ORDINANCE NO. 19000

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., repealing City of Topeka Code § 126-66 through 126-71 concerning approval procedure for City financed developer projects.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That City of Topeka Code § 126-66, request for project petition, is hereby specifically repealed.

Request for project petition.

Before any developer lets a contract or orders any work, all or part of which is to be financed by bonds of the city in accordance with K.S.A. 12-6a01, et seq., such developer shall submit a written request for a project petition to the department of public works. The written request shall indicate the general nature of the proposed improvement, the approximate cost, proposed method of assessment and proposed apportionment of cost, if any, between the proposed improvement district and the city at large. The written request shall also include a statement, under oath, that the developer has no financial interest in any property with delinquent special assessments anywhere within the city. If the director of public works approves the request, then the developer shall instruct his engineers to prepare cost estimates which, when prepared, shall be submitted to the head of the engineering division of the department of public works.

Section 2. That City of Topeka Code § 126-67, formal petition: contents, is hereby specifically repealed.

Formal petition; contents.

Upon receipt of the cost estimate under section 126-66 the engineering division
shall prepare a formal petition setting forth the following:

(1) The general nature of the proposed improvement;

(2) The estimated or probable cost;

(3) The extent of the proposed improvement district to be assessed;

(4) The proposed method of assessment;

(5) The proposed apportionment of cost, if any, between the improvement district and the city at large;

(6) A request that such improvement be made without notice and hearing;

and

(7) A statement that the developer shall notify in writing each and every purchaser of property regarding special assessments which may be assessed to pay for the improvement.

The bottom of each page of the petition shall specify that names may not be withdrawn from the petition by the signer thereof after the city council commences consideration of the petition or later than seven days after such filing, whichever occurs first. The formal petition shall then be mailed to the developer for obtaining signatures.

Section 3. That City of Topeka Code § 126-68, approval of project, is hereby specifically repealed.

Approval of project.

(a) After the petition has been signed, the developer shall return it to the engineering division of the department of public works for review. If the engineering division finds the petition sufficient, the petition shall be forwarded together with written indicia of the developer's financial commitment to the city council. The financial
commitment shall be either funding (cash, cashier’s check or escrow account) equal to 20 percent of the estimated cost of the project or a financial guarantee (irrevocable letter of credit, corporate completion bond) equal to 35 percent of the estimated cost of the project. The required cash funds shall be provided to the city treasurer’s office and financial guarantee will be provided to the city clerk’s office prior to the setting of a bid date. The city treasurer’s office and the city clerk’s office will notify the engineering division of receipt of the financial commitment. The city council shall not be required to hold a public hearing on the petition. If no funds are available for financing the project, then the city council may find the project not advisable. If the city council approves the petition, the developer will be notified to have his engineer prepare plans and specifications for approval by the engineering division. The city will then let the project for bids, hire a contractor, and inspect the project. The developer’s engineer shall be required to stake the project.

(b) Cash funding will be used to reduce the amount of project costs covered by special assessment bond financing. The financial guarantee will be applied annually to satisfy the principal and interest costs of bonded public improvements in the event any special assessments are not paid when due. The financial guarantee will be released, upon the written request of the developer, when principal buildings on at least 35 percent of the properties (by lot) within the benefit district have received final inspection or when the appraised value of improvements located upon the property within the improvement district is equal to seven times the amount of special assessments, whichever occurs sooner. The developer shall be responsible for providing written evidence that the applicable condition has been met prior to release of
the financial guarantee.

Section 4. That City of Topeka Code § 126-69, assessment of completed project: hearing, is hereby specifically repealed.

Assessment of completed project; hearing.

After the project is completed, the engineering division of the department of public works will prepare assessments as soon as the city’s finance department presents final cost data and a hearing will be held on the assessment.

Section 5. That City of Topeka Code § 126-70, financing of public improvements by special assessments without financial commitment; conditions, is hereby specifically repealed.

Financing of public improvements by special assessments without financial commitment; conditions.

Public improvements financed by special assessments may be authorized by the city council without a financial commitment when deemed to be in the public interest and when one or more of the following conditions exist:

(1) Improvements are ordered by resolution of the city council.

(2) The majority of the property (either by square foot or lot) in the benefit district is in public ownership.

(3) The benefit district is in multiple ownership and majority of the land (either by square foot or lot) therein is developed with principal buildings.

Section 6. That City of Topeka Code § 126-71, Interest installments; interest rates, is hereby specifically repealed.

Interest installments; interest rates.
Public improvement financed by special assessments, with accrued interest, shall be levied as a special tax upon the property included therein concurrent with general property taxes, and shall be payable in 20 equal annual installments. All assessments shall bear interest at such rate as the city council determines, not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto.

Section 7. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

PASSED AND APPROVED by the City Council November 27, 2007.

CITY OF TOPEKA, KANSAS

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William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk