

## **MEETING OF THE BOARD OF COUNTY COMMISSIONERS**

### **REGULAR MEETING**

**September 3, 2003**

The Regular Meeting of the Board of the County Commissioners of Sedgwick County, Kansas, was called to order at 9:00 A.M., on Wednesday, September 3, 2003 in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman Tim Norton; with the following present: Chair Pro Tem Thomas G. Winters; Commissioner David M. Unruh; Commissioner Carolyn McGinn; Commissioner Ben Sciortino; Mr. William P. Buchanan, County Manager; Mr. Rich Euson, County Counselor; Ms. Mariann Fountain, Clinical Supervisor, COMCARE Addiction Treatment Services; Mr. Steve Ruger, Management Intern, County Manager's Office; Mr. John Schlegel, Director, Metropolitan Area Planning Department; Mr. Mark Borst, Traffic Engineer, Bureau of Public Works; Sergeant Brenda Dietzman, Sheriff's Department; Mr. Chris Chronis, Chief Financial Officer, Finance Department; Mr. Gerald Frantz, Interim Director, Health Department; Mr. Pam Martin, Director, Clinical Services, Health Department; Dr. Mansoor Tahir, Senior Epidemiologist, Health Department; Ms. Irene Hart, Director, Division of Community Development; Mr. Glen Wiltse, Director, Code Enforcement; Ms. Annette Graham, Director, Department on Aging; Mr. Mark Masterson, Director, Department of Corrections; Ms. Marilyn Cook, Director, Comprehensive Community Care; Mr. David Spears, Director, Bureau of Public Works; Ms. Iris Baker, Director, Purchasing Department; Ms. Kristi Zukovich, Director, Communications; and, Ms. Lisa Davis, Deputy County Clerk.

### **GUESTS**

Ms. Rhonda Walker, Executive Director, Miracles Incorporated.

Ms. Andre Sisco, Oaklawn Neighborhood Association.

Ms. Barbara Stapleton, Oaklawn Neighborhood Association.

Ms. Cecile Kellenbarger, Treasurer, Prairie Travelers, Inc.

Mr. Dennis D. Underwood, 1730 S. 279<sup>th</sup> Street W., Garden Plain, KS

Ms. Sabrina K. Standifer, 301 N. Main, Ste 2000, Wichita, KS

Ms. Brenda Lorenz, President, Sedgwick County Farm Bureau.

Mr. Michael Irvin, KFB Legal Counsel, Manhattan, KS

Mr. Dale A. Miller Jr., 2351 S. 183<sup>rd</sup> Street W., Goddard, KS

Mr. Larry Ross, 346 N. Bluff, Wichita, KS

Mr. Duane H. Jacobs, 1921 S. 231<sup>st</sup> Street W., Goddard, KS

Ms. Jan Clasen, 1950 S. 231<sup>st</sup> Street W., Goddard, KS

Mr. Terry Smythe, Baughman Company.

Mr. Russ Ewy, Baughman Company.

Ms. Pat Layman, 515 Menlo, Wichita, KS

King David Davis, Wichita, KS

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### **GUESTS (con't)**

Mr. Greg Ferris, Agent for applicant, Ferris Consulting.  
Mr. Mark Dick, Auditor, Allen Gibbs & Houlik

### **INVOCATION**

The Invocation was led by Pastor Rob Winslow, Haysville United Methodist Church.

### **FLAG SALUTE**

### **ROLL CALL**

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

### **CONSIDERATION OF MINUTES:** Regular Meeting, August 6, 2003

The Clerk reported that all Commissioners were present at the Regular Meeting of August 6<sup>th</sup>, 2003.

**Chairman Norton** said, "Commissioners, you have the Minutes before you. What is the will of the Board?"

### **MOTION**

Commissioner Sciortino moved to approve the Minutes of the Regular Meeting of August 6<sup>th</sup>, 2003.

Commissioner Unruh seconded the Motion.

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

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**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Absent
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, "Next item."

**Commissioner McGinn** returned at 9:10 a.m.

**PROCLAMATIONS**

**A. PROCLAMATIONS.**

- 1. PROCLAMATION DECLARING SEPTEMBER 7 – 13, 2003 AS "ADULT LITERACY AWARENESS WEEK 2003."**

**Chairman Norton** said, "Commissioners, I would like to read the following proclamation into the record.

**PROCLAMATION**

**WHEREAS**, September is National Adult Literacy Month; and

**WHEREAS**, Literacy Resources of the Metropolitan Area is a non-profit organization serving the adult population of Wichita and the surrounding area who are functionally illiterate; and

**WHEREAS**, Non-reading adults are not able to function at highest capacity as parents, workers or citizens; and

**WHEREAS**, Volunteer tutors and students work diligently to improve reading, writing and spelling skills on their own time and paying their own expenses; and

**WHEREAS**, Suitable recognition for the effort expended to improve the basic education skills of adults in the metropolitan area is necessary to bring attention to the issue;

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**NOW THEREFORE BE IT RESOLVED**, that I, Tim Norton, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim the week of September 7-13, 2003 as

**“Adult Literacy Awareness Week 2003”**

in Sedgwick County and recognize the efforts of volunteers and adult students involved in improving the reading and writing skills, which will allow for better jobs, healthier families and better prepared children in schools.

Dated September 3<sup>rd</sup>, 2003.

What is the will of the Board?”

**MOTION**

Commissioner McGinn moved to Adopt the Proclamation and authorize the Chairman to sign.

Commissioner Winters seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, “And I understand . . . is Coleen here? I didn’t see her in the audience.”

**Ms. Kristi Zukovich**, Director, Communications Department, said, “We’ll make sure she gets this, Commissioner Norton.”

**Chairman Norton** said, “Okay. We’ll move on to next item.”

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**2. PROCLAMATION DECLARING THE MONTH OF SEPTEMBER 2003 AS  
“NATIONAL ALCOHOL AND DRUG ADDICTION RECOVERY MONTH.”**

**Chairman Norton** said, “Commissioners, I would like to read the following proclamation into the record.

**PROCLAMATION**

**WHEREAS**, on behalf of the citizens of Sedgwick County, I am pleased to join the Substance Abuse Treatment and Prevention providers in celebrating September 2003 as National Alcohol and Drug Addiction Recovery Month in Sedgwick County; and

**WHEREAS**, substance abuse, co-occurring mental disorders and co-existing physical illnesses are major public health problems that affect millions of Americans of all ages, races and ethnic backgrounds in all communities, and have enormous medical, societal and economic costs; and

**WHEREAS**, people with co-occurring substance abuse and mental disorders can and do recover, and deserve access to the services they need to recover; and

**WHEREAS**, thousands of health care providers have dedicated their lives to the recovery process and to the education of the public about alcoholism, drug dependence, co-occurring disorders and treatment issues; and

**WHEREAS**, the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration’s Center for Substance Abuse Treatment; the Office of National Drug Control Policy; and the Substance Abuse Treatment and Prevention providers of Sedgwick County invite all residents of Sedgwick County to participate in National Alcohol and Drug Addiction Recovery Month;

**NOW THEREFORE BE IT RESOLVED**, that I, Tim Norton, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim the month of September 2003 as

**“National Alcohol and Drug Addiction Recovery Month”**

in Sedgwick County, Kansas and encourage all citizens to support this year’s theme, “Join the voices for Recovery: Celebrating Health” by supporting men, women and youth who are in drug and alcohol addiction treatment and recovery and their families.

Dated September 3<sup>rd</sup>, 2003.

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What is the will of the Board?"

**MOTION**

Commissioner Sciortino moved to Adopt the Proclamation and authorize the Chairman to sign.

Commissioner Unruh seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, "And Wanda Walker is here? Mariann Fountain is here. Well, we had two names. I wasn't sure who was going to be here."

**Ms. Mariann Fountain**, Clinical Supervisor, COMCARE Addiction Treatment Services, greeted the Commissioners and said, "Today I am here representing a community wide group of substance abuse treatment and prevention providers, many of whom are in the audience today, who encourage you to join us in celebrating our achievements.

National Recovery Month provides a platform to celebrate people in recovery and those who serve them. Each September, thousands of treatment programs around the country celebrate their successes and share them with their neighbors, friends, colleagues and government officials, such as yourself, in an effort to educate the public about treatment, how it works, for whom and why.

Substance abuse treatment providers have made significant accomplishments, having transformed the lives of untold thousands of Americans. These successes often go unnoticed by the broader population, therefore Recovery Month provides a vehicle to celebrate these accomplishments.

Recovery Month also serves to educate the public on substance abuse as a national health crisis, that addiction is a treatable disease and that recovery is possible. Recovery Month highlights the

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benefits of treatment for not only the affected individual, but for family, friends, workplaces and society as a whole, including Sedgwick County.

Educating the public reduces the stigma associated with addiction and treatment. Accurate knowledge of the disease helps people to understand the importance of supporting treatment programs, those who work within the treatment field, and those in need of treatment.

It is my pleasure to now introduce Wanda Walker, who is Executive Director of Miracles Incorporated, which provides residential substance abuse services to women and women with children in our community. Thank you very much for the proclamation and your time this morning.”

**Ms. Wanda Walker**, Executive Director, Miracles Inc., greeted the Commissioners and said, “Wouldn’t mind being Mariann Fountain from time to time. Thank you so much for the proclamation. I’m here representing recovering families and addiction problems impact the whole family system and recovery impacts the family system and we’re here to celebrate that. So I’m going to introduce the Recovery Kid Singers.”

*The Recovery Kid Singers came forward and sang a song, introduced themselves and told the audience what they want to be when they grow up.*

**Chairman Norton** said, “Thank you very much for being here today. We usually don’t get entertained by most of the people that come before us, although sometimes it is entertaining. Mariann, you might want to have the providers stand up, just for recognition real quick, since there are several of them here, and recovery. Thank you very much for coming today. The next item has been asked to be deferred. We can go ahead and call that and then make a motion to defer.”

### **APPOINTMENT**

#### **B. RESOLUTION APPOINTING VERONICA CASADOS (COMMISSIONER UNRUH’S APPOINTMENT) TO THE SEDGWICK COUNTY ADVISORY BOARD OF HEALTH.**

**Chairman Norton** said, “I’ve ask that we have that deferred until next week.”

### **MOTION**

Commissioner Unruh moved to defer Item B for one week.

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Commissioner Sciortino seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, "Next item."

**NEW BUSINESS**

**C. AGREEMENT WITH PRAIRIE TRAVELERS, INC. REGARDING OPERATION OF A PROPOSED RECREATIONAL TRAIL.**

**Chairman Norton** said, "Before we move on, Steve, we've got an item that we might want to move up. Commissioners, I've been asked to move Item H-1 up in the agenda and we would come back to the 'new business' Item C, if that's appropriate. What is the will of the Board?"

**MOTION**

Commissioner Winters moved to consider Item H out of order.

Commissioner Unruh seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
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Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**H. DIVISION OF COMMUNITY DEVELOPMENT.**

**1. AGREEMENT WITH OAKLAWN IMPROVEMENT DISTRICT PROVIDING LIMITED ACCESS TO EAST 47<sup>TH</sup> STREET SOUTH FOR USE AS A PARADE ROUTE DURING THE OAKLAWN/SUNVIEW BLOCK PARTY.**

**Ms. Irene Hart**, Director, Division of Community Development, greeted the Commissioners and said, "The Oaklawn Neighborhood Association and the Oaklawn Improvement District request permission to close 47<sup>th</sup> Street South for an hour on September the 6<sup>th</sup> from 9 to 10. The certificate of insurance has been provided and all is in order.

Today we have Andree Sisco and Barbara Stapleton from the Oaklawn neighborhood to tell you more about what's going to happen."

**Ms. Andre Sisco**, Oaklawn Neighborhood Association, said, "I wish to thank everybody for letting us come before you again in what I consider to be a great adventure. Oaklawn has moved forward, over the last many, many years as you all know and what we're asking the County Commissioners to do is give us approval this year to close 47<sup>th</sup> Street now in order for our parade route to cross 47<sup>th</sup> Street, so we can continue to join both the north and the south side of 47<sup>th</sup> Street. And Barbara Stapleton will give you more information about what the events are that day. Thank you."

**Ms. Barbara Stapleton**, Oaklawn Neighborhood Association, greeted the Commissioners and said, "I hope you're having a great week with all the rain we've had. We're going to start off Saturday morning at 10:00 with the parade. At 11:00, the parade will be down in our park, at which time everything will be in full motion. We've got food courts, we've got five different food courts this year. We've got carnival rides for the kids, baseball game at 12:00 between our community policing and our local school teachers. We have train rides. There's going to be a classic car show and everything and in the afternoon, it's going to go all the way through until 10:00 at night. We've got a petting zoo for the children and we've got a street dance and we're going to wind the whole thing up with a great big fireworks display.

I want to invite each and every one of you out. We're going to have lots of fun. We always do. Last year we had drizzly rain all day and we still had a great time, had a great show. This year it's supposed to be 87, so we really appreciate what you do for us."

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**Chairman Norton** said, "Don't run off. Commissioner Sciortino."

**Commissioner Sciortino** said, "Basically, on the closing that you're asking, it's like what we did last year? Is that . . . and is that true? And is Andre going to have the same goofy float she had with the little bitty roller blade wheels or whatever?"

**Ms. Sisco** said, "Essentially, no. We're not asking for the same parade route. Last year we crossed 47<sup>th</sup> Street twice. This year we're only going to look at crossing 47<sup>th</sup> Street one time because we're going to look at starting at the Oakview Christian Church, going down Juniper, up across Chestnut, across 47<sup>th</sup> Street to Cedardale, Cedardale to Fairhaven, Fairhaven to Meadowview and Meadowview into the park.

As far as Andre and Angie's float, last year we did an American flag out of milk crates. This year, you'll have to come out and see our American flag made out of handprints and footprints."

**Commissioner Sciortino** said, "I was told I didn't have an option as to whether I wanted to come or not."

**Ms. Sisco** said, "That's true."

**Ms. Stapleton** said, "Actually you don't because you are on a booth this year for a little while."

**Commissioner Sciortino** said, "I'm on a booth?"

**Ms. Stapleton** said, "You're actually working."

**Chairman Norton** said, "It's a dunk tank."

**Commissioner Sciortino** said, "Not a dunk tank, please. Not another dunk tank."

**Ms. Stapleton** said, "Your reward will be sitting there when you get there. You don't get there, you don't get the reward."

**Commissioner Sciortino** said, "Commissioners, anyone want to trade for Oaklawn?"

**Chairman Norton** said, "You know, you've done such a wonderful job there, Ben."

**Commissioner Sciortino** said, "Is the staging area going to be at the church then instead of the

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Midway Shopping?”

**Ms. Stapleton** said, “The starting point will be at the Oakview Christian Church.”

**Commissioner Sciortino** said, “Okay, all right, thanks. Looks like it’s going to be fun.”

**Chairman Norton** said, “Okay, Commissioners, what is the will of the board on Item H-1?”

**MOTION**

Commissioner Sciortino moved to Approve the Agreement and authorize the Chairman to sign.

Chairman Norton seconded the Motion.

**Commissioner Sciortino** said, “I was going to authorize you to be in the dunk tank.”

**Chairman Norton** said, “And I wasn’t going to Second that. Clerk, call the roll.”

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, “Have a great weekend.”

**NEW BUSINESS**

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### C. AGREEMENT WITH PRAIRIE TRAVELERS, INC. REGARDING OPERATION OF A PROPOSED RECREATIONAL TRAIL.

#### POWERPOINT PRESENTATION

**Mr. Steve Ruger**, Management Intern, County Manager's Office, greeted the Commissioners and said, "I didn't prepare a song, but I think Mark Borst is working on that, so maybe at the next meeting we can get that for you.

This is the Prairie Sunset Trail, the proposed Prairie Sunset Trail by a company called Prairie Travelers Incorporated. They're developing this trail and it's under a federal act that allows them to do this and basically, what it says is in lieu of abandoning the trail, the rail company can grant interim trail use for recreational purposes.

What we have is a 3.9 mile segment of right-of-way railway between Goddard and Garden Plain and it goes from approximately 231<sup>st</sup> Street West to 295<sup>th</sup> Street West. There are two wooden bridges and one concrete bridge on the trail.

These are just some photos so you can get a general idea of what the trail looks like at this time. It's not developed yet. And this is a pretty typical view of what you'll find walking the trail. There's a . . . this is a little less weedy and needs a little less development. This is one of the wooden bridges. As you can see, there are no handrails on it at this time. There's some gaps in between the planks. This is the concrete bridge and kind of a view looking down off of it onto the side to a river. This is a typical view you would find just off of the trail, when you're walking it.

This is an example of the intersection at 279<sup>th</sup> Street, which is a dirt road and it's an access point into the trail. And here's one at 263<sup>rd</sup> Street which is a paved road and there will be signs on both the trail and the road that warns people traveling on the trail or the road that there might be people crossing or cars crossing.

Prairie Travelers, under Kansas statute, has several obligations. They have to file proof of an escrow account and proof of liability insurance and those are both amounts agreed on between them and the county, which is why we're here today. They have to provide written notice to the adjacent landowners to the trail. They have to publish notice in the official county newspaper three times and prepare interim and final development plans and then make subsequent reports to the Board of County Commissioners.

As far as maintenance and operation of the trail, there are also several tasks they have to do, according to Kansas statutes: provide safety, provide trail-user education in the forms of signs and things like emergency numbers they can call, litter control, not create a fire hazard, prohibit hunting

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and trapping. They also have to make sure there's law enforcement provided, grant easements to adjacent landowners who have land on both sides of the trail so they can pass through to get to both properties. They have to maintain fencing and maintain the basic trail infrastructure, such as bridges and things like that.

The county has a couple of obligations in this as well and that is to agree on the escrow account with Prairie Travelers and the insurance amount, set time intervals for subsequent reports that Prairie Travelers will make to the BoCC and perform periodic inspections just to make sure that Prairie Travelers is doing their obligations and we do not need to step in and help out.

This is a basic timeline of where we have gotten to this point. On March 27<sup>th</sup>, county staff met with Prairie Travelers. Then on May 14<sup>th</sup> there was an internal staff county meeting. Then on June 28<sup>th</sup> staff met with Prairie Travelers and landowners and discussed where we were going to go at this point. Then we gave a briefing to you all at the July 1<sup>st</sup> staff meeting and on July 15<sup>th</sup> several county staff went out and walked the 3.9 mile trail in 100 degree heat. It was fun and did an inspection of that and, since that time, staff has been working on developing recommendations for the escrow account amount and liability insurance amount.

Let me briefly summarize what the recommendations are to this point. Right now currently we are recommending a \$10,000 escrow account and I'll give the quick breakdown on that. There are five things that need to be figured into the escrow account: weed control, litter control, fire hazard prevention, installation and maintenance of fencing and signs.

For weed control, it's just basic Roundup treatment for Bindweed and grass infestation and we're looking at \$30 there. For litter control we figured the cost of the labor and to drive out there and there's a fee to deposit any litter at the transfer station and we came up with the number of \$175. For the maintenance and prevention of fire hazards we're considering that just mowing and keeping the plants down and we basically figured it as mowing a four-mile segment of highway and came up with the number of \$540 to mow the four miles and that's \$134, basically, per mile to mow. For the installation and maintenance of signs, we're estimating there will be about 30 signs at \$100 a piece for installation and maintenance and so that comes to \$3,000. Now once the signs are installed, then we only have the obligation of maintaining them should Prairie Travelers not be keeping them up and that could lessen the escrow account amount at that time, as we see fit.

The fencing issue has been one we've been wrestling with, because the statutes are a little ambiguous but we've decided . . . what we did was we sent out a survey to all the landowners to give us a self-report of the existing fencing, and based on that, we came up with about \$25,000 worth of fencing costs at this time. So our Legal Department has decided that since that's based

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just on a self-report, and since we won't be . . . if Prairie Travelers isn't going in and maintaining fencing, we probably won't be doing that all in one lump. So there's no need to figure the entire \$25,000 into the escrow account. So it's been recommended that we just do 25% of that and that's a number that comes out to \$6,245 and that brings the total escrow account up to \$9,990 or roughly \$10,000.

The liability insurance amount, the staff has recommended \$1,000,000. That's what Prairie Travelers has taken out at this time and we don't see that to be an issue. So, at this time I'd recommend you approve the agreement and authorize the Chairman to sign. I know there are several landowners here that wish to speak and also Prairie Travelers I'm sure would like to speak to you about the escrow account amounts that staff is recommending as well."

**Chairman Norton** said, "At this point, this is not a public hearing, but we have a tendency to let people speak, either pro or con, on issues of public interest like this. We would like to limit it today and not get into a huge public debate. I will limit comments to three minutes for each one. Could I have a show of hands of those that would like to speak? Okay. We will allow three minutes. I would prefer that we would limit it to a representative for each side if we could, as opposed to having people come up and tell the same story over and over and over. If you do want to have your name on the record to oppose or support, but do not have new information, that would be appropriate. But if you're opposed and you have the same information that someone has given, then it would be very appropriate if we, for the sake of time, moved forward. So at this point, are there those that would like to speak in favor or representing those in favor of the trail? If you would like to come forward and state your name for the record, that would be appropriate."

**Ms. Cecile Kellenbarger**, Treasurer, Prairie Travelers Incorporated, greeted the Commissioners and said, "We are a 501-C3 non-profit corporation registered in Kansas made up of volunteers from Sedgwick County. We are committed to abide by the state laws, which we have read also and to provide a good neighbor relation with landowners and community.

We have met with the county staff. We are all volunteers that donate time and money for the healthful pursuit of outdoor activities for walkers, bicyclists, runners, horseback riders and enthusiasts of non-motorized vehicles. We do not expect to have motorized vehicles on this trail, unless possibly a motorized wheelchair.

These are family oriented, healthful activities that can bring the community and families together. We have met with the county staff and walked the trail, as you were told and Carolyn was there. We found the staff to be open and professional to work with. We did appreciate that, it's been good.

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We have submitted an initial development plan, which I believe you received and I understand we owe another one, a final to you after this. We sent property notice to owners of the pending trail and posted public notice in the Derby Reporter. We have just, in the last day or two, of the addresses that came back, resent with new addresses certified mail. That's what we understood was supposed to be done.

We have started spraying the program for noxious weeds that Mr. Brunk set up for us and we started litter pickup and placed ballard posts to keep motorized vehicles out of there that didn't need to be there. You did see that, there's a post there that we can remove if we do need to take vehicles out. We are also setting up one that will be final in there that will have a lock and key on them that can be taken out by emergency vehicles and they will get the combination. That's a requirement we discussed.

We received staff recommendations and a copy of the agreement for today's meeting and late Thursday I received an update by Bob Parnacott increasing the escrow amount. We've been working with the Assistant County Counselor, Bob Parnacott, and unfortunately he's not able to come today because he and I had been talking.

We feel confident we can work with the County to determine requirements and build a trail the county and community will be proud to use. We don't expect this to be a bicycle path like we have in town. WE expect it to be more of a county type thing. We would like to take more time reviewing this to make sure we agree with everything and to solidify an agreement. We came prepared today to accept the first requirement of \$5,000. Otherwise, we would like to defer if we have to go close to \$10,000.

I also, I have some people here supporting us, if they'd raise their hands so we can have an idea of how many are here to support us today. They took off their work and someone may want to speak also, but they are here supporting us and we do have work programs monthly to pick up litter and we have one scheduled for this Saturday."

**Chairman Norton** said, "Thank you. Commissioner McGinn, did you have a question?"

**Commissioner McGinn** said "Well, I just want to make sure she had ample time to speak because she's the main spokesman for this group that's proposing this trail and I felt a little bit bad that she was having to rush just to make the presentation of what we're having today. So I just wanted to make sure you did have the opportunity to get all your points out, since you are the main representative for this proposal."

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**Ms. Kellenbarger** said, "I appreciate that, thank you. We have looked at this. We were a little . . . we were prepared to put up the \$5,000 bond. We had the money ready to go, budgeted for this, but as of Thursday, it was identified it was \$10,000 and the problem with that is, as a volunteer organization, we believe we can meet the requirements that are set up to us, but with \$10,000 sitting there that we can't use to work on trail work, to work on fencing, to work on that kind of thing, that has to be held every year and kept up every year, we don't believe that would be a good determination for our group. So, we are requesting it to be \$5,000."

**Chairman Norton** said, "Okay. Commissioner Sciortino."

**Commissioner Sciortino** said, "Thank you. Ma'am, I have a question of you also. You had indicated that you were going to ban motorized vehicles on the trail. Is that going to be against the law and there will be a fine or a penalty or what does that mean, banning them?"

**Ms. Kellenbarger** said, "Okay. Per the state statute, you do not have motorized vehicles on the trail. The only motorized vehicles that are allowed on the trail, per the state statute would be a motorized wheelchair or an EMS vehicle, or a fire vehicle that we have the post that they can take out, so the 10 foot width, they can go through the trail to get in, because the posts allow only narrow bicycles and horseback riders to go through, if you remember seeing the picture."

**Commissioner Sciortino** said, "Okay. Maybe my question is Mr. Euson, are you familiar with this statute? I mean, a motorcycle could get through those posts if a bicycle can. And there's a motorcycle . . . will there be policing and if we catch a motorcyclist, we're fining or doing something or what would be the remedy?"

**Mr. Rich Euson**, County Counselor, greeted the Commissioners and said, "The statute does speak to that but it really doesn't speak to any kind of criminal enforcement so we would need to come up with some regulations that would prohibit that and provide a fine for it."

**Commissioner Sciortino** said, "Okay, fine. Thank you, that's all."

**Ms. Kellenbarger** said, "We plan to work with the county on that."

**Commissioner Sciortino** said, "Okay, thank you."

**Chairman Norton** said, "Commissioner Winters."



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**Commissioner Winters** said, "Thank you. Ma'am, I understand your point about the escrow. How about all the rest of the agreement? Are you in agreement with everything else that's in that agreement?"

**Ms. Kellenbarger** said, "There are a few other things, timely, that we would like to discuss but we would pretty much be in fairly much agreement. We'd just like to massage it a little bit and when I talked to Mr. Parnacott, he said that after the escrow was set that we could then do that."

**Commissioner Winters** said, "Okay, thank you."

**Chairman Norton** said, "Commissioner McGinn."

**Commissioner McGinn** said, "Just a matter of order, I just I have some more questions for Cecile but I'd like to hear from everybody first. I know Commissioner Sciortino's comment about the trail and trespassing, I'd like to have Officer Dietzman come up later, after we hear from everybody, because I think we could get into that just a little bit."

**Chairman Norton** said, "Well, based on what I've heard, the other dilemma I think we have is if they're going to request deferral, we could get into a long, protracted debate today and come back to deferral so I'm wondering?"

**Commissioner Winters** said, "I kind of want to hear people, Mr. Chairman. I think we're going to work towards a conclusion, if possible."

**Commissioner McGinn** said, "I do too and I think we need to have all the issues surface here today so we can kind of get down to what we need to do."

**Chairman Norton** said, "Okay. Are there others that would like to come forward and speak? Please come forward. And Kristi, do we have somebody logging names and everything so we've got that? Thanks, Linda."

**Mr. Dennis D. Underwood**, 1730 S. 279<sup>th</sup> Street W., Garden Plain, KS, greeted the Commissioners and said, "I have compiled a list of 21 concerns, 20 concerns in the form of questions. I don't expect you to answer them all now, but I just wanted to get this brought before you. I'm also speaking for Marie Miles, who's a landowner. She has land on either side of the trail between 279<sup>th</sup> and Viola Road.

Our number one issue is do we have any recourse to stop or at least delay this until all our concerns are met. We'd like to know who the members, the board of directors of PTI are. Who will the

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contact person be, and that is if we have concerns with trespassers for instance, litter and so forth, who can we contact? What is the length and terms of the title of the right-of-way? Could we address the bond issue? Will a fee be charged for the trail usage? Who and what can use the trail? Will hours of usage be established? Will rules of usage be established? Who enforces these rules? Who oversees the daily operation of the trail? And a big one, how will motorized vehicles be prohibited? I mean, you can have a rule but what's actually going to keep the motorcycles and ATVs off of that trail.

My main concern is where will the trucks and trailers be parked? You saw from those slides, most of the pictures they were showing of the ponds and so forth is private property. A very small area to park vehicles and if you park trucks and trailers of 279<sup>th</sup> for instance, we have farm implements that have to move up and down that daily and if the trucks and trailers park on the road, we can't get by. If they park in the ditch, they'll wreck the ditch and we can't mow the ditch. We maintain the ditches along her property. We mow them ourselves, the county doesn't do it and if we don't, then the weeds get up. So a big concern with us is the traffic increase factor.

Does this trail development restrict the rights of the property owner to develop their property that is adjacent to the trail? Will restrooms be placed on the trail? The last thing we want to see are porta-johns sitting around out there. Where will horses get watered? Is there a development plan? And Marie, I just spoke with her and she says she wasn't notified that the county had invited landowners to come and meet with them and the development committee. She doesn't know anything about that and she'd like an opportunity to voice these concerns to you and to the development.

She requires fences and gates connect the north and south . . . her north and south property and that would be under that cement bridge you saw on the slides earlier. She has livestock that she has to move from one pasture to the other and that's the only way to move them, without trailering a whole herd of cattle.

And let's see, one of her questions was why was this particular 3.9 miles picked over all the other area of that right-of-way? Thanks for your time."

**Commissioner Sciortino** said, "I have a quest . . . not a comment. Could you leave a copy . . . I mean, I wasn't able to memorize all the concerns. Is there a way that you could leave a copy of that with us?"

**Mr. Underwood** said, "Yeah, if you don't count off for spelling. Do you have a copy machine?"

**Commissioner McGinn** said, "Yeah, just go in our office right over here and they'll copy it for you. Thank you."

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**Chairman Norton** said, "Do you have other comments? Is there someone else that would like to speak on this issue? Please come forward."

**Ms. Sabrina Standifer**, 301 N. Main, Ste 2000, Wichita, KS, greeted the Commissioners and said, "I'm an attorney with Hinkle Elkouri. I'm here today on behalf of Donald Yoder who is a property owner west of Goddard. Mr. Yoder has the following comments regarding the proposed agreement between Sedgwick County and Prairie Travelers being voted on today. First, Mr. Yoder is very concerned about safety issues with regards to the proposed trail. The Yoders have a pond on their property. They're very concerned about trespassers. In addition, as you saw from the pictures, there are steep drop offs at certain points on the proposed trail and it also crosses busy intersections. Mr. Yoder does not feel that the million dollar liability policy requirement being proposed by the county is sufficient and wants to make sure Prairie Travelers is held responsible for any damages.

Second, Mr. Yoder wants to make sure that Prairie Travelers obeys the state laws with regard to the proposed trail and would urge the commission to hold Prairie Travelers accountable, pursuant to the terms of the proposed agreement.

Finally, Mr. Yoder purchased adjacent property with the understanding, or it was his understanding that the railroad easement was going to be abandoned. His intent was to connect both of his properties and use part of it was a runway. Pursuant to section two, subsection nine of the proposed agreement, Prairie Travelers is to grant easements to adjacent property owners to cross the recreational trail in a reasonable manner, consistent with the use of the adjacent property. Mr. Yoder offered to have the recreational trail go around the proposed runway, but Prairie Travelers has denied his request.

Therefore, Mr. Yoder would respectfully request that Prairie Travelers work with him to find a solution whereby Mr. Yoder may use his property for a runway as he intended, but yet have the recreational trail cross his property, perhaps by use of a tunnel, whereby the recreational trail would go underneath the runway. Thank you for your time."

**Chairman Norton** said, "Someone else that would like to speak on this issue? Please come forward. For the sake of time, if there are others, if you would like to start moving towards that, as we go through this, it would speed us up a little bit."

**Ms. Brenda Lorenz**, President, Sedgwick County Farm Bureau, greeted the Commissioners and said, "One of our members, who is an adjacent landowner, contacted us early last year to request our assistance in regard to the rail trail. Kansas Farm Bureau policy opposes rail banking and believes the land should revert back to landowners. While we realize that local government's hands are tied due to federal legislation, our concern is safety, liability and privacy of the landowner.

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We want to make it perfectly clear that we are not opposed to recreation bike trails. However, we want to make certain that this agreement will be followed to the letter for the protection of the landowner.

With that said, I would like to turn the podium over to Kansas Farm Bureau's legal representative, Michael Irvin, who will explain our concerns and recommendations."

**Mr. Michael Irvin**, Kansas Farm Bureau Legal Counsel, Manhattan, KS, greeted the Commissioners and said, "Thank you for the opportunity to be here today. I'll try to be brief about why we are concerned and then talk about some of our recommendations.

Obviously, some of the concerns that have been already talked about deal with liability issues and trespass issues. Our folks are not used to having people walk in their backyards and so this is kind of an unnerving thing for them. Also, the liability issues, as you noticed in some of those pictures that Steve put up there for you is there are ponds. Now there's a recreational statute that protects landowners from normal negligence but if you have a pond in your backyard or on your land and kids are attracted to that, a landowner could be subject to liability because of that and it's called 'attractive nuisance'. So there are added risks to landowners as a result of people coming in on these trails.

Now what that does is forces the landowners to start looking at options and that is to put fences up to kind of keep these folks out, from coming on their property. Well that adds to the cost to the landowners and then we want to add that cost to the Prairie Travelers, because they have to share half the cost of the fencing so that drives the cost up.

Now let's talk about environmental issues real quickly. We, as farmers, we put chemicals and pesticides on our properties. We raise dust, noise and we are concerned about nuisances suits that may result as a result of folks traveling on these trails. Obviously, safety issues, crimes, parties of those natures.

So, what are our recommendations? We are satisfied with the county's recommendation of a million dollar policy on liability. We are not as satisfied with the bond issue. The bond issue, we think, is insufficient. What we are proposing is more of a standard financial plan, not a shotgun approach where you just start picking numbers out of the air, but that you tie it to the amount of the trail. So for instance, if you have four miles, if you said \$10,000 per mile, then you can set up a plan so that when future trails come in you've already got a plan in place and it's not subjective. So we are recommending \$10,000 per mile and that's not a subjective standard. You don't have to worry about how many fences are going up.

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Now we want this plan to be flexible though. It would be the opposite of a tax abatement. For instance, like in a tax abatement you go down, in this particular instance if you had \$40,000 bond, after the first year if things are going well and we're going to recommend a standard, comprehensive study after the first year, if things are going well, then that bond could be adjusted down. If activity or inactivity has occurred, it could be adjusted upward.

So we are then asking for a standardized planning and let me explain that a little bit further. In reviewing the staff's issues, the risk management issues there's a number of things that come up and I'm pulling this information from their issues."

**Chairman Norton** said, "How much time?"

**Mr. Irvin** said, "Just real quick, I'll wrap it up. The trail is undeveloped, the (*unintelligible*) not protected by any safety barriers, which you saw on here. The bridges are unsafe and have no railings, most significant risk, which you saw. Property damage is possible to adjacent property that are not fenced, so there is tremendous amount of risk here and so that for most businesses in the first year, the first six months of the first year you're either going to make it or you're going to fail and if you fail, and we have landowners that are putting fences up, we need to be protected and that's why we think that first year is critical that a higher bond is in place. Thank you and I stand for questions."

**Chairman Norton** said, "I see none at this point. Next."

**Mr. Dale A. Miller Jr.**, 2351 S. 183<sup>rd</sup> Street W., Goddard, KS., greeted the Commissioners and said, "And before I get started, I wanted to let you know that my property is between 231<sup>st</sup> and 167<sup>th</sup>. It's a different stretch of old rail railroad.

I'm a farmer/ rancher who owns a farm in Sedgwick County near Goddard. Our farm is located adjacent to the abandoned railroad, proposed recreation trail. We have one half mile of former railroad frontage along the property. My farm is used for livestock production for a beef cow, equine and crop production. The income derived from these entities pay for family living expense, crop and livestock production expenses.

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We are opposed to the rails to trails for a variety of reasons. However, what I want to relate to you today are concerns that we have as it pertains to our property, the proposed recreational trail and the Prairie Travelers.

Concern number one, the facilities on our farm already in place require that livestock be kept adjacent to the proposed recreational trails. This is because our pasture used for grazing livestock is located next to the abandoned railroad property. I have a copy of a deed showing that title to the abandoned railroad has been granted to the Prairie Travelers. As per Kansas recreational trails act, KSA 58-3212-10a, the Prairie Travelers at this time became responsible for all fence maintenance between my farm and the adjoining former railroad property. I have in place about 600 feet of fence along my pasture that the Prairie Travelers are now required to maintain. In addition, I have requested, as per a bid forwarded to Prairie Travelers, an additional 1,980 feet of fence to be constructed by a fence contractor along the portion of my farm that adjoins the proposed recreational trail, as per KSA58-3210-d.

After the proposed fence is constructed, the Prairie Travelers will at that time be 100% responsible for maintaining the entire half-mile fence, both existing and proposed, on my farm and the proposed recreational trail. As per 58-3212-10a and b, all fence maintenance must be performed by a qualified fence contractor, so that animals kept on my farm are contained at all times.

Today, to the best of my knowledge, the grantee of the former railroad property have not even made an attempt to make an inspection with a qualified fence contractor to my existing fence to determine what repairs may be needed. As I speak, I have baby calves, spring calves and cows grazing adjacent to the former railroad property. This part of my pasture is only one-half mile from 54 highway.

Even a new fence that is well constructed by a professional fence contractor using excellent materials and workmanship, if not maintained on a regular and timely basis, will deteriorate to the point where animals can escape. Our concern is fence maintenance not being performed on a timely or regular basis by a professional fence contractor, so that the animals kept on my farm are contained at all times.

If for example, the fence is not maintained, which the Prairie Travelers are responsible for, and a cow escapes due to the Prairie Travelers' neglect and a vehicle accident occurs resulting in both human injury, death in addition to damages to both real and personal property, who is responsible for the damages?

Concern number two, our farm . . .”

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**Chairman Norton** said, "Dale, how much more time do you need?"

**Mr. Miller** said, "I have about another page and a half. Can I review it just real . . . just summarize it?"

**Commissioner Winters** said, "I think he has provided that to all of us. We've got your entire statement."

**Mr. Miller** said, "There's one concern you don't have."

**Commissioner Winters** said, "Just hit it real quickly."

**Mr. Miller** said, "Okay. In addition, and this is a fourth concern you don't have, in addition the proposed recreational trail that is adjacent to our farm has been a constant source of noxious weeds and other weeds that have spread and infested our property. This includes (*unintelligible*) and Bindweed. I've spent several hundred dollars trying to (*unintelligible*) in our pasture. Bindweed in our wheat field is a problem, hard to control. Again, the grantee of the former railroad property have done nothing about this problem.

Our concern is that noxious weeds and other weeds adjacent to my farm cannot be controlled in a timely manner or at all. Thank you."

**Chairman Norton** said, "Thank you, Dale. Someone else that would like to speak to this topic?"

**Mr. Larry Ross**, 346 N. Bluff, Wichita, Ks., greeted the Commissioners and said, "I'd just like to add one thing that might be helpful in your considerations and that is that in December of 2002, Shawnee County agreed with the trail group to a \$3,000 escrow account for a 12-mile stretch and we have that documented. Thank you."

**Chairman Norton** said, "Is there someone else that would like to speak to this topic?"

**Mr. Duane Jacobs**, 1921 S. 231<sup>st</sup> Street W., Goddard, Ks., greeted the Commissioners and said, "I'm on the east line on this trail and I'd just like to reemphasis that one of my main concerns at this time, this time of the year, is fire control. And I have some pictures here that was taken last Tuesday to show an up to date fire hazard situation on this area and I'd be glad to let the County Commissioners look to review them and keep them if they'd like to."

**Commissioner Sciortino** said, "Sir, could I get you . . . I'm real hard of hearing. Could I get you to up that mike or get a little closer?"

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**Mr. Jacobs** said, "Sorry. I'm the same way. Anyway, that's my major concern, among many others at this time and also, last year why we were canvassed approving this trail and we collected 512 signatures opposed to this trail and we went through Garden Plain and through Goddard and in spite of that, why it's still in. So, there's a lot of issues here, like fencing, trespass all that, so I'll just kind of end it with that, and you folks can keep those pictures and do with them whatever you want. Thank you."

**Chairman Norton** said, "Someone else that would like to speak?"

**Ms. Jan Clasen**, 1950 S. 231<sup>st</sup> Street W, Goddard, Ks. greeted the Commissioners and said, "I'm an adjacent landowner and I do not feel that a \$10,000 bond is enough. I feel like it should be more. We have fence issues, safety issues and most of the people I see in support of the trail are not Goddard or Garden Plain residents, so they will be coming from town to maintain, support the trail. So that's all I have to say, that I would like to see more insurance and more bond."

**Chairman Norton** said, "Thank you. Is there anyone else that would like to speak?"

**Ms. Kellenbarger** said, "If there's no one else, I'd just like to answer a couple of questions."

**Chairman Norton** said, "We'll do that from the board, if we have questions, we'll bring people up if we have. Is there anyone new that would like to speak?"

**King David Davis**, Wichita, Ks., said, "I really don't want to speak. I just came here today to observe, with my son, but I can't help but to notice . . ."

**Commissioner Sciortino** said, "Sir, could you give your name for the record?"

**King David** said, "I'm sorry, my name is King David Davis. But I can't help but to notice that we have some very serious property owners who have some very, very, very serious issues and I know sometimes us folks from the city like to enjoy our privileges and benefits and stuff and sometimes we don't realize how serious it is that some people take their homes, their property, that which is sacred to them. And I would just hope that in our effort here to come to a solution here that we don't send another message to the people in our community that local government is going to do whatever it's going to do, irregardless and I have all the confidence that you guys are going to take seriously their issues and I would recommend as well that those who brought up issues that you



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thought were very important, make a complete listing of those and make sure that everybody in the decision making process can respond to those issues in a way where this is not a situation where it's just pushed on you, so it comes out as a win/win. And I couldn't just sit there and not say nothing, so I thank you."

**Chairman Norton** said, "Last call, is there anyone else that would like to speak to this issue? At this point, I'm going to limit the comments from the bench and if there are questions, we will call people up to answer those questions as we go through it. I do have some lights flashing, so Commissioner McGinn."

**Commissioner McGinn** said, "Tom was first."

**Chairman Norton** said, "Commissioner Winters."

**Commissioner Winters** said, "All right, thank you. Well I appreciate the folks who came today to talk about this issue. Just a couple of quick comments I guess. You know, Brenda Lorenz with the local farm bureau said it about as well as anybody could say right here when she said that she realizes that local governments can't do a lot on these issues, and that's right. This project, or these kinds of projects are here because of national federal legislation that allows this rail banking to take place. And what has happened here in Kansas is the Kansas legislature has then hopefully given local governments some guidelines to help trail organizations develop a trail plan that will hopefully answer a big share of these questions that have been raised by Dennis and a number of other folks.

So I think what we're trying to do today is to get a basic agreement that will let the Prairie Travelers move forward and still let county staff be involved in how this trail is fully developed. The question is not 'shall we stop this trail', because as far as I understand it, if each and everyone of us disagreed with the process of what's taking place on a rails to trails, we're not going to stop it. The land has been deeded to Prairie Travelers. It was done by the railroad. They're the ones that made that decision and so now what we need to do is figure out an agreement that will let folks move on and will hopefully address some of these concerns about safety and other issues.

And so I would like to ask Rich Euson, Rich if you would just make a couple of comments about what does happen if someone's fences are destroyed and livestock gets out and there's an accident, if there is some kind of fire or there is some trespassing, basically what's going to happen in those cases?"

**Mr. Euson** said, "Sure. Commissioners, first of all, Commissioner Winters is quite correct that once an organization does receive a notice of interim trail use, that they are entitled to open a trail,

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once they reach an agreement with the board of county commissioners. And so, in this case, both the board of county commissioners and Prairie Travelers are required to be reasonable in doing that contract negotiation. And so, essentially, what you are doing this morning is a contract negotiation and it seems to me that certainly the big issue in that negotiation are the amount of the bond and the amount of the insurance.

Obviously, there are liability issues associated with having this trail. The act does provide that the trail association, in this case Prairie Travelers, is required to maintain existing fencing and to maintain future fencing and to provide for an enclosure, in case the property of a landowner is enclosed on three sides but not the trail side. And certainly pay half the cost of a fence that is desired by the landowner, in cases that it isn't enclosed on three sides.

The act provides for the . . . the Rails to Trails Act provides for a limitation of liability, in regard to adjacent landowners, so you have that limitation, plus you have the liability insurance that's required to be set and maintained by Prairie Travelers. And in . . . the statute's short and I think I'd like to read it into the record, because I think it's important. This is what the act says."

**Commissioner Winters** said, "Rich, could you pull that microphone a little closer?"

**Mr. Euson** said, "Sure. Is that better now? The act says that:

*An adjacent property owner has no duty of care to any person using the recreational trail, except that this section shall not relieve an adjacent property owner from liability for injury to another that is a direct result of such property owner's gross negligence of willful or wanton misconduct.*

So what that means is that an adjacent landowner does not have any liability for persons who are attracted onto the property because of a pond or similar circumstances."

**Commissioner Sciortino** said, "That's clear in that statute, in a legal point of view?"

**Mr. Euson** said, "Well, I think it's as clear as the legislature can make it. Usually, the law is on trespassers that you only owe them a reasonable duty of care under the circumstances. Here, the statute says you owe trespassers absolutely no duty of care, unless you're guilty of willful and wanton misconduct. An example of that would be for instance setting lethal traps on property, something of that sort."

**Chairman Norton** said, "It does not preclude though that they could still be sued."

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**Mr. Euson** said, "They can still be sued but they can still be sued today by activities that are engaged on by the railroad or persons trespassing on the railroad property."

**Chairman Norton** said, "But it does not limit litigation, it does not keep them out of it."

**Mr. Euson** said, "It does not keep them out of it. Now my guess is probably their insurance company is going to take up their defense under their property insurance contract, but I don't know that to be a fact and our Risk Manager, Mick McBride is present this morning I believe and he might be able to answer that for us, but that would be my guess."

**Commissioner Winters** said, "All right, thank you. And then the only other question, Rich, it would be my intension as we go forward there's been comments that is the county going to be dedicated to making sure that the agreement and the plan is followed and every conversation I've had, it's my intent that the county be engaged and be responsible to whatever this agreement calls for and you would agree with that, wouldn't you?"

**Mr. Euson** said, "I would agree and the law does provide for a regular review of this and certainly an annual review of the escrow account. So that is already viewed in the statutes."

**Commissioner Winters** said, "All right, thank you Mr. Chairman. That's all I had."

**Chairman Norton** said, "I have a follow up question on that. What happens if there is known violations that the county should be supervising and we don't do anything about it, what is our liability?"

**Mr. Euson** said, "Well, under the tort claims act, the county really doesn't have any liability for the enforcement or failure to enforce a law. So I would say that the county has none, but like the adjacent landowners, we can't be prevented from being sued in that instance."

**Chairman Norton** said, "Commissioner McGinn."

**Commissioner McGinn** said, "Thank you, Chairman Norton. I agree with many of the comments that Commissioner Winters made. This is certainly not an issue that we can stop but, because of state law, we can look at this different area and do our best to protect the citizens of Sedgwick County and make sure that this is a well developed trail and good for our community on down the road.

I have a number of questions, don't know where to start. I think I'm going to start with the bridges and I don't know if, Rich, you want to answer that or if maybe Mark Borst can help us on this, but I

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did have the opportunity to go out and walk that trail and in looking at the bridges, you know there are a lot of railroad ties that are open and no handrails to the side, and I guess my question is if we build a bridge, a pedestrian bridge for bicycles or walking, the county had that obligation to do that, what is the requirements as far as the rail heights, the surface area, ADA, those kinds of things and is this trail, I guess, obligated to be at the same standards that we are when we build something for pedestrian use?"

**Mr. Euson** said, "Commissioners, the act requires that the Prairie Travelers be responsible for the maintenance of any bridges. As to what standard, the act is really silent regarding that and it just doesn't say."

**Commissioner McGinn** said, "Well, I'm thinking about the bicycle trails that we've built and I know that we're required to spend a great deal of money on it and I just wonder where this difference is, if there is any difference. I see Mark is at the podium."

**Mr. Mark Borst**, Traffic Engineer, Bureau of Public Works, greeted the Commissioners and said, "Being as this is a rural trail, versus the urban type that we've always dealt with, there may be some differences but we've passed on guardrail heights, which I think were . . . what, 48 inches, something in that area, which is what we'd put on anything. And I would think any surface, whether it's for bikes, horses, pedestrians, whatever I think they've talked about doing some kind of an underlayment and then filling in between ties which would create a surface consistent with what will be out on either end of any of those structures. So, as long as they do that, I can't see where there would be any problem, because it would be a consistent surface throughout. The only reason you'd know you'd be on one of the structures would be that you suddenly have the tall fence or guardrail there to protect."

**Commissioner McGinn** said, "Okay. Well my concern too was on a couple of the bridges there were some washout areas right there where the bridge starts, so you're going to have to extend something on out."

**Mr. Borst** said, "Yes, on the corner there there would probably have to be some kind of a corner treatment and extension of any protection. Now the washouts, the guardrail wouldn't be the answer to that. There might be some sheet piling or some kind of treatment to keep that washing from happening, because that's an erosion issue I think that you're talking about."

**Commissioner McGinn** said, "And since they've taken the trail over, they'd be responsible for that whole erosion issue."

**Mr. Borst** said, "As far as I understand everything, that would be correct."

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**Commissioner McGinn** said, "Okay, thank you. On the fire issues, and Rich you may have addressed . . . well, you talked mostly about trespassing and I don't know if the guy from Farm Bureau, Michael Irvin has the knowledge to answer this question but to me, it's almost like if you put this trail here, you're putting an attractive nuisance down the middle of people's property. And so, in thinking about trespassing . . . so it's creating this attractive nuisance for people's properties, I would think, but maybe you answered that question. It's probably going to get settled with case law, as Commissioner Norton said. They still have the opportunity to sue if there's a problem and those kinds of things. And so, it might be interesting to look at what some of the other trails and how that . . . what has transpired in those areas. And you know, maybe everything has been just fine and so that would certainly be good.

But the other issue was the fire issue that Dwayne Jacobs brought up. My question is, if that trail is there and the likelihood of fire is higher, or the fact that nuisances could be greater, does that increase that property owner's insurance? I don't know if anybody can answer that question, but I would like to know that."

**Mr. Euson** said, "I don't know."

**Commissioner McGinn** said, "The adjacent landowners, if that increases their insurance. The other question I had was the parking issue that was brought up. I don't see anywhere in the background material, unless I overlooked it, where people would park. I think that's a good point, that if people parked along the roadside, you're going to have trouble getting implements down the road. Did anybody see anything in here addressed about parking?"

**Commissioner Winters** said, "Do you want to ask Cecile that question?"

**Commissioner McGinn** said, "Cecile, do you have an answer to that? Come on up to the podium and you'd just a well stay close till we're all done."

**Ms. Kellenbarger** said, "As the discussion on the parking has to do with it, we have not got that all lined out. We will be putting that back in our projected proposal. We have looked at different ideas and we do agree that parking up and down the roads is not going to be very good. Truthfully, we believe that, at this point in time, for the four mile stretch that we have, anyone that wants to that would have a horse trailer, there is a wonderful little park and parking lot at Garden Plain that could be used and you can pull up and park there. It's not that used all the time, especially in the mornings and that kind of thing.

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You could, if you wanted to . . . we'll look at putting some parking areas in there with some gravel. We have not got that out to you yet. Does that help you?"

**Commissioner McGinn** said, "Okay, thank you. That's certainly going to be a factor, I think that we . . . I don't think we can use township roads for parking on this."

**Ms. Kellenbarger** said, "No, we don't really expect to."

**Commissioner McGinn** said, "Okay, all right. In the area of policing, don't mean to put you on the spot, Officer Dietzman. I think you were the one that we had talked to or somebody, staff was talking to you about how we might police that and if there is a . . . and I'm not saying any of this is going to happen, so I'm just thinking about what could happen. If we have an increase in amount of calls, the burden is going to be on the entire taxpayers of Sedgwick County because we've created this trail. Have you thought about how we're going to police that and I may not even happen. It may not be any different than what right now people call in a trespassing complaint. Can you share with us a little bit about what you may have spoke to staff about on this."

**Sergeant Brenda Dietzman**, Sheriff's Department, said, "Well, we've discussed it and we don't see a great increase of calls out there. There's potential of that. We patrol the parks, Sedgwick County Park, Lake Afton Park and we make similar calls out there as we would here, so we don't see a big increase and if there is that increase we can handle that."

**Commissioner McGinn** said, "But the ticketing, the fee would come back to the county? Is that correct, as opposed to a speeding ticket goes to the state and here we're having to use our tax dollars to police the trail."

**Sergeant Dietzman** said, "There would be some . . . well, that would be up to you because right now we have county resolutions that talk about violations at the parks and other areas of the county, things of that nature. The problem is that you would have to actually come up or adopt those park regulations to this trail area, so we can enforce those county resolutions there on that area, like be on the trail after hours, there's laws about that, there's resolutions about that with the parks right now. So we would actually have to come up with that and that had been discussed. However, there are state laws that we can also go to, if that's not an option, with the counsel, as trespassing, things of that nature. As long as an agent of that trail tells me that they don't want anyone on that trail

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after 6 p.m. or after dark or whatever the hours are, then that person . . . we can actually take a case to the District Attorney's Office if we find somebody on that trail after those hours for trespassing."

**Commissioner McGinn** said, "Okay. So we have the ability to adapt to that and I'm not saying there will be problems, but if there are, you know I think we ought to be able to offset the cost of having Sheriff patrol officers out there. Okay, thank you."

I guess the only other comments I want to make and then I want to listen to any comments my colleagues have, is in looking at this trail, it's very undeveloped and knowing the cost to get a trail up to what it needs to be, if you look at some of the other trails in the surrounding states and even here in our state locally, it looks like there's a long ways to go and my concern is what happens to this, especially when you look at the funding sources, non-profit, I don't see any big dollars contributors, national organizations and maybe there will be. They end up lingering and so you have these costs of weeds, you have the cost of maybe small fires here and there, trespassing and those kinds of things until it can actually get to a developed stage to where many people are using it.

And so . . . and not knowing the total picture on the fences yet, I guess I'm going to be supporting a higher escrow number, but I want to hear from the rest of you before we kind of decide what that number might be. But it also sounds like we still have several issues that need to be worked out, as we move on down the trail, so to speak. Thank you."

**Chairman Norton** said, "Commissioner Sciortino."

**Commissioner Sciortino** said, "Commissioner McGinn, are you higher than the \$10,000 that was proposed?"

**Commissioner McGinn** said, "Possibly."

**Commissioner Sciortino** said, "Okay. Well, as Commissioner Winters said, our hands are pretty well tied. We can't deny it, we can't stop it. Candidly, my druthers are the land was taken away from the landowners so a railroad could be built and if the railroad isn't going to use it, I think it should go back to the landowners. That's my personal feeling."

I think this gentleman, I think it's . . . well, it says Steve Pager, but these questions, there are some here that are very legitimate: Who will the contact person be? Will there be a fee charged? What are the hours of usage to be established? Who oversees the daily operation of the trail? The idea of where they're going to park the trucks and trailers. Are there going to be any restroom facilities? I

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guess my question of Mr. Euson is, do we have any authority to establish certain criteria? Like can we establish hours of operation? Can we mandate that no fees be charged? Or can we mandate that there has to be adequate parking in a certain . . .? Do we have any authority to impose those types of requirements on Prairie Travelers?"

**Mr. Euson** said, "The act really requires all of this be done by way of a contract and so it really needs to be done by agreement, I think. But yes, I think the county does have some limited ability to establish some regulations relating to the trail."

**Commissioner Sciortino** said, "Okay. And then, if we feel that what we're asking is reasonable and they don't, then you have to go to court, right, to decide that?"

**Mr. Euson** said, "Yes, sir."

**Commissioner Sciortino** said, "But before an agreement can be given, they can't . . . if they don't get an agreement from us, they can't go forward with what they're doing? Do they need this agreement?"

**Mr. Euson** said, "Yes, the act does provide that the agreement needs to be in place."

**Commissioner Sciortino** said, "Okay. What I believe is that we're not going to have to worry about us going out there to make sure that whatever we put into the contract is being adhered to. I think the property owners are going to be very quick to call us and let us know that there's been a perceived breach of this contract. They're going to look to us, the five of us, to enforce whatever it is we finally agree on, so I don't think we have to worry about spending a lot of county personnel time going out there and making sure everything is done. You all are going to tell us real quickly on that.

If there is a perceived breach, does that put us potentially in, if we can't get Prairie Travelers to agree to do it right, does that potentially mean the city [sic] sues Prairie Travelers, if there's something that we think is wrong? There isn't enough escrow money or whatever, that pits us having to sue them to honor the contract, or does the contract provide if there is a breach and the breach isn't remedied, that the contract is null and void and all operations have to cease or what happens if there's a breach, I guess is what I'm asking?"

**Mr. Euson** said, "Well, it's a good question. Of course, it isn't identified in the act as to what happens, but certainly the ability to use the trail is subject to the agreement that the parties have to



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have and if there's a material breach of the agreement, then the agreement . . . then the court can end the agreement between the parties. Otherwise, it would continue in force and affect and we would remedy it either through the escrow account or through any enforcement proceedings that we could do through out home rule authority through regulations."

**Commissioner Sciortino** said, "Okay. Well, I was very impressed with some of the comments of the people that were opposed to it and we really do appreciate the manner, I think, in which the opposition was presented. I believe that these Prairie Traveler folks are very well meaning people that are really passionate about what they're wanting to do and I am also extremely happy it's not in my district, so I'll kind of lean on Mr. Winters, because it's his district. But this is a toughy. That's all I had and I want to listen to see what Commissioner Unruh wants to say."

**Chairman Norton** said, "Commissioner Unruh."

**Commissioner Unruh** said, "Well, I don't know that I'm going to bring much new here. A lot of the questions and comments have already answered my questions. But in this preliminary negotiation as it seems like we're in, if we . . . how do we arrive at what's the right perspective on how much parking or can we require parking? This would all have to be in the agreement before we . . . I mean, that's going to have an influence on the bond and all that's going to have to be in the agreement before we're going to approve bond and approve whether or not we can proceed with this it would seem. Is that correct?"

**Mr. Euson** said, "Yes, but Commissioner Unruh, there's really nothing in the act that talks about parking, so for instance it wasn't even envisioned that that might be a problem."

**Commissioner Unruh** said, "But it appears that it is an issue."

**Mr. Euson** said, "But certainly it is. Certainly it's difficult to think about all the parking that might occur along 279<sup>th</sup> Street West that might inhibit agricultural machinery."

**Commissioner Unruh** said, "Okay. Well, I guess my question is should we come to the conclusion that we need to provide parking and maybe restrooms, since this is a public use trail, all that needs to be in the agreement and all that would affect the amount of the bond, and so we're still pretty preliminary in trying to come to a conclusion here, it would seem like, until those questions are answered."

**Mr. Euson** said, "Right. I guess my point is that since the act doesn't provide for it, yes you can ask Prairie Travelers to agree to it, but if they decide they don't want to agree to it, then . . ."

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**Commissioner Unruh** said, "Then where are we?"

**Mr. Euson** said, "You're in a situation where perhaps you've unreasonably prevented them from going ahead with their plans. But it certainly sounds to me like they're willing to address it."

**Commissioner Unruh** said, "All right. Well, on some of the things that we might require, like railings on some of those bridges and some of those safety things, will we require an inspection before we permit usage of the trail? Or is in fact the trail being used now?"

**Mr. Euson** said, "I don't know if it's being used now. Whether we can require an inspection or not is really . . . is really not something that is answered in the act either and that's a matter of us dealing with Prairie Travelers."

**Commissioner Unruh** said, "Okay. Well, my last comment would be, also with respect to the bond, although there is precedent for a very low bond from, I think it was Shawnee County where it was mentioned, but it seems to me like if we're going to be talking about requiring a bond to guarantee fencing for 4 miles on both sides of the trail, that that could amount to a significant amount of money before it's over and I'm thinking we may need a larger bond also. So with that, I'll just wait and let the rest of the Commissioners talk."

**Chairman Norton** said, "Commissioner Winters."

**Commissioner Winters** said, "Mr. Chairman, I guess I would have a suggestion that, in a sense, what we have been doing here is a bit of negotiation and getting information that will allow us to better understand what all the situations are that involve this trail."

I had hoped that we could come to a firm conclusion at the end of this discussion. I'm not sure that we can. What I would suggest that we do is that we approve this agreement, but with the stipulation that the Legal Department still has the ability to negotiate with the Prairie Travelers and the landowners over this fencing issue, but that we set down the perimeters of 'Yes, we think there needs to be an agreement', we think there needs to be a million dollars liability insurance. Right now, we're going to take staff's recommendation that there needs to be \$10,000 escrow account but we do have concerns about the parking issue and we have concerns about restrooms issues, at least those two, that we don't know the answer to.

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So, I would like for us to set the parameters that would allow the Legal Department to continue on negotiating to come to some conclusion. And again, I think the fencing issue is going to be a big issue. I think it's going to be an issue that drives the escrow amount and, if after all that data is collected, if \$10,000 is too much, it can be lowered. If \$10,000 is not enough after we've gathered that information. But we can continue to talk about it, if there are other questions and I know that's kind of a . . . not the way we normally do contracts is negotiate them tentatively, but I think part of what staff needs to hear is they needed to hear this discussion, we needed to hear it and now we need to set down some parameters which we think would be acceptable. And right now, I think the two questions are . . . well, there's actually more than two, but the million dollar liability and \$10,000 on the escrow and then how is this parking issue going to be solved."

**Commissioner Sciortino** said, "Did I hear you say that if we approved that, Legal has the flexibility to lower the escrow and raise it if they wanted to?"

**Commissioner Winters** said, "Well, I'm sure they'll come back to us for a final agreement, once a final agreement has been hammered out and negotiated. But it's hard for us to negotiate here from the bench, but yet all of this is information that we needed to have and I think this was the best way for us to get it is for us to listen to the citizens. But I would think this would probably . . . and certainly citizens could contact us individually, letters, e-mail, phone calls or whatever but I would think that we've got enough information to go ahead and continue the negotiation of the finalized contract. Did that at all make sense?"

**Commissioner Sciortino** said, "Yeah, the motion could be to continue negotiating the . . . well, whatever you come up with. Yeah."

**Chairman Norton** said, "Commissioner McGinn."

**Commissioner McGinn** said, "I saw Bill open his mouth. Did you have a comment? We haven't let you talk for a long time."

**Mr. William Buchanan**, County Manager, greeted the Commissioners and said, "If I may suggest, it might be helpful to frame the motion in terms of 'agreement in principle' so the negotiating staff understands what those principles are, but fully understands that they are not empowered to make the final deal until it comes back to you."

**Commissioner McGinn** said, "I still have a few more comments and I think this was the best way to do this. I know we're not coming to the final agreement, but we needed to have this discussion and we needed to hear from the citizens on both sides of this issue. And I want to thank staff for doing all that they've done, as far as trying to get the background material together."

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I guess, as we talk about moving forward and continuing to talk to work out the details, I was a little confused, Mr. Euson, when you said if we require so much parking and if that parking is all we're asking is let's just make sure we have parking to keep people off of the township roads. And then, I'm not sure if you were talking about bathrooms as well, but you know I don't know, I used to think there were laws about going to the bathroom out in public and if there isn't any place or facility, at least the people know about. I don't think that that's unreasonable to ask that those issues be addressed. And so, you kind of made me think that if the parking perhaps could be unreasonable and bathrooms are unreasonable. Is that what you said?"

**Mr. Euson** said, "Well, actually I was just talking about the parking but the fact of the matter is, the act really doesn't talk about providing sanitary facilities either and the question as to whether or not we could provide those, I don't know."

**Commissioner McGinn** said, "No, I'm not saying we, I'm saying Prairie Travelers provide them."

**Mr. Euson** said, "But I mean, it would question as to whether we could provide a regulation for that. I don't know the answer."

**Commissioner McGinn** said, "I think that's something staff probably needs to continue to work through. And if we continue, I mean if we're not going to finalize everything here today, I think another issue that I'd like to just throw out that I think needs to be addressed as of today and I don't know that it has been in the past, staff from Public Works, the weed department did walk that area and look for noxious weeds and I did hear a landowner talk about how noxious weeds has been a challenge for them along their property. And if you don't take care of them at the source, it does continue to spread. And it's my understanding Prairie Travelers has control of this property now, Cecile? Okay. And so, to me I think, even though we're still trying to work out the details, they need to be addressing the noxious weeds issue today and not when we finally get a contract done. So, I guess I'd like to see that gets taken care of quite soon."

That's about all I had, other than just a clarification. Commissioner Sciortino, you made a comment about the land ought to go back to the landowners. The difficulty in these cases is that there are some situations along the trail where the railroad actually acquired the land. It's hard to find the abstracts that indicate whether it was given an easement or whether they actually purchased it. So that's what causes a little bit of confusion in these kind of cases. So, thank you."

**Chairman Norton** said, "Commissioner Sciortino."

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**Commissioner Sciortino** said, "I just had one question. Like right now, while the trail is in the process of being developed, right now today . . . could I go out there and legally walk it if I wanted to? No. Right now I can't. Okay, that's all I had."

**Commissioner Winters** said, "Mr. Chairman, I'm prepared to make a motion if there's no other discussion."

**Chairman Norton** said, "I just have a couple of items. Are they limited to any usage until all the talking points of the contract are totally completed? I mean, they couldn't start the project and allow any public to walk that until everything is resolved in a contract. Is that correct?"

**Mr. Euson** said, "Yes, that's correct. With the contract meaning that what we're really doing is setting insurance and the escrow amount."

**Chairman Norton** said, "That doesn't cover rails being put on bridges, nothing else?"

**Mr. Euson** said, "That's correct."

**Chairman Norton** said, "That would be on Prairie Travelers to take care of that and if they didn't do it and an event occurred, the county has no liability."

**Mr. Euson** said, "Well, I would say, yes the county has no liability."

**Commissioner Winters** said, "And they have a million dollar insurance policy."

**Mr. Euson** said, "Because those bridges are not on . . . really, they're not on county property."

**Chairman Norton** said, "The second thing is, has the land been totally deeded to Prairie Travelers or is it just the granting of the easement of railroad property?"

**Mr. Euson** said, "It is my understanding that they have a deed from the railroad, which is actually a deed of an easement, but it is a deed and I believe they have it."

**Chairman Norton** said, "Is it a strict ownership of property, or could it ever revert back to the railroad for usage?"

**Mr. Euson** said, "It could revert back to the railroad for their use, yes."

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**Chairman Norton** said, "How long would the deed last? What is the terminology in there that would revert it back? Do we know that?"

**Mr. Euson** said, "I don't know that, but the act provides . . . the federal act provides for . . . and I haven't seen a copy of the deed so I don't know and perhaps somebody from Prairie Travelers could answer that, but the federal legislation says that it goes back to the railroad if the railroad determines that the railroad needs it for future railroad purposes."

**Chairman Norton** said, "Okay. Just wanted to be sure that we got those two things clear, because this . . . in five years, this could revert back to the railroad if they so deem that they need that property."

**Mr. Euson** said, "That is possible."

**Chairman Norton** said, "Commissioner Winters."

**Commissioner Winters** said, "Mr. Chairman, I'm prepared to make a Motion."

#### **MOTION**

Commissioner Winters moved to approve the agreement in principle and that is confirming the amounts of \$1,000,000 liability insurance and \$10,000 in the escrow account and that we ask Legal Department to continue working with Prairie Travelers on the fencing issues and solving the parking issue and any other issues that need to be addressed and that the Legal Department bring us back a document at a later date.

Commissioner Unruh seconded the Motion.

**Chairman Norton** said, "I have a Motion and a Second and discussion? Commissioner McGinn."

**Commissioner McGinn** said, "I guess I'm not sure I understand the \$10,000 escrow. Does that mean it can still go up?"

**Commissioner Winters** said, "Yes, I would interpret that . . . and I know Bob Parnacott has been working on this issue and he expects to have additional information, I believe. And once he has that and once he's addressed those concerns, if \$10,000 . . . staff believes 10,000 is not adequate, then they would make a recommendation of some other figure. If they believe 10,000 is more than adequate, I'm just waiting for staff to make that final recommendation. But at this point, I'm taking

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the staff's recommendation of \$10,000 as the starting point.”

**Commissioner McGinn** said, “Okay, and I certainly don’t want to sound unreasonable, I just want that flexibility in there, because this is the first trail that we’ve put in place and I want to make sure we do it right and I don’t know that we know what we’re getting into and still it’s a very undeveloped trail and unless a lot of money starts coming in to develop it properly, you know I’m seeing it sitting there for a long period of time, and so that’s the concern that I have. Rich Euson?”

**Mr. Euson** said, “Commissioner McGinn, the escrow account is really somewhat of a moving target and it’s required to be reviewed at least annually and it can go up and down, as circumstances require.”

**Commissioner McGinn** said, “Okay, all right, thank you.”

**Commissioner Sciortino** said, “So you agree with Mr. Winters and the way he made the motion, that that escrow account is flexible when it comes back to us for final approval?”

**Mr. Euson** said, “Yes, because you’re just approving the agreement in principle and not really approving the agreement until it comes back to you, after these other issues are solved.”

**Commissioner McGinn** said, “And just to add to the other side of the story, is if there is a great deal of money that comes through and this is very successful, there’s no reason for us to have a high dollar escrow and it can come back down.”

**Commissioner Winters** said, “But this is a big project. I mean, you’re not going to put this together on a shoestring and a dream. I mean, this is a project that’s going to take some real effort and I mean, it’s a big project.”

**Chairman Norton** said, “We do have a Motion and a Second. I will probably vote to support this, although I have a lot of concerns that we have not gotten deep enough into this issue with what our responsibility is. I think it’s onerous that the federal government has set this out as a procedure and a law and has such limited dialogue of what the locals have to do, because I think there is . . . we answer to the public that lives in the four walls of our county and I’m not so sure that the federal government could even care less about anything between Garden Plain and Goddard. Certainly not as much as we do, and it’s so vague that I really have a hard time moving forward today, but I will move along with Commissioner Winters’ recommendation and hopefully people of goodwill and

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smart minds will come to the best solution for this in our community. But hopefully there are things that have to be worked out, it will come back before us so that we can make those determinations. Any other discussion? Clerk, call the roll.”

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, “Next item.”

**PLANNING DEPARTMENT**

**D. METROPOLITAN AREA PLANNING DEPARTMENT.**

- 1. CASE NUMBER ZON2003-00035 – ZONE CHANGE FROM “RR” RURAL RESIDENTIAL TO “LI” LIMITED INDUSTRIAL, GENERALLY LOCATED ON THE NORTHWEST CORNER OF 37<sup>TH</sup> STREET NORTH AND GREENWICH. DISTRICT #1.**

**POWERPOINT PRESENTATION**

**Mr. John Schlegel**, Director, Metropolitan Area Planning Department, greeted the Commissioners and said, “Shall I proceed? We have three cases to bring before you today. The first case is a request by the applicant to rezone a 149 acre tract. Kristi, I’m in trouble, pressed the wrong button. A 149 acre tract from Rural Residential to Limited Industrial for development of an industrial warehousing type of use generally located to the northwest of the intersection of Greenwich Road and 37<sup>th</sup> Street North.

The upper reach of Dry Creek runs diagonally through this property, from the northwest corner down to the southeast corner. Surrounding property, as you can see from this aerial photo, is used for agricultural purposes except for the 10 acre tract in the southwest corner, which is the county maintenance facility and you can see from the aerial photo that the Jabara Airport is located just to the west of this particular site.



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The site is located within Area A of Wichita/ Sedgwick County Airport Hazard Zoning Map. Properties within Area A require an Airport Hazard Zoning Permit exemption for structures to exceed 25 feet in height. A strip of land on the western edge of this property is within the building restriction line for runway 18 of the airport and is within the runway protection zone that extends for 750 feet from the edge of runway 18. And you can see that on this diagram. It just catches the corner of the property up here, right up here.

The Metropolitan Area Planning Commission, at its August 7<sup>th</sup> meeting, recommended by a 10 to 1 vote the requested Limited Industrial zoning, subject to platting within one year. Be glad to take any questions you might have on this.”

**Chairman Norton** said, “Well, I see none at this point. Commissioner Unruh.”

**Commissioner Unruh** said, “Well, it’s not a question so much as I just want to express that I would be supportive of the recommendation of the Metropolitan Area Planning Commission on what they have decided from their determination and findings. And I would like to further say that I want to come to that conclusion and make that determination based on what our Unified Zoning Code says and so if I may just continue here a little bit to state these findings.

With respect to the zoning uses and character of the neighborhood, the area directly to the west is Jabara Airport, just to the southwest of this property is the county maintenance yard. If you go on the other side of Jabara Airport, it’s zoned industrial and it’s developing with manufacturing and commercial uses. With respect to the suitability of the property, the land could continue as agricultural, but I think that it’s more suitable for Limited Industrial than it is for Rural Residential. And with respect to the extent that removal of the current restrictions would detrimentally affect the property, I think that this will have a minimal impact, in light of the fact that it’s got an airport right next to it and it’s got industrial development around it. So for those reasons I’m going to be supportive.”

**Commissioner Winters** said, “Do we need to ask if there’s anybody here that wants to speak?”

**Chairman Norton** said, “We could certainly do that. Is there anyone here that would like to speak, either pro or con, on Item D-1? Please come forward.”

**Mr. Terry Smythe**, Agent for applicant, Baughman Company, greeted the Commissioners and said, “Obviously I’m in agreement. I’ll stand for any questions that you might have.”

**Chairman Norton** said, “I still see none. I will entertain a Motion.”

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**MOTION**

Commissioner Unruh moved to approve the zone change, subject to platting within one year, direct staff to prepare the appropriate resolution after the plat is approved, and authorize the Chairman to sign the resolution.

Commissioner Sciortino seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, "Thank you. Next item."

- 2. CASE NUMBER CON2003-00023 – CONDITIONAL USE TO PERMIT A 1,075-FOOT HIGH GUYED LATTICE TOWER ON PROPERTY ZONED "RR" RURAL RESIDENTIAL, GENERALLY LOCATED SOUTH OF 53<sup>RD</sup> STREET NORTH AND EAST OF 151<sup>ST</sup> STREET WEST. DISTRICT #3.**

**POWERPOINT PRESENTATION**

**Mr. Schlegel** said, "In the second case, the applicant is seeking a conditional use to permit the construction of a 1,075 foot high guyed lattice tower for use for high definition television. Subject property is zoned Rural Residential and is located approximately a quarter mile south of 53<sup>rd</sup> Street North, on the east side of 151<sup>st</sup> Street West.

The subject property is located within the zoning area of influence of the City of Colwich and the Colwich Planning Commission has considered the conditional use request at its July 29<sup>th</sup> meeting and it has recommended approval.

The applicant indicates that the proposed wireless communication facility is needed to provide high definition digital television to south central Kansas. The applicant also indicates that the existing radio and television towers in the area are not capable of supporting the required antennas and

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equipment to support high definition digital television. As you know, this is the technology that's becoming available and will be mandated in the next several years.

The character of the surrounding area is rural, with numerous radio and television towers located in the immediate vicinity. The surrounding properties are used primarily for agriculture. The nearest residence is located approximately a quarter mile southwest of the proposed tower.

The tower is proposed to be located on a 40-acre tract, near the center of the tract and approximately 100 feet north of an existing television tower on the tract that will remain. The existing equipment building on the tract will be used with no new equipment building proposed.

The Unified Zoning Code requires that, for a tower of this size, that setback be equal to the height of the tower from all the property lines. However, the tower is proposed to be set back approximately 530 feet from the nearest property line to the south. The setback requirement can be waived through approval of the conditional use request today and staff recommends that you do waive the setback requirement, since the proposed tower cannot be located on the subject property in compliance with the setback requirement.

The Federal Aviation Administration regulations require aircraft warning lights on the tower, since the height of the tower exceeds 200 feet. The FAA regulations permit a dual lighting system consisting of red lights at night and flashing white lights only during the day to limit the impact on urban development in the general vicinity.

The Unified Zoning Code prohibits strobe lighting, such as the flashing white lights that would be required by the FAA. However, the Unified Zoning Code does allow you to modify these supplementary use regulations upon receiving a favorable recommendation from the planning commission. Since planning staff recommends you modify the lighting requirement to comply with the FAA regulations and permit the dual lighting system and the planning commission as well recommends that you do the same.

At their hearing on August 7<sup>th</sup>, the Metropolitan Area Planning Commission there were no speakers in opposition to the request and they voted 11 to 0 to approve the request, subject to the conditions that you've received. Be glad to take any questions."

**Chairman Norton** said, "Okay. Commissioner Winters."

**Commissioner Winters** said, "I have no questions now. If there's anybody here that wants to speak, then I'll have some comments after that."

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**Chairman Norton** said, “Are there any folks in the audience that would like to speak, either pro or con, to this issue?”

**Mr. Russ Ewy**, Agent for applicant, Baughman Company, greeted the Commissioners and said, “I will also stand for questions. I think the record that you have before you is pretty complete and I’ll do just that, I’ll stand for any questions.”

**Chairman Norton** said, “Okay. Commissioner Winters.”

**Commissioner Winters** said, “All right. I have no questions of Russ or John right now but a couple of comments to remind the Commissioners. There are a number of towers in this vicinity. There are probably five tall towers there now and I think it is important to remember that the Colwich Planning Commission did consider this request of July 29<sup>th</sup> and they recommended approval. Just to the west of this site is High Plains Ethanol plant. Just to the north of this site is a KG&E power station. So there is a lot of varied activity going on in this area.

I guess the one thing that I just wanted to make sure that we were right on and clear on was the lighting on this tower and I think John analyzed that pretty well, that it will have a dual lighting system without the flashing strobe of a lighthouse at night, that looks like a thunderstorm for miles around. So that’s one of the issues I think that has been taken care of and resolved here. So, Mr. Chairman, if there are no other questions, I’m prepared to make a Motion.”

**Chairman Norton** said, “Okay, I’ll accept that.”

### **MOTION**

Commissioner Winters moved to approve, subject to conditions recommended by MAPC, and adopt the findings of the MAPC and authorize the Chairman to sign an authorizing Resolution.

Chairman Norton seconded the Motion.

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

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**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, “Next item.”

- 3. CASE NUMBER CON2003-00026 – CONDITIONAL USE FOR OUTDOOR RECREATION AND ENTERTAINMENT ON PROPERTY ZONED “RR” RURAL RESIDENTIAL, GENERALLY LOCATED NORTH OF 93<sup>RD</sup> STREET NORTH AND WEST OF HYDRAULIC. DISTRICT #4.**

**POWERPOINT PRESENTATION**

**Mr. Schlegel** said, “In this last case, the applicant is requesting a conditional use to allow a cornfield maze on a four and a half acre unplatted tract which currently is zoned Rural Residential and generally located north of 93<sup>rd</sup> Street North and west of Hydraulic.

The applicant proposes to cut a maze through a field of corn and open it to the public to walk through the maze as a form of recreation and entertainment. Cornfield maze is considered an outdoor recreation and entertainment use under the Unified Zoning Code. A conditional use is required for this type of use in a Rural Residential zoning district. UZC indicates that a conditional use for outdoor recreation entertainment shall be limited to a use that the planning commission has determined will not produce undue noise or attract large numbers of spectators.

The Unified Zoning Code also indicates that a conditional use for outdoor recreation and entertainment shall comply with six standards. This particular request does not conform with two of the six standards, and if you were to approve it today you would be approving waivers to those standards.

The first of those two waivers would be the subject property not being contiguous to an arterial street or expressway and the second waiver would be for allowing the driveway and the parking area to be gravel, rather than paved. The applicant requests that both these standards be waived. The Unified Zoning Code standards for conditional use can only be waived by your board upon

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receiving a favorable recommendation from the planning commission. So that first prerequisite has been met so far.

The character of the surrounding area is rural. All properties surrounding the subject property are zoned Rural Residential and are used for agriculture or are developed with large lot rural home site.

At the Metropolitan Area Planning Commission hearing on August 7<sup>th</sup>, one speaker appeared in opposition to the request, citing concerns with traffic, safety, trash, noise and trespassing. After some lengthy discussion on this particular item, the planning commission voted 7 to 4 to approve the request, subject to the conditions that you have already received. And with that, I'd be glad to answer any questions."

**Commissioner McGinn** said, "John, before the map goes away, I just need to know how you get in and out of there."

**Mr. Schlegel** said, "Off of 53<sup>rd</sup> Street North and there's a drawing that shows . . ."

**Commissioner McGinn** said, "53<sup>rd</sup> or 93<sup>rd</sup> Street?"

**Mr. Schlegel** said, "I'm sorry, 93<sup>rd</sup> and this shows the driveway and parking area."

**Commissioner McGinn** said, "I guess I want to see it on the map, because I can't see the road that takes you into that area."

**Mr. Schlegel** said, "Go back to the aerial. So you come in right here. I believe that . . ."

**Commissioner McGinn** said, "Is that the applicant's entire property, that whole area? Okay."

**Chairman Norton** said, "Before we move on, is there anyone else that would like to speak for or against on this item? Were you through, Commissioner McGinn?"

**Commissioner McGinn** said, "Yeah, I just needed to see that before they took the map away."

**Mr. Greg Ferris**, agent for applicant, Ferris Consulting, greeted the Commissioners and said, "I represent the Hieberts, the applicant in this case. To answer Commissioner McGinn's question is the applicant actually owns all the property to the south of the red and also north and over to I-135. The applicant owns probably the largest section of land in this area. He has 40 acres. He has done small amounts of farming. He was raised on a farm. His idea was to try and supplement his income

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and to educate his children in farming. That's his goal is to be able to continue to use this until such time as development actually gets to that area.

In respect to the waivers, we request the waiver for the parking and the driveway because the idea is to keep this area in an agricultural flavor. Obviously, if you paved it, it no longer would have an agricultural feel. The applicant has two purposes, one is for the recreation and the other is for an education. The plan is to have, every year to have different markers inside the maze, along with a handout that is an education. This year's plan was how insects aid in crop development and also what their problems are. And so he was using this as a 4-H tool for youth groups and other things.

The planning commission has restricted the amount of use that this property can have as part of the condition, but we don't believe that the traffic will be a major issue. Therefore, we do see that a waiver would be appropriate. This is not going to be a great outpouring of people in the thousands at anytime.

The other thing is that we are restricted to only the use of a cornfield maze. There was some discussion in some of the conversations about concerts and all kinds of other uses. The only thing we're allowed to do is the cornfield maze. We're only allowed to do it for approximately two and a half months of the year. We're restricted to daylight hours, except for a couple of weeks a year. So I think that that really restricts the issues of how we're going to impact the area.

There were a lot of subsequent issues that came out of the discussions that really aren't germane to this. There's an annexation battle going on, which I think has clouded this case a little bit and it shouldn't because it doesn't have anything to do with the conditional use.

There were statements made that there are no other commercial ventures in the area. There actually are. The property directly to the west has some commercial activity. There is also a runway directly to the east that, while it's a private runway, certainly is not just your typical open field use.

Because the applicant is really attempting to do this in an education manner, this is really going to have a family farm flavor. We think it really fits very well with the agricultural culture. In fact, it couldn't fit anywhere else but in a rural setting. It wouldn't make any sense.

Finally, one of the other issues that came up is that the applicant, because he has 40 acres, is allowed to have a number of his own dogs. He does not have a kennel, but he does have his own dogs. I think that issue was raised at the planning commission. Again, it's not an issue that's germane to our use of this as a cornfield maze. We ask you to concur with the findings of the Metropolitan Area Planning Commission to approve this case on the limited scope that the conditions allow and be glad to answer any questions you may have."

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**Chairman Norton** said, "Thanks, Greg. Is there anyone else that would like to speak today? At this point I'll limit the comments to the bench. Commissioner McGinn."

**Commissioner McGinn** said, "Mr. Ferris, you might come back up to the podium please. In looking at the background material, the discussions they had and the protesters and that kind of thing, it seemed like this dog issue did come up. He's within the laws right now of how many dogs he can have on the property."

**Mr. Ferris** said, "I think he has 15 or 18. He's allowed to raise 20 dogs of his own on this property, as he has 40 acres. In fact he's actually allowed, because he has 40, I think to do more but I'd have to do a little research on that. So yes, he's completely within the standards of . . ."

**Commissioner McGinn** said, "And so in looking at some of the discussion, this issue has nothing to do with that."

**Mr. Ferris** said, "That's correct."

**Commissioner McGinn** said, "Okay. And the other question I had was on parking, is he just going to use his grass field?"

**Mr. Ferris** said, "No, he's going to actually gravel and I don't know how to work this, if we could get back to the site plan. You'll see the driveway coming in and then an area for emergency vehicle turnaround and then also an area of bus parking and regular parking here. This will all be gravel."

**Commissioner McGinn** said, "Okay, all right. I have some more comments, but I think I want to hear from my colleagues, if they have any questions."

**Chairman Norton** said, "Commissioner Unruh."

**Commissioner Unruh** said, "Just a couple. Greg, you might just stay right there. The airstrip you mentioned is where in relation to the cornfield and does it present a hazard?"

**Mr. Ferris** said, "No, it's actually a little bit north and a little bit east, but just it's in the general area and . . ."

**Commissioner McGinn** said, "Is it on the aerial?"

**Mr. Ferris** said, "I believe it's the property that's just north of the roadway. The roadway comes in and then there's a parcel up to the north of that."



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**Commissioner Unruh** said, "So it's a half mile away."

**Mr. Ferris** said, "Well, no, it's right in here I believe."

**Commissioner Unruh** said, "Okay. But it's not considered to be a hazard."

**Mr. Ferris** said, "No, it shouldn't be a hazard. It's private airstrip and . . ."

**Commissioner Unruh** said, "And the issue with the dogs, that's not considered to be hazardous?"

**Mr. Ferris** said, "The dogs are actually going to be . . . the dogs are actually up in this area up here. I don't believe you can see on here, which is I think one of the reasons why . . . it's in close proximity to this neighbor, who is the one that actually came."

**Commissioner Sciortino** said, "It's north of that hedgerow, isn't it?"

**Mr. Ferris** said, "I believe that it is, you're correct."

**Commissioner Unruh** said, "And then, getting to the property, you have to come from Hydraulic?"

**Mr. Ferris** said, "That's the only way in."

**Commissioner Unruh** said, "Back to Hydraulic, that's just one way in and out."

**Mr. Ferris** said, "One way to Hydraulic here and then straight north."

**Commissioner Unruh** said, "And what volume of vehicles do you expect?"

**Mr. Ferris** said, "We're only allowed to have a maximum of 90 people in there at any given time. He believes during the week he's going to be at probably 50 to 80 vehicles a day. On the weekend, he's anticipating a couple of hundred vehicles a day. Because the majority of what he believes will be in the area of either buses or church vans, those type of things is what he thinks will bring when he has the large numbers. The reason we asked for 90 was that's two busloads, so that he would have that. If that was the case, you'd only have two vehicles for those 90 folks."

**Commissioner Unruh** said, "And what's the area in red again?"

**Mr. Ferris** said, "That's the actual conditional use area."

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**Commissioner Unruh** said, "But how many acres?"

**Mr. Ferris** said, "Oh, I'm sorry. It is four and a half acres."

**Commissioner Unruh** said, "Okay, that answered my question. Thank you."

**Chairman Norton** said, "Commissioner Winters."

**Commissioner Winters** said, "How many protesters were there at the MAPC hearing?"

**Mr. Ferris** said, "There was one, but there were also two letters. There was one from this area over here and then these two residences right here. The area . . . all the rest of the area that's in the notification area, he visited everyone and they all had no problems with it, only those three."

**Commissioner Winters** said, "And you probably have no idea why they didn't come today."

**Mr. Ferris** said, "No, I sure don't."

**Commissioner Winters** said, "Thank you. That's all I had."

**Chairman Norton** said, "Okay. Commissioner McGinn."

**Commissioner McGinn** said, "Thank you. You did that before I even got the light on. Okay, so according to Mr. Schlegel, there were two waivers in this and one is parking."

**Mr. Schlegel** said, "One is allowing the parking to be gravel rather than paved."

**Commissioner McGinn** said, "Okay. And then the other is being contiguous to a major road or highway. Is that correct?"

**Mr. Schlegel** said, "Correct, those are the two."

**Commissioner McGinn** said, "Well, in looking at that and hearing that the parking will be gravel and also the fact that here we're trying to present this agricultural setting, to me it's not very much agriculture if you've got asphalt or concrete. So I think the gravel would probably be appropriate.

The contiguous nature, you know I think of other kinds of things that we have that are similar to this and I think, as somebody mentioned during their Minutes, you know Christmas Tree farms are not always right next to the highway that people have. I've got a pumpkin patch up by my area that's

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open a couple of months out of the year and it's not by a major highway. And then, of course we have peach farms and those kinds of things.

So it sounds like this is trying to stay with the theme of agriculture and it also looks like it may be a good opportunity to educate our urban community about agriculture and that seems to be a challenge that we have here in our county and so this may be a good opportunity.

The only thing I'd like to ask of Mr. Ferris is that, given the fact that we are having some land annexation wars, controversy, whatever going on up there and looking how close Park City is, I would hate to lock any community into a decision that we make and I would like, since this is something new to our community, I would like to see if it would be all right if we would put a conditional use of five years on because it doesn't look like we have a great deal of capital costs in on this situation."

**Mr. Ferris** said, "The applicant had agreed to the ten year and I believe that a five year, with a review at that end, I think that would be acceptable."

**Commissioner McGinn** said, "Okay, thank you."

**Chairman Norton** said, "I see no other questions. I guess I would entertain a Motion at this point."

**Commissioner McGinn** said, "I guess I would like to read into the record some of the facts on this zoning change. The zoning uses and character of the neighborhood, the character that the area is rural and the zoning of the surrounding properties is Rural Residential. However, the county zoning regulations identify outdoor recreation and entertainment facilities as permitted conditional uses in the rural residential zoning district.

The second is the suitability of the property for the uses that it has been restricted. The land could continue to be used for its present agricultural purposes. However, the zoning regulations also allow for golf courses and parks and recreation by right, without the need for a zone change. And this proposed use is similar to parks and recreational use.

The third is the extent to which removal of the current restrictions will detrimentally affect nearby property. Approving this conditional use would be a minimal impact to nearby properties, due to the limited times for operation and due to other conditions recommended by planning staff and the Metropolitan Planning Commission. And so at this time, I'm ready to make a Motion."

### **MOTION**

Commissioner McGinn moved to approve the request, subject to conditions recommended

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by the MAPC, and including waiver of standards presented by Mr. Schlegel, and the addition of the conditional use to be limited to five years, adopt the findings as discussed in this meeting and authorize the Chairman to sign an authorizing Resolution.

Commissioner Sciortino seconded the Motion.

**Chairman Norton** said, "I have a Motion and a Second. Any other discussion?"

**Commissioner McGinn** said, "I just have one other comment. I just, to share and I meant to mention this earlier in some of the other comments, I have not been contacted by anybody that opposes this zoning change, and so given that and given the information that we have before us today, I feel we need to recommend the approval."

**Chairman Norton** said, "Okay. Any other discussion? Clerk, call the roll."

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, "Thank you, John. Clerk, call the next item."

**E. DISCUSSION REGARDING PREVENTION AND PUBLIC HEALTH RELATED ISSUES IN SEDGWICK COUNTY, AND THE ROLE OF THE HEALTH DEPARTMENT.**

**POWERPOINT PRESENTATION**

**Mr. William P. Buchanan**, County Manager, greeted the Commissioners and said, "From time to time, we give periodic updates on programs or activities that the county has been involved in and we use this opportunity to talk about where we might be headed. This is perhaps more of a discussion of where we've been and how we're going to determine where we're going to go. So, if you would just bear with me for a few moments, give some background information.

In 1992 through '94, we looked at ways in which the City of Wichita would consolidate some of the

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Health Department operations and those of us who were around then, with the leadership of the Board of County Commissioners decided that Emergency Communications would be the department that we dealt with first and that was brought into Sedgwick County, rather than having a joint funded department at that point.

But in June of 2001, we resumed a consolidated process. You'll recall that then, in July, the City of Wichita Council and you withdrew from the joint Board of Health and in December 19<sup>th</sup> we approved, and the day before that the City of Wichita approved a transition for the Health Department. That started in January of '02, which started a full year transition plan not only for the financing, but ways in which we could make the department interact with the community in different ways.

This transition plan, financially, will be complete in the year 2006. The department transition, you'll remember, began with internal strategic planning. We tried to find ways to work with providers and it essentially allowed us a seamless service delivery in the area of community and preventive health. And before August of 2002, there was a management transition that occurred and Jerry Frantz and Doren Frederickson, during this period, became the duo, the 'Dynamic Duo' that has taken charge of that department and let us into great and new and wonderful areas.

The Health Department, we began talking about partners with the University of Kansas School of Medicine in different ways. We looked at sharing functions to better serve the community. We talked about, you remember that United Way is working on a study about clinics and how they may serve the community and we're part of that study. We're looking at other communities having strong bonds with medical schools, and you'll recall that we looked at a number of those communities and I'll get to the trip that was taken.

And finally, there was a determination that changing roles were occurring. You remember that in September 2001, September 11<sup>th</sup> was 9/11 which then began to redefine what public health, or at least certain health departments were going to involve themselves in, this whole issue of weapons of mass destruction and this whole issue of metropolitan medical response issues. And so the way in which public health was changing was occurring pretty rapidly.

We brought in a guy by the name of Tyler Norris and we went to the extension service and did some planning and some issues around some of his concepts and the School of Medicine, KU School of Medicine has done two reports, CHAPS reports about the needs of this community and how to address those and how to intervene. So there's lots of information about public health in this community.

Sedgwick County government is not only involved in the health, in terms of public health, and public health is often times defined as just the work that happens in the clinics. Well, public health

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is much more than that. It's really about prevention and surveillance and a whole bunch of other things besides that.

And Sedgwick County is involved in the Aging Department, which clearly has health related issues for seniors, prescription medicine, for providing care in their homes, some basic healthcare needs. We run the whole program, from county line to county line, about pre-hospital emergency care, another public health issue.

CDDO, our agency that deals with the developmentally disabled, those health related issues and certainly the whole department of mental health who deals with people with pretty severe condition. You're all involved in those issues, which leads us to think about how we need to think about health in this county and how we need to think about public health in a more coordinated fashion.

In 2002 to present, because of the leadership of Dr. Frederickson and Jerry Frantz, customers have been surveyed in different ways than they ever had been before. The whole idea, the 'big south' concept, came out of some customer surveys and engaging them, which is real helpful and you'll hear more about that in the next several weeks. Later on the agenda, the health fees are going to be increased only after . . . I'm going to ask you to do that only after discussing that with our customers. How do you feel about that? What if we charged? And those kinds of surveys and discussions have taken place with our customers in helping us develop those fees.

A trip to Jacksonville was taken in July, this year in July, to determine how other models, other medical school models could serve the population and we discovered a number of things about ourselves and about that community. About the fact that we're spending a lot less money and getting pretty much the same results and it helped us redefine what our purpose was. Is it about gathering money or is it about delivering the services? And so that was a very healthy process and we need to continue that.

But it seems to me to develop where we're going next, we also need to have some sort of information about what the community feels its obligations are to these health issues and what are their expectations. You and I, with staff's advice, you can go out and create policy, but in fact it's a better policy that we practice and the way in which we do business is to engage the public in discussions about what their preferred future is, what are their expectations.

And so, the issue about meeting with health care providers, some of that has begun and users in other industries and we need to talk about that a little more. I think we need to do a survey of the

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community and what is their expectations and what do they think their obligations are regarding public health and regarding some of the issues that we're involved in in health care. And we need to determine a method to compile this information and how to develop interventions, again with some help from the public.

So in a few weeks, I'm going to be bringing back to you a proposal with Wichita State University to begin a whole process, over the next 18 months but certainly focus in on a Wichita Assembly about health in this community. We need to have a focus group that are involved in these industries. We need, I think to have a community survey and then I think a public assembly that would happen sometime in the early . . . late winter, early spring of 2004 to gather 150 or 200 folks of the community to noodle these issues around and come up with some help for us in determining what those obligations and expectations are. Of course, we're going to have to involve and need to involve and want to involve the Advisory Board of Health and they will be an integral part of the planning process and how they give us advice.

So in a couple of weeks I will be bringing you a proposal about that from Wichita State University. In the meantime, in the next several weeks, I'll be out along with Doren Frederickson and Jerry Frantz visiting and gathering up some partners in this deal so that we can share in the financial burden and share in the planning with those partners that we already have. So, if there are any questions, I'd be pleased to answer. Otherwise, I would ask you to receive and file this information."

**Chairman Norton** said, "Commissioner Sciortino."

**Commissioner Sciortino** said, "Yeah Bill, just on one item that you had mentioned, you said that it would be appropriate and I agree with you that we engage the Advisory Board, etcetera. Kind of having memories of the Solid Waste Advisory Committee and what have you, I think that we need to be very clear and very precise what it is exactly that we're going to be asking the advisory board to advise us on, so they don't go off on some tangent and advise us about I don't know what, putting chlorine in the water or building a community . . . a public hospital. But I mean, just so that there's no miscommunication to the advisory board, we sit as the Board of Health and I think we need to, maybe even in writing or what have you, let them know exactly what we're going to be asking, what type of assistance we'll be asking of them."

**Mr. Buchanan** said, "Thank you."

**Chairman Norton** said, "Commissioner McGinn."

**Commissioner McGinn** said, "Thank you. I guess the question I had and you kind of answered it I

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think for me. But how much does the subcommittee of public health, from our advisory board, know about what we're doing here today?"

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

**Commissioner McGinn** said, "And I don't know what Doren is shaking his head about back there. Okay, and then you did allude to that they need to be very much involved and I guess my hope is, you don't have to answer this today, is I would like to know how they're going to be involved and how we're going to interact."

As Commissioner Sciortino alluded to, you know we don't want them to go out there and start creating something that we, as policy makers, don't know that we want to go down that road. But the other side of the coin is the fact that they are closer to the issues than we are and they have some very valuable information that they can give to us, as we do go on down the road and decide policy for this community.

So, I think that they're going to play an integral role in helping us change what we do here to make our community a better place to live and a healthier community and so I'm very interested in how we're going to interact with that advisory board. And with respect to Commissioner Sciortino's comments, I think those are very important as well. We need to be communicating very closely, because we don't want them to go somewhere that it's not our idea to go."

**Mr. Buchanan** said, "Commissioners, I think that's a great idea. The advisory board, I think, shares some of your concern and that's the purpose of them inviting you to a luncheon on I think it's Thursday of next week to discuss some of those issues and make it real clear. And in the meantime, Dr. Frederickson and Jerry and I will sit down and lay out . . ."

**Commissioner McGinn** said, "And you'll have your follow up report after we have our lunch with them. Is that correct?"

**Mr. Buchanan** said, "Yes."

**Commissioner McGinn** said, "Okay. Thank you."

**Chairman Norton** said, "Commissioner Unruh."

**Commissioner Unruh** said, "Thank you. I think these comments are legitimate concerns and



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cautions for us. However, I'm optimistic about what we're starting to do here. We are just taking over something and now we're starting to get this thing to grow and to flower into a full Health Department. And we, those of us that had the opportunity to take the trip to Jacksonville, we see what that health department's doing. We don't have to pattern ourselves after that particular thing, but they're doing a lot of things that we might be able to take advantage of.

And one thing that in particular struck me is they have a program down there where they're trying to help uninsured people who are working but can't afford health insurance or for whatever reason don't have coverage. I'm thinking that out of this conversation and out of the Wichita Assembly, we might get some suggestions on how we could proceed, not only on that issue, but in our full delivery of public health and maybe even some primary care. So, I'm optimistic and think that whatever we get back, we'll have to filter it and use our best judgment on how to proceed, but I'm happy we're doing this."

**Chairman Norton** said, "Commissioner McGinn."

**Commissioner McGinn** said, "Well, I just wanted to say that I think it's great that we're having this Wichita Assembly because I think we're at a crucial time in our community to decide the health and prosperity of our community. We're receiving more and more studies all the time about how prevention is so important and I think that that's what we need to start . . . as we have focused on in the past, but I think we even need to focus on more here in our community. So I look forward to this Wichita Assembly and hope that we can engage a lot of other governmental participants in that process."

**Chairman Norton** said, "I see no other comments. I have just a few. I had urged Dr. Frederickson, Jerry Frantz and Bill Buchanan when I first became Chair, to move us forward with some kind of a summit or assembly and this is the fruition of that final thing.

Many of the things we've done this year have led us to this point, going to Jacksonville obviously is one of them. Having many staff meetings, where we started talking about the Health Department and the new roles, the new missions. Certainly the economy changes how we perceive what health departments do. We know that more and more people, even working people, are dropping into the services that public health provides and we can either let that happen to us as a community or we can decide what the future is going to be for public health.

Certainly, surveillance and prevention are very, very important. But we cannot limit ourselves to just those programs, because as society changes, as the economy changes, we need to be more agile and fluid in how we deliver public health. And it may not be just about saying that we have a problem and identifying it and quantifying it and putting it on a grid, but it may be about solving the problem too. And I don't know what that looks like. We'll figure that out.

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Many other people, the intellectual capacity out there to give us guidance, shouldn't just come from the Advisory Board of Health. It should come from the greater community: business people whose health costs have gone up so high that they can't deliver it to their citizen population of employees, health clinics that everyday are struggling to keep their doors open and deliver good primary care services and only the scan of the community will tell us the focus that we need and that takes us back to the Advisory Board of Health.

I think as policymakers, once we understand the total community, all of the ideas out there, then we set a tone that will deliver walking orders to the advisory board to give us good recommendations on where we should move forward. But as policymakers, I don't know that I understand the broadest community's ideas of how to give good policy direction to the Advisory Board of Health. I'm just not smart enough to do that and I'm hoping that the summit will give us that. The assembly will give us all the best ideas in our community and we can really give some good orders to our Advisory Board of Health to bring back really strong recommendations on what we perceive, as the policymakers, as the top five or ten items, and not ones that they kind of bubble up, but what we see from the greater community. With that, I don't have any other comments. Mr. Manager?"

**Mr. Buchanan** said, "No sir."

**Commissioner Sciortino** said, "Let me ask one question. How will this Wichita Assembly be assembled? And we keep saying we want to hear from the community. Will it be a fair representation of the entire community because that's the only way we can get good input, I think? How will it be structured?"

**Mr. Buchanan** said, "It depends upon how you define fair, sir."

**Commissioner Sciortino** said, "Okay."

**Mr. Buchanan** said, "How it has worked in the past is a working committee or various stakeholders in the process would get together and try to identify those people that need to be at the table, so that there are people from business, from labor, from insurance companies, from hospitals, from boutique hospitals, from some non-profit agencies and they would be . . . several hundred would be invited and traditionally, about half those people show up. It would be an invitation. The survey that's going to go along with this, we would hope to survey a significant amount of households, 25,000 perhaps in Sedgwick County, about health issues in this community."

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**Commissioner Sciortino** said, "In order for . . . my only concern is, and I really support this concept. I want to make that very clear. When you engage those types of people, there could be a tendency, 'Our organization is supporting this, wouldn't it be great if the county would do that, and I could get rid of this losing program', 'Oh, I think this program would be better to kind of move it toward the county'. Will there be, when this discussion is being done, some public expression of what that would cost so that the community can decide if they think that they want to absorb that cost and then it would be a pro and con on that too? Will there be . . .?"

**Mr. Buchanan** said, "Yes. There will be work done, preliminarily, of the meeting, which will help educate the participants in not only what the world looks like, what this world looks like but what costs are involved. Yes."

**Commissioner Sciortino** said, "Okay, because I think done right, this is terrific, because we're actually saying we want the community to help us make this decision and it's not just the five of us sitting here saying we think this is best for you. It's coming from them also."

**Mr. Buchanan** said, "If we accomplish our goal of having the public tell you what their expectations and what they think their obligations are, I think it helps you in your decision making."

**Commissioner Sciortino** said, "I think it's tremendous. Okay, thank you."

**Chairman Norton** said, "Just to dovetail on that, one of the charges that I gave Dr. Frederickson and Jerry Frantz and County Manager Buchanan when we started was that we would not spend a day with a guest speaker from over 500 miles that's an expert, but that we would do a community scan ahead of time, a survey that would bring the issues to us that we need to solve and bring this intellectual capacity together in a working summit that will give us recommendations and expectations by the end of the day, as opposed to 'We've now identified the problem', which we already know exists and do nothing about it. So, hopefully this will be a working assembly that will come up with expectations and solutions, or at least identify some solutions, as opposed to identifying the problems that we have in the community. Is that correct, Mr. Manager?"

**Mr. Buchanan** said, "That's correct. You may have an expert from 500 miles away who talks to us for an hour."

**Chairman Norton** said, "Yeah, just to set a tone."

### MOTION

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Chairman Norton moved to Receive and file.

Commissioner Sciortino seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, “If I might just take a second, I have a speaking engagement today at the Lion’s Club and I had it on my calendar for about a month and a half. Unfortunately, I speak from 12:30 to 12:45. I don’t mind missing lunch, but I’d like to bring that up as to how we’d like to proceed today, because we do have an executive session called. We’ve got many more agenda items that I think will take some time. How would the commissioners like to proceed?”

**Commissioner Winters** said, “Well, I would think then that we need to just work until you need to leave and then we can go into . . . or see where we are.”

**Commissioner Sciortino** said, “Is there any item, Mr. Chairman, that you would really definitely like to be here for and maybe we could adjust the . . .?”

**Commissioner Winters** said, “Well, he is going to need to be here for the executive session, and we’ll just start that after he returns.”

**Commissioner Unruh** said, “Let’s just go as far as we can go.”

**Commissioner Sciortino** said, “Do you have a conflict too?”

**Commissioner McGinn** said, “I have a 1:30 meeting I’ll have to see if I can change it. I thought we would be done by 1:30.”

**Mr. Buchanan** said, “I don’t think the rest of these items . . . the rest of the agenda items will not take a long time. Your presentation, Chris . . . Mark Dick says it’s pretty brief.”

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**Commissioner Winters** said, "It took him an hour to do it the first time."

**Mr. Buchanan** said, "Well, that's why it's going to be brief this time."

**Chairman Norton** said, "Should we just proceed and see where . . ."

**Commissioner Winters** said, "Let's just keep going and see where we end up."

**Chairman Norton** said, "Okay, next item."

#### **F. PRESENTATION OF THE 2002 COMPREHENSIVE ANNUAL FINANCIAL REPORT.**

**Mr. Chris Chronis**, Chief Financial Officer, Division of Finance, greeted the Commissioners and said, "I have briefed each of you individually on the material that I'm going to present today and in the interest of time, if you'd like, I can skip over that portion of the presentation and just do an overview or I can give the long version if you wish."

**Commissioner Unruh** said, "Let's do an overview."

**Mr. Chronis** said, "Okay. We are here today to present the county's comprehensive annual financial report for the 2002 fiscal year, which ended last December the 31<sup>st</sup>. The financial report was completed in July, and because of vacations and budget actions and so forth in August, it's taken us until now to be able to present it at a commission meeting.

The comprehensive annual financial report is the report of the county's fiscal activity for the year 2002. It was audited by the firm of Allen, Gibbs and Houlik. We have Mark Dick here, right behind me. Mark Dick is the managing partner on this audit, and that firm has given us an unqualified audit opinion.

These statements were for the first time prepared by county staff in their entirety, and so this year, for the first time, the financial statements of the county have been prepared by the county and audited. That is, their accuracy has been verified by the auditor. That I think is the correct relationship of the two, the county/ the client and the auditor. But that has not been the relationship in the past. In the past, because of insufficient capacity on the part of county staff, much of the financial statements were prepared by the auditor. And that is typically the way it is done in governmental settings. It is fairly uncommon for government entities to prepare statements entirely

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themselves. This year, it was done, as I say, entirely by county staff and the effort was led and the statements were almost entirely prepared exclusively by Troy Bruun, who is in the back of the room, our Deputy CFO and by Shawn Henning, our Director of Accounting. And I am very pleased that we have them on board and that we were able to accomplish this for the first time this year.

I will be happy to answer any questions that you might have about the financial reports. As I say, Mark Dick is here if you have any questions of him as well. In the interests of time, if you have no questions, I'll simply recommend that you receive and file."

**Commissioner Unruh** said, "Well, I don't have a question but I just want to compliment you on the fact that you brought that effort in house and did an excellent job and got the unqualified review from the auditors and Mark is sitting back there but in my review time with you, you said there's no questions, no problems, no flaws, this was a good job. Is that correct?"

**Mr. Mark Dick**, Auditor, Allen Gibbs and Houlik, said, "That's correct, Commissioner. I just, too, want to echo my gratitude to Troy Bruun and Shawn Henning. They put in literally hundreds of hours. They are highly competent professionals and you're blessed to have them on board. So, job well done, everyone."

**Chairman Norton** said, "Commissioner Winters."

**Commissioner Winters** said, "Thank you. Well I just wanted to also be sure and let the public know that, I know Commissioner Sciortino and I spent over an hour walking through these documents with you both. It was very informative, very helpful and so even though we're receiving and filing this today, I mean we've spent some time. I'm not saying I'm an expert on everything that's in these documents for sure, but I think it is important for folks to know that we did spend some serious time walking through most of this material. Thank you."

**Chairman Norton** said, "Okay. Commissioner McGinn."

**Commissioner McGinn** said, "So I assume since we have a lot of hours from county employees put into this, we saved a lot of money."

**Mr. Chronis** said, "Yes, ma'am, we have saved some money. This year was the first year that we were preparing statements under new accounting rules that were promulgated. We've talked about Gatsby 34 and because of that, the entire effort took more time than it will in future years. We expect to save additional amounts going forward, because of this ability to do the statements in house."

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**Commissioner McGinn** said, “Okay, thank you.”

**Chairman Norton** said, “That’s all the comments I see.”

**MOTION**

Chairman Norton moved to Receive and file.

Commissioner Winters seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, “Just as a matter of record, this is a public record, if people wanted to know more about it they could request that to see the whole financial statement. Next item.”

**G. HEALTH DEPARTMENT.**

- 1. RESOLUTION ADOPTING A REVISED FEE SCHEDULE FOR THE HEALTH DEPARTMENT.**

**POWERPOINT PRESENTATION**

**Mr. Gerald Frantz**, Interim Director, Health Department, greeted the Commissioners and said, “The subject here is increasing our fees in the Health Department. We came with a plan to the county manager in January of 2003 and at that time we committed to appropriately restructure our current pricing of our services, or the services we provide in the health department. And also at that time we committed to improving our third party billing practices. Now while the subject up there says ‘revenue generation’ really what this is about is reducing the extent to which the taxpayers and the county budget process supplements the cost of the services to the folks in the community. And so we want to continue to provide those services and we want to certainly continue to provide them at a cost that is palatable for the folks that need the services, but at the same time we want to make sure that we’re doing it as efficiently and economically as possible without everybody in the

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community having to pay more than perhaps their fair share.

First thing we did then in getting started is we asked the question, what is the self-pay customer willing and able to pay. The folks that actually pay for these services, our customers that walk in the door and usually pay in cash. Next thing we looked at are what are our third party payers willing to pay, and that of course is Medicaid and other third party insurance company. Next question we asked are what are the actual costs for these services. It's a good thing to ask, how much is it actually costing us to deliver these services and then look at the fees in relationship to that and then lastly, what are the clinics charging, what are other folks out there in this world of public health charging for these services that are being provided.

So what we did is we . . . and you'll meet Jennifer and Dr. Frederickson in a moment. We engaged someone to conduct focus groups for us and, as I said, you'll meet Jennifer and she's part of that KU Medical School staff. We also looked for the answer for Medicaid allowable charges determined for each procedure. What's Medicaid allowing? What are they paying for each of the various services that we're providing?

Cost of procedure analysis performed, what is it actually costing us to deliver these services? And then finally, an informal survey of the area clinics to find out what they're charging. And so that's what we did in getting started and at this point Jennifer Keller and Dr. Doren Frederickson will come up and talk to you a bit about this focus group thing that they did."

### **POWERPOINT PRESENTATION**

**Ms. Jennifer Keller**, Senior Research Associate, Kansas School of Medicine, greeted the Commissioners and said, "Today it's my privilege to share with you the results of our focus group research about client attitudes toward fee increases. And Dr. Frederickson is going to pass out, it's an executive summary including the entire report with tables, more about our participants because time doesn't really allow us today to talk about that.

To give you a little bit of background, I was the project director on this. Dr. Frederickson served as academic advisor and it was funded by the Sunflower Foundation. As Jerry mentioned, there was a great need for this study. The Health Department's fees have not changed in the past ten to seven years. Fees must be raised to maintain and expand services within the Health Department and fees must be fair to low income patients, or clients I should say.

So here is what we did. From June 24<sup>th</sup> through July 9<sup>th</sup> we conducted eight focus groups, five of these were in Spanish and three in English of 46 cash paying adults who had received services at the Sedgwick County Health Department's Prenatal, Children's Immunization and Family Planning Clinics and here's what they told us. They say the Health Department is known as a source of



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quality care and fees are lower than private clinics, low-income clinics and the ER in our area. The payment plan at the Health Department was used and appreciated. Families want to know what the prices are and the sliding fee scale was not understood.

Our major finding was that the majority of clients were willing to accept higher charges, but the amount they wanted to pay varied by service. For example, women attending our prenatal clinic currently pay between nine dollars and eighteen dollars per visit. They were willing to pay twenty-five dollars per visit up to fifty-dollars per month, which is quite an increase for them and there's several other examples here and in my executive summary that you can read.

In addition to asking customers what they thought about fees, we also asked how it would be best to communicate with them and they gave us a lot of good ideas, including better listings in the telephone directory, better signage on the highway and particularly Hispanic clients told us how it would be best to reach them through a particular radio station.

We also asked for suggestions for improvement while we had them there, and they had lots of good suggestions including extending clinic hours, increasing the physical size of the prenatal clinic, offering primary care services, as you've mentioned earlier today.

So to summarize, we're told the Health Department's current fees are low, uninsured and under-insured families are willing to pay more for services and the Health Department's quality is high, but improvements are suggested. Thank you today for your time and now I will turn it back over to Jerry Frantz."

**Mr. Frantz** said, "Thanks, Jennifer. She was quick. I didn't think she was going to go that fast. Subject again, setting new fees, creating a new sliding fee scale, and we've distributed that to you folks here. It looks complicated. It's actually much simpler than it was in the past. What it does is before we had four different categories that related income to family size to determine how much someone would pay for a service that we had priced. Now I think there are nine tiers but overall, I think you'll find that it's much more fair than what we've done in the past. We eliminated the zero fee, although we certainly are going to end up with fees that are one or one fifty or two dollars or three dollars but we no longer have that zero fee, where you can go down . . . although there will certainly be situations, and I'm not going to lie to you, there will certainly be situations where folks will get . . . some folks will probably still end up getting services for free.

More evenly distributed discounts and we think with this new sliding fee scale that we've come up with with the nine different levels that it will more evenly distribute not only the discounts but the amounts that folks pay and the amount in which they're liable for, based on their income/ family

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size.

We took the Medicaid allowable costs, what Medicaid is willing to pay for the various services and added 20 dollars. That was our . . . the first thing that we did and then we compared that new fee, that Medicaid plus 20 dollars to what it actually cost us to provide the service, by looking at labor and materials and overhead, determining what each service cost to deliver and then we increased those fees where the new fee was below the actual cost. So after adding the 20 bucks to the Medicaid, if we found that it was still less than what it was costing us, then we increased those fees so that it again at least recovered what it was costing us to provide the service.

Impact on our customers, a comparison of old versus new for the impact of the customer, the average slide, meaning the average amount that somebody on that sliding fee scale actually paid, under the old fee scale was about 52%. The average person paid about 52% of what that service was priced at. The same customer would pay 27% under the new scale. Again, that average person will pay 27% of the new and that's going to turn out to be about 20% on average more than what that average person was paying before.

As Jennifer said, we have radically and drastically underpriced this product in the past and the folks are willing to pay more. We're still going to be less than other folks are charging for the same services and so those two numbers add up to about 20% difference on average. We increased those in which the new charge was less than the old to a break even point. So where we found that even after all of our numerology, we still ended up below costs, then we leveled them out so that we would break even on that.

Our implementation timeline, today of course we're asking for approval of our new fee schedule. On September 19<sup>th</sup> we're going to be entering the new sliding fee scale and updated CPT codes into our KIPHS database. KIPHS is the name of our system that we use for keeping track of all of our customers and billing and that's what it is, our billing and accounting system. On September 26<sup>th</sup>, all of our customer service and clinical staff will be trained on the application of the new fee schedule and on October 1<sup>st</sup> our plan is to have the new fee schedule in effect.

And that's the story on that. We would ask that you approve this increase in fees in the Health Department. I guess I'd entertain any questions at this point."

**Chairman Norton** said, "I see none. Commissioner McGinn."

**Commissioner McGinn** said, "Thank you. I'm trying to look through your charts and tables in the

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back and M & I Clinic is prenatal? Okay. FP Clinic? Okay. And then Immunization Clinic I assume and then Child Clinic, Children's Clinic. Okay. That's all I have right now."

**Chairman Norton** said, "Commissioner Sciortino."

**Commissioner Sciortino** said, "Jerry, go back to your first slide where you were saying under the old plan clients were paying 52% of the costs. I want to make sure I saw that right. There it is. If I read . . . under the old scale, under the old plan the clients paid 52% of the actual cost."

**Mr. Frantz** said, "Fifty-two percent of the amount that we had that service priced at. So for example, if a service was priced at \$10, if that's the price we established for that service, then they were paying on average \$5.20."

**Commissioner Sciortino** said, "Okay, but it's not 52% of the actual costs. It's of the fee that we were charging."

**Mr. Frantz** said, "Of the price that we had that product."

**Commissioner Sciortino** said, "Under the new plan, the same customer would only pay 27% of the new fee scale on the tier that that family is qualified to be on or on the full service charge?"

**Mr. Frantz** said, "Again, looking at the new price, which is considerably higher than the old price was and then looking at that average person, that average income, that average customer that comes in to utilize that service, they will be paying . . . that average person will be paying 27% of that new priced product."

**Commissioner Sciortino** said, "Okay, but the new price is the full service price if they haven't been able to qualify for income or whatever . . . they have to pay the full price. Is that right?"

**Mr. Frantz** said, "If they do not qualify, if their income is such or if they're not able to show us that their income is below the level, then they would pay the full price."

**Commissioner Sciortino** said, "And that 27% reflects 27% of the full price."

**Mr. Frantz** said, "Of the full price, yes."

**Commissioner Sciortino** said, "Okay, so we're assuming the majority of the customers would fall under some income requirements or whatever."

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**Mr. Frantz** said, "Yeah, we know from our data base we know what our average . . . the average income, the average family size, where they fall in this whole thing, and so we can predict then, project where the average guy is going to fall in each of these items."

**Commissioner Sciortino** said, "And you and I had some discussions on that and you're going to maybe let us know if you're going to have any adjustments or changes in how we verify and determine that, correct?"

**Mr. Frantz** said, "Absolutely. One of the issues that we discussed, that you're alluding to Commissioner, yesterday was maybe taking a closer look at how we determine exactly what the income of the families are that are coming in. We currently use just a pay stub and your suggestion and one that our chief administrative officer Bill Farney and I agree with completely is looking perhaps at the income tax return instead for the entire family rather than just one pay stub. Because there is no question that there are some folks that . . . or there are certainly situations where we don't accurately determine what the income of that family is and that's something we've already talked at staff meeting about what we need to do in order to make that adjustment."

**Commissioner Sciortino** said, "Well I applaud you for looking at that, because whenever you have well meaning programs, there are people out there fully trained on how to abuse the program of how to misuse the program and any misuse or abuse is draining those resources away from people who legitimately need it. So I applaud you looking into that and I guess validating the trust that the taxpayers put in us that we're spending their money as efficiently as we can. I think this will go a long way to validating that trust. So I appreciate that."

**Mr. Frantz** said, "Well thank you and there is no question that there is going to be some abuse, but I think it's also important for the record to note that the vast majority of our customers, of our clients, people that avail themselves of our services, are folks that need those services and we perform a very valuable service in delivering those service to those folks."

**Commissioner Sciortino** said, "Right, yeah I know and this was just a way of validating that. Yeah, that's good. Okay, that's all I had. Thank you."

**Chairman Norton** said, "Commissioner McGinn."

**Commissioner McGinn** said, "Well, I would like more information as we move forward how well this is working. But I guess my other question really doesn't have to do with the fee schedule, but it has to do with the numbers of the people that were polled and Jerry, I don't know if you or your

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staff or somebody can kind of look into this at some time in the future and give me some information. But you know you have 46 participants, 26 were Spanish speaking, 19 were English speaking and then when you look at the race, 28 of the 46 is the Hispanic and only three of the African American community. And our building sits in the heart of the African American community. I don't understand why the numbers are so low, as far as either our clientele or our participants or what?"

**Mr. Frantz** said, "So you're talking about the focus group?"

**Commissioner McGinn** said, "Yeah, so I guess what I'm wondering is and maybe we need to look at who uses our health department and if the African American community is low and we're sitting right in their community, I'm just curious is there something we're not addressing or we're not doing that's keeping that community away."

**Ms. Keller** said, "If I may, what you're speaking to are the focus group results and we had 46 participants and we randomly . . . we went to the clinics to recruit people and we tried to recruit . . . we recruited from all races. You know, we sat in the lobbies, we called people to recruit them to the groups and this is who we had.

The focus group is really just capturing opinions of small groups on a given day. So we really can't apply these results to the entire population that uses the health department. It just gives us a glimpse at their attitudes and concerns and it would be . . . Phil has talked about possibly doing follow up studies which would include . . ."

**Commissioner McGinn** said, "Well, and that's why I brought it up is just I think we need to look at that in the future, because I wonder if we're serving that community. It's obvious that we're serving the Hispanic community. They're the majority of the people that showed up."

**Ms. Keller** said, "Well, half the groups were in Spanish and we did that on purpose because we do have a lot of users that only speak Spanish and want to get out their issues, particularly like that Maternal and Infant Prenatal clinic is almost 100% used by Spanish speaking individuals."

**Commissioner McGinn** said, "And we just talked earlier about prevention as far as the health fields and I know that the African American community has a lot of challenges and very few places that particularly serve that area and so I just wonder if we're not. And so I'd just like for somebody to look into that."

**Mr. Frantz** said, "We have and that's a very good question and that's information we need to get to you because it was one of the very first things that Dr. Frederickson, when he joined us last August,

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about a year ago, said was ‘Hey, we need to get out there and find out who are clients are. We need to find out who are we serving, who are the people availing themselves of our services, who is consuming our product and so he’s been working with the database, the KIPHS database and also with our GIS people and you’d be surprised to see some of the maps that we’ve produced that actually shows what the breakdown is of various income groups and ethnic groups etcetera. So that is information we can get you. I think as Jennifer mentioned, that we see in many of the program that the Latino community seems to be consuming our services, our product more than any other group, but certainly the African American community, particularly with our main health office right there in the midst of the African American community are utilizing the services. And so yes, we’ll get you that data very, very quickly.’”

**Commissioner McGinn** said, “Okay, thank you.”

**Chairman Norton** said, “Commissioner Sciortino.”

**Commissioner Sciortino** said, “That’s what I was still wanting too and I would think that data, we already know it. I mean, you have to know how many people come into our clinic. That wouldn’t be hard . . . and what percentage of those are African American, Hispanic, Vietnamese . . . I mean, that I would think you could tell the stat within 15 minutes. But it’s always been my impression that the overwhelming majority of . . . and I’m relying on my time when I acted as a volunteer for Guadalupe Clinic, of the people that are coming into these types of clinics are overwhelmingly Hispanic. Is that a true statement?”

**Mr. Frantz** said, “The majority, certainly and I’d rather we say overwhelming or not, but there’s no question that many of our services, many of our services, the majority and in some cases the vast majority, I think, as Jennifer mentioned in our prenatal program, I think it’s like 95% are Hispanic.”

**Commissioner Sciortino** said, “Okay. Well any of that information that you can give to us, because for one thing, for example, if 95% of a particular group of people are using our service, maybe that facility should be closer in their neighborhood to make it easier for them to go and not have it over here in an area where maybe the neighborhood doesn’t use the service.

But then the other question that it begs is why doesn’t . . . well, I don’t know what the answer is but that . . . it would be why the African American community or even the white community in certain . . . why they’re not using our services or whatever? But that would be interesting to me to find out.”

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**Dr. Frederickson** said, "That's a wonderful question and it's something that was addressed, somewhat, in the focus groups. We know that individuals with insurance, including Medicaid and Healthwave, have access to other private providers and in fact, both Wesley and the Via Christi Hospital system residency clinics see large numbers of such patients. So that is really where the traditional African American and the more urban White population go now.

Those who fall into the working poor range, making too much money for Medicaid and Healthwave and not enough money to get Blue Cross and Blue Shield or some other kind of commercial insurance, those are the main users of the Health Department."

**Commissioner Sciortino** said, "Okay."

**Chairman Norton** said, "Commissioner McGinn."

**Commissioner McGinn** said, "Well, I just . . . I want to go back. I think we need to look at that as a health department, because I know the Health and Wellness Center is working tirelessly and using all their resources because there are needs out there in the African American community and I'm just curious if we're not addressing those needs or we're not welcoming or what. I don't know and I'd like to find out if we're missing something."

**Mr. Frantz** said, "A legitimate question and we'll start off by getting the data together for you and then sit down and visit with you. I believe that the Wichita Summit recommendation that the Manager and the Chairman have been involved in also will help us to address that issue because it's a question that we have as well. Doren's point about Medicaid and insurance is an excellent one, but there has to be a question as to why the Hispanic community seems to be taking advantage of our services more than the African American community. And I think these are questions that we'll address."

**Chairman Norton** said, "Well, I think that is an important question. I'll kind of wrap this up. I know in private industry, you know your customer pretty well that walks in the door. The key is to find those customers outside that you have the services for that are not accessing them and we need to figure that out. We know there's a crisis out there and we couldn't possibly, based on the scans we've seen today, be touching everybody that has problems. And I'm hoping the summit or the assembly with the survey that comes with that may identify what those talking points are that keep

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people out of our services.”

**Mr. Frantz** said, “And this Health Department has been primarily an urban health department and one of the goals that you folks established for us and that the County Manager has continued to articulate is that this health department needs to be a health department for the entire county and so we need to be moving outside the inner city and outside the boundaries of the City, out into the communities as well.”

**Chairman Norton** said, “Okay. I see no other discussion.”

**MOTION**

Chairman Norton moved to Adopt the Resolution.

Commissioner McGinn seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, “Thank you, Jerry. Next item.”

**2. AGREEMENT WITH WICHITA STATE UNIVERSITY FOR STUDENTS IN THE SCHOOL OF SOCIAL WORK TO PARTICIPATE WITH CLIENTS IN THE HEALTH DEPARTMENT’S TEEN HEALTH PROGRAM.**

**Ms. Pam Martin**, Director, Clinical Services, Health Department, greeted the Commissioners and said, “The requirement for our Teen Health grant specifies that we provide an eight component model. One of those eight components is to provide mental health services in our teen health program. This partnership with WSU allows the Teen Health Program to be more responsive to their clients by offering mental health counseling, as well as support groups to them through the social work students made available through this contract.



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The WSU students can use this work experience as part of their practicum and also to complete their required course work and practical experience. This partnership also serves as an introduction to public health and gives us a future resource in degreed social workers. Our recommended action is that we're asking to approve this agreement and authorize the Chairman to sign the agreement and any other related documents."

**Chairman Norton** said, "Okay. Any other discussion? I see no lights."

### MOTION

Commissioner Winters moved to Approve the Agreement and authorize the Chairman to sign.

Commissioner Unruh seconded the Motion.

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

### VOTE

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Commissioner Winters** said, "Let's decide how we're going redo the rest of the day."

**Commissioner Sciortino** said, "What time did you have to be at your function?"

**Chairman Norton** said, "I need to be there to speak at 12:30 and I only speak for 15 minutes. I can hopefully be back by 1:00."

**Commissioner Winters** said, "Well, then should we plan on going into Executive Session at 1:00? I know that there's folks here though that want to, I think, make comment about the Board of Bids and Contracts. Do we want to do that right now?"

**Chairman Norton** said, "I think they would like all of us here."

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**Commissioner Sciortino** said, "Okay, let's do it real quick."

**Chairman Norton** said, "I can do that and then I need to run. Commissioners, I would like to take Item K out of order. Do we need a Motion for that?"

**MOTION**

Commissioner Sciortino moved to consider Item K out of agenda order.

Commissioner Winters seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, "Next item."

**K. REPORT OF THE BOARD OF BIDS AND CONTRACTS' REGULAR MEETING OF AUGUST 28, 2003.**

**Ms. Iris Baker**, Director, Purchasing Department, greeted the Commissioners and said, "The meeting of August 28<sup>th</sup> resulted in three items for consideration today.

**1) MECHANICAL STREET SWEEPER- FLEET MANAGEMENT  
FUNDING: VEHICLE ACQUISITION**

The first item, mechanical street sweeper for Fleet Management. Recommend the low proposal

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meeting requirements, including trade-ins, from Key Equipment, Option two, for \$161,670. This is to accept a one-year contract, with two one-year options to renew, at a base price of \$167,670.

**2) CHILLER MAINTENANCE/ OVERHAUL- FACILITIES MAINTENANCE  
FUNDING: CAPITAL IMPROVEMENT PROJECT**

Item two, chiller maintenance overhaul for Facilities Maintenance. Recommend the low bid from Kansas Trane Service for a not to exceed amount of \$66,173.92.

**3) CUSTODIAL SERVICES- DIVISION OF INFORMATION & OPERATIONS  
FUNDING: DIVISION OF INFORMATION & OPERATIONS**

And item three, custodial services for the Division of Information and Operations. Recommend the low proposal meeting requirements from Wilson Building Maintenance to execute a two-year contract, with two one-year options to renew, for an annual cost of \$319,800.

Would be happy to answer any questions and recommend approval today.”

**Chairman Norton** said, “Are there any concerns or questions from the Commissioners? I understand there is someone that would like to speak to an issue and I would ask them to come forward. You’re limited to five minutes and please state your name and address for the record.”

**Ms. Pat Layman**, 515 Menlo Drive, Wichita, Ks, greeted the Commissioners and said, “I want to say for the record, I am not personally acquainted with any custodial person working for the County, nor am I related to any of them. I am not personally acquainted or related to anybody, any company providing custodial services.

I’m going to address item three, because there is more than just a contract involved in this. You are talking about dumping 15 families into unemployment if you contract out the County custodial services. You currently have 15 employees and I would maintain to you is the last thing this county needs is more unemployed families.

Yes, you see a cost savings but I would tell you that’s the tip of the iceberg. What you’re not seeing below is the cost to this county. You’re losing the taxes that these people pay. You are creating 15 more families that have no health insurance, no dental insurance, no retirement. They immediately become available for all the services we just talked about having to raise the fees for the County Health Department because of the usage. You’re just creating people that are eligible, children that are eligible, children eligible for free lunches. I just beg you not to do this.

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I understand cost savings, but I'm going to tell you something. If you're going to follow this tack, you can contract out everything. You don't need county employees. You can contract out it all, if that's the tack you're going to follow. I hope that you will delay at least consideration on item three today and really think seriously about whether or not you want to add to the unemployment situation in this community and create more low-income people.

You're not talking about people, for the most part, that have a great deal of education. They work very hard, physically, doing what they're doing. Jobs are not going to be available to them that include benefits in this community, I guarantee. And in fact, nobody has been able to tell me so far even what you're paying these people per hour, nor what this contracting company will be paying them. If this contracting company is not involved in interstate commerce, they can be paying Kansas minimum wage, which is \$2.65 an hour. So I beg you to defer, at least defer on item three today and not let this contract. I'd be happy to answer any questions. I probably don't have any more information than I've given you.

Nobody's been able to tell me what you're paying them. Nobody's going to be able to tell me what Wilson is going to pay them and nobody's been able to tell me what the real cost to this County is going to be when you dump these people on unemployment. I thank you for your time, consideration. Thank you, Commissioner Unruh, for the discussion we had this morning. We agreed to disagree. I don't think we need more unemployed people in this county and I am a taxpayer. I pay and I understand that people don't like to pay taxes, but I'm going to tell you something, I'm also an employer as far as I'm concerned, as a taxpayers in this county and I'm tired of laying my people off. Thank you. Questions?"

**Chairman Norton** said, "I have a light flashing. Is this a general comment?"

**Commissioner Unruh** said, "Yes."

**Chairman Norton** said, "Okay. Thank you, Pat."

**Chairman Norton** said, "Okay, at this point, is there anyone else that would like to speak? I'll limit the comments to the Bench. Commissioner Unruh."

**Commissioner Unruh** said, "Thank you. I just wanted to acknowledge also that Ms. Layman and I had a conversation this morning and it ended up that we just have a straight disagreement on the judgment of how to deal with this issue. But I think in this new economic reality, as we're calling

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it, we are compelled to scrub the budget and make good business decisions, and become more efficient and more cost productive in what we do.

So in light of that, if we can provide service that saves the county \$200,000, it seems to me the reasonable and prudent thing to do is to proceed and improve the contract.”

**Chairman Norton** said, “Okay. Commissioner Sciortino.”

**Commissioner Sciortino** said, “Well, I agree with that and also, we’re increasing Wilson’s ability to do business. Mr. Manager, would you please look into . . . is there any other things we can do to outsource to save people money, because if there’s other things that we could give back to the private sector and save hundreds of thousands of dollars as opposed to trying to do it ourselves, we need to look at that because we are custodians of the taxpayers’ dollars and you might want to discuss with Ms. Layman if there’s other things we can do to improve the efficiency. I’d like to get her ideas and maybe outsource other stuff, because that’s a lot of money to save. I’m going to support this program.”

**Chairman Norton** said, “Any other comments? Well, at this point it is always unsavory when we have to eliminate individuals that have given time and effort and their lives to the county. We’ve already done that three different times in the last year and it is gut wrenching to do that. Coming from the private sector myself, I can tell you that the worst thing I ever had to do as a manager of a company was to lay someone off, to give them their termination papers, to separate them from the company. But there are some pretty harsh realities out there.

I do not have a problem with deferring it to look at it again. I do not know that it will change the outcome of how we think and I will rely on what the commission would like to do today with the recommendations of the Board of Bids and Contracts. I haven’t heard anything that would indicate that we’re not going to move forward on it.”

**Commissioner Winters** said, “Mr. Chairman, I’ve heard a couple of opinions and I’m in favor of moving forward and I’m going to be supportive of the recommendations of staff.”

**Chairman Norton** said, “Do I hear a Motion?”

#### **MOTION**

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

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Commissioner Sciortino seconded the Motion.

**Chairman Norton** said, “Any other discussion? I’ll go on record as saying I would not have a problem with deferring and talking more about it and I will probably vote no for moving forward today. Clerk, call the item.”

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	No

**Chairman Norton** said, “Next item.”

**Commissioner Winters** said, “Chairman, I think we’ll probably plan on then going back into executive session at 1:00. I would think you would be here by then.”

**Chairman Norton** said, “I think I will be back.”

**Chairman Norton left at 12:22 p.m.**

**Chairman Norton left at 12:22 p.m.**

**Chair Pro Tem Winters** said, “Next item.”

**3. AGREEMENT WITH KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT PROVIDING TERMS AND CONDITIONS FOR USE OF A GRANT TO FUND AN EPIDEMIOLOGIST POSITION.**

**Dr. Mansoor Tahir**, Senior Epidemiologist, Health Department, greeted the Commissioners and said, “I’m here to request you to approve the Kansas Department of Health and Environment epidemiologist grant for the year 2004.

The grant provides up to \$45,000 for an epidemiologist position for the Sedgwick County Health Department. The primary responsibility of this epidemiologist is to conduct investigations to identify potential outbreaks of infectious diseases in Sedgwick County.

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According to KDHE, support of this position is justified by the important share that Wichita and Sedgwick County have of state population and reportable conditions, by the presence of several tertiary care hospitals in Wichita and by the presence of a committed local public health department willing to invest resources to build epidemiological and surveillance capacity.

This is an important grant for us. This contract provides funding for an epidemiologist who is a part of an active surveillance program in Sedgwick County, which includes gathering and assessing data to identify potential outbreaks of infectious diseases. If you don't approve this grant, then we have to identify other funding sources for this position or maybe downsize the Health Surveillance and Disease Prevention program.

The grant has been approved by Division of Finance and this is just a renewal of the old contract. This is not a new position and also it is a state mandated function of local health departments that they actively investigate any reported infectious diseases. Therefore, I request you to approve the disposition."

**Chair Pro Tem Winters** said, "And this is a continuation and we already have this person on board and this would continue that."

**Dr. Tahir** said, "That is correct."

**Chair Pro Tem Winters** said, "All right. Commissioners, you've heard the presentation. What's the will of the Board?"

### MOTION

Commissioner Sciortino moved to Approve the Agreement and authorize the Chairman to sign.

Commissioner Unruh seconded the Motion.

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

### VOTE

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye

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Chairman Tim Norton

Absent

**Chair Pro Tem Winters** said, "All right. We've already proceeded with H-1 earlier in the meeting. So now we're ready for Item H-2."

**2. AGREEMENTS (10) TO PROVIDE CODE INSPECTION AND ENFORCEMENT.**

**CITIES OF:**

- **ANDALE, KANSAS**
- **BENTLEY, KANSAS**
- **CHENEY, KANSAS**
- **CLEARWATER, KANSAS**
- **COLWICH, KANSAS**
- **GARDEN PLAIN, KANSAS**
- **GODDARD, KANSAS**
- **MAIZE, KANSAS**
- **PARK CITY, KANSAS**
- **VALLEY CENTER, KANSAS**

**Mr. Glen Wiltse**, Director, Code Enforcement, greeted the Commissioners and said, "These are our standard inspection and enforcement agreements that we have with the jurisdictions within Sedgwick County. This is where we offer the building inspection in electrical, plumbing, mechanical type inspections on construction projects."

**Chair Pro Tem Winters** said, "Glen, just for the public, you might read those communities into the record."

**Mr. Wiltse** said, "Okay. It's Andale, Bentley, Cheney, Clearwater, Colwich, Garden Plain, Goddard, Maize, Park City and Valley Center."

**Chair Pro Tem Winters** said, "All right, thank you. Commissioner McGinn."

**Commissioner McGinn** said, "How do we derive the 50% fee?"

**Mr. Wiltse** said, "I'm sorry?"

**Commissioner McGinn** said, "How did we come to this 50% fee?"



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**Mr. Wiltse** said, “It has been enforced, I believe, since almost the inception of the contract agreements. Fifty percent fee applies to the permits only. When we do plan review fees on the commercial projects, we received all of that fee itself. These . . . I’m not sure. I couldn’t tell you exactly how long these contracts have actually been in force. I’ve been here six and a half years and they’ve been enforced quite a while, I believe.”

**Commissioner McGinn** said, “All right, thank you.”

**Chair Pro Tem Winters** said, “All right, you’ve heard the presentation. Commissioners, what’s the will of the Board?”

**MOTION**

Commissioner Unruh moved to Approve the Agreements and authorize the Chairman to sign.

Commissioner Sciortino seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Absent

**Chair Pro Tem Winters** said, “Next item. Thanks, Glen.”

**I. DIVISION OF HUMAN SERVICES.**

**1. AGREEMENT WITH THUNDER ENTERPRISES AND THUNDER ENTERPRISES, INC. PROVIDING ASSIGNMENT OF AN EXISTING**

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**AGREEMENT FOR TRANSPORTATION BROKERAGE SERVICES.**

**Ms. Annette Graham**, Director, Department on Aging, greeted the Commissioners and said, “On June 25<sup>th</sup> of this year, the Board of County Commissioners approved a contract with Thunder Enterprises as a vendor under our transportation brokerage services. Thunder Enterprises has now incorporated as Thunder Enterprises Incorporated and is a corporation in good standing with the Kansas Secretary of State.

The company now wishes to assigned all rights and obligations under the contract into this corporation. There will be no other change to the terms and conditions of the contract. The existing contract requires approval of any assignment by the Board of County Commissioners. I would request that you approve the assignment and authorize the Chair to sign.”

**MOTION**

Commissioner McGinn moved to Approve the Agreement and authorize the Chairman to sign.

Commissioner Sciortino seconded the Motion.

**Chair Pro Tem Winters** said, “I have a Motion and a Second. And Annette, we are receiving good service from these folks?”

**Ms. Graham** said, “Yes, we are.”

**Chair Pro Tem Winters** said, “All right. I have a Motion and a Second. Any other discussion? Seeing none, call the vote.”

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

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**Chair Pro Tem Winters** said, "Next item. Thank you, Annette."

**2. COMMUNITY CORRECTIONS FISCAL YEAR 2004 IMPLEMENTATION PLAN FOR USE OF ALTERNATIVE DRUG SENTENCING POLICY GRANT FUNDS, TO BE SUBMITTED TO KANSAS SENTENCING COMMISSION.**

**Mr. Mark Masterson**, Director, Department of Corrections, greeted the Commissioners and said, "The state legislature passed the alternative drug sentencing policy know as Senate Bill 123 in the last session. The new law compels substance abuse treatment instead of prison for offenders convicted of felony drug possession with no prior violent history and the law takes affect November 1<sup>st</sup>.

Community corrections agencies have picked up the responsibility for the supervision and case management of these new cases. In order to review the funds, our agency must submit a plan that you've approved and approved by the advisory board. That plan is before you and it includes an overview of existing substance abuse treatment, services in the community, the procedures we'll following in managing and supervising these clients, a detailed budget for the supervision fees that we intend to receive and expected outcomes. The advisory board approved this plan at their August 14<sup>th</sup> meeting and I ask that you do the same today. I'd be happy to answer any questions."

**Chair Pro Tem Winters** said, "All right, Mark. Well, I think this is a new deal. This is a new way to look at some of these offenders and I think it's going to be something that the commission is going to want to pay close attention to and we're going to need your help in doing that.

I know we're going to use a lot of different providers in the community. Who is going to be, I guess have the responsibility for monitoring what all these providers are doing and how well they're doing and how well the clients are doing and what's the monitoring going to look like?"

**Mr. Masterson** said, "That is a shared responsibility. First, programs have to employ people who are certified substance abuse providers by SRS. Then they have to have additional certification in working with offenders that comes from the Kansas Department of Corrections, then down to the individual client monitoring and supervision is a responsibility of Community Corrections."

**Chair Pro Tem Winters** said, "Okay. So you'll have somebody in your shop that will be keeping you informed about how it's working and how it's going and whether there's enough money or not

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enough or all of those kinds of details?”

**Mr. Masterson** said, “That is correct.”

**Chair Pro Tem Winters** said, “Do you have that person on board and ready to go?”

**Mr. Masterson** said, “We will begin November 1<sup>st</sup> with what we have today and we will add, as we see the need. We are going to have to come back as soon as we receive approval of our plan and asked for some positions to be added to the staffing table. But our existing staff will pick up the responsibilities initially.”

**Chair Pro Tem Winters** said, “All right. Well, I know you’re responsible for a lot of things that the commission has a great deal of interest in and I think this is one of those, as we look at jail overcrowding and populations in detention facilities, I think this is going to be something we need to pay attention to. Commissioners, are there other questions or comments?”

**MOTION**

Commissioner McGinn moved to Approve the Plan and authorize the Chairman to sign all necessary documents, including a grant award agreement containing substantially the same terms and conditions as this Plan; and approve establishment of budget authority at the time the grant award documents are executed.

Commissioner Sciortino seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Absent

**Chair Pro Tem Winters** said, “Thank you, Mark and keep us advised as this unfolds. Next item.”

**COMCARE**

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**3. AGREEMENT WITH KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES PROVIDING MEDICAID REIMBURSEMENT TO COMCARE FOR OUTREACH AND ADMINISTRATIVE SERVICES.**

**Ms. Marilyn Cook**, Director, Comprehensive Community Care (COMCARE), greeted the Commissioners and said, “The Medicaid Mental Health Administrative Claiming program provides a means for COMCARE and other community mental health programs throughout the state to obtain federal reimbursement for a portion of the outreach and the administrative non-billable activities that are involved in planning for and providing Medicaid services.

The agreement is between COMCARE and SRS and the project is basically a time study that we do, roughly 150 staff at COMCARE are involved in this. We receive about 120 to 150 sheets a month with a name of a staff member on it and their randomly chosen moment that’s designated and the staff report what they’re doing at that time. If they are doing one of the activities that are involved in outreach or administration of the Medicaid program, we will get a certain percentage of the money that goes into this pot from the federal government.

The major activities that are counted involve outreach to potentially eligible Medicaid recipients, completion of Medicaid applications, program planning, referral coordination and monitoring of Medicaid services. We will receive the money based on a formula of the staff that are involved and we don’t know what that amount is going to be. If it’s \$217,000 we’re going to be thrilled when it’s said and done. If it’s \$217, we’re not going to participate next year. We’re asking that you approve the agreement.”

**Chair Pro Tem Winters** said, “Thank you. Are there questions or comments? Commissioners, what’s the will of the Board?”

**MOTION**

Commissioner Unruh moved to Approve the Agreement and authorize the Chairman to sign.

Commissioner Sciortino seconded the Motion.

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

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**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Absent

**Chair Pro Tem Winters** said, "Next item."

**4. ADJUSTMENT TO THE COMCARE STAFFING TABLE TO INCLUDE ONE CLINICAL DIRECTOR POSITION, BAND 323; AND ONE CASE MANAGER POSITION, BAND 216.**

**Ms. Cook** said, "You may recall that after about a year and a half long wait, we recently received a notice of grant award from HUD, indicating that we were recipients of a grant to provide housing for homeless individuals who are experiencing a co-occurring mental illness and substance abuse problem. The grant provides transitional housing for individuals who are homeless and in the early stages of recovery.

The housing includes a house that's run by Miracles, Wanda Walker, who was here earlier this morning and six apartments in the area. This item adds two staff, one Masters level therapist who will coordinate the program and provide assessment and therapy services and one case manager for the folks that are eligible for the project. The grant also provides funding for four other staff that will be employed by Miracles and the Breakthrough Club. The HUD supportive housing program grant will provide salary and benefits for these individuals and the remaining costs, such as their mileage, their training, cell phones and so forth will be generated from program revenue through billable services that are provided. We're requesting that you accept these additions to our staffing table. Be happy to answer any questions."

**Chair Pro Tem Winters** said, "And this grant period is for three years?"

**Ms. Cook** said, "Three years, right."

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**Chair Pro Tem Winters** said, “And like these people will know that they’re on a grant-funded type position?”

**Ms. Cook** said, “Right. We notify all grant-funded positions that their position is guaranteed only as long as the funding.”

**Chair Pro Tem Winters** said, “All right. Commissioners?”

**MOTION**

Commissioner Sciortino moved to Approve the adjustment to the COMCARE Staffing Table.

Commissioner Unruh seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Absent

**Chair Pro Tem Winters** said, “Thank you, Marilyn. We probably could have got into a lot of discussion about Center City, if we would have had time. Next item.”

**J. PUBLIC WORKS.**

**1. AGREEMENT WITH KANSAS DEPARTMENT OF TRANSPORTATION (KDOT) FOR INSPECTION OF BRIDGE HINGE PINS ON SEDGWICK**

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**COUNTY BRIDGE NO. 785-B-4588, BRIDGE ON 279<sup>TH</sup> STREET WEST  
BETWEEN 117<sup>TH</sup> AND 109<sup>TH</sup> STREETS NORTH. DISTRICT #3.**

**Mr. David Spears**, P.E., Director/County Engineer, greeted the Commissioners and said, “Item J-1 is an agreement with the Kansas Department of Transportation to do in-depth ultrasonic inspection of hinge pins for a bridge on 279<sup>th</sup> Street West between 109<sup>th</sup> and 117<sup>th</sup> Streets North. The cost will be shared by both parties at an 80/20 split. Sedgwick County’s share will be \$850. I recommend that you approve the agreement and authorize the Chairman to sign.”

**MOTION**

Chair Pro Tem Winters moved to Approve the Agreement and authorize the Chairman to sign.

Commissioner McGinn seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Absent

**Chair Pro Tem Winters** said, “Next item.”

- 2. AGREEMENT WITH KDOT FOR CONSTRUCTION AND MAINTENANCE OF COUNTY ROADS, UTILIZING FEDERAL FUNDS, ON FEDERAL-AID ROUTES OUTSIDE THE CITY LIMITS BUT WITHIN THE URBAN AREA BOUNDARY, IN CONNECTION WITH SEDGWICK COUNTY BRIDGE**



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**PROJECT 821-J, K, BRIDGE ON BROADWAY OVER THE BNSF RAILROAD AT 45<sup>TH</sup> STREET NORTH. CIP# B-310. DISTRICT #4.**

**Mr. Spears** said, "Item J-2 is actually a first for Sedgwick County. It's an agreement between Sedgwick County and the Kansas Department of Transportation regarding the bridge on Broadway over the BNSF railroad near 45<sup>th</sup> Street North, designated as B-310 in the Capital Improvement Program. This agreement makes Sedgwick County eligible for federal funds in the Urban category. It is necessary to enter into this agreement because the bridge lies within the urban boundary but outside the city limits of Wichita. I recommend that you approve the agreement and authorize the Chairman to sign."

**Chair Pro Tem Winters** said, "Thank you. Commissioner McGinn."

**Commissioner McGinn** said, "It seems like we've been having items before us on this bridge for some time now. I guess, when will we start seeing construction, because that bridge is in bad need of repair and if you haven't driven over it for a while, you'll have to do that."

**Mr. Spears** said, "Yes, it's very much in need of repair. It's narrow and there's some other problems with it I won't go into right now, but there's going to be some other items that we're going to have on the agenda. It's a big project, \$5,000,000 project, \$4,000,000 of it will come from the feds, which \$2,000,000 of it will be out of the 'rural' category and this today will authorize us to get \$2,000,000 out of the 'urban' category. First time ever that's happened and we're going to let that project yet this fall and construction would start either late this year or early next year."

**Commissioner McGinn** said, "It could start late this year?"

**Mr. Spears** said, "It could start late this year."

**Commissioner McGinn** said, "Okay. All right, thank you."

**Chair Pro Tem Winters** said, "David, is this . . . to get this urban funds, does this need to go then before the committee of . . . what do we call the . . .?"

**Mr. Spears** said, "The Technical Advisory Committee. It already has and we've taken care of that."

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**Chair Pro Tem Winters** said, “But then there’s another committee that . . .”

**Mr. Spears** said, “The coordinating committee.”

**Chair Pro Tem Winters** said, “The Coordinating Committee.”

**Mr. Spears** said, “And it already has and we’ve taken care of that. This was quite a few months ago when that already occurred.”

**Chair Pro Tem Winters** said, “All right. What’s the will of the Board on J-2?”

**MOTION**

Commissioner McGinn moved to Approve the Agreement and authorize the Chairman to sign.

Commissioner Sciortino seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Absent

**Chair Pro Tem Winters** said, “Next item please.”

- 3. MODIFICATION OF PLANS AND CONSTRUCTION, REQUEST NUMBER ONE AND FINAL, WITH BALLOU CONSTRUCTION CO., INC. FOR 2003 LATEX MODIFIED SLURRY SEAL PROJECT. CIP# R-140.**

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**Mr. Spears** said, "Item J-3 is a modification of plans and construction, request number one and final, for the Sedgwick County 2003 Latex Modified Slurry Seal project designated as R-140 in the Capital Improvement Program. This project has been constructed and is ready to be finalized out. There will be a net decrease of \$20,440.66 due to variations in plan quantities from actual field measurements. I recommend that you approve the modification and authorize the Chairman to sign."

**Chair Pro Tem Winters** said, "Thank you. Commissioners, there are no questions."

**MOTION**

Chair Pro Tem Winters moved to Approve the Modification of Plans and Construction and authorize the Chairman to sign.

Commissioner Sciortino seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Absent

**Chair Pro Tem Winters** said, "Thank you, David. We've already done, completed Item K, so call the next item."

**CONSENT AGENDA**

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**L. CONSENT AGENDA.**

- 1. Four Easements for Drainage and Utilities for Meyer's Lake 2<sup>nd</sup> Addition Project. District #2.**
- 2. Easement for Joint Access with Bradford Glen Residences, related to the new Juvenile Detention Facility.**
- 3. Agreement between the Sedgwick County Treasurer and the Cloud County Treasurer providing use of Sedgwick County's Motor Vehicle Tax Estimator.**
- 4. Agreement with Self-Help Network to provide evaluation services related to a grant award of \$60,000 from Kansas Health Foundation to fund "Evaluation of Sedgwick County Character Development Coalition" project.**
- 5. Order dated August 27, 2003 to correct tax roll for change of assessment.**
- 6. Payroll Check Register of August 29, 2003.**
- 7. General Bills Check Register(s) for the week of August 27 – September 2, 2003.**

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

**Chair Pro Tem Winters** said, "Thank you. Are there questions on the Consent Agenda?"

**Commissioner Sciortino** said, "Yeah. I just have one. Mr. Manager, would you explain number four to me? I've probably already had it but I'm kind of blank on that one."

**Mr. Buchanan** said, "This is . . . we're going to be used as a grantee. Sedgwick County . . . Ron Holt came around and talked to you about this and we're going to be used as recipient of the funds and pass through those funds for folks who need them, the Self Help Network, on the Evaluation of Character Development Coalition.

The Character Coalition got a grant but they didn't have a structure to receive the money and distribute the money. Ron Holt came to us and said . . . Ron Holt also serves on the Character Coalition, came to us and said, as we do some other grantees, can we use Sedgwick County for this function and this is the agreement that allows us to do that."

**Regular Meeting, September 3, 2003**

**Commissioner Sciortino** said, “And the grant is going to be used to evaluate the Character Development Coalition?”

**Mr. Buchanan** said, “We are the bank.”

**Commissioner Sciortino** said, “No, I know that but I mean the funds are going to be used to fund evaluation of Sedgwick County Character Development Coalition projects?”

**Mr. Buchanan** said, “Yes. Sedgwick County Character Coalition project was one that was sponsored by Chamber of Commerce and a bunch of other folks. So this is going to be evaluation of whether it’s effective or not in the various school districts.”

**MOTION**

Chair Pro Tem Winters moved to Approve the consent agenda as presented.

Commissioner Unruh seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Absent

**Chair Pro Tem Winters** said, “All right, Commissioners, that concludes today’s meeting except we do need to have an Executive Session. Commissioner McGinn, were you able to scoot your meeting back?”

**Commissioner McGinn** said, “They were working on it, so I’m assuming it’s done.”

**Regular Meeting, September 3, 2003**

**Commissioner Sciortino** said, “Why don’t we recess right now into it.”

**Chair Pro Tem Winters** said, “Into Executive Session. What time were we going to come back though?”

**Commissioner Sciortino** said, “Well, Rich, how much time do we need once we actually get in there?”

**Mr. Euson** said, “Well, I think we’re going to need a good hour and I guess the question is do you want to start now or do you want to wait until Chairman Norton gets back.”

**Chair Pro Tem Winters** said, “Well, I think we want to go into Executive Session now and he can join us as soon as he gets back and we’ll expect him back pretty quickly, I think.”

**M. OTHER**

**MOTION**

Commissioner Sciortino moved that the Board of County Commissioners recess into Executive Session for 60 minutes to consider consultation with legal counsel on matters privileged in the attorney/ client relationship relating to pending claims and litigation and legal advice and that the Board of County Commissioners return from Executive Session no sooner than 1:45 p.m.

Commissioner McGinn seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Absent

**Chair Pro Tem Winters** said, “This meeting is recessed into Executive Session.”

**The Board of Sedgwick County Commissioners recessed into Executive Session at 12:43 p.m.**

**Regular Meeting, September 3, 2003**

**and returned at 2:40 p.m.**

**Chairman Norton returned to join the Commissioner in Executive Session at 1:00 p.m.**

**Chair Pro Tem Winters** said, "I'll call the meeting back to order of the Board of County Commissioners. We've returned from Executive Session. The Chairman is now with us."

**Chairman Norton** said, "There was no binding action taken in the Executive Session. And let the record show that I joined the Executive Session in progress, although I was not at the Bench when we recessed. Is there anything else to come before us? Mr. Manager?"

**Mr. Buchanan** said, "No, sir."

**Chairman Norton** said, "Mr. Counselor?"

**Mr. Euson** said, "Yes. Commissioners, while in Executive Session we discussed several pending claims and I would like to ask your authority to settle these claims at this time and perhaps we could just do all these in one motion.

So, the cases we discussed were Solbourne Computer versus Sedgwick County. In that case, we have a mediated settlement of \$67,500 which will release all claims and I recommend that to you.

Also, a Worker's Compensation claim involving Harlan Hittle that we would recommend that you settle in the total amount of . . . the gross amount of \$90,261.52, which will close all future issues in that case.

And another Worker's Compensation case involving a former employee, Mark McClurg, for the total amount of \$70,000, the settlement of which will close all issues relating to that case. I would recommend those settlements to you at this time."

**MOTION**

Commissioner Sciortino moved to approve the settlements as presented.

Commissioner Unruh seconded the Motion.

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

**Regular Meeting, September 3, 2003**

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Tim Norton	Aye

**Chairman Norton** said, "Is there anything . . . Did you do 'Other' other?"

**Commissioner Winters** said, "No, we were too tired."

**Chairman Norton** said, "Well, I know Dave will want to talk about the zoo. So, is there anything else to come before us today?"

**Commissioner Unruh** said, "We all heard about the Zoobilee is this weekend. Everybody buy your ticket and go."

**Commissioner Sciortino** said, "That's it? Oaklawn block party same day. Don't go to the zoo, go to the Oaklawn block party."

**Chairman Norton** said, "Commissioner Sciortino will be in the dunk tank."

**Commissioner Winters** said, "Clearwater Fall Festival, same day. We'll be at all of them."

**Chairman Norton** said, "I don't have anything else. We're adjourned."

**N. ADJOURNMENT**



**Regular Meeting, September 3, 2003**

There being no other business to come before the Board, the Meeting was adjourned at 2:44 p.m.

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

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**TIM NORTON**, Chairman  
Second District

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**THOMAS G. WINTERS**, Chair Pro Tem  
Third District

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**DAVID M. UNRUH**, Commissioner  
First District

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**CAROLYN McGINN**, Commissioner  
Fourth District

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**Regular Meeting, September 3, 2003**

**BEN SCIORTINO**, Commissioner  
Fifth District

ATTEST:

\_\_\_\_\_  
**Don Brace**, County Clerk

APPROVED:

\_\_\_\_\_, 2003