



CITY OF SHAWNEE
POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 1 of 13

PURPOSE

The proper use of a Community Improvement District (“CID”) or Transportation Development District (TDD) can promote, stimulate and develop the general and economic welfare of and quality of life in the City of Shawnee, Kansas (the “City”). This Policy establishes the procedures of the City for considering applications for Community Improvement Districts used for economic development, including community development, tourism and cultural activities, in accordance with the provisions of

- CID: K.S.A. 12-6a26 through K.S.A. 12-6a36, inclusive (the “CID Act”);
- TDD: K.S.A. 12-17,140 et seq. and any amendments thereto (the “TDD Act”),

LEGAL AUTHORITY

The authority and decision to approve the establishment of a CID or TDD is within the sole discretion of the Governing Body of the City. The Governing Body is under no obligation to approve a petition or form a CID or TDD, nor does the City relinquish its authority to initiate projects by whatever other financing means it deems necessary to promote the general economic welfare of the City. This policy is intended to provide a guide for the Governing Body in considering applications and outlines the policies and procedures to be followed by applicants. The Governing Body reserves the right to reject any proposal for a petition for creation of a CID or TDD at any time in the review process when it considers such action to be in the best interests of the City.

1. **General Policies**

- a. **Application.** Interested parties shall submit a CID or TDD request via the application for public financial participation provided by the City. The City Finance Team shall review all CID or TDD applications for compliance with City policy and Kansas (the “State”) law and make a recommendation for preliminary approval and a decision to forward a petition to the City Council for consideration and action. . If the Finance Team believes the application meets the criteria set forth in this Policy and should be recommended for approval, the Finance Team will work with the petitioner(s) to prepare a petition and develop a Finance Plan to present to the Governing Body when it considers the petition to establish the CID or TDD.
- b. **CID Petition.** A valid petition must be submitted with signatures of either of the following:



CITY OF SHAWNEE
POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 2 of 13

- i. 100% of the property owners of all of the land area within the proposed special assessment CID who seek financing solely by assessment. If all landowners petition for a CID, then the City may proceed with its creation by a majority vote of the Governing Body and assessments without notice or public hearing; or
 - ii. By property owners representing more than 55% of the land area of the proposed sales tax CID, or combined sales tax and special assessment CID and also signed by property owners collectively owning more than 55% of the assessed value of the land within the proposed CID. If this petition method is utilized, then the City will be required to adopt a resolution giving public notice of a hearing on the advisability of the creation and financing of a CID. Following the public hearing, the Governing Body may adopt a resolution or ordinance by a majority vote to authorize the project and create the CID.
- c. TDD Petition. A valid petition must be submitted with signatures of 100% of the property owners of all the land area within the proposed District, for either a special assessment TDD or a sales tax TDD. A public hearing is required for a sales tax TDD, but is not required for an assessment-only TDD.

The CID or TDD boundaries and the method of financing the project shall not require that all property that is benefited by the project, whether the benefited property is within or without the CID or TDD, be included in the CID or TDD or be subject to an assessment or the CID or TDD sales tax.

- d. Term. The Governing Body shall review the financial feasibility of each CID or TDD proposed for consideration and shall use this information in determining the appropriate term of financing for projects within the District. Any CID or TDD sales tax shall expire no later than the date the bonds issued to finance such project or refunding bonds issued for the project mature. In the event pay-as-you-go financing is utilized, CID or TDD sales tax shall expire twenty-two (22) years from the date the state director of taxation begins collecting such tax or when the bonds or pay-as-you-go costs have been paid. Bonds shall mature no more than twenty-two (22) years from date of issue.



CITY OF SHAWNEE POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 3 of 13

- e. No Council or public hearing consideration will occur unless all information is provided at least ten (10) business days prior to any such scheduled meeting. All fees and requirements of a funding agreement must also be met before Governing Body consideration.

2. Criteria for Use of CID/TDD

- a. The decision to establish a CID or TDD is within the sole discretion of the Governing Body. In determining whether or not to approve a petition to establish a CID or TDD, the Governing Body will evaluate whether or not creation of a CID or TDD is in the City's best interest, by considering one or more of the following criteria:
 - i. Promotes and supports efforts to develop or redevelop commercial sites to provide for reinvestment in our community;
 - ii. Stimulates quality, retail development to enhance the City's economic base;
 - iii. Attracts and promotes mixed use, urban development;
 - iv. Allows for the construction of infrastructure including the construction of infrastructure beyond what the City would require or otherwise build;
 - v. The projects will be located in an area that has been targeted by the Governing Body for economic development or redevelopment; or has specific site constraints making development more difficult or costly;
 - vi. The impact on other infrastructure systems, to include the cost of core system extensions to areas not adjacent to existing systems;
 - vii. The financial risk to the City and any other government units of the financing proposal, to include exposure of the general property tax levy, enterprise funds positions and credit rating;
 - viii. Recommendation of the City Finance Team; or
 - ix. Whatever other factors the Governing Body deems relevant to its decision.

- b. Conformance to local requirements including:
 - i. Compliance with uses anticipated in the Comprehensive Plan.
 - ii. High degree of architectural design and site layout.
 - iii. Enhanced use of landscaping, water quality BMP's and other sustainable features.
 - iv. Design of infrastructure to meet public and/or private standards.



CITY OF SHAWNEE POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 4 of 13

- c. Additional Considerations:
- i. Cost of the proposed improvements identified in the CID or TDD;
 - ii. Sources of funding, including the amount of equity funding in comparison to public funding;
 - iii. Payment risk mitigation mechanisms offered by the applicant;
 - iv. Experience and stability of the proposed developer;
 - v. Whether or not tenants are in place; and the nature and quality of the tenants;
 - vi. Economic competition the projects within the CID or TDD has and is expected to have in the future; and
 - vii. Impact to current businesses within the City.

FINANCING

1. Source of Funds. Eligible CID or TDD projects may be financed by any single, a combination, or all of the following sources:
 - a. The City is authorized to levy and collect special assessments imposed on property in the District pursuant to the CID or TDD Act which have been paid in full prior to the date set by the Governing Body as provided in the General Improvement and Assessment Law, K.S.A. 12-6a10, *et. seq.* and the City's Administrative Policy and Procedures for Special Benefit Districts. Two exceptions to the General Improvement and Assessment Law are provided:
 - b.
 - i. No assessments can be levied against the City-at-large, and
 - ii. If a project is also financed by a pledge of sales tax revenues or annually appropriated funds of the City, the amount of each annual special assessment may be reduced or eliminated to the extent that sufficient taxes and/or funds have been received to pay the debt service on any bonds issued pursuant to the applicable CID or TDD Act.
 - c. Special assessments imposed in the District pursuant to the applicable Act, to be paid in installments;
 - d. A pledge of all of the revenue received from a CID or TDD Sales Tax on the selling of tangible personal property at retail or rendering or furnishing services taxable



CITY OF SHAWNEE POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 5 of 13

pursuant to the provisions of the Kansas retailer's sales tax act, in any increment of .10% or .25%, not to exceed 2% for a CID (the "CID Sales Tax"), and not to exceed 1% for a TDD (the "TDD Sales Tax") as authorized by the applicable Act; or

- e. Any other funds annually appropriated by the Governing Body.
2. Finance Plan. If the Finance Team reviews the application and the petition and finds it in the City's best interest to recommend creation of the CID or TDD to the Governing Body, the Finance Team will work with the applicant to create a Finance Plan which shall be presented to the Governing Body for consideration along with the petition. The Finance Plan shall address the recommended method of financing and specific terms associated therewith.
 3. Bonds.
 - a. The City may issue CID or TDD Bonds to finance a project. In no event shall special assessments be levied against the City-at-large. Full faith and credit notes or bonds may not be used by the City to finance a project under the TDD statutes, although public improvements authorized under other applicable statutes may be financed by TDD revenues. Guidelines for the issuance of CID or TDD Bonds include:
 - (1) If bonds are issued, the sales tax imposed to pay the bonds shall expire no later than the date the bonds mature;
 - (2) If pay-as-you-go financing is utilized, the sales tax imposed shall expire 22 years from the date the State Director of Taxation begins collecting the tax or when all project costs have been paid; and
 - (3) The minimum issue size for CID or TDD bonds issued by the City will be \$3,000,000, unless an exception is approved by the Governing Body.
 - b. CID or TDD Bonds issued under this Policy must include security for the bonds of a sufficient amount to minimize any risk of default and be allowed by state and federal tax laws.
 - c. CID or TDD Bonds issued under this Policy must be sold to qualified investors (as defined by the Securities and Exchange Commission Regulation D) in accordance with the minimum denominations as provided therein.



CITY OF SHAWNEE
POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 6 of 13

- d. CID or TDD Bonds must initially be offered in denominations of \$100,000 or greater. These minimum denominations may be reduced (upon consultation with the City's bond counsel and financial advisor) when one or more of the following are met:
 - (1) The projects being bond financed are substantially leased;
 - (2) The estimated revenue stream yields significant debt service coverage on the bonds;
 - (3) Construction of the projects being bond financed is 100% complete;
 - (4) The repayment term is less than or equal to 60% of the maximum permitted repayment term; and/or
 - (5) Waiver of the minimum denomination provision by the Governing Body.

- e. If a negotiated sale of the bonds is necessary, the City will normally select the underwriter(s) needed to structure, price, and sell the bonds through a competitive process. Exceptions to this process may be approved by the City Manager upon consultation with the City's bond counsel and financial advisor. City staff and the City's financial advisor will be directly involved in all negotiated sale pricing.

- f. At its sole discretion, the City may require that an independent feasibility study of future CID or TDD revenues be performed, with any such cost borne by the applicant if not reimbursable from the bond proceeds.

- 4. Annual Appropriation. The Governing Body may choose to, but is not obligated, to annually appropriate funds to secure CID or TDD revenue bonds. IN THE EVENT THIS SECURITY OPTION IS PUT FORTH THE FINANCING PLAN SHALL SPECIFICALLY ADDRESS THE RISK MITIGATION STEPS TO ENSURE AN EXTREMELY LOW PROBABILITY OF THE CITY HAVING TO USE ITS GENERAL REVENUES FOR DEBT SERVICE.

- 5. Reimbursement CID or TDD. Petitioner(s) may be reimbursed for eligible CID or TDD projects on a "pay-as-you-go" basis until the Governing Body determines issuance of Bonds is viable and in the City's best interest.

- 6. Project Funds. A separate fund shall be created for each CID or TDD and each project, and such fund shall be identified by a suitable title. The proceeds from the sale of bonds, CID or TDD sales taxes, any special assessment, and any other moneys appropriated by the



CITY OF SHAWNEE POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 7 of 13

Governing Body shall be credited to such fund and the fund shall be solely used to pay the costs of the projects.

7. Fees Associated with CID or TDD.

- a. Initial Application Fee. A non-refundable amount of \$5,000 shall accompany the CID or TDD application.
- b. Annual Administrative Service Fee. An amount equal to 0.5% of the project costs reimbursed to applicant or its successor.
- c. Funding Agreement. The City will retain administrative and professional staff, outside counsel and consultants, and incur expenses which it, in its sole discretion, deems necessary to consider the CID or TDD. The applicant shall enter into a funding agreement in order to pay the City for its fees and expenses, which may include the time of its administrative and professional staff, as the City may from time to time deem appropriate; charges for the City's outside counsel, including the fees of the City Attorney, and consultants; and other expenses incurred by the City. The funding agreement shall call for the applicant to establish a fund in the amount of no less than \$20,000 (the Fund) in order to ensure the prompt and timely payment of the above charges. The City shall use the Fund to pay for the City's Bond Counsel, Financial Advisor and other professional consultants' fees and apply the hourly fees incurred by the City's professional consultants for work on the CID or TDD against the Fund.

8. Development Agreement.

Prior to beginning development of the CID or TDD (including the issuance of bonds), the Developer shall execute a Development Agreement as approved by the City Attorney, Bond Counsel, and Governing Body.



CITY OF SHAWNEE POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 8 of 13

PROCEDURES

The following basic procedures shall govern the approval of all CID or TDD requests within the City. All requests or applications for a CID or TDD shall be considered and acted upon in accordance with this Policy. These procedures are established under the authority of the City Manager. These provisions may be waived by the City Manager, if such waiver is in the best interest of the City and does not conflict with any statutory or procedural requirement of state law.

1. Application Process. The applicant shall make application for a CID or TDD by completing and filing the application provided by the City. The application shall include, but is not limited to:
 - a. Legal description of the proposed boundaries of the CID or TDD;
 - b. Map of the district area with accompanying tax parcel ID information;
 - c. A detailed description that identifies the proposed buildings, facilities and other improvements to be constructed in the CID or in connection with the TDD, including the estimated fair market and assessed value of any private improvements and the estimated date in which construction of the improvements will be commenced and completed;
 - d. Summary of the proposed financing plan, including sources and uses of funds;
 - e. Current and proposed taxable retail sales within the CID or TDD; and
 - f. The applicable application fee.

2. General Application Procedure. The Finance Director shall distribute the application to the Finance Team. The City will only consider full and complete applications. The applicant will also be responsible for providing whatever additional information requested by staff or the Governing Body as necessary for assisting the City in making its recommendation or decision on the application and the petition. Any inaccuracy, misstatement or error in fact may render the application null and void and may be cause for the repeal of any development assistance ultimately provided by the City through the Act in reliance upon said information.

3. Finance Team Review. The Finance Team shall review applications. The Finance Team will verify that the CID or TDD is necessary to promote the general and economic welfare of the City; gather and review such additional information as may be deemed necessary to



CITY OF SHAWNEE POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 9 of 13

determine if the applicant meets the objectives of this Policy; obtain input of applicable City departments with respect to the proposed physical plan and infrastructure needs; prepare a timeline for processing the application; conduct discussions and negotiations with the applicant; and recommend to the Governing Body whether the application should be favorably considered.

The recommendation by the Finance Team does not constitute approval or denial of the project as submitted, and all site plan, rezoning, special use permit, or other regulatory requirements regarding land use must still be satisfied.

In reviewing the information, the Finance Team may utilize the services of consultants, including but not limited to bond counsel and financial advisors. Finance Team records, including applications submitted for a CID or TDD, may be eligible for withholding from public disclosure as provided under the Kansas Open Records Act, but shall be available for public inspection when otherwise required by law.

GOVERNING BODY ACTIONS

No elected or appointed officer, employee or committee of the City, and no Chamber of Commerce Board, Economic Development Council Board, or other public or private body or individual, shall be authorized to speak for or commit the Governing Body to the establishment of a CID or TDD.

Upon receiving the recommendation of the Finance Team, the Governing Body shall determine whether to reject the application for creation of a CID or TDD or to further consider the request. Upon a favorable vote for further consideration, the Governing Body shall follow the statutorily-prescribed process for the establishment of a district. This process shall be an expression of good faith intent, but shall not in any way bind the City to establishing a district.

Approval of the creation of a CID or TDD based on the information presented does not constitute an implied or other approval of a site plan, special use permit, plat, rezoning or other land development application. All proposals for development are subject to land use approvals by the appropriate body.



CITY OF SHAWNEE
POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 10 of 13

WAIVER OF REQUIREMENTS

The Governing Body reserves the right to grant or deny a CID or TDD under circumstances beyond the scope of this Policy or to waive provisions herein. However, no such action or waiver shall be taken or made except upon a finding by the Governing Body that a compelling or imperative reason or emergency exists, and that such action or waiver is found and declared to be in the public interest. The Governing Body shall not waive any statutory requirement of State law.

DEFINITIONS AND DESCRIPTIONS

For the purpose of this Policy, the words or phrases as used in this Policy shall have meaning or be construed as follows unless otherwise defined by State Statute.

APPLICANT: The individual(s) or business(es) and its officers, employees, and agents requesting approval of the creation of a CID or TDD. Also referred to as the Developer or Petitioner.

DEVELOPMENT AGREEMENT: A written agreement between the City and a Developer for the completion of a development or redevelopment project. Such agreement shall address issues involved in the project, including but not limited to the following: Schedule of construction; acquisition of land; eligible CID or TDD expenses; scope of development (including development criteria); indemnity of the City and insurance requirements; reimbursement of City costs; financing (private and/or public); transfer restrictions prior to completion; maintenance and restrictive covenants; City inspection and information access rights; reporting requirements; and remedies upon default.

FINANCE TEAM: A committee comprised of the City Manager, the City Attorney, the Finance Director, the Planning Director, Development Services Director, Shawnee Economic Development Council Executive Director, the City's Financial Advisor and the City's Bond Counsel, or their designees, whose function is to review CID or TDD applications and make recommendations for approval or denial to the Governing Body.

FINANCING OPTIONS: Projects may be financed by either a pay-as-you-go method or by the issuance of bonds, or a combination of both. Projects financed on a pay-as-you-go basis are financed using the proceeds of special assessments, the proceeds of a sales tax, or a combination of special assessments and sales tax. Projects financed with the proceeds of bonds shall be financed by the issuance of special obligation bonds.



CITY OF SHAWNEE POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 11 of 13

BONDS: The CID or TDD Bonds shall be special obligation bonds. The debt service on special obligation bonds will be paid from the special assessments or sales tax described above or from any other funds pledged to the payment of the bonds, or a combination of any of the foregoing, and the City will not be obligated to pay principal and interest on the bonds if there is a shortfall in special assessment or sales tax collections. Special obligation bonds issued to finance a project must mature in no more than 22 years. Special obligation bonds will not count against statutory limitations on bonded indebtedness. Bonds issued pursuant to the Act do not need to be sold at public sale. The interest on all bonds issued pursuant to the Act is exempt from all state taxes except inheritance taxes.

CID PROJECT: Any project or undertaking *within* the CID, to (1) acquire, improve, construct, demolish, remove, renovate, reconstruct, rehabilitate, maintain, restore, replace, renew, repair, install, relocate, furnish, equip or extend: (a) buildings, structures and facilities; (b) sidewalks, streets, roads, interchanges, highway access roads, intersections, alleys, parking lots, bridges, ramps, tunnels, overpasses and underpasses, traffic signs and signals, utilities, pedestrian amenities, abandoned cemeteries, drainage systems, water systems, storm systems, sewer systems, lift stations, underground gas, heading and electrical services and connections located within or without the public right-of-way, water mains and extensions, and other site improvements; (c) parking garages; (d) streetscape, lighting, street light fixtures, street light connections, street light facilities, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers; (e) parks, lawns, trees and other landscape; (f) communication and information booths, bus stops and other shelters, stations, terminals, hangars, rest rooms and kiosks; (g) paintings, murals, display cases, sculptures, fountains and other cultural amenities; (h) airports, railroads, light rail and other mass transit facilities; (i) lakes, dams, docks, wharfs, lake or river ports, channels and levies, waterways and drainage conduits. (2) Within the CID, to operate or to contract for the provision of music, news, child care, or parking lots or garages, and buses, minibuses or other modes of transportation. (3) Within the CID, to provide or contract for the provision of security personnel, equipment or facilities for the protection of property and persons. (4) Within the CID, to provide or contract for cleaning, maintenance and other services to public or private property. (5) Within the CID, to produce and promote any tourism, recreational or cultural activity or special event, including, but not limited to, advertising, decoration of any public place in the CID, promotion of such activity and special events and furnishing



CITY OF SHAWNEE
POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 12 of 13

music in any public place. (6) Within the CID, to support business activity and economic development, including but not limited to, the promotion of business activity, development and retention and the recruitment of developers and business. (7) Within the CID, to provide or support training programs for employees of businesses. (8) To contract for or conduct economic impact, planning, marketing or other studies.

TDD PROJECT: Any project or undertaking, *whether within or without the District*, to improve, construct, reconstruct, maintain, restore, replace, renew, repair, install, furnish, equip or extend any bridge, street, road, highway access road, interchange, intersection signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail or other mass transit facility or any other transportation related project or infrastructure including, but not limited to, utility relocation; sanitary and storm sewers and lift stations; drainage conduits, channels and levees; street light textures, connection and facilities; underground gas, water, heating and electrical services and connections located within or without the public right-of-way; sidewalks and pedestrian underpasses or overpasses; and water main and extensions. A TDD project may include building facades, but only when part of remodeling, repairing, enlarging or reconstructing an existing building.

STATE DIRECTOR OF TAXATION AND DISBURSEMENT OF CID SALES TAX FUNDS: The State Director of Taxation shall cause a CID or TDD sales tax to be collected upon receipt of a certified copy of the resolution or ordinance authorizing the levy of the sales tax. Sales taxes collected are remitted by the Secretary of Revenue to the State Treasurer for deposit in the State Treasury.

CID: The State Treasurer credits 2% of all taxes collected to the CID sales tax administration fund (but not to exceed \$60,000 in any fiscal year) for administration and enforcement costs. The remainder of the sales tax collected is deposited in the CID sales tax fund. All funds in the CID sales tax fund are remitted at least quarterly to the City for disbursement to compensate for project costs.

TDD: The State Treasurer credits the entire amount of taxes collected to the TDD sales tax fund and does not retain any of the tax for administration purposes.



CITY OF SHAWNEE
POLICY STATEMENT

SUBJECT:	POLICY CODE NO.	EFFECTIVE DATE	REVISED DATE	PAGE
Community Improvement District (CID) and Transportation Development District (TDD) Policy	PS-61	09/14/2009	2/24/2014	Page 13 of 13

APPROVAL AND REVISION DATES

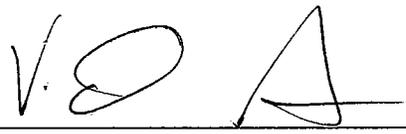
September 14, 2009
February 24, 2014

OTHER REFERENCES

August 18, 2009, Public Works & Safety Committee Minutes, Agenda Item 3
September 14, 2009, City Council Minutes, Agenda Item 23
February 24, 2014, City Council Minutes, Agenda Item H3



Jeff Meyers, Mayor



Vicki Charlesworth, City Clerk