

## **MEETING OF THE BOARD OF COUNTY COMMISSIONERS**

### **REGULAR MEETING**

**August 18, 2004**

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, August 18, 2004 in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman Thomas G. Winters; with the following present: Chair Pro Tem David M. Unruh; Commissioner Tim R. Norton; Commissioner Carolyn McGinn; Commissioner Ben Sciortino; Mr. William P. Buchanan, County Manager; Mr. Rich Euson, County Counselor; Mr. David Spears, Director, Bureau of Public Works; Mr. Jim Weber, Deputy Director Public Works; Dr. Lin Xu Psychiatrist, COMCARE; Ms Marilyn Cook, Director COMCARE; Ms. Pam Martin, Director Clinical Services; Ms. Iris Baker, Director, Purchasing Department; Ms. Kristi Zukovich, Director, Communications; and, Ms. Lisa Davis, Deputy County Clerk.

#### **GUESTS**

Ken Kallenbach MKEC Engineering Consultants, Inc.  
Elen Stevens Civil Engineer representing Whetzel  
Clark R. Nelson Attorney for Whetzels  
Alan G. Whetzel 2401 N. 135<sup>th</sup> St W., Wichita, KS 67223  
Kenneth Hiebsch 9300 Birch Ln, Wichita, KS 67212  
Wesley Kottas 2226 N. 135<sup>th</sup> St. W., Wichita, KS 67223  
Sam Eberly 13131 W. 21<sup>st</sup> St, Wichita, KS 67235  
Michael Hall 2412 N. 135<sup>th</sup> St W, Wichita, KS 67223  
Jack VanSkiver 2256 N. 135<sup>th</sup> St W., Wichita, KS 67223  
Ompal Chauhan 31 Laurel, Wichita, KS 67206  
Dr. Matthew 2355 Foretview Dr, Wichita, KS 67223  
John P. Strunk 14920 W. 21<sup>st</sup> St N., Wichita, KS 67235  
Ken Shannon 820 N. Linden, Wichita, KS 67206  
Dennis Schoenbeck 12010 Autumn Ridge, Wichita, KS 67235  
Brad E. Biddle 730 N. Yale, Wichita, KS 67208

#### **INVOCATION**

The Invocation was led by Pastor Mark McMahon of West Side Christian Church, Wichita.

#### **FLAG SALUTE**

#### **ROLL CALL**

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

**CONSIDERATION OF MINUTES:** Regular Meeting, July 27, 2004, all Commissioners were present.

**Chairman Winters** said, “Commissioners, you’ve had an opportunity to review those minutes, what’s the will of the Board?”

### **MOTION**

Commissioner Unruh moved to approve the Minutes of the Regular Meeting of July 27, 2004.

Commissioner Norton seconded the Motion.

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

### **VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

### **AWARD**

**A. RECOGNITION OF LIN XU, M.D., RECIPIENT OF THE NATIONAL NANCY ROESKY MD AWARD FOR EXCELLENCE IN MEDICAL STUDENT EDUCATION.**

**Ms. Marilyn Cook**, Director, Comprehensive Community Care (COMCARE), greeted the Commissioners and said, “It’s my pleasure this morning to present to you one of the physiatrists on our staff, Dr. Lin Xu. Dr. Xu grew up in China, got her medical education there and then came to the United States to here, to Wichita, to do a residency in physiatry and joined our staff in 1999 and has been with us since then. She spends part of her time in our community support services program and the other part of her time in our homeless program at Center City. We have loved working with Dr. Xu, our staff love her, our patients love her and we found out recently the medical students at KU school of Medicine love her, they nominated her for an award, the Nancy Roesky, MD certificate of excellence in medical student education award and she won that and was awarded

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that at a national American Psychiatric Association conference recently and we're very very proud of her, we have probably the most wonderful and incredible medical staff at COMCARE in this community and it's people like Dr. Xu that make that possible I'd like to call her up and have you acknowledge her efforts as well, Dr. Xu. Here's her award by the way."

**Dr. Lin Xu** Psychiatrist, COMCARE, greeted the Commissioners and said, "Thank you Marilyn. I'd just like to take this opportunity to thank for Marilyn Cook, CEO of COMARE and the Medical Director, Dr. Rex Lear, also like to thanks for staff and my patients at COMCARE homeless program and CSS and out-patient for their work to provide very supportive environment for medical students also thanks Dr. Michael Berg for nominating me, thank you."

**Chairman Winters** said, "Dr. Xu you have your congratulations on the award also, were very pleased to have you be a part of COMCARE, Sedgwick County, we appreciate your work and your efforts and it appears by all of the things that others are saying about you, you're doing an excellent job and we just want to congratulate you again and say how proud we are to have you as Sedgwick County, part of our organization, thank you. Madam clerk, would you call the next item."

### **PLANNING DEPARTMENT**

**B. CASE NUMBER CUP2004-17 (ASSOCIATED WITH ZON2004-30) DP-276 – CREATION OF A NORTHWEST YMCA ADDITION COMMUNITY UNIT PLAN (CUP), AND ZONE CHANGE TO "LC" LIMITED COMMERCIAL, GENERALLY LOCATED AT THE NORTHWEST CORNER OF 21<sup>ST</sup> STREET NORTH AND 135<sup>TH</sup> STREET WEST. DISTRICT #3.**

**Chairman Winters** said, "Excuse me Tim, Commissioner Norton, just a second John. Commissioner Norton."

**Commissioner Norton** said, "Before we get started on this item, I'd like to do some clarification if I could, I am on the YMCA Board of Directors and you know, we've struggled with this whether I should hear some of the information, should vote on the information, and weigh in on the information that will be presented today.

There are three scenarios that could play out, one is that I would hear all the information, I would enter into the dialogue and I would vote and that would, could fly in the face that I could be impartial but that could be one of the scenarios. The second would be that I would listen to the information, participate in the dialogue but abstain at time of voting, when the vote comes up. The third option is to excuse myself from the dialogue completely, leave the room and not be part of it. Each one of those carries a burden of what the vote should be to either pass or deny the zone

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changes. So I wanted to put that on the record, at this point unless there has been some other agreements that have come out of this as this is processed over the few weeks that we've watched it, I will probably excuse myself. I would like to hear Chairman if there has been an agreement struck, if some of it has changed enough that I could listen and just abstain, now you have to know generally the rule of order is if you abstain, it goes with the majority and I don't know if this still takes a super majority if it is prudent that I even listen to the dialogue and I'd like to have some discussion about that before John gives his presentation."

**Chairman Winters** said, "Thank you very much Commissioner Norton. Since there are no really clear-cut rules, I'm just going to have to defer to our legal counsel or to yourself to make that decision. I know this has the potential of being a very complicated case, I have no idea and that's one of the reasons were here to see if there has been any kind of agreements reached in the last two days, I don't know that, so unless Mr. Euson has a suggestion or question I think it's going to kind of be up to you to make that decision."

**Mr. Rich Euson**, County Counselor, greeted the Commissioners and said, "Well, Mr. Chairman, Commissioner Norton and I have discussed this and I've given my opinion to him and I think that's about all I could say for now."

**Commissioner Norton** said, "Knowing that there will be some dialogue today that I could be seen as impartial because I'm on the board, I am going to excuse myself at this time, I think that means that I should leave the room and do not enter into the dialogue, will not be voting and hopefully will be invited back when this is settled. I will make a statement that I have been on the Board for several years, I am very supportive of YMCA, they do great work in our community, it doesn't take someone that's been here very long to figure out that the Y is healthy and strong and is moving forward to provide a great service in our community, if you look around and look for community facilities and places where people can meet and gather and recreate and be with their families and have childcare, the Y in our community serves that purpose. We look around at recreation centers and community centers and senior centers and childcare provision centers and the Y has stepped up to fulfill that need in our community, so I would be very supportive of the YMCA, but at this point I think I need to excuse myself and not be part of the discussion and information gathering and vote."

**Commissioner Sciortino** said, "Now does he have to be invited back, if we don't invite him back does he have to stay?"

**Chairman Winters** said, "We'll invite you back."

**Commissioner Sciortino** said, "Does it take a super majority to invite him back?"

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**Commissioner Norton left at 9:16.**

**Chairman Winters** said, "Alright John, proceed."

### **POWER POINT PRESENTATION**

**Mr. John Schlegel**, Director, Metropolitan Area Planning Department, greeted the Commissioners and said, "Thank you Mr. Chairman. What I'm going to have to do is actually give you two, presentation on two proposals, the original proposal and then the revised proposal which we received last week.

The original proposal included this entire 49 acre site and I hope this shows up on this graphic the 49 acres was divided up into seven parcels."

**Commissioner Sciortino** said, "That's not real clear."

**Mr. Schlegel** said, "The main parcel on which the YMCA facility would be developed is in here where there's sports fields in the area closer to Dry Creek and then there were an additional six parcels which had been proposed for commercial purposes on the corner at 21<sup>st</sup> and 135<sup>th</sup>. In this original proposal all of the 49 acres was proposed for LC or limited commercial zoning and the reason for that was that it was needed, that type of zoning was needed to accommodate the wide range of programs and activities that are offered by the YMCA. What they had proposed originally was a number of CUP requirements for the site, the CUP would have covered the entire 49 acres and the bulk of the CUP requirements were concerned with buffering the commercial development that had been proposed at this corner from the residential neighbors to the east of 135 and some of those neighbors have opposed the, did oppose the original commercial development at the corner. As I mentioned this property abuts Dry Creek, which runs along the northern boundary, and portions of the property are in floodway and floodplain. The floodplain boundary runs more or less along this edge through here all the way up to the intersection of 21<sup>st</sup> and 135<sup>th</sup>, as I mentioned their sports field's were proposed for the floodplain area as well as some of the commercial development at the corner. In their original proposal in order to do those commercial parcels they were proposing to put fill material in that area, within that floodplain and to help mitigate the fill within the floodplain they had been proposing a detention pond in this area with a berm along the west side of 135<sup>th</sup> and this aspect of this original proposal did generate considerable amount of controversy at the two MAPC hearings.

Now they have submitted a revised proposal and this is what this would look like, it's actually now just two parcels, the original parcel one, which is where the Y facility would be located in here where there's sports facilities the floodplain and what they're proposing now is to leave this portion, the

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second parcel as SF-20, they would now have 40 acres in parcel one which would be LC zoning and leave this remaining nine acres in the current zoning SF-20 the CUP would still apply to the entire 49 acres.”

**Chairman Winters** said, “John, we have a question.”

**Commissioner Sciortino** said, “Could you point out is the modified one is the stuff that they’re leaving alone, is that a L shape, does it go all the way up to the northern boundary or?”

**Mr. Schlegel** said, “No, here’s the boundary, along here and then it goes over to 135 there.”

**Commissioner Sciortino** said, “Okay, and what are they doing with the land just west of 135 up to their northern boundary, what are they doing there.”

**Mr. Schlegel** said, “Let me switch over to Elmo, this perspective that they supplied I think better illustrates better answers your question that the intersection of 135 and 21<sup>st</sup> street is down in the lower right hand corner and what you can see then is that lighter green color is the portion that they would leave as SF-20 and the remaining portion of their site would be LC and their intent is to leave the area about from this portion about this boundary over to the east as farm field, which is what it is now.”

**Commissioner Sciortino** said, “But are they making that LC also?”

**Mr. Schlegel** said, “Correct, and I think that’s simply so they can extend their sports fields in to this area in the future if they desire.”

**Commissioner Sciortino** said, “Okay.”

**Mr. Schlegel** said, “You can see from this perspective they are putting ball fields up in through here and I think they had a soccer field which they are not showing here, but.”

**Commissioner Sciortino** said, “Okay, thank you.”

**Mr. Schlegel** said, “So the proposal now is only for the YMCA facilities and they have submitted a revised CUP that reflects this less intensive use of the land, the commercial development at the corner is gone. But also as part of this proposal they have taken the detention pond which would have been located in there and the berm along 135<sup>th</sup> street off the table. As I mentioned before this has been heard by they MAPC on two occasions, back on June 10<sup>th</sup> and also on July 8<sup>th</sup>, the MAPC recommendations that are in the staff report that you received from us are based on the original

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proposal, your practice howe'ver has been to allow applicants to modify their requests that come before you if it's to a less intense use.

There is a protest petition, for this protests have been filed representing 47 percent of the notification area, I'll show you that map, and to the best of our knowledge none of these protest petitions have been withdrawn. I've also distributed to you some very recent e-mails in support of the YMCA proposal as modified to you, they just came in yesterday. So staff recommendation on this on the revised application is that because the MAPC approval of the original, more intensive use, was for a more intensive use that you can approve this revised proposal today, the revisions made to the CUP by the applicant do reflect the new request and are consistent with the proposal the revised proposal that they've submitted, so the recommended action in your agenda backup including the findings by the MAPC remain appropriate and with that I'd be glad to answer any questions, I know there are a lot of people here that want to speak on this item."

**Chairman Winters** said, "Commissioner Sciortino."

**Commissioner Sciortino** said, "Alright now, I understand that the revised proposal is less intense, but the revised proposal does not have the berm or the detention pond."

**Mr. Schlegel** said, "That is correct."

**Commissioner Sciortino** said, "And if I understood some of the protests it sort of was around that berm and detention pond or what have you, one protester, if you keep the berm and that would cause him problems and then the other protesters if you take away the berm that would cause them problems."

**Mr. Schlegel** said, "Correct."

**Commissioner Sciortino** said, "Is basically just kind of how I understood it, and the MAPC I think understood that that berm and the detention pond was at the core of these protests I mean they heard the protests did they not."

**Mr. Schlegel** said, "Yes."

**Commissioner Sciortino** said, "So my question, I'm just wondering, I'm just thinking out loud, would they change their mind if they now knew that there wasn't going to be a berm and you say that the person that originally was protesting because of the berm, nobody's withdrawn their protests right?"

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**Mr. Schlegel** said, "That is correct, nobody has indicated to us that they are withdrawing their protest."

**Commissioner McGinn** said, "With or without the berm."

**Mr. Schlegel** said, "With or without the berm."

**Commissioner Sciortino** said, "Yeah, I'm just thinking out loud Commissioners, I'm just wondering whether or not that to me is at the crux of this whole thing and the MAPC hasn't had a chance to decide if they like it or not with or without now, it will be without it, they approved it with it is that right?"

**Mr. Schlegel** said, "Yes, the original proposal included the berm and the detention pond correct."

**Commissioner Sciortino** said, "I'm just wondering if they would change their mind if it wasn't there, but I don't know. Okay that's all I had."

**Chairman Winters** said, "Commissioner, I think your question and your thought process is valid because the question to me right now is whether we should, because of these changes send it back to MAPC or whether we should proceed. Right now I think I'm wanting to proceed but I think chances are very high that this is going to get sent back if we don't come to some kind of understanding today, but I don't think we can answer all those questions until we hear from the people that are here, and so I think we need to hear from them. Commissioner McGinn."

**Commissioner McGinn** said, "Well, I think it's very confusing right now because of all the changes, but we have everybody here, I think now's the time to hear both sides of this issue, I'm going to talk a little bit later, but I have a great deal of concern about this continuation of building in the floodplain, floodway areas, and the reason is we continue to do this is because we do not have guidelines on the books to change this and we've got to get into watershed planning and not plat by plat. You know we do a plat and we do all the drainage and it works, but we don't put it next to this plat or this plat to say how's it all work together in the watershed, so I just share that cause I think we've got to start having that discussion here in Sedgwick County and the whole watershed area but again as you said Commissioner Winters, we have people here today, I think it's only going to be good for us to listen to this information as we go on down the road to make these decisions, so if that's the majority of the Commission wants to hear everything presented today, that's fine but I'm not sure that were going to come to any conclusion today."

**Chairman Winters** said, "Alright, thank you. Is there any other questions of John? I would like to advise you all that I have met a couple of times with the Y people back in April and May when they

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were first formulating their plans as they were trying to plan for their neighborhood meetings and have neighborhood meetings they met with me and showed me their maps and their processes that they were proposing, so I have met with them, no decisions were made in those meetings, but I did see this information in the original plan back in April.”

**Commissioner McGinn** said, “Well, and if were sharing that for the record, I was in on one meeting at the very beginning and a lot has changed since then, that was the only meeting I was in on.”

**Chairman Winters** said, “Okay, what were going to do is take public comment and this is not an official public hearing, were not required to take public comment at this meeting, but it is our custom to hear citizens and organizations that want to address the Commission, were going to change just a little bit. I know that there have been at least two groups that have done extensive drainage issue thought processes on this, one from the applicant, the Y, and one who’s representing one of the protestants and we are going to give each of those engineers a bit more latitude in the time frame because we do want to hear what your thoughts are and what your process is that you’ve gone through, so I would hope that you could, the engineers could make their presentation each in less than 30 minutes, but we do want to hear what the engineers have to say. Everyone one else will be limited to our regular five minutes, whoever you are your only going to have five minutes at the podium, so we would begin and I would suggest that we begin with the engineers from the Y’s representatives to talk to us about this project.”

**Mr. Ken Kallenbach**, MKEC Engineering Consultants, Inc., greeted the Commissioners and said, “I’m a planner on this project, have Greg Allison with me here this morning, who’s been the engineer on it, we have a number of volunteers, neighbors who’ve become friends with us in the last six or eight months as we’ve worked on this and I know a lot of good points have been made as to the commercial, we thought that that was probably the major obstacle to us being able to go ahead with this project and get the Y under construction, so that’s why we changed the plan just a couple of weeks ago to eliminate the commercial on the corner and just keep the existing SF-20 zoning that John had mentioned.”

**Chairman Winters** said, “Ken if you want to pause for a moment there while they.”

**Mr. Kallenbach** said, “Does it take a while to change it, I’m arrowing up and nothing’s happening, okay. Ken Shannon is here, he’s past Board President for the Y, he was going to go through some of these slides, we’ll forgo that, we’ve had good introduction as to the importance of the Y in our community and the Y’s interest in serving northwest Wichita, Maize area, Goddard, northwest Sedgwick County. You’ve seen this slide, I would make one comment in terms of our presentation, the pond that we had in the northeast corner of the property, originally, there were it says

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undeveloped, was never a retention or a detention pond, this is in the floodplain, it was a borrow area we were taking dirt out of that area to fill in the floodplain, our plan has always been to not reduce floodplain storage on this property any dirt that we filled in the floodplain, we were taking out of the floodplain, which is vastly different from current policy and development in Sedgwick County that is still our plan, the big difference now is that we do not need as much fill because we've taken out the commercial pads and as you saw those were largely quite a bit of that property's in the floodplain, need to be filled, we do not need to construct the pond, we still need some fill for the northeast portion of the YMCA site, we'll be able to scrape that off of the farmland, take it out of the floodplain, which will create additional storage, but will be filling in the floodplain up by the northeast corner of the Y, so we'll have a net reduction of zero floodplain storage, and that's an important part of our plan."

**Chairman Winters** said, "Ken would you say that one more time."

**Mr. Kallenbach** said, "Okay, let me back up. This is the area the pond was in Commissioner Winters originally, Commissioners we were taking dirt out of that to almost the bottom of Dry Creek in order to get substantial fill material, we were going develop in this area and partly this area. We were doing that with the intent and our grading plan shows it of balancing the amount of cut that we took out of here with the amount of fill that we put here and here so our floodplain storage of water remains the same before and after development. We think that's an important concept that should be followed, Commissioner McGinn stated in terms of managing storm water anywhere in the City, at this point we have just about four acres here out of the total 50 that we need to fill in the floodplain, we'll be able to get that dirt in this area with out excavating or digging a pond, but the pond, it's intent was never for detention, it's our opinion on this property and I believe we have the nearby property owners and their hydrologists in agreement with this that we should instead since we are right by Dry Creek we have no downstream property owners that we could damage that we should get this water off of our roof, off our parking lot directly to Dry Creek and out of the system before the arrival of the big floods come from down by Goddard and out of the 15,000 acre basin that drains through here, so I believe they will agree with that position there's about a five hour gap between when the time this property will be drained and out before the higher floods will come from the south."

**Commissioner McGinn** said, "And Ken just for the record the taking out of the floodplain and using for fill that's a Corps of Engineers standard that it's neutral, is that what..."

**Chairman Winters** said, "Ken move back to the microphone."

**Commissioner McGinn** said, "What's the basis of fact for that."

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**Mr. Kallenbach** said, “The standard is that if you’re developing in the floodplain you need to get your pad in this area two foot above the 100 year flood, that’s the standard, that’s the county drainage plan.”

**Commissioner McGinn** said, “Okay, but that was a policy decision and I wanted to know if there is any other basis behind when you takeout and put in that you’re going to have a neutral effect when it’s all said and done.”

**Mr. Kallenbach** said, “No.”

**Commissioner McGinn** said, “Okay, thank you.”

**Mr. Kallenbach** said, “The if this was a mapped area, if it had been studied by FEEMA than the standard would be one foot of free board above the 100 year flood elevation, we propose in our developments in our company to always put development 2 to 3 foot above the 100 year flood, requirement here because of it’s condition with FEEMA it’s two feet, we would probably advise the Y to go ahead with the three foot freeboard. The other thing Commissioner McGinn that you had mentioned is filling in the floodway, we have a little bit of floodway on the northwest portion of our right in here and of course you can not fill at all in a floodway, we would be only reshaping, we wouldn’t put any dirt in that area or taking any out, we would only be reshaping there so that the ball fields would drain a little better than they do right now, so.”

**Chairman Winters** said, “And Ken again you mentioned how may acres you were going to raise for the building.”

**Mr. Kallenbach** said, “The YMCA, the four acres is about in this corner here out of the total of 50 on the property, the old plan which had the commercial in it added another seven to that, part of the commercial in this area is also out of the floodplain, that’s not on the table, just a little bit of background. This is the process, I think we won’t dwell on this except to say as I mentioned we’ve had a number of meetings, we’ve heard what the neighbors concerns were and they are quite varied, we hope that the process wouldn’t continue, we would like to get a decision on this today, but I hear you and it well may, we’d like that to be positive history by the time today is over, but anyhow these are the steps we’ve gone through and even through the past week here we’ve had continuing conversation with Whetzel’s to the north, their hydrologist, their attorneys and we would invite their comments today also as you will I’m sure. This is just some of the background which I’ve already mentioned 50 acre site, 15,000 acre basin, were four tenths of the drainage basin, it’s quite extensive, this is the area, this is our property, Dry Creek in this area runs from south to north which is a little bit unusual, but it does, it hooks around joins Cowskin about in this area, these I think are major points that we have modeled this, we are confident that we will not have any impact on our

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surrounding neighbors in terms of 100 year water surface. We've looked at it terms of the Black and Veatch study was done for Segwick County, current floodplain is 30.6 acres, John had a slide that showed the FEEMA floodplain on this property and it's less extensive than we know exists so were planning with the latest data which is policy in Sedgwick County, and as I mentioned four acres under our present current proposal is planned for filling but without any reduction in floodplain storage.

This is just a little more background on the property, as I said we'd want to reshape the ball fields in this area, this is the floodplain, that was mentioned, this line here it goes from our property clear over into this area, the floodplain similarly goes quite a bit more extensively on the other side as you can see here, this is our non floodplain property, it goes very extensively to the north and to the west. And then as John mentioned, were proposing to just leave the SF-20 in place in this 10 acres, omit the pond or the borrow pit, omit the commercial, omit the berm and we'd like to go ahead and get to building on the YMCA. And this is the plan Commissioner Sciortino that shows the parcel better, that other line got faded out for some reason, this is the detail within the text the Community Unit Plan that you can't read, but John has gone through it and his staff and he states it's similar, very similar to what we had in the last one that MAPC approved with the exception that the verbiage on the commercial corner is gone and we just said were going to leave the SF-20 in place. I think with that this shows just a little bit more of that the floodway, Commissioner McGinn, is the blue, floodplain is the green and this is the floodplains that I was talking about in terms of the SF-20 slash old and omitted commercial this part would be filled and this little corner of the Y site that would be filled, I think with that I'd ask if there are anymore questions, I know there's a number of people that wish to speak."

**Chairman Winters** said, "Okay we do have a couple questions, Commissioner Sciortino."

**Commissioner Sciortino** said, "Thank you. I wanted to clarify again, follow up on what Commissioner McGinn said, you made a statement that if you took your fill dirt from the floodplain and not brought it in it would have a negative impact on flooding."

**Mr. Kallenbach** said, "If we just filled in the floodplain with dirt from offsite we think it would have showed up in the model, our model shows no change in 100 year flood elevation and that is due to the fact that we are not changing the floodplain storage on this property."

**Commissioner Sciortino** said, "I understand, what you said was that since you were taking the dirt that you would need from fill from the floodplain it would have a zero impact on the storage."

**Mr. Kallenbach** said, "That's right."

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**Commissioner Sciortino** said, "Alright, but then the question was asked of you, what evidence or what proof or what expert would back up that statement and you said there wasn't any."

**Mr. Kallenbach** said, "No, we have modeled this extensively, we've turned in a drainage plan to the county, we've run the hydraulic models on this and I know county staff has reviewed those as have City staff and they're in agreement that we have no rise in 100 year flood elevation and I'll ask them to speak to that, but they're in agreement with us."

**Commissioner McGinn** said, "So where does the modeling come from?"

**Mr. Kallenbach** said, "Well, it's standard Corps of Engineers modeling, maybe that was part of your question."

**Commissioner McGinn** said, "That's what I was..."

**Mr. Kallenbach** said, "Those are models that we all use in this practice."

**Commissioner Sciortino** said, "So if I could get what the revision basically was, is that you've eliminated the southeast corner from LC and deferred the opportunity to maybe to sell that portion off to somebody that might want to develop it commercially, but why did you delete the detention pond, I mean what was, I can understand, you said okay there's too much controversy over making this commercial but the detention pond seemed like that would really assist in what was the..."

**Mr. Kallenbach** said, "I know we've heard several times detention pond, it is not, never was a detention pond, it was a borrow area for fill we know that this area that we had the pond in down in the floodplain, the first thing that's going to happen to that is it's going to get full of water and when the peak gets here we'll have no benefit to taking any peak off the flood elevation. It's unlike a detention area that you would have out of the floodplain and so that was strictly, always has been and I know we got that finally presented and understood by the planning commission that it was always just borrow area and we don't need anything near that extensive now with just the acreage of fill that we have on the Y site, we'll simply scrape that off."

**Commissioner Sciortino** said, "Well, what other area were you going to fill if you had the original site, cause I don't see anything different in this other than the LC in the southeast corner."

**Mr. Kallenbach** said, "It was the commercial, that's where it was."

**Commissioner Sciortino** said, "Oh, you were going to fill down there, okay."

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**Mr. Kallenbach** said, "This again Commissioner Sciortino is the line."

**Commissioner Sciortino** said, "Got it."

**Mr. Kallenbach** said, "Okay, so it was that area there, now it's this area in here."

**Commissioner Sciortino** said, "Okay, fine thank you, that's all I had. Thank you very much."

**Chairman Winters** said, "Commissioner Unruh."

**Commissioner Unruh** said, "Thank you. Ken, on the last overhead picture you, there you go, that shows that the Y building is not in the floodplain, correct?"

**Mr. Kallenbach** said, "Part of it is, floodplain, not the floodway, again floodway is blue, floodplain is the green. And you can see a little bit of the building here, the corner of it there is in the floodplain, some of the parking and outdoor activities are in the floodplain and we're proposed to lift those out of the floodplain, probably the parking lot at least a foot, building probably two to three feet above 100 flood elevation."

**Commissioner Unruh** said, "That's the only question I had right now."

**Chairman Winters** said, "Alright, I have one. Ken on the portion directly north of the commercial that has been eliminated your proposing to leave that limited commercial, why is that, why did you not, if from those renderings it appears that you're going to be completely north of the power lines, through there why did you not?"

**Mr. Kallenbach** said, "This area? We had always had in the original proposal, we'd always had this part of the YMCA site, it's always part of the plans for it and it had the pond in it, there's going to be activities around it, there's going to be ball fields actually that come over to this power transmission line, and so what we did when we said takeout the commercial, that's what we did, we just took out the commercial and reverted to the existing zoning, just say keep it as it is, and so that's the change, that's the reason. We don't have development intentions for this parcel except for ball fields and if at some point we need a lake there it can happen."

**Chairman Winters** said, "Okay thank you."

**Mr. Kallenbach** said, "It'd be yeah, outdoor activity."

**Chairman Winters** said, "Alright are there any other questions of Ken? Commissioner Sciortino."

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**Commissioner Sciortino** said, “Just as, and I don’t know where were going with this, and I don’t think, all of us had to vote right now none of us would know right now where were going, but if we did decide to approve this today, would you allow us to prove it with that caveat that that section just north of the omitted commercial area down south even though it would be LC, it would be limited only to outdoor activities?”

**Mr. Kallenbach** said, “This area here?”

**Commissioner Sciortino** said, “Yeah.”

**Mr. Kallenbach** said, “Yes.”

**Commissioner Sciortino** said, “Okay.”

**Chairman Winters** said, “Okay are there any other questions of Ken? Okay thank you very much Ken. Now is there anyone else before we move on engineering wise that has devoted time an effort to this and wants to speak at this time? Engineering wise.”

*Inaudible*

**Chairman Winters** said, “Okay, were going to, ma’am, would you like to speak?”

**Ms. Ellen Stevens**, Civil Engineer, greeted the Commissioners and said, “I have been working with the Whetzels as far as reviewing this project on their behalf, and what I want to say today, is first I can be very brief. I reviewed the proposed revision to the project and just to state my understanding is that they are going to construct the Y facility and the associated parking areas is all that is going to be constructed, the additional runoff, the runoff from the directly constructed area, the building, the parking lots the roofs is going to be conveyed to Dry Creek, straight north to Dry Creek, through vegetated swales and that they are going to include appropriate grading and bank protection to mitigate the impact on the receiving stream of this additional runoff and I have, I’ve reviewed their drainage calculations and even did some of my own just roughed it out myself based on the information that I had, and I agree that the proposed filling right now in the floodplain is very minimal taken in the larger scheme of things.

I want to clarify something in a question that you asked about the idea of a neutral impact on the floodplain, it’s a little, they’re correct in what they say to a point, but it’s a little more complicated than just if you dig here and pile up dirt here it will have the same impact, what really makes a floodplain function the way it will, to store water and release water is the relationship at each say

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elevation at each level of how much volume do you have in the floodplain at that level. So as long as you excavate and more or less preserve the volume versus elevation relationship in that floodplain they're absolutely correct about they're being a neutral impact from excavating but there is that other part to it about preserving that volume versus elevation relationship.

So the project as proposed then looking at it from the point of view of what would be the impacts, first of all down stream, down Dry Creek, of course right when the runoff from a storm is draining off of that development there is going to be an increase in the discharge and an increase in the flow volume coming from that development. We agree that that will very likely be a minimal impact or not a noticeable impact as long as the timing of the storms, the timing of the drainage off, directly off of the property is in fact spaced in time from the flood crest as they showed in their analysis, if it's in fact spaced out by five hours then this is the case and I have to say that they've followed very standard acceptable procedures in arriving at that conclusion, but that is the assumption that this is based on, is that this will wash off very quickly and the flood crest will come from upstream. As long as that happens, that will be out of the way, it won't damage any of the downstream properties as far as the properties over on 135<sup>th</sup> street with the development as it is proposed now, with just the Y property and the parking lots to be developed.

Again first of all, there is additional runoff but it is not, it is nowhere near to the extent as was in the previous proposal and second of all their proposal to direct the additional runoff through swales straight north to Dry Creek means that none of it will actually reach the properties that are to the east, so I feel like the development as proposed right now will have no adverse impact, in fact no impact whatsoever on those properties to the east. And I guess finally I just want to say that it is really an excellent idea to have a storm water management plan in place but the reality is being that the property's out there and people need to use it and what they propose right now I think is a very good example of a low impact development, you know, in making kind of with the ball fields and the things that they have proposed now, in scaling back the impervious area is responsible low impact development as it's proposed right now."

**Chairman Winters** said, "Alright thank you, we have a question Commissioner McGinn."

**Commissioner McGinn** said, "When you had talked about with the swales and the other changes that they'll make, it'll wash off very quickly, you don't see that there'd be a flooding impact the way they have it right now, is that, did I hear that right?"

**Ms. Stevens** said, "I probably, I meant quickly in a relative sense in that any extra runoff, the additional runoff which really is not a whole lot, but whatever additional runoff is created by the impervious area."

**Commissioner McGinn** said, "So were talking about the roof and the parking lot."

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**Ms. Stevens** said, “The roof and parking lots will be in the creek and passed down stream before the main flood crest would come, so under normal circumstances we would not expect that increase there to coincide with the flood crest and add to the flood crest, they don’t plan on just having it just runoff of the property really quickly so that it can be erosive to the stream banks or anything like that, we’ve already talked about that.”

**Commissioner McGinn** said, “Okay that was my other concern is downstream how’s that going to effect everybody else if were moving water quicker, faster, but your not seeing.”

**Ms. Stevens** said, “I’m saying it comes sooner, the water itself will not be traveling any faster it will just get to the stream sooner than the flood crest from up stream.”

**Commissioner McGinn** said, “Because of the way they designed it.”

**Ms. Stevens** said, “Right, exactly.”

**Commissioner McGinn** said, “Thank you.”

**Chairman Winters** said, “Commissioner Sciortino.”

**Commissioner Sciortino** said, “Okay, now I’m learning new words and the vegetated swale and they sound great. Did I just basically hear, I know you’re representing the Whetzels, that the Whetzels are comfortable with the new proposed plan and are you dropping the protest then?”

**Ms. Stevens** said, “I can’t speak to that I’m going straight from a point of view of the technical impact to the Whetzels and also being responsible and looking at what could also occur to the other neighbors to the east.”

**Commissioner Sciortino** said, “But you are concurring that their revised plan, what they’ve stated basically you’re comfortable that that’s the truth what they stated.”

**Ms Stevens** said, “Right, I’m saying that their assessment about the increased water in the creek that would then be followed by the flood crest and not add to the flood crest is correct and that they’ve provided some conceptual plans for getting that water to the creek so that it will not be damaging to the creek and as long as those plans are completed, flushed out in details and then carried out I believe that that will also take care of that issue.”

**Commissioner Sciortino** said, “Thank you, that’s all I had.”

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**Chairman Winters** said, "Ms. Stevens, thank you very much."

**Ms Stevens** said, "Okay, thank you."

**Chairman Winters** said, "Alright, now were going to begin with anyone else who would like to address the Commission and state your name and address for the record and you will be limited to five minutes, so is there anyone else in the room that would like to speak to the Commissioners, please come forward. Sir if you want to move over and have a chair right over there behind him you can be next."

*Inaudible*

**Chairman Winters** said, "Okay, were going to take whoever wants to speak then."

**Mr. Clark Nelson**, Attorney for Whetzels, greeted the Commissioners and said, "Ella Stevens is our engineering expert and she told you what her opinion is with respect to the revised plan. I was coming up here today to tell you that we've had tremendous communications and have come a long ways from the original plan and the battles that have been struck and I've written you letters with regard to the problems that we've experienced at every level, I don't intend to rehash that here, howe'ver, what I've seen here today is different then what was mailed to me and in your packets should have been a copy of a letter that we delivered to you from the Y dated August 9, together with the drawing and Ken if you could get your revised drawing up here I don't know if that's F or whatever it is."

**Mr. Kallenbaugh** said, "Is this what you're referring to?"

**Mr. Nelson** said, "And if you could get the F I'd appreciate it, if you could also, okay that's fine. I'm assuming that you all have the drawing that I attached, please note the difference between what is in your hand and what you see on the screen. And Mr. Sciortino you've hit it right on the head, I personally was of the opinion in what they had disclosed to me was that there would be no development east of the highline and if you'll look at the diagram in your hand, you'll see the light green portion isn't just what they have on the screen here but it goes all the way up to the northern border. They've omitted both the light commercial and you'll see on this other diagram that Ken had up there sub half they omitted also up on the north, howe'ver it's now back and they're wanting to change the zoning of the northern portion to light commercial, that is new and different and that's new to me today. My only explanation that I've heard is that they want that for ball fields, even the design on the table here on the screen is inconsistent with their statement and I don't know whether they're trying to backdoor light commercial zoning in here today or not, that is not part of my

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understanding, if that matter is put back to SF-20 as was my understanding as is consistent with what was mailed to me and that which I have given to you then I am prepared to tell you that under certain conditions we support the project as it now is. And I did not fully hear, yes Ken.”

**Mr. Kallenbach** said, “We can do ball fields in SF-20, if that’s the sticking point.”

**Mr. Nelson** said, “That’s a very important matter to us.”

*Inaudible*

**Mr. Nelson** said, “So you’re agreeing to amend the plan and put everything east all the way to the northern border remain as SF-20, I will accept that amendment and in that proposition I would simply like to say that it’s been a tremendously difficult battle and it’s unfortunate that a citizen Mr. and Mrs. Whetzel have had to go to the tremendous expense of hiring lawyers and engineers and there are very few people are able to do that in order to fight this thing and I hope that you read the MAPC transcript and you will see that Ellen Stevens had opinions vastly different than those of MKEC on the first proposal and I won’t get to all of those differences today but they exist, she’s also prepared to talk a great deal about if a berm comes in regardless of the commercial development has devastating impact to the Whetzels. I understand that the berm is not on the table today and I’m going to stay out of that issue. My understanding is that there will be no berm and that, I didn’t quite hear Ken quite clearly, it was my understanding that no new dirt would be brought on to site period, that’s not above that floodplain, below the floodplain, no new dirt whatsoever, is that true, today sir?”

**Mr. Kallenbach** said, “That’s true.”

**Mr. Nelson** said, “Okay. And therefore...”

**Chairman Winters** said, “How much longer do you have?”

**Mr. Nelson** said, “Two minutes maximum.”

**Chairman Winters** said, “Okay, maximum.”

**Mr. Nelson** said, “I would like to make sure that I understand that if there’s going to be any future development to the east that you must come back for a zone change application.”

**Mr. Kallenbach** said, “Absolutely.”

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**Mr. Nelson** said, "I know that some of the adjacent owners would like a commitment that if and when future development occurs that it will occur with the blessing engineering wise, of the engineers of the County, of the City, the Y, Mr. Whetzel, anyone else, we would like a commitment that we don't have to go through this incredible time and expense again, and I thank you very much."

**Chairman Winters** said, "Alright, thank you very much for your comments."

**Commissioner Sciortino** said, "I want to ask him a question, if I could."

**Chairman Winters** said, "Yes."

**Commissioner Sciortino** said, "And I'm just going to do it in Kansas kitchen English and kind of comeback as succinctly as you can. If I've been hearing the conversation going back and forth here, if the changes now that everything east of the power lines stays SF-20, right?"

**Mr. Nelson** said, "That's essentially correct, I would suggest everything east of this point here."

**Chairman Winters** said, "No, I think we need to go back, if we were going to talk about that now, John go back and bring up your latest revised."

**Mr. Schlegel** said, "This was the original site plan and this is the revised and as you can see on here, this is the boundary here that they were proposing between the Y facility and what originally had been the commercial development area, and so what I'm understanding is we would simply extend this line northward to the northern boundary line."

**Mr. Nelson** said, "I would agree with that."

**Commissioner Sciortino** said, "Okay. So with that modification is your client withdrawing his protest and now stands in support of this project?"

**Mr. Nelson** said, "I'm going to let Mr. Whetzel answer that question, I'll give you my opinion and that is subject to listening to Mr. Whetzel, we would conditionally withdraw our protest to entertain in support of a motion that would support the project as it has now been amended here today."

**Commissioner Sciortino** said, "And that's the condition?"

**Mr. Nelson** said, "Yes sir."

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**Commissioner Sciortino** said, "Okay."

**Mr. Nelson** said, "But that I would suggest that we listen to Mr. Whetzel on the issue."

**Commissioner Sciortino** said, "Were going to listen to everybody that wants to talk."

**Mr. Nelson** said, "Thank you."

**Chairman Winters** said, "Alright, well I would like to ask Mr. Whetzel to come forward now as were talking about his concerns, please state your name and address for the record and also confine your remarks to five minutes."

**Mr. Alan E. Whetzel**, 2401 N. 135<sup>th</sup> St W., Wichita, greeted the Commissioners and said, "We have and we do welcome the Wichita northwest YMCA to our neighborhood, howe' ver, developing the floodplain is fundamentally wrong. It creates problems both currently and to the future. I own 200 acres immediately north of the YMCA property, Dry Creek, the creek that transpierces the Y's property comes immediately onto my property and runs north for a half a mile and turns east a quarter mile leaving my property at the 135<sup>th</sup> Street bridge. Look at this area, it is the confluence of Dry Creek where it joins the Cowskin just north of the 21<sup>st</sup> Street bridge, how much of this area is in the floodplain and the floodway, this is 29<sup>th</sup> street, this is a half mile line of this section, this is 135<sup>th</sup>, this is 21<sup>st</sup> that is a half mile line of the section just east of where we live is 640 acres, my eyeball says at least 80 percent of that property is in the floodplain and in the floodway, the purple or the blue is the floodway, the green is the floodplain. From the west side of the Y's property to the east side of the Cowskin creek basin it is less than a mile; this is probably the most fragile area in Sedgwick County, 80 percent plus in the floodplain and the floodway. I've lived on Dry creek for 35 years and 23 years at the current location, I know the significance of having a floodplain and a floodway available to manage floodwater when it comes and it has come regularly this year, five times since the beginning of the year in the year 2004. Dry creek floods the Y property, it floods my property, it floods Mr. Alan's 80 acres, it floods Dr. Hill's property right across the road from me, it floods Chris Green's property right behind his, it floods Dr. Ray Mathews properties, it floods Sam Eberly property across the road, were not talking about a drainage problem were talking about pure old unadulterated flooding, and when you clean up flood messes you are in for a lot of work.

Today you heard MKEC present engineering that supports the most recent proposal for the Y facility, surrounding property owners will be no worse off than before, when Dry Creek floods water will still run across 135<sup>th</sup> street, if I can run my machine here I want to go forward. This is a picture taken from 21<sup>st</sup> street at the intersection looking north down 135<sup>th</sup> on the 27<sup>th</sup> day [sic] in 1999, not the 100 year flood but high water in our area, on the right you see the neighbors to the

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east side of 135<sup>th</sup>, this is 135th street, this neighbor that lives right here come wading down 135<sup>th</sup> street with water between his crotch and his waist, Jack VanSkiver. This is the proposed property over here with whitecaps on it when the wind blows that your talking about building on, were talking about an issue of longevity and not just a piece of property. Today's proposal still leaves huge questions, what happens when the remainder of the Y property is developed? That's it right there."

**Chairman Winters** said, "Mr. Whetzel that's five minutes."

**Mr. Whetzel** said, "May I have a few more minutes sir?"

**Chairman Winters** said, "You can have just a couple minutes, but if we give everybody five additional minutes were not going to be done today, and so that's why I was very clear."

**Mr. Whetzel** said, "I'm trying to enclose 24 hours in one minute into five minutes sir."

**Chairman Winters** said, "Well, that's our rules, because were actually here at the benefit of the Commission, because there is no reason for us to have a public hearing here, so you're here out of our generosity to listen."

**Mr. Whetzel** said, "Thank you very much, we do appreciate that."

**Chairman Winters** said, "Just please conclude then."

**Mr. Whetzel** said, "Now you have an opportunity to hear the rest of the story, why CPU [sic] presented on May 13<sup>th</sup> called for commercial development as well as for building the Y facilities, a berm along 135<sup>th</sup> street was incorporated to keep floodwater from running across the street and to lessen the flooding for the property owners along the east side of 135<sup>th</sup> street, so where was the floodwater going to go, it was going to go on my property, that made it necessary for me to hire an attorney and an engineer at an enormous expense. Engineering proved our position correct with the berm acting as a dam, no way for the floodwater to be directed, the excessive floodwater would come onto the Lucky W Ranch property, the existing floodplain and floodway would expand diminishing the potential value of my property. The Lucky W Ranch has a mile and a quarter of road frontage of which 75 percent of it is out of the floodplain, this is very valuable developmental property for the future, it has been my desire to give Sedgwick County and the City of Wichita the opportunity to address the flooding problems in the Cowskin basin before I proceed my development plans the recent environmental report from the US Army Corps of Engineers shows exactly what happens when floodplain ground is developed, it becomes too expensive to fix, that was discussed on the evening of July 8<sup>th</sup> four hours after the Metropolitan Planning Commission

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met. The land in our area is flat, this makes the margin for error very small, the Lucky W Ranch cannot handle one more drop of additional floodwater.

Land use solutions, to protect my property and the surrounding property owners from additional flooding produced by the development of the Y property, our engineers concluded the correct land use solutions for 49 plus acres is number one, either return it to farming or number two fix it correctly. The perfect extensive land use solution requires no additional dirt brought into the property, construction of a retention lake to catch the runoff, three 48 inch tubes draining floodwater from the pond under 135<sup>th</sup> street down Forestview drive to the east to Dry creek and a berm to keep the floodwater off 135<sup>th</sup> street. One more paragraph please.

Because Sedgwick County has no plan or no guidelines for managing development in the floodplain each new project is evaluated individually with little consideration for upstream and downstream approval is usually decided by which side can influence the governing bodies. I think we might be experiencing this today and I will be forced to repeat this scenario every time somebody wants to develop another piece of ground in the floodplain along Dry Creek, thank you.”

**Chairman Winters** said, “Alright, Mr. Whetzel, I just have one question, I just need a short answer. I think a lot of people agree with what your overall talking about floodplain issues, but on this particular case are you still now opposed to the construction of this Y and raising these four acres out of the floodplain? And just a yes or no will work.”

**Mr. Whetzel** said, “I have many namers that have supported me and that I have supported and they are due an opportunity to speak to you and yes I will come back and answer that if they may speak first.”

**Chairman Winters** said, “Okay, I think you’re getting your one chance right now, so thank you very much. Alright is there anyone else who would like to speak to this, yes please come forward sir.”

**Mr. Kenneth Hiebsch**, 9300 Birch Lane, Wichita, greeted the Commissioners and said, “A trustee of the United Methodist District Union, owner of the 800 feet front, feet 22 acres to the south of this, I also have watched the development out there and have been in supportive of what’s going on for many years. I’ll be very brief and I will not comment with regard to the technical matters nor am I competent to do so and I’ll try only to add something’s that haven’t been said. I think enough has been said that you have general knowledge of the value of the Y in the community it’s been here 119 years and it’s proven itself, I’m aware that there are many meetings going on in the City of Wichita and other meetings that you’re having in consideration for the arena and many of these things are attempting to exercise vision and to plan for the future and plan for the growth of

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Wichita.

In a democracy such as we have a community consists of not only government, but business and institutions such as the YMCA, I ask myself what would the situation be in Florida under the damage from hurricane Charley if there had not been an American Red Cross and a Salvation Army and many others so I think and I hope your approach to this will look positively on what the YMCA is trying to do. The YMCA must have exercised vision four or five years ago as it began to plan and now they come before you willing to commit \$10 million plus, my whole point is this, to vote positive on this would set an affirmative statement to the community of where were going, I have nothing more to say, thank you.”

**Chairman Winters** said, “Thank you very much Ken. Are there others who would like to speak, yes please come forward, give your name and address for the record please.”

**Mr. Wesley Kottas**, 2226 N. 135<sup>th</sup> W, Wichita, greeted the Commissioners and said, “I think there’s been a misconception, of why the residents who live in this vicinity have been speaking so loudly, it’s not about the Y, it’s really not about the commercial, it’s about water, when are we going to stop building in the floodplain. There’s been engineers state that there will be negative effect to the housing community to the east, yes and no, a little bit here, a little bit there, it keeps getting worse and worse and worse, sooner or later someone’s home is going to be severely damaged, it’s a lot cheaper today to fix it right so that no one gets hurt, the Whetzels, Dr. Mike, the residents along 135<sup>th</sup> upstream, downstream, it’s cheaper today then it will be tomorrow, I think we can all be in agreeance of that, look at the Dell, prime example.

I sent you a packet of pictures of how bad it gets when it rains it pours, and this year it’s rained quite a bit. This particular picture, up on the screen, is taken from my front door, this is the intersection of 21<sup>st</sup> and 135<sup>th</sup> looking southwest, the big thing here is to denote the water in that southwest corner three of the six commercial sites proposed originally by the Y are in the floodplain, why are we continuing to build in the floodplain? The water can get so high. This is also the intersection of 21<sup>st</sup> and 135<sup>th</sup> looking south by southwest, the thing to denote the water’s already on the way down it’s not going to take a whole lot more water for the water starts getting over 21<sup>st</sup> street. Again another time, there’s still water up in that corner, I’m sure you’ve seen a lot of these pictures before. This is out my front door a couple years ago this is looking straight west that is 135<sup>th</sup> that’s going across a lot of water again.

We have a pretty bad drainage situation in our area, this is looking southwest that’s 21<sup>st</sup> street, it’s kind of hard to see it was toward the edge of dusk, the point here, you’ve got again three of the six future pads that maybe developed that’s in the floodplain, when that field starts backing up it comes up our ditch on 135<sup>th</sup> street hits 21<sup>st</sup> street turns and goes east and then it starts coming up into our easements, we need some ditches lowered along 21<sup>st</sup> street has anyone looked at what it would cost

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to lower the ditch along 21<sup>st</sup> street at Forestview, Mr. Whetzel had a transit put out there and approximately three feet lowering 21<sup>st</sup> street ditch there at Forestview, we could get a culvert to get rid of a lot of this water, I don't know if anybody's even looked at what that would cost? Time wise it's not very long I work for a construction company that would not take a whole lot of effort. It's not fun getting water in our back properties so close to our houses I think we all can appreciate that.

This picture's looking out off my back porch towards the southeast, that is 21<sup>st</sup> street there the Kanes, which is the house diagonally back from me, they have it a lot worse in their back yard than I do, again if we could get that ditch cut down, that would help a bunch. This is looking northwest from my front and again like Mr. Whetzel showed the water is all across the street, the solution here is the one and only fix so no one gets hurt, not Mr. Whetzel, not Dr. Hill, not the neighbors, not the Y. Land use, this is a water area, let the Y build their Y no one to the best of my knowledge the neighbors out there has been against the Y the whole issue again has been water, why don't we take care of it now and ensure that it's taken care of later, there's going to be future development up and down the Dry creek, eventually the water is going to get worse, the waters going to be more massive. The berm that was proposed I am in favor of the berm but it has to have an outlet, it's not fair to push our water to Mr. Whetzel, just a couple more please."

**Chairman Winters** said, "Just a minute."

**Mr. Kottas** said, "Just a minute at most, sir thank you. The solution is no one wins, excuse me, everybody wins, no one gets hurt. The berm, it's gotta be at least two foot over the road as you can see by various pictures it has to be at least two foot casue it's already over one foot over the road, but it's gotta have an outlet or else Alan Whetzel gets hurt, it's gotta be properly diverted so Dr. Mike doesn't get hurt, lowering the ditches would help, if they're going to build in a floodplain like they are, make them use their own dirt no additional dirt brought in, the ball fields, the building, the parking lot all that, you're going to loose absorption versus a plowed field. Again this is all about flooding, it's not about the Y, it's all about water and I appreciate your time thank you."

**Chairman Winters** said, "Alright, I have one question Mr. Kottas, similar to what I asked Mr. Whetzel, you've talked a lot about the overall flooding issues and I agree with almost everything you said and I understand what you're saying, are you now opposed to this project that's going to raise four acres out of the floodplain, so are, and I understand your concern about overall, but this project."

**Mr. Kottas** said, "Yes, I am still opposed casue I want the permanent fix so no one gets hurt now or later cause it's cheaper today."

**Chairman Winters** said, "Thank you."

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**Mr. Kottas** said, "Thank you."

**Chairman Winters** said, "Is there anyone else who would like to address the Commission, please come forward."

**Mr. Sam Eberly**, 13131 W. 21<sup>st</sup> Wichita, greeted the Commissioners and said, "Mr. Chairman, members of the Commission, I thank you for taking your time to hear the public comments because I think that's the only way that you're going to hear whatever's gone on and mercy how things changed here today, how things changed yesterday, how things have changed since the first part of April when we started talking about this and if you were confused about the issues until this morning, man when got here today and we see everything changing again, but maybe we have part of that problem solved. But I have a couple of real issues, the first one is, that yes we now have some SF-20 zoning, we all know that they're going to ask for this to be annexed into the City someone else comes in and says okay, now we've got this SF-20 that we want to go back to commercial and they go to the City and we have this whole process to go through again. I believe totally that the decision you make here today is going to have a lasting impact on everyone of us both you, us and the Y, I personally believe it's time for a time out, I think we need to take the time and let's make a plan, and that's going to be my phrase to each one of you, let's take the time, lets make a plan.

And Commissioner McGinn made the comment so elegantly that said we need to do something different, the Black and Veatch study didn't solve much but it said you need a plan, if I can remind you that in early summer you approved a building program right across the street from my driveway where in you allowed a commercial development to go in and build up approximately two acres in the floodplain, whether they build up four acres or 11 acres, it doesn't make any difference, we are nibbling, I call this the nibble effect, every time someone comes to you for approval in building in the floodplain we nibble away at it, I've lived on the creek for 61 years it's not getting better, it's getting worse, it gets higher every time we get a rain. Personally I hope that you will take the time and you will sit down now and say we need a plan, we need to stop this we need to stop it at some point and I think you have the perfect opportunity today to stop that plan. If we had a plan in place we wouldn't of had to go through this process, the Y would have known exactly what they had when they bought the property and we would have had exactly the same idea because we would have known what the process was, I ask you please to take your time, let's make a plan. Thank you very much."

**Chairman Winters** said, "Thank you, Sam we have a question, Sam. Commissioner Sciortino."

**Commissioner Sciortino** said, "Mr. Eberly, I just need to get clear, what are you asking us to do, I know take the time, make a plan, but are you recommending to us that we deny this project and then

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make a plan or approve this project and then make a plan, which of the two are you asking?"

**Mr. Eberly** said, "Let me answer the latter first, after we keep approving these plans nothing ever happens, we don't ever stop long enough to make the plan, my recommendation to you is they still have property, that building can be repositioned on that property enough so that they don't even have to fill in the four acres of floodplain, I think Mr. Whetzel's hydrologist said it very, very clear that water spreads and it has more surface area to go into the ground in the flood when it is wider, you can fill it up, yes you can take some dirt out here but you eliminate surface area and I think right now, this property can still be developed, I'm not against the Y, all they have to do is tweak the building just a little bit and keep it out of the floodplain and don't bring any dirt in at all, were all happy."

**Commissioner Sciortino** said, "Okay, thank you."

**Chairman Winters** said, "Thank you, is there anyone else who would like to address the Commission? Yes sir, please come forward."

**Mr. Mike Hill** 2412 N. 135<sup>th</sup> Wichita, greeted the Commissioners and said, "I own about eight acres and I have a small pond that is on my property. The initial development that the Y proposed was going to include my pond as part of their drainage plan, apparently that has been removed and my concern is if in the future that SF-20 is rezoned into commercial how is that going to effect me and one of the proposals was I have a small 18 inch culvert that feeds my property that is the only thing that protects me from flooding from Dry creek, that pond has been there 50 years, one of the proposals was to increase the culvert to two 36 inch tubes, which with a berm would work in the future if that SF-20 is rezoned I am concerned about the change in that area to me and also to the neighbors, that area is in the floodplain, it flooded five times this year, as already been said there will be no baseball going on in that area during the whole month of June this year.

It is distressed property in my opinion, it's okay to probably try and use that on the edge of the floodplain, Black and Veatch said 'develop on the edge of the floodplain' the Cowskin has been done that in the floodplain for many years people in Breezy Point and all that can tell you what can happen when fudge factors build up and that's what happens every time everything's platted, is there's a little fudge factor and those fudge factors accumulate to the point where you have flooding incidents it's going to take over \$300 million to fix the Cowskin according to Black and Veatch, do we want to start doing that to Dry creek? My contention is we have to be very careful, like Commissioner McGinn said, we need a plan, there is no plan, it's on a case by case basis and that is the error of our ways the people on 135<sup>th</sup> street that live on the east side need help too, my contention is just don't make it worse, that's always been my concern all along is make it neutral and I can conditionally withdraw my protest but that's on conditions only, I mean this has undergone so many permutations and the flooding out there, for people that don't live there, is

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pretty bad and it's getting worse every year and that's why taking culverts down 21<sup>st</sup> street might be a plan something needs to be done out there and building in the floodplain is inheritably a mistake because it is going to continue to accumulate and accumulate these little engineering compromises that are made on any project and it's just, that's my contention is that we need to get a plan, that's all I have to say."

**Chairman Winters** said, "Alright thank you very much Mr. Hill, is there anyone else, Ken, there's...go ahead."

**Mr. Ken Shannon**, 820 N. Linden, Wichita, greeted the Commissioners and said, "The east side of Wichita, I am the Board President, volunteer Board President of the Greater Wichita YMCA's we've talked a lot about in a lot of meetings, we've had numerous meetings as you saw with the neighbors beginning in January when we announced it what was going to be happening out there and a lot of good discussion and dialogue. Yes, we've changed a lot of our plans, we've changed those plans in a continued effort to be a good neighbor and look at what's right, we too spent a considerable amount of monies with our engineers, our attorneys to try to make sure were doing things in a proper fashion. One of the main reasons we withdrew the commercial corner and everything is we felt that was becoming a major sticking point and what were about is the YMCA, and that's building strong communities, helping children, helping underprivileged, underserved children of which we anticipate this particular Y will serve over 2,000 of these individuals through financial assistance, in addition to the 20,000 members of our community that will be using the facility. We recognize that, and I think you've heard it said here by both parties certainly the engineers, that what were going to do is not going to make the situation any worse and we also recognize were not going to be able to solve this major flooding problem, our concern was that we don't want to do anything that's going make any different situation to any of the neighbors that have bought upstream or downstream of our property, that's why we've hired the engineers and we've spent our money to try to have that assurance and hopefully that's what you're hearing as well today. We believe that this proposal that we have reflects the YMCA's commitment to being a good neighbor and we ask that you vote in favor of allowing the YMCA to build this new northwest facility to build strong kids, families, and strong communities. Thank you."

**Chairman Winters** said, "Alright, thank you Ken. Next speaker, yes sir."

**Mr. Jack Van Skiver** 2256 N. 135<sup>th</sup> W., Wichita, greeted the Commissioners and said, "I've been out there since 1988, I've been familiar with the Dry Creek since my boyhood years, I lived at 151<sup>st</sup> street and 13<sup>th</sup> street north when I was growing up, so I know the Dry Creek from one end to another end and I know it is a volatile little stream, it comes and it goes quickly and desperately, and I think the people of the Dell and other places would also agree that Dry Creek is probably the most violent creek in our county because it was the Dry Creek that caused all the flooding in that area, making it spill over into Cowskin Creeks, it wasn't the Cowskin, it was where the Dry creek did it."

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This is our most volatile creek in the county, Cowskin has a lot of volume, influences a lot of developed areas, Dry Creek doesn't influence that many developed areas at this time and that's where our concern is, is how you allow the development to go out there and how's it going to influence development later.

We, my neighbors and myself are concerned about not just our selves, so we're worried about our neighbors upstream and downstream and I know that the Cowskin affects those people in Haysville and Derby, because they've had flooding there that they didn't have in the past and because of the development in the Northwest part of Wichita. You can see my house is further north of where that picture shows and I'm the one yes, I like to walk in the water and see how deep it is, because of the development of the road bed it has been raised about 8 inches so I don't stand down like I used to but also because of the development what Wichita did on paving the road, putting the cap on they also lowered culverts that came accorss the road and they are too low, there four inches lower than what they used to be, now we have constant flooding in our ditches from the floods that have been there and also from a church that's just developed and they have their own pond that they like to drain over once in a while which drains into our ditch and also floods the field over there, so just a little simple thing like that causes a lot of havoc on neighbors, now we have a constant mosquito pit and that was bad planning on the City or the City engineers allow those culverts to go too low or whatever, the drainage doesn't work like it used to. Sad to say it two farmers planed all this system here to get the water to flow the way it was, going back and forth those two farmers had it perfect for what they had, but the development has destroyed that plan and now it has to be rethought.

Myself even though I'd love to have the Y out there, I might even find time to go my family's a member but we don't have time to go, I don't and their across the street I might have time to go, but until this is situated, until everything's planned they keep changing everything every week, they change something different, I appreciate them taking away the commercial because I didn't want fast food across the street from me, but and the berm I could see going or coming either way if they planed their grading right, but until I see some grades and how they're trying to do everything, I'm going to still be opposed to it because I don't think what I've talked to the engineers and what they're said has quite appeased me. I told Ken Kallenbach that the City had plans for the sewer plant in the confluence of Dry Creek and Cowskin and one fateful day October 31, 1998, they decided their plan was wrong, after all the engineering, all the studies they did everything else, they found they would have been 10 feet underwater versus a dry area and that's my opinion."

**Chairman Winters** said, "Alright, thank you very much sir. Is there anyone else in the audience who would like to address the Commission? Please come forward."

**Mr. Ompal Chauhan**, 31 Laurel, Wichita, greeted the Commissioners and said, "I'm the east YMCA board member and live on the east side. What I want to say to you my own experience, every morning, I go to the YMCA and after workout I come and I feel great and I say 'this is a

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wonderful country, see what kind of spacey places there are that you can go and workout and watch everybody else getting a workout and go to work and feel good about it.' So I think the YMCA be the fundamental philosophy of the YMCA is that we want to build strong community and strong kids, YMCA purposefully will not do anything that will hurt it's neighbors and that's why I think they are going through *inaudible* and studies of talking with the neighbors discussing, changing the plans which best suits the community, so I think most of the things that I heard from them was is a lack of long range planning on flood drainage and not the YMCA. I'll read the article from the *Eagle* and they say eight out of eleven people that signed the petition dropped their opposition to the YMCA, so what I suggest to you today that unanimously approve this proposal and join one of the YMCA's so and these folks and everybody else you can also have the benefit of it and I appreciate your time, I think it's a complicated issue, but I hope you'll do the right thing, thank you."

**Chairman Winters** said, "Thank you very much, is there anyone else who would like to...yes sir, please come forward."

**Dr. Matthew**, 2355 Forestview Dr, Wichita greeted the Commissioners and said, "I have a whole mile of Dry creek that goes from 21<sup>st</sup> bridge over to Mr. Alan's place."

**Chairman Winters** said, "Now what is your address sir?"

**Dr. Matthew** said, "2355 Forestview Drive. And we have two solutions that ought to go right in with this motion one of them is Mr. Alan's solution that we lower the ditch along 21<sup>st</sup> street, 3 feet so that floodwater can go right down and out of the way, the next one I have already with the City the omnibusment. And I'm working with the City to clean out Dry creek from 21<sup>st</sup> street all the way up to Mr. Alan's there's no reason that can't be done, there's regulations now that you can't even take out a dead tree that lays in the bottom of it so if you clean out the creek, put that in that's going to help a lot and that's simple hardly any expense I'd like it tied in with this whole motion."

**Chairman Winters** said, "Thank you very much sir. Is there anyone else here who would like to address the Board of County Commissioners on this issue? Is there anyone else, this is the last opportunity, unless we would call on someone for questions. Yes sir please come forward."

**Mr. John Strunk**, 14920 W. 21<sup>st</sup> N., Wichita, greeted the Commissioners and said, "I don't have a problem right now, but the way the first proposal was that I'm sure I would have, because my land adjoins Mr. Whetzel's to the west and the way it's laid out now I cannot afford any raising of the water in the flood area and I'm sure it would do that. Now if I hear it right, you would just scrape the area to get the fill, which would lower the ground to where it would hold total more water, but would it run off as floodwater dissipates. You know a retention pond or a borrowing pit if you have

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a full pit you can't put more water in it, but if they would scrape three inches, four inches or whatever it takes to get the ground level down that would hold more water, that way it would not affect the amount of water that a floodplain would hold, but I don't know if I'm for it or against, were for the Y, there's nobody that I've ever talked to that is against the YMCA and I think like somebody said, I think they have enough property to build the building and whatever they need, the ball fields or that will be in the floodplain, but they drain off so I think it'd be a good place for the Y if they address a plan so nobody gets hurt so it don't make it worse for anybody that's there now. You know, we know, some of it can't be better, but we know what it's like now, we just don't want it worse."

**Chairman Winters** said, "Thank you very much John. Is there anyone else in the audience who would like to address the Commissioners? Anyone else in the audience like to address the Commissioners on this YMCA rezoning case? Alright were going to close the public comment portion of this meeting and limit discussion to Commissioners and staff. Commissioner Unruh."

**Commissioner Unruh** said, "Thank you. Maybe our engineer Mr. Spears might be able to help me with this question, on the original plan that was evidently approved by the MAPD and the Metropolitan Planning Commission did we take a position on that, did our engineers weigh in on that in anyway as to whether or not we thought this was appropriate or inappropriate or?"

**Mr. David Spears**, Director Public Works, greeted the Commissioners and said, "We weighed in on the drainage that was submitted to us all the calculations, Mr. Webber's in the audience today, Jim would you like to address that please."

**Mr. Jim Webber**, Deputy Director Public Works, greeted the Commissioners and said, "We were provided with copies of the original flood study done by MKEC for the original proposal, we had gone through that and we didn't find any problems with it. Sludge study we didn't find anything that was not consistent with the floodplain management resolution for the county or the drainage policies that we normally operate off of."

**Commissioner Unruh** said, "Okay, so then, just to make clear, that was the more intensive use that we didn't find a problem with and the conclusion essentially was that we would not worsen any problems, I mean the conclusion wasn't that we were going to make anything better, but we weren't going to make it any worse, is that correct?"

**Mr. Weber** said, "That's correct."

**Commissioner Unruh** said, "Okay, I think that's, thank you Jim, that's all I have for you."

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**Chairman Winters** said, "Commissioner McGinn."

**Commissioner McGinn** said, "Thank you. Mr. Euson, and Mr. Schlegel you might be ready here by the time I'm finished cause I'm going to have some questions for both of you so. I think the first thing that we need to or I need to share and I've heard it today and I feel the same way, I think this discussion today is not one that's against the YMCA and their efforts because I think we all know that they touch many lives in our community and have a positive impact on the health of our community and on our children in this community, so I don't think anything that were going to have a discussion about today and I don't know how this is going to turn out has anything to do with that, this has to do with the land use planning and as Mr. Eberly kind of stole my punch line and that was we do need to have a time out and we need to think about how were going to do things a little bit differently.

If my colleagues would allow me to share just a little bit of history I would like to go back just a little bit and talk about when we had the Halloween flood, we did join together with the City of Wichita and hired Black and Veatch to do a study on the Cowskin and what we could do about that and I know Commissioner Winters and I were very involved in that and one of the questions we had for them was, help us make some guidelines in how to do development in the future in these areas that are flat and have flooding problems, I will say that I was disappointed in some of the responses that we received because I was hoping we would get more ideas and things that we could go to our developers and have a discussion about that. Also about that time or just a little after I received calls about different drainage problems and this is where we got into that discussion of when we put together a plat we do a drainage plan and the water coming on has to be the same as what's going off and those kind of things, we have to have it equal, and so we came up with this back yard's drainage and had some elevated pads and made some policy changes there and also tried to start looking at how one plat works together with another plat. Currently I'm working right now with the groundwater surface water group which has some KDHE department heads on that as well as some developers and I share that because this is a good working group, but what I've found in this discussion with many of the developers and that is you know, I don't think that they're against any of these changes that we may think and talk about here in the future as we start talking about better planning, they just want to know the rules and conditions before they make major investments.

I've become increasingly a little bit distressed by the fact that the plan we've heard today has changed so much and the part I guess that you know makes me wonder about some of the planning that's going on is that some of these changes may not have occurred, had the Whetzels not gone out and hired another engineer and consultant and challenged some of these things, I think that because of that were today looking at a better plan, but had that not occurred what would we be looking at today. What this tells me is that I think, I want to listen to my colleagues about moving forward with this Y plan and maybe we need to change the location of the building and do some other things there as well, but I would like to start immediately start looking at watershed approached planning

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and John Schlegel the reason I was called your name out earlier is currently were working on the comprehensive plan and I don't know if that's the place to get started and looking at how were going to make these changes. Sedgwick County through Susan Erlinwein and a LEEP grant is already looking at sensitive environmental areas in the county so we're identifying those now, but now we need to start making decisions, do we have in the floodplain, do we have high impact development or do we finally say no, it's going to be low impact development and this is what it's going to look like and we let that discussion begin today so that people in the future who want to invest and do some developing knows what exactly the rules are going to be, now I guess my question to you John is, are we still at a point where we can start this discussion and make the changes within the comp plan that you're working on right now?"

**Mr. Schlegel** said, "I think the comprehensive plan can help by setting an overall policy direction and encouraging doing what you're talking about which is basin wide, storm drainage planning, but that's not the vehicle my opinion for actually getting done what your talking about, I think that if I may suggest that what you might want to do as a Board is direct your staff and that would include your Planning Department, your Public Works Department and your environmental people to start working together on developing a program for getting that planning underway. I can say that I know that the City of Wichita is very interested in this also their acting Public Works Director's recently gone to the new City Manager with the idea of establishing a manual of standards for development within floodplains and that's something that I know he'll be very shortly bringing to his colleagues in the Sedgwick County Public Works department, so I think that's part of it, you know, what he's proposing is part of also what you're talking about but I think really what we probably need is a more comprehensive approach to this where we do the basin wide plans which would include probably some upstream detention facilities to help out with flooding downstream, developing, the overall development standards for the floodplain so that everybody's playing from the same set of rules."

**Commissioner McGinn** said, Okay, and Mr. Euson, is there anything that we can do today to stop any future development, I don't believe there is and I'm not saying that's what I'm proposing at all today, but I'm just saying is when people continue to bring us plats and proposals currently we have to go down the road and look at the golden rules and apply them to what we have currently on the books."

**Mr. Euson** said, "Yes that is correct and that, really the options before you under the statute are either to approve or to deny or to send back to the Metropolitan Area Planning Commission, and certainly you can use this as a vehicle to start some of that discussion and perhaps it's appropriate for that discussion to go through the MAPC, but those are really your options and certainly the golden factors need to be used in deliberating and coming to a decision."

**Commissioner McGinn** said, "Okay, well thank you and again I want to hear from my colleagues

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on this item as one individual shared you know we look at this and we think we have the area that's SF-20 that's not going to be developed, but it will be annexed by the City and we'll go through this or they will go through this whole discussion again and changes could occur and I think we've got to have a master plan and it has to be based on the watershed, so with that I'll listen the rest of you."

**Chairman Winters** said, "I have a question for Ken Kallenbach. Ken would you come back up. Would you talk to us for a moment about how you selected the site for the building and as you stated in your first comments that approximately four acres is going to need to be raised, can you just share with us your selecting of this building site and if your not the right one to ask bring who ever else up there but why this site and can it be moved around thank you."

**Mr. Kallenbach** said, "Mr. Chairman, Brad Biddle is here too, the architect on the project that we did work with him on that and I know we went through discussion of where the parking ought to be, we thought the parking ought to be to the front of the building, directly off of 21<sup>st</sup> to get rid of the traffic, not have a conflict between the building and the playfields, we put the building up front and the playfields in the back and then the parking between we'd always had that kind of pedestrian traffic conflict so I think the plan's very logical getting the traffic off of 21<sup>st</sup> into the parking, folks into the building and then for outdoor activities exit on to the north so that does move the building to the back and in part of the floodplain, and also I think there's just a desire to not have the parking in a flood situation also at least on any kind of a regular basis just in terms of maintenance and that's pretty much the development policy in the City and the County."

**Chairman Winters** said, "Dennis if you have comment come to the podium please."

**Mr. Dennis Schoenbeck**, 12010 Autumn Ridge, Wichita, greeted the Commissioners and said, "I'm the Director of the YMCA and was involved in the selection and how we came about this site was as you know northwest is the fastest growing area in the community."

**Chairman Winters** said, "I'm not talking about the site, I'm talking about the location of the building on the site."

**Mr. Schoenbeck** said, "Because it's the highest point."

**Chairman Winters** said, "Well, my question is there seems to be some discussion that again if nothing was changed on this site and by that the four acres would not need to be filled is there room for your building and parking lots on this site with doing no raising up out of the floodplain."

**Mr. Schoenbeck** said, "I think it'd be best to have our architect Brad Bittle has been involved cause we looked at different."

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**Chairman Winters** said, "Okay, Brad would you come and talk about the location of the building on the site."

**Mr. Brad Biddle**, 730 N. Yale, Wichita, greeted the Commissioners and said, "I'm with Schafer, Johnson, Cox, Frey architects. As Ken said the floodplain line is right there at that line right there, you can see it takes that much area for the building and that much area for 300 parking spaces that would serve basically the YMCA function, the parking that we have shown in the back basically serves the outdoor field function and the overflow for the swimming pool area. I think it's prudent that we have the building and the parking up out of the floodplain, the parking back in this area could be sacrificed to a point where that parking could be at floodplain level or just above floodplain level, but to loose the parking associated with the YMCA would be, they couldn't function at that point. So and then there is an outdoor pool planed and that outdoor pool does have to be up out of the floodplain or the pool structure itself will float up out of the ground, so as planned right now yes we do need this much parking, we do need this much building and this much area for the outdoor pool area, so I'm not sure exactly how many acres that includes out of the floodplain, four acres, out of the floodplain."

**Chairman Winters** said, "My question would be in just looking at that visual if you turned that building sideways put it right against the west boundary, would that building not be entirely out of the floodplain, without doing any ..."

**Mr. Biddle** said, "The building could be constructed completely out of the floodplain, but the associated parking I don't think we have enough land out of the floodplain to get the associated parking."

**Chairman Winters** said, "Commissioner go ahead."

**Commissioner Sciortino** said, "My wife's the one that can take little bitty boxes and change it around and show me...But if that building was turned around where it was butted up against the west side closer to 21<sup>st</sup> street couldn't you put the parking just to the east of it and still have room for 300 parking slots?"

**Mr. Biddle** said, "It appears that there would be room to do the building and parking in that configuration."

**Commissioner Sciortino** said, "And that would be out of the floodplain, wouldn't it?"

**Mr. Biddle** said, "Yes, the outdoor pool development to the rear of the building I don't think we

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have enough land to get all that in there, but a reconfiguration of the building and parking appears that could happen.”

**Commissioner Sciortino** said, “Okay, alright thanks.”

**Chairman Winters** said, “Thank you. Commissioner McGinn.”

**Commissioner McGinn** said, “Just a question back to the parking lot please, parking lot question.”

**Chairman Winters** said, “Ken.”

**Commissioner McGinn** said, “I guess if part of that was in the floodplain, the parking lot, that’s a pretty severe rain if it’s underwater right, I mean somewhat severe?”

**Mr. Kallenbach** said, “Yeah, at the edge of the floodplain it would be, what you have to understand out here too, there’s very little difference in elevation change between a 50 and a 100 year flood, it’s what Greg, half a foot, less than half a foot, so and everybody’s said it’s flat, we know it’s flat and so that’s the situation that exists.”

**Commissioner McGinn** said, “I guess I’m just trying to figure out the concern if you have that much water are you going to have 300 cars there going to the Y that day, that’s what I’m trying to understand.”

**Mr. Kallenbach** said, “I think it’s probably your right on that, it’s probably more of a clean up problem, maintenance problem when that happens. If I could make a comment about the Y bought this property with the understanding of present rules and regulations so it was an assumption that we could do something just like this and bought it in good faith and trying to operate with the rules that exist in the County right now, and I know you’re talking about some changes that need to happen that seem somewhat unfair to me and I think it does to the Y that the rules of the game changed in the middle here as we have a considerable investment in this property made with the present rules and regulations and I think they had a whole different perspective if we’d been talking about no development in a floodplain and they looked and possible purchase of this program or this property, may well be the way to go but in terms of changing the rules of the game now, it’s a very difficult thing for the Y or any developer and as you said, that’s what it’s all about, knowing the rules of the game when you get into it and so this is a good question but it was just almost, we felt, very obvious that we’d be able to not fill the floodway, fill somewhat in the floodplain and particularly if were borrowing dirt out of the floodplains so we have the same amount of storage there when we’re done, you’ve heard the Whetzels hydrologist say no adverse impact, I think that’s where were at, no adverse impact we can’t resolve flooding problems in the 15,000 acre basin on our 50 acres.”

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**Commissioner McGinn** said, “Well, and I appreciate that Ken and I that’s the point I’m trying to bring out today is we have to have a plan in place for the future so that people know what the rules are when they go out. But I also have to share, I don’t grow buildings, I grow crops and when I buy land I’m looking at floodplain and floodway’s because that’s going to determine my profitably or problems that I may have in the future, and so I still think people are looking at that and so we need to move forward and start saying that maybe we need to change how were doing those things.”

**Mr. Kallenbach** said, “I appreciate your comments, we thought we had taken quite a big step in terms of keeping the floodplain storage in place I think that that did not happen and when our neighbors to the east developed their parcels in the floodplain, I think dirt was brought in, I think it happens all throughout this basin, we have a totally different proposition, it may be a very good first step in terms of trying to approach the problem out here and John may need to look at that as one of the policies.”

**Commissioner McGinn** said, “Thank you.”

**Chairman Winters** said, “Alright, I guess and just to follow up again, Ken I appreciate your comments about the rules are what they are and I think that’s one of the reasons why this has made this such a difficult case for the Commissioners, is because we know what the rules are, but if you live in west Wichita you know what the flooding issues are and I just don’t think as a Commissioner we can say okay, we’ve got rules here and were going to approve a plan with out knowing what the affect is going to be to the neighbors regarding water and I think it goes to one of the issues and the golden factors that we’ve got to look at is the impact of a proposed development on community facilities and I think this is going to affect every community drainage function from the ditches along 135<sup>th</sup> and 21<sup>st</sup> street and it’s just a difficult issue and if I knew what to say next I would, but I don’t. Commissioner Unruh.”

**Commissioner Unruh** said, “Thank you, well I agree with you it is a difficult issue but I think we’ve got a lot to digest this morning relative to this, and it’s been well stated nobody’s here is opposed to the YMCA and so there’s no need in our discussion here today to rehearse the attributes of the Y, but I think that I will be in favor of this proposal as it has been amended today, it seems like that’s a reasonable, hate to say compromise but a reasonable agreement for everyone to have most of their concerns at this time satisfied, our engineering department we were just told was thinking this would not have an adverse affect even on the more intensive use, it’s been reduced to a less intensive use. I think the whole area along here, that this is an appropriate type of development in light of the fact that all across 21<sup>st</sup> street there’s large buildings, churches and so forth that’s going so I don’t think it’s inconsistent with the area. I know that in our earlier discussion here I heard even the Whetzels engineer indicated that is this new amended plan, this drainage going

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straight up to the creek with these swales and so forth would probably not make anybody's flooding problem more intense, so for all those reasons I think I would be voting in favor of this however, I would say that it would be, seems reasonable to me that we start some of those simple projects that one gentleman the neighbor suggested about some of these culverts and deepening some of the ditches, I don't remember the exact items but these simple things we can do to help alleviate this problem, seems a reasonable thing to do and then in long term we do need to develop a policy that has to do with development in the floodplain, so anyway that's about all of my comment, but from the information I've heard it seems like we've at this point to proceed with this project and that's all I have."

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

**Commissioner Sciortino** said, "Thank you. Wow, we've had a lot of discussion today and I have a lot of empathy for those neighbors, I think it's going to be real easy to get to the Y, you get in your canoe and you just travel over, and they could have whitewater rapids and they could have a water park there at certain times of the year, I'm not trying to make light of it because, there's a serious flooding problem in this area of Sedgwick County. I have to empathize with what the Y is trying to do they bought the land, they looked at the rules that were on the books and they started their development based on what they thought the rules were, I think it's incumbent upon us to start figuring out whether we should change the rules and I think everybody can play a game if you know what the rules are, if there was no way of figuring out whether you scored a point that wouldn't be a very interesting sporting event you wouldn't know, or you changed the rules right after the guy before you scored the point and then you tried to do the same thing and the rules got changed, so this is a little complicated, I want to compliment the Y publicly, I think you have done everything that anybody could reasonably expect of you and trying to change your plan to accommodate the neighbors, I think your proving once again that you're a good corporate neighbor in any area that you develop, I'm going to be supportive of the amended, and the I gotta have to get Euson or somebody to make sure I understood what all the changes that were going on here and all the ingredients that were being added and subtracted were but I think I understand them and I'm going to be supportive of this.

But I couldn't agree more with Commissioner McGinn that we need to take a longer range look at what rules and regulation do we put in for development in the floodplain, there are rules right now, you can't build in a floodway, but you can build in a floodplain, even keeping this land SF-20 if all of a sudden some developers decided to come in there and build 20 homes per acre all of you would go, would be upset over that because of the increase in flooding so I'm going to support this plan, but it just has brought into very clear focus in my eyes that we really need to start looking at what are the long term solutions, I don't know digging the ditch bigger or cleaning out a creek, I still look at those as band aids and I didn't realize if a dead tree falls in a creek legally you can't take it out and I don't know what federal bureaucrat came up with that idea but I'd be inclined to go in there

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about 9:30 at night and take it out and let 'em sue me, but that's just me but anyway I'm going to support this program, but I do think that we need to join with whom ever else we need to join with in trying to figure out is there some better long range solution for development in the floodplain."

**Chairman Winters** said, "Thank you. Commissioner McGinn."

**Commissioner McGinn** said, "Thank you. I have a question either for John or for Rich, on this SF-20 that's the latest revision has been to keep it in green space will that be locked in forever or can somebody just comeback and resubmit, I mean, is there anyway that we can say this will remain in green space?"

**Mr. Schlegel** said, "Well, my understanding is that somebody else whether it's this owner of the property or some future owner of the property would always be able to come in and apply for different zoning on that property, there's nothing in the code that would prohibit them from doing that."

**Commissioner McGinn** said, "Because we have other things whether it's utilities or whatever that we know it's designated for that and so you can not develop, so I'm just wondering, so you're just saying we don't have anything to lock that in you can always."

**Mr. Schlegel** said, "The only thing that would lock it in is if they would voluntarily put a deed restriction on some type of covenant that would say that we would never come in for a change in zoning."

**Commissioner Sciortino** said, "But they could sell the land."

**Mr. Schlegel** said, "And they can sell the land."

**Commissioner McGinn** said, "And somebody reapplies and so you're back to the same discussion."

**Chairman Winters** said, "I think Ken has a comment, come to the podium Ken."

**Mr. Kallenbach** said, "Our purpose is that be open space forever, if you want us to dedicate that for parkland we'll do it. I mean there's no intent to develop that land, you know I've been somewhat chastised for making changes here today, we tried to make changes that are positive."

**Commissioner Sciortino** said, "Sure."

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**Commissioner McGinn** said, "And we appreciate your changes."

**Mr. Kallenbach** said, "I'm trying now to maybe add to that with another change, but we'd be happy to do that."

**Chairman Winters** said, "So Mr. Euson and Mr. Schlegel did you hear that? Ken say that, say it again that you're ready to dedicate for park land or green space."

**Commissioner McGinn** said, "I think he's double checking."

**Mr. Kallenbach** said, "Well I think were all in sync as to what parcel were talking about but let's go through that. Here's what were talking about, I think the line that we had established went straight north of here and over here and over here and that's what were talking about. That's what we agreed to while ago, would be SF-20 rather than the light commercial."

**Chairman Winters** said, "Let's be sure if were clear here."

**Commissioner McGinn** said, "Cause the attorney, yeah."

**Chairman Winters** said, "What I think were talking about is that area directly north of what was previously the commercial request."

**Mr. Kallenbach** said, "That's correct."

**Chairman Winters** said, "Not the corner but just that everything north of those corner lots."

**Commissioner Sciortino** said, "Okay."

**Chairman Winters** said, "Mr. Nelson, if you have a comment come to the podium."

**Mr. Nelson** said, "Thank you Mr. Chairman, Clark Nelson again. My question to Ken I think is if the issue of the property an issue is dedicated for green space forever, does that eliminate a pond being built on that?"

**Mr. Kallenbach** said, "I would think it would."

**Mr. Nelson** said, "You say it does not eliminate that."

**Mr. Kallenbach** said, "I don't know, I've built a lot of ponds in a lot of parks."

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**Mr. Nelson** said, "You see, I can never get a right, you know, I don't know what he's saying, I'm uncomfortable with where we are."

**Chairman Winters** said, "Okay, well that's fine, I think we understand that it means there's going to be no houses or no commercial development there other than that I think that's a pretty big deal."

**Commissioner Unruh** said, "On the north half."

**Chairman Winters** said, "On that north half."

**Commissioner McGinn** said, "Are you on this one or, I'm still."

**Chairman Winters** said, "You're still on."

**Commissioner McGinn** said, "But I mean unless you're following up on this specific item."

**Commissioner Sciortino** said, "I was just going to make a clarification. I want to wait, go ahead and finish everything you want to do and I'll talk."

**Commissioner McGinn** said, "Alright, well I think I can move forward but I'm still trying to understand at for sure that that would remain in green space. Also, if we move forward today I would like it to be in conjunction with directing staff to begin working with our local developers to implement a watershed approach to planning and development, we know we have information on low impact development, we have lots of information out there but I think it's time that staff makes a concentrated effort and starts working today on a change, I don't know how long this would take, I hope it doesn't take years, I'm not interested in looking a moratoriums but if this is something that's going to take years then we may have to think about that kind of thing, but I would like to think that our staff again working together with local developers can come up with some kind of plan here in the next few months. That's the only condition I can move forward on, thank you."

**Chairman Winters** said, "Okay, Commissioner Sciortino."

**Commissioner Sciortino** said, "Two things I want to say, first of all I hope to the Y, I hope that none of my comments could be construed that I think what you've been trying to do here is negative, I think what you've been trying to do is bend over backwards to accommodate everybody and I'm complimenting you, I'm not trying in any way, shape or form to say that you are moving around because the YMCA, I've never seen a company so willing to accommodate people that have concerns. So, as I understand it the commercial area that will stay SF-20, the land to the north of that where that drawing of the pond or what have you will be SF-20 also but then that would be the

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area that you would designate as parkland area, okay I'm very comfortable with it and I'm ready to support this, that's all I have."

**Chairman Winters** said, "I have a question Rich Euson, Rich, help me with the voting requirements here on this case in the absence on Commissioner Norton."

**Mr. Euson** said, "I believe that because of the existing protest that is in place that it's going to take four votes for the Commissioners to approve this in order to override that protest and I say that knowing that the Kansas case law isn't exactly clear on that point, it's clear in some other states in both ways, but it's just unclear in the State of Kansas and airing on the side of caution I'm going to advise you it takes four votes to overcome that protest. If there are three votes to approve this I would suggest based on Mr. Nelson's comments that you take the unusual step of asking for a motion, getting a second and after that point in time assuming the motion is approved ask Mr. Nelson or Mr. Whetzel to formally withdraw their protest and in that case it is my understanding that you would be below the 20 percent statutory requirement, and therefore you could have a three to one vote. Did that make sense?"

**Chairman Winters** said, "Yes. Well, lets just make another comment, Commissioner Unruh has made his..."

**Commissioner Sciortino** said, "No but I just wanted to ask them if we wanted to make a motion and include everything that's been verbalized here as the amendments, how do we do that in a motion?"

**Mr. Euson** said, "John Schlegel promised me that he could quantify all of those changes for you and come up with a motion that does quantify what's been said this morning."

**Commissioner Sciortino** said, "Okay, well maybe when were ready to make that motion we could ask them to do that."

**Chairman Winters** said, "Okay, I think we're ready to make that motion, but I'm just trying to see what we need to do as far as any protest petition and Commissioner Unruh, you've made your position fairly clear, Commissioner Sciortino you have, Commissioner McGinn."

**Commissioner McGinn** said, "Well I just want to make sure I have consensus from the other Commissioners that we will begin today directing staff to start looking at how were going to develop in the future in the floodplain."

**Chairman Winters** said, "Yep, I would certainly support that."

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**Commissioner Sciortino** said, "Support."

**Commissioner Unruh** said, "I'm supportive of it but that's not a condition for this."

**Commissioner McGinn** said, "No it isn't, but it's a condition for me personally to move forward."

**Chairman Winters** said, "And I think for me also, I mean again were, somebody called it the nibbling effect while I'm ready to try to stop the nibbling effect that were seeing here and direct someone here to move forward, so with the conditions that you've heard here, put together then you're prepared to move forward on a positive way."

**Commissioner McGinn** said, "Yes."

**Chairman Winters** said, "Well, I think I'm prepared to move forward in a positive motion for this and I appreciate the engineer Ellen Stevens for being here I think she did make the comment that this is a good example of a low impact development and I believe it is and if there was anymore being arranged in or out of the floodplain here I think I would have had serious problems with moving forward, but I do think this is a low impact development a lot of ball fields and open spaces so with that I think I'm going to be supportive so it appears John, do you want to recap what you believe these amendments are that have taken place?"

**Mr. Schlegel** said, "What I'd like to do is suggest that the nature of the motion that might be made and that would be to approve the zone change as modified today and that would move the boundary between the limited commercial on the west and the SF-20 on the east to this line all the way from the south boundary to the north property line and the CUP as it's been revised, subject to platting within one year and the recommended conditions of the MAPC which are in your backup report with the additional conditions that we've talked about today that the area that the applicant indicated where the pond had been proposed north of the formerly commercial parcel which is all now SF-20 that that be restricted to recreational, outdoor and recreational uses, I have one additional question though, whether or not based on the discussion that the Board heard today that you wanted to deal with this portion of the site where they are proposing to place fill material for parking."

**Chairman Winters** said, "No, I think that our intention was that we heard them say that four acres was going, needed to be filled and that's part of the plan, that's part of the deal."

**Mr. Schlegel** said, "Okay, then with one additional condition to the MAPC conditions, direct staff then to prepare the appropriate resolution after that plat is approved and authorize the Chairman to sign the resolution and you would be also adopting the findings of the MAPC as they were submitted in the staff report and those would be all the elements of the motion that I think I've

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heard you.”

**Commissioner Sciortino** said, “I would hope that you wouldn’t expect me to memorize everything that you’ve just said to put it in a motion but I think what you said, is do the recommended action and add as modified today, is that correct.”

**Mr. Schlegel** said, “Could you repeat that, I was distracted here for a moment.”

**Commissioner Sciortino** said, “Were trying to figure out how to make the motion, now you’ve had a conversation with us and I can’t remember every word you said can I do the recommended action and insert the words as modified today and would that legally take care of it?”

**Mr. Schlegel** said, “Excellent, yes that would be an excellent thing to do.”

**Commissioner Sciortino** said, “Mr. Euson do you concur?”

**Mr. Euson** said, “Commissioner Sciortino I concur. One of the problems with this being a moving target is Mr. Nelson reminded me there’s also the condition of the green space dedication to that has to be in the motion.”

**Commissioner Sciortino** said, “Yeah.”

**Chairman Winters** said, “Well that’s what we were talking about the open ball fields and I think I heard green space too and I don’t know that you couldn’t have a ball field in a green space but I’m thinking about a park like area, Mr. Schlegel.”

**Mr. Schlegel** said, “Well, my suggestion was that you add that as a condition of approval that that area be restricted to those particular types of uses, if you want to go further than that and require it be a dedication then that would have to be something, I guess that would have to occur at the platting stage and they are agreeing to that so.”

**Commissioner McGinn** said, “To a dedication, okay.”

**Commissioner Sciortino** said, “Mr. Euson could somebody just give us the words that, are you still comfortable that if we approve it by the recommended action that’s in our book right now to approve and add, insert as modified today.”

**Mr. Euson** said, “As modified by Mr. Schlegel’s comments.”

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**Mr. Kallenbach** said, "Let me, can I make one."

**Chairman Winters** said, "Yes you can Ken."

**Mr. Kallenbach** said, "I think were all clear but, Dennis has brought to me the question we want to be able to do ball fields in that area and certainly I think open space, outdoor open space includes that, that would be a permissible use within there."

**Chairman Winters** said, "I agree with that."

**Commissioner Sciortino** said, "We agree."

**Mr. Schlegel** said, "Would it help if I recapped what I was suggesting as a motion?"

**Chairman Winters** said, "Yeah, but and then you can make the motion after he recaps it, but I believe that the Commissioners are in agreement that ball fields would fit it the realm of open spaces, green spaces. Okay, make a recap"

**Mr. Schlegel** said, "Okay, it would be to approve the zone changes as modified today and the CUP as revised by the applicant subject to platting within one year and the recommended changes, recommended conditions of the MAPC plus the condition that the area that the applicant has indicated they are willing to dedicate to outdoor recreation uses be so dedicated, adopt the findings of the MAPC as they've been submitted to you, direct staff to prepare the appropriate resolution after the plat is approved and authorize the Chairman to sign the resolution."

**Chairman Winters** said, "If somebody wants to make that as a motion."

### **MOTION**

Commissioner Sciortino to approve the zone changes as modified today and the CUP as revised by the applicant subject to platting within one year and the recommended changes, recommended conditions of the MAPC plus the condition that the area that the applicant has indicated they are willing to dedicate to outdoor recreation uses be so dedicated, adopt the findings of the MAPC as they've been submitted to you, direct staff to prepare the appropriate resolution after the plat is approved and authorize the Chairman to sign the resolution.

Commissioner Unruh seconded the Motion.

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

**Mr. Kottas** said, "Can I ask a question, what's SP-20 for that corner, what's that mean?"

**Chairman Winters** said, "Okay, John answer that."

**Mr. Schlegel** said, "SF-20 is a zoning designation for single family homes with a minimum lot size of 20,000 square feet."

**Mr. Kottas** said, "Sorry to interrupt."

**Chairman Winters** said, "That's alright. Alright Commissioners does everyone...Commissioner McGinn."

**Commissioner McGinn** said, "I just want to make this comment because I'm sure as soon as we vote everybody's going to get up and leave and I just for Ken and others to understand that as we refer to changes it was in a positive way not flip flopping, I just want to make sure you now that and as one of the Commissioners said it does appear that you worked very hard to try to accommodate those around and take care of that flooding situation so, thank you."

**Chairman Winters** said, "Alright, and I don't know if you want to have conversation after this or if staff of Planning, Legal, Public Works, Environmental need to be, do we need to have that on an agenda item at a later time and maybe we can just talk with John and get that on a regular agenda item so we can start that conversation."

**Commissioner McGinn** said, "That's fine, I don't think today, not today."

**Commissioner Sciortino** said, "A workshop."

**Chairman Winters** said, "But were going to start."

**Commissioner McGinn** said, "I guess it's a signal for Kathy Sexton to get started on it as soon as the meeting's over, thank you."

**Chairman Winters** said, "Alright, Commissioners are you all clear on the motion we have before us? Alright, Madam clerk call the vote."

### **VOTE**

Commissioner David M. Unruh      Aye

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

**Chairman Winters** said, “The motion carries and the zone change goes forward. Alright, were going to take a five minute recess.”

**Board of Commissioners recessed for five minutes returning at 11:40 Commissioner Norton returned to the Commission meeting room at 11:40.**

**Chairman Winters** said, “Call the regular meeting of August 18<sup>th</sup>, back to order, Madam clerk would you call the next item.

**NEW BUSINESS**

**C. DIVISION OF HUMAN SERVICES – COMCARE.**

- 1. CONTRACT WITH UNITED METHODIST YOUTHVILLE TO PROVIDE COMMUNITY SUPPORT AND ATTENDANT CARE SERVICES FOR YOUTH.**
- 2. AGREEMENT WITH DERBY UNIFIED SCHOOL DISTRICT (USD) 260, HAYSVILLE USD 261 AND MULVANE USD 263 FOR COMCARE TO PROVIDE MENTAL HEALTH SERVICES FOR SEDGWICK COUNTY STUDENTS OF THE TRI-CITY DAY SCHOOL.**
- 3. AGREEMENT WITH BREAKTHROUGH CLUB OF SEDGWICK COUNTY TO PROVIDE MENTAL HEALTH SERVICES FOR ADULTS WITH SERIOUS MENTAL ILLNESS AND CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES.**
- 4. CONTRACT WITH BREAKTHROUGH CLUB OF SEDGWICK COUNTY TO PROVIDE COMMUNITY-BASED SERVICES.**
- 5. AGREEMENT WITH JOHNSON COUNTY MENTAL HEALTH CENTER FOR PROVISION OF DEAF AND HARD OF HEARING SERVICES.**

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**6. CONTRACT WITH PROJECT INDEPENDENCE, INC. TO PROVIDE SOCIAL ACTIVITIES FOR INDIVIDUALS WITH SEVERE AND PERSISTENT MENTAL ILLNESS.**

**Ms. Cook** said, "All six of the items I have in the agenda are renewals of contracts that are pretty long standing, contracts and agreements with not substantial changes, if you would like, I would be happy to have them heard all at once and address any questions that you might have."

**Chairman Winters** said, "Rich, would we have a problem of taking all these in one motion if she just mentioned each one of them."

**Mr. Euson** said, "I think you can take them all in one motion whether she mentions them or not."

**Chairman Winters** said, "Marilyn would you just please mention each one of them and we'll take it in one motion."

**Ms. Cook** said, "Yes, first contract is a contract with United Methodist Youthville to provide COMCARE with community support and attendant care services for youth. Second is an agreement with three school systems, Derby unified school district, Haysville school district and Mulvane school district for COMCARE to provide mental health services to Sedgwick County students of the tri-city day school, that is just an agreement on that one. Third is an agreement with the Breakthrough Club to provide services for adults with serious mental illnesses and children with serious emotional disturbances, that's our affiliation agreement with them. The fourth is a contract with Breakthrough club of Sedgwick County to provide community-based services, which outlines in detail the services we can provide. The fifth is an agreement with Johnson County Mental Health Center for the provision of deaf and hard of hearing services, contract we've had for a long time, no changes to that one. And the sixth is a contract with project Independence to provide social activities for individuals with severe and persistent mental illnesses."

**Chairman Winters** said, "Alright, thank you. Is there a motion to approve these agreements and contracts?"

**MOTION**

Commissioner Norton moved to approve the Contracts and authorize the Chairman to sign.

Commissioner Sciortino seconded the Motion.

**Chairman Winters** said, "Commissioner Norton."

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**Commissioner Norton** said, “Actually I want to make some comments on the issue that you guys worked on while I was gone, but I’ll do that at some other point.”

**Chairman Winters** said, “Okay, sorry I didn’t see your light.”

**Commissioner Norton** said, “No, that’s fine.”

**Chairman Winters** said, “We have a motion and a second to approve these agreements and contracts, any other discussion? Seeing none madam clerk call the vote.”

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

**Chairman Winters** said, “Thank you Marilyn. Next item.”

**D. HEALTH DEPARTMENT.**

**1. AGREEMENT WITH USD 259 FOR THE HEALTH DEPARTMENT TO PROVIDE HEPATITIS B VACCINATIONS.**

**Ms. Pam Martin**, Director, Clinical Services, Health Department, greeted the Commissioners and said, “ This is also a renewal and this is our fifth year with USD 259 to contract for this Hepatitis B series, so we would like to ask for our recommended action is to approve this agreement with the Unified School District and authorize the Chairman to sign.”

**MOTION**

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

Commissioner Sciortino seconded the Motion.

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

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**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

**2. BUDGET AMENDMENT FOR CONTINUATION OF THE ACCESS TO BABY AND CHILD DENTISTRY PROGRAM, TO BE SUBMITTED TO KANSAS CHILDREN’S CABINET AND TRUST FUND.**

**Ms. Martin** said, “This one is also a renewal and it’s been in effect since March of 2002 as a pilot program and we, our recommended action is to approve this agreement and authorize the Chairman to sign any related documents.”

**Chairman Winters** said, “Commissioners questions or comments? What’s the will of the Board?”

**MOTION**

Commissioner Sciortino moved to approve the budget amendment and authorize the Chairman to sign.

Commissioner Unruh seconded the Motion.

**Chairman Winters** said, “We have a motion and a second, any discussion, seeing none call the vote.”

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

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**3. AGREEMENT WITH PREGNANCY CRISIS CENTER OF WICHITA, INC. TO PROVIDE SEXUALLY TRANSMITTED DISEASE SCREENING.**

**Ms. Martin** said, “This is a new agreement that will allow the partnership between the Sedgwick County Health Department and the pregnancy crisis center of Wichita for the purpose of increasing the number of people screened for sexually transmitted diseases in Sedgwick County and allows us to use this aggregate data in our reports to the state. Our recommended action is to approve the acceptance of this agreement and authorize the Chairman to sign.”

**Chairman Winters** said, “Questions or comments, we have a motion is there a second.”

**MOTION**

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

Commissioner Sciortino seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

**Chairman Winters** said, “Next item.”

**4. ADJUSTMENT TO THE HEALTH DEPARTMENT STAFFING TABLE TO INCLUDE ONE FULL-TIME HEALTH EDUCATOR, B321.**

**Ms. Martin**, “The partnership with the Kansas Department of Health and Environment provides us with funding for an additional full-time position within the health promotion and disease prevention division, this health educator position will be connected to public health issues in the area of tobacco use, prevention and control. Our recommended action is approve this adjustment and authorize the Chairman to sign.”

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**MOTION**

Commissioner Sciortino moved to approve the adjustment to the Health Department Staffing Table.

Commissioner Norton seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

**Chairman Winters** said, "Thank you Pam."

**Ms. Martin** said, "Thank you."

**Chairman Winters** said, "Next item."

**E. AMENDMENTS TO THE 2004 CAPITAL IMPROVEMENT PROGRAM (CIP).**

- 1. REMODELING OF THE MUNGER BUILDING FIRST FLOOR.**
- 2. RENOVATION OF MUNGER BUILDING THIRD FLOOR.**
- 3. REPLACEMENT OF BUS DUCTS IN THE MAIN COURTHOUSE.**
- 4. REPLACEMENT OF CHILLER FOR MUNGER BUILDING AND HISTORIC COURTHOUSE.**

**Mr. Pete Giroux**, Senior Management Analyst, Budget Department, Division of Finance, greeted the Commissioners and said, "We have four amendments requested by DIO, Division of Information and Operations. Here are the four; the first and the last are changes to existing projects the two in the middle are new. First is an increase to the remodel of Munger first floor, during

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demolition there were some unknown conditions discovered and that led to increases to both the design and construction contract, they were able to absorb most of these increased costs within the contingency and by making adjustments to contract but they'll need an additional \$20,000 and we proposed that source on the screen from within the courthouse bond project.

The second of the amendments is a follow on to the first it's a renovation of the third floor of the Munger for Geographic Information Services, and to fit GIS into the third floor we'll need to remove some existing walls, DIO's been able to find the funds to accomplish this project within their operational budget.

The third is probably the most serious of the changes it's the replacement of the bus ducts in this building, they run, there are two bus ducts that run vertically with in the building and they step down power on each floor and as your well aware we've had a couple of failures recently, facility maintenance tested the system and determined that it's operating at less than the specifications, they also brought our on call engineer on board and he evaluated the system and both of those experts recommend replacement. Here's the cost, there's been a minor adjustment on the second line we had to substitute a different source but these are the proposed transfers again within the Courthouse Bond to fund this project.

The last is an increase in scope of the replacement of our 27 year chiller that supports both the Munger building and the Historic Courthouse and we brought this into the CIP in May at that time facility maintenance again evaluated to determine whether we ought to add it based on our positive performance with a performance contract to add it to the performance contract and trade that increase in cost and scope to the guaranteed energy savings that would come to us and those amount to about \$25,000.00 annually. What the performance contract does is add state of the art controls to most of the components of the HVAC systems, it improves our lighting, it makes it a lot less expensive and it also addresses some code issues that we have in the Munger building.

The cost of that increase in scope is \$148,448.00 and here are the proposed sources to again transfers within the courthouse bond to meet those requirements. Staff, the Manager and CIP committee have reviewed all of these projects in detail and they do recommend approval, do you have any questions?"

**Chairman Winters** said, "Alright, Commissioners are there questions, we have four CIP amendments, E1,2,3 and four, seeing no questions is there a motion to approve these four amendments?"

### **MOTION**

Commissioner Unruh moved to approve the CIP amendment.

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Commissioner Sciortino seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

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

**F. RESOLUTION AUTHORIZING ESTABLISHMENT OF A SPEED ZONE ON 199<sup>TH</sup> STREET WEST BETWEEN THE NORTH CITY LIMITS OF GODDARD AND 21<sup>ST</sup> STREET NORTH (795-N, O, P, Q) AND PROVIDING FOR ENFORCEMENT THEREOF.**

**Mr. Davis Spears**, Director, Public Works, greeted the Commissioners and said, "We respectfully request a deferral of this item for two weeks."

**MOTION**

Commissioner Sciortino moved to defer this two weeks.

Commissioner Norton seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

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**OFF AGENDA ITEM**

**Chairman Winters** said, “Commissioners we need to take an off agenda item regarding Kansas Department of Transportation and Railroad Crossings, do I have a motion to take an off agenda item.”

**MOTION**

Commissioner McGinn moved to take an off agenda item regarding the Kansas Department of Transportation and Railroad Crossings

Commissioner Sciortino seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

**RESOLUTION REQUESTING THE KANSAS DEPARTMENT OF TRANSPORTATION TO INVESTIGATE THE BURLINGTON NORTHERN SANTA FE AT-GRADE RAILROAD CROSSING ON 109<sup>TH</sup> STREET NORTH IMMEDIATELY EAST OF 55<sup>TH</sup> STREET WEST FOR APPROPRIATE CROSSING WARNING DEVICES TO IMPROVE SAFETY.**

**Mr. Spears** said, “Commissioners as you know we recently had an accident at the railroad crossing on 109<sup>th</sup> street north where the Burlington Northern crosses just a little ways east of Hoover road, this is as we look back in history and the second accident that’s been there and we had met with KDOT before on this crossing and we would like to pass a resolution today, we’ve been in contact with them about this and basically the resolution requests that the Kansas Department of Transportation investigate the Burlington Northern Santa Fe railroad company’s crossing on 109<sup>th</sup> street north immediately east of this says 55<sup>th</sup> street west, which is Hoover of course, for a necessary and appropriate crossing warning devices. Now we have talked with them and what they do is they look at exposure factors, railroads, the number of trains and the number of cars and in this particular case there are 196 vehicles per day, there are nine trains per day, so that’s 196 times 9, that 1,764 which is the exposure factor and I would just tell you that they told us that they are now through out

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the state in the 2,300 range on exposure factors, so it maybe sometime before they get down to the 1,700 range, but were in hopes that perhaps this resolution would push this up a little bit.”

**Chairman Winters** said, “Alright, thank you. Commissioner McGinn.”

**Commissioner McGinn** said, “Thank you. Commissioners just to reiterate a few comments I made yesterday at staff meeting, I believe it was about a year and a half ago I talked to Mr. Spears and Borst, what’s his first name, Mark about this situation, this is an area that does not have a very good view to be able to see a train, and part of it is because of trees, here recently they’ve changed the crop from soybeans to corn, but the visibility is not very good and we had asked them to look at this place for a crossing they choose another location which is great, I’m glad we have crossing arms there too, but this I believe is a more dangerous crossing area and so I’m glad we have the ability to at least bring this to their attention again, because we did have a serious wreck there just Sunday, if there aren’t any other questions or comments.

**MOTION**

Commissioner McGinn moved to adopt the Resolution.

Commissioner Norton seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

**Mr. Spears** said, “Thank you.”

**Chairman Winters** said, “Thank you David. Next item.”

**G. REPORT OF THE BOARD OF BIDS AND CONTRACTS’ REGULAR MEETING OF AUGUST 12, 2004.**

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**Ms. Iris Baker**, Director, Purchasing Department, greeted the Commissioners and said, “The meeting of the 12<sup>th</sup> results in seven items for consideration today

- 1) **PRECAST REINFORCED CONCRETE BOXES- PUBLIC WORKS**  
**FUNDING: PUBLIC WORKS**

Recommend only bid received from Wichita Concrete Pipe Company for \$63,297.00.

- 2) **CHANGE ORDER: A & E SERVICES FOR JUVENILE COMPLEX- FACILITY PROJECT SERVICES**  
**FUNDING: CAPITAL IMPROVEMENT PROJECT**

Recommendation is to acknowledge change order with Glossen Livignston for \$20,456.00.

- 3) **CHANGE ORDER: CONSTRUCTION OF JUVENILE DETENTION FACILITY- FACILITY PROJECT SERVICES**  
**FUNDING: CAPITAL IMPROVEMENT PROJECT**

Recommend the change order with Coonrod in the in the amount of \$128,375.00.

- 4) **CHANGE ORDER: LAKE AFTON OBSERVATORY RE-ROOF- FACILITY PROJECT SERVICES**  
**FUNDING: CAPITAL IMPROVEMENT PROJECT**

Recommendation is acknowledgement of the change order with Roof Mechanics for \$8,485.20.

- 5) **SOFTWARE UPGRADE- DIVISION OF INFORMATION & OPERATIONS**  
**FUNDING: SYSTEMS & SECURITY**

Recommendation is to accept the low bid from Insight Public Sector in the amount of \$28,497.00.

- 6) **BORING, CONDUIT & CABLE PLACEMENT- DIVISION OF INFORMATION & OPERATIONS**  
**FUNDING: DIVISION OF INFORMATION & OPERATIONS**

Recommend the low bid meeting specifications from Shelley Electric in the amount of \$24,885.00.

- 7) **CHANGE ORDER: A & E FOR MUNGER BUILDING REMODEL- FACILITY PROJECT SERVICES**

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**FUNDING: CAPITAL IMPROVEMENT PROJECT**

Recommendation is acknowledgement of change order with Wilson Darnell Mann for \$16,249.38, would be happy to answer any questions and recommend approval of these items.

**Chairman Winters** said, "Commissioners you have questions or comments, if not what's the will of the Board?"

**MOTION**

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

Commissioner Norton seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

**Chairman Winters** said, "Thank you Iris."

**Ms. Baker** said, "Thank you."

**Chairman Winters** said, "Next item."

**CONSENT AGENDA**

**H. CONSENT AGENDA.**

- 1. Amendments to Employment Agreements to provide psychiatric services to COMCARE consumers.**

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- Susan Brewer, M.D.
- David Hon, M.D.
- Shreeja Kumar, M.D.
- Rex Lear, M.D.
- Catherine E. Madden, M.D.
- Robert F. McIntyre, M.D.
- Lin Xu, M.D.

2. **Fiscal Year 2004 Budget Transfer Request for grant program line item adjustments, to be submitted to Kansas Department of Corrections.**
3. **Bankruptcy settlement request of Alan J. Hein and Doris M. Hein.**
4. **Order dated August 11, 2004 to correct tax roll for change of assessment.**
5. **Payroll Check Register of August 13, 2004.**
6. **General Bills Check Register(s) for the week of August 11 – 17, 2004.**

**Ms. Kathy Sexton**, Assistant County Manager and CIO, greeted the Commissioners and said, "Commissioners you have the consent agenda before you, I recommend approval.

**MOTION**

Commissioner Norton moved to approve the consent agenda as presented.

Commissioner Sciortino seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

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### I. OTHER

**Chairman Winters** said, "That concludes the regular business, we need to let the record show I believe that when we returned from the recess we were rejoined by Commissioner Norton who was not in the room when we were discussing the YMCA case, but he did join us as we came back from the recess. Commissioners we do need to have a short executive session today, does anyone have any community business that they'd like to bring up before we do that. Commissioner Unruh."

**Commissioner Unruh** said, "Thank you Mr. Chairman, I got a little bit of Zoo news I want to tell you about, we had a lion cub born out there a couple days ago, I don't know how much it weighed and I don't even know the sex of it yet, I think mom was taking good care of that cub, but anyway that's going to be a great interesting development for our Zoo and in July with respect to the Downing Gorilla Forest we had our largest attendance ever at the Sedgwick County Zoo with about 92 an a half thousand people and the parking lot out there under the direction of Mr. David Spears, Director of Public Works, is just coming along great an the parking lot will be ready in time for Zoobilee, which is the big fundraiser for the Zoo, and one other thing I'd like to mention that our Zoo Director, Mark Reed, signed on originally for a five year term, he just celebrated his 25<sup>th</sup> year anniversary with the Sedgwick County Zoo and we all I think would agree that we have one of the most outstanding Zoo Directors probably world wide, he's a great asset to our community and I emphasize what Kristi did that got one of the greatest combo's going out there tomorrow called brave combo, supposed to be big party, last one of the year, so put on your dancing shoes Mr. Chairman and go out there and swing."

**Chairman Winters** said, "Alright, we were out to an earlier concert and had a great time at the Zoo. Commissioner Norton.

**Commissioner Norton** said, "I don't have any community news but I did want to comment a little bit about the YMCA, since I had to recuse myself. First of all I watched every bit of it as I collected my thoughts, did some e-mails, did some other things while I had the time but I did watch every thing that the Commission did and I would like to compliment you on you know, accepting all the information, making sure that there was a good flow of information from not only citizens and engineer experts but anybody that wanted to speak I think it was well grounded in trying to come to the best decision, I felt bad that I wasn't able to enter into some of the discussions. One of the things that I did understand after watching it is it comes back to something that I had talked about my first year as a Commissioner and that is we need to work harder on figuring out drainage county line to county line, I think that as just a citizen watching it, it was pretty paramount that drainage is an issue, it needs to be worked on, it needs to be looked at as a economic development issue, it needs to be looked at a friendly citizen issue I think it's the right thing to do and I would urge us to work on some of the ideas that came out of this and some of the charges that Commissioner

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McGinn gave us, it doesn't fly in the face of anything that I've been saying for three years now, that a lot of the drainage issues were on the south side but I think we all know there are other places as well and they effect citizens, they effect development and as we look at visioning, I think drainage and anything that does with water is going to be paramount to good economic development in our vision so just an observation from being kind of outside the inner circle here and watching it I think the underlying thing today was not the YMCA because that moved forward the underlying theme is that we've got an issue that's going to continue to come up year, after year, after year, if we don't take some proactive bold action to fix that in our county, so that's all I have."

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

**Commissioner Sciortino** said, "Very briefly, this Saturday NCCJ's having their big walk as one and I've agreed to be on the Sheriff's team and I guess we walk what a mile, mile and a half, I don't know, I hope it isn't too long of a walk."

**Commissioner Norton** said, "Seven miles."

**Commissioner Sciortino** said, "Yeah, well were going to have ride as one cause somebody's going to carry me, anyway it's a fun event, it's going to be down there at the Hyatt park and what have you and if anybody wants to walk, come out and walk, that's all."

**Chairman Winters** said, "Alright, thank you."

### **EXECUTIVE SESSION**

**Commissioner Unruh** said, "Ready for executive?"

**Chairman Winters** said, "Yes, how long do we need to have this meeting?"

**Commissioner Unruh** said, "20 minutes."

**Mr. Euson** said, "Whatever time you can give us Commissioner."

**Commissioner McGinn** said, "Five."

**Chairman Winters** said, "Let's just say, I think we can do this in five minutes, I think."

**Commissioner Unruh** said, "In five minutes?"

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**MOTION**

Commissioner Unruh moved that the Board of County Commissioners recess into executive session for five minutes to consider consultation with legal counsel on matters privileged in the attorney client relationship, relating to potential litigation and legal advise and that the Board of County Commissioners return to this room from executive session no sooner than 12:06 p.m.

Commissioner McGinn seconded the Motion.

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

**VOTE**

Commissioner David M. Unruh	Aye
Commissioner Tim Norton	Aye
Commissioner Carolyn McGinn	Aye
Commissioner Ben Sciortino	Aye
Chairman Thomas Winters	Aye

**Chairman Winters** said, let the record show that we are back from executive session, there was no binding action taken in executive session. Is there anything else to come before this meeting, Mr. Euson?"

**Mr. Euson** said, "No sir."

**J. ADJOURNMENT**

There being no other business to come before the Board, the Meeting was adjourned at 12: 12 p.m.

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

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**THOMAS G. WINTERS, Chairman**

**Regular Meeting, August 18, 2004**

Third District

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**DAVID M. UNRUH**, Chair Pro Tem  
First District

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**TIM R. NORTON**, Commissioner  
Second District

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**CAROLYN McGINN**, Commissioner  
Fourth District

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**BEN SCIORTINO**, Commissioner  
Fifth District

ATTEST:

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**Don Brace**, County Clerk

APPROVED:

\_\_\_\_\_, 2004