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City Council Agenda

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

December 9, 2014

6:00 PM

Mayor: Larry E. Wolgast

Councilmembers

Karen A. Hiller	District No. 1	Chad Manspeaker	District No. 6
TJ Brown	District No. 2	Elaine Schwartz	District No. 7
Sylvia E. Ortiz	District No. 3	Nathan Schmidt	District No. 8
Denise Everhart	District No. 4	Richard Harmon	District No. 9
Michelle De La Isla	District No. 5		

City Manager: Jim Colson

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

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

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

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

To make arrangements for special accommodations please call 785-368-3940. A 48-hour advance notice is preferred.

The Federal Communications Commission (FCC) has adopted use of the 711 dialing code for access to Telecommunications Relay Services (TRS). TRS permits persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device to call persons with or without such disabilities. To reach the City Clerk's office using the TRS, please dial 711.

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

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. MAYORAL PROCLAMATIONS:

"None scheduled at this time."

2. PRESENTATIONS:

"School Resource Officers Update"

3. ROLL CALL:

4. CONSENT AGENDA:

A. Board Appointment - Board of Building and Fire Appeals

BOARD APPOINTMENT recommending the appointment of Steve Mohan to the City of Topeka Board of Building and Fire Appeals for a term ending December 31, 2016.

B. Board Appointment - Board of Building and Fire Appeals

BOARD APPOINTMENT recommending the appointment of Dan Rowe to the City of Topeka Board of Building and Fire Appeals for a term ending December 31, 2016.

 [ATTACHMENTS](#)

C. Board Appointment - Board of Electrical Appeals

BOARD APPOINTMENT recommending the appointment of Dave Krug to the City of Topeka Board of Electrical Appeals for a term ending December 31, 2016.

 [ATTACHMENTS](#)

D. Board Appointment - Board of Electrical Appeals

BOARD APPOINTMENT recommending the appointment of Shawn Smith to the City of Topeka Board of Electrical Appeals for a term ending December 31, 2016.

E. Tort Claim Appeal - John Boos

DENIAL of Tort Claim Appeal filed by John Boos seeking compensation for damage to his lawnmower in the amount of \$292.78.

F. Tort Claim Appeal - Angela Newsom

DENIAL of Tort Claim Appeal filed by Angela Newsom seeking compensation for vehicle damage caused by a pothole in the amount of \$2,200.

G. Tort Claim Appeal - John Wright

DENIAL of Tort Claim Appeal filed by John Wright seeking compensation for property damage caused by the Topeka Police Department during the execution of a search warrant in the amount of \$10,000.

H. MINUTES of the regular meeting of December 2, 2014

I. APPLICATIONS:

5. ACTION ITEMS:

A. Ordinance - Series 2014-A Revenue Bonds

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Jim Colson, authorizing the issuance of \$44,625,000 aggregate principal amount of Combined Utility Improvement and Refunding Bonds, Series 2014-A, of the City of Topeka, Kansas, under the authority of K.S.A. 10-116a and K.S.A. 10-1201 et seq., and all amendment thereto.

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

(Approval would allow the City to move forward with permanently refinancing \$13,065,000 in previously authorized improvements. In addition to permanent financing series 2005-A, 2006-B, and 2007-B would be refinanced for economic savings.)

B. Resolution - Series 2014-A Revenue Bonds

 [ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Jim Colson, prescribing the form and details of Combined Utility Improvement and Refunding Revenue Bonds, Series 2014-A of the City of Topeka, Kansas, in the aggregate principal amount of \$44,625,000 the issuance of which was authorized by the City pursuant to its ordinance passed and approved December 9, 2014; authorizing the execution of an escrow trust agreement by and between the City and Security Bank of Kansas City, Kansas City, Kansas, and authorizing certain other documents and actions in connection with the issuance of the bonds.

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

(Approval would allow the City to move forward with permanently refinancing \$13,065,000 in previously authorized improvements. In addition to permanent financing series 2005-A, 2006-B and 2007-B would be refinanced for economic savings.)

C. Public Hearing and Appropriation Ordinance - 2014 Budget Amendment

 [ATTACHMENTS](#)

A PUBLIC HEARING for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds, amending the 2014 City of Topeka Operating Budget.

AN APPROPRIATION ORDINANCE introduced by City Manager Jim Colson, approving and adopting certain amendments to the operating budget for the City of Topeka for the year 2014, and appropriating the amounts for the purpose as set forth therein.

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

(Approval would increase the 2014 Adopted Budget by \$7,249,875 in additional expenditures to be funded by current revenue or fund balances.)

D. Ordinance - American Medical Response Franchise Agreement - Renewal

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Jim Colson, providing for the renewal of a nonexclusive franchise to American Medical Response to operate an ambulance service within the City of Topeka which replaces the franchise ordinance codified at City Code Appendix B, Article 6 that will expire December 31, 2014.

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

(Approval would extend AMR's franchise agreement for one-year.)

E. Charter Ordinance - Mayoral Voting



A CHARTER ORDINANCE introduced by Deputy Mayor Denise Everhart, amending City of Topeka Code Section A2-24 concerning duties of the mayor.

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

(Approval would be the first step in a process to place the ordinance on the April 7, 2015 ballot. The electorate would then decide whether to change the Mayor's voting rights.)

F. Ordinance - Calling an Election on Charter Ordinance - Mayoral Voting



[ATTACHMENTS](#)

AN ORDINANCE introduced by Deputy Mayor Denise Everhart, calling an election to be held on April 7, 2015, for the purpose of voting on the Charter Ordinance.

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

(This ordinance will be considered only if the charter ordinance changing the Mayor's voting rights is passed by the governing body. Approval of this ordinance would call an election on the charter ordinance for April 7, 2015.)

G. Charter Ordinance - Election of Council Members



[ATTACHMENTS](#)

A CHARTER ORDINANCE introduced by Councilmember Nathan Schmidt, amending City of Topeka Code Sections A2-21 and A2-22 concerning election of councilmembers.

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

(Approval would be the first step in a process to place the ordinance on the April 7, 2015 ballot. The electorate would decide whether to alter the current method of election of council members from district to at-large.)

H. Ordinance - Calling an Election on Charter Ordinance - Election of Council Members



[ATTACHMENTS](#)

AN ORDINANCE introduced by Council Member Nathan Schmidt, calling an election to be held on April 7, 2015, for the purpose of voting on the Charter Ordinance.

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

(If the Charter Ordinance changing the election method for council members is passed, this ordinance would call an election on the Charter Ordinance.)

I. Resolution - 2015 Legislative Agenda



[ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Jim Colson, relating to the City of Topeka's legislative agenda for the 2015 legislative session.

(Approval would outline legislative priorities identified by the Council to be addressed or monitored during the 2015 Legislative Session.)

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

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

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

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

6. ANNOUNCEMENTS:

PRELIMINARY AGENDA

(The City Clerk will provide a brief summary of items on the next scheduled Council meeting agenda. Also during this time, the City Manager and Governing Body Members may offer comments regarding City business and announce upcoming events.)

7. PUBLIC COMMENT:

-

8. EXECUTIVE SESSION:

Executive Sessions are closed meetings held in accordance with the provisions of the Kansas Open Meetings Act.

(Executive sessions will be scheduled as needed and may include topics such as personnel matters, considerations of acquisition of property for public purposes, potential or pending litigation in which the city has an interest, employer-employee negotiations and any other matter provided for in K.S.A. 75-4319.)

9. ADJOURNMENT:

-



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DATE: December 9, 2014

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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STAFF RECOMMENDATION:

BACKGROUND:

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No Attachments Available



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CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

"None scheduled at this time."

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

"School Resource Officers Update"

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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DATE:	December 9, 2014	
CONTACT PERSON:	Mayor Wolgast	DOCUMENT #:
SECOND PARTY/SUBJECT:	Appointment - Board of Building and Fire Appeals	PROJECT #:
CATEGORY/SUBCATEGORY	006 Communication / 005 Other	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Steve Mohan to the City of Topeka Board of Building and Fire Appeals for a term ending December 31, 2016.

POLICY ISSUE:

The Board of Building and Fire Appeals determines the suitability of alternate materials, methods and types of construction. The board has the power to permit exceptions, variances or waivers from the Code that meet the intent of the adopted code and will not endanger life, limb, health, property or public welfare. The board of building and fire appeals shall conduct business in accordance with City of Topeka Code.

STAFF RECOMMENDATION:

Councilmember Hiller nominates and Mayor Wolgast recommends the appointment of Steve Mohan to the City of Topeka Board of Building and Fire Appeals for a third term ending December 31, 2016. Mr. Mohan is a contractor.

BACKGROUND:

In accordance with City Code 2.40.010, the Board of Building and Fire Appeals shall consist of seven members appointed by the mayor and approved by council. Members shall be currently licensed, or engaged in, or have substantial past experience in the following areas: licensed professional engineer, licensed architect, licensed commercial contractor, or other experience or professional work in a field related to building construction. The appointed members shall always include at least two licensed engineers, two licensed architects and one general contractor.

BUDGETARY IMPACT:

Item #7

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

No Attachments Available



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CONTACT PERSON:	Mayor Wolgast	DOCUMENT #:
SECOND PARTY/SUBJECT:	Appointment - Board of Building and Fire Appeals	PROJECT #:
CATEGORY/SUBCATEGORY	006 Communication / 003 Requests	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Dan Rowe to the City of Topeka Board of Building and Fire Appeals for a term ending December 31, 2016.

POLICY ISSUE:

The Board of Building and Fire Appeals determines the suitability of alternate materials, methods and types of construction. The board has the power to permit exceptions, variances or waivers from the Code that meet the intent of the adopted code and will not endanger life, limb, health, property or public welfare. The board of building and fire appeals shall conduct business in accordance with City of Topeka Code.

STAFF RECOMMENDATION:

Councilmember Hiller nominates and Mayor Wolgast recommends the appointment of Dan Rowe to the City of Topeka Board of Building and Fire Appeals for a fourth term ending December 31, 2016. Mr. Rowe is an architect.

BACKGROUND:

In accordance with City Code 2.40.010, the Board of Building and Fire Appeals shall consist of seven members appointed by the mayor and approved by council. Members shall be currently licensed, or engaged in, or have substantial past experience in the following areas: licensed professional engineer, licensed architect, licensed commercial contractor, or other experience or professional work in a field related to building construction. The appointed members shall always include at least two licensed engineers, two licensed architects and one general contractor.

BUDGETARY IMPACT:

Item #8

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[Dan Rowe resume](#)

**Daniel R. Rowe, AIA
LEED™ AP***Education:*

Bachelor of Architecture
Kansas State University/1987

Registration:

Kansas 1991 - Architecture

Membership:

American Institute of Architects
Committee on Architecture for Justice
National Juvenile Detention Association
Missouri Sheriff Association
Kansas Sheriff Association
Iowa Sheriff Association
Nebraska Sheriff Association

Certification:

LEED™ Accredited Professional / 2004

Architectural Experience:
20 years*Conference Attendee:*

3rd International Courthouse Design Conference
Toronto, Canada

4th International Courthouse Design Conference
Phoenix, Arizona

Juvenile Justice System Change as a Constant
Denver, Colorado

Committee on Architecture for Justice Conference
1998-2001, 2005

Juvenile Training Conference
Indianapolis, Indiana

Project Experience:

Dan has more than 20 years of experience in architecture and has led the design and production effort on every justice project produced by Treanor Architects. As principal and hands-on project manager, he brings experience and knowledge as well as the leadership and communication skills required for a complicated project. He has led more than 30 justice projects within the state of Kansas, providing full architectural service and project management for facilities including juvenile justice, jails and courthouse design. He is currently a member of the team preserving and restoring the Kansas Statehouse. Douglas County Jail
Lawrence, Kansas

Douglas County Jail Expansion - Phase II
Lawrence, Kansas

Douglas County Jail Re-Entry Program - Phase III
Lawrence, Kansas

Riley County Law Enforcement
Manhattan, Kansas

Butler County Jail
El Dorado, Kansas

Cowley County Detention Center Pre-Bond Assistance
Winfield, Kansas

Anderson County Jail
Garnett, Kansas

Coffey County Jail Remodel
Burlington, Kansas

Washington County Jail Addition
Washington, Kansas

Macon County Jail Pre-Bond Assistance
Macon, Missouri

Lyon County Jail Booking Remodel
Emporia, Kansas

Franklin County Jail Addition
Union, Missouri

Wabaunsee County Jail Study
Wabaunsee, Kansas

Douglas County Juvenile Detention Study
Lawrence, Kansas

Douglas County Juvenile Center Addition
Lawrence, Kansas

Wright County Jail and Courts
Hartville, Missouri

State of Kansas Corrections 10-Year Master Plan
Topeka, Kansas

Shawnee Co. Adult Detention Center
Topeka, Kansas

Texas County Judicial Center
Houston, Missouri

Franklin County Administrative Offices
Union, Missouri

Franklin County Courthouse (new)
Union, Missouri

Franklin County Courthouse (historic renovation)
Union, Missouri

Sikeston Public Safety Building Needs Assessment
Sikeston, Missouri

New Lyon County Courthouse
Emporia, Kansas

Butler County Courthouse
El Dorado, Kansas

Lyon County Courthouse Office Renovation
Emporia, Kansas

Butler County Facility Assessment
El Dorado, Kansas

Kingman County Courthouse
Kingman, Kansas

13th Judicial District of Kansas
Elk, Greenwood and Butler Counties

Kansas Statehouse Preservation and Restoration
Topeka, Kansas

Kansas Statehouse Master Plan
Topeka, Kansas



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DATE: December 9, 2014
CONTACT PERSON: Mayor Wolgast DOCUMENT #:
SECOND PARTY/SUBJECT: Appointment - Board of Electrical Appeals PROJECT #:
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Dave Krug to the City of Topeka Board of Electrical Appeals for a term ending December 31, 2016.

POLICY ISSUE:

This board reviews applications and approves the issuance of licenses in accordance with the Code of the City of Topeka. The board is empowered to hear and determine interpretations of applicable codes and to permit exceptions, variances, or waivers there from, provided such exceptions, variances, or waivers meet the intent of the adopted code and do not endanger life, limb, property or public welfare.

STAFF RECOMMENDATION:

Councilmember Hiller nominates and Mayor Wolgast recommends the appointment of Dave Krug to the City of Topeka Board of Electrical Appeals for a fourth term ending December 31, 2016. Mr. Krug is a master practicing in electrical, mechanical and plumbing design.

BACKGROUND:

The board shall be comprised of two licensed electrical masters, two licensed journeymen, and an engineer practicing in the trade. However, the two positions designated to be filled by journeymen may be filled by licensed journeymen, licensed masters, or engineers practicing in the electrical trade.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[Dave Krug resume](#)

David Krug

Vice President

Responsibilities

Principal-In-Charge
Project Manager
Mechanical, Electrical & Plumbing Design
Construction Administration

Registration

NCEES
Kansas
Missouri
Oklahoma
Michigan

Education

Kansas State University
Bachelor of Science - 1986
Architectural Engineering

Experience

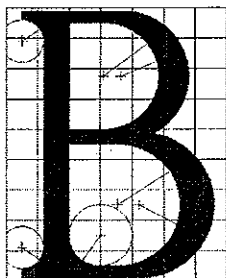
Dave has been with Brack & Associates since 1986. In 1990, Dave became Partner at Brack & Associates. He has been very instrumental in the fast development and growth at Brack & Associates.

Dave has experience in mechanical, electrical and plumbing system design for commercial, institutional and educational building projects. He has designed for a variety of projects in each discipline. Dave has skills using both engineering design software and computer-aided design systems. He has complete responsibility with the technology development for the firm.

Dave has been involved with numerous projects at various medical facilities and has valuable knowledge of the demands for infrastructure projects. He has extensive experience with projects that included extensive field investigation, strict project budgets and allowable service downtimes. Current medical experience has allowed Dave to specialize in design and development of MEP systems in hospitals, outpatient facilities and medical office buildings. He is an important asset to all the projects he executes.

Current Projects

Various Mechanical / Electrical Projects for:
Stormont Vail Regional Health Center, Topeka, Kansas
Providence Medical Center, Kansas City, Kansas
St. John Hospital, Leavenworth, Kansas
Mercy Health Center, Manhattan, Kansas
Coffey County Hospital, Burlington, Kansas
Hiawatha Community Hospital, Hiawatha, Kansas
Citizens Memorial Hospital, Bolivar, Missouri
Bethany Medical Plaza, Kansas City, Kansas
Children's Mercy Hospital, Kansas City, Missouri
Western Missouri Medical Center, Warrensburg, Missouri
McCune-Brooks Hospital, Carthage, Missouri
St. Johns Hospital, Joplin Missouri



BRACK & ASSOCIATES CONSULTING ENGINEERS, P.A.

David Krug

Vice President

Responsibilities

Principal-In-Charge
Project Manager
Mechanical, Electrical & Plumbing Design
Construction Administration

Registration

NCEES
Kansas
Missouri
Oklahoma
Michigan

Education

Kansas State University
Bachelor of Science - 1986
Architectural Engineering

Experience

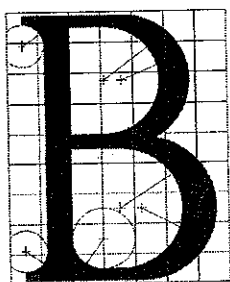
Dave has been with Brack & Associates since 1986. In 1990, Dave became Partner at Brack & Associates. He has been very instrumental in the fast development and growth at Brack & Associates.

Dave has experience in mechanical, electrical and plumbing system design for commercial, institutional and educational building projects. He has designed for a variety of projects in each discipline. Dave has skills using both engineering design software and computer-aided design systems. He has complete responsibility with the technology development for the firm.

Dave has been involved with numerous projects at various medical facilities and has valuable knowledge of the demands for infrastructure projects. He has extensive experience with projects that included extensive field investigation, strict project budgets and allowable service downtimes. Current medical experience has allowed Dave to specialize in design and development of MEP systems in hospitals, outpatient facilities and medical office buildings. He is an important asset to all the projects he executes.

Current Projects

Various Mechanical / Electrical Projects for:
Stormont Vail Regional Health Center, Topeka, Kansas
Providence Medical Center, Kansas City, Kansas
St. John Hospital, Leavenworth, Kansas
Mercy Health Center, Manhattan, Kansas
Coffey County Hospital, Burlington, Kansas
Hiawatha Community Hospital, Hiawatha, Kansas
Citizens Memorial Hospital, Bolivar, Missouri
Bethany Medical Plaza, Kansas City, Kansas
Children's Mercy Hospital, Kansas City, Missouri
Western Missouri Medical Center, Warrensburg, Missouri
McCune-Brooks Hospital, Carthage, Missouri
St. Johns Hospital, Joplin Missouri



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DATE: December 9, 2014
CONTACT PERSON: Mayor Wolgast **DOCUMENT #:**
SECOND PARTY/SUBJECT: Appointment - Board of Electrical Appeals **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Shawn Smith to the City of Topeka Board of Electrical Appeals for a term ending December 31, 2016.

POLICY ISSUE:

This board reviews applications and approves the issuance of licenses in accordance with the Code of the City of Topeka. The board is empowered to hear and determine interpretations of applicable codes and to permit exceptions, variances, or waivers there from, provided such exceptions, variances, or waivers meet the intent of the adopted code and do not endanger life, limb, property or public welfare.

STAFF RECOMMENDATION:

Councilmember Hiller nominates and Mayor Wolgast recommends the appointment of Shawn Smith to the City of Topeka Board of Electrical Appeals for a third term ending December 31, 2016. Mr. Smith is a licensed master electrician.

BACKGROUND:

The board shall be comprised of two licensed electrical masters, two licensed journeymen, and an engineer practicing in the trade. However, the two positions designated to be filled by journeymen may be filled by licensed journeymen, licensed masters, or engineers practicing in the electrical trade.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

No Attachments Available



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CONTACT PERSON:	Seth Lowry, Assistant City Attorney	DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY	005 Claims / 006 Appeals	
CIP PROJECT:	No	
ACTION OF COUNCIL:	Affirm denial of claim	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

DENIAL of Tort Claim Appeal filed by John Boos seeking compensation for damage to his lawnmower in the amount of \$292.78.

POLICY ISSUE:

The recommendation to deny the claim is based upon the absence of substantial evidence that the City caused or contributed to the condition that damaged Mr. Boos' lawnmower.

STAFF RECOMMENDATION:

Staff recommends that the council deny the claim in the amount of \$292.78.

BACKGROUND:

A water main break occurred at 3360 SW Harrison in December 2013. The City was required to excavate a portion of an adjacent parking lot. The City hired Elite Construction to repair the parking lot. Mr. Boos alleges that some parking blocks were moved during the water main or parking lot repairs and that a piece of exposed rebar damaged his lawnmower.

BUDGETARY IMPACT:

If approved, the claim for \$292.78 would be paid out of the Combined Utilities Fund.

SOURCE OF FUNDING:

Combined Utilities Fund.

ATTACHMENTS:

No Attachments Available

Item #11



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DATE:	December 9, 2014		
CONTACT PERSON:	Seth Lowry, Assistant City Attorney	DOCUMENT #:	
SECOND PARTY/SUBJECT:		PROJECT #:	
CATEGORY/SUBCATEGORY	005 Claims / 006 Appeals		
CIP PROJECT:	No		
ACTION OF COUNCIL:	Affirm denial of claim	JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

DENIAL of Tort Claim Appeal filed by Angela Newsom seeking compensation for vehicle damage caused by a pothole in the amount of \$2,200.

POLICY ISSUE:

The recommendation to deny the claim is based upon the fact that there is not substantial evidence indicating that the City knew or should have known of the pothole's existence prior to the damage occurring.

STAFF RECOMMENDATION:

Staff recommends affirming the denial of the claim for approximately \$2200.

BACKGROUND:

On July 24, 2014, Ms. Newsom was driving eastbound on SW 10th when she encountered a pothole near 10th and SW Crest. The pothole damaged Ms. Newsom's Ford Expedition.

BUDGETARY IMPACT:

If approved, the claim for approximately \$2200 would be paid out of the Special Liability Fund.

SOURCE OF FUNDING:

Special Liability Fund.

ATTACHMENTS:

No Attachments Available

Item #12



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Council Action Form

Council Chambers
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Topeka, Kansas 66603

November 20, 2014

+ Back Print

DATE:	December 9, 2014	
CONTACT PERSON:	Seth Lowry, Assistant City Attorney	DOCUMENT #:
SECOND PARTY/SUBJECT:	PROJECT #:	
CATEGORY/SUBCATEGORY	005 Claims / 006 Appeals	
CIP PROJECT:	No	
ACTION OF COUNCIL:	Deny Claim	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

DENIAL of Tort Claim Appeal filed by John Wright seeking compensation for property damage caused by the Topeka Police Department during the execution of a search warrant in the amount of \$10,000.

POLICY ISSUE:

The recommendation to deny the claim in an amount exceeding \$10,000 is based upon the fact that the City is entitled to discretionary function immunity.

STAFF RECOMMENDATION:

Staff recommends the Council deny the claim seeking more than \$10,000.

BACKGROUND:

On July 21, 2014, Officers served a narcotics search warrant on a rental property owned by the claimant. During execution of the warrant, Officers breached the front door and broke out several windows. Officers located and collected various controlled substances and contraband inside the residence.

BUDGETARY IMPACT:

If approved, the claim seeking more than \$10,000 would be paid from the Special Liability Fund.

SOURCE OF FUNDING:

Special Liability Fund.

ATTACHMENTS:

No Attachments Available



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October 7, 2014

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DATE: December 9, 2014

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

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October 7, 2014

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DATE: December 9, 2014

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

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214 SE 8th Street
Topeka, Kansas 66603

November 19, 2014

 [Back](#)  [Print](#)

DATE:	December 9, 2014	
CONTACT PERSON:	Doug Gerber	DOCUMENT #:
SECOND PARTY/SUBJECT:	2014-A Revenue Bonds	PROJECT #:
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 012 Bond Ordinances	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson, authorizing the issuance of \$44,625,000 aggregate principal amount of Combined Utility Improvement and Refunding Bonds, Series 2014-A, of the City of Topeka, Kansas, under the authority of K.S.A. 10-116a and K.S.A. 10-1201 et seq., and all amendment thereto.

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

(Approval would allow the City to move forward with permanently refinancing \$13,065,000 in previously authorized improvements. In addition to permanent financing series 2005-A, 2006-B, and 2007-B would be refinanced for economic savings.)

POLICY ISSUE:

Approval would allow the City to move forward with permanently refinancing \$13,065,000 in previously authorized improvements. In addition to permanent financing series 2005-A, 2006-B, and 2007-B would be refinanced for economic savings.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

The bond would permanently finance improvements associated with the South Topeka water system, main replacement, Shunga backup power system and digester lid replacement.

BUDGETARY IMPACT:

Item #16

Debt service for permanently financed improvements would be scheduled over a 30 year period and payments would be structured through the appropriate utility fund. Savings for the refinancing would be structured over a 10 year period from 2015 to 2024 in order to reduce the burden of the current debt service structure which is relatively flat. Terms of the repayment of the bonds would not change.

SOURCE OF FUNDING:

Debt service is paid through the respective utility fund and is funded by fees associated with each utility.

ATTACHMENTS:

[Series 2014-A Revenue Bonds Ordinance](#)

191114 4

(Published in The Topeka Metro News on December ___, 2014.)

ORDINANCE NO. _____

**AN ORDINANCE INTRODUCED BY CITY MANAGER JIM COLSON
AUTHORIZING THE ISSUANCE OF \$44,625,000 AGGREGATE
PRINCIPAL AMOUNT OF COMBINED UTILITY IMPROVEMENT AND
REFUNDING REVENUE BONDS, SERIES 2014-A, OF THE CITY OF
TOPEKA, KANSAS, UNDER THE AUTHORITY OF K.S.A. 10-116a AND
K.S.A. 10-1201 ET SEQ., AND ALL AMENDMENTS THERETO.**

WHEREAS, pursuant to K.S.A. 10-1201 et seq., as amended (the "Act"), the governing body of the **City of Topeka, Shawnee County, Kansas**, (the "City") by its Ordinances Nos. 19556, 19743, 19744, 19793 and 19807 all of which were adopted by two-thirds vote of the members thereof, and published as required by law, expressed its intent to improve the City's stormwater, wastewater and water supply systems (collectively, the "System") by making certain stormwater collection, sanitary sewer and water distribution improvements together with all things necessary and incidental thereto (the "Improvements") and authorizing that notice of the City's intention to make the Improvements and finance the costs thereof be given in accordance with the requirements of the Act; and

WHEREAS, pursuant to the Act, the City did cause to be published in its official newspaper, a paper of general circulation in the City, its Notice(s) of Intention to complete the Improvements and finance the cost thereof by issuing revenue bonds of the City, in the maximum principal amount of \$13,425,401, to pay all or part of the cost of the Improvements incurred or to be incurred by the City in connection with the Improvements; and

WHEREAS, a sufficient protest against the making of the Improvements and the issuance of revenue bonds of the City in the maximum principal amount of \$13,425,401.00 to pay the cost thereof was not received by the City Clerk within fifteen (15) days of the date of the publication of the City's Notice(s) of Intention; and

WHEREAS, the governing body of the City has heretofore duly authorized, issued and delivered its \$14,875,000 principal amount of Combined Utility Improvement Revenue Bonds, Series 2005-A, dated December 8, 2005, (the "Series 2005-A Bonds") pursuant to its Ordinance No. 18531 (the "Series 2005-A Bond Ordinance") and Resolution No. 7709 (the "Series 2005-A Bond Resolution") adopted November 8, 2005, in accordance with the requirements of K.S.A. 10-1201 et seq., all as amended; and

WHEREAS, as of December 1, 2014, there remains outstanding of the Series 2005-A Bonds the principal amount of \$12,465,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

SERIAL BONDS

MATURITY (August 1)	PRINCIPAL AMOUNT	INTEREST RATE
2015	\$315,000	7.50%
2016	335,000	7.50
2017	360,000	4.25

TERM BONDS

2020	\$1,200,000	6.00%
2023	1,430,000	6.00
2025	1,100,000	6.00
2027	1,235,000	6.00
2035	6,490,000	5.25

WHEREAS, pursuant to Section 203 of the Series 2005-A Bond Resolution, the State Treasurer of the State of Kansas, Topeka, Kansas, was designated as the City's Paying Agent and Bond Registrar for the payment of the principal of and interest on the Series 2005-A Bonds; and

WHEREAS, pursuant to Section 301 of the Series 2005-A Bond Resolution, the Series 2005-A Bonds maturing on August 1, 2016, and thereafter, are subject to redemption and payment at the option of the City on August 1, 2015, and thereafter in whole or in part on any date, at the redemption price equal to the principal amount thereof with a redemption premium of one percent of the principal amount redeemed, such redemption premium to decline one-quarter of one percent (1/4 of 1%) each August 1 thereafter, plus accrued interest thereon to the date fixed for redemption and payment; and

WHEREAS, the City has heretofore duly authorized, issued and delivered its \$22,600,000 principal amount of Combined Utility Refunding Revenue Bonds, Series 2006-B, dated October 18, 2006, (the "Series 2006-B Bonds") pursuant to the Ordinance No. 18717 (the Series 2006-B Bond Ordinance") and Resolution No. 7866 (the "Series 2006-B Bond Resolution") adopted on September 26, 2006, in accordance with the requirements of K.S.A. 10-116a and K.S.A. 10-1201 et seq., all as amended; and

WHEREAS, as of December 1, 2014, there remains outstanding of the Series 2006-B Bonds the principal amount of \$16,445,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

SERIAL BONDS

MATURITY (August 1)	PRINCIPAL AMOUNT	INTEREST RATE
2015	\$2,365,000	5.00%
2016	2,485,000	4.00
2017	2,595,000	4.00
2018	2,695,000	4.00
2019	2,810,000	4.00
2020	2,935,000	4.00
2021	560,000	4.25

WHEREAS, pursuant to Section 203 of the Series 2006-B Bond Resolution, the State Treasurer of the State of Kansas, Topeka, Kansas, was designated as the City's Paying Agent and Bond Registrar for the payment of the principal of and interest on the Series 2006-B Bonds; and

WHEREAS, pursuant to Section 301 of the Series 2006-B Bond Resolution, the Series 2006-B Bonds maturing on August 1, 2015, and thereafter, are subject to redemption and payment at the option of the City on August 1, 2014, and thereafter in whole or in part on any date, at the redemption price equal to the principal amount thereof with a redemption premium of one percent of the principal amount redeemed, such redemption premium to decline one-quarter of one percent (1/4 of 1%) each Interest Payment Date thereafter, plus accrued interest thereon to the date fixed for redemption and payment; and

WHEREAS, the governing body of the City has heretofore duly authorized, issued and delivered its \$5,210,000 principal amount of Combined Utility Improvement and Refunding Revenue Bonds, Series 2007-B, dated July 17, 2007, (the "Series 2007-B Bonds") pursuant to its Ordinance No. 18906 (the "Series 2007-B Bond Ordinance") and Resolution No. 7963 (the "Series 2007-B Bond Resolution") adopted June 19, 2007, in accordance with the requirements of K.S.A. 10-116a and K.S.A. 10-1201 et seq., all as amended; and

WHEREAS, as of December 1, 2014, there remains outstanding of the Series 2007-B Bonds the principal amount of \$5,210,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

TERM BONDS

2027	\$1,770,000	4.625%
2029	1,065,000	4.750
2037	2,375,000	4.750

WHEREAS, pursuant to Section 203 of the Series 2007-B Bond Resolution, the State Treasurer of the State of Kansas, Topeka, Kansas, was designated as the City's Paying Agent and Bond Registrar for the payment of the principal of and interest on the Series 2007-B Bonds; and

WHEREAS, pursuant to Section 301 of the Series 2007-B Bond Resolution, the Series 2007-B Bonds maturing on August 1, 2016, and thereafter, are subject to redemption and

134 payment at the option of the City on August 1, 2015, and thereafter in whole or in part on any
 135 date, at the redemption price equal to 100% of the principal amount thereof, plus accrued interest
 136 thereon to the date fixed for redemption and payment; and
 137

138 **WHEREAS**, the City has determined and hereby determines that it is in the best interest
 139 of the City and the patrons and taxpayers thereof that (i) the Series 2005-A Bonds maturing on
 140 and after August 1, 2016, (i.e., \$12,150,000) (the "Series 2005-A Refunded Bonds") be advanced
 141 refunded on August 1, 2015; (ii) all of the outstanding Series 2006-B Bonds maturing on and
 142 after August 1, 2015, (i.e., \$16,445,000) be currently refunded on December 24, 2014; and (iii) a
 143 portion of the Series 2007-B Bonds maturing on August 1, 2027, August 1, 2029 and August 1,
 144 2037, (i.e., \$4,730,000) (the "Series 2007-B Refunded Bonds") be advanced refunded on August
 145 1, 2015, and that refunding revenue bonds of the City payable from the revenues derived from
 146 the operation of its combined water, water pollution control and stormwater utility system (the
 147 "System") of the City be issued in the aggregate principal amount of \$ _____ to be
 148 utilized for such purpose; and
 149

150 **WHEREAS**, such refunding would provide a more orderly plan of financing for the City
 151 and result in a general restructuring of the debt service obligation of the City with respect to its
 152 combined utility, as hereinafter defined; and
 153

154 **WHEREAS**, it is necessary at this time that the City proceed forthwith to sell and deliver
 155 its Combined Utility Improvement and Refunding Revenue Bonds, Series 2014-A, in the
 156 principal sum of \$ _____ (the "Bonds"), for the purpose of providing funds to (1)
 157 permanently finance the costs of making the Improvements (i.e., \$ _____), (2) advance
 158 refund the Series 2005-A Refunded Bonds, (3) currently refund the Series 2006-B Bonds, (4)
 159 advance refund the Series 2007-B Refunded Bonds, (5) fund a debt service reserve fund for the
 160 Bonds and (6) pay the costs of issuing the Bonds, under the authority of K.S.A. 10-116a, K.S.A.
 161 10-1201 et seq. and Article 1 of Chapter 10, Kansas Statutes Annotated, all as amended; and
 162

163 **WHEREAS**, a portion of the proceeds derived from the sale of the Combined Utility
 164 Improvement and Refunding Revenue Bonds, Series 2014-A, herein authorized shall, subject to
 165 the provisions of an escrow trust agreement authorized herein, be placed in an escrow trust
 166 account to be established as herein authorized for the purpose of paying and redeeming the
 167 Series 2005-A Refunded Bonds and Series 2007-B Refunded Bonds as to both principal and
 168 interest as the same become subject to redemption and payment on August 1, 2015, all as more
 169 particularly described herein; and
 170

171 **WHEREAS**, as previously herein recited, the City on December 8, 2005, issued its
 172 Combined Utility Improvement Revenue Bonds, Series 2005-A in the amount of \$14,875,000
 173 (the "Series 2005-A Bonds"); and
 174

175 **WHEREAS**, as previously herein recited, the City on October 18, 2006, issued its
 176 Combined Utility Refunding Revenue Bonds, Series 2006-B Bonds in the amount of
 177 \$22,600,000 (the "Series 2006-B Bonds") which advanced refunded the City's outstanding
 178 Series 2001-A Water and Water Pollution Control Utility Revenue Bonds maturing in the years
 179 2009 through and including 2031; and

WHEREAS, the City on July 17, 2007, issued its Combined Utility Improvement and Refunding Revenue Bonds, Series 2007-B in the amount of \$5,210,000 (the “Series 2007-B Bonds”) which, in part, currently refunded the August 1, 2007, maturities of the City’s outstanding (1) Series 2001-A Water and Water Pollution Control Utility Revenue Bonds, (2) Series 2004-A Combined Utility Improvement and Refunding Revenue Bonds, (3) Series 2005-A Combined Utility Improvement Revenue Bonds, and (4) Series 2006-B Combined Utility Refunding Revenue Bonds; and

WHEREAS, the City on July 17, 2007, issued its Taxable Combined Utility Improvement Revenue Bonds, Series 2007-C in the amount of \$2,140,000 (the “Series 2007-C Bonds”); and

WHEREAS, the City on September 22, 2010, issued its (1) Taxable Combined Utility Improvement Revenue Bonds (Build America Bonds – Direct Payment to Issuer) Series 2010-A in the amount of \$985,000, (the “Series 2010-A Bonds”) (2) Taxable Combined Utility Improvement Revenue Bonds (Recovery Zone Economic Development Bonds) Series 2010-B in the amount of \$9,155,000, (the “Series 2010-B Bonds”) and (3) Taxable Combined Utility Improvement Revenue Bonds, Series 2010-C in the amount of \$85,000 (the “Series 2010-C Bonds”); and

WHEREAS, the City on September 29, 2011, issued its Combined Utility Improvement and Refunding Revenue Bonds, Series 2011-A in the amount of \$18,900,000 (the “Series 2011-A Bonds”) which, in part, currently refunded the Series 2004-A Bonds maturing on August 1, 2014, through and including, August 1, 2021, the August 1, 2023 term bond and \$1,770,000 of the August 1, 2029 term bond subject to mandatory redemption and payment on August 1, 2024; and

WHEREAS, the City on June 12, 2012, issued its Combined Utility Refunding Revenue Bonds, Series 2012-A in the amount of \$22,045,000 (the “Series 2012-A Bonds”) which currently refunded all of the remaining outstanding Series 2004-A Bonds on June 13, 2012; and

WHEREAS, the City on May 21, 2013, issued its Combined Utility Refunding Revenue Bonds, Series 2013-A in the amount of \$35,985,000 (the “Series 2013-A Bonds”) which (1) currently refunded the August 1, 2013, maturity of the Series 2005-A Bonds, Series 2006-B Bonds, and Series 2012-A Bonds and (ii) advanced refunded all of the remaining outstanding Series 2006-A Bonds on August 1, 2014; and

WHEREAS, the Bonds are parity obligations of the City’s System and, as such shall have equal lien status with the outstanding the Series 2005-A Bonds, the Series 2006-B Bonds, the Series 2007-B Bonds, the Series 2007-C Bonds, the Series 2010-A Bonds, the Series 2010-B Bonds, the Series 2010-C Bonds, the Series 2011-A Bonds, the Series 2012-A Bonds, and the Series 2013-A Bonds; and

WHEREAS, the City has authorized certain loans in the outstanding amount of \$_____ from the Kansas Department of Health and Environment revolving fund loan

program (the "Permitted Loans") and pledged the revenues from the System to the payment of such Permitted Loans and any additional loans which would constitute Permitted Loans under the Resolution hereinafter provided for; and

WHEREAS, the lien of the Permitted Loans upon the revenues of the System is superior to the lien of the City's outstanding Series 2005-A Bonds, Series 2006-B Bonds, Series 2007-B Bonds, Series 2007-C Bonds, Series 2010-A Bonds, Series 2010-B Bonds, Series 2010-C Bonds, Series 2011-A Bonds, Series 2012-A Bonds, Series 2013-A Bonds and the Bonds hereby authorized and directed to be issued.

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

Section 1. That there is hereby authorized and directed to be issued Combined Utility Improvement and Refunding Revenue Bonds, Series 2014-A, of the City in the aggregate principal amount of \$_____ for the purposes of providing funds to (1) permanently finance the costs of making the Improvements, (2) advance refund the Series 2005-A Refunded Bonds on August 1, 2015, (3) currently refund the Series 2006-B Bonds, on December 24, 2014, (4) advance refund the Series 2007-B Refunded Bonds on August 1, 2015, (5) fund a debt service reserve fund for the Bonds and (6) pay the costs of issuing the Bonds, as provided by Article 1 of Chapter 10, Kansas Statutes Annotated, K.S.A. 10-116a and Article 12 of Chapter 10 of the Kansas Statutes Annotated, all as amended. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such form, shall be subject to redemption and payment prior to the maturity thereof and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution of the Governing Body of the City adopted the same date as the date of the passage and approval of this Ordinance (the "Resolution").

Section 2. That the Mayor and City Clerk are hereby authorized to prepare and execute the Bonds and when so executed, the Bonds shall be registered as required by law and the Governing Body shall annually make provisions for the payment of the principal of, redemption premium, if any, and interest on the Bonds as the same shall become due from the revenues derived by the City from the rates, fees or charges collected by the City from the operation of the System, including all improvements, extensions and enlargements thereto hereafter constructed or acquired by the City and not from any other fund or source. The Bonds shall constitute a lien upon the revenues produced from the System of the City.

Section 3. That the City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the Resolution all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

Section 4. That if any portion or provision of this Ordinance or the Bonds shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such portion

272 or provisions shall not affect any of the remaining provisions of this Ordinance or the Bonds, but
273 this Ordinance and said Bonds shall be construed and enforced as if such illegal or invalid
274 provision had not been contained herein.

275
276 **Section 5.** That the Bonds shall be issued and sold to the purchaser thereof in accordance
277 with both its bid for the purchase thereof and the terms and conditions of this Ordinance.

278
279 **Section 6.** That this Ordinance shall take effect and be in force from and after its passage
280 and publication in the official City newspaper.

281
282 (REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)
283

284 Passed and approved by the governing body of the City of Topeka, Kansas, this 9th day
285 of December, 2014.

286
287 **CITY OF TOPEKA, KANSAS**
288

289
290 **ATTEST:**

291 _____
292 **Larry E. Wolgast, Mayor**

293 _____
294 **Brenda Younger, City Clerk**

295
296 **(SEAL)**
297

298 **I, BRENDA YOUNGER**, City Clerk of the City of Topeka, Shawnee County, Kansas,
299 do hereby certify that the above and foregoing is a true and correct copy of Ordinance No.
300 _____ adopted and approved by the City Council on December 9, 2014.

301
302
303
304 _____
305 **Brenda Younger, City Clerk**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 19, 2014

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DATE:	December 9, 2014	
CONTACT PERSON:	Doug Gerber	DOCUMENT #:
SECOND PARTY/SUBJECT:	2014-A Rev Bonds	PROJECT #:
CATEGORY/SUBCATEGORY	020 Resolutions / 005 Miscellaneous	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Jim Colson, prescribing the form and details of Combined Utility Improvement and Refunding Revenue Bonds, Series 2014-A of the City of Topeka, Kansas, in the aggregate principal amount of \$44,625,000 the issuance of which was authorized by the City pursuant to its ordinance passed and approved December 9, 2014; authorizing the execution of an escrow trust agreement by and between the City and Security Bank of Kansas City, Kansas City, Kansas, and authorizing certain other documents and actions in connection with the issuance of the bonds.

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

(Approval would allow the City to move forward with permanently refinancing \$13,065,000 in previously authorized improvements. In addition to permanent financing series 2005-A, 2006-B and 2007-B would be refinanced for economic savings.)

POLICY ISSUE:

The resolution sets up the detail procedures for the issuance of the Series 2014-A Revenue Bond. The bonds convert capital improvement projects that have been currently cash financed to revenue bonds. Approval would allow the City to move forward with permanently refinancing \$13,065,000 in previously authorized improvements. In addition to permanent financing series 2005-A, 2006-B and 2007-B would be refinanced for economic savings.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

Item #17

The bond would permanently finance improvements associated with the South Topeka water system, main replacement, Shunga backup power system and digest lid replacement.

BUDGETARY IMPACT:

Debt service for permanently financed improvements would be scheduled over a 30 year period and payments would be structured through the appropriate utility fund. Savings for refinancing would be structured over a 10 year period from 2015 to 2024 in order to reduce the burden of the current debt service structure which is relatively flat. Terms of the repayment of the bonds would not change.

SOURCE OF FUNDING:

Debt service is paid through the respective utility fund and is funded by fees associated with each utility.

ATTACHMENTS:

[Series 2014-A Revenue Bond Resolution](#)

191114 4

RESOLUTION

OF

CITY OF TOPEKA, KANSAS

PASSED

DECEMBER 9, 2014

\$ _____

COMBINED UTILITY IMPROVEMENT AND REFUNDING REVENUE BONDS
SERIES 2014-A

RESOLUTION

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138	Exhibit A: Form of Bond	
139	Exhibit B: Letter of Representations	

RESOLUTION NO. _____

A RESOLUTION INTRODUCED BY CITY MANAGER JIM COLSON PRESCRIBING THE FORM AND DETAILS OF COMBINED UTILITY IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 2014-A OF THE CITY OF TOPEKA, KANSAS, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$44,625,000 THE ISSUANCE OF WHICH WAS AUTHORIZED BY THE CITY PURSUANT TO ITS ORDINANCE NO. _____ PASSED AND APPROVED DECEMBER 9, 2014; AUTHORIZING THE EXECUTION OF AN ESCROW TRUST AGREEMENT BY AND BETWEEN THE CITY AND SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the Governing Body of the City of Topeka, Kansas, (the "City") has in accordance with the requirements of K.S.A. 10-1201 et seq., as amended, duly published in accordance with the requirements of law its notices of intention to issue combined utility revenue bonds of the City in the maximum principal amount of \$13,425,401 to finance the costs of certain improvements (the "Improvements") to the City's water, water pollution control and stormwater utility system (the "System"); and

WHEREAS, the governing body of the City has heretofore duly authorized, issued and delivered its \$14,875,000 principal amount of Combined Utility Improvement Revenue Bonds, Series 2005-A, dated December 8, 2005, (the "Series 2005-A Bonds") pursuant to its Ordinance No. 18531 (the "Series 2005-A Bond Ordinance") and Resolution No. 7709 (the "Series 2005-A Bond Resolution") adopted November 8, 2005, in accordance with the requirements of K.S.A. 10-1201 et seq., all as amended; and

WHEREAS, as of December 1, 2014, there remains outstanding of the Series 2005-A Bonds the principal amount of \$12,465,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

SERIAL BONDS

MATURITY (August 1)	PRINCIPAL AMOUNT	INTEREST RATE
2015	\$315,000	7.50%
2016	335,000	7.50
2017	360,000	4.25

TERM BONDS

2020	\$1,200,000	6.00%
2023	1,430,000	6.00
2025	1,100,000	6.00
2027	1,235,000	6.00

196 **WHEREAS**, as of December 1, 2014, there remains outstanding of the Series 2006-
197 B Bonds the principal amount of \$16,445,000 bearing interest payable semiannually on
198 February 1 and August 1 each year and maturing on August 1, as follows:

MATURITY (August 1)	PRINCIPAL AMOUNT	INTEREST RATE
2015	\$2,365,000	5.00%
2016	2,485,000	4.00
2017	2,595,000	4.00
2018	2,695,000	4.00
2019	2,810,000	4.00
2020	2,935,000	4.00
2021	560,000	4.25

WHEREAS, as of December 1, 2014, there remains outstanding of the Series 2007-B Bonds the principal amount of \$5,210,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

2027	\$1,770,000	4.625%
2029	1,065,000	4.750
2037	2,375,000	4.750

2

amount of \$ _____ (the "Bonds") to (1) permanently finance the costs of the Improvements (i.e., _____), (2) advance refund the City's outstanding Series 2005-A Bond maturing on and after August 1, 2016, (i.e., \$12,150,000) (the "Series 2005-A Refunded Bonds") on August 1, 2015, (3) currently refund the City's outstanding Series 2006-B Bonds maturing on and after August 1, 2015, (i.e., \$16,445,000) on December 24, 2014, (4) advance refund a portion of the Series 2007-B Bonds maturing on August 1, 2027, August 1, 2029 and August 1, 2037 (i.e., \$4,730,000) (the "Series 2007-B Refunded Bonds") on August 1, 2015, (5) fund a debt service reserve fund for the Bonds and (6) pay the costs of issuing the Bonds, all under the authority of K.S.A. 10-116a, K.S.A. 10-1201 et seq. and Article 1 of Chapter 10, Kansas Statutes Annotated, all as amended; and

WHEREAS, on March 25, 2003, the City combined its stormwater utility with the water and water pollution control utility creating a water, water pollution control and stormwater utility system (the "Combined Utility"); and

WHEREAS, as previously herein recited, the City on December 8, 2005, issued its Combined Utility Improvement Revenue Bonds, Series 2005-A in the amount of \$14,875,000 (the "Series 2005-A Bonds"); and

WHEREAS, as previously herein recited, the City on October 18, 2006, issued its Combined Utility Refunding Revenue Bonds, Series 2006-B in the amount of \$22,600,000 (the "Series 2006-B Bonds") which advanced refunded the City's outstanding Series 2001-A Water and Water Pollution Control Utility Revenue Bonds maturing in the years 2009 through and including 2031; and

WHEREAS, the City on July 17, 2007, issued its Combined Utility Improvement and Refunding Revenue Bonds, Series 2007-B in the amount of \$5,210,000 (the "Series 2007-B Bonds") which, in part, currently refunded the August 1, 2007, maturities of the City's outstanding (1) Series 2001-A Water and Water Pollution Control Utility Revenue Bonds, (2) Series 2004-A Combined Utility Improvement and Refunding Revenue Bonds, (3) Series 2005-A Combined Utility Improvement Revenue Bonds, and (4) Series 2006-B Combined Utility Refunding Revenue Bonds; and

WHEREAS, the City on July 17, 2007, issued its Taxable Combined Utility Improvement Revenue Bonds, Series 2007-C in the amount of \$2,140,000 (the "Series 2007-C Bonds"); and

WHEREAS, the City on September 22, 2010, issued its (1) Taxable Combined Utility Improvement Revenue Bonds (Build America Bonds – Direct Payment to Issuer) Series 2010-A in the amount of \$985,000, (the "Series 2010-A Bonds") (2) Taxable Combined Utility Improvement Revenue Bonds (Recovery Zone Economic Development Bonds) Series 2010-B in the amount of \$9,155,000, (the "Series 2010-B Bonds") and (3) Taxable Combined Utility Improvement Revenue Bonds, Series 2010-C in the amount of \$85,000 (the "Series 2010-C Bonds"); and

278 **WHEREAS**, the City on September 29, 2011, issued its Combined Utility
 279 Improvement and Refunding Revenue Bonds, Series 2011-A in the amount of \$18,900,000
 280 (the “Series 2011-A Bonds”) which, in part, currently refunded the Series 2004-A Bonds
 281 maturing on August 1, 2014, through and including, August 1, 2021, the August 1, 2023,
 282 term bond and \$1,770,000 of the August 1, 2029, term bond subject to mandatory
 283 redemption and payment on August 1, 2024; and

284
 285 **WHEREAS**, the City on June 12, 2012, issued its Combined Utility Refunding
 286 Revenue Bonds, Series 2012-A in the amount of \$22,045,000 (the “Series 2012-A Bonds”)
 287 which currently refunded all of the remaining outstanding Series 2004-A Bonds on June 13,
 288 2012; and

289
 290 **WHEREAS**, the City on May 21, 2013, issued its Combined Utility Refunding
 291 Revenue Bonds, Series 2013-A in the amount of \$35,985,000 (the “Series 2013-A Bonds”)
 292 which (1) currently refunded the August 1, 2013, maturity of the Series 2005-A Bonds,
 293 Series 2006-B Bonds, and Series 2012-A Bonds and (ii) advanced refunded all of the
 294 remaining outstanding Series 2006-A Bonds on August 1, 2014; and

295
 296 **WHEREAS**, the Bonds are parity obligations of the City’s System and, as such shall
 297 have equal lien status with the outstanding Series 2005-A Bonds, the Series 2006-B Bonds,
 298 the Series 2007-B Bonds, the Series 2007-C Bonds, the Series 2010-A Bonds, the Series
 299 2010-B Bonds, the Series 2010-C Bonds, the Series 2011-A Bonds, the Series 2012-A
 300 Bonds, and the Series 2013-A Bonds; and

301
 302 **WHEREAS**, the City has authorized certain loans outstanding in the amount of
 303 \$_____ from the Kansas Department of Health and Environment revolving fund
 304 loan program (the “Permitted Loans”) and pledged the revenues from the System to the
 305 payment of such Permitted Loans and any additional loans which would constitute Permitted
 306 Loans under the Resolution hereinafter provided for; and

307
 308 **WHEREAS**, the lien of the Permitted Loans upon the revenues of the System is
 309 superior to the lien of the City’s outstanding Series 2005-A Bonds, Series 2006-B Bonds,
 310 Series 2007-B Bonds, Series 2007-C Bonds, Series 2010-A Bonds, Series 2010-B Bonds,
 311 Series 2010-C Bonds, Series 2011-A Bonds, Series 2012-A Bonds, Series 2013-A Bonds
 312 and the Bonds hereby authorized and directed to be issued; and

313
 314 **WHEREAS**, in accordance with the terms and conditions of the Ordinance, the City
 315 hereby intends to both prescribe the form and details of the Bonds and authorize certain
 316 other documents and actions in connection with the issuance of the Bonds.

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms identified elsewhere herein, the following words and terms as used in this Resolution shall have the following meanings:

"Arbitrage Instructions" means the Arbitrage Instructions in the City's Federal Tax Certificate dated as of the date of issuance and delivery of the Bonds, as the same may be amended or supplemented in accordance with the provisions thereof.

"Bond and Interest Fund" means the fund set aside by the City to consolidate and maintain individual principal and interest accounts used to record and accumulate monthly principal and interest payments for Outstanding utility revenue bonds.

"Bond Counsel" means the firm of Nichols and Wolfe Chartered, or any other attorney or firm of attorneys with a nationally recognized standing in the field of municipal bond financing as selected by the City.

"Bond Payment Date" means any date on which principal of or interest on any Bond is payable.

"Bond Register" means the books for the registration, transfer and exchange of Bonds kept at the office of the Bond Registrar.

"Bond Registrar" means the Treasurer of the State of Kansas, Topeka, Kansas, and its successors and assigns thereto to the duties and responsibilities described in this Resolution and in the related agreement between the City and the State Treasurer.

"Bond Reserve Account" means the Bond Reserve Account for the Series 2014-A Bonds created herein.

"Bond Reserve Requirement" means an amount equal to Maximum Annual Debt Service attributable to the Bonds and any additional bonds issued on a parity with the Bonds; provided, however, that the Bond Reserve Requirement may not exceed the lessor of (a) 125% of the average annual debt service on the Bonds and any additional bonds issued on a parity with the Bonds, (b) 10% of the principal amount of the Bonds or any additional bonds issued on a parity with the Bonds which may be added to the Bond Reserve Requirement or (c) Maximum Annual Debt Service.

"Bonds" means the Combined Utility Improvement and Refunding Revenue Bonds, Series 2014-A, authorized and issued by the City pursuant to the Ordinance and this Resolution.

364 **"Business Day"** means a day other than a Saturday, Sunday or holiday on which the
 365 Paying Agent is scheduled in the normal course of its operations to be open to the public for
 366 conduct of its operations.

367
 368 **"Cede & Co."** means Cede & Co., as nominee name of The Depository Trust
 369 Company, New York, New York and any successors or assigns thereto.

370
 371 **"City"** means the City of Topeka, Kansas, the issuer of the Bonds.

372
 373 **"City Engineer"** means the person serving as the city engineer as defined in Section
 374 2-148 of the Code of the City.

375
 376 **"Clerk"** means the duly appointed and/or elected Clerk of the City or, in the Clerk's
 377 absence, the duly appointed Deputy Clerk or Acting Clerk of the City, and any successors or
 378 assigns thereto.

379
 380 **"Code"** means the Internal Revenue Code of 1986, as amended.

381
 382 **"Combined Utility"** means the water, water pollution control and stormwater
 383 utilities of the City.

384
 385 **"Costs of Issuance"** means all costs of issuing the Bonds, including all publication,
 386 printing, signing and mailing expenses in connection therewith, registration fees, financial
 387 advisory fees, all legal fees and expenses of Bond Counsel and other legal counsel, expenses
 388 incurred in connection with compliance with the Code and with the Disclosure Certificate,
 389 all expenses, if any, incurred in connection with receiving ratings on the Bonds.

390
 391 **"Dated Date"** means December 23, 2014.

392
 393 **"Defaulted Interest"** means interest on any Bond which is payable but not paid on
 394 any Interest Payment Date.

395
 396 **"Defeasance Obligations"** means any of the following obligations:

397
 398 (a) United States Government Obligations that are not subject to redemption in
 399 advance of their maturity dates; or

400
 401 (b) obligations of any state or political subdivision of any state, the interest on
 402 which is excluded from gross income for federal income tax purposes and which meet the
 403 following conditions:

404
 405 (1) the obligations are (i) not subject to redemption prior to maturity or (ii) the
 406 trustee for such obligations has been given irrevocable instructions concerning their calling
 407 and redemption and the issuer of such obligations has covenanted not to redeem such
 408 obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust; and

(5) such cash and United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent.

"Disclosure Certificate" means the Continuing Disclosure Certificate attached to the City's Final Certificate as *Exhibit C* and included in the transcript of proceedings pertaining to the issuance of the Bonds.

"Director of Public Works" means the person serving as the director of public works as defined in Section 2-147 of the Code of the City.

"Escrow Trust Agreement" means the Agreement by and between the City and the Escrow Trustee dated as of December 23, 2014.

"Escrow Trustee" means Security Bank of Kansas City, Kansas City, Kansas, and any successors and assigns.

"Event of Default" means each of the following occurrences or events:

(a) Payment of the principal or the Redemption Price of any of the Bonds shall not be made when the same shall become due and payable, either at Stated Maturity or by proceedings for redemption or otherwise; or

(b) Payment of any installment of interest on any of the Bonds shall not be made when the same shall become due; or

(c) The City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Resolution on the part of the City to be performed (other than relating to Rule 15c2-12 as defined in the Disclosure Certificate), and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the City by the Owner of any of the Bonds then Outstanding.

"Expenses" means the sum of (i) ordinary expenses of maintenance, operation and repair, (ii) administrative expenses, (iii) reasonable pension fund contributions, (iv)

insurance expense, (v) legal expense and (vi) payments on Permitted Loans; provided, however, Expenses shall not include payments in lieu of taxes, debt service payments on the Bonds and any other obligations of the Combined Utility on a parity with the Bonds, depreciation, amortization or other non-cash items.

"Federal Tax Certificate" means the certificate so named and included in the transcript of proceedings pertaining to the issuance of the Bonds describing the investment and use of the proceeds of the Bonds.

"Fiscal Year" means the twelve month period commencing on January 1 and ending on December 31 of each year.

"Funds and Accounts" means funds and accounts created or referred to in **Section 501** hereof.

"Gross Revenues" means all receipts and revenues derived by the City from the operation of the Combined Utility, including investment earnings but excluding any grants, proceeds of bond issues and/or insurance proceeds.

"Interest Payment Date(s)" means the Stated Maturity of an installment of interest on any Bond which shall be February 1 and August 1 of each year, commencing February 1, 2015.

"Maturity" when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or pursuant to mandatory redemption, or otherwise.

"Maximum Annual Debt Service" means, with respect to the Bonds and/or additional bonds issued on a parity with the Bonds, as of the date of the computation, the greatest amount required in the then current or any future fiscal year to pay the principal of and interest on such bonds.

"Mayor" means the duly appointed and/or elected Mayor of the City or, in the Mayor's absence, the duly appointed Deputy Mayor or Acting Mayor of the City.

"Moody's" means Moody's Investors Service, Inc., New York, New York, and any successors and assigns to the Bond rating functions thereof which is deemed acceptable by the City and Bond Counsel.

"Net Revenues" means Gross Revenues of the Combined Utility minus the sum of (i) Expenses and (ii) any required deposits to the Rebate Fund as provided in **Section 506** hereof.

"Original Purchaser" means, with respect to the Bonds _____,
_____, _____.

502 **"Ordinance"** means Ordinance No. _____ adopted and approved December
 503 9, 2014, and published as required by law, pursuant to which the issuance of the Bonds has
 504 been authorized.

505
 506 **"Outstanding"** means, when used with reference to the Bonds, as of a particular
 507 date of determination, all Bonds theretofore authenticated and delivered, except the
 508 following Bonds:

509
 510 (a) Bonds theretofore canceled by the Paying Agent or delivered to the Paying
 511 Agent for cancellation;

512
 513 (b) Bonds deemed to be paid in accordance with the provisions of **Section 701**
 514 hereof; and

515
 516 (c) Bonds in exchange for or in lieu of which other Bonds have been
 517 authenticated and delivered hereunder.

518
 519 **"Owner"** when used with respect to any Bond means the Person in whose name
 520 such Bond is registered on the Bond Register.

521
 522 **"Participants"** means those financial institutions for whom the Securities
 523 Depository effects book-entry transfers and pledges of securities deposited with the
 524 Securities Depository, as such listing of Participants exists at the time of such reference.

525
 526 **"Paying Agent"** means the State Treasurer, and any successors and assigns thereof
 527 to the duties and responsibilities described in this Resolution and in the related agreement
 528 between the City and the State Treasurer.

529
 530 **"Permitted Investments"** means: (a) investments authorized by K.S.A. 12-1675
 531 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A.
 532 12-1677a, and amendments thereto; (c) direct obligations of the United States Government
 533 or any agency thereof; (d) the City's temporary notes issued pursuant to K.S.A. 10-123 and
 534 amendments thereto; (e) interest-bearing time deposits in commercial banks located in the
 535 county or counties in which the City is located; (f) obligations of the Federal National
 536 Mortgage Association, Federal Home Loan Banks or the Federal Home Loan Mortgage
 537 Corporation; (g) repurchase agreements for securities described in (c) or (f); (h) investment
 538 agreements with or other obligations of a financial institution the obligations of which at the
 539 time of investment are rated in either of the three highest rating categories by Moody's, Inc.
 540 or Standard & Poor's; (i) investments in shares or units of a money market fund or trust the
 541 portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts
 542 evidencing ownership interests in securities or portions thereof described in (c) or (f); (k)
 543 municipal bonds or other obligations issued by any municipality of the State as defined in
 544 K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (l)
 545 bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been re-
 546 funded in advance of their maturity and are fully secured as to payment of principal and
 547 interest thereon by deposit in trust, under escrow agreement with a bank, of securities

described in (c) or (f). No Permitted Investment shall include any derivative investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

"Permitted Loans" means any State revolving loans for public drinking water improvements, pollution control improvements, or for stormwater improvements.

"Person" means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

"Principal and Interest Account" means the Principal and Interest Account for the Series 2014-A Bonds created herein within the City's Bond and Interest Fund.

"Purchase Price" means the purchase price of the Bonds as set forth in the *Bid Proposal for Purchase of the Bonds* as submitted by the Original Purchaser and accepted by the City, plus accrued interest, if any, from the Dated Date to the date of delivery of the Bonds.

"Rebate Fund" means the Rebate Fund for the Series 2014-A Bonds created herein.

"Record Dates" for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) of each month preceding such Interest Payment Date.

"Redemption Date" when used with respect to any Bond to be redeemed means the date fixed for the redemption of such Bond pursuant to the terms of this Resolution.

"Redemption Price" when used with respect to any Bond to be redeemed means the price at which such Bond is to be redeemed pursuant to the terms of this Resolution, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

"Refunded Bonds" means the City's Series 2005-A Refunded Bonds, Series 2006-B Bonds and Series 2007-B Refunded Bonds.

"Replacement Bonds" means Bonds issued to the beneficial owners of the Bonds in accordance with **Section 211** hereof.

"Representation Letter" means the Blanket Issuer Letter of Representations from the City to the Securities Depository with respect to the Bonds, substantially in the form attached to this Resolution as *Exhibit B*.

"Resolution" means this resolution relating to the Bonds and any supplemental resolution.

594
595 **“Revenue Fund”** means the Combined Utility Fund for the City’s water, water
596 pollution control and stormwater utility revenue bonds.

597
598 **“Sales Proceeds”** means, with respect to the Bonds, or any additional bonds issued
599 on a parity with the Bonds, as of the issuance of such bonds, the aggregate of the initial
600 offering price of such bonds to the public (exclusive of accrued interest).

601
602 **“Securities Depository”** means, initially, The Depository Trust Company, New
603 York, New York, and its successors and assigns.

604
605 **“Series 2005-A Bond Ordinance”** means the Ordinance of the City authorizing the
606 issuance of the City’s Combined Utility Improvement Revenue Bonds, Series 2005-A.

607
608 **“Series 2005-A Bond Resolution”** means the Resolution of the City setting forth
609 the terms and conditions of the City’s Combined Utility Improvement Revenue Bonds,
610 Series 2005-A.

611
612 **“Series 2005-A Bonds”** means the City’s Combined Utility Improvement Revenue
613 Bonds, Series 2005-A, dated December 8, 2005.

614
615 **“Series 2005-A Refunded Bonds”** means the City’s Combined Utility Improvement
616 Revenue Bonds, Series 2005-A, maturing on and after August 1, 2016, outstanding in the
617 principal amount of \$12,150,000 being advance refunded with proceeds of the Bonds.

618
619 **“Series 2006-B Bond Ordinance”** means the Ordinance of the City authorizing the
620 issuance of the City’s Combined Utility Refunding Revenue Bonds, Series 2006-B.

621
622 **“Series 2006-B Bond Resolution”** means the Resolution of the City setting forth the
623 terms and conditions of the City’s Combined Utility Refunding Revenue Bonds, Series
624 2006-B.

625
626 **“Series 2006-B Bonds”** means the City’s Combined Utility Refunding Revenue
627 Bonds, Series 2006-B, dated October 18, 2006, outstanding in the principal amount of
628 \$16,445,000 being currently refunded with proceeds of the Bonds.

629
630 **“Series 2007-B Bond Ordinance”** means the Ordinance of the City authorizing the
631 issuance of the City’s Combined Utility Improvement and Refunding Revenue Bonds,
632 Series 2007-B.

633
634 **“Series 2007-B Bond Resolution”** means the Resolution of the City setting forth the
635 terms and conditions of the City’s Combined Utility Improvement and Refunding Revenue
636 Bonds, Series 2007-B.

637
638 **“Series 2007-B Bonds”** means the City’s Combined Utility Improvement and
639 Refunding Revenue Bonds, Series 2007-B, dated July 17, 2007.

640
641 **"Series 2007-B Refunded Bonds"** means a portion of the City's Combined Utility
642 Improvement Refunding Revenue Bonds, Series 2007-B, maturing on August 1, 2027, (i.e.,
643 \$1,610,000), August 1, 2029, (i.e., \$970,000), and August 1, 2037, (i.e., \$2,150,000) being
644 advance refunded in the total principal amount of \$4,730,000 with proceeds of the Bonds.

645
646 **"Special Record Date"** means the date fixed by the Paying Agent pursuant to
647 **Section 204** hereof for the payment of Defaulted Interest.

648
649 **"Standard & Poor's"** means Standard & Poor's Ratings Services, a Division of The
650 McGraw Hill Companies, Inc., New York, New York, and any successors or assigns to the
651 Bond rating functions thereof which is deemed acceptable by the City and Bond Counsel.

652
653 **"State"** means the State of Kansas.

654
655 **"State Treasurer"** means the duly elected Treasurer or, in the Treasurer's absence,
656 the duly appointed Deputy Treasurer or acting Treasurer of the State of Kansas, and any
657 successors or assigns thereto to the duties contemplated under this Resolution and the
658 related agreement between the City of Topeka and the State Treasurer.

659
660 **"Stated Maturity"** means (i) with respect to any Bond principal payment, the date
661 on which payment or principal is due and payable on any Bond, as specified on that Bond
662 and in this Resolution, and (ii) with respect to any Interest Payment, each February 1 and
663 August 1 of the year in which any Bond is Outstanding, beginning February 1, 2015.

664
665 **"System"** means the combined water, water pollution control and stormwater utility
666 facilities of the City.

667
668 **"Term Bonds"** means the Bonds scheduled to mature in the years _____ and _____.

669
670 **"Treasurer"** means the duly appointed and/or elected Treasurer of the City or, in
671 the Treasurer's absence, the duly appointed Deputy Treasurer or acting Treasurer of the
672 City, and any successors or assigns thereto.

673
674 **"United States Government Obligations"** means bonds, notes, certificates of
675 indebtedness, treasury bills or other securities consisting of direct obligations of, or
676 obligations the principal of and interest on which are fully and unconditionally guaranteed
677 as to full and timely payment by, the United States of America, including evidences of a
678 direct ownership interest in the future interest or principal payment on obligations issued by
679 the United States of America (including the interest component of obligations of the
680 Resolution Funding Corporation).

ARTICLE II

AUTHORIZATION AND DETAILS OF THE BONDS

Section 201. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued Combined Utility Improvement and Refunding Revenue Bonds, Series 2014-A, of the City in the aggregate principal amount of \$_____ for the purpose of providing funds to (1) permanently finance the costs of the Improvements (i.e., _____), (2) advance refund the Series 2005-A Refunded Bond, (3) currently refund the Series 2006-B Bonds, (4) advance refund the Series 2007-B Refunded Bonds, (5) fund a debt service reserve fund for the Bonds and (6) pay the costs of issuing the Bonds, all in accordance with K.S.A. 10-116a and K.S.A. 10-1201 *et seq.*, all as amended.

Section 202. Description of the Bonds. The Bonds shall consist of fully registered bonds in the denominations of \$5,000 or any integral multiple thereof and shall be numbered in such manner as the Bond Registrar shall determine. All of the Bonds shall be dated December 23, 2014, shall become due in the amounts on the Stated Maturities (subject to redemption and payment prior to their Stated Maturities as provided in Article III hereof), and shall bear interest at the rates per annum as follows:

SERIAL BONDS

MATURITY (August 1)	PRINCIPAL AMOUNT	INTEREST RATE
2015	\$_____	_____%
2016	_____	_____
2017	_____	_____
2018	_____	_____
2019	_____	_____
2020	_____	_____
2021	_____	_____
2022	_____	_____
2023	_____	_____
2024	_____	_____
2025	_____	_____
2026	_____	_____
2027	_____	_____
2028	_____	_____
2029	_____	_____
2030	_____	_____
2031	_____	_____
2032	_____	_____
2033	_____	_____
2034	_____	_____
2035	_____	_____
2036	_____	_____

730	2037	_____	_____
731	2038	_____	_____
732	2039	_____	_____
733	2040	_____	_____
734	2041	_____	_____
735	2042	_____	_____
736	2043	_____	_____
737	2044	_____	_____

738
739 TERM BONDS

740			
741	20__	_____	_____
742	20__	_____	_____
743			

744 The Bonds shall bear interest at the above specified rates (computed on the basis of
745 a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent
746 Interest Payment Date to which interest has been paid, payable on the Interest Payment
747 Dates in the manner set forth in **Section 204** hereof.

748
749 Each of the Bonds, as originally issued or issued upon transfer, exchange or
750 substitution, shall be typed or printed in accordance with the format required by the
751 Attorney General of the State and shall be substantially in the form attached hereto as
752 *Exhibit A* or as may be required by the Attorney General pursuant to the Notice of Systems
753 of Registration for Kansas Municipal Bonds, 2 Kan. Reg. 921 (1983), in accordance with
754 the Kansas Bond Registration Law, K.S.A. 10-620 *et seq.*

755
756 **Section 203. Designation of Paying Agent and Bond Registrar.** The Treasurer of
757 the State of Kansas, Topeka, Kansas, is hereby designated as the Paying Agent for the
758 payment of principal of and interest on the Bonds and Bond Registrar with respect to the
759 registration, transfer and exchange of Bonds. The Mayor and Clerk of the City are hereby
760 authorized and empowered to execute on behalf of the City an agreement with the Bond
761 Registrar and Paying Agent for the Bonds.

762
763 The City will at all times maintain a Paying Agent and Bond Registrar meeting the
764 qualifications herein described for the performance of the duties hereunder. The City
765 reserves the right to appoint a successor Paying Agent or Bond Registrar by (1) filing with
766 the Paying Agent or Bond Registrar then performing such function a certified copy of the
767 proceedings giving notice of the termination of such Paying Agent or Bond Registrar and
768 appointing a successor, and (2) causing notice of appointment of the successor Paying Agent
769 and Bond Registrar to be given by first class mail to each Owner. No resignation or
770 removal of the Paying Agent or Bond Registrar shall become effective until a successor has
771 been appointed and has accepted the duties of Paying Agent or Bond Registrar.

772
773 Every Paying Agent or Bond Registrar appointed hereunder shall at all times meet
774 the requirements of K.S.A. 10-501 *et seq.* and K.S.A. 10-620 *et seq.*, respectively.
775

Section 204. Method and Place of Payment of the Bonds. The principal or Redemption Price of and interest on the Bonds shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal or Redemption Price of each Bond shall be paid at Maturity to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the principal corporate trust office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Owner shown on the Bond Register or (b) in the case of an interest payment to any Owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank (which shall be in the continental United States) ABA routing number and account number to which such Owner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Owner of such Bond on the relevant Record Date and shall be payable to the Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The City shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the City of such Special Record Date and, in the name and at the expense of the City, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefore to be mailed, by first class mail, postage prepaid, to each Owner of a Bond entitled to such notice at the address of such Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and at least annually shall forward a copy or summary of such records to the City.

Section 205. Registration, Transfer and Exchange of Bonds. The City covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be

kept at the office of the Bond Registrar as herein provided. Each Bond when issued shall be registered in the name of the Owner thereof on the Bond Register.

Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the principal corporate trust office of the Bond Registrar, the Bond Registrar shall transfer or exchange such Bond for a new Bond or Bonds in any authorized denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange.

Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Bond Registrar, duly executed by the Owner thereof or by the Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Resolution. The City shall pay the fees and expenses of the Bond Registrar for the registration, transfer and exchange of Bonds provided for by this Resolution and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Bond Registrar, are the responsibility of the Owners of the Bonds. In the event any Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Code, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Owner hereunder or under the Bonds.

The City and the Bond Registrar shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to **Section 303** hereof and during the period of 15 days next preceding the date of mailing of such notice of redemption; or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the City of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to **Section 204** hereof.

The City and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute Owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Owner or upon the Owner's order shall be valid and effective to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Bond Registrar, the Bond Register may be inspected and copied by the Owners of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Owners whose authority is evidenced to the satisfaction of the Bond Registrar.

Section 206. Execution, Registration, Authentication and Delivery of Bonds.

Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be executed for and on behalf of the City by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the Clerk and the seal of the City shall be affixed thereto or imprinted thereon. The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and to cause the Bonds to be registered in the office of the Clerk, which registration shall be evidenced by the manual or facsimile signature of the Clerk with the seal of the City affixed thereto or imprinted thereon. The Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bonds ceases to be such officer before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Bonds shall have endorsed thereon a *Certificate of Authentication* substantially in the form attached hereto as *Exhibit A* hereof, which shall be manually executed by an authorized officer or employee of the Bond Registrar, but it shall not be necessary that the same officer or employee sign the *Certificate of Authentication* on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Resolution or be valid or obligatory for any purpose unless and until such *Certificate of Authentication* has been duly executed by the Bond Registrar. Such executed *Certificate of Authentication* upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Resolution. Upon authentication, the Bond Registrar shall deliver the Bonds to the Purchaser upon instructions of the City or its representative.

Section 207. Mutilated, Lost, Stolen or Destroyed Bonds. If (a) any mutilated

Bond is surrendered to the Bond Registrar or the Bond Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the City and the Bond Registrar such security or indemnity as may be required by each of them, then, in the absence of notice to the City or the Bond Registrar that such Bond has been acquired by a bona fide purchaser, the City shall execute and, upon the City's request, the Bond Registrar shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the City, in its discretion, may pay such Bond instead of issuing a new Bond.

Upon the issuance of any new Bond under this Section, the City may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the City, and shall be entitled to all the benefits of this Resolution equally and ratably with all other Outstanding Bonds.

Section 208. Cancellation and Destruction of Bonds Upon Payment. All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the City.

Section 209. Preliminary and Final Official Statement. The *Preliminary Official Statement* dated November ____, 2014, is hereby ratified and approved. For the purpose of enabling the Original Purchaser to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission, the City hereby deems the information regarding the City contained in the *Preliminary Official Statement* to be "final" as of its date, except for the omission of such information as is permitted by Rule 15c2-12(b)(1), and the appropriate officers of the City are hereby authorized, if requested, to provide the Original Purchaser a letter or certification to such effect and to take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable the Original Purchaser to comply with the requirement of such Rule.

The final *Official Statement* is hereby authorized to be prepared by supplementing, amending and completing the *Preliminary Official Statement*, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Mayor is hereby authorized to execute the final *Official Statement* as so supplemented, amended and completed, and the use and public distribution of the final *Official Statement* by the Original Purchaser in connection with the reoffering of the Bonds is hereby authorized. The proper officials of the City are hereby authorized to execute and deliver a certificate pertaining to such *Official Statement* as prescribed therein, dated as of the date of payment for and delivery of the Bonds.

The City agrees to provide to the Original Purchaser within seven business days of the date of the sale of Bonds sufficient copies of the final *Official Statement* to enable the Original Purchaser to comply with the requirements of Rule 15c2-12(b)(4) of the Securities

and Exchange Commission and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board.

Section 210. Sale of the Bonds. The sale of the Bonds to the Original Purchaser is hereby ratified and confirmed. Delivery of the Bonds shall be made to the Original Purchaser as soon as practicable after the passage of this Resolution, upon payment of the Purchase Price.

Section 211. Book-Entry Bonds; Securities Depository.

(a) The Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no beneficial owner will receive certificates representing its respective interests in the Bonds, except in the event the Bond Registrar issues Replacement Bonds as provided in subsection (b) hereof. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, redemption premium, if any, and interest on, the Bonds to the Participants until and unless the Bond Registrar authenticates and delivers Replacement Bonds to the beneficial owners as described in subsection (b).

(b) (1) If the City determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (C) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the beneficial owners of the Bonds, or (2) if the Bond Registrar receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the beneficial owners of the Bonds, then the Bond Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Bond Registrar shall register in the name and authenticate and deliver Replacement Bonds to the beneficial owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (1)(A) or (1)(B) of this subsection (b), the City, with the consent of the Bond Registrar, may select a successor securities depository in accordance with **Section 211(c)** hereof to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Bond Registrar, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the City, the Bond Registrar or Owners are unable to locate a qualified successor of the Securities Depository in accordance with **Section 211(c)** hereof, then the Bond Registrar shall authenticate and cause delivery of Replacement Bonds to Owners, as

provided herein. The Bond Registrar may rely on information from the Securities Depository and its Participants as to the names of the beneficial owners of the Bonds. The cost of printing, registration, authentication and delivery of Replacement Bonds shall be paid for by the City.

(c) In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the City may appoint a successor Securities Depository provided the Bond Registrar and the City receive written evidence with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Bond Registrar upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

(d) The execution and delivery of the Representation Letter to DTC by the Mayor of the City in the form attached hereto as *Exhibit B* with such changes, omissions, insertions and revisions as the Mayor shall deem advisable, is hereby authorized, and execution of the Representation Letter by the Mayor shall be conclusive evidence of such approval. The Representation Letter shall set forth certain matters with respect to, among other things, notices, consents and approvals by Registered Owners of the Bonds and Beneficial Owners and payments on the Bonds. The Paying Agent shall have the same rights with respect to its actions thereunder as it has with respect to its actions under this Resolution.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Optional and Mandatory Redemption by City.

(a) **Optional Redemption.** The Bonds maturing prior to August 1, 2023, shall become due without the option of prior payment. The Bonds or portion thereof either maturing or subject to mandatory redemption and payment on or after August 1, 2023, may be called for redemption and payment prior to maturity on August 1, 2022, and thereafter in whole or in part on any date (Bonds of less than a single maturity to be selected by lot in multiples of \$5,000 principal amount by the Paying Agent and Bond Registrar in such equitable manner as they shall designate), at the redemption price equal to 100% of the principal amount thereof, plus accrued interest thereon, if any, to the date fixed for redemption and payment.

(b) **Mandatory Redemption.** The Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount

thereof plus accrued interest to the Redemption Date. The taxes levied in Article IV hereof which are to be deposited into the Series 2014-A Principal and Interest Account shall be sufficient to redeem, and the City shall redeem on August 1 in each year, the following principal amounts of such Term Bonds:

20__ TERM BONDS

Principal Amount	Year
\$ _____	20__

(leaving \$ _____ to mature August 1, 20__)

20__ TERM BONDS

Principal Amount	Year
\$ _____	20__

(leaving \$ _____ to mature August 1, 20__)

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the City may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the City under this Section for any Term Bonds subject to mandatory redemption on said mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this subsection (b)) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this subsection (b). Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the City to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity in chronological order, and the principal amount of Term Bonds to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the City intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the City will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1), (2) and (3) are to be complied with, with respect to such mandatory redemption payment.

Section 302. Selection of Bonds to be Redeemed. Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof. When less than all of the Bonds of the same maturity are to be redeemed and paid prior to their Stated Maturity, the

Bonds to be redeemed shall be selected by the Bond Registrar in \$5,000 units of principal amount in such equitable manner as the Bond Registrar may determine.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then for all purposes in connection with such redemption each \$5,000 of face value shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond is selected for redemption, then upon notice of intention to redeem such \$5,000 unit or units, the Owner or the Owner's duly authorized agent shall forthwith present and surrender such Bond to the Bond Registrar: (1) for payment of the Redemption Price and interest to the Redemption Date of such \$5,000 unit or units of face value called for redemption, and (2) for exchange, without charge to the Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the redemption date to the extent of the \$5,000 unit or units of face value called for redemption (and to that extent only).

Section 303. Notice and Effect of Call for Redemption. In the event the City desires to call the Bonds for redemption prior to maturity, written notice of such intent shall be provided to the Bond Registrar in accordance with K.S.A. 10-129, as amended, not less than 45 days prior to the Redemption Date. The Bond Registrar shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by it of the City's written notice at least 45 days prior to the Redemption Date. If the Bonds are refunded more than 90 days in advance of such Redemption Date, any escrow agreement entered into by the City in connection with such refunding shall provide that such written instructions to the Paying Agent shall be given by the escrow agent on behalf of the City not more than 90 days prior to the Redemption Date. The Paying Agent may in its discretion waive such notice period so long as the notice requirements set forth in **Section 303** are met.

Unless waived by any Owner of Bonds to be redeemed, the Bond Registrar shall give written notice of the redemption of said Bonds on a specified date, the same being described by maturity, said notice to be mailed by United States first class mail addressed to the Owners of said Bonds to be redeemed and to the Original Purchaser of the Bonds, each of said notices to be mailed not less than 30 days prior to the date fixed for redemption. The City and Bond Registrar shall also give such additional notice as may be required by Kansas law or regulations of the Securities and Exchange Commission in effect as of the date of such notice.

All official notices of redemption shall be dated and shall contain the following information:

(a) the Redemption Date;

(b) the Redemption Price;

(c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;

(d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and

(e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the principal office of the Paying Agent.

The failure of any Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the City shall deposit with the Paying Agent Defeasance Obligations sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on such Redemption Date.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date at the Redemption Price therein specified and, from and after the Redemption Date (unless the City defaults in the payment of the Redemption Price), such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

The Paying Agent is also directed to comply with any mandatory or voluntary standards then in effect for processing redemptions of municipal securities established by the State or the Securities Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

ARTICLE IV

SECURITY FOR AND PAYMENT OF BONDS

Section 401. Security for the Bonds. The principal and interest on the Bonds shall be payable solely from the Net Revenues derived by the City from the rates, fees and charges collected by the City from the operation of the Combined Utility, including all improvements, extensions and enlargements thereto hereafter constructed or acquired by the City and not paid for from any other fund or source. Subject to the lien of the Permitted Loans, the Bonds shall constitute a lien upon the revenues produced from the operations of the City's Combined Utility. The Bonds and the interest thereon are payable solely from

revenues derived from the rates, fees or charges collected by the City from the operation of the City's Combined Utility and not from any other funds or sources. The Bonds will not constitute a general obligation of the City, and no taxes can be levied by the City to pay either principal or interest thereon.

ARTICLE V

ESTABLISHMENT OF FUNDS AND ACCOUNTS DEPOSIT AND APPLICATION OF MONEYS

Section 501. Ratification; Establishment of Funds and Accounts. The City hereby covenants and agrees that so long as the Bonds remain outstanding and unpaid, all of the revenues derived by the City from the operation of the Combined Utility, including all revenues from all improvements, extensions and enlargements of the System hereinafter constructed or acquired by the City, shall be paid to the Treasurer of the City and deposited in the City's Water, Water Pollution Control and Stormwater Utility Revenue Fund (the "Revenue Fund") heretofore established in the treasury of the City and said Revenue Fund shall only be used to pay the Expenses of the Combined Utility and to pay the principal of and the interest on the Bonds and any prior revenue or general obligation bonds outstanding and unpaid, as provided by law.

The following funds and accounts presently existing in the treasury of the City are hereby ratified and affirmed:

- (a) Water, Water Pollution Control, and Stormwater Utility Revenue Fund (the "Revenue Fund"); and
- (b) Water, Water Pollution Control and Stormwater Utility Construction Fund (the "Construction Fund"); and
- (c) Water, Water Pollution Control and Stormwater Utility Renewal and Replacement Account (the "Renewal and Replacement Account").

Contemporaneous with the issuance of the Bonds, there are hereby created and ordered to be established in the treasury of the City the following additional funds and accounts:

- (a) Principal and Interest Account for Combined Utility Improvement and Refunding Revenue Bonds, Series 2014-A (the "Principal and Interest Account"); and
- (b) Reserve Account for Combined Utility Improvement and Refunding Revenue Bonds, Series 2014-A (the "Bond Reserve Account"); and
- (c) Rebate Fund for Combined Utility Improvement and Refunding Revenue Bonds, Series 2014-A (the "Rebate Fund").

The Funds and Accounts established herein shall be administered in accordance with the provisions of this Resolution so long as the Bonds are Outstanding.

Section 502. Disposition of Bond Proceeds; Other Funds.

- (a) \$_____ of the proceeds of the Bonds shall be deposited in the Construction Fund to pay both the costs of the Improvements and the costs, fees and expenses incurred in connection with the issuance of the Bonds; and
- (b) \$_____ of the proceeds of the Bonds shall be deposited in the Bond Reserve Account established and created in **Section 501** of this Resolution.
- (c) \$_____ from monies in the bond reserve account for the Series 2006-B Bonds will be deposited in the Bond Reserve Account established and created in **Section 501** of this Resolution (the "Series 2014-A Bond Reserve Account). Upon the redemption and payment of the principal of and interest on the Series 2006-B Bonds on December 24, 2014, the balance of the bond reserve account, if any, for the Series 2006-B Bonds shall be transferred to and deposited in the Series 2014-A Bond Reserve Account, subject to the Federal Tax Certificate and the Code.
- (d) \$_____ of the proceeds of the Bonds shall be deposited with the Kansas State Treasurer to redeem and pay the Series 2006-B Bonds on December 24, 2014;
- (e) \$_____ of the proceeds of the sale of the Bonds, shall next set aside with the Escrow Trustee to purchase certain investments to be held pursuant to the Escrow Trust Agreement hereinafter authorized the proceeds of which investment shall be sufficient to retire the Series 2005-A Refunded Bonds and Series 2007-B Refunded Bonds of the City as they either mature or are redeemed. Such moneys and the obligations which are to be invested pursuant to the requirements of the Escrow Trust Agreement shall be deposited and held in the "City of Topeka, Kansas, Escrow Fund for Combined Utility Improvement and Refunding Revenue Bonds Series 2014-A" (sometimes hereinafter referred to as the "Escrow Fund"), a special irrevocable escrow account created by the Escrow Trust Agreement, which account shall be held in trust in the custody of the Escrow Trustee in accordance with the terms and provisions of the Escrow Trust Agreement. Moneys and obligations in the Escrow Fund and earnings thereon shall be used and applied, in accordance with the terms of the Escrow Trust Agreement, solely for the payment of the principal of, redemption premium, if any, and interest on the Series 2005-A Refunded Bonds and Series 2007-B Refunded Bonds; and

Section 503. Application of Moneys in the Construction Fund. That moneys in the Construction Fund shall be used by the City for the sole purpose of paying the cost of improving the System as hereinbefore provided, in accordance with the plans and specifications therefore, heretofore approved by the City Engineer and on file in the office of the City Clerk, including any alterations in or amendments to said plans and specifications approved by the City Engineer, and for paying the costs and expenses incidental to the issuance of the Bonds.

Withdrawals of bond proceeds from the Construction Fund shall be made only when authorized by executed warrants therefore accompanied by a certificate executed by the Director of Public Works of the City that such payment is being made for a purpose within the scope of this Resolution and that the amount of such payment represents only the contract price of the property, equipment, labor, materials or service being paid for, or if such payment is not being made pursuant to an express contract, that such payment is not in excess of the reasonable value thereof. Nothing hereinbefore contained shall prevent the payment out of the Construction Fund of all costs and expenses incidental to the issuance of the Bonds without a certificate from the Director of Public Works of the City.

Upon completion of the extensions, enlargements and improvements to the System as hereinbefore provided, any surplus remaining in the Construction Fund shall be deposited in the Revenue Fund.

Section 504. Application of Moneys in other Funds and Accounts. Gross Revenues shall be deposited in the Revenue Fund. The City shall pay from the Revenue Fund the Expenses of the Combined Utility and keeping the same in good repair and working order. After paying and providing for the payment of the Expenses, the Permitted Loans, and any required deposits to the Rebate Fund as provided in **Section 505** of this Resolution, the City further covenants and agrees that it will allocate, pay and credit the Net Revenues at the time in the Revenue Fund as follows in such amounts so at all times the City will have sufficient money to meet and pay the requirements of the Principal and Interest Account, Bond Reserve Account and any other obligations of the Combined Utility on a parity with the Bonds.

(a) There shall first be paid and credited to the Principal and Interest Account, accrued interest, if any, received by the City upon delivery of the Bonds, respectively, and to the extent necessary to meet at the maturity thereof the interest on and the principal of the Bonds the following amounts:

- (1) Beginning on or before January 1, 2015, and continuing on the first day of each month thereafter an equal pro rata portion of the interest that will become due on the Bonds on February 1, 2015; and beginning on March 1, 2015, and continuing on the first day of each month thereafter an equal pro rata portion of the interest that will become due on the Bonds on the next succeeding Interest Payment Date.
- (2) Beginning on January 1, 2015, and continuing on the first day of each month thereafter an equal pro rata portion of the principal of the Bonds that will become due on August 1, 2015, and continuing on the first day of each

month thereafter an equal pro rata portion of the principal amount of the Bonds that will become due on the next succeeding principal payment or mandatory redemption date of the Bonds.

All amounts paid and credited to both the Principal and Interest Account shall be used and expended by the City for the sole purpose of paying the interest on and principal of the Bonds as and when the same become due and to pay related fees of the Paying Agent.

- (b) Monies held in the Bond Reserve Account shall be used solely to prevent any default in the payment of the principal of or interest on the Bonds if at any time the monies in the Principal and Interest Account are insufficient to pay the principal of and/or interest on the Bonds. Unless all of the Bonds outstanding at any given time are called for redemption and payment or are refunded as is provided in this Resolution, no part of the Bond Reserve Account shall ever be used or expended by the City to call and redeem, in part, said Bonds for payment prior to their ultimate maturity. So long as the monies and investments in the Bond Reserve Account shall aggregate not less than the Bond Reserve Requirement no payments into said account shall be required, but if at any time the City shall be compelled to use and expend any part of said Bond Reserve Account for any purpose and/or the amount in said account shall be less than the Bond Reserve Requirement, then the City, after making all payments and credits at the time required to be made by it under the provisions of this Resolution, will make monthly payments or credits to the Bond Reserve Account in such amounts as are sufficient to replenish the account to its required balance within eighteen (18) months of the shortfall therein.

- (c) After making all payments and credits from the Revenue Fund at the time required to be made under provisions of paragraphs (a) through (c) of this Section, all remaining monies in the Revenue Fund which shall not be required for the operation and maintenance of the System for the ensuing forty-five (45) day period shall be deposited into the Renewal and Replacement Account and may be used by the City for any one or more of the following purposes as determined by both the Director of Public Works and the Director of Financial Services of the City:
 - (1) to pay the cost of extraordinary repairs and maintenance of the System;
 - (2) for capital improvements to the System; and
 - (3) to pay Expenses of the Combined Utility if sufficient funds are not available in the Revenue Fund.

Section 505. Application of Moneys in the Rebate Fund.

- (a) There shall be transferred to the Rebate Fund from the Revenue Fund such amounts as are required to be deposited therein pursuant to the Arbitrage Instructions. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to pay rebatable arbitrage to the United States of America, and neither the City nor the Owner of any Bond shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and the Arbitrage Instructions.

(b) The City shall periodically determine the rebatable arbitrage, if any, under Section 148(f) of the Code in accordance with the Arbitrage Instructions, and the City shall make payments to the United States of America at the times and in the amounts determined under the Arbitrage Instructions. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any rebatable arbitrage, or provision made therefore, shall be deposited into the Principal and Interest Account.

(c) Notwithstanding any other provision of this Resolution, including in particular Article VII hereof, the obligation to pay rebatable arbitrage to the United States of America and to comply with all other requirements of this Section and the Arbitrage Instructions shall survive the defeasance or payment in full of the Bonds.

(d) The Arbitrage Instructions may be amended or replaced if, in the opinion of Bond Counsel, such amendment or replacement will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

Section 506. Deposits and Investment of Moneys. Moneys in each of the Funds and Accounts shall be deposited in accordance with the requirements of K.S.A. 10-131, as amended. All such deposits shall be continuously and adequately secured by the financial institutions holding such deposits as provided by the laws of the State. All moneys held in the Funds and Accounts shall be kept separate and apart from all other funds of the City so that there shall be no commingling of such funds with any other funds of the City.

Moneys held in the funds and accounts herein created or established in conjunction with the issuance of the Bonds may be invested by the City in Permitted Investments or in other investments allowed by Kansas law in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said accounts or funds; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund or account was created. All interest on any Permitted Investment held in any fund or account (except amounts required to be deposited in the Rebate Fund in accordance with the Arbitrage Instructions) shall accrue to and become a part of the Revenue Fund. In determining the amount held in any fund or account under the provisions of the Resolution, Permitted Investments shall be valued at their par value or at their then redemption value, whichever is lower.

Section 507. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent, all liability of the City to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Resolution or on, or with respect to, said Bond. If such funds shall have

remained unclaimed for five (5) years after such principal or interest has become due and payable, such funds shall be paid to the City; and all liability of the Paying Agent to the Owner thereof for the payment of such Bond shall forthwith cease, terminate and be completely discharged. The obligations of the Paying Agent under this Section to pay any such funds to the City shall be subject to any provisions of law applicable to the Paying Agent or to such funds providing other requirements for disposition of unclaimed property.

ARTICLE VI

DEFAULT AND REMEDIES

Section 601. Remedies. The provisions of the Resolution, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owners of the Bonds. If an Event of Default occurs and shall be continuing, the Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Owners of Bonds similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Owner or Owners against the City and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of the Resolution or by the Constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

Section 602. Limitation on Rights of Owners. The covenants and agreements of the City contained herein and in the Bonds shall be for the equal benefit, protection, and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Resolution. No one or more Owners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Outstanding Bond Owners.

Section 603. Remedies Cumulative. No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or

contract by the Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Bonds by this Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If action or proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Owner, then, and in every such case, the City and the Owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE VII

DEFEASANCE

Section 701. Defeasance. When any or all of the Bonds or scheduled interest payments thereon have been paid and discharged or provision for their payment and discharge has been made pursuant to Article III hereof, then the requirements contained in this Resolution and the pledge of security hereunder and all other rights granted hereby shall terminate with respect to the Bonds or scheduled interest payments thereon so paid and discharged. Bonds or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Resolution if there has been deposited with the Paying Agent, or other legally qualified commercial bank or trust company and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of said Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments; provided, however, that if any such Bonds are to be redeemed prior to their Stated Maturity, (1) the City has elected to redeem such Bonds, and (2) either notice of such redemption has been given, or the City has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Bond Registrar to give such notice of redemption in compliance with **Section 303** of this Resolution. Any Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the City, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All Defeasance Obligations deposited with the Paying Agent or such bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Resolution.

ARTICLE VIII

TAX COVENANTS

Section 801. General Covenants.

(a) The City covenants and agrees that (1) it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds, and (2) it will not use or permit the use of any proceeds of Bonds or any other funds of the City in a manner which would adversely affect the exclusion from gross income of the interest on the Bonds, and (3) will not take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely effect the exclusion from gross income of the interest on the Bonds. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

(b) The City covenants and agrees that (1) it will use the proceeds of the Bonds as soon as practicable and with all reasonable dispatch for the purposes for which the Bonds are issued, and (2) it will not invest or directly or indirectly use or permit the use of any proceeds of the Bonds or any other funds of the City in any manner, and will not take or omit to take any action, that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code.

(c) The City covenants and agrees that it will not use any portion of the proceeds of the Bonds, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any Bond to be a "private activity bond" within the meaning of Section 141(a) of the Code.

Section 802. Rebate Covenant. The City covenants and agrees that it will pay or provide for the payment of, from time to time all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and the Arbitrage Instructions. This covenant shall survive payment in full or defeasance of the Bonds. The Arbitrage Instructions may be amended or replaced if, in the opinion of Bond Counsel such amendment or replacement will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

Section 803. Survival of Covenants. The covenants contained in this Article shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to Article VII hereof or any other provision of this Resolution until the final maturity date of all Bonds Outstanding.

Section 804. Qualified Tax-exempt Obligations. The Bonds are not designated as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code.

ARTICLE IX

CONTINUING DISCLOSURE REQUIREMENTS

Section 901. Disclosure Requirements. The City hereby covenants with the Original Purchaser and the Beneficial Owners (as defined in the Disclosure Certificate) to provide and disseminate such information as is required by Rule 15c2-12 (as defined in the Disclosure Certificate) and is further set forth in the Disclosure Certificate. Such covenant shall be for the benefit of and enforceable by the Original Purchaser and such Beneficial Owners.

Section 902. Failure to Comply with Continuing Disclosure Requirements. In the event the City fails to comply in a timely manner with its covenants contained in the preceding section, the Original Purchaser and/or any such Beneficial Owner may make demand for such compliance by written notice to the City. In the event the City does not remedy such noncompliance within 10 days of receipt of such written notice, the Original Purchaser or any such Beneficial Owner may in its discretion, without notice or demand, proceed to enforce compliance by a suit or suits in equity for the specific performance of such covenant or agreement contained in the preceding section or for the enforcement of any other appropriate legal or equitable remedy as the Original Purchaser and/or any such Beneficial Owner shall deem effectual to protect and enforce any of the duties of the City under such preceding section.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 1001. Authorization of Bond Sale. That the sale of the Bonds to _____, _____, _____, in accordance with their bid pursuant to the notice of bond sale dated November ____, 2014, is hereby ratified and confirmed.

Section 1002. Designation of Escrow Trustee. That the City hereby designates Security Bank of Kansas City, Kansas City, Kansas, a state bank, having full trust powers and being a member of the Federal Deposit Insurance Corporation as the escrow trustee (the "Escrow Trustee").

Section 1003. Authorization of Escrow Trust Agreement. That the Mayor and the City Clerk are hereby authorized and directed to execute the Escrow Trust Agreement by and between the City and the Escrow Trustee dated as of December 23, 2014, (the "Escrow Trust Agreement"). The form of the Escrow Trust Agreement is hereby approved and said document is hereby incorporated in this Resolution as though fully set forth herein. The Mayor is hereby authorized to execute the Escrow Trust Agreement with any changes, insertions and omissions as in the opinion of the Mayor upon the advice of counsel are necessary and desirable, and the City Clerk is hereby authorized and directed to attest the

Mayor's signature and affix the City's seal, such execution and attestation being conclusive as to the approval, correctness and completeness of said Escrow Trust Agreement.

Section 1004. Redemption of Refunded Bonds. That pursuant to the Series 2005-A Bond Resolution, the Series 2006-B Bond Resolution, and the Series 2007-B Bond Resolution, the City hereby calls the Series 2005-A Refunded Bonds and the Series 2007-B Refunded Bonds for redemption and payment on August 1, 2015, and the Series 2006-B Bonds for redemption and payment on December 24, 2014. The Series 2005-A Refunded and Series 2006-B Bonds are being called at the redemption price of 101 percent of the par value thereof plus accrued interest thereon to the redemption date. The Series 2007-B Refunded Bonds being called at the redemption price of 100 percent of the par value thereof plus accrued interest thereon to the redemption date. Subject to the specific requirements of the Series 2005-A Bond Resolution, Series 2006-B Bond Resolution and Series 2007-B Bond Resolution which set forth the terms and conditions of the Refunded Bonds, notice of redemption shall be given in accordance with applicable law by the City giving written notice of its intention to redeem such bonds by mailing by certified mail a copy of the City's order of redemption (the "Redemption Notice") to the State Treasurer of the State of Kansas, 900 SW Jackson, Suite 201, Topeka, Kansas 66612, who upon receipt of the Redemption Notice shall give notice of such call by mailing a copy of the Redemption Notice by first class mail, postage prepaid, to the registered owner of each bond to be redeemed at the address shown on the registration books maintained by the Bond Registrar.

Section 1005. Particular Covenants of the City. That the City covenants with the Original Purchasers and Owners of the Bonds that, so long as the Bonds remain outstanding and unpaid:

(a) The City will faithfully perform at all times any and all covenants, agreements, undertakings and provisions contained in the Ordinance, this Resolution and the Bonds.

(b) The City will operate and maintain the System in an efficient manner and at reasonable cost and will keep the same in good repair and working order.

(c) The City will fix, establish, maintain and collect such rates, fees or charges for service furnished by and through the Combined Utility including all extensions, improvements and enlargements thereto thereafter constructed or acquired by the City, which rates, fees or charges shall be sufficient to pay the Expenses of the Combined Utility and to pay the principal of and interest on the Bonds and all other Combined Utility revenue bonds of the City hereafter issued and standing on a parity with the Bonds as and when the same become due, and to create and maintain reasonable reserves as hereinafter specified; provided, however, that such rates, fees and charges of the water, water pollution control and stormwater utilities shall not be set or otherwise established so that the rates, fees or charges of one such division subsidize the other. The City further covenants and agrees that it will at all times maintain and collect rates, fees or charges for the use of or services rendered by the Combined Utility which will be sufficient to enable the City to have in each fiscal year Net Revenues from the Combined Utility in an amount which will be not less than 125% of the amount required to be paid by the City in the next succeeding fiscal year

on account of both principal of and interest on all Combined Utility revenue bonds of the City at that time outstanding. As soon as possible after the end of each fiscal year, the annual audit and report made for such year by the City's officers pursuant to provisions of this Resolution shall be presented to and considered by the City's Governing Body and if it shall appear that an increase in existing rates, fees or charges for the services of the Combined Utility is necessary in order to satisfy the obligations of the City under provisions of this Resolution, the Governing Body shall promptly make such increase and shall cause the same to be effective within ninety (90) days thereafter. If prior to the end of the then current fiscal year, any interim operating statements of the Combined Utility shall indicate that an increase in the existing rates, fees or charges is necessary to satisfy the obligations of the City under provisions of this Resolution, the Governing Body shall promptly make such increase and shall cause the same to be effective within ninety (90) days thereafter.

(d) None of the facilities or services afforded by the Combined Utility will be furnished to any user without a reasonable charge being made therefore.

(e) The City will not mortgage, pledge or otherwise encumber the System or any part thereof, or any extension, improvement or betterment thereof nor will it sell, lease or otherwise dispose of the System or any material part thereof. The City may, however, dispose of any property which has become obsolete and non-productive or otherwise unusable to the advantage of the City. Any cash proceeds derived from the City's sale of such property shall be used by the City to improve, extend or enlarge the System.

(f) The City will carry and maintain a reasonable amount of all risk insurance upon the properties forming part of the System insofar as they are of an insurable nature, the amount of such insurance being the amount as would normally be carried by a municipal corporation engaged in a similar type of utility enterprise. In the event of loss or damage, the City, with all reasonable dispatch, will use the proceeds of such insurance to reconstruct and replace the property damaged or destroyed or, if such reconstruction or replacement be unnecessary, then either to improve, extend or enlarge the System or to redeem or purchase in the open market the outstanding Bonds. The City in operating the Combined Utility will carry and maintain public liability and worker's compensation insurance in such amounts as would normally be maintained by a municipal corporation engaged in a similar type of utility enterprise and the proceeds derived from any of such policies shall be used in paying the claims on the account of which such proceeds were received; provided, however, the City may, in accordance with applicable law, self insure such obligations. The cost of all insurance referred to in this paragraph shall be paid as an operating cost out of the revenues of the Combined Utility.

(g) The City will install and maintain proper books, records and accounts separate from all other records and accounts of the City in which complete and correct entries will be made of all dealings and transactions of or in relation to the properties, business and affairs of the Combined Utility. Such accounts shall show the amount of revenue received from the Combined Utility, the application of such revenue and all financial transactions in connection therewith. Said books shall be kept by the City

according to the standard accounting practices as applicable to the operation of the water, water pollution control and stormwater utility systems by municipalities.

(h) Annually at the end of each fiscal year the City will cause an audit to be made by a competent firm of independent auditors of the Combined Utility and shall cause a copy of such audit to be mailed to the Original Purchaser of the Bonds. Said audit shall include:

(1) a classified statement of the gross revenues received, of expenditures for operation and maintenance, of expenditures for all other purposes, and the amount of any capital expenditures made from such revenues made during the fiscal year;

(2) a balance sheet as of the end of each fiscal year, with an amount on hand at the end of such year in each of the accounts created or referred to in this Resolution;

(3) a statement showing gain or loss for such fiscal year;

(4) a statement of the Bonds redeemed, purchased or paid during the preceding fiscal year, and a statement of all interest paid during such year on the Bonds;

(5) a statement of the number of customers served by the Combined Utility at the beginning and also at the end of such fiscal year;

(6) a statement showing the amount and character of insurance carried by the City on the property constituting the System and showing the names of the insurers, expiration dates of the policies and the premium thereon;

(7) the opinion of the auditors as to whether or not the City is meeting the requirements of paragraph (c) of this Section by maintaining and collecting adequate rates, fees and charges for Combined Utility services furnished by the City; and

(8) such remarks and recommendations regarding the City's method of operation of the Combined Utility and its accounting practice as such auditors may deem appropriate. Such audit shall be completed as soon as practicable after the end of each fiscal year and a copy thereof filed with the office of the City Clerk where it shall be open to public inspection.

(i) The City shall semiannually conduct an internal rate review for the purpose of determining the sufficiency of the water, water pollution control and stormwater utility rates and charges of the City in view of the covenants herein and heretofore made.

(j) As long as the Bonds are Outstanding, any payments in lieu of taxes made to the City from the Net Revenues of the Combined Utility shall not exceed an amount based on the method currently in effect in the City, such method being based on the net value of the equity of the City in the System located within the corporate limits of the City. Further, such payment in lieu of taxes will not be made if the City is in default in paying the principal of or interest on the Bonds or any additional bonds issued in accordance with **Section 1002** hereof, or if such payment would cause the City to default in the payment of principal or interest on the Bonds or any such additional bonds.

Section 1006. Additional Bonds. That the City hereby covenants and agrees that so long as any of the Bonds remain outstanding and unpaid, it will not issue any additional Combined Utility revenue bonds or any other obligations payable from the Net Revenues of the Combined Utility which are superior in lien, security or otherwise to the Bonds other than Permitted Loans. The City hereby covenants and agrees except as hereinafter provided, that so long as the Bonds remain outstanding and unpaid it will not issue any additional bonds or other obligations payable out of the revenues of the Combined Utility which stand on a parity or equality with the Bonds unless each of the following conditions are met:

(a) The City shall not be in default in making any of the payments at the time required to be made by it into the respective funds or accounts created or referred to in this Resolution, or in the performance of any covenant contained herein.

(b) The annual Net Revenues derived by the City from the operation of the Combined Utility for the fiscal year next preceding the issuance of additional bonds, shall equal or exceed 125% of the maximum amount required to be paid out of the Net Revenues in any succeeding fiscal year on account of both principal and interest becoming due with respect to the Bonds, and any additional revenue bonds previously issued on a parity with the Bonds.

(c) In addition, projected annual Net Revenues expected to be derived by the City from the operation of the Combined Utility, for the fiscal year following the issuance of any additional bonds, shall equal or exceed 125% of the maximum amount required to be paid out of the Net Revenues in any succeeding fiscal year on account of both principal and interest becoming due with respect to the Bonds, including any revenue bonds previously issued on a parity with the Bonds together with additional bonds proposed to be issued, based on a detailed investigation and report of an engineering firm or an independent public accountant as to the amount of annual Net Revenues expected in such fiscal year, and said amount as defined and certified by said engineer or accountant shall govern in determining the right of the City to issue additional parity bonds under this **Section 1004**. No investigation or report of an engineer or accountant shall be required pursuant to this Section 1002 (i) in the event any issuance of additional bonds shall not increase the maximum amount required to be paid out of the Net Revenues in any succeeding fiscal year on account of both principal and interest becoming due with respect to the Bonds, including any additional revenue bonds previously issued on a parity with the Bonds together with additional bonds proposed to be issued or (ii) in the event that the annual Net Revenues derived by the City from the operation of the Combined Utility, for the fiscal year next

preceding the issuance of any additional bonds, shall have been equal to 125% of the maximum amount required to be paid out of the Net Revenues in any succeeding fiscal year on account of both principal and interest becoming due with respect to the Bonds, including any additional revenue bonds previously issued on a parity with the Bonds together with the additional revenue bonds proposed to be issued.

Additional Combined Utility revenue bonds of the City issued under the conditions hereinbefore in this Section set forth shall stand on a parity with the Bonds and shall enjoy complete equality of lien on and claim against the revenues of the Combined Utility with said Bonds, and the City shall make equal provision for paying said additional Combined Utility revenue bonds and the interest thereon out of the Revenue Fund and provide for the creation of a principal and interest account for the payment of such additional Combined Utility revenue bonds and a bond reserve account to be funded as herein required. Any increases in the Bond Reserve Requirement as a result of the issuance of such additional Combined Utility revenue bonds shall be fully funded concurrently with the issuance of such additional Combined Utility revenue bonds from the proceeds of such bonds or from other funds available for such purpose. In addition, if the City receives an opinion of Bond Counsel to the effect that the Bond Reserve Requirement for any additional Combined Utility revenue bonds must be reduced in order that the amounts on deposit in such bond reserve fund may continue to be invested without yield restriction under the Code the amount held in such bond reserve fund shall be reduced in conformity with said opinion.

Nothing contained in this Section shall prohibit or restrict the right of the City to issue additional Combined Utility revenue bonds or other revenue obligations for the purpose of reconstructing, altering, repairing, improving or extending and enlarging the System and to provide that the principal of and interest on said revenue bonds or obligations shall be payable out of the Net revenues of the Combined Utility, provided that at the time of the issuance of such additional revenue bonds or obligations the City shall not be in default of performance of any covenant or agreement contained in this Resolution and provided further that such additional revenue bonds or obligations shall be junior and subordinate to the Bonds, so that if any time the City shall be in default in paying either interest on or principal of the Bonds or if the City shall be in default in making any payments required to be made by it under the provisions of this Resolution, the City shall make no payments of either principal of or interest on said junior or subordinate revenue bonds or obligations until said default or defaults be cured and no default shall exist on the part of the City under the covenants, agreements and conditions contained in this Resolution. In addition, any default on any junior and subordinate bonds shall not be deemed a default on the Bonds.

Section 1007. Additional Permitted Loans. The City hereby covenants and agrees that so long as, except as hereinafter provided, any of the Bonds remain outstanding and unpaid, it will not issue any additional Permitted Loans payable out of the revenues of the Combined Utility that are superior in lien and security to the Bonds unless each of the following conditions are met:

(a) The City shall not be in default in making any of the payments at the time required to be made in connection with any outstanding Permitted Loans or into the respective funds or accounts created or referred to in this Resolution, or in the performance of any covenant contained herein.

(b) The annual Net Revenues derived by the City from the operation of the Combined Utility, for the fiscal year next preceding the issuance of additional Permitted Loans, shall have been equal to 125% of the maximum amount required to be paid out of the Net Revenues in any succeeding fiscal year on account of both principal of and interest becoming due with respect to the Bonds, including any additional revenue bonds previously issued on a parity with the Bonds.

(c) In addition, projected annual Net Revenues (adjusted as provided in the last sentence of this **Subsection 1007(c)**) expected to be derived by the City from the operation of the Combined Utility, for the fiscal year following the issuance of any additional Permitted Loans, shall equal or exceed 125% of the maximum amount required to be paid out of the Net Revenues in any succeeding fiscal year on account of both principal and interest becoming due with respect to the Bonds, including any additional revenue bonds previously issued on a parity with the Bonds, based on a detailed investigation and report of an engineering firm or an independent public accountant as to the amount of annual Net Revenues expected in such fiscal year, and said amount as defined and certified by said engineer or accountant shall govern in determining right of the City to issue additional Permitted Loans payable out of the revenues of the Combined Utility that are superior in lien and security to the Bonds under this **Section 1007**. No investigation or report of an engineer or accountant shall be required pursuant to this **Section 1007** in the event that the annual Net Revenues (adjusted as provided in the last sentence of this **Subsection 1007(c)**) derived by the City from the operation of the Combined Utility, for the fiscal year next preceding the issuance of any additional Permitted Loan, would have been equal to 125% of the maximum amount required to be paid out of the Net Revenues in any succeeding fiscal year on account of both principal and interest becoming due with respect to the Bonds, including any additional revenue bonds previously issued on a parity with the Bonds. For purposes of determining Net Revenues as required for this **Subsection 1007(c)**, the maximum amount payable in any succeeding fiscal year on the additional Permitted Loan shall be treated as an Expense in the fiscal year for which the Net Revenues are being computed.

Section 1008. Annual Audit. Annually, promptly after the end of the Fiscal Year, the City will cause an audit to be made of its Funds and Accounts for the preceding Fiscal Year by a certified public accountant or firm of certified public accountants as provided in **Section 1001(h)** of this Resolution.

Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the Clerk. Such audit shall at all times during the usual business hours of the City be open to the examination and inspection by any taxpayer, any Owner of the Bonds or by anyone acting for or on behalf of such taxpayer or Owner. Upon payment of the reason-

able cost of preparing and mailing the same, a copy of any annual audit will, upon request, be sent to any Owner or prospective Owner.

As soon as possible after the completion of the annual audit, the governing body of the City shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Resolution, the City shall promptly cure such deficiency.

Section 1009. Amendments. The rights and duties of the City and the Owners, and the terms and provisions of the Bonds or of this Resolution, may be amended or modified at any time in any respect by resolution of the City with the written consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the Clerk, but no such modification or alteration shall:

(a) extend the maturity of any payment of principal or interest due upon any Bond;

(b) effect a reduction in the amount which the City is required to pay as principal of or interest on any Bond;

(c) permit preference or priority of any Bond over any other Bond; or

(d) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Resolution.

Any provision of the Bonds or of this Resolution may, however, be amended or modified by resolution duly adopted by the governing body of the City at any time in any legal respect with the written consent of the Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Owners, the City may amend or supplement this Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or in connection with any other change therein which is not materially adverse to the interests of the Owners.

Every amendment or modification of the provisions of the Bonds or of this Resolution, to which the written consent of the Owners is given, as above provided, shall be expressed in a resolution adopted by the governing body of the City amending or supplementing the provisions of this Resolution and shall be deemed to be a part of this Resolution. A certified copy of every such amendatory or supplemental resolution, if any, and a certified copy of this Resolution shall always be kept on file in the office of the Clerk, and shall be made available for inspection by the Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or

supplemental resolution or of this Resolution will be sent by the Clerk to any such Owner or prospective Owner.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the resolution of the City hereinabove provided for, duly certified, as well as proof of any required consent to such modification by Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

The City shall furnish to the Bond Registrar and Paying Agent a copy of any amendment to the Bonds or this Resolution which affects the duties or obligations of the Bond Registrar and Paying Agent under this Resolution.

Section 1010. Notices, Consents and Other Instruments by Owners. Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Resolution, and shall be conclusive in favor of the City, the Bond Registrar and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to make acknowledgements within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Registrar.

In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Resolution, Bonds owned by the City shall be disregarded and deemed not to be Outstanding under this Resolution, except that, in determining whether the Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Owners the pledgee's rights so to act with respect to such Bonds and that the pledgee is not the City.

Section 1011. Further Authority. The officers and officials of the City, including the Mayor and Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Resolution and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 1012. Severability. If any section or other part of this Resolution is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Resolution.

Section 1013. Governing Law. This Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1014. Effective Date. This Resolution shall take effect and be in full force from and after its passage by the Council of the City.

(REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)

PASSED and approved by the City of Topeka, Kansas, on December 9, 2014.

CITY OF TOPEKA, KANSAS

(SEAL)

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

CERTIFICATE

I, the undersigned, hereby certify that the above and foregoing is a true and correct copy of the Resolution of the governing body of the City of Topeka, Kansas, adopted by the governing body at a regularly scheduled meeting held on December 9, 2014, as the same appears of record in my office, and that the Resolution has not been modified, amended or repealed and is in full force and effect as of this date.

DATED: December 9, 2014.

(SEAL)

Brenda Younger, City Clerk

EXHIBIT A
(FORM OF BOND)

Unless this certificate is presented by an authorized representative of The Depository Trust Company to the issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA
STATE OF KANSAS
COUNTY OF SHAWNEE
CITY OF TOPEKA
COMBINED UTILITY IMPROVEMENT AND REFUNDING REVENUE BOND
SERIES 2014-A

No. R-_____ \$_____

Rate of	Maturity	Dated	CUSIP _____
Interest:	Date:	Date: December 23, 2014	

Registered Owner:

Principal Amount:

The City of Topeka, in the County of Shawnee, State of Kansas, (the "City") for value received acknowledges itself to be indebted to and promises to pay, but solely from the sources hereinafter pledged, to the registered owner identified above, or registered assigns as hereinafter provided, on the maturity date identified above, the principal amount identified above, and in like manner to pay, as of the Record Dates as hereinafter provided, interest on such principal amount from the date of this Bond or from the most recent interest payment date to which interest has been paid prior to the registration date set forth below at the rate of interest per annum set forth above semiannually on February 1 and August 1 of each year (the "Interest Payment Dates") commencing February 1, 2015, until said principal amount is paid.

The principal of and premium, if any, on this Bond shall be payable in lawful money of the United States of America at the office of the Treasurer of the State of Kansas, Topeka, Kansas, (the "Paying Agent" and "Bond Registrar") upon presentation of this Bond for payment and cancellation. The interest on this Bond shall be payable in lawful money of the United States of America by check or draft of the Paying Agent by mailing to the registered owner thereof at the address appearing on the registration books of the City maintained by the Bond Registrar or at such other address as is furnished in writing by such

registered owner to the Bond Registrar at the close of business on the 15th day of January or July next preceding the applicable interest payment date (the "Record Dates"), or in the case of an interest payment to any Owner of **\$500,000** or more in aggregate principal amount of Bonds, by electronic transfer to such Owner upon written notice given to the Paying Agent by such Owner not less than **15** days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank (which shall be in the continental United States), ABA routing number and account number to which such Owner wishes to have such transfer directed.

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

It is hereby certified and declared that all acts, conditions and things required to be done and to exist precedent to and in the issuance of this Bond have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and Laws of the State of Kansas, and that the total indebtedness of said City, including this series of bonds, does not exceed any constitutional or statutory limitation.

This Bond shall not be valid or become obligatory for any purpose until the Certificate of Authentication and Registration hereon shall have been lawfully executed by the Bond Registrar.

IN WITNESS WHEREOF, the said City of Topeka, in the State of Kansas, by its governing body, has caused this Bond to be executed by its Mayor and attested by its City Clerk by their manual signatures with its corporate seal to be affixed hereon, all as of the 23rd day of December, 2014.

CITY OF TOPEKA, KANSAS

(manual)

Mayor

ATTEST: (manual)

City Clerk

(SEAL)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the City of Topeka, Kansas, Combined Utility Improvement and Refunding Revenue Bonds, Series 2014-A described in the within mentioned Resolution.

Registration Date: _____

OFFICE OF THE STATE TREASURER
Topeka, Kansas,
as Bond Registrar and Paying Agent

By _____

I.D.#: _____

FURTHER TERMS AND PROVISIONS

This Bond is one of a duly authorized series of Bonds of the City aggregating the principal amount of \$_____ (the "Bonds") issued for the purposes set forth in Ordinance No. _____ of the City (the "Ordinance"). This Bond and the series of Bonds of which it is a part are issued by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and Laws of the State of Kansas, including K.S.A. 10-101 to 125, inclusive, as amended by K.S.A. 10-620 to 10-632, inclusive, K.S.A. 10-116a and Article 12 of Chapter 10 of the Kansas Statutes Annotated, and all amendments thereof, acts supplemental thereto, the Ordinance, Resolution No. _____ of the City (the "Resolution") and all other provisions of the laws of the State of Kansas applicable thereto.

The Bonds are issued in fully registered form in the denomination of \$5,000 each or authorized integral multiples thereof. This Bond may be exchanged at the principal office of the Bond Registrar for a like aggregate principal amount of Bonds of the same maturity or other authorized denominations upon the terms set forth in the authorizing Ordinance and the Resolution.

At the option of the City, the Bonds or portions thereof either maturing or subject to mandatory redemption and payment on or after August 1, 2023, may be called for redemption and payment prior to maturity on August 1, 2022, and thereafter in whole or in part on any date (Bonds of less than a single maturity to be selected by lot in multiples of \$5,000 principal amount by the Paying Agent and Bond Registrar in such equitable manner as they shall designate), at the redemption price equal to 100% of the principal amount thereof, plus accrued interest thereon to the date fixed for redemption and payment.

[Each of the Bonds maturing on August 1, 20____, shall also be subject to mandatory redemption and payment prior to maturity on August 1, 20____, and August 1, 20____, pursuant to the redemption schedule set forth in the Resolution at the Redemption Price of 100% (expressed as a percentage of the principal amount) plus accrued interest thereon to the Redemption Date.

Each of the Bonds maturing on August 1, 20____, shall also be subject to mandatory redemption and payment prior to maturity on August 1, 20____, and August 1, 20____, pursuant to the redemption schedule set forth in the Resolution at the Redemption Price of 100% (expressed as a percentage of the principal amount) plus accrued interest thereon to the Redemption Date.]

Bonds will be redeemed in integral multiples of \$5,000. If less than all Bonds are called for redemption, the Bond Registrar will, in the case of Bonds in denominations greater than \$5,000, treat each \$5,000 of face value as though it were a separate Bond.

In the event of any such redemption, the Paying Agent shall give notice of such call by mailing a copy of the redemption notice by first class mail, postage prepaid, not less than thirty (30) days prior to the date of such redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books maintained by the Bond Registrar. Failure to give such notice by mailing to the registered owner of any Bond, or any defect therein, shall not affect the validity of any proceedings for the redemption of other Bonds. Any notice mailed as provided herein shall be conclusively presumed to have been duly given, whether or not the owner of such Bonds received the notice.

Subject to the lien of the Permitted Loans (as defined in the Resolution), the principal and interest of this Bond is hereby made a lien upon the revenues derived from the combined Water, Water Pollution Control and Stormwater Utilities of the City and said principal and interest are to be paid solely and only from a special fund into which there shall be paid, from the revenues derived from the rates, fees or charges collected by said City from the operation of said combined Water, Water Pollution Control and Stormwater Utilities sums sufficient to make said payments when due, after deducting only reasonable operation and maintenance expenses. Said City shall not be obligated to pay said Bond with the interest thereon except from said special fund and neither this Bond nor this issue of which it forms a part is guaranteed or secured by any property of the City other than the revenues from said combined Water, Water Pollution Control and Stormwater Utilities, nor does this Bond constitute any indebtedness of said City which is payable in any manner from taxation and limit in any way the power of the City of issue bonds for any other purpose.

The City and the Bond Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal hereof, or redemption price hereof and interest due hereon and for all other purposes.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Resolution. One Bond certificate with respect to each date on which the Bonds are stated to mature or with respect to each form of Bonds, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository's participants, beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The City and the Paying Agent will recognize the Securities Depository nominee, while the registered owner of the Bond, as the Owner of this Bond for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Bond, (ii) notices and (iii) voting. Transfer of principal, interest and any redemption premium payments to participants of the Securities Depository, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The

City and the Paying Agent will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this Bond shall be made in accordance with existing arrangements among the City, the Paying Agent and the Securities Depository.

EXCEPT AS OTHERWISE PROVIDED IN THE ORDINANCE, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.

This Bond is transferable by the registered owner hereof in person or by his attorney duly authorized in writing at the principal office of the Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the Resolution, and upon surrender and cancellation of this Bond. The City shall pay out of the proceeds of the Bonds or from other funds all costs incurred in connection with the issuance, transfer, exchange, registration, redemption or payment of the Bonds except (a) the reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed or (b) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds. Upon such transfer a replacement Bond or Bonds of authorized denominations of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange therefore.

BOND ASSIGNMENT

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

(Name and Address)

(Social Security or Taxpayer Identifying No.)

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

Dated _____

Name

Social Security or Taxpayer
Identifying No.

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

Signature guaranty:
By

CERTIFICATE OF CITY CLERK

I, the undersigned, City Clerk of the City of Topeka, Kansas, do hereby certify that
this Bond has been duly registered in my office according to law as of December 23, 2014.

WITNESS my hand and official seal.

(SEAL) (manual signature)
City Clerk

CERTIFICATE OF STATE TREASURER

OFFICE OF THE TREASURER, STATE OF KANSAS

I, RON ESTES, Treasurer of the State of Kansas, do hereby certify that a full and
complete transcript of the proceedings leading up to the issuance of this Bond has been filed
in my office and that this Bond was registered in my office according to law this
_____.

WITNESS my hand and official seal.

RON ESTES
TREASURER OF THE STATE OF KANSAS

(SEAL) By
State Treasurer

2289
2290
2291
2292
2293

EXHIBIT B
(DTC LETTERS OF REPRESENTATIONS)



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 7, 2014

+ Back Print

DATE:	December 9, 2014	
CONTACT PERSON:	Nickie Lee	DOCUMENT #:
SECOND PARTY/SUBJECT:	Budget Amendment Ordinance	PROJECT #:
CATEGORY/SUBCATEGORY	004 Budgets or Appropriations / 001 Operating Budget - City	
CIP PROJECT:	No	
ACTION OF COUNCIL:	JOURNAL #:	
	PAGE #:	

DOCUMENT DESCRIPTION:

A PUBLIC HEARING for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds, amending the 2014 City of Topeka Operating Budget.

AN APPROPRIATION ORDINANCE introduced by City Manager Jim Colson, approving and adopting certain amendments to the operating budget for the City of Topeka for the year 2014, and appropriating the amounts for the purpose as set forth therein.

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

(Approval would increase the 2014 Adopted Budget by \$7,249,875 in additional expenditures to be funded by current revenue or fund balances.)

POLICY ISSUE:

Cities are authorized by K.S.A. 79-2929a to amend budgets to spend money not in the original budget. The additional expenditures cannot be financed by additional tax levy.

The policy question is whether to increase the total expenditures of the 2014 Adopted Budget.

These actions would benefit the city and/or residents:

1. Transient Guest Tax Fund amendment would allow for the transfer of expenditures allocated for the Sunflower Soccer Stadium project.
2. The Employee Separation Benefit Fund is a pro-active action to help fund the expected peak of retirement/layoff costs over the next few years.

Item #18

3. Historical Asset Tourism Fund is used for acquisition, rehabilitation and preservation of historic landmarks or historic resources located within the City that facilitate tourism.
4. Countywide Half-Cent Sales Tax Fund is used for economic development and countywide infrastructure development.
5. Tax Increment Financing Fund is for property and sales tax received for tax increment financing districts created for redevelopment for blighted areas.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

Transient Guest Tax Fund (271) – This expenditure amendment of \$300,000 would come from existing cash balance designated for the Sunflower Soccer Stadium project. Beginning in 2013, 1% of the Transient Guest Tax revenue has been designated to be used for the construction of the Sunflower Soccer Stadium project and has been collected in the Transient Guest Tax fund. This additional expenditure authority would allow the City to transfer funds to the capital project fund to cover project costs.

Employee Separation Fund (284) – This new fund was established in 2013 by the issuance of taxable bonds for the expected peak of retirements over the next few years. This fund is to be used to pay the outstanding balance of vacation, sick leave and compensation time at the time of retirement, separation or layoff. This fund was not established at the time of the 2014 budget approval and so it has no authorized budget for expenditures. This expenditure amendment of \$1,500,000 will cover what has already been spent year to date and what is projected to be spent through the end of the year.

Historic Asset Tourism Fund (289) – This fund provides funding for acquisition, rehabilitation and preservation of historic landmarks or historic resources located within the City that facilitate tourism. Revenue is generated from the Transient Guest Tax collections. Expenditures are estimated based on the amount of money which is expected to be granted out that year. In 2013, the City did not grant out any funds which built up the cash balance. In 2014, the City's transient guest tax committee granted out both the 2013 and 2014 allocations, so the amended expenditure amount of \$300,000 is needed to give authority to expend the grant funds.

Countywide Half Cent Sales Tax Fund (290) – This fund provides funding for economic development and countywide infrastructure development. Each year the full amount of revenue which is generated should be transferred out to projects or expended on debt service. The 2014 expenditure budget was under budgeted, so this revised budget of \$8,700,000 corrects the expenditure authority to allow for all revenues to be expended in that same year.

Tax Increment Financing Fund (293/220) – This fund was established to monitor the amount of property and sales taxes received for tax increment financing districts created for redevelopment of blighted areas. The City currently has two districts: Eastgate and College Hill. The original 2014 budget did not cover the amount needed for debt service for the College Hill district.

BUDGETARY IMPACT:

All of these amendments would increase the authorized 2014 budget. The 2014 revenue would be used for the new expenditures or the fund balance would be used.

Transient Guest Tax Fund: \$2,800,000
Employee Separation Fund: \$1,500,000
Historic Asset Tourism Fund: \$300,000
Countywide Half-Cent Sales Tax Fund: \$8,700,000
Tax Increment Financing Fund: \$240,000

SOURCE OF FUNDING:

Transient Guest Tax - Existing Fund Balance.
Historic Asset Tourism Fund - Existing Fund Balance and spending unspent 2013 allocations.
Employee Separation Benefit Fund - Bond proceeds received in 2013.
Countywide Half-Cent Sales Tax Fund - Existing Revenue and Fund balance will be used. Item #18

Tax Increment Financing Fund - Existing Revenue.

ATTACHMENTS:

[Public Hearing Notice](#)

[Fund Summaries](#)

[Description of Amendments](#)

[Appropriation Ordinance](#)

NOTICE OF BUDGET HEARING AMENDING THE 2014 BUDGET

The governing body of the CITY OF TOPEKA, KANSAS will meet on the **9th day of December** at 6:00 pm,
at the CITY COUNCIL CHAMBERS at 214 E. Eighth Street, for the purpose of hearing and answering
objections of taxpayers relating to the proposed amended use of funds.

Detailed budget information is available at OFFICE OF FINANCE, CITY HALL and will be available at this hearing.

The amendments would increase the expenditure limit for the Transient Guest Tax Fund, Employee Separation Fund, Historical Asset Tourism Fund, Countywide Half Cent Sales Tax Fund, and Tax Increment Financing Fund.

Fund	Adopted Budget 2014			Proposed Amendment 2014
	Actual Tax Rate	Amount of Ad Valorem Tax	Expenditures	Expenditures
Transient Guest Tax (271)	--	\$ -	\$ 2,500,000	\$ 2,800,000
Employee Separation Fund (284)	--	\$ -	\$ -	\$ 1,500,000
Historic Asset Tourism Fund (289)	--	\$ -	\$ 115,000	\$ 300,000
Countywide Half Cent Sales Tax Fund (290)	--	\$ -	\$ 3,502,500	\$ 8,700,000
Tax Increment Financing (293/220)	--	\$ -	\$ 172,625	\$ 240,000

By Order of the Governing Body:



Brenda Younger

City Clerk

City of Topeka, Kansas Operating Budget for Fiscal Year 2014

Summary of Resources and Appropriations

Resources and Appropriations	2014 Adopted	2014 Amended	Difference
<u>271 TRANSIENT GUEST TAX</u>			
FUND BALANCE, BEGINNING	\$ 427,927	\$ 355,070	
REVENUE:			
TRANSIENT GUEST TAX	2,450,000	2,444,930	(5,070)
	-	-	-
Subtotal Revenue	2,450,000	2,444,930	(5,070)
TOTAL BALANCE AND REVENUE	2,877,927	2,800,000	(5,070)
EXPENDITURES:			
CONTRACTUAL SERVICES	2,500,000	2,800,000	300,000
TOTAL EXPENDITURES	2,500,000	2,800,000	300,000
RESIDUAL EQUITY TRANSFER	-	-	-
FUND BALANCE, ENDING	\$ 377,927	\$ -	

City of Topeka, Kansas Operating Budget for Fiscal Year 2014

Summary of Resources and Appropriations

Resources and Appropriations	2014 Adopted	2014 Amended	Difference
<u>284 EMPLOYEE SEPARATION BENEFIT</u>			
FUND BALANCE, BEGINNING	\$ -	\$ 4,472,665	
REVENUE:			
BOND PROCEEDS	-	-	-
	-	-	-
Subtotal Revenue	-	-	-
TOTAL BALANCE AND REVENUE	-	4,472,665	-
EXPENDITURES:			
PERSONNEL SERVICES	-	1,250,000	1,250,000
DEBT SERVICE	-	250,000	250,000
TOTAL EXPENDITURES	-	1,500,000	1,500,000
RESIDUAL EQUITY TRANSFER	-	-	-
FUND BALANCE, ENDING	\$ -	\$ 2,972,665	

City of Topeka, Kansas Operating Budget for Fiscal Year 2014

Summary of Resources and Appropriations

Resources and Appropriations	2014 Adopted	2014 Amended	Difference
<u>289 HISTORIC ASSET TOURISM FUND</u>			
FUND BALANCE, BEGINNING	\$ 407,182	\$ 265,378	
REVENUE:			
Transient Guest Tax Transfer	115,000	115,000	-
	-	-	-
Subtotal Revenue	115,000	115,000	-
TOTAL BALANCE AND REVENUE	522,182	380,378	-
EXPENDITURES:			
CONTRACTUAL SERVICES	115,000	300,000	185,000
TOTAL EXPENDITURES	115,000	300,000	185,000
RESIDUAL EQUITY TRANSFER	-	-	-
FUND BALANCE, ENDING	\$ 407,182	\$ 80,378	

City of Topeka, Kansas Operating Budget for Fiscal Year 2014

Summary of Resources and Appropriations

Resources and Appropriations	2014 Adopted	2014 Amended	Difference
<u>290 COUNTYWIDE HALF CENT SALES TAX FUND</u>			
FUND BALANCE, BEGINNING	\$ 6,181,559	\$ -	
REVENUE:			
SALES TAX	8,000,000	8,700,000	700,000
	-	-	-
Subtotal Revenue	8,000,000	8,700,000	700,000
TOTAL BALANCE AND REVENUE	14,181,559	8,700,000	700,000
EXPENDITURES:			
CONTRACTUAL SERVICES	3,502,500	8,700,000	5,197,500
TOTAL EXPENDITURES	3,502,500	8,700,000	5,197,500
RESIDUAL EQUITY TRANSFER	-	-	-
FUND BALANCE, ENDING	\$ 10,679,059	\$ -	

City of Topeka, Kansas Operating Budget for Fiscal Year 2014

Summary of Resources and Appropriations

Resources and Appropriations	2014 Adopted	2014 Amended	Difference
<u>293/220 TAX INCREMENT FINANCING FUND</u>			
FUND BALANCE, BEGINNING	\$ 85,915	\$ 165,112	
REVENUE:			
PROPERTY TAX	200,000	314,162	114,162
	-	-	-
Subtotal Revenue	200,000	314,162	114,162
TOTAL BALANCE AND REVENUE	285,915	479,274	114,162
EXPENDITURES:			
CONTRACTUAL SERVICES	172,265	240,000	67,735
TOTAL EXPENDITURES	172,265	240,000	67,735
RESIDUAL EQUITY TRANSFER	-	-	-
FUND BALANCE, ENDING	\$ 113,650	\$ 239,274	

2014 Budget Amendment Summary



Below is a summary of each of the proposed amendments to the 2014 budget.

Transient Guest Tax Fund (271) – This expenditure amendment of \$300,000 would come from existing cash balance designated for the Sunflower Soccer Stadium project. Beginning in 2013, 1% of the Transient Guest Tax revenue has been designated to be used for the construction of the Sunflower Soccer Stadium project and has been collected in the Transient Guest Tax fund. This additional expenditure authority would allow the City to transfer funds to the capital project fund to cover project costs.

Employee Separation Fund (284) – This new fund was established in 2013 by the issuance of taxable bonds for the expected peak of retirements over the next few years. This fund is to be used to pay the outstanding balance of vacation, sick leave and compensation time at the time of retirement, separation or layoff. This fund was not established at the time of the 2014 budget approval and so it has no authorized budget for expenditures. This expenditure amendment of \$1,500,000 will cover what has already been spent year to date and what is projected to be spent through the end of the year.

Historic Asset Tourism Fund (289) – This fund provides funding for acquisition, rehabilitation and preservation of historic landmarks or historic resources located within the City that facilitate tourism. Revenue is generated from the Transient Guest Tax collections. Expenditures are estimated based on the amount of money which is expected to be granted out that year. In 2013, the City did not grant out any funds which built up the cash balance. In 2014, the City's transient guest tax committee granted out both the 2013 and 2014 allocations, so the amended expenditure amount of \$300,000 is needed to give authority to expend the grant funds.

Countywide Half Cent Sales Tax Fund (290) – This fund provides funding for economic development and countywide infrastructure development. Each year the full amount of revenue which is generated should be transferred out to projects or expended on debt service. The 2014 expenditure budget was under budgeted, so this revised budget of \$8,700,000 corrects the expenditure authority to allow for all revenues to be expended in that same year.

Tax Increment Financing Fund (293/220) – This fund was established to monitor the amount of property and sales taxes received for tax increment financing districts created for redevelopment of blighted areas. The City currently has two districts: Eastgate and College Hill. The original 2014 budget did not cover the amount needed for debt service for the College Hill district.

1 (Published in the Topeka Metro News _____.)

2
3 ORDINANCE NO. _____

4
5 AN APPROPRIATION ORDINANCE introduced by Jim Colson, City Manager, approving
6 and adopting certain amendments to the operating
7 budget for the City of Topeka, for the year 2014, and
8 appropriating the amounts for the purpose as set
9 forth therein.

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

12
13 Section 1. *Amendments to the Budget incorporated by reference as a part of this*
14 *Ordinance.* The amendments to the operating budget for the City of Topeka, Kansas, for
15 the year 2014 as set forth in a document in the format prescribed by the Director of
16 Accounts and Reports of the Kansas Department of Administration, as required by law,
17 which has been published in a summary format together with a notice of public hearing, is
18 hereby incorporated by reference as a part of this Ordinance with the same force and
19 effect as if it were set forth herein in its entirety.

20 Section 2. *Amendments to the Budget approved and adopted.* The amendments
21 to the operating budget as described and incorporated by reference in Section 1 above are
22 hereby approved and adopted as amendments to the operating budget for the year 2014.

23 Section 3. *Funds appropriated by budget.* The amendments to the budget as
24 approved and adopted herein shall constitute and shall be declared to be appropriations for
25 the funds and departments as set forth therein, and the appropriations thus made shall not
26 be used for any other purpose. No money in any fund or fund type shall be used to pay for
27 any indebtedness created in excess of the amount appropriated for such fund or fund type,
28 or for the departments of such fund or fund type as referred to in the operating budget.
29 The appropriations made herein are for the year 2014 and no expenditures shall be

incurred as being authorized by such appropriations prior to January 1, 2014 or subsequent to December 31, 2014.

Section 4. *Budget amendments.* Any further amendment to the operating budget must be approved by the Governing Body and enacted in accordance with the provisions of K.S.A. § 79-2929a.

Section 5. *As used in this ordinance "fund" is defined as follows:*

Fund. A fiscal and accounting entity with a self balancing set of accounts in which cash and other financial resources, all related liabilities and residual equities, or balances, and changes therein are recorded and segregated to carry on specific activities or attain certain objectives in accordance with special regulations, restrictions, or limitations.

Section 6. *The following fund types are authorized:*

Governmental (or statutory) Fund Type: including General Fund, Special Revenue Funds, Debt Service Funds, and Capital Projects Funds; Proprietary Fund Type: including Enterprise Funds and Internal Service Funds (fixed or flexible); and, Fiduciary Fund Type: including Trust and Agency Funds. This Ordinance applies to all funds as listed on the budget certificate and fund summary adopted and submitted to the county and state.

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

PASSED and APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

57
58
59
60

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 17, 2014

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DATE:	December 9, 2014	
CONTACT PERSON:	Jim Colson, City Manager	DOCUMENT #:
SECOND PARTY/SUBJECT:	American Medical Response	PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 160 Franchises	
CIP PROJECT:	No	
ACTION OF COUNCIL:	JOURNAL #:	PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Jim Colson, providing for the renewal of a nonexclusive franchise to American Medical Response to operate an ambulance service within the City of Topeka which replaces the franchise ordinance codified at City Code Appendix B, Article 6 that will expire December 31, 2014.

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

(Approval would extend AMR's franchise agreement for one-year.)

POLICY ISSUE:

Whether to extend AMR's franchise agreement for another year so that AMR can provide ambulance services to city residents.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

Shawnee County contracts with AMR to provide ambulance services. One of the contract requirements is that AMR enter into a franchise agreement with the City. AMR's current franchise ends on December 31, 2014.

BUDGETARY IMPACT:

Item #19

The total budgetary impact is \$389 annually. The fee for an ambulance service license is \$25 and the fee for an ambulance vehicle license is \$14 per ambulance. Currently, there are 26 ambulances licensed with the City of Topeka.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Jim Colson, providing for the renewal of a nonexclusive franchise to American Medical Response to operate an ambulance service within the City of Topeka which replaces the franchise ordinance codified at City Code Appendix B, Article XI that will expire December 31, 2014.

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

Section 1. Authority.

This Franchise Ordinance is passed and approved by the Council of the City of Topeka, Kansas, and enacted pursuant to K.S.A. 12-2001 and the authority found and provided for in Chapter 5.25 TMC.

Section 2. Satisfactory qualifications.

The Council of the City of Topeka, Kansas, has considered the legal, character, financial, and other qualifications of the applicant and has found Medevac MidAmerica, Inc., doing business as American Medical Response, hereinafter "AMR," to be qualified in all respects to own, maintain and operate an ambulance service in the City of Topeka, Kansas hereinafter "City." The Council of the City of Topeka finds that public convenience will be promoted and public necessity requires such ambulance service under the terms and provisions of Chapter 5.25 TMC.

Section 3. Service.

The maintenance and operation of an ambulance service by AMR in the City shall be in accordance with these terms and conditions and performance standards set forth in the current ambulance service contract entered into by AMR and the Board of County Commissioners of Shawnee County, Kansas. Said contract is identified as Shawnee

County Contract C428-2005, as amended by C293-2010. In addition, AMR agrees to provide to the city manager of the City copies of documents which are required to be filed pursuant to Shawnee County Contract C248-2005, as amended by C293-2010.

Section 4. Franchise grant.

Pursuant to the provisions of TMC 5.25.040, a nonexclusive franchise is granted to AMR, to own, maintain, and operate an ambulance service within the City. Said nonexclusive franchise is granted through and including December 31, ~~2014~~2015, and shall vest all rights, privileges and immunities of an ambulance service franchise with AMR; however, said nonexclusive franchise shall be subject to and conditioned upon all of the terms, duties and obligations found in the laws of the State of Kansas, Chapter 5.25 TMC, and this Franchise Ordinance.

Section 5. Payments to the City.

Consideration for the rights, privileges, and immunities granted to AMR includes the benefits to be derived by the citizens of the City of Topeka from the maintenance and operation of an ambulance service under the terms and conditions of this Franchise Ordinance. The following licensing fees shall be paid by AMR to the City of Topeka:

a. On the effective date of this Franchise Ordinance, the ambulance service license fees prescribed by TMC 5.10.040(b).

b. On the first working day recognized by the City, after January 1 of each year within the term of this Franchise Ordinance and while AMR is operating an ambulance service pursuant to such Franchise Ordinance, the annual registration fee for each vehicle in operation in the City as set forth in TMC 5.10.040(c) as presently provided or hereafter amended.

53 All fee payments made hereunder shall be made to the city treasurer.

54 **Section 6. Insurance.**

55 AMR shall upon the effective date of this Franchise Ordinance file with the city clerk an
56 insurance policy as required by TMC 5.25.140 and the same shall be approved as to
57 form by the city attorney's office. During the term of this Franchise Ordinance and the
58 time AMR is providing service AMR shall maintain paid insurance coverage according to
59 TMC 5.25.140.

60 **Section 7. Written acceptance.**

61 AMR shall file with the city clerk its written acceptance of the provisions of the Franchise
62 Ordinance within sixty (60) days after the effective date of this Franchise Ordinance as
63 determined by K.S.A. 12-2001.

64 **Section 8. Remedies of City.**

65 Nothing herein shall limit or preclude the City from seeking remedies at law or equity in
66 a court of competent jurisdiction for any violation by AMR of the laws of the State of
67 Kansas or any ordinance of the City.

68 **Section 9. Forfeiture.**

69 Any material and substantial fraud, misrepresentation or default of the terms, duties and
70 obligations imposed upon AMR by the laws of the State of Kansas, Chapter 5.25 TMC
71 or by this Franchise Ordinance shall constitute grounds for forfeiture of this
72 nonexclusive Franchise Ordinance. The City shall notify AMR in writing of any allegation
73 of a material and substantial fraud, misrepresentation or default and shall hold a public
74 hearing before the Council of the City of Topeka on the merits of such allegations. Said
75 public hearing shall be held within thirty (30) days after the notification to AMR and shall

be adjudicative in character but shall not bar the rights of any parties to pursue judicial review. Within ten (10) days following the conclusion of such hearing, the Council of the City of Topeka shall act with respect to such forfeiture and shall submit a written statement to AMR. This Franchise Ordinance shall not be forfeited unless the Council of the City of Topeka finds that there has been a material and substantial fraud, misrepresentation or default on the part of AMR so as to justify a forfeiture. In such case a notice of forfeiture shall be provided to AMR. In the event this Franchise Ordinance is forfeited, AMR shall, within one hundred eighty (180) days of its receipt of notice of forfeiture, cease operation of an ambulance service hereunder.

Section 10. Surrender.

If, during the term of this Franchise Ordinance, AMR does not earn a fair rate of return upon the value of property used and useful in providing such ambulance service for a period of six (6) months; and it is determined by AMR that it would not be practical, possible or in the public interest to cure the deficiency by an increase in rates and/or a reduction in service; and AMR has complied with all applicable procedures as prescribed by the Board of County Commissioners of Shawnee County, Kansas including the giving of notice of surrender to the City; then AMR upon one hundred eighty (180) days written notice to the city clerk may elect to surrender this Franchise Ordinance and cease operation of the ambulance service hereunder. Fair rate of return means receipt of revenues for patient charges and public funds, if any, to include the sum of operating costs, depreciation reserves, growth and development costs and management fees.

99 **Section 11. Transfer.**

100 All the rights and obligations of AMR, pursuant to this Franchise Ordinance, may with
101 written approval of the Council of the City of Topeka, be transferred to a person meeting
102 the requirements for an ambulance service, as determined by the laws and regulations
103 of the State and the City at the time of the contemplated transfer. Any such transferee
104 shall, without limitation, assume all the duties and obligations of AMR and AMR shall be
105 released of all future rights, duties, and obligations arising from this Franchise
106 Ordinance.

107 **Section 12. Hold harmless.**

108 AMR shall hold the City harmless for all liability, damages, costs and expenses of every
109 kind for the payment of which the City may become liable to any person by reason of
110 the rights and privileges herein granted and, if any action either at law or in equity, be
111 brought against the City for damages or for any cost to the City for any fault of AMR, its
112 servants, agents, or employees, in the operation of its ambulance service, AMR shall
113 pay all costs, damages and expenses including costs of defense for which the City may
114 be held liable.

115 **Section 13. Effective date.**

116 This Franchise Ordinance shall take effect and be in force from January 1, ~~2014~~2015,
117 and after its passage, approval and publication in the official City newspaper in the
118 manner prescribed by law, and shall be binding upon AMR upon the filing of its written
119 acceptance as required by Section 7.

PASSED AND APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 30, 2014

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DATE:	December 9, 2014	
CONTACT PERSON:	Denise Everhart, Deputy Mayor	DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 159 Charter	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A CHARTER ORDINANCE introduced by Deputy Mayor Denise Everhart, amending City of Topeka Code Section A2-24 concerning duties of the mayor.

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

(Approval would be the first step in a process to place the ordinance on the April 7, 2015 ballot. The electorate would then decide whether to change the Mayor's voting rights.)

POLICY ISSUE:

Whether to allow the electorate to determine whether to change the mayor's voting rights.

STAFF RECOMMENDATION:

The charter ordinance is a recommendation from the Citizens Government Review Committee. Staff makes no recommendation.

BACKGROUND:

The Citizens Government Review Committee recommends that the mayor be authorized to vote on all matters, except for ordinances in which state law authorizes a mayoral veto. The current charter ordinance requires a vote by the electorate if there are changes to the mayor's duties. If this ordinance is approved, the governing body would adopt another ordinance placing this issue on the April 7, 2015 ballot.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

Item #20

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[Summary](#)

[Citizens Government Review Report](#)

[Charter Ordinances](#)

Recommendations of the Citizens Government Review Committee.

General: The following are the recommendations of the Committee which were presented to the governing body in May.

Options: The governing body can adopt some, all, or none of the recommendations. There are no time requirements in considering the recommendations.

If the governing body adopts some or all of these recommendations, Legal would draft one or more charter ordinances for consideration by the governing body. Approval of the ordinance(s) would require a minimum vote of 7 members of the governing body, including the mayor.

Some recommendations, if adopted by the governing body, will have to be approved by the voters at an election to be scheduled in conjunction with a regularly scheduled election (e.g. April, 2015).

1. Mayoral Voting; References to “Council” and “Governing Body;” Veto

A. Mayoral Voting

Current: The mayor can vote only on certain matters (e.g. charter ordinances, legislation where state law requires a vote of the ‘governing body;’ and where charter ordinance specifically allows the mayor to vote.)

Committee Recommendation:

1. Mayor votes on all matters, except for ordinary ordinances in which state law authorizes a mayoral veto. “Ordinary ordinances” are ordinances enacted pursuant to the City’s constitutional home rule power. These ordinances usually address matters not addressed in state law. (e.g. allowing service monkeys within city limits, approving local historic landmarks, regulating fire hydrants).

2. Change references in the charter ordinances from “Council” to “governing body.” This change would enable the Mayor to vote on issues now reserved only to the Council (e.g. establishing meeting schedules, electing a deputy mayor, appointing/terminating the city manager.)

If the Council adopts this recommendation and a subsequent charter ordinance, the electorate would have to approve the measure at an election. TMC A2-24(b)

B. Veto

Current: Mayor can veto all Council legislation in which the Mayor has no vote. Mayor can line-item veto in an appropriation ordinance.

Committee Recommendation: Repeal existing veto provisions and use the state law veto provision that allows the Mayor to veto ordinary ordinances. K.S.A. 12-3003.

If the Council adopts this recommendation and the subsequent charter ordinance, the electorate would have to approve the measure at an election. TMC A2-24(b)

2. Expanding Mayoral Functions.

Current: Council Rules provide that the deputy mayor presides at committee meetings comprised of all Council members (e.g. Budget, Committee of the Whole).

Committee Recommendation: Mayor would chair these committees. The Mayor would also review the budget and strategic plan and provide input to the governing body.

Comment: If this recommendation is adopted, it could be placed in the Council Rules rather than codified in charter ordinance.

3. Amend charter ordinance to be consistent with state law.

A. Forfeiture of Office. Sec. A2-29(b)

Proposed Change:

~~b) Forfeiture of office. A district Councilmember or Mayor shall ipso facto forfeit his or her office if he or she at any time during the term of office lacks any qualification for the office prescribed by this Charter Ordinance or other applicable law, or if he or she violates any other provision of this Charter Ordinance. A forfeiture does not occur if a district Councilmember no longer resides in his or her elected district as a result of redistricting.~~

Reason for the Change: This ordinance conflicts with state law as the ordinance purports to authorize the governing body to remove an elected official.

Only the electors and/or the Attorney General/District Attorney can remove a Mayor or Council member from office. Elected officials forfeit their office only in accordance with:

(1) state law through an ouster proceeding brought by the Attorney General/District Attorney; or (2) recall by the electorate. K.S.A. 60-1205; 25-4302.

Statutory grounds for ouster include: misconduct while in office, neglect to perform certain official duties; mental incapacity, and acts of moral turpitude. Statutory grounds for recall include: felony conviction, misconduct in office, and failure to perform duties prescribed by law.

If the Council adopts this recommendation, Legal would draft an appropriate charter ordinance for consideration by the governing body. Amendment would not require a vote of the electorate unless a successful protest petition is submitted.

B. Ordinance Format Sec. A2-30(d)

Proposed Change:

“(d) Form . Proposed ordinary ordinances and resolutions shall be introduced ~~in the Council only in written or printed form. No ordinary ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause of all ordinary ordinances shall be: “Be it Ordained by the Council of the City of Topeka, Kansas:”~~ Any ordinary ordinance which repeals or amends an existing ordinary ordinance or part of the Code of Ordinances of the city shall set out in full the sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.”

Reason for the Change. Changes are consistent with state law. K.S.A. 12-3004 addresses the one-subject requirement. The enacting clause provision conflicts with K.S.A. 12-3005 which prescribes the ordaining clause to read as follows: “Be it ordained by the governing body of the city of _____.”

If the Council adopts this recommendation, Legal would draft an appropriate charter ordinance for consideration by the governing body. Amendment would not require a vote of the electorate unless a successful protest petition is submitted.

C. Emergency ordinances. A2-30(f).

Proposed Change:

~~“(f) Emergency ordinances. An ordinary ordinance may be passed as an emergency measure on the day of its introduction if it contains a declaration describing in clear and specific terms the facts and reasons constituting the emergency. Neither an ordinance granting, reviewing, or extending a franchise, nor a Charter Ordinance, shall be passed as an emergency ordinance.”~~

Reason for the Change: State law doesn't allow 'emergency ordinances that become effective upon passage. State law prescribes the effective date of an ordinance as the date of publication in the official city newspaper. K.S.A. 12-3007. Emergency ordinances are a remnant from when the charter ordinance required that an ordinance be read twice in a Council meeting before final passage, with one week in between.

If the Council adopts this recommendation, Legal would draft an appropriate charter ordinance for consideration by the governing body. Amendment would not require a vote of the electorate unless a successful protest petition is submitted.

D. Publication; Effective Date of Ordinances Sec. A2-30(g) and (h).

Proposed Change:

~~(g) Publication. The City Clerk or such other city officer as the Council may designate shall cause all ordinary ordinances, as soon as practicable after they have been passed and signed, to be published once in the official city newspaper, unless Kansas Statutes or other applicable law require more publications. In lieu of publication of the entire ordinance, the City Clerk may publish a summary of the ordinance provided all of the following requirements are met:~~

- ~~(1) The publication is identified as a “summary” and contains notice that the complete text of the ordinance may be obtained or viewed free of charge at the City Clerk’s office or on the city’s website.~~
- ~~(2) The City Attorney certifies the summary of the ordinance prior to publication to ensure that the summary is legally accurate and sufficient.~~
- ~~(3) The publication contains the city’s official website address where a reproduction of the original ordinance is available for at least ninety days following the summary publication in the newspaper.~~

~~(4) If an ordinance is subject to a petition pursuant to state law, the summary shall contain a statement to that effect.~~

~~(h) Effective date. Except in the case of emergency ordinances, and except where Kansas Statutes otherwise specify, every adopted ordinary ordinance shall become effective upon its publication pursuant to subsection (g) or at any later date specified therein. Emergency ordinances shall become effective upon passage or at any later date specified therein.~~

Reason for Change: K.S.A. 12-3007 controls publication, ordinance summaries, and the effective date of ordinances. The current ordinance does not differ significantly from state law.

If the Council adopts this recommendation, Legal would draft an appropriate charter ordinance for consideration by the governing body. Amendment would not require a vote of the electorate unless a successful protest petition is submitted.

E. Signature, authentication and recording. A2-30(i).

Proposed Change:

~~(i) Signature, authentication and recording. All ordinary ordinances and resolutions passed or adopted by the Council shall be authenticated by the signatures of the Mayor and City Clerk or such other appointive officer as the Council may designate. The City Clerk or such other appointive officer as the Council may designate shall record in a properly indexed "Ordinance Book" kept for the purpose of every ordinary ordinance, immediately after its publication, or in the case of emergency ordinances immediately after passage~~

Reason for change: Strike-type section is redundant. K.S.A. 12-3008 requires that City Clerk maintain an 'ordinance book.'

If the Council adopts this recommendation, Legal would draft an appropriate charter ordinance for consideration by the governing body. Amendment would not require a vote of the electorate unless a successful protest petition is submitted.

4. Election of Council Members

Current: Each Council member is elected by the voters in the respective district.

Committee Recommendation: District council members will be elected by all city voters. This method of election is similar to school board elections.

If the Council adopts this recommendation, Legal would draft an appropriate charter ordinance for consideration by the governing body. Since this recommendation would require a change to TMC A2-21(a), it would have to be submitted to the voters at an election.

5. Governing Body Salaries

Current: The Council may establish or change compensation for the Mayor and Council members no more than every four years. (TMC A2-27) Since 2005, the Mayor's salary has remained at \$20,000 and Council member salaries at \$10,000. (TMC 2.15.010).

Committee Recommendation: The Council should consider increasing the salaries. This recommendation requires no change to the charter ordinance.

6. Consolidation of City/County Government

Committee Recommendation: Establish a long range planning committee comprised of City and County leaders to discuss consolidation and possible expansion of the County Commission from three to five members.

THE CITIZENS GOVERNMENT REVIEW COMMITTEE
REPORT



City of Topeka, Kansas
May 20, 2014

 CITIZENS GOVERNMENT REVIEW COMMITTEE

 FINAL REPORT

2014

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CITIZENS GOVERNMENT REVIEW COMMITTEE

FINAL REPORT

2014

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Presented by:

CITIZENS GOVERNMENT REVIEW COMMITTEE 2014

Jim Reardon - Committee Chair *(City Council District No. 6 Nominee)*

Jim is a graduate of Washburn University Law School. He is president of Peoples Wealth Management LLC investment advisors. Jim was a Topeka City Council member for 12 years and a former division director at the Kansas Dept. of Administration.

Judy Anderson Moler - Committee Member *(City Council District No. 9 Nominee)*

Judy is an attorney with extensive experience in local government law. She worked for the City of Wichita and the Kansas Association of Counties. She has served on the Mayor's Commission for the Status of Women and is a member of the League of Women Voters of Topeka-Shawnee County.

John Nave - Committee Member *(City Council District No. 4 Nominee)*

John served on the city council from 2003-2007. He was also on the Citizen's Government Review Committee that proposed our current form of government. He works for Goodyear Tire & Rubber Co. He is a graduate of Leadership Topeka 2001 and has served on various boards including United Way, Golden City Sertoma, Red Cross of Topeka, and Living the Dream, Inc.

Maynard Oliverius - Committee Member *(City Council District No. 7 Nominee)*

Maynard is a graduate of Fort Hays State University and the Master's program at the University of Minnesota. He served as President and Chief Executive Officer of Stormont-Vail Healthcare from 1996 until his retirement in 2012. He serves on several boards and Foundations including the Topeka Community Foundation; Security Benefit Fund Board, and the Stormont-Vail HealthCare Foundation Board.

Tina Williams - Committee Member *(City Council District No. 1 Nominee)*

Tina Williams, M.S., Ed., was a Spanish Language and English Language Learner Instructor for 10 years. She is currently an administrator at Washburn University in the Office of International Programs. She is the President of MANA de Topeka and active in community affairs.

PART ONE

REVIEW AND RECOMMENDATIONS

I. INTRODUCTION

“There is no ‘wrong’ form of government, it is only wrong if it is not working for the community it is being used in.”

—Don Moler, former Executive Director of the League of Kansas Municipalities

The Citizens Government Review Committee is impaneled to study and review the form of government of the city of Topeka and make recommendations to the city’s government body for amendment or modification. To our knowledge, this is the third Citizen’s Review Committee authorized by Resolution of the City Council/Governing Body.

We found many positives about the current form of government and the men and women who are entrusted with the governance of our community. We heard few actionable complaints in the two public hearings held at the Topeka Public Library or from the interactive internet connections established through Mayor Larry Wolgast’s office; through the City website; or by council member invitations to constituents.

As this report reveals, we received many thoughtful written and spoken recommendations from conferees who attended our committee meetings and citizens who attended our public hearings. Many of these recommendations have been incorporated in our recommendations herein. Several City Council members and Mayor Wolgast attended our sessions and provided helpful insight as well.

We did become aware of some common and recurrent themes or concerns from the public which have led to some of our recommendations. We also learned of areas of internal concern that need to be addressed by changes to the language to the Charter Ordinance and by clarifying the roles of our elected officials. These are identified and addressed in Section IV: Areas of Concern.

II. HISTORY

1983 Citizens Advisory Committee of Forms of Government

The first citizens committee was charged with researching the different forms of government and recommending what they considered the best form for Topeka. There were 16 members selected by the 5 members of the governing body (4 commissioners and the mayor) one representative from eight community groups and one member from each of the 3 Topeka senatorial districts.

The committee held six public hearings throughout the city and met weekly from August 1983 through March of 1984. The committee recommended the adoption of a new form of government—the Strong Mayor/Council/Chief Administrative Officer—which was placed on the November 1984 ballot. The measure passed and the new form of government began in April 1985.

1990 Topeka Charter Ordinance Review Committee

Pursuant to 1988 Ordinance, requiring the convening of a citizen review committee before July 1, 1989 and every 10 years thereafter, the Council impanelled committee to review the City's form of government. The committee was comprised of 15 members: 3 selected by the Mayor, one representative appointed by each of the nine Council members, and 3 at-large members selected by the other committee members. Thirteen committee meetings were held between August 1989 and April 1990. The major issue appeared to be the need to clarify the role of the mayor and council. The governing body adopted some recommendations and rejected others.

Discussion: The Strong Mayor/City Council Form of Government

Doug Mays, former City of Topeka Councilmember, told the 2014 committee he ran for the first Topeka City Council because people were fed up with the Commission Form of Government and wanted local government to be more responsive. He said the hybrid Strong Mayor/Council Form of Government seemed intriguing, and he wanted to be a part of it. He noted it was a wonderful experience to serve under the new form of government with a clean slate; however, system flaws developed early in the Strong Mayor/Council Form of Government. After approximately two years it was apparent the mayor was given too much power which continued to show in years to follow.

“Topeka is a collection of neighborhoods, which has hurt Topeka in the past and still continues to do.”—*Doug Mays former City Councilman*

Mr. Mays said over time it became apparent that Topeka was becoming more and more parochial rather than a city of the whole. The Strong Mayor/Council Form of Government created a problem for the chief executive officer because this person had no basic power, and the mayor called all the shots, which is why it is so important to define the role of the mayor in the current form of government.

1999 Citizen's Review Committee

This committee was impanelled by Resolution and adopted by the City's governing body on September 22, 1998. The committee met weekly from September 1998 through May of 1999. One televised public hearing was held. The committee solicited advice from current and past City office holders, current and former department heads, representatives from business and labor and final citizen input. The committee recommended numerous changes to the charter ordinance and urged the governing body to initiate action to consolidate the governments of the city and county. None of the recommendations were adopted by the governing body.

However the matter of consolidation (i.e. unified government) did come to a vote. Despite community wide support of the proposal and an ultimate vote at the polls that carried 70% to 30% of all voters but the measure was doomed to fail by the adoption of “dual majority” voting requirements (requiring that the measure must be passed by a majority of votes cast in the county as well as in the city. This measure was determined by the Kansas Legislature and supported by the Shawnee County Delegation.

Consolidation of city-county governments requires approval of the state legislature.

Former City Councilman and former Speaker of the House Doug Mays attended Public Hearing No. 1 and summarized the provisions of House Bill 2185, Topeka/Shawnee County consolidation proposal approved by the Kansas legislature.

Mays reported that while the bill provided for one “unified” government, the boundaries of the city would have still existed. The governing body would consist of five (5) commissioners to be elected by district; the city council would determine bonding responsibilities for any project located within city boundaries and the bonding for the County would be decided by the commissioners. The bill called for the consolidation of services “wherever possible.”

He stated the voters passed the proposal in the city; however, it failed because the majority of voters in the county were overwhelming against it. He said that a dual majority is very difficult to acquire. He noted that legislation led to the assumption of public health services from the City by the County; the voters of Topeka and Shawnee County created the Topeka and Shawnee County Public Library; and the City and County Parks & Recreation Departments are undergoing a merger.

In 2005 The Council/Manager form of government became effective.

The passage occurred in response to concerns expressed by a combination of business leaders, community leaders, and elected officials who wanted the governing body to end what seemed to be personality clashes and move forward in a more progressive manner. The committee was briefed on the decisions recommended, and the actions taken by the Governing Body in 2004 by former City Council member Lisa Stubbs, an advocate for the change, and Committee member John Nave (who was also a council member at the time of the change to the current form of government).

The subsequent meetings led the governing body members to adopt the Council-Manager form of government in 2004. As a result of the transition to the City-Manager Form of Government and the transfer of duties to the City Manager, the Mayor’s salary was substantially reduced.

It was anticipated that the role of the Mayor would be diminished by the transfer of administrative duties to the City Manager and as a result the Mayor’s salary was very substantially reduced.

The 2014 Citizens Committee to Review the Form of Government for the City was established by an ordinance established October 13, 2009 which replaced the 1988 ordinance and requires that a committee be impaneled before July 1, 2015 and every 10 years thereafter. The current committee of five citizens was selected by the City’s Governing body from numerous applicants.

III. COMMITTEE PROCESS AND METHODS

Throughout its work the Committee benefitted from the professional staff that coordinated and attended all of the meetings. Assistance was provided by Vicki Buening, assistant to Mayor Larry Wolgast, who prepared agendas, coordinated communication with the public and press and made arrangements for the facilities to accommodate our meetings; and Brenda Younger, Topeka City Clerk who researched information from other cities, provided verbatim minutes and who captured lengthy public comments flawlessly.

Also assisting the committee was Deputy City Attorney Mary Feighny who helped define the scope of the committee's inquiry and explained the workings of Kansas Statutory law as it applies to the Charter Ordinance of Topeka.

The Citizen's Review Committee held its initial meeting on January 23, 2014

The Committee decided to schedule regular weekly meetings in the 1:00 to 3:00 pm time period each Thursday. In completing its assignment the Committee has held 11 separate meetings and 2 public hearings.

IV. AREAS OF CONCERN

i. No Clear Direction

The committee's January 30th meeting featured a presentation by Don Moler, former Executive Director of the Kansas League of Municipalities who briefed the committee on the different forms of government in Kansas. Moler expressed concerns in regard to language in the Charter Ordinance which may run counter to state law or be ambiguous.¹

In his briefing, Don Moler identified what is perhaps the main area of concern:

The general term of "the Mayor and District Council members" is used frequently throughout the charter ordinance. Mr. Moler believes that Topeka may have the only charter ordinance in the state (and possibly the nation) written in this manner. He believes that the language contributes to misunderstandings and leads to an unintended divisive relationship.

Mr. Moler suggested that the committee consider the roles of the Mayor and Council members in terms of the "Governing Body."

In Topeka the Mayor is not thought of as just a figure head (regardless of what might have been the intent of the 2004 actions). In Topeka, the Mayor has a part to play that should make him/her the focal point of the Governing Body.

The Charter Ordinance was written in a way that creates unnecessary tension in the city government because there is no clear direction as to the roles of the Mayor and Council members as a Governing Body.

Moler says that the League of Kansas Municipalities believes that for the purposes of the Charter Ordinance the Mayor has a vote because the Charter Ordinance references the "governing body" and the mayor is considered part of the governing body. Moler stated that trying to limit the mayor's authority to vote may violate statutory authority.

Comment: Former Mayor William "Bill" Bunten discussed a drafting flaw and legal decision that casts doubt on the legality of the current ordinance. An interpretation in 2004 by the City

¹ More discussion can be found in this report under *Areas of Concern*.

Attorney denied him the opportunity to vote on the ordinance. This left the measure short of the required votes necessary to pass a Charter Ordinance. A subsequent Attorney General's Opinion declared the Mayor a member of the "governing body." Therefore, his favorable vote was required in order to achieve a majority vote.²

In his February 6th presentation, Former Mayor William Bunten told the committee:

"Another concern I had was that the duties of the city council were not to be found beyond Section 12, Subsection 1 and 2 on page 11, establishing a meeting time and electing a deputy mayor. You might respond that council members do vote on legislation, but they vote as members of the governing body, for it is the governing body which is vested with the 'power of legislation'...and that body currently includes the mayor. I believe the mayor should not be voting on legislation which he or she is empowered to veto."

In his February 13th discussion Mayor Larry Wolgast confirmed the drafting problems. Currently, the mayor is a member of the governing body and not a member of the council. Some items require a vote of the "governing body" and others a vote of the City Council.³

He sees the council and mayor as a "working unit" rather than assuming adversarial roles. He believes the current process and terminology is confusing for council members and for the public. He recommended that "the governing body" be the primary term used in the Charter.

Committee member John Nave was a City Council member at the time the current language was drafted. He reported that the language of the Charter Ordinance was approved by the City Council as a result of numerous meetings held in 2004 in response to concerns expressed by a combination of business leaders, community leaders and elected officials who wanted the city to move forward in a more progressive manner. He said it is now apparent the charter ordinance was crafted in a unique manner and is a hybrid to Topeka. Because of this, he said it is time to review the need for change or revision, specifically in regards to the districts (size/amount/election process); and to clarify the Mayor's leadership role because citizens in Topeka look to the Mayor for leadership and consider the mayor to be the presiding officer of the Governing Body.

All of this has led the committee to the realization that the attempt to diminish roles of the governing body (which was undertaken by popular request in 2004) resulted in the adoption of charter language that is vague and has created uncertainties. It likely that the current language is out of step with certain provisions of state law. For this reason, we suggested that more appropriate language be drafted and proposed for consideration by the governing body. Mary Feighny's draft is included in the Appendices.⁴

Comment: Doug Mays, former Topeka City councilman and legislative council to the City of

² See Attorney General Opinion No 2005-18 at Appendix No 1

³ For a better understanding of the matter of when the Mayor may or may not vote, see the Memo prepared by Deputy City Attorney Mary Feighny at Appendix No 2.

⁴ See Appendix No 3

Olathe, suggested that the committee study the Olathe Charter ordinance which changed that city's form of government from a council-mayor type of government to a *modified mayor-council-manager* form of government.

As the roles of the mayor and council members have become more harmonious, it is time to recognize the fact that a well-run city requires a united governing body, sharing responsibility and acting as one to give direction and purpose to the City Manager.

ii. At-Large Representation

Councilman Schmidt encouraged the Committee to look at how the charter could be used by the governing body to be more responsive to the needs of the city as a whole. He stated that he believes nine (9) districts provide sufficient representation of the entire city. He urged the committee to consider the matter of at large representation.

Neil Dobler former City of Topeka Acting City Manager appeared in his role as Board Chairman of the Greater Topeka Chamber of Commerce. He stated there is strong support of the current form of government. He indicated that there is also public support for changing council district representation to include at-large districts. He recommended that 7 council members represent the districts and 2 at large members to be elected at large.

Former City Administrator **John Arnold** spoke to the Committee on February 27th. He told the committee that over his career he worked in 10 cities, and every one of those cities had some form of at-large representation.

Comment: Mr. Dobler and Mr. Arnold recommend a mix of at-large and single-member district Council members. The committee noted that Olathe and the Unified Government (Kansas City Kansas/ Wyandotte County have two at-large Council members.⁵)

“..When candidates run for at-large positions, they raise issues that are broader in scope; issues that affect the entire community.”—Testimony of Allyn O. Lockner

The committee considered well-researched arguments for the mixed at-large system (and other topics) presented in a paper by **Mr. Allyn Lockner**. Sometimes, district elected members may choose to subordinate citywide concerns in favor of parochial interests. It was decided that the time has come to introduce the at-large concept.

Mr. Lockner identified two situations when problems can arise in mixed at large systems:

- When at-large positions are perceived by the Council (or the public) to be superior to that of district members
- When at-large candidates are perceived to be rivals to the mayor

In the end, the committee decided that the “School Board” voting method treated all council members equally; placed them all on the same level; accomplished the ends of community wide representation and offered the path of least resistance to implementation.⁶

⁵ Brenda Younger, Topeka City Clerk compiled an excellent comparison chart detailing the number of representatives in each elected body including those elected at large. See Chart at Appendix No 4.

iii. Election Dates

The committee considered suggestions from former Mayor Bunten and public commentators that voter turnout would be larger if City elections were held in August and November in conjunction with other elected officials rather than in February and April.

The League of Women Voters of Topeka-Shawnee County and the League of Kansas Municipalities (LKM) strongly oppose this suggestion.

Although the purported purpose is to increase voter turnout, the LKM indicates that moving elections to November of odd-years will have little impact on voter turnout with only a 10% increase in voter turnout being documented in those states that have implemented the change.⁷ Proponents claim turnout will increase because weather conditions are better in November than in April, but average temperatures and precipitation for early April and November are virtually identical.

What the LKM does not talk about in their position piece is the concern that local elections will be totally overshadowed by the heavily financed and intensive state and federal races. They fear that candidates for city elections will become for many voters, unknown names at the end of the ballot.

It appears that the municipalities are happy with the election system as it exists. We saw no good reason to change it.

⁶ For a well-researched paper on Voter Selection of Council Members and the Role of the Mayor in Budget Development see Improving City of Topeka's Council-Manager Form of Government by Allyn Lochner at Appendix No 5

⁷ For LKM position paper see Appendix 6

V. RECOMMENDATIONS: CITY OF TOPEKA GOVERNING BODY

The Committee agreed to the following by unanimous consent:

Sec A2-4. Form of Government

The Committee:

Supports the Council—Manager form of Government.

Sec. A2-21 Composition

The Committee Recommends:

That all 9 districts are retained and that all district representatives have equal voice, vote and power on the Governing Body.

Comment: This information was shared by former Mayor Doug Wright. *“Prior to 1985 no women and no one east of MacVicar was part of the governing body. The geographic district system allows everyone to feel like they have a voice. Every citizen in Topeka has someone on the city council they can talk to in this form of government.”*

While the number of Council members in Topeka is larger than most (but not all) Kansas cities, most of the council members and a number of the public commentators expressed satisfaction with the current average ratio of one council member to 14,500 constituents. City Manager Jim Colson indicated that he has no problem with the current number, and he said he has worked with larger Governing Bodies in other cities.⁸

Voting Powers

The committee recommends:

That all ten Governing Body members will be voting members with the exception that the Mayor will not have a vote on any matter upon which he/she has been given veto power by operation of law.

Eligibility of the Governing Body

The committee recommends:

That Governing Body members be elected on a nonpartisan basis.

Comment: It is noted that a current state initiative seems designed to turn local elections into partisan elections, to which there is great resistance by The League of Women Voters of Topeka-Shawnee County and the Kanas League of Municipalities as well. We believe that combining city elections with other elections that are partisan does not seem to be a good idea.

That all members continue to stand for election every four years on a staggered election basis.

⁸ For a Comparison Chart of surrounding governing bodies See Mayor Wolgast Chart at Appendix 7

Comment: Topeka citizen **Jason Fizell** pointed out that there is an unfairness built-in to the current system that he believed should be corrected. Namely, the Mayor is elected to a four-year term in the same election as odd-numbered council district seats. Thus, any council person holding an odd-number district seat must give up their seat to run for mayor while a council person in an even number seat does not.

Mr. Fizell offered two solutions. 1) Require even number district council people to relinquish their seat if they run for mayor. 2) Make the mayor's term six years so that odd numbered districts would stand for election with the mayor during the one election cycle and the even numbered districts during the next.

That Primary and General elections continue to be held at the current election dates.

Comment: Former Mayor Bunten and others argued in favor of holding city elections at the same time as statewide elections. A move to August and November would disrupt the traditional budget cycle for cities and schools and complicate the timing of financial interest reports required to be filed by Kansas officials. According to the League of Women Voters, the city governing bodies and school boards in the state overwhelmingly favor continuing 153 years of spring elections.⁹ We see no reason to disagree.

Method of Election¹⁰

The committee recommends:

That the Governing Body be a 10 member body consisting of 9 members running for election from the council districts where they reside and a Mayor who resides in the city and is elected at large. During a primary election held within the district, the two nominees from each district receiving the greatest number of votes within the district will stand for election in the General election on an at-large basis.

Comment: Proponents of this recommendation used the USD 501 School Board Member elections as an example. School Board candidates file for office and run in the primary election by district with city wide voters choosing one of two candidates from each district. While other methods of running at-large were considered by the 2014 Committee they required changing the composition of the districts or creating two classes of elected governing body officials.¹¹

One downside with this this recommendation is the possible increase in expense for the candidates to get their campaign messaging out to the entire city and not just their district. Another downside (pointed out by Councilman Schmidt) is that a candidate could win overwhelmingly in his/her district and yet lose out in the general election.

⁹ For further discussion see *Areas of Concern*

¹⁰ See Election Terms and Timelines Chart prepared by Brenda Younger, City Clerk at [Appendix 8](#)

¹¹ For further discussion see *Areas of Concern*

Sec. A2-25. Powers of the Governing Body

The committee recommends:

Changing references to “Council” or “Councilmember” to “Governing Body” and “Governing Body” member. The committee would retain the language indicating that the Governing Body will have no administrative powers.

Modeling the City’s organizational structure as follows:

The Governing Body is the equivalent of the City’s Board of Directors, and the Mayor is the equivalent of the Chairman of the Board. The City Manager is the equivalent of the City’s Chief Executive Officer tasked with administrative duties including carrying out the policy, legislation, ordinances, strategic plans and budgets approved by the Governing Body.

Comment: The city is organized under a corporate charter and Committee member Maynard Oliverius, a long time corporate executive, pointed out that the current structure is similar to a traditional corporate model.

The following elements are recommended by Council Member Karen Hiller to be included in the City Manager’s Strategic Plan:

- **Collaboration**
- **Integrity**
- **Accountability**
- **Professionalism**
- **Transparency**

It was suggested that the Strategic Plan express community values in the form of:¹²

- **Mission Statement**
- **Vision Statement**
- **Goal Statement**
- **Values Statement**

Mayor: Functions, Powers and Duties of the Mayor

The committee recommends:

That the Mayor serves as the presiding member for the purpose of conducting the business meetings of the city. As such, the Mayor would chair committees of the entire body, such as the budget committee and the committee of the whole.

That the Mayor shall review the budget and strategic plan prepared by the City Manager and provide input and recommendations to the Governing Body.

¹² As recommended by former council member Lisa Stubbs

Comment: This idea was first suggested at the public hearing by Mr. Allyn Lockner who saw the need for the Mayor's review prior to presentation to the Council. It was also mentioned by Council Member Karen Hiller, former Mayor Bill Bunten and by Mayor Larry Wolgast.

Modifying current Charter Ordinance language to allow the Mayor to vote on all policy, ordinances, legislation, budgets and other matters, except where the Mayor has veto power expressly mandated by State Statute.

Comment: The committee expressed support for adopting language regarding the Mayor as similar to that outlined in City of Olathe Charter Ordinance No. 28, Section 2.4:

"He or she shall represent the city Governing Body at all official city functions, and shall be the official representative of the Governing Body at all meetings, conferences and negotiations relating to policy matters involving other governmental units and shall recommend Governing Body action relating thereto.

The mayor shall be the official representative of the Governing Body at all conferences and meetings with citizen groups and organizations interested in promoting the welfare and development of the city, and shall recommend Governing Body action relative thereto. The mayor may inform the Governing Body concerning questions and policy, and may make policy recommendations to the Governing Body. The mayor shall be empowered to call special meetings as provided by law."

The committee recommends:

The governing body adopts language drafted by Deputy City Attorney Mary Feighny to bring the Topeka Charter Ordinance into compliance with State law.¹³

VI. OTHER RECOMMENDATIONS

The committee recommends:

That a long range planning committee made up of city and county leaders be convened for the purpose of resolving issues and implementing a workable plan to consolidate city-county government.

"Boundaries become barriers in regards to consolidation of government. If you want to consolidate, you will need extensive information on how counties operate today and in the past." --Joe Swalwell former Executive Director, Downtown Topeka

Comment: The idea of a long range plan was presented by former Downtown Topeka Executive Director **Joe Swalwell**. Swalwell referenced a detailed discussion of Shawnee County government written by the late **E.A. Mosher**, long time executive director of the League of Kansas Municipalities.

¹³ Comprehensive language changes can be found at Appendix No. 3

The report pointed out that Shawnee County is the hub of commerce for the surrounding 14 county region and it is critical that Shawnee County governing officials work together to maintain that position and to consider how to best accommodate this transitory demand on our facilities and resources. This seemed to provide a new approach to the continuing community interest in governmental consolidation since planning for the future holds no imminent jeopardy it offers the hope of future compromise and accommodation.

Recommends that the long range planning committee consider expanding the number of Country Commissioners from 3 to 5 in order to facilitate better communication among members, to provide broader representation of community interests.

Recommends that salary increases be implemented for Governing Body Members.

Comment: It should be noted that pay for Council members and Mayor was last discussed in 2004.

The committee expressed particular concern that the current low Mayor's salary (which was drastically reduced in 2004) will discourage many capable citizens from considering service as the presiding officer of our Governing Body.

Salary for public service is a complicated issue and there are many pros and cons. As former council member Lisa Stubbs pointed out: these positions were intended to be driven by a desire to do public service, not to serve as a career path. (Although it was noted that several council members have pursued other avenues of public service such as legislators or agency heads).

Public service as a Governing Body member is not an invitation to assume administrative duties or to micro-manage the city staff. Nevertheless, the Governing body responsibilities have increased over the years without as much as a cost of living increase for more than a decade. Governing Body Member salaries (like all other governing body salaries) should have at least, a periodic cost of living adjustment.

PART TWO

MEETING SUMMARIES

The committee's January 30th meeting featured a presentation by Don Moler, former Executive Director of the League of Kansas Municipalities who briefed the committee on the different forms of government in Kansas; how the term "Home Rule" relates to city government and the importance of the Charter Ordinance. Moler expressed concerns in regard to language in the Charter Ordinance which may run counter to state law or be ambiguous.¹⁴

February 6, 2014. Former Council Member **Lisa Stubbs** presented a review of the recommendations made by the 2nd Citizens Review Committee and the subsequent passage of the City Manager form of Government in November of 2004 by a 2 to 1 margin. Here is a summary of her discussion:

¹⁴ More discussion can be found in this report under *Areas of Concern*.

“There is no perfect form of government. What we passed in 2004 was an improvement. The most important thing that we can do is make it possible for constituents to be informed and involved; and to elect quality people as our elected officials who have the best interest of our community in-mind.”

The committee also heard from former Mayor **William “Bill” Bunten**. Mayor Bunten outlined a drafting flaw and legal decision that cast some doubt on the legality of the current ordinance. He also noted that the governing body had the “power of legislation”—not the city council. So the mayor had a vote as a member of the governing body to vote on legislation and also the power to veto legislation. Nowhere in the charter ordinance was the council given the power to override a mayoral veto. The result of this flaw left the “weak” mayor with the power to vote on legislation, veto legislation, and the council couldn’t do anything about it. He said the ordinance as written didn’t create a “weak” mayor, it created a possible despot.

While the ordinance was later changed, his commentary pointed out the hasty drafting that implemented the ordinance. Mayor Bunten said that the only duties specifically spelled out for the city council was to establish meeting times and elect a deputy mayor. Other key recommendations:

- Provide fiscal officer for mayor and council
- Hold elections in conjunction with state election dates in August and November
- Review compensation for Council and Mayor
- Vest the council with the “power of legislation” not the “governing body.”

Mayor Bunten also recommended several procedural matters and mayoral duties.¹⁵

February 11, 2014. The Committee met with the Topeka City Council in order to receive commentary and to outline the method of procedure.

February 13th meeting featured a discussion with **Mayor Larry Wolgast** regarding respective roles of the Mayor and Council members. The mayor described the ambiguity he found in in the Charter language, and he encouraged the committee to review the mayor’s duties and the mayor’s role. He suggested the term “strong” or “weak” mayor not be used to define the role of a mayor. He said the powers and duties of the mayor, council, city manager and deputy mayor need to be more clearly defined.¹⁶

Mayor Wolgast pointed out that currently, the mayor can veto council legislation unless Kansas law gives the mayor a vote; however, the mayor votes on appropriation ordinances but also has the right to line-item veto specific items in the budget, a confusing process that should be clarified. The mayor emphasized that he believes veto authority takes away the legislative aspect of city government. He said it would not be his desire to exercise veto power and he expressed

¹⁵ Bill Bunten’s comments in their entirety are on file at the City Clerk’s Office.

¹⁶ Lacking sufficient guidance from the Charter, Mayor Wolgast refers to Topeka Municipal Code Section A2-24: Mayor—Functions powers, and duties.

(a) *The Mayor shall be the chief elected officer of the city, responsible for providing leadership and taking issues to the people and marshalling public interest in and support for the municipal activity.”*

the importance of working with the council and sharing their views. The committee with the help of the City Attorney determined that veto power has rarely been used in the past.¹⁷

Councilmember Nathan Schmidt (District 8) attended the meeting and he was asked for his input. Councilman Schmidt indicated that he strongly supports the mayor serving as the lead member of the council and having equal legislative authority, as well as having authority to make appointments to boards and commissions. He urged the committee to consider how to make sure the governing body represents the city as a whole as well as the respective districts. He urged the committee to consider the matter of at large representation.¹⁸

February 20, 2014. Two public meetings were held at the Topeka/Shawnee County Public Library¹⁹

Meeting of February 27, 2014. The committee welcomed City of Topeka City Manager Jim Colson, former City of Topeka Chief Executive Officer John Arnold, and former City of Topeka Mayor Doug Wright as conferees and they invited the input of former Executive Director Joe Swalwell of Downtown Topeka, Inc who was in attendance.

Note: *We have chosen Mr. Colson's remarks for the Concluding Comments portion of this report.*²⁰

Joe Swalwell, former Executive Director for Downtown Topeka, Inc., referenced a study written by Ernest A. Mosher, "Shawnee County Governance: Past, Present and in the Future" and made the following statements:

Boundaries become barriers in regards to consolidation of government and if you want to consolidate you will need extensive information on how counties operate today and in the past. Topeka is the center city gravity for surrounding communities and this factor should be used to our advantage.

Mr. Swalwell emphasized the need for better communication with city and county residents without creating anxiety because of fear of losing jobs, as well as, loss of equality of wages and duties. Any necessary training of employees should be in collaboration with local schools and attrition should be reviewed very carefully.

He suggested developing a round table discussion with Shawnee County leaders to develop a long-range study that would outline different consolidation scenarios including how consolidation could save money.

He suggested the council extend the city limits if overall costs of city government are to be reduced. He discouraged the council from altering city sales tax because people from surrounding cities and counties pay this tax and help fund infrastructure maintenance.

¹⁷ For a better understanding of the Mayor's Statutory Veto Powers see Appendix No 2

¹⁸ For further at-large discussion see Areas of Concern. For addition remarks from Mr. Schmidt See City Council Interviews at Part 4

¹⁹ See Public Hearings Section of this Report. P. 21

²⁰ See page 27 of this Report

“Leadership is defined by action—the act of getting people to work together.”—John Arnold

John Arnold, former City of Topeka Chief Executive Officer, reported he has over thirty years of experience in local government, ranging from being an employee to managing nine organizations with 75 to 1300 employees. He made the following observations:

Arnold said the City Manager Form of Government seems to be working. He said in the City Manager Form of Government, the role of the governing body is to engage the public. Action is hindered in the City of Topeka because the mayor is not a full-time voting member of the council. This tends to inhibit the elected governing body from working together. The mayor’s voting rights must be clarified because state law is not understood. He noted it has been unclear since 2004 when the charter ordinance was drafted.

He believes there are too many council districts. He says seven (7) is a better number with some being elected at-large. In his experience, seven (7) districts is a very workable number with four (4) elected by district and three (3) elected at-large. All the cities he has worked for included district members elected at-large; however, it always is a matter of opinion as to what is the best option for elections.

He said that the practice of referring matters to committees tends to slow down the progress of city business. He said it appears the City wants to operate like the State and he noted two former mayors (William Bunten and Joan Wagon) have been former legislators.

Doug Wright, former City of Topeka Mayor and City Attorney. Mr. Wright served as the City Attorney during the Commission Form of Government, and was also the first Mayor when the City of Topeka changed from the Commission Form of Government to the Strong Mayor/Council Form of Government. Doug Wright stated he would provide a historical perspective as an observer of city government:

He said the Commission Form of Government proved to be an unfair system because four (4) out of the five (5) commission members were of the same ethnic race and from the same geographic area of the city. The current process of district elections should remain due to past statistics so everyone has a voice in local government and is provided the opportunity to communicate with a council person they can relate to. He cannot think of anything that would not apply to the entire city as a whole; therefore, he believes district elections are a good fit for Topeka. He said the mayor needs clearly defined powers because it is important for the community to look to a leader that has authority.

Review Committee Work Session-March 13, 2014

Council member **Karen Hiller** said the City of Topeka Charter Ordinance is sort of like a constitution. It should include core values and key non-negotiable ways of doing business. She briefly highlighted what she would like reviewed in the current charter:

- Mission and Vision for the city should be included;
- Language regarding excellence, long-range strategic plans and goals, performance-based, transparency and inclusiveness should be included;

- Role of the mayor is included, however, vote and veto issues need to be resolved;
- Role of the deputy mayor is included; however, the roles of city manager and other council staff hiring and review processes need to be addressed;
- Preparation of staff organization chart by the city manager is included and approved by the council; however it has not been followed;
- Annual report of financial condition and administrative actions by February 28 has not always been followed;
- Annual audit engaged by and reported to the council should be included;
- Agenda items should be provided twelve (12) days in advance notice as indicated in the Council rules;
- Emergency ordinances language allows them to be introduced and passed in the same day; however, she is not sure if this has ever happened;
- Regarding board and commissions she recommended consideration be given to specifying that the described procedure would apply to all appointments, not just those for City-created boards.

Comment: Committee members felt that this degree of specificity would not be included in a document similar to a constitution. A better place for this procedural detail would be a *policy manual*.

Councilmember **Nathan Schmidt** made the following statements:

He advocates making the mayor a full voting member of the council with legislative duties. The mayor's role should be similar to the Speaker of the House, with no veto power. The mayor should be elected at-large completing a ten (10) member city council.

Sylvester Zollicoffe, a member of the public appeared and spoke in opposition of changing the council districts. He stated he believes the mayor should have veto power and no voting rights. He stated he supports district representation only and believes the city needs to conduct more town hall meetings with the city manager and council members. He stated he supports only making technical changes to the charter ordinance.

Review Committee Meeting – March 20, 2014

Mayor Wolgast briefed the committee on **House Bill 2227** a proposal to move municipal elections to the fall (August and November) of odd-numbered years. Mayor Wolgast stated many city officials and school board members strongly oppose the change. He distributed a handout from the League of Kansas Municipalities expressing their concerns regarding the change in local elections, and why there is opposition to the bill throughout the state based on the following concerns:

- Political association would be required to be listed on the ballot;
- Transitional issues would impact all city officials (approximately 3,800) in the state of Kansas;
- Legislation would not make local elections partisan; however, the bill would give partisan officials the authority to fill vacancies on governing bodies;

- The bill would disrupt the budget cycle for cities by making the terms of elected officials to begin in January;
- The change complicates the many statutory requirements of local elections across the state;
- Increasing voter turnout is the purported purpose of the bill. Research indicates that moving local elections to the fall will have little impact with only a 10% increase in voter turnout being documented in those states that have implemented the change.

March 27, 2014 Review Committee Meeting

The Committee held a work session to discuss the content and structural development of the Report

Review Committee Meeting April 17, 2014

The Committee held a work session to review the first draft of the Report

Review Committee Meeting April 24, 2014

The Committee held a work session to review an updated draft of the Report.

Review Committee Meeting May 1, 2014

The Committee met to approve the final draft of the Committee Report

PART THREE

PUBLIC HEARINGS

Two public hearings were scheduled on **February 20, 2014** at the Topeka / Shawnee County Public Library.

Public Hearing No.1 1:00 P.M.

Frank Hoge stated he has lived in a neighborhood located close the Washburn University for the past 20 years. He has remained active in efforts to rebuild and renew neighborhoods. He stated things have changed a great deal from the past, and problems cannot be solved if new things cannot be thought of to help fix the problems, improving the overall city.

Marge Ahrens, spoke on behalf of the League of Women Voters (LWV) of Topeka and Shawnee County in the absence of MaryAnn Quilty, President of the organization who was ill. She stated the LWV does not support political parties or candidates; however, the LWV does promote the act of participation by citizens in government and educates people on those issues.

LWV indicated that they support the City Manager Form of Government with clear responsibility to appoint and supervise administrative personnel, as well as, the notion that elected officials should serve as policy makers and not interfere with the daily operations of the

City. She stated they are very concerned about the lack of public funds for services that they value.

LWV supports the core development of the city and sales tax incentive at its inception because it generates money to help develop the city. She said that while LWV supported GO Topeka being used as the economic development arm of the city; she cautioned that there is no oversight of funds, limited public participation and no measurable results from the services. She noted they purposed that a study be conducted of economic development and the effectiveness of GO Topeka.

Teresa Miller expressed concern with the Citizen Government Review Committee being selected by the Mayor and believes it is a conflict of interest. She stated there appears to be a power struggle between the Mayor and City Manager at this time. She spoke in support of consolidating city and county governments. She stated she supports how the City Manager is managing funds right now and noted the voters decided the current form of government, and it is slowly getting better.

She expressed concern that the past two council members that have represented Council District No. 2 not being from the north Topeka area. She requested that the City add a representative to the governing body to represent north Topeka.

John Jackson stated that he supports the current form of government and believes the City Council should continue to direct the City Manager on how to run the city. He stated he has tried to contact the Mayor and City Manager with no luck; therefore, he believes they should not reduce the number of council districts because people need a way to communicate with local government. He would support the same number of council districts or an increase in council districts.

David Cullip stated he supports the current structure of the Council and believes it provides excellent representation of citizens. He stated he supports 9 council districts because it allows representatives to interact with citizens. He said Topeka needs to work harder as a leader in promoting Kansas and set an example because Kansas is a strong state with a lot to offer.

He also expressed the importance of city and county leaders working together to find solutions and figure out a way to merge city and county government successfully because progress is stalled due to the repeated arguments between elected officials.

Kevin Dalton expressed concern with the current role of the mayor and believes it needs to be better defined in regards to voting and veto authority. He spoke in opposition of increasing the number of council districts because it could get cumbersome and difficult for elected officials to come to an agreement. He spoke in support of reducing the number of districts to six (6) and keeping the nine (9) district members. He explained there would be one representative elected from each six (6) districts and three (3) representatives elected at-large making a hybrid that works for Topeka.

He suggested increasing the number of county commissioners for better representation.

Allyn Lockner presented the committee with a paper based on research on the form of government he has compiled over the past 10 years. He encouraged Committee members to review his handout in its entirety. He said the current form of government is holding its own nationally, a form that is growing throughout the nation. He supports the current form of government; however, performance of the governing body could be improved by expending more time developing policy for the City and allowing the city manager to implement the policy.

The mayor is the only official in city government that represents the city at-large and the Topeka community is more than the sum of 9 districts. A thought, he said, that is not embraced by all current officials in city government. Mr. Lockner noted that the mayor currently has a diminished role in developing the budget, as the city manager prepares an annual budget for submission to the council for their review. This process is important because the policy determines what the city is willing to pay for. The mayor is elected at-large and should have more voice in the budget submitted to the council.

Mr. Lockner also advocated a method for electing City Council members on a mixed at-large basis:

1. All candidates for district council positions and for citywide council positions run for office in the primary election from the districts in which they reside.
2. Five (5) district council candidates run for office in the general election from the odd-numbered districts (1, 3, 5, 7 and 9) in which they reside.
3. Four (4) citywide council candidates run for citywide council positions in the general election from the even-numbered districts (2, 4, 6 and 8) in which they reside.

If the above recommendation is not approved, then he would recommend the entire council be elected at large with district residency requirements; the mayor would still be elected separately. He also recommends that council members who ran for citywide positions in general elections be compensated an additional 20% to 40% annually because of the additional citywide responsibilities and costs they would incur additional campaign expenses.

Public Hearing No.2

7:00 p.m.

Mary Jo Mastriano stated she appears as a member of the ADA (Americans with Disabilities Act) City Council Advisory Committee and made the following statements:

- She believes the City Manager form of government is a positive for the community because there is no favoritism for any certain area.
- The mayor should have more authority in the decision making process.
- She believes it is a good idea to keep nine (9) council districts for equal representation; however, if there is a change then the city manager and mayor should work more closely together to resolve problems.

Sam Hargis stated he believes the City is doing a good job; however, the City Manager and the Council have a full plate to manage. He made the following recommendations:

- Do not reduce the number of council members because it is a reasonable number to represent a city the size of Topeka.
- City Council members are the people that can take the pulse of the city and are representatives that are easily approachable.
- He supports two (2) council members to be elected at-large to provide opportunity to gather more input from citizens.
- Increase wages for council members.
- The role of the mayor should not be changed, and if it is, it should happen in small steps.

Ed Serrano would hate to see a new policy introduced that would hurt the integrity or the concept of the City Manager Form of Government.

- It was his understanding the mayor was given veto power as a compromise to the change in the role of the mayor.
- Due to the low wage compensation of the mayor, all accountability should stay with the city manager.
- He said certain districts are not able to get good representation. He suggested reducing the number of district representatives to seven; establish at-large members; or widen district boundaries and increase wage compensation for those representing larger districts.
- He stated that the number of people that participate in local government is low because it appears that it is always the same people participating.
- He would suggest district members receive \$20,000 annually if the number of districts were reduced to seven (7) with five (5) elected by district and two (2) elected at-large.

Lori Williams made the following comments:

- Do not reduce the number of council districts because 14,000 people is a lot for one council person to represent.
- She would support having one or two council districts elected at-large with the same amount of council districts.
- She stressed the importance of council members doing their best to meet with constituents, answering telephone calls, responding to emails, attending neighborhood improvement association meetings and staying on the move to keep up with the times.

J.R. Campbell stated he participated in the council district redistricting process. His comments:

- He would like to be represented by a person who knows the area.
- He would support having representatives elected by district and at-large.
- The number of districts needs to be a reasonable odd number.
- He suggested electing one of the council members to serve as mayor.
- A combined city-county government would be more efficient. The city and county should look at areas in government that could be combined and recommendation brought forward.
- Some of the larger counties have increased their county representatives to five (5) county commissioners. This suggestion should be studied as part of the consolidation plan.
- Mr. Campbell stated he would suggest seven (7) representatives be elected by district and two (2) at-large.

Chris Meinhardt said he believes council members salary should be increased or made the same as some City department heads.

The committee recognized the presence of Council members John Campos II, Chad Manspeaker and Nathan Schmidt. The Council members were invited to discuss some of the citizen comments with the committee.

Note: Brenda Younger, City Clerk, posted the unedited minutes and the audio recordings of the public hearing sessions conducted on February 20, 2014, to the City's website at the request of the Committee.

WEBSITE COMMENTS

The City of Topeka website offered a portal for public comments:

Glen Porterfield: (Grace Cathedral area). *"Go back to the Mayor/City Commission form of government."*

Tom Benaka: *"Please strongly consider a recommendation to merge Topeka and Shawnee County."*

Kevin Ratekin: *"...One of the major problems with this forum of government is that on one on the council are really qualified in any of the areas that they vote on. When it was the old forum of government when they had commissioners like Street Commissioner, Water Commissioner and Park Commissioner and so on. They were people that were all professionals in their fields...not just housewives and business people that know nothing about running a city... Please turn it back into the old forum of government..."*

Ken Kerl: *"Today's editorial in the Topeka Capital-Journal said a lot of things about a reduction in the size of the city council but offers no solid evidence to make the case. Just an opinion with nothing to back it up....The fact that the east side of town has a street project is a tribute to the 9-member council. Hey, I live on the west side of town, and I'm satisfied with city government performance...."*

Bob Schneider: *"I feel that it is much too early for the City Charter to be changed on representative districts. What is the rationale for at-large City Council positions?"*

Joe Weissbeck: *"...Should we be looking at consolidation again with the City and County?"*

Jason Fizell: It occurred to me as I was reading the most recent coverage of your committee's work that there is a bias built-in to the current system that really needs to be corrected. Any council person holding an odd-number district seat must give up their seat to run for mayor while a council person in an even number seat does not. I know this is late in the process, but it's

obviously unfair -- in that it affects different city council people differently, and some more negatively than others -- so I hope it's something you might all at least weigh in against it.²¹

PART FOUR

CITY COUNCIL MEMBER INTERVIEWS

Council member Chad Manspeaker reported that he is surprised the public is not more engaged in the budget process because municipal government is really important and touches every aspect of a citizen's life. He stated he continues to reach out to constituents in effort to engage them in city government. He stated he believes it is difficult for folks to sign up before a Council meeting. He said most people who ask for extension during public comment receive an extension. He stated that he feels like the Council is doing a good job and he understands it is their responsibility to educate the public on what is happening in the community and city government.

Council member Manspeaker said he supports consolidated government or one consolidated taxing entity. He noted consolidation was successful for Wyandotte County Kansas Unified Government because it has allowed growth as a community. He said would support the same format used by the Wyandotte County Kansas Unified Government which divides the city in two sections, one east district and one west district.

Council member Manspeaker stated he opposes representation at-large. He said he believes any Council person would help any constituent that contacts them. He understands the logic behind Topeka being viewed as a parochial community because a Council member is naturally defensive of those that put him/her in office. He indicated he is satisfied with the current number of council members. He supports district elections because he only has to please 14,000 citizens not 128,000 and that is a positive. He believes council district representatives will be more engaged with constituents when they are representing 14,000 people than if they were representing all 128,000 Topeka citizens.

Council member John Campos stated he opposes at-large elections because Topeka as community is very responsive to district representation. However, he believes there could be more unified duties within local government such as the functions performed by the Joint Economic Development Organization (JEDO). He said he respects the at-large election process; however, he stated he believes constituents in his district would oppose at-large representation because they expect him to remain actively engaged with them on a more personal level.

Council member Schmidt stated he would oppose following the same election format as the School Board. He would support keeping the number of council districts at nine (9) or reducing them to seven (7); and he would support splitting the city down the middle to create two (2) at-large districts.

Council member Nathan Schmidt made the following statements: He believes staff builds administrative procedures around the fact we have nine (9) separate council districts instead of

²¹ The Committee agreed that the matter needed to be addressed. See Mr. Fizell's comments and solutions at *Areas of Concern* pages 10-11.

the city as a whole, making the City inefficient because specific areas are not being aggressively targeted like they should be. He supports seven (7) council representatives being elected by district and two (2) at-large, along with the mayor, providing 30% of the governing body vote to be generated from at-large representation.

The current system is working; however, he believes adding at-large representation would increase the functionality of the governing body as a whole. He believes nine (9) representatives is a good number that covers all areas of the city; however, there have been issues with projects being delayed because of the lack of at-large representation.

Council member **Karen Hiller** said that no form of government is perfect. The voters chose this one, which has worked well in other places. Whenever there is a major change it takes 5 to 10 years to recover. We are now at that point where the system may work well for the first time. It would not be wise to change the system at this time. Instead, the goal should be to make sure the mission and vision for the city are stated clearly and the charter is absolutely set correctly for the form of government Topeka has. Her overall goals for city government are:

- **Performance** - make sure there are provisions for strategic plans, goals and performance measures so success can clearly be measured in this way.
- **Inclusiveness** – make sure the charter is clear that we want a full elected body, as well as, all citizens to be affirmatively invited to the table on all issues, with enough advance notice, and provided sufficient information and time for them to participate in a meaningful way.
- **Transparency** – Make sure we affirmatively pursue open meetings and open records practices. Establish core requirements for disclosures and checks and balances on key council and city manager procedures including agenda management, voting and line-item veto issues for the mayor, acceptance rather than approval of financial reports, arrangements for annual financial audits, nominations to boards and commissions.

Ms. Hiller understands that a smaller governing body is more appealing. However, as a council member her district is very demanding. All council members are not the same and do not require the same level of constituent input. There are many different ways to make sure all district needs are met. Serving as a council member is a full-time job if you want everyone to feel like they are being represented. She noted there are not many issues that come before the council that receive a heavily split vote; therefore, she is not sure the number of council district representatives needs to be changed. She recognized the debate of district vs. at-large would always be present.

PART FIVE

CITY MANAGER INTERVIEW

In drafting this report, we have endeavored whenever possible to express our recommendations in the language and thoughts of the citizens and the conferees whose insight guides them. This section summarizes the insight shared with the committee by **Jim Colson**, City of Topeka City Manager.

Mr. Colson said his transition into the City Manager position has been a very positive experience that has led to his own personal and professional development. He expressed his appreciation in working with talented people that display leadership throughout the community. He commended citizens for making the decision to implement the City Manager Form of Government. His comments follow:

City Manager Form of Government

The City Manager Form of Government concept offers the ideal combination of a trained professional leader who has experienced the many aspects of running a larger urban community while being aware of the equal importance of the elective body; and the necessity to engage residents in city government so the governing body can make informed decisions based on constituent input.

Role of the Mayor

The role of the mayor is vital and needs to be firmly defined; responsibilities clearly understood; and fit the overall scheme of governing the community. He believes the mayor should have the same voting rights and authority as council members. He stated he believes the mayor should serve as a leader to the council in the same manner as a chairman would serve an executive board, allowing the mayor to provide leadership, focus discussions, and drive the agenda of the council.

Mayor and City Manager Relationship

It is vital that the mayor and city manager are viewed as having a good working relationship with open lines of communication. It is vital that the city manager be provided an opportunity to listen and discuss issues with elected officials in order to understand and serve the community. He stated the current working relationship between the mayor and city manager is good and they support each other very well.

Council Districts

Mr. Colson does not have a strong opinion on the number of council districts. He expressed the importance of citizens feeling like they are engaged in the process of city government. The current council districts do this based on representation of reasonable number of residents of the community. Active citizen participation helps council members understand what is important to them when making decisions.

Consolidation

In local government there is always a strong case for finding more efficiencies and cost reductions through consolidation. However, there are a lot of details that need to be worked out and the consolidation process needs to be evaluated thoroughly. Mr. Colson is currently working through the Parks & Recreation consolidation. He expressed the importance of providing the highest level of service at the appropriate cost to the community.

.....

PART SIX

CONCLUDING COMMENTS

It seems to this committee that over the past decade as the City Manager has become a vital part of the operation of the city; the important role the Mayor plays in the perception of its citizens and in the day to day conduct of the city's business was not contemplated or perhaps even intended by the language of the present charter ordinance. This has led us to the understanding of why it is so important for the city to conduct a periodic citizen's review.

We conclude this assignment with a much deeper appreciation of the demands placed on our elected officials and on our public servants. We have learned so much from the conferees who volunteered their time in order to share their valuable experiences and insight. We want to thank the City Council members who supported our appointment. It is our hope that other citizens will have similar enriching opportunities.

What impressed the committee most in our public hearings was the lack of antagonism and the general feeling of well-being expressed by the community. For the most part, constituents are comfortable with the number of districts and their representation by the governing body. Several citizens advocated salary increases for their elected officials.

It appears that the City Manager form of government is alive and working well in Topeka. Of course things could always run better, and we hope the recommendations we offer will help facilitate harmony and assure that all avenues for improvement continue to be explored.

Respectfully submitted:

2014 CITIZENS GOVERNMENTAL REVIEW COMMITTEE

By _____
Jim Reardon, Committee Chair

From the Committee Members:

Judy Anderson Moler

The Committee met from January through May on an almost weekly basis. The Committee received both written and oral input throughout the process. The task afforded the Committee was taken seriously and all recommendations were discussed and considered. A thorough dialogue was afforded the information and those wishing to offer opinions.

The Chairman did an excellent composite of the points agreed upon and discussed at length. In all, I think it is a reasonable and fair recommendation and document to present to the City Council of Topeka.

John Nave

I would like to thank Mayor Wolgast and Council woman Everhart for asking me to sit on the review committee. It has been one of those life experiences that one doesn't forget, and being part of a distinguished group of community leaders has also been very rewarding.

We were asked to make recommendations that will affect the citizens of Topeka for years to come. I think us as a committee accomplished what was asked of us. We listened to past elected officials, community leaders, and citizens of Topeka in meetings and forums. We exchanged ideas and shared our own opinions. What came from the meetings and forums are recommendations that we believe will work in our City. We hope these recommendations are taken by the City Council and Mayor; accepted; and put in place for the Citizens of Topeka for a more efficient City Government.

Maynard Oliverius

It has been an honor to serve on the 2014 Citizens Government Review Committee. I wish to express my appreciation to the many members of our community who shared their views regarding the future structure of governance for Topeka. That input and knowledge was very valuable to the Committee and underscores the importance of citizen involvement in shaping our future.

Further, I express my appreciation to the City staff and other members of the Committee for their time, effort and work on this project. It has been a pleasure to be part of this fine team.

Finally, I want to thank the Mayor and Council for asking us to do this work. I hope the recommendations made here are helpful in setting the future course of our great City.

Tina Williams

In summary, the 2014 Citizens Government Review Committee conducted a comprehensive review of the City of Topeka Charter. The committee sifted through policy, comparing the forms of governments of other cities similar in size, and took into consideration the views and opinions expressed by peer citizens through public testimony at public forums and meetings as well as from current and former elected officials. The final report is the result of work by the committee members, our consultants, city staff representatives and the Deputy City Attorney.

Given the goal of developing recommendations the committee focused on what it determined were the most urgent issues and studied others that may be considered for future review. The committee by unanimous consent has proposed the recommendations as outlined in the report to strengthen and improve the functionality of the Mayor, City Manager, and City Council form of government and to clarify the roles and responsibilities of our elected officials. We trust that our recommendations will prove useful to the city's governing body, and to the citizens of Topeka.

APPENDIX No. 1

Attorney General Opinion # 2005-18

August 4, 2005

ATTORNEY GENERAL OPINION NO. 2005-18

Brenden J. Long
 Topeka City Attorney
 City Hall, 215 S.E. 7th Street
 Room 353
 Topeka, Kansas 66603

Re:

Constitution of the State of Kansas--Corporations--Cities' Powers of Home Rule; Charter Ordinances; Eligibility of Mayor to Vote as Member of Governing Body

Synopsis:

The mayor is a member of the "governing body" for purposes of the two-thirds voting requirement for passage of a charter ordinance prescribed by Article 12, Section 5(c)(2) of the Kansas Constitution, regardless whether a city's form of government precludes the mayor from voting on other matters coming before the council. Cited herein: K.S.A 12-104, 12-757, 12-1036a, 12-1036b, 12-10a01, 12-10a02, 77-101; Kan. Const., Art. 12, § 5.

* * *

Dear Mr. Long:

You inquire whether Article 12, Section 5(c)(2) of the Kansas Constitution includes the mayor as a member of the governing body for purposes of the two-thirds voting requirement for passage of a charter ordinance under circumstances where a city's form of government precludes the mayor from voting.

Article 12, Section 5(c)(2) of the Kansas Constitution prescribes the procedure for enacting a charter ordinance:

"A charter ordinance is an ordinance which exempts the city from the whole or any part of an enactment of the legislature. . . . [S]uch charter ordinance shall . . . designate specifically the enactment of the legislature . . . made inapplicable to such city by the adoption of such ordinance and contain the substitute and additional provisions, if any, and shall require a two-thirds vote of the members-elect of the governing body of such city."⁽¹⁾

You indicate that the City of Topeka, by virtue of its home rule power, has adopted a council-manager form of government that does not utilize any of the statutory forms

of city government in Chapter 12 of the Kansas Statutes Annotated. Pursuant to Charter Ordinance No. 94, the City of Topeka's form of government includes a 10 member governing body comprised of nine district council members and the mayor.

⁽²⁾ Under this structure, the mayor may veto council legislation, but cannot vote on other matters that come before the council.⁽³⁾

There are no Kansas appellate court decisions addressing whether the Home Rule Amendment⁽⁴⁾ includes the mayor as a member of the governing body for purposes of the two-thirds voting requirement when the city's form of government precludes the mayor from voting. However, we note that K.S.A. 12-104 defines "governing body" to include a mayor for all "acts granting . . . executive or administrative powers to city governments, or prescribing procedure." While the purpose of this statute, enacted in 1923, was to provide guidance to the commission formed to revise the general statutes,⁽⁵⁾ it is reasonable to presume that the meaning of "governing body" was taken into consideration when legislators crafted the Home Rule Amendment.⁽⁶⁾ In fact, the statutory mayor-council-city manager form of government,⁽⁷⁾ that took effect the day before the Home Rule Amendment,⁽⁸⁾ accords the mayor limited voting rights except in the case of charter ordinances in which case "the mayor's vote shall be counted on every occasion."⁽⁹⁾

We also note that at least one treatise on city home rule concludes that the mayor has an original vote on charter ordinances:

"Unlike 'ordinary ordinances' which require for passage a favorable vote of a majority of the members-elect of the council of council cities or the mayor and other commissioners of commission cities, a charter ordinance requires a favorable vote of two-thirds of the members-elect of the governing body. Although the constitution does not define the term "governing body," it is defined by state law for construing legislative grants of authority to mean the mayor and council or mayor and commissioners. Accepting this definition as applicable to charter ordinances, it appears the mayor in council cities has an original right to vote, whereas his right to vote on 'ordinary ordinances' is limited to casting the deciding vote where the number of favorable votes is one less than required."⁽¹⁰⁾

Citing K.S.A. 12-104, the League of Kansas Municipalities has also concluded that the mayor is included in determining the vote for charter ordinances.⁽¹¹⁾

While there are no Attorney General opinions addressing this issue, past Attorneys General have examined whether mayors can vote in zoning matters that require super majority votes.⁽¹²⁾ In Attorney General Opinion No. 92-41, Attorney General Robert T. Stephan considered a statutory mayor-council form of government⁽¹³⁾ where the mayor is a member of the governing body but is statutorily precluded from voting on any council matter.⁽¹⁴⁾ The zoning statute in question required a three-fourths vote "of all of the members of the governing body."⁽¹⁵⁾ General Stephan attempted to harmonize both statutes and concluded that the zoning provision

requiring a super majority vote did not include the mayor in a statutory mayor-council form⁽¹⁶⁾ of government.

In Attorney General Opinion No. 99-5, Attorney General Carla J. Stovall considered the identical zoning issue in relation to the Unified Government of Wyandotte County/Kansas City, Kansas. Like the City of Topeka, the Unified Government eschewed the statutory forms of city government and utilized its own form of government created by charter ordinance. In the Unified Government, the mayor is a member of the governing body and has limited voting rights. After reviewing K.S.A. 12-104 and the Unified Government's procedural rules, General Stovall concluded that the mayor is a member of the governing body for purposes of voting on zoning matters.

Unfortunately, these opinions are not helpful when considering whether the *Kansas Constitution* gives a mayor an original right to vote on a charter ordinance. However, we agree with the opinion of one author of a treatise on home rule who opines that because charter ordinances substitute the wisdom of local officials for that of the Legislature, special procedures are required by the Constitution.⁽¹⁷⁾ One of these procedures requires a two-thirds vote of the members-elect of the governing body. As the mayor is a member of the governing body by virtue of K.S.A. 12-104, no ordinance proscribing mayoral voting rights - charter or ordinary - can alter this constitutional requirement. Thus, despite the fact that the mayor of the City of Topeka has no voting rights in matters that come before the council, it is our opinion that the mayor is a member of the governing body for purposes of exercising a right to vote on charter ordinances.

Sincerely,

Phill Kline
Attorney General

Mary Feighny
Assistant Attorney General

PK:JLM:MF:jm

FOOTNOTES

Click footnote number to return to corresponding location in the text.

¹ Emphasis added.

² City of Topeka Charter Ordinance No. 94, Article II, §§ 7,11 ("[t]he council and mayor shall be the governing body of the city").

³ City of Topeka Charter Ordinance No. 94, Article II, §§10,16.

⁴ Kan. Const., Art. 12, § 5.

⁵ K.S.A. 77-101 *et seq.*; *State, ex rel. v. Davis*, 116 Kan. 211(1924).

⁶ *In re County Seat of Linn County*, 15 Kan. 500 (1875) (whenever a legislature uses a word in a statute in one sense and with one meaning and, subsequently, uses the same word in legislating on the same subject matter, it will be understood as using it in the same sense, unless there be something in the context or the nature of things to indicate that it intended a different meaning).

⁷ K.S.A. 12-1036a *et seq.*

⁸ June 30, 1961.

⁹ K.S.A. 12-1036b.

¹⁰ Wright W. Crummett, *City Home Rule in Kansas*, 9 W.L.J. 1, 14-15 (1969).

¹¹ League of Kansas Municipalities, *Constitutional Home Rule in Kansas*, 15 (8th ed. September, 1994).

¹² Attorney General Opinions No. 92-41 and 99-5.

¹³ K.S.A. 12-10a01 *et seq.*

¹⁴ K.S.A. 12-10a02.

¹⁵ K.S.A. 12-757(e) [now K.S.A. 12-757(f)(1)].

¹⁶ K.S.A. 12-10a01 *et seq.*

¹⁷ James W. Drury, *Home Rule in Kansas*, 65 (University of Kansas, 1965).



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URL: <http://ksag.washburnlaw.edu/opinions/2005/2005-018.htm>.

Appendix No. 2

EXAMPLES OF ITEMS UPON WHICH THE MAYOR VOTES AND DOESN'T VOTE

MAYOR DOES NOT VOTE

A. Ordinances (Created in Municipal Code)

1. Allowing service monkeys within City limits
2. Establishing Council meeting schedule
3. Fire hydrants
4. Funeral processions
5. Historic landmarks
6. Human relations commission
7. Possession/consumption of alcohol
8. Public building commission
9. Repealing Utility Refund Program
10. Term limits/Sustainability Advisory Board
11. Topeka Zoo concessions/admission fees

B. Resolutions

1. Acquisition of fire apparatus
2. Approval of certain grants
3. Approving project budgets for capital improvement projects
4. Designating depositories
5. Establishing franchise fee rebate program
6. Establishing Legislative agenda
7. Establishment of Citizens Government Review Committee
8. Noise exceptions
9. Parking waivers
10. Participation in the Municipal Investment Pool
11. Personnel code amendments
12. SORT Planning Target Areas
13. Supporting grant applications
14. Waivers of annexation requirement/extension of city water/sewer

MAYOR DOES NOT VOTE (CON'T)***C. Miscellaneous***

1. Appeal of tort claims
2. Appeals of business license denials
3. Appoint/terminate city manager
4. Appoint an employee to serve as city manager during the latter's disability or temporary absence
5. Approval of Council minutes
6. Approval of disposal of surplus real property
7. Approval of grants
8. Approval of settlement agreements
9. Approval of transient guest tax allocations
10. Approval of workers' compensation claims
11. Board appointments (mayor appoints/Council approves)
12. Business license applications
13. City manager contract
14. Demolition of properties not on state/national historic registers
15. Election of Council representatives to JEDO Board
16. Election of Council representatives to Metro Topeka Planning Organization Policy Board
17. Election of deputy mayor
18. Establish compensation for council members and mayor
19. Purchase of real estate

APPENDIX No. 3

CHANGES TO CHARTER ORDINANCES TO BE CONSISTENT WITH STATE LAW

1. A2-24. Mayor-Veto

Current: Mayor can veto Council legislation and 'line item' veto items in appropriation ordinances. Cannot veto legislation in which Mayor has a vote.

Proposed change: Mayor can veto ordinances, except where state law requires a governing body vote. K.S.A. 12-3003.

2. A2-25.5 Veto Override

Current: 2/3 vote required to override veto (6 votes)

Proposed change: 3/4 vote required to override veto (7 votes). K.S.A. 12-3003

3. Sec. A2-29(b) Forfeiture of Office. Repeal

~~(b) Forfeiture of office. A district Councilmember or Mayor shall ipso facto forfeit his or her office if he or she at any time during the term of office lacks any qualification for the office prescribed by this Charter Ordinance or other applicable law, or if he or she violates any other provision of this Charter Ordinance. A forfeiture does not occur if a district Councilmember no longer resides in his or her elected district as a result of redistricting.~~

The section conflicts with state law. Elected officials forfeit their office only in accordance with state law through an ouster proceeding brought by the Attorney General/District Attorney or recall by the electorate. K.S.A. 60-1205; 25-4302.

4. Sec. A2-30(d) Ordinance Form.

~~(d) Form . Proposed ordinary ordinances and resolutions shall be introduced in the Council only in written or printed form. No ordinary ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause of all ordinary ordinances shall be: "Be it Ordained by the Council of the City of Topeka, Kansas:". Any ordinary ordinance which repeals or amends an existing ordinary ordinance or part of the Code of Ordinances of the city shall set out in full the sections or subsections to be repealed or amended, and shall indicate matter to be omitted by~~

(enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

The 2nd sentence is redundant in that K.S.A. 12-3004 addresses this issue.

The 3rd sentence conflicts with K.S.A. 12-3005 which prescribes the ordaining clause to read as follows: "Be it ordained by the governing body of the city of _____."

5. A2-30(f). Emergency ordinances. Repeal.

~~(f) Emergency ordinances. An ordinary ordinance may be passed as an emergency measure on the day of its introduction if it contains a declaration describing in clear and specific terms the facts and reasons constituting the emergency. Neither an ordinance granting, reviewing, or extending a franchise, nor a Charter Ordinance, shall be passed as an emergency ordinance.~~

(Emergency ordinances are a remnant from when the charter ordinance required that an ordinance be read twice in a Council meeting before final passage, with one week in between. First readings have been eliminated. There is no need for an 'emergency ordinance.'

6. Sec. A2-30(g) and (h). Publication; Effective Date. Repeal

~~(g) Publication. The City Clerk or such other city officer as the Council may designate shall cause all ordinary ordinances, as soon as practicable after they have been passed and signed, to be published once in the official city newspaper, unless Kansas Statutes or other applicable law require more publications. In lieu of publication of the entire ordinance, the City Clerk may publish a summary of the ordinance provided all of the following requirements are met:~~

~~(1) The publication is identified as a "summary" and contains notice that the complete text of the ordinance may be obtained or viewed free of charge at the City Clerk's office or on the city's website.~~

(2) The City Attorney certifies the summary of the ordinance prior to publication to ensure that the summary is legally accurate and sufficient.

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~~(3) The publication contains the city's official website address where a reproduction of the original ordinance is available for at least ninety days following the summary publication in the newspaper.~~

~~(4) If an ordinance is subject to a petition pursuant to state law, the summary shall contain a statement to that effect.~~

~~(h) Effective date. Except in the case of emergency ordinances, and except where Kansas Statutes otherwise specify, every adopted ordinary ordinance shall become effective upon its publication pursuant to subsection (g) or at any later date specified therein. Emergency ordinances shall become effective upon passage or at any later date specified therein.~~

K.S.A. 12-3007 controls publication, ordinance summaries, and the effective date of ordinances.

State law doesn't recognize 'emergency ordinances.' All ordinances are effective upon publication unless a later date is stated in the ordinance. Appropriation ordinances are effective when passed.

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7. A2-30(i). Signature, authentication and recording.

(i) Signature, authentication and recording. All ordinary ordinances and resolutions passed or adopted by the Council shall be authenticated by the signatures of the Mayor and City Clerk or such other appointive officer as the Council may designate. ~~The City Clerk or such other appointive officer as the Council may designate shall record in a properly indexed "Ordinance Book" kept for the purpose of every ordinary ordinance, immediately after its publication, or in the case of emergency ordinances immediately after passage~~

Strike-type section is redundant. K.S.A. 12-3008 requires that City Clerk maintain an 'ordinance book.'

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CITY OF TOPEKA

City Clerk's Office
 215 SE 7th Street, Room 166
 Topeka, KS 66603-3914
 Tel: (785) 368-3940
 Fax: (785) 368-3943
byounger@topeka.org

Appendix No. 4

February 18, 2014

RE: City Election Information

Committee Members:

Below is the information requested at the February 13, 2014 Citizens Government Review Committee meeting concerning elections in other cities.

City	Mayor	Total Members	At-Large	By-District
Wichita	at-Large	6		✓
Overland Park	at-large	12		✓
UGWC	at-large	10	✓ (2)	✓ (8)
Topeka	at-large	9		✓
Olathe	at-large	6	✓ (2)	✓ (4)
Lawrence		5	✓	
Manhattan		5	✓	

Overland Park - The Governing Body consists of the mayor and 12 councilmembers. Two councilmembers are elected from each of the city's 6 wards and serve staggered four-year terms.

Unified Government – The mayor serves as the eleventh member of the Commission.

Lawrence and Manhattan – One of the existing five members serves as mayor for a one-year term.

Thank you,

Brenda Younger, C.M.C.
 City Clerk

APPENDIX No 5

Allyn Lockner Paper

IMPROVING CITY OF TOPEKA'S COUNCIL-MANAGER FORM OF GOVERNMENT

Testimony of Allyn O. Lockner before the
City of Topeka's Citizen Government Review Committee
at 1 pm on February 20, 2014 in Room 101C at
at the Topeka Shawnee County Public Library
at 1515 SW Tenth Avenue, Topeka, Kansas

Chairman Mike Reardon and members of the Citizen Government Review Committee:
Thank you for the opportunity to share ideas with you about improving Topeka's council-manager form of government.

My name is Allyn Lockner. I reside at 2135 SW Potomac Drive, No. 4, Topeka. I am a retired economist and certified public manager. I am a member of the American Academy of Certified Public Managers and the American Society for Public Administration. I represent no organization or group.

Looking Back to 2004

On July 20, 2004, a major positive change occurred in Topeka City governance. On that date the Topeka City Council passed and approved Charter Ordinance No. 94 which established the council-manager form of municipal government in our city. Under the ordinance and amendments, the basic characteristics include:¹

- Council has nine members who are elected by voters in nine council districts in the city.
- City council holds all municipal powers not otherwise held by the mayor or city manager, including override of mayoral vetoes by a two-thirds vote.
- Council appoints a professional city manager who has all administrative powers.
- Mayor is elected by voters at large in the city.
- Mayor and council are the governing body; mayor has no vote, except on charter ordinances.
- Mayor chairs council meetings, has veto power on council legislation, line item veto power of appropriation ordinances and exercises other specified powers.

¹ *Topeka Municipal Code*, Article II, Division 2 and Division 4.

Council-manager form is the most common form of municipal government.² According to the Municipal Year Book 1991 and 2008,³ usage has grown from 36.2 percent in 1990 to 48.9 percent in 2007 in all U. S. cities over 2,500 in population. At the same time, the mayor-council form declined from 54.5 to 43.5 percent, and other forms declined from 9.2 to 7.5 percent.

I don't claim to know the detailed, unwritten, and informal processes of Topeka government. As a resident, I have followed the actions of the mayor and city council periodically via their televised meetings, commercial television, and the Topeka Capital-Journal. I am also aware of recent research on council-manager governments.

Recent Research Findings about Council-Manager Governments

After studying the one hundred year history of the council-manager form of government, researchers conclude that the form does not automatically produce good government without the appropriate contributions of elected and administrative officials. If, however, one is choosing the form of government most likely to produce sound, long-term governance; effective implementation and service delivery; capable management; and transparent, ethically-grounded and citizen-oriented processes, the council-manager form is the preferred choice based on essential structural features.⁴

Researchers continue to study the council-manager form and other forms of local government. They find some cities, while retaining the major characteristics, have modified minor features of the council-manager form.⁵

One measure of governance quality is the level of reported conflict and cooperation that is present between and among elected officials and administrators. High levels of conflict or low levels of cooperation can hinder the decision-making process. Researchers determine what factors are likely to lead to conditions conducive to cooperation and lower perceived conflict in the local governance process. Data on government performance and indicators of perceived conflict and cooperation were collected from a national survey of municipal mayors, council members, and chief administrators in cities with populations of 50,000 to 250,000. The results suggest that form of government and proportion of council members elected by district are two factors that significantly influence governance at the local level. The authors find that council-manager municipalities have higher levels of cooperation and lower levels of perceived conflict than mayor-council municipalities, particularly for empowered mayor-council-manager cities.

² For a general discussion, see "Council-manager government."

³ Svara and Nelson, Figure 1.

⁴ Svara and Nelson.

⁵ For a discussion of variations in the structure of city governments, see Nelson and Svara, "Adaptation of Models Versus Variations in Form: Classifying Structures of City Government."

The authors also find that higher proportions of by-district seats are associated with lower levels of reported cooperation.⁶

Using data on the adoption of e-government, reinventing government, and strategic practices, researchers investigate the characteristics of municipal governments that are related to implementation of innovative practices. They find that higher innovation rates are associated with council-manager governments --- both with and without an elected mayor, higher population, greater growth, lower unemployment, sunbelt location, and higher population density. Controlling for all other variables, form of government (and variations within form) account for the greatest explanation of the adoption of innovative practices in municipalities. The researchers conclude that form of government remains an important variable to consider when investigating local government management and performance.⁷

The “rules of the game” embodied in municipal government institutions constrain as well as provide opportunities for local government officials to capture individual benefits related to policy action. Whether the projected benefits of cooperation are localized or community-wide are thought to combine with the political incentives produced under different forms of government to influence the likelihood local officials will enter into an economic joint venture with other local governments. Analysis of pooling survey data from the same cities at two time points provides evidence that prior agreements influence future cooperative actions and that joint ventures are more likely when there are localized benefits combined with mayor-council government, or when broader benefits are pursued under manager-council form of government.⁸

Researchers reveal that social context factors --- in particular economic conditions --- generate both adoption and abandonments of council-manager government. The scenario in which economic and social forces create demand for change are generally along with political actors channeling those demands to specific types of institutions.⁹ While applauding their work, a practicing deputy city manager comments that the researchers raise more questions than answers.¹⁰

The Great Recession’s damaging effects on the finances of cities and counties have lead some observers to predict dramatic, widespread, and enduring changes to local government in response to fiscal pressure. However, the history of change in local government suggests otherwise, as does the experience of individual cities and counties that have confronted fiscal pressures in the past. Researchers suggest that financial problems will not overwhelm the

⁶ Nelson and Nollenberger.

⁷ Nelson and Svara, “Form of Government Still Matters: Fostering Innovation in U. S. Municipal Governments.”

⁸ Hawkins.

⁹ Choi, Feiock and Bae.

¹⁰ Svrcek.

balance among an array of competing pressures that already confronted local governments long before the recession. Although some cities and counties will respond to the downturn with major, permanent changes, most will not. For local governments as a whole, equilibrium among the most important tensions they face will continue to resist dramatic moves and favor only gradual change.¹¹

Based on the governing body's performance over the past ten years and recent research findings about the council-manager form of government, I support the continuation of the council - manager form of government for Topeka. Performance can be improved by the governing body --- mayor and council --- devoting more time and energy to developing policies for the city, and city manager continuing to implement the governing body's policies and proposing policies and budgets to the body.

Role of Topeka Mayor in Budget Development

The following comments and questions pertain to sections of the *Topeka Municipal Code*.

1. Under section A2-22(b) and (c), the mayor is the only elected city official who represents all voters in the whole city.
2. Under section A2-21, the nine council members are elected separately from nine districts and represent voters in their districts.
3. Under section A2-55(g), the city manager prepares an annual budget for submission to the council for review, revision and approval. The city manager's 2014 Budget transmittal letter was addressed to the council members and the mayor.¹² The Budget contains no language describing the mayor's role during its development.¹³
4. Under section A2-24(a) (i), may the mayor perform a role in developing the annual budget by recommending to the council additions, deletions and other revisions of the budget submitted by the city manager to the council?
5. If "no," does the mayor who represents the whole city have no up-front role in developing the budget that is submitted to the council?
6. If "yes," does the mayor surrender the line-item veto power under section A2-24(a) (ix)?

From my review of the City of Topeka's documents, the answers to questions 4, 5 and 6 are unclear but yet important because the needs of nine districts are unlikely to be the needs of the

¹¹ Ammons, Smith and Stenberg.

¹² <http://www.topeka.org/pdfs/2014Budget/transmittal%letter.pdf>.

¹³ <http://www.topeka.org/pdfs/2014Budget/mayor>. Also, see section 3.05.050 Budget Schedule of the *Topeka Municipal Code*.

whole city. The content of the budget should reflect not only the needs of nine districts but also the needs of the whole city. The whole city of Topeka is greater than the sum of its nine districts.

If the mayor has no voice in developing the budget when city manager submits the budget to the council, there is a concern that the budget will not reflect city-wide priorities, but only or largely a collection of nine separate district priorities.

The mayor would have an opportunity to better perform these tasks by submitting to the council his/her recommendations on the annual operating budget submitted by the city manager to the council. Lastly, and most importantly, it would assist the mayor to perform his/her central role to inspire and encourage the city to move forward.

Having a voice in the development of the city budget would also better enable the mayor to perform at least two key powers and duties assigned to him/her by the council in the *Topeka Municipal Code*:

- Encourage programs for the physical, economic, social, and cultural development of the city, as specified in section A2-24(a) (ii), and
- Actively promote economic development to broaden and strengthen the commercial and employment base of the city, as specified in section A2-24(a) (iii).

I recommend that the *Topeka Municipal Code* specify that the mayor has the power to review the annual budget that the city manager submits to the council and to submit his/her recommended additions, deletions and/or other revisions of the budget to the council.

Voter Selection of Council Members from Topeka Districts and City

The council is representative of the diversity of the population of Topeka. There is a need to minimize actual or to avoid possible factionalism and divisiveness because council members represent the interests and priorities of voters in their separate districts rather than the city as a whole. For the mayor to exercise the powers specified in section A2-24, he/she needs to exercise leadership to forge consensus and negotiate compromise within the council. To do so, it is more important for the council to be a representative forum. The mayor needs to help council members to be able to work out their differences with more equality of power.¹⁴

The present single-member system for electing nine council members has other drawbacks. An inherent problem is the danger that district elected members will subordinate citywide

¹⁴ Parts of this section were adapted from the *Model City Charter*.

concerns to district and parochial problems. A single member system also has the potential for the classic problem of “log-rolling” or vote-swapping among council members to achieve district ends.

Recognizing that all of the powers and duties that can be exercised by the city rest with the popularly elected city council, the *Topeka Municipal Code* must provide for a council which is truly more representative of the city.

Nine council members each representing one of nine districts encourages “neighborhood-based gridlock” by making it increasingly difficult to gain council approval of new initiatives that would benefit the city as a whole, but face strong district and neighborhood opposition. There is a need to bring into closer balance the number of council members elected by and from districts and the number of members by and from the city at large in order to achieve more balance in council performance of its powers and duties specified in section A2-25.5. They include all powers and duties which are not specified for the mayor in section A2-24 and city manager in sections A2-54 and A2-55. For example, balance is particularly important in developing, implementing, reviewing and, if necessary revising a strategic plan for the city to resolve complex and difficult long-range citywide issues while not ignoring short-range and immediate district-wide and neighborhood problems.

With a combination of district and citywide council members, more balance is achieved between district and citywide focus. While district council members continue to weigh their district interests and issues, citywide members have a broader constituency and a clearer obligation to weigh the entire city’s interests and issues. If the city-district representation becomes unbalanced, the citywide elected mayor, acting as a facilitator, can facilitate consensus and compromise among district and citywide council members to better satisfy the preferences of the nine districts and the whole city.

Lastly and most important, Topeka City documents state “The city manager will work with the city council and mayor to develop a Strategic Plan that will serve as the foundation for annual review of services, programs and activities. Department business plans will be developed with direct lineage to the Council’s goals and the budget so that a citywide vision of where we are and where we want to go will be achieved through teamwork and communication.”¹⁵ (Underlining added.) The city council adopted the Balanced Scorecard management system in preparing and adopted (sic) the 2013 Annual Budget. The management system translates

¹⁵ “City of Topeka - Strategic Plan.”

strategy into tangible objectives and measures.”¹⁶ Both the Strategic Plan and Balanced Scorecard must be essential features of Topeka government.

For these reasons, a council with district-wide and citywide representation will be better able to work with the mayor and city manager in developing a more balanced district-wide and citywide strategic plan. Also, the city manager will be better able to implement the Balanced Scorecard management system that achieves the tangible objectives and measures that resolve the issues contained in the strategic plan.

At-large elections may tend to generate more candidates and greater voter turnout. That makes sense because more money is spent on at-large positions, raising awareness of the entire community that there is an important city election.

Also important, economic development issues take on a citywide scope. This is because representatives view themselves as stewards of the entire city, not just one part.

It should be noted that five council members representing districts would outnumber four council members representing the city at large and constitute a voting majority of the council. In addition, the at-large members need not ignore their interests of their four districts because they have to face the voters in their districts in the next primary. The mixed system ensures that district interests continue to receive consideration while the citywide interests are added for more consideration.

The mixed system combines the citywide perspective of the at-large council members with the local concerns and accountability of district council members. It allows minorities who live in concentrated areas to influence or even determine the outcome of elections in their districts.

A problem that may arise in the mixed system in two circumstances: when at-large members consider their positions to be superior to that of district members and when they are perceived as rivals to the mayor. To prevent this from occurring, at-large and district members should have equal status regarding the length of terms, and support services and facilities. Most important, all council members have the same duties, powers and functions.

The mixed system has become increasingly popular since the U. S. Department of Justice approved it as a method of electing the city council that is compliant with the requirements of the Voting Rights Act. For persons and groups concerned about scrutiny by the department or the

¹⁶ “City of Topeka - Strategic Priorities.”

courts under the act, precedent shows a clear preference for the majority of the council to be elected by and from districts rather than from the city at large.

Twenty-one percent of municipalities use mixed systems. These systems are most likely to be found in parts of the South and Central jurisdictions.¹⁷

Summarizing, what is necessary and logical is having the mayor and four council members who see the “big picture” in the Topeka community and they vote for the good of the entire community, not just a part of it. With an all-district council, the city runs the risk of not having coherent voices for major citywide issues. When candidates run for at-large positions, they raise issues that are broader in scope, issues that affect the entire community. The campaigns are about “us” as a city as well as about the “us” in each district.

With no at-large voices, the city would become more fragmented as each council member would want only those things that would reward his or her particular district.

Topeka needs a blend. The city needs district voices, and it needs citywide voices. The governing body would be balanced, and that is what needs to be achieved.

I recommend that section A2-22 of the *Topeka Municipal Code* specify a mixed at-large and single-member district system; the mayor is still elected separately.¹⁸ The characteristics of the mixed system include:

- 1. All candidates for district council positions and for citywide council positions run for office in the primary election from the districts in which they reside;**
- 2. Five district council candidates run for district council positions in the general election from the odd-numbered districts (1, 3, 5, 7 and 9) in which they reside; and**
- 3. Four citywide council candidates run for citywide council positions in the general election from the even-numbered districts (2, 4, 6 and 8) in which they reside.**

The committee may conclude the recommendation does not go far enough to ensure or enable members of the council consider the City of Topeka as a whole as well as their districts in making policy decisions. Or it may be concerned about characteristics 2 and 3.

If the above recommendation is not approved, I recommend that the entire council be elected at large with district residency requirements; the mayor would still be elected separately.¹⁹

¹⁷ National League of Cities. Also, see Frederickson, Johnson and Wood for a discussion of the changing structure of city governments, and International City/County Management Association for publications that discuss council-manager form of government.

¹⁸ *Model City Charter*, Alternative III – Option B.

Both reforms ensure that council members give more consideration to the City of Topeka as a whole as well as their districts in making policy decisions.

Council members who run at large will assume additional citywide responsibilities and incur additional campaign expenses. They should be partially compensated for additional responsibilities and expenses.

I recommend that council members who ran for citywide positions in the general elections be compensated an additional 20 to 40 percent annually.

Conclusion

Overall, I believe the recommended improvements in the *Topeka Municipal Code* will enable the Topeka council, mayor and city manager to better collaborate in providing service benefits at costs that will better enable more Topekans to live better lives in the future.

I will respond to your comments and questions.

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¹⁹ *Model City Charter*, Alternative II - Option B.

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LEAGUE OF KANSAS MUNICIPALITIES



300 SW 8th Avenue, Ste. 100
 Topeka, KS 66603-3951
 P: (785) 354-9565
 F: (785) 354-4186
www.lkm.org

To: Senator XXX
 From: League of Kansas Municipalities
 Re: S Sub for S Sub for HB 2141 (Moving Local Elections)

In anticipation of the debate on S Sub for S Sub for HB 2141 (formerly SB 211), the League wanted to express major concern with the proposed legislation. There was no hearing on the bill in its current form, and one staff revisor has said the bill is so problematic that a trailer bill will be necessary. We do not believe the problems with this legislation can be fixed, and respectfully request that you vote NO on moving local elections.

Transitional Issues

S Sub for Sub for HB 2141 would impact the elections for all 3,812 elected city officials in Kansas and the drafting of the bill raises serious procedural concerns. Many officials currently holding office would be removed from office before their terms expire, while others will have their terms extended. Kansas citizens voted for these local officials to serve a certain amount of time, and we feel it is inappropriate for the state legislature to override their collective will. Kansas cities vary on when and how often they hold elections, and the bill's language is ambiguous about whether locally-determined terms will be replaced by four-year, two-year, or staggered terms. These issues are local in nature, not the type of statewide issue that requires state action.

Unnecessary Partisanship

Although the legislation would not make local elections partisan, it gives partisan officials (who may not even reside within city limits) the authority to fill vacancies on governing bodies, and appears to require the publication of the political affiliation of all candidates for city office. Kansas has been served well for 153 years by local officials who put community first. We believe inserting partisanship into our local governing bodies is both unnecessary and unwise.

Disrupts Budget Cycle

The bill also disrupts the budget cycle for cities by making terms for their elected officials begin in January, rather than April. The current system allows city officials to take office and then begin working toward budgeting for community services. The proposed legislation would create a lag time between the community choosing its representatives and when those representatives could begin carrying out the will of their citizens. It would also force local officials to finalize budgets while they're campaigning for the August primary.

Complicates Other Statutory Requirements

Many of our cities are required by law to appoint city officers in May of each year. These officers include municipal judges, city clerks, city treasurers, and others. By moving elections from April to November, this legislation would end an efficient appointment process where elected officials take office and shortly thereafter appoint city staff. The bill would also complicate the filing of financial interest reports, since KSA 75-4302a requires that statements of substantial interests for certain governing body members be filed between April 15 and April 30.

No Resulting Increase in Turnout

Although the purported purpose of the legislation is to increase voter turnout, the research we found indicates that moving elections to November of odd-years will have little to no impact on voter turnout. Proponents claim turnout will increase because weather conditions are better in November than in April, but average temperatures and precipitation for early April and November are virtually identical.

We also feel that using voter turnout as the sole determiner of democratic health is inappropriate. Even though local governments have lower voter turnout than state and federal races, local government has the highest level of citizen satisfaction. We believe that interfering with elections at the most popular level of government, when no city governing body in the state supports ending 153 years of spring elections, is poor public policy.

APPENDIX No 6

KLM Position Paper

City	Population	Mayor/Council	Official Meetings/Month
Wichita	384,445	M/6	3
Overland Park	176,185	M/12	2
Unified Govt. Wyandotte County	146,453	M/8	3
Topeka	128,188	M/9	3
Olathe	127,907	M/6	2
Lawrence	88,727	M/4	2
Manhattan	53,678	M/4	2

Citizen Government Review, February 13, 2014; Mayor Presentation

APPENDIX No 7

Governing body comparison



CITY OF TOPEKA

City Clerk's Office
 215 SE 7th Street, Room 166
 Topeka, KS 66603-3914
 Tel: (785) 368-3940
 Fax: (785) 368-3943
byounger@topeka.org

Appendix No. 8

City Election Comparisons

City	Terms	Staggered	Election	Election Timeline	Process
Wichita, KS	4 yr. terms Limited to 2 terms	Yes	March/April	Election every 2 years, odd number years	Election Commission distributes dates & packets, City Clerk's office handles filing & fees then sends to Commission for verification
Overland Park	4 yr. terms No term limits	Yes	March/April	Election every 2 years, odd number years	Johnson County distributes dates & packets, CC handles paperwork & fees then sends to County for verification
Wyandotte Co	4 yr. terms No term limits	Yes	March/April	Election every 2 years, odd number years	Election office handles dates, packets, filings & fees
Olathe, KS	4 yr. terms No term limits	Yes	March/April	Election every 2 years, odd number years	Johnson County distributes dates & packets, CC handles paperwork & fees then sends to County for verification
Lawrence, KS	2 councilmembers serve 4 yr. terms, 4 councilmembers serve 2 yr. terms No term limits	Yes	March/April	Election every 2 years, odd number years	City Clerk's office handles filings & fees, Douglas Co processes packets & distributes fees & verification
Manhattan, KS	2 councilmembers serve 4 yr. terms, 1 serves 2 yr. term No term limits	Yes	March/April	Election every 2 years, odd number years	City Clerk's office handles filings & fees, Riley Co Election Officer distributes timelines and processes packets, fees & verification

(Published in the Topeka Metro News _____ and _____)

CHARTER ORDINANCE NO. _____

A CHARTER ORDINANCE introduced by Deputy Mayor Denise Everhart, amending City of Topeka Code §A2-24 concerning duties of the mayor.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS, THAT:

Section 1. Charter Ordinance 98, § 2 codified at TMC § A2-24, Mayor – Functions, powers and duties, is hereby amended to read as follows:

Mayor – Functions, powers and duties.

(a) The Mayor shall be the chief elected officer of the city, responsible for providing leadership and taking issues to the people and marshalling public interest in and support for municipal activity. The Mayor shall have the following powers, duties, and responsibilities:

The Mayor shall:

(i) Recommend to the ~~Council~~ governing body such measures and legislation as he or she deems necessary ~~and to make such other recommendations to the Council~~ concerning the affairs of the city ~~as he or she finds desirable, but shall not have a vote on any matter before the governing body, except charter ordinances, on any legislation for which state law requires adoption by a majority or such greater vote of the governing body, or as otherwise specifically provided by charter ordinance of the City of Topeka.~~

(ii) Encourage programs for the physical, economic, social, and cultural development of the city.

(iii) Actively promote economic development to broaden and

strengthen the commercial and employment base of the city.

(iv) Serve as ceremonial head of the city.

(v) Represent the city in intergovernmental relations ~~as directed by the Council.~~

(vi) Provide community leadership.

(vii) Preside as Chair of ~~Council~~governing body meetings.

(viii) Have no administrative powers.

(ix) ~~Have general veto power on all council legislation and "line item" veto in all matters of appropriation ordinances, but shall not have authority to veto charter ordinances or any legislation on which the mayor is entitled to vote.~~
Have the right to vote on all matters, except for ordinances for which state law gives the mayor the right to veto.

(b) This section A2-24 of the charter ordinances of the City of Topeka shall only be amended or repealed upon approval by a majority of the electors voting during an election called for such purpose.

Section 2. That original sections of Charter Ordinances codified as §A2-24 of the Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 3. This charter ordinance shall be published once each week for two consecutive weeks in the official city newspaper.

Section 4. This is a charter ordinance and its effect is hereby made subject to a vote of the electors of the City of Topeka, Kansas.

PASSED and APPROVED by the Governing Body _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

STATEMENT OF MANNER OF ADOPTION OF FOREGOING

The foregoing Charter Ordinance No. _____ was passed on the ____ day of _____, 2014, as shown by the minutes, Book _____ Page _____, by a vote of _____ for and _____ against, being not less than 2/3 of the members-elect of the governing body, published in the Topeka Metro News, the official city newspaper, on the ____ day of _____, 2014, and on the ____ day of _____, 2014, being once each week for two consecutive weeks and ordinance mandating an election in order to repeal or amend certain section of the Charter Ordinance, the governing body passed Ordinance No. _____ on the ____ day of _____, 2014, calling an election to be held on said Charter Ordinance on the ____ day of _____, 2015, said ordinance begin published in the city's official newspaper on _____, _____, and _____ being once each week for three (3) consecutive weeks and such election was duly held and a majority of the electors having approved the Charter Ordinance, the Charter Ordinance took effect.

Brenda Younger, City Clerk

CERTIFICATE

86
87

88 CITY OF TOPEKA)
89 COUNTY OF SHAWNEE) ss:
90 STATE OF KANSAS)
91

92 I, Brenda Younger, City Clerk of the City of Topeka, County of Shawnee, State of Kansas
93 do hereby certify that the above and foregoing, consisting of ____ typewritten pages,
94 including the page upon which this Certificate is written, is a full true and correct copy of
95 Charter Ordinance No. _____ of the said City of Topeka, that all acts and things
96 required by Article 12, Section 5 of the Constitution of the State of Kansas were done and
97 performed in the manner and within the time prescribed and that said Charter Ordinance
98 became effective on the ____ day of _____, 2015.
99

100
101
102

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 4, 2014

Back Print

DATE: December 9, 2014
CONTACT PERSON: Deputy Mayor Denise Everhart
DOCUMENT #:
SECOND PARTY/SUBJECT: PROJECT #:
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Deputy Mayor Denise Everhart, calling an election to be held on April 7, 2015, for the purpose of voting on the Charter Ordinance.

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

(This ordinance will be considered only if the charter ordinance changing the Mayor's voting rights is passed by the governing body. Approval of this ordinance would call an election on the charter ordinance for April 7, 2015.)

POLICY ISSUE:

Whether to call an election on the charter ordinance changing the Mayor's voting rights.

STAFF RECOMMENDATION:

If the Charter Ordinance is passed, staff recommends that this ordinance be passed as well.

BACKGROUND:

Any changes to the Mayor's duties require a vote by the electorate. If the Charter Ordinance introduced by the Deputy Mayor passes, then the governing body must pass an ordinance calling for an election.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____, _____ & _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Deputy Mayor Denise Everhart calling an election to be held on April 7, 2015, for the purpose of voting on Charter Ordinance No. ____.

WHEREAS, the Governing Body of the City of Topeka, Kansas, deems it advisable to submit Charter Ordinance No. ____ to an election as provided by Article 12, Section 5(c)(3) of the Constitution of the State of Kansas.

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

Section 1. That an election is hereby called to be held on April 7, 2015, for the purpose of voting on Charter Ordinance No. ____, such election to be conducted as elections for officers and by the officers handling such elections.

Section 2. The proposition on the ballot shall be:

“Shall Charter Ordinance No. ____ changing the voting powers of the Mayor entitled: ‘A Charter Ordinance introduced by Deputy Mayor Denise Everhart, amending City of Topeka Code §A2-24 concerning the duties of the mayor’ take effect?”

Said Charter Ordinance shall take effect if approved by a majority of the electors voting thereon.

Section 3. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper once each week for three consecutive weeks pursuant to Article 12, Section 5(c)(3) of the Constitution of the State of Kansas.

Section 4. Upon its third publication, the City Clerk is hereby directed to certify a copy of this Ordinance and deliver it to the Election Commissioner of Shawnee County.

31 PASSED and APPROVED by the Governing Body

32 _____.

33 CITY OF TOPEKA, KANSAS

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Larry E. Wolgast, Mayor

39 ATTEST:

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44 _____
Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 4, 2014

 [Back](#)  [Print](#)

DATE:	December 9, 2014	
CONTACT PERSON:	Councilmember Nathan Schmidt	DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 159 Charter	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A CHARTER ORDINANCE introduced by Councilmember Nathan Schmidt, amending City of Topeka Code Sections A2-21 and A2-22 concerning election of councilmembers.

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

(Approval would be the first step in a process to place the ordinance on the April 7, 2015 ballot. The electorate would decide whether to alter the current method of election of council members from district to at-large.)

POLICY ISSUE:

Whether to allow the electorate to determine whether to alter the current method of electing council members.

STAFF RECOMMENDATION:

The charter ordinance is a recommendation from the Citizens Government Review Committee. Staff makes no recommendation.

BACKGROUND:

Currently, council members are elected by the voters in each of nine districts. The Citizens Government Review Committee recommended that council members be elected by all voters (at-large). During a primary election held within the district, the two nominees from each district receiving the greatest number of votes within the district will stand for election in the general election on an at-large basis.

If this charter ordinance is approved, the governing body would adopt another ordinance placing this issue

Item #22

on the April 7, 2015 ballot.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[Citizens Government Review Committee Recommendations](#)

[Charter Ordinance](#)

THE CITIZENS GOVERNMENT REVIEW COMMITTEE
REPORT



City of Topeka, Kansas
May 20, 2014

 CITIZENS GOVERNMENT REVIEW COMMITTEE

 FINAL REPORT

2014

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CITIZENS GOVERNMENT REVIEW COMMITTEE

FINAL REPORT

2014

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Presented by:

CITIZENS GOVERNMENT REVIEW COMMITTEE 2014

Jim Reardon - Committee Chair *(City Council District No. 6 Nominee)*

Jim is a graduate of Washburn University Law School. He is president of Peoples Wealth Management LLC investment advisors. Jim was a Topeka City Council member for 12 years and a former division director at the Kansas Dept. of Administration.

Judy Anderson Moler - Committee Member *(City Council District No. 9 Nominee)*

Judy is an attorney with extensive experience in local government law. She worked for the City of Wichita and the Kansas Association of Counties. She has served on the Mayor's Commission for the Status of Women and is a member of the League of Women Voters of Topeka-Shawnee County.

John Nave - Committee Member *(City Council District No. 4 Nominee)*

John served on the city council from 2003-2007. He was also on the Citizen's Government Review Committee that proposed our current form of government. He works for Goodyear Tire & Rubber Co. He is a graduate of Leadership Topeka 2001 and has served on various boards including United Way, Golden City Sertoma, Red Cross of Topeka, and Living the Dream, Inc.

Maynard Oliverius - Committee Member *(City Council District No. 7 Nominee)*

Maynard is a graduate of Fort Hays State University and the Master's program at the University of Minnesota. He served as President and Chief Executive Officer of Stormont-Vail Healthcare from 1996 until his retirement in 2012. He serves on several boards and Foundations including the Topeka Community Foundation; Security Benefit Fund Board, and the Stormont-Vail HealthCare Foundation Board.

Tina Williams - Committee Member *(City Council District No. 1 Nominee)*

Tina Williams, M.S., Ed., was a Spanish Language and English Language Learner Instructor for 10 years. She is currently an administrator at Washburn University in the Office of International Programs. She is the President of MANA de Topeka and active in community affairs.

PART ONE

REVIEW AND RECOMMENDATIONS

I. INTRODUCTION

“There is no ‘wrong’ form of government, it is only wrong if it is not working for the community it is being used in.”

—Don Moler, former Executive Director of the League of Kansas Municipalities

The Citizens Government Review Committee is impaneled to study and review the form of government of the city of Topeka and make recommendations to the city’s government body for amendment or modification. To our knowledge, this is the third Citizen’s Review Committee authorized by Resolution of the City Council/Governing Body.

We found many positives about the current form of government and the men and women who are entrusted with the governance of our community. We heard few actionable complaints in the two public hearings held at the Topeka Public Library or from the interactive internet connections established through Mayor Larry Wolgast’s office; through the City website; or by council member invitations to constituents.

As this report reveals, we received many thoughtful written and spoken recommendations from conferees who attended our committee meetings and citizens who attended our public hearings. Many of these recommendations have been incorporated in our recommendations herein. Several City Council members and Mayor Wolgast attended our sessions and provided helpful insight as well.

We did become aware of some common and recurrent themes or concerns from the public which have led to some of our recommendations. We also learned of areas of internal concern that need to be addressed by changes to the language to the Charter Ordinance and by clarifying the roles of our elected officials. These are identified and addressed in Section IV: Areas of Concern.

II. HISTORY

1983 Citizens Advisory Committee of Forms of Government

The first citizens committee was charged with researching the different forms of government and recommending what they considered the best form for Topeka. There were 16 members selected by the 5 members of the governing body (4 commissioners and the mayor) one representative from eight community groups and one member from each of the 3 Topeka senatorial districts.

The committee held six public hearings throughout the city and met weekly from August 1983 through March of 1984. The committee recommended the adoption of a new form of government—the Strong Mayor/Council/Chief Administrative Officer—which was placed on the November 1984 ballot. The measure passed and the new form of government began in April 1985.

1990 Topeka Charter Ordinance Review Committee

Pursuant to 1988 Ordinance, requiring the convening of a citizen review committee before July 1, 1989 and every 10 years thereafter, the Council impanelled committee to review the City's form of government. The committee was comprised of 15 members: 3 selected by the Mayor, one representative appointed by each of the nine Council members, and 3 at-large members selected by the other committee members. Thirteen committee meetings were held between August 1989 and April 1990. The major issue appeared to be the need to clarify the role of the mayor and council. The governing body adopted some recommendations and rejected others.

Discussion: The Strong Mayor/City Council Form of Government

Doug Mays, former City of Topeka Councilmember, told the 2014 committee he ran for the first Topeka City Council because people were fed up with the Commission Form of Government and wanted local government to be more responsive. He said the hybrid Strong Mayor/Council Form of Government seemed intriguing, and he wanted to be a part of it. He noted it was a wonderful experience to serve under the new form of government with a clean slate; however, system flaws developed early in the Strong Mayor/Council Form of Government. After approximately two years it was apparent the mayor was given too much power which continued to show in years to follow.

“Topeka is a collection of neighborhoods, which has hurt Topeka in the past and still continues to do.”—*Doug Mays former City Councilman*

Mr. Mays said over time it became apparent that Topeka was becoming more and more parochial rather than a city of the whole. The Strong Mayor/Council Form of Government created a problem for the chief executive officer because this person had no basic power, and the mayor called all the shots, which is why it is so important to define the role of the mayor in the current form of government.

1999 Citizen's Review Committee

This committee was impanelled by Resolution and adopted by the City's governing body on September 22, 1998. The committee met weekly from September 1998 through May of 1999. One televised public hearing was held. The committee solicited advice from current and past City office holders, current and former department heads, representatives from business and labor and final citizen input. The committee recommended numerous changes to the charter ordinance and urged the governing body to initiate action to consolidate the governments of the city and county. None of the recommendations were adopted by the governing body.

However the matter of consolidation (i.e. unified government) did come to a vote. Despite community wide support of the proposal and an ultimate vote at the polls that carried 70% to 30% of all voters but the measure was doomed to fail by the adoption of “dual majority” voting requirements (requiring that the measure must be passed by a majority of votes cast in the county as well as in the city. This measure was determined by the Kansas Legislature and supported by the Shawnee County Delegation.

Consolidation of city-county governments requires approval of the state legislature.

Former City Councilman and former Speaker of the House Doug Mays attended Public Hearing No. 1 and summarized the provisions of House Bill 2185, Topeka/Shawnee County consolidation proposal approved by the Kansas legislature.

Mays reported that while the bill provided for one “unified” government, the boundaries of the city would have still existed. The governing body would consist of five (5) commissioners to be elected by district; the city council would determine bonding responsibilities for any project located within city boundaries and the bonding for the County would be decided by the commissioners. The bill called for the consolidation of services “wherever possible.”

He stated the voters passed the proposal in the city; however, it failed because the majority of voters in the county were overwhelming against it. He said that a dual majority is very difficult to acquire. He noted that legislation led to the assumption of public health services from the City by the County; the voters of Topeka and Shawnee County created the Topeka and Shawnee County Public Library; and the City and County Parks & Recreation Departments are undergoing a merger.

In 2005 The Council/Manager form of government became effective.

The passage occurred in response to concerns expressed by a combination of business leaders, community leaders, and elected officials who wanted the governing body to end what seemed to be personality clashes and move forward in a more progressive manner. The committee was briefed on the decisions recommended, and the actions taken by the Governing Body in 2004 by former City Council member Lisa Stubbs, an advocate for the change, and Committee member John Nave (who was also a council member at the time of the change to the current form of government).

The subsequent meetings led the governing body members to adopt the Council-Manager form of government in 2004. As a result of the transition to the City-Manager Form of Government and the transfer of duties to the City Manager, the Mayor’s salary was substantially reduced.

It was anticipated that the role of the Mayor would be diminished by the transfer of administrative duties to the City Manager and as a result the Mayor’s salary was very substantially reduced.

The 2014 Citizens Committee to Review the Form of Government for the City was established by an ordinance established October 13, 2009 which replaced the 1988 ordinance and requires that a committee be impaneled before July 1, 2015 and every 10 years thereafter. The current committee of five citizens was selected by the City’s Governing body from numerous applicants.

III. COMMITTEE PROCESS AND METHODS

Throughout its work the Committee benefitted from the professional staff that coordinated and attended all of the meetings. Assistance was provided by Vicki Buening, assistant to Mayor Larry Wolgast, who prepared agendas, coordinated communication with the public and press and made arrangements for the facilities to accommodate our meetings; and Brenda Younger, Topeka City Clerk who researched information from other cities, provided verbatim minutes and who captured lengthy public comments flawlessly.

Also assisting the committee was Deputy City Attorney Mary Feighny who helped define the scope of the committee's inquiry and explained the workings of Kansas Statutory law as it applies to the Charter Ordinance of Topeka.

The Citizen's Review Committee held its initial meeting on January 23, 2014

The Committee decided to schedule regular weekly meetings in the 1:00 to 3:00 pm time period each Thursday. In completing its assignment the Committee has held 11 separate meetings and 2 public hearings.

IV. AREAS OF CONCERN

i. No Clear Direction

The committee's January 30th meeting featured a presentation by Don Moler, former Executive Director of the Kansas League of Municipalities who briefed the committee on the different forms of government in Kansas. Moler expressed concerns in regard to language in the Charter Ordinance which may run counter to state law or be ambiguous.¹

In his briefing, Don Moler identified what is perhaps the main area of concern:

The general term of "the Mayor and District Council members" is used frequently throughout the charter ordinance. Mr. Moler believes that Topeka may have the only charter ordinance in the state (and possibly the nation) written in this manner. He believes that the language contributes to misunderstandings and leads to an unintended divisive relationship.

Mr. Moler suggested that the committee consider the roles of the Mayor and Council members in terms of the "Governing Body."

In Topeka the Mayor is not thought of as just a figure head (regardless of what might have been the intent of the 2004 actions). In Topeka, the Mayor has a part to play that should make him/her the focal point of the Governing Body.

The Charter Ordinance was written in a way that creates unnecessary tension in the city government because there is no clear direction as to the roles of the Mayor and Council members as a Governing Body.

Moler says that the League of Kansas Municipalities believes that for the purposes of the Charter Ordinance the Mayor has a vote because the Charter Ordinance references the "governing body" and the mayor is considered part of the governing body. Moler stated that trying to limit the mayor's authority to vote may violate statutory authority.

Comment: Former Mayor William "Bill" Bunten discussed a drafting flaw and legal decision that casts doubt on the legality of the current ordinance. An interpretation in 2004 by the City

¹ More discussion can be found in this report under *Areas of Concern*.

Attorney denied him the opportunity to vote on the ordinance. This left the measure short of the required votes necessary to pass a Charter Ordinance. A subsequent Attorney General's Opinion declared the Mayor a member of the "governing body." Therefore, his favorable vote was required in order to achieve a majority vote.²

In his February 6th presentation, Former Mayor William Bunten told the committee:

"Another concern I had was that the duties of the city council were not to be found beyond Section 12, Subsection 1 and 2 on page 11, establishing a meeting time and electing a deputy mayor. You might respond that council members do vote on legislation, but they vote as members of the governing body, for it is the governing body which is vested with the 'power of legislation'...and that body currently includes the mayor. I believe the mayor should not be voting on legislation which he or she is empowered to veto."

In his February 13th discussion Mayor Larry Wolgast confirmed the drafting problems. Currently, the mayor is a member of the governing body and not a member of the council. Some items require a vote of the "governing body" and others a vote of the City Council.³

He sees the council and mayor as a "working unit" rather than assuming adversarial roles. He believes the current process and terminology is confusing for council members and for the public. He recommended that "the governing body" be the primary term used in the Charter.

Committee member John Nave was a City Council member at the time the current language was drafted. He reported that the language of the Charter Ordinance was approved by the City Council as a result of numerous meetings held in 2004 in response to concerns expressed by a combination of business leaders, community leaders and elected officials who wanted the city to move forward in a more progressive manner. He said it is now apparent the charter ordinance was crafted in a unique manner and is a hybrid to Topeka. Because of this, he said it is time to review the need for change or revision, specifically in regards to the districts (size/amount/election process); and to clarify the Mayor's leadership role because citizens in Topeka look to the Mayor for leadership and consider the mayor to be the presiding officer of the Governing Body.

All of this has led the committee to the realization that the attempt to diminish roles of the governing body (which was undertaken by popular request in 2004) resulted in the adoption of charter language that is vague and has created uncertainties. It likely that the current language is out of step with certain provisions of state law. For this reason, we suggested that more appropriate language be drafted and proposed for consideration by the governing body. Mary Feighny's draft is included in the Appendices.⁴

Comment: Doug Mays, former Topeka City councilman and legislative council to the City of

² See Attorney General Opinion No 2005-18 at Appendix No 1

³ For a better understanding of the matter of when the Mayor may or may not vote, see the Memo prepared by Deputy City Attorney Mary Feighny at Appendix No 2.

⁴ See Appendix No 3

Olathe, suggested that the committee study the Olathe Charter ordinance which changed that city's form of government from a council-mayor type of government to a *modified mayor-council-manager* form of government.

As the roles of the mayor and council members have become more harmonious, it is time to recognize the fact that a well-run city requires a united governing body, sharing responsibility and acting as one to give direction and purpose to the City Manager.

ii. At-Large Representation

Councilman Schmidt encouraged the Committee to look at how the charter could be used by the governing body to be more responsive to the needs of the city as a whole. He stated that he believes nine (9) districts provide sufficient representation of the entire city. He urged the committee to consider the matter of at large representation.

Neil Dobler former City of Topeka Acting City Manager appeared in his role as Board Chairman of the Greater Topeka Chamber of Commerce. He stated there is strong support of the current form of government. He indicated that there is also public support for changing council district representation to include at-large districts. He recommended that 7 council members represent the districts and 2 at large members to be elected at large.

Former City Administrator **John Arnold** spoke to the Committee on February 27th. He told the committee that over his career he worked in 10 cities, and every one of those cities had some form of at-large representation.

Comment: Mr. Dobler and Mr. Arnold recommend a mix of at-large and single-member district Council members. The committee noted that Olathe and the Unified Government (Kansas City Kansas/ Wyandotte County have two at-large Council members.⁵)

“..When candidates run for at-large positions, they raise issues that are broader in scope; issues that affect the entire community.”—Testimony of Allyn O. Lockner

The committee considered well-researched arguments for the mixed at-large system (and other topics) presented in a paper by **Mr. Allyn Lockner**. Sometimes, district elected members may choose to subordinate citywide concerns in favor of parochial interests. It was decided that the time has come to introduce the at-large concept.

Mr. Lockner identified two situations when problems can arise in mixed at large systems:

- When at-large positions are perceived by the Council (or the public) to be superior to that of district members
- When at-large candidates are perceived to be rivals to the mayor

In the end, the committee decided that the “School Board” voting method treated all council members equally; placed them all on the same level; accomplished the ends of community wide representation and offered the path of least resistance to implementation.⁶

⁵ Brenda Younger, Topeka City Clerk compiled an excellent comparison chart detailing the number of representatives in each elected body including those elected at large. See Chart at Appendix No 4.

iii. Election Dates

The committee considered suggestions from former Mayor Bunten and public commentators that voter turnout would be larger if City elections were held in August and November in conjunction with other elected officials rather than in February and April.

The League of Women Voters of Topeka-Shawnee County and the League of Kansas Municipalities (LKM) strongly oppose this suggestion.

Although the purported purpose is to increase voter turnout, the LKM indicates that moving elections to November of odd-years will have little impact on voter turnout with only a 10% increase in voter turnout being documented in those states that have implemented the change.⁷ Proponents claim turnout will increase because weather conditions are better in November than in April, but average temperatures and precipitation for early April and November are virtually identical.

What the LKM does not talk about in their position piece is the concern that local elections will be totally overshadowed by the heavily financed and intensive state and federal races. They fear that candidates for city elections will become for many voters, unknown names at the end of the ballot.

It appears that the municipalities are happy with the election system as it exists. We saw no good reason to change it.

⁶ For a well-researched paper on Voter Selection of Council Members and the Role of the Mayor in Budget Development see Improving City of Topeka's Council-Manager Form of Government by Allyn Lochner at Appendix No 5

⁷ For LKM position paper see Appendix 6

V. RECOMMENDATIONS: CITY OF TOPEKA GOVERNING BODY

The Committee agreed to the following by unanimous consent:

Sec A2-4. Form of Government

The Committee:

Supports the Council—Manager form of Government.

Sec. A2-21 Composition

The Committee Recommends:

That all 9 districts are retained and that all district representatives have equal voice, vote and power on the Governing Body.

Comment: This information was shared by former Mayor Doug Wright. *“Prior to 1985 no women and no one east of MacVicar was part of the governing body. The geographic district system allows everyone to feel like they have a voice. Every citizen in Topeka has someone on the city council they can talk to in this form of government.”*

While the number of Council members in Topeka is larger than most (but not all) Kansas cities, most of the council members and a number of the public commentators expressed satisfaction with the current average ratio of one council member to 14,500 constituents. City Manager Jim Colson indicated that he has no problem with the current number, and he said he has worked with larger Governing Bodies in other cities.⁸

Voting Powers

The committee recommends:

That all ten Governing Body members will be voting members with the exception that the Mayor will not have a vote on any matter upon which he/she has been given veto power by operation of law.

Eligibility of the Governing Body

The committee recommends:

That Governing Body members be elected on a nonpartisan basis.

Comment: It is noted that a current state initiative seems designed to turn local elections into partisan elections, to which there is great resistance by The League of Women Voters of Topeka-Shawnee County and the Kanas League of Municipalities as well. We believe that combining city elections with other elections that are partisan does not seem to be a good idea.

That all members continue to stand for election every four years on a staggered election basis.

⁸ For a Comparison Chart of surrounding governing bodies See Mayor Wolgast Chart at Appendix 7

Comment: Topeka citizen **Jason Fizell** pointed out that there is an unfairness built-in to the current system that he believed should be corrected. Namely, the Mayor is elected to a four-year term in the same election as odd-numbered council district seats. Thus, any council person holding an odd-number district seat must give up their seat to run for mayor while a council person in an even number seat does not.

Mr. Fizell offered two solutions. 1) Require even number district council people to relinquish their seat if they run for mayor. 2) Make the mayor's term six years so that odd numbered districts would stand for election with the mayor during the one election cycle and the even numbered districts during the next.

That Primary and General elections continue to be held at the current election dates.

Comment: Former Mayor Bunten and others argued in favor of holding city elections at the same time as statewide elections. A move to August and November would disrupt the traditional budget cycle for cities and schools and complicate the timing of financial interest reports required to be filed by Kansas officials. According to the League of Women Voters, the city governing bodies and school boards in the state overwhelmingly favor continuing 153 years of spring elections.⁹ We see no reason to disagree.

Method of Election¹⁰

The committee recommends:

That the Governing Body be a 10 member body consisting of 9 members running for election from the council districts where they reside and a Mayor who resides in the city and is elected at large. During a primary election held within the district, the two nominees from each district receiving the greatest number of votes within the district will stand for election in the General election on an at-large basis.

Comment: Proponents of this recommendation used the USD 501 School Board Member elections as an example. School Board candidates file for office and run in the primary election by district with city wide voters choosing one of two candidates from each district. While other methods of running at-large were considered by the 2014 Committee they required changing the composition of the districts or creating two classes of elected governing body officials.¹¹

One downside with this this recommendation is the possible increase in expense for the candidates to get their campaign messaging out to the entire city and not just their district. Another downside (pointed out by Councilman Schmidt) is that a candidate could win overwhelmingly in his/her district and yet lose out in the general election.

⁹ For further discussion see *Areas of Concern*

¹⁰ See Election Terms and Timelines Chart prepared by Brenda Younger, City Clerk at [Appendix 8](#)

¹¹ For further discussion see *Areas of Concern*

Sec. A2-25. Powers of the Governing Body

The committee recommends:

Changing references to “Council” or “Councilmember” to “Governing Body” and “Governing Body” member. The committee would retain the language indicating that the Governing Body will have no administrative powers.

Modeling the City’s organizational structure as follows:

The Governing Body is the equivalent of the City’s Board of Directors, and the Mayor is the equivalent of the Chairman of the Board. The City Manager is the equivalent of the City’s Chief Executive Officer tasked with administrative duties including carrying out the policy, legislation, ordinances, strategic plans and budgets approved by the Governing Body.

Comment: The city is organized under a corporate charter and Committee member Maynard Oliverius, a long time corporate executive, pointed out that the current structure is similar to a traditional corporate model.

The following elements are recommended by Council Member Karen Hiller to be included in the City Manager’s Strategic Plan:

- **Collaboration**
- **Integrity**
- **Accountability**
- **Professionalism**
- **Transparency**

It was suggested that the Strategic Plan express community values in the form of:¹²

- **Mission Statement**
- **Vision Statement**
- **Goal Statement**
- **Values Statement**

Mayor: Functions, Powers and Duties of the Mayor

The committee recommends:

That the Mayor serves as the presiding member for the purpose of conducting the business meetings of the city. As such, the Mayor would chair committees of the entire body, such as the budget committee and the committee of the whole.

That the Mayor shall review the budget and strategic plan prepared by the City Manager and provide input and recommendations to the Governing Body.

¹² As recommended by former council member Lisa Stubbs

Comment: This idea was first suggested at the public hearing by Mr. Allyn Lockner who saw the need for the Mayor's review prior to presentation to the Council. It was also mentioned by Council Member Karen Hiller, former Mayor Bill Bunten and by Mayor Larry Wolgast.

Modifying current Charter Ordinance language to allow the Mayor to vote on all policy, ordinances, legislation, budgets and other matters, except where the Mayor has veto power expressly mandated by State Statute.

Comment: The committee expressed support for adopting language regarding the Mayor as similar to that outlined in City of Olathe Charter Ordinance No. 28, Section 2.4:

"He or she shall represent the city Governing Body at all official city functions, and shall be the official representative of the Governing Body at all meetings, conferences and negotiations relating to policy matters involving other governmental units and shall recommend Governing Body action relating thereto.

The mayor shall be the official representative of the Governing Body at all conferences and meetings with citizen groups and organizations interested in promoting the welfare and development of the city, and shall recommend Governing Body action relative thereto. The mayor may inform the Governing Body concerning questions and policy, and may make policy recommendations to the Governing Body. The mayor shall be empowered to call special meetings as provided by law."

The committee recommends:

The governing body adopts language drafted by Deputy City Attorney Mary Feighny to bring the Topeka Charter Ordinance into compliance with State law.¹³

VI. OTHER RECOMMENDATIONS

The committee recommends:

That a long range planning committee made up of city and county leaders be convened for the purpose of resolving issues and implementing a workable plan to consolidate city-county government.

"Boundaries become barriers in regards to consolidation of government. If you want to consolidate, you will need extensive information on how counties operate today and in the past." --Joe Swalwell former Executive Director, Downtown Topeka

Comment: The idea of a long range plan was presented by former Downtown Topeka Executive Director **Joe Swalwell**. Swalwell referenced a detailed discussion of Shawnee County government written by the late **E.A. Mosher**, long time executive director of the League of Kansas Municipalities.

¹³ Comprehensive language changes can be found at Appendix No. 3

The report pointed out that Shawnee County is the hub of commerce for the surrounding 14 county region and it is critical that Shawnee County governing officials work together to maintain that position and to consider how to best accommodate this transitory demand on our facilities and resources. This seemed to provide a new approach to the continuing community interest in governmental consolidation since planning for the future holds no imminent jeopardy it offers the hope of future compromise and accommodation.

Recommends that the long range planning committee consider expanding the number of Country Commissioners from 3 to 5 in order to facilitate better communication among members, to provide broader representation of community interests.

Recommends that salary increases be implemented for Governing Body Members.

Comment: It should be noted that pay for Council members and Mayor was last discussed in 2004.

The committee expressed particular concern that the current low Mayor's salary (which was drastically reduced in 2004) will discourage many capable citizens from considering service as the presiding officer of our Governing Body.

Salary for public service is a complicated issue and there are many pros and cons. As former council member Lisa Stubbs pointed out: these positions were intended to be driven by a desire to do public service, not to serve as a career path. (Although it was noted that several council members have pursued other avenues of public service such as legislators or agency heads).

Public service as a Governing Body member is not an invitation to assume administrative duties or to micro-manage the city staff. Nevertheless, the Governing body responsibilities have increased over the years without as much as a cost of living increase for more than a decade. Governing Body Member salaries (like all other governing body salaries) should have at least, a periodic cost of living adjustment.

PART TWO

MEETING SUMMARIES

The committee's January 30th meeting featured a presentation by Don Moler, former Executive Director of the League of Kansas Municipalities who briefed the committee on the different forms of government in Kansas; how the term "Home Rule" relates to city government and the importance of the Charter Ordinance. Moler expressed concerns in regard to language in the Charter Ordinance which may run counter to state law or be ambiguous.¹⁴

February 6, 2014. Former Council Member **Lisa Stubbs** presented a review of the recommendations made by the 2nd Citizens Review Committee and the subsequent passage of the City Manager form of Government in November of 2004 by a 2 to 1 margin. Here is a summary of her discussion:

¹⁴ More discussion can be found in this report under *Areas of Concern*.

“There is no perfect form of government. What we passed in 2004 was an improvement. The most important thing that we can do is make it possible for constituents to be informed and involved; and to elect quality people as our elected officials who have the best interest of our community in-mind.”

The committee also heard from former Mayor **William “Bill” Bunten**. Mayor Bunten outlined a drafting flaw and legal decision that cast some doubt on the legality of the current ordinance. He also noted that the governing body had the “power of legislation”—not the city council. So the mayor had a vote as a member of the governing body to vote on legislation and also the power to veto legislation. Nowhere in the charter ordinance was the council given the power to override a mayoral veto. The result of this flaw left the “weak” mayor with the power to vote on legislation, veto legislation, and the council couldn’t do anything about it. He said the ordinance as written didn’t create a “weak” mayor, it created a possible despot.

While the ordinance was later changed, his commentary pointed out the hasty drafting that implemented the ordinance. Mayor Bunten said that the only duties specifically spelled out for the city council was to establish meeting times and elect a deputy mayor. Other key recommendations:

- Provide fiscal officer for mayor and council
- Hold elections in conjunction with state election dates in August and November
- Review compensation for Council and Mayor
- Vest the council with the “power of legislation” not the “governing body.”

Mayor Bunten also recommended several procedural matters and mayoral duties.¹⁵

February 11, 2014. The Committee met with the Topeka City Council in order to receive commentary and to outline the method of procedure.

February 13th meeting featured a discussion with **Mayor Larry Wolgast** regarding respective roles of the Mayor and Council members. The mayor described the ambiguity he found in in the Charter language, and he encouraged the committee to review the mayor’s duties and the mayor’s role. He suggested the term “strong” or “weak” mayor not be used to define the role of a mayor. He said the powers and duties of the mayor, council, city manager and deputy mayor need to be more clearly defined.¹⁶

Mayor Wolgast pointed out that currently, the mayor can veto council legislation unless Kansas law gives the mayor a vote; however, the mayor votes on appropriation ordinances but also has the right to line-item veto specific items in the budget, a confusing process that should be clarified. The mayor emphasized that he believes veto authority takes away the legislative aspect of city government. He said it would not be his desire to exercise veto power and he expressed

¹⁵ Bill Bunten’s comments in their entirety are on file at the City Clerk’s Office.

¹⁶ Lacking sufficient guidance from the Charter, Mayor Wolgast refers to Topeka Municipal Code Section A2-24: Mayor—Functions powers, and duties.

(a) *The Mayor shall be the chief elected officer of the city, responsible for providing leadership and taking issues to the people and marshalling public interest in and support for the municipal activity.”*

the importance of working with the council and sharing their views. The committee with the help of the City Attorney determined that veto power has rarely been used in the past.¹⁷

Councilmember Nathan Schmidt (District 8) attended the meeting and he was asked for his input. Councilman Schmidt indicated that he strongly supports the mayor serving as the lead member of the council and having equal legislative authority, as well as having authority to make appointments to boards and commissions. He urged the committee to consider how to make sure the governing body represents the city as a whole as well as the respective districts. He urged the committee to consider the matter of at large representation.¹⁸

February 20, 2014. Two public meetings were held at the Topeka/Shawnee County Public Library¹⁹

Meeting of February 27, 2014. The committee welcomed City of Topeka City Manager Jim Colson, former City of Topeka Chief Executive Officer John Arnold, and former City of Topeka Mayor Doug Wright as conferees and they invited the input of former Executive Director Joe Swalwell of Downtown Topeka, Inc who was in attendance.

Note: *We have chosen Mr. Colson's remarks for the Concluding Comments portion of this report.*²⁰

Joe Swalwell, former Executive Director for Downtown Topeka, Inc., referenced a study written by Ernest A. Mosher, "Shawnee County Governance: Past, Present and in the Future" and made the following statements:

Boundaries become barriers in regards to consolidation of government and if you want to consolidate you will need extensive information on how counties operate today and in the past. Topeka is the center city gravity for surrounding communities and this factor should be used to our advantage.

Mr. Swalwell emphasized the need for better communication with city and county residents without creating anxiety because of fear of losing jobs, as well as, loss of equality of wages and duties. Any necessary training of employees should be in collaboration with local schools and attrition should be reviewed very carefully.

He suggested developing a round table discussion with Shawnee County leaders to develop a long-range study that would outline different consolidation scenarios including how consolidation could save money.

He suggested the council extend the city limits if overall costs of city government are to be reduced. He discouraged the council from altering city sales tax because people from surrounding cities and counties pay this tax and help fund infrastructure maintenance.

¹⁷ For a better understanding of the Mayor's Statutory Veto Powers see Appendix No 2

¹⁸ For further at-large discussion see Areas of Concern. For addition remarks from Mr. Schmidt See City Council Interviews at Part 4

¹⁹ See Public Hearings Section of this Report. P. 21

²⁰ See page 27 of this Report

“Leadership is defined by action—the act of getting people to work together.”—John Arnold

John Arnold, former City of Topeka Chief Executive Officer, reported he has over thirty years of experience in local government, ranging from being an employee to managing nine organizations with 75 to 1300 employees. He made the following observations:

Arnold said the City Manager Form of Government seems to be working. He said in the City Manager Form of Government, the role of the governing body is to engage the public. Action is hindered in the City of Topeka because the mayor is not a full-time voting member of the council. This tends to inhibit the elected governing body from working together. The mayor’s voting rights must be clarified because state law is not understood. He noted it has been unclear since 2004 when the charter ordinance was drafted.

He believes there are too many council districts. He says seven (7) is a better number with some being elected at-large. In his experience, seven (7) districts is a very workable number with four (4) elected by district and three (3) elected at-large. All the cities he has worked for included district members elected at-large; however, it always is a matter of opinion as to what is the best option for elections.

He said that the practice of referring matters to committees tends to slow down the progress of city business. He said it appears the City wants to operate like the State and he noted two former mayors (William Bunten and Joan Wagon) have been former legislators.

Doug Wright, former City of Topeka Mayor and City Attorney. Mr. Wright served as the City Attorney during the Commission Form of Government, and was also the first Mayor when the City of Topeka changed from the Commission Form of Government to the Strong Mayor/Council Form of Government. Doug Wright stated he would provide a historical perspective as an observer of city government:

He said the Commission Form of Government proved to be an unfair system because four (4) out of the five (5) commission members were of the same ethnic race and from the same geographic area of the city. The current process of district elections should remain due to past statistics so everyone has a voice in local government and is provided the opportunity to communicate with a council person they can relate to. He cannot think of anything that would not apply to the entire city as a whole; therefore, he believes district elections are a good fit for Topeka. He said the mayor needs clearly defined powers because it is important for the community to look to a leader that has authority.

Review Committee Work Session-March 13, 2014

Council member **Karen Hiller** said the City of Topeka Charter Ordinance is sort of like a constitution. It should include core values and key non-negotiable ways of doing business. She briefly highlighted what she would like reviewed in the current charter:

- Mission and Vision for the city should be included;
- Language regarding excellence, long-range strategic plans and goals, performance-based, transparency and inclusiveness should be included;

- Role of the mayor is included, however, vote and veto issues need to be resolved;
- Role of the deputy mayor is included; however, the roles of city manager and other council staff hiring and review processes need to be addressed;
- Preparation of staff organization chart by the city manager is included and approved by the council; however it has not been followed;
- Annual report of financial condition and administrative actions by February 28 has not always been followed;
- Annual audit engaged by and reported to the council should be included;
- Agenda items should be provided twelve (12) days in advance notice as indicated in the Council rules;
- Emergency ordinances language allows them to be introduced and passed in the same day; however, she is not sure if this has ever happened;
- Regarding board and commissions she recommended consideration be given to specifying that the described procedure would apply to all appointments, not just those for City-created boards.

Comment: Committee members felt that this degree of specificity would not be included in a document similar to a constitution. A better place for this procedural detail would be a *policy manual*.

Councilmember **Nathan Schmidt** made the following statements:

He advocates making the mayor a full voting member of the council with legislative duties. The mayor's role should be similar to the Speaker of the House, with no veto power. The mayor should be elected at-large completing a ten (10) member city council.

Sylvester Zollicoffe, a member of the public appeared and spoke in opposition of changing the council districts. He stated he believes the mayor should have veto power and no voting rights. He stated he supports district representation only and believes the city needs to conduct more town hall meetings with the city manager and council members. He stated he supports only making technical changes to the charter ordinance.

Review Committee Meeting – March 20, 2014

Mayor Wolgast briefed the committee on **House Bill 2227** a proposal to move municipal elections to the fall (August and November) of odd-numbered years. Mayor Wolgast stated many city officials and school board members strongly oppose the change. He distributed a handout from the League of Kansas Municipalities expressing their concerns regarding the change in local elections, and why there is opposition to the bill throughout the state based on the following concerns:

- Political association would be required to be listed on the ballot;
- Transitional issues would impact all city officials (approximately 3,800) in the state of Kansas;
- Legislation would not make local elections partisan; however, the bill would give partisan officials the authority to fill vacancies on governing bodies;

- The bill would disrupt the budget cycle for cities by making the terms of elected officials to begin in January;
- The change complicates the many statutory requirements of local elections across the state;
- Increasing voter turnout is the purported purpose of the bill. Research indicates that moving local elections to the fall will have little impact with only a 10% increase in voter turnout being documented in those states that have implemented the change.

March 27, 2014 Review Committee Meeting

The Committee held a work session to discuss the content and structural development of the Report

Review Committee Meeting April 17, 2014

The Committee held a work session to review the first draft of the Report

Review Committee Meeting April 24, 2014

The Committee held a work session to review an updated draft of the Report.

Review Committee Meeting May 1, 2014

The Committee met to approve the final draft of the Committee Report

PART THREE

PUBLIC HEARINGS

Two public hearings were scheduled on **February 20, 2014** at the Topeka / Shawnee County Public Library.

Public Hearing No.1 1:00 P.M.

Frank Hoge stated he has lived in a neighborhood located close the Washburn University for the past 20 years. He has remained active in efforts to rebuild and renew neighborhoods. He stated things have changed a great deal from the past, and problems cannot be solved if new things cannot be thought of to help fix the problems, improving the overall city.

Marge Ahrens, spoke on behalf of the League of Women Voters (LWV) of Topeka and Shawnee County in the absence of MaryAnn Quilty, President of the organization who was ill. She stated the LWV does not support political parties or candidates; however, the LWV does promote the act of participation by citizens in government and educates people on those issues.

LWV indicated that they support the City Manager Form of Government with clear responsibility to appoint and supervise administrative personnel, as well as, the notion that elected officials should serve as policy makers and not interfere with the daily operations of the

City. She stated they are very concerned about the lack of public funds for services that they value.

LWV supports the core development of the city and sales tax incentive at its inception because it generates money to help develop the city. She said that while LWV supported GO Topeka being used as the economic development arm of the city; she cautioned that there is no oversight of funds, limited public participation and no measurable results from the services. She noted they purposed that a study be conducted of economic development and the effectiveness of GO Topeka.

Teresa Miller expressed concern with the Citizen Government Review Committee being selected by the Mayor and believes it is a conflict of interest. She stated there appears to be a power struggle between the Mayor and City Manager at this time. She spoke in support of consolidating city and county governments. She stated she supports how the City Manager is managing funds right now and noted the voters decided the current form of government, and it is slowly getting better.

She expressed concern that the past two council members that have represented Council District No. 2 not being from the north Topeka area. She requested that the City add a representative to the governing body to represent north Topeka.

John Jackson stated that he supports the current form of government and believes the City Council should continue to direct the City Manager on how to run the city. He stated he has tried to contact the Mayor and City Manager with no luck; therefore, he believes they should not reduce the number of council districts because people need a way to communicate with local government. He would support the same number of council districts or an increase in council districts.

David Cullip stated he supports the current structure of the Council and believes it provides excellent representation of citizens. He stated he supports 9 council districts because it allows representatives to interact with citizens. He said Topeka needs to work harder as a leader in promoting Kansas and set an example because Kansas is a strong state with a lot to offer.

He also expressed the importance of city and county leaders working together to find solutions and figure out a way to merge city and county government successfully because progress is stalled due to the repeated arguments between elected officials.

Kevin Dalton expressed concern with the current role of the mayor and believes it needs to be better defined in regards to voting and veto authority. He spoke in opposition of increasing the number of council districts because it could get cumbersome and difficult for elected officials to come to an agreement. He spoke in support of reducing the number of districts to six (6) and keeping the nine (9) district members. He explained there would be one representative elected from each six (6) districts and three (3) representatives elected at-large making a hybrid that works for Topeka.

He suggested increasing the number of county commissioners for better representation.

Allyn Lockner presented the committee with a paper based on research on the form of government he has compiled over the past 10 years. He encouraged Committee members to review his handout in its entirety. He said the current form of government is holding its own nationally, a form that is growing throughout the nation. He supports the current form of government; however, performance of the governing body could be improved by expending more time developing policy for the City and allowing the city manager to implement the policy.

The mayor is the only official in city government that represents the city at-large and the Topeka community is more than the sum of 9 districts. A thought, he said, that is not embraced by all current officials in city government. Mr. Lockner noted that the mayor currently has a diminished role in developing the budget, as the city manager prepares an annual budget for submission to the council for their review. This process is important because the policy determines what the city is willing to pay for. The mayor is elected at-large and should have more voice in the budget submitted to the council.

Mr. Lockner also advocated a method for electing City Council members on a mixed at-large basis:

1. All candidates for district council positions and for citywide council positions run for office in the primary election from the districts in which they reside.
2. Five (5) district council candidates run for office in the general election from the odd-numbered districts (1, 3, 5, 7 and 9) in which they reside.
3. Four (4) citywide council candidates run for citywide council positions in the general election from the even-numbered districts (2, 4, 6 and 8) in which they reside.

If the above recommendation is not approved, then he would recommend the entire council be elected at large with district residency requirements; the mayor would still be elected separately. He also recommends that council members who ran for citywide positions in general elections be compensated an additional 20% to 40% annually because of the additional citywide responsibilities and costs they would incur additional campaign expenses.

Public Hearing No.2

7:00 p.m.

Mary Jo Mastriano stated she appears as a member of the ADA (Americans with Disabilities Act) City Council Advisory Committee and made the following statements:

- She believes the City Manager form of government is a positive for the community because there is no favoritism for any certain area.
- The mayor should have more authority in the decision making process.
- She believes it is a good idea to keep nine (9) council districts for equal representation; however, if there is a change then the city manager and mayor should work more closely together to resolve problems.

Sam Hargis stated he believes the City is doing a good job; however, the City Manager and the Council have a full plate to manage. He made the following recommendations:

- Do not reduce the number of council members because it is a reasonable number to represent a city the size of Topeka.
- City Council members are the people that can take the pulse of the city and are representatives that are easily approachable.
- He supports two (2) council members to be elected at-large to provide opportunity to gather more input from citizens.
- Increase wages for council members.
- The role of the mayor should not be changed, and if it is, it should happen in small steps.

Ed Serrano would hate to see a new policy introduced that would hurt the integrity or the concept of the City Manager Form of Government.

- It was his understanding the mayor was given veto power as a compromise to the change in the role of the mayor.
- Due to the low wage compensation of the mayor, all accountability should stay with the city manager.
- He said certain districts are not able to get good representation. He suggested reducing the number of district representatives to seven; establish at-large members; or widen district boundaries and increase wage compensation for those representing larger districts.
- He stated that the number of people that participate in local government is low because it appears that it is always the same people participating.
- He would suggest district members receive \$20,000 annually if the number of districts were reduced to seven (7) with five (5) elected by district and two (2) elected at-large.

Lori Williams made the following comments:

- Do not reduce the number of council districts because 14,000 people is a lot for one council person to represent.
- She would support having one or two council districts elected at-large with the same amount of council districts.
- She stressed the importance of council members doing their best to meet with constituents, answering telephone calls, responding to emails, attending neighborhood improvement association meetings and staying on the move to keep up with the times.

J.R. Campbell stated he participated in the council district redistricting process. His comments:

- He would like to be represented by a person who knows the area.
- He would support having representatives elected by district and at-large.
- The number of districts needs to be a reasonable odd number.
- He suggested electing one of the council members to serve as mayor.
- A combined city-county government would be more efficient. The city and county should look at areas in government that could be combined and recommendation brought forward.
- Some of the larger counties have increased their county representatives to five (5) county commissioners. This suggestion should be studied as part of the consolidation plan.
- Mr. Campbell stated he would suggest seven (7) representatives be elected by district and two (2) at-large.

Chris Meinhardt said he believes council members salary should be increased or made the same as some City department heads.

The committee recognized the presence of Council members John Campos II, Chad Manspeaker and Nathan Schmidt. The Council members were invited to discuss some of the citizen comments with the committee.

Note: Brenda Younger, City Clerk, posted the unedited minutes and the audio recordings of the public hearing sessions conducted on February 20, 2014, to the City's website at the request of the Committee.

WEBSITE COMMENTS

The City of Topeka website offered a portal for public comments:

Glen Porterfield: (Grace Cathedral area). *"Go back to the Mayor/City Commission form of government."*

Tom Benaka: *"Please strongly consider a recommendation to merge Topeka and Shawnee County."*

Kevin Ratekin: *"...One of the major problems with this forum of government is that on one on the council are really qualified in any of the areas that they vote on. When it was the old forum of government when they had commissioners like Street Commissioner, Water Commissioner and Park Commissioner and so on. They were people that were all professionals in their fields...not just housewives and business people that know nothing about running a city... Please turn it back into the old forum of government..."*

Ken Kerl: *"Today's editorial in the Topeka Capital-Journal said a lot of things about a reduction in the size of the city council but offers no solid evidence to make the case. Just an opinion with nothing to back it up....The fact that the east side of town has a street project is a tribute to the 9-member council. Hey, I live on the west side of town, and I'm satisfied with city government performance...."*

Bob Schneider: *"I feel that it is much too early for the City Charter to be changed on representative districts. What is the rationale for at-large City Council positions?"*

Joe Weissbeck: *"...Should we be looking at consolidation again with the City and County?"*

Jason Fizell: It occurred to me as I was reading the most recent coverage of your committee's work that there is a bias built-in to the current system that really needs to be corrected. Any council person holding an odd-number district seat must give up their seat to run for mayor while a council person in an even number seat does not. I know this is late in the process, but it's

obviously unfair -- in that it affects different city council people differently, and some more negatively than others -- so I hope it's something you might all at least weigh in against it.²¹

PART FOUR

CITY COUNCIL MEMBER INTERVIEWS

Council member Chad Manspeaker reported that he is surprised the public is not more engaged in the budget process because municipal government is really important and touches every aspect of a citizen's life. He stated he continues to reach out to constituents in effort to engage them in city government. He stated he believes it is difficult for folks to sign up before a Council meeting. He said most people who ask for extension during public comment receive an extension. He stated that he feels like the Council is doing a good job and he understands it is their responsibility to educate the public on what is happening in the community and city government.

Council member Manspeaker said he supports consolidated government or one consolidated taxing entity. He noted consolidation was successful for Wyandotte County Kansas Unified Government because it has allowed growth as a community. He said would support the same format used by the Wyandotte County Kansas Unified Government which divides the city in two sections, one east district and one west district.

Council member Manspeaker stated he opposes representation at-large. He said he believes any Council person would help any constituent that contacts them. He understands the logic behind Topeka being viewed as a parochial community because a Council member is naturally defensive of those that put him/her in office. He indicated he is satisfied with the current number of council members. He supports district elections because he only has to please 14,000 citizens not 128,000 and that is a positive. He believes council district representatives will be more engaged with constituents when they are representing 14,000 people than if they were representing all 128,000 Topeka citizens.

Council member John Campos stated he opposes at-large elections because Topeka as community is very responsive to district representation. However, he believes there could be more unified duties within local government such as the functions performed by the Joint Economic Development Organization (JEDO). He said he respects the at-large election process; however, he stated he believes constituents in his district would oppose at-large representation because they expect him to remain actively engaged with them on a more personal level.

Council member Schmidt stated he would oppose following the same election format as the School Board. He would support keeping the number of council districts at nine (9) or reducing them to seven (7); and he would support splitting the city down the middle to create two (2) at-large districts.

Council member Nathan Schmidt made the following statements: He believes staff builds administrative procedures around the fact we have nine (9) separate council districts instead of

²¹ The Committee agreed that the matter needed to be addressed. See Mr. Fizell's comments and solutions at *Areas of Concern* pages 10-11.

the city as a whole, making the City inefficient because specific areas are not being aggressively targeted like they should be. He supports seven (7) council representatives being elected by district and two (2) at-large, along with the mayor, providing 30% of the governing body vote to be generated from at-large representation.

The current system is working; however, he believes adding at-large representation would increase the functionality of the governing body as a whole. He believes nine (9) representatives is a good number that covers all areas of the city; however, there have been issues with projects being delayed because of the lack of at-large representation.

Council member **Karen Hiller** said that no form of government is perfect. The voters chose this one, which has worked well in other places. Whenever there is a major change it takes 5 to 10 years to recover. We are now at that point where the system may work well for the first time. It would not be wise to change the system at this time. Instead, the goal should be to make sure the mission and vision for the city are stated clearly and the charter is absolutely set correctly for the form of government Topeka has. Her overall goals for city government are:

- **Performance** - make sure there are provisions for strategic plans, goals and performance measures so success can clearly be measured in this way.
- **Inclusiveness** – make sure the charter is clear that we want a full elected body, as well as, all citizens to be affirmatively invited to the table on all issues, with enough advance notice, and provided sufficient information and time for them to participate in a meaningful way.
- **Transparency** – Make sure we affirmatively pursue open meetings and open records practices. Establish core requirements for disclosures and checks and balances on key council and city manager procedures including agenda management, voting and line-item veto issues for the mayor, acceptance rather than approval of financial reports, arrangements for annual financial audits, nominations to boards and commissions.

Ms. Hiller understands that a smaller governing body is more appealing. However, as a council member her district is very demanding. All council members are not the same and do not require the same level of constituent input. There are many different ways to make sure all district needs are met. Serving as a council member is a full-time job if you want everyone to feel like they are being represented. She noted there are not many issues that come before the council that receive a heavily split vote; therefore, she is not sure the number of council district representatives needs to be changed. She recognized the debate of district vs. at-large would always be present.

PART FIVE

CITY MANAGER INTERVIEW

In drafting this report, we have endeavored whenever possible to express our recommendations in the language and thoughts of the citizens and the conferees whose insight guides them. This section summarizes the insight shared with the committee by **Jim Colson**, City of Topeka City Manager.

Mr. Colson said his transition into the City Manager position has been a very positive experience that has led to his own personal and professional development. He expressed his appreciation in working with talented people that display leadership throughout the community. He commended citizens for making the decision to implement the City Manager Form of Government. His comments follow:

City Manager Form of Government

The City Manager Form of Government concept offers the ideal combination of a trained professional leader who has experienced the many aspects of running a larger urban community while being aware of the equal importance of the elective body; and the necessity to engage residents in city government so the governing body can make informed decisions based on constituent input.

Role of the Mayor

The role of the mayor is vital and needs to be firmly defined; responsibilities clearly understood; and fit the overall scheme of governing the community. He believes the mayor should have the same voting rights and authority as council members. He stated he believes the mayor should serve as a leader to the council in the same manner as a chairman would serve an executive board, allowing the mayor to provide leadership, focus discussions, and drive the agenda of the council.

Mayor and City Manager Relationship

It is vital that the mayor and city manager are viewed as having a good working relationship with open lines of communication. It is vital that the city manager be provided an opportunity to listen and discuss issues with elected officials in order to understand and serve the community. He stated the current working relationship between the mayor and city manager is good and they support each other very well.

Council Districts

Mr. Colson does not have a strong opinion on the number of council districts. He expressed the importance of citizens feeling like they are engaged in the process of city government. The current council districts do this based on representation of reasonable number of residents of the community. Active citizen participation helps council members understand what is important to them when making decisions.

Consolidation

In local government there is always a strong case for finding more efficiencies and cost reductions through consolidation. However, there are a lot of details that need to be worked out and the consolidation process needs to be evaluated thoroughly. Mr. Colson is currently working through the Parks & Recreation consolidation. He expressed the importance of providing the highest level of service at the appropriate cost to the community.

.....

PART SIX

CONCLUDING COMMENTS

It seems to this committee that over the past decade as the City Manager has become a vital part of the operation of the city; the important role the Mayor plays in the perception of its citizens and in the day to day conduct of the city's business was not contemplated or perhaps even intended by the language of the present charter ordinance. This has led us to the understanding of why it is so important for the city to conduct a periodic citizen's review.

We conclude this assignment with a much deeper appreciation of the demands placed on our elected officials and on our public servants. We have learned so much from the conferees who volunteered their time in order to share their valuable experiences and insight. We want to thank the City Council members who supported our appointment. It is our hope that other citizens will have similar enriching opportunities.

What impressed the committee most in our public hearings was the lack of antagonism and the general feeling of well-being expressed by the community. For the most part, constituents are comfortable with the number of districts and their representation by the governing body. Several citizens advocated salary increases for their elected officials.

It appears that the City Manager form of government is alive and working well in Topeka. Of course things could always run better, and we hope the recommendations we offer will help facilitate harmony and assure that all avenues for improvement continue to be explored.

Respectfully submitted:

2014 CITIZENS GOVERNMENTAL REVIEW COMMITTEE

By _____
Jim Reardon, Committee Chair

From the Committee Members:

Judy Anderson Moler

The Committee met from January through May on an almost weekly basis. The Committee received both written and oral input throughout the process. The task afforded the Committee was taken seriously and all recommendations were discussed and considered. A thorough dialogue was afforded the information and those wishing to offer opinions.

The Chairman did an excellent composite of the points agreed upon and discussed at length. In all, I think it is a reasonable and fair recommendation and document to present to the City Council of Topeka.

John Nave

I would like to thank Mayor Wolgast and Council woman Everhart for asking me to sit on the review committee. It has been one of those life experiences that one doesn't forget, and being part of a distinguished group of community leaders has also been very rewarding.

We were asked to make recommendations that will affect the citizens of Topeka for years to come. I think us as a committee accomplished what was asked of us. We listened to past elected officials, community leaders, and citizens of Topeka in meetings and forums. We exchanged ideas and shared our own opinions. What came from the meetings and forums are recommendations that we believe will work in our City. We hope these recommendations are taken by the City Council and Mayor; accepted; and put in place for the Citizens of Topeka for a more efficient City Government.

Maynard Oliverius

It has been an honor to serve on the 2014 Citizens Government Review Committee. I wish to express my appreciation to the many members of our community who shared their views regarding the future structure of governance for Topeka. That input and knowledge was very valuable to the Committee and underscores the importance of citizen involvement in shaping our future.

Further, I express my appreciation to the City staff and other members of the Committee for their time, effort and work on this project. It has been a pleasure to be part of this fine team.

Finally, I want to thank the Mayor and Council for asking us to do this work. I hope the recommendations made here are helpful in setting the future course of our great City.

Tina Williams

In summary, the 2014 Citizens Government Review Committee conducted a comprehensive review of the City of Topeka Charter. The committee sifted through policy, comparing the forms of governments of other cities similar in size, and took into consideration the views and opinions expressed by peer citizens through public testimony at public forums and meetings as well as from current and former elected officials. The final report is the result of work by the committee members, our consultants, city staff representatives and the Deputy City Attorney.

Given the goal of developing recommendations the committee focused on what it determined were the most urgent issues and studied others that may be considered for future review. The committee by unanimous consent has proposed the recommendations as outlined in the report to strengthen and improve the functionality of the Mayor, City Manager, and City Council form of government and to clarify the roles and responsibilities of our elected officials. We trust that our recommendations will prove useful to the city's governing body, and to the citizens of Topeka.

APPENDIX No. 1

Attorney General Opinion # 2005-18

August 4, 2005

ATTORNEY GENERAL OPINION NO. 2005-18

Brenden J. Long
 Topeka City Attorney
 City Hall, 215 S.E. 7th Street
 Room 353
 Topeka, Kansas 66603

Re:

Constitution of the State of Kansas--Corporations--Cities' Powers of Home Rule; Charter Ordinances; Eligibility of Mayor to Vote as Member of Governing Body

Synopsis:

The mayor is a member of the "governing body" for purposes of the two-thirds voting requirement for passage of a charter ordinance prescribed by Article 12, Section 5(c)(2) of the Kansas Constitution, regardless whether a city's form of government precludes the mayor from voting on other matters coming before the council. Cited herein: K.S.A 12-104, 12-757, 12-1036a, 12-1036b, 12-10a01, 12-10a02, 77-101; Kan. Const., Art. 12, § 5.

* * *

Dear Mr. Long:

You inquire whether Article 12, Section 5(c)(2) of the Kansas Constitution includes the mayor as a member of the governing body for purposes of the two-thirds voting requirement for passage of a charter ordinance under circumstances where a city's form of government precludes the mayor from voting.

Article 12, Section 5(c)(2) of the Kansas Constitution prescribes the procedure for enacting a charter ordinance:

"A charter ordinance is an ordinance which exempts the city from the whole or any part of an enactment of the legislature. . . . [S]uch charter ordinance shall . . . designate specifically the enactment of the legislature . . . made inapplicable to such city by the adoption of such ordinance and contain the substitute and additional provisions, if any, and shall require a two-thirds vote of the members-elect of the governing body of such city."⁽¹⁾

You indicate that the City of Topeka, by virtue of its home rule power, has adopted a council-manager form of government that does not utilize any of the statutory forms

of city government in Chapter 12 of the Kansas Statutes Annotated. Pursuant to Charter Ordinance No. 94, the City of Topeka's form of government includes a 10 member governing body comprised of nine district council members and the mayor.

⁽²⁾ Under this structure, the mayor may veto council legislation, but cannot vote on other matters that come before the council.⁽³⁾

There are no Kansas appellate court decisions addressing whether the Home Rule Amendment⁽⁴⁾ includes the mayor as a member of the governing body for purposes of the two-thirds voting requirement when the city's form of government precludes the mayor from voting. However, we note that K.S.A. 12-104 defines "governing body" to include a mayor for all "acts granting . . . executive or administrative powers to city governments, or prescribing procedure." While the purpose of this statute, enacted in 1923, was to provide guidance to the commission formed to revise the general statutes,⁽⁵⁾ it is reasonable to presume that the meaning of "governing body" was taken into consideration when legislators crafted the Home Rule Amendment.⁽⁶⁾ In fact, the statutory mayor-council-city manager form of government,⁽⁷⁾ that took effect the day before the Home Rule Amendment,⁽⁸⁾ accords the mayor limited voting rights except in the case of charter ordinances in which case "the mayor's vote shall be counted on every occasion."⁽⁹⁾

We also note that at least one treatise on city home rule concludes that the mayor has an original vote on charter ordinances:

"Unlike 'ordinary ordinances' which require for passage a favorable vote of a majority of the members-elect of the council of council cities or the mayor and other commissioners of commission cities, a charter ordinance requires a favorable vote of two-thirds of the members-elect of the governing body. Although the constitution does not define the term "governing body," it is defined by state law for construing legislative grants of authority to mean the mayor and council or mayor and commissioners. Accepting this definition as applicable to charter ordinances, it appears the mayor in council cities has an original right to vote, whereas his right to vote on 'ordinary ordinances' is limited to casting the deciding vote where the number of favorable votes is one less than required."⁽¹⁰⁾

Citing K.S.A. 12-104, the League of Kansas Municipalities has also concluded that the mayor is included in determining the vote for charter ordinances.⁽¹¹⁾

While there are no Attorney General opinions addressing this issue, past Attorneys General have examined whether mayors can vote in zoning matters that require super majority votes.⁽¹²⁾ In Attorney General Opinion No. 92-41, Attorney General Robert T. Stephan considered a statutory mayor-council form of government⁽¹³⁾ where the mayor is a member of the governing body but is statutorily precluded from voting on any council matter.⁽¹⁴⁾ The zoning statute in question required a three-fourths vote "of all of the members of the governing body."⁽¹⁵⁾ General Stephan attempted to harmonize both statutes and concluded that the zoning provision

requiring a super majority vote did not include the mayor in a statutory mayor-council form⁽¹⁶⁾ of government.

In Attorney General Opinion No. 99-5, Attorney General Carla J. Stovall considered the identical zoning issue in relation to the Unified Government of Wyandotte County/Kansas City, Kansas. Like the City of Topeka, the Unified Government eschewed the statutory forms of city government and utilized its own form of government created by charter ordinance. In the Unified Government, the mayor is a member of the governing body and has limited voting rights. After reviewing K.S.A. 12-104 and the Unified Government's procedural rules, General Stovall concluded that the mayor is a member of the governing body for purposes of voting on zoning matters.

Unfortunately, these opinions are not helpful when considering whether the *Kansas Constitution* gives a mayor an original right to vote on a charter ordinance. However, we agree with the opinion of one author of a treatise on home rule who opines that because charter ordinances substitute the wisdom of local officials for that of the Legislature, special procedures are required by the Constitution.⁽¹⁷⁾ One of these procedures requires a two-thirds vote of the members-elect of the governing body. As the mayor is a member of the governing body by virtue of K.S.A. 12-104, no ordinance proscribing mayoral voting rights - charter or ordinary - can alter this constitutional requirement. Thus, despite the fact that the mayor of the City of Topeka has no voting rights in matters that come before the council, it is our opinion that the mayor is a member of the governing body for purposes of exercising a right to vote on charter ordinances.

Sincerely,

Phill Kline
Attorney General

Mary Feighny
Assistant Attorney General

PK:JLM:MF:jm

FOOTNOTES

Click footnote number to return to corresponding location in the text.

¹ Emphasis added.

² City of Topeka Charter Ordinance No. 94, Article II, §§ 7,11 ("[t]he council and mayor shall be the governing body of the city").

³ City of Topeka Charter Ordinance No. 94, Article II, §§10,16.

⁴ Kan. Const., Art. 12, § 5.

⁵ K.S.A. 77-101 *et seq.*; *State, ex rel. v. Davis*, 116 Kan. 211(1924).

⁶ *In re County Seat of Linn County*, 15 Kan. 500 (1875) (whenever a legislature uses a word in a statute in one sense and with one meaning and, subsequently, uses the same word in legislating on the same subject matter, it will be understood as using it in the same sense, unless there be something in the context or the nature of things to indicate that it intended a different meaning).

⁷ K.S.A. 12-1036a *et seq.*

⁸ June 30, 1961.

⁹ K.S.A. 12-1036b.

¹⁰ Wright W. Crummett, *City Home Rule in Kansas*, 9 W.L.J. 1, 14-15 (1969).

¹¹ League of Kansas Municipalities, *Constitutional Home Rule in Kansas*, 15 (8th ed. September, 1994).

¹² Attorney General Opinions No. 92-41 and 99-5.

¹³ K.S.A. 12-10a01 *et seq.*

¹⁴ K.S.A. 12-10a02.

¹⁵ K.S.A. 12-757(e) [now K.S.A. 12-757(f)(1)].

¹⁶ K.S.A. 12-10a01 *et seq.*

¹⁷ James W. Drury, *Home Rule in Kansas*, 65 (University of Kansas, 1965).



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Appendix No. 2

EXAMPLES OF ITEMS UPON WHICH THE MAYOR VOTES AND DOESN'T VOTE

MAYOR DOES NOT VOTE

A. Ordinances (Created in Municipal Code)

1. Allowing service monkeys within City limits
2. Establishing Council meeting schedule
3. Fire hydrants
4. Funeral processions
5. Historic landmarks
6. Human relations commission
7. Possession/consumption of alcohol
8. Public building commission
9. Repealing Utility Refund Program
10. Term limits/Sustainability Advisory Board
11. Topeka Zoo concessions/admission fees

B. Resolutions

1. Acquisition of fire apparatus
2. Approval of certain grants
3. Approving project budgets for capital improvement projects
4. Designating depositories
5. Establishing franchise fee rebate program
6. Establishing Legislative agenda
7. Establishment of Citizens Government Review Committee
8. Noise exceptions
9. Parking waivers
10. Participation in the Municipal Investment Pool
11. Personnel code amendments
12. SORT Planning Target Areas
13. Supporting grant applications
14. Waivers of annexation requirement/extension of city water/sewer

MAYOR DOES NOT VOTE (CON'T)***C. Miscellaneous***

1. Appeal of tort claims
2. Appeals of business license denials
3. Appoint/terminate city manager
4. Appoint an employee to serve as city manager during the latter's disability or temporary absence
5. Approval of Council minutes
6. Approval of disposal of surplus real property
7. Approval of grants
8. Approval of settlement agreements
9. Approval of transient guest tax allocations
10. Approval of workers' compensation claims
11. Board appointments (mayor appoints/Council approves)
12. Business license applications
13. City manager contract
14. Demolition of properties not on state/national historic registers
15. Election of Council representatives to JEDO Board
16. Election of Council representatives to Metro Topeka Planning Organization Policy Board
17. Election of deputy mayor
18. Establish compensation for council members and mayor
19. Purchase of real estate

APPENDIX No. 3

CHANGES TO CHARTER ORDINANCES TO BE CONSISTENT WITH STATE LAW

1. A2-24. Mayor-Veto

Current: Mayor can veto Council legislation and 'line item' veto items in appropriation ordinances. Cannot veto legislation in which Mayor has a vote.

Proposed change: Mayor can veto ordinances, except where state law requires a governing body vote. K.S.A. 12-3003.

2. A2-25.5 Veto Override

Current: 2/3 vote required to override veto (6 votes)

Proposed change: 3/4 vote required to override veto (7 votes). K.S.A. 12-3003

3. Sec. A2-29(b) Forfeiture of Office. Repeal

~~(b) Forfeiture of office. A district Councilmember or Mayor shall ipso facto forfeit his or her office if he or she at any time during the term of office lacks any qualification for the office prescribed by this Charter Ordinance or other applicable law, or if he or she violates any other provision of this Charter Ordinance. A forfeiture does not occur if a district Councilmember no longer resides in his or her elected district as a result of redistricting.~~

The section conflicts with state law. Elected officials forfeit their office only in accordance with state law through an ouster proceeding brought by the Attorney General/District Attorney or recall by the electorate. K.S.A. 60-1205; 25-4302.

4. Sec. A2-30(d) Ordinance Form.

~~(d) Form . Proposed ordinary ordinances and resolutions shall be introduced in the Council only in written or printed form. No ordinary ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause of all ordinary ordinances shall be: "Be it Ordained by the Council of the City of Topeka, Kansas:". Any ordinary ordinance which repeals or amends an existing ordinary ordinance or part of the Code of Ordinances of the city shall set out in full the sections or subsections to be repealed or amended, and shall indicate matter to be omitted by~~

(enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

The 2nd sentence is redundant in that K.S.A. 12-3004 addresses this issue.

The 3rd sentence conflicts with K.S.A. 12-3005 which prescribes the ordaining clause to read as follows: "Be it ordained by the governing body of the city of _____."

5. A2-30(f). Emergency ordinances. Repeal.

~~(f) Emergency ordinances. An ordinary ordinance may be passed as an emergency measure on the day of its introduction if it contains a declaration describing in clear and specific terms the facts and reasons constituting the emergency. Neither an ordinance granting, reviewing, or extending a franchise, nor a Charter Ordinance, shall be passed as an emergency ordinance.~~

(Emergency ordinances are a remnant from when the charter ordinance required that an ordinance be read twice in a Council meeting before final passage, with one week in between. First readings have been eliminated. There is no need for an 'emergency ordinance.'

6. Sec. A2-30(g) and (h). Publication; Effective Date. Repeal

~~(g) Publication. The City Clerk or such other city officer as the Council may designate shall cause all ordinary ordinances, as soon as practicable after they have been passed and signed, to be published once in the official city newspaper, unless Kansas Statutes or other applicable law require more publications. In lieu of publication of the entire ordinance, the City Clerk may publish a summary of the ordinance provided all of the following requirements are met:~~

~~(1) The publication is identified as a "summary" and contains notice that the complete text of the ordinance may be obtained or viewed free of charge at the City Clerk's office or on the city's website.~~

(2) The City Attorney certifies the summary of the ordinance prior to publication to ensure that the summary is legally accurate and sufficient.

(
(3) The publication contains the city's official website address where a reproduction of the original ordinance is available for at least ninety days following the summary publication in the newspaper.

(4) If an ordinance is subject to a petition pursuant to state law, the summary shall contain a statement to that effect.

(h) ~~Effective date. Except in the case of emergency ordinances, and except where Kansas Statutes otherwise specify, every adopted ordinary ordinance shall become effective upon its publication pursuant to subsection (g) or at any later date specified therein. Emergency ordinances shall become effective upon passage or at any later date specified therein.~~

K.S.A. 12-3007 controls publication, ordinance summaries, and the effective date of ordinances.

State law doesn't recognize 'emergency ordinances.' All ordinances are effective upon publication unless a later date is stated in the ordinance. Appropriation ordinances are effective when passed.

(
7. A2-30(i). Signature, authentication and recording.

(i) Signature, authentication and recording. All ordinary ordinances and resolutions passed or adopted by the Council shall be authenticated by the signatures of the Mayor and City Clerk or such other appointive officer as the Council may designate. ~~The City Clerk or such other appointive officer as the Council may designate shall record in a properly indexed "Ordinance Book" kept for the purpose of every ordinary ordinance, immediately after its publication, or in the case of emergency ordinances immediately after passage~~

Strike-type section is redundant. K.S.A. 12-3008 requires that City Clerk maintain an 'ordinance book.'

(



CITY OF TOPEKA

City Clerk's Office
 215 SE 7th Street, Room 166
 Topeka, KS 66603-3914
 Tel: (785) 368-3940
 Fax: (785) 368-3943
byounger@topeka.org

Appendix No. 4

February 18, 2014

RE: City Election Information

Committee Members:

Below is the information requested at the February 13, 2014 Citizens Government Review Committee meeting concerning elections in other cities.

City	Mayor	Total Members	At-Large	By-District
Wichita	at-Large	6		✓
Overland Park	at-large	12		✓
UGWC	at-large	10	✓ (2)	✓ (8)
Topeka	at-large	9		✓
Olathe	at-large	6	✓ (2)	✓ (4)
Lawrence		5	✓	
Manhattan		5	✓	

Overland Park - The Governing Body consists of the mayor and 12 councilmembers. Two councilmembers are elected from each of the city's 6 wards and serve staggered four-year terms.

Unified Government – The mayor serves as the eleventh member of the Commission.

Lawrence and Manhattan – One of the existing five members serves as mayor for a one-year term.

Thank you,

Brenda Younger, C.M.C.
 City Clerk

APPENDIX No 5

Allyn Lockner Paper

IMPROVING CITY OF TOPEKA'S COUNCIL-MANAGER FORM OF GOVERNMENT

Testimony of Allyn O. Lockner before the
City of Topeka's Citizen Government Review Committee
at 1 pm on February 20, 2014 in Room 101C at
at the Topeka Shawnee County Public Library
at 1515 SW Tenth Avenue, Topeka, Kansas

Chairman Mike Reardon and members of the Citizen Government Review Committee:
Thank you for the opportunity to share ideas with you about improving Topeka's council-manager form of government.

My name is Allyn Lockner. I reside at 2135 SW Potomac Drive, No. 4, Topeka. I am a retired economist and certified public manager. I am a member of the American Academy of Certified Public Managers and the American Society for Public Administration. I represent no organization or group.

Looking Back to 2004

On July 20, 2004, a major positive change occurred in Topeka City governance. On that date the Topeka City Council passed and approved Charter Ordinance No. 94 which established the council-manager form of municipal government in our city. Under the ordinance and amendments, the basic characteristics include:¹

- Council has nine members who are elected by voters in nine council districts in the city.
- City council holds all municipal powers not otherwise held by the mayor or city manager, including override of mayoral vetoes by a two-thirds vote.
- Council appoints a professional city manager who has all administrative powers.
- Mayor is elected by voters at large in the city.
- Mayor and council are the governing body; mayor has no vote, except on charter ordinances.
- Mayor chairs council meetings, has veto power on council legislation, line item veto power of appropriation ordinances and exercises other specified powers.

¹ *Topeka Municipal Code*, Article II, Division 2 and Division 4.

Council-manager form is the most common form of municipal government.² According to the Municipal Year Book 1991 and 2008,³ usage has grown from 36.2 percent in 1990 to 48.9 percent in 2007 in all U. S. cities over 2,500 in population. At the same time, the mayor-council form declined from 54.5 to 43.5 percent, and other forms declined from 9.2 to 7.5 percent.

I don't claim to know the detailed, unwritten, and informal processes of Topeka government. As a resident, I have followed the actions of the mayor and city council periodically via their televised meetings, commercial television, and the Topeka Capital-Journal. I am also aware of recent research on council-manager governments.

Recent Research Findings about Council-Manager Governments

After studying the one hundred year history of the council-manager form of government, researchers conclude that the form does not automatically produce good government without the appropriate contributions of elected and administrative officials. If, however, one is choosing the form of government most likely to produce sound, long-term governance; effective implementation and service delivery; capable management; and transparent, ethically-grounded and citizen-oriented processes, the council-manager form is the preferred choice based on essential structural features.⁴

Researchers continue to study the council-manager form and other forms of local government. They find some cities, while retaining the major characteristics, have modified minor features of the council-manager form.⁵

One measure of governance quality is the level of reported conflict and cooperation that is present between and among elected officials and administrators. High levels of conflict or low levels of cooperation can hinder the decision-making process. Researchers determine what factors are likely to lead to conditions conducive to cooperation and lower perceived conflict in the local governance process. Data on government performance and indicators of perceived conflict and cooperation were collected from a national survey of municipal mayors, council members, and chief administrators in cities with populations of 50,000 to 250,000. The results suggest that form of government and proportion of council members elected by district are two factors that significantly influence governance at the local level. The authors find that council-manager municipalities have higher levels of cooperation and lower levels of perceived conflict than mayor-council municipalities, particularly for empowered mayor-council-manager cities.

² For a general discussion, see "Council-manager government."

³ Svara and Nelson, Figure 1.

⁴ Svara and Nelson.

⁵ For a discussion of variations in the structure of city governments, see Nelson and Svara, "Adaptation of Models Versus Variations in Form: Classifying Structures of City Government."

The authors also find that higher proportions of by-district seats are associated with lower levels of reported cooperation.⁶

Using data on the adoption of e-government, reinventing government, and strategic practices, researchers investigate the characteristics of municipal governments that are related to implementation of innovative practices. They find that higher innovation rates are associated with council-manager governments --- both with and without an elected mayor, higher population, greater growth, lower unemployment, sunbelt location, and higher population density. Controlling for all other variables, form of government (and variations within form) account for the greatest explanation of the adoption of innovative practices in municipalities. The researchers conclude that form of government remains an important variable to consider when investigating local government management and performance.⁷

The “rules of the game” embodied in municipal government institutions constrain as well as provide opportunities for local government officials to capture individual benefits related to policy action. Whether the projected benefits of cooperation are localized or community-wide are thought to combine with the political incentives produced under different forms of government to influence the likelihood local officials will enter into an economic joint venture with other local governments. Analysis of pooling survey data from the same cities at two time points provides evidence that prior agreements influence future cooperative actions and that joint ventures are more likely when there are localized benefits combined with mayor-council government, or when broader benefits are pursued under manager-council form of government.⁸

Researchers reveal that social context factors --- in particular economic conditions --- generate both adoption and abandonments of council-manager government. The scenario in which economic and social forces create demand for change are generally along with political actors channeling those demands to specific types of institutions.⁹ While applauding their work, a practicing deputy city manager comments that the researchers raise more questions than answers.¹⁰

The Great Recession’s damaging effects on the finances of cities and counties have lead some observers to predict dramatic, widespread, and enduring changes to local government in response to fiscal pressure. However, the history of change in local government suggests otherwise, as does the experience of individual cities and counties that have confronted fiscal pressures in the past. Researchers suggest that financial problems will not overwhelm the

⁶ Nelson and Nollenberger.

⁷ Nelson and Svara, “Form of Government Still Matters: Fostering Innovation in U. S. Municipal Governments.”

⁸ Hawkins.

⁹ Choi, Feiock and Bae.

¹⁰ Svrcek.

balance among an array of competing pressures that already confronted local governments long before the recession. Although some cities and counties will respond to the downturn with major, permanent changes, most will not. For local governments as a whole, equilibrium among the most important tensions they face will continue to resist dramatic moves and favor only gradual change.¹¹

Based on the governing body's performance over the past ten years and recent research findings about the council-manager form of government, I support the continuation of the council - manager form of government for Topeka. Performance can be improved by the governing body --- mayor and council --- devoting more time and energy to developing policies for the city, and city manager continuing to implement the governing body's policies and proposing policies and budgets to the body.

Role of Topeka Mayor in Budget Development

The following comments and questions pertain to sections of the *Topeka Municipal Code*.

1. Under section A2-22(b) and (c), the mayor is the only elected city official who represents all voters in the whole city.
2. Under section A2-21, the nine council members are elected separately from nine districts and represent voters in their districts.
3. Under section A2-55(g), the city manager prepares an annual budget for submission to the council for review, revision and approval. The city manager's 2014 Budget transmittal letter was addressed to the council members and the mayor.¹² The Budget contains no language describing the mayor's role during its development.¹³
4. Under section A2-24(a) (i), may the mayor perform a role in developing the annual budget by recommending to the council additions, deletions and other revisions of the budget submitted by the city manager to the council?
5. If "no," does the mayor who represents the whole city have no up-front role in developing the budget that is submitted to the council?
6. If "yes," does the mayor surrender the line-item veto power under section A2-24(a) (ix)?

From my review of the City of Topeka's documents, the answers to questions 4, 5 and 6 are unclear but yet important because the needs of nine districts are unlikely to be the needs of the

¹¹ Ammons, Smith and Stenberg.

¹² <http://www.topeka.org/pdfs/2014Budget/transmittal%letter.pdf>.

¹³ <http://www.topeka.org/pdfs/2014Budget/mayor>. Also, see section 3.05.050 Budget Schedule of the *Topeka Municipal Code*.

whole city. The content of the budget should reflect not only the needs of nine districts but also the needs of the whole city. The whole city of Topeka is greater than the sum of its nine districts.

If the mayor has no voice in developing the budget when city manager submits the budget to the council, there is a concern that the budget will not reflect city-wide priorities, but only or largely a collection of nine separate district priorities.

The mayor would have an opportunity to better perform these tasks by submitting to the council his/her recommendations on the annual operating budget submitted by the city manager to the council. Lastly, and most importantly, it would assist the mayor to perform his/her central role to inspire and encourage the city to move forward.

Having a voice in the development of the city budget would also better enable the mayor to perform at least two key powers and duties assigned to him/her by the council in the *Topeka Municipal Code*:

- Encourage programs for the physical, economic, social, and cultural development of the city, as specified in section A2-24(a) (ii), and
- Actively promote economic development to broaden and strengthen the commercial and employment base of the city, as specified in section A2-24(a) (iii).

I recommend that the *Topeka Municipal Code* specify that the mayor has the power to review the annual budget that the city manager submits to the council and to submit his/her recommended additions, deletions and/or other revisions of the budget to the council.

Voter Selection of Council Members from Topeka Districts and City

The council is representative of the diversity of the population of Topeka. There is a need to minimize actual or to avoid possible factionalism and divisiveness because council members represent the interests and priorities of voters in their separate districts rather than the city as a whole. For the mayor to exercise the powers specified in section A2-24, he/she needs to exercise leadership to forge consensus and negotiate compromise within the council. To do so, it is more important for the council to be a representative forum. The mayor needs to help council members to be able to work out their differences with more equality of power.¹⁴

The present single-member system for electing nine council members has other drawbacks. An inherent problem is the danger that district elected members will subordinate citywide

¹⁴ Parts of this section were adapted from the *Model City Charter*.

concerns to district and parochial problems. A single member system also has the potential for the classic problem of “log-rolling” or vote-swapping among council members to achieve district ends.

Recognizing that all of the powers and duties that can be exercised by the city rest with the popularly elected city council, the *Topeka Municipal Code* must provide for a council which is truly more representative of the city.

Nine council members each representing one of nine districts encourages “neighborhood-based gridlock” by making it increasingly difficult to gain council approval of new initiatives that would benefit the city as a whole, but face strong district and neighborhood opposition. There is a need to bring into closer balance the number of council members elected by and from districts and the number of members by and from the city at large in order to achieve more balance in council performance of its powers and duties specified in section A2-25.5. They include all powers and duties which are not specified for the mayor in section A2-24 and city manager in sections A2-54 and A2-55. For example, balance is particularly important in developing, implementing, reviewing and, if necessary revising a strategic plan for the city to resolve complex and difficult long-range citywide issues while not ignoring short-range and immediate district-wide and neighborhood problems.

With a combination of district and citywide council members, more balance is achieved between district and citywide focus. While district council members continue to weigh their district interests and issues, citywide members have a broader constituency and a clearer obligation to weigh the entire city’s interests and issues. If the city-district representation becomes unbalanced, the citywide elected mayor, acting as a facilitator, can facilitate consensus and compromise among district and citywide council members to better satisfy the preferences of the nine districts and the whole city.

Lastly and most important, Topeka City documents state “The city manager will work with the city council and mayor to develop a Strategic Plan that will serve as the foundation for annual review of services, programs and activities. Department business plans will be developed with direct lineage to the Council’s goals and the budget so that a citywide vision of where we are and where we want to go will be achieved through teamwork and communication.”¹⁵ (Underlining added.) The city council adopted the Balanced Scorecard management system in preparing and adopted (sic) the 2013 Annual Budget. The management system translates

¹⁵ “City of Topeka - Strategic Plan.”

strategy into tangible objectives and measures.”¹⁶ Both the Strategic Plan and Balanced Scorecard must be essential features of Topeka government.

For these reasons, a council with district-wide and citywide representation will be better able to work with the mayor and city manager in developing a more balanced district-wide and citywide strategic plan. Also, the city manager will be better able to implement the Balanced Scorecard management system that achieves the tangible objectives and measures that resolve the issues contained in the strategic plan.

At-large elections may tend to generate more candidates and greater voter turnout. That makes sense because more money is spent on at-large positions, raising awareness of the entire community that there is an important city election.

Also important, economic development issues take on a citywide scope. This is because representatives view themselves as stewards of the entire city, not just one part.

It should be noted that five council members representing districts would outnumber four council members representing the city at large and constitute a voting majority of the council. In addition, the at-large members need not ignore their interests of their four districts because they have to face the voters in their districts in the next primary. The mixed system ensures that district interests continue to receive consideration while the citywide interests are added for more consideration.

The mixed system combines the citywide perspective of the at-large council members with the local concerns and accountability of district council members. It allows minorities who live in concentrated areas to influence or even determine the outcome of elections in their districts.

A problem that may arise in the mixed system in two circumstances: when at-large members consider their positions to be superior to that of district members and when they are perceived as rivals to the mayor. To prevent this from occurring, at-large and district members should have equal status regarding the length of terms, and support services and facilities. Most important, all council members have the same duties, powers and functions.

The mixed system has become increasingly popular since the U. S. Department of Justice approved it as a method of electing the city council that is compliant with the requirements of the Voting Rights Act. For persons and groups concerned about scrutiny by the department or the

¹⁶ “City of Topeka - Strategic Priorities.”

courts under the act, precedent shows a clear preference for the majority of the council to be elected by and from districts rather than from the city at large.

Twenty-one percent of municipalities use mixed systems. These systems are most likely to be found in parts of the South and Central jurisdictions.¹⁷

Summarizing, what is necessary and logical is having the mayor and four council members who see the “big picture” in the Topeka community and they vote for the good of the entire community, not just a part of it. With an all-district council, the city runs the risk of not having coherent voices for major citywide issues. When candidates run for at-large positions, they raise issues that are broader in scope, issues that affect the entire community. The campaigns are about “us” as a city as well as about the “us” in each district.

With no at-large voices, the city would become more fragmented as each council member would want only those things that would reward his or her particular district.

Topeka needs a blend. The city needs district voices, and it needs citywide voices. The governing body would be balanced, and that is what needs to be achieved.

I recommend that section A2-22 of the *Topeka Municipal Code* specify a mixed at-large and single-member district system; the mayor is still elected separately.¹⁸ The characteristics of the mixed system include:

1. All candidates for district council positions and for citywide council positions run for office in the primary election from the districts in which they reside;
2. Five district council candidates run for district council positions in the general election from the odd-numbered districts (1, 3, 5, 7 and 9) in which they reside; and
3. Four citywide council candidates run for citywide council positions in the general election from the even-numbered districts (2, 4, 6 and 8) in which they reside.

The committee may conclude the recommendation does not go far enough to ensure or enable members of the council consider the City of Topeka as a whole as well as their districts in making policy decisions. Or it may be concerned about characteristics 2 and 3.

If the above recommendation is not approved, I recommend that the entire council be elected at large with district residency requirements; the mayor would still be elected separately.¹⁹

¹⁷ National League of Cities. Also, see Frederickson, Johnson and Wood for a discussion of the changing structure of city governments, and International City/County Management Association for publications that discuss council-manager form of government.

¹⁸ *Model City Charter*, Alternative III – Option B.

Both reforms ensure that council members give more consideration to the City of Topeka as a whole as well as their districts in making policy decisions.

Council members who run at large will assume additional citywide responsibilities and incur additional campaign expenses. They should be partially compensated for additional responsibilities and expenses.

I recommend that council members who ran for citywide positions in the general elections be compensated an additional 20 to 40 percent annually.

Conclusion

Overall, I believe the recommended improvements in the *Topeka Municipal Code* will enable the Topeka council, mayor and city manager to better collaborate in providing service benefits at costs that will better enable more Topekans to live better lives in the future.

I will respond to your comments and questions.

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¹⁹ *Model City Charter*, Alternative II - Option B.

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LEAGUE OF KANSAS MUNICIPALITIES



300 SW 8th Avenue, Ste. 100
 Topeka, KS 66603-3951
 P: (785) 354-9565
 F: (785) 354-4186
www.lkm.org

To: Senator XXX
 From: League of Kansas Municipalities
 Re: S Sub for S Sub for HB 2141 (Moving Local Elections)

In anticipation of the debate on S Sub for S Sub for HB 2141 (formerly SB 211), the League wanted to express major concern with the proposed legislation. There was no hearing on the bill in its current form, and one staff revisor has said the bill is so problematic that a trailer bill will be necessary. We do not believe the problems with this legislation can be fixed, and respectfully request that you vote NO on moving local elections.

Transitional Issues

S Sub for Sub for HB 2141 would impact the elections for all 3,812 elected city officials in Kansas and the drafting of the bill raises serious procedural concerns. Many officials currently holding office would be removed from office before their terms expire, while others will have their terms extended. Kansas citizens voted for these local officials to serve a certain amount of time, and we feel it is inappropriate for the state legislature to override their collective will. Kansas cities vary on when and how often they hold elections, and the bill's language is ambiguous about whether locally-determined terms will be replaced by four-year, two-year, or staggered terms. These issues are local in nature, not the type of statewide issue that requires state action.

Unnecessary Partisanship

Although the legislation would not make local elections partisan, it gives partisan officials (who may not even reside within city limits) the authority to fill vacancies on governing bodies, and appears to require the publication of the political affiliation of all candidates for city office. Kansas has been served well for 153 years by local officials who put community first. We believe inserting partisanship into our local governing bodies is both unnecessary and unwise.

Disrupts Budget Cycle

The bill also disrupts the budget cycle for cities by making terms for their elected officials begin in January, rather than April. The current system allows city officials to take office and then begin working toward budgeting for community services. The proposed legislation would create a lag time between the community choosing its representatives and when those representatives could begin carrying out the will of their citizens. It would also force local officials to finalize budgets while they're campaigning for the August primary.

Complicates Other Statutory Requirements

Many of our cities are required by law to appoint city officers in May of each year. These officers include municipal judges, city clerks, city treasurers, and others. By moving elections from April to November, this legislation would end an efficient appointment process where elected officials take office and shortly thereafter appoint city staff. The bill would also complicate the filing of financial interest reports, since KSA 75-4302a requires that statements of substantial interests for certain governing body members be filed between April 15 and April 30.

No Resulting Increase in Turnout

Although the purported purpose of the legislation is to increase voter turnout, the research we found indicates that moving elections to November of odd-years will have little to no impact on voter turnout. Proponents claim turnout will increase because weather conditions are better in November than in April, but average temperatures and precipitation for early April and November are virtually identical.

We also feel that using voter turnout as the sole determiner of democratic health is inappropriate. Even though local governments have lower voter turnout than state and federal races, local government has the highest level of citizen satisfaction. We believe that interfering with elections at the most popular level of government, when no city governing body in the state supports ending 153 years of spring elections, is poor public policy.

APPENDIX No 6

KLM Position Paper

City	Population	Mayor/Council	Official Meetings/Month
Wichita	384,445	M/6	3
Overland Park	176,185	M/12	2
Unified Govt. Wyandotte County	146,453	M/8	3
Topeka	128,188	M/9	3
Olathe	127,907	M/6	2
Lawrence	88,727	M/4	2
Manhattan	53,678	M/4	2

Citizen Government Review, February 13, 2014; Mayor Presentation

APPENDIX No 7

Governing body comparison



CITY OF TOPEKA

City Clerk's Office
 215 SE 7th Street, Room 166
 Topeka, KS 66603-3914
 Tel: (785) 368-3940
 Fax: (785) 368-3943
byounger@topeka.org

Appendix No. 8

City Election Comparisons

City	Terms	Staggered	Election	Election Timeline	Process
Wichita, KS	4 yr. terms Limited to 2 terms	Yes	March/April	Election every 2 years, odd number years	Election Commission distributes dates & packets, City Clerk's office handles filing & fees then sends to Commission for verification
Overland Park	4 yr. terms No term limits	Yes	March/April	Election every 2 years, odd number years	Johnson County distributes dates & packets, CC handles paperwork & fees then sends to County for verification
Wyandotte Co	4 yr. terms No term limits	Yes	March/April	Election every 2 years, odd number years	Election office handles dates, packets, filings & fees
Olathe, KS	4 yr. terms No term limits	Yes	March/April	Election every 2 years, odd number years	Johnson County distributes dates & packets, CC handles paperwork & fees then sends to County for verification
Lawrence, KS	2 councilmembers serve 4 yr. terms, 4 councilmembers serve 2 yr. terms No term limits	Yes	March/April	Election every 2 years, odd number years	City Clerk's office handles filings & fees, Douglas Co processes packets & distributes fees & verification
Manhattan, KS	2 councilmembers serve 4 yr. terms, 1 serves 2 yr. term No term limits	Yes	March/April	Election every 2 years, odd number years	City Clerk's office handles filings & fees, Riley Co Election Officer distributes timelines and processes packets, fees & verification

(Published in the Topeka Metro News _____ and _____)

CHARTER ORDINANCE NO. _____

A CHARTER ORDINANCE introduced by Councilmember Nathan Schmidt, amending City of Topeka Code § A2-21 and § A2-22 concerning election of councilmembers.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS, THAT:

Section 1. Charter Ordinance 96, § 1 codified at TMC § A2-21, Composition and eligibility, is hereby amended to read as follows:

Composition and eligibility.

(a) Composition. The governing body shall be a ten (10) member body consisting of nine (9) district Councilmembers and one (1) Mayor. The nine (9) district Councilmembers shall be ~~nominated and elected from nine (9) districts of near equal population~~ elected at large on a nonpartisan basis. Each council district shall be represented by one (1) district Councilmember. The Mayor shall be nominated and elected at large on a nonpartisan basis.

(b) Residency requirements. The Mayor and each district Councilmember shall be a citizen of the United States, shall be at least eighteen (18) years of age and a qualified elector of Topeka, Kansas, and must reside in the city at the time of filing for election and thereafter for the duration of their terms. District Councilmembers shall be residents of their respective districts at the time of filing for election and thereafter for the duration of their terms. This residency requirement is not violated if a district Councilmember no longer resides in his or her elected district as a result of redistricting. Candidates for Mayor or Councilmember shall disclose any felony conviction at the time of filing for office.

29 (c) Eligibility. Any person desiring to become a candidate for Mayor or
30 Councilmember shall file with the City Clerk, or such appointive officer as the Council
31 may designate, before the filing deadline a statement of such candidacy on a form
32 furnished by the City Clerk or by such appointive officer as the Council may designate.
33 The City Clerk or other appointive officer receiving any filing under this section shall
34 record the same and transmit it, together with the filing fee or petition herein provided,
35 forthwith to the Shawnee County Election Commission. The fact that a Councilmember
36 may be determined to have lacked any or all qualifications for the office of
37 Councilmember during all or any portion of his or her term of office shall not affect the
38 validity of any action taken by the Council during such Councilmember's term of office.
39 Each filing for Mayor shall be accompanied by a filing fee of one hundred dollars
40 (\$100.00); or, in lieu of such filing fee, by a petition signed by one hundred (100)
41 qualified electors of the city or one (1) percent of the cast votes in the last city general
42 election, whichever is less. Each filing for district Councilmember shall be accompanied
43 by a filing fee of fifty dollars (\$50.00); or, in lieu of such filing fee, by a petition signed by
44 fifty (50) qualified electors of the council district.

45 (d) This section A2-21 of the charter ordinances of the City of Topeka shall
46 only be amended or repealed upon approval by a majority of the electors voting during
47 an election called for such purpose.

48 Section 2. Charter Ordinance 102, § 2 codified at TMC § A2-22, Composition
49 and eligibility, is hereby amended to read as follows:

50 **Election and terms.**

51 (a) Time of primary and general elections. The primary city election for the
52 Mayor and district Councilmembers shall be held on the Tuesday preceding by five (5)

53 weeks the first Tuesday in April of odd numbered years, and the general city election
 54 shall be held on the first Tuesday in April of odd numbered years, both elections to be
 55 conducted in the manner prescribed in this Charter Ordinance and applicable state law.

56 (b) Primary elections. In each year in which the term of the Mayor expires, if
 57 there are more than two (2) candidates who have filed for the office of Mayor, a primary
 58 city election at large shall be held for the nomination of two (2) candidates for the office.
 59 Each qualified elector of the city shall be entitled to vote for one (1) candidate. The two
 60 (2) candidates receiving the greatest number of votes cast shall be placed on the
 61 general city election ballot as the candidates nominated for election as Mayor.

62 In each year in which the term of a district Councilmember expires, if there are
 63 more than two (2) candidates who have filed for the office to be filled, a primary city
 64 election shall be held within each such district for the nomination of two (2) candidates
 65 from that district. Each qualified elector who is a resident of the district shall be entitled
 66 to vote for one (1) candidate from his or her district. The two (2) candidates from each
 67 such district receiving the greatest number of votes cast shall be placed on the general
 68 city election ballot as the candidates nominated for election from the district.

69 (c) General elections. In the general city mayoral election all qualified electors
 70 of the city shall be entitled to vote on the election of the Mayor. Of the two (2)
 71 candidates nominated for the office of Mayor, the candidate receiving the highest
 72 number of votes in the general election shall be elected Mayor.

73 In each year in which the term of a district Councilmember expires, ~~each~~
 74 ~~qualified elector who is a resident of the district~~ all qualified electors of the city shall be
 75 entitled to vote in the city general election for the Councilmember from ~~his/her~~ each
 76 respective district. The candidate receiving the highest number of votes in the general

77 city election of the two (2) candidates nominated from those districts shall be elected as
 78 Councilmember from those districts.

79 (d) Terms of office. The Mayor shall be elected to a four (4) year term. The
 80 district Councilmembers shall be elected to staggered four (4) year terms.

81 Section 3. That original sections of Charter Ordinances codified as § A2-21
 82 and § A2-22 of the Code of the City of Topeka, Kansas, are hereby specifically
 83 repealed.

84 Section 4. This charter ordinance shall be published once each week for two
 85 consecutive weeks in the official city newspaper.

86 Section 5. This is a charter ordinance and its effect is hereby made subject to
 87 a vote of the electors of the City of Topeka, Kansas.

88 PASSED and APPROVED by the Governing Body _____.

89 CITY OF TOPEKA, KANSAS

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 Larry E. Wolgast, Mayor

94 ATTEST:

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 Brenda Younger, City Clerk

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STATEMENT OF MANNER OF ADOPTION OF FOREGOING

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The foregoing Charter Ordinance No. _____ was passed on the ____ day of _____, 2014, as shown by the minutes, Book _____ Page _____, by a vote of _____ for and _____ against, being not less than 2/3 of the members-elect of the governing body, published in the Topeka Metro News, the official city newspaper, on the ____ day of _____, 2014, and on the ____ day of _____, 2014, being once each week for two consecutive weeks and ordinance mandating an election in order to repeal or amend certain section of the Charter Ordinance, the governing body passed Ordinance No. _____ on the ____ day of _____, 2014, calling an election to be held on said Charter Ordinance on the ____ day of _____, 2015, said ordinance begin published in the city's official newspaper on _____, _____, and _____ being once each week for three (3) consecutive weeks and such election was duly held and a majority of the electors voting having approved the Charter Ordinance, the Charter Ordinance took effect.

Brenda Younger, City Clerk

CERTIFICATE

132 CITY OF TOPEKA)
 133 COUNTY OF SHAWNEE) ss:
 134 STATE OF KANSAS)

136 I, Brenda Younger, City Clerk of the City of Topeka, County of Shawnee, State of Kansas
 137 do hereby certify that the above and foregoing, consisting of ____ typewritten pages,
 138 including the page upon which this Certificate is written, is a full true and correct copy of
 139 Charter Ordinance No. _____ of the said City of Topeka, that all acts and things
 140 required by Article 12, Section 5 of the Constitution of the State of Kansas were done and
 141 performed in the manner and within the time prescribed and that said Charter Ordinance
 142 became effective on the ____ day of _____, 2015.

 Brenda Younger, City Clerk



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

November 4, 2014

 [Back](#)  [Print](#)

DATE:	December 9, 2014	
CONTACT PERSON:	Council Member Nathan Schmidt	DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY	014 Ordinances – Non-Codified / 005 Miscellaneous	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Council Member Nathan Schmidt, calling an election to be held on April 7, 2015, for the purpose of voting on the Charter Ordinance.

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

(If the Charter Ordinance changing the election method for council members is passed, this ordinance would call an election on the Charter Ordinance.)

POLICY ISSUE:

Whether to call an election on the Charter Ordinance changing the method of election of council members.

STAFF RECOMMENDATION:

If the Charter Ordinance is passed, staff recommends that this ordinance be passed as well.

BACKGROUND:

Any changes to the election of council members require approval by the electorate. If the charter ordinance introduced by Councilmember Schmidt passes, then the governing body must pass an ordinance calling for an election.

Currently, council members are elected by the voters in each of nine districts. The Citizens Government Review Committee recommended that council members be elected by all voters (at-large). During a primary election held within the district, the two nominees from each district receiving the greatest number of votes within the district will stand for election in the general election on an at-large basis.

Item #23

BUDGETARY IMPACT:

There would be no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

[Ordinance](#)

(Published in the Topeka Metro News _____, _____ & _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Council Member Nathan Schmidt calling an election to be held on April 7, 2015, for the purpose of voting on Charter Ordinance No. ____.

WHEREAS, the Governing Body of the City of Topeka, Kansas, deems it advisable to submit Charter Ordinance No. ____ to an election as provided by Article 12, Section 5(c)(3) of the Constitution of the State of Kansas.

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

Section 1. That an election is hereby called to be held on April 7, 2015, for the purpose of voting on Charter Ordinance No. ____, such election to be conducted as elections for officers and by the officers handling such elections.

Section 2. The proposition on the ballot shall be:

“Shall Charter Ordinance No. ____ changing the election of council members from district to at-large entitled: ‘A Charter Ordinance introduced by Councilmember Nathan Schmidt, amending City of Topeka Code § A2-21 and § A2-22 concerning election of council members’ take effect?”

Said Charter Ordinance shall take effect if approved by a majority of the electors voting thereon.

Section 3. This Ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper once each week for three consecutive weeks pursuant to Article 12, Section 5(c)(3) of the Constitution of the State of Kansas.

Section 4. Upon its third publication, the City Clerk is hereby directed to certify a copy of this Ordinance and deliver it to the Election Commissioner of Shawnee County.

31 PASSED and APPROVED by the Governing Body

32 _____.

33 CITY OF TOPEKA, KANSAS

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Larry E. Wolgast, Mayor

39 ATTEST:

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44 _____
Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

December 3, 2014

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DATE: December 9, 2014
CONTACT PERSON: Jim Colson **DOCUMENT #:**
SECOND PARTY/SUBJECT: **PROJECT #:**
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Jim Colson, relating to the City of Topeka's legislative agenda for the 2015 legislative session.

(Approval would outline legislative priorities identified by the Council to be addressed or monitored during the 2015 Legislative Session.)

POLICY ISSUE:

Approve legislative priorities for the 2015 Legislative Session.

STAFF RECOMMENDATION:

Staff is recommending the Council move to approve the resolution.

BACKGROUND:

BUDGETARY IMPACT:

No budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable

ATTACHMENTS:

[Resolution](#)

Item #24

RESOLUTION NO. _____

A RESOLUTION introduced by City Manager Jim Colson, relating to the City of Topeka's legislative agenda for the 2015 legislative session.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS, that the following is hereby adopted as the City of Topeka's legislative agenda for the 2015 legislative session:

- Support legislation which would allow the City to take possession of abandoned homes through a judicial quit claim deed and sell the home or repurpose it for community development purposes.
- Oppose the reduction or elimination of motor fuel tax payments to local municipalities.
- Support review and discussion of tax policy in Kansas, but oppose change that would negatively impact or shift state responsibilities to the local units of government.
- To the extent it is consistent with our priorities and agenda, the City of Topeka supports the League of Kansas Municipalities' 2015 municipal policy, including opposing any restrictions on the use of state and local public moneys to provide information and advocate on behalf of cities and our citizens.
- Eliminate the dual majority requirement of K.S.A. 12-352(e) which prohibits adoption of city/county consolidation unless a majority of electors residing in the City of Topeka and a majority of electors residing outside the City limits vote in favor of the proposed consolidation plan.

- Support for city elections to remain non-partisan and separate from state and national elections, and for cities to continue to determine when elections are held.
- Support stricter regulation of the sale and purchase of salvage and scrap materials.
- Amend K.S.A. 8-1590 to remove the provision that prohibits bicyclists from riding on roads if there is a 'usable path' for bicycles adjacent to the road.
- Support efforts to advocate for the State Capitol's nomination as a World Heritage site.
- Support efforts to facilitate public tours of the State Capitol on the weekends.
- Support legislation that would reduce the local retailer sales tax minimum increment to .05%
- Support legislation that would increase the interest rate for property tax delinquencies
- Support the expansion of Medicaid

ADOPTED and APPROVED by the City Council _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 7, 2014

+ Back Print

DATE:	December 9, 2014	
CONTACT PERSON:	Brenda Younger	DOCUMENT #:
SECOND PARTY/SUBJECT:	Applications	PROJECT #:
CATEGORY/SUBCATEGORY	006 Communication / 005 Other	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

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

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

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

POLICY ISSUE:

Approval helps ensure businesses are in compliance with City regulations.

STAFF RECOMMENDATION:

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

BACKGROUND:

Pursuant to K.S.A. 41-2702 as amended, license applications for retail cereal malt beverage must be approved by the governing body prior to issuance of the license.

Pursuant to TMC 5.170.040 and L.2011, Ch. 86, Section 2, Scrap Metal Dealer applications have to be approved by the governing body prior to issuance of registration.

BUDGETARY IMPACT:

Budgetary impact is based on the number of licenses issued.

SOURCE OF FUNDING:

City Clerk's Operating Budget

ATTACHMENTS:

No Attachments Available

Item #25



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 15, 2014

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DATE: December 9, 2014

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

(The City Clerk will provide a brief summary of items on the next scheduled Council meeting agenda. Also during this time, the City Manager and Governing Body Members may offer comments regarding City business and announce upcoming events.)

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

October 7, 2014

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DATE: December 9, 2014

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

October 7, 2014

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DATE: December 9, 2014

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available