

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 18, 1994, 1994 in Room 521-S of the Capitol.

All members were present except: Representative Hayzlett (excused)  
Representative Mollenkamp (excused)  
Representative Pettey (excused)

Committee staff present: Michael Heim, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Lois Hedrick, Committee Secretary

Conferees appearing before the committee: Representative Clyde Graeber  
Jim Murphy, Mayor of Leavenworth  
Mark Pentz, City Manager of Leavenworth  
Clarkson Brown, Former Mayor of Leavenworth  
Don Moler, League of Kansas Municipalities  
Senator Carolyn Tillotson  
Representative Candy Ruff

Others attending: See Attachment 1.

Chairman Brown stated that the Flooding Task Force Committee (chaired by Representative Holmes) adopted three bills which were recommended to this committee for introduction: (1) a bill to improve the process for mutual aid agreements; (2) a bill amending the Open Records Law to establish new provisions for special meetings under certain conditions; and (3) a bill to establish a surcharge on insurance policies, similar to the Florida law. After discussion, on motion of Representative Mays, seconded by Representative Packer, the Committee approved introduction of the three bills.

On motion of Representative Mays, seconded by Representative Packer, the minutes of the meeting of January 13, 1994 were approved.

The Chairman opened the hearing on **HB 2570** (Leavenworth; procedure to exclude veterans administration property from city). Theresa Kiernan briefed the provisions of the bill. Representative Clyde Graeber testified in support of the bill and introduced Leavenworth Mayor Jim Murphy, who presented testimony in support (see Attachment 2). Representative Packer asked why the Veterans Administration facility was annexed in 1970, and the Mayor responded that it was done to increase the per capita count for state funding. Now that the Veterans Administration in Washington has mandated that the city provide fire protection, this proposal is needed. He stated the new bill, if passed, would cause the city to lose some \$50,000 in state money, but that fire protection to the facility would cost the city some \$500,000 if the VA insists on city protection.

Former Mayor Clarkson Brown testified in support of **HB 2570** (see Attachment 3). Don Moler, of the League of Kansas Municipalities, also testified in support of the bill (see Attachment 4). Representative Mays questioned why the bill did not include the VA facilities in Topeka and Wichita. Mark Pentz, Leavenworth

City Manager, responded that only Leavenworth has been mandated to provide fire protection. (Gas, electricity, water and sewage is contracted for by the facility.) Senator Carolyn Tillotson and Representative Candy Ruff each stated support for enactment of the bill. Representative Clyde Graeber stated that city officials have searched for ways to resolve the issue with the VA, to no avail. In response to a question from the Chairman, Mr. Pentz stated that since there is no established fire district near the facility; the county would not be affected.

The Chairman asked why no one was present to represent the VA. Representative Graeber stated they had been invited. Representative Ballard asked if the facility was an asset or liability to Leavenworth. Mayor Murphy responded that it definitely is an asset, particularly since the facility has undertaken additions costing millions of dollars. Representative Holmes asked if this bill would establish an exclusion to current law. Mr. Moler responded that he believes this would not establish non-uniform standards. Representative Wootton asked if the uniform arbitration statutes were applicable to the state and federal governments. Mike Heim responded that he needs to research the law before answering.

Chairman Brown announced that the following members will form a Subcommittee on **HB 2570** and report back to the Committee on Monday, January 24th: Chairman - Representative Mays; Members - Representatives Grant, Mills, Powers and Tomlinson.

The meeting was adjourned at 2:35 p.m. The next meeting is scheduled for Wednesday, January 19, 1994 at 1:30 p.m. in Room 521-S of the Capitol.

## GUEST LIST

**COMMITTEE:** House Local Government

DATE: January 18, 1994

[illegible]

TESTIMONY BEFORE THE HOUSE LOCAL GOVERNMENT COMMITTEE  
IN SUPPORT OF HOUSE BILL 2570

By Jim Murphy, Mayor  
City of Leavenworth, Kansas  
January 18, 1993

I appreciate the House Local Government Committee allowing me to give testimony this afternoon in support of House Bill 2570 which has been introduced by Representative Clyde Graeber. As State and local officials, we are all familiar with Federal mandates which have forced us to pass the costs of mandated programs on to our citizens and taxpayers. Unfortunately, the City of Leavenworth has been singled out by the Department of Veterans Affairs and is faced with a mandate that would cost our citizens almost \$500,000 a year.

After operating its own full-time paid fire department for over 50 years, last July the Eisenhower VA Medical Center announced its intent to disband its in-house fire department and shift fire suppression responsibility to the City of Leavenworth. House Bill 2570, if enacted into law, would give the City of Leavenworth the option to de-annex, or "exclude" from the City, the Eisenhower VA Medical Center, thereby forcing the Department of Veterans Affairs to consider keeping its fire department intact. I'm here today seeking your assistance, through House Bill 2570, to convince the VA to withdraw this demand.

In 1970 the City of Leavenworth annexed the VA Medical Center which included 83 buildings located on 270 acres in the southeast portion of our community. Prior to the annexation the VA had its own fire department, and has continued to operate the department since the annexation 24 years ago. Although the City of Leavenworth had a mutual aid agreement with the VA prior to the 1970 annexation, bringing the VA within the City's corporate limits enabled the City to provide mutual aid, if needed, on the same priority basis as a fire call to any other part of the community.

In the mid-1980's VA administrators approached the City of Leavenworth regarding the possibility of contracting for fire protection service. However, after considerable negotiations the VA determined that it could continue to operate its own "in-house" fire department cheaper than contracting with the City or a private service-delivery company.

In 1992 VA administrators and City staff renewed negotiations regarding a possible contract for fire suppression service. Since the Medical Center's average of 264 responses during 1990 and 1991 would have constituted a 34% increase in the City's total number of fire responses, the City's proposal to the VA called for an annual fee of \$485,000 per year, which reflected the equipment and manpower needed to provide adequate fire suppression service. The Medical Center's Director felt that the City's proposal was once again too expensive, and the City assumed that the VA would continue to operate its own fire department.

The City Commission and I were shocked when we received a letter on July 7, 1993 from the Director of the Eisenhower VA Medical Center informing us that the Medical Center's fire department was being disbanded and that all fire suppression responsibility was being shifted to the City of Leavenworth. Although we have worked with our Congressional delegation to delay the VA's announced implementation date, and as of today, the VA continues to operate its own department, the Department of Veterans Affairs has made it clear that this issue is not being dropped and will be pursued in Federal Court if necessary. They are basing their demand for service upon the fact that the City annexed the Medical Center in 1970. We contend that the City does not have jurisdiction on federal property.

We have had a long and mutually beneficial relationship with the Federal installations located in our community. However, over 46% of the value of all property in Leavenworth is not on the tax rolls. If the City is forced to provide fire protection

for the VA, it will only increase the property tax burden on the remainder of our residents. It will also raise the issue of whether or not the City is obligated to provide fire protection to the U.S. Penitentiary and Ft. Leavenworth.

The Department of Veterans Affairs has publicly stated that shifting fire suppression responsibility to the City will save "the nearly one-half million dollar annual salary expenditure" which the in-house fire department is costing the Federal government. This one-half million dollar figure does not surprise me since in 1992 we had calculated the City's cost to be \$485,000 were we to provide the service on a contractual basis. There is no way the City of Leavenworth can extend first response fire coverage to an additional 83 buildings, including a 7-story hospital complex and a 3-story psychiatric hospital, without either comprising safety or incurring substantial additional cost for manpower and equipment.

Although we continue to pursue through our Congressional delegation a political solution to this problem, it is becoming apparent that the City must be in a position to exclude the Eisenhower VA Medical Center from our boundaries if the fire protection issue cannot be satisfactorily resolved. KSA 12-520(a)(3) gives a city the authority to unilaterally annex land which "adjoins the city and is owned by or held in trust for any governmental unit other than another city...." However, KSA 12-504 and 12-505 which deal with the exclusion of land from a city's boundaries can be read to prohibit the right of the City to exclude territory if an affected property owner files written objection. Attorneys for the Department of Veterans Affairs are aware of the possibility of de-annexation, but believe it can be prevented by filing a written objection.

Once again, I appreciate your taking time this afternoon to hear the City of Leavenworth's testimony and I would be happy to respond to your questions.

TESTIMONY BEFORE THE HOUSE LOCAL GOVERNMENT COMMITTEE

IN SUPPORT OF HOUSE BILL 2570

by Clarkson Brown

January 18, 1994

Good afternoon, my name is Clarkson Brown. I want to thank you for letting me appear before you today in support of House Bill 2570.

I am a native of Leavenworth, Kansas. Other than the 2 1/2 years spent in the Navy in World War II I have spent my entire life in Leavenworth. I served on the Leavenworth City Commission for 6 1/2 years, and was Mayor in 1986 and 1987. On more than one occasion during that time I had discussions with the staff at the VA Center pertaining to providing them with firefighting services. I will let the present political situation be addressed by our present mayor, Jim Murphy. I would like to approach this problem with the VA from another view. I will address this situation from a moral viewpoint and responsibility.

First, I spent practically my entire working life in the firefighting service, a total of 35 years. I was on the Leavenworth City Fire Department for 2 years, from 1941 to 1943. During World War II I was a Navy Firefighting Instructor for 2 1/2 years at the school in Manchester, Washington in Puget Sound, and the school at Treasure Island, California in San Francisco Bay. After military service I spent a short time on the Crash Firefighting Crew at the Sherman Army Airfield at Fort Leavenworth, and in May of 1946, at the ripe old age of 27, was appointed Fire Chief at the Leavenworth VA Center, with instructions to form a full-time paid firefighting force with a minimum of 5 men on duty. I would like to point out that the Eisenhower VA Medical Center has always in its 113 years of existence maintained a firefighting crew. Until 1946 it consisted of a paid firefighter on duty 24 hours a day, who drove the pumper to the fire scene, which was then manned by trained volunteers who lived at the VA Center. These were, of course,

civilian male single employees who lived in non-housekeeping quarters on the reservation.

With the influx of World War II veteran patients and many of the employees moving off the reservation, the Director decided he should have a full-time paid professional fire department. Firefighters were recruited from the Fort Leavenworth and City of Leavenworth Fire Departments, Kansas City, Kansas, Kansas City, Missouri, the Sunflower Ordinance Plant, etc. All those recruited were veterans and most, as I did, served as firefighters in the military. A minimum of five firefighters per shift was maintained until the mid-1950's, when all of the 14 wood- structured barracks-type buildings were provided with sprinklers, along with the mess halls and kitchens. It was then decided that 4 men on a shift was sufficient. This was later reduced to the absolute minimum of 3 men on duty when additional buildings were provided with sprinklers. Throughout this time the VA Center had a mutual aid agreement with the City of Leavenworth and, if necessary, the backup of the Fort Leavenworth Fire Department, some 6 or 7 miles to the north. I might add that during this time I lived at the VA Center in quarters across the street and within 300 feet of the fire station. I officially retired from the Eisenhower VA Medical Center in 1976 with a total of 32 1/2 years of government service.

The Eisenhower VA Medical Center at Leavenworth cannot be compared to the VA Hospitals at Topeka, Wichita, Kansas City, or many others. It is a VA Center with medical and surgical patients, a domiciliary home, and psychiatric and drug treatment programs along with long-term nursing care patients. It is not a one-building hospital sitting in the middle of a large city such as the VA hospitals in Topeka, Wichita and Kansas City. The Eisenhower VA Medical Center lies on the southeast corner of Leavenworth, bounded entirely by the Missouri River on the east and partially by the City of Lansing on the south. The City of Leavenworth is mostly north and is located to the west along Highway 73.



The Eisenhower VA Medical Center is 113 years old. Most of the buildings are of wood structure with brick facing dating back to 1881. There are 83 buildings consisting of a 4-building hospital complex, one of which is 6 stories high and one of which is 7 stories high. There are attached quonset hut-type buildings with therapy shops and offices. The hospital has a bed capacity of 500 medical and surgical beds and 45 nursing home beds.

Another large building is Building 122, housing approximately 250 psychiatric, alcohol and drug abuse patients. Along with the domiciliary barracks-type buildings with a bed capacity of 900, the Eisenhower VA Medical Center has a total bed capacity of approximately 1700. In addition to this ground-breaking ceremonies were held last July for an additional extended care building near the main hospital complex with a bed capacity of 210. Plans are underway to have a private concern build a child daycare center on the VA grounds to care for 75 children of VA Center employees. Construction is also underway to provide a large pharmaceutical facility at the Center which would supply drugs to out-patient veterans in a region covering 5 or 6 states.

Other buildings at the Eisenhower VA Medical Center include a large theatre-library, a separate chapel large enough that Catholic and Protestant services can be conducted simultaneously, a pool hall, bowling alley, U.S. Post Office, barber shop, and a large dining hall and kitchen for full-time patients in the barracks buildings. There are support concerns including a large 3-story supply warehouse, a central heating plant providing steam and hot water, a plumbing shop, carpenter shop, paint and paint spray shop, sheet metal shop, electric maintenance shop, motor pool and grounds maintenance shop, and a large furniture repair and refinishing shop for the therapy of patients and domiciliary members. There is a separate building for the Engineering and Civilian Personnel Offices. There is also a 26-resident quarters for housekeeping staff members and their families. There is a large laundry building doing linens not only for the Eisenhower

VA Medical Center but also for the Topeka and Kansas City VA Hospitals. Two 16-wheelers with linens leave daily for the other two hospitals, and I understand they may in the future do laundry for both the hospitals at Wichita and Columbia, Missouri. Also on the VA grounds is an approximately 5-acre lake for fishing recreation for the VA patients and patient-members. Ice skating is also available when appropriate.

In addition to all these facilities, which virtually makes it a small city, there are a total of 1200 employees on the VA complex. It also has one of the largest National Cemeteries in the United States, consisting of approximately 100 acres with over 22,000 graves.

I understand that the present Eisenhower VA Medical Center's Fire Department responds to some 250 alarms per year pertaining to smoke odors, heat detectors, false alarms pulled by patients and to actual fires, a number of which do occur there.

In closing, I would like to say that due to the knowledge I have of the situation, both from a professional firefighter's view and from the administrative view, I believe the Department of Veterans Affairs is not fulfilling its responsibility of the care and protection of veterans in this case.

I would like to add that upon a direct order by Congress in the 1970's, the Department of Veterans Affairs were responsible for providing police departments throughout the country. The Eisenhower VA Medical Center organized a 17-man Police Department, which they still maintain.

Anything this committee and the Kansas Legislature can do to help the City of Leavenworth in resisting the shift of this awesome responsibility for fire protection from the Eisenhower VA Medical Center to the City of Leavenworth will be deeply appreciated. Thank you.



**THE LEAGUE  
OF KANSAS  
MUNICIPALITIES**

**Municipal  
Legislative  
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 S.W. 7TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

**TO:** House Local Government Committee

**FROM:** Don Moler, General Counsel

**DATE:** January 18, 1994

**SUBJECT:** HB 2570, Exclusion of Land, City of Leavenworth

The League appears here today in support of the City of Leavenworth initiative to enact statutory language which would give the city the ability to exclude the VA Medical Center property from the city if it is deemed by the City governing body to be in the best interests of the city and its citizens.

We are supporting the City of Leavenworth not only because they are a member city of the League but also due to the nature of the problem they have encountered. Whether it appears so at first blush, this is yet another example of a **federal mandate** which is being imposed on a local jurisdiction and its taxpayers. After years of telling the city that the VA would take care of its own firefighting responsibilities, the VA has apparently encountered a budget crunch of its own and now is taking the position that the city must provide firefighting services to the property even though it was never allowed to provide these services in the past, when the VA didn't want them to be provided.

Furthermore, it is our understanding that no building, fire or safety codes of the city or state may be enforced on VA property, but that they are now taking the position that the city **must** provide fire protection on demand. The League is concerned about this apparent inconsistency. We believe this simply is a **mandate in disguise** which is to be imposed upon the citizens and taxpayers of the City of Leavenworth.

In summary, the League believes that the City should be allowed to exclude the VA property from the City if it is determined by the governing body, after a notice and opportunity for a hearing, to be in the best interests of the city and its citizens. Thank you for allowing the League to comment on this legislation.