

## EXCERPT MINUTES OF THE NOVEMBER 19, 2015 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION HEARING

**Case No.: DER2015-00001** - Return of the Community Investments Plan 2015-2035 to the MAPC by the Sedgwick County Board of Commissioners and the Wichita City Council for further consideration.

**Background:** In 2012, the City of Wichita and Sedgwick County jointly appointed a Plan Steering Committee to develop the Community Investments Plan to replace the current joint City and County Comprehensive Plan which dates back to 1993. A more current plan is needed to provide a policy framework and set priorities to guide future public investments out to the year 2035 in municipal buildings and infrastructure (e.g. libraries, public safety buildings, streets, bridges, parks, water supply, sanitary and storm sewer, culture, and recreation, etc.).

During 2013 and 2014, the Steering Committee developed and evaluated three possible long-term growth scenarios for Wichita. Following an extensive community engagement process in the spring and summer of 2014, a preferred growth scenario was selected by the Committee to serve as the basis for the development of the new comprehensive plan.

In March 2015, the Plan Steering Committee released the draft *Community Investments Plan 2015-2035* for public review and feedback. The Planning Department organized four public open house events and provided over 40 presentations (April through June) to over 700 people on the draft Plan. Feedback was also received through the *Activate Wichita* website. The Steering Committee met on June 24, 2015 to finalize changes to the draft Plan based upon feedback received from the community engagement process and two workshops with the Wichita City Council in April and June. In late June and early July, staff briefed the members of the Sedgwick County Board of Commissioners on the contents of the draft Plan.

On July 16<sup>th</sup>, the Advance Plans Committee passed a motion recommending that the MAPC set a public hearing date to consider the proposed adoption of the final draft *Community Investments Plan 2015-2035* as the new Comprehensive Plan for Wichita-Sedgwick County. In early August 2015, staff presented the final draft of the Community Investments Plan to the six District Advisory Boards (DAB's) for the City of Wichita. All six DAB's voted unanimously to recommend that the Plan be adopted as the new comprehensive plan for Wichita and Sedgwick County.

At the public hearing held on August 20, 2015, the MAPC unanimously approved a resolution adopting the Community Investments Plan 2015-2035 as the new Comprehensive Plan for Wichita-Sedgwick County. Existing adopted neighborhood and area plans were also adopted as elements of the new Plan. The Plan does not take effect until it is approved by the governing bodies of the City of Wichita and Sedgwick County.

On October 6, 2015, the City Council considered a recommendation to approve the *Community Investments Plan 2015-2035*. Council passed a motion to defer action on the Plan until the November 10, 2015 Council meeting in order to see what action the County Commissioners take on the Plan at the November 4, 2015 County Commission meeting.

On November 4, 2015, the County Commissioners passed a motion (3-2) to return the Plan to the MAPC with a list of recommended Plan changes. Given this action by the County

Commissioners, the Wichita City Council passed a motion (5-0) at the November 10, 2015 Council meeting to return the Plan to the MAPC for further consideration of the Plan changes recommended by the County Commissioners, but with the recommendation that the Plan stay as originally adopted by the MAPC on August 20, 2015.

On November 12, 2015, the Advance Plans Committee met to consider the merits and appropriateness of the County Commission and the Wichita City Council recommended changes to the Plan. The Committee has submitted for consideration by the MAPC, a recommended action/response (see Recommended Action) to the Plan changes as recommended by the governing bodies.

Members of the Wichita-Sedgwick County Plan Steering Committee who are not members of the MAPC have been invited to attend the November 19<sup>th</sup> MAPC meeting and may be given the opportunity to provide comment and perspective on this matter if so desired by the MAPC.

**Analysis:** The MAPC has an obligation to consider the merits and appropriateness of the recommended Plan changes as submitted to the MAPC by the County Commissioners on November 4, 2015. In accordance with procedures set forth in KSA 12-747(b), the MAPC has at its November 19<sup>th</sup> meeting, essentially two actions it can take:

1. Resubmit to the Sedgwick County Board of Commissioners and the Wichita City Council, the *Community Investments Plan 2015-2035* adopted by the MAPC on August 20, 2015, with a recommendation to approve the Plan as originally submitted and stating the reasons therefore.
2. Submit to the Sedgwick County Board of Commissioners and the Wichita City Council, the *Community Investments Plan 2015-2035* adopted by the MAPC on August 20, 2015, with a recommendation to approve the Plan with amendments (to include new and amended elements that may or may not reflect all or portions of the Plan changes recommended by the County and/or City).

KSA 12-747(b) also states that if a planning commission fails to deliver its recommendations to the governing body following the planning commission's next regular meeting after receipt of the governing body's report (and placed on the planning commission meeting agenda), the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly.

#### **Recommended Action (Advance Plans Committee):**

The recommended action of the Advance Plans Committee is outlined in Attachment #4.

#### **Attachments:**

1. Final Draft *Community Investments Plan 2015-2035* approved by the MAPC on August 20, 2015. This link will provide electronic access to the Plan document:  
<http://www.wichita.gov/Government/Departments/Planning/PlanningDocument/09%20Final%20Plan-MAPC%20Adopted.pdf>
2. Sedgwick County Commissioners Recommended Plan Changes, November 4, 2015

**SCOTT KNEBEL**, Planning Staff presented the Staff Report. He summarized action regarding the Plan to date and reviewed a PowerPoint presentation as follows:

## Plan Approval Process

- On 20 August 2015, MAPC unanimously adopted the *Community Investments Plan 2015-2035* as the new Wichita-Sedgwick County Comprehensive Plan
- MAPC recommended that the City Council and the County Commission approve the Plan
- Under KSA 12-747(b), the governing body (City & County) must approve the Plan for it to become effective
- *October 6, 2015* – City Council deferred action on the Plan to the November 10<sup>th</sup> Council meeting to wait on County response to Plan
- *November 4, 2015* – County Commission returned the Plan to the MAPC with a list of recommended changes for consideration
- *November 10, 2015* – City Council returned the Plan to the MAPC with a recommendation to leave the Plan as is
  
- KSA 12-747(b) provides City Council and County Commission with three options:
  1. Approve the Plan as recommended by the MAPC
  2. Override & change the recommended Plan by a 2/3 majority vote
  3. Return the Plan to the MAPC for further consideration with a statement specifying the basis for failure to approve or disapprove

## **Summary of County Commission Recommendations to MAPC (11-04-15)**

- Add reference to maintaining existing local County one-cent sales tax distribution formula (add to pgs. 3 & 39), which is used to fund road and bridge projects and to reduce property tax mill levy, recommending that the tax and distribution be kept among the jurisdictions as is
- Clarify that the purpose of the Plan is to enable joint subdivision regulations (pg. 3). He said the Plan stated other purposes that were recommended for removal
- Clarify that future land use policies must be market-driven growth and that individual property rights are paramount in the decision making process (pg. 17)
- Consider privatizing the City's transit system ... operate it only with existing funding (pg. 33) ... change transit funding to 'low' priority
- Increase new bypasses to a 'medium' priority, and freeway enhancements from "medium priority" to 'medium-high' priority (pg. 30)
- Fund additional road maintenance but without any tax increases (pg. 30)
- Eliminate the strategy to implement Wichita's Bike and Pedestrian Master Plans. He said it was further clarified that bicycle and pedestrian infrastructure should be limited to recreation and not a transportation function (pg.31)
- Eliminate the strategy to develop a community-wide broadband infrastructure plan (pg. 31)
- Eliminate the strategy for a built environment strategic plan which would deal with urban forests, street trees and other types of community aesthetic and ecological investments (pg. 33)
- Eliminate the strategy to develop a joint City/County integrated cultural arts facilities investment plan (pg. 33)

### **Summary of City Council Recommendations to MAPC (11-10-15)**

- To give further consideration of Plan changes recommended by the County Commissioners on 11-04-15, with the Wichita City Council recommending that the Plan stay as originally adopted by the MAPC on August 20, 2015

### **Advance Plans Committee Recommendations (11-12-15) to MAPC Regarding Plan Changes**

- Pg. 17 – add reference to protecting individual property rights in Introduction
- Pg. 29 – add new Strategy C. that emphasizes retaining the existing one-cent County sales tax under Funding and Financing Goal 2
- Pg. 30 – add that opportunities for alternate, innovative transit solutions must be pursued under Plan Context and Perspective
- Pg. 30 – reverse the listing order of Wichita’s transportation priorities under Plan Context and Perspective noting that the City and County have different priorities when it comes to transportation
- Pg. 30 – add a new listing of transportation priorities for Sedgwick County under Plan Context and Perspective
- Pg. 31 – eliminate ‘public’ in reference to transit in Strategy B of Goal 2
- Pg. 33 – minor wording changes for placement of the word ‘premier’ in Goal 1 statement
- Pg. 33 – suggested deleting the reference to the establishment of a task force in Strategy G (agri-tourism)

### **Plan Approval Process**

KSA 12-747(b) provides MAPC with essentially two options:

1. Resubmit to the governing bodies, the Plan adopted by MAPC on August 20, 2015 with a recommendation to **approve as originally submitted**, and stating the reasons therefore
2. Submit to the governing bodies, the Plan adopted by MAPC on August 20, 2015 with a recommendation to **approve with amendments** (to include new and amended elements that may or may not reflect all or portions of the Plan changes recommended by the County and/or City)

KSA 12-747(b) states that if a planning commission fails to deliver its recommendation to the governing body following the planning commission’s next regular meeting after receipt of the governing body’s report, the governing body shall consider such course of inaction as a resubmission of the original recommendation.

**KNEBEL** suggested the Planning Commission hear from the public present and make a recommendation to the governing bodies about whether or not to amend the Plan.

**DAILEY** asked if the Commission sends the Plan back to the governing bodies, what vote is required.

**KNEBEL** said if the Planning Commission decides to amend the Plan a majority vote, or eight (8) affirmatives is required. He said once the governing bodies get the Plan back from the Planning Commission, since they have returned it to the Planning Commission for reconsideration, he said on second hearing they can make changes with a simple majority vote.

**RAMSEY** asked legal if he needed to declare ex-parte communication.

**ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR** said it is not required; however, he may do so for the record.

**RAMSEY** declared that he had ex-parte communication and commented that he was sure other Commissioners had some also.

**RICHARDSON** asked if there is disagreement between the City and County; how does the decision get made.

**KNEBEL** said right now the City and County have adopted the identical Plan. He said that is not a statutory requirement. They could adopt plans that differ. He said that might be a logistical problem in terms of implementation, but it is a legal outcome. He said options available to the governing bodies include adopting what the Planning Commission recommends, making changes or keeping the current Plan in place. He asked if legal counsel had anything to add.

**PARNACOTT** said language that the County wants and the City does not could be shown and clearly identified as adopted only by the County. He said from a practical aspect the Plan is used for evaluation of Capital Improvement Plans, annexations and zoning cases. He said the difference between City and County versions may have impact on City versus County zoning cases in the future. He said having different Plans is allowed under the statute and it is up to the governing bodies to decide what they want their Plan to be.

**GOOLSBY** asked why are we here then.

**PARNACOTT** said the Planning Commission has a statutory obligation.

**MCKAY** asked why the sentence "it is imperative that this revenue stream remain" used in reference to the one cent sales tax.

**KNEBEL** said he had received the same feedback. He said perhaps some of the Advance Plans Committee members can explain why that was worded that way. He said he has heard it could be interpreted as keeping the funding formula the same.

**MCKAY** commented that the whole paragraph says we need it, we want it and it seems like a duplication of effort to him.

**DENNIS** commented that the Advance Plans Committee went through each of the recommended items. He said some things could have been articulated better, he doesn't disagree with that. He said the original draft was much longer than what is being presented to the Commission. He said the Committee took most of Commissioner Howell's recommendations into account. He said as long as he has been on the MAPC (eight years), they have complained about how out of date the Plan is. He said a lot of good people have spent thousands of hours putting together a Plan. He said they still need a Plan that fits both the City and County and that is what the Committee and others tried to do when developing the Plan. He commented that the Advance Plans Committee is made up of three (3) members appointed by the County Commission and three (3) members

appointed by the City council. He noted that most of the votes were 6-0 on suggested Plan changes. He said the Committee recognizes that there has to be a Plan and this is their recommendations on how to get a Plan out to the citizens in Wichita and Sedgwick County.

**JEFF LONGWELL, MAYOR, CITY OF WICHITA, 7806 WEST 17<sup>TH</sup> STREET, WICHITA** commented that Scott Knebel did a great job of framing where the City Council is on the issue. He said the Council's first preference is that they adopt the original Plan that was submitted to them by the Planning Commission with no changes. He said there are some items that the Advance Plans Committee looked at that are relatively innocuous but the one they have some heartburn over is the last sentence on Page 29 – "it is imperative that this revenue stream remain." He said they feel it can be interpreted too many different ways and some might take that as an implication that the formula doesn't change and that the stream remain exactly the way it is. He said the Council would encourage the Commission, at the very least, to strike that last sentence because they believe it is too vague and can be interpreted the wrong way. He said he heard the Commission say they don't want to be involved in funding, and if that is left in the Plan, it could be interpreted that they are suggesting that the revenue stream remain the same. He said the rest of the changes, the City Council could live with because they feel they are pretty innocuous.

**WES GALYON, PRESIDENT, BUILDERS ASSOCIATION, 2017 NORTH GLENWOOD COURT, WICHITA** said he and the Builders organization are supportive of what Mayor Longwell just said. He said the sales tax distribution is set by State Statute and he does not believe it belongs in the Plan document. He said if the Commission decides collectively to leave it in the Plan, then please remove the last sentence to avoid conflicts on interpretation. He said removing that sentence would provide flexibility in looking at the sales tax or some variation of the sales tax.

**GALYON** mentioned the comment about privatizing the transit system. He said there has been discussion for a long time about funding the transit system. He said he thinks it needs to be made clear that it could be private or public. He concluded by referencing the word "premier" used in the document. He said that word means totally different things to different people and is subjective. He suggested using a term that can be tied to a scale so it can be quantified.

**TODD** asked if the word could be left out.

**GALYON** said he could send over some suggestions. He said he felt there was a better way to describe what the Plan is trying to achieve, something that can be tied to some sort of process or formula.

**CHARLES PEASTER, 9453 NORTH 135<sup>TH</sup> STREET, WEST, SEDGWICK** commented that the Advance Plans Committee vote on Item 29 was 5-1. He said State Statute sets who gets what portion of the sales tax revenue. He asked if it was the City's intent to change that revenue flow. He said he thinks the wording makes it pretty plain to him, he doesn't see where it is ambiguous. He said maybe the six (6) members of the Advance Plans Committee can answer his question.

**MAYOR LONGWELL** said he would like to answer that question.

**CHAIR NEUGENT** said that would not be part of the public hearing comment but he could respond to the question.

**MAYOR LONGWELL** said the City is going to pursue those opportunities. He said three (3) counties in the State of Kansas have made that change at the State level. He said the last County, Johnson, made that change to the State funding formula because their population changed dramatically, much like Wichita and Sedgwick County's populations have changed dramatically since 1983 when the formula was first adopted. He said Johnson County found that the formula did not work because of the shift in population. He said the City may very well address the State Legislature and that is why they believe the last sentence needs to be deleted. He said the City wants the same opportunity to go to the State Legislature and get an exemption from that formula mix.

**STAN SKELTON, BREG CO-CHAIR, DATA SERVICES AND IT CLUSTER, 3718 NORTH ROCK ROAD, WICHITA** referred to correspondence he e-mailed to Commissioners regarding the importance of the broadband initiative and said he was present to answer any questions.

**TODD** asked if he wanted the strategy included in the Plan.

**SKELTON** he said he was providing the Commissioners input as to why the strategy should stay in the Plan as recommended by the Advance Plans Committee.

**MCKAY** asked if the last sentence regarding the sales tax was left in would it impair either governing body from making changes.

**CHAIR NEUGENT** asked for legal interpretation.

**PARNACOTT** commented that the County Commission has spoken as to what they want. He said the Planning Commission's role is to consider whether they want to go with that recommendation, the original language, follow the Advance Plans recommendation or go with an alternative recommendation. He said the majority of the County Commission is interested in keeping the language they submitted to the Planning Commission.

**JEFF VANZANDT, ASSISTANT CITY ATTORNEY** he said from the City's perspective they totally agree with the Mayor's position that any reference to how the sales tax is distributed might create confusion and should be handled at the State level.

**MAYOR LONGWELL** reiterated that the Council's first recommendation is to pass the Plan originally adopted by the Planning Commission unanimously. He said the second fallback position is that the language regarding the sales tax needs to be changed. He said they do not agree with the language that the Advance Plans Committee is recommending.

**DENNIS** explained that the reason the Advance Plans Committee left that language in is because there was a referendum not too long ago on a one cent sales tax and they did not want to see the sales tax that they have now eliminated.

**MOTION:** To approve the Plan with the recommendation of the Advance Plans Committee and take up the language on page 29 separately.

**TODD** moved, seconded by **DAILEY**.

**CHAIR NEUGENT** clarified that the language on page 29 would be taken as a separate motion.

**DENNIS** asked about the use of the word premier.

**TODD** asked Commission Dennis if he had a suggestion because he didn't have a problem with the word. He said ambiguous words are part of the process.

**DENNIS** asked if the Plan could be approved with the provision of editing that one word.

The **MOTION WAS AMENDED** subject to changing the word "premier".

**JOHNSON** asked for clarification of the interpretation of broadband and if it meant public private cooperation.

**KNEBEL** commented that the Advance Plans Committee didn't recommend that any reference to broadband be changed. He quoted from page 31 of the Plan that said ".....support public and/or private" broadband infrastructure....."

**SUBSTITUTE MOTION:** To approve the Plan with the recommendation of the Advance Plans Committee, including the recommendation on Page 29 except to strike the last sentence regarding the revenue stream remaining the same.

**FOSTER** moved, **JOHNSON** seconded the motion.

**FOSTER** added that he wanted to thank the Advance Plans Committee for making the Commission's job much easier. He said he appreciates their efforts.

**RICHARDSON** asked about dropping the word premier.

**FOSTER** commented that when he first read it he thought the sentence didn't read properly without an adjective or descriptive terms. He said he was comfortable leaving the word out.

The **SUBSTITUTE MOTION WAS AMENDED** to delete the word premier.

**JOHNSON** said he would hate to take it out but he would go along with the amendment.

**TODD** said he believed the language on page 29 should be considered separately so he would not be supporting the motion.



**GOOLSBY** commented that some of the members of the Commission served on the Plan Committee since its inception. He said there has been more than 100 hours of public input in meetings over several years to craft the Plan. He said the Plan is a great compromise and is not exactly the Plan he wants but reflects the community as a whole. He said he feels it is inappropriate for governing bodies to make changes when several members of the governing body participated in the meetings. He said he would be voting in favor of the substitute motion.

**QUESTION CALLED** on the **SUBSTITUTE MOTION**, and it carried (11-2). **ELLISON** and **TODD** – No.

The **SUBSTITUTE MOTION** carried (10-3). **DAILEY, ELLISON** and **TODD** – No.