

Sedgwick County

525 North Main Street 3rd Floor
Wichita, KS 67203



*Sedgwick County...
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Meeting Minutes

Wednesday, January 8, 2014

9:00 AM

BOCC Meeting Room

Board of Sedgwick County Commissioners

Pursuant to Resolution #131-2010, adopted by the Board of County Commissioners on August 11, 2010, members of the public are allowed to address the County Commission for a period of time limited to not more than five minutes.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Sedgwick County, should contact the office of Roberta Berry, Sedgwick County Interim ADA Coordinator, 510 N. Main, Suite 306, Wichita, Kansas 67203

Phone: (316) 660-7058, TDD: Kansas Relay at 711 or 800-766-3777

Email: rberry@sedgwick.gov, as soon as possible but no later than 48 hours before the scheduled event. Please include the name, location, date and time of the service or program, your contact information and the type of aid, service, or policy modification needed.

ORDER OF BUSINESS

CALL MEETING TO ORDER

The Regular Meeting of the Board of the County Commissioners of Sedgwick County, Kansas, was called to order at 9:07 a.m. on January 8, 2014 in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman James B. Skelton, with the following present: Chair Pro Tem Commissioner David M. Unruh; Commissioner Tim R. Norton; Commissioner Karl Peterjohn; Commissioner Richard Ranzau; Mr. William P. Buchanan, County Manager; Mr. Rich Euson, County Counselor; Mr. David Spears, Director, Bureau of Public Works; Mr. Robert W. Parnacott, Assistant County Counselor; Ms. Dee E. Staudt, Director, Sedgwick County Developmental Disability Organization; Mr. Bev Dunning, Director, Extension; Mr. Joe Thomas, Director, Purchasing; Ms. Kristi Zukovich, Director, Communications; Ms. Tasha Mosher, Fiscal Associate; and Ms. Angela Lovelace, Deputy County Clerk.

GUESTS

*Mr. Kurt Harper, Attorney, Sherwood, Harper, Dakan, Unruh & Pratt
Mr. Bob Seiler, Chairman, Eagle Drainage District
Mr. Harlan Foraker, President, Certified Engineering Design
Ms. Tracy Pribbenow, 11301 North 215th Street West, Sedgwick*

INVOCATION: Moment of Silence.

FLAG SALUTE

ROLL CALL

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

CONSIDERATION OF MINUTES

A [13-0974](#) REGULAR MEETING MINUTES OF NOVEMBER 13, 2013.

All Commissioners were present.

Chairman Skelton said, "Commissioners, Items A and B both indicate all Commissioners were present, and if there's no objection, I would entertain a motion to approve both items with corrections if needed."

MOTION

Commissioner Peterjohn moved to approve the Regular Meeting Minutes of November 13, 2013 and Regular Meeting Minutes of November 20, 2013.

Commissioner Norton seconded the motion.

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

VOTE

Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Ranzau	Aye
Commissioner Unruh	Aye
Chairman Skelton	Aye

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

- B** [13-0961](#) REGULAR MEETING MINUTES OF NOVEMBER 20, 2013.
All Commissioners were present.
Action on Item B taken with Item A.

APPOINTMENTS

- C** [13-0986](#) RESOLUTION APPOINTING KERRIE PLATT (BOARD OF COUNTY
COMMISSION APPOINTMENT) TO THE SEDGWICK COUNTY
COMMUNITY CORRECTIONS ADVISORY BOARD.
Presented by: Richard Euson, County Counselor.

RECOMMENDED ACTION: Adopt the resolution.

Attachments: [Kerrie Platt Appointment](#)

*Mr. Rich Euson, County Counselor, greeted the Commissioners and said,
"Commissioners, we prepared this resolution for two year appointment, and I
recommend you adopt it."*

MOTION

Commissioner Norton moved to adopt the resolution.

Commissioner Peterjohn seconded the motion.

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

VOTE

Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Ranzau	Aye
Commissioner Unruh	Aye
Chairman Skelton	Aye

*Chairman Skelton said, "Is Kerrie Platt present this morning? Okay, we will get her
sworn in soon. Next item, please."*

PUBLIC HEARING

D [13-0971](#)

PETITION OF EAGLE DRAINAGE DISTRICT FOR ANNEXATION OF CERTAIN LAND.

Presented by: Robert W. Parnacott, Assistant County Counselor.

RECOMMENDED ACTION: Make appropriate findings.

Attachments: [A filed Petition of Eagle Drainage District for Annexation of Certain Land](#)
[B Notice of Hearing Eagle Drainage District petition for attachment of land](#)
[C Relevant Statutes KSA 24 611 and 19 270](#)
[D Eagle Drainage All](#)

VISUAL PRESENTATION

Mr. Robert W. Parnacott, Assistant County Counselor, greeted the Commissioners and said, "We have a petition for you that was received and we have set this public hearing. I have got a map up on the screen that shows the location of the [Eagle Drainage] District, the watershed boundaries in that area, and it highlights the parcels that are proposed to be added. We have a total of about 44 parcels that are being proposed for annexation by the district. There are about 30 different landowners involved. We were required to publish notice in the official county newspaper, and we did that. So we met the notice requirements. As a courtesy we also mailed notice to each individual landowner to let them know there would be this public hearing.

"Because these properties, some of these properties lay within three miles of existing city limits we have a statute that requires you to have a super majority vote to approve this, and it allows the cities to weigh in, so we sent notices to the cities as well to let them know that this hearing was going to be held. We have not received any other contact from the cities, however, regarding this proposed annexation.

"Under the statute, you are allowed to take this matter under advisement for 30 days after the close of the public hearing if you so desire. So at this point, unless you have any additional questions for me, I would recommend you hold the public hearing, and receive testimony. After the hearing is closed, the statute requires you to make certain findings. You will need to make a finding whether or not notice has been provided, and as I have stated, it has been provided. You are required to find that the petition is in conformity with the requirements of the statute. We have reviewed that petition, and we believe in our opinion that it is in conformity with the statute, so I think that has been met.

"Finally, you have to make a finding that the allegations in the petition are true. And that's really the main focus of the public hearing, is to receive evidence regarding the allegations, and those allegations essentially are that the lands proposed for annexation by the District are subject to overflow by water courses in the District. There are improvements that can be made that will prevent that overflow, and those improvements will be conducive to the public health, welfare, and convenience. We have representatives of the District here to answer questions and provide support for those allegations, and at this point, again, unless you have questions, I would recommend you open the public hearing."

Chairman Skelton said, "All right. Thank you. Well, at this time I would like to ask who wishes to speak on this item? Okay, all right. I will call this public hearing open and ask the speakers to take the podium accordingly."

Mr. Kurt Harper, Attorney, Sherwood, Harper, Dakan, Unruh & Pratt, greeted the Commissioners and said, "Do you want the proponents first, is that correct?"

Chairman Skelton said, "I don't care who goes first, it doesn't matter. I just would ask that you please state your name and address for the record."

Mr. Harper said, "I have been working with the District over the last several years as Eagle [Drainage] District has tried to find workable solutions at a very localized level to the problem of having water in western Sedgwick County, which is about as flat as things get. So this is the fourth phase of kind of a continuum that we've followed through, that we've worked with the County Commission before. The original Eagle Drainage [District], if you look at the display, is the generally east and northeast section of the portion shown in blue. Below that, to the south and southwest, is what used to be Greeley Drainage District, and then our first phase of trying to find a more global solution to drainage problems the Greeley District was combined into the Eagle district. That left a couple of the little pieces, the two small rectangles pretty much in the center of the blue area, kind of land-locked, because they weren't in the original, they weren't in Greeley [Drainage District], and they weren't in part of some property that some private owners agreed to annex at the same time we added the Greeley District to the Eagle District.

"We then picked up an area that does not show up on your drawing because it's out in Reno County. There was a small old drainage district that primarily maintained a berm system to try and control some of the drainage that comes into Eagle and Greeley. That had fallen into some disrepair, and to accomplish some economies of scale, that smaller district was absorbed in Reno County. And under the statute that governs drainage districts in more than one county, Sedgwick County actually has jurisdiction over the annexation of property in these other counties, so long as the majority of land is still located within Sedgwick County, which continues to be true both before and after this proposed annexation.

"The third phase was then to pick up a few additional stray pieces of land in Reno County, and in Harvey County, and during that phase we took the question to both of those County Commissions as well, so that they would be informed, they would have an opportunity to express any concerns and hear any concerns of the residents of those counties about the additional annexation. That then was approved about two years ago.

"That left us, then, trying to analyze what is still left to do. We were waiting for technical data from Harvey County where they had done a LIDAR (Light Detection and Ranging) study. It took quite a while to convert that into usable figures. We have been in discussions with some other areas in Reno County to look at some joint concerns, but ultimately we have settled down to try and figure out what additional land locally do we need that is being impacted adversely by the current conditions that we think we can provide a broader based solution to this. In addition to the county's communication with the landowners, we sent out, on behalf of the district board, a letter explaining what it is that we hope to be able to accomplish with this additional annexation. That is, to bring these not quite, or essentially land locked areas when you take into account Harvey and Reno County properties as well into the District.

"With me today, who can give you a lot more historical background and much more on the ground experience with the drainage problems experienced in this whole area are the chairman of the District, Bob Seiler, and Harlan Foraker, who serves as the engineer for the district as we deal with this on a local level. With regard to the statutory requirements, that Mr. Parnacott referenced, we need to satisfy you today that the land is subject to injury from overflow of an unnamed tributary or some water course, that the improvement of a channel or water course or the construction or maintenance of levees or a variety of other options will help to solve that problem, and that those are conducive to the public health, convenience and welfare.

"Now, for a couple of years, it looked like no water course in Kansas was ever going to overflow again. That changed last year, so we started dealing with some very localized problems in this flat part of Sedgwick County. The changes that have occurred, and we've talked about this before, in southeastern Reno County, southwestern Harvey County, both in terms of some urban changes, changes to the infrastructure have gradually increased the amount of surface run-off that is now affecting the Eagle Drainage District. It also, with the time wearing on the Eagle improvements has caused those improvements to deteriorate slightly in their ability to handle the flow. So part of what we're working on is finding a way to intercept as much of the problem early, divert it when we can from hitting the current facilities, and then also to improve those facilities to maximize the ability to drain this flat land, including the proposed annexed area. Over time the District has tried to look at a broad approach to these, and in a perfect world, some of these would be really big projects, and they would probably require us asking the county to help out, but we know that the county doesn't exactly have a lot of cash sitting in the Capital Improvements Fund right now.

"So one of the reasons why this local area is really critical to the continued success of Eagle Drainage is it allows us to address it locally and with small areas of land being impacted, relatively inexpensive improvements being put in that help bridge the gap and get some of the water off of the land and into the river early to avoid the added impact to the balance of the District, and to these relatively flat areas that as the water courses fail to recede adequately, are adversely impacted by the drainage problems.

"What I would like to do now is turn the rest of our comments over to first Bob Seiler and then Harlan Foraker as additional proponents for the petition, so they can give you a little more hands-on experience and some more technical analysis of how the water courses flow essentially from this southern Reno and Harvey County area across the entire area that we're talking about. If you have any questions for me, I would be happy to address them, otherwise I will turn the comments over to Mr. Seiler and Mr. Foraker."

Chairman Skelton said, "Are there any questions at this time by Commission? Okay, thank you."

Mr. Harper said, "Thank you."

Mr. Bob Seiler, Chairman, Eagle Drainage District, greeted the Commissioners and said, "Good morning, Commissioners."

Chairman Skelton said, "Hello."

Mr. Seiler said, "Thank you for taking time to listen to us this morning. Never talk after an attorney because he's always said everything you want to say. So it limits my discussion. So the annexation that we are looking at covers about 2,800 acres. Our district is currently at about 39,000 acres. This property that is between the two original districts, Greeley and Eagle, were mainly on a ridge that separated the slough and then the Eagle Drainage systems. They are probably higher properties that some of the people opted out when the original districts were formed in the 1950s. Some of them were never involved. So we've, what started this annexation process was we had a couple of property owners that needed some drainage and they could hook onto one of our laterals that we use for drainage, and in order to do that we needed to bring them into the District to make it work for us and make it work for them.

"In order to do that, it made sense to bring all these properties in at one time, so we didn't have to keep coming back to you guys and saying we need to do something here, do something there. We decided to bring them in as a lump sum. One of the benefits of our District is it's a community-based organization locally controlled. We can kind of do things as a community cheaper, hopefully, and in a more peaceful way. Sometimes we run into headaches, it is not a perfect world, but it is people working together to solve a problem, and that's important. Our number one goal is flood control in the district. That has to be our number one goal. We control the levee, and maintain the levee from Maize Road to four miles into Reno County on the north side of the river. So all the levee on the north side of the river stretching from Maize Road back into Reno County is under our control.

"In the last five years, we went in and have done major reconstruction projects on that levee and areas where it needed. So we keep a maintenance crew involved, we have a person that does mowing and spraying for us, and we try to maintain the levees besides reconstruct them. And then our other goal is to improve the drainage in the District. We are working on several plans now that will hopefully do that, and help the Harvey County area have a more structured way of drainage. So we would ask for your approval of this annexation.

"And one more thing I would add is our taxing system is a specials tax, which we charge \$3 an acre, which is different than a mill levy. Bentley, the City of Bentley has most of the mill levy in our District. So if we didn't do it with a specials tax, the City of Bentley would end up paying most of the tax on our District. So this is the more even way of doing it out in our part of the world, because it is mainly a rural area. The City of Bentley, I believe, is the only city involved at this time. Thank you for your time. Any questions?"

Chairman Skelton said, "Are there any questions, Commissioners? Thank you. Commissioner Peterjohn."

Commissioner Peterjohn said, "I may have some questions after we hear the, after the entire public hearing. I would like to hear all the testimony. I will keep my questions until we hear from everyone."

Chairman Skelton said, "Absolutely. We'll just, I am going to turn your light off, so you turn it on when you are ready. Commissioner Norton."

Commissioner Norton said, "I will wait, too."

Chairman Skelton said, "Okay. Hello, sir."

Mr. Harlan Foraker, President, Certified Engineering Design, greeted the Commissioners and said, "I have been working with Eagle Drainage District for several years now, in helping them to identify the drainage boundaries for areas that contribute run-off into their system, and also helping them with some proposed improvements to the system by extending laterals, perhaps improvements to the main ditch and that sort of type of projects to help improve drainage in the area. I guess the most significant thing recently has been the annexation of this District on up into Harvey County. I think as Bob said there's roughly 20[000] or 25,000 acres of this District in Sedgwick County, but there is an additional approximately 12,000 up into Harvey County, and there's actually additional drainage of maybe 5[000] or 10,000, I don't have that number exactly, up into Reno County.

"And as you can all probably understand, drainage doesn't recognize county lines. Obviously it is the topography that delineates where drainage comes from and where it flows to. So we have been assisting them in studying the area, and trying to get a handle on how much drainage comes into the area, and as Bob said, there is kind of two different systems here. They maintain a main channel of Eagle Drainage which drains into the big Arkansas River there, about at 103rd Street. So they maintain that channel. There are laterals, then, that extend out from that main channel, and that main channel goes all the way up to Harvey County, and picks up drainage at the Harvey-Sedgwick County line.

"So they are currently receiving that drainage from these other areas, and they are now intent on trying to formalize that, and perhaps provide some improvements to help that drainage, perhaps control that drainage as it comes into their system so that they can better deal with it, and perhaps try to minimize the amount of flooding that occurs in their Drainage District, because as farming improvements and land leveling and that sort of thing has occurred, obviously the drainage, it becomes more improved, gets into the system faster, and ultimately becomes harder to deal with in the main channel. So they recognize that over the years that some of their current systems are not sufficiently able to collect and convey that drainage. So some of these areas contribute run-off into the area. Obviously they feel like that that should be part of the overall solution, those properties should help contribute in part of the overall solution.

"So they also do maintain, I think it might have mentioned the levees along the north side. Obviously, of course, I wasn't around, but I think in the early [19]50s, I think there was quite a flood up in that area, and flooded out onto a lot of properties on the north side of the river. So obviously they are charged with the task of maintaining that, so that that will hopefully minimize any future flood damaging, continuing to keep that levee up.

"We've done several projects over the last three or four years. On the bottom end of what's called the slough to help that drainage be conveyed into the river. We are considering several projects right now that will actually provide additional improved drainage to some of these areas that are not currently in the district, and so that's part of the reason, too, that we feel it is important that they participate in the cost of these improvements, because obviously they are going to benefit from some of the improved drainage as a result of some of these projects.

"So that just in the overview without going into a lot of technical detail at this point, I would just share with you that we feel like there is the potential for flood damage in the area, and that the Eagle Drainage board intends to try and improve existing conditions, or deal with existing conditions, and make improvements for future conditions that will help the drainage in the area, and improve the drainage for properties already in the District, and the additional properties that they are wishing to annex here. That's I think all I have at this point in time. And I would stand for any questions when appropriate."

Chairman Skelton said, "Commissioner Ranzau."

Commissioner Ranzau said, "I have some questions for the proponents in general. I don't know who, it may be the attorney, who can best answer these questions."

Chairman Skelton said, "Could we just, is there anybody else that wishes to speak? Okay. Could we hear her before we ask the attorney questions, would that be appropriate, or would you rather ask the attorney now?"

Commissioner Ranzau said, "Well, I would like, are you a proponent or opponent?"

Ms. Tracy Pribbenow, 11301 North 215th Street West, Sedgwick, greeted the Commissioners and said, "Undecided. Probably be on the opponent side then."

Commissioner Ranzau said, "Okay, well, I'd like to clarify some things from the proponent's side."

Chairman Skelton said, "Okay."

Ms. Tracy Pribbenow said, "Yes, have him clarify, because that may help my question as well."

Chairman Skelton said, "Okay. Well, that's fine. Let's, is there anybody else that wishes to speak besides yourself? All right, we are going to take the last person for public comment, we will close the hearing and then we can ask questions. Please state your name and record for the address, or for the record, that too."

Ms. Pribbenow said, "I'm Tracy Pribbenow, 11301 North 215th Street West."

Chairman Skelton said, "Good morning."

Ms. Pribbenow said, "Good morning. I am the fifth generation of a family to reside on the southeast quarter of Section 12, which is items 27, 28, and 29 on the annexation listing that you have. I have lived here all my life, so I'm very familiar with the area. I understand the history of the area. The historical stories of flood and drainage and the problems. So I am not unfamiliar with the issues that the drainage district faces. Also, I am not against progress for betterment of the area. I am not against good ecological science, as most of my household has science degrees. I also agree that drainage needs to be looked at not just on a farm by farm or township by township basis, about but the whole drainage basin together."

"However, there are things about the annexation that trouble me. Much of the lower land I own is already in the Drainage District, as it should be. That portion of the land was originally in the Greeley Drainage District, and then in 2010 or 2011 when Greeley and Eagle Drainage District combined, I suddenly saw a special assessment tax on my tax bill that I didn't know what it went to, with no notice that I know of. So I called the county offices, and said why am I being assessed this tax? After several phone calls I was able to determine it was a drainage district tax, but I couldn't remember making contact with anybody in the county that could give me a map of the Drainage District, tell me who was on the board, tell me when they met, tell me what their goals were, or what their oversight was. After a while I just let it drop.

"Only recently I began hearing more things about the District, so I happened to find online the Harvey County Commission minutes from December 2011 when they did the annexation on the Harvey County side. I believe you were there, Mr. Peterjohn. And that let me know who was on the board and who I could contact. Now, I was pretty mad that they produce, it's very two dimensional. It seems like a no-brainer that you should just fill in this little area that's not included in the other district. But there is a reason that was never in a district.

"Your Sedgwick County Public Works department was kind enough to show me how to pull up a topographical maps on your GIS system which is pretty amazing. There is a stretch of land that runs northeast to southwest on my property, and most of that area, that's considerably higher than the area around it. You can stand on the road in front of my house and see the land slope off to the south of the river and also slope down to the north toward 117th Street. Many of the original homesteads, like mine, in the area were built up on this gravel ridge. And for good reason. The settlers knew that everything else floods. This is also why the stretch is not in the flood plain, because, and it was never included in Eagle or Greeley Drainage District, because you can't push water uphill in drainage districts, drainage ditches.

"My own grandmother, who lived there since 1910, said flood waters never came up higher than her lower pasture, even before the dyke and the drainage districts. Of course, back then all of it was pasture ground and floods don't really hurt pasture grounds too much because grass is a resilient. Much of that has since been changed to farm ground, and that's why there is more damage done now. The current members of the Drainage District, now that I know who they are, are all people I consider to be very fine and upstanding men. They are good farmers. They are good neighbors. But they are not engineers. They are not geohydrologists or civil engineers. As a landowner, I don't know what their past, current or future drainage ideas are, if they have been looked at by the Kansas geological surveyor, the Kansas Division of Water Resources. I don't know whether the solutions that they are proposing have been given any oversight, or whether they are actually the best solution for the problems at hand.

"For instance, in the minutes of their meeting from June of 2013, when discussing options for a cut-off ditch somewhere west of me, it says, 'The Worthington Road ditch was discussed as being the path of least political resistance.' To me that just means, okay this guy over here has a lot of power, he is a lawyer, we can't go through his property, we have to go over here. So, you can see, for me, as a single woman, with a small piece of land of a lower value than everybody around me, I have a little bit of worry about that kind of that kind of decision-making.

"Now, the Drainage District President, Bob Seiler, did call me and explained a lot. And that helped a great deal. I understand what the Drainage District is trying to do. I think they have good intentions, at this time I really do. But I would ask before you rubberstamp this request to fill in the dots, fill in the lines with your color chart, to think about these questions. Number one, the tax. Without accountability, how are we spending the current dollars and how do we know that giving them more authority with more money would be money well spent or will be a solution to these problems? Can they arbitrarily raise this tax from the \$3 an acre? I don't know. It is marked as a special assessment. Is that special assessment have an end date, or is it going forever?"

"The benefit. How does adding just these few more parcels benefit the overall goal and design of the Drainage District? Do they have some large future project in mind, and if so, what is it? Are they sharing those goals with the public? How well have they communicated what they hope to accomplish with our money? And most importantly the future, if I allow them to make my home place part of the Drainage District, this is where I live, now, this piece we are talking about now, what authority does that give them over my land?"

"These people will not always be on the board. There will be different people. If something comes up in the future and they want to build something on my land I disagree with, will I have authority to say no, or am I surrendering my wishes to them? Thank you for your time. Any questions?"

Chairman Skelton said, "Thank you. Questions by Commissioners, please. Okay, Commissioner Ranzau."

Commissioner Ranzau said, "Thank you, Mr. Chairman. Yes, I have a few questions. And this kind of gets to the point that I was, or some of the questions I was going to ask. So you already own some land that's in the Eagle Drainage District."

Ms. Pribbenow said, "Yes, sir."

Commissioner Ranzau said, "You are saying that makes sense because that land actually does flood."

Ms. Pribbenow said, "That land is lower, it's next to the slough, and yes, it does flood."

Commissioner Ranzau said, "But the land that you..."

Ms. Pribbenow said, "It is in the flood plain, too."

Commissioner Ranzau said, "It's in the flood plain too. But now this land that you are talking about now that you own, or are associated with..."

Ms. Pribbenow said, "Is not in the flood plain, it is up on the ridge."

Commissioner Ranzau said, "And how many times has it flooded?"

Ms. Pribbenow said, "It has never flooded up that high."

Commissioner Ranzau said, "Never flooded. Okay."

Ms. Pribbenow said, "I have the flood plain map if you wish to see it."

Commissioner Ranzau said, "Okay, how long have you lived there?"

Ms. Pribbenow said, "I have lived there all my life, I am 52 years old."

Commissioner Ranzau said, "Okay, so you are not asking for this, neither are any of these people, as far as you know."

Ms. Pribbenow said, "As far as asking for annexation, no sir, I am not. There may be some people that are, but I am not."

Commissioner Ranzau said, "Did anyone from the Drainage District come out and talk to you about this beforehand and ask if you have been flooded and what damages you had incurred as a result of flooding."

Ms. Pribbenow said, "No sir, I knew nothing about the annexation until I received the legal notice in the mail."

Commissioner Ranzau said, "Has anyone notified you of the charge that would be associated with this annexation?"

Ms. Pribbenow said, "I only knew that because my other piece of land are in the flood plain. That's why I know how much the tax is. Otherwise they didn't tell me the cost until I talked with them on the phone afterwards."

Commissioner Ranzau said, "So, one of the things we have to find here is the land proposed for annexation are subject to injury and damage from the overflow. But you are saying that your property has not been injured or damaged from overflow."

Ms. Pribbenow said, "That's correct. And all the property I have is currently pasture ground. It doesn't hardly, flood waters really don't injure pasture much at all, unless it is prolonged, because grass is a resilient and they come right back."

Commissioner Ranzau said, "Okay, thank you very much."

Commissioner Peterjohn said, "I have some too."

Commissioner Ranzau said, "Oh, okay."

Commissioner Ranzau said, "Okay. I recognize Commissioner Peterjohn. I think he has some questions."

Commissioner Peterjohn said, "Yes, if I could ask you a couple questions."

Ms. Pribbenow said, "Sure."

Commissioner Peterjohn said, "I want to make sure I have got the information. You said parcels 27, 28, 29."

Ms. Pribbenow said, "Southeast quarter of Section 12."

Commissioner Peterjohn said, "I'm sorry."

Ms. Pribbenow said, "It's the southeast quarter of Section 12. Yeah, I believe."

Commissioner Peterjohn said, "And those are the three parcels, 27, 28, and 29 on this map. Correct?"

Ms. Pribbenow said, "Correct. I believe so. My house is in, it's item 27."

Commissioner Peterjohn said, "Okay, 27."

Ms. Pribbenow said, "Yes. That little bitty corner section there."

Commissioner Peterjohn said, "Okay, how many total acres do those three parcels consist of, do you have a ballpark number or idea?"

Ms. Pribbenow said, "I can't see, it looks like that there, because of my low, I have 160 acres right there, but some was already in. Probably a total of 10, 20, 30 acres, 30 or 40 acres is what they are including there."

Commissioner Peterjohn said, "In those three parcels?"

Ms. Pribbenow said, "Yes."

Commissioner Peterjohn said, "But you've got another parcel that's already in the district."

Ms. Pribbenow said, "The lower half. I would have to get the map out and see exactly where there, I have that 160 acres, and taken part of that that's not currently in the Drainage District."

Commissioner Peterjohn said, "Okay, so you are actually living in parcel 27 that's not part of the district, but you have other property that is part of the District."

Ms. Pribbenow said, "Yes, sir."

Commissioner Peterjohn said, "Okay. That was the main question I had for you, thank you for the additional information."

Ms. Pribbenow said, "Thank you."

Chairman Skelton said, "Commissioner Ranzau you had some other comments?"

Commissioner Ranzau said, "Well I have questions of the proponents."

Chairman Skelton said, "Okay. At this time the public hearing, is there anybody else that wishes to be recognized? Okay. I will declare the public hearing closed and bring any discussions, questions, comments back to the bench. Commissioner Ranzau."

Commissioner Ranzau said, "I have some questions. Well, a couple things. First of all, there are a couple different methods that people can be annexed. I mean, you guys are requesting this as the Drainage District. It could also be done by petition by the landowner; is that correct?"

Mr. Harper said, "That's correct. In fact, in phase one that's how we added some of the acreage at that time."

Commissioner Ranzau said, "But how many of these parcels are the landowners wanting to be annexed?"

Mr. Harper said, "Well, the request initiated at a board level, but as we've indicated, several of the landowners in the area have land that's both in and outside the District. The meetings of the board are public meetings held at the Bentley City hall. So it's been open for discussion about the probability of annexation for probably 18 months, I am going to say. Certainly over 6, probably over 12 months we have been looking at what other pieces in Sedgwick County need to be brought in. And then in addition to just the notification from the county, we sent a letter on behalf of the board to all of these landowners at their last known address to make sure they had a chance to hear from the board on what the proposal was."

Commissioner Ranzau said, "I understand all of that. But are any of these, how many of these parcels, there are 40 some, want to be part of this, are asking to be part of this. Are any of them asking?"

Mr. Harper said, "I am not aware that any of these landowners, I am getting a head shake from Mr. Seiler, if he could join me up here."

Commissioner Ranzau said, "Can you identify the parcels by number?"

Mr. Seiler said, "If I can see. I believe the parcels that are 16, 14, 15, 13, we are working on a project along the north side of 117th [Street] with the county to enhance that drainage, and that flows into a lateral we call H, which goes about two miles east of there and dumps into the main Eagle along 117th. The properties right there came to the board and wanted drainage. They were not involved in the District. In order for us to provide drainage to them, we had to bring them into the District to do that. So we have, we do have a plan. This ditch has got engineering done on it. It's been brought, CED (Certified Engineering Design), Harlan Foraker has done the work on it. And it is ready to go when we get the annexation finalized."

Commissioner Ranzau said, "Okay. So 13, 14, 15, and 16. Right?"

Mr. Seiler said, "Yes. And then I would like to also refer you to remember that the water from these properties also runs downhill in our drainage system, whether it's involved by an actual ditch or water always runs downhill. So it does usually end up in our drainage system one way or another, so."

Commissioner Ranzau said, "When you sent notice to all of these entities, do you inform them of the cost that will associated with inclusion into the Drainage District?"

Mr. Seiler said, "I don't know if that was in the letter or not. But I do know that we have a budget hearing annually that's published in our local papers. It is really hard to get out to the right people, who wants to know. Sometimes they can't find the information that they want to know and we do have an email list that we inform people of our board meetings."

Commissioner Ranzau said, "Who does that go out to?"

Mr. Seiler said, "Anybody that requests it."

Commissioner Ranzau said, "Okay."

Mr. Seiler said, "And so we kind of got an area where we're kind of foggy there."

Commissioner Ranzau said, "I am talking about this specific; these people are going to be annexed. Were they notified they were going to have an increase in cost, \$3 per acre?"

Mr. Seiler said, "I do not know that they were notified."

Commissioner Ranzau said, "My concern goes to the questions says that we have to make a finding that this land has been subject to injury and damage from overflow. We just had testimony from somebody who said their land has never flooded. So my question is, do you have some data to support the assertion that this, all of these parcels have been flooded, and how often, and what damage has incurred on each of these parcels? I would like to know. For example, this such and such parcel has been flooded three times and is it incurred this amount of damage and cost. Do you have any objective data to support this finding?"

Mr. Harper said, "I don't have that we have a history of which specific property has been affected by flooding on particular occasions. Harlan, are you able to address what the Ridge lines look like in here, to talk about how that impacts surface flow?"

Mr. Foraker said, "Mr. Chairman and Commissioners, Harlan Foraker. In order to delineate the area, I guess, that we identified for a drainage district, we look at where the ridge lines are. And obviously if you are on the ridge, you may not be flooded. You may not be in a flood plain, but yet you contribute, your property contributes run-off that ultimately gets to the areas that could flood. So that's how we delineate the boundaries for describing, or outlining a drainage district. So Tracy is probably very accurate that she lives on the ridge. There is a ridge right there. So I can't, we don't have specific data that says her property has flooded three times in the last 50 years. We don't have that type of information. But we rely on the fact that there is a ridge line and they lie within the drainage basin and contribute run-off to the area that's being studied and that improvements are being proposed on."

Commissioner Ranzau said, "And I understand that. The problem is, you know, I have to follow the statute. The statute says we have to find that these particular parcels have been damaged by flooding, and she says she hasn't been. There's lots of good arguments, et cetera. But we have to make this finding. I have to make finding based on fact. I am trying to gather some facts that will support that finding."

Mr. Foraker said, "And I might throw out, and I'm going to maybe hit Kurt a little cold here. I believe there is also in the statute some provision whereby if you are identified to be in a drainage basin that then you can apply for a determination as to, you know, what is the amount of benefit that you receive. If you are on the ridge, what benefit do you actually receive, then that's more of a legal matter than what I have knowledge about. I believe there's something in the statute, that if you are in a district or on a fringe area, or something like that, that allows some sort of a determination of that."

"I realize that requires the property to be in the district, but there is provision of that sort of thing, so that there is a determination made as to, you know, if you are not right on, let's say, the creek that floods, but you still contribute run-off to that area, that there obviously is some responsibility, I guess, of that property to maybe participate in the solution.

Mr. Harper said, "On that finding, I think, it also focuses on how do you define the damage or the impact of the flood waters. Ms. Pribbenow's property may be pasture land and therefore not as adversely affected economically. But, it sounds like even at the extremes of her property, which is in the ridge area, there's still occasional intrusion of the run-off and of water streams into that area. It doesn't impact her as severely as some of the crop land in the area or some of the other land uses. But it sounds like even in that area there is at least some measurable impact during a high rain period."

Commissioner Ranzau said, "But, she acknowledged that part of her property is in the district and she's willing to pay the cost associated with that. And that makes sense. But her argument is, well, I have land that has never flooded in 50 years, so she has some land that is and some land that isn't. I have got to take that under consideration, and her arguments makes sense to me."

Mr. Foraker said, "I can represent to the Commission that although we understand that Ms. Pribbenow's has those concerns for her property, other affected landowners in the proposed annexed property have not contacted the board for the Drainage District to indicate any objection to the proposal. So from that I'm assuming that the other landowners who had notice are not interposing an objection to the proposed annexation. But I understand that Ms. Pribbenow does have her concerns for her parcels."

Commissioner Ranzau said, "Well, I am not inclined to, well to go that far."

Mr. Foraker said, "Okay."

Commissioner Ranzau said, "I don't know, you know, first of all, is why I asked do they know what the cost is incurred to? If somebody owns 100 acres, do they realize they are going to pay an extra \$300 next year? If they know that, that may or may not change it. There's lots of reasons people don't speak up. A lot of them feel like it's not going to matter anyway. Anyway, that's all the questions that I have."

Mr. Foraker said, "Okay, thank you."

Chairman Skelton said, "Commissioner Peterjohn."

Commissioner Peterjohn said, "I have got some questions. Let me begin with Bob, since he's closest to the microphone. Mr. Seiler, let me rephrase that, let me ask you, there were some questions raised about Eagle Drainage District and can you give me a ballpark idea what your budget is for either last year or this year?"

Mr. Seiler said, "We are about \$105,000."

Commissioner Peterjohn said, "Okay. Has that changed much over the last few years?"

Mr. Seiler said, "About, after the flood of [20]07, I believe, we went from \$1 an acre to \$3 an acre. Just because we had some issues with the levee and stuff. And then with the taking on of the new properties in the Harvey and Reno County area, and some much work that needed to be done as far as drainage in Sedgwick County and Harvey County and Reno County, we decided to leave it at that level. We do have a budget hearing every year. And I would also say that a lot of the landowners in that area or representatives of them have been involved in some of our meetings, because they are involved in other properties because they own properties that are both annexed and unannexed. So, a lot of them are aware, but I can't say how many, Commissioner Ranzau, but I know quite a few of them are."

Commissioner Peterjohn said, "Let me ask you, how many folks are, live in the Drainage District and would be able to participate in your elections if everybody voted. I mean, obviously, I mean, or the total number of people who live in the District as it is, since you are now covering parts of three counties."

Mr. Seiler said, "Well, all the City of Bentley is involved, and then everything north of there."

Commissioner Peterjohn said, "When it comes to electing your board, can the Bentley folks all vote in your elections?"

Mr. Seiler said, "We have an interesting, I don't know if you want to get into that, but we have an interesting way of electing people. Because of the specials tax and the law that we brought in to being by, we're elected on a per acre basis. So if Ms. Pribbenow's owns 40 acres, she has 40 votes. When we come to our annual meeting to elect our members of the board, they are elected by how many acres you have. So a person having a thousand acres would have a thousand votes. A person living in the City of Bentley has very little say. But they have very little taxation, too."

Commissioner Peterjohn said, "When are your elections held and how many are on your board?"

Mr. Seiler said, "They are held at an annual meeting in August and there are five board members."

Commissioner Peterjohn said, "Are they elected to one year terms then?"

Mr. Seiler said, "Three year terms, and there's no statute of limitations, or length of term limit. And the other interesting thing about it is that we try not to have elections, we hope that everybody gets along, and if somebody gets off, hopefully somebody would come along and it would be unanimous deal, because you can imagine how difficult that will be if we have a board vote where we have to count acres, it will be very interesting. But it's been a community-based organization that, you know, if you want to be involved, I think you get a chance, and you are able to come to board meetings and speak your mind and know what's going on."

Commissioner Peterjohn said, "I mean, 61 square miles is an awful lot of, by my calculations, 39,000 acres."

Mr. Seiler said, "Yeah."

Commissioner Peterjohn said, "I mean, I don't know, that's a little bit more comfortable than I can get my hands around 61 square miles a little bit easier than when you start talking thousands and thousands of acres. If I could have Mr. Foraker come up, please. I have some questions for him."

Mr. Foraker said, "Yes, sir."

Commissioner Peterjohn said, "The question I have is with the testimony, Ms. Pribbenow's, in terms of the drainage basin, if we approve this, since 2009 when I became a Commissioner, this is the third time Eagle Drainage has come up seeking boundary changes. The first time since I was on the board was for a Reno County addition, and then Harvey County more recently, and of course now I have this today. I wanted to get an idea since the south boundary is pretty well set with the big river, big Arkansas River as the south boundary, I wanted to get an idea from an engineering perspective, with this addition, if it's approved, does this cover the entire drainage basin for this portion that eventually feeds into the big Arkansas River for this geographical area? Or is this still, would we still have a situation where we have got water draining towards, there's water that could drain in from other properties outside the boundaries of this District that would eventually feed into the, whether it's a channel or whether it's one of the lateral channels or the main levee that flows into the big Arkansas River. Do we have a, is this going to be complete now?"

Mr. Foraker said, "I would say that this, I am not going to say it is 100 percent, but we annexed up into Harvey County, because obviously that area has been identified, and we annexed as far east in Harvey County as what the natural drainage boundary or ridge line was. But, and I don't, there's not been any discussion in the last five or ten years that I have been working with the board as far as any revisions to the eastern boundary here in Sedgwick County anyway. So I think predominantly, you know, we have been discussing on taking in the area to the north that contributes run-off into their system, and then with the annexation of the Greeley portion, Drainage District, the closing in of the gap between the two. So I want to say predominantly this should be the extent of it. Obviously I am at the direction of the board, and if they perceive something from an engineering perspective, of course, Eagle was originally engineered, I believe, in the late [19]40s, early [19]50s when these drainage boundaries for their existing district were delineated and these other districts established."

Commissioner Peterjohn said, "Let me ask you a follow-up question, then, because it's been around for a long time. It's been in my experience the most active of any of either the storm water or drainage districts in Sedgwick County. And that's a broader topic I'll talk a little bit on later. Can you give me a ballpark idea, in terms of the 61 square miles, or the, I guess it's 39, let's see. The portion that's in Sedgwick County, which would be a subset of that. I've got a, I used roughly half the square miles of this district are in Sedgwick County from the data you all have given me. What percentage are in the 100 year flood plain?"

Mr. Foraker said, "I think the only areas that are in the flood plain are immediately adjacent to the river, and I honestly, percentage wise, I probably would say maybe 25 percent, because they are affected by the big [Arkansas] River flood plain. In these other minor, unnamed type tributaries, obviously there is no flood plain established on the main channel of the Eagle Drainage. No FEMA (Federal Emergency Assistance Agency) established flood plain."

Commissioner Peterjohn said, "Okay."

Mr. Foraker said, "And FEMA is the one that establishes those. Now, recently up in Harvey County, they recently had floodplain maps issued, and there's quite a bit of this area in FEMA flood plain. But primarily, or predominantly, if you were looking at a flood plain map of this area, the areas that have been delineated with floodplain are primarily adjacent to the Arkansas River."

Commissioner Peterjohn said, "I mean, go at this maybe a little bit different way, then. How miles of main channel, how long is the main channel you all have?"

Mr. Foraker said, "Is it 10, 12 miles in Sedgwick County? Ten to twelve miles is an estimate."

Commissioner Peterjohn said, "And how many miles of laterals?"

Mr. Foraker said, "What's that, Bob, 20? I honestly don't know that off the top of my head, so."

Commissioner Peterjohn said, "Well, the question I've, I have got one question that related, there was some discussion, this is more of a question from Mr. Parnacott. Thank you, Mr. Foraker."

Mr. Foraker said, "If I could add one comment. I need to put on a different hat at this point, but my mother owns tract 10, which is an 80 acre parcel. That has flooded probably, and had experienced crop loss numerous times in the last 5 to 10 years, and the lateral H that Bob speaks of that the board is considering would benefit that property, so I guess if you, obviously, sometimes you have a silent majority. I don't know what the majority is here of the property owners, but you only have one represented here. But there is an additional property owner I think there that would be in favor of that as a proponent."

Commissioner Peterjohn said, "Question for Mr. Parnacott. I will give Mr. Harper a chance on the legal side. There's some discussion, Mr. Foraker talked in to, in terms of from a legal point of view what the statute, when we had the discussion about property that maybe in a ridge line that drains down into, what may or may not occur. Mr. Parnacott, what are your thoughts on the statute, in terms of our discussion on that point, in terms of what the statute does or does not require?"

Mr. Parnacott said, "You know, we don't directly work with those statutes. We get involved, of course, you get involved with the annexation issues, but the operation of the districts, they're independent of county. So I don't have much experience in that statute area. I am not familiar with that statute. I would have to look it up and take a look at it. As I understand the statute you are referring to is the one he says that applies that if you are in the district, you can seek a determination of to what extent you are impacted by the drainage, I suppose. I took some notes, I think. But, so I just can't answer that question."

Commissioner Peterjohn said, "Okay. Thank you. Mr. Harper, if you have in any comments on that statute."

Mr. Harper said, "On that specific statute, actually, Mr. Foraker was right, he did catch me cold. I have always envisioned this as different procedurally from a normal specials where you've got an allocation based on benefit to a particular parcel. It spreads differently and I have not looked at carving particular properties out. I did want to address Commissioner Ranzau's question about the extent to which we communicated the tax burden to the affected property owners. I do not have the specific rate in the letter that we put out, but it does say we are funded by a special tax that will be charged on a per acre basis, which means that the more acres you have, the more tax you will pay. So we certainly took steps to alert them to the fact that there was more to this than just a boundary line, but there was in fact a tax consequence that we received no inquiries about what the amount of that tax was on a per acre basis after we sent that out. I hope that addresses your concern in that regard. Thank you, Commissioners."

Commissioner Peterjohn said, "Thank you."

Chairman Skelton said, "Okay."

Commissioner Peterjohn said, "Mr. Chairman, if I could continue."

Chairman Skelton said, "Absolutely."

Commissioner Peterjohn said, "I would like to make a comment. I don't have a question for you. I am good on that point. The comment I would like to make is tied to the fact that after I became a Commissioner, excuse me. After I became a Commissioner, one of the things that was a surprise to me was to find out I knew there was some, obviously drainage issues have been big in the western part of the county, and West Wichita for many, many years, and the number of drainage districts and storm water districts are sizeable. What surprised me when I became a Commissioner was how many of them are basically inactive. And the exception to that has been Eagle Drainage has been very, very active and they have been involved in a whole host of activities, and I appreciate the hard work that's done up there, because part of Sedgwick County is for the most part very, very flat. And I want to give some credit, because one of the big frustrations I have had as an elected official is people have said what about this or that entity. And I said, well, wait a minute, let me do some checking, and I'll talk to the Election Commissioners' office where they are supposed to have information on bodies that are created by statute, elected bodies, and then when I didn't get an answer on who is on these boards, I would contact the Clerk's office.

"And basically some of these drainage districts and storm water districts have been created by state law have gone inactive. I hate to call them, but I think an accurate description is a zombie district. There is no provision under state law to dissolve these districts formally. And I think it is a flaw in the Kansas statutes that if a district dissolves and would basically go out of business because they do have significant taxing and I believe also eminent domain authority in how they can operate. Eagle drainage is an exception to this, and they have been very, very active. And I want to give them credit going forward, and having said that, you know, I would like to get some clarifications on the statute. So, I would like to try and get that additional information, in terms of the statute before we proceed, Mr. Chairman, and that would be my recommendation. We take advantage of bringing this up in consideration in the next 30 days, and have that statute fully clarified on that point. But I am inclined to support going forward.

"But I do want to make sure that we are fully within, we've got all our legal bases covered and we are fully in compliance with state law before we proceed, Mr. Chairman."

Chairman Skelton said, "Is there any other discussion from Commissioners? If not, I will entertain a motion. Commissioner Unruh."

Commissioner Unruh said, "Thank you, Mr. Chairman. Mr. Parnacott, as counsel for the County Commission, you have thoroughly researched this issue and there is nothing here that is not in compliance with state statute, is there?"

Mr. Parnacott said, "The petition certainly conforms with state statute, and you have met the notice requirements. As Commissioner Ranzau has noted the issue that you need to deal with is whether there's evidence to support a finding that the allegations in the petition are true. Including the allegations that these lands are subject to overflow from a tributary. And then obviously you have conflicting evidence in the record right now."

Commissioner Unruh said, "We have sufficient [inaudible] to either proceed or deny."

Mr. Parnacott said, "You are the fact finder here. You have heard the testimony. You have testimony from the District in terms, in generalities, perhaps, but still in terms of the statements of the petition. You have had testimony from one landowner regarding her properties. And so you have to weigh that evidence and make a determination based on your analysis of that evidence, whether those allegations of the petition are true for any or all of the properties."

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

Chairman Skelton said, "Karl, this your area, is that correct?"

Commissioner Peterjohn said, "In terms of Eagle Drainage District, all but the area that is east of 119th Street, which is in Commission District 4, is in my County Commission district."

Chairman Skelton said, "Okay."

Commissioner Peterjohn said, "And my feeling is as a fact finder here, and with the comments that Commissioner Ranzau made, in terms of what the statute requires, I think there's obviously some of the parcels, specifically 10, 13 through 15, and probably just based on my knowledge of the area, I am guessing several others that are adjacent would definitely fall into the requirements to be in this district. In terms of the 27 through 29 that Ms. Pribbenow mentioned, I wanted to get more information in terms what the statute actually calls out in terms of whether it falls into it, whether that ridge line that she is on out there would fall into it or not. I would just like to make sure we have our i's dotted and t's crossed before we proceed."

"I have driven many of those both paved and unpaved roads out in that part of my County Commission district, and I just wanted to make sure we had, if the state law would basically say that if they do have an area that's a little higher than the surrounding area, whether it would fall into it or not."

"If it does, then I don't see any reason not to proceed. I would be inclined to, I know there's portions of this that would definitely fall in here, but I don't want us to proceed in a way that we haven't made sure all our legal bases are fully covered."

Chairman Skelton said, "Okay, there's no time frame on adoption here, is there?"

Mr. Parnacott said, "You are, there is a 30 day period that you are allowed to take this matter under advisement. That is somewhat directory, which means you can exceed that 30 days if necessary. But, you certainly are within the statute timeframe if you take this matter under consideration for up to 30 days, and we can come back and provide better information on the statute if you would like, if you want to leave the record open for additional written comments, you have done that in prior public hearings. You could just continue the public hearing if you would like, and have additional testimony received at a later date."

"So you have a variety of options. The one option that requires the super majority vote is if you're going to approve all or part of the petition today. Otherwise you are just looking at a simple majority vote whether you are going to continue it or deny the petition, or take some further, some other action rather than a full action on the petition."

Chairman Skelton said, "Okay. Well, my opinion is that this is inconsequential if we do it right now. But we have to do it within the next 30 days."

Mr. Parnacott said, "That would be the recommendation, to stay within the statute."

Chairman Skelton said, "Well, you know, I understand that there's more information that's needed. I don't have any objection to deferring it a week or two. These gentlemen here, at both ends, that represent this area, you know, it is my opinion, common courtesy, to let investigative process continue with you guys to look into this matter a little further and staff to investigate the claims that have been made today. That's what I feel. Commissioner Ranzau."

Commissioner Ranzau said, "Hey Bob, I have a couple questions. If these parcels were added in and somebody, one of these landowners disagrees with the decision, do they have any recourse?"

Mr. Parnacott said, "Either party would be subject to, the petitioner, the district, if they were unhappy with whatever decision you took, they would probably be able to challenge that in court. If a landowner was unhappy with your decision, if you were to grant an annexation of their property, much like in other annexation matters, the landowner would have standing to challenge the decision and bring it to the district court for determination."

Commissioner Ranzau said, "And then the district court would go back and look at the state statute and see if we had supporting data."

Mr. Parnacott said, "They would look at the state statute, they would look at the state of the record, the evidence you did receive, and determine whether or not your decision was based on what we call substantial competent evidence."

Commissioner Ranzau said, "Okay, outside of that, if someone is in a drainage district like this, do they have any way to get out of the district, or is it once they are in, they are in?"

Mr. Parnacott said, "Again, I will confess that because we don't work that closely with drainage district statutes, I am not that familiar. That's another thing I could come back to you with more information at a later date."

Commissioner Ranzau said, "Well, okay. I think I will probably have a few more questions. You know, annexations in general, is kind of a form of, that's not requested by landowners, and usually it is with cities this is something that I've always, I have had problems with. You have got to be very careful. Because, in general, once they are in, they are in. A lot of people then complain the taxes go up, they don't get anything, et cetera. But for this particular situation, we have a statute that says we have to make a finding. The fact that, you know, that we have today, we have had testimony that tract 13, 14, 15 and 16 want to be voluntarily admitted, and perhaps tract 10, someone was speaking for their mother. So, and I understand that.

"But we also have testimony that 27, 28, 29 has never been flooded, but then with regard to all of the others, we have no testimony at all. I don't know if any of them have flooded, and, if so, how often. I mean if people get angry, I would like, I wish we had more data to support this. This is what I'm saying. Because if somebody wants to get mad and take us to court, we don't have any, I don't think we have much data to support the finding that they have been damaged by flooding. I guess I have that just a few more, maybe some more legal questions, but I'm okay with postponing it, trying to get some more information and data. Whatever the majority wants to do I am fine with."

Chairman Skelton said, "Okay, thank you. Commissioner Peterjohn."

Commissioner Peterjohn said, "Thank you, Mr. Chairman. To move forward, I'm going to make a motion. I would like to get a little bit more information on the statute."

MOTION

Commissioner Peterjohn moved to defer Item D to the January 22, 2014 Board of County Commission Meeting.

Commissioner Norton seconded the motion.

Commissioner Norton said, "I think we should focus on the true allegations. Notice and petition, I think, is not an issue for me. So the allegations, pro and con, are what we really need to focus on, as far as I'm concerned. And I'll second."

Chairman Skelton said, "Okay, it's been moved and seconded to defer this, deferring the action for two weeks and allow staff to research this matter further. Is there any other discussion, discussion of the motion? All right, Madam Clerk, please call the vote."

VOTE

Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Ranzau	Aye
Commissioner Unruh	Aye
Chairman Skelton	Aye

Chairman Skelton said, "Thank you."

Mr. Parnacott said, "Thank you."

Chairman Skelton said, "Next item, please."

NEW BUSINESS

- E** [13-0978](#) AMENDED STATE FISCAL YEAR 2014 ANNUAL CONTRACT WITH THE KANSAS DEPARTMENT ON AGING AND DISABILITY SERVICES, TO PROVIDE DEVELOPMENTAL DISABILITY SERVICES. Presented by: Dee E. Staudt, Director, Sedgwick County Developmental Disability Organization.

RECOMMENDED ACTION: Approve the contract and authorize the Chairman to sign and authorize budget adjustments related to this contract.

Attachments: [Amended SFY14 KDADS-SCDDO Contract some signatures.pdf](#)
[CDDO - Admin - QA.xls](#)
[CDDO - Consumer Services.xls](#)
[CDDO - Service Access Outreach.xls](#)
[CDDO -Admin - Finance.xls](#)
[CDDO - State Aid.xls](#)

Ms. Dee E. Staudt, Director, Sedgwick County Developmental Disability Organization, greeted the Commissioners and said, "The agenda item before you today is an amendment to the current contract for the state fiscal year 2014 between the State of Kansas and the 27 community developmental disability organizations. You may recall in August of this past year when the SCDDO (Sedgwick County Developmental Disability Organization) renewed their contract with the Kansas Department of Aging and Disability Services that we were advise that we would see an amendment to this contract to allow for the state to consider implementation of long-term support and services for the intellectually and developmentally disabled population, into the privatized Medicaid program known as KanCare.

"This amendment reflects changes necessary for the implementation of KanCare for this population. While there has been a temporary delay in the transition to KanCare for individuals in this target population, those currently served by the SCDDO and our community service provider network continue to receive supports and services as they always have.

"We continue to work with the state as they prepare for the next phase of KanCare implementation, and as things progress, and if and when changes are needed, I will keep you advised. The current agreement, amendment to the agreement reflects no changes in the funds paid directly to the SCDDO during the allocation period for July 1, 2013 to June 30th of 2014. The total contract award directly paid to the SCDDO remains at \$2,879,734. I would ask that you take the recommended action to approve the contract amendment and authorize the Chairman to sign. I would be happy to stand for questions."

Chairman Skelton said, "Thank you. Questions?"

MOTION

Commissioner Unruh moved to approve the contract amendment and authorize the Chairman to sign.

Commissioner Norton seconded the motion.

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

VOTE

<i>Commissioner Norton</i>	<i>Aye</i>
<i>Commissioner Peterjohn</i>	<i>Aye</i>
<i>Commissioner Ranzau</i>	<i>Aye</i>
<i>Commissioner Unruh</i>	<i>Aye</i>
<i>Chairman Skelton</i>	<i>Aye</i>

Chairman Skelton said, "Thank you."

Ms. Staudt said, "Thank you."

Chairman Skelton said, "Okay. Next item, please."

F [13-0029](#)

COUNTY EXTENSION QUARTERLY REPORT.
Presented by: Bev Dunning, Extension Director.

RECOMMENDED ACTION: Receive and file.

Mr. Bev Dunning, Director, Extension, greeted the Commissioners and said, "I am here today to tell you about an agricultural program. You know each time I tell you a story about one of our programs so that you will have a good idea and remember those. When we think about Extension programs, you know that your dollars are increased a great deal by use of volunteers in our programs, and in the agriculture program, that's not always visible sometimes in terms of personnel. But one of the things that they get from volunteers happens to be test plots, or giving part of their land so that we can plant test plots.

"And so this story today is go about wheat test plots, and we have a new agricultural agent named Zach Simon, hope you get to visit with him one of these days, but he took a look, when he came in January, or in July, he looked at the programs that we had going, and one of those happened to be test plots for wheat.

"And he looked at those, and decided that that needed to be continued, because if we can show the educational background of wheat, what grows well here, in this county and what does best for the producers, then that helps economic development in the county a great deal. You know that we are 79 percent agriculture, and that's over 500,000 acres. So when you are talking about acres, we have a lot of agriculture production in this county. So one of the first things that Zach decided to do was to continue those test plots.

"Now, one of the things he has done is to select different areas of the county maybe where we had some, had not done some before. And to do that, then, you have to get a volunteer to offer his land to be able to do the planting of the test plots. They select varieties that K[ansas]-State [University] research has shown will work in South Central Kansas. And sometimes producers are a little hard to convince to change when they've done something for years and years and years. And so some of the test plots may include what they are already using, and then besides that will be a new variety planted, so they can see the difference in the two, and if they just increase production by one bushel per acre, that can amount to \$1.1 million for Sedgwick County in number of acres that we produce in wheat. So one bushel makes a great deal of difference.

"And a county next door to us shared a story that he had in his county, and he said a fellow producer wrote him a thank you note. In that thank you note was for the wheat crops that he planted, and how much it made a difference in his, and I think he increased by ten bushels, per acre, and he had a thousand acres that he planted. So when wheat is \$6 a bushel, you can see that he increased his income that year by \$60,000. So that same thing happens in our county, too. And I think that's so important, because the money that our producers make returns to Sedgwick County, you know, money recycles. So that's very important in terms of what we're doing for the producers in Sedgwick County. And I just think that that's a good story that you can tell to your tax people that are out there, because we are bringing in economic development for Sedgwick County. Do you have questions about that story?"

Chairman Skelton said, "Questions by Commissioners, please. Commissioner Ranzau."

Commissioner Ranzau said, "No questions, I just want to say thank you for all the good work that you do at the Extension Office. I know you have a wide range of programs out there that help benefit the community. I appreciate everything you do."

Ms. Dunning said, "Thank you, I appreciate that, too."

Chairman Skelton said, "Commissioner Peterjohn."

Commissioner Peterjohn said, "I was going to second those comments and just ask you a quick question."

Ms. Dunning said, "Sure."

Commissioner Peterjohn said, "Is this the last quarterly presentation you will be making to the Commission?"

Ms. Dunning said, "That's true. And I have two people with me that I will introduce here to you. This is probably a good time to do that. This is my last quarterly report, because I will be retiring, as I told you before, March 1. But I have with me Jodi Besthorn, and Jodi is one of our 4-H agents. And Bob Neier, and Bob is a horticultural agent. They are going to be the two interim directors, and we hope to have a new director on board by July 1. They hope to, I think. If you have questions of them, we would welcome that, too. If not, I wanted you to meet them, because you will be working with them in this next budget year as the budget gets started. We appreciate all you do for us, too. That's important."

Commissioner Peterjohn said, "Well, I was just going to say when you talk about half a million acres in terms of ag[ricultural] production in Sedgwick County, that translates to me into, that's about roughly about 780 square miles. So we've got about, a little over a thousand square miles in Sedgwick County. So, proportionally, I think those numbers are right. If they are wrong, please correct me. But..."

Ms. Dunning said, "Sounds good to me."

Commissioner Peterjohn said, "I know farmers work in acres, but Commissioners, I feel when it comes to numbers, the square miles sometimes are easier to get your hands around."

Ms. Dunning said, "Right, right. Other questions or other thoughts?"

MOTION

Commissioner Peterjohn moved to receive and file.

Commissioner Norton seconded the motion.

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

VOTE

Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Ranzau	Aye
Commissioner Unruh	Aye
Chairman Skelton	Aye

Chairman Skelton said, "Thank you."

Commissioner Unruh said, "Thank you, Bev."

Ms. Dunning said, "I would just say that it's been a joy to work with all of you for these past years. And thank you for all you've done to support us. Thank you."

Chairman Skelton said, "Thank you. Okay, Clerk, next item please."

G [13-0977](#)

PROGRAMS IN THE CRIMINAL JUSTICE SYSTEM.
Presented by: William P. Buchanan, County Manager.

RECOMMENDED ACTION: Receive and file.

VISUAL PRESENTATION

Mr. William P. Buchanan, County Manager, greeted the Commissioners and said, "This is the monthly report for November of 2013. You will see that the average daily population in November increased over last year from 2013 to 2012 in booking. It was down in the detention facility, but it was up in Work Release and out of county and the total was up for the month of November. The municipal inmates only remains around 11.5 to 12 percent. We see that in November of 2013 that was the case. And of course the majority of those folks are from the City of Wichita.

"The municipal inmate hours in Wichita have gone down, and increased slightly in January of 2013, and again dipped down and increased a little bit. We've learned that some operational changes have occurred within the City of Wichita Police Department about citing and release rather than booking. They have now moved from rather than citing people and then releasing them they're booking them. So that may be a direct cause of some of those twitches upward. But that's an internal decision-making progress by the City of Wichita.

"Current bookings and release, we see that the bookings for 2013 for November were in fact up somewhat, but the year to date bookings continue to be down and the releases of course correlate to those. The length of stay continues to increase. We see that that has happened over a period of time, and we think we know why. We are very, the judges are very thoughtful in who is in the facility and who is not, and the people that need to be in there are staying in there until their trial dates. Again, we see the length of stay booking is pretty normal, a slight increase over the last month in November.

"This issue concerns us somewhat because of the proposed budget for the judicial system for 2014-[20]15 fiscal year of the state, would indicate that if it's not increased would, the plan is to have furloughs, up to seven weeks of furloughs for judges. And what that effect has on the stay, length of stay and booking is yet to be known. We'll have a meeting with Judge Fleetwood to discuss if that is to occur, what the plans would be. So that that those furloughs may have the least impact on how many people are staying in our jail too long. The length of stay from November 2012 to 2013, you can see those numbers, and they have increased mostly. The trends, these are my favorite slides, because, and this one keeps going down. You can see that booking, detention, Work Release, and out of county, daily population for, it was 1,427 up to this point. And can you see the numbers for the month, and the 1,391 for the month of November in 2013, and we'll have December numbers soon, but they will look a lot like this, too.

"Adult supervision, both [Corrections:] Day Reporting and [Corrections:] Pretrial Services, and [District] Attorney: Diversion and SCOAP (Sedgwick County Offender Assessment Program) and [Sedgwick] County Drug Court, all have gone down in [20]13, and because there's less people in the system. Adult Supervision, from other funded, you will see that the [Wichita] Mental Health Court and the [Wichita] Drug Court: Diversions are, Mental Health Court is down a little bit. [Wichita] Drug [Court:] Diversions and the [Wichita Drug Court:] Probations are up. And then the Wichita Probation and [Wichita] DUI Diversion and [18th] Judicial [District Court] Probation are down, but Corrections is up a little bit. So these programs get a mix of clients and people in these programs are not in our jail, which is always a good thing.

"The Juvenile system, we see that the numbers are, in the Juvenile Detention Intake Assessment Center are down. The Juvenile Detention Facilities are up a little bit. And we'll have a report to you in the next couple weeks. You will recall Mark Masterson sent an email around before Christmas regarding human trafficking and what happens to those children who are caught up in that. There's no system in place for them to be placed. So, the state hasn't created a system yet. So what happens with them is they end up in the Juvenile Detention Facility. They are not criminals. They are victims. And this is a problem that needs to be fixed and needs to be fixed quickly, otherwise people are being damaged in ways that they shouldn't be.

"BICE (Bureau of Immigration and Customs Enforcement) holds, we have one BICE hold. All inmates with BICE holds have other charges. Snapshots, 125 inmates sentenced to felony time in county custody, ten percent of the population. And that's the end, if you have any questions, I'd happy to answer them."

Chairman Skelton said, "Okay. Is there questions for the Manager?"

MOTION

Commissioner Unruh moved to receive and file.

Commissioner Peterjohn seconded the motion.

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

VOTE

<i>Commissioner Norton</i>	<i>Aye</i>
<i>Commissioner Peterjohn</i>	<i>Aye</i>
<i>Commissioner Ranzau</i>	<i>Aye</i>
<i>Commissioner Unruh</i>	<i>Aye</i>
<i>Chairman Skelton</i>	<i>Aye</i>

Chairman Skelton said, "Thank you."

Mr. Buchanan said, "Thank you."

Chairman Skelton said, "You bet. Next item, please."

H [13-0967](#)

APPROVAL OF AN AGREEMENT WITH WICHITA NAVY RESERVE FOR THE SEDGWICK COUNTY ADOPT A HIGHWAY PROGRAM ON 55TH STREET SOUTH: ROCK ROAD TO OLIVER. DISTRICT 5.
Presented by: David C. Spears, P.E., Director of Public Works/County Engineer.

RECOMMENDED ACTION: Approve the agreement and authorize the Chairman to sign.

Attachments: [S50C-113121614010.pdf](#)

Mr. David C. Spears, Director, Public Works, greeted the Commissioners and said, "Item H is an agreement with Wichita Navy Reserve for the Sedgwick County to Adopt a Highway program.

"They will be responsible for picking up litter along 55th Street South between Rock Road and Oliver [Street]. I recommend that you approve the agreement and authorize the Chairman to sign."

Chairman Skelton said, "Is there a discussion and/or a motion, please?"

MOTION

Commissioner Peterjohn moved to receive and file.

Commissioner Norton seconded the motion.'

Chairman Skelton said, "Okay, it's been moved and seconded to approve the agreement and authorize the Chairman to sign. Comments, or..."

Commissioner Ranzau said, "Thank you, I will be supportive of this. I will point out, however, that we continue to require people to get a liability insurance to the tune of \$500,000 and insure the county, which I believe is unnecessary. We are self insured by taxpayer money. I would like to see that requirement dropped in the future. We are making them pay to do some civic duties, I know it is not you, Dave, it's a decision by us and I would like to us reconsider that going forward so that people who want to do good community service don't have to spend money to do it, they can just volunteer to do it. That being said, it is a good program and I appreciate you bringing it to us. Thank you."

Chairman Skelton said, "Commissioner Norton."

Commissioner Norton said, "That was last time."

Chairman Skelton said, "Okay. Any other comments? Madam Clerk, call the vote, please."

VOTE

<i>Commissioner Norton</i>	<i>Aye</i>
<i>Commissioner Peterjohn</i>	<i>Aye</i>
<i>Commissioner Ranzau</i>	<i>Aye</i>
<i>Commissioner Unruh</i>	<i>Aye</i>
<i>Chairman Skelton</i>	<i>Aye</i>

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

I [13-1001](#)

REPORT OF THE BOARD OF BIDS AND CONTRACTS' REGULAR MEETING ON JANUARY 2, 2013.

Presented by: Joe Thomas, Director, Purchasing Department.

RECOMMENDED ACTION: Approve the recommendations of the Board of Bids and Contracts.

Attachments: [Bid Board Minutes-1.2.14](#)

Mr. Joe Thomas, Director, Purchasing, greeted the Commissioners and said, "Should be [20]14, thank you. Joe Thomas, Purchasing Director, and good morning to you Mr. Chairman and Commissioners. The meeting at the Board of Bids and Contracts, which should read January 2, 2014 results in five items for you to consider this morning. Item 1;

**1. PORTABLE AUTOMATIC TRAFFIC DATA RECORDERS -- PUBLIC WORKS
FUNDING -- R331 TRAFFIC CONTROL MAINTENANCE AND CONS &
HWY ADMINISTRATION**

"Recommendation is to accept the bid from METROCOUNT USA Inc. in the amount of \$75,515. Item 2;

**2. CAPITAL LEASING OPTIONS FOR FIRE EQUIPMENT ACQUISITIONS --
SEDGWICK COUNTY FIRE DISTRICT NO. 1
FUNDING - FINANCE**

"The recommendation is to accept the low bid from Clayton Holdings, LLC, which is an equity subsidiary of Commerce Bank, and execute an agreement for fire equipment financing based on the proposed rate for a term of 96 months. Item 3;

**3. BUNKER COATS AND PANTS - SEDGWICK COUNTY FIRE DISTRICT NO. 1
FUNDING -- SEDGWICK COUNTY FIRE DISTRICT NO. 1 TRAINING**

"This recommendation is to utilize the City of Wichita's contract BP340046 (FB240162) with Morning Pride Mfg. dba Honeywell First Responder Products through April 30, 2014 with two additional one year options to renew as indicated by the contract. Item 4;

**4. COX METRO E DATA CIRCUIT-COMCARE CHILDREN'S SERVICES
FUNDING-COMCARE CHILDREN'S SERVICES**

"The recommendation is to accept the quote from Cox Business for a 60 month total of \$51,500.00. And Item 5;

**5. VOTING MACHINE HARDWARE MAINTENANCE AND SUPPORT- ELECTION
COMMISSIONER
FUNDING -- ELECTION COMMISSIONER**

"The recommendation is to accept the quote from Election Systems and Software, LLC for an annual cost of \$45,600.00 and a total four year cost of \$182,400.00.

"I'd happy to answer any questions, and I recommend approval of these items."

Chairman Skelton said, "Questions at this time for staff?"

MOTION

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

Commissioner Norton seconded the motion.

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

VOTE

Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Ranzau	Aye
Commissioner Unruh	Aye
Chairman Skelton	Aye

Mr. Thomas said, "Thank you, sirs."

Chairman Skelton said, "Yes, thank you, next item, please."

CONSENT

- J **13-0947** New Section 8 Housing Rental Assistance Leases.
- K **13-0948** Interim Recertifications for the Section 8 rental voucher program.
- L **13-0950** Shelter Plus Care Program - Annual Recertifications.
- M **13-0951** Shelter Plus Care Program - Interim Recertifications
- N **13-0952** Shelter Plus Care Program- New HAP Contracts.
- O **13-0953** Section 8 Housing Annual Recertifications.
- P [13-0972](#) Service agreement between Sedgwick County Emergency Communications and Voiance Language Translation.
Attachments: [Voiance Service Agreement](#)
- Q [13-0973](#) Second Amendment to Sullivan Gang Care Center Affiliation Agreement.
Attachments: [Sullivan Gang Care Center second amendment.pdf](#)
- R [13-0975](#) A resolution approving the State of Kansas' Issuance of a license for sales of retail alcoholic liquor in the original package from BA's Liquor located at 2265 S. Greenwich, Wichita, Kansas 67207, Minneha Township.
Attachments: [BA's Liquor-Legal Checklist.pdf](#)
 [BA's Liquor-Resolution.pdf](#)
- S [13-0979](#) A resolution to authorize destruction of County Clerk's records (DISP 2013-169).

Attachments: [DISP 2013-169 Clerk 1984-2008](#)

T [13-0980](#) A resolution to authorize destruction of Emergency Medical Services records (DISP 2013-168 PS-EMS 2006).

Attachments: [DISP 2013-168 PS-EMS 2006](#)

U [13-0981](#) A resolution to authorize destruction of Health Department records 1990-2006 (DISP 2013-170 HS-Health).

Attachments: [DISP 2013-170 HS-Health 1990-2006](#)

V [13-0982](#) A resolution to authorize destruction of Aging Department records 1975-2008 (DISP 2013-158 HS-Aging).

Attachments: [DISP 2013-158 HS-Aging 1975-2008](#)

W [13-0984](#) In-range promotion for a Communication Equipment Supervisor.

Attachments: [Fleet - Communication Equipment Supervisor.pdf](#)

X [13-0987](#) Plat
Approved by Public Works. The County Treasurer has certified that taxes in 2013 and all prior years have been paid for the following plat:

KANSAS AVIATION MUSEUM ADDITION

Y [13-0988](#) ZON2008-00025 Extension of time to complete Platting requirement for a Zone Change from SF-20 Single-family Residential (SF-20) to LC Limited Commercial (LC) on property generally located south of 21st Street North and west of 159th Street East (15621 East 21st Street North). (District 1)

Attachments: [ZON2008-00025 Plat Extension Request Letter.pdf](#)

Z [12-1074](#) Payroll Check Register.

AA [14-000](#) Payroll Check Register.

AB **13-0963** Order dated 12/10/13 to correct tax roll for change of assessment.

AC **13-0965** Order dated 12/12/2013 to correct tax roll for change of assessment.

AD **13-0985** Order dated 12/23/2013 to correct tax roll for change of assessment.

AE [13-0772](#) General Bill Check Register from December 18, 2013-December 24,

2013.

AF [13-0773](#) General Bill Check Register from December 25, 2013- December 31, 2013.

AG [13-0774](#) General Bill Check Register from January 1, 2013-January 7, 2013.

Mr. Buchanan said, "Commissioners, you have the Consent Agenda before you, and I would recommend you approve it with the exception of Item P."

MOTION

Commissioner Norton moved to approve the Consent Agenda with the exception of Item P.

Commissioner Unruh seconded the motion.

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

VOTE

Commissioner Norton	Aye
Commissioner Peterjohn	Aye
Commissioner Ranzau	Aye
Commissioner Unruh	Aye
Chairman Skelton	Aye

Chairman Skelton said, "Thank you. Okay. At this time, we will take other comments from Commissioners. Is there any other comments from Commissioners under other? We have no Executive Session. We have no Fire [District No. 1] agenda. So, I don't see any comments. I would like to say my comments. This is my last meeting of chairing, for my term as Chairman."

Mr. Buchanan said, "Next week. Next week."

Chairman Skelton said, "Well, that's about five minutes, and that's not a real meeting. It's passing of the gavel reception. So you know, I really appreciate and am honored to have had this opportunity, and I want to thank everybody on the Commission for working with me, and I've enjoyed it. So those are my comments under 'Other' today. If there is no other business, this meeting will be adjourned. Okay, meeting is adjourned."

ADJOURNMENT

There being no other business to come before the Board, the Meeting was adjourned at 10:31 a.m.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

DAVID M. UNRUH, Chairman
First District

TIM R. NORTON, Chair Pro Tem
Second District

KARL PETERJOHN, Commissioner
Third District

RICHARD RANZAU, Commissioner
Fourth District

JAMES B. SKELTON, Commissioner
Fifth District

ATTEST:

Kelly B. Arnold, County Clerk

APPROVED:
