

# Sedgwick County

525 North Main Street 3rd Floor  
Wichita, KS 67203



*Sedgwick County...  
working for you*

## Meeting Minutes

Wednesday, December 6, 2017

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](mailto: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**

### **CALL MEETING TO ORDER**

*The Regular Meeting of the Board of the County Commissioners of Sedgwick County, Kansas, was called to order at 9:07 a.m. on December 6, 2017 in the County Commission Meeting Room in the Courthouse in Wichita, Kansas, by Chairman David M. Unruh, with the following present: Chair Pro-Tem Commissioner Michael B. O'Donnell II; Commissioner David Dennis; Commissioner Richard Ranzau; Commissioner James M. Howell; Mr. Michael Scholes, County Manager; Mr. Thomas Stolz, Deputy County Manager; Mr. Eric Yost, County Counselor; Mr. David Spears, Assistant County Manager of Public Works, Facilities Maintenance, Project Services and County Engineer; Mr. Justin Waggoner, Assistant County Counselor; Mr. Michael Fessinger, Assistant County Counselor; Mr. Dennis Mauk, Deputy Director of Emergency Medical Services; Mr. Will Deer, Assistant County Counselor; Ms. Kate Flavin, Public Information Officer; Ms. Heddie Page, Deputy County Clerk.*

### **GUESTS**

*Mr. Eric M. Cale, Director, Wichita-Sedgwick County Historical Museum  
Mr. Mike Fussell, 2615 West 79th Street South, Haysville  
Mr. David Baker, 1666 South Tamarisk Street, Wichita  
Ms. Dana Blubaugh Morrow, 9401 West 79th Street South, Clearwater  
Mr. Clint Moyer, 7030 South 119th Street West, Clearwater  
Mr. Jeff Zogleman, 12601 West 71st Street South, Clearwater  
Mr. Mike Fuller, McHugh Fuller Law Firm*

*Chairman Unruh said, "Pastor James, thank you for being with us this morning.  
Madam Clerk, next item."*

### **INVOCATION: Reverend Titus James, North Heights Christian Church.**

### **FLAG SALUTE**

### **ROLL CALL**

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

*Chairman Unruh said, "Next item."*

### **PUBLIC AGENDA**

*Chairman Unruh said, "Commissioners, we've had several people sign up to speak this morning. All of them have listed Tyson [Foods] as the topic, and so we'll just ask these to take to the podium in the order that they signed up and would ask them to, each speaker to say your name and remember that you have three (3) minutes to speak. So first is Mike Fussell, I believe."*

*Mr. Mike Fussell, 2615 West 79th Street South, greeted the Commissioners and said, "Close enough. Fussell is the last name, sir. Thank you."*

*Chairman Unruh said, "Okay."*

*Mr. Fussell said, "First of all I have a written statement in an attempt to stay brief and to the point and within my three minutes. So I will just share that with you and then I will pass it to the clerk. She can pass it on later on to you. First of all, I want to thank you for the time to come and share with you today. My name is Mike Fussell and I am a retired manufacturing engineer with a major aircraft company here in town. I probably should add to that happily retired. So I just want you to know that I live around Meridian and 79th Street, therefore, I believe I have a legitimate concern with the possibility that Tyson Industries might be putting one of their plants less than three miles away from my home."*

*"Many other residents in this area have already contacted and spoke to you about some of our concerns including smell, groundwater pollution, infrastructure wear, and reduced property values. These are all valid concerns, however it is Tyson's history that I would like to discuss with you today. I have heard more than once that Tyson's coming to Sedgwick County depends upon what they ask for and how the county benefits from it. These are good things. These are all, I respect that. It's good business to operate that way."*

*"However, another part of doing business, however, is also knowing your partner's history. Based upon Tyson's track record, I would hope that the final decision that you make, or whoever is going to make it, is not one based strictly on dollars and cents. Regardless of what is promised, I don't feel Tyson can be trusted. A quick google search of Tyson OSHA (Occupational Safety and Health Administration) fines and the website goodjobsfirst.org reveals numerous citations and fines for environmental violations, employment discrimination, workplace safety violations and several other infractions, resulting in over \$75 million in penalties, making them one of the most penalized food producers in the country."*

*"These are some of the things I would ask you to think about when considering doing business with them. No matter what they promise you, based upon their history, the question is, can they be trusted. As with any decision you consider, your constituents will be watching and trusting that rather than make a decision that might be politically expedient for your careers, you might make one that doesn't come back to haunt us as a county in future years."*

*"Since I've got a few seconds left, I want to put a little emphasis on how personal this is to me. Being a product of the '60s and '70s growing up, I did something here a couple weeks ago that I never thought I would ever do, had never participated in before, and that is that I was part of the protest downtown against Tyson coming to Sedgwick County."*

*"I'm not part of that because I don't want to see some animals hurt. My environmental concerns are basically localized to my property. So I just want you to, I hear my time is up, so I thank you very much again, and I appreciate your time. I hope that you take all of these things into consideration."*

*Chairman Unruh said, "Alright, thank you for your comments. Appreciate it. Our next speaker is David Baker."*

*Mr. David Baker, 1666 South Tamarisk Street, greeted the Commissioners and said, "I just wanted to talk briefly. My big concern with the Tyson plant is all the money and the*

*financing and the tax abatement that will go into encouraging them to come. I'm of the belief that these businesses ought to be operating on their own and tax abatement, for example, I know we're going to require more police protection, and these are valuable services that I receive every day, every year, and I think most people in the county do. But Tyson will come in here and not have to pay for any of that. I think that kind of business, they're going to be using those services.*

*"So one of two things will happen. We will have to raise our taxes, or the police department, additional pressure on them, which is going to affect us and the same with the fire department. So I'm against using any kind of Industrial Revenue Bonds (IRB), tax abatements or anything. If Tyson wants to come in here, I'm a believer that businesses ought to be able to do what they want to do. But if they want to come in here and put the plant up and they have a business model that works. I'm assuming that they do. They should be able to come in here and set the plant up, provide their own financing and make the whole thing work and be a responsible member of the community, support the services that they are taking, you know, from our county and our community.*

*"With that I think we're all going to be a better community as a result of it. I like the idea of people coming in and building and you know get more tax revenue and having jobs, and all of those things. I think they're important, but you know to have somebody come in and not pay for those services, so those services go down. I think that's a bad situation, so that's all I have to say about that. Thank you very much."*

*Chairman Unruh said, "Thank you, Mr. Baker. Next speaker is Dana Blubaugh-Morrow."*

*Ms. Dana Blubaugh-Morrow, 9401 West 79th Street South, greeted the Commissioners and said, "I have returned to speak again in front of you four men who represent this beautiful, wonderful Sedgwick County. The concerns of everyone in and around this Sedgwick County, not just my immediate area, that this animal operation will bring into our county not only with this slaughterhouse but as well as the four to three hundred chicken houses, it's going to be providing that type of animal.*

*"That type of product is going to be producing every seven weeks of chickens that are going to be processed. Can you imagine what that will bring to our county? The litter that is going to be spread across our farm areas. The farmland can only take so much of that type of litter for so long.*

*"If you haven't been in and around this county or any of the cities around here like Haysville, Clearwater, Derby, Park City, Viola, naming a few of these towns that surround in our county. They've all grown and prospers in our Sedgwick County. Also, we have farmers that are irrigating, pulling the supply of our water as well, but this is not our concern. My concern is we have dealt with the chemical plant there and the pollution that they have put into the ground. This also is a concern that Tyson would bring into our county.*

*"My husband and I have worked very hard for where we live now. I also had mentioned that we had retired from the city and moved out into the county, but also we ran a business. We ran a sewer and drain business, and I know what kind of stench that can be. Can you imagine what kind of stench they would produce from their products that they will be flushing into our ground and surrounding areas? I do not want this to lose our property value because we are depending on this for our future investment to take care of both of us in our later years. There is also those people in the same type*

of situation.

*"I also wanted to point out too that in this area is going to affect our growth and the turnover in this company, in the housing that's going to have to be provided and the health that is going to have to be provided into these employees and their education and social services..."*

Chairman Unruh said, "Ms. Morrow can you wrap it up? Your three minutes has expired."

Ms. Blubaugh-Morrow said, "Yes. In law enforcement and communication. I want you to take all that in consideration and please, please reconsider your offers to Tyson. Thank you."

Chairman Unruh said, "Thank you for your comments. Clint Moyer."

Mr. Clint Moyer, 7030 South 119th Street West, greeted the Commissioners and said, "My wife and I have lived on the corner of 71st and 119th street since 1989 where we built a house and raised our three kids. We live on the same 160 acres that my wife's grandmother purchased in 1882. She built a two-story white frame farmhouse on the land in 1884. My wife always emphasizes that it was her great grandmother who purchased the land and built the house and did it with her own money. My wife's great grandfather was a land speculator, oil man and farmer. My wife's grandfather was born in that farmhouse and worked the ground until he retired. My wife's father then farmed the ground until he turned it over to my son to farm.

*"Even though both of my parents were born and raised on farms, I was raised as a small town city kid, Wellsville, Kansas. I've been too busy teaching school and playing army with the Kansas Army National Guard for the last 30 years, teaching school for 35 years, to be involved in the farming.*

*"But I did watch my son develop a love for farming by sitting on his grandpa's knee as soon as he could reach the steering wheel of his old Case tractor. I watched my son learn how to drill a straight line of wheat, how to run and fix a combine, how to know when to rotate his crops and all the other details of farming. My son is the fifth generation to farm that land. He now lives in that two-story white farmhouse with his wife and his two daughters, two little girls.*

*"I've heard, and I read over and over how each of you say you don't have any decisions to make right now, how you really have no control over what's going on or with what's happening, how it's all in the hands of the Greater Wichita Partnership (GWP) and it's all in the hands of Tyson, how it might be years before you have a decision to make. Those statements simply are not accurate. I'd like to read from a letter that each of you, plus a few others in the room, signed on September 27th. 'Our city and county leaders are excited at the prospect of bringing this wonderful opportunity to Wichita and Sedgwick County.*

*"We're ready to collaborate with you regarding this venture and leverage many of our important partnerships, including the shared city-county zoning and building regulations department to help provide excellent customer service every step of the way. Wichita and Sedgwick County, along with nearby partner counties have the land, mass, transportation systems and agriculture framework to support Tyson facilities and*

*ancillary support industries to help the plant thrive.' If not for this letter, I wouldn't be standing here right now. You see the only reason I'm here today, the only reason hundreds of very fine people are stressed way beyond where they should be stressed is because of this letter. You guys can end this today.*

*"According to a November 29th article in the Wall Street Journal (WSJ), Tyson CEO (Chief Executive Officer) Tom Hayes said in a conference call to reporters, 'I don't know how in touch the officials were with local sentiment in Tonganoxie and the surrounding area.' Jackie McClaskey, the Kansas Secretary of Agriculture was quoted in the Kansas City Star on September 19th as saying, 'the challenge we face is we were dependent on the local leadership to determine that this would be a good project for the area. It's disappointing to see that perhaps the community and the local leadership were not on the same page.' The exact same thing that Hayes and McClaskey said is happening here today. I'm asking each of you, maybe only a few of you, I'm asking you..."*

*Chairman Unruh said, "Mr. Moyer, your time is expired. Can you wrap it up?"*

*Mr. Moyer said, "...I've got three more sentences."*

*Chairman Unruh said, "Okay."*

*Mr. Moyer said, "I'm asking each of you to write a letter to Tyson today, just like you did September 27th, and tell them that you've been able to get in touch with the local sentiment and you do not feel Tyson is the right way to grow Wichita, Clearwater, Haysville and Sedgwick County. Thank you."*

*Chairman Unruh said, "Thank you, Mr. Moyer. The next speaker is Mr. Jeff Zogleman."*

*Mr. Jeff Zogleman, 12601 West 71st Street South, greeted the Commissioners and said, "I live in rural Clearwater, Kansas. I live on the same road that I was born on. I've just got a couple questions and a couple statements. First question is, what is Sedgwick County and to that the extent of the Commissioners, prepared to do for the current landowners and property owners when our values are negatively impacted? This will happen, and possibly a collectively class action suit could be filed because there are over 200 homes within the three mile radius of the proposed site. Second, how will Sedgwick County subsidize the small communities or townships that bear the brunt of this cost and burden, i.e. roads, infrastructure and social services.*

*"Tyson will use a massive amount of water. The huge extraction of the water amounts that we're talking about will possibly move the contaminated water that is under the OxyChem Vulcan System. How is the county prepared to mitigate that and keep that water from moving? Then how is the greywater going to be disposed of? The greywater is the water that's used in the processing plant. This has to be sent through the municipality. Tyson has exhibited through the last 17 years they are not socially or environmentally responsible enough to handle this, as witnessed \$75 million in penalties in the last 17 years with the most recent one in the last 90 days levied in Monett, Missouri for an accidental release of a local waterway. December 1st, Royce Sparkman of Tyson spoke and said our plants and feed mills are governed by the requirements of the Clean Air Act. We work to meet hard the environmental regulatory requirements. Working hard simply is not going to cut it here. Our land, our water, our children and our children's children are at stake. We and they deserve better.*

*"History shows it's cheaper and easier for them to pay the fine then to do the job right.*

*I know the Greater Wichita Partnership is doing their due diligence and working hard on this issue, but what I'm asking you today, you know in your heart what's right. You know in your heart that this is not good for the community. You know in your heart this is not good for the people of your community. So I'm asking you today that someone will take a stand and simply write to Tyson that you will not give them any money, and they will not come to Sedgwick County. It's plain and simple. If you don't give them money, they won't come. So you do have the ability to make this happen or not happen.*

*"Lastly, I don't think any of you want to be the Commission that is noted for you were the ones that brought chickens to Sedgwick County and made Wichita and/or Sedgwick County the chicken capital of Kansas. Please do the right thing. Thank you."*

*Chairman Unruh said, "Thanks for your comments. Appreciate it. That's the end of those who have signed up to speak on the public agenda. Is there anyone else who has not spoken previously that wants to speak? Okay then we will close. Commissioner Ranzau."*

*Commissioner Ranzau thanked the Chairman and said, "I just want to say I appreciate everyone's comments here. I'm sorry how things got all riled up and created all of this consternation. Personally, I have grandparents who retired from a beef packing plant and parents who worked at a beef packing plant that used to be here in Wichita, so I was open to the idea of hearing from Tyson and seeing, having all the answers addressed. I don't think we're going to get to that point. I think a particular site was put out for whatever reason that I don't know necessarily was a good site. You know, we have a lot of people that are opposed to it for that, and I can understand that if I lived in that area. We also have farmers who are very supportive of it who haven't been able to have that voice and have a discussion.*

*"That being said, I've always said all along that I'm not going to support incentives for them and I think, I don't think this Commission is. I think the people just need to know I don't think they're going to be coming here. More will be said later, but we've got to tell these people that there, I'm not supportive. I don't think this Commission is supportive of incentives. We can't just keep dragging this out if we know that they're not going to get incentives. If they want to come, like one gentleman said, they can come with incentives it would be very hard for us to stop, I think.*

*"But I'm disappointed in how things have transpired, because I don't think we've been able to have a full dialogue because one area got focused on, which I don't know was a good location to begin with. Why that got focused on we could talk about later. I think we've already addressed that. So I have a wide ranging of opinions and thoughts on that. I'll just, so I see both sides of the issue having family members who worked in a beef packing plants, but they're not going to come here. They're not going to get incentives, so for whatever that's worth."*

*Chairman Unruh said, "Thank you, I don't see anyone else wishing to speak or anyone from up here. Because this is such an emotional issue, among other things, I haven't shook my finger at you and said please don't applaud. We really don't do that in County Commission meetings, but for now, the discussion is over with for today. So thank you all for your interest and participation. With that Madam Clerk, please call the next item."*

**NEW BUSINESS**

- A     [17-977](#)     2017 WICHITA-SEDGWICK COUNTY HISTORICAL MUSEUM  
UPDATE TO BOARD OF COUNTY COMMISSIONERS.  
Presented by: Eric Cale, Museum Director.

RECOMMENDED ACTION: Receive and file.

*Mr. Eric M. Cale, Director, Wichita-Sedgwick County Historical Museum, greeted the Commissioners and said, "I have the privilege of leading the Wichita-Sedgwick County Historical Museum, which is one of America's leading museums of local history and traces its origin back over a century ago, just across the street in the old Sedgwick County Courthouse. In Sedgwick County we have a unique and exceptional history and also a museum to match.*

*"I would like to extend our thanks to the Board of [County] Commissioners and to the people of Sedgwick County for their investment that they've made into the museum over the years. Operational support received has allowed the lights to stay on and the doors to stay open six days a week. I'm also glad to report that the new core exhibit of the people, by the people, for the people created through a special one-time grant by the county has been well received by the public and is leading to new interests in civics and government. It also aligns with new teaching standards set by schools.*

*"2017 has been a good year for the museum. We've maintained a strong visitation, double that of 10 years ago. We've maintained a regular schedule of programs and special exhibits that now include activity we manage out in the Heritage Square, which adjoins the museum the little urban pocket park there. As you may know, all of our activity is built around the museum's collection of nearly 100,000 artifacts important to our local history. We've been successful in hosting several new exhibits each year to enhance the museum's long term and core exhibits, which occupy all four floors of the building.*

*"Our reach goes beyond those who visit the museum by way of service to researchers and publishers who depend on the museum for information and historic images. Our curator attends to hundreds of these inquiries every year. We're a very active place supported by a staff of full time equivalent (FTE) of five and a half staff members. Also active volunteers numbering at about 100, which include 25 volunteer board of trustees who meet every month to provide fiduciaries guidance for the museum.*

*"On the horizon these next few years is the development of a new strategic plan and a focus on celebrating the city-county sesquicentennial in just two years. For now we're looking forward to carrying the mission forward in 2018 and invite everyone to visit the museum. I would be glad to answer any questions you might have too."*

*Chairman Unruh said, "Well Mr. Cale, thank you for that information and that update. We know that you, your staff and volunteers are working hard to make this a real valuable asset to our community and I'm fully convinced that it is. I think you have great exhibits and it's educational and historical for those people who visit the museum. So I would just want to encourage you and hope you all continue and thanks for the effort you made this morning to be here. I know that you're on a little bit of a tight time frame, but thanks for being here this morning to give us that update."*

*Mr. Cale said, "Thank you all."*



*Chairman Unruh said, "Commissioners, we need a motion to receive and file."*

**MOTION**

*Commissioner Dennis moved to receive and file.*

*Commissioner Howell seconded the motion.*

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

**VOTE**

<i>Commissioner Dennis</i>	<i>Aye</i>
<i>Commissioner Ranzau</i>	<i>Aye</i>
<i>Commissioner Howell</i>	<i>Aye</i>
<i>Commissioner O'Donnell II</i>	<i>Aye</i>
<i>Chairman Unruh</i>	<i>Aye</i>

*Chairman Unruh said, "Next item, please."*

**Received and Filed**

**B**     [17-1007](#)

**POST-ANNEXATION PUBLIC HEARING CITY OF DERBY  
ANNEXATION ORD. NO. 2213.**

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

**RECOMMENDED ACTION:** Open the public hearing; receive testimony; close the public hearing and make the required statutory finding.

**VISUAL PRESENTATION**

*Mr. Justin Waggoner, Assistant County Counselor, greeted the Commissioners and said, "What's in front of you today is the post-annexation hearing regarding the service plan for properties that the city of Derby annexed in 2014 through ordinance number 2213. I'll scroll through the map here. Just to kind of orient you a little bit, running the mouse along what's K15 Highway. There are a total of 17 different parcels in five tracts. So there's three that are showing here currently and there's two more located further to the south. The 17 different parcels have 14 total owners. They all adjoin as you can see the yellowish color on the map is where the city limits for the city of Derby are located, whereas the grayish color is the unincorporated area. But all of those properties adjoin the city of Derby's boundaries.*

*"There are 12 of those parcels that have residences on them, and I believe there are five (5) total that are vacant. Their sizes range from .3 acres to 8.5 acres, the majority of them being between 1 to 5 acres. During the adoption of the ordinance on these properties, the city of Derby noted that they are within their annexation plan. These particular properties were, per Kansas Statute annotated 12-531, three years after any annexation, the Board of County Commissioners was supposed to hold public hearing, where there is a finding or determination as to whether the terms of service plan were fulfilled by the city or whether they were not.*

*"The statute required notice of this hearing be provided to the city and also to all the property owners who were annexed. That's occurred, we sent a written notice after the November 8th meeting to set this public hearing. Just a few details on the actual service plan requirements, the city of Derby included public street maintenance, street signage and that included some address changes. They changed the addresses of several of these properties when they came into the city.*

*"Police and fire protection, including medical, first response, parks, library, city building, health, housing, and zoning code enforcement, trash service. I believe the city has a contract with Waste Connections that's a negotiated contract for all its residents. Ditch cleaning, culvert cleaning and stream maintenance, and then upon either a request or petition of the property owners they can get local street improvements, water laterals, fire hydrants and sewer laterals.*

*"Three years ago, the Board of County Commissioners determined the service plan was sufficient and consistent with the county's resolution on handling post-annexation matters. Prehearing questionnaires were sent to both the city of Derby and also to all of the property owners. We received responses from six property owners and also from the city of Derby, all of those are included in your back-up materials. I did want to briefly, since there were six total responses from the property owners, just briefly give you a synopsis of what the responses included that was really substantive to this matter.*

*"There were four different responses that essentially had complaints about street maintenance. They either said it was poor or that the patching was done after the prehearing questionnaire was mailed out. There was also reference to a large sinkhole at a culvert on McIntosh [Street] it took six months to fill in. I'm not sure if that's necessarily, if you see on the map here, McIntosh, some of it's in the annexed area and some isn't. I'm not 100 percent sure if it was or wasn't, and it's possible that person who complained about it be able to clarify about that more or perhaps the city could.*

*"There is also a complaint about the address change, and that essentially applied to both the street signage and also the bigger complaint that person had was with first response. They complained that they would call for first response and they didn't know their new address and so they would have to give them their old address and complained about how that could lead to delays in time in terms of the response. There was a positive comment on the building code enforcement. They said it was good. There was also some comments on ditch cleaning. There were actually five different responses on that that said either the ditch cleaning was poor, didn't occur or they hadn't ever seen it. One person said it had been mowed in August of 2017, but that's the only time they were aware of. On the culvert cleaning, there were three people who responded that it hadn't been done or it was not done very well in their opinion.*

*"Those are the responses that we received that were substantive to the service plan. There were a bunch of comments about how folks wished they hadn't been annexed by the city of Derby. Of course, that's not your charge today.*

*"That was the City of Derby City Council's decision three years ago. Your charge under the statute is to review the service plan and decide whether the city has or hasn't met the service plan requirements. I mentioned that the city of Derby provided a prehearing questionnaire response. I'll do a very quick synopsis of that, but they have staff here who may be able to address that in more detail, especially if you have questions on it.*

*They in particular noted the number of calls they made on fire and rescue calls and medical response calls, police calls and animal control calls. They include some details in that.*

*"The number of plumbing permits they pulled and completed the inspections on, street maintenance that they had done on McIntosh. They noted two different instances where they had done street maintenance and repair on that street. Lastly, they noted that there were not any requests for petitions or requests for services that citizens could petition a request for, but they also did note that two folks live close enough to a waterline that they were able to connect without actually having to get special assessments charged and go through that. So it wasn't a formal request under the annexation plan, but they did get connected to city water.*

*"Unless you have any questions for me, I'd recommend that you, if there are any ex parte disclosures to make, that you make any of those ex parte disclosures before opening the public hearing, so that the parties can have a chance to respond to those. I would also suggest, if there is any ex parte information that is instrumental in your decision-making process, you can disclose any of that as well, and then open the public hearing to receive comments from the property owners and the city, and I stand for any questions. Other than that, I suggest you proceed."*

*Chairman Unruh said, "Alright thank you, Justin. Commissioners, before we open the public hearing, are there any comments or questions, questions for Justin or any comments you want to make or any ex parte contacts that you'd like to disclose. I would say that I have not been contacted by anyone regarding this issue. Just read the backup material. Commissioners, any questions? Commissioner Howell."*

*Commissioner Howell thanked the Chairman and said, "I just wanted to say that this is in my district, and so I think I need to speak to it, but I am familiar with the area. I've been up and down the street a number of times. I know some of the people named in the address list, but I've never spoken to any of them regarding this annexation, and certainly since this has been on our agenda, no one has contacted me through e-mail or phone call or verbally face-to-face in anyway. So I have no ex parte communication to report. I have some comments later once we get through the hearing. Thank you, Mr. Chairman."*

*Chairman Unruh said, "Thank you, Commissioner. I don't see anyone else with a question or comment. So at this time, we will open the public hearing, and we'll ask those citizens who have an interest or comment to go to the podium and state your name and address, and if you would, if you could hold your remarks to three minutes, we'd appreciate that.*

*"Is there anyone that wants to speak regarding this issue? I don't see anyone rising to speak. I noticed that the City of Derby officials are here. Would you like to take the podium and make a comment during this time?"*

*City of Derby Official said, "Only if you want me to or if you have questions."*

*Chairman Unruh said, "Alright, if no one wants to speak, then we will close the public hearing and restrict the conversation to the bench. Commissioners, any comment or question? Commissioner Howell."*

*Commissioner Howell said, "Thank you, Mr. Chairman. I have read the backup material. I've read all the letters from the folks that responded to the questionnaire. I*

*read the service plan, and I just want to say, you know generally speaking, if I was going to be very general, I think people generally don't want to be annexed, but that doesn't necessarily mean that's a decision that they would have the opportunity necessarily to control those decisions. This is really congruent to the city of Derby. It is, I would say inside the city of Derby as much as I am. They receive services from the city.*

*"In fact, one of the comments about first responders, I want to just clarify. Out of all the response, I didn't add this up, but there's a lot of responses they've made over the period of time that this has been monitored, and the average response time was 4 minutes 9 seconds. To me that's pretty good service for terms of public safety. The issue of the water supply, sewer supply, things like that, those are all available, if that is what they want to do, but they would have to initiate that. So that to me is not a compelling issue. I would say that as I've read all this material, I think the city of Derby has substantially met the commitment to the service plan, to their constituents that are impacted by this annexation, so I would be pleased to make a motion that we would make the finding that the City of Derby has provided the services included within the service plan.*

**MOTION**

*Commissioner Howell moved to that the City of Derby has met the requirements for annexation ordinance number 2213.*

*Commissioner O'Donnell seconded the motion.*

*Chairman Unruh said, "Okay. We have a motion and a second to approve this. Commissioner Ranzau."*

*Commissioner Ranzau said, "Thank you, Mr. Chairman. I'll say also that the service plan that Derby has done was good, it always is. I am, however, concerned by the responses from the citizens. Several of the responses talk about poor or nonexistent ditch or culvert cleaning, poor street maintenance, some attempts to do some of these things right at the last minute before this hearing are very disconcerting. I believe these comments presented to us by the citizens are very compelling. Thank you."*

*Chairman Unruh said, "Thank you, Commissioner. Any other comment? I don't see any Commissioner asking to speak so, Commissioner Howell."*

*Commissioner Howell said, "I just want to say one more thing. I do think that we've sat in on a number of these types of hearings in the last three years that I've been here, and I would say that out of all of the cases similar to this that have come before us, I think Derby, again sets the standards in terms of what a service plan should look like. I just want to commend them once again for doing a great job on that, you really do address pretty much everything you can imagine related to city services.*

*"So I understand the issue of the ditch cleaning, but I can tell you I've been in some of the other cities around Sedgwick County and noticed the ditches that other people in other city limits have, and I don't think there's anything that necessarily compels a city to make that responsibility necessarily. I don't know that's something that cities have*

*to do. So I don't know that that alone is something that's a reason to really make that the reason why we would vote no on this today. So again, I continue to support the motion. Thank you, Mr. Chairman."*

*Chairman Unruh said, "Thank you, Commissioner. Any other comment or question? Seeing none, Madam Clerk, call the vote."*

VOTE

Commissioner Dennis	Aye
Commissioner Ranzau	No
Commissioner Howell	Aye
Commissioner O'Donnell II	Aye
Chairman Unruh	Aye

*Chairman Unruh said, "Thank you, Justin..."*

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

*Chairman Unruh said, "...and the representatives from Derby, thank you for being here today. I think we're ready for the next agenda item."*

**Approved**

**C**     [17-1037](#)

**RESOLUTION TO DECLARE THE OPIOID CRISIS AS A PUBLIC NUISANCE.**

Presented by: Michael Fessinger, Assistant County Counselor.

**RECOMMENDED ACTION:** Take action as deemed necessary.

*Mr. Mike Fessinger, Assistant County Counselor, greeted the Commissioners and said, "What you have in front of you is a resolution that does two things. First, it declares the issue stemming from the current national opioid epidemic to constitute a public nuisance in Sedgwick County. Second, it authorizes and instructs Eric Yost, our County Counselor, to retain private counsel to initiate a lawsuit pursuant to such public nuisance against those in the chain of distribution for opioids.*

*"Essentially this lawsuit would, the basis for this lawsuit would be a breach in the law by opioid distributors who are charged with monitoring the distribution of opioids for manufacturers to pharmacies and submitting to the DEA (Drug Enforcement Administration) reports pertaining to suspicious orders. This is both a federal regulation and a state regulation that calls upon such distributors to do that. An example of a suspicious order would be a pharmacy order which exceeds 10 percent of the prior month's order.*

*"That would be a type of order that a distributor would need to report to the DEA, so that the DEA may make a decision as to whether or not they need to go in and investigate this activity. To our knowledge, that has either not happened or very rarely happened. It would be a public nuisance theory of the case, which would allow the county to enter as a plaintiff in this case.*

*"The public nuisance would stem from increased costs to the county that include a law enforcement and public safety relating to the opioid epidemic, increased medical care, additional therapeutic and prescription drug purchases and other treatments for*

*patients suffering from opioid related conditions, counseling and rehabilitation services provided through COMCARE, treatment to infants born with opioid related medical conditions and welfare for children whose parents suffer from such opioid related issues. Those represent costs that the county has incurred and will continue to incur pursuant to the national opioid epidemic, and it's those costs that this lawsuit would seek to abate.*

*"With regard to nuisance in Kansas, our laws and our Supreme Court has made clear that the use of real or personal property and maintaining and carrying on violations of any law regulating controlled substances, is statutorily defined as a public nuisance in Kansas. So looking at the case law, the regulations and laws in Kansas, it would appear that such a lawsuit would have merit, and that is the basis of the lawsuit. I can stand for questions."*

*Chairman Unruh said, "Alright, thank you. Commissioners, are there any questions that you would like to ask at this time? Commissioner Ranzau."*

*Commissioner Ranzau said, "I guess I have a few questions. I'm not sure you have the answer to these yet. I've been trying to get, I have some concerns about what we're going to do here today, because I've been trying to get some data as far as the length of time that we're concerned about and data throughout the whole length of time. One of the biggest issues that keeps bringing up, the reason, justification is that we have 99 basically 100 prescriptions for 100 people in Sedgwick County, which is over the national average."*

*Mr. Fessinger said, "Correct."*

*Commissioner Ranzau said, "But I've asked to get some data, I'd like to have that data historically and I'd like to have it compared to areas similar to this, because I think we're being compared to small counties, large counties, et cetera. I haven't been able to get that information. I've asked for information from our health guys here, I haven't been able to get any information. What is the right number? Do we know what the right number is?"*

*Mr. Fessinger said, "We don't yet know what the right number is. It's likely that a baseline number will be established through litigation if and when it kicks off."*

*Commissioner Ranzau said, "But how can we establish the right number through litigation?"*

*Mr. Fessinger said, "They will have access to records that we currently don't have access to that are maintained by the DEA and by the national distributors."*

*Commissioner Ranzau said, "Well I still, I understand they'll have access to data, but I guess that still doesn't help us determine because we're going to, I think somewhere in here we, either in this or some of the other data that, you know prescriptions are given out in a way that's not medically necessary. I mean, how are we going to determine what is medically necessary for our community? I haven't been able to get an answer to this."*

*"I mean I guess, you know I came from the health profession. So one of my jobs when I worked with a doctor that was involved with work comp (worker's compensation) on both sides of the issue. So I understand the need for lawsuits when they are appropriate and taking care of people. But I've also seen the system abused, which drives up the cost of health care for all of us. While we have an issue of opioids throughout the country, it's worse in some parts of the country than others.*

*"Our biggest problem here is methamphetamines. There have been a variety of explanations as to why it's worse in other countries other parts of the country than to here. I've had people say it might be the prescription laws in some states. It might be Medicaid expansion that's exacerbating the problem.*

*"Some people have said it's because one of the contributing factors is the states that have passed marijuana laws, you can get marijuana cheaper, so they are growing it less in foreign countries. So the price of heroin has come down because there's more of it, supply and demand. All sorts of things that contribute to this.*

*"I guess I want to make sure, and now we're going to sue. When we were briefed, you said we were going to sue the distributors, not manufactures, maybe we are now. We're not going to sue the doctors or the pharmacies, but the distributors, and I've been trying to find some nexus between their actions and harm that's done here. I haven't been able, none has been given. I mean, there has been a hypothesis based upon the prescription rate. I think we're rushing into this. We can also initiate litigation without this proclamation. It was explained to us by issuing this proclamation it will lower the standard we have to prove. We don't have to actually demonstrate someone in our community is actually harmed. That's problematic for me when the government wants to sue the private sector. I think we need to maintain a burden of proof.*

*"But I'm also, I just have lots of questions and I haven't even been able to get all of my questions answered, all the data. I need historical data for the time that we're doing this. I mean, the biggest question is what is the right number? Because you know, there can be many causes of why our rate is higher than some. When you have an average, I mean I worked in the surgery arena. People from all around the state came to our area here and get prescriptions before they leave. That can be a contributing factor. We have, maybe we are attracting more people with chronic pain problems. I'll give you an example. I bet if you did an analysis of the prescriptions for mental health issues, you would see a much higher rate per capita here in Sedgwick County than all the other counties around here.*

*"Within the medical community it's been a struggle of how do you limit opioid prescriptions, but at the same time, treat people with chronic pain and acute pain that actually need it. So over a period of years, that has changed. Now we've had some physicians in this community that have misused it and abused it, and they went to prison for it and that's appropriate and some of the manufacturers have committed fraud, they commit fraud, misrepresent stuff and you get sued, that's appropriate. I want to make sure that since we are going to be actively involved in a lawsuit that I can somehow see a connection here.*

*"The argument is if they would have reported, you know suspicious things to the federal government and the federal government would have prevented this, supposedly, I guess. But the federal government had the data. This is the same, but they will say well there was lots of data. Well this is the same federal government that searches all*

*of our phone calls and e-mails and keeps track of that, they can keep track of this data. So the biggest thing is, you know there's unintended consequences. I've seen as a result of lawsuits and litigation that we no longer have Vioxx or Darvocet. All medications have problems, but because those are no longer available, we have fewer solutions to treat people.*

*"So there's a point that I could get to where I would say we should sue these distributors, but I've got to see some evidence that they're the ones causing this and hurting our community, and I need more data, and I'm disappointed that we're under a time crunch here evidently. So the biggest question is, what is the right number and how do we arrive at it? Because there's lots of reasons as to why some areas might have more or less and we need to compare to like-communities.*

*"So one of two things I've seen from my medical practice is you can have legitimate lawsuits for damages that were caused by the people who were being sued, and you can have ambulance chasing, so to speak, and people gaming the system. I want to be able to say and have confidence that I know which one we're participating in, and I don't have enough evidence to make that decision right now. That's where I'm at, so I'm hesitant to proceed. It will pass anyway, but these are my concerns.*

*"As we move forward, I'll continue to ask these questions, because I know that we need to have the right amount of legal protection without an excessive amount because that drives up costs and that hurts everybody. Because now we're in an environment where some people with chronic pain are having difficulty getting pain medications and controls and et cetera. So it's just difficult, and so I guess I need to keep working with Tim, I need to get some more information.*

*"We need to identify the timeframe that we're talking about. We need to see the data and move forward here. Now, I have some questions with respect to the state may sue. If we sue and get a settlement or get money, whatever, then we would be precluded from gaining anything if the state also won is that correct?"*

*Mr. Fessinger said, "That would be correct. We wouldn't be permitted to recover."*

*Commissioner Ranzau said, "Now, what if we lost this suit but the state won theirs? Then what's..."*

*Mr. Fessinger said, "I would imagine that well, instead of trying to field that question, we do have representatives from local and national counsel here, and I would ask if they had perhaps an answer to that question."*

*Commissioner Ranzau said, "Just a question I kind of have to know what the different options or scenarios could be in the future."*

*Mr. Mike Fuller, Attorney, McHugh Fuller Law Group, greeted the Commissioners and said, "Sure."*

*Chairman Unruh said, "Would you state your name, please?"*

*Mr. Fuller said, "Absolutely. Mike Fuller from McHugh Fuller Law Group. I've met with you gentlemen in closed session. So to answer your question, Commissioner Ranzau, is that the county wouldn't be precluded because if we didn't recover for the damages in our suit, you could recover through the, excuse me, the Attorney General suit."*



*Commissioner Ranzau said, "Okay."*

*Mr. Fuller said, "I met with the Attorney General just yesterday and have offered to work with him if he decides to pursue this matter, and we're actually talking to other counties as well and looking to make a group effort, because it's not, you know, one county or the state against the industry. It's everybody looking for solutions to try to address this epidemic that's going on here in Sedgwick County."*

*Commissioner Ranzau said, "Right. I understand that there's, everyone wants to solve the problem. But I've asked lots of questions of a lot of people of what is actually causing the problem. There have been a lot of things hypothesized out there, some of which I've mentioned and I'm not saying those are the cause or not. But there is a lot of people are looking into it. In my mind, I have to have a reasonable belief and evidence that their actions are the cause of what's going on here, and I'm not quite there yet. I'll continue to ask some questions. I understand the legal theory behind everything, and I understand the emotion involved and everything, but I also have seen both sides of this issue in a very real way and those are my concerns, thank you."*

*Chairman Unruh said, "Thank you, Commissioner. Thank you. Commissioner Dennis."*

*Commissioner Dennis thanked the Chairman and said, "My question is the same one I had yesterday afternoon when we were discussing. The very last sentence on this, that says our County Counselor, Eric Yost, is authorized to retain outside counsel. Are we going to go out on some type of RFI (Request for Information), RFP (Request For Proposal), a sole source. What's the intent?"*

*Mr. Eric Yost, County Counselor, greeted the Commissioners and said, "We put that in because that is consistent with our general practice here, that I'm the person that retains outside counsel generally, even though this is a much more of a public thing and something that the Commission needed to discuss. But that's just a consistent practice with what we do. I can tell you I don't want to be coy about what I'm going to do."*

*"When we obtain legal counsel, we're not obligated to do RFP's, and I can tell you that I'm going to hire the group we've been working with all along. They have local counsel, the Prochaska [Law] Firm. Two of the members are here today, and the gentleman who is at the podium, that's who I'm going to sign an (inaudible) agreement with. So I don't want to play games with that, but that's why that's in that resolution. It's just consistent with what our county practice is, which is that I am the person who engages outside counsel."*

*Commissioner Dennis said, "I appreciate that. I think I discussed, I hope I did with you after the KAC (Kansas Association of Counties) Conference that they indicated that there were several different litigants."*

*Mr. Yost said, "There are several different firms, but we need to distinguish between the firms that are trying to get the Attorney's General and represent those various states and those who are representing the cities and counties. The Attorney General may wish to file his own lawsuit, and the contingency fee for representing states is a little bit less than what it's going to be for cities and counties because of the dollar amount that's going to be involved. They can take a smaller percentage. Here, at least the firm that I'm probably going to enter into an agreement with, every single one of their deals is a 30 percent fee all across the country."*

*Commissioner Dennis said, "Okay, honestly I trust your judgment explicitly. I want to make sure everybody understands that, but some questions can up when I was at the KAC Conference and I wanted to make sure that I clarified those."*

*Mr. Yost said, "I met with the Attorney General yesterday and I've spoken with him on the phone about this. I wanted to make sure that he knew from the get-go what we were contemplating doing and I wanted to know if he had objection. I wanted to make sure he understood that we were going to cooperate with him and share information with him. We are not going to be at cross purposes with the Attorney General at all, and hopefully we can actually help each other. So I think we're going to work as a partnership with the Attorney General. I can't speak for all states, whether or not they're able to accomplish that, but we have a good relationship with the Attorney General, and I think it will be fine."*

*Commissioner Dennis said, "Thank you, Mr. Yost."*

*Chairman Unruh said, "Thank you, Commissioner. Commissioner O'Donnell."*

*Commissioner O'Donnell thanked the Chairman and said, "So I know nationally this is a pattern. A lot of cities, counties, and even states are moving forward. I saw, I believe it was yesterday or maybe it was Monday, but Clark County, Nevada, they signed on to a major lawsuit regarding opioids. The difference is they have their District Attorney file the lawsuit. So is that a pattern that we're seeing that we'll have County Counselors or do District Attorneys do this? What's the difference between what we're doing versus like what Clark County, Nevada's doing, home of Las Vegas?"*

*Mr. Fessinger said, "There could be a number of factors in play there. First of all, not all counties separate their County Counselors and District Attorney functions. So that District Attorney in that particular county may be responsible for both civil and criminal matters. That county also may have decided to file the suit, bring in counsel later, or they may be foregoing private counsel. But my understanding is the trend is to go with private counsel."*

*Commissioner O'Donnell said, "Okay. Well, thank you and thank the gentleman for coming in from the law firms and Eric Yost for bringing this to us, and Commissioner Howell for kind of starting this conversation about a month ago. I think this is a very important endeavor for us to support victims and our constituents. So thank you, Mr. Chairman."*

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

*Commissioner Howell said, "Thank you, Mr. Chairman. I just have a couple of comments. I'll probably make a motion here in just a moment. I just want to make a couple of comments. I've been studying this as I've had opportunity for about the last month, reading articles and trying to understand exactly what's going on. But to whether this is something that's trending in Sedgwick County, I think the data speaks for itself. At least I feel like it's compelling that when you look at the data. I don't believe there is suddenly a legitimate need for these drugs, come in explosive use of these drugs because of surgeries or whatever. I think what we're seeing right now is an addiction to drugs, and I think it's obviously happening across the entire nation."*

*"Just reading the numbers, it's very sobering. We got a publication from county news just this week. They state in there that 64,000 people in the United States died last*

*year. Divide that out. That's 175 a day. That's from drug use. That's not just opioids, but that's all drug use. I think I saw on TV just yesterday, 91 per day from opioids. Some of that may be intentional. I don't know how to break that down. I guess my point is, those are big numbers, and even within our own resolution we're looking at today, I think the evidence that's stated in here, in my opinion, is compelling that we've had a large increase. It doesn't seem to explain.*

*"Having said that, I did spend some time talking to one of our drug experts here in town. I spent, he's in the business of pharmaceutical drugs, and he represents some of that industry here, so I spent some time talking with him about it. I think we both agree there is a legitimate use for these drugs. There are people who need them. I don't want to penalize the designers or the manufacturers. Everyone is in it to do their part and everyone has a legitimate mean to make money in their business, but I think there is a moral aspect to this as well.*

*"Congress has handed the responsibility of this monitoring and analysis, and if you will, reporting to wholesale distributors. I think right now, it's between the manufacturers, designers, the wholesale distributors, the sellers or the pharmacy part of this and then, of course, the users. The only one that actually really makes sense to really monitor this would be the wholesale distributors. To the extent it's in the resolution, they basically abrogated the responsibility, they have not done it, but they've been given the responsibility. They may not want to do that, but it is technically their job. The fact is we've got something going on and somehow we got to get a handle on this. So I think this is a necessary act today to take this step.*

*"But having done that, I'm afraid that Commissioner Ranzau may be right, that there is going to be a reaction from everyone involved in the distribution of these drugs that may be unintended consequence. Nevertheless, I still think this is an important step. I don't want somebody who has a legitimate need for pain medications to be deprived of something that could help them. So I'm compassionate and empathetic to that situation, but on the other hand, I don't want someone who doesn't have a need for that drug to have such easy availability to such inexpensive drugs and frankly a system of care that I also would, although it's not named in the resolution, I think there's a missing party here and that is insurance companies.*

*"There are some drugs out there that are much more controlled. Again, talking to one of my colleagues in the community, he makes the point that there are some of these drugs there is much less risk, much more control on those drugs, but because they're more expensive, the insurance companies don't funnel people towards those drugs. They funnel people towards the less expensive drugs, which have much more risk. So there is another aspect of this that really hasn't been addressed in the resolution. I wanted to make that point that insurance companies do have a factor in this.*

*"Having said that, as we go forward here, whether we join this lawsuit or not, whether we pass the resolution or not, I think this litigation is going to happen. The controls will be enforced going forward and the consequences of that will be a better control on these drugs nationally, but the result of that will be a movement in our community towards illicit drugs. We know that's going to happen. What this lawsuit will do is provide money for treatment for people who are caught up in that aspect of moving towards illicit drugs.*

*"So we're going to see a wave nationally and certainly within Sedgwick County of a wave of need for money to deal with the treatment of people who are going to be*

*caught up in their consequences of tightening these controls. Having said that, it's time to pass this. Thank you Mr. Chairman."*

**MOTION**

*Commissioner Howell moved to approve the resolution to declare the opioid crisis a public nuisance.*

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

*Commissioner O'Donnell seconded the motion.*

*Chairman Unruh said, "We have a second. Mr. Yost, does that satisfy?"*

*Mr. Yost said, "You're just adopting a resolution."*

*Chairman Unruh said, "Okay, thank you."*

*Mr. Yost said, "Then, yes."*

*Chairman Unruh said, "We have a comment from Commissioner Ranzau."*

*Commissioner Ranzau said, "Thank you, Mr. Chairman. I just want to be clear. I understand the opioid issue, and I have, share my Commissioner's concerns, that even though it's not as big of an issue as it is in other parts of the country, but one of the central focuses here is that the prescription rate here is higher than the average, and we don't know what the right number is. We don't know why that is. We can hypothesize, all I'm saying is we need to try and find out. We also need to understand that this is, any victims that may be in our county as a result of their actions or inactions will not receive any money from this. Only the government and the attorneys will receive money.*

*"As I said, I have a little bit of a concern, the sole purpose of this resolution, as I was briefed, was to kind of change the standard of proof so it's easier for us to prove this case. I have a problem with making it easier for the government to sue the citizens. If we want to sue, let's do it without this proclamation. Let's have some more data, and maybe my fellow Commissioners have more data than I do. We can cherry pick things here and there, and I understand what the issue is, but it's a multi-factorial, we've just got to be careful, I think, I'd like to see some more data. I'd like to understand this data more instead of rushing into this.*

*"But we are where we are, and I will continue to work with my Commissioners as we move forward, ask these questions to make sure we try to get some more data and try to figure out because my biggest concern is to avoid the unintended consequences, that you know, we're just saying this rate is too high. I don't know, maybe it is, maybe it isn't. But if it is, I want to know why, so that we can fix the things that are causing (inaudible), but not unintentionally cause the other ones. I understand, anyway, that's where I'm at, I don't want people to think that I'm not concerned about this issue, but I'm not convinced that this is the best way to approach it. Thank you."*

*Chairman Unruh said, "Thank you, Commissioner. I don't see anyone else asking to speak, but I would just want to give my perspective. I think that we have heard that this opioid crisis is a national concern, and in conversations with the Sheriff of*

*Sedgwick County, he said repeatedly that we have the problem here. It's significant, and it's not going to get less. It's going to get worse and we need to take actions to address it.*

*"If information we have tells us that we are one of the highest users of any county in the United States, I think that's an indication that we need to take some action to move forward to get this under control, and I realize that like many social issues, there's no one answer. It's going to take a multi-faceted approach, and this is one of them to try to control the source of this and the over use of it, so I'm going to be supportive. No one else is asking to speak. So at this time, Madam Clerk, I'll ask you to call a vote."*

*Commissioner Dennis said, "Do we need to public input at all before we vote?"*

*Chairman Unruh said, "I don't know that we need public input, but if you, if there is anyone here who would like to speak, we'll allow that. Okay, I don't see anyone rising to speak, so we will continue with the vote, please."*

VOTE

<i>Commissioner Dennis</i>	<i>Aye</i>
<i>Commissioner Ranzau</i>	<i>No</i>
<i>Commissioner Howell</i>	<i>Aye</i>
<i>Commissioner O'Donnell II</i>	<i>Aye</i>
<i>Chairman Unruh</i>	<i>Aye</i>

*Chairman Unruh said, "Thank you."*

*Mr. Fessinger said, "Thank you."*

*Chairman Unruh said, "Next item, please."*

**Adopted**

**D**     [17-986](#)

**AGREEMENT FOR AMBULANCE AND MEDICAL TRANSPORT SERVICES BETWEEN SEDGWICK COUNTY EMS AND VIA CHRISTI HOSPITALS WICHITA, INC., AND VIA CHRISTI HOSPITAL WICHITA ST. TERESA, INC.**

Presented by: Dennis Mauk, Deputy Director of EMS.

**RECOMMENDED ACTION:** Approve the Agreement and authorize the Chairman to sign.

*Mr. Dennis Mauk, Deputy Director of Emergency Medical Services, greeted the Commissioners and said, "We've had a long-standing beneficial partnership with Via Christi for over 40 years, our two longest continuously serving EMS (Emergency Medical Services) post locations are Via Christi properties. This particular agreement before you today, formalized as part of the partnership, and we become the preferred provider for ground transport for emergency and nonemergency basis, when their ground units are not available. This will help us, too, in meeting the response criteria that are set forth in the recent interlocal agreement with the city of Wichita, and so we would actually request that you approve the agreement and authorize the Chair to sign."*

*Chairman Unruh said, "Alright, thank you. Commissioners, are there any comment or*

*questions? I know we have representatives here from Via Christi. Is there any comment that you particularly want to make? Alright. Commissioner Ranzau."*

*Commissioner Ranzau said, "Yeah, I just have a question. So, where are we providing these for them? Why do we have to have, we haven't had an agreement for a while. Or we haven't ever had an agreement. Why do we need this now?"*

*Mr. Mauk said, "This formalizes the agreement in terms of the financing that goes with that and the timely billing on that and also makes us a preferred provider, and if they call that. With this agreement, then it doesn't count against the criteria that is set forth in the city-county agreement in terms of response time criteria that they've set forth on the one hour time frame."*

*Commissioner Ranzau said, "Because it allows us 90 minutes, then."*

*Mr. Mauk said, "Yes."*

*Commissioner Ranzau said, "Yeah, I guess a have a problem with that. I'm fine with giving them a good rate. I don't like the fact that they're lowering our standard of performance, especially considering the concerns of our colleagues over at the city of Wichita. We're expanding a monopoly. I think, I would encourage Via Christi to use us as much as they want but use the private sector as much as they want. We continue to compete and monopolize this when there are some private sector options that should be available and of course, increase response time, which in my estimation decreases the service and is contrary to the concerns that our colleagues across the city express. So I would much prefer we just give them a good fee schedule in exchange for the cooperation we've had in the past. I think that would be a much better way to go and we could accomplish the same thing. Thank you."*

*Chairman Unruh said, Thank you, Commissioner. Commissioner Dennis."*

*Commissioner Dennis said, "Thank you, Mr. Chairman. First of all, I want to commend our EMS. I think they do an outstanding job, I appreciate their service. Let me ask you one question to address some of the concerns from Commissioner Ranzau. These transports that we have are not emergent. Is that correct?"*

*Mr. Mauk said, "It will actually be both emergent and non-emergent transfers. For example, if critical trauma shows up by private car at the facility that is not a trauma facility, then we generally will make that move because we are more immediately available than their ground unit. So there are some that will be emergencies there. There are those that will be non-emergencies as well."*

*Commissioner Dennis said, "But if it was emergent, would we not do this in less than an hour rather than the 90 minutes."*

*Mr. Mauk said, "Oh, yes. The 90 minutes doesn't apply to the emergencies, no."*

*Commissioner Dennis said, "That's what I'm trying to get at. That we're not lowering the standard that we're providing our colleagues across the street."*

*Mr. Mauk said, "No, same as the other."*

*Commissioner Dennis said, "When we have emergent transport, we do emergent transport."*

*Mr. Mauk said, "The closest unit would take that, yes."*

*Commissioner Dennis said, "Okay, thank you. That's all my questions."*

*Chairman Unruh said, "Thank you, Commissioner. Anyone else want to speak, have a question? I also appreciate our EMS system and the way that you all manage it, and I appreciate that we have great partners in the community like Via Christi who is willing to contract with us to kind of make things of a certainty in times and in prices and in the quality of our service. So I think this is reasonable business, and I'll be supportive of it. I don't think we have a motion at this time, do we? I don't see anyone else asking to speak."*

**MOTION**

*Commissioner Unruh moved to approve the agreement and authorize the Chairman to sign.*

*Commissioner O'Donnell seconded the motion.*

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

**VOTE**

<i>Commissioner Dennis</i>	<i>Aye</i>
<i>Commissioner Ranzau</i>	<i>No</i>
<i>Commissioner Howell</i>	<i>Aye</i>
<i>Commissioner O'Donnell II</i>	<i>Aye</i>
<i>Chairman Unruh</i>	<i>Aye</i>

*Mr. Mauk said, "Thank you, Commissioners."*

*Chairman Unruh said, "Thank you, Richard. Thank you for being here. Next item, please."*

**Approved**

**CONSENT**

*Mr. Mike Scholes, County Manager, greeted the Commissioners and said, "Commissioners, recommend you approve consent agenda items Echo (E) through Sierra (S)."*

**MOTION**

*Commissioner Dennis moved to approve consent agenda items E through S.*

*Commissioner O'Donnell seconded the motion.*

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

**VOTE**

<i>Commissioner Dennis</i>	<i>Aye</i>
----------------------------	------------

Commissioner Ranzau           Aye  
Commissioner Howell           Aye  
Commissioner O'Donnell II           Aye  
Chairman Unruh           Aye

*Chairman Unruh said, "Next item."*

- E**     [17-1021](#)       One (1) Temporary Construction Easement for Sedgwick County Project 592-29-1796; Bridge Project on 109th Street North between Hillside and Oliver. CIP# R-264-35. District 4.  
**Adopt the Consent Agenda**
- F**     [17-1022](#)       One (1) Temporary Construction Easement for Sedgwick County Project 624-35-4056; Bridge Project on Pawnee between 127th & 143rd Streets East. CIP# B-478. District 5.  
**Adopt the Consent Agenda**
- G**     [17-1020](#)       One (1) Temporary Construction Easement for Sedgwick County Stream Maintenance Project near 79th & Broadway - Cowskin Tributary. District 2.  
**Adopt the Consent Agenda**
- H**     [17-983](#)       Fourth Amendment to the lease agreement with Keith Bomholt.  
**Adopt the Consent Agenda**
- I**     [17-981](#)       Employment agreement with Scott W. Kipper, M.D., to provide Forensic Pathology Services as Deputy Medical Examiner and Deputy District Coroner.  
**Adopt the Consent Agenda**
- J**     [17-1027](#)       A Resolution Appointing Scott W. Kipper, MD, as a Deputy District Coroner.  
**Adopt the Consent Agenda**
- K**     [17-966](#)       Retail Dealer's Cereal Malt Beverage License Application for Bomber Burger located at 4860 S. Clifton Ave., Wichita, KS 67216.  
**Adopt the Consent Agenda**
- L**     [17-968](#)       Retail Dealer's Cereal Malt Beverage License Application for Tee Time Golf & Cafe LLC located at 14100 W. 95th Street South, Clearwater, KS, 67026.  
**Adopt the Consent Agenda**
- M**     [17-969](#)       Retail Dealer's Cereal Malt Beverage License Application for Sedgwick County Zoological Society, Inc. located at 5555 Zoo Blvd., Wichita, KS, 67212.  
**Adopt the Consent Agenda**



- N     [17-970](#)     Retail Dealer's Cereal Malt Beverage License Application for Lake Afton Store located at 25313 W. 39th South, Goddard, KS, 67052.  
         **Adopt the Consent Agenda**
- O     [17-972](#)     Retail Dealer's Cereal Malt Beverage License Application for Cheney Lanes/ D'Mario's Pizza located at 1635 S. 383rd Street West, Cheney, KS, 67025.  
         **Adopt the Consent Agenda**
- P     [17-980](#)     Treasurer Claim Certification.  
         **Adopt the Consent Agenda**
- Q     [17-797](#)     Payroll Check Register for the November 25, 2017 payroll certification.  
         **Adopt the Consent Agenda**
- R     [17-795](#)     General Bill Check Register for November 21, 2017 - November 28, 2017.  
         **Adopt the Consent Agenda**
- S     [17-796](#)     General Bill Check Register for November 29, 2017 - December 5, 2017.  
         **Adopt the Consent Agenda**

### **LEGISLATIVE ISSUES**

*Chairman Unruh said, "I don't see the Counselor here, but I don't think, Will, do we have anything to report?"*

*Mr. Will Deer, Assistant County Counselor, greeted the Commissioners and said, "No, I mean we obviously passed our legislative agenda last week."*

*Chairman Unruh said, "Okay."*

*Mr. Deer said, "Session will be starting here in about 4 weeks."*

*Chairman Unruh said, "Okay. Well, thank you. Next item, please."*

### **OTHER**

*Chairman Unruh said, "Commissioners, do you have anything else to bring before the Commission today? Commissioner O'Donnell."*

*Commissioner O'Donnell said, "Thank you, Mr. Chair. Last night KDHE (Kansas Department of Health and Environment) had a meeting down in Haysville regarding the groundwater contamination from the old American Drycleaners. It was very informative. We had members from our own Environmental Department, led by Susan Erlenwein, there to answer questions as well.*

*"Then employees from the City of Haysville, but things are moving very quickly. In the*

*last 64 days they have laid over, what did I tell you Commissioner Howell last night? Yeah, over 4 miles of linear feet of pipe already. So they're making really quick moves to mitigate those problems down there. So I just want to thank KDHE and the City of Haysville and our own Environmental Department and Susan, especially for all their help for getting that terrible situation resolved."*

*Chairman Unruh said, "Very good. Thanks, Commissioner. Well, I would just want to say that I was at the annual meeting of the National Association of Mental Illness (NAMI) last night. Dedicated group of people who have particular interest in that issue in our community, and they gave annual awards, and two of our former county employees were awarded for their service to the mental illness community, and that's Marilyn Cook and Jason Scheck. So I was pleased to be there and help them celebrate that. I don't see anyone else wishing to speak, Commissioners. We don't have an Executive Session or Fire District [No. 1] meeting, so I believe it's appropriate that we stand adjourned."*

### **EXECUTIVE SESSION**

### **ADJOURNMENT**

*There being no other business to come before the Board, the Meeting was adjourned at 10:23 a.m.*