

Sedgwick County

525 North Main Street 3rd Floor
Wichita, KS 67203



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Meeting Minutes

Wednesday, October 12, 2016

9:00 AM

BOCC Meeting Room

Board of Sedgwick County Commissioners

Pursuant to Resolution #007-2016, adopted by the Board of County Commissioners on January 20, 2016, members of the public are allowed to address the County Commission for a period of time limited to not more than five minutes or such time limits as may become necessary.

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 Crissy Magee, Sedgwick County ADA Coordinator, 510 N. Main, Suite 306, Wichita, Kansas 67203. Phone: 316-660-7056, TDD: Kansas Relay at 711 or 800-766-3777

Email: Crissy.Magee@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

The Regular Meeting of the Board of the County Commissioners of Sedgwick County, Kansas, was called to order at 9:04 a.m. on October 12, 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, Bureau of Public Works; Mr. Thomas Golden, Deputy County Manager; Mr. Jon VonAchen, Assistant County Counselor; Mr. Kelly B. Arnold, County Clerk; Dr. Timothy S. Gorrill, M.D., Ph. D., County Coroner; Mr. Dale Miller, Director of Planning; Mr. Justin Waggoner, Assistant County Counselor; Mr. Steve Claassen, Operations Support Services Director; Mr. Darrell Haynes, Courthouse Chief of Police; Ms. Kate Flavin, Public Information Officer; Ms. Heddie Page, Deputy County Clerk.

GUESTS

*Mr. Patrick Matson, 7101 East 69th North, Valley Center
Mr. Frank Dungan, 6522 North Woodlawn, Kechi
Mr. F. Robert Smith, Attorney, Foulston Seifken, LLP
Ms. Bette Born, 6538 Chevy Chase Avenue, Dallas, Texas
Mr. Robert Conger, City Administrator, City of Kechi
Mr. Joe Choi, 6301 North Woodlawn, Kechi
Mr. John P. Woolf, Attorney, Triplett, Woolf, Garretson, LLC
Approved*

INVOCATION: Pastor Glenn Tombough, Mt. Vernon United Methodist Church.

FLAG SALUTE

CALL MEETING TO ORDER

ROLL CALL

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

Roll Call

PUBLIC INFORMATION ANNOUNCEMENTS

PUBLIC AGENDA

APPOINTMENTS

- A [16-661](#) RESOLUTION ACCEPTING THE RESIGNATION OF JAIME OEBERST, M.D. SEDGWICK COUNTY DISTRICT CORONER, AND APPROVING TIMOTHY S. GORRILL, M.D., Ph.D, TO SERVE AS THE SEDGWICK COUNTY DISTRICT CORONER PURSUANT TO

K.S.A. 22a-226 AS NOMINATED BY THE LOCAL MEDICAL SOCIETY.

Presented by: Eric Yost, County Counselor.

RECOMMENDED ACTION: Accept the Resignation and Approve the Appointment.

PUBLIC COMMENT

Mr. Eric Yost, County Counselor, greeted the Commissioners and said, "Agenda number A is the appointment of Dr. Timothy Gorrill to serve as District Coroner. Ms. Oeberst had resigned some time ago and this is replacement for her. It is my understanding that he is present and to be sworn in. The paperwork appears to be in order. I would urge adoption of the recommended action. Which is to accept the resignation and approve the new appointment."

Chairman Howell said, "Thank you, Mr. Yost. I will at this time, is there anybody in the audience would like to speak on this agenda item? Alright. Seeing none, bring it back to the Commission. Commissioners, what is the will of the board?"

MOTION

Commissioner Ranzau moved to accept the resignation and approve the appointment.

Commissioner Unruh seconded the motion.

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

VOTE

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

Mr. Kelly Arnold, County Clerk greeted the Commissioners and said, "I do solemnly swear I will support the constitution of the United States, the constitution of the State of Kansas and faithfully discharge the duties of the office of Sedgwick County District Coroner, so help me God."

Dr. Timothy Gorrill, M.D., Ph.D. said, "I do."

Mr. Arnold said, "Congratulations."

Dr. Gorrill, greeted the Commissioners and said, "Thank you. County Commissioners, I just want to say thank you for this opportunity."

Commissioner Unruh said, "Thank you."

Commissioner Peterjohn said, "Thank you."

Chairman Howell said, "You're very welcome. Congratulations for your new appointment."

Dr. Gorrill said, "Thanks."

Chairman Howell said, "Alright. Before I go on, I see that we have Mayor of Goddard has arrived. She is in the audience. Want to recognize Mayor Marcy Gregory. Thank you for being here with us this morning. With that Madam Clerk, next item, please."

Approved

PLANNING DEPARTMENT

B [16-652](#)

DER2016-00005 AMENDMENTS TO CERTAIN SECTIONS OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE TO PERMIT EVENT CENTERS, CHURCHES, FARMER'S MARKETS, COMMUNITY ASSEMBLY AND BED AND BREAKFAST USES BY RIGHT SUBJECT TO DEVELOPMENT STANDARDS IN CERTAIN ZONING DISTRICTS.

Presented by: Dale Miller, Director of Planning.

RECOMMENDED ACTION: Adopt the findings of the Metropolitan Area Planning Commission (MAPC), approve the proposed amendments to the Wichita-Sedgwick County Unified Zoning Code as recommended by the MAPC, and approve the resolution.

PUBLIC COMMENT

Mr. Dale Miller, Director of Planning, greeted the Commissioners and said, "As the Commission is aware, staff was approached, seems like a long time ago now, but to review the Unified Zoning Code with respect to was there a way to amend the code, to allow agricultural producers to better utilize the buildings, grounds and facilities that they have on their agricultural properties. So staff reviewed this and the critical thing that came out of the review was that most of the people that we had discussions with were interested in the event center concept where they could take a building that might be primarily used for agricultural uses or maybe even be built just for entertainment or events, but be built out in the country on a farm ground; that it be allowed as a use by right, if they could meet certain development standards.

"So staff reviewed some ordinances and resolutions from other counties and cities. We proposed what is before you today. [Metropolitan Area] Planning Commission (MAPC) did review this and recommended approval as you see it today. One of the things that came up as part of this is currently under the code churches and other assembly type uses in the (RR) Rural Residential district are required to get a conditional use. Well, if the concept is to allow an event center, which is basically a community assembly activity, as a use by right, we didn't want to run afoul of the Religious Land Use and Institutionalized Persons Act or RLUIPA, is the acronym. So we needed to take a look at how we treated churches and community assembly in the county and see what needed to be done to be consistent there. Because essentially RLUIPA (Religious Land Use and Institutionalized Persons Act) requires that you cannot be more restrictive on a church than you would a similar, non-religious institution or activity.

"So what we ended up with is we have amended the definition of agriculture so that it's clear that products that are produced on site can be sold on site. We have moved churches or places of worship and community assembly from conditional use in the RR district to a use by right provided they comply with the 12 development standards

that also apply to the event center in the county. We also moved bed and breakfast in to a use by right in the RR district, because we had a number of requests for that in the county.

"Then we added farmers market in the county to make it clear, that if you meet those development standards and you are on farm ground that you can sell agricultural products that are not raised on site as a farmers market. Now at Planning Commission, the original proposal was going to require some form of gravel or surface parking for these uses. The planning commission listened to one of the potential folks that want to run one of these business and they wanted to be able to park on grass. After a fairly lengthy discussion, came up with a modification that is included in here. That if the event center is not used more than a hundred days a year, then they would be able to use grass as a parking surface, provided that they provide a 50-foot long rock driveway. The concept being that if there is mud or dirt on the tires, that that rock driveway would knock that off before it would hit the section line road.

"Again, as I mentioned the Planning Commission approved this 8-0. There were two citizens that spoke in favor of the amendments and offered suggested changes. I believe there are at least two people here today, that possibly are interested in speaking on this. Planning Commission recommended approval. With that, I'd try and answer questions."

Chairman Howell said, "Alright. Well, thank you Director Miller for your presentation this morning. Going to go to the Commissioners, first. Commissioner Ranzau."

Commissioner Ranzau thanked the Chairman and said, "Well, I just want to say thanks for all the hard work you put in to this. I know this has been an ongoing issue for a long time, and I actually was originally brought to my attention. Well, two years ago during the campaign with Senator [Carolyn] McGinn. She was one of the people that was dealing with this issue. Another gentleman by the name of Dan Stockemer who had been involved in this as well. And along the way, we learned a lot about Agri-tourism. There is a state statute that is intended to encourage Agri-tourism.

"That is the use of family farms to do things on just general agriculture. But to be used for other things that are still associated with agriculture, though. So we wanted to make it as easy as possible for those little sorts of things that they might do on a daily basis, and not really impact the surrounding area, to be able to do that by right, while at the same time addressing the activity center issue, and lots of issues to take into account there.

"I know you put a lot of time, work and effort into it. I think they are both happy with where, in fact, I spoke to Senator McGinn this morning. She can't be here, but she is supportive and thankful for all the efforts the staff put into this. Sometimes it takes a while to get these regulations and zoning codes changed and get everyone happy, but in the long run, I think it is good we put the time and effort in it. I really do appreciate the effort you and the staff put into it."

Mr. Miller said, "We are happy to have done it, thank you."

Chairman Howell said, "Alright. Further comments from Commissioner Peterjohn."

Commissioner Peterjohn thanked the Chairman and said, "Mr. Miller, I want to also provide thanks to you and your staff as well as to the folks on the Planning Commission who worked this. Also, citizen input I've heard has been also positive. I think this is going to strengthen our local economy. Give more opportunities to the

folks who are in the agricultural part of Sedgwick County. I think for a lot of folks out there, it is important for them to realize that even though Sedgwick County is the second most populous county in the State of Kansas. Most of the land in Sedgwick County is ag [Agriculture] land.

"People, whether specifically on a farm or on a piece of property where they may be leasing it for farming or other purposes. Agriculture is absolutely vital for this county. Having this provision in place, I think is going to be a help for everyone in that part of the county. I think it is also going to be a positive for the city folks. I think it is very helpful when little kids get the opportunity to go out and see that milk comes from a cow, not from a grocery store. So this is going to be a positive step in the right direction. I'm happy to support it. I know there's been a lot of work to get us to this point today. I wanted to recognize that this morning. Thank you."

Chairman Howell said, "Well, I would like to go ahead and go to the public at this point. And ask is there anybody in the audience who would like to speak on this agenda item? Alright. Seeing none, bringing it back to the board. My only, oh, other comments from Commissioner Ranzau."

MOTION

Commissioner Ranzau moved to adopt the findings of the Metropolitan Area Planning Commission (MAPC), approve the purposed amendments to the Wichita Sedgwick County Unified Zoning Code as recommended by the MAPC and approve the resolution.

Commissioner Peterjohn seconded the motion.

Chairman Howell said, "Very good. We have a motion and second. My only other comment, this was recommended by MAPC on a vote of 8-0, which I appreciate the work they've done as well. State law does allow for this type of activity, even encourages it, I would say, as I read it. To me this is one of those things where it creates new opportunities in the community. People, you know, sometimes I hear people say that they can't, there's not things to do in the community. There's things they would like to do, but there are not things to do they can think of.

"Well, there is going to be all kinds of new ideas developed around this opportunity. Everything from pumpkin patches, to corn mazes, to haunted houses, too. As Commissioner Peterjohn said children learning, education opportunities of children at farms and seeing how food is made. There is just tremendous opportunity for us to allow a little bit of freedom on this issue. Let people to use their land to find ways to provide new opportunities and make a little bit of money on the side. To me, this is a great opportunity. And I would like to support it as well. Any other comments from the Commissioners before we vote? Alright. We have a motion and second. With that Madam Clerk, please call the vote."

VOTE

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

Chairman Howell said, "Thank you, everyone. Next item, please."

Adopted

NEW BUSINESS

- C** [16-644](#) CONSIDERATION OF LIFTING OF RESTRICTIONS CONTAINED IN
RESTRICTIVE COVENANT AND JOURNAL ENTRY FOR
PROPERTY AT 6609 N WOODLAWN.

Presented by: Justin M. Waggoner, Assistant County Counselor.

RECOMMENDED ACTION: First, authorize the County Counselor's Office to prepare, and the Chairman to sign, a document that would remove restrictions contained within the Declaration of Restrictive Covenants, such that said document is to be recorded with the Register of Deeds. Second, authorize the County Counselor's Office to file a motion within Case No. 98 C 3245 and effectuate any other documents to be filed with the District Court that would remove restrictions upon the use of the property included within the Journal Entry of Judgment dated August 18, 1999.

PUBLIC COMMENT

VISUAL PRESENTATION

Mr. Justin Waggoner, Assistant County Counselor, greeted the Commissioners and said, "Here to present on property at 6609 North Woodlawn. It is currently owned by a company named Boop, LLC. They have submitted a request to lift some restrictions on that property that were the result of some litigation that occurred in the late 1990s between Sedgwick County and a prior property owner. The prior owner of that property.

"I am going to start out with brief number of maps to give you some background of the property and the surrounding area. Then after all that, I will get into some of the historical background of the property, further explain the request that's been made. On this first map here is showing the property indicated in red. It's a 44 acre piece of property, unincorporated area of Sedgwick County, to the North of the City of Kechi. If you look at the City of Kechi, it is more or less northeast of the core of the City of Kechi.

"The second map on here is an aerial of the property, zoomed in a little bit more from 2014, I believe, that just kind of shows what it looks like from above. You will note that on the west side of the property is a railroad. On the east side of the property it is stated as 63rd Street, but essentially, that is well, it's Woodlawn to the east of this property, I should say. It's unpaved on that portion of Woodlawn. Also both to the north and south of this property are rural residential properties in the unincorporated area as well.

"The next slide on here shows zoning for the property. The roughly western half, about 25 of the 44 acres, is zoned as Rural Residential (RR). Then the other 19 acres on the eastern half is zoned Limited Industrial (LI). Also to point out, there's some commercial buildings on the eastern half of the property and some other I think commercial infrastructure on the western half there is a cell tower. There's not a residence on this property, despite it being zoned Rural Residential.

"The next map on here shows, again the property outlined in red. Then it shows the

urban area of influence for the City of Kechi. This property is within the City of Kechi's urban area of influence under our zoning code. What that means, I think you all are pretty familiar with this. If there were to be a zone change or action on this property, it does have to, prior to going to the Metropolitan Area Planning Commission (MAPC), it actually goes to the Kechi Planning Commission for recommendation. The matter that's in front of you today is not a zone change, just to be clear. It is an entirely separate matter, but it does of course, affect the property.

"Then the last map that I've got on here, is a map that shows, again the property outlined in red. Then it shows the zoning for the unincorporated area and also the zoning for the City of Kechi. What you will note is, again the property has two types of zoning on it. All of the property in that surrounds it in the unincorporated area is zoned Rural Residential. However, the City of Kechi has a kind of mixture of uses.

"Depending what direction you go from the property. It may be a little small to see from the scale, but things I would point out. The property is somewhat at the confluence of three different types of uses. If you go to the west of the property, there's some subdivision in the City of Kechi. Again, around it is Rural Residential. Then if you go to the southeast of the property, that pink color is industrial zoning within the City of Kechi. There is a fair amount of industrial zoning in the vicinity as well.

"Now, moving on to some of the history on this property, in the late 1990s there was a prior property owner, Maurice Caster that operated a company called Caster Excavating as a recycling business. Some of the activities that he undertook on the property resulted, that were contrary to how the property was zoned or uses that were not allowed. He, in short, was dumping construction debris on the property. He operated a metal recycling business, and some of the stuff he was doing was not allowed, again, with how the property was zoned.

"So at that point in time, the Sedgwick County Code Enforcement Director wrote a notice of code violation to Caster Excavating. They challenged that letter to the essentially, that opinion that had been reached to the Board of Zoning Appeals for Sedgwick County. Board of Zoning Appeals ruled in favor of the [Sedgwick] county's position on the matter. Caster Excavating then exercised their rights to appeal to the District Court. When this matter got to the District Court, ultimately the parties reached a settlement agreement under which there were restrictions put in place on the property as a result. Those were essentially manifested themselves in two different places.

"First, there was a restrictive covenant that ended up being recorded with the Register of Deeds. Then secondly, there was a journal entry that was filed with the District Court. Both of those had a number of listing and restrictions on the property. The request that Boop, LLC, the current owner has made is to lift all those restrictions currently in place.

"Just briefly the restrictive covenant is valid until 2024; for 25 years, it began in 1999. It does run with the land, meaning that it applies to future property owners. The current property owners, again, were not the owners back in the 1990s during the litigation but the conditions of the restrictive covenant apply to this day. Both the restrictive covenant and journal entry define RR property and LI property based on the LI meaning limited industrial zoning portion of the property that I showed you on the map, and RR based on Rural Residential portion.

"The restrictive covenant lists a number of activities that are not permitted on the property. A number of things, such as storage of scrap metal, above-ground storage

tanks, excavation uses, a whole laundry list of uses they didn't want to allow on the property. I think the aim was generally. These were activities that Caster Excavating had been undertaking. The aim was not to allow some of those uses because they were maybe contrary to what should have been allowed on the property.

"Again, as this document, like I said, is of record. Because of that, being filed with the Register of Deeds, it would have been on record for any future property owners to see that if they had, in doing a title search, or anything along those lines. The restrictive covenant does not identify any third-party beneficiaries, meaning it specifically says there are no third-party beneficiaries. So there are neighbors that complained on the code enforcement, they are not technically beneficiaries of the terms of that restrictive covenant. The county is the benefited party under that, the terms of the restrictive covenant. And lastly, it says it can be amended at any point in time by a majority vote of the County Commissioners in agreement of the property owner. That includes any future property owners.

"The journal entry that has very similar restrictions on use and it limits things that are limited in restrictive covenant more or less. There is one thing I guess I did want to point out about the restrictive covenant as well. Beginning in either 2010 or the transfer of the property to a non-lineal descendant of the Caster's, both of which occurred, because Boop, LLC is not a lineal descendant of them. Secondly, of course, we are past 2010 even the LI zoned portion of the property can only be used for rural residential purposes.

"So there are not an especially large number of uses this property can be put to. In the backup materials there is a document that shows it's got three different columns. It shows the number of uses that are allowed for the rural residential portion. I'm sorry, the left column shows the uses currently allowed, which there's only a handful of those. The other two columns show all the uses allowed if the LI zoned property were treated as it is zoned.

"And then to explain the history on this, Mr. Caster had passed away in 2008. In 2009, the property was sold to a John Born. Mr. Born and his family as I understand it, own Boop, LLC. Mr. Born had passed away in 2011. Both his wife and son are here today. Again, their company owns the property. It's been operating as Stone Masons, Incorporated. It continues to be used by that business. They have indicated an intent to sell the property, make it more marketable by lifting some of these restrictions.

"There is a little bit of a history in that this property had previously been proposed to be sold to a company that was going to operate an asphalt plant on it. That drew a lot of neighbor opposition when this went to the City of Kechi's Planning Commission. The City of Kechi's Planning Commission actually recommended against the use and ultimately the sale of that potential buyer fell through. I think in part because of the concern that the neighbors were against it, and maybe the conditional use that was proposed would not be approved.

"A few months later another company was interested in relocating there. The use on that property, the potential purpose, an HVAC [Heating, Ventilating and Air Conditioning] company. That fell through for different reasons. But essentially this portion of Woodlawn is not paved alongside this property, and they were going to build some building on there. And doing that that would trigger some of the road paving requirements and subdivision regulations.

"So, at this point in time I think the property owners really just want to be able to see if they could get these restrictions lifted. So the property would be more marketable

and they could make an economical use of it. No notice is required on this matter in front of you today, but to be transparent, to be welcoming of feedback from the surrounding property owners. We did send out a notice about today's hearing to all the property owners in the area that would align with the zone change. We did a similar statutory notice for a zone change.

"Recommended action on this matter is to grant the request that's been made by the property owner to lift the restrictions on the property and to authorize the County Counselor's Office to take action, and remove those restrictions contained in the restrictive covenant and journal entry. The reasons for that is we think that the restriction put in place in the 1990s were a little bit of overkill, perhaps, in hind sight I think based on a prior bad actor on the property. Second, would be to allow them to make some economical use of the property. Lastly, it would really put it back to how the property is zoned, which there could be a common sense reason for that.

"Alternatives to that would be to take no action, leave the restrictions in place, or another option that I think could be a reasonable alternative would be to lift some of the restrictions, but not necessarily all of the restrictions. And that's something that again, the document in your backup material should show the uses that are currently allowed. All the uses that would be allowed by LI zoning. And if you would, you know, you could take a vote on maybe things that you would think would not be appropriate for the property. I believe that the current property owner, their counsel talked with the neighbors. They may be available to elaborate on what they think is or is not appropriate as well.

"At this point I would also say Dale Miller is here, the Planning Director. If you have any questions on any of the zoning issues or on this property. Simple majority vote as well would be required to take action. I would be happy to stand for any questions that you might have on this. Lacking any questions, I would defer to any other input."

Chairman Howell said, "Alright. Thank you, Mr. Waggoner, for the presentation this morning. Commissioners, any initial questions or comments as we get started this morning? Alright. Seeing none. I would like to go out to the audience and the public and ask is there anybody who would like to speak on the agenda item? I do believe I have Patrick Matson here. I would like to call up Patrick Matson. Please, state your name and address for the record. Thank you for being here this morning."

Mr. Patrick Matson, 701 East 69th, greeted the Commissioners and said, "My wife and I have owned the farm that's due east across the road from the property. It is a century farm, I am very familiar with the area all my life. I will be brief. I have five points why we should keep these covenants in place. The covenants were an agreement between the land owner and the county at the time to protect the adjacent residential property owners when they were established. Second, county went to great expense, hired outside attorneys, and the restrictive covenants were the agreed-upon result to protect rural residential surrounding property. Three, now that it's inconvenient for the current owners, they should just not be thrown out. Maybe something in between can be done. Throwing out the covenants would be more or less a blank check. You know, I always thought typically in zoning cases we had some known use, some known proposal of use when the restrictions were loosened. That doesn't seem to be the case here. Lastly, I would like to remind the Commission, it is surround the by rural residential, there are four homes less than a thousand feet away from the property. That's all I have. I would recommend not doing anything at this time. Any questions?"

Chairman Howell said, "Commissioner Ranzau."

Commissioner Ranzau said, "Can you clarify for me, what land do you own? Just east of there?"

Mr. Matson said, "Directly east across the road. East of Woodlawn."

Commissioner Ranzau said, "How much? Is it a quarter section, or ..."

Mr. Matson said, "Yeah, a short quarter. 144 acres."

Commissioner Ranzau said, "So, okay. But to the south of you, you have areas zoned industrial already."

Mr. Matson said, "Yeah. There is a nice buffer there. And then here again, that use is probably okay with being adjacent to residential. Here again, you know, we are just concerned about the future usage of this particular property. We've got the scars, past scars to remind us that we need to be careful here."

Commissioner Ranzau said, "I guess I am a little confused, because maybe I'm mistaken, but the property in question is going to have limited industrial, just like the one to the south. So, you would have the same uses in the south. I mean, or am I, is that wrong? I might be a little confused."

Mr. Waggoner said, "I'm sorry, when you say the property to the south, the property to the south. The south of what?"

Commissioner Ranzau said, "South of his land already is limited industrial."

Mr. Waggoner said, "It's industrial. It's Kechi's industrial property. I don't know, I am not familiar with their zoning code. I would imagine some of the uses are similar. Dale Miller might know more about that. It's zoned industrial. I believe the term is, I'm trying to see how they have termed it. Industrial district. They also are a light commercial district and heavy commercial district. Industrial appears to be the most intensive use they have. According to the chart on the right of that."

Commissioner Ranzau said, "Okay. Do you have any way to compare what theirs is compared to ours? You are saying their industrial is the most intense that they can have there."

Mr. Waggoner said, "I'm solely going based off what is on the key. I believe that's correct, Commissioner Ranzau. There's agriculture use, single-family residence, multiple family residence. Then it says special commercial, light commercial, heavy commercial, and then industrial. I would think industrial would be the most intensive of those uses."

Commissioner Ranzau said, "Okay, thank you."

Mr. Matson said, "I would like to point out that at the time that was rezoned that was a known use. A company was going to move in there. It was very known. In this case, this property is for sale. So we really don't know what that usage will be in the future. It may or may not be acceptable to the surrounding rural residential type zoning."

Commissioner Ranzau said, "Thank you."

Mr. Matson said, "Thank you."

Chairman Howell said, "Please hang on. Commissioner Peterjohn, please."

Commissioner Peterjohn said, "Mr. Matson, I want to make sure and get this clear for the record. Since you said you have got kind of a short quarter section. Does your property actually abut this area that's inside the city limits of Kechi?"

Mr. Matson said, "Yes."

Commissioner Peterjohn said, "I can't tell."

Mr. Matson said, "Yeah, it joins the pink area on the map on the south. So my property does touch the southern industrial zone."

Commissioner Peterjohn said, "It does touch it."

Mr. Matson said, "Yes."

Commissioner Peterjohn said, "Do you know when the City of Kechi went ahead and did that industrial zoning? Because you said there was a company that was planning to go in, I guess they didn't."

Mr. Matson said, "Ya, it's under construction currently."

Commissioner Peterjohn said, "It's under construction currently?"

Mr. Matson said, "Yes."

Commissioner Peterjohn said, "So there is somebody going in there."

Mr. Matson said, "Yes."

Commissioner Peterjohn said, "Okay."

Mr. Matson said, "It was about four years ago. I believe, when they changed that zoning. Best as I recall."

Commissioner Peterjohn said, "Okay, because and you've owned this property."

Mr. Matson said, "Since 1995, my family has owned it since the 1880's."

Commissioner Peterjohn said, "Thank you."

Mr. Matson said, "Thank you."

Chairman Howell said, "Alright. I don't have a question. Thank you, Mr. Matson. Frank Dungan."

Mr. Frank Dungan, "Yes, sir."

Chairman Howell said, "Do you want to speak on this agenda item?"

Mr. Frank Dungan, "Yes, sir."

Chairman Howell said, "Thank you."

Mr. Frank Dungan, 6522 North Woodlawn, greeted the Commissioners and said, "Yeah, mine are the same issues. I might like to elaborate on them a little bit more."

The covenants that were placed on this land were for good reason. They weren't arbitrarily applied to it. We don't have any objection to a company conducting business in our vicinity. Outside of the ramifications that might have for property owners. Which we have a history with already on this property.

"I've been on my property for just short of 30 years. I am located directly across the street from it. My property also touches the pink large area, right there. Let me elaborate a little bit on this. When Caster Excavation owned the property, he conducted, the excavation business for many years. Got along with the neighbors very well. But at one point and time he expanded it to a metal crushing operation. He put in what was basically a hammer mill. It created a pollution. It was contaminating the land that was adjacent to his property. It had excessive noise. It exceeded limitations by the county. The area residents had to hire lawyers, put a great deal of effort into getting this operation under control and finally shut down. That was the reason for putting in the covenants.

"While the area is surrounded on all four sides by residences. So there is not a good buffer for a heavier industrial applications. Such as goes with Caster and the residents that were there. As things all progressed, we have absolutely no disagreement with the operation that's going on with the stone masons that currently operate it. I think they are very good neighbors. However, they also demonstrated a lack of concern for the residence areas when they tried to sell the operation, or the excuse me, the property for an operation that would run asphalt. An asphalt operation would pollute the air severely. People that live near an asphalt plant suffer from lung diseases. It puts oil into the air, you breathe the air.

"We again, had to unite as residents in the area, we had to take legal counsel. We had to go to meetings. We put a great deal of effort into stopping this. This was just this summer. This was not a long time ago. So we are very concerned that any operation that may be coming in might work within the LI, but might be incompatible with the residents that are already directly adjacent to this property. We would like to see a certain amount of control left in place. So that we can have a good relationship with whoever might come in to this property.

"And for that reason, we believe these covenants should be retained. They were put in there for good reason. And the events of this summer showed that there is still a good reason they should not be discarded. So in light of that, we recommend that the covenant be left in place, that this effort be tabled until such information can come forth on the type of business that might be coming in. If it is a business that is compatible with residents in the general area, we would have no objection to that. But right now that information is not available.

"And the current owners have demonstrated that they are not going to filter out anything like that. They have no objection to putting in an asphalt plant, which would have rendered our property unlivable and unsellable. So that is the concern that we have in this area. Any questions?"

Chairman Howell said, "Thank you, Mr. Dungan. Am I saying your name correctly?"

Mr. Dungan said, "Yes."

Chairman Howell said, "Dungan. Thank you, Mr. Dungan for your comments. Commissioners, any questions or comments from Mr. Dungan? I do have one question. Have you looked at the list of current use versus LI uses and then conditional use topic, I guess I should say business activities that would be under conditional use. Have you looked at this list?"

Mr. Dungan said, "Yes, sir. In fact, excuse me a minute. In fact, I was on the Zoning and Planning Commission for a number of years in Kechi as well."

Chairman Howell said, "Okay. Has Kechi, has the City [of Kechi] I am not sure I heard it earlier, I apologize for not hearing it if it was presented. Has Kechi weighed in on simply lifting this restriction? They have not weighed in yet. Okay. Alright. And if I understand correctly, on this list of items, is there anything on this list that you would I mean, are you guys, have you guys considered filtering this list in any way, saying these are things we think are reasonably acceptable and these are things we don't want to see?"

Mr. Dungan said, "Excuse me just a moment. My throat is a little dry, sorry. We would entertain discussing it with the property owners and maybe their counsel. But we would like to reserve the ability to restrict anything that would be objectionable and detrimental to our property. It's really quite simple."

Chairman Howell said, "Commissioner Peterjohn."

Commissioner Peterjohn said, "Yes, thank you. Let me ask a couple questions. One of the options, actually, we have two, we have a variety of options that we can take here as a Commission. I would like to get your input on some of them to see what you think, and if Mr. Matson wants to jump in, too, I would be happy to hear his comments. One of the options we have is to take an action on the restrictive covenant, not on the journal entry. Or we take an action on the journal entry, but not on the restrictive covenant, which expires in 2024, which you've been on the [City of Kechi] Planning Commission, have a little more knowledge of how that goes and are very familiar with this property. Do you have any thoughts on those two ideas, and have a position on either of those two options for us this morning?"

Mr. Dungan said, "Well, as I said, I think it would be best to table this option at the moment until more information can come forth. We wouldn't object to having some discussions on this, and just getting some type of assurance that there isn't going to be something in the neighborhood of, say, an asphalt plant that would be moved in next to us."

Commissioner Peterjohn said, "Well, let me ask you then, if we had a restriction in place that it could not be used for an asphalt plant, but it would have a, we eliminate some of the restrictions that are currently in place as part of this covenant or/and journal entry. Is that something, what would your position be on that?"

Mr. Dungan said, "Well, we can't anticipate all businesses that might come in there. LI is a very broad opening for businesses that may come in there. We simply can't have any foreknowledge of what might come in. So it may not be an asphalt plant, but it could be other items that are very objectionable. You could have excessive noise from many operations. You could have excessive truck traffic, for instance, on the road, might be objectionable to it. They might, say, generate debris that would blow off the property. We just don't know what type of operation might come in. We feel that the LI zoning is too broad for the conditions that are in this area."

Commissioner Peterjohn said, "Let me ask you, looking at the sheet that you, form that you filled out that had your address on it. You are south of Mr. Matson's property."

Mr. Dungan said, "I am just, for the most part east. I'm right on Woodlawn. I have 10 acres across the street from the subject."

Commissioner Peterjohn said, "West side of Woodlawn?"

Mr. Dungan said, "I am on the east side of Woodlawn."

Commissioner Peterjohn said, "Okay. You are south of his, Mr. Matson's property. Is that correct?"

Mr. Dungan said, "Correct. Yep."

Commissioner Peterjohn said, "Okay. That's all I have at this point. Thank you, Mr. Chairman."

Chairman Howell said, "Alright. Thank you, Commissioner Peterjohn. Thank you, Mr. Dungan for your comments as well. Anybody else in the audience like to speak on this agenda item before we move on? Alright, last call."

Audience member said, "I would like to just speak on behalf of the land owner."

Chairman Howell said, "Yes, please come to the podium, state your name and address for the record."

Mr. Robert Smith, Requestor's Counsel, Foulston, Seifken, LLP, greeted the Commissioners and said, "I am joined today by Betty Born, her son Mitch, and his wife. There is a couple of just points that I wanted to address. One of them is, you know we had asked that these restrictive covenant be lifted. Not only for the reason of future sale. It would, you know of course be beneficial if these were gone before we sell it in the future. Sell is not certain, it is something that has been entertained. But these restrictive covenants actually impair their ability to continue operating their existing business there. Where they are currently operating and employing around 16 employees there.

"As the neighbors have said, there's not been any objections to their current use. But unfortunately the Born's didn't know these restrictive covenants were there until recently. You know, they were of record, maybe we should have known but they weren't, didn't know. The restrictive covenants are so restrictive, if you look at the list of uses, it would actually prohibit their current use of the property that they are making of it. So we have more reason than just the future sale, this is actually an immediate concern for them.

"The kind of second point or question that I had is we actually had listened to some of the input from neighbors and have had some discussions from some of them. One of the things that we had and even before we started this most recent process. We had talked to back during the issue with asphalt plant, we had talked to, I believe it was Bob Parnacott was here originally assisting with that before Justin jumped on board. We had talked to him about well, you know maybe one of the things that we could do as part of that rezoning. Is whenever we go and rezone it in the future, agree to reasonable limitations on use.

"So we actually came up with a list that we had worked with. I think that county staff had an ability at the time to pitch in. This is not a formal list. This is kind of an informal process, but we came up with a list that we thought worked for us and that the county thought was a reasonable list. So I've got that here. We would be happy to give you guys a copy of that. We had distributed it to the all of the landowners, neighboring landowners that had approached the county and had asked and got in contact with us. And one of the things that's on there, of course, that we struck through, would be

asphalt plant. So we have tried to make some reasonable accommodations on that front to address some of those concerns."

Commissioner Unruh said, "May we see the list?"

Mr. Smith said, "Yes. Would be happy, I've got, let's see, I think five copies. I have got a couple extra copies, if anyone else would like to see that. Sure. I guess probably the final point or couple points here, is these restrictive covenant were put in place you know, prior land owner. We are not doing the same things they did. They have not aged well. If you go through and look at them, a lot of them are very specific and focused on the Caster's use at the time. And are really directed towards that land owner. Like the land owner can't do X unless it's related to their existing use of. So a lot of the restrictions that are in place are, have aged, effectively aged out and are no longer applicable. Definitely not to our current uses and wouldn't be to anyone in the future. What they do have the effect of doing is prohibiting the future people from making, from even doing the things the prior land owner could do.

"And these were also put in place the year before the nuisance code was put in place for Sedgwick County. So a lot of the items that are in there are actually now addressed in the nuisance code regarding the neighbor's concerns on scrap metal and things like that. I have a copy of the nuisance code as well, here if you would like to see that. But a lot of those concerns are now addressed in the county's ordinances. So I think that's unless you have any questions, I think that's."

Chairman Howell said, "Alright. There may be some questions or comments. Commissioner Unruh."

Commissioner Unruh thanked the Chairman and said, "See Mr. Smith, right?"

Mr. Smith said, "Yes."

Commissioner Unruh said, "The current activities on the property, as I have understood the testimony, is not in compliance with the current restrictions."

Mr. Smith said, "That is correct. We did not know of the restrictions until they were brought to our attention."

Commissioner Unruh said, "It is a rock cutting business or something?"

Mr. Smith said, "Mitch, do you guys want to talk to that? I can tell you guys, but I would be wrong."

Ms. Betty Born, 6538 Chevy Chase Avenue, greeted the Commissioners and said, "We have a masonry contracting business. We do mostly commercial work, some residential, brick, rock and stone."

Commissioner Unruh said, "How long has that activity been going on?"

Ms. Born said, "Well, since we purchased the property 18 months before my husband died."

Commissioner Unruh said, "Okay, thank you."

Ms. Born said, "We've owned the company much longer than that. But we moved to that location."

Commissioner Unruh said, "I see. Alright, thank you."

Mr. Smith said, "So that was back in 2009 that they've been, operating there since."

Commissioner Unruh said, "Okay. Now the list you gave us with the lined through activities. You're saying to us that you would be agreeable to restrict those going forward in our action today."

Mr. Smith said, "Correct."

Commissioner Unruh said, "And that includes restricted against asphalt plant and a night club, sexually oriented businesses, correctional facilities, and some of those things. And you would be agreeable to that."

Mr. Smith said, "Yes, yes. That was the list that was presented to us. Like I said an informal list by Bob [Parnacott]. Yes, we have gone through that list and we are agreeable to eliminating all of those uses."

Commissioner Unruh said, "Okay. Thank you. I think that's a real effort towards compromise. So, thank you. That's all I have at this time."

Chairman Howell said, "Thank you, Commissioner Unruh. Any other comments from Commissioners? Commissioner Norton."

Commissioner Norton thanked the Chairman and said, "Well, as I look at the list that we have here of current uses and LI uses. I went through and dotted the ones that I thought would be very controversial. That over the years that if those uses came up in a place that had neighbors and people close would be controversial, there would be protests. We would have to go through a long, arduous process. It is amazing that it's exactly what you have highlighted in your thing. I am pretty well okay with moving forward lifting some restrictions."

"But obviously there are some points here that are going to be controversial. That are going to need to be weighed in with the Planning Commission at Kechi and Metropolitan Area Planning [Commission]. If we would move forward with total unrestricted. I don't know if we are ready to do those compromise kind of things today, but I think that makes good sense that we lift some restrictions, to let the property owner at least market and try to move forward with the sale. But not be intrusive with items that are obviously going to maybe be controversial, not liked by the neighbors that would create protest. That gives them a chance to get start on marketing. But it also assures the neighbors that it is not going to be the extreme uses that would be maybe the lesser uses that would happen."

"So I think as a Commission we need to have some kind of conversation about that. Because going from the very limited uses to the very, very expanded uses, I can guarantee you will create controversy as they try to zone it and take it through the process. If we can eliminate some of those right now, I think it would benefit both parties."

Chairman Howell said, "Very good, very good. Thank you, Commissioner Norton. Any other questions or comments for Mr. Smith? Alright. Seeing none. Thank you, Mr. Smith, for your comments this morning. I am curious whether or not Mr. Matson or Mr. Dungan have actually reviewed this list that was provided by Mr. Smith. If you have any comments regarding that list?"

Mr. Dungan said, "No, sir. I have nothing."

Chairman Howell said, "Please come to the podium. Let me know what you just said, that's fine."

Mr. Dungan said, "No, sir, I have not seen that list."

Chairman Howell said, "You have not seen the list?"

Mr. Dungan said, "No."

Chairman Howell said, "Alright. We will provide a list for you both to review real quickly. Then I will give awe chance to come up in just a moment, if that's okay. Commissioner Unruh."

Commissioner Unruh said, "Thank you, Mr. Chairman. Justin, could you help me review some things here?"

Mr. Waggoner said, "Yes."

Commissioner Unruh said, "This highly restrictive uses on the property. Just to re-emphasize, were initiated because there was a very bad actor."

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

Commissioner Unruh said, "So in order to solve that problem, these very tight restrictions were imposed."

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

Commissioner Unruh said, "A journal entry was made, but it was still had been previously zoned LI."

Mr. Waggoner said, "That is also correct."

Commissioner Unruh said, "Okay. So I guess my point being is that these tight restrictions were not so much with the land use, but with the individual who was acting out of bounds."

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Mr. Waggoner said, "That's correct, Commissioner. I think there is some truth to that. Think it was based on his use. Some of the intent from what I could tell, again, I didn't work on the matter back in the 90s. I hadn't quite passed the bar yet. But the intent was to be able to readily stop him or pretty much adjoin his illegal activities on the property. There was some intent to have that carry forward. Of course, the restrictive covenant runs with the land until 2024.

"Our office's opinion has been that the journal entry also does run with the land. I believe the property owner's counsel may have a slightly different take on that. However the, yeah, I think that, and to your question, the uses he was doing were contrary to zoning, as Mr. Smith pointed out. Contrary to the nuisance code that would apply to the property. There would be means to address if a subsequent property owner did those types of things to address those. But you are right, there are uses of the property that I think that some of the neighbors have obviously

identified they find objectionable. And those are uses that, but for Caster Excavating having issues, this property would be able to use all of those today. Only reason they can't is because the litigation from the 1990s."

Commissioner Unruh said, "Alright, thank you. Another question is, is it required that the property revert to RR zoning should these requirements, these restrictions be lifted?"

Mr. Waggoner said, "It is not required to revert to RR zoning. Currently, as Mr. Smith pointed out, the whole entirety of the property, even the LI zoned portion can only be used for RR purposes. However, at any point in time, the restrictive covenant can be modified by majority vote of Commissioners and also the property owners. So it doesn't require to revert to RR specifically, but to this point it has as a matter of, we are past 2010 and the property has transferred to a non-lineal descendant. So..."

Commissioner Unruh said, "There is an understanding by some of the property owners that are neighbors that they were required by law that there should be any change made, it should go back to rural residential zoning. And that is we don't do anything, I guess, it has to, but..."

Mr. Waggoner said, "If you didn't do anything, the County Counselor's opinion is that the restrictions are in place limited to RR zoning. Specific, as a result of what occurred in the 1990s, not as a result of any statute or anything like that, but just as a result of the restrictive covenant that runs through 2024, the journal entry, that applies indefinitely."

Commissioner Unruh said, "As a general statement, those were imposed because of someone who was acting beyond the zoning requirements."

Mr. Waggoner said, "That's correct. There are some indication in the pleadings he was a little defiant after the Board of Zoning appeals, intended to continue his use of the property. I think that's part of the reason. I mentioned it being overkill. In fairness to some of the neighbors here, in context, the 1990s, that may not have been overkill, I think, you know nearly 20 years later, perhaps it is. Also, it is a little atypical for the county to be in the position of holding a restrictive covenant."

"We have a zoning code in place that would still apply to this property. If, for example, an asphalt plant were to come in there they would have to do a conditional use, like was done late last year, early this year for the asphalt plant that was ultimately withdrawn. So there are protections in place for some of those property owners, both whether it's with the county code, the nuisance code, or the zoning code."

Commissioner Unruh said, "Okay. I think for right now, that's all I have."

Chairman Howell said, "Alright. Thank you, Commissioner Unruh. Other comments? Commissioner Norton."

Commissioner Norton said, "I guess I would be interested in some comments with Kechi as they move and have a zone of influence, growth, a plan as to where this fits in. I see Bob Conger here, who is the [Kechi] City Administrator. I don't know that that makes a difference. But if it has to go through their zoning area of influence and they have to weigh in on it, if it mucks up something with the growth plan, then I think we need to know that on the front end. So..."

Chairman Howell said, "I would like to invite you to say whatever you have to say this morning. Give us your name and your title, and that would be fine."

Mr. Robert Conger, Kechi City Administrator, greeted the Commissioners and said, "The property in question is one of concern to Kechi. As one of the neighbors and, of course, this falls within the urban area of influence within the city's purview, we share similar concerns of our rural neighbors of how these properties are used. At this point, the city is currently satisfied with the notification process of the County Counselor and Planning and Zoning Departments as they have executed these things in the past. There's been adequate notification. We feel at this point, with those notifications and the current procedures in process, that we have no objection moving forward with things the way they are."

"That being said again, we are very well aware and concerned about the welfare and benefit of those residents of Kechi with regards to their properties, with their quality of life, and their property values. So we will stand by those and uphold the welfare and the best interests of the citizens of Kechi."

Chairman Howell said, "Alright. Thank you, Mr. Conger. Any other questions or comments for Mr. Conger? Commissioner Norton. Does that satisfy you?"

Commissioner Norton said, "I just thought since Bob was here. That we made sure that and it is going to fall in that zoning area of influence. That we kind of knew what their growth plans were, where it fit in with their conversation. I believe any zoning changes would eventually go through their Planning Commission. So I think we need to make sure that's on the record."

Mr. Conger said, "Mr. Chairman, if I could address Commissioner Norton's comments. This area is in Kechi's growth area and plans for growth. We are not very aggressive as a city at this point of actively going out and promoting and pushing annexation in certain areas. With any desire of affecting influence. We as a city are more concerned about natural and organic growth. We prefer to let that occur as it may and the property owners. If they are approached by people to purchase their land and change zoning. We would prefer that occur more naturally rather than being imposed."

Chairman Howell said, "Mr. Conger, there was mention, about 16 employees at this plant. Do you know if any, if a number of them live in Kechi? Do you know?"

Mr. Conger said, "I'm sorry, which plant?"

Chairman Howell said, "There is about 16 employees they said, in the current facility that's running the business there currently. Of these 16 employees, do a number of them live in the City of Kechi?"

Mr. Conger said, "I am not aware of how many actually live in Kechi, but I will say that since the property has changed hands the Born family has been very good neighbors. We have no reason to take issue with any of their activities at this time."

Chairman Howell said, "Alright, thank you, Mr. Conger. I'm not sure there is questions for you right now, but if there is we will ask you to come back up. I'll go to Commissioner Peterjohn, next."

Commissioner Peterjohn said, "Thank you, Mr. Chairman. If I can ask a question of Mr. Conger. Maybe this part of scalability and challenge of this map. We are told you have Industrial Zoning in the area on the east side of Woodlawn, North of [K] 254 [Highway]."

Mr. Conger said, "Yes, sir."

Commissioner Peterjohn said, "Last time I drove in that general vicinity, and that's in Commissioner Unruh's district. A bit of a piece, a far piece from mine, but I did try and check out when the asphalt plant was in controversy. Woodlawn was unpaved north of 254."

Mr. Conger said, "Correct."

Commissioner Peterjohn said, "From looking at this map, it looks like you have got a stretch where you have got Industrial Zoning on the eastside of Woodlawn, north of 254, kind of hard for me in terms of exactly how far that stretches up. If there is a plant going in there at this point. Can you give me the status where the city's plans are in terms of the road there? You are a third class city, I believe."

Mr. Conger said, "Yes, sir."

Commissioner Peterjohn said, "So that would be a connecting link road. That would still under county's purview. But I wanted to get your input in terms of the road situation. In light of your development plans within the City of Kechi. It's close to that property."

Mr. Conger said, "Yes, sir. The property, the western most property in pink, sort of the reversed L-shaped property is owned wholly by one property owner. Who is developing the property for industrial uses? All of his activities are going to be enclosed, not outside. No particularly heavy industrial activities being conducted in the outdoors."

"There is a short stretch of Woodlawn that will need to be extended further north to attach to an unyet constructed street. By the name of Tigua Street. That street is being designed at this point in time, by engineers, which will extend through that property and connect to the adjoining section over in front of the Highway Patrol building. To the far eastern portion and beyond the eastern portion of this property. All of those activities are being funded through grants through the City of Kechi by the Kansas Department of Transportation (KDOT). So we are working with KDOT in getting these properties improved to allow access to Woodlawn. All the stretch of Woodlawn will be paved up to that portion in order to be able to handle heavier industrial traffic."

Commissioner Peterjohn said, "How far, how big a stretch of Woodlawn will be paved once they do that?"

Mr. Conger said, "It will be paved up to the corner of where the pink industrial portion of the property abuts Woodlawn on the northern portion."

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

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

Commissioner Ranzau said, "I actually have a question for Justin."

Mr. Conger said, "Okay, thank you very much."

Mr. Waggoner said, "Yes."

Commissioner Ranzau said, "So, clarify for me. I think you said this a couple times. I am reading this here, that this covenant that was passed by the county lasts for 25 years. That means, does it will expire in..."

Mr. Waggoner said, "That's correct. In 2024 it expires."

Commissioner Ranzau said, "At that point, then all the restrictions go away?"

Mr. Waggoner said, "The County Counselor's office opinion be is no, because there is a journal entry that has a listing of restrictions. There's case law in Kansas that talks about injunctive actions.

How those can run with the land, unless a court subsequently modifies them. So our take on it has been that there are still restrictions in the journal entry. That's why the proposed action asks lifting of both. I know Ms. Born's counsel, the property owners counsel, has taken a different tack on that. I think there's some probably case law perhaps that's in favor of that position as well. I don't think it's settled issue. But clearly the restrictive covenant ends in 2024."

Commissioner Ranzau said, "The restrictive covenant?"

Mr. Waggoner said, "Correct."

Commissioner Ranzau said, "Meaning the resolution that we sign or the county sign."

Mr. Waggoner said, "Well, the county did two things. The outside counsel was representing the County Commissioners at the time, did two things. They did both a journal entry and restrictive covenant. The journal entry also incorporates the restrictive covenant in its terms as well."

Commissioner Ranzau said, "Okay. So half of it you would certainly does go away. The restricted covenant."

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

Commissioner Ranzau said, "The question is whether the journal entry would remain or not."

Mr. Waggoner said, "Correct."

Commissioner Ranzau said, "But it's clear to me the intent here was for it to last for 25 years. It seems, anyway."

Mr. Waggoner said, "That's a reasonable position to take, I think. I don't think it's unreasonable. I think that's the position Mr. Smith would take for his client, that the terms of the journal entry were specific to that property owner. The cleanest thing would probably be to handle both of them, regardless of what action you take, or not handle them if you choose to take no action."

Chairman Howell said, "Alright. Thank you, Commissioner Ranzau. I have actually asked, is there anybody else that wants to speak on the agenda item? Alright."

Mr. Waggoner said, "Commissioner Howell, there are a couple extra points I wanted to clarify, if I could."

Chairman Howell said, "You can clarify those items right now."

Mr. Waggoner said, "Just very quickly. The first is that, Commissioner Norton's question about running this by the City of Kechi's Planning Commission or the Planning Commission, the Metropolitan Area Planning Commission. There's no requirement to do that in this case. This isn't actually a zone change. It operates functionally in some ways similar to a zone change, but it doesn't actually have to go to them, but there is no reason the County Commission if it wanted to couldn't refer it to them for kind of an opinion, an informal opinion on it."

"Second thing would be, I think there's comment about if it's required to have some sort of knowledge of what is going in there. The answer is there is no requirement in front of you today to know what's in there. Also in our zoning code, we often have zone changes where they don't know the use that's going to go there yet. So this isn't unique, I guess amongst if you are comparing zone to zone cases. Where we don't know what the use might be in the future. That's all."

Chairman Howell said, "Thank you for those clarifications. So, again going to the audience probably as final time. Anybody else would like to speak on the agenda item? Please come up to the podium, state your name and address for the record. Thank you."

Mr. Joe Choi, 6301 North Woodlawn, greeted the Commissioners and said, "We just have a little over five acres there, just a quarter mile south of the red property in question. I guess only point I would like to make is, you know the court order called for it to revert back to rural residential. And just because it did not happen at that moment, I think as soon as we found out, it should just be implemented today. It should be implemented right away. That's what the court order is asking for. In 25 years, you are saying, well, what goes away? Does the thing go back to you know limited industrial or remain as rural residential at that time in 25 years. You know, what expires in 25 years?"

"I think the covenants and all that were placed to protect the neighbors in that area, not to necessarily protect the land owner at the time. Again, as evidenced by the current owners, who were more than willing to sell to an asphalt plant. I think that's just a little too risky to, you know allow anything to go automatically into motion. I think the rules the court ordered ruling was to revert back to rural residential. As far as I am concerned, today it should be considered rural residential."

"Now they can submit for rezoning and you know go through that process to change that, but as far as I am concerned, it's currently rural residential. You know whatever is decided of course, you guys have the option to do so. But I think it is not the neighbors' responsibility to look after the current owners to make a bad business decision. That's just a part of doing business and making investments you win some you lose some. It is not our job to help them recoup losses or whatever happens."

Chairman Howell said, "Mr. Choi, just for clarity, how long have you lived there?"

Mr. Choi said, "Almost 30 years."

Chairman Howell said, "30 years, okay."

Mr. Choi said, "Almost 30 years, since about '89."

Chairman Howell said, "Alright. Then you did, I saw you had a chance to look at the modified list of uses."

Mr. Choi said, "Yeah."

Chairman Howell said, "They were obviously they are suggesting elimination of asphalt plants and a number of other items off that list. So with that modified list taking those items off the list, did you have any comments regarding that proposal?"

Mr. Choi said, "Well, I think again, you know it's, I feel like we are kind of going about it backwards. We are trying to automatically allow things that are currently should not be allowed. It is rural residential right now. So, why should we be talking about what should be allowed? We should be reverting back to rural residential, and then let's talk about future zoning options. In 2024 and we will take it up then. I don't understand why we are even negotiating.

"Because the list, in my opinion, is still too broad. It's much better you know there is a lot of really bad stuff stricken from the list, but I can see there's you know, I don't know, drilling operations, refineries, you know all kind of things. I have no idea what those will be. I feel like once we allow that to go into place today or in the near future. Then, you know that's just one more thing that's going to be recorded as if it was sanctioned and agreed upon by the residents, surrounding residents. I think that's inaccurate and improper. I think the court order calls for it that should be implemented and move from there. I feel like we are skipping processes here."

Chairman Howell said, "Mr. Choi, thank you for your comments."

Mr. Choi said, "Okay."

Chairman Howell said, "Seeing no other questions for you right now. So, thank you for your comments."

Mr. Choi said, "Thank you."

Chairman Howell said, "Any final comments from the audience? Yes, sir. Please come up, to the podium. I believe. Again are you Mr. Matson?"

Mr. Dungan said, "No. Mr. Dungan."

Chairman Howell said, "Mr. Dungan, I got you confused with..."

Mr. Dungan said, "I just had a chance to look through the items that have been scratched out. I am familiar with the LI listing, but not what he scratched out. I think looking at this list, what still remains the biggest thing is the concern, it says manufacturing limited and general. That's very broad scope. That's big enough to land a plane in. I still have some real concerns with that and a couple of other entries that are in here. Mr. Choi made a good point. We are really behind the ball, the courts should have taken action earlier before this point to change that zoning. It was written into the court decision on that. So I think that is something that needs to be considered as well. That's all I needed. Thank you."

Chairman Howell said, "Alright. Thank you, Mr. Dungan. Appreciate your comments. Any other audience member wants to speak on the agenda item? Alright. We are going to bring it back to the board for final comments. Commissioner Ranzau."

Commissioner Ranzau said, "Yeah, I have some more questions for Justin. We have the journal entry and restricted covenant. This idea that after 2010, I see that in the restricted covenant."

Mr. Waggoner said, "Yes."

Commissioner Ranzau said, "Is it in the journal entry?"

Mr. Waggoner said, "That is not mirrored in the journal entry. To explain a little bit, the limitation on uses to, that require the allied portion of the property to go to RR uses in the restrictive covenant. Solely."

Commissioner Ranzau said, "Right. Let me clarify. That this paragraph talks about the LI property and is it really it seems to me, it is not really changing the zoning of the LI, it is limiting the use of that LI property."

Mr. Waggoner said, "That's correct. This is entirely separate and distinct from the zoning case. It does deal with the use of the property, but the restrictive covenant is in agreement between, in this case, it was the County Commissioners and the prior property owners to limit use of the property and have it run with the land into the future for a distinct period of time."

Commissioner Ranzau said, "Right. But what I'm saying, this restrictive covenant doesn't actually say that it changed the zoning has changed in rural residential, which would then in the future require another zoning change back to LI if necessary."

Mr. Waggoner said, "That is correct."

Commissioner Ranzau said, "It just says at this point, it's only going to be limited for these uses."

Mr. Waggoner said, "Correct."

Commissioner Ranzau said, "For 25 years."

Mr. Waggoner said, "That property is still zoned LI, technically. If you ask the Planning Commissioner, planning department, they will say its zoned LI, it's got all those uses. This is a private agreement essentially between the county and the property owners that runs until 2024."

Commissioner Ranzau said, "Okay. So that is in the restrictive covenant only, not in the journal entry. The restrictive covenant runs out in 2024."

Mr. Waggoner said, "That's correct. The journal entry does have its own set of restrictions on use, as Mr. Smith pointed out. But yes, it does not include the same language about reverting to only RR uses that the restrictive covenant has."

Commissioner Ranzau said, "Okay."

Chairman Howell said, "Alright. Commissioners, any other comments or questions? Commissioner Unruh."

Commissioner Unruh said, "Thank you, Mr. Chairman. I just want to kind of, go through my thought process on this, of the conclusion that I am going to arrive at, it seems that whatever year this was, '99 or whenever, that this was made against a poor actor. Someone who wasn't using the property right. It wasn't having it do actually what the zoning was doing. Someone who was violating that process, and that's why they put the restrictions on. It wasn't specifically doing what that ground is suitable for or what its highest and best use is."

"I appreciate the neighbors concern, but I also don't think it's reasonable to restrict an

owner's right of their property and their ability to use it within certain restrictions for what the purpose that they bought it for. You know, in my neighborhood, I don't like it when the convenience store came in on the corner, I didn't like it when an apartment house went in down the street. You buy a piece of property and you would like to have control of all the area around you, but that's just not the way it works. Different property owners have their different rights.

"To have the control that was suggested here by Mr. Dungan I think, it almost would require the neighbors to get together and buy the property. Because that's the only way you can have that sort of control to pacify me. Before you can ask what you can do with your property. That doesn't seem reasonable.

"I am not sure that restrictions against one property owner who was violating all the rules and regulations that those restrictions placed on that person should go on for future owners and future generations. I am not sure that makes sense to me. I am very encouraged by the compromise that was presented by the applicants for this change. It seems like taking out a lot of these intensive and objectionable uses would help maintain to some degree the integrity of the neighborhood without putting in just intensely offensive use on the property.

"I know that there are property rights and people who are protected, but the owners of this property also has certain rights that we need to protect. So for right now, that's all my comments. But those are kind of my thought process to this point."

Chairman Howell said, "Thank you, Commissioner Unruh. Other comments or questions from other Commissioners? Commissioners, what is the will of the board?"

MOTION

Commissioner Unruh moved to take the recommended action here, which is first authorize the County Counselor's office to prepare the Chairman to sign a document to remove restrictions contained in the declaration of restrictive covenant. Such that is said document is to be recorded with the Register of Deeds. Second, authorize the County Counselor's office to file a motion with case number 98-C3245 and effectually any other documents be filed with the District Court that would remove restrictions upon the use of the property included for the journal entry of judgment date the August 18, 1999. Thirdly, I would include in the motion that we include the exceptions as suggested by the applicant as restrictions on the zoning.

Commissioner Norton seconded the motion.

Chairman Howell said, "Alright. Thank you, Commissioner Unruh and Commissioner Norton for the motion and second. Any other comments or questions? Commissioner Ranzau."

Commissioner Ranzau said, "Okay. So let me understand what we are doing here. So are we nullifying these or amending them? I guess."

Commissioner Unruh said, "No. We are going back to LI zoning with these restrictions. As the suggested by the applicant. Or the request or whatever."

Mr. Waggoner said, "And that's my understanding as well, Commissioner Ranzau."

Commissioner Ranzau said, "As a matter of law can we impose. Make essentially a zoning change without going through the zoning process?"

Mr. Waggoner said, "This isn't a zoning change. So, to answer your question, yes we can do this. The restrictive covenant says as long as the majority of the County Commissioners and presuming the current property owner would agree to these changes, which they have indicated they would. Then, yes we can change the restrictive covenant, we require a court to, we would file a motion. Either we would or the property owners could as well. To modify the listing of restrictions to eliminate the restrictions currently in place, but putting in place restrictions as Commissioner Unruh's motion noted, that were indicated in the document, that are LI uses that would not be allowed. That would not be a change on the actual zoning of the property. Just a change on the use."

Commissioner Ranzau said, "Let me clarify, then. That was my question. We are modifying the covenant, we are not eliminating the covenant?"

Mr. Waggoner said, "Correct. That would keep the covenant in place. The presumption here is the covenant would stay in place through 2024. With a limited listing of restrictions, a revised listing of restrictions."

Commissioner Ranzau said, "We would ask the court to modify the journal entry to reflect that?"

Mr. Waggoner said, "Correct. In a similar fashion."

Commissioner Ranzau said, "And so. Okay. Is that the intent of the motion and okay with the landowners then? Okay."

Chairman Howell said, "Alright. I thank you for your clarification. Commissioner Unruh and Commissioner Ranzau. Commissioner Peterjohn has other questions or comments."

Commissioner Peterjohn said, "Yes, question for Mr. Miller. Question has been raised about limited and general manufacturing and manufacturing was not on the list. I am curious in terms of understanding the current zoning. What is the difference is between limited and general and if that would fall into the current properties that are around that are within Kechi, that we talked about that had the industrial zoning?"

Mr. Miller said, "The manufacturing limited is essentially low intensity type activity where by definition it's an establishment that is engaged in the onsite production of goods by hand manufacturing, that generally involves only the use of hand tools or other equipment not exceeding two horse power. May include assembly and packing as well as incidental, direct sells to consumers of those goods produced on site. A list of typical uses include ceramic shops, custom jewelry making, and computer product assembly, that sort of thing."

"The general manufacturing is an establishment engaged in the manufacturing predominately from previously prepared materials or from light weight non-ferrous materials of finished products and parts including processing, fabrication, assembly, treatment and packaging of such products. Incidental storage sales and distribution of such products."

Commissioner Peterjohn said, "Thank you for that clarification."

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

Commissioner Ranzau said, "I'm sorry. One more question for Justin and maybe my

fellow Commissioner here. There's been some discussion about when this covenant ending in 25 years, but there's not a journal entry. Is there is need or desire to address that in a journal entry as part of this decision making?"

Mr. Waggoner said, "The journal entry incorporates their restrictive covenant. I would imagine that in the journal entry. What we would seek to modify in front of the court would be to know that the restrictive covenant have been modified. We could add something in it that says it ends 25 years from the date entered into force. That's very clear. Does that answer your question? I'm sorry. I think."

Commissioner Ranzau said, "It seemed to that it would be to make them both consistent."

Mr. Waggoner said, "We could add that in there. So I guess to make clear, the question that I might have on Commissioner Unruh's motion would be, is the intent to have the journal entry, the application of its terms only apply until 2024 as well? Was that your intent in the motion or to have it apply indefinitely?"

Commissioner Unruh said, "Only if the term was originally established."

Mr. Waggoner said, "I would say I'd let Eric comment. If he wanted too. It might make sense to clarify on that and make sure the second on the motion concurs with that as well."

Mr. Yost said, "I think if the parties are agreement, they can extend the life of journal entry if they wish. They can leave it right where it's at now. They can amend the journal entry. So it's whatever the will of the Commission is and whatever the landowner would agree to, I think the intent of Commissioner Unruh. I'm taking it right now, we're not extending the life of the journal entry. We're simply modifying the covenants with in that journal entry."

Commissioner Unruh said, "I thought that was the intent of the motion."

Mr. Yost said, "That's how I took it. That's how I took it."

Mr. Waggoner said, "Thank you."

Chairman Howell said, "Any other comments or questions from Commissioners? Okay, I think we have a motion and a second. Seeing no other discussion, Madam Clerk, please call the vote."

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

VOTE

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

Chairman Howell said, "Thank you, everyone. Next item, please."

D [16-662](#)

**ISLAND ANNEXATION REQUEST FOR THE CITY OF
CLEARWATER PURSUANT TO CITY OF CLEARWATER**

RESOLUTION NO. 7-2016.

Presented by: Justin M. Waggoner, Assistant County Counselor.

RECOMMENDED ACTION: Find that the proposed annexation will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located in Sedgwick County; and therefor approve the resolution.

PUBLIC COMMENT

VISUAL PRESENTATION

Mr. Waggoner said, "I'm sorry. I'm sorry. I got ahead of the game here. Go ahead. I'm here for another item on this annexation matter. Pull up the map here. What's in front of you is a proposed island annexation by the City of Clearwater. As you know, an island annexation is when the land proposed to be annexed does not actually join the city's boundaries.

"Referring to the map that is in front of you, the proposed property to be annexed is in red. The city limits for the City of Clearwater, kind of the peach/tannish properties and the blue line indicates the urban area of influence for the City of Clearwater, which is indicated in our zoning code. This property is in Prairie Meadows Estates subdivision. It's one of two subdivisions north of kind of, the core area of the City of Clearwater, in which there have been a number of properties as homes are built in these subdivisions, where the property owners petition to annex into the cities. This is because they want to join on to the City of Clearwater's water supply, because the property is not suitable for wells.

"The Metropolitan Area Planning Department (MAPD) completed a staff review of this proposed annexation and recommended that the Board of County Commissioners find the proposed island annexation would not hinder the proper growth and development of the area nor any other city within Sedgwick County. If this annexation went through, the city would provide police services to the property, which are currently provided by the sheriff. The city does not have any plan to extend sewer services to this property, as I understand it. The city and Ninnescah Township have an agreement regarding road maintenance where the township would continue to provide road maintenance in this area. Since this property falls within the Clearwater Fire District already. There wouldn't be any change to who provides fire services.

"No other city in Sedgwick County has indicated that this parcel is part of their future urban growth area. The state statute requires in order for you to indicate an approval of this island annexation. Really it requires, defines that the land is required to be located in the same county of the city, which it is. The owners of the properties must petition or consent to the annexation, which that has occurred, then the last one would be by a two-thirds vote you would have to make a finding the annexation would not hinder and prevent proper growth and development of the area or any other city within Sedgwick County. The recommended action is to make the finding on the last item, there is no that it would not hinder or prevent proper growth and development. I'd be happy to stand for any questions you have."

Chairman Howell said, "Alright, thank you, Mr. Waggoner, for the presentation, and I'd like to go to Commissioner Norton."

Commissioner Norton said, "Justin, this isn't the first piece of property that has gone through this process in that area, is it?"

Mr. Waggoner said, "Yes. This is not the first. This is I think the 21st, if I remember correctly, of these properties."

Commissioner Norton said, "This is happening as they build out, they request to go into the city limits as each new property is added on?"

Mr. Waggoner said, "That's correct, Commissioner Norton."

MOTION

Commissioner Norton moved to take the recommended action and embrace the findings that Justin has brought forward to us.

Commissioner Peterjohn seconded the motion.

Chairman Howell said, "We have a motion and a second. Commissioner Peterjohn, do you have any comments right now?"

Commissioner Peterjohn said, "Yeah, I would just like to, we've been through this a number of times. I am very cautious when it comes to island annexations. When we get into a situation where they're separate and this is separated by a good deal of distance, but we have done this in this general area numerous times before. That's why I seconded this motion, but it's something that I think this Commission needs to be cautious about going forward, because if future cases come up, I do have some concerns in terms of how this might impact also the effort to put, expand the zoning areas influence for the city, too. If the island annexations become quite commonplace, but I will be supportive of this motion today. Thank you."

Chairman Howell said, "Thank you, Commissioner Peterjohn. Seeing no other comments at this time, I'd like to go to the audience. Is there anybody here who would like to speak on the agenda item? Alright. Seeing none, bringing it back to the board. Any other comments or questions from Commissioners? We have a motion and a second."

"My only comment would be that again, I'm supportive of the motion this morning, I think this is fine, doesn't seem to be any opposition to the annexation of this single property, but I am very sensitive every time we lose revenue to the fire district, I'm concerned a little bit about that. So, I don't know. Does that impact the fire district revenues in any way?"

Mr. Waggoner said, "I don't believe this would, because it's already part of the Clearwater Fire District."

Chairman Howell said, "Okay. I wanted to make sure I understood that. Very good, alright. Thank you very much for that, any other comments? Seeing none, Madam Clerk, please call the vote."

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

VOTE

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

Chairman Howell Aye

Mr. Waggoner said, "Thank you, Commissioners."

Chairman Howell said, "Thank you very much. If you don't mind, I think at this time, we'd like to take about a five (5) minute recess. I see we have got a little time left in our agenda. So, to split the remaining agenda, I would like a five (5) minute recess. We'll come back at 10:45. Thank you."

The Board of County Commission recessed at 10:40 a.m. and returned at 10:50 a.m.

Chairman Howell said, "Alright. Everyone, thank you for coming back to the Commission room. We are going to call it back to order at this time. Madam Clerk, next item, please."

Approved

E [16-645](#)

**AMENDMENT TO THE CAPITAL IMPROVEMENT PROGRAM (CIP)
FOR COURTHOUSE LOBBY GUN LOCKERS.**

Presented by: Steve Claassen, Operations Support Services Director.

RECOMMENDED ACTION: Approve the amendment to the 2016
Capital Improvement Program.

PUBLIC COMMENT

VISUAL PRESENTATION

Mr. Steve Claassen, Director of Operations Support Services, greeted the Commissioners and said, "This agenda item is soliciting your approval to amend the Capital Improvement Plan (CIP) to include a project that would provide gun lockers for the public's use located in the main [Sedgwick] County Courthouse front entrance lobby, just in front of the current x-ray and magnetometer screening line.

"As you know, Kansas law allows open carry and conceal carry of firearms for eligible citizens with some specified exceptions. One of those exceptions is in public buildings such as ours. Our main county courthouse, where adequate security measures are in place. Currently anyone in possession of a firearm that comes to the courthouse is turned away.

"This project would provide a reasonably safe place for those folks to stow that firearm while they were in the building. It would provide 20 such gun lockers within an area that would be modified to provide reasonable protection against possible accidental discharges. On the display, we're showing a screen that has the floor plan of the modifications that are going to be necessary in order to provide this gun locker location. Outlining, so this is the northeast corner of the main county courthouse entrance, the revolving door might be a landmark for folks to know. This is the north revolving door providing entrance into the building. These double doors here that I'm showing are the exits. It's in this area right here that we are proposing the gun locker location to be provided for. These rectangles here describe the location of where those gun lockers would be located.

"This image models a view taken from the perspective of a person standing right in the middle of the entrance lobby, in front of Eula's desk, if you will or the reception desk looking north at that location where these gun lockers would be constructed. There is a person in this image, a wheelchair located there, he's just approaching the

gun locker area. In this image is the same point in time, again that wheelchair bound person kind of provides the landmark or anchor for this picture. He is just about getting ready to go into the area that's being provided for the gun lockers.

"The modifications necessary to get this done and to provide the safety that we think is necessary is the construction of these walls to be built out of materials that are aesthetically similar. Probably the very same, that are used at the rest of the window wall system on the exterior of the building. So it will be aesthetically satisfactory. I don't think it would be objectionable to anybody's eye. The glass used in these areas would be of a ballistic grade sufficient to protect against a .357 Magnum discharge.

"Beyond that in the existing window wall, I'm going to go back to the floor plan. This is the existing exterior window wall system of the building. In this area, again to make sure that an accidental discharge didn't cause a problem to somebody walking up the approaching the building. We would remove the existing glass, modify that aluminum window wall system to accept the new ballistic glass and thereby we would have a well-protected area for nearly all accidental discharges that might occur and protect people in the surrounding areas.

"It also would give our courthouse police the opportunity to see exactly what's going on inside that protected area. It would be easy to take care of the scrutiny that needs to be provided for that. The cost of this CIP is \$64,318. The fund source is recommended to be the CIP reserve fund. I need to mention that the CIP does not include any additional courthouse police, staff or any added monitoring of the administration that may be necessary for this operation. Courthouse police is going to make their best effort to make this work with the staff that they now have.

"I had Darrell Haynes, our courthouse Police Chief, here with us. He or I would be available to answer any of your questions about this. The recommended action is to approve the Capital Improvement Program amendment, and we'll stand for your questions."

Chairman Howell said, "Thank you, Mr. Claassen, for the presentation. I would like to take this to the audience and see if there is anyone here who would like to speak on the agenda item today. Alright. Seeing none, bringing it back to the board.

"The first comment I would make is the artwork on this is tremendous. I've never seen artwork quite like that. I don't know how they did that, but it looks exactly like the lobby. It's very, very well done. So, impressive presentation and slide show this morning. Commissioners, any comments or questions or motions for the agenda item."

MOTION

Commissioner Ranzau moved to amend the 2016 Capital Improvement Program. Chairman Howell seconded the motion.

Chairman Howell said, "Any other comments or questions from Commissioners? Commissioner Norton."

Commissioner Norton said, "Well, I have a concern. You know, it's a pretty healthy expenditure out of our reserves. I wish we had gone through a normal budget process to be able to do this to have more conversation. Not only on this item but we talked about the pass cards today, which now changes the dynamic of our courthouse system and how people can enter the courthouse concealed or carrying and everything. That becomes a broader scope of what we need to be thinking about

as far as security.

"This is part of that, but it is a budget item that is extemporaneous to what we went through all of last year, trying to think through this. I'm a little concerned, number one, about the oversight, too. We're not adding any folks to be there to really see what goes into the lockers. You know, I know there's been some concerns that unless you can really oversight it and see somebody is putting a weapon in there, they could put other items in there that may not be weapons and that we'd have to deal with that at some manner. That oversight issue concerns me just a little bit.

"Now, that adds money to it because it becomes operating, but I just see that there could be a misuse without some kind of oversight. Then I have some concerns that this didn't go through a normal budget process, we're just adding that much expenditure. I have gotten e-mails from people once they saw the article. I have not gotten an e-mail that would substantiate that we need to even do this. I've had several that didn't think the expenditure was prudent. If we were going to do it that maybe we would have some way to charge people for using a locker for that particular item.

The final thing is, over the years I have gotten no complaints from anybody that we didn't have a way to secure their weapon as they entered the courthouse. So just some comments."

Chairman Howell said, "Alright. Thank you for your comments, Commissioner Norton. Other comments, Commissioner Unruh."

Commissioner Unruh said, "Thank you, Mr. Chairman. Well, first of all, I need to say I have my concealed carry permit. Thank you, Chief Haynes, for helping me get through that. So, to kind of establish my perspective on firearms and second amendment rights and this sort of thing, but on this particular item, I've got a lot of questions. Some of them are like Commissioner Norton said, I have received several e-mails, one of them in support of this, but a half dozen of them that were opposed to it, varying degrees of expressing their position.

"But there were some people who said, well if you've got to have it, since this is not in county parlance, this is not an essential service. Have we done anything to investigate what it would take to make it self-supporting financially? Mr. Claassen, have we done anything there to figure out how much would it cost? Could we do it? Can we charge somebody a couple bucks to store their gun?"

Mr. Claassen said, "I think we could certainly do that. We have not done any projections on how we would administrate something like that. Certainly, you could impose a fee for that use."

Commissioner Unruh said, "Well, we have a fee for service for a lot other items, like you know, using your credit card or you know, online tag renewal and those sort of things. So, I would think maybe we could implement this to off-load that expense. I don't know what it would take to do that study. Another question I have, does this increase our liabilities in any way? I mean, it's clearly an exposure, I mean, do we have, I mean, how does that do to our risk management?"

Mr. Jon VonAchen, Assist County Counselor, greeted the Commissioners and said, "Commissioner Unruh, this allowance has been part of the statute for a while, included in that is that there is no increase immunity, no increase in risk. The immunity still stands for us regarding if we do this or not. There's also, to answer your previous question, there is no statutory discussion at all about an allowance or

disallowance for charging for the service.

"Other parts of the statutes related to firearms and public buildings do have prohibitions as to what you can actually do. This one actually, this section actually does not have a prohibition regarding whether or not you can charge. If you do provide gun lockers, whether or not you can charge for them."

Commissioner Unruh said, "So we're not prohibited from charging?"

Mr. VonAchen said, "We're not prohibited from charging."

Commissioner Unruh said, "Okay, but the equipment that's contemplated probably doesn't have a coin slot or a dollar slot or anything like that; isn't that correct?"

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

Commissioner Unruh said, "So it needs somebody there to monitor it?"

Mr. Claassen said, "That is right."

Commissioner Unruh said, "But you said we weren't going to have someone there to monitor it? We were going to use our best effort, I think, that's the term."

Mr. Claassen said, "That's exactly right. We're acknowledging that this will be an extension of the responsibilities that the current staff. The courthouse police, has to provide oversight for, and they're going to do that. We also believe there's consequences to that, which would include slowing the lines down, because when we divert one officer's attention away from what his primary assignment is, it's going to have a consequence. So, the officers are committed to monitoring what goes into those lockers to keep an eye on making sure the weapons are not handled in a cavalier way. Some reasonable safety being used, and they'll be able to see into this area so that that can be done. So it is an additional task the courthouse police will have to do. The additional task of dealing with a money issue would further extend that. I think, I should probably let Darrell, do you want to speak to this? How we would deal with this?"

Mr. Darrell Haynes, Courthouse Police Chief, greeted the Commissioners and said, "What I would anticipate is that we would have the person who wants to check a gun contact an officer. That we would provide them a key, that they would use the key to open the locker. They would remove a three-by-five card that's laminated or some sort of plastic card, they would carry that with them, they would secure the gun in the locker and return the key to us. They would go about their business and then when they came back they would provide us the card, we would provide them the key, they would take their gun out. No loading or unloading of the gun would be needed or probably a good idea. It would simply be put in the locker or taken from the locker."

"We will need a body to monitor that to make sure something noxious or explosive was not put into the locker. Realistically, it just depends on how much demand there is for this. If it's three a day, it's not much, we can handle it. If it's 20 an hour, we're going to fill up the lockers pretty quick. We do have a provision where we could add an additional set of lockers, 20 more lockers, in short order. So, that's kind of the procedure I would anticipate at this point in time. I think it is definitely necessary to monitor what goes into the lockers to make sure it is not something inappropriate that could cause harm to the building or people in it."

Commissioner Unruh said, "Okay. So how many lockers are there going to be?"

Chief Haynes said, "There are 20 lockers in the cabinet that we have. The 20 lockers will probably be adequate, is our best guess. If there is more demand than that, there is sufficient room within the enclosure that's planned to allow another set 20 of lockers. I really don't think we would ever get past 40 guns at one time."

Commissioner Unruh said, "That's just your sense of the matter. I mean, we haven't done any polling or done any research to see how many people might use it?"

Chief Haynes said, "I have no idea how many people would want to use this."

Commissioner Unruh said, "So Chief, did you say that we were is your officer going to take the weapon and put it in or are we just going to give them?"

Chief Haynes said, "No, no. The officer will remain outside the ballistic enclosure and monitor what goes in it."

Commissioner Unruh said, "And watch what goes in it. And we're not hiring an additional officer?"

Chief Haynes said, "No."

Commissioner Unruh said, "That was your request, to hire another officer?"

Chief Haynes said, "You know, I think the best way to put it is, I think we can get by at least until we know what kind of demand there is, but you combine the gun lockers with fast pass and it's going to change the complexion of how things work. I don't know if it's going to be for the better or for the worse. We'll just have to monitor that and find out."

Commissioner Unruh said, "Okay. Well, I don't think you have too many folks down there right now. Do you?"

Chief Haynes said, "We have had a couple layoffs through the years, when the county was on hard budget times. So, we're a couple positions short of what we were at one time. We're not long on people, but I think at least initially, we should be able to get by."

Commissioner Unruh said, "Okay, but with the staff you have and the need to monitor this, which I think is definitely in need. The fact that we're some guns are going to be loaded probably, I mean, people don't carry unloaded guns, I don't suppose. They're not going to load and unload them there. So they're handling loaded weapons, but none of that is going to affect our liability? Is that what I was told? We don't have any more exposure? Is that, I mean, I think you answered that. I'm asking again, I guess."

Mr. VonAchen said, "Just so I understand the question, Commissioner. Is there an additional risk of something happening? I think the answer is clearly, yes. Do we have any additional legal exposure from a liability standpoint? The answer is no. The legislature is in the process of passing these bills and getting the adequate security measures in place. Allowing for the policy that we talked about earlier today. In doing all of that they made it clear, if you adopt anything that is supportive of that, that you will face no additional legal liability and they've actually incentivized a little bit for other entities to adopt these measures. So that by saying you will gain no additional liability by adopting measures such as these. So from a legal perspective, there is no additional liability, but from a perspective of are we introducing something that could potentially happen where there is a risk of accidental discharge or something more

heinous occurring. That's possible, but we're not facing any additional legal liability."

Commissioner Unruh said, "Okay. Thank you. Well, I guess that's all I have. Maybe, I don't know if I need to summarize my thoughts now. But my thoughts are that this is not as we describe in our budget process. An essential process, essential service of county government. It is 60-some thousand dollars. I have not, I'm similar to Commissioner Norton, I really have not had anybody asking for this in my 14 years as Commissioner. Say one person, asked a few years ago. So I personally don't see the risk walking from your office or your car to the county courthouse when you know you can't carry that weapon inside the courthouse. And so when I add all that up, it adds up to me that I don't support this agenda item. That's all I have, Mr. Chair."

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

Commissioner Peterjohn said, "Thank you. Chief Haynes, if I can ask you a couple questions? I guess I'll again for the record add very much appreciate your efforts to educate me on firearms, too. But having said that, how many positions are you currently have filled in the courthouse police right at the moment?"

Chief Haynes said, "Do we have open?"

Commissioner Peterjohn said, "No, no, no. How many total positions and employees do you have right now?"

Chief Haynes said, "We have approximately 32 including part-time, the bulk of it we have 17 commissioned officers and then we have some noncommissioned service officers, primarily on second and third shifts."

Commissioner Peterjohn said, "Okay. Because there was a question about that. Could these lockers be used for knives, for instance?"

Chief Haynes said, "When somebody comes in that's carrying a knife, we take the, or mace or anything of that nature. We take that from the person, we write down their name, telephone number and address so we can try and get it back if they leave it behind. We also ask them for a set of keys or driver's license to go in with it, so they have some incentive come back before they go to their car and not leave it at the courthouse. But they check it at the, once they go through screening, we check it right there at the back counter and then once they've conducted their business, they come back, they ask for it by name, we keep them in clear envelopes, we hand them their knife back and make sure they exit the building with the weapon."

Commissioner Peterjohn said, "When I became a Commissioner in 2009, I was told that knives were being confiscated. When did we change our policy on that?"

Chief Haynes said, "I wasn't here then and I don't know the situation, but since I've been here, that's the procedure that we've used."

Commissioner Peterjohn said, "Okay, but these lockers could be used for storing knives also?"

Chief Haynes said, "No, I don't anticipate that, I would not recommend that. We actually do quite a volume in knives. We realistically, if we do the gun locker, we need to have the lockers free for guns only, not for cellphones or anything else somebody might want to put in there."

Commissioner Peterjohn said, "Okay. You mentioned, well Steve mentioned in his presentation wheelchairs. This may be a question for Mr. Claassen as opposed to yourself, Chief. This is ADA [Americans with Disabilities Act] compliant?"

Mr. Claassen said, "Yes. The architect has inspected it for that type of purpose, inspected for that type of purpose."

Commissioner Peterjohn said, "Okay, I'm going to make another comment. The question of cost has come up here. We're talking about \$64,000, which is a significant sum, but I know we've taken up as a Commission, since I've been up here, we've taken off budget items literally in the millions and brought them up in the middle of the year.

"And in light of, I think, some of the other efforts that we've made to economize on some CIP projects. I don't find that argument very compelling, but what I do find compelling and I want to kind of provide this. I brought my Kansas election statistics, from 2010. The reason I brought that was the Kansas constitution had a provision about the right to bear arms and it had said in the Kansas constitution people have the right to bear arms for their self-defense and security. Unfortunately, the Kansas Supreme Court in their judicial wisdom and this goes back a ways, it wasn't a real recent case. They basically said you're just referring to the Militia then. You're not referring to the people. Of course, it showed their historical ignorance, because anyone who understands the history of Kansas would know that was bunk.

"In 2010, an amendment was proposed to the voters in this state and approved by the voters that basically said I'm going to quote here. 'A person has the right to keep and bear arms for the defense of their self, family, home and state for lawful hunting and recreational use and any other lawful purpose.' When the voters had the chance to opine on that, this was passed in Kansas with over 88 percent of the voters saying yes at the November 2010 general election. In Sedgwick County, it was 116,557 votes yes and 14,214 votes no. I mention this because that is the reason in part why we're here today, in my view, for this issue and the issue that was mentioned earlier.

"There have been a lot of debates prior to this concerning conceal carry. The opponents of conceal carry said this is going to be awful and it wasn't going to be a good idea. Well, Kansas was one of the last 50 states to move in approval of conceal carry, I think one of the last three or four who did so, but none of the negative effects that were pointed out at that time occurred. I mention this for folks who weren't around there at that time and I provide it for the public.

"It probably won't get reported, I think, some of the information that was presented last week in our discussion on other topics didn't get reported. But I'm putting it on the record here today, because I think it's important going forward, whether the print media decides to pick up on it or not, I am looking at you Mr. Salazar, I'd be happy to visit with you either publicly or privately on your coverage. I'm going to provide this for the record, because I think, it's important to understand the context of why we are proceeding here today.

"More recently, open carry has been provided and that is current Kansas law, too. Under this constitutional amendment, that the voters almost 9 out of 10 voters approved at the 2010 general election. That doesn't get mentioned very often, because it's politically incorrect, but I'll mention it today and reemphasize it for the record.

"Because when I first came here, I had in my past life, I had been an engineer. One of the things I did was I used to carry a Swiss Army knife, old Boy Scout habit of

mine. I was a Boy Scout once upon a time. I was shown these dangerous three-inch blades that were being brought into the courthouse and confiscated. I know we've moved away from that in the age of responsibility. So I want to make sure that people understand the context of why this issue has appeared.

"Frankly, I was surprised it didn't appear sooner. I have had folks contact me both for and against it. I find, frankly, under the idea of where we're at, what's the other option out there? People if they can't bring them into the courthouse one way or another. They end up having to keep them out in the car. The problems can occur from that, I think moving in this direction is the right step. So I will be supportive of this proposal today, but I want to make sure that people understand the changing times that we're in and that is a factor in my support for this motion this morning. Thank you, Mr. Chairman."

Chairman Howell said, "Thank you, Commissioner Peterjohn. Other comments? Commissioner Ranzau."

Commissioner Ranzau said, "Thank you, Mr. Chairman. Yeah, I'll have several things to say. I want to follow up on some of the things my colleagues have said. First of all, I want to correct a statement or clarify. Protecting individual freedom is an essential function of the government. In fact, it is the core function of government, must remind people that we institute government among men to protect their individual rights. Among them is the right to keep and bear arms. So this absolutely is a core function. We've created a situation here in which we said that the citizens cannot carry weapons in to the courthouse.

"How do they get from the parking building or wherever they walk from, from there to here safely? That's a legitimate concern for them. Now, I've heard from many people throughout the years. Specifically, a fair number of women who are concerned about this, I take those concerns very seriously. I don't belittle them or downgrade them, I think over time citizens know which Commissioners will be open to their ideas and suggestions when it comes to the second amendment and those who are not. So, obviously I think we hear more of this.

"You know, it's interesting out of all there's a lot of people that come to this building, citizens, employees, most of whom have to walk a certain amount of distance. I've heard it's been said that at least one of my fellow Commissioners doesn't understand the risk. Well, I think it's important to point out the two Commissioners that will likely oppose this, enter and exit through a restricted and locked exit into a restricted parking lot and literally the back door is five steps to their car. So, they face a lot less risk than anyone else who has to enter this building. So, it's easy to see why they may not understand or take that into consideration. But the risk is, at least in many citizens' minds, an issue and a concern. So we are taking steps to address those concerns.

"Now that being said, you know, \$60,000 is a fair amount of money. If my colleagues have more cost effective alternatives. I'd be happy to entertain them. With that being said, I don't think we will hear any. I am intrigued by my colleagues' concern for the taxpayer today. Considering in the past, in the not too distant past, we spent upwards of \$170,000 to advance both the nanny and welfare state ideologies under the name of protecting public health and safety. In fact, last week, we spent \$115,000 on two positions that staff testified said we don't even need. To meet the community's needs. Yet when faced with the opportunity to protect public health and safety by promoting constitutional protected individual rights, they say no. That leads me to believe that the opposition really isn't about money. It goes back to the same old ideological arguments of collectivism versus individual freedom.

"I think it's very clear where I stand. We do have an obligation to protect individual freedom. So I do consider this to be a fair amount of money and I would like to see more cost effective alternatives if anyone has those options, but I've not heard any, once again, the idea you know, how can we on the one hand say that we'll spend hundreds of thousands of dollars on promoting positions, welfare and nanny state programs, that don't work are or are ineffective or positions that aren't needed, but when it comes to protect individual freedoms, we're not going to do that. This is a safety issue as well, okay.

"So I'll be supportive of this. I do have concerns about the proposed process, I think it is too complicated. I think we should reconsider how we do that, but I think that will be manageable as we move forward. It's one of those things, it's the cost of doing business. I wish we didn't have to do this, but I think it's the reasonable and prudent thing to do. Like I say if anyone can come up with a more cost effective alternative, I'd be willing to entertain that.

"Additionally, if my colleagues want to reconsider some of the previous votes to spend what I consider wasteful and unnecessary spending to promote their ideological agenda, then I'd be willing to reconsider this one as well, but for right now, I think I'm going to continue to support the individual right to keep and bear arms and I'll support this agenda item. Thank you."

Chairman Howell said, "Thank you, Commissioner Ranzau. I've got a couple of comments and questions. Mr. Claassen, can you please talk about the construction listed on the item here. It shows 58,000, almost \$60,000, but how much of that is actually the lockers versus the enclosure? In other words, there are glass and metal pieces that have to be installed. Could you break that down a little bit for me?

Mr. Claassen said, "We have the lockers in our possession now. So, the dollars identified in this CIP are absent any cost for the lockers themselves. That the lockers are about five, a little under \$5,000 apiece for the 20 set lockers. That is not a, we own those now and that's not a part of this request."

Chairman Howell said, "So one option, of course, is we don't have to do anything at all. That's obviously an option here, but when we started going into this direction, I know there was some discussion. I had discussion with you early about providing lockers. One of the plans that was presented back to me was hiring of staff and just placing the lockers there without the enclosure, that enclosure was something that came up later.

"Again, I'll just take credit for that right now. The enclosure to me is part of the necessary expense because and I'll use the word transition zone. Somehow you got to get that gun off the person and into the locker, I know that when people handle a firearm, again this including commissioned law enforcement officers, doesn't matter who they are, human beings when they handle a loaded firearm that's the time, if there is ever going to be an accidental discharge. That's the one time it might happen. I trust our citizens as the same as I trust the police officers, I think they're trained and experienced and they handle these firearms. Especially somebody that carries firearms regularly, I'm not concerned about their being unsafe necessarily, but I want to be sensitive to the fact that someone's transitioning a firearm from a person to a locker.

"If there is ever going to be an opportunity for someone to have an accident that would be the time it would happen. So this transition zone, this safe zone, is the time that, I think it's necessary to have that as part of this plan if we're going to have

lockers. So, the initial plan was to have lockers and the courthouse police would actually take that firearm and they would lock it up. I guess they would have the keys, they would actually place it in the locker and retain the key. What this has done this has changed it from that initial idea to basically, the courthouse police are now observing. In fact, we also have video monitoring and I think recording of the area that the transition would happen. So we don't want someone to walk in and pull a gun off their person and do anything in the lobby until they're inside that transition zone. That's the area they should transition the firearm to the locker. Then our courthouse police are not handling the firearm, there is no reason for us to handle it.

"Had we gone with Plan A, I'll just use Plan A, what was initially presented back to me. It would have had a recurring cost of at least one courthouse police officer. I'm not sure, maybe more than one, I don't know what they make, I probably should have looked this up, but I think the recurring costs tells me that that would have been a larger expense over time. Maybe not initially, but at least over time, it would have been a higher cost. And so, anyway, I just wanted to confirm some of that.

"I agree with the comments made by some of the Commissioners here today. I do, I am sensitive to the fact that when people come to this building many of them, if not most of them are not here by choice. They are here because they have to do business in this building. If they want to go to Intrust Bank Arena to watch a concert. That's a choice they make. They do have security measures over there as well, but again, you have to understand what you're getting into. If you want to participate there. It's a choice that you make. You can do it if you want to. You don't have to. But people don't have that choice here.

"There is a constitutional aspect of this and that is people have a right to be protected. As much as I love our police officers and I think they do a tremendous job. Ultimately they cannot protect the citizen independently and individually wherever they happen to be. And that's why we have the constitutional rights has been clarified by our constitution. They have a right to protect themselves. I encourage people to do that. To be trained and to know how to do that, to take that very seriously.

"Many citizens have done that. In fact, I think over 110,000 citizens in our state now have concealed carry permits. Even though it's not required now to have a permit to carry a firearm concealed. I believe 110,000 people have done the training necessary to have that permit. A lot of them do carry. So people who carry firearms are not to be feared. Many of these are excellent citizens, some the best people we live with are avid carriers, they are good people and they have a right to carry those firearms. They have a right to be protected if they want to do business in our facility, they ought to have a right to be protected all the way to the facility.

"To me, that's a fundamental aspect of this that needs to be discussed. So to me this transitions zone, affords the net right. That they can be protected all the way to our facility. If they want to exercise that right, they can. They certainly don't have to. But it provides a way for this to happen sensitive to the constitutional rights. So to me, this is just a necessary expense.

"Again, I'd like to just also make the point that yesterday we celebrated the opening of the Ronald Reagan Building. As great as that was, one of the points that was made. I don't think it made the paper or media. Was that we saved \$10.2 million in our CIP budget, because we were sensitive to trying to do things that make sense. We reevaluated some stuff. Along the way, we saved \$10.2 million in 2014, the expense that was discussed at that time would have been almost \$21 million. If you added up all the costs. As it turned out, again if you extrapolating the cost for the top three floors, which has not actually been completed at this time. We believe our total cost

would be a total savings from that initial discussion of about \$10.2 million. So we're saving money there. \$60,000 is arguably a lot of money. I agree with that.

"We've got to keep everything in perspective here. In fact, I would say we also can you please confirm, how much did we spend this last year on upgrades to our video system on this building to enhance our security in this facility?"

Mr. Claassen said, "We've spent dollars. I don't have that."

Chairman Howell said, "Very significant?"

Mr. Claassen said, "It's been very significant that's right."

Chairman Howell said, "In fact, the area that we're talking about for this gun locker enclosure."

Mr. Claassen said, "How much have we spent on video enhancements?"

Chief Haynes said, "Not much in recent years."

Mr. Claassen said, "We've added cameras, but we're unclear about what the dollars are."

Chairman Howell said, "But there have been some enhancements done just this year. In fact, the area that we're talking about for this gun lobby, gun locker area, has already had some camera drops. Things like that. Added to that area."

Mr. Claassen said, "That's right."

Chairman Howell said, "Even before this was being discussed. So."

Mr. Claassen said, "Yes."

Chairman Howell said, "Alright. Just a couple other points. I had someone who I'm familiar with this case. He purchased a knife at Gander Mountain. He went into City Hall to pay a ticket and was arrested because of the knife he had on him. They looked at him like he was somebody that was going to commit a crime there with the knife he purchased at Gander Mountain. A small two-inch knife roughly, but because at the time it was considered not allowed under state law. Citizens at that time that had that type of knife were just arrested. Actually he's a deacon in the church and a missionary, tremendous citizen.

"But yet that's what happened, because our policies treat sometimes our citizens who do business in these buildings as if they're bad people. The majority of people who come in these facilities are great citizens. Those that want to do harm will do harm regardless of these policies and these laws. They'll make choices to do whatever they want to do regardless of stickers on windows and things like that. This is not going to change the nature of people who are intending to do harm.

"This really just allows law abiding citizens a right and the option, the opportunity to exercise their rights under the law to the fullest extent. To me, this makes a lot of sense. I've said plenty. Any other comments or questions from other Commissioners? Alright. Seeing none, we have a motion and a second. Madam Clerk, please call the vote."

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

VOTE

Commissioner Unruh	No
Commissioner Norton	No
Commissioner Peterjohn	Aye
Commissioner Ranzau	Aye
Chairman Howell	Aye

Chairman Howell said, "Thank you, everyone for the discussion today. Madam Clerk, next item, please."

Approved

CONSENT

Mr. Mike Scholes, County Manager, greeted the Commissioners and said, "Recommend you approve consent agenda items Foxtrot through Oscar or F through O for the council."

MOTION

Commissioner Ranzau moved to approve the consent agenda.
Commissioner Unruh seconded the motion.

Chairman Howell said, "We have a motion and a second. Any discussion?"

Mr. Spears said, "Mr. Chairman."

Chairman Howell said, "Yes, sir."

Mr. David Spears, Director of Public Works, greeted the Commissioners and said, "I think it's significant to point out to the public that Item F. We are going to receive \$958,375 from the federal government with no match from the county for four railroad crossings in the county. That would be to put flashing lights and gates there, so that's a pretty significant thing. I just wanted to point out. I won't name off the streets that are on there. The roads, but we're very happy about this. Hopefully it will improve the safety at those locations."

Chairman Howell said, "Well, very good. Thank you for the information. That is good news. Any other comments? Alright. Seeing none, Madam Clerk, please call the vote."

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

VOTE

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

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

Approved

- F** [16-660](#) Approval of four (4) agreements between the Union Pacific Railroad Company, Sedgwick County and the Secretary of Transportation of the State of Kansas regarding the construction and/or maintenance of highway crossing signals at various locations.
Approved on the Consent Agenda
- G** [16-655](#) Consideration of an agreement between Sedgwick County and the City of Wichita for the distribution of the Department of Justice, Office of Justice Programs Grant funding in the amount of \$142,467.00.
Approved on the Consent Agenda
- H** [16-619](#) Termination of the contract between the Sedgwick County Regional Forensic Science Center and Preferred Mortuary for cremation services.
Approved on the Consent Agenda
- I** [16-634](#) Employment Agreement with Timothy S. Gorrill, MD, PhD to provide Forensic Pathology Services as Chief Medical Examiner and District Coroner.
Approved on the Consent Agenda
- J** [16-656](#) Annual Affiliation Agreements with 2 Qualified Providers of Intellectual and Developmental Disability Services.
Approved on the Consent Agenda
- K** [16-657](#) Third Quarter 2016 Range Reallocation.
Approved on the Consent Agenda
- L** [16-663](#) Plat
Approved by Public Works. The County Treasurer has certified that taxes in 2015 and all prior years have been paid for the following plat:

Kansas Hydrographics Addition, Sedgwick County, Kansas.
Approved on the Consent Agenda
- M** [16-664](#) Treasurer Claim Certification.
Approved on the Consent Agenda
- N** [16-665](#) General Bill Check Register for October 5, 2016 to October 11, 2016.
Approved on the Consent Agenda
- O** [16-666](#) Payroll Check Register for the October 1, 2016 payroll certification.
Approved on the Consent Agenda

LEGISLATIVE ISSUES

OTHER

*Chairman Howell said, "Commissioners, any comments for other today?
Commissioner Peterjohn."*

Commissioner Peterjohn said, "Well, thank you, Mr. Chairman. I'm going to begin hopefully what will be considered a little bit of a lighter note. The county's efforts to raise a significant amount of sums for the United Way. I want to congratulate the survivors of the dunk tank on Monday. I'm specifically looking at Counselor Yost, County Manager Scholes. I believe the best dressed dunkie of the day, Chairman Howell. It was I think, a very useful event for employees. We honored also as part of that event honored employees for their years of service from 15 years on up as well as some employees for outstanding performance."

"I also wanted to mention, because I think it deserves as much attention as possible. That yesterday we dedicated and I think this was kind of a completion and the effort combined with MABCD is what it's commonly called, but at the Ronald Reagan [Sedgwick County] Building dedication yesterday. The fact that there were significant savings over some of the initial costs that had been brought out. Over \$10 million and I'm very proud of that fact in light of the challenges that we've had in combining those departments and putting our community in place. I think, to be much more competitive in the 21st Century. As soon as we get the automated computer ability to present plans via computer and move away from the printed plan model. I think that's going to be a huge plus for us as a county and a community going forward. I think that's a very important point, because there is an awful lot of work that's been done by staff, through a lot of input from folks in the private sector. I think it's going to be a big plus for this county and City of Wichita going forward."

"I'd also would be remiss if I didn't point out that October 12th is an important day in our history. Point out that on October 12th, 1492, three little vessels with a crew of only 90 people. Christopher Columbus brought the Nina Pinta Santa Maria and landed on what he called San Salvador, but what we today one of the Bahama Islands. Actually found and started the process off for recorded exploration North America, which is why Monday we had it as Columbus Day and a celebration here."

"A little bit more recently, we've had some important events that occurred on October 12th. Some of them are not quite as positive. October 12th, 2000, we had as one of our presidential candidates referred to it, Islamic Jihadists. I'd call them illegal combatants. Some people might call them suicide bombers. Rammed the destroyer the USS [United States Ship] Cole. Set off an explosion that killed 17 American sailors. So, October 12th is a very significant day in our history. I just wanted to get that on the record. Thank you, Mr. Chairman."

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

Commissioner Unruh said, "Thank you, Mr. Chairman. I just wanted to say that along with others. I'm pleased with the savings we had on the Reagan Building. I think it's significant, but I think the comment requires a footnote and a clarification. We're claiming savings for the tag office that was going to go into that building and rather than go into that building, we spent \$2 million over on Douglas [Street] and Meridian [Street], which was a good investment. Working out great. Happy to do it, but at that time we also claimed a \$2 million savings for that building. So we're kind of doubling up on our savings here. There's about \$4 million and 10 million dollars we've already claimed somewhere else."

"Just a footnote for accuracy. The savings we have for our long-term bond financing, which I forget the number now, but that won't be realized for 20 years. So not trying to say we didn't do a good job, not trying to say that it's not important. But it's just you know, I just want to be accurate. You know, if somebody puts a building up for sale, say they put it sale up for \$7 million and we buy it for \$5 million. You could say we saved [\$]2 million, but that initial price by a broker sometimes doesn't reflect the market. So I'm happy with the building. Happy with the savings, not complaining, just saying that for accuracy, we should be accurate. That's all I have."

Chairman Howell said, "Thank you, Commissioner Unruh, for those comments. Commissioner Ranzau."

Commissioner Ranzau said, "Thank you, Mr. Chairman. I agree it's important to be accurate. So, unfortunately I'm going to have to correct the factual inaccuracies of my colleague's footnote. We are not double counting anything, that savings that we're reporting does not include the tag office. We included the cost to renovate all six floors, all six floors. It's about renovating the building, because originally the tag office wasn't going to be in there, but then fortunately, the majority of this Commission realized that the plan put forth by the previous manager was going to be a parking and financial disaster. We challenged that plan and corrected it and saved the taxpayer \$10 million."

"Now, I know we could have saved even another \$2 million more had we been more prudent in the decision to buy the building in the first place, because we still spent twice as much as on the building as we needed to. If you talk to people in the real estate industry, but nevertheless, the savings is significant. Now, that's not a story that, you know people want to get out, because the conservatives challenged the plan, they made good decisions and they did good things on the taxpayer. That doesn't help political agendas. So the media is not going to cover it, but I don't want to downplay it. It was a tremendous this is what you have to do, you have to ask questions."

"And that tag office was another tremendous decision that we made, quite frankly, because it would have been. Everyone recognizes now, if we put the tag office there 27[1 Building]. It would have been a disaster. We have a fantastic tag office there. Something needed for decades. Both of these problems got solved in meaningful and cost effective ways. I think we should be celebrating that as opposed to hiding it. But you know, I can't control what the media does. But nevertheless, this was a good story for our community. Let's celebrate."

Chairman Howell said, "Alright, thank you. Commissioner Peterjohn."

Commissioner Peterjohn said, "Thank you Mr. Chairman. I'm just staying for the record. Yesterday afternoon we had a WAMPO [Wichita Area Metropolitan Planning Organization] meeting in the Reagan Building. There are approximately 75 spaces, parking spaces for the public that were available, I got to the meeting little bit late and most of the spaces were occupied at that time. I can't guarantee where all the cars were, where they came from when I left that meeting there with quite a few spaces available, 75 spaces that are out for the public, I think there are 16 more that on the south end of the building, we're struggling with parking issues with that at the moment. It's great that we have an agreement with the city, where the city helps us and provides us with additional parking spaces east, north and northwest of the building, too."

"But if we had put the tag office in there, I think it would have been an utter disaster. In fact, I was surprised yesterday. I received the first comment from anyone in the

public. All the comments I've had about the tag office was wow, that's a great facility. It's got plenty of parking. I had somebody come up to me for the first time that said, man, I had a little trouble finding a place to park at the tag office last week.

"So I'm hopeful that we still have plenty of places at the new tag office. I'm absolutely delighted we didn't have it there. If you want to take two million out of the 10 million in savings for what we ended up paying for that tag office at Meridian and Douglas. You know, I'm not going to get into a big argument about it, but parking had been a big concern for me. I am delighted that there's, I think its 140 parking spaces at that tag office. I'm glad we've got each and every one of them. Thank you, Mr. Chairman."

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

Commissioner Ranzau said, "Yeah, there is one other detail about the Reagan Building. That I want to just to get it out there for the public. Because you're probably not going to read or hear about it anywhere. You know, the original plan was to gut the whole building, tear out all the walls. It was going to be significant reconstruction costs. This Commission challenged staff and said, hey let's see what we can do to make use of the existing rooms, existing walls, existing furniture and try to minimize that amount. They were very successful in doing that, but we took heat for doing that. There were consternation, there were Commissioners who didn't want to do that. That saved millions of dollars, millions of dollars. Just by doing that, talked to Tom Stolz, very happy with the space and everything. They have space to grow and everything. It's working out tremendously."

"Additionally, we demonstrated the prudent use of bonding and using cash. We did bond the purchase price of the building, but we paid cash for a lot of it. Because we brought down the costs so significantly that we were able to do that and save millions of dollars on interest costs as well, which is important I don't want to discount that. There were a number really some issues that we have when we're in government, you only hear and read certain things, but there are lots of details on some of these things, more so than we ever hear. If you just rubber stamp everything that comes by then you lose these opportunities to save money. And I'm very proud of the efforts that we did. I hope despite the political climate. The next couple of years we'll be able to do these sorts of common sense decision making decisions. To save taxpayers money that are very, very prudent. Thank you, Mr. Chairman."

Chairman Howell said, "Thank you Commissioner Ranzau. Any other comments for other before we go on? Alright. Seeing none, Madam Clerk, next item please."

EXECUTIVE SESSION

Chairman Howell said, "Commissioner Ranzau."

MOTION

Commissioner Ranzau moved to that the Board of County Commissioners recess into executive session for 25 minutes to consider personal matters of nonelected personnel. Consultation for attorney with this Commission, which would be deemed privileged in the attorney-client relationship and that the Board of County Commissioners return to this room from executive session no sooner than 12:12. The executive session is required to protect the privacy interests of an identifiable individual and protect the County's financial interest and right to the confidentiality of its negotiating position.

Chairman Howell seconded the motion.

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

VOTE

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

Chairman Howell said, "Thank you. We'll be in executive session until 12:12. Thank you."

The Board of County Commissioners recessed into Executive Session at 11:47 a.m. and returned at 12:40 p.m.

Chairman Howell said, "Okay, thank everyone for coming back. We are back from executive session. Like to call us back to order again. No binding action was taken during Executive Session. We do have an item to discuss, I would like to recognize [County] Counselor Eric Yost."

Approved

[16-680](#)

APPROVAL OF SETTLEMENT INVOLVING NCAT BUILDING.

Presented by: John Woolf, Triplet, Woolf and Garretson.

RECOMMENDED ACTION: Approve settlement.

Mr. Yost said, "We have an off agenda item. I'd like the Chair[man] to recognize Mr. John Woolf, an attorney with Triplet, Woolf, Garretson, LLC, he has been representing us on a matter. I think he's ready to propose to you a settlement."

Chairman Howell said, "Very good. Mr. Woolf."

Mr. John Woolf, Triplet, Woolf, Garretson, LLC, greeted the Commissioners and said, "Thank you. As you recall, the County filed a lawsuit against the general contractor and one of the subcontractors on the NCAT [National Center for Aviation] Gateway Building out North of Jabara Airport. Some of their work was not done according to plans, which caused some infiltration of water into the building. The experts, as a result of the lawsuit, looked at it and determined what needed to be done to fix it, we had a mediation, the defendants have agreed to pay \$195,000 to the County, which will take care of the corrections that are needed to be done."

Chairman Howell said, "Very good. Thank you for the presentation, Mr. Woolf. Commissioners, are there any questions or comments? Commissioners, what's the will of the board?"

MOTION

*Commissioner Peterjohn moved to approve the proposed settlement.
Commissioner Ranzau seconded the motion.*

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

VOTE

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

Chairman Howell said, "Alright. Thank you. Thank you Mr. Wolf for being here today. Alright. That brings us to the end of the agenda. Commissioners, is there anything else before we adjourn today? Mr. Manager, anything?"

Mr. Scholes said, "No more."

Chairman Howell said, "Mr. Yost?"

Mr. Yost said, "I'm satisfied, thank you."

Chairman Howell said, "Alright. I think we've completed everything we have to do today, so we'll be adjourned. Thank you so much."

Approved

ADJOURNMENT

There being no other business to come before the Board, the Meeting was adjourned at 12:42 p.m.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

JAMES M. HOWELL, Chairman
Fifth District

RICHARD RANZAU, Chair Pro Tem
Fourth District

DAVID M. UNRUH, Commissioner
First District

TIM R. NORTON, Commissioner
Second District

KARL PETERJOHN, Commissioner
Third District

ATTEST:

Kelly B. Arnold, County Clerk

APPROVED: December 14, 2016