



City of Topeka City Council Agenda

City Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org

December 20, 2016
6:00 PM

Mayor: Larry E. Wolgast Councilmembers

Karen A. Hiller	District No. 1	Brendan Jensen	District No. 6
Sandra Clear	District No. 2	Elaine Schwartz	District No. 7
Sylvia E. Ortiz	District No. 3	Jeff Coen	District No. 8
Tony Emerson	District No. 4	Richard Harmon	District No. 9
Michelle De La Isla	District No. 5		

Interim City Manager: Doug Gerber

Addressing the Council: No person shall address the Council during a Council Meeting, unless they have notified the City Clerk at (785)368-3940 by 5:00 P.M. on the day of any Council Meeting of their desire to speak on a specific matter on the published meeting agenda or during the public comment portion of the Council Meeting. This limitation shall not apply to items added during the course of a meeting. The Council does not take action with respect to any subject not on the agenda unless added to the agenda by a two-thirds vote of the Council.

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

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

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

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

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

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. MAYORAL PROCLAMATIONS:

"Ted Mize Day"

2. PRESENTATIONS:

"Expedition Des Moines"

3. ROLL CALL:

4. CONSENT AGENDA:

A. Board Appointment - Topeka Landmarks Commission

BOARD APPOINTMENT recommending the appointment of Cheyenne Anderson to the Topeka Landmarks Commission for a term ending January 1, 2020. *(Council District No. 6)*

B. Board Appointment - Topeka Housing Authority Board of Commissioners

BOARD APPOINTMENT recommending the appointment of Franklin Young to the Topeka Housing Authority Board of Commissioners to fill a term ending January 1, 2021. *(Council District No. 1)*

C. MINUTES of the regular meeting of December 13, 2016

D. APPLICATIONS:

5. ACTION ITEMS:

A. Public Hearing and Ordinance - Establish 29th and Fairlawn Tax Increment Finance District

A PUBLIC HEARING to consider the advisability of establishing a redevelopment district at the northwest and northeast corners of Southwest 29th Street and Fairlawn Road.

AN ORDINANCE introduced by Interim City Manager Doug Gerber establishing a Redevelopment District for the Wheatfield TIF District pursuant to K.S.A. 12-1770 et seq., as amended.

(Approval would establish a TIF district for property at the northwest corner of 29th and Fairlawn for the Wheatfield Development.)

B. Resolution - Reserve Transfers (General Fund)

A RESOLUTION introduced by Interim City Manager Doug Gerber, authorizing the use of excess funds from unreserved fund balances.

(Approval would authorize transfer of \$1.6 million for specified purposes.)

C. Resolution - Reserve Transfers (Non-General Fund)

A RESOLUTION introduced by Interim City Manager Doug Gerber, authorizing the use of excess funds from unreserved fund balances.

(Approval would authorize transfer of \$900,000 for specified purposes.)

D. Revised Project Budget and Resolution - TPAC and City Hall Steps Project T-131042.00

A REVISED PROJECT BUDGET in the amount of \$600,000 and **A RESOLUTION** introduced by Interim City Manager Doug Gerber, amending and authorizing the project budget approved by Resolution No. 8755 for Improvement Project No. T-131042.00 which provides for the steps for Topeka Performing Arts Center and City Hall Project.

(Approval would authorize an additional \$126,000 for the Steps for TPAC and City Hall Project (Formerly "Heritage Foundation Grant for TPAC and City Hall"). Additional funding is being supplemented by the General Fund.)

E. Revised Project Budget and Resolution - Water Main Replacement Program T-281078.00

A REVISED PROJECT BUDGET in the amount of \$2,400,000 and **A RESOLUTION** introduced by Interim City Manager Doug Gerber, amending and authorizing the project budget approved by Resolution No. 8625 for Improvement Project No. T-281078.00 which provides for the 2015 Water Main Replacement Program and providing Notice of Intention regarding the issuance of revenue bonds pursuant to K.S.A. 10-1201, et seq. *(Requires two-thirds (7) majority vote of the Governing Body)*

(Approval would authorize an additional \$400,000 for the 2015 Water Main Replacement Program. Additional funding is being supplemented by the General Fund.)

F. Revised Project Budget and Resolution - Zoo Fire Hydrants Improvement Project T-301050.00

A REVISED PROJECT BUDGET in the amount of \$499,077 and **A RESOLUTION** introduced by Interim City Manager Doug Gerber, amending and authorizing the project budget approved by Resolution No. 8755 for Improvement Project No. T-301050.00 which provides for the Zoo Fire Hydrants Project.

(Approval would authorize an additional \$349,077 for the Zoo Fire Hydrants Project. Additional funding is being supplemented by cash from the Debt Service Fund.)

G. Ordinance - Mobilitie, L.L.C. Franchise Agreement

AN ORDINANCE introduced by Interim City Manager Doug Gerber, granting a nonexclusive franchise agreement to Mobilitie LLC to construct, operate and maintain wireless telecommunications facilities within the public right-of-way.

(Approval would grant a ten-year franchise agreement.)

H. Resolution - 2017 City Council Meeting Schedule

A RESOLUTION introduced by Deputy Mayor Michelle De La Isla cancelling Council meetings for calendar year 2017.

(Approval would provide notice that Council meetings would not be held on July 4, 2017 (Independence Day), August 1, 2017 (Primary Election Day) and November 7, 2017 (General Election Day).)

I. Approval of City Council Rules and Procedures

APPROVAL of revisions to City Council Rules and Procedures.

(Approval would update the Council Rules to reflect changes wrought by the enactment of Charter Ordinance Nos. 114 and 117.)

J. Ordinance - Public Record Fees

AN ORDINANCE introduced by Interim City Manager Doug Gerber, concerning fees and procedures for record requests, amending City of Topeka Code Sections 2.20.090, 2.20.110 and 2.20.120 and specifically repealing said original sections.

Voting Requirement: This is a home rule ordinance for which the mayor has no vote.

(Approval would change the fees charged to produce copies of public records.)

K. Resolution - Legislative Agenda Process and City Council Chaplain

A RESOLUTION introduced by Councilmember Karen Hiller, rescinding obsolete resolutions concerning the legislative agenda process (Resolution No. 8044) and designating a chaplain for councilmembers (Resolution No. 7458).

(Approval would rescind resolutions imposing upon the deputy mayor the duty to initiate a legislative agenda and appoint a Council chaplain.)

L. Resolution - Council Attendance at Events/Training

A RESOLUTION introduced by Councilmembers Karen Hiller, Richard Harmon and Tony Emerson regarding Council attendance at events and/or training and rescinding Resolution No. 6795.

(Approval would allocate a portion of the Council training budget to each Councilmember to attend an event or training and require the Councilmember to provide a written or verbal report to the governing body.)

6. NON-ACTION ITEMS:

A. Discussion - 2017 Legislative Agenda

DISCUSSION regarding legislative priorities identified by the Governing Body to be addressed or monitored during the 2017 Legislative Session.

B. Discussion - Reduction of Combined Sewer Overflows (CSOs) Update

DISCUSSION for the purpose of providing a progress update on the City's compliance with a Kansas Department of Health and Environment Consent Order addressing reduction of Combined Sewer Overflows (CSOs) and updating the CSO Long Term Control Plan.

7. ANNOUNCEMENTS:

PRELIMINARY AGENDA

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

8. PUBLIC COMMENT:

9. EXECUTIVE SESSION:

Executive Sessions are closed meetings held in accordance with the provisions of the Kansas

Open Meetings Act.

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

10. ADJOURNMENT:

Not Applicable.

ATTACHMENTS:

Description

C.Anderson Landmarks Commission Application

Profile

Cheyenne

First Name

Anderson

Last Name

cam@htkarchitects.net

Email Address

1409 SW Cambell Ave.

Street Address

Suite or Apt

Topeka

City

KS

State

66604

Postal Code

Are you a resident of the City of Topeka?

☒ Yes ☐ No

District 6

What district do you live in?

Mobile: (785) 608-6634

Primary Phone

Business: (785) 266-5373Alternate Phone

Which Boards would you like to apply for?

Topeka Landmarks Commission

HTK Architects

Employer

Interior Architect

Job Title

Are you a registered voter?

☒ Yes ☐ No**Are you currently a full or part-time employee of the City of Topeka?**

☐ Yes ☒ No

If yes, please advise in which department you work:

Are you or any immediate family member related to any city governmental official or employee?

☐ Yes ☒ No

If yes, please advise who and how you are related:

Are you or have you been a party to any civil litigation involving the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Are you delinquent in payment of any taxes, fees, fines or special assessments owed to the State of Kansas, Shawnee County or the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Interests & Experiences

Please state why you are interested in serving on this board or commission:

I would love the opportunity to be involved in the preservation of historic resources and culture as applied in the City of Topeka. I was lucky enough to be involved in the application for College Hill Neighborhood as a Historic Disitric while serving as Board President. I have a passion for history and a realistic understanding of building structures as well as building code.

Please describe your education, experience and expertise including any honors or awards, civic, cultural, charitable or professional organization memberships that relate to the position you are seeking.

Employment HTK Architects- Interior Architect/Project Manager Education Kansas State University Bachelor of Interior Architecture, 2007 Professional Membership American Institute of Architects, Assoc. International Interior Design Association, Assoc. Civic Membership Silverbackks Silversupper- Lead Volunteer 2014- 2016 Topeka Public Schools Foundation Board Member 2013- 2015 College Hill NA- President 2014-2015

[Cheyenne Resume-
_Landmarks Commision.pdf](#)

Upload a Resume

Please attach any additional information you believe may be helpful in considering your application.

Voluntary Self Identification

Caucasian/Non-Hispanic

Ethnicity

Female

Gender

Acknowledgements and Verification

Purpose of information being submitted.

☒ I Agree

The information I am submitting is true and correct.

☒ I Agree

Electronic Signature

☒ I Agree



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE: December 20, 2016
CONTACT PERSON: Mayor Larry Wolgast **DOCUMENT #:**
SECOND PARTY/SUBJECT: Topeka Housing **PROJECT #:**
 Authority Board of
 Commissioners
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
 PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Franklin Young to the Topeka Housing Authority Board of Commissioners to fill a term ending January 1, 2021. *(Council District No. 1)*

POLICY ISSUE:

The Topeka Housing Authority Advisory Board plans and studies the public housing needs of the City and to make recommendations to city officials.

STAFF RECOMMENDATION:

Mayor Wolgast recommends the Governing Body move to approve the board appointment.

BACKGROUND:

The board shall consist of five members appointed by the Mayor; one of which must be a client of the housing authority. Members shall serve four-year terms on volunteer basis. Council nominations are not required.

BUDGETARY IMPACT:

There is a no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

Description

F. Young THA Application 2016

Profile

Franklin

First Name

Young

Last Name

fyoung1234@yahoo.com

Email Address

600 SE Madison St.

Street Address

Apt. # 400.

Suite or Apt

Topeka

City

KS

State

66607

Postal Code

Are you a resident of the City of Topeka?☒ Yes ☐ No

District 1

What district do you live in?

Mobile: (785) 383-4901

Primary Phone

Home: (

Alternate Phone

Which Boards would you like to apply for?

Topeka Housing Authority Advisory Board

Stormont Vail Health

Employer

Information Desk

Receptionsit/Ambassador

Job Title

Are you a registered voter?☒ Yes ☐ No**Are you currently a full or part-time employee of the City of Topeka?**☐ Yes ☒ No

If yes, please advise in which department you work:

Are you or any immediate family member related to any city governmental official or employee?

☐ Yes ☒ No

If yes, please advise who and how you are related:

Are you or have you been a party to any civil litigation involving the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Are you delinquent in payment of any taxes, fees, fines or special assessments owed to the State of Kansas, Shawnee County or the City of Topeka?

☐ Yes ☒ No

If yes, please explain:

Interests & Experiences

Please state why you are interested in serving on this board or commission:

After 7+ years of service as a Board Member and 3+ years as Vice Chair, I have a vested interest in the continuing success of Topeka Housing Authority. Given it's Mission: "To Successfully provide accessible, affordable housing." I would like to rejoin that effort.

Please describe your education, experience and expertise including any honors or awards, civic, cultural, charitable or professional organization memberships that relate to the position you are seeking.

Franklin earned 99 semester hours credit at the University of Kansas and then graduated cum laude with a baccalaureate degree in economics from Washburn University of Topeka in 1987. Special attributes include fluency in Spanish aided by spending 2 months as an exchange student in Mexico City, Mexico in 1965 and proficiency in computer usage with an emphasis on search skills. He worked for U.S.D. 501 as a paraprofessional supervising special needs children. He also was a student computer operator on a Prime Super-Minicomputer at Washburn University. While living in California Franklin strived mightily on two entrepreneurial ventures with a friend, one an "Energy Store" and the other "Airport Information Systems, a public access information system using kiosks in high-traffic areas like convention centers, airports, and hotels. In addition in Colorado he worked multiple summers at Cheley Colorado Camps, as a camp counselor for boys and girls from ages 8 to 17. In the volunteer or nonprofit sector Franklin has been quite active since 1999. As a volunteer Frank has served at Let's Help for 7 years, Stormont Vail Health for approximately 2 years, at Meals On Wheels for 5 years, Topeka Shawnee County Public Library, and has donated 5 and 1/2 gallons of blood at the Community Blood Center. Beginning in 2008, he served as a Board member of the Topeka Housing Authority and as Vice Chairman from 2012 through 2015.

[FYResume.pdf](#)

Upload a Resume

Please attach any additional information you believe may be helpful in considering your application.

Voluntary Self Identification

Caucasian/Non-Hispanic

Ethnicity

Male

Gender

Acknowledgements and Verification

Purpose of information being submitted.

☒ I Agree

The information I am submitting is true and correct.

☒ I Agree

Electronic Signature

☒ I Agree

Objective: To join in the effort to improve the health of our community.

Educational Experience: Consumers as Providers Topeka, KS
C.P.S. Certification 2009

- Internship through Valeo Behavioral Healthcare
- Assisted classmate receive housing through VASH program

Washburn University Topeka, KS
Bachelor of Arts - Economics 1987

- Classes in Macroeconomics, Microeconomics, and Urban and Regional Economics
- Graduated Cum Laude

University of Kansas Lawrence, KS
Pre-Med Studies 1980

- Completed most pre-med requirements
- Dean's List four semesters

Professional Experience: USD 501 Topeka, KS
Paraprofessional 1A September 2006 to May 2008

- Monitored elementary and special needs children
- Supervised students to maintain safety on bus

Washburn University Topeka, KS
Computer Operator and Monitor July 1986 to May 1988

- Monitor University's Prime Super Mini-Computer for technical difficulties
- Serviced computer terminals and printers

Airport Information Systems, Inc Santa Rosa, CA
Business Research Analyst August 1981 to October 1983

- Researched information to start business venture
- Assisted owner and manager in numerous projects

Cheley Colorado Camps Estes Park, CO
Camp Counselor Summers 1975 to 1983

- Supervised, mentored, and counseled 60 youth in outdoor activities
- Operated and maintained camp bus for five summers

Energy Option Santa Rosa, CA
Business Research Analyst November 1979 to May 1980

- Researched information to start business venture
- Assisted in forming strategic plan for company

Volunteer Experience:

Topeka Housing Authority Topeka, KS
Member of the THA Board of Commissioners June 2008 to 2015

- Assisted in setting policy for the executive staff of the Topeka Housing

Authority and THA, Inc.

- Monitored construction projects and supervised overall operations
- Served as Vice Chair for the Topeka Housing Authority and THA, Inc.

Valeo Behavioral Healthcare

Topeka, KS

Support Services

May 2011 to June 2011

- Completed many online and group trainings regarding the subject of mental health support.
- Assisted facilitating support groups

Stormont Vail

Topeka, KS

Volunteer at Information Desk

September 2005 to September 2007

- Provided information to guests regarding patients and assisted with directions
- Translated for Hispanic individuals

Let's Help

Topeka, KS

Food Service Volunteer

December 1999 to January 2008

- Prepared and served lunch for low-income residents of Topeka

**Professional
Reference:**

Jonathan Jerden

Principal

Millennia Consulting Group

8650 Jaffa Court, #23

Indianapolis, Indiana 46240

(239) 398-8152 (M)

jjerden@juno.com

John Johnston

Former President/CEO

Topeka Housing Authority

2046 Saddlehorn Trail

Katy, Texas 77494

(785)925-1347

john@jcjcllc.com

Sophie George

President/CEO

Topeka Housing Authority

2010 SE California

Topeka, KS 66607

(785)357-8842 ext. 119

sgeorge@tha.gov

Beverly Rice

Director of Volunteer Services

Stormont Vail Health

1500 SW 10th

Topeka, KS 66604

(785)354-6000 (W)

brice@stormontvail.org



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE: December 20, 2016
CONTACT PERSON: Brandon Kauffman, **DOCUMENT #:**
Director of Finance
SECOND PARTY/SUBJECT: Wheatfield Development **PROJECT #:**
CATEGORY/SUBCATEGORY 018 Public Hearings / 011 Other
CIP PROJECT: No
ACTION OF COUNCIL: 11-01-16 Discussion; 11- **JOURNAL #:**
15-16 Set Public
Hearing; 12-20-16 Public
Hearing
PAGE #:

DOCUMENT DESCRIPTION:

A PUBLIC HEARING to consider the advisability of establishing a redevelopment district at the northwest and northeast corners of Southwest 29th Street and Fairlawn Road.

AN ORDINANCE introduced by Interim City Manager Doug Gerber establishing a Redevelopment District for the Wheatfield TIF District pursuant to K.S.A. 12-1770 et seq., as amended.

(Approval would establish a TIF district for property at the northwest corner of 29th and Fairlawn for the Wheatfield Development.)

POLICY ISSUE:

The policy consideration for the Governing Body is whether or not to find that the area described in the boundaries is a conservation area and to establish a TIF district for property at the near the northwest corner of 29th and Fairlawn for the Wheatfield Development.

STAFF RECOMMENDATION:

Staff recommends the Governing Body conduct the public and hearing and move to adopt the ordinance.

BACKGROUND:

29 Fairlawn, L.L.C., a development entity led by Jim Klausman and Floyd Easton, has purchased property of approximately 13 acres at the northwest corner of 29th and Fairlawn in southwest Topeka. The developer has requested assistance from the City of Topeka in the redevelopment of the property through the use of a TIF, community improvement district and industrial revenue bonds without tax abatement.

The plan is in the early stages of development and the development size and density depends on pending access studies being conducted with the Kansas Department of Transportation. The area qualifies as a "conservation area" under the state TIF statutes because the area contains a substantial number of deteriorating structures which create economic obsolescence. The attached study documents why the area should be considered as a conservation area and how it meets the statutory guidelines.

The developer plans to create a mixed use development of retail, restaurants, multi family and office space. Tax increment financing would be used to pay for eligible redevelopment costs, on a pay-as-you-go basis for land acquisition, site preparation, infrastructure improvements and parking facilities.

Tax Increment Financing allows the increased tax revenue resulting from the redevelopment of property to pay for eligible costs in the redevelopment project. Once a TIF district is established and a redevelopment project plan is adopted by the governing body, the increment of increased tax revenue is set aside by the County Treasurer, to be used by the City to reimburse the developer for qualified expenses. After all eligible costs have been paid, or the City has reimbursed the maximum amount approved, the property tax increment will be terminated and all tax revenue is distributed to the City, County, School District and other applicable taxing jurisdictions.

The first step in establishing the tax increment district is the adoption of a resolution which states the governing body is considering the establishment of a TIF district and sets the date for a public hearing on the matter. The public hearing was set by the governing body at its November 15, 2016 meeting to be held for this project on December 20, 2016. After closing the public hearing, the governing body may adopt an ordinance establishing the redevelopment district. The final step in the approval process involves the adoption of a detailed project plan and approval of a development agreement by the governing body.

The initiating resolution before the governing body for consideration would direct the City Clerk to publish the resolution in the City's official newspaper and to mail copies, by certified mail, to the owners and occupants of all property located with the district and to the Board of County Commissioners and Board of Education. The resolution includes a map of the proposed district and a proposed district plan identifying potential redevelopment project areas and a general description of buildings and facilities to be constructed or improved.

BUDGETARY IMPACT:

The TIF district would be established as a reimbursement to the developer as a pay-as-you-go district, therefore the City would not take on any risk or financial obligations as a result of the redevelopment. The developer will be solely responsible for paying project debt, regardless of whether the TIF generates enough revenue to reimburse the TIF-eligible project costs.

The City has entered into a funding agreement with the developer to cover all costs of mailing and financial advisory services.

SOURCE OF FUNDING:

All costs for the redevelopment will be paid by the developer.

ATTACHMENTS:

Description

Ordinance

Wheatfield Application

Wheatfield District Map

Wheatfield District Boundary Description

Wheatfield Conservation Study

Resolution 8825

ORDINANCE NO. _____

An ORDINANCE introduced by Interim City Manager Douglas Gerber, establishing a Redevelopment District within the City (Wheatfield Village) pursuant to K.S.A. 12-1770 *et seq.*, as amended.

WHEREAS, pursuant to K.S.A. 12-1771, the governing body held a public hearing on December 20, 2016, in City Council Chambers, 214 E. 8th, at 6 p.m. to consider the advisability of establishing a redevelopment district at the northwest and northeast corners of Southwest 29th Street and Fairlawn Road; and

WHEREAS, notice of the public hearing was provided as required by K.S.A. 12-1771(a) and K.S.A. 12-1772(c). (Resolution No. 8825)

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS, that:

Section 1. The legal description of the Wheatfield Village Redevelopment District (District) is identified on Exhibit A which is attached herein and incorporated by reference. The boundaries of the District do not include any area that was not designated in the notice of public hearing (Resolution No. 8825) required by K.S.A. 12-1771(a)(1).

Section 2. The District is an “eligible area” as defined at K.S.A. 12-1770a and, more specifically, is a ‘conservation area’ which is defined as ‘any improved area comprising 15% or less of the land area [within the City] in which 50% or more of the structures in the area have an age of 35 years or more, which area is not yet blighted, but may become a blighted area due to the existence of a combination of two or more of the following factors:

A. Dilapidation, obsolescence or deterioration of the structures;

B. Illegal use of individual structures;

- C. The presence of structures below minimum code standards;
- D. Building abandonment;
- E. Excessive vacancies;
- F. Overcrowding of structures and community facilities; or
- G. Inadequate utilities and infrastructure.

Section 3. The conservation and redevelopment of the area within the District is necessary to promote the general and economic welfare of the City. Accordingly, the District is established and its boundaries identified in Exhibit A.

Section 4. The District Plan, attached herein as Exhibit B and incorporated by reference, is approved.

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

PASSED and APPROVED by the Governing Body_____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

WHEATFIELD VILLAGE

Project 14-5195
December 7, 2016

DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10 at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the North line of said Shunga Plaza Subdivision a distance of 261.00 feet more or less, to a point 50-feet easterly of the West line of Lot 2, Block D of said Shunga Plaza Subdivision; thence South on a line parallel with and 50-feet easterly of the West line of said Lot 2, Block D a distance of 226.45 feet more or less, to the center of Southwest 28th Street as shown on the Plat of said Shunga Plaza Subdivision; thence West on the center of said Southwest 28th Street a distance of 50.08 feet, more or less to the East lines of Lots 5 and 6, Block B, Shunga Plaza Subdivision extended; thence South on the East lines of Lots 5 and 6, Block B of said Shunga Plaza Subdivision a distance of 174.97 feet more or less; thence West on the North line of Lot 2, Block A, Butler Plaza Subdivision No.2, a distance of 134.94 feet; thence Northwesterly, continuing on said North line a distance of 18.31 feet to the West line of said Lot 2; thence South on the West line of said Lot 2 and Lot 1, Block A, said line also being the East Right of Way line of Southwest Fairlawn Road, a distance of 107.79 feet; thence East on the South line of said Lot 1, Block A, a distance of 150.00 feet; thence South on the West line of said Lot 1, Block A, Butler Plaza Subdivision No.2, and the East line of Lot 1, Block A, of Phillips 66 Subdivision No.2 and it's extension thereof a distance of 280 feet more or less to the South curb line of Southwest 29th Street; thence Westerly and Southwesterly on said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

EXHIBIT B

DISTRICT PLAN

The District shall consist of one (1) or more redevelopment project areas, which are anticipated to include a mix of uses including retail, restaurant, and other commercial uses and residential uses with associated amenities, along with associated infrastructure including but not limited to structured and/or surface parking, landscaping, lighting, utilities, storm water improvements, sidewalks/walkways, streets/drives, ingress/egress improvements, green space, signalization and other infrastructure improvements.

**CITY OF TOPEKA, KANSAS
PUBLIC FINANCING REQUEST IN CONNECTION WITH
29TH AND FAIRLAWN PROJECT**

FOR CONSIDERATION BY: CITY COUNCIL, CITY OF TOPEKA, KANSAS
DOUGLAS GERBER, CITY MANAGER
BRANDON KAUFFMAN, FINANCE DIRECTOR
LISA ROBERTSON, CITY ATTORNEY
PHIL WOLFE, COUNSEL

SUBMITTED BY: 29 FAIRLAWN, LLC

DATE SUBMITTED: OCTOBER 26, 2016

A. PURPOSE:

This submission is made by 29 Fairlawn, LLC (the “Developer”) to the City of Topeka, Kansas (the “City”) to request that the City Council consider the creation of a tax increment financing district (“TIF District”) and community improvement district (“CID” or “CID District”) (collectively, the “Districts”) for purposes of funding a portion of the costs for the redevelopment of a commercial site generally located at Southwest 29th Street and Fairlawn Road (the “Project”). Both TIF and CID financing are requested to be structured as pay-as-you-go; neither TIF bonds nor CID bonds are requested in connection with this Project.

At this time Developer is requesting only creation of a TIF District. Developer anticipates seeking creation of a CID District contemporaneous with the City Council’s consideration of a TIF Project Plan as explained below. Developer also intends to submit a formal application for industrial revenue bond financing (“IRBs”) solely for the purpose of obtaining a sales tax exemption on the purchase of construction materials and FFE for the Project (note Developer is not seeking IRBs for purposes of property tax abatement). In short, none of the requested incentives sought for this Project will have any impact upon the City’s credit.

B. PROPOSED PROJECT:

1. Project Improvements

The Project is composed of mixed commercial uses and associated amenities and infrastructure (the “Improvements”) proposed for development within or contiguous to the Districts. The Project is currently in the planning stages; at this time the following uses/improvements are anticipated to be constructed in connection with the Project:

- Retail/restaurant development.
- Multi-family residential development.
- Garage and surface parking.

- Landscaping, lighting, utilities, storm water retention/detention improvements, sidewalks/walkways, streets/drives, ingress/egress, signalization and other associated infrastructure improvements.

Additional Improvements or variation from those described above may be included as planning progresses.

2. Project Cost and Financing

A comprehensive budget for the Project is currently being developed. Although a final cost analysis has not been completed, based upon preliminary estimates the total Project cost could approach \$60-80 million. The Project will be primarily funded by private debt and equity. The Developer is currently refining its economic model, but it is clear at this time a portion of the Project costs will need to be funded by economic development incentives including TIF financing and CID financing in order for the Project to be economically viable. A detailed Project Sources and Uses will be provided in connection with the submission of any TIF Project Plan.

3. Specific Incentives Requested

The following incentives are requested in connection with the Project:

- TIF financing: Real property tax increment and City portion of sales tax increment
- CID financing: 1% add-on sales tax
- IRBs: For sales tax exemption only, no abatement sought

Establishment of a TIF District is governed by K.S.A. 12-1770 *et seq.* (the “TIF Act”) and establishment of a CID District is governed by K.S.A. 12-6a26 *et seq.* (the “CID Act”). A boundary map and legal description of the proposed TIF District boundaries will be provided prior to calling the public hearing to establish the TIF District. The boundaries of the CID District will encompass the proposed development in the northwest corner of 29th and Fairlawn and will be finalized upon moving forward with calling a public hearing to consider establishment of the CID District.

C. DEVELOPER:

The Developer is a special-purpose entity formed for purposes of developing the Project. The principals of the Developer consist of members of the City’s business community, including Jim Klausman and Floyd Eaton.

In addition, consultants retained by the Developer to advance the Project consist of:

- John Petersen and Bob Johnson, Polsinelli (Legal)
- Matt Pennington, Drake Development (Development)
- Greg Schwerdt and Mike Hampton, Schwerdt Design Group (Architecture)
- Kevin Holland, CFS Engineers (Engineering)

D. STATUTORY BASIS FOR CREATION OF REQUESTED TIF DISTRICT AND CID:

1. Eligible Area Designation (TIF District)

In order to establish a TIF District, the area within the district must be established by the City as an “eligible area” pursuant to the TIF Act. Regarding the TIF Act, “eligible area” means a blighted area, conservation area, enterprise zone, intermodal transportation area, major tourism area or a major commercial entertainment and tourism area or bioscience development area (K.S.A. 12-1771a).

The City must first adopt a resolution calling a public hearing to establish a TIF District pursuant to K.S.A. 12-1771. Then, the City will hold a public hearing to consider establishment of the TIF District no less than 30 days but no more than 70 days after setting the hearing. At the public hearing, the Developer will request the City to determine that the proposed TIF District is an “eligible area” because it a conservation area as defined by the TIF Act (note that the Developer believes the TIF District would also qualify as a blighted area, but will alternatively seek the conservation area designation pursuant to the preference of the City). Following the public hearing the City Council may make a statutory finding that the proposed TIF District is a “conservation area”, which means any improved area comprising 15% or less of the land area within the corporate limits of a city in which 50% or more of the structures in the area have an age of 35 years or more, which area is not yet blighted, but may become a blighted area due to the existence of a combination of two or more of the following factors:

- (1) Dilapidation, obsolescence or deterioration of the structures;
- (2) illegal use of individual structures;
- (3) the presence of structures below minimum code standards;
- (4) building abandonment;
- (5) excessive vacancies;
- (6) overcrowding of structures and community facilities; or
- (7) inadequate utilities and infrastructure.

The Developer intends to submit a Conservation Study to the City demonstrating that all statutory factors are met for designation of the TIF District as a conservation area, including establishment of four of the seven factors described above.

2. CID Petition

The first step in the process of establishing a CID is submission of a petition by landowners within the boundaries of the proposed district. Pursuant to K.S.A. 12-6a29, a municipality may create a CID upon receipt of a petition signed by the owners of more than 55% of the land area within the proposed district and signed by the owners collectively owning more than 55% by assessed value of the land area within the proposed district. The Developer will submit such a petition at a later date prior to calling the public hearing for establishment of the CID District.

E. PROCESS / TIMELINE

1. Tax Increment Financing

a. TIF District

The first step in creating a TIF District is the City Council's adoption of a resolution calling a public hearing to consider establishment of a TIF District. The public hearing must be set more than 30 days but no more than 70 days after adopting the resolution to call the hearing (please see a tentative incentive and entitlement schedule attached as Exhibit A). Creation of a TIF District merely defines a geographic boundary and sets the property and sales tax base for a future TIF Project Plan—at the district creation stage the City is not committing to granting any incentives in any amount whatsoever. However, moving forward with establishing a TIF District at this point is a necessary substantive step enabling the Developer to continue designing the Project, structuring the financing package for the Project, and seeking first-class tenants for the Project.

With regard to the initial statutory step of calling the public hearing for creation of the TIF District, the resolution adopted need only contain the following information:

- (1) Give notice that a public hearing will be held to consider the establishment of a TIF District and fix the date, hour and place of such public hearing;
- (2) describe the proposed boundaries of the TIF District;
- (3) describe the TIF District Plan which identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each redevelopment project area;
- (4) state that a description and map of the proposed TIF District are available for inspection at a time and place designated; and
- (5) state that the governing body will consider findings necessary for the establishment of a TIF District.

The proposed District Plan as required by K.S.A. 12-1771 to adopt a resolution to call a public hearing to consider establishment of a TIF District is as follows:

The District shall consist of one (1) or more redevelopment project areas, which are anticipated to include a mix of uses including retail, restaurant, and other commercial uses and residential uses with associated amenities, along with associated infrastructure including but not limited to structured and/or surface parking, landscaping, lighting, utilities, storm water improvements, sidewalks/walkways, streets/drives, ingress/egress improvements, green space, signalization and other infrastructure improvements.

b. TIF Project Plan

Following establishment of the TIF District, one or more TIF Project Plans will be submitted in phases. Each project plan will contain details of the TIF Project(s) to be constructed within or contiguous to the TIF District, including details regarding financing. Each project plan submitted by Developer will also contain a feasibility study in compliance with the TIF Act for the City's consideration.

It is at the time of adoption of a TIF Project Plan, which also requires calling and holding a second public hearing, that the amount of TIF incentive to be granted to the Project is considered by the City Council.

2. Community Improvement District Financing

After submission of the CID petition as described above, the next step is adoption by the City of a resolution calling a public hearing to consider establishment of the CID District. Following the requisite notice, the City Council will hold the public hearing for creation of the CID District, which Developer proposes will be held at the same City Council meeting as the consideration of the first TIF Project Plan (see Exhibit A attached hereto). It is at this public hearing that the amount of CID incentive to be granted to the Project is considered by the City Council.

F. REQUEST

At this time the Developer requests to work with the City's professional staff to create a timeline for consideration of public incentive financing in connection with the Project. Please see an example of same attached as Exhibit A. Pursuant to discussions with City staff, the first step in the process of creation of a TIF District will be a work session scheduled for the November 1, 2016 City Council meeting.

EXHIBIT A
TENTATIVE INCENTIVE/ENTITLEMENT SCHEDULE
(SEE ATTACHED)

29th AND FAIRLAWN INCENTIVE & ENTITLEMENT SCHEDULE

FORMATION OF TIF DISTRICT	DATE
City Council Work Session Meeting Discuss potential establishment of TIF District	November 1, 2016
City Council Meeting Approve Resolution Calling Public Hearing re: formation of TIF District Note: Must have legal description and boundary map as exhibits to Resolution.	November 15, 2016
City to send copy of Resolution calling public hearing by certified mail, return receipt requested, to the Board of County Commissioners and Board of Education (within 10 days of adoption of Resolution)	November 25, 2016
City to send copy of Resolution calling public hearing by certified mail, return receipt requested, to owners and occupants of land within the proposed redevelopment project area (within 10 days of adoption of Resolution)	November 25, 2016
City to publish Resolution calling public hearing. A sketch clearly delineating the area in sufficient detail to advise....of the particular land to be included with the project area shall be published with the resolution (not less than one or more than two weeks before public hearing). *Please confirm name of newspaper and deadline to provide notice for publication.	Between December 6 and December 13, 2016

FORMATION OF TIF DISTRICT - continued	DATE
City Council Meeting Hold Public Hearing on formation of TIF District (must be held no earlier than November 17 and no later than December 27, 2016)	December 20, 2016
City to send copy of Ordinance approving formation of TIF District to Board of County Commissioners and Board of Education	No later than December 27, 2016
City to publish Ordinance creating TIF District	After December 20, 2016
30-Day Veto Period – The Board of County Commissioners and School Board have thirty days following the conclusion of the hearing to determine, by resolution that the proposed redevelopment district will have an adverse effect on such county or school district. The board of county commissioners or board of education shall deliver a copy of such resolution to the City. If the City receives such a resolution, the City shall within thirty days of pass an ordinance terminating the redevelopment district.	January 19, 2016

APPROVAL OF PROJECT PLAN & CID DISTRICT	DATE
Planning Commission Meeting Determine that Project Plan is in conformance with Comprehensive Plan	TBD
City Council Meeting - Adopt Resolution calling public hearing for Project Plan - Adopt Resolution calling public hearing for formation of CID District	TBD
City to send Resolution for Project Plan by certified mail, return receipt requested, to the Board of County Commissioners and Board of Education (within 10 days of adopting Resolution).	TBD
City to send Resolution for Project Plan by certified mail, return receipt requested, to each owners and occupant of land within redevelopment district project area (within 10 days of adopting Resolution).	TBD
City to send Resolution for CID District by certified mail, return receipt requested to all owners with the District (at least ten days prior to hearing).	TBD

City to publish Resolution calling public hearing for formation of CID District. (once each week for two consecutive weeks with second publication occurring at least 7 days prior to date of hearing)	TBD
City to publish Resolution calling public hearing for approval of Project Plan. A sketch clearly delineating the area in sufficient detail to advise....of the particular land to be included with the project area shall be published with the resolution (not less than one or more than two weeks before public hearing). *Please confirm name of newspaper and deadline to provide notice for publication.	TBD
City Council Public Hearing • Approve Project Plan • Approve Development Agreement • Approve IRB Resolution of Intent • Approve formation of CID District • Approve Zoning	TBD
City to publish Ordinances approving Project Plan, CID District and Zoning	TBD

ZONING	DATE
Developer Submit Zoning Application	TBD
Planning Commission Public Hearing on Zoning	TBD
City Council Meeting	TBD

WHEATFIELD VILLAGE

Project 14-5195
December 7, 2016

DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10 at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the North line of said Shunga Plaza Subdivision a distance of 261.00 feet more or less, to a point 50-feet easterly of the West line of Lot 2, Block D of said Shunga Plaza Subdivision; thence South on a line parallel with and 50-feet easterly of the West line of said Lot 2, Block D a distance of 226.45 feet more or less, to the center of Southwest 28th Street as shown on the Plat of said Shunga Plaza Subdivision; thence West on the center of said Southwest 28th Street a distance of 50.08 feet, more or less to the East lines of Lots 5 and 6, Block B, Shunga Plaza Subdivision extended; thence South on the East lines of Lots 5 and 6, Block B of said Shunga Plaza Subdivision a distance of 174.97 feet more or less; thence West on the North line of Lot 2, Block A, Butler Plaza Subdivision No.2, a distance of 134.94 feet; thence Northwesterly, continuing on said North line a distance of 18.31 feet to the West line of said Lot 2; thence South on the West line of said Lot 2 and Lot 1, Block A, said line also being the East Right of Way line of Southwest Fairlawn Road, a distance of 107.79 feet; thence East on the South line of said Lot 1, Block A, a distance of 150.00 feet; thence South on the West line of said Lot 1, Block A, Butler Plaza Subdivision No.2, and the East line of Lot 1, Block A, of Phillips 66 Subdivision No.2 and it's extension thereof a distance of 280 feet more or less to the South curb line of Southwest 29th Street; thence Westerly and Southwesterly on said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

Conservation Area Analysis

for the

**Wheatfield Village
Tax Increment Financing
District**

Topeka, Kansas

December 7, 2016

CONSERVATION AREA STUDY

Wheatfield Village Tax Increment Financing District, Topeka, Kansas

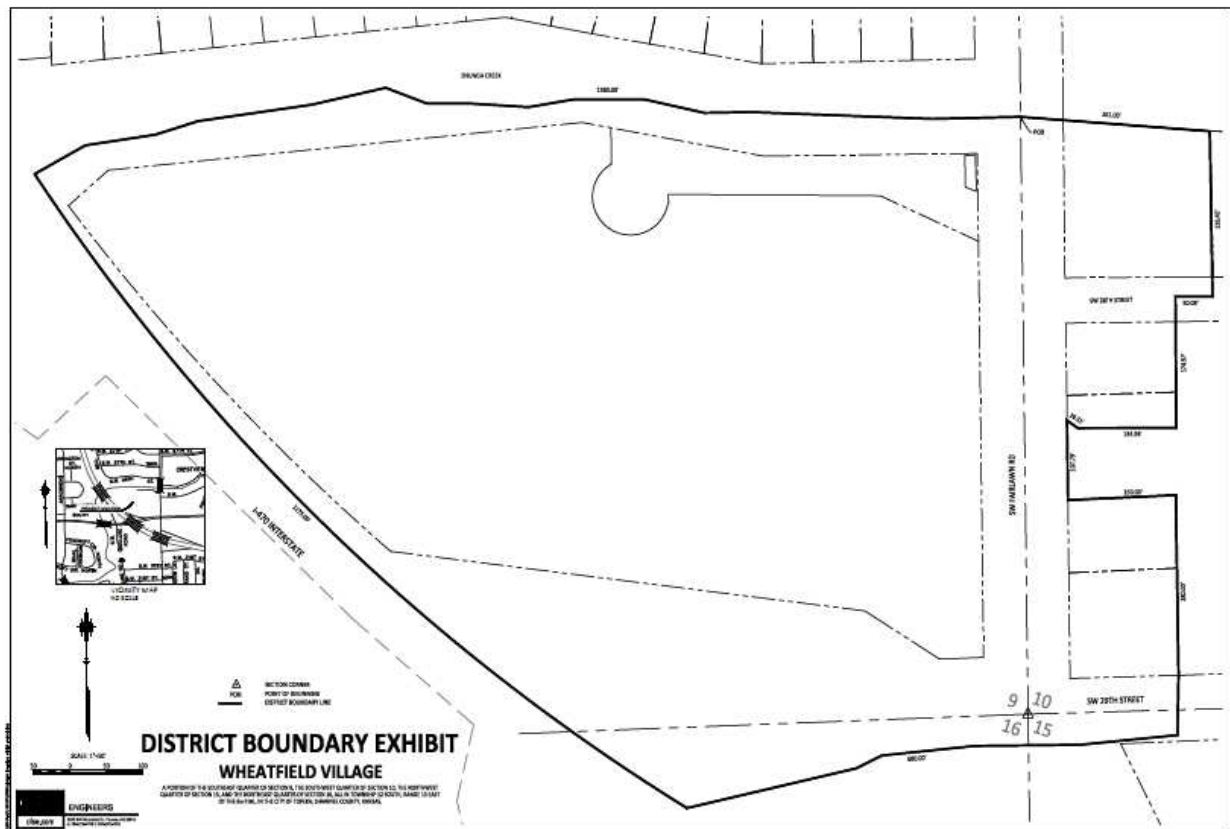
Introduction

Purpose

The purpose of this analysis is to determine if the proposed development area located at the northwest and northeast corners of Southwest 29th Street and Fairlawn Road (the “Study Area,” as more particularly described below) is a “conservation area” according to K.S.A. 12-1770a, *et seq.* (the “TIF Statute”). This Conservation Study is prepared in connection with the request of 29 Fairlawn, LLC (the “Developer”) for establishment of a tax increment financing redevelopment district (a “TIF District”) encompassing the Study Area.

Study Area

The Study Area is composed of six tax parcels of land plus portions of adjacent right-of-way in the City of Topeka, Shawnee, Kansas. The Study Area contains 11 existing commercial buildings. The Study Area consists of approximately 16.04 acres plus adjacent right-of-way as included within the legal description and map of the Study Area attached as **Exhibit A**. The boundaries of the Study Area are generally shown as follows:



Statutory Analysis

In order for TIF financing to be available for a project, the project must be in an “eligible area.” K.S.A. 12-1770a(g) defines “eligible area” as follows:

“Eligible area” means a blighted area, conservation area, enterprise zone, intermodal transportation area, major tourism area or a major commercial entertainment and tourism area or bioscience development area.

The property in question is not in an enterprise zone, intermodal transportation area, major tourism area, major commercial entertainment and tourism area or bioscience development area, nor has it been designated as a blighted area.

The Developer requests that the City consider designation of the area in question as a conservation area. K.S.A. 12-1770a(d) defines “conservation area” as follows:

(d) “Conservation area” means any improved area comprising 15% or less of the land area within the corporate limits of a city in which 50% or more of the structures in the area have an age of 35 years or more, which area is not yet blighted, but may become a blighted area due to the existence of a combination of two or more of the following factors:

- (1) Dilapidation, obsolescence or deterioration of the structures;
- (2) illegal use of individual structures;
- (3) the presence of structures below minimum code standards;
- (4) building abandonment;
- (5) excessive vacancies;
- (6) overcrowding of structures and community facilities; or
- (7) inadequate utilities and infrastructure.

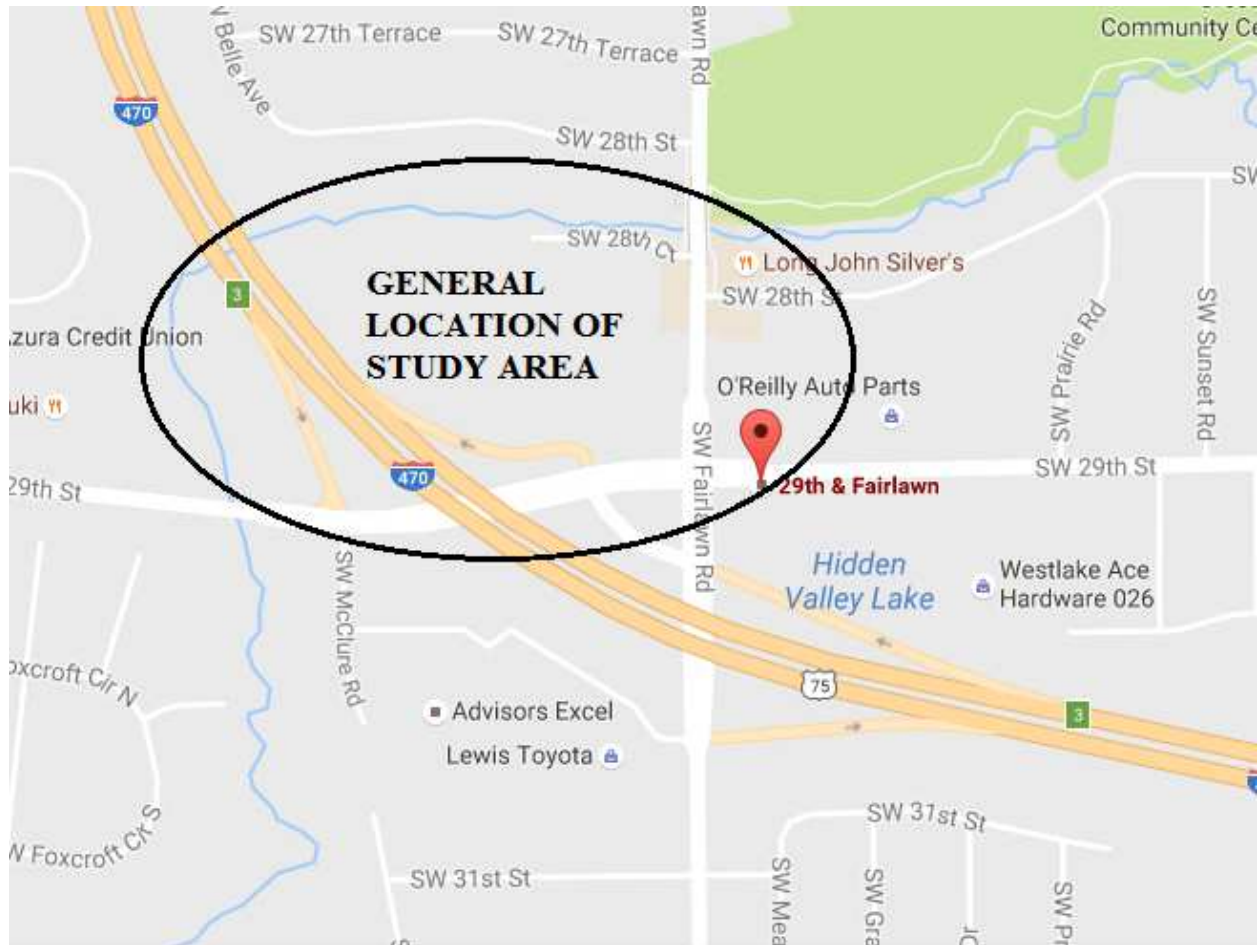
As explained fully below, the Study Area meets the first and second requirements for designation as a conservation area set forth in K.S.A. 12-1770a(d), as it constitutes less than 15% of the area of the City of Topeka and at least 50% of the structures in the area are at least 35 years old. The Study Area also meets four of the seven factors set forth in K.S.A. 12-1770a(d) for a conservation area designation, including:

1. Dilapidation, obsolescence or deterioration of the structures.
2. Presence of structures below minimum code standards.
3. Excessive vacancies.
4. Inadequate utilities and infrastructure.

K.S.A. 12-1770a(d) requires that at least two of the criteria be satisfied, and the Study Area has satisfied four such criteria.

Study Area Data

The Study Area is generally located in the northwest corner of Southwest 29th Street and Fairlawn Road in the southwestern portion of Topeka, Kansas. The general location of the Study Area is shown below:



[Remainder of page intentionally left blank.]

Property Data

Land Area

According to Shawnee County records, there are 6 tax parcels that constitute the Study Area as follows:

Shawnee County, KS Parcel #	Acreage/Sq. Ft.
1420904010007000	13.72 acres
1420904010001000	0.02 acres
1421003010002000	0.96 acres
1421003011004000	0.5 acres
1421003011006000	0.34 acres
1421003011007000	0.5 acres
TOTAL:	Approximately 16.04 acres

Right-of-way adjacent to these parcels is also included within the Study Area.

Ownership and Current Use

According to Shawnee County land records and observation regarding use, the land parcels within the Study Area are owned by the following parties and used in the described manner:

Parcel ID	Owner	Description/Use
1420904010007000	29 FAIRLAWN, LLC	Commercial/retail use & vacant land
1420904010001000	29 FAIRLAWN, LLC	Vacant commercial land
1421003010002000	LINDEMUTH INC	Fast Food Restaurant (Long John Silvers)
1421003011004000	LINDEMUTH INC	Restaurant (El Charro)
1421003011006000	WILLIAM AND LOIS HAYNES	Retail store (Pizagel's)
1421003011007000	HAAG REAL ESTATE LC	Gas station and c-store (Phillips 66)

Description of Study Area Location

The Study Area is surrounded by additional commercial development to the east, state highway and commercial development to the south, state highway and commercial development to the west, and a creek and green space to the north. The majority of the Study Area is presently used as a dilapidated commercial retail center and vacant land previously inhabited by commercial uses. In addition, four pad sites east of Fairlawn Road are used as three restaurants and a gas station convenience store. An aerial depiction of the Study Area is shown below:



[Remainder of page intentionally left blank.]

Conservation Area Analysis

I. Analysis of Study Area Under Conservation Area Designation Requirements

(a) The first requirement for conservation area designation, set forth in K.S.A. 12-1770a(d), the definition of conservation area, is that the property in the proposed Redevelopment District must be less than 15% of the land area within Topeka.

According to the United States Census Bureau, the land area of Topeka is approximately 61.47 square miles, or approximately 39,341 acres. Fifteen percent of 39,341 acres is 5,901 acres. The property in the proposed TIF District is approximately 16.38 acres plus adjacent right-of-way, which is less than 15% of the land area within Topeka.

(b) The second requirement for conservation area designation, set forth in K.S.A. 12-1770a(d), the definition of conservation area, is that 50% or more of the structures in the area have an age of 35 years or more.

The following structures are located within the Study Area:

#	Parcel	Address	Structure	Sq. Ft.	Year Built	Source
1	1420904010007000	5217/5235 SW 28 th Ct	Commercial building	9802	1963	Shawnee County Appraiser's Records
2	1420904010007000	5217/5235 SW 28th Ct	Commercial building	6048	1974	Shawnee County Appraiser's Records
3	1420904010007000	5217/5235 SW 28th Ct	Commercial building	5900	1972	Shawnee County Appraiser's Records
4	1420904010007000	5217/5235 SW 28th Ct	Commercial building	3008	1963	Shawnee County Appraiser's Records
5	1420904010007000	5217/5235 SW 28th Ct	Commercial building	3392	1963	Shawnee County Appraiser's Records
6	1420904010007000	5243 SW 28th Ct	Commercial building	7200	1973	Shawnee County Appraiser's Records
7	1421003010002000	2746 SW FAIRLAWN RD	Restaurant	2567	1975	Shawnee County Appraiser's Records

8	1421003011004000	2800 SW FAIRLAWN RD	Restaurant	1800	1973	Shawnee County Appraiser's Records
9	1421003011006000	2830 SW FAIRLAWN RD	Restaurant	2520	1960	Shawnee County Appraiser's Records
10	1421003011007000	2836 SW FAIRLAWN RD	Gas station/c-store	855	1991	Shawnee County Appraiser's Records
11	1421003011007000	2836 SW FAIRLAWN RD	Car wash	1175	1991	Shawnee County Appraiser's Records

The Shawnee County Appraiser Records relied upon to establish the age of the buildings are attached as **Exhibit B**. The location of each structure is depicted below:



As displayed in the chart above, 9 of 11 structures within the Study Area were built in 1975 or earlier. Two structures were built in 1991. Thus, 9 of 11 structures within the Study Area are at least 35 years old, satisfying the statutory requirement that 50% or more of the structures be 35 years or older.

(c) The third requirement for conservation area designation, set forth in K.S.A. 12-1770a(d), is that the area is not yet blighted, but may become a blighted area due to the existence of a

combination of two or more of the factors set forth in such subparagraph, as set forth above. The Study Area may become blighted as a result of the presence of the following conditions, as further described below:

1. Dilapidation, obsolescence and deterioration of the structures;
2. The presence of structures below minimum code standards;
3. Excessive vacancies; and
4. Inadequate utilities and infrastructure.

(1) Dilapidation, obsolescence or deterioration of the structures.

Dilapidation and deterioration are pervasive throughout the Study Area. Further, the Study Area is characterized by economic obsolescence. The structures within the Study Area evidence significant wear and tear consistent with their age. In addition, the infrastructure serving the structures is deteriorating or obsolete. In particular, inspection of the Study Area and discussions with a representative of the current owner of the structures identified the following deficiencies:

- Exterior and interior building components in poor condition requiring significant repairs.
- Pervasive deterioration and poor condition of site/work infrastructure serving buildings throughout the Study Area requiring significant repairs.
- Generalized and pervasive deterioration of exterior building envelope.
- Deterioration/chipping/cracking/water damage of interior wall components.
- Pervasive mold/mildew present throughout vacant spaces.
- Deterioration of interior and exterior window components.
- Deteriorated/poor condition of interior flooring in vacant spaces.
- Deteriorated/water damaged interior ceiling components.
- Trash/debris pervasive throughout interior vacant spaces.
- Cracks/holes/separation in building envelopes/wall junctures.
- Antiquated and exposed exterior wiring/electrical components.
- Erosion/chipping of exterior grout/caulking.
- Deterioration/chipping of exterior paint/outdoor finishings.
- Deterioration/damage to outdoor ceilings/overhangs.
- Deteriorating roof components.
- Chipping/cracking/water damage/erosion to building envelope.
- Missing/replaced sections of building envelope with inconsistent materials.
- Rusting window and door components.
- Rusting/dented gutters, drain pipes, and exterior flashing.
- Alligator cracking of parking lots/drives.
- Deteriorating/crumbling curbs/utility inlets.
- Deteriorating/dilapidated light poles/exterior lighting.
- Deteriorating/dilapidated exterior pole signage.
- Mounds of concrete/asphalt debris from deteriorated infrastructure/former building foundations.

- Deteriorated building foundations on sites of former structures located within the Study Area.
- Overgrown bushes/trees and damaged trees proliferate throughout the Study Area.
- Vines/trees growing into power lines and building envelope.

Photographs of the dilapidation and deterioration present within the Study Area are attached hereto as **Exhibit C**.

The Study Area also suffers from economic obsolescence. The Study Area is located in the southwestern portion of the City. The southwestern portion of the City contains numerous residential neighborhoods and office buildings which are underserved by the commercial/retail sector of the City's economy. Despite the vehicular traffic associated with the residents and workers traveling through and adjacent to the Study Area, the Study Area (in particular the majority of the Study Area located west of Fairlawn Road) is not frequently visited by those citizens due to the dilapidated condition and extreme vacancies experienced on the site. Further, a hotel, bowling alley and gas station, which were historically the largest businesses within the Study Area west of Fairlawn Road and drew significant traffic to the site, have been demolished. As is evident from the description in this report of the problematic conditions currently ubiquitous throughout the Study Area, it would be exceedingly challenging to procure future tenants of any type to inhabit the nearly vacated structures west of Fairlawn Road, much less the grade A tenant mix desirable for this area. The result is a drastically underutilized site which cannot be expected to experience property tax or sales tax growth for the City. Based upon the Developer's extensive market knowledge and in-depth analysis of the Study Area, refurbishing the present structures is not an economically viable option. As such, demolition of the current buildings and redevelopment of the Study Area is the only viable path to prevent the Study Area from deteriorating into a fully blighted state.

(2) Illegal use of individual structures.

None identified.

(3) The presence of structures below minimum code standards.

The conditions described in paragraph (1) above establish the presence of multiple conditions below minimum code standards persisting throughout both structures in the Study Area. Photographs of these conditions are attached as **Exhibit C**. Further, Developer's architectural consultant, Schwerdt Design Group, Inc., identified the presence of numerous conditions below minimum code standards as set forth in its report attached as **Exhibit D**.

(4) Building abandonment.

None identified.

(5) Excessive vacancies.

The Study Area is currently experiencing excessive levels of tenant vacancies. Currently, only 2 of 11 tenant spaces within the Study Area west of Fairlawn Road are occupied with tenants.

In addition, the Study Area formerly contained a hotel, bowling alley and gas station. Those large structures have been torn down and now sprawling vacant lots sit dormant and deteriorated upon the site. It is unsustainable for any owner of the property within the Study Area west of Fairlawn Road to operate a commercial center with 9 of 11 tenant spaces vacant and largest buildings on the site demolished. These excessive vacancies contribute to the ongoing economic obsolescence of the site and its descent into blight.

(6) Overcrowding of structures and community facilities.

None identified.

(7) Inadequate infrastructure and utilities.

The Study Area further suffers from inadequate infrastructure and utilities. Discussions with Developer's engineering consultants, CFS Engineers, in conjunction with inspection of the premises, have identified the following infrastructure and utility inadequacies within the Study Area:

1. Inadequate and Antiquated Storm Drainage System:

The storm drainage system present within the Study Area is extremely antiquated and inadequate in comparison to modern day standards for such systems. In particular, the drainage upon this site is entirely "surface flowed"; however, if drainage infrastructure was designed and constructed today for the site's current uses, a detention facility would be utilized to better manage water flow from the site and minimize flooding onto adjacent properties. The current primitive design conducts all drainage into the Shunganunga Creek to the north without any additional regulation or management of such drainage.

2. Lack of Roadways/Connectivity:

The private and public driveway infrastructure within the Study Area is poorly designed and inadequate for commercial use upon the site. There is a complete lack of connectivity from interstate 470 which runs along the southern and western borders of the Study Area. The ingress/egress points between the development on the east and west sides of Fairlawn do not align, creating traffic flow issues. Further, there is a complete lack of logical traffic flow through the site west of Fairlawn. Except for a row of small shops abutting Fairlawn Road (within which only one tenant space is filled), the remaining buildings on the site, as well as the former hotel and bowling alley sites, are only accessible by travelling a circuitous route from a curb cut on Fairlawn Road. This roadway infrastructure inadequacy contributes to the undesirability of this site to tenants, increasing vacancies, and descent into blight.

3. Inadequate Parking/Drive Infrastructure:

The current parking and roadway infrastructure is demolished in part, crumbling in others, and deteriorating in the remainder. Large swaths of surface parking and internal driveways adjacent to vacant lots upon which the hotel, bowling alley and gas station once stood today sit completely unused and wasting. The small portion of cracked and eroding parking and driveway infrastructure still being utilized by the remaining tenants is in such a deteriorated condition as to be inadequate for modern retail use.

4. ADA Inadequacy:

The parking infrastructure does not meet current 2010 ADA standards for accessibility. In particular, the parking lot slopes and access to front entry to the buildings is not in compliance with ADA standards adopted after such infrastructure was constructed. Further, pedestrian access and accessibility likewise do not meet current ADA standards.

5. Electrical/HVAC Utility Systems:

The utility components located on the interior and exterior of the structures are antiquated and dilapidated. Rusting and exposed wires, utility boxes, piping, and HVAC components proliferate throughout the structures.

6. Defunct Utilities to Former Building Foundations and Pole Signs/Lighting:

Gas, water, sewer, and electrical utilities run throughout the site to vacant foundations upon which the hotel, bowling alley and gas station buildings once stood. Electrical utilities also run to sign poles and light poles which are rusted, deteriorating and no longer in use. These outmoded utility systems are no longer necessary for the current uses on the site and contribute to the inadequacy of the utilities for the site's present use.

7. Antiquated Overhanging Power Lines:

The Study Area is crisscrossed by overhanging power lines. These lines are inadequate for modern retail/commercial use, and would be buried if constructed for such use today.

II. Conclusion

The Study Area meets the first and second requirements for designation as a conservation area set forth in K.S.A. 12-1770a(d), as it constitutes less than 15% of the area of the City of Topeka and at least 50% of the structures in the area are at least 35 years old.

The Study Area also meets four of the seven factors set forth in K.S.A. 12-1770a(d) for a conservation area designation, including:

1. Dilapidation, obsolescence or deterioration of the structures.
2. Presence of structures below minimum code standards.
3. Excessive vacancies.
4. Inadequate utilities and infrastructure.

K.S.A. 12-1770a(d) requires that at least two of the criteria be satisfied, and the Study Area has satisfied four of such criteria.

In conclusion, the Study Area satisfies the requirements for designation as a conservation area under the requirements of K.S.A. 12-1770a(d).

EXHIBIT A

LEGAL DESCRIPTION AND MAP OF STUDY AREA

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10 at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the North line of said Shunga Plaza Subdivision a distance of 261.00 feet more or less, to a point 50-feet easterly of the West line of Lot 2, Block D of said Shunga Plaza Subdivision; thence South on a line parallel with and 50-feet easterly of the West line of said Lot 2, Block D a distance of 226.45 feet more or less, to the center of Southwest 28th Street as shown on the Plat of said Shunga Plaza Subdivision; thence West on the center of said Southwest 28th Street a distance of 50.08 feet, more or less to the East lines of Lots 5 and 6, Block B, Shunga Plaza Subdivision extended; thence South on the East lines of Lots 5 and 6, Block B of said Shunga Plaza Subdivision a distance of 174.97 feet more or less; thence West on the North line of Lot 2, Block A, Butler Plaza Subdivision No.2, a distance of 134.94 feet; thence Northwesterly, continuing on said North line a distance of 18.31 feet to the West line of said Lot 2; thence South on the West line of said Lot 2 and Lot 1, Block A, said line also being the East Right of Way line of Southwest Fairlawn Road, a distance of 107.79 feet; thence East on the South line of said Lot 1, Block A, a distance of 150.00 feet; thence South on the West line of said Lot 1, Block A, Butler Plaza Subdivision No.2, and the East line of Lot 1, Block A, of Phillips 66 Subdivision No.2 and it's extension thereof a distance of 280 feet more or less to the South curb line of Southwest 29th Street; thence Westerly and Southwesterly on said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

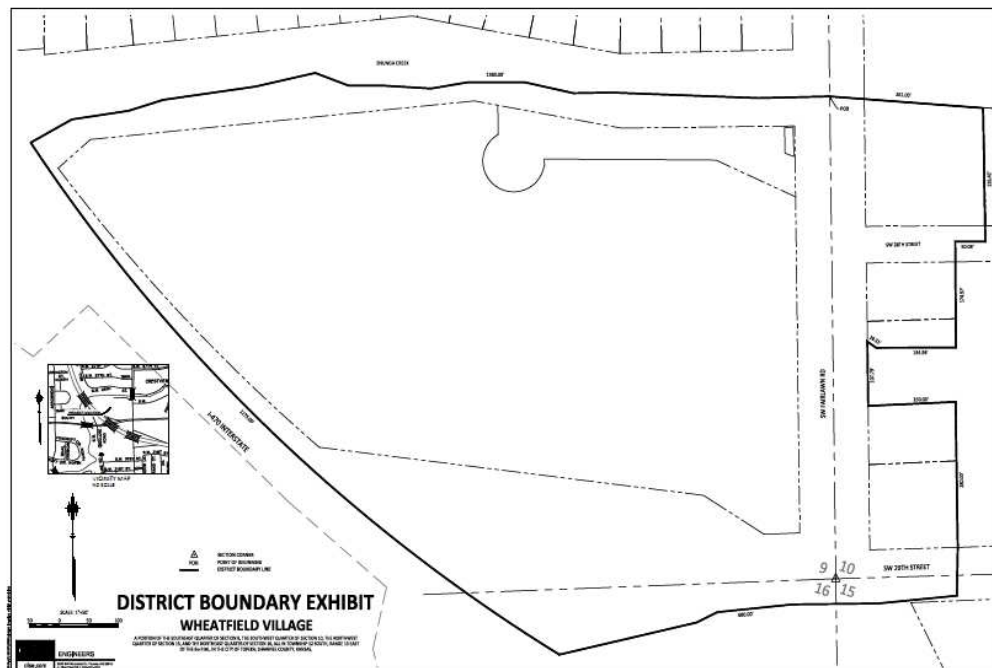


EXHIBIT B
SHAWNEE COUNTY APPRAISER RECORDS ESTABLISHING AGE OF
STRUCTURES
(SEE ATTACHED)

SNCAMA Property Record Card

Parcel ID: 089-142-09-0-40-10-007.00-0

Quick Ref: R51947

Tax Year: 2017

Run Date: 12/2/2016 4:52:08 PM

OWNER NAME AND MAILING ADDRESS

29 FAIRLAWN LLC

3715 SW 29TH ST
TOPEKA, KS 66614

PROPERTY SITUS ADDRESS

5235 SW 28TH CT
Topeka, KS 66614

LAND BASED CLASSIFICATION SYSTEM

Function: 2105 Strip store center **Sfx:** 0
Activity: 2110 Goods-oriented shopping
Ownership: 1100 Private-fee simple
Site: 6000 Developed site - with building

GENERAL PROPERTY INFORMATION

Prop Class: C Commercial & Industrial - C
Living Units:
Zoning: C4
Neighborhood: 311.2 311.2 - FAIRLAWN CORR
Economic Adj. Factor:
Map / Routing: S08 WE-D-
Tax Unit Group: 001

TRACT DESCRIPTION

SUNSET HILLS REPLAT A, S09, T12, R15,
BLOCK A, Lot 1 +, ACRES 12.91, BLK A LOTS 1
THRU 11 SUNSET HILLS REPLAT A &
FAIRLAWN LOT 1 CONROY SUB & PART OF
TRACT A SUNSET HILLS SUB BEG SE COR TR
A TH N 200' W 42' S 20' W 158' S 129.72' E 33.56'
SE 126.2' E 60' TO POB LESS ROW



Image Date: 12/03/2014

PROPERTY FACTORS

Topography: Level - 1
Utilities: All Public - 1
Access: Paved Road - 1, Sidewalk - 6
Fronting: Cul-De-Sac - 6
Location: Neighborhood or Spot - 6
Parking Type: Off Street - 1
Parking Quantity: Adequate - 2
Parking Proximity: On Site - 3
Parking Covered:
Parking Uncovered: 100

INSPECTION HISTORY

Date	Time	Code	Reason	Appraiser	Contact	Code
11/05/2014	2:00 PM	1	P	SLL	Jennifer McFarland	6
05/04/2012	10:20 AM	6	H	SLL		
09/02/2011	11:40 AM	6	R	TMB	Vacant - Bldg is boarded u	

BUILDING PERMITS

Number	Amount	Type	Issue Date	Status	% Comp
14-7058	500	Interior Remodel	06/06/2014	CN	100
T0141	4,200	Dwelling Addition	02/01/1999	C	100

2017 APPRAISED VALUE

2016 APPRAISED VALUE

Cls	Land	Building	Total
V	1,991.010	0	1,991.010
C	392.800	0	392.800
Total	2,383.810	0	2,383.810

Not Yet Available

PARCEL COMMENTS

GenLink: 089-142-09-0-40-10-002.00-0-, 089-142-09-0-40-10-003.00-0-, 089-142-09-0-40-10-004.00-0-, 089-142-09-0-40-10-005.00-0-, 089-142-09-0-40-10-006.00-0-, 089-142-09-0-40-10-007.01-0-; **Prop-NC:** IES10-Sent, IES11-Sent, IES12-Sent; **Prop-Com:** AN - SP FOR ROW 7/2016; COMB 2, 3, 4, 5, 6, & 7.010 INTO 7.00 11/14; AN-5203-5209 8/05; AN-2807-2825 8/05; **App-Com:** 0000007107-, 08-2717-EQSC-, INF-1644-2009-, 09-6872-EQ-, INF-3598-2010-, PUPinf1-3003-2011-, PUPinf1-3692-2012-, PUPinf1-3974-2013-; **Val-Com:** 2015 zero value improvements- purchased 6/14 for I; **Land-Ac/Sf:** ,

MARKET LAND INFORMATION

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	OVRD	Rsn	Cls	Model	Base Size	Base Val	Inc Val	Dec Val	Value Est
Sqft	1-Primary Site - 1	464.098				0	190					V	7	40,000.00	2.10	2.10	2.10	1,851,750
Sqft	1-Primary Site - 1	98.446				0	190						7	40,000.00	2.10	2.10	2.10	392,800

Total Market Land Value 2,244,550

SNCAMA Property Record Card

Parcel ID: 089-142-09-0-40-10-007.00-0

Quick Ref: R51947

Tax Year: 2017

Run Date: 12/2/2016 4:52:09 PM

GENERAL BUILDING INFORMATION

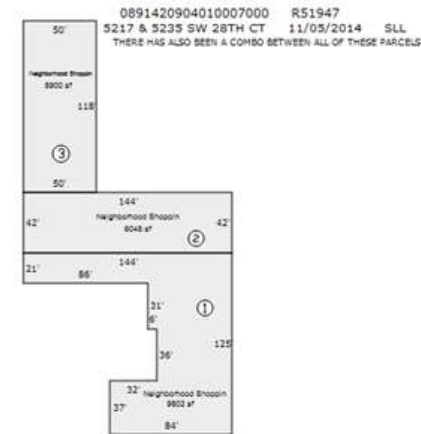
LBCS Structure Code: 2591-Strip shopping center

Bldg No. & Name: 1 VIP LOUNGE/VACANT 11/14

Identical Units: 1 No. of Units:

Unit Type:

MS Mult: MS Zip:



Sketch by Apex Medina™

COMMERCIAL BUILDING SECTIONS & BASEMENTS

Sec	Occupancy	MSCIs	Rank	Yr Blt	Eff Yr	Levels	Stories	Area	Perim	Hgt	Phys	Func	Econ	OVR %	Rsn	Inc Use	Net Area	Cls
1	412-Neighborhood Shopping Ctr	C	1.33	1963		01 / 01		9,802	602	12	2	2		0	Oth	034		
2	412-Neighborhood Shopping Ctr	C	1.33	1974		01 / 01		6,048	228	12	3	3		0	Oth	035		
3	412-Neighborhood Shopping Ctr	C	1.33	1972		01 / 01		5,900	286	12	3	3		0	Oth	035		

OTHER BUILDING IMPROVEMENTS

No.	Occupancy	MSCIs	Rank	Qty	Yr Blt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cls
1	163-Site Improvements	P	2.00	1	1970			10		8			1	3	3	0	Oth	

COMMERCIAL BUILDING SECTION COMPONENTS

Sec	Code	Units	Pct	Size	Other	Rank	Year
1	612-Warmed and Cooled Air		100				
1	812-Concrete Block		100				
1	8065-Canopy, Retail Wood Frame	300					
1	8065-Canopy, Retail Wood Frame	80					
1	8065-Canopy, Retail Wood Frame	132					
2	612-Warmed and Cooled Air		100				
2	812-Concrete Block		100				
2	8016-Deck, Wood with Roof	576					
3	612-Warmed and Cooled Air		100				
3	812-Concrete Block		100				
3	8112-Storage Bldg, Wood	160					

OTHER BUILDING IMPROVEMENT COMPONENTS

No.	Code	Units	Pct	Size	Other	Rank	Year
1	8350-Paving, Asphalt with Base	61,000		10			

SNCAMA Property Record Card

Parcel ID: 089-142-09-0-40-10-007.00-0

Quick Ref: R51947

Tax Year: 2017

Run Date: 12/2/2016 4:52:10 PM

GENERAL BUILDING INFORMATION

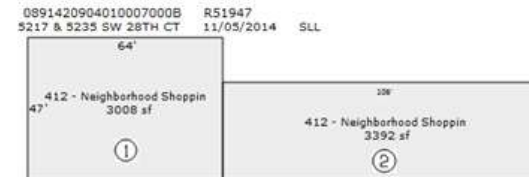
LBCS Structure Code: 2591-Strip shopping center

Bldg No. & Name: 2 STRIP CENTER&HERMANS MEAT

Identical Units: 1 No. of Units:

Unit Type:

MS Mult: MS Zip:



Sketch by Apex Medina™

COMMERCIAL BUILDING SECTIONS & BASEMENTS

Sec	Occupancy	MSCIs	Rank	Yr Blt	Eff Yr	Levels	Stories	Area	Perim	Hgt	Phys	Func	Econ	OVR %	Rsn	Inc Use	Net Area	Cls
1	412-Neighborhood Shopping Ctr	S	1.33	1963		01 / 01		3,008	222	12	2	2		0	Oth	034		
2	412-Neighborhood Shopping Ctr	S	1.33	1963		01 / 01		3,392	244	12	2	2		0	Oth	034		

COMMERCIAL BUILDING SECTION COMPONENTS

Sec	Code	Units	Pct	Size	Other	Rank	Year
1	612-Warmed and Cooled Air		100				
1	812-Concrete Block		100				
1	8065-Canopy, Retail Wood Frame	640					
2	612-Warmed and Cooled Air		100				
2	812-Concrete Block		100				
2	8065-Canopy, Retail Wood Frame	36					
2	8065-Canopy, Retail Wood Frame	696					
2	8112-Storage Bldg, Wood	216				4.00	

OTHER BUILDING IMPROVEMENT COMPONENTS

SNCAMA Property Record Card

Parcel ID: 089-142-09-0-40-10-007.00-0

Quick Ref: R51947

Tax Year: 2017

Run Date: 12/2/2016 4:52:10 PM

GENERAL BUILDING INFORMATION

LBCS Structure Code: 2222-Bar / tavern
 Bldg No. & Name: 3 FORMERLY THE STATIC BAR
 Identical Units: 1 No. of Units:
 Unit Type:
 MS Mult: MS Zip:

0891420904010007000C: R51947
 5243 SW 28TH CT 09/02/2011 TMB



Sketch by Apex Medina™

COMMERCIAL BUILDING SECTIONS & BASEMENTS

Sec	Occupancy	MSCIs	Rank	Yr Blt	Eff Yr	Levels	Stories	Area	Perim	Hgt	Phys	Func	Econ	OVR %	Rsn	Inc Use	Net Area	Cls
1	442-Bar/Tavern	C	1.33	1973		01 / 01		7,200	310	12	1	1		0	Oth	086		

OTHER BUILDING IMPROVEMENTS

No.	Occupancy	MSCIs	Rank	Qty	Yr Blt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cls
2	163-Site Improvements	P	2.00	1	1973			10		8			1	2	2	0	Oth	

COMMERCIAL BUILDING SECTION COMPONENTS

Sec	Code	Units	Pct	Size	Other	Rank	Year
1	617-Complete HVAC		100				
1	812-Concrete Block		100				
1	8325-Patio, Concrete	746					

OTHER BUILDING IMPROVEMENT COMPONENTS

No.	Code	Units	Pct	Size	Other	Rank	Year
2	8350-Paving, Asphalt with Base	10,041					

SNCAMA Property Record Card

Parcel ID: 089-142-09-0-40-10-001.00-0

Quick Ref: R51941

Tax Year: 2017

Run Date: 12/2/2016 4:52:44 PM

OWNER NAME AND MAILING ADDRESS

29 FAIRLAWN LLC

3715 SW 29TH ST
TOPEKA, KS 66614

PROPERTY SITUS ADDRESS

SW FAIRLAWN RD
Topeka, KS 66614

LAND BASED CLASSIFICATION SYSTEM

Function: 9950 Commercial hig **Sfx:** 0
Activity: 9000 No human activity
Ownership: 1100 Private-fee simple
Site: 5000 Developed site - nonbuilding

Image Date:

GENERAL PROPERTY INFORMATION

Prop Class: V Vacant Lots - V
Living Units:
Zoning:
Neighborhood:311.2 311.2 - FAIRLAWN CORR
Economic Adj. Factor:
Map / Routing: J02
Tax Unit Group: 001

PROPERTY FACTORS

Topography: Level - 1
Utilities: All Public - 1
Access: Paved Road - 1,Sidewalk - 6
Fronting: Residential Street - 4
Location: Neighborhood or Spot - 6
Parking Type: None - 0
Parking Quantity: None - 0
Parking Proximity: Far - 0
Parking Covered:
Parking Uncovered:

TRACT DESCRIPTION

SUNSET HILLS REPLAT A , Lot B , FAIRLAWN
RD TRACT B SUNSET HILLS - REPLAT OF
TRACT A SECTION 09 TOWNSHIP 12 RANGE 15

INSPECTION HISTORY

Date	Time	Code	Reason	Appraiser	Contact	Code
09/01/2012	12:00 PM	0	R	SJB		
03/25/1997	2:20 PM	0		441		
11/02/1987	11:08 AM	0		150		

BUILDING PERMITS

Number	Amount	Type	Issue Date	Status	% Comp
--------	--------	------	------------	--------	--------

2017 APPRAISED VALUE

2016 APPRAISED VALUE

Cls	Land	Building	Total
V	1,450	0	1,450
Total	1,450	0	1,450

Not Yet Available

PARCEL COMMENTS

App-Com: PUPinf1-1643-2010-, INF-6871-2012-, PUPinf1-2996-2011-, PUPinf1-3973-2013-

MARKET LAND INFORMATION

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	OVRD	Rsn	Cls	Model	Base Size	Base Val	Inc Val	Dec Val	Value Est
Saft	1-Primary Site - 1	689											7	40,000.00	2.10	2.10	2.10	1,450

Total Market Land Value 1,450

SNCAMA Property Record Card

Parcel ID: 089-142-09-0-40-10-001.00-0

Quick Ref: R51941

Tax Year: 2017

Run Date: 12/2/2016 4:52:44 PM

SNCAMA Property Record Card

Parcel ID: 089-142-10-0-30-10-002.00-0

Quick Ref: R53088

Tax Year: 2017

Run Date: 12/2/2016 3:22:35 PM

OWNER NAME AND MAILING ADDRESS

LINDEMUTH INC

4350 NW GREEN HILLS PL
TOPEKA, KS 66618-1631

PROPERTY SITUS ADDRESS

2746 SW FAIRLAWN RD
Topeka, KS 66614

LAND BASED CLASSIFICATION SYSTEM

Function: 2522 Fast food restau **Sfx:** 0
Activity: 2210 Restaurant-type activity with c
Ownership: 1100 Private-fee simple
Site: 6000 Developed site - with building

GENERAL PROPERTY INFORMATION

Prop Class: C Commercial & Industrial - C
Living Units:
Zoning: PUD, C4
Neighborhood: 311.2 311.2 - FAIRLAWN CORR
Economic Adj. Factor:
Map / Routing: WE-B
Tax Unit Group: 001



Image Date: 05/18/2011

PROPERTY FACTORS

Topography: Level - 1
Utilities: All Public - 1
Access: Paved Road - 1, Sidewalk - 6
Fronting: Secondary Artery - 2
Location: Secondary Strip - 5
Parking Type: Off Street - 1
Parking Quantity: Adequate - 2
Parking Proximity: On Site - 3
Parking Covered:
Parking Uncovered: 36

INSPECTION HISTORY

Date	Time	Code	Reason	Appraiser	Contact	Code
05/17/2011	11:20 AM	11	R	TMB	Craig	5
02/17/2008	2:00 PM	9		TMB		
06/20/2003	10:40 AM	1		TMB	LORI CLARY 6/03	6

BUILDING PERMITS

Number	Amount	Type	Issue Date	Status	% Comp
91472	35,000	OB&Y	12/31/1991	C	100
92354	1	OB&Y	12/13/1991	C	100

2017 APPRAISED VALUE

2016 APPRAISED VALUE

Cls	Land	Building	Total
C	167,440	254,960	422,400
Total	167,440	254,960	422,400

Not Yet Available

TRACT DESCRIPTION

SHUNGA PLAZA SUB , BLOCK D , Lot 1 + ,
 BLK D LOT 1 & W 50 FT LOT 2 SHUNGA PLAZA
 SUB SECTION 10 TOWNSHIP 12 RANGE 15

PARCEL COMMENTS

Prop-NC: IES10-Sent, IES11-Sent, IES12-Sent; **Prop-Com:** CLEAN WELL KEPT INSIDE AND OUT 05/17/2011 TMB;; **App-Com:** 0000007261-, 08-2733-EQSC-, INF-5504-2011-, 11-4640-EQSC-; **Val-Com:** Relisted 5/17/2011 correcting listing increasing t

MARKET LAND INFORMATION

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	OVRD	Rsn	Cls	Model	Base Size	Base Val	Inc Val	Dec Val	Value Est
Sqft	1-Primary Site - 1	41.966				3	190	0					7	40,000.00	2.10	2.10	2.10	167,440

Total Market Land Value 167,440

SNCAMA Property Record Card

Parcel ID: 089-142-10-0-30-10-002.00-0

Quick Ref: R53088

Tax Year: 2017

Run Date: 12/2/2016 3:22:36 PM

GENERAL BUILDING INFORMATION

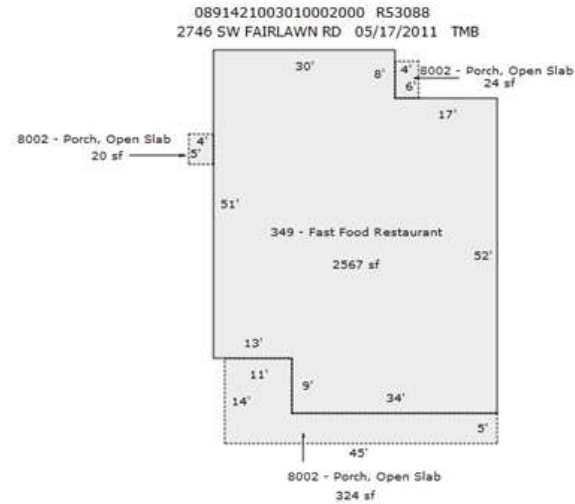
LBCS Structure Code: 2221-Fast food restaurant

Bldg No. & Name: 1 LONG JOHN SILVERS

Identical Units: 1 No. of Units:

Unit Type:

MS Mult: MS Zip:



Sketch by Apex Medina™

COMMERCIAL BUILDING SECTIONS & BASEMENTS

Sec	Occupancy	MSCIs	Rank	Yr Blt	Eff Yr	Levels	Stories	Area	Perim	Hgt	Phys	Func	Econ	OVR %	Rsn	Inc Use	Net Area	Clis
1	349-Fast Food Restaurant	C	2.33	1975		01 / 01		2,567	214	10	3	3				100		

OTHER BUILDING IMPROVEMENTS

No.	Occupancy	MSCIs	Rank	Qty	Yr Blt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Clis
1	163-Site Improvements	P	2.00	1	1975			10		8			1	2	3			
2	163-Site Improvements	M	2.00	1	1995			10		8			1	3	3			

COMMERCIAL BUILDING SECTION COMPONENTS

Sec	Code	Units	Pct	Size	Other	Rank	Year
1	617-Complete HVAC		100				
1	812-Concrete Block		100				
1	8002-Porch, Open Slab	324					
1	8002-Porch, Open Slab	20					
1	8002-Porch, Open Slab	24					

OTHER BUILDING IMPROVEMENT COMPONENTS

No.	Code	Units	Pct	Size	Other	Rank	Year
1	8350-Paving, Asphalt with Base	14,350		10			
2	8149-Pole Light, Mercury 24 ft.	2		10			

SNCAMA Property Record Card

Parcel ID: 089-142-10-0-30-11-004.00-0

Quick Ref: R53197

Tax Year: 2017

Run Date: 12/2/2016 3:24:00 PM

OWNER NAME AND MAILING ADDRESS

LINDEMUTH INC

4350 NW GREEN HILLS PL
TOPEKA, KS 66618-1631

PROPERTY SITUS ADDRESS

2800 SW FAIRLAWN RD
Topeka, KS 66614

LAND BASED CLASSIFICATION SYSTEM

Function: 2510 Full-service rest **Sfx:** 0
Activity: 2200 Restaurant-type activity
Ownership: 1100 Private-fee simple
Site: 6000 Developed site - with building

GENERAL PROPERTY INFORMATION

Prop Class: C Commercial & Industrial - C
Living Units:
Zoning: PUD, C4
Neighborhood: 311.2 311.2 - FAIRLAWN CORR
Economic Adj. Factor:
Map / Routing: WE-CPLUS
Tax Unit Group: 001

TRACT DESCRIPTION

SHUNGA PLAZA SUB , BLOCK B , Lot 6 , BEG
 NW COR LOT 6 BLK B SHUNGA PLAZA SUB TH
 E 149.92' S 145.01' W 134.9 4' NW 18.31' N
 134.48' TO POB SECTION 10 TOWNSHIP 12
 RANGE 15



Image Date: 05/13/2015

PROPERTY FACTORS

Topography: Level - 1
Utilities: All Public - 1
Access: Paved Road - 1
Fronting: Major Strip or CBD - 1
Location: Secondary Strip - 5
Parking Type: Off Street - 1
Parking Quantity: Adequate - 2
Parking Proximity: On Site - 3
Parking Covered:
Parking Uncovered: 28

INSPECTION HISTORY

Date	Time	Code	Reason	Appraiser	Contact	Code
04/30/2015	1:10 PM	6	H	SLL		
09/02/2011	11:25 AM	1	R	TMB	Fernando Gonzales	5
02/17/2008	2:00 PM	9		TMB	MARCO GONZALES7/05	5

BUILDING PERMITS

Number	Amount	Type	Issue Date	Status	% Comp
--------	--------	------	------------	--------	--------

2017 APPRAISED VALUE

2016 APPRAISED VALUE

Cls	Land	Building	Total
C	114,490	116,110	230,600
Total	114,490	116,110	230,600

Not Yet Available

PARCEL COMMENTS

Prop-NC: IES10-Sent, IES11-Sent, IES12-Sent; **Prop-Com:** IX - Property in fair condition (needs some shingles replaced and interior needs remodel) sll 4/15 Combined with parcel 3.01 9/08;; **App-Com:** PUPinf1-4438-2014-

MARKET LAND INFORMATION

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	OVRD	Rsn	Cls	Model	Base Size	Base Val	Inc Val	Dec Val	Value Est
Sqft	1-Primary Site - 1	21,807				2	250						7	40,000.00	2.10	2.10	2.10	114,490

Total Market Land Value 114,490

SNCAMA Property Record Card

Parcel ID: 089-142-10-0-30-11-004.00-0

Quick Ref: R53197

Tax Year: 2017

Run Date: 12/2/2016 3:24:01 PM

GENERAL BUILDING INFORMATION

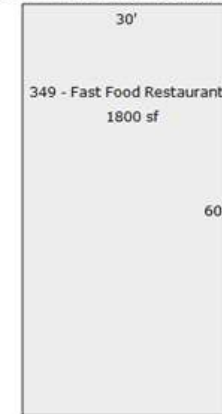
LBCS Structure Code: 2221-Fast food restaurant

Bldg No. & Name: 1 EL CHARRO RESTAURANT (vacant 4/15)

Identical Units: 1 No. of Units:

Unit Type:

MS Mult: MS Zip:

0891421003011004000 R53197
2800 SW FAIRLAWN RD 09/02/2011 TMB

Sketch by Apex Medina™

COMMERCIAL BUILDING SECTIONS & BASEMENTS

Sec	Occupancy	MSCIs	Rank	Yr Blt	Eff Yr	Levels	Stories	Area	Perim	Hgt	Phys	Func	Econ	OVR %	Rsn	Inc Use	Net Area	Clis
1	349-Fast Food Restaurant	C	3.33	1973		01 / 01		1,800	180	9	2	3				100		

OTHER BUILDING IMPROVEMENTS

No.	Occupancy	MSCIs	Rank	Qty	Yr Blt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Clis
1	163-Site Improvements	P	2.00	1	1973			10		8		1	3	3				

COMMERCIAL BUILDING SECTION COMPONENTS

Sec	Code	Units	Pct	Size	Other	Rank	Year
1	617-Complete HVAC		100				
1	882-Stud -Brick Veneer		100				

OTHER BUILDING IMPROVEMENT COMPONENTS

No.	Code	Units	Pct	Size	Other	Rank	Year
1	8350-Paving, Asphalt with Base	18,616					

SNCAMA Property Record Card

Parcel ID: 089-142-10-0-30-11-006.00-0

Quick Ref: R53198

Tax Year: 2017

Run Date: 12/2/2016 3:24:48 PM

OWNER NAME AND MAILING ADDRESS

HAYNES, WILLIAM GENE & LOIS G

1512 SW 30TH ST
TOPEKA, KS 66611-1910

PROPERTY SITUS ADDRESS

2830 SW FAIRLAWN RD
Topeka, KS 66614

LAND BASED CLASSIFICATION SYSTEM

Function: 2102 Retail store **Sfx:** 0
Activity: 2210 Restaurant-type activity with (r)
Ownership: 1100 Private-fee simple
Site: 6000 Developed site - with building

GENERAL PROPERTY INFORMATION

Prop Class: C Commercial & Industrial - C
Living Units:
Zoning: PUD, C4
Neighborhood: 311.2 311.2 - FAIRLAWN CORR
Economic Adj. Factor:
Map / Routing: S08 WE-B-
Tax Unit Group: 001

TRACT DESCRIPTION

S10 , T12 , R15 , BEG 190 N & 60 E OF SW COR
SW 1/4 T H N 100, E 150,S 100 W 150 TO POB



Image Date: 12/07/2015

PROPERTY FACTORS

Topography: Level - 1
Utilities: All Public - 1
Access: Paved Road - 1, Sidewalk - 6
Fronting: Major Strip or CBD - 1
Location: Major Strip - 4
Parking Type: Off Street - 1
Parking Quantity: Adequate - 2
Parking Proximity: On Site - 3
Parking Covered:
Parking Uncovered: 15

INSPECTION HISTORY

Date	Time	Code	Reason	Appraiser	Contact	Code
09/21/2015	1:45 PM	VI	P	SLL		
01/20/2015	12:50 PM	1	P	SLL	Jim Burgart	6
02/17/2008	2:00 PM	9		SLL		

BUILDING PERMITS

Number	Amount	Type	Issue Date	Status	% Comp
14-9182	190,000	Fire Damage	10/02/2014	C	100
T0200	5,000	Interior Remodel	09/04/2001	C	
T0106	40,000	Interior Remodel	07/30/1994	C	100

2017 APPRAISED VALUE

2016 APPRAISED VALUE

Cls	Land	Building	Total
C	78.750	131.150	209.900
Total	78.750	131.150	209.900

Not Yet Available

PARCEL COMMENTS

Prop-NC: IES10-Sent, IES11-Sent, IES12-Sent; **Prop-Com:** BP - REMODEL AFTER FIRE 100%. NO CHANGE TO USE OR SF 9/2015 SLL; BP - REMODEL INTERIOR DUE TO FIRE & SMOKE DAMAGE. HOPE TO BE BACK OPEN BY MARCH 2015. EST 70% COMP 1/2015 SLL;; **App-Com:** 0000007275-

MARKET LAND INFORMATION

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	OVRD	Rsn	Cls	Model	Base Size	Base Val	Inc Val	Dec Val	Value Est
Sqft	1-Primary Site - 1	15.000				2	250						7	40,000.00	2.10	2.10	2.10	78.750

Total Market Land Value 78,750

SNCAMA Property Record Card

Parcel ID: 089-142-10-0-30-11-006.00-0

Quick Ref: R53198

Tax Year: 2017

Run Date: 12/2/2016 3:24:48 PM

GENERAL BUILDING INFORMATION

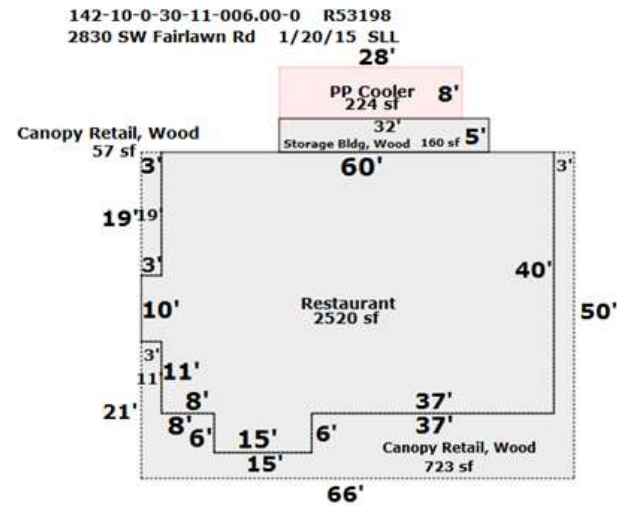
LBCS Structure Code: 2230-Standalone store or shop building

Bldg No. & Name: 1 PIZAGEL'S

Identical Units: 1 No. of Units:

Unit Type:

MS Mult: MS Zip:



Sketch by Apex Medina™

COMMERCIAL BUILDING SECTIONS & BASEMENTS

Sec	Occupancy	MSCIs	Rank	Yr Blt	Eff Yr	Levels	Stories	Area	Perim	Hgt	Phys	Func	Econ	OVR %	Rsn	Inc Use	Net Area	Cls
1	353-Retail Store	C	2.00	1960		01 / 01		2,520	218	11	4	3				034		

OTHER BUILDING IMPROVEMENTS

No.	Occupancy	MSCIs	Rank	Qty	Yr Blt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cls
1	163-Site Improvements	P	2.00	1	1960			10		8		1	3	3				

COMMERCIAL BUILDING SECTION COMPONENTS

Sec	Code	Units	Pct	Size	Other	Rank	Year
1	612-Warmed and Cooled Air		100				
1	882-Stud -Brick Veneer		100				
1	8065-Canopy, Retail Wood Frame	780					

OTHER BUILDING IMPROVEMENT COMPONENTS

No.	Code	Units	Pct	Size	Other	Rank	Year
1	8350-Paving, Asphalt with Base	10,500		10			

SNCAMA Property Record Card

Parcel ID: 089-142-10-0-30-11-007.00-0

Quick Ref: R53199

Tax Year: 2017

Run Date: 12/2/2016 3:25:09 PM

OWNER NAME AND MAILING ADDRESS

HAAG REAL ESTATE LC

326 SE 15TH ST
TOPEKA, KS 66607-1204

PROPERTY SITUS ADDRESS

2836 SW FAIRLAWN RD
Topeka, KS 66614

LAND BASED CLASSIFICATION SYSTEM

Function: 2152 Convenience st Sfx: 0
 Activity: 2110 Goods-oriented shopping
 Ownership: 1100 Private-fee simple
 Site: 6000 Developed site - with building

GENERAL PROPERTY INFORMATION

Prop Class: C Commercial & Industrial - C
 Living Units:
 Zoning: C4
 Neighborhood: 311.2 311.2 - FAIRLAWN CORR
 Economic Adj. Factor:
 Map / Routing: S08 WE-BPLUS
 Tax Unit Group: 001

TRACT DESCRIPTION

PHILLIPS 66 SUB NO 2 , BLOCK A , Lot 1 , BLK
 A LT 1 SECTION 10 TOWNSHIP 12 RANGE 15



Image Date: 07/17/2004

PROPERTY FACTORS

Topography: Level - 1
 Utilities: All Public - 1
 Access: Paved Road - 1
 Fronting: Secondary Artery - 2
 Location: Secondary Strip - 5
 Parking Type: Off Street - 1
 Parking Quantity: Adequate - 2
 Parking Proximity: On Site - 3
 Parking Covered:
 Parking Uncovered: 18

INSPECTION HISTORY

Date	Time	Code	Reason	Appraiser	Contact	Code
02/17/2008	2:10 PM	9		SLL		
07/16/2004	11:45 AM	1		BMW	C. CARODYNE 7/04	6

BUILDING PERMITS

Number	Amount	Type	Issue Date	Status	% Comp
91480	1	Demolition	04/01/1991	C	100
91065	350,000	Commercial Building	02/01/1991	C	100

2017 APPRAISED VALUE

2016 APPRAISED VALUE

Not Yet Available

Cls	Land	Building	Total
C	114.190	182.530	296.720
Total	114.190	182.530	296.720

PARCEL COMMENTS

Prop-NC: IES10-Sent, IE10-Received, IES11-Sent, IE11-NA Not Applicable, IES12-Sent, IE12-Received, IE15-Received; **Prop-Com:** AN- CC = SSHHHH; 2K- ADDED 3000 S/F - PC2 10/99; E1- = BATHROOMS 10/99

MARKET LAND INFORMATION

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	OVRD	Rsn	Cls	Model	Base Size	Base Val	Inc Val	Dec Val	Value Est
Sqft	1-Primary Site - 1	21.750				2	250	9					7	40,000.00	2.10	2.10	2.10	114.190

Total Market Land Value 114,190

SNCAMA Property Record Card

Parcel ID: 089-142-10-0-30-11-007.00-0

Quick Ref: R53199

Tax Year: 2017

Run Date: 12/2/2016 3:25:10 PM

GENERAL BUILDING INFORMATION

LBCS Structure Code: 2232-Convenience store/mini-market

Bldg No. & Name: 01 PHILLIPS 66

Identical Units: 01 No. of Units:

Unit Type:

MS Mult: MS Zip:

No Sketch Available

COMMERCIAL BUILDING SECTIONS & BASEMENTS

Sec	Occupancy	MSCIs	Rank	Yr Blt	Eff Yr	Levels	Stories	Area	Perim	Hgt	Phys	Func	Econ	OVR %	Rsn	Inc Use	Net Area	Cls
1	531-Mini-Mart Convenience Store	C	2.33	1991		01 / 01		855	128	10	3	3				038		

OTHER BUILDING IMPROVEMENTS

No.	Occupancy	MSCIs	Rank	Qty	Yr Blt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cls
1	163-Site Improvements	W	3.00	1	1991			10		8	0080 X 049	1	3	3				
2	163-Site Improvements	P	2.00	1	1991			10		8		1	3	3				
3	163-Site Improvements	M	2.00	1	1996			10		8		1	3	3				
4	163-Site Improvements	M	2.00	1	1991			10		8		1	3	3				

COMMERCIAL BUILDING SECTION COMPONENTS

Sec	Code	Units	Pct	Size	Other	Rank	Year
1	612-Warmed and Cooled Air		100				
1	825-Solid Local Stone		100				

OTHER BUILDING IMPROVEMENT COMPONENTS

No.	Code	Units	Pct	Size	Other	Rank	Year
1	8070-Canopy, Service Station	3,920		10			
2	8356-Paving, Concrete with Base (heav)	15,380		10			
3	8149-Pole Light, Mercury 24 ft.	2		10			
4	8200-Fence, Wood Solid Boards	190		10			

SNCAMA Property Record Card

Parcel ID: 089-142-10-0-30-11-007.00-0

Quick Ref: R53199

Tax Year: 2017

Run Date: 12/2/2016 3:25:10 PM

GENERAL BUILDING INFORMATION

LBCS Structure Code: 2274-Car wash (automatic)

Bldg No. & Name: 2 PHILLIPS CAR WASH

Identical Units: 1 No. of Units: 1

Unit Type:

MS Mult: MS Zip:

No Sketch Available

COMMERCIAL BUILDING SECTIONS & BASEMENTS

Sec	Occupancy	MSCIs	Rank	Yr Blt	Eff Yr	Levels	Stories	Area	Perim	Hgt	Phys	Func	Econ	OVR %	Rsn	Inc Use	Net Area	Clis
1	435-Car Wash - Drive Thru	C	3.00	1991		01 / 01		1,175	144	10	3	3				075		

COMMERCIAL BUILDING SECTION COMPONENTS

Sec	Code	Units	Pct	Size	Other	Rank	Year
1	606-Space Heater		100				
1	825-Solid Local Stone		100				

OTHER BUILDING IMPROVEMENT COMPONENTS

SNCAMA Property Record Card

Parcel ID: 089-142-10-0-30-11-007.00-0

Quick Ref: R53199

Tax Year: 2017

Run Date: 12/2/2016 3:25:10 PM

EXHIBIT C
PHOTOGRAPHS OF STUDY AREA
(SEE ATTACHED)

EXTERIOR BUILDING DETERIORATION



EXTERIOR BUILDING DETERIORATION



EXTERIOR BUILDING DETERIORATION



EXTERIOR BUILDING DETERIORATION

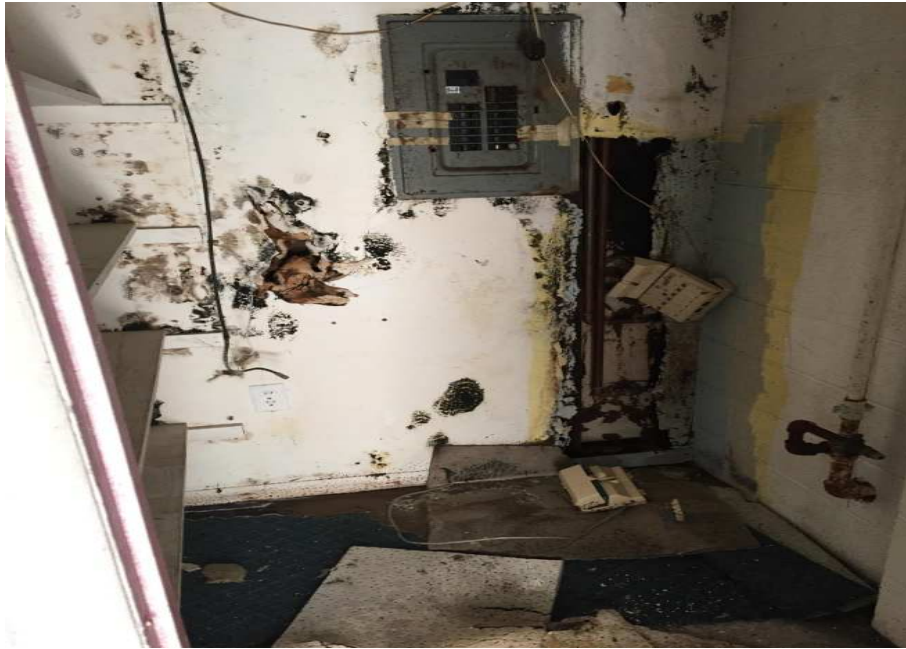




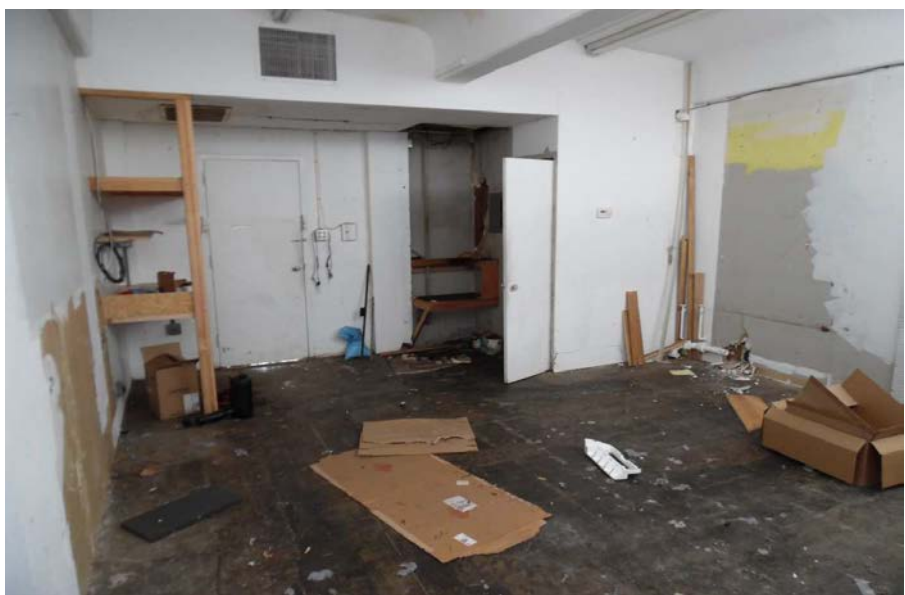
EXTERIOR BUILDING DETERIORATION



INTERIOR BUILDING DETERIORATION



INTERIOR BUILDING DETERIORATION



INTERIOR BUILDING DETERIORATION



INTERIOR BUILDING DETERIORATION



SITE DETERIORATION



Site Deterioration



Site Deterioration



SITE DETERIORATION



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INADEQUATE UTILITIES



INADEQUATE UTILITIES



INADEQUATE UTILITIES



INADEQUATE UTILITIES



EXHIBIT D

**ARCHITECTURAL CONSULTANT REPORT ESTABLISHING CONDITIONS OF
STRUCTURES BELOW MINIMUM CODE STANDARDS**

(SEE ATTACHED)



2 December 2016

The below comments include a list of issues with the existing buildings in the northwest corner of 29th & Fairlawn that if they were constructed today do not meet current adopted codes or ordinances:

2010 ADA standards for accessibility –

- Toilet room clearances below current standards.
- Parking lot slopes/access to front entry below current standards.
- Number of plumbing fixtures below current standards.

2009 Energy Conservation Code –

- Existing building envelop (walls/roof/doors/windows)
- Existing window glazing below current standards.
- Existing walls/roof not insulated to current standards.
- Lighting Controls below current standards.
- Minimum HVAC equipment efficiencies below current standards.

Electrical –

- Exterior lighting below current standards.
- Electrical service sizing below current standards.

Mechanical –

- Grease interceptor installations for any restaurant occupancies below current standards.
- Proper hoods and make-up air for any cooking applications below current standards.
- ASHRAE 62.1 Ventilation rates for each occupancy type below current standards.
- Water Service Sizing below current standards.

Roof Load Requirements –

- Roof loading for current snow load requirements below current standards.

Misc Items –

- Drainage around buildings below current standards.
- Roof slope/drainage below current standards.

(Published in the Topeka Metro Newspaper December 12, 2016)

RESOLUTION NO. 8825

A RESOLUTION introduced by Interim City Manager Douglas Gerber, providing notice of a public hearing concerning the establishment of a Redevelopment District within the City (Wheatfield Village TIF project) pursuant to K.S.A. 12-1770 *et seq.*, as amended.

WHEREAS, pursuant to K.S.A. 12-1770 *et seq.*, as amended (the "Act"), the City of Topeka, Kansas (the "City"), is authorized to assist in the development and redevelopment of eligible areas within the City in order to promote, stimulate and develop the general and economic welfare of the State of Kansas and its communities; and

WHEREAS, the City hereby finds and determines it desirable to encourage the development and redevelopment of certain real property within the City generally located at the northwest corner of Southwest 29th Street and Fairlawn Road in the City and to consider the establishment of a redevelopment district at such location (the "Redevelopment District"); and

WHEREAS, pursuant to the Act, the City must adopt a resolution stating that the City is considering the establishment of the Redevelopment District and include in such resolution notice that a public hearing will be held to consider the establishment of said Redevelopment District.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS, that

1. Notice is hereby given that a public hearing to consider the establishment by the City of the Redevelopment District shall be held at the City Council Chambers, 214 SE 8th Street in Topeka, Kansas, on December 20, 2016, at 6:00 p.m. (or as soon thereafter as is practical).

30 2. The proposed boundaries of the Redevelopment District are set forth in
31 **Exhibit A** attached hereto and incorporated herein by reference.

32 3. A description of the proposed district plan for the Redevelopment District
33 which identifies all of the project areas and the general manner of all buildings, facilities
34 and improvements in each project area that are proposed to be constructed or improved in
35 each project area are attached hereto as **Exhibit B** and incorporated herein by reference.

36 4. A description and map of the proposed Redevelopment District are available
37 for public inspection during regular office hours in the Office of the City Clerk, at Topeka
38 City Hall, 215 SE 7th Street, Room 166, Topeka, Kansas.

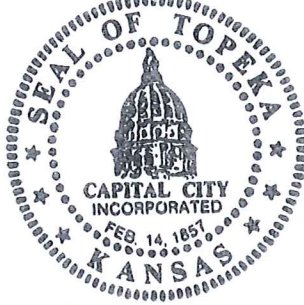
39 5. At the public hearing, the Governing Body of the City will consider findings
40 necessary for the establishment of the proposed Redevelopment District.

41 6. A copy of this Resolution shall be sent by certified mail, return receipt
42 requested, to the Board of Commissioners of Shawnee County, Kansas, and the Board of
43 Education of Unified School District No. 501, Shawnee County, Kansas. Copies of this
44 Resolution also shall be mailed by certified mail, return receipt requested, to each owner
45 and occupant of land within the District not more than 10 days following the date of
46 adoption of this Resolution. This Resolution and **Exhibits A** and **B** attached to this
47 Resolution and a map delineating the area to be included in the Redevelopment District
48 attached hereto as **Exhibit C** shall be published once in the official City newspaper not
49 less than one week or more than two weeks preceding the date fixed for the public
50 hearing.

51 [Remainder of Page Intentionally Left Blank]

53 ADOPTED and APPROVED by the Governing Body on November 15, 2016.

54 CITY OF TOPEKA, KANSAS



61 ATTEST:

62
63
64 Brenda Younger
65
66 Brenda Younger, City Clerk

Larry E. Wolgast
Larry E. Wolgast, Mayor

EXHIBIT A

PROPOSED BOUNDARIES

DISTRICT BOUNDARY

A portion on the Southeast Quarter of Section 9, the Southwest Quarter of Section 10, the Northwest Quarter of Section 15, and the Northeast Quarter of Section 16, all in Township 12 South, Range 15 East of the 6th P.M., in the City of Topeka, Shawnee County, Kansas described as follows:

Beginning at a point on the West line of said Southwest Quarter of Section 10 at a point 813.39 feet North of the Southwest corner of said Quarter Section, said point being on the extension of the North line of Shunga Plaza Subdivision and in the center of Shunga Creek; thence Southeasterly on the North line of said Shunga Plaza Subdivision a distance of 261.00 feet more or less, to a point 50-feet easterly of the West line of Lot 2, Block D of said Shunga Plaza Subdivision; thence South on a line parallel with and 50-feet easterly of the West line of said Lot 2, Block D a distance of 226.45 feet more or less, to the center of Southwest 28th Street as shown on the Plat of said Shunga Plaza Subdivision; thence West on the center of said Southwest 28th Street a distance of 50.08 feet, more or less; thence South on the East lines of Lots 5 and 6, Block B of said Shunga Plaza Subdivision, and the East line of Lot 1, Block A, of Phillips 66 Subdivision No.2 and it's extension thereof a distance of 590 feet more or less to the South curb line of Southwest 29th Street; thence Westerly and Southwesterly on said South curb line and its extension a distance of 680 feet more or less to a point 100 feet measured at right angles to the center of the west-bound lanes of Interstate-470; thence Northwesterly and Northerly along a line being parallel with of 100 feet Northeasterly of said center of the west-bound lanes, a distance of 1,275 feet more or less to the center of Shunga Creek; thence Easterly on the center of said Shunga Creek a distance of 1,380 feet more or less to the point of beginning.

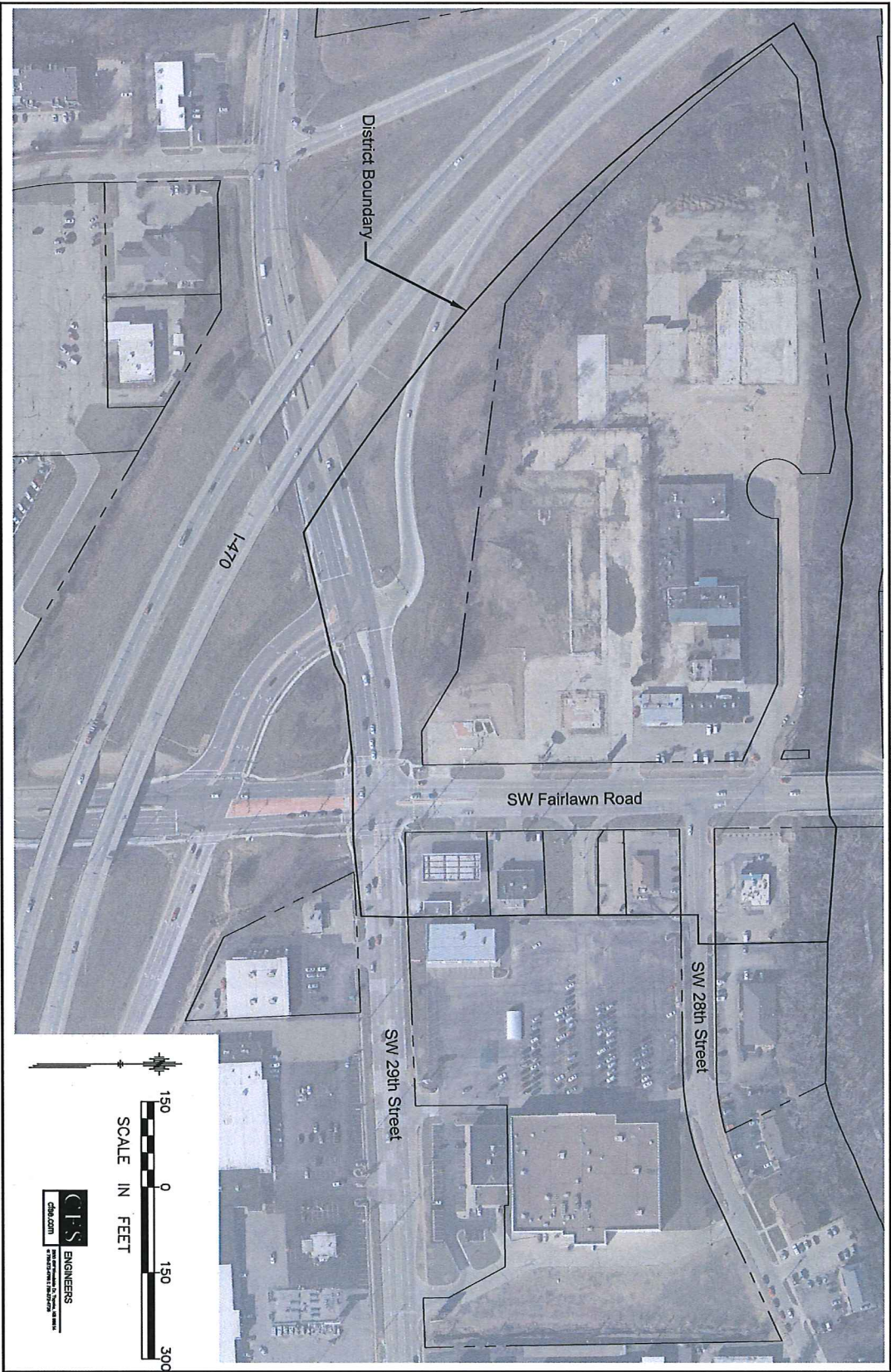
EXHIBIT B

PROPOSED DISTRICT PLAN

The District shall consist of one (1) or more redevelopment project areas, which are anticipated to include a mix of uses including retail, restaurant, and other commercial uses and residential uses with associated amenities, along with associated infrastructure including but not limited to structured and/or surface parking, landscaping, lighting, utilities, storm water improvements, sidewalks/walkways, streets/drives, ingress/egress improvements, green space, signalization and other infrastructure improvements.

EXHIBIT C

J:\2014Proj\145195\DWGS\district boundary exhibit.dwg, District boundary exhibit, 10/28/2016 12:19:27 PM





City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE:	December 20, 2016	
CONTACT PERSON:	Brandon Kauffman,	DOCUMENT #:
	Director of Finance	
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY	020 Resolutions / 005 Miscellaneous	
CIP PROJECT:	No	
ACTION OF COUNCIL:	12/13 Discussion.	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Interim City Manager Doug Gerber, authorizing the use of excess funds from unreserved fund balances.

(Approval would authorize transfer of \$1.6 million for specified purposes.)

POLICY ISSUE:

On November 15, 2016, the Governing Body approved a comprehensive reserve policy which provides staff guidance on the use of reserves, set reserve levels and identify proper use of reserves. The policy established guidelines for use of reserves which will be discussed and then included in a resolution.

STAFF RECOMMENDATION:

The governing body discussed the 2016 reserve balance recommendations on December 13, 2016 and are recommended for approval on December 20, 2016.

It is recommended that up to \$1.6 million be transferred from the General Fund to the following funds and projects for the specified purposes. Any additional savings above \$1.6 million will be added to the cash balance of the General Fund.

1. Transfer of \$400,000 to the 2015 Water Main Replacement Program for expansion of water main replacement on 6th Street.
2. Transfer of \$700,000 to the newly established Fleet Reserve Fund for future fleet replacement.
3. Transfer of \$300,000 to a project for Municipal Court/Council Chamber Renovation.
4. Transfer of \$100,000 to the Topeka Performing Arts Center to support operations.
5. Transfer of \$100,000 to the City Hall/TPAC Steps project to cover the increased project budget amount.

BACKGROUND:

The Governing Body approved Resolution No. 8824 on November 15, 2016. The resolution establishes a policy for reserve balances that requires governing body authorization to use or transfer excess unreserved balances. Excess unreserved balances may be used for one or more of the following items:

- Debt reduction.
- One-time expenditures that do not increase recurring operating costs that cannot be funded through current revenues.
- Establishment of or increase in reserves for risk management programs, equipment replacement, capital projects, emergencies, or disaster recovery.
- Fund accrued liabilities, including but not limited to other post-employment benefits.
- Increase the balance of the reserve levels if known that a future draw down could occur.

It is projected that there will be unreserved balances at the end of the 2016 fiscal year that exceed the minimum balance requirements in the General Fund, Fleet Fund, Unemployment Fund and Debt Service Fund.

BUDGETARY IMPACT:

Staff recommends the Governing Body move to approve the resolution..

SOURCE OF FUNDING:

General Fund

ATTACHMENTS:

Description

Resolution

Resolution 8824 - COT Reserve Policy

Summary of Year End Transfers

1 RESOLUTION NO. _____

2
3 A RESOLUTION introduced by Interim City Manager Douglas Gerber, authorizing
4 the use of excess funds from unreserved fund balances.

5
6 WHEREAS, Resolution No. 8824 establishes a policy for reserve balances that
7 requires governing body authorization to use or transfer excess unreserved balances;
8 and

9 WHEREAS, excess unreserved balances may be used for one or more of the
10 following items:

- 11 • Debt reduction.
- 12 • One-time expenditures that do not increase recurring operating costs that
13 cannot be funded through current revenues.
- 14 • Establishment of or increase in reserves for risk management programs,
15 equipment replacement, capital projects, emergencies, or disaster
16 recovery.
- 17 • Fund accrued liabilities, including but not limited to other post-
18 employment benefits.
- 19 • Increase the balance of the reserve levels if known that a future draw
20 down could occur.

21 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
22 CITY OF TOPEKA, KANSAS, that:

23 1. There are unreserved balances at the end of the 2016 fiscal year that
24 exceed the minimum balance requirements in the General Fund, Fleet Fund,
25 Unemployment Fund and Debt Service Fund.

26 2. Pursuant to Resolution No. 8824, the Governing Body authorizes the
27 following uses or transfers:

28 A. An amount not to exceed \$400,000 from the General Fund for

29 water main replacement project T-281078.00.

30 B. An amount not to exceed \$700,000 from the General Fund to
31 establish a Fleet Reserve Fund.

32 C. An amount not to exceed \$300,000 from the General Fund for a
33 project to renovate Municipal Court/Council Chambers.

34 D. An amount not to exceed \$100,000 from the General Fund to the
35 Topeka Performing Arts Center to support operations.

36 E. An amount not to exceed \$100,000 from the General Fund to the
37 Topeka Performing Arts Center/City Hall Steps Project T- 131042.00.

38
39 3. All of the above-referenced uses or transfers of excess unreserved fund
40 balances meet one or more of the conditions stated in Resolution No. 8824.

41 ADOPTED and APPROVED by the Governing Body _____
42 _____.

43 CITY OF TOPEKA, KANSAS
44
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48 _____
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50

Larry E. Wolgast, Mayor

51 ATTEST:
52
53
54
55
56 _____

Brenda Younger, City Clerk

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WHEREAS, the city government has an important responsibility to its citizens to carefully account for public funds, to manage municipal finances wisely and to plan the adequate allocation of services; and

WHEREAS, it is important to maintain good standing with rating agencies as an adequate level of reserves is a sign of creditworthiness because it enhances a governments ability to repay debt on time and in full; and

WHEREAS, if the reserve falls below the minimum reserve level, the City Manager will prepare a plan for consideration by the governing body to rebuild the reserve during the next budgeting cycle.

SECTION ONE: The Governing Body of the City hereby adopts the reserve policy as set forth herein.

The Purpose of the Reserve Policy is to provide guidelines to the Governing Body and staff for establishing, maintaining and performing an annual review of the minimum and target reserves. A minimum reserve policy is generally considered a prudent and conservative fiscal policy to deal with unforeseen situations and long-term financial planning.

Fund Balance is also an important indicator of the City's financial position. Fund Balance is the difference between assets and liabilities in governmental funds. Maintaining reserves is considered a prudent management practice. Adequate fund balances are maintained to allow the City to continue providing services to the community in case of unexpected emergencies or requirement and/or economic downturns. The following classifications apply to fund balance in the City's governmental funds as defined by Governmental Accounting Standards Board ("GASB") no. 54:

<u>CLASSIFICATIONS</u>	<u>NATURE OF RESTRICTION</u>
Non-spendable	Cannot be readily converted to cash
Restricted	Externally imposed restrictions
Committed	Governing Body imposed commitment

Assigned City Manager assigned purpose/intent

Unassigned Residual balance not otherwise restricted

In the case of Proprietary funds (Enterprise and Internal Service Funds), Generally Accepted Accounting Principles ("GAAP") does not permit the reporting of reserves on the face of City financial statements. However, this does not preclude the City from setting policies to accumulate financial resources for prudent financial management of its proprietary fund operations.

Since proprietary funds may include both long-term capital assets and long-term liabilities, the most comparable measure of liquid financial resources that is similar to fund balance in proprietary funds is net working capital. Working capital is defined as the difference between current unrestricted assets and current liabilities. Net working capital, like fund balance, excludes long-term assets and long-term liabilities.

Use of Reserves

The City will avoid the use of reserves for recurring operating expenditures, unless a determination has been made that available balances are in excess of required guidelines and that plans have been established to address any future operating budget shortfalls.

Approval of the Governing Body shall be required in circumstances when reserve funds will be used to:

- Provide resources to make up for temporarily decreased revenues, such as reductions in state grants.
- Provide temporary resources in the event of an economic downturn while expenditure reductions are implemented.
- Provide resources in the event of a settlement rising from a claim or judgement.
- Fund one-time capital investments.

The City Manager shall notify the Governing Body in circumstances when reserve funds will be used to:

- Provide resources to meet emergency situations in case of disasters.
- Provide resources to fund obligations required by contract or state law (e.g. wages)

Authority of Reserves

The Governing Body may authorize the use of reserves. The Department of Administrative and Financial Services will regularly report reserve levels in quarterly statements and will report year-end projected reserve levels by the third quarter of each year.

Replenishment of Reserves

In the event that reserves are used resulting in a balance below the minimum as outlined in this policy for the various funds, a plan will be developed by the City Manager and such plan will be included in the formulation of the five-year forecast presented during the annual budget process to replenish reserve levels.

Governmental Fund Balance Policy

The City shall maintain a minimum unassigned fund balance equal to fifteen percent (15%) of the General Fund revenues and a target unassigned fund balance of twenty percent (20%) of the General Fund revenues.

The City shall maintain a minimum restricted fund balance equal to ten percent (10%) of the Debt Service Fund revenues.

The City shall maintain a minimum restricted fund balance equal to ten percent (10%) of the Motor Fuel Tax Fund revenues.

Special Revenue Funds Policy

The City shall maintain a minimum restricted reserve equal to ten percent (10%) of the Special Liability Fund revenues.

Proprietary Working Capital Policy

Enterprise Days Cash on Hand Policy

The City shall maintain a minimum days cash on hand for the Combined Utilities Fund. The days cash on hand policy will be equal to 185 days cash on hand as defined by any rating agency then rating the City's Combined Utility fund. This reserve will be maintained in order to provide continuity through extreme events, deal with normal cash fluctuations throughout the year, and maintain rate stability and funding capital investments.

The City shall maintain a minimum working capital reserve for the Parking Fund. The working capital reserve will be equal to 10% of the annual parking fund revenues.

Internal Service Working Capital Policy

The City shall maintain a minimum working capital for the Self Insurance Health Fund equal to a 95% confidence level, that funding will be sufficient to pay all losses and corresponding claim expenses. The 95% confidence level shall come from prior year run out claims. In addition, the City shall also maintain minimum working capital equal to 25% of current year expected annual claims and settlement expenses.

The City shall maintain a minimum working capital for other Self Insurance funds equal to a 95% confidence level that funding will be sufficient to pay all losses and corresponding claim expenses.

The City shall maintain a minimum working capital for other Internal Service Funds that provide services to other City departments at a level equal to 10% of expected revenues.

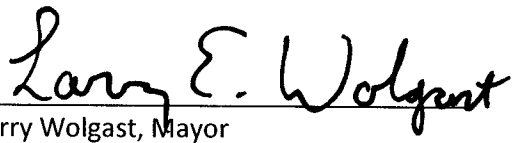
101 Excess unreserved balance

102 In the event that the unreserved balance exceeds the minimum or target balance requirements in the
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104 year, the excess may be used in one or a combination of the following ways with authorization from the
105 Governing Body:

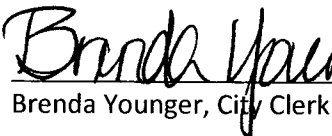
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- 112 • Fund accrued liabilities, including but not limited to other post-employment benefits.
- 113 • Increase the balance of the reserve levels if known that a future draw down could occur.

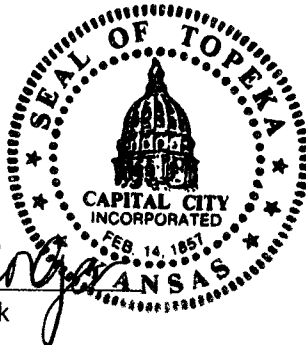
114 ADOPTED and APPROVED by the Governing Body on November 15, 2016.

CITY OF TOPEKA, KANSAS


Larry Wolgast, Mayor

121 ATTEST:

122 
123 Brenda Younger, City Clerk
124
125



2016 Reserve Transfers Summary



Per Resolution 8824, Governing Body approval is required for use of reserve balance in certain circumstances including debt reduction, one-time expenditures, establishment of or increase in reserves, fund accrued liabilities, and/or to increase the balance of reserve levels if known a future draw will occur. The Governing Body will discuss the following items on December 13th, 2016 and tentatively approve on December 20th 2016.

Below is a summary of each of the proposed 2016 reserve transfers. The transfers will be presented in two separate resolutions: one resolution that is for non-General funds, and one specifically for projected General Fund excess funds.

Non General Fund Transfers

Establish Fleet Reserve Fund – It is recommended that \$300k of the Fleet Fund reserve balance be transferred to a newly established Fleet Reserve Fund. City Departments currently replace fleet an average of double the recommended age of the fleet. Establishing a fleet reserve replacement fund which departments would contribute to on a yearly basis for future replacement of vehicles is a best practice in fleet management. This fund would operate like an insurance fund; departments would have an annual charge that would be placed into a pool of funds. When time for their scheduled vehicle replacement based upon set replacement schedules they would receive those vehicles. The pool, over time, will help support proper replacement and reduce deferred maintenance operating costs to departments.

Unemployment Fund Transfer to Risk Reserve Fund – The Unemployment Fund accounts for assessments made against compensation paid to City employees, to be used only to reimburse the State for unemployment compensation payments. The revenue source for the fund is a charge to Departments based on .25% of employee wages. Expenses in the unemployment fund have decreased for several years due to less unemployment claims so the Fund has built up a reserve balance that is not anticipated to be needed, and the City has reduced the internal charge to .10%. It is recommended that \$360,000 of the reserve balance in the Unemployment Fund be transferred to the Risk Reserve Fund which provides money to reimburse the City from insurable losses not otherwise insured. The Risk Reserve Fund serves as a back-up to all risk funds.

Zoo Fire Hydrant Project – The Zoo Fire Hydrant Project was included in the 2017-2021 CIP for \$150k. Currently only one fire hydrant exists in Gage Park. During a recent planning evaluation of the zoo property, it was realized that there are no fire hydrants within the current zoo grounds. This project installs three hydrants on or adjacent to zoo property which will allow new construction to be within 400 feet of a hydrant to meet City Code. Through studying this project and the development of a fire hydrant master plan for the zoo, it was determined that this project will be the first of three phases to fully meet the zoo's needs and will need to increase the overall project budget to \$499,077. To accommodate this larger project budget, staff is recommending transferring budget authority from several other Zoo CIP projects and proposing an increased transfer from the Debt Service Fund.

2016 Reserve Transfers Summary



General Fund Excess Year End Transfers

As presented to the Governing Body on November 15th 2016, it is anticipated that the City will have an excess \$1.6m of General Funds at the end of 2016 which can be utilized for projects as approved by the Governing Body.

2015 Water Main Replacement Program for 6th Avenue – The original 2015 Water Main Replacement Program included a project on 6th Avenue which needs to be extended. Water main breaks are becoming more prevalent due to aging infrastructure. We have had 5 waterline breaks this year that have affected customers on 6th Street from Wanamaker East to I-70 bridge. It is proposed that \$400k from the General Fund be utilized to complete the Water Main replacement project. The project budget will be amended to accommodate the increased expenses.

General Fund Transfer to Fleet Reserve Fund – As explained above, staff proposed establishing a Fleet Reserve Fund. Transferring \$700k from the General Fund in addition to the \$300k from the Fleet Fund will give the fund seed money to begin the replacement program.

Municipal Court/Council Chamber Renovation – In a prior year the City had explored renovations to Municipal Court/Council Chambers but a funding source has not been identified. It is anticipated that \$300k could be spent used for general aesthetic improvements such as seating, update to the dias, lighting, and/or flooring.

Topeka Performing Arts Center (TPAC) Support – The Topeka Performing Arts Center has requested funds from the City to assist with 2016 cash flow. A separate memo will provide additional history and background on City funding of TPAC. The proposed \$100k would sustain TPAC for several months.

City Hall/TPAC Steps Budget Amendment— The TPAC/City Hall Steps Project was included in the 2017-2021 CIP for \$473,800. Originally, the City was going to apply for a Heritage Grant for this project. However, the renovation will gain greater financial support through receiving State Historic Tax Credits (approximately \$135,000). The Kansas State Tax Credit is equal to 25 percent of qualifying expenses incurred during the renovation of the TPAC steps. Tax credits will be received at approximately \$.90 on the dollar upon completion and submission to the Kansas Historical Society. As such, the City will be responsible for costs until the work is completed. An additional transfer of \$100k may be needed to complete the project and be eligible for tax credits.



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE:	December 20, 2016	
CONTACT PERSON:	Brandon Kauffman, Director of Finance	DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY	020 Resolutions / 005 Miscellaneous	
CIP PROJECT:	No	
ACTION OF COUNCIL:	12/13 Discussion.	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Interim City Manager Doug Gerber, authorizing the use of excess funds from unreserved fund balances.

(Approval would authorize transfer of \$900,000 for specified purposes.)

POLICY ISSUE:

On November 15, 2016, the Governing Body approved a comprehensive reserve policy which provides staff guidance on the use of reserves, set reserve levels and identify proper use of reserves. The policy established guidelines for use of reserves which will be discussed and then included in a resolution.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

The governing body discussed the 2016 reserve balance recommendations on December 13, 2016 and are recommended for approval on December 20, 2016.

It is recommended that up to \$900,000 be transferred from the Fleet Fund, Unemployment Fund, and Debt Service Fund to the following funds and projects for the specified purposes.

1. Transfer of \$300,000 from the Fleet Fund reserves to the newly established Fleet Reserve Fund for future fleet replacement.
2. Transfer of \$360,000 from the Unemployment Fund to the Risk Reserve Fund.
3. Transfer of up to \$240,000 from the Debt Service Fund to the Zoo Fire Hydrant Project.

The Governing Body approved Resolution No. 8824 on November 15, 2016. The Resolution establishes a policy for reserve balances that requires governing body authorization to use or transfer excess unreserved balances.

Excess unreserved balances may be used for one or more of the following items:

- Debt reduction.
- One-time expenditures that do not increase recurring operating costs that cannot be funded through current revenues.
- Establishment of or increase in reserves for risk management programs, equipment replacement, capital projects, emergencies, or disaster recovery.
- Fund accrued liabilities, including but not limited to other post-employment benefits.
- Increase the balance of the reserve levels if known that a future draw down could occur.

There are projected to be unreserved balances at the end of the 2016 fiscal year that exceed the minimum balance requirements in the General Fund, Fleet Fund, Unemployment Fund and Debt Service Fund.

BUDGETARY IMPACT:

Approving the resolution would provide authority to expend funds listed in the resolution.

SOURCE OF FUNDING:

Fleet Fund, Unemployment Fund, Debt Service Fund

ATTACHMENTS:

Description

Resolution

Resolution 8824 - COT Reserve Policy

Summary of Year End Transfers

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by Interim City Manager Douglas Gerber, authorizing
4 the use of excess funds from unreserved fund balances.
5

6 WHEREAS, Resolution No. 8824 establishes a policy for reserve balances that
7 requires governing body authorization to use or transfer excess unreserved balances;
8 and

9 WHEREAS, excess unreserved balances may be used for one or more of the
10 following items:

- 11 • Debt reduction.
- 12 • One-time expenditures that do not increase recurring operating costs that
13 cannot be funded through current revenues.
- 14 • Establishment of or increase in reserves for risk management programs,
15 equipment replacement, capital projects, emergencies, or disaster
16 recovery.
- 17 • Fund accrued liabilities, including but not limited to other post-
18 employment benefits.
- 19 • Increase the balance of the reserve levels if known that a future draw
20 down could occur.

21 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
22 CITY OF TOPEKA, KANSAS, that:

23 1. There are unreserved balances at the end of the 2016 fiscal year that
24 exceed the minimum balance requirements in the General Fund, Fleet Fund,
25 Unemployment Fund and Debt Service Fund.

26 2. Pursuant to Resolution No. 8824, the Governing Body authorizes the
27 following uses or transfers:

28 A. An amount not to exceed \$300,000 from the Fleet Fund to

29 establish a Fleet Reserve Fund.

30 B. An amount not to exceed \$360,000 from the Unemployment Fund
31 to the Risk Reserve Fund.

32 C. An amount not to exceed \$240,000 from the Debt Service Fund for
33 the Zoo Fire Hydrant project T-301050.00.

34 3. All of the above-referenced uses or transfers of excess unreserved fund
35 balances meet one or more of the conditions stated in Resolution No. 8824.

36 ADOPTED and APPROVED by the Governing Body _____
37 _____.

38 CITY OF TOPEKA, KANSAS
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43 _____
44 Larry E. Wolgast, Mayor
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46 ATTEST:
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50 _____
51 Brenda Younger, City Clerk

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WHEREAS, the city government has an important responsibility to its citizens to carefully account for public funds, to manage municipal finances wisely and to plan the adequate allocation of services; and

WHEREAS, it is important to maintain good standing with rating agencies as an adequate level of reserves is a sign of creditworthiness because it enhances a governments ability to repay debt on time and in full; and

WHEREAS, if the reserve falls below the minimum reserve level, the City Manager will prepare a plan for consideration by the governing body to rebuild the reserve during the next budgeting cycle.

SECTION ONE: The Governing Body of the City hereby adopts the reserve policy as set forth herein.

The Purpose of the Reserve Policy is to provide guidelines to the Governing Body and staff for establishing, maintaining and performing an annual review of the minimum and target reserves. A minimum reserve policy is generally considered a prudent and conservative fiscal policy to deal with unforeseen situations and long-term financial planning.

Fund Balance is also an important indicator of the City's financial position. Fund Balance is the difference between assets and liabilities in governmental funds. Maintaining reserves is considered a prudent management practice. Adequate fund balances are maintained to allow the City to continue providing services to the community in case of unexpected emergencies or requirement and/or economic downturns. The following classifications apply to fund balance in the City's governmental funds as defined by Governmental Accounting Standards Board ("GASB") no. 54:

<u>CLASSIFICATIONS</u>	<u>NATURE OF RESTRICTION</u>
Non-spendable	Cannot be readily converted to cash
Restricted	Externally imposed restrictions
Committed	Governing Body imposed commitment

35 Assigned City Manager assigned purpose/intent

36 Unassigned Residual balance not otherwise restricted

37 In the case of Proprietary funds (Enterprise and Internal Service Funds), Generally Accepted Accounting
38 Principles ("GAAP") does not permit the reporting of reserves on the face of City financial statements.
39 However, this does not preclude the City from setting policies to accumulate financial resources for
40 prudent financial management of its proprietary fund operations.

41 Since proprietary funds may include both long-term capital assets and long-term liabilities, the most
42 comparable measure of liquid financial resources that is similar to fund balance in proprietary funds is
43 net working capital. Working capital is defined as the difference between current unrestricted assets
44 and current liabilities. Net working capital, like fund balance, excludes long-term assets and long-term
45 liabilities.

46 Use of Reserves

47 The City will avoid the use of reserves for recurring operating expenditures, unless a determination has
48 been made that available balances are in excess of required guidelines and that plans have been
49 established to address any future operating budget shortfalls.

50 Approval of the Governing Body shall be required in circumstances when reserve funds will be used to:

- 51 • Provide resources to make up for temporarily decreased revenues, such as reductions in
52 state grants.
- 53 • Provide temporary resources in the event of an economic downturn while expenditure
54 reductions are implemented.
- 55 • Provide resources in the event of a settlement rising from a claim or judgement.
- 56 • Fund one-time capital investments.

57 The City Manager shall notify the Governing Body in circumstances when reserve funds will be used to:

- 58 • Provide resources to meet emergency situations in case of disasters.
- 59 • Provide resources to fund obligations required by contract or state law (e.g. wages)

60 Authority of Reserves

61 The Governing Body may authorize the use of reserves. The Department of Administrative and Financial
62 Services will regularly report reserve levels in quarterly statements and will report year-end projected
63 reserve levels by the third quarter of each year.

64 Replenishment of Reserves

65 In the event that reserves are used resulting in a balance below the minimum as outlined in this policy
66 for the various funds, a plan will be developed by the City Manager and such plan will be included in the
67 formulation of the five-year forecast presented during the annual budget process to replenish reserve
68 levels.

69

Governmental Fund Balance Policy

The City shall maintain a minimum unassigned fund balance equal to fifteen percent (15%) of the General Fund revenues and a target unassigned fund balance of twenty percent (20%) of the General Fund revenues.

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Special Revenue Funds Policy

The City shall maintain a minimum restricted reserve equal to ten percent (10%) of the Special Liability Fund revenues.

Proprietary Working Capital Policy

Enterprise Days Cash on Hand Policy

The City shall maintain a minimum days cash on hand for the Combined Utilities Fund. The days cash on hand policy will be equal to 185 days cash on hand as defined by any rating agency then rating the City's Combined Utility fund. This reserve will be maintained in order to provide continuity through extreme events, deal with normal cash fluctuations throughout the year, and maintain rate stability and funding capital investments.

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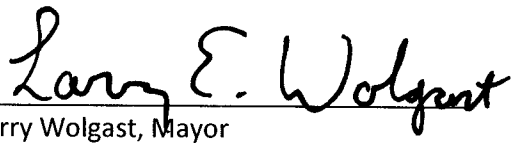
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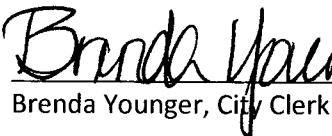
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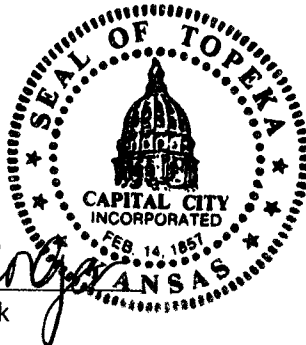
114 ADOPTED and APPROVED by the Governing Body on November 15, 2016.

CITY OF TOPEKA, KANSAS


Larry Wolgast, Mayor

121 ATTEST:

122 
123 Brenda Younger, City Clerk
124
125



2016 Reserve Transfers Summary



Per Resolution 8824, Governing Body approval is required for use of reserve balance in certain circumstances including debt reduction, one-time expenditures, establishment of or increase in reserves, fund accrued liabilities, and/or to increase the balance of reserve levels if known a future draw will occur. The Governing Body will discuss the following items on December 13th, 2016 and tentatively approve on December 20th 2016.

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Non General Fund Transfers

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2016 Reserve Transfers Summary



General Fund Excess Year End Transfers

As presented to the Governing Body on November 15th 2016, it is anticipated that the City will have an excess \$1.6m of General Funds at the end of 2016 which can be utilized for projects as approved by the Governing Body.

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General Fund Transfer to Fleet Reserve Fund – As explained above, staff proposed establishing a Fleet Reserve Fund. Transferring \$700k from the General Fund in addition to the \$300k from the Fleet Fund will give the fund seed money to begin the replacement program.

Municipal Court/Council Chamber Renovation – In a prior year the City had explored renovations to Municipal Court/Council Chambers but a funding source has not been identified. It is anticipated that \$300k could be spent used for general aesthetic improvements such as seating, update to the dias, lighting, and/or flooring.

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City Hall/TPAC Steps Budget Amendment— The TPAC/City Hall Steps Project was included in the 2017-2021 CIP for \$473,800. Originally, the City was going to apply for a Heritage Grant for this project. However, the renovation will gain greater financial support through receiving State Historic Tax Credits (approximately \$135,000). The Kansas State Tax Credit is equal to 25 percent of qualifying expenses incurred during the renovation of the TPAC steps. Tax credits will be received at approximately \$.90 on the dollar upon completion and submission to the Kansas Historical Society. As such, the City will be responsible for costs until the work is completed. An additional transfer of \$100k may be needed to complete the project and be eligible for tax credits.



City of Topeka
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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE:	December 20, 2016		
CONTACT PERSON:	Nickie Lee	DOCUMENT #:	
SECOND PARTY/SUBJECT:	2017 Budget Amendment	PROJECT #:	T-131042.00
CATEGORY/SUBCATEGORY	004 Budgets or Appropriations / 004 Project Budget - Capital Project		
CIP PROJECT:	No		
ACTION OF COUNCIL:			JOURNAL #:
			PAGE #:

DOCUMENT DESCRIPTION:

A REVISED PROJECT BUDGET in the amount of \$600,000 and **A RESOLUTION** introduced by Interim City Manager Doug Gerber, amending and authorizing the project budget approved by Resolution No. 8755 for Improvement Project No. T-131042.00 which provides for the steps for Topeka Performing Arts Center and City Hall Project.

(Approval would authorize an additional \$126,000 for the Steps for TPAC and City Hall Project (Formerly "Heritage Foundation Grant for TPAC and City Hall"). Additional funding is being supplemented by the General Fund.)

POLICY ISSUE:

Whether to increase the project budget previously approved in the 2017-2021 CIP from \$473,800 to \$600,000. The project was approved in the 2017-2021 CIP to repair the steps and entryway for Topeka Performing Arts Center and City Hall.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the amended project budget and resolution as presented.

BACKGROUND:

The project was approved in the 2017-2021 CIP to repair the steps and entryway for Topeka Performing Arts Center and City Hall. Originally, the City was going to apply for a Heritage Grant for this project. However, the renovation will gain greater financial support through receiving State Historic Tax Credits (approximately \$135,000). The Kansas State Tax Credit is equal to 25% of qualifying expenses incurred during the renovation of the TPAC steps. Tax credits will be received at approximately \$0.90 on the dollar upon completion and submission to the Kansas Historical Society. As such, the City will be responsible for costs until the work is

completed.

BUDGETARY IMPACT:

The approved budget in the Capital Improvement Program for 2017 is \$473,800. The budget amendment would provide an additional \$126,200 in General Funds to supplement funding for this program. The total requested budget amount is \$600,000.

SOURCE OF FUNDING:

General Fund, State Historic Tax Credits

ATTACHMENTS:

Description

Fact Sheet

Resolution

Resolution No. 8755



City of Topeka

Capital Improvement Project Summary

1. Project Title:	Steps for TPAC & City Hall (Formerly "Heritage Foundation Grant for TPAC & City Hall")	2. Project #: T-131042.00
3. Dept/Div:	Public Works	4. Project Year(s): 2017
5. Type:	New Repair/Replace X	6. Project Location TPAC & City Hall
7. Contact Name:	Vince Schuetz	8. Contact Phone: 368-3934

9. Project Description: (1). Repair the steps and entryway for Topeka Performing Arts Center and City Hall. Originally, the City was going to apply for a Heritage Grant for this project. However, the renovation will gain greater financial support through receiving State Historic Tax Credits (approximately \$135,000). The Kansas State Tax Credit is equal to 25 percent of qualifying expenses incurred during the renovation of the TPAC steps. Tax credits will be received at approximately \$.90 on the dollar upon completion and submission to the Kansas Historical Society. As such, the City will be responsible for costs until the work is completed.

10. Project Schedule and Estimate

	Year	Amount
a. Design/Administrative Fees		\$ -
b. Right-of Way		\$ -
c. Construction/Service Fees		\$ 529,000
d. Contingency		\$ 71,000
e. Technology		\$ -
f. Financing Costs (Temp Notes)		\$ -
g. Cost of Issuance (Rev/GO Bonds)		\$ -
h. Debt Reserve Fund (Rev Bonds)		\$ -
i. Capitalized Interest		\$ -
Project Total		\$ 600,000
Estimated Life of Item (years):	70	
Source of Estimate/Year:	Contractor - 2016	

11. Estimated Annual Operating Cost

Basis for Cost Estimate and Funding Source:
 Estimated construction cost from Schwerdt Design Group, Inc. was \$529,000.
 The City is responsible for all costs initially, and upon completion of the project, will receive 25 percent of the total costs at approximately \$.90 on the dollar through State Historic Tax Credits. Total commitment from the City following receipt of tax credits is estimated at \$394,000 assuming original cost estimate holds.

12. Amount by source of financing

	1. State Historic Tax Credits	2. General Fund Cash	3.	4.	5.	TOTAL
2017	135,000	465,000				\$600,000
2018						\$0
2019						\$0
2020						\$0
2021						\$0
TOTAL	\$135,000	\$465,000		\$0	\$0	\$600,000



City of Topeka

Capital Improvement Project Summary

1. Project Title: Heritage Foundation Grant for TPAC & City Hall 2. Project #: T-131042.00
 3. Dept/Div: Public Works 4. Project Year(s): 2017
 5. Type: New Repair/Replace X 6. Project Location TPAC & City Hall
 7. Contact Name: Vince Schuetz 8. Contact Phone: 368-3934

9. Project Description: (1). Repair the steps and entryway for Topeka Performing Arts Center and City Hall. 2015 is the first year that this property was qualified for this grant. If chosen, City of Topeka is required to match 20% of the cost to repair and the Heritage Foundation will cover the other 80%. Grant recipients are chosen near the end of the year for participation in the following year but we must show that we have our match in monies.

10. Project Schedule and Estimate

	<u>Year</u>	<u>Amount</u>
a. Design/Administrative Fees	\$	-
b. Right-of Way	\$	-
c. Construction/Service Fees	\$	412,000
d. Contingency	\$	61,800
e. Technology	\$	-
f. Financing Costs (Temp Notes)	\$	-
g. Cost of Issuance (Rev/GO Bonds)	\$	-
h. Debt Reserve Fund (Rev Bonds)	\$	-
i. Capitalized Interest	\$	-
Project Total	\$	473,800

Estimated Life of Item (years): 70

Source of Estimate/Year: Contractor - 2015

11. Estimated Annual Operating Cost

Basis for Cost Estimate and Funding Source:
 Estimate from mason contractor came in at \$400,000.00

12. Amount by source of financing

	1. Heritage Grant	2. General Fund Cash	3.	4.	5.	TOTAL
2017	90,000	383,800				\$473,800
2018						\$0
2019						\$0
2020						\$0
2021						\$0
TOTAL	\$90,000	\$383,800		\$0	\$0	\$473,800

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by Interim City Manager Douglas Gerber, amending and
4 authorizing the project budget approved by Resolution No. 8755 for
5 Improvement Project No. T-131042.00 which provides for repairing
6 the steps and entryway for the Topeka Performing Arts Center and
7 City Hall.
8

9 WHEREAS, Resolution No. 8755, adopted and approved April 19, 2016, authorized
10 Improvement Project No. T-131042.00 with a project budget of four hundred seventy-three
11 thousand eight hundred dollars (\$473,800.00) with \$90,000.00 from Heritage Grant funds;
12 and

13 WHEREAS, Resolution No. 8625 provides that project budgets cannot exceed the
14 amount identified in the capital improvement plan (CIP) without Council approval; and

15 WHEREAS, the estimated cost of the project has increased and the renovation will
16 gain greater financial support by foregoing the grant and receiving State Historic Tax
17 Credits; and

18 WHEREAS, the project budget needs amended to reflect these changes to the
19 project.

20 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
21 CITY OF TOPEKA, KANSAS:

22 Section 1. That it deems advisable and necessary Improvement Project No. T-
23 131042.00 and also hereby authorizes the public improvement be made as follows and as
24 set forth in the revised project budget attached hereto:

25 A. GENERAL NATURE OF IMPROVEMENT:
26

27 This project will repair the steps and entryway to the Topeka Performing Arts
28 Center and City Hall.
29

30 B. TOTAL PROJECT BUDGET COST:

31
32 Original Amount: \$473,800

33 Additional Amount: \$126,200

34
35 \$600,000

36
37 C. SOURCE OF FUNDS FOR ADDITIONAL AMOUNT:

38 General Fund Cash or any other lawfully available funds.

39
40 Section 2. That the cost estimate and any other part of the project budget
41 approved by Resolution No. 8755 which is in conflict with this Resolution and revised
42 project budget is hereby specifically repealed.

43 Section 3. That this Resolution shall take effect and be in force from and after its
44 adoption by the Governing Body.

45 ADOPTED and APPROVED by the Governing Body _____.

46 CITY OF TOPEKA, KANSAS

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51 Larry E. Wolgast, Mayor

52 ATTEST:

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55 _____
56 Brenda Younger, City Clerk

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WHEREAS, the 2017-2021 Capital Improvement Program (CIP) has been prepared
 ff; and

WHEREAS, the 2017-2019 Capital Improvement Budget (CIB) has been prepared
 off in addition to budgets for specific projects ready for implementation; and

WHEREAS, for purposes of planning and allocating resources the City Council

and consider and approve the CIP and CIB and the specific CIB project budgets which

ready for implementation.

1. The CIP. The Council approves and adopts the 2017-2021 Capital Improvement Program contained in the CIP Book at pages 7-9.

RES/CIP 2017-2021/CIB 2017-2019 3/7/2016

25 **3. 2017-2019 CIB Project Budgets.** Sections A12-17 and A12-25 of the Code
26 of the City of Topeka require Council approval of all project budgets for public
27 improvements.

28 **(a) G.O. Bonded Projects.** With regard to the projects identified on pages 20,
29 21, 28 through 32, 34 through 37, 41, 42, 44 through 47 in the CIP Book, the Council finds
30 that the public improvements described are necessary and serve the public interest.
31 Accordingly, the Council authorizes such projects, pursuant to Section A12-1 of the Code
32 of the City of Topeka, and approves all project budgets, including amended budgets, for
33 2017, 2018 and 2019. No project budget shall exceed the total budget amount identified
34 in the CIP Book without Council approval.

35 **(b) G.O. Bonded Project/Fire Equipment.** With regard to the projects identified
36 on pages 23, 24, and 25 in the CIP Book, the Council finds that the fire equipment
37 described therein is necessary and serves the public interest. Accordingly, the Council
38 authorizes such projects and approves all project budgets, including amended budgets,
39 for 2017, 2018, and 2019. No project budget shall exceed the total budget amount
40 identified in the CIP Book without Council approval.

41 Moreover, the Council intends to acquire the fire-fighting equipment and pay the
42 cost by issuing general obligation bonds maturing not more than 15 years from their date
43 of issuance as authorized by K.S.A. 12-110c. Pursuant to K.S.A. 12-110c, the Council
44 directs the City Clerk to publish a notice of its intention to acquire equipment that has not
45 previously been the subject of a notice of intention, stating the cost and the City's
46 intention to issue general obligation bonds. The notice shall be published once each
47 week for two consecutive weeks in the official City newspaper. If, within 60 days following

the last date of publication, a petition signed by not less than 5% of the qualified electors of the City of Topeka is filed with the City Clerk, no such bonds shall be issued until the matter of whether to issue general obligation bonds has been approved by a majority of the qualified electors of the City voting at an election called pursuant to the general bond law.

(c) Enterprise Funded Projects. With regard to the projects identified on pages 49 through 52, 54 through 69, 71 through 79, and 81 through 97 of the CIP Book, the Council finds that the improvements to its waterworks system, sanitary and/or stormwater system are necessary and serve the public interest. Accordingly, the Council authorizes such projects, pursuant to Section A12-1 and A18-3 of the Code of the City of Topeka, and approves all project budgets, including amended budgets, for 2017, 2018, and 2019. No project budget shall be exceeded in excess of the budget identified in the CIP Book without Council approval. No revenue bonds shall be issued unless the Governing Body enacts a separate resolution and notice of intent to issue revenue bonds in accordance with K.S.A. 10-1201 *et seq.*

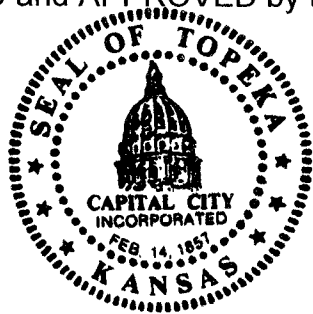
(d) Cash-Funded Projects. With regard to the projects identified on pages 40, 99 through 107, 109 through 112, 115 through 123, 125 through 131, and 133 through 137 in the CIP Book, the Council finds that the public improvements are necessary and serve the public interest. Accordingly, the Council authorizes such projects and approves all project budgets, including amended budgets, for 2017, 2018, and 2019. No project budget shall be exceeded in excess of the budget identified in the CIP Book without Council approval.

4. The City both reasonably expects and intends to finance the costs of said improvements from the proceeds of general obligation bonds of the City. The City does

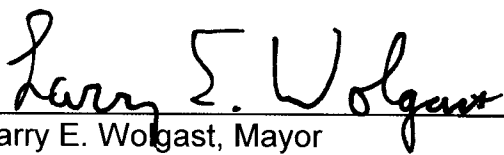
71 hereby express its official intent to reimburse any such pre-issuance original expenditures
72 (as defined in Treas. Reg. 1.150-2(c)) made by it on or after the date which is 60 days
73 before the date of this Resolution from the proceeds of such bonds in the estimated
74 maximum principal amount of \$51,551,033.00. The City will issue such bonds for such
75 purposes and make the reimbursements within eighteen (18) months after the date the
76 expenditure to be reimbursed was paid or, if later, eighteen (18) months after the date on
77 which the property resulting from the expenditure was placed in service. Provided, that, in
78 any event, the City must make the reimbursement allocation within three (3) years after the
79 date the expenditure was paid. This Resolution, as the expression of the governing body's
80 official intent regarding the matters described herein, will be available for public inspection
81 in the City Clerk's office at City Hall during regular business hours of the City.

82 5. This Resolution shall become effective upon passage and approval by the
83 City Council.

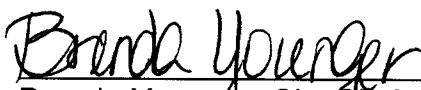
84 ADOPTED and APPROVED by the City Council on April 19, 2016.



CITY OF TOPEKA, KANSAS


Larry E. Wolgast, Mayor

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91 ATTEST:

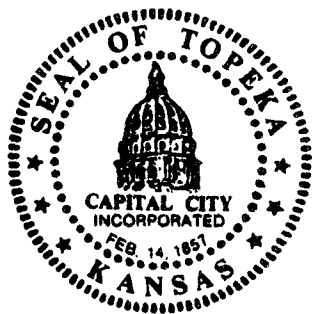
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95 Brenda Younger, City Clerk
96

(Published in the Topeka Metro News April 25, 2016)

NOTICE OF INTENTION TO ISSUE GENERAL OBLIGATION BONDS TO ACQUIRE
FIRE-FIGHTING EQUIPMENT

Notice is hereby given that as provided by Resolution No. 8755 of the City of Topeka, Kansas, (the "City"), the Council intends to acquire fire-fighting equipment, specifically one aerial apparatus (Aerial 8), and pay the cost thereof by issuing general obligation bonds maturing not more than 15 years from their date of issuance as authorized by K.S.A. 12-110c. The cost of the fire-fighting equipment shall not exceed the amount of \$1,349,500.00. This notice shall be published once each week for two consecutive weeks in the official City newspaper. If, within 60 days following the last date of publication, a petition signed by not less than 5% of the qualified electors of the City of Topeka is filed with the City Clerk, no such bonds shall be issued until the matter of whether to issue general obligation bonds has been approved by a majority of the qualified electors of the City voting at an election called pursuant to the general bond law.

BY ORDER OF THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS,
on 19th day of April, 2016.



ATTEST:

Brenda Younger
Brenda Younger, City Clerk

CITY OF TOPEKA, KANSAS

Larry E. Wolgast
Larry E. Wolgast, Mayor

experience in the United States, the average useful life for water mains ranges between 75-100 years, depending upon local (soil and environmental) conditions. Topeka's water distribution system consists of almost 861 miles of transmission and neighborhood distribution water mains ranging in size from 2 to 48 inches in diameter. Cast iron mains, the oldest water mains, make up a significant portion of the City's distribution system. Replacement costs have risen from \$650,000 per mile in 2013 to over \$1,000,000 per mile in 2015. This rise in costs is largely due to increased prices for materials and resources.

The reason for choosing this project is it included work on 6th Street which will now be extended with these funds. We have had five waterline breaks this year that have affected customers on 6th Street from Wanamaker East to I-70 bridge.

BUDGETARY IMPACT:

The approved budget in the Capital Improvement Program for 2015 is \$2,000,000. The budget amendment would provide an additional \$400,000 in General Funds to supplement funding for this program. The total requested budget amount is \$2,400,000.

SOURCE OF FUNDING:

General Fund

ATTACHMENTS:

Description

Fact Sheet

Resolution

Resolution No. 8625



FACT SHEET

Water Utility

T-281078.00

Water Main Replacement Program – Year 2015

Citywide

PROJECT ADMINISTRATION

Bob Sample, Interim Utilities Director

Paul Bodner, Project Manager

PROJECT SUMMARY

This comprehensive replacement program targets water mains with extensive break histories and aging infrastructure and includes necessary replacements associated with half-cent sales tax and other priority street improvements. The program's goal is to decrease annual maintenance and repair costs for the City and minimize water main break disruptions to Topeka neighborhoods and businesses in the targeted areas. Financing for the 2015 Water Main Replacement Program includes available operating funds, general funds and supplemental funding through revenue bonds as necessary for program implementation and success.

BACKGROUND

Water main breaks are becoming more prevalent due to aging infrastructure. Based on historic studies and experience in the United States, the average useful life for water mains ranges between 75-100 years, depending upon local (soil & environmental) conditions.

Topeka's water distribution system consists of almost 861 miles of transmission and neighborhood distribution water mains ranging in size from 2 to 48 inches in diameter. Cast iron mains, the oldest water mains, make up a significant portion of the city's distribution system.

The summary below shows the type and age of water main materials located throughout the City of Topeka and the percentage of breaks for each:

<u>Water Main: Type & Age</u>	<u>Miles</u>	<u>% of Breaks</u>
Cast Iron - installed pre-1900 to 1970's {most > 60 yrs. old}	379	80
Ductile Iron- used after mid-1970 to present {< 60 yrs. old}	238	15
Plastic & Concrete- used after 1996 {< 20 yrs. old}	244	5
Total	861	100

Replacement costs have risen from \$650,000 per mile in 2013 to over \$1,000,000 per mile in 2015. This rise in costs is largely due to increased prices for materials and resources. Assuming the optimal asset life span of 100 years, an annual replacement program approaching eight plus (8.0 +) miles or \$8 million per year is required to decrease progressive water main break rates in Topeka. As this program continues, annual replacement costs will stabilize and associated maintenance and repair costs will begin to diminish.

SOURCE OF FUNDING

Utility Operating Funds, Revenue Bonds, General Obligation Bonds, Temporary Notes, or Kansas Department of Health and Environment SRF Loan.

Note: \$400,000 has been identified in General Funds to supplement funding for this program.

PROJECT BUDGET

Approved Budget in CIP for 2016	\$2,000,000
Budget Amendment Request	\$ 400,000
New Budget Total	\$2,400,000

COUNCIL DISTRICT IMPACTED BY CONSTRUCTION EFFORTS

Citywide

DESIGN BY

To be determined by Qualification Statement submittals

CONTRACTOR

To be determined by Competitive Bids

PROJECT SCHEDULE

Design	2015-2016
Construction	2015-2017



PROJECT BUDGET

T-281078.00

Water Main Replacement Program - Year 2015

Citywide

LOCATION:

Throughout the Topeka water service area

DESCRIPTION OF PROJECT:

This program involves replacing water mains with extensive break histories and deteriorating infrastructure. The program will include needed replacements associated with half-cent sales tax and other priority street infrastructure. Program efforts allow for necessary improvements to Topeka's water infrastructure that will decrease maintenance and repair costs and minimize water main break disruptions to neighborhoods and targeted areas. Individual replacement projects will be financed through available operating funds supplemented by revenue bonds as necessary for the success of this program.

SOURCE OF FUNDS:

Utility Operating Funds, Revenue Bonds, General Obligation Bonds, Temporary Notes, or Kansas Health and Environment SRF Loan.

Note: \$400,000 has been identified in General Funds to supplement funding for this program.

	<u>City Funds</u>	<u>Amendments</u>
<u>COST ESTIMATE:</u>		
Construction:	\$1,321,230	\$340,000
Design:	\$208,200	\$60,000
Construction Service Fees:		
Construction Staking (5%)	\$66,062	
Construction Inspection (8%)	\$105,698	
City of Topeka Admin. (2%)	\$26,425	
Geotechnical Report	\$34,500	
Right-of Way Acquisition:		
Property Acquisition	\$0	\$0
Contingency Amount:	\$0	\$0
Temporary Note Interest	\$26,432	\$0
COI (2%)	\$35,242	\$0
Bond Reserve (10%)	\$176,211	\$0
Total:	\$2,000,000	\$400,000

PUBLIC HEARING:

PROJECT AUTHORITY:

- a. Statutes: _____
- b. Capital Budget Year: _____ 2015 _____
- c. Improvement District: _____
- d. City at Large: _____
- e. Method of Assessment: _____

PROJECT ENGINEER: _____ Paul Bodner _____

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by Interim City Manager Douglas Gerber, amending and
4 authorizing the project budget approved by Resolution No. 8625 for
5 Improvement Project No. T-281078.00 which provides for the 2015
6 Water Main Replacement Program.
7

8 WHEREAS, Resolution No. 8625, adopted and approved June 3, 2013, authorized
9 Improvement Project No. T-281078.00 with a project budget of two million dollars
10 (\$2,000,000.00); and

11 WHEREAS, Resolution No. 8625 provides that project budgets cannot exceed the
12 amount identified in the capital improvement plan (CIP) without Council approval; and

13 WHEREAS, as a result of increasing project costs, the project budget must be
14 increased to two million four hundred thousand dollars (\$2,400,000.00).

15 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
16 CITY OF TOPEKA, KANSAS:

17 Section 1. That it deems advisable and necessary Improvement Project No. T-
18 281078.00 and also hereby authorizes, pursuant to § A12-1 of the Code of the City of
19 Topeka, that the public improvement be made as follows and as set forth in the revised
20 project budget attached hereto:

21 A. GENERAL NATURE OF IMPROVEMENT:
22

23 This comprehensive replacement program targets water mains with
24 extensive break histories and aging infrastructure and includes necessary
25 replacements associated with half-cent sales tax and other priority street
26 improvements. The program's goal is to decrease annual maintenance and
27 repair costs for the City and minimize water main break disruptions to
28 Topeka neighborhoods and businesses in the targeted areas.
29

30 B. TOTAL PROJECT BUDGET COST:

31
32 Original Amount: \$2,000,000

33 Additional Amount: \$ 400,000

34
35 \$2,400,000

36
37 C. SOURCE OF ADDITIONAL FUNDS:

38
39 General Fund Cash or any other lawfully available funds.

40
41 Section 2. That the cost estimate and any other part of the project budget
42 approved by Resolution No. 8625 which is in conflict with this Resolution and revised
43 project budget is hereby specifically repealed.

44 Section 3. That this Resolution shall take effect and be in force from and after its
45 adoption by the Governing Body.

46 ADOPTED and APPROVED by the Governing Body _____.

47 CITY OF TOPEKA, KANSAS

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51 _____
52 Larry E. Wolgast, Mayor

53 ATTEST:

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56 _____
57 Brenda Younger, City Clerk

RESOLUTION NO. 8625

A RESOLUTION introduced by City Manager Jim Colson, authorizing and adopting the 2015-2019 Capital Improvement Program and the 2015-2017 Capital Improvement Budget and approving project budgets.

WHEREAS, the 2015-2019 Capital Improvement Program (CIP) has been prepared by staff; and

WHEREAS, the purpose of the CIP is to plan for and prioritize public improvement projects over the next five years; and

WHEREAS, the 2015-2017 Capital Improvement Budget (CIB) has been prepared by staff in addition to budgets for specific projects ready for implementation; and

WHEREAS, the document entitled "2015-2019 Proposed Capital Improvement Plan," dated June 3, 2014 ("CIP Book") contains the CIP, CIB, and all associated project budgets and is attached herein and incorporated by reference; and

WHEREAS, for purposes of planning and allocating resources the City Council should consider and approve the CIP and CIB and the specific CIB project budgets which are ready for implementation.

NOW, THEREFORE, BE IT RESOLVED, that the City Council takes the following actions:

1. The CIP. The Council approves and adopts the 2015-2019 Capital Improvement Program contained in the CIP Book at pages 7-9.

2. The CIB. The Council also approves and adopts the 2015-2017 Capital Improvement Budget contained in the CIP Book at pages 7-9.

3. 2015-2017 CIB Project Budgets. Sections A12-17 and A12-25 of the Code of the City of Topeka require Council approval of all project budgets for public improvements.

22 **(a) G.O. Bonded Projects** With regard to the projects identified on pages 12,
23 14, 16, 20-30, and 32, 33 in the CIP Book, the Council finds that the public improvements
24 described are necessary and serve the public interest. Accordingly, the Council
25 authorizes, pursuant to Section A12-1 of the Code of the City of Topeka, such projects
26 and approves each project budget. No project budget shall exceed the total budget
27 amount identified in the CIP Book without Council approval.

28 **(b) G.O. Bonded Project/Fire Equipment.** With regard to the projects identified
29 on pages 13, 15, and 17 in the CIP Book, the Council finds that the fire equipment
30 described therein is necessary and serves the public interest. Accordingly, the Council
31 authorizes such projects and approves each project budget. No project budget shall
32 exceed the total budget amount identified in the CIP Book without Council approval.

33 Moreover, the Council intends to acquire the fire-fighting equipment and pay the
34 cost by issuing general obligation bonds maturing not more than 15 years from their date
35 of issuance as authorized by K.S.A. 12-110c. Pursuant to K.S.A. 12-110c, the Council
36 directs the City Clerk to publish a notice of its intention to acquire the said equipment,
37 stating the cost and the City's intention to issue general obligation bonds. The notice shall
38 be published once each week for two consecutive weeks in the official City newspaper.
39 If, within 60 days following the last date of publication, a petition signed by not less than 5%
40 of the qualified electors of the City of Topeka is filed with the City Clerk, no such bonds
41 shall be issued until the matter of whether to issue general obligation bonds has been
42 approved by a majority of the qualified electors of the City voting at an election called
43 pursuant to the general bond law.

44 **(c) Enterprise Funded Projects.** With regard to the projects identified on pages
45 34-41, 45-49, and 51-61 of the CIP Book, the Council finds that the improvements to its

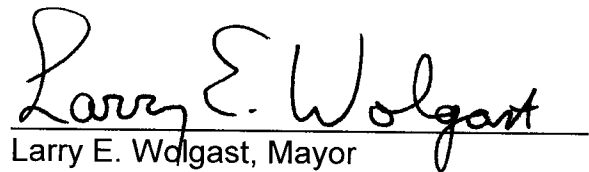
waterworks system, sanitary and/or stormwater system are necessary and serve the public interest. Accordingly, the Council authorizes such projects, pursuant to Section A12-1 of the Code of the City of Topeka and approves each project budget. No project budget shall be exceeded in excess of the budget identified in the CIP Book without Council approval. No revenue bonds shall be issued unless the Governing Body enacts a separate resolution and notice of intent to issue revenue bonds in accordance with K.S.A. 10-1201 *et seq.*

(d) Cash-Funded Projects. With regard to the projects identified on pages 73-79 in the CIP Book, the Council finds that the public improvements are necessary and serve the public interest. Accordingly, the Council authorizes such projects and approves each project budget. No project budget shall be exceeded in excess of the budget identified in the CIP Book without Council approval.

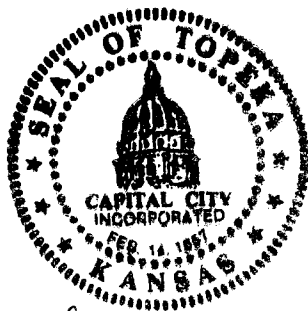
This Resolution shall become effective upon passage and approval by the City Council.

ADOPTED and APPROVED by the City Council on June 3, 2014.

CITY OF TOPEKA, KANSAS


Larry E. Wolgast, Mayor

ATTEST:



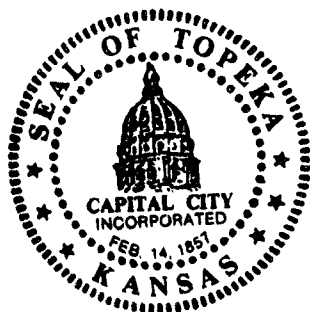

Brenda Younger, City Clerk

(Published in the Topeka Metro News June 16, 2014)

NOTICE OF INTENTION TO ISSUE GENERAL OBLIGATION BONDS
TO ACQUIRE FIRE-FIGHTING EQUIPMENT

Notice is hereby given that as provided by Resolution No. 8625 of the City of Topeka, Kansas, (the "City"), the Council intends to acquire fire-fighting equipment, specifically two (2) engine pumper apparatus, and pay the cost by issuing general obligation bonds maturing not more than 15 years from their date of issuance as authorized by K.S.A. 12-110c. The cost of the fire-fighting equipment shall not exceed the amount of \$1,116,500.00. This notice shall be published once each week for two consecutive weeks in the official City newspaper. If, within 60 days following the last date of publication, a petition signed by not less than 5% of the qualified electors of the City of Topeka is filed with the City Clerk, no such bonds shall be issued until the matter of whether to issue general obligation bonds has been approved by a majority of the qualified electors of the City voting at an election called pursuant to the general bond law.

BY ORDER OF THE GOVERNING BODY OF THE CITY OF TOPEKA,
KANSAS, on 3rd day of June, 2014.



ATTEST:

Brenda Younger
Brenda Younger, City Clerk

CITY OF TOPEKA, KANSAS

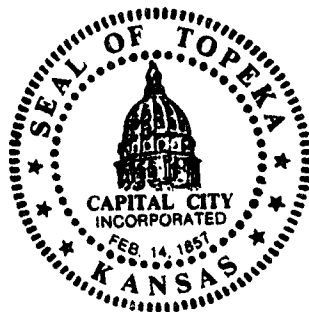
Larry E. Wolgast
Larry E. Wolgast, Mayor

(Published in the Topeka Metro News June 16, 2014)

NOTICE OF INTENTION TO ISSUE GENERAL OBLIGATION BONDS TO ACQUIRE
FIRE-FIGHTING EQUIPMENT

Notice is hereby given that as provided by Resolution No. 8625 of the City of Topeka, Kansas, (the "City"), the Council intends to acquire fire-fighting equipment, specifically one aerial platform apparatus, and pay the cost by issuing general obligation bonds maturing not more than 15 years from their date of issuance as authorized by K.S.A. 12-110c. The cost of the fire-fighting equipment shall not exceed the amount of \$1,378,000.00. This notice shall be published once each week for two consecutive weeks in the official City newspaper. If, within 60 days following the last date of publication, a petition signed by not less than 5% of the qualified electors of the City of Topeka is filed with the City Clerk, no such bonds shall be issued until the matter of whether to issue general obligation bonds has been approved by a majority of the qualified electors of the City voting at an election called pursuant to the general bond law.

BY ORDER OF THE GOVERNING BODY OF THE CITY OF TOPEKA,
KANSAS, on 3rd day of June, 2014.



ATTEST:

Brenda Younger
Brenda Younger, City Clerk

CITY OF TOPEKA, KANSAS

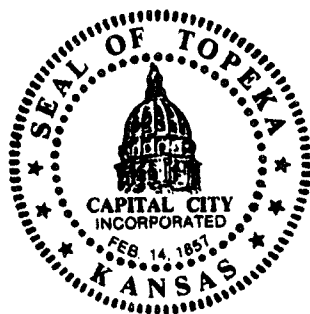
Larry E. Wolgast
Larry E. Wolgast, Mayor

(Published in the Topeka Metro News June 16, 2014)

NOTICE OF INTENTION TO ISSUE GENERAL OBLIGATION BONDS TO ACQUIRE
FIRE-FIGHTING EQUIPMENT

Notice is hereby given that as provided by Resolution No. 8625 of the City of Topeka, Kansas, (the "City"), the Council intends to acquire fire-fighting equipment, specifically one truck apparatus, and pay the cost by issuing general obligation bonds maturing not more than 15 years from their date of issuance as authorized by K.S.A. 12-110c. The cost of the fire-fighting equipment shall not exceed the amount of \$705,500.00. This notice shall be published once each week for two consecutive weeks in the official City newspaper. If, within 60 days following the last date of publication, a petition signed by not less than 5% of the qualified electors of the City of Topeka is filed with the City Clerk, no such bonds shall be issued until the matter of whether to issue general obligation bonds has been approved by a majority of the qualified electors of the City voting at an election called pursuant to the general bond law.

BY ORDER OF THE GOVERNING BODY OF THE CITY OF TOPEKA,
KANSAS, on 3rd day of June, 2014.



ATTEST:

CITY OF TOPEKA, KANSAS

Larry E. Wolgast
Larry E. Wolgast, Mayor

Brenda Younger
Brenda Younger, City Clerk



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE:	December 20, 2016		
CONTACT PERSON:	Nickie Lee	DOCUMENT #:	
SECOND PARTY/SUBJECT:	2017 Budget Amendment	PROJECT #:	T-301050.00
CATEGORY/SUBCATEGORY	004 Budgets or Appropriations / 004 Project Budget - Capital Project		
CIP PROJECT:	No		
ACTION OF COUNCIL:			JOURNAL #:
			PAGE #:

DOCUMENT DESCRIPTION:

A REVISED PROJECT BUDGET in the amount of \$499,077 and A RESOLUTION introduced by Interim City Manager Doug Gerber, amending and authorizing the project budget approved by Resolution No. 8755 for Improvement Project No. T-301050.00 which provides for the Zoo Fire Hydrants Project.

(Approval would authorize an additional \$349,077 for the Zoo Fire Hydrants Project. Additional funding is being supplemented by cash from the Debt Service Fund.)

POLICY ISSUE:

Whether to increase the project budget previously approved in the 2017 CIP from \$150,000 to \$499,077. The project was approved in the 2017-2021 CIP for Zoo Fire Hydrants. Amendments to individual Capital Improvement Projects must be approved by the Governing Body.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the amended project budget and resolution as presented.

BACKGROUND:

Currently only one fire hydrant exists in Gage Park. During a recent planning evaluation of the zoo property, it was realized that there are no fire hydrants within the current zoo grounds. As such, new development may not occur. This project installs three hydrants on or adjacent to zoo property which will allow new construction to be within 400 feet of a hydrant to meet City Code. Originally, this project was in the CIP for a total of \$150,000. Through studying this project and the development of a fire hydrant master plan for the zoo, it was determined that this project will be the first of three phases to fully meet the zoo's needs. To accommodate this larger project budget, staff is recommending that we eliminate the Zoo Service Road Repair Project and transfer that project budget to this line as well as reduce the project budget for the Zoo Greenhouse and Storage building

by the amount needed to fund this project.

BUDGETARY IMPACT:

The approved budget in the Capital Improvement Program for 2017 is \$150,000. The budget amendment would provide an additional \$349,077 in cash from the Debt Service Fund to supplement funding for this project. The total requested budget amount is \$499,077.

SOURCE OF FUNDING:

Debt Service Fund, Transfer from Other Projects

ATTACHMENTS:

Description

Fact Sheet

Resolution

Resolution No. 8755



City of Topeka

Capital Improvement Project Summary

1. Project Title: Zoo Fire Hydrants 2. Project #: T-301050.00
 3. Dept/Div: Zoo 4. Project Year(s): 2017
 5. Type: New x Repair/Replace 6. Project Location Topeka Zoological Park
 7. Contact Name: Brendan Wiley 8. Contact Phone: 368-9131

9. Project Description: Currently only one fire hydrant exists in Gage Park. During a recent planning evaluation of the zoo property, it was realized that there are no fire hydrants within the current zoo grounds. As such, new development may not occur. This project installs three hydrants on or adjacent to zoo property which will allow new construction to be within 400 feet of a hydrant to meet City Code. Originally, this project was in the CIP for a total of \$150,000. Through studying this project and the development of a fire hydrant master plan for the zoo, it was determined that this project will be the first of three phases to fully meet the zoo's needs. To accommodate this larger project budget, staff is recommending that we delay the Zoo Service Road Repair Project and transfer that project budget to this line as well as reduce the project budget for the Zoo Greenhouse and Storage building by the amount needed to fund this project.

10. Project Schedule and Estimate

	<u>Year</u>	<u>Amount</u>
a. Design/Administrative Fees		\$ 142,464
b. Right-of Way		\$ -
c. Construction/Service Fees		\$ 324,284
d. Contingency		\$ 32,328
e. Technology		\$ -
f. Financing Costs (Temp Notes)		\$ -
g. Cost of Issuance (Rev/GO Bonds)		\$ -
h. Debt Reserve Fund (Rev Bonds)		\$ -
i. Capitalized Interest		\$ -
Project Total		\$ 499,077

Estimated Life of Item (years): Perpetual

Source of Estimate/Year: 2016

12. Amount by source of financing

	1. Debt Service Cash	2. Transfer from Greenhouse Project (#301045)	3. Transfer from Zoo Service Road Project (#301051)	4.	5.	TOTAL
2016	238,353	54,000	206,724			\$499,077
2017						\$0
2018						\$0
2019						\$0
2020						\$0
TOTAL	\$238,353	\$54,000	\$206,724	\$0	\$0	\$499,077



City of Topeka

Capital Improvement Project Summary

1. Project Title: Zoo Fire Hydrants 2. Project #: T-301050.00
 3. Dept/Div: Zoo 4. Project Year(s): 2017
 5. Type: New x Repair/Replace 6. Project Location Topeka Zoological Park
 7. Contact Name: Brendan Wiley 8. Contact Phone: 368-9131

9. Project Description: During a recent planning evaluation of the zoo property, it was realized that there are no fire hydrants within the current zoo grounds. As such, new development may not occur. This project installs three hydrants on zoo property which will allow all current and planned zoo buildings to be within 400 feet of a hydrant to meet City Code.

10. Project Schedule and Estimate

	<u>Year</u>	<u>Amount</u>
a. Design/Administrative Fees		\$ 10,000
b. Right-of Way		\$ -
c. Construction/Service Fees		\$ 135,000
d. Contingency		\$ 5,000
e. Technology		\$ -
f. Financing Costs (Temp Notes)		\$ -
g. Cost of Issuance (Rev/GO Bonds)		\$ -
h. Debt Reserve Fund (Rev Bonds)		\$ -
i. Capitalized Interest		\$ -
Project Total		\$ 150,000

Estimated Life of Item (years): Perpetual
 Source of Estimate/Year: 2015

12. Amount by source of financing

	1. Debt Service Cash	2.	3.	4.	5.	TOTAL
2017	150,000					\$150,000
2018						\$0
2019						\$0
2020						\$0
2021						\$0
TOTAL	\$150,000		\$0	\$0	\$0	\$150,000

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by Interim City Manager Douglas Gerber, amending and
4 authorizing the project budget approved by Resolution No. 8755 for
5 Improvement Project No. T-301050.00 which provides for fire hydrant
6 installation at the Topeka Zoological Park.
7

8 WHEREAS, Resolution No. 8755, adopted and approved April 19, 2016, authorized
9 Improvement Project No. T-301050.00 with a project budget of one hundred fifty thousand
10 dollars (\$150,000.00); and

11 WHEREAS, Resolution No. 8755 provides that project budgets cannot exceed the
12 amount identified in the capital improvement plan (CIP) without Council approval; and

13 WHEREAS, the cost of the project has increased and staff recommends delaying
14 the Zoo Service Road Repair Project and reducing the budget for the Zoo Greenhouse and
15 Storage Building to accommodate the larger project budget of four hundred ninety-nine
16 thousand seventy-seven dollars (\$499,077.00).

17 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
18 CITY OF TOPEKA, KANSAS:

19 Section 1. That it deems advisable and necessary Improvement Project No. T-
20 301050.00 and also hereby authorizes the public improvement be made as follows and as
21 set forth in the revised project budget attached hereto:

22 A. GENERAL NATURE OF IMPROVEMENT:
23

24 This project installs three hydrants on or adjacent to zoo property which will
25 allow new construction to be within 400 feet of a hydrant to meet City Code.
26 Through studying this project and the development of a fire hydrant master
27 plan for the zoo, it was determined that this project will be the first of three
28 phases to fully meet the zoo's needs.
29

30 B. TOTAL PROJECT BUDGET COST:

31
32 Original Amount: \$150,000

33 Additional Amount: \$349,077

34
35 \$499,077

36
37 C. SOURCE OF FUNDS FOR ADDITIONAL AMOUNT:

38 Debt Service Fund or any other lawfully available funds.

39
40 Section 2. That the cost estimate and any other part of the project budget
41 approved by Resolution No. 8755 which is in conflict with this Resolution and revised
42 project budget is hereby specifically repealed.

43 Section 3. That this Resolution shall take effect and be in force from and after its
44 adoption by the Governing Body.

45 ADOPTED and APPROVED by the Governing Body _____.

46 CITY OF TOPEKA, KANSAS

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50 _____
51 Larry E. Wolgast, Mayor

52 ATTEST:

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54
55 _____
56 Brenda Younger, City Clerk

RESOLUTION NO. 8755

A RESOLUTION introduced by City Manager Jim Colson, authorizing and adopting the 2017-2021 Capital Improvement Program and the 2017-2019 Capital Improvement Budget and approving project budgets.

WHEREAS, the 2017-2021 Capital Improvement Program (CIP) has been prepared by staff; and

WHEREAS, the purpose of the CIP is to plan for and prioritize public improvement projects over the next five years; and

WHEREAS, the 2017-2019 Capital Improvement Budget (CIB) has been prepared by staff in addition to budgets for specific projects ready for implementation; and

WHEREAS, the document entitled "2017-2021 Proposed Capital Improvement Plan," dated March 8, 2016 ("CIP Book") contains the CIP, CIB, and all associated project budgets and is attached herein and incorporated by reference; and

WHEREAS, for purposes of planning and allocating resources the City Council should consider and approve the CIP and CIB and the specific CIB project budgets which are ready for implementation.

NOW, THEREFORE, BE IT RESOLVED, that the City Council takes the following actions:

1. The CIP. The Council approves and adopts the 2017-2021 Capital Improvement Program contained in the CIP Book at pages 7-9.

2. The CIB. The Council also approves and adopts the 2017-2019 Capital Improvement Budget contained in the CIP Book at pages 7-9.

25 **3. 2017-2019 CIB Project Budgets.** Sections A12-17 and A12-25 of the Code
26 of the City of Topeka require Council approval of all project budgets for public
27 improvements.

28 **(a) G.O. Bonded Projects.** With regard to the projects identified on pages 20,
29 21, 28 through 32, 34 through 37, 41, 42, 44 through 47 in the CIP Book, the Council finds
30 that the public improvements described are necessary and serve the public interest.
31 Accordingly, the Council authorizes such projects, pursuant to Section A12-1 of the Code
32 of the City of Topeka, and approves all project budgets, including amended budgets, for
33 2017, 2018 and 2019. No project budget shall exceed the total budget amount identified
34 in the CIP Book without Council approval.

35 **(b) G.O. Bonded Project/Fire Equipment.** With regard to the projects identified
36 on pages 23, 24, and 25 in the CIP Book, the Council finds that the fire equipment
37 described therein is necessary and serves the public interest. Accordingly, the Council
38 authorizes such projects and approves all project budgets, including amended budgets,
39 for 2017, 2018, and 2019. No project budget shall exceed the total budget amount
40 identified in the CIP Book without Council approval.

41 Moreover, the Council intends to acquire the fire-fighting equipment and pay the
42 cost by issuing general obligation bonds maturing not more than 15 years from their date
43 of issuance as authorized by K.S.A. 12-110c. Pursuant to K.S.A. 12-110c, the Council
44 directs the City Clerk to publish a notice of its intention to acquire equipment that has not
45 previously been the subject of a notice of intention, stating the cost and the City's
46 intention to issue general obligation bonds. The notice shall be published once each
47 week for two consecutive weeks in the official City newspaper. If, within 60 days following

the last date of publication, a petition signed by not less than 5% of the qualified electors of the City of Topeka is filed with the City Clerk, no such bonds shall be issued until the matter of whether to issue general obligation bonds has been approved by a majority of the qualified electors of the City voting at an election called pursuant to the general bond law.

(c) Enterprise Funded Projects. With regard to the projects identified on pages 49 through 52, 54 through 69, 71 through 79, and 81 through 97 of the CIP Book, the Council finds that the improvements to its waterworks system, sanitary and/or stormwater system are necessary and serve the public interest. Accordingly, the Council authorizes such projects, pursuant to Section A12-1 and A18-3 of the Code of the City of Topeka, and approves all project budgets, including amended budgets, for 2017, 2018, and 2019. No project budget shall be exceeded in excess of the budget identified in the CIP Book without Council approval. No revenue bonds shall be issued unless the Governing Body enacts a separate resolution and notice of intent to issue revenue bonds in accordance with K.S.A. 10-1201 *et seq.*

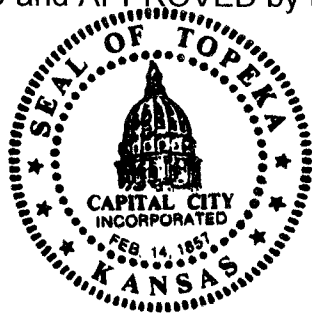
(d) Cash-Funded Projects. With regard to the projects identified on pages 40, 99 through 107, 109 through 112, 115 through 123, 125 through 131, and 133 through 137 in the CIP Book, the Council finds that the public improvements are necessary and serve the public interest. Accordingly, the Council authorizes such projects and approves all project budgets, including amended budgets, for 2017, 2018, and 2019. No project budget shall be exceeded in excess of the budget identified in the CIP Book without Council approval.

4. The City both reasonably expects and intends to finance the costs of said improvements from the proceeds of general obligation bonds of the City. The City does

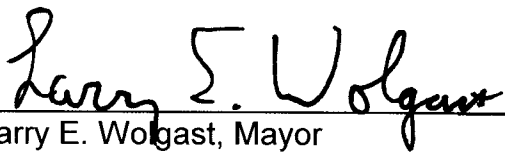
71 hereby express its official intent to reimburse any such pre-issuance original expenditures
72 (as defined in Treas. Reg. 1.150-2(c)) made by it on or after the date which is 60 days
73 before the date of this Resolution from the proceeds of such bonds in the estimated
74 maximum principal amount of \$51,551,033.00. The City will issue such bonds for such
75 purposes and make the reimbursements within eighteen (18) months after the date the
76 expenditure to be reimbursed was paid or, if later, eighteen (18) months after the date on
77 which the property resulting from the expenditure was placed in service. Provided, that, in
78 any event, the City must make the reimbursement allocation within three (3) years after the
79 date the expenditure was paid. This Resolution, as the expression of the governing body's
80 official intent regarding the matters described herein, will be available for public inspection
81 in the City Clerk's office at City Hall during regular business hours of the City.

82 5. This Resolution shall become effective upon passage and approval by the
83 City Council.

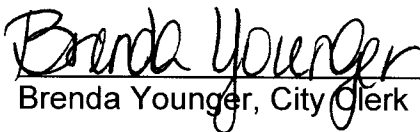
84 ADOPTED and APPROVED by the City Council on April 19, 2016.



CITY OF TOPEKA, KANSAS


Larry E. Wolgast, Mayor

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91 ATTEST:

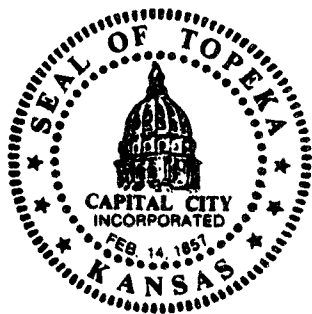
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94 
95 Brenda Younger, City Clerk
96

(Published in the Topeka Metro News April 25, 2016)

NOTICE OF INTENTION TO ISSUE GENERAL OBLIGATION BONDS TO ACQUIRE
FIRE-FIGHTING EQUIPMENT

Notice is hereby given that as provided by Resolution No. 8755 of the City of Topeka, Kansas, (the "City"), the Council intends to acquire fire-fighting equipment, specifically one aerial apparatus (Aerial 8), and pay the cost thereof by issuing general obligation bonds maturing not more than 15 years from their date of issuance as authorized by K.S.A. 12-110c. The cost of the fire-fighting equipment shall not exceed the amount of \$1,349,500.00. This notice shall be published once each week for two consecutive weeks in the official City newspaper. If, within 60 days following the last date of publication, a petition signed by not less than 5% of the qualified electors of the City of Topeka is filed with the City Clerk, no such bonds shall be issued until the matter of whether to issue general obligation bonds has been approved by a majority of the qualified electors of the City voting at an election called pursuant to the general bond law.

BY ORDER OF THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS,
on 19th day of April, 2016.



ATTEST:

Brenda Younger
Brenda Younger, City Clerk

CITY OF TOPEKA, KANSAS

Larry E. Wolgast
Larry E. Wolgast, Mayor



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE:	December 20, 2016	
CONTACT PERSON:	Mary Feighny, Deputy City Attorney	DOCUMENT #:
SECOND PARTY/SUBJECT:	Mobilitie	PROJECT #:
CATEGORY/SUBCATEGORY	013 Ordinances - Codified / 160 Franchises	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by Interim City Manager Doug Gerber, granting a nonexclusive franchise agreement to Mobilitie LLC to construct, operate and maintain wireless telecommunications facilities within the public right-of-way.

(Approval would grant a ten-year franchise agreement.)

POLICY ISSUE:

State and federal law require that cities allow telecommunication infrastructure providers to utilize city right of way to install the providers' infrastructure. A franchise agreement is a method of securing compensation for that use.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

Mobilitie LLC is a telecommunications infrastructure company that deploys and manages wireless infrastructure for its wireless carrier customers (e.g. Sprint). Mobilitie utilizes rights of way to install Distributed Antenna Systems (DAS), Wi-Fi, and small cell networks. As part of its deployment project, Mobilitie has obtained contract franchises from other cities in Kansas (e.g. Overland Park, Olathe, Wichita).

The franchise provides that Mobilitie will have the right to construct, maintain and operate its facilities in the public right-of-way subject to City permitting and land use regulations as well as the conditions in the franchise agreement.

As with other public utilities, Mobilitie will pay the City 5% of its gross revenues on a quarterly basis. Mobilitie will

also pay \$600 annually for each new facility.

The franchise term is 10 years, with renewals for 2 additional 4-year terms.

BUDGETARY IMPACT:

Currently, four facilities are being proposed at \$600 each annually (\$2400) in addition to 5% of gross revenue which is unknown at this point.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Ordinance

(Published in the Topeka Metro News on _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Interim City Manager Douglas Gerber, granting a nonexclusive franchise agreement to Mobilitie LLC to construct, operate and maintain wireless telecommunications facilities within the public right-of-way.

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

3
4 WHEREAS, Mobilitie LLC ("Grantee") owns, maintains, operates and/or
5 controls, in accordance with regulations promulgated by the Federal Communications
6 Commission and the Kansas Corporation Commission (hereinafter "KCC"),
7 telecommunications networks serving Grantee's wireless carrier customers through
8 small cell and wireless backhaul and fiber-fed antenna system facilities. Such facilities
9 are in public rights-of-way (hereinafter "PROW") throughout the State of Kansas; and

10 WHEREAS, Grantee seeks to enter the City's PROW to install, maintain and
11 operate a network of such facilities (the "Network"), so that Grantee and/or its
12 underlying customers (the "Customers") may provide data and telecommunications
13 services to the residents and visitors of the City (the "Services"); and

14 WHEREAS, some features of the Network include, without limitation, antenna
15 nodes, poles, equipment cabinets, underground and above ground fiber optic cable,
16 fiber handholes and enclosures, fiber repeaters and related equipment, and will
17 include other equipment as technology evolves, in a configuration and at locations to
18 be filed and identified through the City permit process ("Facility" or "Facilities"); and

19 WHEREAS, certain advanced wireless antenna systems ("Advanced Wireless
20 Facility" or "Advanced Wireless Facilities") which are specific part or type of the
21 Facilities may be located on streetlights, stand-alone poles, third party utility poles,

and other structures located on or within the PROW as permitted under this Agreement; and

WHEREAS, Grantee desires to obtain from City as permitted by law, and City is willing to grant to Grantee as required by law, the right to access the PROW to locate, place, attach, install, operate, use, control, repair, replace, upgrade, enhance and maintain the Facilities and the Advanced Wireless Facilities in a manner consistent with this Agreement.

In consideration of the Recitals set forth above, the terms and conditions of this Agreement and other valuable consideration, the adequacy of which is hereby acknowledged, the City and Grantee agree as follows:

Section 1. Definitions.

For the purposes of this Agreement the following words and phrases shall have the meaning given herein.

"Gross Revenue" means and includes any and all income and other consideration of whatever nature in any manner gained or derived by Grantee from or in connection with the operation of the Facilities in the Rights of Way, including, but not limited to all rents, payments, fees and other amounts actually collected from any third party and received by Grantee and allocable to the period within the Term or any Renewal Term pursuant to any sublease, sublicense or other agreement for services provided with respect to the Facilities, but exclusive of:

(a) any payments, reimbursements or pass-throughs from the third party to Grantee: (i) for utility charges, taxes and other pass-through expenses, or (ii) in connection with maintenance work performed or equipment installed by Grantee;

(b) site acquisition, construction management or supervision fees related to

the installation of the Facilities; and

(c) contributions of capital by any third party to reimburse Grantee in whole or in part for the installation of the Facilities. Gross Revenue shall also not include: (i) sales, ad valorem, or other types of "add-on" taxes, levies, or fees calculated by gross receipts or gross revenues which might have to be paid to or collected for federal, state, or local government (ii) non-collectable amounts due Grantee; (iii) refunds or rebates; and (iv) non- operating revenues such as interest income or gain from the sale of an asset.

"Public right-of-way" or "PROW" means only the area of real property in which the City has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include easements obtained by utilities or private easements in platted subdivisions or tracts. The term does not include infrastructure located within the Public right-of-way owned by the City or other third-parties, such as poles, ducts or conduits.

"Telecommunications service" means the providing or offering for rent, sale or lease, or in exchange for other value received, the transmittal of signals, including but not limited to voice, data, image, radio frequency, graphic or video or other programming information between or among points by wire, lines cable, fiber optics, circuits, laser or infrared, antennae, microwave, radio, satellite or other telecommunications facilities.

Section 2. Grant of Franchise.

(a) Non-Exclusive. There is hereby granted to Grantee this nonexclusive

franchise to construct, maintain, extend and operate its Network along, across, upon, under or above any PROW for the purposes identified herein subject to the terms and conditions of this Agreement.

(b) No Legal Interest in PROW. The grant of this franchise by the City shall not convey title, equitable or legal, in the PROW, and shall give only the right to occupy the PROW, for the purposes and for the period stated in this Agreement. This Agreement does not:

(1) Grant the right to use any other property, telecommunications related or otherwise, owned or controlled by the City or a third-party, without the consent of such party;

(2) Grant the authority to construct, maintain or operate any Facility or related appurtenance on property owned by the City outside of the Public right-of-way; or

(3) Excuse Grantee from obtaining appropriate access or attachment agreements before locating its Facilities on poles or infrastructure owned or controlled by the City or a third- party.

(c) Permits; Licenses. As a condition of this grant, Grantee is required to obtain and is responsible for securing any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission (FCC) or the Kansas Corporation Commission (KCC). Grantee shall also comply with all applicable laws, statutes and/or City regulations (including, but not limited to those relating to the construction and use of the PROW).

Section 3. Use of Public Right-of-Way.

(a) No Obstruction. Grantee's Facilities shall be constructed and maintained in such a manner as not to obstruct or hinder travel or public safety on such public ways or obstruct use by the City or other users of the PROW.

(b) Use Subordinate to City. Grantee's use of the PROW is subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City. The City may prohibit the use or occupancy of a specific portion of the PROW due to a reasonable public interest necessitated by public health, safety and welfare so long as such interest is exercised in a competitively neutral manner and is not unreasonable or discriminatory.

(c) Use Subject to Laws. Grantee shall be subject to all applicable laws and statutes, and/or rules, regulations, policies, resolutions and ordinances (hereinafter "Laws") adopted by the City, including but not limited to Chapter 12.30 (Right of Way Excavation), Chapter 14.20 (Building Permits) and Chapter 18 (Land Use Regulations) to the extent such laws do not conflict with or are preempted by any federal law or regulation.

(d) Plan Approval. The installation of the Facilities shall be made in accordance with plans and specifications approved by the applicable City department head or designee and after obtaining all necessary permits for work in the PROW and compliance with applicable building codes and land use regulations. Grantee shall be responsible for all costs associated with the permitting process.

(e) No Interference. Grantee shall not impede, obstruct or otherwise interfere with the installation, existence and operation of any other facility in the PROW, including sanitary sewers, water mains, storm sewers, gas mains, traffic signals, poles, electrical infrastructure, cable television and telecommunication wires, public safety,

City networks and other telecommunication providers.

(f) Repair of PROW. Grantee shall repair all damage to the PROW by activities of Grantee, or any agent, affiliate, employee, or contractor, while occupying, installing, repairing or maintaining Facilities in the PROW and will return the PROW to its functional equivalence before the damage occurred in accordance with the requirements and specifications of City. If Grantee fails to make the repairs required by City, then City may do so and require reimbursement from Grantee within thirty (30) days of notice of the costs.

Section 4. Removal Due to Public Project.

Relocation of Facilities. Upon receipt of a written demand from the City, Grantee, at its sole cost and expense, shall remove and relocate any part of the Grantee's Facilities whenever the City reasonably determines that the removal and/or relocation of any part of the Network or Facilities is necessary to accomplish construction and maintenance activities related to improvements for the health, safety and welfare of the public, including but not limited to the following: (a) work proposed to be done by or on behalf of the City or any other governmental agency, including but not limited to, any change of grade, alignment or width of any street, sidewalk or other public facility, installation of curbs, gutters or landscaping and installation, construction, maintenance or operation of any underground or aboveground facilities such as sewers, water mains, drains, storm drains, pipes, gas mains, poles, power lines, telephone lines, cable television lines and tracks; or (b) interference with the operation of City-owned light poles, traffic signals, or other City facilities. The City shall cooperate with Grantee in relocating any portion of the Network and/or Facilities in a manner that allows Grantee to continue providing service to its customers, including,

but not limited to, expediting approval of any necessary permits required for relocation. No permitting or other fees may be charged by the City for a removal occurring pursuant to this section.

Pursuant to 2016 House Bill 2131 (codified at K.S.A. 66-2019 and amendments thereto), Grantee shall relocate or adjust the Network or its Facilities, at no cost to City, within the time set forth in City's written request provided that City provides a minimum of 180 days advance written notice unless circumstances beyond the City's control require a shorter period of advance notice. If relocation or adjustment is for private benefit, Grantee is not responsible for the cost of the relocation or adjustment to the extent of such private benefit and Grantee shall not be obligated to commence relocation or adjustment until receipt of funds for such relocation or adjustment.

Section 5. Grantee's Facilities.

(a) Existing Utility Poles. Grantee may attach its Facilities to an existing utility pole pursuant to a properly executed agreement with the pole owner (City or third party), provided, however, that any necessary replacement of the pole in order to accommodate the attachment shall be subject to the proper exercise of the City's police powers.

(b) New Poles and other City Facilities. Grantee may install new poles provided the poles comply with applicable City, state and federal specifications, and laws ("New Poles"). In areas where there are existing poles, Grantee will use commercially reasonable efforts to work with the owner of that existing pole to collocate a small cell facility or Advanced Wireless Facility but only when (i) the pole owner is willing to allow such attachment and (ii) such attachment is feasible from a safety, technical, and engineering (structural and radio frequency coverage)

perspective and (iii) such attachment is commercially reasonable for Grantee's business model, in Grantee's sole discretion.

(c) City Use of New Poles. City may use any New Poles for City purposes, including but not limited to City utilities and operations so long as such use does not interfere with Grantee's use of its Facilities from a safety, technical and engineering (structural and radio frequency coverage) and subject to Grantee's approval not to be unreasonably withheld, conditioned or delayed. Grantee shall reasonably cooperate with the City when using the New Poles.

(d) Damage to New Poles. If a New Pole falls or is damaged such that there is an imminent threat of harm to persons or property, then City may cause the New Pole to be removed to the side of the street or a location that City believes reasonably eliminates the risk of such imminent threat of harm to persons or property. Grantee shall, after written notice from the City that any New Pole has been damaged or removed, cause the New Pole to be repaired or replaced within thirty (30) days after the City's written notice. The cost to repair and/or replace any New Pole shall be paid by Grantee; provided, however, that if the New Pole is damaged or destroyed by the City or a third party user that the City has given the right to use the New Pole, then the City and/or its third party user shall pay the cost to repair and/or replace the New Pole.

Section 6. Interference.

(a) City Public Safety Communications. Grantee's Network shall not cause interference with public safety communications systems operated by City or any other public agency, regardless of the date such systems or any components thereof have been placed in service.

(b) Correction of Interference. If such interference occurs, Grantee shall,

upon receipt of written notice thereof from City, immediately commence commercially reasonable, diligent, efforts to correct or eliminate such interference. If such interference cannot be corrected by Grantee to the reasonable satisfaction of City within the cure period set forth for in the City's notice, which notice shall not be less than 30 days absent an emergency or danger to public health and safety requiring shorter notice, such interference shall be deemed a material breach under this Agreement and City may terminate.

Section 7. Compensation to the City.

As compensation to City for use of the PROW, Grantee shall pay quarterly to City five percent (5%) of Grantee's Gross Revenue. Additionally, Grantee shall pay a rental fee of \$600 per year for each Facility (e.g. New Pole). The rental fees are in addition to the City's standard permit fees.

(a) No Invoice. Grantee shall pay without requirement for invoice or reminder from the City, and within 30 days of the last day of the quarter for which the payment applies. If the quarterly compensation is not postmarked or delivered on or before the due date, interest thereon shall accrue from the due date until received, at the applicable statutory interest rate.

(b) Calculation of Compensation. Grantee shall submit to the City a statement, executed by an authorized officer of Grantee or designee, showing the amount of Gross Revenue for the period covered by the payment, and the manner in which the compensation was calculated.

(c) No Accord & Settlement. No acceptance by the City of any compensation shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall acceptance of any payment be construed as a release of any

claim of the City.

(d) Verification; City Right to Audit. To verify the correctness of the compensation paid by Grantee and Grantee's compliance with this Agreement, the City shall have the right to examine, audit, inspect, review, and/or obtain copies of (collectively, "Audit") at its cost and expense, except as set forth in this subsection (d), the papers, books, accounts, documents, maps, plans and other records (collectively, the "Records") of Grantee pertaining to all revenue derived by Grantee in connection with Grantee's provision of telecommunications service through Grantee's Facilities, upon no less than fifteen (15) business days written notice to Grantee (no more often than once per calendar year), to verify the correctness of the compensation paid by Grantee. Grantee shall fully cooperate in making reasonably available its records and otherwise assisting in these activities as is necessary for City to reasonably verify the correctness of the compensation paid by Grantee. The City may extend the time for the provision of such Records upon a reasonable showing by Grantee that such extension is justified. In the event that such audit discloses a discrepancy of more than five percent (5%) between the financial report submitted by the Grantee with a quarterly payment and the actual Gross Revenue collected by Grantee, the Grantee agrees to pay the City the costs of such audit; provided that (a) the City will not be entitled to reimbursement of such Audit costs more than once in any five (5) year period, and (2) the total reimbursement to the City in any five (5) year period for the Audit costs shall not exceed one hundred fifty percent (150%) of the amount of the discrepancy. In the event that such Audit results in a determination that additional compensation is due the City, Grantee further agrees to pay interest as required for late payment on such additional compensation computed from the date on which such

additional compensation was due and payable.

(e) Franchise Application Fee. Unless previously paid, within sixty (60) days of the effective date of this Agreement, Grantee shall pay to the City a one-time application fee of One Thousand Dollars (\$1000.00). The parties agree that such fee reimburses the City for its reasonable, actual and verifiable costs of reviewing and approving this Agreement.

(f) Other Taxes; Fees. The compensation required herein shall be in addition to, not in lieu of, all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City under K.S.A. 12-2001, 17-1902, K.S.A. 66-2019 and amendments thereto.

Section 8. Indemnity and Hold Harmless.

It shall be the responsibility of Grantee to take adequate measures to protect and defend its Facilities in the PROW from harm or damage. If Grantee fails to accurately or timely locate Facilities when requested, in accordance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 et seq., Grantee shall have no claim for costs or damages against the City and its authorized contractors unless such parties are responsible for the harm or damage caused by their gross negligence or intentional conduct. The City and its authorized contractors shall be responsible to take reasonable precautionary measures including observing marker posts when working near Grantee's Facilities.

Grantee shall indemnify, defend, and hold harmless the City, its officers, employees, agents, and contractors, from and against liability, claims, demands, losses, damages, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, and the costs and expenses incurred in connection therewith,

including reasonable attorneys' fees and costs of defense to the extent resulting from activities undertaken by Grantee pursuant to this Agreement, except to the extent arising from or caused by the negligence or willful misconduct of the City, its officers, employees, agents, or contractors. The City shall promptly notify Grantee of any claim, action or proceeding.

Section 9. Insurance Requirement and Performance Bond.

(a) Types of Insurance. During the term of this Agreement, Grantee shall obtain and maintain insurance coverage at its sole expense, with financially reputable insurers that are licensed to do business in the State of Kansas. Grantee shall provide not less than the following insurance:

(1) Workers' compensation as provided for under any worker's compensation or similar law in the jurisdiction where any work is performed with an employers' liability limit equal to the amount required by law.

(2) Commercial general liability, including coverage for contractual liability and products completed operations liability on an occurrence basis and not a claims made basis, with a limit of not less than one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage liability with a two million dollar (\$2,000,000) general aggregate limit. The Grantee may meet the policy limit requirements above in combination with commercial general liability policies and umbrella liability policies. The City shall be included as an additional insured with respect to liability arising from Grantee's operations under this Franchise agreement.

(b) Self-Insured. As an alternative to the requirements of subsection (a), Grantee may demonstrate to the satisfaction of the City that it is self-insured and as

such Grantee has the ability to provide coverage in an amount not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by Grantee, or alleged to so have been caused or occurred.

(c) Certificate of Insurance. Grantee shall, as a material condition of this Agreement, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a certificate of insurance or evidence of self-insurance, satisfactory in form and content to the City Attorney, evidencing that the above insurance is in force and will not be cancelled or materially changed with respect to areas and entities covered without first giving the City thirty (30) days prior written notice. Grantee shall make available to the City on request the policy declarations page and a certified copy of the policy in effect, so that limitations and exclusions can be evaluated for appropriateness of overall coverage.

(d) Performance Bond. Grantee shall, as a material condition of this Agreement, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a performance bond in the amount of \$50,000, payable to the City to ensure the appropriate and timely performance in the construction and maintenance of Facilities located in the PROW. The required performance bond must be with good and sufficient sureties, issued by a surety company authorized to transact business in the State of Kansas, and satisfactory to the City Attorney in form and substance.

Section 10. Revocation and Termination.

In case of failure on the part of Grantee to comply with any of the provisions of this Agreement, or if Grantee should do or cause to be done any act or thing prohibited

311 by or in violation of the terms of this Agreement, Grantee shall forfeit all rights,
312 privileges and the franchise granted herein, and all such rights and privileges and
313 hereunder shall cease, terminate and become null and void, and this Agreement shall
314 be deemed revoked or terminated, provided that said revocation or termination, shall
315 not take effect until the City has completed the following procedures: Before the City
316 proceeds to revoke and terminate this Agreement, it shall first serve a written notice
317 upon Grantee, setting forth in detail the neglect or failure complained of, and Grantee
318 shall have sixty (60) days thereafter in which to comply. If at the end of such sixty (60)
319 day period the City deems that the conditions have not been complied with, the City
320 shall take action to revoke and terminate this Agreement by action of the Governing
321 Body, setting out the grounds upon which this Agreement is to be revoked and
322 terminated; provided, to afford Grantee due process, Grantee shall first be provided
323 reasonable notice of the date, time and location of the Governing Body's consideration,
324 and shall have the right to address the Governing Body regarding such matter. Nothing
325 herein shall prevent the City from invoking any other remedy that may otherwise exist
326 at law. Upon any determination by the Governing Body to revoke and terminate this
327 Agreement, Grantee shall have thirty (30) days to appeal such decision to the District
328 Court of Shawnee County, Kansas. This Agreement shall be deemed revoked and
329 terminated at the end of this thirty (30) day period, unless Grantee has instituted such
330 an appeal. If Grantee does timely institute such an appeal, such revocation and
331 termination shall remain pending and subject to the district court's final judgment.
332 Provided, however, that the failure of Grantee to comply with any of the provisions of
333 this Agreement or the doing or causing to be done by Grantee of anything prohibited
334 by or in violation of the terms of this Agreement shall not be a ground for the

335 revocation or termination thereof when such act or omission on the part of Grantee is
336 due to any cause or delay beyond the control of Grantee or to bona fide legal
337 proceedings.

338 **Section 11. Reservation of Rights.**

339 (a) No Waiver of City Authority. In granting its consent hereunder, the City
340 does not in any manner waive its regulatory or other rights and powers under and by
341 virtue of the laws of the State of Kansas as the same may be amended, its Home Rule
342 powers under the Constitution of the State of Kansas, nor any of its rights and powers
343 under or by virtue of present or future ordinances of the City.

344 (b) Reservation of Rights. In entering into this Agreement, neither the City's
345 nor Grantee's present or future legal rights, positions, claims, assertions or arguments
346 before any administrative agency or court of law are in any way prejudiced or waived.
347 By entering into the Agreement, neither the City nor Grantee waive any rights, but
348 instead expressly reserve any and all rights, remedies, and arguments the City or
349 Grantee may have at law or equity, without limitation, to argue, assert, and/or take any
350 position as to the legality or appropriateness of any present or future laws, non-
351 franchise ordinances and/or rulings.

352 **Section 12. Failure to Enforce.**

353 The failure of either the City or the Grantee to insist in any one or more
354 instances upon the strict performance of any one or more of the terms or
355 provisions of this Agreement shall not be construed as a waiver or relinquishment
356 for the future of any such term or provision, and the same shall continue in full force
357 and effect. No waiver or relinquishment shall be deemed to have been made by the
358 City or the Grantee unless said waiver or relinquishment is in writing and signed by

both the City and the Grantee.

Section 13. Term and Termination Provisions.

(a) Ten (10) Year Term; Renewal. This Agreement shall be effective for a term beginning on the effective date and ending ten (10) years after the effective date. Thereafter, this Agreement will automatically renew for up to two (2) additional four (4) year terms, unless either party notifies the other party of its intent to terminate the Agreement at least one hundred and eighty (180) days before the termination of the then current term. The additional terms shall be deemed a continuation of this Agreement and not as a new franchise or amendment.

(b) Renegotiation. Upon written request of either the City or Grantee, this Agreement shall be renegotiated at any time upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either the City or Grantee, including but not limited to the scope of the franchise granted to Grantee or the compensation to be received by the City hereunder.

(c) Amendment. Amendments, if any, shall be made by franchise ordinance. This Agreement shall remain in effect according to its terms, pending completion of any review or renegotiation provided by this section.

(d) Extension of Termination Date. In the event the parties are actively negotiating in good faith a new franchise agreement, the parties by written mutual agreement may extend the termination date of this Agreement to allow for further negotiations. Such extension period shall be deemed a continuation of this current Agreement and not as a new contract franchise ordinance or amendment.

Section 14. Removal Due to Termination.

No later than ninety (90) days after termination of this Agreement, Grantee shall, at its sole cost and expense, remove its Network and Facilities and restore the PROW to its original condition, reasonable wear and tear excepted. Alternatively, City may allow Grantee, in the City's sole and absolute discretion, to abandon the Network and Facilities or any part thereof, in place and convey it to the City.

Section 15. Abandonment.

In the event Grantee ceases to operate and abandons Grantee's Network and Facilities or any part thereof, for a period of ninety (90) days or more, Grantee shall, at its sole cost and expense, vacate and remove the abandoned Facility within one hundred and eighty (180) days. Grantee shall also, at its sole cost and expense, restore the PROW to its original condition, reasonable wear and tear excepted. Alternatively, the City may allow Grantee, in the City's sole and absolute discretion, to abandon Grantee's Facilities, or any part thereof, in place and convey it to the City.

Section 16. Point of Contact and Notices.

Grantee shall at all times maintain with the City a local point of contact who shall be available at all times to act on behalf of Grantee in the event of an emergency. Grantee shall provide the City with said local contact's name, address, telephone number, fax number and e-mail address. Emergency notice by Grantee to the City may be made by telephone to the Public Works Director. All other notices between the parties shall be in writing and shall be made by personal delivery, depositing such notice in the U.S. Mail, Certified Mail, return receipt requested, or by facsimile. Any notice served by U.S. Mail or Certified Mail, return receipt requested, shall be deemed delivered five (5) calendar days after the date of such deposit in the U.S. Mail unless otherwise provided. Any notice given by facsimile is deemed received by the next

business day. "Business day" for purposes of this section shall mean Monday through Friday, excepting federally-designated holidays. Notices sent to the follow addresses or addresses that may be later designated in writing:

For City:

City of Topeka
City Clerk
215 SE 7th Street
Topeka, KS 66603

For Grantee:

Mobilitie LLC
Att: Legal
2220 University Drive
Newport Beach, CA 92660

Section 17. Transfer and Assignment.

This Agreement may be assigned by Grantee without any approval or consent of the City to Grantee's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of Grantee's assets in the market defined by the FCC in which the PROW is located by reason of a merger, acquisition or other business reorganization provided that such acquiring entity is bound by all of the terms and conditions of this Agreement. As to other parties, this Agreement may not be sold or assigned without the written consent of the City which shall not be unreasonably withheld. In the event of any transfer or assignment of either this Agreement or Grantee's business or assets, Grantee shall timely notify the City of the successor entity; provide a point of contact for the successor entity; and advise the City of the effective date of the transfer or assignment. Additionally, Grantee's obligations under this Agreement with regard to indemnity, bonding and insurance shall continue until the transferee or assignee has taken the appropriate measures necessary to assume and

replace the same, the intent being that there shall be no lapse in any coverage as a result of the transfer or assignment.

Section 18. Severability.

If any clause, sentence, or section of this Agreement, or any portion thereof, shall be held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder, as a whole or any part thereof, other than the part declared invalid; provided, however, the City or Grantee may elect to declare the entire Agreement invalidated if the portion declared invalid is, in the judgment of the City or Grantee, an essential part of the Agreement.

Section 19. Acceptance of Terms by Grantee.

Within thirty (30) days after approval of this Ordinance, Grantee shall file with the City Clerk its acceptance, in writing, of the terms of this Ordinance which shall constitute a contract between City and Grantee.

Section 20. Effective Date of Contract and Ordinance.

This Contract and Ordinance shall take effect on the first day of the month after all of the following events have occurred: (1) approval by the governing body; (2) publication in the official City newspaper; and (3) acceptance by Grantee.

PASSED AND APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

467 **ACCEPTANCE OF FRANCHISE ORDINANCE**

468
469 To the Governing Body of the City of Topeka, Kansas

470
471 Mobilitie, LLC, for itself, its successors and assigns, hereby accepts in writing the
472 Ordinance and all rights and privileges therein granted, passed by the Governing Body
473 of the City of Topeka, Kansas, on the ____ day of _____, 201____, entitled:

474
475 AN ORDINANCE introduced by Interim City Manager Douglas Gerber, granting a
476 nonexclusive franchise agreement to Mobilitie LLC to construct, operate and maintain
477 wireless telecommunications facilities within the public right-of-way.

478
479 This acceptance is executed and filed as provided in Section 19 of this Ordinance, and
480 Mobilitie, LLC, hereby agrees to all the terms and conditions of said Ordinance.

481
482 Dated this ____ day of _____, 201____.

483
484 Mobilitie, LLC

485
486 By: _____

487
488
489 _____
490 Print Name and Title

491
492
493 State of Kansas

494
495 County of Shawnee
496 City of Topeka

497
498 I, Brenda Younger, City Clerk of the City of Topeka, Kansas, do hereby certify that the
499 foregoing is a true and correct copy of acceptance of Ordinance No. _____ of
500 of which acceptance was filed in the office of the City Clerk on the _____ day of
501 _____, 201____, and is now recorded among the original
502 records thereof, and that I am the keeper of the same.

503
504 Witness my hand and the official seal of said City, this ____ day of _____,
505 201____.

506
507
508 _____
509 Brenda Younger, City Clerk
510



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE:	December 20, 2016	
CONTACT PERSON:	Deputy Mayor Michelle De La Isla	DOCUMENT #:
SECOND PARTY/SUBJECT:	2017 City Council Meeting Schedule	PROJECT #:
CATEGORY/SUBCATEGORY	020 Resolutions / 005 Miscellaneous	
CIP PROJECT:	No	
ACTION OF COUNCIL:	JOURNAL #:	PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Deputy Mayor Michelle De La Isla cancelling Council meetings for calendar year 2017.

(Approval would provide notice that Council meetings would not be held on July 4, 2017 (Independence Day), August 1, 2017 (Primary Election Day) and November 7, 2017 (General Election Day).)

POLICY ISSUE:

Topeka Municipal Code (TMC) Section 2.15.020(c)(1) authorizes Council meetings to be cancelled by a majority vote of the Council, provided that the number of Council meetings in a month is not less than two as required by TMC Appendix A, Section A2-26.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

Traditionally, Governing Body meetings are cancelled in observance of established City holidays, Primary Election Day and General Election Day. The resolution provides notice of those cancellation dates.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Description

Resolution

2017 Governing Body Meeting Schedule

TMC Sec. A2-26 Meetings-Deputy Mayor

TMC 2.15.020(c)(1) Time of Governing Body Meetings

1 RESOLUTION NO. _____
2
3

4 A RESOLUTION introduced by Deputy Mayor Michelle De La Isla cancelling
5 Governing Body meetings for calendar year 2017.
6

7 Whereas, TMC Section 2.15.020(c)(1) authorizes Governing Body meetings to be
8 cancelled by a majority vote of the Governing Body.

9 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
10 CITY OF TOPEKA, KANSAS, that the following Governing Body meetings are cancelled:
11 July 4, 2017 (Independence Day), August 1, 2017 (Primary Election), and November 7,
12 2017 (General Election).

13 ADOPTED and APPROVED by the City Governing Body
14 _____.

15 CITY OF TOPEKA, KANSAS
16
17
18

19 _____
20 Larry Wolgast, Mayor
21

22 ATTEST:
23
24
25

26 _____
27 Brenda Younger, City Clerk

2017

January

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

May

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

September

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

February

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

June

Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

October

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

March

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

July

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

November

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

April

Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

August

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

December

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

 Scheduled Council Meetings

 Election Days-No Council Meetings

 Holidays-City Offices Closed

TOPEKA MUNICIPAL CODE

Appendix A Article II ADMINISTRATION (HOME RULE CHARTER)

Sec. A2-26. Meetings – Deputy Mayor.

(a) The governing body shall establish, by ordinance, a meeting schedule for each calendar year, with a minimum of two meetings each month.

(b) The governing body shall elect a Councilmember to serve as deputy mayor in the absence or temporary disability of the mayor. The deputy mayor elected in April of 2016 shall serve until a successor is elected at the first governing body meeting in January of 2017 to serve a term that expires on January 8, 2018. Thereafter, a deputy mayor shall be elected at the third meeting in January for a one year term. (C.O. 117 § 5, 2-9-16.)

Chapter 2.15

CITY COUNCIL – MAYOR

2.15.020 Time of governing body meetings – To be open to the public.

(a) The governing body shall meet in the council chambers/municipal court complex on the second floor of the municipal building, the first three Tuesdays of each month at 6:00 p.m. except that the governing body shall meet on the second Monday, rather than the second Tuesday, in the month of January following the general municipal election.

(b) Notwithstanding subsection (a) of this section, when the date of a meeting falls on a legal holiday or any city primary or general election, the meeting may be rescheduled to another day fixed in advance by the governing body.

(c) Notwithstanding subsection (a) of this section, a meeting may be canceled under any of the following circumstances; provided, that the number of meetings in a month is not less than that required by Appendix A, Section A2-26:

(1) By a majority vote of the governing body;

(2) When the mayor, with the concurrence of the deputy mayor, determines that special circumstances exist, including but not limited to the scheduling of a special event or a lack of agenda items; or

(3) By the city manager in the event of inclement weather. (Ord. 20009 § 1, 6-21-16.)



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE:	December 20, 2016	
CONTACT PERSON:	Lisa Robertson	DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY	006 Communication / 003 Requests	
CIP PROJECT:	No	
ACTION OF COUNCIL:	12/13 Discussion.	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

APPROVAL of revisions to City Council Rules and Procedures.

(Approval would update the Council Rules to reflect changes wrought by the enactment of Charter Ordinance Nos. 114 and 117.)

POLICY ISSUE:

Whether to update the Council Rules and Procedures so that they are consistent with recent changes to the charter ordinances.

STAFF RECOMMENDATION:

Staff recommends approval of the Council Rules and Procedures.

BACKGROUND:

On May 10, 2016, the governing body referred revision of the Council Rules and Procedures to the Policy and Finance Committee. The revisions are necessitated by changes to charter ordinances that enhance the ability of the mayor to vote and change governing body elections from April to November in odd-numbered years.

The Committee met throughout the summer and fall and eventually, voted to recommend approval of the revisions.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Committe Referral Sheet
Summary of Proposed Changes
Council Rules - Red Line Version
Council Rules - Clean Copy

COMMITTEE REFERRAL SHEET

COMMITTEE REPORT

Name of Committee: Policy and Finance

Referred on/during: June 7, 2016; regular meeting of Governing Body

Date referred from Committee: December 2, 2016

Title: City of Topeka Governing Body Rules and Procedures

Committee Action: Motion to approve amendments to the Council Rules, as presented by staff. Motion passed: 3-0

Comments: N/A

Amendments: See amended document

Members of Committee: Karen Hiller (Chair), Richard Harmon, Tony Emerson

Agenda Date Requested: 12/13/16 – Discussion
12/20/16 – Action

Summary of Proposed Changes

Council Rules & Procedures

Section 2.2, “Quorum”: Revised Quorum from 5 to 6 due to Charter Ordinance 117, which changes the quorum requirement from 5 to 6. (Page 4)

Section 2.5(a), “Duties of City Manager Relative to Governing Body”: Added language to clarify that members of the governing body may engage in direct communications with staff members to whom the city manager has delegated a specific task. (Pages 4-5)

Section 2.6(a), “Duties of City Attorney Relative to Governing Body”: Revised language to clarify that the city attorney represents the city of Topeka, through its city manager and the governing body (as a whole); but not individual residents or individual governing body members. (Pages 5-6)

Section 2.8(a), “Officers and Employees”: Added language stating that the mayor and council members may provide input to the city manager regarding two specific positions -- (i) the assistant to the mayor and (ii) the assistant to the council. (Page 6)

Section 2.11, “Seating During Meetings”: Added reference to TMC Section 2.15.020, which provides that council members will be seated in district order. (Page 6)

Section 5.2, “Addition and Removal of Items from the Agenda”: Added language to clarify that if an agenda item is added outside of the time frame set forth in Section 5.1, an explanation as to why this action is necessary must be provided, followed by a majority vote of the governing body. (Page 8)

Section 5.3, “Agenda Contents”: Added a category for “appointments” to provide an opportunity for the council members to vote on these individuals separate from the “consent agenda.” (Page 8)

Section 5.5(c), “Public Comment”: Added language providing individuals who wish to speak at a Council meeting the opportunity to sign up in the council chambers between 5:00 and 5:59 p.m. and to clarify that no prior notification will be required for those who wish to speak during any public hearing mandated by state or federal law. (Page 9)

Section 6.2(e), “Motions”: Provides clarification on how amendments to motions should be handled. (Page 11)

Section 6.2(i), “Motions”: Added language to reflect that the chair may adjourn the meeting if there is no further business to conduct, which reflects the current practice. (Page 12)

Section 7.2(b), “Considerations of Ordinances and Resolutions”: Removed reference to 5 affirmative votes being required for a majority in light of Charter Ordinance 117, which specifies voting requirements. (Page 13)

Section 8.2(a), (c) and (d), “Standing Committees”: There are four standing committees listed in subsection (a), (standing committees are comprised of less than the full body), and the Deputy Mayor appoints the members to each of these standing committees pursuant to subsection (c). Subsection (d) was deleted in its entirety because the budget, long-range planning and committee of the whole committees were comprised of all ten members of the governing body; and, thus, are not truly standing committees. The governing body can convene at any time, as necessary, to conduct a meeting related to budgetary or long-range planning issues. (Pages 13-14)

Section 8.2(b), “Standing Committees”: Revised the month during which appointments to committees must be made to the first meeting in February, as opposed to the first meeting in May, due to state law changing elections from April to November, with new members taking office in January. (Pages 13-14)

Section 8.5(b), (c) and (d), “Procedure for Committee Items”: Restructured/reorganized this section for purposes of clarity, i.e., added more appropriate titles, deleted redundant language, revised existing language. (Pages 15-16)

Section 8.10: Added a definition for “minutes” and establishes that videos of each meeting will be available for viewing online for a period of 3 years from the date of the meeting. (Page 17)

***NOTE: References changed from “council” to “governing body” through document.

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~~Topeka City Council~~
City of Topeka
Governing Body

Rules and Procedures

Adopted on _____

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81 **1. AUTHORITY**

- 82
- 83 | **1.1 Charter:** TMC §A2-30 provides that the council governing body may
- 84 | determine its own rules of procedure for meetings. The following set of rules
- 85 | shall be in effect upon their adoption by the council governing body and until
- 86 | such time as they are amended or new rules adopted in the manner provided
- 87 | by these rules.
- 88

89 **2. GENERAL RULES**

- 90
- 91 | **2.1 Meetings to be Public:** All meetings of the council governing body shall be
- 92 | open to the public, except for executive sessions as provided for by state
- 93 | statute. Persons attending meetings ~~of the council~~ shall turn off or mute any
- 94 | device or instrument capable of emitting an audible sound or tone before
- 95 | entering the meeting room.
- 96

- 97 | **2.2 Quorum:** ~~Five-Six~~ members of the council governing body shall constitute a
- 98 | quorum and be necessary for the transaction of business
- 99

- 100 | **2.3 Record of Proceedings:** An account of all proceedings of the
- 101 | council governing body shall be kept by the city clerk and shall constitute the
- 102 | official record ~~of the council~~.
- 103

- 104 | **2.4 Right of Floor:** Any member desiring to speak shall be recognized by the
- 105 | meeting chair, and shall confine his or her remarks to the subject under
- 106 | consideration or the one to be considered.
- 107

- 108 | **2.5 Duties of City Manager Relative to ~~City Council~~ Governing Body:**
- 109

- 110 | (a) The members of the council governing body and the city manager
- 111 | shall observe scrupulously the relationship and the respective
- 112 | authorities and responsibilities of each as provided by the statutes,
- 113 | city ordinances, council governing body rules or procedure and the
- 114 | ethics of good conduct. Generally speaking, the council governing
- 115 | body shall act as a policy-making body only except as specifically
- 116 | provided otherwise by statute and the city manager shall act as the
- 117 | administrative head of the city. The council governing body shall
- 118 | delegate to the city manager all administrative duties not specifically
- 119 | required by statute to be performed by the ~~council governing body~~.
- 120 | No member of the ~~city council or the mayor governing body~~ shall
- 121 | interfere directly with the conduct of any municipal department. All
- 122 | instructions or direction to the city manager shall come from the
- 123 | council as a whole governing body after approval of a majority
- 124 | ~~(five)(six)~~ of the ~~council~~ members. The city manager shall disregard
- 125 | any other instructions or directions and shall refer them to the
- 126 | council governing body as a whole. Requests for routine information

may be made to the city manager, department heads or their designees by individual councilmembers or the mayor, but all requests for lengthy or detailed reports shall be made only to the city manager. Except for the assistant to the Council, No instructions or directions shall be given by individual councilmembers or the mayor any member of the governing body to department heads or to other city employees who shall refer such instructions immediately to the city manager, who, in turn, shall bring such improper actions to the attention of the entire council governing body for such action as may be appropriate in each individual case. Notwithstanding this subsection (a), when the city manager delegates a specific task to a particular staff member(s), including staffing a committee, direct communication may occur between council members and that staff member(s).

- (b) The city manager shall act as the administrative head of the city and in such capacity shall direct the affairs of the city within the limits of the budget, the policies established by the city council governing body and the requirements of the statutes. The city manager or a designee shall attend all meetings of the council governing body– unless excused by a majority (five)– of the council governing body. The city manager shall prepare and submit the annual budget to the council governing body, shall keep the council governing body advised as to the financial condition and requirements of the city and shall make recommendations to the council on all matters concerning the welfare of the city. The city manager shall have no vote in the public meetings of the governing body and shall refrain from attempting to establish policy except to make recommendations to the city council governing body. The city manager shall observe the highest standard of ethics of the city manager profession. The city manager shall consult with the council governing body on matters pertaining to the affairs of the city.

2.6 Duties of City Attorney Relative to City Council Governing Body:

- (a) The city attorney or a designee shall attend all meetings of the city council governing body. He or she shall draft or cause to be drafted all ordinances, resolutions, contracts, releases, agreements and other instruments pertaining to legal actions of the city which shall have been approved as to form and legality by the city attorney or a designee before presentation to the council governing body. When requested by any member of the council or the mayor governing body, the city attorney shall furnish an opinion, either written or oral as may be appropriate in each case, concerning parliamentary rulings, interpretations of council governing body rules of procedure and opinions as to legality of matters under consideration. The city

attorney is the chief legal advisor to the city through its governing body, as a whole, as well as and the city manager; ~~who are entitled to rely upon his or her legal opinions which shall be considered final as they relate to municipal affairs except as they may be adjudicated in the courts but not individual residents or individual governing body members.~~

- (b) The city attorney shall be the parliamentarian for the ~~council governing body~~, and shall provide advice and counsel to the meeting chair on all interpretations of ~~council the~~ rules and procedures for the conduct of meetings. However, the meeting chair shall rule on all such matters, as provided by Rule 4.4.

- 2.7 Duties of City Clerk Relative to Governing Body:** The City Clerk or a designated representative shall attend all meetings of the ~~council governing body~~ and shall keep the official record (minutes) and perform such other duties as may be requested ~~by the council~~.

2.8 Officers and Employees:

- ~~(a) Notwithstanding TMC A2-54, which gives the city manager the power to appoint, discipline and remove any employee in accordance with City personnel policies, the mayor and council members may provide input to the city manager regarding the employment and evaluation of the assistant to the mayor and assistant to the council, respectively.~~

- (b) When there is pertinent business from their departments on the ~~council~~ agenda, department heads or their designees shall attend such ~~council~~ meetings upon request of the city manager.

- 2.9 Rules of Order:** "Roberts Rules of Order Revised" shall govern the proceedings of the ~~council governing body~~ in all cases, unless they are in conflict with these rules.

- 2.10 Television Coverage:** Except as otherwise provided herein, the public portions of ~~any city council governing body~~ meetings shall be televised live, subject to budget constraints or technical difficulties.

- 2.11 Seating During Council Meetings:** The council shall be seated in council district order for meetings pursuant to TMC § 2.15.020.

3. TYPES OF MEETINGS

- 3.1 Council-Governing Body Meetings:** The ~~council governing body~~ shall meet in the council chambers for meetings pursuant to TMC § 2.15.020.

- 219 | **3.2 ~~Council-Governing Body~~ Meetings:** Special meetings may be
220 | called by the city manager, mayor or by four (4) or more members of the
221 | council. The call for a special meeting shall be submitted to the city clerk,
222 | except an announcement of a special meeting during any meeting at which a
223 | quorum of members are present shall be sufficient notice of such special
224 | meeting. The call for a special meeting shall specify the day, the hour, and
225 | the location of the special meeting and shall list the subject or subjects to be
226 | considered. Only such business may be transacted at a special meeting as
227 | may be listed in the notice. Except for emergencies, the city clerk shall
228 | provide documented notice of a special meeting to the city manager, the
229 | entire governing body, and shall post the notice on the City's web site at least
230 | 24 hours prior to the meeting date.
231 |
232 | **3.3 ~~Council-Committee~~ Meetings:** Committee meetings may be held pursuant
233 | to Rule 8.
234 |
235 | **3.4 Attendance of Media at ~~Council~~-Meetings:** All meetings of the ~~city~~
236 | councilgoverning body and its committees shall be open to the media, freely
237 | subject to recording by radio, television, and photographic services at any
238 | time, provided that such arrangements do not interfere with the orderly
239 | conduct of the meetings.
240 |

241 | **4. CHAIR AND DUTIES**

- 243 | **4.1 Chair:** The mayor, if present, mayshall preside as chair at all meetings of
244 | the councilgoverning body. In the absence of the mayor, the deputy mayor
245 | shall preside. In the absence of both the mayor and deputy mayor, the city
246 | clerk shall preside until a chair is elected.
247 |
248 | **4.2 Call to Order:** The meetings of the councilgoverning body shall be called to
249 | order by the mayor or, in the mayor's absence, by the deputy mayor. In the
250 | absence of both the mayor and the deputy mayor, the meeting shall be
251 | called to order by the city clerk for the election of a temporary chair.
252 |
253 | **4.3 Preservation of Order:** The chair shall preserve order and decorum,
254 | prevent attacks on personalities or the impugning of member's motives, and
255 | confine members in debate to the question under discussion. The following
256 | will not be tolerated: uttering fighting words, slander, speeches invasive of
257 | the privacy of individuals, unreasonably loud or repetitious speech, and
258 | speeches so disruptive of ~~council~~ proceedings that the legislative process is
259 | substantially interrupted. Any councilmember-governing body member
260 | engaging in any of these will be warned once by the chair and if the behavior
261 | continues, the councilmember-governing body member will be ordered to
262 | leave the council chambers and that order shall be effective after a two thirds
263 | affirmative vote of the ~~council~~ members present. If necessary, the
264 | councilmembergoverning body member will be escorted from the chambers if

such ~~council~~member persists in interfering with the ability of the ~~council~~governing body to reasonably carry out ~~council~~its functions.

4.4 Point of Order: The chair shall determine all points of order, subject to the right of any member to appeal to the council. If any appeal is taken, the question shall be, "Shall the decision of the chair be sustained?"

4.5 Questions to be Stated: The chair shall state all questions submitted for a vote and announce the result.

5. GOVERNING BODY MEETING AGENDAS

5.1 Preparation and Circulation: The city manager shall create an agenda for ~~council~~governing body meetings. Each Thursday, the city clerk shall make available the agendas for the next two consecutive meetings and, absent technical difficulties, post the agendas to the City's website.

5.2 Addition and Removal of Items from the Agenda: Notwithstanding section 5.1, items may be added to the agenda ~~at a council meeting~~ pursuant to TMC 2.15.040, which requires an explanation for the necessity of adding the item and a majority vote of the governing body to add the item. The city manager may remove any item from the agenda if the item is not ready for consideration unless the governing body has taken action to defer the item to a date certain or the item has been considered by a ~~council~~-committee pursuant to Council Rule 8.5(b).

5.3 Agenda Contents: Each agenda shall include the following:

- Call to order.
- Invocation.
- Pledge of allegiance.
- Mayoral Proclamations.
- Presentations. Presentations include staff reports.
- Roll Call.
- Appointments. Appointments made by the Mayor to boards and commissions will be confirmed collectively by the Council. Any appointment may be considered separately by request of a council member, in which event the item will be moved to Action items.
- Consent agenda. The consent agenda is comprised of routine matters to be approved collectively (e.g. ~~Council—meeting~~ minutes, ~~appointments~~, license applications, claims). Any item may be considered separately by request of a ~~council~~governing body member or the city manager, in which event the item will be moved to Action items.

- Action items. Action items include matters where the Council or governing body, as appropriate, takes action. (e.g. ordinances, resolutions).
- Non-action items. Non-action items include discussions, public hearings, and any other items not requiring action.
- Announcements. The city manager, mayor, and council members may offer comments regarding City business and/or bring to the attention of the public upcoming events of interest. The Clerk shall briefly summarize items that are on the agenda for the next scheduled Council governing body meeting.
- Public comment.
- Adjournment.

5.4 Planning Department Agenda Items: Public hearings on zoning matters shall be conducted by the Planning Commission in accordance with state law. No additional public hearings shall be held by the governing body.

5.5 Public Comment:

- (a) General public comment: Requests by members of the public to speak during the public comment portion of the meeting will be placed on the agenda on a "first-come, first-served" basis. The request should state the name of the individual(s) desiring to be heard. Comments pertaining to personnel and litigation matters shall not be allowed. Further, public comment shall be limited to topics directly relevant to business of the City-Council governing body. Rules of decorum as provided in these rules will be observed.
- (b) Public comment on an agenda item: Members of the public may comment concerning a specific agenda item at the time the item is considered. Persons will be limited to addressing the council governing body one (1) time on a particular matter unless otherwise allowed by an affirmative vote of five-six (56) members of the council governing body.
- (c) Members of the public desiring to comment must notify the City Clerk by 5:00 p.m. on the day of the Council governing body meeting or sign up at the meeting before 6p.m. Members of the public addressing the council will be limited to four (4) minutes unless the council governing body, by majority vote, extends the limitation. Debate, question/answer dialogue or discussion with council governing body members will not be counted towards the four (4) minute time limitation. The requirement to notify the City Clerk will not apply to public hearings required by any state or federal law.

- 354 **5.6 Adjournment:** Adjournment shall occur no later than the hour of 10:00 p.m.
355 or as shall be announced by the chair at the conclusion of business.
356 Meetings may be continued beyond the hour of 10:00 p.m. only when
357 approved by a majority of members present.
358

359 **6. RULES OF ORDER**
360

- 361 **6.1 Governing Procedure:** "Roberts Rules of Order Revised" shall govern the
362 proceedings ~~of the council in all cases~~, except as provided below and unless
363 they are in conflict with these rules.
364

- 365 **6.2 Motions:** Generally speaking, actions ~~s of the council~~ shall be indicated by a
366 vote of the ~~councilmembers~~ members present at each meeting after motions
367 have been made and seconded ~~by individual councilmembers~~. Except as
368 otherwise provided by ordinance, statute or these rules, the following rules
369 shall apply to motions ~~by the individual councilmembers~~:
370

- 371 (a) *"To Defer"*. Consideration of any ordinance, resolution or other matter
372 on a ~~city council~~ meeting agenda may be deferred for up to six (6)
373 months ~~by the affirmative vote of at least five (5) members of the~~
374 council. The deferral date may be amended by the approval of a
375 motion establishing a new date for consideration of the item. The new
376 date for consideration shall be no sooner than the next regular city
377 council governing body meeting following approval of the motion.
378

- 379 (b) *"To Refer"*. Such action shall be appropriate in connection with
380 investigation and report (e.g. refer a matter to a committee).
381

- 382 (c) *"To Strike"*. This motion may be used to remove an item from the
383 agenda without prejudice to said item so that it may be returned to the
384 agenda at any later date in accordance with established procedure.
385

- 386 (d) *To Dispose of a Matter with Affirmative or Negative Action*. In order to
387 dispose of a matter with affirmative or negative action ~~by the council~~
388 ~~after such matter has been presented and discussed~~, the following
389 motions shall be in order:
390

- 391 (1) "To approve" a specific recommendation or proposal.
392 (2) "To disapprove" a specific recommendation or proposal.
393 (3) "To request" a specific action.
394 (4) "To direct" a specific action.
395
396
397
398

- (e) *To Amend a Motion.* The purpose of a motion to amend is to retain the original motion but with a few changes accomplished by deleting or adding verbiage. ~~The motion "to amend" shall be in order providing the motion for amendment is made with the consent of the maker and the second to the original motion.~~ A motion shall be amended only once before a vote has been taken. Treatment of amendments will depend upon timing. More specifically:
- (1) After a motion has been made and seconded, but before the Chair states the motion – any suggested modifications will require the consent of the two individuals who made and seconded the motion.
- (2) After the Chair states the motion – members of the governing body may propose amendments without such consent.
- (f) *To Substitute a Motion.* The purpose of a substitute motion is to offer a different approach to the subject matter. It is different from a motion to amend because a motion to amend seeks to retain the original motion with a few changes (usually accomplished by deleting or adding verbiage). Substitute motions cannot be used for purposes of confusing the issue and cannot be contrary to the original motion.
- A motion "to substitute" shall be in order providing that the substitute motion shall be made immediately after the original motion has been made and seconded and before a vote has been taken. Substitute motions shall be made only once and shall be debatable providing the original motion was a debatable motion.
- (g) *To Reconsider a Motion/Item.* Except as provided below, an item previously acted upon may not be reconsidered until six (6) months has elapsed since the previous action. This limitation shall apply to any matter ~~upon which a vote was taken~~~~considered and voted on by the city council~~, including the consideration of ordinances or resolutions which repeal, in their entirety, previously adopted ordinances or resolutions. These limitations on reconsideration shall not apply to the following:
- (1) A motion to reconsider the matter that is adopted during the same meeting as the initial action.
- (2) Reconsideration is needed to correct a typographical or legal error in the original item, or if the new item amends or differs in a substantive manner from the previously adopted or considered item.

(3) Reconsideration is otherwise allowed by statute or law.

- (h) *To Suspend a Rule.* In order to temporarily suspend any particular rule for a particular purpose not contrary to statute or city ordinance, a motion "to suspend" a rule shall be in order. Suspension of a rule shall be approved by a two thirds (2/3rds) majority of the ~~council governing body, and~~ shall take effect for the particular rule in question ~~only for the particular time in a particular meeting in question~~ and shall not be considered as a permanent suspension of a rule.
- (i) *To Adjourn a Meeting.* When it appears that there is not further business, the chair may~~In order to~~ adjourn ~~at the council~~ meeting. Alternatively, a motion "to adjourn" shall be in order providing such motion is made at the ordinary or usual conclusion of business on the agenda and providing that motions to adjourn shall not be used to embarrass, to harass, to foreclose discussion and debate, or for any other purpose other than the orderly termination of ~~council~~ proceedings at such times as may be appropriate in each particular meeting.
- (j) *Calling the Question.* A call for the question, if seconded, shall immediately end all debate and discussion, and if passed by two thirds (2/3rds) vote, the current motion must be voted on without delay; provided however, that the call of the question shall not be implemented until all members of the ~~council governing body~~ have had an opportunity to speak to the current motion. After the formal vote has been taken ~~by the council~~, all further discussion of the matter shall cease unless appropriate affirmative action follows to place the matter again ~~before the council~~ for reconsideration.

7. ORDINANCES AND RESOLUTIONS

7.1 Preparation of Ordinances and Resolutions:

- (a) Ordinances and resolutions shall be prepared by the city attorney or designee upon request by the city manager. In keeping with TMC Section A2-28(c) which prohibits governing body members from giving orders to staff, any requests by members of the governing body for preparation of ordinances or resolutions shall be directed to the city manager.
- (b) All ordinances and resolutions shall address fiscal impacts, if any, and identify funding sources.

7.2 Consideration of Ordinances and Resolutions:

- (a) Recording of Votes. All votes shall be reported in the ~~official record of the council minutes~~.
- (b) ~~Majority Vote Required: An affirmative vote of at least five (5) members of the council shall be necessary to pass an ordinance, a resolution, motion, or any other proposition (except as otherwise specified in city ordinance or statute)~~ Manner of Voting. When any vote is called, each ~~council~~ member shall indicate the member's vote by utilizing a device that displays the vote or abstention ~~respond "yes (aye)," or "no (nay)" or "abstain."~~ No ~~council~~ member shall vote in absentia. A ~~council~~ member must be physically present at the time a vote is called in order for the ~~council~~ member to vote.
- (c) Notice. No action shall be taken on any ordinance or resolution unless the item has been provided to the governing body at least five days prior to a ~~council~~ meeting. This restriction shall not apply to ordinances or resolutions that (1) have no administrative impact; and (2) no fiscal impact greater than \$5,000.00.

7.3 Numbering Ordinances and Resolutions: Upon passage, a number shall be assigned to each ordinance or resolution by the city clerk.

8. COMMITTEES

8.1 Purpose: The orderly and timely transactions of the city government shall be better served by having in place a committee framework whereby resolution of certain issues may be developed prior to consideration by the ~~full city council governing body~~. The committee framework shall include the use of standing committees and special committees.

8.2 Standing Committees:

- (a) The ~~council governing body~~ shall have the following four (4) standing committees, each comprised of three (3) members of the council:
- Policy and Finance.
 - Economic and Community Development.
 - Public Health and Safety.
 - Transient Guest Tax.
- (b) Appointment. The deputy mayor shall appoint the members to each of the standing committees referenced in subsection (a) above. Appointments shall be made by the first meeting in ~~May~~ February. Each councilmember shall fill out a committee preference list for a

standing committee and the deputy mayor shall make every effort to appoint councilmembers to the committee of their choice.

- (c) Term. Councilmembers who are appointed to any standing committee referenced in subsection (a) above shall serve on their assigned committees for a one (1) year term. Councilmembers who wish to change committee assignments may do so with permission ~~offrom~~ the deputy mayor. Each standing committee shall elect the chair from among its members.

~~(d) — The Council shall have the following standing committees comprised of all members of the council:~~

- ~~• Budget~~
- ~~• Long-range planning~~
- ~~• Committee of the whole~~

~~The deputy mayor shall be the chair of the Budget, Long-range planning and the Committee of the whole. The mayor shall serve as a non-voting, advisory member of all standing committees comprised of all members of the council.~~

8.3 Special Committees:

- (a) Special committees may be established when there is an issue that needs special focus and would be better handled outside standing committees. Special committees may be created by a majority vote of the council governing body. Any proposition addressed to the establishment of a special committee must state tasks and the time period in which the committee should complete its assignment.
- (b) The deputy mayor shall appoint the members of any special committee. The chair shall be designated by committee members.

8.4 Duties and Powers of Committees:

- (a) It shall be the duty of the committees to act promptly and faithfully in all matters referred to them ~~by the council~~. This does not preclude standing committees from considering other matters within the scope of their duties.
- (b) All committees shall have the power to hold hearings and request production of records relating to any subject within its jurisdiction. Standing committees may appoint subcommittees from their committee membership.

8.5 Procedure for Committee Items:

(a) Reference to Committee; Initiation by Committee.

(1) Any item ~~coming before the city council~~ may be referred to a committee by a majority vote of the ~~council~~ governing body.

(2) The examination of any subject can be initiated by a committee chair or by majority vote of the committee.

(b) ~~Consideration by Committee~~ Referred Item Action Deadline. Each item referred to a committee shall remain in that committee until the committee shall act upon it as provided for in subsection (c) or it is dislodged from the committee's consideration as provided for in subsection (d) or until passage of sixty~~ninety~~ (60) calendar days, ~~after which the item shall be placed on the council agenda~~ whichever occurs first. The item shall thereafter be placed on an agenda for action or for purposes of providing the committee chair the opportunity to provide an update regarding the committee's progress.

(c) Committee Action. ~~(1) Recommendation. An item shall be, upon majority vote of the committee, reported out of such committee by the chair. The recommendation of the committee shall be reflected in one (1) of the following manners: A committee may take any of the following actions:~~

(1) Pass the item ~~Recommend approval of the item.~~

(2) Recommend approval, with amendments.

(3) Do Not Pass the item ~~Recommend that the item not be approved.~~

(4) No Recommendation ~~Make no recommendation (no second means no recommendation).~~

• ~~Pass As Amended~~

(d2) ~~Placement~~ on Governing Body Meeting Agenda. ~~An item reported out of committee shall be placed on a council agenda. Both majority and minority reports of a committee may be filed at the request of any committee member, with the report proceeding to the city council.~~

~~(d) Discharge from Committee.~~

- (1) An item referred to and considered by a committee pursuant to section 8.5(a)(1) shall be placed on a governing body agenda and the chairperson or designee shall report to the governing body. The city council at any meeting held thirty (30) days or more after any item has been referred to a committee can, upon motion of any council member, determine whether such committee shall be discharged from further consideration of the item
- (2) An item initiated and considered by a committee pursuant to section 8.5(a)(2) may be placed on a governing body agenda and the chairperson or designee may report to the governing body. If during the course of a council meeting, a majority of the council votes in the affirmative on said motion, the council shall determine whether the item should be committed to any other committee or shall proceed to be discussed by the city council.

8.6 Quorum: In order to meet and take action, a majority of the committee members must be present.

8.7 Alternate Members of Committees: If a member of a committee cannot be present at a meeting, an alternate council member may be appointed to serve at that meeting, with full voting rights. The alternate shall be appointed by one of the following individuals, listed in order of priority:

- (a) The absent committee member.
- (b) The committee chair.
- (c) The deputy mayor.

8.8 Committee Meeting Times: Each committee shall meet as needed. Meetings may be called by the committee chair or by action of the committee. The city manager shall be notified of committee meetings at least twenty-four (24) hours in advance of any meeting. Any request for resource staff will be included in the notification. Council staff shall notify the city clerk of the time, place, and agenda at least twenty-four (24) hours in advance of the meeting. The city clerk shall post the notification to the city web site upon notification by Council staff.

8.9 Agenda Preparation: The chair shall be responsible for establishing the agenda for each committee meeting. Members desiring an item to be placed on the agenda should contact the chair directly or through the council staff.

- 673 **8.10 Minutes:** Minutes shall be kept of each meeting. Minutes are defined as an
674 overview of the proceedings, to include those in attendance, a brief summary
675 of the issues discussed and a record of the action(s) taken (including the
676 result of any vote(s) taken). Minutes shall be reviewed and approved by the
677 committee at a subsequent meeting. However, in the event that the
678 committee will not meet within the next thirty (30) days, the chairperson may
679 approve the minutes if there are no objections or changes from other
680 committee members. In the event of objections or changes, the committee
681 shall meet to discuss and take action.~~The minutes shall reflect the~~
682 ~~attendance of members and vote on each issue.~~
683
684 **8.11 Public Comment:** Public comment may be allowed on any matter on a
685 committee agenda, at the discretion of the chairperson. All rules of decorum
686 and conduct for comment established by these ~~Topeka City Council~~ Rules
687 and Procedures shall be applicable to public speakers.
688
689 **8.12 Committee Expenses:** No committee shall incur any expense without
690 having been authorized by a vote of a majority of the ~~council~~ governing body.
691
692 **8.13 Rules:** These ~~Council~~ Rules and Procedures shall apply to committees
693 unless inconsistent with this section.
694
695 **8.14 Television Coverage:** Except as otherwise provided, the public portions of
696 any committee meeting shall be televised, subject to budget constraints or
697 technical difficulties.
698

699 **9. CITIZEN INPUT**

- 700
701 **9.1 Manner of Addressing the ~~Council~~Governing Body:** Each person
702 ~~addressing the council~~ shall step up to the microphone and shall state his or
703 her name in an audible tone or voice for the record. All remarks shall be
704 addressed to the council as a governing body, and not to any member
705 thereof. No person, other than members of the council governing body and
706 the person having the floor, shall be permitted to enter into any discussion,
707 either directly or through the members ~~of the council~~. Any questions asked
708 by the person having the floor or by ~~council~~ members shall be allowed at the
709 sole discretion of the meeting chair.
710
711 **9.2 Personal and Slandorous Remarks:** The following will not be tolerated:
712 uttering fighting words, slander, speeches invasive of the privacy of
713 individuals, unreasonably loud or repetitious speech, or speeches so
714 disruptive of ~~council~~ proceedings that the legislative process is substantially
715 interrupted. Any individual engaging in ~~any of these~~ this type of behavior will
716 be warned once by the chair and if the behavior continues, the speaker will
717 be ordered to leave the podium. If necessary, the speaker will be escorted to
718 a seat in the council chambers, or escorted from the chambers if such

719 | person persists in interfering with the ability of the ~~council governing body~~ to
720 | reasonably carry out ~~council-its~~ functions.

- 721 |
722 | **9.3 Communication with the Governing Body:** Nothing in these ~~Council~~ Rules
723 | and Procedures shall be construed to limit a person's ability to contact
724 | members of the governing body.
725 |

726 | **10. SUSPENSION AND AMENDMENT OF ~~COUNCIL~~ RULES**
727 |

- 728 | **10.1 Suspension of These Rules:** Any provision of these rules not governed by
729 | the city charter or city code may be temporarily suspended by a two thirds
730 | (2/3rds) vote of the ~~council governing body~~. The vote on any such
731 | suspension shall be included in the record.
732 |

- 733 | **10.2 Amendment of These Rules:** These rules may be amended, or new rules
734 | adopted, by a majority vote of ~~all members of the council governing body~~,
735 | provided that the proposed amendments or new rules shall have been
736 | considered at a ~~council governing body~~ meeting.

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City of Topeka
Governing Body

Rules and Procedures

Adopted on _____

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79 **1. AUTHORITY**

- 80
- 81 **1.1 Charter:** TMC §A2-30 provides that the governing body may determine
- 82 its own rules of procedure for meetings. The following set of rules shall be
- 83 in effect upon their adoption by the governing body and until such time as
- 84 they are amended or new rules adopted in the manner provided by these
- 85 rules.
- 86

87 **2. GENERAL RULES**

- 88
- 89 **2.1 Meetings to be Public:** All meetings of the governing body shall be open
- 90 to the public, except for executive sessions as provided for by state
- 91 statute. Persons attending meetings shall turn off or mute any device or
- 92 instrument capable of emitting an audible sound or tone before entering
- 93 the meeting room.
- 94

- 95 **2.2 Quorum:** Six members of the governing body shall constitute a quorum
- 96 and be necessary for the transaction of business
- 97

- 98 **2.3 Record of Proceedings:** An account of all proceedings of the governing
- 99 body shall be kept by the city clerk and shall constitute the official record.
- 100

- 101 **2.4 Right of Floor:** Any member desiring to speak shall be recognized by the
- 102 meeting chair, and shall confine his or her remarks to the subject under
- 103 consideration or the one to be considered.
- 104

- 105 **2.5 Duties of City Manager Relative to Governing Body:**
- 106

- 107 (a) The members of the governing body and the city manager shall
- 108 observe scrupulously the relationship and the respective authorities
- 109 and responsibilities of each as provided by the statutes, city
- 110 ordinances, governing body rules or procedure and the ethics of
- 111 good conduct. Generally speaking, the governing body shall act as
- 112 a policy-making body only except as specifically provided otherwise
- 113 by statute and the city manager shall act as the administrative head
- 114 of the city. The governing body shall delegate to the city manager
- 115 all administrative duties not specifically required by statute to be
- 116 performed by the governing body. No member of the governing
- 117 body shall interfere directly with the conduct of any municipal
- 118 department. All instructions or direction to the city manager shall
- 119 come from the governing body after approval of a majority (six) of
- 120 the members. The city manager shall disregard any other
- 121 instructions or directions and shall refer them to the governing body
- 122 as a whole. Requests for routine information may be made to the
- 123 city manager, department heads or their designees by individual
- 124 councilmembers or the mayor, but all requests for lengthy or

125 detailed reports shall be made only to the city manager. Except for
126 the assistant to the Council, no instructions or directions shall be
127 given by any member of the governing body to department heads
128 or to other city employees who shall refer such instructions
129 immediately to the city manager, who, in turn, shall bring such
130 improper actions to the attention of the governing body for such
131 action as may be appropriate in each individual case.
132 Notwithstanding this subsection (a), when the city manager
133 delegates a specific task to a particular staff member(s), including
134 staffing a committee, direct communication may occur between
135 council members and that staff member(s).
136

- 137 (b) The city manager shall act as the administrative head of the city
138 and in such capacity shall direct the affairs of the city within the
139 limits of the budget, the policies established by the governing body
140 and the requirements of the statutes. The city manager or a
141 designee shall attend all meetings of the governing body unless
142 excused by a majority of the governing body. The city manager
143 shall prepare and submit the annual budget to the governing body,
144 shall keep the governing body advised as to the financial condition
145 and requirements of the city and shall make recommendations on
146 all matters concerning the welfare of the city. The city manager
147 shall have no vote in the public meetings of the governing body and
148 shall refrain from attempting to establish policy except to make
149 recommendations to the governing body. The city manager shall
150 observe the highest standard of ethics of the city manager
151 profession. The city manager shall consult with the governing body
152 on matters pertaining to the affairs of the city.
153

154 **2.6 Duties of City Attorney Relative to the Governing Body:**

155

- 156 (a) The city attorney or a designee shall attend all meetings of the
157 governing body. He or she shall draft or cause to be drafted all
158 ordinances, resolutions, contracts, releases, agreements and other
159 instruments pertaining to legal actions of the city which shall have
160 been approved as to form and legality by the city attorney or a
161 designee before presentation to the governing body. When
162 requested by any member of the governing body, the city attorney
163 shall furnish an opinion, either written or oral as may be appropriate
164 in each case, concerning parliamentary rulings, interpretations of
165 governing body rules of procedure and opinions as to legality of
166 matters under consideration. The city attorney is the chief legal
167 advisor to the city through its governing body, as a whole, as well
168 as the city manager; but not individual residents or individual
169 governing body members.
170

- (b) The city attorney shall be the parliamentarian for the governing body, and shall provide advice and counsel to the meeting chair on all interpretations of the rules and procedures for the conduct of meetings. However, the meeting chair shall rule on all such matters, as provided by Rule 4.4.

2.7 Duties of City Clerk Relative to Governing Body: The City Clerk or a designated representative shall attend all meetings of the governing body and shall keep the official record (minutes) and perform such other duties as may be requested.

2.8 Officers and Employees:

- (a) Notwithstanding TMC A2-54, which gives the city manager the power to appoint, discipline and remove any employee in accordance with City personnel policies, the mayor and council members may provide input to the city manager regarding the employment and evaluation of the assistant to the mayor and assistant to the council, respectively.

- (b) When there is pertinent business from their departments on the agenda, department heads or their designees shall attend such meetings upon request of the city manager.

2.9 Rules of Order: "Roberts Rules of Order Revised" shall govern the proceedings of the governing body in all cases, unless they are in conflict with these rules.

2.10 Television Coverage: Except as otherwise provided herein, the public portions of governing body meetings shall be televised live, subject to budget constraints or technical difficulties.

2.11 Seating During Meetings: The council shall be seated in council district order for meetings pursuant to TMC § 2.15.020.

3. TYPES OF MEETINGS

3.1 Governing Body Meetings: The governing body shall meet in the council chambers for meetings pursuant to TMC § 2.15.020.

3.2 Special Governing Body Meetings: Special meetings may be called by the city manager, mayor or by four (4) or more members of the council. The call for a special meeting shall be submitted to the city clerk, except an announcement of a special meeting during any meeting at which a quorum of members are present shall be sufficient notice of such special meeting. The call for a special meeting shall specify the day, the hour,

and the location of the special meeting and shall list the subject or subjects to be considered. Only such business may be transacted at a special meeting as may be listed in the notice. Except for emergencies, the city clerk shall provide documented notice of a special meeting to the city manager, the entire governing body, and shall post the notice on the City's web site at least 24 hours prior to the meeting date.

3.3 Committee Meetings: Committee meetings may be held pursuant to Rule 8.

3.4 Attendance of Media at Meetings: All meetings of the governing body and its committees shall be open to the media, freely subject to recording by radio, television, and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.

4. CHAIR AND DUTIES

4.1 Chair: The mayor, if present, shall preside as chair at all meetings of the governing body. In the absence of the mayor, the deputy mayor shall preside. In the absence of both the mayor and deputy mayor, the city clerk shall preside until a chair is elected.

4.2 Call to Order: The meetings of the governing body shall be called to order by the mayor or, in the mayor's absence, by the deputy mayor. In the absence of both the mayor and the deputy mayor, the meeting shall be called to order by the city clerk for the election of a temporary chair.

4.3 Preservation of Order: The chair shall preserve order and decorum, prevent attacks on personalities or the impugning of member's motives, and confine members in debate to the question under discussion. The following will not be tolerated: uttering fighting words, slander, speeches invasive of the privacy of individuals, unreasonably loud or repetitious speech, and speeches so disruptive of proceedings that the legislative process is substantially interrupted. Any governing body member engaging in any of these will be warned once by the chair and if the behavior continues, the governing body member will be ordered to leave the council chambers and that order shall be effective after a two thirds affirmative vote of the members present. If necessary, the governing body member will be escorted from the chambers if such member persists in interfering with the ability of the governing body to reasonably carry out its functions.

4.4 Point of Order: The chair shall determine all points of order, subject to the right of any member to appeal to the council. If any appeal is taken, the question shall be, "Shall the decision of the chair be sustained?"

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- 4.5 **Questions to be Stated:** The chair shall state all questions submitted for a vote and announce the result.

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5. **GOVERNING BODY MEETING AGENDAS**

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- 5.1 **Preparation and Circulation:** The city manager shall create an agenda for governing body meetings. Each Thursday, the city clerk shall make available the agendas for the next two consecutive meetings and, absent technical difficulties, post the agendas to the City's website.

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- 5.2 **Addition and Removal of Items from the Agenda:** Notwithstanding section 5.1, items may be added to the agenda pursuant to TMC 2.15.040, which requires an explanation for the necessity of adding the item and a majority vote of the governing body to add the item. The city manager may remove any item from the agenda if the item is not ready for consideration unless the governing body has taken action to defer the item to a date certain or the item has been considered by a committee pursuant to Council Rule 8.5(b).

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- 5.3 **Agenda Contents:** Each agenda shall include the following:

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- Call to order.
 - Invocation.
 - Pledge of allegiance.
 - Mayoral Proclamations.
 - Presentations. Presentations include staff reports.
 - Roll Call.
 - Appointments. Appointments made by the Mayor to boards and commissions will be confirmed collectively by the Council. Any appointment may be considered separately by request of a council member, in which event the item will be moved to Action items.
 - Consent agenda. The consent agenda is comprised of routine matters to be approved collectively (e.g. meeting minutes, license applications, claims). Any item may be considered separately by request of a governing body member or the city manager, in which event the item will be moved to Action items.
 - Action items. Action items include matters where the Council or governing body, as appropriate, takes action. (e.g. ordinances, resolutions).
 - Non-action items. Non-action items include discussions, public hearings, and any other items not requiring action.
 - Announcements. The city manager, mayor, and council members may offer comments regarding City business and/or bring to the attention of the public upcoming events of interest. The Clerk shall briefly

summarize items that are on the agenda for the next scheduled governing body meeting.

- Public comment.
- Adjournment.

5.4 Planning Department Agenda Items: Public hearings on zoning matters shall be conducted by the Planning Commission in accordance with state law. No additional public hearings shall be held by the governing body.

5.5 Public Comment:

- (a) General public comment: Requests by members of the public to speak during the public comment portion of the meeting will be placed on the agenda on a "first-come, first-served" basis. The request should state the name of the individual(s) desiring to be heard. Comments pertaining to personnel and litigation matters shall not be allowed. Further, public comment shall be limited to topics directly relevant to business of the governing body. Rules of decorum as provided in these rules will be observed.
- (b) Public comment on an agenda item: Members of the public may comment concerning a specific agenda item at the time the item is considered. Persons will be limited to addressing the governing body one (1) time on a particular matter unless otherwise allowed by an affirmative vote of six (6) members of the governing body.
- (c) Members of the public desiring to comment must notify the City Clerk by 5:00 p.m. on the day of the governing body meeting or sign up at the meeting before 6p.m. Members of the public will be limited to four (4) minutes unless the governing body, by majority vote, extends the limitation. Debate, question/answer dialogue or discussion with governing body members will not be counted towards the four (4) minute time limitation. The requirement to notify the City Clerk will not apply to public hearings required by any state or federal law.

5.6 Adjournment: Adjournment shall occur no later than the hour of 10:00 p.m. or as shall be announced by the chair at the conclusion of business. Meetings may be continued beyond the hour of 10:00 p.m. only when approved by a majority of members present.

6. RULES OF ORDER

6.1 Governing Procedure: "Roberts Rules of Order Revised" shall govern the proceedings, except as provided below and unless they are in conflict with these rules.

354
355 **6.2 Motions:** Generally speaking, actions shall be indicated by a vote of the
356 members present at each meeting after motions have been made and
357 seconded. Except as otherwise provided by ordinance, statute or these
358 rules, the following rules shall apply to motions:
359

360 (a) *"To Defer"*. Consideration of any ordinance, resolution or other
361 matter on a meeting agenda may be deferred for up to six (6)
362 months. The deferral date may be amended by the approval of a
363 motion establishing a new date for consideration of the item. The
364 new date for consideration shall be no sooner than the next
365 governing body meeting following approval of the motion.
366

367 (b) *"To Refer"*. Such action shall be appropriate in connection with
368 investigation and report (e.g. refer a matter to a committee).
369

370 (c) *"To Strike"*. This motion may be used to remove an item from the
371 agenda without prejudice to said item so that it may be returned to
372 the agenda at any later date in accordance with established
373 procedure.
374

375 (d) *To Dispose of a Matter with Affirmative or Negative Action*. In order
376 to dispose of a matter with affirmative or negative action, the
377 following motions shall be in order:
378

379 (1) "To approve" a specific recommendation or proposal.
380

381 (2) "To disapprove" a specific recommendation or proposal.
382

383 (3) "To request" a specific action.
384

385 (4) "To direct" a specific action.
386

387 (e) *To Amend a Motion*. The purpose of a motion to amend is to retain
388 the original motion but with a few changes accomplished by
389 deleting or adding verbiage. A motion shall be amended only
390 once before a vote has been taken. Treatment of amendments will
391 depend upon timing. More specifically:
392

393 (1) After a motion has been made and seconded, but before the
394 Chair states the motion – any suggested modifications will
395 require the consent of the two individuals who made and
396 seconded the motion.
397

(2) After the Chair states the motion – members of the governing body may propose amendments without such consent.

(f) *To Substitute a Motion.* The purpose of a substitute motion is to offer a different approach to the subject matter. It is different from a motion to amend because a motion to amend seeks to retain the original motion with a few changes (usually accomplished by deleting or adding verbiage). Substitute motions cannot be used for purposes of confusing the issue and cannot be contrary to the original motion.

A motion "to substitute" shall be in order providing that the substitute motion shall be made immediately after the original motion has been made and seconded and before a vote has been taken. Substitute motions shall be made only once and shall be debatable providing the original motion was a debatable motion.

(g) *To Reconsider a Motion/Item.* Except as provided below, an item previously acted upon may not be reconsidered until six (6) months has elapsed since the previous action. This limitation shall apply to any matter upon which a vote was taken, including the consideration of ordinances or resolutions which repeal, in their entirety, previously adopted ordinances or resolutions. These limitations on reconsideration shall not apply to the following:

(1) A motion to reconsider the matter that is adopted during the same meeting as the initial action.

(2) Reconsideration is needed to correct a typographical or legal error in the original item, or if the new item amends or differs in a substantive manner from the previously adopted or considered item.

(3) Reconsideration is otherwise allowed by statute or law.

(h) *To Suspend a Rule.* In order to temporarily suspend any particular rule for a particular purpose not contrary to statute or city ordinance, a motion "to suspend" a rule shall be in order. Suspension of a rule shall be approved by a two thirds (2/3rds) majority of the governing body, shall take effect for the particular rule in question and shall not be considered as a permanent suspension of a rule.

(i) *To Adjourn a Meeting.* When it appears that there is not further business, the chair may adjourn the meeting. Alternatively, a

444 motion "to adjourn" shall be in order providing such motion is made
445 at the ordinary or usual conclusion of business on the agenda and
446 providing that motions to adjourn shall not be used to embarrass, to
447 harass, to foreclose discussion and debate, or for any other
448 purpose other than the orderly termination of proceedings at such
449 times as may be appropriate in each particular meeting.
450

- 451 (j) *Calling the Question.* A call for the question, if seconded, shall
452 immediately end all debate and discussion, and if passed by two
453 thirds (2/3rds) vote, the current motion must be voted on without
454 delay; provided however, that the call of the question shall not be
455 implemented until all members of the governing body have had an
456 opportunity to speak to the current motion. After the formal vote
457 has been taken, all further discussion of the matter shall cease
458 unless appropriate affirmative action follows to place the matter
459 again for reconsideration.
460

461 **7. ORDINANCES AND RESOLUTIONS**

462 **7.1 Preparation of Ordinances and Resolutions:**

- 463
464
465 (a) Ordinances and resolutions shall be prepared by the city attorney
466 or designee upon request by the city manager. In keeping with
467 TMC Section A2-28(c) which prohibits governing body members
468 from giving orders to staff, any requests by members of the
469 governing body for preparation of ordinances or resolutions shall be
470 directed to the city manager.
471
472 (b) All ordinances and resolutions shall address fiscal impacts, if any,
473 and identify funding sources.
474

475 **7.2 Consideration of Ordinances and Resolutions:**

- 476
477 (a) Recording of Votes. All votes shall be reported in the minutes.
478
479 (b) Manner of Voting. When any vote is called, each member shall
480 indicate the member's vote by utilizing a device that displays the
481 vote or abstention. No member shall vote in absentia. A member
482 must be physically present at the time a vote is called in order for
483 the member to vote.
484
485 (c) Notice. No action shall be taken on any ordinance or resolution
486 unless the item has been provided to the governing body at least
487 five days prior to a meeting. This restriction shall not apply to
488 ordinances or resolutions that (1) have no administrative impact;
489 and (2) no fiscal impact greater than \$5,000.00.

490
491 **7.3 Numbering Ordinances and Resolutions:** Upon passage, a number
492 shall be assigned to each ordinance or resolution by the city clerk.
493

494 **8. COMMITTEES**
495

496 **8.1 Purpose:** The orderly and timely transactions of the city government shall
497 be better served by having in place a committee framework whereby
498 resolution of certain issues may be developed prior to consideration by the
499 governing body. The committee framework shall include the use of
500 standing committees and special committees.
501

502 **8.2 Standing Committees:**
503

504 (a) The governing body shall have the following four (4) standing
505 committees, each comprised of three (3) members of the council:
506

- 507 • Policy and Finance.
- 508 • Economic and Community Development.
- 509 • Public Health and Safety.
- 510 • Transient Guest Tax.
- 511

512 (b) Appointment. The deputy mayor shall appoint the members to
513 each standing committee referenced in subsection (a) above.
514 Appointments shall be made by the first meeting in February. Each
515 councilmember shall fill out a committee preference list for a
516 standing committee and the deputy mayor shall make every effort
517 to appoint councilmembers to the committee of their choice.
518

519 (c) Term. Councilmembers who are appointed to any standing
520 committee referenced in subsection (a) above shall serve on their
521 assigned committees for a one (1) year term. Councilmembers
522 who wish to change committee assignments may do so with
523 permission from the deputy mayor. Each standing committee shall
524 elect the chair from among its members.
525

526 **8.3 Special Committees:**
527

528 (a) Special committees may be established when there is an issue that
529 needs special focus and would be better handled outside standing
530 committees. Special committees may be created by a majority vote
531 of the governing body. Any proposition addressed to the
532 establishment of a special committee must state tasks and the time
533 period in which the committee should complete its assignment.
534

- 535 (b) The deputy mayor shall appoint the members of any special
536 committee. The chair shall be designated by committee members.
537

538 **8.4 Duties and Powers of Committees:**
539

- 540 (a) It shall be the duty of the committees to act promptly and faithfully
541 in all matters referred to them. This does not preclude standing
542 committees from considering other matters within the scope of their
543 duties.
544
545 (b) All committees shall have the power to hold hearings and request
546 production of records relating to any subject within its jurisdiction.
547 Standing committees may appoint subcommittees from their
548 committee membership.
549

550 **8.5 Procedure for Committee Items:**
551

- 552 (a) Reference to Committee; Initiation by Committee.
553
554 (1) Any item may be referred to a committee by a majority vote
555 of the governing body.
556
557 (2) The examination of any subject can be initiated by a
558 committee chair or by majority vote of the committee.
559
560 (b) Referred Item Action Deadline. Each item referred to a committee
561 shall remain in that committee until the committee shall act upon it
562 as provided for in subsection (c) or until passage of ninety (90)
563 calendar days, whichever occurs first. The item shall thereafter be
564 placed on an agenda for action or for purposes of providing the
565 committee chair the opportunity to provide an update regarding the
566 committee's progress.
567
568 (c) Committee Action. A committee may take any of the following
569 actions:
570
571 (1) Recommend approval of the item.
572
573 (2) Recommend approval, with amendments.
574
575 (3) Recommend that the item not be approved.
576
577 (4) Make no recommendation (no second means no
578 recommendation).
579
580 (d) Placement on Governing Body Meeting Agenda.

(1) An item *referred to* and considered by a committee pursuant to section 8.5(a)(1) shall be placed on a governing body agenda and the chairperson or designee shall report to the governing body.

(2) An item *initiated* and considered by a committee pursuant to section 8.5(a)(2) may be placed on a governing body agenda and the chairperson or designee may report to the governing body..

8.6 Quorum: In order to meet and take action, a majority of the committee members must be present.

8.7 Alternate Members of Committees: If a member of a committee cannot be present at a meeting, an alternate council member may be appointed to serve at that meeting, with full voting rights. The alternate shall be appointed by one of the following individuals, listed in order of priority:

(a) The absent committee member.

(b) The committee chair.

(c) The deputy mayor.

8.8 Committee Meeting Times: Each committee shall meet as needed. Meetings may be called by the committee chair or by action of the committee. The city manager shall be notified of committee meetings at least twenty-four (24) hours in advance of any meeting. Any request for resource staff will be included in the notification. Council staff shall notify the city clerk of the time, place, and agenda at least twenty-four (24) hours in advance of the meeting. The city clerk shall post the notification to the city web site upon notification by Council staff.

8.9 Agenda Preparation: The chair shall be responsible for establishing the agenda for each committee meeting. Members desiring an item to be placed on the agenda should contact the chair directly or through the council staff.

8.10 Minutes: Minutes shall be kept of each meeting. Minutes are defined as an overview of the proceedings, to include those in attendance, a brief summary of the issues discussed and a record of the action(s) taken (including the result of any vote(s) taken). Minutes shall be reviewed and approved by the committee at a subsequent meeting. However, in the event that the committee will not meet within the next thirty (30) days, the chairperson may approve the minutes if there are no objections or

changes from other committee members. In the event of objections or changes, the committee shall meet to discuss and take action.

8.11 Public Comment: Public comment may be allowed on any matter on a committee agenda, at the discretion of the chairperson. All rules of decorum and conduct for comment established by these Rules and Procedures shall be applicable to public speakers.

8.12 Committee Expenses: No committee shall incur any expense without having been authorized by a vote of a majority of the governing body.

8.13 Rules: These Rules and Procedures shall apply to committees unless inconsistent with this section.

8.14 Television Coverage: Except as otherwise provided, the public portions of any committee meeting shall be televised, subject to budget constraints or technical difficulties.

9. CITIZEN INPUT

9.1 Manner of Addressing the Governing Body: Each person shall step up to the microphone and shall state his or her name in an audible tone or voice for the record. All remarks shall be addressed to the governing body and not to any member thereof. No person, other than members of the governing body and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members. Any questions asked by the person having the floor or by members shall be allowed at the sole discretion of the meeting chair.

9.2 Personal and Slanderous Remarks: The following will not be tolerated: uttering fighting words, slander, speeches invasive of the privacy of individuals, unreasonably loud or repetitious speech, or speeches so disruptive of proceedings that the legislative process is substantially interrupted. Any individual engaging in this type of behavior will be warned once by the chair and if the behavior continues, the speaker will be ordered to leave the podium. If necessary, the speaker will be escorted to a seat in the council chambers, or escorted from the chambers if such person persists in interfering with the ability of the governing body to reasonably carry out its functions.

9.3 Communication with the Governing Body: Nothing in these Rules and Procedures shall be construed to limit a person's ability to contact members of the governing body.

674 **10. SUSPENSION AND AMENDMENT OF RULES**
675

676 **10.1 Suspension of These Rules:** Any provision of these rules not governed
677 by the city charter or city code may be temporarily suspended by a two
678 thirds (2/3rds) vote of the governing body. The vote on any such
679 suspension shall be included in the record.
680

681 **10.2 Amendment of These Rules:** These rules may be amended, or new
682 rules adopted, by a majority vote of the governing body, provided that the
683 proposed amendments or new rules shall have been considered at a
684 governing body meeting.
685

Positive. The current \$13 hourly rate would be changed to reflect the hourly rate of the staff member engaged in the record search and production. The current \$0.25 per page for black and white copies would be retained but the city clerk would develop a fee schedule for production of records in other formats that would compensate the City's expense.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Ordinance

PF Committee Report

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by Interim City Manager Doug Gerber, concerning fees and procedures for record requests, amending City of Topeka Code § 2.20.090, § 2.20.110 and § 2.20.120 and specifically repealing said original sections.

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

Section 1. That section 2.20.090, Requests to be directed to custodian, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Requests to be directed to custodian.

(a) ~~All members of the public, in seeking~~As the official custodian of city records, the city clerk shall receive and coordinate all requests for access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, ~~shall address their written requests to the city clerk.~~

(b) ~~Requesters of records may submit a w~~Written requests submitted to any other city office; ~~however, all record requests shall be referred~~forwarded to the office of the city clerk for timely and proper processing.

(c) ~~Whenever any city officer or employee is presented with a written request for access to, or a copy of, a public record which is not in his or her possession and for which he or she has not been given responsibility to keep and maintain, the officer or employee shall so advise the person requesting the record. Further, the person making the request shall be advised to direct the request to the city clerk.~~

Section 2. That section 2.20.110, Inspection fee, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

30 **Inspection and search fee.**

31 (a) Where a request has been made for inspection of any open public record
32 which is readily available to the record custodian, there will be no inspection fee
33 charged to the requester.

34 (b) In all cases not covered by subsection (a) of this section, a record
35 inspection fee may be charged at ~~the rate of \$13.00a~~ per hour per rate determined by
36 the records custodian comparatively based on the hourly rate of the employee engaged
37 in the record search and production. ~~A minimum charge of \$6.00 may be charged for~~
38 ~~each such request.~~

39 Section 3. That section 2.20.120, Copying fee, of The Code of the City of
40 Topeka, Kansas, is hereby amended to read as follows:

41 **2.20.120 Copying and other fees.**

42 A fee of \$0.25 per page may be charged for ~~photocopying~~ black and white
43 photocopies of public records, such fee to cover the cost of labor, materials and
44 equipment. The records custodian may establish a fee schedule for production of
45 records in other formats, such as color copies or records provided electronically. The
46 records custodian may set flat fees for certain types of records. Additional fees,
47 including any other costs incurred by the agency in connection with complying with a
48 record request (e.g. mailing costs), may be assessed to the requestor.

49 Section 4. That original § 2.20.090, § 2.20.110 and § 2.20.120 of The Code of
50 the City of Topeka, Kansas, are hereby specifically repealed.

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

Section 6. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 7. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the City Council on _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

COMMITTEE REFERRAL SHEET

COMMITTEE REPORT

Name of Committee: Policy and Finance

Referred by City Council at Council meeting: March 17, 2015

Date referred from Committee: November 18, 2016

Title: AN ORDINANCE introduced by City Manager Jim Colson, concerning open record request fees, amending City of Topeka Code § 2.20.110 and § 2.20.120 and specifically repealing said original sections.

Committee Action: Councilmember Tony Emerson moved to include a discussion of free police reports in the committee report. Councilmember Richard Harmon seconded the motion. Motion passed 3-0.

Councilmember Richard Harmon moved to recommend to the Governing Body to adopt the proposed Records Fee Ordinance. Councilmember Tony Emerson seconded the motion. Motion passed 3-0.

Comments: The committee recommends that the Governing Body discuss the option of providing free police reports.

Amendments: See amended ordinance.

Members of Committee: Karen Hiller (Chair), Richard Harmon, Tony Emerson

Agenda Date Requested: 12/13/16 – Discussion
12/20/16 – Action



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE: December 20, 2016
CONTACT PERSON: Karen Hiller **DOCUMENT #:**
SECOND PARTY/SUBJECT: Legislative Agenda **PROJECT #:**
Process and Council
Chaplain
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: 12/13 Discussion. **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember Karen Hiller, rescinding obsolete resolutions concerning the legislative agenda process (Resolution No. 8044) and designating a chaplain for councilmembers (Resolution No. 7458).

(Approval would rescind resolutions imposing upon the deputy mayor the duty to initiate a legislative agenda and appoint a Council chaplain.)

POLICY ISSUE:

Whether to rescind obsolete resolutions.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

During the Policy and Finance Committee's study of the Council Rules, the duties of the deputy mayor were explored. Two resolutions impose upon the deputy mayor the duty to bring forward topics for a proposed legislative agenda to the Council (Resolution No. 8044 passed in 2008) and to appoint a chaplain to provide spiritual guidance to Council members. (Resolution No. 7458 passed in 2004).

In light of the city manager's role in facilitating the legislative agenda, the Committee decided that there was no need for the deputy mayor to initiate the process. The Committee members also believed that appointment of a Council chaplain was unnecessary.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Resolution

Resolution No. 7458

Resolution No. 8044

1 RESOLUTION NO. _____

2
3 A RESOLUTION introduced by Councilmember Karen Hiller, rescinding obsolete
4 resolutions concerning the legislative agenda process (Resolution
5 No. 8044) and designating a chaplain for councilmembers
6 (Resolution No. 7458).
7

8 WHEREAS, a recent overview of the Council Rules and Procedures required the
9 Policy and Finance Committee to conduct a review of the various resolutions established
10 to set policies for the governing body; and

11 WHEREAS, Resolution No. 8044 is no longer necessary because the City Manager
12 is responsible for bringing a proposed Legislative Agenda to the governing body; and

13 WHEREAS, Resolution No. 7458 is no longer necessary because each governing
14 body member can rely upon his or her own spiritual counselor to provide guidance, if and
15 as needed.

16 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
17 CITY OF TOPEKA, KANSAS, that City of Topeka Resolution Nos. 8044 and 7458 are
18 hereby rescinded.

19 ADOPTED and APPROVED by the Governing Body on _____.

20 CITY OF TOPEKA, KANSAS
21
22
23

24 _____
25 Larry E. Wolgast, Mayor
26

27 ATTEST:
28
29
30

31 _____
32 Brenda Younger, City Clerk

RESOLUTION NO. 7458

A RESOLUTION introduced by Councilmember Lisa Stubbs relating to the establishment of an unpaid volunteer position of Chaplain to the City Council.

WHEREAS, it is a chaplain's role to provide non-denominational, support as well as crisis intervention, counseling, and guidance to those in need; and

WHEREAS, workplace stress is at its highest level in decades. Chaplaincy provides privileged communication which is helpful in seeking clarity in tense situations; and

WHEREAS, providing a chaplain to assist the City Council through stressful times is one more resource the City can utilize to reach out with concern to its employees.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that an unpaid volunteer position of Chaplain to the City Council be established to provide the following services:

1. Participate in Council work sessions as least once a month to become familiar with the issues.
2. Visit City Council office every other week to check in on and be available for consultation with the City Council.
3. Provide intervention in times of crisis for the City Council.
4. Share his/her point of view in private consultation.

BE IT FURTHER RESOLVED that any type of public advocacy on the part of the chaplain relating to issues before the City Council shall be prohibited.

27 BE IT FURTHER RESOLVED that the Chaplain shall be appointed by the Deputy
28 Mayor on May 1 of each year.

29 ADOPTED and APPROVED by the City Council APR 20 2004



36
37
38
39
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41
42
43

James A. McClinton
James A. McClinton, Mayor

ATTEST:

Iris E. Walker
Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY	
DATE <u>4/23/04</u>	BY <u>[Signature]</u>

1
2
3 **RESOLUTION NO. 8044**

4 A RESOLUTION introduced by Councilmember Jack Woelfel establishing a schedule
5 for the annual adoption of a legislative agenda.

6 WHEREAS, the Kansas legislature, from time to time, considers legislation that
7 could impact the City of Topeka; and

8 WHEREAS, the City Council desires to inform the legislature of the Council's
9 support or opposition to such legislation; and

10 WHEREAS, the City has engaged the services of a professional lobbyist to assist
11 the City in communicating to the legislature the Council's position on legislation; and

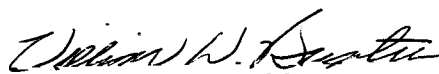
12 WHEREAS, it is necessary for the City Council to establish a legislative agenda and
13 to provide that agenda to City's lobbyist in a timely fashion.

14 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
15 TOPEKA, KANSAS, that the Deputy Mayor shall by October 1 of each year provide the
16 City Council a list of possible topics for a legislative agenda.

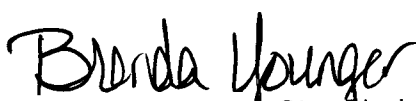
17 BE IT FURTHER RESOLVED that the City Council shall by November 15 of each
18 year adopt a resolution establishing a legislative agenda for the next session of the Kansas
19 legislature.

20 ADOPTED and APPROVED by the City Council March 25, 2008

21 CITY OF TOPEKA, KANSAS

22
23
24 
25 William W. Bunten, Mayor

26 ATTEST:

27
28 
29 Brenda Younger, City Clerk
30





City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE:	December 20, 2016	
CONTACT PERSON:	Karen Hiller	DOCUMENT #:
SECOND PARTY/SUBJECT:		PROJECT #:
CATEGORY/SUBCATEGORY	020 Resolutions / 005 Miscellaneous	
CIP PROJECT:	No	
ACTION OF COUNCIL:	12/13 Discussion	JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmembers Karen Hiller, Richard Harmon and Tony Emerson regarding Council attendance at events and/or training and rescinding Resolution No. 6795.

(Approval would allocate a portion of the Council training budget to each Councilmember to attend an event or training and require the Councilmember to provide a written or verbal report to the governing body.)

POLICY ISSUE:

Whether to allocate a portion of the Council's training budget to individual Councilmembers to attend events and/or training and require the Council member to report at a subsequent governing body meeting.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

Consideration of Councilmember attendance at events and/or training was initiated and considered by the Policy & Finance Committee over the summer and fall.

The current Resolution No. 6795, passed in 1997, provides that not more than 10% of the travel budget can be expended by a Councilmember for 'out of state travel' and that Councilmembers must 'file a written report' with the City Clerk who then is charged with providing a copy to the other Councilmembers.

The proposed Resolution would address attendance at any event or training opportunity regardless of its location. Moreover, it would allow a Councilmember to reallocate his/her allocation to another Councilmember. The requirement of a report to the governing body would be retained. However, it could be provided verbally or in writing.

BUDGETARY IMPACT:

Training budget approved by governing body

SOURCE OF FUNDING:

Council training budget

ATTACHMENTS:

Description

Resolution

Resolution No. 6795

RESOLUTION NO. _____

A RESOLUTION introduced by the members of the Policy and Finance Committee regarding Council attendance at events and/or training and rescinding Resolution No. 6795.

WHEREAS, the City of Topeka Governing Body acknowledges that it may be a benefit to the City for members of the Council to attend events and/or training from time to time; and

WHEREAS, the Governing Body further realizes that events and/or training may be costly and therefore should be justified as a good investment for the citizens of Topeka.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body that it hereby adopts the following policies for events and/or training attended by councilmembers:

1. Each councilmember may utilize, annually, 1/9 of the Council training budget. A councilmember's allocation may be reallocated by the councilmember to another councilmember.

2. Members attending events and/or training at City expense shall provide a written or verbal report to the governing body at a subsequent governing body meeting and provide additional information upon request.

BE IT FURTHER RESOLVED that Resolution No. 6795 is hereby rescinded.

ADOPTED and APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

Larry E. Wolgast, Mayor

ATTEST:

Brenda Younger, City Clerk

RES/Council Training 12/5/16

RESOLUTION NO. 6795

A RESOLUTION introduced by the Policy Committee which addresses Council out-of-state travel, rescinding Resolution No. 6157.

WHEREAS, the Council of the City of Topeka realizes that it may be necessary for members of the Council to travel out of State from time to time; and

WHEREAS, the Council of the City of Topeka further realizes that out of State travel is costly.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that it hereby adopts the following policies to govern out of state travel by Council members:

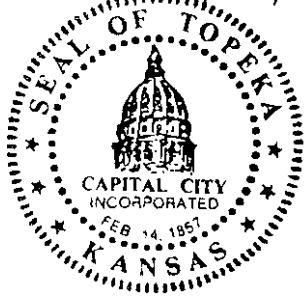
1. Not more than ten percent (10%) of the travel budget shall be expended by any one council member on an annual basis; and provided further, no other city funding source shall be used for this purpose.

2. Members traveling out of state at City expense shall file a written report of their activities with the City Clerk who shall provide a copy of said report to each member of the City Council.

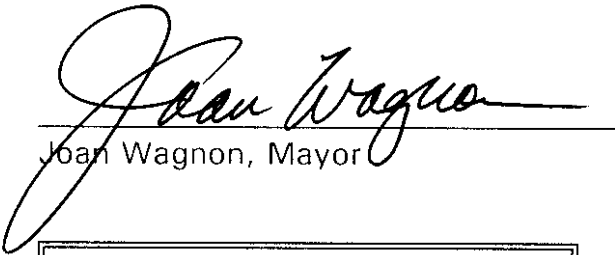
BE IT FURTHER RESOLVED that Resolution No. 6157 is hereby rescinded.

ADOPTED and APPROVED by City Council AUG 26 1997.

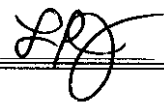
ATTEST:



Iris E. Walker, City Clerk


Joan Wagnon, Mayor

APPROVED AS TO FORM AND LEGALITY

DATE 8/15/97 BY 



WHITNEY B. DAMRON, P.A.

919 South Kansas Avenue
Topeka, Kansas 66612-1210
(785) 224-6666 - wbdamron@gmail.com

MEMORANDUM

TO: Interim City Manager Doug Gerber
Mayor Larry Wolgast
City Council

CITY OF TOPEKA

FROM: Whitney Damron
RE: Legislative Update
DATE: December 12, 2016

The 2017 legislative session is scheduled to begin on Monday, January 9. Since our presentation to the City on November 1 noting substantial changes from the 2016 primary election, we saw even more changes come about in the general election.

In 2017, we will have nearly 60 new legislators sworn into office. Most of the House and Senate leadership has changed hands and we will see a large number of committee chairs and committee assignments.

House and Senate leaders elected by their respective caucuses are:

Susan Wagle, R-Wichita	President of the Senate (current Senate President)
Jim Denning, R-Overland Park	Majority Leader
Jeff Longbine, R-Emporia	Vice President
Anthony Hensley, D-Topeka	Minority Leader (current Minority Leader)

Ron Rychman, R-Olathe
Don Hineman, R-Dighton
Scott Schwab, R-Olathe
Jim Ward, D-Wichita

Speaker of the House
Majority Floor Leader
Speaker Pro Tem
Minority Leader (defeated incumbent Leader)

Committee chair and membership should be announced by the end of the month and perhaps before Christmas.

Shawnee County Delegation Meeting.

On Tuesday, November 29, the Shawnee County Delegation met in the statehouse to hear from interested parties with issues and concerns likely to be considered during the 2017 legislative session. The City of Topeka was represented at that meeting by Mayor Wolgast, Interim City Manager Gerber as well as Kathy Damron and me.

Mayor Wolgast highlighted matters of primary interest to the City for 2017, which included continued support for legislation to give cities additional tools to deal with abandoned housing and collaborate efforts with the Greater Topeka Chamber and Visit Topeka to try to see the statehouse opened to the public for visitors and tours on weekends.

Of note, the meeting was convened by Senator Vicki Schmidt, who was serving as the Delegation Chair for the past year. Representative John Alcala was elected Delegation Chair for the next year during the meeting.

Abandoned Housing.

During the first week of December, I met with representatives of the League of Kansas Municipalities and the City of Wichita to discuss the abandoned housing issue. The representative for the Unified Government of WyCo/KC, KS was unable to participate, but they remain supportive.

At that meeting we reviewed the legislation from 2016 (SB 338) as well as amendments to the bill we provided to the Office of the Governor following its veto by Governor Brownback. It is generally agreed we should try to work from SB 338, so as to keep the stakeholders and interested parties either in support or neutral on the bill and we do not have to begin essentially anew if substantial redrafts were made.

Since that time, the Governor's office responded to our inquiries and indicated the governor would likely be more favorably inclined to support the issue of the opponents to the bill could be placated in the legislative process. The Governor's Office offered no suggestions for amendment. We intend to follow up with the cited opponents and will see if we can work out language that is acceptable or adequately explain what we see as the substantial property owner protections already contained in the bill.

I also had the opportunity to discuss the abandoned housing issue with Kansas Attorney General Derek Schmidt after we provided information on the issue to his office. We anticipate further discussions on the issue prior to the session.

Statehouse Days and Hours of Operation.

A number of parties have expressed interest in keeping the statehouse open and available for tours on weekends. In addition to the City of Topeka, interested parties include the Greater Topeka Chamber, Visit Topeka and the Kansas Historical Society.

The State has cited cost as the overriding factor for not keeping the statehouse open. A fiscal note generated by the State indicates the annual cost for keeping the statehouse open on weekends with tours would cost approximately \$367,000.00.

Upon review, the fiscal note seems highly inflated. However, before we can engage the State in a substantive discussion on the cost and ways to pay or mitigate the cost, we need to better understand what a proposal might be and how to cost it out. For example, hours of operation, hours of tours within the hours of operation, participatory financial support opportunities, etc.

The Shawnee County Delegation has asked for more information and we have provided some of what they have requested and the State has provided information as well. We anticipate substantive discussions on this issue in the next few weeks leading up to the 2017 session as well.

2017 Legislative Matters of General Interest.

- Amendments to Tax Lid Legislation (e.g., election timeline);
- Economic Development Proposals (e.g., STAR Bonds, TIF, CID, etc.);
- Local Control.
- Loss of State/Local Revenue Sharing; Unfunded Mandates.
- Firearm Policy; Municipal Buildings.

Major Issues likely to be Considered by 2017 Legislature:

- State Tax Policy (e.g., LCC Exemption, income tax reductions, etc.);
- School Finance;
- Expansion of Medicaid;
- Infrastructure Investment (e.g., lessening of reliance on KDOT funds to balance the budget).

WBD

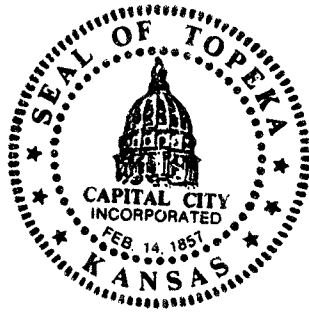
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NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS, that the following is hereby adopted as the City of Topeka's legislative agenda for the 2016 legislative session:

- RES/2016 Legislative Agenda 11/24/2015 1

26 4. Support the League of Kansas Municipalities 2016 municipal policy to the
27 extent said policy is consistent with the City's priorities and agenda.

28 ADOPTED and APPROVED by the Governing Body on December 8, 2015.



CITY OF TOPEKA, KANSAS

Larry E. Wolgast

Larry E. Wolgast, Mayor

35 ATTEST:

36
37
38
39

Brenda Younger

Brenda Younger, City Clerk



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
December 20, 2016

DATE: December 20, 2016
CONTACT PERSON: Sylvia Davis **DOCUMENT #:**
SECOND PARTY/SUBJECT: KDHE Consent Order - **PROJECT #:**
CSOs
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
 PAGE #:

DOCUMENT DESCRIPTION:

DISCUSSION for the purpose of providing a progress update on the City's compliance with a Kansas Department of Health and Environment Consent Order addressing reduction of Combined Sewer Overflows (CSOs) and updating the CSO Long Term Control Plan.

POLICY ISSUE:

Consent Order negotiated between the City and KDHE allowed the City to correct agreed upon deficiencies in the wastewater collection system and update the Long Term Control Plan in a manner that better contributes to the reduction of Combined Sewer Overflows (CSOs).

STAFF RECOMMENDATION:

Staff recommends work continues with consultant to develop phased approach to Long Term Control Plan implementation schedule and CIP development.

BACKGROUND:

On March 17, 2015, the City negotiated and executed a consent order with KDHE to update the City's Combined Sewer Overflow (CSO) Long Term Control Plan (LTCP) in order to 1) Comply with the April 19, 1994 United States Environmental Protection Agency (USEPA) CSO Control Policy; and the Clean Water Act; 2) Provides affordable solutions for the ratepayers of the City; and 3) Is a "living" document that may be modified in response to changing conditions and newly developed understandings.

BUDGETARY IMPACT:

\$6.5 million for the Eastside Interceptor project, Adams Street Interceptor Rehabilitation, and CSO No. 3 to Oakland Evaluation and Lining projects.

SOURCE OF FUNDING:

Utility Operating funds, Revenue Bonds, and/or Temporary Notes

ATTACHMENTS:

Description

Consent Order Agreement

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

IN THE MATTER OF:

CASE NO. 14-E-43 BOW

CITY OF TOPEKA
620 SE MADISON
TOPEKA, KANSAS 66607

KANSAS WATER POLLUTION CONTROL PERMIT NO. M-KS72-IO01
FEDERAL WATER POLLUTION CONTROL PERMIT NO. KS0042722

PROCEEDING UNDER K.S.A. 65-164(d)

CONSENT ORDER

PRELIMINARY STATEMENT

The parties hereto, the Kansas Department of Health and Environment (“KDHE”) and the City of Topeka, Kansas (“Permittee”) having agreed that settlement of this matter is in the best interests of both parties and conducive to protection of public health and the environment, hereby represent and state as follows:

The Secretary of KDHE (“Secretary”) and Permittee deem that the Findings of Fact and Conclusions of Law in this Consent Order (“CO”) are true and correct.

The Parties acknowledge that this CO, upon execution by the Secretary, shall be a final agency order. Permittee shall not contest the authority of the Secretary to issue this CO or any action by KDHE to enforce this CO. Permittee voluntarily and knowingly waives the right to an appeal or review of matters leading up to the execution of the CO under the Kansas Administrative Procedure Act (“KAPA”), K.S.A. 77-501, *et seq.* or the Kansas Judicial Review Act. K.S.A. 77-601, *et seq.* KAPA authorizes KDHE to enter into an informal settlement of this matter without the necessity of proceeding to a formal hearing. K.S.A. 77-505.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Permittee, a City of the First Class under Kansas statutes, with a mailing address of 620 Madison, Topeka, KS 66607, operates a wastewater treatment system, including the Oakland Wastewater Treatment Plant, under general authority of KDHE-issued Kansas Water Pollution Control Permit Number M-KS72-IO01 (“Permit”).
2. KDHE re-issued the Permit to Permittee with an effective date of July 1, 2004 and an expiration date of December 31, 2008. The Permit has been administratively extended, and remains in effect to date.
3. The Permit, *Section G. Combined Sewer Overflow (CSO) Systems, Part 3. Long Term Plan*, requires the following:

Long Term Control Plan (LTCP)

- a. The Permittee shall proceed with implementation of the necessary improvements to expand the wet weather flow capacity of the Oakland Wastewater Treatment Plant to 100 MGD and implement the recommended improvements as identified in the Implementation Schedule (Section 9) of the Long-Term Control Plan dated January 2001.
- b. The Permittee shall submit an updated Long Term Control Plan to KDHE prior to September 1, 2006.
- c. Post Construction Compliance Monitoring Program. The Permittee shall implement the post construction monitoring program outlined in the LTCP (Section 10).

The City complied with the Permit and submitted an updated Long Term Control Plan within Section 6 of the document titled “City of Topeka, Kansas Collection System Facility Plan Update Regulatory Report” (dated May 2011).

4. The Permit and LTCP require the Permittee to implement construction at the Oakland Wastewater Treatment Plant, which includes the Plant’s collection system and the Permittee’s CSOs, to achieve the reduction of CSO outfalls and elimination of CSO discharges set out in the LTCP.
5. Based upon information provided to KDHE, the Permittee has reported continuing incidents of sewage overflows from combined sewer systems.
6. Within a letter dated October 31, 2014 (the “October 31, 2014 Letter”), Mr. Don Rankin, former Utilities Superintendent for the Permittee, wrote to KDHE, Bureau of Water, and provided a schedule to complete additional remaining tasks and projects to allow the collection system and the Oakland Wastewater Treatment Plant to operate consistent with the LTCP; and to reflect new understandings and developments regarding the CSO since the May 2011 LTCP. The letter indicates that completion of the tasks and projects is expected to contribute to the reduction of CSOs and also be affordable to the rate payers of Topeka.
7. KDHE is a duly authorized agency of the State of Kansas created by an act of the legislature.

The Secretary has general jurisdiction over matters involving the environment and the public health of the people of Kansas, K.S.A. 65-101 *et seq.*, including general jurisdiction of matters involving the discharge of sewage, K.S.A. 65-161 *et seq.*

8. Pursuant to K.S.A. 65-164 *et seq.*, any person discharging wastewater or planning to discharge wastewater to waters of the State is required to obtain a KDHE-issued permit for such discharges. The Permit provides information about the permitted facility, operating and record keeping requirements and other conditions required pursuant to

Kansas statutes and regulations. Requirements of the Permit are enforceable under the authority of the Secretary (K.S.A. 65-101 and 65-164 *et seq.*) and the KDHE Director of the Division of Environment (K.S.A. 65-170 *et seq.*).

9. K.S.A. 65-164(d) states in pertinent part:

If the secretary of health and environment finds that any of the waters of the state have been or are being polluted in a manner prejudicial to the health of any of the inhabitants of the state, the secretary of health and environment shall have the authority to make an order requiring: (1) Such pollution to cease within a reasonable time; (2) requiring such manner of treatment or of disposition of sewage or other polluting material as, in the secretary's judgment, is necessary to prevent the future pollution of such waters; or (3) both. It shall be the duty of the person, company, corporation, institution, or municipality to whom such order is directed to fully comply with the order of the secretary of health and environment.

10. Based upon the above Findings of Fact and Conclusions of Law, the Secretary finds that the Permittee has discharged untreated combined sewage from the collection system in violation of the Permit. The improvements proposed in Table 1 and Table 2 are designed to reduce/eliminate these discharges.

PARTIES BOUND

11. This CO shall apply to and be binding upon the Parties, their agents, successors, and assigns. The Parties agree to undertake all actions required of them by the terms and conditions of this CO.
12. Notwithstanding the terms of any contract, the Permittee is responsible for compliance with this CO and for insuring that its contractors and agents comply with this CO.
13. The activities conducted under this CO are subject to approval by KDHE. The Permittee shall provide all appropriate necessary information requested, in writing, by KDHE and consistent with this CO.

LIABILITY

14. Nothing in this CO shall be considered an admission of any fact or an acknowledgment of any liability by any party. Nothing herein shall be legally binding or have any effect on the position of the parties on any matter that may be included in any other agreements negotiated between them. Neither the State of Kansas, nor any agency thereof shall be held out as a party of any contract entered into by the Permittee in carrying out activities required pursuant to this CO.

TERMS AND CONDITIONS OF THE SETTLEMENT

15. Based upon the above-referenced Findings of Fact and Conclusions of Law and pursuant to the authority vested in the Secretary under the above referenced statutes,

the Secretary hereby orders the Permittee to comply with, and the Permittee hereby agrees to comply with, the following:

- a. The Permittee shall implement the CSO Plan as outlined in the October 31, 2014 Letter and in accordance with the schedule set out in Table 1: CSO Planning and Project Schedule Phase 1, which are attached and incorporated herein by reference, and in accordance with the schedule to be set out in Table 2: CSO Planning and Project Schedule Phase 2, which shall be attached and incorporated herein upon KDHE approval pursuant to paragraph 15.D.
- b. The Permittee shall submit to KDHE an annual report detailing the Permittee's progress during the previous calendar year in implementing the projects identified in Tables 1 and 2. The annual reports shall be submitted annually by February 28th. The first annual report shall be submitted by February 28, 2016.
- c. By July 1, 2017, the Permittee shall submit to KDHE for approval a revised LTCP (the "Revised LTCP"), which includes an analysis of data collected since May 2011; an evaluation of affordability for ratepayers; modification of project schedules; a post construction monitoring program; and descriptions of newly identified projects with associated implementation schedules, including consideration of projects addressing the Eastside Interceptor-Relief Combined Sewer Overflow #3 to Ash Street Pump Station, and expansion of the Oakland Wastewater Treatment Plant Ultraviolet (UV) System.
- d. The project schedules provided in the Revised LTCP shall be attached and incorporated into this CO by reference as Table 2 upon written approval of the Revised LTCP by KDHE.
- e. The Permittee shall continue to operate the Oakland Wastewater Treatment Plant as effectively as possible to minimize the concentration of pollutants discharged to waters of the State during this interim time period.

FORCE MAJEURE, EXCUSABLE DELAY, MODIFICATION

16. The following shall constitute the governing terms for force majeure, excusable delay and modification of the CO.
 - a. Permittee shall perform the requirements under this CO within the time limits set forth herein unless the performance is prevented or delayed solely by events that constitute force majeure. For purposes of this CO, "force majeure" is defined as any event beyond the control of the Permittee, which could not be overcome by due diligence, and which delays or prevents performance by a date required by this CO. Such events do not include increased costs of performance or changed economic circumstances that were foreseen or could have reasonably been foreseen. Any delay caused in whole or in part by action or inaction by state or federal authorities shall be considered a force majeure event but shall not extend the period of performance of the obligation required by the CO by more than the

period of delay.

- b. Permittee shall have the burden of proving all claims of force majeure. Failure to comply by reason of force majeure shall not be construed as a violation of this CO.
 - c. Permittee shall notify KDHE in writing within fourteen (14) days after becoming aware of an event, which the Permittee knew, or should have known, constituted force majeure. Such notice shall state the cause of delay, estimate the anticipated length of delay, measures to be taken to minimize the delay, and an estimated timetable for implementation of these measures. Failure to comply with the notice provision of this section shall constitute a waiver of Permittee's right to assert a force majeure claim and shall be grounds for KDHE to deny the Permittee an extension of time for performance.
 - d. Within seven days of the receipt of written notice from the Permittee of a force majeure event, KDHE shall notify the Permittee of the extent to which modifications to this CO are necessary. In the event that KDHE and the Permittee cannot agree that a force majeure event has occurred, or if there is no agreement on the length of the extension, the dispute shall be resolved as set forth in the paragraph 18.
 - e. Any modifications to any provision of this CO shall not alter the schedule for performance or completion of other tasks required by this CO unless specifically agreed to by the parties in writing and incorporated into this CO.
 - f. This CO may be amended by mutual agreement of KDHE and the Permittee. Such amendments shall be in writing, shall have as their effective date, the date on which they are signed by both parties and shall be incorporated into this CO.
17. The Permittee agrees to comply with the terms of this CO and the applicable regulations. Failure to comply with the terms of this CO may subject the Permittee to further enforcement action as provided under Kansas law.

DISPUTE RESOLUTION

18. The Parties recognize that a dispute may arise between them regarding implementation of the action to be taken as herein set forth or other terms or provisions of this CO.
- a. If such dispute arises, the Parties will endeavor to settle it by informal negotiations between themselves. If the Parties cannot resolve the issue informally within a reasonable period of time, either of the Parties may notify the other in writing stating its position with regard to the dispute and the reasons therefore. A party receiving such a notice of dispute will respond in writing within ten (10) working days stating its position. KDHE or the Permittee shall then have an additional ten (10) working day period to respond. If the parties are still unable to reach an agreement, the matter shall be referred to the KDHE Director of the Division of Environment, who shall decide the matter

and provide a written statement of his decision, which shall be incorporated into the CO. The Parties agree that any such action shall be deemed a final agency action and be subject to judicial review under the Kansas Administrative Procedures Act and the Kansas Act for Judicial Review of Agency Actions.

- b. This dispute resolution procedure shall not preclude any party from having direct recourse to court if otherwise available by applicable law.

OTHER CLAIMS AND PARTIES

19. Nothing in this CO shall constitute or be construed as a release for any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation not a signatory to this CO for any liability it may have arising out of or relating in any way to the subject violations alleged in this CO.

AMENDMENT AND TERMINATION

20. This CO may be amended by mutual consent of KDHE and Permittee, and any such amendment shall be in writing.
21. This CO will be terminated upon written notice by KDHE to the Permittee that the TERMS AND CONDITIONS OF THE SETTLEMENT have been completed. Such notice shall not be unreasonably withheld by KDHE.

AUTHORIZATION OF SIGNATORIES TO EXECUTE THE CONSENT ORDER AND BIND THE PARTIES

22. The Parties hereto have affixed their signatures on the dates inserted below to acknowledge their agreement to this CO. The signatories to this CO certify that they are authorized to execute and legally bind the parties they represent to this CO.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Susan Mosier, MD
Acting Secretary

Date

CITY OF TOPEKA

Doug Gerber
Interim City Manager

Date

Table 1: CSO Planning and Project Schedule Phase 1

Project	Start Date	End Date
Stormwater GIS-GPS Mapping	Initiated	March 1, 2015
Eastside IS-CIPP-CSO #7 to Ash Street PS	March 1, 2015	October 1, 2017
Adams Street Interceptor Sewer Cleaning Inspection Repair/Lining	December 1, 2015	November 1, 2016
CSO #3 to Oakland WWTP Capacity Evaluation/Lining Project	March 1, 2016	February 1, 2017
South Kansas River Pump Station Rehabilitation Phase II	April 1, 2015	December 1, 2015
Adams Street Interceptor Sewer Rehabilitation	December 1, 2016	December 1, 2018
Adams Street Interceptor Sewer Stormwater Removal Program	December 1, 2016	December 1, 2018