

MEETING OF THE BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

April 22, 2009

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, April 22, 2009 in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman Kelly Parks, with the following present: Chair Pro Tem Gwen Welshimer; Commissioner David M. Unruh; Commissioner Tim R. Norton; Commissioner Karl Peterjohn; Mr. William P. Buchanan, County Manager; Mr. Michael D. Pepoon, Assistant County Counselor; Mr. David Spears, Director, Bureau of Public Works; Ms. Kristi Zukovich, Director, Communications; Mr. Larry Ternes, Youth Services Administrator, Department of Corrections; Mr. Chris Chronis, CFO; Ms. Diane Gage, Director, Emergency Communications; Dr. Timothy Rohrig, Director, Regional Forensic Science Center; Mr. Mark Masterson, Director, Department of Corrections; Col. Richard Powell, Sheriff's Office; Maj. Glenn Kurtz, Bureau Commander, Detention Facility; Ms. Marilyn Cook, Executive Director, COMCARE; Ms. Claudia Blackburn, Director, Health Department; Ms. Iris Baker, Director, Purchasing Department; Ms. Dorsha Kirksey, Director, Housing Department; Mr. Marc Bennett, District Attorney's Office; Mr. Lunda Asmani, Enterprise Resource Planning; Mr. Kelly B. Arnold, County Clerk; and, Ms. Katie Asbury, Deputy County Clerk.

GUESTS

Ms. Erin Connelly, Political Science student
Mr. Sheldon Lawrence, Albert Pike Masonic Lodge, No. 303
Ms. Terri Brooks, Parents of Murdered Children, Inc.
Mr. Charles Peaster, 9453 N. 135th St. W., Sedgwick, KS, 67135
Mr. Carl Younts, 6131 N. Hoover Rd., Wichita, KS, 67204
Mr. Steven Eddy, 11420 W. 77th St. N., Maize, KS, 67101
Ms. Nadine Stannard, 5600 W. 53rd St. N., Wichita, KS, 67205
Mr. Alvin Neville, 14601 W. 77th St. N. Colwich, KS, 67030
Mr. Bill Cather, 2935 S. Seneca, Wichita, KS, 67217
Mr. James W. Johnson, 1211 Perry, Wichita, KS, 67203
Mr. Jim Nicholson, 11011 W. 77th St. N., Maize, KS, 67101
Mr. Calvin E. Kissick, 2541 Lake Ridge Circle, Wichita, KS, 67205
Mr. Bill Bardshaw, 10 Woodland Court, Mount Hope, KS, 67108
Mr. Steve Denton, 814 Greenway Court, Wichita, KS, 67213
Mr. Richard Gronniger, 9264 N. Hoover, Valley Center, KS, 67147
Ms. Marjorie Thompson, 367 Wind Rows Lake Dr., Goddard, KS, 67052
Mr. Tom Kneil, 6110 Edinburg, Bel Aire, KS, 67220
Mr. Kendall Nicholson, 6410 N. Ridge Rd., Maize, KS, 67101
Mr. Bruce Seiler, 13940 W. 93rd St. N., Sedgwick, KS, 67135
Mr. Jeff Davis, 12100 E. Greenfield Rd., Haven, KS, 67543
Ms. Kay Johnson, Director of Environmental Services, City of Wichita
Ms. Shanna Bell-Ahmad, Wichita Area Sexual Assault Center (WASAC)

Regular Meeting, April 22nd, 2009

Ms. Cornelia Stevens, Kansas Children's Service League

INVOCATION

Led by Ashok Aurora, Hindu Community, Wichita

FLAG SALUTE

ROLL CALL

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

PROCLAMATIONS

A. PROCLAMATION DECLARING APRIL 24, 2009 AS GLENDA BUCHE DAY.

PROCLAMATION

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

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

WHEREAS, our teachers keep democracy alive by laying the foundation for citizenship and demonstrate to the community and the world their commitment to our future; and

WHEREAS, the selection committee, comprised of men and women from various backgrounds and vocations, have unanimously selected Glenda Buche for her dedication in teaching 12th grade students at Wichita South High School, USD 259.

NOW, THEREFORE, BE IT RESOLVED, that I, Kelly Parks, Chairman of the Board of

Regular Meeting, April 22nd, 2009

Sedgwick County Commissioners, do hereby proclaim April 24, 2009, as

‘Glenda Buche Day’

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

Chairman Parks said, “And I will present this to Sheldon.”

MOTION

Commissioner Welshimer moved to adopt the Proclamation

Commissioner Unruh seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Chairman Parks said, “Sheldon, it pleases me greatly to read this Proclamation today, and I would like to thank you and the Albert Pike Lodge for having this annual event and its most important community service to the community and to the teachers.”

Mr. Sheldon Lawrence, Albert Pike Masonic Lodge, No. 303, greeted the Commissioners and said, “Thank you, Commissioner. Commissioner and the Commission, I would like to thank the Board of County Commissioners, Sedgwick County, Kansas, for their support over the past ten years with our Teacher of the Year ceremony. Each year we pick from nominations submitted by the principals from USD 259 School District. As in the past, it’s always a hard job to choose; each nomination is worthy of their title.

“The judges this year selected a teacher submitted by Cara Ledy, the Principal of South High

Regular Meeting, April 22nd, 2009

School, with attached letters from first-year South High School Teacher, Erin Elder, South High School Social Studies teacher, Frank Rodriguez, one of her students, Andrew Montego, a 12th grade Language Arts student in the Language Arts Department. The Albert Pike Masonic Lodge is pleased that the Board of County Commissioners are proclaiming April 24th, 2009 as 'Glenda Buche Day.' On behalf of the Albert Pike Lodge and all Masons, we want to thank the Board for their work and for working with us in recognizing our public school educators. Thank you very much."

Chairman Parks said, "Thank you, Sheldon. Are there any other comments? Thank you. Seeing none, call the next item."

B. PROCLAMATION DECLARING APRIL 26 – MAY 2, 2009 AS CRIME VICTIMS' RIGHTS WEEK.

Ms. Zukovich said, "I'll read this in for the record.

PROCLAMATION

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

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

WHEREAS, crime victims experience anxiety, insomnia, social dysfunction, lost work hours and productivity, drug and alcohol abuse, and severe depression at much higher rates than the general population; and

WHEREAS, crime victims may be forced to take drastic measures to protect themselves, such as relocating, changing their address, changing jobs, and obtaining protection orders; and

WHEREAS, these individuals deserve to be treated with dignity and respect by our criminal justice system and society at large; and

WHEREAS, Sedgwick County recognizes that its response to crime victims plays an important role in their efforts to rebuild their lives; and

Regular Meeting, April 22nd, 2009

NOW, THEREFORE, BE IT RESOLVED, that Kelly Parks, Chairman of the Board of Sedgwick County Commissioners, does hereby proclaim the week of April 26 – May 2, 2009 as

‘Crime Victims’ Rights Week’

and recognizes Terri Brooks, a dedicated volunteer from Parents of Murdered Children and an essential advocate for the passage of ‘Alexa’s Law.’

“And it’s dated April 22nd by the Chairman, Kelly Parks.”

MOTION

Commissioner Norton moved to adopt the Proclamation

Chairman Parks seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Ms. Zukovich said, “Commissioners, we have District Attorney's Office Marc Bennett is here, who will share a little bit about this.”

Chairman Parks said, “Great.”

Mr. Marc Bennett, District Attorney’s Office, greeted the Commissioners and said, “Thank you for the opportunity to say a few words of introduction for Ms. Brooks. She and I were speaking this morning, it was approximately three years ago, this June, that we met first, under what can only be described as very unfortunate circumstances. Her child had just been the victim of a terrible crime while carrying her unborn grandchild; and it is from this circumstance that Ms. Brooks had a choice about how to react and what she has chosen to do is help others and I want to read the following words written by the Executive Director of the Parents of Murdered Children (POMC).

Regular Meeting, April 22nd, 2009

“She writes that ‘Terri Brooks became involved with the Parents of Murdered Children shortly after her daughter and granddaughter were murdered. As her family worked on legislation for the “Alexa’s Law,” named after her unborn grandchild, Terri started doing volunteer work for Parents of Murdered Children. As time progressed and during all the motion hearings and the trial proceedings, Terri became more and more involved with POMC. She volunteers for all of the fundraising events, be it the annual poker run, the weekly bingo sessions, and other various fundraisers. She became a member of the Board of Directors in 2008, and in 2009 took on the responsibility of Secretary for the chapter, and is currently the co-chapter leader. She will be taking training in October this year to become a certified member of the Board of Directors for Parents of Murdered Children, and in general, she has been a valuable asset to the organization and has grown in her process through the criminal justice system in her grief journey.’ Terri.”

Ms. Terri Brooks, Parents of Murdered Children, greeted the Commissioners and said, “Thank you, County Commission, for acknowledging the rights of crime victims and acknowledging next week ‘National Crime Victims’ Rights Week.’ We deserve to be heard. We deserve to be acknowledged, and we appreciate that from you. Thank you.”

Chairman Parks said, “Keep up the good work.”

Ms. Brooks said, “Thank you.”

Mr. Bennett said, “Thank you.”

Commissioner Unruh said, “Thank you.”

C. PROCLAMATION DECLARING APRIL 2009 AS FAIR HOUSING MONTH.

Ms. Zukovich said, “I’ll read this in for the record.”

PROCLAMATION

WHEREAS, the Congress of the United States passed the Civil Rights Act of 1968, of which Title VIII declared that the law of the land would now guarantee the rights of equal housing opportunity; and

WHEREAS, the County of Sedgwick is committed to the mission and intent of Congress to provide fair and equal housing opportunities for all, and today, many realty companies and associations support fair housing laws; and

Regular Meeting, April 22nd, 2009

WHEREAS, the Fair Housing groups and the U.S. Department of Housing and Urban Development have, over the years, received thousands of complaints of alleged illegal housing discrimination and found too many that have proved upon investigation to be violations of the fair housing laws; and

WHEREAS, equal housing opportunity is a condition of life in our County that can and should be achieved.

NOW, THEREFORE, BE IT RESOLVED, that Kelly Parks, Chairman of the Board of Sedgwick County Commissioners, does hereby proclaim the month of April 2009 as

‘Fair Housing Month’

in Sedgwick County and expresses the hope that this year’s observance will promote fair housing practices throughout the County.

“And it’s dated April 22nd, by the Chairman, Kelly Parks.”

MOTION

Commissioner Norton moved to adopt the Proclamation

Commissioner Unruh seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Ms. Zukovich said, “And Commissioners, we have Dorsha Kirksey this morning, who is our Sedgwick County Housing Director, who is here to accept the Proclamation.”

Regular Meeting, April 22nd, 2009

Ms. Dorsha Kirksey, Director, Sedgwick County Housing Department, greeted the Commissioners and said, "I just want to thank you for adopting this Proclamation and helping our department fulfill our mission, which is to provide fair, safe, affordable housing."

Commissioner Unruh said, "Thank you."

Ms. Kirksey said, "Thank you."

Chairman Parks said, "Thank you, Dorsha. Next item."

D. PROCLAMATION DECLARING APRIL 24 AS TAKE BACK THE NIGHT DAY.

Ms. Zukovich said, "I'll read this for the record."

PROCLAMATION

WHEREAS, sexual assault is an intolerable violent crime with public health implications for every person in Sedgwick County; and

WHEREAS, no one person, organization, agency or community can eliminate sexual assault on their own – we must work together to educate our entire population about sexual assault prevention, support victims, survivors and their significant others, and to increase support for agencies providing services to victims and survivors; and

WHEREAS, the Wichita Area Sexual Assault Center has led the way in Sedgwick County and surrounding counties in addressing sexual assault by providing 24-hour hotline services to victims, survivors and their significant others, responding to emergency calls, offering support and comfort to those impacted by sexual assault during medical exams and criminal proceedings, and empowering those impacted by sexual assault to chart their own course for healing; and

WHEREAS, the Wichita Area Sexual Assault Center requests public support and assistance as it continues its effort to bring real hope for freeing Sedgwick County from the tragedy of sexual violence to create a future where all women, men and children can live free from violence and exploitation;

NOW, THEREFORE, BE IT RESOLVED, that Kelly Parks, Chairman of the Board of Sedgwick County Commissioners, does hereby proclaim April 24, 2009 as

'Take Back the Night'

Regular Meeting, April 22nd, 2009

a day to promote the awareness of sexual violence and its impact on the community.

“And that’s dated April 22nd by the Chairman, Kelly Parks.”

MOTION

Commissioner Norton moved to adopt the Proclamation

Commissioner Welshimer seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Ms. Zukovich said, “And Commissioners, we have Shanna Bell-Ahmad who is here from the Wichita Sexual Assault Center.”

Ms. Shanna Bell-Ahmad, Wichita Area Sexual Assault Center, greeted the Commissioners and said, “Thank you, Commissioners. On behalf of the Wichita Area Sexual Assault Center, we would first like to thank you for extending this Proclamation for us, but also inviting you to our event on Friday evening to bring awareness about sexual assault in our community. We served over 370 survivors in the hospital this year. We can say it is pretty prevalent in our community, and we want to bring that awareness to Wichita. Once again, thank you for this Proclamation.”

Chairman Parks said, “Thank you for your work in this, and are there any other comments? Seeing none, next item.”

E. PROCLAMATION DECLARING APRIL 2009 AS CHILD ABUSE PREVENTION MONTH.

Ms. Zukovich said, “I’ll read this last proclamation for the record. I’ll put those on so I can see all the words.

PROCLAMATION

Regular Meeting, April 22nd, 2009

WHEREAS, National Child Abuse Prevention Month will be recognized throughout the United States during April 2009; and

WHEREAS, approximately 9,881 children were reported abused or neglected in Sedgwick County last year; and

WHEREAS, child abuse and neglect not only directly harm children, but also increase the likelihood of criminal behavior, substance abuse, health problems such as heart disease and obesity, and risky behavior such as smoking; and

WHEREAS, the majority of child abuse cases stem from situations and conditions that are preventable in an engaged and supportive community; and

WHEREAS, all citizens should become involved in supporting families in raising their children in a safe, nurturing environment; and

WHEREAS, effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community – together we can strengthen families and prevent child abuse.

NOW, THEREFORE, BE IT RESOLVED, that Kelly Parks, Chairman of the Board of Sedgwick County Commissioners, does hereby proclaim the month of April 2009 as

‘Child Abuse Prevention Month’

“And it is dated April 22nd by the Chairman, Kelly Parks.”

MOTION

Commissioner Norton moved to adopt the Proclamation

Chairman Parks seconded the motion.

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

Regular Meeting, April 22nd, 2009

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Ms. Zukovich said, “Commissioners, we do have Cornelia Stevens, who is here this morning from the Kansas Children's Service League.”

Ms. Cornelia Stevens, Kansas Children’s Service League, greeted the Commissioners and said, “Thank you for recognizing the month of April as ‘Child Abuse Prevention Month.’ The Kansas Children’s Service League serves as the State chapter of Prevent Child Abuse America, and as part of our role in that, we partner with several agencies throughout the State to really do what we can to enhance our awareness of the prevention of child abuse and neglect. We have several of our partner agencies with us today, and we as a collaborative, on April 4, had an event at Sedgwick County Zoo for a prevention and awareness day. So I would like to thank the Zoo, as well as the County for providing us that opportunity.

“We had an opportunity to invite approximately 150 adults and children that had been impacted by child abuse and neglect to come to the Zoo that day and just have a day of enjoyment and fun. What we’re seeing statistically, unfortunately, is based off the economic times. We are going to see our incidence of abuse and neglect increase, and so it is for that reason that we will continue our efforts to promote prevention on a year-long basis, not just something that happens in the month of April, but it’s important that we have this local recognition.

“Before you, what you have been presented is a pin, which I am wearing, which is the blue ribbon pin which represents child abuse and neglect. You have a pinwheel, which is also from Prevent Child Abuse America, and this is our Pinwheels for Prevention theme. And then you also have a blue wristband, which you can wear on a daily basis to represent child abuse and neglect. So again, on behalf of the Kansas Children’s Service League and all of our partner agencies, I’d like thank you for recognizing the month of April as the month for child abuse and prevention.”

Chairman Parks said, “And this certainly fits my platform of we need to take care of the very young, very old and those who can’t take care of themselves. And actually, two of those, the ones

Regular Meeting, April 22nd, 2009

that are very young and can't take care of themselves, fit into that platform that I've had for quite some time."

Ms. Stevens said, "You are absolutely right. Thank you for that."

Chairman Parks said, "Commissioner Norton."

Commissioner Norton said, "Well, thanks for being here today. It is interesting, I was on the original Child Abuse Prevention Council in 1982 with Judge Burgess and Helen Cochran and Sherry Buettgenbach. After about five years, we realized that issue was much larger than just Sedgwick County and the small group we had, and the Kansas Children's Service League stepped up and took that on as a State project and has just done wonderful work advocating for children that can't advocate for themselves. Keep up the good work. I think this is like the ninth blue ribbon I've got. I have them lying around everywhere, but thanks for coming and bringing that to the attention of the public. Unfortunately, our most vulnerable, as Commissioner Parks said, do need our help to make sure that they get a part of the American dream and they can be safe in the community they live in. So we thank you and honor you for the work that you do."

Ms. Stevens said, "Thank you, Commissioner. Thank all of you."

Chairman Parks said, "Thank you. We have a guest in the audience that Commissioner Norton might want to introduce."

Commissioner Norton said, "Yes, Chairman Parks. Erin Connelly, who is a Political Science student. I know she didn't want me to introduce her, but stand up, Erin. She is here today to observe government at the local level as part of her political science class. We had a chance to meet and visit just a little bit before the meeting, but welcome to the chambers today, Erin. I hope you go away with a better understanding of what local government is, and what Sedgwick County does. So we appreciate you being here today."

Ms. Erin Connelly, student, greeted the Commissioners and said, "Thank you."

Commissioner Norton said, "That's all, Mr. Chairman."

Chairman Parks said, "Thank you. Next item."

Regular Meeting, April 22nd, 2009

APPOINTMENTS

F. RESOLUTION REAPPOINTING LUNDA ASMANI TO THE SEDGWICK COUNTY COMMUNITY HOUSING SERVICE.

Mr. Michael Pepoon, Assistant County Counselor, greeted the Commissioners and said, “You have before you a Resolution reappointing Lunda Asmani to the Community Housing Services Wichita-Sedgwick County Board of Directors. The Resolution is in proper form, and we would recommend that you adopt the Resolution.”

MOTION

Commissioner Unruh moved to adopt the Resolution.

Commissioner Welshimer seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Chairman Parks said, “Next item, please.”

Commissioner Norton said, “We have the swearing in.”

Chairman Parks said, “Oh, he’s going to be sworn in today, okay.”

Mr. Kelly B. Arnold, County Clerk, greeted the Commissioners and said, “Thank you. Alright. *I do solemnly swear...*”

Mr. Lunda Asmani said, “*I do solemnly swear...*”

Regular Meeting, April 22nd, 2009

Mr. Arnold said, “...that I will support the Constitution of the United States...”

Mr. Asmani said, “...that I will support the Constitution of the United States...”

Mr. Arnold said, “...the Constitution of the State of Kansas...”

Mr. Asmani said, “...the Constitution of the State of Kansas...”

Mr. Arnold said, “...and faithfully discharge the duties of office of Community Housing Services...”

Mr. Asmani said, “...and faithfully discharge the duties of Community Housing Services...”

Mr. Arnold said, “...so help me God.”

Mr. Asmani said, “...so help me God.”

Mr. Arnold said, “Congratulations.”

Mr. Asmani said, “Thank you. Thank you, Commissioners, for reappointing me to this Board. It’s very enlightening. They are doing lots of wonderful things. We have a number of projects in Oaklawn, South Central, and in the Kenmore District. We are also working on some neighborhood reinvestment grants that have come through the State, and we are hopeful that we will be the agency that will administer those, so I think there is a lot of a good things getting ready to happen in the community. Thank you very much.”

Commissioner Unruh said, “Thank you.”

Chairman Parks said, “Thank you for your volunteerism.”

Mr. Asmani said, “Thank you.”

Chairman Parks said, “Let’s clear it out a little bit. Do we have anyone in the overflow that we would need to bring into the gallery now? Okay. So if there is anybody else out there, check that, make sure, because we do have some seats that are freed up now. Next item.”

Regular Meeting, April 22nd, 2009

DONATION

G. DONATION OF ONE USED HITACHI 55 INCH HD TELEVISION AND TWO YEARS OF DISH NETWORK SATELLITE SERVICES TO THE DEPARTMENT OF CORRECTIONS FOR USE AT THE JUDGE RIDDEL BOYS' RANCH.

Mr. Larry Ternes, Youth Services Administrator, Department of Corrections, greeted the Commissioners and said, "A local optometrist by the name of Dr. Daniel Shea has donated a used Hitachi 55 inch HD (High Definition) television and two years of Dish Network satellite services to the Judge Riddel Boy's Ranch. This generous donation will allow us to enhance our recreational programming at the Ranch. We will contract for the four local channels, and Dish Network's education and kids programming. I recommend that you accept this donation and authorize the Chair to sign a letter of appreciation. Be happy to answer any questions that you have. We had anticipated Dr. Shea and his wife being present this morning, but I guess that they weren't able to make it."

MOTION

Chairman Parks moved to accept the donation and authorize the Chair to sign a letter of appreciation.

Commissioner Welshimer seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Mr. Ternes said, "Thank you."

Chairman Parks said, "Thank you. We always appreciate those donations to the Boy's Ranch. Next item, please."

Regular Meeting, April 22nd, 2009

CITIZEN INQUIRY

H. REQUEST TO ADDRESS THE BOARD OF COUNTY COMMISSIONERS REGARDING THE ARK RIVER CORRIDOR PROPOSAL.

Chairman Parks said, “I would like to just say something. We are going to receive quite a few requests to speak. If you wish to speak, listen to what the person has said before you, if it’s redundant, we want to try to cut through that, or if it’s a repeat, but at the end of when you speak, the person is speaking, if you will please move to the podium for time’s sake, and then please state your name and your address. Go ahead.”

Mr. Charles Peaster, 9453 N. 135th Street W., Sedgwick, Kansas, greeted the Commissioners and said, “I have lived there since the middle of 1979. I’m here to address the Ark River Corridor, and it has to do with after I had a conversation with a Board member of the Eagle-Greeley Flood Control, they made me aware that they had a visit by one of the County’s employees in regards to this concern that we had a little over a year ago and we kind of thought it was a dead issue, but it appears not to be. Yesterday at the staff meeting, along with yourselves, I was given a piece of paper that had 16 concerns on it in regards to this river corridor. None of those concerns, to my knowledge, have been addressed; and they are major concerns. In the audience today is a number of farmers and land owners that own property on the River, and I can’t address their concerns because I am not a property owner on the River, but I do own property in Sedgwick County. I have lived up there since ‘79.

“What they are asking for from the Kansas Wildlife and Parks, in most cases, is not feasible. You can’t put a canoe in the River at Yoder or even in Reno County, and I know there happens to be a person here from Reno County, there may be several. This is supposed to start up in Reno County and end up down in Sumner County. In most cases, the River is not floatable. When it is floatable, it is moving at such a rate that it’s not safe.

“I don’t have a whole lot to say, except yesterday you were given 16 concerns, to my knowledge, none of these concerns have been addressed and these property owners are going to want to say what part of their concerns are. The one other thing I will make a comment about is the fact that just before Riverfest, the Riverfest people asked for volunteers to help pick up the trash in the City of Wichita around by where the Riverfest is going to be. Sometimes they get enough people to do it, sometimes they don’t. Multiply that by the amount of trash that is probably going to end up in the River if this thing is allowed. With that, I am going to step back and let the people that are here in regards, that are owners of the property, address issues, because I know there are several of them that have them.”

Regular Meeting, April 22nd, 2009

Chairman Parks said, “Okay. Can I see a show of hands if you own property along the River? Okay. Can I see a show of hands if you are going to plan on speaking today? Okay. Keep that at five, then. Yes, step to the podium, state your name and address, please, for the record.”

Mr. Carl Younts, 6131 N. Hoover Rd., Wichita, Kansas, greeted the Commissioners and said, “I have lived there, in fact I built that house back in 1976. Started in '75 and I'm a slow worker, so anyhow, finally got it done. But I bought that house out there and the land, in order to have a little peace and quiet. I saved up my money and went in debt and I bought it. Now you're taking away, if they do this, they are going to take away my enjoyment of my property, I believe. Right now you can go out there and you can hear motorcycles, ATVs (All Terrain Vehicles), I don't know how many times I've had people come up to the house and want me to take my tractor down in the River and pull them out, because they thought they could get through and they got stuck in the sand. I like to do a little shooting out at my place because I've got plenty of land to do it on. The people on the other side of the dike, I always look, and I try to tell them that we are going to be shooting on the other side of the dike and chances are they won't be hit, but we want them to, you know, be someplace where it's safe and not back there. Their biggest comment is, well, if you shoot me, I am going to sue you.

“And I think this is what is going to happen if you open this up and somebody gets hurt back there, this is going to be my tax dollars, and yours, that some good lawyer is going to come along and he's going to say, well, you've got an attractive nuisance out there, and we're opening it up for lawsuits, and also, if you ever go out to Cheney or El Dorado or one of the public parks, they're talking about bathrooms out there. Go in and take a look at the bathrooms. They will be nice at the beginning of the year, by the end of the year, these people that they say are nice people have trashed them. I know, I've worked out there as a camp host. And I just don't think that we have enough law enforcement out there, because it is hard enough for them to get out there now when I call them. And I just see an opening of Pandora's Box.

“We need to put teeth in what we've already got, because there's supposed to be a \$500 fine for being back there. There's supposed to be a \$500 fine for the discharge of a firearm within the confines of the flood control. And that happened, I remember when it happened, and that's when somebody was shooting from over there in the big ditch and killed a guy driving his truck down around close to 25th Street and the bypass. And I can take you back there right now and I can show you where there are some blinds and stuff, because I can see them from my side of the property. And we've had some cattle get out, and there's some people that's got blinds that they build out there, and they're shooting. You hear them all times at night shooting. I've had to dodge bullets out while I was mending the fence. That's why I am against it, because I think it is just going to open it up because you are going to have people, just like we do right now, saying that's public property, the Rivers, it belongs to the government, and you can't do anything about us being in here.

Regular Meeting, April 22nd, 2009

“I did talk to one of the TV stations, they did a little deal on it several years ago, and they talked to a fellow out there on his motorcycle. They told him do you realize it is against the law to be out here; he said yes. He said, but they got to catch me first. So that’s what we’ve got going on. You got to catch them first, and I just don’t like the idea of it because, like I say, it’s going to take away from my enjoyment. I hear noise enough now. I’m going to hear shouting, and I hear shouting now. I’m hard of hearing; and even in the house I can hear them shouting and I can hear the motorcycles and stuff out there. But just the people out there picnicking and things like this, I’ve put out fires because I always thought, well, wouldn’t hurt for a guy to be out there fishing, but they build fires; and wind comes up and blows it over from where they’re at in the sand and it catches the other brush and stuff on fire. I have had to go out there and put fires out. They were talking about that’s one thing that they were going to let the canoers and kayakers do; they said we’ll put them on the sandbar. Well, the wind will come up, still blows it out to where everybody else is. I’ll shut up for a while, because I could sit up here and talk forever. Let somebody else have it.”

Chairman Parks said, “Thank you, Mr. Younts. Next person, please.”

Mr. Steven Eddy, 11420 W. 77th Street N., Maize, Kansas, greeted the Commissioners and said, “Our property is east of 119th and on the north side of 77th Street and butts up to the levee for the Arkansas River. I am here to oppose any actions allowing public access in to the River or the levees. The property that is located on the south edge of the River to the current fence line, which is just south of the levee, was condemned by the Sedgwick County Commissioners under case number A-33666 in 1950.

“There are 63 tracts of land condemned under this case number, and on page two of paragraph one of that condemnation order, it states, ‘the right-of-way easement and exclusive occupancy, and possession forever of, through over and upon the following tracts of land, and each of them in Sedgwick County, Kansas for the purpose of construction and maintenance through over and upon the same, the works for the prevention, control, mitigation of flood and flood hazards upon or along the Arkansas River, or the tributaries thereof, including without limitation of the generality of the foregoing language, the digging and construction of channels for the passage, or control of water, the construction of levees and control structures, and the right of subjacent supports.’

“With that being said, this land was condemned for the sole purposes of flood control. And for you to change the use of this land would require consent from each landowner. And you would be required to compensate and purchase the right-of-ways for each tract of ground from its current owners. Currently, if the public were to park on Ridge Road, for example, at the levee system, and start walking either direction; every time they cross a property line they would be trespassing.

“I might remind the Board that back around 1980 the City of Wichita changed the use of the condemned floodway at about the 3700 Block North and allowed a motorcycle tract to go in

Regular Meeting, April 22nd, 2009

without the consent of property owners. This resulted in illegal action and the City of Wichita was ordered by court to purchase the right-of-ways from the owners and this was very costly. I am not here to address my concerns with what the City of Wichita does, they want to continue to violate the condemnation orders, they will be writing out more checks.

“What I have discussed with you here today I have also discussed with Mr. Mitch Mitchell, who cannot be here today, due to a prior appointment. Mr. Mitchell has advised me that what I have just told to you, as I have read to him, is fact and can be validated through himself or through the proper paperwork. In closing, this was all condemned for the sole purpose of flood control. I am asking you to uphold the official use of this land as set out by your predecessors and restrict the use of this land as it was condemned for in 1950. Thus, protecting our rivers and levees, so they can remain in good shape and protect civilization in the future.”

Chairman Parks said, “Thank you, Mr. Eddy. Next person that wishes to speak.”

Ms. Nadine Stannard, 5600 W. 53rd Street N., Wichita, Kansas, greeted the Commissioners and said, “I have a business at 5600 W. 53rd Street North. I would like to ditto what the previous gentleman just said regarding the flood control purpose of that condemnation action and to draw your attention to before you a letter that you don’t need to read now, I will briefly tell you what is in it. About a year ago, this body received a request from the Coalition (Arkansas River Coalition) to endorse their efforts, and that’s when I found out what was happening. I found out at that time - this is not going to stand up, I thought it would. Thank you. At that time, I don’t know if you can tell, can you see the outline where my property is?”

Chairman Parks said, “Maybe we can have our technician zoom in on that a little bit.”

Ms. Stannard said, “There is, I’ll come around and point it out. This is the outline of my property. This is 53rd Street, Here is the River, and you can see the riverfront that my business would be exposed to. I have a smaller picture of that that I can pass around, if you would like it. If you pick that up, I’ll hold this.”

Chairman Parks said, “Sure.”

Commissioner Unruh said, “Thank you.”

Ms. Stannard said, “Briefly, this letter, when I discovered that in their plan at that meeting, I don’t know if any of you have seen the written plan, I do not have a copy of it to give to you, but you were asked to endorsed this plan, and it was my understanding that you didn’t have a copy at that

Regular Meeting, April 22nd, 2009

time. So you were being asked to endorse something that you had not even had an opportunity to study. When I got a copy of this plan and discovered that, indeed at the corner of 53rd Street and the River, they had proposed an access point at that place because there was adequate room for parking and a flat spot to build restrooms and so forth. That, my friends, is my land. That does not belong to someone else to be building on.

“I contacted my attorney, he wrote the letter before you and sent it to a number of people. We had a problem figuring out just exactly who to send this letter to. So, we sent it to Tom Huntzinger, who was at that time, the project manager, we understood. He has since, I understand, left that position. Then the top letter indicates that in some way the attorney found out that, I don’t remember how now, found out that he had addressed it to the wrong person and directed it to Parks and Recreation Department. In this letter, we asked that not only everyone be notified that this was indeed private property and the plan was in error to assume that it was public property, but we asked that they acknowledge that to me.

“To this date, I have not had anyone even acknowledge that they received the letter, much less that they acknowledged that was an error and retract that plan, based on that. Commissioners, if this project is going to be that disinclined to regard private property rights, how can anything in this plan be taken very seriously? I respectfully ask that you not endorse any kind of action regarding this access plan.”

Chairman Parks said, “Thank you, Ms. Stannard. Next person, please.

Commissioner Unruh said, “That’s me, Mr. Chairman, may I say something?”

Chairman Parks said, “Yes.”

Commissioner Unruh said, “Thank you, Mr. Chairman. I think I owe an apology to Ms. Stannard, sort of. Yesterday I talked to her and she said, ‘Is this an Agenda item for tomorrow?’ I said no, ‘It’s not an Agenda item, I don’t know, it’s not on the Agenda as I read it.’ At that time we had a citizen inquiry from Mr. Peaster, and I didn’t realize it was going to be, at that time, a public forum. So Nadine, I didn’t mean to mislead you. Sorry, but at that time, I didn’t know we were going to have a public forum. I wanted to make that clear. That’s all I had, Mr. Chair.”

Chairman Parks said, “Okay. The citizen inquiry statement said request to address the Board of County Commissioners regarding Ark River Corridor presented by Charles Peaster and others, so that’s how that was on the Agenda. Go ahead, sir.”

Regular Meeting, April 22nd, 2009

Mr. Alvin Neville, 14601 W. 77th Street N. Colwich, Kansas, greeted the Commissioners and said, "I live roughly at 96 Highway and 151st. Our family has owned a half mile of the River frontage since before the levee was built, so my dad was involved in that. I'm speaking in regards to our property and many of the other farmers that are busy now that we're about two weeks behind with the wet weather with our farming. Our concerns are with our cattle, somewhat, with grazing in the wintertime, if this is allowed, the ability for canoers or hunters to access the River, come in, and basically have open range. We fear that with our cattle that lie up along the dike out of the wind in the wintertime, it can be easy for them to be shot at instead of deer. Just to open this to all kinds of hunting being allowed, without us knowing where they are, and them knowing where we are, where our buildings are, our houses are and that. Our buildings and house is roughly probably 100 yards from the River and it would be real easy for someone to just canoe in and be disruptive.

"I know I'm giving you the worst case scenario, but it's stuff that happens this day and age. The camp fires, you get into the secluded areas in our part of the County, like they were talking earlier, the sand bars - easy to pull off on, get on, light a campfire, and if a fire gets out of control, how do you really get there to access that, to fight it. There's really no way, with the dry grass; buildings, houses, all that can be affected. I realize that you get into Wichita, that's not a concern, but in western and northwestern Sedgwick County, that's a major concern of ours.

"Trespassing signs, if you put them up, guess what they are? Just like any other one across the County, they're targets to be shot at or just ignored. Here about six years ago, about two weeks before wheat harvest, I was going down the road, looked out in our wheat field and seen a car out there. Went down and checked it out and there was a car that drove through our wheat field, that took a gate down, drove up to the levee, and the lady and her two kids walked out and was out on the River. We called the Sheriff Patrol. They come out and we checked it out, because I didn't know what was going on. She just said, 'Oh, I just wanted to bring my kids over to the River.' Well, they took our fence down and drove through a wheat field to get there, and to me, this would only be the beginning of stuff like this happening. I think it's just going to be hard to patrol all of this. We realize that some people would like to enjoy the River and that, but as with anything, I believe if there is a stop and start point to where things like this should start at and where they need to stop at; and we believe that in northwestern Sedgwick County and that, that it would be in the best interest that it not happen there to avoid a lot of problems that we believe will only get started and get worse. Thank you for your time."

Chairman Parks said, "Next speaker, Mr. Cather, please step up."

Mr. Bill Cather, 2935 South Seneca, Wichita, Kansas, greeted the Commissioners and said, "Thank you. I practice law there. I want to talk to you a little bit about the law on this matter. And I also own land at the end of 110th Street South in Sedgwick County, about five acres. And I live, almost exclusively now, at my farm on the banks of the Ark River, two and a half miles south of

Regular Meeting, April 22nd, 2009

Mulvane in Sumner County. And I live at the address there is 1199 Old Goat Ranch Road. It used to be a goat ranch. Now there is only one goat there. I won't say who.

"I would ask Commissioners, in your wisdom, to refer this to the legal staff that you have, because it is something called the Transportation Plan of the Corps of Engineers. You know, in 1803 we purchased Louisiana, and I don't mean Kansas, the United States did, and we had in that treaty, a provision that the River is for commerce, not hunting, for commerce. Not for farming, but for commerce. The government owns the bed of the River, unlike all other rivers in the state of Kansas. Other rivers, the farmer owns to the center of the River. That was established in the Kansas Supreme Court case called Meek vs. Hays.

"But the federal rivers, particularly the Ark River here, are not that way, the federal government owns it. Somebody in the federal government has to administer it and the government has appointed that task to the Corps of Engineers. What the Corps of Engineers is administering cannot be condemned. The local governments can, with cooperation of the Corps of Engineers, can condemn the rights that someone might allegedly have to something that is outside the median high watermark of the River.

"But the Corps of Engineers' job is to establish a transportation plan for the River. Now, since 1803, it's been established that it was for commerce. Since somewhere in the 1950s, it's for barge traffic from New Orleans up to Tulsa or Catoosa, at least. So I would suggest to you that river transportation by boat has been coming up the River, we know, at least since 1718, when an expedition of French set out from New Orleans, came up to nine miles south of the Kansas line and built a fort in 1719, called Fort Fernandina; which is commonly known to some of these canoers and kayakers as 'Traders Bend' on Kaw Lake. So, this river has been used for fur trading purposes and other commerce since 1719, even before the treaty, that by which we acquired the whole Louisiana Purchase. And, of course, as far up as Wichita and beyond, it has been used for that purpose, for canoes and canoe transportation and boat transportation, for centuries now.

"What I would suggest is, that the Corps of Engineers' plan does not include ATVs or automobiles. It is a violation of the Corps of Engineers' Transportation Plan for those kinds of vehicles to be there. Now, this governmental body, I believe, has some kind of authority in a contract that it has with the Corps of Engineers to enforce law upon the River. I know the City does. And the Corps of Engineers is the source of your authority to use security on the River.

"But if somebody is out there driving cars and doing something they shouldn't do, that's how you derive your authority, and how the Sedgwick County Sheriff has the authority to go out there and do something about it. I would respectfully request that you refer this matter to your legal department before you take action that bars canoe access to the River. If you bar canoe access to the River, or something of that nature, what we're doing is we're violating the Corps of Engineers' plan and a

Regular Meeting, April 22nd, 2009

federal law, the Treaty of 1803. So I would ask that you not do those kinds of things. Thank you very much.”

Chairman Parks said, “Commissioner Peterjohn, did you have a question?”

Commissioner Peterjohn said, “Yes. Mr. Cather, could you briefly clarify for me a couple points. I was interested, you used the phrase ‘median high watermark,’ and in discussions, the discussions I’ve heard, there have been a number of discussions about where the measurement should be, in terms of where the control that’s part of the River turns into the property owners’ who are along the embankment, and the phrase I heard most often previously was ‘ordinary high watermark.’

“One of the big problems that we have, and I think any governmental body will have, is that really understanding where people can legally go and be on the River without trespassing is one of the big concerns here. I wonder if you might be able to provide a quick clarification for me on the differences here and which is truly critical, and how much latitude we have under the Treaty of 1803 in terms of whether we’re talking about ordinary high watermark - I hate to go through this - but mean high watermark, high watermark, average high watermark, and median high watermark, in addition to ordinary high watermark?”

Mr. Cather said, “This is kind of a problem that I’ve broached with the Appraiser in Sumner County. I bought 200 acres, they’re taxing me for 220, and you can see that they’re taxing me for some sand. They’re pretty aggressive down there, and they say they’re more aggressive than Sedgwick County is, and I think they really are. But, this business of the median or the ordinary or whatever high watermark, is something that is kind of disputed between appraisers, but probably not with surveyors. And if you really want to know exactly where that mark is, you hire a surveyor, and if the Court doesn’t disagree with it, that’s the mark. Now where it is, obviously is not the ‘high’ watermark, it’s not the ‘flood’ watermark, if it were, then these navigable rivers, when they overflow for a mile wide beyond the River, well all that would be under the jurisdiction of the Corps of Engineers. So, it is only the medium, median, ordinary high watermark, not the flood high watermark. This requires kind of some common sense on the part of the surveyor and the Appraiser, even the Sheriff to go out and find it. But most of the time, our common sense pretty much tells us where it is.

“Now, duck hunters need to hunt ducks and geese in the water. Now, if those ducks and geese are in the water, you’re shooting them in the River, below the median high watermark and, in fact, they’re in violation of the Corps of Engineers Transportation Plan, that’s not permitted, as far as I know. At least, now that’s my personal contention. But I think that certainly the hunting of those kinds of creatures, the bullet or something is traveling over the River and that’s not something that the landowner has a right to license. And the dispute you’re hearing today is between landowner and

Regular Meeting, April 22nd, 2009

farmers who are not farming their land, they are licensing hunters to go out on their land, and the best deer hunting is right along the River and those bullets that shoot those deer are going right in to the River. And so, the landowners have every reason to believe that somebody might get shot and as a matter of fact, they've got a big problem, because the bullet that they have licensed to go into the River, in fact is trespassing, isn't it? So there's kind of a problem, and that's why I think..."

Commissioner Peterjohn said, "Well, Bill, I was asking about the high watermark..."

Mr. Cather said, "Yeah."

Commissioner Peterjohn said, "...and not about firearms discharge."

Mr. Cather said, "Okay."

Commissioner Peterjohn said, "Let me..."

Mr. Cather said, "I'm sorry."

Commissioner Peterjohn said, "...ask another question, in terms of, one of the big problems that we have here is you've got private ownership right up to the edge of the River, and however we end up with a definition of where the high watermark is. The homeowners, farmers, property owners along the River, have a problem in terms of allowing access, and to the best of my knowledge from talking to constituents in my district, they have not allowed access to other parties to get to the water and allow canoeing. Since you've got access to the water down in Sumner County, I understand, you said 110th Street South, I believe?"

Mr. Cather said, "110 Street South."

Commissioner Peterjohn said, "Do you allow access to the River on your property to the public?"

Mr. Cather said, "My land, right there, is an exception and a little different from my land that I own in Sumner County, because at the time that that area was platted, or whatever it was, the County acquired a 20 or 50 foot easement, I forget which, between the median watermark, which is kind of indefinite as to where that is, and where the platting was to take place. So my five acre piece has a specific boundary and then there's County land in between that and the River. But that's not the way it normally is along most of the River. Most of the River, when I step from my land into

Regular Meeting, April 22nd, 2009

the River, I am essentially pushing my canoe, from my own private land, into an area that's governed by the Corps of Engineers' Transportation Plan, which permits canoes."

Commissioner Peterjohn said, "Let me clarify a point, because shortly before I became a Commissioner, I attended a meeting across the street at City Hall where I was told that the Corps of Engineers' role had been replaced, in terms of control over the Big Ditch, as it's commonly referred to, by FEMA (Federal Emergency Management Agency), by Emergency Management. And I was interested in that regard because I'd been told the City of Wichita had banned being out on the water, and in fact we've had people, and this is an issue in relation to jail overcrowding, who have been arrested and hauled down to the jail for being out in boats on the Arkansas River in the City of Wichita.

"And of course, you were on the City Council, albeit not recent, not in the last few years, I would be interested in any clarification in terms of the fact that FEMA has apparently taken control over the federal supervision for the big ditch, and under more recent federal laws, and also the fact that apparently the City of Wichita has the authority to arrest people if they're improperly boating on the Arkansas River?"

Mr. Cather said, "I would draw a distinction between the Big Ditch, which is not part of the River, and the River itself. On the Big Ditch, that jurisdiction, the City would have. On the River, the City has whatever jurisdiction, or concurrent jurisdiction it has, by virtue of its agreements with the Corps of Engineers only. And I think they have the right to go out and arrest somebody in the center of the Arkansas River during the middle of River Festival. I think that one of the gentlemen who spoke here and said that somebody had their car out in the middle of the River, the Sheriff of Sedgwick County has the right to go out and arrest that person, and do other things, I won't try to limit what they are, but to do whatever's necessary to enforce it. If the landowners, who are up here talking about this problem, they do have some legitimate gripes. And one is that Sedgwick County and the City of Wichita really ought to enforce the law that they have been given by virtue of the agreements they have concerned for the construction of the floodway and other agreements they have with the Corps of Engineers and the federal government. The federal government can change the person who's in charge of the waters of a certain area from one federal government entity to another, and those entities can subcontract with local governmental units. Does that answer it?"

Chairman Parks said, "Does that answer your question, Commissioner Peterjohn?"

Commissioner Peterjohn said, "Appreciate it. Thank you."

Chairman Parks said, "Thank you."

Regular Meeting, April 22nd, 2009

Mr. Cather said, “Thank you very much for letting me speak. Thank you.”

Chairman Parks said, “Next person, please.”

Mr. James Johnson, 1211 Perry, Wichita, Kansas, greeted the Commissioners and said, “I’ve been a resident of Sedgwick County for 58 years. I’m here to speak in favor of the department’s plan to develop accesses for the Arkansas River. For 25 years, I have been a Red Cross and American Canoe Association instructor and instructor trainer. In those years, I’ve taught hundreds of Sedgwick County people to paddle safely and to understand the responsibility that we have to the environment and to the landowners.

“I sat here and listened to landowners bring up their concerns. My responses to many of them are specific. Canoeists and kayakers are not motorized vehicles. We are not hunters. Paddlers, and I am familiar with the community, because I have been a two time past president of the Kansas Canoe Association, are responsible property owning individuals. I represent that group. I’m proud of that group. We are the people who do the cleanups. There are plenty of people after River Festival to clean up the Arkansas river. We are in many ways the eyes and the ears of citizens.

“I have been involved in several well publicized rescues of people on the Arkansas River by virtue of the fact that I have been boating there. The designated accesses will solve two or three specific problems. One is that it will relieve the trespassing on public land. People trespass because they are trying to get to a river that is their right to paddle. It is their right to transport on the Arkansas River. Limiting the access by landowners in an effort to keep people off their land does nothing but promote trespassing. The individuals who speak of the legal aspect, or the legal contracts between the City and the flood control and the landowners and the easements, are issues that the Kansas Department of Wildlife and Parks (KDWP) will deal with. No one wants to steal anybody’s land; no one wants to trespass on anybody’s land. Certainly, canoeists and kayakers are not the people who you see in ATVs and they’re not going to be the people who are shooting cows or at other properties. I have been confronted by landowners with weapons paddling the Arkansas River. Their reasons were that I was trespassing on their land.

“The attempt of the Kansas Department and Wildlife and Parks to develop the Arkansas River as a recreational facility only adds to our community. As I say, I am the eyes and the ears and very much the person of the paddlers in Sedgwick County. I am not a criminal and I am not a trespasser. I am an individual who respects laws, pays taxes and wants to see the members of our community have a recreational aspect that is their right. So I encourage you to consider this plan, to consider what Mr. Cather said, as to the law, and to understand that the paddling community is a responsible, legitimate part of this community. Thank you for your time. Questions?”

Regular Meeting, April 22nd, 2009

Chairman Parks said, "I have one comment. You commented that the KWAP would enforce the laws?"

Mr. Johnson said, "Kansas Department of Wildlife and Parks?"

Chairman Parks said, "Yeah, KWAP [sic]. That Kansas Wildlife and Parks would do that?"

Mr. Johnson said, "No, I didn't say that, I didn't mean to say that."

Chairman Parks said, "You didn't say that earlier? That they would..."

Mr. Johnson said, "Re-state your question, please."

Chairman Parks said, "...that they would enforce the laws of the RCAP (Rural Community Advancement Program) provision for..."

Mr. Johnson said, "I didn't mean to say that if I did. I don't recall saying that."

Chairman Parks said, "Okay."

Mr. Johnson said, "I don't know what their law enforcement, other than speaking with Val Jansen, and I'm not a lawyer, so I don't know who would be responsible, I would ask that Sedgwick County Sheriff, Kansas Department of Wildlife and Parks would enforce the laws regardless. We're law abiding citizens."

Chairman Parks said, "I did hear the shout from near Valley Center, just a little bit ago when I thought that I heard you say that, that from my wife that had called the KWAP [sic] on a recent incident where the people admitted that they were hunting illegally, didn't have licenses and no citations or arrests were made, so I thought I would throw that caveat in there."

Mr. Johnson said, "Well, the Kansas Department of Wildlife and Parks, there's no 'A' in there, I don't think, so once again, paddlers are not hunters. My comment that providing accesses will relieve the trespassing. Now, individuals hunting, I can't speak to individuals hunting."

Chairman Parks said, "Part of the RCAP plans and provisions were to allow alcohol in some areas, allow alcohol and guns in some areas, allow alcohol and guns in some areas that they could not use the guns and not drink the alcohol, and that's what I was referring to on that, just to clarify who is going to enforce that."

Regular Meeting, April 22nd, 2009

Mr. Johnson said, "Once again, I'm not a lawyer and I haven't read it..."

Chairman Parks said, "Okay."

Mr. Johnson said, "...so you'll have to refer that to your legal department and the Kansas Department of Wildlife and Parks."

Chairman Parks said, "We certainly will. Commissioner Peterjohn."

Commissioner Peterjohn said, "Mr. Johnson, appreciate you coming down and your testimony, but you made a statement that you had a right to paddle on what's commonly called here the Arkansas river..."

Mr. Johnson said, "The Arkansas."

Commissioner Peterjohn said, "...and when you said Arkansas River, I'd agree with you if we were in Colorado or Oklahoma or downstream, but I was curious, under the U.S. or Kansas Constitution, can you cite a provision in there where that right's granted?"

Mr. Johnson said, "No, I'm not a lawyer. So if even if I did, I think Mr. Cather can speak to that. It is a federally navigable river, to my knowledge. The three federally navigable rivers in Kansas are the Missouri, the Kansas and the Arkansas, if you will. I cannot cite a specific section, however, that doesn't mean it doesn't exist. I'm not a lawyer."

Commissioner Peterjohn said, "You don't have to be a lawyer, in terms of being able to cite provisions of the Bill of Rights, I do it all the time and I'm not one either. I appreciate you coming down and testifying, Mr. Johnson."

Chairman Parks said, "For the sake of brevity, I'm going to refer my comments about navigable streams to later, so I think we've had all the questions of you that we need, so..."

Mr. Johnson said, "Okay."

Chairman Parks said, "...thank you for coming in and speaking."

Mr. Johnson said, "Thank you for listening to me."

Chairman Parks said, "Yes. Mr. Nicholson, step to the podium, please."

Regular Meeting, April 22nd, 2009

Mr. Jim Nicholson, 11011 W. 77th St. N., Maize, Kansas greeted the Commissioners and said, “I have 136 acres of pasture that backs up to the River. Most of my concerns have already been confronted: with fires, being shot at, running cattle through fences, trespassing and just in general, problems on the River. About a year ago, I set out on a mission to find out exactly what I did and did not own down there. I contacted Mr. Bob Parnacott of Sedgwick County, Assistant County Counselor. Mr. Parnacott did a lot of research on this and came up with a letter dated May 8, 2008. It’s very clear in here, to me, what we own and I will enforce trespassing on my property to the full extent of the law. I’d like to submit this letter to the County Commission.”

Chairman Parks said, “And all of these materials that have been submitted will be submitted and filed by motion later on. At your location, how deep does the water usually run?”

Mr. Nicholson said, “Well, the River right now is up a little bit from normal, but behind my place, I was down there earlier this week, and there’s a four to five foot drop from the edge of my property to the waterline. Which under this high watermark, what I understand is to where the vegetation starts, so to legally not be on my property, you would have to be in the River bottom in the water.”

Chairman Parks said, “So, if you were going to call it a navigable stream, if you’re going down a canoe 300 of the 365 days, would you say that that would be pretty rough to do?”

Mr. Nicholson said, “You’re going to do a lot more dragging than floating.”

Chairman Parks said, “Okay. That wasn’t, I guess 2009, and not 1911 or 1912 when they declared that, right?”

Mr. Nicholson said, “Yes, sir.”

Chairman Parks said, “Okay. Thank you.”

Mr. Nicholson said, “Thank you.”

Chairman Parks said, “Next person, please.”

Mr. Calvin E. Kissick, 2541 Lake Ridge Circle, Wichita, Kansas, greeted the Commissioners and said, “I’m a resident of Wichita, Kansas, but I own land in Sedgwick County and adjacent to the River in Reno County. I’d like to begin with, express my appreciation to your Director of Community Development, Irene Hart. While we do have opposing goals here, I am against the development of the River and I know she’s leading the planning effort, she’s made an effort to keep the lines of communication open with me and has listened. I appreciate that very much. It’s

Regular Meeting, April 22nd, 2009

refreshing to have that and it's only occurred recently, and I think she's a big part of it, so I appreciate that, Irene. I want to bring a little history here. For the last two years, I have attended several meetings and presented on the development of this river by the Coalition and it's been by the Department of Wildlife and Parks, public meetings and so forth. I've been struck by how few citizens have actually supported this. Mr. Johnson is the second one who supported this in two years. The other was representing the Sierra Club and the River Coalition.

"My concern is that it's only been supported by the Department of Wildlife and Parks, their contractors and The Wichita Eagle, very strongly. And to me, it's being driven top down. This isn't being brought up by the citizens who really support this. As you know, I spoke here, a year ago, before the Commission and at that time several of the others also did this and the Commission, I felt, made a good decision in what they call 'shelving the plan.' The Wichita Eagle criticized the landowners for being narrow in their thinking. They criticized you, the Commission, for running into the tall grass and hiding from this issue. I don't think that was fair, but we all received it equally on this. I really feel that Irene has put a lot of work into it, I know the landowners have put a lot of time, their here, some of the people that farm my land are here and I know they'd rather be out farming it than being here and taking this time.

"The Commission has put a lot of time in this and will again in the future, and I'd like to bring a sense of finality to this. Let's get a stand on it and move on to bigger issues. As a taxpayer it concerns me that we're spending all this time and effort and I would like to bring a sense of finality to it. I have a proposal I'd like to present to the Commission that summarizes what I have said. It's been signed by 50 landowners. I made no effort to go out and meet each one. We called a quick meeting and 50 had signed it. This is landowners in Sedgwick County, only to the northwest from the Reno County line to the Wichita Sedgwick County, Wichita City limits, as well as owners from Reno County. I plan to present this same proposal to the Reno County Commission, but I couldn't get on their schedule. Basically, it says let's promote and develop this where it's wanted, by the citizens, and it's certainly not to the northwest city limits to the Reno County line and I would like to offer this for your consideration."

Chairman Parks said, "Please give that to the clerk. Thank you."

Mr. Kissick said, "Are there any questions?"

Chairman Parks said, "Seeing no questions, thank you."

Mr. Kissick said, "Thank you."

Chairman Parks said, "Any other people want to speak to this issue before we make a final? Go ahead."

Regular Meeting, April 22nd, 2009

Mr. Bill Bardshaw, 10 Woodland Ct., Mount Hope, Kansas, greeted the Commissioners and said, “Don’t ask me my address, because we’re out around Mount Hope. We got about three miles along the River there, farm with my brothers. But I guess my question is to paddlers and so forth, who’s going to pay for this? You know, the State sure can’t. You’ve all read the papers about how broke they are. I don’t really think the Sedgwick County has a whole lot of money to go throw on it, building a bunch of accesses and buying ground and so forth to get into there. It’s my concern, I heard all this, but somebody’s got to pay for it, and I’m not willing my tax dollars to be spent on something that there’s very few people that want to access it right now, you know, maybe sometime a hundred years from now, when I’m long gone and a lot of us are long gone, maybe there will be a reason for that.

“But the River itself, you know, I’m not sure why anybody wants to get into it because when Wichita has their River Festival, what’s the first thing they do? They take a water quality test and I’ve heard several times that they’ve eliminated those tests, not the tests, but eliminated the water events because the bacterial level is too high. We can thank our neighbors up northwest of us for what they dump into the River as to what’s coming down there and what’s in that river right now between there and here. You go further on the other side of that and you can step across the River, so a lot of the water that comes down the Arkansas River, particularly on the backside of our place, is what comes down out of a treatment plant up there. That’s really all I got to comment on.”

Chairman Parks said, “Thank you. Next person, please.”

Mr. Steve Denton, 814 Greenway Ct., Wichita, Kansas, greeted the Commissioners and said, “First off, I would just like to say that the sky is not falling and we need to think about the future generations. People are going to need activities to do, other than going to a bar or going to a restaurant here in Wichita. I think kayaking and canoeing is an excellent source of activities for younger generations. I respect the landowners. They have very valid concerns. But, again, to be redundant, the kayakers and canoeists are not the criminals that they’re made out to be. They’re not ATVs, and the problems that are prevalent for these landowners, they’re already here.

“Adding an access point for legitimate canoers and legal activities is not going to increase the crime that’s on their property. It’s already happening by punks and kids that don’t have canoes; all they have is a car or a gun and lots of free time. Give them something to do and that free time, besides shooting and trespassing, well, maybe we’ll get rid of some of this problem. These landowners have been here for years and they feel that they have the right to have all the River to themselves. Well, unfortunately, they don’t. So I just would like to say, please keep this issue open until we have a better option. Thanks.”

Regular Meeting, April 22nd, 2009

Chairman Parks said, "Thank you. Next person. Step to the podium, please. Give your name and address."

Mr. Richard Gronniger, 9264 N. Hoover, Valley Center, Kansas, greeted the Commissioners and said, "I own property on Big Arkansas and the Small Arkansas. Probably in about the last three years, I probably called 60, 70 times 911 about ATVs, horses, people coming in off the roads, parking right next to the no trespassing signs and walking right down to the River. You ask them, 'Did you see the signs?' 'No I didn't see any signs,' but when the Sheriff's sitting there waiting for them and writing them up, I know there's been some \$500 tickets written out, but there's just a lot of poaching going on. You let people more access to this river and that's just an open hunting range. I don't mind anybody floating down that canoe and there's nothing wrong with the last hundred years. They still have accesses to people's private land or whatever. But we don't need, as taxpayers, we don't need to pay for it."

"This one guy said, well, paddlers don't hunt. That's false. You know, people hunt from canoes, they hunt from boats. They hunt anyway they can. My problem is, you call the Sheriff out on that river, and you got somebody breaking the law, we can't get a hold of the game wardens. The game wardens don't help the Sheriff's Department out. Sheriff Department don't know the rules of the gaming laws. No one knows nothing when it comes to this river, and this is the big mistake letting other people in. I'm a 100 percent against any access on this river."

Chairman Parks said, "Thank you. Next person, please."

Ms. Marjorie Thompson, 367 Wind Rows Lake Dr., Goddard, Kansas, greeted the Commissioners and said, "I have property on the River at Ridge Road and 69th and I grew up on that river. What a lot of people don't really realize that hasn't been around that is that when it gets on a rampage, it really goes, and it does all sorts of damage. If we go ahead and build these toilets and all the things we intend to build out there along the River and we get a flood, it's going to just really do a lot to it. I don't know just what it would do, wash them away. Who is going to clean those up and how are they going... we going to have to send somebody in to replace them? Replace all that that we have had destroyed?"

"Also, way back, the twin bridges that we had up there at 119th, some of the kids at that time burnt those two bridges and so we have always had people that are going to be destructive and these people that are talking about their group of canoes, I don't imagine that they would really be damage to it, but there's so many other people that are going to, because if they have a right to it, then all these other people are going to have. I'm afraid we're going to have a lot of destruction and a lot of problems with, like they have already said, shooting, fires and everything else."

Regular Meeting, April 22nd, 2009

Chairman Parks said, "If I may add to that, there may be some confusion about the bathrooms and shower houses that were in the original RCAP plan. I have seen those also and that is what she was referring to about the showers and the restrooms that were going to be going along some of these access points. Just to clarify that."

Ms. Thompson said, "Do they plan to have like a trail to walk or are they going to put sidewalks out there; what's the plan on that, for recreation?"

Chairman Parks said, "For time's sake, I don't want to get in to all those plans, but I think we're dealing right now with property rights and trespassing, but a lot of those things have been a living document in there. Like one of the other guys said, I can't imagine the state spending a lot of money like they had originally planned on this, but they may be. Thank you. Next person. Please come to the podium, state your name and address, please."

Mr. Tom Kneil, 6110 Edinburg, Bel Aire, Kansas, greeted the Commissioners and said, "I'm representing the Arkansas River Coalition. We are, of course, in favor of the RCAP development. Having been one of the sponsors of the work that was done by the consultant, I'd like to reinforce the idea that the responsible canoeists and kayakers don't do the things, at least I'm not aware of them, doing the things that the previous speakers have addressed their concerns, the landowners' concerns. We're as much against ATVs and vehicles and trespassing and breaking down of fences and so forth as the landowners themselves are."

"It is a navigable river, it is a public river, that has been supported by numerous courts of law and most recently, a year or two ago, five years ago I guess now, when the Cornejo C&D (construction and demolition) Landfill issue came up, it was again backed up that this is indeed a navigable river."

Whether that is in fact, you can argue, but as far as a court of law is concerned, it's classified as a navigable river, therefore, public. The concern of the Stannard, relative to the original proposal to put access on her property has, as I understand it, been addressed. That access point has been withdrawn from the plan; this is according to my conversation with Larry Hoetmer, of the City. The access point has been moved down to the landfill. I'm drawing a blank on the name of the landfill, but, again, on very definitely public land. So that is, essentially, a non-issue.

"It is my understanding that the proposal that was put together, the RCAP proposal, by the consultants, is a work in progress. It is not the plan that, if it's approved, everything that's in it is going to occur. It was an idea on the part of the consultants; we think that this would be a good spot, and this would be a good spot, and so forth. That can be changed."

"As far as paying is concerned, it is my understanding, again, that there are no funds committed by the City of Wichita, by Wildlife and Parks, by Sedgwick County, certainly, or the other counties that have been part of this process. But those of us who support it would go out and seek funds. There are federal funds available. There are probably private funds. I would bring to your attention

Regular Meeting, April 22nd, 2009

the fact that the Kansas River has an organization called Friends of the Kaw. They have been very successful in raising private funds and they have also made use of volunteer help to put in access points that have been very helpful, in terms of getting people on the River in public places where they don't have to go through private lands. It has done a lot to bring the River and its amenities to the public's attention up in that area.

"Once again, this relates to what has happened here, or one of the proposals of the RCAP plan is to bring attention to the River, to use it as a means of promoting the City and promoting the area. That if there is good recreation, it will help attract young professionals coming into the city, so it helps in economic development. There are a number of positives. I don't mean to belittle the problems that the people have raised, but I think those can be addressed and all in all, it's a good thing that needs your support. Thank you."

Chairman Parks said, "Thank you. Next person."

Mr. Kendall Nicholson, 6410 N. Ridge Road, Maize, Kansas, greeted the Commissioners and said, "I've been listening and I'm hearing the canoeists speak of other canoeists and how they're one big family of non-litterers or non-trespassers, but the way I understand this, they're talking about passing out flyers to all these other states, getting groups to come in. I would like to know how they can speak for all these people that they're not going to trespass."

"I would also like to know who is going to take care of that problem, because since I was here last and spoke, it hadn't changed. It's maybe even got worse. I've called the Sheriff's Department out. They come out, they do the best they can, but by the time they get out there, they're always gone. Now, you put them in a canoe, they just cross the other side of the River, go back and forth. I don't see this solution getting any better. I haven't heard how it's going to be policed and taken care of."

Chairman Parks said, "I think I will address some of those things if that's all you have."

Mr. Nicholson said, "Yeah."

Chairman Parks said, "Okay. Thank you."

Mr. Nicholson said, "Yep."

Mr. Bruce Seiler, 13940 W. 93rd St. N., Sedgwick, Kansas, greeted the Commissioners and said, "I appreciate the opportunity to come speak to you. I'm talking about the access point on Bentley Road or 151st Street West. We farm land adjacent to the River for a ways through there. The way I understand it, David Warren, the Water Director for the City of Wichita, represents land that is adjacent to 151st Street. The way I understood it, when he was made aware of that being an access

Regular Meeting, April 22nd, 2009

point, he said, 'No, but hell no.' I guess that's the way I feel and a lot of us landowners around there, especially where you have these access points, because you open it up for a parking area, you got more and more vandalism, more and more crime that's taking place. I guess I just want you to know that I say no, but hell no. Thank you."

Chairman Parks said, "Thank you. Next person. Anybody else want to speak on this issue?"

Mr. Jeff Davis, 12100 E. Greenfield Rd., Haven, Kansas, greeted the Commissioners and said, "I addressed, I didn't address you guys, but I have been to several of these meetings. One of the things that happened in a sister county, Rice County, they have public access points that somewhere down the road people put in boat ramps and all kinds of other things. The funding, that's one of the things we're concerned about, is who is going to fund this, and then long-term, who is going to maintain it? Well, Rice County, they've all fallen apart because nobody wants to take tax dollars or County dollars or whatever else. So I guess when you're considering this, whoever is going to fund it, does it have a long-term plan or is it going to get built and then everybody washes their hand of it, federal funding runs out, whatever else?"

"And I'm totally opposed to it myself, but I guess the canoeists have access right now. They've got access points up in Rice County, they have public parking areas, but they're all in disarray because no one is taking care of them. I guess my point is, long-term who is funding it and once they get it in place, who is going to enforce it? Same trespass issues, liability issues as a landowner, those are all ongoing concerns. Thank you."

Chairman Parks said, "I do have one question of you, if you know the answer to this. In Rice County, do they have like three and four mile areas that they just float down?"

Mr. Davis said, "On the six mile bridge; every six mile bridge usually has a parking area and their boat ramps..."

Chairman Parks said, "But there's been some dredging or something in those areas, if I understand that right, that over the years that it's a little bit different river in certain parts of Rice County than it is..."

Mr. Davis said, "It's pretty narrow up there. I've been up there over the years and because of those public access points to be able to walk in. But again, it's compared to what we have, and still, the river is not very wide and it's not very deep."

Chairman Parks said, "Okay. Thank you. Any other person wants to speak to this before I wrap this up or make a final statement here? Any of the Commissioners have any comments of anything

Regular Meeting, April 22nd, 2009

that we've heard here today? I would like to make a statement after you've made yours, if you could. Commissioner Peterjohn, go ahead."

Commissioner Peterjohn said, "Well, let me start off with a few quick points. I think the underlying cause of this problem is tied to the fact that we have very poorly defined property boundaries and when you have overlapping jurisdictions at the governmental level, between whether it's the Corps of Engineers, whether it's FEMA, whether it's a State agency, whether it's our Metropolitan City-County Flood Control, this is one of the problems that you get into with government ownership and control, because you've got competing interests who want to be able to use the same resource. It's not clear in terms of who is going to pay for those benefits. That's one of the other aspects of this problem that I see that makes it very difficult. Because in terms of the definition, when you have so many different definitions that are out there and some people may use, and there were at least two used today, in terms of myself, I used ordinary high watermarks and median high watermark was also used.

"We do have a situation, where apparently, and this looks credible to me, the people who had their property condemned for the flood control had it condemned solely for that purpose. It appears to me that they've got, not a lawyer, but that is something that I'd like to try and get more information on, get resolved before this RCAP plan would proceed in any way, shape or form between 151st Street West, which is the western boundary and I had received a map from Public Works yesterday and got copies made this morning of how far the boundaries for the Flood Control District goes. Of course, they run as far west as 151st Street West and as far east as 47th Street East, which is Oliver Street in Wichita. We've got a problem.

"I've canoed on rivers and I've enjoyed it. I'll confess, I'm an Eagle Boy Scout, should have had it in my campaign brochure last year, but I managed to get elected even without that, but I did get the canoeing merit badge. It can be a lot of fun on the right type of river. When you get a situation that's mainly a summertime activity and it's also mainly an activity where you've got enough water to do it, and I think that's one of the problems, as well as access points, and if this was actually going to make some sense, I think there's some serious funding that is going to have to be provided. They're going to have to really acquire some land rights that don't appear to me to be in place. We also have problems in terms of law enforcement.

"I think from listening to the property owners and folks along there, if we've got the State wildlife laws are not being effectively enforced, and the Sheriff's Office is struggling with some of those laws, we've got to figure out a way to make sure that if we're going to have a rule of law in

Regular Meeting, April 22nd, 2009

Sedgwick County, which I strongly favor, I think laws that are on the books need to be enforced or they ought to be removed. Mr. Chairman, that's kind of my starting point with comments on where we are, since I wasn't here when you last had this discussion, I'd like to kind of throw that out from hearing your comments this morning."

Chairman Parks said, "Thank you, Commissioner. Commissioner Welshimer."

Commissioner Welshimer said, "I don't know, I see this as the bigger problem is trespassing. I mean, from listening to all of the testimony, it seems to me that the bigger problem here is the trespassing, more so than creating an opportunity for recreation. Then I also see this recreational plan for putting in these access points as an attempt at a solution to correct the problems with trespassing, but there's no definition that I've heard yet, unless we have more testimony coming, as to how we're going to define just who takes care of what.

"So it seems to me that we're becoming more acquainted with exactly what the problem is and it sounds to me like it's a major problem all along the River for all the landowners there; and one that should have a good solution. If this isn't the one, then maybe we need to figure out something else. It sounds like we need to work with the cities and entities that are involved. But I think it's just a bigger problem than we thought and I think that's why we, what did you say we did, run into the bushes or something and hide away from this last year? That was probably a good thing to do then. I think we need to get a better understanding of this and see what it is we can do to help relieve some of the problems along the river. That's all I have."

Chairman Parks said, "Well, I want to certainly grab the bull by the horn, but I don't know if I'll get it corralled or not with my comments here today. Not running into the brush or anything else here. I think we need to hit this head on and make some decisions. We can't control what the State does, we can't control what the City of Wichita does, but we can, as a County, effectively use staff and money wisely. What I've heard from my constituents is the promotion behind the RCAP of this would increase the numbers of violations along private property. We've heard from the 'yays' on this, and the bulk of those do not live north of 53rd Street.

"What we're addressing is not the navigability, and the archaic old declaration by the federal government of that, soon to be hundred years old, that declaration. That would take some federal action or maybe even a state constitutional amendment or something there. I think we can certainly work on that also for our people in our district. One of my relatives says that Syracuse, that she knows that the Arkansas River is navigable out in Hamilton County because her kids got in trouble for using it to take their four wheelers into town, so that's how navigable it is out there. There's no

Regular Meeting, April 22nd, 2009

water in it there. We heard from Bill Cather, who says apparently he's looking at a different use of it in his area, but that's down south. That wasn't north of 53rd and I think that, like I say, the promotion of this would increase the violation numbers and I'm ready to take a little bit of action on this and it's not an all encompassing thing on this, but I'm going to make a motion."

MOTION

Chairman Parks moved to direct the County Manager and his staff to immediately stop all planning, staff time, expense and related promotion to the RCAP, north of 53rd Street North.

Commissioner Peterjohn seconded the motion.

Chairman Parks said, "Having a motion and a second, do we have any further discussion? Commissioner Unruh."

Commissioner Unruh said, Thank you, Mr. Chair. Just a procedural question; does this action require us to do this as an off-agenda item or can we do this, Mr. Counselor?"

Mr. Pepoon said, "I think you can go ahead and proceed just with the motion from the Chair and go ahead on that,"

Commissioner Unruh said, "All right. Thank you."

Chairman Parks said, "Certainly was on the Agenda."

Commissioner Welshimer said, "May I ask a question?"

Chairman Parks said, "Yes."

Commissioner Welshimer said, "What does this do, this eliminates that portion of the river from this plan?"

Chairman Parks said, "Well, from our standpoint, for our efficiency and our spending any money on that part, if our staff wants to continue south of there, working with the State and working with the people in the south and Mr. Cather down south, I think that's appropriate. But right now, the 53rd Street North and further, we've heard from the majority of landowners I think are here along that river, and I think that our constituents have told us loud and clear what they're thinking."

Regular Meeting, April 22nd, 2009

Commissioner Welshimer said, “Could I ask a show for a show of hands of how many are here from the southern part?”

Chairman Parks said, “Sure. Show of hands...”

Commissioner Welshimer said, “Sumner County.”

Chairman Parks said, “...if you have owned property along the River south in the City of Wichita.”

Ms. Stannard said, “Not in the City of Wichita, no. In Sumner County, I own down there.”

Chairman Parks said, “But you are not one that was promoting the RCAP though?”

Ms. Stannard said, “No.”

Chairman Parks said, “Okay. Is Mr. Cather still here?”

Commissioner Welshimer said, “No.”

Chairman Parks said, “He left, okay.”

Commissioner Welshimer said, “Okay.”

Chairman Parks said, “Didn’t see which one of those were first, I’ll go ahead and refer to Commissioner Unruh.”

Commissioner Unruh said, “Thank you, Mr. Chair. I believe the way that you’ve phrased the motion; I can be supportive of that. It doesn’t restrict the situation as it currently exists. Just an editorial comment, it seems as though those folks who canoe and paddle on the River and so forth are not, in general, the problem. It’s those folks that want to use motorized vehicles and hunt and shoot and that sort of thing.

“I don’t know how you make a distinction between those two, as far as getting on the River, but my thought is, is that if this doesn’t do any harm or restriction to access as it currently exists and it allows those folks to go ahead and develop a plan for below 53rd Street, I don’t see where that’s harmful and it does allow some progress. It also looks like it puts a burden for maintenance and construction more towards the City government rather than County government, so I don’t know if that’s a true statement or not, but because of that thinking, I will be supportive of the motion as it was made. That’s all I have.”

Regular Meeting, April 22nd, 2009

Chairman Parks said, "Commissioner Peterjohn."

Commissioner Peterjohn said, "Yes, thank you. As the person who seconded this motion, I would have taken it down to the Wichita City limits, in terms of the City of Wichita's northwest boundary. I think there's a problem in the area, that's for property that's in and along the floodway, from looking at the documents that have been presented to us today, but if the folks down in Commissioner Welshimer and Commissioner Norton's districts, since I believe they've got the boundary from south of the City of Wichita, want to take this down into Sumner County, we can save that for a discussion for another day. I appreciate the fact that we've got a relatively narrow proposal here that just talks about use and situation we have in the unincorporated area, that are basically in the third and fourth County Commission districts, which would be mine and Commissioner Parks'. Obviously, I'm going to be supportive of this motion."

Chairman Parks said, "If I may reply to that real quick on the City of Wichita, the Moorings does goes almost to 53rd now and the City of Wichita, you can certainly see it from the 53rd Street Bridge. Commissioner Norton."

Commissioner Norton said, "The only caution I would have is, even though there was a request to address the Board of County Commissioners, this was not a full agenda item addressing RCAP and it was not a public hearing announced to the public. So there could have been, I assume this is most of the landowners, but I don't know that. So I would be cautionary that maybe we hadn't heard all of the voices that would be pro or con for that. Because I don't know how we got the word out to this many people to show up and talk to this today, at all, without announcing it to the public and having it on as an agenda where anybody could speak. I don't know who et al. was and I don't know how we contacted everybody that might have needed to have a voice today. Certainly we had plenty.

"But I don't know, as an agenda item, that just a request from one person makes it an agenda item that opens it to the public. If we talk about open and transparent, then I don't know that this action today, with a final motion, really meets that scrutiny. Now, I can probably go along with the motion because I think there's going to be a lot of conversation that will continue, but I just want to be cautionary that everybody wants their voice. Certainly those opposed rallied and came today, but I'm not so sure that we alerted the public that we would be talking and making a motion today to stop this. Just wanted to be sure that that's said."

Chairman Parks said, "I think Mr. Kuzich and the Eagle Drainage Board and other facilitators did a great job of notifying the landowners in that area. They had a meeting at Mount Hope on Monday night, and I believe a large portion of those people are here today. I do believe it is representative of Commissioner Peterjohn's and our district and I'm ready to call for a vote."

Regular Meeting, April 22nd, 2009

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Chairman Parks said, “Thank you all. I’m going to take about a five minute break here, I know we have a lot on the agenda, but we’re going to clear the room considerably, I think.”

Commissioner Norton excused himself from the meeting at 10:55 a.m.

The Board of County Commissioners recessed at 10:55 a.m. and returned at 11:07 a.m.

Chairman Parks said, “We’re back to order. If you need to discuss things about the last subject, let’s take it on outside. Thank you. We’re back to order. Clerk, call the next item.”

PRESENTATION

I. PRESENTATION ON AIR QUALITY STANDARDS AND ISSUES AFFECTING SEDGWICK COUNTY AND THE MSA

POWERPOINT PRESENTATION

Ms. Kay Johnson, Director of Environmental Services, City of Wichita, greeted the Commissioners and said, “I’m here this morning at the request of Bob Lamkey. Evidently, you raised questions at your last meeting regarding air quality in Wichita and Sedgwick County. In particular, you had questions relating to ozone. So I appreciate, thank you for inviting me, to speak to you directly. I should also mention that this topic is particularly appropriate since it’s the 39th

Regular Meeting, April 22nd, 2009

anniversary of Earth Day, a celebration that calls attention to environmental protection and stewardship. The Federal Clean Air Act was passed in 1970, the same year that the first Earth Day was held. Smog and concerns for clean air were among the reasons that Earth Day was started. Now, I've prepared some slides to help illustrate the issue that we have regarding ozone in our community. You have been given copies of the presentation along with a summarized fact sheet.

“This morning, I will talk about the Wichita-Sedgwick County Air Quality Program, and provide details about ozone, our community's number one air quality issue. Before I go into the details of ozone, it's important to understand our air quality program. Through a state contract with the Kansas Department of Health and Environment (KDHE), the City of Wichita measures the local outside air at several locations. Historically, three monitors have measured ozone levels in Sedgwick County. One is near the Sedgwick County/Sumner line at Peck; to measure the air as it's moving in from the south. Another is at Park City; to measure the air as it moves past Wichita. And the third monitor is located at the City's Environmental Services building or the Sedgwick County Health Department at 1900 East 9th Street to measure the air near the central downtown corridor. A 4th monitor was installed by KDHE in 2008 as a special monitor in Sedgwick, Kansas for the purpose of ozone.

“Now Wichita has been dealing with this problem for over 30 years regarding ozone. We have exceeded healthy limits in the past and we have been bumping up against the EPA (Environmental Protection Agency) standards for a number of years. But what is ozone, what causes it and what are the federal limits? Ozone is a gas that can be good or bad, depending on where it is found. Good ozone occurs in the upper level of Earth's atmosphere and protects us from the sun's harmful ultraviolet rays. Beneficial ozone is being destroyed by man-made chemicals.

“Bad ozone is a harmful air pollutant, a gas, that can form at ground level. Ground level ozone, or bad ozone, is created by a chemical reaction between nitrogen oxides (NO_x) and volatile organic compounds (VOCs) in the presence of heat and sunlight. Ground level ozone is the primary component of smog. Ground level ozone levels are typically the highest on hot summer days with little or no cloud cover and very little wind. Motor vehicle exhaust, industrial emissions, gasoline vapors and chemical solvents are some of the major sources of nitrogen oxides and volatile organic compounds emissions that contribute to ground level ozone formation. Grass burning activities and fires can also contribute to ozone formation. Large urban areas tend to have the highest ozone levels, but even rural areas can experience increased ozone levels when wind carries ozone hundreds of miles from the original sources.

“Since ozone is a reaction of VOCs and nitrogen oxides, we have to look at what causes them to be emitted into the air, or what we call precursors. Our community industry has been looking at these

Regular Meeting, April 22nd, 2009

issues a long time. Industries that use large amounts of chemicals have an air permit issued by the Kansas Department of Health and Environment and are called point sources. They are sources for only eight percent of the share of VOCs and about 15 percent of the share of nitrogen oxides. What typically causes large amounts of VOCs are small area businesses and everyday activities of the population or 53 percent. For nitrogen oxides, it is vehicles driving, you and I driving our cars. That accounts for about 55 percent of these emissions. Other vehicles, such as construction vehicles and those sorts of things, are also in that mix.

“Under the federal rules, the entire Wichita Metropolitan Statistical Area (MSA) is covered by this compliance program. The four counties of Harvey, Butler, Sumner and Sedgwick are covered by this program. We are currently in compliance or in attainment. The EPA looks at the annual fourth highest ozone day, which is averaged over a three-year period to determine whether an area exceeds the ozone standards. That ozone standard is .075 parts per million (ppm) now. A year ago, it was higher, so it has been lowered. Now, each year the oldest years values dropped from the average, and the most recent years.

“Monitors with the highest readings are used to determine whether the standard is exceeded. It only takes one monitor to knock a community out of attainment, or out of compliance. In November of 2008, the Wichita MSA was deemed in attainment per KDHE as the three year, the 2006 to 2008, averages of the fourth highest, eight hour ozone level at each monitor, were within acceptable EPA ozone levels. That means all of the monitors averaged below .075 for the three year rolling average. That is a little hard concept to grasp, but mathematically it works out to basically average out over the three years. The cool damp weather conditions last summer was a key factor in reaching those 2008 attainment levels; maintaining ozone compliance levels for the second summer in a row.

“However, the weather conditions cannot be dependent upon as a mechanism for compliance. And you can see the red line on this chart is where the old eight hour standard was and I’ve rounded it up to .085 because of the rounding factor that it has. Then, it was changed last year to .075 and for some reason; my line didn’t get darkened where that was. But it is in between the .07 and the .08 is .075. We did have high readings in 2006 and fortunately now for this year, they have dropped off. So we will be looking at 2007, 2008 and 2009 for our rolling average. We have for a long time looked at these issues and I have listed quite a number of items on this slide, but for the most part, it’s important for you to know that we’ve been working with stakeholders through a community Air Quality Task Force, that includes Sedgwick County representatives, and this is to reduce the activities voluntarily that emit ozone precursors.

“We’ve worked diligently with industries and they’ve done a mighty job in changing their processes and installing air controls on some of their equipment. Now, the City itself has worked to reduce those emissions where we can. We’ve worked to complete the overhead rail corridor, which reduces

Regular Meeting, April 22nd, 2009

thousands of cars from idling at train crossings. We've changed out buses and we've purchased hybrid cars, and I know that the County has also done many things to also reduce its own emissions.

"We've worked with the community on providing air tips. There's all sorts of things that we recommend, like fuel when it's cool, which really means fuel up your vehicle after 6:00. Don't top off gas tanks. Don't idle vehicles unnecessarily and many more things such as that. We've used these in our public education messages, and I know Sedgwick County has also. We've been working with large employers for some time to encourage clean air actions, including carpooling and employee education. Now, we know we can't do this alone, so we've asked our businesses and industry to help. The Wichita Chamber of Commerce has been involved in getting our message out and so has the large industries such as Hawker Beechcraft, Cessna, Coleman, Boeing and Spirit are just a few to name that have been working very hard, to not only educate their employees, but to reduce the air emissions in their facilities.

"Fleet maintenance issues are also of a concern, so any organization that has a large fleet that would be driving vehicles is something that we've been concerned with. In 2008, the City did continue to hold our air quality task force meetings and we created air quality commercial with our council members and that's shown on Channel 7. That has gotten a lot of attention with the various council members actually showing how to fill up your car or how to check the temperature on your thermostat. Those are all good things to take notice of.

"We've also started a new Clean Air Awards program, we've given out nine awards this year for clean air actions that were taken in the Wichita Metro Area, and that is the four county area. We're going to be continuing that over this next year. Those awards were given out at our first annual Regional Energy Conference and so that also highlighted air quality issues. We've spent a lot of time trying to educate the public and we know we have a lot more to go. We also have our air quality monitoring program on our website, and this is at wichita.gov. This shows information about all of our monitors, including ozone. It gives you information that you can generally use as a guideline for health issues.

"And this slide shows the EPA guide for the different colors. The green is good; that means the air quality is good. The yellow means it's in a moderate area and as you go to the darker colors, the air quality is worse. If you'll look back on our air quality monitor for yesterday, it was green. These are the green symbols and they will turn different colors depending on the levels that we've got. On this, it shows green. I'm pretty sure today is green as well. But you can get on it; it shows what's going on on the day. There is a little bit of a lag time, so if anybody gets on and they'll see the time that the air quality is being measured; it's a couple of hours difference. Because now we're in

Regular Meeting, April 22nd, 2009

Central Time Zone and all of the monitors in the United States are coordinated so that we're getting the same point in time the results.

“So there's also, it's called AIRNow on EPA's website; airnow.gov. This shows the forecast and this is what we look at to think about some of the things that we might be looking at in the next couple of days. It doesn't mean that it is foolproof. What it means is that it gives you a snapshot and this type of forecasting is about as good as weather forecasting. So that gives you an idea of how accurate it may or may not be on any particular day, because it is dependent on weather forecasting, because this is where a lot of the ozone issues come from.

“We do have transport issues and I brought a couple of slides from previous situations where we can see on June 8, 2006 and June 9, 2006, we had issues that came up from the south. Normally what we see is our Peck monitor is starting; it will show this sort of activity, because the levels will be coming up from the south. As you can see on June 8 we had Oklahoma City, Dallas and Houston also had high levels and it came right on up 135 in to Wichita and we experienced that on June 9. We also saw that June 14 and June 15 in 2006. We do quite frequently have ozone issues that come up from the gulf. They do come right up from the south and we can usually tell because our Peck monitor usually is a little bit higher if we're experiencing that. Now, why was April 8 a problem? We did have some issues in Wichita and April 8 and it's important to understand that our ozone season starts April 1. It goes April 1 through October 31 and that is when the EPA is particularly paying attention to our ozone levels. That's the time period in which we can be deemed in attainment or nonattainment.

“We were only one week into the ozone season when we experienced heavy smoke in our air, and I'll go into that a little bit, but our ozone level skyrocketed. The eight hour average limit is .075 and we had an eight hour average limit of .095. That presented a very big issue for the Wichita MSA and that was the highest level that we've seen in over nine years. It was an extreme event for our community, and almost everyone that talked to me afterwards about it said, 'Gosh I walked out of my building and thought my own building was on fire.' It wasn't. We were experiencing that in a real regional way, but everyone was smelling high levels of smoke and we had high ozone levels.

“Now, we also had high one hour ozone levels and in addition to our eight hour average ozone levels and usually we only see these types of events in the summer, but we were experiencing these the second week of April. We only get four chances from April to October to stay within these levels, so it's real important that we try to do that. Our attainment issues go to all four of the counties that are in our MSA, so it's important that we understand what kind of ramifications that we have for nonattainment. There are all sorts of different things that can happen. If you go out of attainment, including the community may need to use a different fuel; so the different fuels have a special formula that has less ozone-generated wind that's burned in vehicles, but it also costs a few more cents at the pump per gallon, so generally people don't opt to do that until they actually go out

Regular Meeting, April 22nd, 2009

of attainment. There are a lot of those sorts of things, such as potentially vehicle emissions testing that other communities have done when they have problems with nonattainment.

“That second week of April, we also had problems coming from fires, and in addition to the typical sources of ozone, we do have compounds from grassfires, whether it’s controlled burns or wildfires. Range land burning is common in our community and it is an important process in our ecological and agricultural practices and people have done that in this community and in the State of Kansas for many, many years. The grassfire produces oxides of nitrogen and volatile organic compounds, just like, it’s combustion of fuel, so it’s just like a car. Except in the range land fires, this is pretty widespread, and in this particular time, not only was it widespread in Sedgwick County, Butler County and Reno County and Cowley had a wildfire that got out of control, but you can see some information on the last three days or two days preceding that, that shows about the ozone level. April 6, we didn’t have a problem, but if you’ll notice, California did. April 7, the Flint Hills, it was April 7 was a good day to burn and people started to burn in the Flint Hills, and you can see that Kansas City had an ozone day. April 8, it was good for, and the wind was blowing that direction.

“Also April 8, we had, and you can see by the orangeish red colors, that it was quite widespread in our area. Oklahoma had problems, Texas had problems and this is a map showing the different smoke areas. You can see Oklahoma’s outline in the far left, but the whole region was having different problems, and this also shows the number of fires from the North American Aeronautical Air Organization that monitors all these, so this gives you a clear idea.

“This was kind of like the perfect storm for us, because it associated with the air was right, the temperature was right, there was an air inversion, we didn’t have a lot of wind, it was mild and plus, the agricultural community had been waiting, coming off of a two month or several month burn ban because we had no moisture. We had no rain. So it was just one of those times, it was really needed for the ag group and the ranchers to burn and so everybody was burning. We also had a similar air quality issue two days after that and it was really because we had a similar air pattern. We know that Texas and Oklahoma have been having a severe drought. So when they were still having some fires that were coming up from the south, that were impacting us.

“The one thing that I would say, the day that we, on April 8, that we did have the worst ozone levels, our ozone at the Health Department was .095. The ozone levels at Peck and Park City were .080 and .081, so we didn’t see extremely, extremely high levels at Peck like we did at the Health Department which tends to mean we were seeing more smoke in our local vicinity than as much coming in from the south. On the following two days, April 11 and April 15, we saw a more regional condition where Peck was higher than our levels at the Health Department, although we still did have high levels; they did not exceed the eight hour average. The April 11 date, it was .07425, very, very close to the .075 parts per million level. We had on April 15; we mostly had high individual one hour levels. We didn’t have so much high eight hour averages, but you can see from the yellow that we did have an impact.

Regular Meeting, April 22nd, 2009

“We’ve been working with Sedgwick County staff, as well as different stakeholders that the County has asked. I have met with County staff members, both the Fire Department and Sedgwick County Health Department, as well as Environmental Resources or I think that’s what Susan calls her department, and we’ve talked about a lot of different issues. Fortunately, we didn’t have very many of those episodes and we may be out of the season, according to the Fire Department, the burn time was last week and the week before last. So if you’re in federal CRP (Conservation Reserve Program) programs, they were supposed to have been burned between, mostly ending on April 15, but they gave them a small extension to today. And plus, it looks like that the weather has changed a little bit. We’re not seeing the same inversions, although the temperatures come up today, but we’re not seeing the same situation coming up from the south.

“We are working on developing a protocol or guideline, for when we ask the Wichita and the Sedgwick County Fire Departments to consider a ban burn. I have given Susan Erlenwein a draft, so we’re working on that right now. I think, that’s for the most part, it in a nutshell. I would be glad to entertain any questions that you might have.”

Chairman Parks said, “Commissioner Peterjohn.”

Commissioner Peterjohn said, “Kay, thank you for the presentation. We’re a bit pressed for time at the moment. I would hope that perhaps you might be willing to come over on a Tuesday morning when we have our staff meeting and I would like to go through a whole series of questions...”

Ms. Johnson said, “Sure.”

Commissioner Peterjohn said, “...because there was a lot of information presented here and I’d like to make sure that I’ve got a clear understanding and I’d like to do it at a time where obviously we have folks who are watching this can do it. But I would like to get some additional clarification and additional information because there is a lot of good information here and I appreciate you coming out and providing that portion of your testimony this morning.”

Ms. Johnson said, “Sure. I’m glad to do that and I could also offer that our staff could give you a tour like we did Commissioner Parks and we can take you around, as well as any of the other Commissioners are more than welcome to go around and see where we’ve got the monitors located. It does give you an understanding, a little bit closer look at what we’re doing on a daily basis.”

Commissioner Peterjohn said, Well, I definitely want to do that. I’d even be willing to go and see where you’ve got monitors in the other counties that are part of the MSA that are monitoring the air, because I think it’s important that this could have a regional impact. Have a full understanding not

Regular Meeting, April 22nd, 2009

only for its impact on the City of Wichita, where obviously that's your primary responsibility as a City employee, but Sedgwick County and the entire four county MSA."

Ms. Johnson said, "Unfortunately, there are no other ozone monitors in the other three counties, so whatever, and the reason they do that is they measure the ozone in Wichita and the nearby areas in Sedgwick County, because this is where we have the highest impact. People from the other counties are driving into our community, generally for work activities or school, so that's the reason the monitors are located in our community. They impact the other communities because they will be faced with the same sort of penalties if we go out of attainment."

Commissioner Peterjohn said, "So in other words, they're negatively impacted if there's a problem here?"

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

Commissioner Peterjohn said, "Well, I think that would be of interest to the folks in those communities."

Ms. Johnson said, "Actually, they know that. KDHE came in last year when we were afraid we were going to go out of attainment and had a couple of meetings and all of the small communities, as well as the County Commissioners from the other counties were invited to attend and some of our Commissioners did attend last year. So that they could understand what the situation is."

Commissioner Peterjohn said, "I'd be happy to visit the sites."

Ms. Johnson said, "Sure."

Commissioner Peterjohn said, "I have a number of other questions, but I'll save those for another day."

Ms. Johnson said, "Alright."

Commissioner Peterjohn said, "Thank you, Mr. Chairman."

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

Commissioner Unruh said, "Thank you, Mr. Chair. Kay, thanks for the presentation. I promised a constituent of mine that I would suggest to you and to our Environmental Services Director that

Regular Meeting, April 22nd, 2009

when considering burn bans, this agricultural person says we got to be aware of the barometric pressure. Perhaps you all have that as part of your criteria and I couldn't answer his question, but I have kept my promise. I told you all to consider that."

Ms. Johnson said, "Thank you. We will, and yes, we do. That is part of that weather forecast; it is important."

Commissioner Unruh said, "Alright, thank you."

Ms. Johnson said, "Thanks."

Chairman Parks said, "When you said change out the buses, you changed those over from diesel to propane, is that correct?"

Ms. Johnson said, "It is, yes, we did. In that particular situation, that helps with particulate which also we can have an influence with the burning, but we have been working on a variety of those. There also is exhaust that comes out of the regular vehicles, as well as the buses, and that exhaust does add somewhat to the ozone issue."

Chairman Parks said, "Now, if we were forced in Sedgwick County to go to the formulated gasoline, does that mean that people could drive across the County line and get the cheaper non-formulated gasoline and drive back?"

Ms. Johnson said, "It would be for the whole entire MSA. Whatever we would do, we would do for the four county area and how this works, I, if we go out of attainment, we would be working with KDHE to develop a plan that fits our communities. So when you say forced, it would be something that we would all look at and agree together, there would be many, many opportunities to have community dialog as to what those type of things we would implement, but changing the fuel has seemed to be the most effective in almost all the communities."

Chairman Parks said, "If you can have a quick answer to this, I guess, it's the ten percent and the E85s, the cars that run on the E85 and the ten percent ethanol, does that make a difference in the ozone?"

Ms. Johnson said, "I don't have a quick answer for that, but I can sure find out for you."

Chairman Parks said, "Okay. If you can do that before you come over to a Tuesday meeting that would be great."

Ms. Johnson said, "Okay."

Regular Meeting, April 22nd, 2009

Chairman Parks said, "Thank you. Seeing no other, thank you, Kay for this."

Ms. Johnson said, "You're quite welcome. Thank you for asking me."

Commissioner Peterjohn said, "Mr. Chairman, I'd make a motion that we receive and file and I'd also like to include, we didn't take a motion to receive and file from previous Item H, in terms of the material and the petition and everything we received. I'd like to make a motion to include both those items if I could."

Chairman Parks said, "Should we do that separately, you think, Legal?"

Mr. Pepoon said, "I would take them separate items."

Commissioner Peterjohn said, "Separate items, okay, then I'll withdraw it and just make a motion that we receive and file the Item I."

MOTION

Commissioner Peterjohn moved to receive and file Item I.

Chairman Parks seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Absent
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Chairman Parks said, "Now, Commissioner Peterjohn, I'll revert back to subject H, any of those documents that we received from the people on under Item H."

MOTION

Regular Meeting, April 22nd, 2009

Commissioner Peterjohn moved to receive and file.

Commissioner Welshimer seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Absent
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Chairman Parks said, “New business.”

NEW BUSINESS

J. FUNDING AGREEMENT WITH WICHITA AREA TECHNICAL COLLEGE.

Mr. Chris Chronis, Chief Financial Officer (CFO), greeted the Commissioners and said, “In 2005, the State adopted legislation requiring technical colleges in the State to sever their relationships with unified school districts. As a result of that legislation, Sedgwick County decided, at that time, to create the Sedgwick County Technical Education and Training Authority. In conjunction with that, the Board of Commissioners in 2005 elected to begin providing operating funding support to the Wichita Area Technical College (WATC). In that first year, the amount of support provided with \$750,000 and each year since then, the Board of Commissioners has elected to provide a million dollars a year to WATC as operating support. In the 2009 budget that the Commission has adopted, there is an appropriation of a million dollars for that purpose. The action that’s before you today is a funding agreement that gives us the authority to write that check to WATC to pay that money to WATC. If there are no questions, I would recommend you approve the funding agreement that’s before you.”

Chairman Parks said, “Are there any questions about this? Commissioner Peterjohn.”

Commissioner Peterjohn said, “Chris, this went through the entire normal budget process in 2008 and was included as part of the 2009 budget was adopted last summer, correct?”

Regular Meeting, April 22nd, 2009

Mr. Chronis said, "Yes."

Commissioner Peterjohn said, "Thank you, Mr. Chairman."

Chairman Parks said, "Thank you."

MOTION

Commissioner Unruh moved to approve the Agreement.

Commissioner Welshimer seconded the motion.

Chairman Parks said, "We do have some more discussion. Commissioner Welshimer."

Commissioner Welshimer said, "Well, I think this has been very good money spent. The WATC has just made marvelous improvements in what they do and grown. I'm just very impressed with what they do. The system that they have set up now is working smoothly, working well. I think it's been a good investment, so I'm going to support this appropriation."

Chairman Parks said, "It was. Thank you, Commissioner Welshimer. It was appropriated for in 2008 for the 2009 budget and I think there will probably be some other discussion of getting more into the details of it in the 2009 budget hearings for 2010 budget. Having said that, Commissioner Peterjohn."

Commissioner Peterjohn said, "Yes. My comments are not so much for Chris, but for my colleagues on the bench here, because the County had developed a role, in terms of funding WATC, we've got a historic role and the County took over from the City of Wichita for funding, providing funds for the \$1.5 millions, that is provided primarily for Wichita State University, but some of it's going, also, to the Wichita Area Technical College. I provide this because I think a lot of the citizenry out there is not aware of how deeply the County is involved in terms of education. When you take the amount of money that County taxpayers are paying, in addition to the amount of money that state and federal taxes that are going for K-12, as well as for Regents institutions, this is a huge amount of money. There needs to be more accountability.

"I'm very concerned that if we get in a situation, we can have overlapping programs and overlapping efforts and we had an extended discussion earlier this morning where the government

Regular Meeting, April 22nd, 2009

has overlapping property, in terms of the Arkansas River. This is an area of concern for me. I'm going to be looking at this very closely as we go into and through the budget process in 2010. I will be supporting this motion and my colleagues, but I do think it's an area where the public needs to know more about where we are because the amount of money being spent is not insignificant. Even though \$1 million out of a \$400 million County budget is not huge, when you add in all the money that's spent at the State, by the school district and their property tax, which is much more than the County and the federal government, this is a very, very significant expenditure."

Chairman Parks said, "Commissioner Unruh."

Commissioner Unruh said, "Thank you, Mr. Chairman. First of all, I would like to second the comments of Commissioner Welshimer. I appreciate those comments of understanding the value of the technical college in our community and I understand some of the comments of Commissioner Peterjohn. However, Chris, it's just a way of historical explanation. This amount of money is essentially the result of an agreement of sorts that we had in regard to the elimination of out-district tuition.

"When that was passed by the State Legislature, that they would eliminate out district tuition, we made a nod of the head, handshake agreement, however you want to say it, with the legislature that the savings we gain from outdistrict tuition would be invested in workforce development and technical education here in Sedgwick County. Perhaps that may not be a sufficient explanation, but I would say that the funding for the college was not done arbitrarily, it was part of a result of a larger picture of how we promote technical education and workforce development in south central Kansas, just a commentary on some of our discussion."

Chairman Parks said, "And I'm sure it will continue at budget time. Having a motion and a second, seeing no further discussion, call the vote."

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Absent
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Mr. Chronis said, "Thank you."

Chairman Parks said, "Next item, please."

Regular Meeting, April 22nd, 2009

K. PUBLIC SAFETY

1. 800 MHz FREQUENCY RECONFIGURATION AGREEMENT WITH NEXTEL WEST.

Ms. Diane Gage, Emergency Communications, greeted the Commissioners and said, “I have an agreement before you with Nextel West where we will be abandoning four of our frequencies and Nextel will be paying all of the costs to shift us to four new frequencies. The reason we are having to do this with Nextel is Nextel had a problem with interfering with public safety radio systems, and this was an agreement that came up between the FCC (Federal Communications Commission) and Nextel, that Nextel would be shifted off of some of the 800 MHz (megahertz) band that was interfering with public safety radios and they would pay for all of the costs to move the public safety radios to another set of frequencies.

“Nextel will be replacing radios on our system, paying for the cost of upgrading our backbone to our radio system. And then we are also going to use this as an opportunity because we are planning to go digital in 2011, 2012, to purchase the capability of just adding on the feature to the radios that are replaced, so that they will be digital-capable when we move to the new radio system in 2011, 2012. So, we’re taking advantage of this situation, and moving ahead with the Nextel agreement.”

Chairman Parks said, “I’m very familiar with this and some of the other Commissioners may not be as familiar, but I am familiar with this and I see no reason that we shouldn’t do this. I think it was good planning to go to the digital. I had one question from a constituent asking if there scanner would work when the 800 MHz went digital?”

Ms. Gage said, “No, their scanners won’t work when the 800 goes digital.”

Chairman Parks said, “Okay. So the Neighborhood Watch is going to have to get their own radio system?”

Ms. Gage said, “Yes.”

Chairman Parks said, “Okay.”

Ms. Gage said, “Just like the TVs, they’re going from analog to digital, so I don’t know if there will be a converter box for sale, but...”

Regular Meeting, April 22nd, 2009

Chairman Parks said, "I'm sure there'll be a converter box somewhere out there on the worldwide web."

MOTION

Chairman Parks moved to approve and authorize the Chair to sign.

Commissioner Welshimer seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Absent
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Chairman Parks said, "Thank you, Diane."

Ms. Gage said, "Thank you."

Chairman Parks said, "Next item."

- 2. APPROVAL OF AN OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE GRANT APPLICATION TITLED "RECOVERY ACT: EDWARD BYRNE MEMORIAL COMPETITIVE GRANT PROGRAM." FUNDING IS REQUESTED IN THE AMOUNT OF \$86,000.00 TO BE USED TO HIRE ONE (1) TOXICOLOGIST TO HANDLE POST MORTEM TOXICOLOGY CASES IN THE REGIONAL FORENSIC SCIENCE CENTER IN ORDER TO COMPLY WITH NATIONAL ASSOCIATION OF MEDICAL EXAMINER GUIDELINES FOR TURNAROUND TIMES AND TOXICOLOGISTS PER CASELOAD.**

Regular Meeting, April 22nd, 2009

Dr. Tim Rohrig, Director of the Regional Forensic Science Center, greeted the Commissioners and said, “This is a request to apply for a grant that will actually cover funding over an 18 month period. One note, the initial proposed agenda item reflected \$86,000. Upon further evaluation of allowed things that we could apply for in the Grant, we have upped this request to \$100,000. This will allow the County to capture indirect costs, about \$5,500 and then also some pieces of equipment such as a computer, telephones and things along those lines. This is a no match grant. This is a 100 percent pass-through of federal dollars that will allow us to hire an individual for 18 months. The National Association of Medical Examiners’ guidelines indicate the number of toxicologists, or scientists, per autopsy case load. We’re butting up about 800 autopsy cases now, and according to their guidelines, they recommend to meet the other criteria for accreditation, to have four FTEs (full-time equivalents) for post mortem toxicology. We currently have three.

“This will allow us to bring the staffing up to the recommended staff levels and also allow us to meet their turnaround times, therefore, provide quicker information to the pathologist so they complete their autopsy reports in the investigation of the deaths that come under the jurisdiction of the District Coroner. Unless you have other questions, what I would recommend is that you approve the Grant application, authorize the Chairman or his designee to submit the application to the Department of Justice through the Grants Management System, to accept the Grant Award Agreement, if it’s awarded, under the same conditions and terms, and establish a budget authority at the time of the grant award documents are executed.”

Chairman Parks said, “Doctor, in the backup on page 64, it says in your financial considerations, ‘After that, the County would be responsible for the annual payroll.’ How long a term is the ‘after that?’”

Dr. Rohrig said, “Well this would be an indefinite FTE, this is a need that I’m actually putting also in the 2010 budget request. This has been a critical need at the center for this position to meet our current case load.”

Chairman Parks said, “Okay, so there’s nothing binding in this particular Byrne Grant about that, for so many years?”

Dr. Rohrig said, “No, as far as the Grant goes, it will be for 18 months and then the Grant funding will go away. Then we have one or two choices, either to release the position or fund it through other mechanisms.”

Regular Meeting, April 22nd, 2009

Chairman Parks said, “Okay. Thank you. Any other questions of the Board?”

MOTION

Commissioner Welshimer moved to approve the grant application and authorize the Chairman or his designee to submit the application through Justice Dept. Grants Management System (GMS) and accept a grant award agreement containing substantially the same terms and conditions as application; and approve establishment of budget authority at the time the grant award documents are executed.

Chairman Parks seconded the motion.

Chairman Parks said, “Have a motion and second. We do have some further discussion from Commissioner Peterjohn.”

Commissioner Peterjohn said, “Yes, we’ve got several items on the Agenda, and I don’t mean to discuss this one in general, I mean, we have asked staff to go out and see where there were opportunities to be able to get funding sources under the recently passed federal stimulus legislation and it looks like this is a case where Dr. Rohrig has managed to look in to the Department of Justice Byrne Grants and we have several other requests coming down the line here and I appreciate the Chairman’s questions. I’m going to reserve judgment; I’m going to vote for these grant proposals that we have before us today, but with the contingent that when we come to budget time and when these grants run out, if they’re coming back on the taxpayers, I’m reserving judgment as to whether we’re going to continue those positions at that time.

“So, for the department heads who are here, who are about to present on these, these are, in my view, at least from just one Commissioner, contingent upon what resources we may have available when those grants run out, wherever that is in the future. I remain very concerned over the longer term fiscal picture, so I will be supportive of this motion today, but I did want to put that caveat in place and also give, frankly, staff a pat on the back for being as aggressive, in terms of going out and trying to take advantage of federal funds where they’re out there. As a federal taxpayer, though, I do have reservations about this whole process and I would be derelict if I didn’t express them at this time. Thank you, Mr. Chairman.”

Chairman Parks said, “Thank you. The Byrne Grants have been out there through many administrations and, in fact, I was successful in several myself when I was at another job, so the Byrne Grant is not really part of the AARA (American Recovery and Reinvestment Act) stimulus package but it is a law enforcement grant that has been funded some years more than others. This year it’s back up to where it will be competitive at the State level. State gets so much money and then there’s a board with the State that reviews those. I too, during my tenure as a Chief of Police, was very cautious about using the Byrne Grant money for officers, because then you get bound into

Regular Meeting, April 22nd, 2009

things that you can't get out of if there are caveats on the end of it. Having said that, seeing no other discussion, are we ready to call the vote?"

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Absent
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Dr. Rohrig said, "Thank you."

Chairman Parks said, "Thank you. Next item."

L. DEPARTMENT OF CORRECTIONS

- 1. AGREEMENT WITH KANSAS SCHOOL FOR EFFECTIVE LEARNING (KANSEL) TO PROVIDE SUMMER SCHOOL EDUCATIONAL ENRICHMENT CLASSES FOR JUDGE RIDDEL BOYS RANCH, JUVENILE DETENTION FACILITY, AND JUVENILE RESIDENTIAL FACILITY RESIDENTS.**

Mr. Ternes said, "The majority of the residents we serve in our youth services facilities have significant educational needs which require ongoing services. The local certified provider of educational services, KANSEL, was contacted to provide a summer, six week enrichment program that will include classroom instruction in basic areas of reading, writing, math, science and social studies. The Agreement, if approved this morning, will provide educational services to approximately 133 of our residents. The costs for this six week program will not exceed \$41,073.75. I am requesting that you approve this Agreement and authorize the Chair to sign. I'd be happy to answer any questions that you may have at this time."

Chairman Parks said, "Are there any...Commissioner Unruh."

Commissioner Unruh said, "Thank you, Mr. Chair. Larry, how long have we been providing funding for this?"

Mr. Ternes said, "This is the second year, Commissioner."

Regular Meeting, April 22nd, 2009

Commissioner Unruh said, “Second year. Previously it was by the local school district?”

Mr. Ternes said, “That’s correct.”

Commissioner Unruh said, “And they’ve pulled back on that?”

Mr. Ternes said, “That is correct.”

Commissioner Unruh said, “Alright. Thank you.”

Chairman Parks said, “It’s another one of these that they’ve let us take over and do some things, correct?”

Mr. Ternes said, “Yes, sir. In essence, that’s true. I will tell you that they did not have the funding to supplement this for a six week program. They’re not obligated to do that.”

Chairman Parks said, “Okay. Commissioner Peterjohn.”

Commissioner Peterjohn said, “I’m disappointed to hear that the school district is pushing this back to the County Commissioners because I have made a point, before I became a Commissioner, about the unencumbered cash balances that, and this is a statewide problem, for all the school districts that they’ve carried forward, and they’re well above what they budgeted. This is a program for 133 residents over six weeks and academic subjects with a \$41,000 price tag. I would hope that the school districts would reconsider this, in light of the fact that they have not been willing to, I know they have problems with their bidding process and it’s been in the public news media and that seems to be a focus and on football fields, but I think having students who have been involved in these programs and have some difficulties, and they’re at Judge Riddel, really do need as much academic exposure as they can.

“One of the biggest problems for people who end up in the corrections systems is a lack of literacy and with the dropout rate, and Wichita being recently revealed as having a severe dropout problem, and I was stunned when I was down in Labette County and looking at a State facility down there, the one Sedgwick County resident I visited with had been a dropout who actually dropped out in middle school. He said he dropped out in the 7th grade. I think this program is important and I will be supporting it, but I do want to get a clarification here, in terms of these residents and the students, when you say certified instructors, will these be with KANSEL? Can you tell me what the acronym KANSEL, I hate acronyms, and so I’m going to put you on the spot here and tell me what is K-A-N-S-E-L actually mean, and is that the equivalent of a normal certified Kansas teacher?”

Regular Meeting, April 22nd, 2009

Mr. Ternes said, “The Executive Director is here today, I believe it’s Kansas School for Effective Learning.”

Commissioner Peterjohn said, “Thank you. Mr. Chairman, I’d also, his was included in the 2009 budget that was approved last year?”

Chairman Parks said, “Yes.”

Mr. Ternes said, “Yes, sir”

Chairman Parks said, “Seeing no further discussion, what’s the will of the Board?”

MOTION

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

Commissioner Peterjohn seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Absent
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Mr. Ternes said, “Thank you, Commissioners.”

Chairman Parks said, “Next item.”

2. GRANT APPLICATION TO THE KANSAS DEPARTMENT OF CORRECTIONS WHICH SERVES AS THE COMMUNITY CORRECTIONS COMPREHENSIVE PLAN FOR SFY10.

Mr. Mark Masterson, Director of the Department of Corrections, greeted the Commissioners and said, “As you know, Community Corrections is a state-mandated program in the adult corrections

Regular Meeting, April 22nd, 2009

system. Its purpose is to provide intensive, community-based supervision programs to punish offenders in the community instead of sending them to prison. These programs are valuable to offenders and to the State. They provide offenders the chance to avoid prison under strict conditions set by the Court while they maintain employment, pay taxes, restitution to crime victims and continue to support their families. Community Corrections is state funded through an annual grant process administered by the Kansas Department of Corrections (KDOC). In order to continue to receive grant funds, an annual plan must be submitted by May 1 each year. The comprehensive plan document before you today for approval reflects continuation funding in State Fiscal Year (SFY) 2010. These programs are Adult Intensive Supervision (AISP) and the adult residential facility. Within each program, we provide close supervision and services to assist offenders in gaining and maintaining employment, accessing treatment and training and drug testing. Annually we serve 2,400 or more on intensive supervision and over 500 in the adult residential facility.

“Currently, we receive \$4,368,497 from the State for Community Corrections. This year the State has asked us to submit a budget for that amount and a second budget with five percent less. The budget assumptions address funding levels to maintain current services and a reduced services budget. The five percent reduction is a cut of \$218,410. As you know, the legislature is still in session and I expect to be back next month with a modified plan with budget and service reductions. At this time, I’ll simply say that the Community Corrections population is growing very rapidly and the offenders are experiencing greater success. Proof of this success is a 29 percent reduction in prison admissions from Sedgwick County, which means 172 fewer individuals went to prison last year. These results were achieved by implementing evidence-based practices funded through what we call Senate Bill 14 and making drug treatment available to offenders under Senate Bill 123. Those two legislative actions and the resultant funding and changes have had significant positive benefit to the State and to our local community. Our Advisory Board, the Community Corrections Advisory Board, has approved this plan at their monthly meeting in April and recommends that you do the same. I’ll be happy to answer any questions.”

Chairman Parks said, “Thank you, Mark. Are there any questions of Mark? Commissioner Peterjohn.”

Commissioner Peterjohn said, “Mark, you said 173 had not been sent to prison, you have figures for those who we avoided sending them through the jail process, in terms of in and out of the Sedgwick County Jail, in terms of the overcrowding side, and secondarily to that, do you have any idea, in terms of any recidivism among those 173 [inaudible]?”

Mr. Masterson said, “To the first question, 172 fewer individuals failing on probation. The process there involves a warrant charging them with probation violations that results in incarceration, pending a probation violation hearing, which the last number I saw averages about 55 days. And, so, there is significant impact, but I can’t quantify the exact number of days or anything.

Regular Meeting, April 22nd, 2009

That's the best I can do with that. As to the impact on public safety, as part of our funding with Senate Bill 14, we contracted with Wichita State University to evaluate our plan, our implementation of that plan and to monitor recidivism and to report that regularly to our Advisory Board. The numbers on recidivism are small at this time, because of the length of the program, but the results are very positive with, I think it was 92 percent, had not committed a new crime within six months after completion of probation, and that will be measured at 12 months as well, and that will go down, but that's what it is; and it is being monitored and recorded."

Commissioner Peterjohn said, "Thank you, Mr. Chairman."

Chairman Parks said, "And if we do not submit this plan for approval, as backup says, we will not continue to receive these funds from KDOC?"

Mr. Masterson said, "Yes, sir."

Chairman Parks said, "Okay, I think that's pretty clear cut for me."

MOTION

Chairman Parks moved to approve the comprehensive plan application and authorize the Chair to sign all necessary documents, including the Grant Award Agreement containing substantially the same terms and conditions as this application; and approve establishment of budget authority at the time the grant award documents are executed.

Commissioner Welshimer seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Absent
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Chairman Parks said, "Next item."

3. APPROVAL OF AN OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE GRANT APPLICATION TITLED "RECOVERY

Regular Meeting, April 22nd, 2009

ACT: EDWARD BYRNE MEMORIAL COMPETITIVE GRANT PROGRAM," TO BENEFIT SEDGWICK COUNTY DEPARTMENT OF CORRECTIONS.

Mr. Masterson said, "Commissioners, I am here to request your approval to submit an application under the Recovery Act for \$1,614,777 for a team of supervision officers to specialize enforcement of probation rules with identified active gang members living in the community. If funded, the team would add 11 positions to the department's staffing table and provide necessary funding to deliver specialized services, to track and detect violations and assist those that want to make changes with the means to do it.

"For the past eight months, we have been piloting a strategy to address gang violence through multi-agency collaboration that includes the Wichita Police Department, gang and community police units, State parole, my community corrections officers, and juvenile justice officers. The purpose is to improve neighborhood safety by sharing information and working together to suppress, detect, and address further criminal activity, and to assist those who want to make a change.

"The bottom line is we want to help get those dangerous individuals off the street and assist those that want a different life in working for it. Funding through this grant will provide the manpower necessary to implement the specialized gang supervision team in my department. Funding is for 24 months, beginning July 1, and no matching funds are required. I do want to note that in the backup documents that you have received, this amount that I just stated is an amended amount, because of some technical adjustments that were made based on the 24 months and the indirect costs. So, if you would please note that the amended amount is \$1,614,777. I'd be happy to answer any questions."

Chairman Parks said, "Are there any other questions of Mark on this item?"

MOTION

Commissioner Welshimer moved to approve the grant application and authorize the Chairman or his designee to submit the application through Justice Dept. Grants Management System (GMS) and accept a Grant Award Agreement containing substantially the same terms and conditions as application; and approve establishment of budget authority at the time the grant award documents are executed.

Chairman Parks seconded the motion.

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

Regular Meeting, April 22nd, 2009

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Absent
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Mr. Masterson said, "Thank you."

Chairman Parks said, "Thank you, Mark."

M. SHERIFF'S OFFICE

- 1. APPROVAL OF AN OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE GRANT APPLICATION TITLED "RECOVERY ACT: EDWARD BYRNE MEMORIAL COMPETITIVE GRANT PROGRAM". FUNDING IS REQUESTED IN THE AMOUNT OF \$628,682.00 TO BE USED TO HIRE SIX (6) NON-SWORN DETENTION DEPUTIES FOR ADDITIONAL STAFF TO SUPPORT THE HEIGHTENED SECURITY IN A HOUSING UNIT THAT WE NEED TO CONVERT OVER TO A MENTAL HEALTH HOUSING UNIT INSIDE THE DETENTION FACILITY.**

Colonel Richard Powell, Chief Deputy, Sheriff's Office, greeted the Commissioners and said, "You have before you a continuation of competitive Byrne grant applications for funding measures."

Chairman Parks said, "Just a minute."

Col. Powell said, "Excuse me."

Chairman Parks said, "Point of order here. Did we skip over the...is this the one that you are prepared to present on?"

Col. Powell said, "Yes, I apologize. There was a change in presenter. I'm going to be presenting on behalf of Captain Bragg..."

Chairman Parks said, "Okay."

Regular Meeting, April 22nd, 2009

Col. Powell said, "...and myself. For Item Agenda number 1, within the Sheriff's Office, I'll be the presenter, and be assisted by Major Glenn Kurtz, who's our Bureau Commander for the Detention Facility."

Chairman Parks said, "Okay. Thank you."

Col. Powell said, "Yes, sir. My apologies. As you have before you, again, we have two different agenda item requests for your approval. The first one deals with, as mentioned in the narrative, the request from the Sheriff's Office for approval to submit for a grant application, the amount of \$628,682 to be used to hire six nonsworn detention deputies for additional staffing to support a heightened security arrangement in a housing within the Detention Facility that we are going to convert to a dedicated mental pod, housing section.

"As we've mentioned in some of the prior speakers, this is a 100 percent funded process. We are asking for a 24 month commitment of funding. There are no restrictions after the 24 months that requires additional funding. However, it is the contention, or the desire, of the Sheriff's Office once we pass the 24 month mark that we would like to, before we get to the end of that 24 months, review our options internally within the Sheriff's Office and look for other funding measures that would allow us to continue to support these six positions.

"Moving ahead, it appears that we are getting the cart, perhaps, a little bit before the horse in requesting this particular funding measure, because of the short timelines on preparing for the actual funding request as part of the grant programs, we have not had the opportunity to fully present the project we have in place to request future approval on, that will be converting of one of our pods within the Detention Facility to a full mental pod. We have, tomorrow, scheduled a full presentation with CJCC (Criminal Justice Coordinating Council) and we anticipate within two weeks we would have the same full presentation available for delivery to the Board of County Commissioners. Again, due to the short timeline requirements of the grant process, we have to, again, appear to put the cart before the horse and ask your approval to submit the application process for the federal funding. In a synopsis, again, the Sheriff's Office wants to convert one of the modules, or the units, within the Detention Facility into a dedicated mental housing area. As a part of this conversion, we would require an additional two detention deputies for each shift, for a total of six, including relief factors, et cetera. During this program of 24 months, the funds requested will also provide for 11 weeks of training, six weeks of field training within the facility, and would be 100 percent funding for all salaries, benefits, et cetera.

"We currently, within the Detention Facility, house our mentally ill inmates throughout the entire facility in various pods, based on their gender, their classifications and their current symptoms being displayed at the time. Many of these inmates are severe, persistent mentally ill members of our community and are well known to our detention staff, CONMED, who is our local medical

Regular Meeting, April 22nd, 2009

provider currently under contract in the Detention Facility, and also through officials at COMCARE. The issue of providing adequate mental healthcare within the Detention Facility is becoming increasingly difficult due to the overcrowding measures which everyone is aware of. We feel this would help us better control these inmates that we see on a continual basis. This was a project that we also were going to be submitting supplemental budget requests on, in the event that the federal funding is not approved, we will be submitting a supplemental budget request to continue with this endeavor yet in the future. At this point I would be open for any questions you may have. I also have, again, Major Kurtz with me who can answer in more detailed, or I think he has a more detailed overview also, if you have time. I know we are under some time constraints. We would certainly try to address any questions or concern you have before moving on to the second request.”

Chairman Parks said, “This is a pretty big budget item, so...”

Col. Powell said, “Yes, sir.”

Chairman Parks said, “...I don’t think we should let too many time constraints dampen our questions. Of these inmates, some of these inmates that you are referring to that are criminally insane, would it be safe to say that some of these were formerly housed in Dillon [Annex building] or other wards of the State, like Larned or Osawatomie State Hospital?”

Major Glenn Kurtz, Bureau Commander of the Detention Facility said, “The inmates we’re talking about, because we are a pretrial, prehearing facility, tend to come and go. I ask our mental health professionals on duty to take a quick look at who would fill this housing pod and they found 49 persons just right off the top of their head without doing any real hard research. It’s a mixture of people. There are five of that 49 that are either charged with, or convicted of murder, or attempted murder. The larger group that surprised me, many of them are awaiting trial or hearing on probation violations of burglary, theft, there’s kidnap, there’s ag[riculture] arsonists, 43 would be felony, six would be misdemeanors, and those 6, the majority had some sort of a charge related with a domestic violence issue, so that they were being held in combination with the domestic violence courts, child support courts, as well as a battery charge, something along those lines.”

Chairman Parks said, “If they are parole violated then, they would have gone back to the State prison or are these people going to go back to the State prison then if they are violated?”

Maj. Kurtz said, “They are probation violators, and yet you have a hearing in front of the judge and it would be up to the judge to decide if their violation is severe enough that either their probation is revoked and original sentence would be imposed, whatever that was.”

Chairman Parks said, “And those people would go back to the State facility then?”

Regular Meeting, April 22nd, 2009

Maj. Kurtz said, "If that was their original sentence, yes."

Chairman Parks said, "Okay. I'm going to editorialize just a little bit here. I would rather have the CJCC, which I am a part of, and Commissioner Unruh is also, have had a comment on this. I know there's some time constraints on that. I would rather have Dr. Insko and Dr. Beck give some opinion, some written opinion on this also, however brief it might have been, or whatever, but I hope in the future that the timing of these grants just doesn't get us up to a point where it is on the agenda and it's pushed through fairly quickly. So, some of the backup I just received in the last 24 hours and that part of it doesn't please me. Who was...Commissioner Welshimer."

Commissioner Welshimer said, "Well I appreciate your willingness to offer a solution. I know we have a problem with the chronically mentally ill who are violent people, and I appreciate the fact that you are hurrying this up to qualify for some stimulus funds. It does lock us into an \$800,000 expenditure at the back end, if you should get that grant, and most of the time things don't end up, I mean, it could clearly get up to a million dollars. And we really haven't gone over this, we haven't had any input from, as the Chairman said, from our consultant, but I think the SCOAP (Sedgwick County Offender Assessment Program) program needs to be reviewed in how they would operate within this situation and COMCARE and also training of police officers a sheriff's officers and what their attitude would be and where they would take prisoners, and how they would deal with that. That's a big decision for them to make right off the bat when they have someone in that population.

"Another thing too, moving them around into another pod, these are in and out people, you don't have them for any length of time, and there are people, who I would think, would need long-term care and monitoring, and you're going to lose them soon after you have them in there. I just worry about the expense and how different things would be. I mean, if we don't have, we need a lot of time for training people for this. I hesitate to obligate us to an \$800,000 to a million dollars just to create another pod, move these people from one place to another and have the same things, the same type of monitoring that they had before, there's no plan here that has been reviewed by all of the people who are affected by this, most of all us, who, would have the responsibility of paying for it. So, I would, stimulus money or no, I just think it would be the wrong thing to do to obligate ourselves for this, I know you have two applications here, but this one in particular. I think we need a lot more review before we jump into something like that."

Maj. Kurtz said, "May I offer a few comments?"

Commissioner Welshimer said, "Sure."

Regular Meeting, April 22nd, 2009

Maj. Kurtz said, “Understand that this is a population that comes and goes, as you say, in and out of our facility, again going back to trying to put some real faces on the whole problem of that 49 persons that I did an in-depth look at. Since May of '05, which is when our new computer system came online to get easy data, that group has been arrested 345 times. That means they've been brought in out of the community on various charges, probation violations, new charges, back to us.”

Commissioner Welshimer said, “But with the short amount time that you have them, how are you going to change that?”

Maj. Kurtz said, “The idea behind this is that we can stop doing band-aid, and we can actually, with the additional, and half of the funding that eventually we'll ask for, is for professionals in mental health to go in to this pod, and spend their days working with and treating and talking with these people, gaining their compliance. And then, our hope would be, the judges would then be able to sentence these folks to SCOAP, and that they would be able to continue their care and intensive supervision in the community and then eventually that they could be mainstreamed to COMCARE, which these inmates are known to us, as well as COMCARE and to SCOAP...”

Commissioner Welshimer said, “Where do these people come from?”

Maj. Kurtz said, “They live right here in the city, ma'am. They are our residents...”

Commissioner Welshimer said, “No, no, no, the people who will be working with the patients.”

Maj. Kurtz said, “They would come from the community, hired by CONMED, our medical provider; registered, trained, licensed people to deal with mental health. Their job solely would be in that pod, two shifts a day.”

Commissioner Welshimer said, “Most of this money, then, would go to...”

Maj. Kurtz said, “It's about a 50/50 split.”

Commissioner Welshimer said, “...this medical provider?”

Maj. Kurtz said, “50 percent for us, 50 percent for roughly 110 hours more per week for mental healthcare and treatment in this pod.”

Regular Meeting, April 22nd, 2009

Commissioner Welshimer said, "I don't know that we know enough about, I would like to hear from them, and see what they have to offer, you know, we have COMCARE, we have SCOAP, I don't personally know anything about the medical clinic in the jail and what their abilities are to work with the mentally ill and I just don't think we're prepared to commit ourselves to \$800,000."

Chairman Parks said, "If I can ask, I don't know if Legal or you know this, are we contracted now with CONMED to the point to where we have to run that through them instead of our own COMCARE?"

Maj. Kurtz said, "It would be..."

Chairman Parks said, "Or maybe Marilyn could answer that, I don't know."

Ms. Marilyn Cook, Executive Director, COMCARE, greeted the Commissioners and said, "I'm sorry, I had a little side conversation going on, please repeat it."

Chairman Parks said, "Are we tied to CONMED, in some fashion, that would required us to go through them instead of going right through you, so that the employees would be County employees instead of CONMED employees?"

Ms. Cook said, "We have nothing to do with consulting the jail at this point, so the Major would have a better answer to that [inaudible]."

Chairman Parks said, "Okay."

Maj. Kurtz said, "And what we would bring back to this Board is an amendment to that contract, with the details spelled out for your review."

Chairman Parks said, "Okay. I did have a little bit of a conversation when I got some of this material yesterday with the Sheriff's Office staff. I really think that going forward on this is probably the right thing to do, but I want to ask the Legal, if I could, throw you an impromptu question. If we were to find something in the next, let's say, three weeks that would really be a glaring, either expense, or a glaring contradiction to this application, then would there be any problem with pulling back this request from the Byrne Grant Committee?"

Mr. Pepoon said, "Mr. Chairman, I am really not familiar with the grant process, to answer that question. I can get back with you later in the day with an answer to that, but I really don't know if once you submit the grant you can pull out, maybe the Manager knows the answer to this."

Regular Meeting, April 22nd, 2009

Mr. William P. Buchanan, County Manager, greeted the Commissioners and said, “It is my understanding, Mr. Chairman, with all these grants that what you are doing is signing an application to receive this grant. At any point during the time before you receive the money, there is nothing to prohibit us to call up and say we can’t administer, this is not the right time or place for us. So by submitting the application, we are not obligated to take the money.”

Chairman Parks said, “Okay. So we could in three weeks eventually have this back on the agenda then for some future review from CJCC and Justice Concepts and other things that are out there?”

Mr. Buchanan said, “Yes.”

Commissioner Welshimer said, “May I ask a question?”

Chairman Parks said, “Sure, go ahead.”

Commissioner Welshimer said, “However, if it’s not brought to our attention, it just sails right on by, is that right?”

Mr. Buchanan said, “Once you authorize submitting of the grant, yes.”

Chairman Parks said, “Well, I would certainly be cognizant of this and I don’t think it would be any problem with the Sheriff’s Department Administration coming back in three weeks and giving us an update on some of these things, would there?”

Col. Powell said, “No, sir. It is our full intent, as stated, tomorrow we have a scheduled meeting at CJCC with a complete presentation and then simply addressing any issues or concerns that CJCC may have and then refining those to get that on the agenda request for the next subsequent BoCC (Board of County Commissioners) meeting that would be appropriate, then we’ll have a full presentation available to BoCC. Again, at the same time, I would simply reiterate that we’re simply asking your approval, as discussed, to apply for the funds based on the timeline right now, under the auspice that if we were successful in attaining the funds, it would be a savings of some \$628,000 plus dollars to the County, if we were able to receive these funds.

“Of course again, there is the back end of it, that we are all aware of, that we still have the other half of the program that we have to fund, which will be approximately \$400,000 per year, which would be for, as Major Kurtz mentioned, for the additional 110 hours per month of mental health services provided by either our medical vendor or other designees for that period of two years. Then, of course, we would reevaluate the program at the end, as per the grant agreement, to see if there was

Regular Meeting, April 22nd, 2009

substantial need to continue and if there were needs for that, we would look at other funding measures, again, two years down the road.”

Chairman Parks said, “I guess any further discussion I have would be inappropriate in an open meeting, so I will ask Commissioner Unruh to have his comments.”

Commissioner Unruh said, “Thank you, Mr. Chairman. My understanding is that you would have this recommendation before us, with or without the Byrne Grant monies, as the appropriate way to administer this particular population?”

Col. Powell said, “That is correct, sir. We have crossed basically a line in the sand from where we have such a sufficient number of mental inmates that regardless of the process of the grant application, we still deem it prudent on our behalf have to request approval of creating this dedicated mental pod and requesting funding as a budgetary item at some point in the future, whether it be for the balance of this year or as a supplemental request for the 2010 budget.”

Commissioner Unruh said, “Recognizing the need for this sort of management technique or capability is one item in my making a decision, the second thing is that this is not a pioneer effort, other institutions have used this successfully, this sort of management technique?”

Col. Powell said, “Yes, sir. I think Major Kurtz, again, could address this more directly, I’ll just let you go ahead.”

Maj. Kurtz said, “In Kansas right now, Shawnee County has had a mental health pod for quite some time, Johnson County has also. There are a number across the United States, a number of jails that belong to an organization called the Large Jail Network. Last meeting, about three weeks ago, the question came up, ‘How many of the 45 people in the room with 1,000 or more beds under their control, had a pod like this?’ And 35 of the 45 had a pod set aside just for mental health inmates that were problematic and needed intensive care like these inmates will.”

Commissioner Unruh said, “Alright. Thank you. And your decision to move on this, although it has not been through some of the channels we typically go through, I know we are under some time constraints, but you haven’t come to this in a vacuum, you’ve been in consultation with our Director of Public Safety, I assume?”

Col. Powell said, “We have had, excuse me, I will let you address that.”

Regular Meeting, April 22nd, 2009

Maj. Kurtz said, "I have had some conversations with Jason Scheck, the gentleman that runs SCOAP, also a few conversations with Tom Pletcher with COMCARE about the overall project and the training. Also, Nancy Insko and Dr. Beck viewed the rough power point slides with Sheriff Hinshaw and I, about two weeks ago, and they offered some suggestions, and I have gone back and gathered, and some of the data I was offering about, you know, who the inmates were, what they were charged with, were some of their suggestions, as far as adding, you know, making it a little more personal to who would be in these housing units."

Commissioner Unruh said, "By the way, I think Jason Scheck's middle name is SCOAP, isn't it?"

Maj. Kurtz said, "Should be."

Commissioner Unruh said, "Well, thank you. I just wanted to establish the fact that we have determined that there is not one way to deal with all the problems we face in jail overcrowding. This is one component that is significant in our jail population that we can manage a different way and hopefully reduce recidivism. It is consistent with our effort and our SCOAP program. You have got some folks involved in helping you establish what you are going to do. It is established best practice. We have the opportunity to gain some federal funding to help us get this kick started, so for all those reasons, I think I'm very much supportive of the effort and appreciate your willingness to initiate new programs, that have evidence that they are successful, rather than doing the same old thing, the same old way. It is important that we move forward on some of these, so I'm going to be supportive. That's all I have, Mr. Chair."

Chairman Parks said, "Okay. I don't know, I just have to editorialize here a little bit and say how long are we going to let the State push these things off on us?"

Maj. Kurtz said, "Agreed."

Chairman Parks said, "Commissioner Peterjohn."

Commissioner Peterjohn said, "Thank you, Mr. Chairman. I appreciate the comments that you made and Commissioner Welshimer and also some of the comments that Commissioner Unruh had. My question, so that I understand, and I hope for the audience, it was mentioned a million dollars, was \$628,682 being funded by federal grant for two years. Where would the rest of that money come from, and is that in the 2009 budget, Colonel?"

Col. Powell said, "Currently, right now, no, sir, it is not. This would simply be a supplemental request regardless of whether the federal grant funding was approved or not, we would still be

Regular Meeting, April 22nd, 2009

before the County Commission at some point, requesting additional funding to implement this mental pod within the Detention Facility, whether it be at some point later this year, or actually already prepared and had been submitted as a supplemental request to the 2010 budget.”

Commissioner Peterjohn said, “Okay, because I have some reservations. Let me shift for a moment to the Manager. In terms of, from your perspective, Mr. Buchanan, if we approve this request, where would the roughly \$400,000, I guess, is that a fair figure, come from?”

Mr. Buchanan said, “We have in the 2009 budget a public safety contingency fund that-I thought someone was correcting me. In the 2009, we have a public safety contingency fund that has sufficient funds in it, I believe, that would cover this. But again, the approval of submitting the application is just the process of submitting it and at no point are we committed to doing anything until you review the proposal and get the recommendation from the CJCC and anybody else you think is appropriate.”

Commissioner Peterjohn said, “Well, let me follow it up. How much is in the contingency, or is that a better question for Chris Chronis?”

Mr. Buchanan said, “About \$750,000.”

Commissioner Peterjohn said, “Okay, thank you.”

Col. Powell said, “If I may interject, Commissioner. Excuse me, I think also if we look at the timeline now, we are a third of the way into the year, so if for some chance we entered into discussion about implementing this prior to year end, we would only be looking at funding a partial amount of that \$400,000.”

Commissioner Peterjohn said, “So roughly two thirds?”

Col. Powell said, “Yeah, whatever the case may be. And actually, I think it’s going to be around the exact figure is probably closer to about \$375,000, something in that neighborhood currently at this time...”

Commissioner Peterjohn said, “Well...”

Regular Meeting, April 22nd, 2009

Col. Powell said, "...which would include medical staffing and some minor improvements or changes we have to make physically to the facilities."

Commissioner Peterjohn said, "Do you know of any cases where Byrne Grants have been extended beyond their initial approval period?"

Col. Powell said, "Absolutely. It happens on an ongoing basis. Of course, it's always dependent upon the grants. Some years they are very good to us, some years they are very lean, it just depends. But, again, that is a possibility."

Commissioner Peterjohn said, "Thank you. Mr. Chairman."

Chairman Parks said, "Yes. Just a little housekeeping in the recommended action, it says approve the establishment of budget authority at the time of the grant award documents are executed. Do we have any idea whether that's three weeks or twenty weeks?"

Col. Powell said, "That I don't have an answer for, sir, I can't respond to that appropriately."

Chairman Parks said, "Okay. Thank you."

Col. Powell said, "Yes, sir."

Chairman Parks said, "Commissioner Welshimer."

Commissioner Welshimer said, "I want to ask the Manager, you say we can pull out of this after we are going to review the plan and all that, but when we submit this application, we are signing, we are telling them we are going to provide these funds, we are going to follow through. Isn't that correct?"

Mr. Buchanan said, "What we are asking them is for this amount of money for those positions. There is nothing to prevent us, and it's happened in other jurisdictions, where in the middle of the grant application process, the committee decides they don't want it or don't need it or can't meet the qualifications and ask that the application be withdrawn. And people are more than willing to do that to make sure the money is spent elsewhere."

Commissioner Welshimer said, "How long do we expect for this application, before they respond to us?"

Regular Meeting, April 22nd, 2009

Col. Powell said, “Typically, they have a varied timeline. Again, since this is a competitive grant situation, just as we’ve seen today, there’s quite a few applications just coming locally, and as Chairman Parks mentioned, this goes on at a statewide level. There’s lot of players involved in this, and it will take some time for the respective committees to review these and allocate funds as they deem necessary. Depending upon the number of entrants versus the number of dollars, the selection process, I’m sure, probably will be somewhat lengthy. It is not going to come out in two weeks or 30 days, it would be surprising if it would come out that short.”

Commissioner Welshimer said, “Well, I still have a concern over the fact that, potentially, we would come up with all of this \$800,000 or more and what it would do is it would fund the clinic in the jail to furnish psychiatric services, for like a week or two weeks or three days or something like that, and then they are finished with them. And then they get turned over to COMCARE or where do they go?”

Col. Powell said, “Well, again, I think depending upon the individual person and to the extent of their treatment, would dictate where they’d go and as I think as Major Kurtz mentioned earlier, a lot of these we would use the term ‘frequent flyers’ or ‘repeat customers,’ we see them on a regular, ongoing basis...”

Commissioner Welshimer said, “But the fact that we are turning loose of them tells me that it is not a good investment.”

Col. Powell said, “Well...”

Commissioner Welshimer said, “Anyway, I would like to hear from Marilyn, and what COMCARE thinks about this.”

Ms. Cook said, “Well, what I think about it is that, it reminds me of the mid-80s, when there was a lot of discussion about whether or not hospitals should have designated units for people who had AIDS (Acquired Immune Deficiency Syndrome) and HIV (Human Immunodeficiency Virus). I moved here, to the community that year, and it was voted down. I have to say, that those dedicated units have staff in them that are far better prepared to deal with the population and stabilize the population than general staff, whether we’re talking about the HIV unit in the hospital or a mental health pod. Mental health pods give our consumers that are in the jail a much better chance at stabilization for some of the same reasons that the CIT (Crisis Intervention Team) program has a better chance of stabilizing our folks prior to arresting them, because they’re understanding their symptoms, they’re understanding how to de-escalate situations rather than escalate them. We will always share a population with the jail, no matter what we do, but we have a far better chance, when you look at outcomes, of having less frequent hospitalizations, less frequent arrests, when there are dedicated staff that understand the dynamics of someone with mental illness.”

Regular Meeting, April 22nd, 2009

Commissioner Welshimer said, "So are you familiar with the clinic and its ability to provide psychiatric services?"

Ms. Cook said, "COMCARE was part of the clinic a number of years ago before CONMED. I've had less contact with them; I know they have clinical providers, I know they've done a very good job of connecting with COMCARE, when we share clients and making sure we know they are in the jail, checking to see what medications they are on, having our case managers go over and make sure when they are released, that we pick them up immediately. We've got a very good working relationship with them."

Commissioner Welshimer said, "Okay. Thank you."

Chairman Parks said, "Mr. Manager, if I could ask, were you here during the CONMED/COMCARE transfer that she just spoke about, was this basically for fiduciary reasons?"

Mr. Buchanan said, "Yes."

Chairman Parks said, "Okay."

Mr. Buchanan said, "If I may just add a fact to this. The grant needs to be submitted by April 27."

Col. Powell said, "Next Tuesday."

Mr. Buchanan said, "Which is Monday."

Col. Powell said, "Or Monday."

Mr. Buchanan said, "We could have at the next staff meeting, we could have a review of this program and decide pretty quickly about whether we need to proceed or not, because the kinds of questions that Commissioner Welshimer are asking need to be answered, and we have not seen those answers, and this will give the opportunity for the Sheriff's Department to produce those, as they suggested, to go to CJCC and then make a full presentation."

Col. Powell said, "Correct, sir."

Chairman Parks said, "Would that be something that would have to be hand delivered then or just over-nighted to Topeka?"

Regular Meeting, April 22nd, 2009

Col. Powell said, "I think the application process is pretty well defined. I believe the criterion simply has to be postmarked by April 28, if I remember correctly. Our Grants Coordinator, Mr. Hughes, I think would have the final determination on that, but I believe its April 28, and, again, we would whole heartedly support making sure you have all the appropriate information that's available so you can make the proper management decisions and have all the proper tools, et cetera. Again, I think to add, if I may to Commissioner Welshimer's question about what may appear to be a short treatment window and pushing people out the door, what happens then, we need to also make sure you are aware that even though we've identified 49 mentally ill inmates, these are 49 of the worst. We currently have in excess of 300 inmates in the facility that are receiving daily medications for mental issues. We've only identified 49 worst of the 300 that we're looking at putting in this defined mental pod. We still have another 260 out there that are going to be part of this continuation of the program as it moves forward, if it's allowed."

Chairman Parks said, "Legal, do you see any problem with making a motion in the staff meeting next Tuesday and having some binding action in that, in relation to open meetings?"

Mr. Pepon said, "No. I think you can do that, Mr. Chairman."

Chairman Parks said, "Okay. Commissioner Peterjohn."

Commissioner Peterjohn said, "Well, I am going to, just for clarification purposes, and we've had a long discussion on this, I have concerns, in terms of grants that have a tendency to disappear and then property taxpayers end up on the hook, and so I have reservations about this, I also have reservations, in terms of the federal government has done this, and done similar programs in the past, and looking at this proposal before us today, since we didn't go through, I know time is of the essence to get the application in, but I really feel like we have a process in place and it is important to have it there, so I am strongly torn on this issue, and I look forward to other comments from my fellow Commissioners who have more experience in dealing in these areas and with this issue, because I am not, a lot of the details have only come to life very, very recently for me."

Chairman Parks said, "Commissioner Unruh."

Commissioner Unruh said, "Thank you, Mr. Chairman. I guess a lot of my comments, if we're going to have a staff meeting, and have a thorough discussion, it can wait until then, but I would just say this is a population that currently exists, and the question is whether or not we want to try to deal with it in a way that better reduces the jail overcrowding population, because we can deal with them in such a way to that we reduce the recidivism. Some of these folks may, on a longer term basis, be able to be helped through SCOAP, they may be more of a higher level offender than that,

Regular Meeting, April 22nd, 2009

but we also have on our agenda a long-range plan, anyway, that has been approved, that we establish a mental health court. This could be a precursor to that.

“I guess my thinking is, in light of the fact that we have this issue, we have plenty of precedent from other jurisdictions that has shown this is effective and cost beneficial. I would think that we would be eager to receive the federal money at this time to help us get the program started, but I respect the fact that some of us have questions about it, but in light of the fact that we can rescind our action to go forward with this before we actually receive the money, I think should provide a great deal of comfort, in light of the time crunch. I suggest, Commissioners, that we approve this now so we can get the process started, we’ll have a thorough discussion of it, and if the Commission decides we’re not going to go ahead with it, well then that can be done at that time. That’s all I have.”

Chairman Parks said, “What’s the will of the Board?”

MOTION

Commissioner Unruh moved to approve the grant application and authorize the Chairman or his designee to submit the application through Justice Dept. Grants Management System (GMS) and accept a Grant Award Agreement containing substantially the same terms and conditions as application; and approve establishment of budget authority at the time the grant award documents are executed.

Chairman Parks seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Absent
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Commissioner Welshimer said, “So we’re going to do this Tuesday?”

Col. Powell said, “I have just been advised by the Manager, Mr. Buchanan, that the excuse me...”

Regular Meeting, April 22nd, 2009

Mr. Buchanan said, “The question is, are we going to have a presentation before the Commission at the Tuesday staff meeting?”

Col. Powell said, “Yes. We can have a presentation. We’ll be ready to prepare a presentation for the Commissioners based, again, on input, after we go through the CJCC presentation, in case we need to do any tweaking or et cetera., but there will be a presentation.”

Mr. Buchanan said, “Okay.”

Col. Powell said, “Yes.”

Chairman Parks said, “Thank you. Next item.”

2. **APPROVAL OF AN OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE ASSISTANCE GRANT APPLICATION TITLED “RECOVERY ACT: EDWARD BYRNE MEMORIAL COMPETITIVE GRANT PROGRAM”. FUNDING IN THE AMOUNT OF \$115,000.00 TO BE USED TO HIRE ONE CIVILIAN CRIME ANALYSIS/RESOURCE MANAGEMENT EMPLOYEE TO ASSIST WITH SHERIFF’S OFFICE RESOURCE MANAGEMENT AND CRIME ANALYSIS.**

Col. Powell said, “Alright, moving on. Item number two within the Sheriff’s Office request. Item number two is a request, again, for another competitive Byrne Grant application submission in the amount of \$115,000. This is for a single civilian position for the Sheriff’s Office, entitled a Crime Analyst. This particular crime analyst position will be used to assist in the planning and deployment of resources for the prevention and suppression of criminal activities, analysis of crime data to identify patterns, trends, common characteristics, also with the preparation of statistical and narrative reports and the graphic illustrations of crime data for staff, as well as the public via the internet, or for presentations at meetings and research and analysis of administrative and operational issues.

“The funding request that we are presenting for your approval includes all funds for salary and benefits, for a two-year period, including any necessary equipment necessary to assist this position and any training required for that same two-year period. This follows the same criteria as all previous requests. Again, we’re simply asking for 24 month funding period. There are no requirements for continuation of the position after that. And nearing the end of the 24 month period of time, the Sheriff’s Office will be evaluating the position to look for its effectiveness and, if so deemed, research within our own means for additional funding measures to continue the slot.

Regular Meeting, April 22nd, 2009

“This particular position we see is going to be of value, not only to the Sheriff’s Office, but also to other agencies within the County. We have noticed a significant increase in the number of reports that have been requested upon the Sheriff’s Office for various assorted items throughout the County with different projects going on, especially in the most recent past, we’ve had many, many different requests and reports requested pertaining to detention issues.

“This position would allow for data mining for the preparation of those reports, one of the key elements that we also have noted here in our description, our narrative, was to implement on the Sedgwick County’s primary website, an interactive page that would allow citizens of Sedgwick County to go out and pinpoint statistics within particular given areas of the County. You could log into an address, you could put in a range of dates or something like that and be able to do your own data mining with information we have available that we could post on the public website.

“We realize it is not only a benefit to the Sheriff’s Office, but also to other agencies within the County and of course to the citizenry of Sedgwick County. We would respectfully, again, request your approval on this application, and I’ll be happy to answer any questions you may have.

Chairman Parks said, “I believe this one is a lot more clear-cut than the last one we had.”

Col. Powell said, “Yes, sir.”

Chairman Parks said, “Data mining at the jail is a big issue. Of course we’ve spent hundreds of thousands of dollars on computers in various departments. We were told here a while back that there would be one that would be able to sit on top of all of them and get some data out of this. We need to have a person that can retrieve that, analyze that and get that out to the public. I think the website is a good idea, having said that...”

MOTION

Chairman Parks moved to approve the grant application and authorize the Chairman or his designee to submit the application through Justice Dept. Grants Management System (GMS) and accept a Grant Award Agreement containing substantially the same terms and conditions as application; and approve establishment of budget authority at the time the grant award documents are executed.

Commissioner Welshimer seconded the motion.

Chairman Parks said, “Commissioner Peterjohn.”

Regular Meeting, April 22nd, 2009

Commissioner Peterjohn said, “Colonel, I just want to clarify. Unlike the previous motion we talked about, this is for a two-year period and it’s a 100 percent, there is no local mill levy money that would be going in or being pulled out of any contingency funds, am I correct in that assumption?”

Col. Powell said, “That is correct, sir.”

Chairman Parks said, “No caveats of ongoing employees?”

Col. Powell said, “No, sir.”

Chairman Parks said, “Okay.”

Commissioner Peterjohn said, “Thank you.”

Chairman Parks said, “Commissioner Welshimer.”

Commissioner Welshimer said, “Well, just quickly, I’m going to support this request, however, I do question the facts as to why you didn’t have this going on in that department over the last few years, because this is important information, sorting data so that we know what kind of population we have over there and their length of stay and so on. I hope that if you do this, and receive this grant, that it will happen in a reasonable length of time.”

Col. Powell said, “Well, we appreciate your consideration. The Sheriff’s Office actually has considered this position on several other occasions throughout the last few years, however, because of staffing requirements and the availability of funds, we have always taken the stand to apply those funds on more positions that actually have more value or on more current need at the given time. This opportunity, as it presented itself with the federally funding, allowed us to, again, obtain funds without budgetary concerns, at least for the first two years. We thought this would be an appropriate time to submit for this particular funding measure.”

Chairman Parks said, “And this has been a topic in CJCC, the data gathering and all this, over the past couple years that I am aware of, too. Seeing no further action, call the vote.”

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Absent
Commissioner Peterjohn	Aye

Regular Meeting, April 22nd, 2009

Commissioner Welshimer	Aye
Chairman Parks	Aye

Chairman Parks said, "Next item."

Col. Powell said, "Thank you, Commissioners."

Chairman Parks said, "Thank you."

N. GRANT APPLICATION TO UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES SUBSTANCE ABUSE & MENTAL HEALTH SERVICES ADMINISTRATION FOR DEVELOPMENT OF COMPREHENSIVE DRUG/ALCOHOL AND MENTAL HEALTH TREATMENT SYSTEMS FOR PERSONS WHO ARE HOMELESS.

Ms. Cook said, "This is a grant application for a federal grant from SAMSA, the Substance Abuse and Mental Health Services Administration. Through the grant, COMCARE seeks to implement an evidence-based practice called Integrated Dual Disorders Treatment, or IDDT, within our homeless program. There are 11 grants being given out, and awarded nationally, so this is a very competitive grant. The evidence-based approach, or IDDT model, is a model for treating individuals with dual disorders of mental illness and substance abuse and use problems. Rather than doing this treatment in a fragmented manner, the IDDT model treats both diagnoses as primary and in an integrated manner. The core of this treatment approach is called stage wise treatment, the interventions are tailored to focus on clients' motivation and readiness for each stage of treatment, so hopefully they are more effective. The grant is for \$349,833 a year for five years, for a total grant award of a little over \$1.7 million for the duration of the grant.

"The grant would pay for five staff to implement the practice. It would pay for one clinician, who'd also be the coordinator, one substance abuse counselor and three case managers. COMCARE would also assign an additional case manager to this team, who is already working for us. That would be no additional expense, it would be an advantage to us to have someone working in that model and trained under this grant. The project would serve 60 un-duplicated individuals a year with a projected total of 225 participants over the duration of the grant, and there is an attrition factor that's factored in from SAMSA that we use to calculate that. The community partners are the Sedgwick County Health Department, Center for Health Equity, who would be involved in HIV and wellness education, and United Way of the Plains would serve as the evaluator in the project.

Regular Meeting, April 22nd, 2009

“The grant is being sought as 67 percent of the homeless individuals in this community, and outreach by our center city staff, have co-occurring or dual diagnosis disorders. And the IDDT evidence-based practice would provide a more comprehensive approach to treating those individuals. These individuals are understandably difficult to treat due to the nature of their illness and the lack of supports and resources that they experience, and the expected outcomes include increased recovery and functionality in the community, increased housing stability, increased employment, and reduction in incarceration. We’re recommending that you approve the grant application and authorize the Chair to sign all documents including the Grant Award Agreement containing substantially the same terms and conditions as the application, and approve the establishment of a budget authority at the time the grant documents are executed. And I’m happy to answer any questions.”

MOTION

Commissioner Welshimer moved to approve the Grant Application and authorize the Chair to sign all necessary documents, including the Grant Award Agreement containing substantially the same terms and conditions as the Applications; and approve established of budget authority at the time the grant award documents are executed.

Chairman Parks seconded the motion.

Chairman Parks said, “Then we’re going to have some discussion. Mr. Peterjohn.”

Commissioner Peterjohn said, “Thank you. Marilyn, if you could walk me through, I am working with these numbers a little bit, you said \$1.7 million over five years, 225 people anticipated using this, so we are looking at, by my math, that’s ballpark, about \$7,500 per person over the lifetime of the grant.”

Ms. Cook said, “It is actually \$6,906.”

Commissioner Peterjohn said, “Okay.”

Ms. Cook said, “It’s ingrained in the application.”

Commissioner Peterjohn said, “Buried in here, I missed it...”

Ms. Cook said, “Yes.”

Commissioner Peterjohn said, “...in reviewing.”

Regular Meeting, April 22nd, 2009

Ms. Cook said, "It's in a small table."

Commissioner Peterjohn said, "Okay, well..."

Ms. Cook said, "It's a thick grant."

Commissioner Peterjohn said, "...it's a thick grant application. Walk me through, is there any local mill levy requirement; and after we get to five years, is there any requirement that we pick up the program at that point?"

Ms. Cook said, "The only requirement that, there's no mill levy requirement. The only requirement that we're asking for, that we're not including in this grant, because we had to keep it in a certain ballpark number, was about \$9,000 that first year for computers. There are no co-location expenses, so there would be not be an ongoing expense after that. What happens after five years would be looking at the population, we have enough attrition and turnover in our own program that we would supply case managers and reassign case managers to this program when the grant were over."

Commissioner Peterjohn said, "Okay. Thank you, Marilyn."

Ms. Cook said, "You're welcome."

Commissioner Peterjohn said, "My general comments concerning the earlier grant applications would apply here, too and I will support the motion, but with caveat in place, depending on whether it is a very short-term grant, or five years or some other duration."

Chairman Parks said, "We have a motion and second. Any further discussion? Seeing none, call the vote."

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Absent
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Ms. Cook said, "Thank you."

Regular Meeting, April 22nd, 2009

Chairman Parks said, "Next item."

Commissioner Norton returned to the meeting at 12:55 p.m.

O. AGREEMENT BETWEEN WICHITA CENTER FOR GRADUATE MEDICAL EDUCATION, INC. FAMILY MEDICINE RESIDENCY PROGRAM AT WESLEY MEDICAL CENTER AND SEDGWICK COUNTY HEALTH DEPARTMENT.

Ms. Claudia Blackburn, Sedgwick County Health Department Director, greeted the Commissioners and said, "Before you is an Agreement to allow the Health Department to provide an observership experience for Wesley Family Medicine residents. This Agreement is for five years beginning January of 2009 through December 31 of 2014. As part of their community health and occupational health rotation, the Family Medicine residents, these are doctors who are specializing in family medicine; spend a month learning about community and occupational health.

"During this course they rotate through the Health Department, they spend a day with us, generally, they hear from different staff, they learn about communicable disease reporting, tracking, how they would interact with the Health Department in their practices, and it is a mutually beneficial relationship, because wherever they go, they're going to be working with the local health department and have to know how to report disease and how to work with us. We usually have nine residents a year and they are oriented by our staff and visit several of our sites. There is no cost associated with this Agreement, and I recommend that you approve the Agreement and authorize the Chair to sign, and I'd be happy to answer any questions."

MOTION

Commissioner Peterjohn moved to approve the Agreement and authorize the Chairman to sign all necessary documents.

Chairman Parks seconded the motion.

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

Regular Meeting, April 22nd, 2009

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Ms. Blackburn said, “Thank you.”

Chairman Parks said, “Next item.”

PUBLIC WORKS

P. APPROVAL OF THE “AUTHORITY TO AWARD CONTRACT COMMITMENT OF COUNTY FUNDS” WITH THE KANSAS DEPARTMENT OF TRANSPORTATION FOR SEDGWICK COUNTY PROJECT 795-N, O, P, Q; RECONDITION OF 199TH ST. WEST BETWEEN 21ST ST. NORTH & US-54. CIP# R-267. DISTRICT 3.

Mr. David Spears, Director of Public Works, greeted the Commissioners and said, “In Item P, we request your approval of the “Authority to Award Contract and Commitment of County Funds” Form 1309 for the Kansas Department of Transportation. This will authorize KDOT to move forward with the road improvement project on 199th St. West between U.S. 54 and 21st St. North. It is designated as R-267 in the Capital Improvement Program. The low bidder was LaFarge \$3,398,065.17. Sedgwick County’s matching local share is \$702,000 which will be paid out of local sales tax. I recommend that you approve the Form 1309 and authorize the Chairman to sign.

MOTION

Commissioner Peterjohn moved to approve and authorize the Chairman to sign.

Chairman Parks seconded the motion.

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

VOTE

Regular Meeting, April 22nd, 2009

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Mr. Spears said, "Thank you."

Chairman Parks said, "Next item."

Q. REPORT OF THE BOARD OF BIDS AND CONTRACTS' REGULAR MEETING ON APRIL 16, 2009.

Ms. Iris Baker, Purchasing Department Director, greeted the Commissioners and said, "The meeting of April 16 results in six items for consideration. First item; recommendation is to accept the low bid from Ballou Construction Co., Inc. in the amount \$1,076,973.40

**1. 2009 LATEX MODIFIED SLURRY SEAL – PUBLIC
FUNDING – R175 PREVENTATIVE MAINTENANCE – 2009**

"Item two; recommendation is to accept the low proposal from LawKingdon Architecture in the amount of \$47,250.

**2. A&E SERVICES TO DESIGN AND CONSTRUCT COURTROOM
AUDIO/VISUAL/TECHNICAL UPGRADES AT MAIN COURTHOUSE -
FACILITIES DEPARTMENT
FUNDING – UPGRADE COURTROOM AUDIO VISUAL**

"Item three; recommendation is to accept the low responsive bid from Van Asdale Construction, LLC., in the amount \$132,490 and to establish unit pricing.

**3. REMODEL COMCARE AT 635 N. MAIN – FACILITIES DEPARTMENT
FUNDING – REMODEL COMCARE ADMIN, 635 N. MAIN ST.**

"Item four; recommendation is to accept the quote from Dell in the amount of \$31,889.50.

**4. DESKTOP COMPUTERS – CORRECTIONS
FUNDING – ADULT INTENSIVE SUPERVISION PROGRAM**

Regular Meeting, April 22nd, 2009

“Item five; recommendation is to accept the quote from John A. Marshall in the amount of \$47,980.54,

**5. MODULAR FURNITURE – FACILITIES DEPARTMENT
FUNDING – APPRAISER ADMINISTRATION**

“Item six; recommendation is to accept the low responsive bid from Southwest Paper, option 1 for toilet, option 1 for paper towels, and establish contract pricing for one year with two one-year options to renew. Be happy to answer any questions and I recommend approval of these items.”

**6. STANDARD ROLL TOILET PAPER AND PAPER TOWELS – ALL
DEPARTMENTS
FUNDING – ALL DEPARTMENTS**

Chairman Parks said, “What’s the will of the Board?”

MOTION

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

Chairman Parks seconded the motion.

Chairman Parks said, “We have a motion and a second, but we do have some discussion. Commissioner Peterjohn.”

Commissioner Peterjohn said, “Iris, on Item Six, help me out so I’m confident; on what basis that that is actually the low bid for both paper towels and toilet paper? I was looking at those, and I appreciate you trying to get some response to me on that, but it still looked to me that there may have been a, is that the aggregate dollar amount we expect in terms of County purchases for both items, or are they separated, it just looked to me like there might be another bidder out there that might be a bit better.”

Regular Meeting, April 22nd, 2009

Ms. Baker said, “There was one that was better than what was recommended, the recommendation to you is low responsive, and that recommendation is the vendor who met all the criteria in the bid document. The very lowest bidder did not supply any samples to be tested, and to be validated, and that was Massco, and so his bid was not considered. In the bid that was offered to you, they have taken the low, that met all of the specs, that met all of the instructions and requirements in that bid document, and hence, the term low responsive bidder. But there was one other bid out there that was lower that did not meet all the criteria of the bid.

“And to take that a step further, to determine the lowest value, they went down to the lowest denominator in the product, that turns out to be a per sheet cost, because your toilet paper, paper towels will come in a variety of sizes, lengths, volume sizes per package, and then volume size per case, so as these vendors bid a per case price, we also look at how many units are in the case, the size of units per case, and then establish the pricing off of that. Hence, I had sent a note out that showed a per sheet cost for each of the items from these vendors that were bid.”

Commissioner Peterjohn said, “Can you give me an idea what the County annually pays for the items under that sixth category for paper towels and sheets, how big of an item is this, in terms of dollar volume, Iris?”

Ms. Baker said, “The last contract, last year’s price, was approximately \$130,000. That includes all County departments, that includes the Jail, as well, the Jail is one of the bigger users of the contract, but both paper towels and toilet paper, it was about \$130,000.”

Commissioner Peterjohn said, “Well, for the folks who had the lower bid but didn’t meet the criteria, that’s unfortunate.”

Ms. Baker said, “Well, yes. And one of the reasons that we ask for samples is we have, not only the durability, the absorbency, which reduces costs long-term, if it’s marginal material, then you end up with excessive scrap because people are using two and three and four because they’re not able to properly take care of their needs with just one towel, that increases your garbage costs because you’re ending up having more volume that way. We also have considerations with dispensers. All of these products are in dispensers, and without having those samples to look at, we can’t validate that they’re actually going to fit. So, it is unfortunate, but we’ve always had that requirement in the bid document, that we look at the samples.”

Commissioner Peterjohn said, “That’s reasonable. Thank you, Mr. Chair.”

Regular Meeting, April 22nd, 2009

Chairman Parks said, “If you’re talking about the difference between the companies, also, Southwest Paper did have two bids in there for different companies, that’s correct?”

Ms. Baker said, “Yes, different product.”

Chairman Parks said, “Of course, Georgia Pacific being owned by a local company, it’s unfortunate that they didn’t get their sample in or get the-from Southwest Paper so maybe we can look at that, try to accommodate them next year a little bit better then. Seeing no other discussion, we have a motion and a second, are we ready to call the vote?”

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Chairman Parks said, “Next item.”

Ms. Baker said, “Thank you.”

CONSENT AGENDA

R. CONSENT AGENDA.

- 1. ZON2007-38 (DP- 306 Associated with CUP2007-39) – Extension of time to complete platting requirement for a zone change from SF-20 Single-Family Residential and OW Office Warehouse to LC Limited Commercial. Generally located north of 53rd Street North and West of Meridian. District 4.**
- 2. A resolution amending section 2 of resolution No. 10-2004 and rescinding resolutions 17-2004 and 145-2008.**
- 3. Establish Additional Budget Authority in the Prosecuting Attorney Training Fund.**

Regular Meeting, April 22nd, 2009

- 4. Waiver of policy to hire Division of Information & Operations GIS Analyst at B325, above minimum for this position.**
- 5. Lease agreement with Trinity Lutheran Church for space at 603 S. Erie to house COMCARE's Therapeutic Preschool.**
- 6. Amendment to Agreement with Episcopal Social Services for Transitional Housing Project Payee Services.**
- 7. One (1) Dedication Deed and One (1) Easement for Right of Way for the Sedgwick County Project on 151st Street West South of US-54. CIP# R-134. District 3.**
- 8. General Bill Check Register for the week of April 8, 2009 – April 14, 2009.**
- 9. Order dated April 8, 2009 to correct tax roll for a change of assessment.**

Mr. Buchanan said, "Commissioners, you have the Consent Agenda before you and I'd recommend you approve it."

MOTION

Commissioner Unruh moved to approve the Consent Agenda

Commissioner Welshimer seconded the motion.

Chairman Parks said, "We have a motion and second, I will say that I did meet with Richard Vogt with GIS (Geographic Information Service) about number four and I'm satisfied that that position in these economic times in hiring is a sufficient way to go, however, I'm going to be scrutinizing these in the future, also, Commissioner Peterjohn."

Commissioner Peterjohn said, "Just for the record, I also was a participant in that meeting with Richard Vogt, and I agree with the Chairman's comments."

Chairman Parks said, "Thank you. Call the vote."

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye

Regular Meeting, April 22nd, 2009

Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

Chairman Parks said, “If we can have a motion to adjourn this meeting and open the meeting of the Fire District #1.”

The Board of County Commissioners recessed into Fire District Number One Regular meeting at 1:07 p.m. and returned at 1:12 p.m.

Chairman Parks said, “We are back in session with the County Commission meeting for ‘Other.’ Are there any ‘Other’ comments that the County Commissioners would like to make at this point? I think we’ve had, pretty much a marathon meeting and some of us have a one o’clock that we are maybe missing now, so I’ll defer anything under ‘Other’ on mine. Have a motion for adjournment?”

S. OTHER

T. ADJOURNMENT

MOTION

Commissioner Welshimer moved to adjourn

Commissioner Peterjohn seconded the motion.

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

VOTE

Commissioner Unruh	Aye
Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Welshimer	Aye
Chairman Parks	Aye

There being no other business to come before the Board, the Meeting was adjourned at 1:13 p.m.

Regular Meeting, April 22nd, 2009

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

KELLY PARKS, Chairman
Fourth District

DAVID M. UNRUH, Commissioner
First District

TIM R. NORTON, Commissioner
Second District

KARL PETERJOHN, Commissioner
Third District

GWEN WELSHIMER, Commissioner
Fifth District

ATTEST:

Kelly B. Arnold, County Clerk

Regular Meeting, April 22nd, 2009

APPROVED:

_____, 2009