

MEETING OF THE BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

January 30, 2002

The Regular Meeting of the Board of the County Commissioners of Sedgwick County, Kansas, was called to order at 9:00 A.M., on Wednesday, January 30, 2002 in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman Ben Sciortino; with the following present: Chair Pro Tem Betsy Gwin; Commissioner Tim R. Norton; Commissioner Thomas G. Winters, Commissioner Carolyn McGinn; Mr. Rich Euson, County Counselor; Mr. William P. Buchanan, County Manager; Mr. Phil Rippee, Risk Manager, Department of Risk Management; Ms. Lana J. Goodson, Forensic Chemist, Regional Forensic Science Center; Mr. Ken Elliott, Economic Development Specialist, Division of Community Development; Mr. Dale Miller, Metropolitan Area Planning Department; Ms. Susan Erlenwein, Director, Environmental Resources; Dr. Mary Dudley, M.D., District Coroner/ Chief Medical Examiner; Dr. Charles Magruder, M.D., Director, Community Health Department; Mr. Gerald Frantz, County Appraiser; Ms. Karen McNally, Director, Community Support Services, Comprehensive Community Care; Mr. Marty Hughes, Revenue Manager, Division of Finance; Mr. Pete Giroux, Senior Management Analyst, Budget Department; Mr. David Spears, Director, Bureau of Public Works; Ms. Iris Baker, Director, Purchasing Department; Ms. Kristi Zukovich, Director, Communications and Ms. Lisa Davis, Deputy County Clerk.

GUESTS

Ms. Margalee Wright, Community Connections Character Education Director, USD 259.
Mr. Michael Schaefer, Director of Real Estate Development, United Warehouse Company.
Ms. Susan Schrag, Morris, Laing, 200 W. Douglas, Wichita, KS.
Mr. Jeff Kennedy, Counsel for Waste Disposal, Martin, Pringle Law Firm.
Ms. Sue Davis, 2233 W. 46th Street S., Wichita, KS.
Mr. Terry Faelber, 5300 S. Hoover, Wichita, KS.
Mr. David Pitt, 3712 S.W. 29th St., Topeka, KS.
Mr. Robert Lender, Executive Director, Midwest Transplant Network.
Ms. Diana Lippoldt, R.N., Manager, Department of Trauma Services, Wesley Medical Center.

INVOCATION: The Invocation was led by Commissioner Norton.

FLAG SALUTE

ROLL CALL

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

CONSIDERATION OF MINUTES: Regular Meeting, January 16, 2002

The Clerk reported that Commissioner Norton was absent at the Regular Meeting of January 16, 2002.

Chairman Sciortino said, “Commissioners, you’ve had a chance to look at the Minutes of the Regular Meeting of January 16th, 2002. What’s the will of the Board?”

MOTION

Commissioner Gwin moved to approve the Minutes of the Regular Meeting January 16, 2002.

Commissioner Winters seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Abstain
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, “Next item.”

PROCLAMATION

A. PROCLAMATION DECLARING FEBRUARY 8, 2002 “MAKE THE CONNECTION DAY.”

Chairman Sciortino said, “Commissioners, I have a proclamation that I’d like to read into the record. It states:

PROCLAMATION

WHEREAS, a community-wide Character Education Coalition is being created to engage

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community leaders in support of character development for all children; and

WHEREAS, as community leaders, the role of law enforcement, government, schools, the faith community, businesses and the media is to encourage positive character modeling by all Sedgwick County adults; and

WHEREAS, the mission of the Coalition is to advocate the five character traits- Respect, Responsibility, Integrity, Self-discipline, Caring- reached by community consensus as county-wide core values; and

WHEREAS, the Coalition, created by the Wichita Area Chamber of Commerce and the Wichita Public Schools, will serve as a resource for program development, measurement and evaluation; and

WHEREAS, in a healthy community, it is the responsibility of ALL citizens to model positive characters for children and adults and it must be our priority for the development of a healthy community;

NOW, THEREFORE BE IT RESOLVED, that I, Ben Sciortino, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim February 8, 2002 as

“MAKE THE CONNECTION DAY”

in Sedgwick County and encourage all citizens to make the connection with youth through positive character development!”

MOTION

Commissioner Gwin moved to adopt the Proclamation and authorize the Chairman to sign.

Commissioner Norton seconded the Motion.

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

VOTE

Commissioner Betsy Gwin Aye

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Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, “And I believe we have Margalee Wright here to accept the proclamation.”

Ms. Margalee Wright, Community Connections Character Education Director, USD 259, greeted the Commissioners and said, “Thank you very much. We appreciate the support. The Wichita Area Chamber of Commerce and the Wichita Public Schools have invited leaders from across the County together on February 8th to begin the process of looking at character education and positive character modeling for all of our youth throughout the County. So, thank you for the Proclamation.”

Chairman Sciortino said, “Thanks, Margalee. Before we go to the next item, Commissioners, I’d like to just take up an Off Agenda item.”

MOTION

Commissioner Gwin moved to consider an Off Agenda item.

Commissioner Norton seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

OFF AGENDA ITEM

Chairman Sciortino said, “As you know, it’s the responsibility of the Chairman to sit on various

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boards and/ or his designee. And we all sit on a lot of boards, and I have two that I'm charged with responsibility of either sitting on or finding someone to sit on them in my behalf and the two that I have in mind are the two that are really two of the highest ones that we have here, that get the most recognition. And Betsy, you have been sitting on the Zoo Board for many years and you've done an outstanding job and I'd like to just ask you if you would please consider sitting this year as my designee on the Zoo Board?"

Commissioner Gwin said, "I'd be happy to. I would consider it an honor. As you know, and many of the people in this community know, the Sedgwick County Zoo is one of the shining stars of the attractions of this community. For family attendance, it out-distances anything, other than I think we've been surpassed now by Nascar races and casinos, but for good old family fun and spending time with family, the zoo is an extraordinary place.

We had a tough summer, because of the heat, but we had a record attendance in September. We had our second best ever October and November and we, until today probably, were on record track for attendance in January.

We have some really big announcements coming and I don't announce them out of the courtesy of the folks in the new exhibits that will be occurring, but watch the news from that, some very spectacular things coming. In March of this year, we will be hosting a regional zoo conference, with over 300 folks attending from all over the country, again to showcase our zoo and this wonderful community.

I was going to talk about Winter Wednesdays in January being only a dollar, but you're probably not going to go out there today, are you. But the zoo is open. The zoo is open 364 days a year, just for your information. So, it's open today in case you care to go. The only day it's closed is not Christmas, as most would think. The only day it's closed is the day of Zoobilee, when we close the zoo to set up for one of the most successful fund raising events in the country. So, it is my privilege to serve on that board. It's my privilege to be a part of a wonderful public/ private partnership that really does benefit our community and make it extraordinary, compared to so many others of our size. So, I will more than willingly accept your designation and look forward to yet another year of good things at the Sedgwick County Zoo."

Commissioner Sciortino said, "Well, I thank you because the responsibilities of the Chairman are such that it's virtually impossible for the Chairman to sit on all of these boards and I really appreciate you being able to accept that responsibility."

Commissioner Gwin said, "Thank you. I love doing it. Thank you."

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Chairman Sciortino said, “And the second board is a board I really like, Cowtown. Unfortunately, I was here at the beginning of Cowtown and I was here when they celebrated their 50th anniversary, as a museum. I was in the crowd when they were celebrating their 50th anniversary and I just realized that, ‘Gee, I was 10 or 11 when they had the grand opening’. So, that made me feel rather old and decrepit actually. But anyway, Carolyn McGinn has served for the last two years on the Cowtown Board and the board thought enough of her to elect her as president and she’s done an outstanding job. She’s seen the board through some tumultuous times, looking for a director, having a director, losing a director, looking for another director. And Carolyn, I would just ask you if you would consider serving another year as our designee?”

Commissioner McGinn said, “Thank you. I’d appreciate that and it would be my honor. I’ll just share a few things going on with Cowtown. You’re correct. We did have a challenging year last year in looking for a new director. We had some community leaders on the search committee and appreciate all their help and effort to find our new director, who is Jan McKay from Cleveland, Ohio. Jan has hit the ground running and she’s doing a great job and we’re really glad that she’s here in Wichita, Kansas and she also sold her home in Cleveland, so I told her that means she’s stuck here now. So, she can’t go back. We’re glad to have her.

Last two years, I did serve as president and it was challenging but also rewarding as well and, as I shared with you the other day, that I got to pass the gavel Monday to a new president and we’ll be in good hands again, I think, with Clark Bastian who his family has Fidelity Bank. I know he’ll do an excellent job, just by watching him run the meeting and everything was on-time and precise. And so, we’re glad that he took on that challenge.

I do want to share too, if you’ve heard about the new entrance, Cowtown in the past it seems like you go down the back alley and you have to go in the back door and that’s going to change. Unfortunately, we need to delay that one year. The area where the City’s public works, maintenance department is, is where the new entrance will be. If you’ve been down there, you should see some great work that the City of Wichita is doing. They’re putting in some road improvements for Museums on the River. They’re putting in some art along there. So, when you get out there this spring, this summer you’re going to see a great change and a great new look to our

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Museums on the River. They are working to move that water maintenance department, but they're just a year behind. And so, we think that we can go ahead and start some things before they get fully moved, so you may start seeing some activity some time in this coming year. But we'll have a new entrance there, visitor's center, some education rooms and those kinds of things. So, we're very excited about that and look forward to seeing that come out of the ground.

One other thing I just want to share, we're not open year-round. Our opening season is April 1st. Jan McKay, our new director, just announced at our meeting last week that she's added several new, exciting events. And one of the things that we are quite proud of is during the week we have interpreters on the grounds, but we do try to have something every weekend and that's when we have the greatest amount of foot-traffic out there. And so, it really makes it an exciting time for people to be out there. So, if you haven't been to Cowtown for a while, try to get out there this year. Thank you."

Chairman Sciortino said, "Well, I appreciate both of you agreeing to that and, on Cowtown, if you recall when we had the 9/11 problem there was a plane full of Jewish citizens that were in the country on vacation and they were heading for Las Vegas or Los Angeles and they had to make an emergency stop and Carolyn hosted them, the first thing, when they landed and asking what they would like to do, one of the first things was 'We want to see cowboys and Indians'. And Carolyn hosted them at Cowtown and they indicated that was one of the highlights of their visit to Wichita. And we welcome them back and maybe they can come back as paying customers next time. Anyway, thank you both very much.

Clerk, call the next item please."

AWARDS

B. RECOGNITION OF JACK KEGLEY AS THE KANSAS EMERGENCY MANAGEMENT ASSOCIATION'S INSTRUCTOR OF THE YEAR.

Mr. William Buchanan, County Manager, greeted the Commissioners and said, "We'd like to delay this or defer this for one week. Some of the folks that were going to be here are from out of town to do that and it would be appropriate to delay this one to whenever the next meeting is."

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Chairman Sciortino said, "Okay."

MOTION

Commissioner Winters moved to defer this item for one week.

Commissioner McGinn seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, "Next item."

C. ADOPTION OF THE 2002 SAFETY SLOGAN, "SAFETY BEGINS WITH YOU IN 2002," AND PRESENTATION OF AWARD TO LANA J. GOODSON, REGIONAL FORENSIC SCIENCE CENTER, WINNER OF THE ANNUAL SAFETY SLOGAN CONTEST.

Mr. Phil Rippee, Risk Manager, Department of Risk Management, greeted the Commissioners and said, "Usually, we're a pretty negative department, with all the injuries and things that happen or with claims. This is the highlight of our year, usually. As part of our continual effort to promote safety awareness, the Board of County Commissioners has supported the adoption of an annual safety slogan for Sedgwick County employees since 1994."

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This year’s slogan, ‘Safety Begins With You in 2002’, was submitted by Lana J. Goodson of the Regional Forensic Science Center. I would like to take the time to also recognize members of the Central Safety Committee who make this selection and in particular, Diana Mansouri, who is our Safety Coordinator, for all their efforts in this extremely important safety endeavor.

I would also say that, in this package that is awarded we have an award certificate which would be developed by Public Works for us. We have a framed poster of the slogan. Risk Management proves that. There’s a Red Cross first-aid kit by Risk Management, a fire extinguisher provided by Kansas Fire and Equipment Company, a smoke detector is from the Sedgwick County Fire District Fire Prevention Department. And we have a stuffed safety-owl mascot from the Sedgwick County Zoo and we’ve also got an ‘adopt-an-animal’ certificate this year from the Sedgwick County Zoo. We have a fitness assessment certificate from Via Christi Prevention Center.

I’d like to call Lana Goodson up please. First of all, I would recommend that the Commissioners adopt the safety slogan and allow us to make the presentation to Lana Goodson.”

MOTION

Commissioner Gwin moved to adopt the 2002 Safety Slogan and present the Award.

Commissioner Winters seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Mr. Rippee said, “Lana, we’d like to present you with this certificate which says: Congratulations for submitting the winning 2002 safety slogan, ‘Safety Begins With You in 2002’. Thank you very much. And we will give her all the things in the box. If you’d like to see some of it, we have . . . this is the owl. We have . . .This is the owl. We, of course, have the owl is holding some

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ergonomic standards here for computer work stations which we feel is important and the safety glasses. Would you like to say a few words, Lana?"

Ms. Lana J. Goodson, Forensic Chemist, Regional Forensic Science Center, said "First of all, it's good to be here this morning. The roads were a little rough so I was a little bit late. First and foremost, I'd like to thank the County Commissioners for the ability to receive this award. It's not mine individually. It was a group effort on the part of the Toxicology Laboratory at the Forensic Science Center. At the Forensic Science Center, we're reminded on a daily basis the importance of safety. So, I think it's a great privilege to receive this on behalf of the Forensic Science Center. Thank you."

Chairman Sciortino said, "Thank you very much. Next item please, Madam Clerk."

PUBLIC HEARING

D. PUBLIC HEARING REGARDING COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION TO KANSAS DEPARTMENT OF COMMERCE AND HOUSING ON BEHALF OF UNITED WAREHOUSE; RESOLUTION CERTIFYING LEGAL AUTHORITY TO MAKE SUCH APPLICATION; AND RESIDENT ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN.

Mr. Ken Elliott, Economic Development Specialist, Division of Community Development, greeted the Commissioners and said, "This morning we have a new economic development expansion project here in the County. It's a CDBG project. CDBG stands for Community Development Block Grant. The Community Development Block Grant program is a program of the State of Kansas specifically designed to expand and do community development expansion projects. One of

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the requirements of that is that jobs are created whenever there is an expansion program going on. Here lately, we've been working with United Warehouse up in the northern part of the County on a project that's going to create 16 new jobs within the County. United Warehouse has some activities that they're going to do and here to talk about the program, I've got Mr. Mike Schaefer. He's the real estate developer, Director of Real Estate Development with United Warehouse. He's going to talk a little bit about the history of United Warehouse and more specifically about this project and about their new facility that they've just built and completed. Actually, they're still working on it.

Also, we have Mr. Bill Bolin, who is Executive Director SCKEDD. SCEDD stands for South Central Kansas Economic Development District, which is a certified development company. And he's going to talk more specifically about the numbers and the process behind the actual CDBG application.

So, with that I'd like to turn it over to Mr. Schaefer and have him talk about United Warehouse a little bit."

Mr. Mike Schaefer, Director of Real Estate Development, United Warehouse, greeted the Commissioners and said, "We've been in the business since 1915 here in Wichita. We also have two other locations, Tulsa, Oklahoma and Lenexa, Kansas.

About a year ago, we built a 200,000 square-foot facility on north 45th Street. We moved into it in August and we're three-quarters full right now. Right now, we're a little strapped. There's a railroad that's been abandoned just east of the property. And we're here trying to request a railroad spur to the site of the building because that would enhance our business and fulfill a lot of our customer's needs. We're looking forward to expanding, if this can happen. Even if it doesn't happen, we'll probably still expand because business is really good now. I really don't know what else to say. I'm open for questions, if you have any questions."

Chairman Sciortino said, "Okay. Commissioners, any questions of the applicant at this time? Yes, Commissioner McGinn."

Commissioner McGinn said, "Well, I just wanted to make a comment. Mike has had me out to their new location up there by Park City and it's a great facility, with great potential and growth area. And anyway, and you also have another place downtown."

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Mr. Schaefer said, "We have two other locations."

Commissioner McGinn said, "Okay but anyway, I just wanted to share that they have a great, I think, location and a great ability to expand and you talked to me about the railroad spur and I hope that you are able to accomplish that because I can see how that can go hand in hand with your business. But I just wanted to share, also, that if you haven't been down there, I'd invite other Commissioners to go down there as well. Thank you, Mike for being here today."

Chairman Sciortino said, "I have just one comment. Could you share with the public, for example, how many employees do you presently have?"

Mr. Schaefer said, "In Wichita?"

Chairman Sciortino said, "In the Wichita/ Sedgwick County area, yes."

Mr. Schaefer said, "Right now we have 27 employees and that doesn't include truck drivers. We also have a dispatching, where we deliver goods here locally and throughout the State. So, if you want to include the truck drivers, I'd say 32. A lot of that's contract labor, though. We contract it out."

Chairman Sciortino said, "But, because of your business, those truck drivers have a job because they're servicing the company."

Mr. Schaefer said, "I'd say 32 here in Wichita/ Sedgwick County area. Overall, company, 75."

Chairman Sciortino said, "Okay, well as everybody knows, it's small businesses that are the core to our vitality as an economic unit and it's companies such as yourself, I think, that quietly go about the business of doing your business, but you're also contributing to our overall economic health, and we thank you for that."

Okay, any further comments or questions to the applicant right now? All right. I'd like to now open the public hearing portion of this presentation. Is there anyone here in the public that would like to speak for or against this item? Okay, I see none, so I'll restrict any further comment to the Bench and to staff. Commissioners, any other comments and, if not, what might be the will of the Board here?"

MOTION

Commissioner McGinn moved to approve the Grant Application and authorize the

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Chairman to sign all necessary documents, including the grant award agreement containing substantially the same terms and conditions as this Application; adopt the Resolution; and approve the Plan and authorize the Chairman to sign.

Commissioner Norton seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, “Next item please.”

PLANNING DEPARTMENT

E. CASE NUMBER ZON2001-00010 – RESOLUTION AUTHORIZING ZONE CHANGE FROM “LC” LIMITED COMMERCIAL AND “SF-20” SINGLE-FAMILY RESIDENTIAL TO “LI” LIMITED INDUSTRIAL; AND

CASE NUMBER CON2001-00008 – RESOLUTION AUTHORIZING CONDITIONAL USE PERMIT FOR A SOLID WASTE TRANSFER STATION, LOCATED ON THE NORTHEAST CORNER OF 55TH STREET SOUTH AND HOOVER. DISTRICT #2.

POWERPOINT PRESENTATION

Mr. Dale Miller, Planning Director, Metropolitan Area Planning Department (MAPD), “This case was one that you heard back in March 28th of 2001 and it dealt with a request to change zoning on a piece of property that’s located at 55th Street South and Hoover. I’ll give you the general location here. Overall, the entire application area is 48 acres, 55th Street here, Hoover here and railroad

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track cutting through that northwest corner.

The request for the change in zoning was from 'LC', Limited Commercial, and 'SF-20', Single-family zoning, to 'LI', Limited Industrial and also a request for a Conditional Use to permit a solid waste transfer station. At that time, staff recommended the application be approved, subject to specific conditions. The recommendation for approval was based on an evaluation of the factors contained in Section 5-C.8 of the Unified Zoning Code which are more familiarly known as the 'golden rules', which resulted in findings that weighed in favor of approving the zone change and to approve the request for the Conditional Use to permit the transfer station.

What this slide is showing is a combination of both. At that time, as part of the application, there was a site plan that was submitted and reviewed and approved. And it's this smaller area that I'm outlining here with the internal circulation, the buildings and all the other activities that they need to do to make the transfer station work. That was part of the application that you reviewed and approved at that time and one of the recommendations, at that time, was to not rezone the entire 48 acres, but to restrict it to this smaller area that was shown on the site plan and enclosed by a fence. So, that's what was approved.

At the time that the Commission reviewed the original site plan, the applicant had not yet sited their sewage lagoon, nor had definitively sited their access road. The total area that was shown within the fenced area on this particular slide is approximately 7 acres. On March 28th, 2001, that same day, the Commission approved a Motion to approve the requested zone change and conditional use permit for the fenced in area depicted in the original site plan and that Motion was approved, four to one.

The applicant has now completed the platting process, and as a result of that, the plat has been approved and they have now sited the sewage lagoon and they have more precisely located the access and internal circulation roads. This is the more precise site plan that they submitted. You've been provided a copy of this in your backup material, if this is a little fuzzy but it's the same site plan as in the material. And on this amended site plan, the main driveway has moved just a little bit from the west to the east and they have expanded the fenced in area to where, instead of having an angled, kind of a pie-shaped if you will that was on the original site plan, they have just squared off the corners pretty much, so that the entire fenced area that's now shown on this revised site plan is approximately 15.92 acres.

That area, the 15.92 acres, corresponds to the regulation minimums that Sedgwick County has for a transfer station that processes 500 tons or more of solid waste per day, in the absence of the

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Commission approving a waiver for a site that's smaller than that.

On your agenda today are proposed resolutions to approve the zone change to 'LI' Limited Industrial and to approve the conditional use to permit a waste transfer station on approximately 15.92 acres out of the total 48 acres that was the original application area. The fenced in area depicted on the amended site plan map corresponds to the area that would be rezoned to the 'LI' Limited Industrial District and for which the conditional use permit to allow the waste transfer station would apply.

Staff recommends that the County Commission reconsider and revise its decision of March 28th, 2001, which approved the original site plan and on which the zone change and the conditional use were based, and to approve the substitute resolutions contained in your backup material which changes the zoning and allows the conditional use on the parcel described in the materials, comprising approximately 15.92 acres.

Staff makes this recommendation based on the fact finding as set out on the February 22nd, 2001 minutes of the MAPC, the Metropolitan Area Planning Commission, which remain the fact finding of staff and after consideration of the minutes of February 22nd, 2001 MAPC meeting and of the March 28th, 2001 County Commission meeting and the views expressed by those present at the meeting expressing their views.

The recommendation of staff today does not reflect any change in the view of staff concerning the appropriateness of the rezoning and conditional use of the transfer station on the 48 acre site. It was staff's view on March 28th, 2001 that a change of zoning and conditional use were appropriate to the full extent that the applicant intended to use the property for a transfer station.

Staff still has that view today. All that has changed is the amount of the 48 acre site that the applicant proposes to use for the transfer station and the relocated driveway and siting of the lagoon and various other internal circulation drives. Staff recommends that the zoning change and conditional use approvals be restricted to less than the full 48 acres, which was and is motivated by the idea that by restricting the area on which the zoning would be changed to that which the applicant intends to use for the transfer station, the County Commission can retain greater control over the Limited Industrial uses that would be permitted inside this internal 15.92 acres and that's based on the fact that, at the meeting, people who were speaking were concerned about the impact of this facility, so that leaves a considerable buffer area on the overall 48 acre site that would be left zoned as Single-family 20 and not be used as part of the transfer station nor be rezoned to 'LI'

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Limited Industrial or have the conditional permit apply to it.

With that, I'd try to answer any questions."

Chairman Sciortino said, "Okay. Commissioners, before I see if any of you have questions here, I'd like to ask Mr. Euson, do you have anything more that you want to add that might be helpful for us?"

Mr. Rich Euson, County Counselor, greeted the Commissioners and said, "One of the reasons this is back before you is because the decision you made on March 28th never became final. It didn't become final because it really wasn't published and so, therefore, it's appropriate for you to make a reconsideration of that decision today.

The revised site plan that was shown by Mr. Miller is still less restrictive than the entire 48 acre tract that is actually the application area that went to the Metropolitan Area Planning Commission and the area that you're being asked to reconsider is still within that 48 acre tract. In other words, it's still buffered. Also, I guess I should say that we have . . . as is normal, we have prepared resolutions for you to incorporate this revised site plan and if you do not approve them, then your March 28th decision, approving the original site plan, will be published and the zoning will be changed in accordance with that plan."

Chairman Sciortino said, "All right, thank you. Commissioner Gwin."

Commissioner Gwin said, "Then, do the resolutions incorporate a waiver of the County policy as to the number of acres then that are permitted or that should be appropriate?"

Mr. Euson said, "No, they do not and the resolutions before you on the larger site plan do not need that waiver, because that would comply with our existing transfer station regulations."

Commissioner Gwin said, "Okay."

Chairman Sciortino said, "Well, Rich, I think maybe what Commissioner Gwin was asking is if we don't approve what has been presented here, you said the original thing that we approved on March 28th would be published and, I thought I heard, the original one that was published, did it have the waiver in it or would we have to do something in addition to grant the waiver if we didn't

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approve this expansion and just went with the March 28th one?”

Mr. Euson said, “If you do not approve the resolutions before you, then the action that you took on March 28th would be published and then a waiver would be necessary.”

Chairman Sciortino said, “To make it conform with our statute. Okay. Thank you. Commissioners, any questions right now at this time with MAPD or anything that you’ve heard from Mr. Euson? Okay. This is not a public hearing. However, I’ve been informed that there are some people in the audience that would like to speak either for or against this item and I’m going to go ahead and allow that, even though it isn’t required by law. We do have a policy that we would like to limit presentations to five minutes. However, I have also heard that there’s one or two of you that would like to have expanded time and the justification for which is, as I understand it, is that you’re speaking for more than one person. And we would grant that because we want to be able to hear from the public and get your views and thoughts on it before we make a decision.

So, at this time, could I have a show of hands of how many people are in the audience that would like to speak to this item. Three people. Okay, fine. So, why don’t we just start listening to you and whoever would like to come first or flip a coin and what have you. Please come up to the podium and give your name and address for the record and give me an indication as to how much time you would need.”

Mr. Jeff Kennedy, Counsel for Waste Disposal, Martin Pringle Law Firm, greeted the Commissioners and said, “I don’t need more than five minutes.”

Chairman Sciortino said, “Now are you speaking for or against it?”

Mr. Kennedy said, “I am speaking in favor of the application.”

Chairman Sciortino said, “Okay, fine.”

Mr. Kennedy said, “I think what happened last March is still fairly fresh in the Commission’s minds and I’m not one who believes in reinventing the wheel. I think we made a fairly thorough presentation at that time regarding what was contemplated for this transfer station at 55th South and Hoover Road. We’re here today, more than anything else, to answer any questions that the Commission may have with regard to why we’re back here and to sum that up, as best I can, very briefly, in order to try to be accommodating to the neighbors and to try to be accommodating with staff’s recommendation, we agreed at the March 28th, 2001 hearing to a somewhat restrictive zoning change as to it being limited to the site plan as then presented and the driveway that was shown on

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that site plan.

Through the course of the platting process, through the course of working with County Health, through the course of working with Kansas Department of Health and Environment in getting the facility permitted, by necessity some changes to the site plan have come into being. And as I told you, I'm not going to reinvent the wheel. I think Mr. Miller has done a good job of explaining that in summary fashion. And again, we're here today to try to let this business go forward in a way that is feasible from the standpoint of its operation and complying with all of the many regulations that have come into play, the permits that are going to come into play. And again, we're not asking to rezone the entire 48 acres. We understand and agree that if there is some material change, in terms of the size and the activity that's going to take place at this facility that would require a zoning change, we'll be back here and we'll ask for the change, based on those circumstances.

But we're not here today to do that. We're here today to, basically, get the bare minimum of what we need to comply with all of the necessary regulations and allow this transfer station to go into operation. Nancy and Kent Wilkens, the owners of Waste Disposal, are here. Would be happy to answer questions. Brian Meyer, with Burns and McDonnell, the engineering firm that has been working with us and trying to get this transfer station up and running is also here and, again, we're happy to answer any and all questions that the Commission may have but we, for the same reasons that were articulated last March, we believe that this transfer station is in the right place, that the property should be rezoned and would ask your favorable consideration of the application, as revised."

Chairman Sciortino said, "Thank you. Commissioners, any questions of the presenter at this time? Commissioner Gwin."

Commissioner Gwin said, "Mr. Kennedy, staff has brought us back the Minutes of the Planning Commission and the Minutes of our meeting to review and, at the time, there was a statement in the Planning Commission Minutes that said the design is still being finalized. Was that the circumstance back in March?"

Mr. Kennedy said, "Absolutely. And you know, hindsight is a beautiful thing. That's something that I probably should have been more focused on when we agreed to the very restrictive nature of the zoning change because at that time the site plan was a work in process."

Commissioner Gwin said, "Okay, I just wanted to clarify whether I'd read it right and had that from you."

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Mr. Kennedy said, "You did."

Commissioner Gwin said, "Thank you."

Chairman Sciortino said, "Okay. Any further questions? Thank you very much. Next individual. If you would state your name and address and give me an idea of how much time you would need please."

Ms. Susan Schrag, Attorney for Terry Faelber and Sue Davis, 200 W. Douglas, said, "I'm estimating that I'll need approximately fifteen to twenty minutes."

Chairman Sciortino said, "And you do represent more than one person, is that correct?"

Ms. Schrag said, "I do indeed. I represent Mr. Faelber and I'm here on behalf of Sue Davis, who is also here present today."

Chairman Sciortino said, "Thank you. Go ahead please."

Ms. Schrag said, "You all may remember Terry Faelber. Mr. Faelber was the fellow whose . . . and is the fellow whose home is next door to the site where this trash transfer station is proposed to be located and of course he was here last March speaking in opposition to this matter with approximately 50 other neighborhood residents who don't want trash trucks running through their neighborhood and you also heard from the Haysville City Council and you heard from the Haysville Planning Commission and you heard from the Oatville School and the Ruth Clark Elementary School and you heard from Campus High School and a number of others, all who voiced their vociferous opposition to this trash transfer station in their neighborhood.

And you also heard that your own Metropolitan Area Planning Commission, by an overwhelming majority, recommended against this trash transfer station in this particular location. Now, I wasn't a party to those proceedings. I became involved later, so all I've got to go on is the record, but it seems to me that what was done back then is pretty clear.

OVERHEAD PRESENTATION

At the MAPC meeting, a site plan was presented and it was told to the MAPC this is going to be the site and this is what it's going to look like. And outside, on the perimeter, we have 48 acres and then inside was specifically represented. There's going to be a fenced in area and it's going to look like this. And it was represented at the time that it's going to constitute approximately four acres. That question was specifically asked and approximately four acres was the answer that we got.

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And so the MAPC proceeded to act on the request, on the application involving this particular site plan and these particular acres. And the MAPC overwhelmingly rejected this site plan and these acres and the matter came to you. Mr. Krout immediately announced, 'Well, we're going to the Commission with this' and so they did.

Now, I've got to tell you, one of the reasons I'm hear today is because it has struck me as bizarre from the beginning, the MAPC did in fact reject this matter and yet MAP staffers have, from that day to this, continually . . . I have no other word but advocated in favor of this site. There's something about this site that the staffers are very much enamored of. I don't have an answer to that question but I've got to tell you, this seems to be a matter of the staff wants you to approve this transfer station for these people.

Now at the March 28 meeting, where you all considered this matter, a site plan was again presented to you and this is the site plan that was presented. And it was made real clear that this is all that you're being asked to consider. And here's what was said. This was Mr. Krout speaking to you all and what Mr. Krout told you all was:

The staff recommendation, and I don't think the applicant objected to this, is to limited the area of the Conditional Use and limit the Industrial Zone to this fenced area and access road and leave the remainder as a buffer in Residential zoning, so that if someone in the future wants to use some of this for other properties or this spans beyond the imagined expansion for this use or has some other uses involved, there could be another look at what the uses could be, but basically for the time being, you could count on this area being a buffer, in term of buffering from the nearest residential properties in three directions where there are residential uses.

You were told at that time you could count on this area, and this area only, is what's being asked for and you can count on the balance being a buffer. And you did count on that and you approved the matter.

Along about this time, I was contacted by Mr. Faelber and we filed a lawsuit in opposition because we think that there are several legal and factual problems with what happened at the March 28 meeting. And the thing was then . . . we believed it was in a position for appeal. Along about August of last year, it came time, the trial date was upon us and I checked out the County Clerk's file. It's called a Return of Proceedings indicating what it was, exactly, that was being appealed and what exactly had happened in this matter. And lo and behold, here's what I found. I found Resolution number 45-01, and this resolution tell us that you all have agreed to a Conditional Use to allow a transfer station on the south half of the southwest quarter and so forth, which I can tell you doesn't include the 48 acres. Includes something more like 240 acres, that's what the resolution that staff prepared for you says. And then, it shows that the vote was Commissioner Gwin, aye,

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Commissioner Norton, aye, Commissioner Winters, aye, Commissioner McGinn, aye, and Commissioner Sciortino, aye.

Now, I've got to tell you, I'm not stupid and I know Commissioner Norton didn't vote in favor of this matter and so I got to checking around and it appears that this resolution, which was signed by then Chairwoman McGinn, that's what's in the County file and I called Counsel and I asked him, 'So, what's the deal?' and by the way, where's the published resolution. Well, it develops, woops, this wasn't the real resolution. This was just the resolution that was given to you all and this was the resolution that was prepared by staffers. And so, the resolution was not published and the court found, at our request, that we don't have a proper zoning matter. This thing hasn't been rezoned at this time and so there's nothing for the court to consider at that time.

Meanwhile, there's been a certification on file, with the KDHE, signed by Mr. Krout, certifying to the KDHE that yes, indeed, this matter has been properly rezoned and this certification continued on file after August, when everybody learned, no, the property hasn't been rezoned yet because the thing hasn't been published. Never the less, the staffers, from August when they knew that the rezoning did not happen, to December when we made them stop, the staffers continued to allow applicants to break ground and lay pipe and generally commence construction of a facility that everybody knew had not yet been properly zoned.

So, come December, Mr. Parnacott was kind enough to contact me and tell me that, well the right resolution has been published and so, I looked it up and here's what I found. This is a resolution representing that, after receiving a recommendation from the Wichita/ Sedgwick County Area Planning Commission, they're going to allow a Conditional Use permit for the following property and I drew out the legal description on this property. And I come to find this is what it looks like. What was approved was this and it was represented to be approximately five acres. It was specifically approved. That's what's within the fence and then, lo and behold, this is what gets published. And this, ladies and gentlemen, isn't any five acres, it's 15.93 acres and this resolution, which was published, again, was published with Commissioner McGinn's signatures.

And again, I called the KDHE and I called counsel and I told them, 'You know, you still don't have proper zoning because what you all are causing to be published is kind of a fraud on the public. It doesn't remotely match what everybody knows that the Commission has actually approved.'

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And so, the next step is we're here today. Now staff is asking you all to go back and retroactively rubber stamp what everybody has decided, everybody except my clients, everybody except the neighborhood residents, they have decided wants to be done.

Now, I'm not going to stand up here and tell you that if you vote against the resolution today it will make this thing go away. It won't. There will be court proceeding filed concerning the original resolution, which you all passed in March of last year. I can tell you, however, that we believe that what you are being asked to do today is legally flawed. This hasn't been through the Metropolitan Area Planning Commission and back up to you and I can promise each of you that if this resolution is approved today, what you all are doing is going to be adding another level of legal proceedings to what's already going to be tying this matter up for at least a year, including a Mandamus action against each of you, which if successful, means that the County gets to pay not only your own lawyers, you get to pay the appellants' lawyers as well.

Now, having said all that, I know several of you personally and I believe you to be people of integrity and I am here before you telling you that I have the strong impression that this aspect of County government has been usurped by the Planning Staff and by the applicants and I think it's time for you all to take the matters back into your own hands.

Now, you voted March 28. This matter is before you again. And unless one or more of you wants to change your original vote from March 28, that I would suggest at a very minimum what would be appropriate would be to reject this particular resolution and at a minimum leave things as they are. I hope I can answer questions anyone might have.

Chairman Sciortino said, "Commissioners, do we have any questions of this presenter at this time? I don't see any questions. Thank you very much. Next person that might want to speak. If you would give your name and address for the record and give me some indication of the time that you'll need."

Ms. Sue Davis, 2233 W. 46th Street. South, Wichita, Ks., greeted the Commissioners and said, "I have two pages here, so I'm going to try and keep it to five to seven minutes, as fast as I can read it for you, okay."

Chairman Sciortino said, "That's fine. You just take your time. I want to be able to understand what you're saying also."

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Ms. Davis said, “Okay, I am here today representing the members of the Waco Neighborhood Association, which encompasses a very large chunk of southwest Wichita, Haysville and the County out in this vicinity that we’re talking about.

If you’ll bear with me for just a moment, I’d like to speak about the chain of events which brought us here today. We started out, back in February of last year, with the Metropolitan Area Planning Commission agreeing that this project did not comply with the plan laid forth for siting a transfer station for several reasons and therefore voted to deny the zoning change and conditional use permit 9 to 3. When the applicant appealed that decision to you, Planning Department Director, Marvin Krout, was sent here to request that you uphold the MAPC decision and ask for a denial and your agenda verifies that fact.

However, he did the exact opposite and proceeded to act as an advocate for the applicant, pleading his case to you. After you approved the zoning change and CUP, a lawsuit was filed and we went to court in August and the judge was actually forced to dismissed the case, because the County never legalized the zoning change by publishing the resolution in the paper, as County law dictates.

Shortly thereafter, you sent the Kansas Department of Health and Environment a certification, stating that the project was in compliance with the Solid Waste Plan and the zoning laws, which was false, because the resolution had never been publish.

Next, while the KDHE was determining whether or not to issue an operating permit for the transfer station, the County issued building permits and allowed the applicant to begin building a commercial structure on land that was not yet zoned for it, although Kansas law clearly states that building cannot begin before an operating permit has been issued. Upon notification that building had begun, the KDHE ordered them to cease all illegal building.

In December, when the KDHE was notified that the zoning change resolution had still never been published and therefore the certification was invalid, the County published a resolution in the paper. However, it was not the resolution that you approved back in March. You originally approved to rezone an area of approximately 5 acres. What was published sought to make the acreage and legal description fit the area, which had already been excavated, which is approximately 16 acres.

The fictitious resolution obviously sought to fix that problem by circumventing this very process. When this information was provided to the KDHE, the County was forced to admit to them that the zoning certification was invalid. We were then told that there would be an administrative change to fix the acreage, again trying to circumvent the process. It is only due to our attorney that you’re holding this hearing today.

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Now I ask you to look at this from the public's point of view. What we've seen is this, the County Planning Director advocating like he's on the Wilkens' payroll, the County issuing illegal building permits, delaying publication of the zoning change resolution for nine months to delay our court case until the permit was issued and building had begun, sending false certification to the State, publishing a falsified resolution in the paper as a legal notice, and trying to bypass the normal protocol for amending the zoning change. I don't think it could be any more obvious to the residents of our area that you're willing to do just about anything for this guy.

I'd like to remind you of a case that came before you a few month's ago regarding one man, who lives in the County, who was complaining that he didn't want to look out his picture window at a cellular phone tower that would be erected in a farm field adjacent to his house. Part of his argument was that he was there first and that that was where he had planned to make his home indefinitely. What was interesting, in watching the meeting and following the case was that this Board and the Planning Department bent over backward for that guy so that he wouldn't have to look at a tower and lo and behold, it got moved.

For some reason though, when Terry Faelber raised the fact that he and his wife scrimped and saved for 10 years to pay off their beautiful 70 acre property so they could begin building their dream home, and of the degradation of their quality of life that would be caused by putting this transfer station 200 feet from their back door, it fell on deaf ears.

When 1,500 residents petitioned you not to put it in, hundreds of residents packed every available room in this building in protest to it going in and several of us presented a mountain of evidence based on your own local law as to why this facility should not be placed there. You blew us off, every one of us.

We're not just talking about an esthetic issue. We're talking about the increased potential for devastating car and school bus accidents, a massive increase in noise and air pollution caused by the trucks and increased traffic, roadside pollution, illegal dumping and the potential ruination of a protected habitat. But I guess having to look at a cell-phone tower is much more detrimental to one man than all of this is to hundreds of residents.

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I ask you, whatever happened to a Constitutional right to equal protection and treatment. I've always heard that you can't fight city hall and I didn't believe it. But I've learned through all of this that when the government is hell-bent on doing something, they'll do whatever it takes to accomplish it at all costs, even if it means trampling on the rights of residents and neighbors, even if it means an inequality of treatment from one resident to the next. You must remember that you do not only represent the business owners in this community, you represent us, the taxpayers and residents, as well.

This should not be about the right of the applicant to build on the cheapest piece of property he can get and have you change the rules to make it the right piece of property, just because you're desperate to remedy the trash woes of this community. We expect you to abide by your own laws, laws that should have protected us in this matter, not to disregard them in the name of furthering business competition.

We've not completely given up hope that one or more of you may decide to do the right thing today and vote against this increase with Commissioner Norton. They chose to utilize more land than you originally allowed and now they want you to increase the acreage for them. That's pretty nervy, if you ask me.

By voting against this today, you will simply be telling the applicant that he should have stayed within the five acres that he assured you would be sufficient.

I, personally, don't expect any of you to care any more about us today than you have for the last 10 months but I really hope that you'll prove me wrong."

Chairman Sciortino said, "Thank you. Any questions of this applicant? I don't see any. Is there anyone else that would like to speak for or against this item? Please come to the podium and give us your name and address for the record and give me an indication on time, please."

Mr. David Pitt, Division Vice-President, Waste Management, greeted the Commissioners and said, "I'm not going to need more than five minutes. I'm here, actually, standing in for our district manager who had a death in his family this week, so he was unable to attend. He's my direct report. I actually reside in Topeka, 3712 S.W. 29th Street, Topeka. I didn't intend on speaking, but after hearing some of the comments made, I just wanted to clear a few things up.

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I think you've heard the case before, March 28th I believe. I was in attendance at the MAPC meeting when this was rejected, before it was brought to you the first time. And I've been in the waste industry for 13 years and it's not uncommon to have what we call the NIMBY effect, or the Not In My Back Yard effect and that's appreciated. So, when we personally, as a company, which this is not our project, although we would use the transfer station if it's built, but when my company selects property we go out looking for property that's very remote because we do try to stay away from neighborhoods and population centers.

My opinion is that this location is a very good location and it is unfortunate that it's butted up next to someone's property. I don't know that you can ever find the perfect piece of property that will never butt up against anyone's personal property. I think the real outstanding thing here is that this property ultimately meets the criteria it's supposed to for the purpose that it's intended to be used for. And also, and this is a personal opinion, not representative of Waste Management, of myself attending the MAPC meeting, I think it was very obvious that because of public pressure that day that they basically passed the buck. They wanted to get it off their back and let someone else decide it because of, obviously, political pressures.

I would think that it would be beneficial for you to know, while I didn't bring a copy of it, because I didn't think I would need it, I can provide one, our attorney or law firm here in Wichita has in its possession a letter that was presented to us from Mr. Faelber's attorney. And to paraphrase or summarize it basically suggested that he would sell Waste Management his property for a sum of money and that, if we were to buy it for that sum, then he would basically walk away, oppose this site no more and we could . . . Waste Disposal could proceed with their permitting and it would be a win/ win for everyone. And, to me, that says basically one thing. He has a right to offer to sell his property to anyone. That's fine but it basically says, 'I'm not as worried about the community and the endangered species or whatever was proposed, as long as I get the money that I want'.

So, the analogue of the cell tower out somebody's window and the transfer station out somebody else's window I don't think really holds up if you take that into consideration. And I apologize for not having that letter but I can produce one, if the Commissioners would like to see such. But I think that sort of says everyone has their price and I think, one other thing that needs to be brought up is that Vulcan Chemical, I think it's public knowledge that Vulcan Chemical has standing offers on properties in this area and I think that includes, if I'm not mistaken, Mr. Faelber's property as well, to purchase property at fair market values. So, there's an out. You know, there is an option but the requested amount from Waste Management was probably much higher than the fair market value and that's really all I wanted to say. I just think it's important that everyone knows that there's probably facts here that aren't being brought out that we could probably debate it all day but I just felt like it was important that you knew that."

Chairman Sciortino said, "Thank you. I don't see any questions. Just give me a second here. I'm going to ask if anyone else wants to speak to it and I assume that you want to address us. If you'll

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give your name and address for the record and I'm going to ask that you limit any responses that you wish to say to five minutes. Mr. Faelber, before you start, it was our understanding that the attorney was representing you, but you've found something new that you wish to say, in addition to what she's brought up."

Mr. Terry Faelber, 5300 S. Hoover, Wichita, Ks., greeted the Commissioners and said, "I think we need to clarify this last remark. Yes, we did make an offer to sell. We felt very much like the County and the businesses had pushed me and my wife up against the wall. We don't want to sell in any way, shape or form. Quite frankly, I wish they'd pick up their toys and go home. It's never been about money for me at all. It's been about them destroying my life and my property by having to live 200 feet from a trash transfer station. There isn't a Commissioner in here that would want to be in my shoes and I know it. There isn't anybody in town that wants to be in my shoes. I've had so many people I talk to, through my business and life, that can't believe what is happening to me. It's unbelievable and nobody would like to be 200 feet from a trash transfer station, in any way, shape or form.

I did offer them. I did feel like I was up against the wall. They refused my offer. That's fine. But that in no way is going to stop me from trying to continue to protect myself. I don't want their money. I want them to leave but, at the same time, me and my wife have to do what's best for us. The way it was, everybody seems to be deserting us. The government agencies that we feel like should have been protecting us have not been protecting us, as an individual. They've trampled on my rights, in one way or another. They've trampled on the neighborhood rights down there.

I had never seen so many people come out against an issue in my life and be totally ignored by this Board. It astounds me. Have I done something to some of you? Are you mad at me for some reason? I don't know. I don't understand your attitude. I don't understand your thinking. I don't understand the callousness of this entire proceeding, how it even got to this today. I spent over \$30,000 in legal fees. The community, at-large, has spent another \$20,000 in legal fees. I'm willing to continue that, if I have to, to protect my rights through as many courts and as many appeals as I have to. This entire situation is flawed. We have found other locations for this individual and this company to build on. They've thrown them back in our face. This transfer station could have been built and operated and be running today.

We have found other locations, okay, that nobody complains about, no neighbors next door, better locations than what this is, next to the highway. It meets all the criteria. What is it about this location that these people like and that you like? If they wanted a transfer station, they could have had it by now, it could have been operating by now. It's not like we haven't gave them options.

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We have. We've done everything imaginable to help them and I would like for you to ask them that question, if anything. Thank you."

Chairman Sciortino said, "Thank you, Mr. Faelber. Does anyone else in the audience wish to speak for or against this issue? Okay, I'm going to restrict any further comments to this Board and to staff. Commissioners, any questions that you have or any comments? Commissioner Winters."

Commissioner Winters said, "Thank you, Mr. Chairman. Rich, I guess I've got a couple of questions for you about some of the comments from Ms. Schrag. I was fully prepared for us to proceed on today, as a continuation of our case that was back on March 28th of 2001. With some of her comments, it seems like this could possibly become more tangled and I'm not sure that's what anybody wants. And so, I guess, with all of the misstated resolutions or what have you, does that play into what we need to think about today? Because, as I listen today and go back and review the Minutes of our original meeting and review the Minutes of the MAPC, I'm prepared to move on and talk about that for a minute. But now, in light of any of the comments she said, is that the proper thing to do? So I guess, what's your recommendation?"

Mr. Euson said, "It is certainly not the norm for someone to take the podium and suggest to Commissioners that they're going to be in litigation and so I'm not sure exactly what you want to talk about. But I would suggest that, because that is not the norm, it's certainly not the norm for you to break in the middle of a meeting, but maybe we ought to have a quick Executive Session and discuss some of that because there's certainly legal matters that should be discussed in a closed setting that I would not feel comfortable discussing with you here on the Bench, if that's what you're getting at."

Commissioner Winters said, "Well, I'm not sure it is. That might be an action. How about the question, at the original filing that was made in the case that MAPC, the Metropolitan Planning Commission heard, what was the area involved in that? Was it 48 acres or was it 5 point some acres?"

Mr. Euson said, "The application area is 48 acres and that was the proposal in front of the Metropolitan Area Planning Commission."

Commissioner Winters said, "All right. And they recommended to recommend denial or non-passage but we have a system in our resolutions that, if MAPC recommends denial, we have a way to override that."

Mr. Euson said, "That is correct."

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Commissioner Winters said, "And did we do that properly, in that case?"

Mr. Euson said, "Yes, you did."

Commissioner Winters said, "So, if we look at something narrower than 48 acres, we're still looking at a similar application that MAPC looked at."

Mr. Euson said, "Under the circumstances of this case, I would say yes."

Commissioner Winters said, "Yeah, I think that's all I have right now."

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

Commissioner Gwin said, "There are a couple of things that I guess I'm curious about. Then because Ms. Schrag said at one point that we hadn't approved any zone change and it's not rezoned yet and then, I think I've gotten some understanding that because . . . we voted on a resolution in March, that that was not published. Is that correct? Is that what I'm getting right, or not? What I'm trying to find out is do I currently . . . does this Board currently retain jurisdiction to reconsider or to revise its decision?"

Mr. Euson said, "The answer is yes and the action before you is a reconsideration this morning."

Commissioner Gwin said, "Okay. So, with that advice from you then, it's appropriate for me to talk about some of the things that I see in the Minutes of both the Planning Commission and this Board when we talked about this previously."

Mr. Euson said, "Yes."

Commissioner Gwin said, "And to go about and just talk about the issue as it's presented to me today?"

Mr. Euson said, "Yes."

Commissioner Gwin said, "Okay, well if that's the case then I'm going to start, unless you have something. There are a couple of things though that I want to put in that I want to discuss now.

One of the things that concerned me and I think, in the Minutes of our Meeting you'll see that I referred to conversations that the Planning Commission had about the need for a transfer station and what capacity we had for transfer stations. At the time they discussed it, they asked about what

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capacities . . . there was something about the number of transfer stations. Mr. Garofalo asked Ms. Erlenwein, 'Has the County Commission decided on the number of transfer stations? Is there going to be a limit of two, three, four or five? Ms. Erlenwein responded, 'No, what the County Commissioners decided was for private ownership of transfer stations and what the market could bear, so I imagine that our market size, at the most, you'll be seeing three transfer stations. Then, Ms. Osborne-Howes said, 'There are two approved now?' and Ms. Erlenwein says, 'The County Commission has approved one at 37th Street North and West Street and one along K-15, south of Derby'. So, there are two already approved by the BoCC. So, then they proceeded to talk about, since there were two already approved that had the capacity, they believed or so they ascertained, that maybe you didn't need a third one.

I know one is up and running. Susan, are you here? One of the things . . . I mean, this is one of the changes, I think, that if this information were available today to the Planning Commission, I wonder if their vote might be different. The one at 37th and West, we know that's Waste Connections and it's up and running. Is there anything happening at the site along K-15, south of Derby? Is there a transfer station there now, today?"

Ms. Susan Erlenwein, Director, Environmental Resources, greeted the Commissioners and said, "The location at K-15, down south of Derby, has never requested a permit from Environmental Resources to make sure they had compliance with our transfer station regulations. No building has taken place at that location."

Commissioner Gwin said, "Well, I made a reference . . . thank you, Susan . . . of one, two, three, four, five, six, seven, at least seven references from Planning Commissioners as to whether you need a third transfer station and whether or not we already have the capacity to handle trash with the two that were proposed. I would suggest, even though that's not a part of the things that I considered, but it might very well be possible that, given the circumstances today, their recommendation might be different if they understood the need. So, I've made notes of that.

I've also made comments about, notes about my comments at the meeting and those kinds of things and I don't know. I think the original intent of this Board was to allow as much land as was anticipated to be needed to operate a transfer station and we know that our own regulations say for a transfer station of this capacity, you have to have 15 acres. Since the site plan wasn't completed at that time and such things as lagoons for sanitary sewers and other things weren't considered, I think a change to reconsider, if you're reconsidering just the configuration of the land, the land to be used I think that's appropriate and I think that the scope and intensity of the proposed use doesn't seem like it's going to change. They're still going to take the same amount of trash that they proposed

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before.

So, I've got notes and everything else that I've made on all this stuff, it's just what the will of the Board will be. But I think it's within our jurisdiction to proceed to reconsider and revise our decision from March. It's whether or not the Board is comfortable, based upon legal advice, that you know you may want to go talk about pending litigation or potential litigation."

Chairman Sciortino said, "Well, Commissioners, I also was listening very carefully when Ms. Schrag made her presentation. There's some things that she presented that I wasn't aware of and I, personally, would be uncomfortable proceeding with this right now unless we were to either go into Executive Session or perhaps entertain deferring this for a week, so that I could have some of my questions answered, but I'll go with the will of the Board. Some of the things that were brought to light this morning by Ms. Schrag, it was the first time I was hearing it. Commissioner Winters."

Commissioner Winters said, "Well, I guess I'd add onto that. I, on one hand, agree with Commissioner Gwin. I was ready to proceed, am ready to proceed. But Rich, do you or Dale, is there a reason that a deferral from one week would somehow be unacceptable in this case?"

Mr. Miller said, "No, as far as Planning staff goes, a deferral would not make any difference to us, one way or the other. It's strictly the applicant's timetable and their concerns for moving on or off of the project."

Commissioner Winters said, "All right. Well, Commissioners, the only reason I would suggest that is, as far as the case is concerned, as far as the facts that anything new that's been presented about the case, I would be ready to proceed. But I guess I have some legal questions, perhaps just like the rest of you, that I'd like to just have an answer to before we proceed on."

Chairman Sciortino said, "Would this be something that we could resolve in Executive Session and just adjourn to it, or would you prefer a deferral for a week so that we could have some time to look at it?"

Commissioner Winters said, "It doesn't really matter to me. We've got lots of other things on the agenda today. I'd say that if we go into an Executive Session on this, it would probably last at least an hour and if we would move that to the end of the meeting, have our Executive Session at the end of the meeting and be prepared for next week. Now, we're having a meeting next week, aren't we?"

Mr. Buchanan said, "Yes, sir. It starts at 10:30, I believe."

Commissioner McGinn said, "No. That's not the week we're in Topeka. That's the following

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week.”

Mr. Buchanan said, “I think it’s next week that the meeting is not scheduled to begin until 10:30. The following week there is no meeting.”

Commissioner Winters said, “Yeah, some of us are going to be in Topeka for a meeting late Tuesday night on the 5th and on the 6th, but we’re still going to have a meeting on the 6th and we won’t need to take any more comments from anyone, because we’ve had all the comments today.”

MOTION

Commissioner Winters moved to defer this item for one week.

Commissioner Gwin seconded the Motion.

Chairman Sciortino said, “Any further comments?”

Commissioner Norton said, “I can either comment now, in between the vote, or go ahead and vote and then I would like some time to comment, what ever is appropriate.”

Chairman Sciortino said, “Either one is appropriate, Commissioner.”

Commissioner Norton said, “Well, first of all I’m embarrassed. We try to be professional and we have let an issue that was of major importance to our community get balled up like this. I think that it is imprudent that we would allow something that is this important to the community, that continues to be written in the paper and talked about in the community and embroiled in our own Commission to become this kind of a legal wrangling. We should be embarrassed. We should be appalled by these results, and I, for one, am embarrassed by the appearance of impropriety on some of the things I’ve heard and seen.

It is amazing to me that I read, ‘It is the understanding of the Planning Department that the intent of the County Commission action of March 28th, 2001 was to allow as much land as was anticipated to be needed for the transfer station’, yet Tom said, on the meeting of the 28th, ‘Then you can tell me the approximate acreage of what will be inside the fence?’ Within the fence, Mr. Doerr said, ‘is approximately 5 acres of the 48’. Later Tom said, ‘Then lastly, I’ll just mention, out of the 48 acre site, having only 5 acres of that 48 acres involved in the operation I feel like will properly give a better buffer to this area’.

Now, based on that quote, it didn’t seem like Commissioner Winters understood that we were going

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to give them 15 acres or whatever they needed. It sounded like he understood 5 acres, like all the rest of us did. I have problems with a lot of this that's come up today and I have a whole litany of things to talk about, but if we're going to postpone it and talk about it later, I'll be glad to do that. I think it's presumptuous to drive by a site that we haven't expanded to 15, 16 acres and see that the lagoon is already dug, the detention pond is already dug. I saw nothing on the original site plan that even talked about a lagoon. Now, if they knew they needed a lagoon, why wasn't it at least incorporated in the first 5 acres. Shame on us for letting that happen. That is not right.

We've already said that they could pave and put a road in a place that's going to accommodate the new 15.93 acres, not in the original place the road would go, but in a different one. We voted on that last week. They've already cut a path in that position. That leads me to believe that it's predestined. We're just going to let this happen, regardless of what citizens think, regardless of what our own legal ramifications are, that we're just going to let this happen. And you know what, I have a real problem with that. We'd better think long and hard about how we've allowed this to happen. How could we publish what we published? That's embarrassing. I think it was pretty obvious that I voted against it. I'm appalled to see that I voted for it. That is not right. That is not good government and that is certainly not taking the taxpayers' money and doing the right things with it and I think we need to have an Executive Session, for sure, because we've got some problems. That's all I've got."

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

Commissioner Winters said, "Thank you. I'm thinking we needed to withdraw the Motion so we can continue to have this discussion. I think it is important that we do have part of this discussion. In my estimation, what really happened on this case is the applicant came with a 48 acre application and, in order to retain some degree of control over a big portion of that application, the Planning Department staff got the applicant to prematurely agree to a smaller size plat than they really needed. They needed more than Planning Department talked them into and they agreed to it.

I think, when we heard the case originally, it would be my assumption that I would have voted to zone the entire 48 acres and I'm not sure that some of the others wouldn't have also. In talking about the 5 acres, I tried to indicate to those neighbors who were here that at least here's 5 acres and then there is going to be sufficient buffer. But at the original outset, I would have agreed to the

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change on the whole thing, but the part that I am confused about now is I need to see this paper trail that apparently has several errors in it and I think we need to get clear with that, say what those are and then move on. So, I guess I'm going to continue to support the Motion that we defer this for a week."

Chairman Sciortino said, "Thank you, Commissioner. Commissioner McGinn."

Commissioner McGinn said, "Thank you, Chairman Sciortino. I just wanted to share, I agree with the deferral of a week, maybe in discussion, Executive Session. I heard some new information today that I'm very disturbed about as well and so I hope we can get this worked out within the week and, as you said, we need to follow the paper trail. Thank you."

Chairman Sciortino said, "Thank you. Let me make a comment on this too. I'm going to support the deferral precisely for the same reasons that Commissioner Norton and Commissioner McGinn have indicated. I've heard some things here that I wasn't aware of. I'm going to have to be real comfortable in my mind how things can be published that are so dramatically different than what I think we approved and what have you.

However, what I'm not concerned with is the revision of this site to 15 acres. I didn't hear anything new today that would indicate that, because of expanding the fence, it would increase the tonnage that was going into that site, that would increase the amount of truck traffic, it would increase the hazards to the neighborhood. I didn't see anything different than drawing a fence line that was larger than the original fence line. So, that does not concern me a bit. But I also have some questions that I need to ask of staff and our Legal Department and I'm going to support this deferral. I think we need the time to get some of those answers done and that's why I'm going to support this Motion. So, thank you.

Any further questions? I see none. Please call the roll on this item."

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, "Next item."

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NEW BUSINESS

F. REGIONAL FORENSIC SCIENCE CENTER (RFSC).

- 1. AGREEMENT WITH MIDWEST TRANSPLANT NETWORK PROVIDING TERMS AND CONDITIONS FOR USE OF GRANT FUNDS FOR PHOTOGRAPHY ACTIVITIES RELATED TO TISSUE AND ORGAN PROCUREMENT.**

- 2. ADDITION OF ONE PART-TIME PHOTOGRAPHY TECHNICIAN POSITION, RANGE 15, TO THE RFSC STAFFING TABLE.**

Ms. Mary Dudley, M.D., District Coroner/Chief Medical Examiner, greeted the Commissioners and said, "I have with me Robert Lender, who is the Executive Director of Midwest Transplant Network, also called MTN.

The first two agenda items relate to MTN and I would like to address those first. It really is an honor for me to represent the Regional Forensic Science Center in accepting this very generous \$40,000 grant for a photographer position from MTN. And as you recall a few months ago, MTN has also given us the funding so that we could expand our photography laboratory at the Regional Forensic Science Center. This enables us to be able to meet both of our mutual goals to help increase organ and tissue donation in the community and in the state by photographing and documenting any injury of evidence prior to organ and tissue donation.

I would like to, for a recommended action, approval for the agreement and authorize the Chairman to sign and, in addition, approve an addition to the Regional Forensic Science Center staffing table and then, following this, if you have any questions and also I believe Mr. Lender has some comments and a presentation for the Board. Thank you."

Chairman Sciortino said, "Mr. Lender would like to have his comments after we take action, or before?"

Dr. Dudley said, "How ever you'd like to."

Chairman Sciortino said, "Well, I would think it would be more appropriate so we can have more information as to whether or not this is a good idea, if he would like to make his presentation prior to our approval."

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Dr. Dudley said, "Certainly."

Mr. Robert Lender, Executive Director, Midwest Transplant Network, greeted the Commissioners and said, "Thank you. My comments are really just to let you know who we are and, like Dr. Dudley has explained, the role and the relationship between our organization and the Forensic Science Center. Midwest Transplant Network is a non-profit, order and procurement organization that provides services to all counties of Kansas, the entire state. We directly provide services to the transplant centers at Via Christi and K.U. Med Center, as well as some in Missouri and our organization offers services really that extend from the transplantation aspect of what the transplant centers do, but also they work with every hospital throughout Kansas, responding to patients who have died and honoring the wishes of individuals who have designated their desire to be a donor and then honoring family members who also may be making that decision.

The services we offer are along the lines of providing the mission that we pursue and that is to insure that anyone waiting for a transplant within Sedgwick County and other communities within Kansas, really the entire United States, the opportunity to receive an organ transplant. We also are involved in tissue procurement to provide life-enhancing tissue transplants throughout the area that we cover, as well as other parts of the country. And this grant would facilitate the process, which is very involved, obviously and certainly, in the majority of our cases, involves medical examiner or coroner approval. And by having a photography assistant available to be able to insure that evidence is obtained that will help facilitate the ability to get that permission so that we can honor those wishes of the individuals who wish to be donors and then provide those transplant tissues to others.

I also wanted to express our appreciation, on behalf of the transplant centers, our board of directors, the communities that we serve to the Board of Commissioners for their ongoing support of donation in the past and certainly currently, with the Forensic Science Center. And I would also like to take this opportunity to present a framed poster that illustrates, I think, why transplantation is so important and certainly why donation is important and Carl Lewis, Olympic champion, is the national spokesperson and is surrounded by a number of children who had received organ transplants, tissue transplants in a suitable frame here hopefully that would be able to be displayed within the County building somewhere to help remind people of the importance of donation. Thank you."

Chairman Sciortino said, "Thank you. Rich, just as a point of law. It's my . . . looking at these, we need to approve these on separate items, as opposed to collectively, as Dr. Dudley suggested? Don't I have to approve those individually?"

Mr. Euson said, "You can approve things like this collectively."

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Chairman Sciortino said, “Okay, thank you. Commissioners, any questions of Dr. Dudley or the other gentleman that presented to us?”

MOTION

Commissioner Norton moved to approve the agreement and authorize the Chairman to sign and also approve the addition to the RFSC staffing table.

Commissioner Gwin seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, “Next item please.”

3. AGREEMENT WITH UNIVERSITY OF KANSAS SCHOOL OF MEDICINE – WICHITA TO PROVIDE CLINICAL HEALTH TRAINING AT THE RFSC FOR UNDERGRADUATE MEDICAL STUDENTS.

Dr. Dudley said, “Commissioners, this agenda item relates to actually an ongoing agreement that we have with K.U. Medical School for their medical students to come over and do rotations through our facility. So, we are actually just renewing this agreement with Medical School to enable third and fourth year medical students to be at our facility for a two-week to four-week rotation. And so I would like to recommend approval of the agreement and authorize the Chair to sign.”

Chairman Sciortino said, “Thank you. Commissioners, any questions? What’s the will of the Board?”

MOTION

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

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Commissioner Norton seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

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

G. COMMUNITY HEALTH DEPARTMENT.

1. PARTICIPATION BY WESLEY MEDICAL CENTER IN THE LOCAL TRAUMA SYSTEM UNTIL RE-VERIFICATION AS A LEVEL 1 TRAUMA HOSPITAL IS COMPLETE.

Dr. Charles Magruder, M.D., Director, Community Health Department, greeted the Commissioners and said, "As you just heard, Wesley is a Level 1 Trauma facility and they do receive patients from our EMS. They are required to go through a certification process to become a Level 1 Trauma facility and they are currently pending re-certification and this action or pending re-certification is something that occurs every few years.

Local ordinance requires that the Board of Health approve the ability of EMS to continue to send patients to a Level 1 Trauma facility, pending this re-certification process. The Advisory Board to the Board of Health has formally reviewed this request that came to the Health Officer from Wesley Medical Center. They have reviewed the circumstance and they unanimously recommend to the Board of Health that you approve this request from Wesley Medical Center to continue to receive patients from Sedgwick County EMS. Diana Lippoldt from Wesley Medical Center is here and

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she's available to answer any more detailed questions that you might have about their request and also the approval of the Advisory Board to the Board of Health to approve their request."

Chairman Sciortino said, "Thank you, Doctor. Commissioner Gwin."

Commissioner Gwin said, "Thank you. I have a question of Ms. Lippoldt. Good morning, Diana. How are you? I see a letter in our backup signed by you all that . . . can you remind the public when your reverification review will occur."

Ms. Diana Lippoldt, R.N., Manager, Department of Trauma Services, Wesley Medical Center, greeted the Commissioners and said, "We're scheduled for our review February 10th and 11th. Two weeks."

Commissioner Gwin said, "And you have been, Wesley has been certified as a Level 1 Trauma Center do you know how long?"

Ms. Lippoldt said, "I took over the job as Manager of Trauma in 1989, when we were reviewed as a Level 2 and then, two years later, as a Level 1. So, it's been quite a while."

Commissioner Gwin said, "Well, certainly with the unanimous recommendation of the Advisory Board of Health, I'm very supportive but I will tell you that the signature of Dr. Paul Harrison means the world to me. He's an extraordinary surgeon, someone who I know personally, and a real expert in the area of trauma and a heck of a guy. So, if he has signed it and says that he's requesting this, there's no way I could say no."

Ms. Lippoldt said, "Dr. Paul Harrison has been our medical director since I've been there and it's been a pleasure for me to work with him and I will pass that on to him."

Commissioner Gwin said, "Please do. Give him my regards, would you. Thank you, Mr. Chairman."

Chairman Sciortino said, "Thank you. Any further questions? What's the will of the Board on this item?"

MOTION

Commissioner Gwin moved to approve continued participation until re-verification is complete.

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Commissioner Norton seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, "Next item."

2. DELETION OF ONE PART-TIME POSITION FROM, AND ADDITION OF ONE FULL-TIME ASSISTANT TO THE DIRECTOR POSITION, RANGE 24, TO, THE HEALTH DEPARTMENT STAFFING TABLE.

Dr. Magruder said, "This is the position that transferred over from the City staffing table that coordinates the Metropolitan Medical Response System activities. When this position was originally put into place, it was assumed that development of those activities would take place over a specified period of time of 18 months to perhaps two and a half years. It is now been determined, through a number of different mechanisms, including 9/11, that that position and the requirements of that position are going to be with us for some time.

So, our request is that we delete what in the County system is termed a part-time, although I do want to make certain that you are aware this individual has been working full-time, actually far more than 40 hours a week in order to get these things accomplished. So, given the fact that this is going remain with us for some time, we would like to go ahead and make this permanent and the County staffing table as a Project Manager, Range 24 and allow this individual to also then have benefits that go along with being a permanent employee."

Mr. Buchanan said, "Mr. Chairman, if I may interrupt, please. Dr. Magruder indicated that the title would . . . your agenda item says 'assistant to'. The title needs to be changed to 'project

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manager'. That's how it should reflect in the Minutes."

Chairman Sciortino said, "It would say 'One Full-Time Project Manager'."

Mr. Buchanan said, "That's how it would reflect on the Minutes and on the staffing table. I'm sorry for the confusion."

Chairman Sciortino said, "Thank you very much. Commissioners, any questions? If there are none, what would be the will of the Board on this item?"

MOTION

Commissioner Norton moved to approve the deletion from, and addition to, the Health Department Staffing Table.

Commissioner Winters seconded the Motion.

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

Commissioner Norton said, "And might I add 'project manager' as opposed 'assistant'."

Chairman Sciortino said, "So noted. Any further comment? Seeing none, Clerk call the roll please."

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, "Next item."

H. LEASE AGREEMENT WITH PAUL V. DUGAN, SR., D/B/A WESTLINK OFFICE PLAZA FOR SPACE LOCATED AT 940 NORTH TYLER ROAD TO HOUSE A REMOTE HEARING OFFICE.

Mr. Gerald Frantz, County Appraiser, greeted the Commissioners and said, "On this item, the operative phrases are 'one-stop shopping' and 'taking government directly to the people'. This is

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the first of two remote hearing satellite office locations that we will be asking you to approve here in the next couple of months. As you know, the Appraiser's Office piloted a remote hearing location in Derby last year. That site allowed citizens from Haysville, Derby, southeast Wichita and southeast Sedgwick County to have their property appraisal hearings closer to their home. We surveyed the citizens that used and utilized the Derby office and also those that had hearings at our downtown office. We asked them if they see value in having hearings and other government services available in locations other than the courthouse. Ninety-seven percent of those that responded, responded in the affirmative.

We have negotiated a three-year lease for office space at 940 North Tyler at a cost of \$840 per month, including utilities and janitorial services. We will fund the North Tyler office and a yet undetermined Derby remote office with salary savings realized through various efficiencies. These efficiencies include the easy access that we now have to computerized data, which has been available by investments in technology from our office and from the Department of Information and Operations.

In addition, the pay station in the Treasurer's Office and the planned call center will facilitate one-stop shopping for citizens, reducing redundancy and the courthouse shuffle. This will save the Appraiser's Office labor costs. The bottom line, we are reallocating resources away from labor to land, taking government to the people, providing expanded services at no additional cost. We will conduct our informal hearings at this location beginning in March. In June, we will establish this location as a satellite office. It will serve as a field office and a citizens service center for the Appraiser's Office. We are also partnering with the County Clerk and the Election Commissioner to expand services outside of the County Courthouse complex. In addition, we will visit with other County offices such as the Treasurer, Aging, Community Development, Code Enforcement and others to determine what services we can provide for their departments at the North Tyler location.

I guess, policy considerations, we say by establishing an office in the community, taking government directly to the people, one of the approved 2000 . . . one of your approved 2000 priorities comes closer to a reality, 'explore new and expanded opportunities for improving the efficiency and effectiveness of the services we provide'. Recommended action, I ask that you approve the lease agreement and authorize the Chairman to sign."

Chairman Sciortino said, "Thank you, Jerry. We do have a question. Commissioner Winters."

Commissioner Winters said, "Not really a question, more of a comment. At first, I didn't know how excited I was about this but after hearing the experiences of what happened down at Derby and the good response down there, I'm certainly going to be supportive of this. If anyone else has questions or comments, we can certainly visit about it, but I think it appears to be a good project."

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Chairman Sciortino said, "Commissioner Norton."

Commissioner Norton said, "One of the things that you didn't mention, Jerry, was the numbers that went through Derby. Do you have a number of people or a number that went through that location?"

Mr. Frantz said, "Yes, it was, at the Derby location last year it was approximately 800."

Commissioner Norton said, "Do you anticipate Tyler to be more . . . less?"

Mr. Frantz said, "Oh, yes. It will be more. Actually I think half of the total land mass is by this area and we have a very large number of our hearings are from those west side locations, including those folks out in those agricultural areas. So, yes, we definitely anticipate this office will have a lot of hearings out there, but the other issue is by placing a remote office out there, after the hearings are over with, then we'll be able to provide these other services, hunting licenses, fishing licenses, voter registration, perhaps even this advanced voting process. And we'll do the same thing when we find a permanent site in Derby. Currently, we have a remote hearing site contracted, free of charge, with the help of the Chairman and with the city manager in Derby. We have a remote hearing site in Derby that we'll be using this year and before we reach June, we'll try to cut a deal to get a permanent satellite office that will take care of the Derby, Haysville, southeast Sedgwick County area."

Commissioner Norton said, "That's all I have."

Chairman Sciortino said, "Any further questions? I just have one brief comment. I heard nothing but positive comments from . . . like you mentioned. I heard a comment from a person close to Mulvane, the Derby residents. There were more than just Derby citizens coming there and any time we can make it easier for people to access government, I think they'll access it more and as we . . . we sit as the hearing officer panel for the formal hearings and any of these protests that can be resolved at the informal hearing just means that much less that we have to deal with at the more formal hearing here at the Courthouse. So, I commend you for taking the action to run a pilot project. I, personally, am very excited about the idea that these could be permanent locations, expanded to be more full-service or at least availing more of the services that they have down here at the Courthouse that they can avail themselves in these remote locations. So, I just commend you

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on the good work that you've done, Jerry.

Any further questions of Jerry, or comments? Okay, hearing none, thank you Jerry. Clerk call the roll. Excuse me, we have to have a Motion."

MOTION

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

Commissioner Norton seconded the Motion.

Chairman Sciortino said, "Any other comment?"

Commissioner Winters said, "Yes, Mr. Chairman. Jerry did mention that he was going to visit with the Election Commissioner. If you'll remember, I'm not sure this is the exact right place, but he is going to visit with Marilyn. We'd talked about advanced voter places. I think this would be, in my estimation, a great place for Marilyn to set up shop out there but she needs to check off on that. She may have some other things in mind."

Mr. Frantz said, "We have visited with her. We've already visited with her."

Commissioner Winters said, "All right, thank you."

Chairman Sciortino said, "Okay, I don't see any other comments, so Clerk, call the roll please."

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, "Next item please."

Commissioner McGinn left at 10:56 a.m.

I. COMPREHENSIVE COMMUNITY CARE (COMCARE).

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1. AGREEMENT WITH DIANE OVERSTREET, MOT, OTR TO PROVIDE OCCUPATIONAL THERAPY SERVICES TO CONSUMERS AT COMCARE'S COMMUNITY SUPPORT SERVICES, AND COMCARE'S FAMILY AND CHILDREN COMMUNITY SERVICES.

Ms. Karen McNally, Director, Community Support Services, greeted the Commissioners and said, "For several years, we at Community Support Services have been aware of the specialized and unique skills that occupational therapists can offer to the people that we serve, those folks with severe and persistent mental illness and we have contracted for that service for some time now.

With that understanding, we bring forward today the agreement with Diane Overstreet, who provides an average of 25 hours per week of occupational therapy services to consumers and training to staff at COMCARE, Community Support Services and also at the Family and Children Community Services. Occupational therapy services do focus on improving consumer's community living skills and employment skills. Also, in their sensory, cognitive and social integrative skills to be able to participate more fully in their community.

The contract is a renewal of the prior year's agreement. That contract is \$39,000 and is funded out of State Mental Health grant funds and we request that you approve the agreement today."

Chairman Sciortino said, "Thank you. Any questions of Ms. McNally? Karen, I just have one question. What is the M . . . I know the OT stands for Occupational Therapy but after Diane's name, what does the M stand for? Do you know?"

Ms. McNally said, "Masters."

Chairman Sciortino said, "Okay, and what's the R stand for after?"

Ms. McNally said, "Registered."

Chairman Sciortino said, "Oh, okay. Occupational Therapist, Registered. Okay, thank you. That's all I had."

MOTION

Commissioner Winters moved to approve the Agreement and authorize the Chairman to

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sign.

Commissioner Gwin seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Absent
Chairman Ben Sciortino	Aye

Chairman Sciortino said, “Thank you. Thank you, Ms. McNally, very much. Next item please.”

Commissioner McGinn returned 11:00 a.m.

**2. AMENDMENT TO CONTRACT WITH CATHOLIC CHARITIES
EXTENDING THE TERM OF THE CONTRACT TO PROVIDE
COMMUNITY-BASED SERVICES TO PERSONS WITH MENTAL
ILLNESS.**

Ms. McNally said, “As the Commissioners are aware, in order to serve the full volume of adults with severe and persistent mental illness in Sedgwick County, COMCARE has affiliate agreements with other mental health agencies in the Wichita area. An affiliation agreement provides the requisite authorization for agencies, other than a community mental health center, to bill Medicaid for those mental health services. And the community based contract provides that authorization to bill those services at specified rates and only specified services.

Catholic Charities has been one of the agencies with which we’ve had that affiliation agreement. Their contract expired December of 2001. This amendment extends the contract to June 30 of 2002, which aligns it with the State fiscal year. All the other conditions of that contract remain in

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effect and we request that you approve that agreement or that extension as well.”

Chairman Sciortino said, “Okay. Is there any questions of Karen on this item?”

MOTION

Commissioner McGinn moved to approve the Amendment to Contract and authorize the Chairman to sign.

Commissioner Norton seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, “Thank you, Karen. Next item please.”

J. DIVISION OF FINANCE.

1. GRANT APPLICATION TO BUREAU OF JUSTICE ASSISTANCE FOR ELIGIBLE FUNDS UNDER THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM FOR FEDERAL GRANT YEAR 2002.

Mr. Marty Hughes, Revenue Manager, Division of Finance, greeted the Commissioners and said, “This morning, we have before you a grant application to the Bureau of Justice Assistance for the State Criminal Alien Assistance program for the grant year 2002.”

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As you probably know, State units of local governments that have authority over correctional facilities or detain possible criminal aliens for a minimum of 72 hours are eligible to apply for these State Criminal Alien Assistance program funds. The application deadline for the 2002 program is February 1st, the day after tomorrow. The Sheriff and Finance staff have been working with Justice Benefits staff to collect and analyze the data that's needed to submit the Bureau of Justice Assistance to the on-line application process and we request that you direct staff to finalize the application, so we can put in our proposal for State Criminal Alien Assistance funds for this year."

Chairman Sciortino said, "Thank you, Marty. Any questions of Mr. Hughes on this item?"

MOTION

Commissioner Gwin moved to approve the Grant Application and authorize staff to submit.

Commissioner Norton seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, "Next item please. Thank you, Marty."

- 2. AMENDMENT TO THE 2002 CAPITAL IMPROVEMENT PROGRAM (CIP) TO INCLUDE CONSTRUCTION OF EQUIPMENT SHEDS AT PUBLIC WORKS' EAST YARD.**

POWERPOINT PRESENTATION

Mr. Pete Giroux, Senior Management Analyst, Budget Department, greeted the Commissioners and said, "This morning, we have the first proposed amendment to the 2002 CIP. As you will recall, in September we sustained damage to the equipment storage sheds at the Highway Department, the east yard, slightly north of the intersection of Webb Road and Pawnee and it's an older structure.

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You can see that the building was destroyed and most of the fencing around the yard was either heavy damaged or destroyed also. The building was 184 feet long and 40 feet wide. Here's a picture looking east from Webb Road, after some of those materials were removed from the road. You can see the structure in the background, as well as the storm that caused the damage.

Now these sheds are used to protect our substantial investment in both vehicles and specialized equipment. Typically, there are four trucks, three motor graders, a boom mower, a roller and various other pieces of specialized equipment that Public Works likes to keep protected at the yard. And of course it's particularly important on days like today.

This is what the proposed replacement would look like. These are pictures . . . or I'll follow with more pictures of two equipment sheds that were completed at the west yard in 2001. The two sheds proposed for the east yard would be 112 feet long and about 40 feet wide. Similar sheds are planned for the long term at all of the Highway yards. There's a rear view. The lower portion of the building is cast concrete and of course quite durable. And there's electricity throughout the building for block heaters and etcetera and here's a final picture of one of the west yard sheds.

Estimated cost of the shed construction would be \$180,000. The fencing replacement is estimated at 66. The east side of the yard would be a concrete screen wall and that's consistent with a lot of the new housing in the neighborhood. Public Works staff would accomplish drainage around the facility.

Funding would come from two sources. The adjustor estimated the damage at just slightly under our deductible of \$100,000. There were associated costs of engineering estimates, so the Risk Management reserve provided \$100,000. The Highway Department would provide the remainder of the funds from operational savings in 2001. The CIP committee has reviewed it, in detail, and discussed it and recommends approval. Do you have any questions?"

Chairman Sciortino said, "Thank you very much. I think we do have one question. Commissioner Norton."

Commissioner Norton said, "Thanks, Chairman. Is it all metal or is there wood involved? Is it a Morton building or is it star-quality metal frame building."

Mr. David Spears, Director/County Engineer, Public Works, greeted the Commissioners and said, "It's all metal with concrete at the bottom part of it. The metal structure will sit on the concrete and

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that way we can get it up high enough to get the motor graders and the higher equipment in there.”

Commissioner Norton said, “But all the framework is metal beams?”

Mr. Spears said, “Yes, sir.”

Commissioner Norton said, “It’s a much more substantial building.”

Mr. Spears said, “Yes, the previous one was an old concrete block building, which they really don’t build too many of those anymore. And we couldn’t even find when it was constructed, it was so old.”

Commissioner Norton said, “That’s all I have. Thanks.”

Chairman Sciortino said, “Thank you. Any further questions? What’s the will of the Board on this item?”

MOTION

Commissioner Gwin moved to approve the CIP amendment.

Commissioner Norton seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, “Thank you very much, Pete. Next item please.”

K. RESOLUTION DESIGNATING AND CLASSIFYING NORTH 189TH CIRCLE WEST TO THE ATTICA TOWNSHIP SYSTEM. DISTRICT #3.

Mr. Spears said, “Item K, It is standard procedure that, after a road is constructed within a platted residential subdivision, in accordance with County standards, that road is then assigned to the

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township system. In this particular case, North 189th Circle West, located in Country Terrace Addition will become the responsibility of Attica Township. The Attica Township Board was informed that this resolution would be on the County Commission agenda, by letter, dated November 29, 2001. I recommend that you adopt the resolution.”

Chairman Sciortino said, “Thank you, David. Any questions of David on this item? Seeing none, what’s the will of the Board?”

MOTION

Commissioner Norton 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 Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, “Next item please. Thank you, David.”

L. REPORT OF THE BOARD OF BIDS AND CONTRACTS’ REGULAR MEETING OF JANUARY 24, 2002.

Ms. Iris Baker, Director, Purchasing Department, greeted the Commissioners and said, “Items presented today are a result of the regular meeting of the Board of Bids and Contracts from January 24th, 2002.

**1) CUSTODIAL SERVICES- CORRECTIONS
FUNDING; CORRECTIONS**

First item today, custodial services for the Department of Corrections. Recommend the low proposal for a one-year contract with Alternative Sources for an estimated cost of \$24,250.

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2) PRC BASIC MAINTENANCE RENEWAL- EMERGENCY COMMUNICATIONS FUNDING; EMERGENCY COMMUNICATIONS EQUIPMENT

Item two, PRC basic maintenance renewal for Emergency Communications. Recommend the quote from PRC Public Management Service of \$32,250.

3) BRIDGE IMPROVEMENTS- PUBLIC WORKS FUNDING; SALES TAX

Item three, bridge improvements for Public Works. Recommend the low bid from Klaver Construction of \$394,592.25.

4) GIS SOFTWARE MAINTENANCE RENEWAL- DIVISION OF INFORMATION AND OPERATIONS FUNDING; GEOGRAPHIC INFORMATION SERVICES

And item four, GIS software maintenance renewal for the Division of Information and Operations. And recommend the quote from ESRI for \$19,800.

Be happy to answer any questions and recommend approval of these items today.”

Chairman Sciortino said, “Thank you. Commissioners, any questions of Iris?”

Commissioner Norton said, “I just have one, Chairman. Klaver, I’ve not heard of Klaver before. Is that someone that has bid and been accepted before by the County?”

Ms. Baker said, “David, you want to address that, your comfort level with Klaver?”

Mr. Spears said, “Yes, sir. We’ve worked with Klaver Construction before. They are out of Kingman but these particular bridges, except for one of them, are what we call RCBs or Reinforced Concrete Boxes, so they’re not your huge type of bridges, except for one of them. And Klaver is excellent at the RCBs. So, we’ve worked with them before and we certainly have no problem. They are certified and approved by K.D.O.T.”

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Commissioner Norton said, "I just didn't recognize the name and wanted a little background on them, as we continue to use them. Thank you. That's all I have."

Chairman Sciortino said, "Thank you, Commissioner. Any further questions or comments? What is the will of the Board on this item?"

MOTION

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

Commissioner Gwin seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, "Thank you, Iris. Next item."

CONSENT AGENDA

M. CONSENT AGENDA.

- 1. One Temporary Construction Easement for Sedgwick County Stream Maintenance Project No. 783-X; 295th Street West between 63rd and 71st Streets South. District #3.**
- 2. Amendment 1 to Notification of Grant Award from Kansas Department of Social and Rehabilitation Services to add \$48,000 to the cultural competency pilot project.**
- 3. Settlement of \$17,000.00 in costs in Caban v. Sedgwick County.**

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- 4. Orders dated January 16 and January 23, 2002 to correct tax roll for change of assessment.**
- 5. Payroll Check Registers of January 18 and January 31, 2002.**
- 6. General Bills Check Registers for the week of January 23 – 29, 2002.**

Mr. Buchanan said, “You have the Consent Agenda before you and I would recommend that you approve it.”

MOTION

Commissioner Gwin moved to approve the Consent Agenda as presented.

Commissioner Norton seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, “Thank you. Is there any other items to come before this Board?”

N. OTHER

Commissioner Norton said, “I have one, Mr. Chairman. I did want to comment that we did have our retreat earlier in the week and we discussed about 70 items in a pretty open forum and I’m pretty pleased to say that I was enlightened by my colleagues’ ideas about where we would going in the County and some of the issues we dealt with and I hope we are able to do that more than once a year. I commend the Chairman for putting that together and getting us together so that we had that opportunity to just brainstorm and share some ideas about how we do and make County government better.”

Chairman Sciortino said, “Thank you. Any other comments?”

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Commissioner Winters said, "I would just echo that. I thought we had a good meeting and, Mr. Chairman, I too would commend you for getting that put together. I would like to, again, I think really thank the employees of Sedgwick County that are involved in the Ready to Respond. They continue to work. Last Tuesday, a week ago, I was out at Clearwater where they held an event and those folks, Fire Department, Emergency Management folks are doing an excellent job and I really do appreciate all the work that they're putting into the Ready to Respond effort. Thank you."

Chairman Sciortino said, "Thank you. Any comments, anything else to come before the Board?"

Commissioner Gwin said, "Well, yes, a couple of things, Mr. Chairman. On a day like today, too, I think we're reminded of the importance of the folks with Public Works and Dave didn't even pay me. Both City and County folks who go about the business all night and in the day, when we have difficult weather conditions, to be out there to try to make the roads as passable for us and as safe for us as they can. Thank your folks for me, David, would you, the road warriors, well thank those men and women who do that for us.

And then, also, we're reminded too, as Tom has pointed out, the importance of EMS and others who go about the business of making sure we're all safe, fire and law enforcement officers who are watching after us in particularly tricky times of weather like we're having today. So, thanks to all those folks.

If there's nothing else, I'm prepared to make a Motion for Executive Session."

Commissioner McGinn said, "My light's on."

Chairman Sciortino said, "I'm sorry. I've got lights all over the place. Commissioner McGinn."

Commissioner McGinn said, "I just wanted to share again that our meeting starts at 10:30 next week, is that correct?"

Mr. Buchanan said, "Yes, ma'am."

Commissioner McGinn said, "For those that sit out there and wait to see it at 9:00, they have an hour and a half they can sleep in before they watch it. Thank you."

Chairman Sciortino said, "Thank you, Commissioner."

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MOTION

Commissioner Gwin moved that the Board of County Commissioners recess into Executive Session for 10 minutes to consider consultation with Legal Counsel on matters privileged in the attorney/client relationship relating to potential litigation and legal advice and that the Board of County Commissioners return from Executive Session no sooner than 11:22 a.m.

Commissioner Norton seconded the Motion.

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

VOTE

Commissioner Betsy Gwin	Aye
Commissioner Tim Norton	Aye
Commissioner Thomas Winters	Aye
Commissioner Carolyn McGinn	Aye
Chairman Ben Sciortino	Aye

Chairman Sciortino said, "We're recessed into Executive Session."

The Board of Sedgwick County Commissioners recessed into Executive Session at 11:14 a.m. and returned at 11:36 a.m.

Chairman Sciortino said, "For the record, let it be known that there was no binding action taken in Executive Session. Is there anything else to come before the Board? Mr. Euson? Mr. Buchanan?"

Mr. Euson and Mr. Buchanan said, "No, sir."

Chairman Sciortino said, "This meeting is adjourned."

O. ADJOURNMENT

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

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11:37a.m.

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

BEN SCIORTINO, Chairman
Fifth District

BETSY GWIN, Chair Pro Tem
First District

TIM R. NORTON, Commissioner
Second District

THOMAS G. WINTERS, Commissioner
Third District

CAROLYN MC GINN, Commissioner
Fourth District

ATTEST:

Don Brace, County Clerk

APPROVED:

_____, 2002