

MEETING OF THE BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

MARCH 13, 1996

The Regular Meeting of the Board of County Commissioners of Sedgwick County, Kansas, was called to order at 9:00 A.M., Wednesday, March 13, 1996, in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman Thomas G. Winters; with the following present: Chair Pro Tem Melody C. Miller; Commissioner Betsy Gwin; Commissioner Paul W. Hancock; Commissioner Mark F. Schroeder; Mr. William P. Buchanan, County Manager; Mr. Stephen Plummer, County Counselor; Mr. Jarold D. Harrison, Assistant County Manager; Mr. Daryl Gardner, Controller, Finance Department; Mr. Marvin Krout, Director, Metropolitan Area Planning Department; Ms. Irene Hart, Director, Bureau of Community Development; Mr. Tom Pollan, Director, Emergency Medical Service; Ms. Deborah Donaldson, Director, Bureau of Health Services; Mr. David C. Spears, Director, Bureau of Public Services; Mr. Darren Muci, Director, Purchasing Department; Mr. Fred Ervin, Public Affairs Officer; and Ms. Susan E. Crockett-Spoon, County Clerk.

GUESTS

Mr. Pat O'Donnell, Coordinator, Neighborhood Initiative

Mr. Thomas D. Borniger, Attorney for Petitioners

Mr. Kenneth Hill, Poe & Associates

Mr. Robb Rumsey, 1041 N. Waco, Wichita, Kansas

Mr. Michael Branson, 3900 S. Gilda Circle, Wichita, Kansas

Mr. Scott T. McIntosh, 3916 S. Gilda Circle, Wichita, Kansas

Mr. Ernest L. Evans, 3958 Gilda Circle, Wichita, Kansas

Mr. Bernie Flax, 3950 Gilda Circle, Wichita, Kansas

Mr. Brad Stout, Kansas Department of Transportation

Mr. Lee Engler, Wilson, Darnell & Mann, 105 N. Washington, Wichita, Kansas

Mr. Wade Culwell, District Engineer, Kansas Department of Transportation

Mr. John McMaster, 14311 Tipperary Circle, Wichita, Kansas 67230

Mr. Mike Loveland, 8230 Overbrook, Wichita, Kansas 67206

Mr. Frank McMaster, 724 N. Mission, Wichita, Kansas 67206

Mr. Allen Bell, Financial Projects Director, City of Wichita

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INVOCATION

The Invocation was given by Mr. David Cline of the Christian Businessmen's Committee.

FLAG SALUTE

ROLL CALL

The Clerk reported, after calling roll, Commissioner Gwin was absent.

Chairman Winters said, "Madam Clerk and those that are here, Commissioner Gwin is opening a meeting this morning for the American Cancer Society and expects to be here momentarily. Madam Clerk, if you'll just show her present when she arrives, we expect her in the next ten minutes or so."

CERTIFICATION AS TO THE AVAILABILITY OF FUNDS

Mr. Daryl Gardner, County Controller, greeted the Commissioners and said, "I certify that there are funds available for those items that we have identified on today's agenda as requiring expenditure of funds. A listing of those items was provided to you previously. Any questions?"

Chairman Winters said, "No questions up here Daryl, thank you very much. Next item please."

PRESENTATION

A. PRESENTATION OF NEIGHBORHOOD INITIATIVE ANNUAL REPORT.

Mr. Pat O'Donnell said, "Good morning Mr. Chairman, members of the Commission, Mr. Manager. My name is Pat O'Donnell, I am representing this community. I am honored today to represent the hundreds of people in this community who have worked so hard to make the Neighborhood Initiative the success it is."

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“The City, the County, the school employees, the residents of our neighborhoods, civic and social agencies, all working together to support a vision of a safe and viable community. The purpose today is to present a written report on the activities of last year, discuss some of the highlights and the initiative process. We've left one for the Commission and we have some extra copies for the public on the table here. We also have some suggestive priorities for next year. As originally designed, the initiative is concentrated on supporting four key components. Each of these have varied degrees of government involvement, but all require active participation by members of this community. The public safety and security efforts have probably received the most attention. This is also the area that requires the largest share of government support.

“It seems obvious that this community is embraced and it is supportive of community policing. The efforts of both the City Police and the Sedgwick County Sheriff's Department show encouraging results even in these early stages. Neighbor to neighbor activity might be the hardest to measure. We do know that there are now some 40 neighborhood association members of Wichita independent neighborhoods and that others have formed throughout the County, but have not joined WIN. What we don't know is the depth or numbers of connections between neighbors. We have all heard heart warming stories of youth helping seniors, block parties and parades. The growing numbers of neighborhood watches and patrols are also indicators of success.

"In the appearance and maintenance component, there are constant cleanups, paint outs and repairs of public and private property. The neighborhood improvement programs, Mennonite Housing efforts to assist those in need, and we also believe that the peer to peer programs have been successful. The numbers of violations brought into compliance without government intervention signal a community willing to take care of problems, save tax dollars, and time.

"Youth and family is where most of our attention was directed this past year. Many of the problems and much of the need can be traced directly to this area. Parents who need jobs, youth who need mentors and role models, families seeking time together in a safe place are now regular agenda items throughout this community. There are dozens of agencies all working to connect the needs of families and youth with existing resources. We are also looking for new and effective ways to partner and collectively support new ideas. Positive programs and activities for youth are probably the most important effort we still need to develop.

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"In explaining the initiative, our biggest challenge has been to explain that this is a process, not another organization. It is the development of effective partnerships among all aspects of our community. There is no staff, no Board of Directors, no executive in charge, no budget. The key, however, is collaboration. Cooperative efforts among government and community groups, neighbors, school and business, all working to achieve similar goals. You will see in the written report that the initiative has resulted in a wide range of successes, from grants and funding awards, and neighborhood associations. The opening of a neighborhood initiative coordinating center at the Wichita Mall, our first lighted school neighborhood center at Coleman, a very simple offer by one person to bake fresh bread for those working to resolve youth violence.

"The operations of this collaborative effort are really quite simple. Every Friday morning, eight of us meet to review the week and look at upcoming projects that need support. This effort is improving our communications and our ability to share resources. On the second Monday of each month, the support team meets over a brown bag lunch to discuss major projects, refine and develop new partnerships, and look for ways to better connect with neighborhoods of this community. As you can see, the group is large and it is a pretty good sample of the community. We met recently with the County Manager and County Department Heads to discuss the initiative.

"Finally, we facilitate a weekly report on the initiative effort. This one page report is faxed to some 70 locations and we ask that it is routed to ensure the widest possible exposure. For the last year, we've had a presence on the world wide web, or the internet, and we're in the process of updating that information and adding new links to our partners in the community.

"The 1995 report that you've been given, only highlights the activity throughout this community, to include the details, we'd need hundreds of pages. What happens now, where do we go? Well first, we need to support our efforts to date. We need to look at the effectiveness of these efforts and refine them as needed, develop new partnerships, further enhance communications and seek ways to involve the wider community.

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“Some specific 1996 efforts are enhance our relationship with the City Council, this Commission, and the Board of Education, involve more local government department heads, support any efforts to develop any additional neighborhood centers under the lighted schools concept, ensure the strongest support for community policing in the City and in the County, develop new efforts to respond to youth in need, support neighborhood based businesses and economic development, support anti-gang and youth violence prevention efforts, and finally continually enhance the neighborhood initiative process. I thank you for this opportunity. It is a privilege to work with so many people in this community who are dedicated to making a positive difference. Thank you.”

Chairman Winters said, "Thank you, Pat. Pat, I had one question. On the Monday meetings that you have on the second Monday, how many normally attend those? How big a group is that, and I saw the list of organizations, are there other individual citizens who are concerned and interested that attend those meetings."

Mr. O'Donnell said, "There are some Mr. Chairman that do show up. There have been times when we've had four or five people attend, there have been times when we've had forty people attend. It really varies, but for the last couple of years, that consistency has developed. We have a hard core of about 30 people that consistently show up."

Chairman Winters said, "Okay, well I would encourage you, I know that as Commissioners, it seems like we have a lot of meetings that we attend, but if there is a time that you see a need or a particular interest that you believe it would be helpful that a Commissioner be aware of a particular meeting or event, please don't hesitate to give us a call. I know as we see these meeting notices come by, it seems like some we get really hooked into and attend regularly and others we don't. I would encourage you to keep up the process and the work, we appreciate it. We appreciate the effort that folks like you put into projects like this. Thanks for the report. Commissioners, you've heard Mr. O'Donnell's report, what's the will of the Board?"

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MOTION

Commissioner Schroeder moved to receive and file.

Commissioner Hancock seconded the Motion.

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

VOTE

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

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

PUBLIC HEARING

B. PUBLIC HEARING REGARDING A PETITION TO VACATE ROAD RIGHT-OF-WAY IN THE DERBY SUBDIVISION JURISDICTION.

Mr. Thomas D. Borninger said, "I'm the Attorney for the Applicants, Charles and Vanita Hawthorne, who are the sole land owners who live on the north of this area. The area is along 63rd Street South of approximately the 3200-3300 block. This is an area with the second new 63rd Street Bridge to the west and K-15 to the east and there is approximately a half mile section in there.

"In this particular area, there is an old plat called Woodvale Addition. Woodvale Addition has never been built out as an addition, in fact, Mr. Hawthorne owns all of the lots north of 63rd Street throughout Woodvale Addition. When the County was acquiring the right-of-way of this particular area, they bought the entire lots because they didn't want to cut down half a lot. What happened is that the County out there for 63rd Street has basically 120 foot right of way on either side of this particular area, 60 feet for a half street right-of-way.

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“In this particular area on the north they have 110 feet, so there is an additional 50 feet there. The applicant is requesting the vacation of this additional 50 feet so that the County would still retain the 60 foot half street right-of-way that it has otherwise throughout the entire area. Specifically the area that we are asking to be vacated, lot 2, the 50 feet adjacent to lot 2 Block B; lots 2 and 18, Block C; and lots 8, 9 and 10, Block D. There are a couple of public platted public streets that are in there and we are obviously not asking that those be vacated. This is on the north side only, it doesn't affect the neighbor on the other side of the street. The applicant owns all the reversionary rights if any may happen to exist. He acquired these from the original owner, the same person from whom the County acquired title to the property. We have also checked before we even started this procedure with Mr. Spears office at the Sedgwick County Public Works Department for them to check and to confirm whether or not this was a potential right of way that was going to be used or if he could see some need from an engineering standpoint that this right-of-way be retained and in fact before we proceeded in Derby, we received a letter from Mr. Spears' office saying that he did not believe there was any need to retain this, however, subject to approval of the County Commission.

"There are several reasons for asking for this vacation. The most important probably is security. This applicant has been robbed four times since 63rd Street was relocated, the additional right-of-way was built. In fact, there was also an attempt, just in November of this year, when we had this pending in Derby for someone coming back and trying to rob him. He has been told numerous times after each one of these robberies by the Sheriff's Department that what he needs to do is move his fence up, get it further away and get it closer to the road so that people can't get back next to his house which they can now where they can't be seen. At this point in time, the County is also not maintaining this excess right-of-way, you can understand this. County crews know that they have 60 feet and they maintain the 60 feet and they are not aware that in this particular little niche area they have 110 feet, so the maintenance that is being done out there is being done by Mr. Hawthorne anyway at this point in time. The area is unimproved. Mr. Hawthorne raises trees, he wants to plant trees in this area. He has several hundred ten to twelve foot pines ready to plant if it is vacated as soon as the weather will permit that to be done. Lastly, this also returns unused property to the tax roles.

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“In summary, it appears that the County doesn't need this excess right-of-way and the applicant can't fence it, restrict it, for his own security, he can't improve it by planting trees, or actually legally maintain it and no taxes can be paid on it unless it is vacated and allowed to go back into private ownership. In terms of easements, there is only one easement that is in this area and that is the easement for Rural Water District 3, their line happens to be in this area. As most of you know, I represent Rural Water District 3. If this vacation is approved, the district would prefer to have a private easement rather than a public easement and so we have an easement form that the Hawthorne's will sign granting us a private easement across this property.

“There is a KG&E line, which is not in the area approved for vacation because it is on an old platted easement and we've checked with the telephone company and they want to flag their lines and determine that they would still be within the 60 foot half street right-of-way, so it would still remain in public right-of-way. Those are the only easements that are affecting this particular piece of property. I would be happy to answer any questions. The applicant is here if you have any questions for him.”

Chairman Winters said, "Okay, Commissioner Schroeder."

Commissioner Schroeder said, "Mr. Borninger, I don't have a question for you, I have a question for our County Engineer. David, does this cause us any problems or anything that we can be concerned about?"

Mr. David Spears, Director, Bureau of Public Services, said, "Our staff has looked at this and we don't believe it would cause the County any problem whatsoever."

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

Chairman Winters said, "Okay, thank you. Commissioner Miller has a question."

Commissioner Miller said, "Mr. Borninger, how are you this morning?"

Mr. Borninger said, "Fine."

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Commissioner Miller said, "Good. I am really not familiar with vacations so bear with me, but I am kind of unclear as to whether or not if the applicant had purchased this property and then gave or deeded this easement to the County and now they want it vacated so that they can acquire this property again for usage, I don't know."

Mr. Borninger said, "That is a legitimate question. At the time the County acquired this right-of-way, he was not the owner of the adjacent property. All he has done is he purchased it later after this was already done and the only thing he did, because there is some question on the reversionary rights on the vacation on an easement, because typically when you vacate, it then reverts to the adjoining property owner and to make certain there was no question about this, he went back to the original owner, which was Marion Wood and that is the person from whom the County acquired this property and acquired from him his reversionary rights if any he had to that whole area. So there is a quit claim deed that is on file for all of that area."

Commissioner Miller said, "Okay, and the intentions of the property owners, is it to move their fence line?"

Mr. Borninger said, "They would move it closer to the 60 foot and then they will also go in and plant trees and improve that area."

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

Chairman Winters said, "Seeing no other questions, we need to hold a public hearing on this matter, so at this time, we will open the public hearing and hear from anyone in the public who would like to speak to this vacation of road right-of-way. Is there anyone here from the public who would like to speak toward this vacation item on our agenda today? Seeing no one in the audience wishing to speak on this item, I'll close the public hearing and reserve discussion to bench and staff. Commissioners, you've heard the presentation."

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MOTION

Commissioner Schroeder moved to approve the Vacation Order subject to retention of utility easements.

Commissioner Miller seconded the Motion.

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

VOTE

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

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

Commissioner Gwin arrived at the Commission Meeting at 9:30 a.m.

PLANNING AGENDA

C. METROPOLITAN AREA PLANNING DEPARTMENT.

- 1. CASE NUMBER SCZ-0705 - REQUEST FOR ZONE CHANGE FROM "AA" ONE FAMILY DWELLING DISTRICT TO "LC" LIGHT COMMERCIAL FOR COMMERCIAL DEVELOPMENT, LOCATED 300 FEET EAST OF GREENWICH ROAD ON THE SOUTH SIDE OF CENTRAL.**

Mr. Marvin Krout, Director, Metropolitan Planning, greeted the Commissioners and said, "Several planning items this morning. This one if I could have the first slide involves property in the County that is 2.44 acres. It is on the south side of East Central in the County. It is just 300 feet east of the intersection of Central and Greenwich and it is currently single family.

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“It is part of a larger tract of 21 acres that was platted back in 1981 called the Fountains, that also the C.U. as a conditional use permit that permitted multi-family use of that property per the County Commission’s approval back at that time. The property is currently being platted for single family lots though, and this frontage is being requested for light commercial zoning. The intention is to replat this frontage on Central with two light commercial lots that would have a street in between them, the street leading to the single family lots to the south and this tract before 1981 was part of six acre light commercial zoning that was established like in much of a three mile ring around the City of Wichita, back about 50 years ago and then when the request came in for the conditional use, the light commercial zoning was left.

“So we are asking to reinstate part of the light commercial zoning and extend it. I should also remind you that a tract that extends to about this point of about 14 acres was approved for zoning by the County Commission several months ago in order to try to meet the growing commercial needs of this area in Four Mile Creek. The staff recommended approval subject to platting. The replat subject to a number of conditions that regard design and landscaping, screening, buffers and sign controls, very similar to the controls that were established for the tract of 14 acres across the street which was part of the Belford Addition that is not being platted. If the new zoning code goes into effect and the property is annexed, then those conditions would be converted to the new protective overlay district.

"In advance of the Planning Commission hearing, there were a couple of letters and I think you have those in your staff report objecting to this rezoning as being out of character with the area. I think they weren't aware of the surrounding zoning that has been already established, but there was no opposition at the Planning Commission Hearing and the vote of the Planning Commission was unanimous to recommend approval. There were no written protests that were filed after this case either, so it just takes a simple majority of the County Commission to approve.

SLIDE PRESENTATION

"I'll run through the slides quickly. This is the tract in question. Vacant land or a church immediately to the east at this location on the arterial, this is an existing house, but this property that is zoned light commercial and this is the Belford property that was rezoned 14 acres to light commercial several months ago. We're looking at the church site and the site in front of it, this is Central here and so this is the property in question. In the background are suburban homes from the Gilders-Gott Addition.

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"This is Central looking to the east and the property is the right of the screen. You can see why we are widening Central in the future. This is looking back at the intersection of Central and Greenwich and so the site is located here and you can see in the background that there is a Quik Trip on the northwest corner of Greenwich and Central and other commercial zoning and some commercial development. This is the house that is immediately to the west at the corner of Greenwich and Central. It is zoned light commercial and we expect that at some point in time it will redevelop for commercial use. Back to the aerial slide and the zoning map. I would answer any questions that you have at this time."

Chairman Winters said, "Alright, Marvin could you point to that corner where the Quik Trip is located on presently? Is there anything on the other three corners there?"

Mr. Krout said, "The house is established here. There is a house on this corner and there is nothing I believe on the southwest corner at this time, but this part of the Beech property."

Chairman Winters said, "Okay. Thank you. Do you know if the applicant is here and wishes to address us?"

Mr. Krout said, "The applicant's agent is here and the applicant is here, they may wish to address you."

Chairman Winters said, "Alright, well I'll open the meeting at this time to anyone who would like to speak on the agenda item as we consider this zone change and Madam Clerk, you might show in this point in the meeting that Commissioner Gwin has arrived. Is there anyone here in the room this morning who would like to speak to this zone case SCZ-0705?"

Mr. Kenneth Hill said, "I'm a civil engineer with Poe and Associates, representing the applicant. I would just be glad to answer any questions that you might have about the property."

Chairman Winters said, "Okay, thank you Mr. Hill. Commissioner Miller has a question."

Commissioner Miller said, "Mr. Hill, I'm just looking under the restrictions and I do see that there were land use restrictions, outdoor loud speakers, no taverns or drinking establishments or adult entertainment shall be permitted. What do you propose will be sited?"

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Mr. Hill said, "Right now the owner is talking to Klepper Oil Company about building a convenience store. It would be similar to a Quik Trip type operation with gas pumps, a restaurant on the inside, a drive through window. Like you say, we did agree to provide a restriction as far as outdoor noise from the drive through window."

Commissioner Miller said, "Now if I remember how it is going to look, there is a lane that is going to come into the residential area to the south and then there are two tracts, so you are saying there is one convenience store..."

Mr. Hill said, "That's correct, he had, I believe, talked to Taco Tico about the other tract but the deal hasn't gone through, so we don't really know what will go on the other side."

Commissioner Miller said, "Is that the optimal use that you prefer to have there? That type of a...(short reply was inaudible) Okay, thank you Mr. Chairman."

Chairman Winters said, "Thank you, are there any other questions? Is there anyone else here who would like to speak to this item on our agenda? Commissioners, I see no other questions from Commissioners, what's the will of the Board?"

MOTION

Commissioner Gwin moved to adopt the findings of fact of the Metropolitan Area Planning Commission and approve the zone change subject to the condition of platting, and subject to recording the voluntary development plan agreement; adopt a Resolution and authorize the Chairman to sign, and instruct the MAPD to withhold publication until the plat and development plan have been recorded with the Register of Deeds.

Commissioner Miller seconded the Motion.

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

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VOTE

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

Chairman Winters said, "Thank you very much. The next item, and Marvin, if you would come back. As a planning item, you indicated that we need to reverse these two, is that correct?"

Mr. Krout, said, "My suggestion would be to take the third item, because it does involve the same property and I'm not sure how the items got switched, but I think it would be more logical sequence to take this as the next item."

Chairman Winters said, "Fine, let's take item three on the Planning Agenda."

3. CASE NUMBER A 96-10 - RESOLUTION APPROVING THE ANNEXATION OF LAND NOT ADJOINING THE CITY OF WICHITA, KANSAS.

Mr. Krout said, "This involves the Fountains, the lot that you just saw, the larger lot, including the area to be rezoned light commercial and the area that is being replatted currently to single family lots. It is a total of 21½ acres and it was platted a number of years ago. At the time, the owner requested that the City of Wichita annex the property and that was in return for the commitment that the City of Wichita was going to provide sewer and water to this site, this is going back to 1981. The owner has more recently requested annexation to the City because this property does not directly touch the City limits at this time, the City Council petitioned to the County Commission and has done that by Resolution to ask the County Commission to authorize the island annexation by finding that it would not hinder or prevent the growth of the area or of any other City.

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“As I said, this property is somewhat unique because it was platted in 1981 and the City gave commitments at that time to provide services to the area. After that, this property was included in the Four Mile Creek sewer district and then after that, more recently, was included two years ago in the Guilders-Gott Addition lateral sewer district. That sewer district, as you know, was established mainly to relieve the problems of existing homeowners who had homes on lots and had septic tank problems. The sewer district was set up to relieve those problems by providing the sewer lateral to this area. Because of the large size of the lots and the method of assessment though, that does create a real penalty for anyone who would have large undeveloped land to develop. In fact, this property is unique in that it is one large piece of totally undeveloped land in contrast to most of the other land in the Guilders-Gott Addition.

“Because of the cost of assessments in the lateral district it would basically, according to the owner, be prohibitive, it wouldn't be competitive and it would be prohibitively expensive to try to develop the properties because of the high assessments in this particular lateral district and as the owners pointed out, there is competing land in this general area, including in the Four Mile Creek district, that doesn't have to pay those kind of lateral fees. So the request is to be annexed into the City of Wichita and if that occurs before the contracts are let for the Guilders-Gott project for lateral sewers, then this property would be removed from that district and wouldn't be subject to paying the lateral fees which are part of that district that has been set up. In our staff report, we pointed out in terms of your findings, that there is no other City that is nearby that would be affected by this proposed annexation to Wichita. In the adopted Comprehensive Plan, this general area, including this property, is part of the City of Wichita's urban growth area, and is expected to be annexed anyway at some point in the future.

“Wichita indicated back in 1981 and has confirmed since that it is able to provide sewer and water service to this site and we also suggest to you that in terms of hindering the development of the rest of the area that this tract remains undeveloped that would be less desirable to the nearby property owners than to allow this area to be free of those assessments and develop at a more competitive rate. The development of this property I think will stimulate more development in the area and generally be positive in terms of the values of the surrounding area. So we don't think it will hinder, we think it will probably promote growth in this area. Based on that, we come to you on behalf of the City of Wichita to request the annexation. I think the County Counsel has prepared a Resolution for you to consider that would approve this island annexation.”

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Chairman Winters said, "Okay, thank you Marvin. Commissioner Gwin."

Commissioner Gwin said, "Marvin, I don't know that I have questions, I just have some comments about this particular issue. As the Commissioners will remember, we have received presentations in the past from a resident of the nearby neighborhood encouraging us to hurry up and get the lateral done or the sewer district completed. I do want the Commissioners to know that I have received a letter from some of the adjoining property owners and this gentlemen specifically who do, in fact, encourage us to approve this annexation.

"They understand that this annexation will not have a change on the costs of their existing specials, they also understand that without this assistance for this development, it may sit idle or it may be developed into their speculations of some other kind of housing that they would not prefer. With this annexation the developer will be able to develop single family homes. That's what the neighbors want to be developed there and so I am going to support the request, both because it makes sense from the development side and secondly, because I have been encouraged by some of the nearby residents to go and do the same thing also, so I'm going to be supporting that request."

Chairman Winters said, "Okay, very good. Thank you Commissioner Gwin. Any other questions from Commissioners? I think I will ask if there is anyone else here who would like to speak to this annexation issue, if there is anyone who would like to speak to this issue, please come forward. Alright, it appears there is no one here that wants to address this item. Commissioners, you've heard the discussion and the presentation. What's the will of the Board?"

MOTION

Commissioner Gwin moved to adopt the Resolution, including its findings that the annexation of certain non-adjoining land to the City of Wichita will not hinder or prevent the proper growth and development of the area or of any other city located in the County, and notify the Wichita City Council and City Clerk of the findings.

Commissioner Miller seconded the Motion.

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

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VOTE

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

Chairman Winters said, "Thank you very much. Now let's back up and take item number two."

2. CASE NUMBER CU-388 - CONDITIONAL USE PERMIT TO ALLOW A CAR WASH ON PROPERTY ZONED "LC" LIGHT COMMERCIAL AND GENERALLY LOCATED AT THE NORTHWEST CORNER OF HOOVER AND MACARTHUR ROAD.

Mr. Krout said, "This case concerns a lot that is just under an acre. It is the lot of the northwest corner of Hoover and MacArthur. This is in the County. Many of the areas are undeveloped. The Gray's Addition has recently been developed with single family homes and this area has been provided with City of Wichita water and sewer. The tract is zoned light commercial. It was part of, as you can see, another four acre four corner light commercial that the County zoned many years ago when the Gray's Addition was platted. The property, in order to reduce the size of the streets according to Subdivision Regulations, except for that corner, was down-zoned back to single family. In October of last year, a permit was issued for this car wash which is the subject of the request, a conditional use for a car wash, which is a requirement that in the light commercial district a car wash must be pre-approved by the County Commission through a public hearing process as a conditional use permit. The car wash building permit was submitted and was issued in error by County Code Enforcement and the construction of the car wash did occur. In addition to the conditional use requirement for certain standards, I think it is 13 standards for conditional uses, among those standards are setback requirements and there is a standard 60 foot setback requirement for car washes when they are adjacent to a residential zoning district.

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“In this particular case, the car wash was constructed and a permit was approved and this building, as you will see, is five feet from the rear of the property that front onto Gilda Circle in the Gray's Addition. The neighbors complained about the construction, the error was realized and the applicant was told that they needed to fine for a conditional use permit to seek the County Commission's approval. The filing occurred in January. The MAPC heard this case last month. The Planning staff recommended denial of this case. It certainly is suitable as a convenience store, fuel island pumps, you see that kind of pattern all over the City, but you don't see car washes that are five feet from the rear or side yards of residential lines and that's why we have a conditional use process. Our primary concern was with the noise, because you can build a building that approaches that close to the rear of a residential lot, you just can't build a car wash. So our main concern was...and we knew that car washes had setbacks for a good reason, the County Zoning Resolution and thought this proposal would create noise that would seriously impair the enjoyment of the usage of the nearby residential property.

"The Planning Commission had their hearing. At the hearing, the property owner provided a noise study, and you have a page from that noise study, that shows when there is background traffic occurring from the major streets of Hoover and MacArthur, that noise exceeds the sound levels of the car wash and therefore, the noise is being mitigated by that background traffic. However, there were several property owners that appeared at the Planning Commission meeting and indicated that this car wash had begun in operation before the Planning Commission hearing and so there was an opportunity for these residents to experience whether it was noisy or not and their response was it certainly was noisier and one of the applicants supplied a video and we'll probably show it this morning to you to provide that evidence.

"The owner also indicated that if this case was approved that they would be amiable to some kind of operating hour limitations to try to minimize the noise problem that the residents faced at least during the late night hours. They did build some fencing to try to also reduce the noise limits but that fencing was also up when the car wash was in operation and apparently wasn't acceptable to the residents. The Planning Commission voted unanimously to recommend denial. As one of the Commissioners, I think the one who made the motion said, we get a lot of difficult cases, but this is not one of them. They were very persuaded by the testimony and the evidence that was submitted at the Planning Commission hearing.

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"There were protests and I'll show you that map, but the protests represent less than 20% of the area within 1,000 feet. Because the Planning Commission has recommended the denial, if the County Commission were to consider over-riding that vote and voting on a Motion to approve it would take four votes, because of the Planning Commission's recommendation of denial. It would take four votes this time. You have an option of sending the case back to the Planning Commission for reconsideration. If you did that, then no matter how the Planning Commission considered the case, on your second consideration you would be able to approve this case by a simple majority vote. I should also point out that neither the staff nor the Planning Commission has prepared findings that would support a Motion to approve this case and so if there is a serious consideration of approval, this case should at least be deferred so that staff can be directed to assist the County Commission in that record.

SLIDE PRESENTATION

"Let me run through the slides quickly for you. This is the site in question. You can see the car wash and the fuel pumps in this photograph have already been constructed. You can see the homes in Gray's Addition to the north and west. These are the protests that were filed and if this was a City case and it had a 200 foot zoning radius, it would have been more than 20% of those property owners. Because it is in the County and 1,000 foot area is by statute the area we calculate the amount of protests kind of fizzled out at the edges and so this is less than 20% and that is why...if this was a 20% petition it would have required four votes of the County to override. This is the site where you can see we're looking to the north and west with the homes of Gray's Addition in the background and you can see the car wash on the left side of the convenience store building."

Chairman Winters said, "Marvin, that pickup is on Hoover Road?"

Mr. Krout said, "That's on Hoover Road, and this would be MacArthur and the stop sign to MacArthur west bound. This is from MacArthur looking north at the west edge of the site, the car wash when it was under construction, which was when the staff was preparing the report. The car wash has been completed and was in at least the testing mode of operation. This is a little bit further west so you can see the location of the car wash in relation to the back fences of the homeowners that are facing onto Gilda Circle. I think we have a couple more views of that. This is the close up.

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“This is looking from Gilda Circle near MacArthur. MacArthur would be here and we're looking toward the car wash from the rear of this lot. These are the homes that are on Gilda Circle. These were the homes that were most affected by the construction of the building. Looking further up the street. This is the south side of MacArthur, south and west of Hoover Road, undeveloped, and the corner is zoned for light commercial uses. We're in back of the car wash now and this is the driveway to the car wash. This is the rear yard and this is the back of the convenience store. This is looking at the car wash from the north side of the property looking towards MacArthur, which is in back of the car wash.”

Commissioner Gwin said, "Marvin, excuse me, could you go back to the previous slide and tell me about the tip of that building. Do you know how far that is from there to the fence?"

Mr. Krout said, "It looks to me like about 15 feet."

Commissioner Gwin said, "Fifteen?"

Mr. Krout said, "I would say about 15 feet."

Commissioner Gwin said, "Thank you. Excuse me."

Chairman Winters said, "That's fine. Marvin, I have a question on this slide. This fence that we see here on the right hand side, the backyards of those folks on Gilda is just on the other side of that fence?"

Mr. Krout said, "Yes."

Chairman Winters said, "Those are back yards?"

Mr. Krout said, "Those are the back yards of the homes. And here you can see again, this is where the car wash was constructed and these are the homes that are primarily affected and the back fence was along that red line. Back to the zoning map. I'll try to answer any questions you may have."

Chairman Winters said, "Commissioners, does anyone have a question of Marvin at this time? Mr. Hancock."

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Commissioner Hancock said, "Marvin, did you say a while ago that the building that was there could have been constructed without the conditional use permit? The use of it is the problem?"

Mr. Krout said, "Well, yes, the buildings can be, under the current County Resolution, the building could have been constructed to that setback. We do have I think in the new County code a general requirement for a fifteen foot minimum separation between residential and buildings, but this did meet at the time the standards for the minimum setback from commercial to residential. Also, the fence, remember we talked about fencing in the new code, and fencing actually was not required, but the applicant did put that in voluntarily."

Commissioner Hancock said, "Thank you."

Chairman Winters said, "Okay, seeing no other questions, we will hear from the public at this time and if the applicant or anyone here who is supporting this request, I would ask that they come forward at this time. Anyone who is here supporting this request."

Mr. Robb Rumsey said, "Thank you Mr. Chairman and Commissioners. I've been asked by Mr. Steindler, as his Attorney, and as his friend, to come before the Commission and plead his case. I presented the Commission with a booklet that may help, may not help, it may help you understand where we're coming from on this case. I guess a little bit of background. Mr. Steindler owns and runs the Total convenience store that you saw in the picture. It's been there for three years and it has overhead lighting and it complies with all the requirements that are set out for convenience stores. It is zoned light commercial. It's been there three years.

"Approximately June or July of this past year, he got an idea, maybe it would be a good idea to have a car wash as you see so many times with the Phillips 66's around town and the other convenience stores. He contacted Mr. Bill Schrader of Schrader Brothers Construction to converse about it and work up a plan. The plan was worked up and submitted and a permit was issued. Now the first seven or eight pages of this are pictures that we've had blown up, so that you could see and much of which you've seen already on the overhead. I believe it is page eight, deals with the permit that was issued, clearly for a car wash. We attempted to comply with all the terms and conditions we knew existed at the time. We had that issued to us and we then commenced building it.

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"Now this car wash was to be placed on the western part of the property, it was owned by Mr. Steindler. It was already zoned light commercial, it was already being used as a convenience store property. There was already overhead lighting and as you saw in the overhead, there was already signs, typical convenience store. This contract was signed by Mr. Schrader and my client is out \$160,000 at this point, approximately, maybe a little more, maybe a little bit less, but somewhere in that. The building was commenced on November 1, and it wasn't until somewhere around December that we received notice that there was perhaps a problem with this. We received notification first by telephone and then by letter. The letter that we received, dated December 8, is the next document in that binder sent to us by Director Scott Pike and in the second paragraph it says that we are requesting that you now file with the Metropolitan Area Planning Department for a conditional use permit to operate the car wash in the L.C. district. We did that and we applied and the car wash was completed and it became operational. We were then turned down on our conditional use permit and we met with the people that were at least at the time, having some complaints.

"My client deals in a service type of commodity. His job is to try and get along, that's what he does. He wanted to try and take out or take away any problems they might have, at least address them. He spoke to the neighbors that were voicing the most concern about this and he attempted to work through those as well as he could. He had built an eight foot fence that was built to prevent any spray problems which was something that they said they were concerned about, spray from the car wash. So he built an eight foot fence. He also hoped that would suppress some of the noise that was supposedly coming from the car wash. We would agree to limit the hours and we're still agreeing to limit the hours. It shouldn't run all night and if it needs to be limited more than what we've said, we're willing to do that. He had a sound test done by McClellan Sound, which is the next document and it shows, as was stated by the prior speaker, that in almost every case, the traffic noise is louder than the car wash noise.

"The way to read that McClellan Sound test is go to the next page after that graph and that tells you where the tests were conducted, 1, 2, 3, 4, and 5. Then you come back to the graph and that graph will tell you what is louder. We've got ambient or just normal noise, we've got traffic noise, we've got car wash noise and then at positions 4 and 5 where the blower is, we've got the drier noise. We're asking this Commission to grant us a conditional use permit."

Chairman Winters said, "How much longer do you think you need."

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Mr. Rumsey said, "Just a few minutes, maybe not even that long."

Chairman Winters said, "Okay, go ahead and conclude."

Mr. Rumsey said, "Thank you. We are willing to do whatever is needed to be done. We have a petition at the front of our store that could be signed by the people that came in, whether they thought that this was something they thought was a welcome addition to the neighborhood. That's also attached. I believe there is between 400 and 500 and maybe more than that signatures of various people that signed that petition. I guess we're asking for the conditional use permit, but we're also asking for some guidance and some direction. My client entered into this with every intention of doing the right thing. He didn't intend that there be any problems. He didn't intend that this create a big ruckus or that we end up here, obviously. We would ask for the conditional permit, we would be willing to virtually do whatever this Commission told us to do to assure that, but right now, my client has \$160,000 debt that he is having to service that he can't do without being able to use that car wash and so we would respectfully request that conditional use permit, thank you."

Chairman Winters said, "Thank you Mr. Rumsey."

Mr. Rumsey said, "Are there any questions I could help answer?"

Chairman Winters said, "I see none now, but if there are any we'll certainly have you come back."

Commissioner Hancock said, "Mr. Chairman, I'm sorry. Going through the document, you poured the footing on November 15, 1995, and it looks that it was signed off then by the inspector."

Mr. Rumsey said, "Yes."

Commissioner Hancock said, "And did the underground electrical on December 4, 1995."

Mr. Rumsey said, "Yes."

Commissioner Hancock said, "And they were notified on December 8, that there was a problem. When they called Scott Pike at Code Enforcement, what did he tell you then?"

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Mr. Rumsey said, "He wanted us to go ahead and continue with what we were doing and just apply for the conditional use permit. He didn't tell us to stop and in fact, he told us to continue."

Commissioner Hancock said, "Do you know the applicant, at what point after December 8 they applied or they inquired at the Metropolitan Area Planning Department as the requirements of a conditional use permit for a car wash?"

Mr. Rumsey said, "I do not, I know that they were sent out at the time, I believe, of the letter or maybe somewhere in that range, they were sent out and supplied a document that set out what the needs were to obtain a conditional use permit and it appears to me that there are 17 according to this and we complied clearly on 16 of them, I believe. The only one that there is a question on is section 4.2 and it is that one that states that no structure shall be permitted closer than 60 feet to a residential zoned area to the front or side residential zoning district, provided however that the above shall not apply when the abutting or contiguous property is being used for a light commercial use permitted in the light commercial zoning district. I think that may have some relevance in this. We already have a light commercial area that is contiguous, that is abutting this car wash. I think that may have some bearing on this because we just built it on an abutting area to already where it was allowed to have light commercial and that may allow this...if that reads, if that is what it reports to be, then that would maybe mean that we've complied with all the conditions under this use permit. We have done everything that we can do, we're trying, and we're willing to do more."

Commissioner Hancock said, "Can you give me an exact measurement between the side wall and the adjoining residential property on the west. In the permit it states ten feet, are we at ten feet there?"

Mr. Rumsey said, "I don't believe we are at ten feet, I closer it's closer than ten feet. I do not have an exact figure. That's something I can find out for the Commission, I don't have it."

Commissioner Hancock said, "Thank you. Thank you very much for your answer, I appreciate it."

Mr. Rumsey said, "Thank you."

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

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

Commissioner Miller said, "Probably a follow up, Mr. Rumsey, to what Mr. Hancock was speaking of, and it has to do with the permitting process. When you were going through it, were you, at the time that you applied, applying for a CU?"

Mr. Rumsey said, "Originally, when we originally applied, we just went in and applied for a permit for a car wash as set out in our plan and as established in the permit. I don't think at the time we applied, that they were aware that they needed to have a conditional use permit."

Commissioner Miller said, "You were going through the permitting process, plans were submitted, our Code Enforcement, by way of Mr. Scott Pike, did he know that indeed, I don't know if it is the south side or not of your building, but the building that is closest to the residential property line behind you, did he know that it was less than ten feet in clearance back there?"

Mr. Rumsey said, "I don't know whether he knew that it was less than ten feet."

Commissioner Miller said, "Was it clearly stated on your plans?"

Mr. Rumsey said, "The plans said that there would be a 10 foot, is my understanding, 10 foot between the fence and the car wash. There is required to be, as I understand it, 60 feet and the plan that was submitted I believe showed a 10 foot."

Commissioner Miller said, "So I guess my question is, if you knew and it was documented that it was a 10 foot clearance, but it was understood that there needed to be a 60 foot clearance."

Mr. Rumsey said, "There was never an understanding that we knew of that there was a 60 foot..."

Commissioner Miller said, "There was no understanding that there was a 60 foot clearance."

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Mr. Rumsey said, "No, no, not until the early part of December, after the footing has been laid, after the electrical had been done, after a number of these items had been done."

Commissioner Miller said, "Had the structure been built?"

Mr. Rumsey said, "The structure had been started, it has been substantially built, it had not been completed on December 8, when we received that notification, we were told that we should go ahead and continue doing what we were doing and apply for the conditional use permit."

Commissioner Miller said, "Okay, so that's the chain of events that I am getting to. By December, you were under the understanding that 60 feet was the law."

Mr. Rumsey said, "We were of the understanding that we were supposed to continue on and go ahead and do the conditional use permit."

Commissioner Miller said, "You were aware that 60 feet was what was..."

Mr. Rumsey said, "I don't mean to skate around it, we were given a copy of this..."

Commissioner Miller said, "So you had read it. You were aware that you weren't necessarily...you didn't know that it necessarily applied to your situation."

Mr. Rumsey said, "That's correct, and we knew we needed...we knew that we were asked to apply for the conditional use permit and so that's what we did. We knew that was something that we were required to do at that point and so that's when we did it."

Commissioner Miller said, "I just needed to be clear in my mind, when the recognition of the actual law occurred in this process and I thank you. Thank you Mr. Chairman."

Chairman Winters said, "Thank you Commissioner Miller. Thank you Mr. Rumsey. Is there anyone else who would like to speak in favor of this applicant? If not, are there folks here who would like to speak in opposition and I think there are probably several. Could I see a show of hands of how many people who would to speak to us today? Okay, very good. Will the first person please come forward. Please state your name and address for the record please."

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Mr. Bernie Flax said, "I live at 3950 Gilda Street, I'm the third house in on MacArthur Road on the east side."

Chairman Winters said, "Excuse me, and your name again?"

Mr. Flax replied, "Bernie Flax. Like I say, I'm the third house in off of MacArthur Road. What I have for you is a video of the car wash in operation and it is standing from my back yard."

Chairman Winters said, "How long is your video sir?"

Mr. Flax said, "Well, it's a nine minute video. I am going to fast forward through some of it, what I want to basically show you is the noise level and the lighting."

Chairman Winters said, "Okay, well what we are going to do is we are going to try to limit comments to five minutes. We certainly want to make sure we have all the facts and all the understandings that we need to have, but if we can hold it to five minutes, I'm going to ask the Clerk to set the timer for five minutes and then if the Commission feels that we need to continue on viewing or whatever, we'll certainly consider that, but for the time being we're going to try to work on a five minute time frame so Madam Clerk, if you'll start now."

Mr. Flax said, "Okay. Thank you."

VIDEO PRESENTATION BY MR. FLAX

Mr. Flax said, "Okay, here the car wash is in operation, it is running and you will hear it start up. Now I'm standing out in my backyard, out at my back gate and I'm approximately 50 feet north of the car wash with the wind blowing south, there is a wind that day. That is just the water at this present time. I'm going to fast forward a little bit and get to the drier. I went too far, but that's the drier right now. You will actually hear the drier kick off. Here is the fence that he built up for you. As you can tell, it's not buffering much noise at all, of course. The blower is slowing down. There, the noise is kicked off. This is a night time view of standing at the back yard of Ernest Evans house."

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"I'm going to fast forward and get to the lighting. I took a shot from Ernest Evans' back yard and Lamont Finkles' back yard. That is one of the lights that you see. It may not look bright there, but you will see that it lights up kind of like a football field. It does shine directly in our windows on the east side of the house. That's from the south side from Lamont Finkles' house. That's loud there."

Commissioner Hancock said, "Mr. Flax, is the wash running right now in this?"

Mr. Flax said, "Yeah it was. Now this is standing in my back yard on the northeast corner of my back yard and that is how it is lighting up, I did go too far, I'm going to back it up."

Commissioner Hancock said, "Is that the time there, 8:40?"

Mr. Flax said, "Yeah."

Commissioner Hancock said, "What time of day?"

Mr. Flax said, "It was the evening, see, that's how it lights up the backs, the yards of our houses."

Commissioner Miller said, "Do the lights go off at night at any time?"

Mr. Flax said, "Eleven o'clock. I would like to point out that the lights have been on for approximately the last two weeks even though it hasn't been running, they have been turned back on."

Commissioner Miller said, "In the middle of the morning, early hours? Is that what you're saying?"

Mr. Flax said, "Eleven o'clock at night is when they shut them off, when they close it down."

Commissioner Miller said, "And they are definitely off at that time."

Mr. Flax said, "Yeah, like the weekends it would be open until midnight. Like I say, the noise factor and the overspray is a big issue of ours."

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Chairman Winters said, "Okay Mr. Flax, do you need additional moments here or did that conclude your remarks."

Mr. Flax said, "No, I think that concluded what I wanted to show you. You saw the distance between the fence and the building as you saw on there so that's about all I'd like to say at this time. If there are any questions?"

Chairman Winters said, "Okay, I see no questions, thank you for being here."

Mr. Flax said, "Okay, thank you."

Chairman Winters said, "Next speaker please. Again, please state your name and address for the record and you're limited to five minutes."

Mr. Scott McIntosh said, "Okay. I live directly north of the Total store. I can hear the car wash from where I stand. It is a very loud noise, especially with a south wind, you can really get it coming into your back yard and it makes it unbearable to go out there. We know this because they had what they called a test phase in which they were charging people to test their car wash. We have receipts to show that they were testing at that time. When the Total store was built, the light was a concern, now I am shielded by the building itself from the car wash lights, but the store itself shows a lot of lights into my yard. I could go out and mow my lawn at night if I wanted to, it's that light out there.

"Another concern is the trash. With the store itself, we get a lot of trash into my yard, the south wind brings it into my yard. With no problem, I spend half a day Saturday picking up the trash and as you know, when people wash their cars, they like to clean out the inside of their car also. They like to dump their ash trays onto the ground and now I'm going to pick up cigarette butts all day long out of my yard. I also fully expect our property values to go down with it being that close. Nobody wants to buy a house right by a car wash and a lot of those houses are tract homes, so everybody's got the same floor plan and if one of these individuals goes to sell their house, it has to take a substantial decrease, we can all expect the same thing.

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"We've come to accept the store, we weren't happy when it went up, but we understood that it was light commercial and so forth and we've come to accept it. We can't accept the car wash. It is just too close to the houses to really accept. I had talked to the owner of the store on several occasions well before the car wash was even started. When he first built his store, I had a conversation with him and talked to him about landscaping to block out lights, noise, trash and so forth and he told me no, I'm not doing any of that, it's the homeowners responsibility. At one point I bought a whole bunch of little seedling trees that I was planting in my yard. I also offered, at that time, to give them to him, they were pine trees, saying I would plant them, they're yours to take, free, just something to help us out here and he refused. He said 'no, I don't want to mow around them, it is just too much of a hassle to mow around them'. So he has been unwilling to work with us as far as blocking out lights, noise, trash and so forth.

"If their car wash is allowed next door, right next to Ernest and Bernie's yard and so forth, then what can I expect by my yard. Am I going to get a car wash with a double bay or I don't know what, anything can happen. They mentioned they had a petition with several signatures on it and one night I decided to make a trip in there and I was approached to sign this petition. When I asked the reason why, the reason they were giving was because one neighbor was upset that the store and the car wash was there and that they didn't think either one should be up there and she is just way upset. I brought it to his attention though that it is without the 60 foot limit you're supposed to be, you're only about 5 feet out and I think that's the main reason that everybody is upset about this. Two nights later I went back in, because I heard from a friend of mine that went in there that they were still giving the same story. The same gentleman I told the real reason to was once again saying to people that were...explaining it that one neighbor is upset because the store and car wash should not be here.

"The way that I look at it, that petition right there, people are going to sign it if they think there is only one person who is upset. I think if people would have known the story and thought about the fact of a car wash being in their back yard, I think they would have thought differently when they came to sign it. Also, we also have petitions to fill out, had them notarized and so forth and we did it within a 1,000 foot radius. Not that it was difficult for us, because just the four of us were the only ones who received a notice saying that we had to have these petitions signed. We had one week to do it. We had to get copies of it and everything and go around for a 1,000 foot radius.

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“A lot of the people had already been inside the Total store and heard their story and weren't willing to talk, especially the ones on the outer edges of 1,000 feet. The ones that were directly affected by this on the street, they were willing to sign, they knew what was going to happen. They knew that if one of us went to sell our house and we'd take a big decrease, they are too. But a lot of them looked at it, they didn't want to hear us, I think that what should have been done in that case was everybody given a complete letter stating what the story is behind the car wash.”

Chairman Winters said, "Excuse me, Mr. McIntosh, how much more time to you need."

Mr. McIntosh said, "That's really about all I had to cover, I can answer any questions at this time."

Chairman Winters said, "Okay, I see a question from Commissioner Schroeder."

Commissioner Schroeder said, "Thank you. I just wanted to ask is that individual you had those conversations with in this room today."

Mr. McIntosh said, "Yes he is."

Commissioner Schroeder said, "Who is that?"

Mr. McIntosh said, "I believe his name is Jim Steindler, the applicant, sitting right there."

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

Chairman Winters said, "Okay, thank you Mr. McIntosh for being here today. Anyone else who would like to speak to this issue please come forward."

Mr. Michael Branson said, "My wife and I moved into this neighborhood approximately a year and a half ago. When we did, we knew the Total station was there and didn't have a problem with it, in fact, we've used it on several occasions for convenience. However, the view of the car wash is not in our view but the Total station is and we can see the lights when they are open until 11:00 and 12:00 during the week.

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“We cannot hear the car wash when it was running in our back yard, but however we could hear it when we were out in our front yard, which we spend a lot of time, with two children under the age of four. We spend a lot of time out there with the neighbors and all, watching their children and our children playing and such.

“As some of my neighbors have said, we're concerned about property values decreasing, increased traffic and trash and such, as well as the fact that on several occasions the station owner has not been very amiable to working our other problems out. Also, we are concerned with the fact that many people in the area did not realize the implications of that and I feel confident in saying that I'm sure if the roles were reversed and the car wash was built directly behind the station owner's home, mistake or no mistake, he would be fighting to have that built even if it was the Code Enforcement people who said we forgot to tell you this or whatever the case may have been.

“Also, I have a quote here directly out of the minutes from the Planning Commission meeting in which Mr. Sherman says 'we have had a lot of really tough cases before us, but this isn't one of them'. As the legal staff has said, 'the fact that it is built there should not enter into our opinions and if it weren't built there, there isn't a chance in the world that we would approve it in that location. If we would not approve it if it was not there, why should we approve it simply because it is there.' While I sympathize with his loss and his financial problem as the result of this possibly being there, I can't help but imagine that even if this happened to another station owner right behind him he certainly would not want it there. That's all I have to say. I'll be happy to answer any questions you may have.”

Chairman Winters said, "Okay, thank you Mr. Branson, I see no questions. Thank you for being here today. Next speaker please."

Mr. Ernest Evans said, "I live at 3958 Gilda Circle and I have a car wash in my back yard. It shouldn't be there. The building permit was issued in error. The zoning ordinance requires that a car wash be at least 60 feet from AA zoned property. This car wash is 5 feet. Mr. Hancock, I believe you asked a question earlier in exactly how far the car wash is off the property and I can tell you that it is a lot closer than 10 feet. I've not measured it with a tape line myself, but it is close to 5 feet. If the car wash is allowed to operate, it will have an extremely detrimental affect on our lives in several ways.

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“Noise and overspray will make our back yard completely useless. When the weather is nice, a couple of weekends ago, my wife had all three of the grandchildren out in the back yard. If the car wash had been operating, that would not have been possible. Even though we live on a circle with a minimum traffic, it still would have been unwise to try and contain three toddlers from 3½ to 1½ out in the front yard without the aid of a fence.

“In regards to the sound tests that they have run on the car wash. I believe the only time that the ambient noise would be louder than that car wash would be during rush hour and MacArthur and Hoover is quite busy and loud during rush hour times, but that is the only time that I can think of that the noise would exceed the levels of this car wash. It is not necessary to go outside to hear the noise produced by this latest addition to our neighborhood. You can sit in my living room and it sounds like a jet warming up out back. The bedroom that our grandchildren sleep in when they stay over is directly behind the car wash. Now how do you suppose bedtime is going to go with what sounds like a jet engine running in the backyard.

“To my knowledge, there has been no engineered site drainage plan prepared for the car wash. When the structure was directed, the drainage was changed drastically. The grade for the building foot was built up so that the finished floor of the car wash is 1 to 1½ feet above the level of my back yard. Dirt is built up to the finished floor grade and spread out three to four feet out from the building. This squeezes an area that was approximately 20 feet wide in drainage to the ditch along MacArthur down to an area that is only 1 to 2 feet wide.

“During a period of rain, this change in topography will force storm water run off across my back yard. It will also create puddles of standing water on my property which could create a potential health hazard, such as a breeding ground for mosquitos. I would also that Code Enforcement be instructed to require an engineered site drainage plan that addresses the issue of how storm water run off would be drained from this area.

“The value of our property decreased significantly with a car wash in the back yard. I don't think any one would want to purchase a home under these conditions. I believe that the problems that I just mentioned to you are the reasons that zoning ordinances are established. They are there to protect homeowners from being denied use of their property. They are to protect homeowners from having their properties devalued. The existing Total site does not have the required space available for a car wash.

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“We should not be forced to pay the consequences of an overlooked ordinance and a poorly laid out site. We are aware of the neighbors that met with Mr. Steindler back in December when these problems first arose. We spoke about several things, the fence was one of them and all he did was install two small links of fence going out from directly along side the building, the car wash. I asked him at that time to see a site drainage plan.

“I asked him at several points in time to see a site drainage plan, to see how the water run off was going to get between our properties with that car wash built up as it has been. I've never seen one to this time. I think I made four requests. I've offered to pay for the site drainage plan and still I was denied the opportunity to review it. In closing, ladies and gentlemen, I urge you to deny this request for conditional use permit. Thank you. I'll answer any questions you might have.”

Chairman Winters said, "Thank you Mr. Evans, I see no questions. Thank you for being here. Next speaker please. Is there anyone else would like to speak to this issue? Anyone at all who would like to speak to this issue? Alright, seeing no other individuals wishing to speak, we'll reserve comments. Mr. Rumsey, would you come back to the podium."

Mr. Rumsey said, "I'm afraid I may have mis-spoke myself earlier and I wanted to at least correct that. I talked to Mr. Steindler and there was a question by Ms. Miller, when we knew there needed to be a 60 foot setback. When we received that letter, because it was contiguous to what was already a light commercial area, my client didn't think that there was a necessity for a 60 foot set back and that's the way it reads, section 4.2 of that section, so that's what my client relied on. He went ahead and applied for the conditional use permit, but he didn't think that was going to be a problem because he didn't think there was a need for a 60 foot set back. The other thing that I would note, is that on the plan, the plan calls for the side to be 0 to 10 feet. It isn't required to be 10 feet on the permit. The sides 10 feet, rear 10 feet, and the front 35 feet. So the fact that it was 5 feet off was consistent with the plan that was submitted and consistent with the permit that originally was issued."

Chairman Winters said, "Okay, thank you very much. Mr. Rumsey just a second."

Commissioner Hancock said, "Mr. Rumsey, you said in the copy of the Resolution that you have, that the property if it is contiguous with light commercial zoning you can be at lot line with the car wash, is that what you're saying?"

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Mr. Rumsey said, "What I'm reading is out of 28.04.183 paragraph 4.2 and it appears that it provides for 'however the above shall not apply where the abutting or contiguous property is being for a light commercial use permitted in the light commercial zoning district.'"

Chairman Winters said, "Where is that adjoining property, that abutting property?"

Mr. Rumsey said, "My client is what I'm talking about believed because his convenience store was there, because that property was light commercial and that was abutting the car wash, that would not be a problem."

Commissioner Hancock said, "Okay, thank you."

Commissioner Miller said, "May I ask Legal for some interpretation on that?"

Mr. Stephen Plummer, County Counselor, said, "I only heard about that this morning. That is probably something we ought to look at as you make your findings. Again, what I'd suggest doing is you hear all the testimony today, close the hearing, and then make our findings in about two weeks. I can't answer that right now as we sit here. The first time I've heard about this is this morning."

Chairman Winters said, "Marvin, can you come to the podium please."

Mr. Krout said, "This isn't a well written section and that is one of the reasons we've done a new zoning code and I think they've simplified it, but I think, there is no question in my mind, and I don't think in anybody's mind, contiguous means the property that is contiguous to the lot. And what is contiguous to this lot is single family zoning. I don't think there is any question about it."

Chairman Winters said, "So in your mind, it is clear that the set back requirement is 60 foot."

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Mr. Krout said, "Yes. In fact, I should say that even if the County Commission were to approve it, as we told the Planning Commission, the applicant would still need to apply, as we've told them, to the Board of Zoning Appeals to vary that standard. Legal staff has advised us that because this is a standard for a conditional use permit that only the County's Board of Zoning Appeals can vary that standard and so even if you approve the conditional use, they will still have to apply and convince the Board of Zoning Appeals that this was a unique situation in terms of the site itself, not just in terms of the issuance of the permit."

Chairman Winters said, "So if this Board was to in fact approve this conditional use, it still has to go before the County's Board of Zoning Appeals on this setback issue."

Mr. Krout said, "That's right."

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

Commissioner Miller said, "I just need to clarify the issue of contiguous properties and so what I believe I'm hearing Mr. Rumsey and Mr. Steindler interpret it as the property that the car wash and the Total convenience gas station is indeed two pieces of property. It seems as though what you are thinking is that the car wash is contiguous to the Total store and what I'm hearing in the interpretation you say Marvin that the contiguous property would indeed be outside of that corner, which is zoned as light commercial and would be the single dwelling residential homes."

Mr. Krout said, "Property refers to ownership and the ownership of the car wash and the gas station is the same."

Commissioner Miller said, "Thank you."

Chairman Winters said, "Okay. Commissioners?"

Commissioner Hancock said, "I've been out to this location a couple of times now and one visiting with the applicant and one on my own just to look things over and in looking at this particular case, I can't believe the numbers of miscues that were made from the architect, the owner, the enforcement folks, all over the place."

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“In reading the letter that Mr. Steindler received on December 8, it referred to the requirement that there would be a need for a conditional use permit, but what we heard today was that there was no order at that time to stop construction pending the issuance of a conditional use permit. That's why I questioned the dates. Quite frankly, with the underground electrical being signed off on December 4, chances are, there weren't walls built by then, there was a foundation in and possibly the flat work wasn't poured by then, so there was still a chance to back out of that deal at that time if the applicant knew that he needed 60 feet. So, there is a heck of an investment here, but there is a heck of an investment also by the community in their homes, in their own right to peace that they have in their homes.

“So what I'd like to do today is defer it for two weeks and ask the Planning Department to bring us back some findings and I'm not sure that I can say this properly, but bring back findings under what condition this could be approved. And I'm talking about landscaping, sound attenuation, lighting, and drainage. If there is a possibility that these neighbors can cohabitate, I would sure certainly like to look into it. It may not be possible, but based upon what we know today, even if we approve this, I doubt that the Board of Zoning Appeals would approve this. Mr. Euson informed me, I think a couple of days ago, I wasn't even aware that there would be a need to go before the Board of Zoning Appeals. I thought this might be the last stop for the applicant, but I would like to have this information.

“If it is possible to do it, I think it is worth the investment by the applicant to make that trip and see what can be done. There are a number of car washes in our community and I use one near my home and they don't have blowers, and that may be a possibility. That may be something they want to consider. I don't know, but I'd like to look at what the possibilities are Marvin in those four areas; landscaping, sound attenuation, lighting attenuation and drainage and reexamine it one more time. Now if I'm out of bounds on that, and you folks are more knowledgeable concerning the rules, let me know. Am I okay on this? Is it okay? I also want to add something else. We have sat through a lot of public hearings before concerning land use and neighbors and businesses and neighbors and neighbors and businesses and businesses who disagree and I have never sat through a hearing before where all the people are so gracious. It is incredible and I really appreciate that and so let's see what the possibilities are and what we might be able to do. See if we can't help everyone. I would so move that would be a motion.”

Chairman Winters said, "Could you restate that so we're all real clear?"

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MOTION

Commissioner Hancock moved that the Metropolitan Area Planning Department investigate further findings in cooperation with the applicant concerning landscaping, sound attenuation, lighting attenuation and drainage. Bring that information back to us for further consideration within two weeks.

Commissioner Schroeder seconded the Motion.

Chairman Winters said, "We have a motion and a second. Commissioner Miller."

Commissioner Miller said, "Commissioner Hancock, in your motion, are they basically going to build an action plan, in order to meet the questioned areas that you have addressed there, that is lighting, drainage, sound?"

Commissioner Hancock said, "To me, if I were, it just seems to me that landscaping can be addressed so that it is a good neighbor. If this were in the City today and I hate to admit it, but if this was in the City today, there would be a landscaping plan on file and it would be one that would be acceptable to the community. I think for the most part, lighting, from what I am hearing, basically sound, lighting and drainage are the concerns of the community and the building, that's why I asked up front, will the building remain, is that the problem? The building can remain, so it's there, but the fact that it is being used to wash cars and there is mist floating through the air, and there is sound associated with that, and there is lighting that is irritating to the community in the back yard of those neighbors. All of that really can be addressed and it seems to me that it is really not that...based upon the investment that is already in that facility, it seems that it wouldn't be too difficult to go beyond what we have and address those and see if we can't solve some of those problems and that's where I'm coming from."

Commissioner Miller said, "Thank you."

Commissioner Hancock said, "If we can't, then we've got to make a decision."

Mr. Plummer, said, "If I might ask a quick question? Is it your motion then to grant the permit subject to an acceptable list of conditions that would make this something that wouldn't offend the neighborhood or..."

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Commissioner Hancock said, "No, it is not."

Mr. Plummer said, "You want to see that plan first."

Chairman Winters said, "Commissioner Gwin."

Commissioner Gwin said, "Go ahead, I'll wait."

Commissioner Hancock said, "The reason is that now that I know, and I had never known this before I think Monday, the Board of Appeals is going to hear this case anyway no matter what we do for the setback. If we can be helpful in solving the problem as a Commission, as elected officials, then that's our obligation, and I think we ought to do that. The BZA can't ask the Metropolitan Area Planning Department and the applicant to bring us back findings, but we can. If we can be helpful to make this better and send it off and maybe approve it and send it to the BZA and if we can't solve the problem and approve it then we have an obligation to that. Not, it is not to approve it, it is to bring us back more findings so that we can make a decision to approve or deny. And are we under a time constriction to do that? Thirty days?"

Mr. Plummer said, "I'm not aware of any. I suggest closing the hearing today."

Mr. Krout said, "I talked to Rich this morning about it and the County does need to act within 60 days of the Planning Commission's decision, so you could extend up to four weeks from today, but at that time you would need to have a vote."

Commissioner Hancock said, "Let's just go for two."

Chairman Winters said, "Commissioner Gwin."

Commissioner Gwin said, "Just a discussion on the motion. The zoning regulations of Sedgwick County supposedly allow car washes in LC only as conditional use subject to the site meeting 19 specific conditions and then it certainly appears it doesn't meet condition B which is one of the concerns. It is not 60 feet from the front or side of an RR-1 or AA zoned district and I am aware that we can't change that and neither can the MAPC, only the Board of Zoning Appeals as you said can waive that requirement."

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“So, I'll support your motion for additional findings, but the applicant and the neighbors need to know that even if this Board would approve or deny, whatever our opinion may be, if this Board would approve, it still has to be sent to the Board of Zoning Appeals for them to waive the 60 foot requirement. It obviously doesn't meet that one. That's one that we can't just forget and say it doesn't exist.”

Commissioner Hancock said, "I was just thinking that if we could be helpful and both the applicant and the neighborhood and they could coexist, and they may not be able to."

Commissioner Gwin said, "Yeah, maybe not."

Commissioner Hancock said, "If we could be and they could work together and send a recommendation of our findings and our decision along with the application to the BZA, it may have some impact. If we're not satisfied though with the outcomes of the findings and the possibilities, then maybe another kind of recommendation."

Commissioner Gwin said, "So to answer questions then, when this comes back to us in two weeks, you expect Mr. Krout and the Legal Department to have some additional information for us to consider and you expect that we'll take a vote to either deny or to approve this request at that time."

Commissioner Hancock said, "Yes ma'am. Of course, the applicant will have some work to do in the mean time also."

Commissioner Gwin said, "Okay, I can support that."

Chairman Winters said, "Okay, thank you. I've got a couple of questions, or a question and a comment. What is the status of the operation of the car wash now, presently, both operational wise and lighting wise? Marvin, do you know? Is the car wash in operation? And the lights are not on? (Mr. Krout's response was inaudible as he was not at a microphone.) Okay, Mr. Hancock, I'm going to support your motion. I appreciate and thank you for trying to work this from every way possible to determine if there is a solution."

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“I am going to stay from my standpoint, from what I've heard today, that there is going to be a large burden on the applicant to figure out how to make this acceptable and I am not sure exactly in my mind what that would be, but I would think it is going to take some creative thinking on the applicant and his agent's part to make this something that would be acceptable to me and at a minimum, I think it would take a conversation with the neighborhood before they come back to us. I am certainly not wanting to have all these neighbors come back down here, but I certainly want to be able to think that part of the solution that the applicant would propose would be something that really is workable and that's why I think he is really going to have to work with those neighbors. With that, I'm going to be supportive of this two week delay also. Are there other questions? Any other questions on Mr. Hancock's motion? If not, Madam Clerk, please call the vote.”

VOTE

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

Chairman Winters said, "Thank you all very much for being here. At this time, we're going to take about a ten minute break. We'll be back here in ten minutes.

The Board of Sedgwick County Commissioners returned from recess.

Chairman Winters said, “We’re back in session. Madame Clerk, next item please.”

- 4. CASE NUMBER DR 95-24 - SPECIAL USE PERMIT FOR A KANSAS DEPARTMENT OF TRANSPORTATION MAINTENANCE FACILITY, LOCATED IN AN AREA NORTHWEST OF THE U.S. HIGHWAY 54/K-96 EXPRESSWAY INTERCHANGE.**

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Mr. Krout said, "Our heavy commercial zoning, the other areas are light commercial zoning so there is a variety of uses including agricultural. Also recommended are the decorative fencing to continue around the site and I think the key outside issue is that no outside storage of vehicles, equipment and materials is permitted and KDOT does accept that condition. I think that is probably what most people have an image of when they think of a maintenance facility, something that has a lot of outside storage, but because they have the capacity at their other sites, to house or do any outside storage, they've agreed that there would be no outside storage of materials, equipment or vehicles at this site. Before going to the Planning Commission, we took this issue to the City Manager's aesthetic review team. I don't know if you've heard of this group, but they review City public projects, or projects including public right-of-way.

"Eventually, they do have to receive at least administrative permission to open the gates to 127th Street and use the bridge to get access to this site and so it seemed appropriate to take it to this group of people who were basically landscape architects and architects who are concerned themselves with the primary issue of the aesthetics of the City. They did not raise objections of the use of this facility for this site. They did make some recommendations on additional landscaping, primarily in the northern portion of the site where it would be visible from the turnpike view as it goes south and those landscaping recommendations have been incorporated in the revised landscape plan. With these conditions, including the revised landscape plan, we recommended approval and despite the Planning Commission's denial we still do that. We know that the use is out of character with the uses in the area.

"There was opposition at the Planning Commission and in the Planning Commission meeting minutes, they indicate that this would be an industrial type of use out of character with commercial and while it is true that there is no industrial zoning immediately, there is some industrial zoning further to the east and then all of Beech further to the west. I mean, further to the west is also zoned industrial. The heavy commercial zoning does permit outside storage and warehouse uses and heavy commercial uses and that is part of the character of Kellogg today, so we didn't agree that it was out of character with the area. There were claims that this would devalue the commercial property and the plans for commercial development in the vicinity, but there wasn't any evidence of devaluation that was submitted to the Planning Commission and it is hard for me to imagine that given the other uses in this area, that this would devalue the property.

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“The Planning Commission also said that this street, because it was closed at 127th, was now residential in character and so this use would be out of character and the truck traffic would be an impairment. But we believe, first of all, that the east side of 127th Street is appropriate for future commercial uses, included uses like retail commercial or office show room type uses that don't need the...it's a little bit of a difficult area, because the accessibility is not as good with 127th closed, but it does have the access to the inter-state system and that's going to be valuable for some types of users and we also understand that this property owner is interested in commercial rather than industrial use for his property. So I am not sure that you could characterize that as a residential street. There is, I think, one home that is north of Douglas in this area that may be impacted somewhat by the truck traffic that would be coming in and out of this facility.

“I think that this use is an important public service and that is one of the things that you weigh is the safety and health and welfare to the general community and hardship on the particular property and in this case, this seems to be a reasonable location. If you thought about other locations on K-96 that would be closer to residential why you would probably say that those are less reasonable than this location. It is isolated from other properties by the turnpike, by K-96 ramp system and by Kellogg and it is kind of in an isolated location. It doesn't abut anybody that would be sensitive and we don't think that it would have any impacts on community facilities. I do know that bridge was closed to traffic by KDOT, who we believe ought to know the bridge business. They tell us that with the limited traffic that they would have for the site, that they believe it is safe and they would maintain it to a standard that would permit them the private use of that bridge.

“The Planning Commissions vote though was unanimous, it was 8 to 0. There were two speakers in opposition. They compared this area to the 435 Metcalf area in Johnson County, which I think personally may be a little bit of a stretch considering what Kellogg does look like today, but I think what they're saying and we agree in terms of this is a high accessibility area and that it does have potential for commercial development. They felt that views from multi story buildings to this site might be impaired by this use and they were opposed to it and you'll see that all the surrounding property owners to the east, west, and south, have filed protest petitions, so it does require, not only because of the Planning Commissions recommendation for denial, but because of the protest petitions, will require four votes to over ride and approve this request. In the Planning Commission motion, they mentioned CART's concerns, the City Manager's review teams and I think those were overcome. I wasn't at the hearing at the time this was presented. I wasn't able to address that.

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“Let me show you some slides of the area. The County Counselor's Office has indicated that if you were to recommend approval, it should also be subject to the County officially conveying the title for this property to the State, that there does have to be an official transaction which hasn't occurred, so that it can be used for that purpose. Also, if you do decide to vote in favor of this, you should be citing the findings that were in the staff report rather than the findings that are in the Planning Commission's recommendation.

SLIDE PRESENTATION

"This is an aerial of the site and it looks very exposed from there and it is exposed in some locations. This is the bridge and this is where the road connection, 127th to Kellogg has been removed over the turnpike. This is the landscape plan and you'll see there is heavy landscaping where the predominate view from Kellogg, especially Kellogg east bound will occur. There is landscaping around the facility. This is where the bays for the vehicles are going to be. You'll see both of the elevations in this case. The attempt here, when you're coming down from the ramp, because of the slope, you're up on the ramp, it would be very difficult to really screen the use completely from here, so instead what the attempt is to have a pretty solid looking mixture of evergreens and deciduous trees and it would look like a tree row, a hedge row, in other parts of the County.

“These are elevations. This is the elevation that will face toward the turnpike and actually the turnpike is down at that level below grade so that it is not visible at that point, but that is the rear view I guess you would say, the north elevation and this is the view that would face towards Kellogg. These are the protest petitions. See the property owners to the east, to the west, and to the south have all filed protests and that is more than 20% required for a four vote requirement for an override. We are looking now southbound at the closed bridge. This is the bridge and the turnpike is running under the bridge and in the background, Kellogg would be running in this direction and so this is where the rear of the facility would be located. Now we're looking from that bridge, looking at the turnpike, this is the south bound K-96 ramp and this is the rear most part of that property. See the ramp is elevated so that is where the primary views really are.

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“This is looking on the other side of the bridge, looking at the McMasters property, the property to the east that did file protest. This is the turnpike underneath, and that is looking to the north and the west. This is the turnpike and that's the 127th bridge and so this is the site in question. This ramp is coming around and then onto Kellogg which is following those power lines in the background. You can see one of the buildings on the other side of the street, the other side of Kellogg and this is looking at the site, looking south bound, Kellogg is back here. That is the building that is off the south side of Kellogg and this is looking to the south, this is that K-96 ramp that is coming down and around Kellogg. This is the turnpike and that K-96 ramp again. This is looking on Kellogg looking west bound, this is the front edge of the site and just beyond the screen is where the office and vehicle equipment facility will be located.

“That is where 127th Street was in the foreground. This is looking at the site, they had some sort of trailer that is on the site. Again, this is the K-96 outbound ramp and this is Kellogg and building across Kellogg, to give you reference, this is the turnpike, the low grade and the 127th bridge. Again, that's Kellogg westbound and this is basically where the first phase building will be going. This is the building at K-42 and 235, this is one of their existing maintenance facilities and these bays would be the rear-facing, they wouldn't be facing Kellogg, but would be facing forward 127th Street and the turnpike in the scheme that you saw, so you would be seeing more of a front edge of a building along Kellogg than this. In our mind it is a fairly attractive facility, landscaped and compatible with other uses along Kellogg. I will try to answer any questions that you have at this time.”

Chairman Winters said, "Alright, thank you Marvin. I see no questions at this time. I know that there are at least three folks here from the State who would like to speak in support of this application, so please state your name and address for the public record please."

Mr. Brad Stout said, "I'm here representing the Kansas Department of Transportation on the request for a special permit. Also speaking today will be Wade Culwell, District Engineer. He'll discuss the proposed usage of this property and its importance to the KDOT operations. We've also asked, and he's agreed to join us, Lee Engler, the landscape architect with Wilson, Darnell & Mann. They can discuss the extensive landscaping that KDOT is committed to on this particular project.

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"I provided to you the overhead map that shows this particular property and I think my presentation, and I think the question you need to begin with is why KDOT would be interested in a land locked piece of property. There are two very compelling, very good reasons why we are interested in it. These reasons are; first, this is a unique location along K-96. This location provides access to both K-96 and US 54 but in less than one mile, if you travel up 127th onto this access, is less than a mile. This location allows KDOT to reduce its response time to the highways that this property will serve to less than 20 minutes and it sounds perhaps a little overstated, but it is true that in time of treacherous weather, saved time is saved lives for KDOT and as a result, by doing this, you are promoting the public safety and that is what KDOT is in the business of doing ultimately. There is no other location that can provide this time saving or can meet this location's furtherance of the public's safety interest.

"The second reason is equally compelling, is that KDOT is already or rather taxpayers have already paid a handsome price for this property and the taxpayers should be allowed to use it to the fullest extent possible to gain as much from their tax dollar as possible. As you saw from Marvin's presentation, the property is zoned both light commercial and residential. Take a look at this map, it is not possible that anyone is ever going to want to build a residence on this particular property bounded on three, almost four sides by restricted access highways. Similarly, no industrial or no business man is going to put a business in this location with this limited access. We can put it there because we have the ability to maintain the bridge. The importance to us is that it is quick access to those highways that we will be serving. As a result, for us, the property has a good deal of benefit, it is very attractive to us. If we don't use it, the property won't be used at all.

"I would also like to spend just a few moments and talk about what I see as a primary concern raised or what I've been told were some of the primary concerns raised when this project was discussed, and to do that, I need to step away for just a moment. The primary concern seems to be, well this is a gateway to Wichita-Sedgwick County and your facility will be inconsistent with existing uses and it will provide us with a negative impact, if you will, onto our community with people coming in. This is a gateway. You have kind of a unique situation. You have an intersection of both K-96 and US 54 and you have I-35 running right through there. I think Marvin has covered it fairly well. For the most part, this property won't be visible from those.

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“People that are traveling at highway speeds on each of those highways and as we know, the speed limit is going up so the speed is going to be increased all that much greater, but assuming you are traveling westbound on Kellogg and you do happen to see our property, what you'll see as you come along 54 is this extensive landscaping. We don't mean to be and we're not being critical of comparable properties and existing uses, but let's compare them just briefly with those properties that are marked on the map I have handed out to you. You'll note that they're not only...in one case, they're right across the street. This is Wichita Insulation, it has all the horrors that we were supposedly going to incorporate, a large steel building used for storage that faces Kellogg, here is the main building. Again, it is a steel building and this is the back side of it as you pass, this is Kellogg that you're looking across, again just a large steel building.

“The importance is not the quality of the building but the total absence of any landscaping. Compare that now quickly to what you'll see here. The second one is a farm implement dealership, again a steel building, machinery left outside and you can see the steel building over on this side as well. We found that after we took these pictures that this lot is in fact not owned by the farm dealership, it is owned by some rock business, but what you would see is outdoor storage of gravel and other materials. In fact, everything that they were against the KDOT project for. No landscaping, no attempts to hide the building, nothing that would even compare, come close to what we are willing to do and what we are committed to do. The final one and I don't know if you can see it very well, but it is a Public Storage facility that is on Kellogg, that is property, again, this is unique in that it has some landscaping in front of it, but again, nothing comparing to what we will do.

“This property will be visible from Kellogg primarily where our heaviest landscaping is and then briefly headed in on I-35 and of course the most visibility comes across off the exit ramp on K-96. I submit to you that we ought not have anything attracting driver's attention as they are coming onto Highway 54, that's an extremely dangerous situation which is why 127th was removed. I'll close my comments and simply say that this is an opportunity for this Commission to serve the public interest by allowing KDOT to make the highway safer and to use in a prudent and productive way, property that was purchased with tax dollars. I submit that outweighs any objections raised by competing interest. Thank you for your time and I'll turn it over to Lee.”

Chairman Winters said, "Okay, thank you Mr. Stout. Next speaker."

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Mr. Lee Engler said, "I work for Wilson, Darnell & Mann, representing KDOT as a landscape architect. A lot of what I was going to say, Mr. Marvin Krout has already said and then Brad has also, so I can elaborate a little with some statistics. They did talk about site planning which was very important on this project, how the lay of the land screens some of building with I-235 being lower. Even the ramp of K-96 blocks the view of westbound traffic on Kellogg. That ramp is approximately 40 foot tall. Coming from the west, this property is not seen at all. The building is set back from Kellogg and set back from the ramp on K-96. There is approximately 340 feet from the corner of this proposed building area to the ramp itself, so it is quite a bit of distance.

"Landscape screening, as you can tell, is a big part of this. Sedgwick County has no landscape code, as Wichita does, but in wanting to screen this facility as best as we could, using that wind break idea and landscape area on this 11 acre site is 7 acres, 62% of this site is landscape area. There is existing, along the property line here, 42 trees. We are proposing putting 21 shade trees in, 52 ornamentals and 110 evergreens, the evergreens being specified at 6 to 8 foot tall, so we are providing quite a big screen. There is a total of 225 trees. There is also, to give more height to these trees, berms located on the west side of the property, on the southeast corner, that's where most of the view is coming from 54. Also, there are berms to help with the view from I-235 coming from the east on this end of the property.

"Because K-96 is real tall, you will be able to see over the trees that are around the perimeter, so in our plan, we are putting trees as close to the building as possible so you will not be able to see as much, as the trees will be so close that they will at least screen the ends of the building. It wasn't verified before, but this right here is the main building. These buildings right here will be in other phases, but as Marvin said, they will be made out of the same material as the main building. Additional beautification, a black epoxy finished chain link fence, the same as that on 54 west of the fly over is to be installed along the south and east property line, this whole length over there as just an added touch to fit it in with some of 54's features. There will be an irrigation system put in by KDOT that will water the trees to make sure that they are well established and they will grow well later on.

"Also, seed will be placed in all disturbed areas. As you can see on the slide, a lot of that was graded already just plain dirt. All that will be seeded and in fact reclaimed. KDOT has gone through extensive efforts to screen this and make this fit in with the surrounding area and their neighbors, and in our opinion gone over and beyond what is required. Thank you."

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Chairman Winters said, "Thank you Mr. Engler. I've got a question. Commissioner Schroeder."

Commissioner Schroeder said, "Yes, Mr. Chairman, if you please. How many total trees did you say you would have when you were done planting?"

Mr. Engler said, "Two hundred twenty-five existing and proposed trees."

Commissioner Schroeder said, "How many are proposed out of that 225?"

Mr. Engler said, "One hundred and eighty-three."

Commissioner Schroeder said, "In your business, what kind of viable rate do you see in planting trees like that?"

Mr. Engler said, "The trees that we have specified on the plant materials schedule are those that the City of Wichita recommends as 'xeriscape' plantings, which are materials that are indigenous to this area. So with the type of plants..."

Commissioner Schroeder said, "I've seen some of the City of Wichita's plantings along K-96 and most of them I think are dead. That's why I thought I'd better ask you. Those are looking really pitiful."

Mr. Engler said, "Those are not irrigated well and KDOT wants to irrigate this land."

Commissioner Schroeder said, "What size tree would you plant, in how much area would you be planting these trees?"

Mr. Engler said, "Shade trees we have specified from 2 to 2½ inch caliper, that is one foot above the ground, so those trees shade wise will be about 14 to 16 feet tall. Ornamentals caliper would be 1½ to 2, so those would be approximately 8 to 10 foot tall. The evergreen trees are specified at 6 to 8 foot in height."

Commissioner Schroeder said, "Before they reach maturity, how many years are we probably looking at?"

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Mr. Engler said, "Oh, the evergreens being the slowest growing of those wouldn't mature, let's say double in size for another 10 or 15 years."

Commissioner Schroeder said, "Okay, how long do you think that this facility will stay at that location? I know the one over near West and Kellogg was there about 25 years or so and it was moved out to K-42."

Mr. Engler said, "Yes, the reason for that was because of Towne West and because of the growth that came in, KDOT decided that it was not a suitable location and good neighbors so they moved."

Chairman Winters said, "I think Mr. Culwell is going to speak and he can address that."

Commissioner Schroeder said, "Can you answer this question then, are you protected then on all sides by any encroachment and growth that you are in that area, aren't you?"

Mr. Engler said, "I'm sorry, I didn't understand the question."

Commissioner Schroeder said, "The question is and I don't see the big board again, development will not push you out of there at this location."

Mr. Engler said, "Oh no. We are completely landlocked by highways on all sides."

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

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

Commissioner Miller said, "You made the statement that the taxpayers paid for this property and it would be a good use for KDOT to be able to place a site there. Can you just elaborate on that?"

Chairman Winters said, "Commissioner Miller, I think Mr. Stout made that, but Mr. Culwell is going to speak, this guy is the landscape guy so that might be a question better directed to Mr. Culwell, is that alright? I do have a question for you though. Have you estimated a budget projection for making these plantings as you've presented including the irrigation system and all of that?"

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Mr. Engler said, "No we haven't, not at this time."

Chairman Winters said, "Okay, thank you. Any other questions of Mr. Engler? Alright, thank you. Next speaker."

Mr. Wade Culwell, District Engineer for the South Central District, said, "Sedgwick County is one of our 18 Counties. I would, rather than to go over and reiterate many of the things that have been properly said already, I would just like to touch on a few high points and then let you ask the questions. We are trying to make use of virtually an island surrounded by highways which they are basically good neighbors to us. We make good neighbors to a highway, we don't often make good neighbors when we abut right next to somebody. This facility is going to be unique in that it is not going to be a storage yard or anything stored outside. You might ask why we want to be on the east side of Wichita. The other two sites, one is up north and one is to the southwest side and with the advent of the K-96 and the proposal for Kellogg, we need a facility on the east side of town to serve our customers.

"The customers are the highway users and their safety. When we build a road, we are rather offensive, we buy up land, we move people, we tear up utilities, but once it is all in place like this is, then our business is to maintain and public safety is our number one concern so that is very efficient for us to be in that area of town and serve the user. There was some mention about our facility that had been at West Kellogg at the Towne West site. Because of the growth and the abutting property owners and the lack of direct access to 54, we needed to relocate, which we did. This site should provide us long term, as long as we can see, direct access to the highway system that we need to maintain. The typical activity that you would see here if this is completed as proposed, is a maintenance unit that would comprise of about 6 to 8 dump trucks, dump truck types or the type you would see treating and plowing snow. That is the typical type of truck.

"Right now, there are about 8 employees that we have assigned and we expect that to grow and it will always be less than 20 as far as we can tell, employees at that site. Typically, they would come to work in the morning, park their vehicles, get in their truck and leave the site at 8:00 and be out all day and come back in about 4:30, except during inclement weather when they have to return to reload salt and sand and that would be stored inside.

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“Any patching material they need would either be stored inside or they would go to another site to pick it up and use it on the road. The same with any signs or posts or anything like that. They would be stored inside or off site. So basically, in a nut shell, that addresses the daily uses that you would see there.

“They would come out up 127th Street and access K-96 at the same location that the turnpike access is and with that, I'd be glad to answer any questions. I would say this, Mr. Schroeder mentioned about the trees on K-96, that literally overwhelmed us and we are working very diligently with the correctional department to try to use correctional people.”

Commissioner Schroeder jokingly asked, "Chain gangs?"

Mr. Culwell said, "I don't know what the leadership is going to call those, but we have utilized minimum security people before and due to their administrative areas, some of them were taken away, but we have an agreement in the works right now and hope that those kind of people can help this tree planting situation and landscaping and so forth along K-96."

Commissioner Schroeder said, "They also do trash pick up Wade, along the..."

Mr. Culwell said, "Yeah, they're doing it now along the canal route. It wouldn't look near as nice without that. So, let me stop there and try to answer questions."

Chairman Winters said, "Commissioner Miller."

Commissioner Miller said, "I was questioning that taxpayers had paid for this property and that it would be a good usage for KDOT. Can you elaborate on that?"

Mr. Culwell said, "Certainly. When this project was conceived and developed, basically, there is an agreement with the County and in this case the County bought right-of-way for highway purposes and in this general area they had to condemn the property. Normally, the State would have bought it along the highway, but in this particular case, it fell under the system enhancement program and there were agreements with the local agencies to do this. So this condemned property for highway purposes is what we are dealing with here. So in effect, the tax payers have paid for this property."

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Commissioner Miller said, "And it will be leased free for KDOT, is that what you are saying?"

Mr. Culwell made no verbal response.

Commissioner Miller said, "Okay. We've asked to have the property transferred from the County to the State. They condemned it for highway purposes, but it is in the County's name and we're asking also that the County transfer by quit claim deed, their interest in this property."

Commissioner Miller said, "Thank you."

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

Commissioner Gwin said, "Mr. Culwell, thanks for being here. Mr. Stout indicated some discussion about KDOT maintaining and reworking that bridge over the turnpike if it was necessary. What about 127th Street?"

Mr. Culwell said, "Okay, let me elaborate on that. That is a local unit of government street, whether it is in the County or the City. As a good neighbor, we would agree to doing our share of the maintenance, like if it develops potholes now, we would be glad to fix the potholes, we would be glad to pick up the trash that is accumulating there now. As that develops, we would expect then perhaps there would be some street project would come up, maybe curb and gutter or that kind of thing which we would not be responsible for, but as a good neighbor, we would do what I call routine maintenance and of course, inclement weather, going in and out of there, we'd certainly plow it and put salt and sand on it too, to keep it ice free."

Commissioner Gwin said, "So in the interim then, you wouldn't have a problem kind of overseeing that roadway. Talk to me about utilities and your need for utilities at this site."

Mr. Culwell said, "Okay, there currently is a sewer line to the north of the turnpike which we can access at some expense. We'd have to bore underneath the turnpike and that would be between us and I think it is a County facility. There is power available and there is also water available. So that makes it ideal."

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Commissioner Gwin said, "My other question, I think you've answered. I was asking and made a note to ask you about the types of services that you are going to provide out of there, but they'll be year round, it's not just snow and ice removal, the trucks will be out to do patching and repairs and those kinds of things."

Mr. Culwell said, "Sign repairs, surface repair, shoulder repair, even flagging for accidents and so forth. We get involved in traffic control during accidents and so forth."

Commissioner Gwin said, "Okay. I think that's all I have right now."

Chairman Winters said, "Thank you. Mr. Culwell, do you have a projected number in your mind for budgeting for the landscape part of this facility or are you committed as the architects have outlined this plan, is the State committed to doing this plan that we see before us?"

Mr. Culwell said, "Yes, we've been authorized by the legislature, but I can't break it out between buildings and plantings that detailed. But we have a budget that would adequately cover this building that is shown here and all the landscaping. There is a possibility, and like we said, if we have to build another equipment storage building, we would, that would be comparable to what we are proposing today. That is not part of this budget, but roughly we're talking over \$700,000 for the whole site, including the landscaping."

Chairman Winters said, "Okay, well in just thinking about these times of tight budgets and know the State's budgets are very tight, this landscaping plan looks very impressive to me, but it would be important that it happen like I see it."

Mr. Culwell said, "It would happen. This is part of the total package that we would let to the project and the landscaping would be a part of that. We're not proposing doing this ourselves, it would be whoever we hire as the building contractor."

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

Commissioner Schroeder said, "Mr. Chairman, if you please. Wade, this new facility, would this community in this County or this area, obtain more equipment to better serve the highways you're serving now or are you just moving them from other locations outside the area?"

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Mr. Culwell said, "Well, this highway program, which has really impacted Wichita, added a lot of lane miles and we base our number of employees and our equipment on how many lane miles we have, so to answer your question, this has caused us to add people and equipment and we need housing."

Commissioner Schroeder said, "So the headquarters that you have up near Hillside and 96 I believe that is, how will that be impacted by this?"

Mr. Culwell said, "Essentially, they stay basically the same. The additional people that we are getting for the lane miles, the major port is K-96, the impact of that, we had an impact and we're now also maintaining Kellogg from Hillside west out to 235 and as soon as that next project is completed to the airport, we may maintain that up to the airport entrance. We're in the business of maintaining freeways and that becomes freeway, so those are additional things that we didn't do before to give you some idea."

Commissioner Schroeder said, "So that will give us three locations then in this area, the one on Hillside, K-42, and this at 96 and 54."

Mr. Culwell said, "That's right."

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

Chairman Winters said, "Thank you very much. Seeing no other questions, thank you Mr. Culwell for being here. Is there anyone else who would like to speak in support of this special use permit? If there is no one, if there is anyone opposed, this would be the time for them to come forward. Please give us your name and address for the record please."

Mr. John McMasters said, "If we could put that one slide up again."

Chairman Winters said, "Okay. Steve, could you get the thing down and Fred take care of..."

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Mr. McMasters said, "I'll try to be gracious and brief. Yeah, the initial slide. We went through this at the Planning Commission and the Planning Commission, as you heard, unanimously recommended that this be denied. I am one of the property owners right here and obviously we're not in favor of this, and as you saw, all of the abutting and adjacent landowners filed a protest petition. In fact, the individual that had this property condemned, who is listed as an applicant, was not even consulted in regard to whether or not this application was going to take place and he was kind of miffed when he found out about his name as an applicant. He owns adjoining land. He too..."

Commissioner Miller said, "Excuse me, could you go through that once again, when this property was being condemned."

Mr. McMasters said, "When this property was condemned, the landowner, he lost...he owns the land, but he can't use it. I'm a physician, I know nothing about land use, this is all new to me, so bear with me. Anyway, he was listed as an applicant and he was not even consulted by the KDOT people about the application. In fact, he had to call up the Planning Commission to find out what it was about. He owns adjacent land here and here."

Commissioner Miller said, "And he owns that property."

Mr. McMasters said, "He owned the property."

Chairman Winters said, "After McMasters makes his presentation, we'll ask our legal staff to explain to us how road easements and right-of-way work."

Commissioner Miller said, "Thank you."

Mr. McMasters said, "Nonetheless, virtually all the neighborhood here is opposed to this. I want to brief, the condition of the bridge is poor. One of the stipulations in closing 127th was basically two things, number one, the traffic flow off of here would make it a high traffic area and poor as far as accidents are concerned. The other one that is stated as a reason is the condition of this bridge, and if I can, I'll quote City Commission and Traffic Commission meeting notes from July 21, 1993. Mr. McKinley, who was a Traffic Engineer, reported the bridge is deteriorating to the point where it will need major repair or rebuilding."

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“John Sullivan, Division Engineer of the Kansas Turnpike Authority, advised in a letter sent in September of 1992, that the annual completion of the bridge inspection, the consultant recommended that; one, the deck be overlaid with asphalt to provide a safer riding surface to replace the deck, reduce the speed limit to 20 miles per hour, and a load limit of 5 tons, close the bridge upon indication of further deck deterioration. I don't know what trucks with sand and salt and gravel weigh, but I've been told 20 to 30 tons, so another reason again used to close the street.

“City Council meeting August 17 much reiterates the same thing, the poor condition of the bridge and the fact that the Turnpike Authority has said in a fact that the bridge will be removed if 127th Street East is closed north of Kellogg, which has been done. The bridge hasn't been removed, the road has been closed.

"This is going to have a very negative aesthetic impact upon future use of adjacent land and as a key gateway to Wichita-Sedgwick County. Despite attempts to make the facility aesthetically acceptable and in keeping with key gateway concept by placing berms, landscaping, et cetera, the fact that it remains, that it is initiating really an industrial use for the property which to date has been earmarked for retail use or as a recreational corridor according to the land use guide of the Comprehensive Plan, as well the park and open space master plan for Wichita-Sedgwick County. I'd like to comment that the bike path up here along K-96 stops at Central and there has been some proposals of extending that down in this area and this would eliminate that possibility.

"The impact of the proposed development on community facilities is significant. The cost of extending sewer service alone to this facility has been reported to be in excess of \$100,000 and I don't know how you guys feel about it, but I think that is one expensive sewer to drain cleaning trucks. Having to bore under the turnpike or under K-96, I think those monies could be earmarked and utilized as far as I'm concerned, elsewhere and in a better way."

Chairman Winters said, "How much time do you need?"

Mr. McMasters said, "Ten seconds. There is significant operation from the neighborhood down the road here, White Tail, Crestview. I live out in Crestview and my kids come over and play on this land and obviously the thought of them crossing this street with heavy trucks on their bicycles really isn't too appealing and with that I'll end and answer any questions you might have."

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Chairman Winters said, "Okay, thank you very much. I see no questions, thank you very much for being here. Next speaker please."

Mr. Mike Loveland said, "I'm a 42 year resident of Wichita, I live at 8230 Overbrook, and I find myself in an abnormal position opposing the KDOT facility. Currently, I'm a commercial real estate association with J. P. Weigand and Sons and I've been there for 12 years and for the 10 years previous to that, I've worked for two different developers, I'm working for a paving contractor and also a bridge building underground utility contractor, so I've normally been in favor of all kinds of development. Additionally, my father, who retired two years ago, is a supervisor of the street maintenance department for the City of Wichita for 25 years, so I empathize with KDOT and think that their work is truly beneficial to the community.

"If I was KDOT, I would possibly be considering locating a site at this location because it does make some sense in certain ways. Two highways cross 11 acres of land that KDOT owns the rights to and there is not much development in or around this site currently and I appreciate their landscaping efforts. But I would have a different perspective and I would like to share that with you.

"I've been working for the last year with the McMasters, I have a listing on their property trying to sell 132 acres and have been working with prospective buyers on their property. Number two, last summer I prepared an off site analysis for Brite Voice Systems for a proposed new headquarters, 120,000 to 200,000 square foot office facility. We focused along Webb Road, along K-96 from Webb Road to Kellogg and additionally, because I'm in commercial real estate in Wichita, I've looked and seen what's happened on North Rock Road and where development is headed in Wichita. North Rock Road, if you remember five, eight years ago, there was lots of land up there, today, with the addition of this Kohl store next to Sam's and Star Lumber and some of the development going on up there, we're starting to run out of land for some of the retail commercial development. From my perspective and knowing that North Rock Road is running out of property, K-96 and the Kellogg area will soon start to develop. I compared it at the Planning meeting to I-435 and Metcalf in Kansas City and I think it is a very important major gateway to the City of Wichita and to the County.

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"If you look at the other ways you come in the City, you come in from the south, the turnpike goes through what used to be residential areas of five and ten acre lots. You go to a lot of other cities and you've got some impressive entrances in their city, we've got an opportunity at K-96 and Kellogg to do something very nice. My reason for opposing the KDOT facility is; number one, the visibility, the site is easily visible from K-96 off the ramp. It can be seen from the turnpike and Kellogg and I think that's been talked about. One of the developers that I'm working with proposes taking 127th Street and of course there would be a lot of improvements needed, taking 127th Street from about Douglas up here at the top and coming caticorner across the McMasters property which is the largest parcel in the top left corner and connecting it to Kellogg and then we would develop that parcel with commercial retail development.

"They've proposed possible 400,000 to 500,000 square feet of retail development which would be half the size of Towne East. There could be a site for hotels, office buildings, apartments, one of the concerns of Brite Voice Systems when they were looking at sites along K-96 was if they build a building six or eight floors up in the air, what will they be looking down onto and what will their neighbors be and what will the area look like and how will it develop. The second concern, visibility being the first, number two, which hasn't been addressed a lot is the accessibility. This piece of property is an island, there is only one way into the piece of property. If someone would come along and develop the McMasters piece and tie it into the Lusk, which is shown in white on the other side of 127th, if they want to tie these two pieces of land together and do some kind of development and bring a road back out to Kellogg, we've still got to allow access for KDOT to get to their piece of property.

"The kind of development that will take place will be office buildings, apartments, commercial retail development and things along these lines. I think there would be some concern about public safety and also accessibility. As you all know, there is up to 17 different residential developments in the area. There are more to the north and east of this site that it is the fastest growing area on the east side of Wichita. There is some development occurring south of Kellogg also. It is in the Andover Schools and I think that's one of the reasons. Just about done."

Chairman Winters said, "How much more time do you need?"

Mr. Loveland said, "Thirty seconds."

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Chairman Winters said, "That's fine, go right ahead."

Mr. Loveland said, "Also, if 127th would come across the property and reopen at some configuration on Kellogg, it may not be a huge opening but there will be some access to get out that direction. I know that the people that live up in this north area that their access has been taken away now will be using that access and coming down that direction. In closing, I know that there is, as John has mentioned, a bike trail system along K-96 and possibly that might be a better use of the land to tie it into the other bike trails and another thing is that I know the City of Wichita has made some efforts in looking where Main and Kellogg come together and spending \$200,000 to dress up the entrance into our down town and I just view this as where three highways come together that this is going to be a major impact area and I think KDOT will be putting like themselves kind of like they did out in front of Towne West and the development is coming, they aren't touched by it but can impact it with the visibility and the access. I thank you for your time. Any questions?"

Chairman Winters said, "I see no questions Mr. Loveland, thank you for being here. Next speaker come right on ahead sir. Do you need the overhead to remain on?"

Mr. Frank McMasters said, "Yes, I do sir. Excuse my slowness in getting up here, but this was not conceived."

Chairman Winters said, "That's quite alright."

Mr. McMasters said, "I am a resident of the City of Wichita. I own a half interest in this property up in the upper left hand corner, 132 acres. I want to give you a real quick background and I'll try to hit a number of things. First of all, protest petition. Protest petition was signed by everybody with 1,000 feet. They didn't show the property owner up here signing it and the owner of that property is the same that owns the deed to that property right here, W. E. Lusk. So there is practically 100% that object to it. Number two, the legal impediments in regard to this application, it wasn't signed by the owner. The County happens to own the surface rights and rights to utilize because they condemned, Sedgwick County, it was signed by the State. They utilized without the permission of Aetna, the fee owner, and said he was an applicant. Lusk Aetna has refused, they've signed the protest petition, so there we have the legal problems."

Commissioner Miller said, "Mr. McMasters?"

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Mr. McMasters said, "Yes."

Commissioner Miller said, "At this time, Mr. Chairman, is it appropriate to ask legal to bring into our perspective, and I'm talking about Sedgwick County in terms of the condemnation of this property? You had stated that earlier."

Chairman Winters said, "We can either stop his presentation now."

Commissioner Miller said, "I would prefer to hear this, I had asked for it earlier."

Chairman Winters said, "Okay, let's toss this out, Mr. Plummer can you help us on this issue?"

Mr. Stephen Plummer, County Counselor, said, "You mean do we support the condemnation or what do you mean by our position?"

Chairman Winters said, "Well, we evidently were the condemning factor in building K-96 and acquiring this property, so what is the status of this property now and why is the Lusk Trust shown as the applicant as opposed to the State of Kansas or Sedgwick County or others?"

Mr. Plummer said, "I can't answer that, I may ask Rich Euson, who is also here, what the answer is. I do know we still own the property. I have no idea why this entity is shown as the applicant, none."

Chairman Winters said, "Mr. McMasters, go ahead."

Mr. McMasters said, "Perhaps I can give you some background on it. All of these properties north of Kellogg here and east of 127th Street were owned by the Lusk Interest. It was condemned for the purpose of K-96. That was ultimately settled, it was condemned by Sedgwick County, they are the property owners. Now, in order to obtain zoning permissive use, these various things, the application has to be signed by the owner. The State is the one that wants to do it, Sedgwick County didn't want to do it, the State did. So what did they do?"

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“Well, we'll just reach out and take Mr. Lusk's properties and we will make him applicant and they filed a petition. When Lusk found out about it he went through the overhang and he did not approve it. So really, legally, I don't think there is any status or any right for them to be here. The property, the title to property that is condemned, Ms. Miller, remains in the property owner. If you own your house and the City comes along and condemns it for highway purposes, when that highway stops, it reverts to you or your heirs, because you are the title owner. The City has the right to utilize the surface, the State didn't even have the right to utilize the surface. Does that answer your question.”

Commissioner Miller said, "It certainly does, thank you Mr. McMasters."

Mr. McMasters said, "Now, the next thing, the City decided to close 127th Street, they cited two reasons. One, the bridge across the turnpike, owned by the Turnpike Authority, was in a sad state of repair and it needed to come down. You heard the limitations that were placed on it by the turnpike if it was going to continue to be used. Five ton limit, nothing over five tons and why, because it might deteriorate even further. This was one of the two reasons that was cited. The other reason was safety on traffic coming down off of what I call the northeast by pass and Kellogg at that area. That was cited Traffic Commission, that was cited City Commission and it was cited again, State Highway engineers in attendance at a hearing to stop the exercise of the police power in the Sedgwick County District Court. They heard the same thing, they were present. They testified on behalf of the City. They didn't stand up and say no, 127th Street Bridge can continue to be used and the State plans on doing it. But let's forget that and move on just a little bit.

"I would cite to you and I hope some of you have seen the maintenance facilities at 45th Street and Hillside, I don't know what they call it. To me, that's the northeast by pass and the one that is now located at Pawnee and Young Street, I guess that's K-42, I really don't know, but those are the two. I went out and Saturday and Sunday I took pictures of those places. They are atrocious. Now you saw a building, a nice narrow picture that was given you by the State showing how nice it looked but they didn't show you the whole facility, they didn't show you the trash, the heaps of asphalt, the heaps of trash, the broken down equipment and trucks, they didn't show that, they didn't show signs all stored outside.

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“Now, if I recall, many many years ago when I served in the legislature, there was some fuss and furor about this and the State said they were going to do some problems, I think it was on the 45th Street deal or it might of been the one out west by Hoover. I don't think they ever did. Mr. Chairman, I have these pictures for the two to pass among you and you can keep them.

"Now, you heard them testify or say that they would take care of 127th Street. They would remove the trash. On February 15, they told the Wichita Metropolitan Planning Commission the same thing when reference to trash was brought up that was being thrown there by people who don't want to pay their trash dump fees or haul it out on 127th Street next to my property, next to the Lusk property. They said oh we're good neighbors, we'll remove that. Ladies and gentlemen, that was February 15. That same trash that was there on that date, in fact, before that, is still there as of Sunday."

Commissioner Gwin said, "I'm assuming though that they wouldn't remove it until after they've gotten approval, they have no obligation yet."

Mr. McMasters said, "Ms. Gwin, they have been using this property since last summer. They have been going up and down that street and they have had the opportunity to do it."

Commissioner Gwin said, "But until the City of Wichita, I guess 127th south of Douglas is the City of Wichita, until the City of Wichita would or until by our conditions we would insist that they do that, I can understand people not doing it."

Mr. McMasters said, "Mrs. Gwin, I cite this only of what they say that they are going to do in this instance and in other instances on the two others and what actually occurred."

Commissioner Gwin said, "Sure, I understand."

Mr. McMasters said, "They did that to impress the Planning Commission. Oh, we'll take care of it. They haven't done it as of Sunday. If you'd like to see some pictures of that, I'll be happy to pass them around. I ran out of film, I didn't get all the pictures. Now, we would like to draw your attention to the fact that they talk about aesthetics, they are going to hide this. I would submit that they have stated the traffic going east on Kellogg doesn't see it.

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“Well, they can, I would ask you to go out there and take it and just look northeast as you go on Kellogg approaching what was 127th Street. Going west on Kellogg you can see the beginnings of this approximately 500 feet east of where 127th Street was, but the most atrocious thing about this is that on the Northeast overpass coming down and they said it is approximately 40 feet in the air and it is and I happen to have some pictures of that if you want to see them.”

Chairman Winters said, "Mr. McMasters, how much longer do you need. Just let's go for three minutes then."

Mr. McMasters said, "There is no way that trees can be built to hide this and hide it in our life time or my grandchildren's life time. I would estimate that if they plant Sequoia's maybe in 200 years they will grow high enough to hide this area. Now, in closing, they talk about everything is going to be kept inside. They are going to keep sand inside, they're going to keep asphalt inside and keep salt inside. Oh, they'll go pick that up from someplace else. That negates their response time. I also understand through the grape vine, that they also have some alternate sites on K-15 for this facility if it is turned down by this Commission. Ladies and gentleman, this property has been owned by my family for many, many years. I am appearing here now as a litigate. It's been owned for many, many years. Quite frankly, for me and my family, I was planning on using it for retirement.

“So far, I've been denied that. If this occurs, the devaluation of my property will be complete. It will be nothing but I don't know what I can do with it. The Planning Commission spent many hours listening to this. They turned it down unanimously. I would ask, in all consideration, that their decision be upheld by this Board and that it be denied. They'll come back to you with a site on K-15, I believe that. Thank you.”

Chairman Winters said, "Thank you sir. Is there anyone else who would like to speak on this item concerning this special use permit? Anyone else who would like to speak on this item? Seeing none, we will reserve comments to bench and staff."

Commissioner Gwin said, "I'm sorry Mr. Chairman, I have some questions of KDOT again, whether it is Wade, I am assuming it may be Wade."

Chairman Winters said, "Mr. Culwell, would you please come back to the podium."

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Commissioner Gwin said, "I was looking at the pictures that were passed around and you may or may not have seen them, but I believe I heard you say that there would be no outside storage or maybe Marvin said it, of materials, vehicles, whatever."

Mr. Culwell said, "That's correct, materials, equipment, this facility is planned to house everything we need on site and quite frankly, what we would need on site for materials would be a few signs, some posts, that can be stored inside. The winter materials, salt and sand, would be stored in a building."

Commissioner Gwin said, "No salt dome?"

Mr. Culwell said, "We need some kind of salt storage. Whether you want to call it a dome, we can design it in a number of fashions. You normally see salt domes, they are real popular right now. There are other configurations that could be built. In some cases we build them and put shingles on them and in other cases, wood shake shingles, we've done a number of other things depending upon the neighborhood we were in. But that site has some possibilities for even in ground storage because the way the land lays there. Do you know what a sledge pit is type of thing?"

Commissioner Gwin said, "Yes."

Mr. Culwell said, "Well, that's a possibility in this type of thing."

Commissioner Gwin said, "The other question that keeps coming up and I remember when Mr. Spears talked to me about closing 127th Street at Kellogg and Mr. Spears and I talked primarily on the safety factor. I know that there have been conversations about the bridge, but our County engineer convinced me that 127th needed to be closed before it got to Kellogg because you can't have traffic coming off K-96 and headed west and then trying to smack into traffic coming south on 127th. The question about the bridge still remains, however, and if that bridge does have a load limit and does have problems, are you telling me that KDOT is prepared to rebuild, reinforce, or get that bridge to a point where it does not have a weight limit."

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Mr. Culwell said, "Let me assure you of something. Part of our responsibilities as the Department of Transportation to assure the safety of all the bridges in the State. We have periodic bridge inspections which the County also has, so these bridges are looked at and rated on a two year basis normally and if they are a trouble bridge they may be looked annually or even more often than that and they go into a funding program by priority. There is a priority on repairing bridges and in lieu of them being completely restored, there are some other options that we can do in the meantime. Now this would not be a public bridge any longer, it would be private.

"Well when you have a public bridge with two lanes on it, you have to consider that there could be two trucks on it at the same time. When we operate with it, we can narrow it down to a one lane bridge going in and out and that reduces at least half of the load. We can also load rate the bridge with our expert from Topeka, which we will do. So the bridge is not going to be a problem. That is something that we deal with every day of our lives. It would be up to us to maintain this bridge. This would be our bridge."

Commissioner Gwin said, "Right. Another thing that came in mind in the pictures. What about the employees cars? What did you say, 6 to 8, but no more than 20."

Mr. Culwell said, "The trucks were 6 to 8, the number of employees and the maximum that we could conceive in our crystal ball would be no more than 20. It would be more likely to 15, 16, something like that."

Commissioner Gwin said, "And they'll be parked within the fence."

Mr. Culwell said, "They'll be inside of the yard."

Commissioner Gwin said, "Mr. McMasters indicated that KDOT has a lot of alternative sites."

Mr. Culwell said, "No, we do not. When we looked at sites, or course we looked on the east side of Wichita. We looked at all the 96 sites. This was the best one. A lot of money was paid for property and you can appreciate that if we can locate it on an off site near 96 at some other interchange that we would still be looking at expensive property, concerned neighbors and the same issues. We really need to be on the east side of town.

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"Now, when you mention the south side of town, as Wichita grows and develops in whichever direction it goes, it could be we'll need a fourth area and most likely that would go to the south part of town, but that is long distance."

Commissioner Gwin said, "The question about ownership of land or use of land, are you better prepared to address that or would I be better to ask Mr. Stout."

Mr. Culwell said, "I'm not an attorney, however I have counseled with our attorneys and even though Mr. McMasters points out a detail, I do believe that it's not too difficult to overcome. We think we know how to do that. We've overcome lots of condemnation problems and this was bought for highway purposes and that is what we're intending to use it for is highway purposes."

Commissioner Gwin said, "Brad, could you come back up. In the world of condemnation, when land is taken for public purpose and highway purpose, is it in fact that the case that the original land owner continues to maintain the ownership or the in fee by his or her name."

Mr. Stout said, "That is correct."

Commissioner Gwin said, "But they can no longer have access or use the land, is that correct?"

Mr. Stout said, "In this instance, that is correct. Land taken for highway purposes, the law prohibits them from taking a fee interest, condemning a fee interest. If you and KDOT were to talk, we could acquire any interest you had, it could buy a fee interest. We can't condemn it, so we have what is called a permanent easement. As long as we use it for the purposes for which we condemned it or uses that are appropriate and one of the purposes is, the terminology, is highway purposes. We feel quite confident that the building of a maintenance facility that will allow us to service, maintain, repair, and fulfill all functions we are required to do with our highway is within the highway purposes terminology."

Commissioner Gwin said, "So the fact that Mr. Lusk's name is shown as an applicant, is that highly irregular or unusual?"

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Mr. Stout said, "I don't believe so, because in fact he is still the key owner. In the unlikely event that this land is ever not used, there are other examples. In the unlikely event that Kellogg is ever abandoned, assuming it was a permanent easement when it was taken, that claim would revert back to its original owners. This particular piece of property goes to why it is attractive. With those restricted access requirements for I-35, K-96 and US 54, this property simply won't ever revert back for as long as that property is being used for highway purposes. We anticipate that those three highways will be around for a great deal of time."

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

Mr. Stout said, "Did I answer your question regarding condemnation?"

Commissioner Miller said, "For the most part, but I do have a follow up and it would have to do with public relations and courtesy. Was the owner notified prior to the condemnation proceedings?"

Mr. Stout said, "I do not know that he was, I can assume that what you are hearing is correct, if he wasn't, you're correct, it at least was a public relations error and he should have been notified. The estate that we're asking to use to allow the permit to apply to is the easement estate if you will, so it is our use that we are asking the special permit to apply to. It sounds technical and this gets more complicated than perhaps it needs to be, but our estate, our ownership on that, rights we have this land are adequate for us to come forward with this request, admit this use for the property. So we're in effect the owner for this purpose, but he is the title owner and has to be reflected."

Commissioner Miller said, "I understand that, but he was not notified."

Mr. Stout said, "Not that I know of."

Commissioner Miller said, "And he was indeed a protestor?"

Chairman Winters said, "Marvin, would you come back to the podium?"

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Mr. Krout said, "Let me explain that he was listed as applicant agent because we list all the ownership as applicants and all the officers if it is a corporation to try to let people know whether or not they may have a conflict of interest so we try to list all the ownerships and that's why we listed everything that was on the ownership list. He was not notified prior, unless KDOT notified him and I don't believe they did, not notified prior to the application. He was notified as part of our official notice as an underlying owner of this property and also owning the property to the north and east. That was 20 days before the Planning Commission hearing and obviously he received the notice because he has protested."

Chairman Winters said, "Okay. Commissioner Miller, other questions?"

Commissioner Miller said, "Oh, the other question for you Marvin would be, what was the percentage of protestors in that area? I know I heard Mr. McMasters say everyone did. I thought I was 89.9% on the...so 90%."

Chairman Winters said, "But it is enough that it requires a 4 vote requirement, is that correct? Whether it is 90 or 100 or whatever? Okay. Anything else Commissioner Miller? Marvin, I have a question. You mentioned earlier that this was reviewed by the City Manager's Artistic Committee?"

Mr. Krout said, "CART, which stands for City Manager's Aesthetic Review Team."

Chairman Winters said, "And their basic outcome was that they thought this landscaping was possible to make this fit in this area?"

Mr. Krout said, "They thought the use would fit with the additional landscaping recommendation they made, which was some additional landscaping and the berming that was talked about."

Chairman Winters said, "Okay. Second question. If a development would happen to the west side of 127th Street and north of Kellogg, would that require 127th being reconstructed into a four lane urban gutter kind of street, or is 127th adequate to handle a development there now like it is."

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Mr. Krout said, "No, I don't think it is adequate and I think that if a development proposal came in and platting and possibly rezoning came in as part of that, that we would be looking toward some kind of an assessment project to improve the road. I should also say that it is purely speculative to talk about a road that might be cutting through that property and then exiting onto Kellogg in the mid mile between 127th and Greenwich. I think that both the City and County engineers and the Planning staff are looking at Kellogg being built eventually and being maintained eventually as a freeway to 127th."

Chairman Winters said, "Okay, where I was headed and you can put your Planning hat on with this, where I was headed was that 127th probably doesn't have much of any traffic on it now and a small amount of truck traffic, I think, would not be a burden to that street now, yet if another major development does happen to the west, it is going to take a major street kind of project and then ten dump trucks a day are going to be, I would think, almost unnoticeable in the amount of traffic that would develop on that street."

Mr. Krout said, "Yeah, I agree, you talk about development for commercial uses of a hundred acres, you're talking about thousands of cars per day."

Chairman Winters said, "So then the equipment stationed here I don't think would really be very meaningful in the whole flow of traffic."

Mr. Krout said, "I agree."

Chairman Winters said, "Okay, that's the only thing I had. Commissioners, any other questions?"

Mr. Krout said, "Let me just say, we don't expect a bike path to go south of Central, that's why it's not in the plan. This is a very difficult area because of all the ramps and intersections and so that's why the plan stops at Central and whether or not KDOT or anyone else would use this property, we can't imagine a way to bring a bike path south from that point."

Chairman Winters said, "Thank you. Commissioners, for the point of discussion, I am prepared to make a motion. If anyone else has any questions or ideas or would like to make a motion."

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MOTION

Chairman Winters moved to adopt the findings of fact of the staff report of Metropolitan Area Planning Department and approve this Special Use Permit.

Commissioner Hancock seconded the Motion.

Chairman Winters said, "We have a motion and a second, now I'm sure we'll have some discussion. Commissioner Gwin."

Commissioner Gwin said, "Thank you Mr. Chairman. Marvin, I may have to drag you back up here again, because as I am debating this. Because of the Metropolitan Area Planning Commissions vote to override their vote takes four out of five of us and also because of the number or percentage of protests, it takes four out of five. Because I still have some questions unanswered as to exactly how the hearing went at MAPC, I'm not quite sure...things very seldom of this controversy, if you will or this difficulty, go 8-0, so I'm a little in a quandary, particularly with the staff recommendations. So I have been trying to decide whether or not I need to send it back to them for reconsideration. If I do so and it comes back again to deny, does it still take four out of five, or is it always going to four out of five of us to overturn it because of the percentage of protests."

Mr. Krout said, "That's right. If there wasn't a protest, the number would change from four out of five to three out of five, but because of the protest petition, it is going to remain four out of five. Now you may still desire to send it back to the Planning Commission. I don't know it would make a difference. There were only eight people. There were less people there. The hearing started at 1:30 and I think they didn't get to this case until about 7:30. Some members had left. Eight members is the bare forum. I wasn't there. I don't always have a lot of influence with them, but I would have said some things that I didn't say."

Commissioner Gwin said, "I've noticed that in the minutes sometimes."

Mr. Krout said, "I do think that some of the points that I would have pointed out, the issues, when you focus on some of the findings that you're supposed to look at when you determine the appropriateness of any zoning case, the issues about the bridge and whether it is safe or not and how much the sewer line costs to extend. I'm not sure that those are really relevant to the issue. I wasn't there to point that out."

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Commissioner Gwin said, "Alright, thank you. My dilemma on this is two fold and I have gone back and forth on what I think is the appropriate thing to do. I'll tell you, when Marvin first brought this to me several months ago, I was very uncomfortable because I had a picture of outside storage and materials stacked up for tens and twenty of feet and Marvin is nodding because I said the look of that just doesn't make me very happy. Well, thanks to KDOT and others, not too long ago, then I got a nice set of drawings of what the buildings would look like. I got the commitment that nothing would be stored outdoors. That they were going to plant trees and do everything that they could to make this as pleasant a site as they could.

"So I was really pleased with that, I was pleased with that demeanor. I was pleased with a number of things that KDOT has agreed to do and I believe in a written agreement would in fact be compelled to do. On the other hand, as a representative of this district, I do in fact see the argument as to development and what happens positively or negatively along the K-96 corridor. We've been waiting a long time for those kinds of important things to happen along K-96 and we've expected to watch our tax base grow and watch residential developments and light commercial and other things occur where they never have occurred before. To my surprise, a lot of the sites have gone to non-tax paying entities and so that may or may not hold, but we shall see. So I understand the importance of developments and how important I believe they are to all of the taxpayers of Wichita-Sedgwick County and the State for that matter.

"I also am aware that the County owns land not far north of this and we're about ready to sell that land and to advertise it and as pointed out, hope to recoup some of the money that taxpayers had to pay in the taking of that. So my double edge sword says I understand the need for KDOT to have an appropriate location and the wonderful relationship we have with them. On the other hand, I also understand the importance of both the value of land and developments.

"So I am in a quandary on this one and at this particular point, probably couldn't support the motion because I am still wrestling with that and I believe that I would like the Planning Commission to come back and give me something other than 127th is deteriorated, the cost of the bridge, it isn't in good shape, it is too much to extend a sewer, when I don't know that we've asked the taxpayers of Sedgwick County to extend that sewer.

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"I feel like if I'm going to have to overturn their decision, I may want to vote against the motion and then consider sending it back to them for reconsideration, which on items that I believe were not or may not have been appropriately considered. Whether or not that would change their mind and they might consider approval is yet to be seen, but I would like them to deal a little bit more on appropriate land use and whether or not this land could be used for any other purpose and I didn't see in the minutes a great deal of discussion about those kinds of zoning questions. So at this point, I don't know that I could support the motion and probably would prefer sending it back if that is possible. Mr. Plummer, if this motion does not get four of us in support, is it appropriate then to make another motion to send it back for reconsideration?"

Mr. Plummer said, "I wasn't sure I had heard a motion yet."

Commissioner Gwin said, "There is."

Chairman Winters said, "Yes, there is."

Commissioner Gwin said, "There is a motion and a second."

Mr. Plummer said, "To override? I would think it would be appropriate then, if that motion did not succeed, there could be a second motion to send it back."

Chairman Winters said, "Marvin, do you agree with that, if this fails, is it a proper motion to send it back to Metropolitan Planning?"

Mr. Krout replied, **(Response inaudible)**.

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

Commissioner Miller said, "At this time, I would need to be able to echo what it is that Commissioner Gwin has stated. I would even add that probably what is most compelling to me at this point to be able to say that if it is not deferred and sent back to the Planning Commission for a second look, that I would have to be able to vote no."

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"I happen to be able to respect the individuals that protest this type of usage, simply because I understand that when you are being the resident or the neighbor to it that you do have some ability to be a player in this and so I am listening this morning and it would be very difficult for me to basically overturn what it is that eight of the Planning Commissioners have found and then what 90% of the protestors in this area have brought forth. Mr. Chairman."

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

Commissioner Schroeder said, "I don't have anything to ask right now."

Chairman Winters said, "We have a motion in front of us."

Commissioner Gwin said, "Mr. Chairman, is it appropriate for me to make a substitute motion?"

Chairman Winters said, "I think we could make a substitute motion."

Commissioner Gwin said, "I move that we send this case back to the Metropolitan Area Planning Commission to be reheard for reconsideration and for further discussion on items that are more relevant to land use and zoning cases, than I feel the discussion was at the previous meeting."

SUBSTITUTE MOTION

Commissioner Gwin moved to send this case back to Metropolitan Area Planning Commission for further discussion.

Commissioner Miller seconded the Motion.

Chairman Winters said, "We have a motion and a second. Marvin, you have a comment?"

Mr. Krout said, "Just as a clarification. Unless you specifically direct us and the Planning Commission to rehear the case, then what we would do, we would just send it back with the minutes including your minutes of the discussion and ask them to discuss it, but not open it up again for rehearing between the proponents and the opponents. We've done it both ways and I just wanted to clarify how you wanted to handle it this time."

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Commissioner Gwin said, "It's up to the group. I don't know. Of course if there were only eight members there, if there were other members who would be present who have not heard it before, I think I would prefer if it were reheard."

Mr. Krout said, "They would have the minutes, but..."

Commissioner Gwin said, "I understand that, but if the group is going to be there and if we can get more than eight Planning Commissioners to stay to hear the presentation of both the applicant and their agents and the protestors, then it seems to me that they may stick more, in my opinion, of what our...I'd like them to dwell a little bit more on land use issues. So my motion, I'm sorry Madam Clerk would be send it back to the Metropolitan Planning Commission to be reheard."

Chairman Winters said, "Was that your intention of the motion, Commissioner Miller?"

Commissioner Miller said, "Yes, it is, that it needs to be heard."

Chairman Winters said, "Well, I'm probably going to vote yes on that motion because it looks like that might not happen if we don't go back and try to work some of these issues out, although I think it sometimes gets burdensome to take these things on and on and on, but perhaps this is the only way we can really get to all the issues on this. One of the things that I would say, and I've spoken with our County Engineer, David Spears, about attempting to help find property that might be suitable and I'd encourage us to continue that if that might be an option, we'll certainly at least think about that because we do value the partnerships that we have with the State Department of Transportation. Commissioners, I see no other questions. Are you prepared to vote? Madam Clerk call the vote."

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Paul W. Hancock	No
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	No
Chairman Thomas G. Winters	No

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Chairman Winters said, "That vote has failed. Now we're back to the original motion. The original motion was to approve this application and findings of the fact of the staff. What I would like to do for the Commissioners that voted in opposition to the motion that we just addressed. I'd like to defer this item for two weeks. Not hold other hearings but allow us time to rethink our position here and look at alternatives and try to answer some of the questions that have come up here."

Commissioner Schroeder said, "So you want to make a Substitution Motion again?"

Chairman Winters said, "I'd make a Substitution Motion again, but I'm not sure what your intentions were in voting no to the motion that we just had."

Commissioner Schroeder said, "I want to resolve it today but I don't think we're going to get there."

Commissioner Hancock said, "That's the same way with me. I liked your first motion."

Chairman Winters said, "Then if we proceed with that motion, it will be a dead issue, it will be over, because there are not four votes on this time to approve the request."

MOTION

Chairman Winters moved to defer the item for two weeks.

Commissioner Gwin seconded the Motion.

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

VOTE

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

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Chairman Winters said, "Thank you. This item has been deferred for two weeks and this Board will address it again and I would hope that Commissioners that have concerns have time to meet with Marvin and his staff as we try to address those concerns and come to a consultation. Thank you all for being here, who were involved in this case. Commissioners, let's just have a time out here to discuss how we would like to proceed with the rest of the day. We've not had a lunch break. I'm prepared to go on and walk through this agenda. We've probably still got at least 45 minutes worth of agenda items. Is it your desire to take a lunch break, a short break or no break? Let's proceed on. Madam Clerk, call the next item please."

5. CASE NUMBER DR 94-4 - RESOLUTION ADOPTING THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE.

Chairman Winters said, "Marvin, everyone is asking, haven't we already done this, so explain to us why we need to do this again."

Mr. Krout said, "There were certain amendments and we didn't have them prepared in a final resolution form. The final resolution is before you today and this was advertised as a public hearing, but we've discussed all the issues and they are in the prepared resolution."

Chairman Winters said, "Okay, thank you. Do I hear a motion regarding item number 5?"

Mr. Krout said, "It is a public hearing, it was advertised."

Chairman Winters said, "Oh, excuse me. I will open the public meeting. If there is anyone here who would like to discuss the resolution adopting the Wichita-Sedgwick County Unified Zoning Code, this is the time to speak.

"Is there anyone here in the audience who would like to speak to this planning item 5. Seeing no one, we will reserve discussion to staff and bench. Marvin?"

Mr. Krout said, "No other comments."

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MOTION

Commissioner Hancock moved to adopt the Resolution.

Commissioner Schroeder seconded the Motion.

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

VOTE

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

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

6. CASE NUMBER DR 95-26 - RESOLUTION AMENDING THE SEDGWICK COUNTY CODE PERTAINING TO FEES AND CHARGES FOR PLANNING AND ZONING APPLICATIONS AND PROCEEDINGS.

Mr. Krout said, "You have reviewed this item and so it didn't require any amendments since the last meeting, so we did not advertise it as a public hearing. I'll answer any questions that you have, but we recommend that you approve the resolution."

Chairman Winters said, "Thank you Marvin. I see no questions. Commissioners, what's the will of the Board?"

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MOTION

Commissioner Gwin moved to adopt the Resolution.

Commissioner Hancock seconded the Motion.

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

VOTE

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

Chairman Winters said, "Thank you very much Marvin. We got our money's worth from you today. Next item."

NEW BUSINESS

D. CITY OF WICHITA'S PROPOSAL TO FORM TWO TAX INCREMENT FINANCING DISTRICTS.

Chairman Winters said, "Excuse me, Commissioner Schroeder."

Commissioner Schroeder said, "Mr. Chairman, if you please. Point of order. Mr. Plummer, the City of Wichita's two proposals for these TIF Districts, they have been put under one item on our agenda. What if we like one and don't like the other, that kind of hamstrings us. I would prefer we take them one at a time."

Mr. Plummer said, "That's certainly possible."

Chairman Winters said, "I certainly don't have a problem with that. Commissioners, is that acceptable? That's fine, we'll consider these Irene, as you and whoever else is going to talk about these, as separate issues."

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Ms. Irene Hart, Director, Bureau of Community Development, said, "That'll be great. Tax Increment Financing is a tool that is used in many states for economic development and other revitalization purposes. State law prescribes how a tax increment financing district or that resource can be used. The State law in Kansas allows four usages currently: Development and redevelopment of a central business district; blighted areas within cities; environmentally contaminated areas and enterprise zones. Other states may allow them to be used for housing purposes, retail districts and for other kinds of activities, but those are the four that are available to cities in Kansas. There are over 20 TIF projects that have been initiated in the State of Kansas. This Commission considered two last December as proposed by the City of Wichita. Today, we have two more, the West Bank TIF and the North Industrial Corridor TIF.

"What I'll do then is introduce the West Bank TIF and ask Allen Bell, from the City Finance Department, to fill in some of the details for you and answer the technical questions. According to law, a city, and that's any City, County's can't propose TIF's, a city can propose creation of a redevelopment district and projects to be financed through tax increment financing. A public hearing is then held. March 5, the City of Wichita proposed creation of the West Bank TIF and held a public hearing. We have 30 days to determine if TIF creation will have 'an adverse affect upon the County or the School District'."

"So, you have three options today. You can take no action, which allows the TIF to be created. You can take action in support of the TIF, which is more of an issue of moral support, or you can direct staff to prepare a resolution of finding of adverse affect upon the County and bring that back for your reconsideration within two weeks.

"Now, in regard to the West Bank, we've talked about tax increment financing and we've talked about it, but what is a tax increment and what are we really talking about and how does that affect an individual property owner. Let's say that I own property within this district and my total real property taxes come to \$100 and that is the total amount of tax levied by the City, by the County and the School District, based on 1996 valuation. If there is a redevelopment and the tax levy stays the same, the value of my property hopefully would rise and perhaps that value increases without change in the property tax levy.

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“Perhaps that increases to \$140 a year for property taxes. That increment of \$40 is the tax increment that we're talking about. For an economic development TIF, that's the explanation for an economic development TIF. For an environment TIF we'll get to later is somewhat different. That tax increment, that \$40 is available to offset in one manner or the other, the approved project costs.

“So when they propose to create a TIF, they also create a comprehensive plan and they also identify what project they are going to apply that tax increment to, to finance it. What it means to the County and the School District, it means that for the life of the project, which I believe is no more than 15 years, no more than 15 years, than the property tax revenue for that piece of ground, that district is stable. That will continue to be, in my case, it is at a \$100 level. When that district expires, then the entire revenue reverts to whatever the market rate is and whatever the valuation is at that time. So for the 15 year period or however long the project runs, we have the stable tax revenue to the three taxing jurisdictions and the incremental increase results in increased valuation is dedicated to financing the infrastructure, in this case, the property acquisition and preparation to create the TIF. I think I've got all that right. But what I'd like to do now and hopefully you won't have any questions. Did any of that make sense?”

Chairman Winters said, "Can you repeat that? Just kidding."

Ms. Hart said, "What I'd like to do now, if you don't have questions, is ask Allen Bell to come up and talk more specifically about the West Bank TIF."

SLIDE PRESENTATION

Mr. Allen Bell, Financial Projects Director, City of Wichita, said, "It is my responsibility to undertake the City's activities with respect to establishing tax increment financing districts in the City. These include Gilbert and Mosley, which actually was established before I came to this City, Old Town, which was established the first time before I came to the City and then reestablished later and most recently, as Irene mentioned, in December the east bank financing district and the 21st and Grove. Today we have the West Bank financing district. The boundaries of which I have, I have a map here, if this will work, is it on now? This is a map prepared by WI/SE to show where all the downtown projects are located and if I may, this is the location of the West Bank Redevelopment District.

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“It is bounded by Maple Street on the North, McLean on the east, by Kellogg on the south and by Sycamore Street on the west. It is the site which was identified from the DeVore plan as the site for an ice rink and, as it turns out, that is where the ice rink is going to be located.

“As a matter of fact, construction has begun on that project. The pad is completed. The steel is being delivered and the building will be erected in the next few months. The City's plans for that parcel, the entire West Bank Redevelopment District parcel is the construction of the ice rink that I just mentioned.

“On the west half of that parcel and the construction of a multi-family housing project on the east half of that parcel. The entire parcel is approximately 10 acres, each half approximately 5 acres. The ice rink project, we began planning for the ice rink project the end of 1993 and we're just now getting around to building it. It took a fair amount of time to decide on where to build it and then in the middle of our planning, we changed the developer from the owner of the Thunder Ice Hockey team to a Canadian company located in Vancouver, British Columbia, named Canland, which is the largest private owner and operator of ice rinks in Canada. They own, I think, 17 ice rinks across Canada and they are beginning to develop ice rinks in the United States. In fact, beginning with Wichita, but they're also doing ice rings in other cities.

"This is the architect's rendering of the Wichita Ice Rink. That's what we call it so far. There may be another name given to it at its dedication when the construction is completed, but for now, it is the Wichita Ice Rink. This is the view from approximately the Lewis Street Bridge, looking southeast. Along this way would be Maple Street and along the back side would be Sycamore Street. The approach to the Kellogg flyover would be on the back side. It's a, I think they call it a pre-engineered building, sometimes called a Butler building, but this one has been designed with a lot of unusual features in terms of the roof line and the materials that will be used to face it and also this arrangement here which is kind of glass and steel facade, which I can't recall what the architects call it, what the technical name is for it, but it's kind of a special entrance improvement to the building with some steel pipe super structure going over that has some of a logo treatment on the front."

Commissioner Schroeder said, "Allen, is that the architect's perspective from when we first started and is that exactly what it's going to look like when they're done?"

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Mr. Bell said, "There's been some slight adjustments of dimensions, but this is the design that is going to be constructed. This is a sketch of the general floor plan of the ice rink. It is two sheets of ice, one of which is olympic sized, the other NHL sized. You can't see it very well on the slide, but that's the Thunder logo. The facility will also house the corporate offices of the Thunder Hockey team and will hopefully, I guess it sort of depends on how arrangements evolve at the Coliseum, we'll provide at least a part time facility for practice for the Thunder Hockey team.

"The other facility, the other sheet of ice, is olympic sized, meaning that it is 100 feet wide by 200 feet long. This one is only 85 feet wide. It also will have the lions share of the bleacher seating arrangements oriented toward the olympic size rink so that if we're able to have ice shows and figure skating competitions and that sort of thing on the olympic sized ice, we'll have adequate seating for that."

Commissioner Schroeder said, "Allen, I have to interrupt you again, but how many seats will that have then?"

Mr. Bell said, "One hundred twenty is what they ended up with on the design or contract, or the deal that we have with the developer, called for at least 100."

Commissioner Schroeder said, "Seats?"

Mr. Bell said, "Seats, I'm sorry, did I say 100? One thousand. Dropped a zero."

Commissioner Schroeder said, "Oh, okay. So you've got a 1,000 seats."

Mr. Bell said, "I think it is divided 750 and 250 between the hockey rink and the skating rink."

Commissioner Schroeder said, "Okay, so the 1,000 is the total between the two."

Mr. Bell said, "This shows the ground floor lobby. Most of the changes that occurred in terms of the design, occurred within the ground floor lobby in order to make the project come in within budget, they adjusted the square footage in some various spaces. I think we lost the party room unfortunately. It will generally look like this.

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“The second floor shows that at the second floor level there will be a lounge and a restaurant with windows overlooking the ice skating rinks, sort of a mezzanine level and this slide shows the way in which the project has been designed to be expanded to four rinks, if the market feasibility is there. The new rinks are here and here. They're both NHL size rinks. Actually, this one I think is slightly odd shaped. That may be for speed skating. Finally, the elevations that give you a better idea of the treatment of the roof line. Now we've tried to take what is essentially a pre-engineered metal building and make it look like anything but.

"The financing arrangements for this ice rink. The City will finance the construction, acquisition and preparation of the site and also the construction of the facility. We will contract with Canland, the Canadian Company, to manage it for us. The bonding will be divided into two parts. One part of the bonding will cover the cost of the base facility, which is somewhat less than you see in the renderings of the elevation in terms of the aesthetic appeal of the building. The second series of bonds will cover what we call the City design enhancements. The deal that we cut with the developer was that they would underwrite, through a debt service guarantee, half of the cost of the base facility.

“However, the City wanted more than that. They wanted something that looked a lot nicer, so we agreed to fund \$1,000,000 in design enhancements. These include some of the cost of the exterior treatment, but also the cost of expanding the second rink from a NHL size rink to an olympic size rink, so that we would be able to do more with figure skating and perhaps be the site of regional competitions for olympic figure skating and that sort of thing. Something of a dream I guess.

"The other project, I guess we could turn this slide off or go back to the first one, the other part of the redevelopment project and vision for the West Bank is the multi-family low and moderate income family housing project. The City solicited proposals from developers, not just for housing projects, but for all kinds of developers and only received one proposal and that was from a Topeka based company that wanted to do a 80 unit low and moderate income multi-family housing project on that site. They had applied to the State for a low income housing tax credit last year. They did not receive an allocation in last year's rounds of allocations. Their application is still pending with the Department of Commerce and they hope to get an allocation in this spring's round of tax credit allocation. Our negotiations or discussion with them have been put on hold pending their receiving an allocation. So we really don't have a lot of detail on that or any pictures to show you unfortunately, but that is a work in process.

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"The cost that the City would cover with tax increment financing are only those costs of acquiring and preparing the site. This tax increment district is just those areas in which we are planning to do the redevelopment. Unlike the East Bank, where we were more expansive perhaps and went as far north as 1st Street and as far west as Broadway. In this case, we have limited, we have no intention of and don't foresee any additional development efforts in this immediate area, so we've restricted the boundaries of this district to that site only.

"So the acquisition of the site and the cost of demolition of the structures and clearing the site for construction are the only costs that would be covered by tax increment financing. Those costs are approximately \$2,500,000 and our estimate of the increment that can be produced on this property is approximately \$1.5 million therefore, in other words, that's the amount of bonding the tax increment would support, so we don't believe that...we're going to have to supplement that with City-at-Large funding for the balance of the cost and we have provided for that as well.

"If you have any questions on this particular project, I'd be happy to answer them and I will be available on the next item as well."

Chairman Winters said, "Okay, thank you Mr. Bell. Mr. Schroeder."

Commissioner Schroeder said, "Allen, what's the total cost of the skating rink facility?"

Mr. Bell said, "Including the land and the City's enhancements in the base facility, the total cost is \$8,000,000."

Commissioner Schroeder said, "Okay, and the total income from this TIF area is 1.5 million?"

Mr. Bell said, "The increment, the tax increment is estimated to cover 1.5 million in costs, that's not the annual income, but that's the amount that the annual income would bond using 15 year bonds and 5½% interest rate. In other words, there is approximately \$150,000 a year we estimate will be the amount of the tax increment. The reason it is that high is because the City has gone in and purchased all the land and demolished it prior to the commencement of construction and prior to this point in time, so that the base value of the property in the base year would be the value of the undeveloped land."

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Commissioner Schroeder said, "Okay, so is this the size of this TIF area?"

Mr. Bell said, "Yes, that's the TIF district there."

Commissioner Schroeder said, "And the deferred taxes, there will be none, because the City bought all of it up, but what we used to get is the way the taxes will go to this project, is that right?"

Mr. Bell said, "That's right and unfortunately, I don't have that number. I'm not certain what the amount of taxes earned in that area was before the City purchased it. I can tell you that it was an area of very run down dilapidated structures that I don't know if I'd even want to guess what the tax revenue generated was, but it couldn't have been very much."

Commissioner Schroeder said, "So you don't know what, does anybody know what amount of tax revenue the County would then be giving to them, how much are we putting into this deal? I guess I don't understand what we're doing. I know we're doing a TIF, but if the City has bought up all the land, there is no taxes coming from that land so are we giving them cash? What are we doing?"

Mr. Bell said, "The way tax increment financing works is that we will either sale or lease to the private developer of the multi-family housing project the property and that property will go back on the tax rolls."

Commissioner Schroeder said, "Okay, and that's in this area?"

Mr. Bell said, "Yes, that's right. It's the east half of that area. The west half of that area, the City will own that ice rink and it will be off the tax rolls as a result, however, we intend or we have made provisions for the sale of that ice rink to the developer during a period that expires after five years. The purchase option price that the developer can exercise is the amount that would be needed to retire any outstanding indebtedness of the City taking out all the bonds, all the outstanding debt that the City would have. If they did that, then it would go back on the tax roles and would add to the increment and if we never do, then it will always be City property."

Commissioner Schroeder said, "Okay, so which part of this is going to be sold back for development?"

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Mr. Bell said, "We would never sell the land, incidentally, we would only sale the improvements to the land."

Commissioner Schroeder said, "Where will those improvements occur on here?"

Mr. Bell said, "On the western portion, the Sycamore side, running from Sycamore roughly to the north-south alley between Smythe and Laclede."

Commissioner Schroeder said, "Okay, so in this area generally somewhere, that's..."

Mr. Bell said, "That's the ice rink portion."

Commissioner Schroeder said, "I'm trying to find out where that is at on here? The east side is the apartments and that's where we'll generate our income. This is where the..."

Mr. Bell said, "That's where the ice rink is located."

Commissioner Schroeder said, "Okay, I think you're doing this in City style for me, because I'm just not catching on. I'm trying to figure out what we're doing here."

Commissioner Miller said, "Allen, can I jump in here and say that let's be perfectly honest about tax increment financing. We're not going to only draw revenue from that specified area, the fact is that all of the County is going to be technically...I'm just trying to paint the real picture."

Commissioner Hancock said, "The County makes up the difference, that's why we have to approve it."

Commissioner Miller said, "Well, I'm not sure that Commissioner Schroeder is clear on that though."

Commissioner Schroeder said, "Okay, just keep going and I might figure it out on the way there. Okay, that's fine."

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Mr. Bell said, "This is the line that will divide the two parcels. Now these interior streets have been vacated and removed. There is a property line between this lot and this lot that runs roughly along this alleyway. This west portion is the ice rink and the east portion is to be, if that works out, it is still speculative at this point, a low and moderate multi-family housing unit. Now this will go back on...we have no intention of redeveloping this in a way that would not put it back on the tax rolls. What would be the point of having tax increment financing?"

Commissioner Schroeder said, "That was my question. I wasn't following you. I thought, if it's all been taken off, where does the tax increment come from."

Mr. Bell said, "We're going to redevelop this for taxable purposes, it would go back on. This is being redeveloped as a tax exempt purpose, at least initially, however there is an option in the deal that we have with the Canadian developer that they may buy us out and if they did that, it would also be back on the tax roll."

Commissioner Schroeder said, "Okay, very good."

Mr. Bell said, "As far as Commissioner Miller's comment, it is absolutely correct, to be completely and totally understanding of this, the tax increment financing reduces the revenue that would have otherwise flowed to the County for property tax purposes and which has an impact on your budget, you have to the extent that you don't reduce your expenditure side of the budget and you have that much less tax revenue to cover those expenditures, there is a possibility that incrementally the mill levy would be increased in order to cover that loss, so to speak."

Commissioner Schroeder said, "We don't know what that number is that affects Sedgwick County."

Mr. Bell said, "That's offset by growth in appraised value outside of the area. It is a real complex system and nothing is static in this."

Chairman Winters said, "Okay, Commissioner Schroeder, any other questions?"

Commissioner Schroeder said, "No, I may have one later."

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Chairman Winters said, "Commissioner Miller?"

Commissioner Miller said, "No, I'm fine."

Chairman Winters said, "Okay, we're back to you Allen, are you done?"

Mr. Bell said, "Yes sir, with this one."

Commissioner Schroeder said, "Mr. Chairman, if you please. Allen, I think you know a lot about this project, but you talked about an olympic size rink and possibly having competition there, do you really believe that 750 seats would be enough to make that happen?"

Mr. Bell said, "We're not talking about anything national. I guess the vision that we had was that perhaps if ice skating were to catch on and clubs were to develop in this area and also clubs from the Kansas City area and the Oklahoma City area where there are ice rinks that this would be a site for some competitions on a very small scale. Really, what I'm envisioning is like the parents of the kids that would compete in these events would have a place to sit."

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

Commissioner Gwin said, "I have a question regarding that question then. Does the Coliseum have capacity to lay down ice for an olympic size piece of ice?"

Unidentified Individual responded, "I don't believe so."

Commissioner Gwin said, "I mean I was just following up on Commissioner Schroeder. If you're looking at the opportunity to bring in competition, our site isn't big enough is it?"

(Inaudible response)

Chairman Winters said, "Allen, I have a question. What are the ramifications if the Canadian development company doesn't buy out, is there any?"

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Mr. Bell said, "Well, there are some financial ramifications for the City, so far as it would remain a City facility that would continue to be owned and operated as a department of the City, like a golf course or the tennis facilities."

Chairman Winters said, "So the plan is to hopefully have them successful enough that they complete that portion?"

Mr. Bell said, "That's right and we've always intended...what we had originally hoped for was to find a private developer that would come in and with his or her own resources develop in Wichita a public ice skating facility, much like the one that was out at Frontier Village in the far west. That never happened. There have been citizen groups working on bringing an ice skating rink to Wichita I think since the early eighties, about the time the one out west shut down. The City was never willing to put up a lot of money until recently when the resurgence of interest in ice skating and the success of the Thunder Hockey team made us think this would be a good time to do it."

Chairman Winters said, "Okay, thank you. Allen, there was a question at one time, and I don't know if I know enough about the details to talk about his but when tax payers will receive their tax statements on concerning when they're in a district that somehow the amount of the tax increment financing project be on their tax statement. Is that...I really don't know much about that, but what is your opinion on that?"

Mr. Bell said, "We'd like to be shown on the tax statement in the way that it doesn't create the impression that there is a new and separate levy of taxes to the taxpayer. I think it is important to disclose how the tax payers's money is being used for this tax increment financing district, but the current system involves and the current system is really in place only for the Gilbert and Mosley at the present time, the tax statement for the property located within Gilbert and Mosley has I think four or five line items, districts, the County, the City, the State, the School District, and Gilbert and Mosley and each one of them lists the number of mills that are assessed against that property, which in the aggregate, adds up to the same number of mills that anyone else pays, but a person that receives that tax statement may not understand that automatically and thinks here they go again."

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Chairman Winters said, "And I hope that is something we can continue to work on. I certainly don't want us to try to keep anything from the public and keep that information from them but I can understand the problem that it might create. I would hope that you would continue to work with the Treasurer and the Clerk as we get that prepared and how that really needs to look."

Mr. Bell said, "I've already attended one meeting on that subject and I understand there will be more and I think the Treasurer indicated that the end of this calendar year there is a scheduled restructuring of the tax bill, the tax statement itself and this will be part of that process."

Chairman Winters said, "Okay, thank you very much. Seeing no questions, Commissioners, what's the will of the Board concerning establishment of a West Bank development district?"

MOTION

Commissioner Hancock moved to approve the establishment of the West Bank tax increment financing district.

Commissioner Gwin seconded the Motion.

Chairman Winters said, "We have a Motion and a second. Discussion?"

Commissioner Schroeder said, "Just one thing, would it be possible at some point in the future that we get an estimate what it is our contribution to this is, in the way of TIF sometimes in the future?"

Mr. Bell said, "Yes sir, I'll get that as soon as I get back across the street. I'll get it to Irene Hart."

Commissioner Schroeder said, "Okay, thank you."

Chairman Winters said, "Thank you very much Mr. Bell. Any other questions? Madam Clerk call the vote please."

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VOTE

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

Chairman Winters said, "Thank you very much. Now, let's talk about the next part of this, Irene."

Ms. Hart said, "A TIF for environmental purposes works slightly different. I'll go back to the \$100 property tax statement that I have. My property has been declared to be environmentally contaminated. If I am in this neighborhood that we're talking about, the North Industrial Corridor, several years ago, there was an arbitrary amount of 40% applied to some properties if the property owner requested it that dropped their valuation 40%. Not every property went through this, which means that I am now paying \$60 for what used to be \$100 in property taxes.

"If this TIF is approved, what will happen is the appraiser comes back out and what it means is that the City assumes the liability or the responsibility for the contamination. That frees up my property, my responsibility, which allows my property to go back up to whatever market rate, let's say \$100 property tax would bear. The increment in this case is 20% of the taxes, so we've gone from I'm paying \$60 to I'm paying \$100 but \$20 in there, which is 20% of the taxes can go to the environment assessment remediation, the investigation, whatever it takes to get it cleaned up. Now it is more complicated than that, but it is figured differently than a tax increment for the value of the property is increased."

Commissioner Schroeder said, "And so what you're saying is it went up 40% and we're only going to take 20%."

Ms. Hart said, "We'll take 20% of the total taxes. A maximum of 20%."

Commissioner Schroeder said, "Right, but we had a 40% increase but we're only going to take 20% of the total. Okay, I understand this one, it's the last one."

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Commissioner Hancock said, "Okay, so where is the area?"

Ms. Hart said, "Bridgeport."

Commissioner Hancock said, "I know where it is, let's go on. Yeah, that's it, I move to adopt."

MOTION

Commissioner Hancock moved to approve the establishment of the North Industrial Corridor Tax Increment Financing district.

Commissioner Gwin seconded the Motion.

Commissioner Gwin said, "So moved."

Commissioner Schroeder said, "Did you adjourn?"

Commissioner Gwin said, "No, we didn't adjourn."

Commissioner Hancock said, "I've made a motion to adopt this and she seconded it."

Chairman Winters said, "We have a motion and a second?"

Commissioner Gwin said, "You may not have to go on. We know what it is."

Commissioner Hancock said, "The television isn't on and we all know where it is, so let's move on."

Commissioner Gwin said, "Yes, but Tom has a question."

Chairman Winters said, "We have one of these districts already, where is it in comparison to this? Will this be the second environmental TIF?"

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Mr. Jack Brown, Environmental Health Director, "The Gilbert and Mosley site is this green area, that's the existing TIF. The new area is combining 29th and Meade, which is an existing superfund site, which is in the process of being de-listed and taken off the super fund list. It would be combined with the 13th and Washington site to form the North Industrial Corridor and this TIF is for this entire area. During the investigations that have been conducted over the years, there has been an additional area up in here that has been found to have some contamination, so that's been added. All of these, save one of the companies up in this northern area, have agreements with the State to address their pollution source, but for the purposes of coordination of the overall clean-up, they've been added to the TIF and I think there has been pretty much support by all of those except one and that's Phillips and we'll deal with that separately at another time."

Chairman Winters said, "Where is the area on there known as Bridgeport?"

Mr. Brown said, "Right in here and then a little bit of Bridgeport is north of 37th, I think that's called Bridgeport II."

Commissioner Gwin said, "A lot of that land up there is vacant now, isn't it."

Mr. Brown said, "It's vacant. Situations have happened in this area just like they did at Gilbert and Mosley. Declining property values, lack of ability to get loans, sell property, those types of things. A couple of industries have decided not to locate because of the superfund status and those types of issues."

Commissioner Gwin said, "So once the City takes over that responsibility, then those parcels that are currently sitting as urban could become commercial."

Mr. Brown said, "We'll be able to issue certificates of release to innocent property owners and redevelop."

Chairman Winters said, "This one has a real potential of having a plus impact over a period of time. That probably would not happen if we did not take and support the City in making this kind of effort to resolve ownership of the innocent owners responsibility and get on with it and develop this property."

Commissioner Hancock said, "Yesterday was the day to buy the property you wanted."

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Commissioner Gwin said, "That's right, too late today."

Chairman Winters said, "Commissioner Hancock has made a motion, Madam Clerk, did you get that motion? To approve the North Industrial TIF and Commissioner Gwin seconded the motion. Is there other discussion on that motion? Seeing none, Madam Clerk call the vote."

VOTE

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

Chairman Winters said, "Thank you Jack and thank you Allen. We appreciate you being here. And Allen, remember you are going to get some information for Commissioner Schroeder. Next item please."

E. SEDGWICK COUNTY AND LAKE AFTON PARKS.

1. AGREEMENT WITH THE ARC OF SEDGWICK COUNTY FOR USE OF A PORTION OF SEDGWICK COUNTY PARK APRIL 28, 1996, FOR A BIKE RACE/ROLLER BLADE FUND-RAISER.

Mr. Jarold Harrison, Assistant County Manager, said, "There is a requirement also that this group would be required to contract with the Sheriff's Reserve for traffic control because they'll be crossing over both the north and the south ends of that street. This will be a coordinated effort and hopefully they can carry it off without people crashing into each other."

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MOTION

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

Commissioner Hancock seconded the Motion.

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

VOTE

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

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

2. AGREEMENT WITH MIDWEST KARTING ASSOCIATION FOR USE OF LAKE AFTON PARK JULY 13-14, 1996 AND SEPTEMBER 14-15, 1996, TO HOLD ITS ANNUAL LAKE AFTON ENDURO KART RACES.

Mr. Harrison said, "In addition to the dates mentioned, this was also grant use of those areas from 6:00 p.m. on the 12th of July and the 13th of September for the purposes of setting up for these races and require cleanup within a couple of days after these races. We would recommend your approval."

Regular Meeting, March 13, 1996

MOTION

Commissioner Gwin moved to approve the agreement and authorize the Chairman to sign.

Commissioner Hancock seconded the Motion.

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

VOTE

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

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

F. AGREEMENT WITH COWLEY COUNTY COMMUNITY COLLEGE (CCCC) TO ALLOW SEDGWICK COUNTY EMS TO PROVIDE FIELD INTERNSHIPS FOR STUDENTS OF CCCC'S TRAINING PROGRAM.

Mr. Tom Pollan, Director, Sedgwick County EMS, said, "I have before you a standard agreement form that we've worked with many of the community colleges as well as universities. It is 25 people, I believe there are 23 that will actually be coming through the program on an EMT basis. In anticipation of Commissioner Hancock's question, 14 of these are Sedgwick County residents. I would recommend your approval as several of these people will be providing services in Derby as a volunteer."

Chairman Winters said, "Commissioners, what's the will of the Board?"

Regular Meeting, March 13, 1996

MOTION

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

Commissioner Gwin seconded the Motion.

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

VOTE

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

Chairman Winters said, "Thanks for sticking around Tom, we appreciate it. Next item please."

G. BUREAU OF COMPREHENSIVE COMMUNITY CARE (COMCARE).

1. CONTRACT WITH UNIFIED SCHOOL DISTRICT NO. 259 TO PROVIDE A DAY PROGRAM TO EXCEPTIONAL CHILDREN THROUGH THE CHILDREN'S PROGRAM.

Mr. John DuVall, Director, Admissions, COMCARE, greeted the Commissioners and said, "We are requesting approval of this contract with USD 259, which allows us to provide services to exceptional children which will be referred to us from USD 259 in our day program. USD 259 will pay us for each individual hour of service provided per child. I request your approval of the agreement."

Regular Meeting, March 13, 1996

MOTION

Commissioner Gwin moved to approve the Contract and authorize the Chairman to sign.

Commissioner Hancock seconded the Motion.

Chairman Winters said, "We have a motion and a second. Any discussion on this motion? I'm going to say John, that I'm assuming that this is going to be a good deal for the School District and for Sedgwick County?"

Mr. DuVall said, "Precisely, currently there doesn't exist a program of this level to handle the exceptional child and we're currently constructing a new day program and it will be conducted at that site on 2916 E. Central."

Chairman Winters said, "Okay, thank you very much. Turn the lights on Fred."

Commissioner Gwin said, "It's the only heat we've got over here."

Commissioner Hancock said, "For the record, there is no heat in this room, there is no cool, and we have to provide our own each day. I have two of them underneath my chair and I have one of them on."

Commissioner Gwin said, "Could we borrow one of yours."

Chairman Winters said, "Commissioners, we have a motion and second to approve this item G1. Is there any discussion? Madam Clerk, please call the vote."

VOTE

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

Regular Meeting, March 13, 1996

Chairman Winters said, "Next item please."

2. **ADDITION OF A QUALITY ASSURANCE COORDINATOR, RANGE 24; CASE MANAGER, RANGE 16; OFFICE SPECIALIST, RANGE 15; AND FISCAL ASSOCIATE, RANGE 16, TO THE COMCARE STAFFING TABLE.**

Mr. DuVall said, "COMCARE is requesting these four additional positions which support our Community Developmental Disability Organization of CDDO as the acronym is used. The creation of the CDDO was mandated by the State in their developmental disability reform act which took effect January 1, 1996. So to be able to support this reform act, I would request that we be allowed to add these particular four positions. This provides a much improved way of providing services to Developmental Disability population. Request your approval of these four positions."

Chairman Winters said, "Thank you very much John. Commissioners, you've heard the report. Any questions of John?"

MOTION

Commissioner Miller moved to approve the four additions to the COMCARE staffing table.

Commissioner Gwin seconded the Motion.

Chairman Winters said, "We have a motion and a second. I might make mention that we're still doing this within regular budget items. I mean this is not taking a budget increase to increase the staffing, is that correct John?"

Mr. DuVall said, "No, that's true. The State is providing the majority of these funds and some of these funds are simply being reallocated, which were already budgeted by the County in 1996, so it is a combination of moving this around and using the State funds and the local funds."

Regular Meeting, March 13, 1996

Chairman Winters said, "Well, as we all know, we all reluctantly add to our staffing tables, but with the new responsibilities of COMCARE we are still being able to do this in our regular budget?"

Mr. DuVall said, "Yes."

Chairman Winters said, "Okay. Thank you. Commissioners, you've heard the motion. Any further discussion? Madam Clerk, call the vote please."

VOTE

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

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

H. BUREAU OF PUBLIC SERVICES.

1. RESOLUTION DESIGNATING AND CLASSIFYING CERTAIN STREETS TO THE PAYNE TOWNSHIP SYSTEM.

Mr. David Spears, Director, Bureau of Public Services, said, "It is standard procedure that after a road is built, within an unplatted residential development in accordance with County standards, that road is then assigned to the township system. In this particular case, 159th Street North Circle, which is located south of 77th Street North and west of 159th Street East, will become the responsibility of Payne Township. I recommend you adopt the resolution."

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MOTION

Commissioner Hancock moved to adopt the Resolution.

Commissioner Gwin seconded the Motion.

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

VOTE

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

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

2. RESOLUTION DESIGNATING AND CLASSIFYING CERTAIN STREETS TO THE GRANT TOWNSHIP SYSTEM.

Mr. Spears said, "Item H-2 is similar to the previous item and in this particular case, Rambling Rose Lane, which is located south of 85th Street North and west of Woodlawn would become the responsibility of Grant Township. I would recommend that you adopt the resolution."

MOTION

Commissioner Gwin moved to adopt the Resolution.

Commissioner Miller seconded the Motion.

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

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VOTE

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

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

3. RESOLUTION DESIGNATING AND CLASSIFYING CERTAIN STREETS TO THE GRANT TOWNSHIP SYSTEM.

Mr. Spears said, "This item is similar to the previous two items. In this particular case, Briar Rose Lane, which is located north of 77th Street North and west of Woodlawn would become the responsibility of Grant Township. I recommend that you adopt the resolution."

MOTION

Commissioner Gwin moved to adopt the Resolution.

Commissioner Hancock seconded the Motion.

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

VOTE

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

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

Regular Meeting, March 13, 1996

**I. REPORT OF THE BOARD OF BIDS AND CONTRACTS' MARCH 7, 1996
REGULAR MEETING.**

Mr. Darren Muci, Director, Purchasing Department, said, "You have minutes today from the March 7 and March 11, Special Meeting of the Board of Bids and Contracts for your consideration. For March 7, there are five items for consideration.

**(1) STREET IMPROVEMENTS; WHEATLAND ADDITION, PHASE 9 -
BUREAU/PUBLIC SERVICES
FUNDING: DEBT FINANCED STREET PROJECT**

"Item one is street improvements for the Wheatland Addition Phase 9, Bureau Public Services. It is recommended to accept the low bid of Ritchie Paving, Inc., for \$103,142.70.

**(2) ROAD IMPROVEMENTS - BUREAU/PUBLIC SERVICES
FUNDING: SALES TAX**

"Item two, road improvements for the Bureau of Public Services, project numbers 624-14, 797-R, CIP project R-228. It is recommended to accept the low bid of Asphalt Construction for \$617,765.70.

**(3) BRIDGE TIMBERS - BUREAU/PUBLIC SERVICES
FUNDING: BUREAU/PUBLIC SERVICES**

"Item three, bridge timbers, also for the Bureau of Public Services. It is recommended to accept the low total bid of Kennedy Saw Mills, Inc., for \$91,103.10.

**(4) FILE TRANSFER PRODUCT - INFORMATION SERVICES
FUNDING: EQUIPMENT RESERVE FUND**

"Item four is a file transfer product for Information Services. It is recommended to accept the only proposal received of Firesign Computer Company for \$30,231.25.

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**(5) FOUR WHEEL DRIVE LOADER - MOTOR POOL
FUNDING: MOTOR POOL**

"Item five, four wheel drive loader for the Central Motor Pool and Bureau of Public Services. It is recommended to accept the alternate proposal of Sellers Tractor with options and trade-in for \$129,727. That is the subject of the March 11 meeting of the Board of Bids and Contracts, so I'll come back to that.

ITEMS NOT REQUIRING BOCC ACTION

**(6) RAID STORAGE SYSTEM - INFORMATION SERVICES
FUNDING: INFORMATION SERVICES**

**(7) ARCHITECTURAL SERVICES FOR PARKING GARAGE - CAPITAL
PROJECTS
FUNDING: 1996 CAPITAL PROJECT**

"There were two items that do not require action at this time. Those include a Raid Storage System for Information Services. It was moved to reject the only bid received, we will review our specifications and rebid at a later date. And request for proposal were solicited for architectural services to design the addition to the parking garage. Those proposals were received and filed and they are currently being reviewed. You will receive our recommendation in the near future.

"If I may, the meeting minutes from the March 11 Board of Bids and Contracts, the four wheel drive loader for the Central Motor Pool. Clarification, we are recommending the alternate proposal of Sellers Tractor with options and a trade in for \$130,227 even. We had a minor error in the subtraction of the amount that we were being offered for trade-in and that's the difference in the price which needs to be corrected for the record. I would recommend you approve the recommendations as recommended by the Board of Bids and Contracts."

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MOTION

Commissioner Hancock moved to approve the recommendations of the Board of Bids and Contracts from March 7 and the off-agenda item of March 11, 1996.

Commissioner Gwin seconded the Motion.

Chairman Winters said, "We have a Motion and a second for the two dates. Is there discussion? Commissioner Miller."

Commissioner Miller said, "Darren, do you want to give us some detail on the four wheel drive loader, the one with the higher bid?"

Mr. Muci said, "Yes, and Bob Lamkey, our Central Motor Pool Director is here as well. We solicited for request for proposals for these, so we were looking for the best piece of equipment that could meet the needs of the Central Motor Pool. You will note, in your back up, that these products were submitted to a testing by our Motor Pool and our Public Services employees.

"We took a look at references, the rating and in the demonstration, those were tested, our employees had a chance to drive around in the product and see how it worked for them. We also looked at maintainability, what was it going to cost to maintain these, and costs for additional parts over the life of that vehicle."

Commissioner Miller said, "Just these? Where did we buy from?"

Mr. Muci said, "Sellers Tractor, a Fiar-Allis."

Commissioner Miller said, "We test drove all of them?"

Mr. Muci said, "Yes, that's correct."

Commissioner Miller said, "That's what I needed to hear."

Chairman Winters said, "Alright, very good, does that answer all those questions? Very good. Commissioners, you've heard the Motion to approve, any other discussion?"

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Mr. Plummer said, "We have one little minor issue here, this should be taken up as an off-agenda item, so probably the Motion ought to include a request to take this up off-agenda and to approve it just so the record is clear."

Chairman Winters said, "Mr. Hancock, will you include that in your motion that part of this is off-agenda? Commissioner Schroeder, I believe you second the motion."

Commissioner Gwin said, "No, I did."

VOTE

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

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

CONSENT AGENDA

J. CONSENT AGENDA.

1. Utility Permit Agreements.

- a. KG&E, A Western Resources Co. is submitting this application requesting permission to install three poles and overhead primary on the south side of 77th Street North and make an overhead crossing approximately 2,100 feet west of West Street. Park and Valley Center Townships. Utility Permit No. 012-96. Road No. 600-23. District #4.

Regular Meeting, March 13, 1996

- b. KG&E, A Western Resources Co. is submitting this application requesting permission to rebuild one mile of overhead primary on the east side of Hydraulic between 45th Street North and 53rd Street North. Kechi Township. Utility Permit No. 014-96. Road No. 823-J. District #1.

2. Right-of-Way Instruments.

- a. One Easement for Right-of-Way for Sedgwick County Project No. 817-G through N½ J; Meridian from the north city limits of Wichita to the south city limits of Valley Center. CIP #R-169. District #4.
- b. One Easement for Right-of-Way for Sedgwick County Project Nos. 624-14 and 797-R; 23rd Street South from 199th Street West to 183rd Street West and 183rd Street West from 23rd Street South to U.S. 54. CIP #R-228. District #3.
- c. One Temporary Construction Easement and one Easement for Right-of-Way for Sedgwick County Project No. 624-2-2365; Bridge on 23rd Street South between 375th and 391st Streets West. CIP #B-244. District #3.
- d. One Easement for Right-of-Way for Sedgwick County Project Nos. 642-2 and 28; 95th Street South between Broadway and Hillside. CIP #R-142. District #2.

3. Section 8 Housing Assistance Payment Contracts.

<u>Contract Number</u>	<u>Rent Subsidy</u>	<u>District Number</u>	<u>Landlord</u>
C96017	\$172.00	4	William E. Tynes
C96016	\$398.00		Donald K. Storrer

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

<u>Contract Number</u>	<u>Old Amount</u>	<u>New Amount</u>
V95048	\$304.00	\$259.00
V95050	\$425.00	\$425.00
V95053	\$425.00	\$400.00
V95125	\$218.00	\$200.00
V95138	\$420.00	\$395.00
V95134	\$300.00	\$275.00
V95029	\$425.00	\$400.00
V94005	\$425.00	\$400.00
V93025	\$447.00	\$422.00
V95014	\$400.00	\$375.00
V93016	\$360.00	\$335.00
V72016	\$270.00	\$245.00
V03004	\$350.00	\$325.00
V73013	\$350.00	\$325.00
V93128	\$400.00	\$375.00
V95025	\$450.00	\$425.00
V95076	\$300.00	\$275.00
V96009	\$300.00	\$275.00
V72017	\$335.00	\$325.00
V95065	\$286.00	\$265.00
V74001	\$497.00	\$475.00
V93053	\$473.00	\$460.00
V95050	\$425.00	\$400.00
V96015	\$425.00	\$400.00
V94051	\$350.00	\$325.00
V93063	\$300.00	\$275.00
V92013	\$248.00	\$225.00
V95062	\$351.00	\$350.00
V94025	\$425.00	\$400.00

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<u>Contract Number</u>	<u>Old Amount</u>	<u>New Amount</u>
V95150	\$495.00	\$470.00
V95100	\$360.00	\$335.00
V94120	\$473.00	\$465.00
V95070	\$400.00	\$375.00
V95083	\$400.00	\$375.00
V95080	\$280.00	\$255.00
V95060	\$400.00	\$375.00
V95057	\$300.00	\$275.00
V83040	\$325.00	\$300.00
V95018	\$375.00	\$350.00
V95017	\$350.00	\$325.00
V94056	\$425.00	\$400.00
V95102	\$250.00	\$225.00
V95022	\$425.00	\$400.00
B93110	\$340.00	\$315.00
V73015	\$445.00	\$420.00
V95051	\$345.00	\$335.00
V62007	\$349.00	\$335.00
V94091	\$350.00	\$325.00
V94048	\$375.00	\$350.00
V96005	\$425.00	\$400.00
V93120	\$335.00	\$325.00
V93028	\$300.00	\$275.00
V95110	\$316.00	\$295.00
C71031	\$247.00	\$245.00
C7018	\$325.00	\$300.00
C95105	\$250.00	\$225.00
C95132	\$283.00	\$275.00
C94061	\$190.00	\$165.00
C94058	\$199.00	\$195.00
C95093	\$337.00	\$325.00
C91022	\$220.00	\$195.00
C95058	\$370.00	\$345.00

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<u>Contract Number</u>	<u>Old Amount</u>	<u>New Amount</u>
C95128	\$435.00	\$410.00
C95032	\$347.00	\$322.00
C95075	\$228.00	\$225.00
C6012	\$450.00	\$425.00
C94113	\$354.00	\$329.00
C94079	\$475.00	\$450.00
C95122	\$331.00	\$325.00
C62017	\$265.00	\$240.00
C94049	\$183.00	\$175.00
C96012	\$410.00	\$385.00
C93021	\$325.00	\$305.00
C01028	\$275.00	\$250.00
C94094	\$325.00	\$300.00
C95042	\$430.00	\$405.00
C94017	\$325.00	\$300.00
C94004	\$340.00	\$315.00
C94110	\$275.00	\$250.00
C95148	\$400.00	\$375.00
C94024	\$380.00	\$355.00
C71013	\$265.00	\$240.00
C95146	\$230.00	\$205.00
C95073	\$450.00	\$425.00
C94022	\$500.00	\$475.00
C96016	\$398.00	\$375.00
C96002	\$300.00	\$275.00
C71020	\$214.00	\$195.00
C95004	\$344.00	\$339.00
C71019	\$244.00	\$235.00
C95041	\$350.00	\$325.00
C95121	\$494.00	\$469.00
C95005	\$410.00	\$385.00
C95144	\$525.00	\$500.00
C62027	\$357.00	\$332.00

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<u>Contract Number</u>	<u>Old Amount</u>	<u>New Amount</u>
C95145	\$515.00	\$490.00
C62003	\$261.00	\$240.00
C95082	\$394.00	\$369.00
C93006	\$323.00	\$315.00
C95108	\$450.00	\$425.00
C95084	\$450.00	\$425.00
C95003	\$239.00	\$225.00
C94111	\$400.00	\$375.00
C74002	\$443.00	\$418.00
C01023	\$258.00	\$233.00
C94073	\$400.00	\$375.00
C861010	\$213.00	\$188.00
C95054	\$268.00	\$243.00
C95114	\$258.00	\$233.00
C71015	\$196.00	\$175.00
C95129	\$370.00	\$345.00

5. **Agreement with Accufax to provide on-line access to Sedgwick County's electronic data.**

6. **Order dated March 6, 1996 to correct tax roll for change of assessment.**

7. **Authorization to publish a Notice of Hearing on March 20, 1996 for a proposed sale of a real property dedication.**

8. **Consideration of the Check Register of March 8, 1996.**

Regular Meeting, March 13, 1996

9. Budget Adjustment Requests.

<u>Number</u>	<u>Department</u>	<u>Type of Adjustment</u>
960126	Finance General Five-Star Svc. Program	Transfer
960127	COMCARE-Developmental Disabilities	Transfer
960128	COMCARE-Consolidated Mental Health Grant	Transfer
960129	COMCARE-CDDO Grant	Supplemental Appropriation
960130	District Court	Transfer
960131	Central Motor Pool	Transfer
960132	Sheriff-DEA	Transfer
960133	Juvenile Intake Grant	Transfer
960134	CLAP Grant	Supplemental Appropriation
960135	1996 Road and Bridge Sales Tax	Transfer
960136	1996 Bridge Projects	Supplemental Appropriation
960137	White Tail Phase 9, 10, 11-Street	Supplemental Appropriation
960138	Road and Bridge Sales Tax	Transfer

Mr. Jarold Harrison, Assistant County Manager, said, "You have the consent agenda before you and we would recommend you approve it as presented."

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

Commissioner Schroeder said, "I've got one question on item number 7, authorization to publish a Notice of Hearing on March 20, 1996 for a proposed sale of a real property dedication. Does anybody know what that is?"

Commissioner Gwin said, "Yeah, that has to do with I think, does that have to do with the land at Central and 127th?"

Regular Meeting, March 13, 1996

Commissioner Schroeder said, "Is that what that is? Are we ready for that?"

Mr. Spears said, "I don't know, we might as well sell it."

Chairman Winters said, "Do you want that pulled off?"

Commissioner Schroeder said, "No, I don't want to delay it, obviously it is something we are doing and I just want to know what it is. We've got all the top people from Sedgwick County here and none of us know."

Chairman Winters said, "Mr. Plummer, would you make sure that everyone is advised of what that is? Commissioners, we do not have a motion yet on the consent agenda?"

MOTION

Commissioner Gwin moved to approve the consent agenda as presented and direct staff to bring the Commission information on item seven.

Commissioner Schroeder seconded the Motion.

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

VOTE

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

Chairman Winters said, "Thank you very much. Is there any other business to come before this meeting? This meeting is adjourned."

K. OTHER

L. ADJOURNMENT

Regular Meeting, March 13, 1996

Regular Meeting, March 13, 1996

There being no other business to come before the Board, the Meeting was adjourned at 1:40 p.m.

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

THOMAS G. WINTERS, Chairman
Third District

MELODY C. MILLER, Chair Pro Tem
Fourth District

BETSY GWIN, Commissioner
First District

PAUL W. HANCOCK, Commissioner
Second District

MARK F. SCHROEDER, Commissioner
Fifth District

ATTEST:

Susan E. Crockett-Spoon, County Clerk

APPROVED:

_____, 1996