

MEETING OF THE BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

MAY 20, 1998

The Regular Meeting of the Board of County Commissioners of Sedgwick County, Kansas, was called to order at 9:00 A.M., Wednesday, May 20, 1998, in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman Mark F. Schroeder; with the following present: Chairman Pro Tem Paul W. Hancock; Commissioner Betsy Gwin; Commissioner Thomas G. Winters; Commissioner Melody C. Miller; Mr. William P. Buchanan, County Manager; Mr. Rich Euson, County Counselor; Mr. Lewis R. (Bob) Rogers, Assistant County Manager; Mr. Jarold D. Harrison, Assistant County Manager; Mr. Marty Hughes, Grant Manager, Bureau of Finance; Mr. David C. Spears, Director, Bureau of Public Services; Mr. Tom Pollan, Director, Sedgwick County EMS; Mr. Darren Muci, Director, Purchasing Department; Mr. Fred Ervin, Director, Public Relations; Mr. John Nath, Director, Kansas Coliseum; Mr. Marvin Krout, Director, Metropolitan Area Planning Department; Mr. Jim Weber, P.E., Director, Sewer Operations and Maintenance; Ms. Louanna Honeycutt Burress, Administrative Officer, Department of Housing and Economic Development; Ms. Cindy Kirkland, President, Association of County Employees; and Ms. Linda M. Leggett, Deputy County Clerk.

GUESTS

Mr. Joe L. Norton, Bond Counsel, Gilmore and Bell
Mr. Milt Pollitt, Chairperson, Sedgwick County Solid Waste Committee
Mr. Ben Huie, 12011 Rolling Hills Drive, Wichita, Kansas
Ms. Margaret Miller, Sedgwick County Solid Waste Committee
Mr. Joe Knute, Vice President, Herzog Environmental, Inc.
Mr. Harold Burnnett, President, Independent Haulers Association in Wichita
Mr. Jim Spencer, District Vice President, BFI Waste Systems
Mr. Neil Polley, General Manager, SS Express Sanitation
Mr. Charlie Sedlock, Hamm Waste, Inc.
Mr. J.T. Klaus, Bond Counsel, Hinkle, Eberhart & Elkouri
Mr. Steve Lackey, Director, Public Works, City of Wichita
Mr. Dave Bayouth, Representative, Rusty Eck Ford

INVOCATION

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

FLAG SALUTE

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Chairman Schroeder said, “See no questions, Marty. Thank you. Appreciate it. Before we go on to the next item, we need to recognize former County Commissioner Bud Hentzen. Welcome Bud, glad to have you here in our meeting room today. Before we go to appointments, I’d like to take up an Off Agenda Proclamation.”

MOTION

Commissioner Hancock moved to take up an Off Agenda Proclamation.

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

OFF AGENDA ITEM

Chairman Schroeder said, “Thank you. Commissioners, I have this Proclamation that I will read it into the record.

PROCLAMATION

WHEREAS, Sedgwick County medical services responds to emergency situations, providing prompt and appropriate medical care to the citizens of Sedgwick County; and

WHEREAS, emergency medical services professionals, which include the 911 dispatcher, the fire department first responders, emergency medical technicians, paramedics, emergency nurses and physicians devote their lives to providing life saving care to those in need 24 hours a day, seven days a week; and

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WHEREAS, the members of the emergency medical services team whether career or volunteer are involved in thousands of hours of specialized continuing education to enhance their life saving skills; and

WHEREAS, these dedicated professionals strive to reduce unnecessary injuries through year round injury prevention efforts; and

WHEREAS, the designation of emergency medical services week will help the citizens of Sedgwick County recognize the excellent emergency medical services provide;

NOW THEREFORE BE IT RESOLVED, that I, Mark Schroeder, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim May 17 through May 23, 1998 as

“EMERGENCY MEDICAL SERVICES WEEK”

and encourage all citizens to recognize the value and accomplishments of these emergency medical services professionals.’

MOTION

Chairman Schroeder moved to adopt the Proclamation.

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

Chairman Schroeder said, “Today we have the Director of EMS, Tom Pollan with us.”

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Mr. Tom Pollan, Director, Sedgwick County EMS, greeted the Commissioners and said, "In the tenth chapter of Luke, there is a story about what we know is called the Good Samaritan. I won't go into the depth of this story but a person of the law asked our Lord, who is my neighbor. Today, I accept this Proclamation in behalf of those who have dedicated themselves to providing quality health care and consider it a privilege to provide that service to their neighbors. Some are in the audience today and I'm going to ask those who are to stand and be recognized for their dedication in improving the quality of life in Sedgwick County. I want to thank you for this Proclamation. It means a tremendous amount to the group. There are three groups that I'd like to give my personal thanks to and I think everyone in this response organization would as well. The Board of Health, who gives us that citizen input and guidance, to the Medical Society who gives us professional health care guidance, and to you, the Board of County Commissioners, who have been our foundation since 1975. You have been very supportive. Management staff has been very supportive. It is our pleasure to serve this community of Sedgwick County. Thank you."

Chairman Schroeder said, "Thank you, Tom. Thank you again to all of you who are here today that are with emergency medical services. We know you have a tough job and we appreciate your dedication to your fellow citizens. Thank you again for being here. Next item please."

APPOINTMENTS

A. APPOINTMENTS.

1. RESIGNATION OF LOUIS J. ANTONELLI FROM THE COMCARE OF SEDGWICK COUNTY MENTAL HEALTH ADVISORY BOARD.

Mr. Richard A. Euson, County Counselor, greeted the Commissioners and said, "Commissioners, this resignation has been accepted. It has been presented to you and I ask that you accept it."

Chairman Schroeder said, "Thank you. Discussion on this item?"

MOTION

Commissioner Hancock moved to accept the resignation.

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

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

2. RESOLUTION APPOINTING CATHI GREER (COMMISSIONER WINTERS' APPOINTMENT) TO THE COMCARE OF SEDGWICK COUNTY MENTAL HEALTH ADVISORY BOARD.

Mr. Euson said, "Commissioners, we have prepared this Resolution to fill a remainder of the term that was just vacated on this Board. This term expires on February 28, 2001. This is a 15 member board in which the members serve four year terms. We ask that you adopt the Resolution."

MOTION

Commissioner Hancock moved to adopt the Resolution.

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

Chairman Schroeder said, "Cathi, are you here today? She's not. Okay, thank you. Next item please."

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3. RESOLUTION APPOINTING DR. DELORIS CRAIG (BOARD OF COUNTY COMMISSIONERS' APPOINTMENT) TO THE COMMUNITY CORRECTIONS ADVISORY BOARD.

Mr. Euson said, "Commissioners, this is a 12 member board in which the Board of County Commissioners has three at large appointments. They are for two year terms. We have prepared a Resolution for this appointment which would expire on May 28, 2000. The Resolution is in proper form and we ask that you adopt it."

MOTION

Commissioner Gwin moved to adopt the Resolution.

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

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

4. RESOLUTION APPOINTING JAN SHIRE (COMMISSIONER GWIN'S APPOINTMENT) TO THE SEDGWICK COUNTY ADVISORY COUNCIL ON AGING.

Mr. Euson said, "Commissioners, this is a 15 member board in which the appointees serve four year terms. This appointment is to fill an unexpired term which will expire on February 28, 1999. The Resolution is in proper form and we ask that you adopt it."

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MOTION

Commissioner Gwin moved to adopt the Resolution.

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

Chairman Schroeder said, "Thank you. That takes care of all our appointments today. Next item please."

AWARDS PRESENTATION

B. PRESENTATION OF TROPHIES (TWO) AWARDED FOR SEDGWICK COUNTY EMPLOYEES' FLOAT ENTRY IN THE RIVER FESTIVAL SUNDOWN PARADE.

Ms. Cindy Kirkland, President, Association of County Employees, greeted the Commissioners and said, "On behalf of the employees of Sedgwick County and the Association of County Employees, it is my pleasure to present the 1998 River Festival Sundown Parade first place trophy in a noncommercial category. In addition, we would like to present the 1998 River Festival Sundown Parade trophy for Admiral's Choice. It is our understanding that this is the first time Sedgwick County has ever received this award. The association would also like to extend their appreciation to all those who participated in getting the float into the parade this year. We really didn't think it would happen. Everyone who helped did a terrific job."

Mr. Fred Ervin said, "We'll make sure that we get these displayed. We're looking for a place to place these."

Chairman Schroeder said, "You'll be looking a long time Fred."

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Commissioner Gwin said, "Now the Admiral's Trophy, that's the big one?"

Mr. Ervin said, "Yes."

Commissioner Gwin said, "And it is a traveling trophy, right?"

Mr. Ervin said, "It is a traveling trophy. What you can't see, on this side and on this side, are engraved on here the past winners. So Sedgwick County's name has been added."

Commissioner Gwin said, "Well, I don't know how many people saw the float, but it was absolutely delightful. The designer and creators and the workers on that float should be commended. It was wonderful watching it come down the street. It fit the theme just perfectly, which is what I assume won us both of those trophies. It was just a delightful opportunity. I'm really proud of the employees and always proud of that float when it comes by."

Mr. Ervin said, "We'd really be reminiscent if we didn't say thank you also to Truman Ware, who on my first day of actually going to work on the float, it was nothing but a trailer and a wall full of plywood. Some of us didn't know how to use power tools, that wasn't a good sign. So we called Truman and asked him to come aboard. Shared the vision with Truman and the next day on his lunch hour, on his break, he actually drew out the entire design, the measurements and everything. Then when he came in that evening, it was just a matter of putting the puzzle together."

Commissioner Gwin said, "Well, what was wonderful about the float was that he took this year's River Festival button and turned it into real life. It was charming. Then a trailer full of kids following it never hurts."

Mr. Ervin said, "You know the paint on that little flying machine?"

Commissioner Gwin said, "That was you?"

Mr. Ervin said, "Well, I did some of it."

Chairman Schroeder said, "Fred, thank you for your contribution. We probably should put your name on the trophy. I didn't get a chance to see it. I was out of town at that time. I understand that the number of home made floats, if you will, has been reduced somewhat in the parade and my understanding was that ours really stood out amongst the others. I think that is great. I think that says a lot for our employees and for that team that put this together. You guys did a great job. I'm proud. Appreciate it. Do it again next year. Congratulations to you. Next item please."

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PUBLIC HEARING

C. PUBLIC HEARING AND RESOLUTION REGARDING PROPOSED SPECIAL ASSESSMENTS FOR CERTAIN INTERNAL IMPROVEMENT PROJECTS IN THE COUNTY.

Mr. Joe L. Norton, Bond Counsel, Gilmore & Bell, P.C., greeted the Commissioners and said, "It is a hard act to follow Commissioners. This morning on this item is a public hearing and Resolution with respect to eight capital improvement projects that create street improvement districts within the County. All of these projects have previously been authorized by the Board of County Commissioners. Construction has been completed or is substantially complete. Now is the time to review the final costs and levy assessments for these projects. As you may recall, last month the County Commission approved the final cost assessment and set today's date as the time for a public hearing to give the opportunity for citizen input before these assessments are considered by the Commission and levied.

"The eight projects, and we'll go in that order with the Chairman's indulgence, Quail Creek Estates, Wheatland Addition, Belle Terre Second, Diamond Addition, Rocky Creek Addition, Bookhaven Estates, Savanna Castle Rock and 21st Street North. On each of the projects, we'll show a map depicting the general area of the improvement, the map of the benefit district, and then the statement of final cost. Give an opportunity to go over what the assessment is going to be and then it might be beneficial to receive public comment at that point in time after each information is disseminated. At the end of those items we'll discuss the Resolution and implement the levied assessments. If it is okay with the Chairman, we'll proceed in that fashion."

Chairman Schroeder said, "Okay."

SLIDE PRESENTATION

Mr. Norton said, "First is the Quail Creek Estates project. This is located generally on Greenwich Road and 47th Street South. The proposed benefit district contains eleven lots. The method of assessment is equally per lot for the street improvement. The Bureau of Public Services has finalized the costs on this project. The total cost is \$112,545.34. There are eleven parcels. The average cost per parcel is \$10,334.74. This project was initiated by a petition of the property owners in the benefit district of about 76% of those owners. It would be nice to know if anyone here in the audience would like to address the Quail Creek Estates streets assessment project."

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Chairman Schroeder said, "Anybody here today that would like to address this item, project one, Quail Creek Estates? I see no one, Joe."

Mr. Norton said, "The next project is Wheatland Addition, Streets, Phase 4. This is generally in the vicinity of Hoover Road and MacArthur. There are 36 parcels. Again, this is Phase 4. There have been street improvements in other phases of this in previous years. The 36 parcels are to equally share the total cost of the project. The final project costs are \$176,403.09. When divided by the 36 parcels, that comes up to a principal component of \$4,949.58. Again, the property owners have the opportunity to pay in within 30 days of the time these assessments are levied. If not, the County will bond these projects for a total of 15 years and spread on the tax rolls the interest over that period."

Chairman Schroeder said, "Okay, thank you. Is there anyone here today who would like to speak to this item, Wheatland Addition, Project 2? I see no one, Joe."

Mr. Norton said, "Project 3 is Belle Terre Second Addition, Streets, Phases 2 and 3. This project is located south of Central near the border between Sedgwick and Butler County. There are 40 lots within this street improvement district, each lot to be assessed equally for the total cost of the project. The total cost on this project is \$464,159.71. When divided by the 40 parcels, a principal component of \$11,721.20."

Chairman Schroeder said, "Okay, thank you. Is there anyone here in the room today who would like to be heard on Belle Terre Second, Project 3? I see no one, Joe."

Mr. Norton said, "The next project is the Diamond Addition street improvement project. This is located generally near MacArthur Road and West Street. There is one large parcel that will bear the assessments for this road improvement. The total cost was \$50,182.43. Again, a 100% petition project."

Chairman Schroeder said, "Okay. Is there anyone here in the room today who would like to speak to Project 4, Diamond Addition? I see no one."

Mr. Norton said, "The next project is Rocky Creek Addition, Phase 1, Street. This is located north and east of the intersection of 13th Street and 127th Street East. There are 39 parcels in Phase 1 outlined in red on the map. Each parcel is to bear an equal share of the cost of the street improvement. Total cost of the project is \$677,284.90 as depicted in the green on the bottom. There are 39 parcels. Again, divide that equally, the average cost per parcel is \$17,366.28."

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Chairman Schroeder said, "Okay, thank you. Is there anyone here today who would like to speak to this Project 5, Rocky Creek Addition? I see no one."

Mr. Norton said, "Brookhaven Estates Second Addition, Streets, Phase 2, again located north of Central near the Butler and Sedgwick County line. There are 30 parcels within this proposed improvement. Again, this is Phase 2. The benefit district is outlined in red. The total cost of the project is \$165,984.15 divided by the 30 parcels comes to a principal component of \$5,532.81."

Chairman Schroeder said, "Okay, thank you. Anybody here today who would like to be heard on Project 6, Brookhaven Estates Second? I see no one, Joe."

Mr. Norton said, "Savanna at Castle Rock Ranch, 8th Addition, Streets, this is located generally north of the intersection of 13th and 143rd Street East. There are 20 parcels within the proposed benefit district. They are outlined in green on the map. Each lot would bear an equal share of the total cost of the project. Total cost of this improvement is \$305,301.63, when divided by the 20 parcels it is a principal component of \$15,265.08."

Chairman Schroeder said, "Okay, thank you. Is there anyone here today who would like to speak to this item, Project 7, Savanna at Castle Rock 8th? I see no one, Joe."

Mr. Norton said, "The final street improvement project are the improvements on 21st Street North from the Wichita City Limits to K-96. This project is one undertaken under the County's Charter Resolution where a significant portion of this project is being paid for by the County at large and will be included in the County's general road improvement projects. However, a \$100,000 parcel of this project was petitioned to be spread across a benefit district which is basically a commercial area north of the intersection of Greenwich Road and 21st Street as indicated on the area depicted in red. One hundred per cent of the owners of the property petitioned to have this assessment spread, it is spread on a fractional basis generally equal to the approximate square foot of the parcel, the larger parcels paying significantly higher amounts. The total cost of the project was \$2,009,356.26. Again, the County's share of this project, under the Capital Improvements Program, is \$1,909,843.57. The amount to be assessed to this benefit district is \$100,518.07. There are 138 parcels. The average cost per parcel is about \$7,028.39. There are very few average parcels. There are many larger and many smaller. This is just a mathematical calculation of 138 into that \$100,000."

Chairman Schroeder said, "Okay, thank you, Joe. Is there anyone here today who would like to be heard on this item, Project 8, 21st Street North from Wichita City limits to K-96? I see no one. At this time we'll close the public hearing and limit discussion to bench and staff. Commissioners, any questions or comments at this point?"

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Mr. Norton said, "If not, we have prepared a Resolution which has been approved as to form by the County Counselor's office, which would levy the assessments against all the parcels indicated at the public hearing. Again, the property owners would have 30 days which to pay in the principal component of their assessment. If not so paid, it would be spread over 15 years with interest on the outstanding principal balance on the general tax roles as other taxes are spread. If you have no further questions, we'd recommend adoption of the Resolution."

Chairman Schroeder said, "Okay, thank you, Joe. Discussion on this item?"

MOTION

Commissioner Gwin moved to adopt the Resolution.

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

Chairman Schroeder said, "At this point, according to our Agenda, we need to recess to the Sewer District and follow-up there. So we'll recess the Regular Meeting."

The Board of Sedgwick County Commissioners recessed to the Sewer District meeting at 9:29 a.m. and returned at 9:37 a.m.

D. RECESS TO THE SEWER DISTRICT MEETING.

Chairman Schroeder said, "I'll call back to order the Regular Meeting of the Board of Sedgwick County Commissioners, May 20, 1998. Commissioner Hancock."

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Commissioner Hancock said, "Thank you, Mr. Chairman. For the public information, we just got through going through a number of formalities concerning this special assessment on a number of projects including sewers and streets. While the presentation was somewhat lengthy, it is a requirement of law that we make these presentations to the Board of County Commissioners and to the public. Most of these projects were presented to us and handled by the experts, Joe Norton and Jim Weber, who we depend upon very much to put this information together and bring it to us. As you saw, there was no public discussion whatsoever from the audience and there was no discussion by the Board of County Commissioners. Just as a note, while these items are somewhat complicated, they are fairly routine and for the most part require no discussion whatsoever. These figures we get about a week in advance and we're able to go over them but we depend very heavily on the experts and input from the public to ultimately make our decision. So today the decision was fairly easy. The answer was yes, we'll spread those specials. All the footwork has been done. Credit has been looked at. The developer met all the requirements and by law we are probably required almost to spread the specials.

"Previously in our Agenda, we made a number of appointments to various boards. Those are a matter of routine also. So to this point in our Agenda has been a fairly routine Agenda. We honor the appointments by other Commissioners with no discussion. I have been a Commissioner for almost 10 years now. I don't remember ever discussing an appointment suggested by another Commissioner. When I ask for an appointment, I also expect it to pass. So we honor those things. The other item we had in our Agenda was a presentation of an award and for that we are very proud to the County's Association of Employees and we made a few comments on that. But so far, our Agenda has been very routine and required very little discussion. You'll notice that the Board of County Commissioners really don't talk about what they don't have to. Now the next item we'll probably talk about some things and then move on. Thank you, Mr. Chairman."

Chairman Schroeder said, "Thank you, Commissioner Hancock. Next item please."

NEW BUSINESS

E. PUBLIC COMMENT REGARDING OWNERSHIP AND OPERATION OF A SOLID WASTE TRANSFER STATION.

Mr. William P. Buchanan, County Manager, said, "We have come to the point in time when as a decision point regarding the transfer station and who should own and operate the system. I think we have had those discussions in the past. We continue to have those. It is an issue that clearly, from my perspective, one that you can fall on either side of that argument line. But the more we discuss it, the more helpful that becomes. So we thought it would be appropriate to do so today.

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“As a reminder, we took a look at the files and took a look at what we talked about in the Solid Waste Management Plan back in March of 1997. We had essentially three goals of that plan. The first was to protect the health and safety of the citizens of Sedgwick County is of primary importance. The second goal was to ensure that the inclusion of all residents of Sedgwick County in this decision making process. Today’s effort goes directly towards that goal to include folks in the decision making process. And certainly to improve and update Sedgwick County’s solid waste system.

“The issue before you is not one for decision making but for discussion. The decision making process will come at a later date, perhaps next week’s Agenda and perhaps some other time. The courts have defined for us this dilemma between the private ownership and public ownership, if you will. They have used the terms market regulator and market participant. The market regulator is what governments naturally do. We are regulators in the code enforcement of business. We provide the rules and regulations under which land can be subdivided, buildings can be placed on it for the health and safety of the community. So let’s talk about what as a market regulator the County can do and can’t do.

“The market regulator is essentially saying to the public that the private sector would own and operate the system. But as the market regulator, we can define the criteria for final disposal. More rigidly than subtitle D, to ensure the environmental protection for everyone’s neighborhood. As a regulator, we could say that the subtitle D landfill in which the garbage is disposed needs to be rather than 10 feet from groundwater, we could say 20 feet. This is an example. It would have to be based on science, but we could as a regulator indicate some more criteria where garbage could be disposed of.

“Under the second bullet point, we can define criteria for facility locations, design, operations, and aesthetics to protect neighborhoods and ensure uniform levels of customer service. We could, using that criteria, indicate that the facility needed to have pine trees, or needed to be painted blue or Dillons’ tan, or any other color. As a regulator, you can regulate the criteria for the location, the design, and the operation, and the aesthetics to protect and ensure the uniform levels of customer service. We can define the health and safety criteria. For instance, you can require that it be washed out once an hour or once a day or washed with specific sort of chemicals. So that as a regulator you can provide that protection.

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“Finally, we can define the system that provides for the maximum protection of the citizens of Sedgwick County from short and long term litigation and economic risk. We’ll talk about that a little more in just a second because the opposite is true for the market participant. So that is what you can do as a regulator. You can talk about the disposal, where it is going to be and why it needs to be different than subtitle D. You can define the criteria by how the facility is going to be operated, where it is going to be operated, the operations and aesthetics, you can place some health and safety criteria, and in this way because we are the regulator we are not in the business and therefore our sense is that we will not be involved in short and long term litigation as we would if we were a participant and that is what we’ve learned from other places around the country.

“An economic risk is that we, if we’re not in the business, if we’ve not invested any money for buildings or land, then we have not risk anything economically. The converse of that is true under market participant. As a market participant, you can do everything I’ve just said. You can do all those things I just said plus you may determine a fixed rate for gate pricing. Of that pricing, we could determine how much a ton people would pay to use that facility. That rate can include extra fees for program funding. So for recycling, for public education, for all the ideas, all the things we think we need to do to go along with this program, could be funded out of the program if the economics work. If the price is too high, as a market participant, we have no guarantee that others would not open a facility elsewhere, across the County line, within the County, any place else. If the price were such, then the only way to protect the citizens of Sedgwick County investment would be for us to subsidize the tipping fee.

“The tipping fee does not necessarily mean subsidy of the tipping fee or the price determination does not necessarily mean that that will be reflected in my pocket, your pocket, or citizens’ pockets as the haulers pick up the garbage. Often those are passed on. The increases are often passed on. Whether decreases would be passed on or not we have no control over that. We just need to understand that this is not about Sedgwick County involving themselves with the customer at their house. It involves Sedgwick County as the customer, the people who pick up the garbage and their deal between the homeowners and themselves is not our concern. So if this topic seems like it is clear as mud, it is because in fact it is. As a market participant, we can control all the things that we indicated before and we can fix the gate pricing at the gate that would help our fees. We don’t believe economically that can pay for everything we need to have done and therefore there is a mitigation factor on that criteria. I’d be happy to attempt to answer any questions. We have lots of experts in the room and if you’d like to do that or proceed right to the public and the public comments.”

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Chairman Schroeder said, "Thank you, Mr. Buchanan. I think we are here today to receive public comments? Do we want to get right to the public comments Commissioners? Okay, before we do that, I need to recognize former County Commissioner Dave Bayouth is also with us today. We're just loaded with Commissioners today. Welcome. Okay, at this time I'll open up the meeting to public hearing. I'd like to see a show of hands of people today who would like to speak to this item.

"About nine of you. Okay. I need to let you know that you are welcome to speak to us at anytime on any issue. Today we are opening our meeting for public hearing. I would advise you, however, you are limited to five minutes before us. This is not a debate of issues, this is simply a time that allows us to hear what you have to say about this issue itself. We are more than happy to listen to you but I need to remind you today that you are limited to five minutes discussion. Okay, thank you. First speaker."

Mr. Milt Pollitt, Chairperson, Sedgwick County Solid Waste Management Committee, said, "At its regular monthly last Monday the Committee discussed for well over an hour this particular issue and passed a motion that I will read to you regarding the issue. The motion of the recommendation is that the Solid Waste Committee recommends a public private partnership be established that accomplishes the waste minimization, environmental protection, and solid waste management goals specified in the solid waste management plan. This would include tax subsidation (sic) or development of a public utility as needed to attain these goals. That particular motion passed 12 in favor, 2 opposed, and 2 abstentions. Be happy to answer any questions regarding our meeting or how this was formulated if you so desire."

Chairman Schroeder said, "Okay, thank you, Milt. We do have questions. Commissioner Miller."

Commissioner Miller said, "Thank you, Mr. Chairman. Milt, that was exactly what I was going to ask you to kind of expound upon is how is it that the Solid Waste Committee came to that decision that a public utility would be best?"

Mr. Pollitt said, "The concern is that if the other programs, other than the actual collection and handling at the transfer station and transportation to another landfill, if other programs such as initiating the bans that the plan calls for on grass and leaves and on construction and demolition waste as well as a voluntary recycling program, if all of those are included in what you might say the tipping fee, that it could create problems of increasing the tipping fee to the point where the facility would not be economically feasible. So that the other ancillary programs, the grass and leaves and so forth, perhaps could best be handled by a public utility involvement or by subsidation of those programs through the general tax roll."

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Commissioner Miller said, "Public utilities was something I spoke of I believe when we . . . early on when we made this decision. It seems to invite the ability for a governmental entity to be indeed responsible for its community and things that go on but yet that private public partnership that you mentioned would still lend the way for the expertise to come in and do the jobs that they do extremely well. When the committee came to this decision did they talk about community responsibility or besides being able to subsidize, which is chief, it is important, besides talking about that, did they talk about responsibility or being able to keep somewhat control of what goes on in their community?"

Mr. Pollitt said, "That was a primary concern. We felt that the control issue that we discussed at great length would be a public responsibility and that the actual operation of it, the physical operation of it would best be handled by a private operation contracted out as now occurs at the landfill with the operator of the landfill."

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

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

Commissioner Hancock said, "Milt, you almost answered my question just now. Specifically, you did talk about a private operation of transfer station. In your discussions, was it generally in favor of public ownership or private ownership or at least a public input and control?"

Mr. Pollitt said, "It was generally favored that the ownership of the transfer station would be by the public, a public ownership. Then the operation of them in all respects would be private and that the other programs then would be handled separately from the trash collection and handling at the transfer station and subsequent disposal. We felt that would result in particularly in attaining the environmental goals that the Committee has set out in the plan. Perhaps that could best be done by a separate operation. Again, could be publicly regulated but privately operated. For example, curb side recycling. We thought that might best be kept out of the tipping fee cost."

Commissioner Hancock said, "Then the Committee also endorsed the possibility of solid waste fees as opposed to just operation funding by the tipping fee."

Mr. Pollitt said, "Yes."

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

Chairman Schroeder said, "Commissioner Gwin."

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Commissioner Gwin said, "Got the answer."

Chairman Schroeder said, "Commissioner Winters."

Commissioner Winters said, "Milt, in this discussion then with the Solid Waste Management Committee, was it their feeling then that there should be only one transfer station?"

Mr. Pollitt said, "We did not get into that discussion Commissioners, as to how many there would be. I think my feeling would be that the publicity that has been in the newspaper about having two of them, one essentially north and one essentially south, is generally accepted as a good idea by the Committee."

Commissioner Winters said, "Well, one of the things that I keep thinking about is this public private partnership that the Committee evidently talked about and how we can really craft that into something that will somehow be controlled, whether it is a public utility or not but has some regulations, but how we can do some real market driven competition in the fact if more than one company wants to build a transfer station and how we can play on that. The Committee didn't really talk about that aspect?"

Mr. Pollitt said, "Well, in a round about way I think we did. I think I could safely say that the Committee is concerned about turning over the ownership of the facility to a private company. I think they would . . . we did not split our recommendation here as to which was which but I think there is a concern, not a very high comfort level with someone other than the County owning the facilities and contracting out the operation."

Commissioner Winters said, "All right, thank you. Thank you, Mr. Chairman."

Chairman Schroeder said, "Thank you. I see no other questions. Thank you, Milt. Next speaker."

Dr. Ben Huie, 12011 Rolling Hills Drive, Wichita, said, "I'm an environmental scientist with ten years experience dealing with solid waste management issues. I will not take sides at this time as to the details of ownership of a transfer station or a utility or what have you. I think that both the County Manager as well as Mr. Pollitt have raised a number of issues that will have to be dealt with as this whole thing moves forward. I'm sure these details will be worked out as the overall plan continues to evolve. My concerns relate more with the overall solid waste management plan here in Sedgwick County. The other portions of this plan in many ways must be the foundation, the context in which the transfer station or transfer stations must be built and operated."

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“The Committee has addressed these issues to some extent but I am concerned that they are not receiving a high enough priority. I urge this Commission to move forward with waste reduction and detoxification before finalizing plans for transfer stations. Only by doing this can we have reliable information as to the quantity and quality of the waste stream to be dealt with. There have been numerous horror stories nation wide in which local agencies have developed solid waste management facilities sized to handle the entire waste stream. As these facilities have come on line with their increased costs due to the necessary environmental protections, citizens have belatedly discovered recycling and composting. These new facilities have then found themselves starved for solid waste and the local agency unable to pay the facilities cost. Numerous flow control law suits have resulted due to these economic problems. For example, the Carbone case back East in which the United States Supreme Court said you cannot control the waste stream and they had serious problems. We need to have waste reduction in place now in order to prevent such a scenario. We can then develop facilities appropriately sized to deal with our future waste flows and integrate it with waste reduction programs.

“Removal of toxics from the waste stream should also be accomplished prior to the establishment of our new disposal system. These materials, although small in volume, greatly increase both the hazards and handling and shipping as well as the potential for pollution at the receiving facility. The City’s plan, such as it was, met with mass public opposition and failed largely because it consistently ignored any efforts at waste reduction. I urge this Commission to move forward expeditiously to establish reduction programs before committing us to the details of the disposal option. This will allow the community time to adjust to the new world of integrated waste management as we move forward to the new system. Thank you very much.”

Chairman Schroeder said, “Thank you, Ben. I think we have a question or comment. Commissioner Hancock.”

Commissioner Hancock said, “Thanks, Ben, I appreciate those comments. I think you’re right on target. It would be great to understand better what size everything needs to be based upon our ability to reduce some of that stuff to the ultimate destination like landfills and so forth. I couldn’t agree with you more. Unfortunately, you are talking to the wrong governing body right now.”

Dr. Huie said, “Unfortunately, I agree with what you just said however I think you are also the only governing body around that is listening.”

Commissioner Hancock said, “When we begin to look at this in size, I think we really do have to consider in our heart of hearts, how much do we really believe that we can reduce the flow to the dumps and see how much we can put back into good use.”

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Dr. Huie said, "I think what I don't want to see is a 1,500 ton facility with 1,000 tons of material because that could put us in a heap of hurt."

Commissioner Hancock said, "Right. Thank you. I appreciate it, Ben. Thank you, Mr. Chairman."

Chairman Schroeder said, "Thank you. Next speaker."

Ms. Margaret Miller said, "I'm just going to make very few additional comments. I'm on the Solid Waste Management Committee also and I'm Chairman of the Subcommittee on Waste Minimization. We have just taken up a new work which it looks as if it is going to be pretty difficult to really get accurate information. We're going to talk about food waste. We just barely started. It is not one of the very largest items in our waste but it is an important one. So we'll let you know more about that a little later on. I just wanted to say now that all over the country, waste management is tending towards waste reduction. I think you know that. All the magazines, large companies are trying to reduce their waste, their packaging, weight of it particularly. If we can just get the public to go along with this. I think really the public has done a wonderful job considering that they've had so little leadership on it for so many years. We still have thousands of people using those recycling bins in the Dillons lots even though we haven't had any education on that for several years. We need that education right now to show them how to do it right. They want to do it but they don't really now how to separate things and keep them clean. So we could just use that any time.

"We have a little problem here in Kansas in that the State doesn't do more. It leaves a lot more on our shoulders. We're one of seven states that doesn't have recycling goals. All the other states except seven have recycling goals set. They are reducing their waste more every year. But in this State, we have never done that. Only seven states have not done that. One reason I became opposed to a new landfill was that if we have an expensive lovely landfill, I think the temptation is very great to use it. We've got that, we need to use it in order to pay for it. So I think this other way is a better way. I might just mention about Emporia. I can't remember if I've told you about that before or not. Their landfill had to close about two years ago. They went to a transfer station. So the whole ball game becomes completely different then because you're going to have to pay to ship all that stuff. It immediately becomes a very good idea to reduce it if you possibly can. They don't have a very elaborate program but they're doing it. They have already reduced their waste in a short time by almost half by just small ways of educating the people. They have one station at the west edge of Emporia where people can take things. They have one in a Dillons lot on a weekend.

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“They haven’t spent much money on it but they have already reduced their waste by almost half because now it costs them to ship it. So it is a very good idea to reduce it. So those are the main things I wanted to say. Mainly, that we need to educate the public as to some of these items. I already read some in the paper this morning what people are saying. Obviously they need more education on the subject and I hope that we can begin to do it right away. Thank you.”

Chairman Schroeder said, “Thank you. There are questions up here, Margaret. Commissioner Gwin.”

Commissioner Gwin said, “Margaret, I was just curious on the motion of the Solid Waste Committee for the public private partnership. Were you one of those who supported that?”

Ms. Miller said, “Yes.”

Commissioner Gwin said, “Can you tell me why since we have you up here? What was it about it that made sense to you?”

Ms. Miller said, “Well, we have big players here in private business and I think that we all have to work together on it. As Milt said, try to have the transfer stations regulated and controlled. I am really worried about a transfer station being built outside the County. I don’t know just how that would play out, whether there would be any waste reduction at all in that case. I think we have to work together.”

Commissioner Gwin said, “Thanks, Margaret. Thank you, Mr. Chairman.”

Chairman Schroeder said, “Thank you, Margaret. Appreciate your being here today. Next speaker.”

Mr. Joe Knute, Vice President, Herzog Environmental, Inc., said, “We’re the current contract operator of the Brooks Solid Waste Landfill. We’ve operated the landfill for the last seven years in an environmentally sound, cost effective manner to the residents of Sedgwick County and Wichita. Part of our contract is to close out the facility. We want to offer an expression of interest to be a participant in a public private development and operation of a transfer station or waste disposal in compliance with the Solid Waste Plan for Sedgwick County. If you have any questions, I’d be happy to answer them.”

Chairman Schroeder said, “Thank you, Joe. Questions? I see none, Joe. Thank you for being here today, appreciate it. Next speaker please.”

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Mr. Harold Burtnett, President, Independent Haulers' Association in Wichita, said, "I'm also the owner of S.S. Express Sanitation. We want to tell you that we support the decision on your recycling committee for a public owned private operated. It was brought up a year or so ago about some ideas of how to subsidize something like this. Something like starting up an environmental service charge on all land parcels in Sedgwick County. That would be an equal expense for everybody in Sedgwick County if you could look into that a little harder. This may take the burden off of your tonnage price that you would have to charge on your transfer station. To my understanding, that could be \$7.00 or \$8.00 a ton. The main thing is if you keep that price down there where it is feasible for all haulers, you're not going to have a problem with other haulers wanting to build other transfer stations out of Sedgwick County. We think you will get more participation the lower you can keep that price down. Thank you."

Chairman Schroeder said, "Thank you, Harold. Questions Harold."

Commissioner Hancock said, "Harold, thank you for coming today. Appreciate what you had to say. You mentioned a fee, are you talking about an additional fee beyond tipping fees to the public to support the programs?"

Mr. Burtnett said, "For your programs, your Christmas Tree, recycling, education, stuff like this. It was my understanding that the figure comes to \$6.00, \$7.00, \$8.00 a ton that you'd have to add on to your tipping fee to support those programs."

Commissioner Hancock said, "Well we had in mind quite a bit less than that. Do you think exclusive of the tipping fee, to institute a fee County wide to the residents, property owners, do you see any problem with that? Do you think there will be a general uprising among our constituency and have us hanged at the nearest tree?"

Mr. Burtnett said, "I personally think that if it is divided out in that manner it is going to pay for itself because of the increase in their trash service to make up for that. None of these haulers are going to absorb a \$50 a ton tipping fee. It is going to have to be passed on. I truly believe that if it was passed on in the manner of the land tracts that it would be easier on everybody."

Commissioner Hancock said, "Thank you, Harold. Appreciate you being here."

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Commissioner Winters said, "Harold, I have a question too. I don't want to catch you off guard, so if you want to think about any of these questions and maybe you could contact us later or talk later, that would be fine. I'm interested to know how you would feel if say if we were in a pretty free market system out there and we let multiple companies build transfer stations. We know that we have two of the largest in the world out there here in Sedgwick County and if each of them had a transfer station and were kind of competing in the market system, how do you think that would effect the small haulers? Do you have an opinion about how that would effect your operation? Has there been any consideration of even the smaller haulers forming a group to build a transfer station to suit your needs?"

Mr. Burnett said, "There has been very little conversation amongst the other haulers on that because of the cost, of course. The only thing that we can see is if we're taking our trash to competitor, we don't know what they're actually paying to take that to the landfill versus what they're charging us. So if they're only paying \$5.00 a ton for their trash and charging us \$10 a ton, that kind of makes it not an even playing field for us having it and keeping our rates to a point to make that tonnage price versus them being able to . . . I wouldn't say they would lower it but they could compete at a lower price. That's our main concern is what it is costing them to do it and what they're actually charging us."

Commissioner Winters said, "Well one of the things that I always thought about is if there were two or more out there, transfer stations competing for your business, that one of them would try their darndest to get your business. Does that make sense to you or not?"

Mr. Burnett said, "Yes, but I would talk to you privately."

Commissioner Winters said, "Well think about that a bit. Because I still am thinking about how to keep the market in play here as much as possible. That's one of the things I'm struggling here with as we go through this."

Mr. Burnett said, "That's all we're asking. If you can keep it an even playing field, we'd love to work in Wichita for however long."

Commissioner Winters said, "Thank you. Thank you very much."

Chairman Schroeder said, "Thank you, Harold. Next speaker please."

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Mr. Jim Spencer, District Vice President, BFI Waste Systems, Wichita, Kansas, said, "I come before you this morning to encourage you to go with a private transfer station option. I believe this option will be the least expensive for the taxpayers of Sedgwick County. Public ownership will require not only a large investment in public tax dollars, probably around \$5,000,000 or more for the facilities, but it will also put the community at risk for liability for potential and environmental damages in the short term and the long term. This was mentioned to you this morning by the County Manager Mr. Buchanan in the market regulator versus the market participant scenario. Under the market participant scenario the County will take on the environmental liabilities that go along with being a market participant. I believe that the private sector is best suited to take on these liabilities and not put the taxpayers at risk for the liabilities that will go on with the solid waste into the future.

"BFI is prepared to build a transfer station in this community and I believe it can be done so under the public private scenario that has been mentioned. The County has the regulatory authority to regulate transfer stations. They have the ability to put certain restrictions on the facilities that will allow all haulers to be able to use the facilities in a competitive manner. I've met with many of you and have discussed the options that are available for private transfer stations in this community. Not only BFI building one, but I know there are other parties, other companies, that are interested in building private transfer stations in this community that will, as I said, be the least expensive method to handle trash as we go forward.

"Many of the arguments that you hear go around the control issue and what does control mean. Every time I have this discussion, with many people it seems like control gets down to dollars and cents and the ability of the County to fund the programs as they go forward. The programs that they are needing to fund, such as household hazardous waste and environmental education, along with the household recycling program that the County would like to get started. All of these programs can be done through a private public partnership that could be formed with each private transfer station that desired to be built within the County. Obviously, there are risks with the public transfer station option as you have heard mentioned by many people this morning of the continued concern of the trash leaving the County under different scenarios if the rates get too high in this County. If the trash does begin to leave the County then we all have a problem in funding these programs as we go forward. If we work together, I believe we can fund all the programs that are in the Solid Waste Management Plan and we will all achieve the goals that are set forth for us. Thank you for your time."

Chairman Schroeder said, "Thank you, Jim. Questions? Commissioner Gwin."

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Commissioner Gwin said, “Jim, I guess what we need to go back to though if . . . and I appreciate some of your arguments for private building of a transfer station. If we go back to the previous speaker’s comments about concern as to charging different haulers who don’t own or operate the transfer station different rates from say your own trucks, how would we assure that there is a level playing field for all haulers in this community if for instance we decided to let BFI build a transfer station. How would you assure that?”

Mr. Spencer said, “Again, we would be talking about the agreement that would be made between in this case BFI, I’m talking about here precisely, is that we would be willing to enter into an agreement to build and operate our transfer station here in the County and in that would include two provisions of pricing protection. One would be what is considered to be a favored nations clause which gives the County and the haulers the lowest rate that would ever be charged. That would be audited the same as a sales tax audit that we receive by the County to assure that we’re not charging ourselves anything less than we would be charging another hauler for disposal. Then the citizens would have protection through rate protection with a CPI clause that would be included in the rate structure that we would propose. Basically the proposal would include pricing protection for whatever period of time we negotiate with the County or whoever they designate tied to the local CPI as far as increases per year which would protect us from having a low rate starting today and in five years from now having a much higher rate. We believe that the rate situation is something that we are willing to contract with through the County in allowance for building a private transfer station.”

Commissioner Gwin said, “The other scenario or question I have is would BFI be willing to build on land that the County owned or would BFI want to site and own the land?”

Mr. Spencer said, “I’m open to either or.”

Commissioner Gwin said, “Okay.”

Mr. Spencer said, “I’m not sure of an advantage either way for either party. If the County wants to be my landlord I don’t have a problem with that.”

Commissioner Gwin said, “Okay. Further then, do you believe that under your scenario of your ownership that the County could in fact establish this criteria for the facility as to design, hours of operation, the aesthetics. Do you concur with that?”

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Mr. Spencer said, "Absolutely. Again, that is public private partnership I'm talking about. As far as things BFI is willing to negotiate at the table with as far as the design of the building. Hours of operation are going to come under the Conditional Use Permit scenario. Those will be requirements that we would have to negotiate out through the Conditional Use Permit to be able to build on that particular site. Aesthetics are going to be controlled to some degree, if it is in the City obviously by their local landscape ordinances and if it is in the County again we're willing to comply with reasonable aesthetic requirements, such as the City's landscape ordinance."

Commissioner Gwin said, "If the County were to consider private ownership, I guess my issue is would the public be better served if we just opened it to anyone who is willing to build a transfer station under our criteria and say whoever has the money and the wherewithal to build transfer stations in Sedgwick County, come out and talk to us and we'll let you build them."

Mr. Spencer said, "That is what free enterprise is all about."

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

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

Commissioner Miller said, "Thank you, Mr. Chairman. Jim, it has really been interesting hearing you basically carve out your position as a private industry owner and one that is a major player here in our community and one that is obviously very interested in the outcome of the decisions that we are going to make as a Commission. You've mentioned the statement of control and what does it mean and it may mean different things to different people so I thought that I would basically let you know and the public now what I feel control is. As a County Commissioner, as a public servant and an individual who is attempting to look out for the best interest of individuals that live within this County, I consider control and I think we hit and miss on what I'm about to say, but I consider control three things, the ability to level the playing field for haulers and you've spoken to that issue, also the ability to ensure environmentally sound disposal period, and the ability to ensure a reasonable pricing rate over the long term. We have also hit on that. When you speak about how it is that from a private perspective that as a regulatory market that we would be able to regulate for the most part and I'll just name them, aesthetics, rate charges, facility design, health and safety, the majority of those, from a regulatory perspective, we would be able to still do that with a private free market system."

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“I also understand and Mr. Manager or whoever, correct me if I’m wrong, that regulatory, when you encompass it and enclose it in a regulatory format that that is also going to be most open for legal challenges, because, because, of the question of reasonability. That whole quotation of reasonable which you also mentioned once again when you were talking about Conditional Use Permits, that they must be reasonable. So that would be the whole line of questioning or being able to challenge it from a regulatory position. So I’m not so sure that the private market or free market completely would lend us as a County, and I’m just simply stating this as it stands and as a position, I’m not so sure that I’ve been really sold on as the private market being able to give us the County the ability to completely regulate it or to have the control which would ensure our citizenry the ability to have a level playing field from a haulers perspective and environmentally sound disposal site, and a rate or pricing being able to control that and ensure that there is a reasonable rate and pricing for them. So I simply wanted to make that clear from my perspective and I think and I do appreciate being able to hear from you, your stance and perspective. I will turn to Bill Buchanan or possibly anyone else that would have been in some of the workshops that we’ve attended and when we talk about regulatory it is my understanding that that will or could very well be an area that is challenged from a legal perspective. Any comment?”

Mr. Buchanan said, “Commissioner Miller, I have the freedom to speak not being an attorney . . .”

Commissioner Miller said, “I understand, I understand, but we’ve all been in the same places at the same times and we’ve heard the same information. It’s okay to disagree.”

Mr. Buchanan said, “It is my opinion . . .”

Commissioner Miller said, “I don’t care.”

Mr. Buchanan said, “It is my opinion that no matter what position we take, the likelihood for lawsuits exists. If we are in the regulatory position rather than a market participant, the likelihood of defending those suits successfully is on our side.”

Commissioner Miller said, “Limited . . . less. We’re talking about . . . when we’re talking about Conditional Use Permits that are basically stating how the hours of duration or the time that they can be open, the aesthetics, how that building is going to be built, landscaping, we’re saying that it is less from a regulatory perspective.”

Mr. Buchanan said, “Yes, Ma’am. That’s my opinion.”

Commissioner Miller said, “That’s your opinion. Okay. Thank you.”

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

Commissioner Hancock said, "Thank you, Mr. Chairman. Jim, I heard what you had to say and appreciate it. I need to hear it again in plain English so even I can understand it and in pretty simple words. I have a number of concerns and I want to see if you plan can address the concerns. I'm not so concerned with litigation. If it is going to happen, it's going to happen. We'll do the best we can. If we all walked around worrying about whether we're going to be sued or not we probably wouldn't leave our houses. But one, I'm concerned about collection costs and I'm talking about collection costs to the customer. Collection costs are set by the haulers. They make the deals with their customers as I understand it now. So we have a number of haulers out there, including your company and a couple of other large companies and a number of small haulers. It is not our intent nor our desire to eliminate the competition that goes on today. We think it is pretty healthy. So in your plan, one, how do we guarantee that all the haulers out there can go out and price what they feel they need to do business and make a profit and that whoever owns the transfer station doesn't have an advantage. That would include this County, the collection costs, let's say in your case BFI would own and operate the transfer station and then while they may charge themselves the same rate for tipping fees, they go out and discount the collection costs and make it up in the collection, the tipping fee, and in the eventual disposal. Do you understand what I'm talking about?"

Mr. Spencer said, "Not really because you're charging yourself the same as you're charging everybody else and you discounted your hauling cost? There is no way to make it up."

Commissioner Hancock said, "If I own a business and let's say your business and I have the transfer station and I'm going to charge so much for folks to dump stuff in that transfer station because I've got to operate it and I've got to show a profit at the end of the year. Part of my expenses are going to be whoever operates it, they're going to contract with a trucking firm, it may even be your own or somebody else's to take it to a distance landfill who you may or may not own. Okay? All along the line, if you own the landfill, if you own the transfer station, and you own the long haul trucks and you own the collection trucks, each step of that process theoretically you ought to make a profit. But sometimes in business in retail sales we have loss leaders. I'm saying how do we guarantee to independent haulers that you don't use the collection rate as a loss leader?"

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Mr. Spencer said, "The collection rate is the biggest chunk of the revenue by far. You couldn't use your collections as your loss leader because the disposal only makes up a much smaller portion of the total bill. So if you use the collection side as your loss leader you wouldn't make any money all the way down the line. In other words, if you were losing money on collections, then you would be losing money on disposal because that was already losing money on the collection end. The disposal comes out of the collection to begin with, it is not separate. If you are paying \$100 for collection, let's say \$25 of that is their disposal side. So if you're losing money on the first \$100 you're going to lose money all the way down the line in theory. You can't use collections as the loss leader. That is the component that you have to have to make money."

Commissioner Hancock said, "Well, I don't quite follow you I guess on that."

Mr. Spencer said, "I'd be glad to sit down and go over that with you and show you how that would have to work."

Commissioner Hancock said, "So the answer is no matter in any given scenario then there is no way that . . ."

Mr. Spencer said, "If you can assure that the disposal cost is the same for everybody then it is a fair playing field. If I discount my collection costs, I'd be losing money."

Commissioner Hancock said, "Okay. But let's say for example Jim that at one given point and I'm just throwing out theoretical numbers, the tipping fee that you're charging all the haulers at your transfer station let's say is \$20 a ton. Fair enough? So BFI haulers are out there collecting trash and they're charging X amount of dollars to all their customers. Internally you make an entry in your books that this truck came in and dumped at \$20 a ton and therefore you are going to charge that part of your operation, okay? But what I'm asking is while you may be paying yourself \$20 a ton at the transfer station, you may be picking it up for less. I see what you're talking about but I know if I ran this business I can see a way very clearly to undercut the collection cost of the other haulers."

Mr. Spencer said, "I guess the best way I can explain it to you is if I want to discount my collection costs, I can do that in a public scenario as well as do it in a private scenario. There is no advantage on either side of the coin."

Commissioner Hancock said, "Yes, but you couldn't keep it up as long. You're going to begin to lose money and not make it up in the transfer station and the hauling and the disposal."

Mr. Spencer said, "The point is you can't do it in either scenario."

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Commissioner Hancock said, "I think you can. I think if you raise . . ."

Mr. Spencer said, "We'll go broke."

Commissioner Hancock said, "If you raise your transfer costs enough per ton, you can cut the collections."

Mr. Spencer said, "Oh I would agree. You could set your transfer station costs high enough but you're not going to get away with that in a competitive market. If your transfer station costs gets up high enough then multiple players are going to come in and build either in this County or across the County and take the volume. That's the scenario that I want to avoid is that we don't end up having the waste leaving the County and going all over the place like we've seen in many other markets across the country where public facilities were built whether they were incinerators or transfer stations and the public invested many multiples of millions of dollars and then the volume disappeared. If we can do a public private partnership that comes to the conclusions and agreements that needs to be met to do what is in the solid waste plan we can avoid those problems by working together."

Commissioner Hancock said, "What I need to hear then from whoever is going to do this, whether it is your company or anyone else out there, what I need to hear from this who operates the transfer station and definitely gives anybody who is in charge there an advantage in the trash collection business as far as I'm concerned. They're out there and of course you have a large investment and I understand that and I respect that. But what I've got to hear from somebody out there is if we do this kind of an arrangement, I've got to have a guarantee somehow that advantage isn't going to be had on the collection end of it. As an owner of a transfer station, a public owner of a transfer station, I said I, Sedgwick County, I can guarantee a level field for all those collections. I can guarantee that most customers are going to get the cheapest price possible that they are going to be paying for their collection. But I can't guarantee it if someone has an advantage in the transfer station."

Mr. Spencer said, "That's where I say if you have an equal, a guaranteed disposal rate for everybody it would take away any advantage that is there."

Commissioner Hancock said, "I don't agree with you Jim, okay?"

Mr. Spencer said, "Okay."

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Commissioner Hancock said, "Because if you set the disposal rate, what you are losing on collections can be made up in the transfer and the ultimate disposal at your eventual disposal site. Those dollars can be made up all along the line if the transfer and tipping fees are high enough. What it does in the end is it just eliminates the private haulers. So if you can guarantee me that you won't do that, we might have a deal."

Mr. Spencer said, "I'd sure be glad to sit down and show you that."

Commissioner Hancock said, "All right. The other thing is in a strictly private arrangement it is possible to guarantee that the ultimate disposal site is one that we set the criteria for. "

Mr. Spencer said, "I'm assuming that we want to go to a subtitle D facility."

Commissioner Hancock said, "Not only that, we can have a subtitle D facility right out here at Kingsbury but we have some other criteria that we're interested in."

Mr. Spencer said, "I understand. I don't consider Kingsbury a subtitle D facility."

Commissioner Hancock said, "Well, we could establish one there if we so chose."

Mr. Spencer said, "I see what you're saying."

Commissioner Hancock said, "See what I mean. Put the liner in, the drainage system, and we'd have a subtitle D landfill. We have a little bit more in mind. Is it possible in your view to come to some kind of arrangement in the future about the ultimate disposal? Mr. Schroeder, you may want to talk about this."

Mr. Spencer said, "I think any of the facilities that I have in mind in going to will far exceed any requirements you have for a subtitle D facility, if you're talking about depth, groundwater, or whatever."

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

Chairman Schroeder said, "Okay. Commissioner Winters."

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Commissioner Winters said, "Jim, I want to follow up and continue this pricing protection that you talked about. You used the term favored nations pricing. How do you envision that working and where would you come with your first price? I think you've indicated that we could have some control over long term pricing by looking at the CIP and other things. But how do you come about your first price and what are you referring to when you use this term favored nations pricing? How does that work?"

Mr. Spencer said, "Obviously we're going to work up the cost of the operations and the profit we need to achieve to establish the first price. I see that first price coming in just rough numbers right now, probably in the neighborhood of \$35 a ton, which is the exact same number the County has been talking about for facilities it has been looking at. If you look at the request for proposals that the City received some 2 ½ years ago, it is right in line with those proposals also. So that is kind of a starting point and then we go forward."

Commissioner Winters said, "Then that would be your price at the gate once you establish that? Let's say we're working under the scenario of a free market system and we have negotiated with you and then you'll hold that price over a period of time, regulated by the consumer price index."

Mr. Spencer said, "Exactly."

Commissioner Winters said, "That would be pretty easy to check over a period of time of who you were charging what to and you would be willing to do that?"

Mr. Spencer said, "Right."

Commissioner Winters said, "What if then somebody else, a competitor of yours, wants to come to town and open a facility. What do you think about that?"

Mr. Spencer said, "We would assume all of the competitors that would come to town would have to meet the same guidelines that the County put forward in the Solid Waste Management Plan, in the CUP that we went through, so on and so forth."

Commissioner Winters said, "One of the questions then I would have is how big would you know to build your facility? I heard that from people who say that it is one of the negative aspects of looking at this freer market system is nobody will know exactly how big to build their facility because they won't know how much trash or volume they can get. How would you determine how big to build your facility?"

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Mr. Spencer said, "Incrementally, the cost to build a facility of 1,200 tons a day compared to 700 or 800 tons a day is not something that we're afraid to. We're going to build a facility for roughly 1,200 tons a day. If we end up with 700 or 800 tons a day, the major cost is in the operation, the trucking in of it. The actual red iron building is not an incrementally large cost that we're afraid to absorb the risk for."

Commissioner Winters said, "So then you would be a participant in determining what your rate of return needs to be for your stockholders and owners and moving forward with a facility and if someone else comes into the market then so be it, you'll just compete with them under the free market system."

Mr. Spencer said, "Absolutely. We invite and encourage competitors to build transfer stations right along with us."

Commissioner Winters said, "You mentioned funding some of the programs. Then you would be willing to at least sit down and negotiate some kind of a fee that would be on top of your tipping fee and right now I'm not thinking about a lot of money here because I realize that is what drives the system and once that gets too high then you've got other options or anybody would have other options. But you would be willing to negotiate at least some kind of a fee to help us fund programs."

Mr. Spencer said, "Typically, facilities such as transfer stations and landfills in communities done by private sector have host fees attached to them, that's correct."

Commissioner Winters said, "Okay. I think that is all I have right now. Thank you."

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

Commissioner Gwin said, "Well, I came up with something else again. In the editorial, I just need you to help me with some clarification or misunderstanding that was in today's editorial. I'll read you the sentence and tell you whether or not you think it's right, because the issue obviously is whether the County owns and operates the transfer station or whether it is owned and operated by private sector. The statement was that County control would ensure that the Commissioners have some control over how much trash haulers can charge their customers. Do you think that is true or false?"

Mr. Spencer said, "Public ownership of the transfer station has nothing to do with what the trash hauler is going to charge the consumer."

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Commissioner Gwin said, "Thank you. I thought that statement is inaccurate too, I just wanted to run it by you if that was your understanding. County control has some advantages to it as well as disadvantages. It is the same arguments all along from transfer stations to landfills and so on, whatever the instance is, there are good positives and negatives. But I wanted to make a clarification on that particularly. Then one of the issues that I guess the reason this issue is on our table is because we did not believe that there was an environmentally appropriate site in this County for a landfill. So part of our obligation I think to the public since we based all this change a great deal on that decision making process and where is the right place to dispose of trash. One of the things I think we have to assure the public, to the best of our advantage is, where their trash ultimately ends up. I understand supreme court and others say that we just can't arbitrarily tell you to take it to a particular site but let me reiterate again, you believe that you'd be willing to talk to us about criteria and those kinds of things that we think are ultimately important in a disposal site and you'd be willing to talk to us about those sites and what you might have available?"

Mr. Spencer said, "Absolutely, be more than glad to take you on tours of half a dozen landfills that BFI owns and operates in this general region that we are considering hauling waste to. Several of them are in Oklahoma. We have one here in Kansas. We have one in western Missouri that are all within the trucking ranges that meet our requirements and they are all subtitle D, environmentally sound facilities that I think you would be happy with."

Commissioner Gwin said, "The solid waste authority in those particular areas have made the decision that this is the right spot for a landfill and they are comfortable with the decisions they have made?"

Mr. Spencer said, "All these landfills have been in operation for a number of years and are in good standing with both their state regulators, their local regulators, environmentally sound facilities."

Commissioner Gwin said, "I might be wanting to see some of those."

Mr. Spencer said, "Absolutely."

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

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

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Commissioner Miller said, "Thank you, Mr. Chairman. Just a follow up to what Commissioner Gwin has pointed out in the editorial today and a king of commentary from my perspective would be that your statement of County control has no bearing and you didn't say no bearing, but you said County control basically has nothing to do with waste disposal pricing, is that what you stated?"

Mr. Spencer said, "No, that's not what I said. The editorial, could you read that sentence?"

Commissioner Gwin said, "Yes. It says County control would ensure that the Commissioners have some control over how much trash haulers can charge their customers."

Mr. Spencer said, "Right. And this particular Commission or any of the regulatory agencies here in town do not regulate trash disposal prices that are charged to the consumer. That is set by the free market system, what the hauler feels he can charge in the market that the consumer is willing to pay and the Commissioners do not set trash prices in this community."

Commissioner Miller said, "So everything is totally negotiable is what it sounds like. You or Waste Management or whomever would actually be doing it as a private market participant would be the individual that would look basically at your bottom line and price accordingly."

Mr. Spencer said, "Just like we do today."

Commissioner Miller said, "Just as you do today. And County would have in terms from a regulatory perspective, nothing we can do about it basically."

Mr. Spencer said, "That's the way it is today."

Commissioner Miller said, "That's what I needed to know. Thank you. Thank you, Mr. Chairman."

Chairman Schroeder said, "Thank you. Other questions? Thank you, Jim. Appreciate you being here. Next speaker."

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Mr. Neil Polley said, "I live at 10829 North 119th Street West and I am general manager at SS Express Sanitation also. I appreciate the opportunity to speak at this public forum. I'd like to address a couple of things that have been discussed already. Specifically, the editorial morning that suggested that the County would have some control over the cost. The statement I want to make is that there is control. There is an indirect correlation between City or County legislative activity that effects the cost to the consumer. Mr. Spencer is absolutely correct. There is no direct connection between what the control of the disposal facility and the actual cost to the consumer is. But any consumer in town knows that when the landfill fee went from \$15 to \$26 a ton, it indirectly passed on a cost increase to the consumers. With the selected option of transfer station, again we are going to see a cost transmitted on to the consumer. So I'll go out on a limb to say that the actions and control or lack of control by the County Commission will be an almost direct effect on the cost to consumers. I think you understand the point that I am trying to get across here. When I first got into the trash business 13 years ago, we could take a 20 yard truck to the landfill and hand a coupon for \$21.75 to get into the landfill. Those same trucks now are costing us well over \$200 to dump. As that is becoming a higher percentage of the cost to the consumer it is having a more dramatic impact on cost to the consumer. To give my own example of the tipping fee cost and how it could fund a local operation, the question was given to Mr. Spencer and I think what Mr. Hancock was trying to get across was using the current market scale and the percentages of revenue that go to tipping fees. If a transfer station operator wanted to charge \$100 a ton for every ton that came across the scale they could probably operate a hauling system in this town for free. If every ton that went into the transfer station was \$100 a pop, they could pick it up in town for free. So anybody else who was picking up in town would have to pay the \$100 a ton when they went to the transfer station and couldn't afford to stay in business against this free collection system.

"What Mr. Spencer is trying to say is in the current circumstances there is no way a transfer operation could get away with \$100 a ton. So he is saying the economy is a scale here that this market would not allow the transfer station operator to charge a fee high enough to subsidize their hauling operation. I believe that is what he is trying to say. But conceivably, hypothetically Mr. Hancock, your example is well put.

"In this case, I believe the County has to maintain as much management of the system as they possibly can. House bill 2801 from Kansas directs the counties to be responsible for the solid waste within their jurisdiction. This responsibility was exercised when the County took the decision process back from the City. I don't believe this type of control is a big brother responsibility.

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“Because with the free enterprise system industry does not thrive or appreciate when the government comes in and looks in their books and tells them how they have to operate their system. But two examples I can think of in history where the industry so closely affected each individual consumer where the government did step in and try to exercise some control though they didn’t go to socialism with it was with Rockefeller. Everybody had to buy gas and he got into a situation where he got too much control over the system and I think had the whole country where he wanted them. There is a current activity going on between the justice department and Microsoft. Just because the product that Bill Gates and his company puts out to the market place closely effects each and every individual in the country and I believe that is why the justice department needs to be a player in that industry at this time.

“Another comment I wanted to make and something that has worked in the past, if the government is concerned about a local hauler having an unfair advantage by running a transfer station in this County, a concept that has worked well in the past has been to not let a local hauler be the disposal operator. Up to this point that has guaranteed a fair playing field and if that is the interest of the Commission that is one way to guarantee it. I am in no means saying that I believe Brian Ferris or others represented here could not run the operation properly. I do not want to even appear to say that. I just want to suggest that as an option. There are several others in the market that could do a satisfactory job and not put undue strain on the competition in this town. Thank you.”

Chairman Schroeder said, “Neil, we have some questions. Commissioner Gwin.”

Commissioner Gwin said, “Thank you, Mr. Chairman. Neil, just a thought. If the County decided that a public private partnership is the way we want to go, that we want maybe private industry to build a transfer station with the idea that it is going to save the tax payers money on the construction cost. Do you see from SS Express’ standpoint, do you see that it would be any more or less of an advantage for us to limit transfer stations to one or to let as many private companies as want to build them built as many as they think the economy can stand. Would a singular or a multiple transfer station make a difference to SS Express and to your success in this community?”

Mr. Polley said, “Speaking generically and specifically, if a fairer playing field was established by having competition of more than one transfer station operator or vendor, we currently enjoy a situation with our construction and demolition debris in our roll off business. Brooks charges \$26 a ton. Derby construction and demolition transfer station down in Derby charges \$22 a ton. At any time that the transportation cost of getting it clear to Derby do not become prohibitive, we save \$4 a ton by going down to Derby. Competition works in that regard. Before, Brooks was the only option at \$26 a ton no matter what you’re throwing away there.”

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Commissioner Gwin said, "Okay, thanks Neil. Thank you Mr. Chairman."

Chairman Schroeder said, "Thank you. Thank you Neil. Appreciate you being here today. Next speaker."

Mr. Charlie Sedlock, Hamm Waste, Inc., said, "As much as I'd love to, I'd like to tell you that the free market lies a fair, all these great things, and run myself up on the flag and tell you they are all doing well in the waste industry but they're not. You have conditions throughout the country, monopolistic conditions going on throughout the country. Different firms to get as much of the market share as possible. Dunne's vertical integration, fancy way to say exactly what Mr. Hancock was worried about. You have several profit centers and you're going up against competitors with one profit center, you can do some interesting things. Interesting things that are extremely difficult to follow.

"You have the cries of independents here, they repatriate their profits right here in Sedgwick County. You have others of us here, myself included, that will possibly repatriate their profits either to Kansas, to Missouri, to Texas, to Illinois. I think those cries need to be heeded and I think you've done a good job up here today. The last gentleman brought up one great example of how to deal with a lot of these issues. That was to have an independent disposal company run the transfer station or have an independent firm run the transfer station and then an independent disposal company above and beyond that. That way you are not dealing with multiple profit centers and different pricing possibilities. You definitely would have a level playing field for everybody.

"The City of Olathe, which a number of you folks have seen that facility, is one that is extremely competitive and competes with several landfills in the Kansas City market. It provides a great place for independent trucking firms, free to call the county or the city up there. Riley County, the facility in Manhattan, and the facility in Dickinson County. That one also enjoys the same type of advantages, good disposal facilities for the local hauler as well as the multi-nationals. It is a level playing field for them all. I think depending you all run your businesses or know any of these small haulers and I know many of them, I've rode on their trucks with them, not these per se but folks in northeast Kansas. I can honestly say from my experience, you aren't going to find anybody that competes more fiercely and runs a business more efficiently than those folks. They're not out there using fancy accounting methods and this and that and looking at the five and ten year picture. They're out there trying to get garbage and save you guys as much money at the same time.

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“In terms of having several transfer stations in the area, I think that would be great if it could be done. The barriers to market entry are just incredible though, economic, a lot of capitalization involved, there is political, environmental, all these barriers for everybody to hop over. We can't go to a strip mall and set up a transfer station. These barriers are extremely high. The first one to get there is going to be the one. Regulating that, checking the different centers you see gets more and more difficult. Those facilities I also mentioned in northeast Kansas also did it with very little public funding. The Olathe facility, they had a private bid on the hauling and the disposal as well as the capitalization of the facility. And the facility is gifted incrementally each year back to that valley there. At any point in time, if they wanted that facility, they could purchase that at an agreed upon price that was set forth in that contract.

“I think you guys may have the same example here maybe in your airport. I don't fly in and out of this airport but I do go to a number of small towns where there is one carrier that dominates where the City does not have quite enough citizens to have a huge hub. I think we all know, it is quite interesting when you can fly to New York for \$160 and if you want to fly 200 miles and it cost several hundred dollars. It is extremely difficult to regulate all that. I would say through the structure of the agreement in which you guys would like to use an independent site and an independent operator have some kind of barriers in between is the way to do. I'm available for questions.”

Chairman Schroeder said, “Thank you, Charlie. Commissioner Winters.”

Commissioner Winters said, “Charlie, I don't think you mentioned your company owns a large landfill here in Kansas. If we were on this freer market system that some of us are thinking about and a couple of companies built transfer stations to take final disposal here and the prices got up around \$40 a ton and you knew in your mind you could do it for \$30, what would you do? I'm just picking those numbers out of the air. Would your company look at a market like Sedgwick County if you saw that the prices at a transfer station were out of line with what you thought you could do it?”

Mr. Sedlock said, “If the market percentages haven't changed since the City of Wichita bidding as were represented there, which was my last accurate accounting of the market share percentages, we would not enter the market.”

Commissioner Winters said, “Even if you knew that you could perform the service and obtain the business in the market system if everything remained constant?”

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Mr. Sedlock said, "If you can guarantee those things sure it would be a great opportunity. When you don't control the collection, extremely difficult."

Commissioner Winters said, "So your company would really be looking more at guarantees. If you have guaranteed tonnage then you for sure would be a player in the market here."

Mr. Sedlock said, "Yes."

Commissioner Winters said, "Okay."

Mr. Sedlock said, "It's not to say though that there may be something with less of a guarantee where we may enter the market if there are some of those structural components included. I think if there were several different transfer stations here in a public private partnership then that might be something we would look at."

Commissioner Winters said, "So even if all the smaller haulers would say that they would take their solid waste to you, you might be interested."

Mr. Sedlock said, "It would depend on the market at that point in time."

Commissioner Winters said, "But you certainly are a large landfill owner so you certainly be interested in discussing it."

Mr. Sedlock said, "Yeah. I can say we're a large landfill owner and we're interested in serving the waste management needs of Kansas. If the rules of the playing field are all level, we would be interested. It is just that it is tough to guarantee all those things."

Commissioner Winters said, "I understand. I know you came from out of town and we appreciate you coming today. Thank you."

Chairman Schroeder said, "Thank you. Any other questions? Charlie, thank you. Appreciate you being here today. Commissioner Miller did you have a question?"

Commissioner Miller said, "No, I don't."

Chairman Schroeder said, "Okay. Any other speakers? Yes, very quickly."

Mr. Knute said, "I think I've got a little bit of my five minutes left."

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Chairman Schroeder said, "Well, this isn't Congress but we'll try it."

Mr. Knute said, "I do want to point out that the contract that we operate under at the Brooks Sanitary Landfill, the contract required that the operator not be a hauler in the Wichita of Sedgwick County area. We are not a hauling contractor and I say hauling contractor, a solid waste pickup contractor as the Hamm firm is as well the same way. We want to be sure that you understand that we're not only interested in the public private side. If you're not going to take that approach, that we would be interested in a private development of a transfer station which would serve all the haulers of the area and we provided an equal level of service through the years of operation to the national companies, the local companies, the private citizens, and the contractors of the area, and we want to be sure that it is understood. We are interested in a private investment here in Sedgwick County."

Chairman Schroeder said, "All right, thank you, Joe. Any new speakers? I don't want to get started in a debate. Do you have something very quickly?"

Mr. Polley said, "Yes, I do, and I appreciate a second opportunity. One other thing that just comes to mind, I do track the waste industry quite a bit and get several publications that come in through the mail. With the corporate raiding that has been going on in the waste industry, one major concern about having a completely private operation would be the situation that happened similar recently, USA Waste, which is the third largest waste company in the world I believe bought out number one, Waste Management. Prior to that and subsequent to that, they'll be closing operations they don't see are profitable. When they pull chocks on an operation they don't give time to build a new facility to that area necessarily. The private operation can do anything either legally, financially, or strategically on any given notice and change plans on an operation they have in an area. This is too big an issue and effects everyone too much to take that chance. That is why a public facility of some sort is a requirement. Thank you."

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Chairman Schroeder said, "Thank you, Neil. Any new speakers? I see none. We will close the public hearing and I do want to thank all of you for being here today. The process of allowing the public to interact with us and their thought process and what they think about this issue or any other is very important to all of us. I want to thank you for taking the time. I know some of you have come a distance and I appreciate that. We are going to try to make this decision within the next week or two I hope. What we received today from you in this hearing process has been very beneficial to us. I can't tell you where we are going to end up but I would recommend that you follow the media and when the time comes that we do make that decision it might be to your best to be here or to be watching that at some point so you can follow it as we go through it. But again, thank you. I appreciate you being here. Your input has been very valuable. Commissioner Winters do you have something?"

Commissioner Winters said, "Is this an appropriate time to have Commissioner feedback on some of this or are we going to schedule this for discussion? I don't think we are ready to discuss this and vote on it in the next one time kind of meeting. I think we need to have some discussion among the Commissioners some time either right now or at our next meeting before we have it on the agenda to make a decision."

Chairman Schroeder said, "That's fine, whatever you want to do. I don't think today would be a good time. I think maybe if we want to schedule it for next week discussion and the following week may a decision. Would that work for you?"

Commissioner Winters said, "I think that is fine. I think we've talked about a lot of good things today and we brought up some new issues and one even is large versus small and a fully integrated company. I come from a small business background and operated a small company and competed against the industry leaders in the trucking industry for years and thought I did a pretty good job. But I'm not sure that a fully integrated company is a bad thing either. I think we looked at this community and a lot of places. The major food market in this town makes it, trucks it, warehouses it and sells it. They do a good product."

Chairman Schroeder said, "Do you want to have that discussion now?"

Commissioner Winters said, "No, I just want to throw that out there so you can think about it for the next time we speak. So if we're going to have it on the agenda to have Commissioner discussion, that would be fine."

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Chairman Schroeder said, "Okay, we'll discuss it and rediscuss it. That's what it is going to take. Again, thank you all for being here. I appreciate your involvement today. Hopefully in the next couple of weeks we'll make a decision on this issue. At this time I think we need to take about a ten minute break."

The Board of Sedgwick County Commissioners recessed at 11:10 a.m. and returned at 11:23 a.m.

Chairman Schroeder said, "I'll call the meeting back to order, the Regular Meeting of May 20, 1998. The next item would be Item F."

F. RESOLUTION AUTHORIZING THE ISSUANCE OF \$5,200,000 PRINCIPAL AMOUNT OF HEALTH CARE FACILITIES REFUNDING REVENUE BONDS FOR THE BENEFIT OF CATHOLIC CARE CENTER, INC.

Ms. Louanna Honeycutt Burress, Administrative Officer, Department of Housing and Economic Development, greeted the Commissioners and said, "Back on April 8, you approved a Resolution of intent for health care facilities refunding revenue bonds in an amount not to exceed 5.2 million dollars for the benefit of Catholic Care Facilities, Inc. We're back this morning requesting that you approve a Resolution which will authorize the actual issuance of these bonds. You may recall the reason for doing a refunding issue is that after the initial bonds were issued interest rates have declined. The owners of the facility would like to take advantage of lower interest rates. It wasn't in the agenda this morning, but because these are federal tax exempt bonds, you have to conduct a public hearing to allow comment on this item and I am advised that the County Clerk did publish a notice of public hearing in the official county paper. So the action I'm asking you to take at this time is to first conduct the public hearing and then to approve a resolution authorizing the issuance of the bonds and also authorizing the Chairman to sign appropriate documents relating to this. If you have questions that I can't answer, Mr. J. T. Klaus of Hinkle, Eberhart & Elkouri is here this morning and will address any questions."

Chairman Schroeder said, "Okay, thank you, Louanna. At this time I'll open up the meeting to public hearing? If anybody would like to be heard on this item, please come forward? Anyone here from the public who would like to be heard on this item? If not, we'll close the public hearing. Commissioner Hancock."

Commissioner Hancock said, "I have a question. The property that this is using to finance, is it tax exempt?"

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Ms. Burress said, "Yes, it is non-profit."

Commissioner Hancock said, "If we would not issue these bonds, would the property still be tax exempt?"

Ms. Burress said, "Yes, it would. I believe it would be tax exempt. The Catholic Care Center is actually jointly sponsored by Via-Christi and the Wichita diocese."

Commissioner Hancock said, "The reason for the federal tax exemption is because it is non-profit?"

Mr. Euson said, "Commissioner Hancock, I believe it is because it is a religious organization."

Commissioner Hancock said, "Because it is a religious organization. Okay. So no matter what we do today there aren't going to be any taxes collected either way we go on this."

Ms. Burress said, "I believe that is correct."

Commissioner Hancock said, "Okay. Got that, Carl?"

Chairman Schroeder said, "Louanna, if you don't mind, could you or a representative tell us a little bit about the facilities that their talking about using these bonds for?"

Ms. Burress said, "I'll let J.T. do that."

Mr. J.T. Klous, Hinkle, Eberhart and Elkouri, Bond Counsel on the transaction, said, "We had a representative from Catholic Care Center here this morning and Bob Harvey, the President for Senior Services for Via-Christi, but he had another meeting he had to attend. The facility itself is a 178 bed nursing home located on 45th North actually in the city limits of the City of Bellaire. It is attached to the Catholic Spiritual Life Center which you may be familiar with. I believe the facility is currently 98% occupied and remains so occupied. It is a typical long term care facility nursing home."

Chairman Schroeder said, "Okay, very good. appreciate your presence here today. Thank you. Commissioners, any other discussion or comments?"

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MOTION

Commissioner Gwin moved to adopt the Resolution.

Commissioner Hancock seconded the Motion.

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

VOTE

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

Chairman Schroeder said, "Thank you again for being here, appreciate it. Thank you for waiting. Next item please."

G. SEDGWICK COUNTY PARK.

1. AGREEMENT WITH WICHITA AREA MOPARS CAR CLUB, INC. FOR USE OF SEDGWICK COUNTY PARK JUNE 7, 1998 TO HOLD THE 13TH ANNUAL AIR CAPITOL MOPAR MEET.

Mr. Jarold D. Harrison, Assistant County Manager, greeted the Commissioners and said, "This is an agreement with the Mopar Club. They have been in the park, gosh, I can't remember how many plaques Warren has hanging on his wall, but it is a lot of years. They're requesting use of the park on Sunday, June 7, for purposes of holding the 13th Annual Air Capitol Mopar Meet. They have a rain date scheduled for June 21. We've coordinated dates with the park superintendent and would recommend you approval of this agreement."

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

Commissioner Hancock said, "Jerry, they'll be paying a fee for this?"

Mr. Harrison said, "They pay an area use fee and also shelter rental fee."

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Commissioner Hancock said, "Okay, thank you."

Chairman Schroeder said, "Jerry, is this the entire park?"

Mr. Harrison said, "No, it is just a portion of the park. Generally this one is held in the middle of the park down around south of the office."

Chairman Schroeder said, "Okay. Thank you. Other questions or comments?"

Commissioner Hancock said, "They've been doing this for quite a while haven't they?"

Mr. Harrison said, "For a lot of years."

Commissioner Hancock said, "As long as I've been a Commissioner if I recall."

Mr. Harrison said, "If not longer."

Commissioner Hancock said, "Thank you."

Chairman Schroeder said, "Jerry, do they supply their own manpower to cut off their area? Do they control public access to this? How is it that they do this?"

Mr. Harrison said, "They actually violate the rules a little bit in that they park on the grass. The public access is pedestrian access only."

Chairman Schroeder said, "You say the rain date is when?"

Mr. Harrison said, "June 21."

Chairman Schroeder said, "Any other discussion? If not, what's the will of the Board?"

MOTION

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

Commissioner Hancock seconded the Motion.

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

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VOTE

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

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

2. AGREEMENT WITH YOUNG MEN'S CHRISTIAN ASSOCIATION FOR USE OF SEDGWICK COUNTY PARK JUNE 13, 1998 TO HOLD ITS FOURTH ANNUAL AMBASSADOR'S FUN RUN.

Mr. Harrison said, "This is an agreement with the West Branch YMCA to hold the Ambassador's Fun Run, Saturday June 13. There is no rain date on that one. Would recommend your approval."

MOTION

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

Commissioner Gwin seconded the Motion.

Chairman Schroeder said, "Jerry, they provide all the proper insurance and all that?"

Mr. Harrison said, "All of our agreements are subject to a certificate of insurance."

Chairman Schroeder said, "Okay, thank you. Other discussion? If not, Clerk call the vote."

VOTE

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

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Chairman Schroeder said, "Thank you, Jerry. Next item please."

H. KANSAS COLISEUM.

**1. AGREEMENT WITH DUNN SIGNS, INC. FOR ADVERTISING RIGHTS
AT THE KANSAS COLISEUM.**

Mr. John Nath, Director, Kansas Coliseum, greeted the Commissioners and said, "The Agreement before you is our standard agreement for the lease of advertising space at the Coliseum. Dunn Sign has been the entity that has manufactured all the ad panels that we have erected out there in the past year. This is a barter agreement whereby Dunn receives a like amount of value for value. We will receive over three years \$10,500 worth of signage of our choosing. We are intending to put up directional signs out at the Coliseum entrances. When we do multiple events, just to make it easier on our customers to get to the right facility where their event is. It is something that we've been renting portable signs in the past and we'll be able to do an internal lit sign so it is lit at night and people will know where to go. It will help our customers out a lot. Recommend approval."

Chairman Schroeder said, "Thank you, John. Discussion?"

Commissioner Gwin said, "So there is no cash. This is just an in-kind . . ."

Mr. Nath said, "This is a barter agreement, correct."

Commissioner Gwin said, "All right, thank you. Thank you, Mr. Chairman."

Chairman Schroeder said, "Thank you. Further discussion? If not, what's the will of the Board?"

MOTION

Commissioner Hancock 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.

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VOTE

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

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

2. KANSAS COLISEUM MONTHLY REPORT.

Mr. Nath said, "The month of April turned out to be a fairly good month for us. We had 20 events, 32 performances, a total attendance of 80,112 people. Net revenues for the month were \$190,989. That is a 30% increase over the same period as last year. That is for this year, for the year to date our total operating revenues have been \$959,000. That is an 8% increase ahead of the record year of last year. So far we're looking pretty good. However, once we start getting into the summertime, you'll start seeing it slow down and those revenues start dropping off as they do every year as we get quiet in the summer.

"Highlights for the month were the Sunflower Cluster Dog Show, the National Bull Ride Championships, of course the Yanni Concert, which we previously reported and discussed and the F & E Food Show. The Sunflower Cluster Dog Show is significant in the fact that 25,000 people attended this year. We don't keep track, since we don't have a ticket, but we do it through registration and crowd counts with the dog show organizers. So 25,000 people representing 47 states and 4 foreign countries, which is a pretty good impact over the 4 days it operates. The F & E Food Show was an interesting first time event in Pavilion II, the one we just rehabilitated. That show has previously played down at Century II and for whatever reason they decided to try our place. They expanded the show to two days. Essentially they did more people the first day than they did at the other facility and they doubled their attendance over the two days of the show over what they previously had had. Very happy about the show. Booked it again. Can't say enough nice things about how easy it was to park, how easy it was for people from the smaller food service operations they serve in the outlying towns to find the facility. Very easy to get too. They are just happy all around. Of course, we have rebooked the National Bull Ride Championships again for next year, another piece of repeat business. Happy to answer any questions if you have some."

Chairman Schroeder said, "Thank you, John. Discussion? If not, what's the will of the Board?"

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MOTION

Commissioner Gwin moved to receive and file.

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

Chairman Schroeder said, “Thank you, John. Next item please.”

I. FLOOD CONTROL MONTHLY REPORT.

Chairman Schroeder said, “Good morning, Steve.”

Mr. Steve Lackey, Director of Public Works, City of Wichita, greeted the Commissioners and said, “Let me start off by saying prior to giving you the monthly report for April. Flood control generally is responsible for the entire flood control project and they do have a set of performance measures they try to adhere to on an annual basis. Obviously, when we do have heavy rains and not what, that interrupts their normal scheduled activities and some of the activities I’ll be reporting to you reflect some of that intermittent change in schedules. During the month of April, our crews worked in the area of Chisolm Creek, East Broadway, and north of 61st and removed debris and brush from some of the structures on the Little Arkansas River and the Chisolm Creek Floodway. In addition, our crews seeded and fertilized areas that needed revegetation in the 3rd Street outfall at the Wichita drainage canal, the 9th and 13th Street areas along the Big Ditch and Chisolm Creek and Ninth and New York. There were 86 gates that were inspected and cleaned. The crews repaired 11 fence gates at 25th Street North and 71st Street South and at 47th Street South. There was debris cleaned by some of the crews at some of the control structures and those are the ones that regulate the flow.

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“They may go into the City and could also by-pass the City. Those tend to become plugged with trees and debris and need to be cleaned from time to time. Crews also rebuilt an entry way to a flood pumping station at 47th and Woodrow. They also repaired 672 cubic yards of erosion repair work was completed at the Big Ditch and Zoo Boulevard. There were 220 stream and rainfall gages read at various locations along the floodway and those are done primarily to provide information not only to our staff for flood forecasting but also for USGS and the Army Corps of Engineers. We transfer that information down to Tulsa to assist them in flood routing predictions during heavy flows. There was 1,123 square yards of riprap that was placed on some banks near the Big Ditch and the control structure at Zoo Boulevard which is near the diversion structure that takes the big river into the City of Wichita. We also stockpiled some recently purchased riprap at the MacArthur Yard which used to be the yard that David and his folks operated out of and our flood control crews utilize that space over there to stockpile material because it is adjacent to the floodway and we worked with the Bureau of Public Services on that for a number of years to utilize some of their space.

“We also will begin doing more channel stabilization work between K-42 and 31st Street South as soon as we can get the necessary permits from the Corps of Engineers and this is some of the follow up work to the flood protection and flood damage work that we started two or three years ago. This is some of the activities that we decided to schedule with our own crews rather than contract out and it is something that wasn’t of a critical nature and we can do it for ourselves. I’d be happy to answer any questions you might have.”

Chairman Schroeder said, “Steve, I appreciate the presentation. The flood that we had a few years ago, we did a lot of restabilizing the banks and all that. Did we end up having any damage to any of those bridges across the Big Ditch? I recall that the erosion was just immense on some of those pillars.”

Mr. Lackey said, “We had a lot of erosion near the MacArthur Bridge and the floodway and we had to repair some of the scour that occurred at that particular bridge. We had to remove a lot of debris from several structures, but as far as any permanent damage, no there was not.”

Chairman Schroeder said, “Very good, thank you. Other questions?”

Commissioner Hancock said, “Is the bridge in good shape?”

Mr. Lackey said, “Yes, it is.”

Commissioner Hancock said, “Great.”

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Chairman Schroeder said, "If there are no other questions, I'd entertain a motion to receive and file the report."

MOTION

Commissioner Gwin moved to receive and file.

Commissioner Hancock seconded the Motion.

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

VOTE

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

Chairman Schroeder said, "Thank you, Steve. Appreciate the report. Next item please."

J. METROPOLITAN AREA PLANNING DEPARTMENT MONTHLY REPORT.

Mr. Marvin Krout, Director, greeted the Commissioners and said, "You've been receiving our monthly report now for some time and maybe you have questions about it. There are a lot of numbers in there. A lot of those numbers refer to hours of activity that we report to different activities. We keep that for performance measurement and also in the case of the current plans division, people who are involved in processing applications, to try to have a good basis for estimating our cost of services and what our fees should be as a result of that. The report has four different sections representing the four different divisions in the department and where there are not measurable goals, we also identify some other miscellaneous activities that are occurring."

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“For the administrative division, which is basically myself and the assistant to the director, we identified in April one of the activities that is occurring is a customer survey. You may have already received surveys that we’ve asked you to fill out. We’re asking both governing bodies, all of our advisory boards, other advisory boards that we work with like CPO, applicants, and agents who over the next several months will be filing applications with us and also the general public who contact us for information, we’re asking them questions about our services and asking for suggestions for improvement. We’ll be compiling that information, maybe doing some focus groups as a result of some of the responses we get to try to make our services more efficient and more effective.

“The other thing reported, a major item under administration for April was the seminar. Commissioner Winters I know attended the seminar last month. Got some play in the Eagle although I would not say it was very completely or accurately reported. I think we sent you tapes of the seminar, the three hour session. This is where we brought in three people from out of town to try to give us some advice on where they saw national trends were occurring and how that might be effecting Wichita and Sedgwick County in the future. I think everyone would agree, it was entertaining. I think that you had to take with a little bit of salt some of the comments that were made at the meeting but I think the point was that the future does mean change in terms of demography, in terms of life style and values, and we need to take that into account. That’s part of the comprehensive plan is to look way out there, 20 or 30 years in the future, and try to identify in advance what those changes are going to be. We thought it was worthwhile. We’ll try to get some more planned. The Builders Association ordered a dozen of those tapes that they wanted to provide and show to their people who were in that organization. So it did draw a lot of interest.

“In the current plans area, these are the people who are involved in processing applications, the case load overall continues to out pace last year which out paced the year before. We’re seeing a lot of economic activity in Sedgwick County and the result is reflected in those numbers. Actually, for the year to date compared to last year, some of the zoning activity and conditional uses is a little bit down. But where we are really about 50% ahead of last year is in planning activity and lot splits and related type of development, the stage just before construction. We’re seeing a lot of activity in that area.

“What you may have noticed is that the load for the Boards of Zoning Appeals, both the City and the County Board of Zoning Appeals is really very low. That is the result of a couple of different things that have been happening. One, we have transferred some responsibilities that used to be with the Board of Zoning Appeals to the Planning Commission. Things that used to be exceptions are now conditional uses by the Planning Commission. The other is that we are doing more things administratively that used to be required to get to the Board of Zoning Appeals for public hearings.

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“A combination of those things means that for instance your County Board of Zoning Appeals only had I think had a total of four cases last year. We will be looking in the future at whether or not we really need to have a County Board of Zoning Appeals or City Board of Zoning Appeals and be discussing that with you in the future. It is possible that the case load has gotten so low that we could actually merge some of those remaining responsibilities with the Planning Commission and have them sit as the Board of Zoning Appeals on decisions. That is something we can talk about in the future, but just wanted to point out in terms of trends and case load that we’re seeing really low activity on the Board of Zoning Appeals side.

“Cases of note, in April the Planning Commission on the County side had a horse boarding case out at 151st Street and Central. You will hear that case next week. It is scheduled for your agenda. But just for your information, the Planning Commission did vote to approve that case. However, Goddard voted to deny that was and so you’ll have some opposition and we’re waiting for final interpretation but I think a unanimous vote because of the Goddard Planning Commission’s recommendation of denial on that case.

“In the land use section, in addition to that seminar, the main area of activity is on the Comprehensive Plan. We have, over the past few months, done 20 stakeholder’s meetings. You have the notification about those meetings. We probably involved 300 to 400 citizens in that activity and if we haven’t already sent you, we’ll be sending out summaries of all those sessions where we tried to find topic areas. People who were local experts in those areas to try to identify issues that we need to be looking at for the Comprehensive Plan. We’ve also been working on survey instruments. Irene Hart has been helping us with that. A lot of people have been helping us with that and the wording keeps changing. We’re trying to simplify it and shorten it as much as possible. We hope in the next month or so to have a contract and be able to do a scientific survey, mailed out to about 7,000 residents of Sedgwick County to get a different way. Then a public hearing or focus group type session to get peoples views about planning and development issues.

“We also last month issued the annual development trends report that tries to chart every year the kinds of activities that we’re seeing in the development business. Land use also was involved in annexation activity by the City of Wichita as part of our responsibility and we have identified the type of activities we were involved in the monthly report.

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“In transportation, much of the work continues to be involved in railroads. As you know, there are negotiations at the staff level that have been going on with the Pacific Railroad and with Omnitrax the local short line provider and those are continuing. We have also tried to provide technical information and advice to Booker-Willis- Ratcliff. This is the consultant team who has contracted to the State Transportation Department to explore alternatives under what is called the Major Investment Study for northwest corridor, northwest highway improvements, including a possible by-pass. There was a public hearing that was reported in the Eagle. I’m sure you’re probably familiar with that. Again, Commissioner Winters did attend that meeting. Might have shared his thoughts with you about that particular project already.

“The Planning Commission met with officials from the Federal Transit Administration and the Federal Highway Administration last month at an informal meeting before their regular zoning hearing days for what is called the tri-annual review. Every three years, federal agencies do a sort of audit of the Planning Commission and the Planning Departments responsibilities as the Metropolitan Planning Organization, the official agency that is responsible and required by federal law to be the review agency for all the City and the County federally funded transportation activities, including roads and bridges and highways and transit assistance and highway airport type improvements at Mid-Continent and Jabara. All that has to go through this funnel that includes the Planning Commission and includes an executive committee that some of you have set on called the Transportation Coordinating Committee. They are required to review and approve the mandated reports and documents that go to federal agencies. This part year, the form of that audit was actually a peer review where there were people from other MPOs from other communities in the Midwest from Iowa and Nebraska and I think Oklahoma who came in and we talked about mutual problems and how we’re dealing with issues, transportation issues in our communities and how we deal with the procedural requirements of the federal government. It was a good sharing of information. Federal agencies came and reported to the Planning Commission on that audit that they did. It was generally a very good report. One of the things they told us which they said we needed to be looking at in the future in terms of organizational form is that if not now then certainly after the year 2000 census, they believe that the MPO, the organization and its boundaries that is going to be responsible for reviewing these kinds of projects is going to be expanding into Butler County. So in some way informally now, formally later, we need to begin to look at ways to involve Andover and Butler County more formally besides the Tri-county Planning Committee in that transportation planning process. I think that I’ll stop there and do you have any questions?”

Chairman Schroeder said, “There are some questions ,Marvin, thank you. Commissioner Winters.”

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Commissioner Winters said, "Thank you. Just a couple of quick things. I want to say that I appreciated the seminar that you put on Saturday morning with the three out of town guests. The first one was pretty good. I think it was pretty fundamental thinking like a lot of Midwesterners do. The last two you know I probably didn't agree with a lot they said but I was really surprised by the vehement reaction to some people to them who weren't even at the meeting. It was acted like you brought some communist to town to infiltrate our minds. So I think he was really, again, I didn't agree with him, but I think those kinds of people really make you stop and think about what you're thinking about growth and planned development and I still think that even he had a lot of ideas that I think citizens are thinking about and things that are appealing to citizens visually, aesthetically, and all kinds of other things. So I think there was something to be learned from it even though you may not have agreed with some of the things he was saying. So I wanted to thank you for doing that. I think it was good and I was there and stayed for the whole thing and for the conversation afterwards. I think it was a good program.

"The second thing is I still am very interested in how we are going about the Comprehensive Plan revision. The only thing I'd say is I don't know that I've really seen or if I have I don't remember it, a time frame schedule and if there are certain check points and the point really where County Commissioners need to really check in more than we have. I would like to have you really point that out to us sometime."

Mr. Krout said, "I'll try to lay that out and I think it is important for the County Commission to be advised at certain stages and not wait until you receive a product from the Planning Commission and then start the process all over again basically."

Commissioner Winters said, "The last thing is my appointee to the Board of Zoning Appeals has resigned and I'm kind of in a quandary as to whether to recruit somebody else and say I want to appoint you to a board but you may never meet. So if you can help give me some direction on that I guess I'd like that. Don't need to do that now. We can talk about that later. Thank you."

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

Commissioner Gwin said, "Thank you, Mr. Chairman. Marvin, just real quickly on the survey. In the questions and revisions and rewriting and simplifications, I know that Irene Hart had suggested to you that you might want to test some of those questions before we go to the expense of mailing and that kind of thing. Are you considering testing those to see if the people understand the question if we get the answers back that make sense to us."

Mr. Krout said, "I hadn't heard that, but that is a very good suggestions. Yes, we'll do that."

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Commissioner Gwin said, "Okay. I think 'A', you want to ask questions that people understand and that you can get a good answer back. So I would suggest we run a test on those before we send them out. Okay, thank you. Thank you, Mr. Chairman."

Chairman Schroeder said, "Thank you. Other questions? If not, what's the will of the Board?"

MOTION

Commissioner Hancock moved to receive and file.

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

Chairman Schroeder said, "Thank you, Marvin. Next item please."

K. MODIFICATION OF PLANS AND CONSTRUCTION, REQUEST NUMBER ONE AND FINAL, WITH RITCHIE PAVING, INC. ON SEDGWICK COUNTY PROJECT - ROCKY CREEK ADDITION, PHASE I, PAVING AND DRAINAGE IMPROVEMENTS. DISTRICT #1.

Mr. Jim Weber, P.E., Director, Sewer Operations and Maintenance, greeted the Commissioners and said, "In Item K, we are requesting your approval of Modification of Plans and Construction number one and final, for Phase I of the Rocky Creed Addition street paving project. Our contract with Ritchie Paving will increase by \$14,818 due to variations in planning quantities from actual field measurements. All costs of the project are to be paid by the benefited properties through special assessments and we would request your approval of the recommended action."

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MOTION

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

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

Chairman Schroeder said, "Thank you. Next item please. On this item Commissioners, would it be all right if we take Item L-2 before we do Item L-1? Go ahead."

L. BOARD OF BIDS AND CONTRACTS.

Mr. Buchanan said, "As Bob is approaching the podium, I would want to remind the Commissioners that the State Office Building project began in 1990, maybe a little earlier than that. It took negotiations with the State and we took possession of the building after those negotiations and the deal was cut, we took possession of that building in 1994. The State occupied the new State Office Building. The purpose of this deal was to make sure that office workers were consolidated into one facility in a downtown location. That has, for all intents and purposes, accomplished exactly what we intended. This is the last piece of the deal that's drug out for some time and Bob has been in charge of that for the last four or five years."

Chairman Schroeder said, "Bob, before you start, let's let the Clerk read this item into the record."

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2. RECOMMENDATION OF THE CITY/COUNTY REVIEW COMMITTEE REGARDING THE SALE OF REAL PROPERTY LOCATED IN THE VICINITY OF DOUGLAS AND RUTAN, WICHITA, KANSAS.

Mr. Lewis R. (Bob) Rogers, Assistant County Manager, greeted the Commissioners and said, "This, as the Manager said, has been a long ongoing process to try to dispose of this property. The City's property management department has basically been in charge of the disposition and we have ridden along with them and they have done a tremendous job of getting the information out to potential buyers, real estate companies, and so forth over the last several years. It is estimated by them that they have shown this building in excess of 100 times. They have asked for a task force of brokers to look at the building and formulate strategy and so on and so forth. It has been bid twice. It was bid first by the City and due to some legal needs of ours, we have since bided it a second time and rejected the earlier bids. Currently, we have received five bids through our Bid Board process and you will hear about the receipt of those bids when the Bid Board is read. It was referred to the Review Committee and the Review Committee has recommended the bid of O. L. Eck in the amount of \$350,000.

"At yesterday's City Council Meeting, the City Council approved, by a vote of five to zero, the sale of this property to O. L. Eck for that amount. They also asked that there be five restrictions placed upon the sale of this property. Number one, no adult books or video stores. Number two, no community correctional facilities. Number three, no half-way houses. Number four, no drug rehabilitation facilities. Number five, no new or used car lots. It is my understanding from Mr. Eck's representative that they have no problems with these stipulations and that we may, subsequent to your approval, add these to the sale agreement by whatever means considered appropriate by our County Counselor and that they are willing to agree to those stipulations. With that, I would recommend to you that you approve the sale of the property, incorporating the stipulations added by the City Council and authorize the Chairman to sign all appropriate documents which I believe is already authorized in the Resolution but it wouldn't hurt to approve it again."

Chairman Schroeder said, "Okay, thank you, Bob. Commissioner Gwin."

Commissioner Gwin said, "Thank you, Mr. Chairman. Just a clarification of a comment that was made yesterday at the City Council meeting. Rich, I guess this is for you. In the minutes that I got it said, 'during the evaluation process it was discovered that the County had not properly surplused the property necessitating a second proposal period.' I don't remember it that way, do you? Can you help me clarify how this happened to come back around for a second time, why we had to go through this again?"

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Mr. Richard Euson, County Counselor, said, "I'm not sure what they mean by surplused. The property was offered for sale by the City of Wichita. The City of Wichita knew that the County had an ownership interest but the City apparently did not appreciate the fact that the County has different requirements for selling real property than does the City and so that is why it was required to go a second time for publication and rebidding."

Commissioner Gwin said, "I see, well I appreciate that."

Chairman Schroeder said, "Is the statement incorrect then, that it was not properly surplused?"

Mr. Euson said, "To me it is incorrect."

Chairman Schroeder said, "That wasn't caused by us, that's what she is looking for."

Mr. Euson said, "I would say it was not caused by us."

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

Chairman Schroeder said, "You bet. Other questions? I think we have somebody here today that would like to speak to this item."

Mr. Dave Bayouth said, "I'm the consultant and representative for Rusty Eck. We have no problems with the overlays that the City applied. Of course, you could add transfer station, landfills, and casinos if you'd like. We wouldn't mind that, but we don't seem to have a problem with any of those. We are working with the College Hill Neighborhood Association and the CPOs. I notified Randy Rathbun and Beth King several months ago, we met on the site twice to try to get the highest and best use of what they felt was the best use for the property. I guess as soon as I mentioned Rusty Eck, Randy was horrified and that is the last thing I want to do, horrify Randy. But anyway, we agree with the overlays the City applied and we will work with the neighborhood to make it a win win for everybody. If there are any questions, I would answer them. We signed one contract and if you want to do it by those overlays or covenants or whatever you want to call them, we can do it by separate instruments so we don't have to go through the whole show again. We don't have a problem with that."

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

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Commissioner Miller said, "I don't have any questions of Dave, thank you. This is probably going to be addressed to either Bob or Bill and I don't have a problem with the bidding process and obviously we're interested in getting as much out of the property as we can, understanding that. Jointly we put in what was it, \$3,500,000?"

Mr. Buchanan said, "It was \$1,700,000 each."

Commissioner Miller said, "So about \$3,500,000. So we're getting a return of about \$.10 on that."

Mr. Buchanan said, "But that was never part of the deal. We always understood, when the decision was made, it was made very clear that the decision should not be made based on selling the Douglas Rutan Building to make more money than it cost us. The County put the money in this deal because we thought it was important to consolidate the State Office and put them down for economic development purposes."

Commissioner Miller said, "But we spent taxpayer dollars to the tune of approximately \$1,750,000 and we're getting \$175,000 off of it back. Just a point. The public is aware of that and that is no news to them. I'm simply saying that I have no problem with being able to get as much back for the public's sake as possible. So I will be supportive of this."

Mr. Rogers said, "Commissioners, the handout that I gave you just now is a list of all the places that our Purchasing Department sent the package to in our bidding process. It is some 30 Realtors, brokers, et cetera. That plus all the ones that the City has previously sent to. We sent to anybody we knew might be interested in the property."

Commissioner Miller said, "I understand. Thank you."

Chairman Schroeder said, "Commissioner Winters."

Commissioner Winters said, "Just to follow up on that. I came on the Commission just as the agreement had been finalized but I was working under the assumption that the County was fully prepared to make this investment if it came up to \$1,750,000 into the project to make it work as an economic enhancement for downtown Wichita. So you can argue that the project of the State Office Building maybe was bad, but a couple of the recent news articles have indicated that we're taking a big loss now on this Rutan Building, which the way I remember it, that was never a point of real I guess making it hinging on whether we were going to participate in the deal or not. If we had to make sure that we got back the full amount then that was just not the discussion back in 1993."

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“The discussion was we’re going to make sure this deal works and if we have to be an owner of the Rutan Building then we’re going to be that and hopefully we’ll recoup some of the money. But if we don’t, that’s just part of the project. They can argue that it was faulty logic but I don’t think we can really say that this deal is bad at this point in time in my opinion. Thank you.”

Chairman Schroeder said, “Thank you. Commissioner Hancock.”

Commissioner Hancock said, “I agree with Commissioner Winters. What essentially we did, if you just stop and think about it is we essentially traded a vacant building for a vacant building with an improvement. The Macy Building was vacant. The theory being and it is arguable both ways, that by remodeling the old Macys and putting the State Office Building downtown that we contributed significantly to the downtown redevelopment and to our tax base and all those investments will come back to us. That remains to be seen. We’ll see what happens. It wasn’t bad, it wasn’t good. We’ll just have to see in the future and in the long term and I don’t think anybody can make any judgement right now whether we did a bad thing or a good thing. But I know the intention in the very beginning was to unload that turkey over there that Dave is buying and probably for about the right price because the State didn’t like it, they weren’t willing to put any money in it. They hated the location. They hated the building. They were stuck with it. We made them a good deal and I think we were happy with the deal. The City was happy with the deal and the State was. So we can all express our regrets and we’re sorry because we’re not getting out of it what we put in it but that wasn’t the intention from the very beginning.”

Chairman Schroeder said, “Okay. Any other questions or comments? Anybody else here who would like to speak to this item? If not, we’ll close public comment and limit discussion to bench and staff. Commissioners, any last comments or a Motion?”

MOTION

Commissioner Hancock moved to approve the recommendation of the City/County Review Committee and to include the requirements given by the City.

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

Chairman Schroeder said, "Thank you. Back to Item L-1."

**1. REPORT OF THE BOARD OF BIDS AND CONTRACTS' MAY 14, 1998
REGULAR MEETING.**

Mr. Darren Muci, Director, Purchasing Department, greeted the Commissioners and said, "You have Minutes from the May 14 meeting of the Board of Bids and Contracts. There are 7 items for consideration.

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

"Item one, sanitary sewer improvements for the Bureau of Public Services, Brentwood Village Addition, Phase 2. It was recommended to accept the low bid of Nowak Construction. That amount is \$74,384.

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

"Item two, street improvements for the Bureau of Public Services for the Wheatland Addition, Phase 5. It was recommended to accept the low bid of Cornejo & Sons. That amount is \$128,990.75.

**(3) RIPRAP - BUREAU/PUBLIC SERVICES
FUNDING: BUREAU/PUBLIC SERVICES**

"Item three is riprap for the Bureau of Public Services. It was recommended to accept the only bid of George M. Myers. That amount is \$11,910.

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**(4) COMPUTER PAPER & LABELS - INFORMATION SERVICES
FUNDING: INFORMATION SERVICES**

“Item four is computer paper and labels for Information Services. It was recommended to accept the low total bid of Convenience Computer Supplies. That amount is \$33,147.95. A complete tabulation follows.

**(5) COMPUTER GENERATED ADMISSION TICKETS - KANSAS COLISEUM
FUNDING: SELECT - A - SEAT**

“Item five, computer generated admission tickets for the Kansas Coliseum. It was recommended to accept the low bid of Boca Systems. That amount is \$12,570.

**(6) TRANSPORT OF VOTING MACHINES - ELECTION COMMISSION
FUNDING: ELECTION COMMISSION**

“Item six, transport of voting machines for the Election Commission. It was recommended to reject all bids as they exceeded the budgeted amount.

**(7) SALE OF REAL ESTATE - DOUGLAS & RUTAN - COUNTY COUNSELOR
FUNDING: COUNTY COUNSELOR**

“Item seven was the sale of real estate at Douglas and Rutan. It was deferred for separate consideration.

ITEMS NOT REQUIRING BOCC ACTION

**(8) INTERNET ACCESS SERVICE - INFORMATION SERVICES
FUNDING: INFORMATION SERVICES**

**(9) OFFICEVISION, E-MAIL & CALENDAR GATEWAYS - INFORMATION SERVICES
FUNDING: INFORMATION SERVICES**

“There were two items that did not require action at this particular time, both for Information Services. The proposals are being reviewed. Those are Internet access services and officevision, E-mail, and calendar for Gateways. I will be happy to take questions and would recommend approval of the recommendations of the Board of Bids and Contracts.”

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Commissioner Winters said, "On the items not requiring action on the Internet access, I'm surprised not to see Feist on there. Is that the kind of service that they provide?"

Mr. Muci said, "No Commissioner, it is not. It is a level above that and I am just not . . ."

Commissioner Winters said, "Well, if you would just check and make sure that they weren't inadvertently left off of something."

Mr. Muci said, "They did receive a copy of the document."

Commissioner Winters said, "Okay, very good. Thank you."

Chairman Schroeder said, "I think one of the reasons I'm interested in that is because the one time that we got into the web site on my computer was we could not get through. We couldn't get through because it was so tied up."

Commissioner Winters said, "I was there that day and the person told you if we had Feist we would be able to do that."

Mr. Muci said, "I'll get with Mr. King and get an explanation on this."

Chairman Schroeder said, "Any other questions or comments? Further discussion?"

Commissioner Hancock said, "By the way, that was for a television report. I want to make that clear that a television reporter was here."

Chairman Schroeder said, "That's right, they sure were. Further discussion?"

MOTION

Commissioner Winters 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.

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VOTE

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

Chairman Schroeder said, "Thank you. Next item. Thank you, Darren. Next item please."

CONSENT AGENDA

M. CONSENT AGENDA.

1. Right-of-Way Instruments.

- a. One Easement for Right-of-Way in Lot 1, Block A, Gott Addition, as a requirement of a Vacation Case. District #1.
- b. One Easement for Public Utilities for Belle Terre South Addition. District #1.
- c. One Easement for Right-of-Way for Sedgwick County Project No. 616-32, 33, W½ 34; 13th Street North between the Wichita city limits and K-96. CIP #R-225. District #1.

2. Section 8 Housing Assistance Payment Contracts.

<u>Contract Number</u>	<u>Rent Subsidy</u>	<u>District Number</u>	<u>Landlord</u>
V98024	\$255.00	5	Helms Rental Properties
C98023	\$375.00	1	Warner & Warner
V98022	\$326.00	2	Jerry and Judith Gariepy

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- 3. 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>
C95082	\$257.00	\$280.00
V95088	\$183.00	\$117.00
C95005	\$128.00	\$357.00
C62027	\$304.00	\$332.00

- 4. Order dated May 13, 1998 to correct tax roll for change of assessment.**
- 5. Consideration of the Check Register of May 15, 1998.**
- 6. Budget Adjustment Requests.**

<u>Number</u>	<u>Department</u>	<u>Type of Adjustment</u>
980237	Register of Deeds	Transfer
980238	Capital Projects	Appropriation Reduction
980239	Corrections	Supplemental Appropriation
980240	Capital Projects	Transfer
980241	Capital Projects	Supplemental Appropriation
980242	Wheatland Addition	
	Phase 5-Street	Supplemental Appropriation
980243	Rocky Creek	
	Phase 1-Street	Supplemental Appropriation

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

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MOTION

Commissioner Hancock moved to approve the Consent Agenda as presented.

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

Chairman Schroeder said, "Thank you. Any other business to come before this Board?"

N. OTHER

MOTION

Commissioner Hancock moved that the Board of County Commissioners recess into Executive Session for 30 minutes to consider consultation with Legal Counsel on matters privileged in the Attorney Client relationship relating to pending claims, litigation, legal advice, personnel matters of non-elected personnel and that the Board return at 12:45 p.m.

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

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Chairman Schroeder said, "We're in Executive Session."

The Board of Sedgwick County Commissioners recessed into Executive Session at 12:15 a.m. and returned at 1:05 p.m.

Chairman Schroeder said, "We're back in session. Let the record show that there was no binding action taken in Executive Session. Mr. Buchanan, do you have anything to add? Mr. Euson? Commissioners? Then we're adjourned."

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There being no other business to come before the Board, the Meeting was adjourned at 1:05 p.m.

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

MARK F. SCHROEDER, Chairman
Fifth District

PAUL W. HANCOCK, Chairman Pro Tem
Second District

BETSY GWIN, Commissioner
First District

THOMAS G. WINTERS, Commissioner
Third District

MELODY C. MILLER, Commissioner
Fourth District

ATTEST:

James Alford, County Clerk

APPROVED:

_____, 1998