I. Call to Order / Roll Call

II. Approval of standing committee minutes for July 16, 2012.

III. Committee Agenda

Item No. 1 - REPORT: 2012 FIREWORKS SUMMARY

Synopsis:

No action required.
Tracking #: 120237
Item No. 2 - ORDINANCE: UPDATE TO CHAPTER 35 (TRAFFIC)

Synopsis:
An ordinance updating Chapter 35 (Traffic) to reflect changes made by Kansas Legislature in 2011 and 2012, submitted by Brandy Nichols, Legal. New sections relating to refusal to submit to alcohol or drug test and operation of vehicle when a habitual violator have been added.
Tracking #: 120235

Item No. 3 - RESOLUTION: FUNDING AGREEMENT WITH EDWARDSVILLE

Synopsis:
A resolution authorizing the Mayor/CEO to execute a funding agreement between the Unified Government and the city of Edwardsville for Kansas Department of Transportation federal funds Project KDOT #105 C-3936-01, submitted by Bill Heatherman, County Engineer. KDOT has committed funds for the construction of Edwardsville Drive from 104th Street to 600 feet north of Shelton Drive. Since these KDOT funds are administered through the county, the UG must approve the release of $552,000 in federal funds back to KDOT in exchange for $496,800 in-state funds, which comes with less administrative burden and schedule constraints. This action has no direct impact on the UG budget.
Tracking #: 120230

IV. GOALS AND OBJECTIVES

Item No. 1 - GOALS AND OBJECTIVES

Synopsis:
The Unified Government Commission conducted a strategic planning process resulting in specific goals and objectives adopted by the commission on May 17, 2012. Commission has directed that the goals and objectives appear monthly on respective standing committee agendas to assure follow-up and action toward implementation.

a. Infrastructure. Improve and finance infrastructure to comply with federal regulations, encourage private investment, and build community.
b. Environment. Ensure natural resources are protected to the maximum extent possible; opportunities for additional natural areas are pursued; and the park system is enhanced.
c. Public Safety. Provide the public's safety through best practices with results in
where they want to go including work, services, and amenities.

Tracking #: 120155

V. Public Agenda

Item No. 1 - APPEARANCE: DELANEY MOORE

Synopsis:
Appearance of Delaney Moore, Prescott Neighborhood Group, to express concerns about the moratorium on sign laws specifically relating to Central Avenue.
Tracking #: 120238

Item No. 2 - APPEARANCE: KEVIN DRUM

Synopsis:
Appearance of Kevin Drum, 115 S. 25th St., to protest against paying for residential trash pickup and a telephone pole installed on 25th St. between 113 S. 25th and his residence.
Tracking #: 120239

VI. Adjourn
The meeting of the Public Works and Safety Standing Committee was held on Monday, July 16, 2012, at 6:00 p.m., in the 6th Floor Human Resources Training Room of the Municipal Office Building. The following members were present: Commissioner Mendez, Chairman; Commissioners Murguia, Markley, Cooley, Ellison, and BPU Board Member Loretta Colombel.

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

Approval of standing committee minutes for June 18, 2012. **On motion of Commissioner Ellison, seconded by BPU Board Member Colombel, the minutes were approved.** Motion carried unanimously.

Committee Agenda:

**Item No. 1 – 120191…An ordinance relating to the regulation of scrap metal sales to include changes in state law, submitted by Misty Brown, Legal.**

**Misty Brown, Legal,** appeared stating this is a rather lengthy ordinance. In 2008 the Unified Government first adopted a scrap metal ordinance. In the last couple of years, the state has made some significant changes to the ordinance. When we first adopted it, we tried to mirror what Kansas City, MO, did to provide a uniform approach in the metropolitan area to help eliminate scrap metal theft and then the subsequent sales of it. With the changes in the Kansas City, MO ordinance and state law, we needed to take a look at our ordinance. In spite of that, basically every provision of the scrap metal ordinance was changed mostly to comply with state law but also to mirror what Kansas City, MO, has done.

We met with stakeholders in the scrap metal industry to go over it; to discuss the changes. With what we have presented before you is a very, I think, agreeable ordinance. We have
representatives from the scrap metal industry here today who would say that yes, they are in support of it.

Some of the new restrictions would be that all scrap metal dealers have to have an electronic database that records the sales and keeps them for a period of two years. There’s also a requirement for a photo and/or video recording system so that the seller bringing in the metal, their photo is taken as well as a picture of their car. This is kept for 30 days so that you can identify what happens or who brought in the metal; easier for law enforcement to track. Sales have to be paid using, if it’s over $500, a pre-numbered check or a method of paying through an electronic payment system where it actually photographs who gets the money. There’s a lot to it, but it seems like the new restrictions will help law enforcement and also the scrap metal industry in preventing metal thefts in the metropolitan area.

**Action:** BPU Board Member Colombel made a motion, seconded by Commissioner Ellison, to approve and forward to full commission. Roll call was taken and there were six “Ayes,” Colombel, Ellison, Cooley, Markley, Murguia, Mendez.

**Item No. 2 – 120192…A resolution adopting an updated Local Emergency Operations Plan (LEOP), submitted by Bob Evans, Emergency Management.**

**INTRODUCTION- EMERGENCY OPERATIONS PLAN**

- The primary purpose of the County Emergency Operations Plan is to provide guidance to help minimize the loss of lives, prevent injuries, protect property, safeguard the environment and preserve the local economy in the event of a major emergency.

- Each County is required to have an Emergency Operations Plan to receive funding.

- Plan covers all cities in Wyandotte County
**Bob Evans**, Emergency Management Director, appeared stating as you know, over the years the state of Kansas requires that all of the 105 counties in the state have an emergency operations plan. They usually last, in this case, about five years. They’re governed by both the Kansas standards and the Kansas standards really reflect the federal rules in terms of the scope of what should be in the plan. But beyond those requirements from other folks, it’s really our local guide at the county level in terms of how we do business when we have a large emergency or an incident and we need to work together.

The plan, as you’ve gotten copies of it electronically or in paper, it’s really a revision of our current plan. It has several pieces to it. If I could take a few minutes and maybe walk you through the pieces that are in there. Keep in mind that, again, it’s aimed entirely at having people agree ahead of time that they will carry out their responsibilities and that they’ll do it in certain fashion. They’ll work together. There will be a chain of command. There’ll be people in charge. We will also document our costs and document our operations so that obviously for the costs incurred locally that we may have to pay for, but also in many of the larger disasters, for instance the flooding last year. Although we didn’t have a lot of damage except in the area along 435 and the farm levies there, we were able to recover through the state actions and the documentation about $1.5 million for different jurisdictions in Wyandotte County out of the Missouri River flooding.

It’s important that everybody do their job as part of what goes on here. Again, our job at the Emergency Operations is to present a plan that emergency and first responders and operating agencies can use. Each county is required to have one. I will tell you that the main jurisdictions that have to sign it legally at this point are Wyandotte County as the Unified Government and the city of Bonner Springs and the city of Edwardsville. After consideration here by the Unified Government, the Board of County Commissioners, we will also take the same kind of a resolution for consideration by the two other cities in the county so it becomes their official plan also. They don’t have to do a separate one that way; it’s one for the entire county.
We do cover the entire county including the unincorporated area down south of Bonner Springs, so all of Wyandotte County is covered in this plan.

What happens during an emergency is that let’s say Bonner Springs. The city of Bonner Springs really has command of the operations there. Other parties go in and we assist them whether it be a fire commander from other fire departments or KCK Fire, police commander out of KCK PD, and we’ve done that on a number of incidents in the last couple of years so that we’re there if they need resources. That unified command operates at the city level. If there’s a countywide operation, we will always operate the Emergency Operations Center even for the single city operation. We will provide resources, we’ll coordinate with the state, and we’ll go ask for appropriate resources that are needed to take care of the incident.
Seventy years ago, there were people down in the east part of the county here. They were at a civil defense meeting. In the background you’ll see a picture of the data boards. So they listed all the services they had to provide, the utilities that were out and the information. The key was they knew they volunteered and they were there as a group and they were going to take care of business and make decisions and that’s exactly what we do today. It hasn’t changed any at all. There’s more technology, there’s more information, there’s some higher risks because there are more people in the county at this point, but pretty much the same kind of doing business. From the emergency management standpoint, this plan and what we do is to operate the Emergency Operations Center and handle the technology that’s associated with it. We work with the departments.
WYANDOTTE COUNTY EMERGENCY MANAGEMENT IS RESPONSIBLE FOR OVERALL WYANDOTTE COUNTY EOC ACTIVITIES WHICH INCLUDE:

- 1. Maintaining operational readiness of the EOC
- 2. Updating standard operating procedure
- 3. Developing checklists
- 4. Message tracking
- 5. Conducting briefings
- 6. Activating Mutual Aid Agreements
- 7. Coordinating with State and Federal agencies

The major change in this plan today is a format wise is that there are lists of specific things that people are saying they’re going to do. We’ll run those for those people so for a tornado, we would ask the Board of Public Utilities to do certain things and take responsibility for them. They’ll know that by looking at this. We would also be happy to go talk to the Board of Public Utilities. Staff has been involved in the process and we have talked to the other major players,
many of them, at this point. We’ve had over 100 people that have participated in the process. I know organizational charts are something that really are hard to spend a lot of time on, but effectively there’s somebody in charge, there’s a process internally here. We have added some people to handle in a little better fashion those under ADA or special needs and added that kind of a contact or liaison very high in the organization to try to pay attention to people who have those special needs.

Also we have people operationally in the field. We have people doing planning. We have people doing logistics and we have to finance all of this. Those are the four things that we do in this flow chart.

STANDARDS AND REQUIREMENTS- 2012

- Validate/Revise/Update Operational Elements
- Ensure consistency with the Kansas Planning Standards
- Incorporate ADA Compliance
- Considerations for children in disasters
- Considerations for family pets in disasters
- Develop Regional Support capabilities for large incidents

We made these changes from the last one to the one that’s proposed here. We’ve updated things, updated the technology, and the resources we have.
We’ve focused on complying with and doing a better job at handling those services or responses to people who have special needs.

We’ve tried to focus and just beginning the work with children in disasters. At this point, especially the last several years, some of the national disasters—the impact on families and children are substantial. There are nice programs coming and there are ways to build
partnerships with many of our local agencies and some of the state agencies. They need special attention as soon as that happens in schools, with other counseling services, and with other programs. I think the Joplin experience certainly if you’ve been watching the TV and seen what they’ve focused on in terms are the kids, taking care of the kids in that community. It’s been really a nice thing to see.

We’re also obligated to do more about pets. Now it sounds strange, I know. In some respects we’re responsible for pets, but not for people. No, not really, but pets are important for a lot of reasons. You saw that in Katrina. You saw where people do not leave their home if they can’t handle their pet so we’ve tried to pay attention, especially on the Kansas side of the three counties—Leavenworth, Wyandotte, Johnson—and put some dollars out of grants and some planning work into putting together services so that if we had to handle an extra 200 or 500 or 600 pets because of people going to mass shelters or they were picked up liked they were during the floods or during a tornado, that we could accommodate them and handle them and get them back to their owners. It takes a lot of work and there are people who have very good hearts and spend a lot of time that we’d like to coordinate with and we’ve been working with them to do that. That’s a brand new thing, I think for us, in our plan at this point.
The last point in terms of changes—the region really works together well so if we have an event here that we can’t handle, and emergency services operations in this county—the number of police, the training, fire training, EMS, public works, is just outstanding. They can handle things and a lot of parts of Kansas are, a “ya’ll come” kind of situation, but you do get to a point where there are risks that are out there that can harm a lot of people. We’ve had exercises where we’ve asked the entire region to bring their ambulance services to distribute people to the hospitals, do that large venue kind of an exercise or a large event. The region has planned and we’ve incorporated their plans into ours in terms of how they do communications, how they do work with public health and EMS. Those plans work together and we would be able to call on those resources on a regional basis to take care of things here in Wyandotte County. We would also go their way. So during the recent—small thing—during the recent All Star Game, they operated their emergency operations center; we helped staff that just a little bit so that we were present in there and if there was something that happened, we could be of use to them. We share on a regional basis at this point.

We’ve added additional emphasis on special needs at this point in time. We’ve tried to focus more on children and we’ll work with local agencies as part of this plan to have a response and a recovery part that will deal more with children. We’re going to focus more on pets and have a working ability to bring in the equipment; the trained people to make sure pets are taken care of well.

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During last year’s Missouri River flooding in Leavenworth, their animal control operation was flooded so they had to move their whole operation to someplace else on a temporary basis. They had to call on other counties and other services to bring in pens and equipment and people and be able to track and take care of the animals that were found or had to be put someplace because of sheltering. It was required because of the flooding in Leavenworth which was more severe than here in the county. It was a good wakeup call on the animal side and pet side and we’ll try to build on that.

I will remind you that obviously this is planning that we’re doing here, but we’re in that kind of second box there. Then you have the actual response to a disaster and then you have to work together to recover to get our businesses opened, get money flowing, get homes rebuilt, get permits issued, reconnect utilities, and those kinds of things. Then you start all over again like we had after the Missouri River flooding. There were things that had to be fixed at the levies; that’s mitigation. Public Works fixed valves. Water Pollution Control did repair work and some improvement work so that we’re in better shape for the next event, so that’s mitigation.
We had 15 meetings, 100 people. The three cities were represented here in the process. Of the 98 participants, we had probably 45 to 50 organizations including all the utilities and BPU. Staff participated in those sessions. We had people from the region, private sector, not-for-profit, and we had volunteer agencies.
What’s in this plan? It’s a basic plan and it simply says how we’re going to do business and who’s in charge. That follows national ways to do business that is one person in charge, several people he’s responsible to and they take care of other responsibilities like planning, etc.

Emergency Support Function (ESF)

- Defines roles and responsibilities for coordinating emergency response and recovery efforts of responding agencies.
- Groups government, volunteer and private sector capabilities by function into an organizational structure to provide support of resources and services.

Emergency Support Functions

- ESF #1: Transportation
- ESF #2: Communications
- ESF #3: Public Works and Engineering
- ESF #4: Firefighting
- ESF #5: Emergency Management
- ESF #6: Mass Care, Housing and Human Services
- ESF #7: Resource Management
- ESF #8: Public Health and Medical Services
- ESF #9: Search and Rescue
- ESF #10: Oil and Hazardous Materials Response
- ESF #11: Agriculture and Natural Resources
- ESF #12: Energy & Utilities
- ESF #13: Public Safety and Security
- ESF #14: Long-term Community Recovery and Mitigation
There are people in charge of really 15 categories of stuff/activities whether it’s communication or transportation or public works or firefighting or hazmat oil type of things and recovery and public information. There are 15 items in here and each one of them is in the plan and each one of them has a separate component and a list of main agencies and support agencies to help them get the job done. So you can take any one of these and that’s the plan for one of those elements up there at this point in time.

Special Incident Annexes

- Biological
- Catastrophic
- Cyber
- Excessive Heat
- Metropolitan Medical Response System
- Nuclear, Radiological
- Severe Weather
- Terrorism / Law Enforcement and Investigation

There are some other things that are in this plan and some that are not entirely public, but there are cyber plans, there are some plans for other kinds of events that might occur and they’re really—I’m looking at cyber and biological. The biological is in here. The Health Department has grants that have been used as well as our medical response system grants to put us in a better capability to handle biological across the entire country. At this point in time, it’s a national effort to make the public capable of being helped and treated if there is any biological incident that occurs.

We have a lot of plans at this point in time, and the basic plan tells us how to do business and what role everybody is going to play. It’s not always the same role that they do at work every day.
We have a unified command approach. This is an exercise out at the Speedway. I think Chief Shirley is here. Chief Shirley found himself the unified commander at the MCI exercise and fire department out at the Speedway, a very challenging operation. We had over 100 participants there as well as the exercise plan called for us to handle several thousand people that might get hurt if a tornado affected that facility or that area of the county.
Again, we have portable or mobile equipment that can be used also for command.

All the incidents don’t always happen here. They happen next door. They may affect us like the ChemCentral fire in Kansas City, MO. We had a plumb that crossed the county and across KU Med and we crossed the eastside of the county and we had to obtain information and make decisions as to whether or not it was harmful to people here in the county.
I mentioned earlier that it’s just one of many plans, but it’s the core plan. We have what’s called the continuity of operations plan which is part of this. It’s coming which means if we lose ability or we lose a piece of the community or we lose technology, how do we continue to provide services? So continuity of services, how do we keep running the course? How do we run police operations if we lose those? How do we restore power if a storm comes through? We have an evacuation plan which is being required of us for the first time, metro-wide and also here in the county and that will be one of the attachments that is part of this plan. It’s being finished on a regional basis in two weeks in Kansas City, MO.

We have a medical response plan we’ve had for years. That is also built within this plan that talks about how we would respond to different kinds of major medical. With a metro plan for how we would handle ambulances in a big disaster like the Hyatt. This plan came from the Hyatt, so how do you handle a large medical event, handle ambulances and handle triage and then get them to appropriate hospitals.

We have a mass casualty plan in case an airplane crashes or something else happens that causes large causalities, mass fatalities, working with the coroner here in the metropolitan area. Then we have the regional planning that I mentioned earlier. We’ve got a lot built in here. It’s really been worked through those hundred people plus that have participated in those meeting sets.
We have used a consultant to get this done as quickly as we could to meet some deadlines we had for this year to get it done. Susan Belt behind me here is with AMack, Inc. They’ve helped us do this. Betty Amos who’s behind me here has been the project manager for the operation. I’ll say Ryan Carpenter because normally Ryan in Legal doesn’t have to read a thousand pages at a crack, but he had to review this thing. Ryan, I appreciate your help very much. He needs a pair of glasses after reading all this stuff.

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<tr>
<th>Emergency Support Function</th>
<th>Coordinating Agency (e.g.)</th>
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<tr>
<td>ESF 1-Transportation</td>
<td>Unified Government Transit Department</td>
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<td>Unified Government Public Works Department</td>
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<td>ESF 2-Communications</td>
<td>KCK Fire Department</td>
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<td>Board of Public Utilities</td>
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<td>Wyandotte County Communications Center</td>
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<td>ESF 3-Public Works &amp; Engineering</td>
<td>Unified Government Public Works Department</td>
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<td>ESF 4-Firefighting</td>
<td>KCK Fire Department</td>
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<td>Bonner Springs Fire Department</td>
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<td>ESF 6-Mass Care, Housing &amp; Human Services</td>
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<td>ESF 7-Resource Support</td>
<td>Unified Government Human Resources Department</td>
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<td>Unified Government Purchasing Department</td>
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CAMERA SNAPSHOT
PARALLEL AVE. LOOKING WEST
ICE STORM
Wyandotte County Emergency Management
CERT RACES SUPPORT

July 16, 2012
EOC SUPPORT
FIRE AND MEDICAL BRANCH

TRANSPORTATION HAZ-MAT ACCIDENTS
Linda Quinn, 2111 N. 7th St., said I wasn’t in this process. Are you eventually going to identify shelters for people? Mr. Evans said shelters have already been identified. Our partner with sheltering is the American Red Cross. We work with the American Red Cross and Metropolitan Area Now and we’ve identified shelters throughout the community, especially those that are
ADA compliant and some have more facilities if you have to keep them opened longer. We’ve also gone in with Eisenhower at the recreation center and the school building there and got a federal grant to pay for a generator so if we lose power, we could power up the whole site and continue using that.

Ms. Quinn said I’m concerned for the northeast area and I would like to know how soon will we know what areas or what buildings have been identified as shelters. Mr. Evans said we have identified those facilities. The question normally is, where is the disaster. It affects where you—you don’t want to have the shelter near the disaster. You need to move them somewhere else. The decision on which one opens for what kind of an event is made during the event and then information is put out and if necessary, to help people move to that location if necessary. I’ll be honest, our experience with sheltering since the 1993 flood, we have some immediate need to move people or help people get to a facility or after a fire or a Housing Authority building we’ve had to move people quickly in relatively short term. I mean during the 1993 flood, we had a longer duration at the shelter that was opened on 78th St., but other than that, it’s usually been just a safe place to be. At a large incident we may have a lot of people that have to get off the site. We have to move them and get them away from what’s there, but then we have to relocate them to.

Ms. Quinn said that’s understandable. What I’m basically trying to get to is, is there a shelter that’s a safe place…Mr. Evans asked for weather? Ms. Quinn said getting under tables in the school…Mr. Evans said you’re talking about weather. Ms. Quinn said yes. Mr. Evans said there is no public sheltering that’s available in any of the counties, at least the three counties here. Some buildings provide some shelter, but no formal public shelters except in some mobile home communities. Some mobile home communities have built some safe rooms in those facilities. We’ve taken the approach also since the tornado where the commission has changed the construction standards. So if you’re a multifamily new construction, they have to have safe rooms. They’re concrete rooms that are part of the design. In existing homes or in existing neighborhoods, we don’t have those at this point. Ms. Quinn said that’s why I brought it up. Mr. Evans said right. Ms. Quinn asked can we reconsider it. We have older residents and older buildings in that area and it should be something that should be identified and I’d just like for it to hit the floor and be in the minutes and that’s why I brought it up. Mr. Evans said okay, thank you.
Marcia Rupp, 2816 N. 46th St., said I just wanted to mention that anyone that’s in the room that would care to sign up for the CERT. I am a member of the CERT team. I just want to say if there is anybody in the room, we’re always welcome to bring in new people in the CERT. We really do need them. We just finished a class. I think there probably will be another class starting this next year, I’m not sure. Is that right, Bob? Mr. Evans said yes.

Mr. Evans said the CERT team is part of our volunteers in the community emergency response team.

Action: Commissioner Cooley made a motion, seconded by Commissioner Ellison, to approve and forward to full commission. Roll call was taken and there were six “Ayes,” Colombel, Ellison, Cooley, Markley, Murguia, Mendez.

Item No. 3 – 120189…Review of the Commission Neighborhood Infrastructure Program (CNIP), submitted by Bill Heatherman, County Engineer.

Dennis Hays, County Administrator, said Mr. Chairman and members of the standing committee, thanks for the opportunity to bring this item before you this evening. CNIP is a new program. We have copies of what’s contained in your agenda that will be available in a few moments for members in the audience so that they can see. As you can tell, the item is one page. It’s short; it’s brief. It’s on the back of Tab #3. Again the name of this program is Commissioned Neighborhood Infrastructure Program. This program was born out of the commission’s desire to have discretionary funds to do neighborhood improvements. This program surfaced last year during the summer of 2011. It was approved in the Unified Government budget for implementation over the next five year period. Our purpose tonight, Bill and I will walk through this and actually I’m substituting for Bob Roddy who’s out of town on vacation so you’re stuck with me—walk through this and make sure that we have this group’s input before this is advanced on to full commission for approval. But again, the purpose is to give each commissioner discretionary dollars for you to invest in your district. We’ll just walk through this. I’ll have Bill do details, but the concept is straightforward.

There is $4.4 million committed to this project over the next five year period, again approved in 2011, contained then in the 2012 Budget. There is $4 million designated in this
project for neighborhood improvements. $400,000 will be set-aside for engineering design, property acquisition, whatever associated costs may occur with the proposed projects.

The split of the funds. The $4 million amount will be split equally between the eight commission districts and the two at-large districts, making a distribution then of ten shares with the exception of District 7, represented by Commissioner Cooley, based upon prior discussions will be proportionally reduced because that district represents Bonner Springs and Edwardsville as well. Commissioner Cooley, I know in our prior discussions, the discount that you envisioned was approximately 50%. Commissioner Cooley said that’s correct. Mr. Hays said so we would have then the full amount divvied between each district commissioner and the two at-large commissioners.

There’ll be two rounds of funding. First round would be for construction in 2013 next year. The second round would then be in 2015 so the program is really a five-year program. Again, it’s a discretionary program at full discretion of the district commissioner to be used for infrastructure.

For members of the audience, we say infrastructure I suppose it’s a term, it’s probably easier to say bricks and mortar. In other words, it has to be something that’s physically constructed. It’s not a program. It’s not a salary but rather it’s an actual physical improvement, bricks and mortar. Commission has discretion to select the projects subject to final approval by the commission. Commissioners will have the primary role in selecting those in each district. There would be a list of eligible project categories that you would choose from. The program is funded from district sales tax dollars. It would be used for bricks and mortar projects that would include construction, repair, and maintenance of roads, curbs, and sidewalks. It may also be expanded but certainly includes at least those items. Mr. Heatherman will talk more about this as our county engineer, but his need is to have the respective district commissioners’ list of what you’re proposing to do next year hopefully within the next 45 days.

Commissioner Markley asked you want them by this August. Mr. Hays said if we’re going to construct them next spring, yes. Commissioner Markley said it says 2013 on our paper. Mr. Hays said would be completed by construction in 2013. Bill, you can speak to this issue because I know you’re anxious about getting the projects so you can start planning.

Bill Heatherman, County Engineer, said if it were feasible to have by August 31 that would be best for two reasons. One is to begin design because there’s a fair bit of design and consultation
that we would want to do so that we could have most of the construction by early in the construction season. The other is financing. If these are to be bonded projects, the city on an annual cycle sells the temporary notes, prepares all the paperwork for those in the fall preceding the construction year and we have to be able to name all the projects and give the descriptions. Those descriptions don’t have to have every last piece, but we have to be naming the correct streets and the correct type of work.

**Commissioner Murguia** said Mr. Heatherman, I think what Commissioner Markley is referring to is there’s just a typo on this document. Since it’s a critical date, I think that’s why she brought it up. You would like your projects by this August 2012, not 2013. **Mr. Hays** said quite noted, Commissioner. **Mr. Heatherman** said that’s correct. **Commissioner Murguia** said because I think that’s the important part. **Mr. Hays** said that is the intent. Thank you, Commissioner Markley.

**Commissioner Murguia** said I have a question about the financing. Dennis, did you say this was going to be funded ultimately by the dedicated sales tax or by sales tax in general. **Mr. Hays** said we envisioned, and Lew had described this to the commission during your earlier workshop, that what we would try and do is do this annually by using sales tax dollars going into an annualized fund of $600,000 annually. So rather than issuing bonds for the project, we could issue temporary notes then not issue long-term bonds thus reducing the interest costs of issuing bonds. That would be the model that Lew is recommending as our chief financial officer.

**Commissioner Murguia** said okay. Temporary notes, I struggle with the bonds and the temporary notes criteria. I know that when we talk about bonds and we talk about taxable versus non-taxable bonds that there are some limitations depending on the type of bonds that you can spend that money on. **Mr. Hays** said correct. **Commissioner Murguia** asked with temporary notes, are there restrictions on what that money can be spent on when you’re using temporary notes. **Mr. Hays** said the answer is yes, because temporary notes are authorized under state statutes. Jody, you may want to speak to any restrictions you can think of off the top of your head, but my recall is it’s, again, generally for bricks and mortar, for physical projects that are constructed. In this case, since we’re going to be spending $2 million in 2013 but we only have $600,000 coming into the pool, this would then enable us to go ahead and do it. But we’re just
going to carry those temporary notes for a few years until we pay them off rather than issuing bonds that would be outstanding for say 15 years and paying interest on those.

Commissioner Murguia said okay, well let me give you an example that I think might be helpful. I know that we have looked at building a grocery store, for example, in the northeast area of our community. For example, I know there are all kinds of incentives out there to be able to help a developer do that but as a commissioner that’s currently building a grocery store in her own district, I know that even with those incentives in the urban core, in the inner part of our city, it’s still very difficult to make those deals happen. There’s still a gap in funding as you know.

Mr. Hays said right. Commissioner Murguia asked so if there was a commissioner that wanted to use their money to assist with the development of a retail store in their particular area if it was used for the infrastructure piece of that property, would temporary notes restrict that. Mr. Hays said I’m not certain. Commissioner Murguia said I’m not either. Mr. Hays said I think state statutes speak to the issue of temporary notes, generally bricks and mortar, generally on public property. So I think it’s a legal question that I would defer to chief counsel and the bond counsel to give us a formal opinion on.

Jody Boeding, Chief Legal Counsel, said since I am not bond counsel, I wouldn’t speak to that but these are funded from sales tax dollars and I think they are limited in referendum that was voted on by the voters to neighborhood infrastructure and that’s roads, curbs, and sidewalks. I believe it’s the public improvements not anything that we would consider private or development. Commissioner Murguia said okay, well that’s great to know. Commissioner Mendez, I’d just like to recognize Commissioner McKiernan who has asked to make comments in regards to this issue.

Brian McKiernan, 414 N. 15th, appeared stating I just had a question and I didn’t have a chance to review this until today—while it’s not excluded, I just wanted to ask the question. It says projects need to be used for neighborhood infrastructure. I want to know if infrastructure improvements to public parks would fall under the broad umbrella of covered infrastructure. For example, trails, installation of recreational equipment, off-street parking, and those types of things if that might be included in this definition. Mr. Hays said yes, staff believes so, Commissioner. Commissioner McKiernan said excellent.

The other question that’s come up is whether or not infrastructure improvements related to the improvement or even the construction of a community center might also fall under the
Mr. Hays said that is a more difficult question to answer, but we believe having worked through this that if all commission districts spent all their money on recreation centers, we may have a problem. But if it’s one or two districts, because of the limitations on funding sources and how they’re dedicated—this is a Lew Levin question and bond counsel question—if we have one or two districts that would elect to put their dollars into a building, public building neighborhood center, we may be able to do that. Once again, it’s a decision that bond counsel would have to make and if a commissioner would opt that that’s the project you want to pursue, we would then submit that technical question to bond counsel and chief counsel for their legal opinion.

Commissioner McKiernan said but beyond that, going back to the public parks, we would have—infrastructure improvements to public parks would be an allowable expense under this program to the best of our knowledge. Mr. Hays said yes, that is staff’s conclusion of having to review this and we actually anticipate that investment in many districts. Commissioner McKiernan said fantastic. Thank you.

Nathan Barnes, 2706 N. Hallock, appeared stating in this age of technology, I think that we should consider infrastructure, electronic infrastructure, and let that be allowable—infrastructure for the electronic, the media software. Mr. Hays said I will offer the discussions that I’ve been in on that topic. While we say bricks and mortar, we know technology is changing. Perhaps there’s something evolving out there in definition, but technology infrastructure would not be bricks and mortar. I know that’s changing and I think Jody would want to consult with bond counsel and get a firm ruling on that.

Commissioner Murguia said I think Commissioner McKiernan asked this question, but just so that we all have the same definition when you talked about park infrastructure. Were you talking about playground equipment, spray parks, those kinds of things or were you only talking about the sidewalk to the playground equipment? Ms. Boeding said infrastructure to me, and this again, I would research if you wanted me to, but I think it’s more the permanent things that are affixed to the streets and sidewalks in parks. Equipment, to me, is not infrastructure. I would consult with bond counsel. If you asked about different items, I can find out…Commissioner Markley asked so those sorts of things, should we put those on our list and then we can research them. Ms. Boeding said if you think that’s what you want to propose, yes. Chairman Mendez
said I think we do. **Ms. Boeding** said I think the items listed here on this piece of paper all fall within what I think is infrastructure. When you go farther, I’d have to look into it.

**Mr. Hays** said we set a clear example that we had discussed that clearly would not be would be basketball nets. That’s something that’s used up. It’s not bricks and mortar. As Jody said, it’s not long term. **Commissioner Markley** said but something like a ball field is a very iffy question and so that means Jody would have to look into it.

**Commissioner Ellison** said Dennis, minor storm drainage improvements can be accomplished with—I’ve got two or three intersections that need—we’ve talked about that before. The watershed was the thing that was a problem at first because covering the one area would create problems downstream. That would probably need further study. **Mr. Hays** said I’ll defer that to our engineer. **Mr. Heatherman** said my definition of minor would be those that any downstream impacts would be so negligible as to not really require extensive study. When we wrote this bullet item, we had pictured—you know there are certain intersections where they just have a low spot. They don’t drain around to the nearest inlet on the other side of the curb very well and perhaps rather than go through a whole benefit district process and all that, we would just say look, a little intersection work here and we could get that water moved over. If it was we’ve got three homes flooding and there’s a creek that needs re-channelized and all that, now we have other programs that deal with those but those would be outside the realm of minor…**Commissioner Ellison** said this is a side ditch that’s probably this deep at the intersection. It’s eating away a couple of neighbors’ property. **Mr. Heatherman** said I think what we could do is certainly if each commissioner makes their master list and includes more projects than you necessarily intend, we can go through and those that might be a little borderline, we can look at those case-by-case. Minor was intended to be those that are kind of a quick in and out, not really dealing with issues that are going to cause other cascading issues to come up under this program. There are other programs.

**Mr. Hays** said, Commissioner, I think the nature of the questions that are raised here tonight, it’s a new program. We’re just learning. We’re just figuring out how this works. I think as Bill has indicated, a request to have your proposed projects will then lead us down this next path to determine are they eligible. In the case of drainage, how broad is the need and how big of a
project and do you have funding to approve it. Again, Mr. Chairman, this program is designed to be discretionary for the commissioner and staff will make these construction projects whether it be in a sidewalk, a curb, in a park, that’s what this is intended for; that’s what your policy set out to do.

BPU Board Member Colombel said not being a commissioner, I’d like to ask a question because of some phone calls I recently had over sidewalks. With these funds that go to the commissioner, at their discretion, say I was going to put a sidewalk in front of my house, do I get to say who is constructing it. Do I get to hire the construction company? Does the commissioner get to hire the construction company and then a check is cut to them or do you do the work as the Unified Government? Mr. Heatherman said for this program, the CNIP, we would do the work as the Unified Government under our standing policy for city led design, bid the project, go with the low bidder, and manage the construction. We have some other programs that we’ll talk about a little bit later that would probably be more the type you’re talking about, about one house at a time, homeowner in charge, and we’ll talk about that in a separate item. This CNIP is a traditional Public Works type construction effort.

BPU Board Member Colombel asked what would the timeline on something on a smaller project be. Are you looking at this to be completed in a year timeline or two years? Mr. Heatherman said we hope these are the types that take about nine months plus to get from concept to bid.

Bill Rogers, 7362 Yecker, appeared stating my question would be this. Let’s say several districts want sidewalks. Can we make them smaller packages, unbundle them so that the smaller contractors in the community, maybe some minority contractors, would have an opportunity to move forward and to bid on these and get some work here in the community? Mr. Heatherman said under our Diversity Program, we do have the ability to selectively unbundle contracts in order to make more availability. Some of that would come down to a balance between our efficiency and being able to execute $2 million worth of work and a judgment about how much to make available to the smaller contractor. We have that ability and I think we can take some time to decide how we would structure it.
Commissioner Murguia said, Dennis, on this action requested for this line item it says you want us to approve or not and move on to the full commission. Given the questions that we’ve had about what can and cannot be funded, we’re not restricting ourselves tonight are we if we adopt this policy? Mr. Hays said no. My recommendation is that you advance this forward. This is not restrictive in nature. It’s intended to put the program in place then if a commissioner comes in and says I want to do this particular project—for example, Commissioner Barnes wants to do some type of technology infrastructure. If that’s on his list, we will then pursue that to determine is it an eligible cost. Would it be legal under bond counsel’s interpretation? What we tried to do is put together a general sense of guidelines, but if you come in with an idea commission hadn’t anticipated, we’re going to pursue that and see if it works. It still has to go back to the commission for formal approval so there’s kind of a check and balance. My recommendation is move this forward tonight with any corrections you want to make and let’s get the commissioners thinking about what projects you want to do in your district.

**Action:** Commissioner Murguia made a motion, seconded by Commissioner Ellison, to approve and forward to full commission. Roll call was taken and there were six “Ayes,” Colombel, Ellison, Cooley, Markley, Murguia, Mendez.

Jane Vogel, 4411 Cambridge St., appeared stating my question is merely—it wasn’t clear to me if the monies—when you talked about sales tax money, is it going to be exclusively out of the dedicated sales tax fund or are you reaching into other sales tax money for the balance, whatever the balance is? How much is the dedicated sales tax?

I had a follow-up question to I think it was Bill Rogers’ question and that is you said that there is a program to unbundle contracts. Here, I’d like to know how often has that been done so far. Mr. Heatherman said regarding the second item, that is part of the diversity ordinance. The primary means of the diversity ordinance has been to establish goals for minority participation in contracts over $250,000. Within Public Works, we have not made heavy use of unbundling. It is a question that has been asked of us this year. There is a management issue of how much we will do in order to keep efficiency and execution, but it has been a question that’s raised.

Mr. Hays said the second question regarding sales tax, I’ll defer to Lew Levin, our chief financial officer that’s present. Mr. Levin said, Commissioners, in the Administrator’s proposed budget and specifically in the CMIP, we have for 2013, we have a $2 million temporary note
project and then we have a subsequent one in 2015 for a total of $4 million. What our intention is, the dedicated sales tax is in place for a ten-year period and we’re going to set-aside approximately $600,000 a year in dedicated sales tax money to finance those temporary notes so the dedicated sales tax fund will be the sole source for the $4 million approximate expenditure from the CNIP.

**Item No. 4 – 120193…Petition for a honorary street name for the intersection at 78th and Tauromee as Maderak Square in honor of Joe & Katie Maderak, submitted by Mike Tobin, Public Works. Murrel Bland will be in attendance to present the petition.**

**Murrel Bland**, 8311 Garfield Ave., appeared stating thank you very much for the opportunity to address the Public Works Committee. My request is on behalf of Business West, an honorary name for the intersection at 78th and Tauromee Avenue as Maderak Square in honor of Joe and Katie Maderak. Joe and Katie Maderak are natives and life-long residents of Wyandotte County. They founded Maderak Construction Company in 1950, a company that is still in operation today. They are parents and grandparents and long-time members of the church. Joe and Katie founded Business West in 1985 and continue to be very active in the organization. Joe is the chairman of the State Avenue Corridor Planning Commission that meets monthly and is promoting a benefit district. Joe is a long time member of the Wyandotte Lions Club and he served as a Seabee during World War II. Next April he will celebrate his 90th birthday.

I’ve obtained signatures of those who own property along the 78th Street corridor and of the leadership of Business West. I would thank you for your consideration.

**Action:** BPU Board Member Colombel made a motion, seconded by Commissioner Ellison, to approve and forward to full commission.

**Commissioner Cooley** said I just want to make sure that this does comply with our naming of streets in honor of various people. **Mike Tobin**, Public Works, said yes, it does.

Roll call was taken on the motion and there were six “Ayes.” Colombel, Ellison, Cooley, Markley, Murguia, Mendez.

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Item No. 5 – 120194...Discussion regarding the grind and overlay policy revision as requested by Commissioner Murguia.

Commissioner Murguia said as you all know I brought this policy change forward approximately a month ago and there was some work that still needed to be done on it at that time. I spoke a lot that night in regard to this 20% set-aside of funds. Tonight, there are a number of people here to speak in regard to this issue that has spent a lot of time on this. So I’d like to start off with deferring to them so that their voices can be heard and we can make sure that everybody here gets a chance to speak on the issue. So I’d first like to bring Clare Shaw forward and from a community perspective, she can bring forward what she and the group she represents hopes to see happen tonight.

Clare Murphy Shaw, 4448 Francis Street, appeared stating Mr. Chairman and members of the committee, thank you for the opportunity to speak tonight. Commissioner Murguia is now proposing a set-aside of 20% of the funds already allocated annually to each commissioner for streets called grind and overlay to be spent on critical infrastructure including sidewalks, curbs, and alleys. First off, this is not a request for any additional funds. Secondly, this is not a request to take funds away from streets. All we are asking for is that the commissioners have some discretion on whether to spend a small portion of the street’s money on related infrastructure like curbs and sidewalks. No tax increase is required and there’s no need to start any new program. This is about a long-term solution to ensure the wisest use of the funds that are already there.

By way of background I want to explain how this initiative started. Residents of the Spring Valley neighborhood in Rosedale set out to better our neighborhood. We have elderly that cannot navigate the cracks and bumps in our sidewalks and children that can’t ride their bikes and trikes from one house to another. There are areas with cracking curb or no curb at all. In addition, we have a crumbling alley with a serious water flow problem for which no repair funds are currently available. The alleys serve a large number of homes and provide access to utilities. We decided to start with a 20-home stretch in dire need of curb and sidewalk repair and see what we could do. After reviewing the options, we ruled out a benefit district. It would be much, much more expensive to do the same work and there are already several neighborhoods that have been waiting in line for years to form a benefit district. We want better sidewalks now.
We opted for the UG’s Sidewalk Incentive Program. They pay for a portion of the cost and the homeowners are responsible for the rest. We got an excellent bid and determined the reimbursement amount from the UG but still needed more funds to get going. Seven out of the twenty homes in the stretch are owned by landlords and I was concerned about whether or not they would be willing to contribute to our effort plus the alley was still in dire need and would not be included.

Commissioner Murguia suggested a solution to our problem to change the Grind and Overlay Policy now up for debate. As it stands now, each commissioner gets a pot of money to spend on street repair. Although each district is different in geographical size and the streets vary in age, there is no differentiation in the funds based on need. Our district is old and has very dense streets, most lined with crumbling sidewalk and curb and has multiple alleys in regular use. Some districts have much lower density with a greater number of streets but little or no alleys or sidewalks and some have brand new sidewalks and streets. The beauty of this solution is that it allows each commissioner to better meet infrastructure needs of his or her specific district and to prioritize repairs based on greatest need as well as resident desire.

We canvassed our neighborhood and found great support for the change. We started an online petition that garnered 91 signatures and went door-to-door in other neighborhoods and other districts and found that almost everyone we talked to agreed that some change was needed. We got close to a hundred or more signatures on paper as well. I want to clarify, we’re not out to simply get a free lunch for our neighborhood. My neighbors and I have been able to come together with the funds needed for our project. We also succeeded in lobbying most of the landlords to participate. I’m certain that our project will get done, but I want this policy changed because I know there are other areas in Spring Valley that will likely not have the same financial means and skill set to make it happen. There are areas all over the county with much greater needs than ours and they would likely never have the additional funds to cover repairs. There are crumbling and dangerous alleys in need of immediate attention. With this set-aside, the commissioners will be able to jumpstart small neighborhood projects especially where there are serious issues with absentee landlords and vacant homes.

I thank you for your thoughtful consideration of this proposal and I sincerely ask each of the commissioners to vote in favor of the motion. Your constituents are depending on you.
Bill Rogers, 7362 Yecker, appeared stating I’d like to say when I first got onboard with this project and got involved a little bit, I wasn’t quite sure what to expect. I thought it was a great idea. This program has been in place for over 20 years I believe. The fact that we’re trying to change it and do something different is good because the Unified Government seems like they’ve been stuck in a rut for so many years that I really look forward to seeing some change and try to do things differently. I will say when we talk about do alleys need repairs, do curbs, sidewalks, this is a picture of an alley right there that I believe is in the Third District. Obviously there are problems all over. I see them all over.

I went out Friday door-to-door and met with people in all districts. Let me tell you, I was shocked by the number of people that are in favor of this. In fact, I don’t know if there was anybody I approached that didn’t sign the petition. I was down on the northeast end, I was on the southeast end, and I was out in the Stony Point area. The Stony Point area is where I grew up at. It has 810 homes in that area and I hadn’t been over on the other side from where my dad lives in a long time. Those sidewalks are 50 years old and they’re just about gone. If we don’t do something, the neighborhood is going to go too as some of the people in that area are expressing about things going on and would like to have people out there working with them to—and I believe the sidewalks—they got the school right there, the grade school. You have to do something. This change is a start. It’s a start to see how well the program works and work off of that. I’m not saying, you know, it’s where it needs to be, but it’s a start and I would really like to see you guys approve it because I’ll tell you one thing, I work in the streets. When I go down Metropolitan where they did the overlay—the overlay is a great program. Believe me, as a street guy, plowing, we love it. But I can also tell you when I see Metropolitan instead of just overlaying it; they did the sidewalks on both sides. It was like driving down a whole different area. So I’d ask that you guys approve that and I want to thank you.

Jeff Bryant, 5619 Pawnee Drive, appeared stating although many of you may know me as a BPU Board member, tonight I come to you as a citizen of our city. You’ve heard concerns about our infrastructure. You have many challenging decisions ahead of you. If I understand correctly, our city’s budget for grind and overlay is less than optimal. Now the question comes before you to allow one-fifth sizable portion of this funding to be redirected toward alternate infrastructure projects. While I agree that our city needs good sidewalks, the city already offers a program that assists monetarily in the repair and replacement of existing sidewalks. Unless the city accepts the
responsibility of these costs throughout the city, how would it be decided which neighborhoods will receive preferential treatment.

I wish to offer my personal opinion on what I would like to see prioritized on infrastructure maintenance. Roads, number one. This includes all public thoroughfares regardless whether they’re labeled a street, avenue, boulevard, or alley. If it is a publically owned, paved traffic path, then it should be included in the grind and overlay cycle. I list this as the number one priority because the repercussions of bad streets include increased vehicle maintenance costs, increased insurance costs due to property damage claims, and increased difficulty in attracting new business to our city.

Number two, curbs. The maintaining of good curbing has been proven to prolong the lifespan of roads as well as assist in flood control and reduction of soil erosion.

Number three, sidewalks. I feel we need to expand the funding to the Sidewalk Replacement Program as well as look for additional funding streams to assist in this worthwhile endeavor. Good sidewalks not only increase property value, but they make neighborhoods more appealing to potential buyers. It was very encouraging to hear the CNIP which will offer a larger pool of resources to address the sidewalk concerns. I hope that the commission sees the importance of keeping the grind and overlay funding at or above the current level. Thank you.

Carol Diehl, 615 Sandusky, appeared stating my problem is I was sitting here listening. I’m so thrilled that this money was allocated, but I’m hearing different things like maybe community buildings and all this stuff. The old part of town has been overlooked for so many years and there’s so much that needs to be done for us to even begin to catch-up with midtown let alone with the west end. Our alleys are a thoroughfare. I know it’s hard for you to understand that, but we depend on that to get from 6th to 7th Street. We depend on that to park our cars because we don’t have driveways and we don’t have garages out in front. We depend on them for power and light people to come out. We depend on them for the telephone people to come out. We depend on them, like I said, to park our cars because we don’t have any parking on Strawberry Hill. You all are very much aware of that. So I think that we should really get down to the nitty-gritty of this and the money that’s allocated should be used for what it’s supposed to be used for in the first place. Let’s get our inner-city, the urban core, our old part of town that’s beautiful and needs a lot of love, let’s get it back to where it’s in good shape and let’s do something about these alleys because like I said, they are our thoroughfare. If we didn’t have them, we wouldn’t have

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any place to park. We wouldn’t have any place for emergency crews to come in, fire trucks or anything like that. So please consider this as you go along. Thank you for listening to me.

**Shirley Cutter Ikerd**, 804 S. 89th St., appeared stating I’m concerned about we’re going to do a project in just a small area because you’re talking about sidewalks and curbs. I have neither one where I live. I pay taxes like everybody else. I’m in Mr. Cooley’s district and I have discussed this before. I see no reason why we’re going to rebuild some sidewalks when I don’t even have a sidewalk. If there’s a truck coming and I’m going the opposite direction, I have to pull over. One of us has to stop to let the other one by. So I think I want something done, Mr. Cooley, for where we live at. I will be speaking to you and I hope you have a neighborhood meeting to discuss where the 20% is going and also where some of the money is going out of the $4 million because I can write you a book. Thank you.

**Susan Blackman**, 4514 Eaton St., appeared stating I’d like to use my time to read a letter from former Commissioner Don DeSeure. It’s addressed to all of you.

Attention Commissioner John Mendez and members of the Public Works Standing Committee. First, let me applaud you for continuing to fund the grind and overlay budget. While I know that the last two to three years have been difficult, this line item in the budget gives citizens in your districts the chance to see their tax dollars at work for them specifically. I would like to challenge you to take this one step further. There are some districts as you know that may have other specific projects or needs such as curbs and sidewalks or alleys that need grind and overlay. I also know from past experience that some districts out west where grind and overlay are not as needed, those dollars could be used for other specific projects more beneficial to that district.

I challenge you to allow some flexibility to the individual commissioners from each district the chance to choose how best to use these funds. I know from residing in the Third District we do have a large quantity of alleys as well as curbs and sidewalks in desperate need of repair. I have been contacted by several individuals to sign a petition to support this position. I thought it best to write a letter of support. I know that all of the inner-city has great need when it comes to sidewalks, curbs, and other repairs. With the budget as tight as it has been for the last three years, funding for these projects are probably not in the budget. This will give the
individual commissioners the chance to truly represent his or her district with the ability to address the greatest needs.

I want to say thank you for the time and the energy that each and every one of you put into serving the needs of the community and your commission district. I challenge you to think outside the box, allow commissioners the ability to truly represent the district in which they live. Allow each commissioner to use any or all of the dollars budgeted for grind and overlay for other specific projects. If you are still funding this line item with long-term financing, then the projects will have to be specific about what does and does not qualify. Giving the commissioners the ability to use these dollars for what is specifically needed will allow them to have the greatest impact in their districts. Thank you, former Commissioner Don DeSeure.

I would like, if I may, submit copies of our petitions now. We have two, an online petition and then the door-to-door petition.

I would also like, with the last minute I have, to read comments from some of the online petition signers who wanted to be here but aren’t. Rebecca Paulsen of 66103 says, it is senseless to do grind and overlay when curbs and alleys are shot. This would allow the citizens to work with their commissioners to increase the longevity of our streets. Beth Ciperson wrote, voting for our elected officials, we place trust not to have to micromanage and be more responsive to the various needs and priorities of their constituents. Melissa from 66106 wrote, we’ll probably never have sidewalks on our streets but I’m in favor of other neighborhoods being able to maintain theirs. Now this is someone in zip code 66106 who takes the opposite view of the lady who just spoke. She doesn’t have sidewalks or curbs, but she thinks it’s important to maintain the ones that exist. Here’s Sue Retherford, I will be moving into Wyandotette County again in August. She’s coming back. Here’s William Ferguson, WyCo/KCK has spent a fortune on repairing 46th to past 47th on Eaton Street into Johnson County for the benefit of the Westwood Country Club. Kansas City, yes, Kansas City has lots of alleys. It frees up the street for emergency vehicles, cars, police, and school buses. The alley is used by utility vehicles, one is KCP&L. Sister Mary Geraldine Yelich wrote, Sidewalks needing repairs are difficult for seniors to walk on and make them fearful of falling. Better sidewalks would be welcomed.

That’s it, thank you. One lady did sign the petition, but it’s not on a copy so there you are.
Chester Owens, 1150 Washington Blvd., appeared stating I think everything has been said as far as how sidewalks and curbs can improve all the areas. I live in the Fourth District and one of the things that we see is we’re probably not going to ever get a lot of sidewalks but the appearance just of curbs would make a whole lot of difference in our area. So I think the commissioners need the discretion to be able to use the funds to improve what they see, their active eyes and ears, and maybe we won’t have to jump on them so much. We realize that they’re under handicaps but I think if they’re allowed to use say 20% of the funds, it would make everything better.

Also, I don’t know the term that they use about unbundling, but hopefully that minority contractors, there are small contracts, will be able to do, to get some of the work. We hear about the program they have here but I don’t think its working and that’s one thing I hope that you would consider.

We appreciate you allowing us to come before you and make the comments. Thank you.

Nathan Barnes, 2706 N. Hallock, appeared stating I’m just going to get this out of the way. I just wanted to come in and offer some input and if I didn’t, I probably would never hear the end of it. I do want to come and say that the alleyways are a great concern. I have an alleyway next to Olivet Baptist Church that I’ve talked to staff with about three years ago. To date, we still haven’t come up with an opportunity—any type of tools to address that.

I thought this was taken care of several years ago when I know this issue came up more than once and I thought we had that flexibility to do that. So I thought that was already on the books and I know that I informed some staff members and they were researching that information to see if we actually voted on it—they remember the conversation but we can’t remember whether it was voted on or not. So if we hadn’t voted on it, I’m 100% for it.

Then several years ago when we gave a serious look at the state of our streets, we had about a 40-year plus cycle on when we would actually get around to repaving our streets again. We took an aggressive approach to address that. Over the years, I think that we’re kind of back in compliance now. It’s down to about 20 years now. Is that right, Mr. Heatherman? Mr. Heatherman said no. Commissioner Barnes asked 24. Mr. Heatherman said in answer to your question, Commissioner Barnes, based on the last two years, the number of miles we’re doing relative to streets, I would estimate we’re on a 40-45 year cycle. Commissioner Barnes said we haven’t made any improvements. Are you sure? I thought we made some gains on that

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process. I know it has. Maybe we went back up. **Mr. Heatherman** said that number is based on
the last two years type production. I think there were several years prior to that where the
funding was higher, but if we’re talking about the current level of budgeting, that’s the cycle
we’re on. **Commissioner Barnes** said, no. I’m not talking about the current level; I’m talking
about the condition of the streets right now. The average grind and overlay—the average street
we’d probably wouldn’t get around to it for about 40 years at that time. Now those streets are
probably, I know that there are very few streets in the First District that haven’t had grind and
overlay in the last 15 years that most streets have been done. And the point that I was trying to
make is that as we catch up with that cycling, that 20-year cycling, then there might be a greater
need to have the curbs done rather than the grind and overlay portion of it. So having that
flexibility helps us complete neighborhoods.

In my district, there are some people that don’t have on-street parking. They have to
park—they have to access their properties through the alleyways. To not be able to address that,
it happens over and over and over and over in my community so I welcome this which I
really thought it was already on the books that we had that flexibility to do it. When the subject
matter came up, I didn’t know it was a big issue until I ran into the Olivet problem that we have a
cement alleyway there that’s in great disrepair and they use it every Sunday when they come
and go to the church there. It’s in very bad disrepair and we don’t have a funding mechanism to
address this. If we had this tool, I could obviously make some friends with the people at Olivet
again. Thank you.

**Linda Quinn**, 2111 N. 7th St., appeared stating in this discussion, there’s been lots mentioned
and it definitely is needed that we repair our streets and sidewalks, but one thing I think left out
of the discussion and I’d like added—I also attended some of the Safe Routes to School
discussions, and I don’t think this has been brought up either and it could be because it is
summer, but please consider where our young people stand when they’re waiting for their school
buses. Those are some of the places that probably need to be paved. There should be some
consideration or maybe even a priority in making sure that our kids are safe on the bus stops. I
know that my niece stands underneath a tree, which is not safe, and on soil, which is also not
safe. It could get slippery. We have had a number of accidents with our young people waiting
for the school bus not knowing exactly where to wait so please consider this in this budget or this
plan.

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Marlene Bouray, 4636 Greeley, appeared stating I’m coming to ask for street and sidewalks. One major thing was 47th & Parallel. I live close to 47th & Parallel. You go up 47th Street toward Georgia. We’ve already had two fatalities. We’ve had three to four people hit by a car. We are in desperate need of a curb and sidewalk basically in that area. We wouldn’t have to take the curb or sidewalk clear up to Georgia, but if we could get past the area where the site distance is bad, that would help. I don’t want to see another death in the neighborhood. There’s plenty of need in all areas. This would be very good for the commissioners to have their extra to do what they need and what is more important to them. Thank you.

Marcia Rupp, 2816 N. 46th St., appeared stating I don’t have an alley by my house but I will tell you I have done plenty of ride-alongs with the police and they’ve driven their police cars down those alleys and I’m telling you, they’re just terrible and that police car is just getting torn up. I remember in the CMIP, the equipment meeting, Commissioner Cooley, when you asked some of the price and the price of the EMT truck is $182,000 and we’re bringing this nice vehicle down these torn up alleys and you know what that means. You’re going to have all new frontend that has to be replaced, you know, whatever, because something gets torn up. All this just trickles down and I just—you know the best thing about this is just giving you guys a little bit more leeway, you know, reaching out, you know, being able to do things for us and when we tie your hands or you tie your hands, you can’t do more for us. It eliminates what you can do to help us. So, you know, I’m just saying really think, you know, really put this in your mind. This is great because every commissioner doesn’t have to do it; it’s just, you know, it’s there. It’s there if you need it though. It’s there. You know, just as soon as you say you don’t need it, you’re going to have some poor lady who is elderly and in a wheelchair come up to you and you’re going to feel so bad if you just wouldn’t have this 20% that you could to help her. Thank you.

Brian McKiernan, 414 N. 15th, appeared stating I think it’s safe to say that the amount of money that we have to address infrastructure needs, grind and overlay, curbs, sidewalks, and alleys, is insufficient. We can’t keep up. So the real challenge that I want to ask for everybody to think about today is not how do we divide a pool that’s already too small, but how do we raise the money to make substantial improvements in infrastructure across the city, in every district, on all levels. At this point, I have no problem if somebody wants to redirect money. That’s fine but understand if the pool’s already too small, when I redirect away from an area, I’m going to leave.

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somebody in a lurch in the area that I directed away from just as much as I’m going to help anybody that I directed toward. So my challenge to everybody here is help us problem solve. Help us raise the revenue. Help us to address infrastructure needs across this entire city because at this point in time, we can’t keep up and I think that’s the reality of this. So in the short run, I think this could be a great solution. In the long run, it is no solution to the problem that we have because—give me, I don’t have Bob’s sheet in front of me. How many blocks of alleyways can I get done with the redirected money here? Yes, it’s probably ten blocks of alleyway and I’m going to guess in District Two we have more than ten blocks of alleyway that need to be repaired. So we don’t have enough. That’s our challenge. Let’s get it done across the entire city on all levels of infrastructure. Thanks.

**Commissioner Cooley** said Brian, I agree with you. The one thing that gives me heartburn is that the grind and overlay is a maintenance program. It’s designed to maintain our streets. We have other programs to do the other things that people are talking about tonight including a brand new program that we were talking about, and it appeared that some of the people in the audience were getting confused that they were one program. They’re not. They’re two separate programs.

The Grind and Overlay Program has been around for a long time and it is a street maintenance program. The proposal here tonight is to take 20%, each commissioner has the discretion to take 20% of their portion of the grind and overlay, their portion of the street maintenance program to do other infrastructure things. Like Brian says, it’s already not enough to maintain the streets.

We do have a new program that we just approved to go forward tonight called the Commission Neighborhood Infrastructure Program that does have discretionary issues that we can use our discretion in each district to put it to infrastructure. The discussion we had earlier was what was the definition of an infrastructure. I’ll guarantee you, curbs qualify. Sidewalks qualify. Streets qualify. There’s no doubt those are infrastructures so my heartburn, again, is that we’re taking 20% of an already short maintenance program for streets and we’re putting it into some other issue. I understand, again, its short term like Brian says, but long term, people, we still don’t have enough money to do what we’re supposed to do.

Earlier tonight, we approved the mill levy to be no higher than what it was last year and it will probably be less. So what we’re doing is we’re defeating ourselves again of trying to put ten pounds worth of meat in a five pound bucket.

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Commissioner Ellison said I feel left out because I happen to live in an area where the telephone poles sit within reach of your window. There is no easement so a sidewalk in those districts—and many of us live in those areas that were annexed and nothing was done, so now you’re talking about purchasing property on frontage of people’s houses, moving telephone poles. It’s near impossible to put sidewalks in about 80-90% of my district.

Now the subdivisions that were built, that was the builders’ responsibility because the easement is sufficient to maintain the sidewalk. So when we bought houses where the meter’s setback 10-12’ from the curb, the builder should have placed a sidewalk there. So, you know, it’s almost impossible in the areas I would say west of 38th Street that were annexed within the last 50-60 years to put sidewalks in.

There is no drainage—you know the ditches or drainage ditches. It’s going to take a major bond election to even put sewers in so I think we’ve got to be realistic in where we talk about placing sidewalks. It’s impossible to put—you know I’m wondering right now how would you put a curb in to an area that I used to live in at 4th & Freeman and then grind and overlay. Curbing is a major project, not just going down—I mean that is, that’s major. So there are some practical things too to this whole issue. I’m just glad that my folks west of/east of 38th Street from my district don’t come demanding sidewalks. It’s impossible. It would take I don’t know how much money it would take to move telephone poles, replace sewer lines, replace gas lines, and those of you who have been down Leavenworth Road can see what’s going on there. They’ve got to replace those lines. They’re right under the street. So I mean I’m frustrated.

We know the kids stand out in my district on the street to wait on the school bus or stand in somebody’s yard, but what can we do about it. It’s all over the city. So it’s frustrating to me. Now you go out west where the builders have built, you know, where the rich folks live I guess, there are sidewalks out there and no houses, sidewalks on both sides of the street and no houses.

Commissioner Markley stated as usual I’ll be brief. You know I see this, to me, as part of our complete streets initiative, you know we past this initiative. It was supposed to incumbent the idea that a street is more than just a street. That it needs to have sidewalks, it needs to have curbs, and the idea of it going forward, we were going to make sure that all of our streets had this and that we were acknowledging that these amenities were an important part of our street network. So I realize this isn’t maybe the ideal solution, but I do think its part of that package

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and its part of acknowledging that we, as a government, realize that a street system is more than just roads with no curbs and no sidewalks and no alleyways. So I’m in support of this program for that reason.

Jane Vogel, 4411 Cambridge St., appeared stating just a little bit about myself, I have a Bachelor’s of Science in Education from KU and I trained as a secondary mathematics teacher and I fully support the policy change being proposed here. Right now, today, there is no way to make emergency alley repairs or provide additional sidewalk or curb repair incentives. By approving this policy is a simple and eloquent solution to those problems. It’s a good change because—and Commissioners Cooley, I am not confused. I do understand there are two different programs that were talked about here tonight. Just to let you know, I am not confused about that. It’s a good change because the policy does not increase taxes. Once the policy change is approved, it can be implemented immediately. It gives our commissioners the flexibility and resources to respond to local constituent infrastructure needs permanently. Every year, three, four, ten, twenty-five years down the road, it’s in the budget; it’s a policy. It increases citizen input and involvement in government and personally, I really think that’s a good thing and it recognizes the diversity that is Wyandotte County/Kansas City, Kansas, and we are very diverse here.

Let me make clear what this policy is not because I’ve heard a lot of people tell me what this policy is that I disagree with in some ways. It is not temporary. Once put into place, it will remain in place. It is not a two-year or a five-year—now its five years—one-time only election year program funded by taxpayers paying interest on sales tax money that’s coming in—no additional taxpayer money is required for this policy change and it’s not a mandate. I personally don’t think it’s very complex to understand. Each commissioner can continue to use the 20% set-aside for grind and overlay if that fits the needs of their constituents. 20% of existing grind and overlay funds is pretty small. As citizens, we want a fair shake. I think that’s why a lot of people are here tonight. We want programs and policies that overtime make a difference such as this policy will do. We want a fair shake on the decisions on how we utilize and finance all our taxpayer dollars.

It is my hope that by starting with this change today, we can begin to work together on other important issues such as Wyandotte County government hiring and management practices. Some of that came up already tonight. For example, it is my understanding that many of those
hired are either in some way related to or known by the hiring managers or their Wyandotte County colleagues. It is my understanding that minorities are greatly underrepresented on work crews including county, county contracted, or TIF financed work crews. Black, African Americans have the highest unemployment rate in African country. It is also my understanding that current project management models have not yet unbundled public works projects. This makes it very, very hard for a small local contractor or business to compete for a Wyandotte County contract.

Policy changes and oversight by our elected officials are the best way, in my opinion, to make positive changes happen in those areas too. Making elected officials directly accountable lets voters decide if they are governed using fair and accountable policies and practices. Corruption and complacency is not limited to elected officials. Staff and advisors can also be compromised, inefficient, or unresponsive. The difference, and this is an important difference, is that elected officials can be voted out of office and thus held accountable. Elected officials being held accountable by voters provide a check and balance against bureaucracies, well-known tendency toward complacency, lack of initiative, and favoring the status quo.

Supporters of this policy have spent a great deal of time and energy into making sure the main points of this policy are presented today. Many, many citizens from across Wyandotte County that couldn’t be present or talk today have signed petitions. If there are questions about this policy change, and I appreciate that people have asked about that, please do ask us. You may disagree, but I do ask that you give us the courtesy and respect of letting us know why you do disagree and I do appreciate your comments, Commissioner, and a chance to discuss your concerns, answer your questions, or provide to you additional information.

We do feel that this change provides hope, hope that slowly and surely yearend and year out the citizens of Wyandotte County can work to better our local communities and our neighborhoods. Please, I do ask you to please vote yes and support this policy. I think it’s a great step forward and I think it’s a step that can be made with other policies that are currently on the books if we pay attention and we work altogether because that’s what’s required. We do have limited resources. Thank you very much for your time. I appreciate that very much.

Keith Jones, 2943 N. 65th Terr., appeared stating I actually reside in Mr. Ellison’s district but I do support this effort because it at least gives the commissioners that are on the ground in their district day-to-day, or at least should be, the choice and the discretion to use the money or not. If
they choose not to, then they’ll have to answer to their voters in their district. I think they should at least be given the choice to do what they think is important to the people that they’re serving and the people that they’re representing down here. Thank you.

Bill Heatherman, County Engineer, said I think Dennis and I did want to cover some of the items on the handout.

Dennis Hays, County Administrator, said our county engineer has prepared a brief graphic. That graphic shows the multiple projects/programs that are available and we thought it might be useful. I think all the commission is aware of those. If you’d like, Bill could quickly go through this just to highlight for those in attendance the various programs that are in place. Mr. Chairman, do you want Bill to go through that. Chairman Mendez said sure.

Mr. Heatherman said I don’t have as many copies of this handout, but I do have enough for members of the committee and then I’ll leave some remaining ones back here. Just what this shows is right now with the inclusion of the CNIP, there are already three standing programs that directly focus on sidewalk and curb improvements; replacements in neighborhoods. The first is the Sidewalk Incentive Program. It used to be called the 50/50 Program, but as most of you know, that incentive program was actually increased when there are multiple property owners involved up to a 75/25% cost share. In reality what we’ve done is based the reimbursement rate on a broad average of what 75% is, so individual neighborhoods sometimes actually maybe worked even a better deal with the individual contractors. That program is intended for relatively small numbers at a time because it involves direct reimbursement to individual property owners and those property owners themselves undertake to get their bids and work directly with the contractors so the city is not actually running those projects. That’s also the one that had historically been funded $100,000 and is proposed for increase to $125,000 both this year and next year.

The second which we have used in the past and currently is the benefit district model and that model is based on a policy direction that the commission had given at least up until now that there would be some public/private cost share that occurs with these kinds of neighborhood improvements. Right now in the CMIP there is $100,000 for a project in 2012, a total of $490,000 in 2014, $400,000 in 2015 and 2016. That varies based on the number of
neighborhoods that are petitioning, and during the economic downturn, there were several years in which because of the priorities that actually benefit districts weren’t being taken forward.

We’ve also included in this a couple of projects that are benefit district-like but which have philanthropy that has been made available to take the place of actual creation of a property owner’s share. The one thing that’s true in all of these is that the city paid a portion of the project, but not all of the project. The most recent one completed was in Canaan Woods.

With tonight’s—last year the CNIP was actually approved and with tonight’s action to continue clarifying the guidelines for that program, we just acknowledged that the CNIP is funded for $4.4 million over a four-five year period. That one does not actually require any kind of additional arrangement of a public/private partnership. What it does do is give each commissioner the discretion to determine the projects that they would like to see forward.

The fourth item is the fact that we have a long standing neighborhood Grind and Overlay Program. It has for the neighborhood streets, $1.95 million in 2013. It has fluctuated a little over the years, but that’s the current level of funding. The discussion that you have before you tonight is whether a certain percentage of that would basically be taken from the Grind and Overlay part of the program and reserved for commissioner discretion for sidewalk/curb improvements related to the streets. So up to 20% could conceivably be re-designated based on the decisions of each commissioner for those other types of projects or as was mentioned, if none of the commissioners chose or if not all of them do, it would not reach that full percentage level.

Those are the four funding option programs.

Mr. Hays said it’s evident tonight that there’s much interest in our community in making infrastructure improvements. There have been a lot of good comments. On behalf of staff, we welcome working with citizens and hearing from the citizens on what their needs are. We work with commissioners routinely and we know you’re with a community representative often. I think what you see and what Bill just pointed out is a reflection of the work that this commission has done over recent years to try and come up with multiple programs to deal with community issues. So this staff and Commissioner Murguia actually approached me directly, and for the record, I guess I would want to say I wrote this. I wrote the history and I wrote this current process with the details. So staff is supportive of these programs as they evolve. You all set the policy and we’re going to carry it out.
A couple of quick comments. In writing this though, we hoped to specify that this money would be tied to street related improvements. If you’ll look in the actual material proposed program revisions, overlay program be expanded to allow inclusion of street related improvements such as curb, sidewalk, alleyway, and related stormwater improvements. I know there was discussion at your last standing committee about adding parks. For the record, staff is opposed to adding parks. We think there’s not enough money, as been said tonight, for streets. It seemed reasonable at the point in time that we were in and Bill and Bob Roddy both supported this 20% concept as a way to set-aside to compliment, but it still needs to go into streets because we have such high demands. We are opposed as a staff to extending this to other types of bricks and mortar including parks.

Final thought in terms of the concept. I know just trying to work through the concept has been a challenge. We have some technical recommendations on how the accounting and the decision-making would be made. Mr. Chairman, I’m not sure that’s relevant to the policy issue before the commission, but after matters considered this evening, if we could be allowed a few brief moments to talk about the administrative structure of how this might work, it might help the commission. Chairman Mendez said sure.

Commissioner Murguia said just a couple for clarity, and Bill maybe you can tell me if I’m right in what I’m saying. You did a great job on the presentation up here and outlining the difference between these programs. I just want to add a couple of little things. One, the Sidewalk Incentive Program that now is $125,000 has been allocated to and next year will be $125,000 is allocated to that program. Correct? Mr. Heatherman said I believe that’s what’s reflected in the proposed budget. Commissioner Murguia said okay. So I think what people need to understand here is that the way that policy is written is that up until July, that $125,000 needs to be divided by eight commission districts. So I think if my math is right, and I’m not very good at that, that’s only $15,000 a year per commission district. Is that correct? Mr. Heatherman said yes. Commissioner Murguia said okay. So it is another very incremental step, but moving in the right direction.

The second comment that I want to be clear before this group of people leave is that the CNIP has enormous potential to have great impact on every one of our districts. I really appreciate the time and effort staff has put into that in bringing that idea forward. I really hope everyone that’s here tonight works very closely with their commissioner making sure they
provide them input on what is a priority. As Administrator Hays has said, you have 45 days to do that. I think if the community has a voice in this, the community will embrace the final outcome which will just make it better for their neighborhoods. The reason I bring this up is because this CNIP money isn’t $500,000 every year or every two years ongoing. This is a one-time pot of money. The change, the modification that’s being proposed tonight to the Grind and Overlay Policy is an ongoing modification of 20% not that might matter to anyone but I just wanted to provide clarity.

I just wanted to make a couple of comments. I swore I wasn’t going to comment on this but with all the other comments, I feel like I need to. I just want to say sincerely to everyone, this program is not going to work for everyone one; it’s not. That’s not what it was intended to do or why it was proposed. But given the number of people that are here, it clearly addresses the concerns for a number of neighborhoods not one specific district, but a number of districts.

As Commissioner McKiernan commented about addressing this issue in a bigger way, well halleluiah. If Commissioner McKiernan or the other commissioners can come up with a way to address this issue in a bigger way, count me in. I mean I don’t know what else to say. I think the way that this commission, at least since I have been on the commission the past six years, has chosen to address this which I’m happy about and I’m very grateful for Commissioner Cooley and Commissioner Mendez’s support is through as exactly as Dennis said, these incremental smaller programs that cater to the specific needs of a specific block or a particular neighborhood. It’s really rolling up our sleeves and getting involved with our community and not just dictating from the top down. I think it’s a great way to get involved with our community and find out what’s important to them also.

Fairness. I don’t want to start anything here but I’m compelled to bring this up. One issue that’s been brought up a lot is the issue of fairness. I personally can’t believe it’s even brought up because we don’t set policy, at least in my experience here at the Unified Government, with using the word fairness because if we were going to talk about fairness, you know, we could say where’s the Village East, where’s the Village North, where’s the Village South and we don’t have those things. I don’t think and I haven’t heard anyone say anybody is bitter about that. I don’t think anybody is angry and I personally have never heard that in my district and I’m very happy for what’s going on out west. Unfortunately, we’re not able to tackle those issues east of 635 in such a big way. I’m very happy and I know my constituents are for
what’s going on out west, but to talk about fairness really is not relevant and I feel is very disingenuous.

The last comment I’d like to make is people have talked about for example in my district if I choose to use my 20% for curb and sidewalk improvements, let’s say, that some people will pay for curb and sidewalk improvements and that these people will not. I disagree. They will pay in a different way. They will pay by sacrificing the money that’s allocated to my district in the way of roads. What I think is amazing about my district is they’re willing to come forward and say it’s okay. We know we have road issues, but we would just appreciate a little bit of help from this commission and say please, let us prioritize this much of the budget. We have a quarter of—I think this is right, Dennis—we have a quarter of a billion dollar budget. These people here tonight, most of them, are asking for $40,000 for them to decide how that is spent since it’s their money. I think it’s a reasonable request.

So with that said, I would move for approval…

**BPU Board Member Colombel** said I just have a couple of questions. In sitting on this committee as a BPU board member, I do hear, and I know a lot of you here tonight and I know a lot of the commissioners. I don’t disagree. I, you know, I think everyone of these projects is a good thing. I can understand the passion and I think there are great ideas to be had.

You all approved this budget last year. You are now in budget time. Why don’t you look at your budget and set-aside commission dollars? It seems to me that when you take away from a set budget that—Angela maybe you didn’t vote on, but most all the commissioners here—maybe not Brian, voted on last year that you needed the streets. You needed this many dollars to do this with. Then to go back in and tell staff, hey, we’re taking your money because, you know, I want other projects. Your projects are great. I applaud them. I would like to have them also. I would like nothing more than to see grind and overlay include curbs but that’s what you’re doing now. You’re in budget process. This is the time to do it, not to take away from a program that’s almost finished.

I realize it’s an ongoing program, but if you’re going to set policy and change policy, the full commission should be sitting here. You all should be deciding how their dollars, all of our dollars, are spent in relationship to that. I agree with what you’re saying that they have to have a voice. That’s what it’s all about, but you made the decision last year what this would be. So to
turnaround and change it at the ninth hour, I don’t know how good that is. I don’t know how it is for staff. I don’t know how they feel about having their budgets reduced.

We know that all of the employees have gone without raises. We know a lot of things have happened because the economy is bad. I just think that everything you’re doing is a good thing. I think what you’re proposing the program is a good thing. I think taking from one pot of money to fill it is not a good way. I would like to see you look at your budget as all your commissioners, talk to Mr. Hays. If they can do without those dollars, fine, take it away next year and keep it going. I think it’s a decision that has to be made at full commission level. I don’t think it can be made out of five people and myself who has never voted on your budget. I mean those are my feelings.

**Commissioner Ellison** said this is a standing committee. Our job is to review it. At what point would this policy change if it’s approved; go into effect. **Commissioner Murguia** said 2013. **Commissioner Ellison** said 2013, that’s next year. Okay. Our job is to review, to vote on it, we then refer to the full commission so this approval, if we approve this, goes to the full commission for the vote of all ten of the commissioners. If we approve it, it would take a supermajority of their votes to turn it around. That’s nine of the ten. If we don’t approve it and they want to approve it, it would take the same number to overrule us. So that’s a check and balance. So it’s our job then to look at it and say yea or nay. If it’s yea, we refer it to the full commission. That’s the process.

**Chairman Mendez** said okay, I want to thank each and every one of you for taking time out of your evening to attend this meeting. We have a budget hearing for the next Thursday, July 30, so take advantage of that so you come in and give us more comments. Again, it’s good to see all of you here. It makes me proud. So thank you.

**Action:** **Commissioner Murguia** said I need to make it my motion for approval of the 20% grind and overlay as proposed on the written document that you have. **Commissioner Markley** seconded the motion. Roll call was taken and there were six “Ayes,” Colombel, Ellison, Cooley, Markley, Murguia, Mendez. Prior to BPU Board Member Colombel’s vote, she stated I want this to go to full commission.
Commissioner Ellison said yes, it will. BPU Board Member Colombel said against my better judgment and with my heart I’m going to vote yea.

Commissioner Murguia said good job. Thank you.

Mr. Hays said a brief, technical, and administrative discussion. We understand the policy consideration that you just made. Staff’s thought on this is rather than create a new administrative program in the Grind and Overlay Program that you use the CNIP process. Let me explain. This is really Bill’s idea. Rather than having multiple programs and different rules, different commissioners making different elections, if your money stays in the grind and overlay, it’s grind and overlay. If you were to make an election to take your 20% out then it shifts over to CNIP for the simple purpose of that’s discretionary money. It makes sense that the commission has to review the final decisions of the individual discretionary commissioner. So that’s what we’re recommending in terms of an administrative process. We didn’t want to talk about it earlier and confuse things, but we hope that we have your support as we advance this document and, Mr. Chairman, Madam Murguia, what we would do is write that up and submit it to the full commission and that administrative piece would be added as well as noting that this is effective 2013.

Commissioner Murguia said before everyone leaves, really quickly, Administrator Hays, could you please let this group know—it’s very difficult to reach out to this many people—could you let them know when this will be coming to full commission. You need to understand though everyone was very supportive tonight and I greatly appreciate that, it could go the other direction at the full commission. So if you are passionate about this issue like you all appear to be, you should be at that commission meeting.

Mr. Hays said that has yet to be set. I’m sorry. We’re not in a position to set that date. The Mayor actually sets the agenda. Because we’re in the middle of the budget process, we’d suggest that you check our website in the coming week and we’ll have an idea of when this matter will be before the full commission. That date is yet to be determined.

Commissioner Murguia asked you’ll let us know in advance to get word out. Mr. Hays said we will let the public and the commission know as always.

July 16, 2012
Adjourn

Chairman Mendez adjourned the meeting at 8:00 p.m.

cg
Type: Standard

Committee: Public Works and Safety Committee

Date of Standing Committee Action: 8/20/2012

(If none, please explain):

Proposed for the following Full Commission Meeting Date: 8/30/2012

Confirmed Date: 8/30/2012

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

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<th>Date</th>
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<td>Kevin Shirley</td>
<td>5550</td>
<td><a href="mailto:kshirley@ckfd.org">kshirley@ckfd.org</a></td>
<td>cg</td>
<td>Deputy Fire Chief</td>
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Item Description:

Presentation of the 2012 Fireworks Summary Report.

Action Requested:

No action required.

Publication Required

Budget Impact: (if applicable)

Amount: $

Source:

- Included In Budget
- Other (explain) Government costs exceeded revenue by $25,983.
MEMORANDUM

TO: Public Works/Public Safety Standing Committee
FROM: Kevin Shirley, Deputy Chief
DATE: August 20, 2012
SUBJECT: 2012 – Fireworks Summary Report

Attached you will find summary information concerning fireworks related calls for service and various services performed by Unified Government Departments during the 2012 fireworks season:

Fire Department: Memo dated July 11, 2012 from Fire Marshal Lovell to Fire Chief John Paul Jones listing a summary of Fire Department calls for service.

120 calls for service related to Fireworks:

- 6-EMS calls, 3 minor burns, 1 smoke inhalation, 2 trauma calls- severe trauma to a hand and an explosion in face
- 64- Grass fires July 4th and 5th. No loss incurred.
- 28- Misc Fires
- 21- Good intent calls
- 1-Structure Fire: 416 N 16th Incident # 201213362, Roof Damage from Sky Lantern, $20,000 loss.

112 hours Comp time for Inspectors: cost incurred $5,737.67
Miles Driven in Inspection Vehicles 3,530 cost $1,941.50
Fuel for inspection vehicles cost $551.56
Overtime Cost to staff Brush Trucks - Four (4) twenty-four (24) hour personnel per day for four (4) days $14,086.96

Approximate repair cost for blown turbo on brush truck $4500.

Total approximate cost to Fire Department $26,817.69

Police Department: Documents from Lt. Col Kevin Steele to Fire Chief John Paul Jones Dated July 17, 2012.

1. **Fireworks Summary Sheet** - This is a spreadsheet which contains counts for the years 2005 thru 2012. (These Counts were obtained from the report CFS0042.)

2. **CFS0042** - CFS for 'Fireworks Complaint' Calls for the period 6/28/2012 - 7/7/2012.

3. **RESP0219** - Unit Response Times for 'Fireworks Complaint' Calls for the period 6/28/2012 - 7/7/2012. This report shows that the Police Dept units spent a total of 3 days, 12 hours, and 46 minutes on calls related to Fireworks.

4. **RESP0219 with cost estimate** - This report shows the same information as the previous report, but on page 2 it also shows an 'Estimated Personnel Cost' of $3,730.14

Sheriff Department: Email from Lindsay Hollis to Robert Lovell dated July 20, 2012 states the Sheriff's Department had zero incidents regarding fireworks this year.

Public Works: Communication from Tim Nick, Program Coordinator to Robert Lovell, Fire Marshal, dated July 11, 2012 regarding Street Department summary of activities during 2012 Fireworks season. Cost $42,379.08

Code Enforcement: Communication from Phil Henderson to Robert Lovell. Excel Spreadsheet showing the number of fireworks stands in our city. There were forty eight (48) retailers licensed for 2012. Resulting in license revenue of $50,880.00. There were a total of 17 stands that had debris/litter, temporary signage/banners, tents etc, still in place or on site, when Mr. Henderson inspected the locations on Sunday, July 8. Some cleanup costs are being held back from the posted bonds.
Parks & Recreation: Communication from Jack Webb, Deputy Director to Robert Lovell, Fire Marshal dated July 12, 2012 regarding Parks and Ranger Divisions. Two small grass fires occurred at Quindaro Park and Kensington Park, a port-a-pot was destroyed (melted down) at Waterway Park and two toilets demolished, one at Clopper field and one at Wyandotte County Lake Shelter 16 due to fireworks.

Supplies purchased, preparation, cleanup and overtime cost $3,936.33

Public Health: Memorandum from Rollin Sachs to Robert Lovell dated July 9, 2012 regarding air quality readings from July 3, 2012 through July 7, 2012. Data showed a spike in fine particulate matter on July 4; however it did not exceed the standard.
MEMORANDUM

TO: Chief John Paul Jones
FROM: Robert Lovell Fire Marshal
DATE: July 16, 2012
SUBJECT: Fireworks Summary for 2012

Listed below you will find the summary for the 2012 calls for service related to fireworks.

120 calls for service related to Fireworks:

- 6-EMS calls, 3 minor burns, 1 smoke inhalation, 2 trauma calls- severe trauma to a hand and an explosion in face
- 64- Grass fires July 4th and 5th. No loss incurred.
- 28- Misc Fires
- 21- Good intent calls
- 1-Structure Fire: 416 N 16th Incident # 201213362, Roof Damage from Sky Lantern, $20,000 loss.
- 112 hours Comp time for Inspectors: cost incurred $5,737.67
- Miles Driven in Inspection Vehicles 3,530 cost $1,941.50
- Fuel for inspection vehicles cost $551.56
- Overtime Cost to staff Brush Trucks - Four (4) twenty-four (24) hour personnel per day for four (4) days $14,086.96

- Approximate repair cost for blown turbo on brush truck $4,500.
- Total approximate cost to Fire Department $26,817.69
Call-for-Service for 'Fireworks Complaint' calls (0809) for calls received: 06/28 to 07/07

Calls received with either a beginning disposition (Inc Code) or ending disposition (Final Disp) related to 'Fireworks Complaint'

[This report was updated on 7/09/2012 with the 2012 counts from report CFS0042]

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Other Fireworks Related - Manually Printed by dispatcher and forwarded
| Call began as                                      | 0502 | 0502 | 1  |
| Call began as Theft in progress and finished as Theft (from Fireworks stand) | 0601P | 0601 | 1  |
| Call began as Information and finished as Arrest | 0707  | 1813 | 1  |
| Call began as Disturbance and finished as Disturbance | 0604  | 0804 | 6  |
| Call began as Noise Disturbance and finished as Noise Disturbance | 0805  | 0805 | 1  |
| Call began as Nature Unknown and finished as Nature Unknown | 0806  | 0806 | 3  |
| Call began as Shots Fired and finished as UNF (possible Fireworks) | 0810  | UNF  | 4  |
| Call began as Criminal Damage and finished as Criminal Damage | 0909  | 0909 | 6  |
| Call began as Intrusion Alarm and finished as Intrusion Alarm | 1404  | 1404 | 1  |
| Call began as Suspicious Occupied Vehicle and finished as SOQ | 1706  | 1706 | 2  |
| **TOTALS**                                      | 578   | 535  | 469 | 423 | 320 | 474 | 311 | 322 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |

**Note 1:** Adjustment made in 2010: Counts originally submitted for 2005 did not include calls that had a changed final disposition of 0809. When included, this increased the number of calls for 2005 significantly.

**Note 2:** Adjustment made in 2010: Counts for 2008 and 2009 have been adjusted from the counts reported in November-2009. The Midtown Patrol Division was originally omitted and is now included.
Calls-for-Service for 'Fireworks Complaint' Calls  (Incident Code 0809)
for calls with Priority Level: All Priority Levels
for calls received: 6/28/2012 to 7/7/2012
(Includes calls where either the beginning Incident Code or the Final Disposition are '0809')

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Report ID: CFS0042

*** For Law Enforcement use only ***

Printed On: 7/9/2012 (7:58 am) Page 1 of 1
Unit Response Times for 'Fireworks Complaint' Calls (Incident Code 0809)
for calls with Priority Level: All Priority Levels
for calls received: 8/28/2012 to 7/7/2012 (See footnote)

Inc Code: 0804 - DISTURBANCE -- Final Disp: 0809
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 0804 - 0809:
Days, HH:MM:SS  CFS Count
00:32:33  1

Inc Code: 0809 - FIREWORKS COMPLAINT -- Final Disp: 0707
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 0809 - 0707:
Days, HH:MM:SS  CFS Count
02:55:26  4

Inc Code: 0809 - FIREWORKS COMPLAINT -- Final Disp: 0805
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 0809 - 0805:
Days, HH:MM:SS  CFS Count
00:15:46  1

Inc Code: 0809 - FIREWORKS COMPLAINT -- Final Disp: 0809
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 0809 - 0809:
Days, HH:MM:SS  CFS Count
2D 10:54:48  190

Inc Code: 0809 - FIREWORKS COMPLAINT -- Final Disp: 1813
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 0809 - 1813:
Days, HH:MM:SS  CFS Count
00:44:16  1

Inc Code: 0809 - FIREWORKS COMPLAINT -- Final Disp: HBD
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 0809 - HBD:
Days, HH:MM:SS  CFS Count
00:22:01  4

Inc Code: 0809 - FIREWORKS COMPLAINT -- Final Disp: UNF
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 0809 - UNF:
Days, HH:MM:SS  CFS Count
17:53:36  74

Inc Code: 0810 - SHOTS FIRED -- Final Disp: 0809
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 0810 - 0809:
Days, HH:MM:SS  CFS Count
00:54:45  6

Inc Code: 0909P - CRIMINAL DAMAGE IN PROGRESS -- Final Disp: 0809
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 0909P - 0809:
Days, HH:MM:SS  CFS Count
00:34:41  1

** Note: This report only includes Calls-for-Service which match the following criteria: (1) The beginning Incident Code or the Final Disposition must contain the value '0809'; (2) The unit must be a 'Kansas City KS Police' unit; (3) The 'District' (Zone) must be within KCK.

Report ID: RESP0219 (seq)  *** For Law Enforcement use only ***
Printed On: 7/9/2012 (8:02 am)  Page 1 of 3
Unit Response Times for 'Fireworks Complaint' Calls  (Incident Code 0809) 

for calls with Priority Level: All Priority Levels 
for calls received: 6/28/2012 to 7/7/2012 
(See footnote)

Inc Code: 1004 - ASSIST OTHER AGENCY -- Final Disp: 0809
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1004 - 0809:

Days, HH:MM:SS      CFS Count
00:06:56             1

Inc Code: 1110 - TRAFFIC COMPLAINT -- Final Disp: 0809
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1110 - 0809:

Days, HH:MM:SS      CFS Count
00:27:27             1

Inc Code: 1403 - RESIDENTIAL INTRUSION ALARM -- Final Disp: 0809
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1403 - 0809:

Days, HH:MM:SS      CFS Count
00:09:32             1

Inc Code: 1404 - NON-RESIDENTIAL INTRUSION ALARM -- Final Disp: 0809
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1404 - 0809:

Days, HH:MM:SS      CFS Count
00:19:02             1

Inc Code: 1605 - JUVENILE NEEDING CARE -- Final Disp: 0809
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1605 - 0809:

Days, HH:MM:SS      CFS Count
00:24:59             1

Inc Code: 1704 - SUSPICIOUS ACTIVITY/CROWD -- Final Disp: 0809
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1704 - 0809:

Days, HH:MM:SS      CFS Count
00:10:45             1

Inc Code: 1802 - PEDESTRIAN CHECK -- Final Disp: 0809
Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1802 - 0809:

Days, HH:MM:SS      CFS Count
00:00:00             1

Grand Total Time (from Dispatch to Available) for all KCKPD units dispatched:

Days, HH:MM:SS
3D 12:46:33

--- Note: This report only includes Calls-for-Service which match the following criteria: (1) The beginning Incident Code or the Final Disposition must contain the value '0809'; (2) The unit must be a 'Kansas City KS Police' unit; (3) The 'District' (Zone) must be within KCK. ---
**Unit Response Times for 'Fireworks Complaint' Calls** (Incident Code 0809)

*for calls with Priority Level: All Priority Levels*
*for calls received: 6/28/2012 to 7/7/2012*

(See footnote)

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<td>Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 0809 - UNF:</td>
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<tr>
<th>Inc Code: 0810 - SHOTS FIRED -- Final Disp: 0809</th>
<th>Days, HH:MM:SS</th>
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**Note:** This report only includes Calls-for-Service which match the following criteria: 1.) The beginning Incident Code or the Final Disposition must contain the value '0809'; 2.) The unit must be a 'Kansas City KS Police' unit; 3.) The 'District' (Zone) must be within KCK.

---

Report-ID: RESP0219

(*sql*)

*** For Law Enforcement use only ***

Printed On: 7/9/2012 (6:05 am)  Page 1 of 3
Unit Response Times for 'Fireworks Complaint' Calls  
(Incident Code 0809)

for calls with Priority Level:  All Priority Levels
for calls received:  6/28/2012 to 7/7/2012
(See footnote)

Inc Code:  1004 - ASSIST OTHER AGENCY  --  Final Disp: 0809
  Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1004 - 0809:

Inc Code:  1110 - TRAFFIC COMPLAINT  --  Final Disp: 0809
  Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1110 - 0809:

Inc Code:  1403 - RESIDENTIAL INTRUSION ALARM  --  Final Disp: 0809
  Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1403 - 0809:

Inc Code:  1404 - NON-RESIDENTIAL INTRUSION ALARM  --  Final Disp: 0809
  Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1404 - 0809:

Inc Code:  1605 - JUVENILE NEEDING CARE  --  Final Disp: 0809
  Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1605 - 0809:

Inc Code:  1704 - SUSPICIOUS ACTIVITY/CROWD  --  Final Disp: 0809
  Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1704 - 0809:

Inc Code:  1802 - PEDESTRIAN CHECK  --  Final Disp: 0809
  Total Time (from Dispatch to Available) for all KCKPD units dispatched to calls with 1802 - 0809:

Grand Total Time (from Dispatch to Available) for all KCKPD units dispatched:

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<th>CFS Count</th>
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<td>00:09:32</td>
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<td>00:19:02</td>
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<td>00:24:59</td>
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<td>00:10:45</td>
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<td>00:00:00</td>
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Days, HH:MM:SS  3D 12:46:33

Estimated Personnel Cost - Assuming one Police Officer per Unit and a Pay-rate of $44.00 per hour:

$3,730.14

Note: This report only includes Calls-for-Service which match the following criteria:  
(1.) The beginning Incident Code or the Final Disposition must contain the value '0809'; (2.) The unit must be a 'Kansas City KS Police' unit; (3.) The 'District' (Zone) must be within KCK.
## Unit Response Times for 'Fireworks Complaint' Calls (Incident Code 0809)

**Report Version: Totals Only**

- **Distinct Count of Calls-for-Service:** 288
- **Distinct Count of Units dispatched:** 60
- **Total Count of Units dispatched:** 565

### Note:
This report only includes Calls-for-Service which match the following criteria: (1.) The beginning Incident Code or the Final Disposition must contain the value '0809'; (2.) The unit must be a 'Kansas City KS Police' unit; (3.) The 'District' (Zone) must be within KCK.
From: Hollis, Lindsey <lhollis@wycosheriff.org>
Sent: Friday, July 20, 2012 11:46 AM
To: Lovell, Robert
Subject: FW: Fireworks summary
Attachments: image001.jpg

Mr. Lovell,

My name is Lindsey Hollis and I’m one of the Administrative Support Specialists at the Sheriff’s Department. I am the one that takes care of our report system. I have gone through our reports and we have zero reports regarding fireworks for this year. Sorry it has taken so long for me to get this information back to you! Thank you for your patience! I hope you have a wonderful day and a great weekend!

Lindsey J. Hollis
Administrative Support Specialist
Wyandotte County Sheriff’s Office
710 N. 7th St
Kansas City, KS 66101
Phone: 913-573-2067
Fax: 913-573-2868
lhollis@wycosheriff.org

From: Rinehart, Mary
Sent: Wednesday, July 18, 2012 2:48 PM
To: Hollis, Lindsey
Subject: FW: Fireworks summary

From: Lovell, Robert [mailto:rlvell@cckfd.org]
Sent: Friday, July 06, 2012 4:24 PM
To: Andersen, Bruce; Witt, Margie; Henderson, Phillip; Roddy, Bob; Rinehart, Mary; Quinn, Rance
Cc: Shirley, Kevin
Subject: Fireworks summary

Hello,

As all of you know, each year the Deputy Fire Chief gives the standing committee a report on fireworks. Could you help us again?

The kind of information needed is:

- Number of firework related incidents for your division
- Additional costs incurred by your division relating to fireworks. Please be as detailed as possible.
  - Additional staffing needs
- Overtime
- Fuel
- Clean up
- ETC

- If you can think of anything I missed, please include it.

I know everyone is busy and we greatly appreciate your time and effort.

Any questions please contact me.

Thank you
Bob

Robert Lovell Fire Marshal
Kansas City Kansas Fire Department
815 N 6th
Kansas City Kansas, 66101

Work 913-573-5938
Cell 913-669-8733
Fax 913-551-0490
MEMORANDUM

TO: Robert Lovell, Fire Marshall
    Kansas City, Kansas Fire Department

FROM: Tim Nick, Program Coordinator
      Public Works

DATE: July 11, 2012

RE: Fireworks Report

The following is a summary of time, labor and expenses incurred by the Street Department for closure and cleanup of streets during the Fourth of July holiday.

**Street Closures**

1. Materials purchased for additional barricades = $1,098.00

2. Building additional barricades (48 hours X $19.51 = $936.48)

3. Delivery and pickup of barricades (60 hours X $19.51 = $1170.60)

**Cleanup**

1. 4 Equipment Operator II (256 hours X $19.51 = $4,995.00)

2. 4 Equipment Operator I (256 hours X $18.51 = $4,739.00)

3. 4 Sweepers w/fuel (256 hours X $55 per hour = $14,080.00)

4. 4 Dump Trucks w/fuel (256 hours X $60 per hour = $15,360.00)

Total approximate cost = $42,379.08
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<th>Firework Stand Address/Phone</th>
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<td>GREG VAUGHT&lt;br&gt;3033 N 103RD TER&lt;br&gt;KANSAS CITY, KS 66109&lt;br&gt;(913) 522-4852</td>
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# FIREWORKS STANDS for the Year 2012

Sorted in Address Order
Fire Stand Recs only

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Total: 48
MEMORANDUM

TO: Robert Lovell, Fire Marshall

THROUGH: Margie Witt, Director of Parks & Recreation

FROM: Jack Webb, Deputy Director of Parks & Recreation

DATE: July 12, 2012

SUBJECT: Fireworks Report:

The following is a summary of time, labor and expenses incurred by the Parks & Recreation Department for park preparation and firework clean up related to the fourth of July holiday. We had two small grass fires at Quindaro Park and Kensington Park, a port-a-pot was destroyed (melted down) at Waterway Park and two toilets demolished, one at Clopper field and one at Wyandotte County Lake Shelter 16 due to fireworks.

Supplies Purchased

1. Trash bags ($42.00)
2. 2 toilets ($225.00)

Preparation and Clean up

1. Posting and removal of No firework signs (9hrs x 20.25=$182.25)
2. 1 Maintenance Tech II (8hrs x 20.25=$162.00)
3. 3 Groundskeepers I overtime (9hrs x 30.92=$278.28)
4. 5 Groundskeepers I (80 hrs x 18.21=$1456.80)
5. 6 Pickup Trucks w/fuel (106hrs x 15.00=$1590.00)

Total cost = $3,936.33*

*This does not include the $2,100 for the port-a-pot that was covered by vendors insurance.
MEMORANDUM

TO: Robert Lovell, Fire Marshal

FROM: Rollin Sachs, Environmental Scientist

DATE: July 9, 2012

RE: July 3 through July 7, 2012

The attached graph and table display raw data recorded by our continuous fine particulate matter monitor, located at the JFK Core monitoring site, 10th and State Avenue. The data have been obtained from automated instruments and have not been subjected to a quality assurance review to determine their accuracy. The data show hourly averages of fine particulate matter less than or equal to 2.5 microns (ug/m³) for the period covering the 4th of July fireworks influence of 2012.

The chart below indicates the 24 hour average of the hourly data for four days around the 4th of July. The National Ambient Air Quality Standard for fine particulate matter has an annual standard of 15 ug/m³ and a 24 hour standard of 35 ug/m³. A small, short duration spike in hourly values returned to normal levels very quickly. This did push the 24 hour average on the 4th to 31.3 ug/m³, but did not exceed the standard. These data do indicate an increased health risk to individuals exposed to the elevated particle levels during this period.
**Staff Request for Commission Action**

**Type:** Standard

**Committee:** Public Works and Safety Committee

**Date of Standing Committee Action:** 8/20/2012

**Proposed for the following Full Commission Meeting Date:** 9/6/2012

**Confirmed Date:** 9/6/2012

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

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<td>8/15/2012</td>
<td>Brandy Nichols</td>
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<td><a href="mailto:bnichols@wycokck.org">bnichols@wycokck.org</a></td>
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**Item Description:**

Ordinance updating Chapter 35 (Traffic) of the 2008 Code of Ordinances to reflect changes made by Kansas Legislature in 2011 and 2012. Sections 1, 102, 137, 139, 250, 254, 255, 281, 310, 651 and 922 have been amended. New sections relating to refusal to submit to alcohol or drug test and operation of vehicle when a habitual violator have been added.

**Action Requested:**

Adoption of ordinance amending Chapter 35 of the 2008 Code of Ordinances.

**Publication Required**

**Budget Impact:** (if applicable)

**Amount:** $

**Source:**

- [ ] Included In Budget
- [ ] Other (explain)

[ ] File Attachment
ORDINANCE NO. __________

An ordinance relating to traffic and motor vehicles; amending Section 35-1 by adding new definition of "lightweight roadable" and amending definitions of "alcohol or drug related conviction" and "other competent evidence"; amending Sections 102, 137, 139, 250, 254, 255, 281, 310, 651 and 922 of Chapter 35 of the 2008 Code of Ordinances and Resolutions of the Unified Government; amending Chapter 35 by adding new sections relating to refusal to submit to alcohol or drug test and operation of vehicle when a habitual violator; and repealing the original Sections 35-102, 35-137, 35-139, 35-250, 35-254, 35-255, 35-310, 35-651 and 35-922.

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

Section 1. That Section 35-1 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended by adding the following new definition of "lightweight roadable" and amending the definitions of "alcohol and drug related conviction" and "other competent evidence:

Sec. 35-1. Definitions.

Lightweight roadable vehicle means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction or, the federal aviation administration.

Alcohol or drug-related conviction means any of the following:

(1) Conviction of vehicular battery or aggravated vehicular homicide, if the crime is committed while committing a violation of K.S.A. 8-1567 or the ordinance of a city or resolution of a county in this state which prohibits any acts prohibited by that statute, or conviction of a violation of K.S.A. 8-1567 or the 2012 Session Laws of Kansas, Chapter 172, Section 2;

(2) Conviction of a violation of a law of another state that would constitute a crime described in subsection (1) of this definition if committed in this state;

(3) Conviction of a violation of an ordinance of a city in this state or a resolution of a county in this state which would constitute a crime described in subsection (1) of this definition, whether or not such conviction is in a court of record; or
(4) Conviction of an act which was committed on a military reservation and which would constitute a violation of K.S.A. 8-1567, or the 2012 Session Laws of Kansas, Chapter 172, Section 2, or would constitute a crime described in subsection (1) of this definition if committed off a military reservation in this state.

Other competent evidence includes:

(1) Alcohol concentration tests obtained from samples taken two three hours or more after the operation or attempted operation of a vehicle; and
(2) Readings obtained from a partial alcohol concentration test on a breath testing machine.

Section 2. That Section 35-102 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-102. – Traffic-control signal legend.

(a) Whenever traffic is controlled by traffic-control signals exhibiting different colored lights or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication.

a. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left, unless, a sign at such place prohibits either such turn, but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may enter the intersection cautiously only to make the movement indicated by such arrow or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

c. Unless otherwise directed by a pedestrian-control signal, as provided in section 35-103, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication.
a. Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

b. Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in section 35-103, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.

(3) Steady red indication.

a. Vehicular traffic facing a steady circular red or red arrow signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown, except as provided in subsection (3)b, (3)c and 3(d) of this section. Any turn provided for in subsection (3)b, (3)c and 3(d) of this section shall be governed by the applicable provisions of section 35-342.

b. Unless a sign is in place prohibiting a turn, vehicular traffic facing a steady red signal may cautiously enter the intersection to make a right turn after stopping as required by subsection (3)a of this section. After stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Such vehicular traffic shall yield right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

c. Unless a sign is in place prohibiting a turn, vehicular traffic upon a roadway restricted to one-way traffic facing a steady red signal at the intersection of such roadway with another roadway restricted to one-way traffic which is proceeding to the left of such vehicular traffic may cautiously enter the intersection to make a left turn after stopping as required by subsection (3)a of this section. After stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

d. The driver of a motorcycle or a person riding a bicycle facing any steady red signal, which fails to change to a green light within a
reasonable period of time because of a signal malfunction or because the signal has failed to detect the arrival of the motorcycle or bicycle because of its size or weight, shall have the right to proceed subject to the rules stated herein. After stopping, the driver or rider shall yield the right-of-way to any vehicle in or near the intersection or approaching on a roadway so closely as to constitute an immediate hazard during the time such driver or rider is moving across or within the intersection or junction or roadways. Such motorcycle or bicycle traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(e) Unless otherwise directed by a pedestrian-control signal as provided in section 35-103, pedestrians facing a steady circular red or red arrow signal alone shall not enter the roadway.

Section 3. That Section 35-137 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-137. - Accident involving death or personal injuries; penalties.

(a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to, or death of any person or damage to any attended vehicle or property shall immediately stop such vehicle at the scene of such accident or as close thereto as possible, but shall then immediately return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of section 35-139 and amendments thereto.

(b) Any person who violates this section which results in injury to any person shall, upon conviction, be punished by imprisonment for not more than one year or by a fine of not more than $2,500.00, or by both such fine and imprisonment.

(c) The municipal court does not have jurisdiction to hear cases involving failure to stop and remain at the scene of an accident involving great bodily harm to any person or death of any person.

Section 4. That Section 35-139 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-139. - Duty to give information and render aid.

(a)

(1) The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any attended vehicle or property shall give such driver’s name, address and the registration number of the vehicle such driver is driving, and upon request, shall exhibit such driver’s license or permit to drive, the name of the company with which there is in effect a policy of motor vehicle liability insurance covering the vehicle involved in the accident and the policy number of such policy to any person injured in such accident or to the driver or occupant of or person
attending any vehicle or other property damaged in such accident, and shall give such information and, upon request, exhibit such license or permit and the name of the insurer and policy number to any police officer at the scene of the accident or who is investigating the accident.

(2) Such driver, insofar as possible, shall immediately make efforts to determine whether any person shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

(b) If no police officer is present, the driver of any vehicle involved in such accident, or any occupant of such vehicle 18 years of age or older, shall immediately report such accident, by the quickest available means of communication, to the nearest office of a duly authorized police authority if:

(1) There is apparently property damage of $1,000 or more;

(2) Any person involved in the accident is injured or killed; or

(3) The persons specified in subsection (a) are not present or in condition to receive such information.

(c) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with failing to provide the name of such person's insurance company and policy number as required in subsection (a) shall be convicted if such person produces in court, within ten days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance.

(d) Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form, the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city
clerk of the municipality in which such prosecution is pending when the
prosecuting attorney is not ascertainable. Receipt of any completed form
indicating that insurance was not in effect on the date specified shall be prima
facie evidence of failure to provide proof of financial security and violation of this
section. A request that the matter be set for trial shall be made immediately
following the receipt by the prosecuting attorney of a copy of the form from the
department of revenue indicating that insurance was not in force. Any charge
hereunder shall be dismissed if no request for a trial setting has been made within
60 days of the date evidence of financial security was produced in court.

Section 5. That Section 35-250 of the 2008 Code of Ordinances and Resolutions of the
Unified Government be and the same is hereby amended to read as follows:

Sec. 35-250. Driving while under the influence of alcohol or drugs or both; penalties.

(a) Driving under the influence is operating or attempting to operate any vehicle
within this city while:

(1) The alcohol concentration in the person's blood or breath as shown by any
competent evidence, including other competent evidence is 0.08 or more;
(2) The alcohol concentration in the person's blood or breath, as measured
within three hours of the time of operating or attempting to operate a
vehicle, is 0.08 or more;
(3) Under the influence of alcohol to a degree that renders the person
incapable of safely driving a vehicle;
(4) Under the influence of any drug or combination of drugs to a degree that
renders the person incapable of safely driving a vehicle;
(5) Under the influence of a combination of alcohol and any drug or drugs to a
degree that renders the person incapable of safely operating a vehicle; or
(6) The person is a habitual user of any narcotic, hypnotic, somnifacient or
stimulating drug.

(b)

(1) Driving under the influence is:
a. On a first conviction a class B, nonperson misdemeanor. The
person convicted shall be sentenced to not less than 48 consecutive
hours nor more than six months imprisonment, or in the court's
discretion 100 hours of public service, and fined not less than
$750.00 nor more than $1,000.00. The person convicted shall serve
at least 48 consecutive hours' imprisonment or 100 hours of public
service either before or as a condition of any grant of probation or
suspension, reduction of sentence or parole. The court may place
the person convicted under a house arrest program pursuant to
section 249 of chapter 136 of the 2010 Session Laws of Kansas,
and amendments thereto, to serve the remainder of the minimum
sentence only after such person has served 48 consecutive hours'
imprisonment;
b. On a second conviction a class A, nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,250.00 nor more than $1,750.00. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five-days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to section 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;

c. On a third conviction a class A, nonperson misdemeanor, except as provided in K.S.A. 8-1567(b)(1)(D). The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,750.00 nor more than $2,500.00. The person convicted shall be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to section 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, to serve the remainder only after such person
has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(2) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person convicted of violating this section, who had one or more children under the age of 14 years in the vehicle at the time of the offense, shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the one month enhanced penalty, the judge may order the person on house arrest, work release, or other conditional release.

(d) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any fines, fees, assessments, and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to $5.00 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g) Impoundment and immobilization.

(1) Except as provided in subsection [(g)(5)] of this section, in addition to any other penalty which may be imposed upon a first conviction of a violation of this section, the court may order that the convicted person's motor
vehicle be impounded or immobilized for a period not to exceed one year and that the convicted person pay all towing, impoundment, and storage fees or other immobilization costs.

(2) The court shall not order the impoundment or immobilization of a motor vehicle driven by a person convicted of a violation of this section if the motor vehicle had been stolen or converted at the time it was driven in violation of this section.

(3) Prior to ordering the impoundment or immobilization of a motor vehicle or vehicles owned by a person convicted of a violation of this section, the court shall consider, but not be limited to, the following:
   a. Whether the impoundment or immobilization of the motor vehicle would result in the loss of employment by the convicted person or a member of such person's family; and
   b. Whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.

(4) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.

(5) As used in this subsection, the convicted person's motor vehicle shall include any vehicle leased by such person. If the lease on the convicted person's vehicle subject to impoundment or immobilization expires in less than one year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of time remaining on the lease.

(h)

(1) Upon filing a complaint, citation or notice to appear alleging a violation of this section, and prior to a conviction thereof, the city attorney shall request and shall receive from the:
   a. Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and
   b. Kansas Bureau of Investigation central repository of all criminal history record information concerning such person.

(2) If the elements of a violation of this section are the same as the elements of a violation of K.S.A. 8-1567 that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the district attorney for prosecution.

(i) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings
on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and receive from the division a record of all prior convictions obtained against such person for any violations of any motor vehicle laws of this state.

(j) For the purposes of determining whether a conviction is a first, second or third conviction in sentencing under this section:

(1) "Conviction" includes being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(2) "Conviction" includes being convicted of a violation of a law of any state or of an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(3) Only convictions occurring on or after July 1, 2001 shall be taken into account when determining the sentence to be imposed for a first, second or third offender;

(4) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(5) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, only once during the person's lifetime.

(k) Upon conviction of a person of a violation of this section, the court may order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(l) Upon conviction of a person of a violation of this section, the court shall assess applicable costs authorized by subsection 23-13(a)(5) of this Code against the convicted person, unless the court makes a finding of undue hardship.

(m) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq., and amendments thereto, shall not constitute plea bargaining.

(n) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) of this section may be pleaded in the alternative, and the city may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.
Section 6. That Section 35-254 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-254. Preliminary breath test.

(a) Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent to submit to a preliminary screening test of the person's breath or saliva, or both, subject to the provisions set out in subsection (b) of this section.

(b) A law enforcement officer may request a person who is operating or attempting to operate a motor vehicle within this state to submit to a preliminary screening test of the person's breath or saliva, or both, if the officer has reasonable suspicion to believe that the person has been operating or attempting to operate a vehicle while under the influence of alcohol or drugs or both alcohol and drugs.

(c) At the time the test is requested, the person shall be given oral notice that:

(1) There is no right to consult with an attorney regarding whether to submit to testing;

(2) Refusal to submit to testing is a traffic infraction; and

(3) Further testing may be required after the preliminary screening test. Failure to provide the notice shall not be an issue or defense in any action. The law enforcement officer then shall request the person to submit to the test.

(d) Refusal to take and complete the test as requested is a traffic infraction and violates this section. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized by K.S.A. 8-1001 and amendments thereto.

(e) A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action concerning the operation of or attempted operation of a vehicle except to aid the court or hearing officer in determining a challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to K.S.A. 8-1001 and amendments thereto. Following the preliminary screening test, additional tests may be requested pursuant to K.S.A. 8-1001 and amendments thereto.

Section 7. That Chapter 35 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended by adding a new section to read as follows:

Refusal to Submit to Alcohol or Drug Test.
(a) Refusing to submit to a test to determine the presence of alcohol or drugs is refusing to submit to or complete a test or tests deemed consented to under subsection (a) of K.S.A. 8-1001, and amendments thereto, if such person has:

(1) Any prior test refusal as defined in K.S.A. 8-1013, and amendments thereto, which occurred:

(A) On or after July 1, 2001; and

(B) when such person was 18 years of age or older; or

(2) any prior conviction for a violation of K.S.A. 8-1567 or 8-2,144, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, which occurred:

(A) On or after July 1, 2001; and

(B) when such person was 18 years of age or older; or

(b) Refusing to submit to a test to determine the presence of alcohol or drugs is:

(1) On a first conviction, the person convicted shall be sentenced to not less than 90 days nor more than one year’s imprisonment and fined not less than $1,250 nor more than $1,750. The person convicted shall serve at least five consecutive days’ imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days’ imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours’ imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender’s work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. Supp. 21-6609, and amendments thereto, to serve the five days’ imprisonment mandated by this subsection only after such person has served 48 consecutive hours’ imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender’s location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender’s residence. Any exceptions to remaining within the boundaries of the offender’s residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;
(2) On a second conviction a nonperson felony if the person has a prior conviction which occurred within the preceding 10 years, not including any period of incarceration. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,750 nor more than $2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender’s residence. Any exceptions to remaining within the boundaries of the offender’s residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours; and

(3) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person convicted of violating this section who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessments and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
(e) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to $5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(f) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(g) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring:

(A) On or after July 1, 2001; and

(B) when such person was 18 years of age or older. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person’s lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) any convictions for a violation of the following sections which occurred during a person’s lifetime shall be taken into account, but only convictions occurring when such person was 18 years of age or older:

(A) This section or the 2012 Session Laws of Kansas, Chapter 172, Section 2;

(B) driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto;

(C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
(D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or subsection (a)(3) of K.S.A. Supp. 21-5405, and amendments thereto; and

(E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) conviction includes:

(A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (g)(2);

(B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in subsection (g)(1) or (g)(2); and

(C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (g)(1) or (g)(2) if committed off a military reservation in this state;

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense;

(5) multiple convictions of any crime described in subsection (g)(1) or (g)(2) arising from the same arrest shall only be counted as one conviction;

(6) the prior conviction that is an element of the crime of refusing to submit to a test to determine the presence of alcohol or drugs shall not be used for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section and shall not be considered in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense; and

(7) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, or an ordinance which prohibits the acts of this section, only once during the person’s lifetime.

(h) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person’s driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
(i) Upon conviction of a person of a violation of this section, the court may order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(j) Upon the filing of a complaint, citation or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(k) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

(l) As used in this section, imprisonment shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.

Section 8. That Section 35-255 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-255. Tampering with ignition interlock device, etc.

(a) No person shall:

(1) Tamper with an ignition interlock device, circumvent it or render it inaccurate or inoperative;

(2) Request or solicit another to blow into an ignition interlock device, or start a motor vehicle equipped with such device, for the purpose of providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such a device;

(3) Blow into an ignition interlock device or start a motor vehicle equipped with such device providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such a device; or

(4) Operate a vehicle not equipped with an ignition interlock device while such person’s driving privileges have been restricted to driving a motor vehicle equipped with such device.

(b) Violation of this section shall be punished by a fine of not more than $2,500.00, by imprisonment for not more than one year, or by both such fine and imprisonment.
Section 9. That Section 35-281 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-281. Maximum speed limits.
(a) Except as provided in subsection (c) of this section, and except when a special hazard exists that requires lower speed for compliance with section 35-280, the limits specified in this section or established as authorized by law shall be maximum lawful speeds and no person shall operate a vehicle at a speed in excess of such maximum limits:

(1) In any urban district, 30 miles per hour;

(2) On any separated multilane highway, as designated and posted by the secretary, 75 miles per hour;

(3) Fifty-five miles per hour on any county or township highway; and

(4) Sixty-five miles per hour on all other highways.

(b) The maximum speed limits established by or pursuant to this section may be altered as authorized in section 35-286

(c) No person shall drive a school bus to or from school or interschool or intraschool functions or activities at a speed greater than the maximum speed limits provided in subsection (a) of this section. The provisions of this subsection shall apply to buses used for the transportation of students enrolled in community colleges or area vocational schools when such buses are transporting students to or from school or functions or activities.

Section 10. That Section 35-310 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-310. Overtaking a vehicle on the left.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hercinafter stated:

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.
Section 11. That Section 35-651 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-651. Wearing seat belts required.

(a) Except as provided in section 35-650 in subsection (b):

(1) Each occupant of a passenger car manufactured with safety belts in compliance with federal motor safety standard no. 208, who is 18 years of age or older, shall have a safety belt properly fastened about such person’s body at all times when the passenger car is in motion; and

(2) Each occupant of a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208, who is at least 14 years of age but less than 18 years of age, shall have a safety belt properly fastened about such person’s body at all times when the passenger car is in motion.

(b) This section does not apply to:

(1) An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system;

(2) Carriers of United States mail while actually engaged in delivery and collection of mail along their specified routes;

(3) Newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes; or

(c) Law enforcement officers shall not stop drivers for violations of subsection (a) of this section by a back seat occupant in the absence of another violation of law. A citation for violation of subsection (a) of this section by a back seat occupant shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.

(d) Persons violating subsection (a)(1) of this section shall be fined $30.00, including court costs.

(e) Persons violating subsection (a)(2) of this section shall be fined $60.00, including court costs.

Section 12 That Section 35-922 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-922. - Driving while licensing suspended or revoked.
(a) No person shall operate a motor vehicle or motorized bicycle on any public street or highway of this city at a time when such person's privilege to do so is canceled, suspended, or revoked or while such person's privilege to obtain a driver's license is suspended or revoked.

(b) No person shall be convicted under this section if such person, at the time of arrest was entitled under K.S.A. 8-257, and amendments thereto, to the return of such person's driver's license.

(c) Except under the circumstances set out in subsection (c)(3) of this section, the following penalties shall apply to a person convicted of violating this section:

1. Upon a first conviction, a person shall be sentenced to not less than five days' nor more than six months' imprisonment and fined not less than $100.00 nor more than $1,000.00.

2. Upon a second conviction of a violation of this section, a person shall be sentenced to not less than five days' nor more than one year's imprisonment and fined not less than $100.00 nor more than $2,500.00. The person convicted must serve five consecutive days' imprisonment either before or as a condition of any grant of probation, parole, or suspension or reduction of sentence.

3. If a person is convicted of any of the following, the person shall not be eligible for suspension of sentence, probation, or parole until the person has served as least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

   a. Is convicted of a violation of this section committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of section 35-250, and amendments thereto, K.S.A. 8-1567, and amendments thereto, or the 2012 Session Laws of Kansas, Chapter 172, Section 2, or any ordinance of any city or a law of another state, which ordinance or law prohibits the acts prohibited by section 35-250; and

   b. Is or has been also convicted of a violation of section 35-250, and amendments thereto, or K.S.A. 8-1567, and amendments thereto, or the 2012 Session Laws of Kansas, Chapter 172, Section 2, or of a municipal ordinance or law of another state, which ordinance or law prohibits the acts prohibited by section 35-250, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked.
(4) Upon a third or subsequent conviction of this section, a person shall be sentenced to not less than 90 days imprisonment and fined not less than $1,500.00 if such person's privilege to drive a motor vehicle is canceled, suspended, or revoked because such person:

a. Refused to submit and complete any test of blood, breath, or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;

b. Was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;

c. Was convicted of vehicular homicide, K.S.A. 21-3405, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 2006 Supp. 21-3442, and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or

d. Was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.

(5) The person convicted under the circumstances of subsection (c)(4) of this section shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentences only after such person has served 48 consecutive hours' imprisonment.

(d) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section.

(e) For the purposes of this section, if any person operates a motor vehicle or a motorized bicycle on any public highway of this city at a time when such person's privilege to do so has been restricted by the division, by a judge of a court of
competent jurisdiction or by a diversion agreement entered into by the person pursuant to K.S.A. 12-4413 et seq., and amendments thereto, and such operation violates or is outside the scope of such restrictions, such person shall be deemed to be operating a motor vehicle or motorized bicycle when such person’s privilege to do so has been suspended, or revoked.

Section 13. That Chapter 35 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended by adding a new section to read as follows:

Operation of a Motor Vehicle When a Habitual Violator

Except as allowed under subsection (d)(4) of K.S.A. 8-235, and amendments thereto, operation of a motor vehicle in this state when one’s driving privileges are revoked pursuant to K.S.A. 8-286 and amendments thereto shall be punished by imprisonment for not more than one year or fined not to exceed $2,500, or both such fine and imprisonment. The person found guilty of a third or subsequent conviction of this section shall be sentenced to not less than 90 days imprisonment and fined not less than $1,500. The person convicted shall not be eligible for release on probation, suspension, or reduction of sentence or parole until the person has served at least 90 days’ imprisonment. The 90 days’ imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours’ imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program or any municipal ordinance to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours’ imprisonment.


Section 15. This ordinance shall take effect and be in full 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 ______ DAY OF ___________________ 2012.

________________________
Joe Reardon, Mayor/CEO

Attest:

________________________
Unified Government Clerk
Approved As To Form:

Brandelyn Nichols, Assistant Counselor
ORDINANCE NO. 

An ordinance relating to traffic and motor vehicles; amending Section 35-1 by adding new definition of "lightweight roadable" and amending definitions of "alcohol or drug related conviction" and "other competent evidence"; amending Sections 102, 137, 139, 250, 254, 255, 281, 310, 651 and 922 of Chapter 35 of the 2008 Code of Ordinances and Resolutions of the Unified Government; amending Chapter 35 by adding new sections relating to refusal to submit to alcohol or drug test and operation of vehicle when a habitual violator; and repealing the original Sections 35-102, 35-137, 35-139, 35-250, 35-254, 35-255, 35-310, 35-651 and 35-922.

BE IT ORDEIGNED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. That Section 35-1 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended by adding the following new definition of "lightweight roadable" and amending the definitions of "alcohol and drug related conviction" and "other competent evidence:

Sec. 35-1. Definitions.

Lightweight roadable vehicle means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction or, the federal aviation administration.

Alcohol or drug-related conviction means any of the following:

(1) Conviction of vehicular battery or aggravated vehicular homicide, if the crime is committed while committing a violation of K.S.A. 8-1567 or the ordinance of a city or resolution of a county in this state which prohibits any acts prohibited by that statute, or conviction of a violation of K.S.A. 8-1567 or the 2012 Session Laws of Kansas, Chapter 172, Section 2:

(2) Conviction of a violation of a law of another state that would constitute a crime described in subsection (1) of this definition if committed in this state;

(3) Conviction of a violation of an ordinance of a city in this state or a resolution of a county in this state which would constitute a crime described in subsection (1) of this definition, whether or not such conviction is in a court of record; or
(4) Conviction of an act which was committed on a military reservation and which would constitute a violation of K.S.A. 8-1567, or the 2012 Session Laws of Kansas, Chapter 172, Section 2, or would constitute a crime described in subsection (1) of this definition if committed off a military reservation in this state.

Other competent evidence includes:

(1) Alcohol concentration tests obtained from samples taken two three hours or more after the operation or attempted operation of a vehicle; and
(2) Readings obtained from a partial alcohol concentration test on a breath testing machine.

Section 2. That Section 35-102 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-102. – Traffic-control signal legend.

(a) Whenever traffic is controlled by traffic-control signals exhibiting different colored lights or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication.

a. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left, unless, a sign at such place prohibits either such turn, but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may enter the intersection cautiously only to make the movement indicated by such arrow or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

c. Unless otherwise directed by a pedestrian-control signal, as provided in section 35-103, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication.
a. Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

b. Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in section 35-103, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.

(3) Steady red indication.

a. Vehicular traffic facing a steady circular red or red arrow signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown, except as provided in subsection (3)b, and (3)c and (3d) of this section. Any turn provided for in subsection (3)b, and (3)c and (3d) of this section shall be governed by the applicable provisions of section 35-342.

b. Unless a sign is in place prohibiting a turn, vehicular traffic facing a steady red signal may cautiously enter the intersection to make a right turn after stopping as required by subsection (3)a of this section. After stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Such vehicular traffic shall yield right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

c. Unless a sign is in place prohibiting a turn, vehicular traffic upon a roadway restricted to one-way traffic facing a steady red signal at the intersection of such roadway with another roadway restricted to one-way traffic which is proceeding to the left of such vehicular traffic may cautiously enter the intersection to make a left turn after stopping as required by subsection (3)a of this section. After stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
d. The driver of a motorcycle or a person riding a bicycle facing any steady red signal, which fails to change to a green light within a reasonable period of time because of a signal malfunction or because the signal has failed to detect the arrival of the motorcycle or bicycle because of its size or weight, shall have the right to proceed subject to the rules stated herein. After stopping, the driver or rider shall yield the right-of-way to any vehicle in or near the intersection or approaching on a roadway so closely as to constitute an immediate hazard during the time such driver or rider is moving across or within the intersection or junction or roadways. Such motorcycle or bicycle traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(e) Unless otherwise directed by a pedestrian-control signal as provided in section 35-103, pedestrians facing a steady circular red or red arrow signal alone shall not enter the roadway.

Section 3. That Section 35-137 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-137. - Accident involving death or personal injuries; penalties.

(a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to, or death of any person or damage to any attended vehicle or property shall immediately stop such vehicle at the scene of such accident or as close thereto as possible, but shall then forthwith immediately return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of section 35-139 and amendments thereto. Each such stop shall be made without obstructing traffic more than is necessary.

(b) Any person who violates this section which results in injury to any person shall, upon conviction, be punished by imprisonment for not more than one year or by a fine of not more than $2,500.00, or by both such fine and imprisonment.

(c) The municipal court does not have jurisdiction to hear cases involving failure to stop and remain at the scene of an accident involving great bodily harm to any person or death of any person.

Section 4. That Section 35-139 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-139. - Duty to give information and render aid.

(a) (1) The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any attended vehicle or other property which is driven or attended by any person shall give such person's driver's name, address and the registration number of the vehicle such person driver is driving, and upon request, shall exhibit such driver's person's
license or permit to drive, the name of the company with which there is in effect a policy of motor vehicle liability insurance covering the vehicle involved in the accident and the policy number of such policy to any person injured in such accident or to the driver or occupant of or person attending any vehicle or other property damaged in such accident, and shall give such information and, upon request, exhibit such license or permit and the name of the insurer and policy number to any police officer at the scene of the accident or who is investigating the accident and render to any person injured in such accident reasonable assistance including the carrying or the making of arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

(2) Such driver, insofar as possible, shall immediately make efforts to determine whether any person shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

(b) In the event that none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (a) of this section and no police officer is present the driver of any vehicle involved in such accident, after fulfilling all other requirements of section 35-137 and subsection (a) of this section, insofar as possible on such person's part to be performed, shall forthwith report such accident to the nearest office of a duly authorized police authority and shall submit the information specified in subsection (a) of this section:

If no police officer is present, the driver of any vehicle involved in such accident, or any occupant of such vehicle 18 years of age or older, shall immediately report such accident, by the quickest available means of communication, to the nearest office of a duly authorized police authority if:

(1) There is apparently property damage of $1,000 or more;

(2) Any person involved in the accident is injured or killed; or

(3) The persons specified in subsection (a) are not present or in condition to receive such information.

(c) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with failing to provide the name of such person's insurance company and policy number as required in subsection (a) shall be convicted if such person produces in court, within ten days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability
insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance.

(d) Upon the production in court of evidence of financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form, the department shall mail the form to the named insurance company for verification that insurance was in force on the date indicated on the form. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department indicating that insurance was not in force on such date, the department shall immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge hereunder shall be dismissed if no request for a trial setting has been made within 60 days of the date evidence of financial security was produced in court.

Section 5. That Section 35-250 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-250. Driving while under the influence of alcohol or drugs or both; penalties.

(a) Driving under the influence is operating or attempting to operate any vehicle within this city while:

1. The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence is 0.08 or more;
2. The alcohol concentration in the person's blood or breath, as measured within three hours of the time of operating or attempting to operate a vehicle, is 0.08 or more;
3. Under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;
4. Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle;
5. Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely operating a vehicle; or
6. The person is a habitual user of any narcotic, hypnotic, somnifacient or stimulating drug.
(1) Driving under the influence is:

a. On a first conviction a class B, nonperson misdemeanor. The person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months imprisonment, or in the court's discretion 100 hours of public service, and fined not less than $750.00 nor more than $1,000.00. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program pursuant to section 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment;

b. On a second conviction a class A, nonperson misdemeanor. The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,250.00 nor more than $1,750.00. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five-days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to section 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;

c. On a third conviction a class A, nonperson misdemeanor, except as provided in K.S.A. 8-1567(b)(1)(D). The person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than $1,750.00 nor more than
$2,500.00. The person convicted shall be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 240 2,160 hours of confinement. Such 240 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to section 249 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 240 2,160 hours confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 240 2,160 hours.

(2) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person convicted of violating this section, who had one or more children under the age of 14 years in the vehicle at the time of the offense, shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the one month enhanced penalty, the judge may order the person on house arrest, work release, or other conditional release.

(d) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any fines, fees, assessments, and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any
remainder of the fine shall be paid prior to the final release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to $5.00 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g) Impoundment and immobilization.

(1) Except as provided in subsection [(g)(5)] of this section, in addition to any other penalty which may be imposed upon a first conviction of a violation of this section, the court may order that the convicted person's motor vehicle be impounded or immobilized for a period not to exceed one year and that the convicted person pay all towing, impoundment, and storage fees or other immobilization costs.

(2) The court shall not order the impoundment or immobilization of a motor vehicle driven by a person convicted of a violation of this section if the motor vehicle had been stolen or converted at the time it was driven in violation of this section.

(3) Prior to ordering the impoundment or immobilization of a motor vehicle or vehicles owned by a person convicted of a violation of this section, the court shall consider, but not be limited to, the following:
   a. Whether the impoundment or immobilization of the motor vehicle would result in the loss of employment by the convicted person or a member of such person's family; and
   b. Whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.

(4) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.

(5) As used in this subsection, the convicted person's motor vehicle shall include any vehicle leased by such person. If the lease on the convicted person's vehicle subject to impoundment or immobilization expires in less than one year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of time remaining on the lease.
(1) Upon filing a complaint, citation or notice to appear alleging a violation of this section, and prior to a conviction thereof, the city attorney shall request and shall receive from the:

a. Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

b. Kansas Bureau of Investigation central repository of all criminal history record information concerning such person.

(2) If the elements of a violation of this section are the same as the elements of a violation of K.S.A. 8-1567 that would constitute, and be punished as, a felony, the city attorney shall refer the violation to the district attorney for prosecution.

(i) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and receive from the division a record of all prior convictions obtained against such person for any violations of any motor vehicle laws of this state.

(j) For the purposes of determining whether a conviction is a first, second or third conviction in sentencing under this section:

(1) "Conviction" includes being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(2) "Conviction" includes being convicted of a violation of a law of any state or of an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(3) Only convictions occurring on or after July 1, 2001 shall be taken into account when determining the sentence to be imposed for a first, second or third offender;

(4) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(5) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, only once during the person's lifetime.
(k) Upon conviction of a person of a violation of this section, the court may order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(l) Upon conviction of a person of a violation of this section, the court shall assess applicable costs authorized by subsection 23-13(a)(5) of this Code against the convicted person, unless the court makes a finding of undue hardship.

(m) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq., and amendments thereto, shall not constitute plea bargaining.

(n) The alternatives set out in subsections (a)(1), (a)(2) and (a)(3) of this section may be pleaded in the alternative, and the city may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.

Section 6. That Section 35-254 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-254. Preliminary breath test.

(a) Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent to submit to a preliminary screening test of the person's breath or saliva, or both, subject to the provisions set out in subsection (b) of this section.

(b) A law enforcement officer may request a person who is operating or attempting to operate a motor vehicle within this state to submit to a preliminary screening test of the person's breath to determine the alcohol concentration of the person's breath or saliva, or both, if the officer has reasonable suspicion to believe that the person has been operating or attempting to operate a vehicle while under the influence of alcohol or drugs or both alcohol and drugs.

(c) At the time the test is requested, the person shall be given oral notice that:

(1) There is no right to consult with an attorney regarding whether to submit to testing;

(2) Refusal to submit to testing is a traffic infraction; and

(3) Further testing may be required after the preliminary screening test. Failure to provide the notice shall not be an issue or defense in any action. The law enforcement officer then shall request the person to submit to the test.
(d) Refusal to take and complete the test as requested is a traffic infraction and violates this section. If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized by K.S.A. 8-1001 and amendments thereto.

(e) A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action concerning the operation of or attempted operation of a vehicle except to aid the court or hearing officer in determining a challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to K.S.A. 8-1001 and amendments thereto. Following the preliminary screening test, additional tests may be requested pursuant to K.S.A. 8-1001 and amendments thereto.

Section 7. That Chapter 35 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended by adding a new section to read as follows:

**Refusal to Submit to Alcohol or Drug Test.**

(a) Refusing to submit to a test to determine the presence of alcohol or drugs is refusing to submit to or complete a test or tests deemed consented to under subsection (a) of K.S.A. 8-1001, and amendments thereto, if such person has:

(1) Any prior test refusal as defined in K.S.A. 8-1013, and amendments thereto, which occurred:

(A) On or after July 1, 2001; and

(B) when such person was 18 years of age or older; or

(2) any prior conviction for a violation of K.S.A. 8-1567 or 8-2,144, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, which occurred:

(A) On or after July 1, 2001; and

(B) when such person was 18 years of age or older; or

(b) Refusing to submit to a test to determine the presence of alcohol or drugs is:

(1) On a first conviction, the person convicted shall be sentenced to not less than 90 days nor more than one year’s imprisonment and fined not less than $1,250 nor more than $1,750. The person convicted shall serve at least five consecutive days’ imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise
released. The five days’ imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours’ imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender’s work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. Supp. 21-6609, and amendments thereto, to serve the five days’ imprisonment mandated by this subsection only after such person has served 48 consecutive hours’ imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender’s location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender’s residence. Any exceptions to remaining within the boundaries of the offender’s residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;

(2) On a second conviction a nonperson felony if the person has a prior conviction which occurred within the preceding 10 years, not including any period of incarceration. The person convicted shall be sentenced to not less than 90 days nor more than one year’s imprisonment and fined not less than $1,750 nor more than $2,500. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days’ imprisonment. The 90 days’ imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours’ imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender’s work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 2011 Supp. 21-6609, and amendments thereto, to serve the 90 days’ imprisonment mandated by this subsection only after such person has served 48 consecutive hours’ imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender’s location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender’s residence. Any exceptions to remaining within the boundaries of the offender’s residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours; and

(3) In addition, prior to sentencing for any conviction, the court shall order the person to participate in an alcohol and drug evaluation conducted by a
provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

(c) Any person convicted of violating this section who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

(d) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessments and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(e) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to $5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(f) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(g) For the purpose of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section:

(1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring:

(A) On or after July 1, 2001; and
(B) when such person was 18 years of age or older. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person’s lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense:

(2) any convictions for a violation of the following sections which occurred during a person’s lifetime shall be taken into account, but only convictions occurring when such person was 18 years of age or older:

(A) This section or the 2012 Session Laws of Kansas, Chapter 172, Section 2;

(B) driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto;

(C) operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;

(D) involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or subsection (a)(2) of K.S.A. Supp. 21-5405, and amendments thereto; and

(E) aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) conviction includes:

(A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (g)(2);

(B) conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another state which would constitute a crime described in subsection (g)(1) or (g)(2); and

(C) receiving punishment under the uniform code of military justice or Kansas code of military justice for an act which was committed on a military reservation and which would constitute a crime described in subsection (g)(1) or (g)(2) if committed off a military reservation in this state;

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense:
(5) multiple convictions of any crime described in subsection (g)(1) or (g)(2) arising from the same arrest shall only be counted as one conviction;

(6) the prior conviction that is an element of the crime of refusing to submit to a test to determine the presence of alcohol or drugs shall not be used for the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section and shall not be considered in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense; and

(7) a person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, or an ordinance which prohibits the acts of this section, only once during the person’s lifetime.

(h) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person’s driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(i) Upon conviction of a person of a violation of this section, the court may order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(j) Upon the filing of a complaint, citation or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(k) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq. or 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

(l) As used in this section, imprisonment shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.

Section 8. That Section 35-255 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-255. Tampering with ignition interlock device, etc.
(a) No person shall:

(1) Tamper with an ignition interlock device, for the purpose of circumventing it or rendering it inaccurate or inoperative;

(2) Request or solicit another to blow into an ignition interlock device, or start a motor vehicle equipped with such device, for the purpose of providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such a device;

(3) Blow into an ignition interlock device or start a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such a device; or

(4) Operate a vehicle not equipped with an ignition interlock device during the restricted period while such person's driving privileges have been restricted to driving a motor vehicle equipped with such device.

(b) Violation of this section shall be punished by a fine of not more than $2,500.00, by imprisonment for not more than one year, or by both such fine and imprisonment.

Section 9. That Section 35-281 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-281. Maximum speed limits.

(a) Except as provided in subsection (c) of this section, and except when a special hazard exists that requires lower speed for compliance with section 35-280, the limits specified in this section or established as authorized by law shall be maximum lawful speeds and no person shall operate a vehicle at a speed in excess of such maximum limits:

(1) In any urban district, 30 miles per hour;

(2) On any separated multilane highway, as designated and posted by the secretary, 79 75 miles per hour;

(3) Fifty-five miles per hour on any county or township highway; and

(4) Sixty-five miles per hour on all other highways.

(b) The maximum speed limits established by or pursuant to this section may be altered as authorized in section 35-286.

(c) No person shall drive a school bus to or from school or interschool or intraschool functions or activities at a speed greater than the maximum speed limits provided in subsection (a) of this section. The provisions of this subsection shall apply to buses used for the transportation of students enrolled in community colleges or area vocational schools when such buses are transporting students to or from school or functions or activities.
Section 10. That Section 35-310 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-310. Overtaking a vehicle on the left.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

(4a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

Section 11. That Section 35-651 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-651. Wearing seat belts required.

(a) Except as provided in section 35-650 and in subsection (b) or (c) of this section, each occupant of a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208, who is 18 years of age or older, shall have a safety belt properly fastened about such person’s body at all times when the passenger car is in motion.

(1) Each occupant of a passenger car manufactured with safety belts in compliance with federal motor safety standard no. 208, who is 18 years of age or older, shall have a safety belt properly fastened about such person’s body at all times when the passenger car is in motion; and

(2) Each occupant of a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208, who is at least 14 years of age but less than 18 years of age, shall have a safety belt properly fastened about such person’s body at all times when the passenger car is in motion.

(b) This section does not apply to:

(1) An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system;
(2) Carriers of United States mail while actually engaged in delivery and collection of mail along their specified routes;

(3) Newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes; or

(4) An occupant of a passenger car required to be protected by a safety restraining system under the Child Passenger Safety Act.

(c) Law enforcement officers shall not stop drivers for violations of subsection (a) of this section by a back seat occupant in the absence of another violation of law. A citation for violation of subsection (a) of this section by a back seat occupant shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.

(d) Persons violating subsection (a)(1) of this section shall be fined $30.00, including court costs.

(e) Persons violating subsection (b)(2) of this section shall be fined $60.00, including court costs.

Section 12 That Section 35-922 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended to read as follows:

Sec. 35-922. - Driving while licensing suspended or revoked.

(a) No person shall operate a motor vehicle or motorized bicycle on any public street or highway of this city at a time when such person's privilege to do so is canceled, suspended, or revoked or while such person's privilege to obtain a driver's license is suspended or revoked.

(b) No person shall be convicted under this section if such person, at the time of arrest was entitled under K.S.A. 8-257, and amendments thereto, to the return of such person's driver's license.

(c) Except under the circumstances set out in subsection (c)(3) of this section, the following penalties shall apply to a person convicted of violating this section:

(1) Upon a first conviction, a person shall be sentenced to not less than five days' nor more than six months' imprisonment and fined not less than $100.00 nor more than $1,000.00.

(2) Upon a second conviction of a violation of this section, a person shall be sentenced to not less than five days' nor more than one year's imprisonment and fined not less than $100.00 nor more than $2,500.00.
The person convicted must serve five consecutive days' imprisonment either before or as a condition of any grant of probation, parole, or suspension or reduction of sentence.

(3) If a person is convicted of any of the following, the person shall not be eligible for suspension of sentence, probation, or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

a. Is convicted of a violation of this section committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of section 35-250, and amendments thereto, K.S.A. 8-1567, and amendments thereto, or the 2012 Session Laws of Kansas, Chapter 172, Section 2, or any ordinance of any city or a law of another state, which ordinance or law prohibits the acts prohibited by section 35-250; and

b. Is or has been also convicted of a violation of section 35-250, and amendments thereto, or K.S.A. 8-1567, and amendments thereto, or the 2012 Session Laws of Kansas, Chapter 172, Section 2, or of a municipal ordinance or law of another state, which ordinance or law prohibits the acts prohibited by section 35-250, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked.

(4) Upon a third or subsequent conviction of this section, a person shall be sentenced to not less than 90 days imprisonment and fined not less than $1,500.00 if such person's privilege to drive a motor vehicle is canceled, suspended, or revoked because such person:

a. Refused to submit and complete any test of blood, breath, or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;

b. Was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;

c. Was convicted of vehicular homicide, K.S.A. 21-3405, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 2006 Supp. 21-3442, and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or
d. Was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.

(5) The person convicted under the circumstances of subsection (c)(4) of this section shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentences only after such person has served 48 consecutive hours' imprisonment.

(d) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city or resolution of any county or a law of another state which is in substantial conformity with this section.

(e) For the purposes of this section, if any person operates a motor vehicle or a motorized bicycle on any public highway of this city at a time when such person's privilege to do so has been restricted by the division, by a judge of a court of competent jurisdiction or by a diversion agreement entered into by the person pursuant to K.S.A. 12-4413 et seq., and amendments thereto, and such operation violates or is outside the scope of such restrictions, such person shall be deemed to be operating a motor vehicle or motorized bicycle when such person's privilege to do so has been suspended, or revoked.

Section 13. That Chapter 35 of the 2008 Code of Ordinances and Resolutions of the Unified Government be and the same is hereby amended by adding a new section to read as follows:

**Operation of a Motor Vehicle When a Habitual Violator**

Except as allowed under subsection (d)(4) of K.S.A. 8-235, and amendments thereto, operation of a motor vehicle in this state when one's driving privileges are revoked pursuant to K.S.A. 8-286 and amendments thereto shall be punished by imprisonment for not more than one year or fined not to exceed $2,500, or both such fine and imprisonment. The person found guilty of a third or subsequent conviction of this section shall be sentenced to not less than 90 days imprisonment and fined not less than $1,500. The person convicted shall not be eligible for release on probation, suspension, or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours'
imprisonment, provided such work release program requires such person to return to
confinement at the end of each day in the work release program. The court may place the person
convicted under a house arrest program or any municipal ordinance to serve the remainder of the
minimum sentence only after such person has served 48 consecutive hours’ imprisonment.

Section 14. That said original Sections 35-102, 35-137, 35-139, 35-250, 35-254, 35-255,
35-310, 35-651 and 35-922 of the 2008 Code of Ordinances and Resolutions of the Unified
Government be and the same are hereby repealed.

Section 15. This ordinance shall take effect and be in full 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 ______ DAY OF _________________________ 2012.

Attest:

____________________________
Joe Reardon, Mayor/CEO

____________________________
Unified Government Clerk

Approved As To Form:

____________________________
Brandelyn Nichols, Assistant Counselor
Staff Request for Commission Action

Type: Standard
Committee: Public Works and Safety Committee

Date of Standing Committee Action: 8/20/2012
(If none, please explain):

Proposed for the following Full Commission Meeting Date: Confirmed Date: 9/6/2012
9/6/2012

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

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<th>Contact Phone</th>
<th>Contact Email</th>
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<td>5700</td>
<td>Bheatherman@wycokck...</td>
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Item Description:
Interlocal Agreement with Edwardsville regarding KDOT funding of Edwardsville (KDOT # 105 C-3936-01)

KDOT provides federal funds to Counties in Kansas to support eligible road construction. Per the previously approved 5-year plan with KDOT, a commitment of $552,000 in federal funds was made to Edwardsville for the construction of Edwardsville Drive from 104th Street to 600 feet north of Shelton Drive. This inter-local is needed to pass those funds through. In addition, Edwardsville is taking advantage of KDOT’s federal fund exchange program, wherein they have exchanged the $552,000 in federal funds for $496,800 in State funds, which comes with less administrative burden and schedule constraints.

BUDGET IMPACT – This action would release $552,000 in federal funds for the above-referenced project back to KDOT in exchange for $498,800 in state-funds. The project lies within the City of Edwardsville and all non-KDOT costs are paid by them. This action has no direct impact on the Unified Government budgets.

Action Requested:
Because these KDOT funds are administered through the County, Unified Government approval of the attached request is required. Staff recommends approval.

Publication Required

Budget Impact: (if applicable)

Amount: $
Source:
- [ ] Included In Budget
- [ ] Other (explain)

File Attachment

File Attachment

File Attachment
RESOLUTION NO. _______________________

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

That the Mayor/CEO of the Unified Government of Wyandotte County/Kansas City, Kansas, is hereby authorized and directed to execute in the name of the Unified Government, and the Unified Government Clerk is hereby authorized and directed to attest the signature of the Mayor/CEO and to attach the seal of the Unified Government to a Funding Agreement between the Unified Government and the City of Edwardsville for Kansas Department of Transportation federal funds Project 105 C-3936-01.

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS,

THIS _____ DAY OF _______________________, 2012.

__________________________
Unified Government Clerk
Funding Agreement
Project 105 C-3936-01

This agreement is made this ____ day of _______________, 2012, between the Unified Government of Wyandotte County /Kansas City, Kansas, a municipal corporation, hereinafter referred to as “UG;” and the City of Edwardsville, Kansas, a municipal corporation, hereinafter referred to as “Edwardsville”.

WHEREAS, the Kansas Department of Transportation (KDOT) has implemented a Federal Funds Exchange Program for federally-funded projects; and

WHEREAS, the Edwardsville Drive project (KDOT Project 105 C-3936-01) (the “Project”) is eligible for the federal fund exchange program; and federal funding of this project had been previously agreed to by KDOT, Edwardsville and the UG as reflected in the most recent 5-Year County Construction Plan (KDOT BLP Memo 10-14 dated July 6, 2010); and

WHEREAS, the UG has submitted an application on behalf of Edwardsville to exchange $552,000 in federal funds for $496,800 in state funds for said Project; and

WHEREAS, Edwardsville is therefore requesting funds in accordance with the exchange program; and

WHEREAS, the UG, as the County and therefore KDOT-designated project sponsor, will make payment requests on behalf of Edwardsville and forward payments as received from the State of Kansas.

NOW, THEREFORE, THE UG AND EDWARDSVILLE, IN CONSIDERATION OF THE TERMS, COVENANTS, AND CONDITIONS HEREIN CONTAINED, HEREBY AGREE AS FOLLOWS:

Section 1. Edwardsville is solely responsible for construction of the Edwardsville Drive project and all associated documentation necessary for funding through the Federal Funds Exchange Program including the preparation of payment requests.

Section 2. Payment requests shall be forwarded by Edwardsville to the UG County Engineer for submittal to KDOT. Edwardsville is solely responsible for the accuracy and correctness of the information submitted with the request and shall maintain all records for audit purposes in accordance with KDOT rules for this program.

Section 3. The UG shall forward the payment requests to KDOT and receive said funds. Upon receipt of funds, the UG shall deposit such funds into its account and prepare a payment to Edwardsville in a timely manner, but not to exceed 30 days from receipt of funds from the State of Kansas.

Section 4. Edwardsville shall indemnify, defend and hold the UG harmless from and against all claims, losses, damages, or costs arising from or in any way related to the construction of Edwardsville Drive project and all associated documentation for funding through the Federal
Funds Exchange Program. In the event KDOT or another entity performs an audit and/or finds any irregularities that requires the UG to return funds or pay any penalties, Edwardsville shall pay 100% of such costs and/or penalties directly to the UG or KDOT in the time-frames required by KDOT. This indemnification shall not be subject to any limitations of remedies or warranties which are contained in this or any other agreement and shall survive termination of this or any other agreement between the parties hereto or thereto.

Section 5. Notices. All notices required by this Agreement shall be in writing sent by regular U.S. mail, postage prepaid, commercial overnight courier, or facsimile to the following:

To Edwardsville:
City of Edwardsville
Michael Webb, City Manager
690 S. 4th Street
PO Box 13738
Edwardsville, KS 66113
(913) 441-3805 (fax)

To Unified Government:
Unified Government of Kansas City, Kansas and Wyandotte County, Kansas
Bill Heatherman, P.E., County Engineer
701 N. 7th Street, Rm 712
Kansas City, KS 66101
(913) 573-5727 (fax)

All notices are effective 3 days after mailing if sent by U.S. mail or upon receipt if delivered by a courier or facsimile. Either party may provide the other party a change of address which change shall be effective ten (10) days after delivery.

Section 6. Right to Audit. The UG shall have the right to examine and audit, upon reasonable written notice and, at its own expense, all records and documents related to this Agreement. Edwardsville agrees to retain and maintain all such records and documents for at least three (3) years from the date of termination of this Agreement.

Section 7. Governing Law. This Agreement shall be construed and governed in accordance with the law of the State of Kansas.

Section 8. Compliance with Laws. The parties shall comply with all federal, state and local laws, ordinances and regulations applicable to the work and this Agreement.

Section 9. Waiver. No consent or waiver, express or implied, by any party to this Agreement or any breach or default by any other party in the performance of its obligations under this Agreement shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance of the same or any other obligations hereunder. Failure on the part of any party to complain of any act or failure to act or to declare any of the other parties in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights under this Agreement. The parties reserve the right to waive any term, covenant, or condition of this Agreement; provided, however, such waiver shall be in writing and shall be
deemed to constitute a waiver only as to the matter waived and the parties reserve the right to exercise any and all of their rights and remedies under this Agreement irrespective of any waiver granted. Waiver by either party of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition.

Section 10. Default and Remedies. If a party shall be in default or breach of any provision of this Agreement, the other party may terminate this Agreement, suspend their performance and invoke any other legal or equitable remedy after giving the other party thirty (30) days written notice and opportunity to correct such default or breach.

Section 11. Headings; Construction of Contract. The headings of each section of this Agreement are for reference only. Unless the context of this Agreement clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender. In the event of any conflict between this Agreement and any incorporated Attachments, the provisions of this Agreement shall control.

Section 12. Modification. Unless stated otherwise in this Agreement, no provision of this Agreement may be waived, modified or amended except by written consent of both parties to this Agreement.

Section 13. Severability of Provisions. Except as specifically provided in this Agreement, all of the provisions of this Agreement shall be severable. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Agreement shall be valid unless the court finds that the valid provisions of this Agreement are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this Agreement could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intention of the parties.

Section 14. Force Majeure. The term “Force Majeure Event” means acts or omissions of any governmental authority (other than, with respect to Edwardsville and UG), fires, storms, natural disasters, strikes, riots, terrorist attack, power failures and any other event or occurrence, irrespective of whether similar to the foregoing, that is beyond the reasonable control of the party claiming that the Force Majeure Event affects its ability to perform any of its obligations under this Agreement. No party shall be liable for any delay in performance of any obligation under this Agreement (other than the payment of money owned) or any inability to perform any obligation under this Agreement (other than the payment of money) if and to the extent that such delay in performance or inability to perform is caused by a Force Majeure Event, so long as the party claiming the Force Majeure Event is working diligently, to the extent reasonably possible, to terminate the Force Majeure Event. A party claiming a Force Majeure Event as an excuse for delay or nonperformance under this Agreement shall provide the other party with prompt notice of the initiation of the Force Majeure Event, when it is expected to terminate, and of the termination of such Force Majeure Event. A Force Majeure Event shall be deemed to be terminated with respect to a particular delay or nonperformance when its effects on such future performance have been substantially eliminated. Notwithstanding the foregoing provisions,
settlement of a strike or lockout shall be deemed beyond the control of the party claiming excuse thereby regardless of the cause of, or the ability of such party to settle, such strike or lockout.

Section 15. Counterparts. This Agreement may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument.

Section 16. Future appropriations. Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by either party.

City of Edwardsville

Michael Webb  Date
City Manager

Unified Government of Wyandotte County/Kansas City, Kansas

Joe Reardon  Date
Mayor, CEO

By: ___________________________
Unified Government Clerk

APPROVED AS TO FORM:

By: ___________________________
Misty S. Brown, Assistant Counsel
Infrastructure

Goal: Improve and finance infrastructure to comply with federal regulations, encourage private investment, and build community.

I. Short Term
   A. Before July 1, 2012, finalize the a four-year program of neighborhood infrastructure totaling $4,400,000.00 for 2012-2015. Program and begin the planning following for 2013 construction.

   B. Alter the CMIP process by March 1, 2013 to include a more detail prioritization process.
      - The process will include realistic funds to be planned and assigned.
      - The selected projects will be based on a benefit analysis.
      - Priority consideration should also include federal regulations & leveraged private investment.
      - Finalize the consensus in direction on the Public Building Commission and complete the PBC plan by December 31, 2012.

II. Long Term
    A. Establish a process so that the first two years of the five-year CMIP are finalized and only the last three years are revisited in the annual budget review.

    B. Develop departmental 5-10 year facility master plans for those that use CMIP funding.

    C. Develop a planned maintenance/replacement schedule for all UG-owned facilities using the same “cost recovery in lieu of rent” analysis so that we “pay true cost as we go.”

    D. Provide sufficient funds for compliance with all federal consent orders.
Environment

Goal: Ensure natural resources are protected to the maximum extent possible; opportunities for additional natural areas are pursued; and the park system is enhanced.

I. Short Term
   A. Implement the new Deffenbuagh contract for the UG

   B. Continue to negotiate with EPA and State Government environmental compliance that results in meaningful environment benefits.
      • Planning will include holistic watershed

   C. As part of urban land management, encourage urban and community gardening, including the abandoned lots a gardening adoption program and considering what the UG can do to support beneficial use of land through the energy efficiency program of the BPU

II. Long Term
   A. Expand parks and green space when appropriate and reasonable.

   B. Review the issue of air quality and whether the UG should still allow burning permits

   C. Review the sustainable community concept and determine which, if any, sustainable management practices it should adopt.
Public Safety

Goal: Provide the public’s safety through best practices with results in lower crime rate, safer dwellings and businesses and efficient court services.

I. Short Term
   A. Identify public perception of public safety and then develop public education program, focusing on core issues of crime, firefighting and inmate housing outcomes and resources, compared with national standards.

   B. Approach public safety in a holistic manner, with the police department, sheriff, courts, district attorney and corrections working together, using technology to foster communication among these agencies.

   C. Work within the UG organizations, social service providers and outside agencies to address mental health issues, which daily influence public safety operations.

II. Long Term
   A. Develop master plan for public safety programming, facilities and staff.

   B. Research and implement best practices for policies and enforcement strategies

   C. Staff public safety services adequately with a workforce reflective of the community.

   D. Determine alternatives to detention and prosecution.

   E. Use task force approach to target high-risk violent and drug crimes.

   F. Continue to research and implement best practices (national standards) to insure the safety of our residents and firefighters

   G. Provide for and maintain a standard of excellence for response times across our entire community as a whole for fire suppression and EMS response.
Godsil, Carol

From: Cobbins, Bridgette D
Sent: Tuesday, July 31, 2012 1:45 PM
To: 'delsus@aol.com'
Cc: Godsil, Carol
Subject: RE: request for a hearing on the standing committee

Ms. Moore

The Clerk's office received your request to go before a standing committee to discuss the moratorium on sign laws as it relates to the Central Ave corridor. We will take your request to the next agenda review meeting (the week of August 6th) with the Mayor's office and he will determine which committee your request will go before.

The Clerk's office will contact you as soon as that date is determined.

If you have any questions, please feel free to contact me.

Bridgette Cobbins
913-573-8039

-----Original Message-----
From: delsus@aol.com [mailto:delsus@aol.com]
Sent: Tuesday, July 31, 2012 1:36 PM
To: Cobbins, Bridgette D
Subject: request for a hearing on the standing committee

Hello Bridgette Cobbins
I am associated with the Prescott neighborhood group and am a community activist. My associates and I would like to voice our concerns about the moratorium on sign laws specifically related to the Central Ave. corridor.
The laws that are an issue for us are 27-724 sign permits 27-725 maintenance and 27-726 prohibited signs as well as 27-727. We would like to request that the moratorium be lifted and the current laws enforced.

thank you for your time sincerely Delaney Moore
August 16, 2012

Delaney Moore
Prescott Neighborhood Group
delsus@aol.com

Mr. More:

This is to confirm that your request to appear before a standing committee of the Unified Government to express concerns about the moratorium on sign laws specifically relating to Central Avenue, has been set for:

**COMMITTEE:** Public Works and Safety Standing Committee
**DATE:** Monday, August 20, 2012
**TIME:** 5:00 p.m.
**LOCATION:** Municipal Office Building
701 North 7th Street, 6th floor training room (Suite 614)
Kansas City, KS 66101

You will be given five minutes to present your views. All comments made must pertain to the subject matter.

If you have any questions, do not hesitate to contact me at 573-5260.

Sincerely,

Carol Godsil
Deputy UG Clerk
Your request to appear before a standing committee has been approved for August 20, 2012. See attachment for details.

Carol Godsil
Deputy Unified Government Clerk
701 N 7th St Ste 323
Kansas City, KS 66101
913-573-5263
REQUEST FOR INJUNCTION, RETRIEVING, KG IS BOARD OF PUBLIC UTILITIES AND UNITED GOVERNMENT, RETRIEVING KG IS BOARD OF PUBLIC UTILITIES AND UNITED GOVERNMENT OF KANSAS COUNTY KANSAS, FROM KEVIN R. DEUM, TAX LEVY - AND ORDERING UPON ONE BY ONE, THEREOF AS ORDERED.

REQUEST FOR STANDING COMMITTEE ON BOARD OF PUBLIC UTILITIES AND UNITED GOVERNMENT OF KANSAS COUNTY KANSAS, FROM KEVIN R. DEUM, TAX LEVY - AND ORDERING UPON ONE BY ONE, THEREOF AS ORDERED.
With a private company, coercion and entering upon me to pay have to enable me to have electricity.

(5) Enclosed is most recent bill's note - 14 cents worth of electricity. We've been advised by the company for years with illegal levy being entered upon me and collected with coercion all in violation of constitutional privileges, guaranteed me under the laws and states constitutions.

(6) I've always protested thru I request injunctive relief from this and the coercion remedial and addressed (see recent U.S. Supreme Court ruling in health care act) where the court found coercion - and remedial - let bill stand. But ordered that the coercion lifted meaning if state chose to not complete money was not withheld likewise since this coercion must be vacated - reversed - remedial and refunded on residential trash service - ordered further levy - coercion voided further (injunctive relief granted)

(7) BPU has passed back stolen pursuant to United Covenant policy - insurance - it's mandatory - inco (TRUST) service against residence - hardship if I went electric I have to pay it and even if I don't TRUST service costs are refunded against my residence - I contend - it's coercive and illegal.

Further I contend the anti-injunction act can not be released by any other completion party cannot be passed because coercion by my being billed - it's under - current objection is evidence of collection of this - coercive effectuation represents been monoply between BPU - United Covenant and private company.
RELIEF Requested

1) This Ordinance Struck Down Insulation Проeо<br>the Unitee Govemt & PU And All Parties<br>from Performing Me-esths To Reinf Service Not<br>Peso or Needles-And Cohercive And Illegal<br>effects Remindf Me-esths to Contract With<br>Company for Service-Not Lensed Needles--

2) Refunds offered As Appropriate on this Account<br>for Residential Fresh Service

Respectfully Submit to

CERTIFICATE OF SERVICE

I hereby Certify this 24th day of July, 2012
I made this document to following postage proper address

1) Uniteo Gower & WI County City Clerk, 701 7th St
   (3rd Flur KCKS 66101)
2) Uniteo Gower Dist 41) Ternace Tmporgan - who went will
   not hes not read me, 701 7th St KCKS (66101)
3) Kansas City Kansas Board of Public Utilities Attg Administhr
   Custwy Service Legal Dept. 540 Missouri Kansas City KS 66101
   (2930)
4) Delenbaugh TRASH SERVICE-Attn Administration Legal
   P.O. Box 3250 Shawnee Kansas 66203

Respectfully Submit to
Do this right side up. It needs to be printed.

New 83rd.

Wore the new.

Shabby work, score of 6.

They charged $100.

I can't see it.

SPU.

Also I saw and again.

Complain to SBU about a new.

Telephone at 40-13-35.

Between 11, 33-35, and my faucet.

Hence.

203-40-33-01.

For lunch, it was hot.

It was sunny.

30th.

брежин.

14.04.
# Kansas City Board of Public Utilities

**Account Number:** 2175728  
**Billing Date:** 07/12/12  
**Service Location:** 115 S 25th St

## BILL SUMMARY

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>BPU Charges</td>
<td>$14.71</td>
</tr>
<tr>
<td>City Charges</td>
<td>$19.85</td>
</tr>
<tr>
<td>Taxes</td>
<td>$0.43</td>
</tr>
<tr>
<td><strong>Total Current Bill</strong></td>
<td>$34.99</td>
</tr>
<tr>
<td><strong>Previous Balance</strong></td>
<td>$34.86</td>
</tr>
<tr>
<td><strong>Regular Utility Payment - THANK YOU</strong></td>
<td>($34.86)</td>
</tr>
<tr>
<td><strong>Ending Account Balance</strong></td>
<td>$34.99</td>
</tr>
</tbody>
</table>

## DETAIL METER AND/OR SERVICE INFORMATION

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Type Code</th>
<th>From</th>
<th>To</th>
<th>Previous</th>
<th>Present</th>
<th>Read Meter</th>
<th>Current</th>
<th>Usage</th>
<th>Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electric Charges</td>
<td>ELEC 100</td>
<td>06/06</td>
<td>07/10</td>
<td>59763</td>
<td>59765</td>
<td>12</td>
<td>2</td>
<td>0.07</td>
<td>14.50</td>
<td></td>
</tr>
<tr>
<td>Storm Water Management</td>
<td>ELEC ERC</td>
<td>06/06</td>
<td>07/10</td>
<td>59763</td>
<td>59765</td>
<td>12</td>
<td>2</td>
<td>0.07</td>
<td>14.50</td>
<td></td>
</tr>
</tbody>
</table>

## IMPORTANT MESSAGES

For questions pertaining to UG charges, please call the Unified Government's 311 Call Center at 3-1-1 or 913-573-5311. We appreciate the way you consistently pay your account.

115 S 25th St, Homeowner PerMIT PeR JENNY LI

Please make contributions to the Utility Assistance Program by mailing a separate check to Utility Assist. Program, P.O. Box 17-1042, Kansas City, KS 68117. For direct payment call 1-888-299-3325 OR VISIT BPU.COM TO ENROLL ON AUTOMATIC BANK DRAFT CALL 913 573-6190

14 cents with Electric used cost me $34.99 a month. Look Electric usage all month last 5 years. Commem since will tell you all $200 no more trash please. Liver here - no resident trash - no need service.
The Bills have been paid. Uncle Tater. No need to transfer.

My Acct # scratched for security.
August 16, 2012

Kevin Drum
108 S. 25th St.
Kansas City, KS 66102-4604

Mr. Drum:

This is to confirm that your request to appear before a standing committee of the Unified Government to protest against paying for residential trash pickup and a telephone pole installed on 25th St. between 113 S. 25th and your residence, has been set for:

**COMMITTEE:** Public Works and Safety Standing Committee  
**DATE:** Monday, August 20, 2012  
**TIME:** 5:00 p.m.  
**LOCATION:** Municipal Office Building  
701 North 7th Street, 6th floor training room (Suite 614)  
Kansas City, KS 66101

You will be given five minutes to present your views. All comments made must pertain to the subject matter.

If you have any questions, do not hesitate to contact me at 573-5260.

Sincerely,

Carol Godsil  
Deputy UG Clerk