

Approved Juan Sand
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by REPRESENTATIVE IVAN SAND at
Chairperson

1:30 ~~xxx~~ p.m. on FEBRUARY 22, 1984, in room 521-S of the Capitol.

All members were present except: Representative Elizabeth Baker (Excused)
Representative Robert S. Wunsch (Excused)
Representative George R. Dean (Excused)

Committee staff present:

Mike Heim, Legislative Research Department
Theresa Kiernan, Revisor of Statutes Office
Gloria Leonhard, Secretary to the Committee

Conferees appearing before the committee

Representative David Heinemann, HB 2918
Mr. Fred Allen, Kansas Assn. of Counties, HB 2918; HB 2914
Representative Clinton C. Acheson, HB 2914
Mr. John Dozier, Columbian National Title Ins. Co., HB 2914
Mr. Chris McKenzie, League of Kansas Municipalities, HB 2914
Mr. Bill Mitchell, Land Title Assn, Hutchinson, Ks., HB 2914

Chairman, Ivan Sand, called for hearings on the following House Bills:

HB 2918, concerning city attorneys; relating to the method of selection thereof; - By Rep. Heinemann

(See Staff's summary regarding bill -- Attachment I.)

Representative David J. Heinemann, sponsor of the bill, appeared to give background and intent of bill. Heinemann pointed out that proponents of the bill feel that the office of the county attorney no longer needs to be a partisan office; that the bill relates only to the office of county attorney; that the bill sets up a mechanism whereby a petition could be circulated so that the question could be put on the ballot whether there should be a partisan selection or non-partisan selection.

One question raised was why should county attorneys, registers of deeds, and county clerks not all be selected on the same basis?

One point of view expressed was that since judges and officials who enforce and administer the laws are expected to be impartial, they should not be elected.

Mr. Fred Allen, Kansas Association of Counties, testified that his Association has no official stand on the question but does not oppose it.

It was questioned whether a county commission could at this time adopt an identical provision and proceed. Mike Heim, Staff, pointed out that this could not be accomplished under the Home Rule Statute itself but that there is a "consolidation of function" statute under which it might be accomplished.

The hearing on HB 2918 was closed.

HB 2914, concerning municipalities; relating to vacating streets and alleys; -By Rep. Acheson

Mike Heim, Staff, gave a brief overview of the bill. (See Attachment II.)

Representative Clinton C. Acheson, sponsor of the bill, gave background and intent of the bill. Acheson noted that the bill had been introduced at the request of Title Insurance Companies.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,

room 521-S, Statehouse, at 1:30 ~~xm~~/p.m. on FEBRUARY 22, 1984

Mr. John Dozier, Jr. Executive Vice President, Columbian National Title Insurance Company of Topeka, testified in support of the bill. (See Attachment III.)

When questioned, Dozier pointed out that all information is on file with the County Register of Deeds; therefore, there will be no problems from changing "county clerk" to "city clerk."

Mr. Chris McKenzie, attorney, League of Kansas Municipalities, testified that the League has taken a position in favor of the bill in principle; but that there are several questions: Is the bill prospective or retrospective? What about all past dedicated property vested in the county? (The bill provides for no way for the county to vacate it.) McKenzie stated that Statutes 12-504 and 12-505 are the only statutes for cities to use to deannex property; that this law provides for vacating interests and deannexing; that first a petition must be filed; then a city must agree with it; then a county commission must hold a hearing and go forward with it; that it is Legislative policy decision as to whether or not cities should have this power.

When questioned, McKenzie verified that the bill changes present law regarding deannexation; that it changes the authority from county to city commissions; that if there were no problems under Home Rule, the application of the bill might possibly be limited to first or second class cities because small cities wouldn't have adequate finances or technical staff.

Theresa Kiernan, Staff, provided committee members with copies of proposed amendments to HB 2914. (See Attachment IV.)

Discussion followed regarding Statutes 13, 14 and 15 dealing with "use" and Statute 12 dealing with "underlying fee."

Mr. Bill Mitchell, Land Title Assn., Hutchinson, Kansas, appeared and testified that generally speaking his Association endorses the legislation because it cuts down on cost and time involved with clearing titles.

Mr. Chris McKenzie, League of Kansas Municipalities, summarized that if you vacate the fee, you vacate the use; but if you vacate the use, you haven't vacated the fee.

Mr. Fred Allen, Kansas Association of Counties, stated that his Association expresses the same reservations as the League of Kansas Municipalities but basically supports the bill and will help work out problems.

Representative Clinton C. Acheson suggested that all concerned parties might work with Staff to produce mutually acceptable legislation and that Staff bring back proposed amendments to the committee.

The hearing on HB 2914 was closed.

The minutes of the meeting of February 20, 1984, were approved as presented.

Meeting adjourned.

MEMORANDUM

February 21, 1984

TO: House Local Government Chairman
FROM: Mike Heim, Kansas Legislative Research Department
RE: H.B. 2918

H.B. 2918 establishes a procedure whereby the proposition of the nonpartisan appointment of a county attorney rather than the partisan election of one may be submitted to voters upon petition by a member equal to 5 percent of the qualified electors who voted for the Office of Secretary of State. If the proposition passes, the county attorney shall be appointed by the Governor based upon the recommendations of a county nominating commission which must recommend not less than two nor more than three persons to fill the position.

(ATTACHMENT I)

MEMORANDUM

February 21, 1984

TO: House Local Government Chairman
FROM: Mike Heim, Kansas Legislative Research Department
RE: H.B. 2914

H.B. 2914 amends statutes dealing with the vesting of title to lands in plats set aside for public use and the procedures for the vacation of streets and alleys or other public reservations. The bill provides the city rather than the county shall hold the fee title to lands designated for public use on plats of cities. The procedure for vacating streets, alleys, or other lands reserved for public purposes or excluding certain lands from cities is changed so that the governing body of the city rather than the board of county commissioners shall act as the body for hearing such issues.

(ATTACHMENT II)

February 22, 1984

TO THE HONORABLE MEMBERS OF THE HOUSE LOCAL GOVERNMENT COMMITTEE:

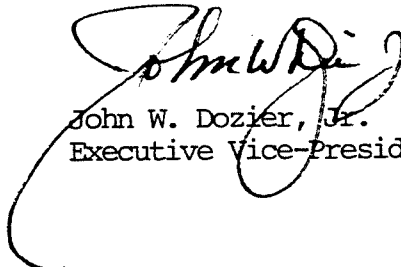
The intent of HB 2914 is to clear up a long standing problem in the laws relating to the vacation of streets and alleys.

Presently, Kansas law vests fee title in the county to all city streets and alleys. The usage of streets and alleys is controlled by the City. Whenever an adjoining landowner wants to obtain fee title to an abandoned street or alley, that landowner must go through a process of petitioning the city governing body to, in effect, obtain a vacation of the usage and then follow the same petition process with the county for vacation of the fee title. This is confusing, time consuming and cumbersome to the landowner, real estate broker and the governing bodies involved. As a title insurance underwriter, we are in a position of having to make these requirements upon landowners in order to insure fee title to the vacated land.

This legislation would simply allow the landowner to go only to the city governing body for vacation of both the use and fee ownership, in a one-step process without the necessity of county involvement in the vacation of city streets and alleys. However, by giving the city the authority to vacate fee title, it would necessarily mean that the city should be precluded from re-opening any street or alley at no cost to the city, leaving of course, the city's right of eminent domain, as it is empowered to do by statute.

We sincerely appreciate the committee's favorable consideration of HB 2914.

Sincerely yours,



John W. Dozier, Jr.
Executive Vice-President

JWD/lf

(ATTACHMENT III)

Columbian National Title Insurance Company
820 Quincy Street Topeka, Kansas 66612 (913) 232-0548

PROPOSED COMMITTEE REPORT

MR. SPEAKER:

Your Committee on Local Government

Recommends that House Bill No. 2914

"AN ACT concerning municipalities; relating to vacating streets and alleys; amending K.S.A. 12-406, 12-504 and 12-505 and repealing the existing sections."

Be amended:

On page 3, following line 116, by inserting the following:

"Sec. 4. K.S.A. 13-443 is hereby amended to read as follows: 13-443. The governing body of the city shall have the power to open, widen, extend or otherwise improve any street, avenue, alley or lane, and also to vacate and close any street, avenue, alley or lane or portion thereof: ~~Provided, That.~~ Before the governing body ~~shall open, widen or extend~~ opens, widens or extends any street, avenue, alley or lane it shall proceed to condemn or acquire by purchase or gift the necessary lands as provided by law.

When any street, avenue, alley or lane is vacated it shall revert to the owners of land thereto adjoining on each side, in proportion to the frontage of such land, except in cases where such street, avenue, alley or lane may have been taken for public use in a different proportion, in which case it shall revert to the adjoining land in the same proportion as it was taken from it: ~~Provided, That when in the opinion of the governing body it is necessary to reopen such street, avenue, alley or lane, it shall be reopened without expense to the city, except in cases where permanent improvements may have been erected thereon, and in such cases the city shall pay to the owner of such improvements the value thereof, as shall be agreed upon by the city and such owner and, if they are unable to agree, the city~~

~~may bring a proceeding to condemn such permanent improvements which condemnation shall be governed by the provisions of K.S.A. 26-501 to 26-516, inclusive. The city shall pay to the owner of such improvements the value thereof before such street, avenue, alley or lane shall be reopened.~~

Immediately after an ordinance opening, widening, extending or vacating any street, avenue, alley or lane shall become becomes effective, the clerk of the city shall file a copy thereof which has been certified by ~~him or her~~ the city clerk as a true and correct copy in the office of the county clerk and in the office of the register of deeds and. The county clerk shall enter the same in the transfer records of ~~his or her~~ county clerk's office and the register of deeds shall record the same in the deed records of the county and no fee shall be charged by the county clerk or register of deeds for such entering or recording.";

Also on page 4, in line 117, by striking "Sec. 4." and inserting "Sec. 5."; also in line 117, by striking "and 12-505" and inserting ", 12-505 and 13-443"; in line 119, by striking "Sec. 5." and inserting "Sec. 6.";

On page 1, in the title, in line 18, by striking "and 12-505" and inserting ", 12-505 and 13-443";

And the bill be passed as amended.

Chairperson