



City Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
<https://www.topeka.org>

Governing Body Agenda

September 4, 2018
6:00 PM

Mayor: Michelle De La Isla

Councilmembers

Karen A. Hiller	District No. 1	Brendan Jensen	District No. 6
Sandra Clear	District No. 2	Aaron Mays	District No. 7
Sylvia E. Ortiz	District No. 3	Jeff Coen	District No. 8
Tony Emerson	District No. 4	Michael Lesser	District No. 9
Mike Padilla	District No. 5		

City Manager: Brent Trout

Addressing the Governing Body: No person shall address the Governing Body during a Governing Body Meeting, unless they have notified the City Clerk at (785)368-3940 or by email at cclerk@topeka.org by 5:00 P.M. on the day of any Governing Body Meeting or sign up to speak at the meeting by 6:00 P.M. This limitation shall not apply to items added during the course of a meeting. The Governing Body 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 Governing Body.

Persons addressing the Governing Body will be limited to four (4) consecutive minutes on a particular agenda item. Debate, question/answer dialogue or discussion between Governing Body members will not be counted towards the four (4) minute time limitation. The Chair may extend time with the unanimous consent of the Governing Body or by an affirmative vote of five (5) Governing Body members may extend the four (4) minute limitation. The requirement to notify the City Clerk will not apply towards public hearings required by State and Federal law.

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 <https://www.topeka.org>)

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

1. PRESENTATIONS:

"Public Works Quarterly Report"
"Utilities Quarterly Report"

2. ROLL CALL:

3. APPOINTMENTS:

A. Board Appointment - Topeka Board of Zoning Appeals

BOARD APPOINTMENT recommending the reappointment of Helen Crow to the Topeka Board of Zoning Appeals to fill an unexpired term ending December 2, 2021. *(Council District No. 1)*

B. Board Appointment - Metropolitan Topeka Airport Authority

BOARD APPOINTMENT recommending the reappointment of Neil Dobler to the Metropolitan Topeka Airport Authority Board for an unexpired term ending December 2, 2021. *(Council District No. 7)*

C. Board Appointment - Topeka Sustainability Advisory Board

BOARD APPOINTMENT recommending the appointment of Casey Williams to the Topeka Sustainability Advisory Board for a term ending September 5, 2020. *(Council District No. 8)*

4. CONSENT AGENDA:

A. Resolution - Glow Ride After Party - Noise Exception

RESOLUTION introduced by Councilmember Karen Hiller granting Topeka Community Cycle Project an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. *(Council District No. 1)*

(Approval would allow for amplified music and sound during the hours of 8:00 p.m. and 10:30 p.m. on September 29, 2018, at the Crosby Parking Garage.)

B. Resolution - McKinley Burnett Sculpture - Noise Exception

RESOLUTION introduced by Councilmember Karen Hiller, granting Downtown Topeka Foundation an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. *(Council District No. 1)*

(Approval would allow for amplified music and sound during the hours of 3:00 p.m. and 5:00 p.m. on September 30, 2018, at 8th & S Kansas Avenue.)

C. Resolution - El Shaddai Ministries - Noise Exception

RESOLUTION introduced by Councilmember Sylvia Ortiz, granting El Shaddai Ministries an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. *(Council District No. 3)*

(Approval would allow for live bands and amplified music and sound during the hours of 8:00 a.m. and 5:00 p.m. on September 8, 2018 , at 920 SE Sherman Avenue.)

- D. **MINUTES of the regular meeting of August 21, 2018**
- E. **APPLICATIONS:**
- F. **Resolution - Classic Movie Nites in NOTO - Special Event**

A RESOLUTION introduced by Councilmember Sandra Clear approving a special event known as the Classic Movie Nites in NOTO and rescinding conflicting portions of Resolution No. 9031. (Council District No. 2)

This item was added at the meeting.

(Approval would allow the sale, consumption and possession of alcoholic beverages within the designated barricaded area for the Classic Movie Nites in NOTO events on September 15 and October 20, 2018 between the hours of 6:00 p.m. and 10:30 p.m.)

5. ACTION ITEMS:

- A. **Public Hearing and Ordinance - Cyrus Hotel Community Improvement District (CID)**

PUBLIC HEARING to consider the advisability of establishing a Community Improvement District for the Cyrus Hotel located at 912-924 S Kansas Avenue.

ORDINANCE introduced by City Manager Brent Trout, establishing a Community Improvement District (CID) for the Cyrus Hotel located at 912-924 S. Kansas Avenue levying a CID sales tax of two percent (2%) within the CID

Voting Requirement: Majority vote of the Governing Body (6).

(Approval would establish a community improvement district (Cyrus Hotel) at 912-924 S Kansas Avenue and authorize the imposition of a 2% sales tax to be imposed on retail sales and services within the district.)

- B. **Resolution - Transportation Alternatives (TA) Grant**

RESOLUTION introduced by City Manager Brent Trout supporting the City of Topeka's application for funding from the Kansas Department of Transportation for a pedestrian bridge on 10th Street and sidewalk improvements to Topeka Boulevard from 29th to 37th Street.

Voting Requirement: Majority vote of the Governing Body (6).

(Approval supports an application to KDOT's Transportation Alternatives grant program.)

- C. **Creation of Committee - Camping Ordinance and Traffic/Pedestrian Safety Ordinance**

ACTION to create a Committee to consider the similar underlying issues associated with the camping ordinance and the traffic and pedestrian safety ordinance which will consist of five governing body members: Deputy Mayor Jensen, Councilmember Ortiz, Councilmember Clear, Councilmember Lesser and Councilmember Padilla as well as five members of the community to be appointed by Deputy Mayor Jensen and Councilmember Ortiz.

Voting Requirement: Majority vote of the Governing Body (6).

(Because the underlying issues associated with the Camping and the Traffic/Pedestrian Safety ordinances are very similar in nature, a suggestion was made to combine the membership of the

two committees into one committee for purposes of efficiency. The combined committee would be comprised of the three individuals who serve as members of the Public Health and Safety Committee (charged with considering the Camping ordinance) and the eight individuals who serve as members of the special committee (formed to consider the Traffic/Pedestrian Safety ordinance). This committee would consist of ten members, given the fact that one individual serves as a member of both committees, and would appoint its own chairperson. This committee will then act upon each ordinance, or the committee chair will provide an update regarding the committee's progress on each ordinance within 90 days.)

D. Special Committee - Traffic and Pedestrian Safety Ordinance - Report

ACTION regarding the Final Report due on September 1, 2018 for the proposed traffic and pedestrian safety ordinance. *(Deferred from the meeting of August 21, 2018.)*

Voting Requirement: Majority vote of the Governing Body (6).

(The final report regarding review of the proposed pedestrian and traffic safety ordinance is due on September 1, 2018 from the Special Committee. Action is required to set a new date for the report or take other action relative to the Special Committee's function.)

E. Public Health and Safety Committee - Camping Ordinance - Report

ACTION regarding Final Committee Report due on September 1, 2018 for the proposed camping ordinance. *(Deferred from the meeting of August 21, 2018.)*

Voting Requirement: Majority vote of the Governing Body (6).

(The final report regarding review of the proposed camping ordinance is due on September 1, 2018 from the Public Health and Safety Committee. Action is required to set a new date for the report or take other action relative to the Committee's function.)

6. NON-ACTION ITEMS:

A. Discussion - International Property Maintenance Code (Procedural; Unsafe Structures)

DISCUSSION of amendments to the International Property Maintenance Code (IPMC).
(Deferred from the meeting of July 17, 2018.)

7. ANNOUNCEMENTS:

8. PUBLIC COMMENT:

9. EXECUTIVE SESSION:

10. ADJOURNMENT:



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE:	September 4, 2018	DOCUMENT #:
CONTACT PERSON:		PROJECT #:
SECOND PARTY/SUBJECT:		
CATEGORY/SUBCATEGORY		
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

"Public Works Quarterly Report"
"Utilities Quarterly Report"

VOTING REQUIREMENTS:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

Description

Public Works Presentation
Utilities Presentation



2018 Projects

Under Construction

Completion Dates

SW 49th – RR Tracks west of Topeka to Wenger Rd.	September 12
SW Gage – SW 21st to SW 25th	October 12
SW 6th Ave. – Gage to Fairlawn (2017-2018 project)	October 29
SW 21st and Kansas Avenue Intersection	November 2
Central Park Neighborhood Project – Phase II of II	November 9
SW 29th and Burlingame Intersection	November 9
SE Adams – SE 29th to SE 33rd	November 9
Clarion Woods Neighborhood Project – Phase I of II	November 29
SW Arvon Place/Huntoon/I-470 Ramps – Phase I (Ph.II Completion – 2019)	December 10
Micro-surfacing (Year 1)	December 21
SW Fairlawn & SW 29th (Wheatfield Village)	December 21



2018 Projects

Mill and Overlays – Fall 2018

Bid Status

Funding

22nd Park and Boswell Ct.

Bids Aug. 28

G.F.

Mission Avenue – 19th to 21st

Bids Aug. 28

G.F.

SW MacVicar – 24th to 26th,

Bids Aug. 28

G.F.

NE Sproatan and Grantville neighborhoods

Awarded*

G.F.

SW 17th St. – I-470-Fairlawn

Awarded*

Countywide

SW 37th – Burlingame to Kirklawn

Awarded*

Countywide

*Awarded projects projected to start in about 2 to 3 weeks



2018 Projects

In Design

Construction

N. Kansas Avenue – Curtis to Norris

2019

NW. Vail – NW Gordon to HWY 24

2019

Crack Sealing/Micro Surfacing Year 2

Fall 2018

N. Kansas Avenue – Morris to Old Soldier Street

2019

Chesney Park – Local Streets

2019/2020

Tennessee Town SORT

2019

Quinton Heights Steele SORT

2019

SW 3rd Street Bridge over Ward Creek

2019



2018 Projects Completed

SW 21st – east of Wanamaker to Arvonja

SW Cherokee – SW Elmwood to SW Jewell

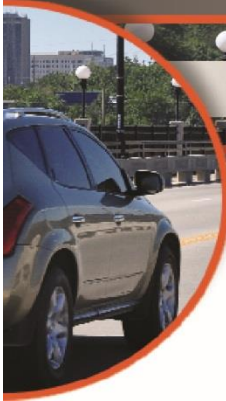
Crack Sealing for 2018 Micro-surfacing

SE Washington Street (8th to 10th)

SW 10th and Wanamaker Intersection

SW Fairlawn/I-470 EB Signal Installation

Transportation / Streets



SW 6th – Gage to Fairlawn



Transportation / Streets



SE Adams & 29th



Central Park Neighborhood



Transportation / Streets



2018 Microsurfacing – 83 lane miles



Public Works 2018 CIP Budget Summary (2nd Quarter)

2018 CIP QTR 2	GO BOND	FFE	Citywide ½¢	County ½¢	Total
Budget	\$ 5,255,000	\$ 1,860,000	\$ 13,808,311	\$ 6,600,000	\$27,523,311
Expenses	\$ 885,520	\$ 1,096,376	\$ 3,333,578	\$ 1,550,569	\$ 6,866,043
Commitments	\$ 1,117,870	\$ 542,800	\$ 8,458,901	\$ 4,711,938	\$14,831,509
Remaining	\$ 3,251,610	\$ 220,824	\$ 2,015,832	\$ 337,493	\$ 5,825,759

GO Bond (Neighborhoods, Traffic, Streets, and Facilities)

FFE (Federal Fund Exchange)

Citywide ½ Cent (Streets, Alleys, and Sidewalk Projects)

Countywide (Street Projects Only)



QUARTERLY REPORT

2nd Quarter 2018

Projects Under Construction and In Design



Water Projects Under Construction



- SE 29th Street – Aquarian Acres
- California Tower Coating
- NE Crane, Jefferson to Harrison
- SW Colly Creek & 43rd Street

SE 29th Street – Aquarian Acres



29th Street From Golden Ave to Croco Rd

Project ID: 281112.03

 On Track

 On Track

Description:

Replace waterline from Golden Ave to Wittenberg Rd with a 12" waterline PVC, and replace waterline from Wittenber Road to Croco Road with 16" PVC.

Budget

\$2.2 million

Department

Water

Project Category

Distribution

Budget Indicator

On Track

Schedule Indicator

On Track

Actual Spent

\$260,000

Project End Date

June, 2019

Type of Project

Repair/Replace (Existing Asset)

Council District

TBD

☐ Project Image



Stage



SE 29th Street – Aquarian Acres



Water Projects In Design



- SW Indian Hills-21st to 29th
- NE Strait-Seward to 6th
- East Filter
- Soldier Booster Pump Station

Wastewater Projects Under Construction



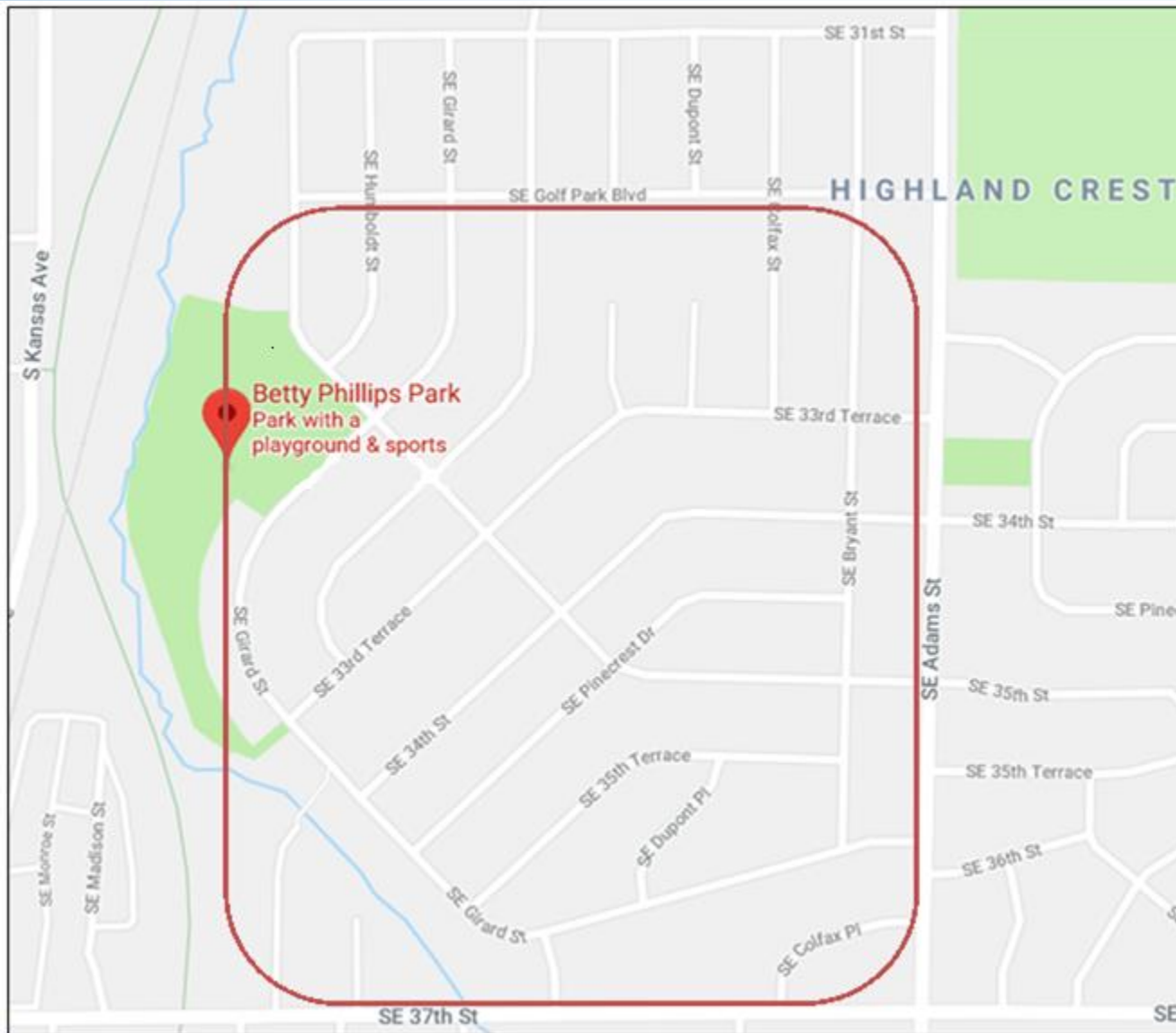
- Wastewater Lining & Replacement Program
- North Tyler Pump Station
- OWWTP 4th Effluent Pump
- Oakland Wastewater Treatment Plant-Solids Handling Phase 2

Wastewater Lining & Replacement Program



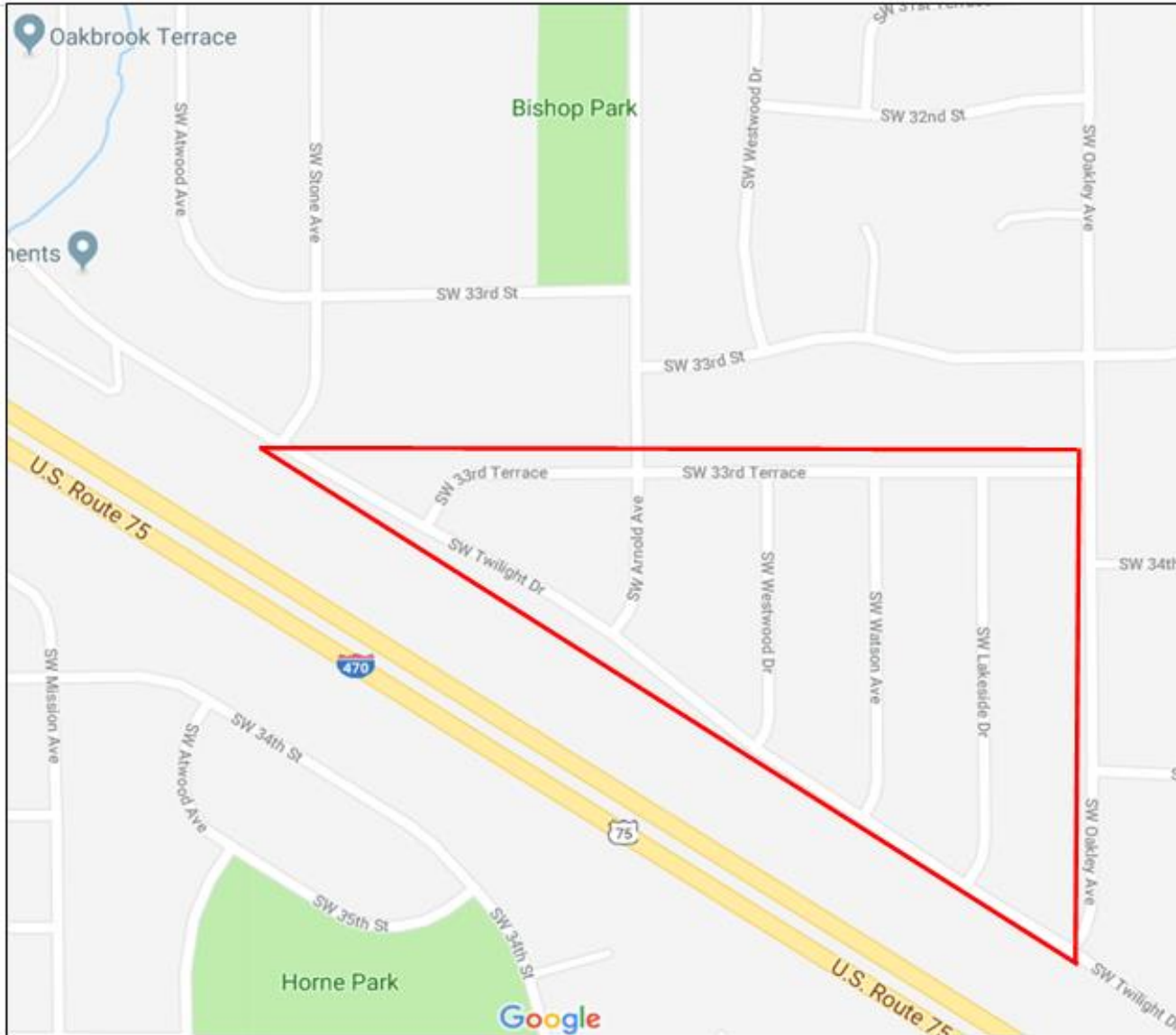
- Projects focus on sewer lining and/or replacement of pipe and manholes deemed to have the most extensive repair histories
- 24,000' of pipe and 114 manholes will be lined or replaced
- September 2018 – March 2019

Wastewater Lining & Replacement Program



SE 37th St to
SE Golf Park
Blvd & Betty
Phillips Park
to SE Adams

Wastewater Lining & Replacement Program

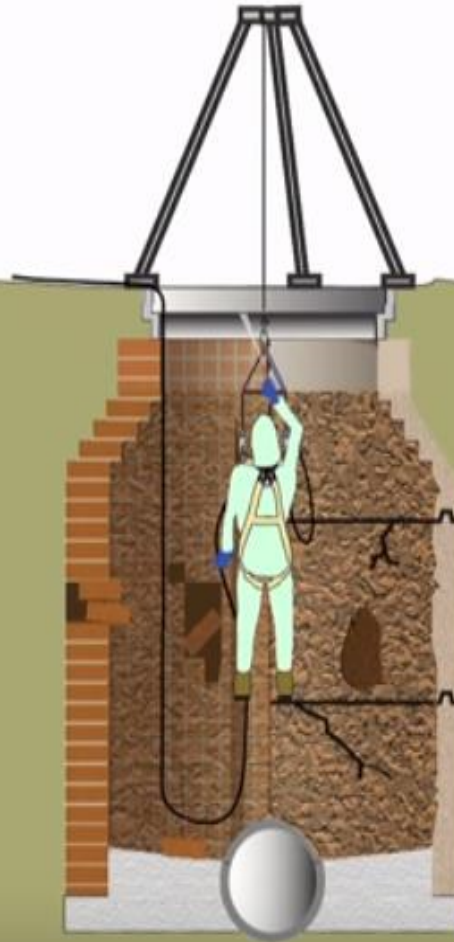


SW Twilight Dr
to SW 33rd Terr
& SW Stone Ave
to SW Oakley
Ave

Cured-In-Place Pipe (CIPP)



Manhole Rehabilitation



Wastewater Projects In Design



- Ash Street Force Main Replacement
- Oakland Wastewater Treatment Plant UV Modifications
- SW Wanamaker Force Main

Stormwater Projects Under Construction & Design



- North Topeka Under Seepage Berm
- South Topeka Flood Wall Improvements
- City Park Relief Well
- Ward Martin Pump Station Gate Repair & Replacement
- Fairlawn Stormwater

North Topeka Under Seepage Berm



Q2 2018 Budget Summary



2018 Projects	Water	Stormwater	Wastewater	Total
Budget	\$56,275,650	\$13,855,957	\$85,922,270	\$156,053,876
Expenses YTD	\$4,012,762	\$1,229,434	\$2,250,538	\$7,492,734
Commitments	\$6,140,145	\$749,075	\$7,941,366	\$14,830,586
Remaining	\$46,122,743	\$11,877,448	\$75,730,366	\$133,730,557



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE:	September 4, 2018	
CONTACT PERSON:	Michelle De La Isla	DOCUMENT #:
SECOND PARTY/SUBJECT:	Board Appointment- Board of Zoning Appeals	PROJECT #:
CATEGORY/SUBCATEGORY	006 Communication / 005 Other	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the reappointment of Helen Crow to the Topeka Board of Zoning Appeals to fill an unexpired term ending December 2, 2021. *(Council District No. 1)*

VOTING REQUIREMENTS:

Majority vote of the City Council (6). Mayor does not vote.

POLICY ISSUE:

The board of zoning appeals shall administer the details of appeals from or other matters referred to it regarding the application of the zoning regulations in accordance with the general rules set forth in the Topeka Municipal Code.

STAFF RECOMMENDATION:

Councilmember Hiller nominates and Mayor De La Isla recommends the appointment of Helen Crow for a three-year term ending December 2, 2021. Ms. Crow does not hold a public office for the city and she resides within the corporate area of the city as required.

BACKGROUND:

This is a City-created board requiring the Council nominate and the Mayor appoint. If no council nominations are received the Mayor may appoint. The Board of Zoning Appeals shall consist of seven members appointed by the mayor. None of the members shall hold any other public office by the city except two members may be members of the Topeka Planning Commission. The appointees shall reside inside the corporate area of the city of Topeka. Members shall be appointed for terms of three years each.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

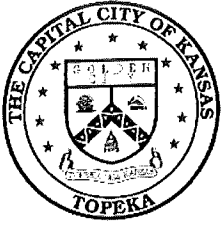
Not applicable.

ATTACHMENTS:

Description

H. Crow BZA Application 2018

H. Crow Resume



CITY OF TOPEKA

Application for Appointment to a Board or Commission

You are seeking an appointment to a public board. Your appointment is subject to approval by the Mayor and City Council and is governed by certain city ordinances and in some instances, state statutes. The information provided in this application will be used to determine if you meet the requirements required by city ordinances and other applicable laws. Please note that the information provided on this application will be subject to the Kansas Open Records Act.

Please state your name:

Helen Ruth Crow
FIRST MIDDLE LAST SUFFIX

State the name of the board or commission to which you are seeking appointment:

Board of Zoning Appeals

Are you a resident of the City of Topeka: ☒ YES ☐ NO

Please provide your HOME ADDRESS: (necessary for residency requirement)

400 SW Greenwood Topeka KS 66606
STREET CITY STATE ZIP CODE
(785)235-5555 (785)272-5555
HOME PHONE CELL PHONE BUSINESS PHONE

E-MAIL

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.

If you are employed please provide the name and address of your employer.

independent contractor with Kirk & Cobb, Inc., REALTORS

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:

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

I have a passion for good zoning building healthy communities and protecting property values.

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. (You may provide this as an attachment or use the back of this form.)

I have been a more than full time residential Realtor in Topeka since 1973. I have been awarded the highest honor our local board of Realtors offers for career achievement and community involvement... twice. I am active in public schools and Topeka Collegiate. I host international students and student interns with myriad programs. I am active in Junior League of Topeka, Golden City Forum and in leadership roles in the Realtors' organization.

Complete ONLY if you are applying for one of these boards: Building and Fire Appeals; Board of Electrical Appeals, Board of Plumbing Appeals, Board of Mechanical Appeals; Sustainability; Planning Commission

List any professional licenses you hold in Kansas and advise if they are current. (We reserve the right to request a copy of your license prior to approval of your appointment.)

I understand that the information I have provided may be used to determine my suitability to perform the duties required by the position I seek.

By checking this box, I declare under penalty of perjury that I am the person named above, and the information I have provided is true and correct. ☒

Please print your name and then sign below:

Print name: Helen Crow

Signed by: Helen Crow

Date: 2018

Electronic Signature: ☒ *You may submit your signature electronically by checking this box.*

Submission instructions: Email your completed form with attachments to Vicki Buening at ybuening@topeka.org or mail to Office of the Mayor, City Hall, 215 SE 7th St., Suite 350 Topeka, KS 66603-3914. For questions, call the Mayor's Office 785-368-3895.

The Mayor and City Council are seeking diversity among appointees. We have provided an optional voluntary self-identification form should you choose to provide that information with your application. (See page 3)
Thank you.

VOLUNTARY SELF IDENTIFICATION

Name: Helen Crow

Race and ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. Definitions of the race and ethnicity categories are as follows:

Put an **X** in the appropriate box.

☐

Hispanic or Latino - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

☒

White (Not Hispanic or Latino) - A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

☐

Black or African American (Not Hispanic or Latino) - A person having origins in any of the black racial groups of Africa.

☐

Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino) - A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

☐

Asian (Not Hispanic or Latino) - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

☐

American Indian or Alaska Native (Not Hispanic or Latino) - A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.

☐

Two or More Races (Not Hispanic or Latino) - All persons who identify with more than one of the above six races.

HELEN CROW

Topeka Realtor

- * 1980-Today SALES IN THE TOP 5% of all Topeka Realtors, year after year
- * 2002 & 1980 Topeka Area Association of Realtors SALESPERSON OF THE YEAR award recognizing one member each year for career achievement
- * 1992 SHEREE SMITH joined Helen as a licensed and highly skilled professional assistant
- * 1991 Topeka Area Association of Realtors RECORD in residential sales and listings sold
- * 1978 National Association of Realtors CRS designation, Certified Residential Specialist
- * 1975 Kansas Association of Realtors GRI designation, Graduate of Realtors Institute
- * 1973 Helen joined Kirk Co., now KIRK & COBB, INC., REALTORS, at age 21
- * 1947 Kirk Company, Inc., Realtors founded by ROBERT N. KIRK, still family owned by his son, R. STEPHEN KIRK

Helen currently serves on the Board of Directors of Silver Lake Bank and on the contract writing committee of the Topeka Area Association of Realtors, as well as on the City of Topeka Board of Zoning Appeals. She also serves on the Advisory Board of Lawyers Title of Topeka. Helen was a founding Topeka/Shawnee County Landmarks Commissioner and she is a past president of the Shawnee County Historical Society. She was a member of the founding Board of Directors of both the Prairie Advocacy Center and of CASA of Topeka. She is a member of Golden City Forum and an actively involved sustaining member of Junior League of Topeka. She was recognized in 2009 with Junior League's highest award for community service, the Gold Rose Award.

Helen once chaired a committee that built a house for Habitat for Humanity. Her volunteer work over the years has included working with numerous and varied committees and projects for the Topeka Public Schools, most recently hosting a party at Topeka High School for Google to help inspire girls' interest in technology. She is proud to be involved with Topeka Collegiate School and with American Field Service (AFS) foreign exchange programs. She speaks to student-parent groups on competitive college admissions preparation, hosting foreign exchange students and helping Topekans travel, and to civic organizations and clubs about Topeka's historic neighborhoods. Helen manages her own scholarship fund at HelenCrow.org.

Helen is happily married to Topeka attorney, Dan Crow. He is a partner with Alderson, Alderson, Weiler, Conklin, Burghart and Crow. He is also an active community volunteer. Their daughter, Samantha, and her husband, Jake Quist, live in Menlo Park, California, with their children, George DANIEL and Aria RUTH.



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE: September 4, 2018
CONTACT PERSON: Mayor De La Isla DOCUMENT #:
SECOND PARTY/SUBJECT: Metropolitan Topeka PROJECT #:
Airport Authority
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the reappointment of Neil Dobler to the Metropolitan Topeka Airport Authority Board for an unexpired term ending December 2, 2021. *(Council District No. 7)*

VOTING REQUIREMENTS:

Majority vote of the City Council (6). Mayor does not vote.

POLICY ISSUE:

The MTAA has responsibility for development, improvement, operation and maintenance of public airport facilities in the city of Topeka and Shawnee County.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the board appointment

BACKGROUND:

The board of directors shall consist of five members. Three members shall be registered voters and city residents who are appointed by the Mayor with the approval of the City Council. Two members shall be Shawnee County residents residing outside the Topeka city limits and appointed by the County Commission. Council nominations are not required.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

Description

N. Dobler Application & Resume MTAA 2018

Profile

Neil

First Name

Dobler

Last Name

neil.dobler@bartwest.com

Email Address

6201 SW 48th Place

Street Address

Suite or Apt

Topeka

City

KS

State

66610

Postal Code

Are you a resident of the City of Topeka?☒ Yes ☐ No**What district do you live in? ***☒ District 7Check for your district here -> <https://www.topeka.org/citycouncil>

Mobile: (785) 215-2000

Primary Phone

Home: (785) 273-9010

Alternate Phone

Which Boards would you like to apply for?

Metropolitan Topeka Airport Authority: Submitted

Bartlett & West, Inc.

Employer

Division Director

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:

As a former City employee, I was involved in several civil cases on behalf of the City.

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:

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

I have been interested in the activities of the MTAA for a number of years and have enjoyed the last several years on the board. I believe that the two airports are great assets to the City of Topeka and I also believe that Topeka Regional can play a bigger role in economic development - available land and one of the longest runways in the nation. I want to continue to play a role in trying to return reliable air service to Topeka - particularly now that the main runway construction is entering the last phase.

Interests & Experiences

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.

I have a Bachelor of Science degree in Civil Engineering and a Masters of Public Administration. My background includes time with local government that should be an asset on this board. I also have a background in non-compensated boards, including St. Francis Health, Topeka Chamber, Topeka Symphony and Sheltered Living. My company does not do airport engineering, so should not be a conflict of interest.

[Neil Dobler short bio.doc](#)

Upload a Resume

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

Voluntary Self Identification

Ethnicity

☒ Caucasian/Non-Hispanic

Gender

☒ Male

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

Notification to applicants for City Board/Commissions

Please be advised that your application and any documents that you attach are public records and, as such, are available to the public, upon request, pursuant to the Kansas Open Records Act.

If you are appointed to the position, your application and resume will be included in the governing body meeting agenda which is posted online.

<http://topeka.novusagenda.com/agendapublic/>

Neil Dobler bio:

Neil Dobler is a vice-president and currently manages the Public Works Division for Bartlett & West, Inc. Neil's career has included time as a consulting engineer and twelve years of service with the City of Topeka, including several years as Public Works Director and a short time as City Manager.

Neil is a licensed professional engineer and has a bachelor's degree in Civil Engineering from Kansas State University and a Masters in Public Administration from the University of Kansas.

Neil has been active in the Topeka community, including the St. Francis Health board of directors (Chairman 2012-2013), Topeka Symphony (Treasurer – 3 years), Greater Topeka Chamber of Commerce (Chairman 2014), Sheltered Living, Topeka South Rotary and Christ the King Church.

Neil is married to Beth, Elementary Ed professor at Emporia State University and has five children/stepchildren – Jacob, Zachary, Emily, Lucas and Eric.



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE: September 4, 2018
CONTACT PERSON: Mayor De La Isla DOCUMENT #:
SECOND PARTY/SUBJECT: Topeka Sustainability PROJECT #:
Advisory Board
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

BOARD APPOINTMENT recommending the appointment of Casey Williams to the Topeka Sustainability Advisory Board for a term ending September 5, 2020. *(Council District No. 7)*

VOTING REQUIREMENTS:

Majority vote of the City Council (6). Mayor does not vote

POLICY ISSUE:

The Topeka Sustainability Advisory Board promotes environmental awareness and advocates for policies that support sustainability specifically including, but not limited to, environmental awareness, waste reduction, recycling, energy conservation and natural resource conservation in the City of Topeka, and to enhance the quality of life by improving the City's efforts in these areas.

STAFF RECOMMENDATION:

Councilmember Mays nominates and Mayor De La Isla recommends the appointment of Casey Williams for a term that would end September 5, 2020.

BACKGROUND:

Ordinance No. 19165. The purpose of the board is to promote environmental awareness and to advocate for policies which support sustainability

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable.

ATTACHMENTS:

Description

C.Williams TSAB Application & Resume 2018

Profile

Casey

First Name

Williams

Last Name

cochran_c_m@yahoo.com

Email Address

3710 SW Kiowa St.

Street Address

Suite or Apt

Topeka

City

KS

State

66610

Postal Code

Are you a resident of the City of Topeka?☒ Yes ☐ No**What district do you live in? ***☒ District 7Check for your district here -> <https://www.topeka.org/citycouncil>

Home: (785) 220-3946

Primary Phone

Home:

Alternate Phone

Which Boards would you like to apply for?

Topeka Sustainability Advisory Board: Submitted

Auburn-Washburn USD 437

Employer

Science Educator

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

Bill Cochran, Father

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:

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

The past two summers, I have worked with people from the Walton Sustainability Solution Initiatives Team from Arizona State University to learn how to teach sustainability in my classroom. Through these experiences, I have learned how I individually can practice sustainability and help my students learn the importance of taking care of our resources. After seeing the initiatives that the city of Phoenix is conducting to reduce waste, I would like to help the city of Topeka take steps to become more sustainable and mindful of our surroundings and resources.

Interests & Experiences

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.

Bachelor of Arts in Biology ASU/Walton Sustainability Teachers' Academy Completer ASU/Walton Circular Economy Teachers' Academy Completer National Science Teachers Association Member Kansas Association of Teachers of Science Member

[Williams Resume.pdf](#)

Upload a Resume

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

Voluntary Self Identification

Ethnicity

☒ Caucasian/Non-Hispanic

Gender

☒ Female

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

Notification to applicants for City Board/Commissions

Please be advised that your application and any documents that you attach are public records and, as such, are available to the public, upon request, pursuant to the Kansas Open Records Act.

If you are appointed to the position, your application and resume will be included in the governing body meeting agenda which is posted online.

<http://topeka.novusagenda.com/agendapublic/>

Casey Williams

3710 SW Kiowa Street
Topeka, Kansas 66610
(785) 220-3946
cochran_c_m@yahoo.com

EXPERIENCE

Auburn-Washburn USD 437, Topeka, KS — B3 Alternative Program Science Teacher

August 2015 - PRESENT

- Plan, prepare, and deliver instructional activities that facilitate active learning experiences for approximately 70 students.
- Establish and communicate clear objectives for all learning activities.
- Perform certain pastoral duties including student support, counseling students with academic and personal problems and providing student encouragement
- Use relevant technology to support instruction
- Assign and grade class work, assignments, and tests

Mission Valley USD 330, Eskridge, KS — Life Science Teacher

August 2012 - May 2015

- Identify and select different instructional resources and methods to meet students' varying needs for approximately 80 students
- Communicate necessary information regularly to students, colleagues, and parents
- Prepare required reports for support staff and parents
- Provide appropriate and timely feedback on student work
- Participate in school and parent meetings
- Assign and grade class work, assignments, homework, and tests
- Assist with extracurricular activities

EDUCATION

Washburn University, Topeka, KS — Bachelor of Arts in Biology with an Emphasis in Secondary Education

August 2006 - May 2012

Baker University, Topeka, KS — Master of Arts in Education

June 2013 - August 2015

SKILLS

Strong work ethic

Self motivated

Ability to inspire, comfort, and build self-esteem

Excellent communication skills

Attention to detail

Problem solving and decision making

Ability to listen to children and parents

Flexibility and adaptability

Stress and time management ability

AWARDS

Science in our Food Supply Program Completer

United States Patent and Trademark Office Program Completer

Arizona State National Sustainability Teacher's Academy



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE: September 4, 2018
CONTACT PERSON: Karen Hiller **DOCUMENT #:**
SECOND PARTY/SUBJECT: Andy Fry **PROJECT #:**
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

RESOLUTION introduced by Councilmember Karen Hiller granting Topeka Community Cycle Project an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. (*Council District No. 1*)

(Approval would allow for amplified music and sound during the hours of 8:00 p.m. and 10:30 p.m. on September 29, 2018, at the Crosby Parking Garage.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

City of Topeka code Section 9.45.170, et seq., authorizes the City Council to grant noise exceptions. Approval grants a noise exception to the Topeka Community Cycle Project for the Glow Ride After Party event on September 29, 2018.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

The Topeka Community Cycle Project is requesting the noise exception due to amplified music and sound during specified date and time.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Resolution

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by Councilmember Karen Hiller granting The
4 Topeka Community Cycle Project an exception to the
5 provisions of City of Topeka Code Section 9.45.150 concerning
6 noise prohibitions.
7

8 WHEREAS, City of Topeka Code Section 9.45.150, et seq. makes it
9 unlawful for any person to make, continue or cause to made or continued any
10 loud, unnecessary or unusual noise or any noise which either annoys, disturbs,
11 injures or endangers the comfort, repose, health or safety or others within the
12 limits of the city; and

13 WHEREAS, City of Topeka Code Section 9.45.170, et seq. authorizes the
14 Council to grant exceptions to the prohibitions of this code section upon request
15 and a showing that the proposed activity does not offend the spirit of the findings
16 of City of Topeka Code Section 9.45.150, et seq.; and

17 WHEREAS, The Topeka Community Cycle Project has requested that
18 they be granted an exception to the provisions of City of Topeka Code Section
19 9.45.150, et seq. for the purposes, dates and times described herein, and

20 WHEREAS, upon review of the application of The Topeka Community
21 Cycle Project the Governing Body of the City of Topeka does hereby find that the
22 requested activity does not offend the spirit of the findings of City of Topeka
23 Code Section 9.45.150, et seq.

24 NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the
25 City of Topeka that The Topeka Community Cycle Project is hereby granted an
26 exception from the provisions of City of Topeka Code Section 9.45.150, et seq.

27 during the Topeka Glow Ride After Party located at the Crosby Parking Garage
28 from 8:00 p.m. to 10:30 p.m. on September 29, 2018.

29

30 ADOPTED and APPROVED by the Governing Body _____.

31

32

33

34

35

Michelle De La Isla, Mayor

36

37 ATTEST:

38

39

40 _____
Brenda Younger, City Clerk

41



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE: September 4, 2018
CONTACT PERSON: Karen Hiller **DOCUMENT #:**
SECOND PARTY/SUBJECT: Scott Gales **PROJECT #:**
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

RESOLUTION introduced by Councilmember Karen Hiller, granting Downtown Topeka Foundation an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions. (*Council District No. 1*)

(Approval would allow for amplified music and sound during the hours of 3:00 p.m. and 5:00 p.m. on September 30, 2018, at 8th & S Kansas Avenue.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

City of Topeka Code Section 9.45.170 et seq. authorizes the City council to grant noise exceptions. Approval grants a noise exception to Downtown Topeka Foundation for the McKinley Burnett Sculpture Dedication on September 30, 2018.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

Downtown Topeka Foundation has requested a noise exception due to live music and amplified sound at the event.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Resolution

1 RESOLUTION NO.

2
3 A RESOLUTION introduced by Councilmember Karen Hiller granting Downtown
4 Topeka Foundation an exception to the provisions of City of
5 Topeka Code Section 9.45.150, et seq., concerning noise
6 prohibitions.
7

8 WHEREAS, City of Topeka Code Section 9.45.150, et seq. makes it
9 unlawful for any person to make, continue or cause to be made or continued any
10 loud, unnecessary or unusual noise or any noise which either annoys, disturbs,
11 injures or endangers the comfort, repose, health or safety or others within the
12 limits of the city; and

13 WHEREAS, City of Topeka Code Section 9.45.170, et seq. authorizes the
14 City Council to grant exceptions to the prohibitions of this code section upon
15 request and a showing that the proposed activity does not offend the spirit of the
16 findings of City of Topeka Code Section 9.45.150, et seq.; and

17 WHEREAS, Downtown Topeka Foundation has requested that they be
18 granted an exception to the provisions of City of Topeka Code Section 9.45.150,
19 et seq., for the purposes, dates and times described herein, and

20 WHEREAS, upon review of the application of Downtown Topeka
21 Foundation, the Governing Body of the City of Topeka does hereby find that the
22 requested activity does not offend the spirit of the findings of City of Topeka
23 Code Section 9.45.150, et seq.

24 NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the
25 City of Topeka that Downtown Topeka Foundation is hereby granted an
26 exception from the provisions of City of Topeka Code Section 9.45.150, et seq.,

27 for the McKinley Burnett Sculpture Dedication at 8th and South Kansas Avenue
28 during the hours of 3:00 p.m. and 5:00 p.m. on September 30, 2018.

29

30 ADOPTED and APPROVED by the Governing Body _____.

31

32 CITY OF TOPEKA, KANSAS

33

34

35

36 _____
Michelle De La Isla, Mayor

37 ATTEST:

38

39

40

41 _____
Brenda Younger, City Clerk

42



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE: September 4, 2018
CONTACT PERSON: Sylvia Ortiz **DOCUMENT #:**
SECOND PARTY/SUBJECT: Alishia Bush **PROJECT #:**
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

RESOLUTION introduced by Councilmember Sylvia Ortiz, granting El Shaddai Ministries an exception to the provisions of City of Topeka Code Section 9.45.150, et seq., concerning noise prohibitions.
(Council District No. 3)

(Approval would allow for live bands and amplified music and sound during the hours of 8:00 a.m. and 5:00 p.m. on September 8, 2018, at 920 SE Sherman Avenue.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

City of Topeka Code Section 9.45.170, et seq., authorizes the City Council to grant noise exceptions. Approval grants a noise exception to El Shaddai Ministries for the Back to School event on September 8, 2018.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

El Shaddai Ministries is requesting the noise exception due to live bands and amplified music and sound at the event.

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Resolution

1 RESOLUTION NO. _____

2
3 A RESOLUTION introduced by Councilmember Sylvia Ortiz, granting El Shaddai
4 Ministries an exception to the provisions of City of Topeka
5 Code Section 9.45.150, et seq. concerning noise prohibitions.
6

7 WHEREAS, City of Topeka Code Section 9.45.150, et seq. makes it
8 unlawful for any person to make, continue or cause to be made or continued any
9 loud, unnecessary or unusual noise or any noise which either annoys, disturbs,
10 injures or endangers the comfort, repose, health or safety or others within the
11 limits of the city; and

12 WHEREAS, City of Topeka Code Section 9.45.170, et seq. authorizes the
13 City Council to grant exceptions to the prohibitions of this code section upon
14 request and a showing that the proposed activity does not offend the spirit of the
15 findings of City of Topeka Code Section 9.45.150, et seq.; and

16 WHEREAS, El Shaddai Ministries has requested that they be granted an
17 exception to the provisions of City of Topeka Code Section 9.45.150, et seq. for
18 the purposes, dates and times described herein, and

19 WHEREAS, upon review of the application of El Shaddai Ministries, the
20 Governing Body of the City of Topeka does hereby find that the requested
21 activity does not offend the spirit of the findings of City of Topeka Code Section
22 9.45.150, et seq.

23 NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the
24 City of Topeka that El Shaddai Ministries is hereby granted an exception from the
25 provisions of City of Topeka Code Section 9.45.150, et seq. for live bands and

26 amplified music and sound at a Back to School event located at 920 SE Sherman
27 Avenue during the hours of 8:00 a.m. and 5:00 p.m. on September 8, 2018.

28

29 ADOPTED and APPROVED by the Governing Body_____
30

31 CITY OF TOPEKA, KANSAS

32

33

34

35

Michelle DeLaisla, Mayor

36 ATTEST:

37

38

39

40 _____
Brenda Younger, City Clerk

41



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE:	September 4, 2018	
CONTACT PERSON:	Councilmember Clear	DOCUMENT #:
SECOND PARTY/SUBJECT:	NOTOMA	PROJECT #:
CATEGORY/SUBCATEGORY	020 Resolutions / 005 Miscellaneous	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember Sandra Clear approving a special event known as the **Classic Movie Nites in NOTO** and rescinding conflicting portions of Resolution No. 9031. (*Council District No. 2*)

This item was added at the meeting.

(Approval would allow the sale, consumption and possession of alcoholic beverages within the designated barricaded area for the Classic Movie Nites in NOTO events on September 15 and October 20, 2018 between the hours of 6:00 p.m. and 10:30 p.m.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6)

POLICY ISSUE:

Pursuant to state law, the Governing Body must approve any special event where alcoholic liquor will be served and consumed on designated public streets, alleys, and sidewalks when a temporary permit has been issued by the Kansas Division of Alcohol Beverage Control (ABC).

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

Streets and alleys within the boundaries of the event shall be closed to motor vehicle traffic. The traffic engineer and the chief of police or their designees shall determine the streets and alleys to be closed and the closing times. Pursuant to K.S.A. 41-719 and 41-2645, the sponsor shall ensure that the area in which alcoholic liquor is possessed or consumed is clearly marked by signs, a posted map or other means ("Designated Barricaded

Area”).

BUDGETARY IMPACT:

There is no budgetary impact to the City.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Resolution

1 RESOLUTION NO. _____

2
3 A RESOLUTION introduced by Councilmember Sandra Clear approving a special event
4 known as the Classic Movie Nites in NOTO and rescinding conflicting
5 portions of Resolution No. 9031.
6

7 BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TOPEKA,
8 KANSAS, that:

9 Section 1. Pursuant to state law, alcoholic liquor may be consumed at a special
10 event to be held on designated public streets, alleys, and sidewalks when a temporary
11 permit has been issued by the Kansas Division of Alcohol Beverage Control (ABC) and the
12 governing body has approved the event as required by K.S.A. 41-719 and 41-2645 and
13 amendments thereto.

14 Section 2. Having considered the request of the sponsor of the Classic Movie
15 Nites in NOTO to allow the possession and consumption of alcoholic liquor, the governing
16 body hereby approves the events to be held on September 15 and October 20, 2018,
17 between the hours of 6:00 p.m. and 10:30 p.m., provided the sponsor secures a temporary
18 permit from ABC and complies with all state laws and ordinances regulating alcoholic
19 liquor.

20 Section 3. A portion or all of the following streets/alleys shall be closed to motor
21 vehicle traffic during the dates and times identified in Section 2: 800 block of N. Kansas
22 Avenue between NW Laurent Street and NW Norris Street. Pursuant to K.S.A. 41-719 and
23 41-2645, the sponsor shall ensure that the area in which alcoholic liquor is possessed or
24 consumed is clearly marked by signs, a posted map or other means ("Designated
25 Barricaded Area").

Section 4. Event attendees may purchase, possess and consume alcoholic beverages within the Designated Barricaded Area. Pursuant to K.S.A. 41-719, no alcoholic liquor may be removed from Designated Barricaded Area or consumed inside vehicles while on public streets or alleys at the event.

Section 5. Conflicting portions of City of Topeka Resolution No. 9031 are hereby rescinded.

Section 6. This Resolution shall take effect and be in force after its approval by the governing body.

ADOPTED and APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE: September 4, 2018
CONTACT PERSON: Nickie Lee, Director of Finance DOCUMENT #:
SECOND PARTY/SUBJECT: Cyrus Hotel PROJECT #:
Community Improvement District
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 042 Community Development
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

PUBLIC HEARING to consider the advisability of establishing a Community Improvement District for the Cyrus Hotel located at 912-924 S Kansas Avenue.

ORDINANCE introduced by City Manager Brent Trout, establishing a Community Improvement District (CID) for the Cyrus Hotel located at 912-924 S. Kansas Avenue levying a CID sales tax of two percent (2%) within the CID

Voting Requirement: Majority vote of the Governing Body (6).

(Approval would establish a community improvement district (Cyrus Hotel) at 912-924 S Kansas Avenue and authorize the imposition of a 2% sales tax to be imposed on retail sales and services within the district.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

Whether to assist with the redevelopment of 912-924 S Kansas Avenue by establishing a community improvement district and imposing a 2% sales tax with the district. In October of 2011 the governing body established a CID policy that required potential projects to meet the following criteria:

- 1) Promote cultural, historical, or artistic elements and enhance tourism and quality of life;
- 2) Attract unique commercial, office, industrial or mixed use development which will enhance the economic climate of the City and diversify the economic base;

- 3) Substantially promote economic development, investment or reinvestment in the community;
- 4) Encourage retail projects that enhance the base of attract new sales;
- 5) provide for construction of facilities that promote tourism or enhance the quality of life within the City;
- 6) Upgrades older real estate through redevelopment or rehabilitation.

STAFF RECOMMENDATION:

After the public hearing has been conducted, staff recommends the Governing Body move to adopt the ordinance.

BACKGROUND:

On May 16, 2018, the City received a petition from Topeka Grand Real Estate LLC requesting the creation of a community improvement district for the redevelopment of property at 912-924 S Kansas Avenue. On September 6, 2016, the Governing Body had established a 1% CID for this same district in an agreement with AIM Strategies LLC. Since that time, the district has been transferred to a new owner and has experienced change in the budget which have prompted this 2% request.

State law authorizes a City to facilitate economic development by establishing a district and imposing sales tax on retail purchases and services within the district. The developer proposes a 2% sales tax for a period of 22 years commencing on January 1, 2019.

The Cyrus Hotel project fits within the parameters of the governing bodies established CID policy and will be an enhancement to downtown.

BUDGETARY IMPACT:

The City would not contribute any taxing funds to this project and assume no risk. The CID would impose an incremental sales tax within the district, the proceeds of which would be used to reimburse qualified developer cost.

A fund will need to be created for the Community Improvement District to collect sales tax proceeds. Once sales tax proceeds begin collections, a budget would need to be established in order to distribute funds.

SOURCE OF FUNDING:

Two percent (2%) sales tax levied in the community improvement district.

ATTACHMENTS:

Description

Ordinance
Summary of Changes to the Development Agreement
Development Agreement
Cyrus Hotel Petition
Public Hearing Notice
CID Policy
CID Procedures

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by City Manager Brent Trout, establishing a Community
6 Improvement District (CID) for the Cyrus Hotel located at 912-924
7 S. Kansas Avenue levying a CID sales tax of two percent (2%)
8 within the CID
9

10 WHEREAS, pursuant to the Community Improvement District Act, K.S.A. 12-
11 6a26 through 12-6a36, as amended (the "Act") cities are authorized to establish
12 Community Improvement Districts ("CID") for economic development purposes; and

13 WHEREAS, on or about May 16, 2018, the City received a petition from the
14 owners of record of more than 55% of the land within a proposed CID district ("District")
15 generally described as the Cyrus Hotel located at 912-924 S. Kansas Avenue and the
16 persons collectively owning more than 55% by assessed value of the land area within
17 the proposed District; and

18 WHEREAS, pursuant to Resolution No. 9043 adopted on August 7, 2018 the City
19 has provided notice that it would hold a public hearing on September 4, 2018, to
20 consider establishing a CID and make findings necessary therefore; and

21 WHEREAS, the Governing Body conducted a public hearing on September 4,
22 2018, to consider establishing the proposed District, all in accordance with the Act; and

23 WHEREAS, the Act provides that upon the conclusion of the public hearing the
24 Governing Body may authorize the CID and project therein.

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

27 Section 1. Nature of the Project. The general nature of the proposed project
28 ("Project") to be constructed within the District shall be known as the Cyrus Hotel, which

will include a 109 room boutique hotel, an event space, restaurant, bar and catering services. Proposed improvements include façade improvements; storefronts; canopy lighting and sign band lighting; asbestos abatement; interior remodels; mechanical plumbing; fire suppression systems; electrical upgrades; HVAC and ductwork replacements and repair; roof replacements; utility upgrades; repair/replacement of existing sidewalks/curbs; landscaping; design and engineering legal fees; construction management, vertical construction, administrative costs in establishing and maintaining the District and any other items permitted to be financed within the District under the Act and authorized in a Development Agreement.

Section 2. Findings. The Governing Body finds the District furthers economic development within the City and further finds it advisable and in the City's best interest to establish the District and authorize the project as proposed, subject to a Development Agreement executed by the City Manager.

Section 3. Estimated Project Cost. The estimated cost of the proposed project within the District is approximately \$15,542,573.

Section 4. Legal Description. The legal description of the District includes three tracts as described herein:

TRACT 1:

PARCEL 1093104014005000: ORIGINAL TOWN , LOTS 302,304,306, 912 S KANSAS AVENUE, TOPEKA, SHAWNEE COUNTY, KANSAS; AND

TRACT 2:

PARCEL 1093104014007000: ALL OF LOTS 308 AND 310 AND 312 EXCEPT THE SOUTH 7 INCHES OF THE WEST 75 FEET THEREOF, ON KANSAS AVENUE, (ORIGINAL TOWN), IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS; AND

TRACT 3:

57 PARCEL 1093104014008000: THE SOUTH 7 INCHES OF THE WEST 75 FEET OF
58 LOT 312, AND ALL OF LOT 314, KANSAS AVENUE, ORIGINAL TOWN IN THE
59 CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS.
60

61 Section 5. Map. A map of the District is attached as Exhibit A.

62 Section 6. Method of Financing; Sales Tax. The method of financing the
63 Project is through a CID sales tax. The proposed amount of the CID sales tax to be
64 levied is two percent (2%) which shall be levied upon all sales of tangible personal
65 property at retail or services taxable within the CID district pursuant to the Kansas
66 Retailers' Sales Tax Act.

67 Section 7. Sales Tax Levy. The City authorizes and hereby levies a two
68 percent (2%) CID sales tax as described in Section 6 to commence on January 1, 2019.

69 Section 8. Development Agreement. In accordance with the Governing Body's
70 CID Policy which requires presentation of a development agreement to the governing
71 body, the Development Agreement is approved.

72 Section 9. Effective Date. This ordinance shall be in full force and effect on
73 January 1, 2019 from and after its passage by a majority of the Governing Body and
74 publication once in the official City newspaper.

75 Section 10. Recording. After publication, the City Clerk is hereby directed to file
76 a copy of this ordinance with the Shawnee County Register of Deeds.

77 Section 11. Kansas Department of Revenue. The City Clerk is directed to
78 provide the Kansas Department of Revenue with a certified copy of this ordinance
79 notifying the Department of the establishment of the District and the levy of the CID
80 sales tax.
81

82
83
84
85
86
87
88
89
90
91
92
93
94
95

PASSED AND APPROVED by the Governing Body on _____.

CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk

EXHIBIT A

MAP OF PROJECT LOCATION



OVERVIEW OF CHANGES
CYRUS HOTEL CID DEVELOPMENT AGREEMENT
(to increase current 1% CID to a 2% CID)

- (1) Date of Agreement has been updated.
 - Line 6 (page 1)
 - Exhibit C -- first paragraph (page C-1)
- (2) References to “AIM Strategies, LLC” have been replaced with “Topeka Grand Real Estate, LLC.”
 - Cover Page
 - Lines 9 (page 1); 71 (page 2); 111 (page 3); 541 (page 13)
 - Exhibit C -- first paragraph and signature block (pages C-1 and C-2)
- (3) Capital investment figure has been updated from \$24,444,000.00 to \$30,426,031.00.
 - Line 15 (page 1)
- (4) Definition of “CID Sales Tax” was revised to reflect two percent (2%), as opposed to one percent (1%).
 - Line 51 (page 2)
- (5) Definition of “Commencement date” (and any references to the date on which the new 2% CID will begin) was revised to reflect the date of January 1, 2019.
 - Line 61 (page 2); Line 202 (page 5); Line 205 (page 5); Line 457-461 (page 11)
- (6) Definition of “Original Development Agreement” was added [in order to provide a reference to the previous document, (which implemented the one percent (1%) CID), and all of its otherwise applicable terms.]
 - Lines 126-128 (page 3)

- (7) Definition of “Petition” was revised to reflect the “filed-upon” date of May 16, 2018, as opposed to August 1, 2016.
- Line 133 (page 4)
- (8) Definition of “Reimbursable Project Costs Cap” was revised to reflect the amount of \$5,000,000.00, as opposed to \$4,000,000.00.
- Line 142 (page 4)
 - Exhibit D -- bottom of page (D-1)
- (9) Language was added stating that revenue collected will be deposited in the CID Sales Tax Fund.
- Lines 222-223 (page 6)
- (10) Language was revised to reflect that the City’s (2%) administrative service fee will be withdrawn every month, as opposed to every quarter.
- Lines 225-229 (page 6)
- (11) Language was added to incorporate more specific provisions related to the Developer’s obligation to provide tenant information and waivers, to open its books and records for City inspection and require its tenants to do the same via contract (also ensuring that the City is a third party beneficiary to such contract), and to verify that sales tax returns are true and materially accurate. Language was also added to incorporate an obligation on the part of the City to maintain confidentiality related to any sales tax information it receives from the Developer.
- Lines 294-359 (pages 7 & 8)
- (12) Section was added to establish the new Effective Date (January 1, 2019) and address what action will be taken, and when, related to the Original Agreement.
- Lines 516-519 (page 12)
- (13) Project costs (including Eligible Project Costs) were updated.
- Exhibit D – (D-1)

DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF TOPEKA, KANSAS

AND

TOPEKA GRAND REAL ESTATE LLC

FOR IMPLEMENTATION OF THE

CYRUS HOTEL COMMUNITY IMPROVEMENT DISTRICT

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0

CYRUS HOTEL COMMUNITY IMPROVEMENT DISTRICT

WHEREAS, the Developer has proposed to redevelop a commercial project to be known as the Cyrus Hotel, which is anticipated to include a 109 room boutique hotel, an event space, a restaurant and bar and full catering services, with a capital investment of approximately \$30,426,031 (the "Project"), all upon approximately .56 acres of land located at 912-924 S. Kansas Avenue on three parcels of land described in ***Exhibit A***, which is attached hereto and incorporated herein by this reference (the "Project Area"); and

WHEREAS, the Developer has filed a petition ("Petition") with the City to establish the Cyrus Hotel Community Improvement District (the "CID") to impose a sales tax within the boundaries of the CID to assist with funding the costs of development within the Project Area; and

WHEREAS, the Developer and the City anticipate that the Project will provide significant economic benefits to the City and other political subdivisions, including paying real property taxes to the City and other taxing subdivisions and generating retail sales tax revenues for the City and other entities collecting retail sales taxes; and

WHEREAS, entering into this Agreement serves the public purpose of enabling the Developer to proceed with the Project, thereby increasing economic development in the City and adding to the existing tax base within the City; and

WHEREAS, the City and the Developer desire to enter into this Agreement for the Project to provide the terms and conditions for payment and/or reimbursement of the Project Costs.

NOW THEREFORE, to improve, maintain and revitalize commercial activity in the City by assuring opportunities for redevelopment and attracting sound and stable commercial growth, to promote the public interest, to create new jobs in the City, to enhance the tax base of the City and to induce the Developer to undertake the Project, and in consideration of the premises and mutual covenants and agreement herein set forth, the City and the Developer do hereby covenant and agree as follows:

41 **Section 1. Definitions of Words and Terms.** In addition to words and terms defined
42 elsewhere herein, capitalized terms not otherwise defined herein shall have the meanings
43 ascribed thereto in the hereinafter defined Act. Unless the context shall otherwise indicate,
44 words importing the singular number shall include the plural, and vice versa, and words importing
45 persons shall include firms, associations and corporations, including public bodies, as well as
46 natural persons.

47
48 **"Act"** means the Constitution and statutes of the State including K.S.A. 12-6a26 *et seq.*,
49 as amended and supplemented from time to time.

50
51 **"CID Occupants"** means the businesses intended to be located in the District, as
52 described in the first recital of this Agreement.

53
54 **"CID Sales Tax"** means the two percent (2.0%) special Community Improvement
55 District Sales Tax levied within the District and collected pursuant to K.S.A. 12-6a31, as
56 amended.

57
58 **"CID Term"** means a term commencing on the Commencement Date and ending on the
59 22nd anniversary of the Commencement Date.

60
61 **"City"** means the City of Topeka, Kansas.

62
63 **"City Clerk"** means the duly appointed City Clerk of the City of Topeka, Kansas.

64
65 **"Commencement Date"** means January 1, 2019.

66
67 **"Completion Date"** means the last day of the month in which the following CID
68 Occupants, or the alternate occupants approved by the City, have generated taxable retail sales
69 within the District on a continuous basis for one full calendar month: The Cyrus Hotel and
70 Holliday's Public House.

71
72 **"Department of Revenue"** means the Department of Revenue of the State of Kansas.

73
74 **"Developer"** means TOPEKA GRAND REAL ESTATE, LLC, a Kansas limited liability
75 Company, and its successors and assigns.

76
77 **"District"** means the Cyrus Hotel Community Improvement District established by the
78 City pursuant to the Ordinance, which contains within its boundaries the real property legally
79 described in *Exhibit A* attached hereto.

80
81 **"Eligible Project Cost"** means the costs of the Project described on *Exhibit D* that are
82 eligible to be paid or reimbursed pursuant to the Act and in accordance with this Agreement,
83 limited to: façade improvements; storefronts; canopy lighting and sign band lighting; asbestos
84 abatement; interior remodels; mechanical plumbing; fire suppression systems; electrical
85 upgrades; HVAC and ductwork replacements and repair; roof replacements; utility upgrades;

86 repair/replacement of existing sidewalks/curbs; landscaping; design and engineering legal fees;
87 construction management; vertical construction on private property within the Project Area.
88

89 **"Force Majeure"** means delays by shortages of materials, natural resources or labor,
90 fire, casualty, catastrophe, strikes, labor trouble, civil commotion, riots, war, acts of God,
91 governmental delays or prohibition, administrative or permitting delays, inclement weather or
92 any other cause beyond the Developer's control.
93

94 **"Governing Body"** means the governing body of the City.
95

96 **"Notice Address"** means the following with respect to the entities referenced below:
97

98 (a) To the City at:
99

100 CITY OF TOPEKA, KANSAS
101 City Hall, Room 355
102 215 SE 7th Street
103 Topeka, Kansas 66603
104 Attn: City Manager
105

106 With a copy to:
107

108 City Clerk
109 City Hall, Room 166
110 215 SE 7th Street
111 Topeka, Kansas 66603
112

113 (b) To the Developer at:
114

115 TOPEKA GRAND REAL ESTATE, LLC
116 3214 SW 29th Street
117 Topeka, Kansas 66614
118

119 With a copy to:
120

121 Lucky DeFries
122 Coffman DeFries & Northern PA
123 534 S Kansas, Suite 925
124 Topeka, Kansas 66603
125

126 **"Ordinance"** means Ordinance No. _____ passed by the Governing Body of the City on
127 _____, authorizing the creation of the District, as amended from time to
128 time.
129

130 **"Original Development Agreement"** means the agreement associated with the Cyrus
131 Hotel Community Improvement District established on September 6, 2016 (Ordinance No.

20020) (Topeka Contract No. 45394).

"Parties" means, collectively, the City and the Developer.

"Petition" means the Petition requesting the creation of a Community Improvement District filed with the City Clerk on May 16, 2018.

"Project" means the retail redevelopment project described herein, which is located on the property described in *Exhibit A*.

"Project Costs" means all the costs and expenses of the Project expended by the Developer and described in K.S.A. 12-6a27, as amended, as more specifically described on the attached *Exhibit D*.

"Reimbursable Project Costs Cap" means, from the CID Sales Tax Fund, \$5,000,000.

"Reimbursement Funds" means the CID Sales Tax Fund.

"State" means the State of Kansas.

"Taxpayers" means any individual or business located in the District and required to remit sales and use tax to the Kansas Department of Revenue (and its successors).

Section 2. District Formation and Purpose. Pursuant to the Act and proceedings of the City, including the Ordinance, the City has authorized the creation of the District. The purpose of creating the District is to provide the Developer with an economic incentive to undertake the Project and to provide for further economic development of the City. The purpose of this Agreement is to outline the rights, duties and obligations of the Parties as they relate to the District and to provide for the reimbursement to the Developer of the Eligible Project Costs from the proceeds of the CID Sales Tax, in accordance with the further terms of this Agreement.

Section 3. Representations of the Parties.

(a) The City is a municipal corporation organized under the laws of the State. The City is authorized pursuant to the Act to create the District, levy the CID Sales Tax, enter into this Agreement and perform the duties and obligations of the City contained herein. The Governing Body has taken all requisite action to pass the Ordinance, which, when it becomes effective, creates the District and levies the CID Sales Tax. The Agreement constitutes a valid and binding obligation of the City in accordance with its terms.

(b) The Developer is a limited liability company duly organized and existing under the laws of the State. Throughout the term of this Agreement, the Developer agrees to maintain its status as such an entity, in good standing and authorized to do business in the State. The Developer has taken all requisite action under its organizational documents to authorize the execution of this Agreement and to perform the duties and obligations of the Developer

177 contained herein. The Agreement constitutes a valid and binding obligation of the Developer in
178 accordance with its terms.
179
180

181 **Section 4. Project Costs.** A description of the scope of the Project and Project Costs, as
182 estimated and submitted by the Developer, are set forth on **Exhibit D**, which is attached hereto
183 and incorporated herein by this reference. The Developer represents that each of the costs
184 designated as such is an Eligible Project Cost subject to the limitations set forth in the definition
185 of Eligible Project Cost. The Parties agree that the amounts of the Project Costs may be adjusted
186 among any of the stated categories, except as provided herein.
187

188 **Section 5. Initial Funding of Project.** The Project Costs will be paid by, or on behalf
189 of, the Developer as a pay-as-you-go-financing under the Act. The City will not advance any
190 City funds for the payment of any Project Costs and will not provide any financing, including the
191 issuance of any bonds or notes. Reimbursement to the Developer shall be made in accordance
192 with Section 7 of this Agreement.
193

194 **Section 6. Reimbursement of City Costs; Administration of CID Sales Tax**
195

196 (a) As required by the City CID Procedures, the Developer shall be responsible for
197 paying all costs necessary to comply with state law, including but not limited to: costs of legal
198 publication notices, resolutions and ordinances. The Developer shall also reimburse the City for
199 reasonable expenses associated with the City's special counsel and financial advisor reviewing
200 and evaluating the petition and this Agreement. Developer payments under this Section 6(a)
201 shall be considered to be Eligible Project Costs, but shall not be considered part of the
202 Reimbursable Project Costs Cap.
203

204 (b) Subject to, and as specified by, the terms and conditions of this Agreement, the
205 City agrees to perform, or provide for the performance of, the administration of the financing of
206 the Eligible Project Costs. On or before January 1, 2019, the City shall provide notification to
207 the Department of Revenue to commence the collection and reporting of the CID Sales Tax
208 within the District in accordance with the provisions of the Act. The imposition of the CID Sales
209 Tax shall commence on January 1, 2019, or as soon thereafter as the Department of Revenue
210 begins the collection of the CID Sales Tax, and shall expire at the end of the CID Term. In the
211 event the Developer has received all amounts under the Reimbursable Project Costs Cap prior to
212 the expiration of the CID Term, the City shall have the right to continue to receive the CID Sales
213 Tax for any statutorily permitted use within the Project Area at the sole discretion of the City.
214 Notwithstanding subsection (b), the City may repeal the Ordinance prior to the expiration of the
215 CID Term if all of the following requirements are met:
216

217 (1) the Aggregate payments from the CID Sales Tax Fund equal the
218 Reimbursable Project Costs Cap;

219 (2) the Governing Body determines that the CID Sales Tax is no longer
220 required to pay for costs associated with the District.
221

(c) Pursuant to the Act, the City shall establish the CID Sales Tax Fund as a segregated fund within the treasury of the City, which shall be held and administered by the City in accordance with this Agreement and the Act. Revenues collected from the CID Sales Tax received by the City from the Department of Revenue during the CID Term shall be deposited in the CID Sales Tax Fund. Revenues collected from the community improvement district sales tax imposed pursuant to Ordinance No. 20020 shall be deposited in the CID Sales Tax Fund.

(d) The City shall impose and collect a fee for the administration of the CID Sales Tax and any sales tax reimbursement pursuant to Section 7 herein. On the 15th day of every month (or the next business day if such day shall not be a normal business day of the City) of each year during the term of this Agreement, the City shall withdraw from the CID Sales Tax Fund an amount equal to Two Percent (2%) of the aggregate deposits to the CID Sales Tax Fund.

Section 7. Reimbursement Procedures. Reimbursement of Eligible Project Costs is conditioned upon the following:

(a) Not more frequently than once per calendar month, the Developer shall submit to the City Clerk a Certification of Expenditures (in substantially the form attached to this Agreement as *Exhibit C*) signed by the Developer, with supporting documentation identifying the Eligible Project Costs for which the Developer seeks reimbursement. The supporting documentation shall be copies of invoices reflecting amounts billed, copies of checks, evidence of wire transfers or other cash payments by the Developer for the Project Costs, copies of bank or private funding loan documentation evidencing interest expense, lien waivers or other evidence that no mechanic's liens exist with respect to the construction of the Project for which reimbursement is sought and such other documentation as the City shall reasonably request.

(b) Each invoice shall contain a certification by the Developer that each Project Cost submitted for reimbursement is an Eligible Project Cost, that such expense has been incurred by the Developer and that such expense has not been previously submitted for reimbursement hereunder. The City reserves the right to have its engineer or other agents or employees inspect all work in respect of which a Certification of Expenditure is submitted, to retain an outside accountant, engineer or attorney to evaluate and assist with processing Certifications of Expenditures for compliance with this Agreement, to examine the Developer's and other records relating to all Eligible Project Costs to be paid and to obtain from such parties such other information as is reasonably necessary for the City to evaluate compliance with the terms hereof.

(c) The City shall have fifteen (15) calendar days after receipt of any completed and executed Certification of Expenditure to review and respond by written notice to the Developer; provided, that the City may, prior to the end of such fifteen (15) day period, advise the Developer if additional time is needed to review and respond to such Certificate, in which event the City shall respond by the extended date so indicated, which date shall not be more than thirty (30) days after the date of such notice. If, in the reasonable judgment of the officer or agent of the City charged with reviewing each Certification of Expenditure, the submitted documentation demonstrates that: (1) the payments requested in the Certification of Expenditure are for Eligible Project Costs, (2) the expense was incurred, (3) the Developer is not in default under this Agreement; (4) the ad valorem property taxes for property owned by the Developer within the

District are current; (5) the Developer is current on its reporting pursuant to Section 9 of this Agreement; and (6) there is no fraud on the part of the Developer, then the City shall approve the Certification of Expenditure, and, if there are sufficient funds available in the Reimbursement Funds as set forth herein, make, or cause to be made, reimbursement to the Developer at the time set forth in subsection (d) of this Section. If the City disapproves the Certification of Expenditure, the City shall notify the Developer, in writing, of the reason(s) for such disapproval within such fifteen (15) calendar-day period (or such extended period as provided herein). However, if only certain line items on the Certification of Expenditure are disapproved and others are approved, if there are sufficient funds available in the Reimbursement Funds as set forth herein, the City shall make, or cause to be made, reimbursement for the line items of the Certification of Expenditure approved by the City. The Developer agrees to make a good faith effort to submit thorough and complete Certifications of Expenditures. The Developer may appeal a denial of one or more items of a Certification of Expenditure in accordance with the administrative appeal process in Chapter 2.145 of the Topeka Municipal Code. Approval of a Certification of Expenditure for reimbursement of Eligible Project Costs will not be unreasonably withheld.

(d) Subject to the further terms of this Agreement, if money is available in the CID Sales Tax Fund, any requested reimbursement approved pursuant to this Section 7 shall be paid to the Developer through the City's regular accounts payable process from the CID Sales Tax Fund; provided, however, that: (1) the aggregate disbursement from the CID Sales Tax Fund to the Developer shall not exceed the Reimbursement Project Costs Cap; (2) no disbursements to the Developer shall be made from the CID Sales Tax Fund after the expiration of the CID Term.

Section 8. City and Other Governmental Permits. Before beginning construction of any aspect of the Project, the Developer shall, at its expense, obtain or cause to be obtained any necessary planning documents, permits or licenses that may be required by the City, Shawnee County or any other governmental agency having jurisdiction over the Project. The City agrees to provide all customary assistance to the Developer in obtaining construction permits issued by the City.

Section 9. Reporting.

(a) Not later than March 1st of each year, commencing January 1, 2020 and ending the March 1st following the expiration of the CID Term, the Developer shall provide to the Director a reporting, as of December 31st of the next preceding year, of (i) annual and cumulative Project Costs, Private Project Costs and reimbursements of Eligible Project Costs and (ii) taxable retail sales for each Taxpayer in the District.

(b) The Developer agrees to provide the Director written notice of all current tenants of the Project on November 1 of each year and at all other times upon the written request of the Director.

(c) To the extent it may legally do so, sales tax information obtained pursuant to this section shall be kept confidential by the City in accordance with K.S.A. 79-3657, as amended. In furtherance of maintaining the confidentiality of the information provided in this

section, the City shall take all reasonable steps necessary to ensure that such information is kept confidential.

(d) Developer agrees to use its best efforts to obtain waivers consenting to the release by the City of aggregate sales tax revenues generated within the District from all assignees, purchasers, commercial tenants, commercial subtenants or any other entity acquiring property or occupancy rights in the District.

(e) During the term that the City is obligated to make reimbursements to Developer under this Agreement, the Developer agrees that its books, records, invoices, and other documents, as may reasonably be necessary for an effective audit, shall be made available to the City, upon request of the City, if in the City's sole discretion, the City elects to inspect and examine said books, records, invoices and other documents for the purpose of verifying the accuracy of the Developer's sales tax returns. Said audit(s) shall be performed by the City, or its agent, and all reasonable costs associated with any such audit shall be assessed to and paid by the Developer.—Absent a reporting irregularity or other development that creates a reasonable question or concern by the City, the City will not require an audit more often than every other year.

(f) During the term that the City is obligated to make reimbursements to Developer under this Agreement, the Developer agrees to cause all commercial assignees, purchasers, tenants, subtenants, or any other entity acquiring any property rights or interest or occupancy rights or interests in the Project to be obligated by written contract (lease agreement or other enforceable written statement) to:

(1) provide to the Director, upon request, sales tax returns for their facilities in the District;

(2) retain, for a minimum of five (5) years, all books, records, invoices, and other documents, as may reasonably be necessary for an effective audit of their sales tax returns; and

(3) make available for inspection by the City, or its agent, upon the written request of the City all books, records, invoices, and other documents as may reasonably be necessary for an effective sales tax audit. If the City, in its sole discretion, elects to perform a sales tax audit, the reasonable costs of said sales tax audit shall be borne by the Developer. Absent a reporting irregularity or other development that creates a reasonable question or concern by the City, the City will not require an audit more often than every other year.

(g) During the term that the City is obligated to make reimbursements to Developer under this Agreement, the Developer hereby agrees that each such written contract or agreement with such third parties shall provide that the City is an intended third-party beneficiary of the agreement and that the City has a separate and independent right to enforce the agreement directly against the commercial assignee, purchaser, tenant, subtenant, or other entity acquiring property interests or rights or occupancy interests or rights within the District.

360
361 (h) During the term that the City is obligated to make reimbursements to Developer
362 under this Agreement, upon the written request of the City not more than once each year, the
363 Developer shall certify to the City in writing, under penalty of law, that its sales tax returns for
364 the preceding year are true and materially accurate and that all reimbursement made hereunder
365 are materially accurate and due and owing to the Developer -- as the result of its own sales tax
366 returns -- under the Agreement.

367
368 **Section 10. Rights of Access.** For purposes of insuring compliance with this
369 Agreement, representatives of the City shall have rights of access to the Project, without charges
370 or fees, during normal business hours during the period of Project construction, to inspect work
371 performed or being performed in the construction of the Project. City representatives shall carry
372 proper identification, insure their own safety and shall not interfere with construction activity
373 unless such activity is apparently in violation of this Agreement, City codes, state or federal
374 regulations, statutes or other law. The right of access granted by this Section shall be in addition
375 to the City's rights to access the Project in the exercise of its proper authority to regulate, and
376 provide for, public safety and to issue and enforce required licenses and permits.

377
378 **Section 11. Insurance and Indemnification.** The Developer agrees to defend,
379 indemnify and hold the City, its officers, agents and employees, harmless from and against all
380 liability for damages, costs and expenses, including attorney fees, arising out of any claim, suit,
381 judgment or demand arising from the negligent and/or intentional acts or omissions of the
382 Developer, its contractors, subcontractors, agents or employees in the performance of this
383 Agreement. The Developer shall give the City immediate written notice of any claim, suit or
384 demand that may be subject to this provision. Not in derogation of the indemnification
385 provisions set forth herein, the Developer shall, at its sole cost and expense, throughout the term
386 of this Agreement and during all phases of the development described herein, to the extent
387 Developer holds fee title to property within the District, insure and keep insured any vertical
388 structures built in the District against direct loss or damage occasioned by fire, flood and
389 extended coverage perils through insurers with an AM Best rating of no less than "A" and/or a
390 rating that is acceptable to the City without co-insurance. The insurance shall be for an amount
391 that is not less than the full replacement cost of such structures.

392 In the event of destruction or damage to any vertical structure owned by the Developer,
393 the Developer shall repair or reconstruct the structure within the time parameters and other terms
394 or provisions identified in any lease agreement with any Taxpayer in the District; provided,
395 however, that in all events the Developer shall cause all damaged or destroyed property within
396 the Project to be restored to a safe and sightly manner within a reasonable time after such
397 damage or destruction.

398
399 **Section 12. Local, State and Federal Laws.** The Developer agrees that it shall abide
400 by, and the Project shall be completed in conformity with, all applicable federal, state and local
401 laws and regulations.

402
403 **Section 13. Nondiscrimination During Construction.** The Developer, for itself and its
404 successors and assigns, agrees that in the construction of the Project, the Developer shall not

discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, handicap, national origin or ancestry.

Section 14. Default and Remedies.

(a) The failure or delay by either of the Parties to this Agreement to perform any term or provision of this Agreement required of such Party, shall constitute an event of default under this Agreement, subject to rights of cure, as specified below.

(b) Notice of an event of default shall be given by the Party claiming such default to the other Party and shall contain the basis of the claimed default.

(c) No legal proceedings against the claimed defaulting party shall be instituted nor shall the claiming Party be entitled to damages if, within fourteen (14) days from the receipt of a notice of claimed default, the claimed defaulting Party undertakes acts to cure, correct or remedy such claimed default, proceeds with due diligence to complete such cure, correction or remedy and such cure, correction or remedy is completed within thirty (30) days of the date such claimed defaulting Party received a notice of default. If the Party claimed to be in default cannot reasonably cure such claimed default within thirty (30) days, the claimed defaulting Party shall notify the other Party of such assertion with a proposed date to complete the cure; and default shall be suspended if the claimed defaulting Party commences curing the default within fourteen (14) days after receipt of written notice thereof and diligently prosecutes the cure to completion within the time period set forth in the notice to the Party claiming the default.

(d) In the event the defaulting Party does not cure the event of default as set forth in this Section, the non-defaulting Party shall have the right to:

(1) by mandamus or other suit, action or proceedings at law or in equity, to enforce the rights of the non-defaulting Party against the defaulting Party and to require and compel duties and obligations required by the provisions of the Agreement or by the laws of the State;

(2) by suit, action or other proceedings at law or in equity, to enjoin any acts or things that may be unlawful or in violation of the rights of the non-defaulting Party; or

(3) take such other action as necessary to protect the interests of the City, including suspending or cancelling reimbursements to the Developer from the CID Sales Tax Fund.

(e) Specific Events of Default. The Developer shall be considered to be in default if any of the following occurs:

(1) The Developer commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if the Developer takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency.

(2) If a petition is filed against the Developer under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against the Developer under any other federal or state law in effect at the time relating to bankruptcy or insolvency.

(3) The Developer makes a general assignment for the benefit of creditors.

(4) If a trustee, receiver, custodian or agent of the Developer is appointed under applicable law or under contract, whose appointment or authority to take charge of property of the Developer is for the purpose of enforcing a lien against property in the District or for the purpose of general administration of such property for the benefit of the Developer's creditors.

(5) Developer fails to complete the Project and commence hotel operations on or before January 1, 2019, unless the parties agree in writing to extend the time.

(6) Developer fails to spend at least a minimum of \$20 million in the Project by January 1, 2019 unless the parties agree in writing to change the minimum amount.

Section 15. Governing Law, Jurisdiction.

(a) This Agreement shall be governed by, interpreted and enforced pursuant to the laws of the State.

(b) The Parties agree that any legal actions arising out of this Agreement will be instituted in the District Court of Shawnee County, Kansas or, in the case of federal jurisdiction, in the Federal District Court for the District of Kansas.

Section 16. Rights and Remedies Cumulative, Waivers. Except as otherwise expressly provided in this Agreement, the rights and remedies of the Parties shall be cumulative, and the exercise by one party of one or more such rights shall not preclude the exercise by it, at the same or different times, of any other rights or remedies specified herein. Any failure or delay by either party in asserting any of its rights and remedies as to any default hereunder shall not operate as a waiver of such default or of any rights or remedies specified hereunder, or deprive either party of its right to assert and enforce any such right or remedy.

Section 17. Amendments. This Agreement may be amended by the parties which amendment shall be in writing and shall not cause the Agreement to be in violation of the Act.

Section 18. Transfer and Assignment. The Developer may assign this Agreement and the rights, duties and obligations hereunder with the prior written consent of the City. The Developer may assign or pledge its rights to payments due hereunder upon written notice to the City, including a copy of any agreement evidencing such assignment or pledge to such third party.

497 **Section 19. Notices, Demands, Communications Among Parties.** Any notice, request,
498 complaint, demand or other communication required or desired to be given or filed under this
499 Agreement shall be in writing, addressed to the Notice Address, and shall be deemed duly given or
500 filed if the same shall be: (i) duly mailed by registered or certified mail, postage prepaid; or (ii)
501 communicated via fax, with electronic or telephonic confirmation of receipt. The Parties may from
502 time to time designate, by notice given hereunder to the others of such parties, such other address
503 to which subsequent notices, certificates or other communications shall be sent. All notices given
504 by: (i) certified or registered mail as aforesaid shall be deemed duly given as of the date they are
505 so mailed; and (ii) fax as aforesaid shall be deemed duly given as of the date of confirmation of
506 receipt.

507
508 **Section 20. Entire Agreement.** This Agreement is executed in duplicate originals,
509 each of which shall be considered an original. This Agreement, including the Exhibits hereto,
510 constitutes the entire agreement and understanding of the Parties. This Agreement supersedes all
511 negotiations or previous agreements between the parties or their predecessors in interest with
512 respect to all or any part of the subject matter of this Agreement.

513
514 **Section 21. Electronic Transactions.** The transactions related thereto and described
515 herein may be conducted and documents may be stored by electronic means.

516
517 **Section 22. Severability.** The invalidity or inability to enforce any one or more
518 phrases, sentences, clauses or sections of this Agreement shall not affect the validity or
519 enforceability of the remaining portions of this Agreement.

520
521 **Section 23. No Liability of City Officials or Employees.** All liabilities under this
522 Agreement on the part of the City are solely corporate liabilities of the City and no officer,
523 employee, or agent of the City shall have any personal or individual liability under this
524 Agreement for anything done or omitted to be done by the City hereunder.

525
526 **Section 24. Effective Date; Original Development Agreement.** This Agreement shall
527 take effect on January 1, 2019 provided that the Governing Body has approved the Agreement in
528 conjunction with approval of the District. The Original Development Agreement will be
529 rescinded on January 1, 2019.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the dates set forth opposite the signatures and represent that the individuals executing this Agreement on behalf of the Parties have the express authority to do so.

CITY OF TOPEKA, KANSAS

(SEAL)

By: _____
Brent Trout, City Manager

ATTEST:

By: Brenda Younger, City Clerk

**TOPEKA GRAND REAL ESTATE,
LLC,
a Kansas limited liability company**

By: _____
Seth Wagoner, Manager

EXHIBIT A
Legal Description of Project Area

TRACT 1:

PARCEL 1093104014005000: ORIGINAL TOWN, LOTS 302,304,306, 912 S KANSAS AVENUE, TOPEKA, SHAWNEE COUNTY, KANSAS; AND

TRACT 2:

PARCEL 1093104014007000: ALL OF LOTS 308 AND 310 AND 312 EXCEPT THE SOUTH 7 INCHES OF THE WEST 75 FEET THEREOF, ON KANSAS AVENUE, (ORIGINAL TOWN), IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS; AND

TRACT 3:

PARCEL 1093104014008000: THE SOUTH 7 INCHES OF THE WEST 75 FEET OF LOT 312, AND ALL OF LOT 314, KANSAS AVENUE, ORIGINAL TOWN IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS.

[illegible]

EXHIBIT C
Certificate of Expenditures

CERTIFICATION OF EXPENDITURES
CYRUS HOTEL PROJECT

Date: _____

Certification # _____

City Clerk of the
City of Topeka, Kansas

In accordance with the Development Agreement for the Cyrus Hotel Project dated _____, 2018 (the "Agreement"), between the City of Topeka, Kansas (the "City"), and TOPEKA GRAND REAL ESTATE, LLC (the "Developer"), the Developer hereby certifies, with respect to all payment amounts requested pursuant to this Certificate to be reimbursed to the Developer, as follows:

1. To the best of my knowledge, all amounts are Eligible Project Costs (as defined in the Agreement) that are reimbursable to the Developer pursuant to the Agreement and the CID Act. (as defined in the Agreement).
2. All amounts have been advanced by the Developer for Eligible Project Costs (as defined in the Agreement) in accordance with the Agreement and represent the fair value of work, materials or expenses.
3. No part of such amounts has been the basis for any previous request for reimbursement under the Agreement.
4. All taxes and assessments which are currently due on any portion of the CID owned by the Developer have been paid.
5. The Developer is current on its reporting pursuant to Section 9 of the Agreement.

The Developer further certifies that all insurance policies required to be in force under the Agreement are in full force and effect and that the Developer is in compliance, in all material respects, with all further terms of the Agreement.

The total amount of reimbursement requested by this Certificate is \$_____, which amount is itemized on Attachment A-1 attached hereto and which Attachment A-1 includes _____ page(s), is incorporated herein by reference and has been initialed by the authorized representative of the Developer who signed this Certificate. Attached to Attachment A-1 are copies of the contract, invoice or other billing for the Eligible Project Costs for which Developer

seeks reimbursement, along with copies of checks, evidence of wire transfers or other evidence of payment by the Developer of such Eligible Project Costs and hereby certify that such copies are true and accurate copies of the original documents.

**TOPEKA GRAND REAL ESTATE, LLC,
a Kansas limited liability company**

By: _____
Seth Wagoner, Manager



CITY OF TOPEKA

FINANCIAL SERVICES
Nikkie Lee
Director of Finance and Administrative Services
City Hall, 215 SE 7th Street, Suite 358
Topeka, KS 66603-3914
Tel: (785) 368-1653

Community Improvement District Reimbursement Request

Submit requests to: City of Topeka Director of Finance and Administrative Services
215 SE 7th Street, Suite 358
Topeka, KS 66603 or fax to: 785-368-3975

Submission Date:	
City Project Number:	
Request Number:	

Please visit the following link for CID policies and procedures:
<https://www.topeka.org/finance/community-improvement-tax-increment-financing-districts/>
Reimbursement is contingent upon sales tax revenue received.
Minimum reimbursement is \$1,000.00.
Please include supporting documentation (copies of invoices and checks).

Type *	Vendor Name	Invoice #	Invoice Date	Payment Date	Time period of work	Requested Amount
* Note	Please use page 2 for additional items.					\$ -

- 1 = Land Acquisition
2 = Public Infrastructure
3 = Relocation Costs
4 = Demolition
5 = Site Prep
6 = Legal and Third Party Reports

Certification: I certify that the above listed costs are eligible CID costs and were incurred as part of the CID project listed above. Costs have not previously been submitted and they reflect actual costs expended. There are also no outstanding or anticipated liens for the work.

Office Use Only:
Finance Approval: _____
Engineering Approval: _____

Signature: _____
Date: _____
Phone number: _____

Grand Total

EXHIBIT D
Project Costs including Eligible Project Costs

Exterior Improvements

Façade Columns/Canopy/Sign Band Construction	\$36,532
Storefronts	\$714,782
Canopy Lighting and Sign Band Lighting	\$42,620

Building Systems Improvements

Asbestos Abatement	\$28,800
Interior Remodels	\$567,808
Mechanical Plumbing Upgrades	\$1,758,720
Fire Suppression Systems Upgrade	\$378,992
Electrical System Upgrades	\$1,574,250
HVAC and Ductwork Replacements and Repair	\$1,172,480
Roof Replacements or Repair	\$161,999
Utility Upgrades	\$100,969

Sidewalks/Curb and Gutter Improvements

Repair/Replacement of existing Sidewalks and Add Curbs	\$45,000
Landscaping	\$93,000

Parking

Initial Construction Improvements	\$13,000
Landscaping	\$1,504,325

Soft Costs

Design and Engineering	\$1,146,453
Legal Fees	\$311,000
Construction Management	\$383,700
CID Fee	\$1,500
Construction Contingency	\$1,506,643

ESTIMATED CID COSTS	\$15,542,573
----------------------------	---------------------

**TOTAL INCENTIVE REIMBURSEMENT
TO DEVELOPER NOT TO EXCEED \$5,000,000 from the CID Sales Tax Fund**

Incentive reimbursement shall be made to the Developer based on amounts spent by the Developer for Eligible Project Costs. Line items listed above are estimates only and in the event that the total amount stated above is not required for any Project Cost, any savings on a specific line item may be applied, at the Developer's discretion, to other line items of the Project.

REC'D TOPEKA CITY CLERK
'18 MAY 16 PM2:27

PETITION FOR THE CREATION OF THE
CYRUS HOTEL
DOWNTOWN COMMUNITY IMPROVEMENT DISTRICT

To the CITY COUNCIL ("City Council") of the CITY OF TOPEKA, KANSAS ("City"):

The undersigned ("Petitioners"), (1) being the owners of record owning more than fifty-five percent (55%) by assessed value of the land area within the boundaries of the hereinafter described proposed community improvement district (the "District"), and (2) comprising more than fifty-five percent (55%) by land area of all owners of real property within the boundaries of the District, do hereby petition and request that the City Council create such District to fund all or part of the cost of services and improvements described herein and provided and made within the District under the authority of the Community Improvement District Act, K.S.A. 2009 Supp. 12-6a26 et seq. (the "Act").

1. Boundaries, Legal Description and Map of District

The legal description of the District and a map of the boundaries of the district are attached hereto as Exhibit A, confirming that the District is contiguous. The District is located entirely within corporate boundaries of the City of Topeka.

2. Name of District

The name of the District is CYRUS HOTEL DOWNTOWN COMMUNITY IMPROVEMENT DISTRICT.

3. Signatures May not be Withdrawn

Notice has been provided to all Petition signers that their signatures may not be withdrawn later than seven (7) days after the filing of this Petition with the City Clerk.

4. Nature of the Proposed Project

The general nature of the proposed project is to provide construction, improvements and maintenance to the properties located within the District. Proposed improvements within the district include facade columns/canopy/sign band construction, storefronts, canopy lighting and sign band lighting, asbestos abatement, interior remodels, mechanical plumbing upgrades, fire suppression systems upgrades, electrical system upgrades, HVAC and ductwork replacements and repair, roof replacements or repair, utility upgrades, repair/replacement of existing sidewalks and adding curbs, landscaping for buildings within the District.

5. Estimated Cost of the Proposed Project

Petitioner estimates the cost of the improvements to the District will total approximately \$15,542,573. This estimate includes the cost of the aforementioned improvements, repairs, and other costs such as

design and engineering, legal fees, construction management (including a construction contingency), and the application fee.

6. Proposed Method of Financing the Project - Sales Tax

The proposed District projects will be financed on a *pay as you go basis* payable by private financing secured by Developer and reimbursed from revenues received from the imposition of a two percent (2%) community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing of taxable services pursuant to the provisions of the Kansas retailer's sales tax act within the proposed CYRUS HOTEL DOWNTOWN COMMUNITY IMPROVEMENT DISTRICT.

7. Request for Establishment

By execution and submission of the Petition, the Petitioners respectfully request that the City Council establish the CYRUS HOTEL DOWNTOWN COMMUNITY IMPROVEMENT DISTRICT as set forth in this Petition.

IN WITNESS WHEREOF, we the undersigned Petitioners have executed the above and foregoing Petition to create a Community Improvement District:

Name of Owner:	TOPEKA GRAND REAL ESTATE, LLC
Owner's Telephone Number:	(785) 727-0124
Owner's Mailing Address:	c/o AIM STRATEGIES, LLC 3214 SW 29th Street Topeka, KS 66614
Name of Signer:	CODY G. FOSTER

Signer's Legal Authority: Manager
Signer's Telephone Number: (785) 727-0124
Signer's Mailing Address: AIM STRATEGIES, LLC
3214 SW 29th Street
Topeka, KS 66614
Type of Entity: Limited Liability Company

By executing this Petition, the undersigned represents and warrants that he or she is legally authorized to execute this Petition on behalf of the property owner named immediately above. The undersigned acknowledges that it has been given notice that its signature below may not be withdrawn later than seven (7) days after the filing of this Petition with the City Clerk.

TOPEKA GRAND REAL ESTATE, LLC

By: 

CODY G. FOSTER, Manager

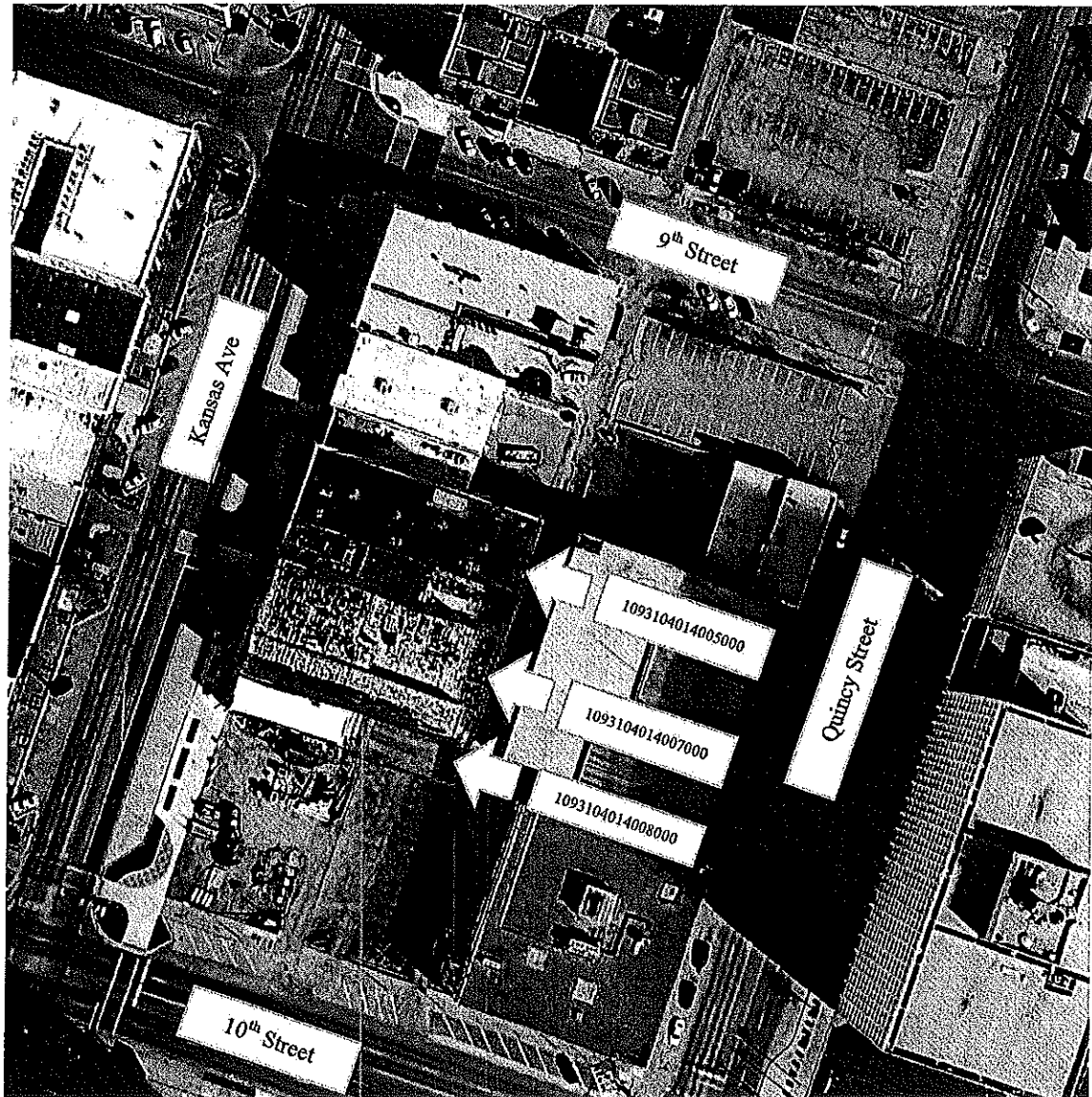
PREPARED BY:

S. LUCKY DeFRIES, #9981, and
JEFFREY A. WIETHARN, #15509, of
COFFMAN, DeFRIES & NOTHERN
A Professional Association
534 S. Kansas Ave., Suite 925
Topeka, KS 66603-3407
Phone: (785) 234-3461
Fax: (785) 234-3363
Email: ldefries@cdnlaw.com
jwietharn@cdnlaw.com

Legal Description

Original Town, Kansas Avenue, Lots 302, 304, 306, 308, 310, 312 & 314, Section 31, Township 11, Range 16 (commonly known as 912, 916, 920, 922 and 924 S Kansas Avenue, Topeka, KS 66612)

MAP OF PROJECT LOCATION





CITY OF TOPEKA

City Clerk
City Hall, 215 SE 7th Street, Room 166
Topeka, KS 66603
www.topeka.org

Brenda Younger, M.M.C.
785-368-3940
Email: byounger@topeka.org

August 13, 2018

Topeka Grand Real Estate, L.L.C.
3214 SW 29th Street
Topeka KS 66614

PUBLIC HEARING NOTICE CYRUS HOTEL COMMUNITY IMPROVEMENT DISTRICT (CID #2)

Enclosed is a copy of City of Topeka Resolution No. 9043 and the proposed improvement district map approved by the Governing Body on August 7, 2018, setting the public hearing to consider the advisability of establishing a Community Improvement District ("CID district") (Cyrus Hotel CID #2) for the Cyrus Hotel at 912, 916, 920, 922 and 924 S. Kansas Avenue.

The public hearing will be held on September 4, 2018, in the City Council chambers of City Hall, 214 SE 8th Street, at 6:00 p.m. All persons desiring to be heard with reference to the creation of the District shall be heard at this hearing.

The proposed method of financing is through a CID sales tax and reimbursement to the developer after certification of costs. The proposed amount of the CID sales tax to be levied is two percent (2%) which shall be levied upon all sales of tangible personal property at retail or services taxable within the CID district pursuant to the Kansas Retailers' Sales Tax Act.

Please contact the City Clerk's office if you have any questions at byounger@topeka.org or 785-368-3940.

Brenda Younger, M.M.C.
City Clerk

Encl. Resolution No. 9043
Proposed Improvement District Map



Community Improvement District - Cyrus Hotel City of Topeka, KS



0 40 80 160 240 320 Feet

While the City of Topeka, KS makes every effort to maintain and distribute accurate information, NO WARRANTIES AND/OR REPRESENTATIONS OF ANY KIND are made regarding information, data, or services provided. In no event shall the City of Topeka, Kansas be liable in any way to the users of this data. Users of the data shall hold the City of Topeka, Kansas harmless in all matters and accounts arising from the use and/or accuracy of this data map.
City of Topeka, Kansas :: Public Works :: Technical Support Group
7/11/2016 AREynolds



(Published in the Topeka Metro News August 13, 2018 & August 20, 2018)

RESOLUTION NO. 9043

A RESOLUTION introduced by Brent Trout City Manager, setting the public hearing to consider the advisability of establishing a Community Improvement District (CID) for the Cyrus Hotel at 912-924 Kansas Avenue, as more specifically described herein.

WHEREAS, K.S.A. 12-6a26 *et seq.*, as amended establishes the Community Improvement District Act (the "Act") for economic development and any other purpose for which public money may be expended; and

WHEREAS, cities are authorized to create a community improvement district (CID) to assist with the financing of eligible projects provided cities comply with the procedures set forth in the Act; and

WHEREAS, the governing body, on September 6, 2016, established a CID for the Cyrus Hotel and imposed a CID sales tax of 1% upon all sales of tangible personal property at retail and services taxable within the CID District (Cyrus Hotel CID #1); and

WHEREAS, the owner of the Cyrus Hotel is desirous of increasing the CID sales tax from the current 1% to 2% to be effective on January 1, 2019; and

WHEREAS, towards that end, Topeka Grand Real Estate, LLC (Petitioner) has submitted a petition for establishment of a CID District (Cyrus Hotel CID #2) and;

WHEREAS, Petitioner is the owner of record of all of the land within the proposed CID district as well as the owner of more than 55% by assessed value of the land area within the proposed CID district generally described as the Cyrus Hotel at 912-924 Kansas Avenue and legally described in Section B herein; and

WHEREAS, in order to continue the redevelopment of this commercial retail area,

the City desires to consider the establishment of a CID as requested by Petitioner and in accordance with the Act; and

WHEREAS, K.S.A. 12-6a29 provides that any city proposing to establish a CID must adopt a resolution stating that the city is considering the establishment of a CID and include in such resolution notice that a public hearing will be held to consider the establishment of the CID.

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, that a public hearing shall be held to consider the advisability of creating a Community Improvement District ("CID district")(Cyrus Hotel CID #2), in the City Council Chambers of City Hall, 214 SE 8th Street, on September 4, 2018 at 6:00 p.m.

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council shall meet for the purpose of holding a public hearing in the City Council Chambers of City Hall, 214 E. 8th Street, at 6:00 p.m. on September 4, 2018, to consider the advisability of creating a Community Improvement District (Cyrus Hotel CID #2) , more specifically described as follows:

A. GENERAL NATURE OF IMPROVEMENT:

The general nature of the proposed project (Project) to be constructed within the community improvement district (District) is to promote the development of a new 109 room boutique hotel located at 912-924 S Kansas Avenue. The Project may be more particularly described as the construction, and procurement of certain improvements, costs and services within the District, including, but not limited to façade improvements, building system improvements, sidewalk/curb and gutter improvements, and soft costs of the Project and the City's and the Petitioner's administrative costs in establishing and maintaining the District and any other items permitted to be financed with the District under the Act.

B. PROPOSED IMPROVEMENT DISTRICT:

TRACT 1:

PARCEL 1093104014005000: ORIGINAL TOWN , LOTS 302,304,306, 912 S KANSAS AVENUE, TOPEKA, SHAWNEE COUNTY, KANSAS; AND

TRACT 2:

PARCEL 1093104014007000: ALL OF LOTS 308 AND 310 AND 312 EXCEPT THE SOUTH 7 INCHES OF THE WEST 75 FEET THEREOF, ON KANSAS AVENUE, (ORIGINAL TOWN), IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS; AND

TRACT 3:

PARCEL 1093104014008000: THE SOUTH 7 INCHES OF THE WEST 75 FEET OF LOT 312, AND ALL OF LOT 314, KANSAS AVENUE, ORIGINAL TOWN IN THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS.

C. ESTIMATED OR PROBABLE COST:

\$ 15,542,573

D. PROPOSED METHOD OF FINANCING:

The proposed method of financing is through a CID sales tax and reimbursement to the developer after certification of costs. The proposed amount of the CID sales tax to be levied is two percent (2%) which shall be levied upon all sales of tangible personal property at retail or services taxable within the CID district pursuant to the Kansas Retailers' Sales Tax Act.

The hearing may be adjourned from time to time and until the Governing Body shall have made findings by resolution as to the advisability of establishing a Community Improvement District and levying a 2% sales tax within the District. All persons desiring to be heard with reference to the creation of the District shall be heard at this hearing.

Upon adoption of this Resolution, a copy shall be mailed by certified mail, return receipt requested, to each owner within the proposed District at least 10 days prior to the date of the public hearing. The City Clerk shall publish this resolution at least once each week for two consecutive weeks in the official city newspaper with the second publication occurring at least seven days prior to the date fixed for the public hearing.

ADOPTED and APPROVED by the Governing Body on August 7, 2018.



CITY OF TOPEKA, KANSAS

Michele De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk

**CITY OF TOPEKA
COMMUNITY IMPROVEMENT DISTRICT (“CID”) POLICY**

Effective Date: October 25, 2011

Sections:

- I. OBJECTIVES**
 - II. SCOPE**
 - III. DEFINITIONS**
 - IV. PROVISIONS**
 - V. PROCEDURES**
 - VI. STATUTORY AMENDMENTS**
 - VII. EFFECTIVE DATE**
 - VIII. RESPONSIBILITY FOR ENFORCEMENT**
-

I. OBJECTIVES.

The proper use of a Community Improvement District (CID) should promote, stimulate and develop the general and economic welfare of and quality of life in the City of Topeka. A CID involves public financing of all or a portion of a “Project” as defined in the Community Improvement District Act (“Act”) within a prescribed area (the District). A CID Project should provide public benefit such as strengthening economic development and employment opportunities; enhancing tourism; upgrading older real estate through redevelopment or rehabilitation; or promoting sustainability. Public financing is achieved by levying and collecting special assessments and/or a CID sales tax upon property in the District.

II. SCOPE.

An applicant may petition the City to utilize CID financing to fund Projects eligible under the Act. The authority and decision to approve a petition establishing a CID for a Project is within the sole discretion of the Governing Body. However, Projects in which the anticipated costs are less than \$1 million dollars will not be considered. The Governing Body is under no obligation to approve any petitioned Project. This Policy is intended to provide a guide in considering applications. The Governing Body reserves the right to deviate from this Policy when it believes it is in the City’s best interest.

III. DEFINITIONS.

- A. “CID Sales Tax” means a retailers’ sales tax over and above the aggregate amount of the retailers’ sales tax contained in K.S.A. 12-187 through 12-197, and amendments thereto, on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailer’s sales tax act, within a District, in any increment of .10% or .25% not to exceed 2% as authorized

by the Act, pledging such revenue to pay the bonds issued for the Project or to reimburse the cost of the Project pursuant to pay-as-you-go financing.

- B. “Cost” means the definition set out in K.S.A. 12-6a27, as amended. The City, on a case by case basis, may consider costs incurred within 12 months prior to District establishment, provided the costs were incurred after July 1, 2009. The City reserves the right to exclude otherwise eligible costs under the Act. . The approved project costs shall be described in detail in a Development Agreement.
- C. “Owner” means the owner or owners of record, whether resident or not, of real property within the District. The applicant shall be an owner.
- D. “Pay-As-You-Go” means a method of financing in which the costs of a Project are financed privately, and the approved costs of such Project are reimbursed after Project completion as monies are deposited in the District fund.
- E. “Project” may include any item eligible under the Act, as described in K.S.A. 12-6a27, as amended, but the City reserves the right to exclude otherwise eligible Projects under the Act; determine eligible and ineligible projects; and determine the amount of funding for a Project on a case by case basis. These terms and approvals shall be set out in a Development Agreement.
- F. “Review Committee” includes the Deputy City Manager, Director of Finance, Director of Public Works, Director of Planning, Director of Development Coordination, and the City Attorney, or their designees. The Committee may also include City staff and individuals designated by the City Manager, including but not limited to the City’s bond counsel and City financial advisor.

IV. PROVISIONS.

A. Criteria. The Governing Body shall consider establishment of a CID when it determines it is in the best interest of the City and provided the Project meets one or more of the following criteria:

1. Creates facilities which promote the cultural, historical, or artistic elements of the City and enhance tourism and quality of life.
2. Attracts unique commercial, office, industrial, and/or mixed use development which will enhance the economic climate of the City and diversify the economic base.
3. Substantially promotes economic development, investment or reinvestment in the community.

4. Encourages retail projects that enhance the retail base by either attracting new sales or capturing sales moving to other markets.
5. Provides for the construction of facilities that promote tourism or enhance the quality of life within the City.
6. Upgrades older real estate through redevelopment and/ or rehabilitation.

B. Applicant Responsibility. The application process shall include an application form and the petition required by the Act. As part of the process, the applicant shall complete the following prior to submission of the petition to the Governing Body:

1. Provide evidence in a form satisfactory to the City of the applicant's financial ability to complete the proposed project in a timely manner.
2. Provide documentation substantiating the applicant's sources of funding, including the amount/percentage of equity funding.
3. Submit a financial analysis demonstrating that the projected revenue is sufficient to pay the costs of the project, including bond debt service. The Review Committee may secure an independent feasibility study, the costs of which shall be borne by the applicant.
4. Pay all required fees and comply with all procedural requirements of the Act and the City's CID Policy.
5. Execute a Development Agreement contemporaneous with presentation of the CID petition to the governing body.

C. Review Committee Consideration. The Review Committee shall review each application and petition and make a recommendation to the Governing Body. In determining whether to recommend approval of a CID petition and the method of financing, the Review Committee may consider all of the following:

1. Whether creation of a CID meets one or more of the criteria set forth in Section IV(A);
2. The total development costs and investment, including estimated Project costs for which public financing is sought;

3. Sources of funding, including the amount of equity funding in comparison to public financing;
4. Experience and financial stability of Developer;
5. Whether tenants for the Project are in place and the nature and quality of the tenants;
6. Financial viability of the Project, including potential competition;
7. The amount and purpose of the funding request, including the percentage of funding for capital costs; operational costs; and public costs;
8. If bonds are requested, the projected debt service coverage from projected revenues; any additional security pledged by the Developer; and the marketability of the bonds; and
9. Whatever other factors or considerations the Review Committee believes the Governing Body would find relevant to its decision.

D. Governing Body Review. The Governing Body shall review the financial viability of each CID and shall use this information in determining whether to grant the Petition and, if granted, the appropriate term of the CID, which may be less than the duration allowed by the Act.

1. In the event pay-as-you-go financing is utilized, the CID sales tax shall expire on a date approved by the City, but no later than twenty-two (22) years from the date the state director of taxation begins collecting such tax or when the pay-as-you-go costs have been paid.
2. CID Bonds issued to finance the Project shall mature on a date approved by the City, but no later than twenty-two (22) years from date of issue, unless otherwise provided by law.
3. In no event shall any CID sales tax extend later than the date the bonds issued to finance such project or refunding bonds issued for the Project mature.

E. Financing.

1. Source of Funds. The cost of all or a portion of any authorized CID Project may be financed by any or all of the following sources:

a. Pay-As-You-Go financing based either on a special assessment or a CID sales tax within the District, or both;

b. Special Obligation Bond financing payable wholly through special assessments within the CID;

c. Special Obligation Bond financing payable in part through special assessments within the CID and in part through a CID sales tax;

d. General Obligations Bonds;

e. Any other funds appropriated by the City; or

f. A combination of the foregoing methods.

2. Development Agreement. If after review of the application, the Review Committee determines to recommend approval of the CID to the Governing Body, the Applicant shall supply an executed Development Agreement (the "Development Agreement") which shall be presented to the Governing Body for consideration contemporaneous with the Petition. The Development Agreement shall address the recommended method of financing, approved Project(s) and approved Costs; the feasibility of the Project, the steps to be taken to minimize the risk of default; and any other terms the Committee deems appropriate.

3. Bonds. The City encourages the use of private financing ("Pay-As-You-Go") with reimbursement to the applicant for eligible, approved costs associated with a CID Project, but the City may consider the issuance of Bonds. Any determination to issue Bonds is within the sole discretion of the Governing Body.

a. CID Bonds. The City may issue special obligation notes or bonds ("CID Bonds") (collectively, "Bonds") to finance one or more Projects. In no event shall special assessments be levied against the City. The City will not provide credit enhancements for CID Bonds; however, credit enhancement provided by an applicant will be viewed favorably.

b. G.O. Bonds. The City discourages the use of full faith and credit notes or bonds (G.O. Bonds) to finance a Project

under this Act, but may consider such action for that portion of a CID Project that is exclusively for public improvements.

Prior to the issuance of any Bonds, the applicant must receive a Certificate of Completion from the City. In addition, the applicant must agree to certain disclosures required by the City and the Bond underwriters and ensure that if necessary, such disclosure requirements are included in all subsequent tenant leases and land sales within the District.

4. Project Funds. A separate fund shall be created for each District and such fund shall be identified by a suitable title (the "Fund"). CID sales tax receipts, special assessments paid to the City under this Act, the proceeds from the sale of Bonds, and any other moneys appropriated by the Governing Body for the purpose of paying Project Costs, including the principal and interest on the bonds issued pursuant to this Act shall be credited to such Fund.

a. The Fund shall be solely used to pay the Costs of the Project either through the issuance of Bonds or Pay-As-You-Go financing, and shall be limited to approved costs included in the ordinance authorizing the Project or in the Development Agreement.

b. Reimbursement of approved Costs may only be made after a Certificate of Completion has been issued by the City.

c. In the event moneys remain in the Fund after the expiration of the CID sales tax, such moneys shall continue to be used solely to pay the Cost of the Project. Upon payment of all Project Costs and principal and interest on any bonds issued for such District, the City has the authority to terminate the CID and spend any moneys remaining in such Fund for the purposes for which local sales tax receipts may be spent.

5. Fees. When submitting its application the applicant shall pay a non-refundable application fee to cover City expenses associated with reviewing and processing the CID request. The City shall also require the applicant to reimburse all costs incurred by the City for additional legal, financial and/or planning consultants, for direct out-of-pocket expenses, and for other costs relating to services rendered for the City to review, evaluate, process and consider the petition for a CID. If bonds are requested and subsequently approved by the City the applicant shall also be responsible for all costs of issuance associated therewith. The applicant shall also be responsible for paying an annual administrative fee to cover the cost of monitoring and administering

the CID. Fee amounts shall be set out in the CID Procedures as described in Section

V. PROCEDURES.

City staff shall develop procedures for processing CID applications and filing CID petitions, in addition to such other matters such as the establishment of fees. Such procedures shall be approved, and amended as appropriate, by the City Manager.

VI. STATUTORY AMENDMENTS; CONFLICT WITH STATE LAW.

Any amendment to the Act or any statute cited herein or used as a source of authority for development of the City's CID Policy shall apply without the need to modify or amend this Policy. If any part of this policy conflicts with state law, the latter shall control.

VII. EFFECTIVE DATE.

This CID Policy shall take effect upon passage by the City Council.

VIII. RESPONSIBILITY FOR ENFORCEMENT.

The City Manager shall be responsible for the enforcement of this Policy.

**CITY OF TOPEKA
COMMUNITY IMPROVEMENT DISTRICT ("CID") PROCEDURES**

Effective Date: 11-9-11

Sections:

- I POLICY APPLICABILITY**
- II DEFINITIONS**
- III APPLICATION PROCESS**
- IV DISTRICT ESTABLISHMENT**
- V METHOD OF PROJECT FINANCING**
- VI BOND FINANCING GUIDELINES**

I. POLICY APPLICABILITY.

The following procedures are established under the authority of the City Manager and are intended to provide guidance in establishing a Community Improvement District ("CID" or "District") in accordance with the Governing Body CID Policy as approved by Resolution No. 8392 on October 25, 2011. The CID Policy is incorporated herein by reference. These procedures may be waived by the City Manager, if such waiver is in the best interest of the City and does not conflict with any statutory or procedural requirement of state law. If any part of this procedure conflicts with state law, the latter shall control.

II. DEFINITIONS.

The terms used in these Procedures shall have the same meaning as set forth in Section III of the CID Policy.

III. APPLICATION PROCESS.

A. CID Application. An applicant shall make application for a CID by filing with the City Clerk one (1) original written application on a form provided by the City, in addition to an electronic copy of the application. The applicant shall also submit the petition required by the Act.

B. Fees.

1. Application Fee. A non-refundable application fee in the amount of \$1,500.00, made payable to the City of Topeka, shall accompany the CID Application.

2. Reimbursement. Applicant shall pay the following costs by either paying the third party directly or by reimbursing the City prior to the City incurring the cost:

a. All costs necessary to comply with state law, including but not limited to: costs of all legal publication notices, resolutions, ordinances, and proceedings relating to the issuance of bonds;

b. City bond counsel, the City's financial advisor, and any other third party professional retained by the City to review and evaluate the petition.

3. CID Administrative Fee if District is Approved. An annual administrative fee of 1% of the annual CID revenue generated within the District shall be charged to reimburse City for services rendered in the administration and supervision of the Project. Such CID Administration Fee shall be paid from the Project Fund. The CID Administrative Fee is an eligible cost for reimbursement if there are sufficient funds. In no event shall the total fee, including the initial application fee and the CID Administrative Fee, but excluding the costs in Section III(B)(2), exceed 5% of the total Project cost.

4. Amendments. The City Manager may establish City fees, for amendments and modifications to the District financing documents that occur throughout the term. In addition, the applicant shall be responsible for all City Consultant fees associated with any such amendment request.

5. State Fee. In addition to the CID Administrative Fee, if a CID sales tax is utilized, the Kansas Dept of Revenue may retain 2% of the CID sales tax up to a maximum of \$60,000.00 per state fiscal year, in the state CID sales tax administration fund to defray the expenses of the state in administration and enforcement.

C. Preliminary Review and Pre-Application Meeting. Prior to submittal of a formal application, an applicant is encouraged to meet with the Review Committee to discuss a proposed project and possible CID financing. These discussions are preliminary and are not binding on the applicant, the Review Committee, or the Governing Body. If the City utilizes any consultants to assist with the preliminary evaluation, the applicant shall be responsible to pay the associated costs, provided the City has first notified the applicant of such request and received their consent.

IV. DISTRICT ESTABLISHMENT.

A. Petition. A CID shall be established by petition filed with the City Clerk. The Petition must meet all requirements of the Act, the CID Policy and these Procedures and must be submitted in sufficient time for staff to follow established procedures for publication; to perform site plan review; and to analyze the merits and feasibility of the proposed CID. The City reserves the right to request any additional information to supplement the Petition.

B. Petition Participation.

1. An applicant seeking to finance all or a portion of the CID eligible expenses with a CID special assessment must obtain the signatures of 100% of the property owners of all land area within the District.
2. An applicant seeking to finance CID eligible expenses in whole or in part by a CID sales tax must obtain the signatures of 100% of the property owners of the land area within the proposed District.

C. Public Hearing (Sales Tax Only). If a CID sales tax is requested for all or part of the project, the Governing Body shall adopt a resolution calling for a public hearing on the creation of the District and imposition of a CID sales tax. The resolution shall be published once per week for two (2) consecutive weeks with the last publication at least seven (7) days prior to the hearing and also sent by certified mail to all owners at least ten (10) days prior to the hearing.

For Districts financed by special assessments only and for which a petition signed by 100% of the property owners is submitted, no notice or public hearing is required for Governing Body action.

D. Governing Body Action. The Governing Body will not consider a CID until a complete application is submitted and reviewed by the Review Committee, fees are paid, and a recommended Development Agreement is available. Following the public hearing, if required, the Governing Body by majority vote may establish the District by ordinance.

1. The ordinance shall authorize the Project, approve the estimated cost of Project, include a legal description of the District (with map), approve the method of financing including the levying of a CID sales tax (if applicable), and approve the maximum amount and method of assessment, if applicable. The ordinance shall become effective upon publication once in the official city newspaper. The ordinance shall also be recorded with the Register of Deeds.
2. Governing Body establishment of a CID does not constitute approval of a site plan, zoning, or other land development approval. Establishment of a CID is an entirely separate process. CID projects are still required to obtain the necessary development and regulatory approvals.

V. METHOD OF PROJECT FINANCING.

A. Certificate of Completion.

1. As noted in the Policy, Projects may be financed by a variety of methods. Before payment will be made to applicant, the City must issue a

Certificate of Completion. Multiple Certificates of Completion may be issued for projects with approved phases.

2. The request for Certificate of Completion shall include an affidavit of the applicant certifying:

- a. Project improvement is an approved CID eligible cost and identify its priority for reimbursement, if any;
- b. Project was constructed in accordance with all applicable laws and codes;
- c. Cost was incurred for authorized project improvements;
- d. Cost has not previously been submitted for reimbursement;
- e. Cost reflects the actual cost expended; and
- f. Applicant has no outstanding or anticipated liens for work constructed.

B. Reimbursement.

1. If pay as you go financing is used, the applicant shall submit to the Director of Finance copies of all invoices supporting its request for reimbursement, accompanied by a Certificate of Completion. Invoices must be submitted quarterly and such submission must occur at least thirty (30) days prior to any quarterly disbursement period or applicant shall have to wait until the next quarterly disbursement period.

2. The Director of Finance shall attempt to determine the eligibility of the cost within thirty (30) days of the submittal. If the Director determines the nature or amount of the request for reimbursement is outside the scope of the Act or the Development Agreement, Developer may appeal this decision in accordance with the procedure in Chapter 2.145 of the Topeka Municipal Code. Any reimbursement payment shall be stayed pending a determination by the hearing officer.

3. Requests for reimbursement shall be denied unless submitted before the Project is closed or within thirty (30) days thereafter.

4. CID revenues shall be paid in the following order:

- a. First, the CID administrative fee.
- b. Second, cost of preparation and publication of notices of

hearings, resolutions, ordinances and other proceedings relating to the creation or administration of the District or the issuance of bonds.

c. Third, the Petitioner's other costs as defined in Section III(B) of the CID Policy.

C. Special Assessments.

1. If special assessments shall be levied to finance all or any part of the Project cost, the City must follow the procedures set out in K.S.A. 12-6a01 *et seq.* except that no assessments may be levied against the City at large. In addition, if the source of financing includes payment from a pledge of revenue received from the CID sales tax or any other funds appropriated by the City for purpose of paying Project costs, including the principal and interest of bonds, then the ordinance levying the assessments may state that the annual installments of such assessment for any year may be reduced or eliminated to the extent that, prior to the date the City certifies the City tax levy to the County, the City has received sufficient funds from the above described sources to pay the debt service on any bonds issued for the Project costs, which would have been paid by such installment.

2. The City is not required to refund any prepayment of assessments after such prepayment is made to the City. Any prepayment must be paid in full prior to the issuance of bonds, or after the issuance of bonds by paying all of the installments which have been levied and also the unlevied installments with interest on the latter at the rate provided in the bonds from the date of the bonds to the time of maturity of the last installment in compliance with K.S.A. 10-115, and amendments thereto.

D. CID Sales Tax.

1. A CID sales tax may be levied in any increment of .10% or .25% not to exceed 2%, which amount is in addition to the aggregate amount of the retailers' sales tax contained in K.S.A. 12-187 through 12-197. The revenue from the CID sales tax may be pledged to pay the bonds issued for the Project or to reimburse the cost of the Project through pay-as-you go financing.

2. If CID bonds are issued, the CID sales tax shall expire no later than the date the bonds mature. If pay-as-you-go financing is used, the CID sales tax shall expire on a date approved by the City, but no later than 22 years from the date the state director of taxation begins collecting such tax or when the Project bonds or pay-as-you-go costs have been paid.

3. Procedure:

a. Upon adoption of a CID sales tax, the City shall send a certified copy of the resolution or ordinance authorizing the levy of the CID sales tax to the Kansas Director of Taxation. Notice must be received ninety (90) days before the first day of the quarter in which the CID sales tax will commence. Thereafter, the Kansas Director of Taxation shall commence collection of the CID sales tax in the District at the same time and in the same manner for the collection of the state retailers' sales tax. The full remittance shall be deposited in the state treasury.

b. The state may retain 2% of all CID sales taxes collected up to \$60,000 per state fiscal year for deposit in the state CID sales tax administration fund to defray the state costs of administration and enforcement (the "state fee").

c. The state shall no less than quarterly remit to the City the CID sales tax receipts collected less the state fee, if any. The amount shall be deposited in the City CID Project fund. Such fund shall be created for each District.

d. Within 15 days of written request of the City, the state will provide the City with a copy of any retailers' sales and use tax return filed with the state in connection with a District for which sales or use tax revenues are intended to be used to finance Project costs. Such returns and the information contained therein shall be kept confidential, but may be used for purposes of allocating and depositing such revenues in connection with the bonds used to finance Project costs.

E. Appeals. No suit to set aside assessments or otherwise question the validity of the proceedings for the District establishment or Project authorization shall be brought 30 days after publication of the resolution or ordinance creating the District. No suit to set aside the CID sales tax may be brought 30 days from the publication of the ordinance or resolution declaring the intent to impose the CID sales tax. No protest petition pertaining to the issuance of full faith and credit bonds may be brought 60 days following the date of public hearing to create or modify the District.

VI. BOND FINANCING GUIDELINES.

If CID bonds are issued for the project, the following guidelines shall be applied:

A. The maximum maturity for Bonds is 22 years.

B. For feasibility, it is recommended that Bonds be issued in a minimum amount of \$ 1,000,000. This amount may be adjusted upon recommendation of the Review Committee and approval of the Governing Body.

C. CID Bonds issued under this Policy must include security for the bonds of a sufficient amount, and in a form approved by the City's bond counsel and financial advisor, to minimize any risk of default.

D. Bonds issued under this Policy must be sold to qualified investors (as defined by the Securities and Exchange Commission Regulation D) in accordance with the minimum denominations as provided herein.

E. Bonds must initially be offered in denominations of \$100,000 or greater. These denominations may be stepped down (upon consultation with the City's bond counsel and financial advisor) when one of the following are met:

1. the Project being bond financed is substantially leased;
2. the estimated revenue stream yields significant debt service coverage on the bonds;
3. construction of the Project being bond financed is 100% complete;
4. the repayment term is less than or equal to 60% of the maximum permitted repayment term; or
5. waiver by the City Manager.

F. If a negotiated sale of the bonds is utilized, the City will generally select the underwriter(s) needed to structure, price, and sell the bonds. Exceptions to this process may be approved by the City Manager upon consultation with the City's bond counsel and financial advisor.

G. All pricing for negotiated sales will be performed with direct involvement by City staff and the City's financial advisor. Any savings generated as a result of discounts or premiums will be used for the benefit of the District.

CITY OF TOPEKA



Daniel R. Stanley, Interim City Manager



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE:	September 4, 2018	
CONTACT PERSON:	Bill Fiander	DOCUMENT #:
SECOND PARTY/SUBJECT:	TA Grant	PROJECT #:
CATEGORY/SUBCATEGORY	020 Resolutions / 005 Miscellaneous	
CIP PROJECT:	No	
ACTION OF COUNCIL:		JOURNAL #:
		PAGE #:

DOCUMENT DESCRIPTION:

RESOLUTION introduced by City Manager Brent Trout supporting the City of Topeka's application for funding from the Kansas Department of Transportation for a pedestrian bridge on 10th Street and sidewalk improvements to Topeka Boulevard from 29th to 37th Street.

Voting Requirement: Majority vote of the Governing Body (6).

(Approval supports an application to KDOT's Transportation Alternatives grant program.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

The City desires to submit an application to the Kansas Department of Transportation (KDOT) for Transportation Alternatives (TA) Program funds afforded by the Federal Transportation Equity Act of the 21st Century. The applications would advance the City's implementation of their Complete Street Policy and the Topeka Pedestrian Master Plan as approved by the Governing Body.

STAFF RECOMMENDATION:

Staff recommends the Governing Body move to approve the resolution.

BACKGROUND:

The applications are proposed for the following projects:

- A side path and pedestrian bridge on SW 10th Street, which would create a safe and complete multi-use corridor from SW Wanamaker to Gage Park.
- A complete pedestrian and bus amenities network on the SW Topeka Boulevard corridor between SW

29th and SW 37th streets.

Both applications will implement the City's adopted Complete Street Policy and Pedestrian Master Plan.

BUDGETARY IMPACT:

If approved, the City will provide 20% match for two grant applications as follows:

Topeka Boulevard*

City (20%) = \$274,629 – CIB GO Bonds 2019-20 Infill Sidewalk

KDOT (80%) = \$1,098,516 – TA Grant

*Trees and bus stop amenities (benches and bike racks) still to be added

10th Street

City (20%) = \$36,751 – CIB GO Bonds 2019-20 Complete Streets
KDOT (80%) = \$147,006 – TA Grant

These amounts do not include engineering, inspection, or easement fees.

SOURCE OF FUNDING:

Capital Improvement Program Funds- 2020

General Obligation Bonds

ATTACHMENTS:

Description

Resolution

Topeka Boulevard Project Map

10th Street Map

1 RESOLUTION NO. _____
2

3 A RESOLUTION introduced by City Manager Brent Trout supporting the City of
4 Topeka's application for funding from the Kansas Department of
5 Transportation for a pedestrian bridge on 10th Street and sidewalk
6 improvements to Topeka Boulevard from 29th to 37th Street.
7

8 WHEREAS, the City of Topeka, Kansas has the authority to apply for, receive
9 and administer federal and state grants; and

10 WHEREAS, the City desires to submit an application to the Kansas Department
11 of Transportation for Transportation Alternatives Program funds afforded by the
12 Federal Transportation Equity Act of the 21st Century; and

13 WHEREAS, the application would advance implementation of the City's
14 Complete Streets Policy and the Topeka Pedestrian Master Plan as approved by the
15 Governing Body; and

16 WHEREAS, after appropriate input from the City's Complete Streets Advisory
17 Committee and staff, the Governing Body supports submission of an application for
18 funding the following projects:

- 19 • A side path and pedestrian bridge on SW 10th Street, which would create a
20 safe and complete multi-use corridor from SW Wanamaker to Gage Park
21 • A complete network of pedestrian and bus amenities on the SW Topeka
22 Boulevard corridor between SW 29th and SW 37th streets

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

25 Section 1. The governing body authorizes the City Manager to submit an
26 application to the Kansas Department of Transportation for transportation alternatives
27 program funds provided through the Federal Transportation Equity Act of the 21st

Century.

Section 2. The City assures the Kansas Department of Transportation of sufficient City match requirements needed for the construction, operation, and maintenance of these three projects.

Section 3. The City Manager is also authorized to submit additional information as may be required and act as the official representative of the City in this and subsequent related activities.

Section 4. The City assures the Kansas Department of Transportation that the City is willing and able to administer the designing, letting and construction of these projects, if any or all of these projects are selected for funding.

ADOPTED and APPROVED by the Governing Body on _____.

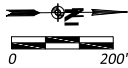
CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

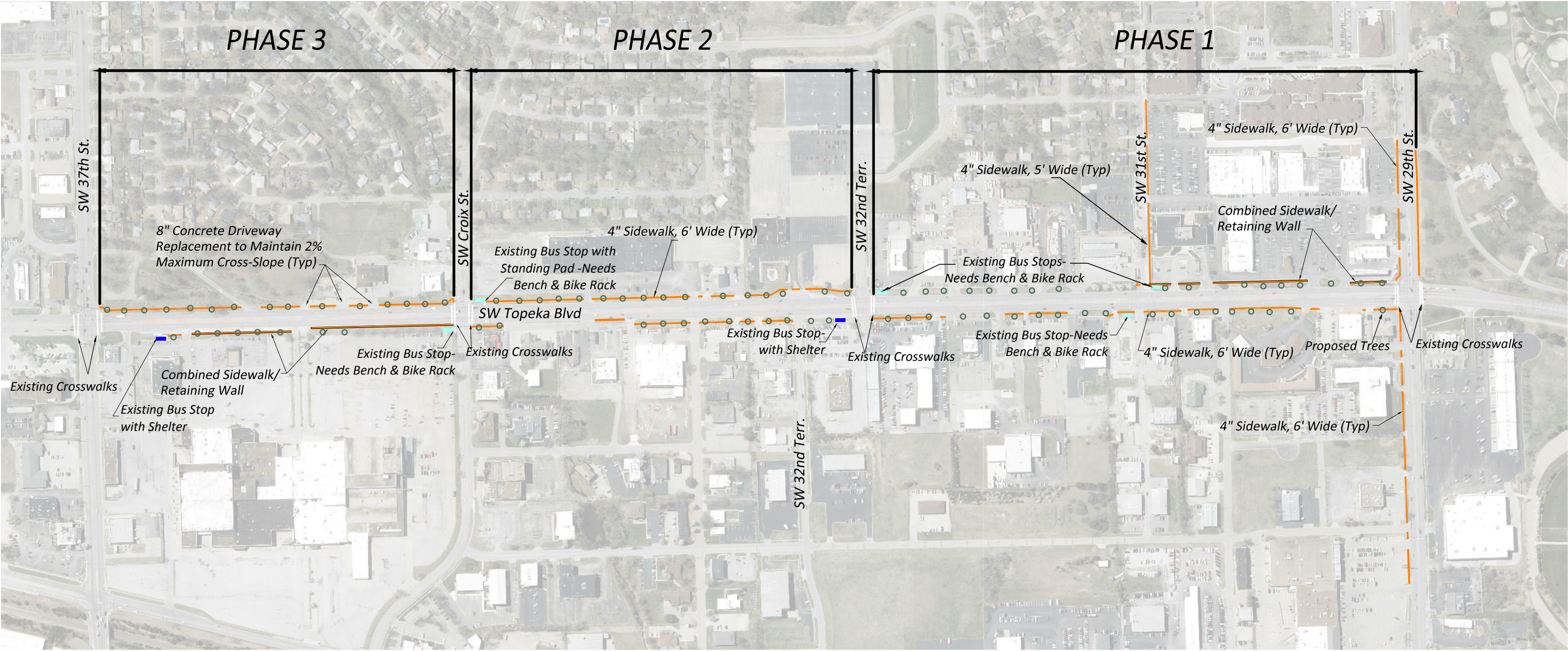
Brenda Younger, City Clerk

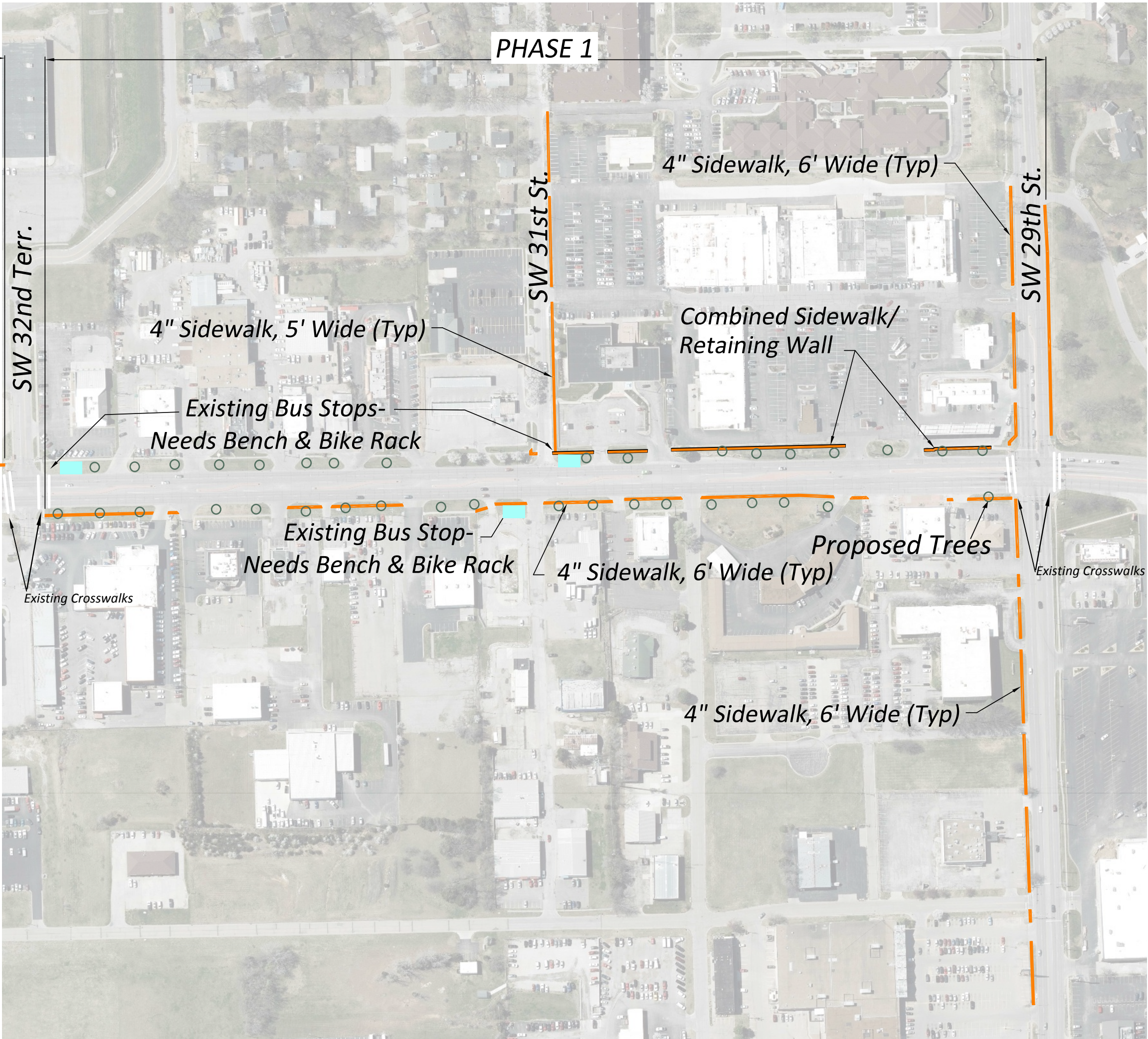
CITY OF TOPEKA
TOPEKA BOULEVARD INFILL SIDEWALKS CONCEPT PLAN
SW 29TH STREET TO SW 37TH STREET



City (20%) = \$274,629.20
KDOT (80%) = \$1,098,516.80
\$1,373,146.00

City (Non-Contributing Costs) = \$242,240.43
Total Project Cost for All Phases = \$1,615,386.43



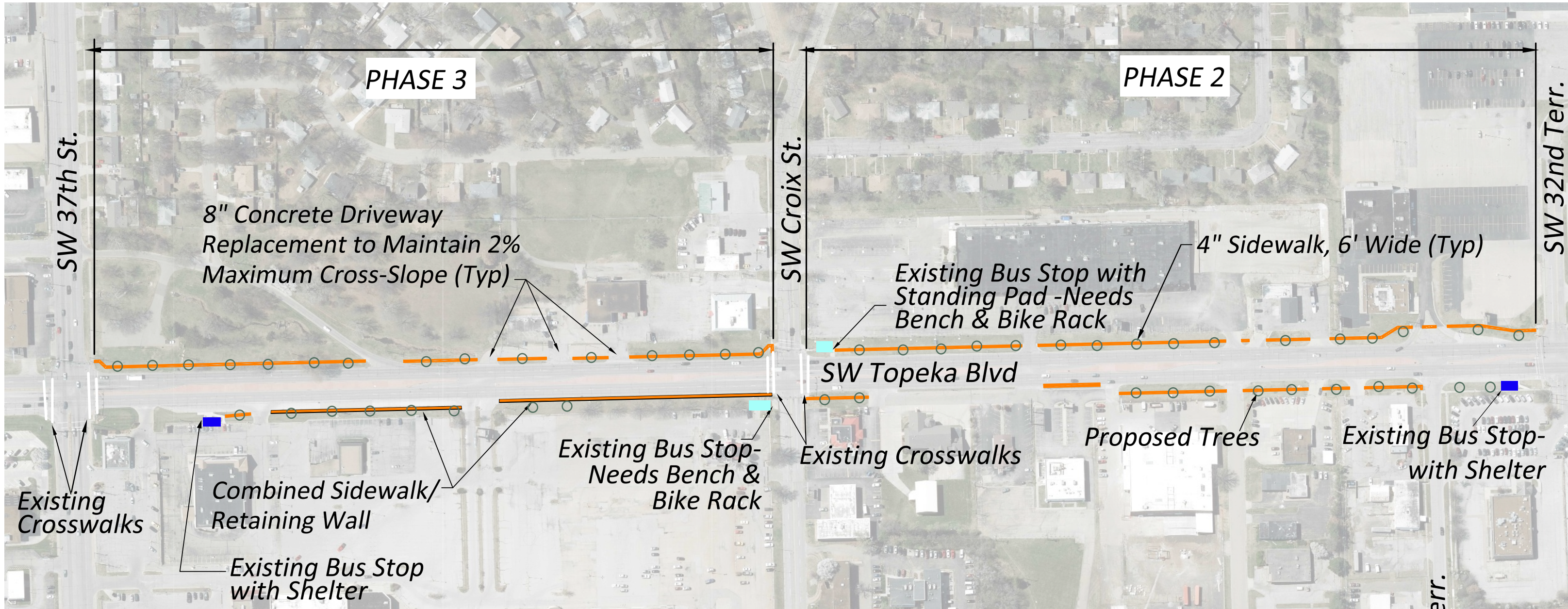


Topeka Blvd - Phase I

SW 29th St - SW 32nd Terr.

KDOT (80%) = \$523,189.28
City (20%) = \$130,797.32
City (Non-participatory) = \$121,558.12
Total Phase I = \$775,544.72

Phase 1 - SW 32nd Terr to SW 29th St.					
Item No.	Description	Unit Amount	Unit Desc.	Cost Per Unit	Total Cost
1	Pavement Removal	19,504	SF	\$1.00	\$19,504.00
2	4" Concrete Sidewalk, 5' Wide	2,696	SF	\$7.00	\$18,872.00
3	4" Concrete Sidewalk, 6' Wide	18,984	SF	\$7.00	\$132,888.00
4	Combined Sidewalk Retaining Wall	700	LF	\$200.00	\$140,000.00
5	8" Concrete Driveway	16,720	SF	\$9.00	\$150,480.00
6	Sidewalk Ramp	2,784	SF	\$15.00	\$41,760.00
7	Traffic Control	1	LS	\$10,000.00	\$10,000.00
8	Erosion Control	1	LS	\$10,000.00	\$10,000.00
9	Sodding	50,360	SF	\$0.50	\$25,180.00
10	Ped Poles at Traffic Signals	1	EACH	\$20,000.00	\$20,000.00
SUBTOTAL CONSTRUCTION COST=					\$568,684.00
CONTINGENCIES (15%)=					\$85,302.60
TOTAL CONSTRUCTION COST =					\$653,986.60
ENGINEERING (9%)=					\$58,858.79
INSPECTION FEES (5%)=					\$32,699.33
EASEMENT ACQUISITION ALLOWANCE=					\$30,000.00
TOTAL ESTIMATED PROJECT COST=					\$775,544.72

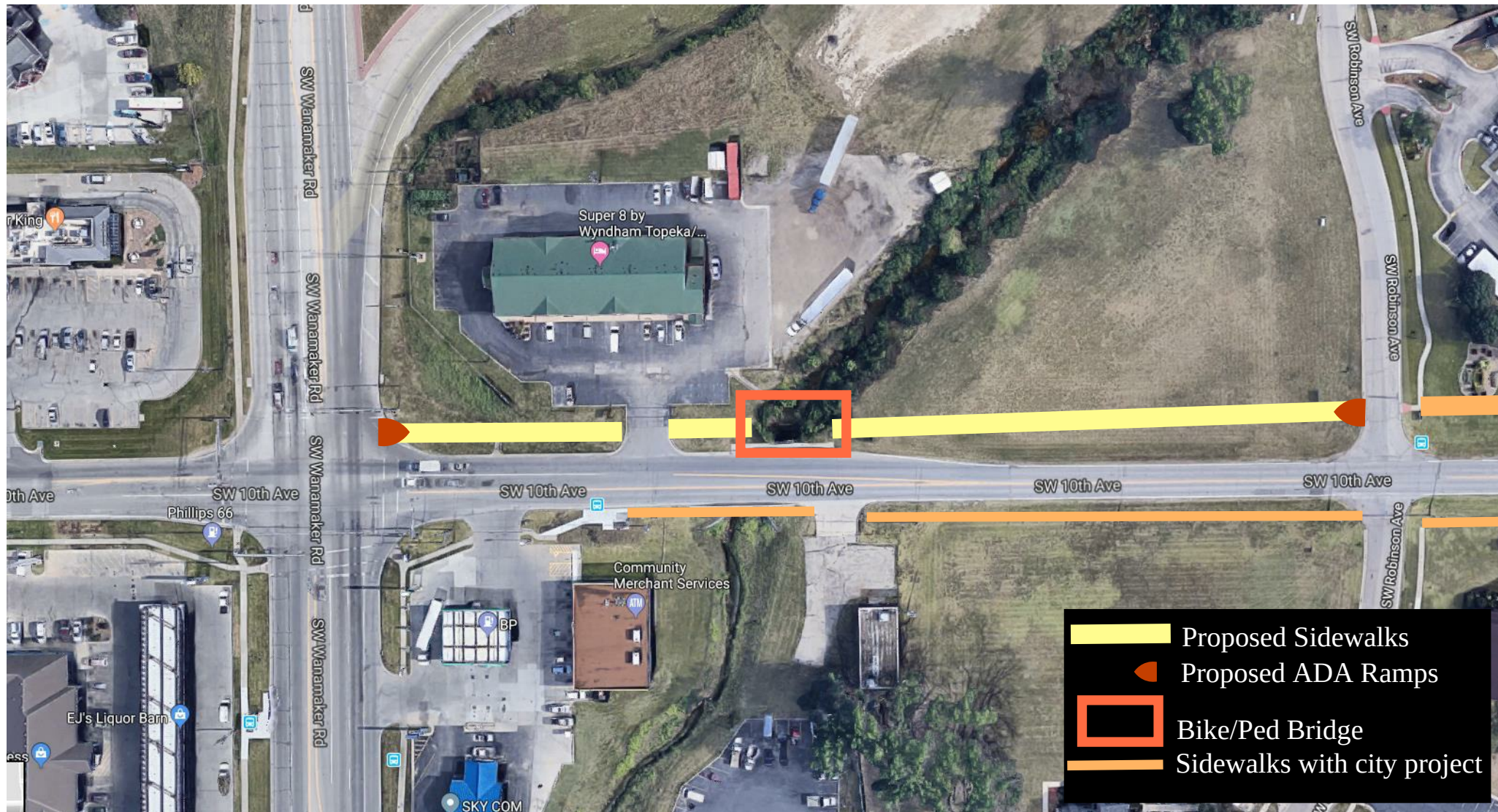


Phase 2 - SW Croix St. to SW 32nd Terr.					
Item No.	Description	Unit Amount	Unit Desc.	Cost Per Unit	Total Cost
1	Pavement Removal	9,106	SF	\$1.00	\$9,106.00
2	4" Concrete Sidewalk, 6' Wide	12,732	SF	\$7.00	\$89,124.00
3	Combined Sidewalk Retaining Wall	0	LF	\$200.00	\$0.00
4	8" Concrete Driveway	7,810	SF	\$9.00	\$70,290.00
5	Sidewalk Ramp	1,296	SF	\$15.00	\$19,440.00
6	Traffic Control	1	LS	\$7,000.00	\$7,000.00
7	Erosion Control	1	LS	\$10,000.00	\$10,000.00
8	Sodding	25,464	SF	\$0.50	\$12,732.00
9	Ped Poles at Traffic Signals	2	EACH	\$20,000.00	\$40,000.00
SUBTOTAL CONSTRUCTION COST=					\$257,692.00
CONTINGENCIES (15%)=					\$38,653.80
TOTAL CONSTRUCTION COST =					\$296,345.80
ENGINEERING (9%)=					\$26,671.12
INSPECTION FEES (5%)=					\$14,817.29
EASEMENT ACQUISITION ALLOWANCE=					\$10,000.00
TOTAL ESTIMATED PROJECT COST=					\$347,834.21

KDOT (80%) = \$338,250.88
 City (20%) = \$84,562.72
 City (Non-participatory) = \$69,193.9
 Total Phase 3 = \$492,007.50

Phase 2 - SW Croix St. to SW 32nd Terr.					
Item No.	Description	Unit Amount	Unit Desc.	Cost Per Unit	Total Cost
1	Pavement Removal	9,106	SF	\$1.00	\$9,106.00
2	4" Concrete Sidewalk, 6' Wide	12,732	SF	\$7.00	\$89,124.00
3	Combined Sidewalk Retaining Wall	0	LF	\$200.00	\$0.00
4	8" Concrete Driveway	7,810	SF	\$9.00	\$70,290.00
5	Sidewalk Ramp	1,296	SF	\$15.00	\$19,440.00
6	Traffic Control	1	LS	\$7,000.00	\$7,000.00
7	Erosion Control	1	LS	\$10,000.00	\$10,000.00
8	Sodding	25,464	SF	\$0.50	\$12,732.00
9	Ped Poles at Traffic Signals	2	EACH	\$20,000.00	\$40,000.00
SUBTOTAL CONSTRUCTION COST=					\$257,692.00
CONTINGENCIES (15%)=					\$38,653.80
TOTAL CONSTRUCTION COST =					\$296,345.80
ENGINEERING (9%)=					\$26,671.12
INSPECTION FEES (5%)=					\$14,817.29
EASEMENT ACQUISITION ALLOWANCE=					\$10,000.00
TOTAL ESTIMATED PROJECT COST=					\$347,834.21

KDOT (80%) = \$237,076.64
 City (20%) = \$59,269.16
 City (Non-participatory) = \$51,488.41
 Total Phase 2 = \$347,834.21



This is a continuation of the city's 10th street project. The city will be widening 10th Street from Fairlawn to Wanamaker Rd. in 2020. This will include sidewalks on both sides of the street, with a 10' multi-use path on the north side of 10th St. This will create a valuable 2-mile separated connection from Gage Park to Wanamaker that has been identified in our Bikeways Master Plan. To complete this separated connection, a channel crossing must be bridged to prevent pedestrians and bicyclists from diverting to a non-protected arterial street.

10th Street Pedestrian Bridge					
Item No.	Description	Unit Amount	Unit Desc.	Cost Per Unit	Total Cost
1	Bridge	1	EACH	\$115,000.00	\$115,000.00
2	4" Concrete Sidewalks, 10' Wide	25,970	SF	\$7.00	\$41,790.00
3	ADA Ramps	2	EACH	\$1,500.00	\$3,000.00
Subtotal Construction Cost =				\$159,790.00	
Contingencies (15%) =				\$23,968.50	
Total Construction Costs =				\$183,758.50	

KDOT (80%) = \$147,006.80
City (20%) = \$36,751.70



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE: September 4, 2018
CONTACT PERSON: Lisa Robertson, City Attorney
DOCUMENT #:
SECOND PARTY/SUBJECT: Committee - Camping; **PROJECT #:**
Pedestrian/Traffic
Safety Ordinances
CATEGORY/SUBCATEGORY 006 Communication / 005 Other
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

ACTION to create a Committee to consider the similar underlying issues associated with the camping ordinance and the traffic and pedestrian safety ordinance which will consist of five governing body members: Deputy Mayor Jensen, Councilmember Ortiz, Councilmember Clear, Councilmember Lesser and Councilmember Padilla as well as five members of the community to be appointed by Deputy Mayor Jensen and Councilmember Ortiz.

Voting Requirement: Majority vote of the Governing Body (6).

(Because the underlying issues associated with the Camping and the Traffic/Pedestrian Safety ordinances are very similar in nature, a suggestion was made to combine the membership of the two committees into one committee for purposes of efficiency. The combined committee would be comprised of the three individuals who serve as members of the Public Health and Safety Committee (charged with considering the Camping ordinance) and the eight individuals who serve as members of the special committee (formed to consider the Traffic/Pedestrian Safety ordinance). This committee would consist of ten members, given the fact that one individual serves as a member of both committees, and would appoint its own chairperson. This committee will then act upon each ordinance, or the committee chair will provide an update regarding the committee's progress on each ordinance within 90 days.)

VOTING REQUIREMENTS:

Majority vote of the Governing Body (6).

POLICY ISSUE:

The purpose of this committee will be to consider both the proposed Camping ordinance, as well as the

proposed Traffic/Pedestrian Safety ordinance. The committee will act upon each ordinance, or the committee chair will provide an update regarding the committee's progress on each ordinance, within 90 days (December 3, 2018) as required by Governing Body Rule 8.5(c). Committee action includes recommending approval, or approval with amendments; recommending that the item not be approved; or making no recommendation at all. (See Governing Body Rule 8.5(b).)

STAFF RECOMMENDATION:

Staff makes no recommendation.

BACKGROUND:

This past April, a proposed Camping ordinance was referred to the Public Health and Safety Committee and a proposed Traffic/Pedestrian Safety ordinance was referred to a special committee formed for this specific purpose. Several meetings were conducted by each of these separate committees, which were attended by interested individuals who spoke on the underlying issues and during which staff members and community stake-holders were called upon to provide input on those issues. Because the underlying issues associated with each ordinance being considered are very similar in nature, a suggestion was made to combine the membership of the two committees for purposes of efficiency.

The combined committee would be comprised of the three individuals who serve as members of the Public Health & Safety Committee (charged with considering the Camping ordinance) and the eight individuals who serve as members of the special committee (formed to consider the Traffic/Pedestrian Safety ordinance). This committee would consist of ten members, given the fact that one individual serves as a member of both committees, and would appoint its own chairperson.

The purpose of this committee will be to consider both the proposed Camping ordinance, as well as the proposed Traffic/Pedestrian Safety ordinance. The committee will act upon each ordinance, or the committee chair will provide an update regarding the committee's progress on each ordinance, within 90 days (December 3, 2018) as required by Governing Body Rule 8.5(c). Committee action includes recommending approval, or approval with amendments; recommending that the item not be approved; or making no recommendation at all. (See Governing Body Rule 8.5(b).)

BUDGETARY IMPACT:

There is no budgetary impact to the City.

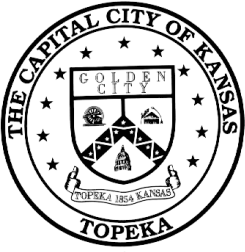
SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Description

Governing Body Rules and Procedures 8.5 (a),(b) and (c)



CITY OF TOPEKA

8.5 Procedure for Committee Items:

- (a) Reference to Committee; Initiation by Committee.
 - (1) Any item may be referred to a committee by a majority vote of the governing body. The governing body may set a fixed date for the committee to report back to the governing body.
 - (2) The examination of any subject can be initiated by a committee chair or by majority vote of the committee.
- (b) Committee Action. A committee may take any of the following actions:
 - (1) Recommend approval of the item.
 - (2) Recommend approval, with amendments.
 - (3) Recommend that the item not be approved.
 - (4) Make no recommendation (no second means no recommendation).
- (c) Committee Action Deadline. Each item referred to a committee shall be acted upon on or before any deadline set by the governing body or ninety (90) calendar days of the date upon which it was referred, whichever occurs first. Although the committee shall make every reasonable effort to act upon the item prior to expiration of the established deadline or ninety (90) calendar days, if this is not possible then the item shall be placed on an agenda for purposes of allowing the committee chair to provide an update regarding the committee's progress.



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE: September 4, 2018
CONTACT PERSON: Deputy Mayor Brendan Jenson **DOCUMENT #:**
SECOND PARTY/SUBJECT: Traffic and Pedestrian Safety Ordinance **PROJECT #:**
CATEGORY/SUBCATEGORY 006 Communication / 003 Requests
CIP PROJECT: No
ACTION OF COUNCIL: Defer to PHS Committee 05-08-18. Discussion (90-Day Update) 08-07-18. Defer until Sept 4th 08-21-18 **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

ACTION regarding the Final Report due on September 1, 2018 for the proposed traffic and pedestrian safety ordinance. *(Deferred from the meeting of August 21, 2018.)*

Voting Requirement: Majority vote of the Governing Body (6).

(The final report regarding review of the proposed pedestrian and traffic safety ordinance is due on September 1, 2018 from the Special Committee. Action is required to set a new date for the report or take other action relative to the Special Committee's function.)

VOTING REQUIREMENTS:

Majority vote of the governing body (6)

POLICY ISSUE:

How to address the upcoming deadline for submission of the report from the Special Committee

STAFF RECOMMENDATION:

Staff makes no recommendation

BACKGROUND:

On May 8, 2018, a proposed ordinance addressing pedestrian/traffic safety was referred to a special committee

with a report due back to the governing body on September 1, 2018. Action is required to set a new date for the report or take other action relative to the committee's function. Action was deferred from the meeting of August 21, 2018.

BUDGETARY IMPACT:

Not applicable.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Description

Proposed Traffic/Pedestrian Safety Ordinance - May 8, 2018

Traffic Safety Map - May 8, 2018 Governing Body Meeting Packet

Question and Answer Summary - May 8, 2018 Governing Body Meeting Packet

Special Committee Meeting Minutes (DRAFT) - July 18, 2018

Special Committee Meeting Minutes - July 9, 2018

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by Brent Trout City Manager, creating Chapter 10.80 in
6 Title 10 of the Topeka Municipal Code concerning Traffic and
7 Pedestrian Safety.
8

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

10 Section 1. That The Code of the City of Topeka, Kansas, is hereby amended
11 by adding a section, to be numbered 10.80.010, which said section reads as follows:

12 **Findings.**

13 The governing body makes the following findings:

14 (a) The high volume of motor vehicles travelling on congested roadways in
15 the city makes mixing pedestrian and the moving, slowing or temporarily stopping of
16 motor vehicles in the same space, at the same time, inherently dangerous.

17 (b) Pedestrians distracting drivers from the task of driving by approaching a
18 stopped vehicle, attracting and/or attempting to attract the attention of the driver of a
19 motor vehicle for the purpose of inducing that driver to slow or stop the vehicle to
20 facilitate the transfer of anything by the pedestrian to the driver or passenger is
21 hazardous to public safety, both for occupants of motor vehicles and for pedestrians.

22 (c) The prohibitions set forth in this chapter are narrowly tailored to serve the
23 significant interest of promoting and protecting the public health, safety and welfare and
24 that these prohibitions leave open ample alternative channels of communication
25 throughout the city.

26 (d) It is the intent of this chapter to protect the health, safety and general
27 welfare of the citizens of the city, to assure the free, orderly, uninterrupted movement of

motor vehicles on designated highways within city limits, and to provide for the safety and interests of pedestrians and of occupants of motor vehicles located on designated roadways within the city and to reduce the number of pedestrian and motor vehicles occurring within the city.

(e) Pedestrians are increasingly using highways and roadways in ways for which the roads were not designed or intended. These uses include approaching vehicles when stopped or in use or staying upon medians and in the public right of way for purposes other than crossing the highway. These activities create safety hazards for pedestrians and distract drivers, making automobile accidents more likely. This chapter is designed to decrease the safety hazards by restricting such activity. These safety concerns are most acute in the busiest streets within the city identified as arterial streets and those within a congested area.

Section 2. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 10.80.020, which said section reads as follows:

Definitions.

"Arterial streets" includes the following:

S.W. Wanamaker between S.W. 29th Street and S.W. 10th Avenue

S.W. Fairlawn between S.W. 29th Street and S.W. Huntoon Street

S.W. Gage between S.W. 29th Street and S.W. Huntoon Street

S.W. 21st Street between S.W. Wanamaker and S.W. Gage

S.W. 29th Street between S.W. Wanamaker and S.E. Adams Street

"Congested areas" means all streets and portions of streets, excluding alleys, within the area bounded by (a): S.W. MacVicar Avenue on the west; S.W Topeka

Boulevard on the east; S.W. 6th Avenue on the north; and S.W. 21st on the south; and
(b) S. W. Topeka Boulevard on the west; Interstate 70 on the east; S.W. 4th Street on
the north; and S.W. 10th Avenue on the south.

"Designated roadway" includes roadways, shoulders, islands, public right-of-
ways or medians of any arterial streets and streets within a congested area.

"Driver" means every person who drives or is in actual physical control of a motor
vehicle.

"Motor vehicle" means every vehicle which is self-propelled.

"Pedestrian" means any person afoot.

"Public right-of-way" means the entire width of the area from property line to
property line including that area between the roadway and the abutting private property
line.

"Roadway" means the portion of a highway improved, designed or ordinarily
used for vehicular travel.

"Vehicle" means every device in, upon, or by which any person or property is or
may be transported upon a highway, except devices moved by human power.

Section 3. That The Code of the City of Topeka, Kansas, is hereby amended
by adding a section, to be numbered 10.80.030, which said section reads as follows:

Prohibition: Entering or Staying Upon Designated Roadway.

(a) It shall be unlawful for any person to go upon any designated roadway or
remain alongside any designated roadway and approach a vehicle stopped on the
roadway or attempt to attract the attention of the driver or occupant of a motor vehicle
for the purpose of inducing the driver of the motor vehicle to remain stopped, slow or

stop the vehicle to facilitate a transfer of anything from the driver or occupant of the vehicle to the pedestrian or the transfer of anything by the pedestrian to the driver or occupant.

(b) No person shall be upon the median of a designated roadway unless that person is in the process of crossing the roadway.

(c) No person shall activate a pedestrian crosswalk signal for any purpose other than to stop traffic to allow such person to cross the roadway.

(d) It is prima facie evidence of a violation of subsection (b) and (c) if the person stays on the median or at the intersection through two consecutive opportunities to legally cross the roadway. This may include a change in the traffic control signal or lack of traffic. After two such consecutive opportunities, such person shall not be considered to be using the crosswalk for purposes of the exception in subsection (f)(1).

(e) No driver or operator of a motor vehicle shall park, stop, or leave standing a vehicle on a designated roadway or suddenly decrease the speed of such vehicle or deviate from a traffic lane for the purpose of responding to persons violating subsection (a), (b), or (c).

(f) Exceptions. This chapter does not apply to:

(1) Persons using a crosswalk to cross the roadway.

(2) Persons engaged in law enforcement, emergency, or rescue activities, including providing assistance to an injured or disabled vehicle or person.

(3) Persons engaged in repair or maintenance activities of highways under the direction of the city or state.

(4) Streets or portions thereof that have been closed pursuant to authorization from the City, including but not limited to special events permitted pursuant to Chapter 12.70.

Section 4. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 10.80.040, which said section reads as follows:

Penalty.

Any person who violates the provisions of TMC 10.80.030 is guilty of a misdemeanor. Upon conviction, a person shall be sentenced to a fine not to exceed four hundred and ninety-nine dollars (\$499) and/or imprisonment not to exceed thirty (30) days.

Section 5. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 10.80.050, which said section reads as follows:

Severability.

If any section, subsection, sentence, clause, or other provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 7. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 8. 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.

120
121
122
123
124
125
126
127
128
129
130
131
132
133

PASSED AND APPROVED by the City Council on _____.

CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk

Traffic Safety

The map displays the city of Topeka, Kansas, with various streets and landmarks labeled. A blue shaded area is centered around the downtown area, and a red shaded area is located to the east. Numerous green dots are scattered across the map, representing traffic incidents. A legend in the top left corner indicates that green dots represent 'Traffic Safety' data.

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

Created by: twogue
Date: 5/3/2018

Traffic/Pedestrian Safety Ordinance

Questions and Answers

Q: *What does the ordinance do?*

A: The ordinance has three objectives:

- (1) to prohibit both drivers and pedestrians from transferring items on certain designated streets;
- (2) to prohibit people from standing on medians on certain designated streets unless the person is actually crossing the street; and
- (3) to prohibit a person from using a pedestrian crosswalk signal for any purpose other than to cross any street.

Q: *Do these prohibitions apply to all streets in the city?*

A: No. Only the prohibition against folks using a pedestrian crosswalk signal for any purpose other than to cross a street.

Q: *If not, to which streets in the city do these prohibitions apply?*

A: The prohibitions against transferring items and standing on medians apply only on the streets identified as ‘arterial streets’ and the streets located within the ‘congested area.’ These particular streets were identified based upon data reflecting a higher volume of vehicular traffic accidents and an increased number of pedestrian injuries/fatalities.

Q: *What is a pedestrian prohibited from doing?*

A: A pedestrian cannot stand in any part of the designated street (i.e. shoulder, median); or stand next to the designated street and approach a stopped vehicle or try to attract the attention of the driver/occupant to get the driver to stop or slow down to facilitate a transfer of an item (e.g. money, food).

Q: *How will the police determine if a pedestrian has violated the second or third prohibition?*

A: If the pedestrian lingers at the median or the intersection through two consecutive opportunities to cross (e.g. two light changes; no traffic), that will evidence that the pedestrian isn’t using the crosswalk to cross the street.

Q: *Would the ordinance apply to a person advertising for a business or activity such as a car wash or going out of business sale?*

A: No, as long as the pedestrian is not on the median and does not enter the roadway to engage in a transfer with a vehicle driver.

Q: ***What is a driver prohibited from doing?***

A: A driver cannot stop the vehicle, slow down, or change lanes to facilitate a transfer of an item (e.g. money, food) to a pedestrian.

Q: ***Does the ‘congested area’ include private property and parking lots?***

A: No. The prohibitions apply only to the streets within that area and exclude alleys.

Q: ***Does the ordinance provide for any exceptions?***

A: Yes. Crossing the street. Law enforcement and emergency personnel. Street repair. Streets closed for special events permitted by the City.

Q: ***Does the ordinance provide an exception for city employees and/or those volunteering on behalf of charitable organizations to solicit funds?***

A: No. The purpose of the ordinance is to promote traffic safety by protecting both drivers and pedestrians. The City cannot discriminate among various types of speech without subjecting itself to potential legal exposure.

Q: ***What constitutes a special event?***

A: A special event is an outdoor event held on public property organized for a particular and limited purpose and time, including, but not limited to, parades, block parties running/walking/bicycling events, motor vehicle events, festivals and concerts. TMC 12.70.010.

Q: ***Will there be a ‘grace period’ within which TPD will issue warnings before issuing actual citations?***

A: Yes. Staff will follow Wichita’s lead, which allowed for a 90 day grace period.

Q: ***What’s the penalty if convicted?***

A: Misdemeanor. Fine of up to \$499 and 30 days in jail.



CITY OF TOPEKA

CITY COUNCIL COMMITTEE
MEETING MINUTES

Special Committee - Traffic & Pedestrian Safety

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
Topeka, KS 66603-3914
Tel: 785-368-3710
Fax: 785-368-3958
www.topeka.org

Location: Topeka Police Department, 320 S. Kansas Ave., LEC Classroom A

Date: July 18, 2018

Time: 3:00 p.m.

Attendance

Committee members Deputy Mayor Brendan Jensen, Councilmember Michael Lesser, Lieutenant Aaron Jones (TPD), Chief Craig Duke (TFD), Bill Persinger (Valeo), Barry Feaker (Topeka Rescue Mission), Brian Cole (SNCO DOC).

Absent: Councilmember Michael Padilla, excused

1) Call to Order/Introductions

Meeting was called to order by Deputy Mayor Brendan Jensen. Committee members introduced themselves.

2) Approval of Minutes

Barry Feaker made a motion to approve the minutes from the July 9, 2018 meeting. Brian Cole seconded the motion. Minutes were approved.

3) Discussion by Committee

Major topics included:

- Brian Cole reminding all that the topic is a public safety concern. Limiting distractions, of any kind, in congested areas will help to keep people safe. And that the issue of panhandling is a separate issue. Mr. Cole made the recommendation to focus the meeting toward clearing up congested intersections.
- Councilmember Lesser wanted to add that the data gathered to measure where accidents occur should be the focus and not finding relevance in the specific causes of those accidents.
- Deputy Mayor Jensen stated the goal of the ordinance is to prevent accidents and injuries between vehicles and pedestrians, or vehicle collisions. A significant fallout will occur with this ordinance in that there are a number of individuals who participate in their constitutional right to panhandle. Deputy Mayor Jensen suggested looking at the proposed ordinance as it stands and if the committee agrees on the

language within the ordinance, the next focus would be on how to mitigate the challenge of individuals who are panhandling.

- Luther Ganieany considered discussion about the number of accidents that was brought up at the July 9th meeting and one clear issue coming from this will be a constitutional one. The framework must be narrowly tailored to further a compelling government interest. The government interest is where there is potential for an issue. There is still a chance that the City would be sued, and could lose that lawsuit. The committee's compelling government interest in this ordinance is public safety. The legal issue is whether or not proof must be provided. That is not something that can be known until a potential case would occur. Some discussion was had between committee members and Mr. Ganieany to clarify the various legalities. Mr. Ganieany then showed a video that highlighted an alternative program to address the issue of panhandling in the City of Albuquerque, New Mexico. (The link to this video can be found at the bottom of the minutes). Video feedback included:
 - Mr. Ganieany noted that this alternative program not only collected panhandlers for the day to do work, but it also took an educational approach for the public, letting them know where their donation money is spent.
 - Deputy Mayor Jensen inquired if the program was successful because it was already in place, or if we thought something similar might be successful in our city.
 - Reverend Barry Feaker appreciated the idea presented in the video and noted some of the infrastructure that is currently set up in the city. Reverend Feaker would prefer to start the program prior to putting the ordinance into place.
 - Deputy Mayor Jensen clarified that the Governing Body initially sent this ordinance to the Special Committee because there was a feeling that there would be a need for both, an ordinance as well as a program, and not just passing the ordinance.
- There was some back and forth discussion between committee members as to if the ordinance should be passed first or begin the program first.
- Bill Persinger inquired if there was a way to separate the ordinance into various phases which would allow for a phase one to be implemented sixty (60) days after passing the ordinance followed by a second and third phase being implemented after some of the programs are better established.
- Brian Cole noted that there is an inmate work program, and is able to attest to the success of offering work to someone who is currently without a job. Mr. Cole was concerned with some of the insurance and worker's compensation restrictions that may apply to the City doing a program such as this as well as if having panhandlers perform some of the same type of work as the inmate crews. Overall, Mr. Cole was interested in finding out more as to this opportunity.

- Bill Persinger suggested having a private for-profit business step in to assist this effort or perhaps a private non-profit organization to have public/private partnership with the City.
- Deputy Mayor Jensen noted that having some more information would be helpful for a future meeting. However, would like to see if the committee could come to an agreement on passing the ordinance as it stands at this point.
- Mr. Persinger noted that he would feel more comfortable having more information and input from the community prior to passing the ordinance. Mr. Persinger appreciates the ordinance as it is written, however would like to have a program in place prior to putting the ordinance into effect.
- The committee held more conversation regarding the order of the ordinance and the program. The committee discussed placing one in action prior to the other, having both occur simultaneously, and having the ordinance go into place however limiting the penalty portion for an amount of time allowing the program and public education piece to develop.
- Deputy Mayor Jensen inquired with Reverend Feaker as to how quickly he felt the program portion could begin. Reverend Feaker felt that the program could possibly begin as early as the end of 2018, however more likely 2019. Reverend Feaker also noted that having adequate shelter in place would be necessary, reminding committee members that the Rescue Mission has standards that not everyone wants to or can follow. Additional shelter would need to be made available.
- Bill Persinger echoed Reverend Feaker's comments noting that the program could easily be successful if there were enough resources and enough will.
- Deputy Mayor Jensen inquired with Luther Ganieany about the possibility of introducing the ordinance and having it go into effect immediately however the citation aspect being held for a determined and noted period of time. Mr. Ganieany noted that the only risk of going forward with this would be that there would be no consequence.
- There was further discussion from the committee members regarding potential set-backs including mental/behavioral health, any background check processes, public education and pushing that information out so that the programs can be funded adequately, traffic issues.
- Fire Chief Duke inquired with Mr. Ganieany as to what the likelihood would be of panhandlers simply moving the intersection or location to continue their behavior. Mr. Ganieany noted that individuals would be legally allowed to move. If a program got started and signs for the general public were posted around the city, not only those listed intersections, it would help to educate, encourage and then enforce the ordinance.
- Councilmember Lesser provided an example of San Francisco where secured donation boxes are set up all over the town and commercials are played asking people to make their donation in those boxes rather than

handing money to an individual directly. The boxes note the many organizations which split the money to help people in need.

- Chief Duke elaborated on his initial question to ask about the possibility in requiring some sort of registration or permit to allow them to ask for donations. This would include the fire departments that participate in the MDA Boot campaign, as well as panhandlers, or other group.
- Mr. Persinger inquired as to the difference between being legally allowed to offer a service, such as selling hot dogs and doing an activity at an intersection such as washing windows. Deputy Mayor Jensen elaborated that the ordinance would be content neutral in regard to the activity. Anything that would be distracting to drivers in the listed intersections would be illegal.
- Chief Duke inquired as to what some options would be to allow the firefighters to continue collecting donations annually for the MDA drive. Councilmember Lesser suggested setting up alternative locations in a similar way that the Salvation Army sets up their kettle collections and the Girl Scouts set up cookie locations. Deputy Mayor Jensen suggested adding a requirement that participants in activities within these noted areas would need to have a high visibility uniform of sorts. Mr. Ganieany noted that the City's liability risk would be lower with that requirement versus a requiring a permit, however would not likely be practical for everyone to abide by as it would require pre-planning. The problem with this requirement is that an activity such as panhandling is considered freedom of speech under the constitution and there cannot be a requirement of pre-planning for this right.
- Councilmember Lesser reminded the committee that there are potentially more than just the two participants at risk with no ordinance. Not only the driver and person on the street, but also the driver(s) behind them not realizing the car in front is coming to an immediate stop thus causing an accident.
- Deputy Mayor Jensen suggested looking at the ordinance at this meeting, excluding the implementation timeline, and talk about the program that would be brought forth alongside of the ordinance at the next committee meeting, giving time for the committee members to do some research and have something substantial to provide the Governing Body when the committee makes its final report.
- Reverend Feaker inquired as to if there is enough of a public safety concern to warrant an ordinance. If the answer is yes, then move forward with the program and the ordinance. If the answer is no, he suggested that the ordinance without adequate understanding of those individuals that would be effected would not be wise. Luther Ganieany noted that the ordinance began by identifying the top ten accident locations that included pedestrians and vehicles. There is an issue of distracted drivers. The ordinance would recognize that there is an issue with distracted drivers at busy pedestrian intersections. There is a split from how the court would view this information, and there is no prediction as to which direction the court would view the ordinance on a specific situation.

- Bill Persinger inquired if the City Manager's office would be responsible for putting together some of the program's logistics. Deputy Mayor Jensen noted that the topic would be something that was addressed at the next committee meeting.
- Deputy Mayor Jensen suggested three phases to be completed by the time the committee makes a final report to the Governing Body:
 - Approval of the language of the ordinance
 - Introduction of the program
 - How to phase in the program in with the ordinance
- Reverend Feaker made a motion to accept these three phases. Brian Cole seconded the motion. The motion passed 7:0.
- Deputy Mayor Jensen charged the committee members to bring ideas regarding a program to help with panhandling, as well as the resources that would be needed to accomplish the program.

4) Public Comment

James Smith, private citizen, suggested a few ideas to the committee regarding ways to educate the public on which intersections were dangerous, as well as the general inherent danger of panhandling. Mr. Smith also suggested requiring panhandlers who wanted to be a permanent profession, to be required to have a Peddler's license in the way the City requires individuals at the Farmer's Market or others to do. Mr. Smith also suggested building some sort of tiny house community to go along with the work program being suggested by the committee as an option for individuals to retreat to following a day's work.

5) Set Future Meeting Date(s)

To Be Determined

6) Adjourn

Deputy Mayor Jensen adjourned the meeting.

Link to TED Talks video presented at meeting can be found at:

https://www.ted.com/talks/richard_j_berry_a_practical_way_to_help_the_homeless_find_work_and_safety#t-728108

Video from the meeting can be found at: <https://youtu.be/oaEL8EbUYdY>



CITY OF TOPEKA

CITY COUNCIL COMMITTEE
MEETING MINUTES

Special Committee – Traffic & Pedestrian Safety

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
Topeka, KS 66603-3914
Tel: 785-368-3710
Fax: 785-368-3958
www.topeka.org

Location: Topeka Police Department, 320 S. Kansas Ave., LEC Classroom A

Date: July 9, 2018

Time: 3:00 p.m.

Attendance

Committee members Deputy Mayor Brendan Jensen, Councilmember Michael Lesser, Councilmember Michael Padilla, Lieutenant Aaron Jones (TPD), Chief Craig Duke (TFD), Bill Persinger (Valeo), Barry Feaker (Topeka Rescue Mission), Brian Cole (SNCO DOC).

1) Call to Order/Introductions

Meeting was called to order by Deputy Mayor Brendan Jensen. Committee members introduced themselves.

2) Election of Committee Chair

Committee member Padilla made a motion to elect Deputy Mayor Jensen as the Committee Chair. Committee member Feaker seconded the motion. Motion passed. Deputy Mayor Jensen will serve as the chair for this committee.

3) Presentations

a) Overview of proposed changes – City Manager Brent Trout gave a few words to the committee to thank members for their work with this special committee and reiterated the importance of coming together to work on this ordinance.

b) Legal considerations – Luther Ganieany, TPD Legal, provided committee members with a presentation for legal considerations. The City of Wichita currently has a similar ordinance for panhandling that the City of Topeka is looking at implementing. After providing some statistics and data that has been gathered over the past seven years in Topeka, Luther Ganieany introduced the vocabulary and definitions that would make up the ordinance. The ordinance would be limited to apply to only arterial intersections and congested areas as would be defined within the ordinance. The streets and areas introduced were selected after historical data provided the necessary statistics, which then identified “designated areas”. The main proponents to this ordinance that are intended to aid in keeping areas safe for both pedestrians and drivers include:

1) The proposed ordinance prohibits individuals to go upon any designated roadway or remain alongside a designated roadway and approach a stopped vehicle or attract the attention of the driver or occupant for the purpose of facilitating a transfer.

Bill Persinger questioned if drivers would also be penalized along with pedestrians. Mr. Ganieany noted that the answer would be presented shortly. Mr. Persinger also inquired if alleys and parking lots within those congested areas or near the arterial streets would be included as unlawful per this ordinance. Mr. Ganieany noted that these were not be included. Mr. Persinger wanted to make note to circle back to this issue to look at.

Councilmember Lesser inquired about drivers pulling over in a legal parking area momentarily, such as in a residential area, and parks to drop something off, if the action would be considered illegal. Mr. Ganieany confirmed that such an action would not fall under the proposed ordinance and would not be considered illegal.

2) The ordinance would prohibit the action of being on the median of a designated roadway unless the person is in the process of crossing the roadway.

3) The ordinance would prohibit the activation of a pedestrian crosswalk signal for any purpose other than to stop traffic to allow crossing the roadway. It would be considered a violation if the person stayed on the median or at the intersection after two consecutive opportunities to legally cross the roadway.

Deputy Mayor Jensen suggested volunteer crossing guards to assist with crossing the street. Mr. Ganieany noted that this ordinance would not prohibit individuals legally using the crosswalk to cross the roadway with exceptions also being made for large groups that may need to activate the pedestrian signal multiple times to allow for safe crossing at one time.

Mr. Ganieany then presented the section of the ordinance that would prohibit certain actions of drivers and would make them equally liable for violations the same as for pedestrians. The section included exceptions to the ordinance to allow for working and temporary types of situations that may fall into the category of holding up traffic on congested areas.

Barry Feaker inquired about including a provision for special circumstances that would cover an individual, who was not a designated first responder, stopping and/or holding up traffic to assist in an emergency type of situation. Mr. Ganieany noted that this type of example would not be in violation of the ordinance as no transfer of services would be occurring.

4) Discussion by Committee

Councilmember Lesser provided a handout to the committee. Deputy Mayor Jensen opened up the floor for committee members' comments/questions.

Brian Cole inquired if the data shown in the presentation showed that the crashes correlated to panhandling/distracted drivers specifically due to this activity, or if there just happen to be a high number of crashes in those intersections due to sheer volume. Mr. Cole also voiced concern that activity may move off of designated streets and into parking lots of businesses. Mr. Cole also voiced concern regarding the financial impact it would cost if pedestrian violators of this ordinance were to be sent to jail. The other main concern of Mr. Cole's is that pedestrians will seek out other public areas to move their activity to keep within the ordinance rather than ceasing the activity altogether. Councilmember Lesser answered the question regarding the use of private parking lots, noting that individuals would be required to have permission to be in the private parking lot. Councilmember Lesser asked Mr. Ganieany to expand. Councilmember Lesser also inquired as to the inherent danger that comes with the act of distracting a driver regardless of location, and if there is a need for defining congested areas and arterial streets and not simply prohibiting the action entirely. Mr. Ganieany noted that there were some legal considerations that had to be made with regard to the First Amendment. Panhandling is recognized as speech and is protected by the First Amendment. Whatever ordinance is set, it must remain content neutral and apply to everyone. The language in the ordinance must also be narrowly tailored, meaning that the proposed ordinance must allow for an alternative avenue for this type of activity and speech. This answers why there is a need to identify certain streets, intersections, and designated areas.

Deputy Mayor Jensen inquired about the City's sign ordinance. Mr. Ganieany noted that the sign ordinance defines a sign as something that is fixed to an object or stuck into the ground, and not a person. Mr. Persinger followed with an inquiry regarding advertisements, such as a furniture store employee holding a sign. Mr. Ganieany noted that in the instance of businesses using employees to advertise on the sides of streets, they are not exchanging anything which would hold up traffic. Drivers can see their advertisements and continue driving or pull into the private business parking lot. In order for an individual to be in violation of the ordinance, each of the items identified in the "Prohibition" section of the ordinance would need to occur.

Padilla questioned if ordinance should include a goal for people who need help to get it rather than just putting them in jail. Deputy Mayor agreed that the goal of the committee was to not only displace people away from the congested areas but to displace them to areas where they could receive services such as from Valeo or Rescue Mission. Barry Feaker commented to understand where the committee needs to go is to begin by understanding why the repeated behavior is occurring. There are two main components that must be looked at: 1) The reason that the behavior occurs and 2) The reason that the behavior continues to occur. Rev. Feaker noted that having an understanding of these two things will need to be part of the equation in addition to addressing a community safety issue. Rev. Feaker also noted a concern for the correlation between the accidents that have occurred and panhandling.

Mr. Cole asked if restrictions or time limits could be added into the ordinance. Mr. Ganieany noted that as long as it is the same across the board, and there was a purpose of public safety, then yes. If the law is content neutral, the courts will not scrutinize it for being unconstitutional.

Councilmember Lesser noted three core ideas that he felt were of importance 1) safety of roadways 2) providing care for those in need 3) Economic impact. Business owners who have spoken to Councilmember Lesser noted a negative effect on business, tenants being fearful for their safety, etc. The next question becomes where would it push individuals who are not truly in need?

Deputy Mayor Jensen asked Mr. Persinger and Rev. Feaker to introduce what tools they have already in place. Mr. Persinger inquired about those who might decide to offer some type of service, such as washing car windows, in order to negate the ordinance. Mr. Ganieany noted that if the action was blocking the roadway, it would be in violation, however there would not be any rule to keep the driver from going onto a side street or other area to partake in the service. Rev. Feaker introduced some of the services that the Topeka Rescue Mission (TRM) offers. There are three types of people living on the street 1) taking advantage of the system 2) chronically homeless 3) could benefit but choosing not to because they prefer to do it their way. TRM advocates educating the community. Deputy Mayor Jensen asked how this ordinance would affect each of these types of panhandlers. Rev. Feaker noted that the community would need to be proactive with restrictions but create opportunity as well. Rev. Feaker asked the committee to consider composite care.

Bill Persinger introduced programs that were offered through Valeo. Most of the programs are full the majority of the time. Mr. Persinger noted that looking at current programs as well as programs that would be useful to have would be helpful if passing the ordinance becomes a possibility.

Deputy Mayor Jensen asked committee members where they thought existing loopholes or immediate problems would occur within the framework of the ordinance as it is currently written and to identify what issues would need to be addressed farther out. Deputy Mayor Jensen also inquired whether this ordinance would be good for our city when taking a holistic approach.

Mr. Cole inquired about best interest to improve safety in these high traffic areas. Mr. Cole was in agreement with Mr. Persinger in regard to reviewing what other cities who have a similar ordinance in place, or who have had a similar problem and found a solution elsewhere.

Mr. Persinger provided the example of DUI law changes as an example of a way that a law aided in public safety and perhaps this ordinance would have a similar effect.

Councilmember Lesser agreed with sentiments related from other committee members. He also noted that this ordinance might offer an opportunity to help people as well as to eliminate a problem to safety as well.

Deputy Mayor Jensen inquired with Rev. Feaker as to some ideas regarding assisting individuals who are in true need versus ones who are taking advantage of the system.

(Had to leave about hour 6 minutes into meeting...catch everything)

Councilmember Padilla wanted to note his approval of keeping these meetings transparent and how important they are. He also wanted to remind committee members of two things when speaking to the public or media to include 1) making sure when talking to media, they understand the hope and direction of community.

Rev. Feaker noted that this is indeed a public safety issue and inquired as to if the ordinance would contain language that would direct officers to take individuals to the shelter. Mr. Ganieany stated that said language is in camping ordinance. LT Jones inquired if language could be inserted to cover this topic. Mr. Ganieany noted that it would difficult to do as it is more about addressing the action, not lifestyle.

Chief Duke noted future community mental health paramedicine program that TFD and TPD are working on would be something that would tie into this ordinance nicely. He also noted that in regard to the MDA collection, that if collection isn't drawn from busy locations, there is a very noticeable drop in donations. However, TFD would look at other ways around this ordinance.

5) Public Comment

Councilmember Hiller agreed with other committee members to recommend that crash logs be reviewed to determine if there is a true correlation to crashes and the actions of pedestrians who were trying to solicit something from them and which were caused by other actions. Councilwoman Hiller suggested creating a culture of caring in the community to allow individuals to donate to places that will help the individuals by channeling to the appropriate area. She also suggested that the committee take a look at current sign ordinance noting that the current ordinance says signs that remain in the same place are not allowed.

Councilmember Hiller felt this ordinance shouldn't make difference if the signs are on metal legs or human legs.

Linda Johnsrud made a plea to look at the state of Michigan which has laws against panhandling. There are regulations that give organizations ways to collect. Ms. Johnsrud also noted that places such as San Diego and Kentucky requires everyone (panhandlers, organizations, etc) to be registered with a lanyard (permit) stating who they are, what they are collecting for.

6) Set Future Meeting Date(s)

Committee members will research other cities, and alternative ideas, if this ordinance isn't the solution, what is. Look at July 30th for next date or look at dates for the week of July 23rd.

7) Adjourn

Video from the meeting can be found at: https://youtu.be/j7lGHrVU_e0



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE: September 4, 2018
CONTACT PERSON: Councilmember Ortiz DOCUMENT #:
SECOND PARTY/SUBJECT: Camping Ordinance PROJECT #:
CATEGORY/SUBCATEGORY 006 Communication / 003 Requests
CIP PROJECT: No
ACTION OF COUNCIL: Defer to Special JOURNAL #:
Committee 05-08-18.
Discussion (90- Day
Update) 08-07-18. Defer
until Sept 4th 08-21-18
PAGE #:

DOCUMENT DESCRIPTION:

ACTION regarding Final Committee Report due on September 1, 2018 for the proposed camping ordinance. *(Deferred from the meeting of August 21, 2018.)*

Voting Requirement: Majority vote of the Governing Body (6).

(The final report regarding review of the proposed camping ordinance is due on September 1, 2018 from the Public Health and Safety Committee. Action is required to set a new date for the report or take other action relative to the Committee's function.)

VOTING REQUIREMENTS:

Majority vote of the governing body (6).

POLICY ISSUE:

How to address the upcoming deadline for submission of the report from the Public Health and Safety Committee

STAFF RECOMMENDATION:

Staff makes no recommendation.

BACKGROUND:

On May 8, 2018, a proposed ordinance addressing camping was referred to the Public Health and Safety

Committee with a report due back to the governing body on September 1, 2018. Action is required to set a new date for the report or take other action relative to the committee's function. Action was deferred from the meeting of August 21, 2018.

BUDGETARY IMPACT:

Not applicable.

SOURCE OF FUNDING:

Not applicable.

ATTACHMENTS:

Description

Proposed Camping Ordinance May 8, 2018

Riverfront Map - May 8, 2018 Governing Body Meeting Packet

Question and Answer Summary - May 8, 2018 Governing Body Meeting Packet

Homeless Outreach Presentation - June 15, 2018 PHS Committee Meeting

June 15, 2018 PHS Committee Meeting Minutes

July 20, 2018 PHS Committee Meeting Minutes (DRAFT)

1 (Published in the Topeka Metro News _____)

2
3 ORDINANCE NO. _____

4
5 AN ORDINANCE introduced by Brent Trout City Manager, creating Article III of
6 Chapter 9.45 of the Topeka Municipal Code concerning Camping.

7
8 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

9 Section 1. That The Code of the City of Topeka, Kansas, is hereby amended
10 by adding a section, to be numbered 9.45.340, which said section reads as follows:

11 **Purpose.**

12 (a) Camping on public and private property. The streets and public areas
13 within the city should be readily accessible and available to residents and the public at
14 large for their intended uses. The use of these areas for camping purposes or storage of
15 personal property interferes with the rights of others to use the areas for which they
16 were intended. Such activity can constitute a public health and safety hazard which
17 adversely impacts neighborhoods and commercial areas. Camping on private property
18 without the consent of the owner, proper sanitary measures and for other than a
19 minimal duration adversely affects private property rights as well as the public health,
20 safety, and welfare of the residents of the city. The purpose of this chapter is to maintain
21 streets and other public and private areas within the city in a clean, sanitary and
22 accessible condition and to adequately protect the health, safety and public welfare of
23 the community.

24 (b) Personal property stored on public property. The unauthorized use of
25 public areas for the storage of personal property interferes with the rights of other
26 members of the public to use public areas for their intended purposes and can create a
27 public health or safety hazard that adversely affects residential and commercial areas.

The purpose of this chapter is to maintain public areas in clean, sanitary and accessible condition to prevent the misappropriation of public areas for personal use, and to promote the public health and safety by ensuring that public areas remain readily accessible for their intended uses.

Section 2. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.45.350, which said section reads as follows:

Definitions.

Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this section.

“Camp” means to reside in or use any public or private property for one or more nights for living accommodation purposes, such as sleeping activities or making preparations to sleep (including the laying down of bedding for the purpose of sleeping); or storing personal property (including, but not limited to, clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, and similar material); or making any fire, regularly cooking meals, using any tents, or living in a parked vehicle. These activities constitute camping when it reasonably appears, in light of all the circumstances, that a person(s) is using public or private property as a living accommodation.

“Personal property” means any and all tangible property, and includes, but is not limited to, goods, materials, merchandise, tents, tarpaulins, bedding, sleeping bags, hammocks, personal items such as luggage, backpacks, clothing, documents and medication, and household items.

51 “Public property” means public parks and all property that is owned, managed or
52 maintained by the City, including but not limited to streets, sidewalks, alleys,
53 easements, and public right-of-way.

54 “Store, stored or storing” means to put aside or accumulate for use when
55 needed, to keep for safekeeping, and/or to place or leave in a location.

56 “Street” includes every highway, avenue, lane, alley, court, place, parkway,
57 curbs, bikeway or other public way which is open to public use.

58 “Tent” includes any tarp, cover, structure or shelter, made of any material that is
59 not open on all sides and which hinders an unobstructed view behind or into the area
60 surrounded by the tarp, cover, structure or shelter.

61 Section 3. That The Code of the City of Topeka, Kansas, is hereby amended
62 by adding a section, to be numbered 9.45.360, which said section reads as follows:

63 **Unlawful camping.**

64 (a) It is unlawful and a public nuisance for any person to camp in the following
65 areas:

66 (1) Any public property; or

67 (2) Any private property without the consent, in writing, of the property
68 owner.

69 (b) Nothing in this chapter is intended to prohibit or make unlawful, activities
70 of an owner of property that are normally associated with, and incidental to, the use of
71 the property.

72 Section 4. That the Code of the City of Topeka, Kansas, is hereby amended
73 by adding a section, to be numbered 9.45.370, which said section reads as follows:

74 **Enforcement.**

75 A law enforcement officer shall not issue a citation or make an arrest unless all of
76 the following conditions apply:

77 (a) The person fails to comply with the officer's order to leave the
78 property immediately and remove the person's personal property.

79 (b) The person is not in need of medical or human services assistance.

80 (c) Upon a determination by the officer that the person may be in need
81 of medical or human services assistance, the person declines the opportunity to
82 be transported to either a hospital or public shelter.

83 Section 5. That The Code of the City of Topeka, Kansas, is hereby amended
84 by adding a section, to be numbered 9.45.380, which said section reads as follows:

85 **Disposition of personal property.**

86 (a) It shall be unlawful to fail to remove attended stored personal property
87 within 24 hours of receiving written notice pursuant to this section.

88 (b) All stored personal property on public property may be impounded by the
89 city in accordance with this section.

90 (c) Personal property placed on public property shall be deemed to be stored
91 personal property if it has not been removed within 24 hours of service of written notice,
92 requiring such removal. Moving personal property to another public property location or
93 returning personal property to the same block on a daily or regular basis shall not be
94 considered to be removing the personal property from public property. A law
95 enforcement officer may remove and impound such stored personal property after
96 providing 24 hours written notice.

97 (d) Personal property placed on public property located within ten feet of any
98 entrance, exit, driveway or loading dock may be removed and impounded at any time
99 without prior notice. Post-removal notice shall be provided as set forth in TMC
100 9.45.390.

101 (e) Personal property placed on public property which has a clearly posted
102 closure time may be removed and impounded after the closure time, without prior
103 notice. Post-removal notice shall be provided as set forth in TMC 9.45.390.

104 (f) In the event personal property placed on public property poses an
105 immediate threat to the health or safety of the public, it may be removed without prior
106 notice and discarded.

107 (g) Evidence of a crime or contraband may be removed from public property
108 without prior notice.

109 Section 6. That The Code of the City of Topeka, Kansas, is hereby amended
110 by adding a section, to be numbered 9.45.390, which said section reads as follows:

111 **Notice.**

112 (a) Pre-removal notice. The written notice required by TMC 9.45.380 shall be
113 deemed to have been served if a written notice is served on the person storing the
114 personal property, or is posted conspicuously on or near the personal property. The
115 written notice shall contain the following:

116 (1) A general description of the personal property to be removed.

117 (2) The location from which the personal property will be removed.

118 (3) The date and time the notice was posted.

119 (4) A statement that the personal property will be impounded if not

120 removed from public areas within 24 hours.

121 (5) A statement that moving stored personal property to another
122 location on public property shall not be considered to be removing personal
123 property from public property.

124 (6) The location where the removed personal property will be stored,
125 including a telephone number and the internet website of the city through which a
126 person may receive information as to impounded personal property.

127 (7) A statement that impounded personal property may be discarded or
128 otherwise disposed of if not claimed within 90 days after impoundment.

129 (b) Post-removal notice. Upon removal of stored personal property, written
130 notice shall be conspicuously placed in the area from which the personal property was
131 removed. The written notice shall contain the following:

132 (1) A general description of the personal property removed.

133 (2) The date and approximate time the personal property was
134 removed.

135 (3) A statement that the personal property was stored on public
136 property in violation of TMC 9.45. 380.

137 (4) The location where the removed personal property will be located,
138 including a telephone number and internet website of the city through which a
139 person may receive information as to impounded personal property.

140 (5) A statement that impounded personal property may be discarded or
141 otherwise disposed of if not claimed within 90 days after impoundment.

142 Section 7. That The Code of the City of Topeka, Kansas, is hereby amended

by adding a section, to be numbered 9.45. 400, which said section reads as follows:

Storage and disposal.

(a) Except as specified herein, impounded personal property shall be moved to a place of storage.

(b) Except as specified herein, impounded personal property shall be stored by the city for 90 day after which time, if not claimed, it may be discarded or otherwise disposed of. The city shall not be required to undertake any search for, or return, any impounded personal property stored for longer than 90 days.

(c) The city shall maintain a record of the date any impounded personal property was received and discarded or disposed of.

(d) The owner or any other person entitled to the impounded personal property may repossess the personal property prior to its disposal upon submitting satisfactory proof of ownership. A person may establish proof of ownership by, among other methods, describing the location and date when the personal property was impounded from the public property, and providing a reasonably specific and detailed description of the personal property.

Section 8. That The Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 9.45.410, which said section reads as follows:

Penalty.

Any person who violates the provisions of this article is guilty of a misdemeanor. Upon conviction, a person shall be sentenced to a fine not to exceed four hundred and ninety-nine dollars (\$499) and/or imprisonment not to exceed thirty (30) days.

Section 8. This ordinance shall take effect and be in force from and after its

166 passage, approval and publication in the official City newspaper.

167 Section 9. This ordinance shall supersede all ordinances, resolutions or rules,
168 or portions thereof, which are in conflict with the provisions of this ordinance.

169 Section 10. Should any section, clause or phrase of this ordinance be declared
170 invalid by a court of competent jurisdiction, the same shall not affect the validity of this
171 ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

172 PASSED AND APPROVED by the City Council on _____.

173
174 CITY OF TOPEKA, KANSAS

175
176
177 _____
178 Michelle De La Isla, Mayor

179 ATTEST:

180
181
182 _____
183 Brenda Younger, City Clerk



City of Topeka Property (Riverfront)

source: Shawnee County Appraiser

Camping Ordinance Questions and Answers

Q: *What does the ordinance do?*

A: The ordinance prohibits individuals from camping on public property; or on private property without having in their possession the owner's express written consent.

Q: *What is 'camping?'*

A: The primary intent of the ordinance is to keep people from living on sidewalks, alleys, and other public areas. 'Camping' is broadly defined to include bedding, sleeping bags, blankets, luggage, cookware, and tents, which, taken as a whole, make it appear that the person is using the property as a living area.

Q: *What is 'public property?'*

A: 'Public property' means public parks and all property that is owned, managed, or maintained by the City, including streets, sidewalks, alleys, public right of way, and easements; and, thus subject to City enforcement efforts.

Q: *Does 'public property' include the levees and areas close to the Kansas River?*

A: Yes. The City owns a portion of the property (located along the levee units located on the Kansas River and Shunga Creek), and is responsible for the operation and maintenance of other portions of the property that comprises these levee units.

Q: *Would the ordinance apply to parks since those are owned by the County now?*

A: Yes. As part of the transfer of ownership to the County, the City agreed to continue to enforce City ordinances on these properties.

Q: *Would the ordinance apply to a person sleeping in a car or camper parked on the street?*

A: Yes. Sleeping in a vehicle parked on a public street is included in the definitions of 'camp' and 'public property.'

Q: *Would the ordinance prohibit a parent/child weekend campout at the Zoo, Black Friday campouts in retail parking areas, campouts along City-owned property along the Kansas River, or other similar activities?*

A: No. The ordinance will not prohibit activities that may typically occur in association with the particular property involved. Common sense and good judgment will be applied. There will likely be designated camping areas established for camping along the Kansas River, for which a corresponding permit will be required.

Q: ***How will the ordinance be enforced?***

A: A citation may be issued, or an arrest may be made, only if:

- (1) the person fails to comply with TPD's order by leaving and taking his or her personal property with him or her; and
- (2) the person is not in need of medical or social service assistance; or
- (3) if it appears that the person is in need of medical or social service assistance, the person declines TPD's offer to transport the person to either a hospital or shelter.

Q: ***What is the time frame within which personal property must be removed?***

A: This ordinance requires that personal property be removed from public property within 24 hours of receiving 'pre-removal notice,' as provided in the ordinance. A pre-removal notice would not be required for removing unauthorized personal property from privately-owned property, due to trespass.

Q: ***What will the 'pre-removal notice' say?***

A: It will contain a general description of the personal property and the location from which such property will be removed; the date and time the notice was posted; a warning that the property will be impounded if not removed from public areas within 24 hours and that simply moving the property to another location on public property will not suffice; a warning that the property will be discarded if not claimed within 90 days, accompanied by information related to where the property is being stored and instructions, including contact information on how it can be retrieved.

Q: ***What if the person just moves the property to another location?***

A: This is not considered 'removing' the property - so the person would still be in violation.

Q: ***What happens if the 24 hour period has expired and the property is still there?***

A: TPD will take photos of the property, then remove it; taking it to the impound lot for storage. TPD will leave a 'post-removal notice,' as provided in the ordinance. A post-removal notice would not be required for removing unauthorized personal property from privately-owned property, due to trespass.

Q: ***What will the 'post-removal notice' say?***

A: It will contain a general description of the personal property removed; the date an approximate time it was removed; a statement of that violation (personal property stored on public property); a warning that the property will be discarded if not claimed within 90 days, accompanied by information related to where the property is being stored and instructions, including contact information on how it can be retrieved.

Q: ***How are these notices served if the person is not present at the time?***

A: If the apparent owner of the personal property is gone, pre-removal notice will be posted conspicuously on or near the personal property and post-removal notice will be posted conspicuously in the area from which the personal property was removed.

Q: ***How can an owner get his or her personal property back?***

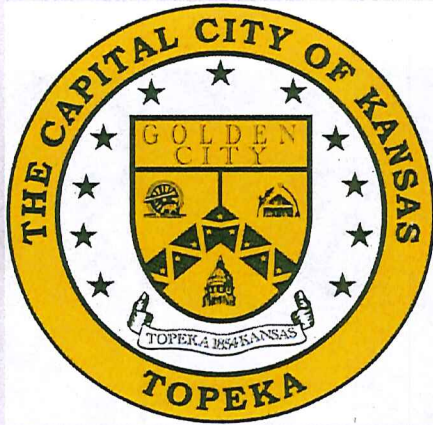
A: Both the 'pre-removal notice' and the 'post-approval notice' will provide appropriate contact information, via telephone numbers or emails or City website. The person will need to show some proof of ownership by indicating the location and date that property was seized, as well as a description of the property.

Q: ***What happens to the personal property if it is not retrieved by the owner?***

A: This ordinance requires that personal property be moved within 24 hours of receiving the 'pre-removal notice' provided for in the ordinance. If the property is not moved, TPD will remove it, leave a 'post-removal notice' and subsequently hold the property for 90 days. If the property is not claimed within this 90-day period of time, TPD may dispose of the property by discarding it or selling it at auction.

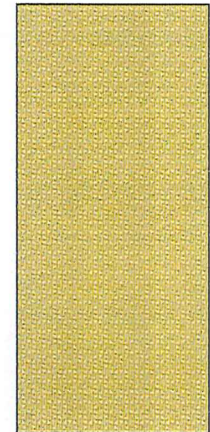
Q: ***What's the penalty if convicted?***

A: Misdemeanor. Fine of up to \$499 and 30 days in jail.



HOMELESS OUTREACH TEAMS

COORDINATION OF SERVICES



Challenges



Challenges



Challenges



Challenges



Challenges



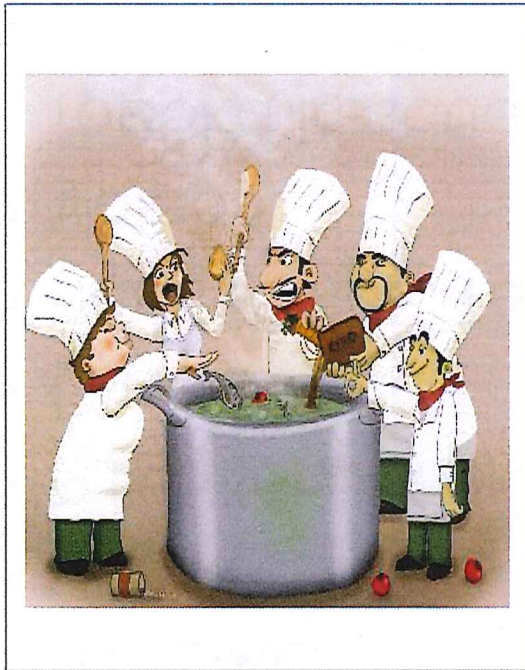
Challenges

- On a single night in 2017, 553,742 people were experiencing homelessness in the United States.
- Approximately two thirds (65%) were staying in emergency shelters or transitional housing programs, and about one third (35%) were in unsheltered locations.

Challenges

- 2018 Topeka Point-In-Time Count
 - 419 People experiencing homelessness (Increased from 356 in 2017)
 - 66% of people were in an emergency shelter
 - 17% of people were in transitional housing
 - **15% of people were unsheltered**
- **$419 \times 15\% = 62.85$**

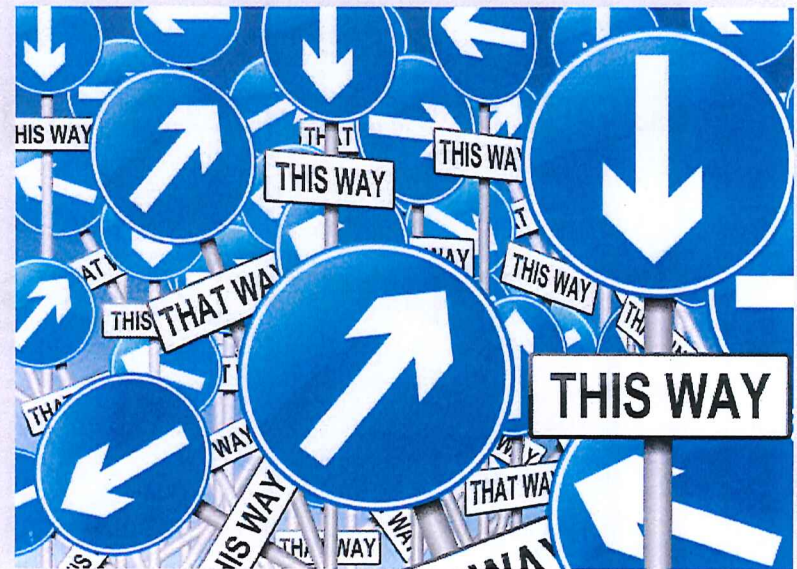
Complexity



- Multiple City Departments
- Municipal Code Limitations
- Numerous Social Service Organizations
- Policy and Advocacy Groups
- Neighborhood and Business Groups

Resources & Services

- HRADAC
- VA
- Salvation Army
- GraceMed
- HOPE/CABHI Team
- Valeo
- Topeka Rescue Mission
- Topeka/Shawnee County Homeless Task Force
- Continuum of Care
- Many, many others ...



Compliance Measures

Unlawful Camping – Enforcement Limitations

Being homeless cannot be criminalized.

- **Ability** to comply vs. **willingness** to comply



Legal Obstacles

- **Eighth Amendment – Cruel & Unusual Punishment**
- **Fundamental Right to Travel**
- "...[E]nforcement of laws that prevent homeless individuals who have no place to go from sleeping, lying down, eating, or performing other harmless life-sustaining activities burdens their right to travel." Pottinger, 810 F.Supp. at 1580
- "arresting the homeless for the harmless acts which they are forced to perform in public infringes on their fundamental right to travel." Id.

Legal Obstacles

- “It should be uncontroversial that punishing conduct that is a universal and unavoidable consequence of being human violates the Eighth Amendment – **if a person literally has nowhere else to go**, then enforcement of an anti-camping ordinance against that person **criminalizes them for being homeless.**”

Pottinger Protocols

Pursuant to a settlement finalized in 2013, the City of Miami agreed to adopt certain law enforcement protocols that:

1. Apply to government interaction with homeless and their personal property.
2. Define “homeless” person” as an individual who “lacks a fixed, regular, and adequate night time residence and has a primary residence that is:
 - A public or private shelter;
 - A place of institutionalization; or
 - A public or private place not designed as a regular sleeping accommodation for human beings.

Pottinger Protocols

3. Require documentation of government contacts with homeless persons, specifically:

- Document outreach efforts, transports to shelter, refusals of shelter, etc. in a “field information (FI) card” or equivalent.
- Document arrests in an arrest affidavit.
- File all records with Police Department.

Pottinger Protocols

4. Defined “life sustaining conduct misdemeanors” as:

- Misdemeanors “which a homeless individual commits by the mere fact that he or she is without shelter, and must conduct life sustaining activities, such as **eating, sleeping, sitting, congregating** or **walking in public.**”

5. Defined “available shelter” as:

- At least 24 hours, with “dignity and respect”,
- A bed or mat at least 3 inches thick,
- At no cost to the homeless person,
- Within the city. (Or county, if person agrees),
- No mandatory religious or therapeutic programming.

Pottinger Protocols

6. Require “available shelter” in order for the government to enforce “life sustaining conduct misdemeanors” against a homeless person.
 - No “available shelter” = no enforcement.
 - “Available shelter” + acceptance = no enforcement.
 - “Available shelter” + refusal = enforcement.
7. Establishes protections for personal property.
 - If a homeless person is arrested, police must secure their property.

Pottinger Protocols

8. Requires training of law enforcement personnel

- The settlement required the city of Miami to implement training to ensure that police officers and other city officials who deal with homeless individuals are sensitive to the “unique struggle and circumstances of homeless persons.”
- Specialized mission (H.O.T.)

Pottinger Exceptions

- Nothing in *Pottinger* precludes an arrest for any felony or any misdemeanor that is not “life-sustaining conduct” regardless of whether there is available shelter.
- Nothing in *Pottinger* says how many available shelter beds must be acquired in your jurisdiction or who must own and operate them.



SEARCHING OUT SOLUTIONS

Constructive alternatives to the criminalization of homelessness.

JUNE 2012

Three Recommendations:

1. Creation of Comprehensive and Seamless Systems of Care
2. Collaboration among Law Enforcement and Behavioral Health and Social Service Providers
3. Alternative Justice System Strategies

SOLUTION 2:

Collaboration between law enforcement and behavioral health and social service providers results in tailored interventions that connect people with housing, services, and treatment and meet the community's goal of reducing the number of people inhabiting public spaces.

- Outreach and engagement involving police and service provider collaboration to link people with supportive housing and avoid their arrest.

SOLUTION 2:

- Cross-training of police officers and service providers to facilitate information sharing and promote ongoing coordination.
- Crisis Intervention Teams (CIT) with specially trained police officers working with behavioral health professionals to respond to crises involving people with mental illness.

H.O.T. Program - Architecture

System to operationalize and document all of these recommendations

- Outreach Efforts – referrals to social services
- Diversion – avoid entering criminal justice system
- Case Management – documenting efforts
- Local Code – ensure safety and rule of law

H.O.T. Program - Architecture

- ***Educate*** about social services (resource guide).
- ***Encourage*** referral to those services through outreach and diversion.
- ***Enforce*** the criminal code as a last resort (camping ordinance).



CITY OF TOPEKA

CITY COUNCIL COMMITTEE MEETING MINUTES

PUBLIC HEALTH AND SAFETY COMMITTEE

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
Topeka, KS 66603-3914
Tel: 785-368-3710
Fax: 785-368-3958
www.topeka.org

Date: June 15, 2018
Time: 3:30 p.m.
Location: Holliday Building, 1st Floor Conference Room – 620 SE Madison

Committee members present: Councilmembers Sandra Clear, Sylvia Ortiz (Chair) and Mike Padilla

City staff present: Brenda Younger, City Clerk; Luther Ganieany, Topeka Police Legal Advisor; Lisa Robertson, City Attorney; Brent Trout, City Manager; Sergeant Joshua Klamm, Topeka Police Department; Sasha Haehn, Director of Department of Neighborhood Relations; and Corrie Wright, Division Director of Housing Services.

Call to Order

Councilmember Ortiz called the meeting to order.

Appoint Committee Chair

Councilmember Clear moved to appoint Councilmember Ortiz. The motion seconded by Councilmember Padilla carried unanimously (3-0-0)

Approve Minutes from September 28, 2017 meeting

Councilmember Clear moved to approve the minutes. The motion seconded by Councilmember Padilla carried unanimously. (3-0-0)

Introduction of TMC 9.45 Article III: Camping on Public and Private Property

Lisa Robertson, City Attorney, reported staff presented two separate ordinances to the Governing Body on May 8, 2018. She stated the ordinance relating to camping on public and private property was referred to the Public Health and Safety Committee; and the ordinance relating to traffic and pedestrian safety was referred to a Special Committee appointed by the Deputy Mayor that will work independently from the Public Health and Safety Committee. She stated Luther Ganieany, Topeka Police Legal Advisor, has performed extensive research on the matter and will provide a presentation to the Committee. She requested Committee members discuss what was important to them and what they would like to be included in the ordinance.

Luther Ganieany, Topeka Police Legal Advisor, reported the camping ordinance presented to the Committee for consideration would serve as (1) an enforcement piece of camping on public or private property without permission of the property owner; and (2) establish protections for personal property. He highlighted the challenges, complexity, resources and services available to assist with the issue; compliance measures as well as the legal obstacles outlined in the Pottinger Protocols and Exceptions. He stated staff was recommending a collaboration of agencies including law enforcement as well as behavioral health and social service providers resulting in tailored interventions that connect people with housing, social services and treatment. He reported

the agency partnership would meet the community goal of reducing the number of people inhabiting public spaces. He continued discussion on the Homeless Outreach Team (H.O.T) a program created for the purpose of educating and serving as a resource guide for social services offered through outreach and diversion. He noted enforcement of the proposed camping ordinance would serve as a last resort in dealing with homelessness.

Councilmember Clear questioned if the ordinance could be approved without having the H.O.T. Program in place; how the proposed ordinance would influence property rights of business owners; and what efforts are being made by the current Homeless Task Force in regards to addressing camping on public property.

Luther Ganieany stated the ordinance could be approved without the program being in place and business owners would still have their traditional property rights.

Corrie Wright, Division Director of Housing Services, reported the Homeless Task Force currently has several outreach teams that are involved in the community. She stated with regard to the homeless campsites and how it relates to criminalization the Homeless Task Force would welcome the opportunity to discuss the issue in more detail at their next meeting and report back to the Committee with what they believe may be viable options to address the matter. She noted the Homeless Task Force consists of approximately 40 members representing various organizations in the community with the goal to address homelessness in Topeka.

Councilmember Ortiz encouraged the Homeless Task Force to get involved in the process as they will be crucial to the success of the program and helping to manage the homeless community.

Corrie Wright reported the goal of the Homeless Task Force was to help homeless people get into a shelter no matter what; however, there is only one shelter in Topeka and not all individuals are allowed in the shelter for various reasons such as behavioral and medical issues or substance abuse.

Councilmember Clear asked if a homeless person could be sent to a shelter located in another city.

Luther Ganieany reported a homeless person from the Topeka community would need to be placed in a local shelter as it would become a problem to try and transport homeless people to other communities.

Councilmember Ortiz noted many times the services offered to homeless people are refused.

Corrie Wright reported recently the Homeless Task Force has implemented a coordinated assessment of the individuals included in their database receiving resources in the community for the purpose of providing additional services to individuals as needed.

Councilmember Ortiz questioned how the ordinance would address repeat offenders and how long would personal possessions be held.

Luther Ganieany reported the repeat offenders would not be able to establish a camp because outreach efforts will be documented and if they pursue staying at the campsite then the enforcement piece would take effect. He noted personal property would be held for 90 days from the date seized.

Councilmember Clear asked if the Mission refuses people due to lack of available space and if the Mission enforces mandatory therapeutic or religious programming for their occupants.

Mike Foster, Topeka Rescue Mission, reported homelessness was a problem throughout the city and the Mission works to accommodate any person who seeks their services and would not reject a person due to lack of space. He stated he would need clarification on the term “therapeutic” and the Mission has no religious requirements; however, they do offer a voluntary chapel service. He stated they do require repeat offenders to participate in therapy programs.

Luther Ganieany clarified that therapeutic and religious requirements could be offered; however, these requirements could not be a mandatory condition for a person to receive shelter.

Councilmember Ortiz questioned if the Mission would consider serving as a bed site if the H.O.T. program was implemented.

Mike Foster reported the Mission would welcome the opportunity to work with the City in addressing homeless efforts; however, the Topeka Rescue Mission was not considered a public shelter.

Councilmember Padilla referenced businesses located west of Wannamaker and reported the business owners have problems with homeless people camping on their private property. He questioned if this would be considered criminal trespassing.

Luther Ganieany stated a person must have written permission from the property owner to occupy the area; however, the same protocol would apply in regards to offering outreach services and encourage the person to vacate the area without requiring enforcement or arrest.

Councilmember Clear questioned if they should include language in the ordinance that would address camping permits issued by other agencies along the river and in other areas of the city.

Lisa Robertson stated initially there were discussions relating to the City implementing a permitting process; however, it would be ideal if another agency implements a permitting process and that process could be referenced in the ordinance.

Councilmember Ortiz requested City Attorney Robertson determine if the Kansas Department of Wildlife, Parks and Tourism was in the process of implementing a permitting system as mentioned by Councilmember Hiller and report back at the next Committee meeting. She requested Corrie Wright gather input from the Homeless Task Force and report back at the next Committee meeting.

Topeka Police Sgt. Joshua Klamm, Behavior Health - Crisis Intervention Team (CIT), reported TPD has been working to create a Homeless Outreach Team that will fall under the umbrella of the CIT. He stated officers will receive mandatory training to become CIT Certified. He provided an overview of the program and noted it should be fully implemented by August or September; however, the biggest obstacle will be sufficient manpower.

Councilmember Padilla stated he was encouraged by the creation of the Homeless Outreach Team; however, proper training and selection of officers will be crucial in the success of the program.

Topeka Police Sgt. Klamm questioned enforcement of the ordinance as it relates to individuals that are intoxicated and would not be allowed to stay at the Topeka Rescue Mission as well as those individuals that

are banned indefinitely from the Topeka Rescue Mission.

Councilmember Ortiz expressed the importance of creating a public-private partnership that could address special circumstances such as those described by Sgt. Klamm.

Councilmember Lesser questioned where the burden would fall in regards to obtaining proof of permission for a person to camp on private property. He cautioned the Committee in creating language that would burden the property owner.

Luther Ganieany stated the proposed ordinance would require the person camping on private property to provide written permission to occupy the property.

Brent Trout, City Manager, stated he appreciates the deliberate process being used to consider the ordinance being proposed. He commended Committee members for involving all the necessary players to ensure a positive outcome. He expressed the importance of people feeling comfortable in their community while assisting those in need and taking personal rights into consideration.

Pat DeLapp expressed concern with the regulations of the Topeka Rescue Mission and suggested finding a federally funded alternative organization that could handle those individuals that are noncompliant with the regulations of the Topeka Rescue Mission. He suggested the City create a general form that could be signed annually by property owners prohibiting camping on private property. He noted it would be difficult to confirm if the written permission being presented was legitimate.

Councilmember Ortiz announced the Homeless Task Force would meet on July 11, 2018, and the next Public Health and Safety Committee meeting would be scheduled after that date.

Other Business

Councilmember Ortiz reported on an incident that occurred involving two large goats running at large in her neighborhood. She requested staff review the code section that would address the issue to avoid it from happening in the future.

Upon no other items being presented to the Committee for consideration, Councilmember Ortiz adjourned the meeting at 4:59 p.m.

Meeting video can be viewed at <https://www.topeka.org/citycouncil/public-health-safety-committee/>



CITY OF TOPEKA

CITY COUNCIL COMMITTEE MEETING MINUTES

PUBLIC HEALTH AND SAFETY COMMITTEE

CITY COUNCIL
City Hall, 215 SE 7th Street, Suite 255
Topeka, KS 66603-3914
Tel: 785-368-3710
Fax: 785-368-3958
www.topeka.org

Date: July 20, 2018
Time: 3:00 p.m.
Location: LEC, Classroom A; 320 S. Kansas Ave Ste 100

Committee members present: Councilmembers Sandra Clear, Sylvia Ortiz (Chair) and Mike Padilla

City staff present: Brenda Younger, City Clerk; Luther Ganieany, Topeka Police Legal Advisor; Lisa Robertson, City Attorney; Brent Trout, City Manager; Sergeant Joshua Klamm, Topeka Police Department; Sasha Haehn, Director of Department of Neighborhood Relations; and Corrie Wright, Division Director of Housing Services.

Call to Order

Councilmember Ortiz called the meeting to order.

Approve Minutes from June 15, 2019 meeting

Councilmember Clear moved to approve the minutes. The motion seconded by Councilmember Padilla carried unanimously. (3-0-0)

Presentations

Luther Ganieany showed a TED Talks video to the committee. The link to that video is provided below.

Councilmember Ortiz inquired with SGT Joshua Klamm about an upcoming program that is similar to the one introduced in the video. SGT Klamm confirmed that the Homeless Outreach Taskforce (HOT) program is in the finishing stages of completion and requires approval of Police Chief Bill Cochran.

Public Input

- Frank Anderson, Director of Homeless Services at the Topeka Rescue Mission (TRM), noted that TRM has a Street Reach program, however would be interested in partnering with the City of Topeka in an alternative program such as the one presented in the video. Mr. Anderson noted that TRM would have resources to assist with providing a staff member to drive a van and to provide sack lunches. Councilmember Ortiz inquired with Mr. Anderson about the requirement of having a place for individuals to sleep for the evening after completing a day's work. Mr. Anderson noted that he was aware of the regulations at TRM and that although TRM is not a public shelter, TRM would be willing to provide a bed for individuals who were within compliance of TRM's policies. Councilmember Sandra Clear referred to the letter provided to the committee by Barry Feaker, Director of TRM, and inquired if the Homeless Service Work Program (HSWP) is something that could be done in addition to the ordinance. Councilmember Clear also inquired if the ordinance could be in effect with the program coming into action

at a later time if it was not ready at the same time. Mr. Anderson noted that the program is not currently in place, but is a proposal of something to go in tandem with the ordinance. Lisa Robertson, City Attorney, commented that there are elements of the ordinance that would have to be met, however the entire plan would not have to happen at the time the ordinance would go into effect.

- Corrie Wright, Division Director of Housing Services with the City of Topeka and member of the Homeless Task Force, commented that she had been in attendance of recent Homeless Task Force meetings. Carrie Allen, Vice-Chair of the Homeless Task Force, read a letter to the committee introducing the organization and possible ways in which they could be of assistance. Ms. Allen also noted that there are questions that the task force had which were not currently being addressed by the proposed ordinance. Ms. Allen asked for a delay in voting on the ordinance, however noted that the request was not a dismissal of the ordinance altogether. Ms. Allen provided committee members a letter and asked that the decision of the ordinance be delayed an additional three (3) months to allow for more discussion to be had concerning feasibility issues. Councilmembers Clear and Padilla had a few inquiries but both shared a feeling of wanting to move the ordinance forward sooner rather than later.
- Tawny Stottlemire, with Community Action, provided Committee members with a letter that listed commends from Community Action members. Ms. Stottlemire stated that Community Action also supported the Homeless Task Force and requested more time to put a program in place prior to passing the ordinance. Community Action is working toward the same goal as the Governing Body is hoping to accomplish with this ordinance.
- Councilmember Clear inquired as to how past ordinances with public assistance has been handled, specifically to define what the roll of the City government is. Doug Gerber, Deputy City Manager, noted that there are many rolls in which the City could and should be involved with partnering to address this issue. Mr. Gerber noted that the Governing Body are the policy makers, and that the topic of public camping is at the forefront of being addressed in many cities. Many of the City's departments are directly effected by this issue as well as by the requirements listed in the ordinance. Mr. Gerber felt that input and participation from the committee as well as from the organizations that are in attendance are critical for this ordinance to be successful. Councilmember Clear inquired as to the depth of research that needed to be done prior to passing the ordinance. Deputy City Manager Gerber felt that once the major topics had been discussed, the ordinance could be passed. There will always be a potential for a lawsuit, however if circumstances can be mitigated to reduce the frequency and likeliness of this occurring, the Governing Body could feel comfortable passing the ordinance.
- Ximena Garcia inquired with committee members about the type of community they wanted Topeka to be. Ms. Garcia expressed disapproval of the ordinance as well as the tax increase. Councilmember Clear acknowledged Ms. Garcia's remarks and noted that there have been a number of businesses within the City that are being hurt by individuals who are camping on public property. There is a cost of cleaning up past campsites as well as health issues occurring within the sites.
- Councilmember Padilla inquired with City staff about the difference of private and public property, specifically wanting to address enforcing current ordinances that cover trespassing. Councilmember Padilla inquired if the trespass ordinance will be different from the proposed camping ordinance. Luther Ganieany noted that because it is public property, it would be interfering on the individual's Constitutional right to be in that space. Lisa Robertson noted that the trespassing ordinance could be enforced on private property, however unless there was an immediate danger, the trespass ordinance would not be able to be enforced on public property.
- Steve Schiffelbein, with Topeka JUMP, addressed the committee and advocated for a homeless employment program. Mr. Schiffelbein also suggested that the committee clearly state the intent of the ordinance.

- Councilmember Ortiz inquired about an update on a current permit process for camping on the river. Lisa provided committee members with an email as well as with a verbal update.
- Councilmember Ortiz felt that another public meeting should be held to develop a team to work on this camping ordinance.
- Councilmember Ortiz noted that anyone wishing to be on the committee to provide input should call the Liz Toyne in the Council Office at 785-368-1670. The following list are items to be reported on at the next Public Health and Safety Committee meeting:
 - Homeless Task Force to reach out to the residents who are currently camping under the Kansas Ave Bridge in North Topeka.
 - TPD report update on Homeless Outreach program
 - City Legal update or report on anything they may deem necessary
 - Topeka Rescue Mission report any detail of proposed program
 - Corrie Wright, meet with the Homeless Task Force President and bring back ideas about a sub-committee
 - Invitation for Community Action and Ms. Ximena Garcia to be at the next meeting.
 - Homeless Task Force to provide the number of beds and “Caring Shelters” that could be committed by agencies on the task force.
 - Doug Gerber and the City’s Finance Department follow up if an account could be set up to receive donations. If that is not a possibility, other ideas that could be done.
 - JUMP to follow up with definition of what specifically “affordable housing” means
 - SGT Klamm to report about the issue of storage
 - Homeless Task Force to provide update on what organization would provide medical assistance as needed and the round the clock supervision
- Lisa Robertson and Luther Ganieany expanded on the research that had been completed regarding the wording of the ordinance.
- Reverend Sarah Oglesby-Dungan provided a departing prayer

Set Next Meeting

Within a month

Adjourn

Councilmember Ortiz adjourned the meeting.

Meeting video can be viewed at: <https://youtu.be/VcY8vGAZe7A>

TED Talks Presentation can be viewed at:

https://www.ted.com/talks/richard_j_berry_a_practical_way_to_help_the_homeless_find_work_and_safety#t-728108



City of Topeka
Council Action Form
Council Chambers
214 SE 8th Street
Topeka, Kansas 66603
www.topeka.org
September 4, 2018

DATE: September 4, 2018
CONTACT PERSON: Mary Feighny, Deputy City Attorney
DOCUMENT #:
SECOND PARTY/SUBJECT: PROJECT #:
CATEGORY/SUBCATEGORY 013 Ordinances - Codified / 078 Health and Sanitation
CIP PROJECT: No
ACTION OF COUNCIL: Discussion 061218. JOURNAL #:
61918 Deferred until
July 17, 2018. 071718
Deferred until Sept 4,
2018.
PAGE #:

DOCUMENT DESCRIPTION:

DISCUSSION of amendments to the International Property Maintenance Code (IPMC). *(Deferred from the meeting of July 17, 2018.)*

VOTING REQUIREMENTS:

Discussion item only.

POLICY ISSUE:

Whether to amend the IPMC to clarify processes and create a separate ordinance addressing unsafe structures.

STAFF RECOMMENDATION:

Discussion item only.

BACKGROUND:

Discussion of amendments have occurred on June 12, 19, and July 17 wherein the matter was deferred to September 4 as a discussion item. Since July 17, Councilmember Hiller has met with staff and changes have been made which will be discussed at the meeting.

BUDGETARY IMPACT:

Publication costs will be reduced.

SOURCE OF FUNDING:

Not Applicable

ATTACHMENTS:

Description

Summary of Changes - Notice and Procedural Matters

Summary of Changes - Unsafe Structures

Ordinance - Notice and Procedural Changes (Red-line Version)

Ordinance - Unsafe Structures (Red-line Version)

Summary of Changes from 6/19/18 DRAFT:
General IPMC – Notice & Procedural Matters

Subject	Line #	Change
Inoperative vehicles	27-28; 51-52	administrative penalties and costs remain the same. No change
Emergency securements	63-72	Section moved from Unsafe Structure ordinance. Lines 150-160
Abatement deadline; hearing; scope of appeal	80-84; 89-96	Violation notice includes date for compliance and a date within which the owner can request a hearing. Notice advises owner of the scope of the appeal
Mailing the violation notice	136-137	The default address for violation notices is the county appraiser's records. If staff is aware of a better address, that address will be used
Failure to accept certified mail	164-169	KSA 12-1617e(c) authorizes alternative methods of service if owner fails accept certified mail
Alternative methods of notification	170	In addition to service by personal service or certified mail, other methods can be used: first class mail, door hangers etc
Proof of service	192-194	Retains the current requirement that there be a record of service
Timing; hearing notice	219	Code hearings are set twice a month. Owners will be notified of hearing date within 10 calendar days from the request
Administrative hearing officer	221-222	Clarifies hearing officer's role as affirming, modifying, or reversing the inspector's decision
Administrative hearing officer; authority	231-235	Authority is the same as the authority in the Unsafe Structure ordinance (e.g. administering oaths, taking testimony etc.)

Summary of Changes from 6/19/18 DRAFT:
Unsafe Structures

Subject	Line #	Change
Definition; unsafe structure	16-24; 52-55; 61-65; 122-125	Defines 'unsafe structure' to be consistent with state law
Closing vacant structures; condemnation notice	25-26	Retains IPMC sections relative to closing vacant structures and notification to owner
Setting a hearing	67-68	Follows state law; hearings held not less than 10 nor more than 30 days
Who receives hearing notification	69-70; 77-80	Consistent with state law: owner, interest holders, and anyone in possession who can be ascertained
Service	86-87	Eliminates redundancy. Service methods (personal and certified mail) are identical to IPMC general violations
Administrative hearing officer options	131-132	Adds an option for closing up a structure for future repair, with conditions
Salvage	167-169	Any proceeds from salvage applied to abatement costs

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Brent Trout, concerning International Property Maintenance Code local amendments regarding notice and procedural matters, amending City of Topeka Code § 8.60.070, § 8.60.080 and § 8.60.110 and repealing original sections.

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

Section 1. That section 8.60.070 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Section 106 – Violations, abatements, fees.

Section 106.3, Prosecution of violation, is deleted in its entirety and the following provisions shall be substituted therefor:

A person who fails to comply with a notice of violation served in accordance with Section 107, shall be guilty of a misdemeanor and, if convicted, may be punished in accordance with TMC 1.10.070. A violation of this chapter shall be deemed a strict liability offense. Abatement of a violation by the code official shall not be a defense or excuse to a violation. The pendency of an administrative hearing pursuant to section 8.60.110 shall not be a defense to a violation or prevent prosecution and adjudication in municipal court.

Section 106.4, Violation penalties, is deleted in its entirety and the following provisions shall be substituted therefor:

Administrative penalties.

(a) There shall be an administrative monetary penalty of \$100.00 imposed on the owner ~~or, in the case of inoperative vehicles, the vehicle owner~~ or, in the case of inoperative vehicles, the vehicle owner for each violation of this chapter

29 that remains uncorrected after the time period stated in the notice of violation has
30 elapsed.

31 (b) The administrative monetary penalty for a second or subsequent
32 violation for which an administrative penalty has been imposed under this
33 chapter that remains uncorrected after the time period stated in the notice of
34 violation has elapsed for the same property within 12 months of the same or
35 substantially same violation shall be \$200.00.

36 Section 106.5, Abatement of violations, is deleted in its entirety and the following
37 provisions shall be substituted therefor:

38 (a) Abatement. Upon the expiration of the compliance period stated in the
39 notice of violation, the code official shall inspect the property. The code official
40 may grant an extension of time if the owner demonstrates that due diligence is
41 being exercised in abating the violation. If the owner has failed to comply within
42 the compliance period, or has failed to timely request an appeal hearing ~~or, in the~~
43 ~~case of an unsafe structure, failed to appear at a hearing,~~ the code official may
44 abate the violation and assess the costs against the owner. If the costs are not
45 paid within 30 days, the cost ~~can~~ may be collected pursuant to K.S.A. 12-1,115
46 and amendments thereto and/or charged against the property pursuant to K.S.A.
47 12-1617e, and, K.S.A. 12-1617f, ~~K.S.A. 12-1755, or K.S.A. 17-4759~~ K.S.A. 12-
48 1755 or K.S.A 17-4759 and amendments thereto.

49 (b) Fees. The costs incurred by the city for abatement, including any
50 administrative costs, shall be paid by the owner ~~or, in the case of inoperative~~
51 ~~vehicles, the vehicle owner~~ or, in the case of inoperative vehicles, the vehicle

owner. The administrative costs shall be:

General violations of the IPMC	\$140.00
Weeds and grasses	\$140.00
Inoperative vehicles <u>Inoperative vehicles</u>	\$175.00 <u>\$175.00</u>

Section 2. That section 8.60.080 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Section 107 – Notices and orders.

Section 107.1, Notice to person responsible, is deleted in its entirety and the following provision shall be substituted therefor:

(a) Whenever the code official determines that there has been a violation of ~~the IPMC Chapter 8.60~~ or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in section 107.2 and served in the manner prescribed in section 107.3

(b) Notwithstanding subsection (a), if the code official determines that an emergency exists which poses a hazard requiring immediate action to protect public health, safety of welfare, the code official may issue an order directing the owner and/or occupant to take such action, including securing or vacating the property, within the time period in the order. The code official shall attempt to contact the owner and/or occupant to abate the emergency. If such attempt is unsuccessful, the code official may abate the emergency and assess the costs pursuant to TMC 8.60.070, Section 106.5. The owner may appeal the costs in accordance with TMC Chapter 2.145.

Section 107.2, Form, is deleted in its entirety and the following provisions shall be substituted therefor:

The notice prescribed in Section 107.1 shall include the following:

1. Description of the real estate ~~sufficient for identification~~ sufficient for identification.

2. A statement that includes a description of the conditions and identifies violations of ~~Chapter 8.60~~ the IPMC Chapter 8.60.

3. ~~A statement of the correction action necessary and a reasonable time to complete the action. A reasonable time shall not exceed 60 calendar days. A statement that the property owner must abate the violation by the date designated in the notice.~~ or request a hearing before an administrative hearing officer on or before the date designated in the notice.

4. A statement advising that failure to timely comply with the notice may result in prosecution in municipal court regardless whether an administrative hearing is pending.

5. ~~For weed violations, a statement that no further notice shall be given prior to future abatements for the cutting or removal of weeds. A statement advising that an owner may request an appeal hearing before an administrative hearing officer. The request shall be submitted to the code official on or before the date designated in the notice. The scope of the appeal hearing shall be limited to the following: (i) whether the provisions of Chapter 8.60 apply; (ii) whether the code official has correctly interpreted Chapter 8.60; and/or (iii) whether the requirements of Chapter 8.60 can be adequately satisfied by other~~

means.

~~46. A statement that if the violation(s) is not corrected or a hearing requested within the compliance period, the city may impose administrative penalties, abate the violation, and assess the costs against the owner.~~

~~5. A statement advising that any owner may request an appeal hearing before an administrative hearing officer. The request shall be submitted to the code official within 10 calendar days from the date of service. Failure to timely request a hearing will allow the city to impose administrative penalties, abate the violation, and assess the costs against the owner. The scope of the appeal shall be limited to the following: (i) whether the provisions of Chapter 8.60 apply; (ii) whether the code official has correctly interpreted Chapter 8.60; and/or (iii) whether the requirements of Chapter 8.60 can be adequately satisfied by other means.~~

~~6. A statement advising that failure to timely comply with the notice may result in prosecution in municipal court regardless whether an administrative hearing is pending.~~

~~7. If code official has determined that the structure is unsafe pursuant to Section 108, the notice shall state that a hearing will be held before the administrative hearing officer not less than 10 calendar days nor more than 30 calendar days after service of the notice.~~

Section 107.3, Method of Service, is deleted in its entirety and the following provisions shall be substituted therefor:

(a) Method of Service. Notice shall be served in one of the following manners:

1. Personal service; residence service. Delivering the notice to the property owner or leaving the notice at the property owner's dwelling or usual place of abode with someone of suitable age and discretion who resides there.

2. Personal service; residence service unsuccessful. If personal or residence service cannot be made, service may be effected by: (i) leaving a copy of the notice at the property owner's dwelling or usual place of abode; and (ii) mailing to the property owner by first-class mail a notice that the copy has been left at the dwelling or usual place of abode.

3. Personal service; legal entity. If the property owner is a legal entity, service may be effected as follows:

(i) serving the notice on an officer, manager, partner or a resident, managing or general agent;

(ii) leaving a copy of the notice at any business office with the person having charge of the office; or

(iii) serving the notice on any agent authorized by appointment or by law to receive service of process.

24. Certified mail, return receipt requested, to the last known address of the property owner as reflected in the records of the county appraiser. Service shall be effective on the date of receipt.

~~3. If the property is unoccupied and the owner is a nonresident, certified mail, return receipt requested, to the last known address.~~

~~4. If the location of a person is unknown or if no address is available after~~

diligent effort, then a copy of the notice shall be posted in a conspicuous place on the premises and published once in the official city newspaper. The failure of any such person to receive notice shall not affect the validity of any proceedings.

5. If the code official has determined that a structure is unsafe pursuant to Section 108 and the whereabouts of the owner are unknown and cannot be ascertained in the exercise of reasonable diligence, the code official may effect service by publishing the notice once each week for two consecutive weeks in the official city newspaper. A copy of the notice shall also be posted in a conspicuous place on the premises and a copy of the notice shall be filed with the register of deeds and the clerk of the district court of Shawnee County.

Delivery failure. If the property owner or the property owner's agent has failed to accept delivery of notice or otherwise failed to effectuate receipt of notice during the preceding twenty-four month period, notice may be provided by other methods, including but not limited to door hangers, conspicuously posting notice on the property, personal notification, telephone communication, electronic communication, or first class mail.

65. Weeds. Pursuant to K.S.A. 12-1617f, the code official may provide a one-time annual written notice by first class mail or personal service to the property owner, property owner's agent or occupant which will permit subsequent abatement mowings without additional notice. The notice shall include a statement that no further notice shall be given prior to cutting or removal of weeds.

6. Delivery failure. If the property owner or the property owner's agent

has failed to accept delivery of notice or otherwise failed to effectuate receipt of notice during the preceding twenty-four month period, notice may be provided by other methods, including but not limited to door hangers, conspicuously posting notice on the property, personal notification, telephone communication, electronic communication, or first class mail.

67. In addition to the methods identified in this section, but not in lieu of, the code official may provide notice by other methods, including, but not limited to, door hangers, conspicuously posting notice on the property, personal notification, telephone or ~~email~~ electronic communication, or first class mail.

~~7. As authorized by K.S.A. 12-1617f, the code official may provide a one-time yearly written notice by mail or personal service to the owner or occupant which will permit subsequent abatement mowings without any additional notice. The notice shall also include a statement that no further notice shall be given prior to cutting or removing weeds.~~

~~(b) — Service of Notice. The notice shall be served upon the owner of record, and one copy shall be served on each of the following, if known or available from public records: (1) the holder of any mortgage, deed of trust, lien, or encumbrance; and (2) the holder of any other estate or legal interest of record. The failure of the code official to serve any person shall not invalidate any proceedings hereunder as to any other person duly served or relieve such person from any duty or obligation. If the code official has determined that a structure is unsafe pursuant to Section 108, the notice shall also be served on any occupant who can be ascertained.~~

~~(c) — Proof of Service. Proof of service of the notice shall be certified at the time~~

188 of service by a written declaration under penalty of perjury executed by the person
189 effecting service, declaring the time, date and manner in which service was made. The
190 declaration, together with any receipt card returned in acknowledgment of receipt by
191 certified mail, shall be affixed to the copy of the notice retained by the code official.

192 (c) Proof of Service. Proof of service of the notice shall be certified at the time of
193 service by a written declaration under penalty of perjury executed by the person
194 effecting service, declaring the time, date and manner in which service was made.

195
196 Section 3. That section 8.60.110 of The Code of the City of Topeka, Kansas,
197 is hereby amended to read as follows:

198 **Section 111 – Hearing.**

199 Sections 111.1 through 111.8 are deleted in their entireties and the following provisions
200 shall be substituted therefor:

201 Section 111.1 Administrative Appeal-Hearing

202 (a) An owner shall have the right to appeal the notice of violation to an
203 administrative hearing officer provided that a written application is submitted to
204 the code official ~~within 10 calendar days from the date of service~~ on or before the
205 date designated in the notice.

206 (b) An application for an appeal hearing shall be based on a claim that (i)
207 the provisions of ~~Chapter 8.60~~ Chapter 8.60 the IPMC do not apply; (ii) the code
208 official has incorrectly interpreted ~~Chapter 8.60~~ Chapter 8.60 the IPMC; and/or
209 (iii) the requirements of ~~Chapter 8.60~~ Chapter 8.60 the IPMC can be adequately
210 satisfied by other means. The owner may not appeal a requirement imposed by

~~Chapter 8.60~~ Chapter 8.60 the IPMC. The intent of the appeal process is not to waive or set aside a requirement; it is to provide a means of reviewing a code official's decision on an interpretation or application of ~~Chapter 8.60~~ Chapter 8.60 the IPMC or reviewing a code official's decision to approve or reject the equivalency of protection to a ~~Chapter 8.60~~ Chapter 8.60 the IPMC requirement.

(c) ~~The administrative hearing officer shall schedule a hearing within three working days of receipt of the hearing request. Written notice of the hearing date and time shall be provided to the person requesting the hearing by first class mail within 10 calendar days of the hearing request. The hearing officer may continue the hearing to a later time.~~

(d) The administrative hearing officer shall ~~review the notice of violation and all relevant information~~ affirm, modify or reverse the decision of the code official. ~~If the hearing officer determines upon a determination~~ that: (i) the notice of violation was served in accordance with TMC 8.60.080, subsection 107.3; (ii) the provisions of ~~Chapter 8.60~~ Chapter 8.60 the IPMC apply; (iii) the code official has correctly interpreted ~~Chapter 8.60~~ Chapter 8.60 IPMC; and/or (iiiiv) the requirements of ~~Chapter 8.60~~ Chapter 8.60 the IPMC cannot be adequately satisfied by other means, ~~the hearing officer shall order abatement of the violation, impose an administrative penalty, and assess the abatement costs against the owner.~~

(e) The administrative hearing officer may administer oaths and affirmations, examine witnesses and receive evidence. The hearing officer may grant continuances where the officer finds that there is practical difficulty or undue hardship and that such

extension is consonant with the general purpose to secure compliance with Chapter
8.60.

~~(ef)~~ The order may be appealed to the district court in accordance with
K.S.A. 60-2101 and amendments thereto.

~~Section 111.2 Administrative Hearing; Unsafe Structure.~~

~~(a) After notice and hearing, if the administrative hearing officer
determines that a structure is unsafe pursuant to Section 108, the administrative
hearing officer shall state in writing the findings of facts in support of such
determination and shall issue and cause to be served upon the owner an order:
(1) to demolish and remove the structure within a prescribed period; or (2) if the
structure is capable of being made safe by repairs, to repair and make safe and
sanitary within a prescribed period.~~

~~(b) The administrative hearing officer may grant an extension of time
where the administrative hearing officer finds that there is practical difficulty or
undue hardship and that such extension is in harmony with the general purpose
of this chapter to secure compliance with the IPMC.~~

Section 4. That original § 8.60.070, § 8.60.080 and § 8.60.110 of The Code of
the City of Topeka, Kansas, is hereby specifically repealed.

Section 5. This ordinance shall take effect and be in force from ~~September~~
1November 1, 2018, and after its 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 Governing Body on _____.

CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Brent Trout, amending TMC 8.60.100; adding a new section numbered TMC 8.60.085; and creating a new Chapter 8.75 of the Topeka Municipal Code concerning Unsafe Structures.

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

Section 1. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 8.60.085, which said section reads as follows:

Section 108 Unsafe structures ~~and equipment.~~

Section 108.1, General, not including subsections, is deleted in its entirety and the following provision shall be substituted therefor:

When a structure ~~or equipment~~ is determined by the code official to be unsafe, unfit for human occupancy, or unlawful as defined, respectively, in sections 108.1.1 through 108.1.5, so deteriorated, dilapidated, or so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy and repair cannot be made at a reasonable cost in relation to the replacement value of the structure, Chapter 8.75 of the Topeka Municipal Code will apply. "Reasonable cost in relation to the replacement value of the structure" means that the repair costs exceed 30% of the replacement value as determined by the county appraiser.

~~Section 108.2, Closing of vacant structures, is deleted in its entirety.~~

~~Section 108.3, Notice, is deleted in its entirety.~~

Section 2. That section 8.60.100 of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

29 **Section 110 – Demolition.**

30 Section 110.1, General, is hereby deleted in its entirety and the following provisions
31 shall be substituted therefor: Section 110, Demolition, is hereby deleted in its entirety.

32 ~~The code official shall order the owner of any premises upon which is~~
33 ~~located any structure, which in the code official's judgment after review is so~~
34 ~~deteriorated or dilapidated or has become so out of repair as to be dangerous,~~
35 ~~unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such~~
36 ~~that it is unreasonable to repair the structure, to demolish and remove such~~
37 ~~structure; or if such structure is capable of being made safe by repairs, to repair~~
38 ~~and make safe and sanitary, or to board up and hold for future repair or to~~
39 ~~demolish and remove at the owner's option; or where there has been a cessation~~
40 ~~of normal construction of any structure for a period of more than two years, the~~
41 ~~code official shall order the owner to demolish and remove such structure, or~~
42 ~~board up until future repair. Boarding the building up for future repair shall not~~
43 ~~extend beyond one year, unless approved by the code official.~~

44 ~~In this section, "unreasonable to repair" means that the repair costs~~
45 ~~exceed 30% of the replacement value of the structure as established by the~~
46 ~~Shawnee County Appraiser.~~

47 Section 3. That the Code of the City of Topeka, Kansas, is hereby amended
48 by adding a section, to be numbered 8.75.010, which said section reads as follows:

49 **Findings.**

50 The governing body has determined that structures exist within the city that are
51 ~~unfit for human use or habitation as those conditions are identified in section 108 of the~~

~~International Property Maintenance Code (IPMC) so deteriorated, dilapidated, or so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy; and repair cannot be made at a reasonable cost in relation to the replacement value of the structure.~~ The code official identified in TMC 8.60.030 is designated to exercise the powers prescribed in this chapter.

Section 4. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 8.75.020, which said section reads as follows:

Complaint; Notice of hearing.

(a) Whenever a structure ~~or equipment~~ is determined by the code official to be ~~unsafe, unfit for human occupancy or unlawful as defined, respectively, in sections 108.1.1 through 108.1.5 of the IPMC~~ so deteriorated, dilapidated, or so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy and repair cannot be made at a reasonable cost in relation to the replacement value of the structure, the code official will issue a complaint identifying the violations with a notice that a hearing will be held before an administrative hearing officer on a date specified in the notice within the time parameters in K.S.A. 17-4759 and amendments thereto.

(b) The notice shall provide that the owner(s) of record, mortgagee, or any party in interest of record, as well as any person in possession who can be ascertained, shall have the right to file an answer to the complaint and to appear in person and give testimony at the place and time identified in the notice and that failure to appear may result in a determination of default.

Section 5. That the Code of the City of Topeka, Kansas, is hereby amended

by adding a section, to be numbered 8.75.030, which said section reads as follows:

Service.

(a) The code official will serve the complaint on: (1) the owner(s) of record; (2) any mortgagee(s) of record; ~~and~~ (3) any party with a legal or equitable interest filed of record with the Shawnee County register of deeds; and (4) any person in possession who can be ascertained.

(b) Methods of service. The complaint and notice shall be served ~~in one of the following manners~~as follows:

(1) ~~Personal service; residence service. Personal service by delivering the complaint to the person or leaving the complaint at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there. Personal service or certified mail pursuant to TMC 8.60.080, Section 107.3(1) through (4)~~

(2) ~~Personal service; residence service unsuccessful. If personal or residence service cannot be made, service may be effected by: (i) leaving a copy of the complaint and notice at the person's dwelling or usual place of abode; and (ii) mailing to the person by first-class mail a notice that the copy has been left at the person's dwelling or usual place of abode.~~

(3) ~~Personal service; legal entity. If the person is a legal entity, service may be effected as follows:~~

(i) ~~serving an officer, manager, partner or a resident, managing or general agent;~~

(ii) ~~leaving a copy of the complaint and notice at any business office~~

~~with the person having charge of the office; or~~

~~(iii) — serving any agent authorized by appointment or by law to receive service of process.~~

~~(4) — Certified mail, return receipt requested, to the last known address of the person to be served as reflected in the records of the county appraiser.~~

~~(5) Publication once in the official city newspaper if the location of the persons identified in subsection 8.75.030 are unknown and cannot be ascertained by the code official in the exercise of reasonable diligence.~~

~~(b3)~~ In addition, a copy of the complaint will be posted in a conspicuous place on the premises and filed with the register of deeds and the clerk of the district court in which the property is located.

~~(c4)~~ In addition to the methods identified in subsection (b)(1)-(4), but not in lieu of, the code official may ~~utilize first class mail, electronic communication and telephone notification~~ provide notice pursuant to TMC 8.60.080, Section 107.3 (7).

Section 6. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 8.75.040, which said section reads as follows:

Hearing.

(a) The administrative hearing officer may administer oaths and affirmations, examine witnesses and receive evidence. The hearing officer may grant continuances where the officer finds that there is practical difficulty or undue hardship and that such extension is consonant with the general purpose to secure compliance with ~~the IPMG~~ Chapter 8.60 and this chapter.

(b) If the hearing officer determines that: (1) the complaint was served in

121 accordance with 8.75.030; (2) ~~the equipment or structure is unsafe or the structure is~~
122 ~~unfit for human occupancy or unlawful as defined in section 108 of the IPMC the~~
123 ~~structure is so deteriorated, dilapidated, or so out of repair as to be dangerous, unsafe,~~
124 ~~unsanitary or otherwise unfit for human habitation or occupancy and repair cannot be~~
125 ~~made at a reasonable cost in relation to the replacement value of the structure, the~~
126 officer will provide findings to that effect, in writing, and shall issue an order which
127 requires the owner to:

128 (1) Repair the ~~equipment or~~ structure within the time specified in the
129 order so that the ~~equipment is no longer a danger and/or the~~ structure is safe and
130 fit for human occupancy; ~~or~~

131 (2) Vacate and close the structure for future repair, subject to
132 conditions imposed by the hearing officer; or

133 (23) Demolish the structure within the time specified in the order if the
134 hearing officer determines that ~~repair cannot be made at a reasonable cost in~~
135 ~~relation to the replacement value of the structure it . “Reasonable cost” means~~
136 ~~that the repair costs are more than 30% of the replacement value as determined~~
137 ~~by the Shawnee County Appraiser. repair to the structure cannot be made at a~~
138 ~~reasonable cost in relation to the replacement value of the structure.~~

139 (c) The hearing officer may grant an extension of time for the performance of
140 any act required where the officer finds that there is practical difficulty or undue hardship
141 in complying and that an extension is consonant with the general purpose to secure
142 compliance with the IPMC.

143 (dc) Any order shall be served on the property owner pursuant to TMC

144 8.75.030 and a copy served personally or by first class mail to the other persons
145 identified in TMC 8.75.030. Additionally, except for continuances, the order shall be
146 posted in a conspicuous place on the premises and filed with the register of deeds and
147 the clerk of the district court in which the property is located.

148 (ed) The order may be appealed to the district court in accordance with K.S.A.
149 60-2101 and amendments thereto.

150 ~~Section 7. That the Code of the City of Topeka, Kansas, is hereby amended~~
151 ~~by adding a section, to be numbered 8.75.050, which said section reads as follows:~~

152 ~~**Emergency securements.**~~

153 ~~(a) If the code official determines that an emergency exists which poses a~~
154 ~~hazard requiring immediate action to protect public health, safety or welfare, the code~~
155 ~~official may issue an order directing the owner and/or occupant to take such action,~~
156 ~~including securing or vacating the property, within the time period in the order. The~~
157 ~~code official shall attempt to contact the owner and/or occupant to abate the~~
158 ~~emergency. If such attempt is unsuccessful, the code official may abate the emergency~~
159 ~~and assess the costs against the owner.~~

160 ~~(b) The owner may appeal the costs in accordance with TMC Chapter 2.145.~~

161 ~~Section 87.~~ That the Code of the City of Topeka, Kansas, is hereby amended
162 by adding a section, to be numbered 8.75.~~0600~~50, which said section reads as follows:

163 ~~**Failure to comply.**~~

164 ~~(a) If the owner fails to comply with the order within the time specified, the code~~
165 ~~official may remove the equipment, repair, vacate and close the structure, or~~
166 ~~demolish the structure and assess the costs against the owner.~~

(b) The code official may sell the salvage and apply the amount of the proceeds to the costs assessed against the owner, with any proceeds in excess of the costs, paid to the owner.

Section 98. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 8.75.0760, which said section reads as follows:

Costs; lien.

The code official shall notify the owner of the cost incurred by the city to repair, ~~or remove the equipment, repair,~~ vacate and close ~~the structure~~ or demolish the structure. The notice shall state that the cost is due within 30 days of the date of the notice. If the cost is not paid within the 30-day time period, all costs shall, pursuant to K.S.A. 17-4759, be a lien against the real property and may be assessed as a special assessment against the parcel of land on which the structure was located.

Section 109. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section, to be numbered 8.75.0870, which said section reads as follows:

Criminal.

It is unlawful to fail to comply with an order issued pursuant to this chapter. A person who fails to comply shall be guilty of a misdemeanor and, if convicted, may be punished in accordance with TMC 1.10.070. A violation of this chapter shall be deemed a strict liability offense. Abatement by the code official shall not be a defense or excuse to a violation. The pendency of an administrative hearing shall not be a defense to a violation or prevent prosecution and adjudication in municipal court.

Section 110. That original § 8.60.100 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 121. This ordinance shall take effect and be in force from ~~September~~ November 1, 2018, and after its passage, approval and publication in the official City newspaper.

Section 132. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 143. 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 Governing Body on _____.

CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk