

## MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 22, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Lana Gordon- excused  
Representative Bruce Larkin- excused

Committee staff present:

Chris Courtwright, Legislative Research Department  
Martha Dorsey, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Richard Cram, Department of Revenue  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

**Proponents:**

Douglas J. Patterson, Property Law Firm, P.C.  
Dave Holtwick, Home Builders Association of Greater Kansas City  
Chris Wilson, Kansas Building Industry Association

**Opponents:**

Michael Boehm, Mayor - City of Lenexa  
Bob Watson, City of Overland Park  
Tim Dannenburg, City of Olathe  
Marvin Rainey, City of Shawnee  
Mark Tomb, League of Kansas Municipalities  
Patrick Reavey, City of DeSota

Others attending:

See attached list.

Chairman Wilk requested a bill introduction related to the 20 mill/20,000 exemption reauthorization. Representative Huff seconded the motion. The motion carried.

**HB 2467 - Requirements of municipalities related to imposition and modification of development excise taxes**

Mr. Self explained that **HB 2467** is a development excise tax and amends two statutes and provides a new statute. This bill attempts to define, clarify, convert and limit development excise tax and requires cities to require specifics on such taxes related to city development plans. There is a healthy debate in general on the difference or myriad of various opinions of development excise taxes verses impact fees.

The Chairman opened the public hearing on **HB 2467**.

**PROPONENTS:**

Douglas J. Patterson, Property Law Firm, P.C. offered to submit written testimony after the hearing to address any questions raised at the hearing.

Dave Holtwick, Home Builders Association of Greater Kansas City, stated that their association opposes excise taxes being used for development and suggested that there are more appropriate financial tools for this purpose that are used in many areas around the country (Attachment 1). If excise taxes are to be allowed, accountability contained in this legislation is needed therefore he urged the Committee to support **HB 2467**.

Chris Wilson, Kansas Building Industry Association appeared in support of **HB 2467**. He stated that the bill simply defines a development excise tax; requires that the municipality include policies and procedures regarding the excise tax in its comprehensive plan; and provide accountability to the public by documenting the method of calculating the tax imposed and costs to be paid for; and provided an annual report of funds

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on February 22, 2005 in Room 519-S of the Capitol.

generated and expended (Attachment 2). He requested that the Committee consider an amendment the bill to include that nothing in this bill may be construed to grant authority to municipalities to impose an excise tax on development not otherwise provided by law.

Discussions followed regarding pros and cons of excise tax verses impact fees and the role of the city's accountability to developers.

OPPONENTS:

Michael Boehm, Mayor, City of Lenexa, stood in opposition to HB 2467 stating that it is not consistent with the City's Home Rule authority, and it may impact the City's ultimate authority to collect excise taxes (Attachment 3). He stated that the city had made several attempts with HBA leadership to discuss their excise tax concerns. On February 10, 2005, the City of Lenexa obtained a list of seven HBA potential questions regarding the City's use of excise taxes. City staff prepared a 16 page written response, that was provided to the House Taxation Subcommittee and the Kansas City HBA.

Bob Watson, City of Overland Park, opposed enactment of HB 2467 for the following four reasons (Attachment 4).

1. Home Rule is sacred to cities and that Home Rule prerogatives of cities should be honored.
2. The bill has the detrimental effect of converting Overland Park's excise tax into an impact fee
3. The City has no objection to being required to provide information about its generation and expenditure of excise tax revenues.
4. An impact fee would reduce the City's flexibility and would have to be accompanied by some form of growth control.

Tim Dannenburg, City of Olathe, appeared in opposition to HB 2467 (Attachment 5). He stated that approving the bill would result in the following:

1. Delays in road construction supporting new development
2. Higher costs for improvements due to several years of inflation , or
3. Increasing cities' mill rates to pay for the improvements until the excise tax revenue is collected
4. Or, dramatically slowing down development to allow revenues to accrue.

Marvin Rainey, City of Shawnee, stated that they were opposed to HB 2467 or any legislation that may limit or restrict the City's continued imposition and collection of an excise tax on the platting real property (Attachment 6). Although the City appreciated the efforts of the legislature to achieve a streamlined and uniform sales tax, they urged the Committee not to do anything that would restrict the current authority of the cities or make it more difficult for the cities to meet the financing needs of local government.

Mark Tomb, League of Kansas Municipalities, stood opposed to HB 2467 (Attachment 7). The legislation would increase the administrative costs of local government to facilitate development and impose a "one size fits all" process that would dramatically impact the ability of 627 local governments to impose development excise taxes.

Patrick Reavey, City of DeSota, stated that HB 2467 had the very real possibility of seriously eroding the City's ability to effectively collect and use excise taxes (Attachment 8). DeSota's excise tax has enabled the City to implement a ten-year Capital Improvements' Plan for much needed upgrades to collector and arterial streets throughout the City. There would be untold burdens placed on smaller communities that do not have a full time engineer or attorney on staff who could administer the additional duties that HB 2467 would impose, and retaining outside consultants to do the same no doubt will be cost prohibitive.

Discussions followed regarding concern over accountability of local government to developers, definition of terms and the importance of flexibility in the use of excise tax at the local government level and the impact of infrastructure development needs for new developments.

The Chairman closed the hearing on HB 2467.

The meeting was adjourned at 10:30 a.m. The next meeting is scheduled for March 2, 2005.







**HOME BUILDERS ASSOCIATION  
OF GREATER KANSAS CITY**



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Testimony in support of HB 2467  
House Taxation Committee  
February 22<sup>nd</sup>, 2005

Chairman Wilk, Vice-Chair Huff and Committee members:

Thank you for the opportunity to appear before you today and for your interest in this very important piece of legislation. My name is Dave Holtwick and I am with the Home Builders Association of Greater Kansas City where I serve as Staff Vice-President of Governmental Affairs. Our association consists of over 1,100 member companies engaged in the home building industry in the Kansas City area. Our members include builders, developers and others connected with or interested in the residential construction industry.

Let me first state that our association opposes excise taxes being used for development! We believe there are more appropriate financial tools for this purpose that are used in many areas around the country. However, if excise taxes are to be allowed, I believe the accountability contained in this legislation is needed so I am asking you to support House Bill 2467.

Some would have you believe that excise taxes are only a "Johnson County" issue but that is not true. I believe there are cities in at least four counties collecting excise taxes now with more discussing them. Most of the cities I am aware of are in Northeast Kansas, but I believe Derby collected excise taxes for a time before repealing the practice.

Excise taxes are typically collected at the time land is platted, which is early in the development process, and the rates charged range from 18 cents per square foot to 21 ½ cents per square foot. That means the amount collected ranges from \$7,840.80 per acre to \$9365.40 per acre.

The HBA has been concerned with excise taxes for some time and has been asking area cities to share information to account for collection and use. We recently received documentation from three cities in our area. As with excise tax rates, the reports ranged in size from over 43 pages in one city to a single page in another. Interestingly, the city charging the highest rate in the area submitted the shortest report...one page. Here are some figures from those reports.

Since December of 1994, the City of Overland Park has collected \$22,973,498.00 - nearly \$23 Million dollars. This does not include another \$1,864,263.82 they expect to collect this year.

*Do Business With A Member*

Hs Taxation Committee  
February 22, 2005  
Attachment 1



The City of Lenexa report shows they have collected \$7,354,206 since 1998 from excise taxes on new development. However, the report also shows they have collected \$1,472,947 from the Transportation Improvement Program, which is a surcharge on development which attempts to reflect the difference in impact derived from various types of development.

The City of Shawnee reports collection of \$4,437,494 in excise taxes since 2000.

Our members understand that infrastructure is critical to successful development and they are willing to pay their fair share of the cost to provide the infrastructure necessary to support that development. We also know that residential construction makes a significant financial impact on the economic development in our area beyond the excise taxes paid by the developer in the form of property and sales taxes.

What we don't know is how much is being collected or where specifically it is being expended. Local units of government are not required to account for their collection or use of excise taxes collected in connection with new development so we have no evidence of where the money goes and we believe that accountability is warranted.

In addition, we are not certain about the justification for the fee being charged. Mostly, the discussion at council meetings is about how one city's rate compares to another city's rate and whether raising the rate would make them anti-competitive and cause them to loose business. At one recent meeting, after stating that we believed impact fees were the fairer way to collect the fees, we were told by a city representative that they preferred excise taxes because, "we can change them with the flip of a coin". We believe there should be more accountability for the millions of dollars being collected.

We are also concerned with the rate at which some cities have increased their excise tax rates. The city of Shawnee, for one, was charging 17 cents per square foot in 2002, went to 19 cents in 2003 and to 21 ½ in 2004. That's a 26.5% increase in two years! Where does it end?

To summarize, we have been told that these excise taxes were intended to help pay for infrastructure surrounding new development (the developer pays for streets, etc. within the development). However, as a developer, you are required to pay the excise tax with no assurance that the infrastructure will be improved. I believe they deserve that assurance and hope you do too. I hope you will support HB 2467 to add accountability to the use of excise taxes for this purpose.

Thank you, again, for your interest and attention. I would be glad to answer any questions you might have of me.

Sincerely,

Dave Holtwick  
Staff VP-Kansas Governmental Affairs



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**STATEMENT OF THE KANSAS BUILDING INDUSTRY ASSOCIATION  
TO THE HOUSE TAXATION COMMITTEE  
REPRESENTATIVE KENNY WILK, CHAIR  
REGARDING H.B. 2467**

February 22, 2005

Mr. Chairman and Members of the Committee, I am Chris Wilson, Executive Director of the Kansas Building Industry Association (KBIA). KBIA is the statewide trade and professional association of the home building industry in Kansas, representing over 3200 members. Thank you for the opportunity to come before you today in support of H.B. 2467.

In some areas throughout the country, builders and developers may pay what is known as an impact fee for their developments. This is a fee collected by municipalities to pay for infrastructure needs arising from the development. In Kansas, a unique assessment on developers has grown up over the past decade, known as an excise tax on development. Differentiating the excise tax utilized in Kansas by several municipalities is that it is established by ordinance, with no public vote; no rationale is needed for the amount assessed; no reporting is required for the funds generated; and there are no limitations on how the funds generated are spent. In contrast, the impact fee is based on projections of costs of infrastructure installation as a result of the development being assessed; it is subject to public vote; there is an accounting of funds collected and spent.

It's important to keep in mind that the costs of building homes go into the price to the home buyer. Builders in Kansas and around the country are working to provide affordable housing, yet there is a substantial amount of the cost of a new home that is attributable to regulation and government taxation and fees. That amount often makes a difference in whether a family can purchase a home. In the more urban areas, there is concern that those who work in and serve communities, such as teachers, law enforcement, firefighters, cannot afford to own homes in the communities they serve.

KBIA has over the past four sessions requested legislation seeking accountability for excise development taxes being collected by municipalities. In 1992, KBIA requested SB 92, which was a fairly extensive bill, requiring substantial detail reporting by the

→ 2002  
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Attachment 2

municipalities. Municipalities were adamantly opposed to the more rigorous requirements in SB 92. So, in the 2004 Session, KBIA requested HB 2834, introduced through this committee. That was a simple, one page bill, with what we believe were pretty simple requirements to provide information on how much money was being generated and expended through the excise tax on development. There was a subcommittee of the House Taxation Committee, which further explored this issue. As a result of the work of the subcommittee, an interim study on the topic was authorized.

As you have heard this Session, the interim committee recommended legislation to address this issue through restoring uniformity to the sales tax law. The reason for that is that these excise taxes on development have been put in place following the loss of uniformity, which has allowed cities to charter out from the excise tax law in K.S.A. 12-194, which prohibits excise taxes by cities. KBIA does not believe that cities have the authority under K.S.A. 12-194 to impose excise development taxes.

Nonetheless, all our members have been seeking since 2002 is some basic accountability for the funds being collected and spent. Thus, H.B. 2467, we believe is a good effort to provide for some basic accounting by the municipalities.

- ✓ This bill simply defines a development excise tax; requires that the municipality include policies and procedures regarding the excise tax in its comprehensive plan; and provide accountability to the public by documenting the method of calculating the tax imposed and costs to be paid for; and providing an annual report of funds generated and expended.

We do have a concern with this legislation, and that is that it should not grant to municipalities any authority they do not otherwise have. There is currently no statute granting authority to municipalities to impose an excise tax on development. Areas of the state other than those imposing the excise tax at this time are not considering an excise tax on development, and it is our concern that this bill could create an unintentional consequence of encouraging additional development excise taxes. To the contrary, there are those considering an impact fee. We believe the impact fee is the fairest and most accountable alternative and would encourage the impact fee rather than the excise tax. The excise tax is statutorily questionable to say the least.

- ✓ We request that when you consider this bill, you amend it to include that nothing in this bill may be construed to grant authority to municipalities to impose an excise tax on development not otherwise provided by law.

Thank you for your consideration, and I would respond to questions.





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NATIONAL ASSOCIATION OF HOME BUILDERS

**NEWS DETAILS**[Normal View](#)**NAHB Symposium Focuses On Growing Shortage Of Affordably Priced Workforce Housing**

**December 9, 2004** - On an issue of growing concern for the American public, a day-long Workforce Housing Symposium held yesterday at the National Housing Center in Washington, D.C. provided a forum for housing industry leaders, community advocates, employers and top government officials to discuss their efforts to solve the shortage of affordably priced housing for workers in the communities they serve.

"Despite today's positive housing market conditions, millions of working families – teachers, police officers, firefighters and other moderate-income workers who are the heartbeat of any community – are finding it increasingly difficult to purchase or rent a decent home in, or close to, the communities where they work," said Bobby Rayburn, president of the 215,000-member National Association of Home Builders (NAHB) and a home and apartment builder from Jackson, Miss.

"In many markets, the gap between those who can afford a home and those who can't is widening at an alarming rate, and the availability of affordable rental housing is in short supply," Rayburn told the symposium.

**SURVEY IDENTIFIES STRONG SUPPORT FOR WORKFORCE HOUSING**

A telephone survey in July commissioned by NAHB and Freddie Mac – the sponsors of the symposium – found widespread concern about the dearth of affordable housing, especially among low-income households, renters, minorities and those living in markets in the West with high housing costs.

Nine out of 10 of the households surveyed indicated that workers should be able to live in the communities where they work, said Cary Overmeyer, a research analyst for Atlanta-based TNS NFO. "Americans value having these people as their neighbors," he said.

The survey also found that U.S. households are just about evenly split in their support for higher housing densities as a means of reducing housing costs, said Overmeyer, but 72% indicated support for neighborhoods with mixed housing types. Fifty percent of those polled said that companies should provide stipends and other economic assistance to enable their employees to find affordable housing, and 55% indicated that there was a role for the local government in this endeavor.

Seventy-two percent of those surveyed said they believed that affordable workforce housing should be a concern of politicians.

**AFFORDABLY PRICED HOUSING LIMITED IN TOP 25 METRO AREAS**

A second NAHB study released in conjunction with the symposium – "Where Is Workforce Housing Located?" – found that workers who provide vital services to the community face an uphill battle to find affordable housing in the nation's top 25 metropolitan areas. For the most part, essential workers can find housing they can afford in less than half of the areas in those cities, said David Crowe, NAHB's

Senior Vice President for Federal Regulatory and Housing Policy.

Crowe identified a general pattern of affordable housing: "In the middle of the metro area is an affordable 'doughnut hole,' an area of housing affordability that is often small and is adjacent to, or incorporated within, the traditional business center of the city. Around this affordable central core is a large ring that contains housing that is not affordable to low- and moderate-income families. On the urban fringe, far from many employment centers, is a distant ring that contains affordable housing."

Overall, the study found that median-income teachers could afford housing in 44% of all the census tracts in the 25 metro areas studied. A median paid nurse could find affordable housing in just 11% of Denver's census tracts; police officers were limited to about 25% of the neighborhoods in Miami; and retail workers were priced out of 97% of the tracts in the 25 cities, the study found.

### **HUD SECRETARY JACKSON COMMITTED TO AMBITIOUS HOUSING GOALS OF BUSH ADMINISTRATION**

Opening the symposium, U.S. Secretary of Housing and Urban Development Alphonso Jackson outlined several initiatives his department is pursuing to provide homeownership opportunities for the nation's working families, including the elimination of regulatory barriers that drive up costs.

Jackson, who is reviewing all of his agency's rules and policies to ensure that they are not impeding the production of affordable housing, voiced support for reducing paperwork in Federal Housing Administration programs and he was sharply critical of "exclusionary zoning and gold-plate development standards that limit the ability of developers to build homes. These barriers must come down."

As part of the Bush Administration, which he noted is remarkably committed to expanding housing opportunity at a time when the nation is at war, Jackson said he will be working to realize the President's goal of creating seven million additional affordable homes in the next decade and to enact an FHA single-family zero downpayment mortgage program that would enable 140,000 families a year to achieve homeownership.

### **FORMER HUD SECRETARIES RECOMMEND SAVING TAX INCENTIVES AND CUTTING REGULATION**

In a free-wheeling discussion on housing challenges facing the nation, Jack Kemp and Henry Cisneros, HUD secretaries during the Bush and Clinton Administrations respectively, agreed that workforce housing is a cause that will engage both Democrats and Republicans in the new Congress.

For the sake of housing affordability, Cisneros, who is chairman of American City Vista, emphasized the importance of preserving current housing incentives under the tax code when the Bush Administration and Congress begin their deliberations over tax reform next year.

While at HUD, Cisneros said he learned that altering the mortgage interest deduction "would be so disruptive to the housing sector that even though there is a big amount of money there, and it's not always the most equitably distributed tax expenditure, nevertheless you can't quarrel with the role that housing plays in the American economy and you don't want to tinker with something that has functioned as well as the housing sector has."

Both Cisneros and Kemp agreed that there are several steps the government can take to facilitate affordable housing at a modest cost to the Treasury at a time when the size of the federal deficit could be exerting constraints on spending.

Cisneros advocated focusing on predatory lending, fair housing and issues related to reforming the government sponsored enterprises, Fannie Mae and Freddie Mac. "This doesn't cost a lot of money and

produces an awful lot of bang toward this agenda of moving people into homeownership," he said.

Citing the tremendous need to supply housing that is affordable for the nation's public servants, Cisneros mentioned the example of local governments in California, which he said are having to "change the hours of police officers from five 8-hour shifts a week to three 12-hour shifts because the police officers are put up in a dormitory in the days between their three-day shifts and then sent home for four days because it's not reasonable to ask them to commute the distances that they would have to commute because of home prices. That's what's happening in our country."

"When a policeman or policewoman in Los Angeles has to be put up in a dormitory so that he or she can work three 12-hour shifts, that should be a national disgrace," said Kemp.

Kemp, who is chairman of FreedomWorks, an organization dedicated to fighting for less government, lower taxes and more freedom, called for expanding the earned income tax credit, providing more funding for the American Dream Downpayment Act and supporting the Community Development Block Grant programs.

"Expanding the supply of housing is absolutely essential to making it affordable, particularly to these people who are critical first priorities – police, teachers, firefighters," said Kemp. "Local leaders, community activists and politicians must work together to remove barriers. Housing is the most highly regulated industry in America – bar none. Everything from wetlands legislation to endangered species legislation, we all want to save the condor, see the eagles. All of this affects housing, it affects land distribution."

Kemp added another major obstacle is the Not in My Backyard syndrome, or NIMBY. "Unless people are willing to set aside preconceived notions of what low- or moderate-income families bring to the community, I don't know if we'll ever solve this housing supply problem," he said.

To keep this issue at the forefront, Kemp urged all interested parties to contact their local and federal lawmakers and to ask them one question: "What are you doing to relieve the regulatory burden on home builders?"

## **FREDDIE MAC STEPPING UP AFFORDABLE HOUSING INITIATIVES**

Richard Syron, chairman and CEO of Freddie Mac, said that the institution he heads is stepping up its efforts to expand affordable rental and homeownership opportunities at the end of a four-year period in which home builders constructed more than 7 million new homes, mortgage lenders originated more than \$11 trillion in home loans, Freddie Mac financed homes for more than 17 million families and Realtors and others sold more than 31 million homes, bringing the U.S. homeownership rate to an all-time high.

"But as today's symposium makes clear, our best has not been enough," Syron said. "Because our job is far from being done. That is especially true in the emerging market – minorities and new immigrants – that as you know will be the source of most of our growth in the coming years."

Syron said that Freddie Mac has launched a major "Project Greenlight" initiative geared to expanding mortgage products, lifting more families out of the subprime market and reaching out to expand the pool of potential home buyers.

Another new undertaking, "Home Possible," will make loan terms more flexible "so our affordable housing programs can include more of the families they're supposed to serve." He said the program would serve hundreds of thousands of families, and he added that Freddie Mac automated underwriting decisions are now good for six months rather than four. "This will give home builders extra time to put the finishing touches on a new home without risking the loss of a qualified buyer," he said.



Syron also said that providing prospective home buyers with counseling would be a key element of Freddie Mac's efforts to ensure that new home owners make decisions that will enable them to live in their homes without eventually having to default on their mortgages.

As to the reform efforts for housing's government sponsored enterprises that the next Congress will be pursuing, Syron said that he welcomes them as long as they strengthen the nation's housing finance system and its commitment to low-cost homeownership, rather than weakening them.

## **DEFINING THE WORKFORCE HOUSING PROBLEM**

Adhering to the old adage that, "A problem well defined is half-solved," a panel of housing researchers at the symposium examined exactly who is affected by shortages of affordable workforce housing, and the circumstances that are fueling the challenges at hand.

Barbara Lipman, research director at the Center for Housing Policy, reported that over the six-year period ending in 2003, the total number of families with critical housing needs – defined as those paying at least half their income for housing and/or living in substandard conditions – rose by 67%. Of that total, about 25% were working families with at least one full-time wage-earner.

American Housing Survey data indicates that a sizeable percentage of those with critical housing needs are immigrants, with about 2.2 million foreign-born households on the list, along with about 11.9 million native-born households. Working families account for more than half of all foreign-born households, and immigrants with critical housing needs often aren't newcomers. "In fact, more than one-third of the 1.2 million immigrant working families with critical housing needs arrived in the U.S. between 1980 and 1989," said Lipman.

"With all the uncertainties about workforce housing, one thing we know is that the problem isn't going away by itself," said Nic Retsinas, director of Harvard's Joint Center for Housing Studies. One reason, he said, is the job market.

"In the amount of time that the number of single-family homes affordable to working families has increased 10%, the number of jobs in the retail and service industries has increased almost 100%," he noted. As lower-paying jobs proliferate, the number of those commuting will increase substantially. Citing regulatory barriers for keeping the supply of lower-priced housing at bay in close-in neighborhoods, he said, "We do not see a time when the housing market will recalibrate itself to this new labor market."

What we don't know, says Retsinas, is to what extent the absence of affordable workforce housing affects local economic competitiveness. "There is no hard data on this, which is one reason the business community has not been as engaged as it should be" in finding solutions, he said. "The question we must try to answer is, 'If you commute 45 minutes to work, what does that do to your productivity?'"

## **APPLYING LOCAL SOLUTIONS**

Panelists at the symposium described approaches that have scored local success in providing affordable workforce housing through collaborations between the home building industry and the public sector, with the idea that these strategies will find wider application in communities around the country.

"We see again and again that meaningful action on workforce housing comes through dynamic partnerships involving private and public sector entities," said Marsha Elliott, an NAHB National Vice President.

"By working together, and by drawing lessons from successes from around the country, we can improve the housing opportunity for millions of low- and middle-income families," she added. "Not surprisingly, many of the most effective solutions come from local initiatives. But we can identify ideas and practices

that have worked and look for opportunities to apply those ideas in other places," said Elliott, who is the president of Terrestris Development Company, a Chicago area home builder.

That advice was echoed by Carl Guardino, president and CEO of the Silicon Valley Manufacturing Group, a public policy trade association representing 180 of Silicon Valley's most respected private sector employers. "If you hear something you like, steal it," he said, referring to innovative public-private partnerships for providing affordable housing.

Working entirely with private financial sources, Guardino's group created the Housing Trust of Santa Clara County, which has helped more than 1,260 families buy their first homes and enabled hundreds of units of affordable rental housing to be developed.

Other examples of successful efforts to make housing affordable are catalogued on the National League of Cities Web site at [www.NLC.org](http://www.NLC.org), said Charlie Lyons, the immediate past president of that organization. Key to providing affordable housing, according to Lyons, who is also a selectman in the Town of Arlington, Mass., is to pursue non-traditional housing types; reassure suburbanites that affordably priced housing in their community is not a threat to what they have invested in their home; and convince home owners that higher densities will not lead to lower property values.

Kevin Kast, president and CEO of SSM St. Joseph Health Center in St. Charles, Mo., said that the shortage of affordable housing for hospital workers is a growing problem. More than half of the employees in his area's health care system earn less than \$40,000 per year, Kast said, and the dwindling supply of housing those workers can afford is a legitimate concern for recruiting and keeping essential staff.

While many hospital administrators worry about malpractice insurance, Kast said, he worries about having the cooks, nurses, maintenance staff and others who are so essential to a functioning hospital.

#### **KEEPING UP WITH A GROWING WORKFORCE IN WASHINGTON, D.C.**

Symposium panelists from the Washington, D.C. metropolitan area, where workers are grappling with towering home prices, noted that more production is the obvious solution to growing affordability problems, but there are few local government programs in the area to help increase workforce housing.

"The problem is especially acute in areas where employment growth is exceeding growth in the housing supply," said Gary Garczynski, a past president of NAHB and president of the National Capital Land and Development Company.

David Flanagan, president of Elm Street Development, said that the Washington, D.C. area, which is expected to have a robust economy for the next 25 years, needs stronger regional and state planning to accommodate a projected influx of 1.5 million new residents and 800,000 new homes. "States have got to reward cities and counties that step up and push for more housing," Flanagan said.

Existing housing and apartments present the best shot for the region to meet its workforce housing needs, said Tom Bozzuto, founding partner of Bozzuto and Associates, because land prices have become prohibitively expensive, surging 24% between 1990 and 2000, compared to an increase of only 2.9% in hard construction costs.

"It will be practically impossible to provide workforce housing with new construction unless we have government programs," Bozzuto said. While federal programs promoting low-income housing do exist, he said, there aren't any currently targeted to workforce housing.

One of the few local initiatives in place supporting workforce housing – the Moderately Priced Dwelling Unit program in Montgomery County, Md., which requires a 10% set-aside for home buyers making less than 80% of the county's median income – has helped to push up densities to absorb the cost of the

subsidy, but after some initial success is running into problems from land sellers who are factoring those higher densities into their prices.

In the secondary mortgage market, Robert Tsien, senior vice president at Freddie Mac, reported that the development of business- and consumer-oriented programs to help foster the availability of workforce housing is underway at Freddie Mac, including "Workforce Home Benefits," an employer-assisted homeownership program, and "Dispel the Myths," a consumer pilot program in six cities.

The "Workforce Home Benefits" program enables employees who meet eligibility requirements to obtain financial assistance with their downpayment or closing costs from their employers. Implemented for the first time by Freddie Mac and Tyson Foods, Inc., earlier this year, the next phase of the program, he said, will include 12 companies and institutions, including hospitals and universities.

"Dispel the Myths" is a consumer outreach and homeownership counseling program that was created to educate potential home owners about the home buying process. The program is currently operating in Baltimore; Las Vegas; Columbus, Ohio; Miami; Chicago and Dallas, and Tsien said that it will expand to 18 more cities and is expected to reach more than 25,000 potential home owners.

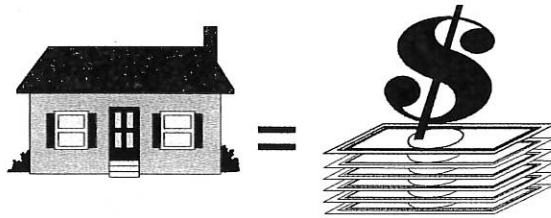




**NAHB**

The Local Impact of Home Building  
in AVERAGE CITY, USA

Comparing Costs to Revenue for  
Local Governments



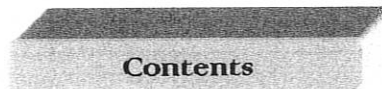
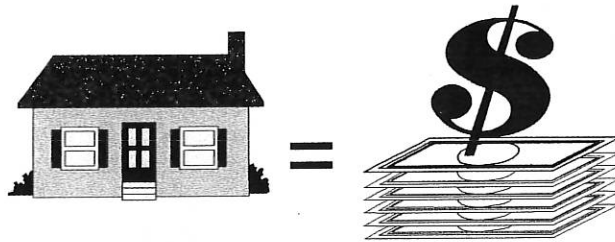
Prepared by the Housing Policy Department

September 2004

National Association of Home Builders  
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# The Local Impact of Home Building in AVERAGE CITY, USA

## Comparing Costs to Revenue for Local Governments



### **Introduction**

**Costs Compared to Revenues: Single Family Construction**

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## INTRODUCTION

Home building generates local economic impacts such as income and jobs for local residents, and revenue to local governments. It also typically imposes costs on local governments—such as the costs of providing primary and secondary education, police and fire protection, and water and sewer service. Not only do these services require annual expenditures for items such as teacher salaries, they typically also require capital investment in buildings, other structures, and equipment that local governments own and maintain.

This report presents metro area estimates of the impacts of home building in Average, City, USA, and a hypothetical area with new home prices, land values, local taxes, and local government spending per household set equal to national averages. The averages for taxes and local government spending are based on most of the roughly 88,000 local governments in the U.S.

Separate estimates are shown for 100 single family and 100 multifamily housing units.

The local economic benefits generated by that construction activity were reported previously in a separate NAHB document, *The Local Impact of Home Building in Average City, USA*. This report presents estimates of the costs—including current and capital expenses—that new homes impose on jurisdictions in the area and compares those costs to the revenue generated.

The general approach is to assume local jurisdictions supply new homes with the same services that they currently provide, on average, to occupants of existing homes in the area. Those costs can be compared to the revenue generated to answer the question of whether or not, from the perspective of local government, residential development pays for itself.

The bottom line is that, in the typical case, it easily pays for itself—provided local jurisdictions are willing to wait at least a few years for the ongoing benefits to accumulate. Average-valued homes generate more than enough revenue to pay for current government expenses in a given year. The surplus accumulates fast enough so that, even if local government undertakes all capital investment before the homes are built, it can be used to pay off the debt entirely by the end of the third (for single family) or fourth (for multifamily) year.

### Costs Compared to Revenue: Single Family Construction

This section summarizes results for single family construction. The relevant assumptions about single family homes built (e.g., price, property taxes, and construction-related fees) are contained the NAHB report, *The Local Impact of Home Building in Average City, USA*.



◆ In the first year, the 100 single family homes built in Average City, USA result in an estimated

- ⊖ **\$1.6 million** in tax and other revenue for local governments<sup>1</sup>
- ⊖ **\$175 thousand** in current expenditures by local government to provide public services to the net new households at current levels
- ⊖ **\$1.6 million** in capital investment for new structures and equipment undertaken by local governments

The analysis assumes that local governments finance the capital investment by borrowing at the current municipal bond rate of 4.56%.<sup>2</sup>

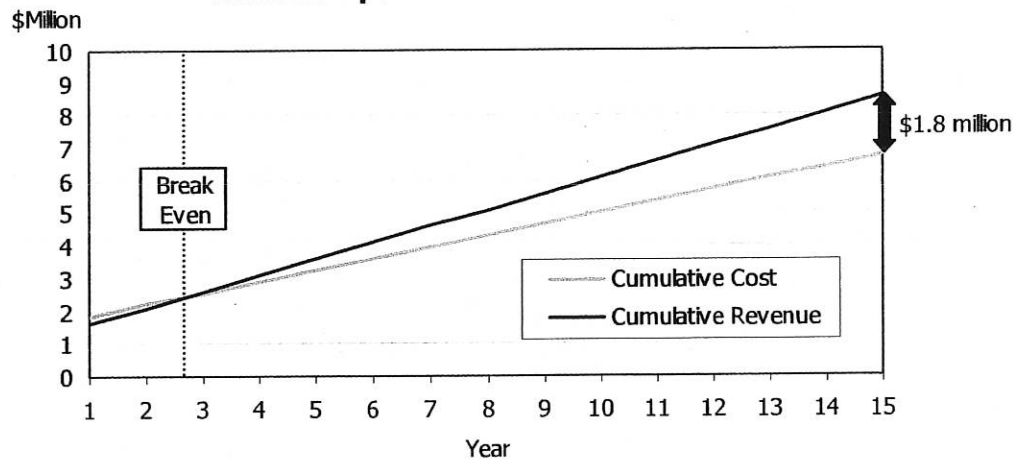
◆ In a typical year after the first, the 100 single family homes result in

- ⊖ **\$498 thousand** in tax and other revenue for local governments
- ⊖ **\$349 thousand** in local government expenditures needed to continue providing services at current levels.

The difference is an "operating surplus" that can be used to service or pay down the debt.

◆ If it is assumed that the operating surplus is used first to service and then to pay down the debt, all debt incurred by investing in structures and equipment at the beginning of the first year can be entirely paid off by the end of the third year. After that point, future operating surpluses will be available to finance other projects or reduce taxes. After 15 years, the homes will generate a cumulative **\$8.6 million in revenue** compared to only **\$6.8 million in costs**, including annual current expenses, capital investment, and interest on debt (Figure 1).

**Figure 1.**  
**Costs Compared to Revenue: 100 SF Units**



<sup>1</sup> This assumes that homes are occupied at a constant rate during the year, so that the year captures one-half of the ongoing, annual revenue generated as the result of increased property taxes and the new residents participating in the local economy.

<sup>2</sup> The analysis assumes that there is currently no excess capacity, that local governments invest in capital before the homes are built, and that no fees or other revenue generated by construction activity are available to finance the investment, so that all capital investment at the beginning of the first year is financed by debt. This is a conservative assumption that results in an upper bound estimate on the costs incurred by local governments. For information about the particular interest rate on municipal bonds used, see page 2 of the technical appendix.

**Costs Compared to Revenue:  
Multifamily Construction**

This section summarizes results for multifamily construction. As with the section on single family construction, relevant assumptions about the type units built can be found in *The Local Impact of Home Building in Average City, USA*.

- ◆ In the first year, the 100 multifamily housing units built in Average City, USA result in an estimated
  - **\$822 thousand** in tax and other revenue for local governments
  - **\$117 thousand** in current expenditures by local government to provide public services to the net new households at current levels
  - **\$991 thousand** in capital investment for new structures and equipment undertaken by local governments

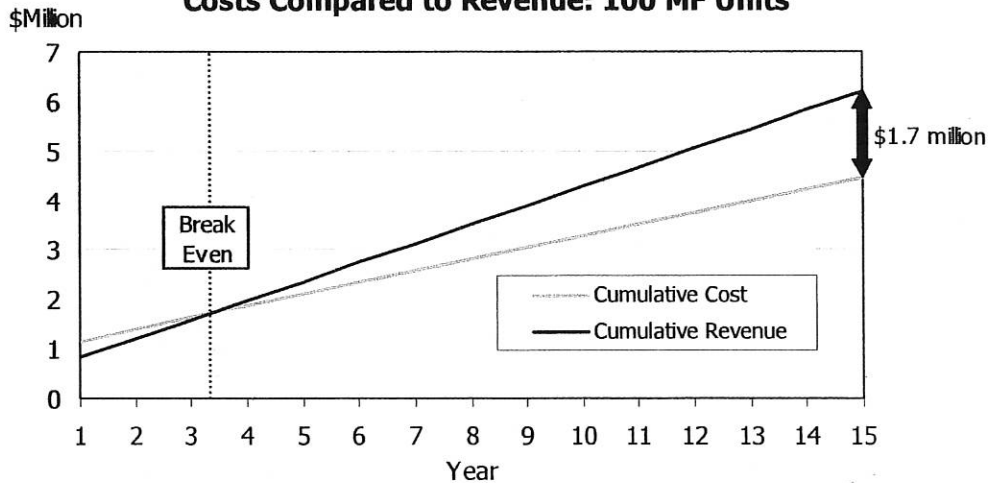
The analysis assumes that local governments finance the capital investment by borrowing at the current municipal bond rate.

- ◆ In a typical year after the first, the 100 multifamily units generate
  - **\$384 thousand** in tax and other revenue for local governments
  - **\$233 thousand** in local government expenditures needed to continue providing services at current levels.

The difference is an "operating surplus" that can be used to service or pay down the debt.

- ◆ If it is assumed that the operating surplus is used first to service and then to pay down the debt, all debt incurred by investing in structures and equipment at the beginning of the first year can be entirely paid off by the end of the fourth year. After that point, future operating surpluses will be available to finance other projects or reduce taxes. After 15 years, the units will generate a cumulative **\$6.2 million in revenue** compared to only **\$4.5 million in costs**, including annual current expenses, capital investment, and interest on debt (Figure 2).

**Figure 2.  
Costs Compared to Revenue: 100 MF Units**





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NATIONAL ASSOCIATION OF HOME BUILDERS

**HOUSING AFFORDABILITY PYRAMID**Normal View**A quick view of house price affordability based on census information.**

The foundation of the market for owner-occupied housing in the U.S. is a large number of households with relatively modest incomes. The homes that these households can afford are also relatively modest.

Based on conventional assumptions and underwriting standards, it takes an income of a little over \$29,000 to purchase a \$100,000 home. About 72.3 million of the 109.2 million households in the U.S. have incomes above that threshold and can afford homes priced at or above \$100,000. For the other 36.8 million households, the highest-priced house they can afford is priced below \$100,000.

Of the 72.3 million households who can afford at least a \$100,000 home, only 44.3 million can also afford a home priced at \$175,000. The difference is 28.1 million households for whom the highest-priced home they can afford to purchase is between \$100,000 and \$175,000.

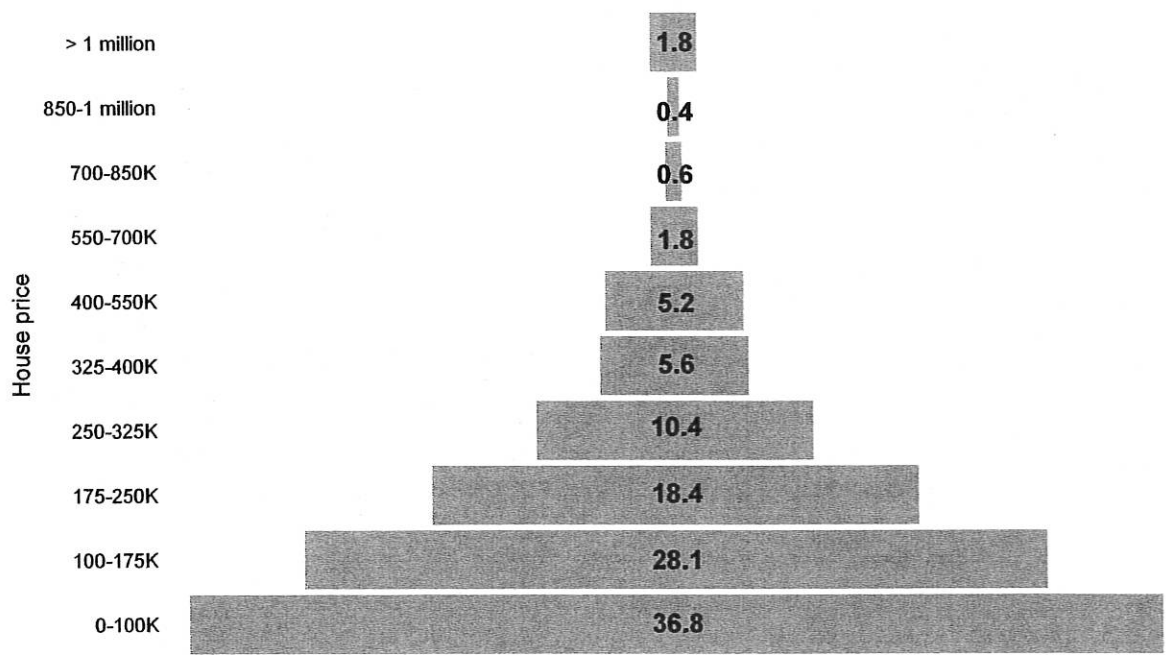
The trend continues as one climbs the house-price pyramid: each successive step represents the maximum affordable price for fewer and fewer households. This illustrates that, although there are indeed households at the high end of the market, there are many more at the lower end - where affordability is a major concern and increased development costs threaten to price these households totally out of the market for a new home.

[View the Housing Affordability Pyramid.](#)

[View the assumptions and background material for the Housing Affordability Pyramid.](#)

For more information about this item, please contact Paul Emrath at 800-368-5242 x8449 or via e-mail at [pemrath@nahb.com](mailto:pemrath@nahb.com).

**U.S. Households (in Millions)  
by Highest Priced Home They Can Afford to Buy**



Source: Calculations by the National Association of Homebuilders Housing Policy Department, based on income distribution data from the Census of Population and Housing, U.S. Census Bureau





**TESTIMONY IN OPPOSITION TO HB 2467**

TO: The Honorable Kenny Wilk, Chair  
The Honorable David Huff, Vice Chairperson  
Members of the Committee on Taxation

From: Michael Boehm, Mayor, City of Lenexa, Kansas

Date: February 22, 2005

Thank you for the opportunity to present testimony regarding HB 2467. I understand and appreciate that Representative Siegfried introduced this bill in an effort to try and accommodate a number of interests. Although the City of Lenexa certainly appreciates his efforts, we don't believe HB 2467 is consistent with the City's Home Rule authority, and it may impact the City's ultimate authority to collect excise taxes. Therefore the City of Lenexa is opposed to HB 2467. If this committee believes new legislation is needed, we encourage the committee to further study this matter before making such a significant change.

It is my understanding the primary opponent of the excise tax is the Home Builders Association (HBA). The City made several attempts with HBA leadership to discuss their excise tax concerns. Certainly, it is the City's desire to resolve any conflicts regarding this matter of local concern at the local level in lieu of enacting statewide legislation on the topic. I personally approached the Executive Director and President of the Kansas City HBA to ask if they had any concerns they would like to discuss with us. We were assured that they did not. I since learned that the Kansas City HBA was recently before this Committee stating that they had submitted a list of questions regarding excise taxes to Johnson County municipalities and received no response. Although the City has no record of ever receiving such request, City staff subsequently obtained a "list of potential questions" and quickly put together a responsive answer and provided the same to both the HBA and Taxation Subcommittee. I would note that all of the information provided was subject to disclosure under the Kansas Open Records Act and could have been obtained at any time, by anyone, in accordance with the Act. I have also attached an executive summary of our response to this testimony. It is our hope that such a response and the realization that cities are willing to have this dialogue and provide such information will alleviate any need for further legislative activity on this matter.

If not, the City must still respectfully request HB 2467 be denied. HB 2467 attempts to put excise taxes under the regulatory authority of the planning and zoning statutes. Excise taxes by their very nature are not a regulatory issue and placing them in this statutory framework, with the procedural requirements

Hs Taxation Committee  
February 22, 2005  
Attachment 3

identified, will arguably convert these taxes to impact fees. As you are aware, excise taxes and impact fees are subject to entirely different legal tests. The authority of cities to enact excise taxes has already been litigated and enacting further unnecessary state legislation that blurs the line between the two simply invites further litigation on the matter.

Furthermore, HB 2467 proposes a lengthy procedure for both adopting and reporting excise taxes. This would single out excise taxes for selective treatment, different than most other general fund taxes collected by governmental entities.

As noted in my attached supplementary information, the City of Lenexa enacted an excise tax on the act of platting real property in 1998 and pledged all revenues received from the tax to transportation improvements in the City. The tax rate stands at \$.18/square foot. Since its inception, the City has collected approximately \$7.3 million dollars in excise tax. During that same time, the City spent over \$65.8 million dollars on excise tax eligible arterial and collector street improvements in the City. There are an additional \$11.3 million dollars of arterial and collector street improvements scheduled for construction in 2005-09. Of course, this means that only a fraction of these development costs are being paid by the excise tax and the rest of the cost is being financed by the City at large. Yet the excise tax still provides a flexibility in responding to development transportation needs that would not be present if the City were required to utilize a more restrictive impact fee.

For these reasons, the City of Lenexa is opposed to HB 2467 and any other statewide legislation concerning excise taxes. Please do not hesitate to contact me should you have any further questions or if the City of Lenexa can provide you with additional information. Thank you for your consideration.

## **Executive Summary of City of Lenexa Response to HBA Excise Tax Questions**

On or about February 10, 2005, the City of Lenexa obtained a list of seven (7) HBA potential questions regarding the City's use of excise taxes. City staff prepared a 16 page written response, including four (4) attachments. This response was provided to the House Taxation Subcommittee and the Kansas City HBA. The following is a summary of the information provided.

In 1998 the City adopted an excise tax on the act of platting. It was adopted after the City convened a Road Task Force, consisting of members of the development community, elected officials and City staff, to evaluate various road funding options and make recommendations to the Governing Body. A copy of the Task Force recommendations was included in the City's HBA response. The City, by ordinance, has pledged all proceeds from the excise tax for use on transportation improvement projects. City Resolution 2000-74 also identified eligible arterial and collector roadways that may be constructed with excise tax funds.

Because excise taxes are used to construct transportation improvements, excise taxes are spent in areas that are rapidly growing. The eligible projects are approved through the City's Capital Improvement Program (CIP) process. This process determines how capital funding sources, including excise taxes, will be allocated to capital improvement projects. The process is completed on an annual basis, and begins with a set of staff recommendations for the program. These recommendations are reviewed and adjusted by the City's Planning Commission. The Planning Commission's recommendations are submitted to the City Council for review and discussion. During its review process, the City Council holds a public hearing to receive public input on proposed CIP. After review and discussion, the City Council adopts the CIP. Excise tax revenue allows the City to complete transportation improvement projects more quickly than if funding sources were earmarked for specific projects.

From its adoption in 1998 through Dec. 2004, the City collected \$7,354,205.73 in excise tax from eighty-one (81) approved development plats. The City provided an exhibit that identifies the name of each development, the amount of excise tax collected from the development and the date it was collected. The City has identified thirty-one (31) transportation improvements that are excise tax eligible as of November 2004 at a total cost to construct of \$65,820,859.00. Of this cost, \$5,914,570.00 of excise tax was applied to project funding. The remaining excise tax has been programmed into eligible excise tax projects included in the 2005-09 Capital Improvements Program (CIP) which total \$11,378,553.00.

The City's current excise tax rate is \$.18/square foot and pursuant to City Code, the amount is reviewed at least every two years.



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TESTIMONY IN OPPOSITION TO HB 2467

TO: The Honourable Kenny Wilk, Chair, and  
Members of the House Committee on Taxation  
Room 519 South

DATE: February 22, 2005

RE: House Bill No. 2467 – Pertaining to Excise Taxes.

Ladies and Gentlemen:

The City of Overland Park appreciates the efforts of Representative Siegfried to bridge the differences between cities and the various home builder organizations over the issue of excise taxes on platting and other development activity by his introduction of HB 2467. Nevertheless, the City of Overland Park must oppose enactment of HB 2467 for the following reasons:

1. HOME RULE IS SACRED TO CITIES. HOME RULE PREROGATIVES OF CITIES SHOULD BE HONORED. The City of Overland Park jealously guards its hard-won constitutional home rule prerogatives and thinks its system of requiring participation of development in the costs of thoroughfare improvements through payment of an excise tax at the time of platting is both reasonable and fair.

The City of Overland Park was the first city in Kansas to enact an excise tax on platting using its home rule powers. It did so in 1994. The Home Builders Association of Greater Kansas City challenged it in Court. The validity of the tax was upheld by the Kansas Court of Appeals. The Kansas Supreme Court left it undisturbed. The original enactment and each subsequent re-enactment of the excise tax have included an opportunity for a city-wide referendum. The tax is imposed on real estate developers at the time that they plat real property. The developers pass the tax on to subsequent purchasers of the land. The City uses the proceeds of the tax to help pay for thoroughfare design and construction. The tax enables the City to keep pace with development in the City by requiring new development to help pay the costs of thoroughfare construction. The excise tax has the beneficial effect of reducing the burden on the local property taxpayer of paying for design and construction of thoroughfare improvements.

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Attachment 4



February 22, 2005

Page 2

Excise tax revenues received by the city are separately accounted for within the City's general fund.

Overland Park's excise tax rate is currently \$0.19 per square foot and has been so since January 1, 2002. Most lots in Overland Park pay between \$2,800 and \$4,100 in excise tax.

2. **HB 2467 HAS THE DETRIMENTAL EFFECT OF CONVERTING OVERLAND PARK'S EXCISE TAX INTO AN IMPACT FEE.** The bill, as drafted, places excise tax provisions within statutes on zoning. Zoning statutes are clearly regulatory, and excise taxes are not regulatory. Also, New Section 3 of the bill implicitly mandates that cities use their excise tax revenues on capital improvements and ties the tax directly to need. If the Legislature orders the city to use the proceeds only for thoroughfare construction or other capital improvements or ties the tax directly to need, the Legislature thereby, perhaps unwittingly, could lead a court to declare an excise tax is an impact fee. This could cause an excise tax to fail because it does not meet the proportionality and other standards that an impact fee must meet. As a policy matter, Overland Park, in fact, uses its excise tax only on thoroughfare improvements. But cities must be left free to make this decision themselves.

The City is concerned that passage of HB 2467 would be the first step in prohibiting the city from using excise taxes and limiting cities to using impact fees. The City is concerned that dressing up the City's excise tax as if it were an impact fee ultimately could result in a determination that it in fact is an impact fee.

3. **THE CITY HAS NO OBJECTION TO BEING REQUIRED TO PROVIDE INFORMATION ABOUT ITS GENERATION AND EXPENDITURE OF EXCISE TAX REVENUES.** The City of Overland Park has given the home builders' groups and the House Taxation Subcommittee a complete and thorough document that shows what we collect in excise taxes, where we collect it from, and how we spend it. An abbreviated version of the material given to the home builders' groups and the subcommittee is attached to this testimony. Exhibit 1 attached to this testimony gives a complete overview of Overland Park's excise tax process. Exhibit 2 is one page of a 21 page document that shows the name of the plat that paid the tax, the name of the owner of the land that was platted, the amount of excise tax received, the date received and the location of the platted land. The other twenty pages are available to anyone who asks. Exhibit 3 is one page of an 11 page document that shows the thoroughfare improvement project that excise tax revenues were spent on since the city began receiving excise tax revenue, as well as the other revenue sources that were used on each project. The other ten pages are available to anyone who asks. Exhibit 4 is a map that depicts the location of the finished, ongoing and future thoroughfare improvement projects on which excise tax revenues were, are or will be spent. All of the projects are in the developing parts of the City. Overland Park has devoted all of its excise tax revenues received over the last 11 years solely and only to thoroughfare improvement projects. Exhibit 4 shows the orderly way in which thoroughfare improvement projects are being built in the developing areas of Overland Park.

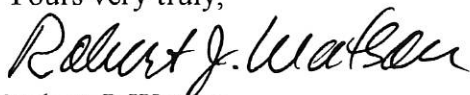
4. AN IMPACT FEE WOULD REDUCE THE CITY'S FLEXIBILITY AND WOULD HAVE TO BE ACCOMPANIED BY SOME FORM OF GROWTH CONTROL. An excise tax affords at least three advantages to the City of Overland Park that an impact fee would not:

- A. The revenue raised by the excise tax can be spent on thoroughfares identified in the City's Capital Improvement Plan ("CIP"), not necessarily on the thoroughfare abutting the property paying the tax, thereby allowing the City to improve its thoroughfares in an orderly fashion according to the prioritized needs established in its CIP, although the thoroughfare abutting the property paying the tax will be improved too as it is prioritized in the CIP; and
- B. The revenue raised by the excise tax does not have to be spent by a definite deadline, unlike the case with respect to an impact fee, thereby allowing the City to improve its thoroughfares according to the time-frames established in its CIP.
- C. An excise tax substantially reduces the costly administrative burdens that accompany an impact fee, which must be carefully tailored to development impacts and must meet onerous nexus, needs, benefit, geographic and temporal standards.

Impact fees would severely reduce the flexibility the city now has in the timing of construction of its thoroughfares and the financing of those thoroughfares. The City would no longer be able to plan its thoroughfare construction on the basis of need through its current CIP process and would have to shift to a process that is based upon expenditure of the revenue within an arbitrary time deadline and on streets that are not necessarily the ones most in need of improvement at the time of the expenditure. The city would have to control growth in order to ensure that it was able to spend the revenue within the time constraints imposed on expenditure of impact fee revenue.

We respectfully ask you to reject House Bill No. 2467.

Yours very truly,



Robert J. Watson  
City Attorney

cc: Governing Body  
John Nachbar, City Manager

# EXHIBIT 1

## OVERLAND PARK'S EXCISE TAX ON PLATTING

### History, Methodology and Expenditure Practice

February 22, 2005

1. The City records each excise tax payment to the City including, by year, the name of the plat, the name of the owner of the platted land at the time of the payment of the excise tax, the amount of excise tax received by the City at the time of platting that particular piece of land, the date the excise tax payment was received by the City, and the general location of the platted land.
2. All of the section line roads in the developing areas of the City have been designated as thoroughfares. It is the policy of the city to improve all of its thoroughfares in the developing parts of the City from two-lane roads to four-lane roads divided by a median.
3. In each annual budget of the City for the last 10 years, the City has shown expenditure of excise tax revenues solely in partial payment of design, construction and related costs of improving its thoroughfares from two-lane roads to four-lane roads divided by a median. As a matter of City policy, no other road construction projects in the City have been eligible for use of excise tax revenues. Nor has the City spent the revenues for any other purposes than thoroughfare improvements. The City documents the amount of excise tax revenues that have been spent on each completed and ongoing thoroughfare project over the last 10 years and that will be spent on each planned thoroughfare project for the next 5 years. The City also documents the other revenues that were and will be spent on each such thoroughfare project. Each thoroughfare project on which excise tax revenues were spent is located in the developing parts of the City. The City also maintains a map depicting the thoroughfares improved to four lanes with a median using, in part, excise taxes.
4. In its annual Capital Improvement Plan (CIP) process the City prioritizes the order in which thoroughfares will be improved to 4 lanes based upon the traffic projections that reflect development patterns. The CIP process also determines which sources of revenue, including excise taxes, will be used to improve which thoroughfares.
5. Resolution No. 3169 adopted on September 18, 2000 commits the City, as a matter of policy, to setting the excise tax rate at the number of cents per square foot that will generate revenues equal to 43% of the average cost of thoroughfare improvements constructed by the City.
6. Historically, the policy of the city had been that platters of land should pay roughly 50% of the cost of adjacent thoroughfares, on the theory that platters of land should pay for collector street access to their subdivisions and the cost of a collector street is roughly 50% of the cost of a thoroughfare. However, in 2000, in the adoption of Resolution No. 3169, the City refined that policy to require platters of land to pay 43% of the cost of a thoroughfare.
7. With respect to the formula used to determine the excise tax rate, as stated in paragraph 2 of Resolution No. 3169, the average cost of thoroughfare construction is established by calculating the average of the project costs for all thoroughfares constructed by the City in the current and



the previous two years on a per linear foot basis. Each project's costs include engineering and construction, right-of-way acquisition, utility relocation, street lighting installation, traffic signal installation and bridge construction. The per linear foot cost is then converted to the appropriate excise tax rate per square foot required to generate revenues equal to 43% of the average cost of thoroughfares constructed by the City.

8. The Public Works Staff presents to the Public Works Committee of the Council, at its September meeting in every year, the proposed excise tax rate and supporting data, and recommends that excise tax rate to the Governing Body, which acts upon the recommendation at its first meeting in October of each year.

9. The current excise tax rate of \$0.19 per square foot was set on October 2, 2000, effective January 1, 2002. If \$0.19 is collected from each square foot of land in a section of land it would pay for 43% of ½ of each of the four surrounding thoroughfares. Forty-three percent of the other half of each of the four surrounding thoroughfares is paid for from excise taxes paid from adjacent sections of land. In fact, the City has been unable to collect excise tax from each square foot of land in a section of land at the points in time when thoroughfares have been constructed due to the fact that thoroughfare improvements are needed before all development has taken place, and the fact that not all land in a square mile will be platted and pay excise tax. Thus, the percentage of thoroughfare improvement costs attributable to excise tax revenues has historically been approximately 20%.

10. By December 31, 2005, it is projected that the City will have received \$24.8 million in excise tax revenues over the approximately eleven year period since its enactment. Total projected expenditures of excise tax revenues on thoroughfare improvements for the same period are \$20.6 million. The balance of \$4.2 million of excise tax revenues, along with excise tax revenues of \$12.5 million it is projected that the City will receive over the period from 2006 through 2010 are programmed for expenditure on thoroughfare improvement projects for the years 2006 through 2010.

# EXHIBIT 2

8-7

**EXCISE TAX/ TRANSITIONAL REVENUE PAYMENTS**

02/11/05  
1010.5820

| NAME OF PLAT                              | NAME OF OWNER                | AMOUNT RECEIVED | DATE RECEIVED | VICINITY            | TOTAL EXCISE TAX RECEIVED |
|-------------------------------------------|------------------------------|-----------------|---------------|---------------------|---------------------------|
| College Square 6th Plat                   | Joe Greenhouw                | \$3,665.92      | 7-09-97       | College & Oakmont   |                           |
| Plat 97-18 Park at Forest Green           | Saul Ellis & Co              | \$92,199.50     | 7-09-97       | 143rd & Metcalf     |                           |
| Plat 97-37 Morse Village Estates          | Julie A Still                | \$52,899.30     | 7-10-97       | 155th & Oakmont     |                           |
| Plat 97-84 Sprint 2nd Plat                | Sprint                       | \$42,130.09     | 7-11-97       | 119th & Nall        |                           |
| Plat 97-84 Sprint 1st Plat                | Sprint                       | \$16,513.29     | 7-11-97       | 119th & Nall        |                           |
| Plat 97-75 9529 Antioch                   | Guardian Savings             | \$2,237.50      | 7-11-97       | 9529 Antioch        |                           |
| Plat 97-92 Shannon Valley Shopping Center | J C Nichols Company          | \$21,870.84     | 7-14-97       | College & Antioch   |                           |
| Plat 97-6 Heritage Park 1st Plat          | Moore and Associates         | \$14,082.95     | 7-15-97       | 110th & Cedar       |                           |
| Plat 97-57 The Wilderness                 | Wilderness Developers        | \$111,404.26    | 7-14-97       | 159th & Nall        |                           |
| Plat 97-80 Highland Village 2nd Plat      | Highland Village Developers  | \$30,099.11     | 7-15-97       | 127th & Pflumm      |                           |
| Brookhaven of Amesbury Lake, 2nd          | Tomahawk Partners, LLC       | \$86,581.25     | 7-18-97       | 143rd & Pflumm      |                           |
| Brookhaven of Amesbury Lake, 1st          | Tomahawk Partners, LLC       | \$54,680.30     | 7-18-97       | 143rd & Pflumm      |                           |
| Windsor Ridge of Amesbury Lake, 1st       | Tomahawk Partners, LLC       | \$34,158.29     | 7-18-97       | 143rd & Pflumm      |                           |
| WRI Sales Site, 1st Plat                  | Synergy Development Alliance | \$2,184.00      | 8-26-97       | 143rd & Nall        |                           |
| The Renaissance, 3rd Plat                 | Copaken, White & Blitt       | \$74,352.06     | 8-28-97       | 112th St. & Metcalf |                           |
| Cambridge Square, 2nd Plat                | Jo Co Property Account       | \$56,571.37     | 10-24-97      | 108th & Beverly     |                           |
| Old Metcalf Center, 3rd Plat              | Thomas C. Wallingford        | \$2,194.95      | 10-28-97      | 135th & Metcalf     |                           |
| Switzer Commons                           | Licausi-Styers Co.           | \$344.82        | 10-31-97      | 135th & Switzer     |                           |

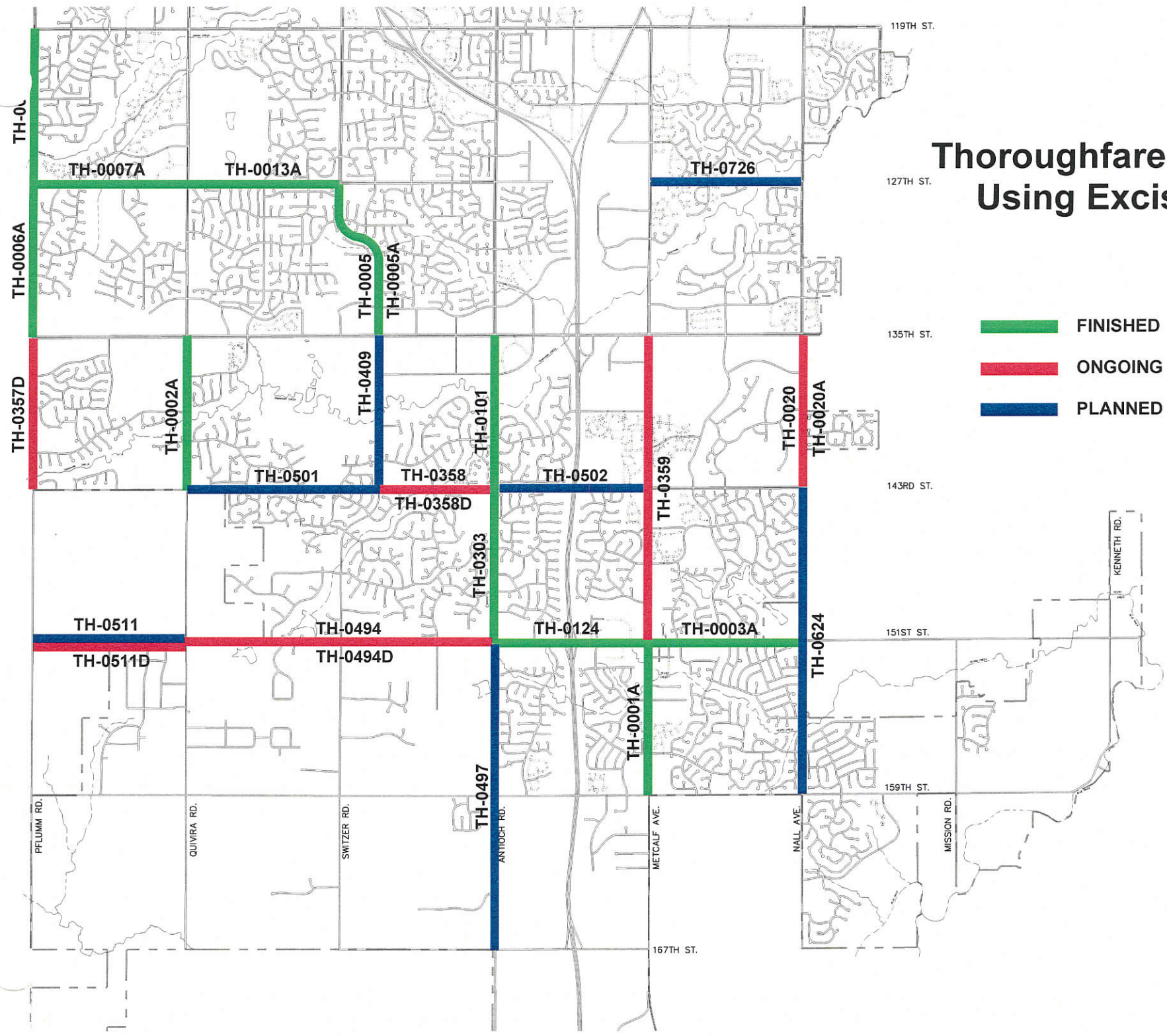
# EXHIBIT 3



Finished or On-going Projects (1994-2005)

|                |                                      | <u>Actual/Budget</u> |
|----------------|--------------------------------------|----------------------|
| <b>TH0020</b>  | <b>Nall; 135th to 143rd Design</b>   |                      |
|                | Interest                             |                      |
|                | Contributions                        |                      |
|                | Other Cities                         | 259,200              |
|                | Cap Improvement                      | 95,000               |
|                | Excise                               | 340,800              |
|                | Total                                | <u>695,000</u>       |
| <br>           |                                      |                      |
| <b>TH0020A</b> | <b>Nall; 135th to 143rd</b>          |                      |
|                | County                               | 2,129,000            |
|                | ISTEA                                | 2,000,000            |
|                | Other Cities                         | 1,571,220            |
|                | 1/8th Cent Sales Tax                 | 1,300,000            |
|                | Excise                               | 488,950              |
|                | Escrows                              | 176,830              |
|                | Total                                | <u>7,666,000</u>     |
| <br>           |                                      |                      |
| <b>TH0101</b>  | <b>Antioch; 135th to 143rd</b>       |                      |
|                | Interest                             | 30,014               |
|                | Contributions                        | 7,868                |
|                | Bond Proceeds                        | 1,918,135            |
|                | Cap Improvement                      | 2,763,570            |
|                | Excise                               | 1,028,280            |
|                | Escrows                              | 574,448              |
|                | Total                                | <u>6,322,315</u>     |
| <br>           |                                      |                      |
| <b>TH0124</b>  | <b>151st; Antioch to Metcalf</b>     |                      |
|                | Interest                             | 111,284              |
|                | Contributions                        | 142,255              |
|                | Bond Proceeds                        | 4,137,000            |
|                | County                               | 1,375,000            |
|                | Cap Improvement                      | 3,728,551            |
|                | 1/8th Cent Sales Tax                 | 250,000              |
|                | Excise                               | 300,000              |
|                | Escrows                              | 19,140               |
|                | Total                                | <u>10,063,230</u>    |
| <br>           |                                      |                      |
| <b>TH0303</b>  | <b>Antioch; 143rd to 151st</b>       |                      |
|                | Interest                             | 4,882                |
|                | Excise                               | 1,864,066            |
|                | Escrows                              | 559,192              |
|                | Total                                | <u>2,428,140</u>     |
| <br>           |                                      |                      |
| <b>TH0357D</b> | <b>Pflumm; 135th to 143rd Design</b> |                      |
|                | Interest                             |                      |
|                | Other Cities                         | 250,000              |
|                | Excise                               | 400,000              |
|                | Total                                | <u>650,000</u>       |

# EXHIBIT 4



# Thoroughfare Projects Using Excise Tax

- █ FINISHED
- █ ONGOING
- █ PLANNED

Tim Dannenborg



Subject: HB 2467 Testimony

Presented to: House Commerce Committee

From: The City of Olathe

Date: February 22, 2005

As not only Kansas' fastest growing major city, but as one the fastest in the nation, Olathe remains committed to ensuring the cost of growth is born equitably. The Olathe City Council continues to support its policy that growth should pay for itself as much as possible rather than falling to established taxpayers.

One such tool is the use of excise taxes to fairly offset the cost of new development. As evidenced by Olathe's continued growth, excise taxes have not been a detriment to new home construction.

In Olathe's case, 100% of excise tax collected is used to fund improvements supporting new development. Excise taxes are collected based on the cost of improvements directly benefiting those who pay them. In fact, the process allows for road improvements to be accelerated and undertaken at a more affordable cost.

Efforts to curtail the responsible use of this tool would have a dramatic impact on development in Olathe and significant consequences for growth. It would lead to significantly slowing new development or to significance tax increases levied upon established residents.

Any suggestion that cities should collect excise taxes and hold the funds in an exclusive account, only to be used in the area where they specifically originated are short sighted and irresponsible to all taxpayers. It would delay road projects for years until each development is complete and all the excise tax is collected. It would mean residents would be driving on unimproved and often unsafe roads when they could have been improved, and it would lead to higher costs. Each year delayed results in one more year of inflation cost. Excise taxes would need to be increased to account for that inflation meaning residents would pay more to get less.

Hs Taxation Committee  
February 22, 2005  
Attachment 5

Currently, projects can begin much sooner because all excise tax funds are pooled, allowing funds to be immediately available when the project begins, rather than when it is finally complete. The infrastructure is constructed at today's costs, resulting in significant savings. The only other option to accelerate these projects is to ask current taxpayers to absorb the cost through higher taxes.

Making these changes would result in the following:

- Delays in road construction supporting new development,
- Higher costs for improvements due to several years of inflation, or
- Increasing cities' mill rates to pay for the improvements until the excise tax revenue is collected.
- Or, dramatically slowing down development to allow revenues to accrue.

The City of Olathe strongly cautions those supporting these changes that they should be very careful what they ask for as they just might get it. This is a fair tool that results in added efficiency and cost savings. It supports growth and does not force established residents to pay higher taxes.





## CITY OF OLATHE EXCISE TAX INFORMATION

1. For each fiscal year during which the municipality has maintained an excise tax, identify:
  - a. Each real estate development for which the excise tax was collected.
    - *See Exhibit 1.*
  - b. The sum of excise tax collected from each such real estate development on a year by year basis.
    - *See Exhibit 1.*
  - c. The public works project(s) identified as eligible for funding by excise tax collected.
    - *All main trafficways that are unimproved that need to be improved to at least a collector street improvement (Olathe Municipal Code Section 3.35.020 J – see Exhibit 2).*
    - *A list of eligible streets is found in Exhibit 3.*
  - d. Public works project(s) identified as necessary to service the infrastructure demands of new development and the degree excise tax proceeds were pledged or estimated for such public works project(s).
    - *See Exhibit 4.*

- e. That portion of the municipality's capital improvement budget/plan describing public works projects necessary due to new development with excise taxes collected from such new development.
- *See Exhibit 1 for information on which developments the City collected excise taxes.*
  - *See Exhibit 4 for the CIP projects using excise taxes, amount of excise taxes and authorized project amounts for the improvements. Rarely does the excise tax pay the full amount of the improvement project. The remaining amount is generally paid by City at large funds, or general obligation bonds.*
- f. That revenue portion of the municipality's annual budget describing excise taxes collected from new development and any specific proposed appropriation of such excise taxes toward public works projects.
- *The fund is not a required reportable fund in the City's budget.*
  - *Money is appropriated when each individual project is created.*
  - *See Exhibit 4 for specific appropriations.*
2. Identify the extent to which the municipality identifies as eligible funding through excise taxes infrastructure needs created by development.
- *As was stated previously, main trafficways that need to be improved from an unimproved street to a collector street are eligible for such funding. Such unimproved streets are only found in developing areas of the City and such streets are only in need of improvement because of the pressure of new development.*
3. Identify the extent to which the municipality links infrastructure needs and projects created by development with excise taxes collected from that development.
- *The excise tax may only be used to pay for improvements to unimproved main trafficways.*

*Unimproved main trafficways are found in rapidly developing areas of the City. Thus, the link is the fact that developing areas create the need to improve unimproved main trafficways and the excise taxes collected during the platting process help pay for the needed improvements.*

4. Identify the total amount of money raised, by year, by the excise tax.
  - *See Exhibit 1.*
5. Identify the formula used to determine the rate to be charged for the excise tax.
  - *See Exhibit 2, Section 3.35.020 (u) and Section 3.1.1 of Exhibit 5.*
6. Identify how the money collected was expended to support development projects.
  - *See Exhibit 4.*
7. Identify how often the rate for the excise tax is reviewed.
  - *Biannually.*
  - *See Section 3.35.090 of Exhibit 2.*
  - *See Section 3.1.1 of Exhibit 5.*

092 Account Ledger Inquiry . . . . . From Date/Period 01/01  
 Account. . . . . 2400001.45205 Thru Date/Period 02/28/00  
 Street Excise Ledger Type. . . . . AA  
 Subledger. . . . . \*  
 Skip to Doc/Type . . . . .  
 Y-T-D Period End . . . . . 314,950.84-  
 Cumul Period End . . . . . 314,950.84-

| O | DT | Document | Date     | Explanation        | Debit | Credit      | P |
|---|----|----------|----------|--------------------|-------|-------------|---|
|   | CR | 419718   | 03/08/99 | PARKHILL DEVELOPME |       | 72,641.15-  | P |
|   | CR | 419717   | 03/08/99 | PARKHILL DEVELOPME |       | 52,270.97-  | P |
|   | CR | 419716   | 03/08/99 | PRIME PROPERTIES   |       | 6,486.48-   | P |
|   | CR | 422801   | 06/21/99 | PULTE HOMES OF GRE |       | 92,273.60-  | P |
|   | CR | 422800   | 06/21/99 | BRISBEN DEVELOPMEN |       | 92,463.19-  | P |
|   | CR | 422799   | 06/21/99 | STEVE FOLEY CONST  |       | 24,749.05-  | P |
|   | CR | 423331   | 07/07/99 | BLUE VALLEY SCHOOL |       | 51,568.07-  | P |
|   | CR | 600304   | 08/27/99 | Blue Valley Escrow |       | 88,409.12-  | P |
|   | CR | 426420   | 10/11/99 | PULTE              |       | 71,739.27-  | P |
|   | CR | 426419   | 10/11/99 | EASTBROOK          |       | 35,796.53-  | P |
|   | CR | 426418   | 10/11/99 | ATTIC STORAGE OF O |       | 10,195.13-  | P |
|   | CR | 428725   | 01/03/00 | QUIKTRIP CORP      |       | 9,553.32-   | P |
|   | CR | 428724   | 01/03/00 | HANOVER, LLC       |       | 103,752.08- | P |
|   | CR | 428723   | 01/03/00 | SOUTH HAMPTON, INC |       | 53,382.09-  | P |

Opt: 1/2=Orig Entry, 5=Details, F17=Top, F18=Totals, F21=Prt Ledge, F24=More

09200

Account Ledger Inquiry

From Date/Period 01/01/00  
Thru Date/Period 02/28/00  
Ledger Type. . . AA  
Subledger. . . \*

Account. . . . . 2400001.45205  
Street Excise  
Skip to Doc/Type . . . . .  
Y-T-D Period End . . . . . 314,950.84-  
Cumul Period End . . . . . 314,950.84-

| O | DT | Document | Date     | Explanation        | Debit | Credit      | P |
|---|----|----------|----------|--------------------|-------|-------------|---|
|   | CR | 428722   | 01/03/00 | SUNFLOWER MAZDA    |       | 30,012.84-  | P |
|   | CR | 428721   | 01/03/00 | PARKWOOD HILLS LLC |       | 85,185.92-  | P |
|   | CR | 428720   | 01/03/00 | HANOVER, LLC       |       | 149,750.21- | P |
|   | CR | 428719   | 01/03/00 | QUAILWOOD DEVELOPM |       | 56,805.37-  | P |
|   | CR | 428718   | 01/03/00 | PAUL BURGER AND CO |       | 61,889.83-  | P |
|   | CR | 428717   | 01/03/00 | SOUTH HAMPTON      |       | 83,521.27-  | P |
|   | CR | 428716   | 01/03/00 | BRADFORD OAKS      |       | 99,970.18-  | P |
|   | CR | 428714   | 01/03/00 | 143RD AND QUIVIRA  |       | 114,676.74- | P |
|   | CR | 428713   | 01/03/00 | HUNTERS CREEK LLC  |       | 27,586.46-  | P |
|   | CR | 428712   | 01/03/00 | TRI STAR DEVELOPME |       | 49,241.96-  | P |
|   | CR | 428711   | 01/03/00 | PEPPERCORN INC     |       | 112,141.82- | P |
|   | CR | 428710   | 01/03/00 | PARKHILL DEVELOPME |       | 83,186.56-  | P |
|   | CR | 428709   | 01/03/00 | SUNDANCE DEVELOPME |       | 1,180.00-   | P |
|   | CR | 428708   | 01/03/00 | ALDEN PROPERTIES   |       | 32,916.47-  | P |

Opt: 1/2=Orig Entry, 5=Details, F17=Top, F18=Totals, F21=Prt Ledg, F24=More



0920

Account Ledger Inquiry

From Date/Period 01/01  
Thru Date/Period 02/28  
Ledger Type AA  
Subledger \*

Account 2400001.45205

Street Excise

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Y-T-D Period End 314,950.84-  
Cumul Period End 314,950.84-

| O | DT | Document | Date     | Explanation        | Debit    | Credit      | P |
|---|----|----------|----------|--------------------|----------|-------------|---|
|   | CR | 428707   | 01/03/00 | CORBETT            |          | 58,792.84-  | P |
|   | CR | 428706   | 01/03/00 | PAUL BURGER AND CO |          | 26,537.21-  | P |
|   | CR | 428705   | 01/03/00 | CHICAGO TITLE      |          | 65,000.00-  | P |
|   | CR | 428704   | 01/03/00 | STONEGATE, INC     |          | 47,633.76-  | P |
|   | CR | 428703   | 01/03/00 | DONALD OLIVER      |          | 5,448.48-   | P |
|   | CR | 428702   | 01/03/00 | KARBANK INVESTMENT |          | 97,563.82-  | P |
|   | CR | 428700   | 01/03/00 | YMCA OF GREATER KC |          | 42,507.83-  | P |
|   | CR | 606266   | 02/01/00 | DDK Development    |          | 105,654.53- | P |
|   | CR | 429363   | 02/02/00 | DONALD E VIRGIN    |          | 171,599.56- | P |
|   | JE | 2003084  | 03/01/00 | Correct CR428709   | 1,180.00 |             | P |
|   | CR | 431777   | 05/16/00 | MILLER ENTERPRISES |          | 85,462.72-  | P |
|   | CR | 433721   | 07/26/00 | MICRO-COMM INC     |          | 33,826.95-  | P |
|   | CR | 433720   | 07/26/00 | DW LEASING LTD     |          | 3,605.25-   | P |
|   | CR | 433719   | 07/26/00 | HICKOK-DIBLE CO    |          | 84,478.52-  | P |

Opt: 1/2=Orig Entry, 5=Details, F17=Top, F18=Totals, F21=Prt Ldg, F24=More

097 Account Ledger Inquiry From Date/Period 01/01  
 Account. . . . . 2400001.45205 Thru Date/Period 02/28/05  
 Street Excise Ledger Type. . . AA  
 Subledger. . . . \*

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 Y-T-D Period End . . . . . 314,950.84-  
 Cumul Period End . . . . . 314,950.84-

| O | DT | Document | Date     | Explanation        | Debit | Credit      | P |
|---|----|----------|----------|--------------------|-------|-------------|---|
|   | CR | 433718   | 07/26/00 | PARKWOOD HILLS II  |       | 112,380.20- | P |
|   | CR | 433717   | 07/26/00 | THARALDSON DEVELOP |       | 10,032.58-  | P |
|   | CR | 433716   | 07/26/00 | BELL DEVELOPMENT I |       | 8,886.24-   | P |
|   | CR | 433715   | 07/26/00 | BRADFORD EQUITIES  |       | 24,308.60-  | P |
|   | CR | 433714   | 07/26/00 | RICHARD OR JOHN HA |       | 4,690.32-   | P |
|   | CR | 433713   | 07/26/00 | DEAN MACHINERY     |       | 17,919.83-  | P |
|   | CR | 433712   | 07/26/00 | SANTA FE CONGREGAT |       | 18,779.56-  | P |
|   | CR | 434936   | 08/30/00 | HAVEN DEVELOPMENT  |       | 10,934.43-  | P |
|   | CR | 434935   | 08/30/00 | LEONARD MCKINZIE   |       | 22,500.00-  | P |
|   | CR | 616463   | 09/29/00 | UMB                |       | 40,000.00-  | P |
|   | CR | 436041   | 10/13/00 | STONEGATE, INC     |       | 28,939.53-  | P |
|   | CR | 436040   | 10/13/00 | CEDAR CREEK PROPER |       | 71,111.70-  | P |
|   | CR | 436039   | 10/13/00 | PULTE MASTER BUILD |       | 324,749.49- | P |
|   | CR | 436193   | 10/19/00 | PRAIRIE HIGHLANDS  |       | 278,790.96- | P |

Opt: 1/2=Orig Entry, 5=Details, F17=Top, F18=Totals, F21=Prt Ledg, F24=More

092

Account Ledger Inquiry

From Date/Period 01/01/01  
Thru Date/Period 02/28/01  
Ledger Type AA  
Subledger \*

Account 2400001.45205

Street Excise

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Y-T-D Period End 314,950.84-  
Cumul Period End 314,950.84-

| O | DT | Document | Date     | Explanation        | Debit     | Credit      | P |
|---|----|----------|----------|--------------------|-----------|-------------|---|
|   | CR | 437207   | 12/05/00 | FIRST WORTHING     |           | 158,797.17- | P |
|   | CR | 437273   | 12/07/00 | DOUG BOHI          |           | 39,514.15-  | P |
|   | PV | 123565   | 12/07/00 | CEDAR CREEK PROPER | 71,111.70 |             | P |
|   | CR | 438124   | 01/24/01 | TRI-STAR DEVELOPME |           | 65,323.09-  | P |
|   | CR | 438123   | 01/24/01 | TRI-STAR DEVELOPME |           | 72,044.84-  | P |
|   | CR | 438608   | 02/22/01 | BRADFORD OAKS, LLC |           | 109,092.40- | P |
|   | CR | 438607   | 02/22/01 | JERRY CORBETT DEV  |           | 66,830.45-  | P |
|   | CR | 438606   | 02/22/01 | PULTE MASTER BUILD |           | 174,776.75- | P |
|   | CR | 438605   | 02/22/01 | WARD VANLERBERG    |           | 23,159.91-  | P |
|   | CR | 438604   | 02/22/01 | PAUL M BURGER & CO |           | 116,104.35- | P |
|   | CR | 438603   | 02/22/01 | FULLER HOMES, INC  |           | 26,140.53-  | P |
|   | CR | 440523   | 05/09/01 | STONEGATE, INC     |           | 49,253.47-  | P |
|   | CR | 440672   | 05/16/01 | OLATHE MEDICAL CEN |           | 58.25-      | P |
|   | CR | 442612   | 08/06/01 | EWING 3 DEVELOPMEN |           | 250,929.26- | P |

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09

Account Ledger Inquiry

From Date/Period 01/01  
Thru Date/Period 02/28/02  
Ledger Type AA  
Subledger \*

Account . . . . . 2400001.45205  
Street Excise

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Y-T-D Period End . . . . . 314,950.84-  
Cumul Period End . . . . . 314,950.84-

| O | DT | Document | Date     | Explanation        | Debit      | Credit      | P |
|---|----|----------|----------|--------------------|------------|-------------|---|
|   | CR | 443274   | 08/28/01 | GREAT PLAINS PROPE |            | 35,714.28-  | P |
|   | CR | 445111   | 11/08/01 | FIRST NATIONAL BAN |            | 123,222.63- | P |
|   | CR | 445861   | 12/11/01 | HERITAGE PRESBYTER |            | 19,771.89-  | P |
|   | CR | 445981   | 12/17/01 | ST JAMES COURT LLC |            | 124,851.67- | P |
|   | CR | 445980   | 12/17/01 | KENSINGTON LAND DE |            | 193,068.37- | P |
|   | CR | 445979   | 12/17/01 | QUAILWOOD DEVELOPM |            | 159,857.12- | P |
|   | CR | 445978   | 12/17/01 | PULTE HOMES        |            | 175,409.04- | P |
|   | JE | 2201063  | 01/17/02 | Transfer deposits  | 194,063.65 |             | P |
|   | CR | 448292   | 04/10/02 | COBALT CONSTRUCTIO |            | 45,300.88-  | P |
|   | CR | 448907   | 05/02/02 | STONEGATE INC      |            | 118,501.50- | P |
|   | CR | 448906   | 05/02/02 | BRADFORD PLACE AT  |            | 5,451.22-   | P |
|   | CR | 448906   | 05/02/02 | BRADFORD PLACE AT  |            | 46,504.66-  | P |
|   | CR | 449066   | 05/08/02 | CEC                |            | 25,615.46-  | P |
|   | JE | 2206122  | 06/01/02 | Account correction | 40,000.00  |             | P |

Opt: 1/2=Orig Entry, 5=Details, F17=Top, F18=Totals, F21=Prt Ledg, F24=More

Account Ledger Inquiry

From Date/Period 01/01/00  
Thru Date/Period 02/28/00  
Ledger Type AA  
Subledger \*

Account 2400001.45205  
Street Excise

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Y-T-D Period End 314,950.84-  
Cumul Period End 314,950.84-

| O | DT | Document | Date     | Explanation        | Debit     | Credit      | P |
|---|----|----------|----------|--------------------|-----------|-------------|---|
|   | CR | 450022   | 06/10/02 | GOLD BANK          |           | 130,244.06- | P |
|   | CR | 450021   | 06/10/02 | FULLER HOMES INC   |           | 50,336.03-  | P |
|   | CR | 450020   | 06/10/02 | NORMAN KARL        |           | 4,257.99-   | P |
|   | CR | 450019   | 06/10/02 | BRADFORD PLACE AT  |           | 51,975.64-  | P |
|   | CR | 450018   | 06/10/02 | HILTON CREEK LLC   |           | 270.00-     | P |
|   | CR | 450016   | 06/10/02 | EMC LLC            |           | 56,289.75-  | P |
|   | CR | 450015   | 06/10/02 | MCQUAID BROTHERS R |           | 8,127.44-   | P |
|   | JE | 2206252  | 06/18/02 | Bank Blue Valley R | 51,975.64 |             | P |
|   | CR | 450310   | 06/21/02 | PRIAIRE HIGHLANDS  |           | 156,515.00- | P |
|   | CR | 450942   | 07/15/02 | ASSURED QUALITY TI |           | 34,073.94-  | P |
|   | CR | 451010   | 07/16/02 | HANOVER LLC        |           | 221,459.89- | P |
|   | CR | 451352   | 07/25/02 | RTF DEVELOPERS LLC |           | 391,399.22- | P |
|   | CR | 451498   | 07/30/02 | PATE CAMPBELL      |           | 61,915.30-  | P |
|   | CR | 451617   | 08/02/02 | HAVEN DEVELOPMENT  |           | 87,274.98-  | P |

Opt: 1/2=Orig Entry, 5=Details, F17=Top, F18=Totals, F21=Prt Ledg, F24=More



097

Account Ledger Inquiry

From Date/Period 01/01  
Thru Date/Period 02/28/05  
Ledger Type. . . AA  
Subledger. . . \*

Account. . . . . 2400001.45205  
Street Excise

Skip to Doc/Type . . . . .  
Y-T-D Period End . . . . . 314,950.84-  
Cumul Period End . . . . . 314,950.84-

| O | DT | Document | Date     | Explanation        | Debit    | Credit      | P |
|---|----|----------|----------|--------------------|----------|-------------|---|
|   | CR | 451963   | 08/09/02 | COLSON & COLSON CO |          | 61,584.69-  | P |
|   | CR | 453227   | 09/20/02 | JOHN DEERE         |          | 37,700.50-  | P |
|   | CR | 453714   | 10/09/02 | PENTAD             |          | 92,541.74-  | P |
|   | CR | 454939   | 11/21/02 | GLEN MCKNIGHT      |          | 12,413.98-  | P |
|   | CR | 455017   | 11/25/02 | STRICKLAND CONSTRU |          | 23,661.91-  | P |
|   | CR | 455102   | 11/27/02 | VISTA BAPTIST CHUR |          | 41,045.07-  | P |
|   | CR | 455450   | 12/11/02 | BRITTANY DEVELOPME |          | 143,430.01- | P |
|   | CR | 455618   | 12/17/02 | OLATHE SENIOR APAR |          | 74,628.30-  | P |
|   | JE | 2212473  | 12/31/02 | OLATHE RETIREMENT  | 2,202.66 |             | P |
|   | CR | 456429   | 01/28/03 | ETHIOPIAN CHRISTIA |          | 41,382.00-  | P |
|   | CR | 6022331  | 03/17/03 | PARKWOOD FOUR,L.C. |          | 171,073.19- | P |
|   | CR | 6022318  | 03/17/03 | ST. JAMES COURT,LL |          | 106,646.81- | P |
|   | JE | 2303103  | 03/27/03 | JOHNSON COUNTY MED |          | 18,093.00-  | P |
|   | CR | 6022863  | 04/28/03 | STONEGATE, INC.    |          | 104,181.76- | P |

Opt: 1/2=Orig Entry 5=Details F17=Top F18=Totals F21=Prt Ledg F24=More

Account Ledger Inquiry

From Date/Period 01/01  
Thru Date/Period 02/28/03  
Ledger Type AA  
Subledger \*

Account 2400001.45205

Street Excise

Skip to Doc/Type  
Y-T-D Period End 314,950.84-  
Cumul Period End 314,950.84-

| O | DT | Document | Date     | Explanation         | Debit     | Credit      | P |
|---|----|----------|----------|---------------------|-----------|-------------|---|
|   | CR | 900431   | 05/02/03 | RAVENWOOD PARTNERS  |           | 47,528.50-  | P |
|   | CR | 900430   | 05/02/03 | RAVENWOOD PARTNERS  |           | 19,239.70-  | P |
|   | CR | 900428   | 05/02/03 | PATE CAMPBELL PROP  |           | 98,390.05-  | P |
|   | CR | 900427   | 05/02/03 | PATE CAMPBELL PROP  |           | 31,347.61-  | P |
|   | CR | 900440   | 05/06/03 | PAYNE & BROCKWAY P  |           | 31,500.57-  | P |
|   | CR | 6023777  | 06/30/03 | PRAIRIE HIGHLAND G  |           | 35,000.00-  | P |
|   | PV | 191938   | 07/02/03 | ZSCHOCHÉ FAMILY LL  | 34,073.94 |             | P |
|   | CR | 6023835  | 07/03/03 | FALLBROOK DEVELOPM  |           | 143,545.82- | P |
|   | CR | 6024052  | 07/21/03 | BELL DEVELOPMENT, I |           | 41,722.48-  | P |
|   | CR | 6024506  | 08/21/03 | KANSAS CITY POWER   |           | 82,152.77-  | P |
|   | CR | 644052   | 08/29/03 | Brookview investme  |           | 121,332.02- | P |
|   | CR | 6024590  | 09/02/03 | CASHIER'S CHECK -   |           | 224,621.49- | P |
|   | CR | 6024652  | 09/09/03 | EXCEL CONSTRUCTORS  |           | 15,471.82-  | P |
|   | CR | 901086   | 09/24/03 | 143RD & QUIVIRA CO  |           | 37,676.08-  | P |

Opt: 1/2=Orig Entry, 5=Details, F17=Top, F18=Totals, F21=Prt Ldg, F24=More

097

Account Ledger Inquiry

From Date/Period 01/01  
Thru Date/Period 02/28/03  
Ledger Type. . . AA  
Subledger. . . \*

Account. . . . . 2400001.45205  
Street Excise

Skip to Doc/Type . . . . .  
Y-T-D Period End . . . . . 314,950.84-  
Cumul Period End . . . . . 314,950.84-

| O | DT | Document | Date     | Explanation         | Debit    | Credit      | P |
|---|----|----------|----------|---------------------|----------|-------------|---|
|   | CR | 6024924  | 10/01/03 | DUGGAN HOMES INC    |          | 207,362.60- | P |
|   | CR | 6025087  | 10/13/03 | KENSINGTON LAND DE  |          | 137,600.12- | P |
|   | CR | 6025491  | 11/13/03 | NEW LIFE COMMUNITY  |          | 13,325.00-  | P |
|   | CR | 300131   | 12/08/03 | KV PROPERTIES       |          | 8,152.25-   | P |
|   | CR | 6025857  | 12/19/03 | THE STORAGE PLACE   |          | 40,069.29-  | P |
|   | PV | 202838   | 12/24/03 | STORAGE PLACE, THE  | 1,656.72 |             | P |
|   | CR | 400077   | 02/17/04 | GABE BROWN          |          | 171,393.62- | P |
|   | CR | 400076   | 02/17/04 | GABE BROWN          |          | 3,403.95-   | P |
|   | CR | 400114   | 03/15/04 | LUCAS INC           |          | 6,238.33-   | P |
|   | CR | 6026664  | 03/17/04 | BRITTANY DEVELOPME  |          | 73,577.20-  | P |
|   | CR | 6026661  | 03/17/04 | ST JAMES COURT LLC  |          | 69,107.11-  | P |
|   | CR | 400196   | 04/23/04 | SHAFFER KLINE & WAR |          | 137.00-     | P |
|   | CR | 400195   | 04/23/04 | SHAFFER KLINE & WAR |          | 90,307.50-  | P |
|   | CR | 400210   | 05/04/04 | MATT & SAMANTHA TH  |          | 14,359.97-  | P |

Opt: 1/2=Orig Entry, 5=Details, F17=Top, F18=Totals, F21=Prt Ledg, F24=More

Account Ledger Inquiry

From Date/Period 01/01  
Thru Date/Period 02/28/05  
Ledger Type . . . AA  
Subledger . . . \*

Account . . . . . 2400001.45205  
Street Excise

Skip to Doc/Type . . . . .  
Y-T-D Period End . . . . . 314,950.84-  
Cumul Period End . . . . . 314,950.84-

| O | DT | Document | Date     | Explanation        | Debit      | Credit      | P |
|---|----|----------|----------|--------------------|------------|-------------|---|
|   | CR | 6027356  | 05/20/04 | IDQ COMPANIES      |            | 28,000.55-  | P |
|   | CR | 6027355  | 05/20/04 | MACKEY HOMES INC.  |            | 97,628.41-  | P |
|   | CR | 6027407  | 06/07/04 | PRAIRIE HIGHLANDS  |            | 105,846.05- | P |
|   | CR | 400304   | 06/22/04 | Tri Star Developme |            | 129,271.65- | P |
|   | CR | 400302   | 06/22/04 | Tri Star Developme |            | 142,337.78- | P |
|   | CR | 400308   | 06/24/04 | SOUTHGATE PARTNERS |            | 80,860.43-  | P |
|   | CR | 6027504  | 07/15/04 | SADDLEWOOD ASSOCIA |            | 122,393.88- | P |
|   | CR | 6027516  | 07/19/04 | MAPLE BROOK PARK P |            | 128,272.19- | P |
|   | CR | 400372   | 07/19/04 | CRYSTAL RIVER, LLC |            | 111,565.87- | P |
|   | CR | 400371   | 07/19/04 | CRYSTAL RIVER, LLC | 111,431.87 |             | P |
|   | CR | 400371   | 07/19/04 | CRYSTAL RIVER, LLC |            | 111,431.87- | P |
|   | CR | 400410   | 08/16/04 | Systems Material H |            | 273,024.61- | P |
|   | CR | 400428   | 08/23/04 | SCOTT ZAREMBA      |            | 6,290.06-   | P |
|   | CR | 400546   | 10/26/04 | Haven Development  |            | 68,135.71-  | P |

Opt: 1/2=Orig Entry, 5=Details, F17=Top, F18=Totals, F21=Prt Ledg, F24=More

092

Account Ledger Inquiry

From Date/Period 01/01  
Thru Date/Period 02/28  
Ledger Type. . . AA  
Subledger. . . \*

Account. . . . . 2400001.45205  
Street Excise

Skip to Doc/Type . . . . .  
Y-T-D Period End . . . . . 314,950.84-  
Cumul Period End . . . . . 314,950.84-

| O              | DT | Document | Date     | Explanation        | Debit      | Credit         | P |
|----------------|----|----------|----------|--------------------|------------|----------------|---|
|                | CR | 400555   | 10/29/04 | RED HAWK DEVELOPME |            | 98,780.82-     | P |
|                | CR | 652650   | 11/01/04 | MARK SIFFIN        |            | 157,476.00-    | P |
|                | CR | 400598   | 11/18/04 | KARL CONSTRUCTION  |            | 3,213.47-      | P |
|                | CR | 400621   | 12/08/04 | ROBERT ALLEN CONST |            | 34,016.00-     | P |
|                | CR | 400650   | 12/16/04 | EDWARD A SCHLAGEL, |            | 12,967.80-     | P |
|                | CR | 500004   | 01/05/05 | PRICE BROTHERS, MO |            | 1,968.68-      | P |
|                | CR | 500021   | 01/18/05 | TODD ALLENBRAND, P |            | 95,312.84-     | P |
|                | CR | 500066   | 02/08/05 | POISINELLI SHALTON |            | 217,669.32-    | P |
|                |    |          |          |                    | 507,696.18 | 11,754,322.97- |   |
| Ledger Total   |    |          |          |                    |            | 11,246,626.79- |   |
| Unposted Total |    |          |          |                    |            |                |   |

Opt: 1/2=Orig Entry, 5=Details, F17=Top, F18=Totals, F21=Prt Ledg, F24=More

EXHIBIT 1



## CHAPTER 3.35

### TRANSPORTATION IMPROVEMENTS EXCISE TAX

#### Sections:

|          |                                                                            |
|----------|----------------------------------------------------------------------------|
| 3.35.010 | Purpose and Authority.                                                     |
| 3.35.020 | Definitions.                                                               |
| 3.35.030 | Levy and Payment of Tax.                                                   |
| 3.35.040 | Pledge of Revenues.                                                        |
| 3.35.050 | Exemptions.                                                                |
| 3.35.060 | Credits.                                                                   |
| 3.35.070 | Procedure for Calculating and Making Credit and Applying for an Exemption. |
| 3.35.080 | Appeals.                                                                   |
| 3.35.090 | Adjustment to Tax Rate.                                                    |
| 3.35.100 | Interpretation.                                                            |

**3.35.010 Purpose and Authority.** The excise tax levied by this Ordinance on the act of platting real property in the City has for its purpose the raising of general revenues to be used for transportation improvements in the City. The City's authority to levy this excise tax is derived from Charter Ordinance No. 54, Article 12, Section 5(b) of the Kansas Constitution and K.S.A. § 12-137 and 12-138. (Ord. 98-106 § 1, 1998)

**3.35.020 Definitions.** For the purposes of Chapter 3.35, the following words have the following definitions.

- (a) Administrator. The City Planner of the City, or his or her designee.
- (b) Applicant. The person, firm, partnership, joint venture or corporation that seeks to exercise the privilege of engaging in the business of platting real property in the City by applying for Plat approval.
- (c) Area. The gross area of the real property included in a plat for which approval is sought measured in square feet less the area described in Section Five hereof.
- (d) City. The City of Olathe, Kansas.
- (e) Collector Street Standards. Those standards established by the City Engineer in the latest edition of the City of Olathe's "Technical Specifications and Design Criteria for Public Improvement Projects."
- (f) Commercial Zoning District. Retail Business (C-1 and CP-1), General Business (C-2 and CP-2), Community/Corridor Business (C-3 and CP-3), Central Business District (CBD) and Business Park (BP) zoning districts as described in the City's *Unified Development Ordinance*.
- (g) Governing Body. The City Council of the City of Olathe, Kansas.
- (h) Improvement. The design and construction of a public street and all appurtenances thereto.
- (i) Initial Improvement. The improvement of any road designated as a main trafficway from an unimproved road to at least collector street standards.
- (j) Initial Improvement Tax Rate. The rate of taxation designed to provide revenues to construct initial improvements to main trafficways.
- (k) Intermediate Traffic Signals. Traffic signals located at the intersection of a non-trafficway (arterial), public street and a main trafficway.

(l) Intermediate Traffic Signal Tax Rate. The rate of taxation designed to provide revenues for the construction of intermediate traffic signals.

(m) Main Trafficway. The section line roads, street and highways designated s main trafficways in Chapter 10.10 of this Municipal Code.

(n) Multi Family Zoning Districts. Two-family (R-2 and RP-2), Low Density Apartment Townhouse (R-3 and RP-3), Garden Apartment (R-4 and RP-4), Apartment House (R-5 and RP-5), and Manufactured Home Park (MHP) zoning districts described in the City's *Unified Development Ordinance*.

(o) Other Zoning Districts. The zoning districts described in the City's *Unified Development Ordinance* that are not single family, multi family, or commercial zoning districts as described in this section, including but not limited to, office buildings, industrial zoning districts and mixed use zoning districts.

(p) Plat. A recordable final plat giving the location and dimensions of land as one or more lots, blocks, tracts or parcels, and meeting the requirements of the Municipal Code of the City of Olathe and Kansas Statutes. The purpose for recording of a document, and the absence of lots, blocks, or public rights-of-way shall not affect its status as a Plat.

(q) Real Property. A legally described parcel of land capable of development pursuant to applicable City ordinances and regulations.

(r) Recordable. Capable of being recorded with the Register of Deeds of Johnson County, Kansas.

(s) Single Family Zoning Districts. The single family (R-1 and RP-1) zoning districts described in the City's *Unified Development Ordinance*.

(t) Tax. The Excise Tax levied by this Ordinance.

(u) Tax Rate. The rate of taxation applied to the Area of real property expressed in dollars per square foot.

(v) Unimproved Road. Any road, street or highway in the City that has been designated as a main trafficway and is not constructed to collector street standards as of March 1, 1999. (Ord. 02-52 § 1, 2002; Ord. 98-106 § 2, 1998)

### 3.35.030 Levy and Payment of Tax.

(a) A tax is hereby levied on the act of platting real property in the City. The initial improvement tax rate shall be \$0.190 per square foot. The intermediate traffic signal tax rate is:

|                                |                         |
|--------------------------------|-------------------------|
| Single Family Zoning Districts | \$.0037 per square foot |
| Multi Family Zoning Districts  | \$.0120 per square foot |
| Commercial Zoning Districts    | \$.0576 per square foot |
| Other Zoning Districts         | \$.0098 per square foot |

(b) Every applicant shall pay to the Administrator prior to recordation of an approved plat with the Register of Deeds, a tax equal to the area of the real property included in the plat multiplied by the current tax rate, less any applicable credits. The area of real property shall be finally determined by the Administrator. If multiple plats shall be filed in phases, the fee shall be due prior to each individual plat being recorded.

(c) No approved plat subject to this tax shall be recorded until the applicant has paid the tax in full.

(d) The Administrator shall forward all taxes collected to the Director of Financial Services who shall be responsible for the placement of such funds in an interest bearing account designated as the "Trafficway Excise Tax Account," in the Future Street Improvement Fund which account shall be capable of being accounted for independently of all other City accounts and subaccounts. All excise tax revenues shall be deposited into such account. All interest earned by the account shall be considered funds of the account. The funds in the account may be pooled with other City funds solely for the purpose of investment and for financial management; provided, however, that appropriate accounting controls have been adopted and implemented to ensure that the taxes collected and deposited to such account are utilized only for the purposes specified herein and pursuant to the applicable legal requirements.

(e) The Tax shall be paid by wire transfer, certified check, or cashier's check. (Ord. 02-52 § 2, 2002; Ord. 01-105 § 1, 2001; Ord. 00-112 § 1, 2000; Ord. 99-94 § 1, 1999; Ord. 98-106 § 3, 1998)

**3.35.040 Pledge of Revenues.** All revenues received from the tax are pledged solely for the purpose of funding the initial improvement of main trafficways or intermediate traffic signals in the City of Olathe. At the discretion of the Governing Body, other revenues as may be legally utilized for such purpose may be deposited into the Trafficway Excise Tax account. The City may issue and utilize general obligation bonds or other certificates of indebtedness as are within the authority of the City in such manner and subject to such limitations as may be provided by law in furtherance of the financing and provision of the improvement of main trafficways. Funds pledged toward the retirement of bonds or other certificates of indebtedness may include the Trafficway Excise Tax and other City (and non-City) funds and revenues as may be allocated by the Governing Body. Trafficway Excise Taxes paid pursuant to this Ordinance, however, shall be used solely and exclusively for the initial improvement of main trafficways or intermediate traffic signals as defined herein. (Ord. 02-52 § 3, 2002; Ord. 98-106 § 4, 1998)

#### **3.35.050 Exemptions.**

(a) Prior to the passage of this Ordinance, the City had established a policy (Resolution No. 93-1119) which required a developer to pay a proportionate share of the costs of improving main trafficway designated streets by entering into an escrow agreement, by creating a benefit district and paying special assessments, or by constructing the improvement. From and after March 1, 1999, an exemption from payment of the Initial Improvement Tax (but not the Intermediate Traffic Signal Tax) will be granted for all land that fully complied with the policies of Resolution No. 93-1119. For the purposes this exemption, the phrase "fully complied" means:

- (1) The execution and filing of an escrow agreement acceptable to the City, along with the payment of any financial contribution required by the agreement, prior to March 1, 1999; or
- (2) The creation of a valid benefit district prior to March 1, 1999 and the levy of special assessments prior to January 1, 2001.
- (3) The construction of main trafficway improvements by a developer prior to March 1, 1999.

(b) Any replat of previously platted land which was approved by the City will be exempt from the payment of the excise tax levied hereunder.

(c) Land within any final plat may be entitled to an exemption if it meets the following criteria:

- (1) The land is a part of a single-unified ownership of property greater than 350 acres; and
- (2) The land contains an environmentally sensitive area; and
- (3) The topography of the land is so extreme that traditional section-line main trafficways are too expensive to be built; and
- (4) The owner of the land has entered into a developer's agreement with the City to pay for the construction of the main trafficways by the creation of benefit districts and the square foot assessments to be levied upon the land will equal at least the tax rate established in Section Three of this Ordinance. (Ord. 02-52 § 4, 2002; Ord. 98-106 § 5, 1998)

**3.35.060 Credits.** The excise tax to be paid on a final plat pursuant to this Ordinance shall be credited in full, or in part, for:

(a) After March 1, 1999, any land within any final plat which in whole or in part was or will be specially assessed for main trafficway improvements.

(b) Land permanently dedicated on a final plat to the City as a floodway area, public open space or for recreational use. Such area shall not include land required to be dedicated for street right of way.

(c) Land within any final plat where the developer has constructed all or a portion of an adjacent main trafficway. (Ord. 98-106 § 6, 1998)

**3.35.070 Procedure for Calculating and Making Credit and Applying for an Exemption.**

(a) The applicant shall be responsible for completing any application for an exemption or credit and for supplying all information necessary supporting the claim of exemption or for calculation of the area and the credit. Any application or request for exemption or credit shall be specifically made in writing to the Administrator prior to Planning Commission approval of any final plat and if no such request is made then the applicant is deemed to have waived any right or claim to any exemption or credit.

(b) Under no circumstances shall a credit be given in excess of the amount of Tax calculated to be due on the Plat.

(c) If multiple plats are to be filed in various phases, a separate calculation will be made for each plat and the payment will be due upon recording of the final plat. Credits, if applicable, will be given at the time a subsequent plat is recorded.

(d) The credit amount shall be calculated:

(1) By multiplying the land area of the final plat subject to a credit by the tax rate required to be paid; or

(2) In situations where the credit is given for developer construction of improvements by the reasonable and customary cost of said construction in Olathe. No credit shall be allowed for overlaying or other temporary improvements not to the City's standards for main trafficways, made as a condition of approval of zoning, approval of a final Plat or issuance of a building permit.

(3) The amount of any special assessment levied on land included in the Plat for payment of the cost of improvement to a main trafficway. Where not all of the land included in the Plat was subject to a levy for special assessments then the credit shall not exceed the amount of Tax that would be due calculated only on that area which was subject to the special assessments. If all of a tract against which a special assessment was originally levied is not included in the Plat, then the credit shall be the amount of the original special assessment which would be apportioned on an area basis to the portion of the original tract included in the Plat. (Ord. 98-106 § 7, 1998)

**3.35.080 Appeals.** The Administrator will determine at the time final approval is given by the Planning Commission to any final plat if the applicant is entitled to an exemption or a credit of all or a portion of the excise tax levied and paid pursuant to this Ordinance. The decision of the Administrator on the granting of an exemption or the amount of the credit may be appealed to the City Council, by the applicant, prior to consideration of the final plat by the Governing Body. The notice of appeal shall be in writing, filed with the City Clerk, and state with particularity the decision being appealed; the grounds for the appeal; and the specific relief sought. An appeal hearing shall be scheduled within thirty (30) days of the date of the filing of the appeal notice. The decision of the City Council is final.

The Governing Body shall have the power to hear and decide appeals where it is alleged that there is an error in the interpretation, application, calculation by the Administrator.

The filing of an appeal or other legal challenge with a court of competent jurisdiction shall not stay the imposition, calculation or collection of the excise tax as calculated by the City unless a bond, letter of credit or other approved and sufficient surety in the amount calculated by the Administrator is filed with the City. If such approved surety is received with the notice of appeal, the final plat may be recorded. (Ord. 98-106 § 8, 1998)

**3.35.090 Adjustment to Tax Rate.** The Governing Body shall periodically review the tax rate at such time as it deems necessary or appropriate; provided, however, that a formal review shall take place in January 2001 and not less frequently than in January of every second year thereafter. Whenever the tax rates are reviewed, appropriate public notice shall be given and a public hearing shall be held, regardless of whether the tax rates are actually changed. Any adjustment in the tax rate shall be effected by an ordinance that amends this Ordinance and such amending ordinance shall be made effective no sooner than sixty (60) days following final publication. (Ord. 02-52 § 5, 2002; Ord. 98-106 § 9, 1998)

### **3.35.100 Interpretation.**

(a) Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

(b) Conflict: To the extent of any conflict between other City code, ordinances, or this Ordinance, the provisions of this Ordinance shall be deemed to be controlling, provided, however, that unless expressly provided herein, this Ordinance is not intended to amend or repeal any existing City ordinance or code or regulation which shall continue in full force and effect after the passage, approval, and publication of this Ordinance.

(c) Invalidity: If any chapter, article, section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such chapter, article, section, subsection, sentence, clause, phrase, or portion of this Ordinance shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions of this Ordinance nor impair or nullify the remainder of this Ordinance which shall continue in full force and effect.

If the application of any provision of this Ordinance to any person, applicant, or new development is declared, for any reason, to be invalid by a court of competent jurisdiction, the intent of the City Council is that such decision shall be limited to that particular circumstance immediately involved in the controversy, action or proceeding in which such decision of invalidity was rendered. Such decision shall not affect, impair, or nullify this Ordinance as a whole or the application of any provision of this Ordinance to any other person, applicant, or new development. (Ord. 98-106 § 10, 1998)

**CHAPTER 3.40. Suits And Claims Against Officers And Employees.** Repealed 2/19/91. (Ord. 91-08 § 2, 1991; Ord. 87-30 § 22, 1987; Ord. 612, 1977.)



(b) **Building and Setback Lines.** The building and setback lines and other similar requirements are set out in the U.D.O. and are to be enforced in accordance with the requirements of the U.D.O.

(c) **Enforcement.** The dedication of street or highway right-of-way and the location of building and setback lines are to be enforced in accordance with the requirements of the U.D.O.

(d) **Access Management Policy.** The Planning Commission and Governing Body shall approve the Access Management Policy by resolution. All access, including driveways and public streets, from major arterial streets, minor arterial streets, expressways (also known as highways) and collector streets onto adjacent properties shall conform and be subject to the Access Management Policy.

(e) **Amendment.** The Major Street Map may be amended by resolution in accordance with K.S.A. 12-765. The Access Management Policy may be amended by resolution by the Planning Commission and the Governing Body. Building and setback lines may be amended in accordance with the requirement of the U.D.O. and state statutes on zoning and platting. (Ord. 00-47 § 1, 2000; Ord. 86-96 § 1, 1986; Ord. 85-100 § 1, 1985; Ord. 106 § 1, 1972; Ord. 201-C § 1, 1968.)

**10.08.015 Pflumm Road designated as minor arterial.** Repealed 12/7/93. (Ord. 93-101 § 1, 1993; Ord. 91-06 § 1, 1991.)

**10.08.020 Stop Sign Erection.** Stop signs are authorized to be erected at all local streets that intersect with expressway, arterial or collector streets and at the intersection of collector streets. The expressway, arterial or collector streets shall refer to those streets designated as such in the Major Street Map. (Ord. 00-47 § 2, 2000; Ord. 86-96 § 1, 1986; Ord. 106 § 2, 1972; Ord. 201-C § 2, 1968.)

## MAIN TRAFFICWAYS AND MAIN TRAFFICWAY CONNECTIONS

### Sections:

- 10.10.010 Main Trafficways.
- 10.10.020 Main Trafficway Connections.

**10.10.010 Main Trafficways.** The following streets, as located within the City of Olathe, are hereby designated and established as main trafficways, the primary function of which is, or shall be, the movement of through traffic between areas of concentrated activity within the City, or between such areas within the City and traffic facilities outside the City performing the function of a major trafficway. Such designations are made under the authority granted in K.S.A. 12-685:

- 119th Street
- Northgate from Ridgeview Road to Kansas Avenue
- 127th Street (also known as Harold)
- Santa Fe (also known as 135th Street)
- 143rd Street from 1/4 mile east of Quivira Road to Mur Len Road
- Sheridan Avenue from Mur Len Road to Ridgeview Road (west of I-35)
- Dennis Avenue
- 151st Street
- 159th Street
- Quivira Road from 143rd Street to 151st Street
- Pflumm Road
- Blackbob Road
- Strang Line Road
- Mur Len Road

Rogers Road from Strang Line Road to Spruce Street  
 Spruce Street from Rogers Road to Lindenwood  
 Lindenwood from Rogers Road to Cedar Street  
 Cedar Street from Clairborne Road to Mur Len Road  
 Rogers Road from Clairborne Road to Sheridan Street  
 Willow Street from Mur Len Road to College Way  
 College Way from Rogers Road to Lindenwood Drive  
 Lindenwood Drive from College Way to 159th Street  
 Sheridan Bridge Street from Ridgeview Road to Mur Len Road  
 157th Street from Ridgeview Road to Lindenwood Drive  
 155th Street from Lindenwood Drive to Mur Len Road  
 Pineview Street from Nelson Road to Ridgeview Road  
 Church Street from Kansas City Road to Santa Fe  
 Keeler Street from Santa Fe to Dennis Avenue  
 Woodland Road from Northgate Street to Santa Fe  
 Iowa Street from 119th Street to Santa Fe  
 Spruce Street from K7 to Kansas City Road  
 Park Street from K7 to Ridgeview Road  
 Loula Street from Montclair to Ridgeview Road  
 Southpark Boulevard from 151st Street to K7  
 Olathe View Road from Forrest Street to Santa Fe  
 Montclair Drive from Santa Fe to Dennis Avenue  
 Hedge Lane from 127th Street to Santa Fe  
 Persimmon Drive from Sumac Street to Santa Fe  
 Ward Cliff from Santa Fe to Dennis Avenue  
 Lakeshore Drive from Santa Fe to 151st Street  
 149th Street from Valley Road to Lone Elm Road  
 Valley Road from 151st Street to 149th Street  
 Cedar Niles Boulevard from Cedar Creek Parkway to 111th Street  
 Nelson Road from Harold Street to Northgate  
 Sunset from 119th Street to 118th Street  
 118th Street from Sunset to Ridgeview Road  
 Elm Street from K7 to Kansas Avenue  
 Sheridan from K7 to Grant Street  
 Grant Street from Elm to Dennis Avenue  
 Keeler Street from 151st Street to Mahaffie  
 Mahaffie from 151st Street to 159th Street  
 Greenwood Street from 127th Street to 138th Street  
 138th Street from Blackbob Road to Pflumm Road  
 Blackfoot Drive from 138th Street to 133rd Street  
 Brougham Drive from 135th (Santa Fe) Street to 133rd Street  
 133rd Street from Brougham Drive to Pflumm Road  
 Alden from 133rd Street to 138th Street  
 Widmer from 133rd Street to 138th Street  
 146th Terrace from Brougham Drive to Blackbob Road

(Ord. 98-17 § 1, 1998; Ord. 97-138 § 1, 1997; Ord. 97-112 § 1, 1997.)

Renner Road  
Clairborne Road from Santa Fe (aka 135th Street) to Sheridan Road  
Ridgeview Road  
Nelson Road from Northgate to Kansas City Road  
Kansas Avenue from Harold Street to Dennis Avenue  
Southgate from Kansas Avenue to Harrison Street  
Harrison Street from Southgate to Old 56 Highway  
Kansas City Road  
K-7 (aka Parker Street) from Spruce Street to Old 56 Highway (Lone Elm intersection)  
Lone Elm Road  
Woodland Road North of Northgate  
Parker (aka Lone Elm) from Harold (aka 127th Street) to 111th Street (aka College Blvd.)  
K-7 from Old 56 Highway (Harrison intersection) to South City Limits  
Old 56 Highway  
Valley Parkway from Cedar Creek Parkway to College Boulevard  
Bluestem Parkway from Valley Parkway to Clare Road  
Bluestem Parkway from Clare Road to Hedge Lane Terrace  
Cedar Creek Parkway from K-10 to College Boulevard  
Valley Parkway from Cedar Creek Parkway to Shadow Circle  
College Boulevard (aka 111th Street)  
Clare Road  
103rd Street from Cedar Creek Parkway to Hedge Lane Terrace  
Hedge Lane Terrace from 103rd to College (aka 111th Street)

(Ord. 97-101 § 1, 1997.)

Ordinances No. 691, 773, 90-80, 94-49, 94-55 and 97-28 are hereby repealed. (Ord. 97-101 § 2, 1997.)

**10.10.020 Main Trafficway Connections.** The following streets, as located within the City of Olathe, are hereby designated and established as main trafficway connections, the primary function of which is to provide adequate connections with or between any main trafficways of the City or for the purpose of relieving traffic congestion at certain points on said main trafficways. Such designations are made under the authority granted in K.S.A. 12-686:

Greenwood Street from 111th to 115th Street  
115th Street from Greenwood Street to Pflumm Road  
Greenwood Street from 119th to 123rd Street  
123rd Street from Blackbob Road to Pflumm Road  
Greenwood Street from 143rd to 151st Street  
146th Terrace from Blackbob Road to Greenwood Street  
123rd Street from Strang Line Road to Arapaho Drive  
Arapaho Drive from 123rd Street to Indian Creek Parkway  
Indian Creek Parkway from Mur Len Road to Blackbob Road  
Brougham Drive from Santa Fe to South City Limits  
139th Street from Mur Len Road to Blackbob Road  
147th Terrace from Mur Len Road to Blackbob Road  
Locust Street from 143rd Street to 147th Terrace  
Blackfoot Drive from 151st Street to 147th Terrace  
153rd Street from Mur Len Road to Brougham Drive  
123rd Street from Ridgeview Road to North Ridge Parkway  
North Ridge Parkway from 123rd Street to 125th Street  
125th Street from North Ridge Parkway to Kansas City Road  
Northview from Mur Len Road to Rogers Road

10.19  
January 2001

**EXHIBIT 3**

5-25

**FUTURE STREET IMPROVEMENT FUND**

2/10/05

|              |                      |
|--------------|----------------------|
| REVENUE      | 11,028,957.47        |
| INVEST EARNS | 409,166.94           |
|              | <u>11,438,124.41</u> |

**TRANSFERS FROM STREET EXCISE TAX FUND**

|          |                                                  |                       |                                   |
|----------|--------------------------------------------------|-----------------------|-----------------------------------|
| 2/28/00  | 35999 Woodland Road, 119th to College            | \$168,000.00          |                                   |
| 9/14/00  | 33489 Renner Rd. 119th N. Limits                 | \$435,000.00          |                                   |
| 10/31/00 | 31199 143rd, Pflumm to 1/4 Mile West             | \$60,000.00           |                                   |
| 2/6/01   | 36097 Pflumm Rd, 119th to 127th                  | \$200,000.00          |                                   |
| 2/28/01  | 31501 119th, Iowa to Woodland                    | \$85,000.00           |                                   |
| 2/28/01  | 35999 Woodland Road, 119th to College            | \$436,000.00          |                                   |
| 8/10/01  | 32498 Ridgeview, 151st to 159th                  | \$275,000.00          |                                   |
| 10/1/01  | 37899 Pflumm Rd, 135th - 143rd                   | \$25,000.00           |                                   |
| 2/6/02   | 36896 159th Street, US 169 to Ridgeview)         | \$400,000.00          |                                   |
| 5/8/02   | 31102 159th & Black Bob to 1/2 m West (Brougham) | \$235,000.00          |                                   |
| 5/8/02   | 37799 Santa Fe, Olathe View to Ward Cliff        | \$1,461,000.00        |                                   |
| 5/21/02  | 30802 Lone Elm, Harold to 119th                  | \$306,000.00          |                                   |
| 6/25/02  | 32098 159th, Ridgeview to 3,000' East            | \$7,334.14            |                                   |
| 7/3/02   | 35500 College Blvd., Lone Elm to Woodland        | \$560,000.00          |                                   |
| 7/3/02   | 36600 College, Woodland-Ridgv Grade Separation   | \$1,074,000.00        |                                   |
| 7/3/02   | 37399 Lone Elm, 119th to 111th                   | \$421,000.00          |                                   |
| 8/30/02  | 31501 119th, Iowa to Woodland                    | \$225,000.00          |                                   |
| 8/30/02  | 32101 College & Greenwood Signalization          | \$90,000.00           | Temporary Transfer                |
| 8/30/02  | 35999 Woodland Road, 119th to College            | \$398,000.00          |                                   |
| 10/23/02 | 32498 Ridgeview, 151st to 159th                  | \$240,000.00          |                                   |
| 3/21/02  | 30402 119th & Greenwood Signalization            | \$192,000.00          | Temporary Transfer                |
| 3/21/03  | 31403 College & Lone Elm Signalization           | \$198,000.00          | Temporary Transfer                |
| 11/13/03 | 31398 Ridgeview, 159th to 163rd                  | \$150,000.00          |                                   |
| 11/13/03 | 32098 159th, Ridgeview to 3,000' East            | \$250,000.00          |                                   |
| 2/3/04   | 38099 151st, Pflumm to Quivira                   | \$713,440.00          |                                   |
| 2/3/04   | 31298 151st Street, Black Bob to Pflumm          | \$380,000.00          |                                   |
| 2/3/04   | 38099 151st, Pflumm to Quivira                   | (\$338,871.55)        | S/Be Escrow                       |
| 2/3/04   | 30802 Lone Elm, Harold to 119th                  | (\$306,000.00)        | S/Be Escrow                       |
| 2/4/04   | 31403 College & Lone Elm Signalization           | (\$198,000.00)        | 2/4/04-Reimb from Signal Exc. Tax |
| 2/17/04  | 31102 159th, Black Bob to 1/2 Mile West          | \$234,589.95          |                                   |
| 2/17/04  | 38199 Black Bob, 155th to 159th                  | \$65,625.77           |                                   |
| 3/3/04   | 31104 151st, Old 56 Hwy to Lone Elm              | \$276,000.00          |                                   |
| 4/28/04  | 31704 Coffee Creek Parkway (Blue River 12)       | \$62,568.00           |                                   |
| 7/8/04   | 32101 College & Greenwood Signalization          | (\$90,000.00)         | 7/8/04-Reimb from Signal Exc. Tax |
| 7/8/04   | 30902 Lone Elm, College (111th) to K-10          | \$473,000.00          |                                   |
|          |                                                  | <u>\$9,163,686.31</u> |                                   |

**REIMBURSEMENTS FROM FUTURE STREET IMPROVEMENT FUND**

|         |                     |                    |
|---------|---------------------|--------------------|
| 9/14/00 | South Hampton       | \$12,357.00        |
| 5/30/02 | Corbett Development | \$21,963.03        |
| 2/26/03 | Ethiopian Christian | \$5,320.07         |
|         |                     | <u>\$39,640.10</u> |

TOTAL TRANSFERRED FROM FUTURE ST. IMP. FUND \$9,203,326.41

FUTURE STREET IMPROVEMENT FUND BALANCE \$2,234,798.00

|                                           |                       |
|-------------------------------------------|-----------------------|
| <b>2005 CIP (NOT TRANSFERRED)</b>         |                       |
| 31501 119th, Iowa to Woodland             | \$536,000.00          |
| 30402 119th & Greenwood Signal - Reimb    | (\$192,000.00)        |
| 31704 Coffee Creek Parkway                | \$200,000.00          |
| 30298 127th Street Overpass               | \$523,000.00          |
| 31102 159th & Black Bob to 1/2 Miles West | \$268,000.00          |
|                                           | <u>\$1,335,000.00</u> |
|                                           | <u>\$899,798.00</u>   |

BALANCE INCLUDING 2005 CIP

**FUTURE STREET IMPROVEMENT FUND**

|              |                      |
|--------------|----------------------|
| REVENUE      | 11,246,626.79        |
| INVEST EARNS | 409,698.77           |
|              | <u>11,656,325.56</u> |

**TRANSFERS FROM STREET EXCISE TAX FUND**

|                   |       |                                            |                | Authorized                        | Final Costs    |
|-------------------|-------|--------------------------------------------|----------------|-----------------------------------|----------------|
| 2/28/00           | 35999 | Woodland Road, 119th to College            | \$168,000.00   | \$9,672,000.00                    |                |
| 9/14/00           | 33489 | Renner Rd. 119th N. Limits                 | \$435,000.00   | \$1,890,000.00                    | \$1,813,211.15 |
| 10/31/00          | 31199 | 143rd, Pflumm to 1/4 Mile West             | \$60,000.00    | \$560,000.00                      | \$546,931.17   |
| 2/6/01            | 36097 | Pflumm Rd, 119th to 127th                  | \$200,000.00   | \$1,718,058.00                    | \$1,173,377.42 |
| 2/28/01           | 31501 | 119th, Iowa to Woodland                    | \$85,000.00    | \$1,424,000.00                    |                |
| 2/28/01           | 35999 | Woodland Road, 119th to College            | \$436,000.00   | See above                         |                |
| 8/10/01           | 32498 | Ridgeview, 151st to 159th                  | \$275,000.00   | \$1,306,000.00                    | \$2,305,193.06 |
| 10/1/01           | 37899 | Pflumm Rd, 135th - 143rd                   | \$25,000.00    | \$1,630,000.00                    |                |
| 2/6/02            | 36896 | 159th Street, US 169 to Ridgeview)         | \$400,000.00   | \$4,145,000.00                    | \$3,971,850.38 |
| 5/8/02            | 31102 | 159th & Black Bob to 1/2 m West (Brougham) | \$235,000.00   | \$235,000.00                      |                |
| 5/8/02            | 37799 | Santa Fe, Olathe View to Ward Cliff        | \$1,461,000.00 | \$5,335,000.00                    | \$5,300,137.30 |
| 5/21/02           | 30802 | Lone Elm, Harold to 119th                  | \$306,000.00   | \$530,000.00                      |                |
| 6/25/02           | 32098 | 159th, Ridgeview to 3,000' East            | \$7,334.14     | \$1,225,081.00                    | \$1,085,944.02 |
| 7/3/02            | 35500 | College Blvd., Lone Elm to Woodland        | \$560,000.00   | \$2,400,000.00                    | \$1,767,398.01 |
| 7/3/02            | 36600 | College, Woodland-Ridgv Grade Separation   | \$1,074,000.00 | \$1,074,000.00                    |                |
| 7/3/02            | 37399 | Lone Elm, 119th to 111th                   | \$421,000.00   | \$2,124,000.00                    | \$1,621,908.33 |
| 8/30/02           | 31501 | 119th, Iowa to Woodland                    | \$225,000.00   | See above                         |                |
| 8/30/02           | 32101 | College & Greenwood Signalization          | \$90,000.00    | Temporary Transfer                | \$181,000.00   |
| 8/30/02           | 35999 | Woodland Road, 119th to College            | \$398,000.00   | See above                         |                |
| 10/23/02          | 32498 | Ridgeview, 151st to 159th                  | \$240,000.00   | See above                         |                |
| 3/21/02           | 30402 | 119th & Greenwood Signalization            | \$192,000.00   | Temporary Transfer                | \$192,000.00   |
| 3/21/03           | 31403 | College & Lone Elm Signalization           | \$198,000.00   | Temporary Transfer                | \$198,000.00   |
| 11/13/03          | 31398 | Ridgeview, 159th to 163rd                  | \$150,000.00   | \$1,100,000.00                    | \$1,088,716.72 |
| 11/13/03          | 32098 | 159th, Ridgeview to 3,000' East            | \$250,000.00   | See above                         |                |
| 2/3/04            | 38099 | 151st, Pflumm to Quivira                   | \$713,440.00   | \$3,477,000.00                    |                |
| 2/3/04            | 31298 | 151st Street, Black Bob to Pflumm          | \$380,000.00   | \$3,390,000.00                    |                |
| 2/3/04            | 38099 | 151st, Pflumm to Quivira                   | (\$338,871.55) | S/Be Escrow                       | See above      |
| 2/3/04            | 30802 | Lone Elm, Harold to 119th                  | (\$306,000.00) | S/Be Escrow                       | See above      |
| 2/4/04            | 31403 | College & Lone Elm Signalization           | (\$198,000.00) | 2/4/04-Reimb from Signal Exc. Tax | See above      |
| 2/17/04           | 31102 | 159th, Black Bob to 1/2 Mile West          | \$234,589.95   | See above                         |                |
| 2/17/04           | 38199 | Black Bob , 155th to 159th                 | \$65,625.77    | \$230,000.00                      |                |
| 3/3/04            | 31104 | 151st, Old 56 Hwy to Lone Elm              | \$276,000.00   | \$276,000.00                      |                |
| 4/28/04           | 31704 | Coffee Creek Parkway (Blue River 12)       | \$62,568.00    | \$62,568.00                       |                |
| 7/8/04            | 32101 | College & Greenwood Signalization          | (\$90,000.00)  | 7/8/04-Reimb from Signal Exc. Tax | See above      |
| 7/8/04            | 30902 | Lone Elm, College (111th) to K-10          | \$473,000.00   | \$2,450,000.00                    | \$1,658,259.88 |
| 2/3/05            | 33204 | 151st, Quivira to Antioch                  | \$189,108.00   | \$1,652,216.00                    |                |
| TOTAL TRANSFERRED |       |                                            | \$9,352,794.31 |                                   |                |

**REIMBURSEMENTS FROM FUTURE STREET IMPROVEMENT FUND**

|         |                     |                    |
|---------|---------------------|--------------------|
| 9/14/00 | South Hampton       | \$12,357.00        |
| 5/30/02 | Corbett Development | \$21,963.03        |
| 2/26/03 | Ethiopian Christian | \$5,320.07         |
|         |                     | <u>\$39,640.10</u> |

TOTAL TRANSFERRED FROM FUTURE ST. IMP. FUND \$9,392,434.41

FUTURE STREET IMPROVEMENT FUND BALANCE \$2,263,891.15

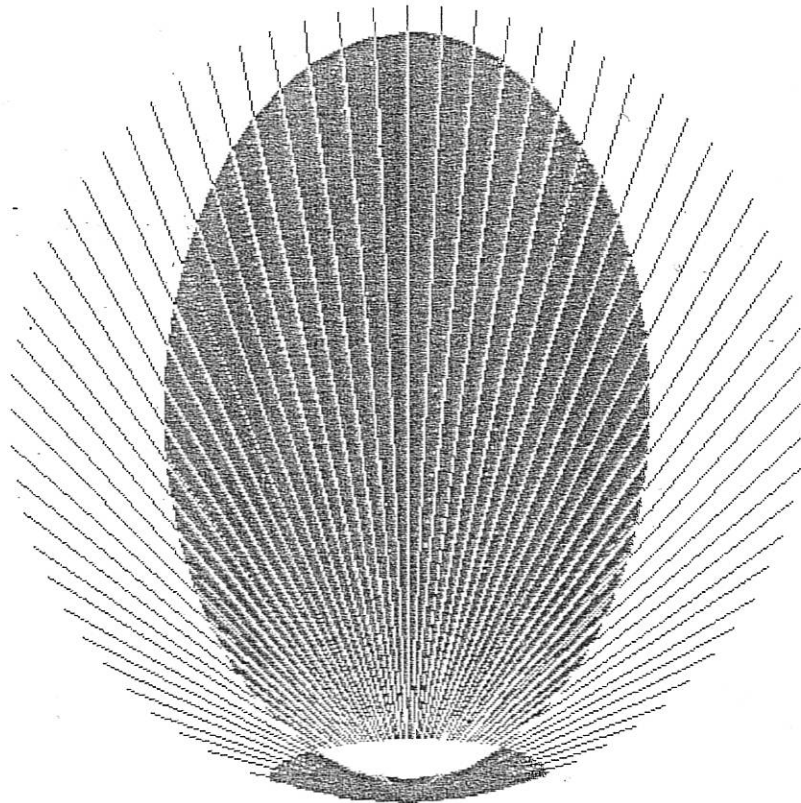
| 2005 CIP (NOT TRANSFERRED) |                                     |                       |
|----------------------------|-------------------------------------|-----------------------|
| 31501                      | 119th, Iowa to Woodland             | \$536,000.00          |
| 30402                      | 119th & Greenwood Signal - Reimb    | (\$192,000.00)        |
| 31704                      | Coffee Creek Parkway                | \$200,000.00          |
| 30298                      | 127th Street Overpass               | \$523,000.00          |
| 31102                      | 159th & Black Bob to 1/2 Miles West | \$268,000.00          |
|                            |                                     | <u>\$1,335,000.00</u> |
| BALANCE INCLUDING 2005 CIP |                                     | <u>\$928,891.15</u>   |



# POLICIES AND PROCEDURES MANUAL

Engineering Division

City of Olathe, Kansas



*City of Olathe*

**Policy and Procedures Manual for Engineering**

Each of the sections and subsections in this manual describe policies and procedures relating to the Engineering Division operations.

Reviewed and approved by:

  
Rick F. Biery, Public Works Director

5/25/04  
Date

## Section 3 – Finance

### 3.1 Rate Setting

#### 3.1.1 Transportation Excise Tax

The transportation improvements excise tax rate will be determined from the average cost of a collector roadway and traffic signals plus inflation. The average cost of a collector roadway and traffic signals at Section Line road intersections will be based on costs of projects completed since the last review of the excise tax rate. The average cost will be developed by determining the per foot cost of each project, adding the per foot costs together, and then dividing the total by the number of projects.

Land dedicated to the city for parks and streamways will not be included in the calculations of the excise tax. For the purposes of determining the tax rate, 95% of the available land in a Section (square mile) minus Arterial Right-of-Way, will be used to determine the tax rate. An average section will be considered to have 25,294,320 square feet for the tax determination.

Each section is responsible for the cost of  $\frac{1}{2}$  of 4 miles of collector roadway and the cost of  $\frac{1}{4}$  of 4 traffic signals.

The per square foot tax rate will be calculated by multiplying the average cost per lineal foot of collector roadway by 10,560 feet plus the cost of one traffic signal and dividing that amount by 25,294,320 square feet.

The Director of Public Works shall be responsible for compiling a report to be submitted to the City Council to make adjustment to the excise tax rate. The report will be prepared at least biennially as required in Chapter 3.35 of the Olathe Municipal Code.

#### 3.1.2 Developer Projects Inspection Fee

The inspection and plan review fee for private development of public infrastructure shall be set by calculating the average costs of plan review and inspection in comparison to the total annual cost of private development.

#### 3.1.3 Stormwater Management Fee

The stormwater management fee is set based on the annual cost of providing maintenance, rehabilitation, and inspection of the stormwater system. The total cost of these activities is divided among all property owners based on the total square footage of the property. All single-family residential homes pay a flat fee.

**House Committee on Taxation**

**Comments On Behalf Of The City Of Shawnee  
By Marvin E. Rainey, City Attorney  
To The Committee On Appropriations  
On February 22, 2005, Pertaining To HB2467**

The City of Shawnee is opposed to proposed HB2467 or any legislation that may limit or restrict the City's continued imposition and collection of an excise tax on the platting of real property. Our position extends to any proposal that may raise legal questions as to the City's authority to levy and collect the tax, that may limit or restrict the discretion and flexibility of the Governing Body by requiring that tax proceeds be related to specific projects or that mandates unnecessary, superfluous bureaucratic record keeping and reporting. The excise tax is important to the entire Shawnee community and we believe particularly to its home builders.

The City of Shawnee has had an excise tax on platting since 1998. It replaced what was called a peripheral street fund which was often criticized as unnecessarily complicated, cumbersome and unfair in implementation. The purpose of the Shawnee excise tax is to provide partial funding for the improvement of major collector and arterial streets. It results in a part of the cost of construction of these major street needed to serve the new growth areas of the City being offset by the tax paid by the builders, developers and residents of these new growth areas.

As the accompanying chart shows the excise tax on platting collected by the City in the last four years has amounted to less than 10% of the cost of major collector and arterial streets completed during that same time period. The excise tax is not and cannot be tied to or related or specific street improvements. The decision as to what streets are

Hs Taxation Committee  
February 22, 2005  
Attachment 6

improved when has to be left to local officials who best know the community and are elected by and responsible to the electors of the community.

This may be particularly true in Shawnee because of its geography and growth patterns. Attached is a map of the new subdivisions generally developed since 1998 and the street projects recently completed or planned. Shawnee is one of the fastest growing cities in Johnson County and in the State of Kansas. Its population has more than doubled since the 1980 census. The number of households increased by 27% from the 1990 to the 2000 U.S. Census. Its population is up an estimated 16% since the 2000 census.

Shawnee is located in the north central part of Johnson County. Its northern and western boundary is the Kansas River and Wyandotte County. Shawnee's growth is from east to west. The City is 11 miles from the east City Limit to the west City Limit, however, about two-thirds of the population live within 3 miles of the east City Limits. The City is bisected north and south by I-435 and what is sometimes called West Shawnee is bisected by K-7 Highway. We tried to avoid the "west" and "east" terminology but as the map clearly shows the growth area is in the western part of the City. In the central part of the City we have I-435, the Millcreek Flood Plain, a railroad track with some light industrial development, rough terrain and topography, a large waste treatment plant and the Johnson County Landfill. It is important that we avoid an east/west split within the City or an old versus new perspective. If we are to continue to grow and avoid the anti-growth attitudes as has been seen in some communities, it is important that we maintain the perception that new development pays taxes that at least partially offsets the cost of expanding the City infrastructure, particularly major streets

and thoroughfares to serve the new areas. This is why I say the excise tax is important to the home builders and developers of our City.

It is important to note that a growing population requires not only streets and thoroughfares serving the immediate area of growth but also requires major expensive improvements to thoroughfares that carry traffic from the new growth areas to and through the older areas of the City. I have always believed that we cannot stop or even fully control growth. We can attempt to plan for growth and to provide infrastructure so as to minimize the adverse affects on older, established parts of the City.

You will notice on the map the dark green line which is Woodland Street that runs north and south in the western third of the City. This one time gravel road is now a major arterial street. The cost of that street improvement completed in 2003 was \$8,487,763, nearly twice the entire excise tax on platting collected in the years 2000 through 2004.

The financing of the needs of our local community particularly given our growth and our diversity is, like education, complicated and often controversial. We urge that it be left to the local officials. The City Governing Body is also a legislature. About 75% of Shawnee's citizens live within two miles of their City Hall and most live within a mile of one of their elected officials. The local officials hear from their citizens and know their citizens. This includes the home builders.

The home building community is an important part of the Shawnee community. Home builders are notified and appear before the Council on any matter directly affecting the industry. We have not received any inquiry from home builders as to whether they are receiving fair treatment in regard to City revenues and expenditures and I would like to think the reason is that they are satisfied. The City's budget process and the planning for



capital improvements is an open transparent process. We have and will continue to provide information to the Home Builders Association and will seek their input on City decision making.

HB2467 is entitled "An Act Concerning Taxation; Relating to Development Excise Taxes; ... amending K.S.A. 12-742 and 12-747 ..." K.S.A. 12-742, *et seq.*, is the part of the planning, zoning and subdivision regulations in cities and counties. The immediately preceding section K.S.A. 12-741 recites that "(a) This act is enabling legislation for the enactment of planning and zoning laws and regulations by cities and counties ..." Common sense as well as legal principles tell us it is unwise to attempt to merge "an act concerning taxation" with "an act enabling legislation for the enactment of planning and zoning laws."

We understand and appreciate the Committee's concern with a streamlined and uniform sales tax. Again, we believe it imperative that cities maintain the authority they currently have to levy sales taxes as well as to impose excise taxes. The Governing Body of the City of Shawnee has to be concerned about infrastructure needs of the City other than major streets. Among the more pressing and expensive are storm drainage improvements and parks and recreational improvements. The Governing Body in 2004 submitted and the electors approved a 1/8<sup>th</sup> cent sales tax with the revenue pledged one-half for park or recreation improvements and one-half for storm drainage improvements. This tax is an extension and continuation of a similar tax previously levied pursuant to K.S.A. 12-187(e). Also in 2004 the electors approved a 1/8<sup>th</sup> cent sales tax to finance a Public Safety Center. This tax which will finance, among other things, a \$12,000,000 to \$15,000,000 Police Station and Justice Center, was levied pursuant to a charter

ordinance. The Governing Body elected to submit the charter ordinance to an election. The tax needed to extend for more than the ten years permitted under K.S.A. 12-188(e) and a charter ordinance requiring a two-thirds vote of the Governing Body was utilized to avoid uncertainty even though an argument could be made that pursuant to K.S.A. 12-188(d) and K.S.A. 12-189(a) the City had the authority to submit a sales tax to the electorate.

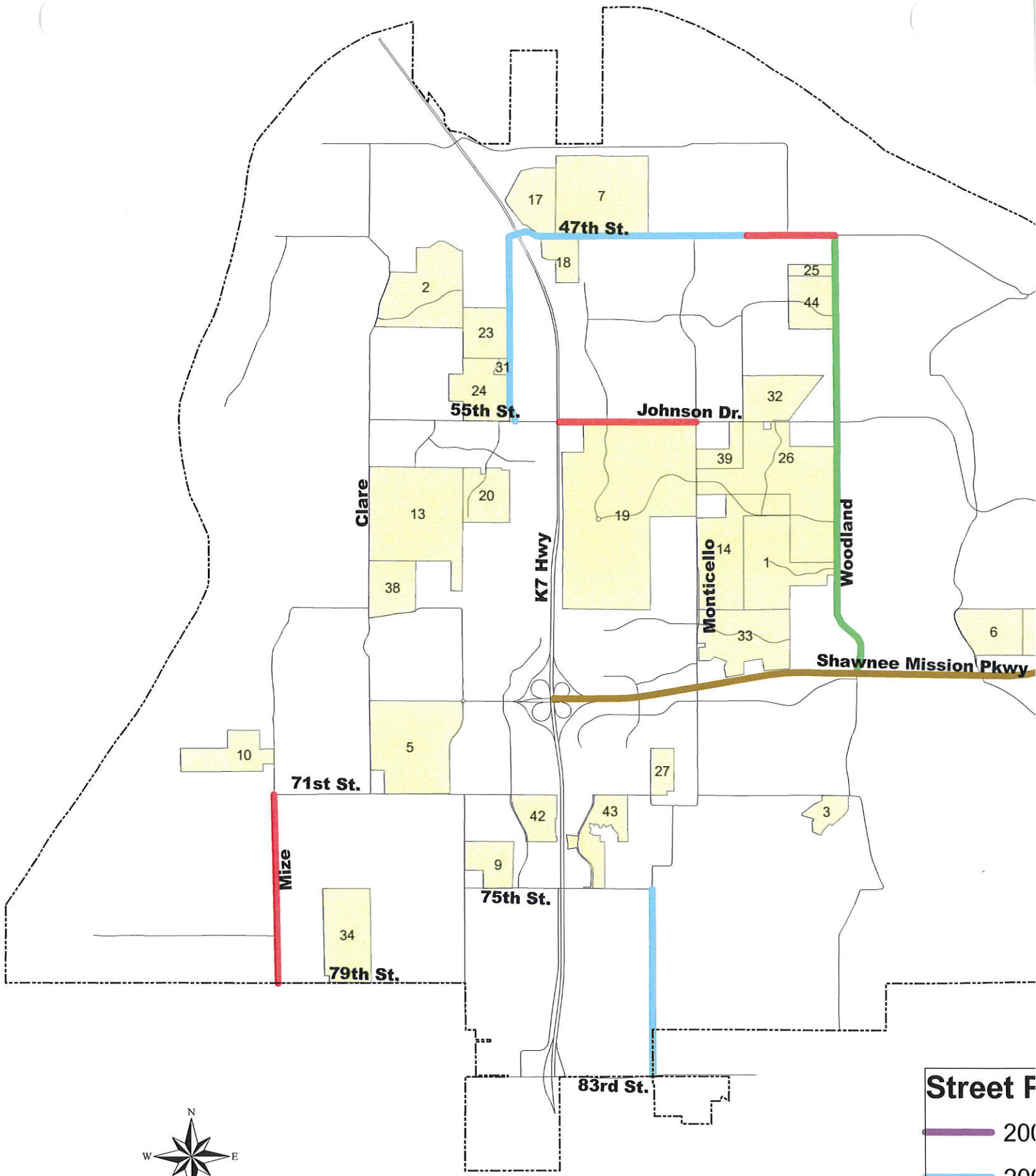
The City appreciates the efforts of the legislature to achieve a streamlined and uniform sales tax. The City urges you, however, not to do anything that would restrict the current authority of the cities or make it more difficult for the cities to meet the financing needs of local government.

Marvin E. Rainey  
City Attorney, City of Shawnee



**CITY OF SHAWNEE STREET PROJECTS 2000-2004**

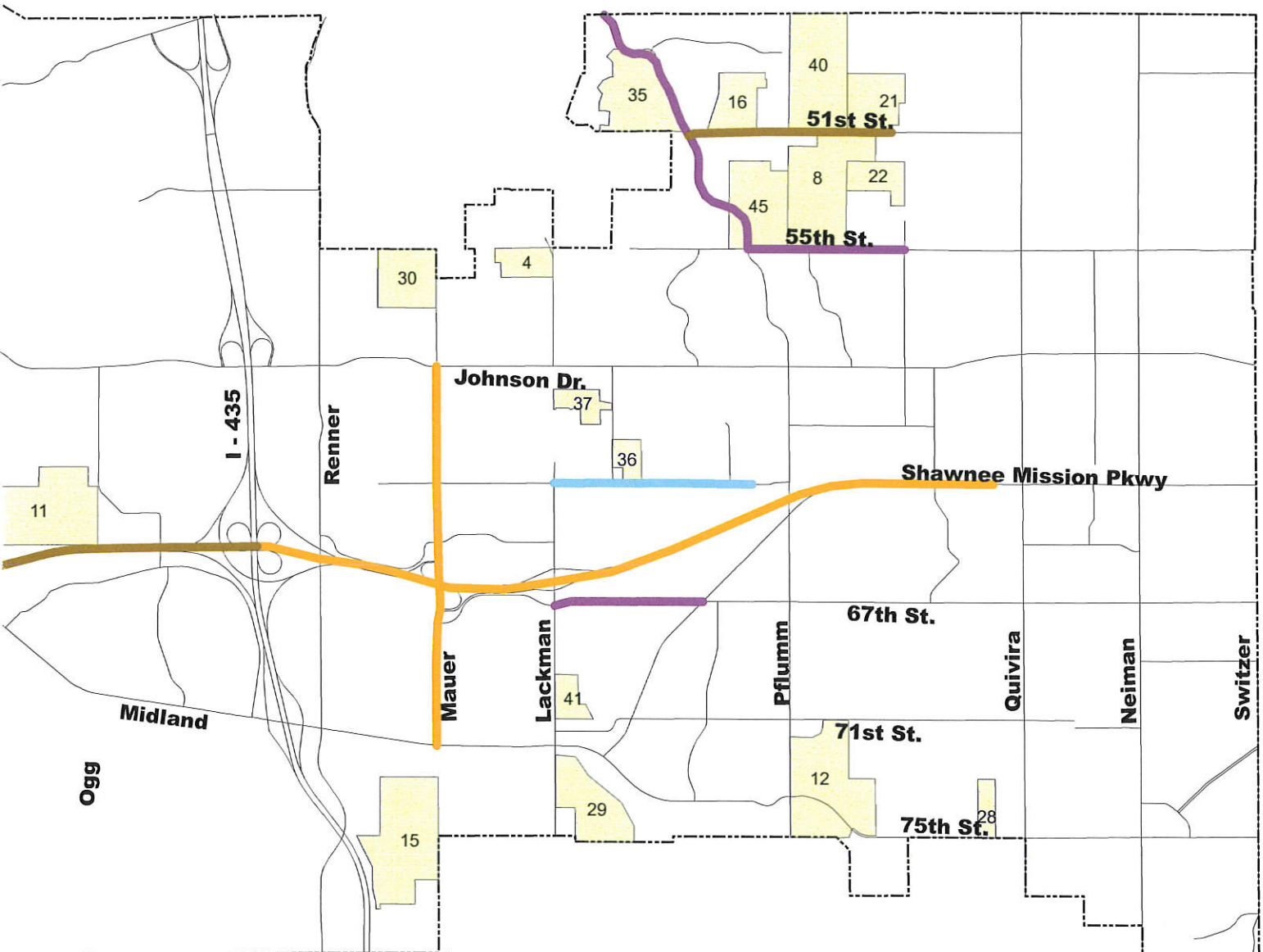
| Project Year | Project Name                               | City Cost              | Excise Tax            | % of Cost       |
|--------------|--------------------------------------------|------------------------|-----------------------|-----------------|
| 2000         | Shawnee Station Improvements               | \$6,991,619.00         |                       |                 |
| 2000         | Shawnee Mission Parkway & Martindale       | \$286,739.92           |                       |                 |
| 2000         | 55th Street - Clare Road to K-7            | \$2,320,146.54         |                       |                 |
| 2000         | Mildand Drive - Lackman to Renner Road     | \$3,049,815.96         |                       |                 |
| 2000         | Nieman Road - 75th to 79th Street          | \$469,817.49           |                       |                 |
|              | SUBTOTAL                                   | <b>\$13,118,138.91</b> | <b>\$730,479.00</b>   | 5.57%           |
| 2001         | 67th Street - Lackman to Midland Drive     | \$2,389,648.00         |                       |                 |
| 2001         | 55th Street - Quivira Drive to Rosehill    | \$2,416,132.00         |                       |                 |
| 2001         | Quivira Drive - 47th to 55th Street        | \$1,475,474.00         |                       |                 |
|              | SUBTOTAL                                   | <b>\$6,281,254.00</b>  | <b>\$776,059.00</b>   | 12.36%          |
| 2002         | Monticello - 75th to 83rd Street           | \$3,360,388.31         |                       |                 |
| 2002         | 47th Street - Mund to K-7 Highway          | \$3,311,937.68         |                       |                 |
| 2002         | 63rd Street - Lackman to Rene              | \$2,041,414.43         |                       |                 |
|              | SUBTOTAL                                   | <b>\$8,713,740.42</b>  | <b>\$881,043.00</b>   | 10.11%          |
| 2003         | Woodland - 47th to Shawnee Mission Pkwy    | \$8,487,763.01         |                       |                 |
|              | SUBTOTAL                                   | <b>\$8,487,763.01</b>  | <b>\$1,138,030.00</b> | 13.41%          |
| 2004         | Shawnee Mission Parkway - Halsey to Pflumm | \$3,217,258.19         |                       |                 |
| 2004         | S.M. Pkwy Lighting - Pflumm to I435        | \$661,666.03           |                       |                 |
| 2004         | Maurer Road - Johnson to Midland Drive     | \$2,806,849.74         |                       |                 |
| 2004         | 55th Street - Rosehill to Quivira Road     | \$2,021,869.00         |                       |                 |
|              | SUBTOTAL                                   | <b>\$8,707,642.96</b>  | <b>\$911,883.00</b>   | 10.47%          |
|              | TOTAL                                      | <b>\$45,308,539.30</b> | <b>\$4,437,494.00</b> | 9.79% (average) |



**Street F**

|  |     |
|--|-----|
|  | 200 |
|  | 200 |
|  | 200 |

# New Subdivisions & Street Projects



**Projects**

- 2004
- 2005
- 2006-2008
- New Subdivisions

- |                                      |                             |
|--------------------------------------|-----------------------------|
| 1 Arbor Brook                        | 24 Highland Ridge           |
| 2 Belle Meade Farms                  | 25 Hillcrest Manor          |
| 3 Brittany Ridge                     | 26 Lakepointe               |
| 4 Carolina Crossing                  | 27 Madison Heights          |
| 5 Chapel Creek                       | 28 Madison Ranch            |
| 6 Crestview Estates                  | 29 Maple Ridge of Wedgewood |
| 7 Crimson Ridge                      | 30 Maurer Woods             |
| 8 Crosspointe                        | 31 Meadowlark Meadows       |
| 9 Crystal Place                      | 32 Mill Creek Meadows       |
| 10 Deer Ridge Estates                | 33 Monticello Farms         |
| 11 Enchanted Lake Estates            | 34 Preserve at Clear Creek  |
| 12 Fairway Hills                     | 35 Saddlebrooke             |
| 13 Farmington Hills                  | 36 Sunrise Estates          |
| 14 Forest and Meadows of Clear Creek | 37 Sunset Estates           |
| 15 Forest Park Estates               | 38 Sylvan Creek Estates     |
| 16 Forest Trace                      | 39 Symphony at Monticello   |
| 17 Greenview Ridge                   | 40 Timber Springs           |
| 18 Greenview Villas and Estates      | 41 Timberstone              |
| 19 Grey Oaks                         | 42 Town & Country Villas    |
| 20 Heartland Hills                   | 43 Willow Ridge             |
| 21 Heather Glen                      | 44 Woodland Farms           |
| 22 Hidden Lakes                      | 45 Woodland Place           |
| 23 Highland Park Estates             |                             |





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League of Kansas Municipalities

To: House Taxation Committee  
From: Mark Tomb, LKM  
Date: February 22, 2005  
Re: Opposition to HB 2467

Thank you for allowing me to appear on behalf of the League of Kansas Municipalities and our member cities. We appear today in opposition to HB 2467, which changes several definitions in K.S.A. 12-742 and inserts new language in K.S.A. 12-747 regarding the imposition of development excise taxes.

This legislation would increase the administrative costs of local government to facilitate development. This is an area that cities currently have the ability to determine the policy direction that best fits the needs of their individual community. This legislation would impose a "one size fits all" process that would dramatically impact the ability of local government to impose development excise taxes. We hear repeatedly that local control is important to our citizens and that the one size fits all approach does not work when dealing with 627 cities. For these reasons, the League of Kansas Municipalities opposes HB 2467 as written.

Again, thank you for allowing LKM to comment on this proposed legislation. I would be happy to stand for questions at the appropriate time.

House Taxation Committee  
February 22, 2005  
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David R. Anderson  
Mayor

Gregory S. Johnson  
City Administrator

Lana R. McPherson, CMC  
City Clerk

Patrick G. Reavey  
City Attorney

Michael D. Brungardt, P.E.  
City Engineer

City Council

Betty Cannon

Tim Maniez

Mitra Templin

Emil Urbaneck

Linda Zindler

### TESTIMONY IN OPPOSITION TO HB 2467

TO: The Honorable Kenny Wilk, Chair  
and Members of the House Committee on Taxation  
Room 519 South

DATE: February 22, 2005

RE: House Bill No. 2467 – Pertaining to Excise Taxes

The City of De Soto, located along the K-10 Corridor between Olathe and Lawrence, has experienced substantial and rapid growth over the last five years. Fortunately, in 1999, the City exercised its home rule power to implement an excise tax on platting and pulling a building permit within the City. The tax is currently 19 cents per square foot of the platted land that will be the site for the building or development. The City has pledged the tax for transportation needs and the tax collected has only been used for that purpose since its inception. All City records pertaining to the tax, including implementation of the tax, rate of the tax, and spending of the tax, are considered public records by the City and are open for inspection by anyone interested in the same.

De Soto's excise tax has enabled the City to implement a ten-year Capital Improvements' Plan for much needed upgrades to collector and arterial streets throughout the City. Due to the appeal of a rural setting and small town atmosphere, De Soto has seen a large amount of growth in residential subdivisions dispersed throughout all different areas of the City. The Capital Improvements Plan, funded in large part by the excise tax, has allowed the City to study and implement -- in a measured and methodical fashion -- the City's street network, connectivity of all areas of the City, and levels of service and maintenance throughout the City. Anyone who has visited De Soto recently can attest to the progress the City is making in much needed improvements to the City's streets and main thoroughfares.

Although the purpose behind House Bill No. 2467 (hereinafter "HB 2467") obviously is not to do away with excise taxes, the City of De Soto views HB 2467 as having the very real possibility of seriously eroding the City's ability to effectively collect and use the tax. Specifically, the City is concerned the current language of HB 2467 would prevent the City from utilizing excise taxes throughout the City and instead the burden would be on the City to show the funds are earmarked for and used exclusively for the development that paid the taxes (i.e. the excise tax becomes an impact fee). This poses a particular problem for more rural communities like De Soto where subdivisions are comprised of larger lots and located in remote areas of the City. Had House Bill No. 2467 been in effect in 1999, De Soto today likely would be made up of numerous pockets of subdivisions containing high quality street networks within the subdivision, and immediately adjacent thereto, but connected to other subdivisions and

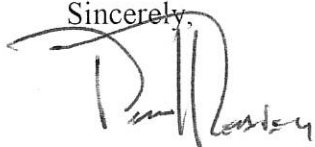
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areas of the City by substandard connector and arterial streets. Obviously, such a scenario is undesirable from a planning and maintenance standpoint, and does nothing to foster the cohesiveness of a growing community. Essentially, changing the excise tax to an impact fee (as is proposed by HB 2467) places the developer in charge of dictating where the City's infrastructure dollars will be spent. For a number of self-evident reasons, this task is better left to the elected governing body of the City.

Also particularly problematic for smaller communities is HB 2467's unintended effect of putting cities on the defensive as to the what, where, how, and why of excise tax expenditures. Conceivably, implementation of the provisions of HB 2467 would require, or by implication suggest, that cities undertake an engineering or traffic study prior to spending excise tax dollars to ensure that such expenditures could be defended if challenged as being unrelated to (or not constituting an "impact" from) the development that paid the tax. If adopted, the provisions of HB 2467 undoubtedly would give rise to litigation concerning questions of the extent of the "impact" from the development, whether there was an "impact" at all, whether the excise tax assessment accurately represents the cost of the "impact", and numerous definitional and interpretive questions concerning the meaning of HB 2467's use of the following phrases: "additional demand and need for public infrastructure facilities", "excise tax shall be specifically attributable to and earmarked for public infrastructure", and "upon which the development activity places a burden". As most of the Committee Members are aware, most small and rural cities in Kansas do not have a full time engineer or attorney on staff who can administer the additional duties that HB 2467 will impose, and retaining outside consultants to do the same no doubt will be cost prohibitive. Implementation of HB 2467 certainly could have a chilling effect on cities collecting and spending excise taxes -- no doubt many cities will forego implementation or collection of an excise tax to avoid the potential of having to undertake studies and analyses, and possibly litigation, to defend the tax.

With all due respect, the City of De Soto is opposed to HB 2467. For the reasons stated above, any possible good from passage of HB 2467 is far outweighed by the harm and burden it will impose on cities' ability to keep up with the fast pace of development.

Sincerely,



Patrick G. Reavey

copies to: City Administrator  
City Governing Body