

Joint Economic Development Organization Board Minutes
Wednesday, May 8, 2024

City Council Chambers
214 SE 8th Street, 2nd Floor
Topeka, Kansas 66603

The Joint Economic Development Organization (JEDO) Board members met at 6:00 p.m. in-person with the following voting Board members present: Shawnee County Commissioners Kevin Cook, Aaron Mays and Bill Riphahn; City of Topeka Deputy City Mayor Christina Valdivia-Alcala, City Councilmembers David Banks, Sylvia Ortiz by proxy for Mayor Michael Padilla, Karen Hiller by proxy for Spencer Duncan. Shawnee County Commissioner Kevin Cook presided as JEDO Chair.

The following JEDO Board members were absent: Mayor Michael Padilla, City Councilmembers Spencer Duncan, Brett Kell, Marcus Miller, Neil Dobler and Michelle Hoferer.

Commissioner Cook noted that Mayor Padilla will be absent and granted his proxy to Councilmember Ortiz and Councilmember Duncan will also be absent and granted his proxy to Councilmember Hiller for voting purposes.

APPROVAL of February 14, 2024 JEDO Board Meeting Minutes, was presented.

Councilmember Ortiz moved to approve the Minutes of February 14, 2024. The motion seconded by Councilmember Hiller carried unanimously. (7-0)

APPROVAL of Incentive Funding for Project Oriole was presented.

Ashley Lehman, GO Topeka Director of Business Development, presented. She gave a brief explanation on JEDO's Incentive Guidelines. She then gave the outline of the first proposed Incentive Funding for Project Oriole, which included:

- Local manufacturing plant
- Capital Investment of \$31 Million in real property, machinery and equipment
- 60 new jobs over the next five years
- \$50,000 average wages
- Qualified for employment incentives based on annual salary
- \$240.2 Million Economic Impact over the next 10 years
- 246% Return on Investments
- Total Requested Incentives of \$272,000

Commissioner Cook asked if the Capital Investment included a new facility or improvements to the existing facility.

Ms. Lehman stated that it included new improvements to the facility as well as new equipment and machinery.

Commissioner Cooked asked if we could talk about the employment incentive and how we calculate that.

Ms. Lehman explained that it was based on the annual salary of 15 of the new jobs that would earn at least \$50,000 or more.

Commissioner Mays moved to approve the Incentive Funding for Project Oriole. The motion seconded by Councilmember Banks carried unanimously. (7-0)

APPROVAL of Incentive Funding for Project Queen Bee was presented.

Ashley Lehman, GO Topeka Director of Business Development, presented. She gave the outline of the second proposed Incentive Funding for Project Queen Bee, which included:

- Local manufacturing plant
- Capital Investment of \$47.2 Million in real property, machinery and equipment
- 182 new jobs over the next five years
- Average wages from \$60k to \$120k
- Qualified for employment and training incentives based on annual salary
- \$1,293,351,371 Million Economic Impact over the next 10 years
- 1782% Return on Investments
- Total Requested Incentives of \$1,590,4000

Councilmember Hiller stated that the City was working hard on developing more affordable housing. The response we received from Go Topeka in the past is that we could not ask the employers how many of their employees lived in Topeka/Shawnee County, but we did develop a program where those companies helped us market those areas.

Ms. Lehman explained that it varies depending on the Companies and what their HR Department is providing. It is written in the contract that the company pushes for their employees to live in Shawnee County, such as offering information about Choose Topeka or in their hiring videos. We also checking in with them on their annual verification process.

Commissioner Cooks asked about the relatively higher requested incentive amount than Project Oriole and is that based on the income? He also wanted to point out that these are paid out based on performance.

Ms. Lehman answer that is the largest contributing factor is the amount of jobs and the amount of wages and that every year the company has to go through an annual verification process to ensure the numbers before the incentives are paid out.

Councilmember Banks asked what is the formula they use to come up with the numbers for the total economic impact.

Ms. Lehman responded that it is software that calculates the numbers. What they enter is the industry, capital investment, specific industry, wages and number of jobs.

Commissioner Mays asked if this is something we will see come to fruition, or is this just another step in the process.

Ms. Lehman explained that this is something they had to bring to the executive committee just to get it in front of JEDO tonight because they are moving fast and wanted to get it done now.

Councilmember Ortiz asked how the training incentives worked and what if the employee is completing multiple trainings?

Ms. Lehman explained that those incentives will go into a “training bank” for the company. Each new position is allotted a certain amount. Then the company will submit the receipts and we will reimburse them out of the “training bank”. She noted that if an employee is doing multiple trainings, they could submit the receipts for both.

Commissioner Mays moved to approve the Incentive Funding for Project Queen Bee. The motion seconded by Councilmember Ortiz, carried unanimously. (7-0)

A PRESENTATION on Funds for Socially and Economically Disadvantaged Individuals was presented.

Rich Eckert, Shawnee County Counselor, gave a presentation on how JEDO designates funds for Socially and Economically Disadvantaged Individuals. He explained that he does not think that JEDO needs to change its policy, rather make sure we are staying on top of the issue and working with Go Topeka closely to watch how we’re spending that money and that we are staying in compliance with the law. The Interlocal Agreement states “JEDO shall ensure that not less than Ten Percent (10 %) of the Five Million Dollars (\$5,000,000.00) will be targeted to support economic development for socially and economically disadvantaged individuals and/or business enterprises and, further, Urban economic development programs related to youth employment and the rehabilitation of blighted, derelict and underutilized facilities and infrastructure (for the purpose of attracting economic development prospects) have been considered for inclusion.” He further states that the Agreement with Go Topeka has a lot of the same language as the Interlocal Agreement. It states, “GO Topeka agrees that at least ten percent (10%) of the funds shall be used for the purposes identified in the Interlocal Agreement related to socially and economically disadvantaged individuals/business enterprises. To facilitate the expenditure of these funds, Go Topeka shall create and retain a Minority and Women Business Development Advisory Council with the responsibility of approving a disadvantaged business enterprise budget and whose approval shall be required for any expenditure exceeding three thousand dollars (\$3,000).” Mr. Eckert explains a Supreme Court Case, Students for Fair Admissions v. Harvard, which held that it is unconstitutional for colleges and universities to consider race as a factor in the admissions project. This shows how the Supreme Court might also rule in these kinds of things going forward. He went on to say that Title VII that governs private employers remains the same in that they Cannot consider race, sex, religion, national origin, or color in any employment decisions (including hiring and promotions) unless bona fide occupational qualification (BFOQ). He went on to explain what has happened since the Supreme Court decision. Attorneys General from 13 states (including Kansas) and Senator Tom Cotton of Arkansas warned business leaders about potential risks associated with their DEI programs. The Letter suggested using the US Supreme

Court language regarding “eliminating racial discrimination means eliminating all of it” to challenge DEI policies and activities. The Letter argued that the use of quotas or racial preferences (including in regards to vendors and contractors) is “definitively closed” following the US Supreme Court decision. However, on the other side of this, Attorneys General from 21 states sent a letter in response underscoring the legality and necessity of DEI initiatives. He explains that though the JEDO program is not the same as the DEI programs, it is similar. He explained a list of possible aftermaths to these lawsuits to include:

- The American Alliance for Equal Rights has filed suit against several entities, including the Fearless Fund, alleging grant programs ran or administered by those entities violate 42 U.S.C. Section 1981 of the Civil Rights Act of 1866 which prohibits discrimination on the basis of race in the making or enforcement of contracts.
- Section 1981 has also been used to challenge DEI practices used in employment decisions.
- Per Reuters, as of December of 2023, at least 25 publicly traded companies had received shareholder letters since 2021 claiming their DEI programs constitute illegal discrimination and a breach of the directors’ duties to investors.
- EEOC: America First Legal is pressuring the EEOC to investigate the hiring practices at Kellogg’s, Macy’s, Hershey, Alaska Airlines, and others.
- Lawsuits:
 - v. Fearless Fund: venture capital group that awards grants to African-American female entrepreneurs
 - v. Perkins Coie and Morrison Foerster: lawsuit challenging minority fellowship and scholarship programs that are part of the firms’ DEI efforts
 - v. Nordstrom: lawsuit challenging employer’s goal of increasing representation of Black and Latino employees in management by 50% by end of 2025
 - v. Gannet: class action lawsuit by current and former employees alleging internal policy to better represent demographics of community by 2025 has effect of discriminating against white employees.
- Companies that have scaled back their DEI Initiatives on their own:
 - American Airlines
 - BlackRock
 - JPMorgan Chase
 - Kontoor Brands (Levi Jeans)
 - Lowe’s
 - Yum! Brands (Pizza Hut)
 - Pfizer
 - Comcast
 - Hello Alice (lawsuit alleging grant program offered in partnership with Progressive Insurance Company unlawfully discriminated against business owners based on race)
 - Goldman Sachs (“shut down diversity-driven investment fund”)

Mr. Eckert went on to explain that a program is most at risk when it confers a preference on certain individuals; the preference is given to members of a legally protected group (race, color, religion, national origin, and sex); and the preference relates to a palpable benefit (job promotion, pay raise, work assignment, access to training and development opportunities, or, in this case, grant funding opportunities). He stated that as of today he believes it is permissible to build a more diverse and inclusive culture overall, so long as it does not affect the benefits or opportunities of individual workers or applicants. We can value diversity; improve and broaden recruiting efforts to ensure a

diverse applicant pool; maintain outreach to diverse networks; support community organizations focused on inclusion efforts and issues; and avoid quotas and eligibility requirements based on race or other protected categories. He reiterated that he believes that JEDO does not need to amend the language but be wary of how the funds are expended and the Legal staffs of the County and City should provide training to the entities who will decide how the money will be spent.

Deputy Mayor Valdivia-Alcala stated that she wanted to make a personal comment that in her own opinion anybody that knows the history of this country knows that is a inane decision by the Supreme Court because we know the level of inequity in this Country and we know the level of racism in this Country. She also asked what would the training of staff look like and will the boxes on forms to check for ethnicity be taken off?

Mr. Eckert replied that they would get with the vendor and go through their list and compare to our list of what we know is permissible. As long as we stay within what is permissible then we are fine. He also stated that he would not advise to change the forms at all. It actually would protect ourselves by knowing who we are giving the monies to.

A PRESENTATION on Washburn Tech East 2nd Floor Buildout was presented.

A representative from Washburn Tech East asked for permission to spend some of their own dollars on a building that JEDO owns. She explained that Washburn Tech received \$1.5 million for capital investment funds. She gave an overview of Washburn Tech facts and what programs they have. She said they are still expanding and that's where the need for the second floor buildout comes. She explained that the proposed project was designed by HTK Architects, Inc., it will have classrooms, a meeting room and a student area. The first floor will also have minor enhancements. The projected cost is \$1.2 million and they are proposing to use Kelly Construction. She stated that they designed this to be as flexible as possible because over time the needs and programs will change.

Commissioner Cook stated that JEDO is excited for this project and we are thankful that they decided to spend their money on our building. He asked what are some of the programs we could expect to be on the second floor of Washburn Teck East?

Scott Smathers, Washburn Tech Dean, explained that they will start out by expanding their English Language acquisition programs and high school programs. They will change as the needs change.

Commissioner Cook clarified with the County Counselor, Rich Eckert, that they did not have to vote on this item. He also asked what the timeline was for the project.

The Washburn Tech representative explained that they are ready to begin the planning and get started as soon as they can. She thanked JEDO for their support

A PRESENTATION on Finance Committee's Project List Update was presented.

Braxton Copley, City of Topeka Public Works Director explained that the Finance Committee is comprised of the City and County Public Works Directors He stated that since the project list was

initially budgeted back in 2016 there has been record numbers of inflation and costs. They had adjusted those numbers last September. However they have not changed the priority of the projects. He went over some of the numbers and the shortfalls they will have in their budget. Those numbers and project lists is in the Agenda Packet.

Commissioner Cook inquired about what happens with the projects based on the budgetary shortfalls? Do we know what projects may not be completed? Or will the governing bodies have to put in the remaining amount.

Mr. Copley responded that it is entirely up to the governing body. Would they want to change the scope of the projects so they can be completed, do they want to take off some of the projects or do they want to supplement funding.

Commissioner Cook mentioned the County's most ambitious project be NW Rochester Road. He then asked about all the City's projects and how will they determine what projects they want to keep.

Mr. Copley stated that his intentions is to go to the Governing Body with options for them to decide. Then each entity would have to decide what they wanted to do.

Commissioner Cook asked the Counselor if these Items are listed in the Interlocal Agreement between the City and the County?

Rich Eckert, County Counselor explained that they were part of the Sales Tax Ballot question. He stated that sometimes this happens when there is shortfalls or surplus. The problem comes when we start taking projects of the list and replacing them with other projects. He advises that the best thing to do would be to consider the scope.

Councilmember Ortiz asked how short they were in funds.

Mr. Copley went over the numbers again using the 2%, stating that would mean they are \$16.7 million short at the current scope. Using the 6%, they are \$3.2 million short.

Commissioner Cook stated that at the time this was placed on the ballot, the City and the County had contemplated thing such as sales tax on food. If the legislature was to eliminate sales tax on food that would greatly reduce the amount of sales tax we would receive.

Commissioner Mays stated that it does not affect local sales tax, only state sales tax.

County Counselor, Rich Eckert stated that the legislature would have the power to potentially eliminate local sales tax also, which would greatly impact the projected income.

Councilmember Hiller thanked the JEDO members that suggested we do this review periodically. She asked how often should we bring this back to look over?

Mr. Copley replied that they are required under the Interlocal Agreement to supply JEDO with an updated project list yearly. He touched back on some of the most important projects right now such as 12th Street, Topeka to 21st and engineering contract with Huntoon.

Curt Niehaus, Shawnee County Public Works Director commented on some of the County's projects to include 46th Street to Rochester, and NW Rochester Road. He reiterated what Braxton said about the 2014 estimates being significantly different than they are today.

Councilmember Valdivia-Alcala commented that the public comment meetings are a great idea to be able to listen to the people and what they want.

Mr. Niehaus stated that they anticipate the Rochester Road project to have multiple public comment meetings.

A PRESENTATION on 2024 GO Topeka First Quarter Report was presented.

Molly Howey, GO Topeka President of Economic Development, presented. She stated that the Quarterly Report is in the Agenda Packet and they will just go over some updates since that has been published. The report contained their quarterly metrics as well.

Stephanie Moran, Senior VP of Innovation for GO Topeka, presented an update of the innovation center since the last JEDO Meeting. She stated they have confirmed economic viability of phased project approach and BioRealty has all their financing now in place. They have identified their senior lender and signed term sheets. They identified lease agreements and contracts with tenants are now ready to execute. The incentive agreement has one issue that they are currently working on. The following things have changed since the February JEDO meeting which include:

1. General Contractor would require 90% completed plans (vs. 65%-70%) to issue a GMAX. This added an additional 3 months and \$350 k of additional upfront expense.
2. The length of time it would take to resolve the Incentive and other key agreements.

Stan Wendzel, Principle of BioRealty added that the GMAX is the guaranteed maximum price for the contractor. Even though the GMAX is being delayed a little, there are other things they have accelerated on. Secondly, they are finding some opportunities for early occupancy.

Ms. Moran explained that they are close to finalizing the Key Agreements except for the one issue of the project start date. The timeline starts with the Architect and Design release is about 4-5 months. The asbestos abatement could initiate by July 1st and would take approximately 8 weeks to complete. The lead-based paint remediation is in tandem with the abatement. While the GMAX Contract is waiting to get done they can do permits, demo and construction. That leaves 1 year completion date.

Councilmember Hiller asked if they could have copies of the slides.

Ms. Moran then presented on an update on the K-State 105 Partnership. She stated that Go Topeka was awarded funding of \$315,000 to support the following initiatives they have going:

1. Plug and Play Partnership – GO Topeka/Kansas State

2. Utilizing K-State Expertise to provide technical support to early-stage startups, both locally and within the Plug and Play cohorts. Critical to ensuring success and expansion into the region.
3. Community Asset Map. Go Topeka has contracted with SourceLink to conduct the asset mapping project to be complete in August 2024.
4. Business Concierge Support. Fall 2024 following Asset Mapping, launch Business Concierge Support Office, identifying temporary location during buildout of Innovation Center.

Lastly, she gave a reminder of Plug and Play Expo June 5th and 6th. She said this is the biggest batch of start-ups they have had to date. She also played a video about the expo.

Commissioner Cook asked what are some of the products from the start-ups?

Ms. Moran stated there will be Landprint, Seise Me, alternate proteins, sustainability products and lab research.

Stephanie Norwood, GO Topeka Director of Entrepreneurship and Small Business, presented on the Community Health Map and where the districts that the incentives are. Per the Boards request she also provided a City Council District Map. She went over a graph of approved incentives by Industry, some of those including Accommodation and Food Service, Health Care and Social Assistance and Manufacturing. She also went over investments by type, equipment being the most heavily used in Q1. It also included training on these incentives and resources.

Councilmember Hiller asked how they measure how successful these incentives are?

Ms. Norwood replied that they send a survey to the recipients to fill out.

Ashley Lehman, GO Topeka Director of Business Development, presented on the current Project Pipeline. She explained these are companies that come from outside of Shawnee County and are looking to move into our community. Top industries include manufacturing and aviation. She said they have been meeting and talking with other economic development organizations and sight selectors. Some of those hot topics include cost of living, housing and incentives, population, supply demands, average worker age, power needs and cost of doing business.

Commissioner Cook asked if since Covid, are we seeing a demand for office space or is there still a lot of hybrid work? Also, what is Go Topeka doing to identify the open office spaces and get people in them? He also wanted to know what is the percentage of vacant office spaces.

Ms. Lehman explained they are mostly still seeing hybrid. She said they reach out to local brokers to identify office space as well as their own database. She said she would get the numbers for the vacant office spaces.

Trina Goss, GO Topeka Director of Business and Talent Initiatives, presented on some of the things coming up here in Topeka. She stated that the State of Kansas has recognized the need to grow the population in our state with the number of large businesses. They are working to target the boomerang talent pool. They will be launching a talent marketing campaign called Love

Kansas to bring people to the state. Topeka is on there and they are working to get Topeka information up on their website. Next, she spoke about the Childcare Initiative grant they received for \$3.1 million for expanding child care capacity and for communities to increase the talent pool for child care workers and possibly raise the average pay for child care providers. She went over the family forward website they have at familyforwardnow.com/families. It has information for Businesses, parents, and job seekers as well as scholarships. Lastly, she spoke on the Education and Industry Summit. It is taking place on July 25th at TPAC. The speaker will be Mark Perna.

Rhet Flood, Executive Director of Forge Young Talent spoke about their special initiative for the City of Topeka Flag. He announced that they got the flag passed to be an official license plate for the State and it is now available to purchase for a \$50 set-up fee.

PUBLIC COMMENT was provided by the following:

Henry McClure spoke about the Sales Tax Ballot, the Interlocal Agreement and the public works projects. He also talked about the grants and incentives and stated that we need to do what the voters wanted.

James Bolden spoke Arch Fletcher, the civil rights movement and how all people were created equal. He spoke about Go Topeka hiring consulting firms. He was wondering about the housing and urban development programs and who enforces the programs.

The Clerk announced the next JEDO Board meetings will be held on September 11, 2024 and December 11, 2024.

NO FURTHER BUSINESS appearing the meeting was adjourned at 7:45 p.m.