Approved: February 2, 1993

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Nancy Brown at 1:30 p.m. on January 27, 1993 in Room 521-S of the Capitol.

All members were present except: Representative Alldritt (excused)

Representative Hayzlett (excused) Representative Holmes (excused) Representative Powers (excused)

Committee staff present: Michael Heim, Legislative Research Department

Theresa Kiernan, Revisor of Statutes Lois Hedrick, Committee Secretary

Conferees appearing before the committee: Donald R. Seifert, City of Olathe

Gerry Ray, Johnson County Commission

Barbara Butts, Division of Accounts and Reports

Others attending: See Guest List (<u>Attachment 1</u>)

The Chairman announced that a Committee Action Report and Bill Brief concerning each bill assigned to the Committee will be maintained in her office. If members are interested in either report or determining the names of those who have requested to testify before the committee, they should contact the Committee Secretary. Also a reminder was given that conferees, who wish to appear before the Committee, should contact the Committee Secretary prior to the meeting so they can be scheduled; and that conferees are requested to bring 27 copies of their testimony to the meeting.

Donald Seifert, City of Olathe, testified before the Committee to recommend enactment of legislation (possibly by amending KSA 12(A)-619) to permit development of a sanitary sewer district in Olathe that crosses city/county boundaries, initially funded by the city, and providing authority for "buy in" procedures. See his testimony (<u>Attachment 2</u>). The Chairman asked if there was objection to having the Revisor's Office prepare a bill for the Committee's consideration. Hearing none, the bill will be drafted.

Gerry Ray, Johnson County Commission, then testified in support of **HB 2105** (<u>Attachment 3</u>). Ms. Ray stated that she believes the proposal, if enacted, would be fairer to township electors in townships where there are no elected officers, since the board of county commissioners, in taking over the responsibilities of the township board, would be overseeing the township's business on a current basis. Committee members questioned the need and practical effects of such legislation. It was pointed out that township affairs and financing would not be administered as part of the county's affairs as statutes exist separating the units' authority relating to authorized actions and handling of funds.

Ms. Ray also stated that at yesterday's meeting it was reported that an inactive fund may still exist in the Johnson County Monticello Township. She contacted the officials and found that the fund no longer existed as the township officers had expended funds prior to its inactivation. Representative Macy stated that she learned that Monticello Township currently has two officials and that she would like to talk with them regarding the bill.

Barbara Butts, Accounts and Reports Division, stated that there are many townships across the state that have no officers installed; consequently no business is transacted and the township is inactive. No reports are made to the state for these townships. She will provide the committee with a list of inactive townships.

The meeting was adjourned at 2:40 p.m. The next meeting is scheduled at 1:30 p.m., January 28, 1993, in Room 521-S of the State Capitol.

GUEST LIST

COMMITTEE: House Local Government

DATE: January 27, 1993

NAME (PLEASE PRINT)	ADDRESS.	COMPANY/ORGANIZATION
BARBARA BUTTS	Tapeka	Dept of Admin
DON STARBET	CLATHE	: CITY OF OLATHE
GERRY RAY	Overland Px	JOHNSON CO
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		ATTACHMENT (
		1-27-93



January 19, 1993

Representative Nancy Brown State Capitol Building Room 183-W Topeka, Kansas 66612

Senator Mark Parkinson State Capitol Building Room 128-S Topeka, Kansas 66612

Dear Nancy and Mark:

The purpose of this letter is to request the assistance of your local government committees in introduction of a bill that would assist the city in creating the Upper Cedar Creek sanitary sewer project. As you know, this project will provide public sewers in southern Olathe generally along the U.S 169 corridor south of 151st Street. The project is very important from both a health and economic development perspective, in that it will serve existing and proposed commercial and industrial development in the area.

The city has received a petition from property owners in the proposed district requesting creation of the project at a total cost of approximately \$2.6 million, of which the city-at-large would pay \$357,000, or 13.5% of the total cost. As shown on the attached map, the city's participation would cover areas currently outside the city limits, but which are expected to request connection to the sewer in the future.

Naturally the city wishes to fully recoup its investment in the project for property that will subsequently be connected to the sewer. Prior to the <u>Blevins v Hiebert</u> Kansas Supreme Court decision, the city adopted its own legislation establishing "benefit areas" and "buy-in" procedures for property outside the city that wished to use an improvement

ATTACHMENT 2-1 1-27-93 Representative Nancy Brown Senator Mark Parkinson January 19, 1993 Page 2

financed through a benefit district. After <u>Blevins</u>, we are unable to follow this procedure, because a 1988 statute (K.S.A. 12-6a19) has a similar buy-in procedure. Although 12-6a19 has a buy-in procedure, it is fundamentally different from the city's procedure in that the buy-in charges are returned to property owners in the district, rather than to the city-at-large which provided the initial capital.

The city's request is for a bill that would repeal K.S.A. 12-6a19. This statute was adopted at the request of Wichita, but circumstances changed and the procedure has never been used. Although never used, its existence in the statute book constitutes a legal barrier in the wake of the Blevins decision to Olathe and other cities from substituting their own local buy-in procedures. As indicated in the attached letter, the city of Wichita would not object to the statute being repealed.

We greatly appreciate your consideration of this issue and your assistance in introducing legislation. I look forward to working with you both on this.

Sincerely,

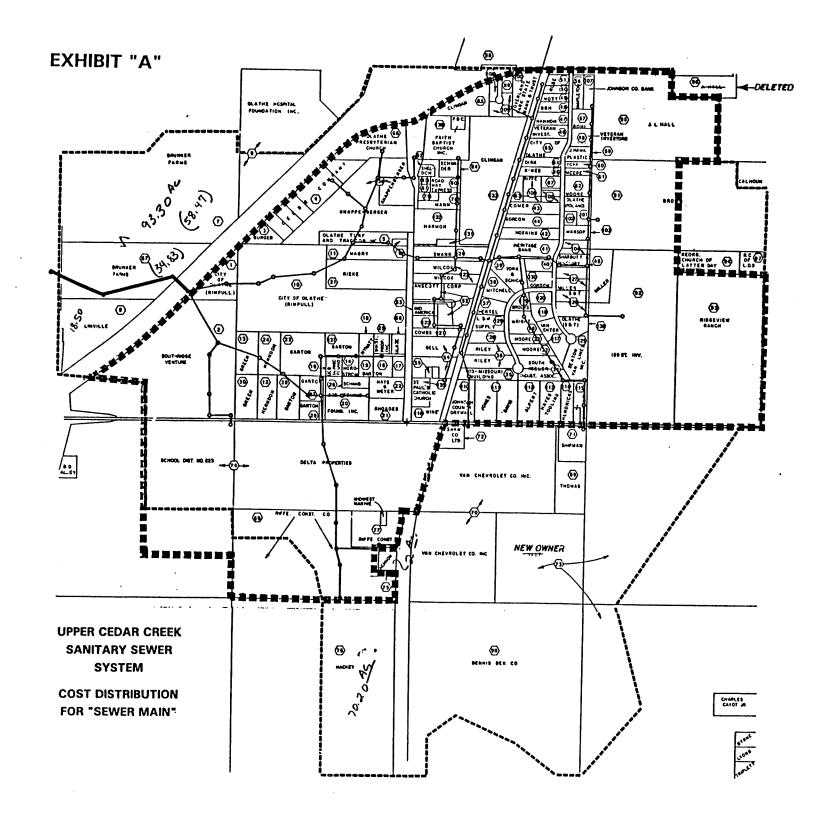
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Donald R. Seifert Assistant Director Administrative Services

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xc: Senator Bud Burke
Representative Vince Snowbarger
Theresa Kiernan

Enclosures



(d) The governing body may let any of the aforesaid service work to contract or order the work by force account and issue no-fund warrants to pay the cost thereof in an amount not in excess of the contract or the cost of materials and labor necessary to the service performed. Such warrants may be issued to be payable over a period of three (3) years from and after January 1 of the year following the certification of the assessment to the county clerk.

(e) The aforesaid no-fund warrants shall be issued and registered as provided by K.S.A. 79-2940 and bear interest at not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009 until paid: *Provided*, It shall be sufficient that the warrants recite that they are issued under the authority of the city governing body and by virtue of this act. Such warrants shall be redeemed and paid by the county treasurer as by law provided.

(f) All unpaid service assessments shall be certified by the city clerk to the county clerk with interest on the unpaid installments at the rate fixed by the no-fund warrants.

(g) No suit to set aside the said assessments shall be brought after the expiration of thirty (30) days from the publication of the ordinance fixing said assessments.

History: L. 1957, ch. 99, § 17; L. 1970, ch. 64, § 10; March 21.

Research and Practice Aids:

Municipal Corporations 513(5).

C.J.S. Municipal Corporations 5 1535.

Attorney General's Opinions:

Certification of city tax levies; time; payments by county treasurer. 84-105.

12-6a18.

*

History: L. 1959, ch. 72, § 5; Repealed, L. 1975, ch. 53, § 1; July 1.

12-6a19. Assessment of benefit fee against property not in original improvement district. Whenever the construction of any water or sanitary sewer improvement is initiated by petition pursuant to subsection (2) of K.S.A. 12-6a04, and amendments thereto, the governing body of the city may require the owners of property which receive benefits from such improvement but which was not included within the original improvement district to pay a benefit fee at the time the owners of such property request to be served by such improvement.

The amount of such benefit fee shall not exceed the amount of the assessment, including principal and interest, which would have

been levied against the property had it been included in the original improvement district, reduced in the proportion which each month or part of a month that has passed from the date the assessment for the improvement was levied to the date such property begins being served by the improvement bears to the total number of months of assessments against property included within the original improvement district. Such benefit fee shall be due and payable at the time the property begins being served by the improvement and shall be assessed, collected and paid in the same manner. and subject to the same interest, as assessments against property originally included in the improvement district for such improvement. Any benefit fees paid hereunder shall be applied to the remaining principal and outstanding interest on the bonds issued to finance the improvement, with a resulting pro rata reduction of the assessments against property originally included in the improvement district for such improvement.

The provisions of this act shall be supplemental to any legal authority cities may exercise in imposing hook-up or connection fees or other user or regulatory charges for water or sanitary sewer service.

History: L. 1988, ch. 69, § 1; July 1.

Article 7.—PLANNING AND ZONING

Law Review and Bar Journal References: Various sections cited and discussed in note on judicial review of special use permits in Kansas, Peggy Gatewood, 11 W.L.J. 440, 441, 442, 449, 450 (1972).

CITY PLANNING AND SUBDIVISION REGULATIONS

Cross References to Related Sections: State zoning area in Topeka, see 75-3619, 75-3620.

12.701

History: L. 1923, ch. 92, § 1; R.S. 1923, § 12-701; L. 1931, ch. 110, § 1; Repealed, L. 1991, ch. 56, § 28; Jan. 1, 1992.

Source or prior law: L. 1921, ch. 99, § 1.

CASE ANNOTATIONS

- Statute held constitutional and valid. Ware v. City of Wichita, 113 K. 153, 214 P. 99.
- 2. Act relating to creating of zoning districts is not unconstitutional. Ware v. City of Wichita, 113 K. 153, 214 P. 99.
- 3. Ordinance changing zoning classification must comply with statute. Armourdale State Bank v. Kansas City, 131 K. 419, 292 P. 745.
- 4. Ordinance changing zoning classification held invalid for noncompliance with statutory procedure. Ford v. City of Hutchinson, 140 K. 307, 308, 37 P.2d 39.

ATTACHMENT 2-4





DEPARTMENT OF LAW

OFFICE OF CITY ATTORNEY CITY HALL — THIRTEENTH FLOOR 455 NORTH MAIN STREET WICHITA. KANSAS 67202 - 1635 (316) 268-4681 March 13, 1992

Mr. Tom Glinstra City Attorney City of Olathe P.O. Box 768 Olathe, Kansas 66061-0768

Dear Tom:

We discussed on the phone whether our office would have any problem if the City of Olathe introduced legislation to repeal K.S.A. 12-6a19. We do not use the statute for our project purposes and therefore, we do not have a problem if the statute were repealed. If I can be of further assistance, please let me know.

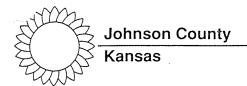
Very truly yours,

Gary E. Rebenstorf

Director of Law and City Attorney

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ATTACHMENT 2-5



January 24, 1993

HOUSE LOCAL GOVERNMENT COMMITTEE

HEARING ON HOUSE BILL 2105

TESTIMONY PRESENTED BY GERRY RAY, INTERGOVERNMENTAL COORDINATOR JOHNSON COUNTY BOARD OF COMMISSIONERS

Madam Chairman, members of the Committee, my name is Gerry Ray, representing the Johnson County Board of Commissioners, and appearing today in support of House Bill 2105.

As annexation takes place, townships are reduced both in area and population, resulting in instances when there is no one available to serve as township officials and thus, no means to fulfill statutory requirements for budgets and expenditure of remaining funds. The existing statutes provide a mechanism to disorganize a township when the population is 200 or less. However, the area in question must be attached to a contiguous township, which cannot be applied when the affected township is surrounded by cities.

House Bill 2105 establishes a procedure whereby, the Board of County Commissioners may assume all duties, powers and functions in townships of less than 200 resident. The township would not be dissolved, but would remain in tact with the County Commissioners, serving as the township board. The authority is limited to counties that have adopted the County Road Unit System. The action may be initiated by the County Commission or by petition of 10% of the qualified electors of the township. All such actions are subject to a protest petition and election procedure.

HB 2105 provides a process that would offer a solution to a variety of problems that have developed in both rural and urban areas pertaining to township governance. At the same time the bill provides protection to those living in the townships by giving them a method to reverse the action of the County Commission if a majority of the residents desire to do so.

The Johnson County Commission urges the Committee to report the bill favorably for passage.

ATTACHMENT 3 1-27-93