

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

### **REGULAR MEETING**

**November 17, 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, November 17, 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. Robert W. Parnacott, Assistant County Counselor; Fire Marshal Greg Thompson, Fire District #1; Mr. Walter Rooney, Fire-Prevention Captain, Fire District #1;

Ms. Irene Hart, Director, Division of Community Development; Mr. John Schlegel, Metropolitan Area Planning Department; Ms. Chris Morales, Systems Integration Coordinator, Department of Corrections; Mr. Bob Lamkey, Director, Division of Public Safety; Mr. Jim Weber, P.E., Deputy Director, Bureau of Public Works; Mr. David Spears, Director, Bureau of Public Works; Ms. Iris Baker, Director, Purchasing Department; Ms. Kristi Zukovich, Director, Communications; and, Ms. Lisa Davis, Deputy County Clerk.

### **GUESTS**

Ms. Pat Jones, Wichita Kiwanis Club.

Mr. Greg Mikesell, Secretary-Treasurer, Southern Kansas Telephone Company.

Mr. Philip Brown, Attorney, Southern Kansas Telephone Company.

Ms. Terry Cassidy, City of Wichita Manager's Office.

Mr. Bob Robinson, Mayor, Valley Center.

Mr. Jack Witzsen, Economic Development, Park City.

Mr. I.D. Creech, City Administrator, City of Valley Center.

Mr. Philip Ellender, Vice President, Invista.

Mr. David Schultz, 1525 Sunnydale Lakes, Valley Center, Ks.

Ms. Mary Buffo, 2525 E. 93<sup>rd</sup> St. N., Valley Center, Ks.

Ms. Lynanne DeGarmo, 1200 Sunnydale Lakes Cr., Valley Center, Ks.

Mr. Mark Lenz, 2100 E. 98<sup>th</sup> St. N., Valley Center, Ks.

Mr. Randall L Jackson, 2801 E. 101<sup>st</sup> St. N., Valley Center, Ks.

Mr. Stan Howard, 1401 Sunnydale Valley, Valley Center, Ks.

Mr. William Bule, 1501 E. 91<sup>st</sup> N. Cr., Valley Center, Ks.

Ms. Mary Mayall Hallman, 11274 N. Hillside, Valley Center, Ks.

Mr. Calvin L. Bahr, 10356 N. Hydraulic, Valley Center, Ks.

Mr. Darin Valentine, 1255 E. 101<sup>st</sup> St. N., Valley Center, Ks.

Ms. Kimberly Zimmerman, 8845 N. Janis, Valley Center, Ks.

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Ms. Jennifer Lee, 5335 W. 81<sup>st</sup> St N., Valley Center, Ks.

### **GUESTS (Con't)**

Mr. Chuck Hill, Agent, Quik Sand, Inc.

Ms. Brandy Tribble, 7600 N. Hoover Rd., Valley Center, Ks.

Ms. Kathy Collins, 6014 Solar, Valley Center, Ks.

Mr. Charles Leiker, 4925 W. 77<sup>th</sup> St. N., Valley Center, Ks.

Ms. Gina Merriman, 8513 N. Ridge Road, Valley Center, Ks.

Mr. Doug Merriman, 8513 N. Ridge Road, Valley Center, Ks.

Ms. Sheila Reyes, 6400 W. Glenda, Valley Center, Ks.

Mr. Frank Montague, 7936 N. 63<sup>rd</sup> Street W., Valley Center, Ks.

Mr. Gary Lee, 5335 W. 81<sup>st</sup> St. N., Valley Center, Ks.

Ms. Glenda Carruth, 8321 N. Ridge Road, Valley Center, Ks.

Ms. Rebecca Spivey, 8050 N. 63<sup>rd</sup> St. W., Valley Center, Ks.

Ms. Denise Spivey, 8050 N. 63<sup>rd</sup> St. W., Valley Center, Ks.

Mr. David E. Hessler, 8042 N. 63<sup>rd</sup> St. W., Valley Center, Ks.

Mr. Ron Cornejo, Owner, Quik Sand Inc.

Dr. Delores Craig-Moreland, Wichita State University.

### **INVOCATION**

The Invocation was led by Commissioner Unruh.

### **FLAG SALUTE**

### **ROLL CALL**

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

### **CONSIDERATION OF MINUTES:** Regular Meeting, October 27, 2004

The Clerk reported that Commissioner Sciortino was absent at the Regular Meeting of October 27, 2004.

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

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**MOTION**

Chairman Norton moved to approve the Minutes of the Regular Meeting of October 27, 2004.

Commissioner Unruh seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Abstain
Chairman Winters	Aye

**Chairman Winters** said, "Commissioners, at this point I'd like to take an off agenda proclamation for the downtown Kiwanis Club and their Farm Family Week."

**MOTION**

Chairman Winters moved to consider an off agenda proclamation.

Commissioner McGinn seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

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**OFF AGENDA ITEM**

Chairman Winters said, "Commissioners, the proclamation is:

**PROCLAMATION**

**WHEREAS**, the prosperity and well-being of this community and area is dependent upon cooperation between two great elements of our society, farmers and urban people; and

**WHEREAS**, Wichita Kiwanis Club (Downtown) Farm City Week provides an unparalleled opportunity through recognition of 'Farm City Week' for farm and city residents to become reacquainted; and

**WHEREAS**, Robert and Marcella Seiler of Valley Center, Kansas are being honored as the Kiwanis Club of Wichita (Downtown) Outstanding Farm Family in Sedgwick County for 2004; and

**NOW THEREFORE BE IT RESOLVED**, that I, Tom Winters, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim November 19-25, 2004 as

**'NATIONAL FARM CITY WEEK'**

in Sedgwick County and encourage all citizens to participate in this worthwhile project to assure a successful Farm City Week in the County.

Dated November 17, 2004.

Commissioners, that's the proclamation. What's the will of the Board?"

**MOTION**

Commissioner McGinn moved to adopt the proclamation.

Commissioner Sciortino seconded the motion.

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

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**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

**Chairman Winters** said, “And we have with us Pat Jones, representing the Kiwanis Club. Welcome to our meeting.”

**Ms. Pat Jones**, representative, Wichita Kiwanis Club, greeted the Commissioners and said, “Thank you and thank you for your recognition of our event. We’ve been holding our Farm Family Week for many, many years and Downtown Kiwanis feels it’s important to recognize our heritage of the State of Kansas through our farmers and hopefully create a better understanding between urban and farm families about what each other is about. So, thank you very much for this presentation.”

**Chairman Winters** said, “All right, well we have a comment or two. Commissioner McGinn.”

**Commissioner McGinn** said, “Thank you. Well I want to thank you for what you do. I think that’s so important, especially in this county. We have the largest city in the state, and we still have the largest number of farmers in this county across the state and I think having that good relationship and understanding the needs of both is very important.

And commissioners, I just want to share that the recipients this year, Bob and Marcella Seiler, I happen to know them and they’ve been very good farmers, dairy farmers and grain-production farmers out west of Valley Center and so worthy of this award today. Thank you.”

**Chairman Winters** said, “All right, well thank you. And I would just add onto that, Sedgwick County is a unique county in Kansas. One of the largest populations, Johnson County may have just a couple of more people than we do now, but with a large population base and yet at the same time having such a large agri-business effort in the community for a number of years, number three/ four in wheat production. Dairy production is high. Irrigated soybeans, I mean just a lot of agri-production in this county. And so, we appreciate the Kiwanis for making the recognitions today.”

**Ms. Jones** said, “Thank you and I’d like to invite all of you to attend our luncheon on Friday. The Kansas Secretary of Agriculture will be our speaker and it’s at the First United Methodist Church on North Broadway. Be glad to have you there. Thank you.”

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**Chairman Winters** said, "All right, thank you. All right, Madam Clerk, call the next item."

**CITIZEN INQUIRY**

- A. REQUEST TO ADDRESS THE BOARD OF COUNTY COMMISSIONERS REGARDING CONTRACT FOR REMOVAL OF DECEASED BODIES FOR THE REGIONAL FORENSIC SCIENCE CENTER.**

**Chairman Winters** said, "All right, is Rick Yoder in the audience? Mr. Yoder? Is any Mr. Yoder here? All right, we will defer that to another meeting. Madam Clerk, call the next item."

**PUBLIC HEARINGS**

- B. PUBLIC HEARING AND RESOLUTION REGARDING REQUEST BY THE SOUTHERN KANSAS TELEPHONE COMPANY, INC. FOR A NON-EXCLUSIVE COMMUNITY ANTENNA TELEVISION SYSTEM FRANCHISE IN THE UNINCORPORATED AREA OF SEDGWICK COUNTY.**

**OVERHEAD PRESENTATION**

**Mr. Rich Euson**, County Counselor, greeted the Commissioners and said, "You have before you a resolution to approve a franchise in the unincorporated area for the Southern Kansas Telephone Company for the provision of cable TV services. This resolution is structured to be a four-year franchise and I'll explain more about that in a minute. It is for the areas of Lake Waltanna and K-42 Estates within the county. It calls for a 5% franchise fee to be paid to the county and the fee is to be based upon gross receipts as that term is currently defined in the resolution that we have with Multimedia for their franchise.

By way of background, I might tell you that the county has had cable TV franchises by virtue of exercising its home rule authority since 1980. Since that time, we have entered into ten franchises, which have either been granted or renewed. We have had five signed months of those franchises approved, and of those I believe there is only one surviving franchise and that is to Multimedia . . . I'm sorry, that is to Cox Communications, and it covers the entire unincorporated area of the county.

Under our home rule authority, we have required that an applicant complete an application, including the provisions of the surety bond and insurance coverage to insure the integrity of our right-of-ways.

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And on the overhead you will see, hopefully you will see where the areas of K-42 and Lake Waltanna are. And actually, K-42 Estates is in Illinois Township and Lake Waltanna is in Afton Township.

Yesterday, I'd received a call from the attorney representing the Southern Kansas Telephone Company and they would like to expand their request to include certain townships, and that would be six townships: Afton, Illinois, Ninnescah, Ohio, Salem and Viola. Ohio and Salem are in Commissioner Norton's district, and the remainder of those townships are in Chairman Winters' district.

The application was actually for the entire unincorporated area. However, we've structured the resolution the way we did due to discussions that we'd had prior to yesterday. So that's why it's before you in that format. Greg Mikesell and Philip Brown from the telephone company are here to answer questions and their attorney, Paul Good is also here to answer any questions that you may have. And under the terms of our home rule enactment, this does require a public hearing. So with that, I'd be glad to answer any questions you may have."

**Chairman Winters** said, "All right, thank you, Rich. Commissioner Sciortino."

**Commissioner Sciortino** said, "Thank you. Rich, this will be a question to you. If I can remember, in another life, being on the other side of this bench, these are non-exclusive franchises, correct?"

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

**Commissioner Sciortino** said, "Okay. And the applicant is actually asking for . . . I assume those other townships are circling their head into Clearwater, is that basically correct, where they're going to consider feeding it off of their head into . . . I'm getting nods, so I already know the answer."

**Mr. Euson** said, "That apparently is their service area, currently, for their telephone service I believe."

**Commissioner Sciortino** said, "And they're well aware, just like . . . this is a non-exclusive franchise. There is another cable operator that has a non-exclusive franchise for all of it, but I can't envision Cox Cable running lines out to service that for at least another 150 years, so I don't think . . . okay, that's all I had. Thanks."

**Chairman Winters** said, "All right. Greg, would you or your attorney like to make any comments before we open the public hearing? Come right forward."

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**Mr. Greg Mikesell**, Secretary- Treasurer, Southern Kansas Telephone Company, greeted the Commissioners and said, “And with me this morning I have Philip Brown, who is our Manager of cable services. And again, we’re here to represent our application for a cable TV franchise for the unincorporated areas of Sedgwick County.

A little background on Southern Kansas, for those of you who are not aware, our company was founded in 1940 and we’re locally owned. We’re a third-generation family business. We’re headquartered in Clearwater, Kansas and we are a provider of telephone, cable and Internet services in 23 Kansas communities and seven communities in western Nebraska. And we also provide communications and networking products and services in the greater Wichita area. And Philip Brown will now explain our service offering.”

**Mr. Philip Brown**, Manager of Cable Services, Southern Kansas Telephone Company, greeted the Commissioners and said, “Our intent is to provide high-speed Internet and video services to some of the un-served, unincorporated areas of southern Sedgwick County. Townships to include in this franchise are: Afton, Illinois, Viola, Ninnescah, Viola, Ohio and Salem. Our original application only was for the Illinois Township for Lake Waltanna and Beaver Creek and K-42 subdivisions. The modified application would allow us to serve additional customers, as other areas become economically feasible to serve in those areas.

These areas are contiguous or near contiguous to SKT’s existing network and services, service areas. SKT recently purchased the assets of a cable provider who was serving Lake Waltanna, Beaver Creek and K-42 Estates subdivisions. We plan on making substantial upgrades to these facilities in order to provide state-of-the-art cable TV service and high-speed Internet access in these areas.

We’re excited to bring these services to the residents of these areas and would appreciate your consideration in granting this proposed franchise and we’d be happy to entertain any questions you may have about this franchise application and SKT in general.”

**Chairman Winters** said, “All right, thank you. Commissioner Sciortino.”

**Commissioner Sciortino** said, “Well, this is one of those cases where somebody here at the bench has a little knowledge of the business and sometimes that’s a dangerous thing, but are you going to be laying down fiber-optics, I mean to get to the high-speed or are you going to stick to coaxial or how are you going to . . .?”

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**Mr. Brown** said, “We’re . . . as in the K-42 Estates and Beaver Creek and Lake Waltanna, we’re running fiber-optics to those areas and then be feeding it with traditional coaxial, traditional hybrid-fiber coaxial construction, which is typical in the industry.”

**Commissioner Sciortino** said, “Okay, and . . . because I envision that there will come a day that cable operators, it will be lucrative . . . and this is in the future, but there will be so many other services that can be provided, having that piece of wire in your home will be very valuable to a cable operator and you might see a basic cable package be very economically proper for you, just so they can get this line into the home and provide other ancillary services, because in looking into the future, at cable labs, they are starting to really think of a home as an integrated communications center. And there’s some pretty exciting things going on in the communication industry and it all begins with getting a piece of fiber optics into your home so that these services can be offered to you. So, I wish you the best of luck.”

**Mr. Brown** said, “Thank you, Ben.”

**Chairman Winters** said, “All right, thank you. All right, we are going to have a public hearing on this issue, if there is anyone in the audience. At this time, I will open the public hearing for comment from the public concerning this television system franchise, K-42 Estates, Lake Waltanna. Is there anyone in the audience who wants to speak on this issue? Is there anyone who wants to speak on this cable franchise? All right, seeing no one, we’ll close the public meeting. Commissioners, are there other comments? If not, what’s the will of the Board? Commissioner Norton.”

**Commissioner Norton** said, “I’d like to ask, does this change the business plan, now that you’ve added these extra townships? I hadn’t heard that originally. It was kind of a business plan for Lake Waltanna and now it’s a little more expanded. We kind of understood what the business plan looked like for that, but does this change and update your business plan?”

**Mr. Mikesell** said, “Well, we believe with the growth that’s going on in the rural areas, we’re seeing a lot of clustering throughout the county and we believe that there will be more areas that we could serve with the expanded townships added, so right now we’re going to focus on the three developments that were defined, but certainly keeping our eye towards other areas that are growing. There’s of course the urban sprawl that’s going on throughout the county and we’re well aware of that and we see that as an opportunity for us at SKT.”

**Commissioner Norton** said, “Well, it’s just quite a leap from Lake Waltanna and that area to almost to the river in Salem Township, that’s a pretty good leap. Although Clearwater kind of services that way anyway, I think, doesn’t it?”

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**Mr. Mikesell** said, “Right, we have a pretty broad service area today, Southern Kansas Telephone Company does, and a lot of fiber throughout that service area. And you know, it’s really a matter of density in terms of being able to make this work. There is some other exciting opportunities happening as well, with video over traditional copper cable that is happening now and we’re certainly evaluating that and that does away with some of the density requirements as well too. So, the business model will continue to change. So the business model will continue to change.”

**Mr. Brown** said, “I might also add that we have the cable system in Belle Plain, Kansas and there’s pockets of houses growing down in that area, so by going over to Salem Township, which is just to the north of the Belle Plain area, there’s possibilities that we could possibly pick up some areas out of that facility there as well. We were trying to do something that would be comprehensive, so we wouldn’t be coming back to you next year saying, ‘Now we would like to do it in this township as well’.”

**Commissioner Norton** said, “Okay. And the negotiated percentages and all that, that you negotiated in the original, all holds up for everything else? All that is . . .? Okay, that’s all I had.”

**Chairman Winters** said, “All right, thank you very much.”

**MOTION**

Chairman Winters moved to adopt the Resolution.

Commissioner Norton seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

**Chairman Winters** said, “Greg, Philip, thank you very much for being here. Next item.”

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**C. PUBLIC HEARINGS TO CONSIDER WHETHER CITY OF WICHITA HAS PROVIDED SERVICES AS SET OUT IN THE SERVICE PLANS.**

**1. ANNEXATION No. 99-8: KELLOGG AND 151<sup>ST</sup> STREET WEST**

**OVERHEAD PRESENTATION**

**Mr. Robert W. Parnacott**, Assistant County Counselor, County Counselor's Office, greeted the Commissioners and said, "This is a post-annexation hearing, five years after annexations by a city that required them to prepare a service plan, the Board of County Commissioners have to hold a hearing to determine if they've provided services in conformance with that service plan. We've provided notice, as required by statute, by mail to each resident in the area and provided notice to the City of Wichita also. We received some limited responses to our mailing. They were not directly related to the services that were involved in the service plan, so I can go into those if you would like, but they're really not relevant to the purpose of this hearing.

The City of Wichita has submitted a report in writing that has indicated they have substantially complied and provided the services with the service plan that they submitted five years ago to the people. So, I can answer any questions you would like or we can open the public hearing, receive any comment and then close the public hearing. At the end of that, you would be requested to make a finding whether or not they have provided the services as set out in the service plan."

**Chairman Winters** said, "All right, thank you Bob. This is an issue that requires a public hearing, so at this time I will open the public hearing. Is there anyone here in the room that wants to address the Commission regarding the annexation issues near Kellogg and 151<sup>st</sup> Street West? Is there any citizen here who would like to address the Commission? Any citizen here? All right, Terry, how about the City of Wichita? Would you make some comments for the record, please?"

**Ms. Terry Cassidy**, City of Wichita Manager's Office, greeted the Commissioners and said, "And as Mr. Parnacott indicated, we have provided a report in advance to you detailing services that have been provided in this area for the requirements of the service plan. We believe that we're in compliance with those requirements. Would ask that the report be entered into your public record today. Be happy to respond to any questions. I have some department heads with me today that could respond to specific questions about services that have been provided."

**Chairman Winters** said, "All right, thank you. I see no questions, Terry. At this time, we will close the public hearing. Bob, just one more time, notice was mailed to all the residents that were in these annexation blocks?"

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**Ms. Parnacott** said, “That is correct. We sent the list of properties that were involved in the annexation to an abstractor. Had a list prepared of all the current owners and then provided first-class mail notice to those owners.”

**Chairman Winters** said, “All right, Commissioners I think it’s obviously, if everyone was notified, if they had questions or comments they would have contacted us or been here this morning.”

**MOTION**

Chairman Winters moved that the City has extended services as provided for in the service plan.

Commissioner Sciortino seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

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

**2. ANNEXATION No. 99-9: HARRY STREET AND GREENWICH ROAD**

**OVERHEAD PRESENTATION**

**Mr. Parnacott** said, “I’ll incorporate my introductory remarks from the first one. This is the same type of hearing for the service plan by the City. In this case, we have an annexation on the other side of the county, around Harry and Greenwich. In this case, we did not receive any phone calls or e-mails regarding this notice that we sent out and we did send notice out to all the residents of the area.

The City of Wichita has also provided a report for this area and again, it shows that they have

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substantially complied with the requirements of the service plan. So I would again recommend that you open the public hearing, see if there's any comment to be had, and then close the public hearing and make your finding."

**Chairman Winters** said, "All right, thank you Bob. At this time, we will open the public hearing regarding Item C-2, annexation 99-9, near Harry and Greenwich Road. Is there anyone from the public who wishes to address the commission on this annexation? Is there anyone from the public who would like to address the commission? Seeing no one, Terry would you like to make some comments?"

**Ms. Cassidy** said, "As Mr. Parnacott indicated, we had submitted a report in advance to the commission for your review. I'd be happy to present that report today, if you would like. If not, we would like to request that this become part of the record for the public hearing today and the City of Wichita does believe that we are in compliance with the requirements, as set out in the service plan for this annexation."

**Chairman Winters** said, "All right, I don't think we need to go through the report. We'll consider it. We have it and consider it as part of the record. Commissioners, are there other questions? Is there anyone else who would want to speak on this annexation? At this time, we'll close the public hearing. Commissioners, are there other comments?"

**MOTION**

Commissioner Sciortino moved that the City has extended services as provided for in the service plan.

Commissioner Unruh seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

**Chairman Winters** said, "Terry, we appreciate very much you and the staff being here this morning. If you're never here, there will be a big question, so we appreciate it very much. Next

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item.”

### **D. PUBLIC HEARING AND RESOLUTION TO CONSIDER ADOPTION OF THE INTERNATIONAL FIRE CODE, 2003 EDITION, AS AMENDED.**

#### **POWERPOINT PRESENTATION**

**Fire Marshal Greg Thompson**, Fire District #1, greeted the Commissioners and said, “We’re here before you this morning as a request for a public hearing and a resolution to consider the adoption of the International Fire Code 2003 Edition as amended.”

**Chairman Winters** said, “Do you have a PowerPoint? If you do, that’s the wrong one.”

**Fire Marshal Thompson** said, “Okay, why are we here? We’re here to recommend an update of the existing fire code for Sedgwick County, to explain why it is necessary to update the existing code at this time.

Some of the questions that we’ll hope to answer is we will answer: where have we been, where are we now, why we should change and where are we going. We hope to answer all of these questions during our presentation.

Where have we been? The fire codes were first adopted in 1975. At that time, they adopted the 1971 Uniform Fire Code. In 1975, these were the first uniform codes that were adopted for all of Sedgwick County, including the plumbing, electrical and all of that. These were updated in 1983, 1991, 1992 and ‘96 to these various versions.

Where are we now? Currently, we’re under the 1994 Uniform Fire Code and this was adopted on January the 3<sup>rd</sup>, 1996. Why we should change. At this time, I’d like to bring up Fire Prevention Captain Walter Rooney. Captain Rooney was the project coordinator that managed and organized this very important and time-consuming task and he will go over the reasons for change and what some of the significant changes are.”

**Fire-Prevention Captain Walter Rooney**, Fire District #1, greeted the Commissioners and said, “One of the reason why we should change is the existing code we have on the books is ten years old. It has . . . it is the 1994 Uniform Fire Code and this particular code is no longer being published. It’s no longer being updated. All the model code groups that the country has had have consolidated into one organized set of codes, which is commonly referred to as the I-codes or the International codes.

Basically, what we’re asking is that we go ahead and adopt the most up-to-date, current fire code that is in publication and that is the 2003 International Fire Code. Like I said, all the international

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codes are being adopted by jurisdictions all across the country, particularly here in the State of Kansas, Overland Park, Lawrence, Manhattan, Newton and Wellington have already adopted the 2003 International Fire Code and we would like to continue on the state adoption.

One of the things that the 2003 International Fire Code is going to do for the community is that it's going to provide better compatibility with the existing county building codes. Currently, the '94 Uniform Fire Codes is not a compatible code with the county building codes. So, if we keep the '94 Fire Code on the books, it may and can cause conflicts and problems in the design and construction of the building for the contractors. And what we've done, we've worked very hard and very diligently to make sure that there is no conflict in the 2000 Edition of the code to that of the 2000 building code.

How was this local code developed? Well, the review process started in 2002. It was during this time that the county building department was upgrading all of its county codes and we also felt a need that we needed to upgrade the fire code as well. However, during our review process, the 2003 code became available and it is my recommendation to Fire Marshal Thompson that we pursue the 2003 and I was directed to continue on with our design process.

Part of our design process consisted of creating a committee to review the existing fire code as it was set up. We looked at what amendments were obsolete. We looked at what amendments needed to be updated. We looked at what code requirements needed to be changed to address the local issues, and that's one of the nice things about codes is that you can amend and modify the code to address your own local needs within your community and we've done that.

During this process, we also conducted research to see what others were doing, took advantage of the Internet and looked at other fire departments, other jurisdictions and kind of looked at what the market was doing and compared the marketplace, that being fire departments in counties of similar size and compared that to what we had and used that research to help put our code together.

Ultimately, what we did, we developed the final draft of the version code. We were assisted by Aaron Blase at the county Legal staff, who kind of led us in the right direction to make sure it's in proper legal form as presented to you.

One of the other things that we did, we also took the proposed fire code and placed it on the county's website and also the Fire District website and we did provide a link for public comment, if anybody had viewed it. We did not receive any comments from the public.

We also provided the fire code to the county's Fire District stakeholders, that being the fire code board of appeals personnel, and they all received a copy of it. We also sent a copy to the Wichita

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Area Home Builders Association. Both the fire code folks and also the builders association requested no changes, or recommended no changes. We also sent it to the county building department, the Department of Code Enforcement. They had requested some changes and we examined those changes and incorporated their requests where it was applicable. And finally, in our adoption process, we're making our presentation this morning to the Board of County Commissioners for adoption.

There are some significant changes. Permit fees for some specialized technical inspections were restructured to a fee, based upon the size and complexity of the inspection service being provided. The Fire Department plan review fees for fire alarm and fire sprinkler systems were updated from a flat fee to a fee based upon the size and complexity of the project.

One of the other things we did, fire reports are public records, in most cases, and we updated our fees to cover the cost of retrieval time in producing those for people who request them.

Some of the local issues that we looked at, we clarified the definition of fireworks in the unincorporated area of the county and also the unincorporated cities. We clarified some requirements concerning the cleaning and inspection to the kitchen exhaust systems. We defined requirements for outside storage of wood pallets and similar materials and we defined requirements addressed to remove burn debris and securing structures after fire loss has occurred.

One of the other requirements we also added in is we required installation of automatic fire sprinkler systems in new night clubs, drinking establishments, taverns and bars. The requirement for sprinkler systems is only going to apply when all of the following occur within that facility: there is 100 or more persons, alcoholic beverages are consumed or possessed and entertainment of any form is provided.

Existing facilities will only be required to install fire sprinkler systems when they remodel to the extent that requires a submission of building plans and the obtaining of a building permit from the Department of Code Enforcement.

What does all this mean for Sedgwick County? Sedgwick County, we've become the sixth department or the sixth jurisdiction in the State of Kansas to adopt the 2003 International Fire Code.

Businesses, visitors and taxpayers of the Fire District will be protected by more current, more applicable fire code and our code will be consistent with local and other nationally recognized codes.

I'd like to thank you and Fire Marshal Thompson and I am available for any questions."

**Chairman Winters** said, "All right, we have a couple of questions. Commissioner Sciortino."

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**Commissioner Sciortino** said, "Thank you. To either one of you that want to field this, I noticed earlier in the presentation conspicuously absence was Wichita. Has Wichita not adopted these new codes?"

**Fire Marshal Thompson** said, "Yes, Wichita just currently, within the last two months they adopted the 2000 International Fire Code."

**Commissioner Sciortino** said, "2000, but I mean, we're adopting the 2003."

**Fire Marshal Thompson** said, "We're just one version newer. We're at the 2003."

**Commissioner Sciortino** said, "Will there be any conflict, if they stay at the 2000 and we're at 2003? Will that cause any . . .?"

**Fire Marshal Thompson** said, "No, those are very compatible. The 2003, basically, there were small changes and fixes in publication things. The 2000 was the very first time the international codes were introduced and so the 2003 has actually cleaned up a few thing."

**Commissioner Sciortino** said, "Okay, but there wouldn't be any conflict, that we're putting some kind of a requirement on a builder here and when it gets annexed in Wichita, it isn't what their code says or something? That's won't happen?"

**Fire Marshal Thompson** said, "No. One of the things that we did, we took a look at all of Wichita's amendments, as they amended those and we considered those in the 2003 code and took those into consideration."

**Commissioner Sciortino** said, "Okay, fine, great. Thank you. No other questions."

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

**Commissioner Norton** said, "Along that line, what about the other small cities that provide their own fire service. Where do they stand with codes? Have they stayed up to date too?"

**Fire Marshal Thompson** said, "I'm not sure what all the other small cities have done, commissioners, as the ones that have their own fire departments. They'll adopt whatever codes that

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are germane to their jurisdiction and what they feel they need. We will have to go to all our small cities that are within the fire district and talk with them to get them to try to adopt this code as amended.”

**Commissioner Norton** said, “Okay. I just think it will be important that even the ones that we don’t service understand that we’ve adopted the newest code and you know, as we work together and have understandings, that they know which code we’re working under.

Were there any major changes, since it hasn’t been changed in 10 years, were there any major changes that we need to be thinking about as commissioners that are different? Or was it just a process of slow change that in your business was really incremental and not sweeping?”

**Fire Marshal Thompson** said, “I think the sprinklers in the night clubs is one of the major changes and we pointed that out. Previous to that, the occupancy load had been 300. We’ve taken a look and we know, with the tragic fire they had at the Station they had in West Warwick here a year or so ago and so many people died, codes are being changed. We went to code hearings and what we have adopted and what we’ve put in this code is what is going to be in the 2006 code. We know that’s coming and so we’re just being proactive at this point and going ahead and introducing it at this time.”

**Commissioner Norton** said, “Okay. Certainly, you’ve done some things for communications. Are you going to continue to work to get the word out on those major issues that have changed and everything?”

**Fire Marshal Thompson** said, “Yes. We’re going to do it with all of our cities.”

**Commissioner Norton** said, “Talk to me a little bit about pallets, because I’ve got a couple of places down in my part of the county that need to be looked at. Is that a change that will allow us to clean up some of those areas where they just stack huge amounts of pallets outside and it becomes not a code enforcement issue, a fire issue. Does the new regulation help us with that a little bit?”

**Captain Rooney** said, “Commission, currently the City of Haysville is under the 1991 edition of the Uniform Fire Code and that particular code does not address wood pallets very well. In fact, it’s very limited as to the authority as contained in the fire code as to what we can do. It is our intent to get together with the City of Haysville and encourage them to come up to this edition.

Our requirements do make it easier to clean that type of facility up and put it into better compliance and make it a more safer operation for the business owner and also for the community.”

**Commissioner Norton** said, “I’m sure you know which one I’m talking about on the south side there. I just know that they’re hamstrung a little bit getting that cleaned up. You think the new fire

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code, if they adopted it, would assist in being able to make sure that that's a good operation, that it's safe and it gets cleaned up?"

**Captain Rooney** said, "Yes, sir. I'm very confident."

**Commissioner Norton** said, "Thank you, Walter. That's all I have, Mr. Chair."

**Chairman Winters** said, "All right, thank you very much. This does require a public hearing with public comment. So at this time I will open the public hearing. Is there anyone in the room that wants to speak to the commissioners regarding the adoption of this fire code? Is there anyone in the audience who wants to speak to the commissioners regarding this fire code? Seeing no one, we'll close the public hearing. Commissioners, I know we've talked about this. Greg and Walter have been around to talk to each one of us about it. Are there any further questions? I'm ready for a motion."

**MOTION**

Commissioner Unruh moved to adopt the Resolution, and instruct the County Clerk to publish the Resolution according to law.

Commissioner Norton seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

**Chairman Winters** said, "Thank you, Greg. Thanks, Walter. Next item."

**NEW BUSINESS**

**E. RESOLUTION AUTHORIZING A FORGIVABLE LOAN TO INVISTA S.A.R.L. FOR ECONOMIC DEVELOPMENT INCENTIVES; AND AUTHORIZATION OF**

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### INTRA-FUND TRANSFER OF BUDGET AUTHORITY.

**Ms. Irene Hart**, Director, Division of Community Development, greeted the Commissioners and said, “Early in 2004, representatives of Koch Industries contacted Lieutenant Governor John Moore with the news that Koch was nearing an agreement to purchase a major division of DuPont called DuPont Textiles and Interiors and they offered Kansas an opportunity to compete with other communities for location of the corporate headquarters of the newly acquired company.

Lieutenant Governor Moore contacted Sedgwick County and City of Wichita officials, who formed a task force to develop a winning proposal. Members of the task force included Wichita State University, Wichita Area Chamber of Commerce and of course the State of Kansas.

Later in the year, we learned that we did indeed present a successful proposal. In fact, the textile division of DuPont would be combined with another Koch company based in Texas and would be renamed Invista. The new Invista is a global integrated fiber and intermediates business with a presence on 50 different countries.

This economic development success is indeed a win/win/win for our community. It’s a win in that the presence of Invista adds to the diversification of our local economy. It’s a win in that the economic benefit to our community of the salaries, the wages and the purchases by far offsets the public costs of the incentives. And it’s a win in that we have been able to retain . . . not only retain talented local residents who may have otherwise gone, moved to an Invista headquarters elsewhere, but we’ve also been able to attract talented new residents to our community.

For your consideration today is a forgivable loan agreement and promissory note with Invista for a loan in the amount of \$1,285,000. In exchange, Invista agrees to maintain corporate headquarters here for a minimum of five years, with total local payroll over that time of nearly \$95,000,000. Invista has agreed to an employment schedule wrapping up to over 200 jobs within five years, with an average salary of over \$100,000 a year. If Invista does not meet the targets as stated in the agreement, the loan must be repaid.

With us today are Philip Ellender, Vice President of Invista and Roger Ramsayer, Director of Public Affairs for Invista. Mr. Ellender plans to introduce Invista to you and then we’d be happy to answer any questions you might have.”

### POWERPOINT PRESENTATION

**Mr. Philip Ellender**, Vice President, Invista, greeted the Commissioners and said, “Before I begin, first let me say on behalf of all the Invista, it feels very good and we’re proud to call Sedgwick

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County and Wichita home.

First a little background on who we are as a company. We're a global and vertically integrated fiber, resin and intermediates business. We are operating facilities in more than 30 countries. Subsidiaries of Koch Industries acquired Invista from DuPont. The acquisition actually occurred on April 30<sup>th</sup>. And what we did was this former division of DuPont, Dupont Textiles and Interiors was headquartered in Wilmington, Delaware and we combined it with KoSa, which was headquartered in Houston, Texas. This Invista has over 8,000 patents and significant intellectual property and we're managed and operated independently from Koch Industries.

If I can elaborate on this, Invista has its own board of directors. It's building is actually separate from the Koch buildings. We have our different IT systems. We operate as a separate company, like many other Koch companies which are headquartered in various parts of the world.

You probably know us best though through a well-known list of global brands. If you go out shopping for clothes, you see those little hang-tags hanging on clothes, those little Lycra-Net nametags, that's from Invista. Stainmaster carpet is probably another highlighted brand that you'll see and others like Antron, which is commercial property and Polarguard, remember old Polarguard sleepingbags, Coolmax, Thermalight, others.

We operate five businesses: apparel, interiors, intermediates, polymer and resins, performance in textile fibers. A little bit more on each one of those. Apparel, think of things that stretch, or more importantly for our business, think of things that stretch back after you've pulled them. Things like swimsuits, garments with elastic bands and such.

Performance fibers, think of your seatbelts that go across your laps, your safety belts or your tire cords, all those really high strength fibers. Another interesting thing, our soldiers in Iraq, many of them are wearing Coolmax socks and those are socks that wick moisture away from their feet so they don't get blisters in the desert sun.

Interiors, I mentioned Stainmaster carpet before but also bedding sheets and various upholsteries and furniture coverings. And then polymer and resins, we're one of the largest suppliers of resins that go into the Coke bottles that people make, the actual plastic Coke bottles.

This is a map of all of our different facilities around the world and when we say we are a global company, it truly has a global presence, from throughout Europe and Asia and across the United States and South America. It's a global company with thousands of employees at manufacturing sites in offices throughout the globe.

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If we can focus now though on shifting to the one, that little line that goes to the heartland of the United States where it says Wichita, Kansas U.S. and that's what we'll focus on today. But before, just to say thank you. As I said earlier, it's good to be here and very, very good to be here.

How did we come to Wichita in terms of our selection process. In November 17<sup>th</sup>, we reached a definitive agreement with DuPont and then proposals and inquiries were received from multiple states and cities. Make an important point here, it was not a foregone conclusion that the headquarters of Invista would be in Sedgwick County. We received lots of proposals from various states, particularly those around that Delaware area. And as I mentioned earlier, our KoSa headquarters were actually in Houston, Texas. It was not a foregone conclusion and as Irene mentioned earlier, a group came together and presented us a list of various incentives, and subsequently Sedgwick County was selected as corporate headquarters of Invista.

As the corporation, I mentioned five different companies, and also the headquarters of two of the different companies of Invista, the Invista Intermediates and the Invista Polymers and Resins.

In return for the incentives, which are structured as a forgivable loan from Sedgwick County, Invista offers a commitment of a minimum of 206 jobs. We're already well on our way. We're about 120, as of today. I minimum payroll of \$21,631,386 and additional economic impact at our corporate headquarters offers, and we're going to use these proceeds to partially offset the cost of an renovation of our new corporate headquarters building in northeast Wichita, the Invista Building.

A lot of local contractors were used for the corporate headquarters. Eby Construction was the lead contractor. This building was virtually a shell, it was totally gutted and had to be totally redone. And local plumbers, local electricians, all types of local contractors were used in this renovation of the building.

The building renovation, you'll notice these clocks that go across over here, as a global company, we're really trying to get used to what it means to be on conference calls late at night with Asia and with Europe who are seven hours ahead of us. And you can bet your last dollars that that carpet being installed is Stainmaster carpet.

At the end of the day, when all things are said and done, what does this investment or what does a headquarters of an Invista mean for Wichita. According to W.S.U.'s Center for Economic Development, the selection of Wichita as our corporate headquarters as a jobs multiplier of 3.7. What this means is that the minimum commitment of 206 jobs should result in the creation of an

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additional 561 jobs. We also have an earnings multiplier of 2.8 and this means that the projected \$21,000,000 in payroll would produce an additional \$40,000,000 in payroll for a total payroll addition to Sedgwick County of over \$60,000,000.

The selection of our corporate headquarters has a public benefits to a public costs multiplier of 1.64. That means for every one dollar of incentives that the city and the county are bringing, we should in return put \$1.64 back into the coffers of those two entities.

But this is a lot more about numbers, it's about people, your new neighbors are starting to arrive. If you stroll through our parking lot, and I know the tax assessor in here is going, 'Oh, I've got all these new registration and this new income coming through' but this is a sampling of a lot of the license plates that you see. Interesting, one of our transfers was from New York City and he had to buy his first car because they don't drive cars.

This is Dan Gillis, he's one of your new neighbors. He and his wife and two kids moved into Tall Grass two weeks ago. But in addition to these jobs and these people moving in, what else does the corporate headquarters bring to the community? We bring vendors, new recruits, employees from around the world for training, management meetings, sales presentations and really, who benefits? The people of Sedgwick County do, whether it be through restaurants and car rental agencies and airlines and hotels and all the businesses that prosper from this activity that goes on with the corporate headquarters. Let me introduce you to a few of them.

Last week alone, our legal department, we had 50 people come to Wichita from around the world. These are some of the more international ones. This is Thomas Dubois from Geneva, Switzerland. Lynne Vilnius from Mississauga, Canada, Jergen Friske from Switzerland, Susan Albert from Frankfurt, Germany. This WU-Shock guy, and I've learned yesterday that he's from Shocker country, Raphael Ramón from Mexico City and Kaethro, Mexico, Esther Denez from Brazil and Holly Nichols from Canada. And this is not just an isolated example of, okay this was just last week, this morning . . . or rather yesterday, I spent about an hour with a gentleman named Tony Tang from Hong Kong who was here for a few days. The week before, we had about 60 operators and plant managers from all those plants from around the world, and that's the kind of activity that you see with the corporate headquarters, all the people coming to Wichita. Some, or actually for most, the first time they've been to Sedgwick County for this basketball game. Believe it or not, some of these guys, it was the first time they've ever been to a college basketball game and for almost all of them, the first time to ever meet a WU-Shock.

This is Amy and Lynn and Erica from Texas, Canada and Charlotte, North Carolina, first-time visitors to Wichita, stimulating the economy by buying popcorn at the basketball game and enjoying our entertainment. So we're happy to be here and I'll be happy to try to answer any questions about Invista that you may have."

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**Chairman Winters** said, “All right, well Philip, thank you very much for the presentation and let me, on behalf of the Board of Sedgwick County Commissioners, welcome Invista officially to our community. We certainly are pleased with the activity that we see happen . . . taking place and happening up on 37<sup>th</sup> Street. Clearly, corporate headquarters are the types of folks that we want to pursue and we want to make Sedgwick County and the Wichita area a place for them to be able to work and prosper. There are a couple of comments up here. Commissioner Sciortino.”

**Commissioner Sciortino** said, “Well thank you, Mr. Chairman. Welcome. We’re very happy to have you here. Maybe we’ll be talking to you about the purchase of a suite in that new arena after we get that working. But Irene, I have a question of you I think.

I know I had a small part in the negotiating team, but remind me again, why did the county’s portion be 1.28 million and the city’s was only 740,000. I’m sure that you explained that to me once but . . . or somebody explained it.”

**Chairman Winters** said, “Maybe Mr. Manager needs to.”

**Mr. William P. Buchanan**, County Manager, greeted the Commissioners and said, “It was about this time last year when we first started discussing this project. And as we were led through the process, as a team with Wichita State and the City of Wichita and the Lieutenant Governor, it was apparent in the last couple of hours before the proposal . . . we needed to submit it that we needed to do a better . . . come up with some more incentives.

At that time, Chris Cherches and I went off to discuss this and the City was facing what Chris believed at the time was some cash flow problems, so I made the recommendation to you that we step up with a different . . . assure that this deal got done, and I’m really pleased that we did because the benefits are going to way exceed any cost that we’re incurring.”

**Commissioner Sciortino** said, “So we just . . . Wichita was in a bind, and instead of just saying, ‘No, it’s got to be 50/50’ we just ponied up the additional money. I agree with you. I think it was good of us to do that and it does show to Wichita, I think, that we’ve got our eye on the goal, not trying to make sure that everything is 50/50 and I think that bodes well of us to do that and I had forgotten that that’s what we had done.

So anyway, just to close, thank you very much for picking Wichita and we’re going to work extremely hard to make sure you don’t rue one second of your decision to be here with us in Wichita.”

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

**Commissioner Norton** said, "Well, we're certainly glad you're here and from my wife and I, who raised five kids, thanks for Stainmaster. That's all I have."

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

**Commissioner Unruh** said, "Thank you, Mr. Chairman. Well, Philip, want to welcome you to our community and welcome Invista and I see Roger Ramsayer here. I know that you also worked very hard on helping put this together. I think our citizens can be encouraged by the fact that here's a really good example of how the state government and the city government and the county government and private industry all work together to make something very positive happen. We're excited about the benefits of all this.

And the information that's been in our newspaper recently indicated that we have a minimum threshold of cost/ benefit ratio of 1.3 and you've indicated this is 1.65, so this is a good deal for the citizens of our community.

I also just wanted to just mention the fact that this community concierge program that's also a part of this package and effort to help your folks get integrated into our community so that we can have real immediate benefit of their intellectual capacity and their social conscience that our community not only grows economically, but we grow culturally.

So, I don't see any downside to this. We're very happy that you're here and I'm glad that Sedgwick County could be a part of it."

**Mr. Ellender** said, "It's interesting, we had an orientation program where a lot of the new people that moved in have been meeting with the various non-profits and different ways that not only employees, but their spouses and such can get better involved in the community and they're learning a lot about their community. They especially like the commute time."

**Commissioner Unruh** said, "Yes, I bet they do. Well, that's a great part of our community."

**Commissioner Sciortino** said, "Have they tried our metro or underground system yet? No?"

**Commissioner Unruh** said, "Thank you, Mr. Chairman."

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

**Commissioner McGinn** said, "Thank you. I think they need to remind some of us about that commute time because I think those of us that have lived here forever, we think it gets kind of long

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at times, but we need to be reminded on other cities, how it's a lot longer."

**Commissioner Sciortino** said, "It takes almost 12 minutes from the airport to downtown. It's terrible."

**Commissioner Unruh** said, "Well, Commissioner McGinn is a rural resident, so it's a long time for her to get to town."

**Commissioner McGinn** said, "Thirteen traffic lights."

**Commissioner Sciortino** said, "Seriously, I want to ask, your place way up there in Harvey almost to down here, less than 30 minutes, right?"

**Commissioner McGinn** said, "About 30."

**Commissioner Sciortino** said, "Yeah, that's tough."

**Commissioner McGinn** said, "Well I too want to say thank you for coming to our community and just add to. One of the things the Manager had talked about, when we talked about Sedgwick County stepping up, I think it was also during a time when City of Wichita was trying to fund the Fair Fares program and I think folded into this is part of why you're here today and part of how we're going to bring other people here today is to make sure we have fair fares at the largest city in the state of Kansas.

So that's back to Sedgwick County trying to be a team with other governmental entities and making sure that what comes to our community has a positive impact and working together is how we're going to get that accomplished. So again, thank you for being here today and hopefully we'll continue to grow businesses like yours here in our community."

**Chairman Winters** said, "All right, Commissioners, thank you very much. We need to have a recommended action item in front of us. We're ready for a motion, if somebody is ready to make that motion."

### **MOTION**

Commissioner Unruh moved to adopt the Resolution, and approve the transfer of budget authority.

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Commissioner Norton seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

**Chairman Winters** said, “And again, Philip and Roger, thank you very much. We’re very proud to have Koch Industries and all their entities that are located here, we’re very proud and pleased to have them in the community. So, thank you very much.

I have a question, before we call the next, of Kathy Sexton. Kathy, I see that you’re shuttling people back and forth and our next item is going to be the Valley Center annexation request. Do you have other people that are going to want to speak to that issue that aren’t in the room or do you . . .?”

**Ms. Kathy Sexton**, Assistant County Manager, said, “Let me check. I think all the speakers are in the room, but if not, we’ll get them in the room.”

**Chairman Winters** said, “Are they at a place where they can view a television?”

**Ms. Sexton** said, “Yes. Everyone can view it on television right now.”

**Chairman Winters** said, “Some place here in the courthouse.”

**Ms. Sexton** said, “Right. We just have the people for this item in the next room on this floor, and the people for the next item are down stairs awaiting the break.”

**Chairman Winters** said, “Okay. Well, I don’t think we’re going to take a break now. I think we’re going to proceed on. Commissioner, you have a thought? Madam Clerk, call the next item.”

**F. ISLAND ANNEXATION REQUEST FROM VALLEY CENTER.**

**POWERPOINT PRESENTATION**

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**Mr. Parnacott** said, "I'll bring a map up on the screen. I have some other maps, but let's talk about this map for just a second. This is an island annexation request submitted by Valley Center on behalf of some residents in an area that has been called the Sunnydale area. It's the area shown in blue. And this area right here and here we see Valley Center's area. This is an island annexation that was probably about five years ago, I think. This area of course is Park City. We've got Kechi over here, somewhere in there, can't see from this angle. Oh, there's Kechi right there and of course the City of Wichita down here.

The statute does not require this to be a public hearing, so there's not a required notice provided, however we did provide notice to both City of Park City and City of Valley Center and then we've been in touch with people from Sunnydale, so they're all aware of this proceeding today and we have lots of people to speak here to speak, it looks like.

The requirements for an island annexation involve an area that is not adjacent to a city. In those situations, first they need the consent of the landowners, they need to adopt a resolution requesting the board of county commissioners to make a finding whether or not the annexation would hinder or prevent the proper growth and development of the area or of any other city in the county. The land has to be completely in the county and then the certified resolution has to be submitted to the board of county commissioners, who have 30 days to make a decision and make the finding that I just set out.

We have received a certified resolution and it actually came in over a year ago, but there was some intervening matters that required that to be pulled from the agenda but now it's back on the agenda. Those matters aren't directly relevant to the decision today, or to the proceeding, so I won't go into those but I could answer questions if you do want to go into that in a little bit.

We have three written documents prepared for you. Our Metropolitan Area Planning Department staff prepared a report and a recommendation on the island annexation. The City of Valley Center has also submitted an annexation report that has been provided to you and then Park City directly submitted to you a report of their own regarding the annexation.

We've been in touch with various people involved. The cities both have requested 15 minutes each for speaking time and we have at least four residents from the Sunnydale area that have asked specifically for five minutes of speaking time to talk about . . . more or less representing that area, and then of course you may have additional people in the audience that want to speak. So I can answer any questions and go into a little more details about annexations in general. We do these infrequently. There's been probably about five or six in the last five years, but unless you want me to go into a little longer diatribe, I would recommend to you let Valley Center make their case and hear from the other parties and I'd be here around to answer any questions."

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**Chairman Winters** said, "All right, Bob there's a couple of questions here. Commissioner Sciortino."

**Commissioner Sciortino** said, "Yeah, Bob just to clarify something for me. I know this is a request of Valley Center for an island annexation. But if we were to deny that, does that mean that they'll automatically be annexed in Park City? Is this going to be a . . .?"

**Mr. Parnacott** said, "No, it's not an automatic annexation by the other city. Park City would have to proceed to the extent that they could through the unilateral annexation statutes or to the extent that those properties are platted and adjacent to their city limits, or they could also approach you if they had areas that weren't adjacent to the city limits and ask for an island annexation. I know it's not automatic."

**Commissioner Sciortino** said, "Okay, thank you. Okay, I wanted to make sure."

**Commissioner McGinn** said, "Since he's on that, and looking at the map, the yellow that's touching the blue, so it's there."

**Mr. Parnacott** said, "There are some parcels or some properties in the blue area that are adjacent to Park City that could be annexed, if Park City chose to do so and they could do that without the consent of the landowners, if they met the requirements for a unilateral annexation, which is the type of annexation that you all don't get involved in."

**Chairman Winters** said, "Okay, thank you Bob. Now, our procedure is we're going to begin with Valley Center city and they have 15 minutes and then we'll shift to Park City, the City of Park City, and they'll have 15 minutes and then we'll go to the public."

**Mr. Parnacott** said, "Right and let me just go back to those other maps that I mentioned. I do have maps and maybe you can discuss later on but I don't think we need to see them right now, but I have maps showing the zip code in the area, school district boundaries in the area and I believe the Rural Water District boundaries and the fire districts for the county, in case those come up."

**Chairman Winters** said, "Okay, all right thank you. All Right, Valley Center, Bob please come forward. Welcome."

**Mr. Bob Robinson**, Mayor City of Valley Center, greeted the Commissioners and said, "My first thought is, I think I'd rather be behind a bench than in front of a podium, but I guess today I'm in front of a podium."

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First of all, I'd like to say that I'm really sorry that we are bringing this conflict to the county commission. As an elected official, I know it's not easy being a referee between two conflicting parties. We're like two divorcing adults who are fighting over custody of their children and you, unfortunately, are the judges.

As you know, you're in a touchy situation, especially Commissioner McGinn and I'm sorry that we put you between a rock and a hard spot. Having said that, as you know we are requesting an island annexation of the area known as Sunnydale. We did not solicit the annexation. We did not solicit the petitions. They came to us. Initially, we received 115 petitions and since then have received an additional, so that we have 123 petitions out of a possible 147. That's approximately 90%. I think the 90% speaks pretty loudly as to how interested these people are in becoming part of our city.

They've come to our council meetings and have been basically strong and relentless that they wish to be part of Valley Center. To say the least, we are flattered. We are flattered that a group of people would come to our city, realizing that if we annex them, it means that they're going to pay higher taxes, but they still desired to be part of our city.

At first, we discouraged representatives from Sunnydale. We explained what would be expected, their cost and what we could and could not provide, but since Park City officials had officially said they did not intend to annex, we proceeded.

I think a merger between Valley Center and Sunnydale makes a lot of sense. We, Valley Center, are basically a residential community. We don't have a lot of industry. Obviously, we'd like to have more, but we don't have a lot of industry. We're basically a residential community. We don't have any bars. We don't have any gaming facilities, but we have nice parks, good recreation facilities and an excellent library. Valley Center is a good residential city, just like Sunnydale is a very good residential area. The fit between our communities is a good one.

I find it ironic that some 25 years ago, a group came before the county commission asking that they be given the right for their civic destiny. They were about to be or concerned about being annexed into Wichita, and they came before county commission asking they be given the right to choose what they did, what their future was going to be. Wisely, that county commission granted their request and Park City was incorporated. Now that same city is trying to block another group of residents from determining their civic destiny. Don't you find that ironic?

Ultimately, yours is a political decision. Our city administrator is going to explain our service plan and I'm sure Mr. Witson will do the same for Park City. We need an access to the interstate that is in our city and they would like to have all of them. In summary, I am hopeful that you will consider the wishes of Sunnydale and grant this annexation and now Mr. Creech is going to go over the service plan with you."

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**Mr. I.D. Creech**, City Administrator, City of Valley Center, greeted the Commissioners and said, "About a year ago, July of 2003, we received petitions from an area called Sunnydale near our area. We addressed them on their concerns and their ability to try to be annexed into the City of Valley Center.

We met with them to go over a service plan and explain what had to be done in order for them to become part of our city. Based on what we've learned from petitioners, we learned that they had expressed a desire to maintain their current conditions for the area as much as possible.

They wish to maintain the community that has been established and evolved into the current Sunnydale, including zoning, road maintenance, the keeping of animals and their own identity. They've already researched the ability to continue road maintenance through Grant Township, by creating the protraction agreement between the city and Grant Township. And Grant Township, we have been told, would suffer greatly from funding shortfalls if this area were to be removed totally from their budget stream for maintenance of the other roads. Sunnydale group has advised that they do not wish to cripple the Grant Township maintenance problem in any way. Private roads and drives would continue to be maintained by the property owners as current. Written permission would be provided through our fire and police departments to use these roads. Our fire department has inspected the roads and they believe that they are adequate for our services with our apparatus.

There is no desire by the petitioners to change any type of the roadway surface at this time. That's whatever type of road they have shall continue until such time as they will petition for improvement. The majority of the parcels in Sunnydale are already city water customers, via the Rural Water District #2. Petitioners have no desire at this time to upgrade the water service provided, but are willing to sign agreements for mandatory connection should water service be provided to the area by the city. We would also note that the loss of these customers from the rural water district revenue stream would also be a loss to our utility systems revenue stream.

There's no communal sewer system in the proposed area. The residential structures were constructed under Sedgwick County codes in place at the time each was constructed. According to petition representatives, none of the existing disposal systems in the area are in any type of fail mode and the petitioners agree to sign mandatory connection agreements, should the city ever be petitioned to construct sanitary sewer facilities in the area.

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There are no natural gas lines in the area as yet. Electric power is supplied by Westar. It is also our understanding that cable television service is not available in the area at this time. SBC provides telephone service but we do not know if there are any other carriers in the area at this time.

City staff has explained the assessment franchise fees, when they would begin and how much they would be. Cox Cable is under an obligation to provide service based on petition to the area, so they would have the same city facilities and amenities.

The Valley Center Fire Department already provides protection to this area, via contract with Grant Township. If we get this annexation, then the primary concern for calls would shift from Sedgwick County Fire District to the Valley Center Fire District, but in either event, we still go to all of the calls by contractual basis.

The current water system does not provide fire hydrants and that would not change by annexation from the City of Valley Center. Such was explained to petitioners in previous discussions and the hydrants would be installed at such time that we would improve the water main system in the area, as identified by our city standards and by petition.

There would be additional patrol calls for our police department, should this area be annexed. Additional vehicle operation costs are expected and should be offset by mill levy assessments from the area. And the city and the county have an excellent working relationship, so we do not expect that to be a problem.

Petitioners have informed us that they do not wish to have streetlights. They have security lights and they believe that's enough at this time. The drainage has been addressed by Grant Township representatives. Like any other addition to City of Valley Center, the area will receive upgraded services for water, wastewater, drainage, streets, curb and guttering by petition. Petitioners understand and agree that should the city construct such improvements to the area that all the properties in the benefit district created would be compelled to connect to the services.

In the present, we believe that . . . in the future, we believe the city can sustain the current level, with service enjoyed and preferred by the petitioners. By the same means, enjoyed throughout our city, using city personnel, equipment and specialized contractual services.

City's planning and zoning commission held a public hearing on September 23<sup>rd</sup>, 2003 to review the city's comprehensive plan, special concern given to the Sunnydale area. We believe the comprehensive plan to be a guide to future development. We also believe that the comprehensive plan should be flexible enough to adjust and change as the assumptions and circumstances used to develop the plan change.

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Our circumstances have changed. We've received the petitions from the Sunnydale annexation area and we believe our comprehensive plan has adjusted to that. We have reviewed the request from the services approach, the cost benefit approach and the people approach. By using the people approach, we believe the desires of the citizens are a better basis of public policy decisions than engineering. Based on our findings, the City of Valley Center believes it is good public policy to allow the Sunnydale residents to chose to become a part of Valley Center.

I note that you have a report from the MAPD that was prepared almost a year ago and in response to that, there were three factors that were identified, I believe three factors identified in the report, with concern for the cohesiveness. The Sunnydale area, as you can see, is a pretty good box. The concept of MAPD is that the box approach is the way that we would annex, but in reality, annexation is done on a . . . growth is done on a consensual basis, a willingness to sell land, to buy land, to develop land. It goes in jumps and spurts. I would ask you to consider that.

We would expect that the area would maintain the current character for the foreseeable future. That is also identified in the Park City comprehensive plan, as identified through the MAPD report. They do not expect anything to change. We do not expect anything to change. That means basically five-acre lots, so the comments made later on about urban service delivery by MAPD on units per acres of 2.2, etcetera are in fact reputed by the very fact that the area is not going to change.

If you wish to put fire hydrants really close to five-acre tracts, we're going to have to carry a lot of hose, because the fire hydrants will be a long way from the house. The petitioners have agreed to a mandatory connection to any service that we provide. We believe that that has been maintained. For fire service calls, in 1998, the City of Valley Center answered 62 calls, in Grant Township '99, 38. In 2000, 66. In 2001, 81 fire calls and 2002, 62 fire calls. In 2003, 71 fire calls and to date this year we've already answered 61 fire calls in the Grant Township area.

We believe that the interaction the police service identified by the MAPD is not different than any other area that we have in the city. There are circumstances very similar between Wichita and Bel Aire, Wichita and Park City, Wichita/ Sedgwick County, Wichita/ Valley Center, Bel Aire/ Kechi, Park City/ Sedgwick County, Kechi and Sedgwick County, Bel Aire and Sedgwick County. All of these things are known factors and we all work through them, one way or the other.

As far as the factor number three, on sense of community, we have identified the fact that Sunnydale people wish to maintain their own community but they wish to chose which city they belong to, and that is the portion of community that we believe should be considered. Will answer any questions that you might have. Thank you."

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**Chairman Winters** said, "Thank you, I.D. Is there someone else, I.D., from the city? That concludes the City of Valley Center's remarks? All right, thank you. Is there someone from the City of Park City that is going to represent Park City's discussion?"

**Mr. Jack Witzsen**, Director, Economic Development and Planning, City of Park City, greeted the Commissioners and said, "The City of Park City would first like to thank the Board of County Commissioners and the Metropolitan Area Planning Commission in their efforts this past year in trying to get cities to work together to work out reasonable growth areas so that we would be in the situation that we are today.

I'd like to report to you that Park City, out of the twenty cities that I know of, was the only city that attempted to get with its neighbors and work out growth issues. We had an agreement with Valley Center, which they wish not to continue. We did get an agreement with the City of Wichita and attempted, on three occasions to meet with the City of Kechi to discuss the issues and thought we had an agreement, but they turned around and told us that they decided not to meet an agreement.

So as far as Park City is concerned, we tried to accomplish what you did to try to avoid the situation that we're in today. One of the things that you will be . . . One of the items that you'll have to consider in order to meet state statute is does this island annex affect the growth, or potential growth in the area, or does it impact a city's growth. We strongly believe that this does very much impact our city's growth. This map here in red shows the proposed island annexation. The yellow here is the City of Park City's corporate limits."

**Commissioner Sciortino** said, "And could you show, please, how far up north does your city boundary go."

**Mr. Witzsen** said, "Okay, it adjoins Sunnydale area here at 93<sup>rd</sup> Street."

**Commissioner Sciortino** said, "And why can't you just unilaterally annex it, if it adjoins it?"

**Mr. Witzsen** said, "Well, the residents, and we've know this for quite a while . . ."

**Chairman Winters** said, "Jack, go ahead and do your presentation and we'll ask questions after you've made your presentation."

**Mr. Witzsen** said, "Okay. Over here, the orange area or the kind of a yellow area is Valley Center. You might notice, there's already one island annexation there, currently on Broadway. If you look on the bottom here, you'll see green. That's the City of Wichita and this kind of orange-brown is the City of Kechi.

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As you can see, we're bordered on the west by Valley, bordered on the east by Kechi, bordered on the south by Wichita. So the only area that we can grow is to the north, we're blocked. Also, I like to point out on the map, this blue area here, these are 100-year flood plains and they affect growth very dramatically. Because these are such large flood plains, it takes a lot of money to get utilities across those flood plains. So, as you can see, we're basically blocked off on three sides and the only way we can grow is to the north.

This next map demonstrates Park City's growth, from when we were incorporated in 1980 to 1990. This is the growth area here in the darker gold I guess, in this area. The lighter yellow area is our growth in the last ten years, and as you can see very dramatically, that most of our growth has been to the north because of the factors that I had discussed earlier. We are full growth out to the west. There is some areas in here that is contentious between Kechi and Park City currently and we don't know for sure which way that would go, but that is very limited area to grow.

We average about a half to a square mile of growth a year. In the last ten years, Park City has added \$35,000,000 in assessed evaluation to Sedgwick County. With another potential million . . . excuse me, I said \$35,000,000. Another potential \$30,000,000 assumed, as some of the industrial revenue bonds are off of some of the plants that we have developed. So we have contributed greatly, we think, to the local economy, not only to ours, Valley Center's school district and also to Sedgwick County and the state as a whole.

In that ten year period, we added 1,000 new jobs to Sedgwick County. None of our neighbors have come close to making that type of contribution to the county or to the state and we feel that if you allow this annexation that would greatly reduce our ability to continue to grow.

Utilities, Valley Center city administrator alluded to how Valley Center could provide services to Sunnysdale. Okay, he mentioned Rural Water District #1, Grant Township. I didn't hear him say Valley Center providing any services. Should Park City ever was requested to annex that area, Park City could provide all the services without relying on anyone to provide that service, other than Park City. Right here is our sewer map. We have sewer all the way up to Sunnysdale currently. We spent over \$2,000,000 putting that sewer in, in the last four years. We made that investment to provide sewer and growth capability to this area.

This next map is a sewer map that shows the sewer extensions that we have done and brought up to this area. One of the things that we read about quite consistently in the Ark Valley News was that a lot of residents of Sunnysdale were told that if they didn't go to Valley Center, that Park City was going to force them on water and sewer. That is totally ridiculous. We have never said that. We have publicly stated that the only way that those folks would get water and sewer from us is if they requested it or if there was some environmental catastrophe.

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Also relating to rules and regulations, we have adopted the same regulations as Sedgwick County has for large acreage lots for animals and for zoning, and so if we did ever get requests to annex that, their life would not change at all, because it would still be under the same rules and regulations that they're currently under, under Sedgwick County.

The issues of fire districts, this is the fire district map for our section of the county. The blue is the Valley Center Fire District. Here in red is the Sunnydale area and all of this here is what is serviced out of our station in Park City. I have had discussions with Chief Curmode about moving that fire station at 53<sup>rd</sup> Street, which is at the edge of Park City in Wichita, up to a more centralized location, possibly up to 77<sup>th</sup> Street to provide better coverage for northern Sedgwick County. If this annexation is allowed to happen, that would put another hole in the fire district. The impact of that is such that the fire district will lose the revenue from the tax base from that, and that will be transferred to the City of Valley Center.

As you well know, the Fire District has come under great strain recently money-wise, because of the annexations by the City of Wichita and so this could affect not only Park City, but every other town that is part of the fire district.

This map shows the drainage basins and as you can clearly see by this line here, this is the ridge lines right here, that all of Sunnydale area drains into the city of Park City. At 77<sup>th</sup> Street, I imagine if you talk to your county engineer, there's been several flooding problems that have occurred here at 77<sup>th</sup> Street, primarily calls by the increased drainage and runoff of these five-acre lots. There has been nothing, that we know of, that has been done to retain the drainage from this increased development of five-acre lots.

Park City, when we annex anything or we develop anything, we make sure that the area is taken care of, either by retention ponds or so forth, so that our neighbors are not impacted by what we do.

And we feel that if this situation is allowed to fester and grow, which it could only do under a Valley Center annexation because they have no facilities to provide growth in that area, then the only thing that could be done up here is continued five-acre lots, unabated as far as drainage is concerned, so that is a concern of ours.

Also, a lot of these residents stated that they didn't want water or sewer. We have a development right here called Bear Hill Estates which is similar in characteristics as the Sunnydale area, a little bit smaller lots, but we have other developments going in here probably within the next year, which will be bigger lots. The whole key to this particular issue is that they have found salt water in some of their wells. We project that that salt water is coming from oil wells up here at 101<sup>st</sup> Street and if that continues to spread, these folks may not have a choice of whether or not to stay on their wells or not.

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We do have an agreement with Rural Water District #2, that allows us to go into their district and provide water, and we compensate them for every one that we hook onto their system. So the rural water district is not harmed in any such way. And going back to the fire situation, if Valley Center is allowed to annex this and they have a big fire, guess whose fire hydrant they're going to have to use to get water? Park City's, because the rural water district only has two-inch lines and they cannot take care of fires and we have the only fire hydrants in that area. So in essence, they would be using Park City's services for Sunnysdale, if the fire was great enough.

One of the things I'm sure you're going to hear today from Sunnysdale residents, we've heard it on the news, is their relationship to Valley Center because of the school district, because of the mail and also because of the phone service is all associated with Valley Center. This map shows Park City here in yellow, Sunnysdale, the zip code 67147, which is Valley Center. The gold area is the school district. By that logic, if you use that logic, then all of northern Sedgwick County should be in Valley Center, if you use that logic.

Half of Park City, from about just north of 69<sup>th</sup> Street up to the Sunnysdale area all have Valley Center zip code. They all have the Valley Center exchange and they all go to Valley Center school.

Also, if you look at the Maize school district over here, a large portion of the Maize school district covers the City of Wichita. By that same logic then, that shouldn't be in Wichita, that should be in Maize. Goddard, same situation. Okay, so although that is a nice argument to make, I don't think it holds water in this case, I really don't.

Now that concludes my discussion of that, and I was just handed something and asked to read it to you and I just received it, just before I came up here on the thing. This is a letter from a Marcus Farahani, and he asked me to read it to you and I'll give you a copy of this for your record. It says:

*Dear Commissioner,*

*We own 80 acres north of the Sunnysdale subdivision. Our property is located at the southeast corner of I-135 and 109<sup>th</sup> Street. We are requesting our property to be annexed to the City of Park City but our concern about the future possibilities of this request from Sunnysdale blocks Park City from reaching our property.*

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*We have several reasons to request to be annexed into the City of Park City. One of the reasons that we would like to be annexed is to have city water and sewer available to us. It is our understanding that the local rural water district cannot handle our future development water needs and there is currently no public sewer service.*

*We have done some initial research and not realized that the only municipality able to offer sewer services, as well as water to Park City. The town of Kechi and Valley Center cannot provide these benefits to landowners in our area and this is a benefit I very much would like to have. Please consider my request to have my property annexed to the City of Park City and effect the annexation of Sunnysdale would have on my request. Thank you for your consideration.*

This is for the Board of County Commissioners.”

**Chairman Winters** said, “Okay, Jack. Does that conclude Park City’s remarks then?”

**Mr. Witzsen** said, “Yes. I’d like to say one other thing. I was one of the original incorporators for the City of Park City and I can assure you that the reasons that we incorporated has no relationship to the Sunnysdale folks requesting to be part of Valley Center. They were totally different issues involved in that. And I’ve concluded, Mr. Chairman, if you have any questions.”

**Chairman Winters** said, “All right, thank you. There is a question. Commissioner Sciortino.”

**Commissioner Sciortino** said, “Please put that map up again, where you saw the Sunnysdale area. That’s it. Now you had indicated, in your presentation, that your only growth potential is north and Valley Center annexing this would block your growth. Educate me. It looks to me like there’s a lot of area northeast that you could annex and that wouldn’t block you. Is that not the case?”

**Mr. Witzsen** said, “Well, we have our . . . we invested over \$3,000,000 to put facilities here.”

**Commissioner Sciortino** said, “I understand.”

**Mr. Witzsen** said, “If we had to go over here, then we would have to extend them over here. It would be cheaper to run them up here. However, whether or not we could go east is really contentious, because of Kechi’s feelings. Kechi annexed from here to here in the last four months. They have indicated to us, they are intending to annex up to here and they are aggressively doing so. If you look at the comprehensive plan, and some of their statements, you’ll see readily that they’re proposing to annex all the way to Park City’s city limits all the way up to 85<sup>th</sup> and maybe even north.”

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**Commissioner Sciortino** said, "All right. Now, the question I had that I deferred until your presentation was over, you seem to be abutted up to the Sunnydale area. Why haven't you just . . . I know it's very contentious, but just unilaterally annex the area?"

**Mr. Witzsen** said, "Well, we have known for quite a while in discussions with the Sunnydale folks, or at least some of them, that they really don't want to be a part of any city. They kind of want to be left alone."

**Commissioner Sciortino** said, "I understand that, but there's a lot of cities that . . . we have that all the time with Wichita or any city that exercises unilateral ability. If they ask the citizens did they want to be annexed, the citizens would say no."

**Mr. Witzsen** said, "Park City has a firm belief that in order to go in and unilaterally annex somebody against their wishes, you must have a good public purpose to do that and just gaining tax base is not a good reason to do it. It must make sense. It must have a good public purpose for the city in order to do that. Now we did annex a little bit of this area right in here. We see this as a wall. Okay, if we can't annex through that wall, we're closed off. It might as well be a city, if we don't get through it."

And so what Park City decided to do to get up to the north there where there's developable property was to annex a strip west of Hydraulic and east of I-135 to get through there so that we can get to the developable properties up in this area. For example, this gentleman here owns this property right here and wants our water and sewer, right here, wants our water and sewer. So we really need to get up through there in order to open this land up for development.

Well, unfortunately we have to go through the Sunnydale area, and so knowing the way these folks feel about not being annexed, we had to limit our consideration for this annexation just to a strip, so that we would minimize the impact on the rest of the folks."

**Commissioner Sciortino** said, "Okay, all right, I understand that. So let me understand . . . hear what you said. You're saying that you won't exercise your unilateral annexation powers unless a goodly portion of the citizens of Sunnydale are comfortable with it. Is that correct?"

**Mr. Witson** said, "Right. Or there's some mitigating circumstance."

**Commissioner Sciortino** said, "Oh, okay. Because I thought where I was going with it, if we declined this request from Valley Center, you would let Sunnydale stay as an unincorporated area and my sense is that's what they would really prefer. Is that . . .?"

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**Mr. Witzsen** said, "Well, that's . . . currently, that's the view of the city council and the major is here. I think he could address that issue."

**Commissioner Sciortino** said, "Well, I mean, . . . Okay, so my question just to keep it short, because I know there's a lot of people want to talk, your position is that you won't unilaterally annex an area unless the citizens are comfortable with that annexation."

**Mr. Witzsen** said, "Right."

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

**Mr. Burkwitz**, Mayor, City of Park City, greeted the Commissioners and said, "Simply put, we cannot bind future councils, by law, from unilateral annexation but this current councils intent is not to cause unilateral annexation into Sunnydale. Thank you."

**Commissioner Sciortino** said, "Okay, thank you. That's all I had."

**Chairman Winters** said, "All right, thank you Jack. Thank you, Mayor. Bob, you indicated that there were four citizens that had evidently kind of put those thoughts together. Do you know the names of those people?"

**Mr. Parnacott** said, "Certainly I think Virginia was one and maybe we have them on the front row. If you just want to come up in whatever order you'd like and identify yourself."

**Chairman Winters** said, "If we could have those four that have prepared yourselves and we are going to limit discussion from here on out to five minutes, so have your thoughts in mind and identify yourself, name and address for the record."

**Mr. Dave Schultz**, 1525 Sunnydale Lakes, Valley Center, Ks., greeted the Commissioners and said, "My home is very near 101<sup>st</sup> and Hydraulic. I have three speakers that will be following me and we would ask that if there is any questions, that you ask us after we get done with our remarks."

**Chairman Winters** said, "Okay, all right. Thank you."

**Mr. Schultz** said, "I was amazed, with the last remarks that were made, concerning unilateral annexation up in our area. That has not been what has been going on. We had a number of additions, specifically one called the Bole Addition where all six residents came to city council meetings repeatedly and not once but twice were annexed against their will. I'm astounded, when all six landowners would say 'Please don't annex us' and we go ahead and do it. That's not cooperation."

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I've owned my home for eight years and have been very satisfied living in the county and with the services provided to me by Grant Township, by Sedgwick County, by the rural water district, by the Valley Center school district and the City of Valley Center.

In speaking today, I am speaking for a lot of my neighbors. As was pointed out, there are over 140 property owners and at this point in time 123 of them have asked for this annexation. We could pack this hall. We've got people outside and there are others watching on TV. Ever since the election on November 2<sup>nd</sup>, we have heard the phrase, 'the will of the people' or 'the people have spoken' from the victors of voting.

Often the majorities of the victory were very slim, but still represented the majority. Members of this board were quoted using similar language to describe the vote to build a downtown arena, even though the majority was only 2%, it was defined as 'the will of the people'.

Today, the question before you, our petition, is to be annexed to Valley Center is truly the will of the people. Of 136 property owners in our community, 123 have asked you to approve this annexation. I do hope that our elected government does listen to the will of the people at all times when they speak, and not just when the people are endorsing the plans that government has put forward.

Please remember, our community members know that by asking for this annexation that they are going to pay higher taxes, that they are going to have to abide by the rules of the City of Valley Center, that they cannot change their minds later and de-annex. The overwhelming of our property owners have said, 'This is what we want, this is our will'.

Why have we taken this step? As I've said, I've lived on my property for eight years. Have a number of people who have lived many fewer years and a lot of others that have lived on their properties for generations, creating a lifestyle and family base that they want to continue and pass on.

All of us know that change is coming and that at some point city growth around us is inevitable, but we want a voice in that change, on who will be receiving and spending our tax money, on how the planning is done to the surrounding areas and how those changes will be made. How we will be affected and most certainly, we want to be involved in that process.

We have watched Park City's growth northward and becoming a predatory city. Unilateral annexation allows that city to proceed, without regard to the interest of the affected property owners and the benefit of the annexation does not have to be justified to anyone outside of the city council of that annexing city.

We know today that if you vote against the island annexation by Valley Center, that you are voting for the continued practice of unilateral annexation by cities like Park City and against the will of the

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people. This is not a dispute between two cities, as has been suggested in the media. It is a request from us. We are exercising our rights to ask for this. Your board has the power to uphold our rights.

As the speakers who will follow me will testify, we have discussed, organized and, as a community decided on a plan of action that is best for us, the people, and we ask that you listen, do your jobs as elected representatives of the people and follow the will, please. Thank you.”

**Chairman Winters** said, “Thank you, Mr. Schultz. The next one of your four group, please give your name and address for the record.”

**Ms. Mary Buffo**, 2525 E. 93<sup>rd</sup> Street N., Valley Center, Ks., greeted the Commissioners and said, “In fact, I live two miles west and a half mile south of where Bat Masterson’s family started farming in the mid-1800s. Before he became one of Kansas’ most infamous lawmen, his humble beginnings were in the Sunnydale community.

My children are members of the Sunnydale 4-H Club, one of Sedgwick County’s longest lived, continually active 4-H clubs. I am not here to give you a history lesson, but I am here to make you aware of the rich, agricultural history of this community.

My husband and I chose the area in Valley Center in 1990 and found exactly what we were looking for. In the last 14 years, we have been made to feel a part of this community and, while building a farm-based business, we are giving our children the awesome opportunity of growing up in the country.

I can speak with conviction that our rural freedoms are at the top of our community’s priority list. This renewed community spirit is a result of our frustration and determination to have a say in our destiny. This new chapter in history will tell the story of a community that takes matters into its own hands and all the way to Topeka.

Twice, this community gained the support of the Kansas legislature, no easy task for even the most experienced lobbyists. The Sedgwick County judicial system has even ruled in favor of fair play and has upheld proper legal procedure in favor of our rights. The governor has dumped this county-wide problem back into your laps.

You know what over 90% of us want. It is our request to team up with our long-identified home town. The opposing teams are the political powers that be of Park City. Highway frontage is the focus of this gluttonous development. It is rich in fast food, big business and highway exits. This

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council super-sizes tax abatements like McDonald's does fries. It doesn't seem right that multi-million dollar businesses are paying the same ag tax rate that I and other area farmers are paying on our farm ground. This includes your farm, Commissioner McGinn.

They will try to tell you that the highway is a natural dividing line. This perception is incorrect. The fact is, that highway cuts through Sunnydale. The original Sunnydale community stretched from farms west of Broadway to east of Oliver and from approximately 77<sup>th</sup> North to 109<sup>th</sup> Street. There is no confusion here. This farming community has been alive and thriving for more than 100 years. There are about three miles of farm ground between the Bole Addition and Park City's actual boundaries. This council is in such a hurry to add the 101<sup>st</sup> Street exit to their resume, they must have forgotten about the hundreds of acres of farmland they have in their own backyard, not 50 feet from the city building's backyard.

All of this progressive action is supported by a city council who can't seem to get a local, community, garden effort off the ground even though volunteers stood ready. Trash transfer station, airport, casino, fast food and chain restaurants, businesses relocating from elsewhere for ten more years of tax abatements. This council has said yes to it all. In fact, the only development that we have heard Park City say no to was a new downtown arena, well the downtown arena and the community garden.

Community garden efforts are, to me, what the downtown arena vote was to Commissioner Sciortino. There is no question where I stand. As a member and past board president of the Kansas Grown Farmers' Market, I have actively supported, encouraged and donated to the Plant a Row for the Hungry program.

As a market vendor, I have been growing fresh produce and flowers since 1991. I appreciate the support of our county commission to allow this market to take place in our county Extension parking lot and even more appreciate the fact that Commissioner Norton supports us with his dollars and his presence on several occasions each year.

My passion for small farm issues and knowledge of high-value crops are part of the reason I have been asked to voice the ag concerns on behalf of Sunnydale. There are at least three market farmers in this community, myself included, who depend on high-value crops for additional family income. These enterprises have allowed the parents the opportunity to work from home, provided part-time job experiences for our teenagers and encourages character building that comes from an honest, hard days work.

We use (*unintelligible*) or high tunnels to produce some of the very best of homegrown Kansas. There are already three of these poly-covered structures in our community, with plans for two more in the coming season. In all of north Sedgwick County there are at least a dozen. This county, along

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with the MAPD, need to encourage and protect this rural growth, especially when so strongly supported by its surrounding community.”

**Chairman Winters** said, “Ms. Buffo, how much more do you have?”

**Ms. Buffo** said, “I have just a little bit more, two sentences.”

**Chairman Winters** said, “Okay, if you could just conclude, we’re going to try to limit this to five minutes.”

**Ms. Buffo** said, “Our high tunnels have helped bring thousands of dollars into the Sunnydale area, while additionally providing hundreds of pounds of produce for the hungry. Our children are learning about entrepreneurship and giving back to the community, rather than flipping burgers. It is imperative that the rural residential zoning remains intact in our community so this type of sustainable, ag-cultural growth can take root and thrive.”

**Chairman Winters** said, “All right, thank you very much.”

**Ms. Lynanne DeGarmo**, 1200 Sunnydale Lake Circle, Valley Center, Ks., greeted the Commissioners and said, “My address is why I stand before you today.”

**Chairman Winters** said, “Could you say your name one more time?”

**Ms. DeGarmo** said, “It’s Lynanne DeGarmo, it’s a mouthful I know. I grew up on a farm in Kingman County and my husband Jeff in Stafford County. It is no surprise that we would purchase a home with acreage on which to raise a family.

We asked questions and research the area. What school district is the home located in? U.S.D. 262, Valley Center. What telephone area? Valley Center exchange 755, local calls to Wichita. What town? Sunnydale, with a community building at 101<sup>st</sup> and Hillside, part of the rural, Valley Center area. Country life, dirt roads, no street lights, rural water purchased from Rural Water District #2 and extra acreage to use in the future. In 1988, we purchased our home on eight acres. We have six children, ranging in ages from nine to 23 and a market gardening business my husband started to encourage our childrens’ entrepreneurship skills.

Several years ago, we knew little about annexation laws. All of this changed on January 17<sup>th</sup> of 2003, when more than 30 homeowners in our area received a letter from Park City informing us of a

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resolution to annex our property. Five days later, we received another letter informing us that we had been excluded from the proposed annexation, due to the city not fully understanding the laws regarding what unilateral annexation is.

Annexation starts with the city's comprehensive development plan. On March 15<sup>th</sup> of 1999, the Park City Planning Commission held a meeting on their comprehensive plan. Residents of Sunnysdale very vocally informed Park City at that meeting that they did not wish to be in Park City's future growth area, as we identified with Valley Center. You get that way after using a Valley Center postal address for years. The better question is how can we not identify with Valley Center.

Under unilateral annexation, we have no rights. You receive a letter telling you when to appear for a hearing regarding your property. This is absurd, as you would have not received a letter if they weren't already planning to annex your property. We can't cast votes for these city council positions, but they get to vote on what to do with our property. City dwellers vote on a city council ward representative, a mayor and a Sedgwick County commissioner. Sunnysdale residents cast a vote on a Sedgwick County commissioner. We do vote on township officials, but you and I both know they don't hold any leverage against a League of Municipalities, which backs the cities.

Told by our Commissioner McGinn that unilateral annexation is legal and your hands are tied, we studied the statutes, traveled twice to Topeka to testify on the current annexation laws, showed the map outlining the current Park City city limits. Saw the jaw drop on the League of Municipalities representative when he viewed this map and heard how there are only a few cities in the State of Kansas that are pushing the limits of the law and causing the problems for everyone else.

Under current Kansas Statute 12-520c, you the county commissioners do hold the power on island annexation, which has brought us here today. This power has been used to approve other island annexations in the past. We must point out that city boundary agreements are not required by any state statutes.

The statutes says that an island annexation cannot impede the growth of another city. Where does it say that a city must be allowed to grow using fingerlike projections to eat anything in its path? How many interstate exits must the city be allowed to have? So many that it impedes the growth of any other city from being allowed an exit for growth? Park City is not planning to annex us out of concern for us, but as a tax base and type of exits for future large-scale development. They've pointed that out.

Residents of Park City chose to live in Park City. We did not. We chose to live in rural Valley Center. We shop in Valley Center, ride daily on their streets. We use their library, their rec commission, their swimming pool, we volunteer in their schools. Park City officials have said that we should pay taxes to them, because we use their streets and their stores. Of course that happens,

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but if we use that logic, I'd be in debt to most towns within 60 miles of my home.

Many of us drive daily through Park City, using Interstate 135 to go south. Although Park City feels that they are the guardians of 135, they do not own it. Other highly used area roads used by us in the area have Park City on one side or both, however the roads are still county maintained and owned.

Most of the homes in our area are at least five acres or more and we have a different lifestyle than areas on city-size lots and we would like to keep it that way. Our community in Grant Township has always had one of the highest voter turnouts at election time. It's not surprising that we banded together to have a voice. We followed the Kansas statutes and took over 123 consents for annexation to our hometown of Valley Center. It was our legal right.

Valley Center has agreed to treat us like people instead of as a pawn in a city's green growth agenda. Sound economic development would have you get to know the area that you are encroaching upon. This wasn't done and Sunnydale doesn't want to be held liable for Park City's high-debt dreams.

Almost five years of frustration, if we must be annexed and bear the burden of increased property taxes, please give us a choice in what town we want to be a part of. It will make paying taxes much easier to swallow. You have the power, under statute 1250c to vote yes on this island annexation. We ask that you use that power today. Thank you."

**Chairman Winters** said, "Thank you very much, ma'am."

**Mr. Mark Lenz**, 2100 E. 98<sup>th</sup> Street N., Valley Center, Ks., greeted the Commissioners and said, "Sunnydale landowners and citizens have invested significant amounts of time and money for the opportunity to come before you today.

Valley Center's philosophy and culture and vision are very compatible with ours. Valley Center has offered us exactly the level of city services we need and desire, no more, no less. They've created the special zoning district for areas such as Sunnydale, with codes that exactly match the County's codes. Today is the first time we've heard that offer from Park City. They have agreed to contract with Grant Township for municipal roads and ditches so the township can continue to serve not only our needs, but the needs of county residents outside of Sunnydale.

Sunnydale residents are in complete agreement that we do not ever want to be part of Park City. We don't use their parks or library. We don't need their fire department or schools or they don't even have a post office to offer us. Park City offers absolutely nothing that Sunnydale needs or wants and we constitute no burden on Park City whatsoever.

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This map shows in red the city boundaries of Park City at the time that this petition was first brought to you. Notice three things about this map. First, Park City and Sunnydale are separated by several miles of agriculture . . . mostly agricultural land that offers lots of opportunity for growth for Park City. Second, notice that the population center of Park City and the population center of Valley Center, Valley Center's population center is actually closer to Sunnydale than Park City's is.

Third, notice Park City's jagged and uneven city limits. When I showed this map in Topeka earlier this year, a member of the house local government committee referred to Park City as a jigsaw puzzle. Park City's aggressive and predatory growth is not natural or reasonable. Park City's culture and philosophy and vision are not compatible with ours. We're very concerned about a city council that would support a nice residential development, such as Saddlebrook and then later support the development of a commercial airpark immediately adjacent, with a runway that would take departing aircraft directly over those brand new homes.

We're very concerned about a city council that would file a lawsuit to block this hearing and then stall and delay the lawsuit until they could position themselves to annex a wedge between Sunnydale and Valley Center, then attempt to dismiss the lawsuit and annex in violation of the judge's orders. Park City has been ordered not to discuss these particular annexations at today's hearings, but I feel it's important, as an issue to fully understand the difference between these two cities.

We're very concerned about the casino that Park City is considering. This idea, that changes the entire texture of our whole area, is only a couple of weeks old and was passed on the first blush of simple greed, with almost no thought of the future impact.

The council members and speakers in favor of the casino made it very clear that their thinking and desires and lifestyles certainly do not match our community. We also have very strong economic concerns. According to the most recent data available on citydata.com Park City's median house value is \$64,700. Valley Center's median house value is \$87,800. Sunnydale's median house value is significantly higher than either of these numbers, but naturally we identify more with Valley Center than with Park City.

Several Real Estate agents have assured us that our home values would drop significantly if we were annexed by Park City, but not if we were annexed by Valley Center. Currently, fire protection is provided by Valley Center's fire station on 85<sup>th</sup> Street, less than five and a half miles from our home and the county's station on 53<sup>rd</sup> Street, about eight miles from our home. Since it's closer, Valley Center's fire department has usually been first to arrive in our area when we've had a need. If annexed by Park City, Valley Center would no longer provide fire protection for Sunnydale. Our

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backup protection would come from the county's station in Bel Aire, which is nearly 12 miles from our home.

Finally, I also have to say that we're concerned that some of Park City's former staff and elected officials have recently run afoul of the law. From all we have observed, Park City is just a mess and we don't want to be a part of that mess. We've been carefully considering our options for several years. From all we've seen and experienced, we just don't trust or agree with Park City's council. On the other hand, Valley Center offers us exactly what we need and want and we have found Valley Center's council to be very trustworthy.

This is not about which city should have the right to control a piece of land. This is about whether citizens should have the right to choose who will represent and govern them. I thank you very much."

**Chairman Winters** said, "All right, thank you. I see no questions. All right, that is the four folks that had kind of teamed up. Can I ask for a show of hands of how many others wish to speak this morning? Anybody that wishes to speak? Is there anybody else that wishes to speak? Well, thought maybe a lot might . . . okay, come forward sir. If there's anybody else that wants to speak on this issue, please come to the podium at this time. Come on through. Name and address for the record."

**Mr. William Bole**, 1501 E. 91<sup>st</sup> Street N. Circle, Valley Center, Ks., greeted the Commissioners and said, "I have been forcibly annexed by Park City and we are currently in our second lawsuit against them and I have received my real estate taxes already and they have already put the increase on my taxes of \$1,185. It seems like they are ready to get the money before everything has been legally decided. So, I just want to make that note."

**Chairman Winters** said, "Okay, thank you very much sir. Is there anyone else who would like to address the Board of County Commissioners on this annexation issue? Yes sir, please come forward. Now is there anybody else? If you would, please move to the podium."

**Mr. Randy Jackson**, 2801 E. 101<sup>st</sup> Street N., Valley Center, Ks., greeted the Commissioners and said, "My grandfather purchased the property on which we live in 1954. I've lived there, basically, my entire life other than being gone to college and away at a job for a couple of years. We have loved the country environment. In fact, my grandfather purchased that property so that we could be in the country. It's very disheartening to us, especially those of us who have been in the property for so many years, to have a council who can take action on us without us having any say. Please give us some say in where we are governed and what city we're associated with. Thank you."

**Chairman Winters** said, "All right, thank you sir. Next speaker please come forward, name and address for the record."

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**Mr. Stan Howard**, 1401 Sunnydale, Valley Center, Ks., greeted the Commissioners and said, “I moved to Valley Center in ‘81 to raise a family. Been very happy with the community and all I’d like to say is please consider our request. Thank you.”

**Chairman Winters** said, “All right, thank you sir. Is there anyone else who would like to address . . . Please come forward.”

**Ms. Mary Mayall Hallman**, 11274 N. Hillside, Wichita, Ks., greeted the Commissioners and said, “And I do own property in this area that we’re concerned about with Sunnydale. I still am in the Sunnydale community and I believe I did send you folks an e-mail so you may have access to that. And all I wanted to say this morning was just to thank the people who have spoken here on our behalf and thank you for listening.

I have lived in many different places. I have returned now to the family farm, which goes back over 100 years, at that address of 11274 North Hillside. We’ve always been part of Valley Center. My father graduated from the Valley Center school system, was an attorney in the town of Wichita for many years, and as I say, I just want to say thank you and put my voice, once again, on the record and make sure, if you folks did not get that e-mail, I have copies of it here for you. So, thank you very much.”

**Chairman Winters** said, “Thank you, ma’am. Next speaker.”

**Mr. Calvin Bahr**, 10356 N. Hydraulic, Valley Center, Ks., greeted the Commissioners and said, “And I didn’t intend to speak here today, but I found it amazing that the representative nature that you see out here from the citizens of this community. And then on the reverse side, you’ve got a few council members from a city, with no representation that I know of, of the people there. And people referred before to, you know, the government and this country was based on what the people want, not you know somebody forcing something on you.

I know, you know, strip away the laws and the legislature, I know that they have the power to do this. Annexation is something I don’t know a lot about, but am learning more about, but it just goes against any form of representation, at least the law is that way and I just don’t agree with that. And it just seems to me that, looking at what the people want and all the people here and in the overflow rooms, that that says a lot for what these people want and I’ve graduated from Valley Center. I’ve lived out there for 38 years and I am associated with Valley Center. My kids go to Valley Center. I

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know a lot of people in Valley Center community and that's just who we identify with, as stated before, so just wish you would keep those things in mind as you make your decision."

**Chairman Winters** said, "All right, thank you very much. Is there anyone else who would like to address the commissioners? Yes sir, please come forward. And I was informed that all of the speakers . . . all the people in the courthouse who want to speak are in this room, so we've made sure that everybody is here. Yes, sir. Give your name and address."

**Mr. Darin Valentine**, 1255 E. 101<sup>st</sup> Street N. Court, Valley Center, Ks., greeted the Commissioners and said, "I mean, I'm right there on . . . next to 135 and 101<sup>st</sup> Street. We moved there about five years ago from Valley Center. We lived in Valley Center for seven years, right on Meridian. My kids go to Valley Center. We all love Valley Center as our home. Park City doesn't do anything for us, so I'd just like for you to consider that we do want to be a part of Valley Center. Thank you."

**Chairman Winters** said, "Thank you, sir. Is there anyone else who would like to address the commissioners? We're about to close the public part of the meeting. Is there anyone else who would like to address the commissioners? All right Commissioners, we'll stop our public hearing and this was not an official public hearing, but it is our policy to take citizen comment on issues such as this, and so we'll close that portion of the meeting and limit discussion to staff and bench. Commissioners, we have questions or comments? Commissioner Unruh."

**Commissioner Unruh** said, "Thank you. Where did Mr. Parnacott go?"

**Commissioner Norton** said, "He's coming back around. I visited with him privately for a second, so he'll be right back."

**Commissioner Unruh** said, "So you're making private deals on us?"

**Commissioner Norton** said, "No, I just had some questions I needed . . . my minds a little fuzzy on some of this and I wanted to be sure I got legal advice before I opened my mouth. Mr. Parnacott, I just wanted to explain, or state again, what is the usual rationale for an island annexation? I mean, it has to do with what? I mean, why do we do these?"

**Mr. Parnacott** said, "Well, the legislature . . . and I'm a little foggy on my legislative history on this particular type of annexation, but the legislature did find a need to create this opportunity for cities to annex portions of the unincorporated area that aren't adjacent to them, and what we have seen most frequently, in the annexations, island annexations that you approve, is you have a developer has an area that he wants to develop usually for residential purposes and he needs city services, water, sewer and wants to get them from the city and the city will usually condition providing those

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services upon annexation. If that particular area is not adjacent to a city limit, we did one at 71<sup>st</sup> and Hydraulic, I believe down in Commissioner Norton's district, 45<sup>th</sup> and Oliver in your district before you came on the bench. Some other come to mind. There's some examples down by Mulvane, I think we did a couple of island annexations down there, but again it was where the cities were being required to provide new services, water and sewer. That's the general . . ."

**Commissioner Unruh** said, "Yeah, that helps me. I mean, in previous discussions, it seems like some of the things that I recall is that an area needs services, the residents ask for the annexation, that it's in the growth area of the city that they're asking to annex them, and it seems like that's some of their rationale in trying to understand this issue."

**Mr. Parnacott** said, "Those have certainly been some of the factors that have been present in the other cases but those aren't necessarily required factors under the island annexation statute. It's a fairly bare-boned kind of statute. It doesn't really provide a lot of guidance."

**Commissioner Unruh** said, "Okay, but if this is part of the thinking, this area does not need service and they're not asking for any more service. Is that correct?"

**Mr. Parnacott** said, "The typical kind of infrastructure services, such as water and sewer, that's right. They would be getting the regular municipal services in terms of law enforcement and fire protection, code enforcement, those kinds of typical other municipal services."

**Commissioner Unruh** said, "And the request for annexation really was a defense mechanism, if you will, if I'm understanding these. I mean, the folks don't really want to be annexed by anyone, is that . . .?"

**Mr. Parnacott** said, "I think the residents would have to speak to that question. I don't know if I can really read their minds."

**Commissioner Unruh** said, "Okay. Well, from the testimony that's been given, or the comments that's been given, it seems like that. And then just as a further comment, it seems like Valley Center Mayor Robinson indicated in his remarks that, relative to this, Valley Center did not solicit this request, I think was his terminology. And as a matter of fact, I think he said that Valley Center discouraged this request. So I don't know, those are just important comments to me as to what's going on here. It seems like Valley Center, in a sense, is a bystander in this conflict. It's areas of folks in a certain . . . a group of folks in a certain area who just don't want to be taken into anyone's city limits. So, I don't know, just kind of rambling here in my comments here trying to pare it down, to get right to the base issue. It seems like if there's a better relationship between Park City and this area, we wouldn't be having this problem at all."

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**Mr. Parnacott** said, "But it might help to keep in mind that there's a narrow focus for the board in this matter. You're being asked to make a finding whether or not this proposed annexation will hinder or prevent the proper growth and development of the area, which is kind of a board area, not just the Sunnydale annexation area, but I think you have to look at the rest of the unincorporated area around both cities and around the Sunnydale area or of any other incorporated cities such as Park City. So that's really the focus of your inquiry is whether it's going to hinder or prevent the proper growth and development."

**Commissioner Unruh** said, "So, if I understand what you're telling me then, our decision here, final decision, if we want it to be defensible, it has to be based on that criteria and not on the desires of the residents relative to community identification and those sort of things?"

**Mr. Parnacott** said, "That's the finding. The criteria you use to make that decision is, again, not defined by statute, so I think you could look at a lot of different factors. Community of interest certainly is one that people would like to see happen. How services are going to be provided and whether services are needed to be provided right now. There are several other, I think, factors you can look at and use the evidence presented to help you reach your decision."

**Commissioner Unruh** said, "Okay. That's all I have for right now."

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

**Commissioner McGinn** said, "Thank you, Mr. Chairman. I think I'm going to have some questions for I.D. Creech."

**Chairman Winters** said, "I.D., could you come back to the microphone?"

**Commissioner McGinn** said, "And I think as we have this discussion, maybe that's the map we're using, Kristi could maybe dim down the lights a little bit so we can keep referring back to the map. Okay, thank you. And my questions don't really have to do with the map, but I think we will be using that."

I.D., I have some concern about the Rural Water District #2. Is there enough water to serve those currently, and then any future applicants that need to come on line?"

**Mr. Creech** said, "Based on our contract with City of Wichita, we have plenty of water supply. We supply the water directly to the Rural Water District #2. We are not in any kind of a short need, or

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short providing capacity at this time with the City of Wichita and as a general customer of ours, they get as much water as they want.

We have, in the past three years, provided additional water main up to the area where we supply water to the rural water district, so we have a double feed in that area, to make sure they do get water one way or the other.”

**Commissioner McGinn** said, “How long as Valley Center had that contract? I think it’s in our backup, but maybe you know it off the cuff.”

**Mr. Creech** said, “You’ve asked me a question that was before my time. I’d have to research that.”

**Commissioner McGinn** said, “Bob, do you know? Okay. So it’s been a while. Okay, that they haven’t been just pulling from wells, it’s they’ve been having an agreement with Wichita. So it’s probably back when Valley Center originally made that agreement with Wichita, I would assume. Okay.

I guess, the reason I’m asking a little bit is I have received calls in the last six years about people wanting to get into the groundwater . . . Rural Water District #2 and there seems to have been some challenges and they could not hook up. But what I guess I’m hearing you say, if I live in that area, I can hook up, I guess, as long as I’m close to the pipe. I’ve got to probably pay if there has to be an extension.”

**Mr. Creech** said, “My understanding of the federal law that establishes the rural water district is that the Rural Water District has a defined geographic area and their charge is to provide water service to that area. They receive federal funding for that and I do not know, I’m not an attorney, I cannot give you a legal opinion, but that is my understanding of the charge of a rural water district that’s established under federal law.

Under all of these circumstances, like any other special assessment, there will be a charge to make connect to wherever the mains are. That is not different in Valley Center, Park City, City of Wichita or any place else that provides special assessment connections and that’s exactly the same. They are a quasi-public agency and they have some responsibilities in that regard.”

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**Commissioner McGinn** said, "So you feel pretty confident, if somebody's private well goes dry that if they're in that area, they'd be able to hook up."

**Mr. Creech** said, "I feel fairly confident, yes."

**Commissioner McGinn** said, "Okay. What happens to those that are not in the island annexation? I noticed we had one map that had some white speckles within the island. What happens to those individuals?"

**Mr. Creech** said, "I would say that nothing is going to change for them. The concept that if this area is annexed by the City of Valley Center that somehow some magical change is going to occur that is going to require fewer services for the area is certainly unintended. We provide fire service to that area now based on contract. The fact that they would be in our city limits does not remove the Grant Township area from the contract that we have, so we would still respond to the fire services requirements of the area.

For the police service, we back to the county all over the place now. We would still go in that area. If we're the closest one, I would assume that based on good practices between the agencies to provide law enforcement protection, that we would also answer the calls to the area that is not annexed to the City of Valley Center. We make backup calls now to Mulvane and to the county and to the City of Wichita and to Park City as is, so that effect is probably as transparent as you can get. As far as the code enforcement, we already contract with the Sedgwick County Code Enforcement to do our work on that stuff. That's not going to change, whether they're in the City of Valley Center or still in the unincorporated area. The water service at this time is the same. The sanitary sewer potential that they use is the same. I do not know that we would have any negative impact on those folks that are not part of this thing in any way, shape or form.

We do have a mutual aid agreement with Sedgwick County Fire District so that if we ask them or if they ask us, we all appear at the same fire. It's kind of by invitation on that thing, but we start that way as it goes.

Emergency services for medical emergencies are provided by Sedgwick County in the City of Valley Center, so they would be the same, City of Valley Center on the east side of 135, as if you were in the county on the other side of 135 also."

**Commissioner McGinn** said, "You kind of jumped to my next question, on fire, Mr. Lentz kind of spoke to . . . I got the feeling that Valley Center generally is the first responder in that area. They're usually there first, is that correct? Or do we know?"

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**Mr. Creech** said, "It depends on which one of my firemen you talk to. They will tell you that they are always the first there, no matter what. That is sometimes the case, sometimes it is not the case. It depends on what other calls we're on, but our people do respond to those calls by contract."

**Commissioner McGinn** said, "And those who are not in that island though, they could just petition in at a later time?"

**Mr. Creech** said, "Under the state statute, the city cannot unilaterally annex off an island annexation. What you'd get is the same way as the other people. They come in, by their petition. That's what the request is, is that we take them in. they would have to be the other thing, unless we can get connectivity in some fashion to the big part of the city."

**Commissioner McGinn** said, "Okay. Talk to me a little bit about this road issue. I know Valley Center had an island annexation probably about five or six years ago and I know I took numerous phone calls. It was my understanding that Valley Center was going to work with Grant Township on that and there was a lot of controversy. Tell me how this one might be different."

**Mr. Creech** said, "Are you speaking of Seneca?"

**Commissioner McGinn** said, "Uh-huh, and I know you guys have taken it over now, but early on it was a little rough going."

**Mr. Creech** said, "If you ask me, we got it done. We took on more than what we annexed. We now maintain that road further down. It is our policy. In fact, it is under discussion now. The engineers have been charged with finding the legal boundaries for us to annex roadways adjacent to our cities so we can go through an addressing problem, as Sexton from the county manager's office has been involved in this. We're trying to get a more concise and precise addressing system for the City of Valley Center. To do that, we've been informed that we will annex the roads, so that's what we're working on now."

Roadway annexation is always an interesting thing. We take it on, the road taxes that the county has been collected continue but we get the responsibility and we're willing to do that for the properties, if that's what it takes to get along with people, we think that's what we ought to do."

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**Commissioner McGinn** said, "Okay, so you feel comfortable and I know you weren't here five, six years ago, but you feel comfortable that this situation will be different."

**Mr. Creech** said, "I believe so. We've got the word down that the situation will be different, yes."

**Commissioner McGinn** said, "Okay. That's all I have at this time."

**Chairman Winters** said, "All right, thank you. I have a couple of questions for John Schlegel. John Schlegel, Director of Planning, I've got a document here that you prepared back in September, 2003 talking about doing an analysis of this island annexation. A couple of things that I wanted to visit about are first the Park City growth area and future growth area and it looks to me as if, as the folks from Park City explained it earlier, they've got Kechi on the east which is probably going to grow north, they've got Valley on the west and they've got City of Wichita on the south. Do you have any comments about how you see their growth area and where you think Park City's logical expansion will happen or should happen?"

**Mr. John Schlegel**, Director, Metropolitan Area Planning Department, greeted the Commissioners and said, "The time that we've been dealing with this issue, which has been quite some time, this particular island annexation request was first initiated a year ago. At that particular point in time, it was pretty clear that this was within Park City's projected growth area. Their comprehensive plan at that time and as it remains today clearly indicates that their intent is to grow northward, along that I-135 corridor."

Now what's happening I think is this is becoming a bit of a moving target in that now, I think, based on what some of the testimony that we heard today, I think Valley Center now is looking at this area as a future expansion area. And the more recent copies of the Valley Center comprehensive plan that we've received does show this area as part of what they're projecting as their growth area. But at the time that we did the analysis that you're referring to, Mr. Chairman, this was very clearly the intended growth area of Park City."

**Chairman Winters** said, "Well, it would still appear to me, just as one person looking at a map, that if in the future, and I'm talking 20-25 years, if Park City is going to grow, they have only two options. One is either straight to the north or to bend around Kechi and force Kechi to do something that doesn't seem like it's their intension, so I guess that viewpoint from a year ago is kind of sticking with me."

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The other has to do with the efficient delivery of public services, mainly sewer and water. It would appear to me, and we don't need to go back and find the map, but showed some drainage basins and it showed drainage in this area to the east of I-135 just funneling right down into the Park City area. Do you have comments about efficient use of public services?"

**Mr. Schlegel** said, "I think the drainage patterns in this particular case, because they flow southward toward Park City, would indicate that as far as providing future sewer service, that would be the most efficient way of providing that would be from Park City's system. And they've already made some very expensive infrastructure investments to extend services up to almost immediately adjacent to the Sunnysdale area. I mean, they've made very clear their intent is to provide those type of urban services to this area."

**Chairman Winters** said, "And again, it would appear to me and seem logical that even though the Sunnysdale residents do not need or want additional services now, someday it's going to be an urban enough area that they're going to need community services, sewer and water."

**Mr. Schlegel** said, "And I think that's perhaps the crux of the issue here. I think, from the testimony we're hearing today, it's pretty clear that the Sunnysdale residents are pretty happy with the services that they're getting today and don't feel that they need anything more than what they have. The problem is, if you look out 20 or 30 years into the future and as the metropolitan area continues to expand, that all could change dramatically over that time period. So the question then would be, from where would those services best be provided?"

**Chairman Winters** said, "And it's probably . . . it probably is true that Valley Center could provide those services but could require permanent lift stations, putting new infrastructure in for a pretty good distance."

**Mr. Schlegel** said, "Yeah, without going into a real in depth cost analysis of that, it would seem that the most efficient way to provide those services would be from the south, from Park City."

**Chairman Winters** said, "All right, thank you. Commissioner Unruh."

**Commissioner Unruh** said, "If John, maybe you can answer this before you get away. Just, does it have any impact on our thinking the fact that this proposed annexed area is not entirely contiguous, that there's a couple of . . . it looks like there's holes in the . . . I mean, what does that mean? Why, if they're going to do an island annexation, is it not the whole thing, or do you know?"

**Mr. Schlegel** said, "Well, the holes in the annexation area, my understanding, are property owners that did not want to be part of this annexation. Correct me if I'm wrong. Bob says I'm correct."

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**Commissioner Unruh** said, “Okay, but that, in and of itself, doesn’t have any bearing on what we need to consider right now. The fact that it’s not contiguous and some are in and some are out. I mean, it doesn’t make any difference is what you’re telling me.”

**Mr. Schlegel** said, “No, not in terms of the question that’s before you today, no.”

**Commissioner Unruh** said, “Okay. Well, thank you, that’s all I had. I guess, while I still have the microphone, I guess I just might give an example. The arguments by the citizens about community identification and having been active participants in the Valley Center community are really persuasive and maybe emotional in their content and I really appreciate that.

I would though throw out, just as kind of on the other side of that, there are citizens in our county that we all know. Dewey Sanders, I happened to be talking to Dewey the other day and he says that he lives in northeast Sedgwick County, his closest community is Furley, his address is Valley Center, his phone is in Whitewater, his bank is in Newton, his school district is Remington School District in Butler, he gets his water from the Harvey Rural Water Department and his electricity out of Butler Rural Electric Coop. So, although those are strong arguments of citizens, there are examples of people that are pretty fragmented and are living a very productive, helpful life in our community. But just a little human interest, I guess, is what I’m adding. Dewey Sanders is a great guy.”

**Mr. Parnacott** said, “Can I interject something to follow up on the last question of John. I guess maybe in a more appropriate way to address those white areas are that those people just did not sign consents for annexation. I don’t know that that necessarily says one way or the other what their interest is, but in order for this to be subject to an island annexation, you need the consent of the landowners, so you have essentially 122 or however many different petitions that were signed by different landowners and some people didn’t sign consents.”

**Commissioner Unruh** said, “All right, thank you. I was just curious to me that this is a big important issue and it’s surrounded but then there’s kind of a hole in the middle of the donut there. I don’t know how we move here towards conclusions. I just like to say how my thinking is going right now is that although I understand the community identity, it seems to me that this proposed annexation, in order to get to it, there’s some natural barriers in I-135. It’s not part of the drainage

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basin. It does not seem to be in the natural footprint of the growth pattern of Valley Center and it does seem to be in the natural footprint of the growth pattern of Park City. Those things all lead me to think that this would not be a good thing to be voting in approval of. But the bottom line or what we're charged to decide here, if I understand what our backup material is, is we have to come to the conclusion that the annexation by the City of Valley Center will not hinder the proper growth and development of the area or that of any other incorporated city located within Sedgwick County.

And you know, I'm not making a Motion yet but it seems to me like this definitely is in the way of Park City's growth area and in order for us to approve it, we have to find that it isn't. So for us to be defensible, I think I'm heading towards a point that I can't be in approval of this island annexation."

**Chairman Winters** said, "All right, thank you Commissioner. I think that I would make the comment that I'm following along that same line myself. I think, when you look at the factors of growth issues and future land use, I think this is headed in a path where it looks to me like Park City has a natural growth area, so I think that would be difficult. I think there are issues regarding the efficient delivery of urban services. I think whether that's this year or twenty years from now, I think it's going to be much more efficient and less costly for Park City to provide those services.

I do certainly though listen and hear all of these people that have a sense of community and talk about their connections with the City of Valley Center and I respect that, but again I think, as you said, I think there are eight school districts represented in the City of Wichita and certainly where one chooses to shop and go to school I don't think should be the driving force on the proper zoning or proper growth issues for cities and communities.

I'm sorry, I didn't see whose light was on first. All right, you guys decide."

**Commissioner McGinn** said, "Why don't I go first. Thank you, Mr. Chairman. I guess, the first thing I'd like to share, I've got a number of things I'd like to talk about here today. I've been so looking forward to this since I believe it was January 17<sup>th</sup> 2003 is when. De'Garmo reminds me of that time. This has certainly been probably the most agonizing case that I've ever had to sit before in the six years as a county commissioner, and throwing in that has to do with transfer station cases and talking about landfills and all those wonderful things too. This has got to be tops for me. And it has also been a frustrating time because many of my constituents feel very passionate about this and have wanted me to share exactly how I feel about this issue and where I'm at, on a day to day basis, over the last year to 18 months.

And I've had to share that I could not . . . I had to be very careful about how I spoke on this issue because the rumor was that we would have an island annexation case come before us and we have to

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sit as judges and listen to all the information before we make a decision and I've had many constituents who have been very unhappy with me about that.

I did that because I didn't want to disqualify myself from the bench and I tried to explain that to them. Many understood but many did not, so here we are today, in November, and the case has finally come before us and I would like to now share many of my thoughts, much of which has been a culmination over things that have transpired here in the last 18 months. So I continue to gather information, continue to think through the whole process and how I was going to rule and so here we are today.

First off, I want to thank the City of Park City. Jack Witzsen had talked about how they said that they really wanted to work through this process that we put together with the Planning Department and getting cities to work together and try to figure out their growth areas. And we're going to continue to need to do that, and I compliment our planning director, as well as Commissioner Unruh, who took the lead on this, for putting this process forward. I think, at the time that this process developed, we probably were getting to a stage where it was too late for people to come to the table, so I'm still in hopes that this process will help us on future growth.

And I appreciate Park City's vision, the council has had, their city has had, their economy, the things that you've added to the north part of Sedgwick County and generated many amenities for everybody, jobs, and I appreciate the vision that you've had and many of the things you've done in your core city that has enhanced its beauty.

I want to talk just a little bit about good planning. We're going to continue to talk about good planning here today, but you know annexation laws were originally formed to allow cities, when they have the unilateral annexation, to shore up corners, to take in new development that's adjacent to them, so that's why cities have had the freedom to have unilateral annexation, because it was part of or designed to be about good planning and the county is not allowed to be a part of that process at all. But we do get to be a part of island annexations, which sometimes are done for municipal utility reasons, but other times they've done for situations that we're seeing here today, a contentious island annexation and today we're expected to decide good planning, but we did not get to be a part of the process before the train wreck.

I find that to be very ironic with the state laws that we have today. Kansas has some of the most liberal annexation laws in the nation. I think that is something that needs to be noted and I think that is something that perhaps needs to be changed and I'll speak to that in just a little bit.

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Commissioners, I am probably not going to go down the path that I'm starting to hear you talk about and I'd like to share my reasons. When you look at the map, it would be easy probably for a fourth-grader to sit down and draw things on the map and say what's good planning and figure that out. But I don't think it's always about what a map perhaps looks like. I think there's other factors involved.

I look at the Sunnydale area and you know, never dreamed that it would be part of a city for many, many years. And so, if I could make a motion that we would put a moratorium today on this whole process, that would be my first desire is for the Sunnydale area to not even be incorporated at all in a city because when you also look at the map, they're not even close to the core parts of the city. It doesn't make sense, to me, for them to be in a city.

I'm going to support Valley Center's annexation because I believe that area of the county should stay unincorporated, because of its distance from urban development and because of its rural character. Some have complained about five-acre lots being in the county. Well, that's what we have in the county is five-acre lots. People are allowed to do that. It has since changed to 20-acre lots but at the time, we had five-acre lots and we have a lot of five-acre lots in the county. And that's meant to be part of rural development.

We have . . . we talk about the will of the people, 127 out of 147 people, I think that's a factor that we should consider. This is a community that says we're part of another community. If I'm going to err today, I guess I'm going to err on the side of personal property rights. I think they're important. I think belonging to a community, a sense of community is very important. I'm having a hard time seeing the benefits of becoming Park City.

When I look at this area it's very unique because they already have their own water. The sewer I don't see to be a problem, because the county has now passed resolutions to allow alternative sewer systems. In just a few short weeks, I hope that we're going to see the community sewer system. So I see that the sewage problem doesn't necessarily have to be taken care of by pumping through a big pipe.

Again, I said we have neighborhoods in common. When we talked about redistricting our commission districts, one of the factors that comes into play has to do with neighborhoods in common and that weighed heavily on our decisions when we were drawing the lines. And I think that that is something that should also be part of this, neighborhoods in common, cohesiveness, the current character and five-acre lots.

I do have some concerns with Park City's planning and it's . . . we're talking about where people live and what I'm hearing is I'm hearing about airports and then I'm hearing about casinos and then

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I hear that contracts are . . . contractual lines are valid and should be upheld in the court of law and then the next day hear that nobody believes in them anyway. So I'm frustrated because of some of those inconsistencies and so I'm back to I think that we need to be consistent with what we're currently seeing in our area and Sunnydale seems to be consistent with being with Valley Center, although again if I had the powers, I would say we wouldn't annex it at all, and leave it in the unincorporated area.

I'm going to stop right there and listen to final comments from all of you and then I'll go from there."

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

**Commissioner Norton** said, "Well, personally I'm saddened that at some point we tried to bring people of good will and elected officials together to describe their best outcomes and we couldn't come to any conclusions that wouldn't bring us into the fray.

Personally, I think nothing will fix the hodgepodge that has become the north side. From Maize to the far east part of our county, I think it's, over the last five years, what is allowed to be called planning has put us in a very compromising position and it is sad that we have allowed that to happen.

I know Commissioner Unruh tried to champion putting all cities, small cities, elected officials, planning commissions in the same room and to come up with what is described as best practices in planning and yet we've allowed something like this to happen. There's going to be winners and losers and you know what, in this community we call Sedgwick County, that is very sad that we have to make decisions where somebody pounds on their chest and says, 'We won' and somebody else walks away feeling diminished like they lost, and it saddens me to even have to be part of this decision-making process.

It strikes me as very similar to a situation I had when I was mayor of Haysville. When the City of Wichita wanted to annex Oatville, Prospect Park and Valleyview south of the airport. Those individuals came to me. I went to several meetings and they wanted to petition Haysville as an island annexation, because you know what, Oatville has it's own school and it's part of Haysville school district, and everybody in that area identified with Oatville school and then the Haysville Middle School and Campus High School. But the truth is, they were too far away. It was a stretch for Haysville to take in that community. They touched Wichita and ultimately were annexed by

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Wichita. Life went on. They still live in the same place. I don't think they're happy. I think there are some ill feelings, but the truth is it just did not make sense in the long run.

And I've got to tell you, if I had my way today, we'd put a moratorium on this. We'd stop anybody from taking Sunnydale community, because they are a community that has grown close in their own right. We would allow a look at some of the policies, not particularly on annexation at the state level, but on improvement districts, that would allow them some insulation until the natural growth and the fill in growth of both of those communities made sense. It doesn't make sense to leap Valley Center out to that area. But just as quickly, it doesn't make sense to keep adding small parcels of land to make one long lifeline up to that area, just to go along the interstate. Neither one of those makes sense to me and I don't know exactly if it makes sense to anybody else.

Today, I would probably, if I had to vote, would vote to deny because I think it just does not make sense to leap that far to take an island annexation, even though a community is passionate about it because of their address, because of their connection with the school.

But I would also charge Park City to do the right thing and not, at one point, annex any of this land. I don't care if it is touching. It does not make sense, that far away from your core business district, to annex. It makes sense to me that that community would want to become an improvement district, have some insulation. That's not allowed by state statute. That's one of the things I was talking to Bob about out in the hall.

At this point, I would probably vote to deny. I know Carolyn has a passion for this. She and I have talked several times. At this point, I'll vote to deny but I don't think it is good policy at this point for Park City to have any designs on any of that area. It just does not make sense to me. That's all I had, Mr. Chair."

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

**Commissioner Sciortino** said, "I think I'm enjoying myself today about as much as a person would have having a tooth pulled without the benefit of Novocain. Emotionally, I want to support this annexation request, if nothing else just as a protest vote to maybe bring into clear focus, at the state level, that we need some legislation that will eliminate this kind of a mess that is . . . I know, when John Schlegel first came and he looked at this, you know, it's a jigsaw puzzle with 17 pieces and that is not proper planning. Right now, like giving a lot of credit to Commissioner Unruh, he tried to get people in a room, but there was no authority. It had to be something cities voluntarily agreed to do, and I don't know for sure at this particular time that the communication between Valley Center and Park City is very good.

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I also believe what I heard from Valley Center officials, that they kind of got reluctantly pulled into this. I don't believe for a minute that Valley Center officials were in cahoots with the Sunnydale people and trying to purposely get this island annexation. I believe completely that the 127 people signed the petition and that kind of forced Valley Center to take action.

I heard Mayor Berquist say that they, right now, the sitting council does not nor will not annex any property unless it has the support of the people being annexed. I am very reticent to not take a person at his word, unless I have good facts. I'm very careful before I call somebody a liar. Maybe it's because of my size, but I'm trying to get some levity into this, but this is really painful to us.

And I don't know for sure if I'm going to know until it comes my turn to vote, because emotionally I want to send a message to Topeka that says, 'Hey, we need help in fixing this'. We need some sensible legislation that can give us some guidelines on what to do, albeit expand the improvement district capabilities or what have you.

Now conversely, I don't think it's reasonable for the citizens of Sunnydale to think they can have their cake and eat it too and we want all the benefits of a city, but we don't really want to be taxed. Well, they're going into Valley Center with the understanding that everything pretty well will stay the same for them and they don't have to hook up to public sewers or hook up to public water and they can be kind of the area they always were.

So I don't know where I'm at yet and I don't think I'm going to know for sure how I'm going to vote until it comes time for the Clerk to call my name. There is a lot of logic about the fact that this is pretty much the Park City growth area, but if Park City has already stated they're not going to annex it unless the people want it and I've got a feeling, unless a lot of new people buy the homes in that area presently there, you're not going to want it, then I don't see how it changes any difference about their growth area, if they don't have any intension to annex it without permission of the people. So that's where I'm at right now."

**Chairman Winters** said, "Right, well let me just make one clarification, because I don't think Park City was here and made any indications about the long-term future of this. I would agree with Commissioner Norton. I would hope that they would not annex this area until the right time, but they made no commitments about long term. The mayor was clear that they couldn't bind future commissions, and so I share the view that you and Commissioner Norton had, but I don't think anybody should walk away from here thinking that Park City has made some kind of deal."

**Commissioner Sciortino** said, "No, but I mean, I did hear from the mayor that as long as he and the present sitting council is on board, they're not going to . . ."

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**Chairman Winters** said, "Right, I heard Mr. Witzsen said they had no intentions to do that and so I'm just going to take him at that word, but that's certainly not a lockdown, forever and ever. Commissioner Unruh."

**Commissioner Unruh** said, "Thank you, Mr. Chairman. Yeah, on that particular issue, I think Mayor Burkquist also said that this council had no intension of doing that and then he added on that future councils cannot be bound. So on an emotional level, I would want to vote for the Sunnydale folks. I think what we are required to do by law is to decide whether this island annexation would hinder the growth and development of a community and that's where I'm going to end up voting on this.

I think the Sunnydale citizens have definitely shown an organization and a willingness to be involved and I think that the Park City council should . . . I think the ball is in their court to make sure that there is some resolution and some beginning of development of harmony between these groups of people. The Park City city council and the city manager, the mayor and all are going to have to be proactive and let these folks know that you want to work in community with them and that you want to try, as much as possible, to give in to whatever their will for their future is. And so, in any way that we could admonish Park City government to do that, well that would be my position.

Sunnydale, it's obvious that they care and that they're willing to enter into conversations, they're willing to work. But that being said, Mr. Chairman, are we ready for a Motion?"

### MOTION

Commissioner Unruh moved that this board adopt the findings and conclusions contained in the Metropolitan Area Planning Department's report in case number DR03-24, that the Board find and determine that the proposed annexation will hinder or prevent the proper growth and development of the area or of any other incorporated city in Sedgwick County and direct the County Counselor to prepare an appropriate resolution, to be placed on the next available consent agenda for adoption.

**Chairman Winters** said, "For clarification, that's a Motion to deny Valley Center's request?"

**Commissioner Unruh** said, "That's correct."

**Chairman Winters** said, "Is there a second?"

Chairman Winters seconded the motion.

**Chairman Winters** said, "Is there discussion on this motion? Commissioner McGinn."

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**Commissioner McGinn** said, "Just a comment. I was prepared to make a Motion to approve."

**Chairman Winters** said, "You can make a substitute Motion to see if it gets a second."

**Commissioner McGinn** said, "For the record, but you know, I'm starting to see there's lead balloons around me, so I think we could vote it one way or another, unless there's any reason to have a Motion to approve on record, Bob."

**Mr. Parnacott** said, "Well, if you do . . . if the Motion to deny the annexation fails, in order to finish the case, you would need to see about a Motion to approve. If there was no follow up Motion, then that would in fact be a denial, because you were not providing the necessary finding they're going to need to finish the annexation. Does that make sense?"

**Commissioner McGinn** said, "No."

**Commissioner Sciortino** said, "Well, you said if the Motion to deny fails, then there has to be a Motion to approve to bring it to conclusion."

**Mr. Parnacott** said, "There should be a follow-up Motion in the affirmative to approve, or to make a finding that it will not hinder or prevent the proper growth and development of the area."

**Commissioner McGinn** said, "But for the record, to have a Motion for approval, is it appropriate to have the reasons for approval?"

**Mr. Parnacott** said, "I think it would be appropriate to indicate your reasons for making the Motion or for support of that Motion to approve."

**Commissioner McGinn** said, "So, should we do that as a . . .?"

**Chairman Winters** said, "Well, does she actually need to do that in the form of a Motion, or can she just state the facts as she sees them?"

**Mr. Parnacott** said, "I think you will need either a substitute Motion or wait for this Motion to be voted on and then a new Motion to that affect."

**Chairman Winters** said, "If you want your comments in there, you probably need to make a substitute Motion and see what happens to it, I'd suggest."

**Commissioner McGinn** said, "I would move to approve the island annexation."

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**Commissioner Sciortino** said, "I will second for discussion."

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

**Commissioner McGinn** said, "Would you like the Motion or the discussion?"

**Chairman Winters** said, "Commissioner Norton, you've got you light on?"

**Commissioner Norton** said, "I'll defer."

**SUBSTITUTE MOTION**

Commissioner McGinn moved that the board find and determine that the proposed annexation will not hinder or prevent the proper growth and development of the area or of any other incorporated city of Sedgwick County and direct the County Counselor to prepared an appropriate resolution to be placed on the next available consent agenda for adoption. Reasons: Valley Center has shown the it is able to economically provide the municipal services required by the area, such as police, fire protection and similar services, there is a minimal affect of the proposed annexation on township road services and rural water district services. There is not a likelihood of significant growth in the area and adjacent areas during the next five years and there is a minimal affect on utilities providing services to the area and the ability of those utilities to provide those services.

Commissioner Sciortino seconded the motion.

**Chairman Winters** said, "All right, do we have discussion about this Motion?"

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**Commissioner Sciortino** said, "Yeah, I want to ask the attorney."

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

**Commissioner Sciortino** said, "I'd like to ask the counselor an opinion. Can a . . . do we have to limit our reasons? I mean, if we're 100% convinced that this really will curtail Park City's normal growth pattern, we have to vote against it. Is that right? Or is that a correct statement or if we're not really clear . . . are the reasons that Carolyn gave sufficient reasons to vote for the annexation?"

**Mr. Parnacott** said, "Is that question directed to me or to Mr. Euson?"

**Commissioner Sciortino** said, "I'm directing it to some attorney that knows something about the law."

**Mr. Parnacott** said, "I'm not sure which one of us wants to take that particular . . ."

**Commissioner Sciortino** said, "Richard, I'll ask you."

**Mr. Euson** said, "Yes, I think so."

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

**Chairman Winters** said, "All right. Commissioner Norton, do you have comments now or you want to see . . .?"

**Commissioner Norton** said, "No, I'll wait."

**Chairman Winters** said, "Commissioner McGinn, you have any other comments?"

**Commissioner McGinn** said, "Just follow up comments that I said earlier. You know, we're supposed to be here deciding proper planning. I see inconsistent growth coming up into the Sunnydale area. When we talk about annexation, we're talking about services. They already have water. They're going to continue to have sewer services. The road issue, evidently, has been resolved. And again, I just . . . you may say that this is not proper planning, but neither is what may be the next step. Thank you."

**Chairman Winters** said, "All right, we have a Motion on the floor. Commissioner Sciortino."

**Commissioner Sciortino** said, "I have one more question. I don't want to play games, Mr.

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Counselor. I want to vote for this, but I wanted it to be a protest vote to let the legislature know how I feel about the fact that we desperately need some help from them. Is that sufficient grounds to vote for this annexation?"

**Mr. Euson** said, "No sir. Your charge is to make a finding, one way or another, and the finding is either that the proposed annexation will hinder or prevent proper growth or that it will not hinder or prevent the proper growth. And the reasons should be similar to those given by Commissioner McGinn, for instance."

**Commissioner Sciortino** said, "Thank you. All right, we have a substitute Motion that would approve Valley Center's request to annex the Sunnydale area. Does everyone understand . . . Commissioner Norton."

**Commissioner Norton** said, "Mr. Counselor, is there any ability to say that it hinders both communities, on record? Because I believe it does. I believe it hinders Park City, but I believe it will hinder Valley Center's logical growth pattern, as they go north and east. To me, it goes both ways. I mean, I think the pendulum swings depending on which side of the interstate you sit on, but it hinders both sides.

We've been put in a position that would hinder two communities at the same time. I don't know how you answer this question. Is there any basis in law that our finding could be that it hinders both communities and that we find that this petition is null and void for both communities? Because I believe that's what this is."

**Commissioner Sciortino** said, "Well, there's only one community in front of us right now."

**Commissioner Norton** said, "I know."

**Chairman Winters** said, "Well, I think I would disagree with that logic a little bit and I think, to me, the unilateral annexation question is what answers that, and I know that we don't like to see a lot of unilateral annexation away from the core of a city, but somebody is legitimately going to have . . . some city is going to have a legitimate opportunity to annex this area some day and my best guess is that they will be annexed some time.

Now what, unilaterally, cities can do in this case, I think that's what they should be allowed to do, and if you can't do it, then you can't do it. If you can, then the city can make a decision to

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grow, and that's why I'm not in favor of counties getting involved in the discussion with the legislature and other about annexation, because I think that's what cities are supposed to do. They're supposed to figure out what it is that's best for their city, and if the citizens don't like what their elected officials are doing, they get them some new ones. And so I think we've got to just let the process continue to develop. Commissioner McGinn."

**Commissioner McGinn** said, "Just a clarification and I think . . . I want to have continued discussion after this vote, but clarification is, is that the people that are getting annexed have no representation. They have a commissioner whose hands are tied and cannot even intervene in this process. And so, yeah, they get to vote after the fact, but they don't get to vote for those people to lead in the meantime."

**Chairman Winters** said, "But if the legislature or others would pass legislation, state statute, saying that the only way that a city could annex a property is by consent, no city would ever be able to annex any piece of property, and I don't think that's a place to put cities in that kind of position."

**Commissioner McGinn** said, "And I respectfully agree with that. I just think that there are other things that can be done, and again I would like to address this after the fact, but that can be done so that people can somehow be part of that process. If you're going to sit here and put this on the county commission to have to make a decision like this today, then we need to be a part of the process before the wreck occurs."

**Chairman Winters** said, "I wouldn't disagree with that."

**Mr. Parnacott** said, "Commissioner Norton, did you want a response to your question, or have we lost that train of thought?"

**Commissioner Norton** said, "I don't know if I've moved on or not. I just . . ."

**Mr. Parnacott** said, "Well, strictly speaking, there are two prongs to the inquiry. You have an issue . . . I'm sorry."

**Mr. Euson** said, "I didn't answer it, but I guess I think the answer is that if you find it hinders and prevents proper growth in both cities, then you found it hinders and prevents proper growth of one of those cities and that's all that's required of you in the statute, and then I think you have to deny it. Did that answer your question?"

**Commissioner Norton** said, "As much as my question could be answered."

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**Chairman Winters** said, “All right, we have a substitute Motion, which is to approve Valley Center’s request to annex this area. Commissioners, are you clear on the Motion and ready to vote? Madam Clerk, call the roll.”

**VOTE**

Commissioner Unruh	No
Commissioner Norton	No
Commissioner McGinn	Aye
Commissioner Sciortino	No
Chairman Winters	No

**Chairman Winters** said, “All right, that Motion fails and we’re back to the original Motion. Are there questions or comments about the original Motion? And this original Motion would be to deny the request of Valley Center to annex this property. Anyone have questions or comments? A vote yes for this Motion means that Valley Center would be denied. Madam Clerk, would you call the roll.”

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	No
Commissioner McGinn	No

**Commissioner Sciortino** said, “No, wait a minute, wait a minute, excuse me. I know this is . . . what does ‘yes’ mean and what does ‘no’ mean? Yes means we deny.”

**Chairman Winters** said, “That’s correct.”

**Commissioner Sciortino** said, “And you voted no, but you voted also to deny the motion to approve?”

**Commissioner Norton** said, “Absolutely, and that’s what I’ve been stating all along. There’s no good answer to this and I voted my conscience.”

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**Commissioner Sciortino** said, “Okay, wait a minute. What happens if this . . .”

**Chairman Winters** said, “I have a point of order. How can we . . . can we have discussion in the process of a voting process?”

**Commissioner Sciortino** said, “That’s right, you probably can’t.”

**Mr. Euson** said, “You have closed discussion.”

**Chairman Winters** said, “All right. Take a couple of minutes if you need.”

Commissioner Sciortino	Aye
Chairman Winters	Aye

**Chairman Winters** said, “That Motion passes, which is the Motion that the request of Valley Center has been denied and based on the discussion that we had today. Commissioners, are there other comments before we break for a short recess. All right, we’re going to . . . I’m sorry.”

**Commissioner McGinn** said, “Thank you, because I think we are going to recess.”

**Chairman Winters** said, “Yes, we are going to recess, so we can get ready for the next agenda item.”

**Commissioner McGinn** said, “I’d just like to make some final comments before people leave the room. You know, I’ve watched this in the last six years, as a commissioner. There has been, since you referred to the Oatville case, an aggressive annexation philosophy in Sedgwick County, unfortunately. And what is happening, because of one large city who has gone out to take as much as they can around them, and to some extent going past the laws of why I think you ought to have unilateral annexation, it has caused our second and third class cities to have to be in a defense mode. And so I think, because of the result of that, now we’re seeing those cities go out and we’re having land grabs and this is not what unilateral annexation is all about.

What we’re seeing in Sedgwick County is not good planning and I think these laws need to be changed and I’ll take the privilege of sharing that I intend to go to Topeka and work on this issue and I think it’s because we need to have a better notification process, people not just getting a letter in the mail and expected to understand that whole process and know how to get themselves grouped to go fight the process. I think as comprehensive plans are updated, I think people in the surrounding area and growth area should be informed properly. I think that there’s something wrong about people who get annexed and are not represented by the people who do the annexation. They can’t vote for them, so something’s not right about that.

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Those that they can vote for can't intervene until we get to what we had to do today. Unilateral annexation was created to allow proper growth of a city, to shore up lines to take in adjacent new development, not to follow highways and corridors to get to some ultimate place. There's too many gaps in the map that we saw today, from both cities, and that's not proper planning. And so, I appreciate your comment about giving more power to improvement districts, perhaps to get them to at least group together, stabilize until we can see the proper growth when that gets there at some time.

So, Mr. Chairman, thank you for allowing me to make those comments. I have learned a lot in the six years about annexation. This is the worst abuse of annexation that I've ever seen in Sedgwick County and I think others across the state, as I heard today, those who went and testified and talked to other people in the legislature about this, have never seen anything like this. So, something is wrong and something needs to change. Thank you."

**Chairman Winters** said, "All right, thank you. We are going to recess until 12:30, where we'll commence the next zoning case, 12:30."

**The County Commission meeting was recessed from 12:11 p.m. until 12:25 p.m.**

**Chairman Winters** said, "I'll call the meeting back to order, Regular Meeting of Sedgwick County Board of County Commissioners, November 17<sup>th</sup>. Madam Clerk, would you call the next item."

### **PLANNING DEPARTMENT**

**G. CASE NUMBER CON2004-00032 – CONDITIONAL USE FOR SAND EXTRACTION, GENERALLY LOCATED NORTHEAST OF RIDGE ROAD AND 77<sup>TH</sup> STREET NORTH. DISTRICT #4.**

### **POWERPOINT PRESENTATION**

**Mr. Schlegel** said, "This 146-acre tract of farmland is currently zoned Rural Residential and is unplatted. The applicant is proposing to extract the sand from the site, leaving then a 108-acre lake once that sand extraction operation . . ."

**Chairman Winters** said, "Excuse me just a minute, John. Kathy, would you go let the attorneys know that we're starting early. Let's hold on just a second. We're going to wait just for a moment until our attorney returns to the room. Is Mr. Euson on his way?"

**Ms. Kathy Sexton**, Assistant County Manager, said, "He's on his way. Do you have a question for him right now?"

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**Chairman Winters** said, “No, we don’t. I just want him to hear the discussion, Rich Euson or Bob Parnacott. All right, we’ve got one attorney, that’s good enough. John, go ahead and start.”

**Mr. Schlegel** said, “Okay, as I said, this 146-acre tract, currently un-platted, is being proposed for a sand extraction operation and it will leave, when they’re done, it will leave behind a 108-acre lake. We intend to place the sand plant and material stockpile area up in the northwest corner of the site. You can see that on the site plan that’s before you.

And access to the site would be from Ridge Road into that northwest corner. The proposed setbacks are from the property line to the excavation area would vary from 50 feet to 250 feet. The applicant’s redevelopment plan you can see before you now. It would leave 28 single-family residential lots along the south and the west sides of the lake, once the excavation was ended.

Surrounding properties are all zoned Rural Residential. The land to the north is farmland. There are a cluster of homes off to the east, along a private road, 63<sup>rd</sup> Street. There are two existing homes located immediately to the southwest of the application area, right at the corner of 77<sup>th</sup> and Ridge Road and the property to the west is farmland and then further up along Ridge Road, to the northwest, there’s another group of homes.

This request was heard by the Valley Center Planning Commission at their September 28<sup>th</sup> meeting and after hearing a number of comments from ten nearby residents, the Valley Center Planning Commission recommended, by a vote of 5 to 1, to deny the request. The residents who spoke at that planning commission meeting expressed concerns about the increased truck traffic on Ridge Road, road safety and maintenance issues. They brought up potential negative impacts on groundwater, increased blowing dust and the impact of dust on the health of nearby residents. Negative, potential negative impacts on drainage in the area and increased noise from truck traffic and also from the pumping operation. In addition, they brought up their fears of a potential loss in property values as a result of this operation.

The item was then heard on October 7<sup>th</sup> by the Metropolitan Area Planning Commission. At that meeting, 11 property owners spoke in opposition, citing very similar types of concerns that were cited before the Valley Center Planning Commission. The MAPC vote for approval was 5 to 4, subject to the conditions that are outlined in your backup report. We have received protest petitions representing about 48% of the area within the 1,000 foot notification area.

The Valley Center Planning Commission’s recommendation for denial triggers a need for unanimous vote by you as a board in order to approve the request. A two-thirds majority vote is

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required to override the recommendation of the MAPC and I'd like to just correct, for the record, the notation under alternatives on page 171 of your backup indicates, in parenthesis, that a simple majority is needed to deny the request, but in fact a two-thirds majority is needed.

In addition, on Friday the applicant made a request to us for deferral of this item either for 60 days or indefinitely and their preference is to hold it indefinitely and their intention in asking for the deferral is to allow them time to meet with Public Works Department regarding improvements to Ridge Road. And with that, I'll be glad to take any questions."

**Chairman Winters** said, "All right, do you have any other slides before we move away from that, that would be helpful to view?"

**Mr. Schlegel** said, "This is the protest petition map, showing the properties that have submitted protest petitions and then just a number of photographs to show . . . this is looking east on the site, again a photograph of the site, looking west of 77<sup>th</sup> Street, looking in the other direction on 77<sup>th</sup>. This is the area south of the application site. Just to give you a general field for that area . . ."

**Chairman Winters** said, "Could you go back to the slide that shows where the protest petitions are. That one. I think Commissioner Sciortino has a question."

**Commissioner Sciortino** said, "Yeah, John, could you tell me what percentage of the total protest that one piece of property just directly south of the proposed site would be? That looks like a rather large tract of land."

**Mr. Schlegel** said, "Just eyeballing it, I'd say 15 to 20% of the total area."

**Commissioner Sciortino** said, "No, I mean of the percentage of property . . . you're saying that's only 20% of the total property area that are protesting?"

**Mr. Schlegel** said, "No, of the 1,000 foot notification area, that represents probably, just eyeballing it, about 15 to 20%. Now is your question then of the protest properties, what percentage would it be and I'd have to say probably about 40%."

**Commissioner McGinn** said, "Well, it says 47.87%."

**Chairman Winters** said, "That's the total red."

**Commissioner Sciortino** said, "So they represent about 50% of the property that is being protested. If they're 20% of the total, and there's 47%, about half of the . . . okay, thanks."

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**Mr. Schlegel** said, "Roughly, yes."

**Chairman Winters** said, "Okay, thank you. Commissioner McGinn. I'm sorry, I must have flipped it on. All right, is that all at this time, John?"

**Mr. Schlegel** said, "That's all that I had."

**Chairman Winters** said, "All right. Well, I think we did receive an inquiry about a deferral on this and one of the issues that I think a number of us talked about is we knew that there were going to be a number of people that were going to attend who wanted to address the Commissioners. Probably some have even taken off work and there was not adequate time to notify them to tell them of any deferrals, so it would be my desire that we go ahead and hear the people that are here today and then if we want to take up a deferral issue, we take that up. But I think we owe it to the citizens who have made an attempt to be here today to express their issues the opportunity to do that. Commissioner McGinn."

**Commissioner McGinn** said, "And so they know that this is their opportunity to be on the written record."

**Chairman Winters** said, "That's right, and I think all of the citizens have come today knowing that this was the day we were going to take this issue up and I think we need to proceed and then see what develops. Commissioners, is that acceptable?"

**Commissioner Sciortino** said, "You're not going to listen to the applicant?"

**Chairman Winters** said, "Yeah, I'm going to listen to the applicant first, if they would like to make a comment or statement, would like for the applicant to come forward and make a comment, statement, address the Commission and then we'll open it up for other citizens who have come today."

**Mr. Chuck Hill**, agent, Quik Sand Incorporated, greeted the Commissioners and said, "In the past 12 months, Quik Sand has sold over 918,000 tons of sand, almost a million tons of sand. That sand is used in Sedgwick County in the production of asphalt, concrete for paving of streets and highways, for parking lots, driveways, basements and foundations for new homes in Sedgwick County.

To produce 50,000 tons of sand requires one acre of sand extraction to the average depth of 30 feet, and that's the average we get in this area. Nine hundred thousand tons of sand, which is what we sell every year, requires 18 acres of land committed to sand extraction. That's just the simple math of the issue, and as you know we're not the only producer in Sedgwick County. We would estimate

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that Sedgwick County produces and utilizes somewhere in the vicinity of three and a half million tons of sand per year for construction purposes. That calculates to about 70 acres of land every year within the county that has to be committed to mining for sand each and every year, over and over and over again into the future.

Now we know that in the near future this market demand is going to be increased by one single project, which is the rail corridor project through downtown Wichita that will require 800,000 tons of sand for filling in of the supports to elevate the tracks over the streets in downtown Wichita. That's 16 acres of land that has to be mined for sand for one single project in the City of Wichita, so hopefully you can see that there is a significant need for sand extraction operations in this county, and not even really going into continuing Kellogg paving projects, the downtown arena, which is going to require significant amounts of sand for concrete and asphalt and the Water Walk project.

Now, the siting of a sand and gravel operation is not as simple as finding an empty tract of land with no surrounding neighbors and digging a hole. The quality and quantity of sand deposits, as you're probably aware, diminish greatly as you move away from proximity to the Arkansas River. The quantity and quality of the sand, the best is along the riverbanks. This is a very significant limiting factor in locating sandpit operations. We can't go to northeast Sedgwick County and conduct a sandpit operation. There is no sand there to be extracted from the land.

Secondly, we must find either a willing seller or a willing landlord desirous of using the land for sand extraction. Third, as you probably know or may know, the mining of sand requires a water appropriations permit from the State of Kansas Department of Agriculture, Division of Water Resources. We have to cover what is called the net evaporative loss from the sandpit and that has to be done with an appropriation of water and as you all know, appropriation of water resources is very difficult to attain. There is a limited amount of water in the aquifer, in the equus beds and the other aquifers around. Those appropriations are governed by specific and very strict rules and regulations and they're not very many places in Sedgwick County where you can go that within a two-mile area there are sufficient water appropriation rights left to accommodate a sandpit, particularly the southeast part of the county is getting what they call over-appropriated in water rights. It's very difficult to find a property on which you can get the necessary water rights to conduct a sand pit operation. And finally, we need reasonable access to transportation routes, preferably a paved arterial road, such as Ridge Road, so that we don't have to put trucks over sand and gravel roads through the county, which are dangerous for their operation.

Now this proposed operation at 77<sup>th</sup> and Ridge Road meets all these criteria. The drilling samples on this location have indicated that this sand is of exceptional quality and exceptional quantity. The sand depth deposits are very good. The quality of that sand is very good. This will be a very necessary product for Sedgwick County in the future. We are one, I believe, of only three companies in Sedgwick County that produce sand to Department of Transportation specifications, which allow it to be used in county, in state and federal highway road projects.

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There's a difference in sand. I can't tell you that I understand it all, but sand is not just sand. There are certain specifications that are required for paving projects and we're one of the few that produce sand to meet those requirements.

Now, this is not a project that we just threw together with five minutes of thought as to where we're going to locate this sandpit. We've been looking for the past two years for locations that are required to supply the product that we need to utilize, through Cornejo and Sons and utilize through other concrete producers to provide necessary building materials here in Sedgwick County.

I know that in a few minutes you're going to hear from many of the residents of the area that are going to tell you that they oppose having the sandpit in this location and I would like to briefly address some of the current concerns they have expressed in prior meetings.

First is the effect on domestic water wells, and we submitted at the time of the MAPC hearing a report prepared by a certified hydrologist who indicated that, in his opinion as a matter of hydrological science, that number one, a sandpit operation does not decrease the amount of water available to domestic water wells within the area. In fact, it's his opinion that it is most likely increases the base of water available to serve those domestic water wells that immediately surround the operation. Again, I can't explain the hydrological theories behind that, but that's what the experts tell us.

Secondly, as to concerns about contamination of the aquifer, we have gone, in the water permit process, through the board of directors level at Groundwater Management District 2. First of all, to get the evaporation rights, we obtained a conversion . . . approval of an application to convert from irrigation use to industrial use to cover the sandpit, and one of the things that I do want to correct is that, by that process, we went from a 108-acre lake to an 80-acre lake, because of the amount of water available. There's some loss in the quantity required when you convert to an industrial use, so the lake, although our plan says 108 acres would be the authorized maximum, in actuality, we're only going to have an 80-acre lake.

But the Groundwater Management District 2 has imposed significant limitations and conditions on how we design and operate this facility to assure that there is no surface water runoff of contaminate materials into the exposed groundwater pit.

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Now, we received a copy of materials which Ms. Lee, who I'm sure is going to speak to you shortly, submitted to the county regarding her concerns about contamination of the aquifer. And we've prepared some written responses, which I just gave to you today and I hope that you have time to look at those before you make your decision in this case. But if you look at the narrative on her position, her objection is that we cannot guarantee the . . . let me get the exact language, that there can be no guarantee of water purity in the aquifer if we're allowed to operate this sandpit.

I just want to point out, it's equally true that there can be no guarantee of purity of the water in the aquifer from any of the domestic waterways that tap into the aquifer in the area. We can't ever be 100% absolutely certain that there's not going to be any contaminant into the aquifer, neither for a sandpit or for any well that taps into that aquifer. Groundwater Management District 2 has found that the approval of the water permit will neither impair the use under existing water rights, nor will it prejudicially affect the public interest. And the Division of Water Resources is that body of government that's charged by state statutes with the protection of the quantity and quality and the water of this state.

I submit to you that, as a business, we have the same right as individuals to use the groundwater of this state for necessary purposes. And the residents, while voicing strong concerns and worry, have not provided any evidence to you whatsoever that a sand extraction operation that is in compliance with the laws and regulations that have been put into place, proposed any measurable, significant risk of contamination of the aquifer. There is absolutely no such evidence out there.

Now I want to talk briefly about noise. The residents have also provided you, or will provide you with a graphic which contains information regarding the decibel levels of the equipment we'll be using. And again, we've prepared a written response to that. Not to bore you with the details, but if you'll look at the response we've provided, you'll see that sound is attenuated by distance. The term attenuated means it's muffled or lessened by distance and you reduce by six decibels for every doubling of the distance away from the sound source. So if you go through the calculations, which we've done in that document, what you'll see is that the decibel level of the equipment, at 800 feet, which is about as close as anybody is going to be to that equipment, is going to be pretty close to the level of a normal conversation, just like we're having here today.

On the issue of traffic safety, I can assure you that we share the concerns of the residents regarding the safe operation of our trucks. The material I provided to you today is taken from the Federal Motor Carrier Safety Administration, which monitors all accidents involving commercial motor vehicles that have U.S. DOT numbers, and what you'll see is that for the three main companies we operate, Quik Sand, Cornejo and Sons and Concrete Material Company. During the last two years,

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we've had no fatality accidents and only two injury accidents involving over 89 heavy trucks driven approximately two million miles per year, so I think we have an exemplary safety record in the operation of our company owned trucks and remind you, the residents are concerned that these truckers are going to run over their cars and run over their children.

These are professional truck drivers who are dependent upon having a commercial driver's license to make a living and if they have accidents and they get tickets, that commercial driver's license is suspended and they no longer have a way to earn a livelihood. So what we submit is that the commercial truck driver is probably the safest driver on the road, as opposed to the rest of us, if we drive mostly for convenience or our own personal use.

Now, having addressed some of the specific concerns regarding this matter, I really think that we need to focus on the larger picture, because as the governing body for this county, you are charged with making a decision that works for the good of the county as a whole, and based on the evidence that's presented to you. The need for locally produced sand and gravel for our continued economic development cannot be questioned. It is absolutely impossible for us to put a sand operation anywhere in this county where we're not going to have some impact on some resident.

It's impossible for us to put it in some location where it's not going to have an impact on traffic. But I submit to you, if you continue to push us farther and farther out into the county, what you're going to do is you're going to have more trucks on the road for a longer period of time driving longer distances, which statistically is going to increase the chance for an accident with one of those loaded sand trucks.

Now, we would love to have all of our sandpit locations located in close proximity to Wichita, with direct access to a four-lane interstate highway and with no neighbors around for miles and miles, with good quality sand deposits and available water appropriations. If we could do that, we would locate every sand operation that we wanted at such a location. But the fact of the matter is that if you're going to impose on us that kind of criteria, there will probably be no locally produced sand in Sedgwick County within the next five years, because you're not going to find those kind of locations.

Now your professional planning staff has reviewed this application, applied the principles of zoning law and the Wichita/ Sedgwick County zoning code and they've recommended that this application be approved. The Metropolitan Area Planning Commission, which draws members from all over the county, has approved this application. Now granted, the Valley Center Planning Commission voted to recommend denial of this application, but they made absolutely no finding of fact whatsoever to support their denial. All they said in the motion was they concluded that the findings of fact do not support the conclusions from the MAPD staff recommendations. I'm not sure what facts it was that they supposedly found to support that vote.

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You know, zoning laws restrict the fundamental rights of property owners to use their land for purposes and in the manner in which they desire, and in that sense they're called . . . referenced as being in derogation of the common law and they're not looked upon with favor."

**Chairman Winters** said, "Mr. Hill, we've given you some additional time, so if you could kind of wrap to your conclusion."

**Mr. Hill** said, "About two minutes at most."

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

**Mr. Hill** said, "Thank you, Mr. Chairman. I didn't realize there was a time limit."

**Chairman Winters** said, "Well, we really . . . this is a complicated case, so we need to hear everything that the applicant has to say. I'm going to ask the citizens though to limit themselves to about five minutes, and so I would like it if you would just summarize here."

**Mr. Hill** said, "Thank you. We have a zoning code in Sedgwick County which is carefully designed to provide a reasonable and objective basis for the professional planners and the governing bodies to make objective decisions upon the use of land in this county. And I submit to you, if you take all of the objective evidence in this case, that objective evidence indicates that the approval of this permit will not have any significant adverse impact upon either the health, safety or welfare of the surrounding residents.

Emotional concerns and fears, no matter how strongly held and how convincingly stated and how frequently repeated, are not sufficient to support the denial of this application for a conditional use permit. I submit to you, if we're going to allow zoning decisions to be based upon the opinions of nearby neighbors that 'I don't want this in my backyard', if that's going to be the criteria for zoning decisions, then we might as well throw away the zoning code, because we don't need it anymore.

I would urge you to resist that temptation and to base your decision in this case on the factual evidence, on the applicable water laws and on the duly adopted zoning code of Sedgwick County. And I'd be happy to answer any questions you might have. I would like the opportunity for a short rebuttal after the conclusion."

**Chairman Winters** said, "All right, I see no questions now, but there may be some later. Thank you, Mr. Hill. All right, now we'll hear from the public, those neighbors who would like to address the Board of County Commissioners, this is not really a public hearing, we're not required to do this, but it is our policy to hear from folks who want to address the commissioners and we intend to

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do that. We would like for you to limit your comments to five minutes if you could. If we run into a problem, we'll talk about it, but if you'll go ahead and give your name and address for the record."

**Ms. Kimberly Zimmerman**, 8845 N. Janis, Valley Center, Ks., greeted the Commissioners and said, "Which is just beyond the 1,000 feet notification."

**Chairman Winters** said, "Kimberly, what was your last name?"

**Ms. Zimmerman** said, "Zimmerman."

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

**Ms. Zimmerman** said, "I am a county employee, however today I'm here as a private citizen. I'm here today to speak out against this application and hope that you folks will see our side of it and not approve it. I'm only here to speak, however, concerning my family's concerns. I can't speak for everyone else.

Our foremost concern is that Ridge Road is a narrow, two-lane road with no shoulders on either side. Ridge Road is heavily traveled by Sedgwick County residents. However, Harvey County residents also travel this road, as it is a direct route into Sedgwick and Newton. The speed limit of this area of Ridge Road is 55 miles per hour. We feel the traffic speed and narrowness of Ridge Road would cause a commercial sized vehicle extreme difficulty achieving an eastbound turn from Ridge Road to the proposed sand extraction site. This difficulty would be evident whether the vehicle is approaching from the north or the south. We also feel increased traffic, in the way of dump trucks, tractor trailers and other commercial vehicles from Quik Sand and other hauling companies will cause rapid deterioration to an already deteriorating Ridge Road.

In addition, although the sandpit would be scheduled to open at six a.m., it is common practice for there to be a number of trucks lined up daily outside a sandpit's entrance waiting for it to open. As Ridge Road has no shoulders and it's still dark outside at six a.m., this would sharply increase the risk for accidents to occur. At the very least, it would hamper traffic for those of us who travel along Ridge Road coming to and from work. Who wants to pay for the cost to repair or even widen Ridge Road to accommodate Quik Sand and alleviate the concerns involved?

We have valid safety concerns as well. The Valley Center School District has a number of school buses that travel along Ridge Road to transport students, including special education students attending neighboring school districts. There have been numerous traffic accidents on Ridge Road, between 61<sup>st</sup> Street North and 85<sup>th</sup> Street North, including accidents in which vehicles have been

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forced off the road. We feel that heavy commercial traffic will cause additional increases of traffic accidents and safety concerns for our youngest citizens being transported to and from school.

Another concern of ours is the blowing sand dust that will emanate from the proposed sandpit. As I said, our home is located just beyond the 1,000 feet notification area and a large-lot housing area located one-mile directly north of the intersection of Ridge Road and 77<sup>th</sup> Street North. There are approximately 50 homes in this one area along. The MAPD staff report does not mention our homes in its description of the surrounding properties, however we feel our homes should be taken into consideration because there are no trees from the proposed site north to 85<sup>th</sup> Street to act as buffers from the sand dust. The immediate area north of the proposed site to 85<sup>th</sup> Street is open cropland.

It is our understanding that the proposed site has an abundance of silica sand, desirable by the mining company for its industrial applications. However, we are concerned that this may increase the likelihood of respiratory problems, ranging from asthma to a commonly fatal condition known as silicosis as well. The average . . . the area's average wind speed is over 12 miles per hour. According to research, it only takes winds of 10 to 15 miles per hour to carry fine to medium sand dust. As the area's winds will carry this dust directly over and into our homes, we consider this a major health concern and an unacceptable risk.

Our third concern is the possibility of groundwater contamination and the drain on the aquifer beds. Everyone who lives west of the river has private wells. Our wells are our only source of water we have and the possibility of contamination, even if it were remote, is again an unacceptable risk. If our wells continue to be tapped of water sources, at some point we will have to ask who is to pay for providing water lines and services to the 100-plus residents in the area.

We realize growth in the area is coming. However, we don't believe that industrial growth is needed, nor should it be forced upon us. Industrial and commercial business traditionally found in the urban areas is what we all moved away from. Our families wish to live quiet, peaceful lives and to raise our children in a safe environment. We understand Quik Sand's redevelopment plan would include a lake and 28 single-family residential lots once excavation is stopped in ten to twelve years. We believe the area has the potential now of drawing like-minded individuals who wish to have a piece of land to build upon and call their own, without all the bells and whistles, like a lake or a pond that Wichita's housing developments are including today.

The 9-28-04 minutes of the Valley Center Planning Commission Board of Zoning Appeals state that the board determined that the finding of facts do not support the conclusions from the MAPD staff recommendations, and they denied Quik Sand's conditional use application."

**Chairman Winters** said, "Kimberly, how much more do you have?"

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**Ms. Zimmerman** said, "One sentence."

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

**Ms. Zimmerman** said, "We ask that you support the Valley Center Planning Commission's decision and the area residents' wishes by denying Quik Sand's application as well. Thank you very much."

**Chairman Winters** said, "Thank you very much. Is there anyone else that would like to address us? Please come forward."

**Ms. Jennifer Lee**, 5335 W. 81<sup>st</sup> Street N., Valley Center, Ks., greeted the Commissioners and said, "I'm the one that was responsible for the hopefully nicely color-coded maps and I'll mention those. Of course we're here to express our opposition to the sandpit and we have many reasons. The first few I will speak about.

I focused on the contamination of the aquifer bed and noise pollution and the map showing the number of domestic wells, how the noise would reach my particular home and a cross-section of the sandpit, to give you an idea of the depth of the sandpit.

We have a personal interest in this issue. Quik Sand and the property owner's interest is purely financial. The people involved with Quik Sand, as well as the owners of the property do not live in this area and would not have to suffer the lasting affects of their actions. It's a community of over 900 people who rely on the aquifer bed as their sole source of drinking water. We are isolated from the surrounding city's water supplies by distance and immense cost. We want to protect what we already have and that's why I put together the cross-section map that shows how the well draws from the same water . . . the same source as the sandpit would.

I know, through my research, that studies from the aquifer bed District #2, the KGS and the KDHE have done . . . the research that they have done on storm water runoff and the affect that it has on groundwater. Everyone agrees that storm water contaminates the groundwater. The sandpits are required to build berms of dirt around the exposed water to keep the storm water runoff out. Right now, there's a natural filter in place to offer some protection to the aquifer, the existing soil and clay. The soil and clay act as filter and contain micro and macro-organisms that act as bio-filters.

And I'm a visual person so forgive my simplicity, but pretend that this is our land, and down here you have our water, and the lid is our soil and right now the soil is acting as a filter. Contrary to what Mr. Hill said, our wells have to be cased to protect from contamination getting into the groundwater, so I have my holes for my wells and I have my tape covering up my holes, since they are cased wells. Which has a better chance of being contaminated, our cased wells and the soil there to act as a filter, or a sandpit, which is exposing the water, basically.

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The sandpits are facilitators. While nothing might happen while they are dredging the sand, they still have permanently exposed the aquifer and taken away the natural filter, an action that cannot be undone. After the sandpit is finished, there are no regulations for the proposed recreational lake. If the resulting lake is developed as planned, these homes would also be on well water, the difference being that the residents around the lake would be uneducated stewards of our drinking water.

Let me give you an example of the mentality that we would rely on. Kathy Collins, who will speak shortly, found herself talking to a resident of an operating sandpit at Tyler and 53<sup>rd</sup> Street. The lady's family had moved to the lake because their sons were tournament water skiers. Kathy asked the lady if she was concerned about whether they were . . . they were water skiing on their drinking water and the lady said, no, because they had dug their well 200 feet down to get to the good water. She had no concept of the connections of the layers of the water.

She had no concept of the movement of the water underground and she also possibly did not know of the concerns of an inspector with the Sedgwick County Code Department, who is worried that this development has built their waste systems, their septic systems or lagoons, whatever they're on, too close to the lake, which means it's going to drain back down into the lake, which is their drinking water as well.

If these residents are not good stewards of the equus beds, their actions will not only affect their own health and welfare, but those in the surrounding area. I wrote on my map showing the domestic wells that the idea of an attractive water feature is fine if you're not reliant on those living around it to keep lawn chemicals, storm water runoff, fuel for watercraft and human waste from contaminating your drinking water.

While researching the question of water contamination, I've learned that there are no studies or reports that can completely take away our concerns, only justify them. I understand that the KGS, the Division of Water Resources and the KDHE are working together on a more comprehensive study of the sandpits. The preliminary study won't be out until 2006. In the meantime, we feel that we should not be guinea pigs with the wait and see attitude.

We know that if you take off the protective layer and expose the aquifer, there can be no guarantee, regardless of the rules and regulations imposed, that accidental contamination will not take place. If the protective layer is taken off . . . or if the protected layer is left and an accident does occur, you have a ten to fifteen foot deep window of opportunity for control, counteractive measures before contaminants can reach the groundwater. Mr. Carl Nuzman, a consulting hydrogeologist for Quik Sand, I think Mr. Hill referred to his letter of opinion that he submitted."

**Chairman Winters** said, "How much more time do you need."

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**Ms. Lee** said, "I've got two paragraphs but they're really important."

**Chairman Winters** said, "Okay, they are, but let's hear them."

**Ms. Lee** said, "In Mr. Nuzman's letter, he stated that the City of Olathe has had a sand and gravel mining operation adjacent to their municipal well field for a number of years with no adverse affect on the water supply or quality. While this statement is true, it is not the whole truth. Mr. Nuzman fails to mention that the water from the well is not pumped directly to the consumers. It goes through a water treatment plant and it's treated for the contaminant and in our situation we couldn't come directly to our wells.

Mr. Nuzman also writes that there has been no reported contamination of normal mining operations in recent Kansas history. Again, it's not the whole truth. The agencies involved, the Equus Bed Groundwater Management, the KGS and the KDHE and others have studied this specific industry . . . have not studied the specific industry and the affects that this had on groundwater. So yes, there have been no reports of contamination, but not because it was studied and no contamination was found. They don't have any reports because no reports have been done.

Quickly, the noise pollution, I have a letter from a lady that lives a quarter mile from a sandpit that was put in over the summer and the letter is going to be read in a couple of minutes, but the dredge, a quarter of a mile away, wakes their family up. That's how loud it is. The reason I put together the noise pollution, is because I called 81 Speedway. I asked what the decibel levels of their racecars were and they told me 115 decibels and you can see the distance, on this map, from 81 Speedway to my house and I can still hear it inside my house. So, I'm sorry, the sound from International has to travel over the river and the Big Ditch, so you're talking how tall of berms, and it still can be heard inside my house. I'm not complaining about the racetracks. I knew they were there when I moved in, but we're talking about, you know they might be a Saturday night/ Sunday afternoon, something like that for the summer season. We're talking about daily, six days a week, all day long, so . . . and I wanted to make sure I referenced where I got my decibel levels so you guys would know that.

We feel, in this case, with the factors that we are presenting, the county commission should take a proactive stance and protect our water and quality of life, instead of having to take a reactive stance later on. And that's all, thank you."

**Chairman Winters** said, "Thank you, Jennifer. Next speaker. Is there anyone else who would like to speak? Anyone else?"

**Ms. Brandy Tribble**, 7600 N. Hoover Road, Valley Center, Ks., greeted the Commissioners and said, "I'd like to focus and touch on . . . I hope I don't repeat too much information, but on the

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potential for groundwater contamination. A few years back, the Kansas Department of Health and Environment had told my father-in-law, who lived in the area, that a six-inch well pipe on this property need a proper cap because the cap it had did not fit properly and that it exposed the groundwater . . . it could potentially expose it to contamination.

I had to wonder if their concern with a six-inch pipe exposing the groundwater, why would they not be concerned with an 80-acre lake. After doing research, I have found that they are, which leads me to a statement found on the KDHE website which states: 'In many cases these pits', they're speaking of sand or borrow pits, 'are constructed deep enough to reach groundwater. In the areas of shallow groundwater, these pits can serve as conduits for surface water runoff to enter their aquifer. Where surface water quality are impaired by agricultural runoff, municipal runoff or other sources of contamination, the pits can present a serious threat to the aquifer.'

So we know by the KDHE's own statement and by a myriad of other studies that sandpits can cause groundwater contamination by surface runoff. So the solution is to put a berm around the outside of the sandpit to prevent those surface water runoff into the pit. And that sounds great at the start, but I think what you will find is that the berms are hard to maintain, as evidenced by these pictures that were very recently taken at a Quik Sand current facility, you'll see that the berms are low and, in many areas, are not even existent.

If I could have permission to approach, and I've also included in that photographs that were taken also in another sand operation, not by Quik Sand, but that is in the area currently operating at 53<sup>rd</sup> and Ridge Road. Their berms are also nonexistent and that just shows an example that the berms are not being regulated in this industry and they are not kept up to the standards.

And I think that by looking at Quik Sands berms, there is even a photograph there where it actually shows the tunneling of water where the water has ran down towards the pit, where there's no berm protecting it, and you can see the grooves with the water running towards it. And I think that shows the concern they have for our welfare and the environment.

Now, even if Quik Sand were to be able to keep a berm around the sandpit continuously for the ten to twelve year proposed operation, who will make sure the berms are kept and properly maintained once the area is sold for residential use? No one. Then you will be dependent upon the homeowners to keep fertilizers, storm water runoff, gas and motor oil from watercraft and human waste out of the water.

Our aquifer will also become vulnerable to other sources of pollution, including gas and oil leaks from machinery and other industrial hazards that potentially could occur at the sandpit operation. There are too many people who are dependent upon this water source. We live in an area where we are isolated from other potable water sources and if, because of the exposure of the aquifer, our drinking water is polluted, who would be held accountable? Who would be responsible for bearing

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the considerable financial burden of getting clean drinking water to the 300-plus homes? Who would be paying the hundreds of thousands of dollars to pipe municipal water into our area.

Plus, we would have to pay for upwards of four years for bottled water until water mains would be put into place. Which is a more important natural resource, water or sand? I have three small children. My family uses our well water for drinking and cooking, as does all the families in the neighborhood. If the water were to become contaminated, would it be possible that we wouldn't immediately know? No, it's not. My family, as well as others, could potentially be consuming contaminated water for an uncertain period of time without even knowing, because the groundwater is exposed. That's not a chance I want to take with my family.

Furthermore, underneath the proposed site lies an equus bed which is very vital to our state. We would also potentially be exposing the equus bed that is conjoined with the groundwater in the area.

In March of 2000, Governor Bill Graves signed an executive order put into place in order to protect the equus bed. It states, in part: 'whereas the equus beds aquifer is a precious and fragile natural resource relied upon by citizens throughout south central Kansas and whereas effective protection of the state aquifer can be accomplished only by cooperation and coordination among federal, state, local and private efforts, I hereby order the Secretary of the Kansas Department of Health and Environment to identify all the known sources of existing and potential pollution of the equus beds aquifer and to collect, compile and maintain a public reporting of information regarding such existing and potential pollution'."

**Chairman Winters** said, "Brandy, are you about to conclude?"

**Ms. Tribble** said, "I am getting close and if I don't finish, then stop me again if I'm rambling."

**Chairman Winters** said, "We're going to give you another minute."

**Ms. Tribble** said, "Oh, I am almost done, two paragraphs."

**Chairman Winters** said, "Oh, good."

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**Ms. Tribble** said, "Governor Bill Graves understood the importance of the equus beds located in the northern section of Sedgwick County and put into action an executive order to protect it. We should follow his lead and continue to protect it. I will repeat his quote: 'a fragile resource relied upon by citizens throughout south central Kansas, not just the homeowners in the area. We all rely on the equus beds'.

What it boils down to is that we have 300-plus families in the area, plus all the citizens of south central Kansas depend on the aquifer for water. We have one company wanting to come and remove the natural filter that the earth provides and expose our drinking water to contamination. We are all then at the mercy of the sandpit workers and future homeowners to protect our groundwater, a resource too valuable to jeopardize. Will they be able to handle the awesome responsibility, will they as laymen have the knowledge to protect it? Will the workers have enough personal interest to care? We would be putting our health and water quality into the hands of others not educated on the intricacies of the groundwater. Will they understand the magnitude of what lies in their hands, as evidenced by the previous photographs? I don't believe the sand company does. It is a very unsettling feeling to me. I feel it is our duty, as citizens and the government, to protect this wonderful, precious resource that we have. We need to be proactive, not reactive. I would ask the commission if you have any reasonable doubt that the groundwater could be exposed to contamination to please vote against the proposed sandpit. Thank you."

**Chairman Winters** said, "All right, thank you very much. Rich, show those photos to Mr. Hill that we looked at, and then if you would return those to . . . no, we don't need to keep them. We'll just return them. All right, is there anyone else who would like to speak? Yes, please come forward."

**Ms. Kathy Collins**, 6014 Solar, Valley Center, Ks., greeted the Commissioners and said, "And I would like to read a letter, if that's okay, that is going to be provided by somebody that lives by a sandpit, just recently in the last year. Is that permissionable?"

**Chairman Winters** said, "Okay, that's fine but we'd just like you to limit it to five minutes if you could."

**Ms. Collins** said, "That's fine, yes I can do that. This individual's name is Yola Foster. She lives at 7801 W. 73<sup>rd</sup> Street N. in Valley Center and this is how it goes.

*I am writing to share my experience of living close to a sandpit, with the hope that the people living in the area of the proposed sandpit at 77<sup>th</sup> and Ridge will not have to go through the same thing. I have lived on 77<sup>th</sup> Street North for 24 and a half years. Recently, a sandpit opened at 8333 West 73<sup>rd</sup> Street North, a quarter mile away. My family and I are already tired of the dust and noise. You don't and can't enjoy being outside or inside our home. Dirt, dust and noise, they blow in, even in the windows when the doors are closed. There's no peace from the noise of the*

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*trucks driving up and down the road, six days a week, from early in the morning to late in the evening.*

*The noise from the pit seems endless. You can hear the dredge when it's running. It's loud enough it can wake you up. My grandkids can't even enjoy going out to play because of the dust and dirt. When is someone going to stop and think of what this is doing to the ones that live around these pits.*

*The people opening up these pits don't live in the area. We do. They don't suffer. We do. With so many sandpits opening in and around our area, our water table is dropping. Our well is at 45 feet and we are not getting as much water as we used to. This means having to dig our well deeper and I can't afford this.*

*There was one bad wreck already at 73<sup>rd</sup> and Ridge Road involving a sand truck and countless misses.*

Thank you for your time and I do have an article and I think this is regarding what she just stated, in the Ark Valley News and the sandpit. Would you like to see this? And the driver was cited on this.

And I guess what this all boils down to is I've not talked to anybody that is for this. This sandpit is not going to provide us anything. We're not going to gain anything from this at all. In fact, we will probably end up losing in this situation.

I know we're the little people and we don't have the money and they have the clout, and I hope it doesn't boil down to that. I really do. I realize you guys have spent your morning here listening to a lot and we appreciate it. This is big decisions you guys have to make and I do appreciate all that.

And we just, we know that we will be listened to and we appreciate that and we just ask that this time, and I understand businesses too, we need them too, but I just think this is one time we really need to look at what the homeowners need and what our environment needs and I do want to kind of state one thing. They were saying they were losing . . . they needed more places to dig sand. We're also losing land for agriculture and you know, I'm a teacher and we state that to our kids and I can't eat sand, nor can I drink it, but we're losing land for agriculture too. So I mean, we're losing land for a lot of things, so we have to decide which is more important to us right now. I appreciate your time. Thank you very much."

**Chairman Winters** said, "All right, thank you. Next speaker. Yes sir. But ma'am, you could just move over to one of these front chairs so you're closer, ready to go next."

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**Mr. Charles Leiker**, 4925 W. 77<sup>th</sup> Street N., Valley Center, Ks., greeted the Commissioners and said, "I don't want to sound like a whiner, but when I live in town in Valley Center, some righteous minded group built a basketball court within 50 foot of my garage. They were out there dribbling that thing at night. Now something as simple as a basketball doesn't compare to the size of a irrigation engine. There was no rest from the noise from that thing. I spent two years in a basement, gained 40 pounds and was finally forced to move to get some sort of life and I don't want to have that happen again. I'm too old to start over.

When Mr. Norton was mayor of Haysville, he remembers from the Blood Orchard incident, where the ground was contaminated with salt water from the oil wells. It's irreversible. Once it's done, it's done. Then what? Thank you."

**Chairman Winters** said, "All right, thank you sir. Yes ma'am, come forward please, name and address for the record."

**Ms. Gina Merriman**, 8513 N. Ridge Road, Valley Center, Ks., greeted the Commissioners and said, "And I have e-mailed all you a number of times and Carolyn McGinn more than the rest of you. I must believe a picture is worth a thousand words because I always seem to send attachments.

Anyhow, my first correspondence with you all was voicing my concerns of the traffic issue, with it being so narrow and no shoulder out there. Even if a vehicle has a flat tire, they have to go into someone's culvert and get it changed. It's not a good situation. I think it's very dangerous.

Anyway, our location out there is definitely in the flood plain. I recently acquired this site map that is prepared by the equus beds, Groundwater Management District #2, and this site map displays the natural flow of storm water runoff leading right to the proposed site. Did you want me to hand that in?

This industrial plant would interfere with the natural flow, which is already less than perfect. I believe there are laws and regulations that stop this from happening. In one of my e-mails I wrote to you, 'We flood out here so badly, I was the person quoted in the Valley Center Planning Commission meeting stating that we have to place the children in a canoe tied to the front porch and row them out to Ridge Road to place them on their school bus. What will happen to the storm water runoff? I don't believe two-foot berms will hold if there is any measurable amount of rain. Haven't we taken enough chances altering our environment?

I'm attaching some photos that I took in '98 and '99. Did you all get those e-mails with the water coming up to our front porch? Okay. We get to go through this every year. Sometimes it's so

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depressing that I don't take photos, because I don't want reminders of the silt, dirt, film, weed seed and not to mention the bugs that this always leaves behind.

If they elevate the property of the proposed site with their many piles of dirt, sand and debris, filling in the void with water, what will that do to our property that's already lower in this flooding area. If they have to resurface Ridge Road due to wear and tear again, that will also add to our flooding problem.

Mr. Hill stated at the Valley Center meeting that it would be beneficial for us, because the storm water would be able to run off, but after reading and doing more studying into this, I find that the laws and regulations that sandpits are supposed to abide by state that this cannot be. Our health and safety has not been taken into consideration. The contaminants and hazards with storm water runoff would just have to stay backed up on us.

On a very personal note, aside from the flooding, I wanted to tell you about my daughter Sarah who is 11 years old. She was born with a hole in her heart and was doing just fine as an infant. We were in hopes that surgery wouldn't be necessary, that it would grow closed, but due to a respiratory viral pneumonia, she was hospitalized for 12 days, longer than either one of her two open-heart surgeries. The consequences of a respiratory problem is that Sarah's defective heart was so stressed that it is enlarged and it now takes up 65% of her chest.

The heart muscle never goes back down once it's enlarged. Sarah cannot afford to have the dust and particulate pollution that would result from this sandpit. Sarah is not alone. Mr. Montague, Mr. Mann, Mr. Caruth and quite a few others have emphysema that live out there. Toby Lang and her son just live north of this proposed site and both of them have asthma and take breathing treatments.

We all moved out here for the rural living quality of life. Opening windows and breathing clean air is just one of those qualities. As you can see from this photo . . . and they stated photos too, there are no trees, there is no windrow, no break for dust and blowing and dust pollution.

After doing some studying, I have found that the average wind speed in Sedgwick County was 12 miles per hour, but the KSN Weather Lab Network . . . I've just got a little bit. KSN Weather Lab Network has clocked winds at West Elementary School in Valley Center at 92 miles per hour. That's a hurricane Level 1 wind.

But what I'm trying to state is out there, with it being so flat and no wind [sic], no trees, nothing around it, the winds to blow maybe at an average, if you average it out at a little better than 12 miles

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per hour, but on many, many days it blows much harder. And I think a two-foot berm around such a proposition here is a joke. In order to keep the dust out of our house, our food and our lungs at least a 10-foot berm should be mandatory, with a chain-link fence and three rows of trees for a windbreak, encompassing the whole operation.

This would help cut down the noise and dust and the good-neighbor policy, if they're going to move into our neighborhood. We shouldn't have to see, hear, breath or taste them. They should not be allowed to come in and diminish our quality of life. Thank you."

**Chairman Winters** said, "All right, thank you. Is there anyone else here who would like to address the commission? Yes, please come forward. Please give your name and address for the record."

**Ms. Sheila Reyes**, 6400 W. Glenda, Valley Center, Ks., greeted the Commissioners and said, "Just due north of the proposed site. I'd like to start off by giving you a copy of two letters written by people who live next to current operating sandpits. I'm giving you that so I don't have to read those verbatim. I just want to tell you some of the complaints about people who currently live next to sandpits. In addition to those two letters right there, everyone I've talked to has some sort of complaint, always noise, sand, the same complaints. Those two letters are pretty radical right there. They've even notified 9-1-1 and gone and talked directly to the sandpit owners, with no results.

This other person says that he lives next to a former sandpit and directly across the street from another one. He says that sandpits are not very good neighbors. That the dust and the wind . . . the wind blows the dust and sand so badly that his windows on his house look as if they're etched glass, that you can barely see from them. He has a row of trees along his property line with a fence that are dying, because the sand has drifted up, covering the roots almost two feet. He also complains that his vehicle's windows are chipped from the sand kicked up off the roads surrounding his home and those concerns are all shared by everyone else that I have spoken to personally that lives next to the sandpits.

I want you to know that I've lived at my current residence for about 19 years and two years ago I made a major decision in my life to build my dream home, which is not anything special to anyone else but me, and I made that decision because I love where I live. I like my neighbors. I love the area. It's quiet, it's everything I ever wanted it to be but that could change and I'm not sure that I will love my home like I did. Because as I sit on my front porch, I will see the sandpit operation.

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There is an adjacent field to the operation, where it's supposed to be, but it will still . . . I'll sit on my front porch and that's what I'll view.

I'm not sure that, if they do that, that I'd be able to recover my expenses if I were to have to move, because I'm not sure that's where I would like to spend the rest of my life now, after 20 years. I believe that there are a lot of consequences for the residents around the property if you do go ahead and allow them to do this. Our concerns are genuine and we feel like we'll be pushed aside after the fact, as the other homeowners who live adjacent to sandpits are now.

I'm not sure who checks on the road cleanliness. One of the neighbors complains that the approaches to the driveways are not . . . to the sandpits are not kept clean. She says she can hear the noise inside her house. I don't know who checks on that. I mean, does anyone? I don't know who checks the operating process. I tried to call several agencies, OSHA, Sand Mining and I could get not direct answers, so you know I don't have any answer for that.

I also wanted to let you know that currently, just out of the phonebook, there are nine operating sandpits between . . . on 53<sup>rd</sup> Street, between Hoover and Tyler Road. Two of those are owned by Quik Sand Inc. and then, north to 73<sup>rd</sup> Street. And if each of these sand extraction operations have 50 trucks minimum, that's a low number per day, and we want to add another 100, which they propose, that's a lot of industrial traffic for a residential area. I'm just not sure. It's already bad. They've put up a light at 96 on Ridge Road recently, due to traffic, which it did help, but there are a lot of things that need to be taken care of, as far as the traffic.

I just want you to know that a lot of people have complained to a lot of different agencies and had no relief who live currently next to operating sandpits and that's all I have."

**Chairman Winters** said, "All right, Sheila, could you point to approximately where you live. Are you north?"

**Ms. Reyes** said, "I think, you see where that purple square is, it's close to that. I might be over one."

**Chairman Winters** said, "Okay, got ya. Thank you very much. Is there anyone else who would like to address? Yes, please come forward."

**Mr. Doug Merriman**, 8513 N. Ridge Road, Valley Center, Ks., greeted the Commissioners and said, "And I would like to hand this in on a wreck that happened on November 8<sup>th</sup>. It was a one-car

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accident. A guy just fell asleep and went off the road but the point being, the county's sheriff deputies couldn't get to it, nor could the ambulance get to it. Within a matter of seven minutes, the traffic from just the one car going off, it was backed up past our driveway and we live the third place out on the west side of Ridge Road, across from the proposed . . . well, the one that's still being farmed right now.

And then we had communiqué from Ms. McGinn from Mark R. Borst, the traffic engineer, that he states about there was a higher number of traffic between 77<sup>th</sup> and 85<sup>th</sup> Street was 4,100 and there was 3,600 between 69<sup>th</sup> and 77<sup>th</sup> Street. Now to me, that's a lot of traffic running up and down Ridge Road and that doesn't count the school buses from Maize or Valley Center or Sedgwick that come through there to get kids or take kids to different locations. And as you can see by the pictures, there's no shoulder for anybody to get anyplace. If you don't get into somebody's driveway, you're in trouble, because there's nobody going to get to you, whether it's a fire or an accident, it doesn't happen in a timely fashion and that's pretty much all I've got to say, other than us losing farmland. We've lived out there for 27 years and I used to farm 1,000 acres and I'd like to once again, but at the rate we're going, there won't be no farmland to farm, because we're losing it in this Sedgwick County all the time, every day. That's all I've got to say."

**Chairman Winters** said, "Thank you very much, sir. Is there anybody else?"

**Mr. Merriman** said, "Oh, I was supposed to tell you I drive a truck. Sorry. I've drove a truck for 31 years. I currently drive for Ryder Logistics out of Miami, Florida and they got more company policies, regulations than anybody in the industry. And Mr. Hill has made comments about his drivers. I don't question that they're not good drivers, but drivers do take chances. If there's a time limit on something, they're going to cut corners and if that means that they don't have to stop, or if they can keep moving, traffic ain't coming or they think they can get out in front of it, they're going to and we see it all the time and it ain't just Quik Sand, it's Cornejo, Builders from Newton, Pre-Stress from Hesston, any of the trucks that comes through there, and it's grain trucks too. I mean, I'm a truck driver, I've done it. I'd be lying to say that I didn't do it, but that's just human nature. And I think . . . is that it? Okay, I'm done."

**Chairman Winters** said, "Thank you very much. Is there anyone else? Yes sir, please come forward."

**Mr. Frank Montague**, 7936 N. 63<sup>rd</sup> Street W., Valley Center, Ks., greeted the Commissioners and said, "My property is adjoining the property in question. And according to this map here, I might have misunderstood it, but on the protest petitions, what was the discussion on this? Fifteen percent of the people there or fifteen percent of the size of the property?"

**Chairman Winters** said, "It was the size of the property."

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**Mr. Montague** said, "Very good. We've got petitions in there. I think we've got more than 47.87% of the property owners but the information that I had was within 1,000 feet of this area and there were petitions on the west side of Ridge Road there that was signed by the people that own property out there in that area."

**Chairman Winters** said, "That's what that yellow circle around is, the 1,000 foot, so those inside there are official petitions. Those outside of the area, we look at and we see, but they're not considered official petitions."

**Mr. Montague** said, "What is the blue, sir?"

**Chairman Winters** said, "I'm not sure. Mr. Schlegel, what is that light blue?"

**Mr. Montague** said, "Because those are people that are current . . ."

**Mr. Schlegel** said, "I can't read the legend on the screen, so let me look it up in here. Oh, those would be petitions that weren't included on the calculations. They're invalid petitions."

**Mr. Montague** said, "Why was this?"

**Mr. Schlegel** said, "For a variety of different reason."

**Mr. Montague** said, "They were signed. They were signed and I believe the one that owned this portion right here is right here today."

**Chairman Winters** said, "But one of the things about petitions though, there are enough petitions to trip us to get to the maximum amount of what it's going to take for us to do it."

**Mr. Montague** said, "Okay, I was just questioning that. Well anyhow, I worked at a sandpit for nine years and I'm glad Mr. Hill has brought a few things out to our attention. We had the meeting in Valley Center and a question was asked to Mr. Hill about a 55-gallon drum of oil, if it was spilled, would it just run into the ground? And he said, 'Yeah'. Well, I respect a man's honesty about something like that and another thing, my property is adjoining this and he's telling you that you're going to have some people that says they don't want it in their backyard. Well, he's right there again. I definitely do not want it in my backyard.

There's a lot of factors on a dredge, a hydraulic dredge such as they are operating. We've got two diesel motors which bell or smoke whenever they're under load. It's all hydraulic driven, winches and digger head and if they have an accident, which will happen and has happened, we get a lot of oil in the water. When this sand is being dug out of the bottom, they have no idea how far they're under-mining and they have no idea how deep they're going to be going.

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The sand is sent to a metering vent, or the top of the plant and then it follows through with the washing of the sand and separation, but the mud and debris from the lake go to a separate part. Now we're being told that this water that comes out of the lake is all recycled. Well, I don't think they're pumping that debris back into the lake or that dirty water and there's a lot of water used in the process of cleaning and washing sand, through the shaker period, where the sand shifts through screens and it is washed constantly at that time and then it ends up going to an auto spec and metering bins and then the gravel or the pea gravel and different sized coarser stuff is separated through another shaker. These shakers are built on springs and run on a sentry, so there's constant noise all the time.

The auto spec is operated by the plant operator and dependent on the specification of the sand that the people want that are buying it, the operator, he punches it in and the auto-spec takes care of it and then adds the gravel that they need for the operation or for the specifications they have. This is all sent out on conveyors to stackers. This is the only time that that sand sees water, unless the good Lord gives us a little rain. There's nobody goes out there and washes that thing down to keep the dust and dirt from blowing. Anybody that's got emphysema or respiratory problems has a problem with this, and it does happen.

That's basically all I've got. It seems to me like the ladies covered most everything else. Are there any questions?"

**Chairman Winters** said, "No questions, sir. Thank you very much. How many more people would like to address the commission? Okay, good. Come on sir. Ma'am, if you want to just move up a couple of rows so you'll be ready."

**Mr. Gary Lee**, 5335 W. 81<sup>st</sup> Street N., Valley Center, Ks., greeted the Commissioners and said, "I'd like to discuss the Golden Rules that you all use in making your decisions. Of these eight rules, six of these, I believe six of these apply. The first one is the zoning use is in character of the neighborhood. The neighborhood, as you know, is currently rural residential with over 300 homes, 900-plus people live in that area within the two-mile radius of the proposed sandpit.

Number two, the suitability of the subject property for the uses to which it has been restricted. The property is currently agricultural and not industrial. Surrounding rural residential area is not set up to accommodate industrial factors. These include increased traffic, noise, air-borne particulate pollution. The residents were aware of the factors that go along with agricultural neighbors. Farming equipment on roads, dust in fields, these factors are seasonal, they happen just a few times a year and they are not daily, as with an industrial mining operation.

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Number three, extent to which removal of the restrictions will detrimentally affect nearby property. A good neighbor should blend with existing neighborhood and not have a detrimental impact. Because of the area's dependency on well water draw from the equus bed aquifer and our isolation from surrounding city's treated water, the impact that the sandpit will have on our drinking water has to be considered. The removal of a natural filter of soil, exposes the aquifer and the lack of regulation after the sandpit is turned to a recreational lake are facts. If the sandpit is allowed, there will be no control from future contamination. You are creating a high risk and probability that something can happen that would not and could not have happened with the current zoning.

Ridge Road, Ridge Road in this area is two-lane with no shoulders and deep ditches. The road was made for traffic with up to 2,500 cars daily. The traffic count has been mentioned. The existing traffic includes school buses, school vehicles, chemical trucks, Trust Company vehicles and grain trucks. I don't believe . . . and he mentioned that, but with the shortage, as Michelle mentioned, with the proposed construction that there might be an increase, we're estimating 100 trucks a day going in and out with an increased railroad construction and other businesses, that number might be higher.

The ditches along Ridge Road are still inadequate to control heavy rains. The map mentioned earlier . . . I won't go over that, we're running out of time. The berms and fencing that are proposed are completely inadequate. With average wind speeds high enough to lift and carry medium particles of sand in sand piles that are 20 feet tall, a six-foot chain link fence will not stop this. There are no windbreaks to the north or south, which could cause the fields and homes in all directions to be blanketed with sand and dust.

Number five, relative gain to the public health, safety and welfare as compared to the loss in value or of the hardship imposed upon the applicant. The property owner's loss, the owner's loss in value is minimal. If this proposal is denied, the landowner will not face a hardship. The land is currently farmed and can continue to be farmed. If the owner wants to quit farming the property to develop a residential area, homes can be put in without exposing and jeopardizing the equus bed and this could be done without changing the current zoning conditions, because it is a rural residential. Quik Sand itself would face little hardship. The contract to purchase is relevant on the passage of this sandpit. They have currently obtained a 400-plus acre Kingbury tract on 53<sup>rd</sup> Street, which is zoned for industrial, not residential, from which to obtain sand. There are not gains to the public health, safety and welfare of the residents. Losses to the public health and safety, welfare and property of the area residents should be faced.

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Number seven, the impact of the proposed development on community facilities, water and sewer service are not available. Added traffic would be a road quality concern. At Waste Connections transfer station there are 30 trucks there, going in and out of there each day, that have caused enough additional wear to K-42 that it had to be resurfaced. Water was collecting in the ruts and there was concern about cars hydroplaning and water freezing and this information has come from conversations with the Sheriff's Department, management of Waste Connection and Kansas Department of Transportation. Quik Sand proposed more than three times the daily traffic and with the construction I mentioned, maybe more than that, than the trash trucks are.

Officials with the Valley Center school system are concerned with additional truck traffic. Mike Myer, the superintendent of Valley Center, has expressed his concern that this increase in traffic will have a detrimental affect on the safety of the students whose buses and school vehicles travel Ridge Road. Without the shoulders, the buses have to stop on the road itself, and the other schools that also use Ridge Road are: Maize, Sedgwick, Halstead and Goddard.

And number eight, oppos . . .”

**Chairman Winters** said, “Okay Gary, how much longer do you have?”

**Mr. Lee** said, “I’m on number eight of your eight guidelines.”

**Chairman Winters** said, “Okay.”

**Mr. Lee** said, “Okay. And you mentioned it earlier, there’s more than 100 signatures of opposition turned in. About half of the signatures were individuals and the other half represented the whole, the entire household. Of those that were contracted, only one person refused to sign.

Please consider the rights of the current homeowners and the 900-plus people that live in here. This is a rural residential but it is a very heavily concentrated rural residential because of the proximity of Valley Center. And in my opinion, that’s the larger picture. The larger picture is not sand. There are a lot of sandpits and there is a lot of available sand. There apparently is a shortage of sand to Cornejo . . . or Quik Sand and Cornejo. With their purchase of the 400-plus acre Kingbury tract, I think that should satisfy their need for sand for the area. Thank you.”

**Chairman Winters** said, “All right, thank you. Next speaker. Please give you name and address, ma’am.”

**Mr. Glenda Carruth**, 8321 N. Ridge Road, Valley Center, Ks., greeted the Commissioners and said, “Which is this upper red area in the five-acre tracts just inside the green zone. I wish to express my strong objections to the sandpit. I’ve called each of you and wrote each of you letters. We have

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lived here for 40 years, raised our four kids and two of our grandchildren here. We like the country feeling, the peaceful atmosphere. That will all be gone if the sandpit goes in. The plant will be located in the northwest corner of the site, which will be at our doorstep. There will be a lot of noise from the trucks backing up, from the sand-pumping equipment and so forth.

I'm also concerned about pollution, both water and air. We all have private water wells. What will we do if the water is polluted and what about the water table? Will we have to drill new, deeper wells when the water table is lower?

What will you do if the equus bed is polluted? They have oil and antifreeze and so forth on the barges that do get spilled. Also, my husband has emphysema, so we are concerned about air pollution. The people from Quik Sand say that the wind blows from the southeast to the northwest. Well, we live directly northwest.

We started building our house in 1963 and built as we got the money. We have never had a loan for it. We have never planned to move, but how will the sandpit affect our property value if it goes in and my husband has to move because of air pollution. We are on a fixed income and have planned our lives so we don't have a house payment or major debts.

The heavy traffic on Ridge Road is also a worry. We have deep ditches, which you've been told about. The trucks turning will create a hazard and there is nowhere for the fast-moving traffic to go.

You were just told about an accident that happened last week, which is the house north of us. They went into the ditch right there at the house north of us.

Another worry is wear and tear on Ridge from additional traffic load. We live on the west side of Ridge and when there's a heavy rain, surface water drains on us. Ridge Road acts as a dam. Every time a four-inch overlay is put on it, it backs that much more water on us and there would be a lot more repairs needed from increased truck traffic. And this case has been heard by the Valley Center Planning Commission, the governing body who knows this area best and they denied it.

They state concerns about heavy traffic and accidents, concerns about the water table, the overwhelming objections of us, the homeowners in the area and determined that the findings of fact do not support the conclusions from MAPD staff recommendations. Thank you."

**Chairman Winters** said, "Thank you, ma'am. Does anyone else in the audience like to speak? Yes, please come forward."

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**Ms. Rebecca Spivey**, 8050 N. 63<sup>rd</sup> Street W., Valley Center, Ks., greeted the Commissioners and said, "I was three years old when I moved here. I like the peace and quiet. I have two dogs and I enjoy walking them and also have a cat that is outside a lot. I'm afraid that they will not be safe. I also have a front lawn and road that we live on that floods after a good rain. I have to walk on this road to meet the school bus everyday. I'm afraid the building of the sandpit will make the flooding worse. It will also make it difficult to get to school."

**Chairman Winters** said, "All right, thank you very much, Rebecca. Would anyone else like to speak? Yes, please come forward."

**Ms. Denise Spivey**, 8050 N. 63<sup>rd</sup> Street W., Valley Center, Ks., greeted the Commissioners and said, "I'm Rebecca's mother and I don't have anything to say that you haven't already heard four times, except that we bought our home over 11 years ago. We saved and had a good down payment when we put it down and granted, we don't own the property that is now up to be sold for the sandpit, but it's very quiet and it's peaceful and our road does flood and we have great concern that just the noise and the smoke and the added pollution is going to change our way of life."

We can hear, we're half a mile from Ridge Road, and when a police car goes down the road and there's a window open, you can hear the siren from half a mile away, enough to make you aware of it and you wonder what's going on because it's quiet and you're not accustomed to noise.

The only thing I would like to say, continual exposure to persistent noise has been used in many a fashion, from torturing prisoners of war too . . . I don't have anything to back that up, but there's another gentleman who said the bouncing of a basketball 50 feet away was enough to drive him insane. We live right on the . . . if I'm not mistaken, I think this right here is our home. We made a decision to move to the country. We used to live in the city and it just doesn't seem fair that industry can move in right across from us and can totally change everything that we saved for and moved for. And that's all I have to say."

**Chairman Winters** said, "All right, thank you very much. Is there anyone else who would like to address . . . Yes sir, please come forward."

**Mr. David Hessler**, 8042 N. 63<sup>rd</sup> Street W., Valley Center, Ks., greeted the Commissioners and said, "I'm probably the third red one up on the backside of your map there, on the backside of that. Now my big concern is, you see how it's shaped there. They put a berm up along the edge of the sandpit, we got the Big Ditch dike right behind us. Before this berm ever went up there, when it had a bad rain, I'm saying three or four inches, I've waded two foot of water to get to my front door. Now if you've got something there that is V-shaped that is funneling that water in there to get deeper down to narrow in and build back up my way, what's them poor people down the road from me"

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going to get? I mean, and then another thing, if you go to sell, which we're thinking about moving here in the next few years, with that berm in front of our house and that big dike behind our house, how many people is going to want to buy that.

I probably can't even get the value of my land out of it. That's my concerns. The biggest thing is the flooding, because I've put up with that there without the berm in front of it, there without it funneling down and puddling up real bad. That field takes some of the water away from them properties in back, to keep down the flooding. Now if you put that berm out there in front, I'm a common sense type guy, it's going to pile that water up twice as deep back there, on Ms. Spivey, me, Mr. Montague, the whole bunch right along back, on the back side, and we're going to flood out and we're going to go deep. When I've already had two, two and a half foot of water behind there without that berm. Think about what's it's going to be with that berm. Thank you."

**Chairman Winters** said, "Thank you. Anybody else want to speak? Is that all of the public that wants to address the commissioners?"

**Voice in audience** said, "I have a question."

**Chairman Winters** said, "All right, sir. Come back to the podium and ask it."

**Voice in audience** said, "Will this automatically be a vote to defer or would you consider voting to deny today?"

**Chairman Winters** said, "I'm not sure, we're going to discuss that, so thank you very much. We'll have to discuss that among ourselves. All right, well . . . I think you'll have to do that later. All right, we are going to cut off the discussion with the public. Commissioners, we have had a request to defer this item. We went forward with the intension of making sure we wanted to hear these people on the day they came to the commission office. Commissioner Sciortino."

**Commissioner Sciortino** said, "I'd like to hear what the request for deferral is. I just heard we had a request."

**Chairman Winters** said, "Well, Mr. Hill, do you want to address that or Mr. Cornejo. Yes, if you'd like to address the request for a deferral."

**Mr. Ron Cornejo**, Owner, Quik Sand, greeted the Commissioners and said, "Earlier this week, we received quite a bit of correspondence and concern about the issues with this location. We've decided that we would like to defer to give us more time to address their concerns. We feel that we can answer the majority of them. We would like to get with Public Works and discuss the traffic issue, because we feel that is an issue that we do need to address and would just request more time to work on this."

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**Commissioner Sciortino** said, "I may have a question."

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

**Commissioner Sciortino** said, "Mr. Cornejo, do you think within 30 days, I think that's my sense about the maximum we can consider, will 30 days be sufficient time for you to take care of this?"

**Mr. Cornejo** said, "Thirty days is a stretch, with the holidays, right now. I'd like to request 60, but if it's not possible, I will take 30. I would like to also request that I talk to some of the leaders of this group, so we can pull them together, have some meetings and try to address these concerns."

**Commissioner Sciortino** said, "And if we were to approve that, would you keep us apprised of your discussions with the people, maybe in writing, to let us know what people you met with and what you discussed and things of this nature."

**Mr. Cornejo** said, "Most definitely."

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

**Chairman Winters** said, "All right, I guess we would entertain a Motion."

**Commissioner Sciortino** said, "I think it's rea . . . I'm always for it if people can just get together and visit, and reconcile their differences. I would prefer that, as opposed to leave something just contentious in line and I don't know if they're going to have the ability to change these people's minds but I think it bodes well that he would like to try."

### MOTION

Commissioner Sciortino moved to defer this item for 30 days.

Commissioner Unruh seconded the motion.

**Chairman Winters** said, "All right, we have a Motion and a Second to defer this for 30 days. Commissioner McGinn."

**Commissioner McGinn** said, "Just in being consistent in past deferments it seems to me like we've only given two weeks and that's what's been our standard in the past. So, like when we've had some recent cases, we've given a two-week deferral to get back with neighbors and just wondering why we're changing."

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**Commissioner Sciortino** said, “Well, I think he just mentioned that given the holidays, because next week is Thanksgiving, people might be out of town and I think probably trying to get all the people together, to me I don’t think 30 days . . .”

**Chairman Winters** said, “Commissioner, I would agree with you, if it wasn’t Thanksgiving next week, but I don’t think there’s much going to get accomplished next week, in my opinion. Do you have other comments then?”

**Commissioner McGinn** said, “Yeah, I do. We had a Motion and a second?”

**Chairman Winters** said, “We had a Motion and a second to defer for 30 days.”

**Commissioner McGinn** said, “Well, I guess during that 30-day period, I have some very strong concerns about this sandpit. I live in sandpit heaven, that’s my district and so this is different than a lot of sandpits that have been located in that area. The number one area that I think has the most concern is the traffic issue. That part of Ridge Road has steep ditches and no shoulders.

There is no room for error in that area at all and I know exactly what these individuals are talking about. When it rains three to four inches, we have big flooding problems in that area. It does not drain very well. I’ve seen the canoe in someone’s front yard, trying to get to the road, so I know that concern is very real.

Ridge Road is a main road that carries traffic from clear . . . people talked about Harvey County, but it carries people from McPherson County into Wichita and back and forth. It is a major arterial and, like I said, that portion, there are other portions that aren’t too bad, but that portion, in my opinion is, a very dangerous area. I’ve seen a lot of wrecks in that area as well.

And then the final thing I think, the point that many of the individuals made is the dust and particulate matter. I live just north of a sandpit right now and I know what it does to our fields. I see it every year. And so, that’s another area that I think that needs to be concerned about. I’m not sure that these concerns can be addressed, but if it sounds like the will of my commissioners, they want to defer this and give you an the opportunity to visit with the neighbors and so I will agree to that.”

**Chairman Winters** said, “All right, Commissioners, we have a Motion to defer further work on this case for 30 days. Any other discussion? John.”

**Mr. Schlegel** said, “Mr. Chairman, just a point of information, the 30 day deferral then would mean that this would be back on your December 15<sup>th</sup> agenda. I just wanted to make sure that the people that were attending today knew that information.”

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**Chairman Winters** said, "That's correct. It will be on December 15<sup>th</sup>, but I think one of the reasons that we took public comment today is so folks would not have to come back and tell us again. I mean, today was the day we were going to take public comment. Today is the day we got public comment, so in the future you can watch on television or you certainly can come back to the meeting, but it's not our intension to take further public comment."

**Voice in audience** said, "I have a comment. If they're being allowed to have a 30-day deferral and then come back and speak again, and tell you what they found, why are we not able to counter or rebut what they're coming back with?"

**Chairman Winters** said, "Because they're going to have to have some solutions that indicate that you all have thought that their solutions are pretty good. Now, how they do that, whether they have a community meeting with you."

**Voice in audience** said, "So they're going to report to you what we think?"

**Chairman Winters** said, "No, they're going to give us some kind of report talking about the questions that you all have asked. Commissioner McGinn."

**Commissioner McGinn** said, "Well, and just to add to that, that's generally how it works is we will find out what contact you've had, whether you agree or not. And it's not going to be just based on that. I'm sure everyone of you who have e-mailed me and called me will be doing it again. So, you let us know and I invite you to let all five commissioners know how you feel about this issue, but I think this has been a policy in the past that we do allow people, the applicants to work things out with the landowner and you can let us know whether that's coming to a positive solution or not."

**Chairman Winters** said, "All right, we have a Motion to defer this for 30 days until December the 15<sup>th</sup>. Any other discussion? Seeing none, Madam Clerk, call the vote."

### VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

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**Chairman Winters** said, "All right, I wish we were done. We're going to take a five minute recess."

**The County Commission went into recess at 2:00 p.m. and returned from recess at 2:15 p.m.**

**Chairman Winters** said, "I'll call the meeting, Regular Meeting of November 17<sup>th</sup>, 2004 back to order. All right, Madam Clerk, call the next item."

### **H. FUNDING IN THE AMOUNT OF \$50,000 FOR A STUDY RELATED TO FAIR FARES.**

**Mr. William P. Buchanan**, County Manager, greeted the Commissioners and said, "Commissioners, we will produce a contract for you to approve on the consent agenda later, at some future date. This is an opportunity for Sedgwick County to become a partner with the Fair Fares process. It is intended that our funds would be used in conjunction with some other funds that would be matched from somewhere, we have some ideas where that might be, but would be used to do a continuation of a study that had been started some years ago.

The study will help us determine our bargaining position with Air Tran and others for more flights, some more different times of flights from Wichita Mid-Continent Airport. I would recommend that you approve this funding and we will be back with a contract at a later date."

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

**Commissioner Unruh** said, "Is this our first financial partnership in this effort?"

**Mr. Buchanan** said, "Yes."

**Commissioner Unruh** said, "Okay."

**Mr. Buchanan** said, "Well, I say yes in one respect. This is the first time that we'll enter a contract. We agreed some years ago, when it initially started commissioner, that we would participate in the first round of committing county dollars to purchase tickets on airlines and we did that. So we spent, I think at that time, it was \$40,000 of our travel funds. When people were flying, we required them to use Air Tran and we did that commitment for a year and I think we made the goal within several months."

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**Commissioner Unruh** said, "Okay, all right."

**Commissioner Sciortino** said, "And let me just ask you a question. Mr. Manager, in the backup it states that matching funds will come either from the City of Wichita or the airport authority because I guess this Saber Study is a \$100,000 study."

**Mr. Buchanan** said, "I don't think we need to make a commitment . . . I don't think we need to make a condition of the funding as to where the source of funds, the other \$40,000."

**Commissioner Sciortino** said, "No, we're just putting up half the funding required in the hopes that somebody else somewhere, somehow will get the other half."

**Mr. Buchanan** said, "Exactly, yes sir."

**Chairman Winters** said, "Is there a Motion to approve this funding?"

### **MOTION**

Commissioner Sciortino moved to approve the funding.

Commissioner Unruh seconded the motion.

**Chairman Winters** said, "I have a Motion and a second to approve this funding. Commissioner Norton."

**Commissioner Norton** said, "I'm going to be supportive of this. I think Fair Fares is, in my mind, has proved to be a pretty good way to increase traffic here and get airlines to be interested in Wichita. One of the concerns I've continued to have is our relationship with the airport and Fair Fares, even though we get to appoint a few people to the Airport Authority, that they really . . . that is a board that doesn't have much power, and if we're going to start being too encumbered in this, that I wish we had a little more say so with what was going on with airport and air authority and everything. Just a statement, I've been on record as saying that before, but this is another good time to reiterate that that's not a particularly . . . our appointments there don't mean much, I don't think."

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**Commissioner Sciortino** said, “Not any more. It used to be an authority, but now it’s just an advisory board.”

**Commissioner Norton** said, “Absolutely and if we’re going to go down this path of starting to put pretty good money into this, I think we need to maybe have a little more say so with what goes on. Just a comment.”

**Chairman Winters** said, “All right, thank you. We have a Motion. Any other discussion? Madam Clerk, call the vote.”

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

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

**DIVISION OF HUMAN SERVICES – DEPARTMENT OF CORRECTIONS**

**I. APPLICATION TO KANSAS JUVENILE JUSTICE AUTHORITY FOR STATE FISCAL YEAR 2006 FUNDING.**

**Ms. Chris Morales**, Systems Integration Coordinator, greeted the Commissioners and said, “We’ve been receiving state funding for Juvenile Justice Authority Delinquency Prevention fund since 1998, and in order to continue receiving that funding, we do need to submit a funding application to the state by December 1<sup>st</sup>. The core programs, which our department provides, will come back with a separate application in February.

Before you today is the state fiscal year 2006 funding applications. These are the recommended programs and amounts that were approved by Team Justice on November 5<sup>th</sup>. Basically, we have current level funding for prevention services with the exception of the truancy prevention program. At your request, we reviewed the current truancy program between the county crime prevention fund and the Juvenile Justice Authority fund and, as you know the most significant change in this truancy application is in the area of case management, which Dr. Craig mentioned in her presentation to you last week. We are proposed to use \$323,559 of the total truancy award for short-term case management. This proposed charge we believe to be more cost effective and will also allow us to serve a large number of students in Sedgwick County.

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We would expect to issue an RFP for these services and hope that that would be able to be issued sometime after the first of the year. The intervention award remains the same, at \$279,638. We are ask . . .”

**Chairman Winters** said, “Chris, are you looking at a certain page? What page are you looking at?”

**Ms. Morales** said, “No specific page. Your backup probably has the . . . this isn’t the actual grant application. The backup probably has some charts in it.”

**Chairman Winters** said, “Okay and so what were you talking about right before you talked about talking about this?”

**Commissioner Sciortino** said, “Isn’t it a grant of 1.5 million dollars that we’re going for?”

**Ms. Morales** said, “Yes. If I could have the ELMO turned on, I can put the chart up.”

**Chairman Winters** said, “Somebody turn the ELMO on.”

### **OVERHEAD PRESENTATION**

**Ms. Morales** said, “So here’s your prevention award at the 1.2 million and it shows all of the programs that are funded at the current level, with the exception of the truancy prevention program, which as you know, the major change in that is the shift to a short-term case management model.

For your intervention award, current level funding for all of those programs, for all three of them. So today, we’re asking your approval on this grant application, so that we could submit it to the state before December 1<sup>st</sup> and authorize the Chair to sign.”

**Chairman Winters** said, “All right, without looking . . . Okay, go ahead, Commissioner Sciortino.”

**Commissioner Sciortino** said, “These are all the programs that are state funded and there’s no local matching dollars on this? These are all the programs that are state funded, right?”

**Ms. Morales** said, “Correct.”

**Commissioner Sciortino** said, “And we’re 100% comfortable in thinking that we have . . . I’m losing the word I want to use . . . outcome measurements that are real? I mean, in talking with some of the people, some of these outcome measurements were pretty wishy-washy, as far as what was

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real and what . . . as a matter of fact, I heard they didn't really have yet the right outcome measurements and they were going to try to fund some additional monies so they could get outcome measurements. I'm just messing with you . . . I mean, I'm not messing with you, but you don't understand what I'm saying, right?"

**Ms. Morales** said, "We have outcome measures that the state has approved and Dr. Craig has also looked at them very carefully in her independent evaluation of these programs."

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

**Chairman Winters** said, "Dr. Craig, is this the reason you're here, because of this agenda item?"

**Dr. Delores Craig-Moreland**, Wichita State University, said, "Yes, sir."

**Chairman Winters** said, "Okay. Commissioner McGinn. I'm sorry, Commissioner Norton."

**Commissioner Norton** said, "Isn't it really that this is the grant . . . we're asking for the money from the state for '06, these are the programs that we're submitting and, as we get the money, we'll put some of it out for RFP. Some of it's already been decided, like the DA's diversion program, but the major portion, like truancy, is going to go out for RFP, as we get the money, so all this really is is applying for the big pool of money from the state, and really hasn't been determined whose going to deliver it yet at a local level. Is that correct?"

**Ms. Morales** said, "Yes, the pieces that are required to go out for RFP will."

**Commissioner Sciortino** said, "And I guess the question that I wanted to make sure, because I had some real big concerns on the amount of local funding to some of the programs that we fund locally, but that has nothing to do with this grant."

**Ms. Morales** said, "Nothing to do. This is just JJA state funded dollars."

**Commissioner Sciortino** said, "That's fine."

**Chairman Winters** said, "But if you have questions though, Dr. Craig gave us the review analysis of all of the programs."

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**Commissioner Sciortino** said, "I have a lot of questions about the local funding, but this is just the state funding, and that's why I wanted . . . if some of the local programs are going to be incorporated in this, then I was going to have a problem voting for it."

**Commissioner Norton** said, "Is it true though that the funds are now going to be commingled in the way we perform with them, so that if you have questions about this grant and how it comes back, it's going to be commingled with some of the money we put with it on some programs."

**Commissioner Sciortino** said, "No. No matching funds on this one, it says."

**Commissioner Norton** said, "Not on this one, but if you have worries about how some of the outcomes are, the money will be pushed together to support truancy through the RFP program. Is that not right, Doctor? So that it will commingle in the outcomes, because those programs are going to be . . . the money is going to inner-mesh to support truancy through the RFP program. Is that correct?"

**Ms. Deborah Donaldson**, Director, Division of Human Services, said, "What we have tried to do was to keep from having one agencies with multiple funding sources, so we have structured it so that will not happen very frequently, if at all. But like for example, on truancy, we will be looking at the affects of the total program, you know, with the changes that have been made and there will be funding from both local and state to support that, but not probably with the same agency."

**Commissioner Norton** said, "Right. But that's not precluded that it couldn't happen."

**Ms. Donaldson** said, "Right. I mean, to make that work or if we need to tweek something, I mean that doesn't preclude that."

**Commissioner Norton** said, "Okay."

**Chairman Winters** said, "Dr. Craig."

**Dr. Craig-Moreland** said, "Thank you. I just wanted to say that when I went like this, what I'm trying to say is that what I understood that you all wanted was compatible, articulated prevention programming and that's really . . . the programs that are listed here are designed to mesh successfully or advantageously with the locally funded programs. There is no . . . you are absolutely correct in saying there's no matching requirement. That's not a part of any of these grants, but these grants cover programs that are designed to work very compatibly with what you fund from your local . . ."

**Commissioner Sciortino** said, "That's correct, but it does not commit us to funding any of the local

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programs in order to qualify for this grant. When we get to the point, sometime next year, when we're discussing some of the prevention funding, that's when I'm going to bring up my concerns about inadequate benchmarks to really prove whether or not we can see any results in reduction of truancy or what have you. That's what I wanted to make sure I could separate both, so I could support this. Is that correct?"

**Chairman Winters** said, "Yeah, I think so. But I . . . are you done?"

**Commissioner Norton** said, "I'm done."

**Chairman Winters** said, "But I would suggest, commissioner, that if there's some of these, if there is a program or some programs that you have questions or concerns about, let's try to get it addressed before we get to the next decision-making point. I mean, if we even need to have a workshop about it or if you need to get staff to start digging up the measurements that you're interested in. Let's don't wait till we get to a point where we've got to make . . ."

**Commissioner Sciortino** said, "These are already approved for this year, the prevention programming and truancy is part of the programming. Next year we're going to have to approve it again. I think I have addressed to Debbie and to Mark my concerns on the inadequate benchmarks."

**Chairman Winters** said, "Okay. So you think we're all working on that? You and them are working on that?"

**Commissioner Sciortino** said, "I think so."

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

**Mr. Buchanan** said, "May I muddy the water?"

**Commissioner Sciortino** said, "Sure, go ahead. Everybody else has today."

**Mr. Buchanan** said, "You'll recall that we've changed the fiscal year to begin in July, so we are good to go from now till June 30<sup>th</sup>. We're going to be in a different decision-making point about what will happen after July 1<sup>st</sup>."

**Commissioner Sciortino** said, "I thought we did it 18 months to coincide now with an annual year."

**Mr. Buchanan** said, "It was one time to catch up. We've already done that."

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**Commissioner Sciortino** said, "So now it's fiscal year, right?"

**Mr. Buchanan** said, "Yes, July 1<sup>st</sup> to June 30<sup>th</sup>."

**Commissioner Sciortino** said, "I thought we did the 18 months so that we could . . . okay, so that coincides with our . . ."

**Commissioner Norton** said, "It coincides with the school district now."

**Mr. Buchanan** said, "We're funded on a fiscal year, beginning July 1<sup>st</sup>, 2005 to June 30<sup>th</sup>, 2006. And our intent is to not behave like the state and not behave like the federal government, and have stovepipe operations, but to integrate this money and deliver a program that makes sense in prevention using two sources of funds."

**Commissioner Sciortino** said, "Okay, but if we integrate it, all I want to have Bill, is I want to be able to tell my constituents, we invested \$100,000 to Communities in Schools and this is what we got. We dropped truancy in X, Y, Z school from 'x' to 'y' and I couldn't get that from anybody I talked to because it depends on what the legal definition of truancy is and the turnover and the this and the that and whatever. And I'm sitting around thinking, 'Did we spend \$100,000 and get anything'."

**Mr. Buchanan** said, "Commissioner, we will get that for you."

**Commissioner Sciortino** said, "That's great."

**Chairman Winters** said, "Okay. Chris, is that all you had?"

**Ms. Morales** said, "That's all I had."

**Chairman Winters** said, "Okay. We need a motion to take the recommended action."

### **MOTION**

Commissioner Norton moved to approve the Application and authorize the Chairman to

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sign all necessary documents, including a grant award agreement containing substantially the same terms and conditions as this Application; and approve establishment of budget authority at the time the grant award documents are executed.

Commissioner Unruh seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

**Chairman Winters** said, “Thank you all that came for that item. I’m sorry you had to sit through 25 zoning cases. Next item.”

**J. DISPOSAL OF THREE SURPLUS SEDGWICK COUNTY EMERGENCY MEDICAL SERVICE AMBULANCES.**

**Mr. Bob Lamkey**, Director, Division of Public Safety, greeted the Commissioners and said, “I will try to be profoundly brief. Sedgwick County has received requests from three entities, the City of Pretty Prairie EMS Service, the City of Derby and the Mount Hope Volunteer Ambulance Service to acquire ambulances that will be excesses to our needs, as they will very shortly be replaced with new vehicles.

It’s been our custom to trade in ambulances as the primary disposal method and our current plan, accepted by the Board of County Commissioners in approving Bid Board recommendations earlier this year, is to trade in four ambulances as we receive four new ones. The trade-in values have been established by the vendor at \$14,000 for one and \$16,500 for each of three others.

The action that I’m asking you to take today, it’s a simple request, is asking you to consent to retain three, that is not trade three in, surplus ambulances, pending completion of negotiated agreements with each of these interested entities. And again, those agreements will come back to you individually for your approval.

In the event we cannot reach acceptable agreements with some or all of the interested parties, then the ambulance will be disposed of through other means available to the county, either through

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auction or wholesaling or even E Bay, now that we have that ability.

So what I'm asking you today is to declare the ambulances surplus, authorize retention pending negotiated agreements with the City of Pretty Prairie, the City of Derby and the Mount Hope Volunteer Ambulance Service."

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

**Commissioner Sciortino** said, "Real quickly, not to over-simplify the job that you do for us, you've gone to Joe Blow Ambulance Company that sells new ambulances. He said, 'I'll sell you this new ambulance for 'x' number of dollars, and I'll give you 'y' dollars for your trade-in'. You said, 'Sounds like a heck of a deal' and you want to sign it and buy the ambulance."

**Mr. Lamkey** said, "Correct."

**Commissioner Sciortino** said, "What negotiations does it take to decide, you go to Derby and you say, 'The guy said I could get this much on trade-in, do you want to pay me?' and get a yes or a no from them."

**Mr. Lamkey** said, "Here's the situation we're in right now. When you approved the Bid Board minutes earlier this year, you approved that price, with the trade-ins. I'm asking you to allow us to hold those trade-ins, pay the price to the vendor, the full price of the ambulance, and give us time to negotiate with those individuals. The ambulances . . ."

**Commissioner Sciortino** said, "Wait a minute, wait a minute, wait a minute. You haven't bought the ambulances yet, right?"

**Mr. Lamkey** said, "The ambulances are due to be delivered in two weeks."

**Commissioner Sciortino** said, "So we've already . . ."

**Mr. Lamkey** said, "Correct, correct."

**Commissioner Sciortino** said, "And all you're asking us, instead of paying them . . . okay, they're due in two weeks. Can you go to the vendor and say, 'Look, I'm either going to trade this ambulance in to you, or if it's okay with you, instead of trading it in for \$10,000, I'll give you \$10,000 more in cash'. He said, 'That's okay'. Right?"

**Mr. Lamkey** said, "Correct."

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**Commissioner Sciortino** said, “Now you’ve got two weeks to find out if Derby is going to accept it and if not, trade it in. But wait a minute, I want that answer. Why can’t that be done?”

**Mr. Lamkey** said, “Unfortunately, I will work with Derby in that process, but it’s going to take time to put it back on your agenda to approve each one of those items, because we’re going to . . . for instance, the City of Derby, let me speak to them specifically, because Pretty Prairie wants a simple deal. They want to buy one of those ambulances. The City of Derby wants to replace a 1990 ambulance that they own that, by agreement, we maintain. Okay, so we spent \$4,000 this year maintaining their ambulance because that’s part of our agreement.

What I would like from the City of Derby, quite frankly, is to give them the ambulance and get exclusive service in the City of Derby, which we don’t have right now, and secondly, they have in their agreement, because they have pre-existing ambulance service, if they decided they wanted to start an ambulance service tomorrow, they could do that and we’ve agreed not to object. We’ve agreed not to take it to the state, so we got to sit down and talk . . .”

**Commissioner Sciortino** said, “Okay, I’ve got it. I got it. Okay, I’ve got it. Don’t sell past the close.”

**Commissioner Unruh** said, “But in these negotiations, we will try to be cost-neutral to us. I mean, you’re going to figure out the sales tax differences and stuff like that, to where we don’t . . .”

**Mr. Lamkey** said, “I will come back with the best value for Sedgwick County, in terms of service delivery and support to these organizations and you’ll get the opportunity to approve each one of these.”

**Chairman Winters** said, “But let me just say, while we’re all here, that in the case of Mount Hope, Mount Hope has a volunteer ambulance service and their ambulance is worn out. If they fold up shop and say, ‘We’re not going to do the ambulance anymore’ it’s going to cost us, because we’re going to have to do something else to serve that northwest corner of the county. So, I’m thinking whatever the deal is we could make with the trade, we can still save our system money by making sure Mount Hope can afford to get into this ambulance.”

**Mr. Lamkey** said, “And so I’ll come back with each one of those things, as we’ve sat down and formally bring something to you for your approval.”

**Commissioner Sciortino** said, “I got it.”

### MOTION

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Commissioner Sciortino moved to declare the ambulances surplus; and authorize retention pending negotiated agreements with City of Pretty Prairie, City of Derby and Mt. Hope Volunteer Ambulance Service.

Commissioner Norton seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

**Chairman Winters** said, “Thanks, Bob. Okay Jim, what kind of controversy have you got?”

**K. PUBLIC WORKS.**

- 1. AGREEMENT WITH BAUGHMAN COMPANY, P.A. FOR DESIGN OF STREET IMPROVEMENTS IN ELK RIDGE ADDITION – PHASES 1 AND 2. DISTRICT #3.**
- 2. CONTRACT WITH PROFESSIONAL ENGINEERING CONSULTANTS, P.A. FOR DESIGN OF STREET IMPROVEMENTS IN SAVANNA AT CASTLE ROCK RANCH 5<sup>TH</sup> ADDITION – PHASE 4 AND SAVANNA AT CASTLE ROCK RANCH 7<sup>TH</sup> ADDITION – PHASE 3. DISTRICT #1.**
- 3. AGREEMENT WITH CERTIFIED ENGINEERING DESIGN, P.A. FOR DESIGN OF STREET IMPROVEMENTS IN GAITHER ADDITION. DISTRICT #2.**

**Mr. Jim Weber**, P.E., Deputy Director, greeted the Commissioners and said, “And unlike Bob, who is not profoundly short, I will try to be profoundly short and profoundly simple.

Items K-1 through 3, we are requesting your approval of agreements for engineering design services and construction staking on special assessment projects in the unincorporated area of the county. In all three cases, all costs of the project are to be paid by the benefited properties through special

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assessments.

In Item K-1, we're requesting your approval with Baughman and Company for engineering design services and construction staking services on phases I and II of the Elk Ridge Addition street project. Cost of this project will not exceed \$39,600.

In Item K-2, we're requesting your approval of an agreement with Professional Engineering Consultants for engineering design services and construction staking on Savanna at Castle Rock Ranch 5<sup>th</sup> Addition, Phase 4 and Savanna at Castle Rock Ranch 7<sup>th</sup> Addition, Phase 3 street project. The cost of this project will not exceed \$28,500.

And in Item K-3, we're requesting your approval of an agreement with Certified Engineering Design for engineering design services and construction staking in the Gaither Addition street project. Total cost of this work will not exceed \$4,000, and we request your approval of the recommended action on all three items."

**Commissioner Sciortino** said, "Can we take all three together, Rich?"

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

### MOTION

Commissioner Sciortino moved to approve the Agreements K-1 through K-3 and authorize the Chairman to sign.

Commissioner Unruh seconded the motion.

**Chairman Winters** said, "I have a Motion and a second. Seeing none, call the . . . did you have something?"

**Commissioner Norton** said, "Just quick, just for the record, I have a son that works for Baughman Company. I'm going to go ahead and vote on this yes, but he is an engineer and does street work occasionally, so just wanted to be sure it was on the record. I will vote."

**Chairman Winters** said, "All right, thank you. Madam Clerk, call the vote."

### VOTE

Commissioner Unruh

Aye

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Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

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

**CONSENT AGENDA**

**L. CONSENT AGENDA.**

**1. Right-of-Way Easements.**

- a. Easement for Right-of-Way for Sedgwick County Project 616-34; widening of 13<sup>th</sup> Street North between K-96 and 159<sup>th</sup> Street East. CIP# R-253. District #1.
  
- b. Temporary Construction Easement for Sedgwick County Project 829-V; floodway reserve on Woodlawn between 47<sup>th</sup> and 55<sup>th</sup> Streets South. District #5.

**2. Line item adjustments to Juvenile Intensive Supervision Program and Juvenile Case Management Program, to be submitted to Kansas Juvenile Justice Authority.**

**3. Amendment to the 2004 Capital Improvement Program to increase the scope of installation of outdoor warning devices to move an existing siren.**

**4. Order dated November 10, 2004 to correct tax roll for change of assessment.**

**5. General Bills Check Register(s) for the week November 10 – 16, 2004.**

**Mr. Buchanan** said, "Commissioners, you have the consent agenda before you and I would recommend you adopt it. If you wait two and a half minutes, you will set the record from the 1998 budget meeting, which lasted until 2:45."

**Commissioner McGinn** said, "No, I have the record, 4:00, transfer station day."

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**Commissioner Sciortino** said, “We will. We still have to go back to the fire station and come back, so we’ll beat that.”

**Commissioner Unruh** said, “And I haven’t talked about our new gorillas yet.”

**Commissioner Sciortino** said, “And Dave is good for 10 minutes on the new gorilla.”

**Chairman Winters** said, “I mean, who are you going to talk to? Laurie is the only one here.”

**MOTION**

Commissioner McGinn 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 Unruh	Aye
Commissioner Norton	Aye
Commissioner McGinn	Aye
Commissioner Sciortino	Aye
Chairman Winters	Aye

**Chairman Winters** said, “Is there other business? If you have community business, this is the time to say it.”

**M. OTHER**

**Commissioner Sciortino** said, “Tell us about the gorillas, Dave.”

**Commissioner Unruh** said, “We just have two more. We have a total of eight. These came from Oklahoma City. They’re related, they’re either nephews or cousins or nieces to Shango and Barney I think. Anyway, I want you guys to know, we’ve got two more gorillas and the lion cub is out with his mother. They’re putting them out together now, make sure they play nice together. We’ve got a baby rhino, we talked about that last week.”

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**Chairman Winters** said, “Is there any other community business that we can share with Laurie?”

**Commissioner Norton** said, “I had several items, but I think I’ll skip them.”

**Chairman Winters** said, “Have them on TV next week. All right, if there’s no other business to come before the Regular Meeting, that meeting is adjourned.”

**N. ADJOURNMENT**

There being no other business to come before the Board, the Meeting was adjourned at 2:40 p.m.

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

\_\_\_\_\_  
**THOMAS G. WINTERS**, Chairman  
Third District

\_\_\_\_\_  
**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:

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, 2004