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City Council Agenda

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

September 26, 2006
6:00 PM

City Manager: Norton N. Bonaparte, Jr.

Mayor: William W. Bunten

Councilmembers

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

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

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

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

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

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

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. PROCLAMATIONS:

2. ROLL CALL:

3. CONSENT AGENDA:

A. Resolution - El Centro Blue Moon Bash Noise Exception

 [ATTACHMENTS](#)

A RESOLUTION introduced by Councilmember John Alcala granting El Centro an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions.

(Council District No. 1)

(The El Centro's Blue Moon Bash event will be held on October 6 and 7, 2006.)

B. Resolution - First Congregational Church Noise Exception

 [ATTACHMENTS](#)

A RESOLUTION introduced by Councilmember Clark Duffy, granting First Congregational Church an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions.*(Council District No. 6)*

(The Benefit and Chili Supper will be held on October 7, 2006.)

C. Resolution - Sacred Heart-St. Joseph Parish Noise Exception

 [ATTACHMENTS](#)

A RESOLUTION introduced by Councilmember John Alcala granting the Sacred Heart-St. Joseph Parish an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions. *(Council District No. 2)*

(The Oktoberfest event will be held on October 7, 2006 from 4 p.m. to 11 p.m.)

D. Resolution - Washburn University Topeka Heart Walk Noise Exception

 [ATTACHMENTS](#)

A RESOLUTION introduced by Clark Duffy, granting Washburn University and the American Heart Association an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions. *(Council District No. 6)*

(The 2006 Topeka Heart Walk will take place during the hours of 8:00 am and 12:00 pm on October 21, 2006)

E. Resolution-House of Barbecue-Noise Exception

 [ATTACHMENTS](#)

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

(The annual Fall Festival will be held on September 30, 2006)

F. MINUTES of the regular meeting of September 19, 2006

G. APPLICATIONS:

4. UNFINISHED BUSINESS:

A. Ordinance - Refunding Revenue Bonds, Series 2006-A and Series 2006-B

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the issuance of not to exceed \$32,610,000 aggregate principal amount of Combined Utility Refunding Revenue Bonds, Series 2006-A, and the issuance of not to exceed \$23,190,000 aggregate principal amount of Combined Utility Refunding Revenue Bonds, Series 2006-B, 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. Final Reading.

B. Resolution - Utility Refunding Revenue Bonds, Series 2006-A and 2006-B

 [ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing a call for redemption prior to maturity of the City's outstanding Combined Utility Revenue Bonds, Series 1998-B and Series 2001-A, and setting the terms of the City's Combined Utility Refunding Revenue Bonds, Series 2006-A and 2006-B.

(The resolution authorizes early redemption of the 1998-A and 2001-A Revenue Bonds and sets the terms of the 2006-A and 2006-B Refunding Revenue Bonds.)

C. Ordinance - El Centro Blue Moon Bash event - CMB

 [ATTACHMENTS](#)

AN ORDINANCE introduced by Councilmember John Alcala authorizing the purchase, possession and consumption of cereal malt beverages during El Centro's Blue Moon Bash event, at specified locations and times. Final Reading. *(Council District No. 1)*

(The Blue Moon Bash is an event sponsored by El Centro that will be held on October 6 and 7, 2006.)

D. Ordinance - Water service outside city limits

 [ATTACHMENTS](#)

AN ORDINANCE introduced by Councilmembers Clark Duffy and Jeff Preisner, amending City of Topeka Code Section 146-37 concerning water service to an owner of real property outside city limits, and specifically repealing said original section. Final Reading.

(The amendment would require annexation of new or redeveloped parcels outside of the city's corporate boundaries that are not contained within the current Municipal Services Area prior to water service being provided.)

E. Ordinance and Project Budget for Trafficway Improvement Project No. 70123-01

 [ATTACHMENTS](#)

A PROJECT BUDGET in the amount of \$128,000 and **AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 70123-01, which provides for a traffic study to determine proper traffic control and geometry, and preparation of plans, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. Final Reading. *(Council District No. 7)*

(This Ordinance would allow for the design of improvements on SW Fairlawn Road at the SW 29th Street intersection and I-470 off-ramp.)

F. Ordinance for the Manual on Uniform Traffic Control Devices

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning uniform traffic manual adopted, amending City of Topeka Code Section 142-123, and specifically repealing said original section. Final Reading.

(This Ordinance would update the City Code to reflect the use of the current edition of the Manual on Uniform Traffic Control Devices.)

5. NEW BUSINESS:

A. Real Estate Report - SE 21st Street and Rice Road

 [ATTACHMENTS](#)

A COMMUNICATION requesting approval of the Real Estate Report for the disposal of City of Topeka Surplus property (excess right-of-way) located in the vicinity of S.E. 21st Street and Rice Road. *(Council District No. 3)*

(The Real Estate Report for the disposal of City of Topeka surplus property (excess right-of-way) located in the vicinity of S.E. 21st Street and Rice Road lists all City Departments giving approval for the subject tracts to be declared surplus and processed for disposal.)

B. Resolution Rescinding Resolution No. 7771 for Project No. 40898-01

 [ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr. to rescind Resolution of Advisability and Authorization No. 7771 which authorized Main and Lateral Sanitary Sewer Improvement Project No. 40898-01 in the area bound by SW Huntoon, SW Urish Road, SW 21st Street and Executive Drive. *(Council District No. 8)*

(This Resolution will rescind Resolution No. 7771 for Sewer Project No. 40898-01. Resolution No. 7841 was approved by City Council on August 1, 2006, authorizing this project with an amended Project Budget but it did not rescind the previously approved Resolution for the project.)

C. Petition, Project Budget and Resolution for Street Improvement Project No. 60364-02

 [ATTACHMENTS](#)

A PETITION, a PROJECT BUDGET in the amount of \$24,500 and a RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and adopting as amended Improvement Project No. 60364-02 which provides for a turn-a-round at the east end of Southwest Reeder Street in front of the Kuhn-Smith Subdivision, pursuant to K.S.A. 12-6a01, et seq., and rescinding City of Topeka Resolution of Advisability and Authorization No. 7647. (Council District No. 8)

(A revised Petition, Project Budget and Resolution are required for this Project to pave a turn-around at the east end of S.W. Reeder Street due to increased construction costs.)

D. Authorization of Weekly Expenditures for Week Ended September 10, 2006

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period September 4, 2006, through September 10, 2006, and enumerating said expenditures therein. First and Final Reading.

6. PLANNING:

A. Communication - Hidden Valley Sub. No. 5 Annexation Exemption

 [ATTACHMENTS](#)

A COMMUNICATION from Indian Hills Land Development Corporation through their consulting engineer requesting an exemption from Sec. 146-256.C(2) requiring annexation prior to sewer service from the City as provided for under Sec. 146-256.C(6)(iii) and (iv) on a 29.07-acre tract located 1900 feet west of SW Urish Road and 2200 feet north of SW 21st Street within unincorporated Shawnee County, Kansas.

(Approval would permit the City to provide sanitary sewer service to Hidden Valley Subdivision No. 5 prior to annexation into the City)

B. Final Plat - Hickory Ridge Estates No. 10 (P06-27)

 [ATTACHMENTS](#)

A FINAL PLAT for Hickory Ridge Estates Subdivision No. 10 located approximately 130-feet east of NW Bent Tree Lane between NW 32nd Street and NW Bitter Nut Street within unincorporated Shawnee County, Kansas.(P06/27) (The Planning Commission recommended approval by a vote of 7-0-0.) (Tabled for 60 days from the meeting of July 25, 2006.)

(Approval would accommodate development of the property for single-family residential uses.)

C. Plat - Hickory Ridge Estates Subdivision No. 11(P06/26)

 [ATTACHMENTS](#)

A FINAL PLAT for Hickory Ridge Estates Subdivision No. 11 located at the southwest corner of NW 35th Street and NW Button Road within unincorporated Shawnee County, Kansas. (P06/26) (The Planning Commission recommended approval by a vote of 7-0-0.) (Tabled for 60 days from the meeting of July 25, 2006.)

(Approval would accommodate development of the property for an additional single-family residence.)

7. FIRST READINGS:

A. Ordinance - City of Topeka (PUD06/1)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property between SW 13th Street and SW Byron Street and between SW Washburn Avenue and SW Lane Street also including property at the northwest corner of SW 17th Street and SW Washburn Avenue and at the southeast corner of SW 14th Street and SW Lane Street from "M-1"Two-Family Dwelling District, "O&I-2" Office and Institutional District, "C-2"

Commercial District and "C-4" Commercial District ALL TO "PUD" Planned Unit Development District ("M-2" Multiple-Family Dwelling District and "C-2" Commercial District use groups). First Reading.(PUD06/1) (Council District #6)

(Approval would allow for redevelopment of the property for multiple-family and retail uses.)

B. Ordinance - City of Topeka (SNC06/1)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. relating to the designation of street names, more specifically changing the name of SW Bines Way and SW Elmo Drive in Bines Addition to SE Bines Way and SE Elmo Drive. First Reading. (SNC06/1)(Council District No. 9)

(Approval would correct the directional street prefix that was recorded incorrectly on the plat of Bines Addition.)

C. Ordinance - Park Improvement Project No. 30127-12

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30127-12, which provides for the development of plans and specifications to extend the existing Shunga Multipurpose Trail, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. First Reading.

(The ordinance would allow for the extension of the Shunga Trail from SW Fairlawn Road to SW 29th Street.)

D. Ordinance - Street Lighting Amendments (ASR06/1)

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. relating to streetlights, amending Topeka City Code Chapter 130, and Sections 134-77, 134-167, and 134-175 and specifically repealing said original Sections. First Reading.

(The ordinance requires the developer to provide for street lighting within new subdivisions and codifies procedure for installation of street lights in existing subdivisions)

8. MISCELLANEOUS:

-

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

-

10. PUBLIC COMMENT:

-

11. ADJOURNMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2006

 + Back  Print

DATE:	September 12, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2006

 + Back  Print

DATE:	September 12, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 20, 2006

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DATE:	September 12, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2006

 + Back  Print

DATE:	September 12, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 7, 2006

+ Back Print

DATE:	September 12, 2006	
CONTACT PERSON:	John Alcala	DOCUMENT #:
SECOND PARTY/SUBJECT:	El Centro	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember John Alcala granting El Centro an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions.
(Council District No. 1)

(The El Centro's Blue Moon Bash event will be held on October 6 and 7, 2006.)

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

A noise exception for El Centro's Blue Moon Bash event while providing live musical entertainment during the hours of 5:00 p.m. and 11:00 p.m. on October 6, 2006 and during the hours of 1:00 p.m. and 11:00 p.m. on October 7, 2006.

BUDGETARY IMPACT:

None.

SOURCE OF FUNDING:

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION introduced by Councilmember John Alcala granting El Centro an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions.

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that El Centro is hereby granted an exception from the provisions of City of Topeka Code Section 54-148 while providing live musical entertainment during

COUNRES
EL CENTRO
NOISE EXCEPTION
9/7/06

the El Centro Blue Moon Bash event during the hours of 5:00 p.m. and 11:00 p.m. on October 6, 2006 and during the hours of 1:00 p.m. and 11:00 p.m. on October 7, 2006.

ADOPTED and APPROVED by the City Council _____.

William W. Bunten, Mayor

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 31, 2006

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DATE:	September 12, 2006	
CONTACT PERSON:	Clark Duffy	DOCUMENT #:
SECOND PARTY/SUBJECT:	First Congregational Church	PROJECT #:
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember Clark Duffy, granting First Congregational Church an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions.(Council District No. 6)

(The Benefit and Chili Supper will be held on October 7, 2006.)

POLICY ISSUE:

None

STAFF RECOMMENDATION:

None

BACKGROUND:

Noise exception for Benefit and Chili Supper to be held on October 7, 2006 during the hours of 4 p.m. and 8 p.m.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

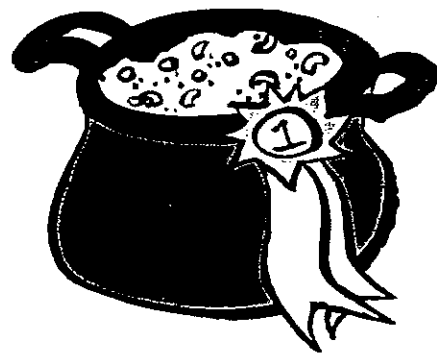
None

ATTACHMENTS:

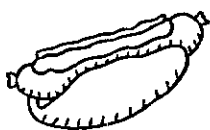
[Resolution](#)

[Flyer](#)

Benefit Chili and Soup Supper



First Congregational Church
1701 SW Collins
Saturday, October 7, 2006
4:00 - 8:00 pm



Hot Dogs/ Chili Dogs

Vegetable Soup

Cinnamon Rolls

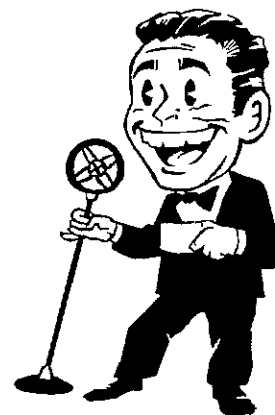
Bake Sale



Evening Highlights:

4:00 - 5:00 Talent Show
5:00 - 6:00 Polka Band
6:00 - 7:00 Jim Gardner
7:00 - 8:00 Live Music

A Benefit for the Love Fund



RESOLUTION NO. _____

A RESOLUTION introduced by Councilmember Clark Duffy, granting First Congregational Church an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions.

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

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

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

WHEREAS, upon review of the application of First Congregational Church, the Council of the City of Topeka does hereby find that the requested activity does not offend the spirit of the findings of City of Topeka Code Section 54-146.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that First Congregational Church is hereby granted an exception from the provisions of City of Topeka Code Section 54-148 for amplified sound at their

COUNRES
First Congregational
09/01/06

26 Benefit Chili and Soup Supper located at 1701 SW Collins during the hours of
27 4:00 p.m. and 8:00 p.m. on October 7, 2006.

28 ADOPTED and APPROVED by the City Council _____.

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William W. Bunten, Mayor

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35 _____
Iris E. Walker, City Clerk

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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 8, 2006

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DATE: September 12, 2006

CONTACT PERSON: John Alcala **DOCUMENT #:**

SECOND PARTY/SUBJECT: Sacred Heart-St. Joseph Parish (Oktoberfest Committee) **PROJECT #:**

CATEGORY/SUBCATEGORY 020 Resolutions / 001 Special Permits

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember John Alcala granting the Sacred Heart-St. Joseph Parish an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions. *(Council District No. 2)*

(The Oktoberfest event will be held on October 7, 2006 from 4 p.m. to 11 p.m.)

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

Sacred Heart-St. Joseph Parish Oktoberfest event will provide live music and other entertainment during the hours of 4:00 p.m. and 11:00 p.m. on October 7, 2006 at 1725 NE Seward.

BUDGETARY IMPACT:

None.

SOURCE OF FUNDING:

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION introduced by Councilmember John Alcala granting the Sacred Heart-St. Joseph Parish an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions.

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

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

WHEREAS, Sacred Heart-St. Joseph Parish has requested that it be granted an exception to the provisions of City of Topeka Code Section 54-148 for the purposes, dates and times described herein, and

WHEREAS, upon review of the application of Sacred Heart-St. Joseph Parish, the Council of the City of Topeka does hereby find that the requested activity does not offend the spirit of the findings of City of Topeka Code Section 54-146.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that Sacred Heart-St. Joseph Parish is hereby granted an exception from

COUNRES 1
SACRED HEART-ST. JOSEPH PARISH
NOISE EXCEPTION
9/8/06

the provisions of City of Topeka Code Section 54-148 while providing live music
and other entertainment during the Sacred Heart-St. Joseph Parish Oktoberfest
event during the hours of 4:00 p.m. and 11:00 p.m. on October 7, 2006 at 1725
NE Seward.

ADOPTED and APPROVED by the City Council _____.

William W. Bunten, Mayor

Iris E. Walker, City Clerk



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 24, 2006

+ Back Print

DATE: September 12, 2006
CONTACT PERSON: Clark Duffy DOCUMENT #:
SECOND PARTY/SUBJECT: Kim Williams-AHA PROJECT #:
CATEGORY/SUBCATEGORY
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Clark Duffy, granting Washburn University and the American Heart Association an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions. (Council District No. 6)

(The 2006 Topeka Heart Walk will take place during the hours of 8:00 am and 12:00 pm on October 21, 2006)

POLICY ISSUE:

None

STAFF RECOMMENDATION:

None

BACKGROUND:

Noise exception for amplified music located at Washburn University during the hours of 8:00 am and 12:00 pm on October 21, 2006.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

None

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION introduced by Councilmember Clark Duffy, granting Washburn University an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions.

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that Washburn University is hereby granted an exception from the provisions of City of Topeka Code Section 54-148 for amplified music at the American Heart Association's 2006 Topeka Heart Walk located at 1700 SW

COUNRES
Washburn University-AHA
08/22/06

26 College Avenue during the hours of 8:00 a.m. and 12:00 p.m. on October 21,
27 2006.

28 ADOPTED and APPROVED by the City Council _____.

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William W. Bunten, Mayor

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35 _____
Iris E. Walker, City Clerk

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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 13, 2006

+ Back Print

DATE: September 12, 2006
CONTACT PERSON: Lana Kennedy **DOCUMENT #:**
SECOND PARTY/SUBJECT: Judy Jewsome **PROJECT #:**
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

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

(The annual Fall Festival will be held on September 30, 2006)

POLICY ISSUE:

None

STAFF RECOMMENDATION:

None

BACKGROUND:

Noise exception for amplified music located at 1221 SW Huntoon during the hours of 1:00 pm and 10:00 pm.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

None

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that House of Barbecue is hereby granted an exception from the provisions of City of Topeka Code Section 54-148 for amplified music at the

25 annual Fall Festival located at 1221 SW Huntoon Street during the hours of 1:00
26 p.m. and 10:00 p.m. on September 30, 2006.

27 ADOPTED and APPROVED by the City Council _____.

28

29

30

31

32

33

34

35

William W. Bunten, Mayor

Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY

DATE _____ BY _____



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2006

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DATE:	September 12, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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DATE:	September 12, 2006	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2006

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DATE: September 12, 2006

CONTACT PERSON: Linda Wood **DOCUMENT #:**

SECOND PARTY/SUBJECT: Authorizing the Issuance of City of Topeka Refunding Revenue Bonds **PROJECT #:**

CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 003 IRB

CIP PROJECT: No

ACTION OF COUNCIL: First reading. 09/19/06 **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing the issuance of not to exceed \$32,610,000 aggregate principal amount of Combined Utility Refunding Revenue Bonds, Series 2006-A, and the issuance of not to exceed \$23,190,000 aggregate principal amount of Combined Utility Refunding Revenue Bonds, Series 2006-B, 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. Final Reading.

POLICY ISSUE:

The issuance of refunding bonds will effect interest cost savings to the City of Topeka's Combined Utility operations.

STAFF RECOMMENDATION:

Adopt the ordinance as presented.

BACKGROUND:

Issuance of the Series 2006-A and Series 2006-B Refunding Revenue Bonds will provide proceeds for early redemption of \$31,440,000 outstanding principal of the City's previously issued Series 1998-B Revenue Bonds and early redemption of \$22,065,000 outstanding principal of the City's previously issued Series 2001-A Revenue Bonds, to effect interest cost savings to the City of Topeka's Combined Utility operations.

BUDGETARY IMPACT:

It is currently projected that the total net present value interest cost savings to the City will be in excess of \$2.8 million. A present value savings of \$1.5 million, or 4.859%, is estimated on the current refunding of the 1998-B Bonds with the issuance of the 2006-A Bonds. A present value savings of \$1.3 million, or 6.066%, is estimated on the advance refunding of the 2001-A Bonds with the issuance of the 2006-B Bonds.

SOURCE OF FUNDING:

Proceeds of the Series 2006-A and Series 2006-B Refunding Revenue Bonds will be used to redeem the currently outstanding Series 1998-B and Series 2001-A Revenue Bonds, and to pay associated costs of issuing the refunding bonds. The new bonds will be paid from the pledged revenues of the combined utility operations.

ATTACHMENTS:

[Ordinance](#)

070906 3

(Published in The Topeka Metro News on September 29, 2006.)**ORDINANCE NO. _____**

AN ORDINANCE INTRODUCED BY CITY MANAGER NORTON N. BONAPARTE, JR. AUTHORIZING THE ISSUANCE OF \$31,910,000 AGGREGATE PRINCIPAL AMOUNT OF COMBINED UTILITY REFUNDING REVENUE BONDS, SERIES 2006-A AND \$22,925,000 COMBINED UTILITY REFUNDING REVENUE BONDS, SERIES 2006-B, 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, the City has heretofore duly authorized, issued and delivered its \$31,440,000 principal amount of Water and Water Pollution Control Utility Revenue Bonds, Series 1998B, dated June 1, 1998, (the "Series 1998B Bonds") pursuant to its Ordinance and Resolution adopted June 16, 1998, in accordance with the requirements of K.S.A. 10-1201 et seq., as amended (the "Series 1998B Bond Ordinance"); and

WHEREAS, as of September 1, 2006, there remains outstanding of the Series 1998B Bonds the principal amount of \$31,440,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

<u>(YEAR)</u> <u>(AUGUST 1)</u>	<u>AMOUNT</u>	<u>INTEREST</u> <u>RATE</u>
SERIAL BONDS		
2012	\$ 945,000	4.80%
2013	1,260,000	4.85
2014	1,325,000	4.90
2015	1,395,000	4.90
TERM BONDS		
2018	\$4,635,000	5.05%
2023	9,525,000	5.10
2028	12,355,000	5.10

WHEREAS, pursuant to Section 301 of the Series 1998B Bond Ordinance, the Series 1998B Bonds maturing on August 1, 2012, and thereafter are subject to redemption and payment at the option of the City on August 1, 2006, and thereafter in whole or in part on any date at the

redemption price equal to the principal amount thereof with a premium of one percent of the principal amount redeemed, such premium to decline one-half of one percent (1/2 of 1%) each Interest Payment Date thereafter, plus accrued interest to the date of redemption; and

WHEREAS, the City has heretofore duly authorized, issued and delivered its \$25,365,000 principal amount of Water and Water Pollution Control Utility Revenue Bonds, Series 2001-A, dated December 1, 2001, (the "Series 2001-A Bonds") pursuant to its Ordinance and Resolution adopted December 11, 2001, in accordance with the requirements of K.S.A. 10-1201 et seq., as amended (the "Series 2001-A Bond Ordinance"); and

WHEREAS, as of September 1, 2006, there remains outstanding of the Series 2001-A Bonds the principal amount of \$23,085,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

MATURITY (August 1)	PRINCIPAL AMOUNT	INTEREST RATE
------------------------	---------------------	------------------

SERIAL BONDS

2007	\$ 500,000	6.25%
2008	520,000	5.25
2009	540,000	5.00
2010	565,000	5.50
2011	585,000	5.50
2012	615,000	5.50
2013	640,000	4.80
2014	670,000	4.90
2015	700,000	5.00
2016	735,000	5.10
2017	770,000	5.15
2018	810,000	5.25
2019	855,000	5.30

TERM BONDS

2022	\$ 2,840,000	5.35%
2031	11,740,000	5.40

WHEREAS, pursuant to Section 301 of the Series 2001-A Bond Ordinance, the Series 2001-A Bonds maturing on August 1, 2009, and thereafter are subject to redemption and payment at the option of the City on August 1, 2008, and thereafter in whole or in part on any date at the redemption price equal to the principal amount thereof with a premium of one percent of the principal amount redeemed, such premium to decline one-quarter of one percent (1/4 of 1%) each Interest Payment Date thereafter, plus accrued interest to the date of redemption; and

88 **WHEREAS**, pursuant to Section 203 of both the Series 1998B Bond Ordinance and the
89 Series 2001-A Bond Ordinance, the State Treasurer of the State of Kansas, Topeka, Kansas, was
90 designated as the City's Paying Agent and Bond Registrar for the payment of the principal of and
91 interest on the Refunded Bonds hereinafter defined; and
92

93 **WHEREAS**, the City has determined and hereby determines that it is in the best interest
94 of the City and the patrons and taxpayers thereof (i) that the Series 1998B Bonds maturing on
95 and after August 1, 2012, (i.e., \$31,440,000) (the "Series 1998B Refunded Bonds") be paid and
96 redeemed as the same mature and otherwise become subject to redemption and payment on
97 October 19, 2006, and (ii) that the Series 2001-A Bond maturing on and after August 1, 2009,
98 (i.e., \$22,065,000) (the "Series 2001-A Refunded Bonds") (the Series 1998B Refunded Bonds and
99 Series 2001-A Refunded Bonds are collectively referred to as the "Refunded Bonds") be paid
100 and redeemed as the same mature and otherwise become subject to redemption and payment on
101 August 1, 2008, and that two separate series of refunding revenue bonds of the City payable from
102 the revenues derived from the operation of the System of the City be issued in the aggregate
103 principal amount of \$54,835,000 to be utilized together with other legally available and
104 unencumbered funds of the City for such purpose; and
105

106 **WHEREAS**, such redemption and refunding would help the City achieve interest cost
107 savings on its bonded indebtedness, provide a more orderly plan of financing for the City and
108 result in a general restructuring of the debt service obligation of the City with respect to its
109 combined utility, as hereinafter defined; and
110

111 **WHEREAS**, it is necessary at this time that the City proceed forthwith to sell and deliver
112 (1) its Combined Utility Refunding Revenue Bonds, Series 2006-A, in the principal sum of
113 \$31,910,000 (the "Series 2006-A Bonds"), for the purpose of providing funds to currently refund
114 the Series 1998B Refunded Bonds and pay the costs of issuing the Series 2006-A Bonds and (2)
115 its Combined Utility Refunding Revenue Bonds, Series 2006-B in the principal sum of
116 \$22,925,000 (the "Series 2006-B Bonds") (the Series 2006-A Bonds and Series 2006-B Bonds
117 are collectively the "Bonds"), for the purpose of providing funds to advance refund the Series
118 2001-A Refunded Bonds and pay the costs of issuing the Series 2006-B Bonds, all under the
119 authority of K.S.A. 10-1201 et seq., K.S.A. 10-116a and Article 1 of Chapter 10, Kansas Statutes
120 Annotated, all as amended; and
121

122 **WHEREAS**, a portion of the proceeds derived from the sale of the Combined Utility
123 Refunding Revenue Bonds, Series 2006-B, herein authorized shall, subject to the provisions of
124 an escrow trust agreement authorized herein, be placed in an escrow trust account to be
125 established as herein authorized for the purpose of paying and redeeming the Series 2001-A
126 Refunded Bonds as to both principal and interest as the same mature and otherwise become due,
127 all as more particularly described herein; and
128

129 **WHEREAS**, as previously herein recited, the City on January 8, 2002, issued its Water
130 and Water Pollution Control Utility Revenue Bonds, Series 2001-A in the amount of
131 \$25,365,000 (the "Series 2001-A Bonds"); and
132

133 **WHEREAS**, on March 25, 2003, the City combined its stormwater utility with the water
134 and water pollution control utility creating a water, water pollution control and stormwater utility
135 system (the "Combined Utility"); and
136

137 **WHEREAS**, the City on February 19, 2004, issued its Combined Utility Improvement
138 and Refunding Revenue Bonds, Series 2004-A in the amount of \$46,180,000 (the "Series 2004-
139 A Bonds") which, in part, currently refunded the City's outstanding Series 1998A Water and
140 Water Pollution Control Utility Refunding Revenue Bonds dated June 1, 1998; and
141

142 **WHEREAS**, the City on December 8, 2005, issued its Combined Utility Improvement
143 Revenue Bonds, Series 2005-A in the amount of \$14,875,000 (the "Series 2005-A Bonds"); and
144

145 **WHEREAS**, the Bonds are parity obligations of the City's System and, as such shall
146 have equal lien status with the outstanding Series 2001-A Bonds not defeased in accordance with
147 Section 701 of Resolution No. 7209 passed and approved by the governing body of the City
148 December 11, 2001, which resolution prescribed, among other things, the details of the Series
149 2001-A Bonds; the Series 2004-A Bonds; and the Series 2005-A Bonds; and
150

151 **WHEREAS**, the City has authorized certain loans in the maximum authorized amount of
152 \$ _____ from the Kansas Department of Health and Environment revolving fund loan
153 program (the "Permitted Loans") and pledged the revenues from the System to the payment of
154 such Permitted Loans and any additional loans which would constitute Permitted Loans under
155 the Resolution hereinafter provided for; and
156

157 **WHEREAS**, the lien of the Permitted Loans upon the revenues of the System is superior
158 to the lien of the City's outstanding Series 1998B Bonds, Series 2001-A Bonds, and Series 2004-
159 A Bonds, Series 2005-A Bonds and the Bonds hereby authorized and directed to be issued.
160

161 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF**
162 **TOPEKA, SHAWNEE COUNTY, KANSAS:**
163

164 **Section 1.** That there is hereby authorized and directed to be issued (1) Combined Utility
165 Refunding Revenue Bonds, Series 2006-A, of the City in the aggregate principal amount of
166 \$31,910,000 for the purposes of providing funds to currently refund the Series 1998B Refunded
167 Bonds and pay the costs of issuing the Series 2006-A Bonds and (2) Combined Utility Refunding
168 Revenue Bonds, Series 2006-B, of the City in the aggregate principal amount of \$22,925,000 for
169 the purposes of providing funds to advance refund the Series 2001-A Refunded Bonds and pay
170 the costs of issuing the Series 2006-B Bonds, as provided by Article 1 of Chapter 10, Kansas
171 Statutes Annotated, K.S.A. 10-116a, and Article 12 of Chapter 10 of the Kansas Statutes
172 Annotated, all as amended. The Bonds shall be dated and bear interest, shall mature and be
173 payable at such times, shall be in such form, shall be subject to redemption and payment prior to
174 the maturity thereof and shall be issued in the manner prescribed and subject to the provisions,
175 covenants and agreements set forth in a resolution of the Governing Body of the City adopted the
176 same date as the date of the passage and approval of this Ordinance (the "Resolution").
177

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

186
187 **Section 3.** That the City shall, and the officers, agents and employees of the City are
188 hereby authorized and directed to, take such action and execute such other documents,
189 certificates and instruments as may be necessary or desirable to carry out and comply with the
190 provisions of this Ordinance and to carry out, comply with and perform the duties of the City
191 with respect to the Bonds and the Resolution all as necessary to carry out and give effect to the
192 transaction contemplated hereby and thereby.

193
194 **Section 4.** That if any portion or provision of this Ordinance or the Bonds shall for any
195 reason be held to be invalid or unenforceable, the invalidity or unenforceability of such portion
196 or provisions shall not effect any of the remaining provisions of this Ordinance or the Bonds, but
197 this Ordinance and said Bonds shall be construed and enforced as if such illegal or invalid
198 provision had not been contained herein.

199
200 **Section 5.** That the Bonds shall be issued and sold to the purchaser thereof in accordance
201 with both its bid for the purchase thereof and the terms and conditions of this Ordinance.

202
203 **Section 6.** That this Ordinance shall take effect and be in force from and after its passage
204 and publication in the official City newspaper.

205
206 (REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)

207 Passed by the Governing Body and approved by the Council of the City of Topeka,
208 Kansas, this 26th day of September, 2006.

209
210 **CITY OF TOPEKA, KANSAS**

211
212
213 **ATTEST:**

214 _____
215 **William W. Bunten, Mayor**

216 _____
217 **Iris E. Walker, City Clerk**

218
219 **(SEAL)**

220
221
222
223
224 **I, IRIS E. WALKER**, City Clerk of the City of Topeka, Shawnee County, Kansas, do
225 hereby certify that the above and foregoing is a true and correct copy of Ordinance No.
226 _____ adopted and approved by the City Council on September 26, 2006.

227
228
229
230 _____
231 **Iris E. Walker, City Clerk**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 5, 2006

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DATE: September 12, 2006

CONTACT PERSON: Linda Wood **DOCUMENT #:**

SECOND PARTY/SUBJECT: Authorizing the Issuance of City of Topeka Refunding Revenue Bonds **PROJECT #:**

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., authorizing a call for redemption prior to maturity of the City's outstanding Combined Utility Revenue Bonds, Series 1998-B and Series 2001-A, and setting the terms of the City's Combined Utility Refunding Revenue Bonds, Series 2006-A and 2006-B.

(The resolution authorizes early redemption of the 1998-A and 2001-A Revenue Bonds and sets the terms of the 2006-A and 2006-B Refunding Revenue Bonds.)

POLICY ISSUE:

The Council's authorization is necessary for any call for redemption prior to scheduled maturity of the bonds to be refunded. The Council must also approve the terms and conditions of the refunding bonds. This refunding will effect net present value interest cost savings for the City's combined utility operations.

STAFF RECOMMENDATION:

Adopt the Resolution as presented

BACKGROUND:

Issuance of the Series 2006-A and 2006-B Refunding Revenue Bonds will provide proceeds to pay early redemption of \$31,440,000 outstanding principal of the City's previously issued Series 1998-B Revenue Bonds, and \$22,065,000 outstanding principal of the City's previously issued Series 2001-A Revenue Bonds. The refunding will produce significant interest cost savings.

BUDGETARY IMPACT:

It is currently projected that the total net present value interest cost savings to the City will be in excess of \$2.8 million. A present value savings of \$1.5 million, or 4.859% of the redeemed outstanding principal amount, is estimated on the current refunding of the 1998-B Bonds, with the issuance of the 2006-A Bonds. A present value savings of \$1.3 million, or 6.066% of the redeemed outstanding principal amount, is estimated on the advance refunding of the 2001-A Bonds, with the issuance of the 2006-B Bonds

Item #13

SOURCE OF FUNDING:

Redemption of the Series 1998-B and the Series 2001-A Revenue Bonds will be paid from proceeds of the refunding bonds, as will costs of issuance on the refunding bonds. The Series 2006-A and Series 2006-B Refunding Revenue Bonds will be paid from pledged revenues of the combined utility system.

ATTACHMENTS:

[Resolution](#)

070906 3

RESOLUTION

OF

CITY OF TOPEKA, KANSAS

PASSED

SEPTEMBER 26, 2006

\$31,910,000

COMBINED UTILITY REFUNDING REVENUE BONDS
SERIES 2006-A

\$22,925,000

COMBINED UTILITY REFUNDING REVENUE BONDS
SERIES 2006-B

RESOLUTION

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RESOLUTION NO. _____

A RESOLUTION INTRODUCED BY CITY MANAGER NORTON N. BONAPARTE, JR. PRESCRIBING THE FORM AND DETAILS OF BOTH THE COMBINED UTILITY REFUNDING REVENUE BONDS, SERIES 2006-A AND SERIES 2006-B OF THE CITY OF TOPEKA, KANSAS, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$54,835,000 THE ISSUANCE OF WHICH WAS AUTHORIZED BY THE CITY PURSUANT TO ITS ORDINANCE NO. _____ PASSED AND APPROVED SEPTEMBER 26, 2006; AND 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 City has heretofore duly authorized, issued and delivered its \$31,440,000 principal amount of Water and Water Pollution Control Utility Revenue Bonds, Series 1998B, dated June 1, 1998, (the "Series 1998B Bonds") pursuant to its Ordinance and Resolution adopted June 16, 1998, in accordance with the requirements of K.S.A. 10-1201 et seq., as amended (the "Series 1998B Bond Ordinance"); and

WHEREAS, as of September 1, 2006, there remains outstanding of the Series 1998B Bonds the principal amount of \$31,440,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

<u>(YEAR)</u>	<u>AMOUNT</u>	<u>INTEREST</u>
<u>(AUGUST 1)</u>		<u>RATE</u>
SERIAL BONDS		
2012	\$ 945,000	4.80%
2013	1,260,000	4.85
2014	1,325,000	4.90
2015	1,395,000	4.90
TERM BONDS		
2018	\$4,635,000	5.05%
2023	9,525,000	5.10
2028	12,355,000	5.10

WHEREAS, pursuant to **Section 301** of the Series 1998B Bond Ordinance, the Series 1998B Bonds maturing on August 1, 2012, and thereafter are subject to redemption and payment at the option of the City on August 1, 2006, and thereafter in whole or in part on any date at the redemption price equal to the principal amount thereof with a premium of one percent of the principal amount redeemed, such premium to decline one-half of one

percent (1/2 of 1%) each Interest Payment Date thereafter, plus accrued interest to the date of redemption; and

WHEREAS, the City has heretofore duly authorized, issued and delivered its \$25,365,000 principal amount of Water and Water Pollution Control Utility Revenue Bonds, Series 2001-A, dated December 1, 2001, (the "Series 2001-A Bonds") pursuant to its Ordinance and Resolution adopted December 11, 2001, in accordance with the requirements of K.S.A. 10-1201 et seq., as amended (the "Series 2001-A Bond Ordinance"); and

WHEREAS, as of September 1, 2006, there remains outstanding of the Series 2001-A Bonds the principal amount of \$23,085,000 bearing interest payable semiannually on February 1 and August 1 each year and maturing on August 1, as follows:

<u>MATURITY</u> <u>(August 1)</u>	<u>PRINCIPAL</u> <u>AMOUNT</u>	<u>INTEREST</u> <u>RATE</u>
SERIAL BONDS		
2007	\$ 500,000	6.25%
2008	520,000	5.25
2009	540,000	5.00
2010	565,000	5.50
2011	585,000	5.50
2012	615,000	5.50
2013	640,000	4.80
2014	670,000	4.90
2015	700,000	5.00
2016	735,000	5.10
2017	770,000	5.15
2018	810,000	5.25
2019	855,000	5.30
TERM BONDS		
2022	\$ 2,840,000	5.35%
2031	11,740,000	5.40

WHEREAS, pursuant to **Section 301** of the Series 2001-A Bond Ordinance, the Series 2001-A Bonds maturing on August 1, 2009, and thereafter are subject to redemption and payment at the option of the City on August 1, 2008, and thereafter in whole or in part on any date at the redemption price equal to the principal amount thereof with a premium of one percent of the principal amount redeemed, such premium to decline one-quarter of one percent (1/4 of 1%) each Interest Payment Date thereafter, plus accrued interest to the date of redemption; and

237 **WHEREAS**, the City has by its Ordinance No. _____ passed and approved
238 September 26, 2006, (the "Ordinance") authorized the issuance of (1) its Combined Utility
239 Refunding Revenue Bonds, Series 2006-A in the aggregate principal amount of \$31,910,000
240 (the "Series 2006-A Bonds") to currently refund the Series 1998B Bonds maturing on
241 August 1, 2012, through and including August 1, 2028, (i.e. \$31,440,000) (the "Series
242 1998B Refunded Bonds"), and pay the costs of issuing the Series 2006-A Bond and (2) its
243 Combined Utility Refunding Revenue Bonds, Series 2006-B in the aggregate principal
244 amount of \$22,925,000 (the "Series 2006-B Bonds") (the Series 2006-A Bonds and the
245 Series 2006-B Bonds are collectively the "Bonds") to advance refund the Series 2001-A
246 Bonds maturing on August 1, 2009, through and including August 1, 2031, (i.e.
247 \$22,065,000) (the "Series 2001-A Refunded Bonds") (the Series 1998B Refunded Bonds and
248 the Series 2001-A Refunded Bonds are collectively, the "Refunded Bonds") and pay the
249 costs of issuing the Series 2006-B Bonds, all under the authority of K.S.A. 10-1201 et seq.,
250 K.S.A. 10-116a and Article 1 of Chapter 10, Kansas Statutes Annotated, all as amended;
251 and
252

253 **WHEREAS**, as previously herein recited, the City on January 8, 2002, issued its
254 Water and Water Pollution Control Utility Revenue Bonds, Series 2001-A in the amount of
255 \$25,365,000 (the "Series 2001-A Bonds"); and
256

257 **WHEREAS**, on March 25, 2003, the City combined its stormwater utility with the
258 water and water pollution control utility creating a water, water pollution control and
259 stormwater utility system (the "Combined Utility"); and
260

261 **WHEREAS**, the City on February 19, 2004, issued its Combined Utility
262 Improvement and Refunding Revenue Bonds, Series 2004-A in the amount of \$46,180,000
263 (the "Series 2004-A Bonds") which, in part, currently refunded the City's outstanding Series
264 1998A Water and Water Pollution Control Utility Refunding Revenue Bonds dated June 1,
265 1998; and
266

267 **WHEREAS**, the City on December 8, 2005, issued its Combined Utility
268 Improvement Revenue Bonds, Series 2005-A in the amount of \$14,875,000 (the "Series
269 2005-A Bonds"); and
270

271 **WHEREAS**, the Bonds are parity obligations of the City's System and, as such shall
272 have equal lien status with the outstanding Series 2001-A Bonds not defeased in accordance
273 with **Section 701** of Resolution No. 7209 passed and approved by the governing body of the
274 City December 11, 2001, which resolution prescribed, among other things, the details of the
275 Series 2001-A Bonds; the Series 2004-A Bonds; and the Series 2005-A Bonds; and
276

277 **WHEREAS**, the City has authorized certain loans in the maximum authorized
278 amount of \$_____ from the Kansas Department of Health and Environment
279 revolving fund loan program (the "Permitted Loans") and pledged the revenues from the
280 System to the payment of such Permitted Loans and any additional loans which would
281 constitute Permitted Loans under the Resolution hereinafter provided for; and
282

283 **WHEREAS**, the lien of the Permitted Loans upon the revenues of the System is
284 superior to the lien of the City's outstanding Series 1998B Bonds, Series 2001-A Bonds,
285 Series 2004-A Bonds, the Series 2005-A Bonds and the Bonds hereby authorized and
286 directed to be issued; and

287
288 **WHEREAS**, in accordance with the terms and conditions of the Ordinance, the City
289 hereby intends to both prescribe the form and details of the Bonds and authorize certain
290 other documents and actions in connection with the issuance of the Bonds.

291 292 ARTICLE I

293 294 DEFINITIONS

295
296 **Section 101. Definitions of Words and Terms.** In addition to words and terms
297 identified elsewhere herein, the following words and terms as used in this Resolution shall
298 have the following meanings:

299
300 **"Arbitrage Instructions"** means the Arbitrage Instructions attached to the City's
301 Federal Tax Certificate dated as of the date of issuance and delivery of the Bonds, as the
302 same may be amended or supplemented in accordance with the provisions thereof.

303
304 **"Bond and Interest Fund"** means the fund set aside by the City to consolidate and
305 maintain individual principal and interest accounts used to record and accumulate monthly
306 principal and interest payments for Outstanding utility revenue bonds.

307
308 **"Bond Counsel"** means the firm of Nichols and Wolfe Chartered, or any other
309 attorney or firm of attorneys with a nationally recognized standing in the field of municipal
310 bond financing as selected by the City.

311
312 **"Bond Payment Date"** means any date on which principal of or interest on any
313 Bond is payable.

314
315 **"Bond Register"** means the books for the registration, transfer and exchange of
316 Bonds kept at the office of the Bond Registrar.

317
318 **"Bond Registrar"** means the Treasurer of the State of Kansas, Topeka, Kansas, and
319 its successors and assigns thereto to the duties and responsibilities described in this
320 Resolution and in the related agreement between the City and the State Treasurer.

321
322 **"Bond Reserve Requirement"** means an amount equal to Maximum Annual Debt
323 Service attributable to the Bonds and any additional bonds issued on a parity with the
324 Bonds; provided, however, that the Bond Reserve Requirement may not exceed the lessor of
325 (a) 125% of the average annual debt service on the Bonds and any additional bonds issued
326 on a parity with the Bonds, (b) 10% of the principal amount of the Bonds or any additional
327 bonds issued on a parity with the Bonds which may be added to the Bond Reserve
328 Requirement or (c) Maximum Annual Debt Service.

329
330 **"Bonds"** means the Combined Utility Refunding Revenue Bonds, Series 2006-A
331 and Series 2006-B, authorized and issued by the City pursuant to the Ordinance and this
332 Resolution.

333
334 **"Business Day"** means a day other than a Saturday, Sunday or holiday on which the
335 Paying Agent is scheduled in the normal course of its operations to be open to the public for
336 conduct of its operations.

337
338 **"Cede & Co."** means Cede & Co., as nominee name of The Depository Trust
339 Company, New York, New York and any successors or assigns thereto.

340
341 **"City"** means the City of Topeka, Kansas, the issuer of the Bonds.

342
343 **"Clerk"** means the duly appointed and/or elected Clerk of the City or, in the Clerk's
344 absence, the duly appointed Deputy Clerk or Acting Clerk of the City, and any successors or
345 assigns thereto.

346
347 **"Code"** means the Internal Revenue Code of 1986, as amended.

348
349 **"Combined Utility"** means the water, water pollution control and stormwater
350 utilities of the City.

351
352 **"Costs of Issuance"** means all costs of issuing the Bonds, including all publication,
353 printing, signing and mailing expenses in connection therewith, registration fees, financial
354 advisory fees, all legal fees and expenses of Bond Counsel and other legal counsel, expenses
355 incurred in connection with compliance with the Code and with the Disclosure Certificate,
356 all expenses, if any, incurred in connection with receiving ratings on the Bonds.

357
358 **"Dated Date"** means October 18, 2006.

359
360 **"Defaulted Interest"** means interest on any Bond which is payable but not paid on
361 any Interest Payment Date.

362
363 **"Defeasance Obligations"** means any of the following obligations:

364
365 (a) United States Government Obligations that are not subject to redemption in
366 advance of their maturity dates; or

367
368 (b) obligations of any state or political subdivision of any state, the interest on
369 which is excluded from gross income for federal income tax purposes and which meet the
370 following conditions:

371
372 (1) the obligations are (i) not subject to redemption prior to maturity or (ii) the
373 trustee for such obligations has been given irrevocable instructions concerning their calling

and redemption and the issuer of such obligations has covenanted not to redeem such 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 October 18, 2006.

"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.

420
421 **"Expenses"** means the sum of (i) ordinary expenses of maintenance, operation and
422 repair, (ii) administrative expenses, (iii) reasonable pension fund contributions, (iv)
423 insurance expense, (v) legal expense and (vi) payments on Permitted Loans; provided,
424 however, Expenses shall not include payments in lieu of taxes, debt service payments on the
425 Bonds and any other obligations of the Combined Utility on a parity with the Bonds,
426 depreciation, amortization or other non-cash items.

427
428 **"Federal Tax Certificate"** means the certificate so named and included in the
429 transcript of proceedings pertaining to the issuance of the Bonds describing the investment
430 and use of the proceeds of the Bonds.

431
432 **"Fiscal Year"** means the twelve month period commencing on January 1 and
433 ending on December 31 of each year.

434
435 **"Funds and Accounts"** means funds and accounts created or referred to in **Section**
436 **501** hereof.

437
438 **"Gross Revenues"** means all receipts and revenues derived by the City from the
439 operation of the Combined Utility, including investment earnings but excluding any grants,
440 proceeds of bond issues and/or insurance proceeds.

441
442 **"Interest Payment Date(s)"** means the Stated Maturity of an installment of interest
443 on any Bond which shall be February 1 and August 1 of each year, commencing February 1,
444 2007.

445
446 **"Maturity"** when used with respect to any Bond means the date on which the
447 principal of such Bond becomes due and payable as therein and herein provided, whether at
448 the Stated Maturity thereof or pursuant to mandatory redemption, or otherwise.

449
450 **"Maximum Annual Debt Service"** means, with respect to the Bonds and/or
451 additional bonds issued on a parity with the Bonds, as of the date of the computation, the
452 greatest amount required in the then current or any future fiscal year to pay the principal of
453 and interest on such bonds.

454
455 **"Mayor"** means the duly appointed and/or elected Mayor of the City or, in the
456 Mayor's absence, the duly appointed Deputy Mayor or Acting Mayor of the City.

457
458 **"Moody's"** means Moody's Investors Service, Inc., New York, New York, and any
459 successors and assigns to the Bond rating functions thereof which is deemed acceptable by
460 the City and Bond Counsel.

461
462 **"Net Revenues"** means Gross Revenues of the Combined Utility minus the sum of
463 (i) Expenses and (ii) any required deposits to the Rebate Fund as provided in **Section 509**
464 hereof.

466
467 **"Original Purchaser"** means, with respect to the Bonds, _____,
468 _____, _____.

469
470 **"Ordinance"** means Ordinance No. _____ adopted and approved September
471 26, 2006, and published as required by law, pursuant to which the issuance of the Bonds has
472 been authorized.

473
474 **"Outstanding"** means, when used with reference to the Bonds, as of a particular
475 date of determination, all Bonds theretofore authenticated and delivered, except the
476 following Bonds:

477
478 (a) Bonds theretofore canceled by the Paying Agent or delivered to the Paying
479 Agent for cancellation;

480
481 (b) Bonds deemed to be paid in accordance with the provisions of **Section 701**
482 hereof; and

483
484 (c) Bonds in exchange for or in lieu of which other Bonds have been
485 authenticated and delivered hereunder.

486
487 **"Owner"** when used with respect to any Bond means the Person in whose name
488 such Bond is registered on the Bond Register.

489
490 **"Participants"** means those financial institutions for whom the Securities
491 Depository effects book-entry transfers and pledges of securities deposited with the
492 Securities Depository, as such listing of Participants exists at the time of such reference.

493
494 **"Paying Agent"** means the State Treasurer, and any successors and assigns thereof
495 to the duties and responsibilities described in this Resolution and in the related agreement
496 between the City and the State Treasurer.

497
498 **"Permitted Investments"** means: (a) investments authorized by K.S.A. 12-1675
499 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A.
500 12-1677a, and amendments thereto; (c) direct obligations of the United States Government
501 or any agency thereof; (d) the City's temporary notes issued pursuant to K.S.A. 10-123 and
502 amendments thereto; (e) interest-bearing time deposits in commercial banks located in the
503 county or counties in which the City is located; (f) obligations of the Federal National
504 Mortgage Association, Federal Home Loan Banks or the Federal Home Loan Mortgage
505 Corporation; (g) repurchase agreements for securities described in (c) or (f); (h) investment
506 agreements with or other obligations of a financial institution the obligations of which at the
507 time of investment are rated in either of the three highest rating categories by Moody's, Inc.
508 or Standard & Poor's; (i) investments in shares or units of a money market fund or trust the
509 portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts
510 evidencing ownership interests in securities or portions thereof described in (c) or (f); (k)
511 municipal bonds or other obligations issued by any municipality of the State as defined in

K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (l) bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been re-funded in advance of their maturity and are fully secured as to payment of principal and 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.

"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.

"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 Series 1998B Refunded Bonds and the Series 2001-A 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.

558 **"Revenue Fund"** means the Combined Utility Fund for the City's water, water
559 pollution control and stormwater utility revenue bonds.
560

561 **"Sales Proceeds"** means, with respect to the Bonds, or any additional bonds issued
562 on a parity with the Bonds, as of the issuance of such bonds, the aggregate of the initial
563 offering price of such bonds to the public (exclusive of accrued interest).
564

565 **"Securities Depository"** means, initially, The Depository Trust Company, New
566 York, New York, and its successors and assigns.
567

568 **"Series 1998B Refunded Bonds"** means the City's Water and Water Pollution
569 Control Utility Revenue Bonds, Series 1998B, maturing August 1, 2012, through and
570 including August 1, 2028, (i.e., \$31,440,000) being refunded with the proceeds of the
571 Bonds.
572

573 **"Series 1998B Bond Ordinance"** means the Ordinance of the City authorizing the
574 issuance of and the Resolution of the City setting forth the details of the City's Water and
575 Water Pollution Control Utility Revenue Bonds, Series 1998B.
576

577 **"Series 2001-A Refunded Bonds"** means the City's Water and Water Pollution
578 Control Utility Revenue Bonds, Series 2001-A, maturing August 1, 2009, through and
579 including August 1, 2031, (i.e., \$22,065,000) being refunded with the proceeds of the
580 Bonds.
581

582 **"Series 2001-A Bond Ordinance"** means the Ordinance of the City authorizing the
583 issuance of and the Resolution of the City setting forth the details of the City's Water and
584 Water Pollution Control Utility Revenue Bonds, Series 2001-A.
585

586 **"Series 2006-A Bonds"** means the City's Combined Utility Refunding Revenue
587 Bonds, Series 2006-A issued pursuant to the Ordinance.
588

589 **"Series 2006-B Bonds"** means the City's Combined Utility Refunding Revenue
590 Bonds, Series 2006-B issued pursuant to the Ordinance.
591

592 **Series 2006-A Cost of Issuance Account"** means the Cost of Issuance Account for
593 the Series 2006-A Bonds created herein.
594

595 **Series 2006-B Cost of Issuance Account"** means the Cost of Issuance Account for
596 the Series 2006-B Bonds created herein.
597

598 **"Series 2006-A Principal and Interest Account"** means the Principal and Interest
599 Account for the Series 2006-A Bonds created herein within the City's Bond and Interest
600 Fund.
601

602 **"Series 2006-B Principal and Interest Account"** means the Principal and Interest
603 Account for the Series 2006-B Bonds created herein within the City's Bond and Interest
604 Fund.

605
606 **"Series 2006-A Rebate Fund"** means the Rebate Fund for the Series 2006-A Bonds
607 created herein.

608
609 **"Series 2006-B Rebate Fund"** means the Rebate Fund for the Series 2006-B Bonds
610 created herein.

611
612 **"Series 2006-A Bond Reserve Account"** means the Bond Reserve Account for the
613 Series 2006-A Bonds created herein.

614
615 **"Series 2006-B Bond Reserve Account"** means the Bond Reserve Account for the
616 Series 2006-B Bonds created herein.

617
618 **"Series 2006-A Term Bonds"** means the Series 2006-A Bonds scheduled to mature
619 in the year _____.

620
621 **"Series 2006-B Term Bonds"** means the Series 2006-B Bonds scheduled to mature
622 in the year _____.

623
624 **"Special Record Date"** means the date fixed by the Paying Agent pursuant to
625 **Section 204** hereof for the payment of Defaulted Interest.

626
627 **"Standard & Poor's"** means Standard & Poor's Ratings Services, a Division of The
628 McGraw Hill Companies, Inc., New York, New York, and any successors or assigns to the
629 Bond rating functions thereof which is deemed acceptable by the City and Bond Counsel.

630
631 **"State"** means the State of Kansas.

632
633 **"State Treasurer"** means the duly elected Treasurer or, in the Treasurer's absence,
634 the duly appointed Deputy Treasurer or acting Treasurer of the State of Kansas, and any
635 successors or assigns thereto to the duties contemplated under this Resolution and the
636 related agreement between the City of Topeka and the State Treasurer.

637
638 **"Stated Maturity"** means (i) with respect to any Bond principal payment, the date
639 on which payment or principal is due and payable on any Bond, as specified on that Bond
640 and in this Resolution, and (ii) with respect to any Interest Payment, each February 1 and
641 August 1 of the year in which any Bond is Outstanding, beginning February 1, 2007.

642
643 **"System"** means the combined water, water pollution control and stormwater utility
644 facilities of the City.

646 ["**Term Bonds**" means collectively the Series 2006-A Bonds scheduled to mature in
647 the year _____ and the Series 2006-B Bonds scheduled to mature in the year
648 _____].

649
650 "**Treasurer**" means the duly appointed and/or elected Treasurer of the City or, in
651 the Treasurer's absence, the duly appointed Deputy Treasurer or acting Treasurer of the
652 City, and any successors or assigns thereto.

653
654 "**United States Government Obligations**" means bonds, notes, certificates of
655 indebtedness, treasury bills or other securities consisting of direct obligations of, or
656 obligations the principal of and interest on which are fully and unconditionally guaranteed
657 as to full and timely payment by, the United States of America, including evidences of a
658 direct ownership interest in the future interest or principal payment on obligations issued by
659 the United States of America (including the interest component of obligations of the
660 Resolution Funding Corporation).

661 662 ARTICLE II

663 664 AUTHORIZATION AND DETAILS OF THE BONDS

665
666 **Section 201. Authorization of the Bonds.** There shall be issued and hereby are
667 authorized and directed to be issued (1) Combined Utility Refunding Revenue Bonds, Series
668 2006-A, of the City in the aggregate principal amount of \$31,910,000 for the purpose of
669 providing funds to currently refund the Series 1998B Refunded Bonds and pay the costs of
670 issuing the Series 2006-A Bonds and (2) Combined Utility Refunding Revenue Bonds,
671 Series 2006-B, of the City in the aggregate principal amount of \$22,925,000 for the purpose
672 of providing funds to advance refund the Series 2001-A Refunded Bonds and pay the costs
673 of issuing the Series 2006-B Bonds, all in accordance with K.S.A. 10-116a and K.S.A. 10-
674 1201 *et seq.*, as amended.

675
676 **Section 202. Description of the Bonds.** The Bonds shall consist of fully registered
677 bonds in the denominations of \$5,000 or any integral multiple thereof and shall be
678 numbered in such manner as the Bond Registrar shall determine. All of the Bonds shall be
679 dated October 18, 2006, shall become due in the amounts on the Stated Maturities (subject
680 to redemption and payment prior to their Stated Maturities as provided in Article III hereof),
681 and shall bear interest at the rates per annum as follows:

682
683 (REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

SERIES 2006-A BONDS

MATURITY (August 1)	PRINCIPAL AMOUNT	INTEREST RATE
------------------------	---------------------	------------------

SERIAL BONDS

2021	\$2,050,000	_____
2022	3,165,000	_____
2023	3,315,000	_____
2024	3,465,000	_____
2025	3,620,000	_____
2026	3,780,000	_____
2027	3,950,000	_____
2028	4,135,000	_____
2029	1,410,000	_____
2030	1,475,000	_____
2031	1,545,000	_____

TERM BONDS

20____	\$_____	_____%
--------	---------	--------

SERIES 2006-B BONDS

MATURITY (August 1)	PRINCIPAL AMOUNT	INTEREST RATE
------------------------	---------------------	------------------

SERIAL BONDS

2007	\$ 360,000	_____%
2008	170,000	_____
2009	720,000	_____
2010	745,000	_____
2011	760,000	_____
2012	780,000	_____
2013	830,000	_____
2014	1,875,000	_____
2015	2,350,000	_____
2016	2,450,000	_____
2017	2,555,000	_____
2018	2,660,000	_____
2019	2,780,000	_____
2020	2,910,000	_____
2021	980,000	_____

TERM BONDS

20 _____ \$ _____ %

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

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

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

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

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

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.

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

914
915 **Section 208. Cancellation and Destruction of Bonds Upon Payment.** All Bonds
916 that have been paid or redeemed or that otherwise have been surrendered to the Paying
917 Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately
918 upon the payment, redemption and surrender thereof to the Paying Agent and subsequently
919 destroyed in accordance with the customary practices of the Paying Agent. The Paying
920 Agent shall execute a certificate in duplicate describing the Bonds so cancelled and
921 destroyed and shall file an executed counterpart of such certificate with the City.

922
923 **Section 209. Preliminary and Final Official Statement.** The *Preliminary Official*
924 *Statement* dated September 19, 2006, is hereby ratified and approved. For the purpose of
925 enabling the Original Purchaser to comply with the requirements of Rule 15c2-12(b)(1) of
926 the Securities and Exchange Commission, the City hereby deems the information regarding
927 the City contained in the *Preliminary Official Statement* to be "final" as of its date, except
928 for the omission of such information as is permitted by Rule 15c2-12(b)(1), and the
929 appropriate officers of the City are hereby authorized, if requested, to provide the Original
930 Purchaser a letter or certification to such effect and to take such other actions or execute
931 such other documents as such officers in their reasonable judgment deem necessary to
932 enable the Original Purchaser to comply with the requirement of such Rule.

933
934 The final *Official Statement* is hereby authorized to be prepared by supplementing,
935 amending and completing the *Preliminary Official Statement*, with such changes and
936 additions thereto as are necessary to conform to and describe the transaction. The Mayor is
937 hereby authorized to execute the final *Official Statement* as so supplemented, amended and
938 completed, and the use and public distribution of the final *Official Statement* by the Original
939 Purchaser in connection with the reoffering of the Bonds is hereby authorized. The proper
940 officials of the City are hereby authorized to execute and deliver a certificate pertaining to
941 such *Official Statement* as prescribed therein, dated as of the date of payment for and
942 delivery of the Bonds.

943
944 The City agrees to provide to the Original Purchaser within seven business days of
945 the date of the sale of Bonds sufficient copies of the final *Official Statement* to enable the
946 Original Purchaser to comply with the requirements of Rule 15c2-12(b)(4) of the Securities
947 and Exchange Commission and with the requirements of Rule G-32 of the Municipal
948 Securities Rulemaking Board.

949
950 **Section 210. Sale of the Bonds.** The sale of the Bonds to the Original Purchaser is
951 hereby ratified and confirmed. Delivery of the Bonds shall be made to the Original
952 Purchaser as soon as practicable after the passage of this Resolution, upon payment of the
953 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, 2015, shall become due without the option of prior payment. The Bonds maturing on or after August 1, 2015, may be called for redemption and payment prior to maturity on August 1, 2014, 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 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, 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 City shall redeem on August 1 in each year the following principal amounts of such Term Bonds:

SERIES 2006-A TERM BONDS

Principal	
<u>Amount</u>	<u>Year</u>
\$ _____	_____
_____	20____

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

SERIES 2006-B TERM BONDS

Principal	
<u>Amount</u>	<u>Year</u>
\$ _____	_____
_____	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. 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 or 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 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) Series 2006-A Principal and Interest Account for Combined Utility Refunding Revenue Bonds, Series 2006-A (the "Series 2006-A Principal and Interest Account");
- (b) Series 2006-B Principal and Interest Account for Combined Utility Refunding Revenue Bonds, Series 2006-B (the Series 2006-B Principal and Interest Account");
- (c) Series 2006-A Bond Reserve Account for Combined Utility Refunding Revenue Bonds, Series 2006-A (the "Series 2006-A Bond Reserve Account");

- (d) Series 2006-B Bond Reserve Account for Combined Utility Refunding Revenue Bonds, Series 2006-B (the "Series 2006-B Bond Reserve Account");
- (e) Series 2006-A Rebate Fund for Combined Utility Refunding Revenue Bonds, Series 2006-A (the "Series 2006-A Rebate Fund");
- (f) Series 2006-B Rebate Fund for Combined Utility Refunding Revenue Bonds, Series 2006-B (the "Series 2006-B Rebate Fund");
- (g) Series 2006-A Cost of Issuance Account for Combined Utility Refunding Revenue Bonds, Series 2006-A (the "Series 2006-A Cost of Issuance Account"); and
- (h) Series 2006-B Cost of Issuance Account for Combined Utility Refunding Revenue Bonds, Series 2006-B (the "Series 2006-B Cost of Issuance Account").

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.

(1) The proceeds of the Series 2006-A Bonds, upon issuance and delivery thereof, shall be deposited as follows:

- (a) Accrued interest, if any, on the Series 2006-A Bonds will be deposited into the Series 2006-A Principal and Interest Account established and created in **Section 501** of this Resolution;
- (b) \$_____ of the proceeds of the Series 2006-A Bonds shall be deposited with the Treasurer of the State of Kansas, together with other funds of the City in the amount of \$243,708.50, as described in **Section 503** hereof, to redeem and pay all of the Series 1998B Refunded Bonds on October 19, 2006; and

From the balance of the proceeds of the sale of the Series 2006-A Bonds, the City shall next set aside such amount as shall be required for the payment of the costs, fees and expenses incurred in connection with the issuance of the Series 2006-A Bonds which amount shall be deposited in the Series 2006-A Cost of Issuance Account to pay such costs.

(2) The proceeds of the Series 2006-B Bonds, upon issuance and delivery thereof, shall be deposited as follows:

(a) Accrued interest, if any, on the Series 2006-B Bonds will be deposited into the Series 2006-B Principal and Interest Account established and created in **Section 501** of this Resolution;

(b) \$_____ of the proceeds of the sale of the Series 2006-B 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 2001-A 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 System Refunding Revenue Bonds Series 2006-B" (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 and interest on the Series 2001-A Refunded Bonds; and

From the balance of the proceeds of the sale of the Series 2006-B Bonds, the City shall next set aside such amount as shall be required for the payment of the costs, fees and expenses incurred in connection with the issuance of the Series 2006-B Bonds which amount shall be deposited in the Series 2006-B Cost of Issuance Account to pay such costs.

Section 503. Disposition of Other Moneys.

(a) That concurrently with the issuance and delivery of the Series 2006-A Bonds, the City shall pay and credit from moneys held in the bond reserve account for the Series 1998B Refunded Bonds the sums of (1) \$243,708.50 which shall be deposited with the Kansas State Treasurer together with proceeds of the Series 2006-A Bonds in the amount of \$_____ as described in **Section 502** hereof, to redeem and pay all of the Series 1998B Refunded Bonds on October 19, 2006 and (2) \$2,630,776.50 which shall be deposited in the Series 2006-A Bond Reserve Account; and

(b) That concurrently with the issuance and delivery of the Series 2006-B Bonds, the City shall pay and credit from moneys held in the bond reserve account for the Series 2001-A Refunded Bonds the sum of \$1,708,393.02 which shall be deposited in the Series 2006-B Bond Reserve Account.

Section 504. Withdrawals of the Series 2006-A Cost of Issuance Account. The Treasurer shall make withdrawals from the Series 2006-A Cost of Issuance Account solely for the purpose of paying costs of issuing the Series 2006-A Bonds. Such withdrawals shall be made only on due authorization by the governing body of the City.

Section 505. Withdrawals of the Series 2006-B Cost of Issuance Account. The Treasurer shall make withdrawals from the Series 2006-B Cost of Issuance Account solely for the purpose of paying costs of issuing the Series 2006-B Bonds. Such withdrawals shall be made only on due authorization by the governing body of the City.

Section 506. Surplus in the Series 2006-A Cost of Issuance Account. All moneys remaining the Series 2006-A Cost of Issuance Account after 60 days of the issuance of the Series 2006-A Bonds, shall be transferred immediately to the Series 2006-A Principal and Interest Account and applied to the next installment of principal due on the Series 2006-A Bonds.

Section 507. Surplus in the Series 2006-B Cost of Issuance Account. All moneys remaining the Series 2006-B Cost of Issuance Account after 60 days of the issuance of the Series 2006-B Bonds, shall be transferred immediately to the Series 2006-B Principal and Interest Account and applied to the next installment of principal due on the Series 2006-B Bonds.

Section 508. 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 and any required deposits to the Series 2006-A and 2006-B Rebate Funds as provided in **Section 509** 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 Series 2006-A Principal and Interest Account, Series 2006-B Principal and Interest Account, Series 2006-A Bond Reserve Account and Series 2006-B 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 Series 2006-A and 2006-B Principal and Interest Accounts, 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 Series 2006-A and 2006-B Bonds the following amounts:

(1) Beginning on or before November 1, 2006, 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, 2007; and beginning on March 1, 2007, 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 November 1, 2006, 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, 2007, 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 Series 2006-A and 2006-B Principal and Interest Accounts 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 Series 2006-A Bond Reserve Account shall be used solely to prevent any default in the payment of the principal of or interest on the Series 2006-A Bonds if at any time the monies in the Series 2006-A Principal and Interest Account are insufficient to pay the principal of and/or interest on the Series 2006-A Bonds. Unless all of the Series 2006-A 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 Series 2006-A Bond Reserve Account shall ever be used or expended by the City to call and redeem, in part, said Series 2006-A Bonds for payment prior to their ultimate maturity. So long as the monies and investments in the Series 2006-A 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 Series 2006-A Bond Reserve Account for any purpose and/or the amount in said account shall be less than the Series 2006-A 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 Series 2006-A 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) Monies held in the Series 2006-B Bond Reserve Account shall be used solely to prevent any default in the payment of the principal of or interest on the Series 2006-B Bonds if at any time the monies in the Series 2006-B Principal and Interest Account are insufficient to pay the principal of and/or interest on the Series 2006-B Bonds. Unless all of the Series 2006-B 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 Series 2006-B Bond Reserve Account shall ever be used or expended by the City to call and redeem, in part, said Series 2006-B Bonds for payment prior to their ultimate maturity. So long as the monies and investments in the Series 2006-B 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 Series 2006-B Bond Reserve Account for any purpose and/or the amount in said account shall be less than the Series 2006-B 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 Series 2006-B 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.

(d) 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 509. Application of Moneys in the Series 2006-A Rebate Fund and Series 2006-B Rebate Fund.

(a) There shall be transferred to the Series 2006-A Rebate Fund and Series 2006-B 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 Series 2006-A and 2006-B Rebate Funds 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 Series 2006-A Bond or Series 2006-B Bond shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Series 2006-A and 2006-B Rebate Funds 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 Series 2006-A Rebate Fund after redemption and payment of all of the Series 2006-A Bonds and payment and satisfaction of any rebatable arbitrage, or provision made therefore, shall be deposited into the Series 2006-A Principal and Interest Account. Any moneys remaining in the Series 2006-B Rebate Fund after redemption and payment of all of the Series 2006-B Bonds and payment and satisfaction of any rebatable arbitrage, or provision made therefore, shall be deposited into the Series 2006-B 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 510. 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 Series 2006-A Rebate Fund and Series 2006-B 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 511. 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 dis-

charged. 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. 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.

1681 (e) The City will not mortgage, pledge or otherwise encumber the System or
1682 any part thereof, or any extension, improvement or betterment thereof nor will it sell, lease
1683 or otherwise dispose of the System or any material part thereof. The City may, however,
1684 dispose of any property which has become obsolete and non-productive or otherwise
1685 unusable to the advantage of the City. Any cash proceeds derived from the City's sale of
1686 such property shall be used by the City to improve, extend or enlarge the System.

1687
1688 (f) The City will carry and maintain a reasonable amount of all risk insurance
1689 upon the properties forming part of the System insofar as they are of an insurable nature, the
1690 amount of such insurance being the amount as would normally be carried by a municipal
1691 corporation engaged in a similar type of utility enterprise. In the event of loss or damage,
1692 the City, with all reasonable dispatch, will use the proceeds of such insurance to reconstruct
1693 and replace the property damaged or destroyed or, if such reconstruction or replacement be
1694 unnecessary, then either to improve, extend or enlarge the System or to redeem or purchase
1695 in the open market the outstanding Bonds. The City in operating the Combined Utility will
1696 carry and maintain public liability and worker's compensation insurance in such amounts as
1697 would normally be maintained by a municipal corporation engaged in a similar type of
1698 utility enterprise and the proceeds derived from any of such policies shall be used in paying
1699 the claims on the account of which such proceeds were received; provided, however, the
1700 City may, in accordance with applicable law, self insure such obligations. The cost of all
1701 insurance referred to in this paragraph shall be paid as an operating cost out of the revenues
1702 of the Combined Utility.

1703
1704 (g) The City will install and maintain proper books, records and accounts
1705 separate from all other records and accounts of the City in which complete and correct
1706 entries will be made of all dealings and transactions of or in relation to the properties,
1707 business and affairs of the Combined Utility. Such accounts shall show the amount of
1708 revenue received from the Combined Utility, the application of such revenue and all
1709 financial transactions in connection therewith. Said books shall be kept by the City
1710 according to the standard accounting practices as applicable to the operation of the water,
1711 water pollution control and stormwater utility systems by municipalities.

1712
1713 (h) Annually at the end of each fiscal year the City will cause an audit to be
1714 made by a competent firm of independent auditors of the Combined Utility and shall cause a
1715 copy of such audit to be mailed to the Original Purchaser of the Bonds. Said audit shall
1716 include:

1717
1718 (1) a classified statement of the gross revenues received, of
1719 expenditures for operation and maintenance, of expenditures for all other purposes,
1720 and the amount of any capital expenditures made from such revenues made during
1721 the fiscal year;

1722
1723 (2) a balance sheet as of the end of each fiscal year, with an amount on
1724 hand at the end of such year in each of the accounts created or referred to in this
1725 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 1002. 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:

1773 (a) The City shall not be in default in making any of the payments at the time
1774 required to be made by it into the respective funds or accounts created or referred to in this
1775 Resolution, or in the performance of any covenant contained herein.

1776
1777 (b) The annual Net Revenues derived by the City from the operation of the
1778 Combined Utility for the fiscal year next preceding the issuance of additional bonds, shall
1779 equal or exceed 125% of the maximum amount required to be paid out of the Net Revenues
1780 in any succeeding fiscal year on account of both principal and interest becoming due with
1781 respect to the Bonds, and any additional revenue bonds previously issued on a parity with
1782 the Bonds.

1783
1784 (c) In addition, projected annual Net Revenues expected to be derived by the
1785 City from the operation of the Combined Utility, for the fiscal year following the issuance of
1786 any additional bonds, shall equal or exceed 125% of the maximum amount required to be
1787 paid out of the Net Revenues in any succeeding fiscal year on account of both principal and
1788 interest becoming due with respect to the Bonds, including any revenue bonds previously
1789 issued on a parity with the Bonds together with additional bonds proposed to be issued,
1790 based on a detailed investigation and report of an engineering firm or an independent public
1791 accountant as to the amount of annual Net Revenues expected in such fiscal year, and said
1792 amount as defined and certified by said engineer or accountant shall govern in determining
1793 the right of the City to issue additional parity bonds under this **Section 1002**. No
1794 investigation or report of an engineer or accountant shall be required pursuant to this Section
1795 1002 (i) in the event any issuance of additional bonds shall not increase the maximum
1796 amount required to be paid out of the Net Revenues in any succeeding fiscal year on account
1797 of both principal and interest becoming due with respect to the Bonds, including any
1798 additional revenue bonds previously issued on a parity with the Bonds together with
1799 additional bonds proposed to be issued or (ii) in the event that the annual Net Revenues
1800 derived by the City from the operation of the Combined Utility, for the fiscal year next
1801 preceding the issuance of any additional bonds, shall have been equal to 125% of the
1802 maximum amount required to be paid out of the Net Revenues in any succeeding fiscal year
1803 on account of both principal and interest becoming due with respect to the Bonds, including
1804 any additional revenue bonds previously issued on a parity with the Bonds together with the
1805 additional revenue bonds proposed to be issued.

1806
1807 Additional Combined Utility revenue bonds of the City issued under the conditions
1808 hereinbefore in this Section set forth shall stand on a parity with the Bonds and shall enjoy
1809 complete equality of lien on and claim against the revenues of the Combined Utility with
1810 said Bonds, and the City shall make equal provision for paying said additional Combined
1811 Utility revenue bonds and the interest thereon out of the Revenue Fund and provide for the
1812 creation of a principal and interest account for the payment of such additional Combined
1813 Utility revenue bonds and a bond reserve account to be funded as herein required. Any
1814 increases in the Bond Reserve Requirement as a result of the issuance of such additional
1815 Combined Utility revenue bonds shall be fully funded concurrently with the issuance of
1816 such additional Combined Utility revenue bonds from the proceeds of such bonds or from
1817 other funds available for such purpose. In addition, if the City receives an opinion of Bond
1818 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 1003. 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 1003(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 1003**. No investigation or report of an engineer or accountant shall be required pursuant to this **Section 1003** in the event that the annual Net Revenues (adjusted as provided in the last sentence of this **Subsection 1003(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 1003(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 1004. 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 1005. 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 October 18, 2006 (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 1006. Authorization of Bond Sale. That the sale of the Bonds to _____, _____, _____, in accordance with their bid pursuant to the notice of bond sale dated September 19, 2006, is hereby ratified and confirmed.

Section 1007. Redemption of Refunded Bonds. That pursuant to the Series 1998B Bond Ordinance, the City hereby calls the Series 1998B Refunded Bonds maturing on and after August 1, 2012, for redemption and payment on October 19, 2006, the Series 1998B Redemption Date. Pursuant to the Series 2001-A Bond Ordinance, the City hereby calls the Series 2001-A Refunded Bonds maturing on and after August 1, 2009, for redemption and payment on August 1, 2008, the Series 2001-A Redemption Date. The Refunded Bonds are being called at the redemption price of one percent of the par value thereof plus accrued interest thereon to the redemption date. Subject to the specific requirements of the Series

1998B Bond Ordinance and Series 2001-A Bond Ordinance which authorized the issuance 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 given 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 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 reasonable 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 Register.

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 September 26, 2006.

CITY OF TOPEKA, KANSAS

(SEAL)

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, 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 September 26, 2006, 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: September 26, 2006.

(SEAL)

Iris E. Walker, 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 REFUNDING REVENUE BOND
SERIES 2006-[A][B]

No. R- _____ \$ _____

Rate of	Maturity	Dated	CUSIP _____
Interest:	Date:	Date: October 18, 2006	

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, 2007, 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 18th day of October, 2006.

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 Refunding Revenue Bonds, Series 2006-[A][B] 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 [\$31,910,000][\$22,925,000] (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 maturing on or after August 1, 2015, may be called for redemption and payment prior to maturity on August 1, 2014, 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 the principal amount thereof with a premium of one percent of the principal amount redeemed, such 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.

[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 on each August 1 thereafter, 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.

2201 In the event of any such redemption, the Paying Agent shall give notice of such call
2202 by mailing a copy of the redemption notice by first class mail, postage prepaid, not less than
2203 thirty (30) days prior to the date of such redemption to the registered owner of each Bond to
2204 be redeemed at the address shown on the registration books maintained by the Bond
2205 Registrar. Failure to give such notice by mailing to the registered owner of any Bond, or
2206 any defect therein, shall not affect the validity of any proceedings for the redemption of
2207 other Bonds. Any notice mailed as provided herein shall be conclusively presumed to have
2208 been duly given, whether or not the owner of such Bonds received the notice.

2209
2210 The principal and interest of this Bond is hereby made a lien upon the revenues
2211 derived from the combined Water, Water Pollution Control and Stormwater Utilities of the
2212 City and said principal and interest are to be paid solely and only from a special fund into
2213 which there shall be paid, from the revenues derived from the rates, fees or charges collected
2214 by said City from the operation of said combined Water, Water Pollution Control and
2215 Stormwater Utilities sums sufficient to make said payments when due, after deducting only
2216 reasonable operation and maintenance expenses. Said City shall not be obligated to pay said
2217 Bond with the interest thereon except from said special fund and neither this Bond nor this
2218 issue of which it forms a part is guaranteed or secured by any property of the City other than
2219 the revenues from said combined Water, Water Pollution Control and Stormwater Utilities,
2220 nor does this Bond constitute any indebtedness of said City which is payable in any manner
2221 from taxation and limit in any way the power of the City of issue bonds for any other
2222 purpose.

2223
2224 The City and the Bond Registrar may deem and treat the person in whose name this
2225 Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or
2226 on account of, the principal hereof, or redemption price hereof and interest due hereon and
2227 for all other purposes.

2228
2229 The Bonds are being issued by means of a book-entry system with no physical
2230 distribution of bond certificates to be made except as provided in the Resolution. One Bond
2231 certificate with respect to each date on which the Bonds are stated to mature or with respect
2232 to each form of Bonds, registered in the nominee name of the Securities Depository, is being
2233 issued and required to be deposited with the Securities Depository and immobilized in its
2234 custody. The book-entry system will evidence positions held in the Bonds by the Securities
2235 Depository's participants, beneficial ownership of the Bonds in authorized denominations
2236 being evidenced in the records of such participants. Transfers of ownership shall be effected
2237 on the records of the Securities Depository and its participants pursuant to rules and
2238 procedures established by the Securities Depository and its participants. The City and the
2239 Paying Agent will recognize the Securities Depository nominee, while the registered owner
2240 of the Bond, as the Owner of this Bond for all purposes, including (i) payments of principal
2241 of, and redemption premium, if any, and interest on, this Bond, (ii) notices and (iii) voting.
2242 Transfer of principal, interest and any redemption premium payments to participants of the
2243 Securities Depository, and transfer of principal, interest and any redemption premium
2244 payments to beneficial owners of the Bonds by participants of the Securities Depository will
2245 be the responsibility of such participants and other nominees of such beneficial owners. The
2246 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 October 18, 2006.

WITNESS my hand and official seal.

(SEAL) _____
(manual signature)
City Clerk

CERTIFICATE OF STATE TREASURER

OFFICE OF THE TREASURER, STATE OF KANSAS

I, LYNN JENKINS, 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.

LYNN JENKINS
TREASURER OF THE STATE OF KANSAS

(SEAL) By _____
State Treasurer

2335
2336
2337

EXHIBIT B
(DTC LETTERS OF REPRESENTATIONS)



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2006

+ Back Print

DATE: September 12, 2006
CONTACT PERSON: John Alcala
SECOND PARTY/SUBJECT: El Centro
CATEGORY/SUBCATEGORY: 013 Ordinances - Codified / 010 Alcoholic Beverages
CIP PROJECT: No
ACTION OF COUNCIL: First reading. 09/19/06
DOCUMENT #:
PROJECT #:
JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Councilmember John Alcala authorizing the purchase, possession and consumption of cereal malt beverages during El Centro's Blue Moon Bash event, at specified locations and times. Final Reading. (Council District No. 1)

(The Blue Moon Bash is an event sponsored by El Centro that will be held on October 6 and 7, 2006.)

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

This Ordinance provides authorization to El Centro to allow event attendees to buy, possess and consume cereal malt beverages on the barricaded portion of 10th Street between Jackson and Harrison Streets from 6 p.m. to 10:30 p.m. on October 6, 2006. Authorization is also hereby given to allow event attendees to buy, possess and consume cereal malt beverages on the barricaded portion of Jackson Street between 8th and 12th Streets, Harrison Street between 8th and 12th Streets, and 10th Street between Harrison Street and Kansas Avenue from 1:00 p.m. to 10:30 p.m. on October 7, 2006.

BUDGETARY IMPACT:

None.

SOURCE OF FUNDING:

ATTACHMENTS:

[Ordinance](#)

Item #14

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Councilmember John Alcala authorizing the purchase, possession and consumption of cereal malt beverages during El Centro's Blue Moon Bash event, at specified locations and times.

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

Section 1. Authorization is hereby given to El Centro to allow event attendees to buy, possess and consume cereal malt beverages on the barricaded portion of 10th Street between Jackson and Harrison Streets from 6 p.m. to 10:30 p.m. on October 6, 2006. Authorization is also hereby given to allow event attendees to buy, possess and consume cereal malt beverages on the barricaded portion of Jackson Street between 8th and 12th Streets, Harrison Street between 8th and 12th Streets, and 10th Street between Harrison Street and Kansas Avenue from 1:00 p.m. to 10:30 p.m. on October 7, 2006.

Section 2. This Ordinance shall be null and void on October 8, 2006.

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

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

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

COUNCILORD
EL CENTRO CMB
9/7/06



A Capital City Serving You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2006

+ Back Print

DATE:	September 12, 2006	
CONTACT PERSON:	Clark Duffy and Jeff Preisner	DOCUMENT #:
SECOND PARTY/SUBJECT:	Water service outside city limits	PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 001 General Provisions	
CIP PROJECT:	No	
ACTION OF COUNCIL:	First reading. 09/19/06	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Councilmembers Clark Duffy and Jeff Preisner, amending City of Topeka Code Section 146-37 concerning water service to an owner of real property outside city limits, and specifically repealing said original section. Final Reading.

(The amendment would require annexation of new or redeveloped parcels outside of the city's corporate boundaries that are not contained within the current Municipal Services Area prior to water service being provided.)

POLICY ISSUE:

Whether or not to require annexation of new or redeveloped parcels outside of the city's corporate boundaries that are not contained within the current Municipal Services Area prior to water service being provided.

STAFF RECOMMENDATION:

BACKGROUND:

Presently City Code requires a consent to annexation of new or redeveloped parcels outside of the city's corporate boundaries that are not contained within the MSA prior to service being provided. This amendment would require new or redeveloped parcels established by preliminary or final plat, lot, split or otherwise, after September 10, 2006, and for which the structure has not been connected to the city's water system outside of the city's corporate boundaries that are not contained within the MSA to be annexed prior to service being provided.

BUDGETARY IMPACT:

None.

SOURCE OF FUNDING:

ATTACHMENTS:

Item #15

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Councilmembers Clark Duffy and Jeff Preisner, amending City of Topeka Code § 146-37 concerning water service to an owner of real property outside city limits, and specifically repealing said original section.

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

Section 1. That City of Topeka Code § 146-37, Water service to owner of real property outside city limits, is hereby amended to read as follows:

Water service to owner of real property outside city limits.

Requirements:

(a) Consent to annexation.

(1) New or redeveloped parcels established by preliminary or final plat, lot, split or otherwise, after September 10, 2006, and for which the structure has not been connected to the City's water system that are contained within the current Municipal Services Area established by the City Council under Topeka City Code section 134-1 ("MSA") shall require ~~consent to~~ annexation prior to water service being provided. Extension of water transmission mains shall conform to sizing, routing and other specifications as determined by the city engineer and water superintendent. The cost to design and construct the extension of water mains necessary to serve these areas may be paid through the City of Topeka water fund depending on priority and if sufficient capital improvement funding is available. The developer may, depending on the proximity to existing water transmission mains, bear part, or all, of the cost

30 of extending City water service to the development. Such extension costs
31 would be in addition to the payment of connection fees and the cost of the
32 construction of the water infrastructure within the development.

33 (2) New or redeveloped parcels established by preliminary or final plat,
34 lot, split or otherwise, after September 10, 2006, and for which the
35 structure has not been connected to the City's water system outside of the
36 city's corporate boundaries that are not contained within the MSA shall
37 require ~~consent~~ to annexation prior to service being provided. Extension of
38 water transmission mains shall conform to sizing, routing and other
39 specifications as determined by the city engineer and water
40 superintendent. The total cost of extending the City's water service shall
41 be borne by the developer without any participation by the City. Such
42 extension costs would be in addition to the payment of connection fees
43 and the cost of the construction of the water infrastructure within the
44 development.

45 (b) Platting. Further, before city water service is provided to an owner of real
46 property outside city limits, the owner shall plat or cause to be platted the property to be
47 served.

48 Exception:

49 An owner of real property outside the city limits may be exempt from the
50 platting requirement set forth above provided the planning director and
51 public works director jointly find that all of the following conditions exist:

(1) Land on which the principal structure is that of an existing detached single-family dwelling. That there are no other structures except permitted accessory structures, or uses for which water service is to be provided.

(2) As determined by the City of Topeka Public Works Department, adequate utility and drainage easements and/or street rights-of-way presently exist or can be secured by separate written instrument and recorded with the Shawnee County Register of Deeds for which the property owner consents.

(3) There is no existing or anticipated drainage problems related to the site or the development.

(4) Adequate public utilities and services otherwise service the site and the proposed development conform to the dimensional requirements of the zoning district.

(5) The existing or proposed improvement is compliant with the current adopted Shawnee County Wastewater Management Plan, or variances as may be granted by the applicable governing body as provided by said plan.

Section 2. That City of Topeka Code § 146-37 is hereby specifically repealed.

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

PASSED AND APPROVED by the City Council _____.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2006

+ Back Print

DATE:	September 12, 2006		
CONTACT PERSON:	Linda Voss	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Trafficway Improvement Project	PROJECT #:	70123-01
CATEGORY/SUBCATEGORY			
CIP PROJECT:	Yes		
ACTION OF COUNCIL:	First reading. 09/19/06	JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

A PROJECT BUDGET in the amount of \$128,000 and **AN ORDINANCE** introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 70123-01, which provides for a traffic study to determine proper traffic control and geometry, and preparation of plans, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. Final Reading.(Council District No. 7)

(This Ordinance would allow for the design of improvements on SW Fairlawn Road at the SW 29th Street intersection and I-470 off-ramp.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Approve Project Budget and Ordinance as presented.

BACKGROUND:

This project will provide for the design of improvements on SW Fairlawn Road at the SW 29th Street intersection and I-470 off-ramp, including a traffic analysis of the area.

The amount of \$128,000 is included in the proposed 2007 Capital Improvement Budget for design. Construction is scheduled for 2009. Exact project scope will be determined after a design consultant is hired. One possible scope is to add a eastbound right turn lane on SW 29th Street at SW Fairlawn Road, add a northbound left turn lane on SW Fairlawn Road at SW 29th Street, and add an additional lane to the I-470 off ramp.

Contract No. 36068 with Shawnee County pledges \$1,048,000 of the County's 2009 Obligation Authority for Federal Highway Surface Transportation Funds towards the construction of the project. The project will be administered by KDOT.

BUDGETARY IMPACT:

Project Budget: \$128,000.00 (2007 Proposed CIP)

Item #16

SOURCE OF FUNDING:

General Obligation Bonds and any other lawfully available funds.

Total Debt Service (Principle and Interest): \$209,798

ATTACHMENTS:

[Project Budget](#)

[Debt Service Calculator](#)

[Vicinity Map](#)

[Ordinance](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 70123-01, which provides for a traffic study to determine proper traffic control and geometric preparation of plans, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka.

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

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

A. GENERAL NATURE OF IMPROVEMENT:

This project will provide for a traffic study to determine proper traffic control and geometric preparation of plans for SW Fairlawn including the 29th Street intersection and I-470 ramp.

B. TOTAL PROJECT BUDGET COST:

\$128,000.00

C. SOURCE OF FUNDS:

General Obligation Bonds and any other lawfully available funds.

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

PASSED and APPROVED by the City Council _____.

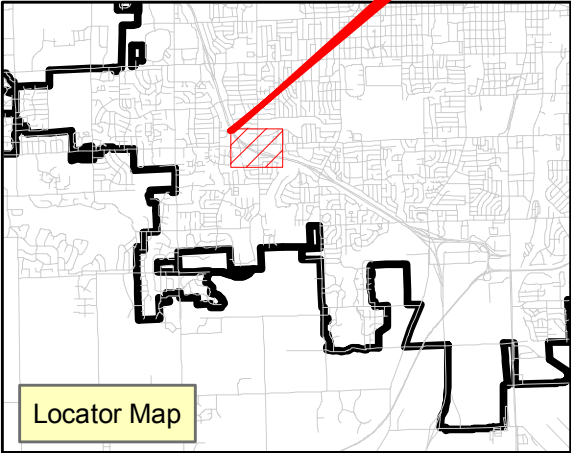
CITY OF TOPEKA, KANSAS

ATTEST:

William W. Bunten, Mayor

Iris E. Walker, City Clerk

SW 29TH & Fairlawn Rd Street Improvement Project



F

TOPEKA
Public Works
TECHNICAL SUPPORT GROUP

GIS Geographic Information Systems	City of Topeka GIS Division of Public Works * Technical Support Group 620 SE Madison St * Topeka, KS 66607 Ph. 785-368-1905 F. 785-368-1902 www.topeka.org
--	--

GO Bond Cost of Project

PROJECT:

Interest rate	5.25%
Number of Years	20

Cost of Issuance	2.00%
Temp Note interest	5.000%

Principal (project cost)	<u>\$121,905</u>
Plus Temp Note Interest (unless included in Principal)	<u>\$6,095</u>
Subtotal	\$128,000
Plus Cost of Issuance	<u>\$0</u>
Total	\$128,000

Annual Debt Service	\$10,490
Annual Debt Service as Percent of Total	8.2%

Total Debt Service (principal and interest)	\$209,798
---	-----------

Difference Project Cost and Total Debt Service	\$87,893
--	----------

GO Bonded Indebtedness as of March 2006*	\$148,705,000
2005-A Temporary Notes that Finance Future GO Bond projects	\$20,487,369
Approved, not Included in GO Bond Issue or Temporary Notes--City Projects	\$12,749,372
Approved, not Included in GO Bond Issue or Temporary Notes--Special Assessment Projects	<u>\$10,339,580</u>
Total Indebtedness	<u>\$192,281,321</u>
Plus Project	\$192,409,321

* Breakdown of GO Bonded Indebtedness

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

PROJECT BUDGET
Project No. 70123-01
Traffic Analysis and Preliminary Engineering to Develop Plans

LOCATION:

SW Fairlawn including 29th Street intersection and I-470 ramp

DESCRIPTION OF PROJECT:

Traffic study to determine proper traffic control and geometric, preparation of plans.

SOURCE OF FUNDS:

CIP 2007 - General Obligation Bonds

COST ESTIMATE:

	<u>City of Topeka</u>	<u>Other</u>	<u>Total</u>
Construction:	\$0.00	\$0.00	\$0.00
Design:	\$121,905.00	\$0.00	\$121,905.00
Construction Service Fees:			
<i>Construction Inspection</i>	\$0.00	\$0.00	\$0.00
<i>Construction Staking</i>	\$0.00	\$0.00	\$0.00
Administrative Fees:			
<i>Legal Dept. Admin.</i>	\$0.00	\$0.00	\$0.00
<i>Engineering Admin.</i>	\$0.00	\$0.00	\$0.00
Right-of Way Acquisition:	\$0.00	\$0.00	\$0.00
Contingency Amount:	\$0.00	\$0.00	\$0.00
Temporary Notes:	\$6,095.00	\$0.00	\$6,095.00
Total:	\$128,000.00	\$0.00	\$128,000.00

PUBLIC HEARING:

PROJECT AUTHORITY:

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

Date: _____

PROJECT ENGINEER:

Linda Voss _____



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 19, 2006

+ Back Print

DATE: September 12, 2006

CONTACT PERSON: Linda Voss **DOCUMENT #:**

SECOND PARTY/SUBJECT: Manual on Uniform Traffic Control Devices **PROJECT #:** N/A

CATEGORY/SUBCATEGORY: 013 Ordinances - Codified / 002 Administration

CIP PROJECT: No

ACTION OF COUNCIL: First Reading. 09/12/06 **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning uniform traffic manual adopted, amending City of Topeka Code Section 142-123, and specifically repealing said original section. Final Reading.

(This Ordinance would update the City Code to reflect the use of the current edition of the Manual on Uniform Traffic Control Devices.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Approve Ordinance as presented.

BACKGROUND:

Adopting the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), 2003 Edition, is required to bring the City of Topeka in compliance with federal code and state law. The Secretary of Transportation has already adopted this manual (on September 19, 2005), and it is already being used by staff members. This Ordinance will update the City Code.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance](#)

Item #17

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., concerning uniform traffic manual adopted, amending City of Topeka Code § 142-123, and specifically repealing said original section.

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

Section 1. That City of Topeka Code § 142-123, is hereby amended to read as follows:

Uniform traffic manual adopted.

(a) The Manual on Uniform Traffic Control Devices for Streets and Highways, ~~Millennium Edition, December 2000~~ 2003 Edition, hereinafter referred to as "MUTCD," approved by the Federal Highway Administrator as the National Standard in accordance with Title 23, U.S. Code, Sections 109(d), 114(a), 217, 315 and 402(a), 23 CFR 655 and 49 CFR 1.48(b)(8), 1.48(b)(33), and 1.48(c)(2), is adopted by reference and made a part of this chapter as if fully set out in this section; provided, however, that the lawful or designated authority empowered to make changes in sign sizes or other deviations as set forth in the manual shall be the city traffic engineer.

(b) Not less than ~~three copies~~ one (1) copy of the MUTCD, and of the ordinance or ordinances pertaining thereto, shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. The police department, municipal judge, and all administrative departments of the city charged with the enforcement of such devices shall be supplied, at the cost of the city, such number of copies of MUTCD and ordinances pertaining thereto as may be deemed ~~expedient~~ necessary.

Section 2. That City of Topeka Code § 142-123 is hereby specifically repealed.

Section 3. This Ordinance shall take effect and be in force after its passage,

approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council _____

CITY OF TOPEKA, KANSAS

William W. Buntin, Mayor

ATTEST:

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 6, 2006

+ Back Print

DATE:	September 12, 2006		
CONTACT PERSON:	Joe Singer/Rusty Rakestraw	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Real Estate Report	PROJECT #:	N/A
CATEGORY/SUBCATEGORY			
CIP PROJECT:	No		
ACTION OF COUNCIL:	Approve Real Estate Report	JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

A COMMUNICATION requesting approval of the Real Estate Report for the disposal of City of Topeka Surplus property (excess right-of-way) located in the vicinity of S.E. 21st Street and Rice Road.(Council District No. 3)

(The Real Estate Report for the disposal of City of Topeka surplus property (excess right-of-way) located in the vicinity of S.E. 21st Street and Rice Road lists all City Departments giving approval for the subject tracts to be declared surplus and processed for disposal.

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Approve Real Estate Report and authorize the City Manager to execute any documents required for the disposal of the property.

BACKGROUND:

All City Departments have indicated they have no need for the subject tracts and have declared them as surplus real estate. The properties were acquired for right of way for U.S. I-70 in 1962-1963. Disposal of the property will be by Kansas Department of Transportation auction in accordance with their statutory requirements. The City's share of auction proceeds will be based on the previous participation agreements when the tracts were purchased.

BUDGETARY IMPACT:

None

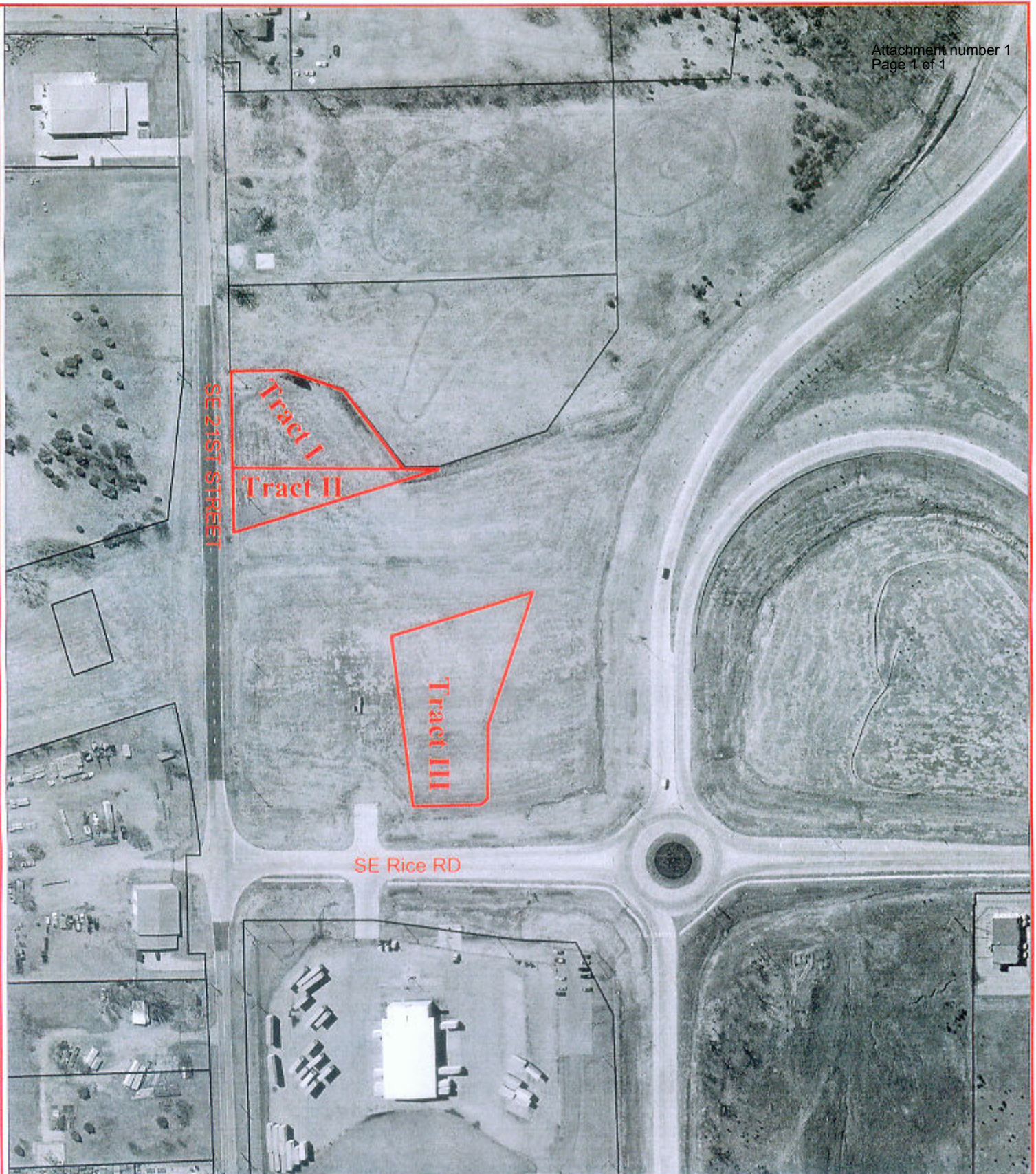
SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Real Estate Report](#)

Item #18



City of Topeka, Kansas

Data Disclaimer

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

NOT TO SCALE



PUBLIC WORKS DEPARTMENT

REAL ESTATE REPORT FOR DISPOSAL OF REAL PROPERTY

1. Common Address: None. Excess right of way at S.E. 21st and Rice Road, Topeka

2. Legal Description:

Tract I: A tract of land in the Southwest Quarter of the Southeast Quarter of the Southwest Quarter of Section 3, Township 12 South, Range 16 East of the 6th P.M., Shawnee County, Kansas, described as follows: Commencing at the Southeast corner of said Quarter Section; thence on an assumed bearing of South 88 Degrees 26 Minutes 34 Seconds West, 663.37 feet along the South line of said Quarter Section to the Southeast corner of the said Southwest Quarter of the said Southeast Quarter of the said Southwest Quarter Section; thence North 00 Degrees 11 Minutes 28 Seconds West, 33.51 feet along the east line of the said Southwest Quarter of the said Southeast Quarter of the said Southwest Quarter Section to the point of beginning, First Course, thence continuing North 00 Degrees 11 Minutes 28 Seconds West, 274.47 feet along said East line to the Southerly right of way line of the existing Interstate Highway No. 70; Second Course, thence South 53 Degrees 34 Minutes 15 Seconds West, 172.53 feet along said right of way line; Third Course, thence South 19 Degrees 06 Minutes 55 Second West, 101.24 feet along said right of way line; Fourth Course, thence South 01 Degrees 06 Minutes 19 Seconds East, 84.46 feet along said right of way line; Fifth Course, thence North 87 Degrees 17 Minutes 49 Seconds East, 171.45 feet to the point of beginning.

Tract II: A tract of land in the Southwest Quarter of Section 3, Township 12 South, Range 16, Shawnee County, Kansas, being more particularly described as follows: Beginning at a point on the South line of the Southwest Quarter of said Section 3, said point being 551.07 feet West of the Southeast corner of said Southwest Quarter; thence West along the South line of said Southwest Quarter 112.77 feet; thence North 348.09 feet to a point on the Westerly Right of Way line of Service Road "L", a service road to the Kansas Turnpike; thence in a Southeasterly direction along said Service Road 364.94 feet to the point of beginning, containing 0.47 acres, more or less.

Tract III: A tract of land in the Southeast Quarter of the Southeast Quarter of the Southwest Quarter of Section 3, Township 12 South, Range 16 East of the 6th P.M., Shawnee County, Kansas, described as follows: Commencing at the Southeast corner of said Quarter Section; thence on an assumed bearing of North 00 Degrees 07 Minutes 39 Seconds West, 430.03 feet along the East line of said Quarter Section; thence South 89 degrees 52 Minutes 20 Seconds West, 103.23 feet to the point of beginning, First Course, thence South 89 Degrees 52 Minutes 21 Seconds West, 123.57 feet, Second Course, thence North 71 Degrees 39 Minutes 12 Seconds West, 244.00 feet, Third Course, thence South 17 Degrees 47 Minutes 26

Seconds West, 245.00 feet; Fourth Course, thence North 84 Degrees 43 Minutes 00 Seconds East, 285.04 feet; Fifth Course, thence North 00 Degrees 07 Minutes 39 Seconds West, 114.57 feet, Sixth Course, thence North 11 Degrees 33 Minutes 48 Seconds West, 16.27 feet to the point of beginning.

3. Current Zoning: All tracts I-1

4. Acquisition Date:

Tract I: 1962 - 1963

Tract II: 1963

Tract III: 1962 - 1963

5. Reason City Acquired: Right of way for U.S. I-70

6. How City Acquired:

Tract I: Condemnation, District Court Case #93465 and Warranty Deed recorded in Book 1466 Page 612

Tract II: Condemnation, District Court Case #93465 (P320) and Quit Claim Deed recorded in Book 1512 Page 168

Tract III: Condemnation, District Court Case #93465 (P319)

7. Current Use: Excess right of way

8. Expected Future Use: Industrial/Commercial Development

9. Appraised Value: \$36,000, appraisal made by David W. Craig for KDOT as of April 14, 2006.

10. Proposed Method of Disposal: Auction by Kansas Department of Transportation in accordance with their statutory requirements.

11. Financial Impact: The City's share of the auction proceeds will be \$0 from these parcels. This amount is based upon the previous participation agreements.

12. Additional Information: These three tracts along with various other tracts of excess right of way in the SE 21st and Rice Road vicinity will be included in the KDOT auction. Shawnee County, Kansas Turnpike Authority, and KDOT have ownership interests in the remaining tracts to be auctioned.

Should the property be declared surplus and processed for disposal?

Yes No

(X) () Jim Langford, Budget & Financial Services

(X) () Brenden Long, City Attorney

- (X) () Howard H. Giles, Fire Department
- (X) () Kevin Rooney, Housing and Neighborhood
Development
- (X) () Janet Robinson, Human Resources
- (X) () Steve Tallen, Information Technology
- (X) () Terry Bertels, Parks & Recreation
- (X) () David Thurbon, Planning
- (X) () Walt Wywadis, Police Department
- (X) () Mike McGee, Public Works
- (X) () Mike Coker, Zoo
- (X) () Allen Martin, Human Relations Comm.

Report Prepared by:

E. "Rusty" Rakestraw
Public Works Real Estate Officer



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 18, 2006

+ Back Print

DATE: September 12, 2006

CONTACT PERSON: Jeff Hunt **DOCUMENT #:**

SECOND PARTY/SUBJECT: Sanitary Sewer Project **PROJECT #:** 40898-01

CATEGORY/SUBCATEGORY: 020 Resolutions / 004 Public Improvements

CIP PROJECT: No

ACTION OF COUNCIL: Approve Resolution
rescinding Resolution No.
7771 **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr. to rescind Resolution of Advisability and Authorization No. 7771 which authorized Main and Lateral Sanitary Sewer Improvement Project No. 40898-01 in the area bound by SW Huntoon, SW Urish Road, SW 21st Street and Executive Drive. (Council District No. 8)

(This Resolution will rescind Resolution No. 7771 for Sewer Project No. 40898-01. Resolution No. 7841 was approved by City Council on August 1, 2006, authorizing this project with an amended Project Budget but it did not rescind the previously approved Resolution for the project.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Approve Resolution rescinding Resolution No. 7771.

BACKGROUND:

On August 1, 2006, City Council approved Resolution No. 7841 to authorize Project No. 40898-01 with an amended Project Budget. Resolution No. 7841 did not include language to rescind the previously adopted Resolution for this project, Resolution No. 7771. This action will have no impact on the project.

BUDGETARY IMPACT:

None for this action.

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Resolution](#)

Item #19

(Published in the Topeka Metro News _____).

RESOLUTION NO. _____

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr. to rescind Resolution of Advisability and Authorization No. 7771 which authorized Main and Lateral Sanitary Sewer Improvement Project No. 40898-01 in the area bound by SW Huntoon, SW Urish Road, SW 21st Street and Executive Drive.

WHEREAS, the Council of the City of Topeka adopted Resolution of Advisability and Authorization No. 7771, effective on March 22, 2006, which authorized Main and Lateral Sanitary Sewer Improvement Project No. 40898-01 to the area bound by SW Huntoon, SW Urish Road, SW 21st Street and Executive Drive, with a project budget in the amount of Five Hundred Twenty-Seven Thousand Two Hundred Dollars (\$527,200.00); and

WHEREAS, the Council of the City of Topeka adopted Resolution of Advisability and Authorization No. 7841, effective on August 09, 2006, which authorized Sanitary Sewer Main and Lateral Improvement Project No. 40898-01 to the area bound by SW Huntoon, SW Urish Road, SW 21st Street and Executive Drive, with an amended project budget in the amount of Five Hundred Sixty-Three Thousand Five Hundred Dollars (\$563,500.00).

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS that Resolution of Advisability and Authorization No. 7771 is hereby rescinded.

ADOPTED and APPROVED by the City Council _____.

CITY OF TOPEKA, KANSAS

ATTEST:

William W. Bunten, Mayor

31
32
33

Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 18, 2006

+ Back Print

DATE:	September 12, 2006		
CONTACT PERSON:	Jeff Hunt	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Street Improvement Project	PROJECT #:	60364-02
CATEGORY/SUBCATEGORY	020 Resolutions / 004 Public Improvements		
CIP PROJECT:	No		
ACTION OF COUNCIL:	Accept the Petition, Approve the Amended Project Budget and Resolution	JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

A PETITION, a PROJECT BUDGET in the amount of \$24,500 and a RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and adopting as amended Improvement Project No. 60364-02 which provides for a turn-a-round at the east end of Southwest Reeder Street in front of the Kuhn-Smith Subdivision, pursuant to K.S.A. 12-6a01, et seq., and rescinding City of Topeka Resolution of Advisability and Authorization No. 7647. (Council District No. 8)

(A revised Petition, Project Budget and Resolution are required for this Project to pave a turn-around at the east end of S.W. Reeder Street due to increased construction costs.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Accept the Petition, Approve the Project Budget and Resolution

BACKGROUND:

This project will provide a turn-a-round at the east end of SW Reeder Street in front of the Kuhn-Smith Subdivision. It is a Petition Project with 100% of the costs being paid by the Improvement District. Increased construction costs have required the new Petition, Project Budget and Resolution.

The project will include curb and gutter, asphaltic pavement, driveway construction, sidewalk repairs, seeding, and other appurtenances needed for a complete project.

BUDGETARY IMPACT:

Amended Project Budget: \$24,500.00

Item #20

SOURCE OF FUNDING:

Cost to be paid 100% by the Improvement District on a unit basis for all lots or individual dwelling sites which are included in the described improvement district of Lot 6, Block "A", Kuhn-Smith Subdivision.

ATTACHMENTS:

[Petition](#)

[Project Budget](#)

[Resolution](#)

PROJECT BUDGET

Project No. 60364 Phase 02

LOCATION

This project is located at the end of SW Reeder Street in the 5500 Block.

DESCRIPTION OF PROJECT:

The project will include the construction of a turn-around at the end of SW Reeder Street.

SOURCE OF FUNDS:

Funding Source No. 1-100% Improvement District

<u>COST ESTIMATE:</u>	<u>FUNDING SOURCE 1</u>	<u>FUNDING SOURCE 2</u>	<u>FUNDING SOURCE 3</u>
Construction:	\$22,500.00		
Design:	\$0.00		
Engineering Fees:	\$1,000.00		
Administrative Fees:	\$0.00		
Right-of Way Acquisition:	\$0.00		
Contingency Amount:	\$0.00		
Interest	\$1,000.00		
Total:	\$24,500.00		

PUBLIC HEARING:

PROJECT AUTHORITY:

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

Date: _____

PROJECT ENGINEER: **Jeff Hunt**

PUBLIC IMPROVEMENT PROJECT

PETITION

Attachment number 2
Page 1 of 2

The Mayor and Councilmembers
City of Topeka

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

RECEIVED
CITY CLERK
TOPEKA, KANSAS
2006 AUG - 8 AM 11:14

Street Improvement Project No. 60364-02

A. GENERAL NATURE OF IMPROVEMENT:

To provide a turn-a-round at the east end of Southwest Reeder Street in front of the Kuhn-Smith Subdivision.

B. PROPOSED IMPROVEMENT DISTRICT:

Lot 6, Block "A", Kuhn-Smith Subdivision, addressed as 5530 SW Reeder Street.

C. ESTIMATED OR PROBABLE COST:

\$24,500.00

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

D. METHOD OF ASSESSMENT:

On a unit basis for lots or individual dwelling sites that are included in the improvement district.

E. APPORTIONMENT OF COSTS:

To be paid 100% by the Improvement District.

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

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

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

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

[illegible]

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

8-7-06
Date

Signature of Person Carrying Petition
BILL McCARTER

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

(Published in the Topeka Metro News _____)

RESOLUTION OF ADVISABILITY AND AUTHORIZATION NO. _____

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., amending the project budget and adopting as amended Improvement Project No. 60364-02 which provides for a turn-around at the east end of Southwest Reeder Street in front of the Kuhn-Smith Subdivision, pursuant to K.S.A. 12-6a01, *et seq.*, as amended, and rescinding City of Topeka Resolution of Advisability and Authorization No. 7647.

WHEREAS, the City Council adopted and approved Resolution of Advisability and Authorization No. 7647 which authorized Street Improvement Project No. 60364-02 with an Estimated Probable Cost of Nineteen Thousand Nine Hundred Fifty-Six Dollars (\$19,956.00), effective June 29, 2005; and

WHEREAS, the Estimated Probable Cost of the project has increased to Twenty-Four Thousand Five Hundred Dollars (\$24,500.00); and

WHEREAS, the City Clerk has received a revised petition, pursuant to K.S.A. 12-6a01, *et seq.*, as amended, containing the signatures of the owners of 100% of the area in the improvement district hereinafter described, and which petition sets forth the increased Estimated Project Cost of Twenty-Four Thousand Five Hundred Dollars (\$24,500.00).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka, Kansas, that it finds the following described public improvement to be necessary and in the public interest and does hereby authorize, pursuant to K.S.A. 12-6a01, *et seq.*, as amended, Street Improvement Project No. 60364-02 with an amended project budget as hereinafter described:

28 A. GENERAL NATURE OF IMPROVEMENT:

29 To provide a turn-a-round at the east end of Southwest Reeder Street in
30 front of the Kuhn-Smith Subdivision.

31
32 B. PROPOSED IMPROVEMENT DISTRICT:

33 Lot 6, Block "A", Kuhn-Smith Subdivision.

34
35 C. ESTIMATED OR PROBABLE COST:

36 \$24,500.00

37
38 D. METHOD OF ASSESSMENT:

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

41
42 E. APPORTIONMENT OF COSTS:

43 100% by the Improvement District

44
45 Upon completion of the project described herein, the City Clerk is hereby directed to
46 provide all publication and mailed notices in accordance with the provisions of K.S.A. 12-
47 6a01, *et seq.*, as amended.

48
49 BE IT RESOLVED that City of Topeka Resolution No. 7647 is hereby rescinded.

50
51 BE IT FURTHER RESOLVED this Resolution shall become effective upon one
52 publication in the official city newspaper.

53
54 ADOPTED and APPROVED by the City Council _____.

55
56 CITY OF TOPEKA, KANSAS

57
58 _____
59 William W. Bunten, Mayor

60 ATTEST:

61
62 _____
63 Iris E. Walker, City Clerk



A Capital City Serving You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 11, 2006

+ Back Print

DATE: September 12, 2006

CONTACT PERSON: Linda Wood or Jim Langford **DOCUMENT #:**

SECOND PARTY/SUBJECT: Weekly Expenditures **PROJECT #:**
Authorization, Week Ended
September 10, 2006

CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 005 Miscellaneous

CIP PROJECT: No

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

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period September 4, 2006, through September 10, 2006, and enumerating said expenditures therein. First and Final Reading.

POLICY ISSUE:

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

STAFF RECOMMENDATION:

Adopt Ordinance as presented.

BACKGROUND:

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

BUDGETARY IMPACT:

Approves expenditures for the period September 4, 2006, through September 10, 2006, in the amount of \$769,067.80.

SOURCE OF FUNDING:

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

ATTACHMENTS:

[Weekly Expenditure Ordinance, Week Ended September 10, 2006](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte Jr., allowing and approving City expenditures for the period of September 4, 2006, through September 10, 2006, and enumerating said expenditures herein.

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

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

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

<u>Section 3.</u>	Total for 93 vendor checks written in this period	\$568,881.48
	Total vendor checks voided in this period (net)	(432.63)
	Total electronic transfers to vendors in this period	200,618.95
	Total net payroll to employees this period	0
	Total payroll related electronic transfers this period	<u>0</u>
	Total for expenditures in this period	<u>\$769,067.80</u>

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

PASSED and APPROVED by the City Council _____.

ATTEST:

William W. Bunten, Mayor

Iris E. Walker, City Clerk



A Capital City Serving You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 13, 2006

 + Back  Print

DATE: September 12, 2006

CONTACT PERSON: David Thurbon **DOCUMENT #:**

SECOND PARTY/SUBJECT: Hidden Valley Subdivision **PROJECT #:**
No. 5

CATEGORY/SUBCATEGORY 006 Communication / 003 Requests

CIP PROJECT: No

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

DOCUMENT DESCRIPTION:

A COMMUNICATION from Indian Hills Land Development Corporation through their consulting engineer requesting an exemption from Sec. 146-256.C(2) requiring annexation prior to sewer service from the City as provided for under Sec. 146-256.C(6)(iii) and (iv) on a 29.07-acre tract located 1900 feet west of SW Urish Road and 2200 feet north of SW 21st Street within unincorporated Shawnee County, Kansas.

(Approval would permit the City to provide sanitary sewer service to Hidden Valley Subdivision No. 5 prior to annexation into the City)

POLICY ISSUE:

Approval of request would exempt Hidden Valley Subdivision No. 5 from annexation prior to receiving City sewer service. City Council amended Sec. 146-256 regarding sewer service (Ordinance #18548) on December 20, 2005 which established criteria for exemption to annexation requirements. The owner has based their request upon the conditions: 1) To avoid unnecessary hardship in situations not created by the actions of the applicant as determined by City Council, and 2) The City is obligated to provide sanitary sewer service to the property owner by contract or other legally enforceable document (see attached letter dated July 19, 2006)

STAFF RECOMMENDATION:

Option 1: If the City Council finds that an "unnecessary hardship" exists or that the City is "contractually obligated" to provide service, the request should be approved.

Option 2: If the City Council finds that neither an "unnecessary hardship" exists nor is "contractually obligated" to provide service, then the request should be denied.

BACKGROUND:

- This subdivision is the final phase of the Hidden Valley Subdivision preliminary plat approved by the Planning Commission in 2001. This phase involves 109 new single-family residential lots, which is an additional 50 lots from the approved preliminary plat.
- A preliminary plat for Hidden Valley Subdivision No. 5 was approved by the Planning Commission on July 17, 2006.
- The subdivision is located in both the Municipal Services Area and primary urban service area approximately 500 feet from the City limits.
- A pump station, sewer main, and associated laterals serve 139 lots in the first 3 phases of Hidden Valley.

- The pump station and sewer main were financed through Shawnee County Main Sewer District No. 85. The City accepted the lines and pump station for maintenance after they were constructed. The entire boundary of the Hidden Valley preliminary plat, including the area encompassing Hidden Valley No. 5, pay special assessments for the pump station and sewer main.
- Each phase of the subdivision is paying for their own laterals. The final phase (No. 5) currently pays no special assessments for laterals.
- The owner has consented to annexation with the plat and by separate instrument. All phases of Hidden Valley have consented to annexation with their plats.

BUDGETARY IMPACT:

City would only receive sewer revenues if the exemption is approved.

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Letter Requesting Annexation Exemption](#)

[Attachment to Letter Requesting Annexation Exemption](#)

[Attachment to Letter Requesting Annexation Exemption](#)

[Consent and Petition to Annex](#)

[Ordinance #18548](#)

[Hidden Valley Subdivision No. 5 Preliminary Plat](#)

[Aerial](#)

BARTLETT & WEST
ENGINEERS
SERVICE. THE BARTLETT & WEST WAY.

July 19, 2006

Bill Fiander
City of Topeka Planning Dept.
620 SE Madison, 3rd Floor
Topeka, KS 66607

Re: Hidden Valley Subdivision No. 5
Project No.: 12727.500

Dear Bill:

As previously discussed, we would again note that Hidden Valley Subdivision No. 5 is the last phase of a project originally approved via preliminary plat on April 16, 2001 (copy of approval acknowledgement enclosed), and that approval was subject to approval by the city of the sanitary sewer system. Subsequently to that approval, the city did approve sanitary sewer service for the entire Hidden Valley Project (copy of a letter dated May 3, 2001, acknowledging that approval is enclosed).

Eventually, Shawnee County Main Sewer District No. 85/City of Topeka Lateral Sewer District No. 40897-SC was created and final approval of said district was given by the city on August 13, 2001, via the formal construction plans.

Since the construction of that main sewer, the Hidden Valley Subdivision No. 5 area has been paying its appropriate pro-rata special assessments.

The developers of Hidden Valley remain willing to be annexed and continue to acquire the appropriate city building permits, pay the associated fees (including Park Land Development fees), and are building the project to city code.

Since the time the city granted approval to sewer this property, Ordinance No. 18548 was adopted (copy enclosed). This ordinance, as you are aware, requires annexation prior to sewer service for any property within the municipal services area.

Once again, the Hidden Valley developers remain committed to being annexed and will continue their current efforts to work with you to close the very small gap between its boundaries and the annexable area of the city. However, it is still evident that this property is exempt from Ordinance No. 18548, based on provisions of Section 1 of that ordinance, specifically Section 1 (c) (6) iii and iv as follows:

- iii reads: To avoid unnecessary hardship in situations not created by the actions of the applicant as determined by the City Council.
- iv reads: The City is obligated to provide sanitary sewer service to the property owner by contract or other legally enforceable document.

1200 SW EXECUTIVE DRIVE ■ TOPEKA KS 66615-3850
785.272.2252 ■ FAX 785.272.7349 ■ 888.200.6464

WWW.BARTWEST.COM

Mr. Bill Fiander
Page 2
July 19, 2006

There is no question that it is an unnecessary hardship for the developers not to be allowed to use the main sewer district for which they have already been approved to use and for which they have been paying special assessments on for approximately five years

Further the city is obligated to provide sewer service via its previous approval of this sewer district.

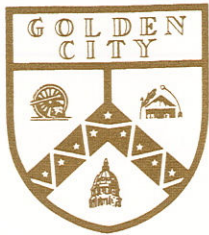
Therefore, pursuant to Section 1 (c) (7), we request that you provide the city with the appropriate notification of these exceptions to Ordinance No. 18548 and confirm that only consent to annexation is required for connection to the sewers.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Engler", with a stylized flourish at the end.

Mike Engler, L.A.

cc: Ray Thurlow
Enclosures



April 18, 2001

Bartlett & West Engineers
Mr. Bill Van Doren
1200 SW Executive Drive
Topeka, Kansas 66615

RECEIVED
APR 20 2001
BARTLETT & WEST

Dear Mr. Van Doren:

The **Preliminary and Final Plat Phases of Hidden Valley Subdivision (P01/7)** was reviewed by the Zoning and Platting Committee of the Topeka-Shawnee County Metropolitan Planning Commission on **Monday, April 16, 2001**, at the regular monthly public hearing.

At that time, the Zoning and Platting Committee took the following action on this plat:

APPROVAL, of the Preliminary Plat Phase and conditional to: (3-2-0-0)

- 1) Approval of preliminary street plans by the City of Topeka Department of Public Works;
- 2) Approval of the proposed alignment of SW 17th Street at SW Urish Road by the City of Topeka Department of Public Works;
- 3) Approval by the City of Topeka Department of Public Works regarding the design and alignment of the proposed forced sanitary sewer main and agreement with respect to future sewer connection fees; and
- 4) No building permits shall be issued until arrangements have been made to effect water system improvements on Urish Road adequate to serve the development and connection charges have been made with the City of Topeka Water Division

AND APPROVAL of the Final Plat Phase and conditional to: (3-2-0-0)

- 1) Inclusion of the following two (2) notes on the final plat:

Page 2
Hidden Valley Subdivision

- **The owner of the above described real estate does hereby evidence its complete and irrevocable consent to annexation by the City of Topeka, in accordance with the laws of the State of Kansas. This consent shall run with the land and shall be binding upon the heirs, successors and assigns of the undersigned; and**
- **Approval of a traffic study by the City of Topeka Departments of Planning and Public Works and compliance with any required street improvements prior to Phase II development.**

The Final Plat will be submitted to the governing body for acceptance of dedication of rights-of-way and easements upon receipt of the mylar. You will be notified of the date and time the Final Plat is scheduled to appear before the governing body. Once approved, you will be notified to retrieve the mylar for recording, after which ten (10) copies of the recorded plat should be submitted to the Planning Department within ten days of recording with the Register of Deeds. No building permit will be issued by the code enforcement director or county zoning administrator until the recorded copies of such plat are on file with the Planning Department.

Respectfully,



Barry T. Beagle, AICP
Acting Planning Director

/ah

P01/7 (Johnson)



CITY OF TOPEKA

Engineering Division
515 S. Kansas Avenue Suite 301
Topeka, Kansas 66603-3417
Phone 785-368-3842
Fax 785-368-3881

Attachment number 3
Page 1 of 2

RECEIVED

MAY 04 2001

BARTLETT & WEST

May 3, 2001

Mr. Bill VanDoren
Bartlett & West Engineers
1200 S.W. Executive Drive
Topeka, Kansas 66615-3850

Re: Proposed Hidden Valley Subdivision

Dear Mr. VanDoren:

As discussed during our May 1, 2001 telephone conversation, the City of Topeka Engineering Division has reviewed the following items related to the above referenced project:

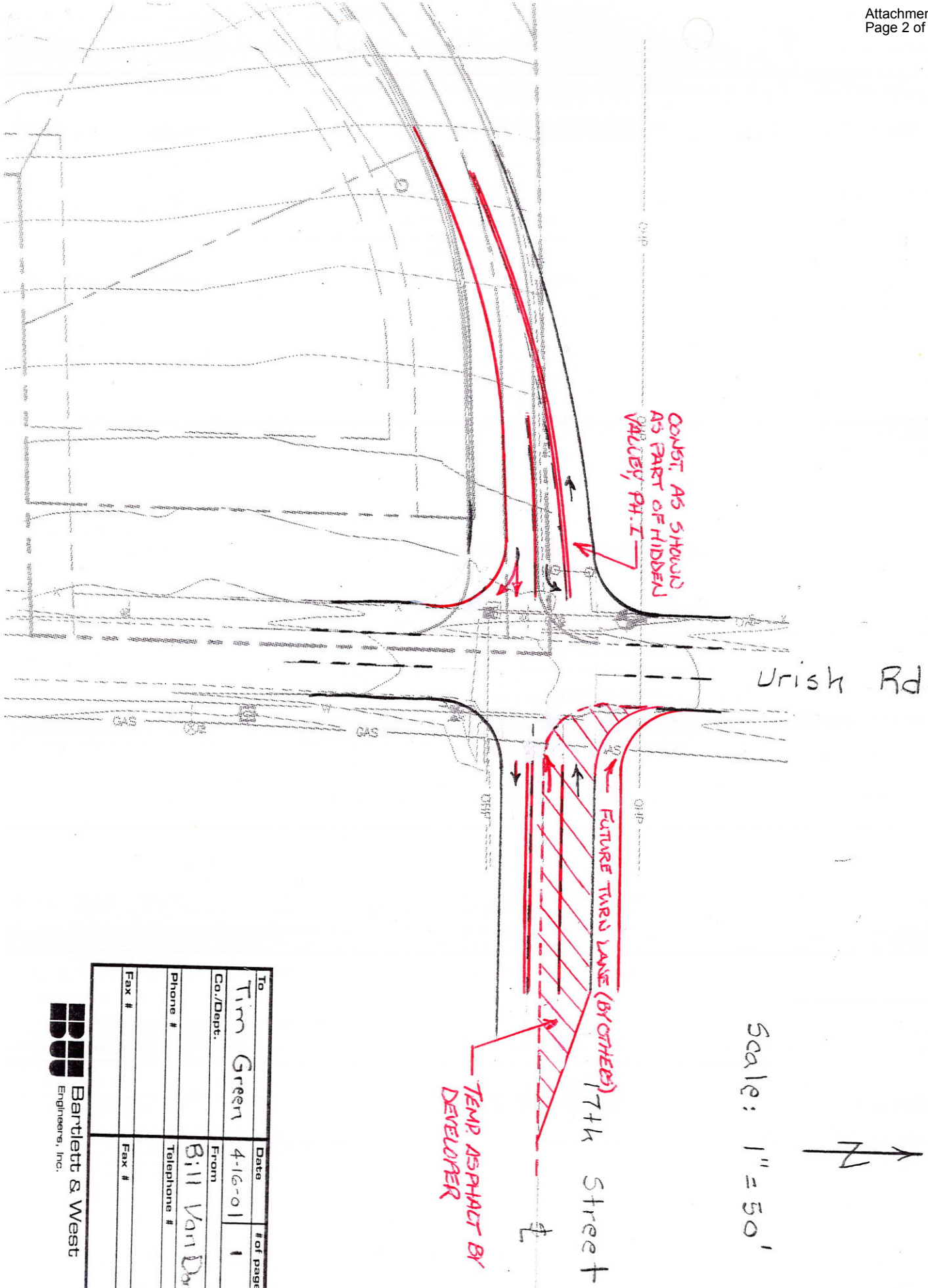
1. **Drainage Report.** The Drainage Report has been approved.
2. **Sanitary Sewer Force Main.** The force main has been approved by Public Works Administration. Plans shall be approved by the City of Topeka Engineering Division prior to construction.
3. **17th Street/Urish Road Intersection.** Refer to the attached drawing.
WEST LEG: The Engineering Division will require that the west leg of 17th Street be constructed, in its entirety, during Phase I of the Hidden Valley development. Our recommendation is that three (3) lanes, two eastbound and one westbound, be constructed as shown.
EAST LEG: The Engineering Division will require that temporary asphalt be constructed on the east leg of the intersection as required to align the intersection and provide safe movements in all directions.

Should you have any questions or need additional information, please call.

Sincerely,

Tim Green
Assistant City Engineer

cc: Tom Flanagan, City Engineer
Barry Beagle, Planning



To	Date	# of pages
Tim Green	4-16-01	1
Co./Dept.	From	
Phone #	Bill Van Doren	Telephone #
Fax #		Fax #

CONSENT TO ANNEXATION

Now on this _____ day of _____, 20____, _____ Indian Hills Land Development Corporation as owner of record of the following described real estate, by and through its duly authorized officers, does hereby evidence its complete and irrevocable consent to annexation by the City of Topeka, in accordance with the laws of the State of Kansas, of the following described property to wit:

Hidden Valley Subdivision No. 5 described as follows:

A TRACT OF LAND IN THE NORTH HALF OF THE SOUTHEAST QUARTER AND IN THE EAST HALF OF THE FRACTIONAL SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN SHAWNEE COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTH HALF OF THE SOUTHEAST QUARTER; THENCE ON AN ASSUMED NORTH AZIMUTH OF 88 DEGREES 09 MINUTES 38 SECONDS, 1340.04 FEET COINCIDENT WITH THE NORTH LINE OF SAID NORTH HALF OF THE SOUTHEAST QUARTER TO THE NORTHWEST CORNER OF HIDDEN VALLEY SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE ON AZIMUTH 178 DEGREES 09 MINUTES 38 SECONDS, 1025.81 FEET COINCIDENT WITH THE WEST LINE OF SAID SUBDIVISION AND COINCIDENT WITH THE WEST LINE OF HIDDEN VALLEY SUBDIVISION NO. 3, ACCORDING TO THE RECORDED PLAT THEREOF, TO THE NORTHEAST CORNER OF LOT 1, BLOCK E, HIDDEN VALLEY SUBDIVISION NO. 4, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE COINCIDENT WITH THE BOUNDARY OF SAID HIDDEN VALLEY SUBDIVISION NO. 4 THE FOLLOWING COURSES: ON AZIMUTH 268 DEGREES 15 MINUTES 15 SECONDS, 190.00 FEET; THENCE ON AZIMUTH 358 DEGREES 09 MINUTES 38 SECONDS, 31.00 FEET; THENCE ON AZIMUTH 268 DEGREES 15 MINUTES 15 SECONDS, 809.80 FEET; THENCE ON AZIMUTH 358 DEGREES 40 MINUTES 40 SECONDS, 324.87 FEET; THENCE ON AZIMUTH 270 DEGREES 46 MINUTES 07 SECONDS, 387.25 FEET TO THE WEST LINE OF SAID NORTH HALF OF THE SOUTHEAST QUARTER; THENCE CONTINUING ON AZIMUTH 270 DEGREES 46 MINUTES 07 SECONDS, 35.41 FEET TO THE EAST LINE OF KANSAS ELECTRIC COOP SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE, LEAVING THE BOUNDARY OF SAID HIDDEN VALLEY SUBDIVISION NO. 4, ON AZIMUTH 00 DEGREES 46 MINUTES 07 SECONDS, 650.61 FEET COINCIDENT WITH SAID EAST LINE TO THE NORTHEAST CORNER OF SAID KANSAS ELECTRIC COOP SUBDIVISION; THENCE ON AZIMUTH 89 DEGREES 08 MINUTES 43 SECONDS, 49.44 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 29.07 ACRES OF LAND, MORE OR LESS.

This consent shall be complete and irrevocable upon recordation of the final plat noted above.

This consent shall run with the land described above and shall be binding upon the heirs, successors and assigns of the undersigned and shall be filed of record with the Shawnee County Register of Deeds Office upon execution.

Raymond J. Thurlow, Vice President/CEO

STATE OF KANSAS:)
)ss:
COUNTY OF SHAWNEE)

The foregoing instrument of writing was acknowledged before me this day of _____, 20____, by Raymond J. Thurlow, Vice President/CEO of Indian Hills Land Development Corporation, and acknowledged to me that he executed the same for the purpose and consideration therein expressed, acting for and on behalf of said corporation, in his capacity as such officer.

GIVEN under by my hand and affixed my notarial seal the day and year last above written.

NOTARY PUBLIC

My Appointment Expires:_____

PETITION FOR ANNEXATION

Now on this _____ day of _____, 2006, comes Raymond J. Thurlow, Vice President/CEO of Indian Hills Land Development Corporation., as owner of record of the following described real estate, by and through its duly authorized officers, having granted prior consent to annexation in writing and/or by recording of the plat of subdivision of Hidden Valley Subdivision No. 5, does hereby petition for annexation by the City of Topeka in accordance with the K.S.A. 12-520, *et seq.* as amended and any other laws of the State of Kansas of the following described real estate to wit:

A TRACT OF LAND IN THE NORTH HALF OF THE SOUTHEAST QUARTER AND IN THE EAST HALF OF THE FRACTIONAL SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTH HALF OF THE SOUTHEAST QUARTER; THENCE ON AN ASSUMED NORTH AZIMUTH OF 88 DEGREES 09 MINUTES 38 SECONDS, 1340.04 FEET COINCIDENT WITH THE NORTH LINE OF SAID NORTH HALF OF THE SOUTHEAST QUARTER TO THE NORTHWEST CORNER OF HIDDEN VALLEY SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE ON AZIMUTH 178 DEGREES 09 MINUTES 38 SECONDS, 1025.81 FEET COINCIDENT WITH THE WEST LINE OF SAID SUBDIVISION AND COINCIDENT WITH THE WEST LINE OF HIDDEN VALLEY SUBDIVISION NO. 3, ACCORDING TO THE RECORDED PLAT THEREOF, TO THE NORTHEAST CORNER OF LOT 1, BLOCK E, HIDDEN VALLEY SUBDIVISION NO. 4, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE COINCIDENT WITH THE BOUNDARY OF SAID HIDDEN VALLEY SUBDIVISION NO. 4 THE FOLLOWING COURSES: ON AZIMUTH 268 DEGREES 15 MINUTES 15 SECONDS, 190.00 FEET; THENCE ON AZIMUTH 358 DEGREES 09 MINUTES 38 SECONDS, 31.00 FEET; THENCE ON AZIMUTH 268 DEGREES 15 MINUTES 15 SECONDS, 809.80 FEET; THENCE ON AZIMUTH 358 DEGREES 40 MINUTES 40 SECONDS, 324.87 FEET; THENCE ON AZIMUTH 270 DEGREES 46 MINUTES 07 SECONDS, 387.25 FEET TO THE WEST LINE OF SAID NORTH HALF OF THE SOUTHEAST QUARTER; THENCE CONTINUING ON AZIMUTH 270 DEGREES 46 MINUTES 07 SECONDS, 35.41 FEET TO THE EAST LINE OF KANSAS ELECTRIC COOP SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE, LEAVING THE BOUNDARY OF SAID HIDDEN VALLEY SUBDIVISION NO. 4, ON AZIMUTH 00 DEGREES 46 MINUTES 07 SECONDS, 650.61 FEET COINCIDENT WITH SAID EAST LINE TO THE NORTHEAST CORNER OF SAID KANSAS ELECTRIC COOP SUBDIVISION; THENCE ON AZIMUTH 89 DEGREES 08 MINUTES 43 SECONDS, 49.44 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 29.07 ACRES OF LAND, MORE OR LESS.

The undersigned owner of record of the above described real estate does hereby waive any right under K.S.A. 12-520(h) as amended to maintain an action challenging the authority of the City to annex the land described herein or the regularity of the proceedings had in connection therewith

This Petition for annexation shall run with the land described above and shall be binding upon the heirs, successors and assigns of the undersigned and shall be filed of record with the Shawnee County Register of Deeds upon execution.

Raymond J. Thurlow, Vice President/CEO
Indian Hills Land Development Corporation

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

BE IT REMEMBERED, that on this _____ day of _____ A.D., 2006, before me the undersigned, a Notary Public, in and for the County and State aforesaid, came Raymond J. Thurlow, who is personally known to me to be the Vice President/CEO of Indian Hills Land Development Corporation, the individual, a Kansas Corporation, who executed the foregoing Petition for Annexation, on behalf of said company, and such person duly acknowledged the execution of the same.

IN TESTIMONY THEREOF, I have hereunto set my hand, and affixed the seal the day and year last above mentioned.

Notary Public

Term Expires

(Published in the Topeka Metro News December 28, 2005)

ORDINANCE NO. 18548

AN ORDINANCE introduced by Councilmember Brett Blackburn relating to annexation and funding of sewer service and extensions, amending City of Topeka Code § 146-256, and specifically repealing said original section.

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

Section 1. City of Topeka Code § 146-256, Annexation and funding of sewer service and extensions, is hereby amended to read as follows:

Annexation and Funding of Sewer Service and Extensions.

(A) It is the desire of the City of Topeka to conform to the Community Goals Statement adopted as part of the 1986 Shawnee County Wastewater Management Plan, as amended. Specifically the Statements include:

(1) Direct new growth to developable areas served by existing public facilities.

(2) Use the community's provision of public facilities as a method of guiding growth.

(3) Identify environmentally sensitive areas and guide development away from areas of greatest adverse environmental impact.

(4) Identify and strive to preserve prime agricultural land for production of food and fiber.

(5) Encourage residential development near existing essential services, facilities, and centers of employment.

(B) The Shawnee County Wastewater Management Plan designates service areas into four (4) categories. These include; urban, primary urban, secondary urban, and rural-agriculture. Urban areas are those which are currently within the City of Topeka limits. Primary urban are those areas which are anticipated to become urbanized by 2005. Secondary urban are those areas which are expected to become urbanized by 2025. Rural-agriculture areas include the remainder of Shawnee County. It is the City of Topeka's intent to serve urban and primary urban service areas, and in some cases, to serve secondary urban service areas. In order to provide new services to expected growth areas, water pollution control will identify annual capital improvement expenditures as well as revenue from connection fees to facilitate the orderly expansion of the City of Topeka and its wastewater utility.

(C) ~~The relationship of~~ Funding and annexation in the service areas will conform to the following policies be subject to the following requirements:

(1) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the City sewer system that are adjacent to the existing City limits requiring sewer service shall require annexation prior to service being provided.

(2) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the City sewer system that

are contained within the primary service area as defined in the Shawnee County Wastewater Management Plan, as amended, and also contained in the current Municipal Services-Boundary map Area as defined in Chapter 134 maintained by the City of Topeka public works and planning departments shall require annexation, except as provided in subsection (C)(6) below, prior to service being provided. A portion of ¶the cost to design and construct the major interceptors necessary to serve these areas will may be paid through the City of Topeka water pollution control fund depending on priority and if sufficient capital improvement service extension funding is available and if the extension is consistent with the Topeka Utilities Extension Growth Policy maintained by the Public Works Department.

(3) New or redeveloped parcels established by preliminary or final plat, lot split or otherwise after November 1, 2005, or parcels upon which a residential or commercial structure was located prior to November 1, 2005, and which structure has not previously been connected to the City sewer system that are contained within the current Municipal Services-Boundary map from the Area as defined in Chapter 134 City of Topeka public works and planning department shall require annexation, except as provided in subsection (C)(6) below, prior to service being provided. A portion of ¶the cost to design and construct the major interceptors necessary to serve these areas will may be paid through the City of Topeka water pollution control fund depending on priority and if sufficient capital improvement service extension funding is

73 available and if the extension is consistent with the Topeka Utilities Extension
74 Growth Policy maintained by the Public Works Department.

75 (4) New or redeveloped parcels established by preliminary or final plat, lot
76 split or otherwise after November 1, 2005, or parcels upon which a residential
77 or commercial structure was located prior to November 1, 2005, and which
78 structure has not previously been connected to the City sewer system that
79 are contained within the primary service area as amended and not in the
80 current Municipal Services ~~Boundary map~~ Area as defined in Chapter 134
81 shall require consent to annexation prior to service being provided. Major
82 interceptors necessary to serve proposed development in this area shall
83 conform to approved sizing and routing as determined by the City engineer.
84 The total cost of extending City sewer service, including interceptors and
85 service lines, shall be borne by the developer without any participation by the
86 City of Topeka.

87 (5) New or redeveloped parcels established by preliminary or final plat, lot
88 split or otherwise after November 1, 2005, or parcels upon which a residential
89 or commercial structure was located prior to November 1, 2005, and which
90 structure has not previously been connected to the City sewer system that
91 are contained within the secondary urban service area as amended shall
92 require consent to annexation prior to service being provided. Major
93 interceptors necessary to serve proposed development in this area shall
94 conform to approved sizing and routing as determined by the City engineer.
95 The total cost of extending City sewer service, including interceptors and

service lines, shall be borne by the developer without any participation by the City of Topeka.

(6) An owner of real property outside the City limits may be exempt from the annexation requirement set forth in subsections C2 or C3 above if the property owner consents to annexation of the real property to be served and at least one of the following conditions are satisfied:

(i) To eliminate an imminent threat to public health and safety as determined and/or ordered by the Kansas Department of Health and Environment or a similar regulatory agency, or a Court of law.

(ii) To promote an economic development project as determined by the City Council.

(iii) To avoid unnecessary hardship in situations not created by the actions of the applicant as determined by the City Council.

(iv) The City is obligated to provide sanitary sewer service to the property owner by contract or other legally enforceable document.

(7) The City Council shall be notified of the approval of a sewer connection requiring only a consent to annexation under the exceptions set forth in subsection (C)(6)(i), (C)(6)(ii), (C)(6)(iii), and (C)(6)(iv).

Section 2. That City of Topeka Code § 142-256 is hereby specifically repealed.

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

117

PASSED and APPROVED by the City Council DEC 20 2005

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121

122 ATTEST:

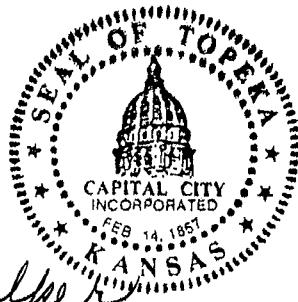
123

124

125

126

Iris Walker
Iris E. Walker, City Clerk



William W. Buntten
William W. Buntten, Mayor

APPROVED AS TO FORM AND LEGALITY

DATE 12/20/05 BY BBC

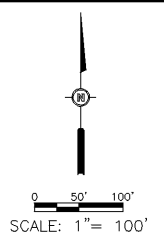
TO BE CODIFIED X

NOT TO BE CODIFIED _____

HIDDEN VALLEY SUBDIVISION No. 5

A REVISED PRELIMINARY PLAT FOR HIDDEN VALLEY SUBDIVISION, PH. 4

A TRACT OF LAND IN THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH PRINCIPAL MERIDIAN IN SHAWNEE COUNTY, KANSAS.



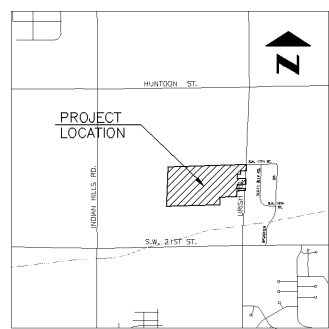
AZ. = AZIMUTH,
MEASURED CLOCKWISE
FROM ASSUMED NORTH.

OWNER / DEVELOPER :
INDIAN HILLS LAND
DEVELOPMENT CORPORATION

THE ABOVE DESCRIBED TRACT CONTAINS 29.07 ACRES OF LAND, MORE OR LESS.

NOTES:

1. WATER SERVICE SHALL BE BY THE CITY OF TOPEKA.
2. SEWER SERVICE SHALL BE BY CENTRAL COLLECTION SYSTEM AND FORCE MAIN TO THE CITY OF TOPEKA.
3. THE OWNERS OF RECORD OF THE ABOVE DESCRIBED REAL ESTATE DOES HEREBY EVIDENCE ITS COMPLETE AND IRREVOCABLE CONSENT TO ANNEXATION BY THE CITY OF TOPEKA, IN ACCORDANCE WITH THE LAWS OF THE STATE OF KANSAS. THIS CONSENT SHALL RUN WITH THE LAND AND SHALL BE BINDING UPON ITS HEIRS, SUCCESSORS, AND ASSIGNS OF THE UNDERSIGNED.
4. THIS PROPERTY LIES WITHIN ZONE C (AREA OF MINIMAL FLOODING) ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FLOOD INSURANCE RATE MAP NO. 200331 0100 C WITH AN EFFECTIVE DATE OF JUNE 1, 1982.
5. "GREEN SPACE EASEMENTS (G.S.E.) ARE NON-BUILDABLE AND RESERVED FOR LANDSCAPING AMENITIES. THE LOT OWNER(S) SHALL NOT FENCE OR BUILD ANY STRUCTURES WITHIN SAID EASEMENTS. MAINTENANCE SHALL BE BY THE LOT OWNER(S).
6. ALL UTILITIES SHALL BE PLACED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.



VICINITY MAP
NO SCALE

LEGEND

- Property Line
- Lot Line
- Right-of-way Line
- Easement Line
- Existing Overhead Cable Television
- Existing Overhead Electric Line
- Existing Gas Line
- Existing Sanitary Sewer Line
- Existing Underground Telephone Line
- Existing Water Line
- Existing Pump Station
- A.O. Access Opening
- D.D.F.E. Drainage Detention Facility Easement
- S.B.E. Stream Buffer Easement
- D.E. Drainage Easement
- FM Proposed Force Main
- G.S.E. Green Space Easement
- U.E. Utility Easement
- Green Space Easement
- Proposed Sanitary Sewer
- Proposed Water Line Facility Easement

- STREAMSIDE AREA — USES ALLOWED**
- 1.) NATIVE VEGETATION
 - 2.) FLOOD CONTROL
 - 3.) FOOT PATHS/ROAD CROSSINGS
 - 4.) UTILITY CORRIDORS
- OUTER AREA — USES ALLOWED**
- 1.) NATIVE VEGETATION OR MANAGED LAWN
 - 2.) BIKING/HIKING PATHS
 - 3.) FLOOD CONTROL
 - 4.) DETENTION/RETENTION STRUCTURE
 - 5.) UTILITY CORRIDORS
 - 6.) STORMWATER BMP'S
 - 7.) RESIDENTIAL YARDS/LANDSCAPE AREAS

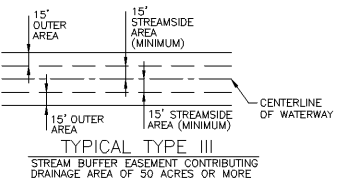
THERE SHALL BE NO CLEARING, GRADING, CONSTRUCTION OR DISTURBANCE OF VEGETATION EXCEPT AS APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS OR DESIGNER.

AND

ANY BUFFER SHOWN HEREON IS SUBJECT TO PROTECTIVE COVENANTS WHICH MAY BE FOUND IN THE LAND RECORDS AND WHICH RESTRICT DISTURBANCE AND USE OF THESE AREAS.

AND

PLEASE REFER TO SECTION 6 OF CITY OF TOPEKA CODE 66-151 FOR ALL PERTINANT MANAGEMENT GUIDELINES AND PROHIBITED PRACTICES AND ACTIVITIES WITHIN THE STREAM BUFFER AREAS.



CENTER LINE CURVE DATA

①	②	③	④
R = 1200.00'	R = 1200.00'	R = 1200.00'	R = 1200.00'
L = 234.10"	L = 286.74"	L = 191.18"	L = 193.15"
Δ = 111°0'39"	Δ = 13°41'27"	Δ = 09°07'42"	Δ = 09°13'20"

EASEMENTS:
EASEMENTS ARE HEREBY GRANTED TO THE PUBLIC AS FOLLOWS: "UTILITY EASEMENTS" TO LOCATE, CONSTRUCT AND MAINTAIN OR AUTHORIZE THE LOCATION, CONSTRUCTION, MAINTENANCE AND USE OF CONDUITS FOR ALL AND ANY PURPOSE, WATER, GAS, SEWER MAINS, POLES AND WIRES OR ANY OR ALL OF THEM OVER, UNDER AND ALONG THE STRIPS MARKED "UTILITY EASEMENTS". A TEMPORARY CONSTRUCTION EASEMENT OF 12 FEET ADJACENT TO THE SIDE OF UTILITY EASEMENT IS DEDICATED FOR THE USE OF THE PUBLIC UTILITIES WHILE CONSTRUCTION IS IN PROGRESS.

GENERAL DRAINAGE EASEMENTS:
DRAINAGE EASEMENTS ARE HEREBY ESTABLISHED AS SHOWN TO PROVIDE FOR THE UNOBSTRUCTED OVERLAND FLOW OF SURFACE WATER AND/OR THE CONSTRUCTION AND MAINTENANCE OF PIPE, FLUME, DITCH, OR ANY OR ALL IMPROVEMENTS FOR THE DRAINAGE OF SAID WATER, ALL AS MAY BE DETERMINED AND/OR APPROVED BY THE DIRECTOR OF APPLICABLE DEPARTMENT OF PUBLIC WORKS. PROPERTY OWNERS SHALL NOT PLACE ANY PERMANENT OR SEMI-PERMANENT OBSTRUCTION IN SAID EASEMENT. ALL MAINTENANCE WITHIN THE GENERAL DRAINAGE EASEMENT (GDE) SHALL BE THE RIGHT, DUTY AND RESPONSIBILITY OF THE PROPERTY OWNER(S) OF THE PROPERTY IN WHICH THE EASEMENT IS SO LOCATED. HOWEVER, IF MAINTENANCE IS NEGLECTED OR SUBJECT TO OTHER CIRCUMSTANCES AND IS DETERMINED TO BE A HAZARD OR THREAT TO PUBLIC SAFETY, BY THE DIRECTOR OF THE APPLICABLE DEPARTMENT OF PUBLIC WORKS, CORRECTIVE MAINTENANCE MAY BE PERFORMED BY THE GOVERNING JURISDICTION WITH THE COSTS ASSESSED TO AND BORNE UPON SAID PROPERTY OWNER(S). OFFICERS REPRESENTING THE APPLICABLE DEPARTMENT OF PUBLIC WORKS SHALL HAVE THE RIGHT TO ENTER UPON THE EASEMENT FOR PURPOSES OF PERIODIC INSPECTION AND/OR CORRECTIVE MAINTENANCE.

#	DATE	DESCRIPTION	BY
1	6/27/2006	REVISIONS AS PER COMMENTS FROM TOPEKA PLANNING STAFF	RKB

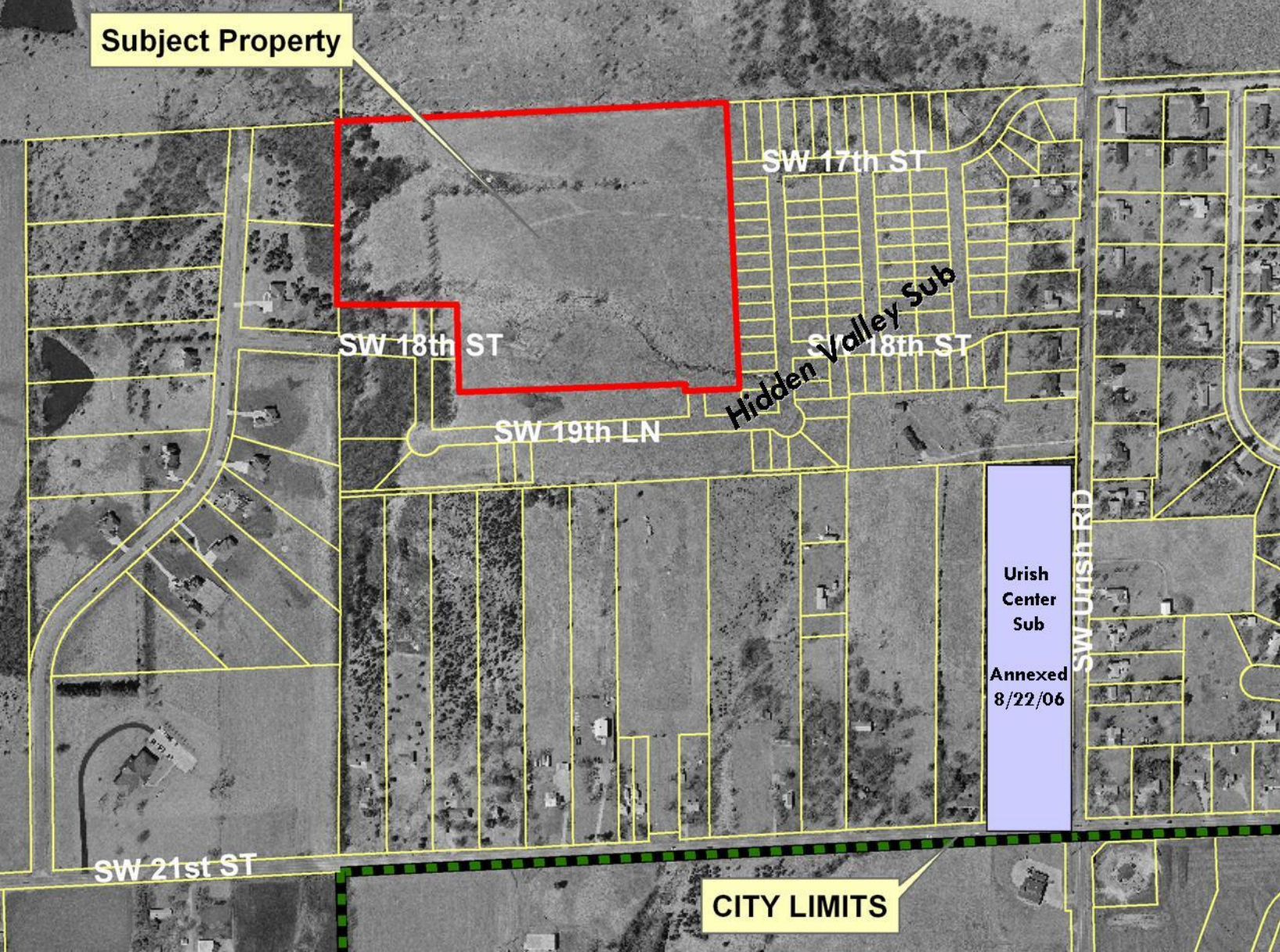
BARTLETT & WEST ENGINEERS
1200 SW EXECUTIVE DRIVE - TOPEKA KS 66615-3850
PHONE 785.273.2252 - FAX 785.273.8738
WWW.BARTLETTWEST.COM

HIDDEN VALLEY SUBDIVISION No. 5
SHAWNEE COUNTY, KANSAS

PRELIMINARY PLAT

PROJ NO: 12727.500	DRAWING NO: P06/28
CONST PROJ: 12727.500	
SCALE: 1" = 100'	SHEET NO: 1 of 1
DATE: June 9, 2006	

Subject Property



SW 17th ST

SW 18th ST

SW 18th ST

SW 19th LN

Hidden Valley Sub

Urish
Center
Sub

Annexed
8/22/06

SW URISH RD

SW 21st ST

CITY LIMITS



A Capital City Serving You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

July 26, 2006

+ Back Print

DATE:	September 12, 2006		
CONTACT PERSON:	Bill Fiander	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Hickory Ridge Estates Subdivision No. 10	PROJECT #:	P06/27
CATEGORY/SUBCATEGORY	017 Plats/002 Final		
CIP PROJECT:	No		
ACTION OF COUNCIL:		JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

A FINAL PLAT for Hickory Ridge Estates Subdivision No. 10 located approximately 130-feet east of NW Bent Tree Lane between NW 32nd Street and NW Bitter Nut Street within unincorporated Shawnee County, Kansas. (P06/27) (The Planning Commission recommended approval by a vote of 7-0-0.) (Tabled for 60 days from the meeting of July 25, 2006.)

(Approval would accommodate development of the property for single-family residential uses.)

POLICY ISSUE:

The plat is not consistent with current city code requiring annexation into the City prior to providing sanitary sewer service for new or redeveloped parcels established by preliminary or final plat within the MSA after November 1, 2005. The property is not contiguous to the city limits and the city is unable to annex without Shawnee County approval. In order to approve the plat without annexation, City Council must exempt the property from the annexation requirement for sewer service as provided for under Sec. 146-256.C(3).

STAFF RECOMMENDATION:

The **Final Plat Phase of Hickory Ridge Estates Subdivision No. 10** was reviewed by the Planning Commission on June 19, 2006, at their regular monthly meeting. At that time, the Planning Commission took the following action on the plat: **APPROVAL (7-0-0)** as referenced in their attached minutes dated **June 19, 2006**. The Planning Department evaluated this proposal relative to the standards and provisions of the Subdivision Regulations and recommended the Planning Commission **DISAPPROVE** the proposal as referenced in the attached staff report

BACKGROUND:

- See attached Staff Report.
- The applicant has consented to annexation with recording of the final plat and by separate instrument.
- City Council options
 - Accept the plat as presented for recording by the Shawnee County Register of Deeds. In order to approve the plat without annexation, City Council must exempt the property from the annexation requirement for sewer service as provided for under Sec. 146-256.C(3). **Item #23**
 - Reject the plat so it would **not** be eligible for recording by the Shawnee County Register of Deeds.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Staff Report](#)

[Applicant Letter p1](#)

[Applicant Letter p2](#)

[Plat](#)

[Aerial](#)

[City Council Minutes \(12-13-05\)](#)

[Planning Commission Minutes \(6/19/06\)](#)

DRAFT

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

Hickory Ridge Estates No. 10 (Final Plat Phase)(P06/27) by Russell and Karen Pruitt, Pruitt Builders on property located as a continuation and connection of NW 32nd Street and NW Bitter Nut Street. **(Diediker)** Dean Diediker summarized the staff report.

Discussion by members:

Ralph Skoog stated this item was already rejected by the city. Terry Simnitt stated it was approved by the Planning Commission unanimously but failed at City Council. Fred Sanders asked for an explanation of the Municipal Service Boundary (MSB). Mr. Diediker replied this is the area which the city anticipates being able to serve with water and sewer on a contiguous basis. Mr. Sanders asked how this subdivision is different than RockFire at the Lake? Mr. Diediker said RockFire was an island annexation just like this subdivision. David Thurbon added the difference is, the only parcel separating RockFire from the City limits is Lake Shawnee. There are many parcels between Hickory Ridge Estates and the City limit line. Terry Simnitt asked what sewer district serves this subdivision? Mr. Thurbon stated the same as Hickory Ridge Subdivision No. 11 but goes into a city treatment plant. Mr. Simnitt asked how hook up to the sewer would be funded?

Pam Simecka, City of Topeka Water Pollution Control, said it would be paid for with special assessment bonds.

Proponents:

Mike Berry, Professional Engineering Consultants, spoke in favor of the proposal. He stated nothing has really changed since this item was previously before you. He stated he agrees with the staff report and would like to forward this on the City Council again. Mr. Berry said the Council questioned the maintenance of the streets. Soldier Township will maintain all streets and will be funded by the township as well. Street lights were another issue. Currently there is not an ordinance requiring them. Ralph Skoog asked if the houses will have to be built to City standards if annexed. Mr. Berry replied yes. Mr. Skoog asked if the lots were going to be sold off or built by the developer?

Russell Pruitt, owner/developer, spoke in favor of the proposal. He said he intends to do the building and will follow City Code and will be inspected as well.

Motion:

Ralph Skoog moved approval as written by staff, seconded by Terry Simnitt. **APPROVAL (7-0-0), subject to conditions in the staff report.**

Mark Boyd stated the infrastructure is in place. He said he has a problem with denying areas that are paying for their infrastructure. Developers can't go into areas and extend themselves and they can't connect where available. He stated denying isn't following our future growth. It doesn't follow the fringe growth policy. Mr. Simnitt said he agrees. Mr. Sanders stated we need a core growth plan.

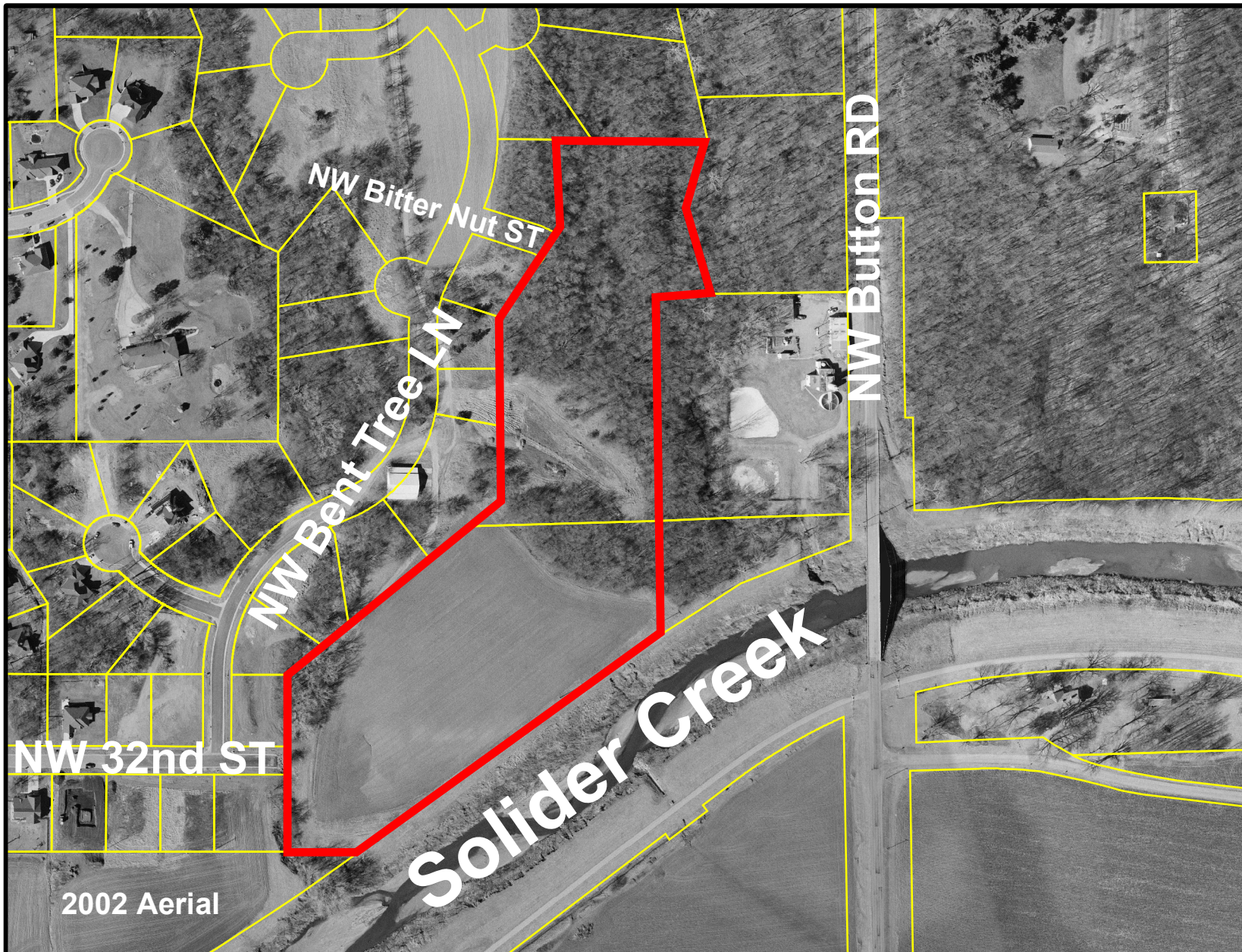
City Council Minutes – December 13, 2005

A FINAL PLAT for Hickory Ridge Estates Subdivision No. 10 located approximately 130feet east of NW Bent Tree Lane between NW 32nd Street and NW Bitter Nut Street within unincorporated Shawnee County, Kansas was presented.

David Thurbon, Planning Director gave the staff report. He stated that the Planning Commission recommended approval by a vote of 9-0-0 on September 19, 2005. He also stated that the applicant has granted their consent to annexation with the recording of the plat.

Councilmember Duffy stated that he believes the project does not qualify as an infill housing project and city taxpayers should not have to pay for development outside city limits. He asked who is responsible for snow removal services, and if the developer has presented a street lighting plan. He also asked who would be financially responsible for the streetlights, the City or County. David Thurbon stated that the applicant would have to comply with current regulations and would not have to install streetlights. He also stated that he is not sure who would be responsible for snow removal services at this time.

Councilmember Alcala moved to approve the final plat. The motion seconded by Councilmember Ortiz failed. Councilmembers Nave, Haynes, Duffy and Harmon voted "no". (4-4-0)



P06/27 Hickory Ridge Estates Subdivision No. 10

FINAL PLAT HICKORY RIDGE ESTATES NO. 10

BOOK _____ PAGE _____

DATE _____ TIME _____

A PART OF THE SOUTHEAST QUARTER OF SECTION 11,
TOWNSHIP 11 SOUTH, RANGE 15 EAST OF THE 6TH P.M.
SHAWNEE COUNTY, KANSAS

Notes:

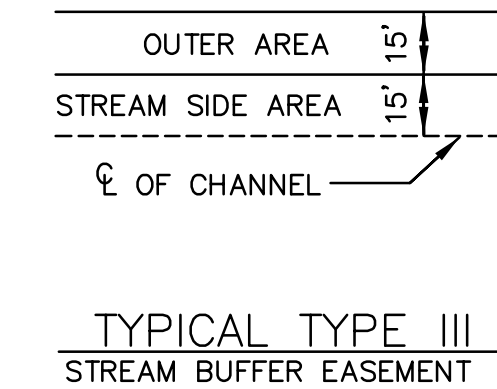
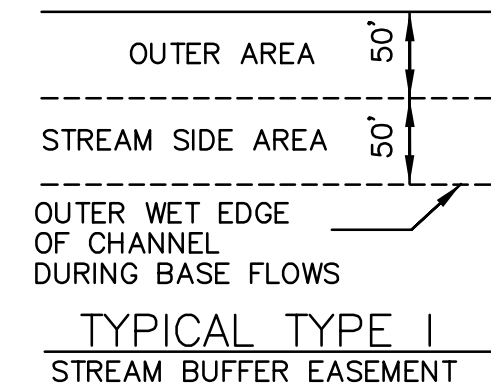
- Property owners shall be admonished from placing any permanent or semi-permanent obstructions in permanent sewer and utility easements. This includes, but is not limited to trees, shrubs, fences, retaining walls, buildings or other miscellaneous obstructions that interfere with access and egress of maintenance vehicles and equipment for the operation and maintenance of the utility or pipe lines located in the easement. Any permanent or semi-permanent obstruction located within the permanent sewer easement may be removed by personnel representing the City of Topeka, to provide for the proper operation and maintenance of that utility line without cost or obligation for replacement. Cost of removal and/or replacement shall be the responsibility of the property owner.
- Sewer and water: no building (zoning) permit will be issued until the owner has made arrangements for connection to public sanitary sewer and public water line(s) to serve lot(s) requesting building permit.
- No building permits are to be issued for Lots 6–12, Block "A" or Lots 4–8, Block "B" until such time as the construction for NW Bitter Nut Street and NW 32nd Street is under contract.
- All utilities shall be placed underground pursuant to the City of Topeka right-of-way management standards.
- The owner of record of the above described real estate does hereby evidence its complete and irrevocable consent to annexation by the City of Topeka in accordance with the laws of the State of Kansas. This consent shall run with the land and shall be binding upon the heirs, successors and assigns of the undersigned.
- Flood Control Levee: Any excavation within 1000 feet of the centerline of any flood control levee is subject to review and approval by the applicable department of public works and a permit may be required. (All lots within this subdivision may be subject to this requirement, except Lot 17, Block A)
- Stream Buffer Easements are defined as follows and are dimensioned on the subject property as shown on the plat graphic. (Per ordinance No. 17837)

STREAMSIDE AREA—USES ALLOWED:

- NATIVE VEGETATION
- FLOOD CONTROL
- FOOT PATHS/ROAD CROSSINGS
- UTILITY CORRIDORS

OUTER AREA—USES ALLOWED:

- NATIVE VEGETATION
- LANDSCAPED AREA, RESIDENTIAL YARDS
- BIKE/HIKING PATHS
- FLOOD CONTROL, DETENTION/RETENTION
- UTILITY CORRIDORS
- STORMWATER BMP'S



VARIANCE REQUESTED:

Pursuant to provisions of Section 134–4, the Topeka Planning Commission has granted a variance to provisions of Code Section 134–142(a) of the Subdivision Regulations to eliminate the 16' utility easement requirement on approval of this plat. This variance applies to all rear property lines within the subdivision in order to maintain the existing vegetation.

Pursuant to provisions of Section 134–4, the Topeka Planning Commission has granted a variance to provisions of Code Section 134–78 of the Subdivision Regulations to extend the approval period of the preliminary plat by an additional 6 months to facilitate resubmittal of the final plat for additional consideration.

SURVEYOR'S CERTIFICATE:

I hereby certify the details of this plat to be true and correct to the best of my knowledge and belief, that all boundary corners of the subdivision of land have been monumented and that iron pins are set as shown on the attached plat this _____ day of _____, 2006.

Michael D. Clifford #884

Reviewed by Shawnee County Surveyor

Rule A. Seymour #834

Date

LEGAL DESCRIPTION

That part of the Southeast Quarter of Section 11, Township 11 South, Range 15 East of the Sixth Principal Meridian, Shawnee County, Kansas, described as follows:

Commencing at the northeast corner of said Southeast Quarter; thence along the north line of said Southeast Quarter on an assumed bearing of S88°27'02"W, 438.74 feet to the northeast corner of Hickory Ridge Estates No. 9, a Subdivision as recorded in Plat Book 39, Page 10 in the Office of the Register of Deeds in said County; thence, along the east line of said Subdivision the following courses: S01°32'58"E, 40.00 feet; thence S12°55'00"E, 202.25 feet; thence S12°50'00"E, 203.99 feet; and thence S12°45'11"E, 77.41 feet to the southeast corner of Lot 4, Block A in said Subdivision, also being a point on the west line of a tract of land as described and recorded in Book 3879, Page 943 (a portion of said tract later conveyed and recorded in Book 4063, Page 125) in said Office and being the Point of Beginning; thence along the west line of said tract S15°59'02"W, 170.80 feet (described as 170.60 feet); thence continuing along said west line S17°07'02"E, 163.76 feet (described as 163.57 feet) to the southwest corner of said tract and being the northeast corner of a tract of land described and recorded in Book 2025, Page 14 in said Office; thence along the north line of said tract S89°11'56"W, 115.00 feet to the northwest corner of said tract; thence along the west line of said tract S00°46'22"E, 711.25 feet (described as 711.51 feet) to the north right-of-way line of Soldier Creek as condemned under Case No. 82390; thence southwesterly along the north right-of-way line of Soldier Creek the following courses: 83.32 feet along a curve concave to the south having a radius of 1,567.40 feet, a chord direction of S54°23'20"W, and a chord length of 83.31 feet; thence S52°51'58"W, 588.22 feet (described as 588.03 feet); thence 119.92 feet along a curve concave to the north having a radius of 5,634.30 feet, a chord direction of S53°37'38"W, and a chord length of 119.91 feet to the northeast corner of Block C, Hickory Ridge Estates No. 8, a Subdivision as recorded in Plat Book 38, Page 104 in said Office; thence along the east line of Hickory Ridge Estates No. 8 the following courses: N89°51'07"W, 155.07 feet; thence N00°08'53"E, 376.31 feet; and thence N50°53'11"E, 169.97 feet to the southwest corner of Lot 6, Block B, Hickory Ridge Estates No. 9, a Subdivision as recorded in Plat Book 39, Page 11 in said Office; thence along the easterly line of Hickory Ridge Estates No. 9 the following courses: N50°53'11"E, 414.69 feet; thence N00°46'22"W, 390.94 feet; thence N37°56'34"E, 153.95 feet; thence N29°27'07"E, 60.40 feet; thence N00°31'04"E, 200.63 feet; and thence S89°28'56"E, 317.02 feet to the Point of Beginning.

The above described contains 13.71 acres more or less.

DEDICATION:

Know all men by these presents that the owners of the above described tract of land have caused the same to be subdivided into lots, blocks and public ways which shall be known as Hickory Ridge Estates No. 10. The public ways (streets and roads) not heretofore dedicated, are hereby dedicated to the public. The utility easements are dedicated to the use of public utilities. Additional 12 foot temporary easements for construction purposes adjacent to the permanent utility easements are dedicated to the use of the public utilities during the initial installation of their facilities. Building lines or setback lines are established as shown on the attached plat.

NOTICE:

In the event there are other owners or those holding any proprietary interest in any land contained in this subdivision whom do not appear and duly acknowledge this plat prior to the time of recording, the plat shall be null and void.

IN TESTIMONY WHEREOF:

The owners of the above described tract of land, Russell and Karen Pruitt, husband and wife, have signed these presents this _____ day of _____, 2006.

Russell Pruitt

Karen Pruitt

STATE OF KANSAS

COUNTY OF SHAWNEE ss:

Be it remembered that on this _____ day of _____ A.D. 2006, before me the undersigned a notary public, in and for the county and state aforesaid, came Russell and Karen Pruitt, husband and wife, owners of the above described tract of land.

IN WITNESS WHEREOF:

I hereby set my hand and affix my notarial seal the day and year last written above.

NOTARY PUBLIC

My commission expires: _____

CERTIFICATE OF APPROVAL:

Approved by the Topeka Planning Commission this _____ day of _____, 2006.

Chairman, Topeka Planning Commission

David F. Thurbon A.I.C.P. Secretary

This Subdivision has been presented to the City Council, City of Topeka, Kansas, on the _____ day of _____, 2006, for acceptance of land to be dedicated for public purposes. The City Council hereby accepts the land for public purposes.

By the City Council

City of Topeka, Kansas

William W. Buntin, Mayor

Iris E. Walker, City Clerk

Entered on the transfer record of Shawnee County, Kansas this _____ day of _____, 2006.

Cynthia A. Beck, County Clerk

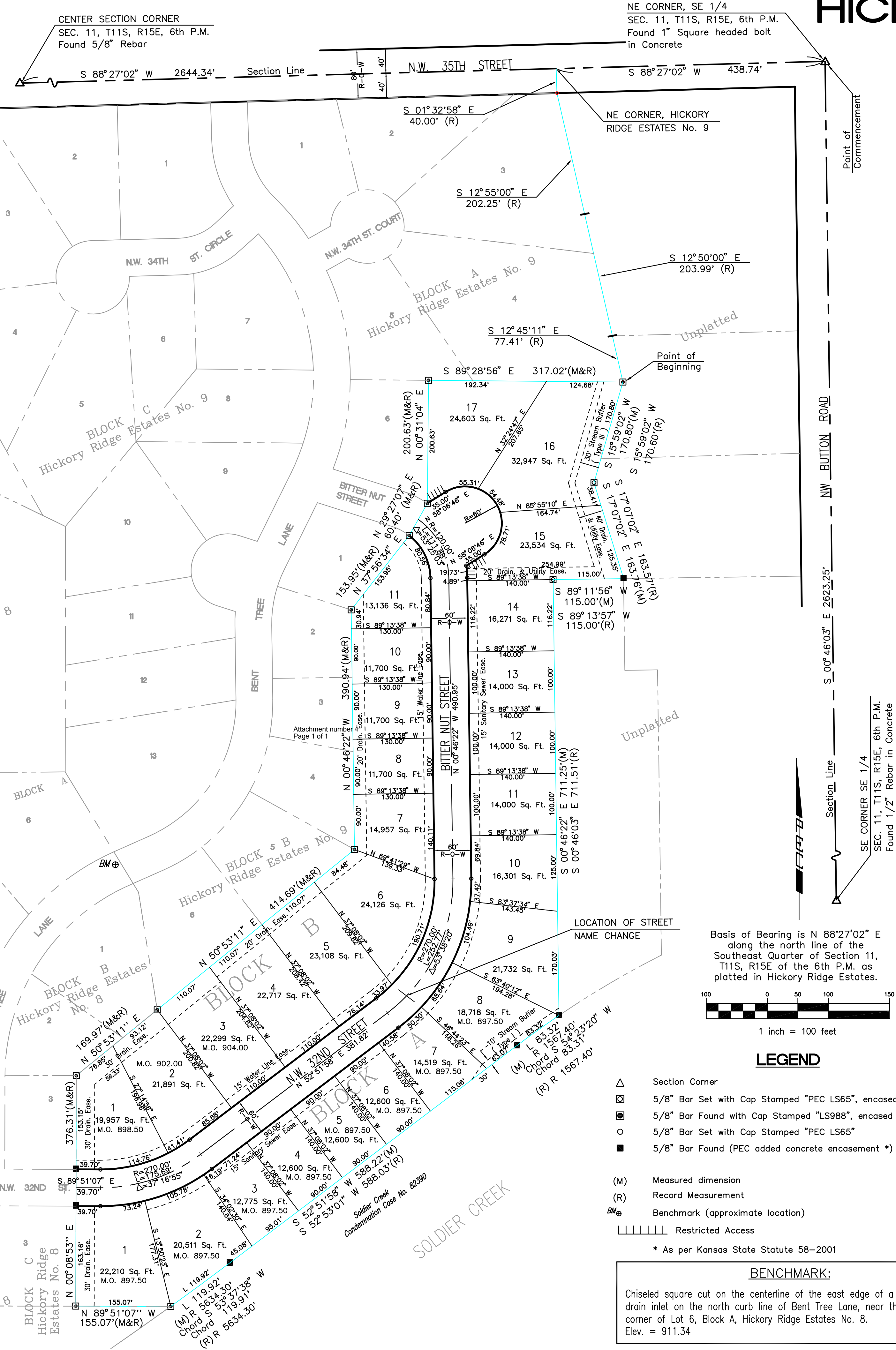
Filed for record in the office of the Shawnee County Register of Deeds this _____ day of _____, 2006, at _____ O'Clock.

Marilyn L. Nichols, Register of Deeds



Professional Engineering Consultants, P.A.
1263 SW. TOPEKA BLVD. • TOPEKA, KANSAS 66612
785-233-8300 • FAX 785-233-8855

PLAT PREPARATION DATE: AUGUST 26, 2005
REVISION DATE: NOVEMBER 7, 2005
REVISION DATE: MAY 24, 2006



LEGEND

- △ Section Corner
- 5/8" Bar Set with Cap Stamped "PEC LS65", enclosed in concrete
- 5/8" Bar Found with Cap Stamped "LS988", enclosed in concrete
- 5/8" Bar Set with Cap Stamped "PEC LS65"
- 5/8" Bar Found (PEC added concrete encasement *)

- (M) Measured dimension
- (R) Record Measurement
- BM Benchmark (approximate location)
- ||||| Restricted Access

* As per Kansas State Statute 58–2001

BENCHMARK:

Chiseled square cut on the centerline of the east edge of a storm drain inlet on the north curb line of Bent Tree Lane, near the southeast corner of Lot 6, Block A, Hickory Ridge Estates No. 8. Elev. = 911.34

HRE NO. 10/LETTER
May 25, 2006

PAGE 2

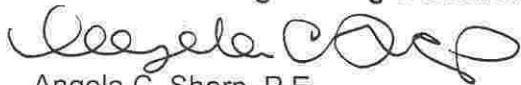
which street maintenance and snow removal are paid for, and whether street lights would be required for the subject property. In regard to infill development, I would offer that this is the final link in the street construction for a development that has been ongoing for over ten years. With the physical constraints of the property, this plat does not invite further unplanned development in an undeveloped area, but to the contrary, it completes an overall development plan. The staff report that was written for the final plat when it was first submitted supports this position and indicates: "The original preliminary plat of Hickory Ridge Estates included the subject property and was approved on July 18, 1994, prior to adoption of ordinance (#18272) requiring annexation prior to receiving sewer services. It is staff's interpretation that the term "new or redeveloped parcels" as used in the ordinance is not applicable to properties that were covered by an approved preliminary plat prior to the adoption of the ordinance on June 22, 2004. A consent to annexation has been provided on the final plat."

It was questioned at the council meeting whether City tax payers are paying for street maintenance and snow removal for developments outside the city limits. This is not the case for local and collector streets in the County. These are township roads that are maintained by the tax dollars provided by the residents of the Townships alone. All streets within the subject property are classified as local streets that do not receive any maintenance tax dollars from the County-at-large or City tax payers.

The final issue that was raised concerned the street light ordinance that is still under review. Should the ordinance be passed, it would require street lights to be installed by the developer for all newly constructed subdivisions. The Planning Director, David Thurbon, indicated that the applicant would have to comply with current regulations and would not have to install streetlights. As a side note to this issue, the language in the proposed ordinance did not address the responsible party for maintenance costs for the streetlights once they are installed for subdivisions that are outside the City limits. Maintenance for installations inside the City limits are indicated to be paid by the City. I feel this issue requires resolution.

In summary, I feel the approval of this plat will provide the connecting link for the existing streets and will complete the overall plan of development for this property that was approved twelve years ago. The property owner should be allowed to take this logical step in the final progression of this development. Please don't hesitate to contact me with any questions or comments you might have. Thank you for your assistance.

Sincerely,
Professional Engineering Consultants, P.A.



Angela C. Sharp, P.E.

ACS\sa
Enclosures

cc: Russell Pruitt, w/enclosures



Professional Engineering Consultants, P.A.

May 25, 2006

Mr. Dean Diediker
Planner II
Topeka Planning Department
620 SW Madison, 3rd Floor
Topeka, Kansas 66607

RE: Hickory Ridge Estates No. 10 Final Plat
PEC Project No. 05A34-001-5970

Dear Dean:

Enclosed please find sixteen (16) full sized blackline copies, sixteen (16) 11" X 17" copies, one 8 1/2" x 11" copy of the above referenced final plat, a copy of the original Application for Subdivision, a check in the amount of \$156.00 for the filing fee, and a disk with a .tif file of the Final Plat drawing for your review.

As we have discussed, we are submitting the final plat for this property for reconsideration by the Planning Commission and City Council. Aside from the addition of the request for a variance to the Subdivision Regulations concerning the Planning Commission's extension of the preliminary plat review period, no other changes have been made to the plat. Following is an overall timeline of the Hickory Ridge Estates development as a whole that I felt would be helpful.

July, 1994:	Approval by the Planning Commission of the overall preliminary plat
October, 1994:	Hickory Ridge Estates final plat recorded (1 st phase of development)
June, 1995:	HRE No. 2, a replat of a portion of HRE
May, 1997:	HRE No. 3 and HRE No. 4 final plats recorded (2 nd phase of development)
February, 1998:	HRE No. 5, a replat
October, 1998:	Revised overall preliminary plat approved
June, 1999:	HRE No. 6 and No. 7, replats
May, 2002:	HRE No. 8 final plat recorded (3 rd phase of development)
February, 2003:	HRE No. 9 final plat recorded (4 th phase of development)
August 15, 2005:	HRE No. 10 preliminary plat approval by Planning Commission (9-0-0)
September 19, 2005:	HRE No. 10 final plat approval by Planning Commission (9-0-0)
December 13, 2005:	HRE No. 10 final plat not approved by City Council (4-4-0)

As can be seen from this summary, the development of this property has occurred in a steady, consistent manner that upon review has produced a well maintained and stable residential neighborhood. The plat drawing shows the proposed 28 lot plat as the final link that provides the completion of all remaining road connections within the subdivision. Homes have been built and are occupied on all lots of the development except 12 that lie within Hickory Ridge Estates No. 9 which was the most recently platted phase.

Review of the minutes from the December 13, 2005 City Council meeting indicates that the issues raised concerning this plat were the definition of infill development, the means by

DIRECTORS:

D.E. MALTBI, P.E.

M.D. SCHOMAKER, P.E.

G.D. SCHOCK, P.E.

J.H. BAILEY, P.E., Ph.D.

D.I. NORTON, P.E.

B.E. REMSBERG, P.E.

G.K. GREENWOOD, P.E.

D.E. HAGER, P.E.

M.W. BERRY, P.E.

J.B. GEORGE, P.E.

R.A. SCHLITT, P.E.

ASSOCIATE

DIRECTORS:

K.L. ROOD, P.E.

W.G. BRITSON, P.E.

T.M. LENZ, P.E.

R.R. YOUNG, P.E.

J.P. MOORE, P.E.

J.L. MARTIN, P.E.

W.G. MOHR, P.E.

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June 19, 2006
Agenda Item #G-4

SUBDIVISION REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase

Preliminary and Final Plat Phase

Final Plat Phase

NAME: Hickory Ridge Estates Subdivision No. 10 - [P06/27]

OWNER/DEVELOPER: Russell and Karen Pruitt, Pruitt Builders.

ENGINEER/SURVEYOR: Professional Engineering Consultants, P.A.

GENERAL LOCATION: On property located approximately 130-feet east of NW Bent Tree Lane between NW 32nd Street and NW Bitter Nut Street within unincorporated Shawnee County, Kansas.

JURISDICTION: Class "B" subdivision within the (3) three-mile extra territorial jurisdiction (ETJ) of the City of Topeka as well as the City's Municipal Service Area (MSA).

ANNEXATION: Current city code requires annexation into the City prior to providing sanitary sewer service for new or redeveloped parcels established by preliminary or final plat within the MSA after November 1, 2005. As the property is not contiguous to the city limits the city is unable to annex without Shawnee County approval. The City Council may exempt a property from the annexation requirement if certain findings are made according to current City code. The applicant has provided their written consent to annexation with the recoding of the final plat. The applicant also needs to provide a separate consent to annexation prior to Council consideration of the final plat.

Area	# of Lots	Residential Density	Proposed Land Use	Zoning
13.71 acres	28	2.04 units/acre	Residential	"RR-1" Residential Reserve District
Pending Zoning Case: None.				
Design: The subject plat contains 13.71 acres, more or less and is irregular in shape, measuring approximately 410' x 1640' with its greatest length running parallel to NW Bent Tree Lane. The proposal consists of a two (2) block 28-lot subdivision with Block "A" containing 17 Lots, and Block "B" containing 11 Lots, having an average lot size of approximately 17,740 S.F. The purpose of the plat is to establish a 28-lot subdivision of single-family residential dwellings.				

PREVIOUS ACTION: The Topeka Planning Commission approved the final plat [P05/32] of Hickory Ridge Subdivision No. 10 on September 19, 2005 by a vote of 9-0-0. This plat was subsequently rejected by the City Council by a vote of 4-4-0 on December 13, 2005. The basis for the rejection was due to the fact the subdivision was located inside the municipal service boundary with questions being raised regarding street maintenance, snow removal, street lighting and the questionability of annexing the property.

BACKGROUND: The original preliminary plat was approved on July 18, 1994. This is the final phase of the Hickory Ridge Estates development and with its completion all remaining road connections within the subdivision will be realized through the extension and connecting of NW 32nd Street and NW Bitter Nut Street.

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SERVICES AND FACILITIES:

1. **WATER SERVICE:** The development is to be served by Shawnee County Rural Water District No. 4 water supply and distribution system by means of connection to and extension of an existing 6" water main located along the north side of NW 32nd Street.
2. **SEWAGE DISPOSAL:** The development is to be serviced by the Shawnee County Main Sewer District No. 37 as maintained by the City of Topeka public wastewater treatment plant and collection system by means of connection to and extension of an existing 8" sewer main located along the south side of NW 32nd Street.
3. **WASTEWATER PLAN SERVICE AREA:** The property is located within the Primary Urban Service Area as reflected by the Shawnee County Wastewater Management Plan; and the proposal appears to be in full compliance with said Plan.
4. **DRAINAGE CONDITIONS:** The drainage report as submitted by the Consultant to the City of Topeka Department of Public Works has been approved per memo dated July 18, 2005.
5. **STREET PLAN/ACCESS:** The preliminary street plan as submitted to the Shawnee County Public Works Department has been approved per memo dated December 10, 2002.
6. **FIRE DISTRICT:** Soldier Township.
7. **STREAM BUFFER:** The City of Topeka Water Pollution Control Department finds the subdivision compliant with the Stream Buffer Ordinance per memo dated July 26, 2005.
8. **SCHOOL DISTRICT:** USD No. 345 – Seaman.
9. **PARKS/OPEN SPACE:** The parkland development fee is calculated at \$6,300. This figure is based on a total of 28 single-family dwelling units; with each dwelling unit being assessed a fee of \$225.00 per unit.

WAIVER/VARIANCE TO STANDARDS: Pursuant to the provisions of Section 134-4 of the City of Topeka Subdivision Regulations the applicant is seeking a design variance to the rear lot line public utility easement requirement pursuant to Section 134.142(a) of the City of Topeka Subdivision Regulations whereby the applicant seeks to have the six foot rear lot line public utility easement requirement waived in order to encourage preservation of the natural timber located along many rear lot lines within the proposed subdivision. All utilities will be required to be located along the frontages of the proposed lots.

The applicant is also requesting an extension of the approval of the original preliminary plat pursuant to Section 134-78 of the Subdivision Regulations.

PUBLIC CAPITAL IMPROVEMENTS IN WHICH THE DEVELOPER ANTICIPATES REQUESTING THE GOVERNING BODY TO PARTICIPATE: None anticipated.

CAPITAL IMPROVEMENT PLAN (CIP): There are currently no transportation projects in the City's or County's CIP (2006-2011) affecting this area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* establishes this area for *Urban Suburban Low Density Residential* land use. The proposal is consistent with this intent. The property is located in the northwest Planned Growth Area and is within the MSA. Annexation policies of the plan state that annexation should be the norm and not the

June 19, 2006
Agenda Item #G-4

exception for all proposed development other than a rare, isolated rural residence and annexation should be encouraged prior to additional urbanized development.

STAFF ANALYSIS: As proposed the subdivision completes the street connection of NW 32nd Street with NW Bitter Nut Street within an already urbanized subdivision and meets the technical standards for subdivisions. However, recent Council decisions have established a de facto policy of not supporting urbanized-type development that is not annexable to the City or that the City is not contractually obligated to provide service to. Provided conditions of the proposal have not changed nor have subsequent decisions made by Council altered such de facto policy it is staff's position to make recommendations consistent with past Council decisions. The Council's policy is supported by annexation policies of the Topeka Land Use & Growth Management Plan - 2025. Therefore, the Planning Department recommends the final plat phase of Hickory Ridge Estates Subdivision No. 10 be **DISAPPROVED**.

Should the Planning Commission approve the final plat of Hickory Ridge Estates Subdivision No. 10 staff would recommend approval be subject to the following:

1. Compliance with all requirements of reviewing agencies before submitting the final plat to the City Council for consideration.
2. The Planning Commission granting an extension to the original preliminary plat of Hickory Ridge Estates Subdivision which was approved more than six months ago pursuant to the provisions of Section 134-78 of the Subdivision Regulations.
3. The Planning Commission granting a variance to Section 134-142(a) waiving the public six foot rear lot line public utility easement requirement in order to encourage preservation of the natural timber located along many rear lot lines within the proposed subdivision. All utilities will be required to be located along the frontages of the proposed lots.
4. Applicant is to provide a separate consent to annexation prior to Council consideration of the final plat.

Prepared by: Dean W. Diediker
Planner II



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

July 26, 2006

+ Back Print

DATE: September 12, 2006

CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:**

SECOND PARTY/SUBJECT: Hickory Ridge Estates **PROJECT #:** P06/26
Subdivision No. 11

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A FINAL PLAT for Hickory Ridge Estates Subdivision No. 11 located at the southwest corner of NW 35th Street and NW Button Road within unincorporated Shawnee County, Kansas. (P06/26) (The Planning Commission recommended approval by a vote of 7-0-0.) (Tabled for 60 days from the meeting of July 25, 2006.)

(Approval would accommodate development of the property for an additional single-family residence.)

POLICY ISSUE:

The plat is not consistent with current city code requiring annexation into the City prior to providing sanitary sewer service for new or redeveloped parcels established by preliminary or final plat within the MSA after November 1, 2005. The property is not contiguous to the city limits and the city is unable to annex without Shawnee County approval. In order to approve the plat without annexation, City Council must exempt the property from the annexation requirement for sewer service as provided for under Sec. 146-256.C(3).

STAFF RECOMMENDATION:

The **Final Plat Phase of Hickory Ridge Estates Subdivision No. 11** was reviewed by the Planning Commission on June 19, 2006, at their regular monthly meeting. At that time, the Planning Commission took the following action on the plat: **APPROVAL (7-0-0)** as referenced in their attached minutes dated **June 19, 2006**. The Planning Department evaluated this proposal relative to the standards and provisions of the Subdivision Regulations and recommended the Planning Commission **DISAPPROVE** the proposal as referenced in the attached staff report.

BACKGROUND:

- See attached Staff Report.
- The applicant has consented to annexation with recording of the final plat and by separate instrument.
- City Council options:
 - Accept the plat as presented for recording by the Shawnee County Register of Deeds. In order to approve the plat without annexation, City Council must exempt the property from the annexation requirement for sewer service as provided for under Sec. 146-256.C(3).
 - Reject the plat so it would **not** be eligible for recording by the Shawnee County Register of Deeds.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Staff Report](#)

[Plat](#)

[Aerial](#)

[Minutes of 6-19-06](#)

DRAFT

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

Hickory Ridge Estates No. 11 (Final Plat Phase)(P06/26) by Nations Development Corporation, Charles Nations, President and Jeffrey S. and Michele R. Lewis on property located at the southwest corner of NW 35th Street and NW Button Road. **(Diediker)** Dean Diediker summarized the staff report.

Proponents:

Mike Berry, Professional Engineering Consultants, spoke in favor of the proposal. He said this is the last portion of this subdivision. It is two lots and is consistent with the Comprehensive Plan. He said it is within the Municipal Service Boundary and the property owners have been paying special assessments for sewer for 10 years. There is consent for annexation for this subdivision. He said he agrees with the conditions listed in the staff report. Terry Simnitt asked if there is a house on the property? Mr. Berry replied yes. Mr. Simnitt asked if the house has sewer connection? Mr. Berry replied it is supplied by Sewer District #37. Mr. Berry added since sanitary sewer is available that is the reason we want to be subdivision so we can put another structure on the property. Mr. Simnitt asked what water district serves this area? Mr. Berry replied Rural Water District #4. Mr. Simnitt asked if there is a natural gas connection? Mr. Berry replied yes. Fred Sanders asked if there is good water pressure in the area? Mr. Berry replied yes.

Terry Simnitt asked if there is a separate document for annexation? David Thurbon replied yes and this item will not be sent on to City Council until is it signed.

No one spoke in opposition to the request.

Exparte communications: none

Motion:

Kimberly Scott moved approval as written by staff, seconded by Michelle Hoferer. **APPROVAL (7-0-0), subject to conditions in the staff report.**

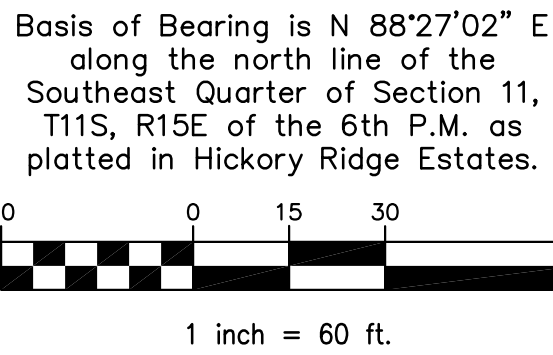
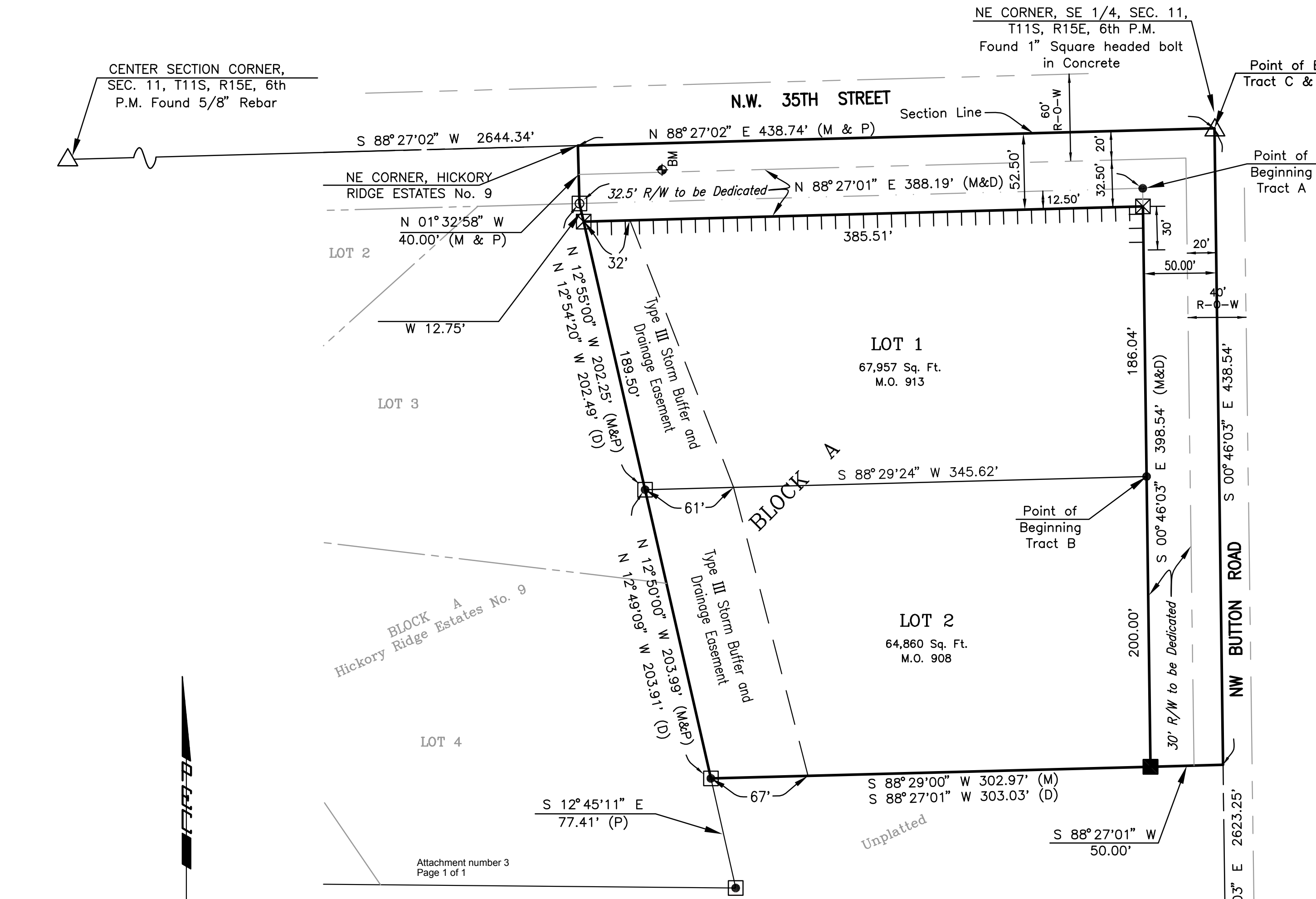


P06/26 Hickory Ridge Estates Subdivision No. 11

FINAL PLAT
HICKORY RIDGE ESTATES NO. 11

A PART OF THE SOUTHEAST QUARTER OF SECTION 11,
TOWNSHIP 11 SOUTH, RANGE 15 EAST OF THE 6TH P.M.
SHAWNEE COUNTY, KANSAS

BOOK _____ PAGE _____
DATE _____ TIME _____



LEGEND

- △ Section Corner
- ☒ 5/8" Bar Set with Cap Stamped "CLS 65", enclosed in concrete
- ☑ 1/2" Bar Found with Cap Stamped "Handke LS786", (PEC added concrete encasement*)
- 5/8" Bar Found with Cap Stamped "LS988", enclosed in concrete
- 5/8" Bar Found, no cap
- 5/8" Bar Found, no cap (PEC added concrete encasement*)
- (D) Record dimension from Deed
- (M) Measured dimension
- (P) Dimension as platted in Hickory Ridge Sub. No. 9
- BM Benchmark (approximate location)
- ||||| Restricted Access

* As per Kansas State Statute 58-2001

BENCHMARK:

RR spike in S. face of 3rd power pole W. of Button Rd. on the S. side of 35th St.

Elev. = 922.76 MSL

Legal Description

TRACT A (Book 2992, Page 990)

A Tract of land situated in the Southeast Quarter of Section 11, Township 11 South, Range 15 East of the Sixth Principal Meridian, Shawnee County, Kansas, more particularly described as follows: Commencing at the Northeast Corner of the Southeast Quarter; thence along the East line of said Quarter on a bearing of S00°46'03"E, a distance of 40.00 feet; thence on a bearing of S88°27'01"W, a distance of 50.00 feet to the point of beginning; thence parallel with the East line of said Quarter on a bearing of S00°46'03"E, a distance of 198.54 feet; thence parallel with the North line of said Quarter on a bearing of S88°27'01"W, a distance of 345.61 feet; thence on a bearing of N12°54'20"W, a distance of 202.49 feet to a point on the South right-of-way line of 35th Street; thence along the South right-of-way line of 35th Street on a bearing of N88°27'01"E, a distance of 388.19 feet to the point of beginning.

TRACT B (Book 4341, Page 232)

A Tract of land situated in the Southeast Quarter of Section 11, Township 11 South, Range 15 East of the Sixth Principal Meridian, Shawnee County, Kansas, more particularly described as follows: Commencing at the Northeast Corner of the Southeast Quarter; thence along the East line of said Quarter on a bearing of S00°46'03"E, a distance of 238.54 feet; thence on a bearing of S88°27'01"W, a distance of 50.00 feet to the point of beginning; thence parallel with the East line of said Quarter on a bearing of S00°46'03"E, a distance of 200.00 feet; thence on a bearing of S88°27'01"W, a distance of 303.03 feet; thence on a bearing of N12°49'09"W, a distance of 203.91 feet; thence on a bearing of N88°27'01"E, a distance of 345.61 feet to the point of beginning.

TRACT C

That part of the Southeast Quarter of Section 11, Township 11 South, Range 15 East of the Sixth Principal Meridian, Shawnee County, Kansas, described as follows: Beginning at the Northeast Corner of said Southeast Quarter; thence along the east line of said Southeast Quarter on an assumed bearing of S00°46'03"E, 438.54 feet; thence S88°27'01"W, 50.00 feet; thence parallel with said east line N00°46'03"W, 398.54 feet to a point 40 feet south of the north line of said Southeast Quarter; thence parallel with said north line S88°27'02"W, 388.19 feet; thence N01°32'58"W, 40.00 feet to the north line of said Southeast Quarter; thence N88°27'02"E along said north line 438.74 feet to the point of beginning.

More particularly described as follows:

Beginning at the Northeast Corner of the Southeast Quarter of Section 11, Township 11 South, Range 15 East of the Sixth Principal Meridian, Shawnee County, Kansas; thence along the east line of said Southeast Quarter on an assumed bearing of S00°46'03"E, 438.54 feet; thence S88°27'01"W, 50.00 feet; thence S88°29'00"W, 302.97 feet; thence N12°50'00"W, 203.99 feet; thence N12°55'00"W, 202.25 feet; thence N01°32'58"W, 40.00 feet to the north line of said Southeast Quarter; thence along said north line, N88°27'02"E, 438.74 feet to the Point of Beginning.

The above described contains 4.020 acres, more or less, including 17,143 square feet of existing right-of-way.

Notes:

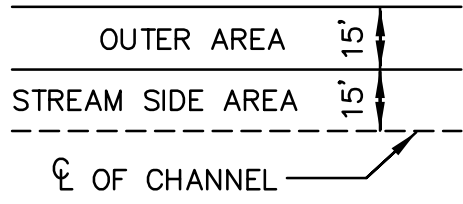
- Property owners shall be admonished from placing any permanent or semi-permanent obstructions in permanent sewer and utility easements. This includes, but is not limited to trees, shrubs, fences, retaining walls, buildings or other miscellaneous obstructions that interfere with access and egress of maintenance vehicles and equipment for the operation and maintenance of the utility or pipe lines located in the easement. Any permanent or semi-permanent obstruction located within the permanent sewer easement may be removed by personnel representing the City of Topeka, to provide for the proper operation and maintenance of that utility line without cost or obligation for replacement. Cost of removal and/or replacement shall be the responsibility of the property owner.
- Sewer and water: no building (zoning) permit will be issued until the owner has made arrangements for connection to public sanitary sewer and public water line(s) to serve lot(s) requesting building permit.
- All utilities shall be placed underground pursuant to the City of Topeka right-of-way management standards.
- The owner of record of the above described real estate does hereby evidence its complete and irrevocable consent to annexation by the City of Topeka in accordance with the laws of the State of Kansas. This consent shall run with the land and shall be binding upon the heirs, successors and assigns of the undersigned.
- FLOOD PLAIN NOTE: This property lies within Zone C, areas of minimal flooding, according to the Federal Emergency Management Agency, Flood Insurance Rate Map No. 200331, panel 65 with an effective date of June 1, 1982.
- Stream Buffer Easements are defined as follows and are dimensioned on the subject property as shown on the plat graphic. (Per ordinance No. 17837)

STREAMSIDE AREA—USES ALLOWED:

- NATIVE VEGETATION
- FLOOD CONTROL
- FOOT PATHS/ROAD CROSSINGS
- UTILITY CORRIDORS

OUTER AREA—USES ALLOWED:

- NATIVE VEGETATION
- LANDSCAPED AREA, RESIDENTIAL YARDS
- BIKE/HIKING PATHS
- FLOOD CONTROL, DETENTION/RETENTION
- UTILITY CORRIDORS
- STORMWATER BMP'S



TYPICAL TYPE III
STREAM BUFFER EASEMENT

VARIANCE REQUESTED:

Pursuant to provisions of Section 134-4, the Topeka Planning Commission has granted a variance to provisions of Code Section 134-142(a) of the Subdivision Regulations to eliminate the 16' utility easement requirement on approval of this plat. This variance applies to all property lines within the subdivision in order to maintain the existing vegetation.

SURVEYOR'S CERTIFICATE:

I hereby certify the details of this plat to be true and correct to the best of my knowledge and belief, that all boundary corners of the subdivision of land have been monumented and that iron pins are set as shown on the attached plat this _____ day of _____, 2006.

Michael D. Clifford #884

Reviewed by Shawnee County Surveyor

Rule A. Seymour #834

Date



Professional Engineering Consultants, P.A.
1263 S.W. TOPEKA BLVD. • TOPEKA, KANSAS 66612
785-233-8300 • FAX 785-233-8855

PLAN PREPARATION DATE: May 18, 2006

DEDICATION:

Know all men by these presents that the owners of the above described tract of land have caused the same to be subdivided into lots, blocks and public ways which shall be known as Hickory Ridge Estates No. 11. The public ways (streets and roads) not heretofore dedicated, are hereby dedicated to the public. The utility easements are dedicated to the use of public utilities. Additional 12 foot temporary easements for construction purposes adjacent to the permanent utility easements are dedicated to the use of the public utilities during the initial installation of their facilities.

NOTICE:

In the event there are other owners or those holding any proprietary interest in any land contained in this subdivision whom do not appear and duly acknowledge this plat prior to the time of recording, the plat shall be null and void.

IN TESTIMONY WHEREOF:

The owners of a portion of the above described tract of land, Jeffrey S. and Michele R. Lewis, husband and wife, have signed these presents this _____ day of _____, 2006.

Jeffrey S. Lewis

Michele R. Lewis

STATE OF KANSAS

COUNTY OF SHAWNEE ss:

Be it remembered that on this _____ day of _____ A.D. 2006, before me the undersigned a notary public, in and for the county and state aforesaid, came Jeffrey S. and Michele R. Lewis, husband and wife, owners of a portion of the above described tract of land.

IN WITNESS WHEREOF:

I hereby set my hand and affix my notarial seal the day and year last written above.

NOTARY PUBLIC

My commission expires: _____

IN TESTIMONY WHEREOF:

The owner of a portion of the above described tract of land, have caused these presents to be signed by its President, Charles Nations, and its seal to be affixed this _____ day of _____, 2006.

Nations Development Corporation
Charles Nations, President

STATE OF KANSAS

COUNTY OF SHAWNEE ss:

Be it remembered that on this _____ day of _____ A.D. 2006, before me the undersigned a notary public, in and for the county and state aforesaid, came Charles Nations, President of Nations Development Corporation, a Corporation duly organized, incorporated and existing under and by virtue of the laws of the state of Kansas, who is personally known to me to be such officer, and who is personally known to me to be such person who executed, as such officer, the within instrument of writing on behalf of said corporation, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

IN WITNESS WHEREOF:

I hereby set my hand and affix my notarial seal the day and year last written above.

NOTARY PUBLIC

My commission expires: _____

CERTIFICATE OF APPROVAL:

Approved by the Topeka Planning Commission this _____ day of _____, 2006.

Chairman, Topeka Planning Commission

David F. Thurbon A.I.C.P. Secretary

This Subdivision has been presented to the City Council, City of Topeka, Kansas, on the _____ day of _____, 2006, for acceptance of land to be dedicated for public purposes. The City Council hereby accepts the land for public purposes.

By the City Council
City of Topeka, Kansas

William W. Bunten, Mayor

Iris E. Walker, City Clerk

Entered on the transfer record of Shawnee County, Kansas this _____ day of _____, 2006.

Cynthia A. Beck, County Clerk

Filed for record in the office of the Shawnee County Register of Deeds this _____ day of _____, 2006, at _____ O'Clock.

Marilyn L. Nichols, Register of Deeds

June 19, 2006
Agenda Item #G-3

SUBDIVISION REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

Preliminary Plat Phase

Preliminary and Final Plat Phase

Final Plat Phase

NAME: Hickory Ridge Estates Subdivision No. 11 - [P06/26]

OWNER/DEVELOPER: Nations Development Corporation, Mr. Charles Nation, President, Jeffrey S. and Michele R. Lewis.

ENGINEER/SURVEYOR: Professional Engineering Consultants, P.A.

GENERAL LOCATION: On property located at the southwest corner of the intersection of NW 35th Street and NW Button Road within unincorporated Shawnee County, Kansas.

JURISDICTION: Class "B" subdivision within the (3) three-mile extra territorial jurisdiction (ETJ) of the City of Topeka as well as the City's Municipal Service Area (MSA).

ANNEXATION: Current city code requires annexation into the City prior to providing sanitary sewer service for new or redeveloped parcels established by preliminary or final plat within the MSA after November 1, 2005. As the property is not contiguous to the city limits the city is unable to annex without Shawnee County approval. The City Council may exempt a property from the annexation requirement if certain findings are made according to current City code. The applicant has provided their written consent to annexation with the recoding of the final plat. The applicant also needs to provide a separate consent to annexation prior to Council consideration of the final plat.

Area	# of Lots	Residential Density	Proposed Land Use	Zoning
4.02 acres	2	2.01 units/acre	Residential	"RR-1" Residential Reserve District
Pending Zoning Case: None.				
Design: The subject plat contains 4.02 acres, more or less and is basically square in shape, measuring approximately 388.19' x 398.54' with its greatest length running parallel to NW Button Road. The proposal consists of a single block 2-lot subdivision having an average lot size of approximately 68,827 S.F. The purpose of the plat is to establish two single-family residential lots.				

BACKGROUND: The original preliminary plat was approved on July 18, 1994.

SERVICES AND FACILITIES:

1. **WATER SERVICE:** The development is to be served by Shawnee County Rural Water District No. 4 water supply and distribution system by means of connection to an existing 6" water main located along NW Button Road.
2. **SEWAGE DISPOSAL:** The development is to be serviced by the Shawnee County Main Sewer District No. 37 as maintained by the City of Topeka public wastewater treatment plant and collection system by means of connection to and extension of an existing 8" sewer main located along the east right-of-way of NW Bent Tree Lane.

June 19, 2006
Agenda Item #G-3

3. WASTEWATER PLAN SERVICE AREA: The property is located within the Primary Urban Service Area as reflected by the Shawnee County Wastewater Management Plan; and the proposal appears to be in full compliance with said Plan.
4. DRAINAGE CONDITIONS: A drainage report must be submitted and approved before the final plat receives consideration by the City Council.
5. STREET PLAN/ACCESS: NW 35th Street is designated as a Minor Arterial and requires a dedication of 52.5' of right-of-way. Controlled access is to be provided along the entire north line of Lot 1 and along NW Button Road to meet corner clearance requirements.
6. FIRE DISTRICT: Soldier Township.
7. STREAM BUFFER: N/A
8. SCHOOL DISTRICT: USD No. 345 – Seaman.
9. PARKS/OPEN SPACE: The parkland development fee is calculated at \$450.00. This figure is based on a total of two single-family dwelling units; with each dwelling unit being assessed a fee of \$225.00 per unit.

WAIVER/VARIANCE TO STANDARDS: Pursuant to the provisions of Section 134-4 of the City of Topeka Subdivision Regulations the applicant is seeking a design variance to the public utility easement requirement pursuant to Section 134.142(a) of the City of Topeka Subdivision Regulations whereby the applicant seeks to have the public utility easement requirement waived along all property lines within the subdivision in order to encourage the preservation of the natural vegetation along said lines. It is anticipated that all utilities will be located along the frontages of the proposed lots on NW Button Road. Sanitary sewer connections will be made through private easements arrangements with Shawnee County Main Sewer District No. 37.

The applicant is also requesting an extension of the approval of the original preliminary plat pursuant to Section 134-78 of the Subdivision Regulations.

PUBLIC CAPITAL IMPROVEMENTS IN WHICH THE DEVELOPER ANTICIPATES REQUESTING THE GOVERNING BODY TO PARTICIPATE: None anticipated.

CAPITAL IMPROVEMENT PLAN (CIP): There are currently no transportation projects in the City's or County's CIP (2006-2011) affecting this area.

CONFORMANCE TO COMPREHENSIVE PLAN: The *Comprehensive Plan* establishes this area for *Urban Suburban Low Density Residential* land use. The proposal is consistent with this intent. The property is located in the northwest Planned Growth Area and is within the MSA. Annexation policies of the plan state that annexation should be the norm and not the exception for all proposed development other than a rare, isolated rural residence and annexation should be encouraged prior to additional urbanized development.

STAFF ANALYSIS: Recent Council decisions have established a de facto policy of not supporting urbanized-type development that is not annexable to the City or that the City is not contractually obligated to provide service to. Provided conditions of the proposal have not changed nor have subsequent decisions made by Council altered such de facto policy it is staff's position to make recommendations consistent with past Council decisions. The Council's policy is supported by annexation policies of the Topeka Land Use & Growth Management Plan - 2025. Therefore, the Planning Department recommends the final plat phase of

June 19, 2006
Agenda Item #G-3

Hickory Ridge Estates Subdivision No. 11 be **DISAPPROVED**.

Should the Planning Commission approve the final plat of Hickory Ridge Estates Subdivision No. 11 staff would recommend approval be subject to the following:

1. The Planning Commission granting an extension to the original preliminary plat of Hickory Ridge Estates Subdivision which was approved more than six months ago pursuant to the provisions of Section 134-78 of the Subdivision Regulations.
2. A drainage report must be submitted and approved before the final plat receives consideration by the City Council.
3. A total of 52.5' of right-of-way is to be dedicated along NW 35th Street.
4. Restricted access is to be provided along the entire North line of Lot 1, Block "A" and along NW Button Road to meet corner clearance requirements.
5. The Planning Commission granting a variance to Section 134-142(a) waiving the public utility easement requirement along all property lines within the subdivision in order to encourage the preservation of the natural vegetation along said lines.
6. Applicant is to provide a separate consent to annexation prior to Council consideration of the final plat.
7. Compliance with all requirements of reviewing agencies before submitting the final plat to the City Council for consideration.

Prepared by: Dean W. Diediker
Planner II



A Capital City Serving You...

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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 5, 2006

+ Back Print

DATE: September 12, 2006
CONTACT PERSON: David Thurbon/Bill Fiander **DOCUMENT #:**
SECOND PARTY/SUBJECT: City of Topeka **PROJECT #:** PUD06/1
CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 007 Zoning
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property between SW 13th Street and SW Byron Street and between SW Washburn Avenue and SW Lane Street also including property at the northwest corner of SW 17th Street and SW Washburn Avenue and at the southeast corner of SW 14th Street and SW Lane Street from "M-1" Two-Family Dwelling District, "O&I-2" Office and Institutional District, "C-2" Commercial District and "C-4" Commercial District ALL TO "PUD" Planned Unit Development District ("M-2" Multiple-Family Dwelling District and "C-2" Commercial District use groups). First Reading. (PUD06/1) (Council District #6)

(Approval would allow for redevelopment of the property for multiple-family and retail uses.)

POLICY ISSUE:

Request is consistent with the Washburn Lane Parkway Plan and the Holliday Park Neighborhood Land Use Plan elements of the Comprehensive Plan.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be **APPROVED** by a vote of **6-1-0** as referenced in their attached minutes of January 18, 2006. The Planning Department recommended that this request be **APPROVED** as referenced in the attached staff report.

BACKGROUND:

- See attached staff report.
- City Council options include:
 - **Adopt** the recommendation of the Planning Commission by Ordinance;
 - **Override** the Planning Commission's recommendation by a two-thirds majority (6 votes) of the City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.

Item #25

BUDGETARY IMPACT:

Previously addressed in TIF approvals

SOURCE OF FUNDING:

Previously addressed in TIF approvals

ATTACHMENTS:

[Ordinance](#)

[Staff Report](#)

[Aerial](#)

[Application p1](#)

[Application p2](#)

[Application p3](#)

[Application p4](#)

[Minutes](#)

[PUD Plan pg1](#)

[PUD Plan pg2](#)

[PUD Plan pg3](#)

[PUD Plan pg4](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending the "District Map" referred to and made a part of the Zoning Ordinances by Section 48-1.04 of the Code of the City of Topeka, by providing for certain changes in zoning on property located between SW 13th Street and SW Byron Street and between SW Washburn Avenue and SW Lane Street also to include property at the NW corner of SW 17th Street and SW Washburn Avenue and the SE corner of SW 14th Street and SW Lane Street in the City of Topeka, Kansas from "M-1" Two Family Dwelling District, "C-2" Commercial District, "C-4" Commercial District and "O&I-2" Office and Institutional District **TO** "PUD" Planned Unit Development District ("M-2" and "C-2" use groups). **(PUD06/1) (Council District No. 1 and 6)**

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

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

LOT 1 BLOCK A

**A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., INCLUDING LOTS 1,2,3,4,5,6, OF HARRISON PLACE SUBDIVISION, IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE ON AZIMUTH (WORLD GEODETIC SYSTEM 1984) 0 DEGREES 24 MINUTES 41 SECONDS, COINCIDENT WITH THE WEST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1135.22 FEET; THENCE ON AZIMUTH 90 DEGREES 24 MINUTES 41 SECONDS A DISTANCE OF 30.00 FEET TO THE INTERSECTION OF THE EAST LINE OF WASHBURN AVENUE AND THE NORTH LINE OF 15TH STREET, AND THE POINT OF BEGINNING; THENCE ON AZIMUTH 0 DEGREES 24 MINUTES 41 SECONDS, COINCIDENT WITH SAID EAST LINE, A DISTANCE OF 815.62 FEET TO THE SOUTH LINE OF 13TH STREET; THENCE ON AZIMUTH 89 DEGREES 47 MINUTES 22 SECONDS, COINCIDENT WITH SAID SOUTH LINE, A DISTANCE OF 276.19 FEET TO THE WEST LINE OF LANE STREET; THENCE ON AZIMUTH 180 DEGREES 20 MINUTES 48 SECONDS, COINCIDENT WITH SAID WEST LINE, A DISTANCE OF 816.50 FEET TO THE NORTH LINE OF 15TH STREET; THENCE ON AZIMUTH 269 DEGREES 58 MINUTES 30 SECONDS, COINCIDENT WITH SAID NORTH LINE, A DISTANCE OF 277.10 FEET TO THE POINT OF BEGINNING.
SAID TRACT CONTAINING 5.18 ACRES MORE OR LESS.**

LOT 1 BLOCK B

LOTS 570,572,574,576,578,580,582, IN THROOPS SECOND ADDITION, CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS

LOT 1 BLOCK C

**LOTS 598,600,602,604,606,608,610,612,614 IN CHAMBERLAIN'S SUBDIVISION, AND LOTS 597,599,601,603,605,607,609,611,613,615, AND FRACTIONAL LOTS 617,619,621, IN BATTEY AND JANSEN'S SUBDIVISION AND FRACTIONAL LOT 8 IN RURAL HOMES SUBDIVISION, ALL IN THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M. IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE ON AZIMUTH**

0 DEGREES 24 MINUTES 41 SECONDS (WORLD GEODETIC SYSTEM 1984), COINCIDENT WITH THE WEST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1055.29 FEET; THENCE ON AZIMUTH 90 DEGREES 24 MINUTES 41 SECONDS, A DISTANCE OF 40.00 FEET TO THE NORTHWEST CORNER OF LOT 598 IN CHAMBERLAIN'S SUBDIVISION AND THE POINT OF BEGINNING; THENCE ON AZIMUTH 89 DEGREES 58 MINUTES 30 SECONDS, COINCIDENT WITH THE SOUTH LINE OF 15TH STREET, A DISTANCE OF 267.19 FEET (266.87 PLAT) TO THE NORTHEAST CORNER OF LOT 597 IN BATTEY AND JANSEN'S SUBDIVISION AND THE WEST LINE OF LANE STREET; THENCE ON AZIMUTH 180 DEGREES 20 MINUTES 48 SECONDS COINCIDENT WITH SAID WEST LINE, A DISTANCE OF 259.51 FEET TO A POINT 12.5 FEET NORTH OF THE SOUTHEAST CORNER OF LOT 617 IN BATTEY AND JANSEN'S SUBDIVISION; THENCE ON AZIMUTH 212 DEGREES 50 MINUTES 37 SECONDS, COINCIDENT WITH SAID WEST LINE, A DISTANCE OF 14.89 FEET TO A POINT ON THE NORTH LINE AND 8 FEET WEST OF THE NORTHEAST CORNER OF LOT 619 IN BATTEY AND JANSEN'S SUBDIVISION; THENCE ON AZIMUTH 204 DEGREES 32 MINUTES 07 SECONDS, COINCIDENT WITH SAID WEST LINE A DISTANCE OF 29.05 FEET TO THE NORTH LINE OF 16TH STREET; THENCE ON AZIMUTH 264 DEGREES 40 MINUTES 20 SECONDS, COINCIDENT WITH SAID NORTH LINE A DISTANCE OF 248.87 FEET TO THE EAST LINE OF WASHBURN AVENUE; THENCE ON AZIMUTH 0 DEGREES 24 MINUTES 41 SECONDS, COINCIDENT WITH SAID EAST LINE A DISTANCE OF 321.44 FEET TO THE POINT OF BEGINNING. CONTAINING 1.89 ACRES MORE OR LESS.

LOT 1 BLOCK D

TRACT I

LOT 9 (FRACTIONAL) IN RURAL HOMES ADDITION TO THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF SAID LOT WHICH IS 72 FEET NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE NORTH ALONG THE WEST LINE OF LOT 9 TO THE SOUTH LINE OF 16TH STREET; THENCE NORTHEASTERLY ALONG THE SOUTH LINE OF 16TH STREET, 119.28 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF LOT 9; THENCE SOUTH ALONG THE EAST LINE OF LOT 9, TO A POINT 167 FEET NORTH OF THE SOUTHEAST CORNER OF LOT 9, AS FORMERLY PLATTED; THENCE SOUTHWESTERLY ALONG THE WESTERLY LINE OF PROPERTY CONVEYED TO THE CITY OF TOPEKA FOR STREET, TO A POINT 72 FEET NORTH OF THE SOUTH LINE OF LOT 9 AS FORMERLY PLATTED; THENCE WEST TO THE POINT OF BEGINNING, IN SHAWNEE COUNTY, KANSAS, ALSO THE NORTH AND SOUTH ALLEY LYING EAST OF AND ADJACENT TO SAID TRACT, NOW VACATED.

TRACT II

A PART OF LOT 10 ON 16TH STREET, IN RURAL HOMES ADDITION TO THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 108.75 FEET WEST AND 175.6 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 10, SAID POINT ALSO BEING ON THE EAST LINE OF A NORTH AND SOUTH ALLEY; THENCE NORTH ALONG THE EAST LINE OF SAID NORTH AND SOUTH ALLEY TO THE SOUTH LINE OF 16TH STREET; THENCE EAST ALONG THE SOUTH LINE OF 16TH STREET, TO A POINT 30.5 FEET WEST OF THE EAST LINE OF SAID LOT 10; THENCE SOUTHWESTERLY TO A POINT 37.5 FEET WEST AND 271.6 FEET NORTH OF THE SOUTHEAST CORNER OF LOT 10; THENCE CONTINUING SOUTHWESTERLY TO A POINT 75 FEET WEST AND 213.6 FEET NORTH OF THE SOUTHEAST CORNER OF LOT 10; THENCE CONTINUING SOUTHWESTERLY TO THE POINT OF BEGINNING; ALSO THE NORTH AND SOUTH ALLEY LYING WEST OF AND ADJACENT TO THE ABOVE TRACT, NOW VACATED, BEING ALL OF SAID LOT 10, LYING NORTH AND WEST OF LANE STREET EXTENSION, SHAWNEE COUNTY, KANSAS.

TAX ROLL SHOWS PROPERTY ADDRESS AS: 1600 SW WASHBURN AVENUE, TOPEKA, KANSAS 66604

LOT 1 BLOCK E

LOT 2, BLOCK A, WASHBURN NORTH SUBDIVISION, AND ALSO A TRACT OF LAND IN THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING 40 FEET NORTH AND 40 FEET WEST OF THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE WEST 107 FEET; THENCE NORTH 150 FEET; THENCE WEST 50 FEET; THENCE NORTH 37.5 FEET; THENCE EAST 7 FEET; THENCE NORTH 37.5 FEET; THENCE EAST 150 FEET;

**THENCE SOUTH 225 FEET TO THE POINT OF BEGINNING.
TAX ROLL SHOWS PROPERTY ADDRESS AS: 1510 SW 17TH STREET, TOPEKA, KANSAS 66604.**

from "M-1" Two Family Dwelling District, "C-2" Commercial District, "C-4" Commercial District and "O&I-2" Office and Institutional District **TO** "PUD" Planned Unit Development District ("M-2" and "C-2" use groups). **subject to:**

- 1. Use and development of the site in accordance with the recorded Master PUD Plan of College Hill Redevelopment Subdivision.**

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

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

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

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

Mayor William W. Bunten

ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____

Not To Be Codified X

**Minutes of the
Of the
Topeka Planning Commission
January 18, 2006**

PUD06/1 by the City of Topeka requesting to amend the District Zoning Classification from “M-1” Two Family Dwelling District, “C-2” Commercial District, “C-4” Commercial District and O&I-2” Office and Institutional District **TO** “PUD” Planned Unit Development District on properties located between SW 13th Street and SW Byron Street and between SW Washburn Avenue and SW Lane Street also to include property at the NW corner of SW 17th Street and SW Washburn Avenue and the SE corner of SW 14th Street and SW Lane Street. **(Diediker)** Dean W. Diediker summarized the staff report.

Discussion by members:

Fred Sanders asked what the status of the TIF District for this project was? Mr. Thurbon said the TIF has to be reconsidered by City Council.

Proponents:

Stan Meyers, Bartlett & West Engineers, spoke in favor of the proposal. He said there is no formal presentation the project team is available for questions. Ralph Skoog asked if Mr. Meyers agreed with staff conditions in the staff report?

Mr. Meyer said details are still being worked out but no conflicts exist. Mr. Sanders asked if this PUD has anything to do with the road realignment? Mr. Diediker said that was taken care of on the preliminary plat.

Opponents:

David Morgan, 1415 thru 1419 Lane, spoke in opposition to the proposal. He said he is okay with the rezoning of their property but not his. He said he wants to keep his current zoning. Mark Boyd asked what the current zoning is? Mr. Morgan replied C-4. Mr. Boyd asked what the zoning would be in this proposal? Mr. Morgan replied residential.

Jerry Morgan, 1411 thru 1419 Lane, spoke in opposition to the proposal. He said he wants to keep the current zoning. Mr. Sanders asked what would happen to Mr. Morgan's property if this proposal goes through? Mr. Thurbon said the business could continue as a legal non conforming use. Mr. Skoog asked if the building is sold would the next owner be able to continue the current use? Mr. Thurbon replied yes as long as the use was within the C-4 use group. Mr. Skoog asked how all of this can be done without the Morgan's approval. Mr. Thurbon stated the City Council has the ability to initiate a zone change. Ping Enriquez asked what would happen if the Morgan's property was taken out of the proposal? Mr. Thurbon said the proposal would have to be redrawn. Mr. Boyd asked if there is a way to make sure the zoning change isn't initiated until the TIF issues are taken care of. Mr. Thurbon said you can't place that type of stipulation on this for approval. Mr. Boyd said we need to look at the proposed use of this site. We aren't the final determination. Mr. Diediker said there was a single variance request for perimeter to zero setback. Mr. Skoog said the townhouses will butt up the sidewalk like they should be. Mr. Boyd said there are many items that aren't traditional to design but nothing to hold up progress. Terry Simnitt asked if this is approved, what position are the Morgan's in? Mr. Thurbon replied a legal non conforming use. Any C-4 use could occur on that property. They can't expand with out Board of Zoning Appeals approval. Mr. Simnitt asked what would happen if the project didn't go as a PUD, what will happen? Mr. Thurbon replied if the project didn't go the Commission or City Council could initiate to re-zone back. Mr. Simnitt said there is no guarantee. Mr. Boyd said the Commission could initiate a zone change back. Mr. Sanders asked if the whole area would be rezoned or just the Morgan's property? Mr. Thurbon replied the whole area. Mr. Simnitt said they may not get their zoning back? Mr. Thurbon said more than likely they would because it follows the Comprehensive Plan. Mr. Skoog said this isn't up to us for final decision.

Ralph Skoog moved approval including conditions in the staff report, seconded by Ping Enriquez. **APPROVAL. (6-1-0)** Commissioner Simnitt voted no.

Applicant Justification

For re-zoning applications:

Attachment number 3
Page 1 of 1

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

Please attach additional sheets if necessary.

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

The land is suitable to the uses for which it is currently zoned. However, the Planned Unit Development (P.U.D.) zoning designation will allow for flexible design of a more urban-based development project. The redevelopment of the College Hill area will include mixed-use commercial, retail, and residential in a new urbanist layout and will become a focal point of this traditional neighborhood.

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

The zoning change has no affect; it is simply bringing everything under one PUD. The redevelopment will clean up the area and could make property surrounding the TIF area more valuable.
(also see above)

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

Conforms

Infrastructure Availability

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

Attachment number 4
Page 1 of 1

1. Water

- a. Location and size of water main serving site:
located throughout property - see plat
- b. Does the current system have adequate capacity? If not, are improvements anticipated?
yes
- c. If other than City of Topeka, identify water district provider: _____

2. Sanitary Sewer

- a. Location and size of sewer main serving site:
located throughout property - see plat
- b. Does the current system have adequate capacity? If not, are improvements anticipated?
yes
- c. If other than City of Topeka, identify sewer district provider: _____

3. Storm Drainage

- a. How will storm water run-off be handled on site?
with existing storm water system and upgraded as needed
- b. Does the current storm sewer system have adequate capacity for proposed use?
yes

4. Traffic Circulation

- a. Does the site have public street frontage access? What is the pavement width of any adjoining public streets?
yes - see plat
- b. What are the site's existing or proposed access points?
see plat
- c. Will any street improvements or traffic control improvements be required?
yes

January 18, 2005
Agenda Item #I-5

ZONING REPORT

CITY OF TOPEKA PLANNING DEPARTMENT

CASE NO: PUD06/1 College Hill Redevelopment Subdivision by: City of Topeka

PROPOSAL: Zone change from "M-1" Two-Family Dwelling District, "O&I-2" Office and Institutional District, "C-2" Commercial District and "C-4" Commercial District, **ALL TO** "PUD" Planned Unit Development District (residential and commercial use groups). The zoning change was initiated by the Topeka City Council on December 20, 2005 (Resolution No. 7727) at the request of the Washburn Lane Parkway Renovations, L.L.C.

LOCATION: On property between SW 13th Street and SW Byron Street and between SW Washburn Avenue and SW Lane Street also including property at the NW corner of SW 17th Street and SW Washburn Avenue and at the SE corner of SW 14th Street and SW Lane Street.

PARCEL ID NUMBERS:

1410101007001000	1410101020002000	1410101007017000	1410101022009000
1410101007028000	1410101007013000	1410101007019000	1410101022012000
1410101007006000	1410101020003000	1410101007018000	1410101022011000
1410101007027000	1410101007023000	1410101022006000	1410101023001000
1410101007026000	1410101007014000	1410101022001000	1410102025019000
1410101007008000	1410101020004000	1410101022002000	1410101022004000
1410101007009000	1410101007022000	1410101022003000	1410101007007004
1410101007025000	1410101007015000	1410101022007000	1410101007011000
1410101007024000	1410101007016000	1410101022013000	
1410101007012000	1410101007020000	1410101022008000	

PRESENT USE: Mixture of "M-1", "C-2", and "C-4" use groups.

PROPOSED USE: "PUD" Planned Unit Development District to provide for a mixed use redevelopment project including retail, commercial and multi-family residential components. The project encompasses nine acres and is to compose 196 apartment units and 26 townhomes in addition to providing approximately 24,000 square feet of commercial retail space. All existing commercial structures and dwelling units are to be demolished. The objective of the redevelopment is to stimulate and create a prosperous economic and residential environment within a currently distressed area. This is to be supported though the City Council's consideration of creating a tax increment finance (TIF) district, which is supported by the Holliday Park Neighborhood Plan and Washburn Lane Parkway Plan elements of the Comprehensive Plan as a revitalization effort for the area.

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CHARACTER OF NEIGHBORHOOD: The property is surrounded by a mixture of single-family and multiple-family residential and commercial retail uses within an “at-risk” neighborhood, as identified in the Neighborhood Element of the Comprehensive Plan. The Washburn University Campus is located south of the subject site and contributes much to the character and flavor of the area. The University’s expanding enrollment has generated a greater need for off campus housing which the development will help satisfy. The commercial character of the area will be augmented and revitalized by the commercial retail element of the proposed plan.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

Please refer to attached Land Use Map.

LENGTH OF TIME PROPERTY HAS REMAINED VACANT AS ZONED OR USED FOR ITS CURRENT USE UNDER PRESENT CLASSIFICATION: The area proposed for redevelopment has maintained its current zoning classifications since being impacted by the 1966 tornado.

SUITABILITY OF PROPERTY FOR USES TO WHICH IT HAS BEEN RESTRICTED: The Neighborhood Plan elements of the Comprehensive Plan establish this area for commercial/residential mixed use. The site’s present classification is consistent with the established pattern of zoning and land use in the area. The properties generally appear suitable under the current zoning, but are not collectively viable in their present state to be suitable for a major renovation effort without a planned unit development.

CONFORMANCE TO COMPREHENSIVE PLAN: The applicant’s proposal will be furthering the objectives and policies of the adopted neighborhood plans by helping to stimulate and create a prosperous economic environment within a currently distressed area. The Neighborhood Plans establish this area for commercial and residential planned development land use. The proposal is therefore viewed as being consistent with the plan.

THE EXTENT TO WHICH REMOVAL OF THE RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTIES: The proposed reclassification would permit the subject property to develop consistent with the Comprehensive Plan’s future land use designation for the area. Most of the subject property is bounded by arterial roads mitigating any physical impact it may have on adjacent properties. As the project will replace buildings (some of which are experiencing deterioration) with a cohesive new-urbanist set of buildings, the expected economic impact should also be positive. Some detrimental effect upon removal of the present restrictions may be experienced if traffic and pedestrian circulation issues are not addressed.

THE RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE OWNER’S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNER: The proposed reclassification would accommodate the redevelopment of this property for a mixture of residential and commercial retail uses that will replace a distressed area with a new development that offers to stimulate and create a prosperous economic environment thereby furthering the objectives and policies of the adopted

January 18, 2005
Agenda Item #1-5

neighborhood plans for the area. Detrimental effects to the public welfare will result if the area is allowed to continue to deteriorate. Much of this area has been in decline since it was impacted by the tornado of 1966. Therefore, there would appear to be no particular gain to the public health, safety, and welfare by maintaining the present restrictions.

AVAILABILITY OF PUBLIC SERVICES: All essential public utilities, services and facilities are presently available to this area although some enhancement of these existing facilities will be necessary. The applicant is requesting that the governing body create a tax increment finance (TIF) district to enable the developer the ability to assemble and finance this redevelopment project. The City has also approved \$1.5 million of general obligation funds in the 2006-2010 CIP for infrastructure improvements in support of this project.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Application: **Incomplete** – Taxes are delinquent on seven parcels; format of PUD needs revisions and additional information is needed.

Minimum Lot Area: **Compliant**.

Setbacks: **Non-Compliant** – Planning Commission will need to grant the following variances:

- Variance to Section 48-24.02(b)(2)(a) reducing the perimeter setback.

Platting: **Compliant** – The Planning Commission approved the applicants preliminary plat of [P05/43] College Hill Redevelopment Subdivision, on December 28, 2005, which plats the subject property into a five block 5-lot subdivision intended for a mixture of commercial and residential uses.

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request has been submitted to all applicable reviewing agency staff for consideration and comment. Issues or concerns expressed by reviewing staff relative to code compliance or the provisions of public services are expressed under Staff recommendations.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: Holliday Park NIA / College Hill NA.
2. Capitol Plaza Area: Not Applicable.
3. Flood Hazard Area: Not Applicable.
4. Airport Hazard Area: Not Applicable.
5. Historic Properties: Not Applicable.

STAFF RECOMMENDATION:

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

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Submission of a revised PUD Plan which conforms to standard PUD format and addresses the following prior to being submitted for City Council consideration. – Alternative, the Planning Commission may choose to continue the case for one month.

General Notes:

1. "Conceptual Layout" note should be placed under the General Note heading and should read: *"A conceptual layout of the streets, sidewalks, building elevations, buildable areas, parking and points of access regarding the planned unit development are depicted. A final layout which is in substantial conformance with the depicted concept shall be submitted for approval at the time of site plan review stage."*
2. Add note under "General Notes" stating: *"All improvements shall be made to City standards."*
3. Correct misspellings.
4. Remove reference to current zoning from plan.

Variances:

5. If variances are needed, a heading for variances needs to be provided and the following note added to the plan: *"Pursuant to Section 48-27.07 of the "PUD" District Regulations the City of Topeka Planning Commission hereby grants the following variance(s): "*

Variance to reduce the perimeter setback requirement of Section 48-24.02(b)(2)(a) from 30' feet to a specific distance.

Utility Notes:

6. Add note under "Utility Note" stating: *"All utilities shall be placed underground pursuant to the City's right-of-way management standards."*

Circulation, Parking, & Traffic Notes:

7. Indicate parking ratios for each of the blocks. Establish amount of parking required relative to commercial and residential needs pursuant to Section 48-30.02.
8. Indicate the number of access points each block is to have and the general location of the access points (i.e. Lot 1, Block "C" is to have two points of access on SW 15th Street, etc.) Indicate that with the exception of approved points of access all remaining street frontage is to be restricted. Existing and proposed access spacing on SW Lane Street, SW Washburn Avenue, and SW 17th Street do not meet current spacing requirements for arterial streets as required by Chapter 5 Street Design and Access Management of the city's Transportation Plan. Access to Lot 1, Block "A" should be taken from SW 15th Street and SW 13th Street. If access from SW Washburn Avenue and SW Lane Street is deemed essential it should be limited to a single point on each street that is

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offset. This will discourage traffic through the development and will reduce the number of access points on what are heavily traveled arterial streets. Proposed access to Lot 1, Block "E" from SW 17th Street should be removed.

Add plan note stating: *"Specific location of access openings to be approved by Public Works Director at time of site plan approval."*

9. Show 4' sidewalks on both sides of all streets located one foot inside the right-of-way line or a blanket pedestrian easement should be added where sidewalks are located on private property. Sidewalk is missing in Block "A" along SW Lane Street.
10. A pedestrian trail is indicated in the City's *Trails and Greenways Plan* along the entire frontage length of SW Washburn Avenue to provide for the Washburn-Lane Parkway Trail. A trail easement needs to be indicated along the entire frontage length of SW Washburn Avenue to provide for the Washburn-Lane Parkway Trail.
11. A system of pedestrian pathways must connect each block and any mid-block crossings approved by City Traffic Engineer.
12. Block "B" garages do not support 2 parking spaces as required. Interior clearance width of garages must be 18' minimum or driveway depth should be at least 18'. A 6' minimum separation between garages is required if they are detached.
13. Remove cutback parking from the plat for SW Lane Street, SW Washburn Avenue and SW 17th Street. Add plan note: *"Cutback parking is to be determined at the time of site plan review to be approved by the Public Works Director."*
14. The proposed subdivision does not meet arterial street right-of-way requirements for its frontages on SW 17th Street, SW Washburn Avenue and SW Lane Street. Additional right-of-way may need to be dedicated along these frontages, as determined by the City Engineer prior to final plat approval by the Planning Commission.
15. Need to indicate how loading/unloading will be handled for retail uses.

Signage Notes:

16. What type of signage is being proposed? Sign program should be specified.

Landscaping Notes:

17. Add Landscaping note to read as follows: *"This development shall conform to the City of Topeka Landscape Regulations. Landscaping for all residential structures, residential/retail structures and the clubhouse shall also comply with the City of Topeka Landscape Regulations. Required landscaping may be located within the public right-of-way with approval of the Planning Director and Public*

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Works Director. A landscape plan shall be approved at time of building permit. Season permitting, all landscaping shall be installed prior to occupancy of structures."

18. Landscape planters appear to be shown in the right-of-way along Lot 1, Block "D" on SW Lane Street. Please show planter detail if above ground or indicate what these are.

Building and Structural Notes:

19. Under Building and Structure Notes: Need to indicate that the maximum building height within the development is to be 50'.
20. Need to indicate that the minimum distance between non-attached structures shall be 10' for primary structures and 6' for accessory structures.
21. Remove any buildings from R-O-W (Block "E", Block "C").
22. All commercial buildings are to have front-facing material finishes on all sides.
23. Submit architectural elevations (front facades) for typical apartments, townhouses, retail/loft, and retail/apartment buildings as part of the PUD (sheet 4).
24. Need to indicate location of trash containers since they may conflict with parking spaces.
25. Note number 2 of Building and Structural Notes shall be changed to read: *"Orientation and layout of buildings shall give equal weight to both pedestrian and vehicular traffic patterns and needs by... (explain)."*
26. Need to provide an addressing schedule for buildings.

Project Information: (Recommend expanding table to include the following)

27. Need to better define appropriate zoning use groups and limitations within those use group categories.
 - "C-2", "X-1" (Block "C", "D", and "E")?
 - "M-2" (Block "A" and "B")?
 - Need to indicate the uses that are being proposed for each block and any uses that are excluded.
28. Indicate the number of housing units contained in each block, lot size, density, and the total square footage of all units and the average square footage per unit (this is necessary to calculate parking requirements).
29. Indicate the number of retail units contained in each block and the total square footage of all units (this is necessary to calculate parking requirements). In blocks having a mixed use indicate that retail is to be located on the ground floor and residential above.

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- 30. Clarify project information – Lot 1, Block "D" lists retail but indicates apartments on the graphic.
- 31. Add plan note: *"All applicable use group regulations, apply and shall govern unless stated otherwise."*

Other Comments:

- 32. Avoid areas of overlapping information where possible. If this is not possible, differing line weights should be used as these areas on the plan are difficult to read.
- 33. Correct delinquent tax situation.

Prepared by: Dean W. Diediker
Planner II

A MASTER PLANNED UNIT DEVELOPMENT FOR :
COLLEGE HILL REDEVELOPMENT SUBDIVISION

A TRACT OF LAND IN THE NORTH HALF OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., INCLUDING A RESUBDIVISION OF LOTS 1,2,3,4,5,6, OF HARRISON PLACE SUBDIVISION, LOTS 570,572,574,576,578,580,582, IN THROOPS SECOND ADDITION, LOTS 598,600,602,604,606,608,610,612,614 IN CHAMBERLAIN'S SUBDIVISION, LOTS 597,599,601,603,605,607,609,611,613,615, AND FRACTIONAL LOTS 617,619,621, IN BATTEY AND JANSEN'S SUBDIVISION, FRACTIONAL LOT 8 AND FRACTIONAL LOT 9 IN RURAL HOMES ADDITION, A PART OF LOT 10 ON 16TH STREET, IN RURAL HOMES ADDITION AND LOT 2, BLOCK A, WASHBURN NORTH SUBDIVISION,

BOOK : ____ PAGE : ____ DATE : ____ TIME : ____

LEGAL DESCRIPTION :
PROPOSED COLLEGE HILL REDEVELOPMENT SUBDIVISION

PROPOSED LOT 1 BLOCK A

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., INCLUDING LOTS 1,2,3,4,5,6, OF HARRISON PLACE SUBDIVISION, IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE ON AZIMUTH (WORLD GEODETIC SYSTEM 1984) 0 DEGREES 24 MINUTES 41 SECONDS, COINCIDENT WITH THE WEST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1135.22 FEET; THENCE ON AZIMUTH 90 DEGREES 24 MINUTES 41 SECONDS A DISTANCE OF 30.00 FEET TO THE INTERSECTION OF THE EAST LINE OF WASHBURN AVENUE AND THE NORTH LINE OF 15TH STREET, AND THE POINT OF BEGINNING; THENCE ON AZIMUTH 0 DEGREES 24 MINUTES 41 SECONDS, COINCIDENT WITH SAID EAST LINE, A DISTANCE OF 815.62 FEET TO THE SOUTH LINE OF 13TH STREET; THENCE ON AZIMUTH 89 DEGREES 47 MINUTES 22 SECONDS, COINCIDENT WITH SAID SOUTH LINE, A DISTANCE OF 276.19 FEET TO THE WEST LINE OF LANE STREET; THENCE ON AZIMUTH 180 DEGREES 20 MINUTES 48 SECONDS, COINCIDENT WITH SAID WEST LINE, A DISTANCE OF 816.50 FEET TO THE NORTH LINE OF 15TH STREET; THENCE ON AZIMUTH 269 DEGREES 58 MINUTES 30 SECONDS, COINCIDENT WITH SAID NORTH LINE, A DISTANCE OF 277.10 FEET TO THE POINT OF BEGINNING.
SAID TRACT CONTAINING 5.18 ACRES MORE OR LESS.

PROPOSED LOT 1 BLOCK B

LOTS 570,572,574,576,578,580,582, IN THROOPS SECOND ADDITION, CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS

PROPOSED LOT 1 BLOCK C

LOTS 598,600,602,604,606,608,610,612,614 IN CHAMBERLAIN'S SUBDIVISION, AND LOTS 597,599,601,603,605,607,609,611,613,615, AND FRACTIONAL LOTS 617,619,621, IN BATTEY AND JANSEN'S SUBDIVISION AND FRACTIONAL LOT 8 IN RURAL HOMES SUBDIVISION, ALL IN THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M. IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE ON AZIMUTH 0 DEGREES 24 MINUTES 41 SECONDS (WORLD GEODETIC SYSTEM 1984), COINCIDENT WITH THE WEST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1055.29 FEET; THENCE ON AZIMUTH 90 DEGREES 24 MINUTES 41 SECONDS, A DISTANCE OF 40.00 FEET TO THE NORTHWEST CORNER OF LOT 598 IN CHAMBERLAIN'S SUBDIVISION AND THE POINT OF BEGINNING; THENCE ON AZIMUTH 89 DEGREES 58 MINUTES 30 SECONDS, COINCIDENT WITH THE SOUTH LINE OF 15TH STREET, A DISTANCE OF 267.19 FEET (266.87 PLAT) TO THE NORTHEAST CORNER OF LOT 597 IN BATTEY AND JANSEN'S SUBDIVISION AND THE WEST LINE OF LANE STREET; THENCE ON AZIMUTH 180 DEGREES 20 MINUTES 48 SECONDS COINCIDENT WITH SAID WEST LINE, A DISTANCE OF 259.51 FEET TO A POINT 12.5 FEET NORTH OF THE SOUTHEAST CORNER OF LOT 617 IN BATTEY AND JANSEN'S SUBDIVISION; THENCE ON AZIMUTH 212 DEGREES 50 MINUTES 37 SECONDS, COINCIDENT WITH SAID WEST LINE, A DISTANCE OF 14.89 FEET TO A POINT ON THE NORTH LINE AND 8 FEET WEST OF THE NORTHEAST CORNER OF LOT 619 IN BATTEY AND JANSEN'S SUBDIVISION; THENCE ON AZIMUTH 204 DEGREES 32 MINUTES 07 SECONDS, COINCIDENT WITH SAID WEST LINE A DISTANCE OF 29.05 FEET TO THE NORTH LINE OF 16TH STREET; THENCE ON AZIMUTH 264 DEGREES 40 MINUTES 20 SECONDS, COINCIDENT WITH SAID NORTH LINE A DISTANCE OF 248.87 FEET TO THE EAST LINE OF WASHBURN AVENUE; THENCE ON AZIMUTH 0 DEGREES 24 MINUTES 41 SECONDS, COINCIDENT WITH SAID EAST LINE A DISTANCE OF 321.44 FEET TO THE POINT OF BEGINNING.
CONTAINING 1.89 ACRES MORE OF LESS.

PROPOSED LOT 1 BLOCK D

TRACT I

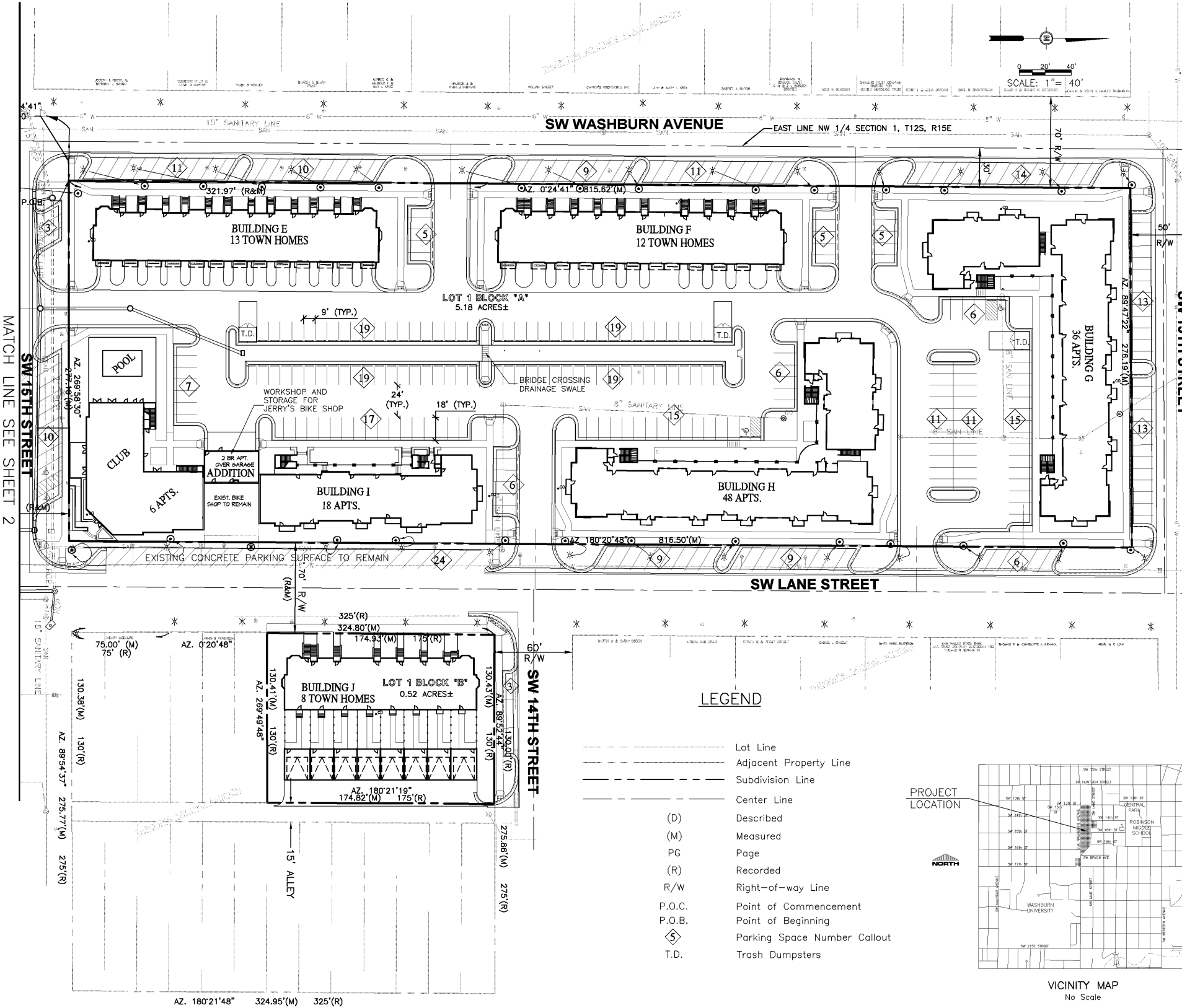
LOT 9 (FRACTIONAL) IN RURAL HOMES ADDITION TO THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE WEST LINE OF SAID LOT WHICH IS 72 FEET NORTH OF THE SOUTHWEST CORNER THEREOF; THENCE NORTH ALONG THE WEST LINE OF LOT 9 TO THE SOUTH LINE OF 16TH STREET; THENCE NORTHEASTERLY ALONG THE SOUTH LINE OF 16TH STREET, 119.28 FEET, MORE OR LESS, TO THE NORTHEAST CORNER OF LOT 9; THENCE SOUTH ALONG THE EAST LINE OF LOT 9, TO A POINT 167 FEET NORTH OF THE SOUTHEAST CORNER OF LOT 9, AS FORMERLY PLATTED; THENCE SOUTHWESTERLY ALONG THE WESTERLY LINE OF PROPERTY CONVEYED TO THE CITY OF TOPEKA FOR STREET, TO A POINT 72 FEET NORTH OF THE SOUTH LINE OF LOT 9 AS FORMERLY PLATTED; THENCE WEST TO THE POINT OF BEGINNING, IN SHAWNEE COUNTY, KANSAS, ALSO THE NORTH AND SOUTH ALLEY LYING EAST OF AND ADJACENT TO SAID TRACT, NOW VACATED.

TRACT II

A PART OF LOT 10 ON 16TH STREET, IN RURAL HOMES ADDITION TO THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT 108.75 FEET WEST AND 175.6 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 10, SAID POINT ALSO BEING ON THE EAST LINE OF A NORTH AND SOUTH ALLEY; THENCE NORTH ALONG THE EAST LINE OF SAID NORTH AND SOUTH ALLEY TO THE SOUTH LINE OF 16TH STREET; THENCE EAST ALONG THE SOUTH LINE OF 16TH STREET, TO A POINT 30.5 FEET WEST OF THE EAST LINE OF SAID LOT 10; THENCE SOUTHWESTERLY TO A POINT 37.5 FEET WEST AND 271.6 FEET NORTH OF THE SOUTHEAST CORNER OF LOT 10; THENCE CONTINUING SOUTHWESTERLY TO A POINT 75 FEET WEST AND 213.6 FEET NORTH OF THE SOUTHEAST CORNER OF LOT 10; THENCE CONTINUING SOUTHWESTERLY TO THE POINT OF BEGINNING; ALSO THE NORTH AND SOUTH ALLEY LYING WEST OF AND ADJACENT TO THE ABOVE TRACT, NOW VACATED, BEING ALL OF SAID LOT 10, LYING NORTH AND WEST OF LANE STREET EXTENSION, SHAWNEE COUNTY, KANSAS.

PROPOSED LOT 1 BLOCK E

LOT 2, BLOCK A, WASHBURN NORTH SUBDIVISION, AND ALSO A TRACT OF LAND IN THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, DESCRIBED AS FOLLOWS:
BEGINNING 40 FEET NORTH AND 40 FEET WEST OF THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE WEST 107 FEET; THENCE NORTH 150 FEET; THENCE WEST 50 FEET; THENCE NORTH 37.5 FEET; THENCE EAST 7 FEET; THENCE NORTH 37.5 FEET; THENCE EAST 150 FEET; THENCE SOUTH 225 FEET TO THE POINT OF BEGINNING.



BARTLETT & WEST
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MASTER PLANNED UNIT DEVELOPMENT
COLLEGE HILL REDEVELOPMENT SUBDIVISION
TOPEKA, SHAWNEE COUNTY, KANSAS

DESIGNED BY: SFM
DRAWN BY: JRW
APPROVED BY: SFM
DESIGN PROJ: 14853.002
CONST PROJ: 14853.002
SCALE: Shown
DATE: December 2005
DRAWING NO: **PUD06/1**
SHEET NO: 1 of 4

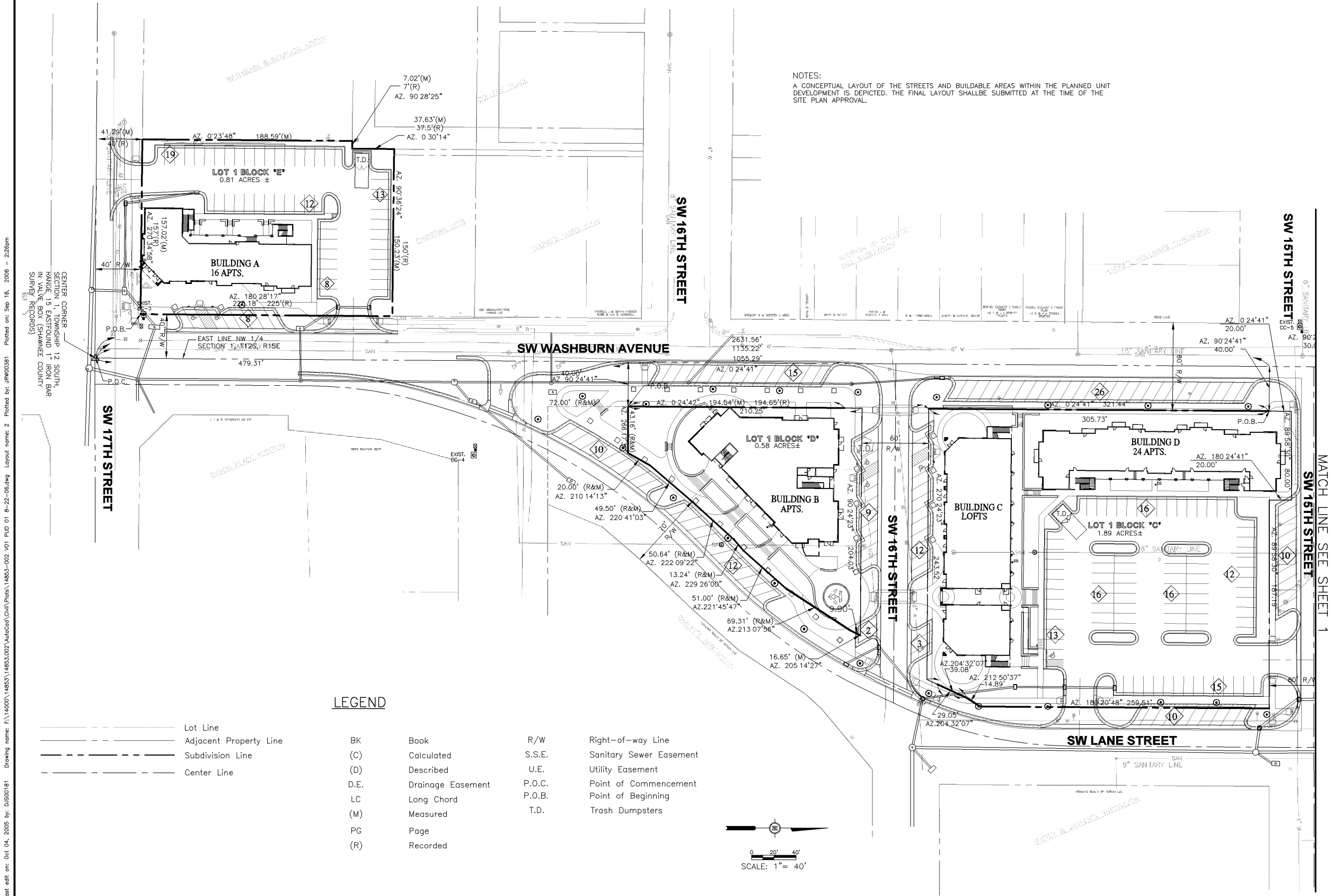
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A MASTER PLANNED UNIT DEVELOPMENT FOR :
COLLEGE HILL REDEVELOPMENT SUBDIVISION

BOOK : ____ PAGE : ____ DATE : ____ TIME : ____

A TRACT OF LAND IN THE NORTH HALF OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., INCLUDING A RESUBDIVISION OF LOTS 1,2,3,4,5,6, OF HARRISON PLACE SUBDIVISION, LOTS 570,572,574,576,578,580,582, IN THROOPS SECOND ADDITION, LOTS 598,600,602,604,606,608,610,612,614 IN CHAMBERLAIN'S SUBDIVISION, LOTS 597,599,601,603,605,607,609,611,613,615, AND FRACTIONAL LOTS 617,619,621, IN BATTEY AND JANSEN'S SUBDIVISION, FRACTIONAL LOT 8 AND FRACTIONAL LOT 9 IN RURAL HOMES ADDITION, A PART OF LOT 10 ON 16TH STREET, IN RURAL HOMES ADDITION AND LOT 2, BLOCK A, WASHBURN NORTH SUBDIVISION,

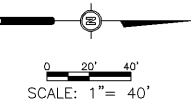
NOTES:
A CONCEPTUAL LAYOUT OF THE STREETS AND BUILDABLE AREAS WITHIN THE PLANNED UNIT DEVELOPMENT IS DEPICTED. THE FINAL LAYOUT SHALL BE SUBMITTED AT THE TIME OF THE SITE PLAN APPROVAL.



LEGEND

- Lot Line
- Adjacent Property Line
- Subdivision Line
- Center Line

- | | | | |
|------|-------------------|--------|-------------------------|
| BK | Book | R/W | Right-of-way Line |
| (C) | Calculated | S.S.E. | Sanitary Sewer Easement |
| (D) | Described | U.E. | Utility Easement |
| D.E. | Drainage Easement | P.O.C. | Point of Commencement |
| LC | Long Chord | P.O.B. | Point of Beginning |
| (M) | Measured | T.D. | Trash Dumpsters |
| PG | Page | | |
| (R) | Recorded | | |



BARTLETT & WEST
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MASTER PLANNED UNIT DEVELOPMENT

COLLEGE HILL REDEVELOPMENT SUBDIVISION
TOPEKA, SHAWNEE COUNTY, KANSAS

DESIGNED BY: SFM
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DESIGN PROJ: 14853.002
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SHEET NO: 2 of 4

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A MASTER PLANNED UNIT DEVELOPMENT FOR :
COLLEGE HILL REDEVELOPMENT SUBDIVISION

A TRACT OF LAND IN THE NORTH HALF OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., INCLUDING A RESUBDIVISION OF LOTS 1,2,3,4,5,6, OF HARRISON PLACE SUBDMIVISION, LOTS 570,572,574,576,578,580,582, IN THROOPS SECOND ADDITION, LOTS 598,600,602,604,606,608,610,612,614 IN CHAMBERLAIN'S SUBDIVISION, LOTS 597,599,601,603,605,607,609,611,613,615, AND FRACTIONAL LOTS 617,619,621, IN BATTEY AND JANSEN'S SUBDMIVISION, FRACTIONAL LOT 8 AND FRACTIONAL LOT 9 IN RURAL HOMES ADDITION, A PART OF LOT 10 ON 16TH STREET, IN RURAL HOMES ADDITION AND LOT 2, BLOCK A, WASHBURN NORTH SUBDMIVISION,

PROJECT PERFORMANCE OBJECTIVES :

THE PURPOSE OF APPLYING FOR A MASTER PLANNED UNIT DEVELOPMENT (P.U.D.) ZONING DESIGNATION IS TO ALLOW THE FLEXIBLE DESIGN STANDARDS NECESSARY TO CREATE A UNIQUE REVITALIZATION PROJECT FOR THE COLLEGE HILL NEIGHBORHOOD. THE PLANNED REVITALIZATION PROJECT WILL BE A MIXED-USE NEW URBANIST DEVELOPMENT FEATURING COMMERCIAL, RETAIL AND RESIDENTIAL IMPROVEMENTS. THE DESIGN INTENT IS TO REINVIGORATE THE TRADITIONAL COLLEGE HILL NEIGHBORHOOD, EMPHASIZE THE HISTORIC LINK TO WASHBURN UNIVERSITY AND BRING ECONOMIC OPPORTUNITY TO A DISTRESSED AREA OF THE CITY OF TOPEKA.

GENERAL NOTES :

- PURSUANT TO SECTION 48-24.05 OF THE TOPEKA PLANNING CODE, THE APPLICANT MUST PROVIDE THE PLANNING DEPARTMENT A PUD MASTER PLAN SUITABLE FOR RECORDING WITHIN 30 DAYS UPON APPROVAL BY THE GOVERNING BODY AND RECORD IT WITH THE SHAWNEE COUNTY REGISTER OF DEEDS WITHIN 45 DAYS OF APPROVAL BY THE CITY COUNCIL OF TOPEKA OR PLANNED UNIT DEVELOPMENT ZONE CHANGE SHALL BE NULL AND VOID.
- A CONCEPTUAL LAYOUT OF THE STREETS, SIDEWALKS, BUILDING ELEVATIONS, BUILDABLE AREAS, PARKING AND POINTS OF ACCESS REGARDING THE PLANNED UNIT DEVELOPMENT ARE DEPICTED. A FINAL LAYOUT WHICH IS IN SUBSTANTIAL CONFORMANCE WITH THE DEPICTED CONCEPT SHALL BE SUBMITTED FOR APPROVAL AT THE TIME OF SITE PLAN REVIEW STAGE.
- ALL IMPROVEMENTS SHALL BE MADE TO CITY STANDARDS.

VARIANCES :

- PURSUANT TO SECTION 48-27.07 OF THE "PUD" DISTRICT REGULATIONS THE CITY OF TOPEKA PLANNING COMMISSION HEREBY GRANTS THE FOLLOWING VARIANCE:

VARIANCE TO REDUCE PERIMETER SETBACK REQUIREMENT OF SECTION 48-24.02(b)(2)(a) FROM 30' FEET TO 0' FEET.

UTILITY NOTES :

- SANITARY SEWER SERVICE SHALL BE BY THE CITY OF TOPEKA. CERTAIN SANITARY SEWER/LATERALS WILL NEED TO BE RELOCATED OR ABANDONED. THE SANITARY SEWER SITUATION WOULD NEED TO BE COORDINATED WITH BOTH THE CITY OF TOPEKA ENGINEERING DIVISION AND THE WATER POLLUTION CONTROL DIVISION.
- WATER SERVICE SHALL BE BY THE CITY OF TOPEKA. IN ORDER TO PROVIDE ADEQUATE FIRE PROTECTION AND SERVICE FOR THIS TYPE OF DEVELOPMENT, LARGER MAINS MAY NEED TO BE EXTENDED.
- ALL UTILITIES SHALL BE PLACED UNDERGROUND PURSUANT TO THE CITY'S RIGHT-OF-WAY MANAGEMENT STANDARDS.
- COMPLY WITH THE WATER DEPARTMENT ON ALL WATER MAINS AND FIRE HYDRANTS. FIRE DEPARTMENT MUST APPROVE THE HYDRANT LOCATION.
- ALL FIRE HYDRANTS (NEW AND/OR RELOCATED) ARE TO APPROVED AS PART OF THE PUBLIC IMPROVEMENT PLANS FOR COLLEGE HILL REDEVELOPMENT SUBDIVISION PRIOR TO ANY CONSTRUCTION BEING STARTED.

CIRCULATION, PARKING, & TRAFFIC NOTES :

- THE PROPOSED COLLEGE HILL REDEVELOPMENT PROJECT WILL INCLUDE A MIX OF USES TYPICAL TO TRADITIONAL URBAN NEIGHBORHOODS-COMMERCIAL, RETAIL AND RESIDENTIAL. THE GOAL IS TO CREATE A UNIQUE DESIGN ENVIRONMENT THAT IS SENSITIVE TO PEDESTRIAN NEEDS, VEHICLE TRAFFIC FLOW, PARKING CRITERIA AND AESTHETIC CONCERNS. THE SITE DESIGN SEEKS TO REDUCE THE NEGATIVE VISUAL IMPACT OF LARGE PARKING LOTS BY INCORPORATING ANGLED PARKING SPACES ALONG THE PUBLIC STREETS, AS IS TYPICALLY FOUND IN TRADITIONAL URBAN NEIGHBORHOODS AND "MAIN STREET" SETTINGS. IN ADDITION TO REDUCING THE NEGATIVE VISUAL IMPACT OF LARGE SCALE PARKING LOTS, THE ANGLED PARKING SPACES WILL SERVE AS A TRAFFIC CALMING MEASURE AND ENCOURAGE SLOWER TRAFFIC SPEEDS. GIVEN THE EXISTING RESIDENTIAL CHARACTER OF THE SURROUNDING NEIGHBORHOODS AND THE PROPOSED RESIDENTIAL COMPONENT OF THE COLLEGE HILL PROJECT, THIS IS AN IMPORTANT ELEMENT OF THE OVERALL CIRCULATION PATTERN FOR THE AREA.
- SPECIFIC LOCATION OF ACCESS OPENINGS TO BE APPROVED BY PUBLIC WORKS DIRECTOR AT THE TIME OF SITE PLAN APPROVAL.
- CUTBACK PARKING IS TO BE DETERMINED AT THE TIME OF SITE PLAN REVIEW TO BE APPROVED BY PUBLIC WORKS DIRECTOR.
- A SYSTEM OF PEDESTRIAN SIDEWALKS SHALL CONNECT EACH BLOCK AND STREET CROSSINGS TO BE APPROVED AT THE TIME OF SITE PLAN REVIEW.
- LOADING AND UNLOADING ACTIVITIES FOR PROPOSED RETAIL USES IN THE COLLEGE HILL REDEVELOPMENT PROJECT SHALL PRIMARILY BE PROVIDED BY DELIVERY VAN SIZED VEHICLES THAT SHALL MAKE USE OF EXISTING PARKING SPACES OR THAT SHALL MAKE SHORT TERM STOPS ON PRIVATE PARKING LOTS OR MINOR SIDE STREETS AS TYPICALLY OCCURS IN DEVELOPED URBAN ENVIRONMENTS AND TRADITIONAL DOWNTOWN OR RETAIL NEIGHBORHOOD DISTRICTS.

OWNER'S CERTIFICATE :

WASHBURN UNIVERSITY, BY WANDA B. HILL, VICE PRESIDENT FOR ADMINISTRATION AND TREASURER, AGREES TO COMPLY WITH THE CONDITIONS AND RESTRICTIONS AS SET FORTH ON THE MASTER PUD PLAN.

IN TESTIMONY WHEREOF, THE OWNER, WASHBURN UNIVERSITY, BY WANDA B. HILL, VICE PRESIDENT FOR ADMINISTRATION AND TREASURER, HAS CAUSED THESE PRESENTS TO BE SIGNED THIS

_____ DAY OF _____,

20_____.

WANDA B. HILL, VICE PRESIDENT FOR ADMINISTRATION AND TREASURER, WASHBURN UNIVERSITY

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20_____, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME WANDA B. HILL, VICE PRESIDENT FOR ADMINISTRATION AND TREASURER OF WASHBURN UNIVERSITY, WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

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

NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

SIGNAGE NOTES :

- RETAIL SIGNAGE IN THE COLLEGE HILL REDEVELOPMENT PROJECT SHALL BE EITHER WALL SIGNS OR HANGING SIGNS AS TYPICALLY OCCUR IN TRADITIONAL DOWNTOWN OR RETAIL NEIGHBORHOOD STOREFRONTS (SEE RETAIL ELEVATION ON SHEET 4 FOR ILLUSTRATION). ALL PROJECT SIGNAGE ASSOCIATED WITH THE COLLEGE HILL REDEVELOPMENT PROJECT SHALL BE SUBMITTED WITH ARCHITECTURAL BUILDING PLANS AND APPROVED AT THE TIME OF SITE PLAN REVIEW.

LANDSCAPING NOTES :

- THIS DEVELOPMENT SHALL CONFORM TO THE CITY OF TOPEKA LANDSCAPING REGULATIONS. LANDSCAPING FOR ALL RESIDENTIAL STRUCTURES, RESIDENTIAL/RETAIL STRUCTURES AND THE CLUBHOUSE SHALL ALSO COMPLY WITH THE CITY OF TOPEKA LANDSCAPE REGULATIONS. REQUIRED LANDSCAPING MAY BE LOCATED WITHIN THE PUBLIC RIGHT-OF-WAY WITH APPROVAL OF THE PLANNING DIRECTOR AND PUBLIC WORKS DIRECTOR. A LANDSCAPE PLAN SHALL BE APPROVED AT THE TIME OF THE BUILDING PERMIT. SEASON PERMITTING, ALL LANDSCAPING SHALL BE INSTALLED PRIOR TO OCCUPANCY OF STRUCTURES.

BUILDING AND STRUCTURE NOTES :

- ARCHITECTURAL ELEMENTS, BUILDING MATERIALS AND STRUCTURE LAYOUT SHALL BE CONSISTENT WITH THE STANDARD PRINCIPLES OF NEW URBANISM AND NEO-TRADITIONAL NEIGHBORHOOD DESIGN.
- ORIENTATION AND LAYOUT OF BUILDINGS SHALL GIVE EQUAL WEIGHT TO BOTH PEDESTRIANS AND VEHICULAR TRAFFIC PATTERNS AND NEEDS BY PLACING STRUCTURES IN A TRADITIONAL URBAN GRID PATTERN THAT ENCOURAGES PEDESTRIAN TRAFFIC FROM ADJACENT NEIGHBORHOODS THROUGH THE STRATEGIC PLACEMENT OF SIDEWALKS, AND DISPERSED PARKING AREAS THAT REDUCES THE NEGATIVE VISUAL IMPACT OF LARGE PARKING LOTS. VEHICULAR TRAFFIC PATTERNS SHALL BE REGULATED THROUGH THE USE OF TRAFFIC CALMING MEASURES (ANGLED PARKING ON PUBLIC STREETS) AND IMPROVED GEOMETRIC DESIGN OF EXISTING STREETS AND TURNING ISLANDS. SEE NOTE. NO. 1 UNDER CIRCULATION, PARKING, & TRAFFIC NOTES FOR ADDITIONAL EXPLANATION.
- THE MAXIMUM BUILDING HEIGHT WITHIN THE DEVELOPMENT IS TO BE 50'.
- THE MINIMUM DISTANCE BETWEEN STRUCTURES SHALL BE 10' FOR PRIMARY STRUCTURES AND 6' FOR ACCESSORY STRUCTURES.
- ALL COMMERCIAL BUILDINGS ARE TO HAVE FRONT-FACING MATERIAL FINISHES ON ALL SIDES.
- AN ADDRESSING SCHEDULE SHALL BE PROVIDED TO THE PLANNING DEPARTMENT FOLLOWING THE APPROVAL OF THE PUD BY THE CITY COUNCIL OF TOPEKA AND PRIOR TO RECORDING AT THE SHAWNEE COUNTY REGISTER OF DEEDS.

PROJECT INFORMATION:

LAND DENSITY TABLE							
Block	RESIDENTIAL			RETAIL			
	Units (per block)	Lot Size (acres)	Density (units/acre)	Total SF (per block)	Ave. SF (per unit)	Units (per block)	Total SF (per block)
A (lot1)	133	5.18	25.7	142,669	1073	-	-
B (lot1)	8	0.52	15.4	11,628	1454	-	-
C (lot1)	44	1.89	23.2	42,724	971	1	10,347
D (lot1)	15	0.58	25.9	15,487	1033	1	9,461
E (lot1)	16	0.81	19.7	14,463	904	1	4,119

NOTE: ALL APPLICABLE USE GROUP REGULATIONS, APPLY AND SHALL GOVERN UNLESS STATED OTHERWISE.

PROJECT PHASING:

- THERE ARE NO PLANS TO PHASE CONSTRUCTION OF THE PROPOSED COLLEGE HILL REDEVELOPMENT SUBDIVISION IMPROVEMENTS.

BOOK : ____ PAGE : ____ DATE : ____ TIME : ____

RECORDED WITH THE SHAWNEE COUNTY REGISTER OF DEEDS :

MARILYN NICHOLS, REGISTER OF DEEDS

THIS PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN HAS BEEN REVIEWED AND APPROVED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 24 OF THE COMPREHENSIVE ZONING REGULATIONS OF THE CITY OF TOPEKA, KANSAS, AND MAY BE AMENDED ONLY AS PRESCRIBED IN SECTION 48-24.06 OF SAID ARTICLE AND AS SET FORTH ON THIS DOCUMENT OR AS MAY SUBSEQUENTLY BE APPROVED AND RECORDED.

CERTIFICATION OF MASTER PLANNED UNIT DEVELOPMENT PLAN APPROVAL :

DAVID F. THURBON, PLANNING DIRECTOR, TOPEKA PLANNING COMMISSION

STATE OF KANSAS, COUNTY OF SHAWNEE, SS :

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____, 20_____, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME DAVID F. THURBON, WHO IS PERSONALLY KNOWN TO ME TO BE THE SAME PERSON WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSON DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

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

NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

OWNER'S CERTIFICATE :

WASHBURN LANE PARKWAY RENOVATIONS, L.L.C., BY WILLIAM R. NEWSOME, MANAGING PARTNER AND JERRY MORGAN AND JEAN MORGAN, AGREE TO COMPLY WITH THE CONDITIONS AND RESTRICTIONS AS SET FORTH ON THE MASTER PUD PLAN.

IN TESTIMONY WHEREOF :

THE OWNER(S) OF THE ABOVE DESCRIBED PROPERTY, WASHBURN LANE PARKWAY RENOVATIONS, L.L.C., HAVE BY WILLIAM R. NEWSOME, MANAGING PARTNER, HAVE SIGNED THESE PRESENTS
THIS _____ DAY OF _____, 20_____.

WILLIAM R. NEWSOME, MANAGING PARTNER, WASHBURN LANE PARKWAY, L.L.C.

BE IT REMEMBERED THAT ON THIS _____ DATE OF _____,

20_____, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE CAME WILLIAM R. NEWSOME, MANAGING PARTNER, WASHBURN LANE PARKWAY RENOVATIONS, L.L.C., OF THE ABOVE DESCRIBED PROPERTY.

I HEREBY SET MY HAND AND AFFIX MY NOTARIAL SEAL THE DAY AND YEAR LAST WRITTEN ABOVE.

NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

IN TESTIMONY WHEREOF, THE OWNERS, JERRY MORGAN AND JEAN MORGAN, HAVE CAUSED THESE PRESENTS TO BE SIGNED THIS

_____ DAY OF _____, 20_____.

JERRY MORGAN _____ JEAN MORGAN _____

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____,

20_____, BEFORE ME A NOTARY PUBLIC, IN AND FOR THE COUNTY AND STATE AFORESAID, CAME JERRY MORGAN AND JEAN MORGAN, WHO ARE PERSONALLY KNOWN TO ME TO BE THE SAME PERSONS WHO EXECUTED THE WITHIN INSTRUMENT OF WRITING, AND SUCH PERSONS DULY ACKNOWLEDGED THE EXECUTION OF THE SAME.

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

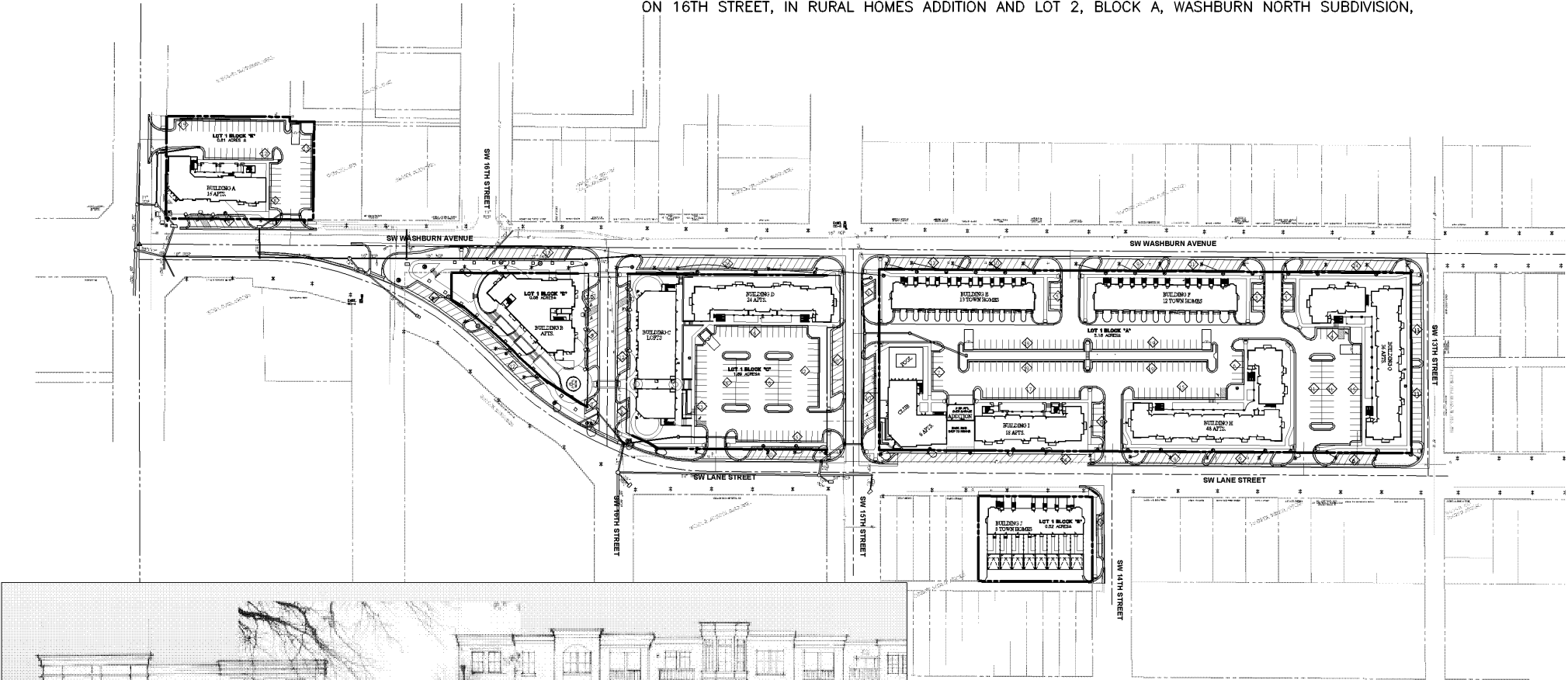
NOTARY PUBLIC _____ MY COMMISSION EXPIRES _____

DESIGNED BY:	SFM
DRAWN BY:	JRW
APPROVED BY:	SFM
DESIGN PROJ:	14853.002
CONST PROJ:	14853.002
SCALE:	1"
DATE:	December 2005
DRAWING NO:	PUD06/1
SHEET NO:	3 of 4

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A MASTER PLANNED UNIT DEVELOPMENT FOR :
COLLEGE HILL REDEVELOPMENT SUBDIVISION

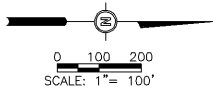
A TRACT OF LAND IN THE NORTH HALF OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 15 EAST OF THE 6TH P.M., INCLUDING A RESUBDIVISION OF LOTS 1,2,3,4,5,6, OF HARRISON PLACE SUBDIVISION, LOTS 570,572,574,576,578,580,582, IN THROOPS SECOND ADDITION, LOTS 598,600,602,604,606,608,610,612,614 IN CHAMBERLAIN'S SUBDIVISION, LOTS 597,599,601,603,605,607,609,611,613,615, AND FRACTIONAL LOTS 617,619,621, IN BATTEY AND JANSEN'S SUBDIVISION, FRACTIONAL LOT 8 AND FRACTIONAL LOT 9 IN RURAL HOMES ADDITION, A PART OF LOT 10 ON 16TH STREET, IN RURAL HOMES ADDITION AND LOT 2, BLOCK A, WASHBURN NORTH SUBDIVISION,



RETAIL ELEVATION



RESIDENTIAL ELEVATION



College Hill					
Southwind Capital					
Program Analysis					
05/09/06					
Building Summary	Units	Beds	Housing ASF	Retail ASF	*GSF
A - Mixed Use	16	27	14,463	4,119	23,478
B - Mixed Use	15	32	15,487	9,461	31,179
C - Mixed Use	20	26	17,608	10,347	37,009
D - Multifamily	24	60	25,116	0	32,103
E - Townhome	13	26	17,116	0	26,141
F - Townhome	12	24	17,276	0	26,602
G - Multifamily	36	81	36,057	0	46,566
H - Multifamily	48	108	48,076	0	62,088
I - Mixed Use	24	54	24,144	0	39,926
J - Townhome	8	16	11,628	0	15,156
Total	216	454	226,971	23,927	340,248

* GSF includes SF assigned to structure, exterior circulation (walkways & stairs), private balconies, & garages

ZONING USE GROUPS (PROPOSED BUILDINGS)	
BLOCK	ZONING USE GROUP
'A'	"M-2" MULTI-FAMILY
'B'	"M-2" MULTI-FAMILY
'C'	"M-2" MULTI-FAMILY & "C-2" COMMERCIAL
'D'	"C-2" COMMERCIAL
'E'	"C-2" COMMERCIAL

EXISTING BUILDING SUMMARY AND ZONING USE GROUPS			
ADDRESS	USE	ZONING	SQUARE FOOTAGE
1415 S.W. LANE STREET	RETAIL-JERRY'S BIKE SHOP	C- 2/PUD	1,684 S.F.±
NEW ADDITION TO JERRY'S BIKE SHOP	WORKSHOP AND STORAGE FOR JERRY'S BIKE SHOP	C-2/PUD	964 S.F.±

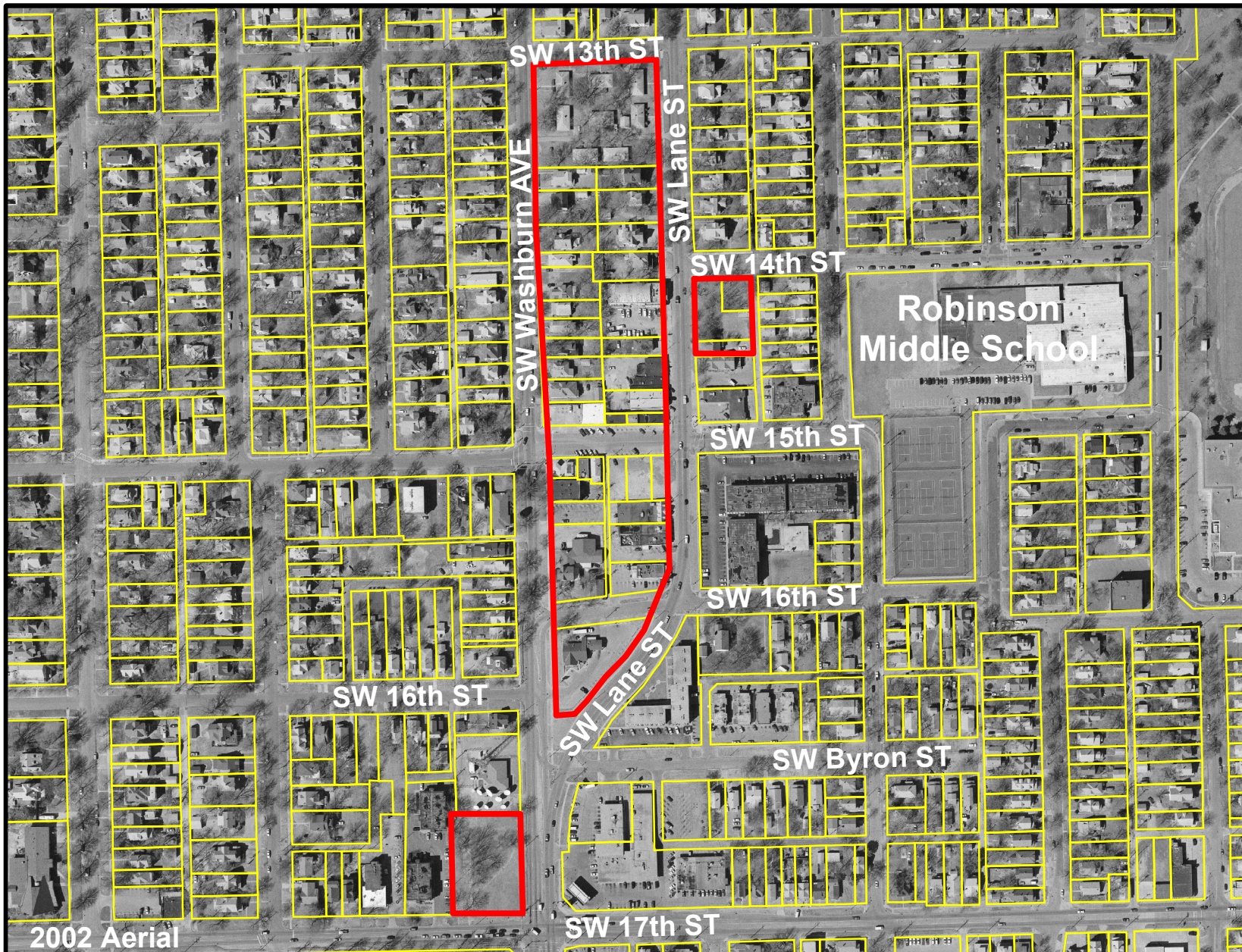
DESIGNED BY: SFM
DRAWN BY: JRW
APPROVED BY: SFM
DESIGN PROJ: 14853.002
CONST PROJ: 14853.002
SCALE: 1"= 100'
DATE: December 2005
DRAWING NO:
PUD06/1
SHEET NO:

MASTER PLANNED UNIT DEVELOPMENT
COLLEGE HILL REDEVELOPMENT SUBDIVISION
TOPEKA, SHAWNEE COUNTY, KANSAS

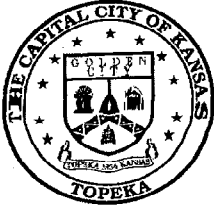
BARTLETT & WEST
ENGINEERS
638 VERMONT STREET - LAWRENCE, KS 66044-2332
PHONE 781.649.6497 FAX 781.649.6491

REVISIONS
1. 12-15-05 REVISED PER COMMENTS PER TOPEKA PLANNING STAFF
2. 08-22-06 REVISED PER COMMENTS PER TOPEKA PLANNING STAFF

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PUD06/1 by Washburn Lane Parkway Renovations, LLC



Application Form Re-Zoning or Conditional Use Permit

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

Attachment number 11
Page 1 of 1

Applicant Information

Property Owner(s): Washburn Lane Parkway Renovation, LLC

Street Address: 601 N Iowa Street (P.O. Box 1797) E-mail: bnewsome@southwindcapital.com
City: Lawrence State: KS Zip: 66044
Business phone: 785-331-4644 Home phone: _____ Fax: 785-331-4611

Authorized Owner Representative (if any): Bartlett & West Engineers, Inc. / Stan Meyers

Street Address: 628 Vermont Street
City: Lawrence State: KS Zip: 66044 E-mail: stan.meyers@bartwest.com
Business phone: 785-749-9452 Home phone: _____ Fax: 785-749-5961

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

Street Address: _____
City: _____ State: _____ Zip: _____ E-mail: _____
Business phone: _____ Home phone: _____ Fax: _____

Authorization

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

Owner 1 Name: William R. Newsome

Owner 1 Signature: [Signature] Date: 11/22/05

Owner 2: _____

Owner 2 Signature: _____ Date: _____

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): 1300 block through 1600 block

between SW Washburn Avenue and SW Lane Street

Attachment number 12
Page 1 of 1

Legal Description of Property: lot(s) _____ block _____ subdivision see attached
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 9 acres, more or less

Type of Application:
1. Re-zoning from: M-1, C-2, C-4 to: PUD

2. Conditional Use Permit proposed use: _____

Existing Use (# of dwelling units, square feet, etc.): multiple uses

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

Proposed Use (# of dwelling units, square feet, etc.): mixed-use redevelopment project including retail, commercial, and multi-family residential components

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? Yes If Yes, when? 11/2/05

FOR OFFICE USE ONLY

Date submitted: 12/21/05

Application no.: PUD00611

Filing fee: 1400⁰⁰ Receipt no.: 11235

Quarter section map no.: _____

Date notice sent: 12/23/05

Date advertised: 12/23/05

Date of hearing: 1/18/06

Council district: #1 and 6

CHECK YES OR NO

Capital Plaza Area: Yes _____ No ☒

100 yr Floodplain: Yes _____ No ☒

Airport Hazard Area: Yes _____ No ☒

Within Historic Site Environs: Yes _____ No ☒

If Yes, what is it?: _____

National/State Historic Register: Yes _____ No ☒

Local Historic Resource: Yes _____ No ☒

Neighborhood Association: Yes ☒ No _____

Name of N.I.A./N.A.: Holiday Park / College Hill



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 7, 2006

+ Back Print

DATE: September 12, 2006

CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:** N/A

SECOND PARTY/SUBJECT: Gaylene Epke **PROJECT #:** SNC06/1

CATEGORY/SUBCATEGORY: 013 Ordinances - Codified / 130 Streets, Sidewalks, Public Places, and Other

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. relating to the designation of street names, more specifically changing the name of SW Bines Way and SW Elmo Drive in Bines Addition to SE Bines Way and SE Elmo Drive. First Reading. (SNC06/1)(Council District No. 9)

(Approval would correct the directional street prefix that was recorded incorrectly on the plat of Bines Addition.)

POLICY ISSUE:

Consistency with street naming procedures.

STAFF RECOMMENDATION:

Approval of the ordinance.

BACKGROUND:

Approval would correct the directional street prefix on Bines Addition recorded September 28, 2005.

BUDGETARY IMPACT:

No additional signs will be created. Signs were originally created with the SE designation, but were replaced with the SW designation as shown on the plat of Bines Addition.

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Ordinance - City of Topeka \(SNC06/1\) Street Name Change](#)
[map](#)

Proposed Street Name Changes

SW Bines Way and SW Elmo Drive TO SE Bines Way and SE Elmo Drive



(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr. relating to the designation of street names, more specifically changing the name of SW Bines Way and SW Elmo Drive to SE Bines Way and SE Elmo Drive both located in Bines Addition. **(SNC06/1) (Council District No. 9)**

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

Section 1. The official name of SW Bines Way and SW Elmo Drive, streets within the City of Topeka, Kansas are hereby changed to SE Bines Way and SE Elmo Drive. Provided, that this ordinance shall not be construed to alter the dimensions of said street nor the set-back requirements provided in other ordinances of the City of Topeka.

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

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

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk

To Be Codified _____
Not To Be Codified X



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 10, 2006

+ Back Print

DATE:	September 12, 2006		
CONTACT PERSON:	Jeff Hunt	DOCUMENT #:	
SECOND PARTY/SUBJECT:	Park Improvement Project	PROJECT #:	30127-12
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 102 Parks and Recreation		
CIP PROJECT:	Yes		
ACTION OF COUNCIL:	Approve Project Budget and Adopt Ordinance	JOURNAL #:	
		PAGE #:	

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30127-12, which provides for the development of plans and specifications to extend the existing Shunga Multipurpose Trail, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka. First Reading.

(The ordinance would allow for the extension of the Shunga Trail from SW Fairlawn Road to SW 29th Street.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

Approve Project Budget and Adopt Ordinance as presented.

BACKGROUND:

The project will include the development of plans and specifications to extend the existing Shunga Multipurpose Trail westerly and southerly following Shunga Creek on the north side of the Creek from SW Fairlawn Street to the south side of SE 29th Street. This project includes design and construction of a 10-foot wide concrete sidewalk, a bridge across the creek, slope stabilization, retaining walls, construction inspection, project administration, and right of way acquisition.

BUDGETARY IMPACT:

Project Budget = \$571,200.00

SOURCE OF FUNDING:

Funding Source #1- KDOT Grant: \$421,200.00

Funding Source #2- City of Topeka
General Obligation Bonds \$150,000.00
(Total Debt Service - \$263,313)

Item #27

TOTAL: \$571,200.00

ATTACHMENTS:

[Vicinity Map](#)

[Project Budget](#)

[Debt Service](#)

[Project Ordinance](#)

GO Bond Cost of Project

PROJECT: Shunga Creek Multipurpose Trail 30127-12

Interest rate	5.25%
Number of Years	20

Cost of Issuance	2.00%
Temp Note interest	5.000%

Principal (project cost)	<u>\$150,000</u>
Plus Temp Note Interest (unless included in Principal)	<u>\$7,500</u>
Subtotal	\$157,500
Plus Cost of Issuance	<u>\$3,150</u>
Total	\$160,650

Annual Debt Service	\$13,166
Annual Debt Service as Percent of Total	8.2%

Total Debt Service (principal and interest)	\$263,313
---	-----------

Difference Project Cost and Total Debt Service	\$113,313
--	-----------

GO Bonded Indebtedness as of March 2006*	\$148,705,000
2005-A Temporary Notes that Finance Future GO Bond projects	\$20,487,369
Approved, not Included in GO Bond Issue or Temporary Notes--City Projects	\$12,749,372
Approved, not Included in GO Bond Issue or Temporary Notes--Special Assessment Projects	<u>\$10,339,580</u>
Total Indebtedness	<u><u>\$192,281,321</u></u>
Plus Project	\$192,441,971

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

PROJECT BUDGET

Project No. 30127 Phase 12

LOCATION

This project is located and starts at the west end of the Shunga Trail at Fairlawn Road and progresses to the west and to south side of SW 29th Street.

DESCRIPTION OF PROJECT:

The project will include the development of plans and specifications to extend the existing Shunga Multipurpose Trail westerly and southerly following Shunga Creek on the north side of the Creek from SW Fairlawn Street to the south side of SW 29th Street. This project includes design and construction of a 10-foot wide concrete sidewalk, bridge across the creek, slope stabilization, retaining walls, construction inspection, project administration, and right of way acquisition.

SOURCE OF FUNDS:

Funding Source No. 1-Kansas Department of Transportation Grant - \$421,200.00
Funding Source No. 2- City of Topeka General Obligation Bonds - \$150,000.00
Capital Improvement Plan Year 2005 - Trail Extension
Capital Improvement Plan Year 2003 - Trail Extension

<u>COST ESTIMATE:</u>	<u>FUNDING SOURCE 1</u>	<u>FUNDING SOURCE 2</u>	<u>Total</u>
Construction:	\$388,000.00	\$97,000.00	\$485,000.00
Design:	\$0.00	\$32,500.00	\$32,500.00
Engineering Fees:	\$24,000.00	\$6,000.00	\$30,000.00
Administrative Fees:	\$0.00	\$0.00	\$0.00
Right-of Way Acquisition:	\$8,752.00	\$2,188.00	\$10,940.00
Contingency Amount:	\$448.00	\$112.00	\$560.00
Interest	\$0.00	\$12,200.00	\$12,200.00
Total:	\$421,200.00	\$150,000.00	\$571,200.00

PUBLIC HEARING:

PROJECT AUTHORITY:

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

Date: _____

PROJECT ENGINEER: Jeff Hunt

Shunga Trail Grant Request

Attachment number 3
Page 1 of 1



(Published in the Topeka Metro News_____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., authorizing Improvement Project No. 30127-12, which provides for the development of plans and specifications to extend the existing Shunga Multipurpose Trail, as more specifically described herein, all pursuant to Section A12-1 of the Code of the City of Topeka.

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

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

A. GENERAL NATURE OF IMPROVEMENT:

The project will include the development of plans and specifications to extend the existing Shunga Multipurpose Trail westerly and southerly following Shunga Creek on the north side of the Creek from SW Fairlawn Street to the south side of SW 29th Street. This project includes design and construction of a 10-foot wide concrete sidewalk, bridge across the Creek, slope stabilization, retaining walls, construction inspection, project administration, and right-of-way acquisition.

B. TOTAL PROJECT BUDGET COST:

\$571,200.00

C. SOURCE OF FUNDS:

Kansas Department of Transportation Grant	\$421,200.00
General Obligation Bonds and any other	
lawfully available funds	<u>\$150,000.00</u>
Total	\$571,200.00

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

29 PASSED and APPROVED by the City Council _____.

30

31

32

33

William W. Bunten, Mayor

34

35 ATTEST:

36

37

38

39

40 _____
Iris E. Walker, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 11, 2006

 + Back  Print

DATE:	September 12, 2006	
CONTACT PERSON:	Mike McGee/David Thurbon	DOCUMENT #:
SECOND PARTY/SUBJECT:	Street Lights	PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 134 Subdivisions	
CIP PROJECT:	No	
ACTION OF COUNCIL:	JOURNAL #:	PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. relating to streetlights, amending Topeka City Code Chapter 130, and Sections 134-77, 134-167, and 134-175 and specifically repealing said original Sections. First Reading.

(The ordinance requires the developer to provide for street lighting within new subdivisions and codifies procedure for installation of street lights in existing subdivisions)

POLICY ISSUE:

By requiring the subdivider to install street lights prior to housing construction, the City can improve upon safety/security in neighborhoods, reduce its overall utility costs, and make property owners aware of pole locations prior to home purchases.

STAFF RECOMMENDATION:

The Planning Commission recommended **DISAPPROVAL** (2-6-0) of the ordinance as referenced in their attached minutes of August 21, 2006. Their primary concerns included the lack of a variance procedure in the proposal and the cost impact it may have on the developer. The Public Works and Planning Departments recommend **APPROVAL** of the ordinance.

Council Options:

1. Adopt, Reject, or Modify the Ordinance
2. Return to the Planning Commission to address options for a variance procedure and/or gain a better understanding of the cost impact on development.

BACKGROUND:

- The ordinance amends Chapter 130 of the City Code by codifying the current administrative procedure for street light installation in existing subdivisions including having 75% participation of the homeowners.
- The ordinance also amends the Subdivision Regulations (Chapter 134) to require street lights in all new subdivisions.
- This item was originally referred to the Policy and Finance Committee by City Council on December 13, 2005. The Policy and Finance Committee recommended approval (2-0-0) of the ordinance on January 12, 2006.
- Subsequently, City Council referred the item to the Planning Commission for public hearing and recommendation on February 7, 2006 as required by state law for any amendments to the Subdivision Regulations.
- The Planning Commission continued a public hearing originally held on March 27, 2006 until better cost information

and utility corridor committee input could be provided. The Planning Commission considered the item again on August 21, 2006.

BUDGETARY IMPACT:

Adoption of this ordinance will reduce the City's cost to install street lights. However, annual electric usage and maintenance cost will be borne by the City of Topeka.

SOURCE OF FUNDING:

Initial cost of street lights will be the subdivider's responsibility. Usage and maintenance costs will be funded through the Transportation Operations Section operating budget.

ATTACHMENTS:

[Planning Commission minutes \(4/26/06\)](#)

[Planning Commission minutes \(8/21/06\)](#)

[Karl Capps e-mail \(8/24/06\)](#)

[Street Light Pole and Fixture detail](#)

[Ordinance](#)

DRAFT

**Minutes of the
Of the
Topeka Planning Commission
August 21, 2006**

ASR06/1 an amendment to the Subdivision Regulations requiring street lights for new developments. **(Thurbon)** Bill Fiander summarized the status of this.

Discussion by members:

Ralph Skoog we were hoping that some committees would look at this before we made a decision. He asked if that has been done? Mr. Fiander said the committee is through Public Works. Mike McGee will speak to that. Terry Simnitt said the meeting had to do with moving utilities from the front to the rear yard. Howard Blackmon said he thought there would be a report or recommendation from a committee. Mr. Skoog said we asked staff to bring this back to us in three months and that is what they did. Mr. Simnitt said the item should be tabled until we get a report. Mr. Skoog said we should hear from Mr. McGee the status of this proposal.

Proponents:

Mike McGee said 3 ½ to 4 years ago we reviewed our street light cost. We rent the lights from Westar. We checked into buying them back from Westar but that many streetlights at this time it was cost prohibited. That is why we are asking for street light installation with new developments. It is very difficult to retro fit a neighborhood with streetlights. Westar's problem is where a connection is. The other problem is people don't want the poles in their yards. This ordinance takes that problem away. The light is there before the houses are built. He said to outline the cost he will use the Rockfire Development as an example. He said there are 239 lots and the cost for 69 light poles would be \$267,000. That would be about \$1150 per lot that would be paid by the developer or whoever buys the lots. That includes all supplies and labor. The Right of Way Coordination has a sub committee reviewing right-of-way corridor lighting. There is a report going out for review next week to the development community for right of way lighting since the city now requires underground utilities. He said it is difficult placing all utilities in the front yard easement. It is a very tight area. These changes will be incorporated into the engineering standards. We will be asking Planning for more time to review plats because of this change. This will assign an area to each utility for placement of their lines. Westar won't install the lights they will just set the meter. The developer will hire out the installation of the lights.

Mr. Skoog asked what kind of standards are we talking about? Mr. McGee said there was a review of neighboring communities and we decided to go with the 14-foot tall polished aluminum pole. Almost the same as what is in Chesnea Park. We are following Overland Park standards and we hope to adopt these standards. Howard Blackmon said this lighting requirement is for new subdivisions only. Mr. McGee said yes. Mr. Blackmon asked what about existing subdivisions? Mr. McGee said they would follow standards in place now. He said they can petition to get streetlights and the neighbors have to agree. Westar will evaluate the area and if the neighborhood consents to the petition then it is put in the budget. Theron Sims asked how many streetlights the city owns right now? Mr. McGee said the lights in the downtown corridor and Washburn Lane lighting. Mr. Blackmon asked how the city came to own the Washburn Lane lights? Mr. McGee said because Westar doesn't install or maintain decorative lighting. Mr. McGee said there are some neighborhoods that own, install and maintain streetlights. Mr. Sims asked what Mr. McGee thought about the city owning the lights and how many are there? Mr. McGee said he wasn't sure of the count. He said an approximation would be 8700. He said if the city was to buy them back we would have to pay for the materials and the interest left that Westar is paying for the investment. It was deemed not feasible. We felt prior we could afford to pay for them but with the interest, it was excessively high. Mr. Boyd asked what the total amount was to install one pole? Mr. McGee said it has not yet been determined how many poles, lamps, etc. each staff member would install or change. Mr. Simnitt said this ordinance is amending several city codes. Mr. Boyd said the location of all utilities is shown on the preliminary plat. Would the street lighting need to be place on the preliminary plat as well? Mr. Fiander said there are two attachments to preliminary plats. They are the drainage report and street plans. He said the proposal is to show the lights on the street plans. He said he is not sure what the ordinance would say about connections. Mr. McGee said a separate connection for the lights needs to be shown. Mr. Sanders asked if the developers have been talked to about this? Mr. McGee said yes. He said he hasn't heard any pros or cons from the developers. He said Public Works and all utility companies are in favor of this. There were consultants on the committee and everyone was in favor of it being submitted during preliminary plat phase. It is a flexible plan due to conditions in the area. Mr. Sanders asked if the street light ordinance isn't approved the utility lines will still be put in as stated before? Mr. McGee replied yes. He added the right of way lighting would also be put in. Mr. Boyd asked what about older areas? He said the process of rewriting the development code is underway and he would like to see narrower streets implemented into the code. How will this fit into established neighborhoods? He said with the sidewalks and utilities it is getting difficult to make everything fit. Mr. McGee said the established neighborhoods wouldn't be touched unless there is a major redevelopment in the area. We will continue providing streetlights in neighborhoods that are already established with the policies in place.

There are too many trees in established neighborhoods for placement as stated in the new ordinance. Mr. Boyd asked how do we know this will work in suburbs? Why not just worry about major streets and let the neighborhoods worry about their own lighting. Mr. McGee said there are people out there that want the lights. Mr. Boyd said he would be interested to see who petitions. Mr. McGee said the inner city is pretty well lit. Mr. Boyd said it seems like we keep adding more requirements to plats and it costs the developer more. He said he doesn't like there is no variance from the ordinance for the developer. Mr. McGee said that is a policy issue. He added if we end up with multiple types of lighting it gets to be more expensive.

Craig Arnold, Westar Energy, spoke in favor of the proposal. He said a standard street light is usually on a 35-foot pole to get the full lighting affect. Howard Blackmon said maybe a lower light could be placed in older neighborhoods, under the trees. Westar doesn't have an opinion either way on the light poles. There has been opposition in areas because they don't want the poles in their yard. If a new development wants to put lights in, we aren't against that. Mr. Boyd asked with these standards would there be overlapping of lights? Mr. Arnold said at intersections you see overlapping but not in the neighborhoods. Mr. Sanders asked what area are the petitions for streetlights coming from? Have they come from new developments? Mr. Arnold said NW 35th & Green Hills Road and Prairie Trace Subdivision on SE 30th & Peck Road. Mr. Sanders asked if there was much discussion on other lighting? Mr. Arnold said they just requested the standard streetlights. Mr. Sanders said currently they don't have that choice if they request it. Mr. Arnold replied no, but if a developer put them in, he would have more options. He said the developers don't care they just want consistency regarding the street light requirements. Mr. Arnold said concerning the utility corridor, we have had to move to front of the lots to avoid drainage/power conflict. With the corridor, it would eliminate this problem. In the Rockfire development, it was stipulated where utilities went and it worked out very well. Mr. Skoog asked if Westar puts conduit in the concrete? Mr. Arnold replied yes 2-inch conduit. He added it is easier to be replaced if necessary. He said a transformer is 3feet by 3 feet and there is one for every two lots. He said Westar is trying to create standard to minimize the number transformers. Mr. Simnitt asked if this is the same procedure as Wichita? Mr. Arnold said he believed so. Mr. Boyd asked what process this ordinance would take. David Thurbon replied this is an amendment to the subdivision regulations. Your recommendation tonight will be sent to the Council and then a public hearing will be held at the City Council meeting. Mr. Simnitt asked how did the streetlights ordinance and the underground utility corridor put all in one? Mr. Skoog said most items on the ordinance were existing they are just updating it. Mr. Simnitt asked if \$42.00 per hour is correct for review of plats as stated in the ordinance? Mr. Thurbon said that is Development Services fees. Mr. Blackmon asked what constitutes a petition in an older neighborhood? Mr. McGee said it could be one block or more. Mr. Sanders asked if the \$42 review fee was a new fee? Mr. Thurbon said the fee was already in the ordinance there just more clarifying language. Mr. Skoog said we are trying to develop a city. Many areas of the city use to be fringe but are now an old part of the city. I don't think the fringe is going to be what it is today forever, eventually fringe will be well inside the city. Mr. Boyd asked if there was such an outcry for this why aren't the developers requesting the lights from the city now? There is no flexibility in this ordinance. Not all subdivisions need streetlights. Mr. Blackmon said he didn't realize this ordinance makes the streetlights mandatory? Mr. Sanders asked if one of the developers came forward to speak about this? Mr. McGee replied the Rockfire developer chose to come forward in favor but others really didn't mind either way. No opting out makes it an even playing field and requires any new subdivision to have streetlights. Mr. McGee said this should be thought of as a standard like water and sewer. Mr. Blackmon said Rockfire developers want this and wants to make it a requirement of all. Mr. McGee replied no they were just one group that said they were okay with it as long as it would be required of all. There hasn't been an outpour for or against. Mr. McGee said this is written with no option out they have to put in the streetlights. Mr. Sims said it is an injustice to the developers to make this mandatory. Lighting isn't necessary for every subdivision. He said he would be okay with the ordinance if it was not a mandatory requirement. He said he would like to see an option out.

Motion:

Ralph Skoog moved to approve the ordinance as written by staff.

Mr. Thurbon said there is a provision in the subdivision code regarding design variances. Mr. Thurbon said the Planning Commission could grant design variances.

No one spoke in opposition to the proposal.

Restated Motion:

Ralph Skoog moved to approve the ordinance as written by staff, seconded by Kimberly Scott. **DISAPPROVAL. (2-6-0) Commissioners Blackmon, Boyd, Hoferer, Sanders, Simnitt, and Sims voted no.**

Mr. Boyd asked where this item goes if it fails to be approved? Mr. Thurbon said it would go to the City Council with no recommendation.

Mr. Sims said he's not opposed if there were exclusions available. Maybe we should table this and discuss it next week.

Mr. Boyd said he is concerned with cost. We don't have a set cost. This is not a complete package yet. He said he also doesn't like that is mandatory. Not all subdivisions need lighting. Mr. Boyd said he would like to see this come back to us in some form. Mr. Skoog said if we don't approve this Westar will keep putting up the streetlights.

Mr. Sims said maybe some of these questions could be answered when we have the correct cost analysis.

Ms. Scott asked what wasn't understood in April when this item was first before the Planning Commission? Mr. Boyd replied we want to know what the end total cost for the developer will be. Mr. Skoog said we had a developer show the estimated cost and had a presentation showing the plan. When reviewing the budget they noticed how much streetlights cost the city so an alternative was looked for. That is how we got to this ordinance. The main problem was the cost.

Mr. Boyd asked Mr. Thurbon to give the Council some guidance as to what the Planning Commission concerns are. Mr. Thurbon said he would type a memo with bullet points stating the concerns. He said he would state as an option that the Council could remand this item back to them for further study.

Commissioner Skoog excused himself from the meeting.

**MINUTES OF THE TOPEKA PLANNING COMMISSION
WEDNESDAY, APRIL 26, 2006 @ 5:30 PM
620 SE MADISON STREET
HOLLIDAY WEST CONFERENCE ROOM, HOLLIDAY BUILDING
TOPEKA, KANSAS**

**Amendment to the Subdivision Regulations requiring street lights lighting for new development.
(ASR06/1)**

Theron Sims left the meeting at 6:10. David Thurbon explained the ordinance to the Commission and introduced Mike Pfender of the City's Public Works department. Mr. Pfender introduced Carlos Salazar and Jack Fultz and offered to answer any of the Commission's questions. Fred Sanders asked if lights would be placed on every street corner. Mr. Pfender said not necessarily, but a lot of the placement would be traffic oriented. Mr. Sanders then asked if the lights would all be a certain distance apart. Jack Fultz responded that the lights are typically 200' apart, but care is taken to place them on lot lines in order to avoid a placement displeasing to the property owner. Mr. Sanders asked if a neighborhood would have to apply for a variance if its residents wanted softer lighting than the standard. Mr. Pfender said that there is a provision in the ordinance which allows the developer to opt out of providing lighting if a homeowners' association will install and maintain lighting of its own choosing. Mr. Sanders asked if the lights could be placed behind the sidewalk, rather than between the sidewalk and the curb. Mr. Pfender advised that such placement would be on private property and the City could not maintain it. Braxton Copley added that the developer would have to increase the amount of right-of-way it was willing to dedicate. Mr. Sanders inquired as to the cost of the ordinance to the developer. Mr. Fultz said that the cost would be approximately \$1000 to \$1500 per lot. Chairman Boyd asked if that was pure construction cost or if engineering was included in the figure. Mr. Fultz said it did not include engineering. Mr. Sanders noted that many of the street lights around town were blocked out by trees. Mr. Pfender said that this ordinance would help this issue, as the lights would be in place before trees are planted—thus making it easier to plan tree placement to maximize illumination. Discussion followed on the type and look of the proposed lights. Bill Fiander asked Mr. Copley to verify the inclusion of the opt-out clause. Mr. Copley said it had been so long since he had written the ordinance that he could not remember without seeing it. Mr. Thurbon said he did not think the clause was a part of the current version of the ordinance but advised that, if the Commission felt the opt-out clause was important, it could recommend adoption of the ordinance with that provision being added. Terry Simnitt expressed concern over comments he had heard from developers indicating that they did not want to work with such a system. Mr. Pfender said if they can find a homeowners' association to relieve them of the burden of the lighting, they're welcome, but the subdivision would be without traffic related lighting at its intersections. Mr. Thurbon asked if a provision could be added whereby the homeowner could request that a shade be added to the rear of the light. Carlos Salazar said yes. Mr. Simnitt noted that the Developers' Review Committee had planned to put together a task force to meet with the city and Westar regarding the concept of having the utilities out at the front of the lots and asked Mr. Thurbon if he'd heard any news. Mr. Thurbon responded that there was still discussion regarding the issue but he had not heard anything in the last few weeks. Chairman Boyd observed that the ordinance requires a great deal of information from the developer at the preliminary plat stage that normally isn't required until much later. He also expressed reluctance to recommend approval of the ordinance without a figure for the true cost to the developer and the City. Ralph Skoog noted the uncertainty regarding the final placement of the utilities and suggested continuing the issue until the utility coordination committee had settled on a location. Discussion followed on how long that might take. Ralph Skoog moved with Terry Simnitt seconding to continue the issue until such time as the Utility Coordination Committee develops a policy regarding utility placement—not longer than three (3) months. Mr. Thurbon advised that he felt the coordination issue was irrelevant to the ordinance. Discussion followed. Chairman called for a vote on Mr. Skoog's motion. **The motion passed 7-0-0.**

From: David Thurbon

Sent: Monday, August 28, 2006 8:25 AM

To: Bill Fiander

Subject: FW: Street Lighting

Attachment number 4

Page 1 of 2

From: Braxton Copley

Sent: Friday, August 25, 2006 6:51 PM

To: Mike McGee; 'Karl Capps'

Cc: Michael Pfender; Carlos Salazar; David Thurbon

Subject: RE: Street Lighting

Covenants are not regulations adopted by the city and cannot be enforced by the city. The city's ability to regulate nuisances and housing code violations stems from the police powers which permit us to regulate conduct which poses a threat to health and safety. Typically covenants ie House color, fence location, minimum finished square footage etc exceed what the city's police power will permit us to enforce. C

Even if, for example, a covenant prohibited lawns from exceeding 12" in height, the city could not enforce that covenant, we would cite the property owner under our nuisance-vegetation ordinance and then take the appropriate abatement action if the violation were not remedied within the time set forth in the notice.

Bbc

From: Mike McGee

Sent: Thursday, August 24, 2006 12:25 PM

To: 'Karl Capps'

Cc: Braxton Copley; Michael Pfender; Carlos Salazar; David Thurbon

Subject: RE: Street Lighting

Hi Karl - thanks for the feedback. This may give us some options for consideration. At the Planning Commission meeting last Monday evening there seemed to be some consensus that developers should have a way to option out versus being required. That seemed to be the main sticking point, thus the 2-6 vote against. Covenants might be a method but currently the city does not enforce covenants and I'm not sure we can (Braxton ?). Posting a bond might be a method. I am copying our legal staff for their thoughts as well. We'll compare notes and get back to you soonest. Thanks again.

Michael E. McGee

Deputy Director

Topeka Public Works Dept.

(785) 368-3801

Fax (785) 368-3806

mmcgee@topeka.org

-----Original Message-----

From: Karl Capps [mailto:kcapps@sunflower.com]

Sent: Thursday, August 24, 2006 9:04 AM

To: Mike McGee

Subject: Street Lighting

Hi Mike,

I see that street lighting is coming up again and I wanted a chance to weigh in with you personally. I do feel it is important to have lighting in all subdivisions and that developers should have options when they do so. My biggest two concerns are that housing costs will continue to escalate even higher if costs are not addressed and that we have considerable crowding in the front utility corridors.

My solution to both concerns continues to be that we allow the developer to create covenants that would require a pole light (location specified) and or coach lights that would have sufficient candlepower and dusk to dawn switching. This solution would be of no cost to the city (maintenance or electric bills). The cost would be simply a part of the lighting package for the home. If a developer is not willing to create covenants then he should be required to install the entire infrastructure up front and/or post a bond assuring he will do so.

I appreciate your consideration.

Regards,

Karl Capps
2007 Hogan Dr
Lawrence, KS 66047

785 841 4875

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., relating to streetlights, amending Topeka City Code Chapter 130, and §§ 134-77, 134-167 and 134-175 and specifically repealing said original sections.

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

Section 1. That City of Topeka Code Chapter 130, Streets, sidewalks, and other public places, is hereby amended by the addition of the following article:

Article XIV. Street Lights Existing Subdivisions.

Section 2. That City of Topeka Code Chapter 130, Article XIV, Street Lights Existing Subdivisions, is hereby amended by the addition of the following language:

Streetlights.

(a) If a petition is submitted to the department of public works asking that streetlights be installed in an existing subdivision or portion thereof, then the department of public works shall proceed with the streetlight installation in that subdivision or portion thereof subject to the following requirements:

1. Petitions for street lighting for a subdivision must bear the signatures of at least seventy-five percent (75%) of the homeowners of the subdivision and such homeowners must obligate themselves to pay for all the costs of the streetlight installation.

2. Petitions for infill street lighting for portions of a subdivision shall contain the signatures of at least seventy-five percent (75%) of the homeowners located within the effective lighting pattern of the requested infill street lighting. The

homeowners in the petition area must, as part of the petition, obligate themselves to pay for all the costs of the infill street lighting installation.

(b) All street lighting shall conform to City standards and specifications. Street lighting formally accepted by the City shall become the property of and maintenance responsibility of the City. The City reserves the sole right to accept for maintenance any street lighting and to activate or deactivate any accepted street lighting.

Section 3. That City of Topeka Code § 134-77, Contents, is hereby amended to read as follows:

Contents.

The contents of the preliminary plat shall include the following:

- (1) Vicinity map showing geographical location of the proposed subdivision.
- (2) The proposed name of the subdivision (the name shall not duplicate or closely resemble the name or names of any existing subdivision).
- (3) The location of the boundary lines in relation to the quarter section corner.
- (4) The names and addresses of the developer, surveyor, landscape architect or architect who prepared the plat.
- (5) The scale of the plat shall be one inch equals two hundred (200) feet or larger.
- (6) Date of preparation and north point.
- (7) Location, width and name of platted street or other public ways, railroads and utility rights-of-way, parks and other public open spaces and permanent buildings within or adjacent to the proposed subdivision.

(8) All existing sewers, water mains, gas mains, culverts or other underground installations within the proposed subdivision or immediately adjacent thereto, showing pipe size, grades and location.

(9) Names of adjacent subdivisions, and owners of adjacent parcels of unsubdivided land.

(10) Topography with contour intervals of not more than five (5) feet (referred to USGS datum), also location of watercourses, bridges, wooded areas, lakes, ravines, approximate acreage and such other features as may be pertinent to the subdivision.

(11) The location and width of proposed streets, roadways, highways, pedestrian ways and easements.

(12) The location and character of all proposed utility lines, included sewers (storm and sanitary), water, gas, telephone and power lines. Where new public streets or rights-of way are proposed, a preliminary street plan ~~which~~ shall have cross section and profile data of the existing conditions and of the proposed improvements. Further, the preliminary street plan shall state all other information required for street lighting as specified in the City's technical specifications maintained by the City engineer. The preliminary street plan shall be reviewed by the City or County engineer for compliance with the uniform standards. The reviewing engineer shall submit a statement to the secretary of the planning commission prior to the public hearing, indicating that the preliminary street plan meets with uniform standards or setting forth the provisions necessary to meet the uniform standards. If a sewage treatment plant or other type of individual or community sewage disposal system is to be installed or constructed to serve all or certain portions of the proposed subdivision, the general plan for such community

type sewage treatment or disposal system shall be shown and so identified on the proposed plat.

(13) Layout, numbers and approximate dimensions of all lots, and the number or letter of each block.

(14) Location and size of proposed parks, playgrounds, churches or school sites, or other special uses of land to be considered for dedication to public use or reservation by deed of covenant for the use of all property owners in the subdivision and the conditions of such dedication or reservation.

(15) Building setback lines with dimensions.

(16) Indication of any lots for which uses other than residential are proposed by the subdivider.

(17) A statement, on the plat, as to how lots will be sewered.

Section 4. That City of Topeka Code § 134-99, Contents, is hereby amended to read as follows:

Contents.

The final plat shall show and contain the following information:

(1) Name of subdivision (not to duplicate or closely resemble the name of any existing subdivision).

(2) Location of section, township, range, county and state, including the descriptive boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions which must mathematically close; the allowable area of closure on any portion of the plat shall be one (1) foot in five thousand (5,000).

(3) The locations of monuments shall be shown and described on the final plat; locations of such monuments shall be shown in reference to existing official monuments or nearest established street lines, including the true angles and distances to such reference points or monuments.

(4) The location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii or area of all curves, and with all other information necessary to reproduce the plat on the ground; dimensions shall be shown from all angle points and points of curve to lot lines.

(5) The location, size, lumination and any other required specifications for a street lighting system.

(6) Lots shall be clearly designated by number or letter; the area of each lot shall be indicated in terms of square footage either in tabular form or within the lot boundaries on the plat.

(7) Blocks shall be lettered clearly in the center of the block.

(8) The exact location, width and name of all streets to be dedicated.

(9) Location and width of all easements to be dedicated.

(10) Boundary lines and description of the boundary lines of any area, other than streets and alleys, which are to be dedicated or reserved for public use.

(11) Name and address of the developer and the surveyor or engineer making the plat.

(12) Scale of plat (scale to be shown graphically and in feet per inch), date and north point.

(13) Formal dedication for all easements.

(14) Formal dedication of all streets, alleys and all other public areas not previously dedicated.

(15) The names and signatures of the owners of the property, duly acknowledged and notarized, shall appear on the original and copies submitted.

Section 5. That City of Topeka Code § 134-167, Procedure for developer project, is hereby amended to read as follows:

Procedure for developer project.

The following procedure shall be followed when the public improvements are proposed to be completed as a developer project:

(1) All proposed street, street lighting, sanitary sewer, storm sewer and sidewalk improvements to be installed by a subdivider or developer must first be approved by the City engineer. A plan review fee of forty-two dollars (\$42.00) per hour shall be charged. Payment by the developer or subdivider of all plan review fees incurred shall be a condition precedent to the acceptance of the improvements.

(2) The City engineer shall inspect all work done by the subdivider or developer and shall approve or reject as appropriate. A final inspection shall be requested in writing by the developer or subdivider when the work is completed. The City engineer's approval and payment by the developer or subdivider of all inspection fees incurred shall be a condition precedent to the acceptance of the improvements.

(3) Upon approval of such work and payment of all fees, the City engineer shall accept the improvement for maintenance by the City.

(4) The subdivider of developer shall furnish a surety bond conditioned that they shall maintain and make all necessary repairs to the improvements constructed by them,

at their own expense, for a period of one (1) year after the date of acceptance of the improvements, where repairs are necessary by reason of defective workmanship, imperfection in material used, or improper, imperfect or defective preparation of the ground upon which the improvement shall be laid. The surety shall be for the benefit of the public and in an amount equal to ten percent of the total improvement cost, but in no case shall the amount be less than Five Thousand Dollars (\$5,000.00).

(5) Unless and until such acceptance is made as provided for in this article, the City accepts no responsibility for any improvements.

Section 6. That City of Topeka Code § 134-175, Streetlights, is hereby amended to read as follows:

Streetlightsing required.

~~(a) Any subdivider, developer or other property owner who plans to restrict a subdivision's electrical services to underground wiring shall be required to pay any costs of streetlight installation which are above the standard costs for streetlight installations. Standard streetlight costs shall be construed to mean the costs of installing a streetlight in the subject subdivision if overhead wiring were available.~~

~~(b) Any subdivider, developer or other property owner shall be required to post a satisfactory bond or cash deposit securing to and insuring the City that such subdivider, developer or other property owner will pay the costs of streetlight installations which are above the costs of standard streetlight installations.~~

~~(c) If a petition is submitted to the department of public works asking that streetlights be installed in an existing subdivision containing underground electrical wiring, then the department of public works shall proceed with the streetlight installation in that~~

~~subdivision; provided, however, that any such petition must bear the signatures of at least 75% of the homeowners of the subdivision, and such homeowners must obligate themselves to pay for the costs of the streetlight installation which are above the standard costs for streetlight installation.~~

(a) The subdivider shall provide adequate street lighting for each street contained within the subdivision. Plans and specifications for such installation shall be submitted to and approved by the City before issuance of building permits. All street lighting design and installation costs shall be paid for by the owner of the subdivision. All street lighting design and installation shall conform to the City standards and specifications. Street lighting not conforming to City standards and specifications shall not be accepted by the City.

(b) Street lighting formally accepted by the City shall become the property of and maintenance responsibility of the City. The City reserves the sole right to accept for maintenance and to activate or deactivate accepted street lights.

(c) Street lighting not conforming to City standards and specifications shall not be accepted for maintenance by the City. If the developer or property owner installs street lighting which does not conform with the City specifications, the developer or property owner, subsequent property owners or home owner's association shall be solely responsible for the maintenance, repair and supply of electrical energy to the street lighting.

Section 7. That original Topeka City Code Chapter 130, and §§ 134-77, 134-167, and 134-175 are hereby specifically repealed.

Section 8. This Ordinance shall take effect and be in force from and after its
passage, approval and publication in the official City newspaper.

PASSED and APPROVED by the City Council _____.

William W. Bunten, Mayor

ATTEST:

Iris E. Walker, City Clerk



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Topeka, Kansas 66603

September 12, 2006

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STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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