

M I N U T E S

SPECIAL COMMITTEE ON LOCAL GOVERNMENT

October 1 and 2, 1975

Members Present

Senator Elwaine Pomeroy, Chairman  
Representative Victor Kearns, Vice-Chairman  
Senator Arden Booth  
Senator William Mulich  
Senator John Vermillion  
Representative Robert Frey  
Representative Clarence Love  
Representative William Marshall  
Representative Max Mize  
Representative Pascal Roniger  
Representative Francis Smith  
Representative Joseph Wicinski  
Representative Francis Gordon

Staff Present

Mike Heim, Legislative Research Department  
Myrta Anderson, Legislative Research Department  
Alan Alderson, Revisor of Statutes Office

Others Present

Bob Tilton, Kansas Sheriff's Association  
Leonore Rowe, League of Women Voters of Kansas  
Norman Chambers, Independent Property Owners Association  
Frank W. Shelton, Freedom Sentry Ranch  
Ray Lauderbock, Independence Property Owners Association  
Laurel D. McClellan, Independence Property Owners Association  
Chris McKenzie, Division of State Planning and Research  
Marian Warriner, League of Women Voters of Kansas  
Otis S. Post, Independence, Kansas  
Mrs. Otis Post, Independence, Kansas  
Dean Kackley, Governor's Office  
Ernie Mosher, League of Kansas Municipalities  
Sister M. Noel Walter, Kansas Catholic Conference

Others Present (Cont'd)

Fred Holloman, House of Representatives Staff  
Richard Cunningham, League of Kansas Municipalities  
Mr. Leon Peterson, Downtown Topeka, Inc.  
John Martin, Attorney General's Office  
Representative Ruth Wilkin, Topeka

Morning Session

The Committee was called to order shortly after 10:00 a.m. by the Chairman, Senator Pomeroy. Senator Pomeroy explained to the Committee the first topic for its consideration would be Proposal No. 38 dealing with local law enforcement.

Proposal No. 38 - Local Law  
Enforcement

Mr. Bob Tilton, representing the Kansas Sheriff's Association, presented a statement to the Committee (Attachment No. I). Mr. Tilton in discussing a matter relating to training in the area of human relations said that he would write to the law enforcement training center advisory board and suggest that the center implement increased emphasis on human relations in its training program. Mr. Tilton noted that cities in Lincoln and Lane Counties had contracted with the sheriff for all law enforcement purposes. He noted that the Kansas Sheriff's Association was no longer opposed to consolidation of law enforcement as such. He noted, however, that the association would like to see a county sheriff as the head of the consolidated operation. He said he would like to see legislation that gives counties a choice of having an elected sheriff or an appointed official. A question was asked if a sheriff would put more emphasis on a community which had contracted with the sheriff for law enforcement than he would on other communities. Mr. Tilton noted that it would be very unfair if it was done that way. The concept of contract law enforcement, he noted, was that the city would pay for whatever service it received. On the issue of a four-year term, Mr. Tilton favored a four-year term for sheriffs. He noted that 33 states now have four-year terms.

Problems in Montgomery County

The Chairman then explained that several citizens from Montgomery County would discuss several problems that had occurred in Montgomery County as well as explain their views on several issues. Citizens that spoke include Dr. Frank W. Shelton, Jr.; E. Norman Chambers; Mrs. Cleta Dewey; and R.A. Ringel. Their statements are attached as Attachments No. II and III to the minutes. Mr. Ringel pointed out it was very expensive and time consuming to circulate petitions.

Mr. Ray Lauderbock, of Montgomery County noted that for 21 feet of sewer line he had to pay \$8,380. He indicated he felt this price was grossly unfair. Mr. Laurel McClellan, an attorney for the group noted that the sewers being discussed were authorized under K.S.A. 1974 Supp. 12-6a01 et seq. He noted that the country club only had to pay an \$800 hook up charge to obtain sewer service. He said the sewer assessment was in a newly annexed area in north Independence mostly involving single family residences. He noted that assessments were made purely on a square foot basis and that approximately 245 families were involved in the benefit district. He explained that a suit had been filed in the district court and was currently pending on the propriety of such action by the city. After some further discussion the Committee adjourned for lunch.

### Afternoon Session

The Committee was called to order by Chairman Pomeroy shortly after 1:30 p.m. A brief explanation was given of the agricultural municipalities proposal. After some discussion by the Committee, a motion was made that no legislation be prepared and that the report show that the Committee rejected the concept. A substitute motion was made that the Committee draft a bill which would establish agricultural municipalities. The substitute motion died for lack of a second. The vote on the original motion carried. Senator Vermillion wished to be reported as voting "no" on the original motion.

The Committee then discussed some of the things that they wanted included in the report. A Committee member noted that the Committee was in sympathy with the idea of increasing the input of the average citizen but that he had grave concern that the establishment of agricultural municipalities would have the exact opposite effect. He expressed fear that another tier of government would be created and be another barrier for the average citizen to have to confront in making his views known to elected officials.

Another Committee member noted that it was another opportunity for buck-passing. He indicated that he could not accept the concept because that would in essence be saying that counties are not responding to rural needs. He noted that nothing had been brought forward to indicate the counties were not actually responding to rural needs. A Committee member noted that the report does not imply that the Committee is opposed to the elimination of townships, which was a part of the proposal for the establishment of agricultural municipalities.

County Home Rule

Staff then reviewed a memorandum listing policy consideration on the proposal relating to county home rule and government. After some discussion the motion was made and seconded that a single statute be drawn setting forth a standard form for protest petitions. The motion carried. There was some discussion of protest petitions and the percentage of names that should be on these protest petitions. The Committee agreed to defer action on this issue until a later time.

Mr. Harold Riehm, Executive Director of the Johnson County Charter Commission, noted that S.B. 451 had several inconsistencies and that representatives of his group plan to appear before the legislature and ask for clarification of these points.

The motion was then made that all counties be given the option to increase the number of county commissioners to not more than seven. The motion carried unanimously. It was agreed that this concept should be drafted into a separate bill other than S.B. 154.

The motion was then made to authorize counties to establish county charter commissions. The motion was later withdrawn. The motion was then made to allow counties to create a charter commission using guidelines set out in S.B. 154. A motion was then made to amend that motion to insert language of S.B. 154 concerning 10% initiative petition provision. After some discussion the motion to amend the original motion carried. Vote on the original motion carried also.

The Committee Chairman noted that staff should operate under the instruction for all motions to use their discretion as to whether it was better to go with a new bill or amend a current bill before the Committee.

After some discussion the motion was made to draft a new bill to provide all county elected officials with a four-year term. The motion carried with Senator Mulich and Representative Marshall voting "No", and Senator Booth abstaining.

The motion was then made to adopt S.B. 166 but not repeal the section dealing with county commissioners' salaries. The motion carried. Senator Mulich and Representative Wicinski voted "No" on the motion.

After some discussion of S.B. 3 an Attorney General's Opinion (No. 75-303) which argued that district court's had jurisdiction involving county resolutions, the Committee decided that the responsibility for hearing cases involving county home-rule resolutions should more properly be placed in the county courts as provided in 1975 S.B. 3. The motion was made and seconded to recommend S.B. 3 for favorable consideration by the 1976 Legislature. The motion carried.

The Committee then discussed Attorney General's Opinion No. 75-375 concerning passage of charter resolutions and the filing of protest petitions to require a vote on the action contained in the charter resolution. After some discussion the motion was made to draft a bill to amend the law to require that a referendum be held after a successful protest petition is filed. The motion failed. The motion was then made that a bill be drafted requiring the filing procedure for charter resolutions be standardized including a consecutive numbering system and also require that each charter resolution be approved for legality and form by the county attorney or county counselor. The motion carried.

There was some discussion of the charter resolutions that have dealt with the clerk of the district court. Staff was requested to see if any charter resolutions in Douglas, Wyandotte, Johnson, Sedgwick, Seward or Chase counties had dealt with the subject. After further discussion the meeting adjourned at 4:45 p.m.

October 2, 1975

Morning Session

The meeting was called to order by Chairman Pomeroy shortly after 9:00 a.m.

There was discussion of the minutes of the September 3 and 4 meeting. The motion was made to approve the minutes as corrected. Motion carried.

### Urban Redevelopment

Staff reviewed two different bill drafts prepared on the subject of urban redevelopment. In the one draft, the city would finance the entire project, through issuance of revenue bonds. In the other bill draft, the developer would be responsible for arranging financing for the improvement on the land itself. It was noted that both versions were attempts to circumvent the constitutional problems that have been raised with a pure tax increment financing method.

Mr. Ernie Mosher, Executive Secretary of the League of Kansas Municipalities, then reviewed a bill draft which has been prepared by himself after consultation with Barkley Clark, K.U. law professor and Mayor of Lawrence, Mr. Murray Kane, an attorney from California, the Committee staff and the attorney for the Wichita Urban Renewal Agency. It was noted that there was no property tax exemption in the proposed bill. It was pointed out that Art. 11, Section 5 of the Kansas Constitution provides that no tax can be levied except for the object for which the tax is intended. It was noted that it was an assistant Attorney General's opinion that a bill would have to amend each statute which authorizes a tax and states the object of the tax for any bill to meet the requirement of the provision of the constitution cited above.

For this reason the actual tax increment in the proposed bill would apply only to the city, the county and the school district since it would be very difficult to amend each statute which provided for local taxes.

Mr. John Martin, an Assistant Attorney General, noted that bills thus far have provided for a diversion of taxes from the original purpose of the tax and for that reason have been unconstitutional. He noted that this bill attempts to satisfy the constitutional requirements that a tax be levied for the express purpose of the tax, but that it needs to go further and amend the specific statutes. He said that cities may have ordinances and counties may have resolutions that may need to be amended to implement the proposed legislation also. On the question regarding the uniform and equal provision of the Kansas Constitution, Mr. Martin noted that he did not see any conflict with this constitutional provision and the bill draft.

After some further discussion, the motion was made not to introduce any legislation on the topic of urban redevelopment. The motion failed.

After some discussion the Committee agreed by consensus to work from the bill draft explained by Ernie Mosher. Copies are in the Committee notebooks. Mr. Leon Peterson noted that the Topeka Chamber of Commerce would like to have the word "downtown" out of the bill.

After some discussion the motion was made on page 2, line 2 to make it read "the downtown commercial areas or principal business districts". The motion carried.

The motion was then made to strike all after the comma on page 2, line 2. The motion carried.

The motion was then made to change Section 2 to provide that the various elements involved in the definition of "blighted" be listed in numerical order and that it be required that a majority of these be found to exist before an area could be declared to be blighted. The motion carried. Representative Kearns voted "No" on that motion.

The motion was then made and seconded to insert the language "within thirty days following the hearing" on page 2, subsection c, line 3 after the word "resolution". The motion carried.

The motion was then made to amend page 2, subsection d, to strike the language concerning privately owned property. The motion failed. The motion was then made to insert the language on page 2, subsection d "on the date any property is acquired". The motion carried.

The motion was then made to require on page 2, subsection d that a project be completed within five years. The motion carried.

The motion was then made that a definition of "increment" be inserted in the bill. The motion carried.

The motion was made to provide that costs of feasibility studies should be part of the cost of the project. A substitute motion was made to change "shall" to "may" in subsection f, and charge these expenses to the developer. Both motions were withdrawn. The motion was then made to insert the language "there shall be provided to" in subsection f, page 2 after the word "undertaken". The motion carried.

The motion was made that in new Section 3, the notice requirements be made comparable to that contained in the annexation law. The motion carried.

The motion was made to make sure that in Section 3 that the city governing body have the power to modify or amend the plan. The motion carried.

The motion was made to require a unanimous vote in new Section 4. A substitute motion was made to require a 4/5 vote. The substitute motion failed. The vote on the original motion failed. Senator Vermillion, Representative Mize and Representative Roniger asked to be recorded as voting in favor of this motion. It was noted that a 2/3 vote of the city governing body is only required of the exercise of eminent domain. The decision to embark on the project originally is to be made by a simple majority.

The motion was then made to require 2/3 vote for the adoption of the plan provided for in new Section 3. The motion carried.

The motion was made in Section 4, subsection b, to eliminate the words "public improvements including". The motion carried.

The motion made in Section 5, subsection a, iii, to insert the language "private sources" carried.

Staff was asked to find out if the law required the Attorney General to review industrial revenue bonds and if that was required to require an Attorney General approval for the issue of bonds provided for in this proposed act.

The motion was made in Section 6, subsection 1, to clarify that the taxing units would receive taxes at the same rate as they did prior to the development. A vote was not taken on this motion. After some further discussion the Committee agreed to meet on October 22, at 10:00 a.m. The Committee then adjourned.

Prepared by Mike Heim

Approved by Committee on:

Oct. 22, 1975  
(Date)