

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

### **REGULAR MEETING**

**November 28, 2007**

The Regular Meeting of the Board of the County Commissioners of Sedgwick County, Kansas, was called to order at 9:00 A.M., on Wednesday, November 28, 2007 in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman David M. Unruh, with the following present: Chair Pro Tem Thomas G. Winters; Commissioner Tim R. Norton; Commissioner Kelly Parks; Commissioner Gwen Welshimer; Mr. William P. Buchanan, County Manager; Mr. Rich Euson, County Counselor; Mr. Robert W. Parnacott, Assistant County Counselor; Mr. Raymond Vail, Director of Finance, Department on Aging; Mr. Mark Masterson, Director, Department of Corrections; Mr. David Spears, Director, Bureau of Public Works; Ms. Iris Baker, Director, Purchasing Department; Ms. Kristi Zukovich, Director, Communications; and, Ms. Lisa Davis, Deputy County Clerk.

### **GUESTS**

Mr. Thomas Turner, 2205 E. 77<sup>th</sup> St. N., Valley Center, Ks.  
Mr. James M. George, 2005 E. 77<sup>th</sup> St. N., Valley Center, Ks.  
Ms. Paula George, 2005 E. 77<sup>th</sup> St. N., Valley Center, Ks.  
Kathleen Wynn, 7642 N. Hydraulic, Valley Center, Ks.  
Ms. Gwendolyn F. Mukes, 7722 N. Hydraulic, Valley Center, Ks.  
Mr. Jack Whitson, City Administrator, City of Park City.  
Ms. Trena Hodges, 7217 S. Hillside, Wichita, Ks.  
Ms. Shelly Dunnegan, 4640 E. 63<sup>rd</sup> St. S, Derby, Ks.  
Mr. Charlie Hawthorne, 6209 S. Holyoke, Derby, Ks.  
Mr. Robert Scradler, 4415 E. 63<sup>rd</sup> St. S., Derby, Ks.  
Ms. Joan Heffington, 7145 Blueberry Ln., Derby, Ks.  
Ms. Celia Geering, 6802 S. Oliver, Derby, Ks.  
Ms. Deb Hamlin, 6401 S. Oliver, Derby, Ks.  
Ms. Mary Jo Hill, 6701 W. Maple, Wichita, Ks.  
Mr. Steve Wolke, 6250 E. 55<sup>th</sup> St. S., Derby, Ks.  
Lieutenant Colonel Jeffrey N. Smith, Director of Staff, McConnell Air Force Base.

### **INVOCATION**

The Invocation was led by Rick Cline of Central Church of Christ, Wichita.

### **FLAG SALUTE**

**Regular Meeting, November 28, 2007**

**ROLL CALL**

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

**CONSIDERATION OF MINUTES:** Regular Meeting November 7, 2007

The Clerk reported that all commissioners were present at the regular meeting of November 7, 2007.

**Chairman Unruh** said, "Commissioners, you've had the opportunity to review the minutes of November 7<sup>th</sup>. Are there any additions or corrections?"

**MOTION**

Commissioner Welshimer moved to approve the minutes of the regular meeting of November 7, 2007.

Commissioner Parks seconded the motion.

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

**VOTE**

Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Parks	Aye
Commissioner Welshimer	Aye
Chairman Unruh	Aye

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

**Regular Meeting, November 28, 2007**

**PUBLIC HEARING**

- A. PUBLIC HEARING TO CONSIDER WHETHER THE CITY OF PARK CITY HAS PROVIDED SERVICES AS SET OUT IN THE SERVICE PLAN PREPARED FOR THE ANNEXATION ORDINANCES NUMBER 582-2002; 583-2002; 584-2002 AND 585-2002.**

**POWERPOINT PRESENTATION**

**Mr. Robert W. Parnacott**, Assistant County Counselor, greeted the Commissioners and said, "This is one of our post-annexation hearings that we have, by statute, five years after annexations have been conducted by a city that had to prepare a service plan in connection with the annexation. Usually that involves a unilateral or non-consensual annexation.

We've got a map up on the screen that shows you the area green I'm moving my hand over is Park City of course. This right here is the coliseum area. The annexation areas are outlined in red. It's a series of parcels in several different locations, because we had several different ordinances involved.

The purpose of the hearing is to determine whether they provided the services set out in the service plan, as required by statute. We sent out notices to all the landowners. This was originally scheduled for October 24<sup>th</sup>. Because we had that meeting canceled, we had to reschedule it, we sent out new notices to everybody, including the city. We only received one response . . . well, we received two or three responses to our mailing. One indicated satisfaction with services. Typically, we don't get those in these annexation cases. That was kind of unusual, but we did have somebody that was very happy with the services they were getting. One response had kind of a general 'we're not getting any services' complaint. One person had some inquiries about sewer and the cost of extending sewer, but that really isn't related to the issue today, as I'll go through in a minute, sewer wasn't one of the services that they guaranteed providing upon annexation. It was going to be done by petition.

Your service plan schedule is . . . an example of that is at page 22 of your backup, this was a service plan that basically said upon annexation they were going to go ahead and maintain the local streets and then they were going to provide the typical city services you would expect, police, code enforcement, planning those kinds of things. Beyond that, it was pretty much up to the residents to petition for additional services such as water, street improvements, street improvements as I mentioned or street lights, so there wasn't any guarantee that they were going to put those in. That was up to requests, and we did not get any inquiries or responses from people who claimed that they had asked for service and weren't getting it.

## Regular Meeting, November 28, 2007

So that kind of summarizes where we're on the state of the information I have. This will be a public hearing so at this point I would, unless you have some questions for me, I'd recommend we open the public hearing. We've got some representatives of the city here. There may be people in the audience that want to speak. We'll hear their comments and then we can proceed with closing the hearing, making whatever finding or taking whatever action would be appropriate."

**Chairman Unruh** said, "All right, thank you Bob. Commissioners, before we open the public hearing, are there any questions directly of Mr. Parnacott? I see none, so at this time I will open the public hearing and ask if there are citizens from this area who want to speak in regard to this issue?"

**Ms. Gwendelyn F. Mukes**, 7722 N. Hydraulic Ave., Valley Center, Ks., greeted the Commissioners and said, "The southeast corner of 77<sup>th</sup> and Hydraulic Avenue. I jokingly say that I am meat of the sandwich, with all the closed business, Wild West World to the south of me, Optima exactly to the west of me, across the street from me and the Wichita Greyhound Dog Track to the north of me.

I stand before you today, asking that you rescind the unwanted annexation of our land by Park City. Why? As I stated in my protestation six years ago at their board meeting, we are already a self-sustaining community and they could not and did not offer us any amenities that we did not already have as a rural status.

The letter that was sent by Park City did not ask us to reply. I thought that this would be my form of reply today. It was never, ever stated in writing to my knowledge that it was our responsibility to request services since they were taking our taxes. They have not provided us with any services that they said they would. I visited Mr. Jack Whitson on two occasions to see when sewer service would be provided to our immediate area. I was told verbally by Mr. Whitson within a couple of years. Well the housing development never materialized on the northeast section of 77<sup>th</sup> and Hydraulic.

While supposedly a new 3.5 mile interceptor was built to service areas north of 69<sup>th</sup> Street to just north of 85<sup>th</sup> Street, Broadway to Hydraulic in 1999, none of us have ever benefited from that expansion. We were also told that we could use their swimming pool. That was closed. So my question is very, very simple. What have we received for our taxes going up? A closed swimming pool? No sewer system? How has Park City helped us, I ask. In fact, I perceive us as being a help to them to finance the failed investments, such as Wild West World, or should I say speculations, and Optima.

### **Regular Meeting, November 28, 2007**

In 2002, the percent change in the appraisal and assessment values of my property was 0%. In 2003, the percent changed with 9%, which is very substantial. So, after a serious review, commissioners, of what services they have not provided to our community I hope that you will reconsider us to remain rural status community. Thank you for listening to me.”

**Chairman Unruh** said, “Thank you, ma’am. Are there others that wish to speak? Excuse me just a moment. We have a question from Commissioner Welshimer.”

**Commissioner Welshimer** said, “Gwen, are you saying that since you’ve been annexed, you don’t have the possibility of having the city bring sewer to our property if you request it?”

**Ms. Mukes** said, “I was told that sewer, the sewer system would run east of my property to the north, to this new proposed housing development, which never materialized.”

**Commissioner Welshimer** said, “So . . . but if you wanted to pay for it, you could bring it in yourself.”

**Ms. Mukes** said, “I don’t know. Mr. Whitson and I never did get that far, because he told me that it was coming.”

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

**Chairman Unruh** said, “Any other questions? Commissioner Parks.”

**Commissioner Parks** said, “Then the difference in that would be considerable for a sewer line to go from where it now ends at the north edge of Park City’s core area, to your place, as opposed to if it would have gone to the development, the other people in the development would have helped pay for it also.”

**Ms. Mukes** said, “That’s correct.”

**Commissioner Parks** said, “Okay.”

**Chairman Unruh** said, “All right, thank you. Any other questions? All right, is there anyone else that wishes to speak?”

### **Regular Meeting, November 28, 2007**

**Ms. Paula George**, 2005 E. 77<sup>th</sup> St. N., Valley Center, Ks., greeted the Commissioners and said, "My husband Mike George here beside me is here also today. We live at 2005 East 77<sup>th</sup> North in Valley Center, Kansas. And we are just east of Hydraulic, the second house east of Hydraulic on 77<sup>th</sup> Street, basically right behind Mrs. Mukes that just spoke. I am here today to request de-annexation of our property, due to the service plan of Park City not being met. I also am speaking on behalf of Katy Wynn, who lives at 7642 Hydraulic and next to her are Bob and Joan Orange at 7650 North Hydraulic. Mrs. Wynn is present this morning but doesn't really feel like speaking.

There again, the service plan that was provided, we have not requested for this water and sewer service and it definitely is because at the time we were annexed, Mr. Whitson told us that until the property is developed north of us, would we not be provided with any type of water or sewer service. Since our home was built, in 1990, we have been happy with the lagoon and the well service that we have at our house. As far as any other services being provided, as far as police protection, we had the Sedgwick County Sheriff's patrol. We were satisfied with that, had no problems. Not very often have I ever seen Park City Police patrol coming down 77<sup>th</sup> Street. To this day, I still see more Sedgwick County officers than I do Park City Police patrol.

Just recently, Mr. Knight, who owns lands, about I think 30-plus acres east of us, he recently went to Mr. Whitson and asked to be annexed because he felt like that was his only hope of ever being able to develop his acreage there. And he, there again, I spoke to him personally, told me that he felt like Mr. Whitson would be the only one that would really be able to help him in developing that land. But there again, he was also told that until a developer come through to want to develop that land, would he ever see any water or sewer services provided in that area also.

There again, as far as no economic development going to be going on in that area, as Mrs. Mukes has said, with everything that is closed down, I don't foresee if it's not happened in the last five years, I don't foresee it happening any time very soon that this property is going to be developed.

Our roads, they are maintained and provided by the county. We have received a cold mix road, topping on our road there, that had went from Hydraulic all the way over to Oliver Street. This had been in a five-year plan of Sedgwick County's back in 1990, when we bought our property. And I, to this date, don't believe it had anything to do with any kind of service plan that Park City had forthcoming. The county has provided that cold road all the way over from Hydraulic to 77<sup>th</sup> Street, from Hydraulic all the way over to Oliver, excuse me.

Once an overlay cap is done like that, they normally come with a final overlay of that, and we've

### Regular Meeting, November 28, 2007

never seen anything of that. Our road maintenance, it's done by the county. Our snow removal is done by the county. No street lights or improvement and there again, like I said, about police protection. So I am asking that you consider the deannexation of our property. In the meantime, our taxes have went up anywhere from the first year of \$450 to this year's taxes was a \$700 a year tax increase and I don't see that we've received any services for these taxes. Thank you very much."

**Chairman Unruh** said, "All right, thank you. We do have a question, if you want to . . . Commissioner Parks."

**Commissioner Parks** said, "Both you and Ms. Mukes said, when you said your address, it was Valley Center. We want to make sure that people know that that is a rural route from the post office in Valley Center."

**Ms. George** said, "Right, correct. Yes, we have a Valley . . . We're in Valley Center School Districts and we have Valley Center mailing address and a Valley Center phone number, but we are annexed. At the time we were annexed, Park City told us their main reason was because they were wanting to square up their boundaries. I had contacted many cities around us, asking if they had squared up boundaries, and none of them said 'No, that wasn't a concern of theirs' but at the time we were annexed, Park City was wanting to square up their boundaries and that's their main reason why they were wanting to annex us."

**Commissioner Parks** said, "Where is the nearest fire plug to your house, also? Do you know? Is there one within 300 or 600 feet of your house?"

**Ms. George** said, "I think . . . no, there's not. We are getting the new Sedgwick County fire department there, just east across from the Greyhound Park but that will be our closest."

**Commissioner Parks** said, "And do you have any streetlights or has there been any streetlights . . .?"

**Ms. George** said, "No, we have no streetlights. We haven't requested them. You know, it was great when everything was really going strong up in that end and you know, in five years we've not seen any of this and now with everything kind of failing, I can't imagine it happening in the next five years either. Thank you very much."

**Chairman Unruh** said, "Thank you. Is there any other comment from citizens?"

## Regular Meeting, November 28, 2007

**Mr. Mike George**, 2005 E. 77<sup>th</sup> St. N., Valley Center, Ks., greeted the Commissioners and said, "They annexed me with the promise that I could hook onto their water and their sewer, but as I speak their water and sewer are no where near me. They tell me when the land north of me sells, then the water and the sewer will be there. It sold about a year ago, to go right back up for sale, so whoever buys this property, as far as I'm concerned is going to determine what goes in there. They say there's going to be a housing development, there's going to be commercial development. But as I say, whoever buys that land to actually invest in development will decide what goes in there.

It's like they don't lie to you, but they don't tell you the complete truth. When they tried to annex the dog track, I attended the hearing. They said it was to square up their boundaries. That's the same thing they told me six years ago. The media reported the annexation was denied over technicality and they're informing the dog track of their intent. Why haven't they decided to do it again, the right way? Maybe it's because they heard a rumor that gambling is coming to the area, but we all know what the dog track looks like today.

They give out ten-year tax abatements to any and all businesses that choose to locate in their area of influence. Give us the tax abatement instead of using our money for their growth projects. I can count on one hand the number of times I've seen Park City police come down 77<sup>th</sup> Street, checking on the area. All they have to do is drive three-eighths of a mile, down our cul-de-sac, turn around and come back. I see them out sitting on the median at I-135 more than protecting our area. If you want to be a Highway Patrolman, join the Highway Patrol.

At our annexation hearing, we were each given three minutes to speak on why we were for or against annexation. You can imagine the boredom after everyone pretty much repeated the same thing, we don't need your water or sewer, the sheriff does a fine job, we don't want higher taxes, so I decided to ask a few questions. I was quickly informed that I didn't have the right to ask questions. I just wanted some information about this city that was about to invade our space. After my third question, I wasn't answered, I was told to step down from the podium. I remember the glare of the police officer in attendance, that followed me all the way back to my chair.

When a government doesn't have to explain itself to its citizens, then there's something wrong with that government. We're a small group of people who were invaded. We could go to Topeka and campaign for better annexation laws, but I doubt that we would have enough clout to change things. If a city wants to annex their rural citizens, then they should be prepared to get them those city services within one year, or two at the most, instead of whenever it's convenient for them. You as a commission will have more pull and clout than we ever could to send a message to Topeka, to the surrounding cities, let us go back to the county where we belong. Thank you."

**Chairman Unruh** said, "Thank you sir. Is there any other citizens who wants to speak?"

**Mr. Thomas Turner**, 2205 E. 77<sup>th</sup> St. N., Valley Center, Ks., greeted the Commissioners and said,

## Regular Meeting, November 28, 2007

“I live at 2205 East Hydraulic Street North [sic], just to the east of the two people that spoke before me. And I just would like to say that my taxes have went up over \$500 a year and I have nothing to show for it. The neighbor across the street did ask for streetlights to be installed. There are no street lights. The Park City police does not patrol 77<sup>th</sup> and it’s like a racetrack out there sometimes. There’s people doing 60 miles an hour in a 40 mile per hour zone and no one ever does anything about it. Just mostly in summary, I’d just like to say that I feel like I’m paying tax money for nothing, for absolutely nothing at all, and I request to be un-annexed or de-annexed.”

**Chairman Unruh** said, “All right, thank you. Would you state your address again?”

**Mr. Turner** said, “2205 East 77<sup>th</sup> Street.”

**Chairman Unruh** said, Thank you sir. Is there another citizen who would like to speak? I don’t see anyone beginning to move, so perhaps representatives from Park City, would you want to make a statement?”

**Mr. Jack Whitson**, City Administrator, City of Park City, greeted the Commissioners and said, “We have provided . . . there are several tracts involved here and I’ll briefly go through what we have done, beyond what our plan says. I think we have met every condition of our service plan, but we went actually beyond of what our service plan has stated.

There is ’05 tracts associated with annexation along 85<sup>th</sup> Street and Broadway. We provided free waterlines for that entire area. Also they have access now to sewer and it did not cost them a dime. City paid for 100% of it. We also rebuilt recently 85<sup>th</sup> Street and Broadway to the interstate, here within the last month. It cost the city \$80,000. The water line cost the city over a million, three to put in. Now along Broadway, we did not put fire hydrants every 600 feet. A lot of the east side of Broadway is vacant and until it starts to develop and we know strategically where to put the fire hydrants, we won’t put them in. We did put one in just south of 81 Speedway, which basically is in the middle of tract 1. The residents along that tract are off the road 600 to 800 feet. So even if we put a fire hydrant in front of their house, the pumper truck would still have to go in and put a fire out.

Most of the arguments you hear today are on Hydraulic and I’ll address those issues. There is water currently that these residents do not pay for in Hydraulic that they have access to. There is a fire

## **Regular Meeting, November 28, 2007**

hydrant at 77<sup>th</sup> and Hydraulic, which also help assist them in keeping their insurance rates low. I'm not going to point out specific properties, because I don't want to embarrass anybody, but our police department has serviced five calls in that particular area. One lady had a fire at her house and it was our fire hydrant that the fire department hooked on to put the fire out. I would think that was a pretty significant benefit.

As far as the road on 77<sup>th</sup>, the county did put that in but we did participate. Talk to Carolyn McGinn, who was commissioner at that time. The county was going to stop at the bridge. She asked if we wanted to participate and they would go ahead and put the road in and we ended up paying \$20,000 to assist in the paving of that road.

Here again, I'm not going to mention any names, but I do know for a fact that one of the resident's kids participated many, many years in our ball program. Our swimming pool has not been closed in the last five years. It's still open and will remain open until we build a rec center.

As far as our taxes increasing, we have no control over that. That's an appraiser situation. Our mill levy has not went up more than one or two mills in the last five years, so the bulk of that cost has been appraisal.

As far as bringing water and sewer over to the east, the sewer costs just to bring it to the . . . there's a creek kind of dividing this property on Hydraulic East, it would cost \$350,000 to bring it from across Wild West World over to that area. Our intent to do that one day, but we don't see that these residents could afford that kind of money to be assessed towards them to build that sewer line. So what we like to do, to keep the residents from having to pay special assessments, is have a big project to put those improvements in, and then allow these residents to tap onto the system. That way, they get the benefit and they don't have to pay for it.

The Optima Bus, we had within the last week three buyers for Optima Bus, so Optima Bus is going to be purchased here before the end of the year, I can guarantee you that, so that's looking up. The quarter-section, I understand, is going up for auction. I talked to a very large housing developer. He's interested in purchasing it. We don't want to, here again, assess those properties for a water line if we can get it put in at someone else's cost and preferably by a developer and so that's why we haven't went ahead and moved. They have requested it, so we didn't feel like there was a urgency in going ahead and putting it in at this time.

As you well know that when you put in utilities you need to plan for what's going to be put in and that takes a lot of thinking about where you run the lines and so forth and we don't want to prematurely run utilities and then find out that it's not where they need to be. But we believe that

## Regular Meeting, November 28, 2007

we've provided them police protection, we have worked with the county on snow removal. That might be a section that we agreed to take . . . let the county maintain the snow removal and we took another section for the county. Because of the interruptions in the city limits, sometimes it's better for us to handle a portion of the county and the county handle a portion of our road, us working together, but any way the benefit is there.

So unless there's any specific questions, I'd be more than happy to answer."

**Chairman Unruh** said, "All right, thank you. We do have a question from Commissioner Parks."

**Commissioner Parks** said, "Jack, on your snow removal, is there a document, a local agreement?"

**Mr. Whitson** said, "Yes, there is. We have an agreement with Sedgwick County and that outlines what roads they will take and what roads we will take."

**Commissioner Parks** said, "What part of that were you unsure about? You said that you were not sure if it was getting . . ."

**Mr. Whitson** said, "I'm not sure that . . . I know that the snow removal is taken care of, and if Sedgwick County takes care of it, it's by agreement with us and we're taking care of part of Sedgwick County, okay. So in essence, I don't know if that's a section that we do or a section that the county does and we take another county section, I'm not for sure."

**Commissioner Parks** said, "Was the . . .?"

**Mr. Whitson** said, "I do know that we mow it."

**Commissioner Parks** said, "Was the sewer promised to the people at a lower rate when the proposed addition was to go in up there?"

**Mr. Whitson** said, "No, I was up front and I think you heard today that I told them that once this land develops to the north, we will work with them to get the sewer in. If they want it earlier and are willing to pay the price, you know certainly we will be willing to do General Obligation Bonds

### **Regular Meeting, November 28, 2007**

for them, but I think it's going to be more cost effective for them to wait till a developer comes in and develops the land to the north. That way the cost is going to be very much significantly lower than if they tried to do it on their own. And we never promised them water and sewer and I think they've indicated that we haven't did that."

**Commissioner Parks** said, "Now the water, being that there is a fire hydrant at 77<sup>th</sup> and Hydraulic, that would be a little bit easier to tap into and make a water district out of that? Is that a . . .?"

**Mr. Whitson** said, "Yes, the plans would be to hook in at Hydraulic and run a line east. The people along Hydraulic and adjacent to Hydraulic already have water. All they have to do is pay the connection fee and they have water. It's the properties the George's and those to the east that don't have water service currently."

**Commissioner Parks** said, "Now the rural water doesn't enter into that anywhere?"

**Mr. Whitson** said, "Well I don't know if the rural water district line runs down 77<sup>th</sup> or not for sure. I do . . . we have talked to several residents out in the county. We recently put in a water line on Hillside for some people. The rural water district, there are five houses down there. The rural water district wanted \$350,000 to give them water service for five houses and we stepped up to the plate and provided them water. So yeah, I don't know what the situation is with Rural Water District #2, but what we were told, it's quite expensive to have them extend water."

**Commissioner Parks** said, "Did you have the pool closed for an extended time for cryptosporidium or . . .?"

**Mr. Whitson** said, "No, we talked about it last year, about closing the pool down because it was costing us \$21 per patron and we felt like that we could probably put people on a bus and send them to Derby cheaper because of the cost. But the community met, we discussed it, we decided to leave the pool open until we could build a rec center."

**Commissioner Parks** said, "So on the streetlights, was there some problem with the streetlights also?"

**Mr. Whitson** said, "Usually, most of those requests come through me, and I don't remember ever getting a request. Every request we get that is reasonable, we'll put streetlights up."

**Commissioner Parks** said, "Does your city have a natural gas franchise?"

**Mr. Whitson** said, "No we do not."

## Regular Meeting, November 28, 2007

**Commissioner Parks** said, "The recent franchising you're doing with the trash, that would be afforded to these residents also?"

**Mr. Whitson** said, "Yes, yes sir."

**Commissioner Parks** said, "I think that's it."

**Chairman Unruh** said, "All right, thank you. We have a question from Commissioner Welshimer."

**Commissioner Welshimer** said, "Well I'm just a little, need to clear some things up. The people who testified that they have no sewer, no water, no streetlights, no services. Are you saying that they do have water from the City of Park City?"

**Mr. Whitson** said, "Those adjacent . . . of course the tract . . . I don't know if you can see from this map, if I could approach the bench, I'd give you this map, so you could see if you wanted."

**Commissioner Welshimer** said, "I'd like to see it, yes. So how many square miles all together involved in this annexation?"

**Mr. Whitson** said, "I don't know the square miles. I would think less than half a square mile total. Now that little area on . . . a lot of the annexation were along Broadway and 85<sup>th</sup>. This is just a small portion of it. Those that are adjacent to Hydraulic do have water in front of their property. They just have not elected to connect onto it. So all they would have to do is pay a small connection fee and run the line from their house to the waterline. Those east of 77<sup>th</sup> it would require a main extension."

**Commissioner Welshimer** said, "So this is a relatively few number of homes in here that you've annexed."

**Mr. Whitson** said, "Yes, yes ma'am. We have now squared it off with Mr. Knight's annexation that has squared off our boundaries there. If you look at your map on the wall there, there's kind of a . . . kind of going around gap type thing and Mr. Knight came in, requested annexation and that squared that portion of the city limits off."

**Commissioner Welshimer** said, "Do you know how many homes all together, let's say how many properties?"

**Regular Meeting, November 28, 2007**

**Mr. Whitson** said, "Let's see, one, two, three, four, five, six, seven, eight, nine, ten, ten properties."

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

**Chairman Unruh** said, "Thank you, Commissioner. Any other comment or question for Mr. Whitson? Commissioner Parks."

**Commissioner Parks** said, "Jack, this did show on the map, on page 25 that I have, eleven properties. Could there be eleven?"

**Mr. Whitson** said, "I may have miscounted. I was trying to count them off of . . ."

**Commissioner Parks** said, "And that was including one north of 77<sup>th</sup>, east of Hydraulic."

**Mr. Whitson** said, "Yes, I forgot to count that one."

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

**Chairman Unruh** said, "Thank you. Any other questions?"

**Commissioner Parks** said, "Would now be the time for questions for Mr. Parnacott?"

**Commissioner Winters** said, "I have one question just on this same subject. When you talking about the number of residents, is that in the total, all of the tracts, or in just this one down there?"

**Mr. Whitson** said, "Just that one."

**Commissioner Winters** said, "Just this one near 77<sup>th</sup> and Hydraulic. Right, thank you."

**Chairman Unruh** said, "All right, thank you commissioner."

**Mr. Whitson** said, "With waterlines costing \$35 a foot, you could see it would be quite expensive for them, on their own, to pay for a water line. What we want to do is get people on the other side when they develop to handle the bulk of that cost on a per rata basis and . . . but if they want it, we

## Regular Meeting, November 28, 2007

will provide it, but it's going to be awful expensive and we don't think that they really want it that bad to go into a benefit district with a very high rate of cost. So we're looking after their interests by not going ahead and pushing this forward and forcing them into a benefit district."

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

**Commissioner Welshimer** said, "Yeah, just one more question. If you did not annex this area, are there services provided there now that would be lost to any of these 11 property owners?"

**Mr. Whitson** said, "Well, they wouldn't have access to our water."

**Chairman Unruh** said, "Excuse me ma'am, but we have to have some sort of order here and so we're directing questions to Mr. Whitson."

**Mr. Whitson** said, "It's park city water out in Hydraulic, that's for sure, and I think David Spears will attest to that, because we service the Coliseum and the Wichita Greyhound Park, Optima Bus, it's our water, unless Valley Center has transported water over the top of us and provided them water, we're not aware of it."

**Chairman Unruh** said, "All right, thank you. Commissioner Welshimer, any more?"

**Commissioner Welshimer** said, "I'm through."

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

**Commissioner Parks** said, "Well might clear that up. I would like to ask if you're sure that it's not Valley Center Rural Water District?"

**Mr. Whitson** said, "It could be, it could be. I don't know where Rural Water District 2 has their lines, so it could be rural water district."

**Commissioner Parks** said, "I'd like to see the people be able to reply to that, if they get a Valley Center Rural Water District later on here, but I did have another question for Mr. Whitson. How did you arrive at the . . . over on 77<sup>th</sup>, I don't see anybody here from Broadway at all and so I think

**Regular Meeting, November 28, 2007**

those are all probably very consensual over there, but in . . . near on 77<sup>th</sup> and Hydraulic here, how did Park City arrive in getting past these larger lots? Was that by consent from those land owners, or how did that happen?”

**Mr. Whitson** said, “We were on the west side of Hydraulic and we were touching them.”

**Commissioner Parks** said, “At 69<sup>th</sup>?”

**Mr. Whitson** said, “No, it’s at 77<sup>th</sup>. That parcel of land where Optima Bus is has been in Park City for quite a few years and we were touching that area.”

**Commissioner Parks** said, “So these larger tracts that we see on the west side of Hydraulic, south of Optima Bus, were by consent or is that a . . .?”

**Mr. Whitson** said, “By consent, and also on the north side of 77<sup>th</sup>, all that land was in Park City, the acreage here we’re talking about being developed, that whole quarter-section there was a consent annexation which was right across the street from those folks on 77<sup>th</sup>. So we were touching them and in fact the property on the north side of 77<sup>th</sup> was surrounded on three side by Park City at the time we annexed it.”

**Chairman Unruh** said, “Thank you. I don’t see any more questions for you, Mr. Whitson, so appreciate that. One person here, it looked like, has not spoken. Did you want to make a comment while we’re still in the public hearing? If you would please.”

**Ms. Kathleen Wynn**, 7642 N. Hydraulic, Valley Center, Ks., greeted the Commissioners and said, “And Mr. Whitson is mistaken. That water, I am hooked up to the rural water and it’s Valley Center District #2. I have been hooked up to that for years. I can’t tell you the exact date of when we did that, but also the property at 7650 North Hydraulic, which is owned by Bob and Jan Orange, that is also hooked up to that same water line and I think, if I’m not mistaken, that is where the water line ends is right there at the property at 7650, but that is not Park City water, that is Valley Center and that’s always been Valley Center. When it came to us, it was brought through by Valley Center Water District and not Park City.”

**Chairman Unruh** said, “All right, thank you. I don’t see any questions, so appreciate your comment. We are still in the public hearing and I don’t see anyone else asking to speak, so at this time . . . okay, excuse me. Now you have had one opportunity to speak, is that correct? We’ll give

## Regular Meeting, November 28, 2007

you one opportunity to ask a question and then we'll close the hearing but you'll have to come to the podium."

**Mr. Turner** said, "I would just like to add that so much was depending on the property to the north of me being turned into a housing development and that has been pending all of these years and I've not seen one single house go up over there and I'd just like to say at such time that there is a housing development that does go up, then maybe we should be annexed at that point, but with nothing over there, and with no services, I see no reason that we need to remain in Park City."

**Chairman Unruh** said, "All right, thank you. All right, I think everyone that has asked to speak has had an opportunity to speak, so at this time I will close the public hearing and will restrict the conversation to the bench, and commissioners, if you've got further questions for Mr. Parnacott. Commissioner Parks."

**Commissioner Parks** said, "Mr. Parnacott, can this be . . . certain properties set aside out of this and still maintain the action today, or if we were going to let's say look at the 11 properties over by Hydraulic differently than Broadway and maybe this is something for counsel to discuss. I hadn't thought about this possibility before now, so . . ."

**Mr. Parnacott** said, "No, your challenge under the statute and your role to play is to determine whether services were provided as set out in the service plan. I'd also make a comment that the service plan is not intended to be a strict requirement or a straightjacket for the city. Market conditions change, things happen, so we have to look at it with some flexibility for the city to manage their services and how they provide them. But having said that, if you do find, and you could find for example that they have not provided certain services to one of the annexations and you could certainly make your de-annexation finding to that, although that de-annexation finding is not immediate. What you do is you make a finding that the services were not provided for a particular area and then the city has two and a half years to provide those services. At the end of that two and a half years, if they still haven't provided the services, then it's up to the land owners to then petition you for another hearing in which you would make your final de-annexation finding and at that point, it would be . . . that property could be de-annexed but that's . . . you have to make some other findings at that time as to whether it would be injurious to the city as a whole or to the people involved and there's some other concerns that you would raise at that time."

**Chairman Unruh** said, "Is that all commissioner? Commissioner Welshimer?"

**Commissioner Welshimer** said, "We are supposed to find whether or not the city has provided the services according to their plan?"

**Regular Meeting, November 28, 2007**

**Mr. Parnacott** said, "According to their plan."

**Commissioner Welshimer** said, "And do you . . . and you say that is a flexible situation. Do you think they have provided the services according to the plan?"

**Mr. Parnacott** said, "From what I've heard today, I would have to say yes, and again, that's premised on the fact that this service plan really had very limited services that they said they would definitely provide at time of annexation. And we've heard testimony that supports they did provide services such as police, recreational facilities, those kinds of services, those general services and we heard testimony that they've done some work on the streets, so having heard that, then that does meet that minimum test and that's a very minimum test, but that is my recommendation at this point."

**Commissioner Welshimer** said, "It is very minimum. And the pool was already there, wasn't it?"

**Mr. Parnacott** said, "The pool?"

**Commissioner Welshimer** said, "That's the recreation you're talking about?"

**Mr. Parnacott** said, "Yes, but again those services, upon annexation were made available to those residents to use but they don't have to use them. They can chose to go to the pool or not go to the pool. But again that's the theory behind the annexation and the service plan is the city says 'these are the services we're making available to you when you come into our city and that's what's made available. And if certain services are promise in the service plan and we heard some other discussion about whether or not sewer would be provided based on some development that might happen, but that's not in the service plan. Anything that was said outside of the service plan isn't within your purview to make a decision whether or not it was provided. We're looking strictly at the service plan."

**Commissioner Welshimer** said, "So do we have some legal requirement, some way that we have to go, legally? I mean, do we have a choice here?"

**Mr. Parnacott** said, "Well you certainly have a choice. You heard testimony from some people that felt they weren't getting services, and so it's up to you to determine, based on what you've heard from both the representatives of the city and the landowners and what you've read . . . and

## Regular Meeting, November 28, 2007

you can even talk about your personal knowledge of what services are provided in that area, if you're aware of any services being provided and incorporate that into your findings. So you do have the discretion or the ability to make a finding either way based on the record."

**Commissioner Welshimer** said, "Well it's a sad situation for Park City. They've just struggled so hard, struggled with every project they were doing and all of them just seemed to fall by the wayside. And I certainly sympathize with the city council of Park City in their efforts to grow their city. It's kind of a difficult situation, where each of those cities up there annex. I don't know how that came to be and of course our Coliseum area is right in the middle of all that and it's certainly right in the middle of this area we're talking about here.

But I have a hard time justifying the tax situation on these 11 property owners, when they're not . . . I mean, there's no . . . apparently no future, immediate future in services being provided, a difficult choice. Thank you."

**Chairman Unruh** said, "Thank you commissioner. Commissioner Parks."

**Commissioner Parks** said, "If this doesn't pass today for any or all portion of it, they would still be in the City of Park City for two and a half years. Is that correct?"

**Mr. Parnacott** said, "At a minimum."

**Commissioner Parks** said, "At a minimum. I did want to say to Park City that I wanted to commend them on getting their fire plugs and their water lines up to that area. That's . . . some cities don't do that and they have been very aggressive about doing that and I think that's what a city is about. What disturbs me a little bit is the rural water situation and some of those people in these 11 properties having rural water and maybe not all the information together on that. Thanks."

**Chairman Unruh** said, "All right, thank you. It seems to me, and Bob let me just make an editorial comment, you correct me if I'm wrong, but it seems to me that many of the arguments we've heard today really lend themselves to arguments about whether or not the annexation should have been proposed or adopted in the first place, initially, whether or not these citizens were going to get the services that they thought were appropriate for being included in the city and were appropriate relative to their taxes that they were going to be paying. But that's not our question today. Our question today, under the rules that we're operating and annexation rules, is whether or not Park City has provided the services as described and outlined in their annexation plan.

And if those plans were thin, were not substantial or whatever at the outset, that's not under our responsibility to determine right now. Our responsibility is simply to determine under the annexation plans and the service plan they provided, have they complied with that plan."

## Regular Meeting, November 28, 2007

**Mr. Parnacott** said, "Yes."

**Chairman Unruh** said, "All right, so I don't disagree with some of the arguments of the citizens that perhaps what was expected and what was anticipated has not been delivered, but according to the service plan that we have to judge upon it appears that since there weren't very many restrictions or very many concrete plans in that plan, we don't have too much to judge on. I mean, they have complied with what the plan has set out. I'm perhaps not saying this very well, but they didn't have a very substantial plan to begin with and I think these citizens expected and anticipated more than the plan described, but our responsibility is simply to say 'did you comply with this plan as described'."

**Mr. Parnacott** said, "Yes."

**Chairman Unruh** said, "Okay, thank you. I just wanted to say as I understood it and you could correct me if I was wrong. So I think first of all is Commissioner Parks."

**Commissioner Parks** said, "You feel that they've provided the streetlights and residential water to this area?"

**Mr. Parnacott** said, "Well, there was no, again there was no mandate or statement that they would definitely provide water. They indicated they would provide water upon request of the petitioners and I have not heard anybody testify that they actually petitioned for water and did not receive it. As far as the streetlights, although the service plan which I think I say was at page 20 here in your backup, that's the kind of the short schedule indicates that streetlights would be provided upon annexation or that they would be proposed for the area. When you read back into the service plan, and let me find that real quickly, it indicates that the streetlights also are intended to be provided upon request only, so there was again no necessarily mandate or requirement that the city provide streetlights until they were requested and I don't know if we've really . . . I think Mr. Whitson testified that they have provided some streetlights upon request. He doesn't recall any other requests that were not fulfilled, so I think that addresses that issue."

**Chairman Unruh** said, "Anything else commissioner? Commissioner Norton."

**Commissioner Norton** said, "Bob, describe to us why we deal with service plans. Where did that come from? Is that a state statute? Is it a local ordinance of some sort? How do we become encumbered in determining whether service plans are proper and whether they've been met?"

## Regular Meeting, November 28, 2007

Describe that to me.”

**Mr. Parnacott** said, “It is a state statute. I would say we don’t necessarily pass on whether the service plan is proper or not. That is something that can be challenged at the time of the annexation, but that’s not something that you would be required to make a finding on that. That would be up to a district court to determine that, but the statute does require that for these types of annexations that a service plan is required. They require the Board of County Commissioners to have a public hearing five years later to make sure that the city has done what they said they were going to do, to kind of balance that impact on people who got annexed without their permission, to give some relief in case they aren’t getting services that they were told they were going to get.”

**Commissioner Norton** said, “So a service plan can be pretty minimal as far as the actual delivery of any services, in the confines of that area, for a very long period of time. Is that correct?”

**Mr. Parnacott** said, “There is a separate statute that details what the service plan must require, but there are some minimal requirements I think and these service plans seem to fit those, not that that’s a test of review here but they are consistent with other service plans I’ve seen in other annexations.”

**Chairman Unruh** said, “Is that all commissioner? Well commissioners, I don’t see anyone else asking to speak for clarification, so at this point I believe we’re at the point to hear a motion. Commissioner Norton.”

**Commissioner Norton** said, “Well, I’m not prepared to make a motion. I am prepared to make a statement though. I’ve been very discouraged for many years and some of it goes back to the time when I was actually a mayor of a small city that had some growth restraints, has some annexation issues, had some boundary issues with the City of Wichita and some areas that we wanted to annex but had a rural lifestyle and I think we decided not to proceed because we weren’t ready to deliver services to that area. That there weren’t any advantageous reasons to take the land other than to get the tax base out of it.

And I have to tell you, I’ve been very discouraged by the boundaries that have been set up by the northern part of our county. I mean, there was land grabs, there were citizens that didn’t want to go into one community so they got convinced by other communities to increase boundaries and be

## Regular Meeting, November 28, 2007

annexed. And I think what we've found now is that we have a hodge-podge of annexations and developments because of that in this area. I mean, if you look at that area, it looks like a patchwork quilt and I'm very sad for that in our community because the county commission ends up dealing with some of these issues because of that, the inability to work together on the north side, decide what the best use of annexation procedures are and to come to the best use for land in those communities. And I find it very distasteful that we have to make these kind of determinations based on almost predatory annexation policies, and the ability for communities not to get along, so they kind of challenged each other to grab land.

I tend to favor that we would move in favor of not accepting this service plan. It looked to me like it was minimalistic at best, that there was never an idea that they were going to service much of those communities that were being brought in and that we need to hold people's feet to the fire that when they go out and annex that they really in their heart of hearts are going to take care of people that are brought into their community, embrace them and get them services as quickly as they can and I don't see that as what's happened here at all."

**Chairman Unruh** said, "All right, thank you commissioner. Do we have the option to find they haven't met the requirements of the service plan because we're not happy with the service plan?"

**Mr. Parnacott** said, "I would have to say no. I mean, you're here to determine whether they provided the services, not whether the service plan met the statutory requirements, not whether it included services that you feel should have been included. You know, it's the city's prerogative to determine what city services they're going to provide. I mean, they have to provide the same services they would generally provide to others, in terms of police and code enforcement, those kinds of things. They can't decide not to provide those services to one part of their city, but beyond those general services, when you get into water and sewer, it's up to the city to decide when their infrastructure should be built and how it should be spread out."

**Chairman Unruh** said, "All right, thank you. Well I just wanted clarification but I don't disagree with Commissioner Norton that this is a very minimal plan and does not provide for what one might expect in an annexation process. However, if our responsibility is to find have they met the terms of this plan, I'm inclined to think that they have met the terms of that plan, even though it is very minimalistic. Commissioner Parks."

**Commissioner Parks** said, "Well I disagree with that, in terms of a couple of things. Maybe the streetlight situation is ify, if they haven't asked for it that's one thing, but I think that there's a problem with this rural water district and they're not providing water and in saying that then I would make a motion that we allow the plan to go through with the exception of those people in

**Regular Meeting, November 28, 2007**

those 11 properties near 77<sup>th</sup> and Hydraulic, and if I need to amend that, please from the legal standpoint.”

**Mr. Richard Euson**, County Counselor, said, “If I could comment Mr. Chairman.”

**Chairman Unruh** said, “Yes sir.”

**Mr. Euson** said, “The only issue before you is whether or not the service plan has been . . . the requirements of the service plan have been met. And so your motion should speak to whether or not the requirements of the service plan have been met.”

**Commissioner Parks** said, “Well in that case I’ll withdraw my motion and make another motion.”

**MOTION**

Commissioner Parks moved to that the city has not extended services as provided for in the service plan.

Commissioner Norton seconded the motion.

**Chairman Unruh** said, “Thank you. We have a motion and a second. Now is there any discussion?”

**Mr. Parnacott** said, “Point of clarification, your earlier motion that you withdrew referred specifically to these 11 properties, your second motion did not. But you are limiting it to those 11 properties?”

**Commissioner Parks** said, “No, I said that the whole thing did not meet the service plan.”

**Mr. Parnacott** said, “Okay, thank you.”

**Commissioner Parks** said, “If we’re going to have to do it that way, I know that the people over on Broadway, I would have like to included them in the City of Park City, but that’s not a possibility I guess through legal ramifications.”

**Chairman Unruh** said, “All right, thank you. Is there further discussion? Okay, we have a motion before us. Commissioner Winters.”

## **Regular Meeting, November 28, 2007**

**Commissioner Winters** said, “My only comment is I agree a lot with what Commissioner Norton said earlier and if this probably was just talking about tract 7, there were seven different tracts in this annexation and if we were just talking about tract 7 I think maybe I could support the motion. But when we’re talking about all the rest of them, included in all of this, I see enough there that I don’t think I can support this motion. Thank you.”

**Chairman Unruh** said, “Thank you. Commissioner Norton.”

**Commissioner Norton** said, “I seconded, I probably will not support it either. The truth is, I think this is going to have to be solved in a different manner. I hate to turn over the citizens to the district court to fight annexation but I believe that is their recourse. The recourse is not going to come through the county commission group that doesn’t have the power to change any of this today. Cities have the legal right to annex and unless there’s some reason during the annexation that we would oppose it when it came to us, I don’t think today we have any right, than to vote on the service plan. I’m not pleased with the service plan. I don’t think it serves the citizens very well, but the truth is it is what’s brought before us today and I don’t know that there’s any recourse, in my mind, but to accept it.

That does give you other legal aspects as citizens and I guess you can pursue that, but I think we have to kind of stay with the letter of the law that we’re charged with through the state. That’s all I have.”

**Chairman Unruh** said, “Thank you. Commissioner Parks.”

**Commissioner Parks** said, “I guess if my fellow commissioners are saying that they’re not pleased with the service plan they should vote for this motion, so that’s all.”

**Chairman Unruh** said, “Thank you commissioner. We have a motion before us that says we deny this or that we find that Park City has not extended services provided in their service plan. Any further discussion? Madam Clerk, call the vote.”

### **VOTE**

**Commissioner Norton** said, “Lets see, if I vote no, that’s against it, if I vote yes, that’s for it.

**Regular Meeting, November 28, 2007**

They're going to have two and a half years, I'm going to vote yes for it today, the denial, and lets let it go for two and a half years and see if they can deliver better services or that gives the citizens time to go back to court and take other recourse. I'll say yes, aye."

Commissioner Norton	Aye
Commissioner Winters	No
Commissioner Parks	Aye
Commissioner Welshimer	Aye
Chairman Unruh	No

**Chairman Unruh** said, "All right."

**Mr. Parnacott** said, "We'll prepare a resolution to that effect and bring it back for you in front of the next available consent agenda."

**Chairman Unruh** said, "All right, thank you Bob. So that there's clarification, we found that Park City did not provide services. That's what this commission found."

**Mr. Parnacott** said, "There will be an order or a resolution sent to Park City notifying them that you made that finding, that they have two and a half years then to provide those services and go from there."

**Chairman Unruh** said, "All right, thank you very much. Thank you to citizens and the representatives from Park City. Madam Clerk, please call the next item."

**PLANNING DEPARTMENT**

**B. MAPD CASE NUMBER DR2005-21 – ZONE CHANGE TO THE "IP-A"**

**Regular Meeting, November 28, 2007**

**INDUSTRIAL PARK – AIRPORT DISTRICT GENERALLY LOCATED SOUTH OF MCCONNELL AIR FORCE BASE BETWEEN CLIFTON AVENUE AND ROCK ROAD. DISTRICT #5.**

**POWERPOINT PRESENTATION**

**Mr. John Schlegel**, Director, Metropolitan Area Planning Department greeted the Commissioners and said, “I’d like to begin presentation of this case by giving you a little brief background on how we arrived at having this item before you today.

Some of you that served on the board at that time will recall that in November of 2006 this board directed staff of the Metropolitan Area Planning Department to proceed with the implementation of a number of zoning code text and zoning map amendments in response to recommendations that came out of the implementation coordination committee that was set up by this board and the city councils of Derby and Wichita for purposes of implementing the McConnell Air Force Base Land Use Study from May of 2005.

You’ve already adopted a number of those recommendations in rezoning the base itself to air force base zoning. You’ve adopted an air force base protection overlay district and you’ve made a number of revisions to the existing airport overlay districts at the north and south ends of the runway. And this is the final zoning amendment that was recommended by the implementation coordination committee.

This would rezone certain properties at the south end of the base, in order to bring the zoning of the . . . the designation of land use and the future development of that land, vacant and agricultural land, in greater consistency with the federal land use compatibility guidelines that have been developed for land uses around military bases. The area south of McConnell is within the growth areas of both the City of Wichita and Derby and at some time in the future it’s expected that those cities will extend municipal services such as water and sewer into that area and the concern is what will happen then with undeveloped or agricultural land to which those services are provided and the idea here is to make sure that urban type development that is anticipated to occur once that infrastructure arrives to those properties is done in a way that’s compatible with military base operations.

Presently, these properties are primarily zoned for residential uses and at higher density residential uses would be deemed incompatible with the land use compatibility guidelines. Those land use compatibility guidelines do indicate that many industrial type uses are compatible with military base operations and hence this proposal to develop the industrial park, airport zoning district and to

## **Regular Meeting, November 28, 2007**

rezone much of this property into that district was made.

And as you can see, the amount of property that was in this original proposal that came out of the implementation coordination committee extended from Clifton on the west, over to Rock Road, along the southern boundaries of the base.

As we've moved forward with this proposal and shown it to property owners that would be affected by this rezoning proposal, we've heard a number of objections from them. The most common one that we've heard is that many of them had purchased their properties with the intent of developing their property for large lot rural residential purposes and that this new industrial park designation would prevent them from moving forward with plans that they had been working on for many years.

Other residential property owners in this area did not want to see industrial uses coming into their neighborhood. They felt that this was a rural residential area and they wanted to keep it that way, and others felt that they would have preferred retail and office oriented commercial uses, rather than industrial designation.

Since the majority of the area that was being proposed to be rezoned in this way was within the zoning area of influence of the City of Derby, the proposal went to the Derby Planning Commission on September 20<sup>th</sup> for their review, and at that time the Derby Planning Commission voted to recommend that the proposed rezoning be denied for those properties that are owned by people who appeared at that hearing and indicated that they were opposed to the proposal.

So that would affect your vote today if you were to decide to vote in favor of designating any of those properties as Industrial Park -Airport. Otherwise, the Derby Planning Commission voted to recommend approval of the rezoning of the remainder of the properties and this is the map that would result from their recommendation. And if you would compare that to the original proposal, there are large areas, let's get the area going over, on this side of K-15 and some areas on the east side that have been excluded from this Industrial Park- Airport designation.

Now in preparing, as the Metropolitan Area Planning Department staff prepared its recommendation for the Metropolitan Area Planning Commission, what we noted in our analysis of the situation is that the Derby Recommendation left a rather . . . some rather jagged edges and isolated parcels down here, some jagged edges up here on the east side of the base and we didn't feel that that would promote the harmonious development of the area. And we came up with an

## **Regular Meeting, November 28, 2007**

alternative which we think even though it does eliminate some additional parcels from the Industrial Park- Airport designation, we felt that this would promote a more harmonious development of the area as Industrial Park.

And this is the . . . the recommendation then of the staff presented to the Metropolitan Area Planning Commission at its hearing on October 18<sup>th</sup>. At that meeting, most of the property owners who had previously spoken in opposition to the original proposal at the Derby Planning Commission indicated that they were in support of this alternative recommendation. There were some additional property owners that owned property in the vicinity here of Woodlawn and 55<sup>th</sup> that testified at the Metropolitan Area Planning Commission hearing that they were also in opposition to this and wished to have their properties removed from this industrial park designation.

There were two motions that were made at the MAPC meeting. The first one recommended approval of the staff's alternative recommendation that you see in front of you now, with the exception of removing this quarter section just to the southwest of 55<sup>th</sup> and Woodlawn, plus this parcel on the north side of 55<sup>th</sup> Street, from the re-designation as IP, Industrial Park- Airport. That motion failed and the follow-up motion was to approved according to the staff's recommendations and that motion passed by a vote of nine to two.

We have received protest petitions in response to this proposal and the action of the Metropolitan Area Planning Commission. Because it does not meet the 20% threshold, it's not a factor in your vote today. I would point out that a number of people that filed protest petitions are people whose properties are no longer included in the staff's alternative proposal and the recommendation of the MAPC. I hope that those that are here today, that will give testimony, and for those that are listening to this today can appreciate what a difficult decision this is. The original intent in putting all of these recommendation together to implement the joint land use study was in response to actions taken by the Department of Defense over many years now to close unnecessary military bases.

And we're all familiar with the base realignment and closure committees that have been set up periodically by congress in order to review the proposals by the Department of Defense to close bases. And I think this was a response by community leaders from Derby, Wichita and from this board to try to BRAC-proof McConnell as much as we possibly can. And it's a difficult balancing act that we've been going through over the past several years, trying to promote the larger community interests of preserving this base, which is a very important member of our community,

## Regular Meeting, November 28, 2007

by minimizing the impacts that some of these regulations and restrictions would have on individual property owners.

Throughout this, I think everybody who has participated in these discussions has struggled with trying to strike that right balance. The process that we've gone through I think has worked, that we've given people the opportunity to make their views known on how they as individual property owners might be impacted by this.

And so it's with that statement then, I commend to you the MAPC's recommendation as a good balance between trying to preserve the larger community interest as well as preserving individual property rights. And with that, I'll take any questions you might have."

**Chairman Unruh** said, "All right, thank you John. We will allow some citizens to make statements here in just a moment but right now I think we have some questions for you. Commissioner Welshimer."

**Commissioner Welshimer** said, "We have these two new maps that you had on the screen here. One says Derby's recommendation, and one says staff's alternative recommendation. What's the MAPC's recommendation?"

**Mr. Schlegel** said, "The MAPC recommendation is the staff's alternative recommendation."

**Chairman Unruh** said, "And that's what's on the screen now."

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

**Commissioner Welshimer** said, "Okay, the only thing that changes is these two areas south of 47<sup>th</sup>?"

**Mr. Schlegel** said, "Yes, this area down here, south of 47<sup>th</sup>, was eliminated in the staff's. Our view was . . ."

**Commissioner Welshimer** said, "I'm up here at the top, 47<sup>th</sup> Street is up to the top."

**Mr. Schlegel** said, "Oh I'm sorry, south of 63<sup>rd</sup> and then up here at 47<sup>th</sup> Street, these isolated parcels were eliminated in the staff's proposal."

**Commissioner Welshimer** said, "And MAPC is recommending that those be eliminated, be returned to residential?"

**Regular Meeting, November 28, 2007**

**Mr. Schlegel** said, "Correct. The MAPC is recommending that, yes."

**Commissioner Welshimer** said, "And this area south of 63<sup>rd</sup> is . . . looks the same to me."

**Mr. Schlegel** said, "No, that area south of 63<sup>rd</sup> . . ."

**Commissioner Welshimer** said, "Oh, you're taking that out too."

**Mr. Schlegel** said, "Right, correct. The MAPC recommendation eliminates the Industrial Park-Airport designation for that land."

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

**Chairman Unruh** said, "Thank you, commissioner. Are there any other questions from the bench? Well this is not a public hearing, but we will hear from citizens, if there's someone who wants to make a comment relative to this zone change. Yes ma'am, if you'd want to step over and state your name and address please."

**Ms. Trena Hodges**, 7217 S. Hillside, Wichita, Ks., greeted the Commissioners and said, "Our property is located at 55<sup>th</sup> and Woodlawn. This has been a very, very long process for us this year, working with the base officials and as well as the Metropolitan Area Planning Commission, as well as yourself. With the Air Force Overlay, we worked with all of the parties involved and instead of taking the entire farm that we have, which is an 80-acre parcel, a quarter section on 55<sup>th</sup> and Woodlawn, we worked with the base to reduce the amount of the farm that it was going to take in the air force overlay.

That would allow us to build our house. Throughout these, I've been very, very skeptical about the . . . why this was being done, but knowing that we've got to protect our base in this area, working with them, I commend this alternative proposal. It has taken a lot of the concerns from the people who have property in that area that have got plans or are living there currently into consideration. It was a very good alternative and I highly support this staff's alternative and commend Scott and his group for coming up with a good proposal."

**Chairman Unruh** said, "Thank you and for my clarification, you live on the northeast corner of the intersection?"

**Ms. Hodges** said, "Yes, our parcel is the northeast corner of 55<sup>th</sup> and Woodlawn. It's got the little red 'X' in it."

## Regular Meeting, November 28, 2007

**Mr. Schlegel** said, “Yeah, let me if I can I’ll get the arrow going. It’s that property right there. Correct, correct.”

**Chairman Unruh** said, “Thank you very much. We have another person approaching the podium.”

**Ms. Shelly Dunnegan**, 4640 E. 63<sup>rd</sup> St. S., Derby, Ks., greeted the Commissioners and said, “My family owns the property west of K-15 that is north of 63<sup>rd</sup> Street, south of 55<sup>th</sup> Street and east of Clifton. My father and brother are here too and we’d just like to say we support the alternative recommendation. We area against the original recommendation.

I’d just like to say a few things. If I understand correctly, there’s a chance you could vote for the original recommendation and why we would be against that. Is that correct? Is there any chance that you would be voting for the original recommendation, or just the staff recommendation?”

**Chairman Unruh** said, “At this point, we can adopt any of the resolutions . . . recommendations.”

**Ms. Dunnegan** said, “Okay, I’d ask if I could approach the bench and give you some pictures of our property that I’d like to discuss.”

**Chairman Unruh** said, “All right, please do.”

**Mr. Dunnegan** said, “When my family purchased this land, we fell in love with the creek and the trees. There are trees estimated over 100 years old that would take three people to reach around one tree. We bought this land with the future intensions of a housing area. My brother and his family, as well as my husband and I want to build family homes on the property someday. We spent a lot of time and energy building 30-foot-wide fire lanes through this forest without interrupting the beauty of the area. We planted 200 Pin Oaks along the drive and open areas we knew we built, knowing in 20 years they’d make a beautiful attraction for homes.

When we purchased this land, we knew the area was in the county and would not have municipal services for a long time, if ever. We knew we could have homes on 20-acre lots without platting or on five-acre lots if we platted. For future development, on five or twenty acre lots, that meant large homes would go on these lot sizes. My parents built a bigger house than was needed, knowing to attract other large homes they would need to build at the same level.

Now you want to surround this area with warehousing, if you adopt the original plan. In addition, before we could build on this property, we had to sign a restrictive covenant and avigation arensment, stating that we would not complain to McConnell about the air . . . about the noise, that we knew it would be there and we would not complain and we had no problem doing this.

If you were to adopt the original plan, my brother and I can’t even build a family home on this property, even though Rural Residential is permitted in the land uses by the air force, it was left out

### **Regular Meeting, November 28, 2007**

of the IP-A. We've paid taxes and interest on this land for 13 years. We've bought adjoining land in three separate transactions to make this all work. We paid higher than market value for a connecting parcel just a couple of years ago so we could connect the roads. We wouldn't have done this if our land couldn't be used for residential. It would be a waste of this beautiful property not to use it for homes. It's not right that all of our work and planning would be destroyed.

If this zoning change had been proposed before we bought property it would be one thing. We wouldn't have bought it. But to change the rules in the middle of the game is wrong. It's unfair to blanket rezone all this property without approval or request. It's not suitable for warehousing and industrial. It has rolling terrain and large trees. Flattening the land and tearing out the trees would be a waste. Official at McConnell and Sedgwick County will tell you that the demand for this much industrial and warehousing land does not exist. They just want to limit the usual of the area. In fact, the City of Derby cannot even fill their industrial park. They have fifteen lots and only five of them developed, even waiving utility hookups and offering tax incentives.

In Wichita, north of K-96, between Rock Road and Webb Road, half the buildings are sitting vacant, not to mention the land that's vacant. Taking away people's right to build a home on their property is like cities using eminent domain to take people's property when there isn't a good reason for it. I don't think most of the land owners in this area would be as opposed to this zoning if it allowed for rural residential housing. I think most of the landowners are opposed to that being left out and to allowing things like temporary asphalt plants or recycling centers.

I'd just like to say, we would approve staff's alternative recommendation, but not the original recommendation. Thank you."

**Chairman Unruh** said, "All right, thank you. Excuse me ma'am, there's a question from Commissioner Parks."

**Commissioner Parks** said, "Did you realize that when you were saying that you were thinking about subdividing or dividing this up into five and twenty-acre lots and then about the same sentence you said something about annexation by cities. The way the state law reads now is that if you have 20 acres, you can't be annexed by cities, so I thought I'd just clarify that for you."

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

**Chairman Unruh** said, "All right, thank you. There was someone else who wanted to speak?"

## Regular Meeting, November 28, 2007

**Mr. Charlie Hawthorne**, 6209 S. Holyoke, Derby, Ks., greeted the Commissioners and said, "I'd like to thank all of you up here for the great things that you do for the community, while I'm here. But I would like to make it clear that I am very much in approval of the amended plan that we have, I'd just like to make that clear."

**Chairman Unruh** said, "All right, thank you. Would you like to . . .? Okay. It looks like we have this gentlemen and two others, I think. Woops, we've got more than that."

**Mr. Robert Schrader**, 4415 E. 63<sup>rd</sup> St. S., Derby, Ks., greeted the Commissioners and said, "I wanted you to know that I strongly support the alternative plan that they've come up with. I think it's very practical and reasonable, fulfills most of the obligations the original intent of the rezoning.

We are in the safety zone and I have no problem with the sound of the planes, I have no fear of the planes going over. That's not an issue at all. There is one minor correction. Commissioner Welshimer mentioned about with the alternative plan would revert to residential zoning, and that's not necessarily the case. It would simply revert to whatever was originally zoned, not necessarily residential. Many of those are agriculture and there might be one or two cases where they originally were commercial. So it just means that they go back to their original instead of industrial."

**Chairman Unruh** said, "All right, thank you sir. If you all could get near the podium, so that we could kind of . . . that would be helpful."

**Ms. Joan Heffington**, 7145 Blueberry Ln., Derby, Ks., greeted the Commissioners and said, "I'm here in regard to the property located just south of 60<sup>th</sup> Street and west of Buckner. This is a section of land in the county, approximately one acre, which runs along K-15 on the east side as you're traveling south into Derby. It is owned by Jim and Donna Lattin, who live in a home just to the east and they recently had their land replatted so that I could buy it.

I entered into a contract with them last summer, knowing that this area was zoned light commercial., since I am intending to build a small office building on this property for lease to businesses. This is consistent with adjacent businesses which includes storage units to the north and Roberts Overdoors and a car wash maintenance company to the south. If this area is rezoned to industrial, then I will not be able to build or to close on this contract with the Lattins.

I'm also trying to bring in an F-105 jet as a memorial to my father, who was killed in Vietnam in

### **Regular Meeting, November 28, 2007**

1965. I have a handout. Can I approach? I had begun working on this project about three years ago. The second page shows a proposed site plan for the building parking lot and the F-105 memorial. The third page shows a F-105 that was brought in as a memorial for my father's wingman, who was killed on the same mission. The plane in the photograph is his memorial down in Circleville, Ohio where I visited in July.

In 42 years, the government has never properly honored my father, when he died trying to save this man's life, so I'm trying to do it myself. I've been unable to locate any other suitable land that I can afford in or around Derby and if this land is designated industrial I will not be able to pursue this effort. So I'm opposed to the rezoning of the land to industrial. I am in favor of the alternate proposal. Are there any questions?"

**Chairman Unruh** said, "I don't see any questions. Thank you. Next speaker please."

**Ms. Celia Geering**, 6802 S. Oliver, Derby, Ks., greeted the Commissioners and said, "I did send information to you earlier. A few weeks ago, we became aware that we would need to appear before this group. However, early on when we became aware of the proposed rezoning, we were very opposed to it. At this point in time, we feel that what the staff is recommending to you is an excellent compromise venture and we would highly support the proposed staff recommendation, which is the alternative recommendation.

We were opposed to the original recommendation because we felt that our property would not increase population density in the area. We own almost 20 acres. It currently consists of two houses, two ponds. The real estate people call them lakes. There are gentle hills. There's a lot of forest, nature forest and two fields of Christmas Trees, where you're going to find a lot of happy people at this point in time. The rest of the year, it's very quiet and very peaceful. We have no desire to build additional houses on the property and we have been advised that the property is not suitable for development.

The second reason that we were opposed to the original plan was that we felt that there needed to be consistency of the southern border of the original plan. And as we looked at that southern border, we noticed that our property is just that very small little pigtail extending down at the south and that our property actually has less planes flying over it than does Huckleberry, part of which was not in the plan, the original plan, so we thought that was an inconsistency and therefore we were, again, opposed to the original plan.

The third and final reason for our opposition to the original plan was that local history would simply

### **Regular Meeting, November 28, 2007**

validate our use of the property. We're long-time residents in that area. We've owned the property and lived on it for 30 years. We again have treasured the green space, the forest, the trees, the ponds. These are the things that are valuable in modern society. We don't want a housing development there. We wish to pass this land on to future family generations, as a very treasured, valuable little jewel in that area. Based upon that rationale, we strongly support the alternative plan, which the Metropolitan Area Planning Commission has brought forth and we encourage your careful consideration of that plan. Thank you very much."

**Chairman Unruh** said, "Thank you very much. There was one other . . . two others want to speak here."

**Ms. Deb Hamlin**, 6401 S. Oliver, Derby, Ks., greeted the Commissioners and said, "My husband is Marvin Hamlin and we own the property at 6401 South Oliver, which is actually right at the corner of K-15 and 63<sup>rd</sup> Street, just on the other side of the railroad tracks. We oppose the original plan. We think the alternative plan is . . . you know, there's been a lot of compromise and we think it's good and support that.

Our main opposition to the original plan is that we just own a tiny little like two and a half acre sliver and between a light commercial and then three commercial corners right at K-15 and we had worked with the county when they wanted to go ahead and re-route Oliver several years ago. We just did everything the county wanted us to do, you know, and you know just didn't create any problems to go ahead and do that. We actually even purchased a little corner of that land from the county to kind of square that up with our property, but also took a little bit off the county's hands that they would have to maintain. So I'm just here to say that I do support the alternative plan, but not the original. Thank you."

**Chairman Unruh** said, "Thank you very much. And we appreciate citizens who do everything the county asks them to."

**Ms. Mary Jo Hill**, 4615 E. 63<sup>rd</sup> St. S., Derby, Ks., greeted the Commissioners and said, "Now about three . . . well probably more like five years ago, the county took one-half of our property to re-route Oliver around our property, so now we have roads on three sides of our property. My question to the Metropolitan Planning Board is will our property, which is currently zoned light commercial remain light commercial. Now this is on the south of 63<sup>rd</sup>. The maps do not show that as being light commercial."

**Chairman Unruh** said, "Yeah, Mr. Schlegel, can you respond to that please."

## Regular Meeting, November 28, 2007

**Mr. Schlegel** said, “The answer is yes, you were rezoned. It’s just a matter of the maps are lagging behind, so we apologize that the map hasn’t caught up to your rezoning.”

**Ms. Hill** said, “Well, if that’s the answer I can say that I fully support the Metropolitan Plan’s revision of the zoning. Thank you.”

**Chairman Unruh** said, “Thank you. Colonel Smith, if you don’t mind Colonel, could we let . . . this gentleman has been trying to speak here, so . . .”

**Mr. Steve Wolke**, 6250 E. 55<sup>th</sup> St. S., greeted the Commissioners and said, “My property is . . . the Hodges talked about that red corner. Mine is right west of that, that little area right there north of 55<sup>th</sup> Street, it’s still in that zone. My aunt and my mom on Woodlawn, on the west side, it’s all in flood zone down there, they can’t build houses in there anyway. I need to know why is that one corner north of 55<sup>th</sup> Street is still included in it. All the rest of them have been taken off. And we’ve owned all that property since the mid-30s and it’s all been farm ground and we’ve got pasture out there with cattle and I just don’t know why that’s all included. Thanks.”

**Chairman Unruh** said, “All right, thank you sir.”

**Lieutenant Colonel Jeffrey Smith**, Director of Staff, McConnell Air Force Base, greeted the Commissioners and said, “Just want to state for the record that we strive every day to be good neighbors, obviously with the county, the city and adjacent property owners. To that degree, I just want to go on the record and kind of correct a few things that might have been stated along the way, in that this is not an initiative by the United States Air Force to secure additional land off-base. This is a city initiative and for the most part I’ve remained quiet, to make sure that the federal government was not imposing any additional responsibilities onto the local government.

To that end, obviously the proposals, all of them are compliant with the joint land use study. The amended proposal proposed by the Metropolitan Planning Commission is conducive to the joint land use studies and obviously we support that as well. It is not going to affect . . . or actually it’s going to preserve our current mission and it’s going to improve the future military value of McConnell Air Force Base. As you consider this motion, we applaud your leadership and vision in the manner. Thank you.”

**Chairman Unruh** said, “All right, thank you sir. Any of these proposals would have been

## **Regular Meeting, November 28, 2007**

agreeable to you, but you have had all the conversations and this alternative proposal, you are satisfied that it doesn't in any way impair the mission of the base."

**Lieutenant Colonel Smith** said, "That's correct sir."

**Chairman Unruh** said, "All right, thank you. Commissioners, are there any questions or comments? I think we will restrict the comments to the bench and we'll call up anyone that we want to ask for further information. But we do have a question or a comment from Commissioner Parks."

**Commissioner Parks** said, "I just wanted to make sure, Mr. Wolke asked a question there, If we could address that. I don't think we've addressed that yet on his parcel."

**Chairman Unruh** said, "And that question was why is his ground included, the piece that's north of 55<sup>th</sup> Street, I think."

**Mr. Schlegel** said, "Well I think the straight and simple answer on that is that they did not appear at the Derby Planning Commission meeting to register their objection to being included. They did appear at the public hearing in front of the Metropolitan Area Planning Commission. The original motion that was made for the MAPC consideration did exclude that group of properties right there on that corner, but that motion failed."

**Commissioner Parks** said, "Okay. I just wanted to make sure we answered the question that was asked from the bench. Thanks."

**Chairman Unruh** said, "Okay commissioners, are there any other comments or questions? Commissioner Welshimer."

**Commissioner Welshimer** said, "Well this is all in my district and it's been very difficult to come to a negotiated map here where everyone is relatively agreeable. And I'm just very grateful that we've been able to do this and that it is agreeable with representatives from McConnell, and so I'm going to support staff's alternative recommendation."

**Chairman Unruh** said, "All right, thank you. The only comment I would make is I appreciate everyone working diligently and over a long period of time to come to what seems to be a reasonable compromise. I know that not everyone supports it, but this seems to be workable and it

**Regular Meeting, November 28, 2007**

does preserve the mission of McConnell Air Force Base and I am not unaware of the fact that this base has a significant economic impact in our community and so we need to be, I think, sensitive to that also. I believe the notes indicate it has a \$430,000,000 annual economic impact on you, so this is important consideration for us on an economic basis. It's an important consideration for us in terms of the mission of McConnell Air Force Base and it's important as we consider the desires and the needs of the citizens in that area.

But having said all that, as I've heard the testimony and comment today, I am going to be supportive of staff's alternative recommendation also. Commissioner Winters."

**Commissioner Winters** said, "Thank you Mr. Chairman. Well I agree with both you and Commissioner Welshimer and I'm going to support this. I thought it was significant in reading the background information about this, it was disclosed that the United State Department of Defense is in the process of divesting itself of properties and has closed something like 130 military bases, so if we can take action as the City of Wichita and Sedgwick County and City of Derby to help strengthen the viability of that base, I'm certainly going to be supportive."

**Chairman Unruh** said, "Thank you sir. We do not have any other requests to speak, so Commissioner Welshimer, perhaps you'd want to advance the motion."

**MOTION**

Commissioner Welshimer moved to approve the zone change to 'IP-A' as recommended by the Metropolitan Area Planning Commission (MAPC), adopt the findings of the MAPC, approve the Resolution and authorize the Chairman to sign.

Commissioner Winters seconded the motion.

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

**VOTE**

Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Parks	Aye
Commissioner Welshimer	Aye
Chairman Unruh	Aye

**Chairman Unruh** said, "Thank you, John. Colonel Smith, thank you for being here and thanks to

**Regular Meeting, November 28, 2007**

you citizens who came here to express your opinion. Madam Clerk, next item please.”

**NEW BUSINESS**

**DIVISION OF HUMAN SERVICES- DEPARTMENT ON AGING**

**C. CONTRACT WITH A LEVEL I CLIENT ASSESSMENT REFERRAL EVALUATION ASSESSOR TO PROVIDE SERVICES FOR INDIVIDUALS WHO ARE SEEKING NURSING HOME PLACEMENT INCLUDING THOSE INDIVIDUALS DIAGNOSED WITH A MENTAL ILLNESS, A DEVELOPMENTAL DISABILITY OR MENTAL RETARDATION.**

**Mr. Ray Vail**, Director of Finance, Department on Aging, greeted the Commissioners and said, “I’m here to present a contract to provide one additional assessor for CARE program. Care assessments are required by the State of Kansas for anyone seeking placement in nursing facilities. This contract has been approved by Finance and Legal and I ask that you approve the contract and authorize the Chair to sign and I’ll answer any questions.”

**MOTION**

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

Chairman Unruh seconded the motion.

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

**VOTE**

Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Parks	Aye
Commissioner Welshimer	Aye
Chairman Unruh	Aye

**Chairman Unruh** said, “Thank you Ray. Next item please.”

**Regular Meeting, November 28, 2007**

**DEPARTMENT OF CORRECTIONS**

**D. APPLICATION TO THE KANSAS DEPARTMENT OF CORRECTIONS FOR UNEXPENDED FY2007 FUNDS.**

**Mr. Mark Masterson**, Director, Department of Corrections, greeted the Commissioners and said, “The Corrections Department has made available unexpended funds from fiscal year 2007 that we can apply for to use in this state fiscal year. We’ve prepared an application seeking \$55,294 for your approval to submit to the state.

Our application requests funding to address current technology replacement needs in the Adult Intensive Supervision Program located at 905 North Main. The funds specifically will replace 44 computers used by officers in supervising an average daily caseload of about 1,200 criminal offenders. Computers are necessary, for your information, because officers are required to utilize the state case management system to receive and document information. The current computers are five years old and need replacement.

The Corrections Advisory Board reviewed this request at their monthly meeting and recommended its approval to you. I’d be happy to answer any questions.”

**Chairman Unruh** said, “All right, thank you Mark. I don’t see anyone asking questions, so I think we’re going to be approving of this application. So commissioners, if no one has a question, we’re ready for a motion.”

**MOTION**

Commissioner Winters moved to approve the application and authorize the Chairman to sign all necessary documents including the grant award agreement containing substantially the same terms and conditions as the application and approve establishment of budget at the time the Grant Award is executed.

Commissioner Welshimer seconded the motion.

**Regular Meeting, November 28, 2007**

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

**VOTE**

Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Parks	Aye
Commissioner Welshimer	Aye
Chairman Unruh	Aye

**Chairman Unruh** said, "Thank you Mark. Next item please."

- E. PUBLIC WORKS. ESTIMATE FROM AQUILA FOR RELOCATION OF LINES IN CONNECTION WITH SEDGWICK COUNTY PROJECT 805-J,K,L; RECONDITION ROADBED PLUS 6' BITUMINOUS SURFACING ON 119<sup>TH</sup> STREET WEST BETWEEN 29<sup>TH</sup> AND 53<sup>RD</sup> STREETS NORTH. CIP# R-254. DISTRICT #3.**

**Mr. David Spears**, P.E., Director, County Engineer, greeted the Commissioners and said, "Item E is an estimate from Aquila for relocation of a natural gas line connection with the road project on 119<sup>th</sup> Street West between 29<sup>th</sup> and 53<sup>rd</sup> Streets North. It's designated as R-254 in the Capital Improvement Program. Their line is located in a private easement. The cost will not exceed \$270,000. I recommend that you approve the estimate."

**MOTION**

Commissioner Winters moved to approve the estimate.

Commissioner Norton seconded the motion.

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

**VOTE**

**Regular Meeting, November 28, 2007**

Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Parks	Aye
Commissioner Welshimer	Aye
Chairman Unruh	Aye

**Chairman Unruh** said, "Thank you David. Next item please."

**CONSENT AGENDA**

**F. CONSENT AGENDA.**

- 1. One Dedication Deed and one Temporary Construction Easement for Sedgwick County Project 811-J, n ½ K; widening of Ridge Road between K-96 and 53<sup>rd</sup> Street North. CIP# R-282. District #4.**
- 2. Salary adjustment for an Advanced Registered Nurse Practitioner based on years of experience.**
- 3. Salary adjustment for Management Intern positions.**
- 4. Resolution stating findings made by the Sedgwick County Board of County Commissioners at the post-annexation hearing held on November 7, 2007.**
- 5. Memorandum of Understanding with Workforce Alliance of South Central Kansas for rental of workspace at the Wichita Workforce Alliance Center in Wichita, Kansas.**
- 6. Order dated November 21, 2007 to correct tax roll for change of assessment.**
- 7. General Bills Check Register(s) for the week of November 21 – November 27, 2007.**
- 8. Payroll Check Register for November 16, 2007.**

**Mr. William P. Buchanan**, County Manager, greeted the Commissioners and said, "You have the consent agenda before you and I would recommend you approval and remind you that there are only 33 more days until the sales tax goes away."

**Regular Meeting, November 28, 2007**

**MOTION**

Commissioner Norton moved to approve the Consent Agenda as presented.

Commissioner Welshimer seconded the motion.

**Mr. Euson** said, “Mr. Chairman, I’d remind Commissioner Parks that on item 4, on that resolution on the consent agenda, that you voted ‘no’ and if you want to be consistent, you might want to take that out separately.”

**Chairman Unruh** said, “Okay, we have a motion to approve the consent agenda, so Mr. Euson, with that motion on the table, how do we withdraw item 4?”

**Commissioner Norton** said, “Mr. Chairman, I rescind my motion.”

**MOTION**

Commissioner Norton moved to approve the Consent Agenda as presented except for item 4.

Commissioner Welshimer seconded the motion.

**VOTE**

Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Parks	Aye
Commissioner Welshimer	Aye
Chairman Unruh	Aye

**Chairman Unruh** said, “Okay, thank you. That’s approved and now we need to consider consent agenda item #4.”

**MOTION**

Commissioner Norton moved to approve the Consent Agenda as presented except for item 4.

Chairman Unruh seconded the motion.

**Regular Meeting, November 28, 2007**

**Chairman Unruh** said, "Is there any discussion on that?"

**Commissioner Parks** said, "Let's get a little history on that for the record. Can we just have a little bit of background and history on that, for the record?"

**Mr. Euson** said, "My recollection is that it had something to do with the lack of fire hydrants and I think you indicated that you would vote against it on that basis and that you would vote against future requests on that basis. That's my recollection."

**Commissioner Parks** said, "Thank you for clarifying that for the record."

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

**Commissioner Winters** said, "And what city did this involve?"

**Commissioner Parks** said, "Derby."

**Commissioner Winters** said, "Okay, you're right. Thank you very much."

**Chairman Unruh** said, "All right, thanks for the reminding, so now we know exactly what that was all about, but appreciate the remind. Is there any further discussion? Madam Clerk, call the vote."

**VOTE**

Commissioner Norton	Aye
Commissioner Winters	Aye
Commissioner Parks	No
Commissioner Welshimer	Aye
Chairman Unruh	Aye

**Chairman Unruh** said, "All right commissioners, we are at the end of our agenda and we do not have a Fire District meeting or an executive session, so now is an appropriate time if there are other items of interest that you'd like to discuss. Well, we are evidently worn out from zoning cases. We have nothing more to discuss, and that's good because I'm on my way to speak to the good folks at the East Rotary and this will give me an opportunity to be there. So if there's nothing else to come before us, the meeting is adjourned."

**G. OTHER**

**Regular Meeting, November 28, 2007**

**H. ADJOURNMENT**

There being no other business to come before the Board, the Meeting was adjourned at 10:58 a.m.

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

---

**DAVID M. UNRUH, Chairman**

**Regular Meeting, November 28, 2007**

First District

---

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

---

**THOMAS G. WINTERS**, Commissioner  
Third District

---

**KELLY PARKS**, Commissioner  
Fourth District

---

**GWEN WELSHIMER**, Commissioner,  
Fifth District

ATTEST:

---

**Don Brace**, County Clerk

APPROVED:

\_\_\_\_\_, 2007