; or
- 351 (13) Reimburse the city, in accordance with any order made under
- 352 subsection (f), for all or a part of the reasonable expenditures by

353 the city to provide counsel and other defense services to the
354 defendant.

355 (f) In addition to or in lieu of any other sentence authorized by law, whenever
356 a person is found guilty of the violation of an ordinance the judge may order such
357 person to reimburse the city for all or a part of the reasonable expenditures by the city to
358 provide counsel and other defense services to the defendant. In determining the
359 amount and method of payment of such sum, the court shall take account of the
360 financial resources of the defendant and the nature of the burden that payment of such
361 sum will impose. A defendant who has been required to pay such sum and who is not
362 willfully in default in the payment thereof may at any time petition the court which
363 sentenced the defendant to waive payment of such sum or of any unpaid portion
364 thereof. If it appears to the satisfaction of the court that payment of the amount due will
365 impose manifest hardship on the defendant or the defendant's immediate family, the
366 court may waive payment of all or part of the amount due or modify the method of
367 payment.

368 Section 10. Topeka City Code § 50-101, Parole, is hereby amended to read as
369 follows:

370 **Parole.**

371 Except as otherwise provided by law, the municipal judge may parole any person
372 confined to jail as a result of a conviction of a violation of a city ordinance. The judge
373 may set such conditions and restrictions as ~~he or she~~ the judge sees fit to impose for a

term of parole not exceeding ~~one year~~ two (2) years and may at any time discharge such person for good cause shown. The term of parole ordered by the court is subject to renewal and extension for additional periods not exceeding an additional two (2) years for any misdemeanor case upon the municipal court's finding that the defendant has not yet successfully completed the conditions imposed therein within the original term of such parole.

After notice and hearing, the municipal judge may ~~terminate~~ revoke such parole for violation of conditions by directing the proper authority to execute the sentence and again confine the accused person to jail for the time specified by the court, which shall not exceed the initial jail sentence imposed, less the time served.

Section 11. That original City of Topeka Code §§ 50-26, 50-41, 50-47, 50-49, 50-50, 50-54, 50-60, 50-64, 50-99, and 50-101 are hereby specifically repealed.

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

PASSED AND APPROVED by the Council of the City of Topeka _____.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 23, 2006

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DATE:	August 11, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:	Police Department Equipment Fund	
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 090 Law Enforcement	
CIP PROJECT:	No	
ACTION OF COUNCIL:	First Reading (08/22/06)	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Councilmember Brett Blackburn amending City of Topeka Code Section 2-336 by establishing a police department equipment fund. Final Reading.

(The fund would provide a depository for monies to be used for police department equipment purchases.

POLICY ISSUE:

Whether or not the City Council should adopt a policy wherein a police department equipment fund shall be established.

STAFF RECOMMENDATION:

BACKGROUND:

This fund provides a depository for monies to be used for police department equipment purchases. Expenditures from this fund shall be approved by resolution adopted by the City Council. The expenditures from this fund shall only be used to off set planned equipment acquisitions for the police department, i.e., expenditures shall not be used to enhance equipment for the police department, but shall primarily be used to replace existing equipment.

BUDGETARY IMPACT:

Municipal Court reported 26,288 guilty pleas to the Office of Judicial Administration for the time period of July 1, 2005 – June 30, 2006. If that number is multiplied by the \$5 proposed Police Equipment Fee then \$131,440 would have been assessed during that time period (if the \$5 Police Equipment Fee were in effect then). Currently Municipal Court estimates its in-house collections to be approximately 70% of assessed fines and fees. There are many outside influences to consider such as cases filed, other departmental policies and economic factors that may impact the future number of disposed cases.

SOURCE OF FUNDING:

Monies from the City's general fund, municipal court fees, or funds from any other source legally available for such purpose may be credited to this special fund.

ATTACHMENTS:

[Ordinance](#)

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by Councilmember Brett Blackburn amending City of
6 Topeka Code § 2-336 by establishing a police department
7 equipment fund.
8

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

10 Section 1. That City of Topeka Code § 2-336, Reserved, is hereby amended
11 by the addition of the following language:

12 **Police Department equipment fund.**

13 a. There is hereby created a police department equipment fund. The fund is
14 established for the purpose of providing a depository for monies to be used for police
15 department equipment purchases.

16 b. Monies from the City's general fund, municipal court fees, or funds from
17 any other source legally available for such purpose may be credited to this special fund.

18 c. Expenditures from this fund shall be approved by resolution adopted by
19 the City Council. The expenditures from this fund shall only be used to off set planned
20 equipment acquisitions for the police department, i.e. expenditures shall not be used to
21 enhance equipment for the police department, but shall primarily be used to replace
22 existing equipment.

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

25 PASSED AND APPROVED by the City Council _____.

26
27
28
29 ATTEST:

William W. Bunten, Mayor

30
31 _____
32 Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 23, 2006

 + Back  Print

DATE:	August 11, 2006	
CONTACT PERSON:	Eric Smith, Assistant City Attorney	DOCUMENT #:
SECOND PARTY/SUBJECT:	Steve Rothrock	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

DENIAL OF CLAIM APPEAL by Steve Rothrock seeking \$300.00 for damages sustained to the sprinkler system pipes at his residence located at 5956 S.W. Clarion Lane.

(Claimant is appealing the denial of his claim against the City of Topeka.)

POLICY ISSUE:

Whether the City Council chooses to overturn the denial and pay Mr. Rothrock the \$300.00 he requested, or pay him more or less than \$300.00, or if they uphold the denial of Brenden Long, City Attorney based on the facts as presented at the appeal hearing.

STAFF RECOMMENDATION:

Denial of the claim appeal based on the fact finding review from the respective affected departments and the appeal hearing.

BACKGROUND:

The claimant alleges that on May 26, 2006, a City contractor damaged his sprinkler system pipes and heads at his home at 5956 S.W. Clarion Lane. He is seeking damages in the amount of \$300.00. Brenden Long, City Attorney, denied his claim on July 28, 2006. Mr. Rothrock is appealing the denial. The investigation revealed that Mr. Rothrock's sprinkler system

was damaged during a Trafficway Improvement Project. However, because his sprinkler system was located in the the City's right-of-way, the City is not legally responsible for the damage to his sprinkler system.

BUDGETARY IMPACT:

Claimant is seeking damages in the amount of \$300.00.

SOURCE OF FUNDING:

\$300.00 from the City's special liability fund.

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 22, 2006

+ Back Print

DATE:	August 11, 2006	
CONTACT PERSON:	Eric Smith, Assistant City Attorney	DOCUMENT #:
SECOND PARTY/SUBJECT:	Robert D. Ediger	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

DENIAL OF CLAIM APPEAL by Robert D. Ediger seeking \$486.11 for damages sustained to the sprinkler system pipes at his residence located at 5957 SW Clarion.

(Claimant is appealing the denial of his claim against the City of Topeka.)

POLICY ISSUE:

Whether the City Council chooses to overturn the denial and pay Mr. Ediger the \$486.11 he requested, or pay him more or less than \$486.11, or if they uphold the denial of Brenden Long, City Attorney, based on the facts as presented at the appeal hearing.

STAFF RECOMMENDATION:

Denial of the claim appeal based on the fact finding review from the respective affected departments and the appeal hearing.

BACKGROUND:

The claimant alleges that in May or June 2006, during the Wanamaker Reconstruction project, the street in front of his house at 5957 SW Clarion Lane was removed. The street and sidewalk were replaced but not the damaged sprinkler system. He is seeking damages in the amount of \$486.11. Brenden Long, City Attorney, denied his claim on July 28,

2006. Mr. Ediger is appealing the denial. The investigation revealed that Mr. Ediger's sprinkler system was damaged during a Trafficway Improvement Project. However, because his sprinkler system was located in the City's right-of-way, the City is not legally responsible for the damage to his sprinkler system.

BUDGETARY IMPACT:

Claimant is seeking damages in the amount of \$486.11.

SOURCE OF FUNDING:

\$486.11 from the special liability fund.

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 16, 2006

 + Back  Print

DATE:	August 11, 2006		
CONTACT PERSON:	Jeff Hunt	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Sanitary Sewer Improvement	PROJECT #:	40936-01
CATEGORY/SUBCATEGORY			
CIP PROJECT:	No		
ACTION OF COUNCIL:	Accept the Petition, Approve the Project Budget and Resolution	JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

A PUBLIC IMPROVEMENT PETITION, A PROJECT BUDGET in the amount of \$470,000 and **A RESOLUTION** introduced by City Manager Norton N. Bonaparte, Jr., authorizing Sanitary Sewer Improvement Project No. 40936-01, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. (*Council District No. 5*)

(This project is located two blocks northwest of SE 45th Street and SE Adams Street in the Horseshoe Bend Subdivision.)

POLICY ISSUE:

100% petition developer sanitary sewer project.

STAFF RECOMMENDATION:

Accept the Petition, Approve the Project Budget and Resolution creating the sewer district.

BACKGROUND:

Developer of subdivision is requesting lateral sanitary sewer service to allow the construction of the platted plots.

This project is to provide sanitary sewer service to the southerly portion of Horseshoe Bend Subdivision and part of Hilltop Subdivision, located at SE 44th Street and Horseshoe Bend Drive.

BUDGETARY IMPACT:

Project Budget: \$470,000.00

SOURCE OF FUNDING:

Costs are to be paid 100% by the Improvement District on a unit basis (68 total units) for all parcels which are included in the described improvement district as follows:

Tract No. 1 - 67 units

Tract No. 2 - 1 unit

ATTACHMENTS:

[Project Budget](#)

[Petition](#)

[Vicinity Map](#)

[Resolution](#)

PROJECT BUDGET

Project No. 40936-01

Bartlett & West Project No. 2028.500

Horseshoe Bend Sewers

LOCATION:

TRACT NO. 1

Lots 1 through 4, Block 'A'; Lots 1 through 11, Block 'B'; Lots 2 through 31, Block 'C'; Lots 1 through through 22, Block 'D', Horseshoe Bend Subdivision, Topeka, Kansas

TRACT NO. 3

The north 300 feet of the following described tract of land:

A part of the West half of the Southeast Quarter of Section 19, Township 12 South, Range 16 East of the 6th P.M. in Shawnee County, Kansas, described as follows: Beginning at the Southeast corner of said West half of the Southeast Quarter of Section 19; thence West along the South line of Section 19, 450.00 feet; thence North 778.00 feet; thence East 450.00 feet to the East line of said West Half of the Southeast Quarter of said Section 19; thence South to the place of beginning, EXCEPT the following tract: Beginning at a point on the South line of Section 19, Township 12 South, Range 16 East of the 6th P.M., and 450.00 feet West of the Southeast corner of the West Half of the Southeast Quarter of said Section 19; thence North parallel to the East line of said West half, 205.00 feet; thence East parallel to the South line of said Section 19, 130.00 feet; thence South parallel to the East line of the West Half of the Southeast Quarter of said Section 19, 205.00 feet; thence West 130.00 feet to the point of beginning.

AND ALSO: Part of the West Half of the Southeast Quarter of Section 19, Township 12 South, Range 16 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as follows: Beginning at a point on the South line, 450.00 feet West of the Southeast corner of said West Half of said Quarter Section; thence North parallel to the East line of said West Half, 205.00 feet; thence East parallel to said South line 130.00 feet; thence South parallel to said East line 205.00 feet; thence West 130.00 feet to the point of beginning.

DESCRIPTION OF PROJECT:

To provide sanitary sewer service to the above noted area with piping, manholes, engineering and all other contingencies required for a complete project..

5/26/2006

SOURCE OF FUNDS:

Assessment District

COST ESTIMATE:

	<u>City of Topeka</u>	<u>Other Funds</u>	<u>Total</u>
Construction:			\$340,000.00
Design			\$28,900.00
Subsurface Exploration			\$2,500.00
Project Service Fees:			
<i>Construction Admin & Inspection</i>			\$27,200.00
<i>Construction Staking</i>			\$17,000.00
Administrative Fees:			
<i>Legal Dept. Admin.</i>			\$10,200.00
<i>Engineering Admin.</i>			\$6,800.00
Right-of Way Acquisition:			
Contingency Amount			\$10,200.00
Interim Interest			\$27,200.00
Total:			\$470,000.00

PUBLIC HEARING:**PROJECT AUTHORITY:**

- a. Statutes: KSA 12-6a Petition Project
- b. Ord./Res. No.:
- c. Improvement District:
- d. City at Large:
- e. Method of Assessment: Unit Basis

Date: **PROJECT ENGINEER:**

**HORSESHOE BEND SUBDIVISION
SEWER
PUBLIC IMPROVEMENT PROJECT**

PETITION

TO THE Mayor and Council Members
City of Topeka

We, the undersigned owners of record of real estate located within the improvement district herein defined, do hereby respectfully petition for the following sewer improvements, in accordance with the conditions herein contained, and as provided by K.S.A. 12-6a01, Et. Seq., as amended.

Lateral Sanitary Sewer District No. 40936-01

A. GENERAL NATURE OF IMPROVEMENT:

To provide sanitary sewer service to the following described area with piping, manholes, engineering and all other contingencies required for a complete project.

B. PROPOSED IMPROVEMENT DISTRICT:

TRACT NO. 1

Lots 1 through 4, Block 'A'; Lots 1 through 11, Block 'B'; Lots 2 through 31, Block 'C';
Lots 1 through 22, Block 'D', Horseshoe Bend Subdivision, Topeka, Kansas

TRACT NO. 2

The north 300 feet of the following described tract of land:

A part of the West half of the Southeast Quarter of Section 19, Township 12 South, Range 16 East of the 6th P.M. in Shawnee County, Kansas, described as follows: Beginning at the Southeast corner of said West half of the Southeast Quarter of Section 19; thence West along the South line of Section 19, 450.00 feet; thence North 778.00 feet; thence East 450.00 feet to the East line of said West Half of the Southeast Quarter of said Section 19; thence South to the place of beginning, EXCEPT the following tract: Beginning at a point on the South line of Section 19, Township 12 South, Range 16 East of the 6th P.M., and 450.00 feet West of the Southeast corner of the West Half of the Southeast Quarter of said Section 19; thence North parallel to the East line of said West half, 205.00 feet; thence East parallel to the South line of said Section 19, 130.00 feet; thence South parallel to the East line of the West Half of the Southeast Quarter of said Section 19, 205.00 feet; thence West 130.00 feet to the point of beginning.

AND ALSO: Part of the West Half of the Southeast Quarter of Section 19, Township 12 South, Range 16 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as follows: Beginning at a point on the South line, 450.00 feet West of the Southeast corner of said West Half of said Quarter Section; thence North parallel to the East line of said West Half, 205.00 feet; thence East parallel to said South line 130.00 feet; thence South parallel to said East line 205.00 feet; thence West 130.00 feet to the point of beginning.

C. ESTIMATED OR PROBABLE COST:

\$470,000.00

This cost estimate has been prepared using the best information available, without benefit of detailed engineering design. Variances may occur as the design details are developed. These costs should not be considered final.

D. METHOD OF ASSESSMENT:

On a unit basis (68 total units) for all parcels which are included in the described improvement district as follows:

Tract No. 1- 67 units

Tract No. 2 - 1 unit

E. APPORTIONMENT OF COSTS:

Costs are to be paid 100 percent by the Improvement District.

F. As the owner/developer of properties in this petitioned project, I will notify, in writing, each and every purchaser of property regarding special assessments which may be assessed to pay for this improvement.

G. We, the undersigned owners of all property in the district, understand and agree:

- (i) To waive the notice of and the opportunity to appear at a Public Hearing available under K.S.A. 12-6a01, Et. Seq., further we request that the Resolution creating the project be found advisable and the City Council authorize the project.
- (ii) Property contained within the district may not be modified, changed or altered by replatting or other means until assessments have been levied.

Signature

Residence

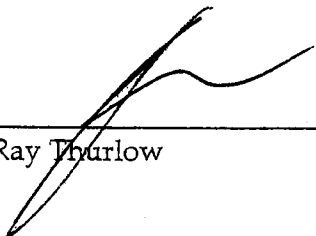
Date

Grand Oaks, L.L.C.

2257 SW Romar Road, Topeka, Kansas 66614

Property Owned

Lots 12 through 30, Block 'C'; Lots 12 through 22, Block 'D', Horseshoe Bend Subdivision, Topeka, Kansas


By: Ray Thurlow

NOTICE: You may not withdraw your signature from this petition after the City Council commences consideration of this petition or later than seven (7) days after filing of this petition, whichever comes first.

I, the undersigned, hereby certify that I have personally witnessed each and every person whose name appears on this document individually affix his or her signature and swear that the foregoing is true and correct to the best of my knowledge.

May 25, 2006
Date

Jacqueline M. Shafelberger
Signature of Person Carrying Petition

Signature

Residence

Date

Fidelity Development, Inc. 100 E. English, Wichita, KS 67202

Property Owned

Lots 1 through 4, Block 'A'; Lots 1 through 11, Block 'B'; Lots 2 through 11, and Lot 31, Block 'C';
and Lots 1 through 11, Block 'D', Horseshoe Bend Subdivision, Topeka, Kansas



By: Clay Bastian, President

NOTICE: You may not withdraw your signature from this petition after the City Council commences consideration of this petition or later than seven (7) days after filing of this petition, whichever comes first.

I, the undersigned, hereby certify that I have personally witnessed each and every person whose name appears on this document individually affix his or her signature and swear that the foregoing is true and correct to the best of my knowledge.

5/24/06

Date

Bill Van Doren

Signature of Person Carrying Petition

Signature

Residence

Date

Terry Hummer

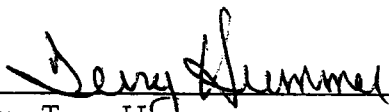
4431 NW Green Hills Road, Topeka, Kansas 66618

Property Owned

The north 300 feet of the following described tract of land:

A part of the West half of the Southeast Quarter of Section 19, Township 12 South, Range 16 East of the 6th P.M. in Shawnee County, Kansas, described as follows: Beginning at the Southeast corner of said West half of the Southeast Quarter of Section 19; thence West along the South line of Section 19, 450.00 feet; thence North 778.00 feet; thence East 450.00 feet to the East line of said West Half of the Southeast Quarter of said Section 19; thence South to the place of beginning, EXCEPT the following tract: Beginning at a point on the South line of Section 19, Township 12 South, Range 16 East of the 6th P.M., and 450.00 feet West of the Southeast corner of the West Half of the Southeast Quarter of said Section 19; thence North parallel to the East line of said West half, 205.00 feet; thence East parallel to the South line of said Section 19, 130.00 feet; thence South parallel to the East line of the West Half of the Southeast Quarter of said Section 19, 205.00 feet; thence West 130.00 feet to the point of beginning.

AND ALSO: Part of the West Half of the Southeast Quarter of Section 19, Township 12 South, Range 16 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as follows: Beginning at a point on the South line, 450.00 feet West of the Southeast corner of said West Half of said Quarter Section; thence North parallel to the East line of said West Half, 205.00 feet; thence East parallel to said South line 130.00 feet; thence South parallel to said East line 205.00 feet; thence West 130.00 feet to the point of beginning.

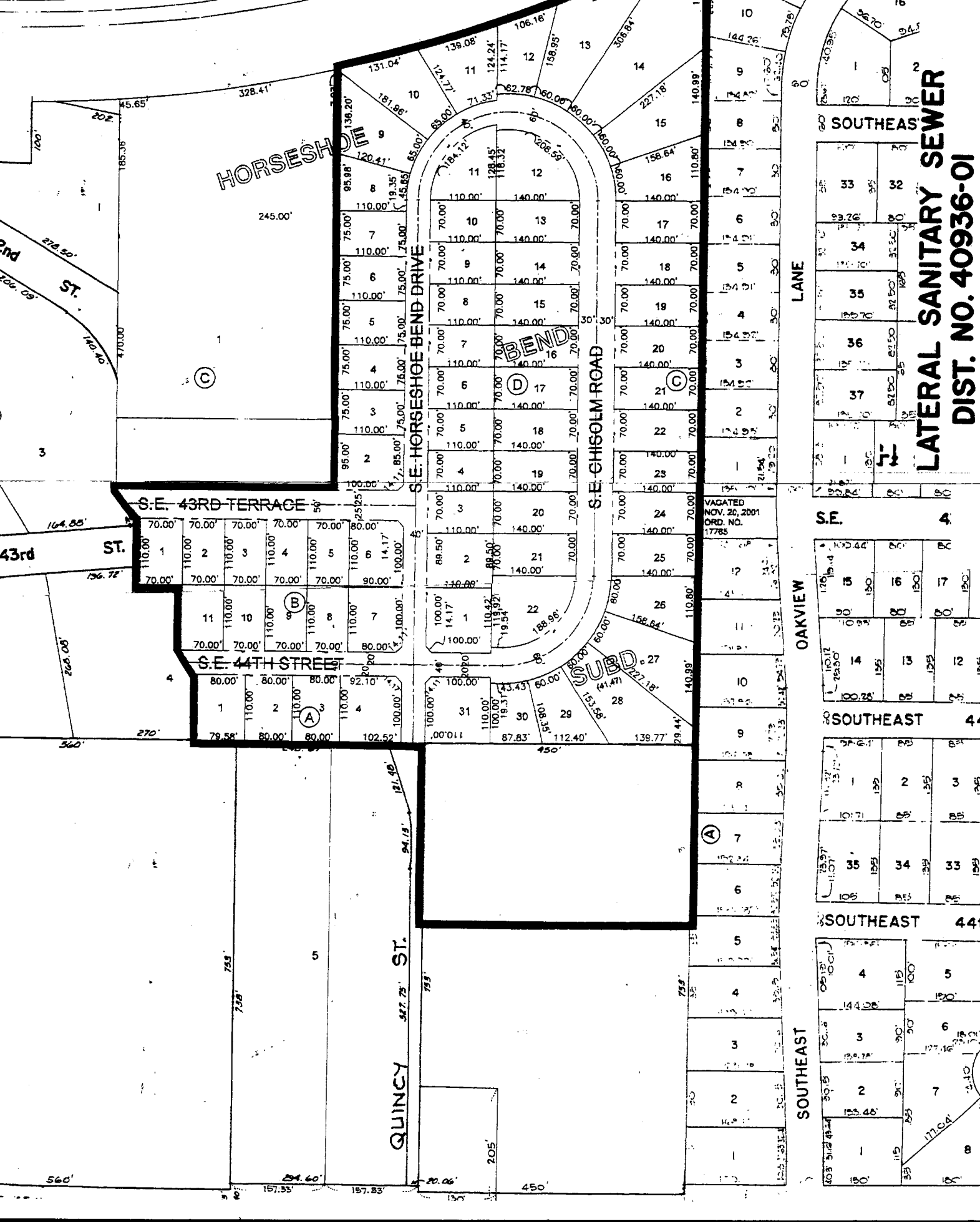

By: Terry Hummer

NOTICE: You may not withdraw your signature from this petition after the City Council commences consideration of this petition or later than seven (7) days after filing of this petition, whichever comes first.

I, the undersigned, hereby certify that I have personally witnessed each and every person whose name appears on this document individually affix his or her signature and swear that the foregoing is true and correct to the best of my knowledge.

6/2/06
Date

Bill Van Doren
Signature of Person Carrying Petition



LATERAL SANITARY SEWER
DIST. NO. 40936-01

SOUTHEAST

LANE

OAKVIEW

SOUTHEAST

SOUTHEAST

SOUTHEAST

VACATED
NOV. 20, 2001
ORD. NO.
17785

(Published in the Topeka Metro News _____)

RESOLUTION OF ADVISABILITY AND AUTHORIZATION NO. _____

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing Sewer Improvement Project No. 40936-01 which provides for sanitary sewer service to Horseshoe Bend Subdivision, as more specifically described herein.

WHEREAS, the City Clerk has received a petition, pursuant to K.S.A. 12-6a04, containing the signatures of the owners of 100% of the area in the improvement district hereinafter described; and

WHEREAS, seven (7) days have elapsed since the filing of said petition.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka, Kansas, that it finds Improvement Project No. 40936-01, hereinafter described, to be advisable and does hereby authorize and order said improvement to be made in accordance with its findings as follows:

A. GENERAL NATURE OF IMPROVEMENT:

To provide sanitary sewer service to the area more specifically described herein, with piping, manholes, engineering and all other contingencies required for a complete project.

B. PROPOSED IMPROVEMENT DISTRICT:

TRACT NO. 1

Lots 1 through 4, Block 'A'; Lots 1 through 11, Block 'B'; Lots 2 through 31, Block 'C'; Lots 1 through 22, Block 'D', Horseshoe Bend Subdivision, Topeka, Kansas

TRACT NO. 3

The north 300 feet of the following described tract of land:

A part of the West half of the Southeast Quarter of Section 19, Township 12 South, Range 16 East of the 6th P.M. in Shawnee County, Kansas, described as follows: Beginning at the Southeast corner of said West half of the Southeast Quarter of Section 19; thence West along the South line of Section 19, 450.00 feet; thence North 778.00 feet; thence East 450.00 feet

39 to the East line of said West Half of the Southeast Quarter of said Section
40 19; thence South to the place of beginning, EXCEPT the following tract:
41 Beginning at a point on the South line of Section 19, Township 12 South,
42 Range 16 East of the 6th P.M., and 450.00 feet West of the Southeast
43 corner of the West Half of the Southeast Quarter of said Section 19; thence
44 North parallel to the East line of said West half, 205.00 feet; thence East
45 parallel to the South line of said Section 19, 130.00 feet; thence South
46 parallel to the East line of the West Half of the Southeast Quarter of said
47 Section 19, 205.00 feet; thence West 130.00 feet to the point of beginning.
48

49 AND ALSO: Part of the West Half of the Southeast Quarter of Section 19,
50 Township 12 South, Range 16 East of the 6th P.M., in the City of Topeka,
51 Shawnee County, Kansas, described as follows: Beginning at a point on the
52 South line, 450.00 feet West of the Southeast corner of said West Half of
53 said Quarter Section; thence North parallel to the East line of said West Half,
54 205.00 feet; thence East parallel to said South line 130.00 feet; thence South
55 parallel to said East line 205.00 feet; thence West 130.00 feet to the point of
56 beginning.
57

58 C. ESTIMATED OR PROBABLE COST:

59 \$470,000.00
60

61 This cost estimate has been prepared using the best information available,
62 without benefit of a detailed engineering design. Variances may occur as the
63 design details are developed. These costs should not be considered final.
64

65 D. PROPOSED METHOD OF ASSESSMENT:

66 On a unit basis for all lots or individual dwelling sites which are included in
67 the described improvement district.
68

69 E. APPORTIONMENT OF COSTS:

70 Costs are to be paid one hundred percent (100%) by the Improvement
71 District.
72

73 THIS RESOLUTION shall become effective upon one publication in the official city
74 newspaper.
75
76
77

78 ADOPTED and APPROVED by the City Council _____.

79 CITY OF TOPEKA, KANSAS

80

81

82

William W. Bunten, Mayor

83 ATTEST:

84

85

86

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 14, 2006

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DATE:	August 11, 2006	
CONTACT PERSON:	Terry Bertels	DOCUMENT #:
SECOND PARTY/SUBJECT:	Softball/Sports Facilities Reserve Fund	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing an expenditure from the Softball/Sports Facilities Reserve Fund for ongoing maintenance at any Parks and Recreation of Topeka softball facilities, pursuant to City of Topeka Ordinance No. 16269.

(Resolution that transfers \$17,160 from the Softball/Sports Facilities Reserve Fund to the Topeka Parks and Recreation Foundation, Softball Improvement Account.)

POLICY ISSUE:

STAFF RECOMMENDATION:

Approve transfer of funds.

BACKGROUND:

Resolution that transfers \$17,160 from the Softball/Sports Facilities Reserve Fund to the Topeka Parks and Recreation Foundation, Softball Improvement Account. This is the annual action following the summer adult softball registration. Each team pays a \$40 fee that goes to the Reserve Fund and is then transferred by Council approval to the Parks and Recreation Foundation for ongoing improvements to the Rueger Park Softball Complex. The Topeka Softball Association

must annually voice their approval of the transfer as well, and has given its approval.

BUDGETARY IMPACT:

Transfers \$17,160 (\$40 x 429 teams) from the Softball/Sports Facilities Reserve Fund to the Topeka Parks and Recreation Foundation. There is no actual impact to the City's operating budget.

SOURCE OF FUNDING:

ATTACHMENTS:

[Transfer of \\$17,160 from the Softball/Sports Facilities Reserve Fund](#)

1 RESOLUTION NO. _____
2
3

4 A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing an
5 expenditure from the Softball/Sports Facilities Reserve Fund for
6 ongoing maintenance at any Parks and Recreation of Topeka softball
7 facilities, pursuant to City of Topeka Ordinance No. 16269.

8 NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Topeka,
9 Kansas that pursuant to City of Topeka Ordinance No. 16269, it hereby authorizes the
10 transfer and expenditure from the Softball/Sports Facilities Reserve Fund of seventeen
11 thousand one hundred sixty dollars (\$17,160.00) for ongoing maintenance at any Parks
12 and Recreation of Topeka softball facilities.

13 ADOPTED and APPROVED by the City Council _____.

14 CITY OF TOPEKA, KANSAS
15
16
17
18

19 _____
20 William W. Bunten, Mayor

21 ATTEST:
22
23

24 _____
25 Iris E. Walker, City Clerk
26
27



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 23, 2006

+ Back Print

DATE:	August 11, 2006		
CONTACT PERSON:	Jeff Hunt	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Street Improvement	PROJECT #:	60619-00
CATEGORY/SUBCATEGORY			
CIP PROJECT:	No		
ACTION OF COUNCIL:	Adopt Resolution setting a Public Hearing	JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., setting the public hearing for Street Improvement Project No. 60619-00 which provides for paving certain streets located in Horseshoe Bend Subdivision, as more specifically described herein.

(The public hearing is set for October 10, 2006. The project is located two blocks northwest of SE 45th Street and SE Adams Street in the Horseshoe Bend Subdivision.)

POLICY ISSUE:

Public Hearing required to allow those who did not sign the petition to have opportunity to present their side of issue.

STAFF RECOMMENDATION:

Adopt resolution setting public hearing.

BACKGROUND:

Developer of subdivision is requesting the street improvement district project to allow construction of new homes.

Project is to pave SE Quincy Street, SE Horseshoe Bend Drive, SE Chisolm Road, SE 44th Street, and SE 43rd Terrace with pavement including concrete curb & gutter, sidewalk ramps, storm drainage facilities, engineering, and all other

contingencies needed to complete the project.

BUDGETARY IMPACT:

Project Budget: \$1,292,700.00

Improvement District - 97.5% = \$1,260,382.50

City of Topeka - 2.5% = 32,317.50

SOURCE OF FUNDING:

Costs are to be paid 97.5% by the Improvement District and 2.5% by General Obligation Bonds for the City of Topeka. The costs to the Improvement District are to be paid on a unit basis (84 total units) for all parcels which are included in the improvement district as follows:

Tract No. 1 - 67 units

Tract No. 2 - 3 units

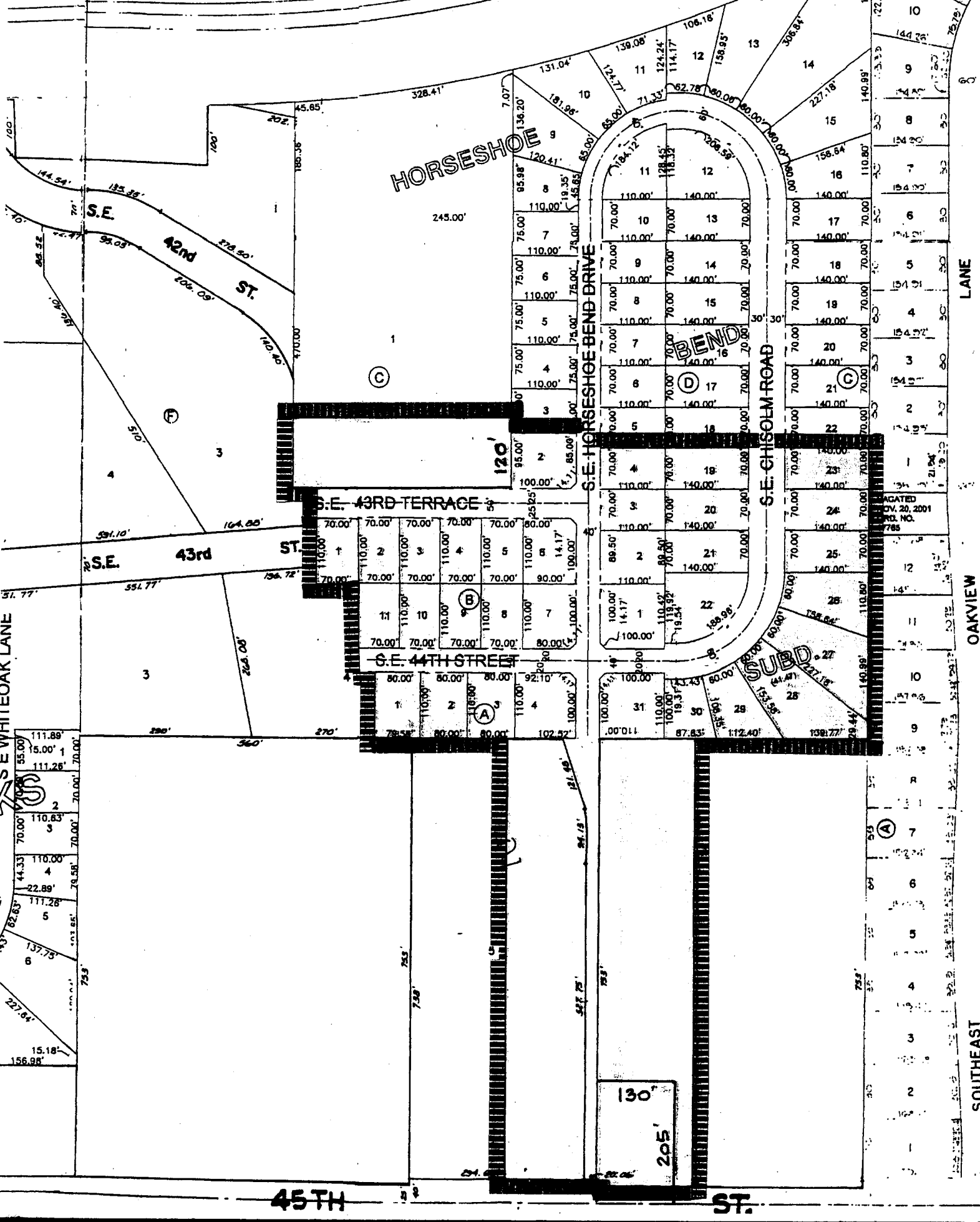
Tract No. 3 - 7 units

Tract No. 4 - 7 units

ATTACHMENTS:

[Vicinity Map](#)

[Resolution](#)



HORSESHOE

BEND

SUBD.

S.E. 43RD TERRACE

S.E. 44TH STREET

S.E. HORSESHOE BEND DRIVE

S.E. CHISOLM ROAD

WHITE OAK LANE

OAKVIEW

SOUTHEAST

45TH

ST.

130'
205'

(C)

(B)

(A)

(D)

(A)

(F)

111.89'
55.00'
111.28'
70.00'
70.00'
110.63'
70.00'
44.33'
110.00'
22.89'
111.28'
137.75'
227.04'
15.18'
156.98'

ACATED
O.V. 20, 2001
P.D. NO.
7785

1 (Published in the Topeka Metro News _____ and
2 _____)
3

4 RESOLUTION NO. _____
5

6 A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., setting
7 the public hearing for Street Improvement Project No. 60619-
8 00 which provides for paving certain streets located in
9 Horseshoe Bend Subdivision, as more specifically described
10 herein.
11

12 BE IT RESOLVED by the Council of the City of Topeka, Kansas, that a public
13 hearing shall be held by the Governing Body of the City of Topeka, Kansas, on the
14 advisability of the following: Street Improvement Project No. 60619-00; said hearing to be
15 held on October 10, 2006, in the City Council Chambers of City Hall, 214 E. 8th Street, at
16 6:00 p.m., as provided by K.S.A. 12-6a01, *et seq.*, as amended.

17 BE IT FURTHER RESOLVED that the City Clerk shall publish the following notice of
18 such public hearing in the official city newspaper in the manner provided by K.S.A.
19 12-6a01, *et seq.*, as amended.

20 NOTICE OF PUBLIC HEARING

21 Notice is hereby given that the Council of the City of Topeka, Kansas, will meet for
22 the purpose of holding a public hearing as provided by K.S.A. 12-6a01, *et seq.*, as
23 amended, in the City Council Chambers of City Hall, 214 E. 8th Street, at 6:00 p.m. on
24 October 10, 2006, to consider the advisability of the following:

25 A. GENERAL NATURE OF IMPROVEMENT:

26 To pave:
27 SE Quincy Street from SE 45th Street northerly to SE Horseshoe Bend
28 Drive, and SE Horseshoe Bend Drive from SE Quincy Street northerly to SE
29 Chisolm Road, and SE Chisolm Road from SE Horseshoe Bend Drive
30 southerly to SE 44th Street, and SE 44th Street from SE Horseshoe Bend
31 Drive westerly approximately 400 feet, with 29 foot wide pavement and to
32 pave SE 43rd Terrace from SE Horseshoe Bend Drive westerly

33 approximately 500 feet with 39 foot wide pavement including concrete curb
34 and gutter, sidewalk ramps, storm drainage facilities, engineering, and all
35 other contingencies needed to complete the project.
36

37 B. PROPOSED IMPROVEMENT DISTRICT:
38

39 TRACT NO. 1

40 Lots 1 through 4, Block 'A'; Lots 1 through 11, Block 'B'; Lots 2 through 31,
41 Block 'C'; Lots 1 through 22, Block 'D', Horseshoe Bend Subdivision,
42 Topeka, Kansas
43

44 TRACT NO. 2

45 The south 120 feet of Lot 1, Block 'C', Horseshoe Bend Subdivision,
46 Topeka, Kansas
47

48 TRACT NO. 3

49 A tract of land situated in Lot 5, Block 'C', Hilltop Subdivision No. 2 to the City
50 of Topeka, Shawnee County, Kansas, more particularly described as follows:

51 Commencing at the Southwest corner of the Southwest Quarter of Section
52 19, Township 12 South, Range 16 East, thence along the South line of said
53 Quarter on a bearing of South 90 degrees 00 minutes 00 seconds East, a
54 distance of 560.00 feet; thence on a bearing of North 00 degrees 00 minutes
55 00 seconds West, a distance of 40.00 feet; thence on a bearing of North 89
56 degrees 59 minutes 03 seconds East, a distance of 157.33 feet to the point
57 of beginning, said point of beginning being a rebar and cap; thence on a
58 bearing of North 00 degrees 06 minutes 39 seconds West, a distance of
59 738.03 feet to the North line of lot 5, Block 'C', said point being a rebar and
60 cap; thence along the North line of said lot on a bearing of North 89 degrees
61 59 minutes 27 seconds East, a distance of 155.94 feet to the Northeast
62 corner of Lot 5, said point being a found rebar; thence along the East line of
63 said lot on a bearing of South 00 degrees 13 minutes 08 seconds East, a
64 distance of 738.02 feet to the Southeast corner of Lot 5, Block 'C', said point
65 being a found rebar; thence along the South line of said lot on a bearing of
66 South 89 degrees 59 minutes 03 seconds West, a distance of 157.33 feet to
67 the point of beginning.
68

69 TRACT NO. 4

70 The west 160 feet of the following described tract of land:
71

72 A part of the West half of the Southeast Quarter of Section 19, Township 12
73 South, Range 16 East of the 6th P.M. in Shawnee County, Kansas,
74 described as follows: Beginning at the Southeast corner of said West half of
75 the Southeast Quarter of Section 19; thence West along the South line of
76 Section 19, 450.00 feet; thence North 778.00 feet; thence East 450.00 feet
77 to the East line of said West Half of the Southeast Quarter of said Section
78 19; thence South to the place of beginning, EXCEPT the following tract:

Beginning at a point on the South line of Section 19, Township 12 South, Range 16 East of the 6th P.M., and 450.00 feet West of the Southeast corner of the West Half of the Southeast Quarter of said Section 19; thence North parallel to the East line of said West half, 205.00 feet; thence East parallel to the South line of said Section 19, 130.00 feet; thence South parallel to the East line of the West Half of the Southeast Quarter of said Section 19, 205.00 feet; thence West 130.00 feet to the point of beginning.

AND ALSO: Part of the West Half of the Southeast Quarter of Section 19, Township 12 South, Range 16 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, described as follows: Beginning at a point on the South line, 450.00 feet West of the Southeast corner of said West Half of said Quarter Section; thence North parallel to the East line of said West Half, 205.00 feet; thence East parallel to said South line 130.00 feet; thence South parallel to said East line 205.00 feet; thence West 130.00 feet to the point of beginning.

C. ESTIMATED OR PROBABLE COST:

\$1,292,700.00

D. PROPOSED METHOD OF ASSESSMENT:

On a unit basis for all parcels which are included in the described improvement district as follows:

Tract No. 1: Block A, 4 units
Block B, 29 units
Block C, 22 units
Block D, Horseshoe Bend Subdivision
Tract No. 2: South 120 feet of Lot 1, Block C, Horseshoe Bend Subdivision
Tract No. 3: Tract of land situated in Lot 5, Block C
Tract No. 4: West 160 feet of a tract of land, more specifically described herein; and
Part of the West Half of the Southeast Quarter of Section 19, Township 12 South, Range 16 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas, more specifically described herein.

E. APPORTIONMENT OF COSTS:

City of Topeka	32,317.50	2.5%
<u>Benefit District</u>	<u>\$1,260,382.50</u>	<u>97.5%</u>
Total	\$1,292,700.00	100%

The hearing may be adjourned from time to time and until the City Council shall have made findings by resolution as to the advisability of the improvement, the nature of the improvement, the estimated cost, the boundaries of the improvement district, the method of assessment and the apportionment of costs between the improvement district and the City at Large, all as finally determined by the City Council.

All persons desiring to be heard with reference to the proposed improvement shall be heard at this hearing.

Upon adoption of this Resolution, the City Clerk is hereby directed to provide all publication and mailed notices in accordance with the provisions of K.S.A. 12-6a01, *et seq.*, as amended, and City of Topeka Code § 126-36, *et seq.*

ADOPTED and APPROVED by the City Council_____.

CITY OF TOPEKA, KANSAS

William W. Buntin, Mayor

ATTEST:

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 15, 2006

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DATE:	August 11, 2006	
CONTACT PERSON:	Linda Wood or Jim Langford	DOCUMENT #:
SECOND PARTY/SUBJECT:	Authorization of Expenditures for the week ended August 13, 2006	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of August 7, 2006, through August 13, 2006, and enumerating said expenditures therein. First and Final Reading.

POLICY ISSUE:

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

STAFF RECOMMENDATION:

Adopt the Ordinance as presented.

BACKGROUND:

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

BUDGETARY IMPACT:

Approves expenditures for the period August 7, 2006, through August 13, 2006, in the amount of \$844,665.38.

SOURCE OF FUNDING:

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

ATTACHMENTS:

[Expenditure Ordinance](#)

1 (Published in the Topeka Metro News _____)

2
3
4 ORDINANCE NO. _____

5
6 AN ORDINANCE introduced by City Manager Norton N. Bonaparte Jr., allowing and
7 approving City expenditures for the period of August 7, 2006, through
8 August 13, 2006, and enumerating said expenditures herein.
9

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

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

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

17	<u>Section 3.</u>	Total for 75 vendor checks written in this period	\$785,661.70
18		Total vendor checks voided in this period (net)	-0-
19		Total electronic transfers to vendors in this period	59,003.68
20		Total net payroll to employees this period	-0-
21		Total payroll related electronic transfers this period	<u>-0-</u>
22		Total for expenditures in this period	<u>\$844,665.38</u>

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

25 PASSED and APPROVED by the City Council _____.

26
27
28 ATTEST:

William W. Bunten, Mayor

29
30
31 _____
32 Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 22, 2006

+ Back Print

DATE:	August 11, 2006	
CONTACT PERSON:	Linda Wood or Jim Langford	DOCUMENT #:
SECOND PARTY/SUBJECT:	Authorization of expenditures for the week ended August 20, 2006	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period August 14, 2006, through August 20, 2006, and enumerating said expenditures therein. First and Final Reading.

POLICY ISSUE:

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

STAFF RECOMMENDATION:

Adopt ordinance as presented.

BACKGROUND:

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

BUDGETARY IMPACT:

Approves expenditures for the period August 14, 2006, through August 20, 2006, in the amount of \$6,501,332.68.

SOURCE OF FUNDING:

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

ATTACHMENTS:

[Weekly Expenditure Ordinance for Week Ended August 20, 2006](#)

1 (Published in the Topeka Metro News _____)

2
3
4 ORDINANCE NO. _____

5
6 AN ORDINANCE introduced by City Manager Norton N. Bonaparte Jr., allowing and
7 approving City expenditures for the period of August 14, 2006,
8 through August 20, 2006, and enumerating said expenditures herein.
9

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

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

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

17	<u>Section 3.</u>	Total for 502 vendor checks written in this period	\$3,935,180.83
18		Total vendor checks voided in this period (net)	(50.00)
19		Total electronic transfers to vendors in this period	81,548.62
20		Total net payroll to employees this period	1,394,278.73
21		Total payroll related electronic transfers this period	<u>1,090,374.50</u>
22		Total for expenditures in this period	<u>\$6,501,332.68</u>

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

25 PASSED and APPROVED by the City Council _____.

26
27
28 ATTEST:

William W. Bunten, Mayor

29
30
31 _____
32 Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 10, 2006

+ Back Print

DATE:	August 11, 2006	
CONTACT PERSON:	Lana Kennedy	DOCUMENT #:
SECOND PARTY/SUBJECT:	Construction of parking lots	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Councilmember Lana Kennedy, relating to construction of parking lots and establishing Topeka City Code Chapter 26, Article XIV and Sections 26-660 and 26-662. First Reading.

(The ordinance would require a permit to be obtained prior to the construction of a stand alone parking lot.)

POLICY ISSUE:

Whether to require the submittal of plans and an approval permit for the construction of a stand alone parking lot not built in connection with a building or other structure.

STAFF RECOMMENDATION:

Approve ordinance.

BACKGROUND:

The Uniform Building Code requires a permit to be issued prior to the construction of a building or other structure. A parking lot does not fall within this definition. Stand alone parking lots not built in conjunction with a building or other structure do not require a permit. This ordinance addresses this "loop-hole" in our current code by requiring a person desiring to construct a stand alone parking lot to submit all construction and landscaping plans and a receive planning

department approval prior to the construction of a stand alone parking lot.

BUDGETARY IMPACT:

City will receive additional permit fees.

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Councilmember Lana Kennedy, relating to construction of parking lots and establishing Topeka City Code Chapter 26, Article XIV and §§ 26-660, 26-661 and 26-662.

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

Section 1. That City of Topeka Code Chapter 26, Article XIV is hereby amended by the addition of the following language:

Construction of Parking Lots.

Section 2. That City of Topeka Code § 26-660 is hereby amended by the addition of the following language:

Issuance of Permit.

(a) Any person desiring to construct a parking lot on private property shall first obtain a permit for such construction.

(b) Only a licensed concrete contractor or commercial contractor Type I or II may obtain a permit for the construction of a parking lot.

(c) No permit shall be issued for the construction of a parking lot until and unless the following requirements are met:

(1) Submittal of a completed application including construction plans.

(2) Payment of the parking lot permit fee, unless parking lot is incidental to construction of a structure for which a permit fee has been paid.

(3) Planning department approval that the proposed lot is allowed in the use regulations for the zoning district in which the lot is located and planning department approval of the landscape plan.

(4) A right-of-way permit has been obtained by the contractor if a portion of the parking lot, its entrances or approaches will connect with the City's rights-of-way.

Section 3. That City of Topeka Code § 26-661 is hereby amended by the addition of the following language.

Failure to obtain a permit.

Any construction work commenced by a contractor without having first obtained a parking lot construction permit shall be charged an administrative fee in the amount equal to the permit fee. Said administrative fee shall be in addition to the permit fee.

Section 4. That City of Topeka Code § 26-662 is hereby amended by the addition of the following language

Construction standards/final inspection.

(a) All parking lots and every portion thereof specifically including but not limited to driveways, curbing, sidewalks and surfacing shall be constructed in accordance with all applicable City ordinances and the City of Topeka Technical Specifications promulgated by the City engineer.

(b) It shall be unlawful for any person to permit or otherwise allow for the parking of vehicles in a parking lot prior to the final inspection and approval of the constructed parking lot by the developmental services division.

Section 5. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

49 PASSED AND APPROVED by the City Council _____.

50 CITY OF TOPEKA, KANSAS

51
52
53
54
55 _____
56 William W. Bunten, Mayor

57 ATTEST:
58
59
60 _____
61 Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 2, 2006

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DATE:	August 11, 2006	
CONTACT PERSON:	Joy Hoover/Mike Teply	DOCUMENT #:
SECOND PARTY/SUBJECT:	Commercial Grease Trap Ordinance	PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 146 Utilities	
CIP PROJECT:	No	
ACTION OF COUNCIL:	JOURNAL #:	PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, amending City of Topeka Codes Section 146-196, 146-283 and reserved sections 146-354 through 146-367, and specifically repealing said original sections. First Reading.

(This ordinance amends language relating to record keeping, reporting and additive use in grease traps/interceptors. The licensing of grease haulers is also addressed.)

POLICY ISSUE:

STAFF RECOMMENDATION:

Approval of this modification to the City Codebook.

BACKGROUND:

Licensing of grease haulers will permit Water Pollution Control (WPC) to maintain accurate records of the grease haulers, as well as their servicing and pumping of grease traps and interceptors to ensure proper disposal of grease waste. The

requirements of quarterly reporting and record keeping by commercial grease generators ensure that proper cleaning, maintenance, and service of grease traps and interceptors are being completed in interval of annual inspections.

BUDGETARY IMPACT:

Minimum of \$1,200 in annual revenue to the Water Pollution Control Utility Fund from Grease Hauler Licensing fees.

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Summary of Ordinance](#)

[Ordinance](#)

Grease Ordinance Summary

A Grease Ordinance Committee, of stakeholders, addressed issues related to the pumping, and servicing of grease traps, grease interceptors as well as, disposal of grease waste from City of Topeka commercial establishments.

Grease Committee Mission Statement

To review, revise, and implement a comprehensive Grease Ordinance that meets the City's and the Community's needs effectively and efficiently.

Grease Ordinance Objectives

- **Control proper grease disposal by grease haulers and generators**
- **Ensure routine cleaning schedules and proper maintenance by grease generators**
- **Reduce blockages and backups in commercial and residential areas**
- **Direct the proper use and non-use of enzymatic chemicals in the City collection system**

The amendments proposed in this Grease Ordinance impacts:

- **Grease Haulers** – any business that commercially hauls liquid grease waste to and/or from a grease generator and properly disposes of such in the appropriate disposal location.
- **Grease Generators** – any business or other commercial enterprise which creates or otherwise discharges grease into the city municipal sewer collection system.

Grease Generators would be required under this proposed Ordinance change to:

1. Submit to the City quarterly grease reports that detail the cleaning schedule for their respective grease trap or interceptor.
2. Maintain a Maintenance log indicating the previous 12 months' cleaning dates (available for inspection at annual facility inspections).
3. Prohibit the use of any solvent based, or enzymatic chemicals in the sewer collection system (with written permission of the WPC Superintendent for any other bacterial, grease cutters and/or additives before use).

Grease Haulers would be required, under this proposed Ordinance change to:

1. Obtain a Grease Hauler License for each three-year licensing term.
2. Submit to the City a Grease Interceptor Inspection Sheet for each interceptor serviced.

1 (Published in the Topeka Metro News _____)

2
3
4 ORDINANCE NO. _____

5
6 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending City
7 of Topeka Code §§ 146-196, 146-283, 146-354 through 146-367, and
8 specifically repealing said original sections.
9

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

11 Section 1. City of Topeka Code § 146-196, Definitions, is hereby amended to
12 read as follows:

13 **Definitions.**

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

17 *Act or The Act* means the Federal Water Pollution Control Act, also known as the
18 Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*

19 *Approval authority* means the Environmental Protection Agency (EPA) or if the
20 pretreatment program has been formally delegated to the state department of health and
21 environment (KDHE), it shall mean the director of the division of environment of KDHE.

22 *Authorized representative* means:

23 (A) A principal executive officer of at least the level of vice-president, if the
24 industrial user is a corporation;

25 (B) A general partner or proprietor, if the industrial user is a partnership or
26 proprietorship, respectively;

(C) A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates; or

(D) A duly authorized representative responsible for the operation of a facility owned and/or operated by the state, federal or local government.

Beneficial uses means uses of the waters of the state that may be protected against quality degradation which include, but are not necessarily limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by federal or state law.

BOD or *BOD* (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty (20°) degrees Celsius, expressed in milligrams per liter.

Building sewer means a sewer conveying wastewater from the premises of a user to a community sewer.

City means the City of Topeka, Kansas, for the purpose of administering this article represented by the superintendent of the water pollution control division.

Combined sewer means a sewer receiving the combination of surface runoff, wastewater, sewage and/or industrial wastes.

Community sewer means a sewer owned and operated by the city or other public agency, tributary to a treatment facility operated by a public agency.

50 *Composite sample* means a combination of individual samples of water or
51 wastewater taken at selected intervals (generally hourly or some similar specified period),
52 to minimize the effect of the variability of the individual sample. Individual samples may
53 have equal volume or may be roughly proportional to the flow at time of sampling.

54 *Contamination* means an impairment of the quality of the waters of the state by
55 waste to a degree which creates a hazard to the public health. "Contamination" shall
56 include any equivalent effect resulting from the disposal of wastewater, whether or not
57 waters of the state are affected.

58 *Cooling water* means the water discharged from any use such as air conditioning,
59 cooling or refrigeration or to which the only pollutant added is heat.

60 *Department* means the public works department of the city.

61 *Direct discharge* means the discharge of treated or untreated wastewater directly to
62 the waters of the state.

63 *Division* means the Water Pollution Control Division of the City of Topeka Public
64 *Works Department.*

65 *Environmental Protection Agency* or *EPA* means the U.S. Environmental Protection
66 Agency, or where appropriate, the term may also be used as a designation for the
67 administrator or other duly authorized official of such agency.

68 *Foundation drain* means a perforated pipe or a pipe with open joints or porous
69 material installed either outside exterior foundation walls or inside exterior foundation walls
70 or beneath a basement floor for the purpose of preventing the buildup of water pressure
71 and water capillarity beneath the floor.

Grease Generator means a business or other commercial enterprise which creates or otherwise discharges grease into the municipal sewer system.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Hazardous waste means a hazardous waste as defined within the Code of Federal Regulations (40 C.F.R. § 261.3).

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank truck.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the ~~a~~Act (33 U.S.C. § 1317), into the POTW (including holding tank waste discharged into the system).

Industrial user means any user contributing industrial waste to the municipal sewer system.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(A) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(B) Is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with statutory provisions and regulations or permits issued thereunder by the state or federal government.

93 *Mass emission rate* means the weight of material discharged to the sewer system
94 during a given time interval. Unless otherwise specified, the "mass emission rate" means
95 pounds per day of a particular constituent or combination of constituents.

96 *Municipal sewer system* means sanitary sewers, pumping stations, sewage
97 treatment plants, main sewers, interceptor sewers, outfall sewers, and works for the
98 collection, transportation, pumping and treating of wastewater, sewage or industrial waste
99 thereto, necessary in the maintenance and operation of the same.

100 *National categorical pretreatment standard or pretreatment standard* means any
101 regulation containing pollutant discharge limits promulgated by the EPA in accordance with
102 section 307(b) and (c) of the aAct (33 U.S.C. § 1317), which applies to a specific category
103 of industrial users.

104 *National pollution discharge elimination system or NPDES permit* means a
105 discharge permit issued by the approval authority pursuant to section 402 of the aAct (33
106 U.S.C. § 1342).

107 *National prohibitive discharge standard or prohibitive discharge standard* means any
108 regulation developed under the authority of section 307(b) of the aAct.

109 *New source* means any building, structure, facility or installation from which there is
110 or may be a discharge of pollutants, the construction of which commenced after the
111 publication of proposed pretreatment standards under section 307(c) of the aAct, which will
112 be applicable to such source if such standards are thereafter promulgated in accordance
113 with that section, provided that such building, structure, facility or installation meets the
114 criteria outlined by 40 C.F.R. § 403.3(k) of the general pretreatment regulations.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or other legal representatives, agents or assignees.

PH means the negative logarithm of the reciprocal concentration of hydrogen ions measured in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological material, radioactive material, heat wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or facilities which serve such beneficial uses. "Pollution" may include contamination.

Premises means a parcel of real estate including any improvements thereon which is determined by the department to be a single user for the purpose of receiving, using and paying for service.

Pretreatment or *treatment* means the reduction of the amount of pollutants, the removal of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the municipal sewer system. The reduction or alteration can be obtained by

physical, chemical or biological processes or process changes by other means, except by dilution as prohibited by federal regulation.

Pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the aAct which applies to industrial users.

Publicly owned treatment works (POTW) means a treatment works as defined by section 212 of the aAct (33 U.S.C. § 1292), which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purpose of this article, "POTW" also includes any sewers that convey wastewaters to the POTW from persons outside the city who are users of the city's POTW.

Sanitary sewer means a sewer which carries wastewater, sewage and/or industrial wastes, and to which storm, surface and ground waters are not intentionally admitted.

Sewage means a combination of the water-carried wastes from users together with such groundwaters, surface waters and stormwaters as may be present.

Sewer means a pipe or enclosed conduit through which sewage is transported to the POTW treatment plant.

Significant industrial user means:

(A) Users whose average wastewater strength cannot be established because of seasonal or other variations and/or operations;

(B) Users whose wastewater strength exceeds the normal range of wastewater strength;

(C) Users using an unmetered source of water;

(D) Users who fall under those guidelines set forth for federal categorical industries;

(E) Users discharging an amount greater than twenty-five thousand (25,000) gallons per day of process wastewater for any day during the preceding twelve (12) month period;

(F) Users whose average discharge, measured either by volume of flow, weight of suspended solids, biochemical oxygen demand, or chemical oxygen demand, exceeds two percent (2%) of the average loading on the applicable treatment facility; and

(G) Other users determined by the superintendent to require special regulation or source control.

Significant noncompliance or *SNC* means and refers to any violation of pretreatment requirements (limits, sampling, analysis, reporting and meeting compliance schedules and regulatory deadlines) and is an instance of noncompliance for which the industrial user is liable for enforcement, including penalties. Instances of SNC are industrial user violations which meet one or more of the following criteria:

(A) Violations of wastewater discharge limits:

(1) Chronic violations: Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit or the same average limit in a six (6) month period (any magnitude of exceedance).

(2) Technical review criteria or "TRC" violations: Thirty-three percent (33%) or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six (6) month period.

183 There are two (2) groups of TRCs: BOD, TSS, fats, oil, and grease, where
184 the TRC is 1.4; and group II for all other pollutants, where the TRC is 1.2.

185 (3) Any other violation of an effluent limit (average or daily maximum) that
186 the city believes has caused, alone or in combination with other discharges,
187 interference (e.g., slug loads) or pass-through; or endangered the health of
188 the sewage treatment personnel or the public.

189 (4) Any discharge of a pollutant that has caused imminent endangerment
190 to human health/welfare or to the environment and has resulted in the
191 POTW's exercise of its emergency authority to halt or prevent such a
192 discharge.

193 (B) Violations of compliance schedule milestones, contained in a local control
194 mechanism or enforcement order, for starting construction, completing construction, and
195 attaining final compliance by ninety (90) days or more after the schedule date.

196 (C) Failure to provide reports for compliance schedules, self-monitoring data, or
197 categorical standards (baseline monitoring reports, ninety (90) day compliance reports, and
198 periodic reports) within thirty (30) days from the due date.

199 (D) Failure to accurately report noncompliance.

200 (E) Any other violation or group of violations that the city considers to be
201 significant.

202 *Silver associated process* means any process, manufacturing or service related
203 business which falls within any of the following standard industrial classifications: 2711,
204 2721, 2731, 2732, 2741, 2751 to 2754, and 8062.

Slug means any discharge of wastewater, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times its average twenty-four (24) hour concentration or flows during normal operation.

Standard industrial classification or *SIC* means a classification pursuant to the most recent edition of the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

State means the "State of Kansas."

Stormwater means any water flow occurring during or following any form of natural precipitation and resulting there from.

Stormwater collection system shall include all piping, channels, ditches, streams, or any other manmade or natural structure that conveys stormwater runoff.

Superintendent means the superintendent of the city water pollution control division of the city public works department, or designated representative.

Total suspended solids means solids that either float on the surface of or are in suspension with water, sewage or other liquids; and which are removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of section 307(a)(1) of the aAct.

Unpolluted water means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable for disposal to storm or natural drainages or directly to surface waters.

User means any person that discharges, directly or indirectly, causes or permits the discharge of wastewater into a community sewer.

Waste means substances, whether liquid or solid, associated with human habitation or of human origin or from any producing, manufacturing or processing operation of whatever nature, whether treated or untreated, discharged into or permitted to enter a community sewer.

Wastewater means waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer.

Waters of the state means any water, surface or underground, within the boundaries of the state.

Section 2. City of Topeka Code § 146-283, Use of Grease Traps, is hereby specifically repealed.

~~Use of grease traps.~~

~~Grease traps shall be installed in accordance with the requirements of article VIII of chapter 26 of this Code to ensure compliance with the effluent limitations contained in this article. The owner or operator of each establishment shall be responsible for servicing and routine cleaning of the grease trap to maintain it in satisfactory operating condition. The owner or operator shall also be responsible for removing the cover of the grease trap for inspection at the request of any representative of the public works department. Any existing establishments not currently using a grease interceptor shall be required to install such if future data (laboratory data and/or preventive maintenance data) show a need for waste pretreatment requirements regulated by the water pollution control division.~~

251 Section 3. City of Topeka Code § 146-354, Reserved, is hereby amended by the
252 addition of the following language:

253 **DIVISION 9. GREASE GENERATORS**

254 **Use of grease traps/Interceptors.**

255 Grease traps/Interceptors shall be installed in accordance with the requirements of
256 article VIII of Chapter 26 of this Code to ensure compliance with the effluent limitations
257 contained in this article. Each grease generator shall be responsible for servicing and
258 routine cleaning of the grease trap and/or grease interceptor to maintain it in satisfactory
259 operating condition. Each grease generator shall ensure that grease traps and grease
260 interceptors are cleaned as often as necessary to ensure that sediment and floating
261 materials do not accumulate to impair the efficiency of the grease trap and/or grease
262 interceptor; to ensure the discharge is in compliance with local discharge limits; and that no
263 visible grease is observed in discharge. Each grease generator shall also be responsible
264 for removing the cover of the grease trap for inspection at the request of any representative
265 of the public works department. Any existing grease generator not currently using a grease
266 trap and/or grease interceptor shall be required to install such if future data (laboratory data
267 and/or preventive maintenance data) show a need for waste pretreatment requirements
268 regulated by the water pollution control division.

269 Section 4. City of Topeka Code § 146-355, Reserved, is hereby amended by the
270 addition of the following language:

271 **Quarterly reporting.**

272 Each grease generator shall submit a quarterly grease report on such forms
273 provided by the City to the superintendent. The quarterly grease report shall be submitted
274 on or before the last calendar day of March, June, September, and December in each
275 year.

276 Each quarterly grease report shall provide the following information, including but
277 not limited to, a record of the dates the grease trap and/or grease interceptor was cleaned,
278 the name and contact information for the grease hauler, if applicable, and grease generator
279 contact information. Failure to submit a quarterly grease report or failure to submit a
280 complete report within thirty (30) days of the due date may result in the issuance of a notice
281 of violation and enforcement under Division 2 of this article.

282 Section 5. City of Topeka Code § 146-356, Reserved, is hereby amended by the
283 addition of the following language:

284 **Record keeping.**

285 Each grease generator shall maintain a Grease Trap/Interceptor Maintenance Log
286 such forms provided by the division that shall indicate all dates of trap/interceptor cleaning,
287 disposal method, quantity removed, and the name of the grease hauler that pumped the
288 interceptor or the individual who cleaned the trap. The Grease Trap/Interceptor
289 Maintenance Log shall indicate the cleaning dates for at least the previous twelve (12)
290 months and shall be available for inspection and review by the Superintendent. Failure to
291 maintain a maintenance log shall result in the issuance of a notice of violation and
292 enforcement in accordance with this article.

Section 6. City of Topeka Code § 146-357, Reserved, is hereby amended by the addition of the following language:

Additives.

The introduction of any solvent based products (i.e., fuel, gasoline or any other hydrocarbons) or enzymatic agents are prohibited in the collection system. All other chemicals, emulsifiers, live bacteria, or other grease cutters or additives shall be approved by the Superintendent prior to use. Based upon the information received and any other information solicited from the potential user or supplier, the superintendent shall permit or deny the use of the additive in writing. Permission to use any specific additive may be withdrawn by the City at any time. Any violation of this section may result in the issuance or a notice of violation and enforcement in accordance with this article.

Section 7. City of Topeka Code § 146-358, Reserved, is hereby amended by the addition of the following language:

DIVISION 10. GREASE HAULER

License Required.

It shall be unlawful for any person, firm, or business to engage in the business of cleaning or servicing a grease trap and/or a grease interceptor of a grease generator without first having obtained from the division a license therefore.

Section 8. City of Topeka Code § 146-359, Reserved, is hereby amended by the addition of the following language:

Application.

Applications for a grease hauler license shall be submitted to the division and shall contain the following information:

316 (A) Payment of the license fee.

317 (B) Achievement of a minimum passing graded score of seventy percent (70%)
318 on the grease haulers examination administered by the division.

319 (C) Submitting complete application forms supplied by the division.

320 (D) Submitting a satisfactory public liability insurance policy covering all
321 operations of such applicant or licensee in such business in the city in the sum of at least
322 One Hundred Thousand Dollars (\$100,000.00) for each person injured and containing a
323 limitation of liability of not less than Three Hundred Thousand Dollars (\$300,000.00) in
324 case of injury of two (2) or more persons in any one accident and in the sum of not less
325 than Fifty Thousand Dollars (\$50,000.00) for damage to property. Should any policy be
326 cancelled, the city shall be notified of such cancellation at least thirty (30) days prior to
327 such cancellation becoming effective, and provisions to that effect placing upon the
328 company writing such policy the duty to give such notice shall be incorporated in such
329 policy.

330 (E) Failure to submit a complete application including certificate of insurance and
331 a passing test score and payment of the license fee will be grounds for denial of a license.
332 Submission of an application with false information shall be grounds for suspension of a
333 license.

334 Section 9. City of Topeka Code § 146-360, Reserved, is hereby amended by the
335 addition of the following language:

336 **License Term.**

337 City issued grease hauler licenses shall be valid for three (3) years from the date of
338 issuance.

Section 10. City of Topeka Code § 146-361, Reserved, is hereby amended by the addition of the following language:

License Fee.

The license fee for a grease hauler shall be Three Hundred Dollars (\$300.00) for the license term. Additionally, each grease hauler shall pay for each license term a fee of Twenty Dollars (\$20.00) for each vehicle used to haul grease.

Section 11. City of Topeka Code § 146-362, Reserved, is hereby amended by the addition of the following language:

Grease hauler license renewal.

A license may be renewed by submitting to the division a renewal form together with the renewal fee at least thirty (30) days prior to the expiration date of the current license.

Section 12. City of Topeka Code § 146-363, Reserved, is hereby amended by the addition of the following language:

Grease waste inspection.

Grease wastes pumped from any grease generator shall be subject to inspection, sampling, and analysis to determine compliance with all applicable provisions of these rules and regulations of the superintendent who shall perform or supervise such inspection, sampling, and analysis at any time during the commission of any servicing of any grease trap or interceptor.

Section 13. City of Topeka Code § 146-364, Reserved, is hereby amended by the addition of the following language:

Record keeping.

Grease haulers who service, pump, or provide any related services to grease interceptors shall submit a grease interceptor service inspection reports on forms provided by the division. An inspection record shall be made for each grease interceptor serviced during the reporting period.

Section 14. City of Topeka Code § 146-365, Reserved, is hereby amended by the addition of the following language:

Late fees.

Grease interceptor inspection reports shall be deemed late, and subject to the enforcement provisions of this division if they are received by the division more than fourteen (14) days after the end of each reporting period.

Section 15. City of Topeka Code § 146-366, Reserved, is hereby amended by the addition of the following language:

Suspension or revocation of license.

Failure of any grease hauler to comply with the requirements of this article shall be subject to the following enforcement procedures:

(A) Notice of Violation. A notice of violation will be issued to any grease hauler that is found to be in non-compliance with the requirements of this article. The notice shall state the violation and shall give the grease hauler ten (10) business days to remedy or otherwise correct the violation. The grease hauler shall have ten (10) calendar days from the receipt of notice by the grease hauler to correct or otherwise remedy the violation.

(B) Grounds for notice of violation. A grease hauler may be issued a notice of violation for any one of the following grounds:

(1) Falsification of any information submitted as part of the application for the LGH.

(2) Failure to comply with any requirements or regulations concerning grease traps/interceptors as provided for in this article.

(3) Failure to pay required fees, or any other assessed fees.

(4) Failure to comply with any other license condition.

(5) Discharging any liquid waste into a non-authorized location.

(6) Falsifying information required for a discharge manifest, or any other applicable forms, applications or reports required under this article.

(7) Disposal of waste into the municipal sewer system at any site other than the designated disposal site.

(8) Any other violation which constitutes an imminent or substantial damage to the health or welfare of persons or the environment.

(C) License suspension/revocation.

(1) In the event that a grease hauler shall fail to remedy a violation within the time frame set forth in the notice, the license shall be suspended as follows:

(a) Upon the first failure to remedy a violation, the grease hauler license will be suspended by the division until such time as the violation has been remedied.

(b) Upon the second failure to remedy a violation, the grease hauler's license shall be suspended for a period of three (3) months.

(c) Upon the third failure to remedy a violation, the grease hauler's license shall be suspended for a period of one (1) year. The license suspension shall only be lifted after expiration of the one (1) year period and the grease hauler has applied for a new grease hauler license meriting all requirements of Topeka City Code § 146-359.

(2) During any period of any license suspension, a grease hauler may not engage in any grease hauling activities.

(3) Upon receipt of a notice of suspension issued by the division, the grease hauler shall have ten (10) days to file a written notice of appeal of the license suspension with the superintendent. An administrative hearing shall be set within ten (10) days of the receipt of the appeal. The suspension of the license shall be stayed until the hearing before the City's administrative hearing officer.

Section 16. City of Topeka Code § 146-367, Reserved, is hereby amended by the addition of the following language:

Prohibited acts.

(A) In addition to any other enforcement provisions contained in this article, it shall be unlawful for any person to do the following:

(1) Violate any term or condition of the grease hauler license.

(2) Failure to follow any filing, reporting, inspection or monitoring requirement required by federal, state, or city law or regulation.

428 (3) Failure to comply with any lawful order or requirement made by the
429 superintendent.

430 (4) Failure to maintain accurate grease interceptor service reports.

431 (5) Disposal of waste at any site other than the designated disposal site.

432 (B) Any person violating this section may be punished by:

433 (1) A fine of not more than four hundred ninety nine dollars (\$499.00).

434 (2) Imprisonment in jail for not more than one hundred seventy nine (179)
435 days; or

436 (3) Both such fine and imprisonment not the exceed the limits set out in
437 subsections (c)(1) and (c)(2).

438 Section 17. Original City of Topeka Code §§ 146-196, 146-283 and 146-354
439 through 146-367 are hereby specifically repealed.

440 Section 18. This ordinance shall take effect and be in force after its passage,
441 approval and publication in the official city newspaper.

442 PASSED and APPROVED by the City Council _____.

443

444

445

446

William W. Bunten, Mayor

447 ATTEST:

448

449

450

451 _____
Iris E. Walker, City Clerk



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www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 10, 2006

 + Back  Print

DATE:	August 11, 2006	
CONTACT PERSON:	Mark Schreiner	DOCUMENT #:
SECOND PARTY/SUBJECT:	Park Improvement Project	PROJECT #: 30260-00
CATEGORY/SUBCATEGORY		
CIP PROJECT:	Yes	
ACTION OF COUNCIL:	Approve Project Budget and Adopt Ordinance	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30260-00, which provides for design and construction services for a new Animal Health Clinic at the City of Topeka Zoo to create a total minimum working environment of 2,400 square feet, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. First reading.(Council District No. 9)

(This Ordinance will allow for the construction of additional building space to provide for improved animal veterinary care at the City of Topeka Zoo.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Approve Project Budget and Adopt Ordinance as presented.

BACKGROUND:

This project is approved in the 2006 CIB. The existing 1,200 square foot animal health management building is approximately 30 years old and is in need of renovation services and an expansion or the development of a new facility to create a total working environment of 2,400 square feet. This project is part of the Zoo master plan approved by City

Council and part of the Zoo Tomorrow Capital Campaign with the Friends of the Topeka Zoo, as per approved by the City Council.

BUDGETARY IMPACT:

Revised Project Budget = \$587,500 with this being a split of \$515,625 from General Obligation bonds and \$71,875 from the FOTZ funds. This project was adopted in the 2006 Capital Improvement Budget. The project cost is higher than the \$287,500 in the adopted budget. The total debt service cost for the project, spread over 20 years, will be \$862,033 for the \$515,625 in General Obligation bonds.

SOURCE OF FUNDING:

Funding for this project will be provided by General Obligation bonds and private funds from the Friends of the Topeka Zoo (FOTZ). As per agreement between the City and the FOTZ, the City has agreed to provide \$2.5 million dollars for projects in the Zoo Tomorrow Capital Campaign. The additional \$300,000 would be shifted from the Tropical Rain Forest roof replacement project, which will not be started this year. The shifting of the funds would not increase the bonded indebtedness of the city or increase the approved amount in the CIB for 2006. The roof repair project would be handled in a different manner over the next few years as part of the zoo operations project budget.

ATTACHMENTS:

[Debt Service Calculator](#)

[Vicinity Map](#)

[Master Plan Layout](#)

[Memorandum of Understanding](#)

[Project Budget](#)

[Ordinance](#)

PROJECT:

Interest rate	5.25%
Number of Years	20

Cost of Issuance	2.00%
Temp Note interest	5.000%

Principal (project cost)	<u>\$491,070</u>
Plus Temp Note Interest (unless included in Principal)	<u>\$24,554</u>
Subtotal	\$515,624
Plus Cost of Issuance	<u>\$10,312</u>
Total	\$525,936

Annual Debt Service	\$43,102
Annual Debt Service as Percent of Total	8.2%

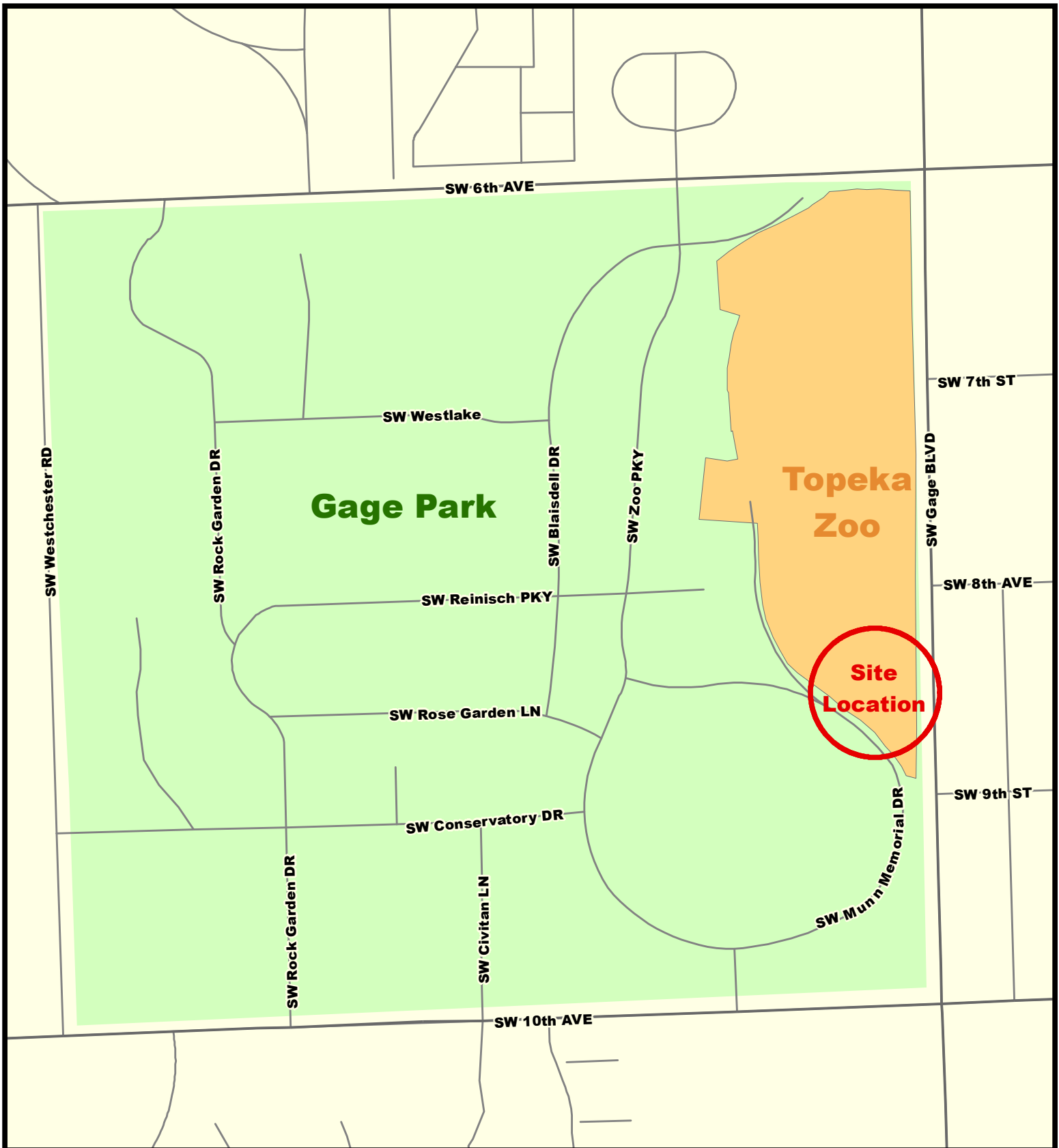
Total Debt Service (principal and interest)	\$862,033
Difference Project Cost and Total Debt Service	\$370,963

GO Bonded Indebtedness as of March 2006*	\$148,705,000
Bond projects	\$20,487,369
Temporary Notes--City Projects	\$12,749,372
Temporary Notes--Special Assessment Projects	<u>\$10,339,580</u>
Total Indebtedness	<u><u>\$192,281,321</u></u>

Plus Project	\$192,807,257
--------------	---------------

* Breakdown of GO Bonded Indebtedness	
Building, Trafficway & Park Improvements	\$108,373,006
Drainage, Street & Sewer Improvements (special assessments)	\$12,401,994
KP&F Unfunded Liability	\$12,400,000
Heartland Park STAR Bonds	\$10,460,000
Heartland Park Development	<u>\$5,070,000</u>
Total	\$148,705,000

City of Topeka Zoo Improvements Project No. 30260-00



City of Topeka

GIS

Geographic Information Systems

Map Produced On:
May 24, 2006
Map Revised on:

Map Printed On:
May 24, 2006

David E. Fish
Engineering Tech II
(785)368-3052
dfish@topeka.org

Legend

- Parks
- Major Streets
- snroads

N



No Scale

City of Topeka, Kansas GIS Data Disclaimer

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



glpm architects

SCALE 0 25 50 100 FEET



November 1st, 2005

TOPEKA ZOOLOGICAL PARK MASTER PLAN 2005



CITY OF TOPEKA

Ord. No. 36225

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding entered into this 17th day of ~~February~~ ^{March}, 2006, by and between the City of Topeka (hereinafter referred to as "CITY") and Friends of the Topeka Zoo, Inc., (hereinafter referred to as "FOTZ"); and

WHEREAS, the CITY has set forth in its Capital Improvement Plan (CIP) of 2005-2009 that it is intending on developing new exhibits and expanded exhibits and will authorize and fund at least Two Million Five Hundred Thousand Dollars (\$2,500,000.00) to pay for these developments; and

WHEREAS, FOTZ agrees that it will seek donors and/or grants for these development Phases; and

WHEREAS, FOTZ wishes to participate in regard to these new exhibits and expanded exhibits and seeks to obtain by solicitation matching donations and or grants up to the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) from January of 2006 through December of 2011 and to account to the donors and/or grantors for the use of their funds; and

WHEREAS, the CITY and FOTZ desire to set forth the conditions and requirements, which will govern the capital campaign called "ZOO TOMORROW" more specifically described hereinafter.

NOW, the CITY and FOTZ as evidenced by the signatures below agree to the following conditions and requirements:

1. The CITY as part of the Capital Improvement Plan (CIP) 2005-2009 has designated three separate development phases:

-
- A. *Phase I:* Animals & Man building expansion consisting of the Animals and Man, Animal Health Center and Kansas Carnivores;
 - B. *Phase II:* African Canid consisting of African Canid Exhibit (hyena exhibit) and African Primate/bird exhibit;
 - C. *Phase III:* Animal Kingdom Building (home for snakes, turtles, crocodiles, small mammals and lizards) and the Creatures of the Night (home for nocturnal animals).

The Capital Improvement Projects for 2005-2009 and the project titles and descriptions are attached hereto, as "Attachment A" and incorporated herein by reference.

2. The above identified developmental Phases would, upon completion, be staffed, funded and maintained solely by the CITY.

3. The city attorney will immediately upon the passage of the Capital Improvement Project (CIP) resolution, provide such resolution to FOTZ which will show that the work herein described has been approved by Topeka City Council. CITY and FOTZ agree they will work together on design, fund raising and promotional activities for these new and/or expanded facilities, specifically:

- A. CITY and FOTZ agree that for each project of each Phase of the development project set out below, FOTZ shall designate one person who will be permitted to attend meetings and participate in the process of each qualified architect for new project being chosen.
- B. CITY agrees that should there be any material changes from the original

architectural plans and construction plans in which FOTZ funds are used and that were presented to FOTZ then the CITY will provide written notice of the changes to FOTZ.

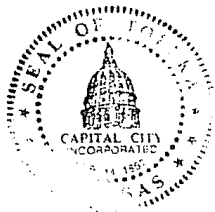
- C. CITY and FOTZ agree that upon the approval of a resolution authorizing all Phases of the development by the CITY that FOTZ will start immediately to seek donations and or grants matching the amount authorized and funded by the CITY up to the amounts set forth in the attached Friends of the Topeka Zoo - Zoo Tomorrow Campaign Proposal.
 - D. CITY and FOTZ agree that FOTZ will keep the CITY advised as to the amount of funds that have been donated and or grants approved for each Phase of the development and will notify the CITY within thirty (30) days upon FOTZ reaching its goal of the amounts set forth in the attached Friends of the Topeka Zoo - Zoo Tomorrow Campaign Proposal. The CITY agrees that Kansas Open Records laws may govern whether the name of any Donor or Grantor shall remain confidential until the Donor and or Grantor authorizes disclosure.
 - E. Upon certification in writing by the chief engineer for the City of Topeka to FOTZ that a specific Phase of the development has been completed in full and passed inspection then FOTZ will agree to tender the amount for that Phase of the development which FOTZ has agreed to participate in and if sufficient funds are not on hand at the time of completion additional funds will be paid when they become available.
4. The CITY understands and acknowledges that any donations and or grants which

FOTZ solicits for the above developments would be held by FOTZ. Should the CITY rescind, revoke or cancel this Memorandum of Understanding or rescind, revoke or cancel the agreement authorizing and funding the CITY's share of the development, or fail to fully fund any Phase of the development after being notified that FOTZ has its share of the funds on hand, then FOTZ is relieved of any obligation to assist in seeking additional donations and or grants for the remaining development phases and any remaining donations and or grants would be retained by FOTZ.

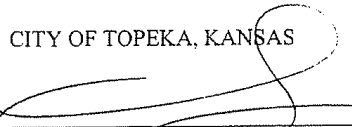
5. CITY and FOTZ agree that should FOTZ be successful in obtaining donations and/or grants in excess of the amounts set forth in the attached Friends of the Topeka Zoo - Zoo Tomorrow Campaign Proposal and the CITY has completed all Phases of the development, then FOTZ upon receipt of these additional donations will turn said donations over to the CITY for reimbursement of capital expenditures at the Zoo up to the total amount of Two Million Five Hundred Thousand Dollars (\$2,500,000.00).

6. This Memorandum of Understanding shall become effective upon approval by the Topeka City Council and signed by the City Manager. This Memorandum of Understanding shall expire on December 31, 2011.

Executed this 17th day of March, 2006.



CITY OF TOPEKA, KANSAS


City Manager, NORTON N. BONAPARTE, JR.

ATTEST:

Iris E. Walker
Iris E. Walker, City Clerk

FRIENDS OF THE TOPEKA ZOO, INC.

APPROVED AS TO FORM AND LEGALITY DATE <u>02-22-06</u> BY <u>JEI</u>
--

Vicki A. [Signature]

PROJECT BUDGET

Project No. 30260-00

LOCATION:

Topeka Zoo
Animal Health Clinic
635 S.W. Gage Blvd.

Contact Person: Mike Coker

DESCRIPTION OF PROJECT:

This project consists of providing design and construction services for a new Animal Health Clinic to create a total minimum working environment of 2,400 square feet. The current facility is approximately 30 years old and is at it's maximum operating capacity in providing preventative veterinary care medicine, surgical needs, and treatment of zoo animals.

CIP Year: 2006

SOURCE OF FUNDS:

GOB, FOTZ

	City of Topeka GOB	FOTZ
<u>COST ESTIMATE:</u>		
Construction:	\$396,025	\$57,964
Design:	\$39,603	\$5,796
Construction Services Fees:	\$35,642	\$5,217
Administrative Fees:	\$7,921	\$1,159
Right-of Way Acquisition:	\$0	\$0
Contingency Amount:	\$11,880	\$1,739
Interim Interest	\$24,554	\$0
Total:	\$515,625	\$71,875

PUBLIC HEARING:

PROJECT AUTHORITY:

- a. Statutes: _____
- b. Ord./Res. No.: _____
- c. Improvement District: _____
- d. City at Large: _____
- e. Method of Assessment: _____

PROJECT ENGINEER:

Mark Schreiner, P.E.

Total

<u>\$453,989</u>
<u>\$45,399</u>
<u>\$40,859</u>
<u>\$9,080</u>
<u>\$0</u>
<u>\$13,619</u>
<u>\$24,554</u>
<u>\$587,500</u>

(Published in the Topeka Metro News_____

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30260-00, which provides for design and construction services for a new animal health clinic at the City of Topeka Zoo to create a total minimum working environment of 2,400 square feet, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka.

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

Section 1. That it is hereby deemed advisable and necessary and is also hereby authorized, pursuant to Section A12-1 of the Code of the City of Topeka, that the following public improvement be made:

A. GENERAL NATURE OF IMPROVEMENT:

This project consists of providing design and construction services for a new animal health clinic at the City of Topeka Zoo to create a total minimum working environment of 2,400 square feet. The current facility is approximately 30 years old and is at its maximum operating capacity in providing preventative veterinary care medicine, surgical needs, and treatment of zoo animals.

B. TOTAL PROJECT BUDGET COST:

\$587,500.00

C. SOURCE OF FUNDS:

City of Topeka, General Obligation Bonds or any other lawfully available funds	\$515,625.00
Friends of the Zoo	<u>\$ 71,875.00</u>
Total	\$587,500.00

Section 2. This Ordinance shall take effect and be in force from and after its passage, approval, and publication in the official city newspaper.

29 PASSED and APPROVED by the City Council _____.

30 CITY OF TOPEKA, KANSAS

31

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33

34

William W. Bunten, Mayor

35 ATTEST:

36

37

38

39 _____
Iris E. Walker, City Clerk



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www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 10, 2006

+ Back Print

DATE: August 11, 2006

CONTACT PERSON: Mike McGee **DOCUMENT #:**

SECOND PARTY/SUBJECT: LEC Improvement Project **PROJECT #:** 13144-01
Budget Amendment

CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 090 Law Enforcement

CIP PROJECT: Yes

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

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the project budget and authorizing as amended Improvement Project No. 13144-01 which provides for improvements to the Law Enforcement Center. First Reading.

(The original project budget included improvements to City Hall and the LEC. Council split the project budget into two budgets, one for each building. The budget for the LEC was exceeded by \$7,665.51 while the budget for City Hall was under run resulting in no increases to the original GO bonded requirement.)

POLICY ISSUE:

None

STAFF RECOMMENDATION:

Approve budget amendment

BACKGROUND:

A 2004 capital improvement project was approved for repairs to City Hall and the LEC. One project was originally proposed for both buildings. The Council split the project into two (2) project budgets -131440 and 131441 for the respective buildings. This was done to separate the HVAC repairs in the LEC from City Hall work. The LEC project budget was

exceeded by \$7665.51. However, the City Hall budget was under run so the combined project budgets are still under the original CIP amount.

BUDGETARY IMPACT:

No increase to originally approved GO bonded indebtedness level.

SOURCE OF FUNDING:

GO bonds

ATTACHMENTS:

[Ordinance](#)

[Project Budget](#)

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the
6 project budget and authorizing as amended Improvement Project No.
7 13144-01 which provides for improvements to the Law Enforcement
8 Center as more specifically described herein, pursuant to Section
9 A12-1 of the Code of the City of Topeka, and repealing City of Topeka
10 Ordinance No. 18366.

11
12 WHEREAS, the Council of the City of Topeka adopted Ordinance No. 18366,
13 effective on January 19, 2005, which authorized Improvement Project No. 13144-01 for
14 improvements to the Law Enforcement Center, located at 4th and Kansas Avenue. These
15 improvements included seal coating of the parking lot, carpet replacements, and building
16 tuck pointing. Additionally, heating ventilation and air conditioning (HVAC) thermostatic
17 controls and miscellaneous preventative maintenance upgrades, with a project budget of
18 One Hundred Twenty-Four Thousand Five Hundred Seventy-Five Dollars (\$124,575.00) of
19 General Obligation Bonds and other lawfully available funds; and

20 WHEREAS, it is necessary to amend the project budget to include the costs of
21 repairs to the fire sprinkler system.

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

24 Section 1. That it is hereby deemed advisable and necessary and is also hereby
25 authorized pursuant to Section A12-1 of the Code of the City of Topeka that the following
26 public improvement be made:

27 A. GENERAL NATURE OF IMPROVEMENT:

28
29 This project provides for improvements to the Law Enforcement Center. They
30 include seal coating of the parking lot and restriping, carpet replacement in
31 high travel corridors, and repairs to the heating, ventilation, and air

conditioning (HVAC) system. HVAC repairs include rebalancing of the air handling system and a control systems upgrade. Also included are repairs to the fire sprinkler system.

B. TOTAL PROJECT BUDGET COST:

\$132,240.51

C. SOURCE OF FUNDS:

General Obligation Bonds and any other lawfully available funds.

Section 2. Ordinance No. 18366 is hereby repealed.

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

PASSED and APPROVED by the City Council_____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

PROJECT BUDGET

13144-01 - Revised

LOCATION:

Law Enforcement Center (LEC)

DESCRIPTION OF PROJECT:

This project provides for improvements to the LEC. They include seal coating of the parking lot and restriping, carpet replacement in high travel corridors, and repairs to the heating, ventilation, and air conditioning (HVAC) system. HVAC repairs include rebalancing of the air handling system and a control systems upgrade. Also included are repairs to the Fire Sprinkler system.

SOURCE OF FUNDS:

General Obligation Bonds or any other lawfully available funds

COST ESTIMATE:

	<u>City of Topeka</u>	<u>Other Funds</u>	<u>Total</u>
Construction:	<u>\$132,240.51</u>	<u></u>	<u>\$132,240.51</u>
Design:	<u></u>	<u></u>	<u></u>
Engineering Fees:	<u></u>	<u></u>	<u></u>
Project Service Fees:	<u></u>	<u></u>	<u></u>
<i>Construction Inspection (6%)</i>	<u></u>	<u></u>	<u></u>
<i>City of Topeka Admin. (2%)</i>	<u></u>	<u></u>	<u></u>
<i>Capital Planning Fund Reim.</i>	<u></u>	<u></u>	<u></u>
<i>Right-of Way Preparation: (2%)</i>	<u></u>	<u></u>	<u></u>
Administrative Fees:	<u></u>	<u></u>	<u></u>
<i>Assessment District: (5%)</i>	<u></u>	<u></u>	<u></u>
Right-of Way Acquisition:	<u></u>	<u></u>	<u></u>
Contingency Amount: <u>3%</u>	<u></u>	<u></u>	<u></u>
Interim Interest <u>5%</u>	<u></u>	<u></u>	<u></u>
Total:	<u>\$132,240.51</u>	<u></u>	<u>\$132,240.51</u>

PUBLIC HEARING:

NA

PROJECT AUTHORITY:

a. Statutes: _____
b. Ord./Res. No.: _____ Date: _____
c. Improvement District: _____
d. City at Large: _____
e. Method of Assessment: _____

PROJECT ENGINEER:

Mike McGee



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 22, 2006

+ Back Print

DATE:	August 11, 2006	
CONTACT PERSON:	Lana Kennedy	DOCUMENT #:
SECOND PARTY/SUBJECT:	Downtown Topeka, Inc.	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Councilmember Lana Kennedy authorizing the purchase, possession and consumption of cereal malt beverages during the Celebration of Mexican Independence Day on September 16, 2006, in downtown Topeka. First reading. (*Council District No. 1*)

(The Mexican Independence Day Celebration is an event sponsored by Downtown Topeka, Inc.)

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

This Ordinance provides authorization to Downtown Topeka, Inc. to allow event attendees to buy, possess and consume cereal malt beverages on the barricaded portion of Quincy Street from 6th Street to 8th Street on September 16, 2006 from 4:00 p.m. to 11:30 p.m.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

ATTACHMENTS:

[Ordinance](#)

1 (Published in the Topeka Metro News _____)

2
3
4 ORDINANCE NO. _____

5
6 AN ORDINANCE introduced by Councilmember Lana Kennedy authorizing the
7 purchase, possession and consumption of cereal malt beverages
8 during the Celebration of Mexican Independence Day on September
9 16, 2006, in downtown Topeka.

10
11 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

12 Section 1. Authorization is hereby given to Downtown Topeka, Inc. to hold the
13 Celebration of Mexican Independence Day event on Quincy Street between 6th and 8th
14 Streets on September 16, 2006. Authorization also is given to barricade Quincy Street
15 between 6th and 8th Streets between the hours of 12:00 p.m. and 12:00 midnight.
16 Attendance to the Celebration of Mexican Independence Day is open to the public between
17 the hours of 4:00 p.m. and 11:30 p.m. on September 16, 2006. Licensed retailers may sell
18 cereal malt beverages, non-alcoholic commodities or food between the hours of 4:00 p.m.
19 and 11:30 p.m. on September 16, 2006. Event attendees may buy, possess, and consume
20 cereal malt beverages on the barricaded portion of 8th Street between the hours of 4:00
21 p.m. and 11:30 p.m. on September 16, 2006.

22 Section 2. This ordinance shall be null and void on September 17, 2006.

23 Section 3. This Ordinance shall take effect and be in force from and after its
24 passage, approval and publication in the official city newspaper.

25 PASSED and APPROVED by the City Council _____.

26

27

28

William W. Bunten, Mayor

29 ATTEST:

30

31

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Iris E. Walker, City Clerk

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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 14, 2006

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DATE: August 11, 2006
CONTACT PERSON: Jeff Preisner
SECOND PARTY/SUBJECT: Prepaid Motor Fuel
CATEGORY/SUBCATEGORY: 013 Ordinances - Codified / 030 Businesses
CIP PROJECT: No
ACTION OF COUNCIL:
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Deputy Mayor Jeff Preisner, relating to the payment of gasoline and/or diesel fuel, amending City of Topeka Code Chapter 30. First reading.

(The ordinance would require prepayment for gasoline and/or diesel fuel sold to the public or at retail.)

POLICY ISSUE:

Whether or not the City should establish a policy which would require prepayment for gasoline and/or diesel fuel sold to the public or at retail.

STAFF RECOMMENDATION:

BACKGROUND:

A percentage of Part One Crimes is directly related to motorists who fill their vehicles and/or containers with gasoline or diesel fuel and thereafter immediately drive off without paying for the same. A significant amount of Topeka Police Department personnel resources along with administrative backup are associated with the investigation and apprehension of these criminals. Requiring prepayment of gasoline and/or diesel fuel sold to the public or at retail will greatly diminish if not eliminate this crime.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

ATTACHMENTS:

[Ordinance](#)

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by Deputy Mayor Jeff Preisner, relating to the payment of
6 gasoline and/or diesel fuel, amending City of Topeka Code Chapter
7 30.

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

10 Section 1. That City of Topeka Code Chapter 30, Business, is hereby amended
11 by the addition of the following Article:

12 **Article XIII. Prepaid Motor Fuel**

13 Section 2. Findings.

14 a. A number of motorists in the town are driving into business establishments
15 with gasoline and/or diesel fuel pumps, filling their vehicles and/or containers with gasoline
16 or diesel fuel, and thereafter immediately driving off without paying for same.

17 b. For the year 2003, Topeka crime statistics evidence approximately seven
18 hundred thirty-seven (737) thefts as a result of gas/diesel fuel drive offs without paying.

19 c. The stated level of crime results in significant personnel resources extended
20 by Topeka Police Department officers along with the administrative backup associated
21 therewith.

22 d. The personnel resources utilized in detecting and preventing motor vehicle
23 fuel thefts detracts from proactive policing opportunities in regard to other community
24 matters and more serious crimes.

25 e. The stated level of crime adversely impacts the City's uniform crime reporting
26 statistics, along with the negative fallout therefrom. For example, theft of motor vehicle fuel
27 constituted seven percent (7%) of Part One Crimes in 2003, and constitute six percent
28 (6%) of Part One Crimes for the first six (6) months of 2004.

f. The stated level of crime results in significant costs to, and monies being paid by, the City and its citizens and taxpayers.

g. The stated level of crime with gas/diesel fuel drive offs without paying seriously and significantly adversely impacts the revenues of local business owners who own and operate business establishments involving the sale of gasoline and/or diesel fuel.

h. The stated matters are of serious concern and should now be addressed and eliminated, if possible.

i. This type of crime with its many adverse impacts can be addressed and, in fact, eliminated through the adoption of a zero tolerance policy.

j. A zero tolerance policy in regard to this problem could be accomplished through the adoption of a payment in advance requirement for gasoline and diesel fuel sold throughout the City.

k. Such a zero tolerance policy is imperative and in the best interests of the town and its citizens and, as such, the same is adopted along with this chapter.

Section 3. **Authority.**

The provisions of these regulations, in their interpretation and application, are requirements adopted for the promotion of the public safety and welfare, and general convenience, pursuant to the police powers of municipalities granted by the Kansas Constitution, and the Kansas Statutes.

Section 4. **Jurisdiction.**

The regulations set forth herein shall apply to all business establishments with gasoline and/or diesel fuel pumps located thereon, engaged in the selling of gasoline and/or diesel fuel, and located in the corporate limits of the City of Topeka.

Section 5. Payment in advance required for gasoline and/or diesel fuel sold to the public or at retail.

a. All business establishments with gasoline and/or diesel fuel pumps located thereon must require full payment in advance or pay at the pump for any quantity of gasoline or diesel fuel sold at any time.

b. Compliance with subsection (a) requires the business establishment and its representatives to receive payment in full prior to activating the gasoline or diesel fuel pumping device.

c. Payment includes purchase by any legal means: cash, credit card, debit card, checks, prearranged credit account directly with the retailer or otherwise.

d. These provisions do not apply to gasoline or diesel fuel sold at wholesale to a retail sales site, gasoline or diesel fuel delivered to construction vehicles or construction sites, or gasoline or diesel fuel sold for purposes not subject to the Kansas fuel tax.

Section 6. Penalty.

Any person or business establishment that violates any provision of this chapter shall be guilty of an unclassified misdemeanor and be subject to a fine of not more than four hundred ninety-nine dollars (\$499.00) for each offense.

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

PASSED and APPROVED by the City Council _____.

CITY OF TOPEKA, KANSAS

ATTEST:

William W. Bunten, Mayor

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 18, 2006

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DATE:	August 11, 2006		
CONTACT PERSON:	Shawn Bruns	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Trafficway Improvement Project	PROJECT #:	70200-01
CATEGORY/SUBCATEGORY			
CIP PROJECT:	Yes		
ACTION OF COUNCIL:	Adopt Ordinance as presented.	JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

An ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing an amendment to the project budget for Project No. 70200-01, which provides for reconstruction of S.W. Wanamaker Road from S.W. 37th Street to S.W. 39th Street, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, and repealing City of Topeka Ordinance No. 18089. First reading.

(This Ordinance amends the project budget for Trafficway Improvement Project No. 70200-01, which widens S.W. Wanamaker Road from S.W. 37th Street to S.W. 39th Street. The amendment increases the project budget to account for additional funding to the project from the ½ Cent Sales Tax.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Adopt Ordinance as presented.

BACKGROUND:

The amendment to the project budget increases the spending authority by \$84,760 for a total budget amount of \$668,352. The additional \$84,760 has already been paid to the City by the Joint Economic Development Organization as a reimbursement from the ½ Cent Sales Tax Fund. A project budget in the amount of \$583,592 was approved by City Council on September 9, 2003, funded by General Obligation Bonds. The City's bond amount will not increase. The project widens S.W. Wanamaker Road from S.W. 37th Street to S.W. 39th Street from a two lane rural section to a five lane arterial section. The project is a joint project with Shawnee County and Kansas Department of Transportation.

BUDGETARY IMPACT:

Project Budget increases by \$84,760 from \$583,592 to \$668,352

SOURCE OF FUNDING:

Additional \$84,760 - ½ Cent Sales Tax (Joint Economic Development Organization Reimbursement)

Original \$583,592 - General Obligation Bonds and any other Lawfully Available Funds

ATTACHMENTS:

[Revised Project Budget](#)

[Vicinity Map](#)

[Ordinance](#)

PROJECT BUDGET (AMENDED)

Project No. 70200-01

S.W. Wanamaker Road -- S.W. 37th Street to S.W. 39th Street

LOCATION:

S.W. Wanamaker Road -- S.W. 37th Street to S.W. 39th Street

DESCRIPTION OF PROJECT:

This project will reconstruct and widen the existing rural 2-lane pavement to a 5-lane arterial with curb & gutter, sidewalk and storm drainage system.

CIP Year: 2006

SOURCE OF FUNDS:

General Obligation Bonds -- \$583,592.00

1/2 Cent Sales Tax -- \$84,760.00

	General Obligation Bonds	1/2 Cent Sales Tax	TOTAL
<u>COST ESTIMATE:</u>			
Construction:	\$300,400.00	\$0.00	\$300,400.00
Design:	\$138,000.00	\$40,000.00	\$178,000.00
Construction Engineering:	\$31,000.00	\$0.00	\$31,000.00
Eng. Administrative Fees:	\$5,500.00	\$0.00	\$5,500.00
Right-of Way Acquisition:	\$60,000.00	\$44,760.00	\$104,760.00
Contingency Amount:	\$18,692.00	\$0.00	\$18,692.00
Temporary Notes:	\$30,000.00	\$0.00	\$30,000.00
Total:	\$583,592.00	\$84,760.00	\$668,352.00

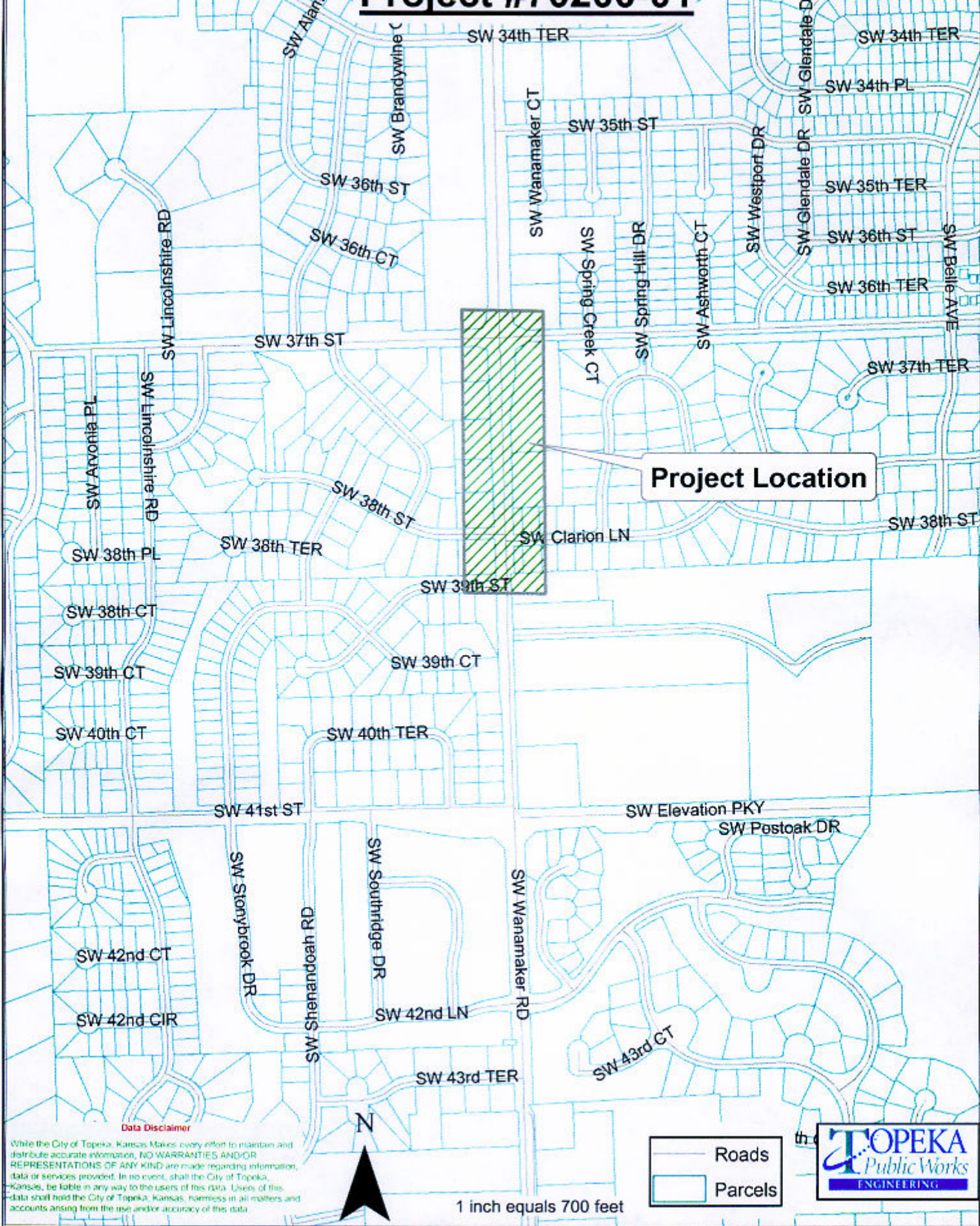
PUBLIC HEARING:

PROJECT AUTHORITY:

- a. Statutes: _____
- b. Ord./Res. No.: _____
- c. Improvement District: _____
- d. City at Large: _____
- e. Method of Assessment: _____

Date: _____

PROJECT ENGINEER: Shawn P. Bruns



(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing an amendment to the project budget for Project No. 70200-01, which provides for reconstruction of S.W. Wanamaker Road from S.W. 37th Street to S.W. 39th Street, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka, and repealing City of Topeka Ordinance No.18089.

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

Section 1. That it is hereby deemed advisable and necessary and is also hereby authorized, pursuant to A12-1 of the Code of the City of Topeka, that the following public improvement be made:

A. GENERAL NATURE OF IMPROVEMENT:

This project will reconstruct S.W. Wanamaker Road from S.W. 37th Street to S.W. 39th Street. The improvements will consist of widening the existing rural 2-lane pavement to a 5-lane arterial with curb and gutter, sidewalk and storm drainage facilities.

B. TOTAL PROJECT BUDGET COST:

\$668,352.00

C. SOURCE OF FUNDS:

\$583,592.00	General Obligation Bonds and any other lawfully available funds
\$ <u>84,760.00</u>	½ Cent Sales Tax (Joint Economic Development Organization Reimbursement)
\$668,352.00	Total

Section 2. That City of Topeka Ordinance No. 18089 is hereby specifically repealed.

39 Section 3. This Ordinance shall take effect and be in force from and after its
40 passage, approval and publication in the official city newspaper.

41 PASSED and APPROVED by the City Council_____.

42

43

CITY OF TOPEKA, KANSAS

44

45

46

47 ATTEST:

William W. Bunten, Mayor

48

49

50 _____
Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 21, 2006

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DATE:	August 11, 2006	DOCUMENT #:	N/A
CONTACT PERSON:	Bill Fiander/David Thurbon	PROJECT #:	Z06/10
SECOND PARTY/SUBJECT:	Team II L.L.C.		
CATEGORY/SUBCATEGORY			
CIP PROJECT:	No		
ACTION OF COUNCIL:		JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 713 SW Topeka Blvd. in the City of Topeka, Kansas from "C-3" Commercial District TO "O&I-3" Office and Institutional District. Final Reading (Z06/10)(Council District No. 1) (The Planning Commission recommended approval by a vote of 7-0-1 on August 21, 2006.) (The Planning Department recommended approval.)

(Approval would allow the property to continue to be utilized for the existing vehicle surface parking lot in conjunction with the proposed Conditional Use Permit, CU06/5.)

POLICY ISSUE:

Request is consistent with the land use principles of the Old Town Neighborhood Plan.

STAFF RECOMMENDATION:

The **Planning Commission** re-heard this proposal on August 21, 2006 and recommended it be **APPROVED** in conjunction with Conditional Use Permit (CU06/5) by a vote of **7-0-1**. The **Planning Commission** first heard this proposal on June 19, 2006 and recommended it be **APPROVED** in conjunction with Conditional Use Permit (CU06/5) by a vote of **6-0-1**. The **Planning Department** recommended this proposal be **APPROVED** in conjunction with the Conditional Use Permit (CU06/5).

BACKGROUND:

- The City Council first heard this proposal at their July 18, 2006 meeting and voted 4-3-1 on a motion to approve the zone change. However, since they did not have the necessary five (5) vote majority, the proposal was automatically remanded back to the Planning Commission.
- The Planning Commission re-heard this proposal on August 21, 2006 and re-affirmed their original recommendation of approval.
- See Staff Report
- City Council Options:
 - **Adopt** or **Reject** the recommendation of the Planning Commission by a simple majority (5 votes) of City Council membership.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

[Zoning Map](#)

[Aerial Map](#)

[Rezoning Application- Pg 1](#)

[Rezoning Application- Pg 2](#)

[Rezoning Application- Pg 3](#)

[Rezoning Application- Pg 4](#)

[CAPA Minutes- 11-29-04- Pg. 1](#)

[CAPA Minutes- 11-29-04- Pg. 2](#)

[Planning Commission Minutes- 6-19-06](#)

[Staff Report](#)

[Planning Commission Minutes](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located at 713 SW Topeka Boulevard in the City of Topeka, Kansas from "C-3" Commercial District **TO** "O&I-3" Office and Institutional District. **(Z06/10) (Council District No. 1)**

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

Section 1. That the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, be, and the same is hereby amended, by reclassifying the following described property:

Lot 229, 231, 233 Original Town of Topeka, Shawnee County, Kansas.

from "C-3" Commercial District **TO** "O&I-3" Office and Institutional District.

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

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

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

PASSED AND APPROVED by the Council of the City of Topeka, _____, 2006.

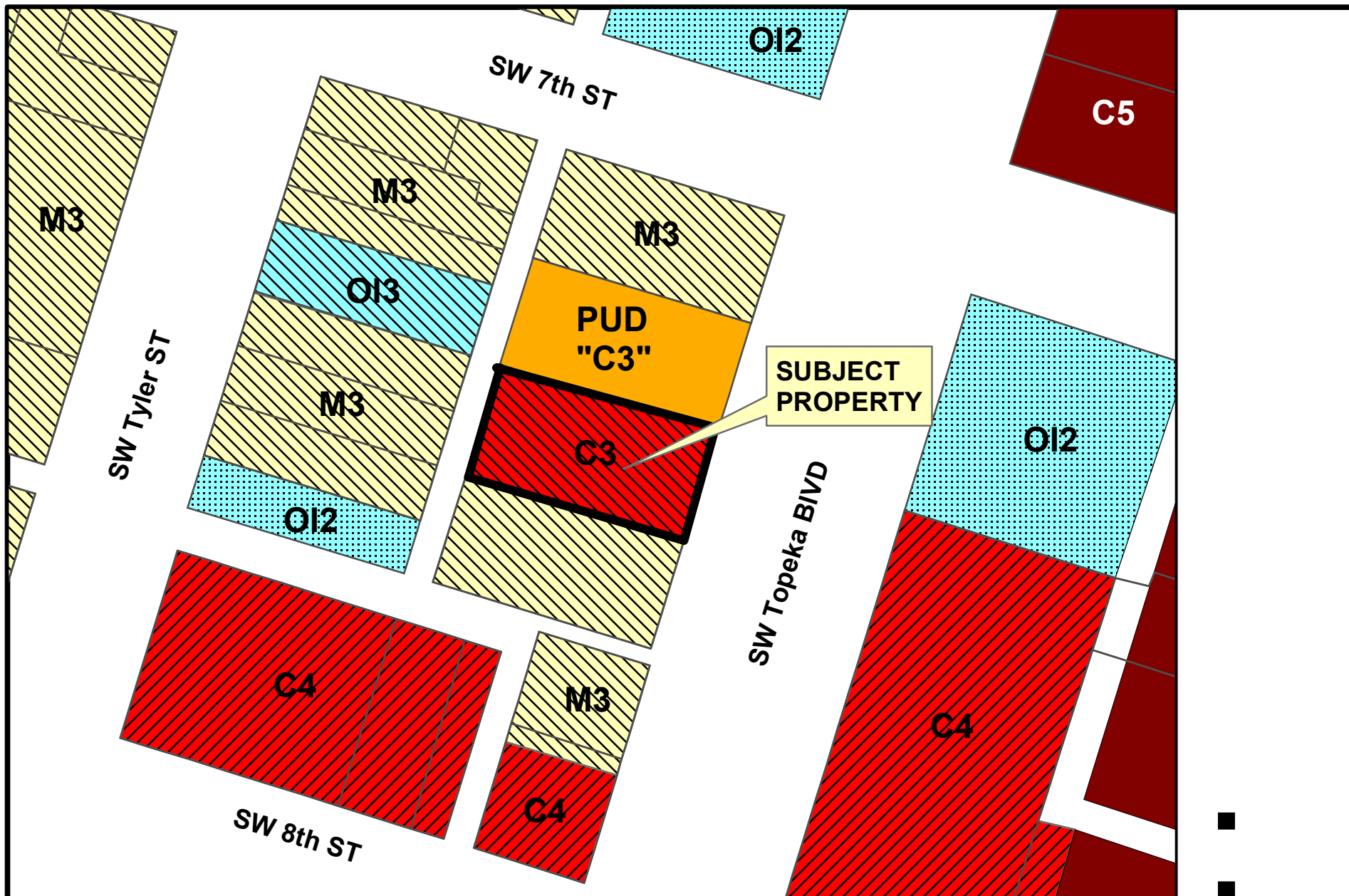
William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

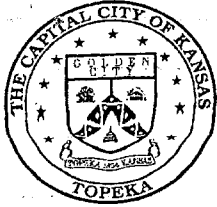
Not To Be Codified X



Z06/10 by: Team II L.L.C.



Z06/10 by: Team II L.L.C.



Application Form Re-Zoning or Conditional Use Permit

City of Topeka Planning Department
515 South Kansas Avenue, Suite 404
Topeka, KS 66603-3241
Phone 785-368-3728 Fax 785-368-2535

Applicant Information

Property Owner(s): Team II, LLC

Street Address: 2942 SW Wanamaker

City: Topeka State: KS Zip: 66614 E-mail: _____

Business phone: 969 4489 Home phone: N/A Fax: _____

Authorized Owner Representative (if any): Eric Dinkel

Street Address: 6202 SE 6th Street

City: Topeka State: KS Zip: 66615 E-mail: _____

Business phone: 969 4489 Home phone: _____ Fax: _____

Authorized Professional Agent (Engineer, Architect, Attorney, etc.) – if different from above

Architect One PA

Street Address: 3620 SW Fairlawn Rd

City: Topeka State: KS Zip: 66615 E-mail: _____

Business phone: 271 7010 Home phone: _____ Fax: _____

Authorization

I (we) am (are) the owner(s) of record for the subject property and hereby authorize filing of this application. I (we) declare that all required materials are submitted along with this application and that the information and materials submitted are complete and accurate. I (we) hereby acknowledge that all appropriate procedures, policies and regulations have been reviewed and understood, including authorization of any agent(s) as listed in this application.

Owner 1 Name: Eric Dinkel

Owner 1 Signature: _____

Date: 11-3-05

Owner 2: _____

Owner 2 Signature: _____

Date: _____

Request for Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location):

713 SW Topeka Blvd.

Legal Description of Property: lot(s) 229, 231, 233 block _____ subdivision Original Town
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 11,250 sf

Type of Application:

1. Re-zoning from: C-3 to: O & I-3

2. Conditional Use Permit proposed use: Parking lot

Existing Use (# of dwelling units, square feet, etc.): Vacant land

How long has the existing use been on the property? _____

Proposed Use (# of dwelling units, square feet, etc.): Parking lot

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? _____

FOR OFFICE USE ONLY

Date submitted: 3/13/06

Date notice sent: 4/21/06

Application no.: CW0615

Date advertised: 4/21/06

Filing fee: _____ Receipt no.: _____

Date of hearing: 5/15/06

Quarter section map no.: _____

Council district: #1

CHECK YES OR NO

Capital Plaza Area: Yes X No _____

Within Historic Site Environs: Yes _____ No _____

If Yes, what is it?: _____

100 yr Floodplain: Yes _____ No _____

National/State Historic Register: Yes _____ No _____

Airport Hazard Area: Yes _____ No _____

Local Historic Resource: Yes _____ No _____

Neighborhood Association: Yes _____ No _____

Name of N.I.A./N.A.: Old Town N/A

Applicant Justification

For re-zoning applications:

This section is intended to provide you with the opportunity to present information in support of your request. It is important to bear in mind that the presumption of validity rests with the present zoning and use of the property. It is the burden of the applicant to demonstrate that the proposed change in zoning classification or proposed conditional use permit is appropriate.

Please attach additional sheets if necessary.

1. Why is the land not suitable for the uses to which the property is currently zoned?

It is currently suited for its use for which it is zoned.

2. What effect would the proposed zone change have on the character of the neighborhood and surrounding properties?

None

3. How does this request relate to any adopted neighborhood/land use plans by the City?

It relates to the plan.

Infrastructure Availability

Please consult the Engineering Division of Topeka Public Works Department for information below (368-3842)

1. Water

- a. Location and size of water main serving site:

N/A no water being requested

- b. Does the current system have adequate capacity? If not, are improvements anticipated?

N/A

- c. If other than City of Topeka, identify water district provider: _____

2. Sanitary Sewer

- a. Location and size of sewer main serving site:

8" sewer in Alley to west

- b. Does the current system have adequate capacity? If not, are improvements anticipated?

N/A

- c. If other than City of Topeka, identify sewer district provider: _____

3. Storm Drainage

- a. How will storm water run-off be handled on site?

Will drain overland to improved Alley to west.

- b. Does the current storm sewer system have adequate capacity for proposed use?

Yes

4. Traffic Circulation

- a. Does the site have public street frontage access? What is the pavement width of any adjoining public streets?

No

- b. What are the site's existing or proposed access points?

To Alley located west of site

- c. Will any street improvements or traffic control improvements be required?

No

CAPITOL AREA PLAZA AUTHORITY**Minutes**

November 29, 2004

Via Conference Call

Room 530, Curtis State Office Building

Members Present:Carol Foreman, Chair
Senator Dave Jackson**Present by Conference Call:**Joan Cole
Marc Lahr
Representative Doug Mays
Mayor James McClinton
William Muir
Ellen Nesselrode-Jasa
Jim Parrish
Murray Rhodes
Howard Schwartz
Ben Vidricksen**Members Absent:**

Senator Anthony Hensley

I. Welcome and Call the Meeting to Order

The meeting of the Capitol Area Plaza Authority (CAPA) was called to order by Chair Carol Foreman at 1:30 p.m. She reported the Minutes of the August 27, 2004 meeting had been approved by prior correspondence.

II. 713 SW Topeka Boulevard Rezoning Request

Team II, Inc. has requested CAPA approval of a zoning change from "E" Multiple Family Dwelling District to "C-3" Commercial District on property located at 713 SW Topeka Boulevard in the City of Topeka. The Topeka City Council approved the proposal on August 10, 2004. The proposed use of the property will be a parking lot having 35 parking stalls that will be leased to Hill's Pet Nutrition. Theron Sims participated in the conference call on behalf of Team II, Inc.

Several members expressed concern of the property not draining properly. Mayor McClinton assured CAPA members the City will rebuild the alley to provide sufficient draining.

Minutes
November 29, 2004
Page 2

Another issue raised was that of the property being zoned "C-3". Several members expressed concern this was too broad of a zoning distinction which might allow the property to change its use in the future from a parking lot to some type of a commercial business without requiring CAPA approval. Marc Lahr suggested perhaps a more appropriate zoning classification would be Office and Industry 3 (O & I -3) with the conditional use as a parking lot [Sec. 48-14.02. Use regulations. (c) Uses permitted by conditional use permit. (10) Vehicle surface parking lot and/or multilevel parking structure as specified by the application.] Theron Sims said his company had no intentions of ever using the property for anything other than a parking lot.

Jim Parrish moved the application for the zoning change be approved with the condition of Theron Sims providing an affidavit stating he would request the City of Topeka revise the zoning to be O & I -3 with conditional use. Joan Cole seconded the motion. Theron Sims said he would deliver the affidavit to the Chair's Office. Chair Foreman called for a roll call vote:

Joan Cole	Yes
Senator Dave Jackson	Yes
Marc Lahr	Yes
Speaker Doug Mays	Yes
Mayor James McClinton	Yes
William Muir	Yes
Ellen Nesselrode-Jasa	Yes
Jim Parrish	Yes
Murray Rhodes	Yes
Howard Schwartz	Yes
Ben Vidricksen	Yes

Motion passed unanimously.

III. Other Business

Senator Jackson suggested legislation be proposed that would expand the Authority's territory. Following a brief discussion, Chair Foreman said she would have persons within the Department of Administration review the current statutes and suggest revisions or additions for CAPA's review. Speaker Doug Mays said he would ask Legislative Research staff to assist in this study.

There was also a suggestion that at the next meeting a short learning session be included which would educate the members on the role of CAPA as well as their duties. Chair Foreman said she would include that on the agenda for the meeting which should occur in late spring or early summer. She indicated she would like to invite the City Administrator's Office to be involved as well.

There being no further business, Chair Carol Foreman adjourned the meeting.

**Minutes of the
Of the
Topeka Planning Commission
June 19, 2006**

Team II LLC Development – Annie Driver summarized the staff report for both the zoning and conditional use cases. Minutes are for both cases as well.

Discussion by members:

Ralph Skoog asked what is this case's status with CAPA? Are both of these consistent with their recommendations? Mrs. Driver replied yes. Mr. Skoog asked if these cases were consistent with the Old Town Neighborhood Plan? Mrs. Driver replied yes.

Proponents:

Eric Dinkel, applicant, spoke in favor of the proposal. He said when he first filed for the parking lot staff suggested C-3 zoning. CAPA didn't agree, so that is why we are here. Ralph Skoog asked if the parking lot was built without a permit? Mr. Dinkel replied yes, because he didn't know he needed a permit. Mr. Skoog said you have members of your group that are City employees, how could you have not known? Mr. Dinkel replied he wasn't sure they knew what he was doing.

Opponents:

Hi Stockwell, lives in Old Town neighborhood, spoke against the process. He said at the time the original application was done he was the President of the Old Town NIA. The main concern for the neighborhood all along has been the drainage. He stated CAPA didn't approve the first re-zoning change. In the CAPA minutes they ask zoning to be M-3 with a Special Use Permit for parking lot. The proposal tonight may be consistent with their wishes. A concern is there has been a building permit issued already without the zoning change going through prior to. He stated regulations should be followed. The lot was built without a permit. It was built then the permit was issued which was prior to the zoning change. Mr. Boyd asked if this doesn't rectify what has happened? Mr. Stockwell said if this is the same zoning requested by CAPA then we are okay with it. Don't want the city to go through this again. Mr. Boyd stated staff said it is consistent with CAPA's request. Mr. Stockwell added he doesn't think the ducks were in a row before the permit was issued. The zoning should have been changed prior to the issuance of the building permit. Mr. Skoog asked if the drainage issue has been corrected? Mr. Stockwell replied yes. Mr. Skoog added a parking lot is better than tall weeds. Mr. Stockwell said he is really not opposed to this. He said currently the property owners seem to have a code violation due to overgrown vegetation. Mr. Skoog said your main concern is the policies weren't followed? Mr. Stockwell replied yes. He added the zoning should have been changed a long time ago because they met with CAPA in 2004.

Mr. Sanders asked Mr. Stockwell if he is satisfied with the lot that has been constructed? Mr. Stockwell replied the alley drainage issue has been resolved. He said the lot was never really the issue. Currently the maintenance of the lot is in question. It is very over grown along the north side of the parking lot.

Michael Bradley, lives in Old Town neighborhood, spoke against the process. He said he doesn't oppose the parking lot. He said if policies are established they need to be followed. Various people didn't follow the process. A building permit was required but wasn't sought prior to construction of the lot. In rewriting the UDC these processes needed to be spelled out. He said the alley has been improved for drainage.

Proponents:

Eric Dinkel, applicant, said on the north side the parking lot butts right up against the property line, so the over grown grass is the property owner to the north. He added until the re-zoning and conditional case for this property is completed we don't have a lease agreement with Hills.

Ralph Skoog moved to approve the rezoning and conditional use permit as written by staff, seconded by Fred Sanders.
SEE VOTES UNDER EACH CASE.

Ralph Skoog said we would like to state our regret that the process wasn't followed.

- a. **Z06/10 by Team II, L.L.C.** requesting to amend the District Zoning Classification from "C-3" Commercial District TO "O&I-3" Office and Institutional District on property located at 713 SW Topeka Boulevard. **(Driver)**

Exparte communications: none

Ralph Skoog moved to approve the rezoning and conditional use permit as written by staff, seconded by Fred Sanders. **APPROVAL (6-0-1). Commissioner Sims abstained due to a conflict of interest.**

- b. **CU06/5 by Team II, L.L.C.** requesting a Conditional Use Permit to establish a vehicle surface parking lot on property currently zoned "C-3" Commercial District which the applicant is seeking to rezone to "O&I-3" Office and Institutional District and located at 713 SW Topeka Boulevard. **(Driver)**

Exparte communications: none

Ralph Skoog moved to approve the rezoning and conditional use permit as written by staff, seconded by Fred Sanders. **APPROVAL (6-0-1), subject to conditions listed in the staff report. Commissioner Sims abstained due to a conflict of interest.**

David Thurbon stated he had a comment regarding item #G-2a&b. He said there are some complexities with this case. He said staff's understanding was CAPA (Capital Area Plaza Authority) approved the C-3 zoning with the condition that they apply for O&I-3 and a Conditional Use Permit. When the applications were submitted, the building permit for the parking lot was issued (April, 2006). Therefore, these cases did not need approved prior to the building permit being issued since CAPA approved the C-3 and their conditions were met. Ralph Skoog stated the Commission should respect CAPA's decisions.

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: Z06/10

by: Team II L.L.C.

PROPOSAL: Zone change from "C-3" Commercial District to "O&I-3" Office and Institutional District.

LOCATION: 713 SW Topeka Blvd., on the west side of SW Topeka Blvd., centrally located between SW 7th and SW 8th Streets.

PARCEL ID NUMBER: 0983404001032000

PRESENT USE: Vehicle surface parking lot for use primarily by Hill's Pet Nutrition, located at 400 SW 8th Avenue. The subject property comprises approximately 0.25 acres (10,890 sq. ft.).

PROPOSED USE: The property is presently being utilized as a vehicle surface parking lot, constructed in 2004, prior to the appropriate City approvals. In conjunction with this proposal, the applicant has applied for a conditional use permit (CUP) to allow for the present use of the property for a parking lot in an O&I-3 District in accordance with the recommendation from the Capital Area Plaza Authority (CU06/5).

BACKGROUND: The subject property was originally rezoned from "M-3" Multiple-Family Dwelling District to "C-3" Commercial District in 2004 for the construction of a surface parking lot to be used primarily by Hill's Pet Nutrition, which is located diagonally across Topeka Blvd. However, the parking lot on the subject property was constructed in 2004 prior to site plan approval, issuance of a City parking lot permit or before it fulfilled conditions of approval from the Capital Area Plaza Authority (CAPA).

The applicant's proposal for "C-3" Commercial was approved by the Topeka City Council on August 10, 2004. Since the subject property lies within the Capital Area Plaza Authority's jurisdiction, state law gives CAPA has the right to approve or disapprove rezoning proposals located within its zoning boundary area. At their November 29, 2004 meeting, CAPA recommended approval of the C-3 zoning classification, on the condition the applicants would later apply for a downzoning of the property to O&I-3 with a conditional use permit for a vehicle surface parking lot. (See attached CAPA minutes.) This current proposal is being considered subject to this recommendation from CAPA.

CHARACTER OF NEIGHBORHOOD: The subject property borders the western edge of SW Topeka Blvd., centrally located between SW 7th Street and SW 8th Street. The property lies on the eastern edge of the Old Town Neighborhood. The property is located within the Downtown core area of the Downtown Topeka Redevelopment Area. It is located in a transitional area from commercial and office uses on the east to residential uses on the west.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	“PUD” (C-3 use group)	Parking lot
South:	“M-3” Multiple-Family Dwelling District	Apartment building
East:	“C-4” Commercial District “O&I-2” Office & Institutional District	Wendy’s restaurant Bank of America
West:	“M-3” Multiple-Family Dwelling District	Single-family residences

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The subject property was vacant until approximately 2004 when the parking lot was constructed. At this time, the subject property was rezoned to “C-3” Commercial for the proposed use of the property as a parking lot, which is a permitted use by-right in the C-3 District. The property has remained in use as a parking lot since this time. Prior to this time, the property was zoned “E” Multiple-Family Dwelling District (which automatically converted to “M-3” Multiple-Family Dwelling District in 1992) and was vacant land.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The subject property lies within the Capital Area Plaza Authority’s (CAPA) boundary area and CAPA has jurisdiction over rezoning matters within this area. In 2004, when the property was rezoned from the multi-family to commercial, CAPA had the opportunity to approve or disapprove the rezoning proposal. As noted in CAPA meeting minutes dated November 29, 2004, CAPA stated that the C-3 District would allow for uses not suitable for the area, as the C-3 zoning could potentially allow for more intense commercial businesses in the future without requiring CAPA approval. Instead, CAPA recommended an O&I-3 classification for the subject property with a CUP for the surface parking lot. The O&I-3 District would allow for office uses that are more appropriate with the transitional nature of this area.

CONFORMANCE TO COMPREHENSIVE PLAN: The Old Town Neighborhood Plan designates the area from SW Tyler to SW Topeka Blvd., from SW 6th to SW 10th for Downtown land uses. This designation recognizes the mixed-use nature and higher intensity of the area between Tyler and Topeka. As the Downtown designation allows for high intensity mixed-uses, an O&I-3 zoning is appropriate at this location and would allow the property to be used in a manner consistent with this designation. This Downtown designation in the Old Town Neighborhood Plan indicates parking lots are an appropriate use for the area.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: Downzoning the property to O&I-3 should have no detrimental effects upon the surrounding area. Based upon the established and future land use patterns, the O&I-3 zoning seems an appropriate zoning classification at this location.

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

The proposed reclassification would accommodate the present use of the property as a vehicle surface parking lot. However, it would not allow future development of the site for more intense unrestricted commercial uses.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this area.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Minimum Lot Area: **Compliant** – 10,890 sq. ft. (minimum lot area required is 7,500 sq. ft.)

Setbacks: **Compliant** – No existing structures

Platting: Lots 229, 231, and 233, Old Town

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request was submitted to all applicable reviewing agency staff for consideration and comment. All issues or concerns that were expressed by reviewing staff relative to code compliance or provisions of public service were already addressed and resolved at the site development stage. The site plan was approved on April 5, 2006, thereby allowing City Development Services to issue the parking lot permit. All landscaping indicated on the approved site plan still must be installed.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: Old Town NIA; the NIA was notified regarding this proposed rezoning on April 13, 2006.
2. Capitol Area Plaza Authority: The subject property lies within the jurisdiction of the Capital Area Plaza Authority (CAPA) and in accordance with KSA 75-3720, the proposed action is required to be submitted to and approved by CAPA prior to action by the Topeka City Council. CAPA was notified regarding the proposed rezoning on April 13, 2006. In the minutes from November 29 2004, CAPA recommended approval of rezoning the property to C-3, with the condition that the applicant later submit a proposal to downzone the subject property to O&I-3 with a CUP for the surface parking lot. This proposal fulfills that condition.
3. Flood Hazard Area: N/A
4. Airport Hazard Area: N/A
5. Historic Properties: No Registered Properties within 500'

STAFF RECOMMENDATION: Based upon the above findings and analysis, the planning staff recommends **APPROVAL** of the proposal in conjunction with the corresponding conditional use permit proposal (CU06/5).

Prepared by:
Annie Driver, Planner I



A Capital City Serving You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 21, 2006

 + Back  Print

DATE:	August 11, 2006		
CONTACT PERSON:	Bill Fiander/David Thurbon	DOCUMENT #:	N/A
SECOND PARTY/SUBJECT:	Team II L.L.C.	PROJECT #:	CU06/5
CATEGORY/SUBCATEGORY			
CIP PROJECT:	No		
ACTION OF COUNCIL:	JOURNAL #:		
	PAGE #:		

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr. in accordance with Section 48-14.02(c)(10) of the Code of the City of Topeka, approving a Conditional Use Permit for the purpose of a vehicle surface parking lot on property zoned "O&I-3" Office and Institutional District and located at 713 SW Topeka Boulevard in the City of Topeka, Kansas. Final Reading. (CU06/5) (Council District No. 1) (The Planning Commission recommended approval by a vote of 7-0-1 on August 21, 2006.) (The Planning Department recommended approval.)

(Approval would allow the property to continue to be used as a vehicle surface parking lot in conjunction with the rezoning of the property to the "O&I-3" Office and Institutional District, Z06/10.)

POLICY ISSUE:

Request is consistent with the land use principles of the Old Town Neighborhood Plan.

STAFF RECOMMENDATION:

The **Planning Commission** re-heard this proposal on August 21, 2006 and recommended it be **APPROVED** in conjunction with rezoning proposal (Z06/10) by a vote of **7-0-1**. The **Planning Commission** first heard this proposal on June 19, 2006 and recommended it be **APPROVED** in conjunction with rezoning proposal (Z06/10) by a vote of **6-0-1**. The **Planning Department** recommended this proposal be **APPROVED** in conjunction with rezoning proposal (Z06/10).

BACKGROUND:

- The City Council first heard this proposal at their July 18, 2006 meeting and voted 5-2-1 on a motion to approve the Conditional Use Permit (CUP). Since the zoning proposal to O&I-3 was not approved with the necessary votes at the time, the CUP can only be approved **if** the zone change to O&I-3 is also approved.
- The Planning Commission re-heard this proposal on August 21, 2006 and re-affirmed their original recommendation of approval.
- See Staff Report.
- City Council Options:
 - **Adopt** or **Reject** the recommendation of the Planning Commission by a simple majority (5 votes) provided the zoning change to O&I-3 is also approved.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Resolution](#)

[Zoning Map](#)

[Site Plan](#)

[Aerial Map](#)

[CUP Application- Pg. 1](#)

[CUP Application- Pg. 2](#)

[CUP Application- Pg. 3](#)

[CUP Application- Pg. 4](#)

[Planning Commission Minutes- 6-19-06](#)

[Staff Report](#)

[Planning Commission Minutes](#)

RESOLUTION _____

CONDITIONAL USE PERMIT

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr. in accordance with Section 48-14.02(c)(10) of the Code of the City of Topeka, approving a Conditional Use Permit to establish a vehicle surface parking lot on property currently zoned "O&I-3" Office and Institutional District and located at 713 SW Topeka Boulevard in the City of Topeka, Kansas. **(CU06/5) (Council District No. 1)**

BE IT RESOLVED by the Council of the City of Topeka, Kansas, that the application of City of Topeka under the provisions of Section 48-14.02(c)(10) of the Code of the City of Topeka, Kansas, for a Conditional Use Permit to establish a vehicle surface parking lot on property currently zoned "O&I-3" Office and Institutional District and located at 713 SW Topeka Boulevard in the City of Topeka, Kansas, and legally described as follows:

Lot 229, 231, 233 Original Town of Topeka, Shawnee County, Kansas.

be, and the same is hereby approved, **subject to:**

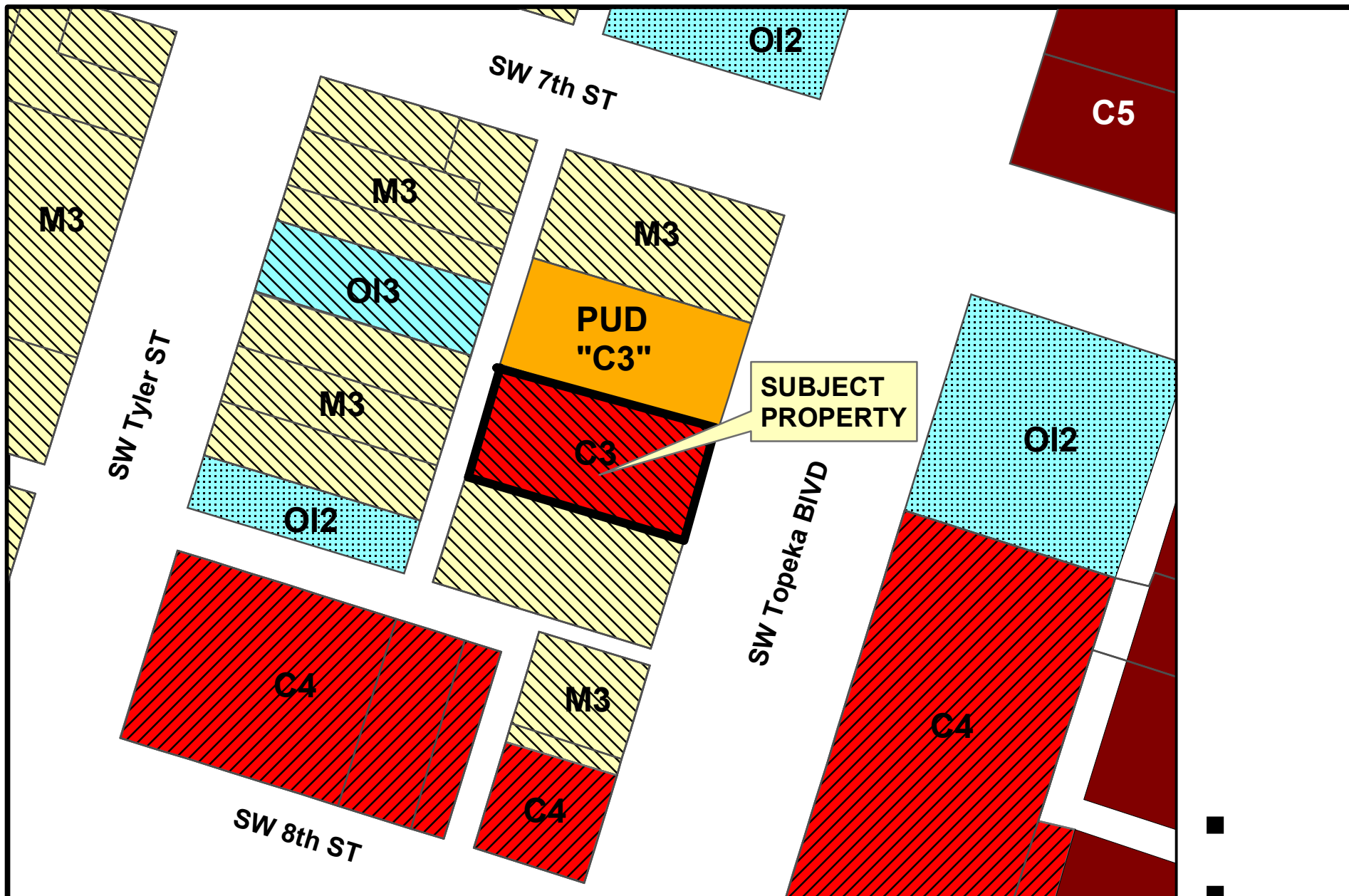
- 1. Use and development of the site shall be in accordance with the approved site plan for Team II, L.L.C. parking lot, dated March 13, 2006, including the planting and maintenance of all required landscaping.**

ADOPTED AND APPROVED by the Council of the City of Topeka, _____, 2006.

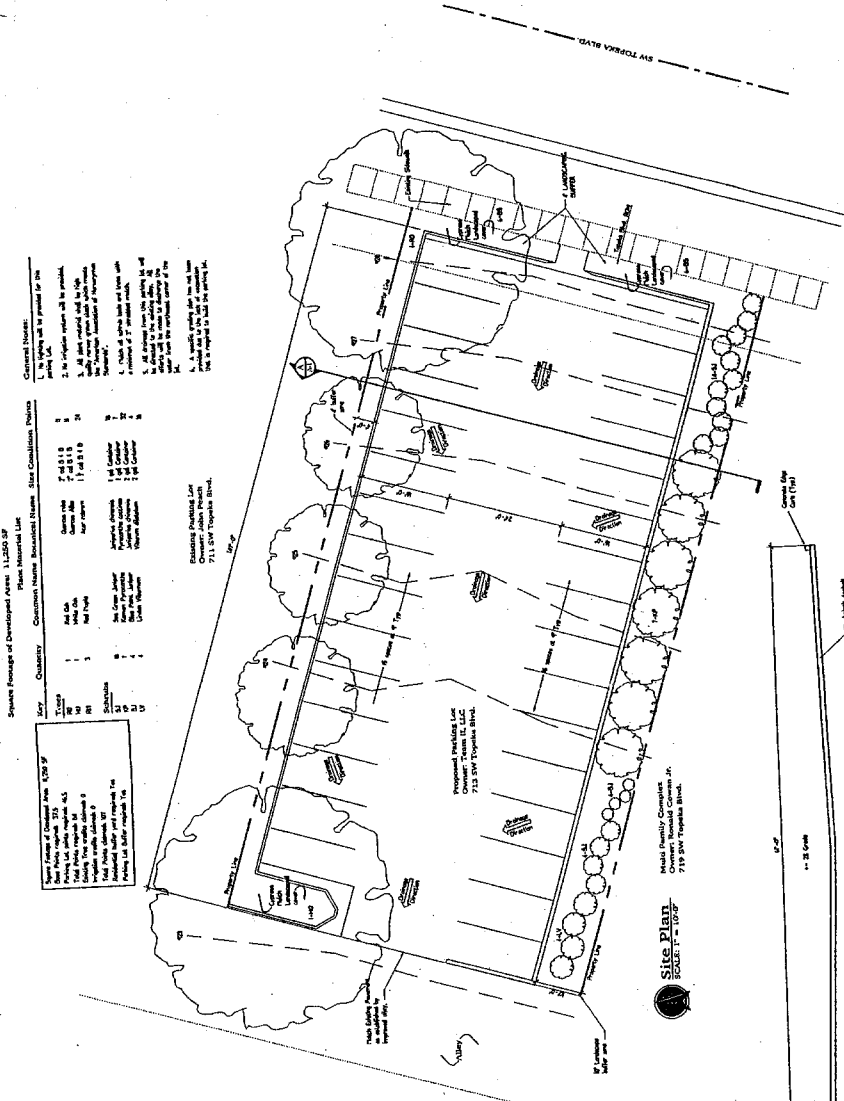
William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk



CU06/5 by: Team II L.L.C.



- Comments:**
1. No irrigation system will be provided for the parking lot.
 2. All trees planted will be provided by the owner.
 3. All trees planted will be provided by the owner.
 4. All trees planted will be provided by the owner.
 5. All trees planted will be provided by the owner.
 6. All trees planted will be provided by the owner.
 7. All trees planted will be provided by the owner.
 8. All trees planted will be provided by the owner.
 9. All trees planted will be provided by the owner.
 10. All trees planted will be provided by the owner.

Quantity	Item	Unit	Notes
1	Asphalt Paved	Sq. Yd.	For parking lot
1	Grass	Sq. Yd.	For landscaping
1	Concrete	Sq. Yd.	For drive aisle
1	Gravel	Sq. Yd.	For parking lot
1	Asphalt Paved	Sq. Yd.	For parking lot
1	Grass	Sq. Yd.	For landscaping
1	Concrete	Sq. Yd.	For drive aisle
1	Gravel	Sq. Yd.	For parking lot

APPROVED

REVIEWED BY: *[Signature]*

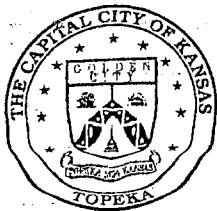
DATE: 3-13-06

COMMENTS:

1. Pending the following:
2. Application or submittal of fee for re-zoning
3. Full payment of taxes
4. A tree along the north property line will be substituted for a hedge row between the lot and the sidewalk.



CU06/5 by: Team II L.L.C.



Application Form
Re-Zoning or Conditional Use Permit

City of Topeka Planning Department
515 South Kansas Avenue, Suite 404
Topeka, KS 66603-3241
Phone 785-368-3728 Fax 785-368-2535

Applicant Information

Property Owner(s): Team II, LLC

Street Address: 2942 SW Wanamaker

City: Topeka State: KS Zip: 66614 E-mail: _____

Business phone: 969 4489 Home phone: N/A Fax: _____

Authorized Owner Representative (if any): Eric Dinkel

Street Address: 6202 SE 6th Street

City: Topeka State: KS Zip: 66615 E-mail: _____

Business phone: 969 4489 Home phone: _____ Fax: _____

Authorized Professional Agent (Engineer, Architect, Attorney, etc.) – if different from above

Architect One PA

Street Address: 3620 SW Fairlawn Rd

City: Topeka State: KS Zip: 66615 E-mail: _____

Business phone: 271 7010 Home phone: _____ Fax: _____

Authorization

I (we) am (are) the owner(s) of record for the subject property and hereby authorize filing of this application. I (we) declare that all required materials are submitted along with this application and that the information and materials submitted are complete and accurate. I (we) hereby acknowledge that all appropriate procedures, policies and regulations have been reviewed and understood, including authorization of any agent(s) as listed in this application.

Owner 1 Name: Eric Dinkel

Owner 1 Signature: _____

Date: 11-3-05

Owner 2: _____

Owner 2 Signature: _____

Date: _____

Request for Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location):

713 SW Topeka Blvd.

Legal Description of Property: lot(s) 229, 231, 233 block _____ subdivision Original Town
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 11,250 sf

Type of Application:

1. Re-zoning from: C-3 to: O & I-3

2. Conditional Use Permit proposed use: Parking lot

Existing Use (# of dwelling units, square feet, etc.): Vacant land

How long has the existing use been on the property? _____

Proposed Use (# of dwelling units, square feet, etc.): Parking lot

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? _____

FOR OFFICE USE ONLY

Date submitted: 3/13/06

Date notice sent: 4/21/06

Application no.: 206/10

Date advertised: 4/21/06

Filing fee: 50.00 Receipt no.: 11307

Date of hearing: 5/15/06

Quarter section map no.: _____

Council district: #1

CHECK YES OR NO

Capital Plaza Area: Yes X No _____

Within Historic Site Environs: Yes _____ No _____

If Yes, what is it?: _____

100 yr Floodplain: Yes _____ No _____

National/State Historic Register: Yes _____ No _____

Airport Hazard Area: Yes _____ No _____

Local Historic Resource: Yes _____ No _____

Neighborhood Association: Yes _____ No _____

Name of N.I.A./N.A.: OldTown NIA

Applicant Justification

For re-zoning applications:

This section is intended to provide you with the opportunity to present information in support of your request. It is important to bear in mind that the presumption of validity rests with the present zoning and use of the property. It is the burden of the applicant to demonstrate that the proposed change in zoning classification or proposed conditional use permit is appropriate.

Please attach additional sheets if necessary.

1. Why is the land not suitable for the uses to which the property is currently zoned?

It is currently suited for its use for which it is zoned.

2. What effect would the proposed zone change have on the character of the neighborhood and surrounding properties?

None

3. How does this request relate to any adopted neighborhood/land use plans by the City?

It relates to the plan.

Infrastructure Availability

Please consult the Engineering Division of Topeka Public Works Department for information below (368-3842)

1. Water

a. Location and size of water main serving site:

N/A no water being requested

b. Does the current system have adequate capacity? If not, are improvements anticipated?

N/A

c. If other than City of Topeka, identify water district provider: _____

2. Sanitary Sewer

a. Location and size of sewer main serving site:

8" sewer in Alley to west

b. Does the current system have adequate capacity? If not, are improvements anticipated?

N/A

c. If other than City of Topeka, identify sewer district provider: _____

3. Storm Drainage

a. How will storm water run-off be handled on site?

Will drain overland to improved Alley to west.

b. Does the current storm sewer system have adequate capacity for proposed use?

Yes

4. Traffic Circulation

a. Does the site have public street frontage access? What is the pavement width of any adjoining public streets?

No

b. What are the site's existing or proposed access points?

To Alley located west of site

c. Will any street improvements or traffic control improvements be required?

No

**Minutes of the
Of the
Topeka Planning Commission
June 19, 2006**

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Discussion by members:

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Hi Stockwell, lives in Old Town neighborhood, spoke against the process. He said at the time the original application was done he was the President of the Old Town NIA. The main concern for the neighborhood all along has been the drainage. He stated CAPA didn't approve the first re-zoning change. In the CAPA minutes they ask zoning to be M-3 with a Special Use Permit for parking lot. The proposal tonight may be consistent with their wishes. A concern is there has been a building permit issued already without the zoning change going through prior to. He stated regulations should be followed. The lot was built without a permit. It was built then the permit was issued which was prior to the zoning change. Mr. Boyd asked if this doesn't rectify what has happened? Mr. Stockwell said if this is the same zoning requested by CAPA then we are okay with it. Don't want the city to go through this again. Mr. Boyd stated staff said it is consistent with CAPA's request. Mr. Stockwell added he doesn't think the ducks were in a row before the permit was issued. The zoning should have been changed prior to the issuance of the building permit. Mr. Skoog asked if the drainage issue has been corrected? Mr. Stockwell replied yes. Mr. Skoog added a parking lot is better than tall weeds. Mr. Stockwell said he is really not opposed to this. He said currently the property owners seem to have a code violation due to overgrown vegetation. Mr. Skoog said your main concern is the policies weren't followed? Mr. Stockwell replied yes. He added the zoning should have been changed a long time ago because they met with CAPA in 2004.

Mr. Sanders asked Mr. Stockwell if he is satisfied with the lot that has been constructed? Mr. Stockwell replied the alley drainage issue has been resolved. He said the lot was never really the issue. Currently the maintenance of the lot is in question. It is very over grown along the north side of the parking lot.

Michael Bradley, lives in Old Town neighborhood, spoke against the process. He said he doesn't oppose the parking lot. He said if policies are established they need to be followed. Various people didn't follow the process. A building permit was required but wasn't sought prior to construction of the lot. In rewriting the UDC these processes needed to be spelled out. He said the alley has been improved for drainage.

Proponents:

Eric Dinkel, applicant, said on the north side the parking lot butts right up against the property line, so the over grown grass is the property owner to the north. He added until the re-zoning and conditional case for this property is completed we don't have a lease agreement with Hills.

Ralph Skoog moved to approve the rezoning and conditional use permit as written by staff, seconded by Fred Sanders.
SEE VOTES UNDER EACH CASE.

Ralph Skoog said we would like to state our regret that the process wasn't followed.

- a. **Z06/10 by Team II, L.L.C.** requesting to amend the District Zoning Classification from "C-3" Commercial District TO "O&I-3" Office and Institutional District on property located at 713 SW Topeka Boulevard. **(Driver)**

Exparte communications: none

Ralph Skoog moved to approve the rezoning and conditional use permit as written by staff, seconded by Fred Sanders. **APPROVAL (6-0-1). Commissioner Sims abstained due to a conflict of interest.**

- b. **CU06/5 by Team II, L.L.C.** requesting a Conditional Use Permit to establish a vehicle surface parking lot on property currently zoned "C-3" Commercial District which the applicant is seeking to rezone to "O&I-3" Office and Institutional District and located at 713 SW Topeka Boulevard. **(Driver)**

Exparte communications: none

Ralph Skoog moved to approve the rezoning and conditional use permit as written by staff, seconded by Fred Sanders. **APPROVAL (6-0-1), subject to conditions listed in the staff report. Commissioner Sims abstained due to a conflict of interest.**

David Thurbon stated he had a comment regarding item #G-2a&b. He said there are some complexities with this case. He said staff's understanding was CAPA (Capital Area Plaza Authority) approved the C-3 zoning with the condition that they apply for O&I-3 and a Conditional Use Permit. When the applications were submitted, the building permit for the parking lot was issued (April, 2006). Therefore, these cases did not need approved prior to the building permit being issued since CAPA approved the C-3 and their conditions were met. Ralph Skoog stated the Commission should respect CAPA's decisions.

CONDITIONAL USE PERMIT REPORT

TOPEKA PLANNING DEPARTMENT

CASE NO: CU06/5

by: Team II L.L.C.

PROPOSAL: The applicant requests a Conditional Use Permit "CUP" to establish a vehicle surface parking lot on property presently zoned "C-3" Commercial District.

LOCATION: 713 SW Topeka Blvd., on the west side of SW Topeka Blvd., centrally located between SW 7th and SW 8th Streets.

PARCEL ID NUMBERS: 0983404001032000

PRESENT USE: Vehicle surface parking lot for use primarily by Hill's Pet Nutrition, located at 400 SW 8th Avenue. The subject property comprises approximately 0.25 acres (10,890 sq. ft.).

PROPOSED USE: In accordance with Sec. 48-14.02(c)(10), the applicant requests Conditional Use Permit (CUP) to allow for its present use as a vehicle surface parking lot in an O&I-3 District. In conjunction with this proposal, the applicant has applied for a rezoning to O&I-3 in accordance with the recommendation from the Capital Area Plaza Authority (Z06/10).

BACKGROUND: The subject property was originally rezoned from "M-3" Multiple-Family Dwelling District to "C-3" Commercial District in 2004 for the construction of a surface parking lot to be used primarily by Hill's Pet Nutrition, which is located diagonally across Topeka Blvd. However, the parking lot on the subject property was constructed in 2004 prior to site plan approval, issuance of a City parking lot permit or before it fulfilled conditions of approval from the Capital Area Plaza Authority (CAPA).

The applicant's proposal for "C-3" Commercial was approved by the Topeka City Council on August 10, 2004. Since the subject property lies within the Capital Area Plaza Authority's jurisdiction, state law gives CAPA has the right to approve or disapprove rezoning proposals located within its zoning boundary area. At their November 29, 2004 meeting, CAPA recommended approval of the C-3 zoning classification, on the condition the applicants would later apply for a downzoning of the property to O&I-3 with a conditional use permit for a vehicle surface parking lot. (See attached CAPA minutes.) This current proposal is being considered subject to this recommendation from CAPA.

CHARACTER OF NEIGHBORHOOD: The subject property borders the western edge of SW Topeka Blvd., centrally located between SW 7th Street and SW 8th Street. The property lies on the eastern edge of the Old Town Neighborhood. In addition, the property lies within the Downtown core area of the

Downtown Topeka Redevelopment Area. It is located in a transitional area from commercial and office uses on the east to residential uses on the west.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	“PUD” (C-3 use group)	Parking lot
South:	“M-3” Multiple-Family Dwelling District	Apartment building
East:	“C-4” Commercial District “O&I-2” Office & Institutional District	Wendy’s restaurant Bank of America
West:	“M-3” Multiple-Family Dwelling District	Single-family residences

GUIDELINES FOR EVALUATION: In considering an application for a CUP, the Planning Commission and governing body will give consideration to the following criteria in order to protect the integrity and character of the zoning district in which the proposed use is located; and to minimize adverse effects on surrounding properties and neighborhood, all conditional use permit applications shall be evaluated in accordance with the guidelines established in Section 48-25 of the City of Topeka, Comprehensive Zoning Regulations.

- 1. The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies:** The subject property lies within the Old Town NIA. The adopted Old Town Neighborhood Plan includes as its goals the need to protect single-family residential blocks from higher intensity and/or incompatible land uses. The current “C-3” zoning classification could potentially allow for more intense commercial uses not appropriate for a block that provides a transition from commercial to residential land uses. The proposed “O&I-3” zoning classification would allow for higher intensity office uses appropriate for this area along Topeka Blvd., yet still provide a transition for the residential uses to the west.
- 2. The character of the neighborhood including but not limited to: land use, zoning, density, architectural style, building materials, height, structural mass, sitting, open space and floor-to area ratio:** The property lies on the eastern edge of the Old Town neighborhood in an area designated for Downtown land uses. The properties to the east of the subject property consist entirely of downtown commercial and office land uses, while the properties to the west consist of multi-family residential land uses that gradually transition to single-family residential uses further west. As this is a transitional area from high intensity downtown commercial and office land uses to multi-family residential land uses, a higher intensity office use would be suitable at this location.
- 3. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses:** The nearby properties, west of Topeka Blvd., are zoned for either multi-family or office and institutional uses. The property directly

to the north is currently zoned PUD (C-3 use group) for its use as surface parking lot by St. John AME Church. The proposed reclassification of the subject property to the O&I-3 District appears to be in harmony with these surrounding zoning classifications and land uses.

4. **The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations:** The subject property lies within the zoning jurisdiction of the Capital Area Plaza Authority, in which CAPA has approval authority of rezonings. A vehicle surface parking lot is a permitted use by-right in the C-3 District. However, the C-3 zoning district would also permit commercial uses that are too intense for this transitional area. The O&I-3 zoning district would allow for the property to develop for future office uses, but still require CAPA approval for a more intense commercial use in the future. The property is being rezoned to the O&I-3 District with a CUP for a parking lot at the recommendation of CAPA.
5. **The length of time the property has remained vacant as zoned:** The property is presently zoned "C-3" Commercial District and until 2004 it consisted of vacant land. The existing parking lot was constructed in 2004 when the property was rezoned to C-4. Prior to 2004, the property was zoned "M-3" Multiple-Family Dwelling District and was vacant land.
6. **The extent to which the approval of the application would detrimentally affect nearby properties:** There should be no detrimental effect on nearby properties by the subsequent downzoning of the subject property to O&I-3.
7. **The extent to which the proposed use would substantially harm the value of nearby properties:** Staff is unaware of any harm the use would have on nearby properties by this downzoning. Drainage conditions of the alley have been improved considerably by the City of Topeka since the original application.
8. **The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property:** None anticipated. All issues were addressed at the site development stage.
9. **The extent to which the proposed use would create excessive air pollution, water pollution, noise pollution or other environmental harm:** None anticipated. All issues were addressed at the site development stage.
10. **The economic impact of the proposed use on the community:** No long-term detrimental economic impact to the community is anticipated given the restrictions in place.
11. **The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application:** With the restrictions in place there appears to be no particular public gain in respect to health, safety and welfare by denying the requested application.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: Old Town NIA; the NIA was notified regarding this proposed rezoning on April 13, 2006.
2. Capitol Plaza Area: The subject property lies within the jurisdiction of the Capital Area Plaza Authority (CAPA) and in accordance with KSA 75-3720, the proposed action is required to be submitted to and approved by CAPA prior to action by the Topeka City Council. CAPA was notified regarding the proposed rezoning on April 13, 2006. In the minutes from November 29 2004, CAPA recommended approval of rezoning the property to C-3, with the condition that the applicant later submit a proposal to downzone the subject property to O&I-3 with a CUP for the surface parking lot. This proposal fulfills that condition.
3. Flood Hazard Area: Not Applicable.
4. Airport Hazard Area: Not Applicable.
5. Historic Properties: No Registered Properties within 500 ft.

STAFF RECOMMENDATION: The Planning Department recommends **APPROVAL** of this proposal in conjunction with the corresponding rezoning proposal (Z06/10), subject to:

1. Use and development of the site shall be in accordance with the approved site plan for Team II L.L.C. parking lot, dated March 13, 2006, including the planting and maintenance of all required landscaping.

Prepared by:
Annie Driver, Planner I



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SOURCE OF FUNDING:

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