

Memorandum

City of Lawrence

City Manager's Office

TO: David L. Corliss, City Manager
CC: Diane Stoddard, Assistant City Manager
FROM: Roger Zalneraitis, Economic Development Coordinator/Planner
DATE: May 20, 2010
RE: CID Background Material for Study Session

The following memo provides background information on Community Improvement Districts (CIDs). This includes a comparison of Kansas law with Missouri CID law; Kansas CID law and laws related to TIFs and TDDs; CID policies that have been enacted in other cities in Kansas; a comparison of Lawrence's CID policy with Kansas law; and finally a discussion of special tax rates and public information in Kansas.

CID Law in Missouri and Kansas

Missouri Law

Missouri allows for the establishment of a Community Improvement District provided 50 percent or more of the property owners within the proposed district request it, and the municipal governing body approves it after appropriate public notification and hearings. The CID differs in Missouri in that it establishes either a not-for-profit corporation to manage the District, or a political subdivision with an elected or appointed board. Not-for-profit corporations can only levy special assessments. However, a political subdivision has the right to levy special assessments, business licenses, or property taxes. The latter two can only be levied if a majority of residents (or if no residents live in the district, businesses) within the district vote to approve them. CIDs can also levy sales taxes up to 1 percent. The taxes can be used to finance a wide range of public improvements as well as ongoing costs. Municipalities may also fund the CID for planning and administration. Additionally, CID money can be used to "demolish and remove, renovate, reconstruct, or rehabilitate" a privately owned building or structure, provided that the building is found to be blighted and that such action serves a public purpose.

Kansas Law

Kansas allows for the establishment of CIDs provided 55 percent or more of the property owners within the proposed district request it. If a property will be financed solely through special assessments and 100 percent of the property owners request the CID, there is no public notice or hearing required. All other CID requests must give public notice and receive a public hearing. Public notification is the same in both Kansas and Missouri- notification of the hearing must be made twice prior to the public hearing, with the second notification no less than 7 days prior to the public hearing. Also, certified mail must be sent to all property owners within the proposed district within 10

days of the public hearing. Once established, a CID allows the owner/s to repay all or a portion of both public and private improvements through the imposition of special assessments and/or a sales tax of up to 2 percent within the district. The assessments and sales taxes can be in place for up to 22 years. CID costs can be paid for on a pay-as-you-go basis, through special obligation bonds, or general obligation bonds. Kansas CID policy also establishes a payment to the state to monitor the districts of up to 2 percent of CID revenues.

Kansas CID, TDD, and TIF

The following chart compares Kansas law for CID, Transportation Development Districts (TDD), and Tax Increment Financing Districts (TIF):

COMPARING TIF, TDD, AND CID LAW IN KANSAS

	TIF	TDD	CID
<i>Public improvements?</i>	Yes	Yes	Yes
<i>Private improvements?</i>	No	No	Yes
<i>Public Hearing?</i>	Yes	Yes	Yes- Sales Tax No- Special Assessment if 100% of owners request it
Methods of Financing:			
<i>Pay-as-you-go</i>	Yes	Yes	Yes
<i>Special Obligation Bonds</i>	Yes	Yes	Yes
<i>General Obligation Bonds</i>	Yes	No	Yes
Repayment:			
<i>Incremental Property and Sales Taxes</i>	Yes	No	No
<i>Special Assessments</i>	No	Yes	Yes
<i>District Sales Tax</i>	No	Yes- up to 1%	Yes- up to 2%

City Policies

Absent a local CID policy, the State law on CIDs is the sole criteria available to city commissions for determining whether to establish a district and how to finance it. To-date, at least five cities in addition to Lawrence have approved CID policies: Hays, Olathe, Salina, Shawnee, and Wichita. These city policies provide guidelines for which projects will receive preference, and provide additional restrictions to the state law to protect local taxpayers. The primary adjustments to state policy have centered on four issues: the projects that CID money can be applied toward; the types of bonds that can be used in a CID; the size of reimbursable expenses; and fees. A summary of the main provisions of the local policies is provided on the next page.

CID POLICIES IN OTHER CITIES IN KANSAS

City	Uses	Funding Sources	Min Size of Reimbursable Expenses	Fees	Other
Olathe	No private construction, no provision of service for private buildings, no indoor amenities	Pay-go, SO bonds, GO bonds only for public infrastructure with special assessments	None	\$5,000 application, bond issuance costs, admin 5% of total cost of CID	“but for” requirement, DSCR of 1.25 for bonds
Hays	No provision of services or waterways	Pay-go, SO funding only for public improvements	\$250,000	\$250 plus \$4,750 for out-of-pocket costs, .5% of annual CID rev in district (in lieu of \$100 annual fee)	Higher-than-needed design improvements, extension of infrastructure to unserved areas
Salina	Per state statute	Pay-go, special assessment for any bonds issued, GO preferred for downtown or public projects.	\$500,000 in “areas of change”, \$1,000,000 elsewhere	\$2,500 for application, \$20,000 for expenses (both reimburseable as project costs), annual admin fee not to exceed, in sum, 2% of project costs	If 5% of voters sign a petition, GO bonds cannot be issued without a majority vote in a public referendum
Shawnee	Per state statute	Pay-go, SO bonds payable with special assessments	\$3,000,000 for bond issuances	\$5,000 application, \$20,000 for issuance expenses, .5% of taxes reimbursed to city as admin fee each year	
Wichita	Per state statute-ongoing operating costs only up to what is identified in petition.	Pay-go, SO bonds allowed provided there is a 1.2 DSCR and they demonstrate “but for” project would not happen.	\$2,000,000 for bond issuances or \$500,000 for pay-as-you-go	\$5,000 non-refundable application fee and up to 5% of total CID revenues.	100% signature requirement for establishing a CID District.

Lawrence CID Policy and Kansas Law

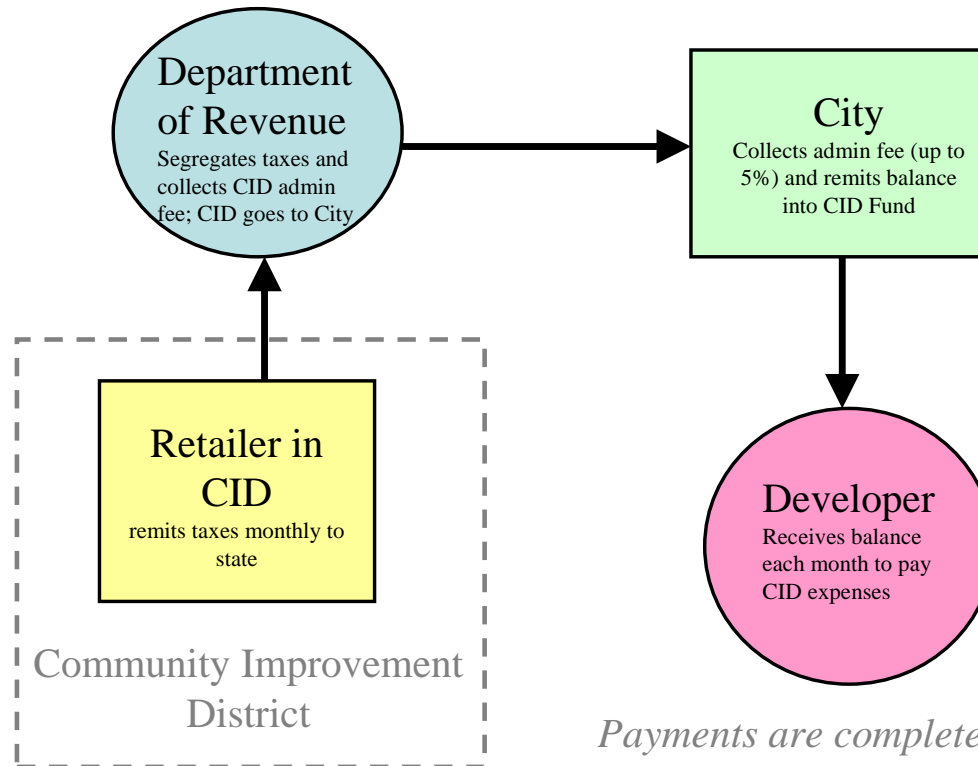
On May 11th, 2010, the City Commission approved Resolution 6887 which created a new CID Policy in Lawrence. The purpose of the policy was to provide strengthened protection for taxpayers while also promoting economic development in the community. The following table compares the provisions of Lawrence's CID resolution with the State Law:

Comparison of Lawrence Policy to Kansas Law

	Lawrence	Kansas
<i>Public improvements?</i>	Yes	Yes
<i>Private improvements?</i>	Yes, but not 100% unless it is culture or tourism	Yes
<i>Public Hearing?</i>	Yes	Yes- Sales Tax or 55% sign No- Special Assessment if 100% of owners request it
<i>Signatures</i>	55% for special assessment public improvements; 100% otherwise	100% for special assessments and no public hearing; 55% otherwise
Methods of Financing:		
<i>Pay-as-you-go</i>	Yes	Yes
<i>Special Obligation Bonds</i>	Yes- needs some special assessments and assurance of financial capacity, preference for 15% or more non-CID financing.	Yes
<i>General Obligation Bonds</i>	No	Yes
Repayment:		
<i>Incremental Property and Sales Taxes</i>	No	No
<i>Special Assessments</i>	Yes	Yes
<i>District Sales Tax</i>	Yes- up to 2%	Yes- up to 2%
Other:		
<i>Application Fee</i>	\$2,500	Not required
<i>Administrative Fee</i>	Yes- up to 5% of CID Revenues	Not required
<i>Minimum Project Size</i>	None	None

Lawrence's policy does permit some special obligation bond financing, but under restricted circumstances. The City's CID policy encourages pay-as-you-go financing. On the following page, a diagram shows how pay-as-you-go financing works when a special sales tax is the source of revenue for the CID costs.

How a CID “Pay-as-You-Go” Works



Payments are complete when:

- 1) All allowed CID costs are paid*
- 2) CID expires (up to 22 years) or*
- 3) District is deactivated*

Special Taxing Districts in Other Cities

The following table is from the Kansas Department of Revenue (<http://www.ksrevenue.org/salesratechanges.htm>) and shows every special tax jurisdiction in the state, as projected by the Department for July 2010:

All Special Tax Districts in Kansas			
<i>Effective as of July, 2010</i>			
Location	Total Tax Rate	Effective Date	Special Tax Rate
Transportation Development Districts:			
Basehor Wolf Creek Junction TDD*	8.050%	10-01-09	0.750%
Ellsworth Transportation District*	8.550%	01-01-07	1.000%
Hays Transportation District*	8.300%	04-01-09	0.750%
Kansas City Happy Foods TDD*	8.925%	07-01-10	1.000%
Kansas City Legends TDD	8.525%	07-01-10	0.600%
Kansas City Plaza at the Speedway #1-TDD*	8.525%	07-01-10	0.600%
Kansas City Plaza at the Speedway #2-TDD*	8.925%	07-01-10	1.000%
Kansas City Plaza at the Speedway #3-TDD*	8.525%	07-01-10	0.600%
Kansas City Prescott Plaza TDD*	8.925%	07-01-10	1.000%
Kansas City Village West-East End TDD*	8.025%	07-01-10	0.100%
Kansas City Village West-West End TDD*	8.525%	07-01-10	0.600%
Lansing Town Center TDD*	8.300%	10-01-09	1.000%
Lawrence Free State TDD*	8.850%	04-01-09	1.000%
Lawrence Oread TDD*	8.850%	10-01-09	1.000%
Leawood Park Place TDD*	9.050%	04-01-09	1.000%
Leawood Shops of 119th Street TDD*	9.050%	04-01-09	1.000%
Manhattan Limey Pointe (Pottawatomie Co.) TDD*	8.050%	10-01-09	0.500%
Manhattan Limey Pointe (Riley Co.) TDD*	8.050%	10-01-09	0.500%
Manhattan Marketplace TDD*	8.050%	10-01-09	0.500%
Olathe Entertainment District Phase 3 TDD*	8.650%	04-01-09	1.000%
Olathe Gateway No. 1a TDD *	8.650%	04-01-09	1.000%
Olathe Gateway No. 1b TDD *	8.650%	04-01-09	1.000%
Olathe Pointe TDD*	8.650%	04-01-09	1.000%
Olathe Ridgeview Falls TDD*	8.650%	04-01-09	1.000%
Ottawa South 59 TDD	8.900%	07-01-10	1.000%
Overland Park Dear Creek TDD*	8.650%	04-01-09	1.000%
Overland Park Oak Park Mall TDD*	8.150%	04-01-09	0.500%
Pittsburg Transportation District*	7.600%	01-01-07	0.300%
Roeland Park Shopping Center #1 TDD*	8.775%	04-01-09	1.000%
Roeland Park Shopping Center #2 TDD*	8.275%	04-01-09	0.500%
Community Improvement Districts Active:			
Hays 48th and Roth Avenue CID	9.550%	04-01-10	2.000%
Junction City Goody's Plaza CID*	9.300%	04-01-10	1.750%
Wabaunsee County Maple Hill Travel Store CID	8.800%	07-01-10	2.000%
Community Improvement Districts, Proposed:			
Wichita Waterfront Hotel CID	8.300%		2.000%
Fort Scott Tractor Supply CID	8.300%		1.000%

source: Kansas Department of Revenue

Public Notification of Tax Districts

Kansas state law does not require that a sign be posted in a special tax district notifying customers of the incremental tax. Missouri did pass a law in 2007 requiring stores within a TDD to post the sales tax rate if there is a special sales tax (<http://www.moga.mo.gov/statutes/C200-299/2380000280.HTM>). However, Missouri does not require special sales taxes to be reported within CIDs. This requirement for TDDs appears to be a result of the peculiar way TDD sales taxes are created and monitored in Missouri. A report by the Missouri auditor found a lack of public notification in their creation and a lack of oversight at the state level: <http://www.auditor.mo.gov/press/2006-12.htm> . Requiring that sales tax rates be posted was likely an attempt to heighten—or possibly simply create—public awareness of the districts. Effectively, neither Missouri nor Kansas require signs notifying shoppers of special taxes *when the districts that impose the sales tax are established through a public process.*

No city in Kansas contacted by staff has a policy requiring that either TDDs or CIDs with special sales taxes provide signs notifying customers. One city noted that such a sign would, in its effect, serve to discourage shopping in the district and thus lower the likelihood of project success.

One alternative approach to providing information on tax rates is to do so through the City website. Both Overland Park and Olathe provide a list of special tax districts this way. Olathe also has a layer on their city's public GIS map showing where all TDD and TIF districts are in the City. A list of Overland Park's districts can be found here: <http://www.opkansas.org/Resident-Resources/Sales-And-Property-Taxes> . A list of Olathe's special tax districts can be found here: <http://www.olatheks.org/Finance/Accounting/SalesTax> . Such an approach would allow concerned citizens to research tax rates while reducing risk—or the perception of risk—toward the success of a project.