

Sedgwick County

525 North Main Street 3rd Floor
Wichita, KS 67203



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Meeting Minutes

Wednesday, January 6, 2016

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 Robbie Berry, Sedgwick County Interim ADA Coordinator, 510 N. Main, Suite 306, Wichita, Kansas 67203

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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 9:03 a.m. on January 6, 2016 in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman Richard Ranzau, with the following present: Chair Pro-Tem Commissioner Karl Peterjohn; Commissioner David M. Unruh; Commissioner Tim Norton; Commissioner James M. Howell; Mr. Michael (Mike) Scholes, County Manager; Mr. Eric Yost, County Counselor; Mr. David Spears, Director, Bureau of Public Works; Mr. Dale Miller, Planning Staff; Ms. Adrienne Byrne-Lutz, Director, Public Health Department; Mr. Jon Von Achen, Assistant County Counselor; Mr. Joe Thomas, Director, Purchasing Department; Mr. Mike North, Assistant County Counselor; Ms. Kristi Zukovich, Communications; and Ms. Erika Rice, Deputy County Clerk.

GUESTS

*Mr. Jim Edgington, 806 North Bebe, Wichita
Mr. John Oborny, 13315 West Hayden, Wichita
Mr. Mike Irvin, 13307 West Hayden, Wichita
Ms. Nancy Hughbanks, 7926 Meadow Court, Wichita
Mr. Paddy McCullough, 13604 West Verona Court, Wichita
Mr. Kent Owen, 13608 West Verona Court, Wichita
Mr. Scott Lehner, 11828 West Central, Wichita
Mr. Brian Lindeback, 411 North Webb Road, Wichita
Jason Gish, MKEC Engineering
Ms. Barbara Hall, 1819 Smarsh, Wichita
Mr. Greg Farris, 144 South Bay Country Court, Wichita
Mr. Russ Ewy, 2822 143rd Street, Wichita
Ms. Ann Nelson, Central Plains Healthcare Partnership
Ms. Kathy Sexton, City Manager, City of Derby*

INVOCATION: Pastor Dave Fulton, St. Paul's Lutheran Church.

FLAG SALUTE

ROLL CALL

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

APPOINTMENTS

- A** [15-0851](#) APPROVE THE RESIGNATION OF WILLA DECASTRO
(COMMISSIONER PETERJOHN'S APPOINTMENT) FROM THE
SEDGWICK COUNTY ADVISORY COUNCIL ON AGING.
Presented by: Eric Yost, County Counselor.

RECOMMENDED ACTION: Approve the Resignation.

Mr. Eric Yost, County Counselor, greeted the Commissioners and said, "As stated, we have the resignation of the Honorable Willa DeCastro, as a member of the Advisory Council on Aging. She was Commissioner Peterjohn's appointment. She felt the need to resign. I would urge the Commission approve her resignation."

Chairman Ranzau said, "Commissioner Peterjohn."

Commissioner Peterjohn thanked the Chairman and said, "Former State Representative Willa DeCastro has a long record of public service, and I am very appreciative of her willingness to serve on the Aging Advisory Council."

MOTION

Commissioner Peterjohn moved to accept the resignation of Willa DeCastro and authorize the Chairman to sign a letter of appreciation for her public service in Sedgwick County.

Commissioner Norton seconded the motion.

VOTE

<i>Commissioner Unruh</i>	<i>Aye</i>
<i>Commissioner Norton</i>	<i>Aye</i>
<i>Commissioner Howell</i>	<i>Aye</i>
<i>Commissioner Peterjohn</i>	<i>Aye</i>
<i>Chairman Ranzau</i>	<i>Aye</i>
Approved	

PLANNING DEPARTMENT

- B** [15-0868](#) PUD2015-00006 - COUNTY PLANNED UNIT DEVELOPMENT (PUD #49) ZONING REQUEST ON GC GENERAL COMMERCIAL AND SF-20 SINGLE-FAMILY RESIDENTIAL ZONED PROPERTY GENERALLY LOCATED NORTH OF US HIGHWAY- 54 AND ON THE EAST SIDE OF 135TH STREET WEST. (DISTRICT 3)
Presented by: Dale Miller, Director, Metropolitan Area Planning Department.

RECOMMENDED ACTION: Adopt the recommendation of the Metropolitan Area Planning Commission (MAPC) and approve the requested PUD zoning.

VISUAL PRESENTATION

Mr. Dale Miller, Planning Staff, greeted the Commissioners and said, "This is a request, as indicated, for a Planned Unit Development (PUD) zoning that would permit what we collectively call an event center. The individual uses would include outdoor recreation entertainment, the event center itself would permit weddings, family reunions, and other life cycle events like birthdays and retirements and business meetings as well. They also want the ability to serve alcohol, depending on the event. And as part of the PUD, they would be granted uses permitted in the GC, General Condition unit, except for a list of specifically prohibited uses such as dog kennel, sexually oriented businesses, correctional placement residences, those sorts

of things. There is a standard list of uses that applicants will voluntarily delete from the list of permitted uses in the GC district, and they have done so.

"They are also requesting the ability to provide live music and food service up to a maximum of 350 patrons. And the application area is shown here inside the outlined area. It is located on the east side of 135th Street. It does have a little bit of frontage on Highway 54 there on the south end. There is a driveway that connects to West Harry Drive, and goes north to the larger property, there is also an access point to 135th Street on the west.

"The colors on the zoning map, the pink outline the area that is currently zoned GC general commercial. The beige color is SF 20, Single Family 20. The white is Single Family 5, and all of the white area is located in the City of Wichita, as well as some of the GC, the pink area as well. There is an aerial showing how it is today, it's developed currently with two metal-type buildings that from the viewing it from the road, it appears that it was most recently a church. I remember a number of years ago as the Diamond W Horse Arena as well. It has had a variety of uses in its past. There is vacant ground to the south. There is a smaller commercial establishment here in the southwest corner, there are self-storage units to the southeast, I believe there is an antique store here also to the southeast, and then you can see to the east of the application area is a large area, there are a few buildings here, not sure what those buildings are. But primarily this area to the north and east is vacant. There's significant flood plain that runs at least a portion of this. To the north are subdivisions that are part of the Auburn Hills subdivision, wraps then across 135th, and around and down to the clubhouse area of Auburn Hills that's here to the northwest. There are two large lot homes here on the properties to the west. This area appears to be vacant as far as I can tell from the view of the road, and then there is a church here on the northwest corner of 135th and Kellogg.

"When this case went to Planning Commission, there were a number of folks that were present and protested. The property owners, the land area of the property owners that submitted protests equal this 57.55 percent protest. Primarily, their concerns had to do with traffic volume, noise, potential unruly behavior that might come with service of alcohol, and then in their opinion, the proposed use could potentially negative impact their property values.

"As proposed, the event center would operate from 8:00 a.m. to 1:00 a.m., on Fridays and Saturdays, and from 8:00 a.m. to midnight Sunday through Thursday. They are proposing to expand this pond that's located in the northeast corner of the property to a larger area and that would be the outdoor recreation entertainment activity for swimming and other aquatic events. That particular area is proposed to have hours of 10:00 a.m. to 10:00 p.m. The outdoor music or live music groups are restricted to 50 foot radius around the event center. The existing buildings there, and the outdoor speakers are allowed between 10:00 a.m. to 8:00 p.m., only between April 1st and September 30. All outdoor music is supposed to be restricted to a volume that cannot be heard on neighboring properties.

"Here is the site plan they submitted, gives a little clearer view of the pond as it exists today and then the dashed area showing the proposed extension of that pond, the outdoor seating area, the outdoor concession area, expanded outdoor recreation area, parking to the northwest and straight west, and then outdoor seating and so forth to the south, gives a better view of how they propose to develop the site. The site currently has an advanced on-site wastewater disposal system and on-site water wells.

"This is the site looking at it from 135th Street. This is the area to the north. This is

south of the site, I believe this is the commercial building that's in the little notch, the southwest corner that's notched out of the application area, then these would be self-service units and other commercial activities that would be to the southeast of the application area. One of the homes on the west side of 135th, other homes on the west side. I will go back to the site plan.

"When the Planning Commission heard this, they openly approved the request as it was submitted, however, they did make some modifications that in the event the property would ever be annexed by the City of Wichita, they would comply with the City of Wichita noise ordinance. Parking is to be calculated one parking place per four occupancy, which would result in the need, if they had a maximum of 350 people on the site, of 88 spaces. The parking area per county regulations would be allowed to be gravel. They would be required to submit a landscape plan with berms located on the north and west property line. Now, at the Planning Commission meeting, they did not indicate the height of the berms or the screening, they just indicated that there was to be berming and screening. So that was left unspecified, so if you want to firm that up, that would be something you could do with this hearing.

"With that, I think that's kind of the cliff notes version of the application. Obviously there are a number of people here to speak. So I would answer questions or let you move on in the hearing."

Chairman Ranzau said, "Commissioners, any questions for Dale at this time? Commissioner Howell."

Commissioner Howell thanked the Chairman and said, "My first question would be, can you tell me how many people are in the protest area that constitutes 57.55 percent?"

Mr. Miller said, "How many people?"

Commissioner Howell said, "How many people does that constitute? Is there is just like one or two or three, ten? How many landowners are there that actually protested in that area that creates the 57.55 percent protest? Do we know that?"

Mr. Miller said, "Let's see. This area there is all owned by one person or series of trusts that are controlled by one person. So there is one, two, three, four, five, six; I'm estimating."

Commissioner Howell said, "Six, okay, thank you very much. That's all I have, Mr. Chairman."

Chairman Ranzau said, "Any other questions? Okay. At this point we will allow public comment on this. We have a number of people. Generally, we let the people who signed up first, we will give you three minutes to speak, and then we'll have the agent of the land owner, if they want to speak, speak afterwards. The first is Jim Edgington."

Mr. Jim Edgington, 806 North Bebe, Wichita, greeted the Commissioners and said, "I own the property, the vacant lot at 1441 South 135th Street. After leaving the Planning Commission meeting on this property, I was under the impression that the cut-off time would be 8:00 a.m. on week days, and 10:00 p.m. on weekends. There would be noise-restricting berms on the west and north boundaries, with landscaping and a paved parking area.

"The presenter for the people that are wanting to do this looked directly at the

applicants for their approval on those such items several times, but it is now my understanding that under the county codes, these are just suggested measures, and applicants would not be under any restrictions to follow the Planning Commission's suggestions. If these applicants do not follow through with their plans to build such a site, it is 'Katy bar the door' for the next group of investors, the homeowners and I feel.

"From the southern border of Dillon's at Maple, and the golf course, I am only aware of one small area that possibly has children on it. Which would be I think the area right north of Stoneleigh is a 55 and up community. I think Auburn Hills Court, they are 55 and up also. I do know of another project that is under development that would be 55 and up, so from there, all the way south to Kellogg, there are no children. Now, now, or younger people.

"Now, I imagine, if you will, 70 degrees, crisp, clean air, five Harleys with peak horsepower with open pipes, can you hear them from a mile away. Being a gearhead myself, I love that sound. Illegal, but unenforced because of the lack of WPD (Wichita Police Department) and no security being necessary under the county code provisions, blasting from a standing start, grabbing six gears, a quarter mile in either direction. Now, imagine it being 1:30 a.m. in a parking lot of an establishment that has been serving alcohol all evening. The only thing I fear worse than that would be having teenage children and getting a telephone call at 1:30 in the morning. I, gentlemen, would be one pissed off gearhead.

"My opinion is that this land should be left residential or annexed into the city before any zoning changes, so we the people of 135th Street have due process to complain about our neighbor's violation of the code enforcements. Thank you."

Chairman Ranzau said, "Thank you, Mr. Edgington. Are there any, Commissioner Peterjohn."

Commissioner Peterjohn said, "Yes. I just want to point out that my understanding under city code, the limitations in terms of the distance from the property where you would be able to have a say is 200 feet. On the county it's 1,000 feet. So it is a very different situation in terms of where they measure, if you looked at the maps in terms of 200 feet, from the proposal as opposed to a thousand. It would significantly reduce the impact area. Now, obviously for the person who owns the property, I believe it's Ms. Hall who is immediately to the north and east, that wouldn't change. For other folks, that would. So I mention that, because there is some differences between city and county code, but it would have an impact whether you are a gearhead or not. Appreciate you coming down and speaking. If you have any comments on that, I would be happy to hear them."

Chairman Ranzau said, "Thank you. Next is John Oborny."

Mr. John Oborny, 13315 West Hayden, Wichita, greeted the Commissioners and said, "I am the President of the 8th Homeowners Association in Auburn Hills. That area, hold on, can I point to it? Okay. That's that area right there. And I am also the President of the Auburn Hills Swim Facility Master Association, which is over 500 homes in the whole Auburn Hills addition, basically everything from my area to 151st Street and Maple. And so I get in touch with a lot of people, but anyway.

"Golden Rule number one, the proposed change in zoning is not needed. It is not compatible to the current zoning uses, or the characteristics of the land around it. The northern half of the proposed zoning change already zoned for single family, and that is what you are looking at is changing the zoning for roughly this area right here.

From single family, into this PUD area. Okay? And anyway, the northern half of the proposed zoning changes area already zoned for single family. The 2030 Wichita functional land use of the Wichita/Sedgwick County comprehensive plan identifies this land as urban residential. The land east, north and west, all single family, okay?

"The courtyard development, which is this development right here, I don't understand why those people weren't in the 200 foot area, but, you know, it's amazing to me. I mean, they are right across the street. But anyway, has been progressing well, in single family. But the topography of this area and distance from Kellogg of these 20 acres, which are these 20 acres right here in relationship to the courtyard area, as well as these single family, would basically say that this should remain as single family, okay? The zoning should stay as it is. Our housing area has been developed for 15 years now. It is a nice quiet area with low crime, allowing an entertainment venue to go into this area is not compatible with the surrounding area.

"Golden Rule number five. The proposed PUD will have a negative impact on the public health, safety, and welfare of our community. With the mixture of alcohol and water around the pond, the potential of EMS and or fire calls could become a weekly occurrence. Are there even going to be water safety staff to take care of a potential drowning? There is nothing in the PUD about that. There are no mentions, whatsoever, but I guarantee if you put a swimming pool in your backyard, there is all kinds of restrictions. Okay?

"The serving of alcoholic beverages at these events with no security required by the owners of this property will be a daily danger to anyone driving 135th Street after these events finish. We've had one death and several trees hit by cars driving too fast in the curve right there in front of the golf clubhouse. Our entryway was hit by a car just over a year ago. These were people that weren't drinking. The serving of alcoholic beverages will have a negative effect on the public health, safety, and welfare of the Auburn Hills community.

"Golden Rule number eight. There is tremendous neighborhood opposition to this proposed zoning change. I personally turned in 57 registered protest petitions to the County Clerk. Since last Saturday, I have collected another 144 homeowners that have signed a petition against this zoning change. That's just since Saturday, okay? This PUD is a slap in the face to homeowners in Auburn Hills that pay property taxes. As private homeowners, we have some of the most restrictive ordinances and covenants of anyone in Sedgwick County in an effort to keep our area looking good and safe. Yet this PUD has hardly any restrictions on noise, security, screening, and parking. I would also put in water safety. Okay.

"Someone in the city really wants this. This is a bad PUD, and should not be passed. The only real Golden Rule is do unto others as you would have done unto you. I do not believe any one of you would vote this into the neighborhood where you live. Thank you."

Chairman Ranzau said, "Thank you very much. Next is Mike Irvin."

Mr. Mike Irvin, 13307 West Hayden, Wichita, greeted the Commissioners and said, "I am just north of Barbara's property, a little to the east right on hole number nine, if you played out Auburn Hills Golf Course.

"My concern about this whole condition is I have got a 17-year-old daughter, and I know a lot of her friends, there is a lot of kids that live in that neighborhood that are driving, or going to be learning how to drive, across the street over in The Legends, a lot of kids that are learning how to drive, they come from Eisenhower High School,

which is just west about two miles, they come down Kellogg. A lot of them work at Dillon's, at Sonic, at the establishments in the Auburn Hills district right there for retail sales. And gentleman had mentioned earlier nothing is worse than getting a call at 1:30 in the morning because your kid has been involved in an accident or their friend. We have enough trouble with traffic in that narrow area right now. That's all we are doing is adding fuel to that fire. The kids are still learning to drive, they are not experienced enough, and to have an influx of people outpouring from an event at 1:30 a.m., or 10:30p.m., these kids are going home from whatever the conditions were that they were at, I think we are putting them in a big risk that they don't need.

"And it doesn't help for the safety of the neighborhood. People wandering around, looking and driving, free riding around. We don't need that in the neighborhood. You wouldn't want it in your neighborhood, we don't want it in ours. Thank you very much. Appreciate it."

Chairman Ranzau said, "Thank you very much. Next, Nancy Hughbanks."

Ms. Nancy Hughbanks, 7926 Meadow Court, Wichita, greeted the Commissioners and said, "Several years ago I stood in front of four out of the five of you in a request for, I was representing the Maize School Board, and we were asking for your vote on one of the bull statues located at The Coliseum.

"The reason I bring this up, because in working through that time with you, I found you to be very easy to work with, and you were concerned about the patrons of this district, whether you are in our district or another one. I am standing in front of you again to ask you to vote as a no vote for this PUD, which would allow this entertainment venue on 135th Street. For, you see, my husband and I are now retired, and we are building a patio home in the courtyards. We could have built anywhere in Wichita, but we chose this location for the peacefulness and the seclusion.

"I found out a few days ago that this could drastically change for our future. As an elected public official, and I know I have been one myself, you have guidelines to follow. I am referring to the Golden Rules. In studying these rules, a vote to allow this entertainment venue at this location would easily be broken by at least four of these rules, and actually possibly four others. The rules that I am most concerned about are number three, can this development be good for the existing neighbors? I think you can answer that yourselves. And number seven, the impact on the community. It is my understanding that there's very few requirements as far as the sewage, the security, and the hours of operation. You know there are going to be issues.

"To tell you the truth, I am surprised that this was even considered for this location. These types of venues are supposed to be the backbone of our old town area. Why you would want to develop something of this nature in an area that clearly has the makings for a quiet residential area that would generate so much more tax revenue and benefits to many, many patrons is hard for me to understand why you would consider this PUD and the change.

"In closing, I am going to ask you to put yourself in my place. You are building what will surely be your last residence. With this in mind, you look for years for the perfect spot to build that house. You feel that you have finally found it. You excitedly work with the builders for that perfect plan, but your excitement quickly turns to questions and concerns about what your future will truly be. Will I get to sit on my front porch and listen to the birds, or will there be loud music, sirens, squealing tires? You will be at the place where my husband and I are at now one of these days. Would you be concerned?

"In listening to our prayer, the prayer by Pastor Fulton, I would encourage you to go back and listen to some of those things he said. To me, it is very much a correlation to what we are asking for you to consider. Please vote no on this PUD. Thank you."

Chairman Ranzau said, "Thank you, Nancy."

Commissioner Peterjohn said, "Can I ask a question? You mentioned specifically, I believe you said you had four of the Golden Rules where you think there were problems. You mentioned three and seven. I am going to assume, implicitly, that you would have included eight, issue number eight, which is neighborhood, opposition of neighborhood residents. Was there a fourth one specifically that you wanted to mention and get on the record?"

Ms. Hughbanks said, "I didn't bring my list of the Golden Rules. I believe it was three, five, seven and eight. Actually, as I went through all nine of them, I only could find one that maybe..."

Commissioner Peterjohn said, "Hold up, while you are away from the microphone, since this is recorded verbatim, I try to make it easy on the Clerk. If you talk away from the podium, it becomes hard to get the record. But if you want to, I just wanted to try and make sure that I understood the four Golden Rule points you are trying to make. If my assumption that number eight was not one of them, I wanted to give you a chance to correct me on that. I don't think I am wrong on that, but if I am, please do so, and let me take it from there. Let me give you an opportunity to respond to my question."

Ms. Hughbanks said, "The one that has all nine listed on the front. You are asking me about number eight?"

Commissioner Peterjohn said, "Well, that was one I assumed was one of the four, but you didn't mention it and I don't want to put words in anyone's mouth. Just for the record. You did mention four specific points, and you mentioned three and seven. I wanted to give you the opportunity to make sure got all four on the record and I understood the points you were trying to make, Mrs. Hughbanks."

Ms. Hughbanks said, "It would be that one."

Commissioner Peterjohn said, "It would be eight? And was there a fourth one?"

Ms. Hughbanks said, "The only one I felt like really did, I didn't feel like I needed to address was number four, about the length of time that this has been, but I sat down and I went through these and it was amazing to me that I felt like almost every one of these could be addressed by any of us here, With the negativity towards this venue. I knew I had a time limit, so I had to keep it within that time limit."

Commissioner Peterjohn said, "I understand. When a Commissioner asks you a question, you can stretch things out a little bit."

Ms. Hughbanks said, "Okay, okay."

Commissioner Peterjohn said, "Thank you."

Chairman Ranzau said, "Next, we have Paddy McCullough."

Mr. Paddy McCullough, 13604 West Verona Court, Wichita, greeted the

Commissioners and said, "In August of 2015, we moved to this area, we considered to be our final home and we love it. We were more than shocked when we found that the property on the east, across 135th, and a short distance south, was being proposed by building classifications from single family to PUD. The current zoning is compatible with the adjacent property owners. The property under contest is very similar to the home developments which surround the acreage, classified as single family. Some separated by a pipe fence on the north side and 135th Street on the west side. The proposed PUD is not compatible with the zoning uses and character of this surrounding neighborhood.

"The surrounding home additions have attractive entrances, and are always well maintained, and well lighted, with planned landscaping and cared for as a property within the development itself. The single family classification and planned unit development are light years apart as far as requirements. The single family classification has many restrictions, and that is why people choose to live in those areas. Rather than the PUD restrictions which are few, if any. The current zoning classification does in no way eliminate possibilities so that possible sale of this land. Property has great potential to be sold under the current zoning classification, therefore becoming a good neighbor, conforming to the purpose of the original planners visualized.

"On behalf of the many neighbors, I ask that each of you Commissioners treat this petition as if it were in your own district, and vote against the zoning change. There is nothing that logically supports the placing of the PUD zoning classification directly adjacent to a single family zoning classification. Thank you."

Chairman Ranzau said, "Thank you. We have a question from Commissioner Howell."

Commissioner Howell thanked the Chairman and said, "I have a couple questions, if that's okay. I understand that, did you have your house built when you moved to that final home, you said? Is this the house you had constructed for yourself?"

Mr. McCullough said, "We contracted it in February of last year, and finished it and moved in in August."

Commissioner Howell said, "Were you one of the first homes to the neighborhood or one of the last? How mature was the neighborhood when you moved in?"

Mr. McCullough said, "I don't know which number we are, but there were probably 14, 15, 16 people living in the neighborhood now and we were probably eighth or ninth."

Commissioner Howell said, "Are some of those lots still waiting for homes to be built, and are they vacant lots right now?"

Mr. McCullough said, "We had 44 lots that are sold or occupied, I believe."

Commissioner Howell said, "How many lots are vacant?"

Mr. McCullough said, "Maybe thirty. Thirty or thirty-one, something in there. There's 75 lots, I believe."

Commissioner Howell said, "Can you tell me, do you know, so was the subject property the one that we are talking about today, was it in its current state, I guess it's been vacant for awhile. Was it vacant when you made a choice to build your home?"

Mr. McCullough said, "No."

Commissioner Howell said, "It was being utilized at that time. What was the purpose of the structure? Of the building we are talking about today, we are changing the PUD today. What was going on in that facility?"

Mr. McCullough said, "Nothing that I was aware of."

Commissioner Howell said, "It was vacant?"

Mr. McCullough said, "I understand it was a church ownership. Then they thought about making a youth summer youth camp and so forth. That was my understanding. That was in the lower section. The upper part was residential classification."

Commissioner Howell said, "So since the church longer was using this facility, nothing else was there between the time the church was there until now, this has been vacant this whole time?"

Mr. McCullough said, "I assume so. I have no way of knowing exactly what they were doing."

Commissioner Howell said, "I have a question. I guess I will ask my question to staff later on. Thank you for your testimony, Mr. McCullough."

Chairman Ranzau said, "Next, Kent Owen."

Mr. Kent Owen, 13608 West Verona Court, Wichita, greeted the Commissioners and said, "My house, as Mr. McCullough's, backs up to 135th Street. This area in question is directly across the street. As Ms. Highbanks stated, most of us are planning this to be our last home. We had no idea that something like this could possibly happen across the street. It was owned by a church, they wanted to build a church there that would be fine. But an outdoor event center like this doesn't really suit very well with what we've got planned for this stage of our lives. That's about all I have to add. I ask for a no vote from all of you. That's all I have. Thanks very much."

Chairman Ranzau said, "Commissioner Peterjohn."

Commissioner Peterjohn said, "Yes. Mr. Owen, can you help me out? I am trying to understand where, exactly, on the map your property would be. You said you were just west, on the other side of 135th Street. You said your back onto 135th."

Mr. Owen said, "I am right there."

Commissioner Peterjohn said, "Okay. That's what I needed to know, thank you very much."

Chairman Ranzau said, "Next, we have Scott Lehner."

Mr. Scott Lehner, 11828 West Central, Wichita, greeted the Commissioners and said, "I am with Perfection Builders in Wichita. We are the developers of The Courtyards at Auburn Hills, which is west of the south portion of the subject property here. I was kind of hoping Brian would go into the technical stuff before me, from MKEC (MKEC Engineering, Inc.), but I am probably going to ditch a little bit of what I had planned to say, and sitting here and listening to the comments so far, I feel that the nature of the neighborhood, the description of this area has not been fully represented, accurately."

"It was discussed, the commercial ground along Kellogg and just south of Kellogg on 135th, and no mention of The Courtyards project. Really, the commercial land on Kellogg is so far removed once you turn north on 135th and go a short distance, it immediately turns into a residential neighborhood once you get past the paint store. There are no commercial characteristics to that stretch there. We've gone to great lengths to develop properties that are peaceful, secure, for our clients, and you have heard from a couple of them today. Right across the street, our entrance to The Courtyards, there's \$250,000 worth of landscaping alone just to enter that neighborhood. Right behind the entrance, a half a million dollar clubhouse that's got a fitness center, a heated pool, and all the maintenance is provided. It's what people want. That's probably the fastest-selling area in Wichita right now, new home area.

"Help me out, Jason. This is my partner Jason Gish. 78 lots? I don't have an exact count, but half of those, at least half of those are sold right now. The number of residents in there, gosh, there's got to be 30 roof tops in there by now under construction. Then, we've got about a dozen starts right now. My point is, this whole neighborhood is a residential neighborhood. We've got a handful of potential clients right now that are ready to buy and they heard about this PUD issue, and now they are waiting to see what happens. The land across the street, I know some of that is zoned general commercial right now. Just because the property is zoned commercial in my mind doesn't mean it has commercial value or is viable commercially.

"I will be upfront, we've made two offers to purchase that ground to develop into another area similar to The Courtyards area, and we haven't gotten responses the sellers yet. Be that as it may, we find that a very attractive residential piece of property. Commercially, what's going on with this PUD would be devastating to any further residential development in that neighborhood.

"Going through your Golden Rules, I can only think of one that this does not violate, and that's number nine on your list. I feel as though converting that single family zoning to commercial zoning right now would be a violation of public trust, to be quite honest. The breaking of a public contract, because our residents love to look at that beautiful land, I know it's pretty over there and it's been zoned single family. Further to the south has been the large horse arena that's no longer in use. It was intended to be a church. Now I guess if it's zoned PUD, I know we are talking an event center now, but according to the reports I read, it is pretty wide open zoning, and I don't think it would be a stretch to imagine, that if it is an event center, it would be a short-lived event center, then something else will go in five or ten years later, and it's going to continue to be a struggling commercial property.

"I think in consider the request in going through the Golden Rules, it walks all over those rules. It has no regard for them, whatsoever. And I would ask all of you guys to keep that in mind when you vote today on this.

"Access to Kellogg. Yeah, the traffic would greatly increase in that area, and if you haven't been down that stretch, a couple guys mentioned the curves. It is a residential stretch there, and, I have been told by multiple parties that KDOT (Kansas Department of Transportation) has condemned any access to Kellogg. They are planning an interchange there and the only way to access that commercial property is off 135th Street. That's one thing I felt that needed to be brought up.

"The comprehensive plan, I think, was recently about that, that confirmed the residential use of that property. So that's all I have to say. I didn't mean to ramble."

Chairman Ranzau said, "Thank you very much. Commissioner Peterjohn just had a question."

Commissioner Peterjohn said, "Yes, I do have a question. Let me make sure I am pronouncing. Mr. Lehner. Sorry, needed to get your name straight. You mentioned you have a number of lots that you are in the process of trying to market at this point in time. Can you point those out on the map, or give me an idea basically where the bulk or most of those are physically?"

Mr. Lehner said, "Do you see the north boundary of the proposed PUD? Go straight west across the street, and that development, I don't know why the whole thing is not blue, but everyone in there, I haven't talked to a single resident that's not against this proposed zoning. But that's the area. There's 78 lots in there, sir. I think right now we are down to 30 lots still available."

Commissioner Peterjohn said, "Thank you, very much."

Mr. Lehner said, "Anything else?"

Chairman Ranzau said, "No. Thank you. I want to clarify, we have Brian Lindeback and Jason Gish that I assumed were agents for the applicant. Is that correct?"

Mr. Lindeback said, "No, the developer."

Chairman Ranzau said, "Oh, I am sorry. Brian Lindeback, you are next."

Mr. Brian Lindeback, 411 North Webb Road, Wichita, greeted the Commissioners and said, "We represent Scott in some matters, but I work for MKEC Engineering, I have been doing PUDs and zoning cases for about 20 years. I would just like to see a show of hands from the audience here, just to give you perspective of how many people are opposed to this case. So there is an overwhelming majority of folks. I think that crosses off number eight on your list of Golden Rules fairly easily."

"We had an overwhelming number of people that are not in favor of this. So some of the Golden Rules, I think I agree with what everybody else has said, there is only maybe two Golden Rules that aren't really applicable to this case. The rest of them I think this case kind of trounces on. The ones that I would specifically reference are one, two, three, seven and eight."

"First of all, some of the owners in the blue area were not notified, as far as application. That's a technicality as far as I am concerned and heard, but I think one of the main points is this use is not compatible, this is the highest commercial zoning available in all of Sedgwick County. The next above this, limited industrial. So that gives you some character. Having done zoning for quite some time, there is very few uses in limited industrial that you cannot do in general commercial, so I just want to make that point, that this zoning is very intensive."

"It has the potential to generate a square footage, per the PUD of 600,000 square foot building. I can't hardly imagine how 600,000 square foot of building could fit on this 40 acres and be viable, but if that's what the PUD allows for, you know, for some perspective, if you go into Cabela's, that's about 80,000 to 85,000 square feet. So that's a very large structure. Their parking requirement is only 88 stalls. That is far inappropriate for this size commercial development."

"One of the things that really bothers me the most about this PUD is its disregard for screening. It has no screening component to it. If you take a look at the adjoining zoning classification next door to it is, SF 20, which is the most restrictive zoning classification. So you have the highest zoning classification next to the very lowest

zoning classification. And in that, you need to be able to provide for a buffer, some screening measures. This PUD states that no screening is required. Now, at Planning Commission they added a buffer requirement of a berm. There is no mention of what terms and provisions for that buffer, you know, that berm is, so it could be a two-foot-tall berm as far as the code allows, but this is a PUD.

"It throws the code out. PUD is a custom zoning classification that is unto itself. So all other codes are off the books, and it is only the provisions of this PUD that allow for the development, and when you don't have any screening, no wall requirements, you could have a 50 foot tall building right next to a single family house. That single-family house would have a 20 foot yard building setback in the back, and this property has a 35 foot building setback. So you could have a towering building right next to your single-family house, and I think that's kind of what we are saying here. This PUD is not compatible with the zoning that's allowed in here.

"I think in summary, this is just a bad PUD. There is a litany of other things I could talk to you about as far as the requirements of the PUD, if you care to hear. I think it is important that I share that this is just a bad PUD. It's poorly done. Things got through the system to you today that should not have happened."

Chairman Ranzau said, "Thank you very much. I don't see any questions. Next is Jason Gish."

Jason Gish, MKEC Engineering, 411 North Webb, greeted the Commissioners and said, "I am here on behalf of Perfection Signature Properties, LLC. You have already heard from Mr. Lehner and with him, is his partner, Jason. Just the history of MKEC, we do a lot of zoning related work through the metropolitan area here. We work for a lot of residential developers in addition to commercial developers. And I need to tell you that when you work for a residential developer that does both which we happen to do, they would in no way ever create a PUD with such little protection or compatibility disparity as this one. So the details of that, for instance, there is always a requirement for some sort of transition, whether the zoning code speaks to transitioning from zoning types, and you all know this. What you are seeing here is a lack of regard for that with the major disparity between the two uses.

"Further that north portion, including the single-family 20 that is currently zoned as such, into the PUD, it doesn't comply. I mean, it may look small on the surface of adding this in, but there is no commercial driver here, in this property, the reason that it's been vacant so long is that once upon a time 20 years ago, or 30 or 40, when those properties were developed, they were in the county and they suited the needs of the county, but currently, through time, the city has expanded, and primarily become single family through this edge, and of course we understand it's wise to keep the commercial along the highway, makes total sense. To encroach further north is very unfortunate, and really addressed to have some sort of transitional language that would be a component. So the way it's written up, I don't think it's very supportive of what the current zoning and comprehensive plan suggests.

"Further, in regards to other items, just because of all the folks here, there really is a desire for me to protect the value and the zoning that should be implemented in this property. And I think the fact that the SF-20 is there, and included as part of this PUD, that simply doesn't match the intent of really what's acceptable.

"There's been millions of things, I don't want to repeat anything, but 135th Street is certainly not set up for the traffic. I think if there was really a reality that it's the danger of what could happen with this PUD in the future. I mean the current use isn't very stomachable, by most people, but to have something come back in the future expand

upon this, it is extremely wide open to a myriad of uses that are way beyond a friendly residential neighborhood. It is not a good neighbor. So just to make sure I am understood, the developers moving forward never want to damage a relationship with other properties solely to make a buck. And there needs to be some protection of the zoning uses here and this PUD simply doesn't have that, and we would just request that you consider that carefully and please vote no for this."

Chairman Ranzau said, "Commissioner Howell has a question."

Commissioner Howell thanked the Chairman and said, "I was just curious, can you just help me imagine what other types of functions might be there should this event center someday want to transfer to some other use, under this existing PUD, what kind of things could you imagine going in that's causing you the concern you just mentioned?"

Mr. Gish said, "Well, as my associate mentioned earlier, because of the fact that general commercial basically has a lot of uses that are identical and overlay with limited industrial, you could get night clubs, the parking area in itself just a huge, massive parking area with all of the lighting and such that is associated with that. You know, you reference any kind of big commercial box retail user, Walmart, Target, things of that nature, can be implemented on this site. And I will tell you, the reality is, this PUD allows for the danger for some of that to happen, too close on that northern end. Large warehouses, manufactured homes, those wouldn't be compatible with even the single family that are in the neighborhood and area now. Those are the kind of uses that seem to be a direct conflict and transition with what you have there, currently."

Commissioner Howell said, "Mr. Gish, you actually read and there is a lot of restrictions in the PUD."

Mr. Gish said, "Yes, sir."

Commissioner Howell said, "Of what kind of things can go in here and later on I probably will read that list, because I think it's important for the room to know what we are talking about, what is allowed and what is not allowed. PUD of restrictions listed in it. I guess as I am reading the PUD, I don't see how a Target or warehouse could go in here based on the way this PUD is written currently. As far as a night club goes, this is, I guess, specifically considered a nightclub, but it has limits on what kind of events. In other words, if it's a regular, I am looking at, let me find it here. Item D, I guess it is probably 6-D. No business as classified as a drinking establishment, tavern, Class A club or Class B club under current Wichita, Kansas ordinances shall be allowed. That's the type of restrictive language that's in this PUD, and a number of other types of restrictions."

"The PUD would have to be changed by a governing body for those types of things to happen. I guess I am curious and if anybody else wants to speak to this, I know there are a few more speakers, at least. I would like to know what the types of businesses, under the current restrictions listed in the PUD, that you can imagine causing that type of concern. You know, things you just mentioned a minute ago, I don't think those would be allowed under the PUD the way I am reading it."

Mr. Gish said, "Those are just the ones that are listed and mentioned as restricted, but I mean, I have got a whole list of things which could be added. Manufactured home park, group residences, auditoriums or stadiums, driving ranges, community assembly, car wash, convenience stores, marine facilities. There is just a myriad of things that typically I think could be, if you look at the CIP's that are adjacent to

residential area, you'll find further restrictions upon them."

Commissioner Howell said, "That's all my questions for now, thank you, Mr. Chairman."

Mr. Gish said, "And just to answer your point further, including current SF-20 zoning into this, is really very dangerous component, because once you have that, no one is going to relinquish that. You can do all the other uses or you can downzone, but to add to encourage or allow more of this type of use further north into currently zoned SF-20 really would be unfortunate, sir."

Commissioner Howell said, "Thank for your comments."

Chairman Ranzau said, "Next, we have Barbara Hall."

Ms. Barbara Hall, 1819 Smarsh, Wichita, greeted the Commissioners and said, "I own the 61 acres that are adjacent on the north and east sides of the 40 acres that are requesting the rezoning. This PUD will, potentially, fill any possibilities of many of us developing our land, which we have purchased or are building homes on it."

"It worries me that one entity can come into an established community where hundreds of individuals have made the biggest investment most of them will ever make in their lifetimes; the purchase of their retirement home, and try to change the culture of the neighborhood by trying to change the established zoning for their own monetary needs, to zoning that will not blend in with the culture and landscape that already exists."

"It is a grave concern that this peaceful retirement community will no longer be quiet, relaxing; a safe homeland, which is what the current zoning is suitable for. The applicants have chosen not to build a church as originally planned when I sold it for the church. I would not have sold it to the church for an entertainment venue. Or if I had known they were planning to rezone the land to a PUD. The church now wants to change the zoning of the area for its own individual gain without regard for the existing community."

"Entertainment venues like the one being proposed, statistically speaking, have a dramatic effect on property values, because of an increase in noise, heavy traffic, vandalism and accidents. Existing homeowners will have their personal safety and their property safety put at risk when crime rates increase because of the type of planned development. The possibility of disorderly young people and youth in public places along with long hours of operation seven days a week, serving alcohol, constitutes one of the most common problems police agencies must handle, especially in suburban and rural areas. There are more assaults in and around these type of venues, more graffiti, intimidation by younger people, large crowds that are difficult to manage, loud car stereos, open air drug dealing, panhandling, rave parties, reckless bicycle riding, street cruising, underage drinking, walking the sidewalks and streets, making offensive remarks to passersby; especially older people out for an evening walk, increased fighting, littering and harassing of individuals."

"Allowing this area to be rezoned to PUD will have a negative impact on property values, compared to the existing zoning. With a PUD in the future, other venues could be established, multi-family apartments, homes converted to duplexes, chain stores that have caused property values to decline. The community is nearly unanimously in opposition to this PUD."

"Please protect this community and allow this great residential community that it is."

You can see by the number of protest petitions and the members of the community opposing this rezoning petition that it is not wanted and will disrupt the residential characteristics of this community; many of whom are retired and they are physically and mentally, they will not be able to deal with the noise and the additional traffic, the increase of theft and vandalism and security needed in the area. The quality of life will be diminished. Thank you."

Chairman Ranzau said, "Commissioner Peterjohn."

Commissioner Peterjohn said, "I am going to clarify a couple things. I hope you can see the map I am looking at. You own the properties in red that are east of 135th Street, excluding that little piece of property at the southwest corner, including the five parcels that are north and east of the proposed area; is that correct?"

Ms. Hall said, "Yes."

Commissioner Peterjohn said, "Do you have an easement through the proposed property to get to the southeastern most, or southernmost parcel that you own?"

Ms. Hall said, "Yes."

Commissioner Peterjohn said, "Could you describe that easement, and it looks like you have got a couple buildings on that property."

Ms. Hall said, "What kind of easement are you talking about?"

Commissioner Peterjohn said, "Well, being able to, it looks like a road easement, it looks like there's two buildings on that southernmost property that you have got, and I wanted to understand a little more about those buildings and what usage is, since my understanding is, isn't this area also single family 20, or is it zoned differently?"

Ms. Hall said, "It's a barn, for a horse. And a hay barn. There is a road that you come in on 135th."

Commissioner Peterjohn said, "135th?"

Ms. Hall said, "Yes, I can't see where, is this 135th? I am directionally challenged. There are my two barns. So, I have two barns but we now come in right here."

Commissioner Peterjohn said, "Okay. Looked like you might have access through the subject property."

Ms. Hall said, "There is a road that comes in, right here, but that's not my road anymore."

Commissioner Peterjohn said, "So you don't have an easement there?"

Ms. Hall said, "No."

Commissioner Peterjohn said, "Okay, I wanted to make sure I understood, because it looked like, from the maps I had, and without going out there, I wanted to clarify what was there. Thank you very much."

Ms. Hall said, "There is a road, but this will road will not be able to be used, as someone else mentioned before, because there is not going to let them have access to that when that flyover comes in."

Commissioner Peterjohn said, "Thank you."

Chairman Ranzau said, "Commissioner Howell."

Commissioner Howell thanked the Chairman and said, "Ms. Hall, I have another question for you, please. Thank you for your testimony this morning. I wanted to just ask, I looked up your address. You live to the north and to the east subject property; is that correct? How many miles drive do you live from there?"

Ms. Hall said, "About 15 minutes."

Commissioner Howell said, "So your interest then is that you actually own most of the land around the subject property. You have the large lots there."

Ms. Hall said, "I was planning on building a home, but I have been waiting to see what the church is going to do, because I didn't want to be in a position like everyone else with a home there. I have also been talking to builders that want to develop the land, and they are not going to want to talk to me if this goes through. And I have invested a lot of money in there."

Commissioner Howell said, "How long ago did you buy the property?"

Ms. Hall said, "20 years ago."

Commissioner Howell said, "How long has the church been there?"

Ms. Hall said, "Since 2007."

Commissioner Howell said, "Okay. Thank you. That's all my questions. Thank you, Mr. Chairman."

Chairman Ranzau said, "Next is Greg Farris."

Mr. Greg Farris, 144 South Bay Country Court, Wichita, greeted the Commissioners and said, "Thank you very much for allowing me to speak today. As you saw, there were a number of hands this were raised for people that are here. I actually speaking on their behalf. I asked not to have 100 people come to the podium, in deference to your time. So I may, with your permission, go a little beyond three minutes to keep the number, I will be the last speaker, so you won't have to listen to a number of other speakers. That will be up to you, obviously. As Mr. Lindeback said, this is a very bad PUD. It is a very bad PUD for a number of reasons.

"With all due respect, Commissioner Howell, I can't find anything in the PUD that would not allow a large commercial building to locate on that property. I looked at what is not allowed, and that is not one of the things that's not allowed. Including things that are not allowed, a mobile home park or manufactured home park. This property, you are not making this for an event center today. We need to be clear of that. You are doing a PUD and the PUD erases all rules of the zoning code and says what is written in the PUD is all that's in the requirements. And what is not exempted from the general commercial zoning district is allowed. So in reality, what you are doing today, is you are rezoning the entire piece of ground general commercial with a few exceptions. When you look at those exceptions, those are the normal exceptions, like sexually oriented businesses, massage parlors, and those kind of things, eliminated. But the things like mobile home parks, car lots, car washes, a hotel, those are not exempted. Those are allowed to be built right next to the single-family zoning

which is not typically done in urban settings. I think that's an important distinction.

"You all legislate ground that's in the county, but you represent everybody, and it really makes you in a very difficult situation sometimes, because you have to balance what you normally are used to for rural settings, and in this case you have an urban setting, because everything around here is basically urban. It is basically the City of Wichita, so you have to change your thinking a little bit of what you might stick out in a rural setting where some of those restrictions like a mobile home park and some of those thing may not apply. You need to think about those a little more and that includes stuff like security and landscaping, and those types of things. All of those things are not in the PUD.

"I do PUDs. The reason we do them is so we can throw out all the rules. That's what a PUD does, throws out the rules. Then you make rulings in the PUD. This PUD is very short on rules, it is short on security, a gravel parking lot? A gravel parking lot right across the street from \$175,00 homes that are going to have 88 cars leaving at 1:00 a.m., stirring up dust and all of that. That works in rural setting. It doesn't work in an urban setting. This PUD should have paved parking, if you are going to allow that many cars.

"This PUD does not even comply with what Planning Staff recommended. They recommended a two for one parking. So, that would be 175 parking spaces. Planning Commission went with the applicant and went with a four to one. Much, much less restrictive. Planning staff recommended no outdoor music. Planning Commission waived that provision. Not even the recommendation of the Planning Staff was followed by the Planning Commission in what you have today in front of you in the PUD.

"Just to kind of summarize some things that were said, there are lots of children in this area. I don't know how said there weren't any kids, but there are lots of kids. My son, driving to school, drove up 135th Street. That's the way you get to Goddard schools. That area of Auburn Hills is numerous families that lived there. There are lots of children, and 16-year-olds that will be driving here, coming home at 11:00 p.m. from whatever activity they were, they will be impacted by people coming out of that area.

"All of that aside, all aside the fact that it is a terrible PUD, it doesn't have the restrictions that should be in there. You have one job. One job as an elected official, and that is to follow the review criteria that's set out in the Unified Zoning Code which we more commonly called the Golden Rules. When I read the staff report on this, I was actually a little surprised that it was recommended for approval, because even if you read the staff's recommendations and you read the zoning and character of the neighborhood, which is number one. The zoning and character of that neighborhood, according to staff is residential, except on the south portion, which is already zoned general commercial. So you don't even need to rezone any of that to allow some of the things that they want to do. According to staff, the character of the neighborhood is residential, which we also concur are residential.

"When you talk about suitability for the land of how it's already zoned, the only thing they site is that land along Kellogg is normally commercial. You know what, it already is. But this land, the north part of this, is adjacent to residential. It is directly across from residential, it is clearly suitable for residential. A residential developer told you he would be interested in that. So it clearly is suitable for what it's been zoned for today, another point of the Golden Rules. Even written in his staff report, I am reading right from his staff report, conformance with the comprehensive plan. That's one of the items in the review criteria you are supposed to consider. The north 20 acres in

the comprehensive plan is residential. So, this does not comply with the comprehensive plan."

"We are now at three. This isn't mine. You read mine, because I sent it to you. This is their recommendation. This is your Planning Staff's recommendation. Impact on community facilities. And I quote, 'Because of the serving and consumption of alcoholic liquor, or cereal malt beverage is allowed, to possibility as many as 350 people, there is a possible negative effect on the area, which could increase the presence of law enforcement, enforcement could be problematic for the Metropolitan Area Building and Construction Department, because they are not available after hours.' This is not my report, this is their report. So even the Golden Rules, the review criteria as set out by your own staff do not warrant a yes vote. To go beyond that, the relative gain and safety to the public, I think, when you look at the impact of the water; with alcohol and water, no safety people, no lifeguards, no security requirements. Clearly this does not have any gain to the public health and safety. And when you compare that to what it says specifically loss and value and hardship, that south 20 acres is already zoned commercial. If they did the PUD on that south 20 acres, they could have done what they wanted to do, it is large enough, they are going to expand that lake into that area, so there is no loss to the applicant, by not allowing this today.

"Talk about the impact of community facilities; they do have access, and will have access to Kellogg, not to Kellogg itself, nobody will have access to Kellogg. If you look at the drive that comes out, to the south, it will access to the access road that will be built in the future. So this PUD should at least not have any access to 135th, because that's where the residential property is, it is a two-lane road, there is no way to adequately access that with all the residential property and those things. That's another shortfall in the PUD, because this is going to have a negative impact on that two-lane road when you dump those cars out onto that area.

"You have my findings. Seven out of the nine, seven out of the nine are listed as negative impacts, where you could easily cite these and say these do not comply with our review criteria. Staff wrote review criteria. You cannot find, in theirs, a basis for approval of this zoning case. This PUD should be out rightly rejected today. It should not be approved, and you have the opposition of the neighbors, because you have the protest petitions. Mr. Peterjohn, to correct you, even if this was in the city, the notification requirements in the state requirements would be the same. It's 200 feet in the state and that is all that's allowed no matter whether it's in the city or county. Because of the size of this parcel, the notification would still have been 1,000 feet. So they would have had to go out to notify 1,000 feet, even if it was in the city limits. So that would have been, you probably never deal with that, because it's in the county. But that would have required them to notify the same people that were and should have been notified, some of them didn't get notified, but they should have, it still would have been the same. Still, Mr. Howell, when you asked how many people opposed this that were in the protest area it's because there is only 200 feet. When you go back to the map, and let's see if I can figure out how to work this. Going the wrong way, I think. When you look at this, and you look at the blue, these are people who also submitted protest petitions, while they are not in the legal area, they are very much impacted and made a point of submitting a negative.

"With that, I would say that the review criteria as set up in the Unified Zoning Code is very specific. A lot times it is hard to distinguish what it means, whether, oh, you can make it work here. You can't make it work here. You make it work on the south 20 acres, I am not going to argue about that south portion. It is the north portion that concerns me, and this PUD includes all of that. So you need to reject this PUD. They can come back and file on that south half at another time if that's what they intend to

do, but this is not a PUD for an events center, this is a PUD for general commercial zoning with a very few limitations.

"With that, I thank you for allowing me to go over my time. We will not have any more people come up and bother you. Be glad to answer your questions."

Chairman Ranzau said, "Commissioner Peterjohn."

Commissioner Peterjohn thanked the Chairman and said, "Let me clarify and correct you on one point, Greg. You are not bothering us. This is an important part of any public hearing."

Mr. Farris said, "Thank you."

Commissioner Peterjohn said, "I want to thank the public who came out and anybody that may be watching, and I have had a lot of folks communicate with me on this issue in the last couple weeks, in fact going back to last year. I do want to quibble with you a little bit on a point here, because I had a lot of questions with staff, and just got briefed on this, in fact yesterday afternoon, and we got into a discussion about the 200 feet versus the 1,000 feet. And normally in the county zoning cases we are looking at 1,000 feet. The reason I brought up that point is that when we get into the situation that because of the unusual location of this property and it being so close to the City of Wichita, you get into a situation in terms of whether the 200 feet or 1,000 feet apply, and it gets complicated, and I had a lot of questions for county staff on it, and in a case like this, I would be inclined to defer to try and have as much participation as possible. But for the map that's up here, if people, if they can see the map, to see why in some cases it seems like we are looking at 200 feet versus 1,000 feet. So, exactly how far that extends in and how that works, you said it's only 200 feet. On this point I am kind of a county guy and looking at 1,000 feet, and if you would like to clarify that at all, since you have a lot more experience on city zoning cases than I have."

Mr. Farris said, "You did notify 1,000 feet on this, and you would have notified 1,000 feet anyway. Dale, I think the 200 feet state statute, isn't it?"

Mr. Miller said, "Just for city."

Mr. Farris said, "You are correct that the protest could have been for the 1,000, if this was all in the county, which would have ran your numbers up to probably 85 percent protest."

Commissioner Peterjohn said, "The other question I have, and I don't know if this is a question for you, or if there's another person who can provide an answer to this. Exactly how much signatures were provided in opposition to this?"

Mr. Farris said, "There were 57 submitted in the blue that you see here, and then an additional 144 today. So over 200 people. There was 144 names that were gathered, I was contacted last Thursday, and I suggested that, you know, beyond just that immediate 1,000 feet, there probably were more people impacted, and you might want to talk to those. Those are all from the Auburn Hills area in that white area up to the north and east, and to the white area that is to the north and west. That's where those 144."

Commissioner Peterjohn said, "I wanted to get that 201 or whatever the number was into the record. Thank you."

Chairman Ranzau said, "Thank you."

Mr. Farris said, "Thank you."

Chairman Ranzau said, "Add this. Please."

Mr. Farris said, "I apologize, Mr. Peterjohn. I thought that they had turned them in together. It appears that we had 101, plus the 144."

Commissioner Peterjohn said, "101 plus 144, so 245. Is that the consensus of what you think?"

Mr. Farris said, "Again, I apologize. I thought that his numbers and her numbers were the same, but she had two different people turning them in."

Commissioner Peterjohn said, "Thank you. Obviously, I want to try and get the record correct, regardless of what the number is, but would like to have an idea. If 245 is wrong and somebody can clarify it, I would like to get..."

Mr. Farris said, "It appears to be correct."

Commissioner Peterjohn said, "Thank you."

Chairman Ranzau said, "With that, I want to ask if anyone else wants to speak in opposition of this that has not already spoken. Even though this is not a formal public hearing, we do allow people to speak. I know that you signed up, but in case there is someone else who wants to speak, we will allow that. At this point, anyone here representing the applicant who would like to speak and respond to what's been presented?"

Mr. Russ Ewy, 2822 143rd Street, Wichita, greeted the Commissioners and said, "I am here on behalf of the applicant looking for the events center."

"I had a chance yesterday to review, again, the minutes, not only of the Planning Commission meeting, but also the staff comments and the added staff comments following the Planning Commission meeting, and I don't think that I can give you an overview of the discussion leading up to what is presented here today in a more concise manner, so I won't. In deference of time, I'll just simply try to address some of the relevant points th

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"We heard a lot that would fall under this umbrella of NIMBYism, you know, not in my backyard. This is a property where we initially looked at residential development over the last eight years for various clients of ours. Like MKEC, we too are in the business

of representing residential and commercial and industrial clients on development matters such as this. Like some of the speakers, I do have several decades of experience standing before the governing body trying to work on behalf of not only our clients but future clients that may own surrounding properties, so again, I don't want the record to state that we are indifferent to the surrounding property owner's interest, for we also represent similar types of interests.

"There's a lot of discussion, almost a primer on the Golden Rules. One of the recurring thoughts, listening to the last hour of discussion, is why do we have the golden factors involved in zoning matters? The golden case hallmarks the idea that zoning property and property rights that go along with zoning private property isn't a matter to be determined by the public at large. It is a matter that the golden factors sought to even the playing field to address that not only surrounding property owners have rights, but so does the applicant, and it tries to provide a framework by which city and county staff can review an application as to the merits and the impact that it would have.

"There's also been a lot of critique about the quality of the Planned Unit Development. The intent of preparing this Planned Unit Development drew on primarily two different source materials. We were staff to look at an earlier PUD for an event center in the county. I believe it's called Rustic Timbers, if I recall. We were asked to borrow a lot of that language since that was one that was recently approved amid controversy. One of the other source materials for our events center restrictions came from my working with a restrictive covenant for the waterfront development near 13th and Webb Road, pretty much in the center of a corner section surrounded by urban scale development. Coupled with that, we felt like we were able to present to the Planning Commission a fairly concise, well-constructed, PUD. I think the staff report reflects their agreement with that, and I would note that a 12 to 0 approval by a Planning Commission, after a lengthy discussion, after bears out that there must have been few issues to be had with the construct of the PUD. In fact, I would say somebody that trumps all of our experience in reviewing zoning matters actually made the motion to approve.

"So with that, I'll get on to more of the more technical issues that were brought up. I know that there's been concern growing since we were at Planning Commissions with the paving requirement or I should say the lack of paving requirement. We are willing to address that, in front of the Commission. One of the other issues dealt with berming and the screening or the apparent lack of screening requirements. And again, what we're seeing here is a fairly wide open large scale development on a large piece of property.

"The sheer distance between the actual activities and the actual residential activities is fairly staggering. We are 700 to 900 feet away in many directions from actual homes to the event center. The property that's in question here that's highlighted in red, I believe you saw this is an example of, I believe, the floodplain and floodway map. The property in question to the north and to the east simply has limitations inherent to the property itself for residential development or residential development that would offset the cost of having to go in there and extend municipal services. The question has been raised of why this 40 acres, the subject property wouldn't be beneficial or viable for residential development. As I mentioned earlier, our office worked with three different clients to do single family home development. The cost of acquire general commercial property for single family use is simply proceed prohibitive in many instances. So I would state that the reason this would not be viable for single family residential is an economic factor.

"Ms. Hall, who previously owned this 40 acres, spoke very well at not only this

morning's meeting but at the Planning Commission about the impact that it has on her ability to do what she wishes to do with the balance of her property. My only contention with her claim is that she was the one person in this room that had the ability at the time she sold it to the church to place a deed restriction on there, accounting for the fact that 25 of the 40 acres is already zoned heavy commercial, general commercial, or heaviest commercial zoning district. If the concerns were so great as to bring a roomful of people here this morning, I would say that there was the ability in the past to have prevented this altogether.

"There's a lot of discussion about this isn't in the character of the neighborhood. You know, my argument is what constitutes the neighborhood? How do you define that? The residential areas to the northwest and north, if you've been on the site, is buffered by old growth trees along a creek bed coupled with the setbacks of activities. We talked a little bit about building setbacks. But we also have setbacks on the location of where certain noise generating activities will occur, which is in the south center portion of our 40 acres.

"So I think if one truly reviews how this plan is to operate, one will see we try to concentrate all the activities towards the south side of our site. We're 250 feet away from Maize Road or 135th Street. We are several hundred feet away from the north and east property lines as well. Again, I would make the argument that, yes, there was a great deal of concern and effort put into designing this PUD in order to offset some of the concerns stated here today.

"Just one other item. I think Mr. Farris stated that we do in fact, have access to Kellogg drive. That is not correct. All of our access is limited by KDOT condemnation to 135th Street West. With that, I'll stand for any questions that I may be able to answer."

Chairman Ranzau said, "I have a question. Clarify. You're saying on behalf of the people that own it now, you've tried to get someone interested and develop this into single family homes, all 40 acres?"

Mr. Ewy said, "All 40 acres."

Chairman Ranzau said, "And you haven't been able?"

Mr. Ewy said, "Quite frankly, 40 acres plus some of Ms. Hall's property to the north."

Chairman Ranzau said, "And you haven't found anyone who's willing to do that? Or that could make that work?"

Mr. Ewy said, "No. And I don't want to state that it's impossible or can't be done. We just simply haven't found a client. Quite frankly, we were involved in the development of Auburn Hills. Part of our partnership with some of those developers looked at this site. Other home builders in Sedgwick County have looked at this site for not only urban scale development but also horse-related suburban activity, so a large lot to make use of the equestrian facilities on site.

"With the cost of the extending sewer to the site, at the time water was not available, all of these played in to the cost of development, putting infrastructure into this site. Most recently, for the church, we looked at a mixed use development that included not only single-family homes, some commercial; utilizing the existing general commercial, but also some multi-family uses."

Chairman Ranzau said, "Okay. Commissioner Peterjohn."

Commissioner Peterjohn thanked the Chairman and said, "I want to clarify and get very specific. The appendage sticks out and touches the southern-most piece that touches Kellogg Drive. At this point, that has been condemned by KDOT. Did I hear you correctly? There is no way to access that property from that, your only access is off 135th Street?"

Mr. Ewy said, "That is correct."

Commissioner Peterjohn said, "I appreciate getting that clarification for the record. Let me ask you. I received, when I was briefed yesterday afternoon on this, a description in general provisions. On page three, number nine, there were discussions and if you have that in front of you for the PUD 2015-6, there was discussion about landscaping requirement should be per the Wichita Sedgwick County Unified Zoning Code. Existing landscaping should be considered as meeting this requirement. Then it goes on to state and it appears to be, I think, a conflict there.

"Screening around the perimeter of the PUD shall not be required. A landscape plan including berming along the north and west sides of the site shall be submitted for reviewed and approved by the Planning Director. Can you clarify that for me?

"One of the concerns that I had was getting little briefing on this and there were a number of individual discrepancies that by themselves weren't terribly significant, but it was sort of like, if you don't mind a little metaphor, sticking my hand into a haystack and maybe not finding a needle, but in this case, when I was looking through this, I stuck my hand in, and there were a number of areas, and this with you was one that jumped out most significantly, to me. My hand came out in my haystack metaphor and felt like my hand was a bit of a pin cushion. If you could discuss what's required, in terms of what we had, what was meant and what did the Planning Commission actually approve, I would like to get your input please."

Mr. Ewy said, "Absolutely. Thank you. So in the last three years, we have done four PUD's that dealt with acreage in excess of 20 acres. Again, I mentioned earlier, some large area development, not necessarily large scale development. We try to look at the property from the standpoint that screening is to protect negative impacts from encroaching on to adjoining property owners. One hopefully remedies that issue, either by having your uses closer to the property line and screening it physically through a combination of walls and landscaping, but another way that we have historically done adverse impact or trying to nullify adverse impact is by simply creating a great distance between the activity and adjoining property owners.

"In this situation, we are looking at a PUD that is going to expand the lake that's going to create approximately a 500 foot separation from noise-generating activities to the east property line. We are holding a 200 foot setback along the north property line. Again, in an effort to mitigate any impact there and a 250 foot setback along 135th Street.

"So when we look at that, we look at the scale of development. We look at the type of uses that are being proposed, and a location from adjoining single family residential property. We have been successful in those other PUD's in eliminating any type of prescribed wall requirement as the screening requirement.

"Planning Commission, governing bodies have been in agreement with that each and every time. We applied that same standard here. Quite frankly, if you look through the minutes of the Planning Commission meeting, there was little discussion, quite frankly, about screening or the need for screening. However, as we discuss this pond

and the fact that, and I believe that actually Kelly Dixon spoke on behalf of the County Code Enforcement, when we excavate and expand this lake on the east third of the property, we're going to generate quite a bit of dirt from that extraction. We would need special zoning in order to take that dirt off-site. That was part of just some ancillary discussion during the course of that Planning Commission meeting. One or two of the Planning Commissioners at the time asked out loud, towards the end of the proceeding, why don't you utilize that dirt for screening purposes? Why use dirt for berming purposes? And to add to the confusion, I was thinking we could utilize that along the north and east property lines, but the two Planning Commissioners specifically requested that we apply whatever dirt that lake yields, we apply that to berming along the north and the west sides of the property, which as it turns out, based on the testimony here, that's probably where the berming would be most useful to try to nullify future impacts.

"So that's where we're getting this somewhat confusing, perhaps berming requirement. We are going to berm using the extracted materials from the site, and we simply don't know what that's going to look like at this point. We haven't designed that pond. One of the factors was to, once we get to that point, to bring it the guise of a landscape plan for approval by the Planning Director."

Commissioner Peterjohn said, "Okay, so we are basically at the end, talking about ultimately going to the planning director for approval, so it's open and subjective to approval, at this point. Let me jump up on that same page, 6J, I think the comment was made, in terms of outside the hours, in terms of 10:00 a.m., it says here 10:00 a.m. to 8:00 p.m. between April 1st through September 30th. I thought I also heard some discussion about 10:00 a.m. to 10:00 p.m., and I'd also raise the question, so if there were an event out there, say October 1st, some fairly nice weather here in Kansas occurs in October. There would be no restrictions on this from anything from October 1st through March 31st from reading that. Is my reading of that correct?"

Mr. Ewy said, "If I understand you correctly, let me address your first question first. Item J discusses the ancillary outdoor speaker system that would be employed as part of the outdoor recreation and entertainment use. Think of the Rock River Rapids swimming complex there in Derby, I think that was one of the examples that I gave, where you have water activities going on and you have some low level mood music I guess, if you will, or background music, if you will, playing. That sound system is part of the outdoor recreation use and would terminate at 8:00 p.m. The activity, the actual activity of having the outdoor and entertainment use open to the public would cease at 10:00 p.m. So music turns off at 8:00 p.m. and the use ceases at 10:00 p.m."

Commissioner Peterjohn said, "Only between April 1st and September 30th. From October 1st through March 31st, there's no limitation named here, right?"

Mr. Ewy said, "If there is confusion, we would be more than happy to correct it here and now. No. The intent is from October 1st through May 31st would be to preclude any type of outdoor speaker being used."

Commissioner Peterjohn said, "You said May 31st. I think you meant March 31st."

Mr. Ewy said, "March 31st. We would not have any noise-generating activities as part of the outdoor entertainment system or use, as part of that audio system, outside of the summer months. There was some discussion that some of these activities would be seasonal. Our client was willing to offer that up as a remedy."

Commissioner Peterjohn said, "The sheet I was given in the previous page on section 6E discussed basically saying from 8:00 a.m. to 1:00 a.m., on Friday and Saturday

nights, but initially I was told 8:00 a.m. to 12:00 p.m. or noon, local time, Sunday through Thursday, and then I was told, no, it actually was, it was after midnight.

"One of the concerns I had, in terms of looking at this, was I felt very much like this seemed to be a moving target, because the concerns that I was hearing from a lot of people had been, in terms of, you know, late night noise. Obviously weekends are a little bit different than weekdays, but the original sheet I had here indicated it was from 8:00 a.m. to 12:00 p.m. local time.

"I want to try, this is in my hand is feeling a little bit like a pin cushion. I want to get some input from you, to try and clarify, specifically for the record, because the last statement here says from 8:00 a.m. to 12:30 p.m., local time Sunday through Thursday, and that would cut it off before a lot of folks even finished their lunch."

Mr. Ewy said, "Mr. Miller pointed that issue out to me late yesterday afternoon, and I had send him a revised PUD text. All through the Planning Commission minutes, I think it was quite clear, as well as obviously since this language has been barred from several other event centers that we've been a part of, the intent was always that certain activities ceased at midnight. Some were allowed as far as the breakdown of the event, would be allowed into the morning of 1:00 a.m. So, I think in the discussion, I think it was quite clear that we were intending to operate from 8:00 a.m. to midnight. The events center, a simple oversight on p.m. versus a.m. was my mistake."

Commissioner Peterjohn said, "Well, it's one of the areas that I had a concern. On page 1 of this document, item 5, it talks about either the county sign code or city sign code. Can you kind of clarify exactly which areas are county sign code covered versus the city?"

Mr. Ewy said, "I think that the origin of that document or of that language in section 5 as well as other language throughout this PUD is of straddling the fence here, a little bit, in terms of being adjoining, surrounded by the City of Wichita, but yet being in the county. So there are a number of issues that we try, again, in putting the PUD together, we tried to account for what can happen currently and what can happen once annexation occurs. A few of the speakers pointed out one of the things that was correct was that in fact PUD is a custom zoning district, so you have to add back in certain standards that are traditionally part of the commercial development.

"So what we tried to do here is give them sign rights. We have to prescribe them sign rights. And so we did so in a manner that both acknowledged the fact that we were going to have, perhaps for the interim period, this operating in the county, so we wanted to fall back to the county sign code, but in the event that this would be annexed into the city, we would have wanted any further development or redevelopment to fall under those regulations."

Commissioner Peterjohn said, "The language says and uses the word "or" which leaves it open-ended in terms of which shall go as opposed to saying the county sign code shall apply while it's in the county and if it gets annexed, then we'll fall under the city code as opposed to saying it would be grandfathered under continuing use. But it doesn't say that there. It's left it as an "or", which makes it open-ended in my mind. That's the reason I'm asking the question and trying to get a clarification."

Mr. Ewy said, "Sure, the intent on stating depending when the subject property is annexed, to me, was what tried to clarify the fact that if annexed, it's obviously going to fall under the city sign code, but prior to its annexation that it would be governed by the county sign code. I would be more than willing to work with Mr. Miller and County

Counselor staff to put together more appropriate language or more definitive language, but that's the intent."

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

Chairman Ranzau said, "Commissioner Howell."

Commissioner Howell thanked the Chairman and said, "I have a number of questions for you. I just want to clarify a couple things. The SF-20, is that 15 acres that's on the subject property? Is that SF-20 that's currently zoned, is that 15 acres?"

Mr. Ewy said, "That's 15 acres."

Commissioner Howell said, "And on the south end is 25 acres, general commercial?"

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

Commissioner Howell said, "Are there any restriction right now as to what can go in the general commercial as far as can we see all kinds of things be put in there as it is currently zoned? Is there any restriction as to what somebody might do down there, pawn shops, warehouses or sexually oriented businesses?"

Mr. Ewy said, "Sure. Yeah, I think we had a number of speakers who were reading through the laundry list of general commercial uses."

Commissioner Howell said, "Which could include, for example, a drinking establishment or sexually oriented businesses. That could go into there right now?"

Mr. Ewy said, "I don't want to get into the specifics of the zoning code, but quite frankly, no. You heard system on the laundry list of different nefarious uses, if you will. That's written down as permitted uses, but one of the things these speakers simply failed to mention because it doesn't suit them, is the fact that most of these nefarious uses have other contingencies, mainly proximity to residential zoning. No, we couldn't put an event center, even if it's in the city, without a zoning action. We couldn't put a nightclub or sexually oriented business on this property because of our proximity and Dale, correct me if I'm wrong, our proximity to residential zoning. So just because we have the zoning, we would still have to perfect that with a conditional use or in this situation, a CUP (Condition Use Permit).

Commissioner Howell said, "What about manufactured homes? They could go into the entire 40 acres; is that correct?"

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

Commissioner Howell said, "There is no limit on manufactured housing going in there right now?"

Mr. Ewy said, "No, or manufacturing plants, asphalt plants."

Commissioner Howell said, "So really it's wide open right now, without changing anything, we could see any of those activities go in there right now?"

Mr. Ewy said, "Absolutely. A large scale type of development, yes."

Commissioner Howell said, "This PUD, in my opinion, adds a lot of restrictions. This limits what can happen to the very narrow field of activities, whereas the current

zoning would allow all kinds of things?"

Mr. Ewy said, "Absolutely."

Commissioner Howell said, "Would you be opposed to us adding a couple of things to this restricted list? If we wanted to add a comment to say manufactured housing could not be part of this and a car lot or hotel or a warehouse would be listed as a restricted types of businesses that would not be allowed in this? There is a long list of them already on item number 6 on the PUD. Would you be opposed to adding a couple of those items to that list?"

Mr. Ewy said, "I don't want to split hairs. Most of what you said was fine. I think a hotel would probably be a pretty good location at the intersection."

Commissioner Howell said, "They would always have the ability to come back and ask for a change to the PUD, if that was the case."

Mr. Ewy said, "Sure, yeah."

Commissioner Howell said, "So would you be opposed to us adding those concerns? If those are the things that they are worried about and one of the speakers said they aren't so much concerned about this proposal, but they're more concerned with what happens if this one was to fail and it sells to the next tenant, which might be something entirely different and they're concerned with what that might be. So, I asked a number of questions of some of the speakers to list some of those ideas. That's the kind of things I heard, a hotel, warehouse, car lot, a gun range might be another good one. By the way, the berm is already there, so the gun range might be a really interesting thing to add there. I like gun ranges. Maybe that would be something to add. A gun range would be one of those. So you would not be opposed to adding a few of these descriptions to this?"

Mr. Ewy said, "I've got gun range, car lot, hotel, warehouse, manufactured housing. Wouldn't have a problem."

Commissioner Howell said, "So, in a sense, that creates a restriction to the entire 40 acres, which does not exist?"

Mr. Ewy said, "Correct."

Commissioner Howell said, "That's interesting. Okay. As far as the berm height, it seems to me when the berm was discussed being on the north and the east, it seems like the intent for that would be to shield noise. I don't understand exactly what the point of that would be. Now that we're talking about the north and the west, it seems to me like the intent of that is for esthetics and to shield the view. Is that what you understand the purpose of the berm is; is it about noise or is it about esthetics?"

Mr. Ewy said, "Probably a combination of both. Quite frankly, in the context of the waning minutes of that Planning Commission meeting, and Dale was in attendance and can give his own insight into it, probably to counter mine, but quite frankly, it was an effort to get we had no other way to get rid of. So it was kind of a win-win-win situation, I suppose, if you want to consider it."

Commissioner Howell said, "As far as esthetics goes, the subject property, if you were bring this berm, if it were to be on the west side and maybe a little to the north side, not very much, but a little bit to the north side, it would probably block the view very, very well from 135th Street."

"As far as noise goes, there is already old growth trees and things like that to the north of this. So that's essentially going to accomplish the same thing as a berm would in terms of noise abatement. So I'm not so sure what the purpose of the berm on the north side would be, because it's certainly not about esthetics or noise on the north side. I don't see that as being useful. On the west side, if it's for esthetics, potentially that would be useful there."

"So I guess I would like to clarify, to me, the west side is the most interesting side of this property that would potentially benefit from a berm."

Mr. Ewy said, "I would agree."

Commissioner Howell said, "Okay, so Kellogg access, and I apologize for visiting this again, but there is a service road along Kellogg; is that correct?"

Mr. Ewy said, "That is correct."

Commissioner Howell said, "Right now access to the storage units and the antique mall and those other businesses right there, they access those from the service road currently."

Mr. Ewy said, "That is correct. Actually it's a platted street. It's Harry Street. It's half street right-of-way that's been platted and paved for decades. That services that property. I have asked and I have not seen any design plans for the actual reconstruction of this interchange system, but what has typically happened, and Mr. Spears may be able to provide some general oversight that I can't. But in general terms they will design that frontage road system and most likely tear out what's there now and then put back the existing access for those businesses along there."

Commissioner Howell said, "I don't see a way for them to get to 135th Street without going across another whole section of land there. So, it seems like they've got to access that from a service road or something from the south to their property."

Mr. Ewy said, "But let me add this. So when Kellogg gets expanded and there is an off-ramp developed or designed, it will cut off, and there will be no access from where my cursor is, at least from this point, our southeastern most point. There is complete access control all along here to 135th Street, including Mr. Lusk's commercial property at the intersection. All access to these properties will be off of 135th Street. So these people will still maintain access off of that frontage road system, but anything from roughly this point west will be complete access control."

Commissioner Howell said, "You mentioned Mr. Lusk's property. What is it currently zoned as?"

Mr. Ewy said, "GC, general commercial."

Commissioner Howell said, "So, it could be anything, including car lots, a Quick Trip, it could be who knows what."

Mr. Ewy said, "That is correct."

Commissioner Howell said, "My guess is that because of the expansion on Kellogg, that's probably going to be developed, I would expect at some point. That's pretty pricey land, I guess."

Mr. Ewy said, "And I'll point out, too, there are a number of these nefarious, again, for lack of a better term, uses that wouldn't be restrained by the proximity rule, because these properties across the street also have general commercial zoning. So there are ways that you're going to get the potential for much more intensive commercial uses on the Lusk property, as opposed to anything further to the north."

Commissioner Howell said, "Let me see if I have any other questions. Chairman would it be okay if I have other questions, to call him back up later? Would that be okay?"

Chairman Ranzau said, "Sure."

Commissioner Howell said, "That's all I have for right now. Thank you."

Chairman Ranzau said, "Commissioners, have any other questions? Commissioner Unruh."

Commissioner Unruh thanked the Chairman and said, "Mr. Ewy, is it possible if this were to go forward that something could be done to mitigate the dust from parking lots, and if it's going to be a gravel lot, it seems to me that could be a real issue ongoing, every day, if it's got cars running in and out on gravel."

Mr. Ewy said, "Reflecting on this one part, I think it's brought up a number of times here, the one issue that I would actually agree is a relevant salient point to this PUD was our borrowing of the language from Rustic Timbers that basically gave it the access drives and parking areas shall be paved in accordance to the county paving standards for an all-weather surface."

"It was brought up by one of the gentlemen, one of the owners across the west of the site, about dust. Planning staff initially wasn't all in favor of having the county standard applied to the parking surface. Granted, all the handicapped spaces and certain drive aisles would be paved obviously. In reflecting, that's the one thing that I can't stand up and argue for. I think there's very little, in talking with our engineers, there's very little that we can do in the way of dust mitigation except having a water truck circle the parking lot every couple hours. At some point you get into the cost and maintenance of that cost, the cost of the maintenance of that type of surface as probably being more cost beneficial to simply pave it to the unified zoning code standard."

"The other issue that we've reflected on, here in probably the last 48 hours, has been the inability to stripe these parking spaces as individual parking spaces. So from enforcement standpoint, it's impractical to try to figure out how many parking spaces you have if you can't stripe and identify them. So I think that one of the weakest things about this PUD is our suggestion that we are able to use a gravel parking service. So if the Commission sees the benefit of having parking areas and drive aisles paved to the code standard, we would not oppose that."

Commissioner Unruh said, "Okay, I think that I followed that very detailed explanation."

Mr. Ewy said, "It's getting hot in here."

Commissioner Unruh said, "The other question that I have. How high is a berm?"

Mr. Ewy said, "It's a function of how much material we have and where we locate it. You know, we've got a third of a mile, and we probably have 1900 feet along the

north and west property lines. If we truncate that along the north property line to coincide with a couple hundred feet east of the northwest corner of our site and down, we would be able to get berms higher. We're going to have a finite amount of material on site, which was where we were getting this berming requirement to begin with. It's a function of how much material we have and the linear feet of where that would go, so if we were to string it out along the entire west and north property lines, we would have shorter berms. If we were to going the entire length of the west of the property line and say 200 feet along the north property line, going east, then we would have taller berms, obviously."

Commissioner Unruh said, "We could establish that we could have berms that were at least 6 feet high."

Mr. Ewy said, "That's correct. You could request berms that would be 20 feet high. Yeah, that would be something that could be prescribed as part of this PUD. We would think a three foot berm would probably be a reasonable amount based on the existing elevation of the site."

Commissioner Unruh said, "Okay, thank you. I believe that is all I have right now."

Chairman Ranzau said, "Are there any other questions? Okay, thank you. We don't have any other questions at this time, so I guess we'll have Dale come back up. Dale, I have some questions. I just want to clarify. We've had speakers speak about some of these issues, but I just want clarify. So, right now, 25 of these acres is in general commercial, which allows for a lot of stuff, correct?"

Mr. Miller said, "The pink area."

Chairman Ranzau said, "The pink area."

Mr. Miller said, "Is zoned general commercial, and it allows for a broad range of commercial and retail activities. The way I usually explain it to folks is that limited commercial district, which is the red area further south, you can have a Wal-Mart, you could have a Dillon's, you could have a convenience store. The main difference between limited commercial and general commercial is that in general commercial, you could have outside storage, you can have car lots by right, you can have car washes by right, provided that there's supplemental use regulations that if they're within a certain distance it may trigger a conditional use, but in GC, by right, you can have, you know, any kind of retail commercial activity."

Chairman Ranzau said, "Sam's, Wal-Mart?"

Mr. Miller said, "Yes."

Chairman Ranzau said, "Is there anything more permissible than general commercial?"

Mr. Miller said, "Well, in the zoning code, the next highest or the next category would be the central business district, but it would be unlikely that the Commission would approve that in a remote area like this."

Chairman Ranzau said, "Right now, they could by right do any number of things?"

Mr. Miller said, "There's a large laundry list of economic uses that the property could be put to as it's currently zoned."

Chairman Ranzau said, "They could drive a lot of traffic, just a lot of, okay. Now, if this PUD is approved, there are some things that could be general commercial, except you can't do a bunch of things, it has a whole laundry list.

"But, I'm also looking at number 17. It says the development of the property shall proceed in accordance with the developed plan and any substantial deviation of the plan as permitted by the zone administrator or the director of planning shall constitute a violation of the building permit. So for example, if this gets approved and all of a sudden they say they want to build a hotel, can they just start building a hotel, or would that be considered a violation of this PUD?"

Mr. Miller said, "If you did not put it in a specifically prohibited list of uses, the catch-all here in the event that the event center does not materialize or doesn't stay there that all uses allowed in GC, except the ones specifically prohibited, would be allowed. And so unless you put that in the list of prohibited uses, it would be allowed."

Chairman Ranzau said, "What about this, 17 that says any substantial deviation of the plan shall be a violation?"

Mr. Miller said, "That language is our standard language that if you're going to, if you want to do something that's not permitted, then you have to go through the official process of either getting an adjustment or amendment through the procedures."

Chairman Ranzau said, "So right now they could in part of this put up a hotel right now?"

Mr. Miller said, "On the GC, yes."

Chairman Ranzau said, "By right?"

Mr. Miller said, "Yes."

Chairman Ranzau said, "So they're already being restricted more than at least on the south part, not on the north part, this would restrict them more than what they're restricted now if it was passed now as far as uses?"

Mr. Miller said, "If this were approved, then it would be correct to say that the GC area would have restrictions on it after this is approved that it does not have now. It would also have the additional event center use."

Chairman Ranzau said, "Right. Now with respect to berming and screening and stuff, I want to clarify. Is the reason that we don't have any berms required here is because, as somebody said, the buffering and screening is accommodated by the distances. I mean, there's hundreds of feet there, I think, to the north there. Is that a form of buffering as well and that was taken into consideration?"

Mr. Miller said, "Setback is a form of buffering, and it's a standard use in the zoning code as a way to mitigate impacts on adjoining properties. You know, obviously, the recommendation that you have here is the recommendation that the Planning Commission felt was appropriate given the circumstances and the testimony that they heard."

Chairman Ranzau said, "Okay. Commissioner Unruh."

Commissioner Unruh thanked the Chairman and said, "Dale, I typically am adverse to go against the recommendations of the Planning Staff or Metropolitan Area Planning

Commission. We have those folks in place to kind of give us guidance on these things. I don't really know what my question is, but in light of the testimony we've had today, can you give me just a comment, your observation of how thoroughly this was vetted at staff and Planning Commission level and any sort of response to the claim that this is a terrible PUD?"

Mr. Miller said, "Well, staff has got pretty thick skin when it comes to criticisms of staff's report. What we think we do every time is that we try and look at it from both sides and present arguments that are valid representations of concerns from both the applicant and anybody that might be opposed to it, include that information in there so that the report is not a one sided report that the Planning Commission and governing body has the things that we think are important brought to their attention, and then you all make the decision on how that's going to work.

"So in this sense, it's my opinion that this PUD was reviewed as rigorously as any others that we have had in the past and that we try and be honest with our assessments about what could happen so that those issues are brought up and then nobody later can say, well, that wasn't in the staff report. You left it out, and it might have made a difference. And so, like I said, we try and be evenhanded from both perspectives, put that information in there. As alluded to earlier, agents get paid to represent the interest of the people that they're representing, and so they do the best job they can given the role that they're playing and staff understands that; I think is a fair assessment."

Commissioner Unruh said, "Okay. Well, thank you. This is a difficult consideration, but thank you for that. That's all I have, Mr. Chair."

Chairman Ranzau said, "Commissioner Norton."

Commissioner Norton said, "Dale, along Highway 54, those properties, are they in the city limits or are they still in the county; Lusk's property, Paramount Antiques, the storage units, are they in the city limits annexed or are they in the county?"

Mr. Miller said, "If you can see this pink line here, I don't know whether it shows up very well on the screen, but beginning here on Kellogg and then turning and going north on 135th, it goes all the way up to the northwest corner there of Ms. Hall's property here. Then it goes over to the angled line, angles down to that point, comes down here, back west, and then south and then starts going back east. So all of this area inside here is in the county. Everything to the east, north and west would be in the city."

Commissioner Norton said, "Do you believe that the reason it's not annexed is because of the large acreage and it can't be unilaterally annexed? Can you suppose that?"

Mr. Miller said, "The city has not for many years done unilateral annexations."

Commissioner Norton said, "Okay. So even though it's continuous on the east side there, they've not done anything with that?"

Mr. Miller said, "Right. Like I said, for probably 15 or 20 years, basically the city's policy has been to wait for development to where they want services or need something from the city where they could ask for annexation as part of the arrangement to provide that service."

Commissioner Norton said, "Going west along Highway 54, although all that

commercial is in the city limits?"

Mr. Miller said, "Yes, it appears so. The line kind of disappears over here, but I believe that to be true."

Commissioner Norton said, "So all of our subject property to be considered and most of the protests is in the county. It's never been brought into the city, but everything surrounding it is in the city; is that correct?"

Mr. Miller said, "Yes. I'm a little confused. Most of the protests are in the city except for..."

Commissioner Norton said, "Well, most of the legal protests."

Mr. Miller said, "Yes, yes. I see, yes, a majority of it."

Commissioner Norton said, "Now, on the south side of Kellogg or Highway 54, how much of that is in the city?"

Mr. Miller said, "Well, if you start here, where the arrow is, and go north to this point and then back west to there and then go south, this area right in here is part of a platted property that is in the city. This area here going down to the half mile line, I believe, is all in the county and to the west, because as you recall, you have that apartment project about a half a mile south there."

Commissioner Norton said, "Well, one of my concerns has been, as I've tried to analyze this, is that we've taken a standard for an event center that is clearly way out in the county, in a very rural area, and tried to apply that in an area that is more urban than rural, and I think that's a false assumption in the very beginning, because I would believe that we should hold part of our responsibility is to understand where the city is growing and hold some standards that would be more urban than rural as opposed to more rural than urban, because I think that's going to cause problems down the road for what happens with this property as far as zoning, as far as utilities, as far as infrastructure, and so I think we started at a place where I would not have started. I would have suggested that we make it a more urban viewpoint with paved parking, with other amenities, landscaping, signage, as opposed to rural. Having said that, that horse has already run out of the barn."

"Talk a little bit about traffic. I worry about, if there's only one entrance, what does that do to fire protection? In many places where we have large areas like this, our fire department says you have to have two entrances into the property so that if one is blocked or whatever for whatever reason, they have other accesses. It doesn't look like there's going to be any other access except off of 135th, and at this point, I assume that's in the fire district."

Mr. Miller said, "I assume that it is in the fire well. The recommendation from the Planning Commission is that this be approved subject to platting within one year, and as part of the platting process, the traffic engineer, the appropriate traffic engineer will review the access points and come up with whatever needs to be, and the fire department would be involved in that, and if they felt like they needed two access points, that would be part of the conditions of approval of the plat along with drainage, as well."

Commissioner Norton said, "Well it looks to me problematic that you could ever get a second entrance. It's not going to be right beside the other entrance."

Mr. Miller said, "Well, certainly the engineers have their access management guidelines that they employ and if there was needed to be a second one, they would take a look at it and make sure that it matched up with driveways across the street and any other safety issues that come up as a result of creating a new access point."

Commissioner Norton said, "Do you happen to know the touch point of where you'd have to pressurized water to sprinkle the events center for the occupancy that's going to be in that building?"

Mr. Miller said, "No, I don't. I don't know the answer to that."

Commissioner Norton said, "When does that come up?"

Mr. Miller said, "According to the staff report, and I guess Russ can confirm, they are going to renovate these buildings, and I presume that as part of the renovation, they would have to submit building plans and the fire department would review those plans as part of their review and make sure that fire suppression is appropriate."

Commissioner Norton said, "Sedgwick County would review those because it's still in the county?"

Mr. Miller said, "MABCD, yes."

Commissioner Norton said, "We've had other event centers that we've turned down, because they would not sprinkle with pressurized water their event center."

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

Commissioner Norton said, "And we're going to let this go until at some point, later, a year from now, there's a filing for a plat. Is that what I'm hearing?"

Mr. Miller said, "Well, they wouldn't be able to operate until the plat was recorded, if that's the question."

Commissioner Norton said, "So all of this could unravel if they're not willing to put in a pressurized system?"

Mr. Miller said, "If they cannot get the plat recorded, then the zoning would not be published and would not become effective."

Commissioner Norton said, "And today they're on well water?"

Mr. Miller said, "Yes, that's my understanding."

Commissioner Norton said, "And well water cannot be used for a pressurized sprinkler system in any kind of a building; is that correct?"

Mr. Miller said, "Well, what I understood from discussions from the ones that I know in other places, that one of the things that they can do is create pressurized tanks, elevated tanks with a minimum amount of water that's on site that the fire department can connect to, and that that's generally why they don't end up doing it, because that's too expensive, but there are, as I understand it, there are engineered ways to create the pressure necessary if you have enough volume of water."

Commissioner Norton said, "The wastewater treatment for this right now is on site. It's not lagoon. It's an onsite system, and is it adequate for a building that will perform

for 350 and plus people, because you could have people outside. It's just the building that's restricted to 300 people. The rest rooms and the wastewater treatment could be 1,000 people."

Mr. Miller said, "I talked with folks at MABCD, and they told me they have approved the existing advanced wastewater system on the site and they that will monitor it for its effectiveness and I presume that should it come up short then they would issue notices to have it corrected and meet the minimum codes."

Commissioner Norton said, "Was the wastewater system developed for a church that usually is used maybe at some capacity twice a week?"

Mr. Miller said, "I didn't really ask that question. I would make that assumption what they sized it for."

Commissioner Norton said, "And that would be a different volume of flow than an event center that could go seven days a week with many times over what the church could hold?"

Mr. Miller said, "I think the potential is that it could be a lot more active as the proposed use, rather than as opposed to the church, yes."

Commissioner Norton said, "My last thing is the parking. I have a problem with not having paved parking and landscaping that would fit the nature of the neighborhood where people have invested a lot of money themselves in their residences and in the common areas into the entryways to keep in with the suitable flow of the surrounding neighborhoods. So I think, you know, all-weather parking, to me, needs to be built into this somehow. I know it adds costs, but if they're really truly going to go into business, then sometimes you have to invest to make your business work."

"I think those are all my questions right now. You know, I have a little consternation on some of this, not an event center in a certain manner couldn't work there, but I think we started with a false assumption that it was going in a more rural area, and very quickly, this is not a rural area, it's more of an urban area. That's all I have."

Chairman Ranzau said, "Commissioner Peterjohn."

Commissioner Peterjohn thanked the Chairman and said, "Quick question, the question about notification and proper notification of the people who would be able to, would be affected was raised as an issue. From the planning department's perspective, do you feel like the notification issue has been handled, especially in light of this public hearing and public discussion today?"

Mr. Miller said, "I can tell you our standard process and then certainly the legal department can speak to the specifics of this, if you want those. Our typical process is, in order to sure that nobody could argue that the applicant or staff somehow manipulated the ownership list in favor one way or another, the applicants are required go to a title company, because they are presumed to be neutral and have no interest one way or the other, go to a title company, get the certified ownership list for the certified distance in this case, it was 1,000 feet. We mail individual notice to individual property owners based on that list. If there is an error in that list, we have no way of knowing that, and we just mail them out based on the title company, because the theory is that the title companies have the best, most up-to-date names and addresses of property owners and so that's why we use the title company, and so that's how we do every case. I'll let legal staff address the particulars of this one."

Mr. Justin Waggoner, Assistant County Counselor, greeted the Commissioners and said, "Commissioner Peterjohn, I believe your question was for Dale regarding the sufficiency of the notice. A couple points."

Commissioner Peterjohn said, "My reason for raising it there was some public comment that there were questions about it, and I want it on the record to kind of make sure we had a clarification of where we stood on legal notification, Mr. Waggoner."

Mr. Waggoner said, "Correct. First, I would say that the issue wasn't sufficiently raised that it necessarily has to be fully addressed because there wasn't any specific party name that was not receiving notice nor any address. However, we did look into the issue. It's our office's opinion that the notice was sufficient in this case. The only property in the 200-foot required area or any other areas greater than 200 feet that may have been required that allegedly didn't receive notice actually did receive notice to the proper suite number. It's one of the Perfection Signature Company, to Suite 112. They were on the property list. Any of the other claimed non-receipt of notice properties were actually advisory notices that were not required."

Commissioner Peterjohn said, "Okay, thank you."

Mr. Waggoner said, "Thank you."

Chairman Ranzau said, "Commissioner Howell."

Commissioner Howell said, "I have just one small question for Director Miller. Can you tell us the history of the southern 25 acres on its zoning history? Was it zoned GC a long time ago or was this something that happened recently? Can we talk about that a little bit, please?"

Mr. Miller said, "According to the staff report, we couldn't find any cases that showed how this property got zoned to GC, so the only thing I can assume is that it was done as part of a large area rezoning, which doesn't require individual notice and may have been done as what we would call a DER case, but as far as I know, that zoning has been there for quite some time."

Commissioner Howell said, "Can you give me, how about 20 years ago? Was it likely to be GC about 20 years ago?"

Mr. Miller said, "It may have been part of the 1958 rezoning. They went three miles outside the then existing city limits and rezoned a number of properties located to the intersection of section line roads or section line roads and highways and rezoned areas just by using a standard distance. For example, we refer to that map as the checker board map, because a lot of them, there are each intersection corner has a 600 by 600 square of limited commercial zoning, kind of like a checker board. Not all of them were that way."

"Because this cuts through an ownership, I would assume that it was done as part of a larger area where they really weren't looking at the ownership pattern. They were just granting zoning based on what they thought was appropriate given its location."

Commissioner Howell said, "But the point of this is that zoning has not changed, that we know of in at least 20 years?"

Mr. Miller said, "Not that I'm aware of."

Commissioner Howell said, "Can you just verify that a church is allowed, in fact, to build their property into an SF 20? Are they allowed? It's interesting to me this church was constructed on the south side of that line between the 15 acres and the 25 acres. It's just to the south of that line. They could have moved that building to the North, into the SF 20 without too much trouble? There's lots of churches in residential parts of the community. Is there some reason why, are they restricted to the GC? Or they could have built the church on the..."

Mr. Miller said, "No, churches are vetted in the SF 20 district by right. They are not allowed in the RR, rural residential district by right. That requires a conditional use. I'm not sure why they chose to have the buildings just south of the north line of the general commercial, but the entire site would have been legal."

Commissioner Howell said, "Okay, I am just making a point here that the buildings were constructed on the general commercial site of the land, not the single family residential part of the land. So again, I think if this was going to be resold to some new tenant, knowing what would be allowed there, that building theoretically could be used for all kinds of things in its position, and it sounds like me they picked an interesting spot on the property. Had it been a little further to the north, the only thing that could go there would probably be another church, but because of where it is, it could be almost anything. That's interesting to me. Thank you, Mr. Miller."

Chairman Ranzau said, "Wait. I have some questions about the building. I am a little confused, how long have these buildings been on this site? Maybe you don't know or maybe you do."

Mr. Miller said, "I believe Ms. Hall said 2007. What I'm hearing is they were originally build as part of the Diamond W Horse Activity, and then apparently the church bought the property. I have heard two different things; one is that the church never actually occupied the property. They just owned it. I don't know if that's true."

Chairman Ranzau said, "Mr. Ewy, can he speak to that?"

Mr. Ewy said, "I don't think I have any better information than Mr. Miller does as to the age of the structures, but they've been there for at least, somebody said the 1990's. I would say at least that long. There was some mention in the Planning Commission minutes that this was another kind of entertainment venue way back in the day. As far as the church occupying it, my impression is the church has never occupied this for services other than maybe some ancillary recreational type of services, but it's never in my estimation been used as a church."

Chairman Ranzau said, "So the building is basically vacant?"

Mr. Ewy said, "That's my understanding, yes."

Chairman Ranzau said, "Do you know for about how long? For a while then?"

Mr. Ewy said, "I would say at least since Ms. Hall sold it in 2007."

Chairman Ranzau said, "Thank you. Okay, Commissioners, what's the will of the Board? Maybe we should speak to our Counselors and say, what are our options?"

Mr. Waggoner said, "Well, again, at this point, you've got a number of different options. Really there's three that could be mentioned. The first would be to take the recommended action, either approving it as is or approving with modifications to the zoning change that's been put for, and that would require a vote of four

Commissioners, it requires a three-fourths majority.

"The second option would be to return this back to the Planning Commission along with considerations that you would like them to take into account. That would require three Commissioners to vote in favor of that option.

"And a third option would be to vote to deny the zone change. In this case that would require a three vote majority."

Chairman Ranzau said, "Are we under a time constraint to make a decision? Do we have to do that today? Can it be postponed or tabled?"

Mr. Waggoner said, "There would not be any time constraint that I can see at this point, although I may defer to Dale Miller if you have any thoughts on that."

Mr. Miller said, "Sir, the other thing I'd like to clarify is to override the Planning Commission, it takes a two-thirds vote to deny. What was the question? I'm sorry."

Chairman Ranzau said, "Do we have to decide this today? Could we delay the decision for some time or are we under a time constraint?"

Mr. Miller said, "You have the option, if you think there is information that's missing or needs to be clarified before you make a final motion, certainly that's within your authority."

Chairman Ranzau said, "Okay. Thank you. Commissioner Peterjohn."

Commissioner Peterjohn said, "My understanding was, the sheet I've gotten, there was a proposed motion handed that we had two options, finding the notice was sufficient and the second option was finding the notice for the properties was insufficient, and then returning to MAPC if we found it insufficient, for a new hearing. You kind of gave us the options that go in terms of actually moving forward with the substance, but I wanted to clarify in terms of the notification, do we have to make a motion on notification before we take..."

Mr. Waggoner said, "I do not believe that's necessary in this case, because I don't believe it was raised sufficiently. That was prepared in anticipation of it being raised more specifically than it was."

Commissioner Peterjohn said, "Okay. Thank you."

Chairman Ranzau said, "Commissioner Unruh."

Commissioner Unruh thanked the Chairman and said, "You know, I really am not a big fan of deferrals, but in this particular situation, I think that for my satisfaction, I would like to send this back to the Planning Commission and ask them to give us specific recommendations on paving the parking lot and whatever that includes and also I'd like to have a specific recommendation from the Planning Commission on the height of berming around it, that we've talked. I'm not making a motion. I'm just saying that's my preference."

Chairman Ranzau said, "I'll also say that we've been given this picture of this as well as they've given us some signatures. I'll ask be entered into the record. I'll give this to you, Madam Clerk, when we're done, so we make sure everything is entered in. Commissioner Peterjohn."

Commissioner Peterjohn said, "I want to get all the documents into the record and particularly the petitions. There are a lot of things that came out in this hearing today. I'm in the position where I want to make sure that we have dotted all the i's and crossed all the t's, so for the record I'd like to get in and state that I've had a lot of communications from people in various forms, whether it's by talking to people by phone, I've tried to return a lot of phone calls, and I have to apologize, I just ran out of time to get in touch with everybody and I will try and get back with folks, but I did receive a lot of phone calls and communications. I received the final briefing from staff, yesterday afternoon, so I am trying to be in full compliance with the rules that we have to follow in the zoning cases and tried not to bring any up prior to this point, so that we are following the Golden Rules and procedures that have been talked about for handling these cases and I agree that there's a lot of loose ends here, which I alluded to in my comments earlier. I would agree that this is much closer to an urban situation than to say a rural situation.

"I would also add that I believe that each zoning case is it's like, as some other folks have told me, it's like storms coming into the community; when the weather changes, each storm is unique, and I think each zoning case is unique.

"I would also throw out a number of other points. We had a lot of discussion about 135th Street. The one thing I would say, having looked at the arterial streets and 135th Street is one of those, the City of Wichita, which is nearby, has changed around the arterial streets a whole bunch of different ways, in terms of mostly expanding, widening them, taking them to four lanes, now five lanes and sometimes they leave them two and sometimes they make them wider. That's a decision for our elected colleagues across the street to make. I, like Commissioner Unruh, I'm reluctant in some ways to want to second guess what the work of the Planning Commission, but I would be remiss if I didn't point out how many loose ends that I have come up in my of me since we got started here.

"I am very uncomfortable with having this proceed, because I think in terms of some of the specific Golden Rules, having dialogue, I believe, just among the five of us now, I can go into more detail, Mr. Chairman, if we get to that point or not, but I do think that there are a lot of questions and the discussion about gravel versus paved and frankly other things that I think are very problematic with the proposal that's in front of us today, and I'll leave it at that at this point. Thank you."

Chairman Ranzau said, "Commissioner Howell."

Commissioner Howell thanked the Chairman and said, "I'd like to disclose my ex parte communication as a beginning point here. I did have people visit me in my office, advocating for me to oppose this; many people have called; I had a three page document from Greg Farris; as well as e-mails and finally Kirk and Janet Schiebelhut wrote nice emails. That's the list of folks that have contacted me. I will disclose, everybody that talked with me was opposed with respect to the Golden Rules. That is probably the one that there has been a large opposition to this, and I would admit that is clearly true.

"As I read the Golden Rules, however, I would say most of these, I guess I would disagree with some of the analysis that has been presented here today. I don't want to go through these right now, because I'm not sure where this is headed. Should we have a chance to vote on this at some point soon, I would probably go through this with a fine tooth comb and make comments about each and every one of these Golden Rules. I guess, right now, I guess I disagree with much of the analysis about these rules. I would probably take the opposite side, for various reasons.

"It sounds like maybe we are deferring this, and I'm not sure if that's where we're going right now. If that happens, I would make sure that the homeowners understand the PUD actually does restrict the use. Right now, you are very vulnerable to what could happen in this property, and it sounds like it's been for sale for a long time. They're looking for a tenant and someone could very easily buy this and put in a mobile home park. They could buy this and put in a car lot or other things you might be opposed to.

"To me, knowing this is primarily going to be used as an entertainment venue. I used to be a wedding photographer, I did that for almost 20 years. I attended, literally, hundreds of weddings. I tell you what, for the most part, they have been great events. I can think of one time that I think things got a little bit out of hand at that particular wedding, there was a uniformed law enforcement officer there, that was hired by the wedding party to make sure things went well, and it was fine. For the most part, the wedding venues have not been as bad as has been described here. Someone mentioned things about underage drinking, fighting, littering, harassment, other terms that have been used. I just find that to be not in agreement with what I've seen at these weddings. There are other uses for this that can be done here on this property, but it's not going to be something that happens every single day, all day long. There are going to be events from time to time, and I guess, if I owned a home in the area, I would much rather have something like that, that limits its use that I think is hopefully a good neighbor to the community versus something that we really don't want.

"I want to make sure that the people that sign these petitions understand that they are very vulnerable, as it sits right now, without taking any action whatsoever today. The PUD, in my opinion, limits the use extensively and we can add more restrictions, as well. I would suppose if this gets delayed that might be one of the discussions that we need to have is what other restrictions should be added to the list that is already on this PUD? There are quite a few restrictions already, but it sounds like the proponent is amiable to adding some additional restrictions, if that makes sense.

"I guess I view this as something that we ought to not reject, outright. We ought to continue to work on it. I'm generally in favor of property rights and the fact is this is an area that has not had a use for what sounds like about 8 years. I tell you what, there are a lot of buildings throughout the City of Wichita that are blight. I guess if I owned a home of the caliber that are in this neighborhood, I would not want to see an empty building sitting there for 8 years. Who knows how much longer it will sit there. To me, this is an opportunity for the community to be thoughtful about what would be the reasonable list of restrictions.

"If it's landscaping we need, if it's a paved parking lot we need, that's a good discussion to have, but I guess the majority of this is a lot of the not in my backyard arguments, worried about all kinds of things that have not been substantiated throughout the entire City of Wichita. There are other venues around similar to this that have not experienced the long list of negative criteria that was listed here today. So I guess I'm just kind of on the fence right now trying to figure out what we should do. It sounds like a deferral might be in or here or a delay, send this back to MAPC. Generally speaking, Golden Rules, generally, in my opinion, do support the proponent. I'll stop with that, Mr. Chairman. Thank you."

Chairman Ranzau said, "Commissioner Unruh."

Commissioner Unruh thanked the Chairman and said, "For the record, I also had

some communication by e-mail and telephone, from a variety of folks, most of whom Commissioner Howell identified. I had not made up my mind or made any comments indicating what my inclination was until we got to the discussion today. In light of our discussion, Mr. Chairman, I would move that we return this case to the MAPC for further consideration of matters that relate specifically to the hard surface of the parking lot and the height of the berm and whatever other pertinent recommendations that Director Miller might have gleaned from this conversation, from this discussion. I don't know if that's specific enough, but that's my motion."

MOTION

Commissioner Unruh moved to send the recommendation of the MAPC back to MAPC for clarification on required heights and locations for berming and the requirement of a paved parking area.

Commissioner Norton seconded the motion.

Chairman Ranzau said, "Okay. You're not asking for a specific decision to be made, but just for them to address those issues and respond?"

Commissioner Unruh said, "That's correct."

Chairman Ranzau said, "We have a motion. Do we have a second?"

Ms. Erika Rice, Deputy County Clerk, greeted the Commissioners and said, "Yes, Mr. Chairman."

Chairman Ranzau said, "Do we have any questions or comments? Commissioner Norton."

Commissioner Norton said, "Just real quick, I would like to declare that I've had some ex parte communication through e-mail and phone messages. I didn't talk to anyone personally."

Chairman Ranzau said, "Commissioner Howell."

Commissioner Howell said, "Just a clarification, if we send this back to MAPC today, when it comes back to us next time, assuming they approve it again maybe with some changes, but next time this comes back to us, it only requires three votes to deny or approve in this case; is that correct?"

Chairman Ranzau said, "Yes, I believe so."

Mr. Miller said, "No, that is not correct."

Commissioner Howell said, "So next time it comes back to us, what's the requirement?"

Mr. Miller said, "Because the protest exists, it will still be the three-fourths majority."

Commissioner Howell said, "To approve?"

Mr. Miller said, "Yes."

Commissioner Howell said, "But to deny would only be three votes?"

Mr. Miller said, "Yes."

Commissioner Howell said, "And today, it's four votes either direction that we go, with the exception of sending it back to MAPC"

Mr. Miller said, "Yes."

Commissioner Howell said, "Okay, that is my only question, Mr. Chairman."

Chairman Ranzau said, "Commissioner Peterjohn."

Commissioner Peterjohn thanked the Chairman and said, "I'm going to segue on that I did, besides the communications I heard earlier, [inaudible] did meet with me. I did have telephone communications. I wanted to get that clarification on the record, in terms of the communications that I had. Having said this, I think basically there are a lot of other problems besides the ones that Commissioner Unruh has identified, in terms of going back to, in terms of that were mentioned. Even with those, I still think we've got some systemic problems with this proposal in its form, and I have a lot of problems with it even if we just take care of the parking lot and whatever the Planning Commission might come back with berming.

"Having said that, we're still going to, with the clarification from staff, but still because of where it's treated overall, I do think the golden factors, there's a lot of problems here with this proposal as it currently is, and I realize on the GC that that potential is out there. I would also be remiss if I didn't point out there's a whole bunch of other locations where you have arterial streets touching Kellogg. I can think of a couple offhand where you might have similar situations where there is general commercial zoning. They're undeveloped and have been for quite a while so I don't find that discussion persuasive in and of itself.

"I think we're going to end up, if we do send this back to the Planning Commission, we'll have another hearing like the one we've had today. I don't know if the public will turn out as strongly today, but I think the issues before us will largely be the same. So I will support sending this back to the Planning Commission, but I still think that there are some systemic problems here that are going to make this difficult going forward. Thank you."

Chairman Ranzau said, "I also received e-mails, phone calls and communications from the same people everyone else has. I will be supportive of sending this back, although for the record, I'll say I'm not as concerned about the berms and the parking as perhaps some of my Commissioners are. I look at this and we have a building that already exists that is empty and vacant for years, and we want to encourage economic development. It's in a general commercial area. And I have to agree with Commissioner Howell, a lot of other things that are more intensive could be built here that would be, if I lived in the area, I would rather have an events center there than some of the other things that could be there.

"So, you've got to have a very high bar to tell somebody that they can't use a property. It's already authorized to do things a lot more intensive. So it's difficult for me to see why we would turn something down that's less intensive. And as far as berming or putting a berm up in order to use the dirt and one to the north perhaps, I'm fine with that, but I'm hesitant to want to increase the cost for development on a building that's already empty and has been vacant for a number of years, especially when we talk about berming to the north. I mean, to the north, we have some land that is in the flood plain. I don't know that it's going to make much of a difference. It's not bermed now and there's not going to be any new buildings built. There is going to

be a pond, an outdoor area, and some parking. I'm not sure it's necessary to have a whole lot of berming to separate that from an area that's a flood plain.

"Now, I know there are houses that are further north than that, but if all you're doing is building a pond, adding an outdoor recreation area and parking lot, I'm not sure, you have several hundred feet distance. I'm hesitant to increase the cost. I'm not sure it's going to make much difference.

"As far as the gravel parking lot, I guess that's not a big issue for me. We have a gravel parking lot at the extension center, and you know, there's businesses and people all around there, not to mention the fact you have open fields here and dirt all around. I'm not sure that's going to cause a big problem with dust, considering the large setback areas that are existing, which are a lot more than what a lot of the other event centers and stuff pass.

"So anyway, I'm generally inclined, I guess, to support this. With that being said, I understand some of the concerns, but in the end, this is a much less intensive use than what could be already done by right. I appreciate everyone coming out and talking. I live in an area that has a strip club to the north and dump to the west, so I understand why people would show up and have some concerns. In this particular area with the amount of space that's around there, that's kind of why I come down on that end.

"With that being said, I'm more than happy to support a motion to send it back and have the Planning Commission considering these items and work with the applicant and see what they can come up with. My biggest concern is I don't want to put so many restrictions on this that it becomes cost prohibitive and then we have no economic development at all. And we talk about jobs. We talk about economic development. We talk about property rights. We have an opportunity there to use a building that's already there, I go back and it's a really big factor that it's a lot less intensive than a Wal-Mart or a Sam's or a bunch of other stuff could be put in there. With that said, I'll be supportive of this motion. Commissioners, is there anything else? Madam Clerk, call the vote."

VOTE

Commissioner Unruh Aye
Commissioner Norton Aye
Commissioner Peterjohn Aye
Chairman Ranzau Aye
Commissioner Howell Aye

Chairman Ranzau said, "That passes 5 to 0. Thanks, everybody, for your patience and coming in to speak today. Commissioner Norton."

Commissioner Norton said, "Before everybody leaves, we weren't time specific as to when this would come back from the Planning Commission. So if you're interested in staying attached, please follow our website or give us a couple of people that can call our office consistently to find out when it will be back on an agenda, because we weren't specific on the date. It's going to go to the MAPC and then at some point come back to us, and that's not time specific. So you still have an interest two weeks, a month from now, please stay attached to it. Because there won't be another notice going out that I know of. Is that correct, Dale?"

Mr. Miller said, "Because we'll have to work with the applicant in order to get revisions to the Planning Commission for them to consider, what we probably would do is send

out new notices for the Planning Commission date and this typical practice is folks that sign up or speak at the Planning Commission, we send them a follow-up letter saying the date it's going to be heard by the County Commission."

Commissioner Norton said, "I just think it's important that we make sure we give them the opportunity to stay connected to the issues if they were here today."

Chairman Ranzau said, "Madam Clerk, move on to the next item."

NEW BUSINESS

C [15-0847](#)

AGREEMENT WITH CENTRAL PLAINS REGIONAL HEALTH CARE PARTNERSHIP (CPRHCP), SEDGWICK COUNTY BOARD OF COUNTY COMMISSIONERS AND THE CITY OF WICHITA TO PARTNER WITH THE SEDGWICK COUNTY HEALTH DEPARTMENT UNDER THE PROJECT ACCESS PROGRAM.
Presented by: Adrienne Byrne-Lutz, Director, Health Department.

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

Ms. Adrienne Byrne-Lutz, Director, Public Health Department, greeted the Commissioners and said, "Before you this afternoon is an agreement with Central Plains Health Care Partnership, Sedgwick County Commissioners, and City of Wichita to partner with the Sedgwick County Health Department under the Project Access program. Project Access was created in 1999. It's a partnership program that coordinates access to donated medical care for uninsured, low income Sedgwick County residents who fall below 250 percent the federal poverty guideline. Eligible uninsured residents are enrolled for a limited periods of time to address immediate medical needs. Once enrolled, patients have access to a variety specialists, prescription medications, durable medical equipment and diabetic supplies. In 2015, Project Access served approximately 1,400 patients, and these numbers are approximate because we asked and received the information mid-December, so two weeks shy of a whole year, plus medical claims are still coming in. In 2015, they recruited 35 new physicians to participate in the program, donated hospital care valued at over \$8 million so far, donated physician care valued at \$2,500,000, and nearly \$450,000 in purchased and donated medications as well as purchased \$24,000 in medical equipment for patients.

"Funding for Project Access will come from a variety of sources, including the City of Wichita, Sedgwick County, United Way as well as private contributions and then planned fundraisers. If approved the 2016 allocation of \$175,000 will be used to fund a portion of several positions as well as pay for several prescriptions and durable medical supplies. I ask you approve this agreement and authorize the Chairman to sign and Ann Nelson with Project Access is here if you have any questions I can't answer."

Chairman Ranzau said, "Commissioner Peterjohn."

Commissioner Peterjohn said, "Yes. I saw it said basically 250 percent of federal poverty guidelines, so just to make sure I understand this right, let's say a federal poverty guideline is \$15,000 a year for a family of 4. At 250 percent then, that would be anybody with an income family of four a level of \$37,500 a year or less would be eligible to participate in this program. Am I correct in that type of calculation?"

Ms. Byrne-Lutz said, "Yes, yes."

Commissioner Peterjohn said, "And is that a reasonable ballpark? I don't want to put Ms. Nelson too much on the spot."

Ms. Byrne-Lutz said, "She said you are very close."

Commissioner Peterjohn said, "I'm close in terms of the rate and the amount? Okay. That's all I have. Thank you, Mr. Chairman."

Chairman Ranzau said, "Commissioner Howell."

Commissioner Howell thanked the Chairman and said, "I understand that Project Access has done some additional fundraising this last year. Can you talk about the fundraising and the success in doing that? Do we have some numbers on that?"

Ms. Byrne-Lutz said, "Yes. In 2012, the fundraising was started, and they raised \$30,000; in 2013, it was \$41,000; in 2014, \$40,000; 2015, \$120,000, and then they're looking at needing to raise, because of some reductions and other funding, \$202,500, in 2016."

Commissioner Howell said, "Does any of that money come from the Kansas Health Foundation?"

Ms. Byrne-Lutz said, "They received one-time funding from Kansas Health Foundation, in 2014 of \$50,000."

Commissioner Howell said, "Okay. All right. Thank you. I am curious, this program was started roughly 16 years ago, and since then, we have federal government that's come up with the Affordable Care Act. Is this program still as necessary as it was back in 1999? Can you talk about why is this, I think there's government solutions and charitable solutions in the community, and both are at play here. I'm just curious with the government solution in place and fully implemented at this point, what is the importance of Project Access now?"

Ms. Byrne-Lutz said, "There are still, even though more and more people are insured, there are still a lot of and possibly more underinsured because of the selections of policies that people can choose. They may still have a very high deductible. Their payments of going to the physician may be prohibitive and may not be able to afford what medical care that they need, and Ann, would you add?"

Ms. Ann Nelson, Central Plains Healthcare Partnership, greeted the Commissioners and said, "I appreciate the opportunity to answer your question, Commissioner, because it's the one I get the most often. People eligible for subsidies within the Affordable Care Act (ACA) Marketplace are out about 135 percent to 175 percent federal poverty level. Those under 135 percent of federal poverty level, the original legislation and the ACA was designed for people to enroll in expand in Medicaid."

"Now, about 25 states in our country have elected not to do that. So people up to 135 percent, from 0 to 135 percent federal poverty level are not eligible for any support through Medicaid, the Affordable Care Act. We serve a significant population of people at that income level. There are some who are eligible for subsidies within the federal marketplace. We are navigating those folks. We've enrolled roughly 200 people who were enrolled in Project Access and now have purchased insurance, but the subsidies go down more sharply than the income rises as you move along that

scale. So people at about 175 up to 250 percent have very little available to them.

"Insurance, which is actually managed by the private marketplace, and the cost in any particular state are based on the marketplace of insurance providers and what they charge, where people are not eligible for a lot of support above about 175 percent of federal poverty level. So we're meeting a need that federal programs and other programs are not providing. It's still essential, and these are hard working people who install tile for a living, or they're finishing college, or serving food at restaurants, or putting up roofs and helping build new houses as subcontractors. So my answer to you is yes, it's still very much needed."

Commissioner Howell said, "Just another comment. I'm ready to vote on this. I'm supportive of the agenda item today. I'll be supporting this with a yes vote today, but just to comment. We received some criticism this last year because of our budget process, and there was a small reduction from last year to this year. We did \$200,000 last year, two action items, but it all together was \$200,000 last year, if I remember correctly. And this year it's \$175,000. So assuming budget pressures continue to happen, I made a comment before, and I'll make the same comment again; it is that organizations that are heavily dependent on government for a large portion of funding revenue stream are at risk.

"I guess the fundraising is going up, and I'm glad to see that. It's very good that Project Access is trying to raise more funds from the private sector through fundraising efforts and I think that's very commendable. I think you're doing a great job with that and I hope that will continue. I anticipate additional pressures on our budget to continue to fund at this level. I would be surprised if we're able to keep up with even \$175,000 in the next fiscal year, but we'll see what happens when our estimates come forward.

"Just a general comment that anybody who is heavily dependent on government for a large portion of their revenue stream is at risk. That's all I have, Mr. Chairman. Thank you."

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

Commissioner Unruh thanked the Chairman and said, "I just want to comment that the overwhelming majority of your program is donated through the medical community, it is in the millions of dollars every year. So this is a very small portion of the total program of Project Access. I just want to compliment you. Adrienne, you read us all of those numbers of services provided. I can't remember them all. But it's very impressive of the benefit that's brought to our community. So thank you."

MOTION

Commissioner Unruh moved to approve the agreement with Central Plains Regional Health Care Partnership.

Commissioner Norton seconded the motion.

Chairman Ranzau said, "Commissioner Norton."

Commissioner Norton said, "Ann, if you would step forward. I have been very supportive of Project Access. I still am. I still think it's a safety net for many, many of the people in our community to keep them healthy and working and raising their families. When we talk about government intrusion on this, we put a very small amount in compared to the whole program. Over the 16 years, how much donated

physician, pharmaceutical and hospital care has been donated in our community?"

Ms. Nelson said, "For almost 13,000 people we've served since 1999, we've leveraged over \$180 million in donated care and additional \$10 million in prescription support for patients."

Commissioner Norton said, "I think that's pretty significant for our community for what little bit of an investment the county has made in the program. So thank you very much. That's all I have, Mr. Chair."

Chairman Ranzau said, "I'll say this was approved in our budget and I'll be supportive of this action today. That being said, I said in the past that I believe this program is too important to be dependent on the government and can and should be funded by the private sector. I will also point out, as Commissioner Howell said, this came up in our budget process, and a lot of people wanted to criticize Sedgwick County, however the City of Wichita is also reducing their payments to Project Access by \$25,000; United Way has reduced their contribution by \$20,000; United Methodist Health Ministries has reduced their contribution by \$10,000; and there is no public outrage against any of that. I just want to point out that."

"Specifically, Kansas Health Foundation is giving nothing. This is an organization that says it cares about the health of Kansans and that's its mission. Has over a \$100 million in assets, and its CEO makes over \$400,000 a year, yet they say they cannot help support this organization, which is deserving. I've seen some of the grants they give to people for some of the issues that they do. There's no doubt in my mind that Project Access is much more deserving of their funding than many of the things that they support. They really seem to be more inclined to get more people dependent upon government than actually supporting programs like this. It's very disappointing. It's another form of progressive hypocrisy and I would encourage them to step up and put their money to their mouth is, so to speak and start funding Project Access like it can and should, in the future."

"This is too important of a program to be dependent upon government funding when all governments have revenue incomes. I've also heard from a variety of non-profits out there who have to do their own fundraising, and they kind of resent the fact that certain non-profits in the community and get government support and taxpayer support while the vast majority do not, and they see that as being unfair."

"That being said, the fact that we're reducing funding to Project Access does not mean that Project Access will go away, because I am confident that the private sector can and would fund Project Access in the full amount it needs to continue. That being said, I understand not everyone agrees with me and we will have to agree to disagree on that. Our disagreement is not about the work that Ann and others do, but it's about the proper way to fund this. Commissioner Peterjohn."

Commissioner Peterjohn said, "Mr. Chairman, I'm going to be supportive of the motion today, but point out the fact that there is a possibility, and I hope it does not happen, but it could happen. If we change how the distribution of the one cent county wide sales tax, instead of 75 percent roughly going to the 20 incorporated municipalities that are entirely or in part in Sedgwick County, if that percentage was changed, there would be a whole bunch of programs that could be at risk going forward, and I'm afraid with budgetary challenges that we're facing, we could have problems in the future and that's one of the reasons why I'm glad to see that this Commission is unified in terms of supporting efforts to keep the current allocation system in place, but I think it's wise to plan ahead and that if the current system, current statute is changed, I think that there could be some future changes, and I'd

like Ms. Nelson or anyone else who is involved with the program to make sure that they're aware that the county could be facing some significant financial challenges going forward if a large part of existing revenues get removed from Sedgwick County on the sales tax. Thank you, Mr. Chairman."

VOTE

Commissioner Unruh Aye
Commissioner Norton Aye
Commissioner Peterjohn Aye
Chairman Ranzau Aye
Commissioner Howell Aye

Chairman Ranzau said, "The motion passes 5 to 0. Thank you, Ann for being patient. I know we had a long hearing before your item. Thank you."

Approved

D [15-0854](#)

REVIEW OF SERVICE PLAN CITY OF DERBY ANNEXATION
RESOLUTION 30-2015.

Presented by: Jon Von Achen, Assistant County Counselor.

RECOMMENDED ACTION: Receive and File.

VISUAL PRESENTATION

Mr. Jon Von Achen, Assistant County Counselor, greeted the Commissioners and said, "We're here today to review the service plan for Derby's proposed annexation to the Huckleberry Addition to Sedgwick County. Under county resolution 190-2012, on notice of the proposed general annexation and the receipt of the service plan, the County Counselor's office is tasked with distributing that plan to the Commission and to the various county departments that are interested. There is a comment period of 14 days. That comment period closed December 14th, and we received two responses from the various departments, one from MAPD and one from Finance. Both did not find any issue with the proposed service plan. The County Counselor's office also fielded discussion from the Commission regarding the service plan.

"The proposed annexed area is the area here at the bottom of the map in red. There is a line on the eastern edge on the south half of the property. That is the area that is currently adjacent to Derby city limits. And then the purpose of the review here today is that should the City of Derby proceed with annexing the property, in three years this Board will review the service plan to see that the service plan that was proposed has been met. I stand for any questions, additionally from the City of Derby, City Planner Cody Berg and City Administrator and [City Manager]Kathy Sexton are also present and can answer any questions from the Board."

Chairman Ranzau said, "Are there any questions right now from Jon? Seeing none, even though this is not a public hearing, I will ask if anyone from the public would like to speak on this. Seeing none, I'll ask if anyone from the City of Derby would like to speak or no? Okay. Any questions or comments from Commissioners?
Commissioner Peterjohn."

Commissioner Peterjohn said, "Yes, I do have a question for the City Manager if she would be willing to come to the podium. I noticed that there is a road on the northeast corner of this property. As part of the plan, obviously the streets that are within the annexed area would be, streets within the area designated would go into the City of

Derby. Are the streets that's adjacent to this property, is that also going to be annexed into the City of Derby under the service plan in?"

Ms. Kathy Sexton, City Manager, City of Derby, said, "Under this plan, no, just the subdivision of Huckleberry is included, as noted in the red lines, but Oliver Street, beside this subdivision, is a township road maintained by the township. We are in communication with the township in terms of partnership on taking care of that road and certainly the City of Derby would consider that for future annexation. It doesn't make sense to include it with this one because this is a separate platted subdivision, and if this annexation goes through, then it would make sense to annex Oliver. It wouldn't have made sense if this didn't go through."

Commissioner Peterjohn said, "Okay. Because one of the concerns I have is when I think the township figures I've seen would end up losing somewhere between I think \$5,000 and \$10,000 a year in township revenue if the annexation goes through, if the road remains and remains the township's responsibility. I know state law requires municipalities, when they annex up to the road, they're supposed to annex the road, too. So as part of the service plan, I wanted to make sure I understood where things were at."

Ms. Sexton said, "I appreciate the question. We're certainly in compliance with state law, and we do have a good communication begun with Riverside Township about that road, and we'll see where that goes next."

Commissioner Peterjohn said, "Well, there are a number of cases, unfortunately, here in Sedgwick County where municipalities have annexed up to the road but not annexed the road. I have some in my district. That's nowhere near Derby. I know you all have annexed a number of roads when you have annexed up to them. But, I do think it's important to have some discussion, especially in a public matter and on these, on the record. Thank you, Mr. Chairman."

Chairman Ranzau said, "Commissioner Howell."

Commissioner Howell thanked the Chairman and said, "First of all, I would like to say I think Derby does a great job with service plans. I think I've heard a lot of compliments over the years that Derby is probably the best municipality in the entire county with respect to doing a robust service plan and making sure all the t's are crossed and i's are dotted and that just really everything has been thought of. Having said that, I have had an outpouring of people very concerned about this annexation. I just want to make some comments."

"I've heard from those residents and although I don't anticipate, my assumption is this is going to pass without any problems, but I would like to make some comments about the annexation itself, not necessarily the service plan. I am not sure if that is acceptable or not. I would at least make these comments and hopefully that will get communicated back to the Derby City Council."

"One of the comments that I have heard a lot is that the township does a really good job of maintaining the streets within its community. I believe there are 63 homes. The total value of the homes, the assessed value of these homes is \$16,394,590. The average value for each of the 63 homes is \$250,231. They are going to see a 21 percent increase in property taxes, as a result of this annexation. With that the street maintenance is one of those things that they're concerned about, because the land as you leave the addition goes uphill towards Oliver Street, and they're concerned about being able to get out of there during snowstorms and ice storms, that type of thing, and they know that the Riverside Township has done a very good job of

maintaining those roads. In fact, they say many of the days that there's ice and snow, the roads are usually treated by 6:00 or 6:30 in the morning. There's been no issues with that and they're very pleased with that.

"This is a mature community that has built themselves up over the years that is nearby Derby. I heard one of the comments from one of the City Council members they thought it was an issue of fairness that these folks live right next to the City of Derby, enjoy all of the amenities of the city itself but not really paying city taxes. I guess the flip side of that argument would be these folks also spend most of their money in Derby and frequent businesses and things throughout the community that the community itself benefits from their business. I would not want, I know we enjoy having people from outside our city coming to the city to spend their money, and I'm sure the City of Derby appreciates the dollars spent there in that community from this community.

"The spirit of annexation, I talked with a couple of council members about this. I think the spirit of annexation is if you had an area outside of the city being annexed, an area that was platted and the city wanted to annex the entire subdivision at one time to provide curb and gutter, water, sewer, fire hydrants and things like that and to assess a special assessment taxes to homeowners, that would seem to be very reasonable, but to move into a mature community and this community, altogether, is going to pay. The homeowners, the 63 homeowners together are going to pay an additional \$44,954 in taxes after this annexation. That's almost \$45,000. The City of Derby is going to receive just under \$90,000. No change to Sedgwick County government. We're not going to be impacted by this in any way. But our fire district is going to be impacted. We're going to see a reduction in revenue for the fire district by just under \$35,000. Not that I care about this one too much, but the state library, for whatever reason, sees a reduction of about \$2,100, and then finally, the township sees a reduction in revenue in just under \$7,000. So there's a shifting of revenue from current jurisdictions that have responsibilities that isn't going to change significantly, to the City of Derby just about \$90,000 to begin with. With that, it is unclear how that money would be spent and what services would be provided.

"As I read the service plan, everything that is being offered to this community is something they can get should they petition for those things. They can get street lights, fire hydrants, water, sewer, and improved streets if they want them. They can get all of those things, if they want them, but they have to pay for all of those things, and they're content as things are. But as a going-in point, there are no additional services being provided any way that I can see that they're not going to have to pay for. Yet, they are going to pay almost \$45,000 in new taxes as a result of this annexation, and Derby gets just about \$90,000 from this annexation.

"So having said that, I am concerned about the fact that these folks did not have a chance to elect those folks that are making this decision. The city council members, of course, live in the city and represent the city, people that elected them. The being impacted by this decision live in the county, and they elected County Commissioners, but they did not have any ability to elect those making the decision. So one of the arguments that has continued to come to me is that they're being annexed without representation that they have elected. They're very concerned about that as well.

"Having said that, I really wish there was a way to, if there was something on the other side of Derby that made sense for them to into the City of Derby, I would understand this, but this is really a mature neighborhood that's been there for a very long time, and I would just like to speak on behalf of those residents and encourage the City of Derby to vote no, to not do this. Have no ability at our level to impact this decision directly. We can't vote on whether this should or should not happen. That's

not our choice. All we're looking at is the service plan itself.

"As I said a minute ago, the service plan is robust, it is very well done. I will be supportive of the motion today, the agenda item today, to approve the service plan, but I guess I am concerned about the annexation itself and would encourage the City of Derby to please not to do this. I have heard from the residents and I have heard no one in favor. As far as an issue of fairness goes, I guess, I see their side of this right now more than the city's. And so I would just encourage these comments to be communicated back to the City Council and hopefully they would be willing to acknowledge these points that have been clearly communicated to me numerous times by many residents, and I would hope that the City of Derby would slow this down or just drop it entirely."

MOTION

Commissioner Howell moved to direct the County Counselor to notify the City of Derby regarding any comments the Board has and any comments received during the comment period, regarding the plan and to approve the review of this plan.

Commissioner Peterjohn seconded the motion.

Chairman Ranzau said, "Any other questions or comments? Seeing none, Madam Clerk, call the vote."

VOTE

*Commissioner Unruh Aye
Commissioner Norton Aye
Commissioner Peterjohn Aye
Chairman Ranzau Aye
Commissioner Howell Aye*

Commissioner Ranzau said, "That passes 5-0. Thank you for being patient, Cody and Kathy, I know it's been a long morning. Next item, please."

Received and Filed

E [15-0881](#)

REPORT OF THE BOARD OF BIDS AND CONTRACTS' REGULAR MEETING ON DECEMBER 31, 2015.

Presented by: Joe Thomas, Director, Purchasing Department.

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

Mr. Joe Thomas, Director, Purchasing Department, greeted the Commissioners and said, "The meeting of the Board of Bids and Contracts of December 31st results in four items we would like to present to you this morning:

1. ARKANSAS RIVER CROSSING. THE 95TH STREET SOUTH CORRIDOR PLAN FOR PUBLIC WORKS

"Recommendation is to accept the best proposal from TranSystems Corporation, negotiated not to exceed \$410,000.

2. CAPITAL LEASING OPTIONS FOR FIRE EQUIPMENT ACQUISITIONS FOR SEDGWICK COUNTY FIRE DISTRICT NUMBER ONE.

"Recommendation is to accept the low bid from U.S. Bancorp Government Leasing & Finance, Inc., and execute an agreement for fire equipment financing based on the proposal rate for a term of 84 months.

3. AT&T VESTA SUPPORT RENEWAL FOR EMERGENCY COMMUNICATIONS

"Recommendation is to accept the quote from AT&T Kansas in the amount of \$208,502.50.

4. ELECTRONIC MONITORING SERVICE FOR THE DEPARTMENT OF CORRECTIONS

"Recommendation is to reject all proposals submitted.

"I'll be happy to answer any questions you may have, and I recommend approval of the items."

Chairman Ranzau said, "Joe, I have some questions, probably for David Spears. Can you tell me about Item 1?"

Mr. David Spears, Director. Public Works, greeted the Commissioners and said, "Item 1 is in the budget. It is for a corridor study for 95th Street South, which would include a bridge over the Arkansas River and making a better connection from east to west, west to east, both, down in that area. There was a committee, well, more than a committee, Mulvane, Derby, Haysville and Wichita all agreed that it was a good idea to proceed with doing that and we know that we need to have a study done on that to determine how wide of a road we need to put in. This is a very critical need for future. This has actually been talked about since I've been here for 30 years.

"WAMPO (Wichita Area Metropolitan Planning Organization) has also looked at it. It's in the long range plan for them. All of this money does come from the county, we will pay that. I'll be glad to answer any other more specific questions that you might have."

Chairman Ranzau said, "Why did we not want to go with Parsons Brinckerhoff, Inc.?"

Mr. Spears said, "I don't want to get into real specifics on it. This was not a bid. It was a proposal. So they were not even on the short list. We had TranSystems Corporation on the short list. Parsons Brinckerhoff, Inc., they're a great company, and they're really great at our bridges. We sort of felt like that they had made some decisions ahead of time, which probably shouldn't have been made until we have more public input, and that was a thing that bothered us a little bit.

"The other thing that we really like about TranSystems Corporation is that all of the folks there, they are teaming up with PEC (Professional Engineering Consultants) on this project and all of the folks are local. They're all local people working on this. The other companies did not have, not that that's the final factor, but we think that the familiarity with the area is very important."

Chairman Ranzau said, "Thank you. Any other questions or comments from the Commissioners? Seeing none, what's the will of the Board?"

MOTION

Commissioner Unruh moved to approve the recommendations of the Board of Bids

and Contracts.

Commissioner Norton seconded the motion.

Chairman Ranzau said, "Next item, please."

Approved

CONSENT

- F** [15-0860](#) Capital Improvement Program Amendment for Bridge Project B-483 Located on MacArthur between Hydraulic and K-15 (Arkansas River Bride). District 5.
- G** [15-0861](#) Capital Improvement Program Amendment for Bridge Project B486 on MacArthur between 247th and 263rd St. West (Over Lake Afton). District 3.
- H** [15-0862](#) Resolution for the Allocation and Interfund Transfer of Unexpended 2015 Budget Authority to the Equipment Reserve Fund.
- I** [15-0848](#) Acknowledge several memorial donations to the Sedgwick County Suicide Prevention Coalition.
- J** [15-0855](#) Acknowledge donations to COMCARE Children Services.
- K** [15-0869](#) General Bill Check Register for December 16, 2015 - December 22, 2015.
- L** [15-0871](#) General Bill Check Register for December 23, 2015 - December 29, 2015.
- M** [15-0872](#) General Bill Check Register for December 30, 2015 - January 5, 2016.
- N** **15-0870** Payroll Check Register for the December 12, 2015 payroll certification.
- O** **15-0873** Payroll Check Register for the December 26, 2015 payroll certification.

Mr. Mike Scholes, County Manager, greeted the Commissioners and said, "I recommend you approve Consent Agenda Items Foxtrot through Oscar."

MOTION

Commissioner Peterjohn moved to approve the Consent Agenda as presented.

Commissioner Howell seconded the motion.

Commissioner Howell said, "I have a couple comments where when you're ready."

Chairman Ranzau said, "Commissioner Howell."

Commissioner Howell thanked the Chairman and said, "I just wanted to point out on Items F and G, I think is a fairly significant change in what we estimated versus what is being estimated now, especially the MacArthur Arkansas River bridge. Our original budget was I believe one million dollars, and what we're seeing is an increase of more than a million dollars. So the total progress is \$2,033,876.50. And I just think this is a significant change to our plan, and I guess I'd like it to be noted that because we have limited funds in our road and bridge project fund, and I just wanted to put out this is a pretty significant hit. And G, another \$292,000 increase.

"I just want the public to be aware of what we're voting on today. Mr. Chairman."

Chairman Ranzau said, "Madam Clerk. Do you want to speak to that, Dave?"

Mr. Spears said, "Not unless you want me to, but I'll be glad to."

Chairman Ranzau said, "Go ahead."

Mr. Spears said, "On the MacArthur bridge over the Arkansas River, all of these funds were taken out of 2015 money, we're not behind in 2016. There were some projects we saved money on in 2015 that are paying for this, but MacArthur is mainly a deck and then some scouring below, but this is not replacing the whole entire bridge. If you had to replace this entire bridge, and we would if we don't do this, it would be around, just round numbers, \$5 million at least to do it, whereas getting by for \$2 million.

"Now, I agree with everything Commissioner Howell said, because one of the problems of why these came over, both of them, and we had others last year that did the same way with just decks is because we had one company from Minnesota that was the low bidder on one of our bridges for bridge decks, and the local people are very busy. They've got the interchange over Webb Road and Kellogg, the interchange at I-235 and Kellogg. So we know that was a factor in their bidding. That's why the bids came in higher than we expected. Both of these were designed by consultants, not just our staff, and they were just as surprised as we were when they came in, over. It's just the way it is, and the bids and how they came in. But still, it's better than having to replace the whole bridge on MacArthur over the Arkansas River."

Chairman Ranzau said, "And we do need to get this done, and we can't really wait until all of that bridge activity has subsided?"

Mr. Spears said, "Yes, sir. There is a place in that bridge that has a hole. You can see through the deck. And we had the entire deck x-rayed so that we know exactly what's wrong and where. It's very extensive study and design that's been done on it."

Chairman Ranzau said, "Thank you. We have a motion and a second. Madam Clerk, call the vote."

VOTE

Commissioner Unruh Aye
Commissioner Norton Aye
Commissioner Peterjohn Aye
Chairman Ranzau Aye
Commissioner Howell Aye
Adopt the Consent Agenda

OTHER

Chairman Ranzau said, "Commissioners, do you have anything for the 'Other' portion of this meeting? Commissioner Peterjohn."

Commissioner Peterjohn thanked the Chairman and said, "I'm going to have a little bit of a deja vu moment, but one of the important things that we try and do to keep this community safe, and I during my first years that I had the privilege of being a County Commissioner at this point, in the 'Other' section of the meeting, I would give a brief update in the population of the Sedgwick County jail, and as of this morning, the population was 1,362 people in the Sheriff's custody. Now that included 147 who were out of county, but that also includes work release and the folks at the main facility. I mention this because we have our Criminal Justice Coordinating Council that does important work trying to keep this community safe at a reasonable price, a look at alternative programs for folks who, whether they are illegally rafting on the Arkansas River or have some other problems, we can try and come up with an alternative way of keeping them out. But to give you a frame of reference, at this time six years ago, January 4th, 2010, population in custody was 1,570 people. So by bringing those numbers down 200 people, I think that's an important way and Sheriff's cost per person, we're talking about, and just the operational cost, not the capital cost, between \$55 and \$60, per day, per prisoner. So I provide that just as an 'Other' factor that I think is relevant."

"Mr. Chairman, I would be remiss if I didn't point out that January 6th was a very important day in American history. Sometimes we have bad things to report, but sometimes they were good, to in 1759, George Washington and Martha Dandridge Custis were married, a long and successful, roughly, 40-year marriage. Significant for future history and anybody who gets a chance to visit their home in Mount Vernon, very important."

"But on this date in 1838, we had a technological transformation. Samuel Morris demonstrated the viability over two miles of wire for the first telegraph and the first electromechanical devices ever created that were practical in a meaningful sense. It took them six years to take it to Washington in the Supreme Court chambers, and a message was sent from Baltimore to Washington, and they used a line from the Bible, 'What hath God wrought?' as the message that was successfully sent. Telegraph wires became a worldwide phenomenon from there on and that started the electrical revolution that we're still living with today. Mr. Chairman, I wanted to just add that January 6th is an important day in American history."

Chairman Ranzau said, "Commissioner Howell."

Commissioner Howell thanked the Chairman and said, "I don't actually have any prepared remarks, but I'd like to speak from my heart just a moment, regarding the Executive Order from the President, yesterday. As I read The Constitution, I continue to be surprised by what the administration does, and I don't normally speak like this from this bench very often, but I wanted to share just a couple of my thoughts today."

"As I read The Constitution, Article 1, it says all legislative powers shall be vested in the congress of the United States. What the President did yesterday, in my opinion, was, in fact, legislation. I wonder where does this President get such authority to make such Executive Orders. And as I studied this a little bit, I found out that it comes from Article 2 of The Constitution, Section 3. It's really a small phrase that says he shall take care that the laws be faithfully executed."

"That is the phrase that gives the President the authority to make such an Executive Order. Simply stated, what this means is that the President has the responsibility to fill in the holes where Congress passes a law and trying to implement that law some clarity and some direction, and the President has the right to do that would be a proper use of Executive Order.

"What he did yesterday, in my opinion, is unconstitutional. I spent a lot of time studying the 2nd Amendment and why this is important to the people that we represent. We took an oath to uphold The Constitution. I take that very seriously. The 2nd Amendment, let me just read one more time. It says that a well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

"The Kansas constitution is clear that the citizens of Kansas have an individual right to bear arms. We changed our constitution in 2010 with 89 percent of the vote, which I believe was a national record for any item in any state. I believe 89 percent is unprecedented on something such as this. We have an individual right to bear arms, and then Justice Scalia made very clear comments that the individual citizens of this country have the right to bear arms. And you reflect, there has been a lot of discussion about what does well regulated militia mean. Simply stated, as it's been interrupted by the Supreme Court, it means it's a well trained citizenry. People have a responsibility to defend themselves, and I would say they really should do so.

"What I see this administration doing, in any opinion, is they show a distrust of the people. I think the government needs to trust its people. As the founding fathers wrote this, it was clear that they didn't trust their government. It says necessary for the security of a free state. The word State is referring to the nation, the individual nations of 13 colonies that they thought of as nations, if you will. If you read the Declaration of Independence, the very last paragraph made it very clear, they were referring to themselves as sovereign nations, and to secure that freedom required the people to be armed.

"I'm disappointed, because I believe that the President has overstepped his authority. I know at least one other state has already talked about legal actions to address this Executive Order. I don't know what we can do as a County Commission. This is really not County Commission business, but I am certainly impacted personally by this. It bothers me greatly, I think we need do whatever we can as a County Commission, to let our wishes be known, and I would entertain potentially a legislative agenda item on our platform to encourage the state legislature to do a resolution encouraging Congress to, in fact, repeal this Executive Order with whatever action they can take. It has been done by some Presidents. They have appealed Executive Orders of prior presidents, so will whether it be legal action, action of congress or an action of the next President, I would like to see this Executive Order rescinded.

"The President talked yesterday about the children of Sandy Hook Elementary School and many other shootings. It brought tears to his eyes and he said as he thinks about the children that were impacted by this violence, he was brought to tears and he wishes that we could do something about it. We as a State and as a people in this country, we have a responsibility I think to defend ourselves first, and certainly if we take that seriously, we can certainly defend others as well.

"If we truly trusted the American people to be trained and to be armed, I think we would actually see a reduction in violence in places around this world where guns have been allowed and freedom has been allowed, there has been reductions in violence. If you look around the nation and around the world at places that are trying to restrict or prohibit guns, the violence has gone up. These are well substantiated

correlations.

"I think the answer to Sandy Hook, frankly, is that we should have been prepared. I know one Commissioner in previous meetings talked about being prepared. That's exactly what we're talking the County Manager addressed this yesterday in our staff meeting. We should be a prepared people. I think everybody needs to have a personal plan and to explore what can you do to defend yourself. Don't be caught off guard. We responsibility to be prepared.

"With that, House Bill 2052, which was passed in 2013, called the Public Building Security Act, which a is Bill that I authored with the assistance of the Kansas State Rifle Association, in that Bill includes a provision for Kansas teachers to be armed. As far as I know, no teacher in Kansas has been able to utilize that provision in that law. Should Sandy Hook happen in Kansas, I'm going to go back to that point and say we should have been prepared. There are literally dozens, I don't know how many elementary schools are in the Sedgwick County area, but there are lots of them. There are certainly hundreds across the entire state of Kansas. Every one of them is a soft target. Every one of them is vulnerable to bad guys coming in there to do exactly what they did at Sandy Hook and we have done nothing as a people to prepare ourselves.

"We have the responsibility, I think, to think ahead and to change our ways. We are obviously vulnerable, but to sit back and do nothing I think is the wrong answer. I would just ask my colleagues to think about what we can do as the County Commission to encourage the legislature and the Governor, perhaps the Attorney General, to engage this issue aggressively and make a statement, as much as we can. This Executive Order is not a solution. In fact, as I think about the mass shootings, and I've studied most of them, because this is a topic I'm very involved in. I read a statistic last week of 37 recent mass shootings, like over the last year, maybe even longer. I'm not sure what the time period is. Maybe it was 5 years, but 37 well known mass shootings. Only 3 times did law enforcement actually arrive on scene and fire a shot to stop the violence.

"The reality is that these incidents happen very, very rapidly. By the time the police can show up and do anything, it's usually over. Just a couple of minutes is all it takes for someone who's intent on doing these types of things to commit their violence and to focus on the registration of firearms. By the way, that's exactly what this is. The idea that we're going to somehow regulate person to person sales raises a lot of questions to me. I look at the drone registration provisions that were just implemented a few weeks ago, low cost to register, high penalties for not registering, I think that's a model for what they're going to do with firearm registration. When you give or sell a firearm to another person, you don't have to be a firearms dealer, you're allowed to do that. I have sold firearms to other people. Sometimes I've given firearms to my own family because I'm their father and think they ought to have firearms. I own firearms, and I think anybody who is serious about their defense ought to be able to have firearms and know how to use them and be prepared to use them if necessary.

"What the President is getting to is what he called the gun show loophole. There is no thing as a gun show loophole in my opinion. It's mischaracterized. It is person to person sales. The only way to actually accomplish his goals is to have a national registration database. That, in my opinion, is the first step in confiscation. Right now we do not have a national database on firearms, and it should remain that way, for us to remain a free state. It says here, the right to bear arms should not be infringed. I think when the government keeps track of who has firearms and regulates and mandates the transfer of these firearms must be controlled by the government, we are less free people and we are vulnerable to a government I don't trust.

"I guess I'm very, very concerned that the President has chosen to do something that has no bearing whatsoever on what his stated goals are. He wants to reduce gun violence. What he chose to do yesterday is completely infective in accomplishing his goals. Most gun violence is done by stolen firearms. It's not done through people who buy firearms legally. Most guns that are sold are done through places like Gander Mountain and Wal-Mart's and other sporting goods stores. Others are sold at gun shows. Gun show tables are dealers that do background checks, currently. This idea that there is a gun show loophole is a misunderstanding. We're you talking about private transfers of firearms from person to person."

"I guess I am just very concerned about what this means. It is a significant change. It was, in my opinion, unconstitutional for him to take the place of Congress and I think it smacks at the 2nd Amendment. I would just like to make those comments in the record. Thank you, Mr. Chairman."

Chairman Ranzau said, "Thank you, Commissioner. I will say that I agree with your comments and I have asked the Counselors to get us copies of the series of decisions and orders."

Mr. Eric Yost, County Counselor, greeted the Commissioners and said, "I don't even know that they've been issued yet."

Chairman Ranzau said, "They haven't been issued yet. After we get a copy of them, I am open to the idea of passing resolutions to nullify the enforcement within Sedgwick County and at the very least, ensure that no county dollars are being used to enforce the ones that we can have an effect on. Just one point of clarification, I don't believe that there have been any public schools that have allowed their teachers to defend themselves and their children, but there have been at least a couple of private schools that I know of that have decided not to make their children easy targets for those who would like to do them harm. Outside of that, there have not been any public schools that have made that decision."

"Seeing nothing else for 'Other' I do believe that we do have a need for a Fire District, so we will recess the Regular Meeting of the Board of Sedgwick County Commissioners."

The Board of County Commissioners recessed into the Board of County Commissioners functioning as the governing body of Fire District No. 1 at 1:00 p.m. and returned at 1:05 p.m.

Chairman Ranzau said, "It appears we have a need for an Executive Session. Commissioner Peterjohn."

MOTION

Commissioner Peterjohn moved that the Board of County Commissioners recess into Executive Session for 60 minutes to consider consultation with an attorney for this commission which would be deemed privileged in the attorney-client relationship and preliminary discussions relating to the acquisitions of real property and that the Board of County Commissioners return to this room from Executive Session no sooner than 2:05 p.m. The Executive Session is required to protect the county's right to confidentiality of its negotiating position, the public interest and to protect the county's financial interest and bargaining position.

EXECUTIVE SESSION

The Board of County Commissioners recessed into Executive Session from 1:07 p.m. until 2:30 p.m.

Chairman Ranzau said, "We are now back from Executive Session and no binding action was taken. At this time, I will recognize Mike North."

Mr. Mike North, Assistant County Counselor, greeted the Commissioners and said, "I am here today requesting authorization from the Commission to settle an existing litigation matter in the amount of \$65,000. This is a case titled in local district court of Alisha Lee-Gordon vs. Sedgwick County. As I indicated earlier, this is an automobile accident. An employee of the county worked for COMCARE, was involved in an automobile accident on March 27, 2013 in the City of Wichita. In this accident, the plaintiff sustained some injuries. Specifically, a shoulder injury. Her medical expenses incurred, today, are in excess of \$47,000. Upon an evaluation of the case and after attending a mediation session on December 22, 2015, the parties arrived at a tentative settlement of \$65,000. That would cover the medical expenses and whatever non-pecuniary expenses, such as pain and suffering that may exist in the case, as well. Upon reflection and consultation with outside counsel that was handling the case and the Risk Manager inside the county, we believe that this is an acceptable settlement offer, given the liability situation of the county and the existing damages claimed by the plaintiff. We would as the Commission to authorize a settlement in this case of Lee-Gordon vs. Sedgwick County, in the amount of \$65,000, Mr. Chairman."

Chairman Ranzau said, "Commissioners, what is the will of the Board?"

MOTION

Commissioner Unruh moved authorize the settlement of \$65,000 for the case of Alisha Lee-Gordon vs. Sedgwick County.

Commissioner Howell seconded the motion.

VOTE

*Commissioner Unruh Aye
Commissioner Norton Aye
Commissioner Peterjohn Aye
Chairman Ranzau Aye
Commissioner Howell Aye*

Chairman Ranzau said, "Is there anything else to come before the Commission, Mr. Manager?"

Mr. Scholes said "No, Mr. Chairman."

Chairman Ranzau said, "Seeing none, we are adjourned."

ADJOURNMENT

There being no other business to come before the Board, the Meeting was adjourned at 2:34 p.m.

*BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS*

*JAMES M. HOWELL, Chairman
Fifth District*

*RICHARD RANZAU, Chair Pro Tem
Fourth District*

*DAVID M. UNRUH, Commissioner
First District*

*TIM R. NORTON, Commissioner
Second District*

*KARL PETERJOHN, Commissioner
Third District*

ATTEST:

Kelly B. Arnold, County Clerk

APPROVED:
