

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

### **REGULAR MEETING**

**April 19, 2006**

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 19, 2006 in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman Ben Sciortino, with the following present: Chair Pro Tem Lucy Burtnett; Commissioner David M. Unruh; Commissioner Tim R. Norton; Commissioner Thomas G. Winters; Mr. William P. Buchanan, County Manager; Mr. Rich Euson, County Counselor; Ms. DeAnn Konkel, Public Safety Liaison, Division of Public Safety; Mr. Ron Holt, Assistant County Manager; Ms. Kim Parker, Assistant District Attorney; Ms. Kimberly Reese, Case Coordination, District Attorney's Office; Mr. Robert W. Parnacott, Assistant County Counselor; Mr. John Schlegel, Director Metropolitan Planning Department (MAPD); Mr. David Spears, Director, Bureau of Public Works; Ms. Iris Baker, Director, Purchasing Department; Ms. Kristi Zukovich, Director, Communications; and, Ms. Kristi Wolf, Deputy County Clerk.

### **GUESTS**

Mr. Sheldon Larson, Public School Chairman, Albert Pike Masonic Lodge #303.  
Ms. Beth Oaks, Representative, United Way of the Plains.  
Ms. Carolyn Shottler, Volunteer, Parents of Murdered Children.  
Ms. Pat Gallagher, Project Chair, Sunrise Rotary Club.  
Mr. Larry Schumacher, President & CEO, Via Christi Wichita Health Network.  
Ms. Terry Cassidy, Manager's Office, City of Wichita.  
Mr. Larry Higgins, 3919 S. West Street, Wichita, Ks.  
Mr. Chris Carrier, Director, City of Wichita Public Works.  
Ms. Brenda Stover, 3850 S. Brummett, Wichita, Ks.  
Mr. Jim Armour, City Engineer, City of Wichita.  
Mr. Larry Henry, Maintenance Engineer, City of Wichita.  
Mr. Doug Mosher, Attorney, City of Wichita Law Office.  
Mr. Guadalupe Rubalcaba, Business Manager, Maize Airport.  
Mr. Jim Nichols, 4425 N. Ridge Road, Wichita, Ks.  
Ms. Mary Reed, 4435 N. Ridge Road, Wichita, Ks.  
Dr. Dan Johnson, 7777 W. 45<sup>th</sup> Street N., Wichita, Ks.  
Mr. Mark Reed, 3435 N. Ridge Road, Wichita, Ks.  
Mr. Matt Shook, Owner/ Applicant, Paintball Park.  
Mr. Michael Daniel, 1703 Skyview, Wichita, Ks.  
Mr. Karl Peterjohn, 11328 Texas Street, Wichita, Ks.  
Mr. James Morgan, 5127 E. 49<sup>th</sup> Street N., Wichita, Ks.

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**INVOCATION**

The Invocation was led by Pastor Greg Brandvold from Cross of Glory Lutheran Church, Derby.

**FLAG SALUTE**

**ROLL CALL**

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

**Chairman Sciortino** said, "Next item please"

**CONSIDERATION OF MINUTES:** Regular Meeting, March 29, 2006

The Clerk reported that Commissioner Burtnett was absent at the Regular Meeting of March 29<sup>th</sup>, 2006.

**Chairman Sciortino** said, "Commissioners, "I believe you had a chance to review the minutes of the March 29<sup>th</sup> meeting. What is your will please?"

**MOTION**

Commissioner Winters moved to approve the Minutes of the Regular Meeting March 29, 2006

Commissioner Unruh seconded the motion.

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

**VOTE**

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

**Chairman Sciortino** said, "Next item please"

**PROCLAMATIONS**

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**A. PROCLAMATIONS.**

**1. PROCLAMATION DECLARING APRIL 21, 2006 AS “MELODY ROBINSON DAY.”**

**Chairman Sciortino** said, “Thank you, commissioners I have a proclamation I would like read into the record for your consideration it says:

**PROCLAMATION**

**WHEREAS**, the Worldwide Fraternity of Free and Accepted Masons has long championed the need and responsibility of a lifelong and ‘virtuous education’; and

**WHEREAS**, Albert Pike Lodge No. 303, in Wichita, Kansas, in continuing its dedication to the community and public schools, has set out to distinguish Wichita’s finest educators in the selection and promotion of the Albert Pike Lodge-Teacher of the Year Award;

**WHEREAS**, the selection committee, comprised of men and women from various backgrounds and vocations have unanimously selected Melody Robinson for her dedication in teaching high school students at Wichita West High School, USD 259;

**NOW, THEREFORE BE IT RESOLVED**, that I, Ben Sciortino, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim April 21, 2006 as

**“Melody Robinson Day”**

in recognition of her service to this City, the Wichita Public School District, Wichita West School and the thousands of students and peer faculty that she has impacted through her dedication and fortitude in the discharge of her duties; in commendation of the qualities, capabilities and commitment that she brings to promote academic excellence, in building internally motivated confidence and teaching self reliance to her students and all those around her.

Commissioners, that is the proclamation. What is your will please?”

**MOTION**

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

Commissioner Unruh seconded the motion.

**Chariman Sciortino** said, "Ok I've been told that I don't know how to pronounce English language it is Melody not Melanie. Is someone here to.... Are you going to take it to her, your going to be at...."

**Commissioner Burtnett** said, "Yes I'm going to be Friday night they are having an event that I will be going and I will present the proclamation at that point in time. Happy to do it."

**Commissioner Sciortino** said, "Thank you, next item please. We had'nt voted on it yet. Do you think it would be appropriate if we did. Ok, why don't you call the role please."

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, "Next item please"

**Commissioner Unruh** said, "Mr. Chiar pardon me please, but I think there is someone hear from the Albert Pike lodge perhaps they would want to say something relative to this proclamation."

**Chairman Sciortino** said, "Fine, yes please come on up to the podium."

**Mr. Sheldon Larson**, Public School Chairman, Albert Pike Masonic Lodge #303, greeted the Commissioners and said, "The Albert Pike Lodge would like to thank the Board of County Commissioners, Sedgwick County, Kansas for their support over the past seven years of our teacher of the year ceremony. Each year we pick from nominations submitted to us from school principals in the USD 259 school district. As in the past it's always a hard job to choose, and each nomination is really worthy of the title.

This year our judges selected a teacher submitted by Lori Doyle, Principal of West High School and

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the assistance of Joel Hudson, Executive Director and Alice Dewey, Coordinator of Business Computers and Marketing and Health Occupations. This teacher is a language arts instructor of twelfth grade, Health Science instructor for ten, eleven and twelfth grades, academy leader for Health Science and Early Childhood Academy at West High. She is active RN and has taught at West High for the past five years. On May the 12, 2006 she will be graduating from WSU with a Masters in Anthropology, Archaeology, and we will be starting work on a Masters in English. She is a role model for the students at West High she is positive, energetic, knowledgeable and passionate.

She has been involved in re-writing the state standards for Health Science and has represented Kansas in National Health Standards meetings and she has been a partner in partnership with WSU Physicians Assistant Program. The Albert Pike Masonic Lodge is pleased that the Board of County Commissioners are proclaiming April 21, 2006 as "Melody Robinson Day". On behalf of Albert Pike Lodge and all Masons we want to thank the Board for their work and for working with us in recognizing our Public School Educators. Thank you very much."

**Chairman Sciortino** said, "Thank you, just for the public information. How long has your lodge been doing this?"

**Mr. Larson** said, "This will be out 8<sup>th</sup> year."

**Chairman Sciortino** said, "Eighth year"

**Mr. Larson** said, "Yes"

**Chairman Sciortino** said, "Well, I think it's great that an organization as esteemed as the Masons would take the time just to recognize a teacher because usually they get a lot of grief and people are really quick to complain but very slow to compliment. And I think they have to take their little successes you know one student that they can see that actually makes it is maybe worthwhile of all the trouble and grief they have to go through. It's really great that you have taken the time to recognize them, so thank you for that."

**Mr. Larson** said, "Thank you very much. We will be seeing you Friday evening."

**Commissioner Burnett** said, "All right, thank you."

**Chairman Sciortino** said, "Anything else commissioners? Ok, next item please."

## **2. PROCLAMATION DECLARING APRIL 23-29, 2006 AS "NATIONAL**

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**VOLUNTEER WEEK.”**

**Chairman Sciortino** said, “Commissioners I’d like to read this Proclamation into the record for your consideration. It states:

**PROCLAMATION**

**WHEREAS**, National Volunteer Week is a 33-year tradition that recognizes and celebrates the tremendous efforts of volunteers across the country; and

**WHEREAS**, volunteer centers, nonprofits, businesses, government agencies, hospitals, faith-based organizations, and schools utilize National Volunteer Week to highlight their own volunteers and support thousands of service projects in the community; and

**WHEREAS**, the Junior League of Wichita, Inc., is an organization of women committed to promoting volunteerism, developing the potential of women and improving communities through effective action and leadership of trained volunteers; and

**WHEREAS**, the Junior League of Wichita, Inc., was founded in 1925 for the purpose of uniting and training women with the goal of helping others; and

**NOW, THEREFORE BE IT RESOLVED**, that I, Ben Sciortino, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim April 23-29, 2006, as

**“National Volunteer Week”**

in Sedgwick County and encourage all citizens to join with organizations like the Junior League of Wichita, Inc., to improve our community through volunteering your time and effort to a cause that is meaningful to you.

Commissioners, that’s the Proclamation. What is your will?”

**MOTION**

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

Commissioner Norton seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, “ I believe Clarissa Jarboe Gale and another young lady are here to accept the award, so if would like to say something to us or at us.”

**Ms. Clarrisa Gale**, President Elect, Junior League of Wichita, greeted the Commissioners and said, “Good morning, and this is Lynn Ward, our President Elect and I will let her make some comments.”

**Chairman Sciortino** said, “And you are who, miss?”

**Ms. Gale** said, “I’m Clarissa Jarboe Gale.”

**Chairman Sciortino** said, “Thank you.”

**Ms. Lynn Ward**, President Elect, Junior League of Wichita, greeted the Commissioners and said, “Thank you. Just too, this isn’t a lot more I can say other than what has already been said in the Proclamation. On behalf of the 850 members of the Junior League of Wichita 200 of whom actively volunteer within the Wichita community we do thank the commission for this recognition, thank you.”

**Chairman Sciortino** said, “Thank you very much, commissioners any comments or questions? We have one Commissioner Burtnett.”

**Commissioner Burtnett** said, “As I have become County Commissioner I have gone to a lot of

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events and I want to thank the Junior League for all the work they have done you seem to be everywhere volunteering. It's a great inspiration so I want to thank you for everything, and the women of great taste cookbook that's very nice. Thank you very much. You have to learn how to cook you can't just have somebody cook for you."

**Chairman Sciortino** said, "I cook, you haven't seen one of my grilled cheese sandwiches have you."

**Commissioner Burtnett** said, "But you guys do a great, great job and you're out there all the time working very hard and I really appreciate all your efforts."

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

**Chairman Sciortino** said, "Because as you know the backbone of any government, in order to get things done, we need volunteers. There is not enough people that we can hire to get jobs done. I think this cascades into charitable organizations, United Way, etcetera and so forth. If they can't rely on their volunteer groups to do the work we wouldn't be able to accomplish even a tenth or one percent of what we would need to accomplish. So it's great that you take the time to recognize volunteers and that you actually promote people to get off their duff's and be involved and that's really great. So we will be calling you, we probably have a few other projects we need some help on."

**Ms. Ward** said, "Give me a call, we will be happy to talk."

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

### **3. PROCLAMATION DECLARING APRIL 23-29, 2006 AS "BE PREPARED. VOLUNTEER. WEEK."**

**Chairman Sciortino** said, "This is another Proclamation maybe a little bit closer tied to the last one and it says:

#### **PROCLAMATION**

**WHEREAS**, the entire community can effect positive change with any volunteer action no matter how big or small; and

**WHEREAS**, volunteers wanting to help in times of disaster can connect with local community service opportunities through hundreds of community service organizations like Volunteer

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Centers; and

**WHEREAS**, during National Volunteer Week, we recognize our proud legacy of those individuals who volunteer during times of emergency or disasters. We encourage citizens to familiarize themselves and get involved with organizations such as Sedgwick County Community Emergency Response Team (CERT), Medical Reserve Corp (MRC) and other volunteer groups which encourage citizens to take an active role in personal and public safety; and

**WHEREAS**, volunteerism is increasingly recognized as a central partner with government in doing the work of our nation. Volunteers are vital to our future as a caring and productive nation.

**NOW THEREFORE BE IT RESOLVED**, that I, Ben Sciortino, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim April 23-29, 2006 as

**“Be Prepared, Volunteer Week”**

in Sedgwick County, and urge my fellow citizens to volunteer and “light the way” in their communities. We recognize those who serve and their efforts to be sure our community is prepared in case of an emergency.

Commissioners, that’s the Proclamation. What is your will?”

**MOTION**

Commissioner Burtnett moved to adopt the Proclamation and authorize the Chair to sign.

Commissioner Unruh seconded the motion.

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

**VOTE**

Commissioner Unruh

Aye

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Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, “Thank you and I believe DeAnn Konkel is going to accept the Proclamation on behalf of the County.”

**Ms. DeAnn Konkel**, Public Safety Liaison, Division of Public Safety, greeted the Commissioners and said, “Good morning, Commissioners. As you know, I am DeAnn Konkel, Division of Public Safety Community Liason Program Manager, but I am also here today as Chair of the South Central Kansas Volunteer Organization Active in Disaster, or the acronym SKOVAD and I also have with me Beth Oaks and Mark Stump with United Way who are also members of that organization. We want to thank you for making next week ‘Be Prepared Volunteer Week’ as we know we are going into ‘National Volunteer Week’ next week. We thought it was a great time to encourage the citizens of Sedgwick County to get involved with organizations that like to respond during times of disaster. We know and we saw last fall when we thought we were going to be receiving individuals into our community from the Gulf Coast area there were many people that wanted to call and help to volunteer in whatever way that they could, so what we like to encourage the citizens of Sedgwick County to do next week is to call the United Way 2-1-1 center.

As you may recall, we have an agreement in place with United Way to activate this call center when we do have major events affect our community and they will help us manage those volunteers. What we would like citizens to do is call now, talk with the volunteers at the 2-1-1 Center and affiliate with an organization now, so that they can get training and be familiar with how the organization operates during times of disaster and be ready to step up to the plate and ready to respond when something does happen.

These volunteer organizations are very active on a daily basis, from taking out the Salvation Army Canteen, to major fires, to assist feeding and providing food and water for first responders on a scene, to helping relocate families when they had a fire in their community, or their home rather, and also helping man the 2-1-1 call center. So it’s very important that citizens know they want to help in times of disaster happen, if they are ready and prepared and trained to respond at times of disaster. I think Beth wanted to talk just a little bit about the 2-1-1 call center.”

**Ms. Beth Oaks**, Representative, United Way of the Plains, greeted the Commissioners and said, “Thank you. As you all are aware we opened the 211 call center in February of this year so with the dialing of three simple digits 211 folks can find a place to give or get help. Our efforts through next week during “National Volunteer Week” will be to utilize that phone number to try and recruit

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individuals to get involved and associate themselves with a disaster organization, certainly we can address others but that's the focus for that week."

**Chairman Sciortino** said, "Great, okay. Commissioners any comments? I have just one DeAnn, I know United Way was there, Red Cross was there, but when we had the Katrina disaster we literally turned Century II into 1,800 population city, I mean it was all self contained and all those cots were put up and they had phone banks for them, computers, they had a children's daycare center. I had a little mixed emotions when it was determined that we weren't needed. I was let down because I was so proud that we were ready and then on the other half I was kind of happy we didn't have them all come because I knew it was going to put a lot of load on our social programs.

I was a little let down that we got so ready, especially the intake center out by the Coliseum and the majority of that set up was done by volunteers. I think our Sheriff's Department people were there, the City of Wichita had personnel. It was just setting up 1,800 cots and they were all exactly whatever space they had to be in and the inflatable mattresses, I don't know what all went in there, but it was great to see that this community can come together and it can't happen without volunteers and it think that's the message you're trying to get out."

**Ms. Oaks** said, "That is right. It can happen with volunteers and we had our Community Emergency Response Teams the CERT group, very active in helping with that, and they had over 885 hours in that week and half-time period that we were looking at preparing."

**Chairman Sciortino** said, "Do you have any kind of a ballpark number to get that entire Katrina experience up and running, how many . . .?"

**Ms. Oaks** said, "Volunteer hours it took?"

**Chairman Sciortino** said, "Yeah, it had to be in the tens of thousands."

**Ms. Oaks** said, "Yeah, I have no idea because like I said we had just a small group of our volunteers with the CERT put in 885 hours and that was just a small portion of those individuals that stood up and helped, so I really don't. We could check on that."

**Chairman Sciortino** said, "No, it was just a little bit humbling just to see how many people from all walks of life, 'Said hey I want to help' and then all of the donations that came in. I never saw so much bottled water, I didn't know that had that much bottled water in the state of Kansas let alone what they were offering to us in the candies and the snacks and the food and the job offers it just

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kept cascading and our entire community needs to be complimented because in the past we send out a request and it gets filled. I mean volunteers do come to the front and say I live here and I want to help.”

**Ms. Oaks** said, “Right, and that is why we are asking them now to step forward and affiliate with one of or many of the organizations, so they that can help and be ready when the next event occurs.”

**Chairman Sciortino** said, “Good idea, like Tim Norton always say’s ‘It’s better to have a plan and not need it, than to need it and not have it’.”

**Ms. Oaks** said, “That is so very right. Thank you.”

**Chairman Sciortino** said, “Commissioner Norton you had something you wished to say.”

**Commissioner Norton** said, “Well I don’t now. Well I would like to encourage folks out there to call 211 and get attached to a volunteer group of some sort. One thing we found out in disasters is that people have a great heart for volunteering but they don’t always know what to do or where to show up or what their expertise’s can be applied. If you connect now and get some training, get some connectivity with an organization, when disasters happen or when just little crises in peoples lives happen your prepared to help and to volunteer and to make it worthwhile and your not going to waste a lot of time doing phone calls, jamming the lines during the middle of the disaster, when there are more important needs.

So that motivation and that training ahead of time is so vitally important and 2-1-1 is statewide it’s an easy way to get connected. It’s housed at the United Way of the Plains and they have worked the kinks out and if you do it now when that disaster happens, with April, May, June, July coming up in Kansas we all know there is going to be some kind of a natural disaster and we are going to have to mobilize and the more people that can be connected to that today and get their training in, the better our community will be, so thank you for coming today and accomplishing this. That’s all I have.”

**Ms. Oaks** said, “Thank You”

**Chairman Sciortino** said, “Okay, I see there is no other comments so thank you again, and Madam Clerk, call the next item please.”

### **4. PROCLAMATION DECLARING APRIL 23-29-, 2006 AS “CRIME VICTIMS’ RIGHTS WEEK.”**

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**Chairman Sciortino** said, "I have another Proclamation for your consideration. Commissioners. it states:

**PROCLAMATION**

**WHEREAS**, more than 24 million Americans suffer the impact of crime each year; and

**WHEREAS**, teenagers are victimized at significantly higher rates than any other age group, but report the least amount of crime; and

**WHEREAS**, crime victims experience anxiety, insomnia, social dysfunction, lost work hours and productivity, drug and alcohol abuse, and severe depression at much higher rates than the general population. These individuals deserve to be treated with dignity and respect by our criminal justice system and society at large: and

**WHEREAS**, Sedgwick County recognizes that its response to crime victims plays an important role in their efforts to rebuild their lives. Volunteers have helped victims and survivors of crimes by improving the rights and resources available to crime victims in building a better, more just community;

**NOW THEREFORE BE IT RESOLVED**, that I, Ben Sciortino, Chairman of the Board of Sedgwick County Commissioners, do hereby proclaim April 23-29, 2006 as

**"Crime Victims' Rights Week"**

in Sedgwick County, and we applaud the efforts of the many victim service providers, police officers, prosecutors, community organizations, and private sector supporters for their efforts in promoting awareness about victims' rights; and we recognize Carolyn Schottler, a dedicated volunteer from Parents of Murdered Children.

**Chairman Sciortino** said, "That's the Proclamation. Commissioners what is your will?"

**MOTION**

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

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Commissioner Burtnett seconded the motion.

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

### VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, "I believe Ms. Schottler is here to accept the Proclamation."

**Kim Parker**, Assistant District Attorney, greeted the Commissioners and said, "Once again, it's my honor to be here to honor someone who is so vital to crime victims. She works with Parents of Murdered Children. If you do not know, Parents of Murdered Children has approximately 125,000 nationwide members, unfortunately. It is a very important group. We have a local chapter that is headed by Corrine Radke, who is present here today. She's been in charge of that chapter for many years. She and I have distant connections, because we grew up on the same family farm in southeast Kansas, although with different families in different times. Nevertheless, we've had the occasion to work closely together because our community has of course suffered, as well, when families have had loved ones ripped from them by a murderous act.

What Parents of Murdered Children provides in addition to counseling to those families and help is through the court system to make sure that they have someone to rely upon to do the things that the government paid employees do not do and as Commissioner Sciortino pointed out earlier, there are things that are so voluminous, that cannot be handled by government alone and it is so necessary that volunteers like Carolyn Schottler can help out. What she has done for the last three years has been so important because she has worked in the office there at Parents of Murdered Children whenever she's asked to do so.

Every week she goes and volunteers to do bingo. Now, why is that so important? Because Parents of Murdered Children, in addition to attending with victims families who come to court, they also have had the occasion to support them financially, providing travel for distant family members that

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couldn't be here or other friends that might not be able to afford to travel. In addition to food and housing, when they may have to be here for long periods of time because, as you may or may not know, sometimes homicide cases take many, many days to complete and so those services require finances and Carolyn Schottler has been there helping with that, in addition to all of her caring efforts with those individuals who have suffered so greatly. It is my honor to present her today. She's from Commissioner Norton's home area of Haysville and we are very, very proud of Carolyn."

**Ms. Carolyn Schottler**, Volunteer, Parent of Murdered Children, greeted the commissioners and said, "Thank you very much. I think it's very important that we volunteer when we can. A lot of us don't have the money to help out, so I just give time."

**Chairman Sciortino** said, "Thank you. Commissioners, any comments that you would like to make? Okay, I see none. I can tell you one thing. I had occasion on another charitable thing with my wife to volunteer helping at these bingo things and that's a lot of hard work to get just a few extra dollars for your organization. So I do and can recognize the hard work those bingo events are to have to carry it off in the proper way. Commissioner Norton has decided to jump in here."

**Commissioner Norton** said, "Well, I just wanted to congratulate Carolyn for her efforts to be involved. Certainly she represents so many people out there that take the time and effort to be involved in not only crime victims kind of issues, but all the other issues that confound our community, and people in crisis, and we really applaud you for representing all those other folks that didn't get their name put on the Proclamation today. You represent them well."

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

**Kim Parker** said, "Commissioner Sciortino"

**Chairman Sciortino** said, "Yes."

**Ms. Parker** said, "May I, make a little advertisement as well, because it is coming up Crime Victims Week. On Saturday, there will be an event in front of Dillard's at Towne East honoring Crime Victims, as well as at your Wal-Mart stores. There are boxes located there where people can make contributions for the needs of individuals that have been victims of crimes and those will go to area houses, Harbor House, The YWCA Crisis Center, the Wichita Children's Home and the Wichita Guidance Center."

**Chairman Sciortino** said, "Since you want to tarry, lets expand this advertisement a little bit. What types of items are needed, so people will know? And here comes someone who is going to tell us that."

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**Ms. Parker** said, "If I could, I do need help on that question."

**Chairman Sciortino** said, "Okay. You might want to bend that down."

**Ms. Kim Reese**, said, "Can I bring that down?"

**Chairman Sciortino** said, "There you go, my size person. I like that."

**Ms. Parker** said, "We call her shortstop."

**Ms. Kimberly Reese**, Case Coordination, District Attorney's Office, greeted the Commissioners and said, "At the Walmart stores there are boxes in front of the entry ways and there's also a piece of paper they can just rip off. They need items like diapers and baby wipes and some games for the children and there's a list of items. Everyday, one of those area agencies are going to go pick the items up and on Saturday from 1-4, in front of the Dillard's at the Towne East Mall, Ms. Foulston will do a press conference at 2:00 and they will see how many items we did receive this week and also you can go to the mall and bring those type of items to the mall and we would love to have you all there."

**Chairman Sciortino** said, "Okay. Can someone, like say for example, that wants to maybe buy a gift certificate?"

**Ms. Reese** said, "That would be great."

**Chairman Sciortino** said, "From a store."

**Ms. Reese** said, "Absolutely."

**Chairman Sciortino** said, "So that then maybe you can buy exactly what's needed at a particular . . . Okay."

**Ms. Reese** said, "Yes, that would be perfect. Then, because they can get what they need to, but we would love that."

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

**Ms. Reese** said, "Thank you very much."

**Chairman Sciortino** said, "Ok. Next item please, Madam Clerk."

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### DONATION

#### **B. DONATION BY THE SUNRISE CHARITABLE FUND OF \$210,000 FOR CONSTRUCTION OF A BOUNDLESS PLAYGROUND AT SEDGWICK COUNTY PARK.**

**Mr. Ron Holt**, Assistant County Manager, greeted the Commissioners and said, “In June 2004, members of the West Side Sedgwick County Sunrise Rotary Club, small but mighty club, came before the Commission to request a parcel of land within Sedgwick County Park, on which to build a boundless playground. This playground is a service project of the Rotary Club, would be designed and built with funds and in-kind services that would be secured by this Rotary Club. At the acceptance of that land request, they also then indicated they would like to work with Sedgwick County and they raised the money, which is the hard part of this really and that we would then help work through the process of purchasing the equipment and that also our Sedgwick County’s Project Services Department would oversee construction contracts according to established county policies.

Once the project is complete then the Sedgwick County Park Staff will be responsible for upkeep and maintenance of the playground. After we approved that, after you approved that back in 2004, local Architect Steve Perry, with McCluggage Van Sickle & Perry and the playground consultants at boundless playground designed a playground that will welcome children of all abilities, including those with physical, cognitive, developmental and autistic impairments. Children who may never have experienced the joy of an afternoon at the playground can now have a new thrill within their grasp.

For the past 20 months, Sunrise Rotary Club members have been hard at work on this project and here today to update the Commission on the project is Pat Gallagher who in her day job is in Government Relations at the Wichita Metro Area Chamber and her volunteer role is the Project Director for this project, for the Sunrise Rotary Club, so I ask Pat to come and to give you an update and to recognize the other folks who are here in support of this effort. Pat.”

**Ms. Pat Gallagher**, Project Chair, Sunrise Rotary Club, greeted the Commissioners and said, “Thank you Ron. That was a great overview. Good morning, Commissioners. I am Pat Gallagher and I am indeed here representing Sunrise Rotary this morning. As Ron said it’s been about 2 years since we were here asking for that 27,000 square foot plot of ground, inside Sedgwick County

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Park, and we've been very busy since that point in time. We appreciate that you were so accepting of our request at that point in time. I want to let you know what we have been doing since then.

We've actually hosted a number of sessions with community leaders, elected officials, parents of both able and disabled children, so that we can get input from the community, what they want their playground to include. We've contracted, as Ron said, with Boundless Playgrounds, which is a non-profit consulting firm in Connecticut that helps with the design of playgrounds that are more accessible for disabled children. ADA requires 50% accessibility in a playground. Boundless playgrounds are designed to be an additional 20-30% accessible, so we project that our playground will probably be 30% accessible to children of all abilities. Most especially, we did acquire the services of outstanding architect, Steve Perry. Steve is here with us today, as are several of our club members. Steve has given us a spectacular design. Can I hold up the design? Just a moment. I doubt that you can see a lot of this."

**Chairman Sciortino** said, "Why don't you move it just a little bit. Now, we're on TV. Okay, good, that's fine. Lower it just . . . There we go. Now, people all over the world can see it."

**Ms. Gallagher** said, "Wonderful. That's great. That design includes literally three different play spaces. One is designed for children from ages of two through five. The second, the larger structure for children from five through twelve years of age and then there is very extraordinary part to that playground that is more of a sensory garden and that is for children who have cognitive disabilities, perhaps they're visually impaired. We'll have drums and chimes, so children who want to experience those sounds can do so. We'll have raised sand tables where children can feel the sand and play in the water, etcetera.

We'll have plants and shrubs that are identified with Braille, so they can feel them and smell them and touch them. That part of the playground is going to be, I think, truly exceptional. There will be places to climb and jump, quiet places. Everything will be ramped for wheelchairs and walkers. We'll have the elevated sand tables, highbacked supportive swings for children with developmental disabilities and the sensory area, which I just spoke about.

The scope of this project truly has grown, incrementally, with our dream and our estimate at this point in time is that project will probably be valued at 1.5 million dollars, which is considerably over and above where we started. Most exciting however, today, is that I wanted to let you know that we are at 65% of our total in-kind, and cash fundraising goal. Back in the beginning, Star Lumber and the Global Family Foundation had faith in us and they provided our first major

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donation. Since that time, I want to tell you we had added funding from State Farm Insurance, York International and from a number of foundations, including the Knight Foundation, The Forrest C. Lattner Foundation, The Wichita Community Foundation, The K.T. Wiedemann Foundation and our own Sunrise Charitable Foundation.

We have a commemorative brick sales campaign, which will be kicking off today. Our incoming contributions, however, continue to amaze us, beginning of course with Steve Perry, our architect and our general contractor Tom Donlinger but we've also had donations from Tom Ruggles with Ruggles & Bohm; John Lay, with The George Lay Sign Company; Stu Lungwitz, with The Print Source; Chris Parks, with Up Design Bureau; and Chris Schindler, with Start Thinking; Mike Allen, with Graphic Systems; and a group of really outstandingly talented students from the W.S.U. Elliott School of Communications designed a spectacular brochure for us very early on in the project.

I know this is just the beginning of the in-kind contributions we are going to receive. Specifically today, I have come to tell you that the very first order of equipment has been placed with Suburban Landscape. I think Joel is here today and I have a check for \$210,000 plus change from Sunrise Charitable fund, which will go to Sedgwick County."

**Chairman Sciortino** said, "Now that's the Sunrise Rotarian Club, is that what that is?"

**Ms. Gallagher** said, "Yes, yes. The Charitable fund is our 501-C3. Tom Donlinger is going to contract the project for us. He will be working directly with the County. We will be providing the funds. We're truly excited about this project and we're just so thrilled that the County has stepped forward to help us. This is truly going to be a dream come true for the children of Sedgwick County and the area. Actually, there is no other playground comparable to this in the State of Kansas and probably throughout the Midwest and once again we appreciate your support. I have a check, Ron Holt, I am entrusting this to Ron, and then I would also like to invite Larry Shoemaker from Via Christi who has a few words to share."

**Mr. Larry Shoemaker**, President and CEO, Via Christi Wichita Health Network, greeted the Commissioners and said, "Thank you Pat, and thank you Commissioners for asking us to be part of this presentation this morning. Thank you, Sunrise Rotary, for asking us to join you here and for the updated plans to bring Kansas' first boundless playground and one that all children can enjoy to our county. As Kansas' largest provider of specialty care children, we at Via Christi know firsthand what this project will mean to families and to children throughout our area. In fact, picturing

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children and families enjoying the freedom of laughing and playing in a playground that is as welcoming to a disabled child as it is to their able-bodied siblings and friends has done more than capture our imagination and interest.

It has led us to action, as we want to make sure that this important project moves forward, so on behalf of Via Christi's Children's Miracle Network, our sponsors, the Sisters of Saint Joseph of Wichita and the Sisters of the Sorrowful Mother and the Via Christi Wichita Health Network, I'm pleased to present you, Pat, with a check for \$210,000 today, along with our pledge from Via Christi to contribute another \$115,000 for a total of \$325,000 to the boundless playground project. We at Via Christi are proud to be a partner with you, Sunrise Rotary and with the County, on this important project, which will help children in our area. Thank you."

**Ms. Gallagher** said, "You know it was a big dream but this is going to help make that dream come true. Can I answer any questions from anyone?"

**Chairman Sciortino** said, "Oh yeah, you're not going to get away."

**Ms. Gallagher** said, "Okay."

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

**Commissioner Winters** said, "Well, thank you very much. This is an exciting time and you know just sitting here as a Commissioner and thinking about how we value our parks and our recreation, so many times people are telling, asking us 'What needs to be done and what we can do?' This is one of the first times that I've been here that someone has brought the project to us and then financed the project and that is an amazing feat. Ron mentioned a small but mighty club. This is not one of the largest clubs in the nation and there were a number of us who thought, when they started this project, of wanting to do over a million dollar project we said, 'How are they going to accomplish that?' But this club has done an outstanding job and I might add that it is a west side club.

**Ms. Gallagher** said, "Yes."

**Chairman Sciortino** said, "The significance of that is? The Derby Rotarians are very nice."

**Commissioner Winters** said, "I'm sure all Rotarians are nice."

**Ms. Gallagher** said, "And the other part of that is that we're not only west side, we meet at 7:00 a.m. in the morning."

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**Commissioner Winters** said, "That's right."

**Chairman Sciortino** said, "I knew there was a reason I didn't join the west side group."

**Commissioner Winters** said, "I know there are a number of club members here and others who are involved with the project, so I would just like to ask anyone who is here that's a member of the club or is part of this project, would you please stand and just so we could acknowledge your presence. Well, Via Christi has stepped up along with a number of other organizations and we just can't thank you all enough, each and every one that's been a part of this project. It has been very exciting to this point. It is really going to be exiting when . . . and I hope I'm invited to participate in the grand opening. I think it will be an amazing place for all children to play, participate and I'm just pleased, as I'm sure the commissioners are, that it's going to be in a Sedgwick County Park, so commissioners, that's my comments and I just can't say enough good things about this club."

**Chairman Sciortino** said, "Well, I think some of the venue there was designed specifically with you in mind."

**Commissioner Winters** said, "Could have been."

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

**Commissioner Unruh** said, "Thank you, Mr. Chair. There's really not a lot to add to what Commissioner Winters said, except that we are grateful for the opportunity to participate with you in this really worthwhile project for the citizens of Sedgwick County. The Sunrise Rotary has really showed a great deal of leadership and has recognized that the fact of our society today, when we have big challenges we can get them done, but it takes partnerships and people working together to do that and you've certainly emphasized that in your presentation. And with all the people who have helped at whatever level, and especially this generous gift by Via Christi, people working together we can make something really good happen. So congratulations to you and congratulations to Sedgwick County and thanks for your hard work."

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

**Commissioner Unruh** said, "That's all I have, Mr. Chair."

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

**Commissioner Burtnett** said, "I actually did have a question for you, Pat. You kind of answered it in your talk about how few boundless playgrounds there are. Do you have any idea how many,

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nationwide, there are? I've heard of them before, but I just, I don't know that I've ever seen one."

**Ms. Gallagher** said, "Nationwide, I think there are probably about 80 to 85 in 20 to 22 states. There's a large initiative for boundless playgrounds in both Michigan and Florida and they are looking at new playgrounds too, yes."

**Chairman Sciortino** said, "Will this be the first one in Kansas?"

**Ms. Gallagher** said, "Yes. It's the first boundless playground in Kansas."

**Commissioner Burnett** said, "Thank you, that's all I have."

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

**Commissioner Norton** said, "Well, you know we've always thought that Sedgwick County Park was pretty special. We get accolades for that park and the way it's kept and how much it's used and its proximity to the Zoo and to other recreation and this takes it to world class in my mind. To think that now people and families with all abilities can come to that park and enjoy the quality of life of Wichita and our community really is wonderful and we applaud you for that and we are grateful to be partners with such a great project. Thanks."

**Chairman Sciortino** said, "And again, I guess I'm echoing what all of us has said, but thank you for allowing Sedgwick County to be able to have a small part in this. I mean it's an honor for us to do so. I think what the Rotarian Club has done is just awesome and again, when you start asking for volunteers or asking for help, people will come to the table."

**Ms. Gallagher** said, "There will be a large community participation, when it comes to actually building."

**Chairman Sciortino** said, "Do you have any estimated idea of a grand opening?"

**Ms. Gallagher** said, "When we met with Tom Donlinger a couple of . . . well, maybe a month ago, he would like to start site preparation sometime in August and of course pending the rest of our development drive, we still have approximately \$400,000 to raise and that will be leveraged by any additional in-kind services and contributions we receive. If that goes well, we'd love to build this park in October of this year."

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**Chairman Sciortino** said, "Great, and Pat I have to say something. You've come a long way since we went to St. Mary's kindergarten."

**Ms. Gallagher** said, "I know, I know."

**Chairman Sciortino** said, "This is the truth. Now she's much younger than me, because I kept getting set back for three or four years, Saint Mary's, Saint Miss Mary's."

**Ms. Gallagher** said, "Miss Mary's in Fort Scott, Kansas"

**Chairman Sciortino** said, "You have come a long way, kiddo."

**Ms. Gallagher** said, "Thank you and we didn't even have playground."

**Chairman Sciortino** said, "That's right, we didn't have a playground."

**Ms. Gallagher** said, "No we didn't, so thank you so much."

**Chairman Sciortino** said, "Thank you. Thank you to all of you and to the Sunrise Rotarians, way to go. You walk the walk, you just don't talk the talk and we appreciate it."

**Mr. Holt** said, "Commissioners, we would ask that you would accept the donation and authorize the Chairman to sign a letter of appreciation."

**MOTION**

Commissioner Norton moved to accept the donation and authorize the Chairman to sign a letter of appreciation

Commissioner Burtnett seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye

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Chairman Sciortino

Aye

**Chairman Sciortino** said, "Well, that squeaked through with that acceptance. All right, thank you. Next item please. Why don't we just wait just one second. I think a few people want to leave. Okay, Madam Clerk, you can call the next item."

### **PUBLIC HEARING**

#### **C. PUBLIC HEARING TO CONSIDER WHETHER THE CITY OF WICHITA HAS PROVIDED SERVICES AS SET OUT IN THE SERVICE PLAN PREPARED FOR ANNEXATION NUMBER 98-16 (OATVILLE).**

### **OVERHEAD PRESENTATION**

**Mr. Bob Parnacott**, Assistant County Counselor, greeted the Commissioners and said, "This is one of our post annexation hearings that we have on a fairly regular basis. It involves unilateral annexation by a city. That is generally done without the consent of the landowners, so the statutes require that the County Commissioners have a hearing five years after the effective date of the annexation to make sure that service plan schedule services have been met and to make a finding accordingly.

This is a rather unique annexation, both from the size, probably the largest annexation we have dealt with so far in terms of the post annexation hearing. We had to send out about 900 notices. It also is unique in the sense that it was litigated. There was the initial . . . and like I say, typically we would have our hearing five years after the annexation effective date, which would be the publication of the ordinance. This ordinance was published in October of 1998.

It was actually litigated however, so we base our five-year point from the date of the decision of the court of appeals, which didn't occur until December of 2000. So we are just shortly after our five-year time frame there. That also is unique in the sense that during the period from the publication of the annexation ordinance to the District Court order, where the annexation was temporarily invalidated, during that period the city did provide services however, once the District Court determined that the annexation was invalid for a procedural reason, there was a period during the

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appellate litigation where the city, I don't believe, provided services because it was then traded back in the unincorporated area. Finally, once the Court of Appeals mandate was issued the city began doing the services again."

**Chairman Sciortino** said, "In other words, that was December of 2000."

**Mr. Parnacott** said, "Right, so there was kind of a choppy period there. We did have a few responses and for the size of this annexation it was a rather small response. We have fifteen total responses, a little over fifteen maybe. Half of those were the typical kind of just calling in to find out what the letter meant and what the hearing purpose was and those people were satisfied with that and didn't have any complaints.

Of the remaining eight or so, about half of those were types of concerns that really weren't related to the service plan, either generalized complaint about the annexation. People were still unhappy, you know, so many years later that they had been annexed or they were raising issues that weren't really connected to the service plan scheduled, which is the focus of this hearing. It is whether or not the city has provided the services set out in that service plan schedule. That schedule is included in your backup on page 42 and the city has prepared a report explaining how they have provided those services and that report starts at page 51.

Out of the several complaints that we received that did deal with the issues that are on the service plan schedule, our standard protocol is for if people call in and report a complaint to me, I forward that information to the city. The city then contacts the landowner or the person calling and tries to work out any resolution.

To my understanding that has been done in this case, and I think all those issues have been resolved. We may have some other people in the audience that are here that did not call that may have some issues to raise and if I'm wrong and the issues that have been called about have not been resolved, I'm sure somebody will be here to talk about that. So, rather than get into any real details at this point, I think I'd recommend that you open the public hearing, hear any comments from the public about the annexation and the service schedule and then let the city respond to those and we can proceed from there."

**Chairman Sciortino** said, "All right, thank you. At this time, I will open up the Public Hearing and accept public comment. Is there anyone here in the audience that would like to address us concerning this item. If there are, just please come up. If there is more than one, if you could just sort of line up and be prepared to speak. The only thing that we ask is that if someone has already said what is your concern, please don't come up and keep saying the same thing, but if you do have some things that we need to hear about, we really want to hear from you, so if you would state your name and your address, and you have five minutes to present to us."

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**Mr. Larry Higgins**, 3919 S. West Street, Wichita, Ks., greeted the Commissioners and said, "I was curious, first of all, I was a little confused by this. I thought, several years ago, the annexation did not happen. I quite honestly was surprised to find out . . . find this information. The question I have is they say that there's a lot of services going to be offered to us and I was curious about the sewer mains. Now, I'm in the position there and I have asked questions in the past and I've always been turned down on getting the sewer mains into my property and I was just curious as to what their plans are for that?"

**Chairman Sciortino** said, "Okay. Anything else that you wish . . .? So your question is basically about the sewer mains and how you get it."

**Mr. Higgins** said, "Yes. If we have been annexed, there are some services that they are saying they're offering and another thing, the street lights. They are saying that there are street lights supposed to be in that area and, again, that's another thing that I have not seen."

**Chairman Sciortino** said, "All right sir, thank you. Next person that would like to speak to us."

**Ms. Brenda Stover**, 3850 S. Brummett, Wichita, Ks., greeted the Commissioners and said, "I have been there almost fourteen years now. My first item that I would like to address with you this morning is that street maintenance along 37<sup>th</sup> Street South and Brummett. There are a total of 16 cracks that run from the north side to the south side of the street, just along that section of 2/10ths of a mile. There are only 16 houses that face that street, so there is one crack for every house and I called and talked to my City Counsel member Paul Gray, whose father just happen to develop that area and he told me that those cracks are there for water drainage and I don't understand why a drainage system like that keeps growing."

**Chairman Sciortino** said, "The cracks in the street are there for water drainage?"

**Ms. Stover** said, "He told me the cracks in the street are there for water drainage and they have been growing over the years, since I've been living there, especially since we've been annexed. I do have several photographs."

**Chairman Sciortino** said, "I would like to see a street drainage crack."

**Ms. Stover** said, "I apologize that they're not bigger."

**Chairman Sciortino** said, "We will see to it that you get these back."

**Ms. Stover** said, "I drive over those every day, so I know what they're like. My second issue, well

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let me tell you a little bit about those cracks. If you'd like, you can see a ruler on there. Some of those cracks are almost four inches wide at some points and one of them, as you turn off of Hoover on to 37<sup>th</sup>, I took my ruler and stuck it down in there and thought the ruler was going to go all the way through, to China, but I did pull it back up and at one point was 3 ½ inches deep. That's what I have about street maintenance.

My second item, I'm not sure which area this would fall under and I am not even certain that this qualifies as one of the issues for the annexation, which I was against by the way, but I think it may be under other government services. The Fourth addition has a water storm retention pond at Dugan, between Dugan and Arapahoe just north of MacArthur and we pay a homeowner's charge of \$50 a year for that and as one of the benefits described by the City of Wichita upon annexation was that we wouldn't have to pay surcharge for storm water and we got our water bill after our annexation we had a charge on that, was an ERU, and it's listed as one, which was a charge every month, a monthly charge of \$1.75.

When I called to ask what that charge was, I was told that every homeowner in the city limits of Wichita pays that fee and it is for the storm water system. I told them we already paid for the storm water with home owner's association dues, because our water drains off the street through our cracks, drains off the street and goes into the water retention pond. They said you still have to, as home owners of the City of Wichita, have to pay for the storm water drainage, even though we are still paying the \$50 a year to maintain the pond, which is for our storm water in that fourth addition. The City of Wichita won't take over the pond. They won't pay for it and we're still maintaining it and paying for it every year and that's all I have. Can I answer any questions? I kind of went a little fast. I apologize for that."

**Chairman Sciortino** said, "I don't know that we have questions at this particular time but we may want to call you back after we've heard from everyone, so stick around. Thank you. Is there anyone else in the audience? Any other citizen that would like to address us, pertaining to this item, now is your chance. Okay, would the City of Wichita like to talk us now?"

**Ms. Terry Cassidy**, Manager's Office, City of Wichita, greeted the Commissioners and said, "As Mr. Parnacott mentioned, we did provide you with a report of services that have been delivered to this area for the past five years. I understand you have those as part of your background information, and you will enter that into the record for the public hearing this morning.

We do believe that we're in compliance with the requirements that were laid out in the service plan when this area was annexed. There are a number of staff members here who are able to respond to the questions that the citizens raised, as well to answer your questions, and I'd be happy to handle

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that however you feel most appropriate. If you would like staff to come up to respond to the citizens or if you have questions you would like to direct to us, I will be happy to call the appropriate person forward.”

**Chairman Sciortino** said, “I think you can go ahead and just present however you wish. That would be the best way to present your case from the city’s point of view.”

**Ms. Cassidy** said, “Sure. I’m going to call Jim Armour, our City Engineer forward and he should be able to respond to Mr. Higgins’ questions regarding the sewer mains and the street lights and following that I will ask some other Public Works’ officials to come forward to respond to Ms. Stover’s concerns.”

**Chairman Sciortino** said, “All right.”

**Mr. Jim Armour**, City Engineer, City of Wichita, greeted the Commissioners and said, “Sanitary sewers are extended at the request of a petition. There has been no valid petitions presented in the area of West Street and MacArthur to date. However, there is a sanitary sewer main that will be extended past that intersection to serve another area west of there, that we did receive a valid sewer petition on and that will probably be constructed this year.”

**Chairman Sciortino** said, “When did you receive that petition, sir?”

**Mr. Armour** said, “Just about a year ago. Design has been . . . it’s been under design. Staff has been working with some area residents to acquire some easements that some of the sanitary sewers in areas that there were no dedicated easements, so staff has been working with the area residents in order to acquire the easements. Not all of the residents have granted easements to date, but I think we only have one or two left. We did have one area that requested streetlights and we had 87% were in favor of it and so we will get with Westar in order to install those.”

**Chairman Sciortino** said, “When did that request come to you?”

**Mr. Armour** said, “Probably just a month ago. On the area of the maintenance of the cracks, the city has some maintenance procedures in effect that will routinely do maintenance in residential areas. We can take a look at these that have been brought up today.”

**Chairman Sciortino** said, “The insinuation that there are drainage cracks to help drain the water is probably not true.”

**Mr. Armour** said, “That would not be our policy, correct.”

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

**Mr. Armour** said, "Thank you. So any other questions?"

**Chairman Sciortino** said, "I don't see any lights on right now, but that doesn't mean that there won't be at the end so don't leave real quick."

**Mr. Armour** said, "All right. Thank you."

**Chairman Sciortino** said, "Thank you. Terry, anything else that the city?"

**Mr. Larry Henry**, Maintenance Engineer, Public Works Department, City of Wichita, greeted the Commissioners and said, "I would like to comment about Ms. Stover's issues about the cracks. Definitely, those are not for drainage and we obviously would like to see drainage not go in there because it does deteriorate the street when that happens. These cracks are what we call them thermal cracks. They're due to shrinkage of the asphalt and at a certain age the asphalt does start getting those cracks. They are probably a hundred feet or so apart and they are very common in Wichita. I think they are very common in this area. Back in 1998, when the area was first annexed, just before the appeal, the city did go in and repair cracks with a, at that time, a fairly new process that we were trying out. We also did a slurry seal on the streets in that neighborhood to try to bring them up to a condition where they could be preserved. Since that time, in the intervening seven or eight years, we have seen those cracks reopen.

The performance of the material we used wasn't the best and we are still trying to find the best material for this kind of repair. However, we do recognize that those cracks do need to be maintained. We intend to do that later this year. Some of them are as wide as four inches and they are also quite deep. We understand that and it's a common problem throughout the city but we definitely have tried to keep them maintained and, like other areas, and I think you can tell by these pictures that they have made attempts to fill them in the past but it just continued to be a problem for us.

Regarding the drainage pond, and the storm water utility, I might mention that some properties are exempted from the storm water fee, but those are properties only where the private property contains all of the run off that lands on that private property. Anything that ends up draining into a public street or into a public drainage system is definitely included in the rate for storm water utility. The pond that Ms. Stover mentioned is a pond that was constructed with the development of the property and it's located on a private reserve which is the reason that she mentioned that they pay a fee every year to keep that maintained and the drainage from the public storm water system in

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streets does drain into that for retention and it is later released into the out-fall streams but the purpose of the storm water utility fees is to keep the storm water drains and the storm water sewers maintained, as well as any outfalls down stream. If you have any other questions, I would be glad to try and answer them.”

**Chairman Sciortino** said, “I don’t see that there’s any questions at this time, but again, just standby. You never can tell from this board when a question might come up.”

**Mr. Henry** said, “Thank you.”

**Chairman Sciortino** said, “Thank you, sir. Ms. Cassidy, anything else from the city’s side that you wish to present to us?”

**Ms. Cassidy** said, “No I don’t believe so, Mr. Sciortino. We would be happy to stand for questions.”

**Chairman Sciortino** said, “All right. Mr. Parnacott, anything that you need to explain to us?”

**Mr. Parnacott** said, “No, other than I guess I forgot to briefly describe the map and you probably are very familiar with the area, so I don’t know if I need to do that, but this is a little bit south and somewhat to the east of airport, along . . . between 31<sup>st</sup> and 39<sup>th</sup> or between MacArthur and 31<sup>st</sup>, I guess, is another way to say it, Hoover and Ridge, that kind of area. As you can see, the hatched area was the existing city limits at the time of the annexation in 1998. The shaded areas, and you can see there is a fairly large area in the center and there is some smaller parcels to the east and west of that, that is the proposed annexation area that was subject to annexation, so having said that, I think I’m ready to answer any other questions you might have.”

**Chairman Sciortino** said, “Well one question I have with you is that you’ve read all the papers on this annexation. In your legal opinion, has the city complied with everything that they had committed that would comply with on this annexation?”

**Mr. Parnacott** said, “The standard on these hearings that we’ve held is a substantial compliance with the service plan and after reviewing the city’s report, reviewing the service plan, addressing all the issues that were raised in phone conversations and then hearing the testimony today from people in the public, I would have to make a recommendation, I think, that they have substantially complied with the plan. There are some issues about service of course, but I think you have that. It’s not that they haven’t provided services. There may be some level of service that’s an issue, but I think the city, overall, has provided sufficient evidence to support that particular finding.”

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**Chairman Sciortino** said, "All right. Thank you. We now have some questions or comments. Commissioner Norton."

**Commissioner Norton** said, "Bob, do you think there was an agreement to waive the storm water fees? I've tried to read through here and I can't find anything like that, but was there some agreement either written or implied in community meetings that said that they would waive the storm water fees because they had the retention water run into their own pond?"

**Mr. Parnacott** said, "That was the first I'd heard about that and we don't have access to the minutes or the hearings that went on before the annexation took place. I don't believe there is anything in the service plan that addresses that. Again, really we have a fairly narrow focus here and it's whether or not the services set out in the service plan schedule have been provided in conformance with the schedule and there is certainly nothing in that schedule that addresses that particular issue, so frankly I think that issue is somewhat outside of the scope of this hearing."

**Commissioner Norton** said, "Okay, I was concerned and maybe somebody at the city can answer this. You repaired the cracks while you were going through the annexation and now you wait seven years before we revisit them and you know that they're four inches wide. How often do you go back and look at roads and cracks in neighborhoods like that?"

**Mr. Henry** said, "Frankly, seven years is probably very common for us to not be able to get to cracks. We have virtually thousands of them around the city and we spend a great amount of effort trying to get into neighborhoods and correcting them before they get too wide, but in this case the streets, we're fairly well preserved but it's the reoccurrence of those cracks that are a problem. This kind of timeframe to address them is pretty common in the city. We don't like them being four inches wide either and we are trying our best to find a solution that will be longer lasting than what we've found in the past. We just haven't found it yet."

**Commissioner Norton** said, "Somewhere in the body, I think it's page ten, it talks about sixteen-inch water main could run along MacArthur between Hoover and West. I understand that has not been constructed. Can you comment on that?"

**Mr. Henry** said, "I can comment a little bit on it and the city may want to fill in the details. My understanding is that was initially part of the service plan schedule to put a water main in on that location along MacArthur over to West, I believe. The plan was to be in the CIP and to be completed in 2000. It was to be in their 1998-2007 CIP and they were going to have that done by the year 2000.

Again this annexation schedule was prepared in 1998, so they were looking about two years out to get the work done. Of course then we had this period of litigation that delayed some stuff. There

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were some petitions, I understand, that were entered in the area and for other reasons, I think, it got moved out of the CIP into their master water plan and eventually it is now under the design plan.

It's being designed. I understand they intend to go out for a bid letting in June and will have it completed by the end of the year. That was one of the phone calls that we did get and the city, I believe, has been working with that person who called to be able to work these details out and beyond that I think I need to turn it over to the city and let them respond in more detail if you'd like."

**Commissioner Norton** said, "That would be good."

**Mr. Armour** said, "Counsel Member Norton, I would like to address that. That water line plan has been completed for a number of years. We have held off on it because of the sanitary sewer extension. These two lines are parallel each other. There is a distance separation requirement according to State Law and we wanted to get the most economical route for the sanitary sewer first, since it's deeper and once we've got the valid petitions and got the sanitary sewer under design, we'll build both of these projects together, which should start somewhere in the next two months."

**Commissioner Norton** said, "Was that communicated to the 900 homeowners that have to answer to this service plan and to other folks like the County Commissioners that are having to look at this now and go 'that's not done'?"

**Mr. Armour** said, "We were again extending a lot of the interior lines until we have a valid petition for those interior water lines and/or sanitary sewer lines. Since we had not received any valid petition for extension of water until after we got the valid petitions for the sewer line, we made the decision to install the sewer and hold off on the water and do the both together."

**Commissioner Norton** said, "I don't know the law on this, but do you have the right to say that you have a service plan and that you're going to put something in the ground and then say you're not going to put in because of other projects? I don't know."

**Mr. Armour** said, "I don't know the answer to that."

**Commissioner Norton** said, "I don't know the legalities of that, but it seems like if you say your going to do it in a service plan, that your obligated to do that and not put of it off because of some other project, just a thought. Bob maybe you can weigh in on that. Thanks, Jim."

**Mr. Parnacott** said, "Yes sir, let me kind of elucidate on that a little bit. That's what this whole process is about. I mean, the intention is for the County Commissioners to have a hearing five years

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after annexation to make sure that the city has provided all the services that they said they were going to provide in their service plan schedule, consistent with the schedule, and again, as I noted earlier, what we're looking for is substantial compliance because this is a plan and plans can't be straightjackets. Circumstances change, things happen, so we are looking that the city has substantially complied with the plan.

Now, if for instance we were to find that they had not substantially complied with the plan, and on its face this does seem like the kind of thing that might lead you to believe that the city has failed to meet this particular element, the process would be that you would make that finding today and notify the city that they had not met the service plan requirements. There is a two and a half year period that follows then in which the city has that much time to complete or correct that particular problem. At the end of the two and a half years, if they still haven't fixed the problem, then any landowner that feels aggrieved by that has to present a petition to you before you do anything else. So, we don't have another hearing automatically in two and a half years. We have to wait for a petition to be filed and then you have to have another hearing to see if they provided the services or if they have a reason for not providing the services.

If they haven't done it by the end of that two and half years, you can then make a finding and then de-annexation occurs. Then it goes back to the unincorporated area. However, there are some limitations on that. There are a set of findings you have to make that even though they may have still not provided services, may argue in favor of allowing the land to stay in the city, particularly if it is completely surrounded by the city. It wouldn't make sense to de-annex a particular lot or parcel just because they didn't provide the service that was planned for that parcel and leave an unincorporated parcel in the middle of everything. So there are some restrictions on the de-annexation. So again, we're looking at substantial compliance. I think the city has presented some indications as to why the delay occurred. Again, we had this appellate litigation period. They've had some design issues. They've got the sewer line issues. They've got to work with, and again as I understand, nobody else has raised that issue. The one person who did call about that apparently is satisfied, as far as I know."

**Commissioner Norton** said, "I don't know that it matters that anybody has raised that as a question, as a citizen, because it's in the plan and it's not done. That speaks for itself."

**Mr. Parnacott** said, "You say you have an independent ability to inquire into the plan and ask these questions. I agree."

**Commissioner Norton** said, "I think the plan stands for itself. It says that it will be put in the ground and we are now this much later and it is not. That's pretty obvious whether a citizen brought that up or not. I think the fact speaks for itself, that it's not done. Truthfully, I am not

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advocating for de-annexation. I think we have gone down that. It's gone through legal scrutiny.

That's pretty well past, but I am advocating for all of the programs and projects to be done before this comes to the commission and we have to make a decision that's a pretty good size project. Now you can argue, well the police didn't come down my street and I'm not sure that I got police service during this thing but a \$530,000 project, eight years ago or seven years ago, which could be \$750,0000 today is a big commitment of taxpayers' dollars of that community to allow annexation and I have a problem with that.

That's substantial, that's a lot of money, that's real dollars to taxpayers, and that infrastructure should be put in their neighborhood, and it hadn't been done yet and I think that puts us in a position to have to look very strongly at this. Most of the time, these come to us, there is very little that hadn't been done. We pretty well put our stamp on it. It passes 5-0 and moves on but that is a pretty good, substantial project in my mind that hadn't been done."

**Mr. Parnacott** said, "My counterpart from the city would like to make a comment, I believe."

**Mr. Doug Mosher**, Attorney, Law Office, City of Wichita, greeted the Commissioners and said, "Some of you may not have been on the bench, may not recall the process that was involved in this litigation that Mr. Parnacott referred to briefly. The city annexed the property when there was a legal challenge which was pending in the courts for some period of time, I think in excess of a year.

During that period of time, the city treated all of this area as part of the City of Wichita, which it was. There was not a decision contrary to that for a period of over 12 months because of the timing of the appeal. The city, by the time that the decision was made by the court that this was not part of the city, the city had not collected any taxes, because of the general delay of a year in collecting ad valorem taxes in the change from it being unincorporated Sedgwick County to City of Wichita, so the city was providing substantial services to an area for which it was not collecting taxes and the expectation that in the future, as they came online, we would get those monies.

When the decision was made by the District Court, the city indicated that it wished to appeal and made contact with county staff and as for the cooperation of the county, in having taxes collected in the future during the pending appeal, city certainly believed that it was right, and would prevail in the appeal. Ultimately we did, but understanding that sometimes lawyers feel their cases are better than they are. The understanding was that if these monies were collected and services were provided by the city during that period of time, the city would refund those monies to the county and, subsequently, to the property owners.

That process, which we suggested was not acquiesced in by the county, and for that reason we then stopped providing services. The people were back in the township and in the unincorporated area

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of Sedgwick County and relied on those services starting up again and the city then when it ultimately prevailed. Another year later started serving again, but it never collected a penny of taxes for that almost two-year period.

I say that to address your comment, Commissioner Norton, about \$530,000 being a substantial amount of money. The city also expended a substantial amount of money. That is not the reason that this waterline did not get put in on schedule. That's the basis of . . . that's a function of the master water plan changing during this period.

A decision by the governing body of the City of Wichita, I would suggest, that substantial compliance does factor in the individual citizens in whether or not this delay or this change in the master plan and the decision not to put the water line in as scheduled in the plan does specifically impact any citizen in that area with respect to their service, their water service, or their sewer service. And I think the city was very confident that this delay was not causing any health problem with respect to sewers in the area. There were not failing sanitary sewers, nor were there health issues with respect to the water that people in the area were receiving either from rural water districts or from wells and so I think that the lack of any comments like that does as a legal matter speak to the issue of the city's substantial compliance with respect to that substantial delay in that project."

**Commissioner Norton** said, "I guess one of my questions would be why was the sixteen-inch main even put in that, if it wasn't going to affect anybody's life for seven years? Now, I'll take the other thing. Why would we include that, if it had no functionality for seven years?"

**Mr. Mosher** said, "I didn't say it had no functionality. The city's policy is when annexing property it extends infrastructure to offer its municipal services. Very often, what we hear in these annexation hearings from the people is exactly your point, which is, 'we've got fine water and fine sewer, and we don't want you' but that's not the test. The test is urban planning and sensible extension of infrastructural services as communities grow."

**Commissioner Norton** said, "They did say that when they went through their protest and they wanted to stay independent from Wichita and now you have almost proved that they were right by not adding the new services. You just said that they aren't at risk and they have the good water and maybe they didn't need the city to come in and do that. I just have a problem that we . . . that was a very contentious, large annexation. There was plenty of protest, plenty of emotion of people. I happen to be the Mayor of Haysville at the time, and they were petitioning me to go into Haysville and I told them that was a little bit of a stretch.

We couldn't provide services. We couldn't put in a sixteen-inch water main in your community. The city would be glad to do that. The point is, that was contentious. People weren't happy. People are still many of them not happy. In fact, I can count on my hands five people that left that

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area and built homes in Haysville because they wanted to get out of that area, after all the problems they had. But withstanding this is still part of the service plan, that many years later, if it was a couple of years later, I would say that's fine, it's been postponed a little bit. But that's an area that I believe, as part of a lot of the south side area, that's very underserved and it kind of doesn't get the attention that it possibly should. And I think I'm going take a stand that maybe we should take more scrutiny on these kind of things when big issues like that and big infrastructure money is not spent. I don't know how my colleagues feel. I'd maybe like to hear from them, but \$530,000 and a pretty big project that's probably escalated to even more money is substantial in my mind."

**Chairman Sciortino** said, "Okay. Commissioners, any other comments? Mr. Winters."

**Commissioner Winters** said, "I guess I have two questions. One, and I think if I did hear the city engineer correctly, plans are being drawn and the plan is to have that water line in by the end of this year. I think, Commissioner, if there was no end in sight, I mean, if they didn't have a plan and they were talking three or four years or just a question mark, then I think I would share your concerns big time. But it appears that they're moving forward and a question to Bob. Bob, is there a way that we could postpone this hearing for say a year and reconvene this hearing in a year or does the statutes require us to move forward today?"

**Mr. Parnacott** said, "I don't think we have a specific time period. The requirement is we have the hearing five years after the close or after the effective date of the annexation and if litigated after the effective date of the Court of Appeals decision. So then we have that hearing and then you are to make a finding after the close of the hearing but it's not specified, like some other statues, that you have to make it within seven days of the close of your hearing."

So theoretically I think you could hold this open. Holding it open for a year is probably of course unnecessary, since they're going to be completing at the end of the year. Another option might be to hold it, hold the finding until they've let bid contracts, which we understand is going to be possibly sometime in June. Again I, and there may be if there is continued questions about the water lines I think city staff can maybe go into more detail about how they moved out of one plan into another and really what goes to the delay but to bring it to a close, yes there's a way."

**Commissioner Winters** said, "Well I guess that I think, and again Commissioner Norton, I clearly hear what your saying. I guess if I could just ask Jim Armour one more time, what their timeline plan is that would be helpful for me. Jim, can you just tell us again what your time line is here for this water line?"

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**Mr. Armour** said, "Hope to have plans bid in late May or early June and then construction start probably in July and substantial completion by the end of the year. I might re-address the issue of two reasons I think there was a delay or a change in plans on that sixteen-inch water main was development occurred on the west side of West Street in Blue Lake Subdivision and water line was extended down West Street and the water and sewer departments master plan was somewhat revised then and the need to put the line along MacArthur was not as critical and it could be what's not mentioned is that water mains were extended in this area but just from a different location."

**Commissioner Winters** said, "Was Blue Lake part of the city prior to becoming a development?"

**Mr. Armour** said, "I don't know the answer to that one but I know it would have been annexed and as a part of a deal, but the water main was extended down West Street to MacArthur."

**Chairman Sciortino** said, "Anything else Mr. Norton?"

**Commissioner Norton** said, "No. Well, you got a new development, Blue Lake, that gets their . . . I mean, gets water main shifted and they probably had to probably petition for an annexation at that time and now you've got somebody that's been there seven years that still doesn't have their water main. That's just another thing that doesn't make sense to me."

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

**Commissioner Unruh** said, "Thank you, Mr. Chair. I just had a question, maybe for Terry, but did Mr. Higgins get his question answered about the sewers? Does he realize he has to petition for that? And someone would probably make certain to make contact with the citizen, so that he knows that process?"

**Mr. Chris Carrier**, Director, City of Wichita Public Works, greeted the Commissioners and said, "We had a individual from engineering contact him yesterday. They have a meeting scheduled to meet with him next Tuesday to discuss that."

**Commissioner Unruh** said, "Okay, Thank you."

**Mr. Carrier** said, "Oh okay, I'm sorry. We had another come up that was the same thing and that was it, so we'll do that."

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

**Commissioner Unruh** said, "Contact him on petition for sewers."

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**Chairman Sciortino** said, "I don't see any other questions. Bob, I have a question of you. If we were to just find that the city was in substantial compliance and what is on them to do this water project. Could they maybe have a change in circumstance and instead of it being done this year, it's done in 2010 and there is no recourse left then because we have found them in substantial compliance."

**Mr. Parnacott** said, "You certainly would have no more . . . I don't want to call it leverage, but no more role to play in that decision. They could certainly make change in plans. Obviously, the city is in charge of what services they provide and particularly when they are discretionary type services and once you've made your finding, it's up to them to follow through with it."

**Chairman Sciortino** said, "Okay, so one of the options we have is to find the services were not extended as provided and give the city two and half years to do what they said they were going to do. Does that have anything . . . I mean, the city has already said they're planning on having it done probably by this year, but then that means we come back again in two and half years to at least find out if they did what they said they were going to do this year. Is that what happens when we give them an extension? Do we have another hearing here?"

**Mr. Parnacott** said, "There would only be another hearing if there was a petition for a hearing. If some landowner felt they were not going . . . they still haven't gotten the services after two and half years."

**Chairman Sciortino** said, "Okay, but I mean would that? I don't know how I'm saying this."

**Mr. Parnacott** said, "It leaves a certain sense of uncertainty about the preceding and I'm sure the city would rather not have that. I think that's only the major drawback."

**Chairman Sciortino** said, "Well, the only concern I have is with the project and I have no reason to believe the city isn't going to do what they say they're going to do but I don't know if the citizens have the same comfort level that I have that government always does what it says it's going to do."

**Mr. Parnacott** said, "Well again, I guess I'd have to note that there doesn't seem to be any direct citizen complaint about this now. We had that one phone call on the water main issue."

**Chairman Sciortino** said, "Oh, okay."

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**Mr. Parnacott** said, "And they apparently have resolved it. They had indicated they were going to come talk, but since then the city has spoken with them and that is the person that they're meeting with next week to talk about water and sewer issues."

**Chairman Sciortino** said, "All right, thank you."

**Mr. Parnacott** said, "So to that level of comfort, I think it appears to have been met."

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

**Commissioner Burtnett** said, "Well, I just have a comment. It seems like in the few of these post annexation hearings that I've been involved in, we're looking for substantial compliance. There always seems to be a few issues that they haven't quite finished yet and we get the information from the city that says 'We're going to complete these in a certain amount of time', and I realize this has been an exceptional amount of time on this particular issue, but it seems to me that they are saying they will continue with what they have said they would promise to do."

So to me it doesn't seem like it's that much different than what we've done in the past, but I've only been in I'm going to guess three of these so you probably have more experience than I do on looking at this, but it's just a comment that it seems like all the ones that we have had there's been some issue that has not been complied with, but substantially everything had been."

**Mr. Parnacott** said, "Certainly, we could, again the middle option, we were talking about the first option being making the finding that they have not provided the services. The middle option is to close the public hearing, but not make your finding pending some date of . . . either date of completion or for example the official notice that they have actually let the bid contracts and then we could do that. Staff could report back to you and it could probably even be done as a consent agenda item, frankly, that the contracts have been met and the recommendation is to adopt the resolution making the finding. Or the final option is that they have substantially complied, and again my recommendation, based on what I've heard is I think you can, you have sufficient evidence to make the finding that they have substantially complied with the service plan."

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

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**Commissioner Norton** said, "Well, it would be my hope that maybe we would close the public hearing, and not have our finding, not reveal our finding until the bids have been led. That gives them a couple of months. That shouldn't be onerous on the city but it certainly lets the citizens know that in good faith we're going to hold other government entities to what they say they're going to do. I don't . . . you're right, it's not about the five of us trusting the city. It's about a lot of constituents that didn't want this annexation in the first place and were litigious about it and I think will want us to, in good diligence, make sure that what they said they were going to do is done and it hadn't been done yet and we should hold them to that."

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

**Commissioner Norton** said, "And probably if it had been an annexation where there wasn't so many protest, and so many loud voices and litigation, I probably wouldn't have this kind of idea, but this was one of those that was pretty gut wrenching for a lot of folks."

**Chairman Sciortino** said, "Okay. Is that all you have right now? Okay, before I close it, is there anyone else in this audience that would like to address this board pertaining to this item? This is your last chance to speak or . . . Looks like one of the reporters wants to talk to us. Oh no, I'm sorry. Anyone else want to speak to us on this item, because if I don't hear from you, I'm going to close the public hearing. All right, the public hearing has been closed and the comments are now restricted to the board. Commissioner Unruh."

**Commissioner Unruh** said, "Thank you, Mr. Chairman. Listening to the testimony and the discussion that we've had and full understanding of Commissioner Norton's position, I believe that I've come to the conclusion that the city has substantially complied with the plan and I'm going to be supportive of the recommendation that's in front of us. I am not disposed to want to, you know, to retry the arguments in the original zoning case. I think what's before us is, right now, says the city substantially complied with the plan and my understanding from discussion today they have, so I just wanted to express that."

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

**Commissioner Winters** said, "Well, thank you. I think I do agree with Mr. Unruh, although I would say to Commissioner Norton, if there was some way that our legal staff thought that it was

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all right to delay our final decision, I'd certainly like to support you but you know state statute gives cities the abilities to do annexations and that's just the way orderly growth of cities takes place and even though citizens who live on the edge don't like that, there is not much we can do, except make sure that things like this that are indicated they're going to happen take place. And so I guess I could on one hand support a delay in our final decision, but I believe that they've substantially met their obligations and I certainly have confidence that if their Public Works Department is at the point of letting a bid, I mean, they're going to let the bid here in just a few months. They have got to be pretty well committed to it, so I guess I'm saying I could go either way, although I do feel that they have met their substantial compliance. Thank you."

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

**Commissioner Norton** said, "Well, just a statement and I want to be sure people know this. I probably, if there is a motion to say substantially met, I will probably be opposed to that but I want to be sure people understand that there was no conversations or prejudgments made. We knew we were going to have a public hearing today. So we haven't had conversations about this. I've let the process take it's own course because you can't pre-conclude when there's a public hearing involved and you need to hear from citizens that you're going to make your decision ahead of time and I wanted to be sure that I said that for my colleagues because we hadn't had conversations about this particular issue and tried to decide what we wanted to do ahead of time.

So, I think they've listened prudently. I'd listen to any motion. If the motion is to the degree that it's been substantially met, I would disagree with that and think we should postpone it but I'm going to let it take it's own course today, as we try to move through this issue."

**Chairman Sciortino** said, "Okay, I don't see any other comments. Mr. Parnacott, what was the option that Mr. Norton is talking about? What actually would we be doing if we did what he's indicating or explain to me once again what he's indicating, and what the ramifications are?"

**Mr. Parnacott** said, "It would strike me that you would be moving to defer making the finding until a later date and you could pick whatever marker you want to choose. We have discussed maybe using the establishment of the letting of the bids, when they have actually let the bid contract, which would, we understand, would be sometime in June possibly as the date that would bring that back.

So we would be in indefinite deferral to a particular . . . to some occurrence of an event. You know, if you wanted to go all the way out, you could say once people started getting water, final completion, but obviously the more prudent course probably would be something timelier."

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**Chairman Sciortino** said, “All right, Commissioner Winters . . . Norton, I mean. If we were to do what your recommending, would you be comfortable when the bid is let that would then be substantial compliance, would that be something that you could support?”

**Commissioner Norton** said, “Well, I think I would. I think that puts it into the realm that the project is definitely going to get done. As it is now, it could be postponed. It could move in a CIP. Another development like Blue Lake, similar to that could come up and they decide they’re not going to do it and, you know, I like to have trust in things but it’s been many, many years now and I represent that group that was not particularly happy when all of this happened and I want to be sure that what was said was going to be done gets done.”

**Chairman Sciortino** said, “Well, if that’s the motion that you would like, I would be willing to support that motion, because I think . . . I don’t see it puts any real negative on the city, but then it does let the citizens know that we’re still trying to watch out for them and we have a difference of opinion of what substantial compliance is and there has been some times where I don’t agree with what my attorney’s saying, or anybody. I sometimes have a difference of opinion. I think for just letting citizens know that we aren’t here just to always rubber stamp everything. This is one that it was as reasonable as just them letting out the bid, and we don’t go to where the first water is, or that everybody can sign off on it exactly, but I think letting out the bid, if you would be comfortable with that, would get you embracing substantial compliance, I could support that. That’s my comment. I don’t hear any other comments. So what’s the will of the board on this item?”

### MOTION

Commissioner Norton moved that we defer our finding as to that time when the bids are let and accepted so the project we know will move forward.

Chairman Sciortino seconded the motion.

**Chairman Sciortino** said, “Any other comments, commissioners? You have a comment?”

**Commissioner Unruh** said, “Yes Mr. Chair. Thank you, Mr. Chairman. I will not be supportive of the motion, without animosity, and without any sort of prejudice against either party. I just think

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that I've heard evidence to indicate substantial compliance, so I won't be supporting that motion."

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

**Commissioner Winters** said, "Thank you. I think I will support the motion this morning but I also want to say to our friends at city hall, I mean, if something happens, come back because I still believe you're very close to being in compliance, but I am going to support Commissioner Norton on this request."

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

**Commissioner Burtnett** said, "Well, and I suppose since we are only looking at a couple of months down the road, I can be supportive of this too although I was more than willing to think that they had done their due diligence on this particular project, but I will be supportive since it is only a couple of months off."

**Chairman Sciortino** said, "Okay. I don't see any further comments. There's been a motion and second. Clerk, call the roll."

**VOTE**

Commissioner Unruh	Nay
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, "Thank you, very much. Next item."

**PLANNING DEPARTMENT**

**D. METROPOLITAN AREA PLANNING DEPARTMENT (MAPD).**

- 1. CASE NUMBER CUP2005-75 (ASSOCIATED WITH ZON2005-61) – CREATION OF DP-294 CLIFTON HEIGHTS COMMERCIAL COMMUNITY UNIT PLAN (CUP); ZONE CHANGE FROM "SF-20" SINGLE-FAMILY RESIDENTIAL TO "LC" LIMITED COMMERCIAL, GENERALLY LOCATED AT THE NORTHEAST CORNER OF 55<sup>TH</sup> STREET SOUTH AND CLIFTON AVENUE. DISTRICT #5.**

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### POWERPOINT PRESENTATION

**Mr. John Schlegel**, Director, Metropolitan Area Planning Department, greeted the Commissioners and said, "This first case is one in which the applicant is proposing to create a commercial Community Unit Plan on approximately 17 acres at the northeast corner of 55<sup>th</sup> Street South and Clifton Avenue and you can see the location of this parcel outlined in red on the graphic in front of you.

They're proposing a total of seven parcels, all of which would be zoned Limited Commercial. Skipping ahead to the site plan for this Community Unit Plan, you can see the five outer parcels which are proposed along Clifton, all of which are a little over an acre in size. Parcel number six, which fronts along 55<sup>th</sup> Street, is about 3 1/2 acres in size. Parcel seven, which is just sort of being seven acres in size, is in the interior of that site plan, with access out to Clifton, and then the remaining eastern portion of the site would be in a drainage reserve, indicated on the site plan as Reserve D.

The proposed uses would be those that are typical in a Limited Commercial zone, although they are prohibiting in this CUP a number of uses, adult entertainment establishments, sexually oriented business, correctional placement residence, asphalt and concrete plant, private club, tavern, and drinking establishment. The applicant is also proposing that more stringent use restrictions be placed on parcel 1, which is the northernmost-out parcel along Clifton and also along the northern 100 feet of parcel 7, which is the large interior parcel.

Where those parcels bought the single-family tract that is platted just to the north of this site. Those restrictions would include prohibitions on restaurants with drive-thru windows, convenience stores, service stations, vehicle repair and full-service car washes. The applicant is asking for a waiver of the masonry wall requirement that typically would be required between this commercial site and the residential area to the east and that's because of the large Reserve D parcel and the fact that their intention is to provide for berming and landscaping along the eastern edges of parcels 6 and 7. So part of your action today would be to, if you so inclined, to allow that waiver of that masonry wall. The site is currently zoned SF-20, and is agricultural use. Let me go back to an aerial photo, and you can see what the surrounding land uses look like.

Oaklawn is up to the northwest, along Clifton. Drainage is a major concern through this area. That's why they have set aside the large portion of the eastern-most portion of the site for

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drainage. The proposed CUP is part of a larger overall development project and I'm going to move to this aerial photo. The applicant, this particular rezoning, and CUP proposal is part of a number of actions that the applicant has sought from the Metropolitan Area Planning Commission.

In addition to this rezoning to LC, later on this agenda I will present to you a re-zoning for General Commercial there at the corner of K-15 and 55<sup>th</sup> Street. That's the parcel that's outlined in red off to the north along Clifton. The parcel that's outlined in yellow is a rezoning that they had requested to Multi-family. That particular rezoning has been deferred by the Planning Commission until some issues are resolved, revolving around the joint land use study for McConnell Air Force Base are resolved.

Then, in between those three rezonings, the applicant has proceeded with a plat for Single Family Residential on the remainder of that area, that has the number 70 on it in this particular graphic, but he has deferred moving forward with development, even though that plat has been approved for this SF-20 area, until again, until this issue regarding the joint land use study has been resolved.

Now the only reason those issues have come up is because this general area is within the maximum mission area that was identified in that joint land use study for McConnell Air Force Base. There's an implementation committee that is reviewing the recommendations of that study and they have not yet come up with firm recommendations on which ones the local units of government should proceed with but this applicant has been very cooperative in postponing development plans for the single-family tract and also in deferring action on a multi-family rezoning along Clifton.

When the Metropolitan Area Planning Commission first heard this item, at its February 16<sup>th</sup> meeting, they voted at that time to defer any action until staff could brief them on the recommendations of the joint land use study. We came back to them and provided additional information to them, at their March 16<sup>th</sup> meeting and at that time then, they heard this particular zoning request and recommended approval of this request, subject to the staff recommendations, plus subject to the removal of any residential uses as part of this CUP. So the recommendation of the Planning Commission that stands before you today is to approve the zone change to Limited Commercial and approve the Community Unit Plan that's been proposed, subjected to the conditions that are outlined in your backup report, including the MAPC recommendation to not allow residential uses in the CUP. And with that, I'll be glad to take any questions."

**Chairman Sciortino** said, "I don't see that there are any questions, so commissioners, what's the will of the Board on this item please? I'll go ahead and make a . . . excuse me, I'm sorry Mr.

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Unruh.”

**Commissioner Unruh** said, “I just turned the light on, but Mr. Chairman, you and I both have had some familiarity with this process and I just wanted to make a comment about the developer’s willingness to be cooperative for the good of our community, relative to McConnell Air Force Base, willing to defer a project and change his plans, kind of in mid-stream, is to make sure that we are able to provide correct planning for our relationship with McConnell Air Force Base and how we protect the area around that, so that we let McConnell Air Force Base and the United States Air Force know that we want that base here and we’re not going to encroach upon it.

So, I just want to . . . I don’t want to say too much, and reveal how much I don’t know about the process, but I just want to say that the developer has been very cooperative and we’re appreciative of it and I’m going to be supportive of this agenda item.”

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

**Commissioner Winters** said, “All right, well to continue on that, John as far as you’re concerned and your department, this is not getting in the encroachment of what McConnell feels would be inappropriate?”

**Mr. Schlegel** said, “No. This type of land use would be compatible with the air force base. It would not present any detrimental impact to the base.”

**Chairman Sciortino** said, “I sit in on those meetings, and this is the type of development the Air Force Base would hope that we would do for the entire area around it.”

**Commissioner Winters** said, “Okay, thank you. That was my only question. Thank you.”

**Chairman Sciortino** said, “Okay, I see no further comments.”

### **MOTION**

Chairman Sciortino moved to approve the Conditional Use, subject to the recommended conditions; adopt the findings of the MAPC; and authorize the Chairman to sign a resolution.

Commissioner Unruh 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 Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, "Thank you very much, John. Don't go away because I guess the next item is yours too. Next item please."

**2. CASE NUMBER CON2006-00005 – CONDITIONAL USE TO ALLOW OUTDOOR RECREATION (PAINTBALL PARK) IN "SF-20" SINGLE-FAMILY RESIDENTIAL ZONING, GENERALLY LOCATED NORTH OF K-96 AND WEST OF RIDGE ROAD. DISTRICT #4.**

**POWERPOINT PRESENTATION**

**Mr. Schlegel** said, "In this case, the applicant is requesting a Conditional Use for outdoor recreation, and in this particular case, the use would be a paintball park on this 30-acre tract, which is currently zoned SF-20.

You can see from the graphic in front of you, its location just north of K-96 and west of Ridge Road. Access to the parcel would be provided through the property just to the east of the property, which is also owned by the same party.

You can see from the . . ."

**Chairman Sciortino** said, "How big is that property being . . .?"

**Mr. Schlegel** said, "It's 30 acres."

**Chairman Sciortino** said, "Thirty acres, okay, thank you."

**Mr. Schlegel** said, "Properties that surround it are zoned SF-20 and are primarily used as residential farmsteads, and I think you can see from the aerial photo in front of you the general character of the area surrounding this property.

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Property to the west is zoned RR, Rural Residential, and is used for a small airstrip and agricultural use. The nearest residence is about 900 feet from the proposed paintball park site.”

**Chairman Sciortino** said, “And where would that general location of that closest residence be? North, south, east, west?”

**Mr. Schlegel** said, “I believe, either these homes over here are the closest, or these over here.”

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

**Mr. Schlegel** said, “Moving ahead to the site plan that was provided by the applicant, you can see on there the access road coming in from the east and what they’re depicting on here is the paintball fields, play fields. That’s the rectangles that are shown on the graphic and then it also depicts some buildings that they would use to support this commercial activity. Their intension is not to pave either the access road or the parking lot.

One of the issues that you should be aware of is that the Little Slough runs through the area. I think, generally, you can see from the vegetation pattern, where that drainage area runs on the site. When the MAPC heard this request on May 16<sup>th</sup>, there were a number of property owners, surrounding property owners, that were there to speak in opposition to the request, citing their concerns with issues of flooding, noise, disturbances, impacts to their livestock and traffic in the area.

The MAC [sic] did vote to approve the request, subject to the staff-recommended conditions, by a vote of 8 to 0. I think it might be useful for me to review some of those conditions that were recommended by staff, because I think they’ll be pertinent to the discussion on this item. One of those says that no structures, to include buildings or bridges, materials or debris, shall be placed in the floodplain, nor shall grading take place in the floodplain without approval by the appropriate reviewing agency and, in this case, that would be the county Public Works Department. If the property is not platted, the applicant shall submit a drainage plan, to be approved by the county engineer, prior to making any building, parking, road or site improvements. Also, the site plan shall include a minimum 125- foot playfield buffer from the property boundaries. Playing field boundaries shall be physically marked and maintained on the ground, with a barrier, to ensure that players do not encroach into the 125-foot buffer. Then also, no lighting of the fields or lighting of the parking lot shall be permitted and no sound amplification system shall be permitted on the site.

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We have received a number of protest petitions, which are property owners that submitted those protest petitions, are shown on this map. They do represent over 20% of the notification area, so that would be a factor in your voting on this item.”

**Chairman Sciortino** said, “So it’s those, if I’m looking at it right, one, two, three, four, five people have protested. Is that correct?”

**Mr. Schlegel** said, “Five property owners have submitted protest petitions, yes.”

**Chairman Sciortino** said, “Okay.”

**Mr. Schlegel** said, “And with that, I’ll be glad to take any questions.”

**Chairman Sciortino** said, “Okay. I don’t see that there are any questions at this particular time. I see that there is one at this particular time. Commissioner Burtnett.”

**Commissioner Burtnett** said, “In our backup, the map is really hard to read and the one you had up here with the yellow lines, just right before this one, it’s still kind of hard for me to read. You’ve get field one, two and I see three is between two and four, because I can’t read that.”

**Commissioner Norton** said, “It is.”

**Commissioner Burtnett** said, “Okay and the whitish area is the slough area?”

**Mr. Schlegel** said, “Yes.”

**Commissioner Burtnett** said, “Is that considered the floodplain area?”

**Mr. Schlegel** said, “Yes.”

**Commissioner Burtnett** said, “And it said that there’s not supposed to be any buildings in the floodplain area.”

**Mr. Schlegel** said, “Right.”

**Commissioner Burtnett** said, “I cannot see, I can’t see the yellow type and I can’t see it on my backup, looks like rental building is just to the east of field four, which would put it right in the floodplain.”

**Mr. Schlegel** said, “And so it would appear on this map. Now what will have to be reviewed is

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the placement of those buildings, and what I don't have in the presentation is the FEMA floodplain map, so that would have to be reviewed by the county engineer to see whether or not those structures are within the floodplain boundaries."

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

**Chairman Sciortino** said, "And if we were to approve this, it doesn't give the developer carte blanche, he can build anywhere. He has to come, with building permits, etcetera, and then our people would determine whether or not he's in compliance to what he had indicated here and if he was trying to build it in an area that would be inappropriate or that we did not permit, he wouldn't get the permits and he couldn't build the building. Is that basically correct?"

**Mr. Schlegel** said, "The conditions that are being recommended by the Planning Commission would assure that."

**Chairman Sciortino** said, "All right. One other question I have, before I . . . and while this is not required of us to have public input, it's been our history that we want to elicit public comment on any conditional use, and we will let the public talk to us a little bit about this in a moment, but one concern that sounded very legitimate to me was noise. I mean, do these guns sound like a gun when they go off? I mean, are they pretty noisy guns when they go off?"

**Mr. Schlegel** said, "You know, I've never done this and I don't know much about them. Perhaps the applicant, you could direct that question to the applicant, because I've never . . ."

**Chairman Sciortino** said, "Well, I think I want to hear from the applicant after I hear from the general public I think, so okay, thank you."

Well, if there are no other comments, I'd like to now just ask the audience, is there any citizens that would like to speak for or against this, just please come on over here and maybe stand in line, and what I would ask you though, since there seems to be quite a number of you, if someone ahead of you has said exactly what you want to say, you can come up and say 'Me too' but you don't have to repeat everything that everybody has said, but we do want to hear what you have to say. So you all want to draw straws and see who goes first? Now, what I'm going to ask of you to do when you come up . . . please pay attention to me here, it's kind of important, I'm going to ask that you give your name and address and you're limited to five minutes and please let us know what other information you think it's necessary for us to know so that we can make a decision on this item."

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**Mr. Guadalupe Rubalcaba**, Business Manager, Maize Airport, greeted the Commissioners and said, "According to these signs up on these desks, I'd like to be as casual as you folks, so for short I'd like to be addressed as Lou. I am the general manager of the Maize Airport and seated with me is the Chief Financial Officer for the Maize Airport. I asked the gentleman in the yellow shirt if he could go back to the graphic where it was painted in red, about the protests. Apparently, he didn't know how to make that happen."

**Chairman Sciortino** said, "Mr. Schlegel doesn't either, but we have an expert in residence here, Kristi Zukovich knows how to do that. Is that the one you wanted?"

**Mr. Rubalcaba** said, "Yes sir, thank you very much. I want to point out that Mr. Schlegel said that these were the property owners who protested, and the thing I'm trying to point out is I'm not a property owner, okay, I'm a business manager and I want it to be understood that, speaking for the owners of the airport, that we are neither opposed or in favor of a paintball field, but we should be in red there."

**Chairman Sciortino** said, "Where is the airport?"

**Mr. Rubalcaba** said, "The airport is directly to the west, a long strip."

**Chairman Sciortino** said, "Right there?"

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

**Chairman Sciortino** said, "Well, I think what he was indicating is those people within that green circle . . . well, it's not a circle, but the green thing, that's the protest area and the people in red protested it. Your strip is within the protest area, but we didn't receive a protest from you is what it says."

**Mr. Rubalcaba** said, "I'm sorry, I'll go back to the board of directors and the attorney for the airport and find out what happened but my direction was to let you know that we have some questions and we couldn't talk with the gentleman, we couldn't receive any communication with the applicant so we could resolve these issues off base or off line. I'm hoping that the county will encourage those gentleman to speak specifically with me, sir."

**Chairman Sciortino** said, "But I need to know what your concern is. You weren't notified so that you could protest? Is that what you're saying?"

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**Mr. Rubalcaba** said, "That's correct, sir. I think the reason for that is somebody, someplace, is assuming that the airport is an incorporated business and so therefore the shareholders were not being contacted."

**Chairman Sciortino** said, "Okay. The . . . I can understand that and there may have been an error, but there has been sufficient protests to trip the thing that it would take a super-majority of us approving it, so even though you didn't get an opportunity, there was sufficient protest in the area that it accomplished what we try to get accomplished when we notify people for protests."

**Mr. Rubalcaba** said, "Thank you, Mr. Sciortino."

**Commissioner Unruh** said, "Mr. Chairman?"

**Chairman Sciortino** said, "Yes, sir."

**Commissioner Unruh** said, "Could you tell us specifically, what are your areas of concern?"

**Mr. Rubalcaba** said, "Actually, it's not the paintball field, it's actually the county and the township. And it refers to these flooding problems, okay. Up until 1990, the ditches along 45<sup>th</sup> Street were dug out and they were dug out properly. After 1990, all this kind of work stopped, all right.

The flooding is not a cause of fill being brought in or some pictures here indicate rubbish left behind, where the applicant was before, so much as improper maintenance either by the county or the township, for example . . . and I have pictures and I was going to ask for delay of this hearing somehow, but again the township and the county have dropped fill into the ditch, thereby aggravating the problem and I apologize again for not having those pictures developed in time for this hearing. I just found out about this less than 48 hours ago."

**Chairman Sciortino** said, "Okay, so your concern is not this project. You're concern is the ditches on 45<sup>th</sup> Street, which would still be a concern, regardless of whether or not this project went forward or not."

**Mr. Rubalcaba** said, "You're very enlightened sir, that's correct."

**Chairman Sciortino** said, "Did you hear what he said? Would you play it . . . this is a smart

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man here. Okay, well I think we can address your concerns, maybe working with our public works and it's outside the discussion that we're having now, but I think we can talk to you about that."

**Mr. Rubalcaba** said, "Mr. Bob Daniel, from the county inspection office, he and I have been working very closely together, but apparently he doesn't have the support or the insight to make these flood corrections or flood points happen. I was kind of hoping that we might get you up here."

**Chairman Sciortino** said, "Okay, well I think what I'd like to do, sir is since we've got a particular item here that we have to discuss, and this is outside of that venue, that we can discuss that and we can talk with Mr. Spears and we can discuss your concern there, but it doesn't have anything to do with this particular project and I'd like to kind of get this particular project taken care of first."

**Mr. Rubalcaba** said, "Thank you, sir."

**Chairman Sciortino** said, "All right, next individual. Just your name and address sir, and if you need another slide put up, Kristi is ready and willing to . . ."

**Mr. Jim Nichols**, 4425 N. Ridge Road, Wichita, Ks., greeted the Commissioners and said, "We the property owners are against the conditional use permit to be used for area paintball. We would like to see it . . . the federal floodplain left alone. I'd like to remind everyone that the sloughs are a natural runoff and the federal floodplain, where the proposed conditional use is located.

There are two sloughs that carry heavy rains to the southeast, behind us in the mile-section, the Big and Little Slough is what they're called. These waterways must be kept open during heavy rains. Under 96 Highway . . . the heavy rains run under 96 Highway where the homes on Ridge Road north of 96 will flood when Sedgwick County has very heavy rains, the water in the sloughs have been backed up to our back patio in all the neighbors.

Mr. Ridge, who lives right next to the applicant property, he's had water in his house. And the Big Slough is just a little west of the Little Slough and has also added to the problem. Now I have these pictures here of . . . this is kind of involved, but yet it's not. This is the old paintball field, in the Big Slough, just south of 96 Highway. It's the same applicant. I have about 20 pictures but I had room for just like four of these. These are all just dammed up. I don't see no graphite on them. They look like it was just poor construction. They're still like that to this day. If we have . . . we're in a drought right now and there's water standing in them and if we ever get any heavy rains, it's really going to back up.

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And in closing, we initially asked for a 300-foot boundary for the airport and the horses. We would now like to ask to deny the conditional use permit. We, the neighbors, would like the applicant to move his paintball a little further out in the county, where it will not interfere with people's homes and property and right across the highway, 96, is the city limits, already. You could almost throw a rock there. That's why he has asked . . . that's why he was asked to move from this site, because of the land that was being developed and with homes being close by, so the developer had to make him leave. That's all I have to say. Are there any questions?"

**Chairman Sciortino** said, "I think we do but Kristi, could you put up that infamous red thing again, so I can try to get where we're at here. Okay, and where is your property, in regards to this? Just tell us."

**Mr. Nichol** said, "I'm right there."

**Chairman Sciortino** said, "And where were these pictures . . . where was the property that these pictures . . .?"

**Mr. Nichols** said, "These pictures is just right down south of this bridge, just probably 100 yards west."

**Chairman Sciortino** said, "Could you use that little pointer thing?"

**Mr. Nichols** said, "Right there."

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

**Mr. Nichols** said, "So that area, as you can see, is platted. Well, that developer didn't want that paintball there. There's kids, there's homes, there's nice homes, so this applicant, he wanted to move across the street, across the highway if you will. Well, we've been there 15, 20, 25 years and we don't want the . . . we've got horses and I'll let some others share their thoughts."

**Chairman Sciortino** said, "Okay and we have a question or comment for you, sir. Commissioner Burtnett."

**Commissioner Burtnett** said, "When were those photos taken, that you just showed us?"

**Mr. Nichols** said, "Like five weeks ago."

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**Commissioner Burtnett** said, "That's all I had."

**Chairman Sciortino** said, "Okay, that's the only comments we have at this time. Next."

**Ms. Mary Reed**, 4435 N. Ridge Road, Wichita, Ks., greeted the Commissioners and said, "I live in the infamous red. I am directly north of Mr. Nichols at this property right here. I have a number of concerns that I would like to address regarding this proposed rezoning. I'll share with you only three major issues.

First and foremost is the issue of flooding. Mr. Nichols was giving you some background on the Little Slough and how K-96 affects the water drainage through that area. In addition to that, Ridge Road from K-96 to 53<sup>rd</sup> Street North is scheduled to be widened to four-lanes. That construction will be in the form of curb and gutter system. The current plans call for a pump station to be installed to put that rainwater into the Little Slough. In other words, a very, very much the area that's under discussion.

Any types of buildings, parking lots, barricades, etcetera can potentially obstruct the water flow and heighten the possibility of flooding. Mr. Shook, at a previous meeting, mentioned the possibility of cutting and sinking brush to create visual barriers and to help define the boundaries of various playing fields. As the slough is quite wide in this area, those brush piles would act as dams themselves, impeding the flow of water through this area.

While our homes and outbuildings themselves are not in a direct flood zone, changes in this area would cause us to consider adding flood zone insurance to our property and our insurance agent has given us an estimate of \$933 per year for the cost of that.

Of equal concern to us is the element of fire. Through the neighborhood retainers we've resided here. Nothing has been on this property. We have grazing, mowing, controlled burning, fuel wood removal. Vegetation is very thick, especially as the dead growth builds up. The tree cover is dense and has several deadfalls. A hot exhaust pipe or a carelessly lit, discarded cigarette could cause a fire that, combined with the amount of fuel and the limited vehicle access to this property, would be a fire that would be hard to control and hard to have access to fight.

Finally, this is an older, stable neighborhood. Homes on the west side of Ridge Road are mostly five-acre tracts allowing livestock. On the east side, there are smaller lots backed by farm fields.

At the dozen or so properties between K-96 and 45<sup>th</sup> Street North, only one to my knowledge has changed hands in the ten years that we have lived there. We purchased our acreage with a desire for some privacy, space and quiet. Now traffic and noise would be disruptive. Paintball is, by nature, an aggressive sport and is basically a form of humans trying to kill each other, albeit with non-lethal weapons.

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Once adrenaline takes control, there's potential for the hunters to disregard the field boundaries in an effort to gain advantage over their targets. I do not feel it's a compatible use with a residential neighborhood. In closing, I would respectfully ask the commission to deny this conditional use. Thank you and are there any questions?"

**Chairman Sciortino** said, "I don't see that there are any at this time, but stand by, there may be something."

**Ms. Reed** said, "I do have pictures from flooding, if you'd like to see those."

**Chairman Sciortino** said, "Okay, bring them up and we'll take a look at them and we'll make sure that you get them back."

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

**Chairman Sciortino** said, "Okay, next speaker please. You're finished then ma'am, for this time? Okay, next speaker please."

**Dr. Dan Johnson**, 7777 W. 45<sup>th</sup> Street N., Wichita, Ks., greeted the Commissioners and said, "And I preface it by saying that, because one thing I'm going to talk about is what my degree is in and what my background is in. This is Shirley Helm. We own the property to the north, both properties. Her brother owns the property on the west and we, the property on the east.

Clarifying that, since the place where I also live is right next door to Commissioner Winters. However, two things that we would like to bring up that have not been brought up already. One is the fact that horses do pasture in this area that's immediately to the north, right in here. If by chance there are stray paintball rounds, anything like that, the horses could impact, be jolted, cause them to jump over fences, startle them and they're skittish by nature.

The fence between these two properties is minimal and that takes me to the next part. After twenty-two and a half years of training police officers in the military and five and a half years as a training coordinator for the police department in Wichita, and also training Sedgwick County Sheriffs, adrenaline flows at any point that aggression and assertiveness comes into play. It would be very easy, based upon how these fences are up, and they're minimal fences, three-strand barbed wire at the best. It would be very easy for somebody, in pursuit of the hunt, to go over our property, or go over those fences, almost without knowing it and come into our property. At that point, that causes a problem, so based upon the two issues that we've talked about, number one the horses and number two, the fact of as was previously said and as I am

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reiterating, adrenaline flow, assertiveness and aggression, at the point that somebody is put into the situation of actually holding a gun on somebody else, whether it be a paintball gun or a regular gun, by virtue of the personality that that drives, there is potential to forget about boundary limits and go where it's necessary for the kill."

**Chairman Sciortino** said, "Did I hear to you say that your horses are wild?"

**Dr. Johnson** said, "No, they're not wild."

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

**Dr. Johnson** said, "I was going to say wild. We also have in our position the fact that the wildlife will be affected by this."

**Chairman Sciortino** said, "And Commissioner Winters, you had a comment or question?"

**Commissioner Winters** said, "Well, if he was done."

**Dr. Johnson** said, "Yes, I'm done."

**Commissioner Winters** said, "Okay, the only question I had, do you have any knowledge or information, this operation had been in effect eight or nine years across the highway to the south. In your knowledge of that area up there, have you had any knowledge of any problems that they had when they were on the south side of the road, such as players getting where they're not supposed to be?"

**Dr. Johnson** said, "The property is different there. The buildings that have been built north of 47<sup>th</sup> Street and east of Tyler Road, those properties have gone up in the last about year, year and a half, so we didn't hear anything, other than what was already discussed by Jim, in reference to the state that the area was left in."

**Commissioner Winters** said, "Okay, thank you very much. That's it."

**Chairman Sciortino** said, "I don't see that there's any other comments at this time. Thank you so much for presenting to us. Next speaker please."

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**Mr. Mark Reed**, 4435 N. Ridge Road, Wichita, Ks., greeted the Commissioners and said, "It's one of the red zones right there. I'll try to keep my issue short. The issue, as I see it, is this area here, where the lease is taking place, in this area is through an absentee landlord, that does not have to worry about the fire or the flood threat. We are very, very concerned, those of us that live in this area and over here, about the threat of the fire.

You've seen the pictures on the flooding. We've had flooding up to the back of the houses. My neighbor next door had flood waters coming in his garage. It doesn't take much to jam this area up and to us, it just does not make sense, when there are so many other areas in the county that this paintball park could be held at that would not affect a single-family residential area that we have all shared for many, many years here and I thank you for your consideration for the possibility of denying this conditional use of this land. So thank you very much and I'll be willing to answer any questions."

**Chairman Sciortino** said, "Mr. Reed, I have limited knowledge on water, but my understanding is it runs downhill. The flooding that you're presently experiencing in your property coming from water that's north of your property?"

**Mr. Reed** said, "It's coming from north of the property. In fact, basically . . . I put the arrow . . . this is all actually in the floodplain, the back half of our property to start with and this whole area is in a floodplain and eventually, we all realize that this, in the long-range Metropolitan Area planning for the 2030 that this is all, you know, eventually going to be a business park or a hospital or shopping center. We still think and hope that it's, you know, 20, 30 years away."

**Chairman Sciortino** said, "Maybe a zoo might work."

**Mr. Reed** said, "No zoo."

**Chairman Sciortino** said, "So, you're agreeing that the majority of your present flooding problem comes from the north."

**Mr. Reed** said, "Yeah, but we have found that what happens is, it doesn't take much, because of the heavy timber and so forth. If the bridge at 96, where it goes under 96, gets blocked up, or any place along the line where the water gets slowed down, this land is so flat, it just spreads out and completely covered our . . . the '98, you saw the one picture. I can tell you, my next door neighbor, Jim Nichols, it was a total lake. We had water backed up almost to the house at our facility."

**Chairman Sciortino** said, "Okay, all right, thank you. I don't see that there's any other

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comments at this particular time. Next speaker please.”

**Mr. Matt Shook**, applicant, The Edge Paintball Park, greeted the Commissioners and said, “I’d actually like to give you a revised site plan. I had it till just yesterday. I guess he didn’t get it on. After having the MAPC meeting . . .”

**Chairman Sciortino** said, “Do you have a copy of something that we could look at?”

**Mr. Shook** said, “Yeah, yeah. I’ve got four copies. You know, based on the landowners, we went ahead and moved everything out of that slough and I did look at the FEMA maps and tried to get as far away from that flood area as possible, talk to the landowners after the last meeting. There’s been a few things addressed, as far as players getting out of bounds and what boundaries. Our typical boundary line is a well marked rope with ribbon about every eight inches.

Now, you’ve also got a referee that is on the playing field for . . . one ref for every 15 players. That’s why we’ve never had problems in the past, in the last 10 years. They’ve all got whistles, they’ve all got radio communications. It’s very imperative that the players know during the real meeting, if they do get out of the playing boundary of that field, that they’re eliminated. Now I’m not going to say it never happened, but it is a well addressed issue.

I hear a lot about flooding and I’ll agree with these guys, I’ve been down there for ten years, and it will flood. And as a business owner, that usually only operates 52 weekends out of the year, I don’t want to lose any business to flooding.

The deadfall, the plan that we have at the paintball park is we remove all the deadfall. We want it to look like a county park, where you can walk fairly easy, so with us just going to the site and removing the deadfall, that’s going to relieve a lot of the problem anyhow. That’s going to relieve the fire problem.

As far as the paving, we’re going to ask for all-weather paving and unlike pavement, which is called for in the conditional use we’re asking for all-weather, which will help drainage and everything else. Other than that, you know paintball . . . I hear a lot of people explain paintball as a . . . you know, a warrior type deal. It’s not. It’s youth groups, kids. About everybody that I know in Sedgwick County knows somebody that plays paintball. It’s a very competitive business that you can now watch on TV about any night of the week. I’ve put paintball parks everywhere from Huntington Beach, which is a really hot spot with the EPA to the Flint Oaks Five Stars or we’ve put them in at different places for different people. It’s minimally intrusive to the property.

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At best, we're going to go in there, we're going to mow and we're going to clean up the deadfall, set up boundary lines, put a building in to rent equipment out, and give all these people on the west side of Wichita a place to go play paintball. And other than that, if anybody has any questions, I'd be more than willing to answer them right now."

**Chairman Sciortino** said, "I think . . . let me at least look at the light. Okay, we have some questions. Who was first?"

**Commissioner Burnett** said, "We were dead even."

**Chairman Sciortino** said, "Okay, then I'll go first. I just have one question about, they brought up . . . because we're kind of limited as to what we can deny and what . . . so I've got . . . but noise is something . . . how loud are these guns? I mean, does it sound like a gun?"

**Mr. Snook** said, "No, it's no where near the noise of a firearm. Louder than a cork gun, maybe as loud as an old cap gun but nothing near the noise of a firearm. In fact, I would bet that they could hear . . . they hear more noise over tractor trailers going over the highway, semis and vehicles, over the paintball."

**Chairman Sciortino** said, "Okay, all right. We have some questions and I'm just going to make my pick. I'm going to pick Commissioner Burnett."

**Commissioner Burnett** said, "Okay, well you asked one of the questions I was going to ask. How loud these paintballs are and he already answered that. No one will have access to this, unsupervised, right?"

**Mr. Shook** said, "Yes, we've actually got two gates on the property, if you noticed. One at Ridge Road and one that actually gets to the paintball field. In the past, at the old field, you know everybody . . . you know, when you're out in the country like that, sometimes people want to go down there and play, unsupervised during the week and we've had dirt bikes or motorcycles in the past. We want to put up two gates to make sure that there is no unauthorized use of the facility while we're not there, and I will generally be there or my general manager land person will be there every day, during the week, so it's an everyday operation, when we're out there trimming trees and mowing and keeping the property up."

**Commissioner Burnett** said, "And the other . . . one of the other questions I had was could you explain the photos that they showed us of the debris?"

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**Mr. Shook** said, "Those photos were taken five weeks ago. Mark Shallenberg is the current owner of property to the south part of the road. We were called on a Tuesday and he said that his dirtwork contractors moved up his schedule and asked if we could be out on a Monday. We had five days. I asked them about the property. He said 'take what you want'. The only thing that was able to be moved off that property, and we played that last weekend, was another field owner from Kingman County came in there and took the building and some of the other property down there.

I didn't . . . and it was left in good condition. However, Jessie Shallenberg . . . you know Marv, the developer there, all his boys play paintball and Jessie wanted to go deer hunting out there, so I took him out there and, you know, kind of showed him where the deer have been going for the ten years and that's the first time and that was late October, early November. That was the first time I'd been back down to the property and you could definitely tell . . . whether it be high school kids, I don't want to blame the high school kids, but people have been down there, breaking apart the bridges for firewood, breaking down the old forts to do there little bonfires and have been partying out there. And it was completely disgusting to see the park in that situation, being the guy that built it for ten years and made sure it was a nice park."

**Commissioner Burnett** said, "So when was the date?"

**Mr. Shook** said, "August 12<sup>th</sup>."

**Chairman Sciortino** said, "So you no longer own that property."

**Mr. Shook** said, "No, I haven't and when we left there, it was kind of a disgusting deal. You know, we did have the first rights to buy the property and there was a loophole, don't want to get into the whole legal situation, but it was kind of a disgusting deal that we ever lost the property.

Anyway, I left. I was pretty disheartened. You know, ten years of your work. I know that I met most of you guys when I was in college, ten years ago, and now I've got to start my career all over again. We will own a retail store here in town and we keep machine shops busy with the products we make for paintball, but there needs to be a field, guys. There's one field, south of Derby, Kansas and that is the only field in Sedgwick County. All the other fields are in Sumner, Butler and Kingman Counties and the people just, you know, with the gas prices, they want a place close to town. That's why we picked the place. It's near our old location and if you've ever been in business, you know location, location, location."

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

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

**Commissioner Unruh** said, "Thank you, Mr. Chair. Commissioner Burtnett asked the main question I wanted to ask, about would you comment on the pictures, which you have done, but the other couple of questions. You anticipate only having one entrance? You can't enter this piece of property from the west. Is that correct?"

**Mr. Shook** said, "No, you cannot."

**Commissioner Unruh** said, "Okay, that will be very controlled?"

**Mr. Shook** said, "Very controlled."

**Commissioner Unruh** said, "What would happen to your operation if you did enlarge the boundary from 125 feet, at least on the north edge? I mean, how would that impair your operation?"

**Mr. Shook** said, "Well, it would as far as using land that you can use, original boundary for the first paintball park, The Edge, south of K-96 called for only a boundary of 50 feet. Okay, that boundary worked for ten years and we never had any stray shots hitting vehicles off of K-96 or what have you. This time around, I wanted some more space to work with, as far as the playing fields, and that's why I increased it personally to 125 feet. That wasn't called for by the county. That was a personal decision I made. The projectiles are basically made out of a jell cap and I give the . . . The Wichita Eagle, if you guys read that yesterday, try throwing an egg through trees. It's not going to go very far. Same thing with paintballs. It's heavy foliage. It's been brought up by all the landowners in the area. You're not going to be able to shoot past, you know, the 125 feet, you're not going to be able to shoot a paintball through that foliage.

And I'd also like to say, that area right there, it's not going to have all the deadfall cleared out, so there's even going to be more foliage in that area. The deadfall is basically going to get cleared out where you start to see the red lines of the playing area, and of course that will take over a year just to probably clear out the deadfall."

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**Commissioner Unruh** said, "All right. Have you . . . one of the questions was concerned about fire and I know they can happen any time, but at your other location, did you . . .?"

**Mr. Shook** said, "We definitely did. We had all kinds of conditions, as far as fires go, because we were in a drought back in 1996 too and no smoking anywhere but the parking lot area and designated areas."

**Commissioner Unruh** said, "So you have restrictions, but did you have a fire?"

**Mr. Shook** said, "No, we never had a fire over there. The only thing that we ever had was there was a plane that wrecked over there on a Tuesday morning, but that was the only thing. We've never had any fires or anything like that over there."

**Commissioner Unruh** said, "Okay, and the parking lot, the buildings on this diagram here are all . . ."

**Mr. Shook** said, "Yes, they're out of that FEMA floodway. We moved all those. We even deleted a field, I don't know how we need to get back to the regular . . . we even removed one of the playing courses that set in that . . . what they call a pan floodway, a very broad area, and we removed that."

**Chairman Sciortino** said, "Excuse me sir. You wanted to see another slide up? We can certainly put up whatever you need."

**Mr. Shook** said, "Yeah, where's the original site plan. There you go. You can see on the original site plan, we had field number three right there in that plan view. In front of the ground, it is very hard to see where there is any waterway. There's not a defined creek channel, and after hearing the neighborhood complaints and after looking at our conditions, we deleted that field from the structure, to try to please everybody. You know, we're trying to do our best to keep everybody happy."

**Chairman Sciortino** said, "All right, thank you. Any other questions?"

**Commissioner Unruh** said, "That's all I had."

**Chairman Sciortino** said, "I don't see that there's any other questions of you at this particular time. Thank you for your presentation. Anyone else wishing to speak to us? Yes, sir."

**Mr. Michael Daniel**, 1703 N. Skyview, Wichita, Ks., greeted the Commissioners and said, "I

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live on the west side, off of Maize. I was introduced to paintball about four years ago, through Mr. Shook's the old Edge Paintball Park. Address a couple of issues and throw a couple of tidbits of information out for you.

On the bridge, on the debris the gentleman showed the photographs of, at no time was The Edge, in the four years that I played there, ever having anything to do with those bridges being in that condition. They were always very pristine. They had to be, because we were running over them each and every day. One of my favorite places to be, during the course of one of those battles, would actually be underneath the bridges, lying in wait.

As for the water flowing north to south, believe me, I can tell you that it did flow through there quite quickly, and it was quite cold on a lot of different days, but as far as the creek bed going through The Edge, it always remained clear. It did flood two times, in the four years that I played there. One of the times that I remember that it flooded, I don't know if it was the city or the county work crews out on K-96, they were doing some sort of work, but they were actually pumping hundreds of gallons of water in there, 24 hours and the following day we came back, which was a Sunday, it had dropped down noticeably lower and on the following weekend and it was completely dry again.

On a personal note, paintball for me is a passion. Most people that get involved in the game, you immediately either don't like it at all, or you fall in love with it. As my wife can tell you, I'm completely devoted to it, as is my 18-year-old stepson. I thank Matt and I thank paintball in general for bringing my stepson closer to me because at one time, there was no common ground. This is what did it for my stepson and I. He now works for Matt. He is an outstanding player. He is an outstanding young man. He's just been accepted to W.S.U.

All I can say about paintball is for most people that play it, it is a release. On one hand, it is completely primal. On the other, it is so high-tech that it is almost unbelievable. It is a thinking man's game. On the issue of the report from the markers, some of the reports from these markers, some of the noises from the markers when they go off, they're so quiet, if a player was lying in wait for you and shooting at you, it would take you a few minutes to realize where it was coming from. They're that quiet.

As far as the issue of a paintball traveling more than excess of 100-plus feet, it's physically impossible. It's defeating the laws of physics. It's just not going to happen. Being hit with a

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paintball, anything being hit with a paintball, I'm not going to stretch the truth, they do hurt. They sting. They leave a welt, thus the mandatory safety equipment. I'm not only a player, I'm also a referee for Matt, have been many times. I have at least 50 friends that are involved in the sport. We all love it. It's a family. The Edge was, literally, quite a family. We played other places. It just doesn't have . . . no other place has the feel that The Edge had. Everybody knew that came there, no matter where you were from in the county, surrounding counties, you were welcome at The Edge.

As far as the boundary lines, players going out of bounds, when you're caught, you're out, period, end of discussion. You're snatched immediately from the game. You will sit out the following game. Safety infractions, same rules, you get one warning, if your mask is up, second infraction, you're gone. Major infractions, you have to deal with Matt. Any player who has ever felt Matt's wrath will tell you it ain't pleasant.

Other than that, I honestly don't know where to go from this. I appreciate that the homeowners' issues, I myself being a homeowner, but I think a lot of the issues come from panic. Just my personal opinion. If you have every been around The Edge, if you've ever heard anyone talk about The Edge or the playing of paintball, you'll know that Matt is . . . he's a class act. Nothing is tolerated at The Edge, never was tolerated. People getting out of hand were dealt with swiftly and severely. I'll go so far as to say that the damage done to the bridges at The Edge, and a lot of the equipment at The Edge were done by disgruntled employees and people who were tossed from The Edge for various reasons. Thank you for your time."

**Chairman Sciortino** said, "Okay, thank you. Now gentlemen, you've already spoke to us once. I'll go ahead and break a rule here. If you have something new to tell us, that we haven't heard before, go ahead, but I'm not going to get into a debate."

**Dr. Johnson** said, "Thank you, we do. Two things Chairman, first of all is the flooding issue and right now 45<sup>th</sup> Street every year it floods and the county . . . I'm not sure if it's the county or the township, goes out and puts up barriers, so that we can't drive down the street, so that's already occurring.

The other thing that I wanted to mention was the fact that Mr. Shook said that he has brought the previous property in to show him where to shoot deer. You don't shoot deer with paintballs."

**Chairman Sciortino** said, "I don't think he alluded that he was showing the owners to shoot deer with paintballs, I think that he said that the guy wanted to hunt deer, and he said 'Well, here's where the deer are' and the guy can pick whatever weapon. If he wants to kill a deer with a paintball, he's a little nuts."

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**Dr. Johnson** said, "That's true, but if he chooses to shoot a deer on this property, our houses are there and a rifle projectile will definitely travel that 900 feet. Matching affect of range of an M-16 rifle is 460 meters."

**Chairman Sciortino** said, "That has nothing to do with this topic. It's land that he doesn't even own anymore, so that has nothing to do with . . ."

**Dr. Johnson** said, "Previous predicts future, so if you bring somebody onto the property, it becomes our problem when the projectiles are coming towards us. The other thing is passion was mentioned. Passion is often mistaken for anger. Anger is one letter away from danger."

**Chairman Sciortino** said, "Okay, sir."

**Mr. Nichols** said, "Thank you. Let me respond too. Jim Nichols. Chairman Unruh [sic] and Chairman Burtnett [sic] mentioned about the gates, asked about the gates. These gates will be put up, but the ditches are probably like a foot drop and I've been there 25 years, so you really don't need to open the gate to get in this property. You can drive around the gate and get on the road and go up in there and I've seen so many people, when they're not around there, get on four-wheelers and jeeps and stuff, go around the gate, so a gate is really not the problem. They really need to fence the whole thing with chain link all the way up and down Ridge Road. Then we'd keep them out. Questions?"

**Chairman Sciortino** said, "No, but that's well noted."

**Mr. Nichols** said, "You can drive around the gate."

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

**Commissioner Unruh** said, "Jim, you've taken a few deer out there at your place, haven't you, with a bow?"

**Mr. Nichols** said, "Yeah, every one of them with a bow."

**Commissioner Unruh** said, "All right. I've know Jim a long time."

**Mr. Nichols** said, "I don't believe in rifles. I've never shot a deer with a rifle. That's my own personal opinion. There's . . ."

**Chairman Sciortino** said, "The point is, we're getting sidetracked on hunting deer on property"

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that this man doesn't even own, and has nothing to do with a paintball on property that he owns. I mean, he just happened to mention and maybe he's regretting even mentioning it, but . . ."

**Mr. Nichols** said, "He hunts deer. That's why it was brought up."

**Chairman Sciortino** said, "Okay, all right, thank you."

**Mr. Nichols** said, "But thank you very much for your time and it's been my pleasure."

**Chairman Sciortino** said, "Okay, thank you. And sir, you spoke to us before, but you have something different that you wish to . . ."

**Mr. James Morgan**, 5127 E. 49<sup>th</sup> Street N., Wichita, Ks. greeted the commissioners and said, "I'm the property owner and I've been sitting quietly, absorbing everything."

**Chairman Sciortino** said, "And where is your property located?"

**Mr. Morgan** said, "96<sup>th</sup> and Ridge."

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

**Mr. Morgan** said, "56 acres that we're going into a lease with Mr. Shook on. The neighbors are highly concerned about the drainage. I can't help but think when you're stripping out all the deadfall and cleaning the area up to play paintball, it's going to have better drainage. It's going to, aesthetically, look a lot better, as well as it's definitely going to reduce the potential of fire, because there's going to be less dead wood lying around."

As far as hunting, he does not have permission to hunt that land. Nobody has permission to hunt that land. The only person that's ever out there shooting any firearm is me and we practice shooting blue rock out there quite a bit, which I can imagine would stir the horses up, but that's what I use the property for. That's going to be curtailed, unfortunately, because if they're going to lease with Mr. Shook, I'm not going to be able to do it as much, because I'll be infringing in his area."

**Chairman Sciortino** said, "So you're leasing your property to Mr. Shook and you have covenants there and one of them is he can't hunt on your property."

**Mr. Morgan** said, "In the lease that we're putting together, he's leasing it for the purpose of

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running a paintball business, no hunting.”

**Chairman Sciortino** said, “Okay, just one question. What’s blue rock?”

**Mr. Morgan** said, “Skeet, clay pigeons, you throw them with a thrower and you shoot them.”

**Chairman Sciortino** said, “That’s with a shotgun.”

**Mr. Morgan** said, “Shotgun, definitely shotgun and I’m the only one that’s been out there shooting and like I said, I haven’t had any complaints from the neighbors, scaring the horse, with shooting the shotguns, that are quite a bit louder than the paintballs.”

**Chairman Sciortino** said, “Okay.”

**Mr. Morgan** said, “And as far as . . . they keep pointing out the bridges and the debris on the old park. The new area, there’s not going to be bridges, so there’s not going to be . . . we’ve discussed this already and I think he brought it up, we don’t need the bridges . . . or he doesn’t need the bridges to run over the low areas.”

**Chairman Sciortino** said, “I don’t think we’re going to take into consideration any property that’s south of 96 that he no longer owns and whatever. That’s a whole different issue that we can’t address when we’re trying to decide if we’re going to have this . . .”

**Mr. Morgan** said, “Any questions?”

**Chairman Sciortino** said, “I don’t see any questions, but I thank you for that lease thing. I thought he owned the property. Does the airport want to say something more to us again?”

**Mr. Rubalcaba** said, “Yes, sir. The airport runs during daylight hours, and sorry again Mr. McDaniel, where the entrance is, but vehicles travel off of this street. Our entrance is approximately here, around on the west service road of the airport and down and then they drive into this property. One of the property owners was asking they basically ride around the gates. Well, not only the gates, but through the airport and we want to make sure that the county directs the owners to put up a chain link fence and they also include the point where . . . 96 here, to the highway, because there is literally not a fence there. Some barbed wire but it’s just running down to the ground. I’d wanted to put that barbed wire back up and never been able to communicate with the neighbor.”

**Chairman Sciortino** said, “There seems to be one or two trees there too, that would impede people getting into that property too, is that correct?”

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**Mr. Rubalcaba** said, "You can . . . there's a service road that you can't see, even from the air, that you can drive through there and it's well sheltered. But once you get underneath the trees, it's an excellent place for army training, or military training."

The other question I have here is how we can avoid these paint guns being shot into the air, because the airplanes, when they're landing, they come right down . . . if you follow the arrow, roughly right there, and roughly at that point, they're only about anywhere from 60 to 90 feet above the ground, because I do believe for their final approach at the airport. If these paintballs can travel more than 90 feet, then you have to wonder why that airplane crashed over there in the old field."

**Chairman Sciortino** said, "So you're saying that the paintball shot down an airplane?"

**Mr. Rubalcaba** said, "No, sir. What I'm asking you is that is there some way to control the shooting of paintballs into the air? That's the question. Is there some kind of stipulation that could be put on there that they don't shoot it upright?"

**Chairman Sciortino** said, "Well, . . ."

**Mr. Rubalcaba** said, "I don't know. I'm just asking for answers, that's all."

**Chairman Sciortino** said, "Okay, and I don't know the answer to that too, but the only thing I understand about paintballs, they're trying to aim at people and shooting in the air . . . well, okay, thank you."

**Mr. Rubalcaba** said, "Thank you very much again."

**Mr. Karl Peterjohn**, 11328 Texas Street, Wichita, Ks., greeted the Commissioners and said, "I hadn't planned to speak on this."

**Chairman Sciortino** said, "Why don't you, for the record, tell us who you . . . we know who you are."

**Mr. Peterjohn** said, "For the record, my name is Karl Peterjohn. I've never played paintball in my life."

**Chairman Sciortino** said, "And your address, for the record."

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**Mr. Peterjohn** said, “My address, for the record, is 11328 Texas Street in the City of Wichita. I’ve always been intrigued with paintball, in the sense that I played capture the flag when I was a Boy Scout, and I view this as kind of a modernized version of the game, but when you’ve got 56 acres, you’ve got a homeowner and you’ve got a leaser, I would say property rights should mean something in the 21<sup>st</sup> Century. I know this is the age of key law and they may not. I would urge the commissioners to keep that in mind, and the MA . . . the planning commission report, that you have in front of you. I appreciate your time and attention. I’ll stand for any questions, but . . .”

**Chairman Sciortino** said, “The only question I have, are you siding for or against?”

**Commissioner Winters** said, “Which property rights are you . . .?”

**Mr. Peterjohn** said, “Property rights, I think the property owner and the person that wants to lease it, I don’t think their request is out of line, in a piece of land with 56 acres. I mean, this is not . . . it’s not like you’re trying to put it in someone’s backyard.”

**Chairman Sciortino** said, “Thank you so much. Any questions, commissioners? Anyone else want to speak to us on what I thought was going to be not a very contentious issue. Okay, I will just limit the conversation to the board, unless we have questions of anyone. Now, Commissioner Norton.”

**Commissioner Norton** said, “I guess I’m addressing this to Commissioner Winters. Does this fall within the guidelines of the highest and best use of the K-96 Corridor Plan?”

**Commissioner Winters** said, “That’s not as funny a question as you would think. I mean, I have been part of a group that studies the K-96 corridor, basically from Maize west, to the South Hutchinson area, and we have not really discussed land uses along this section of the highway. I guess I was going to ask the question to John and maybe I would ask John to just kind of follow onto that, in the 2030 plan, planning time frame, can you talk to us about what this intersection at Maize and K-96 is projected to have happen here.”

**Mr. Schlegel** said, “Well, I think as one of the neighbor’s mentioned earlier, I think over time, this area will develop in more intense uses. I think you probably will see some commercial development around that interchange of K-96 and up along Ridge Road. I know of some plans that are in the works for residential development in that area north of K-96, off to the east of this site.”

**Commissioner Winters** said, “And there is a large development directly to the south, taking

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place both residential and back towards Ridge Road, a major commercial development.”

**Mr. Schlegel** said, “Correct, so that urban development is moving up north, from Wichita, along Ridge Road and it will cross over K-96 at some point.”

**Commissioner Winters** said, “But to answer your question, the K-96 Corridor Group has not weighed in on this subject.”

**Commissioner Norton** said, “Does that fit in the boundaries? I mean, I consider Ridge Road to Hutchinson the corridor we talked about. I mean, this is barely within that, but it is certainly within that.”

**Commissioner Winters** said, “Well, I would say that there’s nothing that that group has done that would say that this was not an appropriate use. I mean, that would not fall in that guideline. What our organization is trying to do is make sure that development isn’t scattered along that route, between Hutchinson and Maize and that new development is pushed up and encouraged to be closer to the local communities, the small communities along the route, where they can obtain services, so I don’t think it really applies in this case.”

**Commissioner Norton** said, “Okay. Is this in the sphere of influence of Maize, the City of Maize? Is it in their three-mile . . .”

**Mr. Schlegel** said, “I’m thinking not, because if they had been, we would have taken this item to them but I’d have to research that to give you a certain answer on that.”

**Commissioner Norton** said, “Well, where is this housing development, that we can see on the map that’s up there right now, to the bottom left? Is that Maize?”

**Mr. Schlegel** said, “No, that’s City of Wichita. That fronts on Tyler Road, where Tyler Road goes under K-96.”

**Commissioner Winters** said, “And the City of Maize’s boundary is not a three-mile. It was smaller than that and if you take their original location of their city limits, they’re zone of influence is not as large as other communities.”

**Commissioner Norton** said, “Okay, okay, that’s fine. That’s all I have right now, Mr. Chair.”

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

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**Commissioner Burtnett** said, "I do have a couple of questions for the applicant. You alluded to the fact that most of your paintball games, whatever they're called, are on the weekends?"

**Mr. Shook** said, "Yes, on the weekends."

**Commissioner Burtnett** said, "So that wouldn't really affect the Monday through Friday airport. Does your airport run on weekends also?"

**Mr. Rubalcaba** said, "Our busiest times, ma'am, are Friday through Monday. That's when the flyers come in and fly off to Branson or Beaver Lake or wherever. Our slowest days are Tuesdays and Wednesdays. Usually, you won't find me in the office then."

**Commissioner Burtnett** said, "Okay, my other question to Matt is you're not going to have any bridges or those kind of things on your property."

**Mr. Shook** said, "No, we won't need them. It's the Little Slough, it's a pan-flow area, it's you know 100-yard wide area that flows. When we were south of K-96, and I know that's not a property in question, there was a defined four-foot-deep creek channel there that we put bridges on. There was nothing in our original conditional use permit that said, 'Hey, you can't do this'. In fact, I'll be in constant contact with Jim and Glen, you know Jim Weber and Glen Wiltse, on every single thing that we do out there, to make sure that the conditions are met, that you know, conditions are met, that we don't ever obstruct . . . like I said, I don't want it to ever flood."

**Commissioner Burtnett** said, "Well, I was going to say, there's already a flooding problem. I don't know that you're necessarily going to be contributing to that and I think we do need to find out."

**Mr. Shook** said, "Hopefully, we can ease some of that, with the deadfall removal."

**Commissioner Burtnett** said, "Well, and possibly some of the road maintenance, it sounds like, that we may need to look at, Mr. Public Works person. Okay, that's all I had right now. Thank you."

**Chairman Sciortino** said, "Okay. I have one question of the applicant. It was brought up and I wanted to make sure we're not minimizing. I think some of these concerns need to be addressed and whenever an airport has a concern, even though I guess I got a little joke-y about bringing down a plane with a paintball, but I can see if you shoot it in the air and a paintball crashes on the windshield, and it's paint, right, and it obscures the vision? There could be some danger there."

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My limited knowledge of your sport is that they're trying to hit an individual. Do they ever lob it into the . . ."

**Mr. Shook** said, "With the foliage?"

**Chairman Sciortino** said, "Huh?"

**Mr. Shook** said, "With the tree foliage, there would be no point to, and addressing those concerned here, 10 years ago I was really concerned about that and that went into part of our safety briefing. See, everybody that shows up at the park has to have a safety briefing. That's mandatory, no matter how many times they come out, they have to go through a safety briefing each time. And the biggest thing was, guys, don't shoot towards the highway and don't ever shoot at an airplane. If you shoot at an airplane, we're going to turn you into the airport over there, and we're going to kick you off our field.

So we're really strict. Like I said, there's a referee for every 15 players out there. We want to make sure it's a safe, fun atmosphere. It's a family atmosphere and we try to . . . some people say 'the wrath of Matt'. Well, I'm pretty safety oriented, been in this since '89 and haven't had an injury. So, you know, we want to just keep things safe and I can understand their concerns on airplanes and we're going to not have any worries about that, hopefully."

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

**Commissioner Unruh** said, "Thank you, Mr. Chairman. John, I had a question of you. The planning staff recommendation included item number 11, that talks about if there's a violation of the conditions, the zoning administrator will get with you and declare this use null and void. Does that imply that you are going to be, in any way, policing this or you'll respond to complaints, or how will you enforce that?"

**Mr. Schlegel** said, "The enforcement occurs in response to complaints. We won't be posting staff out there to keep tabs on them, unless a complaint is received."

**Commissioner Unruh** said, "Okay. And the proposal we have in front of us though, it is inclusive of these recommendations that you mentioned to us earlier."

**Mr. Schlegel** said, "That is correct. That's the recommendation of the Planning Commission."

**Commissioner Unruh** said, "Thank you. That's all I had, Mr. Chair."

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**Mr. Schlegel** said, "Okay. Well Commissioners, you have . . ."

**Commissioner Burnett** said, "John, I do have one more question. Was fencing ever brought up at the MAPC?"

**Mr. Schlegel** said, "No. Fencing was not discussed. The only item that was discussed was creating the barrier that they talked about on the edge of each, individual playing field, but not at the edge of the property."

**Commissioner Burnett** said, "Okay. That's all I had."

**Chairman Sciortino** said, "So well then, you just triggered a question for me. He's putting up 125-foot buffer on the north, the west and the south, but there won't be a fence indicating what that buffer line is? If the applicant would . . ."

**Mr. Shook** said, "There will be a boundary line. It will be marked off, you know, with signs 'Caution, do not go past this point', kind of like a no trespassing sign to all our players, and then inside that then we'll have our field boundary lines. You know, it will be very well marked."

**Chairman Sciortino** said, "Okay, and then it's your intent to have 125-foot buffer on the north side, the west side and the south side of this."

**Mr. Shook** said, "Uh-huh."

**Chairman Sciortino** said, "Thank you. Okay, commissioners . . . Okay."

**Mr. Rubalcaba** said, "I'm sorry, sir. We had a second, different airplane crash in this field, in this location here, right about here, okay. And what makes this situation unique, it was an ultra-light, which those are allowed, by Federal Aviation Agency Standards, okay, so it's not just the Cessnas and the Beechcraft that fly out there.

The other point I want to make is we have video security at the airport, so if there's any question in the future, we do have a video security camera going to that site, and I want it to be public knowledge that even though they're hidden cameras, we need them, AKA we have to protect about terrorists and those kind of things. We are federally . . . we are a Federal Aviation . . .

And I try as hard as I can to get along with my neighbors. New people, haven't had an opportunity to shake hands with them, but I want them to know up front that, you know, they are

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being video surveillance-ed.”

**Chairman Sciortino** said, “Good. Okay commissioners, what is the will of the Board on this item?”

**Commissioner Burtnett** said, “Well Mr. Chairman, since this is in my district and I have listened to everyone’s complaints and I think we have concerns. There are already flooding issues. I believe that the applicant is willing to work with that. The noise issue was an issue, I think, we all wondered about and I think those fears have been alleviated. The brush piles . . . there’s just been a lot of issues that have been brought up and I really believe that the applicant is willing to work with the area and make it a safe place to have this, so I am willing to make the Motion.”

### MOTION

Commissioner Burtnett moved to approve the Conditional Use, subject to the recommended conditions; adopt the findings of the MAPC; and authorize the Chairman to sign a resolution.

Commissioner Unruh seconded the motion.

**Chairman Sciortino** said, “I have a Motion and second. Any further comment from the bench? Yes, Mr. Norton.”

**Commissioner Norton** said, “One of my concerns is the buffering on the north side, which really leads to where the property owners are. On the south side I’m not concerned, because there’s K-96. Whereas the west, the airport, I can’t see a lot of people running through the airport on a landing strip to get to that.”

**Chairman Sciortino** said, “Especially with those cameras monitoring.”

**Commissioner Norton** said, “But I do have a concern on that north side of buffering. You have animals in there, if you have residents, if you have people living in that area, then maybe there could be some encroachment there and maybe we should have some conversation as to whether that bit of buffering and the restriction that would come from, really, just markers, reverse trespass signs, would be sufficient enough to buffer that. That would be my only thing. That would be an extra condition, but maybe there should be more. There should really be a fence or something on that side.”

**Commissioner Burtnett** said, “I think the applicant would like to address that concern.”

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**Chairman Sciortino** said, "Well, okay, first of all let me ask a question. No, no. You're not going to get out of it. You're going to have to address it. But is there a fence presently?"

**Mr. Shook** said, "There's a barbed wire fence."

**Chairman Sciortino** said, "Does the landowner from the north have a fence up there?"

**Mr. Shook** said, "Yeah, that's what keeps there horses in there."

**Chairman Sciortino** said, "What type of fence is up there presently?"

**Mr. Shook** said, "It's all barbed wire. And we want to work with these people. I'd be more than willing to put up a fence or strengthen a fence towards the airport or, you know, any area that fence is down. We want security out there too. We don't want people out there when we're not there, so by having fences up, you know good fences make good neighbors too, guys. That's an age-old saying and we're more than willing to work with whatever we need to do to make everybody happy there, as far as that north boundary line goes, or east or west or south."

**Chairman Sciortino** said, "Okay, so what you're committing to us is that you'll visit with your neighbors to the north, your neighbors to the . . . I guess the north is what you were talking about."

**Commissioner Norton** said, "Well, to me that just seems . . . I'm not as worried about the south. I can't believe people are going to be coming off the interstate, running down the embankment and go through 125 feet of buffer to get into that area. I'm not so sure that I'm worried on the west, but truthfully, the protests and the people that are most adamant about this whole thing are on the north side, so maybe it needs to be more restrictive. Maybe a barbed wire fence isn't enough. Maybe some kind of a chain link or something."

**Mr. Shook** said, "I don't think you'd want to put up a chain link, since that's a flooding area. It would just catch debris and cause more flooding. I think a barbed wire fence is more than sufficient, especially with the referees. You know, there's a referee for every 15 players, and like I said, we clear the deadfall so that we can watch our players and keep them safe. It's not like they're going to be able to sneak off the boundary line very easy at all."

**Chairman Sciortino** said, "Okay, does that answer your question?"

**Commissioner Norton** said, "It was just a thought."

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**Chairman Sciortino** said, “Okay and I think it’s in your best interest to maintain good relationships with the property owners, because if we start getting complaints, we’re going to start harassing you a little bit, making sure that you’re in compliance and I don’t guess we can make this whole area a no-fly zone, so I don’t know about . . . I think we’ve discussed this a lot. If there’s no further questions, there’s been a Motion and a second. Clerk, call the roll please.”

### VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, “Thank you very much. Next item please. Why don’t we wait just a second here. I think some people are wanting to leave here. I want to go on the record that I supported the same thing that Karl Peterjohn supported. It’s not often that I can join forces with Karl, but I’m honored that I was able to.”

**Commissioner Norton** said, “Why don’t we take a five-minute break.”

**Chairman Sciortino** said, “Let’s take a five-minute break, so we can refresh ourselves prior to the next item.”

**The Commission recess at 12:10 p.m. and returned from recess at 12:25 p.m.**

**Chairman Sciortino** said, “Clerk, call the next item.”

- 3. CASE NUMBER ZON2005-00059 – ZONE CHANGE FROM “SF-20” SINGLE-FAMILY RESIDENTIAL TO “GC” GENERALLY LOCATED ON THE NORTH SIDE OF 55<sup>TH</sup> STREET SOUTH AND WEST OF STATE HIGHWAY K-15. DISTRICT #5.**

### POWERPOINT PRESENTATION

**Mr. Schlegel** said, “Two cases ago, I described, briefly described this rezoning request and the general area it lies within, adjacent to the McConnell Air Force Base. Same applicant is seeking

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to have this three and a half acre un-platted parcel rezoned to . . . from SF-20 to GC, General Commercial.

As you can see on the plan in front of you, it's located just to the west of the rail right-of-way that runs parallel to K-15, north of 55<sup>th</sup> Street South. It has about 330 feet of frontage, along 55<sup>th</sup> Street. It's currently just an uncultivated field that is overgrown with trees. It's two miles southwest of McConnell Air Force Base and lies just outside of the Derby area of influence. The site is within the City of Wichita's future growth area, and the intent is for this to be annexed by the City of Wichita, and for the city to provide municipal services to this site.

Surrounding properties are zoned SF-20. Go back to the zoning map. And then further off to the east, you can see the cluster of Limited Commercial zoning, at the intersection of 55<sup>th</sup> and Oliver. The light green area, under the flight path to air base is all RR zoning, Rural Residential zoning.

And going back to the aerial photo, you can see the land use pattern around this particular parcel is basically undeveloped in agricultural uses. There is a residential area, just on the other side of K-15, to the southeast.

And again, although this area is within the maximum mission area, as defined in the joint land use study of McConnell Air Force Base, the use of the property that's being proposed is considered to be compatible with the base and would not be . . . provide any detrimental impact to future use of the base as a military installation.

The Metropolitan Area Planning Commission, very similar to that previous case, when it first came up in February, deferred the item for 30 days. Staff came back, briefed them on joint land use study and then they heard the item at their March meeting, at their March 16<sup>th</sup> meeting, and at that time they voted to recommend approval of the requested zone change, subject to the provisions of Protective Overlay #168 and that protective overlay contains a provision that would prohibit any residential use of this property.

We have not received any phone calls or protests regarding this proposed change and with that then, the recommendation of the Planning Commission is for approval, subject to the protective overlay.”

**Chairman Sciortino** said, “Thank you. Commissioners, any comments?”

### **MOTION**

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Chairman Sciortino moved to approve the zone change, subject to the protective overlay and to platting within one year; adopt the findings of the MAPC; direct staff to prepare an appropriate resolution after the plat has been approved; and authorize the Chairman to sign the resolution.

Commissioner Unruh seconded the motion.

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

### VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

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

### NEW BUSINESS

#### **E. DIVISION OF CULTURE, ENTERTAINMENT AND RECREATION.**

##### **1. AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING WITH KANSAS DEPARTMENT OF WILDLIFE AND PARKS PROVIDING CONTINUATION OF THE COMMUNITY FISHERIES ASSISTANCE PROGRAM (FORMERLY KNOWN AS THE COMMUNITY LAKES ASSISTANCE PROGRAM).**

**Mr. Holt** said, "Sedgwick County has been enrolled in the Community Lakes Assistance Program for both Sedgwick County Park and Lake Afton Park. It is now known as the Community Fisheries Assistance Program. This is through the Kansas Department of Wildlife and Parks. This enrollment has been since October 1977. We amended the agreement in '93 and again in 2004.

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The memorandum of understanding outlines the responsibility of the Department of Wildlife and Parks for managing fisheries across Kansas in providing technical assistance to local units who manage recreation facilities for fishing and boating, and it also gives us an opportunity, through the Department of Wildlife and Parks, to get grant money to do improvements on the park, so there's just a couple of tweaks to the memorandum that they're asking us to sign, an amendment to our existing agreement, and so I would recommend that you approve the amendment and authorize the Chairman to sign."

**Chairman Sciortino** said, "Thank you. Any questions or comments of Ron on this item? I don't see any, so what's the will of the Board please?"

**MOTION**

Commissioner Unruh moved to approve the amendment to memorandum of understanding, and authorize the Chairman to sign.

Commissioner Burtnett seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

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

**2. CONTRACT WITH KANSAS DEPARTMENT OF WILDLIFE AND PARKS FOR THE COMMUNITY FISHERIES ASSISTANCE PROGRAM AT SEDGWICK COUNTY PARK.**

**Mr. Holt** said, "This is a follow on to the memorandum of understanding. This is a contract for the Sedgwick County Park to be enrolled in the program, in the public fishing access program

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from January 1, 2006 through December 31, 2006. We had been working with the Kansas Department of Wildlife and Parks to get both Lake Afton and Sedgwick County Park involved in the program and that's why we're bringing this to you in March, not prior to January. We still have some disconnect between getting Sedgwick County Park enrolled in the program because of the vehicle recreation permit that's in a part of our regulations, so we're still working on that. This is just for Sedgwick County Park and we will be looking at, hopefully next year, having both Sedgwick County and Lake Afton Park, contracts for both parks, so I would recommend that you approve the contract and authorize the Chairman to sign."

**Chairman Sciortino** said, "Thank you. Any comments or questions of Ron on this item please? I don't see any, so what's the will of the Board?"

**MOTION**

Commissioner Burtnett moved to approve the contract and authorize the Chairman to sign.

Chairman Norton seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

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

**3. AGREEMENT WITH CITY OF VALLEY CENTER, KANSAS FOR ADVERTISING RIGHTS AT KANSAS COLISEUM.**

**Mr. John Nath**, Director, Kansas Coliseum, greeted the Commissioners and said, "This is our standard agreement for advertising rights at our facility. Valley Center has been a long-term client. This is our second renewal, so we're working on almost nine years now. We recommend

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approval.”

**Chairman Sciortino** said, “Thank you. Any comments? What’s the will of the Board?”

**MOTION**

Commissioner Burtnett moved to approve the agreement and authorize the Chairman to sign.

Chairman Sciortino seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, “Thank you. Next item.”

**4. AGREEMENT WITH CITY OF PARK CITY, KANSAS FOR ADVERTISING RIGHTS AT KANSAS COLISEUM.**

**Mr. Nath** said, “Same as Valley Center, this is a long-term client. They get a lot of value through the exposure, what we get at the Coliseum. We recommend approval.”

**MOTION**

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

Chairman Norton seconded the motion.

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

**VOTE**

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Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

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

### 5. KANSAS COLISEUM MONTHLY REPORT.

#### POWERPOINT PRESENTATION

**Mr. Nath** said, "The month of March, we had over 77,000 people through our doors, 21 events, 45 individual performances. Net revenues, between the Coliseum, Select-a-Seat and our advertising program were in excess of \$342,000.

Highlights for the month, we had Rascal Flatts, which is the top touring act in the country today, back in support of their album. It was an excellent concert. It was attended by 7,946. It was considered a sellout. As you can see, the production was quite extensive, which cut down some of the available seats we could sell, behind the stage and to the side, but it was a great show. People had a ball.

We had the Chisholm Trail Antique Gun and Knife Show with over 6,300 people in attendance and we had Yappy Days, which is a great show. People just had an absolute ball with this thing. It's celebrating dogs and everybody that loves them. Sesame Street Live returned, all your favorite Muppets. Again, that is one of the events that we co-sponsor through the promotion fund and I plan on next month giving you a first quarter recap of what we've been able to do with that.

We had the Midwest Quarter Horse Show, with over 3,500 people in attendance. We had the Freaknic Jam, sponsored by Power 92.9. We had 4,444 in attendance with that and another in-house promoted show, Nine Inch Nails, with 4,300 people in attendance.

We also had eight Thunder games, with almost 34,000 people in attendance. Now, I'd like just to spend a little, brief moment here talking about the Thunder's performance this year. It was absolutely stellar, as we can take a look from this graph. They had the best attendance and this is people through the turnstiles, than they've had in nine years, and they've done it by selling tickets, not by giving tickets away. This new General Manager, Chris Presson, understands the basic building block of this business. Nothing happens unless you sell a ticket, so he had a great

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group sales effort out there. He had a lot of people hitting the seats. Our corporate sales were up. They did very, very well this year. It was a great, great season for them.

Major indicators, their attendance was up 42% over the year previous. Tickets sold were up 60%. Now that tells you right then that they're selling tickets, rather than giving them away. But more importantly for them, as you understand, as I've tried to explain in previous reports, we don't make a lot of money on the rent. We do it on the food and beverage, but we recognize the fact that they do have an impact on our revenue streams so every ticket they sell, they get a rent discount and they average a 42% discount across the season. Some games, where they sold a lot of tickets, they didn't pay any rent. The discount wiped that cost out, so it works out very good for us, because if you look at the Coliseum indicator, our concession sales, and somehow I loss the 'C' on Concession, probably when I put our graphic on there, we were up 39% over the year before, so it was a win/win. It worked out great for all of us.

Commissioners, coming up we've got the Shrine Circus this weekend. We've got the Wichita Dog Training Club is holding the agility trials this weekend. We have Cattlemen's Ball this Saturday and we have the flea market this Sunday. Park City Bluegrass Festival comes in next weekend. Heartland Miniature Horse Show comes in the 29<sup>th</sup> and 30<sup>th</sup>. We have Homier coming in with the tool sale, merchandise sale the first week in May. U.S. Weapons Gun and Knife Show is back the second weekend, the 6<sup>th</sup> and the 7<sup>th</sup> and F & E Food Show is holding their annual . . . food sale at the Coliseum May 10<sup>th</sup>. If there's any questions, I'd be more than happy to answer them."

**Chairman Sciortino** said, "Now John, this is a question or comment. Commissioner Winters."

**Commissioner Winters** said, "Well, thank you. I just wanted to make a comment about the Thunder Hockey Team and there were several of us that were concerned and involved, either a year ago or two years ago, when we had some contentiousness and we had a lot of hockey fans calling us and John, I'd just like for you to express to the Thunder Hockey that we appreciate their business. We're glad they had a successful year. We want to participate with them again. I think you're right, something has gotten turned around with the organization and we're really happy to see them had a successful season. Sorry they're still not playing."

**Mr. Nash** said, "They did make it to the first round of the playoffs and they were as competitive as they could be, but not everybody can go and win the championship, but we hope for them to be back again . . . we know, we have a three-year agreement, they will be back next year and I like the coach, I like the players, I like the organization. Got a lot of confidence with what those guys can do. I've been talking with Kristi about some way that we could possibly recognize Chris Presson as the general manager and what he's done this year and hopefully we'll be coming to one of these meetings and maybe we can do it here."

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**Commissioner Winters** said, “Well, if we could get a chance to introduce him again and acknowledge their presence at the Coliseum, I think we’d be glad to do that on a Wednesday morning, if we can work that out, because they had a great year and I think we ought to be telling our good customers ‘thank you’ when they do that.”

**Mr. Nath** said, “Absolutely.”

**Chairman Sciortino** said, “I can’t wait till they get into the new arena, because they’re going to think they died and went to heaven, all the things that we’re giving for them and maybe we can have the largest attendance in the whole league when we get started. Okay, that’s great. Oh, we have a question actually, or a comment. Commissioner Unruh.”

**Commissioner Unruh** said, “I just had a quick question. You’d indicated you have four things going on out there this weekend.”

**Mr. Nath** said, “Yes we do. We have four buildings, commissioner, and we have a different event in each building.”

**Commissioner Unruh** said, “Okay, that answers my question. Thank you.”

**Chairman Sciortino** said, “Okay, what’s the will of the Board on this presentation?”

**MOTION**

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

Commissioner Norton seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, “Thank you very much, John. Next item please, Madam Clerk.”

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**F. PUBLIC WORKS.**

**1. RESOLUTION DESIGNATING AND CLASSIFYING CERTAIN STREETS TO THE WACO TOWNSHIP SYSTEM.**

**Mr. David C. Spears**, P.E./ Director, Bureau of Public Works, greeted the Commissioners and said, “It is standard procedure that after a road is constructed within a platted residential subdivision in accordance with county standards, that road is then assigned to the township road system. In this particular case ‘Ridge Court’, located in the Subdivision of Windridge Court Addition, will become the responsibility of Waco Township. The Waco Township Board was informed that this resolution would be on the County Commission agenda by letter, March 3<sup>rd</sup>. I recommend that you adopt the resolution.”

**MOTION**

Commissioner Norton moved to adopt the resolution.

Chairman Sciortino seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, “Thank you. Next item.”

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**2. RESOLUTION DESIGNATING AND CLASSIFYING CERTAIN STREETS TO THE ROCKFORD TOWNSHIP SYSTEM. DISTRICT #5.**

**Mr. Spears** said, "Similar to the previous item, it is also standard procedure that after a road is constructed within an un-platted subdivision in accordance with county standards, that road is then assigned to the township road system. In this particular case, 84<sup>th</sup> Circle South, located east of Greenwich Road between 79<sup>th</sup> and 87<sup>th</sup> Streets South, will become the responsibility of Rockford Township. The Rockford Township Board was informed that this resolution would be on the County Commission agenda by letter, dated March 3<sup>rd</sup>. I recommend that you adopt the resolution."

**MOTION**

Chairman Sciortino 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 Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, "David, thank you very much. Next item."

**G. REPORT OF THE BOARD OF BIDS AND CONTRACTS' REGULAR MEETING OF APRIL 13, 2006.**

**Ms. Iris Baker**, Director, Purchasing Department, greeted the Commissioners and said, "The meeting of April 13<sup>th</sup> results in four items for consideration today.

**1. BRIDGE IMPROVEMENTS-PUBLIC WORKS  
FUNDING-SALES TAX**

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The first item, bridge improvements for Public Works. Recommendation is the low bid of King Construction Company in the amount of \$321,677.

### **2. BRIDGE IMPROVEMENTS-PUBLIC WORKS FUNDING-SALES TAX**

Item two, bridge improvements for Public Works. The recommendation is the low bid from Klaver Construction Company in the amount of \$291,997.10.

### **3. COMPUTER HARDWARE-DISTRICT COURT FUNDING-DISTRICT COURT AND COURT TRUSTEE**

Item three, computer hardware for the District Court. Recommendation is to accept the quote from Dell Computers in the amount of \$35,969.82.

### **4. CHANGE ORDER FOR THE NEW JUVENILE DETENTION FACILITY-FACILITIES DEPARTMENT FUNDING-CONSTRUCT NEW JUVENILE DETENTION FACILITY**

And item four, change order for the new Juvenile Detention Facility for Facilities Department and the recommendation is to acknowledge the expenditure with Coonrod & Associates in the amount of \$43,686. Be happy to answer any questions, and I recommend approval of these items.”

**Chairman Sciortino** said, “Thank you, Iris. I don’t see that there’s any questions. Yes there is. Commissioner Norton.”

**Commissioner Norton** said, “On item four, just a little comment, 43,000 is quite a bit of money, but there seems like there’s three or four or five items that have to do with door hardware. Could you explain why the door hardware had to be changed out on so many items on that project?”

**Ms. Baker** said, “The explanation that was given to bid board related to the secured nature of

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the locations of these doors, and trying to make them more tamper-proof, and fool-proof, due to juvenile behaviors. So a decision was made to change that hardware to make it more tamper-proof, in other words, more secured hardware.”

**Commissioner Norton** said, “I guess it seems to me, if you were an expert in building jails and detention centers, that would be something that would be pretty well standard procedure and not make doors have the ability to be tampered. It just seems like that shouldn’t be a change order. That should be standard operating procedure on secured facilities like jails and detention centers.”

**Ms. Baker** said, “This did result in a change order. The decision was made to go ahead and add exchange this hardware, as it’s not what was originally spec-ed and there have been discussions amongst staff about addressing some of these issues and looking at our approach to some of the stuff that we approve, when we begin construction on these projects.”

**Commissioner Norton** said, “Well, I mean, we’re getting ready to build an emergency management facility that’s going to be, supposedly, very secure and I would hope we’ve already designed these kind of things in there, so that we don’t have to spend extra taxpayer money taking care of it. Just a comment.”

**Chairman Sciortino** said, “The only comment I had is somebody try to explain to me Shawn Henning’s reason for voting no. This work was already actually done, before it even was authorized to be done? What happened there?”

**Ms. Baker** said, “Correct. The work has been an ongoing, as they were trying to get the project wrapped up and they brought the change order, all of these items were in a change order that was presented and the work had already been done and those have been submitted. Staff has also talked about the process and revising those events and what’s going on.”

**Chairman Sciortino** said, “So if we vote against this, what happens?”

**Ms. Baker** said, “If you vote against it, the vendor will not get . . . the contractor will not be paid for the work that he was authorized to do.”

**Chairman Sciortino** said, “But he wasn’t authorized to do it, was he?”

**Ms. Baker** said, “Not per policy. He was authorized by the project manager to do the work.”

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

**Ms. Baker** said, "There has been discussion amongst staff and at bid board, and we'll be revisiting this discussion and these issues and looking at our processes."

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

**Commissioner Winters** said, "Thank you. Iris, are we confident all of this work has been performed, so there's no question about us, even though we're out of whack with our procedure here, there's no doubt that all of this work has been performed and services have been received for all of this work."

**Ms. Baker** said, "That is correct, it has all been done."

**Commissioner Winters** said, "Thank you. That's the only question I had."

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

**Commissioner Unruh** said, "Well, I just might add to the commissioner's question by saying and this is the type of product that we want to end up with, and so I appreciate Shawn's stating for the record that there's a glitch in our procedure and that alerts us to that and really keeps this thing open and transparent that we got ahead of ourselves, should do it, we'll make a note of it and you all are taking care of not doing it again."

On a project this big, the amount really is pretty . . . I mean, no amount is insignificant, but this is not a big amount compared to this original purchase order. So not the way we want to do business, I understand how things happen, been noted here and by this commission that, you know, let's get it fixed and you're on it. So, I don't have a problem with it, especially since we got what we needed and we got the product."

**Ms. Baker** said, "Correct."

**Chairman Sciortino** said, "Okay, commissioners, I don't see that there's any other comment. So what's the will of the Board on this item?"

### MOTION

Commissioner Winters moved to approve the recommendations of the Board of Bids and

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Contracts.

Commissioner Burtnett seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, "Thank you very much, Iris. Next item please."

**CONSENT AGENDA**

**H. CONSENT AGENDA.**

- 1. Report on Sheriff's State Asset Forfeiture Cost Center for 2005.**
- 2. Agreement with City of Park City, Kansas to provide animal control services in emergency situations.**
- 3. Notice of Hearing for June 21, 2006 to hold a post annexation public hearing.**
- 4. Order dated April 11, 2006 to correct tax roll for change of assessment.**
- 5. General Bills Check Register(s) for the week of April 12-18, 2006.**

**Mr. Holt** said, "Commissioners, you have the consent agenda before you and would recommend that you approve the consent agenda as presented."

**MOTION**

Commissioner Norton moved to approve the Consent Agenda as presented.

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Commissioner Burtnett seconded the motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye
Chairman Sciortino	Aye

**Chairman Sciortino** said, “Commissioners, is there anything under ‘Other’ that you would like to discuss today? If not, I think we do have an Executive committee.”

**MOTION**

Commissioner Burtnett moved to recess into Executive Session for 30 minutes to consider consultation with legal counsel on matters privileged in the attorney/client relationship relating to pending claims and litigation, potential litigation and legal advice and that the Board of County Commissioners return to this room from executive session no sooner than 1:10 p.m.

Chairman Sciortino seconded the Motion.

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

**VOTE**

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burtnett	Aye

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Chairman Sciortino

Aye

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

**The Board of Sedgwick County Commissioners recessed into executive session at 12:45 p.m. and returned at 1:38 p.m.**

**Chairman Sciortino** said, "We're back from Executive Session. Let the record show that there was no binding action taken during Executive Session. If there is no further business, this meeting is adjourned."

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There being no other business to come before the Board, the Meeting was adjourned at 1:40 p.m.

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

\_\_\_\_\_  
**BEN SCIORTINO**, Chairman  
Fifth District

\_\_\_\_\_  
**LUCY BURTNETT**, Chair Pro Tem  
Fourth District

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**DAVID M. UNRUH**, Commissioner,  
First District

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

\_\_\_\_\_  
**THOMAS G. WINTERS**, Commissioner  
Third District

ATTEST:

\_\_\_\_\_  
**Don Brace**, County Clerk

APPROVED:

\_\_\_\_\_, 2006