Economic Development and Finance Committee  
Standing Committee Meeting Agenda  
Monday, March 09, 2015  
6:00 PM

Location:  
Municipal Office Building  
701 N 7th Street  
Kansas City, Kansas 66101  
5th Floor Conference Room (Suite 515)

Name            Absent
Commissioner Brian McKiernan, Chair   [ ]
Commissioner Angela Markley            [ ]
Commissioner Gayle Townsend            [ ]
Commissioner Ann Brandau-Murguia       [ ]
Commissioner James Walters             [ ]
David Alvey - BPU                        [ ]

I .   Call to Order / Roll Call

II .  Approval of standing committee minutes from January 5, 2015.

III .  Committee Agenda

Item No. 1 - ORDINANCE: TERMINATE TREMONT TIF DISTRICT

Synopsis:  
Ordinance terminating the Tremont Redevelopment District, submitted by Lew Levin,  
Chief Financial Officer.  
Tracking #: 150044
Item No. 2 - ORDINANCE: AMEND AGREEMENT WITH SPEEDWAY HEIGHTS

Synopsis:
Ordinance approving an amended and restated performance agreement to adjust the PILOT for Speedway Heights, LLC project known as Heights at Delaware Ridge (130th & Delaware Parkway), submitted by George Brajkovic, Economic Development Director.
Tracking #: 150042

Item No. 3 - PRESENTATION: US SOCCER NATIONAL TRAINING CENTER

Synopsis:
Presentation on deal points with On Goal, LLC for a development agreement for the US Soccer National Training Center and a first amendment to a multi-sport stadium specific venture agreement, provided by George Brajkovic, Economic Development Director.

Documents forthcoming
Tracking #: 150045

IV. Adjourn
The meeting of the Economic Development and Finance Standing Committee was held on Monday, January 5, 2015, at 6:05 p.m., in the 5th Floor Conference Room of the Municipal Office Building. The following members were present: Commissioner McKiernan, Chairman (left at 6:33 p.m.); Commissioners Townsend, Murguia, Walters; and BPU Board Member David Alvey. The following officials were also in attendance: Doug Bach, County Administrator; Gordon Criswell, Assistant County Administrator; Patrick Waters, Legal; Lew Levin; Chief Financial Officer; George Brajkovic, Director of Economic Development; and Maureen Mahoney, Assistant to the Mayor/Chief to Staff.

Chairman McKiernan called the meeting to order. Roll call was taken and members were present as shown above.

Approval of standing committee minutes from November 3, 2014. On motion of Commissioner Walters, seconded by Commissioner Murguia, the minutes were approved. Motion carried unanimously.

Committee Agenda:

Item No. 1 – 140416…REQUEST: PURCHASE DEFIBRILLATORS

Synopsis: Request authorization for the Fire Department to purchase 18 new defibrillators, with accessory equipment, from Zoll Medical Corporation, submitted by Lew Levin, Chief Financial Officer. The purchase will require the UG to enter into a five-year lease-purchase agreement. The expenditure appears in the 2014-2019 CMIP Budget.

Debbie Jonscher, Assistant Finance Director, said the Fire Department wishes to enter into a five-year-lease purchase agreement to purchase 18 new defibrillators from Zoll Medical Corporation. They’re wishing to enter into a five-year lease agreement. This is not part of our current master lease agreement so it’s being brought forward here because it’s committing future
CMIP Budget. The budget was amended this past summer so no budget revision would be required in 2015 or throughout the lease term, but it was not identified as a lease finance in the CMIP Budget. Legal is working on the contract and it should be completed by the full commission meeting.

**Action:** Commissioner Walker made a motion, seconded by Commissioner Murguia, **to approve.** Roll call was taken and there were six “Ayes,” Alvey, Walters, Murguia, Townsend, Walker, McKiernan.

**Item No. 2 – 140424...BUDGET REVISION: COMMUNITY AMERICA BALLPARK SCOREBOARD**

**Synopsis:** Budget revision request to replace the scoreboard at Community America Stadium, submitted by Mike Tobin, Interim Public Works Director. The $250,000 increase is available from the Dedicated T-Bones Stadium account.

**Doug Bach, County Administrator,** said I just want to start with a financing note on this one. Mr. Tobin and Mr. Stitt will go through and describe the project a little bit more. As you recall, we took acquisition of the stadium last year. Money was put into that account which was to cover future capital costs. We did not set out initially in the 2015 budget the funding to go forward to replace the scoreboard as we didn’t have a full grasp of everything in there. Mr. Tobin will go through that and identify the need, but we found that it’s a cost avoidance probably for us to go forward and do this now. It’s a better cost/use of our money.

None of this funding comes from the General Fund. None of it can be attributed to any other use. It is all directed by the state that it had to go toward the purchase of the stadium or repair, maintenance, or upgrades to the stadium. This is all money that’s setting separate of your General Fund for operating purposes for any other operation whether we use it on the stadium or we don’t touch it. That’s where that money sits today. With that, as we come forward, we think—we’re still managing the money though. I mean we’re respectful how we do it and what’s the best way to do it and that’s where Mr. Tobin and Mr. Stitt have their presentation today.
Action: Commissioner Walker made a motion, seconded by Commissioner Murguia, to approve the purchase of the scoreboard.

Commissioner Townsend said just one thing for clarification. We have all of the money we need for this or is there some additional? I keep seeing the word additional here and that’s throwing me off. Mr. Bach said well, the additional is that we put in the budget about $250,000 this year. We anticipate this will cost somewhere in the range of $400,000 - $500,000 so we’re going to utilize that money for this. It’s additional money that’s budgeted. We have the money; it’s in an account. I can’t spend that money unless I submit it to you to build into a budget and say this is what we’re using it for. We didn’t have that identified last year that we were going to buy the scoreboard so now we’re coming back and saying rather than spend $100,000 to repair this scoreboard and keep it may be operating through this year, we’re better to go buy a new one now rather than wait another year and throw good money after bad.

Commissioner Townsend asked what’s the expectation for the life of the new scoreboard. It makes sense, as you say, if one’s going to be needed to not spend $100,000 to repair. What are we looking at in terms of the age of this new scoreboard? Mike Tobin, Interim Public Works Director, said the current scoreboard, Commissioner, if I might, it made it through ten years in fairly good shape. As you’ll recognize at home with your own electronics, with your computers and with your televisions, the improvements and the upgrades move so fast that the companies that service these don’t store the parts nor keep up with the maintenance of the older facilities. We’re hoping to get five to ten more years out of it. A lot of that will depend on the market more than anything else.

Mr. Bach said I will note that when we took acquisition, we knew the scoreboard was an up and coming thing. Our estimate at that time probably was that it would be around $800,000 to do a new scoreboard so this is significantly below where we came in with that because we’re able to use, as Mr. Stitt went through it, all the existing infrastructure that’s there and then come up with something that from a marketing standpoint will be far more advantageous for the stadium.

January 5, 2015
Christal Watson, 8532 Spring Ave., said I have a question. Is it possible or have we considered a private funder to get naming rights and provide some of the funds for the sign, particularly beverage. Whichever vendor you use, if it’s Pepsi or Coca Cola, while they may not fund all of it, they may fund a portion of it where that puts more funds back into your budget. It’s just a thought. Mr. Bach said it actually fits with how the stadium operates. The new sign that comes on play provides more marketing opportunity.

You don’t necessarily sell someone to come in and buy the scoreboard for you. You buy the scoreboard and then you sell marketing rights to the scoreboard. The digital, somewhere to the discussion you all had a week or two ago on digital billboards—as you’ll note, the existing scoreboard that we had there had a lot of static location on it. Our new scoreboard will be able to allow you to sell to more advertising sponsors to come in either throughout the game or at different times or to different vendors for other kinds of events. Ms. Watson said okay, well I just thought because the board itself you could still do that as well. I just wondered if you had that kind of conversation. That was my—it was actually not a question so much but a comment.

Roll call was taken on the motion and there were six “Ayes,” Alvey, Walters, Murguia, Townsend, Walker, McKiernan.

Chairman McKiernan said I would like to recognize Mr. Adam Ehlert, owner of the T-Bones who is here and just say thank you for what you do. We look forward to an even better fan experience this summer.

Item No. 3 – 140420…RESOLUTION: ENTREPRENEURS ENTERPRISES TAX CREDITS

Synopsis: A resolution supporting an application from Entrepreneurs Enterprises LLC for Section 42 Tax Credits for Armstrong Estates Family Housing Development, submitted by Charles Brockman, Economic Development. The 40 unit, $6.9M project is located at 74th and Armstrong. The Local Review Committee has reviewed and scored the application and determined it has achieved the minimum points required per UG policy.
**Charles Brockman, Economic Development,** said well tonight we want to present Entrepreneurs Enterprises, LLC. They submitted a LIHTC application, 40 units, 30 of those are LIHTC and 10 are market rate as required by our new policy of 25%. This is Maximillian Howell that’s representing Entrepreneurs Enterprises, LLC. A little bit about the project. It’s a $6.9M family development. It’s 40 new duplex units and it’s at 7401 Armstrong Ave.

The thing about this project that’s really neat is because it’s going to enhance another LIHTC project that is already there. It’s going to bookend to a project that’s existed since 2003 called Westgate Apartments. They have 48 units, 38 tax credits, and 10 market rate as well. It’s a very mixed type of product. In your documentation that was supplied, we have specific items that are related to the previous projects that they have completed, the management team and the type of violations.

**Maximillian Howell, Entrepreneurs Enterprises, LLC,** said, Charles, I appreciate the introduction. I want to first thank everyone here for the opportunity to speak and present our development to your guys. A special thanks to a former principal of mine.

This is just a high-level rendering of what the exterior of the proposed development will be. Charles, just to echo on what Charles just previously said, it will be 40 units but these will also be permanent residential units. They will be units that will convert into permanent financing and to add the additional property tax value of the area.

**January 5, 2015**
High-level—we’re going to go over team qualifications, past projects, a little bit of a description of the project and further detail, architecture, gives you some housing and pics. The site plan which gives you high-level perspective of what the area is and some aerial photos.

Team Qualifications

- 10 + Years of tax credit development experience
  - Rock Ridge Villas - Branson, MO 38 units
  - Timber Creek - Muskogee, OK 42 units
  - Maple Ridge - Bonner Springs, KS 32 senior units
  - Dogwood Cottages - Blytheville, AR - 36 units
  - Sander’s Heights - Lawton, OK 44 units
  - Rock Ridge Phase II - Branson, MO 48 units
  - Monarch Manor - Kansas City, MO 26 single family units
  - Sycamore Springs - Hollister, MO 60 units
- No Foreclosure, Default, Lawsuits, Code and Policy Violations
From a team qualifications perspective, we’ve got over 10 years of tax credit development on our team. Some have completed several developments across the country. They’ve been all listed there. We also have some local developments as you can see with the Kansas City project and also the Bonner Springs project. We were also able to get some support from Marcia Harrington who actually sent in and spoke with Mr. Brockman today in regards to the high credibility and high reputation of our previous development that was in Bonner Springs. She also followed up with a letter. One thing to also notice is that we don’t have any foreclosure, default, lawsuits or code or policy violations with any of the developments across the country.

**Project Description**

- Description
  - 40 new duplex units
  - Community building
  - Outdoor walking path and gardening areas
- Financial Sources
  - $4,945,823 Federal Low Income Housing Tax Credits
  - $1,900,000 Permanent Loan
  - $95,579 Deferred Developer Fee
- Tax Rate @ 9%
- Unit Mix
  - 10% @60%
  - 45% @50%
  - 20% @40
  - 25% @MR

This is a little bit of description of the project. Charles mentioned most of this before. As we said, 40 new units. We’ll also have a community building but there will also be some outdoor walking paths and some gardening areas. From a financial perspective, we’re looking at the $4,945,000 in tax credits, $1.9M permanent loan and then also a deferred developer fee of $95K. The tax rate is at 9%. The unit mix is listed below. We’ll have 25% market rate.
The site plan as Charles also mentioned, it’s at 74th & Armstrong. This area was really initially located and decided upon after several meetings with Charles’ department and really the extensive work that the city performed with the State Avenue Corridor market analysis and market study. Basically, the end of this study and the findings of this study revealed that this 74th Street or the community college corridor was the most in need or the item that would be most successful per that marketing to actually have a development that would catalyze and revitalize the area based off all of the notes that they studied on State Avenue.
This is the site plan. We’ll have 40 total units but there will be 20 units on separate sides of the site plan area.

This is the other side of the units. It’ll be separated on two different plots.
The unit plans are very standard. We’ve got a lot of high end development. We utilized universal design on the interior components to allow for increased capability for any kind of handicap residents or tenants that we may have and also increases the standard design of the layout. We have a two bedroom layout and a three bedroom layout. They also will have garages and some different amenities that we can discuss and we can provide later. Mr. Brockman said and shelter areas in the garage. Mr. Howell said yes. That’s all the information that we have thus far on this project.

We, again, wanted to echo that we’ve got our management company and our company as well has been very successful in the area. We are from the area. We are a local development company that’s based out of the Kansas City area. We’re actually from the area. We live in the area and would like nothing more than to actually complete a development in our backyard. It’s one of our goals from a company perspective to complete a development that is in the area that we grew up in, travel in, work in and that we spend money in. It’s just a goal of ours and we look forward to the opportunity to really provide this development to the area. We really think it can provide, just like the State Avenue Corridor said, an opportunity to revitalize and gentrify the area.
Commissioner Murguia said great presentation first of all. I appreciate all the comments you made about being from her and caring about it. I especially am impressed with the fact that none of your current properties have had code violations. That’s incredibly impressive given the kind of housing that you’re building. I really appreciate that.

Just so the commission is aware of this, I’ve been working on some things in regard to the number of low-income housing units in Wyandotte County as a whole with our Mayor’s Office. Before anybody makes a decision, I would like for Charles, if you have at your disposal the map that you sent to me. Do you have access to that? Mr. Brockman said no I don’t. Not right here. Commissioner Murguia said I think the map that Charles sent me might be something that this commission would like to see before making that decision. I’m looking for it on my stuff as well and I can’t find it.

Commissioner Walker asked what’s this map of. Commissioner Murguia said it’s a map. What it’s done is it’s mapped every LIHTC, every Housing Authority, and every Section 8 voucher. We requested it if you remember, Commissioner Townsend. You and I both requested this information at a standing committee meeting where we redid the LIHTC policy here in Wyandotte County and they just hadn’t come back yet. I just got this a week and a half ago so it just hasn’t made it back here yet. I just got it and I was a little taken back by the number of low-income units that we have in Wyandotte County and not just from—I was even more surprised, a learning experience for myself, not just from 635 moving inward east, but out on 75th Street, 85th Street, the growing population of low-income housing.

The reality is that level of housing does affect our median income. Our median income in this county affects our ability to attract business. I’m not saying that to discourage this development. It’s a different deal. I’m just saying that is a piece of information that this commission requested and they haven’t seen it yet. If I had it, I’m sorry, Charles, I just took it off my phone or I could download it myself but I don’t have it but that’s up to them. It was just information I wanted you to know. Charles is not late. I just got it. Commissioner Townsend said I do recall requesting specifically the identification and location of LIHTC properties in District 1 because the meeting we discussed that was the first opportunity I’d ever been engaged or had the opportunity to discuss that. I’m not necessarily opposed to the LIHTC properties but just for information purposes. I did receive that information.
Doug Bach, County Administrator, said I do want to note, as you recall, we spent a fair amount of time going through the LIHTC process; the application that’s submitted. The directive by the commission to follow is that we put that together then we evaluate them and score them and it’s where they meet on the point scale. Commissioner Murguia said and you did a great job. Mr. Bach said and then forward to you. This is one that did comply with that and the requested action is to review and forward to the full commission. Commissioner Murguia said yes, I was just saying that you did a great job and your staff did a great job. I just feel like I know I’m the only one that has that map and I feel like it’s something that they should just see. Now if they don’t, I’m fine with that. It was just a little bit startling to me how it seems to be spreading further and further west and there’s no de-concentration really anywhere, it’s just growing everywhere at a very fast rate. You’re right. We had made some changes and we all agreed on that and I think they were great changes, but we did not have access to this information during that decision-making process. I just wanted you all to know I wasn’t carrying that burden alone.

Mr. Brockman said to talk about that, the LIHTC projects that were shown in Wyandotte County were the ones that were approved through the city so we had those projects, and then we also had projects that were public housing projects and we compared those and what the median income was. The big map that GIS did for us was Section 8 vouchers and those are pretty much all over Wyandotte County. There was a separation of the two types of maps. Commissioner Murguia said that’s sort of accurate on the last part on Section 8. Section 8 vouchers are not all over Wyandotte County. I don’t believe—I never remember the number. What district are you again, Jim? Commissioner Walters said seven. Commissioner Murguia said it wasn’t seven, you have some. It was the one next to you so it must be District Five. District Five has none, not one Section 8 voucher which is fine. I’m just saying they’re not evenly spread throughout Wyandotte County. I’m just telling you.

Chairman McKiernan said I think we have a request that that information be circulated to all of the commissioners in a timely manner. We still have before us the request for action which is to approve and move forward this application. Mr. Bach said I believe the action and I can stand
to be corrected by Legal if it’s there, but once it meets the point scale that’s set out there, then it’s there. It meets it, it’s for your review and then we move it forward to the full commission. **Commissioner Murguia** said well, and the other—**Mr. Bach** said so unless there’s something you see within it where it doesn’t comply with the—this is one of those—it’s always an awkward one because it’s not really—you don’t vote pass/fail where it’s at; it’s more of your review to look at it and say you agree that it meets the requirements that are there. I mean we reviewed it adequately I think is where we’re at on this one. We had a lot of discussion with that as we went through the process but that’s our adoptive process.

**Chairman McKiernan** asked so am I taking from that that we really don’t need to take any action here tonight other than to gather information, ask questions, and clarify as necessary. **Mr. Bach** said yes, and forward it on to the full commission. **Chairman McKiernan** asked do we need to take action to forward, that is to take a vote to forward. **Commissioner Murguia** said we always have in the past, rather it’s a rule or not, it’s what we’ve done. I would just say there’s something—I’m sure after tonight, Charles can send that out. I know he has it. If not, I can send it to all of you when I get home. If something arises between the time we review it and it gets to full commission, this isn’t the end-all tonight. We’ll have a second bite at that apple at full commission.

**Action:** **Chairman McKiernan** made a motion, seconded by BPU Board Member Alvey, to approve and forward the application to full commission. Roll call was taken and there were six “Ayes,” Alvey, Walters, Murguia, Townsend, Walker, McKiernan.

**Item No. 4 – 140422...RESOLUTION: BUILDERS DEVELOPMENT CORP TAX CREDITS**

**Synopsis:** A resolution supporting an application from Builders Development Corporation for Section 42 Tax Credits for the West Village 55+ senior independent residences housing development, submitted by Charles Brockman, Economic Development. The 82 unit, $10.8M project is located south of 92nd St. and Ann. The Local Review Committee has reviewed and
scored the application and determined it has achieved the minimum points required per UG policy.

Charles Brockman, Economic Development, said this project is from Builders Development Corporation. They are requesting support of utilization of the Section 42 Tax Credits as well. The name of it is called West Village 55+ Senior Independent Resident Housing Development. Once again, your documentation shows the previous projects, the management team, and only types of violations that may be present in the projects that they have had.

Kelley Hrabe, said thank you Charles, thank you commissioners. Thank you for allowing me to spend my fortieth birthday with you tonight. I don’t see my birthday cake anywhere but that’s okay. Thank you for having us here to speak about this great project tonight. We’re going to go through it relatively quick knowing we’re a little behind schedule. The project we’re proposing in front of you tonight, we’re calling Village West Senior Living. The project, kind of a general overview, it’s a 55 maintenance free community located near Village West in Kansas City, Kansas. I think on our application I put it was around 89th & Ann but it’s actually south of 92nd Street and Ann. It’s kind of a bigger location so I just kind of used the entrance for the actual final location since it doesn’t really have an address at this point.

The project will be restricted to households 55 and older. It’s going to include 82 units, 10 of which will be 3 bedroom villas and 72 will be duplex 2 bedroom units. We’ll have a
clubhouse on the side, 2,500 square feet. Some of the amenities we’re proposing will be onsite management, maintenance, social programs, playground for the grandkids, rose and community gardens, sports court and a barbecue pit with a shelter.

When we look at projects, I’m going to go over a real quick analysis of the demand why we have been focused on this project for so long. We own and operate a project about a mile away called Pemberton Senior Living. It’s an 80 unit senior living project that before we even started construction in 2010 we inherited the project through another developer and sat on it for a couple of years during the recession but finally got it developed. It’s located right across the street from the West Wyandotte County Library if you know where that is, the new duplex development there. Before we started construction on that project, we had I think 250 people on a waiting list. Today, we did another survey and had over 300 elderly on our waiting list in May of 2014. 165 of those households are still on our waiting list. 125 of those households have fallen off just because they can’t wait for the housing.

We did a further analysis of our waiting list. 79% of that waitlist are Wyandotte County residents. 93% of those persons on the waitlist based on their income would qualify for a low-income unit. This is based on the fact that there’s essentially no turnover at Pemberton and there’s very minimal product like this out in the western part of Wyandotte County. That is just our waiting list. In addition to our waiting list, our market study has shown within a five mile radius there’s an additional need for 1,000 of these types of units. Again, the demand side of the equation is very strong for this product. We’ve been looking for the right piece of dirt and came across this about 3 or 4 months ago. The price is right, the planning has already been through the
city. I don’t think we’re changing anything other than the income restrictions from the previous plan.

Again, here’s a bigger map of where it’s located. Pemberton is up here in the yellow box and West Village is just down here with the yellow star.

Here is kind of the overlay of the proposed plan that you see here, what it would look like south of the neighborhood that’s existing there currently.
Here’s a site development plan that basically shows the layout of the units, the duplexes as a buffer between the duplexes and the single-family residents. That’s what we’re laying out the villas as previously approved in the plan. The only change that we have in this plan from the previous is we got rid of some of the density and added a clubhouse up at the top in that box as you’ll see in this next slide that includes all the amenities that we discussed and were in our proposal to Charles. There are some of the amenities.
Here’s essentially kind of the preliminary elevation floor plan. The top one is a duplex. The bottom is a villa, essentially will be the duplex with an extra garage and an extra bedroom.

The development team Prairie Fire Development Group, it’s a combination of Prairie Fire Development Group and Builders Development Corporation who couldn’t be here tonight. The executive director is out of town on business but they’re a statewide community housing development organization and they’ll come in as our non-profit partner on the project as they have done before on some other projects. Our management company, I can’t say that when we first started this project, Pemberton, we hired third party management. We weren’t very happy with them so we ended up starting our own management company and since then we’ve had
great reviews on our properties. We’ve got control of management. We have a lot of happy residents there.

Here are some other projects we’ve done in the past and currently Pemberton Senior Living, Prairie Pointe, McPherson Kansas. I won’t read them all but those are some of the projects we’re currently working on; all of which that are actually up now 100% occupied with waiting list.

Here are some testimonials from folks living at Pemberton. I have some handwritten and also some form testimonials and surveys from people living there and also people on our waiting list begging us to build this product so they have a nice safe place to live. With that, thank you. We
have some folks here. I don’t know when it would be appropriate to provide support or testimony.

**Murrel Bland, 8311 Garfield Ave., Executive Director of Business West, Inc.,** said I’m speaking tonight as an individual residential property and business owner. My wife and I have lived in Wyandotte County for nearly fifty-one years and the last forty-one years at our present address. Pemberton Place, which was developed by Kelley Hrabe of Prairie Fire Development, adjoins our subdivision Huff’s Lakeview Gardens. We are pleased to have the development next to our subdivision. Kelley and his associates turned the site that was an all but abandoned greenhouse and an aging rental home into something that is attractive, well maintained for older adults at 82nd & Walker Ave. Kelley’s property management company does an excellent job in maintaining the development. I know this first-hand because I drive through Pemberton Place regularly.

The very high occupancy rate of Pemberton Place confirms there is a definite market for this age restricted housing. I would encourage the commissioners to recommend the full commission to approve this project that Kelley is proving tonight. I have copies of my remarks that I’ll hand out to the commissioners.

**BPU Board Member Alvey** said based upon the research you’ve done and the waitlist and the great demand from Pemberton and the good results, you’re really saying that Wyandotte County folks are trying to relocate within the county and stay close to home, to stay close to family looking for a place that provides maintenance, never much more energy efficient, more sustainable. **Mr. Hrabe** said yes and Marilyn can speak up a little bit as well if she wants to. I’ll put her on the spot but she handles all of our leasing and compliance work. Typically, what we’re seeing as you might suspect are folks have been living in Wyandotte County for a while in their single-family home, ready to sell, need something smaller, a little maintenance free, that type of thing. That’s the main type of resident we’re seeing move into our product. The great amenities that are out there right now with transit, the library—I go work at the library a lot. That’s a great library out there. The trails we have, just the amenities are a very attractive place for these folks to come to.
It kind of breaks our hearts when we see people come in and they say I want a place to live and you say well, we’re not going to have a unit probably ready for two years. Even if you get on the list, you’re going to be 166. Yes, that’s the type of main tenant. We do see a fair share, like I said, about 20% of the people on the list are coming out of the county, either out of state or people locating their parents or relatives closer to home that want a nice, quality, safe affordable place to live.

Cherise Sedlock, 9263 Minnesota Ave., said I’m actually right next door to the west in St. Pat’s Village to this project. Tonight I bring you greetings and an endorsement from a longtime resident, businessman, economic development advocate, and founder of Business West, Joe Maderack. Joe couldn’t be here tonight but he felt like this development was so important that he wanted to be able to state that it was important to him, to his family, to Katie his wife to have a quality development like this that creates choices for seniors and for those of us who have chosen to stay in Wyandotte County and to have that continuation of housing.

Personally, I’d like to say that I’ve moved back into my parents’ home, my childhood home in St. Pat’s Village to extend their stay in their home. They’re both polio survivors and the mobility issues and partly because of lack of immediate choices. While I am loving that I’m able to help them extend the dream, I’ve seen that neighborhood—we had 58 children, 24 houses and it was a tight neighborhood, but I’ve seen my parents’ neighbors and friends move away, move to Johnson County, north of the river, Kansas City, MO, to housing because there wasn’t that choice here.

I’ve had an opportunity to work with Kelley and also the Builders Development Corporation in the past having sold over $62M worth of land in Wyandotte County in my career here in commercial real estate. I would rank them as high, high up on my list of professionalism.

David Simpson, 5406 State Line, Shawnee Mission, KS, said I control the corporation that owns the property that this will be—it is 105 acres of which this will be 15.1 acres and I just wanted to emphasize that the remaining 90 acres that will be developed is very important to me that the first project on this height—will be a quality project, done by quality people who maintain their property and are bringing to the marketplace something that will enhance the
remaining development of the property. I just wanted to emphasize for your consideration the fact that I’ve been around Wyandotte County for a long, long time.

I have a senior housing project at 78th & Parallel. I’ve got residential stuff of my late father-in-law Fred Ball. I was involved in many of the things that that family was involved with out here in Wyandotte County. I think I have a pretty solid feel for the western Wyandotte County development area. One of the things that is irrefutable is there’s a need for housing. I think this will actually lead to more market-rate housing. I think it will lead to other development in there. We’re talking it’s potentially stimulating the interest in having assisted living built in there but there’ll be single-family, there’ll be apartments, there’ll be townhomes. This is the beginning of that. All of those things provide a base for taxes in the future. I think this is really a catalyst for things that will be very beneficial to the county, the community and to the area in general. It has to start somewhere and I think I found just the right sort of temperament, quality of people to do the project.

Glenn Darrow, 8900 Pawnee Lane, said Old Leawood, we call it the hood to all of our friends out south. I have been Builders and Developers’ representative and I have also had the opportunity to contact most of the supporting list of all the businesses up and down State Avenue. I’ve also been a member of Business West and I’ve been working in and around with these projects for about the last 10 years. We do come back and serve the community at all times. Basically, our family roots go all the way back to Welborn and Milburn and we’ve been around the area for quite some time. I feel as though this is a great need to help the families that are going to want to stay in Wyandotte County. There is always a mass exodus every now and then whenever these people, the older, the 55+ communities want to leave. This, I feel as though would be a quality project and I would wholeheartedly ask for your endorsement.

Commissioner Walker said I don’t know how to phrase this exactly. The question that bothers me, I’ll use my mother-in-law. I know it’s a limited example and it doesn’t really stand for anything. She never lived in Wyandotte County. She is from south of Chicago, now lives down here and when we went looking for senior living for her, she ended up in a place called Brookdale. Brookdale is on 119th St. We looked at maybe a dozen of those places. Those are all what I would call market-rate facilities. Now I’m wondering where these older people are
going when they leave the county because they don’t have any choices here because none of the places we found in Johnson County had any kind of discounted rate for your level of income. It was all market-rate. It’s a pretty good market-rate. If Wyandotte Countians are leaving to go to Johnson County, they’re not finding any economical units out there.

What is the difference in Wyandotte County that compels all of these units to seem to be a mixed variety of income levels? Why are there not choices for those people that can afford them that are full market-rate? Why aren’t you building all of these at full market-rate? Mr. Hrabe said well, that’s a real good question. When we do our analysis, we essentially look at the demand. Just like a lender or an investor will come to us and say they’re going to commission a market study and they’re going to look at a five mile radius and say what are the median incomes, what are the average incomes, what’s the income distribution and do their calculations based on the existing demand in that market and do some projections out five years. In our case we did the analysis. Yes, there’s probably a market.

We haven’t done an analysis for market-rate units but we’re more in the affordable, mixed income housing development business and we know there’s a market there just based on the fact that if this project was built tomorrow, we have 165 and we could probably add more to our list up the street and fill it tomorrow. I think there is a market out there for market-rate and there are some lighter colored structures on that map that as we get in and test the market, particularly as we have market-rate units in the first phase; albeit they’re 10 out of the 72 if we can come in and test the market and they fill up fast and we get a waiting list, then we move on to the next phase. I can’t make any promises that another phase will happen but it will allow us to test the market and go back to our lenders and investors and say, yes, see we told you. We tested the market and these 10 market-rate units filled up. Let’s do another phase. Let’s do 30 market-rate units. We’re only going to do one affordable product. Anything beyond this would have to be market-rate.

Commissioner Walker said these other examples that you’ve given that you’ve built—do you set up separate LLC’s for each one of those? Mr. Hrabe said each entity requires a separate limited partnership. In those limited partnerships, me and my partners, that are not here tonight, personally guarantee those projects for a minimum of 15 years. Once these projects are developed, for example Pemberton, we’re locked into that project for 15, if not 30 years so we
can’t just do the project and five years later say well, we’re going to sell out our interest and move on. We are actually locked into these projects for a long time which is why we spend the extra money up front on exterior, on maintenance, on landscaping, HVAC, energy efficiency and all of those types of things to make it a nice community so we’re not constantly have to maintain it.

It’s also why we’re required by the state and our investors to capitalize very heavily replacement reserves up front, operating reserves and debt service coverage reserves. This project, I think if my memory recalls, is going to have about $450,000 in reserves just sitting in the bank in case we need it for anything. There are a lot of reserves up front. It’s a quality product and I think the tax credit projects list them as code issues or code discussions. Really the good thing in my opinion about the tax credit projects are particularly like Pemberton, you have are tax credit investors which is Boss & Capital who comes out and walks the property every year with their asset manager to make sure it’s being maintained.

You have the state, Kansas Housing Resources Corporation, they come out and walk the property every year and make sure it’s being maintained. Obviously, we do as personal guarantors, make sure it’s being maintained which is why we started our own management company. Just to me, having three sets of eyes that all have the same vested interest in making sure this property is ran properly, maintained properly, the books are kept properly, annual audits are done properly and cost certifications, there are so many eyes on these projects that to me it just provides, in my opinion, some extra comfort knowing that there are a lot of people making sure these projects are developed and ran correctly.

Mr. Bach asked, Mr. Hrabe, what’s the maximum annual income that you can have to be eligible for the affordable housing in the 55—Mr. Hrabe said on the one bedroom, approximately $33,000. Is that about right? We can get you the exact numbers, but approximately $33,000. For a two bedroom, two person household, it’s approximately $41,000 and that’s after backing out medical and insurance and those types of things. There’s a way to net down that income. That’s pretty much the cap. The rents that we’re proposing on this particular project, I always hate saying rents because everything is subject to change based on market conditions; approximately in the $500-$950 range.
At Pemberton, our market-rate units are $850. We only have four of them there. They all leased up quickly. We have a waiting list on those so that’s why we’re saying let’s just don’t do four here, let’s do ten and maybe at the end of the day we may do more. There is a growing market out here. Just having lived in the area and watching the development happen out west, it’s just amazing, as you guys all know, I’m sure you wake up every morning and go 20 years ago, 10 years ago what’s happened out in west Wyandotte County.

It’s a great amenity base. Why we like it is because in the senior housing we see seniors. What do they want? If they have family, they want their family to come visit. Well guess what, the family is going to come visit because they can drop the grandkids off at grandma’s and go to the casino, they can go shopping, they can go to the ballgame, they can go to the soccer game, and they can go to the waterpark. There are so many amenities out there. I think that’s what we’re going to see more of. You’re going to see seniors when they’re making a housing choice, even seniors down in Johnson County, from my standpoint, saying why should I spend $3,000 a month, $2,000 a month to live at 135th & Roe when I can go to Crate & Barrel. My kids may come but I can live right across the street from a waterpark. I can live across the street from the soccer stadium, the new soccer experience that’s being built. What a great, just amenities out there I think to attract the 55 and older and multifamily.

Our focus is 55 and older but again people are living longer. The average age, at least that’s what I’m telling myself as I turn another year. People are living longer and fuller lives. 55, unfortunately, to me is not that old anymore. It’s a good product. We’ve seen what we’ve done at Pemberton. We just want to be a continued part of what’s happening out here in west Wyandotte County.

Commissioner Murguia said for all it’s worth, I found—and this has nothing to do with their project but I found the map. It is the second item and I’d be glad to show it but I have it electronically so I’d have to show it up there. Chairman McKiernan asked could we black the screen here which would allow her to use her projector. Commissioner Murguia said well, let’s hope so. I mean we’ll see if it can get that far. I think it can. We’ll see. Commissioner Walker said it’s going to be hard to see it on TV. Chairman McKiernan said yes it is. Commissioner Walker asked so everything in green, red and blue is low-income housing of some sort or the other. Commissioner Murguia said yes. I just didn’t want to cutoff
Commissioner Walter’s district where I said there was a cluster over here in the far end of Wyandotte County. That’s your district, correct?

Chairman McKiernan said so we’ll hand this off to Commissioner Murguia. Commissioner Murguia said so I would just tell you that everything with green, red or blue, it doesn’t matter, is some sort of subsidized housing in Wyandotte County and that’s all of Wyandotte County right there for your point of reference. I just felt it was information that we should have had going into this but that’s fine. Chairman McKiernan said so we’ve got both low-income housing, tax credit projects as well as Housing Authority projects, as well as housing that’s supported by Section 8 vouchers, correct. All those are on here? Commissioner Murguia said all of them on there combined. (inaudible) I agree that there is a difference between Section 8 housing and low-income housing tax credits. There is a difference but the bottom line is all of this is income sensitive housing.

Chairman McKiernan said it seems to me that we have two separate but related items here. My understanding is that our current policy is that we, as a commission, establish the scoring criteria upon which these potential projects are scored. If they meet the threshold that we’ve established, that we really forward these to the full commission from this standing committee. The related piece to this is, and we’ve had this discussion before, that the question is do we want to include things such as density of housing. Do we want to include such things as the effect of the income restrictions, the effect of the rent? Do we want to look at how the money and how the housing density plays out as a factor in our scoring criteria? We’ve had that discussion but we’ve not really ever implemented that or come up with a suggestion on how we could implement that. Commissioner Murguia said I know exactly where you’re going. I would just suggest—these four people weren’t here last month or two months ago or whenever we worked on that. We have a policy, it’s like Doug said. We said it was a good idea and so we’re left to just saying you know we’ll see you at full commission. That’s what our option is right now but I do think that the map was worth noting and we do need to see you come back in front of us with that map like you had intended. I think what else would be a good comparison is if we look at places like Leavenworth County and Johnson County and if we could see what their level of density is with this type of housing. We just want to compare apples to apples and if everybody
looks like that, then we’re good. If they don’t look like that—because I just googled Leawood and I looked up to see if there are any LIHTC deals there, there probably are but according to the internet right now, at least my quick search, there isn’t any.

Chairman McKiernan said and I totally agree with that that we need to bring that map and those data back here as we consider further revisions, potential revisions to our criteria and our scoring matrix. Commissioner Murguia said and we need to move swiftly because apparently as soon as the hold on that was lifted, we got two, hopefully. I did not see any more on here tonight. We got two through right away. Chairman McKiernan said separating those two things, the thing we can take action on tonight is this particular application.

Action: Chairman McKiernan made a motion, seconded by Commissioner Murguia, to approve and forward the application to full commission.

Commissioner Townsend said yes, I agree with the motion. Going back to the earlier issue about this point scoring system taking into account concentration of previous existing low-income or LIHTC housing, on property location, I thought we addressed that issue with the need for housing in the area and several other things on here, low/mod census track. Weren’t those additions that were meant to take into account what’s already in the area? They would get fewer points if there was already a cluster, more points if there weren’t, maybe vice versa? Chairman McKiernan said I could be mistaken but I don’t think our current matrix goes into the kind of detail that Commissioner Murguia and I have been talking about here, in terms of looking at the current concentration and actually taking the rents and taking the qualifying incomes into account. Commissioner Townsend said well, I thought they did in terms of that’s why you would get more or less points on your application.

Mr. Hrabe said for example, on our application it showed in the review guidelines District 4 which was an underserved area for this type of housing and for that we got, I think, two extra points, District 4 and 5. Whereas where there is more of a dense concentration of affordable housing, you didn’t get those points. There is kind of an overview of that but not the detail like you’re talking about. Commissioner Townsend said yes, but I thought that was the whole
motivation for whether you got more or less points. **Chairman McKiernan** said so that will be a continuing discussion we’ll have and further clarify the matrix if it’s necessary.

**Commissioner Murguia** said just for clarity, Mr. Bach, can we have this back in front of us at our very next Economic Development Standing Committee with Charles, the map and some comparison. 30 days out should be enough time. **Mr. Bach** said yes, essentially you’re just looking to start reviewing the LIHTC policy for next year’s round. **Commissioner Murguia** said no, just the concentration. **Mr. Bach** said well, sure but I think that’s what you all commented to this. This is probably an ongoing evolution of how we set out this program. Charles, set it up and bring it back next month and see whether there’s something there that gets incorporated, additional detail into the future application process.

**Commissioner Townsend** said the other thing, if we’re going to go back and look at the clustering, for lack of a better term, if we’re going to do that, I would also like to see when we begin to make these comparisons with outlying districts or other districts, are the income considerations. I would venture that the incomes in the area we just saw on those maps will probably be lower than incomes in Leawood, let’s say for Johnson County overall. I think a lot of what we’re seeing is driven by who lives here. I mean, you know, Donald Trump lives where he lives and those of us who are not have to live someplace decent and appropriate as well. I think that is another part of the discussion and the dynamic in the evaluation that also has to be considered.

**Commissioner Murguia** said, Commissioner Townsend, I hear what you’re saying and I appreciate that too. Lower income people need to have places to live also, they just don’t all need to live in the same place in Wyandotte County. It’s not good for a neighborhood to cluster a number of poor people all in the same area. It’s not good for the median income. It makes it difficult to attract things like grocery stores. That’s why the northeast area is having such a difficult time attracting retail to that area is that if the median income isn’t at a certain level then retail won’t come there without large amounts of government subsidy.

You’re right, the area that they’re talking about going in tonight is a little higher income but that’s why, in my mind, you have to be cautious. I’m not saying you have to deny. I’m
saying you have to be cautious and develop a balancing community of wealth and poverty. I’m just saying right now by that math we don’t have a balance. It’s creating more and more problems for us when we have that level of concentration. Really, it’s the chicken and the egg. Did we bring the poverty? Did we recruit it or was it here? It’s just in how you look at it. Commissioner Townsend said well, as long as we’re looking at not just the clustering but the other situations and circumstances that may make it, I don’t want to say desirable but the reason we keep getting these types of applications—I mean people have to live somewhere and they need decent and affordable housing. That should be part of the dynamic. Chairman McKiernan said absolutely and it will be.

Roll call was taken on the motion and there were six “Ayes,” Alvey, Walters, Murguia, Townsend, Walker, McKiernan

Item No. 5 – 140423…JOINT ORDINANCE/RESOLUTION: REVISED NEIGHBORHOOD REVITALIZATION ACT (NRA) PLAN


Action: Commissioner Walker made a motion, seconded by BPU Board Member Alvey, to approve and forward to full commission. Roll call was taken and there were six “Ayes,” Alvey, Walters, Murguia, Townsend, Walker, McKiernan

Chairman McKiernan said, Mr. Brockman, we do want to thank you for the work that you have put it in, you and other staff have put into updating these guidelines. We believe they will be very beneficial moving forward. Thank you for your work.

Chairman McKiernan said we do now have a blue sheet Item No. 6 that all of the commissioners should have gotten earlier today. This is a blue sheet item which is a resolution regarding bonds for sale.

January 5, 2015
Item No. 6 – RESOLUTION: REVISED NEIGHBORHOOD REVITALIZATION ACT (NRA) PLAN

Synopsis: A resolution authorizing the offering for the sale of General Obligation Refunding Bonds, Series 2015-D ($21,155,000 with estimated savings of $1.6M) and Taxable General Obligation Refunding Bonds, Series 2015-E ($1,985,000 with estimated savings of $149,000), submitted by Lew Levin, Chief Financial Officer.

Lew Levin, Chief Financial Officer, said Commissioners, last month in December the commission authorized staff to move forward with our annual bond and note sale financing. That financing is scheduled for February 5th of this year. As part of our due diligence with our financial advisor, we also look at other opportunities for financing that maybe we can include with our annual bond and note sale. We have a 2006 bond issue that had two parts and those bonds are callable after ten years. We can do what is called an advance refunding of those bonds and we have the ability to have significant savings with that refunding. The level of savings, the outstanding debt on those existing bond issues are approximately $24M. Our total savings with the refunding is approximately $1.8M. What I’m asking is for your authority to move forward with including the refunding with our annual bond and note sale to achieve those savings.

It will also—we’ll be able to structure that refunding to create actually some initial savings early on. The refunding will only be a ten-year period to retire that debt. It’s really favorable given the low interest environment.

Commissioner Walker said, Mr. Levin, you know it’s hard to argue with saving $1.8M. I don’t dispute that will be the case, but does it not follow the pattern that when we do these refundings and these refinances that what we do is create space to issue more debt in the future. We’re not really saving $1.8M because we’re going to spend that $1.8 over the next fifteen years by issuing more debt for projects that we can’t cash fund.

It’s like I go out and get a debt consolidation loan and I pay off all my credit cards and I’ve got this low interest loan and I’m making monthly payments but as time goes on, I go out and by a new car, I get more credit cards, maybe I buy a piece of property and all of a sudden all that savings I was supposed to have achieved and the total debt of the organization is lost unless we don’t go out and do anymore debt financing. That $1.8M is never going to show up on your
balance sheet that we could take that money today and go spend it, right. **Mr. Levin** said that’s correct. I mean—**Commissioner Walker** said so we’re not really—what we’re doing is we’re cutting the interest rate on one bond issue and unless we develop a bond policy for the future, cash and carry or we’re only going to issue debt on certain circumstances, if we follow the pattern that’s been followed for the last thirty years that I’ve been around, we’re going to continue to issue more debt depending on the interest rate. This $1.8M like every other refinancing is somewhat illusionary.

**Mr. Levin** said it’s not an illusion in that it is a real savings. When we issue debt to begin with, we’re paying a lower interest rate on the early part of that debt. This is generally. Each principle payment associated with long-term debt there’s going to be a lower interest rate on year one and as you move to the out years, there are higher interest rates. What you’re doing is you’re restructuring that debt on your out years and you’re able achieve a real dollar saving. You’re absolutely correct. If you reduce the amount of projects that we move forward in the future, that’s really the only way to move away from you having debt on the books. That’s something, it’s not something you can achieve overnight but if the commission is committed to really reducing the capital program and the amount of projects it finances with debt, it can certainly achieve that.

**Commissioner Walker** said to put it another way. How much money am I going to have to spend next year by refinancing these bonds that on some project that we’ve talked about that the commission has turned down because we don’t have any money? How much additional cash would be in the budget? **Mr. Levin** said my recommendation is not to spend the savings on additional money. How I look at it from a financial strategic point is we have difficult budget years in 2015 and 2016. Things are going to look better with the payoff of the STAR bonds in early 2017. I think it will put us in a stronger position to address other needs of the community, especially in 2016.

**Commissioner Walker** said so these savings you anticipate going into the reserve fund. **Mr. Levin** said I anticipate these savings to be used to address commission priorities in the 2016 budget year.
Commissioner Murguia said I was just going to add that if, Commissioner Walker, if you’re proposing we establish a debt policy, I would absolutely second that motion and be up for that. It’s not very politically popular because as you’ve stated clearly, all it does is it eliminates our ability to do more projects. We all know that projects are not politically popular. The minute we want to stop paving a road or we want to stop building a bridge or we want to stop doing something like that, which I think, you know we’re going to have to turn this—I’m with you. I think we’re going to have to turn this vicious cycle around. Unfortunately, you’ll never win because people in the community won’t like you because things won’t get done. The commissioners are not going to be in favor of that because their constituents won’t like them. Just for the public record, I’m all in favor of a debt policy if you’re game for that. Commissioner Walker said I’m game for it, been game for it. I just wanted to make sure that I was clear. This $1.8M, we’re never going to see in the fund to do something with. It’ll just be more debt that now we can issue because we have $1.8M more to spend on debt financing. That’s one possible outcome. Mr. Levin said I can work with Mr. Bach to explicitly show you in the budget what we’re going to do with those savings for 2016.

Mr. Bach said I did want to just comment too. I mean and your’re right if you look at that from the schedule but the savings is real money as Lew said. I mean it is $1.8M we will not spend that was on this. Again, I just would like to recognize Mr. Levin and Ms. Jonscher, who over the last couple of weeks as we’re closing out a lot of books in the Finance Department, to continue to look for ways for our government to save money. Because whether we spend it or not, at least we are buying additional projects down the road. On this money that was financed, we’re not extending the debt, and we are paying less interest over the next ten years. Those are areas that they jumped on. I just want to give them kudos as we’re closing the year end for business.

Commissioner Walker said Mr. Bach, this is not a criticism of either of them. Mr. Bach said I didn’t take it that way. Commissioner Walker said it’s a criticism of the commission. This commissions and prior commission for this deadly spiral that we are in and have been in for twenty-five years or more where we debt finance every single project unless it’s $100,000. Some of those we throw in and every year—there has to come a day. It may not be during my
time, but one day this way of economically surviving is going to have to stop. There’s only certain people making money out of this deal and it’s always the same people, the bond lawyers, the bond houses, I’m sorry. It’s not a good way to continue to do business. You’re never out of debt. Just like the guy with the credit cards. You pay them off and then you’re back right where you started. I have some experience with that.

Mr. Levin said I will mention, attached to the RFA is our debt policy. It was a policy enacted by the commission December of 2013. Commissioner Walker said, Lew, keep looking for opportunities to save that kind of money. The commission at some point has to look at a different way of doing business. Commissioner Murguia said there are two of us. You have to start somewhere.

Chairman McKiernan said we’ve been given a long-term project but the request for action that is before us tonight is to approve the resolution for the refunding of bonds. Mr. Levin said and also to fast track it to Thursday evening. Chairman McKiernan said and to fast track to the January 8 full commission meeting.

Action: Commissioner Walters made a motion, seconded by Commissioner Murguia, to approve and fast track it to full commission on January 8, 2015. Roll call was taken and there were six “Ayes,” Alvey, Walters, Murguia, Townsend, Walker, McKiernan.

Public Agenda
Item No. 1 – 140425…MULTIPLE APPEARANCES: RESIDENTIAL HOUSING INCENTIVES
Synopsis: Appearance of the following regarding housing incentives.

Murrel Bland, Business West
Rusty Roberts, Housing Chairman, Business West
David Smith, President, Stonecreek Custom Homes
Brenda Davis, Piper Landing
Phil Martens, Martens Family Enterprises, Inc.

January 5, 2015
Chairman McKiernan said we have had a request by members of the public to make statements before the commission tonight. We will do that at this time. I want to remind everyone that there is no call nor request for action associated with this. It is simply an opportunity for members of the public to address this committee on issues that are of concern to them. I am a little unclear and, Mr. Bland, if I could put my glasses on I could see you. I’m a little unclear. Is everyone who is on my list asking to make a separate comment or will there be someone who will represent the group? Murrel Bland, Business West, said I think there are two, Rusty Roberts and Randy Wilson.

Chairman McKiernan said we will have a couple of people who will make comments. Mr. Bland said there are five altogether. Chairman McKiernan said there are five people who are here altogether. Mr. Bland said and I have a handout. Rusty Roberts will make a presentation and I have a handout.

Rusty Roberts said I’m a developer and builder out in western Wyandotte County. I’ve been involved in the community for a long time. I have and my family has as well. I don’t know, just cut through all of this. We want to get the building—you know we’re just not competitive as far as our property taxes go. I brought Randy with me. He can go over the numbers and the details. He’s a developer as well in another subdivision. I live and work here in Wyandotte County. I guess I’m supposed to say that too.

Anyway, we’re just not competitive. We need more incentives to get more people to come to Wyandotte County to buy new homes to live here, to spend their money here and all the above. That would be our long-term goal as far as building the tax base and so forth. Randy has a few; he’s a builder, developer in four other subdivisions in western Wyandotte County. He also has developments in other cities. He’s familiar with the taxes and the incentives in those subdivisions as well. Anyway, he’s here with me. I got the numbers from him.

Randy Wilbanks, 24070 W. 119th St., Olathe, KS, said over the past four years—I’m president of Heartland Ventures and Pinnacle Construction and we have three developments that we’ve done in Wyandotte County in Piper, Newberry at Piper, we have Pavilions at Piper and we have quite a few lots out at Highlands of Piper. What we’re here to address is there’s been some
incentive and a moratorium on some hookup fees and building permit fees that we’ve had advantage of over the past two, two and a half years. I appreciate you letting us come and speak because I think this is very vital to kind of the future of what we’re able to do.

Specifically, for the companies that I represent, we put on the tax rolls over the last three, three and a half years about $18M to $19M worth of property. Over the next I guess ten years, the county, this county, I don’t know how it’s all split up, it’s about $350,000 a year that will come into the coffers because of the property that’s being built.

I think there are two things. I’ll try to limit myself to three minutes. I think the longer term aspect is we started off three years ago probably about with about 10% of what we did in Wyandotte County. We’re currently at 85% of all the building that we do is in Wyandotte County. We think long-term it makes sense. We like what’s going on in Wyandotte County. I think it’s imperative long-term that the property taxes get reduced. When you compare it with other areas, and I’m talking all other areas whether it be Basehor, Shawnee, Lenexa, Olathe, the tax rates in Wyandotte County are about 20% to 25% higher on single-family new construction. For someone buying a home that translates it to, over the life of the mortgage, about $35,000 more to live in Wyandotte County than really any other county and any of the other surrounding counties.

When we look to build a home, and the price range we’re building—our average house, I think, is about $275,000. That’s about the average house that we build. For someone to come in and purchase that home, they’re going to spend an extra $150 to $200 a month on their mortgage for the right to live in Wyandotte County versus another county on the same tax basis for the house, the same cost for the house; I think that this incentive that we have cuts that difference into about half if you look at we’re able to build a house a little more cost effective here. That would save somebody an average of $50 a month. Their taxes will still be $100 more a month higher but it helps bridge the gap, it helps put it on a level playing field.

I think from a long-term basis, and hopefully when STAR Bonds get paid down, hopefully there can be a reduction long-term with taxes; but until then on a short-term basis for incentives and the ability to attract people here for housing, I think it’s imperative that we have a level playing field. I think to continue to invest and continue to build homes, I think that we need to at least have a fair shot at getting people to move here. We’re talking about attracting people from—you know the Cerner people come in. They can live in Shawnee, they can live in
Lenexa or they can live in Wyandotte County. I think it’s important that we have somewhat of a level playing field. I think by extending this, at least we give ourselves the best possible chance of doing that.

I think that in addition to that and the last thing I’ll say is it makes economic sense. It’s not that the investment will come back about seven-fold. If $10M worth of property over the next year or two gets put on the tax rolls that weren’t on the tax rolls due to these incentives then over a ten-year period, $3M or $4M in property taxes will be collected. It’s not as if it doesn’t come back and that’s really the essence of what I have to say. I think it’s working. We’re still only getting about 4% of the housing market. Even though if you look at the—citywide we’re getting 4% when we should have 8% of the households. I think there’s still opportunity for growth. I would certainly like to see the policies that we’ve had in place for the last two and a half years to continue because I think that will continue to foster investment. I think it’s investment that will come back.

**BPU Board Member Alvey** said if I might, I would just like to echo. The experience at the BPU, we again, at the initiative of the Unified Government, developers, Rusty and others, the BPU also waived its hookup fees and we think we’ve seen even though we’ve forgone those fees, we believe that it’s actually going to help us in the long term creating more demand, more demand for water and power. The initial investment of loss of funds is going to be more than compensated for by additional demand in the future. $100,000 is $100,000 no doubt, but I think it really has had an effect. I wish I had brought some of the data we’ve collected. We have seen an improvement in the number of housing permits that’s been issued.

**Steve Vanlerberg, 11908 W. 64th, Shawnee Kansas,** said I’m one of the developers of Piper Landing. It’s on 115th & Kimball. We did 46 lots in the first phase and only sold about 8 of those back around 2007 and then things got really slow and we couldn’t sell nothing. When this incentive program kicked in, since then, we’ve sold about, I think, we’ve built and sold at least 25 houses in the last two years. A big part of it is this incentive on these building permit fees, hookup fees, wastewater, everything. We’d just like to encourage the commission to not take them away. I think the lack of the fee expires the first of the year or something. I don’t know exactly. It’s just a big part of our business. We like it up there.
We just opened a new phase of 39 more lots. 8 of them are sold. We’ve got strong interest. You know we’re only a mile from the Speedway. We have really strong interest from Cerner, the casino people and of course several Fire Department people and firemen, you know people that live there and work here.

Commissioner Walker said I don’t know where—you deserve a response. I’ll give you mine. Mine is to incent the building of single-family homes. My reasons probably aren’t exactly what you want to hear. I too agree that we need to reduce taxes. It’s a hard thing to do. When you go through our budget, there’s not a lot of money in there. There’s no money in there to play with. There’s no let’s have some kind of special project.

One thing I like about the home building industry is that, okay we incent you with these waiver of fees but when you build a $300,000 house, it is accessed as a $300,000 house and then you pay taxes on a $300,000 house. When we incent a $120M building, it pays taxes on a $30M building because they have some special nuance that the building can’t be sold and reused. I like to see houses built and pay their fair share of taxes.

Now, I heard what you said and you think you pay more than your fair share of taxes on these houses and I really want to do something about that like every one of the commissioners. I’m sure the Board of Public Utilities’ people feel the same way about their rates but I don’t oppose continuing an incentive program and we’ll address that when this item is brought before us, I assume, in some manner, Mr. Bach, or will this come up again for continuation. Mr. Bach said the policy that was set out sunset at the end of 2014. We certainly can reconsider it. It’s one of those items that is somewhat built into the budget well, not somewhat, we did build it in the budget. That’s when it was adopted initially a couple of years ago because we set out to drop the fees from what was anticipated to be collected for the 2015 budget. We anticipated those fees coming back online.

We can consider it again as we go through our budget process if this is something we want to remove and we feel like this is a good incentive and we can factor it in either looking at our sanitary sewer or the wastewater program because that’s an enterprise fund. That’s an area that they can be waived from which is similar to like the BPU looks at it. The other side is the building permit fees that are paid to the General Fund. We can put this on the list for items of consideration.

January 5, 2015
Commissioner Murguia said so I’m just going to take the opportunity to make a comment and kind of piggyback of what Hal said earlier with his concerns about debt. For years, our government has had this credit card and we just keep charging more and more and more to it. It’s gotten completely out of hand and now it’s gotten to the point that we’ve maxed out debt out and there really is no more debt to issue. We can’t take on any more so now every year we have to figure out how much we can spend based on the debt we’ve paid off. It’s ridiculous. I can remember prior to running for office listening to these kinds of conversations and the whole discussion seeming very complex in something that I couldn’t understand. I really do this for the benefit of people that are watching this if there is anyone that watches this. God love them.

I would just say that I agree with, again, what Commissioner Walker said that we need to reduce the debt of this government. We also need to lower property taxes. I am very proud to say that I’ve been up here eight years and I have never voted for a property tax increase and I never will. The only way we can do those two things is lower our debt and lower our property taxes is to grow our community.

I am a very big advocate of incentives for growth and development. That ultimately is going to broaden our tax base. I do trust in our staff to make sure that we’re not throwing too much incentive at a development where the benefit to the development far outweigh any kind of negative that we could incur because of the incentive. I just want to say it out loud. I’m glad that we have been a commission so far and hope we’ll continue to be a commission that supports these kinds of incentives.

Mr. Bach said, Commissioner, you’ve especially asked me to do this. Just for the record, we have not maxed out our debt. We’re not in that kind of financial situation. While for how much money we want to contribute to paying off debt each year is a policy we need to get into, but we have room under our debt cap. We’re not maxed out. Commissioner Murguia said right but when we wanted to add projects—Mr. Bach said as much as we want to expend on debt each year. Commissioner Murguia said well let me rephrase that. Unless we want to lower our bond rating, we are not going to spend any more, we’re not going to ching up any more debt. Mr. Bach said that’s a good way to say it. Commissioner Murguia said unless we want to ruin our credit rating then we cannot spend any more money on our credit card. I do appreciate you clarifying so people out there that hear it have the facts.
Phil Martens, Martens Family Enterprises, 7362 W. 162nd, Overland Park, KS, said my idea to add onto your comment is to do more stuff with more money is to add more homes. You got a bunch of crazy guys in here that are crazy enough to build in Kansas City when the tax base is a little higher but they still love Kansas City, KS, to be building here. I’ve been building ten years up here in KCK and I thought I’d never build up here but once I have, I love the community and I love what it states. I think there’s a lot of room for expansion but to do that and to help with the tax base is what we’re talking about is a $2,500 sewer connection fee and the permit fee which is $400. So you have $2,900 that we’re asking for to continue not costing a dime, just to continue what we’re doing for at least another year, possibly two, depending on building permits.

We built it clear up to $600 a year when we were going at a steady pace then we fell back down. There’s got to be room in there to where we can all feel comfortable enough to help with the incentive to build in KCK to make it to where we can get that tax base up. Even some of the projects tonight, that is definitely going to help in the long run versus some of the other guys in the room here that build a lot of houses. Randy builds a lot of houses. Dave builds a lot of homes and like I say, it is a challenge to build up here but you know they’re taking the added risk in being somewhere that’s basically what I classify as pioneering in an area that it is.

Since 2005, people thought I was crazy but the thing is now we’re ten years down later and there’s actually a few of us that did survive through the economy and the big turndown. Asking for this to be extended for another year, possibly two would be great. The problem is it’s already expired. Basically, we’re going to have to wait until something happens in the city to where we can figure out whether we’re going to get the incentive or not get the incentive.

Don’t think the building permits right now are going to happen in January, February and March depending on how long you want to take this. The BPU has already taken care of their end. They were way ahead of the curve and made a decision prior to that time. Now we’re in a waiting pattern on what’s going to happen here. Whether or not being on the agenda or we’re just talking about it tonight—talking about fast track, I think you need to fast track this immediately if you want the permits in January, February and March when we get into the building season.

January 5, 2015
Chairman McKiernan said so I’ll follow-up what I said earlier. Although there is no formal request for action tonight, you’ve given us perspective and you’ve given us information that if Commissioners choose to do, they can follow-up and have a continuing discussion with staff. I wouldn’t rule out the possibility that there could be a request for action that could come from this in the future.

Commissioner Murguia said so I just have a question, Commissioner McKiernan, I never really thought that out that it would put them on hold and that makes a lot of sense. Why would they take the risks for more money? Is there a way, Doug, for us to come to consensus on this incentive prior to budget? Mr. Bach said sure, I mean you just have to make a decision that you’re going to continue it or start it up again by ordinance. You know I know it’s one where you discuss not making budgetary decisions out of budget but that’s what it would be. Commissioner Murguia asked it’s for next year though, right, so why don’t you—Mr. Bach said no, it’s for 2015. I mean and as you said, it’s about $100,000 impact on our budget so I mean it’s an estimate from that standpoint as to what would come in. Commissioner Murguia said I understand. Commissioner Walker said well, they built 25 homes you know. Commissioner Murguia said the return on the investment is amazing.

Commissioner Walker said I think what ought to be done since I don’t sit on this committee and somebody else will next month—I’m taking my shot while I’m sitting here, okay. I’d like to see a proposal that reinstates or lifts what we did and reinvites home building by waiving these permits. Now this committee would have to address that next month and then they would fast track it to the commission. If you guys don’t want to do it or you do want to do it, it’s your decision. If we wait around until budget season, they’re going to lose the whole building season.

BPU Board Member Alvey asked could it not be fast tracked to this Thursday’s meeting. Commissioner Walker said typically it’s worked through a committee. We don’t have a document to look at. Mr. Bach. Commissioner Murguia asked do you have $100,000. I guess we should ask that question. BPU Board Member Alvey said I’m just asking. I don’t know. Mr. Bach said your issue you work with there is we work on revised budgets each year. I know that’s an issue where we’re trying to get away from making budgetary decisions outside of the
budget because that makes a big impact on why a revised budget always comes back so different from the previous years. This commission has probably been the most disciplined we’ve had through the course of the last few months in not making budgetary decisions out of it.

I’m not saying—I mean $100,000 is a huge decision. There are a couple of variables that you could look at. Some that could have less impact on the General Fund as he noted. The largest impact here on developers is that which is coming through our water pollution fee. I mean you could—what is it the $400 or $600 building fee versus the $2,500 hookup fee in water pollution which is not our General Fund would have a bigger impact on the developers and no impact on our General Fund. There are things like that you can look at for consideration if you wanted to consider keeping this in place.

**Commissioner Murguia** asked can you meet with this group and figure out some options and bring them back to us by the next committee meeting so we could then fast track it. **Mr. Bach** said we could. I don’t know that I have to do a lot of meeting with them; probably. I mean I know what their objective is and I probably could identify as I just did what the two biggest options are. One affects our Water Pollution Enterprise Fund and the other impacts our General Fund and that is the building fee.

**BPU Board Member Alvey** said again, I don’t know how this works but is it possible. You outlined I think two options about how to handle this that you could offer two different resolutions and fast track this to Thursday and then let the commission decide between the options. I don’t know. **Commissioner Murguia** said I don’t either. I mean I’m really genuinely asking. I know I’m a big advocate like I said of broadening our tax base. I mean every discussion we have is about how can we have more money to do more good things for our county and the only way to do that unless someone else here knows is to grow our county with business or residential. Here we have people willing to do it and for $100,000 we’re holding them up. I don’t know what to do with that.

**Commissioner Walker** said I’m the guy that’s all for this. I’m going to say the problem with doing this tonight, we’ve given the public no notice. It has not been on an agenda. I would say that while I don’t think there’s going to be any large public outcry if there is opposition to this
we did not agenda this as anything to take action on. We need to have it on an agenda. **Mr. Bach** said that’s correct and that’s the policy we’ve followed since consolidation. **Commissioner Walker** said as much as I’d love to do it tonight and vote it up Thursday myself, I think we may have to, you know, you might be able to put this on Public Work’s. I mean it sort of fits because it is a Public Works fee waiver and put it on the 19th then we could fast track it to the following Thursday. **Commissioner Murguia** said that’s a good idea. **Commissioner Walker** said I mean that would give them a few weeks, not three or four weeks less time. **Commissioner Townsend** asked is there going to be a meeting on the 19th. Isn’t that the holiday? **Commissioner Walker** said well then the committee meeting will be on Tuesday then I guess. Whenever the next Public Works Standing Committee is. It won’t be MLK Day. It will be the Tuesday after.

**BPU Board Member Alvey** said I guess one of my questions would be to the developers, if you did not have that incentive in place until let’s say the first meeting in February, you would have zero. **Mr. Marten** said there would be zero permits there. **BPU Board Member Alvey** asked and you want to get the permits pulled in case we get some good warm weather again.

**Mr. Wilbanks** said just to kind of highlight what Mr. Walker said which I think is absolutely correct and he’s done the math in his head. 25 houses total just in one year would pay the incentive back and then, of course, you have the tax base on an ongoing base year after year after year. I think that for us, and I don’t want to speak for everybody, I think as soon as this is adopted, I know in my own organization, we probably have 8 or 9 permits that will be pulled. I think you don’t want to be in limbo for a real long period of time. Part of that is because of timing. We want product available to be able to sell really the May through October on a selling season is when you want your product and to be able to do that, we need to get started as quickly as possible. I think speed is imperative but I also understand that you have procedures that you have to follow. We would just like it to be if there’s anyway possible to be fast tracked just as expeditiously as it can.

**Mr. Bach** said I think I read where he’s going. Since we are showing that we’re entertaining this, you have to bring closure to it one way or another. I mean that’s either to say yes or no then

January 5, 2015
they can make their decision on build. Right now where they think there’s a possibility, as anybody would, if you think something is going on sale in a couple of weeks, you’ll hold out unless you have a buyer that’s absolutely saying get in the ground. You have to bring closure to it now probably based on what’s happened. We have to go yes or no to them and move it from there.

Chairman McKiernan said so then in that case we’re looking for a motion on a request for action that would come forward out of this meeting—Commissioner Murguia said to Public Works Standing Committee if we can do that. Mr. Bach said no. The committee doesn’t set that. I think this is information that we can take. We can have that discussion with the Public Works chair and the Mayor as far as an agenda item going forth there. I mean we have the data on this so we can show them. I mean there’s comparable data that any committee would look at. I would assume you would that shows here’s where we are, that’s some of the information we looked at in comparison to what our fees are compared to other communities, look at the ramifications from the cost. This being on this committee versus Public Works is largely driven because it’s a financial tag to it and that’s why all of these items come to this committee. We can take that forward.

Commissioner Walters asked, Doug, is the impact to the General Fund that you keep talking about strictly a building permit processing fee. Mr. Bach said yes, I think that’s most of what comes off the General Fund side of it. The biggest portion of it is what goes to water pollution. It’s the much more significant one. I would assume any developer looking at that if they were to see that waived, it would probably be a bigger impact to them than the General Fund portion of it. I mean that kind of gives you an incremental opportunity too.

Commissioner Townsend said I would like to see part of the information that comes to us or whether it’s the other standing committee. I think when I came on the first budget we went through, this was the $100,000 fee/waiver was part of it and then it went away in 2015. I would like to see where the money that we’re talking about, the $100,000 is replenished or surpassed somewhere. We’re talking about where it may come out of the General Fund or what not and we are talking about the benefit that would accrue to the new housing starts. Actually, this seems
like it’s the other side of the conversation we had earlier with the LIHTC. It is important to get the market-rate and be more upscaled too. As part of the analysis, I would like to know just for my edification where this the stream of money is coming from if we give this waiver. We’re talking about the money that would come in. How do we see that? Maybe we could look at how that happened or what came in in the last budget cycle when this waiver was there. Do you understand? Mr. Bach said I fully understand. The issue with that is if I were to ask Lew to come up and say identify $100,000 today he’s going to tell me that’s coming out of the reserves. I can’t identify to you that I have $100,000 excess in some other area today unless we were to make a decision we’re not going to fund something, but I think that’s premature that we would make that decision. We just have to recognize we’re not going to count on that revenue stream when we’re building our budget and do a revised budget in the course of the summer. You know everything moves in big margins, I guess, when you start to come around.

We have a $300M budget so $100,000 doesn’t break us one way or another. It’s all the incremental $100,000 that we’ve probably over the years made decisions on through the course of the year that then comes back to be $3M or $4M and if we don’t look at that and say what’s the impact of that, then that makes an impact on our decision.

Commissioner Townsend said no, actually what I’m really interested in is the income that came into our coffers in the past when we’ve had this $100,000 housing waiver or fee-waiver. We’re talking about increasing our coffers as a result of that. Is there some way to track what we gained from having this fee waiver when it was last in effect?

Commissioner Walker asked how many houses were built that are now paying taxes. Commissioner Townsend said right and the amount. Not just the number. What is the amount? What is the income stream that accrued to us because we waived these fees? Is there anyway to judge that? Mr. Bach said well, it’s probably a little bit of a judgment on that, Commissioner, based on how many—and that’s the big question that’s kind of attached to it. How many would have come anyway?

We started the program because we believed and that’s why we had the conversation with BPU, we believed, we needed to do something to help incentivize the housing market to get going. Commissioner Townsend asked well, how many did come through. Mr. Bach said we
have that stat. We can give you the total number of houses built. Commissioner Murguia said no, but you know, I would just say I see what you’re trying to get at and it makes sense but it’s not quite that easy because—Commissioner Townsend said nothing we do apparently is—Commissioner Murguia said it’s not that easy because—Commissioner Townsend said but we talk about this in general terms in what comes in so I’m thinking it would be relatively easy to have those stats. We’ve had this waiver in the past so I would think there would be some numbers to say that while this waiver was in affect, X number of homes availed themselves of that fee and those X number now pay taxes that are equivalent to—Commissioner Murguia said so let’s say, I’ll just make up a hypothetical example, and tell me if I’m right Doug on this because I want to make sure I have this right, but for example, last year we had this incentive and Doug would just pull the number of building permits pulled or the number of housing permits pulled, that might be fifty let’s say. There’s no way to tell you that if that incentive was not there that fifty permits would not have been pulled. Fifty permits might have been pulled regardless.

We’re just playing on a hunch that when you incent development, you get more of it and there have been arguments on both sides. I’m trying to give you an objective argument on either side. I will tell you I would argue all day long that the more you incent people to come work in your community, the more business, the more residential you’re going to get. Some people disagree with that. What I think Doug is saying is that’s hard to measure because you don’t know if you wouldn’t have given the incentive what you would have because you gave it. Does that make sense? Commissioner Townsend said well, was there a time when we didn’t give the incentive. We could pull those housing starts and at least make that comparison. Maybe when we didn’t have it, there were only thirty permits. Commissioner Murguia said right that could be the deal but it also could be prior to Village West, it could have been during the recession but yes, we can get the numbers. Commissioner Townsend said there’s something to look at. Commissioner Murguia said yes, it’s something better than nothing.
Chairman McKiernan said we do have some data coming around. These are some of the data that Commissioner Townsend had just been inquiring about.

![Kansas City, KS New Single Family Permits 2005-2014](image)

**Building Permit & Sewer Connection Fees Waived 2012-2014**

<table>
<thead>
<tr>
<th>Year</th>
<th># of Permits</th>
<th>Fees ($) Waived</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012*</td>
<td>76</td>
<td>165,300</td>
</tr>
<tr>
<td>2013</td>
<td>145</td>
<td>315,375</td>
</tr>
<tr>
<td>2014</td>
<td>160</td>
<td>348,000</td>
</tr>
</tbody>
</table>

*The permit fee waiver began Aug. 1, 2012*

Commissioner Murguia asked, Doug, what year did we have the first year we had this incentive. Mr. Bach said I believe it was 2012 and 2013. It was half of 2012. I believe that’s right. After we did the budget in 2012, we adopted it and it started effectively and went through that fall. It was there for 2013 and 2014. Commissioner Murguia asked wasn’t that an incentive we set up to help restrike up residential development after the recession. Was that our thinking? Mr. Bach said yes. Commissioner Murguia said okay. That’s a point of reference. Mr. Bach said you can see by this chart, and this chart even references it there, the permits that are on waiver. When we put it in place in 2012, we had a project that came online and took advantage of it or utilized it to pull a bunch of permits right off the bat and then moved on. You can see the—I think all the data you’re after that you’ve been talking about corresponds with the
number of projects that are on there. We’re a long ways from where we were back in 2005 and 2006.

To get a little bit more historic reference to that though, pre 2000 like in 1999, we were around that 100 number so I mean you see the dip that came from the recession that just hit us hard and dropped us way down. We’ve just now risen back up from where we were around before the turn of the century.

Commissioner Walker said I think you also have to look at that period post-Speedway being built, maybe closer to 4, 5, 6 and 7 where they were just giving money away to people who 25 years ago couldn’t have bought a house. 125% loans, the various financing devices that were used that made money a little easier to get a mortgage for. I’d love to see us up at 400 houses again. I don’t believe that’s going to happen. I can see us going up to 200. With a little luck and these incentives, it’s just hard to compare 2005, 2006 and 2007 to 2012, 2013 and 2014 because the money isn’t as easy to get.

Mr. Bach said the numbers are also up here as you’ll see. Now this is the culmination between the building permit and sewer connection fees waived. I believe the $100,000 number that’s thrown around out there is more of the General Fund impact versus what the total impact is. I believe we built our estimate based on the 2013 numbers, well yes, because we would have done that last May. We were looking at around 140 homes or something like that. I would have to back into the calculations but I believe that’s where that came from. Commissioner Townsend said thank you. This is certainly a helpful point of reference.

Chairman McKiernan said I guess the question is still before us is if we want to take action or give direction following this meeting for a future meeting whether that be Public Works in two weeks or our committee a month from now or something other than that entirely.
Action: Commissioner Murguia made a motion, seconded by Commissioner Townsend, for this item to go back to staff to follow the direction talked about tonight and for Doug to have a discussion with the Mayor and the Chairman of Public Works to see the best most appropriate committee for it to go back in front of. Roll call was taken and there were six “Ayes,” Alvey, Walters, Murguia, Townsend, Walker, McKiernan.

Chairman McKiernan said that information will go back. Staff will work with commission and our goal is to bring that to the Public Work’s Standing Committee which will be two weeks from tonight. Commissioner Walker said two weeks and a day. Chairman McKiernan said two weeks and a day.

Adjourn

Chairman McKiernan adjourned the meeting at 8:01 p.m.

tpl
Staff Request for Commission Action

Tracking No. 150044

□ Revised
□ On Going

Type: Standard
Committee: Economic Development and Finance Committee

Date of Standing Committee Action: 3/9/2015
(if none, please explain):

Proposed for the following Full Commission Meeting Date: 3/19/2015

Confined Date: 3/19/2015

□ Changes Recommended By Standing Committee (New Action Form required with signatures)

<table>
<thead>
<tr>
<th>Date</th>
<th>Contact Name</th>
<th>Contact Phone</th>
<th>Contact Email</th>
<th>Ref</th>
<th>Department / Division</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/25/2015</td>
<td>Lew Levin</td>
<td>5186</td>
<td><a href="mailto:llevin@wycokck.org">llevin@wycokck.org</a></td>
<td></td>
<td>Finance</td>
</tr>
</tbody>
</table>

Item Description:

Ordinance terminating the Tremont Redevelopment District created pursuant to Ordinance No. O-10-97 of the Unified Government, adopted on 12/18/1997.

RFA # 140395 was previously approved 12/18/2014 by the Unified Government Commission, however the ordinance did not correctly identify all parcels in the Tremont TIF district. This revised ordinance corrects the legal description.

Action Requested:

Adopt ordinance terminating the Tremont TIF district.

□ Publication Required

Budget Impact: (if applicable)

Amount: $ 197,606
Source:

□ Included In Budget
□ Other (explain) TIF balance will be distributed to taxing entities in the TIF district and these properties will be returned to the tax roll.
ORDINANCE NO. ______

AN ORDINANCE TERMINATING THE TREMONT REDEVELOPMENT DISTRICT CREATED PURSUANT TO ORDINANCE NO. O-10-97 AND TERMINATING TAX INCREMENT FINANCING WITH RESPECT TO SUCH REDEVELOPMENT DISTRICT.

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the “Unified Government”) adopted tax increment financing by creating a Redevelopment District pursuant to the Kansas Tax Increment Redevelopment Act, constituting sections K.S.A. 12-1770 et seq., as amended (the “Act”) and Ordinance No. O-10-97 of the Unified Government, adopted on December 18, 1997, for the real property described therein; and

WHEREAS, all the redevelopment projects costs have been paid and all bonds and obligations are deemed paid with respect to the Redevelopment Project (the “Project”) within the Redevelopment District; and

WHEREAS, the Unified Government has determined that it is necessary and desirable to adopt this Ordinance to terminate the Redevelopment District and to terminate tax increment financing in connection with the Project, effective upon publication of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, AS FOLLOWS:

Section 1. Termination of Tax Increment Financing. The Unified Government hereby terminates the Redevelopment District created pursuant to Ordinance No. O-10-97, and legally described as follows:

THE AREA DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT OF WAY LINE OF PARALLEL PARKWAY AND THE EAST RIGHT OF WAY LINE OF NORTH 7TH STREET; THENCE NORTH, ALONG THE EAST RIGHT OF WAY LINE OF NORTH 7TH STREET TO ITS INTERSECTION WITH THE SOUTH RIGHT OF WAY LINE OF QUINDARO BOULEVARD; THENCE EAST, ALONG THE SOUTH RIGHT OF WAY LINE OF QUINDARO BOULEVARD, TO ITS INTERSECTION WITH THE WEST RIGHT OF WAY LINE OF NORTH 5TH STREET, THENCE SOUTH, ALONG THE WEST RIGHT OF WAY LINE OF NORTH 5TH STREET, TO ITS INTERSECTION OF THE NORTH RIGHT OF WAY LINE OF PARALLEL PARKWAY, THENCE WEST, ALONG THE NORTH RIGHT OF WAY LINE OF PARALLEL PARKWAY, TO THE POINT OF THE BEGINNING.

THE ABOVE AREA IS LEGALLY DESCRIBED AS FOLLOWS:
BRIGHTON HILL
  BLOCK 1, LOTS 1 TO 12 INCLUSIVE
  BLOCK 2, LOTS 1 TO 20 INCLUSIVE
  BLOCK 9, LOTS 1 TO 20 INCLUSIVE
  BLOCK 10, LOTS 1 TO 12 INCLUSIVE
  BLOCK 11, LOTS 1 TO 12 INCLUSIVE
  BLOCK 12, LOTS 1 TO 30 INCLUSIVE
  BLOCK 21, LOTS 1 TO 9 INCLUSIVE

FLORENCE PLACE
  BLOCK 1, LOTS 1 TO 29 INCLUSIVE
  BLOCK 2, LOTS 1 TO 15 INCLUSIVE
  BLOCK 3, LOTS 1 TO 15 INCLUSIVE
  BLOCK 4, LOTS 1 TO 35 INCLUSIVE
  BLOCK 5, LOTS 1 TO 35 INCLUSIVE
  BLOCK 6, LOTS 1 TO 22 INCLUSIVE

SUNNYSIDE
  BLOCK 1, LOTS 1 TO 19 INCLUSIVE
  BLOCK 2, LOTS 1 TO 28 INCLUSIVE
  BLOCK 3, LOTS 1 TO 28 INCLUSIVE
  BLOCK 4, LOTS 1 TO 28 INCLUSIVE
  BLOCK 5, LOTS 1 TO 36 INCLUSIVE
  BLOCK 6, LOTS 1 TO 32 INCLUSIVE

HEFNERS GROVE
  BLOCK 1, LOTS 1 TO 28 INCLUSIVE
  BLOCK 2, LOTS 1 TO 38 INCLUSIVE
  BLOCK 3, LOTS 1 TO 15 AND LOTS 18 TO 37 AND LOTS 40 TO 44

WALNUT PARK
  BLOCK 2, LOTS 1 TO 18 INCLUSIVE
  BLOCK 3, LOTS 1 TO 36 INCLUSIVE

GLENWOOD GROVE
  BLOCK 1, LOTS 1 TO 20 INCLUSIVE
  BLOCK 2, LOTS 1 TO 10 INCLUSIVE

IRVING PLACE
  LOTS 1 TO 18 INCLUSIVE
  LOTS 20 TO 35 INCLUSIVE
  LOTS 40 TO 81 INCLUSIVE
  LOT A

SECTION 33-10-25
TRACTS 30 B AND 30 C
Tax increment financing for all Projects within the Redevelopment District shall terminate, effective upon publication of this Ordinance.

Section 2. Further Authority. The Unified Government shall, and the officers, employees and agents of the Unified Government are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.


Section 4. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the Unified Government and publication in the official Unified Government newspaper.

PASSED by the governing body of the Unified Government on _____________ ____, 2015.

(SEAL)  

______________________________  
Mayor/CEO

ATTEST:  

______________________________  
Unified Government Clerk
Staff Request for Commission Action

Type: Standard
Committee: Economic Development and Finance Committee

Date of Standing Committee Action: 3/9/2015
(If none, please explain):

Proposed for the following Full Commission Meeting Date: 3/26/2015
Confirmed Date: 3/26/2015

Changes Recommended By Standing Committee (New Action Form required with signatures)

<table>
<thead>
<tr>
<th>Date</th>
<th>Contact Name</th>
<th>Contact Phone</th>
<th>Contact Email</th>
<th>Ref:</th>
<th>Department / Division:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/25/2015</td>
<td>George Brajkovic</td>
<td>x 5749</td>
<td><a href="mailto:gbrajkovic@wycokck.org">gbrajkovic@wycokck.org</a></td>
<td></td>
<td>Economic Development</td>
</tr>
</tbody>
</table>

Item Description:
Staff has advanced in negotiations with On Goal, LLC for a Development Agreement for the US Soccer National Training Center (NTC), and a First Amendment to Multi-Sport Stadium Specific Venture Agreement (SVA). The NTC DA includes commitments to construct a $62M project, comprised of a 100k sqft NTC, up to 8 outdoor fields at NTC site, 1 futsal court at NTC site, and 8 outdoor Tournament Fields at the Tournament Fields site; the 8 Tournament Fields can be combined with 4 of the NTC outdoor fields for a 12 field venue. The SVA amends the previous commitment for three (3) Recreational Fields, to the construction, operation and programming of up to 16 Futsal Courts at 8 different locations. Additionally, the SVA contemplates edits to the Job Creation requirements of the Cerner Office project to language more closely matching the agreement with the State of Kansas, moving the total number of jobs from 4,000 to 3,750.

**DOCUMENTS FORTHCOMING**

Action Requested:
Present Deal Points.

Publication Required

Budget Impact: (if applicable)

Amount: $
Source:
- Included In Budget
- Other (explain) Policy action by Commission. Project has significant fiscal impact.
Type: Standard
Committee: Economic Development and Finance Committee

Date of Standing Committee Action: 3/9/2015
(If none, please explain):

Proposed for the following Full Commission Meeting Date: Confirmed Date: 3/19/2015

<table>
<thead>
<tr>
<th>Date</th>
<th>Contact Name</th>
<th>Contact Phone</th>
<th>Contact Email</th>
<th>Ref</th>
<th>Department / Division</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/24/2015</td>
<td>George Brajkovic</td>
<td>x 5749</td>
<td><a href="mailto:gbrajkovic@wycokck.org">gbrajkovic@wycokck.org</a></td>
<td></td>
<td>Economic Development</td>
</tr>
</tbody>
</table>

Item Description:
In 2010, the Board of Commissioners adopted R-102-10, a Resolution of Intent to issue $21M in IRBs and a corresponding PILOT for a 228 unit, market rate development by Gold Crown Properties, Inc; subsequently, O-22-12 was approved authorizing the issuance of the bonds. The project was constructed and completed by Gold Crown and year 1 of the PILOT was 2013. On April 24, 2014, The Board of Commissioners adopted R-24-14 which gave consent to the assignment of the Performance Agreement to a new ownership group. However, at the time of closing, the PILOT was not yet reflected and only the existing ad valorem taxes were paid. Therefore, only $41,799.68 was paid, rather than Year 1 PILOT of $149,420.83, leaving a shortfall amount of $107,621,15. Staff proposes to adjust the PILOT by having Year 1 payment be the amount paid in ad valorem taxes, and then adjusting Years 5-10 of the PILOT to increase in equal amounts to absorb the shortfall.

Action Requested:
Pass Ordinance authorizing and approving an amended and restated Performance Agreement.

Publication Required
Publication Date: 3/26/2015

Budget Impact: (if applicable)

Amount: $
Source:
☐ Included In Budget
☑ Other (explain) Revenue neutral.
ORDINANCE NO. O-____15

AN ORDINANCE AUTHORIZING AND APPROVING AN AMENDED AND RESTATED PERFORMANCE AGREEMENT FOR THE TAXABLE MULTIFAMILY HOUSING REVENUE BONDS (THE HEIGHTS AT DELAWARE RIDGE PROJECT), SERIES 2012 OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS.

WHEREAS, the Unified Government of Wyandotte County/Kansas City, Kansas (the “Unified Government”), desires to promote, stimulate and develop the general welfare and economic prosperity of Wyandotte County/Kansas City, Kansas and their inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

WHEREAS, the Unified Government issued its Taxable Multifamily Housing Revenue Bonds (The Heights at Delaware Ridge Project), Series 2012 (the “Bonds”), in the aggregate maximum principal amount of $21,000,000, pursuant to a Trust Indenture dated as of July 1, 2012 (the “Indenture”), by and between the Unified Government and Security Bank of Kansas City, as trustee (the “Trustee”), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial multifamily housing project, including land, buildings, structures, improvements, fixtures, machinery and equipment, located in Kansas City, Kansas (the “Project”); and

WHEREAS, the Project was leased by the Unified Government to Speedway Partners, LLC, a Kansas limited liability company (“Original Company”), pursuant to a Lease Agreement dated as of July 1, 2012, as supplemented (the “Lease Agreement”), by and between the Unified Government and the Original Company; and

WHEREAS, the Unified Government and the Original Company entered into a Performance Agreement dated as of July 1, 2012, as supplemented (the “Original Performance Agreement”); and

WHEREAS, the Original Company assigned its interest in the Lease Agreement and the Performance Agreement to Speedway Heights, LLC, a Kansas limited liability company (the “Company”); and

WHEREAS, the Unified Government and the Company desire to amend and restate the Original Performance Agreement by execution of an Amended and Restated Performance Agreement (the “Performance Agreement”);

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, AS FOLLOWS:

Section 1. Authorization and Approval of Performance Agreement. The governing body of the Unified Government hereby approves the Performance Agreement with the Company in substantially
the form presented to and reviewed by the governing body of the Unified Government (copies of which documents, upon execution thereof, shall be filed in the office of the Unified Government Clerk), with such changes therein as shall be approved by the officers of the Unified Government executing such document, such officers’ signatures thereon being conclusive evidence of their approval thereof.

Section 2. Further Authority. The Mayor/CEO is hereby authorized and directed to execute and deliver the Performance Agreement in substantially the form as presented to the Governing Body, with such revisions as the Mayor/CEO shall deem appropriate, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance (copies of said documents shall be filed in the records of the Unified Government) for and on behalf of and as the act and deed of the Unified Government. The Unified Government Clerk is hereby authorized and directed to attest to and affix the seal of the Unified Government to the aforementioned documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

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

PASSED by the Board of Commissioners of the Unified Government of Wyandotte County/Kansas City, Kansas this _______________th day of March, 2015.

By: ________________________________
     Mayor/CEO of the Unified
     Government of Wyandotte County/
     Kansas City, Kansas

(Seal)

Attest:

By: ________________________________
     Unified Government Clerk
AMENDED AND RESTATED PERFORMANCE AGREEMENT

Dated as of March 19, 2015

BETWEEN THE

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

AND

SPEEDWAY HEIGHTS, LLC

Prepared By:
Gilmore & Bell, P.C.
Kansas City, Missouri
AMENDED AND RESTATED PERFORMANCE AGREEMENT

THIS AMENDED AND RESTATED PERFORMANCE AGREEMENT, dated as of March 19, 2015 (the “Agreement”), between the UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, a municipal corporation organized and existing under the laws of the State of Kansas (the “Unified Government”), and SPEEDWAY HEIGHTS, LLC, a Kansas limited liability company (the “Company”);

WITNESSETH:

WHEREAS, the Unified Government is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to acquire, construct and improve certain facilities for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for said projects, and to issue revenue bonds for the purpose of paying the cost of any such facilities;

WHEREAS, pursuant to such authorization, the governing body of the Unified Government passed and approved an Ordinance authorizing the Unified Government to issue its Taxable Multifamily Housing Revenue Bonds (The Heights at Delaware Ridge Project), in one or more series, in the principal amount of not to exceed $21,000,000 (the “Bonds”), for the purpose of acquiring, constructing and improving a commercial multifamily housing facility, including buildings, structures and improvements (the “Project”, which is more fully described in the Application for Issuance of Multifamily Housing Revenue Bonds submitted to the Unified Government by the Company and attached hereto), and authorizing the Unified Government to lease the Project to Speedway Partners, LLC, a Kansas limited liability company (the “Original Company”) pursuant to a Lease Agreement (the “Lease Agreement”) to be entered into by and between the Unified Government, as lessor, and the Original Company, as lessee, at the time the Bonds are issued;

WHEREAS, the Unified Government is authorized and empowered under the Act and K.S.A. 79-201a, as amended (the “Abatement Statute”) and Resolution No. R-92-09 of the Unified Government to exempt from ad valorem taxation all or any portion of the Project financed with the proceeds of the Bonds, subject to the limitations set forth in the Abatement Statute and this Agreement; and

WHEREAS, pursuant to an Assignment and Assumption of Performance Agreement dated May ____, 2014 the Original Company assigned all of its obligations under the Performance Agreement dated as of July 1, 2012 (the “Original Performance Agreement”) to the Company and the Company assumed all of the obligations of the Original Company under the Original Performance Agreement;

WHEREAS, the Unified Government and the Company desire to amend and restate the Original Performance Agreement by entering into this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the Unified Government and the Company hereby represent, covenant and agree as follows:
ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. The following words and terms as used herein shall have the following meanings:

“Abatement Statute” means K.S.A. 79-201a, as amended.

“Ad valorem taxes” or “ad valorem taxation” means all property taxes imposed on real or personal property (including fixtures) and eligible for exemption pursuant to the Abatement Statute.

“Agreement” means this Performance Agreement dated as of March 19, 2015, between the Unified Government and the Company, as from time to time amended and supplemented in accordance with the provisions hereof.

“Application” means the Application for Multifamily Housing Revenue Bonds dated September 15, 2010 and filed with the Unified Government by the Company in connection with the request for the issuance of the Bonds, a copy of which is attached hereto as Exhibit A.

“Board of Tax Appeals” means the State of Kansas Board of Tax Appeals.

“Bond Financed Portion of the Project” means that portion of the Project financed in whole from the proceeds of the Bonds as evidenced by the requisitions submitted by the Company to the bond trustee in accordance with Section 2.7 hereof.

“Bonds” means the Unified Government’s Taxable Multifamily Housing Revenue Bonds (The Heights at Delaware Ridge Project), Series 2012, in the principal amount not to exceed $21,000,000.

“Company” means Speedway Heights, LLC, a Kansas limited liability company, and its successors and assigns.

“Event of Default” means any Event of Default as described in Section 5.1 hereof.

“Exempt Period” means 2013 through 2022, inclusive, subject to Section 2.4 hereof.

“Exempt Property” means all Property that is exempt from taxation pursuant to K.S.A. 79-201(a) Second by reason that such property was constructed or purchased with the proceeds of the Bonds authorized by and in accordance with the Abatement Statute.

“Property” means all real and personal property subject to taxation pursuant to K.S.A. 79-101.

“Project” means the acquisition, construction and improvement of a commercial multifamily housing facility, all located in Wyandotte County at Delaware Parkway and 130th Street, Kansas City, Kansas, and shall also include any additional projects as described in the Application.

“Project Costs” means all costs and expenses of every nature paid after November 18, 2010, from proceeds of the Bonds and relating to the acquisition, construction, and equipping of the Project.
“Project Site” means all of the real property described in Exhibit B attached hereto and by this reference made a part hereof.

“Tax Payment” means an amount equal to the amount set forth in Section 2.3 hereof.

“Unified Government” means the Unified Government of Wyandotte County/Kansas City, Kansas.

ARTICLE II
EXEMPTION; PAYMENTS IN LIEU OF TAX

Section 2.1. Unified Government to File for Exemption. During the Exempt Period, and so long as the Unified Government owns title to the Project, the Unified Government agrees to use its best efforts to cause the Bond Financed Portion of the Project to be Exempt Property.

Section 2.2 Agreement to Make Tax Payments. The Company covenants and agrees that, for each calendar year during the Exempt Period that the Bond Financed Portion of the Project is Exempt Property, the Company will make a payment in lieu of tax to the Unified Government (“Tax Payment”) (or, if the Unified Government shall direct, to the County Treasurer). For each calendar year, the Tax Payment with respect to such calendar year shall be due and payable on or before December 20th.

Section 2.3. Amount of Tax Payment. Each Tax Payment shall be equal to the following amount for each year based on the following schedule:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$41,799.68</td>
</tr>
<tr>
<td>2</td>
<td>$152,409.25</td>
</tr>
<tr>
<td>3</td>
<td>$155,457.43</td>
</tr>
<tr>
<td>4</td>
<td>$158,566.58</td>
</tr>
<tr>
<td>5</td>
<td>$179,674.77</td>
</tr>
<tr>
<td>6</td>
<td>$182,909.53</td>
</tr>
<tr>
<td>7</td>
<td>$186,208.99</td>
</tr>
<tr>
<td>8</td>
<td>$189,574.43</td>
</tr>
<tr>
<td>9</td>
<td>$193,007.18</td>
</tr>
<tr>
<td>10</td>
<td>$196,508.59</td>
</tr>
</tbody>
</table>

Section 2.4. Term of Agreement. This Agreement shall become effective upon execution, and subject to earlier termination pursuant to the provisions of this Agreement (including particularly the following sentence and Article V hereof), shall terminate on April 1, 2023, which is the projected date of the final Tax Payment. This Agreement shall automatically terminate prior to such time in the event the Bonds (or any bonds issued to refund the Bonds) are no longer outstanding.
Section 2.5. No Abatement of Special Assessments. The Unified Government and the Company hereby agree that the Abatement Statute and any tax abatement with respect to the Project shall not apply to special assessments. In the event special assessments are ever abated, the Company hereby agrees that 100% of the amount of such abated special assessments shall be paid to the Unified Government at the times and in the manner that Tax Payments are paid to the Unified Government pursuant to Section 2.2 hereof.

Section 2.6. Obligation of Unified Government to Effect Tax Abatement. The Unified Government agrees to use its best efforts to cause the Bond Financed Portion of the Project to be Exempt Property, and agrees to make all filings required by the Wyandotte County Board of County Commissioners or the Board of Tax Appeals; provided, however, the Unified Government shall not be liable for any failure of the Board of Tax Appeals to effect the exemption permitted by the Abatement Statute. The Unified Government covenants that it will not knowingly take any action which the Unified Government has knowledge may cause the Bond Financed Portion of the Project to no longer be Exempt Property. In the event the Bond Financed Portion of the Project is determined to no longer be Exempt Property, the Unified Government shall, at the Company’s request, cooperate with the Company in all reasonable ways to cause the Bond Financed Portion of the Project to be Exempt Property, including cooperating with the Company in any related litigation. The Company agrees to pay to the Unified Government the costs that the Unified Government incurs (including legal fees and expenses) in cooperating with the Company in the manner required by this Section.

Section 2.7. Compliance. The Company certifies that the portion of the Project financed with the Bonds will be substantially complete by June 30, 2014. Upon request the Company shall provide the Unified Government with (i) copies of the requisitions submitted by the Company to the bond trustee in accordance with the Lease Agreement for the preceding calendar year, (ii) a list containing a brief description and the amount of all costs of the Bond Financed Portion of the Project, and (iii) the total costs of the Project, all in such reasonable detail as the Unified Government shall request.

Section 2.8. Value of the Project Not Determined By Bonds. The Unified Government and the Company acknowledge that it is not the intent of the parties that the principal amount of the Bonds be used for the purpose of determining the appraised value of the Project or any portion thereof for tax purposes.

Section 2.9. Classification; Limitation on Company’s Right To Protest. During the term of this Agreement, the Company agrees that it will not, without the written consent of the Unified Government, (i) seek to change the classification of all or any portion of the Project Site from commercial to another classification, or (ii) contest the reclassification of all or any portion of the Project Site to commercial.

Except as set forth in the preceding paragraph, nothing in this Agreement shall be construed to limit or in any way restrict the ability of the Company to utilize any provision of Kansas law to appeal, protest or otherwise contest any property tax valuation, assessment or similar action with respect to the Project Site or any portion thereof.

Section 2.10. Credits for Tax Payments; No Duplicate Tax Liability. Nothing in this Agreement shall be construed to require the Company to make duplicate tax payments. The Company shall receive as a credit against its obligations to pay the Unified Government Tax Payments, the amount of any ad valorem taxes (other than special assessments) paid by the Company to the County to the extent that the amounts paid to the County include any taxes due with respect to the Exempt Property. In furtherance of this Agreement, the Tax Payments shall be reduced (but not below zero) by any actual ad valorem tax
Section 2.11. No Abatement on Appraised Value of Future Facility Additions. In the event any Future Facility Additions are determined to be Exempt Property as a result of the issuance of the Bonds, this Agreement or for any other reason, so long as this Agreement remains in effect, the Company hereby agrees that 100% of the amount of such abated ad valorem taxes attributable to the Future Facility Additions shall be paid to the Unified Government at the times and in the manner that Tax Payments are paid to the Unified Government pursuant to Section 2.2 hereof. This provision shall not be construed as restricting the Company from applying to the Unified Government or to any other governmental entity for any future tax abatement in connection with the Future Facility Additions.

Section 2.12. Tax Abatement Order; Adjustment of Tax Payment. The Unified Government and the Company acknowledge that, prior to the Bond Financed Portion of the Project being determined to be Exempt Property, the Unified Government must obtain on behalf of the Company an order from the Board of Tax Appeals approving tax abatement on the Bond Financed Portion of the Project for the Exempt Period. In the event the Board of Tax Appeals issues an order stating that less than 100% of the Bond Financed Portion of the Project is Exempt Property, the parties agree that the Tax Payment shall be decreased by an amount necessary to result in the sum of the new Tax Payment plus the payment of ad valorem taxes by the Company with respect to the Bond Financed Portion of the Project is equal to the original Tax Payment. In the event the Board of Tax Appeals issues an order stating that none of the Bond Financed Portion of the Project is Exempt Property, then the Tax Payment shall be reduced to 0.

Notwithstanding the foregoing, if (i) the entire Bond Financed Portion of the Project is not determined to be Exempt Property, or (ii) the Board of Tax Appeals issues an order that less than 100% of the Bond Financed Portion of the Project is Exempt Property, and such determination or order is a result of the Company’s failure to comply with the terms and provisions of this Agreement (after any applicable notice and cure period), the Unified Government shall be under no obligation to decrease the Tax Payment as provided in this Section. Furthermore, in no event shall the Unified Government be under any obligation to make any payment to the Company as a result of the Board of Tax Appeals determining that less than 100% of the Bond Financed Portion of the Project is Exempt Property.

ARTICLE III
COVENANTS OF THE COMPANY

Section 3.1. Inspection. The Company agrees that the Unified Government and its duly authorized agents shall have the right at reasonable times (during business hours), subject to at least 48 hours advance notice and to the Company’s usual business proprietary, safety and security requirements, to enter upon the Project Site to examine and inspect the Project and, upon five (5) business days’ notice to the Company, to inspect the records of the Company.

Section 3.2. Compliance with Laws. The Project will comply in all material respects with all applicable building and zoning, health, environmental and safety ordinances and regulations and all other applicable laws, rules and regulations.

Section 3.3. Construction. The Project will be constructed, equipped and operated in a manner which is consistent with the description of the Project herein. In the event the Project is constructed in a manner which the Unified Government determines, in its reasonable discretion, is
materially inconsistent with the description of the Project herein, the Unified Government reserves the
right to declare an Event of Default in accordance with Section 5.1 hereof.

Section 3.4. Payment of Fees and Reimbursement or Payment of Costs.

(a) The Company agrees to pay to the Unified Government the standard fees charged by the Unified Government in connection with tax abatement projects and the issuance of industrial revenue bonds. These fees include, but are not limited to, an initial application fee, a service fee that is due at the time of issuance of the Bonds and an annual administrative fee not to exceed $1,000. The Company acknowledges receipt of a fee schedule from the Unified Government and acknowledges that the fee schedule may be adjusted or amended by the Unified Government at any time.

(b) The Company agrees to promptly reimburse the Unified Government, upon receipt by the Company of an invoice from the Unified Government, for any amounts that the Unified Government pays to any other party as a result of the Unified Government pursuing, obtaining or maintaining the tax abatement granted to the Company pursuant to this Agreement. These costs shall include, but shall not be limited to, all fees and expenses for filings with the Board of Tax Appeals (including the existing $250 application fee and the $250 annual administration fee), legal notice publication expenses, and the costs and expenses of the Unified Government’s legal counsel. The Company agrees that the Unified Government may, in lieu of seeking reimbursement from the Company, forward any invoice received by the Unified Government to the Company, which invoice is for a cost which the Unified Government could seek reimbursement from the Company pursuant to this paragraph, and the Company agrees to promptly pay such invoice and to promptly provide the Unified Government with evidence of such payment.

ARTICLE IV
SALE AND ASSIGNMENT

The benefits granted by the Unified Government to the Company pursuant to this Agreement shall belong solely to the Company and such benefits shall not be transferred (other than to an affiliate of the Company), assigned, pledged or in any other manner hypothecated without the express written consent of the Unified Government; provided, nothing herein shall preclude the Company from assigning or pledging its interest in the Project so long as the Company continues to occupy the Project and otherwise remains responsible for its undertakings herein.

ARTICLE V
DEFAULT AND REMEDIES

Section 5.1. Events of Default. If any one or more of the following events shall occur and be continuing after written notice from the Unified Government to the Company, it is hereby defined as and declared to be and to constitute an “Event of Default” hereunder (but subject to the notice and cure periods set forth in Section 5.2 below):

(a) the Company shall fail to perform any of its obligations hereunder;
(b) the Company shall breach any covenant contained herein or any representation of the Company contained herein shall prove to be materially false or erroneous; or

(c) the Company shall be in default under the Lease Agreement.

Section 5.2. Remedies on Default. Upon the occurrence of an Event of Default hereunder, the Company shall be given 60 days (or such longer period as requested by the Company and consented to by the Unified Government, which consent shall not be unreasonably withheld, conditioned or delayed so long as the Company is diligently pursuing to cure such Event of Default), following written notice by the Unified Government to the Company of the occurrence of such Event of Default, to cure such Event of Default. If such Event of Default is not cured within such time, this Agreement may be terminated by written notice to the Company from the Unified Government. Such termination shall be effective immediately following delivery of such written notice. Upon the termination of this Agreement, the Company shall make a payment to the Unified Government (or as the Unified Government may otherwise direct) in an amount equal to the sum of (i) all due but unpaid Tax Payments attributed to prior calendar years, (ii) the pro rata total Tax Payments that would be due with respect to the current calendar year, (iii) the pro rata amount of any taxes that would be due for the remaining portion of the current calendar year assuming the Bond Financed Portion of the Project were not Exempt Property, and (iv) the amount of any costs and attorneys’ fees incurred by the Unified Government as a result of such Event of Default and in enforcing this Agreement.

Section 5.3. Payments on Defaulted Amounts. Any amounts due hereunder which are not paid when due shall bear interest at the interest rate imposed by Kansas law on overdue ad valorem taxes from the date such payment was first due. In addition, amounts payable hereunder in lieu of ad valorem taxes which are not paid when due shall be subject to the same penalties imposed by Kansas law on overdue ad valorem taxes.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.1. Notice and Waiver of Company. The Unified Government reserves the right to grant tax abatement for projects that are located adjacent to or in the proximity of the Project or for projects that are located elsewhere within the Unified Government but are similar to the Project in amounts that are above or below the amounts set forth herein. The Company acknowledges and agrees that the Tax Payment, the Exempt Period and the other terms of the tax abatement granted by the Unified Government with respect to such other projects may be more favorable than the terms provided for in this Agreement. As a condition to the Unified Government entering into this Agreement, the Company waives any claim it may have against the Unified Government as a result of the Unified Government granting tax abatement to other projects with terms that are more favorable than the terms provided for in this Agreement. Additionally, the Company agrees that it will not request that the Unified Government modify this Agreement because the Unified Government plans to grant or has granted tax abatement to another project or projects on terms that are more favorable than the terms provided for in this Agreement. Upon the occurrence of the Company’s breach of its obligations set forth in this Section, the Unified Government shall have the right to immediately terminate this Agreement and require that the Company pay to the Unified Government the amounts specified in clauses (i) through (iv) of Section 5.2.

Section 6.2. Severability. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.
Section 6.3. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Kansas.

Section 6.4. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 6.5. Waiver. The Unified Government and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the Unified Government under the Lease Agreement. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company in any bankruptcy court.

Section 6.6. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be deemed duly given (i) three days after being mailed by registered or certified mail, postage prepaid, or (ii) one day after being sent by overnight delivery or other delivery service which requires written acknowledgment of receipt by the addressee, addressed as follows:

(a) To the Unified Government:

Unified Government of Wyandotte County/Kansas City, Kansas
One Municipal Office Building
701 North 7th Street
Kansas City, Kansas 66101-3064
Attn: Unified Government Clerk

(b) To the Company:

Speedway Heights, LLC
12929 Delaware Parkway
Kansas City, Kansas 66109-3302
Attention: Greg Sanders

The Unified Government and the Company may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent. Any notice may be given by the attorney for such party.

Section 6.7. Estoppel Certificate. The Unified Government agrees it will, from time to time, upon request by the Company, execute and deliver to the Company and to any parties designated by the Company, within ten (10) days following demand therefor, an estoppel certificate on the Company’s form certifying (i) that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same are in fully force and effect as so modified), (ii) that there are no defaults hereunder (or specifying any claimed defaults), and (iii) such other matters as may be reasonably requested by the Company.

Section 6.8. Further Assurances. The parties each agree to do, execute and acknowledge and deliver any and all other documents and instruments and to take all such further action as shall be
reasonably necessary or reasonably required in order to fully carry out this Agreement and to fully consummate and effect the transactions contemplated hereby.

Section 6.9. Authority, etc. Each party to this Agreement represents and warrants to each other party as follows: (i) that such party has the requisite power and authority to enter into and perform this Agreement; (ii) that this Agreement has been duly authorized by all necessary action on the part of such party; (iii) that the execution and delivery and performance by each party of this Agreement will not conflict with or result in a violation of such party’s organizational documents or any judgment, order or decree of any court or arbiter to which such party is bound; and (iv) that this Agreement constitutes the valid and binding obligation of such party, and is enforceable against such party in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, creditor’s rights and other similar laws.

Section 6.10 Electronic Storage. The parties agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Except with respect to the obligations of the Lessee under Sections 7.3 and 10.5 of the Lease and the insurance obligations under Article VII of the Lease, if any of the provisions of this Agreement conflict with the terms of the Note insured by the Secretary of Housing and Urban Development (“HUD”), Security Instrument, or HUD Regulatory Agreement executed by Lessee in connection with FHA Project number 084-35374 (“HUD Loan Documents”), the provisions of the HUD Loan Documents shall control.

[The remainder of this page intentionally left blank.]
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

(SEAL) By: ______________________________
Mayor/CEO

ATTEST:

By: ______________________________
Unified Government Clerk
SPEEDWAY HEIGHTS, LLC,
a Kansas limited liability company

By:Greg Sanders
Name:Greg Sanders
Title:Manager
EXHIBIT A

APPLICATION FOR THE ISSUANCE OF INDUSTRIAL REVENUE BONDS
EXHIBIT B

PROJECT SITE

LOT 1, THE HEIGHTS AT DELAWARE RIDGE ADDITION, A SUBDIVISION IN THE CITY OF KANSAS CITY, WYANDOTTE COUNTY, KANSAS