

Approved

R.L. Harper
Date January 18, 1983

MINUTES OF THE House COMMITTEE ON Elections

The meeting was called to order by Richard L. Harper at _____
Chairperson

9:00 a.m. January 12, 1983 in room 527-S of the Capitol.
a.m./p.m. on _____

All members were present except: Sandy Duncan

Committee staff present: Myrta Anderson, Legislative Research
Arden Ensley, Revisor of Statute's Office
Eric Rucker, Secretary of State's Office
Jon Josserand, Secretary of State's Office
Dottie Musselman, Committee Secretary

Conferees appearing before the committee: Representative Vic Miller, Author of HB 2024
Terry Kimes, Chairman of the Board, Topeka
Chamber of Commerce
Frank Rice, Metropolitan Topeka Airport Authority

Chairperson Harper called the meeting to order, and asked that each member of the Election Committee introduce themselves as there are a number of new Representatives serving on the committee this year.

Representative Vic Miller, author of HB 2024 was introduced, and gave a brief history of the Metropolitan Topeka Airport Authority, along with a summary of the need for this bill at this time.

Chairperson Harper then asked Terry Kimes, Chairman of the Topeka Chamber of Commerce to testify. Mr. Kimes stated that the Topeka Chamber of Commerce is in favor of passage of this bill, and speaks highly in favor of action as quickly as possible, as it will also help to put many unemployed persons back to work in the area.

Chairperson Harper, at this time, introduced Frank Rice, of the Metropolitan Topeka Airport Authority. Mr. Rice had placed a packet of informational material at the seat of each member of the committee stating that the purpose of HB 2024 is to validate bonds to be issued for the construction of a new airport terminal at Forbes Field, Topeka. This material also contained information as to the history of the MTAA, and a statement of justification for passage of the bill. A copy of the informational material is attached (Attachment 1).

Senator Nancy Parrish made a brief statement in support of this bill.

The next meeting of the Elections Committee has been scheduled for Tuesday, January 18, 1983.

The meeting was adjourned at 9:25 a.m.

(Attach. 1)

KANSAS HOUSE OF REPRESENTATIVES
ELECTIONS COMMITTEE
HB 2024

PURPOSE: HB 2024 will validate bonds to be issued for the construction of a new airport terminal at Forbes Field, Topeka. The issuance of these bonds was approved by the Shawnee County voters at the November 1982 election. Unfortunately, the first publication of the notice of the election was only 17 days prior to the election, whereas the Kansas law requires such notice to be 21 days prior to the election.

HISTORY: The MTAA is a separate political subdivision created pursuant to Kansas Statute K.S.A. 27-327 et. seq. The MTAA has the authority to issue general obligation bonds pursuant to K.S.A. 27-334.

On August 16, 1982, the MTAA Directors, by resolution, determined to submit to the voters the question of the issuance of up to five million dollars of general revenue bonds for the purpose of constructing and furnishing a commercial air terminal (see exhibit one). K.S.A. 10-120 requires that the first publication notice of such an election shall be not less than 21 days prior thereto, and such notice must be signed by the County Election Officer. (See exhibit two.)

By letter of September 3, 1982, the MTAA Attorney, forwarded to the Shawnee County Election Commissioner a letter from the MTAA Bond Attorney, setting forth the above notice requirements and suggesting that the first notice be published 30 days prior to the election. (See exhibit three.)

The notice was in fact first published 17 days prior to the election.

The voters of Shawnee County voted in favor of the bond issue, the vote being 30,850 in favor and 25,228 opposed.

As the result of the defective notice, MTAA has been advised that bonds issued pursuant to the election would be defective and may not be sold.

PRECEDENT: Legal precedent exists for passage of validating legislation such as HB 2024. In 1947 the Kansas Supreme Court in City of Wichita v. Robb (163 Kan. 121), held that bonds issued after only a 20 day notice publication were still valid where the Kansas Legislature, by specific legislation had validated such election.

JUSTIFICATION FOR PASSAGE:

Passage will carry out the will of the Shawnee County voters and save taxpayers cost of another election.

Early passage will allow taking advantage of the present low interest rates and thus save taxpayers additional dollars.

Attch. 1

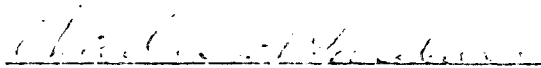
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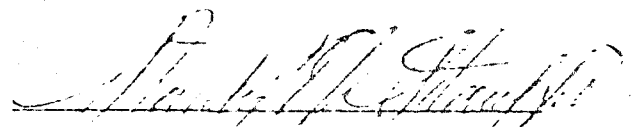
RESOLUTION NO. 82-46

BE IT RESOLVED by the Board of Directors of the Metropolitan Topeka Airport Authority (The "Board") that:

1. The Board believes that it would be in the public interest to construct, equip, and furnish a new commercial airport terminal to be located at Forbes Field, Shawnee County, Kansas, and hereby determines that the total cost of such a project will be in the amount not to exceed \$5,000,000.
2. The Board shall submit the proposed issuance of general obligation bonds in the amount not to exceed \$5,000,000 for the purpose of paying the costs of constructing, equipping, and furnishing a new commercial air terminal at Forbes Field, Shawnee County, Kansas, for approval by the qualified electors of Shawnee County, Kansas, at the time of the primary election to be held on November 2, 1982.
3. The County Election Officer of Shawnee County, Kansas is hereby authorized and directed to take all procedures and actions necessary to cause the election and submission of the proposed bond issue to be called and held, pursuant to law. Adopted and approved this 16th day of August, 1982.

ATTEST:


Secretary and Clerk of the Board


Chairman of the Board of Directors
of the Metropolitan Topeka Airport
Authority

bonds in excess of the principal amount permitted by law, or shall misappropriate or use, or aid or abet in misappropriating or using, any of the funds raised by taxation for the purpose of paying the principal or interest of such bonds for any purpose other than paying such principal or interest, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than one hundred nor more than one thousand dollars, and in addition thereto may be imprisoned in the county jail for not less than three months nor more than twelve months, and shall also be liable in a civil action to the municipality issuing the bonds for the amount so misappropriated or used. Any officer of any municipality who shall be convicted in a court of competent jurisdiction of a misdemeanor as herein set out shall, in addition to the penalty or penalties herein prescribed, forfeit his or her office.

History: K.S.A. 10-117; L. 1977, ch. 58, § 2; May 18.

10-119.

CASE ANNOTATIONS

8. Applied; joint recreation commission dissolved under 12-1912; city legal successor; substituted in litigation. *Flanigan v. Leavenworth Recreation Commission*, 219 K. 710, 716, 549 P.2d 1007.

10-120. Bond election; publication of notice. Whenever an election is required for the issuance of bonds for any purpose by any municipality other than a school district, drainage district or irrigation district, or where a different procedure for giving notice of the election is specifically provided by law, upon compliance with the legal requirements necessary and precedent to the call for such election, the proper municipal officers shall call an election. Such election shall be held within 45 days after compliance with the necessary requirements, or within 90 days, should such longer period include the date of a general election.

Notice of such election shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks, the first publication to be not less than 21 days prior to such election. Such notice shall set forth the time and place of holding the election and the purpose for which the bonds are to be issued and shall be signed by the county election officer. Such election shall be held at the usual place

of holding elections and shall be conducted by the officers or persons provided by law for holding elections in such municipality.

At such elections all qualified electors shall be entitled to vote. The vote at such election shall be by ballot. Such ballot shall comply with K.S.A. 25-620. Such elections shall be in all respects governed and the results declared according to the rules and regulations provided by law for holding elections in any such municipality.

History: R.S. 1923, § 10-120; L. 1976, ch. 61, § 1; L. 1978, ch. 48, § 1; L. 1981, ch. 166, § 1; L. 1981, ch. 173, § 4; July 1.

Law Review and Bar Journal References:

Rules of statutory construction, Grant M. Glenn, 47 J.B.A.K. 29, 35 (1978).

CASE ANNOTATIONS

16. Referred to in construing 19-1878; section authorized additional construction and equipment financing only. *Thomas County Taxpayers Ass'n v. Finney*, 223 K. 434, 437, 573 P.2d 1073.

10-122. Investment of sinking fund. The officers of any municipality which has levied and collected a sinking fund for the payment of bonds not then due may invest the said sinking fund in investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein or in any municipal bonds of this state which shall become due at or prior to the due date of the bonds for which such sinking fund was levied and collected except that no sinking fund shall be invested under this act in the bonds of any county, township, city or school district where the bonded indebtedness thereof shall exceed fifteen (15) percent of its total assessed valuation as shown by the last assessment preceding such investment.

History: K.S.A. 10-122; L. 1977, ch. 54, § 1; July 1.

10-123. Temporary notes for improvements; renewal, when. If a municipality shall have theretofore duly authorized the making of an improvement which is to be paid for in whole or in part by the issuance of bonds, then the governing body of such municipality may issue temporary notes, bearing interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, payable semiannually, maturing not later than the due date of the first installment of such bonds, or four (4) years from the date of said notes whichever is

sooner, not exceeding amount of bonds which are then unissued, as shown on estimates on file (except bonds when the amount not exceed the total amount of bonds and the state aid to said project), but a issue renewal temporary notes as they improvement will not be maturity date of such municipality has commitments and the issuance, hindered or delayed by any court order or litigation.

Said temporary notes usual for such bonds, evidencing the interest and the entire temporary notes shall be executed and bonds, and shall be recorded before or at the time of issued in lieu thereof, temporary notes and bonds standing shall not at estimated cost and expense from time to time, as progress of said work, and shall constitute a guarantee the municipality issuing temporary notes shall not countersigned, following clerk of the issuing municipality statement to that effect face of all such temporary notes may be provided for the sale of sold at private sale at net accrued interest.

History: K.S.A. 10-123, § 1; L. 1978, ch. 49, § 1.

CASE ANNOTATIONS

3. Where bearer notes or registrar, purchaser has no duty. *State Bank & Trust Co. v. Center*, 229 K. 330, 335, 337, 971.

4. Where no specific and payment of temporary improvement obligation of municipality. *Trust Co. of Hays v. City of Hays*, 335, 337, 339, 340, 345, 624.

10-126. Printing of

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LAW OFFICES
HIATT, HIATT & CARPENTER, CHARTERED
207 CASSON BUILDING
6TH & TOPEKA BLVD.
TOPEKA, KANSAS 66603-3294

EUGENE W. HIATT
ROGER L. HIATT
EDWIN P. CARPENTER
J. RANDALL CLINKSCALES
BARBARA J. CLINKSCALES

September 3, 1982

TELEPHONE
AREA CODE (913)
232-7263

Mrs. Mary Hope
Election Commissioner
Shawnee County Courthouse
Topeka, KS 66603

Re: Special Election Question Related to Metropolitan Topeka
Airport Authority Air Terminal
Our file no. 815.47

Dear Mrs. Hope:

Enclosed please find the original of a notice of bond election, and the original of the proposed suggested form of the inside ballot, which were prepared by Jim Waugh, who is bond counsel. I am also enclosing a copy of Jim Waugh's letter to me concerning that business, and should you have questions or concerns related to those matters, please feel free to contact me or to contact Jim directly.

Yours truly,

HIATT, HIATT & CARPENTER, CHARTERED

~~Original signed by~~
Edwin P. Carpenter
Edwin P. Carpenter

EPC:nt
Enclosures
cc: Jim Waugh
Jim Parrish
Carl Pritchett

COSGROVE, WEBB & OMAN
LAWYERS

1100 FIRST NATIONAL BANK TOWER
534 KANSAS AVENUE
TOPEKA, KANSAS 66603
(913) 235-2511

JAMES D. WAUGH
JAMES L. GRIMES, JR.
DONALD J. HORTYCK
EDWARD L. BAILEY
MICHAEL L. GRACY
CHRISTEL E. MARGLARDT
ELDON L. FORD
GRANT M. GLENN

ROBERT L. BAER
BRUCE J. WONER
J. CRAIG ANDERSON

M. R. COSGROVE (1981)
PHILIP E. BUZICK (1970)
ROBERT L. WEBB (1975)
WILLIAM B. MELCHENNY (1978)

RALPH W. OMAN
OF COUNSEL

September 1, 1982

Mr. Edwin P. Carpenter
Hiatt, Hiatt & Carpenter, Chartered
207 Casson Building
6th and Topeka
Topeka, Kansas 66603-3294

Re: Metropolitan Topeka Airport Authority

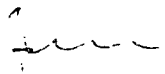
Dear Ed:

I enclose a Notice of Bond Election and a suggested form of the inside portion of the ballot for the upcoming special election on bonds for the MTAA air terminal. Mary Hope has advised me that she will be making one publication by a notice 30 days in advance of the election, but the enclosed Notice, as I understood her, would not take the place of this general notice. The enclosed Notice should be published twice, the first one to be more than 21 days before the election. I suggest a first notice about 30 days prior, so that a second notice can run later, and a third notice can also run, the last two would be published in order to pick up any mistake in the first printing. However, I will leave all of this up to her good judgment.

There is an error in the resolution of the Board of Directors, but it will not, in my opinion, have any effect upon the validity of the bonds. The Resolution No. 82-46 speaks of a primary election to be held on November 2, 1982. It is completely obvious that the word "general", was intended rather than "primary".

Very truly yours,

COSGROVE, WEBB & OMAN


By: James D. Waugh

RECEIVED

JDW/js
Enclosures

SEP 2 1982

HIATT, HIATT & CARPENTER
CHARTERED

NOTICE OF BOND ELECTION

Notice is hereby given to the qualified electors of Shawnee County, State of Kansas, that a special election has been called and will be held on November 2, 1982, between the hours of _____ a.m. and _____ p.m., for the purpose of submitting to the electors of the County the following proposition:

A proposition to issue the general obligation bonds of Metropolitan Topeka Airport Authority, Shawnee County, Kansas, in an amount not to exceed \$5,000,000 for the purpose of providing funds to pay the cost of constructing, equipping and furnishing a new commercial air terminal at Forbes Field, Shawnee County, Kansas, pursuant to Chapter 162, Laws of Kansas 1982.

Said election will be held by ballot at the usual place of holding elections which are as follows:

By order of the Election Commissioner of Shawnee County,
Kansas, whose election headquarters are located at the Shawnee
County Courthouse, Topeka, Kansas, this _____ day of _____,
1982.

Mary Hope, County Election
Commissioner

To vote in favor of any question submitted upon this ballot, make a cross or check mark in the square to the right of the word "YES"; to vote against it, make a cross or check mark in the square to the right of the word "NO".

OFFICIAL BALLOT FOR
BOND ELECTION
METROPOLITAN TOPEKA AIRPORT AUTHORITY
SHAWNEE COUNTY, KANSAS
QUESTION SUBMITTED NOVEMBER 2, 1982

SHALL THE FOLLOWING BE ADOPTED?

A proposition to issue the general obligation bonds of Metropolitan Topeka Airport Authority, Shawnee County, Kansas, in an amount not to exceed \$5,000,000 for the purpose of providing funds to pay the cost of constructing, equipping and furnishing a new commercial air terminal at Forbes Field, Shawnee County, Kansas, pursuant to Chapter 162, Laws of Kansas 1982.

YES []

NO []