

MEETING OF THE BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

August 23, 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, August 23, 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; Mr. Chris Chronis, Chief Financial Officer; Mr. John Schlegel, Director, Metropolitan Area Planning Department; Ms. Jo Templin, Director, Division of Human Resources; Ms. Marilyn Cook, Director, Comprehensive Community Care; Ms. Claudia Blackburn, Director, Health Department; Mr. James McComas, Senior Purchasing Agent, Purchasing Department; Mr. David Spears, Director, Bureau of Public Works; Ms. Kristi Zukovich, Director, Communications; and, Ms. Lisa Davis, Deputy County Clerk.

GUESTS

Mr. Greg Sever, Chairman, Arena Oversight Committee.
Mr. Bob Kaplan, Attorney for applicant.
Mr. Billy Gray, Gray Construction.
Ms. Kay Johnson, City of Wichita.
Mr. Jim Snook, Bergkamp Construction.
Ms. Pat Yorgensen, Principal, Oatville Elementary.
Dr. Eric W. Lamp, 11101 W. 31st St., Wichita, Ks.
Ms. Lori Usher, Executive Director of Workforce Development.
Mr. Victor Leis, 4601 S. West St., Wichita, Ks.

INVOCATION

The Invocation was led by Pastor Kim Dickerson-Oard of Aldersgate United Methodist Church, Wichita.

FLAG SALUTE

ROLL CALL

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

Next item please.”

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NEW BUSINESS

A. DIVISION OF FINANCE.

1. PRESENTATION OF THE SECOND REPORT OF THE ARENA SALES TAX OVERSIGHT COMMITTEE.

Mr. Greg Sever, Chairman, Arena Oversight Committee, greeted the Commissioners and said, "As you're aware, our committee was appointed to oversee the revenues and expenditures of the arena project. You have before you the second semi-annual report that we have prepared that summarizes the sales tax collections and arena expenditures through July 27th, our last meeting.

Revenues collected by the county have amounted to 64.714 million dollars. That exceeds the revised projection of about \$900,000. The original revenue projection called for \$180,000,000 in collections. That was revised in January of 2006 to \$201,000,000 and the revenue projections are on target with that revised projection.

Our committee verifies that all of the funds received from the state are accredited to the arena project fund. Arena expenditures amounted to 4.7 million dollars. Our report breaks those down between 1.5 for the Coliseum Pavilion, 1.4 for architect and engineering services on the new arena and 1.8 on arena land acquisition, for a total of 4.799 million dollars.

Again, our committee reviews supporting documentation and vendor invoices to make sure that those expenditures are adequately documented and are properly chargeable to the arena project. Would like to add that Chris and his staff are extremely cooperative and responsive to all of our needs and been very cooperative in working with us and reviewing this information. Certainly be available to answer any questions that you may have about the arena project to date."

Chairman Sciortino said, "Thank you for the report and we do have some questions or comments. Commissioner Winters."

Commissioner Winters said, "Thank you. Greg, I think you just answered the question I was going to ask and that is do you believe that you and the committee are receiving sufficient cooperation and help from the county staff, financial staff in giving you this information and preparing reports for your committee."

Mr. Sever said, "Yes, very much so."

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

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

Commissioner Norton said, "I understand there were some questions about legal fees and how that was broken out and that's all been resolved? You feel certain that they've recategorized and given you the right information?"

Mr. Sever said, "Yes. That wasn't an issue, the appropriateness of the expenditure, but just a classification where it was charged and they've expanded the line items to get more detail as to where those are going to get categorized to."

Commissioner Norton said, "Okay, good."

Chairman Sciortino said, "Is that all you had? I see no further questions. I just want to thank you and the members of your oversight committee. We established this because we felt it was very important that the public know that we weren't going to just trust staff to give us information. We wanted an independent committee to review where these funds were coming from, that the monies got into the proper accounts and that all expenditures went the way we had indicated they would go when we asked them to vote on whether or not we should impose this sales tax on them and I think the credibility of the openness that we're trying to do this entire project is due in no small part to the work that your committee is doing and I thank you for that and I encourage you to keep demanding of our staff all the information that you need in order to adequately execute the responsibility that we gave you. Thank you. All right, is that all? Do you have something, Commissioner Unruh?"

Commissioner Unruh said, "Let me ask one more question. Greg, as you look at your estimates, how frequently do you revise and check that against your benchmarks to make sure these estimates remain valid?"

Mr. Sever said, "Well we receive a report from county staff that shows month to month what was projected for each month for revenue collection and then what was actually received. There was an original projection of revenues of \$180,000,000 and that's only been revised one time, in January of 2006, revised up to \$201,000,000. And so that's remained the benchmark for the county in comparing actual collections to the revenue sites. Now on the expenditure side, there have been, you know, several project revisions based on what actually happens, so as the county staff sees what's happened with land acquisitions and some of the AD services, there's been a shift on some of the expenditures from one line to another, so if there's been 'xx' expenditure somewhere, there's been a revision on a budget somewhere else to offset that. But the total expenditure projection stayed the same."

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Commissioner Unruh said, “The total expenditure stayed the same and the revenue side of it, you’re monitoring that to make sure we’re going to have enough money to cover our projections.”

Mr. Sever said, “Well, we’re monitoring it to see that . . . how it compares to what the January 2006 projection is and we do that on a month-to-month basis. And like a said, through June we’re just slightly above that projection.”

Commissioner Unruh said, “All right, thank you. That’s all I had.”

Chairman Sciortino said, “Thanks again, very much.”

MOTION

Commissioner Winters moved to receive and file.

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, “Next item please.”

2. RESOLUTION EXTENDING THE LIFE OF THE GILBERT AND MOSLEY TAX DECREMENT DISTRICT.

Ms. Chris Chronis, Chief Financial Officer, greeted the Commissioners and said, “And in the room to address this issue, if you have questions, we have a couple of representatives from the City of Wichita who can speak to the details of this project.

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The Gilbert and Mosley site, as you know, is located in Wichita. It's a fairly large area, approximately four miles long and two miles wide, encompassing about 3,800 acres. In 1990, the Kansas Department of Health and Environment released a site investigation that identified a fairly significant amount of groundwater contamination in the area. This contamination threatened the development of that area and in fact threatens the ability of existing property owners to sell their property. And so to address this problem, the City of Wichita in 1991 assumed responsibility for further investigation and cleanup of that site.

Using special legislation, Wichita established a redevelopment district and set up a reverse tax increment financing district to fund the improvements that would be required for that remediation effort. That was accomplished by the establishment of the Gilbert and Mosley Tax Decrement Financing District. Under state law, TDF district, tax decrement districts have a life, a maximum life of 20 years and pursuant to recent legislation they can be extended for up to a 10 year period with the consent of the county and the effected school district.

The City of Wichita has spent about \$28,000,000 from 1991 to 2005, through the end of 2005, to do the necessary remediation and investigation and monitoring efforts in the district, but there's additional work to be done. The city estimates that operation and maintenance and the water treatment system and hydraulic containment, as required by KDHE will cost a further half million dollars per year. Additional monitoring of ground water is going to be estimated at \$130,000 per year and additional remediation efforts are required that will cost about seven to eight million dollars over the next eight to ten years.

The existing tax decrement district, as I said, was established in 1991. The twenty-year term of that district expires in 2011. In order to finance those seven or eight million dollars of improvements, the city needs to issue bonds that will have a life that will extends beyond 2011 and so they are requesting approval to extend the life of the district for another 10 years.

The school district, USD 259, has already concurred with this action and we are here today to recommend that you also approve the resolution concurring with the extension. The tax decrement district has recently been using approximately \$2,000,000 a year of county property taxes. That equates to roughly a half a mill of the county property tax rate. Looking forward, the city projects that they will continue to use approximately \$2,000,000 through about 2011 or 2012 and then from there through the end of the 10-year extension, the annual requirement of county taxes is projected to decline.

At the end of the term of the district, any residual that remains, any unspent funds that remain get

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redistributed to the county and the school district on a pro rata basis. If there are any questions about the action that's before you, I'll be happy to try to answer them. If you have questions about what's been going on in the district, the city staff is here and will be happy to answer those questions and if you have no questions, I recommend you approve the resolution that's before you."

Chairman Sciortino said, "Commissioner Winters."

Commissioner Winters said, "I would just like to ask one question and it could have a very simple answer, but just a confirmation that this whole project is working and is being successful and I see Kay Johnson out there. Maybe she'd just like to come to the podium. And again, I'm not looking for a long, detailed explanation Kay, but just a reaffirmation that this whole project has been pretty successful and continues to work."

Ms. Kay Johnson, City of Wichita, said, "Yes sir, it is working. It is working and we're very proud of the system that we've got into place. We're continuing to do that, with the source control areas too."

Commissioner Winters said, "All right, very good. Thanks."

Chairman Sciortino said, "I don't see that there's any other questions or comments. So Commissioners, what's the will of the board on this item please?"

MOTION

Commissioner Burtnett moved to adopt 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. Next item."

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PLANNING DEPARTMENT

B. METROPOLITAN AREA PLANNING DEPARTMENT (MAPD).

- 1. CASE NUMBER CON2006-00009 – CONDITIONAL USE TO REQUEST AN EXTENSION OF TIME (2012) TO OPERATE CU-403, WHICH PERMITS ROCK CRUSHING AND CONCRETE RECYCLING, AND ALLOWS RECYCLING OF TREES, GENERALLY LOCATED SOUTH OF MACARTHUR AND EAST OF THE WICHITA-VALLEY CENTER FLOODWAY. DISTRICT #2.**

POWERPOINT PRESENTATION

Mr. John Schlegel, Director, greeted the Commissioners and said, “At you’re June 7th meeting you heard all the details about what was actually a combination of different requests that were before you on June 7th, so I won’t go back into all the details. Just a brief reminder that when you did hear this on June 7th it was both a request at that time for a construction and demolition landfill and also the request that’s back before you today, which is for an extension of an existing conditional use, CU-403, which permits the operation of a rock crusher, rock and concrete recycling and soil mining on the northern portion of this site.

CU-403 applies to this portion. There’s another conditional use that was approved years ago for the southern 25 acres or so of this site and regardless of what happens today, that conditional use will remain in effect until the year 2012.

At your June 7th meeting, you did hear both requests for the C & D landfill and for the extension of the rock crushing activities on the northern portion of this site. You, at that meeting, voted to deny the request for the C & D landfill and then you sent the request for the extension on the rock crushing activity back to the Metropolitan Area Planning Commission for further review.

The MAPC reheard the case at its July 20th meeting. Prior to that meeting, the applicant made a request for some modifications to their application. Instead of the 10 years that they originally asked for, for the . . . on this CU-403, they modified that 10 years down to 6 years and they also have asked that tree recycling be added to the list of permitted uses on that northern portion of the site. What they have in mind is to do chipping of trees for mulch.

To address some of the concerns that neighbors have expressed at previous planning commission

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meetings and before this board regarding dust problems on the site, the applicant is also proposing to have a water truck on site whenever the site is open and in operation and they would also eliminate crushing activities on Saturdays.

Opponents of the request continue to cite problems with dust emanating from the site and they perceive that the existing dust control measures have been ineffective. So at the July 20th MAPC meeting the planning commission did vote to recommend denial of the request to extend the time frame for rock crushing and for the tree mulching.

There are protest petitions representing about 36% of the notification area and again, the recommendation of the MAPC is for denial of this request to extend the rock crushing activity. And with that, I'll be glad to take any questions."

Chairman Sciortino said, "I don't see that there's any questions. I'll ask one. What was the vote, the first vote?"

Mr. Schlegel said, "The first vote by the MAPC was unanimous for denial. The second vote, the more recent vote on July 20th, was 9-3 with one abstention."

Chairman Sciortino said, "Yeah, I see that down here. Okay, thank you. Commissioners, any comments or questions of John? Okay, I don't see any so what's the will of the board on this item?"

Commissioner Winters said, "Are you going to take any public comment or not?"

Chairman Sciortino said, "Well, we don't have to take it. We had public comment, did we not, the last time? Didn't we have public comment on it? I guess there wouldn't be anything wrong with that. I mean, it's not required this time, but if there's anyone in the audience that would like to address us on this item again, either pro or con, please feel free to step to the mic and do so."

Mr. Jim Snook, applicant, Bergkamp Construction, greeted the Commissioners and said, "I just wanted to clear up a few things that's been going on at the podium since this campaign started on the CUPs on some of these different business items. I have Bergkamp Construction, right down there in that area, and we've been in business at 3709 South West Street for 28 years and all the time that we've been there and had a presence in that area, it's been an industrial, agricultural and manufacturing area and within the last five or six years the only change to the area has been a development on the west side of the Valley Center Floodway on some residential stuff. There is some residential stuff coming in and around. And that stuff is all west of the floodway, over a quarter of a mile away from my site.

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The entire site that I own is zoned limited industrial. And of course you all know the Wichita Functional Land Use Guide takes that on out and has specifically designed my site for a procession industry application.

My site is sufficiently buffered for its current and future use. Floodway to the west and an evaluated railroad grade to the east, and this is in the staff report that goes along with the years on updated CUP extension application.

My rock crusher serves a public interest and need and clearly benefits our immediate community. It produces construction aggregate for public and private infrastructure projects and in the past applications, here's what the staff wrote: The relative gain to the public health, safety and welfare as compared to the lost in value or the hardship imposed upon the applicant, if denied the applicant would have to seek out another site, resulting in lost time and possible expense.

And then they quote: This site is well buffered and already zoned LI. It is difficult to think there are many other site to close proximity to the end use of the material obtained or created on this site that the applicant could find which would be better situated and it's directly across access to a paved road, section line road and located within three-quarter of a mile to the interstate system. Road construction projects are important to the traveling public and efforts to reuse road building materials and to minimize time and cost associated with construction projects benefit the general public. That's a quote from staff report.

There have been concerns expressed about dust issues by staff and others and with that in mind, I invited members of your commission, MAPC staff, Sedgwick County Code Enforcement, Mr. Kaplan and Mr. Gray for a site visit during normal operating procedures and this was done after your last meeting that you had when we split out the conditional use for the C & D landfill and the ongoing application, continuance with the recycling operation.

I want to emphasize that this site has been in operation for ten years, and in that ten-year period, no complaints have been made to me or my company on the dust or any other issue. No complaints from Code Enforcement from dust or any other issue and our crushing operations have passed every test from the Kansas Department of Health and Environment and our crusher has to comply with federal regulations on air quality to even receive a permit to operate.

Since we had our visit with MAPC staff, Commissioner Burtnett and a group of people, the county came out and measured our piles, our stockpiles that are there. I do have a 25-foot limit on those. All my raw pile materials and everything were in there at about 20 to 22, 23 feet. We just got done crushing and during this time I wanted to make sure that we were in operation so that everybody could get a first-hand view exactly what that looked like going on.

And the one site, we have . . . my finished stockpile on my crushed concrete that we just got done

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crushing, that one spot that they measured it at I think was 26 or 26.2 and it's kind of going 'where you going to measure it at at the bottom, over here or over there'. Parts of those areas were 24 feet and they took a random shot out there so I was a foot and two-tenth or something like that higher than what I was supposed to be, right up the very cone, I will admit that, but that's the first time that we've ever had anybody come out and they said . . . the county staff said that there had been a complaint.

On the personal side, I have been subjected to an orchestrated campaign against me and my whole application process. At the first MAPC hearing, many MAPC members stated that they had been approached by the proponents and this is false. Our group never contacted one of the MAPC members. There were three or four of them that said that and I'm just going to get some stuff out here. The opponents may have contacted, they said 'yeah, we've been contacted by the opponents of the thing' which is Mr. Gray and his group and by us and I can guarantee you that that was false.

One opponent on the podium at a MAPC meeting came up and accused me of having the Metropolitan Area Planning Commission and the commissioners in my pocket and that bothers me. I have never made an illegal campaign contribution to anyone. Others may have, but I have not.

The report at the first MAPC meeting, there was a report from the City of Wichita that came from the Department of Environmental Service was I feel the most damaging piece of information to the overall application process. This was presented at the first MAPC hearing. The Department of Environmental Services from the City of Wichita has no jurisdiction in this area or application. But the report is conveniently unsigned and no one has yet to tell me who wrote this report or who instigated its opinion and incorrect content. I can't get anybody to fess up where that came from from the City of Wichita. On that scenario, I can only speculate.

On that, I had to turn around and prove myself of all the allegations and prove myself innocent, which we did, and I believe that the commission has been . . . in your file or somewhere, there's a report that went against all allegations that they made of me from this Department of Environmental Services.

Once we finally got through some of the other dust issues, with some of the people, they said well the crusher itself is what's making all the dust. Well once we proved that the crushing itself is not the source of dust because of all the different testing scenarios that we have in the crushing operation Mr. Kaplan stated that the dust came from the stockpiles and gave an in depth verbalization of how the major portion of the dust was caused by the working the raw stockpile materials before it goes into the crusher.

Well Mr. Kaplan finally visited the site for the first time two weeks ago, with myself, staff and others and that's the first time that Mr. Kaplan was there and at this he finally saw first-hand what

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he was, at that time, only speculating about.

Ten years ago, when I got my first conditional use permit to operate that crusher that I'm currently operating on until I believe August 28th, which is just next week. I attended the informal meetings of lots of people down in that area. Commissioner Hancock was the commissioner for that district then and he was at those meetings and I know those people never want . . . it's going to ruin the neighborhood and they just don't want that type of thing going on and at the time they said, the neighbors said it would ruin the neighborhood and I told that to Mr. Gray when he was down at the site here, at those meetings when he asked well have you talked to the people and tried to do this and that, and I haven't because of the orchestrated campaign against me, the flyers and all their town meetings. They have every right to do that, but they're upset and me going in there talking to them wasn't going to do any good. And I told Billy, I said Billy, I've done that 10 years ago and I said it's about the same group, same church, different pew type thing and Billy looked at me and he just told me personally that he said, well I wasn't there 10 years ago.

And is it a coincidence that Mr. Gray sold me the last 24, 25 acres on the south end of this project. Billy sold that property to me about five, six years ago and it's Limited Industrial site, and the only reason he sold it to me, because he bought it from the Alice Wall estate, he and his wife came down and we were driving through my site one day and he wanted a permanent easement to go right through the middle my crusher site to get to the south end of that property and I can only speculate on what he was going to do with it. I don't know if he was going to try to build houses there or whatever else, but at that point in time I said Billy, you don't want to be dragging people down the middle of this thing with all the construction equipment and all the different stuff and everything.

But Billy sold that to me, and the only way I can figure out . . . you know, that things bounded by the west on the floodway, to the south by the Sedgwick County Yard, to the east by railroad grade and to the north by my crushing thing, and only after I refused to grant him a permanent easement into that did he sell that piece of ground for me.

That's just about it. I just wanted to clear up a couple of things on some different accusations that have been made. I appreciate your time and I hope you give me a positive response to this and if you have any questions of me, most everything, all the facts have been said and I just wanted to clear up a few of the speculation items."

Chairman Sciortino said, "Thank you, sir. We do have a question or a comment. Commissioner Burtnett."

Commissioner Burtnett said, "Yeah, Mr. Snook, I was glad I went out and took that tour that day. It was very educational for me and I have to admit, I was very surprised at how little dust the actual rock crusher was putting out. I mean, I really . . . there was almost none. There was a little Bobcat

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that was going around the area that was creating more dust than anything else. And the day that we went, granted you knew we were going to be there, so I did notice that it had been watered down, the area had been watered down somewhat, which shows that you can do that.

I'm curious, I know this probably came up at the last meeting, but how many days a year do you approximate that you run the rock crusher and have activity out there?"

Mr. Snook said, "We have activities, small batches of activity about every day, but when we're crushing there, at this point in time we just got done crushing this last batch. We'd been there four days in January to start the year. We were out in Butler County crushing until we moved in there and the site that you guys saw here two weeks ago, with Mr. Gray, Mr. Kaplan, staff and yourself, I think we crushed approximately about 11, 12 days. In past scenarios we've had . . . we've crushed an area anywhere from about eight to eighteen days at a whack. That's about all we can get stockpiled in there and we do that anywhere from one to three times a year. Three times a year puts it up to 54 days and I think in the compilations that I've made before I don't think I every got over 42 or 43 days of actual crushing in that."

Chairman Sciortino said, "On an annual basis, is that what you're saying."

Mr. Snook said, "Yes."

Chairman Sciortino said, "Okay."

Commissioner Burnett said, "So your stockpile, we were just talking about how it's 20 to 24 feet right now. So does that stockpile go down, as you do the crushing?"

Mr. Snook said, "It goes to virtually nothing."

Commissioner Burnett said, "And how long does it stay at virtually nothing?"

Mr. Snook said, "It trickles in."

Commissioner Burnett said, "Okay, so it would take a week or two, or a month or two?"

Mr. Snook said, "Sometimes it takes six months."

Commissioner Burnett said, "Okay. Well normally I'm usually in agreement with the MAPC on these things, but on this particular issue, over the past 10 years you haven't had any complaints. The only time since it came up with the C & D landfill, that's when this all started getting churned

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up but I just can't see a big problem with you continuing your use as it has been, until 2012 and then by that time the developments should be well underway and to me this should all work out, timing-wise, just fine.

So I personally have no problem approving the conditional use until 2012, but I would also like to hear from the other commissioners. I know this has been kind of a contentious . . .”

Commissioner Winters said, “Well, I'd like to hear if there's anyone else here who wants to talk besides Mr. Snook.”

Chairman Sciortino said, “Thank you, Mr. Snook. We may have some other questions for you. Is there anyone else that either wants to speak for or against this item? Mr. Kaplan.”

Mr. Bob Kaplan, Attorney, greeted the Commissioners and said, “If there are other proponents, I'll wait my turn, commissioner. Unlike Mr. Snook, I have no personal issues in this matter and I will speak just to the facts of the case. You know, I recognize the desire in these situations, when it's possible to accommodate both sides.

I also recognize that often parties can compromise and can come to accommodation and when that can happen, that's likewise desirable. When however those things do not occur and cannot occur, then commissioners you are required to make those hard decisions.

Now in order to expedite this, let me make about five or six points that I think are extremely relevant to your decision. They're not emotional overlay points. They're not personal issues. They're not about who talked to whom. They're about the facts of this case and in my opinion they are so compelling that there is no justification, no justification that can be derided for the extension of this conditional use. And it has to be justified. We cannot make decisions in the abstract. We must have reasons, as you're all aware.

Now first understand that by telephone and by letter I offered, on several occasions, to meet with Mr. Snook and with his counsel to try to come to some accommodation. Mr. Snook said, ‘Well Mr. Kaplan came out for the first time’. Mr. Kaplan was not permitted to come out. Mr. Kaplan was not permitted to talk to Mr. Snook. Mr. Kaplan was not permitted to meet with counsel. I asked for the opportunity for Jim Snook and Mr. Unruh to meet with me. You know the response I got? We ain't got time. Our schedules do not permit. I've got a letter from counsel saying our schedules will not permit the time to meet with you and discuss this issue.

How did I get to the site? The site invitation that was sent to the commission, to Mr. Wiltse, to planning, I was informed about that by Mr. Parnacott and I said representing Mr. Gray and speaking for some of the neighbors, do I not have a right to be there and witness this demonstration and Mr. Parnacott said certainly you do. I certainly was not invited, I did show up.

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We could not get accommodation, which we might have received, because first of all he won't talk to us. Now secondly, about the site visit and Commissioner Burtnett, I appreciate what you're saying. Like you, there was not much dust that day. You're correct in your assessment. Now let me tell you something, and this disturbs me, as Mr. Snook was concerned about personal issues, I'm very disturbed about this demonstration. You know why? We had at that time two weeks of blistering heat in this community. I mean, the temperature didn't fall below 100 and it reached as high as 105. It was hot and it was dry. We had no rain. Wherever you looked, the ground was parched and cracking and opening up.

So we go to the site and you know, as we walk around the site and I walked with Commissioner Burtnett, I know. We walked in mud. We stepped over mud puddles. There was actually standing water and it was muddy. Was it all muddy? No, but there was a lot of mud and I don't want to over emphasize it. The point is the same point that Commissioner Burtnett made, he had watered it down and he had watered it down very, very extensively, preparatory to the visit.

Mr. Gray went over there before he watered it down and the dust was flying. The water does control the dust but the watering down we saw on that day is not typical of the operation, has not been done. There is a serious creditability here between the applicant and between the neighbors and between my client. That's one issue. That demonstration was set up and it was watered down specifically for that purpose and excessively watered down. If I've exaggerated the extent of the mud, I apology but there was mud and there was standing water.

And the reason the dust was down, number one, there was no wind and number two, everything was very wet. Where he didn't water it down a great deal, right around where he was working, the New Holland, the small loader, it was raising dust, now point number one.

Point . . . next point, your planning staff continues to recommend denial. Now we had two extensive hearings on this. The cumulative vote of the planning commission was 20 to 3. You got, between the two meetings, you had a unanimous vote, a 9 to 3 meeting, they voted twice. Those two meetings result in 20 recommending denial as opposed to only 3 supporting it. Mr. Snook reads from staff report and he extracts what he wants you to hear out of the staff report. You have

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the staff report. Staff does not recommend approval. Staff recommends denial. He makes it sound as if planning staff has recommended approval by saying there's no other sites, that this is a good site, etcetera, etcetera. Staff recommended denial twice. They recommended it the first time, after your referral back, they wrote again and they recommended denial again.

On the zoning, let me make this point, this ground is zoned Limited Industrial, that's true, and is that not enough. Is not Limited Industrial sufficient for Mr. Snook to find a use to which he can put this ground legally, under the existing zoning and under the existing subdivision regulations? He can do whatever he wants that's permitted in the Industrial district and we can't do anything about it. He has a legal right to use it in the LI but I don't see satisfaction. He wants to expand the LI. He is asking for something more than the Industrial.

Staff commented, at the MAPC meetings at least if not this morning, that the Industrial probably today is inappropriate because of the emergence of the residential neighborhood, the changing quality of the district, the changing of the uses to residential. Mr. Gray and other builders who are building down there and probably the Industrial is out of pace now with what is happening in that area, but it is Industrial.

But he wants more than . . . these plants, this asphalt manufacturing, rock crushers as we've been calling it, are not permitted in the Industrial district because they're more intense than that. You need, in addition to the Industrial zoning, you need a conditional use. So what he's actually doing, if you will, he's expanding his zoning beyond the Industrial. He's saying there's a lot of things I can do in Industrial, but I want to do this, which requires Industrial, plus the conditional use, so we're going to wrong way here. We're going the wrong way here, use, so we're going to wrong way here. We're going the wrong way here, Ms. Burnett and gentlemen, we're expanding the zoning, not reducing any uses. He wants more than he's already permitted. That's another problem.

There has been absolutely no planning by Mr. Snook in the aftereffect. I've presented mining operations, I've presented C & D, I've done a lot of work in these areas for various clients, I've got a very large site now that I'm working on that you may see here in the future. We do an after-plan. We have a plan and we know what's going to happen to the ground and I tell my clients, 'When that mining operation is done, when the C & D is full, present your after-plan, what are you going to

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do with the property', have some long-term plans so you can explain to the governing bodies what is going to happen to the site after the fact. There's been no planning here. If there is and he has planned for the future, he's sure not telling us about it because we don't know. Why wait, why wait until a few months, until the CU is going to expire. Had a 10-year conditional use, he couldn't have come in a year ago? Now we need sympathy because it's going to expire pretty soon and I need time to find another site. It's difficult to find another site so we've got to extend it and give me an opportunity to relocate and so on and so forth.

Who suggested that he wait until he was right on top of his expiration date? What was wrong with filing this extension a year ago. That's what I do for my clients, or a year and a half ago or two years ago and have plenty of adequate time. That's when you apply for your extension.

You know it's unfortunate but it's not the fault of the neighborhood or the fault of my client that he did no planning, that he waited until the conditional use was about to expire and then he comes in and says 'oh gee, I need more time' because now my expiration date is right on top of me. That's not our responsibility. This gentleman is an intelligent, successful business man. Should have been in here, we should have been talking about this a year ago when he still had a year left on his CU. We should have some future planning what's going to happen. Should have some ideas what he can do with Limited Industrial ground beyond expanding it. He should not do what I consider, Ms. Burtnett may disagree with me, what I consider a staged demonstration.

If he would water . . . he's not going to water that down every time like he does that. It's just . . . there is no justification for extending this conditional use. I have tried to talk to the neighborhood, to talk . . . to find a legal reason or a land use criteria that I could apply to this case that would provide some justification and it's not there.

Finally, it's a real problem for the neighborhood. I think the school principal is here from Oatville. She's talked to me. Every day, every day that you extend this is one more day that the neighbors and not only the neighbors but the kids at the Oatville Elementary have to live with this problem and I'm going to leave that to Pat to talk to you about her school kids, about their medical, their asthmatic, their conditions, their allergies and what this does for them. I just do not believe that there is any reason to extend this under the facts of this case. I don't believe there's any

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justification for it. I think it's grossly unfair to subject the elementary school kids and the neighbors to this continuing du . . . and we know there's a dust problem. We can't say that we had people bring in the dust in jars. You can walk across the street and you can wipe the dust off of Mr. Leis' porch and his banister.

The stuff is granulized, it's a very fine, granule material after it's crushed, the finished, it's like flakes and it blows and it blows off the top of the pile. If I can approach the bench just one moment, I do have some pictures. I don't want to get into the charts and all that, you might just take a quick look at that, Commissioner Norton. That's just one set, if you could pass them.

I'll stand for questions. I know there's other people to talk about, but I think there is no reason to extend this at all, and certainly not, certainly not for another six years, there's just no basis for it."

Chairman Sciortino said, "Thank you. We do have a question or comment. Commissioner Burtnett."

Commissioner Burtnett said, "Mr. Kaplan, we are going to disagree about the mud. I do think you're exaggerating. I was in heels that day when we walked around there and there were a couple of times when it was a wet area that I moved around to avoid getting in that, but it was not . . . you're making it sound like it was just . . . like it had rained two inches the day we got there. It was . . . I admit, and I said that in my opening statement that he knew we were coming and I'm sure he probably did wet it down some, but it was by no means muddy out there as I remember it."

Mr. Kaplan said, "Whether we have, Commissioner Burtnett, with all due respect ma'am, whether we agree or disagree on what we viewed at the site and we did step around mud and soft ground and some standing water. My recollection, you disagree, I respect that, my point is not so much that, is that that was set up for the demonstration, and my point is that's not typical, Commissioner Burtnett, of the day to day demonstrations. If he would do that every time he operated it, but he won't."

Commissioner Burtnett said, "I take your point, but I do have a question for you. You said that you have a letter from his lawyer that says that they could never make time. Do you happen to have a copy of that letter?"

Mr. Kaplan said, "I can and I'll provide it. I'm going to have to go through a very thick file. Mr. Unruh, Mr. Unruh is aware of it. He wrote me a letter and said . . ."

Commissioner Burtnett said, "Well I'm kind of surprised if that's one of your speaking points that you wouldn't have that available to us today to show."

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Mr. Kaplan said, “I will find it and I’ll find it and provide it. Mr. Unruh is aware of it, he wrote the letter.”

Chairman Sciortino said, “Commissioner Unruh.”

Commissioner Unruh said, “Thank you, Mr. Chair. Mr. Kaplan, I had just a point of clarification. You indicated this was an expansion of the zoning criteria but it is consistent with the Comprehensive Plan for down there. Is that correct?”

Mr. Kaplan said, “That is a question that perhaps ought to go to Mr. Schlegel. I don’t recall specifically the Comp Plan. What I’m saying, Commissioner Unruh, is that it is above and beyond the industrial zoning that’s applicable. It’s above and beyond the LI zoning. The LI zoning does not permit this use. You have to come in and obtain, in addition to the zoning, you have to have the public hearing and obtain a conditional use. In my view, that is an expansion of the permitted zoning.”

Commissioner Unruh said, “I get your point, but it is, Mr. Schlegel is that correct, it is permitted in the Comprehensive Plan.”

Mr. Kaplan said, “That answer was in the affirmative.”

Commissioner Unruh said, “Thank you. That’s all I had, Mr. Chair.”

Chairman Sciortino said, “Okay. No, I think I’m going to hold off. I have a question of John, but I think I want to listen to more of what the public has to say before I ask. Commissioner Winters.”

Commissioner Winters said, “Mr. Chairman, if there’s any other people from the public, I think it was very important that we hear all that Mr. Snook had and all that Mr. Kaplan had to say but could we limit the rest of the comments to either three or five minutes? I mean, we’ve got another case and this is going to be a busy morning.”

Chairman Sciortino said, “Okay, I think that is a good point made. Thank you, Mr. Kaplan. Who else would like to speak for or against this item, and if you could limit your comments to a maximum of five minutes, please ma’am.”

Ms. Pat Yorgensen, Principal, Oatville Elementary School, greeted the Commissioners and said, “I did attend the last meeting too. We are concerned as a staff and a school district that our part of

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town we would like to see it go to more residential. This is time when a petition is coming before the council and that you can start looking at the change in the climate of that neighborhood and around that area.

We are involved in a huge undertaking of a bond issue right now and building at our school and we want our school and that community in that area to start growing. It was mentioned that there was no housing around that area. We are seeing that become more and more residential. North of MacArthur, we have the Blue Lake Addition. We have other houses that are on the west side of the Big Ditch, and we are dependent upon those children and those families moving into that area. When I talk to the neighbors in the area and all that, they would really like to see this area moved to a more residential area.

I'm also concerned, obviously we have a lot of construction going on at the building. We're adding a gym and seven classrooms and a lot of new things going on along there and we really want to see our area continue to grow and become more residential. We're really close to the city limits. Actually all of our families live in the city limits but the school is in the county. It's one of those kind of odd situations down there. But yes we have experienced a lot more truck traffic and a lot things in the south part of town, and this is an opportunity commissioners, that you can move on and we can start looking at things further.

You mentioned at different times that it was because people had not complained. People in our area don't really know how to complain and honestly, I don't base my school on the number of complaints I get. I base it on what's best for my kids and best for our community and I really want you to consider that. We do have our severely handicapped program there. We try to get the kids outside every day. It's not just the rock crushing plant, it's other things in the area, I don't want to base it just on that, but we are moving to residential and we're building a wonderful school there and we would like our community to grow. So the time is up for this and that's why you put time limits on things, I believe, is so that you can revisit it at the end of those time limits.

So I'd really like you to consider the recommendation of the planning commission. I've been to all those meetings and it's like it's never ending and I'm not sure when it will end and it sounds like if you grant it further, then I'll be back in 2012 or 15 and 18 and that.

So please, again, look at the zoning commissions report and Metropolitan Planning and Zoning and everything and consider what's best for our neighborhood, as we move to more residential and for our kids at our school."

Chairman Sciortino said, "Now wait a minute, you can't leave . . . ma'am, you're not going to get away without some kind of comment. Is there any questions or comments of this presenter? I have a question. If I heard you right, your contention is that the face of the community is changing and

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while it may have been appropriate ten years ago, your hope is that it isn't appropriate now because of the changing of the . . ."

Ms. Yorgensen said, "That's exactly right."

Chairman Sciortino said, "All right. That's all I had. Is there any other questions or comments of this presenter? Thank you very much, ma'am. Anyone else that would like to speak for or against it? Mr. Gray."

Mr. Billy Gray, 204 N. Woodchuck, Wichita, Ks., greeted the Commissioners and said, "I won't take a lot of your time. I own and operate Gray Construction. I'm also the one that put together all the petitions in denial of this, so I pretty much speak for those people that signed those petitions and the community that lives in there have kind of let me be their voice.

You know, my whole speech here was for a whole other reason, but I do need to make a couple of comments. Mr. Snook, at the last MAPC meeting public at the podium stated that the reason why he didn't want to have conversation with the community was because he had been tarred and feathered enough. Okay, and he publicly made that, that he was not going to meet with the neighborhood, okay. And my comment to him that I wasn't involved to facilitate a meeting between him and the neighbors. And the neighbors have all wanted to talk this out, but he didn't want to talk this out and I tried to be a facilitator and that wouldn't happen.

But to get on to what I wanted to say for this meeting, I wanted to thank your staff You've done an excellent job. You've shown yourself to be very much professionals in what you're doing. You've taken the time and the consideration to separate these two items. You denied the landfill and you felt that there was questions yet on the rock crusher. You sent it back to your MAPC and I commend you for that, and they did their due diligence, just as you've done your due diligence.

It's time to make a decision and I know you people are professionals. You know what you're doing. You know what's best for the community. We elected you for that reason and I leave it up to you and so does the rest of the people. That's why there's not a whole crowd here today, because they've allowed me to speak for them. Some of the people that are in this room are still a part of this, but you know, we feel that you're professionals and you know what's best for our community and we thank you for your time."

Chairman Sciortino said, "Thank you, sir. Any questions or comments for this presenter? Is there

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anyone else in the audience that would like to address us, either for or against this item? Just state your name and address sir and limit your comments to five minutes.”

Mr. Victor Leis, 4601 S. West St., Wichita, Ks., greeted the Commissioners and said, “Mr. Kaplan had me confused with another, Mr. Jay White who lives directly on the north side of the rock crusher, on the north side of MacArthur. I did want to emphasize and go along with what Billy Gray said about you all being professionals and everything, but I don’t know what we can do. If we can get to where we can get this to where there’s some kind of thing to where the water is run on the rock crusher all the time to keep the dust down or what.

And as far as the . . . putting the trees and stuff in there, I’m concerned about the trees and the chipping of the trees for the fact that you know, you go by when the tree trimmers are trimming the trees on the side of the roads and stuff and they’re throwing trees in there, the terrible noise that it makes when the tree goes through the chipper and stuff. So if they have a big, industrial chipper down there, maybe bigger than them, what kind of noise is that also going to add to what the rock crusher makes, so that’s my concern. I want to thank you all for your time and consideration on this matter and I guess that’s all I had to say.”

Chairman Sciortino said, “Thank you very much, sir. I don’t see that there’s any questions or comments at this time, but thank you for making the presentation. Is there anyone else in the audience that wants to speak for or against this item? Okay, hearing none I’ll close the . . . it actually wasn’t an official public hearing, but I’ll limit the comments to the bench. Mr. Schlegel, notwithstanding the quotes that we heard from the applicant that indicated that the MAPD was in support of this, what was the reasons why the MAPD requested or suggested denial or support of the denial of this? Could you explain that to us please.”

Mr. Schlegel said, “Sure. I put up in front of you, on the screen, the portion of the comprehensive plan that shows that in fact this was shown as an industrial area and as a matter of fact, appropriate for processing type industries. And what we try to do when we put the staff report together is present you, the planning commission first and then later you as the governing body, a fair and imbalanced review of the application. We try to be as objective and present both sides of the argument and it is, in fact, consistent with the comprehensive plan, as that plan was adopted several years ago.

But in reviewing this, the area as it’s developing around this site, in more recent years, our sense

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was that it is, we use the term an emerging residential area. The character of the area is changing. There isn't a lot of industrial activity going into this area. However, there is a lot of residential activity coming into this area. Given that change, since the plan was adopted, we felt that it was time for this conditional use to stop.

The distinction I would make is that the Limited Industrial uses, there's a broad range of uses that are allowed under Limited Industrial zoning by right, but conditional uses are different. The rock crushing activity is specifically cited in the zoning code as something that requires additional review as a conditional use. And so we felt that overall, on balance, that it was time for this activity to stop on this site, and that's why we recommended for denial."

Chairman Sciortino said, "All right, so in essence, you're saying that your recommendation was based on the changing character of the neighborhood?"

Mr. Schlegel said, "Correct."

Chairman Sciortino said, "Okay. Thank you. Commissioner Winters, you had a question or comment?"

Commissioner Winters said, "Well thank you and I guess I would be glad to start this discussion off a little bit, to see where we're at. But first I'd like to ask a question about where we are procedurally speaking. We've had this before us. We sent it back to MAPC. It has now come back to us with a recommendation for denial. There are protest petitions, official protest petitions. So where are we in the place of if this commission should decide that we wanted to reverse the MAPC position of denial, what would it take for us to do that?"

Mr. Schlegel said, "It would require a three-quarters, super majority vote by the commission, which would be four votes."

Commissioner Winters said, "So it would have to four votes of us to approve this as it's been presented."

Mr. Schlegel said, "That's correct."

Commissioner Winters said, "All right. Well, I certainly want to acknowledge Billy Gray and his attendance here today. You know, just thinking about southwest Wichita, probably not many people have affected the landscape as much as Billy Gray and his construction company have over the past several years. It's a significant amount of really fine housing that has been developed.

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But I'm still having a big struggle with this and my first inclination here is to want to approve this extension of this conditional use and the reasons that I'm still considering as having worked in this area for a number of years, West Street has just been an industrial, commercial street for as long as anybody can remember. And just looking to the south, from the 235 bypass, I mean right there we've got a full fledged, major asphalt plant. Proceeding on south, there's Mr. Bergkamp's business, construction business with all of his equipment there at any one particular time. There's a bulk fuel distributor. There are two truck terminals. There's a rather large U-Store-It facility, other commercial businesses, a pawn shop, a rather large dry wall distribution facility. If you turn and go west onto MacArthur Road there are several other commercial buildings, east of the railroad tracks, one with a lot of old, used equipment sitting in the front of that building. If you proceed on west, down West Street, you've got a small manufacturer, another bulk fuel/ oil distributor, a significant amount of farm ground and then the county yards.

So I think when we couple the neighborhood as I really look at it and with thinking about finding another site to put a rock crusher, even if this is not the A-#1 site, it's still going to be a significant difficulty to find another site to locate a rock crusher. I was here ten years ago when we did it and I think we made a good decision there. We have not been overwhelmed with complaints. This is not an every day operation. I think that would be a significant matter to consider.

If you look at the residential roads in the area, particularly those on the north side of MacArthur Road, they are all dirt roads in that residential area. And I live in the city of Wichita and I live on a dirt road and I live across the road from an open field, farm field, it's in agriculture and there's dust on my patio every single morning. I mean, you've got to clean my patio off before you sit out there. So I think the existence of what's going on there plays a big role and I just . . . I continue to think, even though Mr. Gray has a viable business, I still think that the small business community is a strong part of the backbone of our community and even though we've got an emerging residential area, it's just difficult for me to see an emerging residential area squeeze out an existing business.

So with all of that said, I'm going to be interested to hear what the other commissioners have to say, but right now I'm leaning towards supporting this extension."

Chairman Sciortino said, "Are you also wanting to support the addition of the chipper?"

Commissioner Winters said, "Yes, I would."

Chairman Sciortino said, "Okay. Commissioner Unruh."

Commissioner Unruh said, "Thank you, Mr. Chairman. I appreciate the analysis Commissioner

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Winters just went through. I mean, I think there's valid points and this is really kind of a close call, in some ways, in that there are legitimate arguments on both sides. My thinking, as we've discussed this from our . . . the first time we had it before us until this time, is that we've had consistent denial by the staff and those are the professionals that we've hired to do some of this work for us. We've had denial both times by the Metropolitan Area Planning Commission, which individuals from the community, 14 people that have a broad spectrum of experience and those that we've appointed to help guide us in these decisions. There is continuing neighborhood opposition from both neighbors and from the school down in that area.

We've all agreed that there a changing character in the neighborhood and I think we have to evaluate that somewhat in the perspective of what's going forward here, you know, how's the neighborhood going to be changed. Is this going to be stifling to the development down there? I don't know that it will provide any exceptional hardship on the operator, either to the use of that land or to the fact that that rock crusher is portable. Uses it there for . . . if there was 50-some uses a year, whatever that was, I mean that's a day a week. It just seems to me like that operation, with the portable unit, that there is another location that would be more suitable, without opposition, where he could carry on the business.

So that minimum use I think, on the one hand you would say there's not much objection, but on the other hand, you'd think that you could find another location to do that. So at this point I'm kind of inclined to go ahead with the recommendation by the Metropolitan Area Planning Commission and deny this request but I'm still open to the point that I'd like to hear what Commissioner Norton has to say. This is in his area and I'd be inclined to yield somewhat to what your analysis is. And that's all I have, Mr. Chair."

Chairman Sciortino said, "Thank you. I don't see any other . . . Ah, Commissioner Norton, I do see a light."

Commissioner Norton said, "Well, I was kind of waiting to hear what everybody else had to say and what all our speakers had to say. The truth is I've gone over this several times, as far as the rules of Golden, which guides a lot of what we do. If you look at it, you can take the rules of Golden and kind of split them back and forth. And somebody reminded me, I think it was Bob Parnacott yesterday, is that these items aren't weighted and you don't come up with a score that tells you which way to go. You try to interpret them, you try to apply them, you try to look at it on every individual basis to come to a conclusion whether your decision fits the rules of Golden or not.

And I've done that back and forth and I understand there's some prevailing attitudes that would support the denial and support the continuance. I put into the category of letting the professionals take a look at it, put it through a filter, get as much information as they can and then parrot back to

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us some recommendations. And if you look at the MAPD and the MAPC, they've both recommended denial. Now having seen that, we've took a lot of the information as this first came before us with the other recommendations and came to the conclusion that the C & D landfill was not appropriate for that. But now we're faced with a usage that was applied ten years ago, it has been functioning for that period of time and we have to make the recommendation.

As it would stand today, if I had to make the recommendation, it would be to deny. I've listened to the neighborhood, I've listened to MAPC, I understand the emerging changes there. But I would offer to my colleagues that there may be some hardship that we're applying to the individual if we just shut it off today. This has gone through a process. Now I understand what Mr. Kaplan said, that a businessman should have started a year and a half ago, but that didn't happen. It did start some time ago. It's been before us once before. It's gone through MAPC. It's gone through that and that's drug this out a little bit.

As I look through it, we talked about taking the extension to six years to when the other piece of property has its conditional use looked at and personally I had a little problem with that. I would offer to my colleagues, if we were going to extend it at all, that we extend it no longer than two years and I pick two years because I'll still be on the bench in two years. Now three years could mean that I'm out of office, I didn't get re-elected, I elected not to run, but in two years it will come back before me and I would say 'time to sunset'. They've had their time to look at it, find another place to do their business. We've given it due diligence, but I will leave that to my colleagues. I could either go along with total denial or a sunset provision of two years to let the business make sure that they can find another location that is good for them and is good for another neighborhood. I would offer that up. I'm ready to make a motion either way but I would like some discussion from my colleagues."

Chairman Sciortino said, "Thank you. Any other comments?"

Commissioner Winters said, "I have a question. If Commissioner Norton is about ready to make his motion, Mr. Euson or Mr. Schlegel, does that motion require four votes, to approve, because I'm inclined not to vote for that motion, only for the reason that I think the years should be a longer time period. So if that motion, I guess you can tell us what it means after he makes it and we take the vote, but does that motion take four votes?"

Mr. Richard Euson, County Counselor, greeted the Commissioners and said, "I would deem that a motion to approve and it would require four votes."

Commissioner Winters said, "That's it."

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Chairman Sciortino said, “Commissioner Burtnett.”

Commissioner Burtnett said, “Well I understand the emerging neighborhood and trying to get it more residential. I understand that. But I think it will take more than two years to get to that point and when I look at what we’re trying to do here. I personally looking towards the 2012 date. By the time, knowing that by 2012 it’s a done deal, which gives him plenty of time to find another place to move this operation if so needed and gives the developers plenty of time to figure out how they want to develop around the area.

So I tend to agree with Commissioner Winters that I’m looking at a longer amount of time. I mean, I might be able to go with a four year, versus the six year for 2012, but two years to me just doesn’t seem like enough. I mean, it probably would be enough time for him to find another place, but looking at all the information we’ve had over the past few months, I just can’t see just a two year.”

Chairman Sciortino said, “Commissioner Unruh.”

Commissioner Unruh said, “Thank you. Just a question. The two year extension, then that would allow for the chipping operation that we really haven’t discussed much. Is that correct? I mean, is that part of the approval of this.”

Mr. Schlegel said, “That’s part of the request of the applicant is for the wood chipping to be included.”

Chairman Sciortino said, “It depends, Commissioner Unruh, on what the motion would be. I mean, the chipping was an addendum. I mean, we weren’t even talking about the chipping, but now that’s been added.”

Commissioner Unruh said, “Well that’s my question. Would that . . . if we’re going to go forward with that, before the motion is made, I’d like to have that . . .”

Commissioner Norton said, “Well, I guess I’d need some clarification. In two years, if we set a drop dead sunset date, does that mean that the wood chipping would go away too, or does that continue for some other period of time, because it’s a different . . . is it allowed under the uses now?”

Mr. Schlegel said, “No, it is not. He’s asking to modify the existing conditional use, in addition to extending the time of the existing conditional use, he’s asking to modify it to allow this additional use. And that would end whenever the extension of time ended, that use would end then.”

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Commissioner Norton said, “Well, I think that’s just probably another thing we should separate from this whole thing is rock crushing is my issue right now, if we want to separate that and let that come before us in a different manner, to give them a chance to create some kind of other business there, but I’ve heard loud and clear that rock crushing is not appropriate and the chipping just exacerbates the whole dialogue with new information.

I’d rather limit it just to rock crushing and go up or down on it and then we’ll deal with the chipping and some other business use for that, as it’s applied for. I think it just complicates the issue when you try to separate those two or figure those out. The issue that’s always been before us is rock crushing.”

Mr. Schlegel said, “If I may, and I fear to complicate the issue further.”

Chairman Sciortino said, “No, feel free. I mean, why not? Why should you be different?”

Mr. Schlegel said, “But if the motion is for approval, I’d like to call the commission’s attention to 11 conditions of approval that the staff had recommended in the staff report, that staff would recommend that if you do go approval, that you consider those conditions and you would find them in the excerpt from the MAPC meeting.”

Chairman Sciortino said, “Hold on just a second. We’re trying to get . . . I am . . . what?”

Commissioner Burtnett said, “Page 24.”

Chairman Sciortino said, “Okay, page 24. ‘If the commission feels the request is appropriate, the following conditions of approval should be imposed’.”

Mr. Schlegel said, “Right, these are recommended conditions to go with a motion for approval. We had included in condition number one the request to include the grinding or recycling of trees and other woody material.”

Chairman Sciortino said, “Okay, so if I’m looking at the same thing you’re looking at, item number three would be changed to whatever date the motion is being made for.”

Mr. Schlegel said, “And I would also call your attention . . . most of these are fairly routine types of conditions.”

Chairman Sciortino said, “Is there any condition that you really want us to focus on.”

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Mr. Schlegel said, "Condition number nine, we had recommended a height limitation of 15 feet rather than the current height limitation of 25."

Chairman Sciortino said, "Okay, and what did you have?"

Commissioner Winters said, "There were two others that I thought were important, as I looked at this case. One was condition number four, is that there will be a water truck on site, whenever the facility is open and then condition number 11, which says if any enforcement measures are needed that the appropriate code enforcement officer and director of planning, after determination that a violation has been made, can render this conditional use null and void. I think if something doesn't work, I mean, I think we've still got control."

Chairman Sciortino said, "And would you have, if we do do something along the lines of what commissioner . . . whatever your recommending or Commissioner Norton is for, as far as the date, because I think the only difference between the two of you is the timing. Would the applicant be . . . have any problems with saying that the suppression of dust from the site would be at the same level that the suppression of dust was done prior to the visitation of the people? I mean, would it be the same level of suppression that was put forth at the same time? I don't know how to put those into words and I don't know how to put those into words and I don't know how to measure . . . we didn't measure the water content of the ground to say well wait a minute, you watered it two inches, this time it was only an inch and a half. Maybe we could check Commissioner Burnett's heels and see if the level of mud on your heels was the same or whatever. But I think that that was something that I really picked up on, and if we do anything of what Commissioner Norton or Winters are thinking about, that the residents get the comfort of knowing that they're going to try to suppress the dirt at least or the dust at least at the same level that they did prior to the visitation. So I don't know how to put those into words. Okay, anything else Mr. Winters?"

Okay, let me maybe make a comment here. Conditional uses are always for a finite period of time. Why? Well, I think it is so that we can take into consideration any change in condition or character of the neighborhood that didn't exist when the first conditional use was implemented. I think that's to me Kansas kitchen English, that's why you have a finite period of time, to see whether or not you want to have business as usual, or you want to change your position, because of something else that's going on in the neighborhood.

I have driven down in that area and I do see more homes being built. A heck of a lot more than were being built ten years ago, so I think the neighborhood is trying to change but unless we change our thinking about what's being used by the land, it would be difficult to affect the change. I mean, if you keep doing the same thing, you should expect the same results, and sometimes you have to join with a community that's trying to affect change and be a partner in that change and not be an

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obstruction to that change.

The other part of my conflict on what to do is the fact that I have to respect that an individual has been in business for a long period of time and he should have some protection. You can't just all of the sudden say 'Goodbye, this is it, we're sorry, we've changed our mind'. We can, but I don't think that's being fair to the person doing the business.

I don't know if there's a magical number, but I will tell you what I want to have happen in my lifetime and I don't have maybe the same luxury that the principal did. I don't know if I'm going to be here in 2011 . . . well, I don't know if I'm going to be here November 8th, but I don't know if I'm going to be here 10, 15 years from now to see what's happening to the community. But I would like to feel that the action that we took today gave a clear message to another part of the south side of Wichita that we really want to help change the character of the neighborhood. We should always just assume that well, that's who you are and anybody south of the Mason/ Dixon line, forget it, you're just going to have to live with what you are.

No, I've seen some dramatic changes in Oaklawn, when the community tried to take back the neighborhood from crack houses and drug dealers. Sedgwick County has been very supportive in trying to help them. We're starting to see new homes being built down there. The first time there's been a new home in Oaklawn for 50 years. We're seeing private ownership starting to rise above . . . not above rentals, but closing the gap. And it does take more than just some dedicated neighbors wanting to do it. There are times that government can actually help people, instead of always being perceived as hurting people, so I want to support something that's an effective compromise that puts a modified, finite period on this that would give the applicant sufficient time to find a new location for his business.

I am not going to support six years. I think that's too long of a period of time. I'm not going to be supportive of now adding another element to it. I mean, the issue before us was rock crushers and I want to see what the motion is, but my indication is maybe the motion wouldn't pass for two years, so . . . everybody else is throwing out numbers, 6, 4, 2. I'll throw out 3 as a number, but I would like to see us have a shorter period of time so that we can send a message to the residents that we want to work with you in your effort to change the community. So that's where I'm standing, wherever that is. Commissioner Winters."

Commissioner Winters said, "Well just one more quick comment. It looks like I'm standing in the minority here, but I would encourage you to consider, if we're going to do this for a few years, to acknowledge this recycling of trees and other woody material. He did make that request before the MAPC. They talked about it, it was on their agenda, so I think he's made that request to us, so I think we at least should make a decision about that. And so again, I would encourage us to include

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that, but I don't think I'm going to be the motion maker."

Chairman Sciortino said, "Okay. But I mean, compromise is compromise. It may be, the indication you're giving to Commissioner Norton is that you might support a smaller period of time if we added that into it. That might be something Commissioner Norton would want to consider. Okay, Commissioner Unruh."

Commissioner Unruh said, "Thank you, Mr. Chair. As another question about this, and I don't know what the motion is going to be, whether it's going to include the chipping operation, but if we go forward with an extension of trying two years or three years, times that have been suggested, one of the conditions that was conditions of approval as recommended is that materials stockpiled limited . . ."

Chairman Sciortino said, "Wait a minute, which number?"

Commissioner Unruh said, "Number 9, 'Stockpiles be limited to 15 feet in height' and I just wonder what are some of the unintended consequences if we approve that. I mean, does that mean then because it's 15 feet high rather than 25, does that mean that the rock crusher is in operation more days a year in order to supply the material, which may end up creating the situation that we're kind of going adverse to what we think is right."

Chairman Sciortino said, "Commissioner Winters, do you want . . . Mr. Schlegel, that's a good question. If we force a smaller stockpile, would that necessitate the rock crusher having to work . . .?"

Mr. Schlegel said, "We should probably direct that to the applicant. They would probably be better people to answer that."

Mr. Snook said, "The reason for the . . . I always told staff, when we were going into our meetings with John and Dale Miller, MAPC, we really need those piles at 25 feet with conveyors and the different stuff that pile spreads out so much, you lose so much of your volume, in an area like that, that it's virtually impossible. You have to move in three or four more times, so there is more activity going to what you're saying, Commissioner Unruh, but if you guys are going to make a motion on some of this and if you are going to cut it to two or four years or whatever you're going to do, I really need the 25 feet. And on . . . I'm going to address your chipping issue right quick so everybody understand that. That is not . . . this is not a commercial venture, okay. This is a scenario to where with Bergkamp Construction, once in a while we have an extra tree or two on a job. It's unburnable. You know, you can't get it from point A to point B. We drag it back there

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and in the ten years that I've operated down there, I've ground trees twice. Now Commissioner Burtnett, you saw that pile of stuff down there. We crushed, oh I believe in March, so about once every five years is when I chip that stuff up and it makes a pile of about . . . oh, about the size of a grain bin, of a couple of thousand bushel grain bin.

My wife has a company called Cedars, Incorporated and buys mulch around. That mulch will be gone in not too long. The reason I wanted to do that, because that is, on our original conditional use permit, is a little bit of a gray area. Some people wouldn't call it gray. I'd call it gray. It depends which side of the issue you want to debate. On that issue there it says, 'no trees will be brought on site'. Well, with Cedar Incorporated, it also shares that site down there with me. I mean, she brings in balled in burlap trees to get ready for jobs, she buys them by the semi-load. It says no trees are allowed on the site. Well, that's even, if you want to go straight by the letter, that's out of compliance. The reason for the chipping thing was strictly something to put me in black and white compliance, with no gray area. But I do need the piles at 25 feet."

Chairman Sciortino said, "I understand that and I think that answers Commissioner Unruh question, he'd have to start crushing more if it was 15 feet. Okay, I don't see any other further comments. Mr. Norton, if you're ready to make a motion."

Commissioner Norton said, "Well, I have two motions that I've kind of put in my head and I can go either way. If there's no reason to take a motion that has two years in it, if we don't want to do that, so I need a little more conversation. If I make a motion to deny totally, then . . . I was hoping there'd be some kind of compromise that would take care of the hardship and also send a message to the neighborhood that we're trying to be good stewards of both sides of the equation."

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

Commissioner Winters said, "Well, I just have a question of Rich Euson then, our legal counsel. If it's going to take a super majority to change, what happens if we can't reach a super-majority on any motion? Then is the application denied?"

Mr. Euson said, "In my opinion, I believe it's deemed to be denied, yes."

Commissioner Winters said, "Okay. Well, I don't want this to be denied entirely, so I'm willing to listen I guess. I again think three years . . . or six years is appropriate. If . . . I know Commissioner Burtnett has talked about this, if three years is something that would fly, then I might be able to support that, but again I'm thinking that it should be longer instead of shorter."

Commissioner Norton said, "Well, my only rationale for that is that in two years I'll still be here and I can advocate and be the referee again if I have to be. But obviously . . ."

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Chairman Sciortino said, "I don't know. The physical condition you're in, you're assuming that you'll be here for two full more years."

Commissioner Norton said, "I'm an optimist, I'm going to be here. And I think that I'll know the case, I'll understand the issues, that it's not going to come before a whole new commission that's going to send another whole mixed message to everybody and I don't think that's right. I'll be here.

Much past that, in three years I could not be here, either because I'm not reelected or because I elect not to run and I'm trying to represent everybody in that areas best I can and I think if it goes over two years, then I don't have a chance to be here when it comes up again and say 'we voted to sunset it, that's the end of if, we're not going to go any further with it' so that we make sure that we're consistent with what we tell the neighbors and what we tell the business. Because the worst thing I think we can do is set a time limit and then keep going on this.

We're already looking at doing that right now. I mean, the truth is they only got ten years, they knew it was ten years, that's what it was but we're trying to be fair, hardship on both ends of it, to be sure there's a balance and for me it's about two years, means that I'll still be here."

Chairman Sciortino said, "Commissioner Winters just needed a point of clarification. Go ahead."

Commissioner Winters said, "I'm under the . . . working under the impression that probably what we do today is final, done. There won't be a two year . . . in two years, do you expect them to come back and reapply for an additional two years or ten years?"

Commissioner Norton said, "I don't know. I'd have to ask the legal folks that, but I assume nothing is ever final. We think it is, but you know, things could be asked for an extension, and if another governing body would vote 5 and 0, I think there could be an extension."

Chairman Sciortino said, "They could always ask for an extension, but I think the motion . . . couldn't the motion be structured that the motion is clearly indicative of whatever we do, that's the final . . . at least, from this commission bench, it's not just a normal, run of the mill, conditional use period and you can always . . . how can we word that to make sure that in writing, the person that we might be granting this extension too understands that this is a sunset type thing."

Mr. Euson said, "Well, I think all we can do is to put the time limitation in it. They, or their successors in interest, who ever made it profitable, can always come back and file another ratification but I think your discussion that you're having right now would perhaps be limiting."

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

Commissioner Burtnett said, "Well if we approve the conditional use for any amount of years, two, three, four, whatever you decide to make your motion on, are you still okay with the stockpiles being 25 feet? Because the recommendation is these 11 recommendations."

Commissioner Norton said, "Well, once again I'd like to hear what my colleagues have to say. I mean, I'm trying to strike a balance of what is good for the community and what is good for the application, as they sunset and finish up. If 25 feet, if we can come to that conclusion, although that's been a contention of the folks that live on the other side of the Big Ditch, that it's too tall and everything, but for two years . . . they've lived over there for ten years. For two more, if they know we're going to sunset it, we're trying to take prudent action to get this taken care of."

Commissioner Burtnett said, "Okay, but you're saying two years, but we've already pretty much figured out two years isn't going to . . . I mean . . ."

Commissioner Norton said, "Okay, here's the deal. I make a motion . . ."

Chairman Sciortino said, "Well, you said you wanted to hear from . . . there's another . . ."

Commissioner Norton said, "Well, it doesn't seem like we're going anywhere, until I make a motion, so . . ."

Chairman Sciortino said, "Well, but out of courtesy for Commissioner Unruh, since his light was on. First of all, have you finish?"

Commissioner Burtnett said, "Yes."

Chairman Sciortino said, "Okay, Commissioner Unruh."

Commissioner Unruh said, "All right, thank you. I would just say that I would yield to the compromise by Commissioner Norton, that it appears he's going to make. I had stated my position earlier that I was inclined to just uphold the recommendation of the MAPC and our planning staff, but this does not seem to be unreasonable and this is your district and I'll probably be supportive of your motion, as soon as I hear it."

Chairman Sciortino said, "Okay, and let me just make my position clear here. I want this motion to pass and I don't just want to have a motion failed and then all the sudden it's denied because of failure and then the applicant is out. I don't want that to happen. I'm getting a clear indication,

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Commissioner Burtnett, that she's not going to approve two years. I would feel comfortable in trying to go for three years. That's getting us in between the middle, between two and four and would encourage you to consider maybe making the motion for three years, if you could. I would support that, and would support it.

I do support the 25 feet height. That just keeps it the way it is and the applicant has said that he needs that and I would also include the wood chipper, now that I understand that it isn't a commercial venture. It's just to take care of any trees that may come on the line. There's another way of trying to compromise this thing to get it approved, to get this finite period thing started. All right, here we go."

Commissioner Norton said, "Well, just another comment. It's interesting, over the years when we've had any of these kind of uses come before us, I've always been the odd man out, I've advocated for my district, whether it be transfer station, or sand extraction operations, I've always been the odd person out and I've tried to make a compromise on this.

Truthfully, I advocate for the south side and we've continued to have lesser uses pushed towards the south side for many, many, many years. And you know, we talk about neighborhood revitalization and emerging neighborhoods and economic growth, sometimes we fly in the face of that based on the lesser uses that we put into the south side.

I will make the motion as I originally thought that it should be made and if you would like to add addendums to it, with different years or whatever, then I will construct my vote based on what you add to it, as an addendum."

Chairman Sciortino said, "Okay."

MOTION

Commissioner Norton moved to allow the extension of CU 403, which is only for the rock crusher, for a period of two years, adopt the conditions set out in the staff report, direct the staff to prepare the resolution and authorize the Chairman to sign based on the following finds: the area has both continuing industrial uses and emerging residential development, staff has recommended against approval but the use is consistent with the Comprehensive Plan, there is no significant impact on community infrastructure but there is neighborhood opposition, however when I balance the impact of the neighbors with the hardship on the applicant in having to move a business that has operated for ten years without complaint or citation for violation, I feel it is reasonable to allow the applicant time to relocate this business, while setting a date for elimination of what is ultimately an incompatible use of this area.

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Commissioner Unruh seconded the motion.

Commissioner Unruh said, "I ask for a point of clarification."

Chairman Sciortino said, "I'm sorry, point of clarification."

Commissioner Unruh said, "I seconded the motion, now I'm asking for clarification. I hope that makes sense, but you said not including the chipping operation. Does CU 403 include the chipping?"

Commissioner Norton said, "I think that was rock crushing only, was it not?"

Mr. Schlegel said, "The original CU was for rock crushing. They amended their request at the MAPC to include the tree . . ."

Commissioner Norton said, "But I'm asking for extension for CU 403, which was originally only rock crushing."

Commissioner Winters said, "But it's not now."

Chairman Sciortino said, "But it's not now, it's been amended now."

Mr. Schlegel said, "The application, I think you would have to treat it as an amended application."

Chairman Sciortino said, "So that includes chipping."

Mr. Schlegel said, "And the staff recommendations that I think you included in your motion include allowing that additional use."

Commissioner Norton said, "That would be okay."

Commissioner Unruh said, "That's fine."

Chairman Sciortino said, "Okay, and your saying the limit to 15 feet as opposed to the 25 feet?"

Commissioner Norton said, "But if you want to make a substitute to that, we can talk."

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Chairman Sciortino said, "Okay. Commissioner Winters."

Commissioner Winters said, "Well, I would make a substitute motion to just increase it to three years, but I don't think that has four votes, if Commissioner Unruh is supporting Commissioner Norton. So there's no use to go there if that doesn't have four votes and I don't want this to die today. So, Mr. Unruh, would you support a three year extension on that, or are you . . .?"

Commissioner Unruh said, "I'm supporting the motion."

Commissioner Winters said, "Okay. Thank you. I have no other motion."

Commissioner Norton said, "The other part of that is the 25 feet. I'm going to leave that to my colleagues."

Chairman Sciortino said, "Well, let me . . . I really want this to work and I really believe we need to support the citizens that are trying to improve their neighborhood. It seems to me that they've lived with 25 feet for 10 years. If staying at 25 feet means that he's still going to be operating 50 days or less, as opposed to 15 feet he's going to operate more, then you've got to weigh is it the height what's really offensive or is it the dust that's occurred when the thing is in operation.

I'm going to try to support this motion the way it's written, but I would like for you to consider we need four votes and perhaps maybe the 25 feet could get us the fourth vote. I'm going to support the motion that you made but my concern is it's not going to get the four votes and I would think 25 feet would get us . . ."

Commissioner Norton said, "I think that's a discussion the rest of the group needs to have, because if it fails, it's denied, and I . . . you know."

Chairman Sciortino said, "Well, that motion . . ."

Commissioner Norton said, "Well, the two things I'm working on are going to be okay."

Chairman Sciortino said, "That motion is denied and then we can make another motion. Okay. Commissioner Burnett."

Commissioner Burnett said, "Well, I keep going back to the 2012, and when I'm looking at our backup, it talks about the requested extension was moved back to May, 2012 to make it concurrent with the southern parcel and that was my original intent, I thought if this could all just go away all at the same time. By that particular time, which time flies, as we all know, by

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then the development, the housing residential development would be well underway and they'd know that this is going to go away in 2012. That was my original reasoning behind I think we should go for the four years.

Then when we start paring back the years, it's like well it's not going to be concurrent with the southern parcel now, so it probably doesn't make a lot of difference if it's two years, three years, four years, five years or six years, whatever we happen to do.

I personally won't be here, probably for the next time this comes up, so I guess I would be willing to go for the two years, even though I in my heart still believe that four years, to 2012 would have been more appropriate but I understand where we're trying to go with this. So I guess since I was willing to cut back to a four year, I could cut back to the two and be supportive of your motion."

Chairman Sciortino said, "Okay, and what's your . . . do you have a position on the 15 feet?"

Commissioner Burnett said, "25 feet. He has said he's made it clear that the 25 feet is necessary."

Chairman Sciortino said, "So I guess, Mr. Norton, the only thing left is whether or not you would feel comfortable to go along with #9, with keeping the feet at 25 feet? I'm hearing you might have the support that you need."

Commissioner Norton said, "Well, I mean, that becomes someone else's substitute motion that adds the 25 feet and then it becomes a substitute motion."

Commissioner Unruh said, "Is it a substitute or just an amendment?"

Chairman Sciortino said, "No, it would have to be a substitute motion. It would have to be a substitute motion? Okay."

SUBSTITUTE MOTION

Chairman Sciortino moved to allow the extension of CU 403, which is only for the rock crusher, for a period of two years, adopt the conditions set out in the staff report, direct the staff to prepare the resolution and authorize the Chairman to sign based on the following finds: the area has both continuing industrial uses and emerging residential development, staff has recommended against approval but the use is consistent with the Comprehensive Plan, there is no significant impact on community infrastructure but there is neighborhood opposition, however when I balance the impact of the neighbors with the hardship on the

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applicant in having to move a business that has operated for ten years without complaint or citation for violation, I feel it is reasonable to allow the applicant time to relocate this business, while setting a date for elimination of what is ultimately an incompatible use of this area with the exception that we keep the maximum feet at the current 25 foot level.

Chairman Sciortino said, "Have I said it right?"

Mr. Euson said, "Yes, and would that . . . and that is as to the amended application that's before you?"

Chairman Sciortino said, "Yes."

Mr. Euson said, "Okay."

Chairman Sciortino said, "Okay, that's my motion. Is there a second?"

Commissioner Winters seconded the motion.

Chairman Sciortino said, "A motion has been made and seconded. Any further comments? So if I understand it, it's two years, the height is the same at 25 feet. It's the amended motion, which means that the chipping is included and . . . but it's now two years, and then it goes away, at least . . . yeah, okay. That's the motion. Clerk, call the roll."

VOTE

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

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

Commissioner Winters said, "No, we're not done. Was that the substitute motion there? Was the entire motion, or were we voting on the 25 feet?"

Chairman Sciortino said, "Now do we have to vote on Commissioner Norton's motion? Wasn't

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the substitute motion instead of . . . in lieu of the original motion?”

Mr. Euson said, “I don’t think you have to vote on the substitute motion. You’ve approve this one.”

Chairman Sciortino said, “I mean, mine was the substitute motion, so we approved the substitute, we don’t have to vote on the original motion.”

Mr. Euson said, “I don’t think you do.”

Chairman Sciortino said, “Yeah, okay. So it’s right in saying ‘next item’?”

Commissioner Winters said, “I need to make a comment and I’m comfortable with that. I would have voted no if I had realized. I thought we were only voting on the inclusion of the 25 feet, as part of the original motion, so that was my mistake and my error. But again, I think we’ve reached a good compromise and I’ve got no problem with that. I should have been paying attention I guess. Thank you.”

Chairman Sciortino said, “Okay, so can I now go to the next item?”

Mr. Euson said, “Yes sir.”

Chairman Sciortino said, “Good, next item please.”

Commissioner Winters said, “How about taking a break.”

Chairman Sciortino said, “Yeah, let’s take a five minute break. We’re going to take a five minute recess.”

The County Commission meeting was recessed at 10:51 a.m. and returned from recess at 10:56 a.m.

Chairman Sciortino said, “I’ll call the meeting back to order, if we could. All right, Madam Clerk, would you call the next item please.”

2. **CASE NUMBER ZON2005-00018 – ZONE CHANGE FROM SF-20 SINGLE FAMILY RESIDENTIAL TO IP INDUSTRIAL PARK, GENERALLY LOCATED APPROXIMATELY ONE-HALF MILE SOUTH OF 31ST STREET SOUTH ON THE WEST SIDE OF 103RD STREET WEST (MAIZE ROAD). DISTRICT #2.**

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POWERPOINT PRESENTATION

Mr. Schlegel said, “You can see this 80-acre tract in this location, along Maize Road near K-42. They are seeking an industrial zoning from the current SF-20, Single Family Residential zoning. The applicant had originally requested LI, Limited Industrial zoning but later indicated that they are in agreement with the IP, Industrial Park zoning with a protective overlay that was approved at the MAPC at their meeting on July 20th. The IP district was recommended because it was felt that that would be more compatible . . . a type of industrial zoning that would be more compatible with the nearby residential areas.

You can see from the aerial that much of the surrounding land use is agricultural. Directly to the south is a platted subdivision, which doesn’t show up on the aerial, but you can see the plat on the graphic before you now.

And just a little further to the south and west is the community of Schulte. To the east of the site, across Maize Road, is an area that’s all zoned for industrial purposes in connection with the Mid-Continent Airport.

This request was reviewed by the Wichita Airport Advisory Board, at a meeting that they held on March 6th. At that meeting, that board indicated a preference for industrial uses over homes, schools and churches near the airport. They also recommended approval of industrial zoning and also that the City of Wichita ultimately purchase this parcel for industrial development.

As I mentioned, the MAPC heard this case at its meeting . . . or I’m sorry, the MAPC originally heard the case back over a year ago, on May 26th, 2005. At that time, the case was deferred indefinitely. There was an owner of a large tract nearby that spoke in opposition to the request and there were many protests received at that time from residents living along Maize Road, north of the request.

The MAPC did re-hear the case then, as I mentioned, again on July 20th of this year. There were citizens that came to that meeting to speak in opposition to the proposed change. The, again as I mentioned earlier, the applicant indicated their willingness to go along with the change in the request from LI to IP, with the overlay district. And the MAPC voted unanimously to recommend approval of the IP, Industrial Park, subject to two conditions that are listed in your backup report.

Now I want to mention that a standard condition that staff recommends as part of zoning approvals is a condition of platting. That was overlooked in the recommendation of the MAPC. Staff would recommend that if you do approve the IP zoning that you include platting within a year as part of a

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list of conditions.

We do have protest petitions for just over 5% of the notification area. You can see those petitions on the map before you now. In addition, we have received protests from a number of people outside the notification area. They show up in blue on that map, and then we've also received other letters and e-mails expressing opposition."

Chairman Sciortino said, "But they were outside the 1,000 or whatever?"

Mr. Schlegel said, "Yes, the notification area."

Chairman Sciortino said, "All right, thank you. Any questions or comments of John on this item? It isn't required, but it has been our policy for many years to allow public input on any zoning case. So is there anyone in the audience that would like to speak for or against this item?"

Mr. Kaplan said, "Very quickly, I do not believe you need to hear very much from me on this case. I certainly would stand for questions. I would ask, do you all have, I delivered booklets some time ago, weeks ago. Does everyone . . . because I've got some extras if they're needed.

Let me just say this, very briefly, I won't be but a minute or two here, everything that I have done in this case on Mr. Dugan's family's behalf, and the Dugan children, is predicated upon and it is consistent with, commissioners, the 2030 long term transportation plan. It is consistent with the airport advisory board recommendations. It is consistent with and predicated upon the Greater Wichita Economic Development Coalition, who is supportive. It is consistent with the McCullom, Sweeney consulting report. We do not have the report yet. I gave you a letter in your booklet from Ed McCullom, in which he recommended industrial zoning.

I think that everything in that booklet is taken verbatim. The quotes are accurate and are verbatim. The only editorializing, the only editorializing in that booklet is the synopsis, and that's tab one, is my preamble and review and the synopsis that I put in there. Beyond that, everything in that booklet is predicated upon existing documentation and existing support, so I think with that I really don't have a lot to say. I think it's extremely important that we do not box the airport in, that we leave room for expansion. I've had several conversations with Mr. White about the revenue potential from containerized cargo. I think we focused on increasing passenger traffic. In my opinion, we've overlooked the revenue that can result from inner-models and air cargo. Mr. White

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tells me ‘Mr. Kaplan, it doesn’t make much difference the source of the revenue at all. It helps reduce gate fees, it helps reduce concessions or leases or cargo operations, so I believe this is very, very good for the City of Wichita. I believe it’s in everybody’s interest.

I’ve worked with the neighborhood and we’ve talked to them. I don’t believe we have any current opposition. Dr. Lamp is here. He is the one individual who is immediately next door to it and Mr. Dugan and I have entered into a private treaty with Dr. Lamp, which I believe he will tell you he has approved and I believe that he is satisfactory with. Dr. Lamp has been a real pleasure to work with.”

Chairman Sciortino said, “Thank you. I don’t see that there’s any questions or comments, Mr. Kaplan. Is there anyone else that needs to speak to us? Yes sir.”

Dr. Eric Lamp, 11101 W. 31st St. S., Wichita, Ks., greeted the Commissioners and said, “Which is that large parcel to the west and slightly north that is in red. I also am the father of four grade school children. I won’t be long. The initial shock in 2005 of seeing ground that was in our family for over 100 years have an application for industrial uses hit pretty hard and close to home, especially when I learned what Limited Industrial could entail, from adult night clubs to rock crushing, those people have left I guess.

Anyway, and so we were very instrumental in working up community opposition to it, in large part I would say it was motivated by the fear of the unknown, not knowing, looking at that list, not knowing the intensions of the applicant. So we were very successful in spreading some of that fear, especially when people saw that list, found what could be coming near their home.

I’ve spent the last two hours here with you, watching as a commission very respectfully and admirably come to a compromise in a difficult land use question and hopefully we’ve done the compromising for you today. We have met, I’ve looked through and read the booklet that Mr. Kaplan provided and am well aware that we live near the airport and that the airport is something that the community all makes use of. I have no opposition to making some sacrifices. With my choice of ground, I was there much later than the airport myself, and realize that the surrounding area of the airport is not an objectionable or odious area. I drive around it all the time to get to work and back, so with the concessions that the MAPC put upon the applicant in regard to IP, protective overlay and the platting now further developments that have come about, the Chamber support in regard to this expansion, the Airport Authority support and the assurance from the applicant that the use of the land will be either airport compatible or airport use, or airport related or support.

They’ve also agreed to be a good neighbor, as Mr. Kaplan mentioned, in regard to appearances and aesthetics, which makes a difference to us. We have a pretty large home out there and do not want to be right next to an asphalt plant.

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So in view of those things, the accommodations that have been made, as long as all things promised come to pass, I'm willing to withdraw my opposition to the application. Do you have any questions?"

Chairman Sciortino said, "Thank you, sir. I don't see that there's any right now. We may have some later, but right now there's no questions. Anyone else that would wish to address the board on this item, pro or . . .? Okay, seeing none, I'm going to limit the conversation to the bench. Commissioners, what's the will of the board on this item or what would you like to discuss on this item? Commissioner Winters."

Commissioner Winters said, "Thank you. I have a comment for the record. I would like for the record to show that I have had previous conversation with the applicant's agent and the applicant on this matter. None of that influenced my decision. I came to this meeting with a completely open mind to hear what staff had to recommend and John has shared with us what the Airport Authority has recommended and MAPC, along with the staff and again, I'm willing to listen to anyone today.

I have two quick questions. One with the protest petitions at 5.8%, that was not enough to trip a super majority kind of requirement?"

Mr. Schlegel said, "No, that would have no effect on the vote."

Commissioner Winters said, "Secondly, John I thought I saw just a couple of slides in relationship to the airport and could you just put up one of those to show us where this is? There, we can see it right there. It's down at the southwest corner of the airport. All right, those are the only two questions I have. I am going to be, I think, supportive of this. I think the two important issues that of this. I think the two important issues that we've had before us is whether again we're going to continue to block off the airport from any other kind of uses or activities that would be needed by the airport and then again, in talking about how we make sure there's proper buffering around this facility, and I think to hear Dr. Lamp talk about the working relationship he's had with the applicant, I think that's a huge plus. So from what I've heard so far, I'm going to be very supportive of this application."

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

Commissioner Norton said, "Well I wanted to start out by making this same disclosure. I did have some contact with the applicant early on, because this is in my district and it was prior to a lot of the discussions that have gone to MAPC, but there was an indication that something would move

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forward on this and I was just briefed that maybe something would be happening. I didn't get a lot of details, but I did have some contact with the applicant prior to all of this happening, but it hasn't changed my mind one way or the other and as it comes before us, it's fresh and a new idea.

I would like to compliment the applicant and Dr. Lamp for protestors coming together and trying to resolve the issue. They obviously saw, prior to this, that we had one that was a little more contentious and it wasn't being worked out, and it's nice to know that there's due diligence, both on applicant's parts and neighbor's parts to try to figure some of these tough land use situations out before they have to be decided by elected officials, so I applaud you both for that.

I think it serves us better when we don't have to play referrers for these kinds of issues, so I'll listen to the last of our comments, but I think I'll be supportive of this, as we move forward and try to do what's right, not only for the neighborhood, but for the airport because they are getting a little bound up on the west side."

Chairman Sciortino said, "Okay, thank you. Commissioner Unruh."

Commissioner Unruh said, "Thank you, Mr. Chair. I too would want to disclose for the record that I had had some contact with the applicant a couple of months ago, just to kind of get an overview of this. But did not . . . had not made up my mind or had any undue influence on me. I just wanted to say that from the presentation we've got, that this proposal has kind of gone through all the steps of approval and brought everyone on board, including previous protestors, so I think it would be appropriate and beneficial for our community and would think that I'm going to be support of it."

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

Commissioner Winters said, "John, I have a quick question about the platting issue and it is in our recommended action. On a piece of property like this, how is the applicant to know, at this period in time, whether this needs to be platted into a series of smaller, one large, five smaller, ten smaller. Is there a need for us to require that this all be done within one year?"

Mr. Schlegel said, "It's a standard condition that we ask for. It allows for those . . . you know, the city's sewer and water department or whatever to ask for whatever easements or dedications of easements may be needed. They do have the option of asking for extensions of time, and that's very common that if they don't know by the end of that first year exactly what it is that they want to do with the land . . ."

Commissioner Winters said, "So at the end of the year, if we need to revisit that year timeframe, we can do that."

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Mr. Schlegel said, "Correct."

Commissioner Winters said, "All right, that's all I need. Thank you."

Chairman Sciortino said, "Thank you. I see there's no other further questions or comments, so what's the will of the board on this item?"

MOTION

Commissioner Winters moved to approve the zone change to IP, subject to platting within one year and the provisions of Protective Overlay #176; 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 Norton seconded the motion.

Chairman Sciortino said, "Is there any further comments?"

Mr. Schlegel said, "Mr. Chairman, County Counselor has asked me to point out that the conditions of protective overlay 176 that were included in the motion with the two conditions I have previously mentioned and that are outlined in your backup report."

Chairman Sciortino said, "Okay, so the motion is proper and it does include all of those then? Is that right Mr. Euson?"

Mr. Euson said, "Yes sir, that's my understanding, yes."

Chairman Sciortino said, "Okay, fine. There's been a motion made and seconded. No further comment, Clerk call the roll."

VOTE

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

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Chairman Sciortino said, "Thank you very much."

Commissioner Burtnett said, "Mr. Chair, before you call the next item, I'm sorry but I'm going to have to leave, so Lori, please don't take this personally. I will get on-line and watch this from my condo in Florida. So everyone, have a great week and I've got to get out of here."

Commissioner Burtnett left the meeting room at 11:15 a.m.

Chairman Sciortino said, "All right, thank you very much. Next item."

C. PRESENTATION OF TECHNICAL EDUCATION AND TRAINING/WORKFORCE DEVELOPMENT UPDATE.

POWERPOINT PRESENTATION

Ms. Lori Usher, Executive Director of Workforce Development, greeted the Commissioners and said, "I'm here to update you this morning on the activities of Workforce Development, our staff, under the direction of the Sedgwick County Technical Education and Training Authority.

As you know, we've reviewed before the strategic priorities of the Authority and we want to focus on those particular priorities and the activities that have driven our department relative to those important initiatives.

First of those being the advancement of a world-class technical education facility and delivery system. As you know, the Jabara Campus project was presented to the county as a conceptual model for this world-class facility and delivery system and the county took the leadership position of backstopping the funding and providing the next steps in planning for that campus. We are, in September, entering the planning stages for space allotment and programming . . . or allocation and programming for that facility, starting with the aviation tech center, moving into manufacturing and then into the assessment center.

We'll be working with our regional colleges, including the university and the KITTI partners and also business and industry representatives, county staff in determining the relevant programs and space needed for those particular facilities and finalizing details which will take probably about 12 months before we actually get to the place we have construction documents and have it out on the street, but we are about the business of planning now.

The other function that's important for you to know is that we area continuing to look for

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partnership funds. We have received continuing support from the state and federal government, in the form of some grant programs, some to be announced soon and other that you've already heard of. The city and the county are working on a lease agreement for the land at the Jabara Campus. As a reminder, we have an agreement with the city to receive the first 20 years of lease payments from city coffers, which is very helpful to our fundraising efforts.

And then finally, KTTI under the direction of Pete Gustav is seeking more private investment funds. To date, we are just over \$2,000,000 with a goal of seeking \$5,000,000 to help with equipment. In addition to that, KTTI has sought out the guidance from the authority to determine what their program activities should be to continue to support county initiatives. And out of that, we have determined that private fund raising was an important element. Outreach was important, as well as validation of programs from getting feedback from business and industry, which I'll talk about a little bit later, but in the outreach approach, they are developing along with some support from the county, a Powerpoint and speaker's presentation to go out to the community and help our citizens and businesses understand the need for advanced technical education in our community.

Those activities will take place relatively soon, going to large groups like rotaries and other organizations to make sure that public education takes place and they're driving that effort with business leadership.

It should also be noted that technical education really has taken a front seat in our community. I think if we looked back five, seven years we would not have understood the relevance of technical education and it's viable options for students who are looking at higher education, so something for us to be proud of.

I think the county has driven a lot of that, but certainly many partners in workforce development that are understanding its relevance and the media in particular know what an important item that is for their readership.

Just a point of reference, we have a grant to the Department of Labor that was developed with the help of Marv Duncan in our department and working with the Workforce Alliance and KTTI partners. This would be a great coup to helping us develop more of a pipeline to the Jabara Campus project. It would integrate manufacturing training, entry-level in our secondary schools throughout the region, that being our high schools. More about that later, but just something that you should note. That grant has been submitted, or the application and we'll be getting news of whether or not we'll be awarded that funding sometime in the early fall.

And then finally, you probably read in the newspaper and I know you received the report last week from the structure option study team, and this team was appointed to look at the various options that the Kansas Board of Regents are considering for restructuring of technical colleges in our state. The study team met for a little over six months and spoke with a number of subject matter experts,

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took trips to other educational systems to view other structures and came up with a recommendation that technical colleges consider merging with community colleges throughout the state of Kansas.

With that, the recommendation was taken to the Sedgwick County Technical Education and Training Authority Board. The board received that report and has appointed one board member to work with a small due diligence team and review that option in full detail and come back to the authority board and ultimately the county with some definition around what that might mean for our region. So just an update but more on that later, and feel free to stop if you need clarification or have questions.

The second priority, to provide leadership to establish a one-stop solution for customized technical training. First of all, I should note that the KTTI organization, which is a consortium of our community colleges and technical college here in Wichita, have established the need for a full-time executive director. Up until now I've been serving and acting in the executive director role. Obviously, not dedicating full time to their organization, but helping them as they evolve into a more formal structure. So we are undergoing a search now that will be very important to us and helpful to us in providing more resources, more staff leadership in planning for the Jabara Campus, but also other important technical education initiatives.

I think we're approaching the home stretch on getting a candidate in place for that organization, and then also we have established what we think is a good solution for a one-stop for employers and I want to go into that in a little more detail. I have today other partners in our workforce development system represented in our meeting, specifically we have the regional director from the Kansas Department of Commerce Mark Buckley in the back of the room and we also have Jim Swartzenberger, who is the vice president of Workforce Solutions for the Wichita Metro Chamber of Commerce. Keith Lawing was here earlier from the Workforce Alliance of South Central Kansas, but he had to leave, would like to have been here also for the presentation. Together we have developed what we consider to be a project team at a strategic level, bring together important resources to help provide solutions for businesses who are seeking support in workforce development. The partnership has some important principles, one that it is employer driven, that we have a single point of contact, that it's got a regional scope in providing stellar customer service.

We feel that we represent a number of different focuses. We overlap a lot, in the various things that we do, but there are some what we consider to be somewhat unique attributes about each of our missions. The Chamber obviously would be considered our advocate for business and conduit to employer needs. The Authority represents technical education and training. Commerce represents

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our access to state and federal funding and resources and the alliance provides that facility, that one-stop location for businesses that need support.

We also represent many services, but one solution, and you might have read in the newspaper this morning, we just kind of rolled out this concept, the Wichita Eagle anyway picked up on it yesterday in some of the internal materials that were being distributed, so we did have an interview with the Wichita Eagle and the comment was made that previous practices have been that all stakeholders or workforce development partners tended to go out with their menu of services, telling employers here's what we can do, rather than listening carefully to what their issues are and then providing a solution, which is really what we determined to be an important aspect of our work with the project team that we've developed.

We want a single brand that consolidates all the organizations and puts many services under one name. We want a single phone number and ultimately easy access for the customer, that being business. We've already developed a project team, represented by those four partners that I highlighted. We do want to have, ultimately, a director of workforce solutions, somebody who is highly visible, highly resourceful and highly influential, and can pull together the right partners and assemble a team to basically broker a solution for businesses.

The object is obviously to coordinate, not duplicate. It takes many partners to succeed, and we know the landscape is constantly changing. If you're an employer out there, you've seen these new acronyms introduced that's been referred to as the alphabet soup. A number of organizations in workforce development and probably won't change anytime soon, because of this new emphasis on state, federal and local levels so the goal was obviously to work together and provide access so that the employers really don't need to know the functions of each of these organizations. That's for us to figure out and come back with a solution. Many benefits to working together, all of those listed here in this slide and also a determination of what it will look like if we get it right. Probably should be emphasized that workforce development is economic development and today drives economic development. So to the extent that we get this figured out, that will drive our success in economic development, company growth internally and externally.

Those are the four partners represented and what we're doing currently is basically taking this concept to all of our internal stakeholders, those organizations that we represent. It has gone before the Workforce Alliance Board, the Chamber Board, we're coming to you today. We have reviewed it with the Sedgwick County Technical Education and Training Authority and also have scheduled meetings with key individuals from the Kansas Department of Commerce.

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Much like the GWEDC, this particular concept actually is somewhat modeled after the GWEDC. Many partners at the table coming up with a packaged solution for businesses for the use, in their case, a transaction team, in our case a project team so there's lots of similarities. Fortunately, not near as much need for funding or complex structure, as we have with the GWEDC. But just as important, because as I said that will drive economic development.

The third and final priority I wanted to mention is our emphasis on gathering demand data to drive what we do in technical education and training, so rather than using anecdotal evidence of the needs in our community that we become more scientific about our approach to responding to industry need.

You probably I'm sure have noticed recently that we just engaged in an IT survey with the support of many partners across our community. The CEDBR executed the particular survey and study analysis and have indicated to us that they are interested in doing many more of these. They felt like it was a successful project because of all the partners that we've brought to the table and it is within their mission to continue to do community projects. And so they have indicated that one or two of these labor studies honing in on specific industries annually would make sense to their organization, so that's something we'll continue to pursue.

And then finally, industry visits are underway through the support of KTTI and those visits are an effort for them to review the program offerings that are being proposed for the Jabara Campus project and to validate that we're moving forward in the right direction.

So with that, I think I've covered everything sufficiently. If there's any questions, I'd be happy to answer them at this time."

Chairman Sciortino said, "Okay. Commissioner Unruh."

Commissioner Unruh said, "Thank you Mr. Chairman. Lori, I don't have a question particular, but a comment. I just want to first of all tell you that I appreciate the presentation that you've made today. It's beneficial not only to the commission, but to all those who might be watching by way of our telecast. In light of the recent budget challenge we had, I think there is some confusion about the importance of technical training and education in our community and its requirement for the health of our core manufacturing cluster, so I appreciate any sort of publicity or education that we can make about what our technical education and training authority is up to.

So just a comment about your outreach effort, I mean I think it does a couple of things. As people become educated and they see the importance of this, they'll be full participants and be willing to

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go forward with us wholeheartedly, rather than just looking at it from the impact it had on mill levy.

But I think another side of that, besides just bring people along is to really explain that our industry partners and other individuals in our area are participating in the cost of this, with some of the fundraising that's being done and some of their participation in program and moving forward with what it takes to make this successful. But our aircraft companies are putting money into the pot and other government agencies are putting money into the pot, and so we're not just off doing this on our own.

And then one other comment about this Department of Labor grant, I think it's really important for our citizens to know that we're trying to reach both ways in solving this labor problem and I think that touching the folks in the high schools, before they can make some decisions maybe that aren't the best even for their lives. Some youngsters go to college and perhaps shouldn't and there's some youngsters who don't go anywhere but just kind of get lost for a couple of years. But if we could reach into the high schools and show the importance of technical education and training and provide a great career, provide a livable income. I think that's really good and it starts to provide a stream of individuals that we can take on to a higher technical education level and make them really useful to our aircraft industry we have.

So a lot of commentary to say that I appreciate your presentation. I think we're doing the right things and I hope our citizens will begin to catch on that this is truly important for the economic health of our community, so thanks for your effort."

Chairman Sciortino said, "Thanks. Commissioner Norton."

Commissioner Norton said, "Well I think it's a great presentation, but I go back to several years ago, when we were working with the GWEDC and we had the conversations that workforce development is economic development, but we really thought that there was such a fractured system and that it wasn't working advantageously for business, but almost worked counter to that. That we needed to stay focused on job retention and job development and creation here and move the workforce solution kind of off to the side, and make sure we got it right before we encumbered GWEDC and the business community to try to figure it and I think we're getting to that point.

I think we've pulled people together. It's been a lot of hard work. It's gone on for many years. I know a lot of times the public thinks well we just did this a few weeks ago and voted on the Jabara Campus and we're spending your money helter skelter, but this has been like a five-year process. We originally started out talking about job creation and job retention and how does workforce fit in with that, with job training and technical education and we moved that off of that original plate and let that move forward and have spent a lot of time trying to figure out this seamless system that has

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a regional approach that will make the economy stronger here and tie in with GWEDC but not encumber it or weight it down as they move on with their mission.

So I applaud you for getting us to this point. There's still some hard work to be done to try to finish this off, but I think we've made some great movement in applying workforce development and all the partners, and also helping the mission of GWEDC, which is to create quality jobs, bring new companies and vitality to our community, but have a workforce ready to go when those . . . when the ducks are in the air, and we have to be good at that and world-class at that, because we've got world class companies now that require a world-class workforce and I think we're off on the right track so I appreciate it. That's all I had."

Chairman Sciortino said, "Commissioner Winters."

Commissioner Winters said, "Well thank you. No real comments, just a couple of thank yous and Lori, thanks for keeping us updated. I'm sure there's more to come and we'll all be interested in the next steps. I did want to say thanks to Mark with the Kansas Department of Commerce and Jim with the Chamber for being here today and would say that to Keith if he were still here. I'll tell you, I think we really see some exciting things happening out of that former Commerce Bank building. I think we've got a lot of people in the right place and this workforce solutions, many services, one solutions I think is what a lot of us have been trying to come to, so I appreciate all the work that you all have done and I would say a special thank you to Keith Lawing and Mike Girman with the Workforce Alliance, as I think the Workforce Alliance has taken a huge step forward in the last 12, 15 months. And they have joined the rest of the system and I think that's a big plus and we'll continue to work out of that facility and I think in a very efficient manner, so thank you for both being here and thanks for your partnership in this whole process and again, Lori, thanks."

Chairman Sciortino said, "Me too. Wait a minute, now I'm not done. You can't leave without me saying something. Very briefly, I want to try to boil down what you said, because one of the key elements that you indicated is we have got to educate the public so that they can realize the importance of what this commission is trying to do and the Jabara Technical Training Campus is an integral part of what we're trying to do. When we started talking about economic development at GWEDC years ago, the county decided 'Okay, we'll take the element of workforce development as the issue that we'll work on and we'll take the lead on that'. A skilled workforce is the main driver, I think, when a company is looking to relocate to a new place, is there a ready pool of skilled

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workers or is there a facility, once we let the community know what our needs are, they can train a workforce to have the skills that we need.

And I think with what we're going to be accomplishing at the Jabara Technical Campus will definitely send a loud and clear message to businesses 'hey, we have a climate here that's conducive to what you need' you come here, you tell us what your workforce needs are, we'll train them so they'll stay here and you can be productive. I think in essence that's what the presentation was. The element that I picked up on is that we're going to go out now to the public, through these service clubs and the rubber chicken circuit or whatever and try to get this message out to the public and I would encourage you to start that just as quickly as you can."

Ms. Usher said, "Yes, sir."

Chairman Sciortino said, "Okay, all right. You're doing a great job. Thank you. All right, commissioners, that's the presentation. What's the will of the board?"

MOTION

Commissioner Unruh moved to receive and file.

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	Absent
Chairman Sciortino	Aye

Chairman Sciortino said, "Next item."

D. RESOLUTION ESTABLISHING 2007 SEDGWICK COUNTY HOLIDAYS.

Ms. Jo Templin, Director, Division of Human Resources, greeted the Commissioners and said,

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“This resolution establishes holidays to be observed by Sedgwick County for 2007. Sedgwick County will observe 10 holidays in 2007, which is in keeping with past practice. I ask that you adopt the resolution and can answer any questions that you may have.”

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 Burnett	Absent
Chairman Sciortino	Aye

Chairman Sciortino said, “Thank you very much, Jo. But now you’re going to be back for the fire department one, right? Okay. Next item.”

E. DIVISION OF INFORMATION & OPERATIONS – HEALTH DEPARTMENT.

1. AGREEMENT WITH BETHEL COLLEGE OF KANSAS, DEPARTMENT OF NURSING, TO PROVIDE A NON-HOSPITAL SITE SETTING FOR NURSING STUDENTS DURING THEIR CLINICAL ROTATIONS.

Ms. Claudia Blackburn, Director, Health Department, greeted the Commissioners and said, “Bethel College of Kansas has requested an agreement with Sedgwick County Health Department for the placement of nursing students at our facility. We commonly provide opportunities for clinical services for nursing students throughout the community. We have other universities that we

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contract with and this is in keeping with the development of the public health and medical workforce. There's no cost associated with this agreement and I recommend approval of the agreement and authorization of the Chair to sign."

Chairman Sciortino said, "Thank you. Commissioners, what's the will of the Board on this item?"

MOTION

Commissioner Norton 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	Absent
Chairman Sciortino	Aye

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

- 2. AGREEMENT (RENEWAL) WITH KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR HEALTH DEPARTMENT TO SERVE AS REGIONAL COORDINATOR IN SOUTH CENTRAL KANSAS FOR THE KANSAS BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM.**

Ms. Blackburn said, "The Sedgwick County Health Department provides regional coordination for Sedgwick County and the 18 surrounding counties for the Early Detection Works program, which is a breast and cervical cancer screening program for under-served women and those women are 40 to 64 years of age. We have done this now for about 10 years. We assure that there are providers in the surrounding communities and in our community to see these women and then if they're

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identified as having an abnormal examine, we provide case management to help them navigate through the healthcare system and receive the care that they need. This grant pays for the regional coordinator, who is a nurse, and then two additional staff to assist with outreach to identify women who are underserved. The contract is for \$162,122 and there is no local match associated with this, and I recommend approval of this agreement.”

Chairman Sciortino said, “Thank you very much. Commissioners, any comments or questions? Seeing none, what’s the will of the board?”

MOTION

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

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	Absent
Chairman Sciortino	Aye

Chairman Sciortino said, “Claudia, thank you very much. Next item please.”

F. DIVISION OF HUMAN SERVICES – COMCARE.

1. AGREEMENT WITH KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES PROVIDING CERTIFIED MATCH ALLOCATIONS.

Ms. Marilyn Cook, Director, Comprehensive Community Care, greeted the Commissioners and said, “This is an agreement with SRS to provide certified match or state general funds to match the federal portion of Medicaid reimbursement that we receive. The amount provided is based on a formula and it’s partially determined by past Medicaid billing. We’re recommending that you approve the agreement.”

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Chairman Sciortino said, "Thank you."

MOTION

Commissioner Norton 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	Absent
Chairman Sciortino	Aye

Chairman Sciortino said, "Next item please."

2. AGREEMENT WITH CITY OF WICHITA, KANSAS AND WICHITA TRANSIT TO PROVIDE TRANSPORTATION SERVICES RELATED TO THE ACCESS TO JOBS PROGRAM.

Ms. Cook said, "Commissioners, this is an agreement with Wichita Transit, City of Wichita that allows us to pay a flat rate of nine dollars one way each way for any cab ride that our Community Support Services consumers take to work, to job interviews or to any job-related training. The rate represents an average saves of about three dollars per ride that we would normally be paying if we used regular cab vouchers. From November of 2005 to June of this year our consumers utilized this service 646 times, for a monthly average of about 80 rides. We're recommending that you approve the agreement."

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

MOTION

Chairman Sciortino moved to approve the Agreement and authorize the Chairman to sign.

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Commissioner Norton seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Burnett	Absent
Chairman Sciortino	Aye

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

G. REPORT OF THE BOARD OF BIDS AND CONTRACTS' REGULAR MEETING OF AUGUST 17, 2006

Mr. James McComas, Senior Purchasing Agent, Purchasing Department, greeted the Commissioners and said, "The meeting of August 17th, 2006 resulted in four items for your consideration.

**1) STREET IMPROVEMENTS- PUBLIC WORKS
FUNDING: PUBLIC WORKS**

Item one, street improvements for Public Works. Recommendation is to accept the low bid from Cornejo and Sons in the amount of \$556,659.25.

**2) INFLUENZA VACCINE- HEALTH DEPARTMENT
FUNDING: NIJ-DNA CAPACITY ENHANCEMENT**

Item two, influenza vaccine for the Health Department. Recommendation is to accept the quote from McKesson Medical for an initial purchase of \$189,363.

**3) PSYCHOSOCIAL TREATMENT- COMCARE
FUNDING: COMCARE 9MEDICAID REIMBURSABLE)**

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Item three, psychosocial treatment for COMCARE. The recommendation is to accept the proposal from the Urban League of the Mid-Plains and Behavioral Link Division of Job Readiness Training and execute contract with each for one year, with two one-year options to renew.

**4) FINANCIAL PROFORMA FOR THE SEDGWICK COUNTY DOWNTOWN ARENA
FUNDING: DIVISION OF FINANCE**

And item four, financial proforma for the Sedgwick County downtown arena for the Division of Finance. The recommendation is to accept the proposal from Stafford Sports LLC in the amount of \$35,000. I would be happy to answer any questions and recommend approval of these items.”

Chairman Sciortino said, “I don’t see that there’s any questions, so commissioners what’s the will of the board from this report from the Board of Bids and Contracts?”

MOTION

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

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	Absent
Chairman Sciortino	Aye

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

CONSENT AGENDA

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H. CONSENT AGENDA.

- 1. Budget line item adjustments (nine) for programs, to be submitted to the State Juvenile Justice Authority.**
- 2. Lease Amendment with Nordyke Ventures, L.L.C. for space at 4343 North Oliver, Wichita, used by the Health Department for its Integrated Family Health services.**
- 3. Real estate purchase contracts and cross-access agreements with Utility Contractors, Inc. and Martin K. Eby Construction Co., Inc. for vacated alley right-of-way for use to support the construction of the new Public Safety Center located at 714 North Main Street, Wichita.**
- 4. Market pay adjustment for an ERP Analyst.**
- 5. Agreements (six) with ERP Analysts providing employment terms and conditions regarding development and retention.**
 - Lunda Asmani
 - Daryl G. Gardner
 - Brian Higgins
 - Lacy Litton
 - Philip Ross
 - Kalise Smith
- 6. Agreements (three) for Sedgwick County to provide funding.**

• Wichita Festivals - Flight Festival:	\$25,000
• Visioneering Wichita:	\$50,000
• Kansas African American Museum - Summer Youth Art Academy:	\$2,500
- 7. Authorization for Sedgwick County's Chief Financial Officer and/or designees to take actions as may be needed to implement the Kansas Affordable Airfares Program, including but not limited to, establishment of accounting funds and accounts, creation of budgets, acceptance of funds, and issuance of payments to**

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REAP, AirTran and other entities.

- 8. Adjustment to the COMCARE Staffing Table to delete one part-time Case Management Specialist position, B217; and one full-time Case Management Specialist position, B217; and to include one Senior Social Worker position, B322.**
- 9. Second quarter range reallocations.**
- 10. Plat.**

Approved by Public Works. The County Treasurer has certified that taxes for the year 2005 and prior years have been paid for the following plat:

Paradise Acres Addition

- 11. Order dated August 15, 2006 to correct tax roll for change of assessment.**
- 12. General Bills Check Register(s) for the week of August 16 – 22, 2006.**

Mr. William P. Buchanan, County Manager, greeted the Commissioners and said, “You have the consent agenda before you and I would recommend you approve it.”

MOTION

Chairman Sciortino moved to approve the consent agenda as presented.

Commissioner Norton seconded the motion.

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

VOTE

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

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Chairman Sciortino said, “Thank you very much. Commissioners, that comes to the end of our items. Is there anything under ‘other’ that you all would like to discuss before we adjourn this meeting and open up the fire district meeting? Commissioner Norton.”

I. OTHER

Commissioner Norton said, “Well last night Commissioner Unruh and I and Manager Buchanan made it to the Metroplex for a presentation on neighborhood revitalization, a little bit of discussion about prisoner reentry, but major discussions about how to revitalize neighborhoods and I thought it was provocative and interesting. Sponsored by the City of Wichita, but I’m glad that we went and saw what they’re doing and what they’re projecting to do in the future, with some push towards neighborhood revitalization and cleaning up maybe some blighted areas within the city limits of Wichita. I don’t know if Commissioner Unruh would have any comments along those lines too, but I thought it was pretty good information.”

Commissioner Unruh said, “I would just add that there were very substantial success stories that the presenter brought to us from communities all across the United States, a great idea. The devil is always in the details, how do you get from here to there, and you know it would take a substantial amount of partnerships, people coming together in order to make that happen, but things are doable. We just need to see how it plays out.”

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

Chairman Sciortino said, “Okay, I don’t see that there’s anything else to come before ‘others’ so I will adjourn the regular meeting.”

J. ADJOURNMENT

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There being no other business to come before the Board, the Meeting was adjourned at 11:45 a.m.

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

BEN SCIORTINO, Chairman
Fifth District

LUCY BURTNETT, Chair Pro Tem
Fourth District

DAVID M. UNRUH, Commissioner,
First District

TIM R. NORTON, Commissioner
Second District

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THOMAS G. WINTERS, Commissioner
Third District

ATTEST:

Don Brace, County Clerk

APPROVED:

_____, 2006