

MEETING OF THE BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

MARCH 20, 1996

The Regular Meeting of the Board of County Commissioners of Sedgwick County, Kansas, was called to order at 9:15 A.M., Wednesday, March 20, 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. Jerry McCoy, County Treasurer; Mr. William P. Buchanan, County Manager; Mr. Stephen Plummer, County Counselor; Mr. Jarold D. Harrison, Assistant County Manager; Ms. Becky Allen Bouska, Director, Finance Department; Mr. Rich Euson, Assistant County Counselor; Mr. Marvin Krout, Director, Metropolitan Area Planning Department; Mr. John Nath, Director, Kansas Coliseum; Mr. David C. Spears, Director, Bureau of Public Services; Mr. Darren Muci, Director, Purchasing Department; Mr. Fred Ervin, Director, Public Relations; and Ms. Cecilia Chavez Maggard, Deputy County Clerk.

Chairman Winters said, "We are currently experiencing some audio difficulty, so we will delay the meeting for 15 minutes to try and correct the problem."

The Board of County Commissioners returned to the Bench at 9:15 a.m.

Chairman Winters said, "We are going to go ahead with the meeting and they will continue to work on the audio problem. Madem Clerk call the first item."

GUESTS

Mr. Nabil Seyam, Proclamation for Kansas Safety Week

Mr. Roy Turner, Proclamation for Roy Turner Day

Mr. Ed Roberts, 4015 W. 13th St., Wichita, Kansas

Mr. Dick Robertson, 2105 N. Ridge Road, Wichita, Kansas

Mr. Robert "Rocky" Wiechman 7314 W. Barrington Court, Wichita, Kansas

Ms. Pauline G. Doshier, 7310 W. Barrington, Wichita, Kansas

Ms. Carol Creed, 7206 W. Barrington, Wichita, Kansas

Mr. Rodney Barr, 7210 W. Barrington, Wichita, Kansas

Ms. Lawanda Duncan, 3801 E. 109th North, Wichita, Kansas

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GUESTS (Continued)

Ms. Darlene Smith, 3120 W. 72nd Street North, Wichita, Kansas
Mr. Frank Higgs, 3921 E. 109th Street North, Wichita, Kansas
Mr. Nancy Whitaker, 10651 N. Oliver, Valley Center, Kansas
Mr. Jim Holdaway, 10400 N. Oliver, Valley Center, Kansas
Mr. Mary Hallman, 1723 S. Moline Court, Aurora, Colorado
Mr. Dennis Koch, 10515 N. Hillside, Valley Center, Kansas
Ms. Joan House, 10745 N. Hillside, Valley Center, Kansas
Ms. Carolyn Lindsley, 700 Fourth Financial Center, Wichita, Kansas
Mr. C.L. Bader, 7804 E. 109th Street North, Valley Center, Kansas
Mr. Dale Allen, 11325 N. Oliver, Valley Center, Kansas
Mr. Jack Richardson, 8836 N. Woodlawn, Valley Center, Kansas
Ms. Sandra Henry, 3921 E. 109th Street North, Wichita, Kansas
Ms. Marilyn, Carey, 10923 N. Hillside, Valley Center, Kansas

INVOCATION

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

FLAG SALUTE

ROLL CALL

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

CERTIFICATION AS TO THE AVAILABILITY OF FUNDS

Ms. Becky Allen Bouska, Director, Finance Department, stepped to the podium and said, "You've previously received the certification of funds for the expenditures on today's regular, sewer and fire district agendas. I'm available for questions, if there are any."

Chairman Winters said, "Okay, thank you. Seeing no questions, next item please."

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PROCLAMATION

A. PROCLAMATION DECLARING JUNE 2-8, 1996 AS "KANSAS SAFETY WEEK."

PROCLAMATION

WHEREAS, June 2-8, 1996, has been declared National Safety Week by the American Society of Safety Engineers; and

WHEREAS, the local theme for this observation is "Safety, it's a way of life"; and

WHEREAS, occupational injuries cost American industry \$100 billion in direct workers compensation expenses according to 1994 estimations, and 100,000 accidental deaths and nearly 11 million disabling injuries occur yearly;

WHEREAS, new sources of injuries such as cumulative trauma disorders, employee stress, and occupational diseases increase the need for comprehensive safety programs nationwide; and

WHEREAS, the Wichita Chapter of the American Society of Safety Engineers has served to reduce injuries to Kansas workers since its charting in 1944, and with its current 157 members, through regular professional meetings and educational seminars in the field of industrial safety and health; and

WHEREAS, the President of the United States has also designated the week of June 2-8, 1996, as "National Safety Week";

NOW THEREFORE BE IT RESOLVED, that I, Tom Winters, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim the week of June 2-8, 1996 as

"KANSAS SAFETY WEEK "

Chairman Winters said, "With that I move we adopt the Proclamation and authorize the Chairman to sign."

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MOTION

Chairman Winters moved to adopt the Proclamation and authorize the Chairman to sign.

Commissioner Hancock seconded the Motion.

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

VOTE

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

Chairman Winters said, “We do have someone that is accepting the Proclamation, please come forward.”

Mr. Nabil Seyam, said, “I appreciate the Commission for allowing the Proclamation early. Thank you.”

Chairman Winters said, “Thank you. Commissioners, I would like to take an off agenda Proclamation.”

MOTION

Chairman Winters moved to take an off agenda Proclamation.

Commissioner Gwin seconded the Motion.

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

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VOTE

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

PROCLAMATION

WHEREAS, in 1966 a lad from Liverpool, England came to the United States to play soccer during the summer; and, 13 years later, in 1979, became coach of the thriving MISL's new franchise, the Wichita Wings; and

WHEREAS, the name Roy Turner is synonymous with soccer in Wichita and Sedgwick County, with the Wings drawing more than 3 million fans; and

WHEREAS, the Wings have donated more than \$25,000 in tickets, merchandise and souvenirs to nearly 100 different clubs and charities. The Wings average 38 player appearances per month; and, among the youth of Wichita more than 11,000 children currently participate in a soccer program, with many school programs winning soccer championships; and

WHEREAS, Roy Turner's commitment and dedication to the Wings organization made him the "*Coach of Communities*" all across Wichita and Sedgwick County, making the franchise the Wings beneath the feet of countless fans; and

WHEREAS, over 17 years the Wichita Wings have generated nearly 3 million dollars in revenue for the Kansas Coliseum;

NOW THEREFORE BE IT RESOLVED, that I, Tom Winters, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim Sunday, March 24, 1996 as

"ROY TURNER DAY "

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in Sedgwick County, in honor of his tireless dedication to the sport of soccer and his commitment to the Wichita Wings.

MOTION

Commissioner Winters moved to adopt the proclamation and authorize the Chairman to sign.

Commissioner Gwin seconded the Motion.

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

VOTE

Commissiner 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, "And today we have Roy Turner with us to accept the Proclamation."

Mr. Roy Turner stepped to the podium and said, "Thank you, Commissioners, for this wonderful Proclamation. I had only planned on staying here, in Sedgwick County, for a year and the next thing I know, 13 years later, I'm the coach of a great team, the Wichita Wings.

"I've had a great 17 years coaching the Wings and assisting youth organizations in promoting soccer and seeing it thrive in Wichita and Sedgwick County. The Coliseum is a great place to play and a place where the Wings can call home. I feel fortunate that I had the chance to meet a lot of fantastic people and have formed some really great and lasting friendships.

"I appreciate all the effort that the Commission and Sedgwick County has given to the Wings and myself. I hope the future will allow us to work together again. Thank you, again, for this Proclamation."

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Commissioner Gwin said, "Roy, you've been a joy to have here in Sedgwick County and I've enjoyed being one of your biggest fans. You'll be missed."

Chairman Winters said, "Roy, good luck in the future. We appreciate all the contributions you and the Wings have made here in Sedgwick County. Thank you, Commissioners. Next item please."

PUBLIC HEARING

B. PUBLIC HEARING AND RESOLUTION REGARDING A PROPOSED ABANDONMENT AND DISPOSAL OF STREET RIGHT-OF-WAY.

Mr. Rich Euson, Assistant County Counselor, said, "Before you, on the overhead, is a plat of an area that is in the City of Derby. This area is immediately to the east of State Highway K-15 and immediately to the South of Meadowlark in Derby, which is also 71st Street South in the County. Back in 1978, Lots 1 and 7 that are on the corner there of Nelson and 71st Street were owned by the same person and they were involved in a zoning case with the City of Derby and as part of the zoning case, the City required that the owner of both those lots dedicate the west 10 feet and the north 20 feet of Lot 1.

"Unfortunately, that isn't what happened. The dedication deed that was eventually given to the City, dedicated the west 10 feet and the north 20 feet of Lot 1, but it also dedicated the north 20 feet of Lot 7. Lot 7 was recently sold and the buyer's title insurance has required that the dedication on Lot 7 be released. The City of Derby has no use for that, Sedgwick County never has had any use for it and we would recommend that this be released.

"There is a procedure for doing this and the statutes require that you have a public hearing. We have published a notice of that hearing and would ask that you open the hearing and prepare the Resolution we prepared for you which will authorize the Chairman to execute a quit claim deed to the area on Lot 7. I'll be happy to answer any questions."

Chairman Winters said, "Thank you very much, Rich. Does anyone have any questions of Rich? Seeing none, at this time I would open the public hearing and receive comment from anyone who would like to address the Commission on the proposed abandonment and disposal of street right-of-way, item agenda B? Is there anyone who would like to speak to this item?"

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“Seeing no one, we'll close the public hearing and reserve discussion to bench and staff. Rich, anything else we need to do?”

Mr. Euson said, "I have nothing further unless you have questions."

MOTION

Commissioner Schroeder moved to adopt the Resolution.

Commissioner Hancock second 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, Rich. Next item please."

PLANNING COMMISSION

C. METROPOLITAN AREA PLANNING DEPARTMENT (MAPD).

- 1. SCZ-0706 - ZONE CHANGE FROM "R-1" SUBURBAN RESIDENTIAL TO "LC" LIGHT COMMERCIAL, LOCATED SOUTH OF 21ST STREET NORTH ON THE WEST SIDE OF RIDGE ROAD.**

SLIDE PRESENTATION

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Mr. Marvin Krout, Director, Metropolitan Area Planning Department, greeted the Commissioners and said, "We have two Planning items this morning. This first item, if I could have the first slide, concerns 3/4 acre tract of land, this area the arrows are pointing to, it is on the west side of Ridge Road and it is just 600 feet south of the intersection of Ridge Road and 21st Street. The property is in the County, you can see that this property is in the County and the property to the north and the property right at the southwest corner is in the County. The 4-H Building, in this location, is in the County. All the remaining acreage in the general area is in the City of Wichita.

"The tract is in the County and it is zoned in the R-1 Suburban Residential district, in fact, except for the County's property, that's the only area left on the west side that is in the R-1 district today, the rest is all in the City and the City's zoning categories. It is just north of what was the four corner, 600 foot by 600 foot area measured from the center line of the street. It is just to the south area that was zoned back by the County in 1958 for light commercial zoning. You can see that one of those remnants of that four corner zoning is still on the 4-H site, even though the 4-H is being used for light commercial purposes at this time.

"To the north of this site, there is a single family home on this tract and to the north are other single family homes existing, fronting on to Ridge Road, even though they are zoned and have been zoned light commercial for some time. Between those homes is an access way and is platted and dedicated, it's not dedicated right-of-way, it's an access easement to a large commercial tract that was zoned, I think, in 1988 called Barrington Corner community unit plan. It is a City light commercial zoning with a community unit plan that has some special controls on use limitations and sign limitations and other controls. As similarly at the other corners of the intersection, there are commercial tracts. This is zoned industrial, but limited to commercial uses and all of those tracts have community unit plans.

"To the south and the west are single family homes that were recently platted and recently developed. There is an 80 foot drainage dedication between that serves as a buffer between this lot and the lots to the south. The lots to the west back up immediately to the lot in question. The request is for light commercial zoning; to extend the light commercial zoning that exists just to the north and in the general vicinity. The rules, whether or not this was in the City or in the County especially under the new unified zoning codes, would be exactly the same for light commercial zoning.

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“If this light commercial zoning is approved, it would be subject to platting as part of a platting process, because it is adjacent to the City and services would be needed, there would be a request for annexation and so it would come in and be zoned under the City's light commercial zone.

"The staff recommended denial of light commercial zoning, but we recommended approval of what at the time the case was filed was office commercial zoning. That office commercial zoning is in the process and as of next Monday, will be converted to a category called neighborhood retail, which is a little bit of a broader category. The light commercial zoning permits all office and retail uses basically. The main differences between light commercial and the neighborhood retail zoning are that neighborhood retail does not permit fast food restaurants, auto related uses, convenience store, service station, heavy or more intense 24-hour types of uses and also the sign rules for the neighborhood retail are much more toned down. There are no portable signs permitted, no flashing permitted, the size of signs is more limited than in the light commercial zoning.

"The staff thought that would be a better transition to the single family to the south. This is a little bit different than frontage on 21st Street, where it is all commercial in character. You have residential in two directions and then you have light commercial in the third direction and in the fourth direction is the County's property and the County's property is more office in nature and park like in nature and so that's why we thought the neighborhood retail would be a better transition. It could be used, if this tract was assembled into two tracts and this was neighborhood retail, this could be used for light commercial purposes and this could be used for parking for light commercial uses, but any use of this property would have to be limited to neighborhood retail. That was the staff's recommendation.

"The Planning Commission had their hearing. There was one property owner that was opposed and it was the second owner off of the corner on Barrington. He was concerned about the uses that would develop, about the traffic that would develop, although there is going to be more traffic in this area regardless of whether or not this one lot is zoned or not. At the Planning Commission hearing, the applicant offered to provide a masonry screening all along the west side and the south side, and that would be similar to what is required in all community unit plans. You are required to do a masonry wall between commercial and residential properties and in fact, what may end up happening eventually in the process of development, is that wall be extended here and back along the west and the south walls.

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"The Planning Commission recognized that there was a buffer here. There are some trees that are planted. There will be a requirement as it comes into the City, to have landscaping trees along the south and the west walls. The applicant has already planted evergreen trees and you'll see the slides and probably meets the requirement already. But he offered to do the masonry wall and the Planning Commission recommended 9 to 2 that it be approved subject to accepting the agreement to build a masonry wall which will probably be built into this eventually when the zoning was enacted through the protective overlay district. It would be a special condition that would be attached to the light commercial zoning.

"Since the Planning Commission meeting, protests were filed. This is the aerial photograph and you can get a better idea of the character of the area. This is the 4-H facility, these are the homes, including the home on the lot and other homes that face on Ridge Road, a couple of fast food restaurants on 21st Street, commercial development on 21st Street, the homes to the south and the west. After the Planning Commission hearing, protest petitions were filed, the red areas represent the areas in which we count valid protests and it is a little bit of an odd map, because we go 200 feet out in the City by State law and we go 1,000 feet out to all properties in the County and because the County's own property is such a large portion of it, even though there were a substantial number of protests, it only represents 5% of the official area for protesting. So it only requires a simple majority to follow the Metropolitan Area Planning Commission recommendations and approve the case.

"This is the lot in question. This is Ridge Road and we're looking west toward the site. This will be the south property line and the drainage area just beyond it. This is looking up Ridge Road at the other homes. All these homes are zoned light commercial to this point, which is the 600 foot old County zoning line. This is the County's 4-H facility. Looking south of that facility at the park land to the south, this is the south line of the property. You can see he has planted evergreen trees. There are the homes to the west and this is the 80 foot drainage dedication and these are the homes to the south. Again, this is the rear of the southwest corner of the lot and the homes backing up to the west. This is the entrance street to the subdivision and these are the homes that back up to the drainage area. Back to the aerial photograph and the zoning map. I'll try to answer any questions that you have at this time."

Chairman Winters said, "Mr. Hancock has a question."

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Commissioner Hancock said, "Marvin, the properties that are already zoned LC to the north of this property have residences on them?"

Mr. Krout said, "They do."

Commissioner Hancock said, "That's because of that County wide four corners zoning that came in?"

Mr. Krout said, "Yes."

Commissioner Hancock said, "Did you say that the property just to the west of the corner, that's LC also and there is some commercial development on that property?"

Mr. Krout said, "There is a McDonalds and a Taco Bell at this location and there is some commercial development now on the north side of 21st."

Commissioner Hancock said, "Okay, thank you."

Chairman Winters said, "Okay, thank you Marvin. I see no other questions right now. Can you think of anything else at this time?"

Mr. Krout said, "Not at this time."

Chairman Winters said, "Okay, thank you. Is there anyone here who is in support of this? I see the applicant and his agent here, if you would like to address us, that would be fine. Please state your name and address and you are limited to five minutes."

Mr. Ed Roberts, Real Estate Resources, said, "I represent the applicant. We would be happy to answer any questions that you may have. We presented our case to MAPC with regards to our request. We thought that what we had requested was a logical thing to occur which they agreed with. The down zoning to neighborhood retail, we didn't feel was fair and would all the applicant to put the land to the highest and best use with the light commercial to the north of them. The applicant has agreed that a masonry wall be built on the south and on the west side. There will be a covenant for the platting of that."

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"We believe that the natural barrier to the south is the drainage ditch, which is 80 feet. I point out that, if I could step over here, the applicant's house is 21 feet from light commercial with no restrictions or covenants that a masonry wall has to separate light commercial to the residential zoning right now. All these properties along here, there's 21 homes, all bought their houses knowing that light commercial was to the north of them immediately. Now they also understood that a masonry wall would be built there. The houses to the south of the subject's property have at least an 80 foot natural buffer. The houses that are adjoining back here are at least 40 feet from the property and so the applicant is saying that I'll be fair, I'll build a masonry wall here, to give some protection that it isn't fair if he isn't allowed the zoning when he's only at 21 feet with no protection.

"So it just kind of makes sense for this to go ahead and be developed and at the same time, it is ideal for these three properties to be joined together into a development and I am in process of talking to all the owners and see if we can't package that into a nice development. I'd be happy to answer any questions you may have."

Chairman Winters said, "Okay, Mr. Roberts, Commissioner Gwin has a question."

Commissioner Gwin said, "Mr. Roberts, just for clarification, in reading the minutes I understand the applicant doesn't have a specific purpose, so I'm assuming the intent is to just be prepared for what the applicant sees as predictable development or usage along Ridge Road, is that correct?"

Mr. Roberts said, "Yes ma'am. As you know, West 21st Street is exploding right now. Lots and lots of retail are going out to the west side now because it is now...West 21st is now becoming a Rock Road on the west side. You are seeing lots of development in this area, you have a bank, a Quik Trip here, a Quick Lube in this area, a restaurant just recently opened here. There is a strip center here, another filling station, Bank IV. As you go on out, you're seeing lots of retail development occur. There is plans for a major development here. It is logical for this commercial development to occur as part of that Barrington development they have proposed."

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

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Chairman Winters said, "Okay, thank you very much Mr. Roberts. Is there anyone else who would like to speak in favor of this zone change request. Mr. Roberts, could you come back to the podium. Excuse me Commissioner Miller for not paying attention."

Commissioner Miller said, "That's alright. I just need to make sure that I am understanding correctly. It looks like the corner, the southwest corner, right there, proposed development, what's there..."

Mr. Roberts said, "Marvin may be able to address this a little bit better. I understand that this is in the replatting process right now. There is a residential house that sits here, there is a vacant lot that sits here. I tried to find out what kind of development is going to go there. I know it is going to be replatted, I know that this house is probably going to be taken out. I know that the two owners of the homes in this area both want to sell and want to get out. It is logical for this to go into light commercial use."

Commissioner Miller said, "Well you said that it is logical, yet it sounds as though obviously behind it is residential, just to the south of it and going to the west, that Barrington Corner, is that proposed residential development?"

Mr. Roberts said, "This?"

Commissioner Miller said, "Yes, all of that that you said Ritchie's are..."

Mr. Roberts said, "Those are pads sites for light commercial. Everything that is in red is zoned light commercial."

Commissioner Miller said, "Okay, but in between those two pads, what do you think is going to be there?"

Mr. Roberts said, "There will probably be a shopping center of some kind."

Commissioner Miller said, "And south of that?"

Mr. Roberts said, "Well..."

Commissioner Miller said, "All of it, that would be the parking?"

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Mr. Roberts said, "A large shopping center here probably, that's what I anticipate..."

Commissioner Miller said, "All of that, okay."

Mr. Roberts said, "And then you'll have your pad sites, McDonalds, Taco Bell and a few others probably."

Commissioner Miller said, "I just needed to be cleared up on that, thank you."

Chairman Winters said, "Thank you. Mr. Roberts, I have a quick question. In looking at those houses that are from the applicant's house on to the north. How would you describe them in relationship to the development down in Barringtons? In my estimation they are not like the homes in Barringtons. How would you describe that from your view point?"

Mr. Roberts said, "Back in 1984, when the applicant bought his home here, he looked for two years before he bought this property. He found this piece of property and he kind of surveyed the surrounding areas and at that time, houses in 1984, were built on 3/4 acre type lots, so all the homes to the north and also homes to the south and to the west at that time were all on 3/4 acre lots. That was before Barrington came in and developed the housing there. All the homes to the south of this property and south of Barrington corner are developed in the last three or four years, so they're all new homes."

Chairman Winters said, "Okay, thank you very much. Anyone else who would like to speak in support of this proposed zone change?"

Mr. Dick Robertson said, "I'm the owner of the property at this particular time and I would just like to ask the Commission for approval of this zoning. Like I say, all the facts and things that were brought up at the MAPC and was voted on 9 to 2, and I am just here to answer any questions if you have any questions of me."

Chairman Winters said, "I have just a couple of quick questions. How long have you lived there, how long have you owned this property?"

Mr. Robertson said, "1984."

Chairman Winters said, "1984?"

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Mr. Robertson said, "Yes sir."

Chairman Winters said, "Describe to me what that area, both sides of Ridge Road and 21st Street were like in 1984."

Mr. Robertson said, "Well, I lived at 17th and Waco before and so obviously I was wanting to get away. I had at that time, three young boys and since then had another one but anyway, I wanted a large area to raise my children and so we looked for a place that had a lot of space and we play a lot of baseball and have a batting cage in the back and stuff like that. And at that time, all like Bittersweet in this area, right on south here, all the properties in that whole area, like Mr. Roberts said, were on acre lots or thereabouts and there was no real anticipation that there was going to be a big huge growth on the west side at that particular time. The Maize School built a high school to accommodate 350 students at that very year and obviously they are at 1,000 now you know.

"Times change everything, and I understand that, and in 1988 when Ritchie bought this property and developed it into Barrington Place and the zoning that was happening at that time for the CUP there for Barrington Place and to the corners, I did not make any protests or anything because at that time, it was kind of an understanding at that particular meeting that all of our properties along Ridge Road there would go ahead and be converted to commercial property and the housing development would be on its own. So now I am sitting like I said, 21 feet from my family room and master bedroom in my house is unrestricted light commercial property.

"As things are developing, my neighbor directly to the north of me has his place for sale and has for a year for light commercial purposes and the property on the very corner of that, one of you asked about, is vacant now, the people have moved out of the rental property so it is processed on into, it's going to be developed and the house two doors north of me is being used as a commercial property."

Commissioner Miller said, "What usage? You said commercial property, what is it though?"

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Mr. Robertson said, "They have a retirement type home there for some people and they rent it from the owners, the owners don't live there. So in other words, the things are happening in that area and you know the 21 properties that are on Barrington Place, the wall was sufficient for them to buy a home and live there and we feel like we offered to do that voluntarily, put a wall around and I have put the trees in. I did that as soon as Barrington Place was started, which was in 1988 and at that time, I have a tree spade and I put pines and ash and oak trees along that whole south and west side of the property there. And that all follows right along the property line and those are becoming mature trees, some of them fifteen feet high."

Chairman Winters said, "Okay, thank you very much Mr. Robertson. Any other questions of Mr. Robertson? I don't see any, thank you very much. Is there anyone else who would like to speak in support of this proposed zone change. Alright, are there those here who would like to speak in opposition to this zone changes. How many total would like to speak in opposition? Can I see your hands of those who would like to speak? Okay, would the first one please come forward."

Mr. Rocky Wiechman said, "I would like to thank you, Commissioners, for giving us the opportunity to be heard on this matter. I live right here, backed up to the subject property. It was my understanding, I was not at the meeting on the 15th of February, but it is my understanding, through Mr. Barr, that the Metropolitan Area Planning Commission found it significant that the two owners that were immediately adjacent to this property were not at that meeting. I made a mistake, I planned on attending that meeting and objecting to this at that meeting, so I just wanted to put that on the record."

"Also, Mr. & Mrs. Doshier are here, and I think they live right next to me, their property backs immediately up to the property as well. They were not at that meeting and the reason for that is that they had just recently signed a contract to purchase that property in early January. They were never given notice of the meeting February 15, 1996. They never had an opportunity and they're probably the people that are most affected by the Metropolitan Area Planning Commission's decision to go to light commercial on this property."

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"Turning to the facts, the Barrington Corner commercial community unit plan is in effect for all this property here and they've got that voted up there, it's in the CUP and this is significant because the property that we're talking about here today is not in the CUP and it would not be subject to the CUP requirements, such as sign limitations, other limitations, lighting restrictions, masonry wall requirements, even though they have offered to do that. So it is to ensure that the development on this site be compatible with the Barrington community plan. I think it is most significant that the planning staff recommended that the LC be denied and they recommended OC be approved. Some of the reasons for that were the uses of higher intensity as permitted in the Light Commercial district without any developmental controls, could negatively impact nearby residential properties. Number two, light commercial zoning would introduce many uses and higher traffic generating businesses that could detrimentally impact the residential properties to the west and the south. I live to the west, so do the Doshiers, Mr. Barr lives to the south.

"One other thing I wanted to hit was in the staff report made by the Metropolitan Area Planning Commission it states that, in many locations throughout Wichita, non-residential properties not included in the CUPs tent to serve as a transition between the CUP and the residential uses. These transition properties are typically zoned BB or OC. Two more points I want to make. It states in this Planning Commission report that approval of OC, which is planned to convert to the new NR rating in the proposed new zoning code will better protect nearby residential properties. This site is not subject to CUP restrictions and buffers, denial of LC zoning will not place a significant hardship upon the applicant since the OC district includes many retail and office uses that could be developed on this site.

"The one last point I want to make is that the OC district is consistent with the Comprehensive Plan's recommendation that office use and lower intensity retail uses can serve as a transition between residential uses and higher of intensity. The request for LC zoning is not consistent with the plan's recommendation to locate commercial uses and planned centers with site design features which limit noise, light, and other activities so as not to adversely impact surrounding residential uses. I want to tell you, I live right here on this property and there is a Taco Bell that sits right here at 21st and they have a light back there and it is probably 200 yards from my house and it lights up my whole house. I can't imagine if they put something like that in right there or the Doshier's who have an elevated deck on the back of their house, they're going to be looking right down on that thing and that thing would be shining right in their house and that deck is probably within 20 feet of the property line of the subject property. Any questions?"

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Chairman Winters said, "I only have one. Where you are located, you're right up next to light commercial. You can probably, I would assume, expect something between you and the Taco Bell. How do you feel about that?"

Mr. Wiechman said, "What I expect is that there is an access road right here right now, and there is a road here and I expect that if anybody comes in and wants to develop this and put a shop on there, that they're going to want to be up by the road more than likely. We knew when we moved there that light commercial was right next to us, but we also knew that we had the CUP and we don't have that here. We also knew that there was going to be a masonry wall there and I just don't expect that there is going to be a restaurant or some major type of use right on this property right here. I expect they will be along the front right on 21st Street."

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

Commissioner Miller said, "Thank you Mr. Chairman. A couple of questions Mr. Wiechman. You said that the two property owners that are adjacent to the light commercial zoning area were not there at the MAPC hearing, is that what you said?"

Mr. Wiechman said, "That's myself and Mr. & Mrs. Doshier. We were not there at that meeting."

Commissioner Miller said, "Okay, you were invited, you did not know."

Mr. Wiechman said, "They had no notice of it. I had notice of it and forgot to note it on my calendar to show up."

Commissioner Miller said, "You were notified."

Mr. Wiechman said, "I was notified and they were never notified."

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Commissioner Miller said, "Okay. The other question that I would have is in regards to, and it might go for the other gentleman, I'm sorry, I forgot his name, Mr. Roberts. I know that I'm asking for projections on usage of this property, but from a business perspective I can understand and am inclined to agree that if there is no frontage that will lay heavily on the type of usage of that property that is to the south of the 21st Street frontage. What were you thinking would probably go in that area?"

Chairman Winters said, "Commissioner Miller, would you like for Mr. Roberts to come back and ask him questions? Do you have more questions for this gentleman?"

Commissioner Miller said, "I do, both can stand."

Mr. Roberts said, "As I indicated, this is all zoned light commercial. It can be any kind of development."

Commissioner Miller said, "I understand."

Mr. Roberts response was inaudible as he was not at a microphone.

Commissioner Miller said, "Surely, but what would be highest and best from your perspective?"

Mr. Roberts said, "It probably would be a shopping center. I think this was the site being proposed for Dillons. Dillons chose to go out to 21st and Maize, but is going to be that kind of development."

Commissioner Miller said, "Okay."

Mr. Roberts said, "The masonry wall would be here and the same thing here and that's going to give protection, plus you have the drainage ditch for protection and this has already been screened with trees. This is nothing, this is a wheat field."

Commissioner Miller said, "Right now, currently. Mr. Wiechman, what would be and once again, I'm just projecting, what would be acceptable to you. I know that you said that you don't expect that a restaurant would actually, with booming business, would actually move there. What do you expect?"

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Mr. Wiechman said, "Are you talking about this property? Obviously, we'd like for that to remain residential and when I say that, I want to take issue with something Mr. Robertson said as the property owner. He said that basically all these properties down here are all brand new, well that's not true. There are a lot of houses in here, a couple of houses on this side that are of the same age as Mr. Robertson in addition to once you get south here, and back in the County, there are other houses of the same vintage all down the street. It's not going to hurt anything for his house to remain where it is.

"Mr. Robertson bought that property in 1984, that property was zoned light commercial in 1958 and he stands before you today saying that 21 feet from his house is going to be light commercial, well that is the same thing he is trying to do to the Doshiers who are sitting right here, looking down on that property from their deck. So I want to take issue with that. He moved to that property knowing that his property was residential and this property was light commercial and he moved there, just like I moved there, only to accept this light commercial right by my house. I didn't move there knowing that was going to be changed to light commercial as well."

Commissioner Miller said, "I understand, thank you. Thank you Mr. Chairman."

Chairman Winters said, "Okay, thank you. Other speakers in opposition, please come forward."

Ms. Pauline Doshier said, "We are the persons who closed on the property on February 13. I live at 7310 Barrington Court. We're the ones that live next door to Mr. Wiechman and have the elevated deck. When we bought the property, it was what we were looking for. One of the selling points the real estate agent made was just look at the location. This is a very nice location, look at the trees around and that was one of the reasons we bought the property. If we had known, when we closed on February 13, this was being considered for being zoned light commercial, we would not have bought that property and that can give you some ideas of what will happen to property values. I don't think that we're the only persons that feel that way.

"Our property has a six foot wooden fence around it, it screens very little of that property. You were told how close he was living to property that had been zoned light commercial, I measured it the other day and it was 26 feet from our deck to the fence. It was 36½ feet from our bedroom window.

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“The property that will face that lot contains the deck, the dining area, the living room and the master bedroom, so it would be very close to that property. We're talking about a masonry fence, I wouldn't want to live around one at all. I like to have trees and grass around me, I don't like to be looking out on someone's parking lot. I've never found that attractive. I never found the back side of a commercial building attractive. As far as I am concerned, I am very sorry that I didn't know about this ahead of time. I'm very sorry for anyone who would be buying the property because I don't think it would be a suitable residential site. I am very hopeful that you will agree to let this remain residential. The thing that is being proposed, you know that isn't necessarily part of that, it belongs as much to the residential area which is...and I'm very hopeful that you will have some consideration of the people who live in this area and decide to leave it residential. I thank you very much for listening to me.”

Chairman Winters said, "Thank you very much for being here. Other speakers."

Ms. Carol Creed said, "I live at 7206 Barrington. We have been at our property just a little over a year, we moved in December of 1994, and backing up to that, I know they say that there is a natural sound barrier due to the ditch, but we have an elevated deck, so the ditch is just a ditch. It has not been modified. They talk about Ritchie planning wonderful things here. (Inaudible, stepped away from podium) It hasn't happened, we've done it on our own as homeowners, trying to make things nice in the area. Being elevated, I do see out my master bedroom windows, my living room windows, my dining room windows, my kitchen windows, into this area. It is nice to be backed up to residential being a homeowner and it is nice to see a residence back there and I hope that everybody can understand, owning a new home, who wants to look out their back window at a small shopping center or a fast foot restaurant.

“I am in agreement, I don't want light commercial, I'd rather it stay residential to keep the housing as housing and reiterate that the commercial property had been that way prior to this in 1958, him buying and knowing he was next to commercial when he was residential, should play in the factor somewhere. I did know about the meeting. My schedule, being a small business owner, I can't just drop everything, my clients depend on me.

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“Rod was there as representation as my next door neighbor, being side by side, we didn't want it, it didn't happen, so we're here to say, stop and think about changing the property and hurting the residents that are backing right up to it because you can say a 6 foot wall, you can offer a 6 foot wall, but what good is a 6 foot wall when the person next to it has a 12 foot high deck. We're way over the top of it already, to look out and see a business setting there. Do you have any questions?”

Chairman Winters said, "I see no questions ma'am, thank you for being here. Any other speakers?"

Mr. Rodney Barr said, "I live at 7210 W. Barrington and that is lot 41, right next to Mrs. Creed. The reason why I'd like to, and I do thank you for the time that we have to speak to you about this issue today, the subject property the proposed investor here went on record as saying at the MAPC meeting that there was going to be a proposed strip mall into this location. With that information then it would be natural then to say that a LC zoning would not even be needed. He could get away with a NR rating at the very best. Now I want to make it known that I do not want to see an NR rating at that location either. I am adamantly opposed to this, as a matter of fact, I was the one that led the petition drive that you were shown by Rocky.

“Anyway, I think there is some misleading information there anyway, because you're talking about a 1,000 foot radius going away from the property that encompasses one group and that is the Board of Park Commissioners. We had over 31 petitions to come back in this location here. I had 7 days to get petitions taken care, that is notary and everything. I sent out 37 and we only had 6 that did not get their petition back in time to get them back to the County Clerk's Office. So, with that in mind, the whole area, that I can say from the second core and third core back, this whole area is adamantly opposed to rezoning and there has been a lot of facts going around about this CUP requirement. Ritchie is not committed to having to put any wall up there if there is a church that goes in there, so the two businesses over here which fall on the west end of the CUP, fall under the CUP requirements, they can not be a fast foot restaurant, they cannot have outdoor speakers, all these things.

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“So what we are trying to say to you today is that the subject property will completely throw off what is going on with the CUP requirements. You're going to have high lighting. I have an elevated deck also, just like most of the people in that area. I can see down on that property and those lights are going to be coming across. We're only 80 feet and that takes into the contour of the waterway, it is only 60 feet from the edge of the property line. I just would like for you all to reconsider this, send it back to the MAPC. There was some serious problems with the original with when the meeting went that day. We did not get all of our people there and that was an oversight on my part. Now we are trying to say to you, we have 31 petitions that were filed, maybe it is 5% of the total, but out of the 13 that are directly affected in this area, in the 200 foot radius over here, we had seven of those people, which are the residents, so that's way above the 20% requirement. There is only 13 directly affected and we had 7 and that encompasses the ones out here and then you have one person over there and that's the Board of Park Commissioners.

“Again, we would just like for you to reconsider this, think about the property owners and Mr. Robertson bought the property in 1984, it was light commercial zoning in 1958, he knew that up front. So if he didn't, then that's his fault. We knew that this was under CUP requirements in these areas and we knew that that was a residential zoning plat of ground, so we knew that up front, so that's why we bought it and built there. We do like the waterway, it does protect us, but if you take that away from us by putting uncontrolled lights and signs and that type of thing, ingress, egress, it's going to be completely out of control. They are talking about 11,000 cars going up and down Ridge by the year 2020 and this will be just one more way, we couldn't even get into our drive for that addition. So we do appreciate your time today and if you have any questions, I'd be glad to answer them.”

Chairman Winters said, "I see none Mr. Barr, thank you very much for being here. Anyone else who would like to speak about this item, either for or against? Anyone else who would like to speak on this item? Alright, seeing none, we'll reserve discussion to bench and staff. Marvin, I have a quick question for you. If this property should be zone changed would it be annexed into the City of Wichita and how would that process work, what would happen there?"

Mr. Krout said, "During the platting process, the applicant would be required to petition for water and sewer and in that process he would sign an agreement to annex and because he is adjoining the City, that annexation petition would be processed along with the platting and so before he would develop his property, he would be in the City limits."

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Chairman Winters said, "And in the platting process, would there be some requirements or would that be a pretty routine event?"

Mr. Krout said, "Normally, pretty routine. It is possible to establish special setbacks, but that happens very rarely. We would probably be talking to the applicant about joint access being agreeable to providing at least eventually, joint access with the property to the north so that we would reduce the number of total driveways along Ridge Road and help the efficiency of that street. But the other kind of land use issues, the use of the property or how it is screened or buffered, these are the issues that area really deals with at this stage, the zoning stage."

Chairman Winters said, "Okay, thank you. Commissioners, this is kind of not an easy decision, an easy case, but I think you probably all know that no land use cases are real easy cases. In reviewing, I've gone over the MAPC minutes a couple of times and have read them pretty closely and thought about this and been out there a couple of times and in fact, being a west side person, drive by this area routinely. At the present time I think I'm going to be in support of this request for zone change and there are several reasons. One, I do think that the Metropolitan Planning gave serious consideration to it and they did vote in support of this zone change to Light Commercial by 9 to 2. I think it is important that there is to the south a natural buffer in this drainage area. I think the masonry wall that has been agreed to, that will surround the property is also important.

"I believe in looking at how this corner is developing that Mr. Robertson's property is a residential property that has ended up in the wrong place by certainly no fault of his. Every place we look, even on those maps and every place we look or there are a lot of places, where we find commercial corners and developments on corners that have residential neighborhoods developed in the immediate vicinity. In fact, right beside the residences. So I don't see this as something that is extremely different from other places where commercial and residential uses need to coincide and exist side by side. The Barrington Place development is a new modern development. Mr. Robertson's property is now trapped between Light Commercial to the north that will eventually be some kind of light commercial development and a new housing development immediately to the south.

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"I think he moved out there, he's been a long term resident, the development came out there towards him through no request of his, did this area develop and I think here is a case that I think an original long term owner could be caught in a trap, so I am going to be supportive of this zone change. If we need to have some discussion we can. Commissioner Gwin."

Commissioner Gwin said, "Thank you Mr. Chairman. Marvin, another question please. Again, it is just for clarification. Mr. Wiechman indicated that this particular property would not be subject to the restrictions or the requirements of the Community Unit Plan as is the Barrington corner. When this is annexed into the City as it will be along the way, is it not reasonable to think that as they go through that, they will have to present a Community Unit Plan or something like that? Is that not required on this?"

Mr. Krout said, "No, it is only required for a tract that is over 6 acres and zoned Light Commercial or Commercial, so as long as this tract is separate, retains separate ownership, isn't acquired by the owner of the Barrington CUP, it doesn't have to go through any other kind of review."

Commissioner Gwin said, "If restrictions are to be placed on it, then how would those restrictions happen on what could be placed there, lights and that kind of stuff?"

Mr. Krout said, "Under the new code, previously the City would accept restrictive covenants in cases like this where the County was dealing with it. The applicant offered a restrictive covenant and we knew the City was going to be annexing it and would accept those covenants and we've taken those. In this case, we're in the transition period where instead of restrictive covenants, we're talking about the protective overlay zone, which would be very similar to a CUP in terms of setting the conditions and the conditions that could be imposed could be whatever the County Commission...at this time, before the new zoning code is established, it would have to be whatever the applicant was willing to volunteer additionally to the masonry wall requirement. If this was a week from now, you would have the option to be able to impose some restrictions that might not be just what the applicant is volunteering to do. But right now, you'd be required to just accept whatever is being volunteered."

Commissioner Gwin said, "I see, thank you. Thank you Mr. Chairman."

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

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Commissioner Hancock said, "Question for Marvin. Reading the minutes also, there was a lot of discussion about the OC zoning for this property. This Commission, can we approve OC?"

Mr. Krout said, "You can always approve a lesser district."

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

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

Commissioner Miller said, "And I am going to have a question for you also Marvin. But, you've kind of intrigued me with the OC Commissioner Hancock, and I guess I would ask for you to give me some detail of what an OC would be in comparison to an LC."

Mr. Krout said, "OC next week will become a Neighborhood Retail district and it will become a little more flexible than office retail is and allow some more uses. Let me describe what the Neighborhood Retail district will permit. It permits almost any kind of retail uses. The exceptions being uses that have drive through facilities, like fast foot restaurants and auto related uses, auto repair uses, tire and battery store, service stations, a convenience store with fuel pump islands, those kinds of uses. The other major restriction, and there is a restriction on restaurants of only 2,000 square feet in size. In other words, it wouldn't be a full restaurant, it could be a sandwich shop that is part of a strip mall and when the applicant indicated intended use of a strip mall, that is basically what the neighborhood retail is designed to do, to permit a strip of several small shops, none of which would exceed 1,000 square feet, so it would allow retail uses that you would typically see in a strip shopping center. It would permit office uses also.

"The other main difference between Neighborhood Retail and Light Commercial is based on the City sign ordinance. In the Light Commercial district, unrestricted LC zoning permits an off-site sign so that you could put a billboard on the property unless it was restricted by distance requirements from residential, I'm not sure in this case, we haven't looked at that, and you can place portable signs on the property. You can have a larger area of signage and taller signs and they can also be flashing and lighting. All those things unless you put special restrictions on them. The Neighborhood Retail district is designed with similar sign restrictions as the office district. It permits a 32 square foot sign for one business. It permits 96 square feet, which is 12 by 8 for multiple business in a strip center.

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“So those are the main differences. I think we looked at this case also in terms of when we look at CUPs, I think the point about the rear of a CUP versus the front pad site of a CUP does make sense and that is why in the CUP we restricted the pad site close to single family, but we didn't on the west side of the Barrington CUP. We didn't restrict the uses on the back because you don't normally see those heavier auto related types of uses in the rear. So we look at this as being likely as a pad site for either strip center development or fast food type development and thought the strip center would be a better transition and more appropriate to Ridge Road versus 21st Street.”

Commissioner Miller said, "Okay, also regarding protective overlay. What would be an example that we could do in this instance."

Mr. Krout said, "Well, if you felt there were additional uses that should be restricted. If you felt that there were additional lighting controls. I should say that the zoning code, in any district, will require that lights be shielded from abutting properties. Now you may be more likely to have car lights or lights that are on longer at night or whatever in the light commercial district than the neighborhood retail, but there is a requirement in both the County and the City's codes for shielding lights from glare by any residential properties. But you could deal with signs and you could deal with uses and so it is possible to create through that some hybrid that maybe something more than Neighborhood Retail, but something less than Light Commercial. That is what a CUP basically does too."

Commissioner Miller said, "And we would be able to do that as of..."

Mr. Krout said, "Next week."

Commissioner Miller said, "Thank you Marvin. At this point, how I am thinking on this zoning request is that once that the said piece of property is being asked to be rezoned would be somewhat of a buffer zone between the Light Commercial zoned already and the residential neighbors that have protested. I feel that protective overlay would be an accommodating factor that we could give as a Commission to ensure the concerns of the residents here. I am simply speaking at this moment. I understand that it will be the will of the Commission to make this decision, but that is the direction that I would choose to go in this matter."

Chairman Winters said, "Okay, Commissioner Gwin."

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Commissioner Gwin said, "Thank you Mr. Chairman. Again, in reviewing the minutes of the MAPC I noticed thought, I don't know if they were included in our packet, that there were letters submitted in support of the LC request by other property owners who owned the lots just north of this one and obviously I am assuming that's the case, because the planning something along Ridge Road and they would have to be all in sync in order to do that and so my thought is if this development could occur along there and combine those lots, they very well may have to be the same zoning for that development to occur, so my instinct looking at that then, is to support the LC request, particularly in light of the LC to the north and the fact that Barrington Corner is also zoned light commercial. These homes from 21st to Mr. Robertson's property obviously are going to be something other than residential and at this point it is light commercial and I think it just ties in better if we approved the light commercial, so I think that's where I am heading at this time."

Chairman Winters said, "Thank you. I agree with that. Commissioner Miller, I understand and I think if all three of these properties were coming at us at one time, the three to the north of the subject property, then perhaps this would be certainly something we could consider, but right now I would not be in favor of being this subject property in some different position than the properties immediately to the north. I think something better could come out of the proposed development here with perhaps all three of those properties than it could by any single property doing something."

"Again, even in talking about that, I'm just reminded of the entire commercial nature of this intersection and this corner. I mean there are going to be places where homes do come up against commercial and along that complete south side of the Barrington Commercial development that is going to front on 21st Street, it is going to be a commercial development area and I think there are just places where we have this meeting of light commercial and Residential and I think this is one of those places. Commissioners, any other discussion?"

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MOTION

Commissioner Gwin moved to adopt the findings of fact of the Metropolitan Area Planning Commission (MAPC) and approve the zone change subject to the condition of platting and recording the voluntary restrictive covenant; adopt a Resolution and authorize the Chairman to sign; and instruct MAPD to withhold publication until the plat has been recorded with the Register of Deeds.

Commissioner Hancock second 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	No
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

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

- 2. CASE NUMBER CU-389 - CONDITIONAL USE PERMIT TO ALLOW A BOARDING AND BREEDING DOG KENNEL ON PROPERTY GENERALLY LOCATED 1/8 MILE EAST OF HILLSIDE ON THE SOUTH SIDE OF 109TH STREET NORTH.**

Mr. Krout said, "Commissioners, this case involves a tract of just a little over 5 acres. It is an area that may be familiar to you. It is the south side of 109th Street and it's just several hundred feet east of the intersection on 109th and Hillside. This is in the northeast part of the County. The tract is zoned R, Rural Residential, and the surrounding area is R. The tract is in agricultural use and most of the surrounding area is in agricultural use. There are a number of homes in the larger vicinity.

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“There are a couple of homes, and I'll show you in the aerial photograph, who are 800 feet away in this direction and there are other homes to the north and then further away there are just general homes within a mile or 1/2 mile area. This case has drawn the interest of many of those people. The request is for a conditional use permit for a boarding and breeding kennel for dogs. This tract is part of a larger tract of about 45 acres at that location. There is a contract to purchase this tract and the contract purchaser of this parcel not only plans to do the boarding kennel at this location, but also the property owner of the land about 1,000 feet to the east and is currently operating what is being termed a hobby kennel at that location. If you recall, just about six months ago, maybe less, you had a case requesting a boarding kennel at that location and that County Commission denied that request by a 3 to 2 vote.

“The applicants at that hearing pointed out that even if that case was denied, they would be able to operate the bulk of the use that they had been operating under the hobby kennel definition, because the hobby kennel is 5 to 10 adult dogs owned by the resident owner. It does not speak to dogs that are not adult dogs. The Resolution says that a non-adult dog is less than 12 months old. This happens to be the type of operation where there are a large number of dogs who are in their adolescent period, which is under 12 months of age and are being weaned, and so they currently have the right to have as many as 50 dogs on that site and they are currently operating the kennel under the hobby kennel definition of the zoning code.”

Commissioner Gwin said, "That's at the other site?"

Mr. Krout said, "That's at the other site. This site is vacant and agricultural and I'll show you in a second. The staff asked this applicant whether or not they were willing to limit or remove the dogs at the existing location in order to be building this boarding kennel at this location. We didn't understand what the intent was for the development of that tract plus this 45 acres. The applicant said that they would agree to limit the number of dogs at this proposed boarding kennel to 50 dogs total plus they would agree to limit the dogs at the existing hobby kennel site to 10 adult dogs plus a maximum of 50 dogs who are not adult dogs.

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“So they would be volunteering to have an off site limitation of 60 dogs on that boarding kennel. I don't know that they've ever had 60 dogs, but they would put that limitation on and then we never got to talking about what about the rest of the 45 acres. In fact, at the Planning Commission hearing, the applicant's agent talked about how there may be other property owners who would be buying additional tracts out of this 45 acres and building additional kennels, presumably hobby kennels, that wouldn't require them to come in and get a conditional use permit.”

Commissioner Miller said, "Marvin, can I interrupt you. When you asked the applicant of how many dogs they would have on the proposed site, that is the 5 acres for breeding and boarding, it was 50 total?"

Mr. Krout said, "Fifty total."

Commissioner Miller said, "And so, if they are breeding then there will be pregnant female dogs, will they go somewhere else?"

Mr. Krout said, "Well, they'll have to have the total to be 50 irrespective of their age, and so they'll have to go somewhere else."

Commissioner Miller said, "And have their puppies. Thank you."

Mr. Krout said, "Staff recommended denial of this request. We have recommended approval of the last request because we knew the existing operation as a hobby kennel and felt that we could get some conditions and prevent that hobby kennel from...at least mitigate the effect of that kennel which was still going to be in operation. The County Commission turned that down 3 to 2, our concern that maybe the whole concept of hobby kennel is getting out of hand here, because it was kind of used as a threat at the Planning Commission in terms of what can happen without this and we think it may be time for the County Commission to look at that definition one more time.

"Our concern was this is a very open visible area, this site, as opposed to the last site. The last site did have a buffer of trees, it was kind of in a low area. This area is more at a ridge point, is a very visible, open location. The applicant's agent invited me to take a look at the Hillside kennel which also had a large number of dogs for a comparison. When I did that, I found it to be much different in character.

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“There were businesses, there was a cemetery and I don't think its occupants mind the barking dogs. There was a site with a couple of towers that was a vacant piece of land, and it had a lot of tree cover. It had a lot of mature evergreens, screening in the general area. So I thought it was different in character. The staff also was concerned as where is this going to end? I mean, I think as you continue to approve and approve, you set precedence which will make it more difficult for you to deny a request for expansion or additional land being devoted to a kennel in this area. We just didn't think this site was appropriate, because of the nature of the open land and the uses and the surrounding residential for a large concentration of dogs and that this was the time to stop it. So we recommended denial.

"There were 17 speakers at the Planning Commission meeting. I didn't know so many people lived in this area, but obviously, people feel affected from a large area by a use like this. They expressed similar concerns that they expressed to you at the Planning Commission and the County Commission at the previous hearing. The main concern is the noise of barking dogs which would reduce the enjoyment of their residential property, devalue the property for future residential development and that it would set a precedent for additional requests in the future.

"The applicant did indicate, as I said, at the Planning Commission, that other people in this area might have an interest and maybe he can go on and talk about it some, interest in purchasing other tracts for hobby kennel use and at the Planning Commission hearing I questioned whether or not he understood that in order to do a hobby kennel you have to have a resident occupant. In other words, you can't just take 5 acres and do a kennel as a business, it has to be a hobby, like a home occupation. At the time, that wasn't questioned, but later I did receive, after the Planning Commission, a written correspondence from the attorney questioning the interpretation. Did talk to the County Counselor's Office and they did agree that in order to have a hobby kennel, you have to have a resident occupant, so Code Enforcement wouldn't permit 5 acre tracts to be just developed as businesses, as kennels and call them hobby kennels without a resident occupant on that site.

SLIDE PRESENTATION

"The Planning Commission vote was unanimous. The Planning Commission followed the staff recommendation and recommended that this request be denied. There were protest petitions that were filed too, and I'll get to those in a second.

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“This is the aerial, if you remember, there was a drainage area to the west of the site and this is the existing hobby kennel site and there is the Higgs’ property to the east and then on the other side of the drainage area, there was a mobilehome and both of those property owners were opposed.

“Since then, this property owner has sold his property and that mobile home has been removed. Here are the homes that I was talking about just on the west side of Hillside. These are the protest petitions. All the property owners, other than the applicant and the underlying owner for the purchased property, have protested who are eligible to protest and that adds up to 47% of the area within 1,000 foot radius and so it requires 4 votes of the County Commission to override that protest and approve this conditional use. We are looking more or less from the corner of Hillside and 109th Street North and east across the site, that's the drainage area that runs north south that you saw in the aerial photograph. This is looking east down 109th Street and in the background was that drainage area and this is where the mobile home was and beyond was the kennel operation and beyond that you can see the Higgs property.

“This is looking across the street, across 109th to the north, mostly agricultural. In the distance is a home, but I think that home is rented currently. Now we're looking west on 109th Street. Hillside is just in front of this home. There is a home here and I think there is a home that is on the next slide and that's the home on the south side of 109th and Hillside running just in front of that home. So we are standing about where the kennel would be today. This is the mobile home that did appear previously just to the west of the existing hobby kennel site. The home has since been removed and this is the same site before and after. This is the existing hobby kennel operation. This is the east fence of the hobby kennel operation and this is the property immediately to the east and there are a couple more shots of the existing kennel operation to remind you of that property. Let me go on to the zoning map. I'll stop and try to answer any questions you may have at this time.”

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

Commissioner Hancock said, "Marvin, when I see the property around this applicant's area, is it farm land?"

Mr. Krout said, "Yes."

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Commissioner Gwin said, "Could you go back to the aerial? Just the aerial photograph is what I'd like to see. Go ahead Commissioner Hancock, I just wanted to see it."

Commissioner Hancock said, "Okay, the last one we had on this particular street was just to the east of that creek and as I recall there was a residence in the creek area there. There is a residence on the east side of the applicant area, am I correct in my memory?"

Mr. Krout said, "You're pretty close."

Commissioner Hancock said, "We denied that request."

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

Commissioner Hancock said, "Then my question to you is, Marvin, if we have a conditional use available for dog kennels, where in the world are we going to put one that you're going to recommend that we do. I don't understand this exactly. This is out in the middle of a farm, looking at that section there, I can see the quarter and in the northwest corner there, there is nothing in it, so where are we going to put one of these, where is a good spot?"

Mr. Krout said, "First of all, staff has recommended approval of kennels probably six or eight times in the past six years since we've had the kennel ordinance, so we've looked at them on a case by case basis. I think that there are areas in the County that are either more isolated or areas like 53rd and Hydraulic, which are in more of a mixed area that has businesses and other uses that help buffer that area and that have other uses that are already established that are not just agricultural or residential in character. In some ways, kennels are like agricultural uses, but in other ways, particularly in the aspect of noise, they're just not.

"The problem that we had in this site is that we don't see the end of the line. This does not seem like a limited operation. This is going to be the second location in this general vicinity and I think that once you approve this one, you will have very little leg to stand on to be able to approve any future expansion or third party that wants to come in this area and I don't think we ever imagined, except immediately adjacent to the Greyhound Park that we would get a concentration of dogs like that when we did the kennel ordinance."

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Commissioner Hancock said, "Does the applicant own the 40 that is associated with this 5 acres?"

Mr. Krout said, "The 40 plus 5. There's 45 acres total. The applicant has a contract to purchase the property, has not acquired the property."

Commissioner Hancock said, "The 40 in that quarter of the quarter plus the area."

Mr. Krout said, "Right, you saw the protest map."

Commissioner Hancock said, "Okay, thank you Marvin."

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

Commissioner Gwin said, "Marvin, you said a couple of things that caught my attention. If I remember my vote correctly back in December, I was one of those who voted in favor of allowing a conditional use permit because I thought that would give the County Code Enforcement and others the ability to regulate more carefully and to supervise and I didn't like and still don't like the idea of kind of an unregulated hobby kennel and the proliferation thereof. So this has me concerned again, because I understand that people have to live there. I understand the rule that you have to have a residence there in order to take care of the dogs, but unless we put restrictions on them, those can appear anyplace, can they not?"

Mr. Krout said, "They can and I should say a couple of things. One, they are not totally unregulated because you do need to have an animal control resolution and so in terms of maybe buffering the neighborhood they are not regulated but in terms of health and safety, they are regulated. I guess what I'm saying is that it's time to address this loophole in the County Zoning Resolution. We never anticipated hobby kennels with 50 dogs and you're saying that if we don't do something, we may just have a proliferation of hobby kennels with 50 dogs each. I'm saying, let's address that in the County Zoning Resolution soon."

Commissioner Gwin said, "And I appreciate that, because for instance, if the applicant's friend, brother, sister, grandma, whatever, wants to move a mobile home in and run a hobby kennel then there is nothing that we and the neighbors or anyone else can do to prevent that from occurring. Is that correct?"

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Mr. Krout said, "That's right. I think the applicant's agent indicated that there is a mother and daughter involved and the mother would move from the one site and share the home or move a home onto this site if that's what it took to create a hobby kennel at this location.

Commissioner Gwin said, "Like I said, I'm still more of a mind to look at conditional uses because of what I believe is a more restrictive nature of that requirement than for hobby kennels. I think that's the reason I voted in support of the conditional use permit a few months ago was because of the restrictive nature of it, but on we go. Thank you Mr. Chairman."

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

Commissioner Miller said, "I think we have two issues at hand here and I know the first issue we need to resolve is indeed the request of the applicant to zone this differently. Now the other would be the fact of hobby kennels period and how it is that we as a Commission want to continue to deal with that and I'll reserve some time at the end of this to be able to present to the Commission some alternatives that I have.

"Now, speaking of conditional use permits, I happen to believe that, if indeed we have a conditional use permit in place that those restrictions should be abided by. Within the conditional use permit, if I recall, was that the facility that is currently boarding dogs, that they would comply with the requirements of an on site sewage disposal and at this point if I'm correct, and correct me if I'm not right Marvin, that the City-County Health Department has indicated that the problems and issues that the existing sewage lagoon of the hobby kennel has not yet been resolved and no permits have been issued for on-site sewage disposal for the proposal for the proposed boarding or breeding kennel. At the initial zoning case that we heard, I voiced some real stringent concerns about that and evidently they haven't been answered. I think this is a problem that Sedgwick County is experiencing, not only in kennels being rezoned, but also in other arenas such as sand pits, being able to look at if we are going to put conditional uses on applicants, then they should be actually upheld, and if not then I believe we as a Commission have an obligation to revoke those. So have they indeed spoken to the issue of the sewage lagoon?"

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Mr. Krout said, "As of the time of the Planning Commission hearing they had not resolved the issue of the sewage. Let me point out though that the Commission denied that request, so that conditional use was not placed on the existing boarding kennel. They are still in violation of the health requirements though. But I think that the applicant's agent would tell you for the purpose of looking at this issue, that's a separate issue and really it needs to be put aside.

"I think that there is a larger issue also of enforcing the conditions that you approve and that is something that maybe needs to be talked about. The Planning Commission has concerns about those issues too and we've talked about doing a work shop to try to deal with the problem."

Commissioner Gwin said, "And I am glad that you basically put me on the right track with that but I'll come right back to it, because if the applicant is well aware that they have a problem with KDHE in terms of property sewage treatment site on their property and they are about the business of asking once again for a conditional use permit to allow this type of a boarding and breeding kennel, then it should be very obvious that it is going to be something that is going to be of concern from this Commission bench and it should have been addressed at the beginning and I am very skeptical if it would be addressed a second time if indeed it would be voted yes by the Commission."

Mr. Krout said, "I thought the question was going to be asked about the sewer at the existing location and that's why we did check into it. Maybe since the Planning Commission hearing the applicant has resolved those problems, you'll have to ask."

Commissioner Gwin said, "According to the minutes it has not."

Mr. Krout said, "As of that time, a month ago."

Commissioner Gwin said, "Thank you."

Chairman Winters said, "Thank you. Marvin, anything else?"

Mr. Krout said, "I have nothing else to add."

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Chairman Winters said, "Okay, thank you very much. Is there anyone here who would like to speak in favor of this proposed conditional use permit? If so, please come forward. Is the applicant or the agent of the applicant here? Okay, very good. Please come forward and state your name and address and please limit your remarks to five minutes."

Ms. Lawanda Duncan said, "I live at 3801 East 109th North and as far as the sewage goes, the lagoon has been made bigger. The pipe that was leaking into the creek has been plugged and John Grisham has talked to Carla Appling down at the County Health Department."

Commissioner Gwin said, "When was this done Ms. Duncan?"

Ms. Duncan said, "In the last month and a half."

Commissioner Gwin said, "Okay. For whatever reason, it hasn't been sighted in the minutes."

Ms. Duncan said, "I don't know. I know it has been taken care of."

Commissioner Gwin said, "Okay, you've had someone that has actually come on the premises..."

Ms. Duncan said, "I have not seen Carla Appling out there, she has not called and made an appointment to come out or anything."

Commissioner Gwin said, "I believe, according to correspondence that we have here, we've attempted, no phone calls have been returned."

Ms. Duncan said, "I have not had any calls on my recorder from Carla Appling."

Commissioner Gwin said, "Alright, I'm just simply reading from what our Code Enforcement has written, that we've also attempted to come onto the property and it was posted, which is the right of the owner to put up a no trespassing sign, so we have not been able to actually come on the site and view that."

Ms. Duncan said, "You guys are more than welcome anytime to come on, just call and I'll let you in, you know."

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Commissioner Gwin said, "I'll certainly write that down for those to individually do that."

Ms. Duncan said, "I have been driving around the countryside about a mile to two miles away from the house. There are approximately 30 to 40 dogs out there. Some of them are fenced and some of them are not and they will chase your vehicles and I would like to know how many of those are licensed, County license, and have their current rabies shots. All of mine that are old enough do have it.

"And Mr. Higgs did look over the fence one day, December 23, I was on my back porch, heard the dogs barking and it was a serious bark like there was something wrong. All of my pups was running down to the end of the fence. I went out all called them back and some of them came back to me and some of them did not and I seen him looking over the fence. I've got pups worth \$6,000 out in those runs. Is he going to be responsible when he looks over the fence and they go nuts like that if one of them gets injured and I have to destroy them? I don't feel that's right that he can do that and he said those pups, there's 26 pups out there and at the time, there was and two of them was just a year old. They just turned a year old December 4.

"The rest of them range from 6 months to 11 months old and they do have tatoos in their ears of their birth dates to prove it. I have never complained to any of the neighbors about things that went on. I've had cattle, horses, pigs, everything in my front yard. I've had it in the wheat field over there. I've never complained about that. Their dogs, before we fenced the yard in, their dogs come over and aggravated my dogs, use the bathroom in my front yard. I never complained and I never did say and nobody else did that these dogs don't bark. They bark at feeding time and they bark at turn out time. They are sight hounds and when they see something out of the ordinary they will bark at it. That's just like running around the track. As far as breeding goes, the bitches come into me when they are pregnant, I whelp them out and as soon as they wean the pups, most of them leave the property. I keep the puppies until they are about 12 months old and then they go down to Oklahoma to be trained and then they come back up to Kansas and run.

"I've had a lot of people from Abilene interested in the boarding of their brood bitches out there and whelping them out and in Oklahoma too, and they are all watching this case very closely to see what happens. I would never have bought the 45 acres, we never would have bought the 45 acres at the corner if we wasn't denied this permit.

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“Commissioner Miller said that 50 dogs on 5 acres seemed too many for her, so we went and bought 45 acres to maybe help solve that problem. At the track, it's less than 10 acres, they have 1,100 to 1,200 dogs out there at the track.

“I've worked with the dogs out there for 4 years. I don't know what else to say. I am pushed back into a corner where we may have to sell some of the acreage on that 45 acres to help compensate for the loss. I'm losing two to three thousand dollars a month in board and I'm going to have to go back to the track and work full time and to take care of my farm, I'm going to have to get up at three or four o'clock in the morning and do my turn outs and my feedings and I don't think the neighbors would want that. I wouldn't want it, but if I can't make a living on this kennel, I'm going to have to go back to work.

“I've tried everything to work it out. I've put up a 6 foot board fence completely around 5 acres, because every time they go out, they say they go out the back door, they hear the dogs bark. The dogs can't even see them now, there is a 6 foot board fence and I don't know what else to do to please these folks out here. If they have some suggestions, I'd be happy to talk to them about it and not one person has come over to even tour the place, to see how clean it is, to see the dogs, or nothing.”

Commissioner Miller said, "Ms. Duncan, first of all, let me be very clear on this issue, that I am not here to pass judgement on your business. I am under the impression, by way of Cindy Plant, who is no longer with Animal Control, and other individuals, that you do have a bona fide business. That you do a good job with your animals, so that is not the issue here. Please, let's be on the same plane with that. Secondly, in regards to your female dogs, the breeding part of it. I asked a question to Marvin Krout and I'll ask the question to you. If you have indeed agreed to have 50 in total on that 5 acre site for boarding and breeding purposes, I don't know what the number or ratio was in regards to female versus male dogs, probably more females than males obviously and you are going to have X number of pregnant females and eventually X number of puppies. How are you going to change that out? Do you intend to utilize...in order to keep 50 dogs minimum that you said that you would like to have that you've agreed would be the maximum on that 5 acre site, do you intend to use additional acreage that you've purchased, the 40 that would be surrounding that."

Ms. Duncan said, "I hadn't planned on it until I was denied the permit at the other place and had to go to a hobby kennel."

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Commissioner Miller said, "But I mean with this proposal?"

Ms. Duncan said, "I would basically keep my puppies over to the other place and have my brood bitches over into the main one, because I have the long runs where my puppies stay out. At three months old we take them out of the kennel building and put them in long runs to build their muscles up and teach them to run."

Commissioner Miller said, "So you would constantly be changing out the puppies that you had at your boarding kennel over on the east side with the new puppies that you get on the west side, the 5 acre site?"

Ms. Duncan said, "They leave at 12 months. I may sometimes have 20 pups, or 30 pups, they change out. Once they hit 12 months they go to the training farms."

Commissioner Miller said, "And you did say that your puppies are tattooed in the ear in terms of the date of their births? So if anyone needs to go out there and say this looks like a grown dog to me, all they need is to look in the ear and see that dog is indeed 9 months, 10 months, 12 months."

Ms. Duncan said, "Yeah, I've got some 7 month old puppies at 70 pounds right now."

Commissioner Miller said, "Sure, well..."

Ms. Duncan said, "They're going to get too large, I'm afraid."

Commissioner Miller said, "Thank you."

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

Ms. Duncan said, "Thank you."

Chairman Winters said, "Is there anyone else to speak in support of this application?"

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Ms. Darlene Smith said, "I have throat troubles, so I'll try to do the best I can. I live at 3120 West 22nd North and I'm Lawanda's mother. To start with, I'd like to kind of answer some of the questions that was said to Marvin. To start with, this isn't a breeding kennel, we don't breed dogs at all. They come in there, they have already been bred. We have got the lagoon done, it's all finished, all you have to do is come out and see it, it's all complete."

Commissioner Miller said, "You've had KDHE out that has recognized it Mrs. Smith?"

Ms. Smith said, "You mean have the people come out to check it that we've had it done?"

Commissioner Miller said, "Yes."

Ms. Smith said, "I think that Carla Appling, I think that's her department and she hasn't been out. I think she was notified."

Commissioner Miller said, "Okay, thank you."

Ms. Smith said, "And then, you have to have a house where your kennels are, that isn't so, you have to look up your laws. My lawyer looked it up and he said...because they even have golf courses and why would you want to put a house on a golf course? As far as the 45 acres, we were going to put the kennel in the middle, where it would be as far away from everybody as we could get. I have paid for the 45 acres and as far as putting mobile homes in there and putting in like hobby kennels, you cannot put mobile homes out there because there is a covenant against them. I got this place for my daughter to make a living in it, because I'm in really bad health and I want to make sure she has a place to make a living and take care of herself."

"When we came to the first meeting, you said...that was in August of 1995, we were told that we needed screening, we needed to move the back gates that were against the south line that's along those 300 foot runs, we needed to move them back. We needed to put tops on the dog runs that come out of the kennel to keep the noise down. I did all this, everything they said to do. It cost me \$22,715.69 to do these things that they told me needed to be done and then I came back and it was denied after I spent the money doing what they said to do."

Commissioner Miller said, "Who was they Ms. Smith?"

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Ms. Smith said, "Not this Commission, the other..."

Commissioner Miller said, "The Metropolitan Planning Commission?"

Ms. Smith said, "Uh-huh. And according to the rules and regulations, the way I believe is that you're supposed to be 1,000 feet, I mean if you're 1,000 feet from every residence they really don't have any...they may have some say so, but according to the rules, if you're 1,000 feet or more, if you're that far away they really don't have any say so. Like I said, they may have say so, but according to the rules, if you're..."

Commissioner Gwin said, "They're not notified officially and don't count in the protest petitions, but certainly they can express their opinions."

Ms. Smith said, "Oh yeah, I know that, but I mean that just keeps getting brought up. They've been saying like we're going to have 500 dogs. I don't know where this comes from because there is no way we could even think about that. We applied for 50 dogs and that keeps coming up over and over. Like you know on 10 acres, the Greyhound Park has 1,200 dogs."

Chairman Winters said, "Excuse me Ms. Smith, how much more time do you need?"

Ms. Smith said, "Just a couple of minutes."

Chairman Winters said, "We've had 5 minutes, so if you could just sum it up in about a minute, we would appreciate that."

Ms. Smith said, "I don't know why we are having all these problems. We just wanted to go out there and live our lives and everybody live theirs and not bother nobody, but it seems like everybody is giving us problems on this. I don't know why people don't just leave us alone and let us...we haven't hurt anybody or caused anybody any trouble. Why can't they just live their lives and let us live ours and we'll try to keep the noise down and let the dogs out at regular hours where we don't disturb the neighbors. I've always heard you were innocent until proven guilty, well it seems like in our case, we are guilty and trying to prove ourselves innocent because there is just my daughter and myself up here and 20 or 30 people out here against us that don't even live in the area."

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Chairman Winters said, "Ms. Smith, any other concluding comments?"

Ms. Smith said, "I think that's it."

Chairman Winters said, "Thank you very much. I see no questions at this time. Anyone else who would like to speak in support of this application? Anyone else who would like to speak in support? Alright, how many folks are here who would like to speak today in opposition to this conditional use permit request? How many would like to speak in opposition? Alright, fine, would you come forward please. Normally we are limited to 5 minutes, I would encourage each of you to try to limit yourselves to 3 minutes or less than 5 minutes, but I want it to be very clear that if you have prepared statements, we want to let you speak as long as you feel it is necessary. I am going to ask the Clerk to set the timer for 5 minutes so we do limit it to 5 minutes, but I think to move forward, if you could hold your remarks right to your key issue, I think it would be a benefit also. If the first speaker would please step forward."

Mr. Frank Higgs said, "I live at 3921 East 109th Street North, it is the home that is immediately east of the now hobby kennel. I lived in that township for 36 years. I've put a lot of money into my home and a lot of work and it's basically about all I have. I was enjoying the use of my home and had expectations to be able to continue until possibly I would retire and sell it and then maybe use the money to do something different. I have only 17 acres there and my family has several acres in Butler County and so we might go there some day, but I didn't want to have to give my property away and I would like to be able to enjoy the use of it between now and then.

"I think probably the initial mistake that was made in this whole thing was when the ladies bought the property next door to me, they seemed to consider that it was a kennel. I believe there must have been some misrepresentation either by the previous owner or by someone to cause them to believe it was a kennel. If it was a kennel then, it was an illegal kennel and I wouldn't advise anyone to buy an illegal, unlicensed or whatever kind of kennel you might describe it to be. I think that the area is zoned and I believe that it is correctly zoned. I think that conditional use permits are highly risky because the conditions are extremely hard to enforce and I've learned this and gained experience in the last several months. It seldom does good to complain because there are a number of obstacles.

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“For example, no trespass signs require, according to what I was told by Mr. Rick Corley, that requires a court order in order to make an impromptu inspection and as I drove past this hobby kennel property this morning I saw 13 signs, some of them said no trespass private property, some said keep out, one of them said beware of dog, but that's the kind of situation that it is and you know it's kind of like trying to put a square peg into a round hole, when you try to fit a dog kennel into a residential area. Now Commissioner Hancock wondered where we could put a conditional use dog kennel when this was surrounded by farm land, but if he looks immediately across the road, Hillside divides this 45 acre piece of ground from a house, Mr. & Mrs. Carey live in that house. That house has been there a long time in the Carey family and so there is only a road that separates it and then across the corner is another house and then just across the road to the north is another house and then just a little ways further south on Hillside there is still another house.

“So it is really not just farm land in that area. Some of it is farm land and some of it is pasture, but there are a number of homes and all these people that are here today do live in the area or own property that is connected with the situation and when I mean connected, nearby. This community is a proud group, Sunnydale is what that little community is called. There is a community building there and like I said, to try to put a dog kennel into this community is kind of like a square peg in a round hole, it just doesn't fit.

"I think that one of the major mistakes that has been made in the past is when someone is allowed to have 10 dogs and an unlimited number of pups 12 months or under, to be considered a hobby kennel. I know everybody has a hard time planning well enough because I've heard it so many times, people say well if I would have known that I sure wouldn't have done this. I appreciate that, but this is a typical example of improper planning and now the results are that...I guess I would ask that you please consider all the facts and deny this, thank you."

Chairman Winters said, "Thank you. Next speaker. I would encourage you to get right to your point, hit on your point so we can move on. We've got lots of folks here and it is going to take a while if we all take a full five minutes. Thank you."

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Ms. Nancy Whitaker said, "I live at 10651 N. Oliver. I am not within a thousand feet of this proposal, but I was within a thousand feet of the hobby kennel that is there and I spoke last time. I am going to skip over a lot of mine since you have so many folks, but I do want to echo one thing and the gentleman from the Planning Commission said that I think if this permit is granted it sets a real precedent because the next time it is very easy for you to say that well this enterprise will fit right in because they already have a dog kennel out in this neighborhood. It's a quiet residential agricultural area and these people that are here, this is our fourth meeting. We've been to the Planning Commission twice, we've been here twice, four times to take off work and they are willing to do that and that should tell you how they really feel about this in the neighborhood. Thank you."

Chairman Winters said, "Thank you ma'am. Next speaker please."

Mr. Jim Holdaway said, "I live at 10400 N. Oliver, that's 1/2 mile south and east of whatever you are going to call this. The problem is that it's alright to have the conditional use permit if you feel that is a way that you can regulate it, but with all the rules and regulations, where is all the money and the manpower going to come from to regulate this. If they don't abide by the rules, how are you going to enforce it? We have been somewhat threatened by the hobby kennels and I talk about it because they told us if they don't get the conditional use permit, they're going to have 500 dogs out there and they can do it, that's what they told us. As far as Commissioner Hancock wanted to know maybe a better location, I think if you go three miles south and a mile west would probably be a better location. Thank you."

Chairman Winters said, "Thank you sir. Next speaker please."

Ms. Mary Hallman said, "1723 S. Moline Court, Aurora, Colorado 80012. I grew up on the property just north of where the proposed kennel is going to be and my mother, Alice Mayall, her estate was notified of this meeting and the Planning Board's meeting. I believe you are probably in receipt of a letter that I sent to the Board and I'm not going to read the whole thing, but I just want to emphasize certain items just to get them in the record today."

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"I would ask that you accept the unanimous decision of the Planning Commission and deny the request and number one, the use is totally out of character with the current neighborhood, realizing it is a farming community and zoned Rural Residential, it is the most restrictive of codes, cattle and horses are raised there, granted one or two of them get out occasionally, that is sort of typical for a farming community.

"That's to be expected. To conditionally zone the property for breeding, boarding and training, will harm the well being of the farm community and negatively impact the agricultural use that has been established there for decades. The proposed use imposes a less restrictive burden on the property that will never go away and to change the use of the property to that allowed under one of the least restrictive codes, in other words, general commercial is a giant and inappropriate step. The proposed change is only two steps away from heavy industrial and this use is unrestrictedly allowed under that zoning.

"I won't emphasize the barking dogs. They do bark, not just at feeding time. If you look in your own staff report from the Planning Commission, they mentioned that and they did drive away and those folks living around there cannot drive away. I am somewhat concerned of course by the unrestricted number of dogs that seem to have been mentioned here that we do have some documentation although it may be hearsay, that she was planning to put 500 dogs on the 40 acres. There is nothing similar about this facility and the current farming and livestock raising activities within a quarter of a mile of the proposed facility, there are two century farms, a wildlife refuge and numerous large lot homes and old established cattle and horse farms.

"Today we are trying to preserve the farm land and encourage agricultural production to a certain degree I know. It makes no sense to take productive land out of use when a commercial venture such as this could be more appropriately established elsewhere. The farmer who has been tending his fields for decades is discouraged enough when he finds his family can no longer afford to be there and he does sell to someone who does want a nice home out there. But certainly the folks who have built homes there in the last few years and there are 48 residences within the mile and a half of this proposal, they try to get away from things and this makes it more difficult for them. The residents that are currently there certainly have a right to enjoyment and use of their property. I'm sure the Higgs, when they moved there 36 years ago never thought they'd have a Dachau type wooden fence blocking their westerly view."

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Commissioner Schroeder said, "A what type?"

Ms. Hallman said, "Dachau."

Commissioner Schroeder said, "What's that, Docau?"

Ms. Hallman said, "I'm sorry, that's just referring..."

Commissioner Schroeder said, "Are you referring to the incarceration of the Jewish people?"

Ms. Hallman said, "Right."

Commissioner Schroeder said, "Okay, thank you."

Ms. Hallman said, "But the fence does resemble that, so I'm sure he didn't realize that country life could suddenly become so ugly for him at that time, so your denial of conditional use permit #389 would do much to ensure the character of the community and I thank you for your time."

Chairman Winters said, "Thank you for being here. Next speaker please."

Mr. Dennis Koch said, "I live at 10515 N. Hillside and the corner of my property is a quarter of mile from what the corner of the proposed site would be and I just want to stand with my neighbors and friends today and ask that this be denied and thank you."

Chairman Winters said, "Thank you for being here sir. Next speaker please."

Ms. Joan House said, "I live at 10745 N. Hillside on land inherited from my father and I wish to pass this land on to my next generation. The north boundary of my property is across the road from the south boundary of the property in consideration. I am going to speak to the concern of the establishment of a breeding and boarding kennel at this location and resulting devaluation of the surrounding property. These are only three examples of the adverse conditions a breeding and boarding kennel would create for only one person. I have been a school teacher for 31 years and will retire after this year. I've not been able to accumulate any wealth, no buffers for a pending money crunch or catastrophe."

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“If there is a need for me to replace a roof, replace the present 1980 car I drive or have major home repair be necessary for me to try to acquire a loan from a bank with my property being devalued because of the breeding and boarding kennel, the bank would find it necessary to take an increased acreage for collateral. This is not comforting for a retired woman to be concerned about. I've had two sisters die from cancer and it seems logical that I too would inherit the weakness for cancer. My children and I have discussed that if I have a long term incapacitating illness, if necessary to pay expenses, we would have to sell the acreage with the house and the lagoon. With the property being devalued, this sale would probably not take care of financial needs and cause a hardship for my children.

“This, because a person purchased land that was not zoned for their purposes, don't people check on these matters before purchasing? Also, it would be a difficult if not unsurmountable problem to sell the property with a breeding and boarding kennel so close. Most people who buy in a rural area do so because they are anticipating peace and quiet and tranquility, the same quality of life as desired by those of us who have lived in this rural area for years, in the area zoned for this style of life. Those of us who live in this area are being asked to lose our style of life because a person did not check the zoning before purchasing. Those of us who are asking the County Commission to deny this request are not permitting Mrs. Smith from earning a living. Could it be that Mrs. Smith did that herself when evidently she ignored the zoning of this property when she purchased it.

“Yes, many of us who are asking the County Commission to deny this request are more than 1,000 feet from the proposed kennel, but the undesirable effects can reach farther than 1,000 feet and into our present life styles. I have recently installed a lagoon and my permit was dated January 18, 1996, and I received by phone a final okay including my fencing by February 29. I had to require three inspections and in each case I called for the inspection to take place, I didn't wait for anyone to come. Following the recommendations of Doris Leslie, I had additional work of digging a trench on one side completed. Ms. Leslie did a second inspection for me on fencing because I was not happy with the installation of the chain link fence. Establishing a lagoon, according to County regulations, did not seem to me to be a problem. It is of great concern for me that Mrs. Smith has had difficulty in complying with County regulations for establishing a lagoon. Would not this also be an indicator of Mrs. Smith's lack of respect for County kennel regulations?

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“Mrs. Smith lagoon situation is an undeniable factor in the matter at hand. At the Metropolitan Area Planning Commission meeting on February 15, two different individuals stated the idea that if this request was denied Mrs. Smith would consider dividing the acreage and there would be more hobby kennels established. When Mr. Holdaway said he believed this to be threatening, one of the individuals denied it being a threat, but why would the statement be made other than with the intention of being intimidating to us. I bring this to your attention to let you be aware of the quality of cooperation the community is receiving. Most people driving through this area know that a breeding and boarding kennel would be disruptive to the neighborhood and change the very nature and character of the community, including the effect on the present wildlife we enjoy, such as deer, wild turkey, pheasants, and quail. Please deny this request and reinforce the idea that to continue our freedoms there comes responsibility. Are there any questions?”

Chairman Winters said, "Yes."

Commissioner Gwin said, "Not a question Mr. Chairman, but I do need to point out, because the last two speakers have talked about a zone change. This is not a zone change, this is a request for conditional use, which is permitted in our Rural Residential. So it is not a zone change, but I understand your argument."

Ms. House said, "That was a boo boo on my part, I didn't always clarify that."

Commissioner Gwin said, "Thank you."

Chairman Winters said, "Thank you for being here."

Ms. House said, "Thank you."

Chairman Winters said, "Next speaker please."

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Ms. Carolyn Lindsley said, "I'm the executor of the estate of Alice H. Mayall, deceased. She owns the property directly north as you have been told by her daughter. I want to tell you that I have spent the last 35 years connected with the Mayall family and one way or another I've worked for Roderick while he was alive for many, many years. One of the things he did was examine abstracts for purchase of title and I don't know how many times I've typed 'you should determine whether the property you are purchasing is permitted for the use for which you plan to use it'. This is something that we have always had in our title opinions and I think that perhaps should have been done when our lady bought her property. Another thing I want to mention, Helen Morris, who owns the property directly south from this tract did not get a notice of the meeting or protest petition. I visited with her and I delivered a petition to her and delivered it to the Board. One of the things that she brought up was the fact that the creek that runs through there floods on a regular basis when we have rain. Granted, we haven't had a lot of rain in the last three years, but during rainy periods of time, that creek is very subject to flooding and I also know that dog feces is not something that you want to have floating around unlike cow manure and horse manure which they sell for fertilizer.

"This community has been an agricultural community. We've talked about that. We've talked about the dogs barking and creating a havoc for all the neighboring people. I've visited with a lot of these folks. Their children are wanting to come back and build houses on the land that their parents had owned. It doesn't seem fair to favor one person or two persons to the detriment of the whole community and I respectfully ask that you consider the effect that this will have on the entire community and refuse the conditional use permit. I also would hope that you might take a look at the hobby kennel zoning things.

"In looking at the zoning ordinances, I was very surprised to discover that the people in the farming communities are extremely restricted about the type of home occupations that they can have and hobby kennels are kind of in there, but gee whiz, if they can't fix lawn mowers or something which probably wouldn't bother their neighbor much, how come they can have dogs that are going to be barking and keeping everyone awake. There is a big body of law about the keeping and boarding of dogs and I do know that it is a nuisance and I have to say that if we have a bunch of dog kennels coming in there, we'll have to look into what we do at that point also. Thank you very much for allowing us to come."

Chairman Winters said, "Thank you very much for being here. Next speaker please."

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Mr. C. L. Bader said, "I live at 7408 East 109th North and I'm here to represent my son also who lives at 5804 East 109th and we are not in favor of the kennel. That's all, I'll yield the time. Thank you."

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

Mr. Dale Allen said, "I live at 11325 N. Oliver, which is about a 1/2 mile or a little more on a diagonal flight from where this location is and I just say that my family, along with the Mayalls, have owned this land, this section of land that I live on, it's been in our family for 109 or 110 years. We do want to retain the land, built our home out there in 1957, so it is approximately 38 or 39 years ago, and we've lived there and enjoyed the privilege of raising our five children there and we look forward to having the same type of conditions. I think if they were going to build a dog kennel in your back yard, that you would worry about it, so think of it as if you were in our situation out there in the County where we moved out there and everyone who is there, even the newcomers, are all there for the one purpose for the quality of life that we can have. I urge you to vote along with your appointed Planning Commission to deny this request."

Chairman Winters said, "Thank you sir, appreciate you being here. Next speaker please."

Mr. Jack Richardson said, "I live at 8836 N. Woodlawn. I own the land at 109th and Hillside, the northwest corner of the intersection. I was born on that place and I deeded it to my daughter, she intends to build a home there. I don't live right next to it, but I have purpose for it in the future. That land on the north side, we own part of that section. It's been in the family for years. We didn't buy it to sell, we intend to pass it on if we don't get interrupted. I think a lot of you folks trouble and the Planning Commission trouble, the realtors cause it. I think that before the realtors make a sale, there should be more talk and consideration and know how of where they are, what they are, I think that's a lot of your trouble. I've been to several of your Planning meetings and all you've got is the other persons trouble. I think it could be stopped before it gets to you if they tried to."

Chairman Winters said, "Thank you sir. Appreciate you being here. Next speaker please. Is there anyone else who would like to speak to this item?"

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Ms. Sandra Henry said, "I'm married to Frank Higgs and we live immediately east to the Smith Duncan property and we were protestors at the last meeting. I have a long list of things and everyone else has covered it much more articulately than I would, but I do want to say that I grew up in Wichita, I've been raised in Sedgwick County, went to school here and I've watched Wichita try to become a first class community. I think that the Planning here today is part of that and you are faced with those decisions and there are a lot of things said that can be personal, but I just want to face the larger issue. I do not feel that even though this is not a change in zoning, that it is a commercial precedence that could be set in this community and it is a residential community. There are better places for the commercial dog kennel, commercial areas and there are commercial areas near the dog track. We have a family business on North Broadway, I'm familiar with areas of residences and the land that would accommodate such a thing. Anyway, I respectfully ask you to deny this petition and appreciate all the thought that you have to give to it. Thank you very much."

Chairman Winters said, "Thank you very much, we appreciate you being here. Are there other speakers? Anyone else? Yes, please come forward. Is there anyone else in the audience who wishes to speak? Could I see the hands of anyone else who wishes to speak? Okay, this is going to be the last speaker then. Thank you."

Ms. Marilyn Carey said, "I live right across the road from the proposed site and as a mom and a grandma, I ask that you deny it. Thank you."

Chairman Winters said, "Thank you ma'am, we appreciate your being here. Alright, that being the last speaker unless someone else has got the last urge. We'll limit discussion to bench and staff. Commissioners, you've heard the staff report, you've heard these folks speak, what's the will of the Board?"

MOTION

Commissioner Hancock moved to adopt the findings of fact of the MAPC and deny the Conditional Use Permit.

Commissioner Miller second the Motion.

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Chairman Winters said, "Let me say at this point that Commissioner Schroeder did have another meeting that was very important for him to attend, so that's the reason he has left the bench. Commissioner Miller."

Commissioner Miller said, "I don't have any other comment right now."

Chairman Winters said, "Alright, we have a Motion and a second to adopt the finding of fact of the Metropolitan Area Planning Commission and deny the Conditional Use Permit. Is there other discussion about this Motion?"

Commissioner Hancock said, "Mr. Chairman, the only thing I can say is that I asked a while ago where you would put one of these. It is a legitimate question. I would assume that 40 acres would be big enough in a populated area as dense as this is or isn't, whichever case you want to make. I was just curious, I want to know, where would you put one of these and Marvin answered my question that there are other places. They have approved kennels in other areas that are less populated and the situation is a little better so, this is just an honest question and I'm sorry folks that I was defending the kennel at that time."

Chairman Winters said, "I think we understood the question that you were asking. Any other discussion on this Motion to deny this request? Seeing no other discussion, please call the vote."

VOTE

Commissioner Betsy Gwin	No
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 very much. Next item. Let me back up for a minute. Commissioner Miller had talked about discussion of kennels for a moment. Commissioner Miller."

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Commissioner Miller said, "What I would like to suggest is that we as a Commission look into actually referring to the MAPC an opportunity to direct the Commission in regards to how it is we actually label hobby kennels."

Chairman Winters said, "Can we ask Marvin to come back to the podium for a minute. Marvin, do you have a suggestion? Do we need to go through a hearing process to talk about this or how would you suggest we address this hobby kennel issue?"

Mr. Krout said, "I think there is a mechanism and it is really the requirement mechanism. What you are talking about is an amendment to the zoning resolution. That requires a public hearing by the Planning Commission to consider change. If we're talking about...I think there may be one or two ambiguities plus the issue about adult dogs and I think the appropriate Motion would be to direct the Planning Commission to advertise and hold a public hearing and consider amendments to the kennel provisions."

Commissioner Miller said, "I do have a follow-up Mr. Chairman and help me out with this, will you Marvin? It is my impression or my understanding that indeed the Planning Commission has looked at this issue in the past a couple of times, at least maybe even more than that and when I say at this issue, that is that there is not uniformity in terms of the animal control ordinance, the Sedgwick County codes, the Wichita City codes that speak to the issue of the age of a puppy and I believe the Animal Control right now considers a puppy a puppy until 5 months and that the City of Wichita, like wise, 5 months, but it is Sedgwick County code that indeed says 12 months is a puppy."

"So that's the issue that I think we're trying to resolve here. That's the loophole that I've heard from some of the residents living around the area, and you also, Marvin referred to we need to be able to close and make more uniform so that each entity knows what they are dealing with in terms of hobby kennels and that would also be a way of being able to define very clearly the number of animals that you have in a hobby kennels, because I think it was Mr. Higgs who said it that some dogs and if you've ever had a dog, I know I have and I've raised German Shepherd puppies before, that by the age of 7 months, some of them could well be looking like a mature dog, acting like a mature dog and so therefore I think we need to look at that once again and propose the ability to house in essence adult dogs in hobby kennels."

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

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Commissioner Gwin said, "I appreciate wanting to have a discussion. I'm not willing however to just to send it back to the Planning Commission. I believe this kind of issue needs to have other stakeholders invited to the table. The Planning Commission doesn't have all the information they need to resolve this issue, in my opinion. They don't operate hobby kennels, they are not members of Animal Control. They are not members of Code Enforcement or Legal Departments or others, so my thought is that you're going to have to get a bigger table, a bigger group of people than just the Planning Commission to deal with this.

"I see it as representatives from our Animal Control, Legal Department, people who operate hobby kennels. I think they need to have, we need to be able to ask them as a resource, what happens here, what do you do, how many dogs do you keep, how do you monitor that, on and on and on. So this is not just a simple issue that the Planning Commission can decide by themselves. I would like to see revisions too, because as I said, I don't want to see the proliferation of these throughout the County just at will, but I think we need to ask more people than just the Planning Commission to the table."

Chairman Winters said, "I understand that, but if I heard Marvin correctly, he said that by law, if we're going to change this portion of the County resolutions concerning hobby kennels, it was to start through the process of the Planning Department. Is that correct Marvin, or did I hear you wrong?"

Mr. Krout said, "It would have to be a Planning Commission hearing and then it would come to the City Council because it is a joint zoning resolution now, City Council and County Commission. We would certainly have intended to invite all those people and probably have one or two workshops before a public hearing."

Commissioner Gwin said, "Yeah, I would appreciate before a proposal sent to MAPC to discuss, debate, approve or deny, there has to be some sort of formulation of what this looks like and that's what I am talking about, the workshops or those sorts of things that help formulate any amendments that we may want the Planning Commission, City Council and County Commission to consider."

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Chairman Winters said, "Before we would make a Motion or take an action that would put us in some kind of area where we wouldn't want to be, would it be appropriate to direct Marvin to develop a plan and come back to us in two or three weeks or however long he needs, to develop a plan about how to set all of this in process, get stakeholders that are going to be involved in a hobby kennel and in that business. Can we have Marvin develop us a plan or would you like to take directive action today?"

Commissioner Miller said, "Marvin, is it needed to develop a plan or is the plan somewhat incorporated in the steps that are going to be taken."

Mr. Krout said, "We don't always do it perfectly, so if you'd like to see a plan of how we are going to go about doing that, I think we could do that informally and just let you know and ask for comments you have about who is not on the list, who should be on the list, or where to insert other workshops. I think we could just probably do that informally. Eventually, we have to get to the Planning Commission hearings."

Commissioner Gwin said, "I understand that, but I think they're going to have something to consider and you need to round up the information I think before it gets to that."

Commissioner Miller said, "I guess my comment to Commissioner Gwin is that this is not the first time that they've been asked to do this, that indeed there has been in the past, resolutions that have been built, but the Planning Commission has chosen to not or to deny going along with changing the code for Sedgwick County in terms of the age of a dog that we consider a puppy. I don't have a problem with an action plan that would actually show how it is that you are going to indeed incorporate everyone that is going to be involved. I just want to simply ensure that it is going to happen in a timely fashion and that we are taking the steps that are necessary to complete this process."

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

Commissioner Hancock said, "I'm not sure I understand the nature of the problem here about hobby kennels. I know they live to a year with what we have out there now and you can have..."

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Mr. Krout said, "Up to 10 adult dogs. There is ambiguity about whether or not these have to be owned by the owner or can they be boarded and there is some ambiguity, at least according to the applicant's agent about whether or not there has to be a resident occupant in order to have a hobby kennel and there is the issue of adult dogs. The 12 months actually originated before the Animal Control code of the County was established."

Commissioner Hancock said, "Marvin is this a big problem for you? Do you have a lot of these?"

Mr. Krout said, "We're treading water and it is difficult to do this. Hopefully we'll get over the far west Wichita Sedgwick County commercial policy study before we get into this."

Commissioner Hancock said, "Do you have a lot of these dog deals?"

Mr. Krout said, "Oh, a lot of dog deals? I thought you were asking about..."

Commissioner Hancock said, "I know you've got a lot of work."

Mr. Krout said, "Where we're going to find the time to do this?"

Commissioner Hancock said, "Are there a lot of hobby kennels right now? We've got a lot of stuff going on here and is this really front burner stuff?"

Mr. Krout said, "It's kind of middle burner stuff. And around the burner for the people who are in this vicinity in this particular location."

Chairman Winters said, "Well seeing no other questions then, I'm going to make a leap here and Marvin could you be back with Commissioners informally with some kind of proposal about how you plan to address this and then request input from Commissioners if they have such."

Mr. Krout said, "Sure."

Chairman Winters said, "Commissioner Miller, will that work?"

Commissioner Miller said, "That's fine."

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Chairman Winters said, "Okay, thank you very much. We'll expect to hear something informally then concerning this issue. Next item please."

NEW BUSINESS

D. ADDITION OF TWO PART-TIME TEMPORARY POSITIONS TO THE AUTO LICENSE STAFFING TABLE.

Mr. Jerry McCoy, County Treasurer, greeted the Commissioners and said, "I am here today to request the addition of two part-time positions to the Auto License Department staffing table. These positions would be filled by recent auto license retiree employees so that the public can continue to benefit from their experience and knowledge during our busiest time of the month at very low cost. Would request your approval. Be glad to answer any questions."

Chairman Winters said, "Commissioner Gwin."

Commissioner Gwin said, "Jerry, it says temporary, how long will you need these positions?"

Mr. McCoy said, "We see of course the foreseeable future, but one position is going to work about two weeks a month and the other position is going to work about one week a month to give us some relief at our busiest time?"

Commissioner Gwin said, "So they'll be ongoing positions, but they only work a portion of a month."

Mr. McCoy said, "Right, and they'll be relieving people we've been sending downtown out to those locations and so allow us to maintain our current service level at downtown."

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

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

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MOTION

Commissioner Hancock moved to approve the additions to the Auto License Staffing Table.

Chairman Winters 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 very much."

Mr. McCoy said, "Thank you Commissioners."

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

E. KANSAS COLISEUM MONTHLY REPORT.

Mr. John Nath, Director, KansasColiseum said, "Good morning, the report before you, as it indicated, the Coliseum has operated at a level that is just a few percentage points of what it did at the same time period last year, which is pretty encouraging. The highlights from the past month was the Kansas Beef Expo, attended by approximately 2,300 people from out of town. We estimate that the economic impact just from that single event was roughly in excess of \$200,000 to our community. We are targeting some of the higher profile.

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“Some of the stronger events, of course, would be the McIntire concert April 5. It is obviously the largest indoor show ever to tour the country and we also have the World Figure Skating Champions coming in again for their third visit, that is also going to a sold out event. We still have a few tickets left available to that, but very strong. I'm available for any questions the Commission has.”

Chairman Winters said, "Thank you, John. I don't see any questions. I would say that the article in Sunday's paper certainly raised some very interesting questions. I thought it was a good article. We're glad to see you on the front page and in a good light. I thought you really raised some issues that I'm going to be interested in hearing some more about."

Commissioner Hancock said, "I just want to know how much he paid Bartel to be writing that article."

Mr. Nath said, "My mother actually wrote the article. Just some ideas that we'd like to pursue."

Chairman Winters said, "Great, I was told Friday to expect maybe a small article introducing him to the community, but it was right there on the front page and it was a great article."

Commissioner Gwin said, "I love innovation and creative thinking, John and you certainly have shown some of that, so I'm real anxious to hear more."

Mr. Nath said, "I think we could have a lot of fun out there."

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

MOTION

Commissioner Gwin moved to receive and file.

Commissioner Hancock second 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	Absent at Vote
Chairman Thomas G. Winters	Aye

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

F. BUREAU OF PUBLIC SERVICES.

- 1. MODIFICATION OF PLANS AND CONSTRUCTION, REQUEST NUMBER ONE, WITH CORNEJO & SONS, INC. ON SEDGWICK COUNTY PROJECT NO. 618-33; CENTRAL RELOCATION BETWEEN WEBB ROAD AND GREENWICH ROAD. CIP #R-76. DISTRICT #1.**

Mr. David Spears, Director, Bureau of Public Services, greeted the Commissioners and said, "Item F-1 is a Modification of Plans and Construction for the road improvement project on Central relocation between Webb Road and Greenwich Road, designated as R-76 in the Capital Improvement Program. There will be an increase of \$11,053.80 due to the addition of a sanitary sewer encasement and an adjustment of a storm sewer manhole to accommodate an electrical conduit. I recommend that you approve the modification and authorize the Chairman to sign."

MOTION

Commissioner Hancock moved to approve the Modification of Plans and Construction and authorize the Chairman to sign.

Commissioner Gwin seconded the Motion.

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

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VOTE

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

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

2. RESOLUTION DESIGNATING AND CLASSIFYING CERTAIN STREETS TO THE GRANT TOWNSHIP SYSTEM. DISTRICT #4.

Mr. Spears said, "It is standard procedure after roads are constructed within an unplatted residential development in accordance with County standards, those roads are then classified and assigned to the township system. In this particular case, 44th Street East and 84th Street North, which are located south of 85th Street North and west of Oliver will become the responsibility of Grant Township. I recommend that you adopt the resolution."

Chairman Winters said, "Thank you. Commissioners."

MOTION

Commissioner Hancock moved to adopt the Resolution.

Commissioner Gwin seconded the Motion.

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

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VOTE

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

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

3. RESOLUTION DESIGNATING AND CLASSIFYING CERTAIN STREETS TO THE PAYNE TOWNSHIP SYSTEM. DISTRICT #4.

Mr. Spears said, "It is standard procedure that after a road is constructed within a platted residential development in accordance with County standards, that road is then classified and assigned to the township system. In this particular case, Prairie Lakes Circle, which is located in the Prairie Lakes Addition will become the responsibility of Payne Township. I recommend that you adopt the resolution."

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

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

4. RESOLUTION DESIGNATING AND CLASSIFYING CERTAIN STREETS TO THE AFTON TOWNSHIP SYSTEM. DISTRICT #4.

Mr. Spears said, "Item F-4 is similar to the previous two items and in this particular case, 215th Street West Court, which is north of MacArthur Road and west of 215th Street West will become the responsibility of Afton 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	Absent at vote
Chairman Thomas G. Winters	Aye

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

5. RESOLUTION DESIGNATING AND CLASSIFYING CERTAIN STREETS TO THE OHIO TOWNSHIP SYSTEM. DISTRICT #4.

Mr. Spears said, "Item F-5 is similar to the previous three items. In this particular case 100th Street West Circle which is south of 103rd Street South and east of Maize Road will become the responsibility of Ohio Township. Recommend you adopt the Resolution."

Regular Meeting, March 20, 1996

MOTION

Commissioner Hancock moved to adopt the Resolution.

Commissioner Miller second 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

Commissioner Hancock said, "If it is in Ohio Township is should be in the Second District."

Commissioner Gwin said, "Payne should be in the First District too."

Chairman Winters said, "Got your district numbers wrong, but that's not a major problem. I'm sure they'll go into the right area."

Mr. Spears said, "Alight, thank you."

Chairman Winters said, "Next item please."

**G. REPORT OF THE BOARD OF BIDS AND CONTRACTS' MARCH 14, 1996
REGULAR MEETING.**

Mr. Darren Muci, Director, Purchasing Department, greeted the Commissioners and said, "You have before you the minutes from the March 14 meeting of the Board of Bids and Contracts. There are three items for consideration this morning."

Regular Meeting, March 20, 1996

- (1) **SUBGRADE MODIFICATIONS AND BITUMINOUS SURFACING -
BUREAU/PUBLIC SERVICES
FUNDING: SALES TAX**

"Item one, subgrade modifications and bituminous surfacing for the Bureau of Public Services project number R-142. It is recommended to accept the low bid of Asphalt Construction Company for \$398,352.40.

- (2) **COPY MACHINE - TREASURER
FUNDING: TREASURER**

"Item two is a copy machine for the Sedgwick County Treasurer. Two pages of tabulation later, we would like to recommend a low bid meeting specifications of Office Automation. The purchase price of this would be \$15,000 but we are further recommending to facilitate the purchase through a 3 year lease financing plan.

- (3) **ARCHITECTURAL SERVICES FOR PARKING GARAGE - CAPITAL
PROJECTS
FUNDING: DEBT FINANCING - PUBLIC BUILDING COMMISSION**

"Item three, architectural services for the design of the parking garage for Capital Projects. It is recommended to accept the negotiated proposal of Schaffer, Johnson, Cox, Frey & Associates for \$125,000.

ITEMS NOT REQUIRING BOCC ACTION

- (4) **GENERAL CONSTRUCTION SERVICES FOR SCIENCE CENTER -
COUNTY MANAGER'S OFFICE
FUNDING: SCIENCE CENTER**

"There was one item that does not require action at this time and that is the first step in a process to select a General Contractor for the development of the Science Center. You will note that we received some information for qualifications from four companies. The Law Company, Dondlinger & Sons, Martin K. Eby Company, and M.A. Martenson Company. I would recommend you approve the recommendations as presented by the Board of Bids and Contracts."

Regular Meeting, March 20, 1996

Chairman Winters said, "Thank you Darren."

MOTION

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

Commissioner Miller seconded the Motion.

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

VOTE

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

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

CONSENT AGENDA

H. CONSENT AGENDA.

1. Utility Permit Agreements.

- a. KG&E, A Western Resources Co. is submitting this application requesting permission to install 1,472 feet of 8- inch gas main on the west side of Rock Road from ¼ mile north of 87th Street South to ½ mile north of 87th Street North. Rockford Township. Utility Permit No. 015-96. Road No. 831-Z. District #5.

Regular Meeting, March 20, 1996

- b. KG&E, A Western Resources Co. is submitting this application requesting permission to install two poles on the south side of 53rd St. North approximately ½ mile west of Hillside. Kechi Township. Utility Permit No. 016-96. Road No. 606-28. District #1.
- c. The City of Wichita is submitting this application requesting permission to remove and replace pavement on 127th St. East north of Central as necessary to tap existing water main. Minneha Township. Utility Permit #017-96. Road No. 837-O. District #1.
- d. The City of Wichita is submitting application requesting permission to conduct water line construction along 21st Street North from Maize Road to approximately 900 feet east of Maize Road and along Maize Road from 21st Street North to approximately 1,500 feet north of 21st Street North. Delano Township. Utility Permit No. 018-96. Road Nos. 807-M and 614-20. District #3.
- e. KG&E, A Western Resources Co. is submitting application requesting permission to install one pole and make an overhead crossing of 167th St. West approximately ¼ mile south of Pawnee. Illinois Township. Utility Permit #019-96. Road No. 799-S. District #3.

2. Right-of-Way Easements.

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

- a. Road Number 779-S, Owners: Arnold L. Benn and Regina A. Benn, located in the Southwest Quarter of Section 1, Township 28 South, Range 4 West, more specifically located on the east side of 327th Street West and north of 31st Street South. Morton Township. District #3.

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- b. Road Number 795-T, Owners: Jeffery J. Strickland and Pamela Lynne Strickland, located in the Southwest Quarter of Section 8, Township 28 South, Range 2 West, more specifically located on the east side of 199th Street West and north of 39th Street South (MacArthur Road). Illinois Township. District #3.
- c. Road Number 791-W, Owners: David John Owings and Gina Kay Owings, located in the Southwest Quarter of Section 25, Township 28 South, Range 3 West, more specifically located on the east side of 231st Street West and north of 63rd Street South. Afton Township. District #3.
- d. Road Number 594-24, Owners: Christopher A. Truman and Diane M. Truman, located in the Northeast Quarter of Section 24, Township 25 South, Range 1 West, more specifically located on the south side of 101st Street North and west of 24th Street West (Meridian). Valley Center Township. District #4.
- e. Road Number 781-H, Owners: Paul Hollis and Sara Hollis, located in the Southwest Quarter of Section 7, Township 26 South, Range 3 West, more specifically located on the north side of 61st Street North and east of 311th Street West. Sherman Township. District #3.

3. Floodway Reserve Easements.

The following tracts of land were granted by Floodway Reserve Easement at no cost to the County. These Easements were requested by the Director, Bureau of Public Services, prior to the approval of Platting Exemptions.

- a. Owners: Jeffery J. Strickland and Pamela Lynne Strickland, located in the Southwest Quarter of Section 8, Township 28 South, Range 2 West, more specifically located east of 199th Street West and north of 39th Street South (MacArthur Road). Illinois Township. District #3.

Regular Meeting, March 20, 1996

- b. Owners: David John Owings and Gina Kay Owings, located in the Southwest Quarter of Section 8, Township 3 West, Range 3 West, more specifically located east of 231st Street West and north of 63rd Street South. Afton Township. District #3.

4. Right-of-Way Instruments.

- a. One Easement for Right-of-Way for Sedgwick County Project No. 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.
- b. One Temporary Construction Easement for Sedgwick County Project No. 624-2-2365; Bridge on 23rd Street South between 375th and 391st Streets West. CIP #B-244. District #3.
- c. Two Easements for Right-of-Way and two Temporary Construction Easements for Sedgwick County Project No. 622-3-3960; Bridge on 15th Street South between 359th and 375th Streets West. CIP #B-231. District #3.

5. Section 8 Housing Assistance Payment Contracts.

<u>Contract Number</u>	<u>Rent Subsidy</u>	<u>District Number</u>	<u>Landlord</u>
C96017	\$401.00	5	Springcreek Apts.
V96018	\$345.00	5	Cottage Grove

Regular Meeting, March 20, 1996

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

<u>Contract Number</u>	<u>Old Amount</u>	<u>New Amount</u>
C862014	\$325.00	\$185.00
C95041	\$350.00	\$350.00
C94024	\$390.00	\$366.00
C95037	\$235.00	\$306.00
V95094	\$000.00	\$231.00
V95095	\$174.00	\$164.00

7. **Order dated March 13, 1996 to correct tax roll for change of assessment.**
8. **Consideration of the Check Register of March 15, 1996.**
9. **Budget Adjustment Requests.**

<u>Number</u>	<u>Department</u>	<u>Type of Adjustment</u>
960146	Personnel	Transfer
960147	Finance General-Juvenile Detention Facility	Transfer
960148	Election Commission	Transfer
960149	Aging	Transfer
960150	1996 Road and Bridge Sales Tax	Transfer
960151	1996 Road and Bridge Sales Tax	Transfer
960152	Aging	Supplemental Appropriation
960153	Corrections	Transfer
960154	Information Services	Transfer
960155	Wheatland Addition Phase III-Street	Supplemental Appropriation

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Budget Adjustment Requests (continued).

<u>Number</u>	<u>Department</u>	<u>Type of Adjustment</u>
960156	1996 Bridge Projects	Supplemental Appropriation
960157	Finance General	Transfer
960158	Capital Projects	Supplemental Appropriation

Mr. William Buchanan, County Manager, greeted the Commissioners and said, "You have before you the consent agenda and I recommend you approve it."

MOTION

Commissioner Gwin moved to approve the consent agenda as presented.

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	Absent at vote
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Thank you very much. Is there any more business to come before this meeting? We talked about an Executive Session, but due to the lateness of the hour, I think that needs to be postponed. So, is there any other business to come before this Board? This Board is adjourned."

I. OTHER

J. ADJOURNMENT

Regular Meeting, March 20, 1996

There being no other business to come before the Board, the Meeting was adjourned at 11:55 a.m.

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

THOMAS G. WINTERS, Chairman
Third District

MELODY C. MILLER, Chair Pro Tem
Fourth District

BETSY GWIN, Commissioner
First District

PAUL W. HANCOCK, Commissioner
Second District

MARK F. SCHROEDER, Commissioner
Fifth District

ATTEST:

Susan E. Crockett-Spoon, County Clerk

APPROVED:

_____, 1996