

STATE OF KANSAS)
WYANDOTTE COUNTY)) SS
CITY OF KANSAS CITY, KS)

PLANNING & ZONING AND
REGULAR SESSION
THURSDAY, OCTOBER 27, 2016

The Unified Government Commission of Wyandotte County/Kansas City, Kansas, met in regular session Thursday, October 27, 2016, with eleven members present: Bynum, Commissioner At-Large First District; Walker, Commissioner At-Large Second District; Townsend, Commissioner First District; McKiernan, Commissioner Second District; Murguia, Commissioner Third District; Johnson, Commissioner Fourth District; Kane, Commissioner Fifth District; Markley, Commissioner Sixth District; Walters, Commissioner Seventh District; Philbrook, Commissioner Eighth District; and Holland, Mayor/CEO, presiding. The following officials were also in attendance: Doug Bach, County Administrator; Gordon Criswell, Joe Connor and Melissa Mundt, Assistant County Administrators; Ken Moore, Chief Legal Counsel; Bridgette Cobbins, Unified Government Clerk; Emerick Cross, Commission Liaison; Shaya Patrick, Asst. to Mayor; Kathleen VonAchen, Chief Financial Officer; Rob Richardson, Director of Planning; Byron Toy, Jamie Ferris and Zach Flanders, Planners; Misty Brown, Patrick Waters and Jenny Myers, Senior Attorneys; Ryan Haga and Wendy Green, Assistant Counsels; Jeff Fisher, Executive Director of Public Works; Mike Tobin, Director of Public Works; George Brajkovic, Director of Economic Development; Marlon Goff, Urban Redevelopment Manager; Charles Brockman, Management Analyst; and Captain George Sims, Sergeant-at-Arms.

MAYOR HOLLAND called the meeting to order.

ROLL CALL: Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia, Holland.

INVOCATION was given by Pastor Cynthia Smart, Mason Memorial United Methodist Church

Mayor Holland thanked Pastor Smart and said she was also the pastor who prayed earlier at 6:00 when we celebrated nine new police officers being sworn in. So we had a graduation and a swearing in earlier tonight.

Mayor Holland said I do want to make a recognition before we get started. We also had a meeting at 4:30 tonight with the Board of Public Utilities; we had a joint meeting. Many of them are here with us this evening: Tom Groneman, David Alvey, Norman Scott, Jeff Bryant and Bob Milan. Mary Gonzales was able to be here earlier but has had to leave for this meeting. I do want to recognize and appreciate the Board of Public Utilities' members for being here tonight.

Mayor Holland asked if there were any revisions to the agenda. There were no revisions.

Mayor Holland said tonight we have two distinct parts to our meeting. The Planning and Zoning portion will be handled first followed by our regular commission meeting.

PLANNING AND ZONING CONSENT AGENDA

Mayor Holland asked the Clerk to read the Planning and Zoning statement that is required by law. **Bridgette Cobbins, UG Clerk**, read the statement.

Ms. Cobbins asked if any members of the Commission wished to disclose contact with proponents or opponents on any item on the Planning and Zoning Agenda. **Commissioner Bynum** said I had contact with proponents of SP-2016-74. **Commissioner Murguia** said I had contact with proponents and opponents of PR-2016-7. **Commissioner Philbrook** said if something comes up and I think I need to recuse myself, I'll just do it.

Ms. Cobbins read the items on the Planning and Zoning Consent Agenda.

Mayor Holland asked if anyone on the Commission or in attendance would like to have any item from the Planning and Zoning Consent Agenda set aside. If any item is not set aside, it will be voted on by a single vote as recommended by the Planning Commission.

Action: **Commissioner Kane made a motion to approve the Planning and Zoning Consent Agenda.**

Doug Bach, County Administrator, said I would request to set-aside Item D.3, Amendments to City-Wide Master Plan (K-32 Corridor) for presentation. **Mayor Holland** said that will be set-aside.

Commissioner Murguia said I would like to set-aside #PR-2016-7. **Mayor Holland** said its set-aside.

Commissioner Townsend said I request to set-aside for clarification miscellaneous application concerning the keeping of hens and the ordinance language related to that. **Mayor Holland** said D.1 will be set-aside. The remaining items are before us. We have a motion.

Action: **Commissioner McKiernan seconded the motion.** Roll call was taken on the previous motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

PLANNING AND ZONING CONSENT AGENDA

CHANGE OF ZONE APPLICATION

ITEM NO. 1 – 16838...CHANGE OF ZONE APPLICATION #3121– JEFFREY HOLLINSHED

SYNOPSIS: Change of Zone from RP-5 Planned Apartment District to TND Traditional Neighborhood Design District for retail stores (previously operated under a special use permit) at 2001 to 2015 North 5th Street, submitted by Robin Richardson, Director of Planning. The applicant wants the rezoning in order to continue to use the building for a corner store and barber shop and not have to continue renewing the special use permit. The building is 2,600 square feet and Mr. Hollinshed is proposing to expand the building to the north and add a parking lot for customers. The Planning Commission voted 7 to 0 to recommend approval of Change of Zone Application #3121, subject to:

Urban Planning and Land Use Comments:

1. Subject to approval, a \$50 ordinance publication fee must be submitted to the Urban Planning and Land Use Department following the Unified Government Board of Commissioners meeting. Applicant Response: Agreed.

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2. Per the TND ordinance, this is only action needed from the City Planning Commission body. The next step prior to building permits is to obtain approval from the TND Review Board. That Board can meet at the request of staff when the applicant is ready to proceed. Applicant Response: Agreed.
3. This building is considered a storefront, which is permitted to be a mixed-use building – retail on the ground floor with office or residential units on the second floor. Applicant Response: Agreed.
4. Do you intend on having dwelling units on the second story of the addition? If so, each dwelling in the TND district must provide storm protection that complies with FEMA standards. Applicant Response: No.
5. The proposed synthetic stucco system shall be true stucco not EFIS, as the building will not comply with the Commercial Design Guidelines. Applicant Response: Agreed.
6. One street tree shall be planted for every 30 feet of frontage along North 5th Street.

Applicant Response: Agreed, please see the drawings submitted on September 26, 2016.

7. All trees shall be at least 2” caliper when planted. All shrubs shall be at least 3 gallons when planted. Applicant Response: Agreed, please see the drawings submitted on September 26, 2016.
8. Per Tables 27-1176-3 and 27-1176-4 setback for storefronts in T5 are:
 - a. Front yard – 0’
 - b. Side yard – 0 – 10’
 - c. Rear, corner lot – 5 – 10’

Applicant Response: Please see the drawings submitted on September 26, 2016.

9. Per Sec. 27-472(n)(3) the parking standards are:
 - a. One off-street parking space shall be provided for each dwelling unit.
 - b. One off-street parking space shall be provided for each lodging bedroom.
 - c. Two parking spaces per one thousand square feet of office or retail space shall be required.

A variance was approved in June 2014 for zero off-street parking spaces, so by providing the off-street parking to the north will substantially help ease the parking demand on North 5th Street. Applicant Response: Please see the drawings submitted on September 26, 2016.

10. Per the Business License Department:

- a. Over the past 10 years several business owners have gone in and out of this address range. Those businesses have been consistently either cafés or barbershops. We currently have a café registered at 2001 North 5th Street. Any future businesses would need to file application with our office.

Public Works Comments: None.

Staff Conclusion:

In time, the applicant, Jeffrey Hollinshed wants to expand the building for future retail use and provide off-street parking by constructing a parking lot north of the expansion. This is sorely needed in the urban core. While it has been stated that there are no plans for dwelling units, if that changes, each dwelling unit must provide storm protection that complies with FEMA standards. Per the TND ordinance, this is the only action needed from the City Planning Commission, as a whole. Prior to acquiring a building permit, plans must be approved by the TND Review Board. The Board can meet at the request of staff when the applicant is ready to proceed.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Change of Zone Application #3121, subject to the stipulations. Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 2 – 16839...CHANGE OF ZONE APPLICATION #3123 - SYLVESTER JACKSON

SYNOPSIS: Change of Zone from R-1 Single Family District to A-G Agriculture District for an accessory building at 3835 North 67th Street, submitted by Robin Richardson, Director of Planning. The applicant wants to rezone their 9.87 acre property in order to engage in agricultural activities and build an accessory structure (a pole barn). The Planning Commission voted 7 to 0 to recommend approval of Change of Zone Application #3123, subject to:

Urban Planning and Land Use Comments:

1. Subject to approval, a \$50 ordinance publication fee is due immediately following the Unified Government Board of Commissioners meeting. The property will not be officially rezoned until the ordinance is published in the *Wyandotte Echo*.
2. Building permits are required for any detached accessory building larger than 120 square feet.

3. Per Sec. 27-608 In the AG district, accessory uses are as follows:

- (1) Storage of equipment and machinery as necessary to raise crops and livestock, to carry out the farming business and to maintain the property.
- (2) Sale of products raised on the premises, fruit stands, orchard sales, etc.
- (3) Accessory buildings such as barns, silos, other exclusively agricultural structures, roadside stands, etc., provided that such structures are set back at least 50 feet from any street line.
- (4) Farmers' markets.
 - a. Farmers' markets are allowed upon submitting an annual agreement with the Department Of Urban Planning And Land Use in this district. Farmers' markets that take place outside of the following zoning districts require a special use permit.

Public Works Comments: None.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Change of Zone Application #3123, subject to the stipulations. Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 3 – 16840...CHANGE OF ZONE APPLICATION #3126 – MATT JENSEN WITH BOYER KCK MEDICAL OFFICE BUILDING, LLC

SYNOPSIS: Change of Zone from A-G Agriculture District to CP-2 Planned General Business District for a two-story medical office building at 1601 North 98th Street, submitted by Robin Richardson, Director of Planning. The site is Lot 6 of Schlitterbahn Vacation Village, Second Plat, and fronts the reconfigured section of N. 98th Street. The site is currently zoned both AG Agriculture and CP-O Non-Retail Commercial District. The Planning Commission voted 7 to 0 to recommend approval of Change of Zone Application #3126, subject to:

Urban Planning and Land Use Comments:

Zoning Clarification

The application lists CP-2 Planned General Commercial District as the requested zone. The plans list B-P Planned Business Park District as the requested zone. Rezoning to B-P Planned Business Park District requires a minimum of 10 acres. Upon review, CP-0 Non Retail Commercial District is the zoning district most consistent with the proposed use. Please clarify the requested zone for this application.

Applicant Response: In our pre-application meeting with Rob Richardson, Rob recommended that we zone the property CP-2. He explained the reason behind his recommendation is future tense; such that whatever use for the site that comes after our project, will have more flexibility. We are fine with either CP-0 or CP-2, whichever is preferred by the City. Staff Response: Rezone to CP-2 as requested.

Landscape Requirements

The landscape and screening requirements for CP-0 Planned Non-Retail Business District and CP-2 Planned General Commercial District are as follows: “Trees are required to be provided at not less than one per 7,000 square feet of site area.” (Sec. 27-463(g) & Sec. 27-466(g)) Additionally, the commercial development guidelines require that “Landscaping shall exceed the typical code requirements by at least 75 percent.” (Sec. 27-577(a)(5)) With a site area of 238,340 square feet, this site must have 60 trees to fulfill these requirements.

Applicant Response: The attached revised Landscape Plans incorporate these changes.

Landscape berms and/or continuous rows or shrubs are required to screen parking from adjacent development or public streets. Shrubs used in this area must not exceed a maximum height of 30 inches at maturity. (Sec. 27-577(b)(2)).

Applicant Response: The attached revised Landscape Plans incorporate these changes.

The Commercial Design Guidelines require one tree for every 30 feet of street easement or frontage for new development in addition to the site landscape standards. With a site frontage of 560 feet, this site must have 19 trees to fulfill this requirement.

Applicant Response: The attached revised Landscape Plans incorporate these changes.

Building Façade Articulation

The west and east building facades require greater articulation. According to Sec. 27-576(c)(2), in order to break up the monotonous appearance of long facades, a building wall no more than 45 feet in length should be divided into increments of no more than 45 feet through articulation of the facade. This can be achieved through combinations of at least three of the following techniques:

Applicant Response: See attached revised floor plans, exterior elevations and perspective view, which incorporate these changes.

- Divisions or breaks in materials;
Applicant Response: In addition to the insulating glass and prefinished aluminum frames, there 4 – changes in material finishes, plus prefinished metal building trim and main entrance canopy fascia.
- Building offsets (projections, recesses, niches);

Applicant Response: The west and east building facades have been revised to include steps in the floor plan at the exterior walls which translate into offsets.

- Window bays;

Applicant Response: Curtain wall, storefront and punched window openings of multiple sizes.

- Separate entrances and entry treatment; or
Applicant Response: There are three entry types:

1. The west main entrance has a drive through canopy.
2. The east entrance recalls the west main entrance, minus the canopy and drive.
3. The north and south entries step down in scale.

Staff Response: The entry way may be adjusted to the facility being final plan.

- Variation in rooflines.
Applicant Response: The west and east parapets have been revised to include additional steps that correspond to the revised wall offsets. The result being that long expanses of exterior wall are now divided into shorter more sculptural increments, which significantly enhance the overall building aesthetic.

Public Works Comments

1. Items that require plan revision or additional documentation before engineering can recommend approval: None.
2. Items that are conditions of approval (stipulations):
The applicant is working through several issues with staff.
3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents: None.

Action: **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Change of Zone Application #3126, subject to the stipulations.**
Roll call was taken on the motion and there were ten "Ayes," Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

SPECIAL USE PERMIT APPLICATIONS

ITEM NO. 1 – 16829...SPECIAL USE PERMIT APPLICATION #SP-2016-74 – JOHN BRYANT WITH BRYANT LAW OFFICE

SYNOPSIS: Renewal of a Special Use Permit (#SP-2014-60) for a law office at 6400 Leavenworth Road, submitted by Robin Richardson, Director of Planning. The applicant wants

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to continue running his legal business out of the home. He is currently the only person working out of the home and would not have more than two clients on the property at one time. The business would have hours from 9 a.m. to 5 p.m., Monday through Friday, and would not have walk in traffic. The Planning Commission voted 7 to 0 to recommend approval of Special Use Permit Application #SP-2016-74 for two years, subject to the stipulations:

Urban Planning and Land Use Comments:

Special use permits are intended for low key, one-person operations such as small businesses that are newly in operation. The normal pattern is to transition to a more suitable location after the business is stable. As the original special use permit was temporary in nature, please outline why a renewal should be granted instead of transitioning to a commercial property.

In the SP-2014-60 it was noted that the applicant was considering hiring an additional employee. Do you still wish to hire an additional staff member to work at this location?

Applicant Response: I am still in the process of determining the feasibility of hiring a secretary. If I did, she would be here 2.5 days a week during business hours.

Public Works Comments: None.

Staff Conclusion:

Staff feels that the applicant will not disrupt adjacent property owners or residents with this continued use. So long as it remains a small operation, there should be no issue with providing legal services out of the house subject to the below stipulations.

Approval for two years, subject to:

1. There can be no signage on the property.
2. No more than two clients at any one time.
3. Hours of operation being 8:00 a.m. to 5:00 p.m.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-74 for two years, subject to the stipulations. Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 2 – 16830...SPECIAL USE PERMIT APPLICATION #SP-2016-75 – ESTER REED

SYNOPSIS: Renewal of a Special Use Permit (#SP-2014-18) for the Temporary Use of Land to park a dump truck at 1610 North 51st Street, submitted by Robin Richardson, Director of Planning. The applicant is requesting to continue to park a dump truck at this property to be operated Monday through Friday and leave the residence at 7 a.m. and return 6 pm to 7 pm each day. The Planning Commission voted 7 to 0 to recommend approval of Special Use Permit #SP-2016-75 for two years, subject to:

Urban Planning and Land Use Comments:

Special use permits are intended for low-key, one-person operations such as small businesses that are newly in operation. The normal pattern is to transition to a more suitable location after the business is stable. As the original special use permit was temporary in nature, please outline why a renewal should be granted instead of transitioning to a commercial property.

Applicant response: The applicant wishes to continue with a special use permit renewal at this time, but may request rezoning of his property in the future.

Business License Comments:

We have no record of a business operating at this address that would require use of a dump truck. As this is a renewal, the original SUP identified this would be for employers truck. We would request that employer be identified to verify they are a business filing an occupation tax to operate in KCK.

Applicant Response: The applicant has applied for and received a business license.

Public Works Comments: None.

Staff Conclusion:

The applicant wishes to continue with a special use permit renewal at this time, but may request rezoning of his property in the future. He has applied and received his business license.

Subject to approval, a special use permit shall be valid for two years and subject to the following stipulations:

1. No loaded truck shall be permitted on the property.
2. Code enforcement officers will have access to the property to investigate any potential neighborhood complaints.
3. Ensure sufficient landscaping of trees and shrubs to screen the truck from view of the street.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-75 for two years, subject to the stipulations. Roll call was taken on the motion and there were ten

“Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 3 – 16831...SPECIAL USE PERMIT APPLICATION #SP-2016-76 – ADRIAN BERMUDEZ

SYNOPSIS: Renewal of a Special Use Permit (#SP-2013-40) for the Temporary Use of Land to keep a food truck at his home at 347 North 8th Street, submitted by Robin Richardson, Director of Planning. The applicant has an existing business for which he uses the vehicle. The Planning Commission voted 7 to 0 to recommend approval of Special Use Permit #SP-2016-76 for two years, subject to:

Urban Planning and Land Use Comments:

1. Subject to approval, this special use permit shall be valid for two years.
Applicant response: Two years as stated.
2. What are the current hours of operation? Do you foresee these changing in the future?
Applicant response: Current hours of operation depend on jobs that I get for festivals, but most, if not all, are on weekends usually from around 5 p.m. to 10 p.m. away from the home. No, I do not foresee any changes in the future.
3. What is the earliest time will you start your ignition to warm up the vehicle?
Applicant response: Earliest time to start up the truck wouldn't be any sooner than 8 or 9 a.m. Besides, the ignition is that of a regular truck.
4. Where is the vehicle parked while it is at the residence?
Applicant response: It is parked on the side of the house.
5. No signage is permitted on the property advertising the business.
Applicant response: No signage will be put up anywhere on the house.
6. Please provide additional photo of the truck itself.
Applicant response: Additional photo attached. Please advise if you need more.
7. Per Sec. 27-32-66(c) The Unified Government Board Of Commissioners, upon recommendation of the County Administrator, may authorize the vending of food from vending vehicles or vending stands adjacent to specified zoning districts or upon any designated area, street, block, park or public right-of-way within any zoning district or authorized area shall be subject to all requirements specified in this Code. Vending of food from a vending vehicle shall be permitted on any sidewalks adjacent to C-D, M-1, M-2, and M-3 zoning districts or on properties in C-2 districts exceeding five acres. Vending of food from a vending vehicle or vending stand shall also be permitted on the north edge of

Armstrong Avenue, provided that the vending vehicle operates on public property within 50 feet of the right-of-way.

Applicant response: Duly noted, although I know of at least one truck that sales from their home and I can provide that information. I am trying to abide by the law where others don't care.

Business License Comments:

Applicant has filed and maintained an occupation tax and food vending vehicle license filing with our office and is current for this year.

Public Works Comments: None.

Staff Conclusion:

Subject to approval the special use permit will be valid for two years and subject to the following stipulations:

1. There can be no signage on the property.
2. Hours of operation must start no earlier than 8:00 a.m.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-76 for two years, subject to the stipulations. Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 4 – 16832...SPECIAL USE PERMIT APPLICATION #SP-2016-77 – WILLIAM HARRIS SR. WITH HARRIS TRUCKING

SYNOPSIS: Renewal of a Special Use Permit (#SP-2014-42) for a trucking business at 8819 Lowell Avenue, submitted by Robin Richardson, Director of Planning. The applicant wants to continue to park company equipment on the property in conjunction with operating a trucking business. The Planning Commission voted 7 to 0 to recommend approval of Special Use Application #SP-2016-77 for two years, subject to:

Urban Planning and Land Use Comments:

Temporary use of land for commercial or industrial purposes is not meant to be perpetual. As a stipulation from the last Special Use Permit renewal (#SP-2014-42) staff will not recommend

approval of any future special permits after this renewal. Subject to approval, this special use permit renewal shall be valid for two years and subject to the following stipulations:

1. Trucks and equipment shall be stored behind the house and out of public view.
2. They may not be visible from Lowell Avenue.
3. No non-working equipment is permitted to be stored on the property.
4. No loaded truck or trailer is permitted on the property.
5. The applicant agrees to allow Code Enforcement officers on his property to investigate neighbor complaints during normal business hours without threats of harassment.
6. Pieces must be parked on an approved surface.

Additional Questions:

1. How many vehicles and pieces of equipment are currently on the property? In your application you noted a downsize, can you please be more specific. How many items and what specifically would you like to keep on the property.

Applicant Response: 2005 Kenworth dump truck No. 5; 2005 Kenworth dump truck No. 5-2; 2000 Bobcat loader; and 1996 Ford truck. The 1997 Ford dump truck has been sold and will be picked-up soon.

2. Do you foresee any change in current hours of operation?

Applicant Response: No.

3. As an approved stipulation from your previous special use permits, please submit maintenance receipts for your equipment from the last two years.

Applicant Response: Maintenance reports are attached

Staff Conclusion:

If approved, a special use permit would be for two years and subject to the following stipulations:

1. Trucks and equipment shall be stored behind the house and out of public view.
2. They may not be visible from Lowell Avenue.
3. No non-working equipment is permitted to be stored on the property.
4. No loaded truck or trailer is permitted on the property.
5. The applicant agrees to allow Code Enforcement officers on his property to investigate neighbor complaints during normal business hours, without threats of harassment.
6. Pieces must be parked on an approved surface.
7. All equipment must be taken off the premise at the expiration of this Special Use Permit.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-77 for two years, subject to the stipulations. Roll call was taken on the motion and there were ten

“Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 5 – 16833...SPECIAL USE PERMIT APPLICATION #SP-2016-78 – RORY O’CONNOR WITH GRAND CONSTRUCTION COMPANY

SYNOPSIS: Renewal of a Special Use Permit (#SP-2014-37) for a temporary office trailer at 10351 France Family Drive, submitted by Robin Richardson, Director of Planning. The applicant is requesting the renewal to keep an off-site construction trailer that has been placed in the Cabela’s parking lot. The Planning Commission voted 7 to 0 to recommend approval of Special Use Permit #SP-2016-78 for two years, subject to:

Urban Planning and Land Use Comments:

1. The following points are reiterations of questions from previous applications for this use.
2. Staff understands the initial purpose of this trailer was for support of Livestrong Sporting Park during and after construction of the stadium. It was also brought to the attention of the Commissioners in 2012 that after Turner Construction was finished with their work, OnGoal would like to reserve that spot for relocation of their trailers from the Nebraska Furniture Mart lot. What happened to this transition plan?
Applicant Response: We moved our construction office here for the above reasons but also we were working on planning for several major additions to Children’s Mercy Park. At various stages these have included a hotel conference center on Sporting Way. We have continued to look at these options and feel we may be close to having a project.
3. From #SP-2012-9 in the Board of Commissioners meeting there was a comment that this trailer would be relocated to the field complex or onto the Cerner site after being on Cabela’s parking lot for one year. Why has this not happened?
Applicant Response: There was no room to move the office to the Cerner project site. The construction pace was such that anywhere the trailer would be located it would have been quickly in the way. On that site the entire site was developed.
4. Staff advises that the temporary use of land for temporary office trailers does not become standard practice. LiveStrong Sporting Park was a special developmental situation because unlike most developments in the city, the whole property was developed and a spot large enough for a trailer did not exist. This fact was the reason why staff supported a special use permit to allow a construction trailer in the Nebraska Furniture Mart parking lot. It was intended to provide consolidated office and meeting space for the construction project.
Applicant Response: We are positive that we will not seek another extension of the special use permit for this office. We believe a major project is in the works and will happen soon.

5. Per applicant letter, this application for renewal is intended to service the construction efforts of The National Training & Coaches Development Center and the Wyandotte Youth Soccer Complex. These sites are over one-half mile away and over a mile away straight line distance, respectfully.

Applicant Response: The sites are 1.5 miles away but the sites are very convenient to the current location of our office trailer. We can easily hold larger meetings at our office and then go to the site for follow up questions.

6. What is the timeline for use of these temporary construction trailers?

Applicant Response: Until the completion of the National Training & Coaches Development Center and Wyandotte Youth Fields project or the start of another project on the site where the trailer is located.

7. Given that there are no active building sites in Village West, what role are these trailers serving that must take place here and not on the construction sites that are listed in the applicant letter? The distances seem somewhat prohibitively far for the construction trailer to be effective.

Applicant Response: The sites are 1.5 miles away but the sites are very convenient to the current location of our office trailer. We can easily hold larger meetings at our office and then go to the site for follow up questions.

8. If construction trailers were to be placed on the actual construction sites, a Special Use Permit would not be required.

Applicant Response: We agree.

9. This special use permit, if approved, will terminate 90 days following the approval of a new development plan for this site.

Business License Comments:

This is renewal of SUP originally from 2012 that allowed use by Turner Construction, OnGoal, or Cerner. All three of those businesses have filed and maintained current occupation tax filing with our office and are current for this year. If the trailer is to be occupied by any other business entity, those other entities should be identified to verify they are businesses filing an occupation tax to operate in KCK.

Public Works Comments: No comments.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-78 for two years, subject to the stipulations. Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 6 – 16834...SPECIAL USE PERMIT APPLICATION #SP-2016-79 – PABLO NEVAREZ WITH CLUB EL PARAISO, INC.

SYNOPSIS: Renewal of a Special Use Permit (#SP-2014-68) for live entertainment in conjunction with a drinking establishment at 6550 Kaw Drive, submitted by Robin Richardson, Director of Planning. The applicant wants to have entertainment (bands, DJ and dance floor) with the existing restaurant/drinking establishment. The Planning Commission voted 7 to 0 to recommend approval of Special Use Permit #SP-2016-79 for five years, subject to:

Urban Planning and Land Use Comments:

1. Subject to approval, this special use permit shall be valid for five years.
2. On behalf of the applicant, the representative, Pearl King has stated that the business is open from 4:00 p.m. to 2:00 a.m., Wednesday through Sunday.
Applicant Response: Entertainment begins at 9:00 p.m. and ends at 1:30 a.m. Attendance has been below expectations for some time now. There is a band on Saturdays and occasionally Fridays, on other nights they have a DJ.
3. On Wednesday and Thursday night there are usually about a dozen people, on Friday and Sunday a couple dozen and on Saturday somewhere in the range of 75-80.
4. Security is handled by two private duty security personnel, when needed and they hire off-duty police officers to augment their security force. Security must follow UG policy.
5. Applicant must comply with security codes, alcohol ordinance and other ordinances of the City.
6. Have there been any police calls or other incidents since your last approval?
Applicant Response: See attached Response Letter. There was a minor one-time incident.

Business License Comments:

Applicant has filed and maintained an occupation tax and associated regulated license filings with our office and is current for this year.

Public Works Comments: None.

Action: **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-79 for five years, subject to the stipulations.** Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

October 27, 2016

ITEM NO. 7 – 16835...SPECIAL USE PERMIT APPLICATION #SP-2016-81 – JEFFREY STEINBERG WITH APEX CDL INSTITUTE

SYNOPSIS: Renewal of a Special Use Permit (#SP-2015-25) for a commercial driver's license training facility and job placement program for graduating students at 6801 State Avenue, submitted by Robin Richardson, Director of Planning. The applicant wants to continue to operate a commercial driver's license training facility and job placement program. The Planning Commission voted 7 to 0 to recommend approval of Special Use Permit #SP-2016-81 for two years, subject to:

Urban Planning and Land Use Comments:

1. You previously operated seven trucks and trailers, four of which were used for backing training. Has this number changed since you began operations? Do you wish to expand your fleet?

Applicant Response: Apex CDL Institute is still operating with the same size fleet as when we submitted the initial application for seven. We have replaced one of the trucks with another truck, but the fleet size remains the same.

2. How many trainees do you have in each class? What is the maximum number you have had so far? Do you expect this number to increase in the future?

Applicant Response: We still maintain the same maximum class size of 8 students. That amount has not changed and we do not see it changing in the near future.

3. Current stipulations from the previous special use permit regulate operations to take place Monday through Friday from 6:00 a.m. to 4:00 p.m. Do you wish to expand the allowable time for truck maneuvering operations?

Applicant Response: Our student and truck operating hours are still from 6:00 a.m. to 4:00 p.m. Our front offices are open until 5:30 p.m. but the trucks are shut down by 4:00 p.m.

4. Have you had any interactions with nearby property owners or businesses that have had concerns about the noise and use of the property?

Applicant Response: In the year that we have been here we have had zero interactions with neighboring businesses regarding noise or truck complaints. Any interactions we have had have been all positive. In fact Apex CDL Institute and Kansas City Kansas Community College are currently working on an agreement to provide driver training in partnership with KCKCC, our neighbors to the east.

Any approval would be for two years and per the previous approval of Special Use Permit #SP-2015-25, the following stipulations must continue to be met subject to approval:

1. A wall of evergreens on the eastern edge of the rear parking lot shall be maintained.
2. The hours of operation for training (truck maneuvering) shall be standard business hours Monday through Friday.
3. No truck idling.

Business License Comments:

Applicant has filed and maintained an occupation tax filing with our office and is current for this year.

Public Works Comments: None.

Staff Conclusion:

During the applicant's initial application process staff had concerns about the industrial nature of the operation. Staff continues to be apprehensive about using a special use permit to carry out an industrial operation in a commercial district. However, per the previous decision in #SP-2015-25, the applicant has demonstrated the success of the business and operations over the past year with no neighborhood or community complaints. Additionally, the property continues to be very well maintained.

Any approval of a special use permit would be for two years and subject to the following stipulations:

1. A wall of evergreens on the eastern edge of the rear parking lot shall be maintained.
2. The hours of operation for training (truck maneuvering) shall be standard business hours Monday through Friday.
3. No truck idling.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-81 for two years, subject to the stipulations. Roll call was taken on the motion and there were ten "Ayes," Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 8 – 16836...SPECIAL USE PERMIT APPLICATION #SP-2016-82 – BARTH HAGUE WITH MIRROR INC.

SYNOPSIS: Renewal of a Special Use Permit (#SP-2014-32) for a substance use disorder treatment center at 6711 State Avenue, submitted by Robin Richardson, Director of Planning. The Planning Commission voted 7 to 0 to recommend approval of Special Use Permit #SP-2016-82 for 20 years, subject to:

Urban Planning and Land Comments:

In the attachments section, please see the applicant’s letter detailing the background and scope of the operation. In this section a brief summation of some of the key points are presented.

1. How many patients you see at any given time?

Applicant Response: We can have up to 45 clients at any given time.

2. How many security/faculty personnel do you employ?

Applicant Response: Mirror has 21 employees at this facility.

3. Describe any incidents you have had with maintaining security either for your patients or the surrounding property owners.

Applicant Response: Mirror carefully maintains 24-hour security at this facility. We have experienced very few incidents. In calendar year 2015, for example, we only made two calls to the police department for assistance. We have had no issues that we’re aware of with surrounding property owners.

4. What is the typical duration of one of your patients stays with you?

Applicant Response: Average length of stay in our facility is 21-28 days. For detox services only, the length is 2-5 days.

5. Approval for 20 years.

Applicant Response: We would support approval for 20 years.

Public Work Comments: No comments.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-82 for 20 years, subject to the stipulations. Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

**ITEM NO. 9 – 16837...SPECIAL USE PERMIT APPLICATION #SP-2016-84 – DALLAS
R. WOLFE WITH BIG D'S ON THE HILL**

SYNOPSIS: Renewal of a Special Use Permit (#SP-2014-62) for live entertainment at 2139 South 34th Street, submitted by Robin Richardson, Director of Planning. The applicant wants to continue live entertainment at said location. The Planning Commission voted 7 to 0 to recommend approval of Special Use Permit #SP-2016-84 for five years, subject to:

Urban Planning and Land Use Comments:

1. All live entertainment shall be enclosed within the building. Doors shall remain closed at all times.
Applicant Response: We hold the entertainment inside of the establishment. We close the doors at 9 pm or earlier.
2. What are the hours of operation? When will you have live entertainment?
Applicant Response: Our normal hours are 10 am to 2 am if we have a DJ; it usually starts at 9:30 pm and ends at 1am.
3. What kind of live entertainment are you providing? DJ, Live Band, Karaoke, etc.?
Applicant Response: Usually we have a DJ. We have had small bands and karaoke but the DJ is the main entertainment.
4. How many customers do you expect on any given night?
Applicant Response: We have had 79 but most common is 40.
5. Have there been any police calls since your last approval?
Applicant Response: Police calls at a very minimal; most calls come from a patron that had a domestic problem.
6. Approval shall be for five years.

Police Department Comments:

There are no high calls for service, but Big D's on the Hill (2139 S. 34th) has been known to be a hangout for Southdale and Galloping Goose Motorcycle Club members.

Applicant Response: The South Dale Boys were barred in 2010, the Galloping Goose Club has been removed and the bartender that invited them has been terminated.

Business License Comments:

Applicant has filed and maintained an occupation tax and associated regulated license filings with our office and is current for this year.

Public Works Comments: None.

Action: Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve Special Use Permit Application #SP-2016-84 for five years, subject to the stipulations. Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

PLAN REVIEW APPLICATION

ITEM NO. 1 – 16570...PLAN REVIEW PETITION APPLICATION #PR-2016-7 – KHALID CHEEMA WITH CHEEMA FOOD AND PETROLEUM, INC.

SYNOPSIS: Preliminary Plan Review for a gas station/convenience store and retail space at 2425 Metropolitan Avenue, submitted by Robin Richardson, Director of Planning. The site has been before the Commission before for plan review of a gas station remodel, convenience store and car wash. The plan submitted at this time is a change from that previous plan. The Planning Commission voted 6 to 4 to recommend approval of Preliminary Plan Application #PR-2016-7, subject to:

1. The owner attends 80% of the neighborhood meetings of the local neighborhood group each year.
2. The owner offers a substantial quarterly update on the project and what has been going on and what they have been doing for upkeep and reduce crime in the area and specifically on their property to the local neighborhood group.
3. Upkeep of property no matter the owner/lease arrangement.
4. Applicant will be owner/operator.
5. The owner will enforce a “no loud music policy” on the property

Urban Planning and Land Use Comments:

1. Landscape Plan:

- At least 75 percent of the length of building foundations facing public streets, the exterior of the development, or common spaces must be planted with ornamental plant material such as ornamental trees, flowering shrubs, perennials, and groundcovers. (Sec. 27-577 d.1)
- Landscaping shall exceed the typical code requirements by at least 75% (Sec. 27-577 a.5)

- 1 tree per 7000 square feet. (Sec. 27-466 g) x 75%
- Only 6 trees are shown on the landscape plan; 8 trees are required by code

2. Building Architecture:

In regard to architecture, the east, south, and west facades must meet the following criteria:

- (Sec. 27-576 c) In order to break up the monotonous appearance of long facades, a building wall no more than 45 feet in length should be divided into increments of no more than 45 feet through articulation of the facade. This can be achieved through combinations of at least three of the following techniques:
 - a. Divisions or breaks in materials
 - b. Building offsets (projections, recesses, niches)
 - c. Window bays
 - d. Separate entrances and entry treatment
 - e. Variation in rooflines.
- (Sec. 27-576 e) All building facades shall be at least 50 percent masonry. Cementous siding may be used to meet 50 percent of the total masonry requirement.
Please provide dimensions and percentages of all materials used
 - All downspouts must be internalized
 - All roof mounted mechanical equipment must be screened by the parapet.

3. Site upkeep

Staff is pleased that the applicants have had a seemingly productive meeting with neighborhood representatives and residents. Staff feels that if this relationship continues to be a positive and productive one, the proposed improvements could be of benefit to the area.

If approved, applicant must honor the maintenance and upkeep plan submitted in October 2015 (see attachments).

Staff did not receive revised landscape plans or elevations. If approved, applicant must meet all requirements of the Commercial Design Guidelines at the time of the Final Plan Review.

- ## 4. Police Calls – Police calls ranging from traffic stops, hold up alarms, theft to building checks (investigation follow up excluded information calls, hang-ups and illness):
- 2015 – 13
 - 2014 – 6
 - 2013 – 17
 - 2012 – 23
 - 2011 – 8
 - 2010 – 13

Of the 80 calls for service listed above over six years (1 per month) most were for burglary and theft. Many were suspicious persons, welfare checks, domestic violence, suicide attempts, or civil process. The owners and operators need to be diligent in creating an atmosphere that discourages police calls for service. Prior to submitting a final plan review the applicant should meet with a KCK Police Department representative that can help them

with crime prevention through environmental design. A report of the recommendations must accompany the final plan review application.

Public Works Comments:

1. Items that require plan revision or additional documentation before engineering can recommend approval: None.
2. Items that are conditions of approval (stipulations): None.
3. Comments that are not critical to engineering's recommendations for this specific submittal, but may be helpful in preparing future documents: Final development plans shall be submitted for Planning Commission approval. Final development plans shall include final engineering drawings and construction plans approved by engineering.

Commissioner Murguia said so this case, apparently after the Commission voted to not approve these plans, went to court and apparently a judge decided that we couldn't do that. I'd like to hear from our legal counsel who the judge was over in District Court that made that decision and how they came to that ruling. **Patrick Waters, Senior Attorney**, said it was Judge Mahoney, Division 7. The court found that the plaintiffs adequately responded to the objections and concerns of the neighbors and the Board of Commissioners regarding safety, security, landscaping and problems associated with the car wash. The court found that the plaintiffs agreed to a list of stipulations that the court felt addressed these concerns by removing the car wash from the site plans, agreeing to attend future neighborhood meetings and finally that the plaintiff's financing was conditioned upon them owning the property for at least three years. In sum, the court understood the issues that the Commission was dealing with and was concerned about. The court just sided with the plaintiffs in feeling that the plaintiffs had adequately addressed those concerns. **Commissioner Murguia** said just for clarity, the plaintiff's attorneys were Bill Hutton and Rick Rehorn and the judge was Judge Mahoney. **Mr. Waters** said that's correct.

Mayor Holland said that item is before us; approved by court order.

Commissioner Townsend said I had a question about that also. In the packet there were some additional stipulations. Those are not before the Commission any longer? One in particular that dealt with not only the ownership in a limited basis, but that the owners could not lease after a

certain period. That seemed to be a bone of contention. So with the court order, that's no longer before us to contemplate? **Mr. Waters** said, Commissioner, my understanding is the court order was as per the stipulations in the staff report and so I'm not sure. What you're referring to, was that an additional stipulation added at the commission meeting? **Commissioner Townsend** said in the most recent one, I remember the car wash from the last time this was before us. Is the car wash required or approved by the court now? Is that the plan that the court—**Mr. Waters** said no, it will be retail.

Commissioner Walker said I don't know why we're voting on this. The courts ordered it. I don't want to vote on it. I don't like what the court did here. We're going to have nothing but trouble again down at this location. I have no doubts about it, and we'll be up here again fighting against this court order trying to revoke this special use permit. I make a motion that we—the court ordered it, fine. The court ordered it be approved according to the stipulations. Is there anything that says we have to vote on this? **Mr. Waters** said well, Commissioner, I think just from a Planning process, it still needs to go through final plan review. We need to play the process out.

Commissioner Murguia asked why are you asking us to vote when people can just take it across the street and have political judges and political attorneys use their political influence to change the ruling of an entire Commission. **Mr. Waters** said, Commissioner, I'm just following the court's order. **Commissioner Murguia** said and I'm just telling you how it is. Welcome to Wyandotte County.

Mayor Holland said I just want to say, Commissioner, I think those comments are out of line. I understand you disagree with the judgement. I think this Commission as a whole disagrees with the judgement but the question is why since the court has ordered it what, and I know this has happened before because we voted against telecommunication antennas before and the federal courts ruled that we had to do it. It was brought back to us and we voted on it to uphold the court ruling. **Mr. Waters** said correct. **Mayor Holland** said your contention is, if I'm understanding it, we need to—in order to keep with our Planning & Zoning process for final plan review and other legalities, we need to formally adopt it per the court order. **Mr. Waters** said I believe so.

Ken Moore, Chief Legal Counsel, said I think the court has ordered it and in effect has implemented the action. That's why we typically put it on the Consent so it just formalizes that action. Is there any detriment to not voting on it and just moving ahead pursuant to court order?

Rob Richardson, Director of Planning, said I would look to you to answer that question. **Mr. Moore** said I don't think that there is. We can put it in place based on the order; we can do that.

Commissioner Walker said I just recommend we let it pass based on the court order and forget about it. I don't want to be on record voting for this and I'm going to vote no if we have to vote on it. **Commissioner Murguia** said and I am too. **Commissioner Townsend** said second.

Mayor Holland said we have an item on our agenda in terms of taking...we have a Planning & Zoning item on our agenda. I think we're in a bit of a bind. **Commissioner Kane** said if Ken is saying we don't have to do it, we don't have to do it. **Commissioner Murguia** said right. **Mayor Holland** said your view is we just leave it here.

Commissioner Walker said they got a court order; the court overrules us. Let the court live with the consequences of the court's decisions. **Commissioner Murguia** said there we go. **Commissioner Walker** said that's how I see it. Maybe the judge is right. I don't know, but I don't want to vote for this thing. I'm not going to vote yes for this. There are decades and decades of history at that location. **Mayor Holland** said I understand totally. We already voted against it once. I just want confirmation from our legal team. Can we leave this item without voting on it? I'm glad to do it. If we don't need to vote on it, let's not vote on it but I don't want to leave a legal hurdle unturned that is going to have to come back and do it at a later day.

Mr. Waters said if I could propose. I will discuss this, if we take it off, I'll discuss it with the plaintiff's attorney and the court and if they're fine moving forward with that, we'll just note we don't have to vote on it. If there is an issue with that, we can bring it back next month.

Commissioner Townsend said just generally speaking, I guess that this ordinance is to remove barriers but I just want to make sure that I'm clear on it. If this ordinance passes, anywhere in the city not limited to agriculturally zoned property, someone can have up to six female hens.

Mayor Holland said without a special use permit. **Commissioner Townsend** said without a special use permit. **Jenny Myers, Senior Attorney**, said without a special use permit; however, it does have to meet the setback limits so it still has to be 25 feet from the neighbor's house and 10 feet from the property line, but as long as it meets the setback limits, then anywhere in the city a person could have up to six hens without a special use permit. **Commissioner Townsend** said without a special use permit. Thank you for the clarification because I read that three or four times and I wasn't quite sure.

I noted the results of a poll or a survey and I noted in District One they had the lowest percentage with the terms of agreement with this type of thing. I would think that the 45% that did agree, you tend to see that number escalate the farther west you go where the lots are larger and you have more room. That's the concern I have in the more urban areas, more eastern areas where the lots are smaller than anybody can just have six hens with no special use permit. I think what I'm interpreting, those numbers reflect that for the district. I just wanted to ask about that and verbalize those concerns in what I saw.

The option though is that someone who wants to could still come forward and request a special use permit, right. **Ms. Myers** said if a person wanted to exceed the maximum of six, then they could come, request a special use permit or if their setbacks did not meet. If they weren't the 25 feet to the neighbor's house, the 10 feet, or their lot was too small, then they could still come for a special use permit for that purpose, yes. **Commissioner Townsend** said but I'm saying if this ordinance, as proposed, doesn't pass, someone could still come and ask for a special use. **Ms. Myers** said yes, and that's the procedure right now is that they come to you and ask for a special use permit. **Commissioner Townsend** said and they wouldn't have to if this passes for six or less. **Ms. Myers** said yes. **Commissioner Townsend** said thank you. That was the clarification I needed.

Commissioner McKiernan said this isn't a question, I don't expect an answer to this, but you look in this ordinance, there's definitions, there's regulations, there's rules and I just wonder how we're ever going to enforce all the stuff that's in this ordinance. Okay, I'm done.

Commissioner Walker said well, you anticipated my question. Who is the chicken enforcer? **Ms. Myers** said a lot of it falls under the Animal Control. If it's a chicken running at large, say

the chickens escape or if there are too many chickens, if it goes pass the maximum limit or if the setbacks aren't there, then Animal Services will be enforcing that. It could be a code issue. You know we have ordinances already in the code for nuisance animals. A chicken could fall under the nuisance animal if there's an odor issue or if they're too loud. It will be enforced by both Animal Services and Code Enforcement.

Commissioner Walker said you might have to recuse yourself if any of these cases come over to you after January. **Ms. Myers** said I'd say I'm a chicken expert now and so maybe I would have to. **Mayor Holland** said I think she wishes she could have recused herself from this. **Ms. Myers** said I do wish that was an option. **Commissioner Walker** said if I were her, I wouldn't hear any chicken cases as a judge. They already know my opinion.

Mayor Holland opened the public hearing. No one appeared in support. No one appeared in opposition.

Mayor Holland closed the public hearing.

Action: **The Commission declined to vote on Plan Review Application #PR-2016-7 due to the court case. Patrick Waters will talk to the judge to see if Commission action is required.**

MISCELLANEOUS APPLICATIONS

ITEM NO. 1 – 16841... ORDINANCE AMENDMENT CONCERNING THE KEEPING OF HENS ON RESIDENTIAL PROPERTIES

SYNOPSIS: Consideration of certain amendments to Chapter 27, Planning and Development of the Kansas City, Kansas Code of Ordinances, specifically amending Sections 27-340 and 27-593, and repealing original Sections 27-340 and 27-593, to allow for the keeping of hens on residential properties, submitted by Robin Richardson, Director of Planning. The Planning Commission voted 7 to 0 to recommend approval of this ordinance amendment.

Action: **Commissioner Bynum made a motion, seconded by Commissioner Murguia, to approve the amendments to the ordinance.**

Commissioner Walker said you know I've made a lot of noise, a lot of clucking if you will about chickens. I don't like these special use permits coming up here but I've got to tell you, now looking at what has been presented to us where tomorrow afternoon I go buy me a chicken coop and I put it in my backyard, as long as I meet the 10 foot, 25 foot and the setback, I've got chickens whether my neighbors like it or not. I don't like that. I don't like the idea of chickens anyway but that's a personal bias. I want to know who's going to have chickens and make them go through this. If they want them that bad, then they need to come up here and go through this ordeal of getting a special use permit. We need to give them the time to listen to it and listen to the neighbors. I'm sorry, Jane, I just don't like— **Commissioner Philbrook** said you don't have to. **Commissioner Walker** said I just don't like chickens in an urban area where my neighbor can put six chicken hens in their backyard and I can't do sicken about it.

Mayor Holland said I appreciate—Mr. Bach just gave me a clarification. D.1 is a companion ordinance that goes with this. I'm going to go ahead and I would have opened it up with the other one and done the public hearing together, but I'll give one more opportunity.

Mayor Holland opened the public hearing.

No one appeared in support.

No one appeared in opposition.

Mayor Holland closed the public hearing.

Mayor Holland said D1 under Planning and Zoning Non-Consent; we have that other one in front of us as well.

Commissioner Philbrook said well, okie dokie. I know you don't like it and you think it's not going to work. How about giving it a chance, that's number one because there are a lot of people in this community that do want to have just a few hens so they can have eggs for their own family. There are plenty of things in this ordinance if you read it through, that take care of any kind of problems that those folks might cause. I mean noise, smell, chicken getting loose, you name it and in there is also the capability of our Animal Services pulling their permit without having to go to court for any of those things that they do inappropriately and can't have one for another year. That saves a lot of court time. Also, all of these chickens are supposed to be registered and if they're not, they lose their chickens and we all have a big chicken fry. I don't know what to tell you. If we don't pay attention to what's going on in our community and try to hide our heads like some other kind of birds, then we go on just to keep fighting the same stuff. I would tell you that there are a whole lot of people that put a lot of energy into this chicken shit.

Mayor Holland said point of order, Commissioner. **Commissioner Philbrook** said well I was just saying what everyone else was saying around me here. I don't mind being called to task. Thank you, Mayor. I appreciate that. I hope to heaven that's the last time you get to call me to task.

There was a big committee of people from all over the community that worked on this for over six months. Yes, it's a big funny thing, you know, we're talking about chickens. I will tell you there are a lot of people out there that actually depend on having some of these chickens and they're used to having them. We don't need to make everybody not have chickens just because some of us don't like chickens. It's kind of like you may not like Labrador Retrievers but there's nothing you can do about it unless the dog messes around in your yard, makes too much noise, or smells too much. It's the same thing. That's all; do or don't.

Commissioner Walker said well, we've got the dog problem solved too on paper. We don't have any wild dogs or stray dogs because we've got it all written down and everything is covered. That's exactly what this chicken thing is. We've got everything covered on paper. We don't have enough Animal Control officers to enforce what we already have. Any of you out here, and I'm not looking for hands or anything, any of you ever seen any stray dogs running around? Have you ever tried to get an Animal Control officer out to take care of it? How do you

think you're going to get him to come and get the chickens and count/measure how far the chickens are from—I think it's a matter of we don't have the ability to enforce it. Anyway, I'm done. Mike's tired of hearing me and wants to move one.

Commissioner Townsend said well, Commissioner Walker reiterated several points. I guess the one I wanted to reiterate is that if we don't pass this ordinance, someone who wants six chickens anywhere in the city can still come before us and be heard on that but if we pass this ordinance, that's taken away. It's as Commissioner Walker said, you wake up one day and this is next to you. Again, I agree with him and the point he's making about enforceability. We are strained with our officers as it is for other reasons and yes, we can think about and put in an ordinance a lot about what would happen if this goes wrong, but enforcing it and getting people out there to do it. If we don't pass the ordinance, somebody who wants six chickens anywhere can still come before us and get that. I would prefer to see to leave it at that.

Commissioner McKiernan said one of these items came to us on consent; one of these items came to us on non-consent. Can we bundle them together? **Mayor Holland** asked with a single vote. **Commissioner McKiernan** said with a single vote. **Mayor Holland** said we can have up to six ordinances in one vote without a special use permit. **Mr. Moore** said if every Commissioners' vote is going to be the same on both items, you can vote with one. **Mayor Holland** said so we'll take them both together. Does the maker of the motion agree to that? **Commissioner Bynum** said yes. **Mayor Holland** asked does the second. **Commissioner Murguia** said yes, I think that's me. Yes. **Mayor Holland** said we have both items before us together for a single vote (Consent D1, ordinance amendment concerning the keeping of hens on residential properties and Non-Consent 1, ordinance amending the code concerning the keeping of hens on residential properties).

Action: Roll call was taken on the previous motion to approve the amendments and there were seven "Ayes," Johnson, Markley, Walters, Philbrook, Bynum, McKiernan, Murguia; and three "Nos," Kane, Walker, Townsend.

and

**PLANNING AND ZONING NON-CONSENT AGENDA ITEM NO. 1 – 16860...
ORDINANCE: AMENDING THE CODE CONCERNING THE KEEPING OF HENS ON
RESIDENTIAL PROPERTIES**

SYNOPSIS: Amendments to Chapter 7-Animals and Chapter 27-Planning and Development, which will allow for the keeping of six chickens on residential properties, submitted by Jenny Myers, Senior Attorney. Minor changes were made to the proposed changes that were adopted by standing committee.

Action: **ORDINANCE NO. O-63-16**, “An ordinance relating to Chapter 7 Animals, amending Sections 7-1, 7-170, 7-175, 7-176, 7-177 of the Unified Government code, and repealing original Sections 7-1, 7-170, 7-175, 7-176, 7-177 and 7-178, and relating to Chapter 27, Planning and Development, amending Sections 27-340, and 27-593 of the Unified Government Code, and repealing original sections 27-340 and 27-593.” **Commissioner Bynum made a motion, seconded by Commissioner Murguia, to approve the ordinance.** Roll call was taken on the motion and there were seven “Ayes,” Johnson, Markley, Walters, Philbrook, Bynum, McKiernan, Murguia; and three “Nos,” Kane, Walker, Townsend.

**ITEM NO. 2 – 16842...ORDINANCE AMENDMENT TELECOMMUNICATION
ANTENNAS AND TOWERS**

SYNOPSIS: Consideration of certain amendments to Chapter 27, Planning and Development of the Kansas City, Kansas Code of Ordinances, specifically amending Sections 27-340 and 27-593, and repealing original Sections 27-340 and 27-593, to allow for the keeping of hens on residential properties, submitted by Robin H. Richardson, Director of Planning. The Planning Commission voted 7 to 1 to recommend approval of this ordinance amendment.

Action: **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve the ordinance amendment.** Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 3 – 16843...AMENDMENTS TO CITY WIDE MASTER PLAN (K-32 CORRIDOR PLAN)

SYNOPSIS: Consideration of amendments to the City-Wide Master Plan in an area along K-32 from the Turner Diagonal to the Western City Limits extending South to the Kansas River and North from K-32 approximately one-half mile, submitted by Robin H. Richardson, Director of Planning. The Planning Commission voted 7 to 0 to recommend approval of this plan.

Urban Planning and Land Use Comments:

Staff wants to thank Vireo, Gould Evans and Olsson Associates for working with the Unified Government. This is a great example of how collaboration between the public/private sectors can undertake significant planning efforts that bring the City-Wide Master Plan into focus at the neighborhood level. Much like the City-Wide Master Plan, this plan focuses beyond traditional land use issues. This helps us plan for all aspects of a quality, healthy community for years into the future. It should be noted that each city focused on their own section and that Bonner Springs and Edwardsville have already adopted this plan.

Public Works Comments:

The Public Works Department supports the conclusions and overall recommendations of this master plan update. Taken in total, this plan should improve the economic health, mobility and vibrancy of the K-32/Kaw Drive Corridor and will allow the corridor to serve as a more “Complete Street” in the future, serving motorists, businesses, pedestrians, bicyclists, future transit users, and others. Most proposals relating to elements with the street or right-of-way have not been subject to detailed engineering review. This includes street and sidewalk layouts, signals, bicycle and pedestrian accommodations, sanitary sewer, stormwater systems, or aesthetic features. Final decisions for all such features would come at a later date, and after consideration of any additional engineering or public input that may occur. Staffs concur with the recommendation of the City Planning Commission.

Doug Bach, County Administrator, said I will just start as we introduce Mr. Richardson to come up for this, but this is an initiative of the governing body that we move forward and take a study of the K-32 Corridor. We received grant funding for assistance with this through MARC

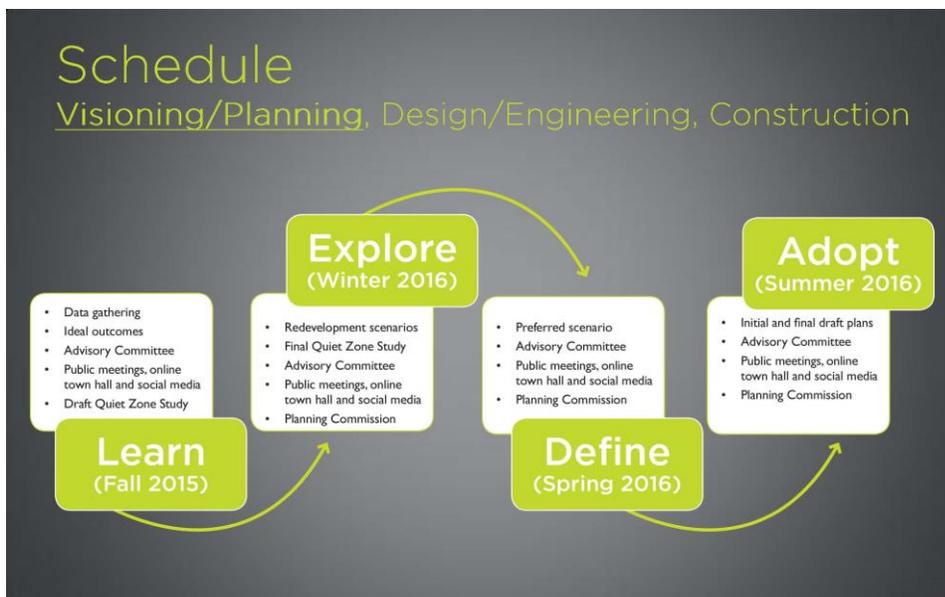
and staff has put a fair amount of time into this process. As it's before us tonight on Consent, I do think it's worthy of a few minutes to understand just how the plan has unfolded and come out.

Robin Richardson, Director of Planning, said this was a study that was funded through Planning Sustainable Places at the Mid America Regional Council. We applied for a competitive grant process and received this grant along with Bonner Springs and Edwardsville. We're the last community to act on this. We've been in this process for about 12 months looking at the corridor, basically about a 0.5 mile either side of K-32 from 57th Street out to the western Bonner Springs city limits. Triveece Penelton with Veiro Consulting is with us this evening; she's been the lead consultant on the project and she's going to walk you through the steps we've come through so far and the basic tenants of the plan.



Triveece Penelton, Veiro Consulting, City Planner/Public Involvement Innovator, said the map that you see on the screen right now is our study area and it is those several miles between Bonner Springs and North 57th Street. The map though is showing our whole study area. K-32 is running through the center of that and then we have a study area that's a 0.25 of a mile on the other side.

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We worked on this project for about a year. We started in the fall of this year and now we’re near the end. We had public engagement throughout. We had a Stakeholder Advisory Committee. We worked with staff as a Technical Advisory Committee for the project and we started with big types of things like challenges and opportunities; moved on to concepts for improving the corridor and then we’re to the point to where we are now which was adoption.

In the spring of this year, you all approved the Quiet Zone Study which is something that was a part of one of our early deliverables with the K-32 project. That was one of the first deliverables and an attachment to the Corridor Plan that we’re talking about today.

Corridor Vision

To create a regional destination characterized by green industries and business parks, attractive development, strong downtowns, and recreational areas set within a scenic and friendly environment that is accessible to residents and visitors by walking, biking, riding transit, and/or driving.

The vision is that we create a regional destination that is good for green industries and business parks, that it's attractive for development. You have strong downtowns, recreational areas that are set in a scenic and friendly environment that is accessible by all modes of transportation. The words that are highlighted in green there are some of the words we heard when we had our public engagement and some of the words that are in your City-Wide Master Plan already in terms of green industries and that kind of thing.

Focusing on downtown and being scenic, friendly and accessible are words we got from the public very early on when we asked what word that you want to use to describe the K-32 Corridor in the future. Now your comprehensive plan is very long-range in several decades. A corridor plan in theory is about ten years. So when we ask people about one word or phrase that they want to use, we're thinking about ten years in advance. Those are the words that they wanted to be able to use so we incorporated those into the vision. It's a very community inspired vision.

Goals

Attract new "green" industries and business parks with enhanced amenities, including trails, transit stops, and farmers markets

Increase community access to healthy foods and a multimodal transportation network



With that vision we have a series of goals. One of those goals is to attract new and green industries to the corridor. We know that K-32, that part of Wyandotte County, has a lot of industrial development. It's one of your employment centers as well as the eastern side of the county and the northern side.

Another goal is to increase access to healthy foods. You all know about your health rating and that providing access to healthy foods maybe through farmer's markets or other avenues is going to really important.



Goals

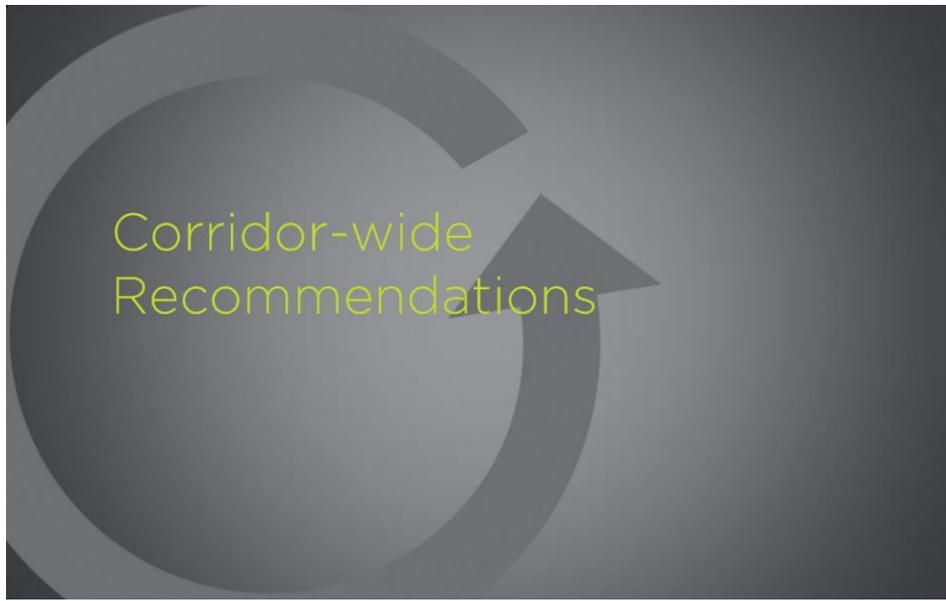
Creating a realistic and sustainable land use plan that is tailored to each community

Creating walkable, transit-oriented development that includes affordable housing, green infrastructure and energy efficient buildings

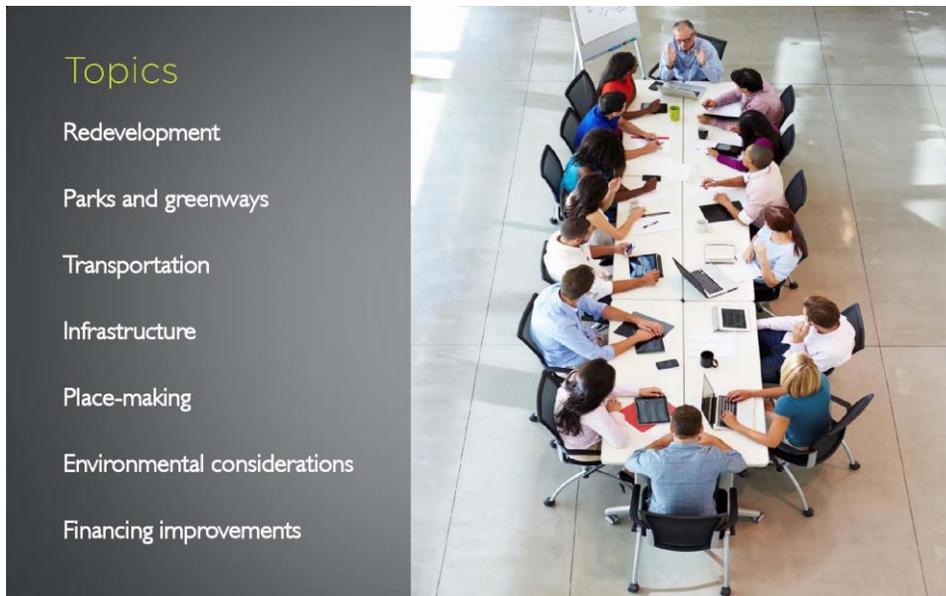
Identifying underutilized sites that could be linked to greenways and converted to recreational amenities

It's important throughout the county but it's also important along K-32 so that's one of our goals. The other couple of goals have to do with being realistic but also being a little bit aspirational for the future. We're talking about a realistic and sustainable land use plan that's tailored to each community. It's called Tri-city because it involves you all, but also Bonner Springs and Edwardsville. We wanted to have an overall vision but also something specific to certain areas of each community.

Also, we want to create an area that's walkable and you can have transit-oriented development so that you can have affordable housing, good infrastructure, etc. and that we can identify any areas that seem to be underutilized and make those better. For this particular project it had to do with areas that they may have a vacant lot at a key intersection. For example, if you're talking about Edwardsville, 4th Street and K-32, there's a vacant parcel there. That could be developed. If you did that, that would create a stronger sense of place and entry for Edwardsville. We looked at different locations like that along the corridor. That's one of our goals is to continue to look at underutilized parcels and then link all the viable parcels to greenspace and recreational amenities.



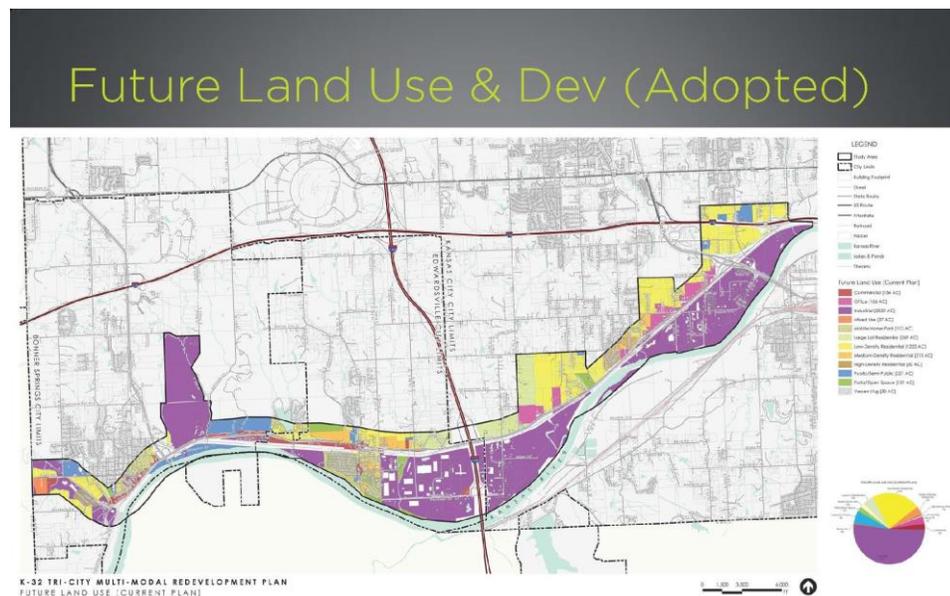
The corridor plan is a fairly lengthy document but we have some recommendations in it that are corridor-wide recommendations and then we have some area specific recommendations. What I'm going to go over with you now is some of the corridor-wide recommendations and then I'll support some of the big picture topics with the maps that are going to follow.



In terms of the topics we're talking about redevelopment, parks and greenways, transportations, infrastructure, place-making, environmental considerations and financing improvements. When we talk about infrastructure in particular, we're not talking about transportation infrastructure; we're talking more about utilities. When we started the process, we heard a lot about utilities

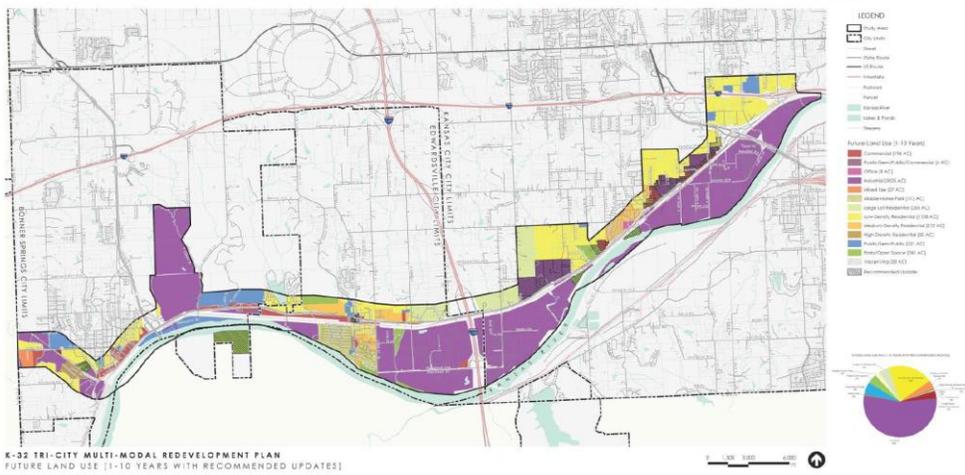
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and people wanting to do something with burying utilities, etc. and so all of the infrastructure recommendations that you might see in the plan really have to do with utilities more so than anything related to transportation as transportation is a separate topic.



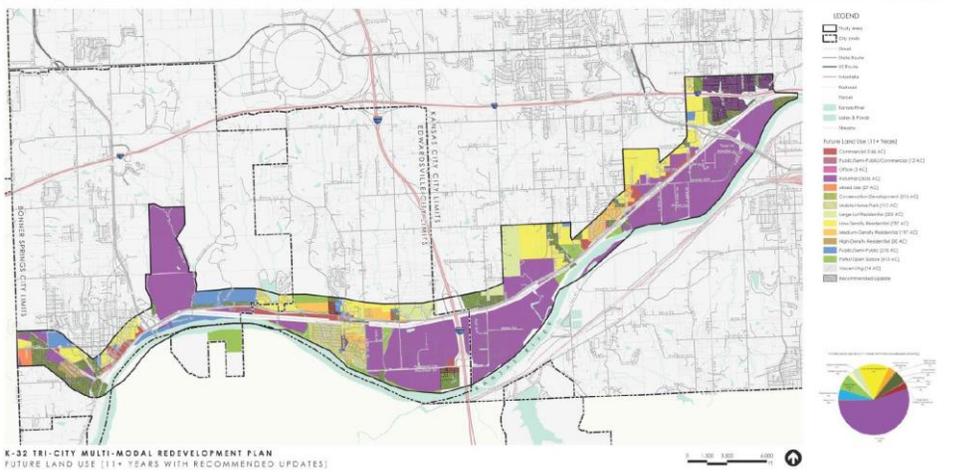
You have a City-Wide Master Plan right now that has a future land use map in it. This is a snippet of that map combined with Edwardsville and Bonner Springs' future land use map. The purple you see there is all the industrial development. When you're looking at this map, there's a teeny tiny pie chart at the bottom right-hand corner and that's showing the proportions of different types of land uses. Basically, more than half of the corridor when we're talking about this particular study area is industrial. As you see your yellow and orange colors, we're talking about different densities of residential.

Future Land Use & Dev. (2015 - 2025)



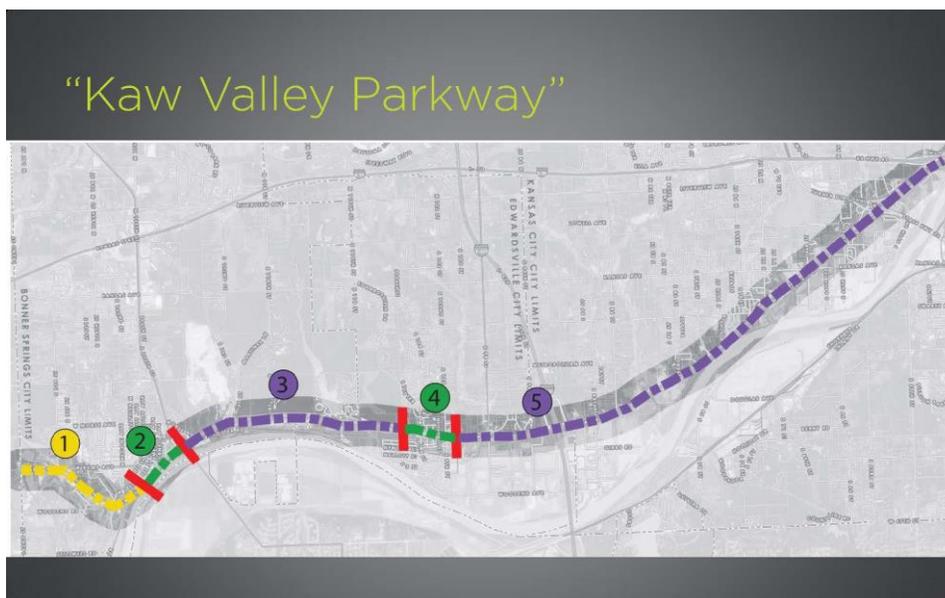
Now earlier I mentioned one of the goals is to think about a realistic land use plan and when you're talking about a corridor plan, you're talking about ten years out. The map that we're showing you right now is the ten-year realistic vision for what could happen in K-32 based on what we know is happening now, which is really increasing the amount of industrial or employment opportunities that you would have on the corridor. If you have an area that has a lot of business parks and industrial area in some smaller downtowns, we thought if we could think about K-32 beyond ten years and something that was little bit more aspirational.

Future Land Use & Dev. (2026+)



in terms of the amount of industrial that's planned, if the number of people begin to increase, you could have enough transit density to support on-call transit service. In Bonner Springs and in Edwardsville and at least if you're in the KCK part of the K-32 corridor that you would have it at least a half of mile of either side of K-32 and then your employment area south of the Turner Diagonal.

Along with that there could be transit stops, really more parking rides at different locations along the corridor. In KCK it would be near the Turner Diagonal in that employment area on the south side of K-32 but also where the Turner Commerce Center is going near the diagonal; that would be a location too. When we talked to employers or just people throughout the process, that's an issue of how do you get people to come and work and get access to jobs and we know that even though this is an employment area, workers are not coming from the K-32 Corridor per se they are coming from other locations. If they're doing that we could begin to think about park and rides. You can have park and rides one in each of the downtown areas too.



When we start thinking about transportation we start thinking about development and begin to think a little bit about placemaking. We start thinking about what is the typical section of the roadway going to look like. Since we want to tailor recommendations and development to certain locations we have tailored different roadway sections as you go from the corridor. There are five typical sections. Bonner Springs is in yellow, you are all in the purple, number five

section. I would say that sections number 5 and 3 are the widest sections because you have the most right-of-way. We have a different section for each of the key areas.



Looking at the Edwardsville/Kansas City section, right now that area has 150 feet of right-of-way. In that 150 right-of-way, you could also add off-street bicycle pedestrian trails. You could also put a striped bicycle route on the north side of K-32 in that location. Another part of that is if we begin to think about K-32 so that we can add more green to that, we introduced the concept of creating a parkway which means you have trees along either side of your road, you may have a median, and you may green that up as well. That's why in this typical section you're seeing two lanes in each direction, you're seeing off-street bicycle pedestrian accommodations and you're also seeing the bike route but you're seeing trails. Another part of creating place though is adding some streetscaping elements. We've added some banners, some lighting and eventually I'll show you some signage before the presentation is over. All this is to begin to creating a new place for K-32.

Final Quiet Zone Study

FINAL Tri-City Quiet Zone Feasibility Study
June 2016

E S T I M A T E D C O S T S

Crossings with recommended safety measures and Engineer's Opinion of Costs

Ad-Trend (private crossing)	Wayside Horn Systems (WHS)	\$533,000 (will require conversion to public)
Swingster Rd (public crossing)	Medians	\$532,000
Holiday Sand (private crossing)	Medians	\$513,000 (suggested conversion to public)
4th St (public crossing)	Medians	\$825,000
9th St (public crossing)	Medians	\$680,000
98th St (public crossing)	Medians	\$213,000
88th St (public crossing)	4 Quad Gates	\$606,000
Anchor (private crossing)	Medians	\$513,000
Swartz (private crossing)	Wayside Horn Systems (WHS)	\$533,000
Kansas Ave (public crossing)	4 Quad Gates	\$606,000
65th St (public crossing)	Medians	\$213,000
Total Engineer's Opinion of Costs		\$5,767,000

I mentioned before that the Quiet Zone Study was approved by you all in the spring. It is about \$5.7M worth of quiet zone and just under half of that would be in KCK, not KCK, but the top focus areas seem to be the Holiday Sand, 4th Street, 9th Street and 98th Street locations.

Community-Specific Recommendations

In terms of community-specific recommendations, we have a short-term and a long-term recommendation for each of the three cities. I'm going to focus on the KCK ones now.

Grinter Place Restaurant/Entertainment



At 78th Street & K-32, there is the Grinter Museum. You have the image of it up on the wall behind you. When we had one of our second public meetings, I think we had it at the Grinter Place Friends spot in the museum and what they recommended is that we could add some entertainment options for the museum to help it be a greater draw. There is a parcel that seems to be undeveloped and it seems like they are moving it for hay and things like that and there are no buildings on it and that's on the northeast corner of 78th & K-32. This is the image of it here. There is a tiny building maybe for storing equipment in the very back of this image. If we think about in the future how we could turn this maybe into an entertainment area, we think more about restaurants with an outside entertainment area.

Grinter Place Restaurant/Entertainment



Prototype:
Molly's Landing
Restaurant
(Oklahoma)

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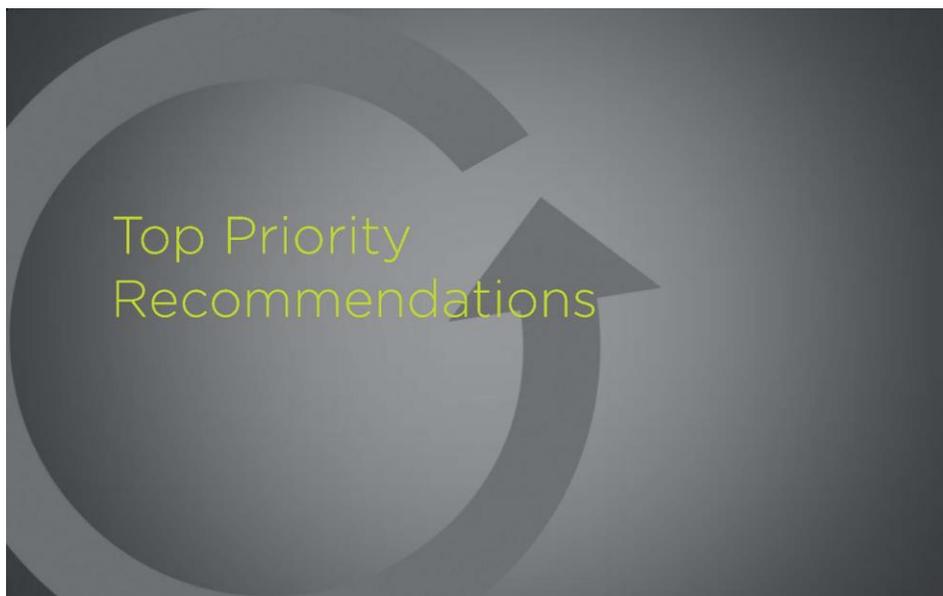
There's a place in Oklahoma called Molly's Landing and it happens to be set in an exact same setting as what we have in KCK at this location. There is open space but Molly's Landing is the picture that's to the right on this screen. It's nestled amongst trees just like what we have at 78th St. & K-32.



We could fit something like that into this location and if we do that—this is the Grinter Place Museum right here, this is the street and then this is what we're talking about the small building, adding parking, adding some recreational trails around that and then providing a connection over to the museum just to increase its draw and give you more opportunities to do things at that location.



If we think further out beyond 10 years, 65th & Turner Diagonal is a major employment area in KCK. In the future, it might be great to create a more centralized roadway through that, maybe in a boulevard style to adding green infrastructure on some of the north-south streets and to begin to think about in the future if those mobile home parks are not there and you don't have lots of people living in tight space in an industrial area, could that begin to change, way out in the future, probably way out beyond 10 years.



In terms of the top priority recommendations we had about 25 meetings for this project, not including all the meetings that we had with staff in coordination. Out of that I think I had about

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10 or 11 recommendations out of the 25 pages worth of them that there are in the documents that I thought would be the top things. I vetted those with our Stakeholder Advisory Committee and we came down to a little bit of a shorter list and then we shared that list with the public and this is the outcome of that. Most of them have to do with redevelopment and transportation.



Redevelopment

Encouraging the continued development of the K-32 corridor as an employment center that draws workers from beyond the planning area to train for and obtain jobs at K-32's green industries

Redevelopment has to do with encouraging development along K-32 so that it is an employment area as what it is right now but that you also allow for your green industries, but that you target redevelopment opportunities to certain locations.



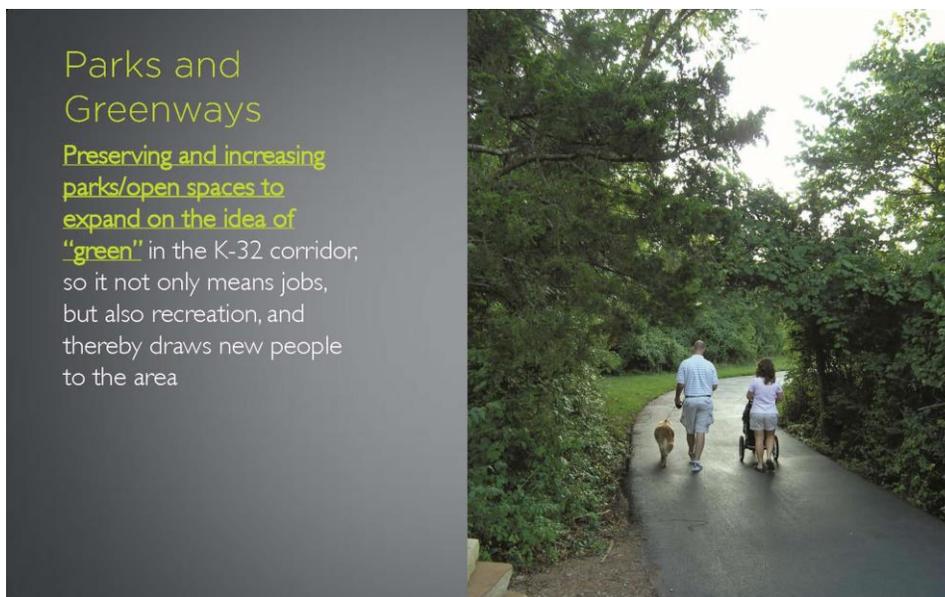
Redevelopment

Targeting redevelopment activities to top priority activity centers, including K-32 in Historic Downtown Bonner Springs, near K-7, 4th Street, 78th Street, and the 65th Street/Turner Diagonal areas

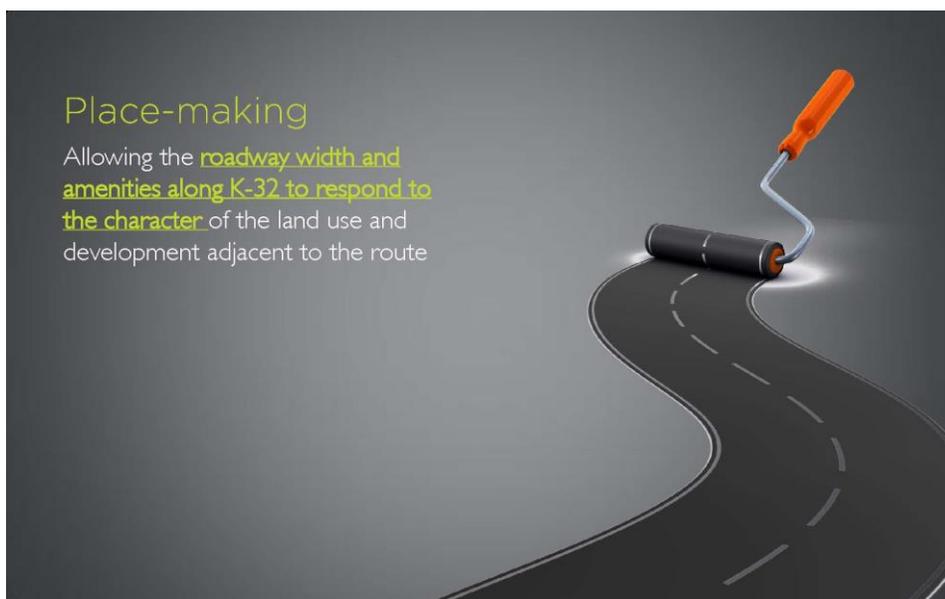
I mentioned the Grinter Place location would be a near term place for KCK. For Bonner Springs it would be their downtown area right on K-32 and the same thing for Edwardsville. I'm saying that also because I think the corridor is eight miles long and one of the first things we asked is do you all mind if we just target certain locations rather than doing block by block review and they all supported us in going with targeted locations and it helped us pick which targeted locations. That's how we landed on that.



In terms of transportation, what we are showing you today are concepts; it's visioning to help make policy decisions going forward. It is not designed and because it is not designed we need to have a traffic study that looks at not just vehicles, but also pedestrians and potential bicycles and there are ways of counting those kinds of things so that you can pick the best typical section for your area. The one that we propose for KCK, you have lots of space to do that, that easier. In Bonner Springs and Edwardsville that may not be as easy so they need to look at that a little closer. Sometimes like for Bonner Springs they have several options for typical sections based on the amount of space that they have. It's really going to be important to do that traffic study and look at it, not just in terms of vehicles but look at it in terms of all the different modes, part of complete streets.



Another top priority is preserving and increasing parks and open space and the idea of green so it's not just about industrial development and business parks but it's also about recreation.



In placemaking, allowing the roadway width to respond to the character of the road. KCK's section is very industrial and different than downtown Bonner Springs and downtown Edwardsville so we didn't recommend the same things. That's why the typical sections aren't all purple in that previous graph. There are some that are green that were for the downtown areas. Bonner Springs has a different than you, etc.



When we're talking about placemaking again, it's the way that the road is shaped but also what supports that. In the top right, there are some banners and then there are some sign options. There are basically three different sign options and three different colors to communicate the idea that if you improve the road, you can also do some streetscaping which mean banners, signage and things like that. Bonner Springs & Edwardsville have a sign down in K-32 but KCK does not or I couldn't find one yet.

It might be great as you're thinking about the identity of the corridor if it's renamed, for example, as a parkway like River Parkway; that you do something to create a uniformed type of signage. It could be everyone picks the top rectangular sign but then the differences are with color. There are all kinds of ways of doing signage, but this is just beginning to get across the idea that creating a unified and unique identity could help the corridor.



Lastly, as you continue to partner in the future, this project was funded because the tri-cities worked together and to do some of the other improvements it's going to be necessary to partner too. People were in support of just the idea of continuing to do that, especially when you want to get transportation funding. With that, I will give it back to Rob.



Mr. Richardson said I would also like to recognize Byron Toy and Jamie Ferris, they were the project managers for this that lead the effort on behalf of my staff. With that, Triveece, Byron, Jamie or I would answer any questions anyone might have or we could begin the public hearing.

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Mayor Holland said I think what I'll do if it's okay with the Commission, I might go ahead and open the public hearing and then after the public hearing take comments from the Commission.

Mayor Holland opened the public hearing and asked if anyone would like to speak in respect to the final master plan that we have before to tonight.

No one appeared in support.

No one appeared in opposition.

Mayor Holland closed the public hearing.

Commissioner Walters said I would like to thank staff for all the work that they've done on this study and Vireo, also, a yearlong effort. Triveece, very good job of sheparding this study through the various cities and the various work groups that you've worked with, first class. I'd like to comment. I thought this process was very good. It brought the three cities together to set-aside the immediate urgencies and think about the future and that was good. It established some dialogue that probably would not have happened otherwise so that's good also. I think it allowed them to think about a future that is different than the current existing conditions.

With that and the little chart you saw earlier, it sort of sounds like this is the end of something, all these sections and activities and then adoption, but this obviously has to go forward. We have a State Avenue Corridor Study. We have a K-7 Corridor Study, now we have a K-32 Corridor Study. I think that it is incumbent on us and our Planning staff and everyone to make sure that these don't just get adopted and then forgotten or abandoned. I'm an advocate of this project so I speak in favor of it and I hope the Commission will adopt it.

Commissioner Philbrook said thank you Jim for really pushing us to do this, to take a look a K-32 because it has been kind of ignored for a long time and we just have taken it for granted. It's just kind of been oh I don't know like the stepchild and it just kind of grows in any direction it wants to. The unity that it's brought, I agree with you 100%, and I too would like to see us take some actions on some of this but bring in our partners, the business partners in this a little bit

more and let them help us come up with some more ideas in different pockets along this corridor because as I understand it they had a lot of ideas in what they would like to see happen. If we can keep them excited about this and involved then we will be able to move forward.

Action: **Commissioner McKiernan made a motion, seconded by Commissioner Walters, to approve the City Wide Master Plan (K-32 Corridor Plan).** Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

MISCELLANEOUS ORDINANCE

ITEM NO. 1 – 16842...ORDINANCE: TELECOMMUNICATION ANTENNAS AND TOWERS

SYNOPSIS: An ordinance regarding communication towers and wireless communication facilities.

Action: **ORDINANCE NO. O-62-16**, “An ordinance concerning the siting of communication towers and wireless communication facilities and the application approval process; amending Section 27-593 to Chapter 27, Article VIII, of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas.” **Commissioner Kane made a motion, seconded by Commissioner McKiernan, to approve the ordinance amendment.** Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

PLANNING AND ZONING NON-CONSENT AGENDA

ORDINANCE: AMENDING THE CODE CONCERNING THE KEEPING OF HENS ON RESIDENTIAL PROPERTIES

SYNOPSIS: Amendments to Chapter 7-Animals and Chapter 27-Planning and Development, which will allow for the keeping of six chickens on residential properties, submitted by Jenny Myers, Senior Attorney. Minor changes were made to the proposed changes that were adopted by standing committee.

Action: This item was previously heard with Miscellaneous Application Item No. 1, ordinance amendment concerning the keeping of hens on residential properties.

NON-PLANNING CONSENT AGENDA

Mayor Holland asked if anyone in attendance tonight or any commissioner or staff member would like to remove an item from the Non-Planning Consent Agenda with the exception of the set-aside item. Any item not removed will be voted on by a single vote.

Doug Bach, County Administrator, said I'm going to request that you remove Item No. 2 on the Consent Agenda. **Mayor Holland** said Item No. 2, the plat for Schlitterbahn Vacation Village is removed. Are there any other items? (There were none.)

Action: **Commissioner McKiernan made a motion, seconded by Commissioner Johnson, to approve the Non-Planning Consent Agenda.** Roll call was taken on the motion and there were ten "Ayes," Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 1 – 16813... RESOLUTION: SECOND AMENDMENT TO THE LEGENDS AUTO PLAZA DEVELOPMENT AGREEMENT (HONDA)

SYNOPSIS: A resolution approving the Second Amendment to the Legends Auto Plaza Development Agreement (Honda) between the UG and KCK Development II, Inc., submitted by George Brajkovic, Economic Development Director. The developer has proposed two other developments which have received preliminary Planning approval, and would like to remove lots 2, 3 and 4 from the Development Agreement. On October 10, 2016, the Economic Development and Finance Standing Committee, chaired by Commissioner McKiernan, voted unanimously to approve and forward to full commission.

Action: **RESOLUTION NO. R-74-16**, "Whereas, the Unified Government of Wyandotte County/Kansas City, Kansas "Unified Government" and KCK Development II, Inc., a Nebraska corporation ("Developer") entered

into that certain Development Agreement for the Legends Auto Plaza dated as of December 15, 2011 (the “Agreement”) Whereas, the Unified Government and developer entered into that certain First Amendment to Development Agreement for the Legends Auto Plaza dated as of April 5, 2012 (the “First Amendment”). Whereas, pursuant to Section 10.04 of the Agreement, the Agreement may be amended by mutual consent of the parties and by adoption of a resolution of the Unified Government approving said amendment. Whereas, both the Unified Government and developer desire to further amend the Agreement as set forth in the Second Amendment to Development Agreement for the Legends Auto Plaza (Second Amendment”). The UGB of C hereby approves the Second Amendment and the Mayor is authorized to execute the Second Amendment.” **Commissioner McKiernan made a motion, seconded by Commissioner Johnson, to adopt the resolution.** Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 2 – 16854... PLAT: SCHLITTERBAHN VACATION VILLAGE THIRD PLAT

SYNOPSIS: Plat of Schlitterbahn Vacation Village Third Plat, located at 98th Street and Parallel Parkway, being developed by Schlitterbahn Waterparks & Resorts, submitted by Brent Thompson, County Surveyor, and Wayne Moody, Interim County Engineer.

Doug Bach, County Administrator, said this plat that’s being moved forward, I’m understanding that there are easement activities regarding the plat that need to be taken in place. It would provide access or issues that need to be worked out in regard to the National Training Center and then how the development on this site would be impacted. I talked to both the Schlitterbahn folks and the Sporting Kansas City folks doing the National Training Center this week and I’m of the understanding they are talking and working through this; however, they have not reached a solution. At this time I’m going to request to hold this or table this for one week in hopes they will be able to work out a solution during that time and we’ll be able to know

that. **Mayor Holland** said we do have a meeting again next week. Is there a motion to table for one week?

Action: **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to table this item for one week.** Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 3 – WEEKLY BUSINESS MATERIAL

SYNOPSIS: Weekly business material dated October 13 and 20, 2016.

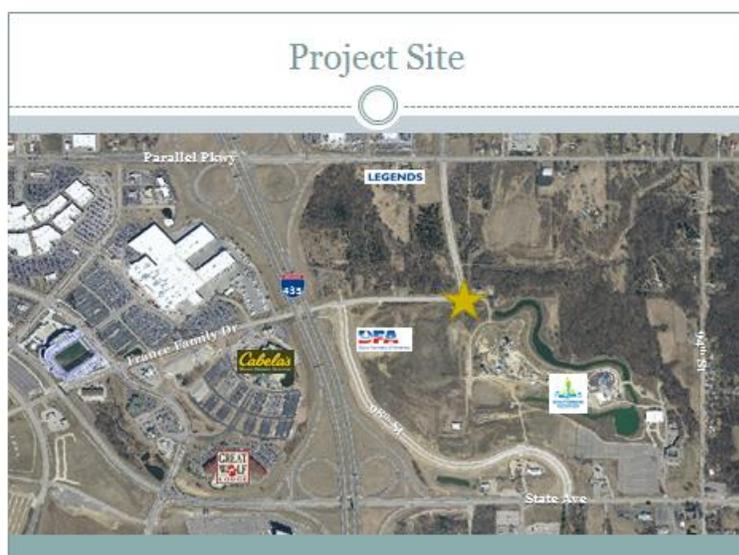
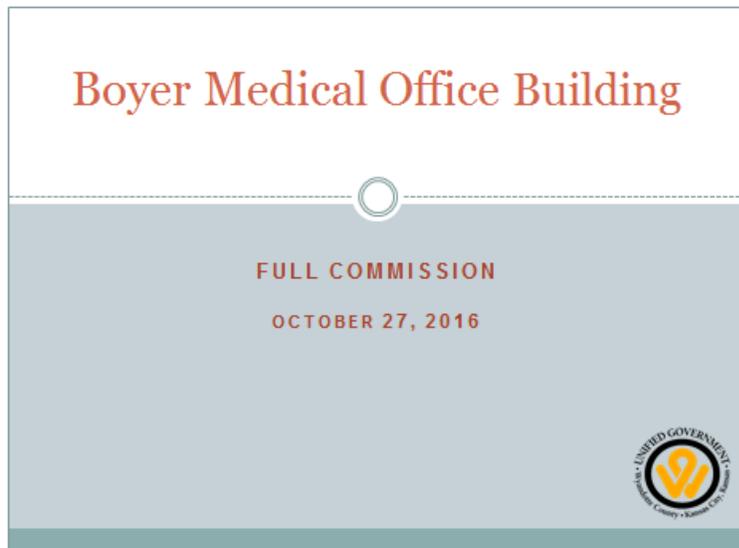
Action: **Commissioner McKiernan made a motion, seconded by Commissioner Johnson, to receive and file.** Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

PUBLIC HEARING AGENDA

ITEM NO. 1 – 16791... PUBLIC HEARING & RESOLUTION: KCK BOYER MEDICAL OFFICE BUILDING PROJECT IRBS

SYNOPSIS: Conduct a public hearing to consider a resolution of intent to issue \$11M in industrial revenue bonds for the KCK Boyer Medical Office Building project consisting of 40,000 sq. ft., located at 1601 N. 98th Street, submitted by Angela Harshbarger, Economic Development. The project will create 50 new jobs. The 10-year fixed PILOT schedule will incorporate a 60% tax abatement. On October 10, 2016, the Economic Development and Finance Standing Committee, chaired by Commissioner McKiernan, voted unanimously to approve and forward to full commission.

Doug Bach, County Administrator, said as this medical project is ready to move forward I’m going to recognize our Director of Economic Development, George Brajkovic, to come forward and provide presentation on it before we move to the public hearing.



George Brajkovic, Economic Development Director, said I'm actually pinch-hitting for Angela Harshbarger on this so I will try to do her project justice here. The Boyer Medical Office Building, we've been working with the Boyer Company on a proposal for a new office building out in the western corridor, very near the Dairy Farmers of America project. We've worked with Matt Jensen with the Boyer Company. He was actually here for the standing committee meeting. He had a travel conflict for the meeting tonight. I do think Roger Clair is here representing the development team.

October 27, 2016



Just a little bit about the Boyer Company because they are new to our area. They are headquartered in Salt Lake City. They've been around for about 44 years. They have a fairly substantial portfolio. They've developed over 34M square feet of commercial office space and governmental office space across the county. What they're doing in our community is building a building for a client and will eventually lease it up to probably a single-use client. The project site is represented by the star in this aerial. You can kind of see the general area, Great Wolfe Lodge, Cabela's, Dairy Farmers, the Famous 98th Street S Curve I think will be highlighted in this aerial. You can kind of see the old formation of 98th Street & France Family kind of made that hard elbow. The red curve line is the S curve we put in as part of the reconstruction of 98th Street. The green shaded area represents the parcel that this project is proposed to be constructed on. I will note—I know that in talking with Rob Richardson there are some utility issues. You can probably picture where the utilities ran when that hard elbow was in place. We didn't move a lot of those underground utilities even though we relocated the roadway. They are working through those issues and you saw one of their items on your Planning Agenda tonight.

Draft Site Plan



Project Overview

- 40,000 square foot Class “A” medical office space
- \$11M – capital investment
- 50 new jobs
- Average annual salary \$84,563

The draft site plan of the building, it is Class A type medical office building, approximately 40,000 square feet. Again, it’s about \$11M total capital investment. It will create 50 new jobs to the area. For the purposes of our cost-benefit analysis we did project there would be an average annual salary of \$84,563 as created by this project.

Incentives

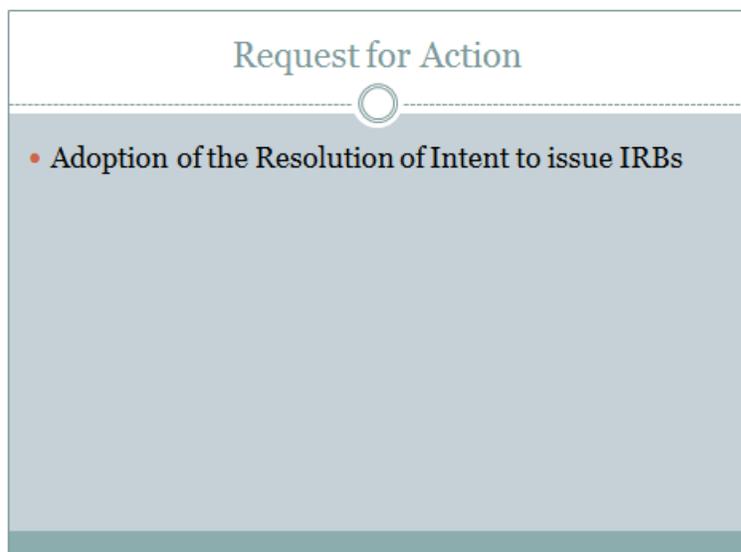
- IRBs
 - 60% tax abatement, 10 year PILOT
 - ✦ Base Abatement – 45%
 - ✦ Project Investment Bonus – 5%
 - ✦ Quality Office Project – 5%
 - ✦ Local/Minority/Woman Business Enterprise participation – 5%
 - Sales Tax Exemption on construction materials

It is a project that contemplates the use of IRBs. The revenue bond structure is kind of the common place that we've been using with our office projects and this project does qualify for a 60% tax abatement as listed below and based on the level of capital investment, it does qualify for ten years. Again, the base abatement 45%, project investment bonus of 5%, quality office project at 5%. That category alone can go up to 15% but based on the size of this project we left it at 5% and 5% for L/M/W participation in the construction phase of the project. The use of IRBs will qualify for a project exception certificate so that they are not paying sales tax on construction materials.

Property Tax Revenue

- Current (base) taxes – approximately \$14,000
- PILOT
 - Year 1 – \$69,000
 - Year 10 – \$82,000
- Value of PILOT savings over term = \$830,000.00
- Value of PILOT to taxing jurisdictions during term approximately \$757,000

The current tax situation on that little piece of property—we think about, well it is \$14,000 a year so that is the base that we start off. The PILOT again, it is a 60% PILOT so the calculation of the PILOT or the base taxes plus 40% of projected new tax revenue. There is a 2% annual escalator that's applied to that. What we're showing is year one, they will pay approximately \$69,000 and by year ten they're paying \$82,000. There is a secondary PILOT schedule that accompanies this. If they don't meet the goals for the L/M/W participation, we'll add back that 5%, but since there's an annual calculator with that 2% annual adjustment in the PILOT anyway, it equates to a little over a 9% penalty against the project if they don't make their L/M/W numbers. Again, the projected value to the project from the PILOT over the ten-year term is about \$830,000 and then the value back to all the taxing jurisdictions during that same time period is \$757,000.



Again, what we're doing tonight is asking you to adopt a resolution of intent to issue those IRBS, again, \$11M to fully finance this project.

Commissioner Murguia made a motion... **Mayor Holland** said I'm going to need to open up a public hearing first. I will note this was unanimously approved by the standing committee on October 10th.

Mayor Holland opened the public hearing.

October 27, 2016

No one appeared in support.

No one appeared in opposition.

Mayor Holland closed the public hearing.

Action: **RESOLUTION NO. R-75-16**, “A resolution determining the intent of the Unified Government Of Wyandotte County/Kansas City, Kansas, to issue its taxable Industrial Revenue Bonds in the amount of approximately \$11,000,000 to finance the costs of acquiring, constructing, improving and equipping commercial facilities for the benefit of Boyer KCK MOB, L.C.” **Commissioner Murguia made a motion, seconded by Commissioner McKiernan, to adopt the resolution.**

Commissioner Kane said, George, when they check on the WBE/LBE and all that, I want to know when they check on it and I want to know how often they are going to check on it. I want to tag them the first time they don’t do it and I’m going to ask you this every single time, every single project we have coming here forward. **Mr. Brajkovic** said okay. So noted.

Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

ITEM NO. 2 – 16810...PUBLIC HEARING: AMEND THE 1964 UNIVERSITY-ROSEDALE URBAN RENEWAL PLAN

SYNOPSIS: Conduct a public hearing to consider amendments to the University-Rosedale Urban Renewal Plan in consideration of the Rainbow Village hotel development at the NW corner of 34th & Rainbow Blvd., submitted by Marlon Goff, Economic Development. On October 13, 2016, the Commission unanimously adopted Resolution No. R-72-16 setting the public hearing date of October 27, 2016.

October 27, 2016

Doug Bach, County Administrator, said this is before us tonight in relation to the Rainbow Village Project. The Urban Renewal Plan, as the Mayor just emphasized, has been in place for some time. It carries over the area so when we do make changes or such in the area we do have to make certain amendments to that in order for that to happen. As this is in relation to a project that we've and already advanced, we can do a presentation on that if you would like or we can move to the public hearing.

Mayor Holland opened the public hearing.

No one appeared in support.

No one appeared in opposition.

Mayor Holland closed the public hearing.

Action: **RESOLUTION NO. R-76-16**, “A resolution calling and providing for amending the University-Rosedale Urban Renewal Plan.” **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to adopt the resolution.** Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

STANDING COMMITTEES' AGENDA

No items

ADMINISTRATOR'S AGENDA

Mayor Holland said the next two items, our ordinance amending the UG right-of-way ordinance and a MOU with the Board of Public Utilities for right-of-way improvements. For these items specifically, we will have a public hearing. I will also recognize members of the Board of Public Utilities or BPU staff as necessary for this dialogue. We want to make sure that this is an open

discussion. We did meet at 4:30 to kind of discuss the big picture piece but we're going to start with the ordinance. The ordinance actually, well has lots of layers to it but the ordinance, the reason the ordinance is coming forward initially is because of changes in state law that require us to update our ordinance but we'll have the legal team go through all of those. Then there's another addition to it, adding Leavenworth Road to it, in terms of underground facilities. Those are the two pieces we're going to consider with the ordinance. We'll ask our legal team to stand up and make presentation.

ITEM NO. 1 – 16824... ORDINANCE: AMENDING UG RIGHT-OF-WAY ORDINANCE

SYNOPSIS: Amending the UG Right-of-Way use ordinance to incorporate Senate Substitute Bill No. 2131, which gives wireless telecommunications providers a right to build wireless facilities in the public rights-of-way of municipalities, subject the UG's regulations regarding public health, safety and welfare, submitted by Ryan Haga, Assistant Counsel. Section 32-28 is also being amended to add Leavenworth Road (from I-635 to K-7) to locations within the city that are required to have all facilities (such as power lines, pipes, wires, and cables) to be placed and maintained underground to the extent feasible.

Ryan Haga, Attorney, said the item before you concerns an amendment to the UG's right-of-way use ordinances. As the Mayor said, the majority of the changes incorporate new Kansas state law regarding a presumption giving telecoms or telecommunication providers who may want to build in our right-of-way for their wireless communication facilities creates a presumption that they may build in those right-of-ways, subject to only to prohibitions necessitated by public health safety and welfare concerns. The primary changes include the Unified Government can no longer require these telecoms to co-locate their antennas for providing wireless services, which basically means if they feel like they need to put a monopole or some other wireless facility in our right-of-way, we can't force them to go onto one of our preexisting utility poles. Second, again, there is a presumption that the right-of-way permit or special use permit will be allowed for them to build into the right-of-way their wireless facilities. If the UG does deny that, there is a burden on the UG to show that the denial is based on, again, public health and safety concerns. Finally, there are new requirements regarding the timing of issuing the permits to building the right-of-way.

Of course again, as the Mayor said, the second—the item also includes amendments to the right-of-way ordinance to include Leavenworth Road and locations in the Unified Government require above ground utilities to be moved underground and maintained underground and then finally to clarify that, the Unified Government Engineer may recommend the waiver of the requirement for facilities to be underground, that it would be the Administrator that would make the final decision to make that waiver. Do you have any questions?

Mayor Holland said I'll open it for a couple of comments. I know Commissioner McKiernan is going to say something. We'll have the public hearing in a moment.

Commissioner McKiernan said so I have a question as to a procedural element here. The potential MOU, the next item on the agenda, does specify the location in it where the improvements would take place; both the resolution and the MOU specify where the improvements take place. I would ask if it's possible that we take, it's on page 13, item D, underground facilities, exempt that from this first item, let the committee that we discussed earlier work on item D, underground facilities and bring back for a separate vote an updated piece of that ordinance, since the next item does in its text specify the locations. This would give us the opportunity to do a better job of amending and updating this ordinance specifically related to underground facilities. I just want to ask if that's possible.

Mayor Holland said I think there are a couple of issues. I think you opened up at the 4:30 meeting about seven problems with this ordinance that all need to be addressed with the committee's work, that it's an outdated ordinance in a lot of ways. A number of issues need to be addressed with it. My inclination is to move it forward, vote on it, we've committed to the team to come back to do it and keep it cleaner tonight, but I think it's the will of the Commission in terms of how you want to proceed. I think we have already committed to coming back to this very ordinance because of how problematic it is. We don't have a—because to your point, what we may end up doing is having a much more neutral or simpler underground ordinance but having it refer to a policy that we can adopt and it could probably be driven by policy rather than ordinance because I can imagine the ordinance simply saying as adopted—underground facilities as adopted by the policy and then we have a separate policy that lists all of our underground and

we could presumably take all underground out of the ordinance. I think that rather than doing that twice, I think we do this ordinance and we commit to coming back. **Commissioner McKiernan** said if I can respond. I just wonder if it's not possible to separate the wireless, which is further up in that document from the undergrounding issue to move forward with the wireless and to hold. **Mayor Holland** said certainly we can divide the issue. As Chair, I can divide the issue and we can vote on them separately if you prefer or if you want to keep it together, you would need a motion to amend to remove section D from our consideration. Do you see what I'm saying? Before you do that, I want to get to the public hearing. I want to see if we have other comments before we divide up the question. It was presented this way to the public. I want the public to have an opportunity to respond.

Commissioner Townsend said since you're going to open up the public hearing, I'll reserve my time. **Mayor Holland** said Mr. Bach corrected me on this. We just came out of three public hearings. It's not necessarily a public hearing. I am going allow BPU to respond, but it's not a public hearing per se. I stand corrected on that. Commissioner, if you would like to make a motion to amend, you can do so. We're going to hear from Commissioner Townsend first.

Commissioner Townsend said my concern is if we omit D tonight, what that will do to delaying the overall project going forward in a timely fashion so that we do not put at risk the bigger project and lose any money. That's what is critical for me and I think for the constituents in that area of Leavenworth Road. We're going to hear I'm sure some comments tonight about what we talked about earlier, the money, the costs of undergrounding and all that. As I read this proposed language, I agree with a lot of things Commissioner McKiernan broke up. The key thing that I was wondering about is if we put Leavenworth Road in here in D, are we or are we not mandating that some or all of this undergrounding has to take place.

We've talked about the possibility of a third proposal earlier. I think what's most important is that the project goes forward and not be lost as we have this discussion with BPU and I think we should have it. That's my concern and maybe we can talk about that.

Doug Bach, County Administrator, said Commissioner, as the ordinance is currently written, without the amendment that specifically notes Leavenworth Road, I believe I have the authority

or you've given me authority that if we determine that we want to have underground roads, then I can make that designation with the Board of Public Utilities. I would really say that the corresponding action of what would happen with the MOU regarding financial matters would be pretty critical to that point. If you didn't specifically spell out Leavenworth Road but indicated that's the direction we want to go and then you allocated money toward that project, then that would be the coordination that I would have with the Board of Public Utilities about what we would be doing as that road went into reconstruction. **Mayor Holland** said so, Mr. Bach, if I understand you, having Leavenworth Road in here is not necessary to moving the project forward. **Mr. Bach** said that is correct. **Mayor Holland** said that's what I wanted to know.

Commissioner McKiernan said and that was the point that I just wanted to point out. If you go down below this 3228 ordinance amendment and you go into resolution, the second whereas specifies Leavenworth Road in parenthesis and if you then go into the MOU, the second whereas specifies the location and then on the next page of the MOU there are three places where it specifies costs. As I would read the resolution and the MOU, we could specify location and we could specify cost in those, giving you full project authority without having to go into letter D on page 13 of 3228. Is that correct? **Mr. Bach** said I believe that's how I understand it. I would look to my legal counsel if he has a different opinion on that. **Ken Moore, Chief Legal Counsel**, said I agree.

Mayor Holland asked would you like to make motion to remove Leavenworth Road from letter D or would you like to remove letter D from consideration tonight.

Action: **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to remove letter D, underground facilities in 3228 from consideration for tonight's vote, to be brought back after review by the committee.**

Mayor Holland said it's been moved and seconded to remove Leavenworth Road from this ordinance and deal with that in the MOU only. **Commissioner McKiernan** said not just Leavenworth Road but all of the proposed changes in letter D. **Mayor Holland** said that is

noted. **Mr. Moore** said I just want to clarify that we're not removing letter D, we're just removing the changes—**Commissioner McKiernan** said the consideration of those changes are being tabled until a later date.

Commissioner Townsend said again, it's not that I'm opposed to that, I just want additional clarification that by doing this, what will that do with this project going forward in a fashion that is timely that no money that the UG is getting will be lost and when could constituents look to see this started? If we come back at a later date, I haven't heard a later date mentioned. I'm all for the joint—**Mayor Holland** said I'll address that. The point that Commissioner McKiernan's is making is we're going to consider Leavenworth Road on the next item with an MOU with BPU that would not slow down the project in any way, that the consideration would come in the next item.

The motion to remove from consideration item D in the ordinance on number 1 is before us. This is the amendment only, to remove that section from consideration. If you would support removing item D from consideration on this, you would vote aye. If you would want to leave letter D in, you would vote nay.

Commissioner McKiernan said I just want to clarify that a vote aye not only removes letter D, but also approves all other proposed changes. **Mayor Holland** said no; we have to do the amendment first. We are just removing letter D from consideration and then we will come back to adopt the ordinance with the remaining portion of the ordinance. If BPU wants to speak on that, they are welcome to.

Roll call was taken on the motion and there were nine "Ayes," Johnson, Kane, Markley, Walters, Philbrook, Bynum, Townsend, McKiernan, Murguia; and one "No," Walker.

Mayor Holland said that brings us to the ordinance, the remaining portions of the ordinance as outlined by our Legal staff to accommodate state law. I'll go on record to say I do not agree with state law in this instance and do not appreciate them giving to the telecommunication corporations additional powers that other utilities do not have. That item is properly before us. Is there a motion?

Action: **ORDINANCE NO. O-64-16**, “An ordinance relating to the updating of regulations, provisions, terms, and specifications for construction within the city’s right-of-way, amending Sections 32-23, 32-26, and 32-28 and repealing said original sections.” **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to approve ordinance as submitted.**

Commissioner Kane asked does BPU want to speak on any of this. **Mayor Holland** said I think Item No. 2 is what they might be interested in speaking on. We’re still working on No. 1 just to take care of the state law changes.

Roll call was taken on the motion and there were eight “Ayes,” Johnson, Markley, Walters, Philbrook, Bynum, Townsend, McKiernan, Murguia; and two “Nos,” Kane, Walker.

Mayor Holland said that brings us to Item 2, the resolution for the MOU with the Board of Public Utilities for right-of-way improvements specific to the Leavenworth Road project.

ITEM NO. 2 – 16852...RESOLUTION: MOU WITH BPU FOR RIGHT-OF-WAY IMPROVEMENTS

SYNOPSIS: A resolution authorizing the County Administrator to negotiate and enter into a Memorandum of Understanding (MOU) with the Board of Public Utilities (BPU) for improvements to the public right-of-way along Leavenworth Road, I-635 to K-7, submitted by Misty Brown, Senior Attorney.

Misty Brown, Senior Attorney, said what you have before you is a resolution that would authorize the County Administrator to negotiate and then enter into an agreement with the Board of Public Utilities regarding the improvements on Leavenworth Road. It anticipates a cost of the project of \$7M and this agreement that’s attached is a draft agreement so it could be changed, that’s inherent in giving the Administrator the power to negotiate. Essentially, it agrees that both the Unified Government and the BPU would equally share in the cost of the improvements, that the UG would bond the improvements and that the BPU would then pay half of the bond

payments every year to the Unified Government in advance of the payment becoming due. **Mayor Holland** said my question is does it specify \$7M or does it specify up to \$7M. **Ms. Brown** said I put in there \$7M but then added a sentence anticipating that if it went over that each party would share half of the overage as well. **Mayor Holland** said yes, but it doesn't anticipate if it goes under. **Ms. Brown** said no, it does not. Again, this is a draft agreement that could be changed with the Administrator's power to negotiate. **Mayor Holland** said I think one of the issues that needs to be added I think because we had a new proposal that just came out this week, we need to put up to \$7M. I think we have good confidence it's going to be below that, but I think we need to put the up to language on it to give a ceiling rather than a floor. I think that would be a better way to proceed.

Commissioner Walker said I have to ask the question, what if the BPU doesn't agree to a MOU. **Ms. Brown** said well, that would be a little bit awkward as they are an administrative agency of the city. The MOU was put in place to give each party comfort that the Unified Government was proceeding in good faith on this issue. **Mayor Holland** said I think the importance of the MOU is if we pass a law that says you have to put it underground, then the BPU is on the hook for paying all of it. We have been discussing this with them and wanted to share that cost because it's a value that we share in terms of further cleaning that up. I think the MOU gives us authority to bond it on our side rather than on the BPU side because if we say they're just going to do it, then they have to go out and either raise \$7M or bond \$7M. I think the memorandum of understanding works to the benefit of the BPU to say that we're going to pay half. We're going to negotiate potentially a lower cost project and we're going to pay half. I think if they refuse the MOU, they'd probably be refusing our money.

Commissioner Philbrook said I have to say again. I really want us to work together and come to a mutual understanding on this. I know we're saying up to \$7M. I just want to make sure in that there's a caveat of some type that says we're going to come together and have more conversation within a certain time period so we can take care of this. **Mayor Holland** said no, that's right. I will commit on record tonight in working with Mr. Groneman, their chair, our Administrator and Mr. Gray; we will have this committee assigned. I think we can assign this committee in the next two weeks and certainly they can start their work before the end of the year. I think we can

commit on record tonight that the action team will work together to look at a long-term policy. **Commissioner Philbrook** said I'm going to say it on record again; I want to be on that committee. **Mayor Holland** said noted.

Commissioner Kane asked does the BPU agree to that. **Mayor Holland** said I will open it up. If there are members of the Board of Public Utilities that would like to come forward and speak to do so at this time.

Jeff Bryant, Vice President of the BPU Board of Directors, said I think we spoke our minds upstairs pretty well. I do want to clarify a couple of points. You're talking about \$7M, but in reality what you're talking about is \$9.5M to \$10M because that \$7M is above the \$2.5M to \$3M that the BPU is already going to be paying; which ultimately the residents of our city will be paying. The other thing that I just want to make sure everybody is clear about, if you put underground in a residential zone that is already established, the services in those homes may not be set up for the phase that comes in underground thereby the residents may be on the hook to upgrade the services of their homes. I can tell you that I upgraded the service in my home a few years ago and it was about \$2,500. It is not something to be taken lightly for the people.

The other thing that we would ask for, if you do move forward with this that you would at least consider limiting to the 38th to 63rd Street portion for right now until more can be looked at on this and determine how we can move forward on this. I think that upstairs we pretty much shared our view on this.

David Alvey, BPU Board Member, said I know that you received, Commissioners, in the electric by email a list of concerns or really some points of fact about the undergrounding of electrical utilities. I want to highlight, we did not get a chance to dive into this upstairs, but I think it's important to highlight some important facts that we've come across.

First of all, there are no states that require extensive undergrounding of existing overhead facilities. When utilities underground electrical systems, it's because they are mandated by the local municipality. The increased costs for the conversions or the installations are passed on to the city that then obviously have to pay through their general revenues which come from taxes or they're passed on to the ratepayer. Ultimately, again, it always comes back down to our

residents paying for the installation of underground facilities. The cost per mile for constructing new underground distribution typically runs 4 to 14 times higher than overhead in urban areas. So we're talking about a 4 to 14 time increase in costs for undergrounding utilities along Leavenworth Road. The underground distribution typically has a shorter lifespan than overhead distribution. 20 to 40 years of lifespan for underground, it's 60 to 80 years for overhead. To the point, this is a one-time opportunity to retrofit Leavenworth Road. We're actually increasing the likelihood that we will have to go and dig into that infrastructure, those streets that were just newly laid in order to get to it. The cost for maintenance is much higher. The operation and maintenance costs are always higher and finally underground maintenance poses higher arc flash risk for utility workers.

Not only is this more expensive, it also poses a greater safety risk for our employees. Again, the way this will be paid for, it seems to me again that if this is a priority for the Unified Government, the Unified Government ought to step up and say this is a priority, we're going to take care of the cost, all of the cost for this as in every other place is going to be borne by the Unified Government. What this is simply doing if you pass this ordinance, you are passing some of the cost onto the BPU. This is not something that we've agreed to. I am more than willing and have taken responsibility and accountability for raising rates to do the infrastructure for our water and our electrical supply and I will continue to do so in the interest of reliable power and safe water for our residents. There's no evidence that undergrounding these utilities create economic development and it's simply increases the costs which will be borne by our residents. Those facts have to be known, not just by you, but by anyone else that is listening tonight.

Commissioner Kane said now, Mayor, that's what I want to comment on. **Mayor Holland** said let me ask before you do, I want to ask the BPU if any member—and this isn't your last opportunity, but I just want to make sure if any other member of BPU would like to speak at this time that you can do so, but as the conversation goes, if you'd like to in a bit I'll give you that opportunity as well. **Commissioner Kane** said one of the things that Board Member Alvey talked about was the safety for the employees and I only worked in safety for 21 years and that caught my eye right away. We just found out tonight about this third option and I don't think there's any hurry to make this vote tonight. As I've said before, when Topeka makes us do stuff that we don't like in Kansas City, we're upset with them. The BPU has its own board to make its

decisions and it looks to me we're forcing this down their throat because we can, that doesn't make it right. I want the streets to be cleaned. I want them to look nice. There are other ways to do that without going underground and we're all looking at this big picture and about is the money going to be there. If we tell MARC we're having a little bit of trouble and we talked about this committee, which I think is huge, because the way we normally do it, we form a committee, the committee comes back with the results and we do what the committee says.

I don't think we should take a vote until this committee has been formed and the committee comes back with a recommendation. That's a committee from members from both BPU and staff and the Commission and staff but to do this to them, if this was reversed, if they were doing this to us, we would not like it and we've had this happen with Topeka. I don't see the hurry for this vote other than some people want to see it and like I said before, I want to see the roads improved but not at the expense of the taxpayers.

Commissioner Johnson said as I've just been listening to the tenor of the conversation, both upstairs and this evening, what we know is that there are going to be some improvements along this line of stretch of the road already, that's already in the bond issue that's already gone forward. We've also been told today that we have an alternative plan for around \$2M. I would recommend if there is a vote that has to go forward tonight that we would cap the amounts to something less than \$7M. I've heard a lot of different numbers, and I am open to discussion as to what that number ought to be, but I think that \$7M seems to give enough people around the table a good bit of heartburn that I think we need to consider an alternative number if in fact we're going to vote on this tonight.

Commissioner Bynum said I just wanted to make a couple of clarifications. The first one being that the vote we just took, I think was the one that allowed us to separate out the Leavenworth Road piece of this. So just to clarify for the BPU Board Members that are here, that's off the table for the moment because we're going to bring that back with a new version of that ordinance and work with the task force. Am I correct? **Mayor Holland** said yes. **Commissioner Bynum** said so that piece is taken care of for this evening and the second piece is the issue in front of us now, the MOU. I would agree that perhaps it needs to be capped at a lower dollar amount, but also I would like to move forward with it because time is critical but nonetheless, do we have a

notion from staff as to when we might see details of a lower cost plan? **Mr. Bach** said I'll probably look to my Public Works staff or maybe over to Mr. Gray. I don't know. I know that you guys are looking through the numbers at this point and part of this comes back to a point of determining just what type of plan if we're going to be very comprehensive I guess to it and that's where the \$7M and that's probably where the timing comes in. The more we request from the BPU to do in burying the lines, the sooner they need to know as far as getting the project done in 2017.

As you've begun looking at this alternative that we discussed upstairs, three where we would do limited above ground on the south side. Mr. Gray, do you have a feel for when you'll be able to work through that a little bit more on your team? **Don Gray, General Manager, Board of Public Utilities**, said yes, we've been and you know I'm speaking for Bill now but I know Bill has been working with Burns & McDonnell who we've obtained to work with us on the engineering design. We've been looking at a number of options, not knowing what direction this was going to take. I know Bill has been currently working on another option that just recently came in, which I think is a good approach too. As far as the timeline to kind of come up with a rough estimate as to another modification to burying infrastructure; I would have to let Bill kind of respond to that. We also have Pat Morrill, our electrical engineer, who will be heavily involved. Anyway, I'll call on Bill or Pat.

Bill Johnson, Manager of Electric Operations & Technology, BPU, said the timeline we were on was to complete a final design by the end of the year. If we were to leave all the distribution above ground, north and south of Leavenworth Road, now I say that because we got started late working with the design of the distribution system for Leavenworth Road. To go underground, it will probably be somewhere around February or March before we could complete final design. To get a final number, it will probably take somewhere closer to the end of November or maybe mid-December before I'll have a final number.

With the new option that we talked about, we can certainly—and I've already had discussions with Burns & McDonnell about starting work on that. I think they can work on that in parallel with completing the overhead design north and south because what we'll be looking at potentially doing is limiting how much overhead exposure we'll have on the south side. Then

since they're working on both sides of the street anyway, it'll be a lot easier to pull that plan together and work parallel with the plans they're already working on.

Mr. Bach said I would probably add to the answer to that a little bit of this comes into the value engineering of how you work through it. If our objective is that we can have some above infrastructure on the south side of the road but we're trying to limit it in the commercial corridors and try to limit what continues from pole to pole and not be as concerned about maybe what goes from the pole back to the residential housing and such like that, that would be the objective I would work for. Then there's a little bit of okay, this is how much money we have to deal with in going through it and go through and value it and work it from that perspective trying to come up with the cleanest open design we can along the corridor but you know as Bill said, I think it's going to take a few months before we can really get to that full plan. There's a little bit of just recognizing. You can either go all the way and say it all has to go under or you're modifying that and we think it's a couple million dollars and we can make one that's similar to what we showed in the special session program but we can't guarantee that until we really get into those designs. **Mr. Johnson** said yes. If we have a clear definite decision and goal that we're working toward, that would certainly help us achieve and get that design completed along the timelines I just mentioned.

Commissioner McKiernan said I want to clarify a couple of things. First of all, when I made the motion to pull out item D from the previous amendment revision, I did that based on the fact that both the resolution and the memorandum of understanding explicitly state the location of said improvements and I don't believe that the committee needs to meet and do anything before this resolution and this MOU could be considered and could be voted on. I do believe the MOU and the resolution both explicitly state where said improvements would take place and it also has a specific dollar amount.

The second thing, my understanding and do I understand correctly that we already are removing the crossovers in the project that is currently contemplated, that's currently on the drawing board and ready to move forward. The crossover lines, those lines that go from north to south and south to north across the road in both directions will be removed, and as Mr. Bryant said earlier tonight, effectively open the canopy of Leavenworth Road. It is a narrower road, no

doubt about that, but it will remove—when I drove the road yesterday, I was struck by how many crossover lines there are throughout the entirety of that road.

The third thing is that we have to remember that a vote yes or no on this resolution and this memorandum of understanding does not in any way affect the transportation improvement project, the STP funded program of basic infrastructure, street, curb, sidewalk and right-of-way improvements. That is funded, that can move forward. You've already planned to support that funded project. What we're contemplating here is adding a little bit on to that plan.

The fourth thing I just wanted to point out is that we did have a slide about economic development on State Avenue and the dollar value of such. When I did drive those roads I have to say there are some places on State Avenue where the amount of above ground wiring, both transmission and distribution and crossover, is pretty startling when you actually stop and look for it and look at it. I would suggest that while economic development has happened on State, I don't that we can do an after which, therefore because of which, that correlation and causation aren't necessarily both end players.

Commissioner Murguia said I think Commissioner McKiernan did a good job of organizing all of our thoughts and kind of what his intent with his motion was. I really appreciate that and I really appreciate you clarifying the crossover lines are already being addressed in the existing project which I think will be a massive improvement to the infrastructure there. This is what I would ask then. People seem to be concerned about timing and then a whole big gigantic plan and just talking about the add-ons, Mayor, I know you've been a big advocate for these add-ons and I want to be very supportive of that. I also want to be very sensitive to the relationship we have with BPU. For example, do you think that over the next two weeks or 30 days that the people most invested in this project, BPU and whomever else, could get together and discuss some sort of more specific compromise with these add-ons that we could vote on then without delaying the project and still everyone getting what they need out of the deal. **Mayor Holland** said the time crunch is a big frustration to me personally. We've contemplated this project for over two years. The drawings for this project were presented last October. There's been a year of time to pull together a plan. It's been contemplated all summer. The time crunch, the timeframe already came and went before we could put this on BPU's bond issue. Of course I didn't want to delay that so we went ahead and pushed that forward, voted unanimously to

support BPU's bond issue without this project on it. We've negotiated with how the Unified Government could pick up the bonding of this and share the cost. I think that's important and because we untied it to their bond issue, it freed them up from the coverage challenges that they have that required by law in terms of their bonding. The time crunch is real. The Mid-America Regional Council has indicated that we can push this project long enough to get this new plan done, but if we delay, and my inclination as soon as I saw that there was a fracas about this, I thought well, let's delay the project a year, come together, do the work together as the BPU and the UG together, come up with a plan and then do it next year. We don't have that kind of time. We can push this project maybe another six months to do additional design work, but it's pretty clear that if we don't spend this federal money, that we're going to have to give it back and I am not a fan of giving back federal money. In terms of movement, we need to vote on this tonight, move it forward so that the design work can be done and do the parallel path with this committee so as we even do the next section of Leavenworth Road. We have a more amicable agreement in terms of how we're going to move forward together. I think what we design out of Leavenworth Road out of this discussion is going to be a good model for what we do down the rest of Leavenworth Road. That's one piece.

The other piece, is I'm not suggesting we underground the utilities along Leavenworth Road. To do both sides of Leavenworth Road and make it completely underground is a \$20M additional investment which would exceed the total project cost as illustrated. That's not reasonable. It's very reasonable to have poles on one side of a major thoroughfare, but I would say it's unreasonable to have poles on two sides of a major thoroughfare and in a planning way we require curbs, sidewalks, stormwater and underground in all new developments, but we have a whole swath of our community from about 38th Street to 72nd Street that was developed rapidly after World War II under the old township guidelines. It doesn't have curb and sidewalk, it doesn't have stormwater and it doesn't have underground lines.

That whole section was developed rapidly and it goes from river to river. We have about a third of the geography of our community that doesn't have the basic amenities that we require of all new developments. All new developments must have curb, sidewalk, they must have stormwater and they're going to have their utilities underground. When we come back and reconstruct an area and we're putting it back, this should have been borne by the developers who built this, but that wasn't required under the old county township rules so by the time 72nd Street

was ready, we had annexed the rest of the city. From 72nd Street west, 38th Street east, we have curb, sidewalk and stormwater and a lot more underground lines. My point is it's unreasonable to have lines above ground on both sides of the street. The only reason it's that way is because this is one of our oldest street in our entire community. It used to be the path from Kansas City, Missouri to Fort Leavenworth. This road has developed hodgepodge by both the city and the utility over time and it's blighted. It's not the utility's fault it's blighted. It's not our fault it's blighted, it's both of ours.

We've got to reconstruct this and we have once in a—it hasn't been touched in my lifetime and I assure you it's not going to be touched again in my lifetime. This is a once in a lifetime opportunity to do this right. I'm not recommending putting underground under both sides. I think that's an unreasonable cost, but I do think coming up with a solution on the south, if we can do it without undergrounding it, hooray. If we need to underground a portion of it, I think we need to, but we need to have this corridor look like Parallel and State Avenue to have the same quality of infrastructure. I want to make sure that we go with the MOU tonight, negotiate if we can do it for less. I'm all for spending less money but we need to do it right. This is a once in a lifetime to do it right and I think we need to approve this MOU, move forward and continue with the discussion with BPU on how to do this in the future.

Commissioner Johnson said well I'll just say this; I would love to see some curbs and sidewalks in District Four. I'd be happy with that, just thought I'd put that out there. I've got about three or four main thoroughfares that need streets and sidewalks. Let me get back to the point at hand. I think the thing that I did hear that is important to me is that we can also consider the potential increase to whether it be taxpayers or ratepayers, if it's taxpayers on our side, ratepayers on the BPU side. I'm going to go back and say it again; I think we need to cap it. If I pull a number and I'm only pulling this number because it's right in front of me, I see a \$2M number, cap whatever additional improvements to \$2M, split it down the middle and hopefully that will not bear much of an impact to the end payer. That's what I would recommend. **Mayor Holland** said I think \$2M is too low. I think we have the opportunity to negotiate it down. I trust our staff to do that. I think we need to do this right.

Commissioner Townsend said I want to thank Commissioner McKiernan also for his synopsis. That pointed out to me or honed in on my concern that the bigger improvements are not going to be lost here. That's already part of this so what we're talking about now is whether or not and how much to do of underground and how much it's going to cost.

A couple of things concern me. I raised these at the meeting at 4:00. State and Parallel improvements, this has been done at some level before and my understanding was that cost was passed on in some amount to BPU customers, including me and all of us up here. Even though you may not be able to identify specifically for Leavenworth Road or anyplace else we do this what the economic impact or betterment was. There's another issue to this, for those people who live and work there, I think it's reasonable to consider to the aesthetic in that we want that part of the city to look more like Parallel and Leavenworth. I get that. Going back to another point that was made by the BPU, safety concerns, weren't those same safety concerns for the workers an issue when this was done for Parallel and State. So we've apparently faced that risk before and I hope no one is hurt going forward if these are done. I'm not sure what the number is. I heard \$2M tonight. I was happy there was a lot of exchange going on between us and the BPU with what could be done. If they think they can do it for \$2, good, maybe we can go to \$4 and the MOU gets some more latitude and not have to come back again. I don't think we should lose the opportunity to go forward with this. I think we should vote on it tonight and continue with the discussions with BPU about the broader process that we're going to use when this issue comes up again.

Commissioner McKiernan said and I have been probably more torn on this one than most other things that we've talked about up here because I definitely see the benefits, the upside of doing this but I also see the fact that we have this enormous infrastructure. I calculated a couple—for those of you that don't read my blog, a couple of years I calculated that if you wanted to fix all the broken streets, curbs, sidewalks and alleys in my district it would take \$30M. That's just in my district assuming nothing new breaks, rough calculations. My understanding from Public Works is that our Neighborhood Street Resurfacing Program or Grind & Overlay Program is today resurfacing today about 45% of the lane miles it would take to put us on a 30-year cycle. If 30 years is the gold standard, we're doing less than half of that. Now, we're going to put more money into grind & overlay over the next five years and by the time as we get to 2020, we're

going to be up to 75% of the lane miles it would take to stay on a 30-year cycle. I don't want to minimize the importance of this, but I want to make sure that we don't lose sight of the fact that there are enormous and expensive infrastructure projects that exist on every street in every corner of this city. Commissioner Johnson mentioned a figure of \$2M. I certainly would be amenable to the MOU capping it at \$2, so that's all.

Commissioner Murguia said so since everyone is bringing up their district, I wasn't going to bring this up, but I'll just tell you I'm a little bit frustrated. I want to be, Mayor, supportive of this project because I know it's important to you and it's important to other people. This is the issue that I have. We just built a brand new Walmart Neighborhood Market in Argentine and we left the old trolley poles from the late 1800s and 1900s that are used to hold the arm of the streetlight up. We weren't trying to entice development. We already brought it. It was there in front of us and the sales, I just received—I'm glad you're here tonight. I just received a report from our CFO on the performance of that project and that market is just killing it in bringing in amazing sales tax revenue to this county yet it's surrounded by trolley poles from the late 1800s and the early 1900s.

That's why I was so earlier interested in—I didn't get a chance to review the ordinance that Commissioner McKiernan was talking about. I have to tell you I'm trying to rise above the fray here and be—I guess treat people better than I'm being treated. I'm really trying to do that but I'm very disappointed that, again, it seems like it happens in one area but not in another. It's very frustrating and I will also remind the Commission—I don't want to give back federal money either. I have \$1.2M in an economic development deal for fast food that can't make it on the agenda to even get voted on. I want to be—I'll say this again, I've said it many, many times. I don't want to fight with BPU, I don't want to fight with my fellow commissioners and I don't want to fight with our Mayor. What I want to do is get things done in our county, in every area of our county, and so I don't know what else to say other than if people want my support as Commissioner of District Three, they need to be supportive of District Three. I mean it's pretty simple. That way we ensure that all of our taxpayers all across our city and our county benefit, not just politically popular areas at the time for whoever is in office. That's really all I have to say. I'm really torn on this particular issue because I am very bitter about those two issues. I will follow the Commission's lead. I'm glad I vote at the end. That's all I'll say.

Commissioner Walters said I support underground power lines and I think we should do this section of Leavenworth Road correctly, as the Mayor said, we're only going to do it once and we won't have an opportunity to redo it. I think we're confused when we talk about putting power lines underground as a magnet for economic development. To me it's not about economic development. It's about power outages during storms and it's about making our city more attractive. I saw the fact sheet that the BPU put together. I think there was no one who advocates underground power who was involved in putting that set of facts together, but there are arguments to be made on both sides of the issue. I'll point out a couple things. When we were here talking about natural gas versus coal as a power source for our power generation, I believe the BPU provided testimony that Germany was building power plants to burn coal. The inference being that we all know the Germans are smart, we should be smart like they are. Well, they put all their power lines underground. I'm just reading here and becoming an expert on this. They have an average of 21 minutes per year of power outage for the normal customer. That's the benefit to me of having underground power lines.

I also read that the city of Anaheim is replacing all their overhead lines with underground lines and they put a 4% surcharge on the power bill to pay for it and it's a 26-year-long program. So nothing we're doing is going to happen overnight but I think if we're going to start at Leavenworth Road, we should do the first section the same as we do the second section and the third section. We don't make evaluations based on the quality of the neighborhood or the potential for economic development, we do it right. You know we take the attitude that the streets, the curbs, sidewalks, the parks and the public buildings; those are the things that we own collectively as citizens and they should be excellent. They should be the best and they should inspire our residents to match that level of quality. I support putting the power lines underground. I don't know the best way to proceed regarding the costs is but I think it should be done right.

Commissioner Philbrook said, Mr. Gray, could I ask you a couple of questions or could you have Bill come up too because I want to get into some numbers. I've been around Commissioner McKiernan too long now. This interesting \$2M, can you give me a little background on how you guys came to that amount and if our folks need to—you think that would keep the folks

happy up and down Leavenworth Road. Do you understand what I'm asking you? I mean what if it runs \$2.5M to do it; I'm just trying to find out where this miracle number came from. **Mr. Gray** said well I think that was just the discussion we had upstairs. **Commissioner Philbrook** said I know but not everybody was up there. Thank you Don. **Mr. Gray** said you know we're listening as we are now. Again, we're not clear exactly what direction we're supposed to take. \$2M, if you're going to bury some infrastructure, \$2M is probably not going to do too much, not going to be much of an area. Probably a little bit higher level than that but see the problem is I'm in a tough spot. **Commissioner Philbrook** said I think we both are, go ahead. **Mr. Gray** said because I'm talking about potential cost and how much to put underground. That's something we still have to determine, what would make sense and maybe naturally bring it back to the elected officials to kind of show what we're thinking about and so forth, but I also have a board that doesn't want to spend any more money on underground. I'm in a tough spot here, but if we're instructed by the leadership of this Commission and the Mayor to continue to work on this alternative that we were talking about tonight and maybe there's even one where we could move some poles and offset them from Leavenworth Road so they're not as really observable. I don't know. We'll do everything we can. We'll be as fast as we can be. We'll engage Burns & McDonnell to assist. We'll let them know that we need expediency. We'll do whatever we're asked to do. **Commissioner Philbrook** said so in other words, if we were to say \$2M then you would do your best to come up to that amount and let us know what that would cover. **Mr. Gray** said we would do our best to work—yes. We just need direction. **Commissioner Philbrook** said I'm not arguing. I think we all do in this, need direction.

Action: **Mayor Holland made a motion to adopt the memorandum of understanding and add the words up to \$7M and agree that the UG will bond whatever amount has come up to that and we'll pay for half of it and that we have a new alternative that I think we can value engineer this. I think we're going to need a hybrid of some underground and some over ground to get it done if it's going to be aesthetically right. I think we need to do this road right. We've taken the lowest number already. We're leaving all the poles up on the north side and both the transmission and distribution and I think this makes it right. I make a motion for up to \$7M and then leave it to our staff to value engineer it and if we can get**

it close to \$2M and we agree that it is aesthetically right, we'll do it. Is there a second? Commissioner Walters seconded the motion.

Mayor Holland said we have a motion and a second before us. We have two more lights on for discussion. **Commissioner Murguia** said, Mayor, I promise this will be my last comment. Commissioner Walters, you brought up your concern and how you didn't connect this with economic development, this project and you referenced power outages. I'm glad Bill Johnson and Don Gray are here to speak to this. The new Walmart was built I think a little over two years ago. In that two years, there's been over 10 power outages. Though Walmart, with their own money, installed a backup generator and though that backup generator kicks in, Walmart is able to continue to operate. They have a safety policy because of the unpredictability of utility companies that they have 20 minutes to evacuate the store. Over 10 times in two years that store has had to be evacuated because of power outages. That site is actually not hoping for economic development or hoping for revenue. It is killing it with sales revenue and what we're selling there and how much money that's bringing into the Unified Government. That is money that should be going to pay for that project. That TIF that we gave will pay off faster than any TIF I've ever seen if it continues on the trajectory that it's moving on right now based on the numbers that I just recently just received from our CFO. Why we would not reinvest in a project like that? That's what I'm talking about. What makes a property a priority? Again, I don't want to get into these kinds of public discussions where it's Leavenworth Road against Strong Avenue or it's the BPU against the Mayor or anybody against anybody. Like I said, I would just hope that people would recognize we only have so much money, that all of us that are in leadership bring forward priority projects, and that we are supportive of each other in every area of our county. I just wanted to let known it absolutely is an outage problem which has caused a serious economic development issue.

Commissioner McKiernan said we have all talked at one time or another about our desire to lower property taxes and lower PILOTs and as much as I want improvement of all of our infrastructure and as much as I want development in all of this county, if we continue to add things on and add things on we're going the other direction.

I would ask the maker of the motion and the second of the motion if they would consider two friendly amendments to it. The first would be that in the second whereas of the resolution and the second whereas of the memorandum of understanding where it says from Interstate 635 to Kansas Highway 7, that that be changed to the current project area from 38th Street to 63rd Street. **Mayor Holland** said I would accept that. **Commissioner Walters** said sure. **Commissioner McKiernan** said and then I would ask if the maker of the motion and the second would agree that instead of that up to \$7M that it state up to \$4M. **Mayor Holland** said I am not inclined to accept that though I hope it will be at \$4M or less, but I think that covers us all the way around.

Commissioner Townsend said since we don't know what the number is and I certainly after tonight wouldn't want to see it anywhere close to \$7M. If this motion were to pass with the language up to \$7M, would this body see it again in a situation or in a setting where we would have to agree to whatever the number was or would this be it? **Mr. Bach** said well, I guess that would be up to the Commission as far as what your designation. We certainly would come back and show you what the project scope would be so if we would come through it in working with the BPU, we would come up with a design along the corridor, correlated costs to that. I think in the spirit of making this project happen we would be moving down the road quite a bit by the time we came back because they're going to be not only just going through and thinking about how the different designs are, but they're going to be have to be working on the actual plans to make that happen because this goes into play in 2017. We would be coming back and showing the Commission this is what it is and how it will work. I will stand to be corrected to that, but I don't know that there would be a lot of room for modification to it after that fact.

Mayor Holland said I would accept—look if we're going to bargain here, McKiernan, I would accept up to \$5M. **Commissioner Murguia** said \$4.5M. **Mayor Holland** said the reality is if \$7M undergrounds the whole south side and we're talking about a hybrid, undergrounding is expensive, doing it right and this is true of every project. Doing it right costs more. It also raises property values all the way around. It raises the value of our city. I would be willing—I think we're going to value engineer this. I don't think it's going to be \$2M. I think that would be great, but I think I would go up to \$5M because I think we're certainly, with the kind of thing

you showed me today that we could certainly take \$2M off of it, but if the total project undergrounding is going to be \$7M then if we're going to have to underground some of it; I mean if you go to \$2M you're not undergrounding any of it. If you're going to underground some of it in strategic areas that the staff is going to identify, then I think we're still going to have some significant cost so I would go with \$5M if you would like to make that your friendly amendment. **Commissioner McKiernan** said no. **Commissioner Walker** said call for the question. **Commissioner Kane** said second.

Mr. Moore said just for clarification, the resolution authorized the County Administrator to negotiate the agreement. The attached MOU is really a template for that purpose. I think to simplify things I think we ought to just deal with the resolution and make the change to the resolution, the second whereas to change the location and then in the sixth whereas to put a total value of not to exceed \$4M. By adopting that resolution then the County Administrator has his authority and then I think as a practical matter what we will do is next week we will come back with the revised resolution along with the revised ordinance and then put that on the agenda for the Commission on the Consent Agenda to formalize. **Mayor Holland** said okay, I'm not sure I understood what you meant. The motion is at seven right now. **Mr. Moore** said I apologize. We're going to change the location in the resolution and we're going to put a cap in the resolution of up to \$7M. The MOU is just a template as a guide. It's not incorporated in this resolution. **Mr. Bach** said I guess, Ken, I understand making the changes to it. I think they're pretty clear for changing the location and for putting \$7M into that. I don't understand why we would need to bring it back for a final resolution. We would know what that resolution would need to read. **Mayor Holland** said we're not bringing it back. We're going to vote on it tonight.

Action: **Mayor Holland** said I'm going to voluntarily change my motion for up to \$5M if my second will agree. **Commissioner Walters** said I agree.

Mayor Holland asked, Commissioner Walker, do you want to say something? **Commissioner Walker** said I do, but I feel like my mother's on my shoulder telling me don't say it. **Mayor Holland** said go with your mom. **Commissioner Walker** said I'm going to pass my comments, but I am frustrated with the inability after over two years of this project being talked about that

none of ours and none of the BPU professional staff has any idea what this project is going to cost, not even a ballpark number. I don't understand that. All these people are paid good money. I mean good money and you would think you would be able to go by every 100 feet of underground utilities is going to cost you \$10,000 or some standard. I'm just very frustrated. That's going to probably show, has shown and this has been a very confusing discussion but I'm ready to proceed.

Mayor Holland said roll call. Now let's be clear. Roll call on the memorandum of understanding up to \$5M from 38th Street to 63rd Street, the project area only, and with the expectation that our staff is going to negotiate. If we can do it right for less, even significantly less, that's exactly what we want them to do.

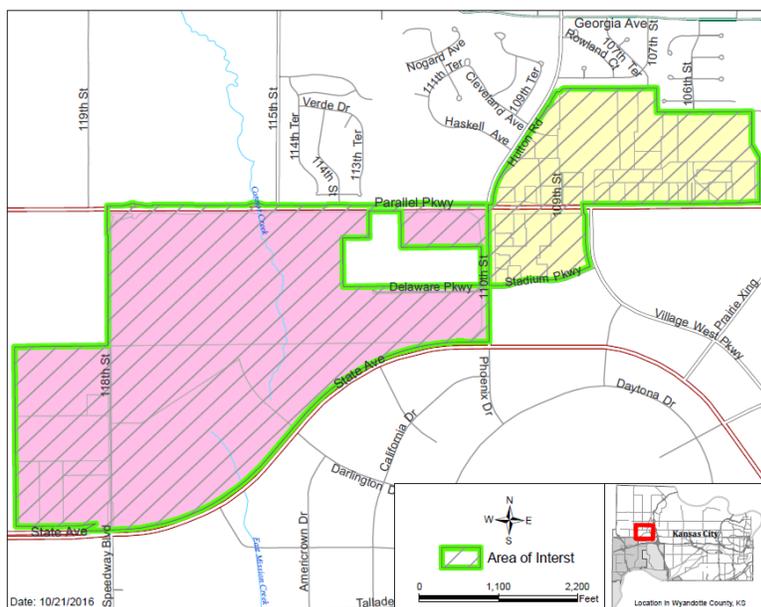
Action: **RESOLUTION NO. R-77-16**, "A resolution directing and authorizing the County Administrator to negotiate and enter into a memorandum of understanding with the Kansas City Board of Public Utilities for improvements to the public right-of-way along Leavenworth Road." **Commissioner Markley made a motion, seconded by Commissioner Walters, to adopt the resolution.** Roll call was taken on the motion and there were six "Ayes," Walters, Philbrook, Bynum, Walker, Townsend, Holland; and five "Nos," Johnson, Kane, Markley, McKiernan, Murguia.

Prior to Commissioner Murguia's vote she said you know what, Mayor, you're the Mayor so I'm going to say no and that's going to tie the vote and you get to call the shot. **Mayor Holland** said I think you called the shot as well because everyone who voted either way could have changed the outcome. I will vote aye to break the tie.

Mayor Holland said the vote was 6 ayes, 4 nos. The vote passed. Thank you to the Board of Public Utilities for the conversation earlier this afternoon and this evening. We look forward to having a task force where we can do this in a better way the next time.

ITEM NO. 3 – 16850...RESOLUTION: SET A PUBLIC HEARING DATE TO CONSIDER THE CREATION OF A STAR BOND DISTRICT

SYNOPSIS: A resolution setting a public hearing date of December 15, 2016, to consider the creation of a new STAR Bond District in the area of 110th St. near the Village West attractions in coordination with the proposed American Royal project, submitted by George Brajkovic, Economic Development Director.



Mayor Holland said I would like to put that map up before we have a motion so that the public can see it. This is not a public hearing. This is simply to set a public hearing. This is the map description. We can have a presentation on this if you would like. If people are ready to vote, we can have a motion.

Commissioner Walker said I do have a question that was raised by an individual, Doug, to me and I couldn't answer. You may have it up there. That northwest quadrant in white above the purple, is that the Sac and Fox land because the Business Journal had included the Sac and Fox in the American Royal development and obviously they've not sold their land. **Mr. Bach** said that is correct. Kickapoo Sac and Fox still own their property. It is in part of the purple property. I believe there have been some conversations on part of the Royal representatives to have some discussions with them but it is still their property. **Commissioner Walker** said but we're including it in the STAR Bond District. **Mr. Bach** said we are including it as part of the

STAR Bond District because we think there is a high potential it could become an integral part to it if the Kickapoo Sac and Fox would like to work with us. **Commissioner Walker** said well then I guess they were right, the *Business Journal*.

Action: **RESOLUTION NO. R-78-16**, “A resolution of the Unified Government of Wyandotte County/Kansas City, Kansas determining that the Unified Government is considering establishing a STAR Bond Project District within the Unified Government, establishing the date and time of a public hearing on such matter to be held on December 15, 2016, and providing for the giving of notice of such public hearing (Northwest Speedway Star Bond District).” **Commissioner Markley made a motion, seconded by Commissioner Walters, to set the public hearing for December 15th**. Roll call was taken on the motion and there were ten “Ayes,” Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

Mr. Bach said, Mayor, I’d like to recognize Len Parum and Chase Simmons with the American Royal who have been with us all night long to be here for this vote. **Mayor Holland** said you picked a dandy. Thank you for being here.

COMMISSIONERS' AGENDA

No items

Mayor Holland said se are now adjourned as the Board of Commissioners. Now we are readjoined as the Land Bank Board of Trustees.

LAND BANK BOARD OF TRUSTEES' CONSENT AGENDA

ITEM NO. 1 – 16808...COMMUNICATION: LAND BANK APPLICATIONS AND TRANSFER

SYNOPSIS: Request approval of the following Land Bank applications and transfer, submitted by Chris Slaughter, Land Bank Manager.

Applications

3519 N. 80th St. - Oscar Whitmore, new home construction

3832 Lloyd St. - Wolfe Construction, new home construction

October 27, 2016

3836 Lloyd St. - Wolfe Construction, new home construction
 15 S. 8th St. - Jose Orozco, parking for Frontera's Super Market
 2269 Lathrop Ave. - Jerome Peterson, parking for Guiding Star Baptist Church
 5121 Walker Ave. - Darrel Coppersmith, yard extension
 1737 Waverly Ave. - Robert Cole, yard extension
 614 Lowell Ave. - Rigoberto Morta Lopez, yard extension
 849 Quindaro Blvd. - Lydia Mejia, yard extension
 847 Quindaro Blvd. - Lydia Mejia, yard extension
 2706 Hagemann St. - Ryan Patton, yard extension

Mortgage Foreclosure Transfer
 5217 Alma St. - Argentine Betterment Corporation (ABC)

On October 10, 2016, the Neighborhood and Community Development Standing Committee, chaired by Commissioner Walker, voted unanimously to approve and forward to the Land Bank Board of Trustees.

Mayor Holland said all items are on Consent. If anyone in attendance tonight would like to remove any item, please move forward to do so at this time. Any item not removed will be voted on by a single vote. Let the record show everyone is moving to the doors and not to the microphone.

Action: **Commissioner McKiernan made a motion, seconded by Commissioner Murguia, to approve.** Roll call was taken on the motion and there were ten "Ayes," Johnson, Kane, Markley, Walters, Philbrook, Bynum, Walker, Townsend, McKiernan, Murguia.

PUBLIC ANNOUNCEMENTS

No items

MAYOR HOLLAND

ADJOURNED THE MEETING AT 9:23 P.M.

October 27, 2016

tpl

Bridgette D. Cobbins
 Unified Government Clerk

October 27, 2016