Date: April 19, 2018
Time: 9:30 a.m.
Location: Law Enforcement Center, Classroom A; 320 S. Kansas Ave

Attendance
Councilmembers Present: Tony Emerson, Karen Hiller, Jeff Coen.
City Staff Present: Nickie Lee (Finance Director), Mary Feighny (Deputy Attorney), Brent Trout (City Manager), Liz Toyne (Council Assistant)

1) Call to Order
Councilmember Hiller called the meeting to order.

2) Approval of Minutes
Councilmember Coen made a motion to approve the minutes from the April 19, 2018 meeting. Councilmember Emerson seconded the motion. The minutes were approved 3:0.

3) Discuss Next Steps in TIF Policy
Councilmember Hiller began the agenda item with a brief overview of topics discussed at the March 29th meeting.

The City of Lenexa’s TIF Policy was introduced as a reference that the City of Topeka has utilized while creating the Topeka TIF Policy. Topeka staff felt that one of the appealing aspects of the Lenexa policy is that there is a separation of the policy from procedures. The other appealing aspect of utilizing the Lenexa policy, when developing the Topeka policy was the noted success rate that Lenexa has seen.

Nickie Lee also noted the differences that will be found between the two policies.

- The main difference is the stylistic approach that each city has chosen to use. These examples are something that the City of Topeka Governing Body could choose to include:
• Adding a definition page at the beginning of the TIF policy is something Lenexa does with most of their policies. Topeka policies do not generally begin this way.
• Lenexa defines Blighted Areas. This definition is covered by state statute, so Topeka staff felt it would be redundant to add it to the Topeka TIF policy.

Other noted differences include:
• Lenexa policy section GB05-E-4 Provisions. Overall, this portion is similar to Topeka’s policy, however the Topeka policy allows for reimbursement where Lenexa does not.
• The information regarding Special Obligation Bonds on page 5, Section C: Bond Authority found on Lenexa’s policy was purposely left out of the Topeka policy as staff felt it was not necessary to include that amount of detail as it is not a major preference for this city.
• Lenexa’s policy Sections D & E regarding reimbursement – again, Lenexa goes into more detail than the proposed Topeka policy. Topeka has a 20% Threshold, but have chosen not to include all of the detail in order to allow for more negotiation room for both parties.
• Sections GB05-E-6 & GB05-E-7 in Lenexa’s policy is similar to Sections Six & Seven in the Topeka policy with regard to outlining the City Manager’s role in laying out a set of procedures, statutory amendments, and responsibility for enforcement however is stated in a style consistent with how Topeka states those items.

Councilmember Emerson noted that coming from a developer’s stand-point, he prefers having definitions. He did not feel that it was critical to be in the policy, however would like for it to be relatively accessible.

Councilmember Hiller introduced Mary Feighny, Deputy City Attorney, and inquired if having a reference page at the front of the document to refer developers to state statutes and definitions, rather than listing them all out, might be helpful. Councilmember Hiller noted that a few years back, the Legal Department went through the City of Topeka’s entire Municipal Code and pulled the definitions out of the single sections and combined them into one master definition section to better align them with each other.

Councilmember Hiller inquired with Councilmember Emerson as to whether he felt an addition of language to refer the reader to this section of code
would be beneficial and satisfy such a request. Councilmember Emerson felt this would be helpful, however would also like to see a list of definitions within the beginning of the procedures section of the policy.

Tom Petersen with Associated Commercial Brokers, addressed the committee. Mr. Petersen noted that he would like to see a clear direction from the City. He did not want to advocate for replacing the Topeka policy with Lenexa’s, but would like to see some of the aspects which make the Lenexa policy successful added into Topeka’s policy. Mr. Petersen is in favor of Topeka creating more TIF districts. He suggested creating a district and letting developers come in and build within it.

Lucky Defries representing AIM Strategies, introduced himself to the committee. Mr. Defries reflected on Mr. Petersen’s comments regarding pulling the good aspects from other policies and including them into Topeka’s, but also likes to see the efforts that Topeka is making to incorporate suggestions while developing this TIF policy. Councilmember Hiller noted that she met with staff after receiving initial feedback from developers at the March 29th, 2018 meeting and reviewed the policy again. Mr. Defries noted that the changes being made show that the committee has been listening to suggestions from developers about Topeka, and not simply trying to copy another city. Councilmember Hiller noted that the committee would like to move forward with the work, but not rush the process either. Mr. Defries replied that perhaps one more look at the changes and having a little more time to review and have conversations to take a final look at the policy would help to get it right the first time.

Jennifer Sourk with Midwest Health, addressed the committee. Ms. Sourk appreciates the new, welcoming tone of the policy after changes to the draft have been made. Ms. Sourk did not have a lot of comments overall, however inquired if wording found within the Topeka policy on page 5, Section 4: Design Criteria, could be better defined with regard to the highest form of development standards. Ms. Sourk felt there were still some questions regarding the relocation requirement and the incentives attached to it. Perhaps this is something that could be more defined within the policy or when negotiating with a developer. Councilmember Hiller inquired about the relocation example given of JoAnn’s Fabric as a CID project. Nickie Lee clarified that the JoAnn’s project noting that sales tax did not change however with this particular project, an initiative stating that a percent of sales tax would go to the developer, which excludes properties that had been relocated. Councilmember Emerson noted that when he sees language
in quotations, it is confusing. Nickie Lee noted that she would cross check with the Planning Director to have the quotations removed if they do not correspond with a definition.

Tom Petersen responded to Councilmember Emerson’s comment regarding design, noting that with attractive design, the cost of rent must also be kept in mind. Some developments may not be able to design what they would really want to do simply because real estate tax is much higher. Mr. Petersen would hope that some changes to the policy that the committee is working in would entice renters with larger pockets to come to Topeka.

Councilmember Emerson had some inquiries regarding procedures and design. Notably:

- City Manager “shall” make changes
- While reading through the Section One: Preferences, under §3, it is unclear what proposal aspects would be preferences and which are requirements. Councilmember Emerson suggested renaming the section to Priorities and Provisions, or perhaps splitting these into two sections.
- Listing like terms in an order where they are together.
- The language stating that “…priority consideration would be made for projects where less than 20%...” is confusing. The suggestion of using the term “would prefer” rather than “priority” might leave more room for negotiations. Nickie Lee stated that the original intent was to present the expectation of the level of incentive. Councilmember Emerson stated that he felt by making this a preference, it would be more attractive to a broader scope of possible projects and may invite more applications.

Jennifer Sourk noted that developers felt that the City “should be giving away the store” in order to invite more developers. City Manager Trout noted that priority consideration would want to see projects in the 20% range, however that would not be exclusive and that projects within the 30% range could also be looked at. This language of priority consideration would take effect if there were multiple projects coming to the City for negotiations. The number of 20% also reflected a number that many of the Governing Body members felt was appropriate to begin discussion with developers. This section will be reviewed further to find more appropriate language.
Councilmember Hiller made note of suggestions made to the language and phrasing found within Section One: Preferences, §2 with regard to negotiations of the preference of 60-90 days. That provides affirmative language rather than a negative or pushy tone. Mary Feighny noted that changing the language would not change the legality of the policy. Further conversation was held between staff and Councilmember Hiller regarding a preference where public dollars are already being invested. City Manager Trout clarified that from a staff perspective, if improvements have already been made to an area, the City could negotiate with developers as to the location of their development. Mr. Trout clarified that the current language shows that the City would like to see development go into areas where improvements are already being made to infrastructure.

*** The City of Lenexa TIF Policy which was referenced during this meeting can be found online at: [http://online.encodeplus.com/regs/lenexa-ks/doc-viewer.aspx#secid-3285](http://online.encodeplus.com/regs/lenexa-ks/doc-viewer.aspx#secid-3285).

4) **Other Items Before the Committee**

No other items.

5) **Set Future Meeting Date(s)**

Friday, April 27 2018 at 3:30pm. Location to be determined.

6) **Adjourn**

Councilmember Hiller adjourned the meeting.

The video of this meeting can be viewed at: [https://youtu.be/JZM8COVth3s?list=PLgeHEUuxN1Fpplo_KZE9E2JT7OhX5u3Ut](https://youtu.be/JZM8COVth3s?list=PLgeHEUuxN1Fpplo_KZE9E2JT7OhX5u3Ut)