

Joint Economic Development Organization Board Minutes
July 6, 2010
3:30 p.m.

The Joint Economic Development Organization (JEDO) Board met at 3:30 p.m. with the following Board members present: Shawnee County Commissioner Ted Ensley, Chair; County Commissioner Shelly Buhler; County Commissioner Vic Miller; City of Topeka Mayor Bill Bunten, Deputy Mayor Deborah Swank, City of Topeka Council Member Sylvia Ortiz and Council Member Jeff Preisner.

OTHERS PRESENT: Council member Larry Wolgast; Council member Bob Archer; Council member Karen Hiller; City Manager Norton Bonaparte; City Attorney Jackie Williams; County Counselor Rich Eckert; Randy Speaker; City Water Superintendent Don Rankin; Jeff Hunt, City Public Works; Mike Teply, City Public Works; Shawnee County Public Works Director Tom Vlach; Public Works Deputy Director Tom Flanagan; Chris Schultz, Shawnee County Historical Society; Dr. Bill Wagnon; Dr. Ramon Powers; Joan Barker, Topeka High Historical Society; Doug Wallace, Shawnee County Historical Society; Betty Bomar, Shawnee County Historical Society; Rick Friedstrom; Eileen Caspers, Washburn Tech; Brent Boles, Schendel Pest Service; Jeff Wietharn, Coffman DeFries & Nothern; Rick Holthaus, Hills Pet Nutrition; Joe Ledbetter; Jay Hubbell; Tim Hrenchir, Topeka Capital Journal; Rick Wienckowski, Go Topeka; Scott Griffith, Go Topeka; Jim Rinner, Go Topeka; Jim Ogle, Go Topeka; Tom Ellis, Go Topeka; Gary Yager, Go Topeka; Greg Schwerdt, Go Topeka; Doug Kinsinger, Chamber of Commerce; Steve Jenkins, Go Topeka; Dan Schemm, Chamber of Commerce; Kathy Moellenberndt, Chamber of Commerce; Ande Davis, Chamber of Commerce; Nora Patton Taylor, Chamber of Commerce; Marsha Sheahan, Chamber of Commerce.

County Commissioner Ted Ensley called roll.

ITEM NO. 1: The JEDO meeting minutes of June 1, 2010 were approved.

Mayor Bunten moved approval of the June 1, 2010 minutes, seconded by Commissioner Buhler. The motion carried unanimously; 7-0.

ITEM NO. 2: Discussion of funding of Heritage Preservation Fund.

Commissioner Miller said a couple of weeks ago the Shawnee County Commission had the privilege of receiving a presentation from the Shawnee County Historical Society asking for funding for a historic preservation trust fund. They made a compelling case that Shawnee County as a community ought to be contributing monies toward historical preservation, as many communities around the State. One of the underlying premises was that monies invested in historical preservation had a direct impact on our economic development.

Commissioner Miller said in the packet was a presentation made by Donovan Rypkema making the point of the importance of historical preservation and its tie to economic development as well as how that can also add to development, the restoration and productive renovation of downtowns. An item extremely high on our community's priority list.

Commissioner Miller read the following motion he intended to make: "I move that Go Topeka staff be directed to designate \$250,000.00 of its 2011 budget for purposes of establishing and funding a Historic Preservation Fund and that monies in the Historic Preservation Fund shall be committed to restoring and preserving historical properties in Shawnee County, in such amount and manner as determined by the JEDO Board." He said the adoption of this motion will give Go Topeka the opportunity that when they craft their 2011 budget they can set these monies aside and work around it. In the meantime they all need to be giving thought, if indeed this motion passed, as to how they would like to have this fund administered in terms of receiving applications/criteria that the Board would establish and ultimately how awards would be made.

Chris Schultz, President of the Shawnee County Historical Society, said Donovan Rypkema has a very compelling argument of how historic preservation is economic development. He makes several different points on how historic preservation brings the sense of community, place, identity, evolution and sense of ownership. Those are things that will encourage economic development. Mr. Schultz said economic development with historic preservation is consistent with all five principles of the 21st economic development model with globalization, localization, diversity, sustainability and responsibility.

Mr. Schultz said their reason for approaching the Commission was to let people be aware there are gaps in funding and those gaps can be filled with matching funds available from the Freedom Frontier National Heritage Area. The Heritage Preservation fund could be getting private dollars, local dollars, or money from Congress.

Commissioner Miller distributed another article by Mr. Rypkema that underscores a number of points he makes with regard to the correlation between historical preservation and economic development. He said we have the consent of our constituents to devote monies to economic development in the amount of \$5 million a year via their vote. Commissioner Miller said he believes this is economic development and that it's appropriate these monies come from the sales tax monies dedicated to that purpose. **Therefore he moved approval of the motion he previously read and distributed. Commissioner Ensley seconded the motion.**

Councilman Preisner said this was another issue where they get information minutes before the meeting starts and have no time to consider it other than dialogue at the meeting. He said he believed in 2005 the City created a Historic Preservation fund and a small percentage of transient guest tax. He said the only problem is it was not enough funding to get any of those entities up and running to where the public can be involved. When talking about economic development you talk about properties that are open to the public that they can visit. Councilman Preisner said his concern is throwing small amounts of money and small denominations to a number of properties, will never get us to where we really need to be and that's having some of these entities open for business. He said he's fearful of the true spirit of the ballot question and whether or not this is truly economic development.

Commissioner Miller said his motion was crafted in such a way that it does not commit any one of them to anything. It simply gives staff a heads up and lets them know what the intent of the Board is. By passing this motion did not mean they approved the 2011 budget. Anybody supporting the motion today that has second thoughts will have ample opportunity to revise their vote in the meantime. Commissioner Miller said there was nothing that said they're going to throw money away in little chunks. If it be the desire of the Board that the money be banked on an annual basis, that could be done. It will ultimately be the decision of this Board how the money is spent. Commissioner Miller said the motion allows for plenty of time to work out the method to do that and allows for give and take in terms of arranging for the structure.

Deputy Mayor Deborah Swank said she didn't disagree and does believe historic preservation and preserving the community generally is economic development. The problem she has is she can come up with a dozen examples of different things in developing and maintaining our city that she would say is economic development. She said her concern is to start a precedence chipping away at a designated amount of money. Deputy Mayor Swank said she would like to try to find a way to put funding in historic preservation but she's not convinced this is the source or appropriate funding.

Commissioner Buhler asked how the money is allocated currently. Mr. Kinsinger said primarily marketing incentives, infrastructure improvement and land acquisition. They have a significant amount of funding that's going to be needed for the infrastructure improvement for the new Commerce Park. Ten percent of their budget is focused on disadvantaged business enterprises by interlocal agreement and contract.

Councilmember Larry Wolgast said he similarly supports the concept. One of the most interesting studies years ago was one of tourism that people who visit an area with interest in tourism are those at the high end of spending more money in an area. He said in the big picture this is something they have to look at and consider. He knew it was separating off a little from taking a new direction with economic development. It was perhaps something that should be considered because in the long run it could be bringing more money from people visiting the community. People interested in historic preservation generally spend more money than the average tourist.

Mayor Bunten said he's sympathetic to preserving the history of this community. He said he brought proposals to Mr. Kinsinger that he thought could use some of the \$5 million that he believed would be beneficial to the city but Mr. Kinsinger made a powerful argument this money is to be used as an incentive to bring businesses to our community and create jobs. Mayor Bunten said he thinks they can all understand a policy is going to be needed if we change it and appropriations to other programs are made from it, that the line will be long and the pressures to spend money on things other than bringing businesses to our city. He said he was not going to support it. That did not mean we should abandon the effort to find some form of funding. Mayor Bunten said he didn't know what 1/10th of a mill would bring in on a county-wide basis. If the Commission would

approve that for this purpose, it would be something in excess of \$100,000 a year.

Commissioner Miller said it's more than just preserving the history of the city. It is indeed economic development and indeed translates to job creation. Mr. Rypkema uses very powerful data to make that point. Commissioner Miller said he will not support funding it through a property tax increase to where only Shawnee County and Topeka residents pay for it. That's why he liked this funding source because every one of our visitors who purchase anything in our community will be contributing to the preservation of our city and community.

Councilmember Karen Hiller commented she appreciates Commissioner Miller's position. She said both in terms of the JEDO money as well as the transient guest tax at the City, she has been one who has raised the point more than once she thinks they should visit, a first tier and second tier evaluation for the dollars. She said they talked on the City side of the transient guest tax maybe it needs to be broadened out to not just being heads on beds but activities that would bring people here and keep them coming back. Councilmember Hiller said it's worth revisiting the overall scope of what we've targeted the dollars for here as well as a second agenda on the City side with transient guests.

Commissioner Ensley called for the vote with a raise of hands and indicated the motion did not pass. Commissioner Miller - YES, Commissioner Ensley - YES, Councilmember Ortiz - YES, Commissioner Buhler - NO, Mayor Bunten - NO, Deputy Mayor Swank - NO, Councilman Preisner - NO.

ITEM NO. 3: Action regarding Project Mantis Incentives.

Doug Kinsinger with Go Topeka said this is a corporate headquarter company located in Topeka. They currently have 26 existing employees that have the potential to add another 10 new employees over the next five years. They have offices in eight different communities located in five different states. The 26 existing employees support those operations. Mr. Kinsinger said Brent Boles, President of Schendel Pest Service approached the organization shortly after the last JEDO meeting to talk about both a business opportunity and challenge he had. He has been looking for additional office space as he has been seeing a lot of growth during his ownership of the company, not only from his service here in Topeka but in the five states he's located.

Steve Jenkins with Go Topeka said currently there are 26 employees in the headquarters operation here that earn \$50,000 average plus benefits. With their expansion up to 10 new employees, who will be paid \$15 to \$30 an hour plus benefits. They went through a process with the incentives to determine what a good range is in order to get a net cost of return on the investment to the community. That came out at \$3,000 per job. Up to 36 jobs at \$3,000 would be \$108,000. Retaining the 26 and adding up to 10 new jobs as they move forward. He said Mr. Boles has an option contingent upon approval of incentives for the old Hawkins Optical building on Quincy Street to purchase the building and renovate it for their new corporate headquarters. With the purchase and renovation of the building they will invest approximately \$788,000 to bring it up to new standards. Mr. Jenkins

said it was important to understand, Mr. Boles as well as many other businesses have to make prudent business decisions today about location. He said the company owns a building in the Kansas City Metro area and they were running out the lease on their current building. They had to make a corporate decision on what would be best for them in the long term. Mr. Jenkins said the proposed incentives will help Mr. Boles keep that facility here, to buy a building hopefully downtown and renovate the building subject to action today.

Mr. Jenkins said Mr. Boles made application for a DTI grant which is contingent upon City funding and then he will make application under the NRA for the qualified portions of the building he's going to renovate.

Mr. Kinsinger said Go Topeka would pay for retention of the jobs in the earlier time frame but there would be a recapture, repayment should Mr. Boles not keep the minimum number of jobs. Mr. Kinsinger said a negotiated legal agreement has been submitted to the City and County for their review.

Commissioner Miller said Schendel has retail outlets here as well as corporate headquarters and asked how they would distinguish between corporate headquarter employees versus others when they say they're retaining 26 employees. Mr. Jenkins said they will be defined in the agreement by job classification. Mr. Kinsinger said the people who are doing the local servicing in pest control would not be included. Mr. Boles said he could provide names of those positions. They are corporate positions so the majority of them are director or support level employees. Commissioner Miller asked how the 10 projected ones would be defined. Mr. Kinsinger said currently they're all located in one facility on South Kansas. This incentive would allow them to expand into a new headquarter and have two separate facilities. The service facility would remain in its current facility and the corporate people would be at the new location.

Mr. Kinsinger said a DTI grant is funding that helps in renovation of downtown businesses. They have \$100,000 budgeted by the City this year. According to their criteria, approved by the City, they can fund up to \$50,000 per project.

Mr. Jenkins said the request is to approve the \$108,000, \$3,000 per job, paid over five years with a ten year obligation on retaining the employees with 26 retained and up 10 new employees. Councilman Preisner moved to approve the incentive package as presented, seconded by Deputy Mayor Swank. The motion carried unanimously.

ITEM NO. 4: Discussion and action on proposed mid-year budget adjustments including reduction in the Community Relations budget and increase in the New Business Attraction and Workforce Development budgets; a reduction in the Disadvantaged Business Enterprise budgets for Telephone, Supplies, and Focus Groups and increase in Conference/Professional Development to cover the costs of three DBE Advisory Council members to participate in the 2010 Inter-City Visit and for participation of staff in the CDFI Opportunity Finance Conference training that supports the implementation of the First Opportunity Fund for Topeka and Shawnee County.

Mr. Kinsinger said as this year's economy continues to be a challenge they have tried to look at the budget where they could best deploy these dollars. As they have had a few savings in a few areas they felt some of the dollars would be better expended especially in training and preparing the local workforce for available jobs in the community. There are minor dollar amounts in the Disadvantaged Business Enterprise budget.

Mr. Jenkins reviewed the proposed budget reallocations as follows:

Marketing/Promotions (slide 1)

Promotions: Reduce "Community Relations" from \$81,250 to \$40,750 for a difference of \$40,500.

Shift \$40,500 to New Business Attraction.

Professional Services: \$15,500 to a new item, "Regional Opportunities Assessment".

Mr. Jenkins said this came about because of regional discussions that took place between Lawrence, Topeka and Manhattan elected officials, the University presidents and the three Chambers. They pursued the solicitation of proposals for a consultant to take a look at this region. As a group, the three Chambers selected Kate McEnroe Consulting to do an analysis and share equally divided at \$15,500 for each of them and have it completed by the end of October.

Mr. Jenkins said the other item was to allocate a match to a Workforce Solutions Grant that Washburn Tech received at a match of \$25,000 to support that program.

Eileen Caspers with Washburn Tech said Workforce Solutions is an expanded existing program to provide more services and training available to students. This particular grant added another fulltime instructor to their industrial manufacture training facility. It also allowed them to buy additional simulation equipment. Mr. Kinsinger said the \$25,000 would be leverage for them to be able to receive \$180,000.

Mr. Jenkins continued with the proposed budget Reallocations as follows:

Entrepreneurial and Minority Business Development (slide 2)

Telephone: Reduce from \$2,500 to \$1,270 (-\$1,230) Shift \$1,230 to Conference/Professional Development.

Supplies: Reduce from \$10,500 to \$8,500 (-\$2,000). Shift \$2,000 to Conference/Professional Development.

Focus Group: Reduce from \$8,000 to \$6,000 (-\$2,000). Shift to Conference/Professional Development.

Mr. Jenkins said there are two things that need to take place. Three members of the DBE Advisory Council would like to go on the Inter-City visit in September at a total cost of \$2,100. The Department of Treasury has a training program that will take place this year that was unanticipated because they did not know they were going to be successful

in becoming a certified CDFI. The training is offered once a year and this would allow Cindy Legg in the DBE program to attend that training which supports the implementation of the First Opportunity Fund. That is going to be a micro loan fund for disadvantaged businesses in our community supported by the DBE program as well as the Chamber Foundation. Mr. Kinsinger said it is mandatory training required by the US Treasury Department to participate in that program so if we set up our own micro loan program, which is the goal and direction, they have to have a staff person with that training.

Mr. Jenkins said that particular fund is now capitalized at \$403,000. There is an application to the Department of Treasury to match that funding on a dollar for dollar basis. They should know something within the next 30 days as to the success of that. Sequentially they also have an application seeking Department of Treasury approval as a CDE, a Community Development Entity which then allows them to pursue things like the new market tax credits which are very beneficial to the community. Those tax credits can amount to about 37% of the financing for a project.

Mayor Bunten expressed concern that they have a budget to cover certain expenses and if they aren't using it all it changes so people can go on a trip. He said he appreciates that would be helpful. The request for Washburn Tech was a little bothersome to him also. It's a big school with a big budget. Mayor Bunten said he's on the Board at Washburn and he's wondering why they need to appropriate \$25,000 to Washburn Tech when they are a branch of Washburn University. His concern is if the money isn't spent for what it's appropriated, they then find something to spend it on. Mr. Kinsinger said they have had numerous discussions with a lot of manufacturers locally. That's part of their effort, to go out and visit local employers and find out what their opportunities and challenges are. One of their needs has been to beef up the industrial training program. While Washburn University has a substantial budget they have the same fiscal issues that many do. Washburn Tech and Washburn University are segregated and funded separately. Mr. Kinsinger said he was surprised when he met with Dr. Farley to understand the finances better that the budget for Washburn Tech was somewhere around a total of \$2.5 million or right in that range per year.

Councilmember Sylvia Ortiz said the request was to send two or three people from the DBE Advisory Board and asked if that would happen every year. Mr. Kinsinger said based on what the Board's direction has been in the past, the Board authorized the Advisory Council to give input on that budget. So if the requests are for that budget, we are fairly obligated as long as it falls in line within the budget. This was something that fell outside the scope of the budget that was previously approved by this Board. So they made the request and its incumbent upon us by the rules given previously. They have authority over any expenditure over \$1,000. Mr. Kinsinger said there are some members of that Council who are from smaller businesses. The vast majority of the people going on the trip pay for it out of their own business or personally. These individuals made the request to have this funded in this manner.

Commissioner Miller asked what the adopted policy is on \$1,000. Mr. Kinsinger said when the DBE Advisory Council was formed the Board asked that they approve any expenditure over \$1,000. Commissioner Miller asked why this Body was approving this one. Mr. Kinsinger said because the budget that was previously submitted did not have a category that would allow them to spend it. This one was in a different enough area that they felt needed the Board's approval before it could be expended.

Commissioner Miller moved approval of slide one, seconded by Council member Ortiz. The motion passed 6 to 1. Mayor Bunten voting no.

Mayor Bunten said additional money isn't required and sending three members of the DBE to Oklahoma City would be beneficial to everyone. He said although he expressed concern, he would make a motion to approve the second slide. **Mayor Bunten moved approval of the second slide, seconded by Commissioner Ensley.** Commissioner Miller asked if they were spending Go Topeka money sending other people on the Inter City visit at \$700 a piece. Mr. Kinsinger said only members of this Body and elected officials if they chose to go. The motion passed 6 to 1. Commissioner Miller voting no.

Councilman Preisner asked where the funding came from for the trip to Washington DC in March. Mr. Kinsinger said from the sales tax.

ITEM NO. 5: Possible MEP/NIST Application for Workforce Development.

Mr. Kinsinger said they have been having fairly in depth conversations with a lot of the larger manufacturer employers and they shared the kind of support they have been receiving from other states and how easy it's been for them and other states to get a trained workforce. As we're trying to grow employment and get more production here, they are understanding there are some significant impediments yet. Mr. Kinsinger has been working with the manufacturing extension group out of Kansas City who has an opportunity through a Federal grant to leverage some dollars locally.

Mr. Jenkins said the Manufacture Extension Partnership (MEP), the State office of that is MAMTC (Mid America Manufacturing Technology Center). MAMTC has an opportunity to solicit funding from the National Institutes of Standards and Technology (NIST) dealing with innovation particularly in workforce development, innovation and the delivery of services. He said this project came down pretty quickly. There was suppose to be a 60 day window to apply but it changed to 30 days. The application is due on July 15th. Mr. Jenkins said he believes we have a chance to secure some funding that supports the Heartland Visioning program with the Competiveness Center and can begin to look at workforce development in a more innovative system that we can support our existing employers here. He said the only people that can apply for this are the MEP's across the nation and ours is MAMTC. MAMTC does a lot of work in our community and they've done a lot of work with our existing employers this year on the innovation. Mr. Jenkins said the following are the six points that will be covered under the proposed application.

1. Create a unique, distinctive competitive advantage for their areas supporting retention, expansion and attraction of new jobs and investments.

2. Provide a mechanism to collaboratively focus on the development of a globally competitive workforce.
3. Work with their community to coordinate educational programs that demonstrate a vision for the future, progressive attitudes and providing comprehensive support facilities for long-term success.
4. Provide for technology transfer through surrounding universities and federal laboratories that companies may utilize to address problems and production issues, develop or enhance products and/or develop new markets.
5. Create a platform for the development and nurturing of potential innovation employers.
6. Strengthens their local area's ability to prosper and enhance the entire state's competitiveness.

Mr. Jenkins said the grant requires a one to one ratio. For every dollar requested you have to put in another dollar from local funds. He believes our threshold on this application is a half million dollars, not more than that which means we would end up with a half million in State, Chamber employers and Washburn. There will be some in-kind coming from a variety of different sources. Washburn University, Washburn Tech would be the central point in our community for this application. MAMTC will work with them in implementing the six points. Mr. Jenkins said this is a one time opportunity that may not be here next year. This is not stimulus funds. These are funds allocated to NIST to try to address key points of innovation throughout our community. Mr. Jenkins said they are asking JEDO to approve up to \$250,000 as a match to this particular grant application. The \$250,000 has to be matched dollar for dollar by the employers, Washburn and the State. So whatever they come to the table with, up to \$250,000 is what we will match, but not exceed \$250,000.

Commissioner Ensley asked if the \$250,000 would come out of reserve or earmark. Mr. Jenkins said it would come out of the earmark area that is for incentives. Every year on incentives, if we base our calculation on a budget line item, based on what we believe could occur, we do have enough balance to match up to \$250,000 to hopefully leverage this grant application. Commissioner Miller asked how this is an incentive. Mr. Jenkins said it's the best incentive you can give if you can deliver a better workforce training program in your community. It's the best incentive we can offer these companies to match their funds which they will put in to leverage this. Commissioner Miller said if he understood correctly, the chart is wrong. It should read \$250,000 State, Chamber, Employers and Washburn and \$250,000 from JEDO. Mr. Jenkins said that's correct.

Mayor Bunten said he held the line over all these years he has been Mayor to use money as incentives to bring businesses to this community. He said he thought this was a variation from what they have been traditionally doing and it has the potential to assist in getting firms to come here because we have a training program. Mayor Bunten said he's having a hard time justifying it on the basis of what he's always done. As incentives, companies come to this city and create jobs. Mr. Jenkins said the \$108,000

incentive approved for Mr. Boles; we require that be used on that project and that project alone to support its development in the community. Training is a potential use of those funds at all times. Mayor Bunten asked if this was going to be an annual or a one time appropriation. Mr. Jenkins said one time.

Commissioner Ensley asked who manages those dollars. Mr. Jenkins said the dollars will be managed by MAMTC which is the MEP in the State of Kansas. Mr. Kinsinger said if they are successful in getting the grant they would have to have the ability to draw down those funds. Our obligation could be structured so we wouldn't have to pay it all up front. He's sure the Federal funds will come fairly fast because they want the funds used this fall. Mr. Jenkins said he saw this is an opportunity for us to do something to address an issue that is current and very pressing right now.

Mr. Kinsinger said the goal and thought is if we can leverage our dollars almost three to one, another \$250,000 from other private companies and a half million from the Federal Government, that would be fairly good leverage. Councilman Preisner asked if we would incorporate or work with Heartland Works in any manner on this project. Mr. Kinsinger said they could be involved but the training would probably be more directed to Washburn and Washburn Tech.

Commissioner Ensley asked what the specific request was. Mr. Jenkins said up to \$250,000 match. **Councilman Preisner moved approval of the request, seconded by Deputy Mayor Swank.** Commissioner Ensley called for a vote: Councilman Preisner - YES, Deputy Mayor Swank - YES, Commissioner Ensley - YES, Councilmember Ortiz - YES, Commissioner Miller - NO, Mayor Bunten - NO, Commissioner Buhler - NO. Commissioner Ensley indicated the motion carried 4 to 3.

ITEM NO. 6: Discussion of waterline project budget on 45th Street from Southeast California Avenue to Southwest Topeka Boulevard.

Tom Flanagan, Shawnee County Public Works Deputy Director, said there are two sales tax projects proposed; one in 2013 and one in 2014. He said the City Council approved a budget Tuesday evening to spend \$1,525,000 of sales tax money to relocate an 18 inch water line that is in conflict with parts of the project all the way between Topeka Boulevard and California Avenue. Shawnee County's policy when administering projects has been that sales tax fund the relocation of conflicting utility which are located in privately owned easements and conflicting utility located in public owned easements would be paid for by the respective utility company. Mr. Flanagan said clarification is needed and referred to a spreadsheet showing the amount of work that's going to be done for the waterline in privately owned easements and in public easements. Shawnee County feels sales tax revenues should be used to reimburse City of Topeka Water for their cost to relocate their lines which are in their easements and feel the City Water Division should pay for the cost to relocate their lines located in public easements. Mr. Flanagan said he believes that is consistent with the City of Topeka's franchise ordinance that exists today. If a line is in a public easement and we need to have that line moved, the respective utility companies move it at their expense. If

they're in a privately owned easement we feel we should reimburse that utility for moving that easement.

Mr. Flanagan said the green area on the spreadsheet is the cost the sales tax would cover in an amount of \$725,000. That is relocation work within easements owned by the City of Topeka water. In red is a cost of \$800,000 which is relocation work located in public right-of-way.

Commissioner Miller asked if there are other utilities located in public right-of-ways. Mr. Flanagan said yes. Commissioner Miller asked if we reimbursed those utilities. Mr. Flanagan said no. Commissioner Miller said this would be the only utility that we treated this way, if we adopt the position of the City. Mr. Flanagan said that is correct. Commissioner Ensley asked if there were rural water lines in the Croco Road project. Mr. Flanagan said yes. Rural Water District No. 8 has water lines that were in conflict with the project. The sales tax reimbursed Rural Water District No. 8 for the relocation of the water line located in their privately owned easement. Where they were located in the public right-of-way, sales tax did not pay for that.

Commissioner Miller said he watched the City Council discussion and Mike Teply with City Public Works represented this was the same way we treated all the other projects, but Mr. Flanagan differed with that. Mr. Teply said he looked at this project as being a sales tax project. He said never had there been a distinction between a City and a County project. These are half cent sales tax projects to repair the streets. The elements of these projects have never been in question. They have never been discussed whether it's in a public easement or a private easement. He said Topeka Water is a public utility utilizing a public easement.

Commissioner Miller asked Mr. Teply if he agreed with Mr. Flanagan that any other public utility in the public easement would be expected to pay their cost. If any other utility was asked to relocate from the public right-of-way, they would be asked to bear the cost. Mr. Teply said he didn't know the answer. They do not have a policy. Commissioner Miller asked if he didn't have a basis to object to Mr. Flanagan saying that we've treated any project this way. Mr. Teply said he didn't know if they had for certain. He said he would question if the storm water utility was handled differently. Were culverts or our drainage system being relocated. He asked if Mr. Flanagan is suggesting that be done with the storm water utility also. Councilman Preisner interjected and said AT&T, Cox, Westar and Kansas Gas. Commissioner Miller said all those utilities are asked to bear the cost. This is the one exception where we're asking the sales tax to pick up the cost of the utility and that is not what the sales tax is intended for, to subsidize a utility. It happens that it's the City of Topeka but it's not a City/County thing. It's a sales tax versus water customer. Just like the customers of Rural Water District No. 8 had to pick up the cost of relocating from the public right-of-way for the Croco Road project, the City of Topeka water utility should be expected to pick up this cost and not the sales tax. The sales tax was designated for street projects and the cost surrounding it.

Councilman Preisner said the City Council stated with a 7 to 2 vote overwhelmingly that they approved sales tax monies being used for the relocation of the 18 inch waterline. Commissioner Miller said they don't have final authority over JEDO funds. If the City wants to take it out of their sales tax that's one thing but this Board governs the expenditure of the half cent sales tax dedicated to these projects, not the City Council.

Councilman Preisner asked what the vote of the Finance Committee was on this water line. Commissioner Miller said he did not know but they don't have control either. This Board is the governing body. Councilman Preisner said he thought it was 3 to 1.

Commissioner Miller moved to authorize sales tax money in the amount of \$725,000 to reimburse the City of Topeka Water Division for their cost of relocating the water line located in the private easement (green block). Commissioner Ensley seconded the motion for discussion.

Deputy Mayor Swank said to ask the Board to vote on this today without giving their legal staff the opportunity to review and research this, to give them the necessary and best recommendation is not appropriate. Commissioner Miller said it was on the agenda because the City Council already voted. City Attorney Jackie Williams said he learned about this meeting yesterday. He did research on it today and his understanding is the Finance Committee of JEDO voted 3 to 1 and it went to City Council who approved it.

Councilman Preisner made a substitute motion to fund the entire \$1,525,000 to move the 18 inch water line, seconded by Deputy Mayor Swank.

Deputy Mayor Swank asked for clarification. The Finance Committee voted 3 to 1 and the City Council voted 7 to 2. She said now they're voting on the same thing for a third time. Mr. Williams said the will of JEDO and the will of the City Council has been voted. Commissioner Miller said no voting members of JEDO have voted on it. How can the will of JEDO be indicated. This is the JEDO Board and these are the voting members. Mr. Williams said this is why, if you want approval, we have to take a further look at it. He said it's his understanding there is a Finance Committee the JEDO Board appointed and the Board asked them to do that. Commissioner Miller said the JEDO Board does not delegate to them decisions on spending. It states in the Committee's charge they are to administer only. This is the policy making board.

Commissioner Ensley said if this is approved and the whole project is funded from sales tax, does that allow Westar and other utilities to come back and ask for their monies also. Mr. Eckert said they can always ask. Commissioner Ensley asked if it would give them the authority to do that. Mr. Eckert said he didn't know the answer to that question. Mr. Williams said they can always ask but he didn't think so, it is fact driven. Deputy Mayor Swank asked if it was normal on each project like this for JEDO to vote on the different distributions. She didn't remember voting on this on a project. Commissioner Miller said no because utilities never ask for this reimbursement. They had to pay for it themselves. This would be

setting a precedent. This would be the first time a utility is reimbursed for this cost. Mr. Teply said the Committee did approve on December 12, 2005 \$330,000 for water mains on the Topeka Boulevard bridge and that was paid. That's what really swayed the Finance Committee.

Don Rankin with City of Topeka Water said he wanted to clarify this is a City owned utility and it performs more than normal utility work such as a Rural Water District No. 8. He said public utilities whether County or City owned were relocated at no cost to the utility.

Mr. Williams said his understanding is Attachment A to the interlocal agreement includes this project to be used on the sales tax infrastructure. Councilman Preisner asked Mr. Flanagan if he asked the City to relocate the water line for this project. Mr. Flanagan said yes. Meetings were held with all the utility companies. The project plans were laid out and all the utilities that had conflicts were identified. Mr. Flanagan said all of them were asked to come back and report what they were going to relocate and when. A date was set for these two projects and they needed all conflicting utilities cleared up by July 31, 2011. Councilman Preisner said on the City's side this isn't currently in their CIP. They don't have the money to do it. So if they don't have the money to relocate how was the County going to do their project. Commissioner Miller said the Water Department has money to pay for this. City Manager Norton Bonaparte said the Water Department does not have money to pay for it.

Commissioner Ensley called for a vote on the substitute motion to pay \$1,525,000. Councilman Preisner - YES, Deputy Mayor Swank - YES, Mayor Bunten - YES. Commissioner Miller - NO, Commissioner Buhler - NO, Commissioner Ensley - NO, Councilmember Ortiz - NO.

Commissioner Ensley called for a vote on the original motion to pay \$725,000. Commissioner Buhler - YES, Commissioner Miller - YES, Commissioner Ensley - YES, Councilmember Ortiz - YES. Mayor Bunten - NO, Deputy Mayor Swank - NO, Councilmember Preisner - NO. **Commissioner Ensley indicated the original motion passed 4 to 3.**

Councilman Preisner confirmed the water line has to be moved for the expansion of the road to proceed. He said if the City didn't grant the County Public Works the right to that easement they would have to go through the eminent domain process.

The meeting adjourned.