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Chairman Winters said, "Commissioners, you've had an opportunity to review the Minutes, what's the will of the Board?"

MOTION

Commissioner Hancock moved to approve the Minutes of September 18 and September 25, 1996, as presented.

Commissioner Miller seconded the Motion.

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

VOTE

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

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

CERTIFICATION AS TO THE AVAILABILITY OF FUNDS

Ms. Becky Allen-Bouska, Finance Director, greeted the Commissioners and said, "You have previously received the certification of funds for today's regular agenda. I am available for questions if there are any."

Chairman Winters said, "Thank you very much. I see no questions. Thank you. Next item."

PLANNING DEPARTMENT

A. METROPOLITAN AREA PLANNING DEPARTMENT (MAPD).

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- 1. CASE NUMBER SCZ-0720 - ZONE CHANGE FROM "SF-20," SINGLE FAMILY RESIDENTIAL, TO "LI," LIMITED INDUSTRIAL, LOCATED 1/4 MILE SOUTH OF MACARTHUR ROAD AND WEST OF 119TH STREET WEST (4201 SOUTH 119TH).**

Mr. Marvin Krout, Director, Metropolitan Area Planning Department, greeted the Commissioners and said, "I have two zoning cases for you this morning.

SLIDE PRESENTATION

"This is in the southwest part of the County. This is a tract that is outlined in black tape in the yellow area, which represents Single Family - 20(SF-20), which is a Suburban Residential District. This is on the west side of 119th Street and about midway between K-42 Highway and MacArthur Road. The tract is zoned Suburban Residential, but as you can see, the purple area to the south of that is zoned Limited Industrial, and had been platted and is partially developed as the Schulte Industrial Park. There are auction sales and vehicle sales and office use along K-42, further to the west, and then right at this location is an existing business that was recently established called Precision Profiling, a machine shop that makes parts for the local aviation industry. They are actually expanding in the back of their existing facility, which is very recent, and they have indicated that they would like to purchase this additional five acres for additional expansion in the future. So we're talking about expanding an existing business. The Planning Commission has an informal policy of favoring expansions of existing businesses if they don't cause other serious problems. This area is basically surrounding the industrial and commercial uses and agricultural use. There are scattered homes. The nearest home is about a quarter mile to the north of this tract and I'll show you photographs in just a minute.

"The staff recommended approval because of the expansion of the existing business and the existing industrial park. We are seeing actually quite a bit of development along this K-42 corridor. We have some concerns about the fact that this particular area is growing in kind of an incremental way and does not have municipal water and sewer and we think that this something that if this wasn't an existing business, we might have had some second thoughts about it. I think we need to be looking at this whole corridor and looking at maybe providing more services if this is going to be a growth corridor in the future. But we certainly don't want to constrain the expansion of this existing use which is important to the economy.

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“The Planning Commission had their hearing. There was no opposition at the Planning Commission and they voted nine to zero to recommend approval. I’ll go through the slides subject to platting. I’ll go through the slides quickly.

“This is about a year old. It doesn’t show the existing building that was constructed by Precision Profiling right there, but you can see the buildings along K-42 that are part of that industrial park. This is the building. We’re standing at 119th Street and looking west at the site, the existing building. This is the existing site and this field is the five acres that are in question. This is 119th Street on the right-hand side.

“Again, you’re looking north on 119th Street. The nearest home is about a quarter of a mile away. Then beyond that, about where the hedge row is I guess, is MacArthur Road. Now we’re looking east across 119th Street, also open land. This was kind of a large triangle between K-42, MacArthur Road, and 119th Street, down almost to Maize. At Maize and K-42, there is also other industrial development.

“We’re now north of the site. You can see the field here and then beyond that is the existing Precision Profiling building and back to the aerial photographs and the zoning map. I’ll try to answer any questions you have on the case.”

Chairman Winters said, “Okay, thank you Marvin. Commissioners, does anyone have questions of Marvin concerning this case? Seeing none. Marvin, there were no protestors filed, nobody testified at the Metropolitan Planning Commission?”

Mr. Krout said, “That’s right, no written protests or anyone at the Planning Commission to protest.”

Chairman Winters said, “Commissioner Gwin.”

Commissioner Gwin said, “Marvin, just briefly, you talked about this area, if it is going to continue to be a growth corridor, particularly when it has to do with industrial uses. You talked about this probably needing some attention paid to it, as there are no water or sewer services. Do you know how close those are at this point?”

Mr. Krout said, “Probably at least a few miles away. You remember the tract at K-42 and Maize that came in for about 140 acres of industrial zoning. There will be water and sewer extended to that site when it is developed, but then that will still be a mile away.

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“So we’re talking about an area that is pretty remote from any public services right now. I’m not sure how we’re going to provide services to this area, but along the corridor from this location back, there is quite a bit of development. Mid-Continent Industrial Park, south of K-42, and south of that tract, was rezoned. That area is also really substantial and has developed without water and sewer but they do have sort of a collective system, both for sewer and for water. They have fire pressures that are acceptable. They have sprinklers, so they are managing. But I think at some point, the businesses in that district, if we extend the sewer to the area north of K-42, will probably have an interest. I think the City was already contacted about trying to extend services south of K-42 as that area north of K-42 develops. So it is something that we’ll have to look at, as we look at the next edition of updating the Comprehensive Plan, I think. Trying to identify these growth corridors and if and how services can be expanded.”

Commissioner Gwin said, “Okay, thank you. Thanks Mr. Chairman.”

Chairman Winters said, “Thank you Commissioner. At this time, I would ask if there is anyone here from the public who would like, at this time, to protest this application for zone change on 119th Street West? Is there anyone here who would like to speak in opposition to this Planning Department case at 119th Street West? Seeing no one come forward. Marvin, I’m not sure if the applicant is here or would like to speak, but I don’t see any Commissioners asking questions at this time. Marvin, do you have anything else to talk to us about on this case?”

Mr. Krout said, “No.”

MOTION

Chairman Winters moved to adopt the findings of fact of the Metropolitan Area Planning Commission and approve the zone change subject to the condition of platting; 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 Schroeder seconded the Motion.

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

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VOTE

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

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

2. CASE NUMBER PUD-1 - PLANNED UNIT DEVELOPMENT FOR MIXED-USE DEVELOPMENT OF MULTIFAMILY, ASSISTED LIVING, OFFICE, HOTEL AND RESTAURANT USES.

Mr. Krout said, "The outlined tract in this case is 31.4 acres. It is a tract in the east part of the County. It is in the Four Mile Creek basin, and it is an area where both Four Mile Creek sewer and City of Wichita water, are available nearby.

SLIDE PRESENTATION

It is on the east side of 127th Street, between 127th and State Highway K-96, and it is about midway, you can't see either of the major east-west streets, but this is about Central and above the map is 13th Street, so it is mid-mile between Central and 13th Street. The property contains one very large house of over 10,000 square feet. The rest of the property is unimproved at this time.

"The zoning that the tan area represents is SF-20 zoning. That's the new name for the Suburban Zoning District areas that were beyond city services back years ago when the County initiated zoning in a three-mile ring were zoned in the Suburban Zoning District because water and sewer weren't available. So they only permitted one half acre to one acre lots and that is if septic tanks can be installed. Over time, in the Four Mile Creek area, when sewer became available and even before that, when individual systems were approved in the 1970's and 1980's, zoning has been established in this general area at a higher level. The White Tail development to the north is SF-6, which is the Urban Single Family zoning. This area has been approved for single family zoning and urban densities. You can see the green area and the red area, that's actually a Light Commercial zoning and a Multi-Family zoning.

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“That’s before the new zoning code. Those were, at the time, the only categories in the County zoning code that would have permitted the kind of cluster townhouse development that is at The Villas of Crestview. If you were to look beyond this map, you would see other areas. So gradually, as land and services have become available, zoning has changed from the Suburban District to at least being the Urban Single Family District.

“In July, the applicant filed an application for this 31 acres for a Planned Unit Development. It was PUD-1, meaning it was the first Planned Unit Development that was filed. The City Council recently approved a PUD, PUD-2. It was the second filed and the City Council approved it for an assisted living development just east of Tallgrass East on 21st Street east of Webb Road. But this was the first one that was filed. A PUD has no underlying zoning. It is a zoning category that stands along by itself and rules that are written, the site plan that may be attached to it, the conditions for uses, densities, other special conditions, set the zoning for that particular tract of land. It is meant to encourage innovative uses, mixed uses, sometimes can award higher density for stronger architectural or other kinds of controls, as planners, they are the source of things that we’re trying to encourage in different parts of the community.

“I think one of the responses we heard from neighbors was ‘we like PUDs, but just not right here and not this one’. So there was a lot of opposition to this case as it went through. It definitely was mixed use. In fact, that was part of the criticism, was maybe it had too much of a mix of uses. As it was originally proposed, it included a hotel use, with up to 80 hotel rooms, a restaurant of up to 6,000 square feet. In fact, let me show you the site plan, it would probably be useful to work from that.

“This is the White Tail development, an older slide. There is more development in this area. This is K-96, the project in question, the large single family homes, The Villas at Crestview, Crestview Country Club, their recreation facilities. This area has been platted for single family also. This is the PUD concept plan that has all the details, conditions in it by parcel. Probably it is easiest to look at the illustrated plan that was submitted. This is the house, we were talking about the large house. The plan was to use that house as a nucleus for building a hotel development, including the converting of that house to hotel rooms. In front of that hotel was a proposed restaurant. The north portion, along 127th Street, was proposed as a low-density office park, equivalent to the Tall Grass office park or other low-density office parks.

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“The middle area, which actually comprised the bulk of the 31 acres is proposed for multi-family, because there would be more than one unit on a platted lot, but basically townhouses, developed at a density of up to four and a half units per acre, which is more than the typical single family density on individual lots, but is technically a density that you could, with minimum lot sizes of 6,000 square feet, achieve on a tract. It is within the Comprehensive Plan’s definition of low-density, which is up to six units per acre. Then the very rear of the tract was proposed for an assisted living complex, one story, for elderly housing, that would use the remaining triangle of land with frontage on K-96.

“That was the initial proposal. The staff supported the request. I’m not going to go into all the reasons why, but I can if you have questions. We supported it subject to some clarifications and also subject to some downsizing and reduced density from what was in the original conditions. By the time of the Planning Commission, the applicant had agreed to all the conditions and the revised downward densities for this plan of the development. The staff and the applicants are the only ones who were agreeing about that. There was substantial opposition from the neighborhood and I’ll get to a protest petition so you can see how substantial it was.

“We’re looking at K-96. There’s a berm that was constructed to protect the house from the K-96 construction and that is the large house. This is a pretty well formed hedge row along the north side of the property today. We’re looking now from 127th at the house and the entrance to the house looking east. This is the house again. You’re looking further south and there’s the church that occupies the triangle piece of land just south of the tract of land that we’re looking at today and also has its back to K-96.

“We’re looking now across 127th Street to the east at a common area and behind the common area is The Villas, which is the cluster townhouse development that also backs onto a golf course of the country club. This is to the north of The Villas and across the street from the project is the recreation facility of Crestview which actually comes up pretty close to the road at that location. We’re looking now further to the north and the entrance to the country club. This is the White Tail subdivision to the north. This is the hedge row and this is an area where the hedge row definitely needed to be filled in with additional vegetation.

“This is the protest petition, that’s what I was looking for. The yellow band is the 1,000 foot radius around the 31 acres and every property that is colored in red is within that 1,000 feet and filed valid protest petitions.

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“Includes both homeowners and the landowner and developer of White Tail and that same land developer is also the owner of this property and filed protest and then you have the property at The Villas. Actually, it is almost two thirds of the potential area to submit protests filed. So no matter what happens with this case, and as you have heard, there is a request to submit it back to the Planning Commission for a rehearing, even if that occurs, these protests for this application will stand even if the application is revised and it will require four votes of the County Commission to approve this application or a revised application.

“The Planning Commission had a very long public hearing. You have the minutes of their hearing. They voted nine to one to recommend denial. There were all kinds of comments made by opponents at the Planning Commission meeting. The main concepts were that this is too high of a density. This is out of character, both in terms of the uses that are proposed and the densities that are proposed, out of character with the surrounding area. It would cause traffic and it would reduce property values. The Planning Commission voted nine to one to deny. The Planning Commission also made a variety of comments. I think the one that best sums it up was that we are trying to get five gallons of water into a three gallon bucket. There were other comments that were similar to the effect in terms of density.

“Now, within the past several days, the applicant has met with a group of homeowners. I can't say that they are representative of all homeowners in this area, but it includes several homeowners from White Tail and the land developer of White Tail and the area to the west. You received copies of a letter from the applicant to the leader of that group indicating that they are now requesting that this application be returned to the MAPC for a rehearing and for reconsideration of a revised application. In that letter, the applicant indicated that he would make commitments to specific changes in the Planned Unit Development if it were to go back for rehearing and those specifics included eliminating the office park, eliminating offices as a use, eliminating restaurants as a use, reducing the potential size of hotel from the 82 rooms that was initially requested and the 60 rooms that the staff and the applicant had agreed to by the time of the Planning Commission hearing, to a maximum of 46 rooms. Enlarging the area for the assisted living complex and for the residential, to make up for the changes that would take away the office and restaurant uses and also the concept of residential would change from what was more multi-family, more than one unit on a lot in a townhouse complex to more of a residential or patio home complex with one detached unit on every lot, although the lots may be small and the density may remain at this upper end that we've talked about earlier.

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“I think some of you may have had discussions with some of the people from this group and I understand that the group of people accepted the idea of sending this back to the Planning Commission for rehearing based on their understanding of the changes in the PUD and that does not imply that they are committed or supportive of what was outlined in the letter but they are willing to continue to meet with the applicant and he indicated in his letter that he is going to continue to meet with neighbors. He definitely needs to detail what his plan would actually mean. I mean you don't now have a plan in front of you. He's indicated that he is not proposing a lot of the uses that were in the application the Planning Commission looked at, we don't have really the details of how this is going to lay out and how the buffers work and what will the densities be and all that.

“It would be my recommendation that you return this to the MAPC. He talked about a 90-day time frame in his letter and I think that is an appropriate time frame for him to be able to have meetings with neighbors, develop a revised plan, and give that plan to us in time that we can advertise it, have it on file, and provide new notifications. We would readvertise the revised application, we would send out new notices to everyone who was originally notified of this PUD, plus people who may be outside of the 1,000 foot area, who through the Planning Commission hearing process indicated that they had an interest in this case. The Planning Commission would then have a new hearing sometime, they haven't set their '97 schedule, but sometime in mid January, that would be 90 days from today and we would send out those new notices that would give the exact time and date.

“I think that this group of homeowners who met, as I said, don't necessarily constitute everybody or represent everybody. I think there may be people out there, and they may be here this morning, who don't know about these discussions, who don't know about these last concessions that were made. They may be interested in speaking to you this morning but I'm not sure that, in my own mind, a public hearing would be well served at this time. I know your tradition is to have a public hearing before you make final decisions on cases but I think based on the fact that you have a neighborhood group who is saying that we are willing to work and the applicant going to work on changing this to the plan that the Planning Commission hasn't seen any of this yet. You usually rely on the Planning Commission and their recommendations before you have your public hearing and you make decisions. It would be appropriate not to hold a public hearing on something that we don't really have in front of us. I mean we don't know what that plan really looks like. Neighbors don't know what it looks like yet. I think some people really haven't had time or are just finding out now that the plan is something different. The Planning Commission hasn't looked at it yet and given you recommendations.

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“The other reason for sending this back as opposed to having a hearing and maybe making a decision now on approval or denial is that if you were to have a hearing and you voted to deny the application that was submitted to the Planning Commission, the applicant is eligible under the zoning code to be able to refile another plan which is substantially different and certainly with the concessions it would qualify as substantially different than what he initially filed, within six months of a Planning Commission hearing. If the Planning Commission thinks that it is substantially different. That would mean five months from today. I think if you were to deny this initial PUD, he would be very likely to do that because he certainly wouldn't have in mind how you feel about this. You don't have this new plan. None of us have it in front of us. So I think he would be likely to refile and we'd just be hearing this case two months later than we would if you send it back.

“The other point is that if the application is maintained and then revised and sent back, all of the work that the neighbors did in going around to their neighbors and getting protest petitions signed is still valid. So the neighborhood can still command the requirement for four votes to approve any kind of revision in this application. If this case was dealt with and then the applicant submitted a new application, then the neighbors would have to go through the process of obtaining new protest petitions which they might or might not get depending upon what he is asking for again. So I think the trouble of doing that, I think this surely puts a notice on the applicant, knowing that he has a four vote requirement no matter what, to work in good faith with the neighbors and trying to develop a scheme. It is hard to develop a scheme that everyone likes, but at least that he can find some accommodation that would be acceptable to some people in that area.

“So that would be my recommendation to you is that you now open this up to a hearing, which I think would just confuse the issue at this point. I'm sorry if people in the neighborhood came down here and expected to have a hearing, but I think they would be talking about something that isn't on the table any more, so it would be confusing. My recommendation is that you send it back. Have the Planning Commission have a full hearing on the revised application. When their recommendation comes to you early next year, you'd be able to open it up and have a hearing on the revised application.”

Chairman Winters said, “Okay, thank you. Let me see if I've got the time sequence right. If we would choose today, if your decision would be to send it back to Metropolitan Planning, we would probably hear this case again in about four months. All these protest petitions stay in place.

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“If we would have a hearing today and take the MAPC’s recommendation to deny this application and it would start over, then all those protest petitions go away and in six months, if the applicant filed again, the neighborhood would have to sign all those petitions if they were still going to protest. Is that right?”

Mr. Krout said, “Yes, six months from the Planning Commission hearing, so five months from today. So the applicant could go to the Planning Commission and refile the changed application in February and he would be heard by the Planning Commission in March, versus sending this back so that it would be heard by the Planning Commission in January. That’s the time frame.”

Chairman Winters said, “Okay. The last thing, just a preliminary question. If we vote to send it back to the Metropolitan Planning Commission, when it comes back with these protest petitions still in place, it requires a four vote for anything to proceed?”

Mr. Krout said, “Yes.”

Chairman Winters said, “It doesn’t drop to a three vote, it stays at a super majority?”

Mr. Krout said, “It takes four votes.”

Chairman Winters said, “Okay, thank you. Commissioner Gwin.”

Commissioner Gwin said, “Thank you Mr. Chairman. Just for clarification, can you go back to the original PUD, the drawing? You have the little red pointer. Okay, so in the letter that we were given from Mr. Dave’s to Mr. Cary, he said that he was willing to eliminate the office area use. Can you show where that is?”

Mr. Krout said, “That’s the office area use.”

Commissioner Gwin said, “Okay, so that wouldn’t be offices, but would be residential or patio homes?”

Mr. Krout said, “Right.”

Commissioner Gwin said, “And he was going to eliminate the restaurant use?”

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Mr. Krout said, "Which was proposed for the front of that site."

Commissioner Gwin said, "Okay. Without having a drawing we really don't know what that's going to look like. Enlarge the area presently zoned for assisted living, that's at the back."

Mr. Krout said, "This area, but we don't know where or how much."

Commissioner Gwin said, "A lot of this may shift that way a little bit."

Mr. Krout said, "Yes, I think there will be totally new parcel lines and boundaries and conditions."

Commissioner Gwin said, "Okay. Then go back to the protest map. The thing that interests me about this case is the number of people who have concerns about it as it was originally presented. That in itself is not unusual. I think what I like so far, however, is the working relationship between this developer and some of the neighbors, maybe not all of them. But I think what you pointed out to me today was interesting. It would certainly save a lot of trouble, as the Chairman pointed out, as long as this case continues these protests remain valid.

"Let's say for instance they continue to work and they come up with a compromise plan which I know they will and it comes back to us. If I'm a resident and now I like it, can I remove that petition or is it always going to be there?"

Mr. Krout said, "We've had that happen. You can rescind a protest. You have to rescind it in writing and in the same manner that the protest was originally filed."

Commissioner Gwin said, "Okay. But instead of that though they can leave it there just to ensure themselves it still would demand that four out of five of us still vote to approve any amendment."

Mr. Krout said, "Yes, it will still hold. In fact, we had a recent court case on the City side about that question, whether or not original protests are held valid as a case maybe goes through a revision and rehearing process, which is what occurred in that City case. If we were ever uncertain, the court instructed us that these petitions remain valid."

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Commissioner Gwin said, "Okay, that's interesting. I wasn't aware of that. Thank you. Thank you Mr. Chairman."

Chairman Winters said, "Thank you. Marvin, I have a question and I certainly don't mean to get into the merits of the case with this question but show me where the mile line roads are."

Mr. Krout said, "Maybe the aerial photograph."

Chairman Winters said, "Just take that one and guesstimate. Is there a mile road line there?"

Mr. Krout said, "This is about where Central is and 13th would probably be up at the top of the board."

Chairman Winters said, "We've traditionally, I guess, in the Comprehensive Plan gives us some direction on where commercial will be. I don't see that this fits that plan. Am I missing that? And again, I don't want to say something that is going to affect how MAPC reacts to this, but commercial in the middle of a mile is not what we do."

Mr. Krout said, "Let me try to give you a semi-long answer to that. That is generally true. At least it is true for certain kinds of commercial. That was pointed out by both neighbors and I think by Planning Commissioners too, is that the plan generally calls for commercial development at the intersections of the mile line roads. Now we do have exceptions. There are some exceptions that are even listed in the Comprehensive Plan, where we want to try to get small scale neighborhood services that may be on a collector road of a residence that is closer by and in walking distance, that are not going to generate a lot of traffic. I'm not sure that this fits into that. We were talking about two to four acres, small developments. So it doesn't fit into that category. We have an interesting issue on the City side with a mid-mile commercial development. One neighborhood group is supportive and one neighborhood group is against that particular proposal on Webb Road between Harry and Kellogg. This is more than that. He is asking for something more than that. I think that from the staff point, I said first of all there is commercial and commercial, and that if you're talking about retail commercial, the restaurant use in particular, those kinds of uses, then definitely those uses we tend to look for other locations than a mid-mile location with residential nearby. But you do tend to see things like assisted living, offices, especially smaller offices, other uses."

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“In fact, if you look at the hotels that are country club related, golf course related, they are off of a mile section and they are interested more in relating to the golf courses, like Inn at Tallgrass and Inn at Willowbend and Reflection Ridge. So you do tend to see some uses, but not the heaviest traffic generating uses, sometimes along the miles. It is a members only, but you do have a non-residential use in the country club and the restaurants and meeting rooms that are part of that country club. So you’re not entirely unprecedented even along this mile in terms of having something other than exclusively single family homes. The other exception here is that you have this church site and normally that is where maybe you would have found close to Central, some commercial development, but it has been sort of gobbled up already by the church.

“We looked at the overall composition of uses and we added up the traffic generation and didn’t think that, I mean it is a very low density residential, no where near a typical multi-family. It was low density office. Assisted living generates less traffic than single families, so our feeling was that it was reasonable and we had assurance through the PUD, we felt that it was going to be well designed and controlled architecturally and that there should be some reward for that. So that was some of our reasoning.”

Chairman Winters said, “Okay, thank you. Commissioners, I guess for the point of discussion among ourselves, I think Marvin has presented to me a good rationale for us to not take public comment on this today because of the recent realization that it is going to be completely different type of development as Mr. Daves has indicated he’s going to eliminate a lot of the processes. Secondly, I feel like it would be easier for the neighborhood to keep those protest petitions in place as opposed to having something happen to them where they would have to get those. So I guess I’m looking for comments from other Commissioners, but I’m prepared that we send this back to Metropolitan Planning Commission for their recommendation. Commissioner Gwin.”

Commissioner Gwin said, “Thank you Mr. Chairman. I tend to agree with that. I sat in on a neighborhood meeting a few months back that was very lengthy and very informative. I understand that neighborhood meetings that are still scheduled tend to go on much longer than the schedulers had anticipated in discussing this particular PUD. I also understand that while there are some who are discussing this PUD with Mr. Daves, there are others who have not been in on that process, so they may still not be comfortable with it in any way, shape, or form. But I will tell you, I’ve been very encouraged, particularly given the meeting that I attended this summer, in the fact that Mr. Daves has chosen to listen and eliminate some of the more unacceptable uses.

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“I am encouraged that there are neighbors who understand that growth and development will happen and that they want to be part of the solution and not just part of the problem. So I am very encouraged that together they’re working on what may or may not be the right answer. That’s yet for us to decide when it does come back to us. But I am going to be pretty adamant that this type of communication and partnership continue so that when it does come back to us we do get a sense as to whether or not the community can support it in its amended form or not. Obviously, with the protests to the degree that they are, if the community is not supportive, that certainly is going to be something that we’re going to have to consider very seriously. But I am encouraged learning some of the things you told me Marvin about recent court cases and how that does continue to give protestors great strength, if you will, when we have to consider it. But based upon the recent letter that I have gotten from Mr. Daves, indicating his need to substantially change this plan in light of some of the conversation he’d had with homeowners in the neighborhood, I too, would move that we return this to the Metropolitan Area Planning Commission.”

MOTION

Commissioner Gwin moved to return the item to the MAPC for a 90-day extension for amendments and reconsideration, and a revised plan, and that this process or case continues forward to assure that the protest petitions continue to be valid, and ask the MAPC to rehear on the amended PUD.

Commissioner Hancock seconded the Motion.

Chairman Winters said, “We have a Motion and a second. That would be with us taking that action and not taking public comment. I’m going to support that because I know that normally we certainly take comments from anybody almost any time. I rely a great deal on Metropolitan Area Planning Commission’s input. They are the first round of looking at proposals and I think they almost always come up with good and valid reasons behind the recommendations that they give to us as Commissioners. I think today that if we got into a discussion of what is going to happen on this piece of property, we would be doing that without the benefit of their recommendations, because it has been changed so drastically. Someday, this is going to come back before us. Either in four months or in six months. So we are going to have an opportunity to again look at this issue. It is still going to take a super majority. It is going to take four votes for us to move forward with it. So I’m anticipating that at the end of the ninety days that the developer is going to have a good plan that is going to be acceptable or it is still going to be an up hill slide.

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“So I know that I’m reluctant to not feel like we’re going to visit with all the public about this today, but I think we just wouldn’t have proper information to know what we’re discussing. So I’m going to be supportive of that motion to return it to the Metropolitan Area Planning Commission. Commissioners, we have a Motion before us. Is there any further discussion on the Motion? The Motion is that we will return this to the Metropolitan Area Planning Commission. Marvin, is that a proper way to form that Motion today?”

Mr. Krout said, “You may want to ask counsel.”

Commissioner Gwin said, “Rich, is that okay?”

Mr. Rich Euson, County Counselor, said, “Yes, it is.”

Chairman Winters said, “Okay, thank you very much. Commissioners, is there further discussion? Seeing none, call the vote.”

VOTE

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

Chairman Winters said, “Thank you very much. Madam Clerk, call the next item please.”

Mr. John Blair said, “May I approach the bench please. I would like to put a protest in the record.”

Chairman Winters said, “Okay. State your name and . . .”

Mr. Blair said, “I’m an attorney. I’ll be representing myself. I am within 1,000 feet of the proposed changes. I want the record to show that this was a hearing on PUD-1, and all on a thing that showed up in the last day or two. This Commission, I want the record to show, did not allow us to speak in opposition. Thank you.”

Chairman Winters said, “Thank you. Madam Clerk, call the next item.”

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NEW BUSINESS

B. AGREEMENT WITH CROHN'S & COLITIS FOUNDATION OF AMERICA, INC., GREATER KANSAS CITY CHAPTER, FOR USE OF SEDGWICK COUNTY PARK OCTOBER 12, 1996 TO HOLD A WALK-A-THON.

Mr. Lewis R. Rogers, Assistant County Manager, greeted the Commissioners and said, "There is not much more to add to this request. It is the second year for this Walk-A-Thon. An insurance certificate has been received and approved. I would request your approval of the agreement and authorization for the Chairman to sign."

MOTION

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

Commissioner Miller seconded the Motion.

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

VOTE

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

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

C. PHYSICAL AND DEVELOPMENTAL DISABILITIES ADVISORY BOARD BYLAWS.

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Ms. Irene Hart, Director, Bureau of Community Development, greeted the Commissioners and said, “You have before you some recommendations from your current Mental Retardation Physical Disabilities Advisory Board. Deborah Donaldson, who is Bureau Director of COMCARE, and I, have been attending these board meetings. We drew straws and I got the long one so I got to present to you today.

“Due to the internal reorganization last year, the County changed the way in which the Mental Retardation and Physical Disability functions are supported within County staff. COMCARE began staffing the mental retardation portion of this board and Aging, in my bureau, began staffing the physical disabilities portion. In fact, they created an Office of Physical Disabilities within the Aging Department. Also, State legislation created new responsibilities for local mental retardation boards, creating a community developmentally disabled organization, or CDDO. In fact, I believe you have more agenda items today dealing with the CDDO. This creation of a CDDO requires more specialized activities on behalf of the Mental Retardation Physical Disabilities Advisory Board.

“The Board spent considerable time over the last year evaluating how they could best organize themselves in response to these changes and they asked that we bring the following recommendations to you. First, they recommend a change in the name from the Mental Retardation Physical Disabilities Advisory Board to the Physical Disabilities Developmental Disabilities Advisory Board. So they are changing the name from mental retardation to developmentally disabilities.

“Secondly, the Board would like to retain themselves as a dual function board serving both populations, but they recommend a physical disabilities subcommittee be specifically created to focus on the issues regarding physical disabilities. Third, the membership of the Board, currently each Commissioner appoints three members to the Board. They recommend that in the future, two persons be appointed by each Commissioner, who are more concerned with the developmentally disabled issues and one be appointed who has specific interests in physically disabled. These representatives of the physically disabled would then serve on the physically disabled subcommittee. I’d be happy to try to answer any questions you may have. If you agree with these, we request that you approve the changes and refer it to the Legal Department so we can get the appropriate paperwork drawn up.”

Chairman Winters said, “Okay, thank you. Commissioner Schroeder has a question.”

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Commissioner Schroeder said, "Mr. Chairman, if you please. Irene, you and I talked about this at some length yesterday and I wanted to follow-up again. How many members are on that Board?"

Ms. Hart said, "Fifteen."

Commissioner Schroeder said, "And it will stay at fifteen?"

Ms. Hart said, "Yes sir."

Commissioner Schroeder said, "Okay. And then you'll have two committees that will split off of that Board and then make recommendations to the whole Board?"

Ms. Hart said, "Yes sir."

Commissioner Schroeder said, "That's my understanding. You have whatever the acronyms are for both of those. Are the powers or duties changed of those boards in any way?"

Ms. Hart said, "No, they're not. With the CDDO responsibilities, in fact, they are strengthened."

Commissioner Schroeder said, "The makeup of the Board, the appointments, who appoints who? That hasn't changed other than you would like to see two appointed to which side is it?"

Ms. Hart said, "Developmentally disabled."

Commissioner Schroeder said, "And then one to the other side from each Commissioner."

Ms. Hart said, "Yes sir."

Commissioner Schroeder said, "Okay, that's what I thought. Thank you. Thank you Mr. Chairman."

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

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MOTION

Commissioner Miller moved to approve the Bylaws and authorize the Chairman to sign.

Commissioner Gwin seconded the Motion.

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

VOTE

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

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

D. BUREAU OF COMPREHENSIVE COMMUNITY CARE (COMCARE).

1. AGREEMENTS (2) ALLOWING AGENCIES TO RECEIVE COUNTY MILL LEVY FUNDS, STATE AID, STATE GRANT FUNDS AND A SPECIAL STATE FISCAL YEAR 1997 APPROPRIATION BASED ON SERVICES DELIVERED TO PERSONS IDENTIFIED IN THE SEDGWICK COUNTY DEVELOPMENTAL DISABILITY FINANCE PLAN.

- **STARKEY, INC. - \$163,447.38**
- **GOODWILL INDUSTRIES EASTER SEAL SOCIETY OF KANSAS, INC. - \$18,492.18**

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Ms. Deborah Donaldson, Director, COMCARE, greeted the Commissioners and said, "These two agreements are two more of a number which you have approved over the last several weeks, which will continue the funding for these agencies until the end of the year, at which time, we will go to the plans for financing individuals and not agencies. This does wrap up and allow us to finish up our planning in preparation for that move. I'd be glad to answer any questions."

MOTION

Commissioner Schroeder moved to approve the Agreements 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 Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

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

2. ADDITION OF ONE FIELD CASE MANAGER, RANGE 16, FOR THE CDDO PROGRAM AND ONE PART-TIME (NO BENEFITS) POSITION FOR THE GATEWAY CHILDREN'S PROGRAM TO THE COMCARE STAFFING TABLE.

Ms. Donaldson said, "Commissioners, these two new staff positions, the Case Manager for the CDDO, is the position that we've anticipated needing and are now in a position to want to fill. This position will work as the liaison and will work with state hospitals, who work with folks with developmental disabilities and will be working toward bringing those individuals home to the community and putting together those plans. They obviously will be spending a lot of time initially with Winfield, but will be working with all state hospitals."

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“The second position, several weeks ago you had approved a contract with USD 259 on the Gateway project for us to provide a position. At that time, we thought that we’d probably just be doing that through contracts, but it has turned out that we are probably in a better position to do that with an individual who is a temporary position without benefits. So we need to add a position to do that. I’d be glad to answer any questions.”

Chairman Winters said, “Thank you. Commissioner Schroeder has a question.”

Commissioner Schroeder said, “Mr. Chairman, just very briefly. Debbie, what’s the total financial impact for these two positions?”

Ms. Donaldson said, “For the Field Case Manager position, that’s \$22,472. For the Gateway project, that is \$26, 169.”

Commissioner Schroeder said, “So roughly, \$48,000 or \$49,000. Are these grant funded?”

Ms. Donaldson said, “The Case Management position is out of the grant funds through the CDDO and then the Gateway project is funded through the contract with USD 259, so they are paying for that.”

Commissioner Schroeder said, “All right, thank you. Thank you Mr. Chairman.”

Chairman Winters said, “Thank you. Commissioner Miller.”

Commissioner Miller said, “Thank you Mr. Chairman. Debbie, regarding the position for the Gateway part time position, what’s the time line on that? Is that a nine-month position, understanding that it is in a contract with USD 259? A twelve-month position?”

Ms. Donaldson said, “My understanding is that this is a nine-month position. Yes, that’s a nine-month position. The idea is that this position will help coordinate mental health services for the Gateway program which you are aware of, are for students that have been expelled and are having significant problems. Our belief is that we will support any program that helps keep kids in school, because we think that’s the major problem, when we do not have them involved in some kind of productive activity. Obviously, children who would be involved in this particular program are having significant problems or else they would not have been expelled from school.”

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Commissioner Miller said, "I agree with that concept totally. Just wanting to basically clarify in my mind if we were contracting with USD 259, but yet it is our employee because they're being hired through COMCARE, that it is either a nine month or twelve-month position. Understanding that students would not probably be seeking that type of service for three months out of that year and where would this person be during that period of time, but you said it is a nine-month position."

Ms. Donaldson said, "Yes, that's why it is a little harder to fill, because it is temporary, it's nine months, it's for this period of time, there are not benefits tied to it. But we feel that we're going to be able to do that."

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

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

MOTION

Commissioner Schroeder moved to approve the additions to the COMCARE Staffing Table.

Commissioner Gwin seconded the Motion.

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

VOTE

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

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

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E. RECOMMENDATIONS (3) TO THE STATE BOARD OF TAX APPEALS THAT A FURTHER TAX REFUND BE GRANTED FOR RELIEF OF TAX GRIEVANCES IN SEDGWICK COUNTY, KANSAS.

1. APPLICATION OF CARL S. PACKER

Mr. Brad Sherard, Hearing Coordinator, Appraiser's Office, greeted the Commissioners and said, "This is a residential property where the land size has been incorrectly listed. This is for the tax years 1989 through 1992, and the total tax effect of this is \$428.13."

Chairman Winters said, "Okay, thank you."

MOTION

Commissioner Schroeder moved to make a recommendation for a further tax refund.

Commissioner Hancock seconded the Motion.

Chairman Winters said, "Again, I just say that the reason that we deal with these is that the State Board of Tax Appeals cannot go back past three years, so they need our concurrence on any refunds past three years. Any discussion on this Motion? Seeing none, call the vote."

VOTE

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

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

2. APPLICATION OF EVERADO MARTINEZ

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Mr. Sherard said, "Again, this is a tax grievance where we would ask that you make a recommendation to the State Board to grant further abatement. This is a vacant lot where there were some land size adjustments that need to be made. This is for the tax years 1992 and 1991, and the total effect of this is \$191.05."

Chairman Winters said, "Okay, thank you. Commissioners?"

MOTION

Commissioner Schroeder moved to make a recommendation for a further tax abatement.

Commissioner Hancock seconded the Motion.

Commissioner Miller said, "Mr. Chairman, I am sorry. I need a bit of clarification under the background and discussion, where it says that the taxes have not been paid."

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

Commissioner Miller said, "And we're granting an abatement?"

Mr. Sherard said, "Yes. We are following the recommendations of the State Board. Basically, the Board has ordered us to do this."

Commissioner Miller said, "Okay."

Mr. Sherard said, "This is an instance where the taxes have not been paid."

Chairman Winters said, "If you want to vote no, you can."

Commissioner Miller said, "Well I understand, I'm just trying to get a bit of information that would clarify why and this all basically hinges on BOTA mandating that we . . ."

Mr. Sherard said, "That's right, the tax payer filled out a grievance application with BOTA, they stated clearly on their grievance application that they had not paid the taxes."

Commissioner Miller said, "There is an error."

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Mr. Sherard said, "Yes, there was an error that was made."

Commissioner Miller said, "Then I'll vote on it."

VOTE

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

Chairman Winters said, "Next item."

3. APPLICATION OF JERRY G. ADAMS

Mr. Sherard said, "Again, we would request that the Commissioners make a recommendation to the State Board for a further tax refund. This is a vacant lot where there were some listing problems with the land again. This is for the tax years 1989 through 1992, and the total tax effect of this is \$850.11."

Chairman Winters said, "Thank you. Commissioners, you've heard Brad's report."

MOTION

Commissioner Hancock moved to make a recommendation for a further tax refund.

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 Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

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

F. AMENDMENT TO THE 1996 CAPITAL IMPROVEMENT PROGRAM (CIP) FOR THE BUREAU OF CENTRAL SERVICES, PROJECT #PB-295.

Mr. Don Brace, Director, Bureau of Central Services, greeted the Commissioners and said, "The Bureau of Central Services is asking to move project PB-295, replacement of a courthouse cooling tower, from 1997 to 1996. Authorizing the project now will allow for the purchasing of long lead items needed to replace the tower so that we can replace the tower early in 1997. Replacement of the cooling tower requires the shutdown of all the courthouse cooling system. Therefore, completion of this work before next year's cooling is required, is requested."

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

Commissioner Schroeder said, "Don, I just have one question. Since the funding was originally scheduled for the 1997 Budget, at \$210,000, what happens to that funding then that is in the 1997 Budget?"

Mr. Brace said, "The \$210,000 will be replaced to the Ark Valley Lodge remodeling project that we're going to take the money for 1996 funding. So it will be replaced back into that project."

Commissioner Schroeder said, "So this money that is coming out, is coming out of the Ark Valley Lodge remodeling fund and then that 1997 money will be put back in its place."

Mr. Brace said, "Yes sir."

Commissioner Schroeder said, "Okay, very good. Thank you. Thank you Mr. Chairman."

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

MOTION

Commissioner Gwin moved to approve the 1996 CIP amendment.

Commissioner Schroeder seconded the Motion.

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

VOTE

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

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

G. COMMUNITY HEALTH DEPARTMENT MONTHLY REPORT.

Mr. Larry D. Jecha, MD, MPH, Director/Health Officer, greeted the Commissioners and said, "Before you is the Health Department's monthly report for August. The Health Department staffed the Oz Fest Rock Concert on August 23 and 24th. This was our third attempt we've had at educating high risk audiences in a concert setting. Very successful. We distributed about 2,200 pamphlets to the crowd and essentially on education of sexually transmitted disease, especially AIDS. The response was really positive so I think it is a good outreach program for us.

"The tuberculosis clinic continues to have a lower case this year, which we're all glad for, because we've been going up the last three years. This is the first down size. There's only been ten cases for this year compared to 21 for last year. The State also is much lower, because whatever our rate is kind of determines what the State rate is since we're one of the largest TB rates in the state.

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“The clinic still is busy though because we continue to get a lot of refugees positive TB coming in that needs directly-observed therapy, which means we have to go out and make sure they are taking their medications for future spread.

“The Maternal & Infant Program is still very busy. We’re seeing over 30 new cases each month coming in, which gives us a good work load.

“The Primary Care Clinic is expanding and the night time seems to be busier. During August alone, that was immunizations for schools which we were very busy doing. Speaking of back to school immunizations, this was a very active month and we saw almost 3,500 kids who received vaccines for back to school. We have even had some volunteers of the Health Department went out to the St. Patrick’s Parish and helped them get their children immunized and up to date.

“Hiring efforts, good report that we do have a van driver now so that we can be out. We were serving the units, but we weren’t serving it with a van so that’s back up to snuff and we’ll be out in the County and the City with our van also. We’re glad to get that position filled, it took a long time.

“The disease of the month was really set in August with salmonella and we had 21 cases with one death reported in that month. Three cases were a result of handling raw beef. Everyone needs to be particularly concerned about handling egg products and raw beef.

“Speaking of diarrheal diseases, we accepted a pilot product with the State to study diarrheal diseases for the next year. So we have about fifteen sites that have been selected through Sedgwick County, and they’ll be reporting weekly the diarrheal cases so we can tell when we have these waves of certain viruses and bacteria that do sweep our County. I think it will be a big benefit to the medical community. We’ll see how this project works. We’re looking forward to participating with the State. This is a CDC program that the State has implemented.

“I might just mention that we do provide help to other County agencies, especially us being the largest Health Department. We have a lot of services that some of the small counties don’t get to see a lot of, like sexually transmitted diseases. We had two nurses come in from Ford County and be able to spend some time in our clinic to get trained in that. So it was a help to our fellow counties out there, that we can help them some.

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“Air quality, ventless heaters, we had a public hearing just to update, it will be at the Board of Health tomorrow. The other two boards have already met this week and we will give a final recommendation to the City Council following the results of all three board actions.

“Code Enforcement, we also do noise abatement and this month of August was one that made headlines, as you know, the revival. Neighbors complained about everything. That took a lot of manpower from the Health Department. People knew the police were involved, but we have to go out there and measure when we get complaints like that of decibels and see if they do meet the standards or not. We were very active in that endeavor in August.

“Our food handler’s class is really going well. I think this is the best we can keep from outbreaks of disease in our community and make sure all the food handlers are well educated in house diseases are spread, especially handling the food. So far this year we’ve already 4,681 individuals and this was more than we served in all of last year. So that is always a good sign. We’re getting more and more in our classes, which is what we like to see.

“Solid waste, the tire grant came to a conclusion. The Department of Health and Environment commended us for a job well done for the last three years and hopefully we can reapply for a grant and get this program back off the ground. After January we can apply again and we’ll just have to see what happens on this one. It was a good program. I think we did a lot of good in the community. We got a lot of tires off the streets and out of a lot of areas that needed to be.

“Vectors, as you know, we had a wet August and our people were out doing a lot of larviciding and adulticiding in a lot of areas, especially low lying areas. In fact, they are to help the mosquito population down.

“Household hazardous waste continues to be active and doing well. With that, I’ll open it up to any questions you might have.”

Chairman Winters said, “Thank you Dr. Jecha. In the past, with flu season approaching, we’ve had a couple of programs where we’ve worked with the City of Wichita and Sedgwick County Employees with flu vaccines. Are we going to do that this year?”

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Dr. Jecha said, "Glad you mentioned it, almost forgot. The Health Fair will be October 31 and that will be the day we can all get our flu shots and that will be extended for employees that can't make that until the 15th of November at any of our sites, so they will be able to come in from outlying areas and pick whatever site they have."

"The Fair will be in Century II this year. We are going to have a registration so people can get in and out a lot quicker and both the City and the County have really participated in this and this will be I think a good fair this year."

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

Commissioner Hancock said, "Doctor Jecha, on the ventless heater issue, have you had any recommendations that they're going to be receiving from the board from the other two committees that have met?"

Dr. Jecha said, "I haven't got results from those. I think one met last night and another one met, but I don't have those yet. I've never done a three-board type green sheet before so I'll probably need some help. We're going to put the three recommendations together with some kind of recommendation. They may be different. We don't know. Different boards look at different aspects. The Health Board will be looking at the health aspects and others might be looking at just the mechanical features or something like that, so it will be interesting."

Commissioner Hancock said, "I read in the paper that no one else has any regulations on these, is that true?"

Dr. Jecha said, "No, there are a lot of regulations. A lot of them have outlawed, especially in the northern parts of the United States. Denver has outlawed it. Seattle has outlawed it. A lot of states have outlawed it. Many agencies and a lot of them are really looking into it seriously."

Commissioner Hancock said, "Wonder why they would report that?"

Dr. Jecha said, "I can give you all the agencies that have outlawed them, that have banned them from the cities and states. There are several and they are the new kind of vent free heaters. It kind of depends, the southern states don't have much of a problem because people don't use them down there so it's not much of a problem."

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“It is usually those that have a higher use that have problems because if you use them only thirty minutes, like down south, a couple of times a year, that’s different than when you use them almost as an auxiliary heat source.”

Commissioner Hancock said, “You sound like we’re going to outlaw these.”

Dr. Jecha said, “No, I didn’t say that. I just said others have. You asked if others have outlawed them and I said yes, they have.”

Commissioner Hancock said, “Okay, thank you.”

Chairman Winters said, “Commissioner Schroeder.”

Commissioner Schroeder said, “I would like to follow up on that. What kind of space heaters, what are we talking about, ventless heaters?”

Dr. Jecha said, “They’re vent free, they are gas. Some are the fancy fireplaces. They have oxygen depletion sensors. They are fairly new, within the past few years. The real problem is there are no indoor qualities and there is some question about, anytime you have combustion you worry about carbon monoxide and nitrous dioxide, and that’s vicious.”

Commissioner Schroeder said, “Okay, thank you. Thank you Mr. Chairman.”

Chairman Winters said, “Thank you. Other questions of Dr. Jecha? If not, what’s the will of the Board?”

MOTION

Commissioner Schroeder moved to receive and file.

Commissioner Miller seconded the Motion.

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

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VOTE

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

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

H. BUREAU OF PUBLIC SERVICES.

- 1. RENEWAL APPLICATION WITH CHISHOLM TRAIL RADIO CONTROL AIRPLANE CLUB FOR THE SEDGWICK COUNTY ADOPT A HIGHWAY PROGRAM ON 103RD STREET SOUTH FROM 135TH STREET WEST TO MAIZE ROAD. DISTRICTS #2 AND #3.**

Mr. David C. Spears, P.E., Director/County Engineer, greeted the Commissioners and said, "Item H-1 is a renewal agreement with the Chisholm Trail Radio Control Airplane Club regarding our Adopt A Highway liter pickup program. They will be responsible for 103rd Street South from 135th Street West to Maize Road. Recommend you approve the agreement and authorize the Chairman to sign."

MOTION

Commissioner Miller moved to approve the Application and authorize the Chairman to sign.

Commissioner Hancock 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 Hancock	Aye
Commissioner Melody C. Miller	Aye
Commissioner Mark F. Schroeder	Aye
Chairman Thomas G. Winters	Aye

Chairman Winters said, "Next item."

2. RESOLUTION RELATING TO EXTENSIONS, ADDITIONS OR SUBSTITUTIONS IN STREET LIGHTING EQUIPMENT TO BE FURNISHED BY KG&E.

Mr. Spears said, "Item H-2 is a Resolution prepared by KG&E for modifications of street lighting in Sedgwick County. The Resolution calls for the removal of four lights on concrete poles and four lights on wooden poles and the installation of seven high pressure sodium street lights. These lights will be adjacent to Raytheon near Webb Road and Central. One light will be installed at the intersection of Wooddale and Harry. The increase in compensation by the County to KG&E will be \$158.49 per year. This will make the annual compensation paid to KG&E for all street lights \$109,630.36. Recommend you adopt the resolution.

MOTION

Commissioner Gwin moved to adopt the Resolution.

Commissioner Schroeder seconded the Motion.

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

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VOTE

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

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

I. REPORT OF THE BOARD OF BIDS AND CONTRACTS' OCTOBER 3, 1996 REGULAR MEETING.

Mr. Darren Muci, Director, Purchasing Department, greeted the Commissioners and said, "You have before you the minutes of October 3 meeting of the Board of Bids and Contracts. There are seven items for consideration.

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

"Item one, sanitary sewer improvements for the Bureau of Public Services, Brookhaven Addition, Phase Two. It was recommended to accept the low bid of J.J. Westhoff in the amount of \$49,943.

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

"Item two, intersection improvements also for the Bureau of Public Services, 13th Street North and Webb Road. It was recommended to accept the low bid of Cornejo & Sons, Inc., in the amount of \$1,828,263.

**(3) FIRE GEAR - FIRE DEPARTMENT
FUNDING: FIRE DEPARTMENT**

"Item three, fire gear for the Fire Department. It was moved to accept the low bids meeting specifications of Danko Emergency Equipment for \$13,222.75 and Casco Industries for \$1,470. That would match existing equipment.

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**(4) STEEL DESKS & COMPONENTS - APPRAISER'S OFFICE
FUNDING: APPRAISER**

“Item four, steel desks and components for the Appraiser’s Office. I apologize, there are three pages of tabulations. At the end of that, you’ll see it was moved to accept the only bid of Goldsmith’s, Inc., for \$22,776.64.

**(5) DISPOSITION OF REAL PROPERTY AT 6151 S BROADWAY - CAPITAL PROJECTS
FUNDING: CAPITAL PROJECTS**

“Item five, disposition of real property at 6151 S. Broadway, Capital Projects. It was recommended to accept the high bid of Blood Orchards, Inc., for \$67,750.

**(6) AXXIS IMAGING SOFTWARE - INFORMATION SERVICES
FUNDING: INFORMATION SERVICES**

“Item six, AXXIS Imaging software for Information Services. It was moved to accept the sole bid of the developer and publisher of Automated Business Systems for \$15,050, and that would match existing software.

**(7) CARPET FOR REGISTER OF DEEDS
FUNDING: CAPITAL PROJECTS**

“Item seven, carpet for the Register of Deeds’ Office. It was moved to accept the low bid of Midwest Carpet for \$13,402.

ITEMS NOT REQUIRING BOCC ACTION

**(8) SANITARY SEWER IMPROVEMENTS - BUREAU/PUBLIC SERVICES
FUNDING: SPECIAL ASSESSMENTS**

**(9) IBM 3174-23R - INFORMATION SERVICES
FUNDING: INFORMATION SERVICES**

**(10) SELF CONTAINED BREATHING APPARATUS - FIRE DEPARTMENT
FUNDING: FIRE DEPARTMENT**

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“There are three items that do not require action at this time. Those include sanitary sewer improvements for Savanna at Castle Rock, 8th Addition. Those were tabled. An IBM 3174-23R controller. Responses were tabled. A self contained breathing apparatus for the Fire Department. It was moved to reject the bid and re-solicit at a later date. Unless there are questions, I would recommend that you approve the recommendations presented by the Board of Bids and Contracts.”

MOTION

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

Commissioner Gwin seconded the Motion.

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

VOTE

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

Chairman Winters said, “Thank you Darren. Next item.”

CONSENT AGENDA

J. CONSENT AGENDA.

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1. Right-of-Way Easement.

The following tract of land has been granted by Easement for Right-of-Way at no cost to the County. This Easement was requested by the Director, Bureau of Public Services, as a condition of receiving a Platting Exemption on an unplatted tract.

Road Number 592-26, Owner: Don Moser, President, Ultimate Homes, Inc., located in the Southeast Quarter of Section 8, Township 25 South, Range 1 West, more specifically located on the north side of 109th Street North and west of 2nd Street East (Broadway). Grant Township. District #4.

2. Right-of-Way Instruments.

- a. One Easement for Right-of-Way for Sedgwick County Project No. 630-30, 31; 47th Street between Oliver and Rock Road. CIP #R-201. District #5.
- b. One Easement for Utilities for Balthrop Addition. District #1.

3. Section 8 Housing Assistance Payment Contract.

<u>Contract Number</u>	<u>Rent Subsidy</u>	<u>District Number</u>	<u>Landlord</u>
V96085	\$238.00	2	Kenneth and Grace Norton

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

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<u>Contract Number</u>	<u>Old Amount</u>	<u>New Amount</u>
V93114	\$282.00	\$110.00
V94089	\$353.00	\$000.00
V96054	\$295.00	\$307.00
V96009	\$275.00	\$204.00
V95088	\$385.00	\$234.00
V862006	\$215.00	\$179.00
C862021	\$188.00	\$319.00

5. **Agreement with McCarrell Enterprises to provide on-line access to Sedgwick County's electronic data.**
6. **Order dated October 2, 1996 to correct tax roll for change of assessment.**
7. **Adjustment of the County Appraiser's position from range 31, step 5 to range 31, step 7.**
8. **Consideration of the Check Register of October 4, 1996.**
9. **Budget Adjustment Requests.**

<u>Number</u>	<u>Department</u>	<u>Type of Adjustment</u>
960615	Personnel	Transfer
960616	Finance General	Transfer
960617	Finance General Lake Afton Park	Transfer
960618	Finance General	Transfer
960619	Sedgwick County Park	Transfer
960620	Finance General Detention	Transfer
960621	Noxious Weed	Transfer
960622	COMCARE Gateway Program	Supplemental Appropriation

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<u>Number</u>	<u>Department</u>	<u>Type of Adjustment</u>
960623	COMCARE-CDDO, CSS, Consolidated	Transfer
960624	Detention Facility Expansion	Supplemental Appropriation
960625	Finance General Central Services	Transfer
960626	Central Services	Supplemental Appropriation
960627	Road and Bridge Sales Tax	Transfer

Mr. William Buchanan, County Manager, greeted the Commissioners and said, ““You have the Consent Agenda before you and I would recommend you approve it.”

MOTION

Commissioner Gwin moved to approve the Consent Agenda as presented.

Commissioner Schroeder seconded the Motion.

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

VOTE

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

Chairman Winters said, “Thank you. Today we have no sewer agenda and we have no fire agenda. Is there other business to come before this Board?”

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K. OTHER

Commissioner Gwin said, "Mr. Chairman, I might. At the end of Planning, a gentleman came up and said that he wanted to protest the fact that we didn't take comments in protest of a PUD. I just wanted to ask Rich Euson, for the record, Rich, under the law, is this body mandated that we take public hearings on these? Does the law require that?"

Mr. Euson said, "Commissioners, the state statutes were last amended in 1991 or '92. They require that the Planning Commission have a public hearing. They do not require that a municipality governing body have a public hearing. I don't believe that the state statutes have ever required that, but certainly the ones that we are currently under do not require a governing body to have a public hearing. As you know, the City of Wichita has never held public hearings on zoning cases, consistent with the statute. The regulations that we developed, based on that statute, say that the Board of County Commissioners may, in its discretion, hold a public hearing. It also says that the Metropolitan Area Planning Commission shall hold a public hearing. So it is in your discretion in my opinion."

Commissioner Gwin said, "Okay, thank you. I just wanted to get that clarified for the record. Thank you."

Commissioner Schroeder said, "Can I follow up on that?"

Chairman Winters said, "Yes you can Commissioner."

Commissioner Schroeder said, "So when that comes back to us in four months or six months for our discussion and or approval, then we have that option to have a public hearing at that point and those people who were here will have a chance to speak."

Mr. Euson said, "Sure."

Commissioner Schroeder said, "Okay. And I think that's what you and I discussed when we were sitting here was that in essence, if we did it today, we'd have two hearings and we typically try to avoid that, because I think it does complicate the issue when you have two hearings and I think it was the right decision. I'm sorry that the individual felt he was being left out of the process, but he was not, it was being delayed."

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Commissioner Gwin said, "Right, and I appreciate that Commissioner Schroeder. The reason I asked Rich was that in discussing what action would be appropriate today and I know I heard the Chairman say it that what Mr. Daves originally planned is not what is going to come back to us. So there shall be a hearing at MAPC on the amended plan and then when it comes to us, I will expect, that we will then have a hearing or let people talk if they choose to do so on what he is going to present at that time. So I wanted to get clarification from Rich. Thank you Rich."

Mr. Euson said, "Thank you."

Chairman Winters said, "Thank you Commissioners. Thank you Rich. Is there other business to come before this Board? Seeing none, this meeting is adjourned."

L. ADJOURNMENT

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There being no other business to come before the Board, the Meeting was adjourned at 10:27 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