

MEETING OF THE BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

MAY 22, 1996

The Regular Meeting of the Board of County Commissioners of Sedgwick County, Kansas, was called to order at 9:00 A.M., Wednesday, May 22, 1996, in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman Thomas G. Winters; with the following present: Chair Pro Tem Melody C. Miller; Commissioner Betsy Gwin; Commissioner Paul W. Hancock; Commissioner Mark F. Schroeder; Mr. William P. Buchanan, County Manager; Mr. Stephen B. Plummer, County Counselor; Mr. Jarold D. Harrison, Assistant County Manager; Ms. Becky Allen-Bouska, Director, Bureau of Finance; Mr. Marvin Krout, Director, Metropolitan Area Planning Department; Mr. J. Kenneth Hales, Director, Department of Corrections; Mr. David C. Spears, Director, Bureau of Public Services; Mr. Darren Muci, Director, Purchasing Department; Mr. Fred Ervin, Director, Public Relations; and Ms. Susan E. Crockett-Spoon, County Clerk.

GUESTS

Mr. Joe L. Norton, Bond Counsel, Gilmore & Bell, P.C.

Mr. Philip J. Meyer, Baughman Company

Ms. Diane MacNair, 9103 West Maple, Wichita, Kansas

Mr. Jim Snook, 14800 West Maple, Wichita, Kansas

Mr. Kevin O'Brien, 15414 West Maple, Wichita, Kansas

Mr. Pere A. Owen, 151 South 151st West, Goddard, Kansas

INVOCATION

The Invocation was given by Mr. Bob Bruner of the Christian Businessmen's Committee.

FLAG SALUTE

ROLL CALL

The Clerk reported, after calling roll, that all Commissioners were present.

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CONSIDERATION OF MINUTES: Regular Meeting, April 24, 1996.

The Clerk reported that all Commissioners were present at the meeting of April 24, 1996.

Chairman Winters said, "Commissioners, you've had an opportunity to look at these minutes, what's the will of the Board?"

MOTION

Commissioner Hancock moved to adopt the Minutes of April 24, 1996.

Commissioner Miller seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Chairman Pro Tem Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Next item please."

CERTIFICATION AS TO THE AVAILABILITY OF FUNDS

Mr. Marty Hughes, Bureau of Finance, greeted the Commissioners and said, "I certify that there are funds available for all those items we have identified on the regular and sewer district agenda requiring the expenditure of funds. A listing of these items has been provided to you previously. If you have any questions, I'd be glad to answer them."

Chairman Winters said, "Okay, thank you very much, Marty. Seeing no questions. Thank you. Next item please."

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PROCLAMATION

A. PROCLAMATION DECLARING MAY 19-25, 1996, AS "EMERGENCY MEDICAL SERVICES WEEK."

Chairman Winters said, "Thank you very much. Commissioners, I have a Proclamation that I'd like to read into the record for your consideration.

PROCLAMATION

WHEREAS, Sedgwick County Emergency Medical Services is a vital public service; members of emergency medical services teams provide lifesaving care 24 hours a day, seven days a week; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, emergency medical services teams consist of Paramedics, Emergency Medical Technicians first responders, volunteers, dispatchers, and emergency nurses and physicians; and

WHEREAS, Sedgwick County citizens benefit daily from the knowledge and lifesaving skills of these highly trained professionals; and

WHEREAS, injury prevention, awareness of the system and the appropriate use of the system helps to reduce injuries and health care costs; and

WHEREAS, it is appropriate to recognize the value and accomplishments of EMS providers by designating Emergency Medical Services Week:

NOW THEREFORE BE IT RESOLVED, that I, Tom Winters, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim the week of May 19-25, 1996, as

"EMERGENCY MEDICAL SERVICES WEEK"

and encourage the community to observe this week in special appreciation of these professionals who serve in our time of need.

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"Commissioners, that is the Proclamation."

MOTION

Commissioner Schroeder moved to adopt the Proclamation and authorize the Chairman to sign.

Commissioner Hancock seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Here today to accept the Proclamation is Tom Pollan, the EMS Director."

Mr. Tom Pollan, Director, Sedgwick County Emergency Medical Services, said, "As I was standing here, 21 years of history and memories were going through my mind in trying to think of what best to say. What I do want to point out to the public is that over 22 years ago, this Board determined that they were going to provide the best emergency medical services that they could and you have done so very diligently through that period of time. So this Proclamation is not only for those 240 volunteers, but also the full time and part time paid personnel that provide that service for this community of Sedgwick County and Wichita. It is also to you because you have made that happen. You've made that possible. We can provide the care, but you provide the support. Thank you."

Chairman Winters said, "Thank you Tom. I would like to say that this is truly an organization and a service that is a County provided service, County wide and there are a couple of pockets that have their own EMS service but Sedgwick County provides this service over a broad part of the County regardless of jurisdictional lines and it works very well. Tom, you and your group do an outstanding job and we appreciate it very much."

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Mr. Pollan said, "Thank you and one other thing, I got a mean look from Kristi Zukovich, our Public Education Officer, we will be having two units at the Courthouse, in front of the Courthouse, from 11:00 to 1:00 today and the public is certainly welcome to come and any of the employees of Sedgwick County and we ask and invite you to come down and look at two brand new units that we just received and put on line. Almost forgot that, that's an important part."

Chairman Winters said, "Okay, very good. Thank you Tom. So we will have some units out in front of the Courthouse today."

Commissioner Gwin said, "Thank you Kristi."

Chairman Winters said, "Yes, Kristi, for making sure we get everything said we need to."

PUBLIC HEARINGS

B. PUBLIC HEARING AND CONSIDERATION OF A RESOLUTION REGARDING PROPOSED SPECIAL ASSESSMENTS FOR CERTAIN INTERNAL IMPROVEMENT PROJECTS IN THE COUNTY.

Mr. Joe L. Norton, County Bond Counsel, Gilmore & Bell, P.C., greeted the Commissioners and said, "For your consideration this morning, we have a public hearing regarding the levying of special assessments on certain capital improvement projects, previously authorized by the Board of County Commissioners some time in the past. As you may recall, on May 1 of this year, we brought to you a statement of final costs prepared by the Bureau of Public Services, relating to 14 public improvement projects, seven of which are on the agenda for item B. The companion item C on the sewer district agenda will deal with various internal sewer improvements, there are seven of those also."

"Since May 1, notice of this public hearing was published in The Daily Reporter as required by law and information notices were sent to each affected property owner, identifying today's date and time for which they could provide input to you prior to your consideration of the Resolution levying special assessments. With the indulgence of the Chairman, what I would suggest we do today is to give a brief overview of the process and then deal with each project independently so that citizens who are here to address the Commission, can address the Commission with respect to the project for which they are here to address, as opposed to doing it in general, so we can keep it focused on a project-by-project basis."

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SLIDE PRESENTATION

"For item B there are seven street improvement projects and the location of those street improvement projects are depicted upon the map. They are generally located in the northeast portion of the County, north and east of the Raytheon/Beech facility as depicted on the map before you.

"A brief review of the project costs, there are seven projects involving street improvements that we are going to address today. The first project is in Savanna 7th Addition, a Phase I and General Phase. The second project is Brookhaven 2nd Addition, Phase 1 and General Phase. Project three is the White Tail Street Addition, Phase 9. Project four, White Tail street improvement, Phases 10 and 11. Project five is White Tail streets, Phase 12. Project number six is a street improvement project in Crest Ridge 2nd Addition. Project seven is an Overbrook 2nd Addition, streets. These will be the projects for this portion of the public hearing."

Chairman Winters said, "Okay, Joe, are you going to start going through each one of these now?"

Mr. Norton said, "That's correct."

Chairman Winters said, "Maybe this would be a good time that we go ahead and open the public hearing and as we talk about each one of these individual projects, we can stop then and ask if there is anyone to comment about the project, would that be a good procedure?"

Mr. Norton said, "I think that would be appropriate."

Chairman Winters said, "Okay, at this time, let the record show that we are opening the public hearing and will receive information on these assessed bond issue streets."

Mr. Norton said, "Alright, a brief explanation before we go project by project. Once this public hearing is concluded, the Commission will consider a Resolution levying special assessments. If that Resolution is adopted, then it will be published again in The Daily Reporter. Notices of the amount of assessment for each of the property owners will be mailed to that property owner and that notice will indicate that they have 30 days in which to make a payment on that special assessment.

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"If that payment is not made within that time period, then the County will issue its bonds this summer and finance those projects over a 15 year period. The interest rate that the County receives on its bond issue will be added to the principal component of the assessment and the principal and interest payment levelized over 15 years will appear on the property tax roll for each affected property owner.

"Project number one is Savannah 7th Addition Streets. On the map before you, you have a depiction of the general area of the project. It is located generally north and east of 143rd Street East and 13th Street North. There are three components of the project. What we are talking about today is Phase I and a General Phase. The General Phase includes some basic entrances to the area and then Phase I consists of approximately 52 lots that will be assessed on a per lot basis for street improvements. On the screen before you is the cost statement depicting the total cost of the project. There are four basic columns. The column on the left indicates the item to have a cost associated with it. The second to the left column is the total project cost and then columns three and four depict the project cost distribution between the General Phase and Phase I of the improvements.

"As you can see, going down through the columns, the total project cost is under the column amount to be bonded and that is \$322,948.10 on the General Phase and \$180,740.98 for Phase I. Right below that, you will note the original estimated project cost that was given by the Bureau of Public Services when these projects were initiated. In both cases, the actual cost came in below the estimated cost at the time the project was initiated. On the General Phase, there are 52 parcels to be assessed equally, resulting in a principal component of approximately \$6,210 per lot and in Phase I, there are 36 parcels which have an assessment of approximately \$5,020. Again, property owners have the opportunity to pay on these assessments within 30 days after the hearing if the assessment Resolution is adopted.

"I have gone into a little more detail on this project since this is the first one and then we'll follow a similar format that is acceptable to the Chairman on each individual project. I think it would be appropriate at this time to determine if there are any interested citizens here to address the Savanna 7th Addition street improvement project."

Chairman Winters said, "Is there anyone here today at the meeting who would like to address the Commission concerning Savanna 7th Addition street project? Anyone in the audience who would like to address Savanna 7th Addition street project? Seeing none, we'll continue."

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Mr. Norton said, "The next project is a street improvement project in Brookhaven 2nd Addition. The Brookhaven 2nd Addition is located immediately north and east of the intersection of the Kansas Turnpike with Central in the eastern portion of the County. Again, there are two phases, a General Phase and Phase I and II of the improvement project. What we're talking about assessing today is the General Phase and Phase I as depicted upon the map before you.

"Costs certified by the Bureau of Public Services are in the same format as the initial project we talked about. Broken out in the column amount to be bonded, about two thirds of the way down the screen, for the General Phase, approximately \$111,000 and on the Phase I improvements, approximately \$139,000. When divided equally among 60 parcels in the total improvement project, the General Phase component is approximately \$1,853 and Phase I improvement streets have a component when divided by 30 lots of approximately \$4,630 per parcel."

Chairman Winters said, "Thank you. Is there anyone here today who would like to speak to the Brookhaven 2nd Addition street project? Seeing no one, proceed."

Mr. Norton said, "Projects three, four, and five, deal with street improvement projects in the White Tail Addition. That Addition is located south and west of the intersection of 13th Street North and 127th Street East. There are various phases within the entire development but outlined on the map before you in red is the boundary of the entire development.

"Project number three is the one at issue in this point in time, this White Tail Addition, Streets, Phase 9. Again, on the amount to be bonded, the total cost of that project is \$162,561.30 underneath the column in red. There are 25 lots within this phase and when divided equally among the lots, the average cost per lot is approximately \$6,500 for the street improvements."

Chairman Winters said, "Alright, is there anyone here today who would like to speak to the White Tail Addition Phase 9? Seeing no one, proceed please."

Mr. Norton said, "The next project is Phases 10 and 11 of the street improvements in the White Tail Addition. Again, on the screen before you, they are broken down by Phases 10 and 11 on the two right columns. The cost of Phase 10 improvements is approximately \$394,000 divided amongst 56 parcels, a principal component of approximately \$6,786.

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“Phase 11 street improvements have 49 parcels for which to spread the cost and that results in a principal component of approximately \$9,000. You will note that various phases have different costs, they have various different kinds of parcels in this addition, some small lots, small larger lots in that addition, that's why there is a variance in the Phases and the costs. The larger lots get a higher proportion of cost of the improvements.”

Chairman Winters said, "Alright, is there anyone here today who would like to speak to the White Tail streets addition, Phases 10 and 11? Seeing no one, proceed."

Mr. Norton said, "Project five is a street improvement in White Tail Addition, Phase 12. The right hand column on the screen before you, that has a total cost of the project, amount to be bonded of \$168,632, approximately. There are 26 parcels in this project resulting in a principal component of about \$6,486."

Chairman Winters said, "Alright, is there anyone here who would like to speak to the White Tail streets addition, Phase 12? Seeing no one, proceed."

Mr. Norton said, "Project number six involves Crest Ridge 2nd Addition, street improvements. This is an area located north and east of the intersection of 127th Street East and Central. Before you is a plat map depicting the area to be assessed resulting in approximately equally sized lots. Project number six, the left hand column of numbers is an amount to be bonded or a total principal cost of the project of approximately \$178,700. There are 31 parcels in the development. When divided equally, results in a principal component of approximately \$5,765 per lot."

Chairman Winters said, "Is there anyone here who would like to speak to the Crest Ridge 2nd Addition street project? Seeing no one, proceed."

Mr. Norton said, "Project number seven, involves street improvements in Overbrook 2nd Addition. That is an area located approximately straight north of the intersection of the Kansas Turnpike and Central Avenue just east of 143rd Street East. Again, there are two Phases within this project, a General Phase...on the map before you, you can see how the development has divided into Phases I and Phase II for the actual street improvements. The General Phase results in some entrances into the development spread equally among all lots in Phases I and II. On the screen before you is a cost breakdown for this improvement project. The two right hand columns depict General Phase and Phase I."

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“The General Phase, a principal component of approximately \$36,000 when divided among 37 parcels in the addition results in a principal component of about \$975. Phase I streets total cost of approximately \$103,256, there are 15 parcels in Phase I and when divided, that number into the cost, results in a principal component of about \$6,884 per parcel.”

Chairman Winters said, "Thank you. Is there anyone here who would like to speak to the Overbrook 2nd Addition street Phase 1 and General? Anyone here who wants to speak to the Overbrook street addition? Seeing no one, proceed."

Mr. Norton said, "I think it would be appropriate at this time then to close the public hearing on Item B and consider the Resolution."

Chairman Winters said, "Alright, this is one last opportunity for anyone who would like to speak on these street additions. This is the time to come forward. Seeing no one, we will close the public meeting."

Mr. Norton said, "We have prepared for your consideration a Resolution that would levy the special assessments in the amounts depicted upon the screen and we have discussed in the public hearing today. That Resolution would implement those assessments commencing for property tax notices sent out in November of this year if not paid within the 30 day time period talked about earlier, and spread over 15 years. We would recommend your adoption of the Resolution."

Chairman Winters said, "Thank you very much. Commissioners, you've heard Mr. Norton's presentation, what's the will of the Board?"

MOTION

Commissioner Gwin moved to adopt the Resolution.

Commissioner Schroeder seconded the Motion.

There was no discussion on the Motion, the vote was called.

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VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. At this time, we need to take care of these matters in the Sewer District, so at this time, I will recess the regular meeting of the Board of County Commissioners.

C. RECESS TO THE SEWER DISTRICT MEETING.

The Board of Sedgwick County Commissioners recessed to the Sewer District Agenda at 9:30 a.m. and returned at 9:47 a.m.

Chairman Winters said, "Call back to order the Regular Meeting of the Board of County Commissioners, May 22, 1996. Next item of business."

D. PUBLIC HEARINGS.

1. PUBLIC HEARING AND RESOLUTION REMOVING CERTAIN PROPERTY FROM THE EASTERN SEDGWICK COUNTY SEWAGE DISPOSAL DISTRICT AND THE GUILDER'S GARDENS-GOTT ADDITION LATERAL SEWER DISTRICT.

SLIDE PRESENTATION

Mr. Norton said, "Also on May 1, the Board of County Commissioners received a request from two property owners requesting that their properties be released from certain existing sewer districts created in the County. Both of these property owners, their properties have been annexed into the City of Wichita and are being served by the Wichita City sewer system and not by the Sedgwick County sewer district, although their properties are within that district. The parcels, one is known as the Fountain Addition. It is located south and east of the intersection of Central and Greenwich Road. It is the area noted in gold on the map before you.

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“The second parcel is an area known as the Christ Community Church Addition. It is located east of Webb Road, south of Harry Street. Again, this property is served by the City of Wichita sewer system. Petitioners have requested that the Board of County Commissioners consider removing their properties from the various sewer districts in which they are currently located, both of which are in the Eastern Sedgwick County Sewage Disposal District, the large Four Mile Creek District.

“The Fountains Addition property, the first one we talked about is located within the Guilder's Gardens-Gott Addition lateral sewer district for which improvements have not yet been constructed. The Christ Church Addition is located within a lateral sewer district for which the sewer improvements have been completed but were not hooked up to this particular church since they were already being served by the City of Wichita sewer district.

“Prior to your consideration of this Resolution, we believe the law provides that you must conduct a public hearing after notice has been given to affected property owners requesting the removal of this property from the sewer districts. The result of the removal, if adopted by the Board of County Commissioners, will release these properties from any future special assessments that may be levied within these sewer districts. It does not relieve them from special assessments already levied in the past which have been assessed and which have been paid. Future installments of assessments would be relieved if the Board takes the action today. Again, with respect to the Fountains Addition, there have been no lateral assessments levied because the project is not yet completed and on the Christ Church Addition, they have not been served by the County sewer districts even though they are both paying, in essence, their land area assessment for the Four Mile Creek area which would be released in the future since they are no longer able to be served. By not being in the sewer district, they will not be able to be served by the Eastern Sedgwick County sewage disposal facility, and thereby being released from the assessments that may be levied in the future for any improvements resulting from those districts. As part of the request, they have in essence released or relinquished their opportunity to be provided service by the County and they are being served by the City as part of the annexation process. Both of these parcels have been previously annexed and the City has consented to provide service and the County has consented that the City will provide service so we are kind of formally going through and releasing these properties now from these various districts. Mr. Weber is here also. We'll both be available to answer any questions you may have at the conclusion of the public hearing.”

Chairman Winters said, "Okay, we've got a couple of questions. Commissioner Gwin."

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Commissioner Gwin said, "Just for clarification. I think we discussed this when we approved the annexation request from the Fountains. By removing the Fountains from the Guilder's Gardens-Gott Addition, what is the impact on the other properties that are there?"

Mr. Norton said, "Basically none. The sewer district was created, this is an undeveloped area at this point in time. There are no houses located there."

Commissioner Gwin said, "The Fountains."

Mr. Norton said, "The Fountains Addition. Various attempts have been made to develop that area and it has not been successful at this point in time. The cost statements that have been estimated for Guilder's Gardens-Gott sewers have not been with respect to putting in lateral line in this particular Fountains Addition, so very minimal, if any affect whatsoever on the assessments to be spread over the parcels."

Commissioner Gwin said, "Thank you Joe. Thank you Mr. Chairman."

Chairman Winters said, "Thank you. Commissioner Schroeder."

Commissioner Schroeder said, "I had kind of the same question on the church down on Webb Road? Was it originally in the Four Mile Creek sewer district when we created the boundaries?"

Mr. Norton said, "Yes it was."

Commissioner Schroeder said, "Was it being served with City sewer at that time?"

Mr. Norton said, "No, I believe it was not. I think that church has been constructed after the date that the sewer district was created. It was not within any lateral district so there are no property owners affected by any lateral improvement in that area. The City sewer service line is located immediately across the street from the Church and when they constructed that facility, they requested that they be served by the City of Wichita and be annexed into the City for their improvements and they were."

Commissioner Schroeder said, "Did we approve that? Did we have to make approval of that, to take them out of the sewer district at that time or to allow them to be hooked up to City services?"

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Mr. Norton said, "I believe you had to consent to their annexation."

Commissioner Schroeder said, "Okay, so we consented to the annexation, have they been paying sewer taxes since the creation of the Four Mile Creek sewer district?"

Mr. Norton said, "Yes sir."

Commissioner Schroeder said, "Okay."

Mr. Norton said, "They are paying the land area assessment, only that very small minor component."

Commissioner Schroeder said, "Okay, and those are the only two that have done this that are in this kind of predicament?"

Mr. Norton said, "To the best we can determine, that's correct."

Commissioner Schroeder said, "Okay, thank you. Thank you Mr. Chairman."

Chairman Winters said, "Thank you very much. At this time, I will open the public hearing and receive public comment from any one who would like to discuss this item D-1. Is there anyone in the audience who would like to discuss item D-1? Seeing no one, we'll close the public hearing."

Mr. Norton said, "Again, we have prepared a Resolution for your consideration which would implement the discussion we've had this morning. I would recommend your adoption if you desire to release these properties."

Chairman Winters said, "Thank you very much. Commissioners, you've heard the presentation by Mr. Norton. What's the will of the Board?"

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MOTION

Commissioner Schroeder moved to adopt the Resolution.

Commissioner Gwin seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Call the next item please."

2. PUBLIC HEARING AND RESOLUTION CREATING A LATERAL SEWER DISTRICT WITHIN SEDGWICK COUNTY, KANSAS AND AUTHORIZING THE MAKING OF CERTAIN IMPROVEMENTS THEREIN (WOODLAND LAKES ESTATES).

Mr. Norton said, "Again, with the Chairman's indulgence, I would request that we also consolidate for hearing purposes item D-3, one a lateral district and one a main district located in a general area of the County that overlaps each other and so it might be easier to conduct a public hearing jointly."

Chairman Winters said, "Let's do that. Why don't you just explain both items, two and three at the same time."

SLIDE PRESENTATION

Mr. Norton said, "The Board of County Commissioners have received petitions requesting the creation of a lateral sewer district and a main district located within the area of the County generally south of the Kansas Turnpike at 127th Street East. The area of the proposed improvement districts are depicted in red on the map before you. On the screen

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before you is the depiction of the area known as the Woodland Lakes Estates main sewer district. As you can see, it contains various different kinds and sizes of parcels, some developed and some areas to be developed. The proposed lateral district is an area depicting tracts one, two, and four, the northern part of the main district and that is an area that would be immediately developed and lateral lines put in, to provide service for that area but in order to do that, there needs to be a larger line running into the general area and that would be the purpose of the main district.

"The estimated cost of the improvements determined by the Bureau of Public Services is as follows: On the main district, again the total bond issue size, the total principal component of approximately \$183,000. There are 100 parcels within the proposed main district, which would result in a principal component of about \$1,829, which is spread over 15 years at assumed interest rate of 8% which will result in about a \$214 a year payment. The lateral district costs are estimated to be about \$473,000. There are 92 parcels within the proposed lateral district. A principal component being approximately \$5,138. As you may recall, this is an area of the proposed lateral district containing certain areas which are already annexed into the City of Wichita, a portion of each of these districts. Prior to your creation of these districts, you must first obtain the consent of the governing body of the City of Wichita. Since the May 1 meeting, when you established this date for public hearing, notice has been forwarded to the governing body of the City of Wichita. When they allowed the plats of these areas to be undertaken earlier, they consented to Sedgwick County providing sewer service in this area as opposed to their providing service. Yesterday, this item was again placed on their agenda for consent for this Board to create these districts. We have not yet received written documentation. We have verbal assurance from City staff that their action was positive to consent for the Board of County Commissioners to create this district and provide this area with sewer service since the County has a line immediately adjacent to this area and the City does not. It's about the opposite of what we did in the last agenda item. When they had a line, they served, here we have a line closest to this area even though some of it is in the City of Wichita. So at this time, it would be appropriate, if there are no further questions of me or staff, to open public hearing and receive any comment regarding the creation of these two lateral districts."

Chairman Winters said, "Thank you very much. I would open up the public hearing to take public comment. We are discussing Item D-2 and D-3. Number D-2 is creating a lateral sewer district in the Woodland Lakes Estates area. Number D-3 is creating a main sewer district in the Woodland Lakes Estates.

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"Is there anyone here who would like to speak to either of these two items? Is there anyone who would like to speak to either of these two items? Seeing no one, we'll close the public hearing."

Mr. Norton said, "Again, we have prepared separate Resolutions for creation of these districts. You may wish to consider them jointly or separately."

Chairman Winters said, "I think we'll take them separately. Commissioners, what's the will on item D-2 creating a lateral sewer district?"

MOTION

Commissioner Schroeder moved to adopt the Resolution.

Commissioner Gwin seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

3. PUBLIC HEARING AND RESOLUTION CREATING A MAIN SEWER DISTRICT WITHIN SEDGWICK COUNTY, KANSAS AND AUTHORIZING THE MAKING OF CERTAIN IMPROVEMENTS THEREIN (WOODLAND LAKES ESTATES).

Chairman Winters said, "We'll now consider Item D-3, creating a main sewer district in the Woodland Lakes Estates. Commissioners, what's the will of the Board?"

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MOTION

Commissioner Hancock moved to adopt the Resolution.

Commissioner Schroeder seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much."

Mr. Norton said, "Thank you, this was the last of the hearings on the sewer district."

Chairman Winters said, "Thank you very much Mr. Norton. We appreciate your assistance in doing these public works projects. At the request of the Planning Department, I'm going to ask that we take Item 2 first. It is a short one and can get some folks on their way, so I'd like you to call the Planning Commission agenda item E-2."

PLANNING COMMISSION

E. METROPOLITAN AREA PLANNING DEPARTMENT (MAPD).

- 2. CASE NUMBERS SCZ-0711 AND DP-223 - COMMERCIAL COMMUNITY UNITY PLAN (CUP) AND ZONE CHANGE TO "GC" GENERAL COMMERCIAL, LOCATED ON THE NORTHWEST CORNER OF K-15 AND 63RD STREET SOUTH.**

Mr. Marvin Krout, Director, Metropolitan Planning, greeted the Commissioners and said, "Thank you for moving this case up. This applicant has been very patient with us as we've gone through this process."

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“I think she sat through the greenhouse hearing at the Planning Commission and probably would prefer not to hear it a second time again, so this case has been supported by Derby and the MAPC so it should go pretty smoothly.

SLIDE PRESENTATION

"The black tape area represents about 16 acres. This is on the north side of 63rd Street and it is just west of Highway K-15 and also the Santa Fe railroad track. The pink portion, along the frontage of 63rd Street is zoned, six acres, zoned General Commercial. It was zoned back in 1994 by the County Commission. It was platted, as part of Derby's platting jurisdiction, by Derby and it was approved for construction by the County and you'll see slides of the construction and the operation as it occurs now. The request is to expand the general commercial zoning by about ten acres to the north along the railroad tracks and the K-15 frontage and also, because this is a tract of over six acres, in the new zoning code, to file associated with that a community unit plan that governs the uses and the type of development of the tract as it develops. The purpose is to expand the current operation. The current operation, as you'll see, is retail sales display of trailers and equipment and then in the rear portion of the property is a mini-warehouse. The purpose of the expansion is basically for the expansion of the warehouse facility and to allow open outside as well as indoor storage for recreational vehicles and the like. The community unit plan which you have in your packet, allows two parcels for that. The parcel that is developed and the other parcel. This is the character of the area from the aerial photograph. There are scattered homes on the south side of 63rd Street. The character of K-15 is commercial and industrial in nature and I'll show you some more slides in a minute.

"This is the community unit plan (CUP) and this is the six acres that is developed with the retail store on the frontage. Parking in front of that and display, and then behind that the mini-warehouses, and this is the expansion area to the north. This is the existing operation. We're looking from the east side across the display and parking area, the retail building. This is the railroad tracks. We're looking now across K-15 to the businesses on the other side of K-15. These are the mini-warehouses that are in the rear of the facility. You can see there is a masonry screening wall that's been built and really a very nice job, I think. Very clean operation and met all the comments that I think she made verbally to the Derby Planning Commission and the County Commission originally.

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"This is looking at the north side of the facility. It will expand into that area and this is the expansion area with the railroad tracks not visible but on the right of the screen. Again, looking at the east edge of the property with the railroad tracks to the right. Very open area. Railroad tracts now visible in this slide. Now we're looking south again along the tracks at the northeast edge of the property. These are homes that are across from 63rd Street from this site. Two homes nearest to the intersection. Third home nearest K-15. This is an existing sign for the tool store and storage facility. Back to the aerial photograph and the zoning map. At the Planning Commission, there were no neighbors who came in protest either at the Derby Planning Commission or the Metropolitan Area Planning Commission. It is within Derby's jurisdiction and Derby voted unanimously to recommend approval. The MAPC followed last month and voted unanimously to recommend approval of the rezoning and the associated community unit plan based on the staff recommendations and the CP that was developed and there was no written protests filed on this rezoning. I would be glad to answer any questions that you have. The applicant is here if you have any questions of her."

Chairman Winters said, "Okay, thank you. Commissioner Schroeder."

Commissioner Schroeder said, "Mr. Chairman, just a pre-note in case somebody is here to speak. Mr. Kuhn was up here before us a few years ago on this and originally wanted to do that entire amount of acreage and because of some concerns, he offered to cut it back to the original six he has now and I have literally had nothing in way of complaints about your operation. I've been by it, I've looked at it. It is one of the cleanest operations I think I've seen of that type and I'm very impressed with it because he has obviously put a lot of time and effort and money into it and I think the neighbors appreciate that and I think that is representative of the fact that no one showed up to protest this expansion. Today, I'm going to vote for this because I think it seems to be an excellent use of the property considering its location and neighbors find it appealing I guess because we haven't heard from them so I think it is a good location and there is a good relationship between you and your neighbors and I appreciate that effort. I just wanted to give you a little background. I don't recall how many years ago that was. Marvin?"

Mr. Krout said, "Less than two years ago."

Commissioner Schroeder said, "Two years ago. So very good, I appreciate your diligence in this. Thank you Mr. Chairman."

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Chairman Winters said, "Thank you. Is there anyone here today who would like to address the Board of County Commissioners on this zoning case? Is there anyone here who would like to address the County Commissioners on the zoning case concerning property on K-15? Seeing no one, we'll reserve discussion to staff and bench. Commissioners, other questions or what's the will of the Board?"

MOTION

Commissioner Schroeder moved to adopt the findings of fact of the MAPC and approve the zone change and CUP, subject to the recommended conditions; adopt a Resolution and authorize the Chairman to sign.

Commissioner Hancock seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Now if you would come back to Item E-1 please."

- 1. CASE NUMBER CU-387 - CONDITIONAL USE PERMIT TO ALLOW A WHOLESALE GREENHOUSE, LOCATED NORTH OF MAPLE ON THE EAST SIDE OF 151ST STREET WEST.**

SLIDE PRESENTATION

Mr. Krout said, "The black outline tape here represents 13.7 acres. This is 151st Street West, this is Maple, so this is north several hundred feet of the northeast corner of the intersection of 151st and Maple. This is out in the west part of the County, about a mile west of the Wichita City limits.

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“It is in the area that the Planning Commission and the City Council and the County Commission have discussed in terms of commercial policy and we’ll talk about that in a minute. The use of the tract today is an agricultural use. The current owner also has a property that extends south of Maple and there is an existing home on that property to the south, that's part of the proposed overall acquisition site, but this is the portion of the parcel that would have some use for the proposed greenhouse operation.

"The property is zoned R-1, that is Suburban Residential category. All of the general area is also zoned in the R-1, Suburban classification with the exception of this red piece in the County on the north side of Maple, west of 151st is a KOA Campground on the frontage of that facility is zoned light commercial. In terms of the character of the area, I think the photograph will probably give you a better picture overall. There is the KOA Campground that we talked about. There are suburban subdivisions developed primarily some years ago to the southeast and the southwest, both on the south side of Maple. There are other scattered homes to the west. There are a couple of homes here that are more or less on a ridge line that is about 25 feet or so higher than the elevation of this land which is lower. There is a creek that runs through this area that has considerable drainage. The nearest property of a different ownership is a property located to the east about 600 feet from this tract. So you have a pattern which really is mixed in terms of homes on large acreage, suburban subdivisions, a little bit of commercial development and agricultural use basically to the north and the northeast.

"The request is for a conditional use for a wholesale greenhouse operation. The request was originally heard by the Metropolitan Area Planning Commission in January and then because of the City Council requesting the policy on commercial development to be studied, after some discussion and the consent of the applicant at that time, the Planning Commission voted to defer consideration of it and to rehear the case after that policy study was completed. I don't know that I would say that the policy study is completed, but I think it was completed to the extent that at least the Planning Commission had dealt with the issue and rescheduled the Planning Commission to rehear this case on the next session after the Planning Commissions discussion about that commercial policy. So it was last month that the Planning Commission reheard this case. We had new notice and they reheard the case. There were some amendments to the original application that the Planning Commission heard at that time.

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"The proposal, and I think the site plan is probably the best way for me to describe this. The proposal is to construct three greenhouse buildings, one, two, three. Eventually, the applicant desires to come back in and request an expansion if the facility with the three greenhouses are successful. Originally he asked for five, but in order to develop a track record for a use of this site and also in order for the vegetation that they plan to become more mature, they have agreed to reduce the application to these three buildings, which is what they intend to build and use over the next 10 to 15 years anyway and when the screening matures on the north and the west boundaries, they would probably come back in and request an expansion of that use.

"These are labeled eight bay, eight bay, and ten-bay buildings. Each bay of the greenhouse in this proposed design is about 20 feet wide and 128 feet long. So 20 feet times eight times 128, represents an eight bay buildings and so there are three buildings that are each comprised of several of these 20 foot bays put together. The buildings are set back according to this, at least 100 feet from the right-of-way of 151st Street. There are a parking, driveway and loading area along side the west portion of those buildings. The site would be screened on the 151st Street frontage and on the north frontage where it is open today by a double staggered row of evergreen screening. Each row would have trees 15 feet apart and five to six feet tall. At planting time, there would be an eight foot tall berm constructed along the east frontage to protect the property to the east. This shows the access on the southern portion of the property. The applicant intends to build a home that would be part of the ownership of the greenhouse operation and would be close by to help manage the operation. The area to the south then is primarily flood plain, heavily wooded flood plain and this is where the existing house is, near the corner on Maple Street. There is a lake that is part of the flood plain area further to the east on part of that property.

"That gives you an indication of how the site is to be developed. All of the area except for the drive and parking area along the 151st Street frontage would be grassed area in between the buildings. The applicant intends to grow tomatoes in these greenhouses by the hydroponics method for sale and distribution primarily, as we understand it, to local grocers. In terms of the scale of the operation, that would require a manager for each of these greenhouse buildings and up to four employees. So a total of 15 employees would be occupying these three buildings at any one time.

"Staff recommended approval of this request. We recommended approval back in January. We reassessed it after the commercial study. We had some more questions and then the second time, we recommended approval again.

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“First of all, in our opinion, this kind of operation doesn't fall under the kind of commercial development that we were talking about when we were talking about commercial development for the whole area west of Maize Road. What we had in mind were grocery stores and restaurants and commercial development that were going to provide local services to a rapidly growing urban population we do expect to eventually develop in this general area. That kind of commercial development requires commercial zoning. It is much more intense in terms of traffic and employment and hours of operation and those sorts of things than the operation we are talking about here.

"This use, as it was termed by some of the Planning Commissioners and I think we agree with that assessment, is really a type of a farming operation. In the zoning code, it doesn't require commercial zoning. It is permitted by Conditional Use in the Rural and Suburban Residential districts. It is under the classification of agricultural sales and service and so agricultural related uses, some are allowed by right, most open land uses, but uses like this are permitted by Conditional Use. They are considered to be generally compatible to suburban and rural residential areas and developments, but have to be reviewed on a case by case basis and maybe specialized conditions based on the particular site conditions that would apply. There are some communities that permit greenhouses in suburban areas by right, right along with agricultural uses. The County's Zoning Resolution, since back in 1958, decided that it could very well be compatible in a residential district but it should be looked at on a case by case basis. I think it is farming under a roof. You have farm buildings of this type on a farm operation, but not as much percentage of building coverage on a site of this type. So it is more intensive in that sense, but we felt that it was a farming operation, it was not all that different in appearance from the character than you would see in rural areas of farm buildings and all kinds of farm buildings and accessory buildings.

"The use in terms of the scale of it we felt, and the intensity of it, was much different than a typical commercial use. The three greenhouse buildings would each generate the equivalent of a single family house in terms of traffic and so the traffic generation from this total use is about the equivalent of three dwelling units on this 13.7 acres. The applicant indicated in the nature of the operation that the truck traffic would also be very limited, would average about one per day and the trucks would be limited in size. We're not talking about semis coming and going, we're talking about small trucks and the type of the truck is one of the conditions of approval, puts a limitation on the kind of truck, recognizing that at least for now, 151st Street is a sand and gravel road and so we didn't think that either the volume of traffic or the type of traffic was something that would be a big impact to the surrounding property or to the community facilities.

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"The operation would be confined to daylight hours. The applicant agreed that there would be no outside storage of materials or equipment on the site. The entire facility would be inside. The applicant agreed to a number of other conditions, including maximum building heights. The height to the roof of the proposed greenhouse buildings would be 20 feet, other buildings limited to 35 feet. In the County Zoning Resolution, you can have buildings in this district that are 45 feet and agricultural buildings can be even taller than that, silos and barns.

"There was concern expressed at one or more of the hearings about the fact that sometimes these types of greenhouse buildings oxidize over time and they tend to yellow and look unsightly after a period of time and the applicant has agreed to use some material that has been demonstrated to be resistant to that kind of oxidation so that the sightliness problem should be dealt with in that manner. We recommended approval subject to those conditions. The Planning Commission had their second hearing last month. At the second hearing, the neighbor to the east testified, who has the closest home to this property, testified in favor of this request. He felt that this was as compatible or more compatible and would be as good a neighbor as the residential development that might otherwise occur on this site. There were several property owners to the south, the southwest and the west of this tract who testified in opposition. You have the minutes of the Planning Commission hearing. There were a number of concerns that were raised. One was they felt that this was a commercial use and that is was out of character with the generally residential character of the area as they saw it. Second, that it would devalue their property, especially the property owners to the west who have large acreage, who intend to maybe divide off some of that land for sale and development sometime, felt that this would reduce the sales value of the property if they chose to do that.

"Those same property owners to the west indicated to the Planning Commission that because they are sitting higher than this site, about 25 feet higher, that despite the evergreen screening, they'll still be able to view the roofs from their location. Their homes are both I think more than 1,000 feet from this tract, but they will both have a view over those trees and onto the roofs of the greenhouses and they felt that view would be unsightly and it's not what they expected when they acquired their properties. Last, there was concern expressed by one resident to the south about the possible environmental affects. This operation involves fertilized water that runs through the facility and on a computerized basis provides nutrients to the tomatoes and at points in time there is a flush in the system and that water is collected into a pond and the concern was, what happens to the water at that time and how do we know that there won't be any pollution of the ground water or any run-off into the nearby stream that would pollute the stream.

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“We had not consulted with the Health Department at the time of the Planning Commission meeting but we have since talked to the Health Department about it. We do have representatives of the Health Department here to address any concerns that you may have about that issue. They met with the applicant after the Planning Commission meeting and felt that this, to my knowledge, this is not something that can't be handled, and we recommend that if you approve this, that you simply add a condition to the recommended conditions of the Planning Commission that prior to issuance of building permits, the Health Department should approve all plans for the handling of waste waters on site. They've talked about the possibility of a lime pit situation and using that water to help fertilize the screening materials that would be along 151st and the north property line. I think that the Health Department officials can address that in further detail.

"The Planning Commission voted 11 to 1 to recommend approval of this request. If you read their minutes, in terms of their findings, they referred to the staff comments and agreed that this is basically a farming operation. It was intensive of a nature that was similar to other commercial uses that they had been talking about earlier. They pointed out that the height and scale of buildings could be as much for agricultural uses that are allowed by right. One of the Planning Commissioners compared this to the research station, if you're familiar, and I'm sorry I don't have a slide of that, but there is a greenhouse complex on North Meridian, north of 53rd Street, on the east side of the street near Valley Center. If you can picture it, it's between two residential subdivisions and it is a well kept, well maintained landscaped area and doesn't have appeared to have presented a problem for the nearby development in that area. The Planning Commission vote was 11 to 1. There were protest petitions that were filed though and the pink area represents the area within 1,000 feet of this tract and the area that qualifies for the calculation of protest and the protestors involved constitute well over the 20% that is required to force a 3/4 vote of the County Commission, which means four votes of the County Commission are required to override this protest and to approve the conditional use of the greenhouse operation.

"Let me go through the slides quickly for you. You can tell this slide was taken before the first hearing and we're looking now from 151st Street east across the site and this is the house to the east. This is the owner who would be protected by a berm and did testify at the Planning Commission hearing in support of this request. This is the site itself and to the south of the area, while there will be screening along 151st Street to fill in this area to the south is a very heavily wooded area along the creek. It is near the intersection of Maple and 151st. We're looking again south, way down over there you can see the stop sign at 151st and Maple and so this is the southwest corner of the site probably.

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"This is looking across 151st Street West at the property, one of the properties, a large acreage on the west side of 151st. This is a dam for a pond and behind that dam is part of the drainage; that is at the intersection in general."

Chairman Winters said, "Marvin, could you back up? That is a house there?"

Mr. Krout said, "Yes, I think you can see in the background there is a house and that house is several hundred feet further back and more or less on a ridge, close to Maple, which probably is..."

Chairman Winters said, "And that would be looking toward the KOA Campground?"

Mr. Krout said, "That's right, that's looking west and we do have a picture of the KOA Campground somewhere in here. This is looking to the north and west and so these again, are the acreage properties. This is looking further north up the road and again, this is looking straight north on 151st Street with a site in the background and agricultural use as far as you can see to the north and east from the tract. This is the house. We have a prospective purchaser who would be the greenhouse operator and that prospective purchaser, as I understand it, would also be purchasing the whole acreage including this house, which is part of the overall ownership and this is a house that sits on Maple, east of 151st Street, the creek kind of bends behind that house. So it is separated by the creek and the wooded area from the proposed greenhouse operation. That's the house that we just looked at and that is the house to the east. I guess we didn't have a picture of KOA, but this is KOA and there is a house here and a house here and those property owners both protested at the Planning Commission meeting, along with the City's Traffic Engineer who lives right here and a property owner who I think lives in Maple Hill."

Commissioner Gwin said, "So, excuse me, on the protest then, the protest map that you showed, could you put that back up again, can you get back to that? Alright, thank you."

Mr. Krout said, "Can I answer any other questions?"

Chairman Winters said, "I see no other questions right now Marvin."

Commissioner Hancock said, "I have a quick one."

Chairman Winters said, "Okay, go ahead."

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Commissioner Hancock said, "Light commercial is there, what is that Marvin, do you know?"

Mr. Krout said, "That's the KOA Campground. I think the campground actually extends further to the south but at least the frontage is zoned light commercial."

Commissioner Hancock said, "Okay, thank you. Thank you Mr. Chairman."

Chairman Winters said, "Okay, thank you very much. At this time, we'd like to hear from the people who are here who would like to speak to this issue. First I'm going to ask either the applicant or the applicant's agent to come forward and remember that we're limited to five minutes, so please come forward and begin please."

Mr. Phil Meyer, Baughman Company, agent for the applicant, said, "With me here today is Diane MacNair with Ramsay Farms, who is the contract purchaser of this property. Also with me is Mr. & Mrs. Moses who is the present land owner and Dennis Schmidt, who is representing them as their agent/realtor. I don't think the owner plans on speaking but if you have any specific questions, he'd be glad to answer them for you. If the Commission does not mind, I'd like to pass around these photographs."

Chairman Winters said, "Yes, we'll take a look at them."

Mr. Meyer said, "Those photographs, although it is kind of a large and awkward board, is a panoramic view of the surrounding site. In taking those photographs, we took them standing on the site of the application area. When we're looking east, we're kind of standing over to the east side of the site. When we're looking west, we're over on the west side, but it is all taken on site. Looking to the east, south, west and then the north sides of the site. We would like to point out and have you pay special attention to the two home sites that are noted on there, the O'Brien and the Owen residence. Their location is shown on there. The O'Brien residence, both of these home sites, have protested this project. The O'Brien residence is more than 1/8 of a mile away and the Owen residence is a little over 1/4 a mile away. In working with staff on this project, after the first Planning Commission meeting, the applicant did agree to a rather lengthy deferral. I think as you looked at the slides that Marvin showed you, the time since the staff originally took those slides when there was snow on the ground kind of depicts the amount of time that they have deferred it. After the deferral, staff and Marvin had rethought the process of whether they should really support this application and they really did think through it rather extensively."

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“At that time, we sat down and met with them. We agreed to increase the amount of buffer on the west and the north side of the project going to the two rows of Junipers. Each plant will be planted at a five to six foot height, 15 feet apart, per row, so in essence, we have one plant every seven and one-half feet to supply a very nice buffer to the properties around it. We plan on irrigating those plants with some of the run-off from the greenhouse operation, so there will be irrigation to help the growth of those plants. At that time, we also agreed to reduce the size of our project. We had gone in and asked for an application with five greenhouse buildings. We agreed to reduce that back to three. One of the reasons that we did that, in having the contract purchaser or applicant explain to Marvin the process they were going through in their development, they had a 10 year plan on their project. Of course, they had gone to the bank to get the funding and all and the ten year plan was with three buildings and so we agreed to come back to the three buildings. That allowed them a chance to build a track record and when they want to expand in the future and come in and ask for it, they'll have a track record behind them and that does not scare them at all. They do plan on developing this in a positive manner.

"There is a flood plain on the very south part of the application area. It is where we're showing tract B on the site plan and where the single family house will be built. We really are not intruding into this flood plain and that should not be a consideration on this. We're actually helping protect it a little. This use, again, would be less density than a single family development. We have agreed with staff that we will supply a sketch plat of how we can come back in and subdivide this property later into urban standards and put that on record. The density that we would be producing out of this property would be less than if it was developed into single family homes. This is not a typical greenhouse operation. I had worked in a greenhouse when I was younger, a greenhouse nursery, and am kind of familiar with a greenhouse operation and that's what I had in the back of my mind when I first started working with the applicant. The more that I worked with them, the more I realized that this is really a farming operation. They are farming tomatoes, 365 days a year, they're going to be producing tomatoes that are going to be distributed regionally around the Wichita area. They have met with several supermarket chains and discussed the product with them and see a demand and a use for this product.

"It is not your typical greenhouse. These, I will pass this around to you. This is a sample of the material they are going to use on the side of the greenhouse. It is not the plastic, it's not the glass that the old greenhouses were. It doesn't oxidize, it looks just like that ten years later and this is a photograph.

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On the photograph, that material was used on the roof, it was plastic on the sides, but that material was used on the roof. This applicant is planning on using that material both on the roof and the sides, the complete greenhouse will be built out of that material.

"Diane MacNair has contacted the Health Department and talked to them. She'll be glad to answer any questions you might have about any environmental concerns. We're in agreement with the eight conditions by staff that were put on this. We have no problem with that. The last thing I'd like to point out to you is that this really is going to end up being a family operation. On tract B here, we show a single family house. That is for the property manager of the greenhouses and that is planned on being the Ramsay's son or Diane's brother would live there and manage the greenhouses."

Chairman Winters said, "Excuse me, Mr. Meyer, how much more time do you need."

Mr. Meyer said, "Thirty seconds."

Chairman Winters said, "Okay, go ahead."

Mr. Meyer said, "Diane and both of her parents plan on living in the existing house on one of the slides, it's along Maple Street, so they are going to be out there living around this operation and running it as a family business. Be glad to answer any questions you may have."

Chairman Winters said, "Okay, thank you Mr. Meyer. Are there any questions of the speaker? Seeing none. Thank you very much. Is the applicant here and would like to speak to this?"

Ms. Diane MacNair said, "Thank you Commissioners, I don't intend on being redundant but some of my preparation has already been covered so I'll try to make it as quick as possible."

Chairman Winters said, "Could you give your name and address for the record please."

Ms. MacNair said, "Diane MacNair and it is 9103 West 18th, Wichita, Kansas. I appreciate the opportunity to present the development of our site plan and it has been an ever changing process but one I hope that will relate to you the length that we have taken to address the concerns of the surrounding community."

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“As to the appearance of the site, I have agreed, at significant expense, to plant a double row of Junipers along 151st and along the north boundary. I have reduced the scope of my operation by 40% until I have developed a track record in which time I hope to come back in and ask for an extension. The site location will be planted to grass in every location other than the driveway, parking, loading area, and greenhouses. It is extremely important to maintain the surrounding area of a greenhouse to reduce contamination from dirt, seeds, or any other unwanted contaminant. A controlled environment growing requires the highest standards of sanitation possible. As the appearance of the greenhouses themselves, you've seen the sample. This again, is an added expense that I've agreed to. It is a polycarbonate. Polycarbonates will not yellow and discolor as some of your typical acrylic resins normally used in greenhouse products. The height of our greenhouses will not exceed 20 feet. No light will be used for nighttime growing because the vegetables need a period of rest just like we do and the only lighting will be for security purposes.

"Another concern I addressed was the amount of traffic. I have here a picture that shows the standard size of delivery truck used in this type of facility. It is a 15 foot straight bed truck. There would be no more than six trips per week. The weight of the truck and the amount of trips would not have any significant adverse affects on the existing road. Another concern that deserves attention and has been addressed is the environmental impact. The run-off from a hydroponic system will be utilized and can be compared to a weak solution of water and fertilizer that many of you have sprayed on your lawns. The buildup of nitrates that is often a concern is usually addressed for those growers who use a recirculating system. That is where the feeding solution is recycled through the plants more than once. We are not using that technique. We have agreed, at additional expense, to recycle our run-off to the surrounding landscape of junipers which will in turn create a much healthier and rapidly growing tree row and eliminate any run-off from the greenhouse altogether. The use of herbicides which are widely used in conventional farming out in the open are not required at all in a controlled environment situation. Insect control is mainly done by the use of beneficial insects that feed on harmful ones, so the use of pesticides is held to a minimum if necessary at all.

"The history of my family is in farming and that is what this operation is, a family farm. Small family farms are disintegrating before your eyes because of high overhead and low return. Soilless agriculture is an answer to a small family farm that addresses the concern of consumers who have concerns about chemical uses on their food products. The area Dillons stores are anxious to have a supplier of vegetables from someone who can deliver upon demand a great tasting product with excellent service.

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“They currently rely on suppliers from California, Mexico and Florida that pick produce green and gas it to turn to color. The closest operation of our kind is 200 miles away and is currently taking your dollars up north to supply jobs and income to people who buy their products and services some place other than Wichita. We just want to continue doing what we do best, that is farm and to fill a need that is not currently being met in this market. In closing, I'd like to tell you that I have developed an extreme appreciation for the job you people do. It is not easy to please the masses, and the very best we can hope for is a satisfactory compromise that improves or at the very least upholds the integrity of the existing quality of life. I have made generous moves to accommodate every concern, real or imaginary, to hope that we have shown you that Ramsay Farms produce will be an addition to this community that increases economic base and supplies a commodity that is truly environmentally friendly and positive. Thank you for your consideration.”

Chairman Winters said, "Thank you very much. I see no questions. Thank you. Is there anyone else in the audience who would like to speak in favor or support of this application? If so, please come forward."

Mr. Jim Snook, 14800 West Maple, Wichita, Kansas, said, "I am the resident directly east of the plant of the proposed greenhouse. I support it. I think she's got a good concept. The Ramsay's seem like fine people and I would prefer to have a smaller density of people and neighbors rather than the County's compacted version of the 18 or 20 homes within that area there and I think they'd be good neighbors. That's all I have unless you have any questions."

Chairman Winters said, "Okay, thank you very much. I see none. Thank you. Anyone else who would like to speak in support of this proposed application? Seeing no one, we'll turn to those who may be here and would like to address the County Commission in opposition. Is there anyone here who is opposed to this application? If so, would they come forward. Thank you. Come right ahead to the microphone. Give your name and address and remember that we're limited to five minutes."

Mr. Kevin O'Brien, 15414 Maple, Wichita, Kansas, said, "I own 28 acres directly west of the property in question. I would like to say good morning and I'm here today with some of my neighbors to ask you to disapprove the MAPC's recommendation to approve CU-387, the conditional use permit for a greenhouse at 151st and Maple. Approval would be tantamount to endorsing non-conforming use of the property."

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“It is clear, the staff and MAPC have failed to consider all the factors and have erred in recommending to you this conditional use permit be approved. I sincerely hope the Board of Commissioners, being elected officials, will be more objective and will listen and respond to what the residents of my neighborhood desire.

"Since I am sure you rely heavily on staff reports and minutes of meetings, I must alert you that some of these documents pertaining to this case contain incorrect information or have been edited to remove improprieties. The staff report wrongly depicts this area as being primarily agricultural. There is limited agricultural activity, but this area definitely is and has been residential for many years. The Maple Hill Addition to the southeast and the Miles Westwinds Lakes Addition to the southwest, both are considerably less than 1,000 feet away from this property. They have been in existence for well over 20 years, yet the staff report describes the use as quote "developing suburban residential subdivisions." To my knowledge, no lots have been available for many years in the Miles Westwinds Addition and none of the vacant lots in the Maple Hill Addition are on the market. If this area were truly agricultural, you might have found maybe four or five names on the certified ownership list, not 31.

"On page 12 of the minutes of the meeting for April 25, Jim Snook is shown as responding to Chairwoman Osborne-Howes question, is there anyone else here to speak in favor of this request? Mr. Snook's testimony was conveniently placed here to cover up the fact that they had allowed him to get up and speak after closing the floor. Mr. Snook's testimony belongs over on page 17 following the word applicant when Chairwoman Osborne-Howes question is there anyone here to speak against this request. Allowing Mr. Snook to speak out of order, the opposition was denied an opportunity to comment on his testimony.

"I can understand the need to make meaningful sentences out of those that are not when transcribing these notes. This, clearly, is not the case. Several paragraphs were moved forward, correction, backward, five pages or moved up forward five pages. I would also like to relate to you a couple of items relative to the MAPC hearings on this case. On the 25th of January, after waiting well over three hours, the eight Commission members who were still there heard testimony from myself and many of my neighbors in opposition to this request. At the conclusion of the testimony, the Chairperson asked the applicant and her representative, Phil Meyer, if the Commission should take a vote or did he desire to defer this request until after the City, County public hearing, amending the comprehensive plan. Mr. Meyer, after consulting with the applicant, indicated that he desired a vote be taken.

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“Prior to completing the polling of the Commission members, when the number of no votes indicated the request would be denied, Mr. Meyer jumped up and went to the podium, interrupted the polling process before it was completed and said the applicant desired to defer her request. The MAPC then agreed to the deferral. I feel the MAPC’s action was totally improper and unfair and I question the legality of it. Obviously, had the Commission’s vote been favorable, you can be sure the applicant would not have requested a deferral.

"On April 25, 1996, this request was heard again by MAPC. The MAPC completely reversed their prior position, voting 11 to 1 in favor of granting the request. The only thing that had changed was the applicant was going to reduce the number of greenhouses from five to three with the understanding that she could come back at a later date and increase it to five. One could only surmise if this reversal is attributable to the extensive lobbying of the staff and MAPC members since the prior hearing.

"Commissioner Miner's abandonment of his original position on this position goes unexplained. On page 87 of the minutes of the meeting of January 25, Commissioner Miner states at this point if I had to vote it would be a no vote mainly based on neighborhood opposition, so if the applicant wants information on our feelings, this is where I'm at. On page 21 of the minutes of the meeting on April 25, Commissioner Jim Miner states, I am now in a positive frame on this."

Chairman Winters said, "Excuse me. Mr. O'Brien, how much more time do you need?"

Mr. O'Brien said, "Maybe two minutes."

Chairman Winters said, "Okay."

MOTION

Commissioner Schroeder moved to approve two additional minutes.

Commissioner Gwin seconded the Motion.

There was no discussion on the Motion, the vote was called.

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VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Proceed please."

Mr. O'Brien said, "Commissioner Jim Miner states, 'I am now on a positive frame. Prior to that, I think that the two things that influenced me was recognizing, except for maybe the density of the buildings, this is a farming operation. I think when I drove up north to 53rd Street last week and just by coincidence, there was a very neat, well kept greenhouse with a nice sign in the front yard, and some kind of growth inside, Karla may know what it is, and then he goes on to say it was not offense. Prior to that, I was thinking about something that would just deteriorate but that was too well kept and I would hope this will be well kept too. I'm voting in favor of this one."

"All the items that I'd like to consider is the zoning regulations, there are factors to be considered when a conditional use permit is requested and in this case, I think MAPC has turned a deaf ear to the neighborhood opposition. As you know, 25 of the 31, representing 80% of the property owners on the certified property list, signed protest petitions. If you want to bring that slide back up, it really wasn't that clear to me, the blue area, but the pink area represented the 80% of the surface area of the people that were protesting and were not in favor of this. These 25 property owners account for well over 68% of the area in the 1,000 foot boundary. This is over three times the 20% required for the 3/4 vote. These 25 property owners equate to 49 voters and then some. Allowing the construction of these commercial greenhouses in a residential neighborhood such as ours would reduce the value of our residences and vacant land that is now prime for residential development. Your own staff report indicates the plan to plot the area surrounding the greenhouses. This is not consistent with the Comprehensive Plan for the area. I have been looking at developing the 20 acres that I have to the west. I have a sketch plat that was done about a year."

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Chairman Winters said, "Mr. O'Brien, do you have some final points. I want to give you every opportunity, but we do have to try to follow our rules and procedures because if everybody took 30 minutes, we'd be a long time. Do you have just a final point that you'd like to make?"

Mr. O'Brien said, "Yes, I feel the factors were not addressed. The screening that was proposed is inadequate, the five or six foot junipers. This is totally inappropriate for a residential area."

Chairman Winters said, "Can you show us where your house is presently?"

Mr. O'Brien said, "This lot up here."

Chairman Winters said, "Commissioner Schroeder has a question."

Commissioner Schroeder said, "Mr. Chairman, if you please. You can sit down, I don't have a question unless Melody does."

Commissioner Miller said, "I do."

Commissioner Schroeder said, "Okay, then let her go."

Commissioner Miller said, "Mr. O'Brien, do you garden?"

Mr. O'Brien said, "No, I have flowers."

Commissioner Miller said, "Okay, but you do not vegetable garden."

Mr. O'Brien said, "No."

Commissioner Miller said, "Just needed to know that, thank you sir. Thank you Mr. Chairman."

Chairman Winters said, "Commissioner Schroeder."

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Commissioner Schroeder said, "Mr. Chairman, if you please. I heard the comment about interrupting the vote and having a discussion and that got my attention so I went back to the minutes that are provided in our backup and I was reading it and it says Miles moved and McKay seconded the Motion. Mr. Krout said 'before you take a vote' and I thought somebody alluded to or Mr. O'Brien, you alluded to the fact that the vote was interrupted, but it had not started yet, is that correct?"

Chairman Winters said, "Marvin maybe could address this, but I think we're talking about different meetings. The meeting that I think Mr. O'Brien was referring to was..."

Commissioner Schroeder said, "Do we have the minutes to that?"

Chairman Winters said, "Marvin, would you come back to the microphone? Would you discuss what happened at the very first time that this was discussed before the MAPC?"

Mr. Krout said, "Well, sorry Mr. O'Brien hadn't set down with me to explain what his problem was, because I can't find the pages he is referring to in the minutes. My pages don't go up as high as his do, so I can't explain everything. What I can tell you is that the Planning Commission did talk about and it is not uncommon for them to have some discussion about where they are before they actually take a vote on the case and I think that's..."

Commissioner Schroeder said, "You mean the Motion may have been made and they had discussion."

Mr. Krout said, "I don't believe there was even a Motion made on the case."

Chairman Winters said, "I don't remember what the day was, but it was the day that you and I ended up, Marvin, out at the Farm Bureau talking about ag zoning over the entire County, was the day that this was first heard and if that was the time where Councilman Ferris was asking that the case at 151st and Maple be deferred while we all think and talk about the Comprehensive Plan. I think that was the meeting where the discussion was begun and then the applicant withdrew to facilitate this discussion."

Commissioner Schroeder said, "This was the January 25 meeting?"

Chairman Winters said, "Correct."

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Mr. Krout said, "City Council made the Motion on January 23 to have the study and based on that request, that is what I brought at the first meeting, brought that to the attention of the Planning Commission and suggested that maybe it would be appropriate to defer it and that's what the Planning Commission did."

Commissioner Schroeder said, "Okay, so tell me again. A Motion was made to what, originally? According to your minutes?"

Mr. Krout said, "A Motion was made to defer and that was the only Motion that was made on January 25."

Commissioner Schroeder said, "That's on page 16 and I'm looking at that right here. Mr. Haggard moved and Consolver seconded, correct?"

Mr. Krout said, "Right."

Commissioner Schroeder said, "Okay. So there was no Motion made to approve or deny it and it was interrupted by conversation and then the process was changed? That's kind of what I thought I heard."

Mr. Krout said, "Now there was discussion and there sometimes is discussion among Planning Commissioners before a Motion as well as after a Motion to determine how they feel about a case."

Commissioner Schroeder said, "We do that here."

Mr. Krout said, "I don't know if there were enough people who spoke in that discussion that you could have actually counted a straw vote from that or not, but there were at least some Commissioners who expressed reservations at that January meeting and said that they were not going to be prepared to vote to approve it if they had to vote with a Motion to approve it at that January meeting."

Commissioner Schroeder said, "Okay, thank you. Thank you Chairman."

Chairman Winters said, "Thank you. Commissioner Miller."

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Commissioner Miller said, "Yes, Commissioner Schroeder, I also would like to refer to the January 25 minutes and under Krout there is also a comment that is made that says that the majority of those voting on zoning matters, I know it sounds strange and plats are different, but the majority of those present and voting, it would be recorded as a recommendation of approval or denial, five out of eight. There was also a question of quorum at this particular meeting and that was something that I had questions about. How many Commissioners were actually present to vote on the deferral?"

Mr. Krout said, "There was a quorum. Where was the statement about five out of eight that you're referring to?"

Commissioner Gwin said, "Page 15 on our backup minutes. It's page 75 of our backup."

Commissioner Miller said, "The January 25 meeting."

Commissioner Gwin said, "Right, and Osborne-Howes said right after Marvin that, 'we have to have eight here for a quorum'. I think your point is well taken."

Mr. Krout said, "I think there was a quorum. That wasn't the reason they deferred the case, they did have a quorum at the time."

Commissioner Miller said, "Okay."

Chairman Winters said, "Commissioner Miller, does that answer your question?"

Commissioner Miller said, "That does answer my question, I just wanted to make sure of that."

Chairman Winters said, "Thank you. Does anybody else have a question of Marvin? Thank you Marvin. Is there anyone else here who would like to speak in opposition to this conditional use permit. Yes, come forward please. Please state your name and address for the record and we'll try to limit your comments to five minutes."

Mr. Pere Owen, 151 S. 151st West, Goddard, Kansas, said, "I have lived in my present home for over 20 years. I selected my property that many years ago because of the view it had. You need to understand the topography of this area if you're not acquainted with it and I'll get back to that in a moment."

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"I made a considerable investment in my property over 20 years ago. I have raised my children there and it is a residential area. If I would use the term to each one of you Commissioners and I say the word agriculture, I wonder how long it would take you to come up with a greenhouse. When I say agriculture to most people in Kansas, they think of farms, open land, crops, tractors, combines on occasion at harvest time. They don't think of rows and rows of greenhouses growing hydroponic tomatoes and yet the Planning Commission, under the guise, I feel, of I think fallacy, but the guise of 'agriculture' are now letting something come in that they are calling agriculture which clearly in any one's mind we talked about agriculture would agree that lives in Kansas, as long as I have, that this is not agriculture, this is a commercial project which is growing hydroponic tomatoes, with trucks, people, crates, and selling it on the market. That is not agriculture to me by any stretch of my imagination and I certainly would hope not yours and yet this is all coming under the conditional use of this is under 'agriculture' and I just want to know if that connotation of agriculture is in your mind when I say agriculture, you're thinking of rows of greenhouses. It certainly is not in mine.

"Now I want to speak a moment about the topography of the land. I chose my property over 20 years ago because of the view it had. I could sit on my front porch and have the entire view of this building and the Wichita skyline. I've enjoyed this view and I do not want it ruined by looking down, and I'm 30 or 40 feet higher on the west. My neighbor to the south, Mr. O'Brien, and myself, own; I have 40 acres and he has 28 acres, we're talking about 68 acres of frontage to this property. We're forced to look down because our property is so much higher. I didn't bring a plat, I don't have any fancy screens, I don't have any answers for all the future, I just don't want a known residential area ruined by the start of something commercial like this. I think it will decrease the value of my property by over half. I think we have, because of the topography of the land, and the view we have of some of the prime developmental area in west Wichita. I don't have any plans. My land was plotted before I even bought it 20 years ago. I still have those plans, I didn't bring them down because it isn't important, but I think it is a prime development area and I think such a commercial project as this is going to ruin that and Mr. Snook, who lives, I might add, topography wise, below the site of this proposed project to the southeast, he is conveniently going to be given a berm several feet high, hundreds of feet long to totally screen his view of this project. I might point out that his garage faces this project, my front door faces this project.

"I am not opposed to business, I'm not opposed to family operations. This is not farming, this is a dirt road, it is going to become a quagmire in the winter time with trucks on it.

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“They could go a mile east or a mile west and be on Colwich Road with open fields, build such a project, have all weather roads to deal with, no problems at all, but I think the way Wichita is building west, I went out there years ago, there wasn't many people around, now the City limits is a mile from me and they've got developments that are going on that are just unbelievable. It won't be long before they'll be to our area. I am speaking from this because I don't want to spend the rest of my life watching, looking down on rows of agriculture buildings, oxidizing slowly through the years. Talk about screening, there's been a lot of talk with Mr. Meyer, who's very...”

Chairman Winters said, "Excuse me, Mr. Owen, your 5 minutes are up, how much more time do you need? Another minute?"

MOTION

Chairman Winters moved to allow Mr. Owens one more minute.

Commissioner Gwin seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Continue."

Mr. Owen said, "Alright, thank you. I'll be brief. Talk about the screening. Mr. Meyer is very glib of tongue in talking about all these things. when you are setting 30 feet higher looking down on something, you put up an eight foot juniper, you tell me, I've got enough gray hairs in my lifetime, it's not going to happen in my lifetime. Now if you want to bring in giant sequoias and redwoods from California, put it on top of a berm and screen my view, fine, I'd be much more pleased with this.

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“This is a joke to listen to this kind of talk to say this is screening and if they're going to expand this after the screening is developed, trees don't grow that high in Kansas. I don't care if you put fertilizer on them or not, they don't grow that high. This is going to ruin my property, it's going to ruin my neighbors property, we have a lot of frontage here and I think we need to have a right to speak to this and I think Mr. O'Brien and I, plus all our neighbors in Maple Hill and in Miles Westwinds who are totally opposed to this as well and I thank you Commissioners for this consideration.”

Chairman Winters said, "Thank you Mr. Owens. There is a question of you please. Commissioner Schroeder."

Commissioner Schroeder said, "Mr. Owen I was listening to your comments and I just want to ask you this one question regarding to what you consider agriculture or not. If a farmer and his family were to buy that land that we're talking about here, this piece, that these people want to put this greenhouse on and they build a house, put up a metal barn and metal silos, those kinds of things, would that be acceptable to you?"

Mr. Owen said, "Yes, but I think this is not going to develop that way in the future in this area. This is definitely residential and you are just about to ruin it if you vote for this project under the terms of agriculture. I know what an agricultural farm looks like, you do too. I lived with them, I've grown up with them, I've been a farmer. Sure, we have to have a place to store tractors and so forth, but this is not what we're talking about here. This is commercial under any stretch of the imagination."

Commissioner Schroeder said, "Thank you. Thank you Mr. Chairman."

Chairman Winters said, "Thank you sir for being here. Anyone else? Any other who would like to speak in opposition to this conditional use permit? Before we close the public comment portion, is there anyone else who would like to speak regarding this conditional use permit? Seeing no one, we'll limit discussion to the bench and staff. Marvin, do you have anything else to add? Commissioner Hancock."

Commissioner Hancock said, "Just one question. Marvin, as part of the conditional use permit, you are requiring the applicant to plat the property and I've never seen that before, is this part of the new Zoning Resolution?"

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Mr. Krout said, "No, it would be common to require platting. They'll have to plat to get building permits. To construct the greenhouse, you have to have a platted lot, so they would have to plat this area even if it wasn't a condition of the conditional use permit. You have to, unless you are doing a building that is permitted by use as a farm building, or you are doing residential on five acres or more, then you have to have a platted lot in order to obtain a building permit."

Commissioner Hancock said, "That is to do the greenhouses or the buildings that they were proposing?"

Mr. Krout said, "You mean the house they were proposing?"

Commissioner Hancock said, "No, there is a building that is 5,000 square feet."

Mr. Krout said, "Accessory building. I think that would be part of the greenhouse operation and just like the greenhouse, that would require a building permit."

Commissioner Hancock said, "Okay and that requires platting?"

Mr. Krout said, "Any non-residential use. The only exemptions from platting are if you have a residential tract of land that is either over five acres or over 20 acres depending upon where it is in the County, then you're exempt from platting."

Commissioner Hancock said, "Okay, it is different than it used to be?"

Mr. Krout said, "No, it's been that way in the subdivision regulations."

Commissioner Hancock said, "I'm familiar with another greenhouse case that you didn't require platting?"

Mr. Krout said, "Well, if the conditional use didn't require platting, then County Code Enforcement did before they could get a permit."

Commissioner Hancock said, "I got a permit, a permit was given."

Mr. Krout said, "Was it part of an agricultural use?"

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Commissioner Hancock said, "Uh-huh, but you're claiming this is too."

Mr. Krout said, "Well, I'm saying that is part of an agricultural use that is considered an accessory to a use that is permitted by right as a farm operation. But because this requires a conditional use, it is in a different classification. It is not commercial in terms of zoning."

Commissioner Hancock said, "But Marvin, the other greenhouse I'm talking about required a conditional use. I guess I'm not making contact here with you. There was a conditional use permit that was required but didn't require platting."

Mr. Krout said, "I would say that was probably the County's error at the time."

Commissioner Hancock said, "Okay. Thank you Mr. Chairman."

Chairman Winters said, "Thank you. Commissioner Gwin."

Commissioner Gwin said, "Marvin, a question about if I were going to buy the property, what I could do. If I were going to do a traditional farm and again, like Mr. Owen said, I think we know what traditional farms look like, houses, the farm, the storage buildings, whatever, and maybe I even wanted to plant some vegetables and sell those to people who go by, truck farming even and sell my corn and my tomatoes or my peppers or whatever. Could I do that without having permission? Could I just buy this parcel and have a traditional farm?"

Mr. Krout said, "You could do all those things on this zoning without any further public hearings, including the sale of your own products."

Commissioner Gwin said, "Okay, so I guess some of the concern is that this, the growing of vegetables, and the marketing of them, if it is wholesale, is it different than if I just sell it to the public?"

Mr. Krout said, "A farmer is probably wholesaling most of what he grows and probably his stand out at the street corner is incidental to the income that he makes from wholesaling his products. Any farm is a wholesale operation in that you're selling to people who are then going to retail those food products to the consumers."

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Commissioner Gwin said, "Well, one thing that gets to me is Mr. Owen's discussion about the meaning of agriculture and I think, as he pointed out, as we are challenged with land use and development and shrinking acreage to be used for agricultural uses then we may be forced to look at agriculture differently, I think, or come up with different methods to grow vegetables or to produce beef or other meat products in smaller areas, areas that are not quite so expansive as we are used to doing in the past. It would seem to me that the farmers of the future, if you will, are going to be looking at things a lot different than I remember the family farms or those kinds of things in the past. I think they're going to be challenged to try new things, to look at that industry and that profession differently and so I see Mr. Owen's picture but I also see a picture of a future that says just because you put a roof over it doesn't necessarily mean it's not farming anymore. It may be that those kinds of things are going to be different in the future, I don't know, I'm just looking at this issue as to agriculture and what agriculture might look like a few years from now."

Mr. Krout said, "I think you're right, and I think the issue is there some threshold in terms of the intensity of the operation where the coverage of the building and the number of employees and the traffic, in that, becomes such that you would say to yourselves, this really is more commercial in nature and belongs in a district that allows commercial and industrial uses and what the staff is suggesting to you and the Planning Commission has recommended is that this particular operation which is equivalent in traffic to three single family homes, which has limited volume and size of truck operations, which has a limited number of employees, which is daylight hours only, which involves, although a higher percentage of building coverage to the site itself than a farm, it is still relatively low building coverage than compared to a typical industrial site, a typical warehouse use on a tract of this size. This particular application hasn't hit that threshold where it is out of character and out of scale and an intrusion into this residential area. Obviously, the property owners nearby disagree."

Commissioner Gwin said, "Right. Also, on the Motion that was made on the most recent meeting at the Planning Commission meeting, they did in fact discuss several of the factors contained in policy statement number 10. One was it was not specified in neighborhood opposition or support, that is one of the factors, but not the only factors, is that correct?"

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Mr. Krout said, "It's one of the factors that I think that the Planning Commission always considers and they weigh it along with the other factors and supporting this case, because there was neighborhood opposition, they didn't refer to it as a reason that they were voting in favor of it because they realized there was neighborhood opposition, but I think that when they looked at issues like the staff did, like the character of the area, of the lack of the impact upon community facilities, lack of evidence of detrimental affects."

Commissioner Gwin said, "Conformance to plan."

Mr. Krout said, "Conformance to plan. They felt that the other factors weighed heavily towards approval."

Commissioner Gwin said, "Thank you. Thank you Mr. Chairman."

Chairman Winters said, "Thank you. Commissioner Miller."

Commissioner Miller said, "Marvin, I have a couple of questions. The acreage involved here is about 13.7, is that correct?"

Mr. Krout said, "Yes."

Commissioner Miller said, "The actual site that the, or acreage, that the greenhouses will take up is about what, per greenhouse? Half acre?"

Mr. Krout said, "Do you know what the total building coverage is? 120 by 160 something."

Commissioner Miller said, "Does anyone want to compute that into acreage? Oh, he's doing it?"

Mr. Krout said, "About half an acre."

Commissioner Miller said, "Okay, about half an acre per greenhouse is what we're talking about here? Per greenhouse? Okay, I needed to know that. Is the property currently cultivated now? Did I see wheat, milo, something planted there?"

Mr. Krout said, "It's being planted now."

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Commissioner Miller said, "So it has been cultivated in the past?"

Mr. Krout said, "Yes."

Commissioner Miller said, "So that has not been a problem, okay. I am thinking along the same lines that Commissioner Gwin has articulated very well, that farming has no doubt made some changes and when I asked, I think it was Mr. O'Brien, if you did have a garden and you said at some point you did but you don't now, or currently your wife gardens flowers. I was thinking along the lines of a ½ acre garden that someone that owns X amount of acres would possibly put in and work and farm it and produce and in this instance, it sounds as though it is somewhat similar to that with the exception of it goes beyond just casual hobby, instead it is going to produce a profit and a product for businesses that are in and nearby our fair City here and County. Yes, it will be enclosed for reasons that would make that type of a farming endeavor most, the climate would be most conducive to produce it year round, so I am leaning in the direction of being in favor of what the MAPC has agreed to and be supportive of this conditional use permit. Thank you Mr. Chairman."

Chairman Winters said, "Thank you Commissioner. This has been a difficult case because I can clearly see both sides of this issue and understand both sides, I believe. It is important to me to listen to the staff and their recommendation and the Metropolitan Area Planning Commission, which is made up of citizens that try to view these kinds of requests from all sides, so I think that those two recommendations of approval certainly speak very strongly. Commissioner Hancock."

Commissioner Hancock said, "Thank you. Marvin, if I live in a suburban area, much like the citizens who spoke today, might be just 10 acres that I live on and if I were to decide that I wanted to put a greenhouse in for my use, non-commercial, would I require a conditional permit then?"

Mr. Krout said, "No."

Commissioner Hancock said, "It is commercial use that requires it?"

Mr. Krout said, "Wholesaling as it wouldn't be considered accessory and incidental to your residential use of the property. This is a business, just as farming is a business and that's why."

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Commissioner Hancock said, "Okay, because I'm trying to clarify in my mind what the deal was here. Okay, thank you. Thank you Mr. Chairman."

Chairman Winters said, "Thank you. Commissioners, is there other discussion?"

MOTION

Commissioner Gwin moved to adopt the findings of fact of the Metropolitan Area Planning Commission (MAPC) and approve the conditional use permit subject to the recommended conditions; adopt a Resolution and authorize the Chairman to sign and instruct MAPD to withhold publication until the appropriate conditions have met compliance. In addition, they must obtain approval from the Health Department with regards to waste water disposal.

Commissioner Hancock seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Marvin, before we proceed, do you have any idea how long this last item will take? Is it going to be a quick one? Let's proceed with the next item please."

3. DOWNTOWN DEVELOPMENT PLAN AMENDMENT.

Mr. Krout said, "I do believe this is going to be a quick one. We told the Planning Commission and the City Council we thought it was a bookkeeping type of amendment. The City Council has to transfer the property for the Science Center to the County's Building Commission in order to build the facility and that site is under the State laws governed by the urban renewal act.

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“That property was acquired through the urban renewal act so it is subject to the State urban renewal act provisions. One of the provisions says that the land that is transferred, that is acquired under those provisions, has to be used in a manner that is consistent with the adopted urban renewal plan when the City acquires land under urban renewal, they have to have a plan and they have to use the property consistent with that plan. They adopted a plan back in 1972 for that site and a larger area of the downtown and that site was proposed for industrial uses and has remained so since 1972 on the official urban renewal plan map. In order to use that land for the Science Center, we need to change the urban renewal plan to reflect the intended use. In order for the City Council, under State law, to amend the urban renewal plan, they have to make a finding, the amendment to the urban renewal plan is consistent with the general plan for the community or the Comprehensive Plan. An element of the Comprehensive Plan we're talking about was adopted in '89 by the Planning Commission under the provisions then that didn't require them to go on to the County Commission and City Council, that's the RTKL plan you may know, it's the overall downtown development plan that really has been a very good blueprint for what we're doing and that plan talked about options for the Science Center, but for the west bank area that is now the site of the Science Center it showed residential uses and it also showed McLean and its existing alignment right along the river as opposed to move to the west as was decided last year. So, we need to amend the Comprehensive Plan so that down the road, the City Council can find that when they amend the urban renewal plan from industrial to Science Center, it's consistent with the Comprehensive Plan. So we're asking you now to amend the Comprehensive Plan which the Planning Commission has approved and the City Council yesterday approved too, that 1989 plan, to show the Science Center and the Amphitheater at the proposed locations per the newest planning thoughts and relocation of McLean to the west of those tracts. That's the purpose of this amendment. We have to amend a plan to amend a plan.”

Chairman Winters said, "That's why we have planners, to do this."

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MOTION

Commissioner Hancock moved to adopt the amendments to the downtown element of the Comprehensive Plan, as recommended by the MAPC, and adopt a Resolution and authorize the Chairman to sign.

Commissioner Schroeder seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. We're going to take a ten minute recess.

The Board of Sedgwick County Commissioners recessed at 11:20 a.m. and reconvened at 11:35 a.m.

NEW BUSINESS

F. AGREEMENT WITH WICHITA BAR ASSOCIATION FOR USE OF LAKE AFTON PARK JUNE 1, 1996, TO HOLD A DUATHLON AND 5K RUN.

Mr. Jarold D. Harrison, Assistant County Manager, greeted the Commissioners and said, "For the purpose of these events, the Bar Association will coordinate with the Park Superintendent for use of the parks. They will also coordinate with the Sheriff's Reserves for traffic control as they have certain limited access roadways that they'll be using for part of the event. We have also received their certificate of insurance and would recommend your approval."

Chairman Winters said, "This is for the Wichita Bar Association?"

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Mr. Harrison said, "Yes sir."

Commissioner Hancock said, "I recommend that we not approve this."

Chairman Winters said, "How about a Motion for approval?"

Commissioner Hancock said, "Okay."

MOTION

Commissioner Hancock moved to approve the Agreement and authorize the Chairman to sign.

Commissioner Gwin seconded the Motion.

Chairman Winters said, "We have a Motion and a second. Commissioner Schroeder."

Commissioner Schroeder said, "I just have a question. When you say Sheriff's Reserves, will there be any Sheriff Officers themselves involved in this or is it all Reserves?"

Mr. Harrison said, "Typically, we coordinate traffic control at these kind of events with the Sheriff's Reserves."

Commissioner Schroeder said, "Okay, thank you."

Chairman Winters said, "Thank you. Other questions? Seeing none, call the vote please."

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Next item."

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G. LEASE AGREEMENT WITH H-R-K COMPANY PROVIDING A SIX-MONTH EXTENSION TO THE LEASE FOR PROPERTY LOCATED AT 1025 NORTH MARKET WHICH HOUSES THE SEDGWICK COUNTY YOUTH AFTERCARE PROJECT.

Mr. J. Kenneth Hales, Director, Department of Corrections, greeted the Commissioners and said, "The Department's Youth Services Division operates the Sedgwick County's Aftercare project we commonly refer to as SCYP for the reintegration of youth coming out of the State Youth's Centers. This is the program we have been attempting to relocate for some time. Our efforts to relocate to a preferred location has met with some road blocks, that have required us to identify new options. At this time, the information necessary for the Board of County Commissioners to make an informed decision on those options is not yet all available. More research is needed to be done. Also, at this time, the end of this month, our lease at the current location expires. Consequently, a six month extension under the current lease condition has been negotiated. The only additional factor is that there are two three month extensions onto this six months that we could opt to exercise at our discretion. This six month extension would allow us the opportunity to continue operation while we prepare the information necessary on the options for relocation. This extra time will allow us also to transition to a new location if that is the decision or if that is not the decision to transition the closure of the program. I recommend the Commission approve the lease and authorize the Chairman to sign."

MOTION

Commissioner Hancock moved to approve the Lease Agreement and authorize the Chairman to sign.

Commissioner Gwin seconded the Motion.

There was no discussion on the Motion, the vote was called.

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VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you Ken. Next item please."

H. SELECTION OF A VOTING DELEGATE TO REPRESENT SEDGWICK COUNTY AT THE NATIONAL ASSOCIATION OF COUNTIES' 61ST ANNUAL CONFERENCE TO BE HELD JULY 12-16, 1996, IN HOUSTON, TEXAS.

Chairman Winters said, "Commissioners, we need to have a voting delegate for the National Association of Counties convention this summer. It is my understanding that Commissioner Miller is to be in attendance at that event."

Commissioner Miller said, "That's correct."

Commissioner Gwin said, "Let's have her do it."

Commissioner Schroeder said, "Hey, that's a good idea."

Commissioner Hancock said, "Why didn't I think of that?"

MOTION

Commissioner Schroeder moved that Commissioner Miller act as the Voting Delegate at the July 12-16 Conference.

Commissioner Gwin seconded the Motion.

There was no discussion on the Motion, the vote was called.

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VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Next item please."

I. RESOLUTION DESIGNATING AND CLASSIFYING CERTAIN STREETS TO THE RIVERSIDE TOWNSHIP SYSTEM. DISTRICT #5.

Mr. David C. Spears, Director, Bureau of Public Services, greeted the Commissioners and said, "It is standard procedure that after a road is constructed within a platted residential development in accordance with County standards, that road is then classified and assigned to a township system. This particular case, Idlewild Circle, which is located in the Knoll's Addition will become the responsibility of the Riverside Township. I recommend you adopt the Resolution."

MOTION

Commissioner Schroeder moved to adopt the Resolution.

Commissioner Gwin seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Next item please."

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**J. REPORT OF THE BOARD OF BIDS AND CONTRACTS' MAY 16, 1996
REGULAR MEETING.**

Mr. Darren Muci, Director of Purchasing, greeted the Commissioners and said, "You have before you the minutes of the May 16 meeting of the Board of Bids and Contracts. There are five items for consideration today.

ITEMS REQUIRING BOCC ACTION

**(1) STREET IMPROVEMENTS - BUREAU/PUBLIC SERVICES
FUNDING: SPECIAL ASSESSMENTS**

"Item one, street improvements for the Bureau of Public Services, Balthrop Addition, Phase I & General. It was recommended to accept the low bid of Asphalt Construction Company for \$1,280,114.55.

**(2) PERSONAL COMPUTERS - GEOGRAPHIC INFORMATION SERVICES
FUNDING: GEOGRAPHIC INFORMATION SYSTEMS**

"Item two, personal computers for Geographic Information Services. It was recommended to accept the only bid received from IBM Corporation for \$31,925.40. That is a not to exceed figure.

**(3) TRAFFIC PAINT - BUREAU/PUBLIC SERVICES
FUNDING: BUREAU/PUBLIC SERVICES**

"Item three, traffic paint for the Bureau of Public Services. It was recommended to accept the low individual bids of Centerline Industries for white traffic paint for a total of \$52,294, and the bid of Flex-O-Lite for the glass beads in the amount of \$11,364.

**(4) TOILET TISSUE - BUREAU/CENTRAL SERVICES
FUNDING: BUREAU/CENTRAL SERVICES**

"Item four, toilet tissue for the Bureau of Central Services. It was recommended to accept the low bid of Southwest Paper for \$17,348.50.

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- (5) **PAPER TOWELS - BUREAU/CENTRAL SERVICES**
FUNDING: BUREAU/CENTRAL SERVICES

"Item five, paper towels, also for the Bureau of Central Services. It was recommended to accept the low bid meeting specifications of Southwest Paper Company for \$14,544.

ITEMS NOT REQUIRING BOCC ACTION

- (6) **SEWER INSTALLATION - EMERGENCY MEDICAL SERVICES**
FUNDING: 1996 CAPITAL PROJECT

- (7) **MOBILE STORAGE FILING SYSTEM - REGISTER OF DEEDS**
FUNDING: REGISTER OF DEEDS

- (8) **ANTENNA INSTALLATION - EMERGENCY COMMUNICATIONS**
FUNDING: EMERGENCY COMMUNICATIONS

- (9) **COMPUTER NETWORK - BUREAU/FINANCE**
FUNDING: BUREAU/FINANCE

- (10) **UNIFORM RENTAL - VARIOUS DEPARTMENTS**
FUNDING: VARIOUS DEPARTMENTS

"There are five items that do not require action at this particular time, they were tabled for review. Those include sewer installation for Emergency Medical Services, a mobile storage filing system for the Register of Deeds, antenna installation for Emergency Communications, PCS and computer network for the Bureau of Finance, and uniform rental for various departments. Unless there are questions, I would recommend that you approve the recommendations as presented by the Board of Bids and Contracts."

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MOTION

Commissioner Gwin moved to approve the recommendations of the Board of Bids and Contracts.

Commissioner Miller seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much."

Mr. Muci said, "Thank you."

CONSENT AGENDA

K. CONSENT AGENDA.

1. Utility and Highway Permit Agreements.

- a. The City of Derby is submitting this application requesting permission to construct an entrance to Tiara Pines Addition from Rock Road between 79th and 87th Streets South. Rockford Township. Highway Permit No. 012-96. Road No. 831-Z. District #5.
- b. KG&E, A Western Resources Co. is submitting this application requesting permission to install one pole on the east side of West Street approximately 2,000 feet south of 47th Street South. Waco Township. Utility Permit No. 049-96. Road No. 815-V. District #2.

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2. Right-of-Way Easements.

The following tracts of land have been granted by Easement for Right-of-Way at no cost to the County. These Easements were requested by the Director, Bureau of Public Services, as a condition of receiving a platting exemption on an unplatted tract.

- a. Road Number 602-28, Owners: Kenneth Clark Ward and Janel L. Ward, located in the Southwest Quarter of Section 3, Township 26 South, Range 1 East, more specifically located on the north side of 69th Street North and east of 16th Street East (Hydraulic). Kechi Township. District #1.
- b. Road Number 813-G, Owners: Quentin J. Moeder, dba Greystone Construction, located in the Northwest Quarter of Section 2, Township 26 South, Range 1 West, more specifically located on the east side of 55th Street West (Hoover Road) and south of 77th Street North. Park Township. District #4.

3. Floodway Reserve Easement.

The following tract of land was granted by Floodway Reserve Easement at no cost to the County. This Easement was requested by the Director, Bureau of Public Services, prior to the approval of platting exemptions.

Owners: Kenneth Clark Ward and Janel L. Ward, located in the Southwest Quarter of Section 3, Township 26 South, Range 1 East, more specifically located north of 69th Street North and east of 16th Street East (Hydraulic). Kechi Township. District #1.

4. Right-of-Way Instruments.

- a. Two Easements for Right-of-Way for Sedgwick County Project No. 817-G through N½ J; Meridian from the north city limits of Wichita to the south city limits of Valley Center. CIP #R-169. District #4.

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- b. One Easement for Right-of-Way and one Temporary Construction Easement for Sedgwick County Project No. 839-B-2000; Bridge on 143rd Street East between 109th and 117th Streets North. CIP #B-256. District #1.

5. Section 8 Housing Assistance Payment Contract.

<u>Contract Number</u>	<u>Rent Subsidy</u>	<u>District Number</u>	<u>Landlord</u>
V96029	\$415.00	2	Sarah Lane Apartments

6. The following Section 8 Housing Contracts are being amended to reflect a revised monthly amount due to a change in the income level of the participating client.

<u>Contract Number</u>	<u>Old Amount</u>	<u>New Amount</u>
V74001	\$475.00	\$354.00
V95085	\$369.00	\$330.00
C862025	\$120.00	\$124.00
V94048	\$350.00	\$301.00
V95079	\$383.00	\$380.00
C95054	\$243.00	\$243.00
V881016	\$227.00	\$208.00
V903007	\$494.00	\$471.00
V95111	\$360.00	\$335.00
C94022	\$490.00	\$242.00
V95048	\$259.00	\$303.00
C95122	\$325.00	\$207.00

- 7. Authorization per K.S.A. 79-2012 to withhold delinquent personal property taxes under the County Treasurer's certification dated May 14, 1996.**
- 8. Order dated May 15, 1996 to correct tax roll for change of assessment.**

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9. Consideration of the Check Register of May 17, 1996.

10. Budget Adjustment Requests.

<u>Number</u>	<u>Department</u>	<u>Type of Adjustment</u>
960285	Human Resources	Transfer
960286	Human Resources	Transfer
960287	CDBG Housing Rehab Grant	Supplemental Appropriation
960288	Comcare-Children's Federal Budget	Supplemental Appropriation
960289	Fairway Meadows-Street	Supplemental Appropriation
960290	1996 Bridge Projects	Supplemental Appropriation

Mr. Buchanan said, "You have before you the Consent Agenda before you and I would recommend you approve it."

Chairman Winters said, "Commissioner Schroeder"

Commissioner Schroeder said, "I do have one question on the Consent Agenda. Item number 960288, page 135, it's COMCARE operating supplies. In the reason for adjustment it asks to up a budget to utilize Program Income for costs associated with a public awareness campaign which was at the request of the feds. The monies will be used to purchase t-shirts for the Via Christi Children's Fair and materials to build a float for the River Festival Parade. Is that the parade next year, or the parade we just had? Does anybody know?"

Mr. Buchanan said, "I do not know."

Commissioner Schroeder said, "I just assumed it was for the last parade, so does that mean they went ahead and used the funds this way?"

Mr. Buchanan said, "I don't know that."

Commissioner Schroeder said, "Okay, can somebody find that out for me?"

Mr. Buchanan said, "We sure will."

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Commissioner Schroeder said, "Thanks. Thank you Mr. Chairman."

Chairman Winters said, "Thank you very much. Commissioners, you've heard the report, what's the will of the Board?"

MOTION

Chairman Winters moved to approve the Consent Agenda as presented.

Commissioner Miller seconded the Motion.

There was no discussion on the Motion, the vote was called.

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Is there any other business to come before this Board? Okay, seeing none, this meeting is adjourned."

L. OTHER

M. ADJOURNMENT

Regular Meeting, May 22, 1996

There was no other business to come before the Board, the Meeting was adjourned at 11:46 a.m.

**BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS**

THOMAS G. WINTERS, Chairman
Third District

MELODY C. MILLER, Chair Pro Tem
Fourth District

BETSY GWIN, Commissioner
First District

PAUL W. HANCOCK, Commissioner
Second District

MARK F. SCHROEDER, Commissioner
Fifth District

ATTEST:

Susan E. Crockett-Spoon, County Clerk

APPROVED:

_____, 1996