

Sedgwick County

525 North Main Street 3rd Floor
Wichita, KS 67203



*Sedgwick County...
working for you*

Meeting Minutes

Wednesday, February 17, 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

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

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

ORDER OF BUSINESS

CALL MEETING TO ORDER

The Regular Meeting of the Board of the County Commissioners of Sedgwick County, Kansas, was called to order at 9:02 a.m. on February 17, 2016 in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman James M. Howell, with the following present: Chair Pro-Tem Commissioner Richard Ranzau; Commissioner David Unruh; Commissioner Tim Norton; Commissioner Karl Peterjohn; Mr. Michael Scholes, County Manager; Mr. Eric Yost, County Counselor; Mr. David Spears, Director, Bureau of Public Works; Ms. Karen S. Bailey, Chief Deputy County Clerk; Mr. Dale Miller, Director, Planning Staff; Mr. Thomas Stolz, Metropolitan Area Building and Construction Department; Mr. Joe Thomas, Director, Purchasing Department; Mr. Chris Chronis, Chief Financial Officer; Mr. Justin Waggoner, Assistant County Counselor; Mr. Dan Wegner, Sedgwick County Fire Marshal; Mr. Mike Borchard, County Appraiser; Mr. Daniel Schrant, Engineer, Public Works; Ms. Jill Tinsley, Communications; Ms. Laura Billups, Deputy County Clerk and Ms. Erika Rice, Deputy County Clerk.

Guests:

*Ms. Jama Mitchell, Appointee
Ms. Grace Kneil, Appointee
Mr. Bud Lett, Assistant Director, Metropolitan Area Building and Construction Department,
Mr. Lonny Wright, 1721 South Lulu, Wichita
Mr. A. J. Boleski, General Manager, Intrust Bank Arena*

INVOCATION: Pastor Tim Lytle, Unity Church of Wichita.

FLAG SALUTE

ROLL CALL

The Clerk reported, after calling roll, that Commissioner Norton was absent.

APPOINTMENTS

- A** [16-0084](#) RESOLUTION APPOINTING JAMA MITCHELL (BOARD OF COUNTY COMMISSION AT-LARGE APPOINTMENT) TO THE SEDGWICK COUNTY COMMUNITY CORRECTIONS ADVISORY BOARD IN AN AT-LARGE POSITION.
Presented by: Eric Yost, County Counselor.

RECOMMENDED ACTION: Adopt the Resolution.

Mr. Eric Yost, County Counselor, greeted the Commissioners and said, "Item A is the appointment of Jama Mitchell to the Community Corrections Advisory Board. She is an at-large appointment. Paperwork is in order, and I would urge adoption of the resolution."

Chairman Howell said, "Commissioners, what's the will of the Board?"

MOTION

Commissioner Peterjohn moved appoint Jama Mitchell to the Sedgwick County Community Corrections Advisory Board.

Commissioner Ranzau seconded the motion.

VOTE

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

Ms. Karen Bailey, Deputy County Clerk, greeted the Commissioners and said, "I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of the office of Sedgwick County Community Corrections Advisory Board, so help me God."

Ms. Jama Mitchell, Appointee, greeted the Commissioners and said, "I do. I just want to say a quick thank you for my appointment. I do appreciate being considered. I appreciate the opportunity of being part of the Community Corrections Advisory Board. I think they play an important role in guiding people out of the criminal justice systems and into better and brighter lives, and so I appreciate this opportunity. Thank you."

Chairman Howell said, "Thank you. Congratulations. Thank you for stepping up to this position. We really appreciate your service. Madam Clerk, next item, please."

Adopted

B [16-0086](#)

RESOLUTION APPOINTING GRACE KNEIL (COMMISSIONER UNRUH'S RECOMMENDATION) TO THE SEDGWICK COUNTY INTELLECTUAL AND DEVELOPMENTAL DISABILITIES ADVISORY BOARD.

Presented by: Eric Yost, County Counselor.

RECOMMENDED ACTION: Adopt the Resolution.

Mr. Yost said, "This is a resolution appointing Grace Kneil. She is Commissioner Unruh's appointment. Paperwork appears to be in order. I would urge adoption of the resolution."

MOTION

Commissioner Unruh moved to appoint Grace Kneil to the Sedgwick County Intellectual and Developmental Disabilities Advisory Board.

Commissioner Ranzau seconded the motion.

VOTE

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

Ms. Bailey said, "I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of the office of Sedgwick County Intellectual and Developmental Disabilities Advisory Board so help me God."

Ms. Grace Kneil, Appointee, greeted the Commissioners and said, "I do. I would just like to thank you for the opportunity to serve this population. They've been part of my whole life, and I'm glad to extend it to the county. Thank you."

Chairman Howell said, "Ms. Kneil, thank you so much for being here today and for stepping up to serve us. I really appreciate your willingness to do so. Madam Clerk, next item, please."

Adopted

C [16-0083](#)

RESOLUTION APPOINTING CINDY WEBER (COMMISSIONER UNRUH'S RECOMMENDATION) TO THE SEDGWICK COUNTY INTELLECTUAL AND DEVELOPMENTAL DISABILITIES ADVISORY BOARD.

Presented by: Eric Yost, County Counselor.

RECOMMENDED ACTION: Adopt the Resolution.

Mr. Yost said, "This is a resolution appointing Cindy Weber to the Intellectual and Developmental Disabilities Advisory Board. She is also Commissioner Unruh's appointment. The paperwork appears to be in order and I would urge adoption of the resolution."

MOTION

Commissioner Unruh moved to appoint Cindy Weber to the Sedgwick County Intellectual and Developmental Disabilities Advisory Board.

Commissioner Ranzau seconded the motion.

VOTE

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

Chairman Howell said, "Is Ms. Weber here today? Okay, well, we'll catch up with her later. All right. That motion passes, great. Madam Clerk, next item, please."

Adopted

NEW BUSINESS

D [16-0016](#)

PUBLIC HEARING FOR THE PROPOSED ADOPTION OF THE
INTERNATIONAL BUILDING CODE, 2012 EDITION.

Presented by: Thomas Stolz, Director, Metropolitan Area Building and
Construction Department (MABCD).

RECOMMENDED ACTION: Open the public hearing, close the public
hearing, and defer action on the proposed resolution until a future
meeting.

Mr. Tom Stolz, Director of Metropolitan Area Building and Construction Department, greeted the Commissioners and said, "I am here today to discuss the adoption of the new commercial building code for Wichita Sedgwick County jurisdiction. As you recall, I appeared in front of you at the January 20th Board of County Commission meeting to announce today's public meeting regarding the adoption of the 2012 International Building Code along with local amendments.

"During that meeting, I summarized Sedgwick County's philosophy of adopting contemporary building codes to help insure the safety and welfare of our citizens, to provide consistent and sensible regulation, rules for building community and to help commercial building and residential insurance rates in Wichita Sedgwick County remain at their lowest possible rates. The Wichita Sedgwick County jurisdiction is currently operating under the 2006 Commercial Building Code.

"For discussion today is the proposed adoption of the 2012 international building code along with 71 amendments. The proposed amendments to the code are what are chronologically listed in today's resolution. Over the past 12 to 18 months, staff has reviewed the proposed new code and amendments with architects, builders and developers who work in Sedgwick County. Additionally, we recently held four public meetings to allow for the review and final vetting of the new code with amendments. From those efforts came the proposed amendment language in front of us today. Additionally, the recommended code was taken before the Wichita Sedgwick County Building Codes and Standards Advisory Board for review. The Advisory Board supported the proposed code adoption with amendments in an eight to zero vote at their January meeting.

"The vast majority of the amendments supplementing the National Building Code being presented today are carry-overs from previous code cycles. These amendments address the following four areas; they give relief from regulation of the national code that do not make sense for this jurisdiction; they cover adoption of local trade codes, such as the Uniform Plumbing Code or the National Electrical Code that we adopt locally; they reference ADA (American Disabilities Act) standards, which are enforced in the State of Kansas; and finally, they connect to Local Fire Code related to matters directly involving the state of Kansas Fire Marshal's office, the Wichita Fire Department and Sedgwick County Fire District No. 1.

"During our discussion at public meetings, there were a handful of amendments that dominated the discussion time. I would like to briefly touch upon these three amendments. The most discussed change in the 2012 Building Code dealt with what is now section 32 of the resolution we are reviewing today. In short, this portion of the 2012 National Code calls for a sprinkler system to be installed and all new construction of buildings that have assembly usages for food and drink consumption when the fire area exceeds 5,000 square feet or when the occupancy level rises above 100 people. Historically, the City of Wichita Code Department had allowed for an exception to this code, which allowed an occupancy of 300 people instead of 100.

When the Code Departments merged in 2013, this exception was carried over to the unified code. The new amendments today continues to allow 300 occupancy numbers but requires the builder to add a third exit or fire alarm system to the building. Thus, the new amendment proposed today is still less restrictive than the 2012 Building Code but more restrictive from the previous amendment. This proposal was seen as a compromise between fire officials along with local builders and developers.

"Similarly, sections 27 and 35 of today's amendments that were developed in partnership between builders and Wichita Fire Code officials. Both of these amendments address large scale storage facilities, most notably pertaining to aircraft hangars. The 2012 [Building] Code calls for a sprinkler or fire suppression system when the building reaches 12,000 square feet in size. Historically the City of Wichita Code Department allowed an exception for this for aircraft storage buildings to reach 26,000 square feet before requiring a sprinkler system. When the code departments merged in 2013, this exception was carried over to the unified code. The new amendment today is a compromise between the old amendment and the new code, which would allow storage areas of this nature to be built at 18,000 square feet before a sprinkler system is required. After recent consultation with officials from Sedgwick County Fire District No. 1, these current amendments will have to be specific to the City of Wichita jurisdiction only. County jurisdiction will continue to follow the adopted 2012 Building Code and its standard.

"And finally, an e-mail note was sent from a Sedgwick County constituent to at least two Commissioners yesterday concerning three questions regarding section ten in today's in today's National Building Code package. Overall, section ten pertains to the question of when a building permit is required in Sedgwick County, and it lists a number of exemptions when a permit is not required. In the 2012 code, a building permit is required for any structure over 120 square feet in size. This is a carryover from old code. Both Sedgwick County and Wichita Code Departments have historically not required a building permit until the structure reaches 200 square feet in size. This amendment to the National Code is carried forward in this adoption.

"A second issue brought up in that e-mail dealt with location permits required for structures under 200 square feet. This type of permit is only required in the City of Wichita jurisdiction, so item number 1A under section ten today needs to more clearly state this, and we'll make it happen after the meeting. And finally, a third point brought up by the constituent pertains to section ten, carrying forward an amendment requiring structures under 400 square feet which are not on foundation or slab to be anchored into the soil. This amendment portion is carried forward to prevent structures from blowing into neighbor's properties or structures. The constituent felt this standard was too restrictive.

"At this point, I will conclude my presentation, and I would like to stand for questions specific to today's adoption. With me today are Bud Lett, who is the Assistant Director of Metropolitan Area Building and Construction Department (MABCD) and some members of the Sedgwick County Fire Marshal's office, and they will help me answer any technical questions you may have. If there are no questions or after questions are answered, I would request the Commission allow us until the March 16th Board of County Commission meeting to adjust section 10, which I mentioned before, and any other adjustment brought forth by a majority of the Commission today. So with that, we're ready for questions."

Chairman Howell said, "Thank you for your presentation. Commissioner Ranzau."

Commissioner Ranzau said, "Tom, back to the aircraft hangar thing, could you go

over that again and clarify.”

Mr. Stolz said, “Let’s go before the merger. Before 2013, the City of Wichita Code Department allowed an exemption to the code which called for fire sprinkler systems or suppression systems to be added into warehouses or aircraft hangars above 12,000 square feet. That’s what the code called for. Wichita jurisdiction allowed that to go to 26,000 square feet.”

Commissioner Ranzau said, “What did we allow?”

Mr. Stolz said, “Sedgwick County has always been whatever the code standard was, which was 12,000 square feet. When we merged, that amendment got carried over. It was not clear in the Unified Code that was City of Wichita jurisdiction only, and that’s part of what we have to clean up in this adoption cycle. When we sat down a year ago and met with the developers and the people who built those kinds of structures, they were adamant that 12,000 feet was unworkable for them and would drive costs up.

“So there was a compromise between the Fire Marshal of Wichita and that group, they came to the 18,000 square foot mark. So the 2012 Code that we’re adopting says 12,000 square feet. The amendment that we’re pushing forward today would allow 18,000 square feet. That’s 1.5 times the fire space. But that can only be in the City of Wichita jurisdiction. I will let the Sedgwick County Fire Marshal come forward and explain that, but it’s due to a water issue in the county, he wants to keep that code at 12,000 square feet for fire suppression. Does that make sense, sir?”

Commissioner Ranzau said, “Yeah that helps clarify. Thank you.”

Chairman Howell said, “Commissioner Peterjohn.”

Commissioner Peterjohn said, “That kind of segues very nicely into the point I was trying to make. So in effect we’ve got two different codes here, one for the city, which really is documented here, but we’re really talking about the county code and covering what’s here for the county. They’ll operate jointly, but we’ve got two separate and distinct codes, so there may be some confusion on the public side on this, and I’d appreciate some additional comments so that anyone who is watching this broadcast or reading the transcript will understand the separation that exists even though we may have the same inspector, whether it’s an aircraft warehouse or whatever.”

Mr. Stolz said, “Both jurisdictions, Sedgwick County and the City of Wichita, have the same code. Right now it’s the International Building Code 2006 that we want to push to 2012. What changes and where you begin to see a divergence of application is in the amendments we’re talking about, in the 71 amendments.

“Inside those amendments, some of them, not all of them, but some of them have specific requirements that are only for one jurisdiction or another, and we try to articulate that in the amendments. So when people go online or when people access the code books, it’s important that they not only look at the code book. They look at the amendments of things which are specific to this jurisdiction. And there are reasons, valid and bona fide reasons, why some code applies only to unincorporated county and some code applies to the City of Wichita.

“Location permit is a great example where we’ve diverged what is happening in the City of Wichita versus what happens in unincorporated county. Location permits are required in the city because inside the city limits and inside of an urban area, there are sewer lines, waterlines, electric lines, all kinds of lines buried under the ground,

and it's important that when people construct small utility sheds out-buildings that they don't go over those lines. Someday those lines will have to be worked on and their shed is over the line and it causes problems. That problem doesn't necessarily exist in the county. So we've exempted that away from Sedgwick County incorporated and second or third class cities and kept it required only in the City of Wichita.

"There are bona fide reasons sometimes where we diverge that. It doesn't happen often, but a handful, six, ten, twelve amendments inside of this adoption will be specific to one jurisdiction or another, and it's easily managed."

Commissioner Peterjohn said, "I'd like to jump back to the point that Commissioner Ranzau brought forward, and if the Fire Marshal needs to come up and give us more information, I'd like to understand why we would have a tighter restriction in the county than the city does from a water point of view if it comes to a fire situation and why 12,000 square feet is kind of the optimal cutoff point."

Mr. Stolz said, "I'll let him handle that."

Mr. Dan Wegner, Sedgwick County Fire Marshal, greeted the Commissioners and said, "The County has kept the 12,000 square foot requirement for sprinkler systems. We've had that since 2003 when we adopted the code. When you get into more rural areas in Sedgwick County, we have less water, less water available, and we have a lot of small, private air fields and airports with these single hangars. When we start getting into larger structures, we don't have the water supply for suppression to take care of those, and it's not there to incorporate a sprinkler system. So that limits on how big these buildings can be and the amount of storage that goes in these buildings."

Commissioner Peterjohn said, "The question I was concerned about was the fact that a lot of the aircraft hangars in this community are not inside the Wichita city limits, but they're more or less inside the city, if I look at the facilities down by where Boeing used to be, where Spirit is today, if I look at the Cessna facilities. My understanding is that they're technically not inside the city limits, so they would be covered by this. Am I wrong in that assumption?"

Mr. Wegner said, "Most of the aircraft hangars and facilities are within Sedgwick County. There are a few that are within the city limits of Wichita. Those current facilities already have the hangars sprinklered and are code compliant."

Commissioner Peterjohn said, "The question I'd have is, if the 12,000 square feet is the optimal that came down from the National Code, I'd like to make it specific here and not put people who are located in the county at a disadvantage compared to the City of Wichita. Most of the aircraft facilities I'm aware of have water, water resources. They have the type of hydrants that would not put you in a situation that if you're, let's say, out in far western Sedgwick County, ten miles away from the nearest hydrant, where you would have that water problem, Chief."

Mr. Wegner said, "Right."

Commissioner Peterjohn said, "So my point would be, is I'm wondering if we might want to have an exception on this. If they've got water availability in the county and they've got hydrant facilities so that they could support that, we wouldn't have an unnecessarily restrictive or tighter limitation on that and put folks out at the county at a comparative disadvantage compared to folks in the city just by regulation, and I'm not talking about just a little airfield where you've got a grass strip. I'm talking about

some of the major employers here. I emphasize that in light of the fact that there was some very disquieting news this morning of one of the major corporate jet manufacturer's parent company in this town announcing a very significant sizable cutback in their workforce, and anything we can do to improve the regulatory climate is a priority for me. I really want to understand why we've got this tighter restriction in the county, Chief."

Mr. Wegner said, "Well, it's not that we're actually a tighter restriction. We've just stayed compliant with the Code. The City of Wichita, with their codes, have made their codes less restrictive. In fact, they've actually taken those codes out of their code requirements and are bringing them back into existence. We've maintained compliance with the code since 2003. My experience at this point, it really hasn't been a detriment to aircraft companies installing more facilities or having hangar access or meeting code compliance. They also fall under their insurance carriers for suppression and other factors, so when we go in to look at a plan for a new hangar, or a new facility, they're going to overbuild already. So they're going to stay within compliance of these codes, so we really haven't created a hardship for anybody at this point."

Commissioner Peterjohn said, "We've got a significant distinction, and I'd rather be competitive with the City of Wichita than with some National Code that really doesn't understand the nuances and the importance of the aviation industry within this county, although I defer to some of my colleagues up here, if they've got more information, because they may have more experience with the aircraft industry than I possess, but that's a concern for me with this. Thank you."

Mr. Wegner said, "Thank you."

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

Commissioner Unruh thanked the Chairman and said, "I guess I just am really looking for a comment from Tom here. Chief, thank you. My question is, or what I've been led to believe is that these modifications are agreed upon by MABCD staff, by the Fire District, and by the contractors who are also involved in this process; is that correct?"

Mr. Stolz said, "The Fire Marshals sat down with the developers and talked about this 26,000 down to 12,000 change, and through that discussion, the developers were satisfied with 18,000 square feet. When we wrote the resolutions up, I was thinking we were going to have that universally across the board, but upon talking to the Fire Marshal, just within the last few days, and understanding better their water restriction issues in the county, they would go back to code compliance. So that piece of the discussion I think between now and adoption time, we need to have with the developers and make that known."

"I do agree with the Marshal that many times people that are building these kinds of buildings today automatically put water systems in. It's better for insurance rates and other issues, but it could come up. It could be an issue in the future if someone does not, you have two jurisdictional issues. This piece of this amendment, I think it would behoove me to go back to the developers and talk about the change that's happened just in the last week or so. But you're correct. We sat down and negotiated all of this, talked all the way through this and came to this 18,000 square foot resolution."

Commissioner Unruh said, "Okay. If they have significant objection to going back to the code as it is, we would just have to make a decision?"

Mr. Stolz said, "I think I need to offer the Commission two choices on what they want to do, what they want to vote for."

Commissioner Unruh said, "Well, thanks for that clarification. That's all I have."

Chairman Howell said, "Mr. Stolz, just a follow-up on that. How many of these buildings in Sedgwick County are kind of between the 12,000 and 18,000 square foot size? How many structures are of that size? It seems like a fairly small aircraft hangar that would be a manufacturing facility."

Mr. Stolz said, "There are several. We have several dozen within the county jurisdiction of the 12,000 to 18,000 square foot size. When you start talking 25,000 to 40,000 square feet, that's pretty limited. But there are several that this would impact."

Chairman Howell said, "Like the personal hangars that people might have for their own private plane, they're probably smaller than that?"

Mr. Stolz said, "Yes."

Chairman Howell said, "The manufacturing sites are larger than that, so it seems like a strange window to try to hit that 12,000 to 18,000-foot."

Mr. Stolz said, "I think the spirit of the code is that when structures get so large and they're holding flammable materials, airplanes and fuel and oil and all the things that go into that, if a fire starts in there, we look at what we can respond to in this jurisdiction from fire emergency standpoint, and when you start talking about 18,000 and 26,000 and 30,000 square foot buildings, we've done the math on it. Both Marshals have done the math. And if that fire would start, we would have to spend half of our fire resources in this entire county to go combat that blaze. That leaves 50 percent of the county exposed during that time."

"It's that kind of discussion where we begin to affix numbers and try to make sure that the spirit of the code is actually public safety oriented. Structures smaller than that can be fought more efficiently and thus the requirement doesn't exist there. The debate of when you start kicking that restriction in and when you want fire suppression and sprinkler systems regulated into the building, that's the debate."

Chairman Howell said, "Have there ever been any incidents in Sedgwick County where one of these structures has been on fire and any incidents we have to refer to that?"

Mr. Stolz said, "I'd have to refer to the Marshal to come back and talk about that. Not in the three years since I've been in the Code Department."

Chairman Howell said, "I've seen some of these private hangars that have many doors and the one building, very long and skinny buildings. Is each one considered a building independently or is the entire structure? If there's 20 doors on front of a building, for example, is that all one building?"

Mr. Stolz said, "If it's simply a number of doors, then yes, that would be considered one building. What you'll see happen in some of these larger structures, they'll put a fire separation wall in the middle of the building. From the outside, it looks like one warehouse, but they do a fire separation wall in the middle of the building, so they're considered as two structures basically as far as code."

Chairman Howell said, "I was involved in a building project one time not too long ago"

in the county, and we had a big discussion about a sprinkler system being required. In fact, there were some logistic challenges on how to do that in an area where you didn't have water supply. I understand the firefighters also need water, but you don't just hook up to the municipal water supply for the sprinkler system, you have to have some other way to do that; is that true? How do you get the water supply for a remote building?"

Mr. Stolz said, "I know that the water district gives us challenges, as far as water pressure, but I'll let the Marshal answer that question."

Mr. Wegner said, "A lot of the problem is on the public rural water systems is that we don't have the volume of water. They're smaller mains and smaller lines. In the rural parts of Sedgwick County, we rely on shuttling water through our tender systems."

Chairman Howell said, "I guess my question is, if you were building a structure out in the middle of nowhere, how do they provide the volume of water to actually adequately supply a sprinkler system inside that building?"

Mr. Wegner said, "They don't."

Chairman Howell said, "So if you make this a requirement, they can't comply with that?"

Mr. Wegner said, "Then we look at other means of construction or limiting it to the square footage of the building so it's not required to be equipped with a sprinkler."

Chairman Howell said, "That to me is a key piece there. That concerns me. What you're saying, if I understand correctly, if you're out in a remote part of the county, you don't have access to municipal water, then we don't make hangars larger than 12,000 square feet."

Mr. Wegner said, "Essentially, that's what it is. We have had two facilities out in Sedgwick County that put in wells and pumps that were able to supply the water demands for their buildings and put a sprinkler system in. So we've worked with other alternative measures. We've used cisterns or storage water tanks to meet the requirements, with them. When we have these type of projects come in, we do what we can to help them meet the compliance of the code or find alternative methods."

Chairman Howell said, "That would require them to have electricity and pumps and things in place to be operational to make that system work?"

Mr. Wegner said, "Yes."

Chairman Howell said, "Commissioner Ranzau."

Commissioner Ranzau said, "Just a comment on your line of question there. The problem that I have, is what happens is a lot of people don't do things out in the county because of this. I get complaints all the time about our fire district not working with people and some of the rules and regulations are stopping economic development, and your points are right on. It just becomes economically not feasible, so we have to be able to balance this stuff."

"I'm concerned about some of these regulations that are going on here. I'm really not interested in making things more restrictive. I would prefer to have them less restrictive. We need to find some solutions and work better with people as we move forward. That's all I have to say."

Chairman Howell said, "I'll just make a comment following up with that. The intent of the sprinkler system, I think, is for human safety, to protect life, I assume."

Mr. Stolz said, "It is also to protect property. You look at the impact of a fire on a business. The most recent one we have is Air Products. That was a sprinkler system that activated, put the fire out. A month later, they're back up in production. So it has less of an economic and financial impact on the community and on that business. If that business had been burnt to the ground, the impact on Sedgwick County and the people around there that depended on those jobs, the people that depended on those products would have been gone."

Chairman Howell said, "I understand that points."

Mr. Wegner said, "So it covers both. It's a life safety, but also the sprinkler systems put a level of protection in there that will protect the investments of that business and the people working there so it's not out of business."

Chairman Howell said, "I understand that point. I guess I would just say, in the free market world, I would like to make the decisions on risk and investments. If we are talking about property, things are insured, they have certain levels of risk for operating businesses, they purchase insurance products and they're willing to accept certain amounts of risk, understanding the decisions and the ramifications for those decisions. For us to mandate a single solution to this limits their freedom a little bit."

"As long as we're not talking about human safety, to me, this is more of an issue of property, risk management, so I guess I'm less concerned about that. Of course, I don't want anybody to have their property damaged, of course. But having said that, I would like to give those business owners and those property owners' rights to make decisions on their own. If it's not really about safety of human lives. So there's a lot of other codes in place in terms of exits and size of exits, all kinds of other things, storage of hazardous, flammable liquids and things like that that I'm sure are in place as well. A lot of mitigation is in place to create safety, and this is just one of many."

"I may actually probably not agree with the 12,000 square foot size myself. Thank you for your comments."

Mr. Wegner said, "Thank you."

Chairman Howell said, "Commissioners, we are going to have to have a hearing here. I don't see any other comments at this time. I would like to open this up to the public. We're going to open up a hearing, allow the public to speak to this. Do I need to make a motion to open this hearing or just open it? We're going to open up the public hearing on the proposed adoption for the International Building Code for the 2012 edition and ask the building to come up and make comments."

Mr. Lonny Wright, 1721 South Lulu, Wichita, greeted the Commissioners and said, "I wasn't involved in this evaluation of the building code. We were dealing with the commercial fire sprinklers six and nine years ago, we learned that it was mostly insurance company driven, that even if the local was more generous, the insurance companies wanted the national standard. And if you didn't meet that, then there is a balance of cost. Just from those years of experience, I think there is a basis for the 12,000 square feet to protect the investments, and those people that aren't able to build or something, I think maybe they need to talk with their insurance companies. I imagine it would still continue today and that we need to see what the insurance costs are by not following that. Thank you."

Chairman Howell said, "You have a comment or question from Commissioner Peterjohn."

Commissioner Peterjohn said, "Mr. Wright, do you think the City of Wichita should change their standards so we be uniform and make them at 12,000 feet, too?"

Mr. Wright said, "No. I think there's different situations. After going through this consolidation, it's almost a surprise how much we can be uniform, but you know in, Wichita, we've got the water. We've got the supply. If we were an insurance company wanting to insure, we could say, you know, they're going to get there in ten minutes and we balance it with the county. I think in this case, while it's kind of a reversal, generating more generous in the county, I think the facts of the water supply and the insurance perspective calls for it to be different."

Commissioner Peterjohn said, "Even if they had the water supply, the hydrants out there, we'd have the tighter standard. Let me ask a question of the Fire Marshal, if I may. I appreciate your testimony, Mr. Wright."

Mr. Wright said, "Thank you."

Commissioner Peterjohn said, "As a question has come up in terms of how this may be insurance driven, my understanding that the insurance rates for insuring for property and casualty on buildings is mainly driven by how close they are to a fire station as opposed to whether they have hydrants nearby or not. Am I correct in that supposition, or is it more driven by water availability in terms of determining insurance rates?"

Mr. Wegner said, "It's driven by both. When you're talking about a municipality and its ability to supply water, that is factored in heavily. The ISO (Insurance Services Office) rating that we currently have in Sedgwick County is communities that have a water distribution system, ISO rating of two, which actually gives a lot lower insurance premiums for industry, not so much on the residential, but it did help them out. Outside of the municipalities within five miles of a fire station, we have a water haul rating of a four, which is actually rather good. So it is driven both by the fire service and the ability to deliver the water."

Commissioner Peterjohn said, "Do you happen to know off the top of your head what the ISO rating for the City of Wichita or City of Derby happens to be?"

Mr. Wegner said, "I believe they're three's right now. I'm not 100 percent, but I believe they've got a water rating of three."

Commissioner Peterjohn said, "That would cover the entire municipal boundaries?"

Mr. Wegner said, "Yes, of Wichita."

Commissioner Peterjohn said, "Thank you."

Chairman Howell said, "Thank you, Chief. Is there any other member of the public like to speak to the Commission on this topic today? Seeing none, we'll go ahead and close the public hearing considering the adoption for International Building Code 2012 Edition. Any other comments or questions from Commissioners right now? I have one more. You know, Mr. Stolz, you and I were speaking about this issue window size. I can't seem to find that, window size. I can't seem to find that in this backup material."

Mr. Stolz said, "In the amendment package?"

Chairman Howell said, "I can't see it now. I am looking for it and I don't know where it's at."

Mr. Stolz said, "I'll find it, sir."

Chairman Howell said, "You and I also talked about some information you gave us a little earlier that talked about some things being less restrictive or the same. I asked the question about is that a referenced to the 2012 Code or referenced to a 2006 Code? And I never got an answer to that. When you say something is less restrictive than the 2012 Code, it makes it more restrictive than the 2006 Code. Are you still planning on presenting that to us at some point?"

Mr. Stolz said, "I went through all of the 71 amendments again to try to determine comparing the 2006 to the 2012 and then where the amendment fit in. There was a couple that I e-mailed that and a couple of them I mentioned today, which were actually less restrictive than the 2012 Code, but more restrictive than the amendment that we previously had. There were three of those. The rest of these are all carryovers where there's no change or no difference."

"The window access dimensions is under section 36 of the resolution."

Chairman Howell said, "Do you know what page that is on?"

Mr. Stolz said, "It's 19 on the copy I'm looking at here."

Chairman Howell said, "Is this one of the three areas that's more restrictive?"

Mr. Stolz said, "That is correct. The code itself only deals with the width, it does not deal with the height. Both Fire Marshals wanted 48 inches of height brought in, which is more restrictive than code, to allow for the full size firefighters to get through with air packs on, into structure."

Chairman Howell said, "So, in the 2006 code, there was no height?"

Mr. Stolz said, "There was no height in any of the International Building Codes, there never has been. This amendment is locally brought in here to bring the height factor in."

Chairman Howell said, "But there was a square footage standard?"

Mr. Stolz said, "That is correct."

Chairman Howell said, "What was that standard, do you know?"

Mr. Stolz said, "Sorry, stand by, sir."

Chairman Howell said, "Sorry to put you on the spot here. I should have asked you my questions ahead of time. While they're looking at the information, this is a 48-inch requirement or four foot requirement for height?"

Mr. Stolz said, "Correct."

Chairman Howell said, "So if you have an eight foot ceiling and then the window"

presumably does not go clear to the ceiling. Let's say it goes to seven feet. Does it mean from three feet off the floor to seven feet off the floor, that's very tall window. That changes the esthetics of the building and it also changes the HVAC (Heating, Ventilating, and Air Conditioning) efficiency of building."

Mr. Stolz said, "I wouldn't disagree with that."

Chairman Howell said, "There's a lot of concerns I have about that."

Mr. Stolz said, "The Code language says openings should have a minimum dimension of not less than 30 inches and they break it down to metric, which would be 762 millimeters, and that's the standard in The Code. So in the resolution, we have kept that standard and added the 48-inch height requirement, thus making it more restrictive."

Chairman Howell said, "Okay. I will be thinking about this one a little bit more as we go forward. I guess right now, I'm not sure I agree with this at this time, so I just need to think about this a little bit more. We're not going to adopt this today. We're just thinking about it. What was the third issues that was more restrictive? Did you mention the third one? You said we talked about two of them?"

Mr. Stolz said, "Sections 27 and 35 dealt with the aircraft hangar discussion that we just had, the 12,000 square feet, 18,000 square feet, and 26,000 square feet discussion we just had. The old amendment was 26,000. The new amendment is 18,000. More restrictive than the old amendment, less restrictive than the code. And the third issue is this window height issue that we're discussing here today."

Chairman Howell said, "Okay. Very good. That's all my questions so far. Seeing no other questions or comments from the Commissioners, we need to go ahead and I guess we're going to defer action at this time until a later date. You mentioned March the 16th as a good date for us to get back together?"

Mr. Stolz said, "That's correct, sir. My plan is to go to City Council March 15th for their first read and come back to you guys on March 16th."

Chairman Howell said, "Counselor, would it be okay for us to defer this action until that time?"

Mr. Yost said, "That's fine."

Chairman Howell said, "We're ready now to defer action on the proposed resolution to a future meeting, which will be March 16th, 2016."

MOTION

Chairman Howell moved to defer action on the Proposed Adoption of the International Building Code, 2012 Edition, until March 16, 2016.

Commissioner Peterjohn seconded the motion.

Chairman Howell said, "Madam Clerk, please call the vote."

VOTE

*Commissioner Unruh Aye
Commissioner Norton Absent*

Commissioner Peterjohn Aye
Commissioner Ranzau Aye
Chairman Howell Aye

Chairman Howell said, "Thank you. Madam Clerk, next item, please."

Deferred

E [15-0849](#)

QUARTERLY INTRUST BANK ARENA REPORT.

Presented by: Ron Holt, Assistant County Manager.

RECOMMENDED ACTION: Receive and file.

VISUAL PRESENTATION

Mr. Ron Holt, Acting County Manager, greeted the Commissioners and said "You have a copy of the presentation at your places. It looks like the computer is deciding to be a little slow in opening up, so we're not going to wait for that.

"We're going to continue with the report. You have a copy of the report at your places. This is the fourth quarter 2015 Intrust Bank Arena report, and it also as a fourth quarter then gives us a year to date 2015 report and we'll look at year over year, 2015, 2014. As we state at each of these meetings, the goal for the Intrust Bank Arena was to develop and build and modern first class sports and entertainment venue in downtown Wichita that seats 15,000 for basketball. This facility is owned by Sedgwick County, and it's operated by SMG. The original management agreement between the county and SMG was August 1, 2007.

"The plan for the Arena was developed in 2004, it's centerpiece of a neighborhood redevelopment plan adopted in November of 2007. The financing for the Arena was a 30-month voter approved one percent sales tax. Collections July of 2005 through December 2007 totaled \$206.5 million, the total project cost for the Arena project; buying the property, demolishing buildings, construction costs, all of the work related to the project was \$191 million. As a result of that, as we had planned, we ended up with an operating and maintenance reserve fund, based on the collections and the costs, of \$15.5 million.

"The construction start date was November 19, 2007. Groundbreaking was December 4th, 2007. The Arena opened January 9, 2010. Each of these reports on a quarterly basis we talk about. The aspects, both the ticket sales and the financial aspects of the SMG agreement, we share with you the Arena event parking. We have an agreement with the City of Wichita about managing that parking, and we talk about the Arena sales tax reserves and any upcoming events. So, I'm going to move to a slide 7, and get right into the quarterly report.

"Fourth quarter 2015 ticket sales, if you look at slides seven through ten, all of those are events that happened during the fourth quarter. We ended up with 29 events, 35 performances. For attendance numbers, we had 177,574 in the fourth quarter. Tickets sold, 176,115. Gross ticket sales of \$8,197,666. The average cost per ticket sold during the fourth quarter of 2015 was \$46.55. The average attendance per performance was 6,123.

"Year to date, 2015, we had 101 events, 131 performances. Attendance was 439,767. That does not include non-ticketed events, Wingapalooza, Winter Jam or The Living Proof Live events. Ticket sales were at \$415,688. Gross ticket sales, \$15,807,233, and average cost per ticket of \$38.03, and the average attendance per

performance was 4,487.

"Looking at the year to date, 2015 versus the year to date 2014 ticket sales. Again, 131 performances in 2015 compared to 116 performances in 2014, 138,951 more tickets sold in 2015 than 2014. Gross ticket sales in 2015 were more than gross ticket sales in 2014 by \$7,845,791, and the average ticket price, 2015 over 2014, was \$9.26.

"Moving on, we look on slide 13, the fourth quarter community affairs reports; the net employee benefits in the fourth quarter was \$803,472. Full-time employees was 42 to 43 over those three months. Part-time employees over the three months through months range from 351 to 366.

"If you look at year to date 2015, what we call community affairs, the net employee wages and benefits was \$2,831,503. The employment full-time ranged from 37 to 43 over the year and part-time employees ranged from 326 to 374 over the year.

"On slide 15, looking at the year over year 2015 to 2014, we had \$307,871 more paid net employee wages and benefits 2015 compared to 2014. And we had one to two difference in full-time employees and 14 to 22 difference less in part-time employees 2014 to 2015.

"Fourth quarter 2015, total number of community groups that were volunteering in concession stands, some of these groups repeated, 72. Amount paid to these groups in the fourth quarter was \$173,749.

"Spending with Sedgwick County or Kansas companies amounted to \$1,157,129.23. Sales tax paid for the fourth quarter was \$857,902.23.

"There were seven arena presentations or arena tours during the fourth quarter and six local events or activities in the fourth quarter. Looking at those numbers year to date, a total of 244 community groups, some of those were repeated. Those are not separate individual groups. Amounts paid to those groups for the year was \$428,460.

"Spending with Sedgwick County of Kansas companies for the year, \$3,657,777.52. Sales tax paid for the year 2015 by the Arena \$1,664,443.06. Arena presentations our tours, 33. Local events and activities, 32. Comparing year over year, we had 40 more community group opportunities for participation and volunteering and concession stands, paid those groups \$122,883 more in 2015 than 2014. Spending with Kansas companies increased by \$1,081,988.38. 2015 over 2014, sales tax increased by \$806,146.01, 2015 over 2014. Arena presentation, there were 15 additional ones 2015 to 2014, and seven less local events or activities.

"The next number of slides, 19 through 26 all relate to the community activities that the Arena staff and/or donations that were made during the fourth quarter.

"Moving on then into the financial summary. I'm on slide 28. You'll see there that we had a total -- these numbers include other in the performances and events, so they are a little bit different from the earlier numbers because of that. We had in the fourth quarter a number of performances during the fourth quarter, 35. A number of events, 39. Net event income for the fourth quarter was \$2,193,310. Total operating or other operating income was \$483,646 for a total gross building income of \$2,676,956. The building operating expenses for fourth quarter was \$1,620,711. Net building income, \$1,056,245. That's an important number for you to focus on, because when we get to the year to date number, this number will be a little large in the final results for 2015.

"Year to date, 2015, then, total performances, 131. Number of events, 101. For a net event income of \$4,933,803. Other operating income, \$1,633,878. For a total gross building income of \$6,567,681. The building operating expenses for the year, \$5,417,475. The net building income then for 2015 was \$1,150,206.

"On slide 30, you see the year over year 2015, 2014 differences in performances. There were 15 more in 2015 than 2014. One more event in 2015 than 2014. \$1,964,080 more in net income 2015 over 2014.

"Slide 31, there was \$32,404 less in other operating income 2015 over 2014, but \$1,931,676 more total gross building income 2015 over 2014.

"Moving on to slide 32, you see the operating expenses were \$904,323 less in 2015 than 2014. We see that the total net building income difference was \$1,027,353 more in 2015 than in 2014.

"Moving on to the contract for parking that we have with the City of Wichita, in the fourth quarter, the net income there was a positive \$28,709.66. For the year, slide 35, was \$44,812.19.

"Looking at slide 38, you have the Arena sales tax reserves, the operating and maintenance reserve as of December 31, 2015. It's \$12,944,915.21. You see the revenues and expenditures for the fourth quarter on that slide as well. Year over year, the Arena sales tax reserve fund was less by \$592,500.61 at the end of 2015 compared to the end of 2014.

"Slides 40, 41, and 42 are list a listing of upcoming events, and it's a pretty robust and full first quarter into second quarter schedule for 2016. I failed to mention that the beginning of the report, A.J. Boleski, the General Manager for the Arena is here this morning. That's the end of the report. I'd be happy to answer any questions that you might have."

Chairman Howell said, "Thank you for the presentation. I appreciate the presentation. You did a really good job, putting a lot of stuff together. So thank you for that. Commissioner Peterjohn."

Commissioner Peterjohn thanked the Chairman and said, "This is an incredible report and it's one that I've looked forward to reading about in terms of the gross revenue side and the information. It looks like 52 percent of the total revenue at the Intrust Bank Arena occurred in the fourth quarter of 2015 by my very rough calculations while you were proceeding here. We had an increase of almost 100 percent, in terms of ticket sales. I don't know how that compares to others around the country, if Mr. Boleski would have any information on how that performance compared with other SMG facilities around the country or any other facilities, I'd certainly be interested in hearing how that came out, because I'm very impressed, of course, expected a stellar return, in terms of how this report came in, based on the 16 additional events and huge series of Garth Brooks concerts. I think there were four or five of those events."

Mr. A. J. Boleski, General Manager, Intrust Bank Arena, greeted the Commissioners and said, "Fourth quarter, we're somewhat cyclical in nature, our building. That's why when we compare quarter versus quarter every year, sometimes third quarter might be really bad, sometimes really good, depending on where events land. Typically, third quarter is strong, fourth quarter right behind it, and this year we had some bigger events in the fourth quarter. Obviously the one you mentioned, Garth Brooks, was six shows, so that's basically like we had six different concerts but all in one.

That's going to add to a lot of it, Just like Def Leppard, Ariana Grande, several big concerts along with a few basketball games. Incredible fourth quarter.

"Our staff did a tremendous job all year and finished extremely strong. We thank the community for supporting our events."

Commissioner Peterjohn said, "I'm thinking year over year, isn't this a good deal more total revenue than we took in even in the initial year we opened the facility back in 2010? Is my recollection correct on that point?"

Mr. Boleski, said, "I'm not sure on the revenue side, but on our net operating income side, this is our second best year ever had, in the history. Without having the numbers directly in front of me, but Ron may be able to speak to it. But yes, this is the second best year in the history."

Commissioner Peterjohn said, "Are you presenting us with a check today?"

Mr. Holt said, "The agreement calls for the check to be presented after the audit is done and that's required to be done on or before April 1. So it's in the April time frame before we get the check. But first year, I don't know what the gross numbers were in the first year, but the net numbers for year one, 2010, was a little over \$2 million, and so this year we're a little over one million dollars.

"That whole year the first year was a strong year. To be expected, because it was a new facility, new opening. So it was a strong year the whole year that first year."

Commissioner Peterjohn said, "Okay, because I was interested in how we would compare on these numbers, and one thing that was a little bit disquieting to me, in terms of numbers, you mentioned that we started out with a \$15.5 million operating and maintenance reserve, and it looks like we're down to about \$12.9 million, about \$2.6 million less, and if I can fumble back here to your page on the report, it looked like our operating and maintenance reserves dropped to \$12.9 million, and this is a reduction of almost \$600,000 from this time last year; is that correct?"

Mr. Holt said, "That's correct. Remember that our 2015 capital improvement numbers were around \$700,000. So that number, that \$592,000 is less than what the capital improvement numbers were, expenditures were, in 2015."

Commissioner Peterjohn said, "Because I'm continuing to be concerned if that operating and maintenance reserve continues to diminish, if it gets down to \$0, then we're going to have to come up with an additional funding source to support this, and since this was such a remarkable not only quarter but also for the year, if we ended up having an additional \$600,000 reduction, that's troubling to me. I'd be very interested, obviously in, seeing what the final audited numbers look like and hopefully they're going to be close to where they are right now since we have a different operating agreement than we had back in 2010 or 2013, I'd be very interested, from a staff point of view, in terms of how these numbers would vary depending upon if we were operating under the old agreement versus the one that we have at the moment. And I just share that going forward between now and the audited report to give you a heads up going forward. Thank you, Mr. Chairman."

Mr. Holt said, "Thank you."

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

Commissioner Unruh thanked the Chairman and said, "First of all, I just want to say

to A.J. and all your team that it's a great year. We're really proud of it. Very good job. I hope you extend those congratulations to the rest of your team.

"One statistic that I always like to look at, and that has to do with the community affairs slide that you have that shows we've paid, in 2015, \$428,000 to community groups and \$3.6 million spending with Sedgwick County companies. I'm sure they're appreciative of that. And taxes paid, almost \$1.7 million. So those are great numbers that show how this venue is affecting more than just the entertainment portion of it. So very good job. Appreciate it."

Chairman Howell said, "I agree with the comments from the two previous Commissioners, especially. I am concerned about the operating and maintenance reserves, but I also want to say, thank you, A.J., for doing a great job. This has been an exciting year. There's been a lot of things to be very excited about in this community. Without the Arena, we would have a lot less fun things to do here. I'm glad it's there, and glad it is paid for by the sales tax people voted for. It is standing on its own two feet and accomplishing all of its goals."

"I would like to point out on slide number 9, you had one event where your attendance was 1504 attendees. That's four more than your goal. That's pretty awesome. I think that's the biggest number I've ever seen in terms of attendance. Is that a record at all?"

Mr. Holt said, "I'm looking. I think that's the WSU basketball game."

Chairman Howell said, "Could you squeeze in any more?"

Mr. Boleski said, "That was pretty much it."

Chairman Howell said, "That's a big number. As Commissioner Unruh mentioned, that's a lot of economic activity that goes around this Arena and the things that have happened here. I'm very, very pleased that it's there and glad it's doing a great job. My only concern looking at the report is the operating and maintenance reserves. That's the only concern I've got."

"But again, I still have new guy syndrome, so let me ask you for clarity. If we get through the audit, what is the likely amount of money that the check will be for? It's probably in the report somewhere? Was that presented somewhere in here?"

Mr. Holt said, "It's not in the report. In my recollection, I've looked at those numbers. I think we're looking at around \$375,000."

Chairman Howell said, "That's a number we look forward to, hopefully. Just from my own understanding, is this a check that would potentially happen on a quarterly basis or yearly basis?"

Mr. Holt said, "It's annual."

Chairman Howell said, "Annual, this is the first time, under the new contract, the first time we've actually received a positive number?"

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

Chairman Howell said, "We're looking forward to seeing that in April hopefully. I want to say thank you again for all you've done. Commissioners, I would entertain a motion."

MOTION

Commissioner Peterjohn moved to receive and file the Quarterly Intrust Bank Arena Financial Report.

Commissioner Ranzau seconded the motion.

Chairman Howell said, "We have a motion and a second. Seeing no other comments, Madam Clerk, please call the vote."

VOTE

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

Chairman Howell said, "Okay. Madam Clerk, next item, please."

Received and Filed

F [16-0006](#)

PRESENTATION OF THE APPRAISER'S ANNUAL REPORT OF
REAL PROPERTY VALUE TRENDS IN SEDGWICK COUNTY.
Presented by: Michael S. Borchard, CAE, RMA, County Appraiser.

RECOMMENDED ACTION: Receive and file.

VISUAL PRESENTATION

Mike Borchard, County Appraiser, greeted the Commissioners and said, "It doesn't look like the slide presentation is going to pull up on the screen. So we'll go through the report. The report is just to cover some of the 2015 market trends, some of the new construction trends, and finally, the January 1, 2016 valuation results.

"I wanted to quickly review the primary duties of the Appraiser's Office. First, to physically inspect each property within Sedgwick County, once every six years. We need to discover, list and value all property that had significant changes. For example, new construction, remodel, or demolition, and update appraisals each year to assure that all properties are valued at the fair market value, and our valuation date is January 1st of each year.

"I'll quickly review the classification and assessment rates that are laid out in the Kansas Constitution for each property type and class. Residential, the valuation approach is market value and the assessment rate is 11.5 percent. For commercial property, it's market value and 25 percent assessment rate. For vacant lots, market value and a 12 percent assessment rate. Not for profit classification is market value and a 12 percent assessment rate. Agricultural land is use value. Assessment rate is 30 percent. Ag improvements or market value and assessment rate of 25 percent. And public utilities that are state assessed are market value and 33 percent.

"In Sedgwick County, the percent of property value by type and class. You can see that residential makes up about 56 percent of the total assessed value, commercial about 32 percent. Commercial machinery and equipment, five percent. The state assessed public utility, five percent, and all those other categories, which we are

required to appraise annually make up the rest.

"On slide five, we show the parcel growth in 2015 for Sedgwick County. The total parcel count on January 1st was 220,113 real property parcels. The trend in sales activity, on slide six, all classes of property rose to 11,771 in 2015, so a four percent increase over 2014. In slide seven, residential property represents about 66 percent of the total assessed value. In 2015, new dwelling construction was up over 2014 with 1,148 units. Slide nine, the median sale price for residential property rose to \$149,900, roughly a six percent increase.

"Slide ten shows that the residential ratio at the end of 2015 was showing a median ratio of 91 percent. Just a reminder of what the median ratio is, when we compared our January 1, 2015 values with the sales that occurred after that date through December, the single point estimate, and the middle ratio was at 91 percent. That would indicate a need for re-evaluation. And the results of the residential re-evaluation for January 1, 2016 showed that 53 percent of the residential properties in Sedgwick County will receive an increase in value. Additionally, eight percent will receive a decrease in value and 39 percent will see no change in value.

"If we move on to commercial property, which represents about 32 percent of the total assessed body, you see that commercial property sales in 2015 were 541, whittled down from 2014, very similar to 2013. Commercial building permit activity increased, 1,298 permits, and slide 15 shows the ratio range for commercial property with so much variation in different property types. It's better to look at a range and for commercial property, the 95 percent confidence interval showed a median ratio somewhere between 83 and 93 percent. Reviewing the ratios, as a result of the re-evaluation of commercial properties, 43 percent were seeking no change in value, 30 percent will see an increase in value, and 27 percent will see a decrease in value.

"Slide 17, on to agricultural property, 435,424 acres with 67 percent of the land in Sedgwick County is still devoted to agricultural use. Agricultural property represents less than 1 percent of the total assessed value in Sedgwick County. Each year the department of revenue provides the valuation per acre for agricultural property across the state of Kansas. They provide those values per acre based on the use of the land whether it's cultivated dry, irrigated, or grass. The result of the agricultural evaluation shows that 64 percent of the agricultural properties will receive an increase in value. 34 percent, no change in value, and two percent will decrease in value.

"Slide 19 shows a summary of all of those classifications, and just for residential properties, 53 percent will see an increase in value, and the typical change will be three percent, eight percent will see a decrease in value, and that will also be a typical change of three percent. On commercial properties, 30 percent will see an increase in value, that typical change was three percent, 43 percent a decrease in value. And that change was down two percent. In agricultural properties, the 64 percent has increased. The typical change was nine percent. And the two percent that decreased, the typical change was 14 percent. Those are most likely due to use changes.

"Slide 20, I just wanted to cover some key dates in the property tax calendar. January 1st is the appraisal date. We're talking about this revaluation. March 1st, we will mail the notice of value to the property owners. I'm going to kind of change gears in our office to focus on personal property. Personal property renditions are due back to our office March 15th. March 23rd we'll begin informal hearings with property owners on real property. May 1st, we'll notice first property owners of their value notices and 2016 value. May 15th, we'll handle our informal meetings with personal property owners. At the conclusion of all the meetings and informal hearings, we'll finalize our

appraised values for 2016 and certify those values to the County Clerk. July 15th, the Clerk will certify the abstract of PVD (Property Valuation Division). August 25th, the governing bodies certify their budgets to the County Clerk. On November 1st, the County Clerk certifies the tax roll to the County Treasurer.

"As far as mailing of value notices in 2016, the Sedgwick County Appraisers Office will mail only value notices that experience a change in the appraised value or classification from 2015. Approximately 128,000 real property value notices will be mailed for 2016, which is about 58 percent of all properties in Sedgwick County. This alternative method of notification resulted in an estimated savings of \$49,400.

"Property owners who did not receive a notice in the mail can view the appraisal information for thier property beginning March 1st, online at the county website. Also after March 1st, any property owner may print or view a value notice from the website, which will include instructions on how to file an appeal. As part of the appeals process, if property owners do not think their values reflect fair market value, on the back of the notice, there is a form to fill out and return to our office within 30 days of the mailing, and we'll schedule a meeting with the property owner, give them a date and time, mail them a notification and they'll begin those hearings March 23rd.

"Anybody who has questions or wants to do research is certainly welcomed to come to our office at 4035 East Harry. We can provide information there. Give us a call, or there's lots of information on the website, as well for researching your value or appeal. That concludes my report. If you have any questions, I'll be happy to answer them.

Chairman Howell said, "Mr. Borchard, you did a great job putting together this information. Thank you for the presentation. I do think some Commissioners have questions and comments. Commissioner Unruh."

Commissioner Unruh thanked the Chairman and said, "Mike, thanks for the report. Just for clarification, if someone doesn't get a notice of value, they can call you and you'll send them one. Or is there any way to print it off the computer?"

Mr. Borchard said, "Certainly if they call us, we'll be happy to e-mail it to them or mail it to them, whatever is most convenient for them."

Commissioner Unruh said, "I'm sure there are at least some folks my generation that don't print many things off the computer. Secondly, Mike, the appraisal sales ratio study for commercial, it says 83 to 93. Is there a guideline that you have to be within in order to be in compliance with the Property Valuation Director?"

Mr. Borchard said, "The standard for Kansas is they want our median ratios to be between 90 percent and 110 percent of fair market value for both commercial and residential."

Commissioner Unruh said, "So does that range from 83, does that imply that we are slightly out of compliance or not?"

Mr. Borchard said, "No. The confidence interval considers the full range, as long as the high end of the interval is within that range, then it's in compliance."

Commissioner Unruh said, "One other question. You said in your report that there are a number of parcels that went down slightly. Is that just because people bought larger properties and just combined the legal descriptions?"

Mr. Borchard said, "I think the parcel county increased. If I said it decreased, that was a..."

Commissioner Unruh said, "It did increase, but it went down from 2014 to 2015."

Mr. Borchard said, "That was an effort between our office, the Clerk's Office and GIS to clean up some parcels that were in the right-of-ways that needed to be inactivated."

Commissioner Unruh said, "Okay. Well, it's always going up, back do not and back up, up, and I wondered what causes that. You answered my question."

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

Commissioner Peterjohn said, "Yes. This is unfair to the public, because they can't see the slides that we, up here in the Commission, can. You've got, obviously, the slides, Mike. Hopefully we can get these slides up for the public presentation. It's a lot easier to understand, and it's very difficult without having this. On slide five, Mike, I assume that this parcel growth number for Sedgwick County, the 2016 number is as of January 1st of this year. Is that a 2016 number on that chart?"

Mr. Borchard said, "Yes, that's correct."

Commissioner Peterjohn said, "I just wanted to get that on the record. I thought that that would be the case. Let me jump to kind of a paradox here on your slides 13 and 14, which is commercial. I'll say this for the public; the commercial property has both the sales which show about a decrease of about 7.5 percent, from my calculations from 2015 over 2014 on the sales side, but the building permit activity actually shows an almost little less than six percent increase in 2015 over 2014. In light of the fact that we basically had commercial valuation results for about as close to even as they could be with about 30 percent having an increase in value, a little less than 30 percent having a decrease in value, over 40 percent being unchanged. I'm just trying to understand those numbers a little bit better, it's the second largest category of assessed valuation in the county."

Mr. Borchard said, "Well, generally, what we do when we're developing our models and reviewing our values is we look at more than just one year of sales. We're going to drop off the oldest year of sales, add on the newest year of sales and then modify our models based on the new information. There's really no correlation with the number of sales and building permit activity. Certainly 2015 was much more active or significantly more active than prior years has been. The percentage of change on commercial valuation results is for the existing property and doesn't include any new construction."

Commissioner Peterjohn said, "Okay. Well, then let me try and go back. Your slide four, where you give the percent of property value by type and class, you're showing a breakdown of commercial real estate just a shade under 32 percent. I was curious if that's about the same number as last year, or has that changed at all compared to what we had when you did this presentation last year at this time."

Mr. Borchard said, "We really won't know these numbers until we get to the June certification. The slide four is the 2015 assessed value, and we won't have all the rest of the valuation complete until we certify in June."

Commissioner Peterjohn said, "Well, I understand you're going to have appeals and the percentage might vary, but I was thinking, if you're looking at these numbers this

year, versus looking at the same comparable numbers from 2015, if there was a change here because showing the increase median sales price on residential, I was thinking that perhaps the percentage of residential property was growing and growing faster than the change in commercial, and that number of the commercial value might actually be going down as compared to when we did this presentation at this time last year. If you can't kind of walk me through where those numbers are, let me give you a chance to respond if you've got any additional information that you can give us here before I go on to my next question. It looks to me like we're likely having, these numbers are residential real estate assessed value in Sedgwick County is growing a bit faster than commercial real estate based on these preliminary numbers."

Mr. Borchard said, "It's hard to say just based on the magnitude of the new commercial construction could impact that. Keep in mind that machinery and equipment is going to continue to erode as properties get sold that becomes exempt. I think the trend is most likely going to be that all real property will increase slightly."

Commissioner Peterjohn said, "Well, I was going to say, commercial industrial machinery equipment, that's continuing to erode. I don't really know, you know, I could ask you the next question, how is that standing compared to the numbers you presented this time last year? Because I assume it would be fractionally less, I think it was a year ago."

Mr. Borchard said, "We haven't started that review yet. Renditions aren't due back until March 15th."

Commissioner Peterjohn said, "Well, let me jump on, because you mentioned obviously the largest single taxable category of land in Sedgwick County is agriculture, but it's less than one percent of the total assessed valuation here in the county. My understanding is the agriculture sector took a bit of a hit, and even those these are a tiny percentage of the overall valuation, it's based on, I think, an eight year rolling average, and the years coming on and coming off, obviously the fact that you've got over 60 percent increase in agriculture valuation, is that driven more by the formula, or can you give us any additional insight on the agriculture valuation side of the equation?"

Mr. Borchard said, "Well, it's certainly due to the formula. Like you said, it's an eight year average, and I think currently the agriculture market is somewhat flat or in decline. So obviously the bid year came on, that was eight years ago, and it's based on income formula that uses the landlord's share of the net operating income divided by a cap rate that the Property Valuation Division sets each year, and the analysis of the PVD does to determine those values."

Commissioner Peterjohn said, "Did PVD change the cap rate recently?"

Mr. Borchard said, "No, it has hit the floor."

Commissioner Peterjohn said, "It just hit the floor and stayed there?"

Mr. Borchard said, "Yes."

Commissioner Peterjohn said, "I view this as an absolutely critical starting point for any of the budgeting operations that Sedgwick County operates with, because property taxes are the biggest source of county revenue and excluding the state assessed portion, which is mentioned but it is not a part of this report, it is about five percent of the tax base, here in Sedgwick County. This is a critical starting point, in terms of where we are from a revenue side going into our budgetary work for

completing our next year's budget. This is important data, and I review this report in great detail, because if the economy is struggling, and I continue to think that in some ways it is, this residential information here is very positive news.

"I have concerns on the commercial side. Obviously we won't know the state assess until sometime in the summer when they come out, but that is a small category, and also what happens with commercial industrial personal property side. Looking at these percentages, this leads me to believe that this is not like the numbers you presented prior to 2008, am I correct in that assumption? That was before I joined the Commission."

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

Commissioner Peterjohn said, "Well, I wish I could say I had really good news here, but this is a report that remains cautionary like it has the last few years in my opinion. Thank you, Mr. Chairman."

Chairman Howell said, "Thank you, Commissioner. I have a couple questions as well. On slide two, you make a comment that appraisals are done each year, to ensure that all properties are valued at fair market value. Is there a range for residential properties? You mention a range for commercial properties, 90 to 110 percent. What about residential properties?"

Mr. Borchard said, "It is the same range."

Chairman Howell said, "It is the same. Was there some discussion in the legislature about changing that to plus or minus five percent versus plus or minus ten percent? You have not heard that?"

Mr. Borchard said, "No."

Chairman Howell said, "That's a holdover from my years ago hearing about that. But you talk about you visit each property at least once every six years. Is that correct, do I understand that?"

Mr. Borchard said, "Yes."

Chairman Howell said, "That's on slide two. You are going to make adjustments to, looks like the majority of the properties. If I understand correctly, right now we are at 91 percent. Is there something in place right now to try to drive that closer to 100 percent? Are we trying to drive towards 100 percent? Are we doing anything specifically?"

Mr. Borchard said, "We are trying not to get below 90. At the end of the year we were at 91 percent, which would indicate there is a need for evaluation to get closer to the 100 and farther from the 90."

Chairman Howell said, "You inspect some homes, obviously you can't inspect them all, you do the best job you can. Are we applying a correction to the homes that are not being appraised? Specific homes being appraised, is there a correction applied to other homes to try to drive this up towards closer to 100 percent, away from 90 percent?"

Mr. Borchard said, "We review 100 percent of all properties every year."

Chairman Howell said, "It's only required that you do it every six years, but you do it

every year.”

Mr. Borchard said, “We are required to inspect, an on site physical inspection once every six years, and then revaluation for all properties every year.”

Chairman Howell said, “Okay.”

Mr. Borchard said, “If necessary.”

Chairman Howell said, “Generally speaking, I think the report is very positive. Again, I see most of the slides are very positive and most things are trending in the right direction. Overall it’s a very positive report. The only thing I think is negative in the entire report is the one slide where it talks about commercial property sales is down. Other than that, everything else is trending in the right direction. I have one other question. I just want to make a comment on the key dates. You did read that, I appreciate your reading that. Unfortunately the audience can’t see this. There are a lot of dates that have to happen, starting from January 1st, ends up November 1st, the entire process, between the Appraiser and the Clerk and the Treasurer’s offices doing their respective duties, and one thing we have talked about recently is this issue about Senate Bill 316, trying to insert an option for an election somewhere in that process, and just want to say thank you for helping us with that.

“You are one of the key players in trying to find a way to change your dates in a way that actually creates the option for election. So some of these dates may change if the legislature in fact adopts our idea on how to insert the election option into dates.

“I just want to make that comment. And let me understand, if someone does not receive a valuation notice in the mail and that just means they didn’t have an increase or decrease in their property. Have you had anybody who has complained about that and said I would like to appeal, even though I didn’t appeal last year, maybe they did appeal last year and nothing happened, they weren’t satisfied. They will try to appeal it again the following year, but they don’t receive a notice. I’m concerned about those folks that don’t receive a notice, but they are intending to appeal that missed the window of opportunity starting the appeal process.”

Mr. Borchard said, “Give our office a call. There are value notices available to them on the website, or we can mail it to them upon request.”

Chairman Howell said, “Have you had anybody, I guess, complain about that, anybody come to the office and say I would have appealed, but I didn’t get notification? I am concerned about that one part.”

Mr. Borchard said, “We really haven’t had any.”

Chairman Howell said, “They can still appeal if they wanted to, even though their valuation didn’t change, they could still make an appeal?”

Mr. Borchard said, “Yes.”

Chairman Howell said, “Okay, Commissioner Peterjohn.”

Commissioner Peterjohn said, “Yes. If people wanted to get, for instance, they have questions, in terms of how their valuation, if they had a valuation increase, they can get a list of comparable properties compared to their residential property from your office, too, can’t they?”

Mr. Borchard said, "Correct."

Commissioner Peterjohn said, "Okay. So what's the easiest way to get ahold of your office?"

Mr. Borchard said, "The [316]660-9110 phone number is the best place to start. All that information is also available to review online. If you want to do your own research online, all that information is available. If they have questions, give us a call, [316]660-9110."

Commissioner Peterjohn said, "Thank you."

Chairman Howell said, "Seeing no other comments or questions from the Commissioners, what is the will of the Board?"

MOTION

Commissioner Peterjohn moved to receive and file the Appraiser's Annual Report of Real Property Value Trends in Sedgwick County.

Commissioner Ranzau seconded the motion.

Chairman Howell said, "Seeing no other comments, Madam Clerk, call the vote."

VOTE

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

Chairman Howell said, "Thank you, Mr. Borchard, good job. Next item, please."

Received and Filed

G [16-0072](#)

**MEMORANDUM OF AGREEMENT BETWEEN KANSAS
DEPARTMENT OF WILDLIFE, PARKS AND TOURISM AND
SEDGWICK COUNTY PUBLIC WORKS.**

Presented by: David C. Spears, P.E., Director of Public Works/County Engineer.

RECOMMENDED ACTION: Receive and file.

Mr. David Spears, Director, Public Works, greeted the Commissioners and said, "This morning I would like to make a brief presentation to you about a memorandum of agreement that has recently been established between Sedgwick County Public Works and the Kansas Department of Wildlife, Parks and Tourism. Many construction and maintenance activities performed by Public Works crews and contractors require various environmental permits before they can be undertaken. The Kansas Department of Wildlife, Parks and Tourism is one such agency that must review and approve many projects that might have the potential to impact, threaten and endanger species.

"Shortly after coming on the Board of County Commissioners, Commissioner Ranzau expressed an interest in finding ways to reduce the regulatory burden on Public

Works projects. We worked with him to identify issues that with threaten and endanger species, and over time, he and Commissioner Howell were able to fully engage the state in a conversation about application of the regulations. Based on ground work the Commissioners laid, our staff was able to work out this memorandum of agreement with Wildlife and Parks.

"The agreement recognizes a number of best management practices that we developed over time to address concerns with threatened and endangered species. It greatly streamlines the approval process, and in many cases eliminates the need for project review and approval if our established best management practices can be followed. I would like to note that this agreement is unique, no other local unit of government in Kansas has such an agreement in place.

"Both parties agree this agreement will result in avoidance, minimization and restoration of potential impacts to wildlife resources. I would like to recognize the efforts of Robin Jennison, Secretary of the Kansas Department of Wildlife, Parks and Tourism, who got personally involved in this issue, and helped to bring the agreement to a conclusion. I would also like to recognize Justin Waggoner of our Legal Department and Daniel Schrant, our staff Engineer who worked through the minute details of this arrangement. Daniel or I would be glad to answer any questions you might have."

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

Commissioner Ranzau thanked the Chairman and said, "Dave, I just wanted to thank you and Daniel and everyone else for all the work on this. We've been addressing this issue for years now, I think we will continue to do so in future years to try and decrease the regulatory burden on you, which helps the taxpayer, and we have also passed some legislation, in the past, which helps the private sector as well. I think it is important to do what we can to be more cost-effective and more efficient. I appreciate that.

"I know in the past we have been criticized by some in the media who lack understanding and concern of the situation, but as a taxpayer in this community can rest assured that we are doing everything we can to reduce the regulatory burden on them, as well as ourselves, in dealing with some of these issues. We still have some more issues we can address as we move forward.

"This is a big win for us, and big win for our community, and I appreciate all the work you've done. Hopefully it will make your job a little easier."

Mr. Spears said, "I think so."

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

Commissioner Peterjohn thanked the Chairman and said, "I appreciate the work of the Public Works staff, as well as Commissioners Howell and Ranzau and their leadership on this issue. I know that anything we can do to put us in a better position in this challenging area is a real plus going forward and having a strong relationship with our counterparts in Topeka, with Kansas Department of Wildlife, Parks and Tourism is a strong positive for Sedgwick County. Thank you."

Chairman Howell said, "Thank you, Commissioner. Mr. Spears, I am curious, does this have any sunset, this agreement have any sunset built into it anywhere, is this going to be permanent, as far as we know?"

Mr. Daniel Schrant, Engineer, Public Works, greeted the Commissioners and said, "This agreement can be terminated by either party. The Department of Wildlife and Parks or ourselves at any time."

Chairman Howell said, "Very good."

Mr. Schrant said, "Until then it will just keep on going as is."

Chairman Howell said, "Going on, just a little bit, one question. This will only help Sedgwick County. Not anybody else in the state of Kansas."

Mr. Schrant said, "This is an agreement between the County and Wildlife and Parks only."

Chairman Howell said, "I guess with that in mind, I guess the legislation we talked about in the past, I guess I still have an interest in that. I just wanted to state that for the record. I am not really completely satisfied. I would really prefer the state change direction on this entirely. This is a nice that we have an agreement, it helps out. I appreciate that very, very much and I thank you for your good work to present that this morning."

I just, I guess for myself, I think it is nice to have an agreement for a little while, and it certainly will help us out. I guess the concern is this is not going to last, and this is not going to help other counties. So I guess I just wanted to make those comments. Commissioner Unruh."

Commissioner Unruh thanked the Chairman and said, "Well, if we are unique in this, having this agreement, but it is rational and reasonable and it clearly shows progress can be made in this area, wouldn't other counties also find this out and want to do it so they could lessen the burden on their Public Works departments?"

Mr. Spears said, "I would think so. I think one of the big things I've learned through this is that with Daniel and their department, there is trust involved between them and us. They know that what we tell them we are going to do, we do it. They have seen pictures of what we do, they have come down and looked at what we do on these projects, and they believe that we will do what we say we are going to do. That's a big key to it. Yes, I would think other counties could do this also."

Commissioner Unruh said, "They would have to negotiate their own memorandum of agreement?"

Mr. Spears said, "Yes."

Commissioner Unruh said, "Very good. This agreement is just for our information. This agreement is already a done?"

Mr. Spears said, "It is a done deal. It's actually between their department and Public Works, not between the county. I signed it, and when we worked through our Legal Department and that's the way this was done."

Commissioner Unruh said, "Very good. Well, good job. Thank you."

Chairman Howell said, "Let me try this clear this up. I am very grateful, thankful so much to the state for entering into this agreement with us. I really do appreciate it and I'm glad we have this accomplishment. It's a huge accomplishment. It took years to get to this point. I would say thank you to the Secretary Jennison and to you and,

what you did, Mr. Spears, for staying with this and working with this and really bringing us some solution to this.

"I really do appreciate it. I don't want to sound ungrateful, I am very thankful. I think this is a huge step in the right direction. I guess my concern is that we have an agreement that could be stopped. I am not sure I like the fact that this can go away quickly, and I am concerned about other counties as well. Just having said that, I want to make sure I didn't sound appreciative of what has been done. Commissioner Peterjohn."

Commissioner Peterjohn said, "I just wanted to expand on my thanks not only to Public Works, but the Legal Department for their role in this, too. Thank you."

Chairman Howell said, "Commissioner Ranzau."

Commissioner Ranzau said, "Daniel, or Dave, there are a couple people we work with in the Wildlife and Parks that are new. Do you, offhand, remember their names?"

Mr. Schrant said, "Yes. The people involved with this project outside of Sedgwick County would have been Darren Riedel, he's our current regulator that we are working with and prior to him, we were working with Brian Bartells who has since moved on from Wildlife and Parks. There was another individual, I can't remember his name. Then of course Robin Jennison."

Commissioner Ranzau said, "There's been a little bit of turnover. A couple of new people that are in the department were eager to help us and very easy to work with. We appreciate their efforts and willingness to facilitate this. I also want to say I appreciate all the work you have done. You have done a lot of work on this. You went with me to Topeka, once, to testify on this spotted skunk and you have attended meetings, and I appreciate it. Thank you."

Mr. Schrant said, "And the final individual, Chris Barons, an ecologist."

Commissioner Ranzau said, "Yes, thank you, I just wanted to recognize him, say that we appreciate that."

MOTION

Commissioner Ranzau moved to receive and file the Memorandum of Agreement between the Kansas Department of Wildlife, Parks and Tourism and Sedgwick County Public Works.

Commissioner Unruh seconded the motion.

Chairman Howell said, "Just a final comment, please do share our appreciation with those that helped, especially the Secretary. We do appreciate it so much. Madam Clerk, we have no other comments. Please call the vote."

VOTE

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

Chairman Howell said, "Madam Clerk, next item, please."

Received and Filed

CONSENT

H [16-0047](#) Agreement for Ambulance and Medical Transport Services between Sedgwick County EMS and Wesley Medical Center, LLC.
Approved

I [16-0058](#) Amendment to Developmental Disability Service Agreement.
Approved

J [16-0074](#) Prosecuting Attorney Trust Fund, 18014-259.
Approved

K [16-0075](#) Asset Forfeiture Fund (Federal) 18024-259.
Approved

L [16-0079](#) Modification to the Sedgwick County Pay Plan.
Approved

M [16-0080](#) Changes to the County Manager's Staffing Table.
Approved

N [16-0085](#) Changes to the Courthouse Police Department Staffing Table.

O **16-0068** Order dated 1/28/2016 to correct tax roll for change of assessment.
Approved

P [16-0081](#) General Bill Check Register for February 10, 2016 - February 16, 2016.
Approved

Q **16-0082** Payroll Check Register for the February 6, 2016 payroll certification.

Mr. Mike Scholes, County Manager, greeted the Commissioners and said, "I move you approve the Consent Agenda, items hotel through Quebec."

MOTION

Commissioner Unruh moved to adopt the Consent Agenda, with the exception of Item N.

Commissioner Ranzau seconded the motion.

Chairman Howell said, "We have a motion and a second, any discussion on that? Commissioner Unruh."

Commissioner Unruh thanked the Chairman and said, "I was just wondering on Item M, we are having some restructuring and restaffing in the Manager's department, which my backup material changed. We have got an update, I guess is the right word late last evening. One of the changes looks like a senior corrections worker position is going to be eliminated?"

Mr. Scholes said "That's going to be reclassified to this Courthouse Police position."

Commissioner Unruh said, "Okay. It's relevant to the restructuring in your office."

Chairman Howell said, "Just for clarity, are you talking Item M, like Mary?"

Commissioner Unruh said, "M, as in Mary."

Chairman Howell said, "I misunderstood that, actually."

Mr. Scholes said "I thought you were talking about November. The senior Corrections Officer position, that's been vacant since March 2013."

Commissioner Unruh said, "Okay."

Mr. Scholes said "It was a cost saving move. Instead of asking for a new one, I am asking an existing employee to move into that."

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

Commissioner Ranzau said, "Just to clarify, you excluded Item N as in November."

Commissioner Peterjohn said, "Oh, is it N or M?"

Commissioner Unruh said, "N as in November, Nancy, never."

Commissioner Ranzau said, "But you asked about M. That's the confusion."

Commissioner Unruh said, "My motion doesn't include N, so I asked about M."

Mr. Scholes said "I can answer both."

Chairman Howell said, "So the motion is to approve the Consent Agenda with the exception of Item N, November."

Commissioner Peterjohn said, "N as in November or M as in Mary?"

Chairman Howell said, "We are not going to do Item N, November right now. Everything else is what we are considering. Thank you. We are clear. No other comments on the Consent Agenda excluding N, November. With that, I have a motion and a second. Seeing no other discussion, please call the vote."

VOTE

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

Chairman Howell said, "We are now on Item N, November. Is that acceptable? Okay, let's get into that a little bit. Commissioners, do you have any comments or questions on Item N? Commissioner Unruh."

Commissioner Unruh thanked the Chairman and said, "Perhaps my memory is weak, but I don't remember that we had a discussion about this item. So I have got several questions about it. This is about adding a staff position to manage a gun locker in the county entryway. Am I wrong? We haven't discussed this in staff."

Chairman Howell said, "We have not discussed it in staff. I think the Manager has developed and thought it would be non-controversial and put it on Consent."

Commissioner Unruh said, "I just, for an item on the Consent Agenda and I didn't know the backup for this, I haven't seen a picture or a drawing of where it's going to be, it is a change in the staffing table, I guess my first question would be, was this generated from staff recommendation, or was this generated from Commission requests? How did this get started, I guess?"

Mr. Yost said, "I think I might be responsible for that, because I received some requests from attorneys who are concealed carry folks, and they are not allowed to carry in the building, of course. Under state law. They are concerned about what happens between the courthouse and their offices, or their homes, because they can't very well leave their office if they walk or whatever, or even if they drive, they are with without their firearm. They would like to check that firearm at the entrance to the courthouse. So I don't know what all has happened since we initiated that discussion, but I think this is the letter that came in to me from counsel requesting that we have some kind of gun locker or something like that."

Commissioner Unruh said, "Okay. Well, in my 12 years here, I think I have only had one person ask about that. And so I was wondering what is the genesis of this, if we have a lot of people that think this is they are concerned about their safety and they want to be able to carry it right up to the courthouse door. I mean, if we have a lot of people who are requested that, well, then, that's one explanation."

"For me, personally, as a Commissioner of 12 years, I only had one person, and she was concerned about getting her weapon out of her trunk when she went back to the parking garage, seemed to be. So I was surprised to find this on here. Since it amounts to an investment in personnel or changing, because the backup material I have now is not what I saw yesterday at noon. And that has to do, I guess, that we have a property and lease contract specialist. Is that an open position also?"

Mr. Scholes said "Yes, it is."

Commissioner Unruh said, "And that's been open quite a while?"

Mr. Scholes said "That's been open since July, 2015."

Commissioner Unruh said, "So just six months ago, but we are not planning on refilling that, evidently."

Mr. Scholes said "No."

Commissioner Unruh said, "Okay. Well, those answers most of my questions how we were moving this around. Where is this going to be? This locker?"

Mr. Scholes said "It is going to be in the front lobby in the corner of the front lobby."

Commissioner Unruh said, "Is there a drawing? I mean, I don't, I wouldn't mind seeing where it's going to be, and how it is going to be staffed, and you know. I used to be, just a kind of historical anecdote, I didn't like to have the shoe shine stand in our lobby. I didn't think it was necessary, I didn't want it in the lobby. Maybe this is a little different category, but just to give you a flavor of where I am coming from. I would like to know where it is going to be. Is it going to get in the way of people? I don't know where it's going to be. Where is it going to be?"

Chairman Howell said, "That's a great question, Commissioner Unruh. We will let the discussion continue a little longer here, if that's okay. Commissioner Ranzau."

Commissioner Ranzau thanked the Chairman and said, "I was just going to suggest in light of the Commissioner's concerns, perhaps we should table this and allow some discussion and further explanation and we can bring it up on another date."

Commissioner Unruh said, "I think that's a great idea, thank you."

MOTION

Commissioner Ranzau moved to table Item N, Changes to the Courthouse Police Department Staffing Table until further notice.

Commissioner Unruh seconded the motion.

Chairman Howell said, "We have a motion and second. Commissioner Peterjohn."

Commissioner Peterjohn said, "Well, my examination of this, we weren't talking about the details of, we were talking strictly of changing the staffing table and personnel, and I didn't know that we were getting into a broader discussion. My reading of this, I thought we were talking about personnel. Mr. Manager, am I correct?"

Mr. Scholes said "That's correct."

Commissioner Peterjohn said, "Okay. Well, thank you, because I don't have a problem in terms of having a wider discussion, and I think that would be helpful. I will support going along, since I don't want to have that, but I want the public to know, since they can't see our agenda that basically this item was strictly a personnel item and not a broader discussion about what exactly we are going to have in place and in the lobby. This is obviously putting some personnel provisions in place, but it is structured in such a way that actually it has a cost reduction tied to it, not an increase. Thank you."

Chairman Howell said, "Another comment or question from Commissioner Unruh."

Commissioner Unruh said, "I understand, Commissioner Peterjohn's comment. There is language in here about while securing personal protection and firearms and having a locked gun cabinet, so I thought this was part of the discussion. That's all I have."

Chairman Howell said, "I will make a couple comments as well. I do understand the need, the desire to have a place for someone, I can understand people would want to carry to the courthouse and have a place to put their firearm while they are doing business in this building."

"I have been a proponent of second amendment everywhere we can reasonably. I

think this is a reasonable mitigation. So I support the concept, and I am not so sure I concur with the issue before us today. I would like to think about this a little bit. I think I will support the motion to table this for a short time.

"But the concept, I think I am agreeable it that. I am not so certain we need to have the solution exactly as it's been presented in this backup material today. So that's my only question. I think that will give us a chance to see a drawing and how this is going to work, maybe ask some questions. I think it will be reasonable for us to take a little bit of time to wade through this going forward. I see no other comments or questions. We have a motion to table this. We will get it back on the agenda as an item when we are ready.

"To table this, motion and second. Seeing no further discussion, Madam Clerk, please call the vote."

VOTE

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

Chairman Howell said, "Okay, we are through the Consent Agenda. Is there anyone from the public that is interested in addressing the Commission today? Seeing no one, we are going to go ahead and move on to the Fire District No. 1 Meeting."

The Board of County Commissioners recessed from 10:59 a.m. until 11:05 a.m.

Approved

LEGISLATIVE ISSUES

Mr. Jon VonAchen, Assistant County Counselor, greeted the Commissioners and said, "I have a few items to cover on our Legislative Issues. One of the items I wanted to update you up front is there has been a change in some of the deadlines at the state level. The turn-around day has been moved up from Friday, February 26th to February 23rd. The last day to consider bills not in the house of origin is moved up to March 21st, from March 23rd, and drop-dead day is now March 25th, rather than April 1st. So the legislature has the framework for budget completed, there's some minor issues to work out in committee, but they seem to be prepared to move forward, rather quickly on getting the remaining business done for this session.

"Couple of issues I was asked to bring up. One had to do with asset forfeiture, being the seizing of private property, personal and real, regarding involvement in criminal activity. There are currently two bills in the house, 2638 and 2699. House Bill 2638 would take all of the proceeds from the sales of these that currently go to the local and state officials that law enforcement officials that have seized those items. They get the proceeds now that go into a law enforcement fund for that municipality or the state level. 2638 would sweep that entirely to the state general fund and there would not be a special designation for it in general funds, separate for law enforcement. It would also require that a conviction be obtained in order to have a sale go forward on a particular item. 2699 would actually split those funds between 50 percent to special law enforcement trust fund for the local law enforcement, and then 50 percent to a newly created city and county forfeiture fund on the state level, and then the Attorney General's (AG) office would be responsible for administering a voucher system, city and counties could apply and receive law enforcement funds based upon those

regulations set out by the AG's office.

"Currently these procedures are civil in nature. It's by a preponderance of the evidence. There's notice to the property owner of the proceedings, opportunity to challenge those judicially, and so there is a due process to the taking of this property.

Chairman Howell said, "If you don't mind, I think we will take these one at a time. I think it is complex enough, I don't want to forget what you just said. If we could go back to the second one, if that's okay. What you just said a moment ago, let me try and understand. You said that there is due process right now."

Mr. VonAchen said, "Yes."

Chairman Howell said, "Despite the fact that there may be no conviction, the property still could be seized. I talked to someone yesterday about this. And I think they used the words probable cause, which ties into some type of a due process conclusion, where we can still see seize property without a conviction. Is that correct?"

Mr. VonAchen said, "The current state law is you can seize property, either by warrant or sufficient probable cause to believe it was involved in criminal activity. The judicial proceeding after that, the court looks at the totality of the circumstances and then makes determination based upon the standards preponderance of the evidence. It is not the same standard as it would be in the criminal matter. In the criminal matter, obviously the standard is beyond a reasonable doubt. Preponderance of the evidence is 50 percent plus one, just a little over the line. If the preponderance of the evidence shows that the item, personal property, or a real property seizure was involved in criminal activity, the court could rule under current state law that that property is forfeited and then subsequently sold according to the rules and the statute."

Chairman Howell said, "So there is a philosophical, constitutional argument against it that I would have to disagree with the current processes and procedures. I really feel that under a conviction, seizure I think is very understandable, but when someone doesn't receive a conviction, when you talk about preponderance of evidence and probable cause, to me, that someone has not been convicted, but they still may lose their private personal property, whether it be real or personal property. To me, that is not good law. I guess that part of this proposed House Bill 2638 and 2699 both include this provision; is that correct?"

Mr. VonAchen said, "I believe they both include that provision. That provision actually was introduced I believe last session too, in a different bill, where that was brought forth. The concept being that there wouldn't be that forfeiture without a conviction on the underlying offense. It does include currently, and it would include in the future for innocent individuals, for example, if someone were to loan somebody a car, they use it for a drug sale, that would be, if it was something that was completely innocent, in other words, I loan you my car, you do a drug sale, and then under those circumstances, my car gets seized, even though I didn't know you were going to sell drugs out of my car. You know, there are currently protections in place for those individuals to be able to get their property back. But it does take some time to do so.

"They have to present, you know, they were innocent in the transaction, whereas if it was somebody involved in the transaction and they said here go take my car and complete the sale, you knew what was going on, you know, that's, again, an evidentiary issue. But it does take some time for individuals who may be innocent to get their property back."

Chairman Howell said, "I don't recall right now if it was House Bill 2578 or House Bill 2052, the Public Building Security Act or the Open Carry Preemption Bill. One of the bills had a provision that said if a gun was seized from someone that was arrested, charged, prosecuted, if they weren't convicted, that gun had to be returned back to the person it was taken from. There is a standard there. I think it was based on a principle of ownership. Which I believe is a constitutional principle we ought to be sensitive to. There is precedent for this type of language, and I would like to be supportive of these bills under that particular provision, however, I am not supportive of 2638, because of the revenue shift that goes from local government to the state.

"I think there is a heightened desire for this, because of the tremendous amount of property seized in Western Kansas because of the Colorado marijuana legalization that happened a couple years ago. There is a lot of evidence being seized out west in Western Kansas, and I think the state sees this as an opportunity for them to move some of that revenue to the state level. I think that's genesis of this bill, but I disagree with that.

"I will say though, I served on the house government and general government budget for three years in Topeka. There was there was a tremendous awareness and concern that agencies that had punitive ability, that they would simply be incentivized to be harsh on people they dealt with, because it incentivized themselves. In other words, the fines they assessed would benefit the particular agency. So I am not accusing any law enforcement of having this mentality, but there is a potential assumption by some people, legislature, that it would look better, I guess, if the agencies themselves do not personally benefit from the seizure of assets and property. So I think that the idea that this would go to a governing body above or outside of that particular law enforcement agency, I think that's a principle I would like to see us support.

"What I mean by that, and I talked to the Sheriff Easter yesterday, he spend around \$300,000 in training each year, and I have no problem with appropriating that money. I would prefer for all the revenue to go towards the governing body, in our case it would be the county. If it was Wichita it would be the City. The Highway Patrol would be the State of Kansas. The principle is the revenue should go to the governing body, all revenue should be brought under the accounting of that governing body, then those monies appropriated out to things the agencies need. In our case, I would be supportive of the revenue going currently being just retained by law enforcement agencies, and used. I would rather see that, I guess, remitted to the governing body for us to receive that, and appropriate funds back for their needs. I think that's a good place for us to be.

"Neither one of these bills has 100 percent of the money retained by local government for those assets that are seized by local government. So to me, I can't be supportive of either one of the bills in terms of the way they shift the revenue to the state. So I would like to ask my colleagues, I guess, for partial support and partial opposition. The part I support would be the issue of the principle of convictions should be the standard by which property is seized. I do agree with that in both of these bills, but the revenue side of these bills, the dollars should stay local, whether it be by law enforcement, or in my opinion, more appropriately, the governing body. I think that would be a place for us to drive towards.

"And by the way, I hate to use bill numbers, because although I do it all the time, these bill numbers will change through the process. We know that. So I say we support House Bill 2638 partially or whatever, that number might change in the process. I would like to just say we would support the concept of convictions for seizure, and not support the shifting of this revenue to the State, but have it retained

by local government, preferably the governing body or at least that, if not the actual agency themselves. So I would ask my colleagues for support of that. Commissioner Peterjohn, you have some comments?"

Commissioner Peterjohn said, "Yes, I want to understand, there is some fairly complicated legal language referring to various and sundry statutes. John, if I can ask you, I don't see a threshold, so if somebody gets arrested, and booked into the Sedgwick County jail, is it possible at that point that they had \$40 on them could be confiscated under the current law or provisions proposed here?"

Mr. VonAchen said, "It's possible. I'm not sure an amount that low would raise eyebrows. You add some zeros to the number and say you had \$40,000 on you, that's an unusual number to be for an individual to be carrying around, usually, you know, at least an indication from a law enforcement perspective that you may be involved in some sort of illegal activity. Generally people don't carry \$40,000 on them. It is one of the things, the natural view is that, well, that's probably, you know, money used in drug sales."

Commissioner Peterjohn said, "Let me ask you, is there a dollar threshold in either of these two bills of any amount? Is it theoretically possible you could have a confiscation for \$1, or have somebody's car taken because they were arrest for some other charge in theory?"

Mr. VonAchen said, "Theoretically, yes. I believe that if you look at it from a law enforcement perspective, because there was a cost in the actual procedure of seizure, you would have to look at it from that perspective, say exactly what is on an individual policy threshold for each individual law enforcement agency, what's the threshold, you know, we are not going to initiate proceedings over \$1, but we will initiate proceedings over something substantially more valuable. Or if that dollar happens to be part of a total seizure that's substantial, then it does make sense over that single dollar. But there isn't an actual threshold."

Commissioner Peterjohn said, "That's disturbing in the sense that, whether it's a car, whether it's some other personal property like the Chairman alluded to, or whether it's just carrying around cash, I mean, carrying around cash, I mean, we have legal tender laws saying that you have got, you know, if I expect to buy something, I am supposed to use legal tender. On the one hand, we have got a law that will say pay, you know, all debts, public or private, I think it says so right on the currency. If I carry too much of that, if I got arrested for something else, that can become a battle here over splitting up the spoils between local government and the State."

"While I'm obviously sympathetic protecting the county side, I am more concerned from a civil liberties point of view in terms of people just getting arrested for a relatively minor charge, and any money that you have on you can be confiscated, you get it back, you don't actually have to be convicted of that charge. We can have a case against just the personal property, and in this case most frequently cash. And due process side of it, that sounds fine, but if you have got preponderance of the evidence, I mean, if I lose my car, I have just lost my transportation, I may not be convicted of anything, but my car has been seized, in terms of being penalized, I guess my record, the person having this, they didn't have their record clear, but they were in a position were going to lose their property, and where these bills are is troublesome in this environment. I guess I share the Chairman's convictions, but I would like to go a little bit further because if we are going to have cases against inanimate objects and it's considered civil, as opposed to criminal and you don't have criminal protections in place, I think we are on a slippery slope from a legal perspective that is troubling to me. Thank you, Mr. Chairman."

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

Commissioner Ranzau thanked the Chairman and said, "I am going to say that with respect to 2638, I am going to talk about that. I also looked at 2399, I think it was. I didn't think that it had the civil language in it, but nevertheless, I agree with the Chairman that as far as all the money that's being received, I don't think it should all go to the State. I think it should go to the general fund of the political entity, where the law enforcement resides. For example, if it's a state agency, it should go to the State General Fund. If it is a city or county, it should go to the city or county General Fund."

"The main issue of the bill is the idea of civil forfeiture, I agree with my colleagues. You know, the government is charged with protecting life, liberty and property. We shouldn't infringe upon that without due process. While there is due process, there is a different standard, because when it comes to life and liberty, we can't put you in jail, and we can't subject you to the death penalty based upon the preponderance on the evidence. It has to be beyond a shadow of a reasonable doubt, I think, right? But now evidently we have a different standard when we want to take your property from you, when we think you did a crime that we can't prove beyond a reasonable doubt, and I guess I have a problem with that."

"I think you should have the same standard. The government said we think you committed the crime, we are going to take your property. We can't prove that crime, but we are still going to take your property because there is a lower standard. I do have a problem with that. If you think about it, when it comes to putting people in prison, convicting them of a crime beyond a reasonable doubt, there are still people, even with that very high standard, I think it should be a high standard. Even with that high standard, there are people who are convicted wrongly. So, if at that high standard, innocent people can be convicted, think about what could happen with a much lower standard when it comes to your property."

"I know this may put us on the opposite side of some law enforcement agencies, but I think we have an obligation to keep a high standard for taking your property. Once again, if the government says we are going to take your property because you committed a crime, they should have to prove it."

MOTION

Commissioner Ranzau moved to support the idea of returning property to people unless they have been convicted of an offense as written in House Bill 2638, section 2-a and b, but oppose taking all the funds that are eventually seized and giving them to the state, but rather support the idea it should go to the general fund of the city, county and state, wherever law enforcement agency is located, and authorize the Chairman or his designee and our legal office to provide testimony in support of these principles, regardless of what bill it is in the future.

Commissioner Unruh seconded the motion.

Chairman Howell said, "Thank you for the motion. I think you worded that very well. We have a motion and second. Commissioner Peterjohn."

Commissioner Peterjohn said, "I plan to support this motion, and I appreciate the well worded motion being made by Commissioner Ranzau."

Chairman Howell said, "Seeing no further discussion on this item, Madam Clerk, please call the vote."

VOTE

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

Chairman Howell said, "Jon, please continue."

Mr. VonAchen said, "Thank you, Mr. Chairman. One of the topics that was brought to my attention is the use of body cameras down in the Kansas Open Records Act (KORA). This actually is a little broader than just the Kansas Open Records Act. The body cameras are becoming more prevalent in light of events in other places, Missouri, Baltimore Maryland, New York City. Where to protect in large part of the officers, the body cameras are being implemented. They are on all the time, taking footage so that if there ever is an incident, there was a question about the officer's conduct, you would see from the camera what the officer's conduct is.

"The problem with body cameras is that because you have that much footage for each individual officer constantly going, you generate a lot of hours of video. In order to be able to provide information, you have to be able to redact that information in certain circumstances. If you are providing it pretrial to a defendant, you have to redact personal information regarding the witnesses. If it's a public request after trial you have to produce that footage. There are circumstances where you may have multiple law enforcement officers responding to a call, and they all have body cameras, and all of those body cameras are generating footage, and all of that footage is going to end up being requested by someone.

"So to meet the criminal criteria regarding providing the information to the defendant so they can defend themselves, there has to be a culling of the video to the point where that identifying information is redacted before the point of trial to protect the witnesses.

"The KORA aspect is there are some specific exceptions under KORA under which a video wouldn't be turned over to the general public. I have under 45-221 a-1, a-5, a-10, a-29, a-30, a-47 and a-53, those are the ones that I have identified that would be possible exemptions to use. The other aspect of that is that you have a time frame on the other side, which is a civil side. You deal with those exemptions prior to a civil suit being filed. Once the civil suit is filed, as I read the law, that information becomes the province of the discovery judge, who will determine whether or not that information is to be turned over.

"Right now the City of Wichita is in the process of implementing body cameras for all their officers. It is something the Sheriff has talked about, and I know he has a long-term plan. He can speak more clearly to that himself. That's one of the issues out there, and one of the issues that as some of the [House] Bills go through, there is a bill that would require all law enforcement to have body cameras. That would include our detention officers in the jail. While that would be incredibly helpful to have, there will be costs associated with redacting those videos. So there is going to be a financial impact to each municipality, and state level, if that law is implemented, that you are going to have to have additional staffing to cover just redacting those videos down to where they can be turned over. So that's one of the issues out there that would have a financial impact on the county that I believe we need to be aware of."

Chairman Howell said, "Jon, do you know if there's a [House] Bill number for this KORA issue?"

Mr. VonAchen said, "For this particular KORA issue, I do not have a particular number for any bill that speaks directly to this. There are other law enforcement issues being dealt with, currently in bills with KORA, but not dealing with this particular issue. The topic has come up, it's been discussed amongst the criminal bar, and I know the District Attorney (DA) has concerns about the amount of man power to be able to turn these videos over as they are required to do under discovery rules."

Chairman Howell said, "Generally speaking, when someone makes a KORA request, if there is a cost to government to comply with that request, do you know whether or not we are allowed to pass that on to the requester?"

Mr. VonAchen said, "If the individual requests copies, and when it comes to videos, we are not obligated to copy videos. If you have actual paper items, you can provide copies, or you can provide them for inspection. The problem, of course, with a video and inspection is you still have to redact the personal information for that person to be able to view the video."

"So that's one of the things that there is for the viewing portion of it, there's not an allowance for providing that information, in other words, you could say you can come to this location at this time and place and view the video. If we reproduce it, then the cost associated can be requested that the requester pay those costs, and generally, you know, one of my duties in the Counselor's Office is to deal with KORA issues. Generally, I have taken the position that, and I think this is acceptable to say that we will not turn over those copies until such point as the costs are paid. We present a bill to the requester, say these are the items we need to obtain the cost of gathering and copying the information for you before we turn it over, which is reasonable."

Chairman Howell said, "Okay. So since there is no bill number, I am not being able to read exactly what the legislature is talking about, but I hear them talking about it. The fact is I would expect there will be a bill number quickly. If this happens, it is one of these things I think politically popular, it may move forward quickly. I would like to be prepared for that, and I guess talk about this. What is our county, what's our county philosophy, regarding the discussions. For me, I guess I see two ends of the spectrum."

"One end says we don't want to do this at all. We would like to not provide opportunities for people to see this, that is a law enforcement and courts, District Attorney, the victims would have access to this, but not necessarily general public."

"The other end of the spectrum, everything is available to everybody, at no cost."

"I see two ends of the spectrum. The reasonable place to go is towards the middle. You identified some reasonable places in KORA, existing right now, where things are not available, because it's a private nature, for example, someone takes video of a locker room, for example, or maybe there is a crime being committed that, maybe it's got child pornography on there. I can imagine what might be on these tapes, I have no idea. There's reasons why law enforcement would not want to turn over certain video to someone. And of course I think KORA has reasons as to why, as you have, outline some of these reasons. I think you did a good job on that."

"Having said that, I guess, my concern is, I was given a number yesterday that the district attorney is actually projecting potential \$200,000 increase in their costs,

because of the KORA request. This is just getting going. 80 cameras last year, and they have added an additional 200, so like 280, if I read this correctly. Potentially, the Sheriff will add to that at some point.

"This is a changing culture issue. We have to react to this in some way to cover this cost. I would like to see this in the legislation, that simply says that if the general public that wants to access this or get a copy, in either case we ought to be able to have a reasonable charge to those folks that make these requests. They should not be borne by the general government, but should be born by the people making the requests. I believe in the principle of personal responsibility. I think that someone makes request, adds to the burden of government, they ought to cover the costs.

"So I am very much in favor of transparency. I like to give them as much as we possibly can. You know, under the limits of KORA that are already in place, transparent as possible, give them as much access to that tape as possible. I just don't want to bear the cost as a general taxpayer burden. I would rather let them pay the cost. Those are my positions. I would be glad to hear from the Commissioners as well. Commissioner Peterjohn."

Commissioner Peterjohn thanked the Chairman and said, "Thank you, Mr. Chairman. Jon, some people may view this as a new issue, but the Sheriff has had dash cam videos in his cars for quite a while. We have got security cameras in the jail, there's security cameras at use elsewhere in the county. Aren't we generating video right now to a significant degree in certain areas, so with the proposals before us change, just it would be an expansion of our current situation. It's not really a new situation."

Mr. VonAchen said, "Well, it would be. I view it as a significant expansion. Now you are talking about, you know, in a dash cam, you are limited to whatever happened in front of the vehicle. In detention facilities, you are limited to what the range of the camera is. When you are talking about body cameras, you are talking about constant video being generated. In some instances from multiple law enforcement officers, all of which you have to review, and determine if there's anything that is protected regarding having to turn it over under a KORA request.

"Obviously there is a specific exemption for criminal investigation, but sometimes that's not always communicated to the people that have to review those things, hey, this is really part of an ongoing investigation and we need to use that exemption under KORA.

"It is just going to be the amount of the video generated. We are talking, you know, thousands of hours a week as opposed to talking about maybe 100 hours a week with the dash cams. You're talking about various spots in detention facilities that are stationary cameras that may be able to move a little bit. You are talking the amount of manpower, you know, both for Sheriff's Department and for Wichita PD (Police Department), every one of those individuals is a point where cameras will be attached to them. So, it is the sheer volume is I think, what the District Attorney was speaking to.

"I have heard him speak in other forums where he's concerned about the amounts being generated. I think we are all appreciative of the fact that this movement is happening to protect law enforcement officers from false claims, but at the same time, it is going to generate an awful lot of video that has to be viewed and redacted in order to be able to turn it over."

Commissioner Peterjohn said, "Let me ask you, because you are absolutely right. We are talking a huge increase in volume. If I just pick a ballpark figure, we have got over

500 law enforcement officers in the county, in terms of both detention and commissioned, and I am just going to say, let me just take the commissioned side, if I take 150 commissioned officers who are out and using their camera, times 40 hours a week, that's 6,000 hours per week for just that portion of the Sheriff's Office, let alone everything else that could also be included. So we are talking about a huge increase.

"My thought would be, in terms of if the Legislature is looking at changing the rules, in terms of how long tape has to be retained, you have got a data storage issue, this video is very data intensive in terms of the volume you need to be able to retain it. That could be an additional cost in terms of the personnel, in terms of reviewing and getting into redacting or saving or putting it forward.

"Of course there's the question, I don't know if the State is talking about it, is retention. How long do you need to keep the data, and what type of format? And if there's any details available, or if we are just kind of exploring unknown territory. I think that it's important, as part of this public discussion. I agree with the Chairman, in terms of trying to be transparent, but I really don't want the general taxpayers to have to bear a specific cost if people are seeking specific information under a KORA request."

Chairman Howell said, "Commissioner Peterjohn, I will just tell you, I did a ride-along with the Sheriff's Department a few months back, and they did have a dash cam in the car, but if I remember correctly, they could turn it on manually, which they generally don't do. It is usually triggered when they turn on their lights and siren, it turns on automatically and records as long as the lights and sirens are on and I think when we turn off lights and siren, it continues for some period of time. I don't know exactly how it works. For the most part, unless they are pulling someone over and running lights and siren, it is not taking video. But the body cameras are taking a lot more video. I don't know what the standards of Wichita Police Department are when they take video, but the report that I've got says an average of about two to four hours of video in a ten hour shift.

"They have a lot more police officers than we do sheriff's officers. That is a tremendous amount of video. Management of that video is a big topic. I am very much in favor of the principle of having body cameras. I think having that as a second point of view, hopefully solve a lot of questions in regards to what happened during the stop. It is imperative we go in that direction as a state and as a government.

"I am certainly supportive of the idea. As I have said, my position on this particular issue is, I want it to be clear that we would like to see language that would, again, under the restrictions of KORA let that apply to this. Secondly, that if we have costs in terms of preparing the video for viewing, certainly in making copies if that was to happen, but preparing the video for viewing, if there's costs that we have to incur to the general public, they are not necessarily people who are the prosecutors or the defendants, but the general public making a request for KORA under KORA to view these videos, I would like to be able to have something in place that would allow us to transmit that cost back to the requester.

"That's the position I think we have to take here. That's what I am asking for, Commissioners to consider, whether you would be willing to agree with me on that or not. Commissioner Unruh."

Commissioner Unruh thanked the Chairman and said, "Well, on this particular issue, I really would like to have some input from our Sheriff, what he thinks. I would like to know what costs we might be exposed to before we support something like this, it's

not just the cost of getting this information ready for a requestor, but it's just keeping it and having someone take care of it and having someone check it in and keep it every day.

"I also think that the legislature should consider what sort of financial impact this would have on counties that do not have the resources Sedgwick County does, where it might be a significant expense to that county. I agree with the comments made, but I am not ready to support one way or another until I have a little more information."

Chairman Howell said, "Commissioner Unruh, let me be clear, I am not really set on oppose or support a bill that would mandate the local government that they have to implement these cameras. That's not my position today. My position is if there is video taken as a local decision, how this is accessed by the public, my concern is that we are increasing the new cost to our government we've never dealt with. I would like to have that addressed by the legislature."

"My concern is that single aspect. Whether or not we would like to make a position on potential mandate from the legislature to implement body cameras, that's another topic we can certainly go there, if that's what you want to do."

Commissioner Unruh said, "They need to consider the things that we discussed in today's meeting. Before they craft a bill."

Chairman Howell said, "Very good. Commissioner Ranzau."

Commissioner Ranzau thanked the Chairman and said, "I am supportive of what the Chairman has said basically are you asking for us to take a position or give you guidance like we have in the past?"

Mr. VonAchen said, "The issue was raised, so I raised it with you. Obviously there is a concern with cost. There is a bill currently out there that does not address the KORA issues, simply addresses the issues of mandating that body cameras be on every law enforcement officer in the state."

"You're talking from, troopers on down to correctional officers. That in and of itself is going to generate, if passed, not only are you going to have to deal with the issue of purchasing body cameras, but all of the additional costs that I don't think that bill takes into consideration. The guidance I would ask, if there is some movement on that particular thought, in other words, mandating the implementation of body cameras, or if we can communicate while some of these other law enforcement related KORA issues are being discussed, in addition to that, for those agencies that have implemented the body cameras, that there be a specific way to deal with them under KORA, that we don't currently do."

"For the most part, the cost part of KORA is the catch-all. Okay, you have to do this, there is not a lot of guidance to it. It doesn't take into consideration the amount of money it's going to cost the individual county or city to produce the information when we have to go through these individual body camera footage. So what I would ask is that you consider providing guidance, look for an opportunity to be able to address that issue through the Chairman or his designee, be able to provide testimony or bill amendment along those lines, looking for an opportunity to present, obviously things are moving very fast right now, they are trying to get through next Tuesday so they can recess for a week, but in that process, I think we can communicate that to the lobbyist, if that issue is going to be dealt with, we have a strong opinion on what should be done and that we can provide either something in the form of bill amendment or testimony."

Chairman Howell said, "Commissioner Peterjohn."

Commissioner Peterjohn thanked the Chairman and said, "I just would like to make a comment. I agree with the sentiments expressed earlier, not only having input from the Sheriff, but I would include the District Attorney, and if there's anybody else in this building who would be in a position to be involved, I would like to get their input, too. Thank you."

Chairman Howell said, "With respect to the bill you mentioned a minute ago, mandate body cameras, I am going to guess that Commissioner Unruh and I would agree on this, I think it should be a local decision. It is a great idea, you about I think local governments ought to figure out the cost of that and make those decisions when it's appropriate. I think we are kind of moving in that direction, as a body, and I don't think we need to dictate our timeline and mandate to us what we'll do here. I am universally on the side of transparency everywhere I possibly can. I am supportive of going towards body cameras. I think that's our decision to make."

"I would be opposed to the bill as mandate, and then also speak to the issue of, if they do go down that road, you know, with the issue of how does the public access that, in terms of having KORA restrictions on the video and being able to assess the cost of that to the requesters. Those are my three points. I would ask my colleagues to consider that."

Commissioner Unruh said, "I agree with you, Mr. Chairman."

Chairman Howell said, "Commissioner Ranzau."

Commissioner Ranzau said, "I guess I could make a motion like we had before for that. Try to put everything together. What I have heard, I guess."

MOTION

Commissioner Ranzau moved to take the position that we oppose the state mandate of body cameras and that we do support subjecting the video from body cameras or car cameras, subject to KORA, but subject to reasonable restrictions and reasonable fees, and allow the Chairman or his designee, our Legal Department to provide testimony whenever necessary as bills come up that deals with these issues.

Commissioner Chairman Howell seconded the motion.

Chairman Howell said, "Just to summarize, if I understand the motion, it's to oppose the mandate, to allow reasonable restrictions under KORA, that are already outlined in KORA, and be able to transmit that cost to the requesters."

Commissioner Ranzau said, "The reasonable restrictions and reasonable fee as well."

Chairman Howell said, "Very good. We have a motion, and I second that motion. Madam Clerk, call the vote."

VOTE

*Commissioner Unruh Aye
Commissioner Norton Absent
Commissioner Peterjohn Aye*

Commissioner Ranzau Aye
Chairman Howell Aye

Chairman Howell said, "That's really the only legislative issues we have today. Anything else?"

Mr. VonAchen said, "If any Commissioners have additional questions on those, Senate Bill 421, which is of interest, the security bypass would allow the county to set a standard by which individuals could be pre-vetted and able to bypass the adequate security measures, that's being heard this morning, County Clerk, Kelly Arnold is testifying, and the election audit bill that provides testimony in favor of, was heard Monday and is scheduled for possible action today."

Chairman Howell said, "Just curiously, we didn't talk about Senate Bill 421 in one of our staff meetings awhile back. I said I was in favor of providing supportive testimony. I don't think we had three Commissioners that agreed on that at the time. So I guess this is an opportunity, I see that one of our elected from Sedgwick County, Kelly Arnold will be testifying on that bill.

"I was wondering if we have an opportunity to, I guess, to make that not just Kelly Arnold's, but make it Sedgwick County. Something that Wichita has asked for, City of Wichita. I would like to show support to Wichita. It is not a mandate to us, it gives us opportunities to allow certain things, it is called freedom. It's more home rule, more opportunities, more choices. We are asking for options.

"I would like to show some support to Wichita in allowing Kelly Arnold to actually testify in favor of this bill as Sedgwick County's position."

MOTION

Commissioner Ranzau moved to take a position to support security bypass, in general, as outlined in Senate Bill 421 and allow the Chairman or his designee and legal staff to provide testimony, regardless of what happens to the bill numbers in the future.

Chairman Howell seconded the motion.

Chairman Howell said, "Any further discussion? So, Madam Clerk, call the vote."

VOTE

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

Chairman Howell said, "I will work with Kelly Arnold to let him know that he can represent the county in his testimony if he would like to do that. I will work with him on that, unless you would like to help me with that."

Mr. VonAchen said, "Mr. Chairman, I know the bill is being heard, it was being heard this morning, so we can provide that, provide that information to, I believe, Kelly is still in Topeka. We can provide that information to him as well as our lobbyists that we would concur in his testimony."

Chairman Howell said, "We will try to get that inform as we can to let them know we support the bill. Anything else?"

Mr. VonAchen said, "I have nothing further unless the Commissioners have any questions on anything else legislative related."

Chairman Howell said, "Anything else legislative? Seeing no other comments. Madam Clerk, next item."

OTHER

Chairman Howell said, "Commissioners is there anything else for 'Other' today? Commissioner Peterjohn."

Commissioner Peterjohn thanked the Chairman and said, "Just a repeat what was said earlier, that the weather being mild, especially for the next few days, a great time to go to the Sedgwick County Zoo."

"I would be remiss if I didn't point out that February 17th is an important day in American history for several interesting reasons. Especially once upon a time this country used to be a world innovator. We have been losing at that title, especially in the last few years. Sometimes this innovation occurs under awful circumstances."

"In 1864 the first successful attack by a submarine occurred in Charleston Harbor, when the confederate submarine, H.L. Hunley, was successful in sinking USS Housatonic. The Hunley went down after the attack. Very interesting historical museum set up because of the Hunley."

"Going a little further back on February 17th, on this date in 1801, U.S. House of Representatives broke a tie between Thomas Jefferson and Aaron Burr, and basically allowed Jefferson to become elected as the third President of the United States. Interestingly enough, this occurred well after January 20th, which is the date normally presidential terms end now, but back then, it actually ended in March."

"In terms of one interesting historical footnote, on this date the first public gas streetlight was lit in Baltimore, Maryland. That's significant, in terms of innovation, because as a great country filled with innovations, the United States was first, with movie theaters, gas stations, traffic lights, radio stations, shopping malls; that was right up in Kansas City, motels, something that is important for us here; air conditioned office buildings, drive-in movie theaters, and one innovation that some folks may kind of regret, parking meters. So February 17th important day in American history. Wanted that on the record. Thank you, Mr. Chairman."

Chairman Howell said, "Any other remarks from Commissioners? Seeing none. Mr. Manager, is there anything else? I think we are done, so we are adjourned. Thank you."

ADJOURNMENT

There being no other business to come before the Board, the Meeting was adjourned at 11:52 a.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:
