

Approved Ivan Sand 2/12/86
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

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

1:30 ~~a.m.~~/p.m. on FEBRUARY 5, 1986 in room 521-S of the Capitol.

All members were present except: All present

Committee staff present: Mike Heim, Legislative Research Department
Gloria M. Leonhard, Committee Secretary

Conferees appearing before the committee:

Rep. Phil Kline, New Legislation
Rep. Marvin Smith, HB 2723; HB 2726
Rep. Ginger Barr, HB 2723
Rep. Charles Laird, HB 2723
Mr. Jim Kaup, League of Kansas Municipalities,
HB 2723
Mr. Scott Lambers, Overland Park, HB 2723
Mr. Richard Majinot, Chief, Soldier Township
Fire Department, HB 2726
Mr. Vern Evans, Treas., Soldier Twp, HB 2726
Mr. Karl McNorton, KS State Fire Marshal
Dept., HB 2726
Mr. Bob Hazelwood, Clerk, Topeka-Tecumseh
Township Board, HB 2726
Mr. James Todd, Kansas State Firefighters
Assn., HB 2726
Mr. Lyle Eckhart, Kansas Highway Patrol, HB 2726

Chairman Sand called for introduction of new legislation.

Rep. Phil Kline requested legislation pertaining to Water District No. 1 of Johnson County, which would change the qualifications for the general manager of the water district by amending K.S.A. 19-3510. Rep. Kline made a motion to introduce the proposed legislation as a committee bill. Rep. Dorothy Nichols seconded the motion. The motion carried. (See Attach. I.)

Chairman Sand called for hearings on the following bills:

HB 2723, concerning cities; relating to the annexation of land thereby;

Rep. Marvin Smith, chief sponsor of HB 2723, gave background and intent of HB 2723 and urged the committee's favorable consideration of the bill. (See Attach. II.)

Rep. Ginger Barr, a co-sponsor of HB 2723, said she believes the bill is necessary because people's representation is being abused. (See Attach. III.)

Rep. Charles Laird, a co-sponsor of HB 2723, said the bill is one step in solving the problems in connection with annexation; that people need representation and need some relief. Rep. Laird urged the committee to support the bill.

Mr. Jim Kaup, League of Kansas Municipalities, said that HB 2723 deals with non-unilateral annexation rather than unilateral annexation. Mr. Kaup furnished a summary of testimony provided by the League to the Senate Local Government Committee and Interim Committee, which provides the rationale which the cities of Kansas have for keeping the present annexation law as it is. (See Attach. IV.)

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT,
room 521-S, Statehouse, at 1:30 ~~a.m.~~ p.m. on FEBRUARY 5, 1986

Mr. Scott Lambers, Assistant to the City Manager, City of Overland Park, appeared in opposition to HB 2723. Mr. Lambers requested that K.S.A. 12-520 be removed or that the date be amended to September 1, 1985.

The hearing on HB 2723 was closed.

HB 2726, concerning townships; authorizing rescue services provided through township fire departments;

Rep. Marvin Smith, chief sponsor of HB 2726, appeared to give background and intent of HB 2726. Rep. Smith urged the committee's favorable consideration of the bill. (See Attachment V.)

Mr. Richard Maginot, Chief, Soldier Township Fire Department, appeared to offer support to HB 2726, provided it be amended in Lines 34-38, as contained in Attachment VI. Mr. Maginot requested the committee to support both HB 2726 and HB 2725, heard 1/30/86. (See Attachment VI.)

Mr. Vern Evans, Treasurer, Soldier Township, appeared to offer support to HB 2726 and HB 2725, heard 1/30/86. (See Attachment VII.)

Mr. Karl McNorton, Manager, Kansas Fire Information System, Kansas State Fire Marshal Department, appeared in support of HB 2726. (See Attach. VIII.)

Mr. Bob Hazelwood, Clerk, Topeka-Tecumseh Township Board, appeared as representative for the Topeka-Tecumseh Fire Department. Mr. Hazelwood said the Fire District would like to be included under the provisions of HB 2726 and HB 2725. (See Attachment IX.)

Mr. James Todd, Kansas State Firefighters Assn., appeared to urge the committee to support HB 2726 and HB 2725. Mr. Todd said in his opinion the two bills could be combined into one.

Mr. Lyle Eckhart, representing the Kansas Highway Patrol, appeared to support, with reservations, HB 2726. Mr. Eckhart said the Patrol feels that Section 6 of the bill is unnecessary and unwise and recommended the deletion of Section 6. (See Attachment X.)

The hearing on HB 2726 was closed.

Chairman Sand asked the sponsors of HB's 2723 and 2726 to look into the problems related to the bills and report back to the committee.

The meeting was adjourned.

WATER DISTRICT NO. 1 OF JOHNSON COUNTY



5930 Beverly — Mission, Kansas 66202
Mailing Address: P.O. Box 2921, Mission, Kansas 66201

Tel. (913) 722-3000

January 3, 1986

Rep. Phil Kline
Shafer, Kline and Warren
11100 West 91st Street
Overland Park, Kansas 66214

Dear Phil:

Enclosed is a suggested draft of a bill for the Water District that you, Burr, Dusty and I discussed at a recent meeting.

I believe we agreed the procedure would be for the District to send you the material and you would have a bill drafted for introduction either by the Local Government Committee or by you or Burr.

The Water District Board has endorsed this change in the statute.

Please call me or Dusty if you have any questions or want added information.

Best regards

Bill Anderson
Director of Public Affairs

cc: Rep. Burr Sifers
Rep. Art Douville
R. L. Chandler

ATTACHMENT I

2-5-86

Hs. Local Gov.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 19-3510 is hereby amended to read as follows: 19-3510. General manager; term, qualifications, duties; bond; retirement plans. (a) The water district board may select and appoint a general manager who shall hold office at the pleasure of the board. Such manager shall hold a college degree in public administration, business administration, engineering or law, with not less than five (5) years' experience in an administrative position with a public utility, or, in lieu of such degree and experience, shall have not less than fifteen (15) years' specialized experience in the field of water utility operations be chosen on the basis of administrative ability and shall hold such college degree or degrees and/or experience as the board may deem appropriate. The general manager shall have such duties and responsibilities as shall be assigned by the board in the management of the water supply and distribution system. The board shall obtain for the general manager a surety bond conditioned upon the faithful performance of the manager's duties.

(b) The water district board may promulgate and adopt a retirement plan for all of its officers, employees, servants and agents.

Section 2. K.S.A. 19-3510 is hereby repealed.

Section 3. This act shall take effect and be in force from and after July 1, 1986, and its publication in the statute book.

county commissioners a detailed statement of all expenses incurred prior thereto by the district that may not have been paid from funds derived from the issuance of no-fund warrants as authorized in K.S.A. 19-3505a. The county treasurer shall pay such expenses to the persons entitled thereto upon orders signed by the chairman of the board of county commissioners and attested by the county clerk. And thereupon the county clerk shall determine the rate of tax necessary to be levied on all the taxable, tangible property in the district to pay such expenses. Upon the determination of such rate of tax, said county clerk shall certify the same to the board of county commissioners of every county in which any portion of the area of such district lies and said boards of county commissioners shall levy such tax on all taxable, tangible property in such district in their respective counties. Upon the collection of such tax in any county other than the county in which the greatest portion of the area of the district lies, the county treasurer of such county shall transmit the same to the county treasurer of the county in which the greater portion of such district lies. For the purpose of enabling the county clerk to fix a rate of tax as hereinbefore prescribed, the county clerks of all other counties wherein any portion of the area of such district lies shall, on or before July 15 of each year certify to such county clerk determining said rate the total assessed valuation of the taxable, tangible property within the area of such district that lies within his county. Said tax levy shall be in addition to all other tax levies authorized or limited by law and shall not be subject to or within the aggregate tax levy limit prescribed by K.S.A. 79-1947, or acts amendatory thereof.

History: L. 1951, ch. 240, § 8; L. 1957, ch. 192, § 5; April 17.

CASE ANNOTATIONS

1. Various constitutional objections to act's validity considered and rejected. *Water District No. 1 v. Robb*, 182 K. 2, 15, 19, 318 P.2d 387.

19-3509. Management, control, maintenance and enlargement of system; insurance for employees; property. The water district board shall establish, manage, purchase, construct, operate, maintain and have the exclusive control of, the water supply and distribution facilities and establish rules necessary for the safe, economical, efficient establishment, operation, maintenance

and management of such water supply and distribution system. The board shall produce and supply water for domestic, industrial and municipal use to the inhabitants of the district and may improve, extend or enlarge the water supply and distribution system and may sell and dispose of surplus water outside the district as hereinafter provided. The board may authorize the payment of cost of group hospitalization, medical and surgical insurance benefits for its employees and officers and it may take by condemnation and acquire by purchase, gift, devise, or bequest such franchises, and real or personal property either within or without the district, as may be needed or convenient.

History: L. 1951, ch. 240, § 9; L. 1957, ch. 192, § 6; L. 1967, ch. 159, § 1; L. 1975, ch. 170, § 2; July 1.

19-3510. General manager; term, qualifications, duties; bond; retirement plans. (a) The water district board may select and appoint a general manager who shall hold office at the pleasure of the board. Such manager shall hold a college degree in public administration, business administration, engineering or law, with not less than five (5) years' experience in an administrative position with a public utility, or, in lieu of such degree and experience, shall have not less than fifteen (15) years' specialized experience in the field of water utility operation. The general manager shall have such duties and responsibilities as shall be assigned by the board in the management of the water supply and distribution system. The board shall obtain for the general manager a surety bond conditioned upon the faithful performance of the manager's duties.

(b) The water district board may promulgate and adopt a retirement plan for all of its officers, employees, servants and agents.

History: L. 1951, ch. 240, § 10; L. 1957, ch. 192, § 7; L. 1975, ch. 170, § 3; July 1.

19-3511. Mains, waterworks and plants; eminent domain. Any water district established under this act is hereby empowered to connect with any source of water supply or to construct, operate and maintain waterworks or plants anywhere within twenty (20) miles of any boundary of such water district, either within or without the

STATE OF KANSAS

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
SHAWNEE AND JACKSON COUNTIES
123 N.E. 82ND STREET
TOPEKA, KANSAS 66617



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER ASSESSMENT AND TAXATION
EDUCATION
TRANSPORTATION

February 5, 1986

TO: HOUSE LOCAL GOVERNMENT COMMITTEE
RE: HOUSE BILL 2723 RESCIND ANNEXATION ORDINANCE

Mr. Chairman and Members of the Committee:

Cities knew that the legislature had an interim committee studying annexation laws this past summer. In particular, unilateral annexation issues with consideration for an arbitrator procedure, such as a county commission or boundary commission, as suggested in HB 2117, that passed the House of Representatives in the 1985 Session.

In view of the fact that the cities were urged to not proceed with hasty action on annexation resolutions and/or ordinances, it would appear some cities have indeed disregarded that reasonable request and are not at all interested in a truce.

So it appears only reasonable and prudent to make all unilateral annexation action null and void after August 15, 1985.

Your favorable consideration would be appreciated.

ATTACHMENT II

2-5-86

Hs. Local Gov.

STATE OF KANSAS

GINGER BARR
REPRESENTATIVE, FIFTY-FIRST DISTRICT
SHAWNEE COUNTY
P O BOX 58
AUBURN, KANSAS 66402-0058



TOPEKA

HOUSE OF
REPRESENTATIVES

Testimony by Representative Ginger Barr before the House Local Government Committee regarding House Bill 2723 on February 5, 1986.

COMMITTEE ASSIGNMENTS
VICE CHAIRMAN GOVERNMENTAL ORGANIZATION
MEMBER ENERGY AND NATURAL RESOURCES
FEDERAL AND STATE AFFAIRS

House bill 2723 is not the type of bill that I like to sponsor. I would much rather work with the leadership of our cities in Kansas than to disagree with their action. But quite frankly, I feel that this is a necessary piece of legislation particularly when people's representation is abused. There is a war going on in this state. It is a war that is not in anyone's best interest and one that I do not care for. The war is called annexation.

The bill is simple and you've heard an explanation by Representative Marvin Smith. I just want to state to you that I concur with the bill because citizens who have no representation in the annexation process have no where else to turn.

Attached to my testimony you will see the copy of an article which was seen in the Topeka Capital-Journal, dated August 7, 1985.

I will read to you a quote by Councilman Gene Miles:

"Then we could make it prior to the end of the year, prior to the Legislature meeting, before they take the power away from us."

We all know that no one has sponsored a bill to prohibit annexation. The bills that have been introduced have basically been to give all people those who reside in the cities, as well as in the counties, representation concerning this issue. But cities have taken

ATTACHMENT III
2-5-86
Hs. Local Gov.

advantage of the situation and have gone out purposefully to annex areas before the legislature could meet and make a decision. Again, that is why I state that it seems necessary for the proposal which is stated in House Bill 2723.

Thank you for your time in this matter.



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: Members of the House Local Government Committee
 FROM: Jim Kaup, Attorney
 RE: HB 2723
 DATE: February 5, 1986

The League knows that the members of this Committee are aware that the primary annexation-related legislative work for this session is now being done on the Senate side. The Senate Local Government Committee is working again this week on the Interim Committee bills coming out of Proposal No. 45. Consequently, we have concentrated our efforts, and our testimony, on the Senate Committee and have chosen not to ask city officials or business leaders to appear before this Committee of the House to oppose HB 2723.

We do recognize the concern of members of this Committee for the annexation issue. We suggest that a hearing on HB 2723 is not the best way to address the larger issue of annexation. We ask that you recognize the fact that retention of a reasonable and workable annexation law is the highest priority issue for cities this legislative session. As a measure of the importance with which we view this issue, we have prepared a summary of some of the testimony provided to the Senate Local Government Committee during the past several weeks and the Interim Committee last Summer and Fall. We hope these materials will provide you with the full range of rationale which the cities of Kansas have for keeping the present annexation law as it is.

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1. Testimony of E.A. Mosher,
Executive Director,
League of Kansas Municipalities
January 28, 1986



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: Senate Committee on Local Government
FROM: E.A. Mosher, Executive Director
RE: SB 427--Annexation
DATE: January 28, 1986

My name is E.A. Mosher, Executive Director of the League of Kansas Municipalities. I've asked for the privilege of leading off the presentations of the opponents to SB 427 because of the need, we believe, for a clear and common understanding of our existing annexation laws. League President Ed Eilert and others will present the formal League position on the annexation proposals.

My remarks are somewhat conceptual, even philosophical, and attempt to bring to your attention some institutional memory of why we are where we are today. The principal thrust of my remarks is that SB 427 is fundamentally flawed, in concept. It is not, in our judgment, the proper public policy approach to take, even by those who want to severely restrict the annexation authority of cities, notwithstanding protestations that they want to be reasonable.

As you well know, we have two basic approaches to annexation in Kansas--unilateral and county board approval. There are some sound public policy reasons why this two-prong approach has long existed in this state, and why it should continue to exist.

The unilateral approach, found in K.S.A. 12-520, authorizes the city governing body, following notice and public hearing, to independently annex adjacent land meeting certain state-defined conditions. On the other hand, land adjacent to the city which fails to meet these statutory conditions may be annexed only with the approval of the board of county commissioners, under K.S.A. 12-521. They are entirely distinct procedures.

Unilateral. The concept behind unilateral annexation is that land which is in fact a part of the urban community should be part of the legal city community--that which is urban should be municipal! Under K.S.A. 12-520, the legislature, not the city governing body,

determines, as a matter of state interest and public policy, that land meeting these defined conditions should be part of a city. In essence, the decision by the city governing body is administrative in nature--adjacent land is annexed upon a finding that it meets certain state-described conditions. This concept is demonstrated by the fact that even the requirement of an advance notice and public hearing, as well as the service plan requirement, is relatively new (1974) to our unilateral annexation laws. Indeed, unilateral annexation was never intended to be a so-called democratic procedure or representational process. Whether or not the owners of land meeting these conditions really want to be annexed is not of legal significance--nor has it ever been--despite the claims of "disenfranchisement" that have been heard by this Committee. If the land adjacent to a city met the urban characteristics specified by law, it was intended by the Legislature that the land should become part of an incorporated city, and only a finding and action declaring that fact was necessary.

County Approval. In contrast, the county board procedure in K.S.A. 12-521 is designed to permit the annexation of urbanizing areas not meeting the statutory conditions, requiring a finding of advisability by the board of county commissioners as well as by the city governing body. There are no state-prescribed land conditions, except that it adjoin the city. Frankly, we are astounded that SB 427 repeals this whole procedure. We think it is sound policy that large areas, not yet platted or urbanized, be subject to this kind of review.

Unilateral Conditions. Reasonable people can obviously differ as to what is urban, and what therefor should be municipal, under the unilateral approach. The essential public policy question before you, it seems to us, is whether the established conditions under K.S.A. 12-520, the unilateral statute, are sufficiently definitive and descriptive so that this land should be a part of a city, and can be made a part of a city, with or without the approval of a majority of the land owners.

Since it is apparent that at least some conferees to the Special Committee and this Committee never really studied the existing annexation law, a moment to review these state established conditions seems important. (Beginning on line 74 of SB 427)

(a) Is platted land adjoining the city effectively a part of the community, and therefor properly subject to unilateral annexation, or does it exist independently and separately of the urban community, justifying outside review?

(b) Should adjoining land owned or held in trust for the city be subject to annexation?

(c) Should adjoining land owned or held in trust by another governmental unit be subject to annexation?

(d) Should land lying within or mainly within the city, with a common boundary perimeter of at least 50 percent, be subject to annexation?

(e) Should land adjoining the city, not exceeding 20 acres, be subject to annexation in order to make the city boundary line straight or harmonious?

(f) Should an adjoining tract, not exceeding 20 acres, with two-thirds of its boundary line adjoining the city, be subject to annexation?

(g) Should adjoining land, all the owners of which have consented, be subject to annexation?

These are the seven conditions--and the only conditions--where the legislature has declared, as a matter of state interest, that the land is effectively part of the community city and therefor subject to annexation by city-only action to make it a part of the legal city. In all other instances, county board approval is required for the annexation to be effective.

Please note that each of these private land conditions has acreage limits, with three exceptions. The first exception is for platted land. The second condition is for 100% consented annexation. The third exception is a condition that the land is within or mainly within the city, which has some practical built-in area limitations depending on the size of the city.

Under any condition, no unplatted tract of 55 acres or more used for agricultural purposes may be annexed under this statute without owner consent, and there is no way unplatted agriculture land over 20 acres and under 55 acres may be unilaterally annexed unless it lies within or mainly within the city.

In the past, cities have been criticized for using the unilateral procedure for annexing large areas. This occurs when a city failed to keep up with developing conditions, and attempts to make up for failures to act in the past. I call to your attention to the fact, however, that pyramidal annexations under this statute--annexing non-adjointing areas at the same time as adjoining areas are annexed--is prohibited (Banzer v. Wichita, 232 Kan. 798 (1985)). Each area must stand on its own legal eligibility.

We think this basic approach is fundamentally sound, and that cities should be able to unilaterally annex land that meets the state-defined conditions. SB 427 superimposes a land owner appeal procedure, completely destroying the basic concept. At the same time, and I don't think many people are aware of this, it completely zips the county board procedure--a basic procedure which, I believe, has existed since the beginning of statehood. The county procedure, again, applies to land not meeting the statutorily defined conditions, which may be annexed only with the approval of the board of county commissioners on a failure to find manifest injury to the land owners.

Let me restate the basic substantive changes proposed by SB 427:

First, it removes the existing concept of unilateral annexation in K.S.A. 12-520, by permitting landowners to appeal the action to another body;

Secondly, it repeals the existing procedure in K.S.A. 12-521, where county board review is already required.

Frankly, we simply don't understand the concept of superimposing an advisability review procedure on top of the unilateral procedure. Conceptually, if every annexation is subject to an appeal procedure except for 100 percent consented to annexations, it makes no

sense to continue the existing statutory conditions restricting the type of land that may be annexed. If every land area is subject to this protest procedure, why have any conditions at all except that it adjoins the city? And if 51 percent of the land owners are going to be able to trigger county or boundary commission review, why not let 51 percent of the owners of land in an adjoining area petition for annexation, without review?

To summarize, we think the existing annexation law is fundamentally sound--that it is in the public interest of the state to maintain the existing two approaches. We now have a situation where state-determined urbanized areas may be unilaterally annexed, and urbanizing areas may be annexed only with the approval of the board of county commissioners. We urgently request you maintain this two-prong approach.

We well understand why some land owners don't want to be annexed, thereby assuming the obligations of the city as well as its benefits. We understand their desire to vote on the matter, even though they really voted when they made the choice to live or buy land adjacent to the city. We suggest your final decision be based primarily on what is in the best long-term public interest of the state, which may not always be to the advantage of private interests.

II. Testimony of Mayor Ed Eilert,
President of the League of Kansas Municipalities
January 28, 1986



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

STATEMENT ON ANNEXATION

by

Ed Eilert, Mayor of the City of Overland Park,
and President of the League of Kansas Municipalities

To the Senate Committee on Local Government
January 28, 1986

My name is Ed Eilert, Mayor of the City of Overland Park and President of the League of Kansas Municipalities. I am before you today as a representative of the League's 516 member cities to make the case for the absolute necessity for preservation of the current Kansas annexation law. Accordingly, I stress the strong opposition by cities across this State to SB 427, which we think is entirely unworkable and effectively destroys the annexation powers of cities.

Let me begin my remarks by noting the official position of the League on annexation. The full text of the League's 1985-1986 convention-adopted Statement of Municipal Policy on annexation has been attached for your information. The length, and detail, of the statement illustrates the awareness of cities of the political controversy which use of the present annexation law has created, and also reflects the League's thorough study of the possibilities for improvement to that law. Let me quote a few provisions from this statement.

"...Cities are where three-fourths of all Kansans live. Cities provide people with a sense of place or community. Cities are where most jobs now are, and where most jobs will be in the future. Cities, through their taxpaying residents, contribute the large bulk of the taxable income and retail sales which support the state general fund. It is contrary to the public interest, to the future economic development of Kansas, and to the long-term interest of state government itself, to bring about the gradual destruction of cities as viable places to live and work by denying cities adequate power to annex and grow--to make that which is part of the urban community a part of the legal corporate municipality...."

"For the past 18 years, Kansas has benefited from effective and workable general annexation laws. These laws have been used responsibly, by locally elected governing bodies, to achieve the long-term public interest of the entire community. We recognize the conflicts that often result from annexation, since the private interest of the individual landowners and the long-term public interest are not always compatible. Cities do understand the financial, tax advantages of property owners being in the "community city" but outside the "legal city." Cities also understand that annexation is often not the politically popular thing to do, even though the owners may have created the situation by their intent to obtain the benefits, services and amenities of a city, but not the responsibilities. It may be more appropriate to criticize cities for past failures of annexing too little, too late, rather than too much. . . ."

"We believe that state laws should favor the annexation of land into existing, functioning cities as the preferred avenue for providing municipal services to unincorporated areas now urbanized or which are becoming urbanized. We believe it imperative that the legislature continue to provide cities with adequate and workable annexation authority, which will secure the long-term public interest and total community needs. . . ."

". . .(W)e are supportive of actions to assure by law greater political due process for the owners of land subject to annexation, yet maintaining workable and effective annexation authority, (such) as. . .

- (a) Requiring planning commission review of proposed annexations;
- (b) Providing for notice of intent to annex to other governmental units;
- (c) Mandating public hearings in areas under consideration for annexation;
- (d) Specifically authorizing service extension agreements, conditioned on possible future annexation; and

- (e) Establishing a procedure for deannexation upon the failure of a city to timely provide certain city-proposed major municipal services."

The League's policy statement, which was arrived at following lengthy study and serious debate among various League committees, officers and finally the convention delegates themselves, well-states the annexation law principles which we are determined to hold on to. Every city in Kansas which expects to experience any future growth would be adversely affected by SB 427. It is important to recall that at some point in the past, nearly all cities have had to annex. If they had not, most of our cities would be populated with only a few hundred people--all that was needed to meet the statutory requirements for incorporation. If the average city had 300 residents at the time of incorporation, and never annexed, we would have over 6,000 cities in this state to serve the 1.9 million Kansans now living in cities. But the fact is that cities do annex, and while annexation is rarely popular, we have now reached the situation where over 78% of all Kansans live within cities.

We have two basic annexation procedures available to Kansas cities. One procedure is known as unilateral annexation--where property which meets certain statutory conditions, and which is limited in size, may be annexed directly by the city with or without the consent of the property owner. The other procedure, which can be used only when unilateral annexation is not possible because the land fails to meet statutory conditions is by means of annexation with the approval of boards of county commissioners.

There are also two basic forms of annexation. One form is where the city, in effect, buys it. This is the kind of annexation you seldom hear about, the one which land speculators, home builders, commercial and industrial developers and homeowners don't complain about. They want city-provided water or sewage treatment. They want storm sewers or sanitary sewers or streets, preferably paid for by the city-at-large. They want better police protection or better fire protection. They want land use and development controls. They want certain services offered by the city, and often agree to voluntary

annexation since there is a clear and direct economic payoff to them--the value of their property is increased.

The other basic form of annexation is the kind you have heard complaints about, where the property owner involved wants to be part of the "community city," with all its attendant benefits, but insists on being excluded from being a part of the "legal city" because of the economic costs--through payment of city taxes--that this means. These people want the advantages of both worlds, but want to pay the price of only one. They want the social and economic advantages of being near a city, but don't want to be a contributing financial partner. This is not hard to understand, as it is a matter of simple enlightened self-interest. You don't want to pay for something that you have been getting for free, and something you hope to continue getting in the future.

It is one of the harsh realities of life that private personal interests sometimes must yield to the long-term and broader public interest. Annexation is like taxes, or zoning, or building regulations, or a multitude of other governmental actions, undertaken where the paramount concern in a democratic society must be the long-term public interest. If one chooses to live in an urban or urbanizing area, and in an area that has future growth potential, it is a simple fact that that person lives there at the risk of being subject to future annexation.

While annexation may not be popular to those who want the best of both worlds, it is essential for the orderly development of a city and for the standardization of services and facilities necessary to meet the needs of the larger area. A city concerned about the future of its urban area must develop drainage systems to accommodate stormwater from outside the city, a sewage system to meet future needs, and a street system to serve an area larger than that within the city. It probably has a library and a swimming pool and a park and recreation system, and on and on, to serve a community which is bigger than the legal city itself. In addition to those time-honored and expected services, cities are hearing the

demands of their citizens to be economic development initiators as well. Citizens are demanding that their local governments emphasize economic development and work to create jobs, not just for the citizens of the city but for the entire community, in recognition of the fact that what benefits the community at-large will economically benefit the city. As such, cities are expanding and diversifying the economic base of their community, helping to provide better jobs, new jobs and generally a higher quality of life--all much needed in an economically-depressed Kansas. Annexation is part of what makes it possible for a city to do all this. Should only those who are now within the city pay all the costs for programs, services and initiatives undertaken by the city which benefit the entire community?

It is simplistic to describe annexation as a land-grab or a tax raising scheme, as some conferees have. Annexation is best described as an exercise of sound judgment and responsibility, taken by elected officials, in anticipating and planning for future community needs, in a timely fashion, which permits the securing of equity in the distribution of public costs.

The ultimate dilemma is this: How do we preserve the annexation authority of cities--an authority essential to maintain viable communities for the future, and still protect the immediate interests of those in the path of community development? In short, how do we reconcile private interests and the public interests? Perhaps there is a solution which would not effectively destroy annexation as a tool for securing the public interests of the entire community. We are willing to work with you to find a solution. But the solution is not SB 427, a bill which will be an effective barrier to the exercise of unilateral annexations under K.S.A. 12-520, and which adds insult to injury by repealing the county board approval procedure of K.S.A. 12-521.

On behalf of the membership of the League of Kansas Municipalities, and in the best interests of all Kansans, I strongly urge you to defeat this bill.

I-5. Annexation.

(1) While cities may not be loved except in song and memory, they are of vital importance to the state and to the general public, both city residents and non-residents. Cities are where three-fourths of all Kansans live. Cities provide people with a sense of place or community. Cities are where most jobs now are, and where most jobs will be in the future. Cities, through their taxpaying residents, contribute the large bulk of the taxable income and retail sales which support the state general fund. It is contrary to the public interest, to the future economic development of Kansas, and to the long-term interest of state government itself, to bring about the gradual destruction of cities as viable places to live and work by denying cities adequate power to annex and grow--to make that which is part of the urban community a part of the legal corporate municipality.

(2) If Kansas is to meet the governmental and public service needs of people, property and businesses in an urbanized area, there are only two alternatives to annexation -- either the continued growth and proliferation of special districts, or the expansion of county government as a municipal service agency. We believe either alternative is undesirable and unacceptable. The number of special purpose districts required as a substitute to city growth would result in a quagmire of our already complex local government structure; an increase in the number of general improvement districts would simply result in the creation of a confusing jungle of pseudo-cities, under a different name. Perhaps, in the distant future, counties may legally replace cities. We believe this would simply shift certain problems to a different arena. There is also the very practical reality that, in all but Wyandotte County, the urban portion of Kansas counties is but a fraction of the whole county, and farmland should not be taxed to provide services of exclusive benefit to non-farm fringe areas any more than property within cities.

(3) For the past 18 years, Kansas has benefited from effective and workable general annexation laws. These laws have been used responsibly, by locally elected governing bodies, to achieve the long-term public interest of the entire community. We recognize that conflicts often result from annexation, since the private interest of the individual landowners and the long-term public interest are not always compatible. Cities do understand the financial, tax advantages of property owners being in the "community city" but outside the "legal city." Cities also understand that annexation is often not the politically popular thing to do, even though the owners may have created the situation by their intent to obtain the benefits, services and amenities of a city, but not the responsibilities. It may be more appropriate to criticize cities for past failures of annexing too little, too late, rather than too much. Such criticism may be especially valid where governing bodies have failed to undertake timely annexations because of a lack of concern about the long-term future of the city, or simply out of fear of provoking the wrath of adjacent property owners.

(4) We believe that state laws should favor the annexation of land into existing, functioning cities as the preferred avenue for providing municipal services to unincorporated areas now urbanized or which are becoming urbanized. We believe it imperative that the legislature continue to provide cities with adequate and workable annexation authority, which will secure the long-term public interest and total community needs.

(5) We believe that the owners or residents of land adjoining a city should not be granted a statutory right to vote on or consent to annexation. It is essential that the long-term public interest of the whole community be given priority in municipal growth, in the same manner that other, over-all community needs in our society occasionally require the sacrifice of some private goals and interests in order to achieve the greatest social utility of the area and benefits to the many. It is untenable to us that the owners of land within the fringe area, whose location has benefits and value primarily in relation to the existence of the city, should be given veto power over the geographic, economic and governmental destiny of the whole community.

(6) We generally support the findings and recommendations of the League's Technical Advisory Committee on Annexation. Specifically, we are supportive of actions to assure by law greater political due process for the owners of land subject to annexation, yet maintaining workable and effective annexation authority, as set forth in the following recommendations of the Technical Advisory Committee:

- (a) requiring planning commission review of proposed annexations;
 - (b) providing for notice of intent to annex to other governmental units;
 - (c) mandating public hearings in areas under consideration for annexation;
 - (d) specifically authorizing service extension agreements, conditioned on possible future annexation;
- and
- (e) establishing a procedure for deannexation upon the failure of a city to timely provide certain city-proposed major municipal services.

(7) We also support the enactment of requirements for the special review of the creation of, or changes in the boundaries of, special districts lying within the extra-territorial jurisdiction of the city.

(8) We also recommend an interim legislative study of the adequacy of the planning and development regulations applicable to the fringe areas of cities. We believe that cities should have more control or influence over adjacent developments which may become a part of the city in the future, or other assurance that urbanized development in the fringe area will meet urban standards.

III. Annexation Issue Paper
League of Kansas Municipalities
January 13, 1986

legislative bulletin

League of Kansas Municipalities, 112 W. Seventh Street, Topeka, Kansas 66603, (913)354-9565

No. 2
January 13, 1986

ANNEXATION ISSUE PAPER:

**BACKGROUND AND ANALYSIS OF PROPOSALS
TO AMEND THE KANSAS ANNEXATION LAW BY THE
1986 LEGISLATURE**

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PROPOSALS TO RESTRICT CITY ANNEXATION AUTHORITY

INTRODUCTION:

This Special City Legislative Bulletin is intended to provide city officials with a concise, yet comprehensive, statement of what has been happening, on several fronts, with respect to the top-priority issue for cities in the 1986 session of the Kansas Legislature--annexation.

The following material summarizes legislative activity since the time of the last major overhaul of the state's annexation laws (in 1967), with emphasis upon events in the 1985 legislative session, followed by the Local Government Interim Committee hearings in the Summer and Fall of 1985 resulting in five annexation-related bills which will be debated by the 1986 Legislature. These bills are then summarized and critiqued. The official policy positions of the League are presented, together with some suggested actions city officials, concerned about the long-term future of cities, may take in response to this pending legislation. Finally, an analysis is presented as to the importance of annexation.

I. BACKGROUND TO 1986 PROPOSALS

A.1. PRE-1986 LEGISLATION: BACKGROUND ON OPPOSITION TO ANNEXATION LAWS.

Since the passage of K.S.A. 12-519 et seq. in 1967 (the first annexation law that was uniformly applicable to all Kansas cities), there have been many attempts to restrict the annexation powers of cities. The 1974 Kansas Legislature made a number of substantial changes in the law, imposing some restrictions on city powers and requiring the preparation of annexation service extension plans. Despite the 1974 amendments, efforts in the legislature to further restrict city powers have continued. Since 1981, 10 bills have been introduced for this purpose. Many of these bills would have required voter referendums or county commission approval of proposed unilateral annexations. During the 1985 Session, SB 115 was introduced to provide a procedure for deannexation of territory which has not been provided major municipal services within 10 years following annexation. Also introduced and passed by the House (by a 63-61 vote) was HB 2117 which would allow appeals of city unilateral annexation decisions to the board of county commissioners upon petition by 51% of the owners and the owners of at least 51% of the land in a proposed annexation area. Both of these bills, as well as new bills later discussed, will be before the Senate Local Government Committee during the 1986 Session.

For at least the last five legislative sessions the focus of efforts to restrict city annexation powers has been to provide a method to challenge or review the legislative judgment of the city governing body as to the necessity of the annexation. These methods usually involve a referendum or an appeal, upon petition, to the county commission. The opponents of the present unilateral annexation law (K.S.A. 12-520) criticize the fact that the public hearing on a proposed unilateral annexation is held before the governing body of the annexing city. Despite the many procedural safeguards now contained in the annexation laws, this absence of some type of non-city review of the merits of a city's unilateral decision to annex is the single-most common source of criticism of the current law. This concern over the lack of access of landowners to another political forum to voice their concerns or objections about the merits of the proposed annexation strikes a responsive note to some state legislators. The opponents to the present annexation law do not view the right to appeal a unilateral annexation decision to the district court (K.S.A. 12-520) as being an adequate "review" since the court is not allowed to consider the wisdom, necessity or advisability of the proposed annexation (Clarke v. City of Wichita, 218 Kan. 334 (1975)).

In response to House passage of HB 2117 in 1985, the League pledged to legislative leaders that it would make a "good faith effort" to participate in a study and review of the Kansas annexation laws prior to the 1986 Session. This action was taken under the direction of the League Governing Body at its March 15 meeting. The following paragraphs detail the work, and work-product, of the League's Technical Advisory Committee on Annexation (TAC), the joint State-Local Annexation Task Force (ATF), and the Special (Interim) Committee on Local Government.

A.2. THE LEAGUE'S TECHNICAL ADVISORY COMMITTEE ON ANNEXATION.

The League Governing Body appointed an eight-member Technical Advisory Committee on Annexation (TAC) at its July 13, 1985 meeting. The purpose of the TAC was to review the annexation and extraterritorial land use control policy options which would be available

to the League in working and negotiating with the joint State-Local Annexation Task Force, a body which had as its purpose the evaluation of policy options that should be presented to the Special (Interim) Committee on Local Government for possible amendments to state annexation and land-use control laws.

The TAC was comprised of eight city elective and appointive officers, and was chaired by Mayor John Carder of Iola, a member of the League Governing Body. The TAC held meetings on July 19, August 14, and September 12. While never producing a "final" report, a TAC preliminary report on proposed amendments to the annexation law was prepared and submitted to the League Governing Body, the League State Legislative Committee and the voting delegates at the League's annual convention in October 1985.

The parameters of the TAC's work were set out by the League's 1984-1985 Statement of Municipal Policy:

"State laws should favor annexation to functioning cities as the preferred avenue of providing municipal services to unincorporated areas now urbanized or which will become urbanized in the foreseeable future. The Legislature should provide cities with adequate and workable annexation authority, which will secure the long-term public interest and total community needs."

This policy principle guiding the development of proposed annexation law amendments generated a number of policy objectives which were subsequently adopted by the League's convention delegates and incorporated in the League's 1985-1986 Statement of Municipal Policy, including:

1. Requiring planning commission review of proposed annexations;
2. Providing notice of intent to annex to other governmental units;
3. Requiring public hearings in areas under consideration for annexation;
4. Authorizing service extension agreements as consents to future annexations;
5. A procedure for deannexation triggered by the failure of a city to provide major municipal services as promised;
6. Requirements for special county review of creation or expansion of special districts serving unincorporated areas; and
7. An interim legislative study of the adequacy of the planning and development regulations applicable to fringe areas of cities.

(Note: The full text of the 1985-1986 Statement of Municipal Policy on annexation is found at page 6:7 of this Bulletin.)

Just as significantly, proposals of the TAC to restrict unilateral annexation powers so as to limit unilateral annexation to "clearly urbanized fringe areas" were not approved by the League's convention delegates. Those proposals would have amended K.S.A. 12-520 by eliminating some, and amending others, of the statutorily-established conditions under which land can be unilaterally annexed.

The creation, and efforts, of the TAC were part of the League's promise to undertake a "good faith effort" to seek solutions to the controversy surrounding annexation. In line with this, the TAC's preliminary findings and recommendations were made available to both opponents and proponents of the current annexation law.

A.3. STATE-LOCAL TASK FORCE ON ANNEXATION.

A March 28, 1985 letter from the League Executive Director to Senator Don Montgomery, Chairman of the Senate Local Government Committee (which by that time had HB 2117 under consideration), outlined a proposal to create an Annexation Task Force. This task force

(ATF) would study alternatives to existing state annexation laws, and would allow part interested in changing those laws to enter into negotiations with the League and other proponents of the current law in order to make a good faith effort to resolve the existing differences and conflicts.

Membership of the ATF was set at 10, with four legislators, a county commissioner, a township trustee, the executive director of the Kansas Association of Counties, and three "city" representatives--Mayor John Carder of Iola, Mayor Doug Wright of Topeka, and E.A. Mosher, League Executive Director.

The ATF met on August 23, September 27 and October 18, with the League members fully participating and with meeting places, secretarial and research services provided by the League.

The ATF presented its preliminary report to the Interim Committee at its meeting on October 23 and 24. The following ATF recommendations eventually found their way into the draft bills prepared by the Interim Committee (although these proposals presumed the continued existence of the K.S.A. 12-521 county board-approval procedure for non-unilateral annexations):

1. Require public hearings on annexations in or near the site of the land proposed to be annexed;
2. Require additional notices of intent to annex;
3. Require unanimous county board approval of the creation of, or adjustment of boundaries for, special district governments when the affected territory lies within the path of city growth;
4. Authorize preannexation agreements for municipal services to serve as consents to future annexation;
5. Redefine "land used for agricultural purposes" that is subject to annexation;
6. Limit the annexation of part of an agricultural tract of land without the owner's consent;
7. Reduce the size of agricultural land that may be annexed without the owner's consent but permit the annexation of any enclaved area; and
8. Provide for landowner-initiated deannexation upon a finding by the county board that a city has failed to meet major municipal service obligations set forth in the city's service plan.

Other recommendations of the ATF were not adopted by the Interim Committee. Those were:

1. The creation of a state-local task force to study and report to the Legislature on the financing of local public services, including tax disparities which may result from farm land and property within cities being taxed to finance services to unincorporated urban fringe areas; and
2. An interim legislative study of Kansas planning and development laws designed to establish minimum land use and development regulations applicable to the fringe areas of cities, so as to discourage premature annexations.

Finally, it should be noted that a number of other possible annexation law amendments, initially proposed by the TAC and considered by the ATF at its early meetings, were "taken off the table" when the voting delegates at the League's 1985 Convention formally rejected any proposals to further restrict unilateral annexation authority, as well as a TAC-proposal to establish boundary commissions as a substitute for the county board-approval procedure under K.S.A. 12-521.

A.4. THE SPECIAL (INTERIM) COMMITTEE ON LOCAL GOVERNMENT.

Proposal No. 45-Annexation Law Review, was one of the interim proposals studied by the Special Committee on Local Government during the Summer and Fall of 1985. The Committee was charged with reviewing existing annexation laws, annexation practices and policies of cities, the annexation laws of other states, and to provide suggestions for improvements. Proposal No. 45 was suggested by the chairmen of the House and Senate Local Government Committees as a result of the annexation legislation (SB 115 and HB 2117) considered by the 1985 Session and heldover to the 1986 Session.

The Committee held four days of hearings, three in Topeka and one in Wichita. Conferees appearing on behalf of cities included the League, the Kansas Association of Realtors and 16 cities. Those cities were: Bonner Springs, Dodge City, Emporia, Great Bend, Hutchinson, Kansas City, Lawrence, Lenexa, Olathe, Ottawa, Overland Park, Plainville, Russell, Shawnee, Topeka and Wichita.

Conferees who advocated changes which would restrict city annexation authority included representatives of the Kansas Association of Counties, the Kansas Rural Water Association, the Kansas Electrical Cooperatives, State Representatives Ginger Barr, Fred Rosenau, Dennis Spaniol and Marvin Smith, a Sedgwick County Commissioner, a Bel Aire Councilmember, and township trustees from Johnson, Sedgwick and Shawnee counties. A number of landowners and residents of suburban and rural areas outside of cities in Johnson, Sedgwick, Shawnee and Wyandotte counties also appeared, among others.

Conferees for cities made the point that contested annexations constituted only a small percentage of all annexations that were undertaken, that the current law was working well, and city unilateral annexation powers should not be restricted. City conferees directly refuted the argument that cities were engaged in capricious or unnecessary annexations or were annexing land merely to increase their tax base. Some city officials stated that fringe area residents do not pay their fair share of taxes for the benefits they receive from living near the cities from which they derive their employment, retail trade, cultural and educational opportunities, and other municipal services. Other city officials noted that development standards of counties were often less stringent than those of cities and that cities need to be able to annex land at a relatively early stage of development in order to insure the orderly development of the area.

The League stressed to the Committee that annexation powers are only one aspect of an urban growth policy. Other major aspects include laws governing the incorporation of cities, planning and zoning laws, and laws governing the establishment of special district governments. The League contended that urban growth is a fact of life and the choice is to have it occur either in areas controlled by general purpose local government (a city) or in a hodge-podge fashion where various special districts and limited purpose governments provide the needed services.

A common concern expressed by opponents to the current annexation laws was that people in areas proposed to be annexed were "disenfranchised" because they cannot vote for the city governing body members who make unilateral annexation decisions and because they have no means of protest, by way of an election, to express their views on the subject of annexation. These opponents to the present law contended that the current right of appeal to the district courts is too limited in its scope because a court can only review whether statutory procedures and unilateral criteria have been met by the city, but has no power to weight the merits (i.e., the necessity or desirability) of the annexation itself.

Opponents to the current law also testified to the Committee that cities often annex land that is sparsely populated and agricultural in nature. They said that the benefits a city could offer are minimal or nonexistent and that taxes would often increase for these landowners in exchange for little or no improvement in services. These conferees also stated that annexations were often motivated by a city's desire to increase its tax base.

Representatives of several townships, the Rural Water Association, and the Kansas Electric Cooperatives said city annexations disrupt the delivery of services to the remaining residents of the townships or special districts, such as fire districts, or to the remaining customers of a rural water district or an electric cooperative area.

The Kansas Association of Counties stated to the Committee its position that annexations should be approved by county commissioners unless the annexation was petitioned for by residents of the area.

A summary and analysis of the five annexation-related bills voted out by the special committee on local government appears in this Bulletin beginning at page 9.

A.5. THE LEAGUE'S 1985 CONVENTION.

At its meeting held on September 29, two days before the League convention policy session, the League Governing Body endorsed all the annexation law amendment proposals submitted by the TAC. At the policy session however, the League's voting delegates rejected certain portions of the proposed policy statement on annexation. Specifically, those recommendations of the TAC and the League Governing Body to accept certain restrictions upon the unilateral authority of cities to annex land that was not "clearly urbanized", on the condition that basic unilateral power be retained, was rejected, as was a proposal for local boundary commissions to serve as the hearing body instead of the county board of commissioners when a city proceeds under the authority of K.S.A. 12-521.

The full text of the 1985-1986 Statement of Municipal Policy on annexation is set out below.

I-5. Annexation.

(1) While cities may not be loved except in song and memory, they are of vital importance to the state and to the general public, both city residents and non-residents. Cities are where three-fourths of all Kansans live. Cities provide people with a sense of place or community. Cities are where most jobs now are, and where most jobs will be in the future. Cities, through their taxpaying residents, contribute the large bulk of the taxable income and retail sales which support the state general fund. It is contrary to the public interest, to the future economic development of Kansas, and to the long-term interest of state government itself, to bring about the gradual destruction of cities as viable places to live and work by denying cities adequate power to annex and grow--to make that which is part of the urban community a part of the legal corporate municipality.

(2) If Kansas is to meet the governmental and public service needs of people, property and businesses in an urbanized area, there are only two alternatives to annexation -- either the continued growth and proliferation of special districts, or the expansion of county government as a municipal service agency. We believe either alternative is undesirable and unacceptable. The number of special purpose districts required as a substitute to city growth would result in a quagmire of our already complex local government structure; an increase in the number of general improvement districts would simply result in the creation of a confusing jungle of pseudo-cities, under a different name. Perhaps, in the distant future, counties may legally replace cities. We believe this would simply shift certain problems to a different arena. There is also the very practical reality that, in all but Wyandotte County, the urban portion of Kansas counties is but a fraction of the whole county, and farmland should not be taxed to provide services of exclusive benefit to non-farm fringe areas any more than property within cities.

(3) For the past 18 years, Kansas has benefited from effective and workable general annexation laws. These laws have been used responsibly, by locally elected governing bodies, to achieve the long-term public interest of the entire community. We recognize that conflicts often result from annexation, since the private interest of the individual landowners and the long-term public interest are not always compatible. Cities do understand the financial, tax advantages of property owners being in the "community city" but outside the "legal city." Cities also understand that annexation is often not the politically popular thing to do, even though the owners may have created the situation by their intent to obtain the benefits, services and amenities of a city, but not the responsibilities. It may be more appropriate to criticize cities for past failures of annexing too little, too late, rather than too much. Such criticism may be especially valid where governing bodies have failed to undertake timely annexations because of a lack of concern about the long-term future of the city, or simply out of fear of provoking the wrath of adjacent property owners.

(4) We believe that state laws should favor the annexation of land into existing, functioning cities as the preferred avenue for providing municipal services to unincorporated areas now urbanized or which are

becoming urbanized. We believe it imperative that the legislature continue to provide cities with adequate and workable annexation authority, which will secure the long-term public interest and total community needs.

(5) We believe that the owners or residents of land adjoining a city should not be granted a statutory right to vote on or consent to annexation. It is essential that the long-term public interest of the whole community be given priority in municipal growth, in the same manner that other, over-all community needs in our society occasionally require the sacrifice of some private goals and interests in order to achieve the greatest social utility of the area and benefits to the many. It is untenable to us that the owners of land within the fringe area, whose location has benefits and value primarily in relation to the existence of the city, should be given veto power over the geographic, economic and governmental destiny of the whole community.

(6) We generally support the findings and recommendations of the League's Technical Advisory Committee on Annexation. Specifically, we are supportive of actions to assure by law greater political due process for the owners of land subject to annexation, yet maintaining workable and effective annexation authority, as set forth in the following recommendations of the Technical Advisory Committee:

- (a) requiring planning commission review of proposed annexations;
 - (b) providing for notice of intent to annex to other governmental units;
 - (c) mandating public hearings in areas under consideration for annexation;
 - (d) specifically authorizing service extension agreements, conditioned on possible future annexation;
- and
- (e) establishing a procedure for deannexation upon the failure of a city to timely provide certain city-proposed major municipal services.

(7) We also support the enactment of requirements for the special review of the creation of, or changes in the boundaries of, special districts lying within the extra-territorial jurisdiction of the city.

(8) We also recommend an interim legislative study of the adequacy of the planning and development regulations applicable to the fringe areas of cities. We believe that cities should have more control or influence over adjacent developments which may become a part of the city in the future, or other assurance that urbanized development in the fringe area will meet urban standards.

A.6. LEAGUE GOVERNING BODY MEETING OF DECEMBER 19 AND 20, 1985.

At its December 1985 meeting, the League Governing Body held extensive discussions on the bills produced by the Interim Committee, and discussed the options and strategies which could be used to deal with those bills and which would be consistent with the convention-adopted annexation policy statement.

The Governing Body settled on an option which would accept procedural amendments but oppose any substantive limitations on unilateral or county board approval annexations. The 12-point position of the Governing Body is as follows, with references to specific bill numbers as proposed by the Interim Committee:

1. Oppose generally SB 427, including its provisions for (a) the review of any unilateral annexation by a boundary commission upon a protest petition of landowners; and (b) the repeal of the existing county board procedure.
2. Oppose any change to existing unilateral annexation authority.
3. Oppose any change to the existing county board procedure, except for provision 10, below.
4. Oppose SB 428, the utility franchise-annexation bill.
5. Oppose SB 426, which voids all annexations since August 15, 1985.
6. Accept provisions requiring notice of intent to other governmental units (in SB 427).
7. Accept provisions requiring public hearing in area to be annexed, where feasible (in SB 427).

8. Accept provisions mandating local planning commission review of proposed annexations (new provision).
9. Support provisions to specifically recognize preannexation service extension agreements (in SB 427).
10. Sponsor legislation authorizing optional use of the county board procedure even though the land meets unilateral conditions eligibility (new provision).
11. Support SB 425, establishing a review procedure for the creation or expansion of special districts in the fringe areas.
12. Accept SB 424, the deannexation bill.

B. STATUS OF THE ANNEXATION DEBATE AS OF JANUARY 13, 1986.

Where does all this leave the opposing sides going into the 1986 legislative session, which begins January 13, 1986?

Obviously the battle lines are clearly drawn. Cities have flatly stated that while certain procedural amendments to state annexation laws are tolerable, substantive restrictions to unilateral annexation powers (K.S.A. 12-520) are not acceptable, nor is any proposal to eliminate the county board-approval procedure (K.S.A. 12-521). Cities insist, as stated in the 1985-1986 Policy Statement, that no right of appeal of unilateral annexation decisions to non-judicial bodies should exist under the annexation laws. Cities have emphasized that the current law is essential to insure that urban growth and economic development can occur in Kansas, and to insure that that growth will be of a quality adequate to protect the interest of the community-at-large, rather than solely for the benefit of private parties acting out of self-interest for private gain.

Those who seek limitations to, or complete elimination of, city annexation authority build their arguments on pleas of personal liberty and "taxation without representation". It is central to their position that persons owning land proposed to be annexed be able to either vote directly on that question, or have the question submitted to a political body that represents those persons (i.e., the county board of commissioners). This means annexation opponents cannot accept a bill which permits unilateral annexations.

The five bills submitted by the Interim Committee have been prefiled as senate bills, and will be taken up by the Senate Committee on Local Government. Discussion of each senate bill follows on page 9.

IV. A. Testimony of George Pyle,
City Manager, Hutchinson
January 30, 1986

TESTIMONY
BEFORE THE SENATE COMMITTEE ON LOCAL GOVERNMENT
JANUARY 30, 1986

On Annexation

My name is George Pyle, I am City Manager of Hutchinson; and have been for over 18 years. There have been several significant unilateral annexations by the City of Hutchinson during my tenure. In each case there was opposition from some of those being annexed; in each case there was support from some of those being annexed. Those favoring annexation tended to be less vocal than those opposed.

Hutchinson's last significant unilateral annexations took place in 1974 and 1979; the latter was the subject of litigation wherein the Supreme Court upheld the City's action and the procedures employed.

Informally, at least, it has been the City's policy to initiate annexation proceedings when the City staff and Governing Body make the judgment that the community's best interest will be served by extension of municipal services. Since a city's function is to provide service we have held the view that policy decisions are properly made in terms of benefits to the community - not in terms of profit and loss. We, of course, do estimate costs and tax revenues for the information of the governing Body and the public. I don't recall that any of our calculations demonstrated a "profit" to the City from annexation - at least in the short run. I would say that Hutchinson's motivation for annexing territory has been related to long term community interests and services

The City extended all of the conventional governmental services immediately upon annexation or in time prescribed by statute. Police, fire, refuse collection, street maintenance, sanitation, animal control and other services were extended upon annexation. Planning for extension of sewer and water services, already generally considered, began in detail upon completion of annexation effort. Low income areas annexed in 1974 were provided sewer and water service at no cost - we used CDBG and EPA funds. Virtually all areas unilaterally annexed by Hutchinson received utility services upon expression of need and in accordance with well established city policies related to division of cost and establishment of Improvement or Benefit districts.

The areas annexed needed municipal services; they were encountering and, in many instances, ignoring unsanitary conditions. Hutchinson area soils do not accommodate private sewage disposal systems, especially when private water systems share that same soil. We had the experience of pouring blue dye down the drain and drawing blue water from the neighbor's faucet. The land in and around Hutchinson slopes from northwest to northeast, ground water follows that same route. Land subject to development lies primarily north and west of town. Ground water contamination in the immediate vicinity of Hutchinson affects Hutchinson. I have not heard that any other governmental unit can or will plan to deal with such problems.

Hutchinson is already preparing to accommodate development beyond its present limits. Sewer and water lines are sized for extension, our wastewater treatment plant is designed and being built to serve an expanded community. Major streets are designed to handle traffic that will be generated by future growth. Improvements being made to our water system will serve a larger city than presently exists - the system would not need significant improvement if community growth were not anticipated.

The point that I would make is that Hutchinson, like other cities in Kansas, is planning for the future. I am not aware that any other unit of government is doing so insofar as community facilities are concerned. Townships and counties and certainly neighborhood associations are not geared to provision of urban services. Cities are! -

In terms of equity a case can be made for unilateral annexation authority and for an aggressive annexation policy. The citizens of the present city are paying for facilities that are being designed and built in anticipation of extending those facilities into areas larger than the present city or to accommodate use by people already residing in areas beyond but adjacent to the present city limits. I submit that the cities are building the communities' facilities and if cities are left with such responsibility cities must have authority to take in those who are being served. I believe that annexation authority provides a sound basis for planning, orderly growth, standardization of services and facilities, and greater equity in the distribution of the costs of providing such services and facilities.

Our City, like others in the state, is being asked to become more involved in efforts to stimulate economic development. In the last six months a community dialogue has taken place through a Town Meeting and a series of neighborhood meetings conducted by a Comprehensive Planning Committee. The process culminated in a report and a plan for the future of Hutchinson. One of the highest priorities of our plan for the future involves the creation of jobs; to achieve that objective our citizens recommended the acquisition and development of land suitable for industrial development. Such activity will involve growth of our city in terms of area, service and investments of community resources. I believe that inhibition of our authority to grow will also inhibit our ability to fulfill this new mandate.

It has been said that cities engage in "land grabs" in order to increase their tax base. As I said before I don't think that is a primary motivation. I will acknowledge that if such motivation exist it could be removed if attention were given to correcting tax disparities that now exist. If fringe area landowners were required to pay for community services which they now receive and if city residents were relieved of the obligation to pay for services not received the cities' motivation would be clearly a matter of community development and not one of increasing the tax base. City taxes generally are higher - I think that is because city taxpayers are carrying more than a fair share. They provide services to people beyond the city limits and they subsidize county provided services financed from countywide taxes. I offer two illustrations:

1. In Reno County the County Road and Bridge Fund levy for 1985 raised \$1,070,000 of which \$449,200 or 42% came from properties within the Hutchinson city limits. None of that was spent on streets or roads within the city limits.
2. The budget for the operation of the Reno County Sheriff's office in 1985 is \$1,285,782. The 42% City contribution to that budget amounts to \$540,000. The Sheriff provides very little service for the City taxpayer.

Sometimes it is determined that an activity or service is of benefit to both City and County residents; it is often suggested that costs of such service be shared in proportion to population. To some this seems equitable; it is not. In Reno County if a \$100,000 project is divided 60-40 between the City and County the city property pays 4 1/2 times that contributed by a County property of equal value.

I have no problem with Planning Commission review and advisory comment; with notice of intent to other governmental units; or with on-site hearings. I would support the review of special district boundaries in fringe areas. I am not persuaded that unilateral annexation should be restricted to clearly urbanized areas. "Country" estates and land held by speculators and adjacent to or even partially within a city should be recognized as clearly urban in character; that is its highest and best use.

I am not attracted to the suggestions of review by County Commissions or Boundary Commission. There is the implication that such review would provide objectivity. I'm not persuaded that such would be the case. The rationale appears to be that the judgment of the representatives of the majority interest should not only be subject to due process and judicial review but also to review by another agency or group which supposedly would be disinterested and objective. I ask that you consider that the majority of the constituents of the Reno County Commission are residents of the City of Hutchinson. Even so the County Commission appears to perceive itself as the representative of the minority which resides outside of the City. So much for objectivity of review by a disinterested third party.

I honestly believe that this is an issue where there is little opportunity for compromise satisfactory to both sides. I also believe that communities are best served if cities have unilateral annexation authority.

Successful communities are centers of growth; they will grow whether or not such growth is desirable. Cities exist to provide service; if the communities' services are to be provided by the cities' taxpayers and cities may not expand, gross inequities result.

1/30/86

Testimony Re - S. B. 427 - George Pyle

Senate Bill 427 is a bad idea and it has been ill conceived and ill advised each time it or its misbegotten cousin has been passed by the House and submitted for consideration by your Committee.

The current annexation law is a result of agitation, discussion and compromise. It does not need to be revised unless your goal is to accommodate the selfish concerns of the very few at the expense of the welfare and interest of the large majority.

I ask that you consider the origin of this proposed legislation. It comes, as it has before, from instances where a very few people living in the path of a growing City and enjoying the benefits of living in such a location, find themselves a part of the urban community. They find themselves called upon to carry their share of the load or to assume a responsibility already carried by most of their urban neighbors. They have seen it coming for years or they bought with the full knowledge that the urbanizing process was approaching and they planned to benefit from it. Justice and equity and rationality require that people and property benefitting from the progress of a community share its obligations.

When these obligations are called to the attention of those who seek to avoid them the suburbanites all of a sudden become the victims - they rend their garments, pull their hair; put feathers in their head bands and try to impose their will upon their neighbors and upon you by the heat of their argument.

You are the ones being imposed upon; by those who want to avoid the ordinary obligations of citizenship and by those who are elected to your body as one issue representatives. I have heard it said that some of the members of the legislature are willing to pass this legislation (as bad as it is in terms of public policy) because they are tired of the issue. I respectfully submit that being tired of an argument is not reason to acquiesce and that senatorial courtesy does not justify bad law. Finally, I would suggest that the weight of an argument is not measured in degrees of heat and that this bill should be allowed to float away like the hot air balloon that it is.

IV. B. Testimony of Commissioner
Howard Hill, Lawrence
January 28, 1986



City of Lawrence KANSAS

BUFORD M. WATSON, JR., CITY MANAGER

CITY OFFICES

6 EAST 6th

BOX 708

66044

913-841-7722

CITY COMMISSION

MAYOR

MIKE AMYX

COMMISSIONERS

ERNEST E. ANGINO

HOWARD HILL

DAVID P. J. LONGHURST

SANDRA K. PRAEGER

Statement by Howard Hill
City Commissioner
Lawrence, Kansas

Presented to Senate Committee on Local Government
January 28, 1986
In Opposition to Senate Bill 427

Mr. Chairman, Members of the Committee, I am Howard Hill, City Commissioner from Lawrence, Kansas, representing the Lawrence City Commission in our opposition to SB427.

We believe that state laws should favor the annexation of land into existing, functioning cities as the preferred avenue for providing municipal services to unincorporated areas now urbanized or which are becoming urbanized. Further, we believe it imperative that the legislature continue to provide cities with adequate and workable annexation authority, which will secure the long-term public interest and total community needs. SB427 goes against both of these basic principles.

SB427 removes a city's ability to annex any amount of agricultural land in excess of 20 acres without the consent of the landowner unless surrounded 100% by the city. Additionally, the bill effectively destroys all unilaterally annexations by (1) making all such annexations subject to landowners protests, and (2) requiring the boundary commission to review some 16 factors in determining annexation issues; factors that are vague, not specific, speculative and will result in decisions which could be interpreted as being arbitrary.

We assume that such radical changes in current law stem from the premise that such laws have been abused. We believe this view is unfounded. Over the last ten years, Lawrence has increased its size by 18.3% or a total of 2,153.86 acres. Only 119.7 acres of platted land (5.5%) of this total has been annexed over landowner objections, located in the Western Hills area. This points to the reasonable use of annexation laws by Lawrence officials. We feel the vast majority of annexations in Kansas are done in a similar reasonable fashion, and therefore, see no reason to change existing laws governing such actions.

We have heard that some dissatisfaction regarding the annexation of Western Hills was relayed to this committee. Time does not permit me to go into all the details of this needed annexation, however, a "thumb nail" description is warranted. Attached is a copy of the Western Hills area in relation to the rest of the city. Fully 80% of this platted land was surrounded by the city prior to annexation. It contains 2" and 3" water lines, asphalt mat streets without curbs and gutters and septic tanks. Directly adjacent to the platted area is a new park and a newly constructed four lane boulevard. Residents in Western Hills are equidistant with adjacent residents from the public library, swimming pool, and area parks. These amenities, along with the use of City streets to and from employment, are all services for which these residents did not pay until annexation. The most important aspect of this platted land is that it is directly in the primary growth area of the community, just a short distance from the new university corporate research park. Annexation of this area was needed to insure orderly development in a high growth area and maintain community fairness.

By far the biggest objection to annexation by Western Hills property owners is that special assessments will place a devastating financial burden upon them and that the situation "might be manipulated to cause us to pay for sewers we don't use, water systems we don't need, and road improvements that are necessary only to a neighboring developer's plans."

The City steadfastly maintains that these improvements will not occur unless requested by the property owners or required by the Kansas Department of Health and Environment. This position is

substantiated by the fact that several previously annexed areas in the city currently have septic tanks and substandard streets and water lines. The City has not created special benefit districts for these areas and does not intend to do so in the future unless requested or required. We feel the concerns of Western Hills residents regarding future special assessments are exaggerated and without foundation.

We feel SB427 will enable owners or residents of land considered for annexation, to obstruct the planning, plan implementation and economic development processes of cities. Such resistance creates unincorporated islands of urbanized land, which will take advantage of many services of the host city at the expense of the city taxpayer.

These islands become obstacles to the efficient provision of municipal services, and therefore, increase the costs of local government. Similar provisions in other areas have contributed to leapfrog development practices and urban sprawl. We need only to look at St. Louis and the effects restrictive annexation imposes. Around the turn of the century, St. Louis was prevented from developing beyond the existing established boundaries. Today, St. Louis County has 96 separate cities within the metropolitan area.

During a time when economic development is one of the single most important issues in Kansas, the legislature should be taking measures to reinforce and foster communication and cooperation between units of local government. This bill is the antithesis of this objective. It will create additional adverse relationships between counties, townships and cities. This relationship will project an image of conflict and provincialism in local government that will discourage economic development efforts.

A major factor in economic growth is the efficient provision of urban utilities and services. Leapfrog development and poorly serviced unincorporated islands impair this efficiency and drive up the costs of industrial and residential expansion.

Kansas should be looking forward to sound planned economic growth. SB427 allows for random unstructured development, furthermore, existing law can be used to solve contemporary concerns. It is imperative that annexation decisions be based upon the long term public interests of the whole of the community, and that these decisions not be held hostage by the residents of a small area.

We strongly urge you to reject SB427.

IV. C. Testimony of George Marstall,
Vice-President of Anchor Savings Association, Ottawa
January 28, 1986

THE CITY OF OTTAWA

CITY HALL

(913) 242-2190

OTTAWA, KANSAS 66067

January 28, 1986

Senator Don Montgomery, Chairman
Kansas Senate Committee on Local Government
Topeka, Kansas

Re: Public Hearing; SB427 -
Elimination of Unilateral
Annexation Authority

Dear Mr. Chairman:

My name is George Marstall, Vice-President and Manager of Anchor Savings Association, Ottawa, Kansas, since August, 1963. Community involvements include: Mayor and City Commissioner from June 1978 to May, 1983, and 20 years on Ottawa's Industrial and Economic Development effort.

I strongly support the present law, K.S.A. 12-520, and feel it has been working effectively throughout most areas of Kansas. The following are a few comments on the present Law and its effective use in the City of Ottawa. Enclosed with my written testimony is a zoning map prepared by the City staff showing unilateral and bilateral annexations by Ottawa since 1975.

The attached map provides specific information on the City's unilateral and bilateral annexations totalling approximately 340 acres annexed since 1975, of which, 70% have been unilateral and the remaining 30% have been bilateral. Fifty-six percent (56%) of the total annexed acreage was for municipal or industrial purposes, including a private country club golf course. The remaining forty-four percent (44%) of the property includes residential and elderly housing projects. It is obvious that

(Attachment VI)

aggressive annexation has not occurred in Ottawa but instead the City has annexed areas of imminent development and for economic and community development purposes.

The City of Ottawa has taken a conservative approach to annexation using both unilateral and bilateral annexation provisions, the outcome of which has been successful. I can truthfully state that the City of Ottawa has never acted capriciously or unnecessarily when considering annexation actions. Because of the present unilateral provisions, the City has used its authority to conservatively and tactfully exercise unilateral provisions as urbanization begins to occur, thus completing the annexation and meeting service schedules in a reasonable time frame which is beneficial to both the property owners and the City and not after-the-fact when fewer opportunities exist for orderly extensions of services.

In the City of Ottawa, the Planning Commission has developed Neighborhood Development Plans for certain growth areas of the City which are used as planning guidelines for present and future improvements and growth within these geographic areas. Two Neighborhood Development Plans are shown on the previously mentioned zoning map--the Southwest Neighborhood Plan and the North Ottawa Neighborhood Plan. Considerably less than one-half of the total study area of the two neighborhoods involves property inside the city limits of Ottawa. The Neighborhood Plans are extensions of the Comprehensive Plan in that they concentrate on specific development areas with plans for municipal services; land use, both municipal and agricultural; as well as future territorial expansion. These are not plans for annexation but are

plans for growth. By use of these planning techniques, the City has used present law to its advantage and at the same time in the best interest of the public.

The City of Ottawa boundaries are controlled by a flood plain; a major highway (I-35); and rock formations that limit utility improvements--all of which determine the City's growth direction; however, with the present unilateral provisions, the City has used its authority to expand in these two general areas and not be adversely affected by these topographical limitations. Not only are the City's growth areas the boundaries of our neighborhood development plans, but also they are the locations of the City's industrial park; major highway service and general commercial areas now developing; and further, the only prime residential growth area. These same areas also represent the areas for all but three (3) of the City's annexations since 1975. By appropriately using our annexation authority, Ottawa has expanded its industrial park and provided areas for housing and commercial development which demonstrates that it is absolutely necessary for our continued expansion of the industrial park and appropriate utility extensions for commercial development along I-35 and US-59 south as well as in the industrial area.

At the present time, our industrial area is nearly occupied to capacity. As Chairman of the Industrial Property Search Committee, I can say that we are actively searching and considering several potential new industrial sites which are not within the corporate limits of Ottawa, but in order to attract prospective business and industry, the utility extensions must be

made. Utility extensions will not occur without the property being annexed into the City as per City policy on utility extensions.

Similarly, the South Ottawa, I-35 area, is continuing to develop, thus requiring detailed planning for major utility improvements which will require annexation of property. Annexation of these areas is also vital to ensure enforcement of zoning and subdivision regulations, as well as building codes which are not enforced by the county, while protecting the vital commercial areas located adjacent to the I-35 intersection from hodge-podge development. Both the City and our county are realizing major financial dividends from local sales tax being generated by business activity in this southern area from fuel purchasers, shoppers, and restaurant patrons from highway traffic, the rural community and the surrounding counties.

At the January 22, 1986 meeting of the Ottawa City Commission, the City Commission adopted Resolution 413-86 reaffirming the City's support for the present annexation law and the position taken by all Kansas cities as outlined in the 1985-86 League of Kansas Municipalities Policy Statement on Annexation. A copy of the resolution is attached for your information.

In closing, the City of Ottawa has experienced controlled growth via the authority of the present annexation law and urge that SB427 be killed. The following is a summary of my previous remarks:

1. The present annexation law works. I do not feel that most cities are aggressively annexing property for the single purpose of expanding boundaries and the tax base.

to annexation. Again, this can be observed through the City of Ottawa's approach where the City actually spends City funds to plan for areas that are now predominantly in the county without annexation as the motive.

3. I concur that annexations should not occur without intent to extend municipal services as well as following through with that intent.
4. It should be recognized that certain city boundary restrictions make it necessary for those cities to have unilateral annexation authority in order to grow. This authority must remain with the City.
5. Ottawa's economic growth has been directly related to its ability to annex, both unilaterally and bilaterally, which must continue in order to attract new industry and commercial business to our community.

Thank you for allowing me to present my views and I am willing to answer any questions that you might have.

George Marstall
Past City Commissioner and Businessman
City of Ottawa, Kansas

Attachments

IV. D. Testimony of R.D. Martens,
President of R.D. Martens Co., Wichita
January 30, 1986

Testimony Presented to the
Senate Committee on Local Government
Thursday, January 30, 1986
Re: SB 427
By R. D. Martens
Wichita/Sedgwick County

Senator Montgomery, members of the committee:

I am R. D. Martens, I live outside the city limits of Wichita in the Crestview Improvement District.

Over the years our company has directed its primary focus towards the economic development of the Wichita-Sedgwick County area. While our specialty has been commercial and industrial real estate, we have accepted several challenges of community involvement that impact the economic vitality of South Central Kansas.

I've been active in Sedgwick County, the City of Wichita and in the economic development arena of the Chamber of Commerce. I've filled a vacated term as City Commissioner. My sons who are active in our company and I have represented the county commission in several capacities. This background has given me the opportunity to look at the annexation debate from several perspectives county-city-businessman and realtor.

It is my conclusion that the current annexation laws work very well. When services can be provided, cities are allowed to expand. Citizens in the fringe areas must understand, as my wife and I did, when we bought outside of the city limits, that ultimately they may have to pay city taxes and receive city services.

As a result of a vibrant city, citizens in the city as well as the outlying areas have jobs, retail centers, quality entertainment and a variety of sporting events. The vitality of the center city is directly related to the prosperity of the entire area. City

taxpayers provide funds for streets, and sewers for the entire infrastructure that supports business and industry. City taxpayers provide police and fire protection to the stores and businesses. City taxpayers support the efforts that bring in new businesses and support the continuation and growth of old businesses.

While we can all understand that many people want their place in the country, disputed areas that are being annexed--under current law--are adjacent to, in other words directly across the street from, city property. They are not separate developments far away from the activity of the city.

Proponents of SB 427 and other legislation that is designed to restrict annexation have told you that they want county commissioners who they have elected or at least a boundary commission selected in part by county commissioners to decide their fate. I'm convinced this change is unnecessary and harmful. County Commissioners have economic reasons for denying the annexation of these populated areas. The county stands to lose both the sales tax and fire district revenue. Too often county commissioners and city commissioners are political rivals. This rivalry can cloud judgement.

The current annexation law works. Please don't change to a system that will increase local political tensions, limit the economic base of our cities, and possibly diminish the economic attractiveness of communities all over this state.

Thank you for allowing me the opportunity to speak with you.

IV. E. Testimony of Mayor John Reardon,
Kansas City
January 28, 1986

TESTIMONY OF MAYOR JOHN E. REARDON
BEFORE THE SENATE COMMITTEE ON LOCAL GOVERNMENT

JANUARY 28, 1986

AS MAYOR OF A MAJOR CITY IN KANSAS FOR OVER TEN YEARS AND AS PAST-PRESIDENT OF THE LEAGUE OF KANSAS MUNICIPALITIES, I AM HERE TODAY TO EXPRESS MY GRAVE CONCERN ABOUT SENATE BILL 427 AND OTHER LEGISLATION WHICH I AND OTHER LOCAL ELECTED OFFICIALS FEAR WILL HARM CITIES, AND THUS PEOPLE, IN OUR STATE.

TODAY, ANNEXATION LAWS ARE GENERALLY WORKABLE. THEY ALLOW CITIES TO GROW AND TO EXTEND MUNICIPAL SERVICES INTO UNINCORPORATED AREAS WHICH ARE URBANIZED OR IN THE PROCESS OF BECOMING URBANIZED. CURRENT ANNEXATION LAWS REQUIRE PUBLICATION AND PUBLIC HEARINGS SO THAT THERE IS FULL PUBLIC DISCUSSION OF THE PROPOSED ANNEXATION BY A CITY. IN ADDITION, A STATEMENT SETTING FORTH THE PLANS OF A CITY FOR EXTENDING SERVICES TO THE AREA TO BE ANNEXED AND THE FINANCING OF THOSE SERVICES IS REQUIRED.

THE SITUATION BEFORE THE COMMITTEE TODAY IN THE FORM OF S.B. 427, IS A CLASSIC CONFRONTATION BETWEEN INDIVIDUAL RIGHTS AND THE GENERAL PUBLIC INTEREST. JUST AS IS THE CASE OF EMINENT DOMAIN ACTIONS, THE PRIVATE INTEREST OF INDIVIDUAL LANDOWNERS IS NOT ALWAYS COMPATIBLE WITH THE LONG-TERM PUBLIC INTEREST. AND THAT IS WHAT YOU AND I AS ELECTED OFFICIALS MUST DETERMINE -- WHAT IS IN THE LONG-TERM PUBLIC INTEREST?

CITIES SOMETIMES ENCOUNTER FISCAL PROBLEMS AS THEY AGE. OFTEN, MORE AFFLUENT CITIZENS SEEK TO HIDE FROM HIGHER CITY TAXES OR OTHER CONDITIONS BY MOVING TO AREAS IMMEDIATELY OUTSIDE OF A CITY'S BOUNDARIES. THIS MOVEMENT LEAVES BEHIND PERSONS OF LESS INCOME AND A DECREASE IN THE CITY'S TAX BASE. FISCAL PROBLEMS FOR THE CITY THEN INCREASE AS THE FRINGE DWELLERS CONTINUE TO USE CITY SERVICES, BUT PAY NO CITY TAXES. THESE FRINGE DWELLERS REALIZE

(Attachment V)

THE ADVANTAGES OF BEING WITHIN THE URBAN COMMUNITY, BUT OUTSIDE THE "LEGAL CITY".

IN MY COUNTY, THE PROBLEM OF TAX FAIRNESS IS AN ISSUE. WYANDOTTE COUNTY IS THE SMALLEST COUNTY IN AREA IN THE STATE. NINETY-TWO PERCENT OF THE ASSESSED VALUATION OF THE COUNTY IS INSIDE THE CITY LIMITS OF KANSAS CITY, KANSAS. YET THE CITIZENS OF MY CITY ARE BEING ASKED TO SUBSIDIZE PEOPLE IN THE UNINCORPORATED AREAS OF THE COUNTY, WHO DO NOT EVEN COME CLOSE TO PAYING FOR THE SERVICES THEY RECEIVE. WHAT IS EVEN MORE IRONIC IS THAT THE CITIZENS OF MY CITY ARE BEING ASKED TO SUBSIDIZE AN AREA WHERE THE MEDIAN HOUSEHOLD INCOME IS OVER \$11,000 MORE THAN IN MY CITY, AND WHERE THE MEDIAN HOME VALUE IS ABOUT \$40,000 GREATER PER HOME.

I ALSO UNDERSTAND AS A MAYOR THAT ANNEXATION IS NOT USUALLY A POLITICALLY POPULAR THING TO DO. THOSE PEOPLE THAT YOU ANNEX ARE NOT LIKELY TO BE FRIENDLY VOTERS. IN FACT, THE LAST TWO MAYORS OF MY CITY THAT ANNEXED TERRITORY WERE DEFEATED FOR REELECTION. I ARGUE THAT IT IS POLITICALLY RISKY TO ANNEX ANYWHERE IN THE STATE AND, THUS, THIS ACTS AS A CHECK TO UNREASONABLE ANNEXATIONS BY CITIES. YOU CAN BET IF A CITY IS UNDERTAKING LARGE SCALE ANNEXATION, THAT CITY'S ELECTED OFFICIALS HAVE DETERMINED THAT IT IS VITALLY IMPORTANT TO THAT CITY'S FUTURE.

IT IS IMPORTANT THAT THE LONG-TERM PUBLIC INTEREST OF THE ENTIRE COMMUNITY BE GIVEN PRIORITY IN THE QUESTION THE ANNEXATION AUTHORITY OF CITIES. AND THIS WILL COME AT THE EXPENSE OF SOME PRIVATE GOALS. THIS INSURES THE GREATEST BENEFIT TO THE MANY.

ANOTHER POINT THAT IS TOO OFTEN IGNORED IN THE DEBATE SURROUNDING THE ANNEXATION POWERS OF CITIES IS THE ECONOMIC DEVELOPMENT IMPACT. ECONOMIC DEVELOPMENT CAN HARDLY BE PURSUED VIGOROUSLY UNDER REGRESSIVE ANNEXATION

LAWS. THE ROLES OF CITIES IN ECONOMIC DEVELOPMENT IS THE CREATION OF JOBS. CITIES ARE WHERE MOST JOBS ARE LOCATED. CITIES NEED TO BE IN A POSITION TO OFFER THE MUNICIPAL SERVICES REQUIRED BY BUSINESS AND INDUSTRY IF THEY CHOOSE TO LOCATE IN KANSAS. I THINK KANSAS SHOULD BE PERCEIVED BY VISITORS AND PROSPECTIVE BUSINESS CLIENTS AS A STATE OF VITAL, GROWING AND FLEXIBLE CITIES; NOT A STATE OF STAGNANT AND HAMSTRUNG MUNICIPALITIES.

I URGE YOU TO KILL SENATE BILL 427 AND REPORT IT UNFAVORABLY. THANK YOU.

IV. F. Testimony of Councilmember
E.M. Alvey, Kansas City
January 28, 1986

TESTIMONY OF E.M. "ED" ALVEY
COUNCILMEMBER, DISTRICT 6, CITY OF KANSAS CITY, KANSAS
BEFORE THE SENATE COMMITTEE ON LOCAL GOVERNMENT

CITIES IN KANSAS ARE CONSTANTLY UNDER SIEGE BY VARIOUS GROUPS WHICH ATTEMPT TO LIMIT THEIR ANNEXATION POWERS GRANTED BY THE STATE. STATE LAWS SHOULD FAVOR ANNEXATION POWERS TO CITIES AS THE LOGICAL AVENUE OF PROVIDING MUNICIPAL SERVICES TO UNINCORPORATED AREAS WHICH ARE URBANIZED OR WILL BECOME URBANIZED IN THE FUTURE. OUR STATE LEGISLATURE SHOULD PROVIDE CITIES WITH ADEQUATE AND WORKABLE ANNEXATION POWERS TO INSURE THE LONG-TERM PUBLIC INTEREST.

DURING THE 1985 LEGISLATIVE SESSION, HB 2117 PASSED THE KANSAS HOUSE OF REPRESENTATIVES BY THE BARE MINIMUM NUMBER OF VOTES NECESSARY FOR APPROVAL. THIS LED TO AN INTERIM COMMITTEE STUDY. THE RESULT IS SR 427 WHICH, IF ADOPTED, WOULD LARGELY DESTROY THE ANNEXATION POWERS OF CITIES. WHILE THE INTERIM COMMITTEE DID A GREAT DEAL OF WORK ON THE ANNEXATION ISSUE, WE OPPOSE FURTHER RESTRICTIONS ON THE ANNEXATION POWERS OF CITIES. UNILATERAL ANNEXATION POWERS ALREADY HAVE BEEN REDUCED TO THE POINT WHERE THEY ARE PRACTICALLY UNUSABLE TODAY.

FOR THE PAST SEVERAL YEARS, THE STATE'S ANNEXATION LAWS HAVE BEEN USED RESPONSIBLY BY LOCALLY ELECTED OFFICIALS TO ACHIEVE THE LONG-TERM PUBLIC INTEREST OF THE ENTIRE COMMUNITY. OFTEN, CONFLICTS RESULT FROM ANNEXATION BECAUSE THE PRIVATE INTEREST OF INDIVIDUAL LANDOWNERS AND THE LONG-TERM PUBLIC INTEREST ARE NOT ALWAYS COMPATIBLE. PROPERTY OWNERS IN THE "COMMUNITY CITY" BUT OUTSIDE THE "LEGAL CITY" USUALLY REAP FINANCIAL AND TAX ADVANTAGES BY THEIR INTENT TO ENJOY THE BENEFITS, SERVICES AND AMENITIES OF A CITY, BUT NOT THE RESPONSIBILITIES.

MANY YEARS AGO, I SERVED AS A TOWNSHIP TRUSTEE IN OLD SHAWNEE TOWNSHIP IN WYANDOTTE COUNTY. WE FOUGHT ANNEXATION FOR YEARS IN ORDER TO MAINTAIN OUR AUTONOMY AND KEEP TAXES DOWN, EVEN THOUGH THE TOWNSHIP HAD MANY URBAN CHARACTERISTICS. TODAY, I REALIZE THAT ANNEXATION WAS IN THE TOWNSHIP'S LONG-TERM BEST INTEREST AS WELL AS THE BEST INTEREST OF THE CITY OF KANSAS CITY, KANSAS. IN FACT, IF KANSAS CITY, KANSAS HAD ANNEXED US SOONER THAN IT DID, THE TOWNSHIP COULD HAVE AVOIDED SOME PROBLEMS THROUGH BETTER COORDINATION OF CAPITAL IMPROVEMENTS AND LONG-RANGE PLANNING.

I URGE YOU TO KILL SB 427 BECAUSE IT WILL ALLOW UNREGULATED GROWTH ON THE FRINGE AREAS OF CITIES THAT IS BOTH A WASTEFUL USE OF THE PRECIOUS RESOURCE OF LAND AND OF TAXPAYERS' MONEY. THANK YOU.

IV. G. Testimony of Greg Hembree,
Director of Community Development, Lenexa
January 30, 1986



City of Lenexa
(913) 492-8800

January 28, 1986

The Kansas State Senate Committee on Local Government
Room No. 519-S, Statehouse
Topeka, Kansas 66602

RE: Proposal No. 45/Senate Bill #427
Annexation Law Review
January 28 and 30, 1986

Dear Members of the Committee:

I am honored to be invited once again to attend a portion of your two-day session regarding the review of current annexation legislation for the state of Kansas and am particularly hopeful that my testimony will prove useful in your consideration of this important matter. As an employee of the City of Lenexa since January 1979, and the City's Director of Community Development since May 1983, I have become extremely familiar with Lenexa's past regarding annexation and the importance this matter retains with respect to the future growth and development of the municipality.

A suburban Johnson County community located 14 miles southwest of downtown Kansas City, Missouri, Lenexa has enjoyed dramatic growth since the middle 1950's when the City's population hovered close to 1,000 persons. That sustained growth has been no less dramatic upon examination of census figures, which have ranged from 5,542 persons in 1970, to 18,639 in 1980, and the 1985 Johnson County census which indicates a current population of 21,439 persons.

Lenexa has grown for a number of definable reasons, including its position on the suburban fringe of the Greater Kansas City Metropolitan Area, its location adjacent to two major interstate highways and along the mainline of the Burlington-Northern Railroad, and the decisions made by earlier Governing Bodies to actively pursue industrial and residential development. Those factors and decisions have been accommodated by the availability of large undeveloped tracts and the ability to incorporate those same parcels into Lenexa through reasonable annexation laws.

The City of Lenexa, Kansas, has annexed 2821.7 acres (or 4.39 square miles) of land since 1974, primarily in the northern and western sectors of the community. Approximately one-third of this acreage has been developed, and the remaining parcels are currently experiencing very rapid conversion to urban development. A reasonable compilation of this development trend would include the statement that fully 45% of all Lenexa's 894 building permits for calendar year 1985 were issued for locations within the subject boundaries of that particular annexation area. Moreover, the area is bisected by Interstate 435 highway and promises to be the site of Lenexa's development push into the 1990's and beyond.

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Annexation of a smattering of several parcels totalling 1200 acres occurred from 1974 to June 6, 1979. Each parcel was annexed at the request or consent of the property owner, and many tracts were annexed to Lenexa to accommodate immediate development of the subject tract. The method of annexation changed significantly after June 1979, with the results provided herein.

The City of Olathe, on three separate nights beginning June 6, 1979, annexed 720 acres of land to the west of Lenexa in an area considered to be within Lenexa's sphere of influence. Since 1965, the City's Comprehensive Plan has depicted the area east of K-7 and between 79th and 119th Streets as within Lenexa's sphere of influence and so designated for future growth and development activities. This area was further substantiated as being targeted for Lenexa's future growth through the adoption of an annexation policy by the Governing Body on March 1, 1979.

Outraged by this action, the City of Lenexa filed suit against the City of Olathe contesting the three separate annexations on the grounds of manifest injury and improper publication procedures. Subsequent actions included a failed attempt to proceed with a K.S.A. 12-521 petition before the Board of County Commissioners and a vigorous campaign to annex property into the City beginning on March 19, 1981.

The resulting annexation of 1381 acres to Lenexa within the next two-year period was accomplished within the framework of K.S.A. 12-520 over significant property owner objection. By 1983, the City had expended over a quarter million dollars in attorney fees and had earned the nickname of "Annexa".

The change in administration ushered in a new era of mutual cooperation and understanding with Lenexa and the adjacent cities of Olathe and Shawnee. Interlocal agreements calling for joint planning and annexation demarcation lines were approved for both the cities of Olathe and Shawnee. This spirit of cooperation has been furthered through the preparation and completion of the Kansas 10 Highway Corridor Study involving Johnson County and the cities of Lenexa and Olathe.

In our opinion, the current annexation law has served this City and the public well. Examples abound, but a few particular cases will be helpful in your deliberations here today.

Procedures for the unilateral annexations of property within the City of Lenexa are accomplished through strict interpretation of the requirements of K.S.A. 12-520. Documents utilized in this procedure include the resolution calling for annexation of certain property, the service extension plan and the actual ordinance annexing that same tract. Copies of each of these documents have been provided for your information and review.

The City is no less stringent in the presentation of annexation requests to the Board of County Commissioners for Johnson County under the provisions of K.S.A. 12-521. In our most recent annexation request, the City of Lenexa was required to submit a copy of the proposed service extension plan as a part of our initial petition to the Board of County Commissioners for Johnson County, Kansas. In addition, the City staff prepared a letter responding to the most frequently asked questions and included the same in the required notification to affected property owners.

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On December 12, 1985, the Board of County Commissioners conducted a public hearing in which both the City and affected property owners were permitted to make detailed presentations. In their response to the City's annexation request, we found the Monticello Township group to be well-informed, well-prepared and quite impressive in their presentation that evening. Having experienced that public hearing from a highly-visible seat on the firing line, I can guarantee you that the affected land owners were well-served by the annexation procedures currently in force. Once again, for your convenience, copies of the petition for annexation of certain property, service extension plans, notice of public hearing, order granting (or denying) annexation and the form annexation ordinance utilized after County Commission approval have also been attached for your review and consideration.

The City of Lenexa has diligently attempted to manage the incredible growth presently occurring within its corporate limits through both the careful consideration of planning and zoning decisions that affect the built environment (the "look" of the City, if you will), and through carefully planned expansion of our corporate boundaries in the accommodation of future growth and development. In our opinion, sustained economic development of this type and manner is critical to the City of Lenexa and the state of Kansas and can only be achieved through the utilization of workable annexation laws.

The consequences of approving Senate Bill 427 could well be dramatic and highly damaging to growing municipalities like Lenexa that are presently contributing to the physical conversion of property for urban uses as we proceed further into the information age. Similarly, all budget revenue sources, including those utilized by the State of Kansas, could well be affected by the potential costs associated with unplanned or substandard patterns of growth and development.

Many of the border wars of the past, it seems to this planner, could well have been avoided through the impartial application of current annexation laws and the allocation of the extra-territorial control over the municipality's sphere of influence. The application of extra-territorial zoning and subdivision control within a mutually defined and agreed upon area would, perhaps, end the continuous cycle of annexation brought about by those concerns for the possible creation, at the County level, of substandard development and improper land use and zoning patterns to be inherited at a later date.

A final thought is offered on the many annexation bills brought forth in the Kansas Legislation over the past few years many of which were designed to protect the property owner from manifest injury. Ernie Mosher, in his February 1982, editorial "On Behalf of Annexation" in the Kansas Government Journal states, in part, "... It is one of the harsh realities of life that private interests sometimes must yield to the long-term and broader public interest. Annexation is like taxes or zoning or building regulations, or a host of other governmental actions where the paramount concern in a democratic society must be the long-term public interest. If one has chosen to live in an urban or urbanizing area, and in an area that has future growth potential, it is at the risk of future annexation. While annexation may not be popular for those who want the best of both worlds, it is essential for planning and orderly development of a city and for the standardization of services and facilities to meet the needs of the area..." Similarly, Mr. Mosher further

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states "... The owners or residents of land adjoining the city should not be granted a statutory right to vote on or consent to annexation. It is essential that the long-term public interest of the whole community be given priority in municipal growth, in the same manner that other, over-all community needs in an urban society occasionally require the sacrifice of some private goals and interests in order to achieve the greatest social utility of the area and benefits to the many. It is untenable that the owners of land within the fringe area, whose location has benefits primarily in relation to the existence of the city, should be given veto power over geographic, economic and governmental destiny of the city ..." Finally, ..."It is simplistic to describe annexation as a land-grab or a tax raising scheme, as some people have. Annexation can best be described as an exercise of sound judgement and responsibility in anticipating future community needs in a timely fashion, which permits the securing of equity in the distribution of public costs." The City of Lenexa shares in this philosophy, and we couldn't agree more.

Thank you for this opportunity to present our comments and thoughts regarding annexation before this committee.

Sincerely,



Gregory M. Hembree
Director of Community Development

GMH/kj
Attachments

IV. H. Testimony of County Commissioner
Kent Crippin, Johnson County
January 28, 1986

JOHNSON COUNTY KANSAS

Office of the Board of County Commissioners

JOHNSON COUNTY COURTHOUSE
OLATHE, KANSAS 66061

782-5000

Kent E. Crippin
Commissioner, Third District

January 28, 1986

Don Montgomery, Chairman
Senate Local Government Committee

Senate Bill No. 427...Testimony Opposing
by: Kent E. Crippin
Johnson County Commissioner
Third District

Mr. Chairman, and Members of the Committee. I appear before you this morning as a County Commissioner, to present testimony opposing Senate Bill 427. My opposition targets upon two specific issues. They are:

1. The current law (12-520 and 12-521) provide annexation procedures which are currently satisfactory. Previous experience will illustrate the current law has worked well in Johnson County, and currently is in the process of working well. Johnson County within the past year has probably experienced more annexations and attempts at annexation than anywhere in the State.
2. It should be recognized that K.S.A. 12-520 presents situations and circumstances that may justify annexation in a manner to resolve urban issues or problems unique to a particular area. The statute offers guidance and criteria, rather than leaving the validity of annexation to interpretation. Again, the current statute works well

In many respects, the essence of my testimony focuses upon the cliché, "If it works, don't fix it".

Thank you.

KEC/db

(Attachment III)

IV. I. Testimony of
Mayor Jim Thurman, Great Bend
January 28, 1986



THE CITY OF GREAT BEND

P. O. BOX 1168 CITY BUILDING
GREAT BEND, KANSAS 67530

January 28, 1986

TO: Senate Local Government Committee

RE: SB 427

Today we are faced with a big challenge. That challenge must be met with all available resources. Cities need the support of the State of Kansas in this challenge, not limitations. The challenge is economic development and the resource is our ability to continue orderly growth.

One of the most important aspects of the continued vitality of a city and for the continued safety of the environment is that city's ability to grow. What we are saying is the issue of annexation is important if we are to strengthen our economy through industrial growth.

It would seem that previous legislatures were aware of the need for planning and growth when they developed the statutory provision allowing municipalities the right to monitor and develop comprehensive development plans within a three-mile area. The primary intent of this particular legislation was based on the general knowledge that cities will continue to grow and that this growth should be as orderly and well planned for all parties concerned.

I feel that it is safe to say that those cities who choose to annex do so with the best interests of the general citizenry at heart. Concern has arisen over the fact that some cities have launched aggressive annexation procedures not only in fringe areas, but also in unplatted agricultural areas. These cities are preparing for future growth based on the actual needs determined by comprehensive development plans, and most, if not all, of these plans are developed under the auspices and coordination of a city-county planning commission with subsequent approval by the appropriate governing body. Future needs including: housing; infrastructure; and, the applicable land acreage needs are projected as a planning function. Cities using development plans as a basis for growth should be commended for preventing governing bodies from reacting to citizen dissatisfaction resulting from poor planning and haphazard service delivery rather than acting on the actual needs of all parties concerned.

2.

CITY CLERK
1209 Williams
Box 1168
316-793-1481

ADMINISTRATION
1209 Williams
Box 1168
316-793-1221

ENGINEERING
1209 Williams
Box 1168
316-793-1206

INSPECTION
1209 Williams
Box 1168
316-793-1206

STREET
Light and Motor
Box 1168
316-793-1491

WATER COLLECTION CONTROL
RD #3
Box 1168
316-793-1491

PARKS
316-793-1491

...

The potential penalization of legislation that would restrict growth of Kansas municipalities would not only have an adverse impact on service extension capabilities, but would also greatly impact the potential for fringe area economic development. Without the ability to plan for service extensions, and to be able to market availability of the various services to commercial or industrial prospects, Kansas communities will not be able to compete with their counterparts in other states.

During the past five years, the City of Great Bend has utilized its authority to annex only on 10 occasions, with only four being unilateral. To date, the City has supplied all essential services to the annexed areas.

Recently, the Barton County-Great Bend Regional Planning Commission approved a new set of Subdivision Regulations which call for the extension of City utilities to platted areas within one-half mile of the corporate limits. The extension of utilities to areas of optimum service delivery and maximum suitability for development. Another factor which has been considered concerning the annexation of fringe areas is the Kansas Department of Health and Environment's regulation requiring fringe area developments to attempt to "regionalize" wastewater treatment. In other words, KDHE encourages the use of wastewater treatment plants when service is available. In the same light, the federal government has invested billions of dollars toward the construction of new municipal treatment plants and water projects in an effort to eliminate the possibility of pollution of potable and navigable water sources through inadequate treatment structures such as septic tanks and lagoons.

Reiterating a key element of annexation - planning for future growth does not involve what some would contend to be the indiscriminate or arbitrary taking of land, nor does it involve what some would term the need for a municipality to increase its tax base. The true key element to annexation lies with the orderly and planned growth of a City and its inherent increase in the quality of life brought about by improved wastewater collection methods, safer and better water systems, and a much improved delivery of emergency services. The City of Great Bend is committed to planning and see it as a very important part of our government. We should be able to make decisions which would provide for orderly growth.

Our role in economic development has changed over time. Cities must assume leadership in economic development which was unheard of ten years ago. We need your assistance to meet this challenge, therefore, we ask that you consider the needs of the vast majority of Kansans and not allow a few people to remove one of our important economic development tools.

I would like to quote a section from the Kansas Economic Development Study released this month.

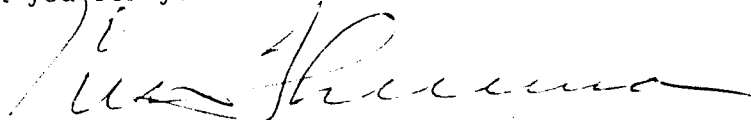
While the challenge facing Kansas is not an insurmountable one, it will be difficult and it will require substantial investment. A strong commitment will be necessary in funding by the legislature, in planning by the executive branch, and in cooperation by Kansas organizations. Our survey of Kansas business, state and community leaders showed a strong majority (78 percent) favoring state and local governments "to take bold new actions to encourage economic development," as distinct from adapting a do-nothing (2 percent) or minor change (20 percent) approach.

This document will be discussed a great deal over the next months. It seems to be a direct conflict to pass legislation such as SB 427 when cities need the support of the State of Kansas.

The oil industry has been going through a down period very recently. Great Bend is dependent upon the oil industry. We are working very hard to diversify and have recently hired a new Economic Development Director. We are committed, but we need your assistance and understanding.

We do not feel SB 427 is needed, therefore, we urge you to oppose its passage.

Thank you for your time and understanding.

A handwritten signature in cursive script, appearing to read "Jim Thurman". The signature is written in dark ink and is positioned above the typed name.

Jim Thurman
Mayor
Great Bend

JT:jm

IV. J. Testimony of Ed Elam,
City Administrator, Mulvane

Chairman Montgomery and Member of the Senate
Local Government Committee:

I am Edward E. Elam, City Administrator of the City of Mulvane, Kansas. I would like to thank you for this opportunity to appear before this committee and present our opposition to Senate Bill 427. I would like to state briefly our reasons that we feel that the existing annexation law has served both cities and the public well.

The existing annexation law gives a method whereby cities can annex land to their city in a orderly and systematic way. Each city has to have a means by which it can plan for its future service area. This has been accomplished in the past by the control over zoning and subdivision within the 3 mile extraterritorial around their city. The existing annexation law allows the city to annex land which is prime for development. The cities need this authority to bring their land within the city limits to assure that the land is developed within the standards of the city.

Zoning and subdivision regulations outside the city limits are much broader than those inside. The square foot requirement for household units is greater outside the city because of the water and septic system

requirements. This type of development is not planned for city utility services and causes a hardship on both the individual and the city when they are brought into the city. The larger lot sizes require a much higher cost to provide streets, water, electric and sanitary sewer service to each housing unit. The subdivision layout for outside cities does not lend itself very well to smaller lot sizes after annexation. These problems could have been eliminated if the development had been brought into the city before the development started.

The present law gives landowners protection both under the 12-520 and 12-521 procedure. Our community has been involved in the past with landowners opposing annexation and the present protection are very effective. The cost under the existing law is prohibitive and causes our governing body to review the merits of annexation in great detail before making a decision.

The buzz word of today is economic development in Kansas and this has been echoed by the Governor and other leaders in our area. A city must have a workable annexation law to move quickly when needed to annex land when competing for industry. As you know the competition for industry is very competitive and our cities have to be able to move quickly or lose the industry to someone else. Kansas and its cities can not afford more restraints put on their freedom to annex land and

and stay competitive with other communities outside of state. Our community has worked very hard to develop an industrial park and many of our citizens give of their own time to promote our city. We need less restraints placed on what we can do to attract new or retain existing industry. We are faced just about daily with other communities trying to entice our industries to move.

The feeling of our citizens today is less government. The creation of the boundary commission is just one more level of bureaucracy that we do not need. We do not believe that this committee would serve any purpose except to slow down the annexation process and become more costly to both the individual and city.

Most of our county commissioners serve on other boards such as Fire Districts, Water Districts, etc. all dealing with a shrinking tax base or service area and the need for more money to keep those services operating. Therefore, it is hard for us to believe that the county commissioners are an impartial body to act on annexation appeals. We can not help but believe that their decision could not be influenced by the possible reduction of either taxes or payment for services. For this reason we do not feel that the county Commissioners are an impartial judge to review annexation of cities.

I would like to briefly discuss our annexation of lands outside of our city limits in some detail. We like

many cities have subdivisions very close to our city limits line that use our city's streets and other public facilities paid for from local tax dollars. They also benefit from their location to our city fire and civil defense operations in lower fire ratings etc. They also are able to receive service from our police department through our mutual aid agreement with area sheriff departments. The City Council looked at all of the benefits received by these areas and the possible effect if they were annexed. After much discussion it was decided that these areas were receiving basic services without paying the cost of providing that service. The question came up about rural water district and KG&E electric service that already existed in the area. The council agreed not to force the residents of these areas to change any of their existing utility services and the city would only extend this service into the area after receiving a petition for that extension. The governing body felt this was the most fair method to handle any change in service.

In conclusion we feel that the existing law provides protection for landowners and allows the cities a method to annex land when needed.

V. A. Testimony of Bob Livingston
City Manager, Dodge City
September 24, 1985

City of
Large City



CITY HALL
P.O. Box 880
Dodge City, Ks. 67801-0880
Phone 316/225-1391

September 24, 1985

MEMO

TO: Special Committee on Local Government
FROM: Bob Livingston, City Manager
SUBJECT: Review of Annexation Practices of Dodge City, Kansas

Introduction

The following information is intended to provide the committee with some indication of the policies and practices of the City of Dodge City regarding annexation as well as an enumeration of some of the problems caused by development on the perimeter of communities like Dodge City. Dodge City has a history of limited annexation activity over its entire 115 year existence. Most of this was accomplished at the request of the property owner or developer. However, this has not always been the case and those annexations have not always been without controversy. I believe a review of the practices of the City as well as the history of enactment of annexation legislation will lead one to see the logic in the City's actions and show that the annexation practices of the City have been fairly consistently followed.

History of Annexations in Dodge City

Attached for your information is a copy of a map which indicates annexation grouped in various time periods. Since 1970, the City has annexed property constituting some 4,189.44 acres. Numerically most of the annexations representing 1/3 of the total acreage have been at the request of a the property owner or developer or were City property. Approximately 2/3's or 2,800 acres have required that the City exercise its power unilaterally to bring those areas in the City.

During the early 1970's there was considerable annexation

activity. Mainly, this was to bring several areas into the City, which were either in close proximity to the downtown area or had been urbanized or industrialized for a number of years. These were, for all intents and purposes, a part of the City for many years. However, the individuals living in those areas were not supportive of annexation. Since that time, i.e. approximately 1972 on, the areas annexed to the City have been done per request of the property owner. Usually the intent was to bring that area into the City for expanded services or to clear up service questions.

The City's basic policy, although not written, has been that if the City extended a utility i.e. water or sewer, annexation of this property was requested at the time of extension. However, annexation was not accomplished until full and orderly extension of services, i.e. police, fire, street, etc. could be accomplished. For that reason we currently have several areas which have a basic utility service available but are not annexed. The general intent has been only to annex areas when they can easily receive basic city services in a logical manner. Unilateral annexations occur only when confusion is caused in providing those basic services by the City, i.e. police, fire, street repair, etc.

Policy of the City of Dodge City Regarding the Extension of Services

Attached for your information is a copy of the current policy regarding extension of water and sewer utilities to the areas not previously served by the City. However, I believe many times in these types of discussions we fail to state what basic services are. Of a total \$11,000,000 budget in 1985, between \$5 and \$6 million will go toward provision of basic services. These include police, fire, parks, street maintenance, a golf course, a civic center, drainage maintenance, operation of City airport, cemetery, as well as engineering, inspection and planning activities. These services are extended immediately upon annexation of any area to the City. These services constitute the use of most, if not all, of the city's property tax dollars. Water, sewer and street improvements are or have been paid in the past by either special assessments or by the developer. We expect newly annexed areas to follow this policy.

At this point let me indicate that the costs of City vs. County taxes and the services they provide is a source of great confusion, not only to the public, but even staff and elected officials who must work with it constantly. I have attached for your information a copy of a report which I provided the City Commission approximately three months ago. It was the result of a comment made by a property owner, living in an area which was annexed to the City at the request of the majority of the property owners in that area. The individual had indicated that their taxes had gone up dramatically because of annexation into the City.

They had in fact not increased much at all. In addition, the report shows other similar comparisons for Dodge City.

I believe that this brings up two important points. First, many times we hear of large differences in rates inside and outside of the city when this is just not the case. Second, it is important that the entire issue of cost allocation between City and County taxes be fully reviewed in connection with any study of annexation power of the City since many times this is at the root of the dispute.

Reasons for Needing Unilateral Annexation Powers for Cities

The extension of water and sewer service to property in an area will many times result in certain individual property owners agreeing to annexation. This leaves other property unannexed and a resulting checker board pattern of city limits. In some cases cities need to unilaterally annex properties in order to clear up confusion regarding who is actually inside and outside the city limits and where to provide service. The city's need to maintain those powers of annexation is imperative.

In addition, areas in close proximity to the City may need to be annexed for various purposes to support orderly growth. At the present time our County does not have a building code. In addition, they provide for no inspection services. They do not provide water and sewer facilities so septic systems and wells must be used. They have indicated no interest in providing improvements through a special assessment process. These factors all lead to problems regarding the quality of a development which is below reasonable standards for an urban area. In addition, in many cases the ability to annex land before it is developed will solve drainage problems before they occur. In either case, the time to solve these problems is before they occur and can only cause increased expenditure of tax dollars to correct.

Finally, let us consider the powers of annexation as they regard economic development throughout the state. Because of many of the reasons outlined above, it is generally the cities to whom industry turns with regard to building of new plants, expansion of old ones, etc. A good example has occurred recently in Dodge City with the construction of a large 100,000 square foot plus warehouse for Chaffin, Incorporated, an owner of some 30 to 40 Gibsons Discount stores throughout Kansas and the rest of the Midwest. The company for a number of years had run its warehousing operation out of Dodge City. It owned property outside of town which was being considered for an industrial park. However, the inability to extend water and sewer facilities to that property at a reasonable cost had entered the project and the company was considering alternate sites in other states.

As a result of the City's efforts through the State's Community Development Block Grant program, a \$400,000 Community Development

Block Grant for Economic Development was received and water and sewer facilities as well as some other facilities are being extended to that property. In addition, by annexing to the city, the plant site was able to qualify for inclusion in the City's Enterprise Zone which qualifies it for other State tax credits. In this particular case it was not necessary to annex additional land beyond what was needed for the industrial park site. However, in other cases, the need may arise and the City might have had to unilaterally annex in order to provide the same extension of services.

This is not really a service which the County was capable of or wished to provide, but which the City normally handles. I would look hard at the implications in other smaller cities around the state if cities were no longer to annex property as needed in order to promote economic development, provide for new industries and expansion of old ones. Without the power to act as it did, Dodge City could have found this industry now located in Nebraska.

Summary and Conclusion

As you may or may not be aware, Dodge City originated with construction of a fort at the area now occupied by Kansas Soldiers Home in Fort Dodge. At that time it was illegal to sell alcoholic beverages within five miles of any Army post. Therefore, an enterprising merchant measured the circumference of a wagon wheel, tied a flag on one of the wheels to count the revolutions and located a point five miles west of the Fort. That area is located at the major intersection of Dodge City. Since that time, the City has expanded from that location. That point still remains near the center of the community. The City has remained in this location for over 100 years. Over the years, however, people have moved close to the City, built homes and businesses. At some point the City has expanded and incorporated those in either at their request or through unilateral action. Consider this: 1) the City has never moved, and 2) people have located near the City because of the benefits, i.e. roads, streets, police and fire protection, libraries, parks and other facilities that the City offers. Removing the City's abilities to annex those areas into the City will severely reduce the city's ability to promote orderly growth and providing of services. Actions of that type will lead only to poor planning and numerous problems regarding drainage, street, water, sewer and other items and in the long run cost the taxpayers more.

In summary let me make 2 points.

1. Annexation is not taken lightly, I believe, by any City. It is serious business but when there is a need, the cities need the power to do so.
2. Limiting the City's ability to unilaterally annex either urban or agriculture areas will in the long run only

increase costs.

I appreciate the opportunity to make this presentation and will be glad to answer any questions which you feel important.

V. B. Testimony of Phil Nelson,
Assistant City Administrator, Great Bend
September 25, 1985

Members of the Special Committee on Local Government:

Thank you for this opportunity to address the Committee on Proposal No. 45--Annexation Law Review.

One of the most important aspects of the continued vitality of a city, and for the continued safety of the environment is that city's ability to grow.

After reading the policy goals of the task force, it would appear that one key element--perhaps the most important key element--has been overlooked. This element can be summed up by the phrase "planning for future growth." If any proposed legislation being considered by the Task Force which stands a chance of passage precludes the possibility of an orderly, planned growth by a municipality, the inherent potential of creating severe infrastructure as well as environmental problems will result.

It would seem that previous legislatures were aware of the need for planning and growth when they developed the statutory provision allowing municipalities the right to monitor and develop comprehensive development plans within a three-mile area from the city proper. The primary intent of this particular legislation was based on the general knowledge that it is inevitable that cities will continue to grow and that this growth should be as orderly and well planned for all parties concerned.

I feel that it is safe to say that those cities who choose to annex do so with the best interests of the general citizenry at heart, including those people who live in prime annexable areas. Recently, major concern has arisen over the fact that some cities have launched aggressive annexation procedures in not only fringe areas, but also in unplatted agricultural areas. It should be noted that the majority of these annexations have occurred in larger cities who also happen to be established population centers, or areas of significant new growth. These cities are preparing for future growth based on the actual needs determined by comprehensive development plans. And most, if not all of these plans

are developed under the auspices and coordination of a city-county planning commission with subsequent approval by the appropriate governing body. Without going into the actual mechanics of the comprehensive plan, future needs including: housing; infrastructure; and, the applicable land acreage needs are projected using existing totals as a basis. The cities who are using the development plans as a basis for growth should be commended for preventing the governing bodies from having to react to citizen dissatisfaction resulting from poor planning and haphazard service delivery rather than act on the actual needs of all parties concerned.

The potential penalization of legislation that would restrict growth of Kansas municipalities would not only have an adverse impact on service extension capabilities, but would, as a result, greatly impact the potential for fringe area economic development. Without the the ability to plan for service extensions, and to be able to market availability of the various services to commercial or industrial prospects, Kansas communities will not be able to compete with their counterparts in other states.

During the past five years, the City of Great Bend has utilized its authority to annex only on 10 occasions, with only four being unilateral. To date, the City has supplied all essential services to the annexed areas.

Recently, the Barton County-Great Bend Regional Planning Commission approved a new set of Subdivision Regulations which call for the extension of city utilities to platted areas within one-half mile of the corporate limits. The extension of utilities to areas beyond the city limits was based on the premise of directing growth to areas of optimum service delivery and maximum suitability for development. Another factor which has been considered concerning the annexation of fringe areas is the Kansas Department of Health and Environment's regulation requiring fringe area developments to attempt to "regionalize" wastewater treatment. In other words, KDHE encourages the use of wastewater treatment plants when service is available. In the same light, the federal government has invested billions of dollars toward the construction of new municipal treatment plants and water projects in an effort to eliminate the possibility of pollution of potable and navigable water sources through inadequate

treatment structures such as septic tanks and lagoons.

In conclusion, I would suggest that the existing annexation laws are more than adequate in the protection of people who live in prime annexable areas. Not only do existing statutes eliminate indiscriminate annexation by cities, but those same people have legal recourse through the court system. A perfect example of this legal aspect would be the recent District Court ruling disallowing a 1,200 acre annexation by the City of Wichita.

Reiterating the key element of annexation - planning for future growth - does not involve what some would contend to be the indiscriminate or arbitrary taking of land, nor does it involve what some would term the need for a municipality to increase its tax base. The true key element to annexation lies with the orderly and planned growth of a city and its inherent increase in the quality of life brought about by improved wastewater collection methods, safer and better water systems, and a much improved delivery of emergency services.

In their package of legislative proposals for the 1985 session, the Governing Body of the City of Great Bend recommended that the recommendations listed in the League of Municipalities Policy Statement, Section I-5, be followed as closely as possibly.

Again, thank you for this opportunity to speak to this important issue.

Phil Nelson
Assistant City Administrator
City of Great Bend, Kansas

V. C. Testimony of Warren Porter,
Assistant City Manager, Emporia
September 25, 1985

TESTIMONY TO: The Special Committee on Local Government
PROVIDED BY: The City of Emporia, Kansas
Warren Porter, Assistant to the City Manager
DATE: September 25, 1985

The City of Emporia generally supports the unilateral annexation authority of Kansas cities as outlined within current Kansas Statutes. We also realize that many of the legislators within this state are concerned about present annexation powers favoring municipalities over the desires of individual homeowners. Based upon this knowledge and general common sense, the elected officials of Emporia have utilized their authority to annex land without the expressed consent of the property owner, in what we believe to be a sparingly and prudent manner.

Within the past five years, the City of Emporia has undertaken four non-petitioned annexation proceedings. These four annexed areas encompass a total of 172.904 acres, with the smallest tract 2.689 acres and the largest area 70.436. Thirteen housing units were assumed into the City within these four cases.

While we have no formal city-initiated annexation policy, all of the procedures had the following common characteristics.

1. All of the area was bounded by city limits on a minimum of three sides, with over 66% of the acquired land enclaved within the city limits.
2. All city services could be quickly and easily provided to the annexed regions. Over half of the residential dwellings were receiving water

supplied by the city before annexation and paying for that privilege at outside the city rates. The savings for the basic residential customer on outside city against inside city water rates is in excess of \$100 annually.

In each annexation case an accessible city street was available from the property owners' drive and its corresponding maintenance which benefited each of the properties, although the property owners had not been assessed for these roads.

3. Little or no farm land was taken in each annexation proceeding. Generally, the fringe of our community takes on an urban appearance, with the residents accepting identification of the community. When these properties were assumed within the city, very few changes were visible within the lives of the property owners.

Just recently, the City Commission was approached with a request for additional water meters for a rural water district that is supplied water by our city. The reasons given included the following:

"Without water meters, the district can only be developed as farm land...because there is no reliable water supply, many farmers in the area cannot sell their land to people who want to live in the country. Land belonging to one farmer in the area is now valued at \$350 per acre, [would be valued at] \$450 to \$500 if a meter was available. He is losing that kind of money because no water meters are available. Whether farmers would sell their land or not...(water meters) would help farmers because they would raise the appraised value of land. That added to land value would allow farmers to borrow more money from banks."

(Taken from The Emporia Gazette, Thursday, September 19, 1985)

While it may be the intention of this committee and the Kansas legislators to preserve agricultural land as such through the restriction of unilateral annexation powers, the end result for the Emporia fringe area may be the development of housing units on land previously devoted to agricultural.

4. The City of Emporia desires to keep land owners within those areas proposed for annexation informed. Attached to this testimony is the actual packet of information we deliver to owners of prospective annexed property. We feel that the provision of this information is a moral and sensible obligation on our behalf. You will also find attached copies of maps for the four annexation proceedings that have been city initiated during the past half decade.

5. The property annexed did not greatly enhance the city tax base. None of the land recently annexed included commercial or business property. Generally, it is assumed that residential property is not a major growth factor in a city's assessed valuation.

For a residential unit valued at \$50,000 and assessed at 10%, this property would raise \$203.16 in city-only taxes in 1986 (40.632 mill levy rate), or 0.00145% of the 1986 total budget. We feel that our tax rates are a bargain. The areas annexed received reclassification of fire insurance ratings from class 9 to class 4. Normally, lowering of the fire ratings will allow a homeowner to realize a positive balance on the difference between insurance premiums less city tax liabilities,

before current allowance for income tax deduction. In each of these presented cases, the city will collect refuse at a lower service cost yet twice the collection frequencies. The areas also received full-time police and fire protection upon final annexation approval. Tax supported services are extended immediately, yet the land owner does not have to pay for such services until a later date. If annexed after April of a specific year, the property owner will not be liable for city taxes until November of the following calendar year.

Within our community, and many other cities throughout this state, unilateral annexation is a prime and prized economic development tool. The state of Kansas has made efforts to develop and promote the many benefits offered by our state. When Kansas cities businesses and industries are attracted to Kansas, generally firms build and prosper in Kansas cities. Expansion of a community's industrial base generally requires expansion of city boundaries. While a majority of these firms desire to obtain municipal services, surrounding neighbors may be content with their state of affairs. Without an effective yet fair method of annexing urban fringe, cities will be forced to provide less efficient services to businesses locating in a non-contiguous area, or as Michigan has discovered, businesses may leave not only cities, but the state because of restrictive annexation authority. A review of the Kellogg's Corporation struggle to unify a host of competing and often selfish desires within a common urban territory, serves as an example of what could occur within our state if a restriction responsible for unilateral annexation authority is mandated by the legislature.

V. D. Testimony of Glenn Hill,
City Manager, Russell
September 25, 1985

CITY OF RUSSELL'S ANNEXATION

EXPERIENCE

The City of Russell serves as the county seat of Russell County. Russell has a population of approximately 5,500 with a County population of approximately 8,800.

Our County is predominately agricultural land with significant oil industry activity. Our City is divided by U. S. Highway 40, U. S. Highway 281 and Interstate 70 on our south boundry.

During the past several decades, our community has witnessed the development of our fringe areas with residential, commercial and industrial uses. During these years, our annexation activity was generally limited to those requested by property owners. However, the City had followed an informal policy of extending many of its municipal services to these areas without regard to their corporate status.

Approximately five years ago, the City Council recognized the developing tendency for business and individuals to locate within these fringe areas. Often these location decisions were based primarily on the tax differential between a township and the corporate community. However, many decisions were also due to insufficient land and/or sites, for the particular development, within the City. This is a significant issue which I will address more directly later in this report. It should be noted that individuals and industry will locate outside of a city's corporate boundaries, when adequate land or sites are not available within the city. This fact lends great support to maintaining the annexation authority for communities. However, the major complaint mentioned, during an annexation process, is tax disparity; regardless of the actual reasons for their site selection.

Following much discussion, the City Council adopted a policy which would deny the extension of municipal service, unless annexation was requested. This policy acted to control, for the future, the uninhibited growth of these fringe areas. In the ensuing years, there were several property owners who requested annexations. However, it became more apparent that the fringe areas should be part of the City. This realization was based upon the fact that those in these areas utilized services and amenities of the City which they did not financially support and to maximize the City's economic development, it needed to bring these areas within its corporate control.

The City Council, in April of 1984, authorized staff to acquire the services of a consulting firm to develop a comprehensive annexation plan. This plan was to provide a sound approach to annexing clearly urbanized fringe areas as well as areas for potential development. The annexation plan was completed and presented to the City Council in June, 1985. It should be noted here, that the vast majority of land included in the proposed annexation plan was also included in the City's 1974 Comprehensive Plan and shown on the land use development map. I have included copies of the proposed annexation map with this report. The City Council adopted the proposed plan and directed staff to proceed with the annexation effort following the statutory guidelines contained in K.S.A. 12-521. The Council passed a resolution of intent which was forwarded to the Russell County Commission. The County Commission established a time and place for the public hearing and the City was preparing the formal notices as required. However, during this period of time, the individuals subject to annexation became very vocal, which resulted in the Mayor calling a special meeting of the City Council. The City Council then acted to terminate the proceedings. The City was not given the opportunity to speak to its reasons for annexation or to the proposed service extension plan, a copy of which is included with this report.

Those in opposition were basing their complaints upon assumptions and misinformation, which could have been addressed at the formal hearing. The most often heard complaint was, what are you going to give us for the taxes we will pay. This illustrates the misunderstanding of fringe area dwellers, because the majority subject to our proposal were receiving the benefits of virtually all of our municipal services, but were not assisting in the general tax base which supports those services.

Following these dramatic and controversial events, the City received a request from a property owner for annexation. The subject property had been part of the proposed plan and included approximately 5.5 acres which is utilized as a mobile home park with approximately 40 to 50 residents. This request was approved by the City Council at its August meeting.

THE NEED FOR THE AUTHORITY
TO ANNEX TERRITORY

As you can see from the experience in our City, annexations tend to be quite controversial. However, as noted in the final paragraph above, there are individuals who recognize the purpose and need for annexation authority and can approach the issue on a rational basis.

I believe that we can assume that all municipal organizations take actions and implement policies which will serve the common interests of their respective communities. Given this assumption, we can further postulate that municipalities engaged in annexation activity do so only after considerable planning. To assume otherwise would fly in the face of reason, as annexations regardless of their size bring upon the municipality additional burdens and responsibilities. Additional territory will require additional expenses to provide for the necessary service development and future planning. Actions taken by municipalities which result in such additional burdens require deliberate study which will address the program's cost benefit and the future needs of the community.

These assumptions are supported by the Constitution of the State of Kansas.

In K.S.A. 12-101, it states:

"Article 12 Section 5 of the Constitution of Kansas empowers cities to determine their local affairs and government by ordinance and enables the legislature to enact laws governing cities."

It is my belief that the municipalities of Kansas feel that the governing bodies have an obligation to exercise the powers and authorities (delegated by the State) in a reasonable and prudent manner.

It appears that with the assumptions discussed above and given the controversial nature of annexation activity, the control and rational use of the process will be insured at the local level.

Annexation authority is necessary to the reasonable growth of a community. Proper planning will allow cities to respond to growth and development problems in a coordinated and efficient manner, through the use of timely annexations. The utilization of planned annexation activity assists in avoiding the costly and inefficient duplication of service delivery in fringe areas.

Annexation authority is necessary to help communities maintain a competitive economic development position. As mentioned earlier, individuals and industry tend to locate in the fringe area of a community, when a suitable site is not available within the city. Often such amenities as rail or air service are necessary to the developer's future plans. In many cases, available land offering such benefit lies outside the city's corporate boundaries. If communities, such as Russell, are to remain competitive in the search for new industrial prospects; we must maintain reasonable methods by which territory can be added to the city. The ability to annex such territory will allow communities to plan for potential industrial growth. This would include the extension of necessary utilities as well as the development of industrial sites. Such authority would maintain cities' ability to offer numerous incentives for industrial prospects to locate within the planning areas. New business establishments will bring new jobs to communities and will assist the efforts to diversify their economic base of support. This is of critical concern in Russell, since our economy is supported, almost exclusively, by the oil and agricultural industries. The legal authority to annex territory is basic to the preservation of local self-determination and efficient local government.

CURRENT ANNEXATION

LAW

As I reflect upon Russell's experience with annexation, it appears that the current law is workable. It allows for the necessary self-determination at the local level and is sensitive to the local environment. The required notices and preparation of a service extension plan are strong elements within the current statutory authority. I believe that the current law should be retained in its basic form; however, there are areas within the law which could be modified to enhance its effectiveness.

During Russell's most recent annexation effort, it became apparent that there was general concern, among the subject property owners, regarding the lack of advance notice of annexation plans. It would seem that by providing some additional requirements within the current law to address expanded legal and political due process rights should help alleviate these concerns.

The State-Local Task Force is in receipt of several recommendations which address this particular problem. Notable among those recommendations are the following:

- 1) Restriction of unilateral annexation to clearly urbanized areas,
- 2) Broadening the areas which could be subject to the County Board procedure (K.S.A. 12-521),
- 3) Authorization to create boundary commissions,
- 4) Authorization for property owners to appeal from the County procedure and request review by a boundary commission,
- 5) De-annexation of unserved areas,
- 6) Planning Commission review of proposed annexations,
- 7) Notice of intent to other governmental units, and
- 8) Public hearings in the area to be annexed.

The next most often heard complaint deals with the annexation of agricultural land. There are clearly times when such annexations are justified. Particularly, when a community's comprehensive plan and growth studies indicate future development in an area currently used for agricultural purposes. However, some modification to the current law is possible, to help quiet some of these concerns. I would suggest that the recommendation given the State-Local Task Force which would reduce from 55 acres to 20 acres the amount of agricultural land which may be annexed without the owner's consent; under the statutory unilateral annexation authority. This would, of course, retain a community's ability to utilize the County process, if it felt that a larger area should be annexed.

These recommendations would address some of the public concerns heard most often. I further believe that by providing some recourse to property owners, should a city fail to comply with its service extension plan, will remove some of the perception that annexation accrues benefits to only the city.

In addition, I would suggest that the current law could be improved substantially by providing cities with the authority to annex unilaterally city enclaved land. This would apply to property which is completely surrounded by incorporated territory and without regard to its use. This recommendation again speaks to the efficient operation of local government and concern for the common public interest.

Finally, I want to again make mention of the common complaint heard regarding tax disparities. The costs associated with the operation of an incorporated community and the resulting tax burden, will always exceed that of townships. This issue was also addressed in the recommendations proposed to the State-Local Task Force and it deserves serious attention and discussion.

SUMMARY

During the five years I have worked with local government in Kansas, I have gained great appreciation for the support given local government by the Legislature. The State has a proven record of enacting very progressive laws in support of local government. I have worked in California and Idaho and I believe that Kansas has been far more successful in creating an environment in which local government can truly flourish. The annexation authority is basic to that environment. Annexation will always be controversial; however, that does not alter its importance to local governments. Therefore, I support the retention of annexation authority for cities, in support of effective local government and local self-determination.

V. E. Testimony of
Mayor Bob Brown, Wichita
September 25, 1985

1

TESTIMONY BEFORE THE LOCAL
GOVERNMENT INTERIM COMMITTEE

ROBERT C. BROWN, MAYOR
CITY OF WICHITA

September 25, 1985

SENATOR MONTGOMERY, REPRESENTATIVE SAND AND MEMBERS OF THE INTERIM COMMITTEE ON LOCAL GOVERNMENT: MY NAME IS BOB BROWN, MAYOR OF THE CITY OF WICHITA. AT ISSUE HERE TODAY IS A REVIEW OF PAST AND PRESENT ANNEXATION LAWS AND PRACTICES IN KANSAS.

I WOULD TAKE A FEW MINUTES OF YOUR TIME TO TALK WITH YOU ABOUT THE IMPORTANCE OF ANNEXATION TO THE WELL BEING OF CITIES. ANNEXATIONS ARE SELDOM POPULAR WITH THE RESIDENTS OF URBAN DEVELOPMENTS IN UNINCORPORATED PARTS OF THE COUNTY. RESIDENTS IN THESE AREAS HAVE MADE A CHOICE TO LIVE BEYOND THE CITY LIMITS WITH LESS OF THE AMENITIES OF CITY LIVING AND OFTEN WITH LOWER STANDARDS FOR WATER, SEWER AND STREETS AND MOST IMPORTANT, LOWER TAXES. THEY HAVE THE BEST OF BOTH WORLDS... LOWER TAXES AS WELL AS A VARIETY OF GOODS (OFTEN AT LOWER PRICES), AS WELL AS ACCESS TO SERVICES AND JOB OPPORTUNITIES IN A VIBRANT CITY, BE IT LARGE OR SMALL.

I UNDERSTAND FULL WELL THE ANGER AND THE RESENTMENT WHEN THE CITY GROWTH REACHES THESE RESIDENTS BOUNDARIES. MY HOME IS IN THE SHERWOOD GLEN ADDITION THAT IS IN NORTHWEST WICHITA. SEVERAL YEARS AGO MY NEIGHBORHOOD WAS ANNEXED BY THE CITY OF WICHITA. MY NEIGHBORS WERE UPSET. THEY HIRED AN ATTORNEY

TO HELP FIGHT THE ANNEXATION. IN THE END...AFTER THE ANNEXATION WAS COMPLETED...ALL WE GOT WAS GOOD CITY WATER, SEWERS, STREET LIGHTS, OVERLAY ON OUR STREETS AND AN OPPORTUNITY TO BE MAYOR OF WICHITA. THESE ARE THE TANGIBLE RESULTS OF ANNEXATION. THEY MAY NOT APPEAR OVERNIGHT BUT THEY DO APPEAR. IT SEEMS TO BE THAT WHEN THE FURY OF HAVING TO PAY INCREASED TAXES FADE, THE RESULTS OF ANNEXATION ARE NOT BAD. I WOULD LIKE TO INTRODUCE MR. MIKE LINDEBAK, ACTING PLANNING DIRECTOR WHO CAN SHOW YOU THE LOGICAL STEP BY STEP PROGRESSION THAT THE CITY OF WICHITA HAS USED OVER THE PAST TEN YEARS. THE FUTURE LIFE OF ANY CITY DEPENDS UPON ITS ABILITY TO HAVE ORDERLY GROWTH. SOME OF THAT GROWTH IS IN THE CITY'S ECONOMY, WHILE OTHER IS IN LAND AND AREA. I BELIEVE THAT THERE IS NO SUCH THING AS THE STATUS QUO FOR CITIES...EITHER THERE IS PROGRESS OR DECLINE. LET ME SHARE WITH YOU THE GRIM SCENARIO OF WHAT HAPPENS WHEN CITY'S LOSE THEIR ANNEXATION TOOLS... WITH INCORPORATED CITIES SURROUNDING THE LARGER ONE, A RING IS DRAWN AROUND THE MAJOR CITY WITH VARIOUS CORRIDORS. (GO TO THE EASEL FOR YOUR DRAWING) IF THE FORMERLY URBAN PROFESSIONALS DECIDE TO MOVE OUT OF THE CITY OF UNINCORPORATED AREAS TO ENJOY THE RURAL LIFE STYLE, THEY TAKE WITH IT THE LIFE'S BLOOD OF THE CITY. THE CITY IS LEFT TO BLUE COLLAR WORKERS, THE POOR, THE UNEDUCATED AND THE ELDERLY. THEY THEN BECOME THE ELECTORATE. BUSINESSES WITHIN THE CITY SEE THE EROSION OF THE CITY AND THE TAX BASE THEY, TOO, LEAVE THE CITY AND THE SLOW DEATH OF THE CITY CONTINUES. IF OUR KANSAS CITIES LOSE THEIR

ABILITY TO GROW, IT WILL BE THE FIRST NAIL IN THEIR COFFIN. THE ESSENCE OF THE PROBLEM IS HOW BEST TO HANDLE GROWTH. ANNEXATION, CONTROLLED BY STATE LAW TO ASSURE FAIRNESS, MOST OFTEN HAS BEEN THE ANSWER IN THE MIDWEST AND WEST. INCORPORATION WAS AS THE ANSWER IN MANY OLDER EASTERN AND NORTHERN CITIES SUCH AS ST. LOUIS AND DAYTON, OHIO. THE RESULT HAS BEEN THE INCORPORATION OF A RING OF SMALL CITIES, THE DECAY AND SOMETIMES FISCAL COLLAPSE OF THE CENTRAL CITY...THE DEATH KNEEL THAT I MENTIONED EARLIER.

ANNEXATION IS THE MOST VALUABLE TOOL FOR OUR CITIES...LARGE AND SMALL TO HANDLE ORDERLY AND STEADY GROWTH FOR OUR KANSAS COMMUNITIES. THE CURRENT LAW HAS WORKED WELL IN ALLOWING GROWTH WHILE PROVIDING PROTECTIONS AGAINST CITIES GRASPING FARMLAND. OVER THE PAST TWENTY YEARS, WHICH HAS GROWN BY APPROXIMATELY 20 SQUARE MILES. LESS THAN 10% OF THAT HAS BEEN BY UNILATERAL ANNEXATION.

THE CITY OF WICHITA SUPPORTS THE CURRENT ANNEXATION LAW AND ITS FAIR BALANCE BETWEEN THE CITY'S ORDERLY GROWTH AND PROPERTY OWNERS CONCERNS.

MR. DOUG MOSHIER OF THE CITY'S LAW DEPARTMENT WILL SPEAK TO SOME OF THE LEGAL CONCERNS OF ANNEXATION. IN CONCLUSION, FINANCING...FEAR OF HIGHER TAXES IS THE GREATEST "BUG-A-BOO" IN ANNEXATION. THOSE FEARS ARE UNFOUNDED. THE CITY PLAN PROVIDES THE MAXIMUM PRICE TAG IF ALL SERVICES ARE DESIRED.

THE FACT IS THAT WHEN IN PLEASANT VALLEY, OR IN MY ANNEXED AREA, THE MAIN SEWER ASSESSMENT IS ONLY \$650 PER TYPICAL SINGLE FAMILY QUARTER ACRE LOT. EVENTUALLY, OTHER SERVICES ARE PETITIONED FOR AS RURAL ROADS WEAR OUT BUT THE RESULT IS THAT THE LAND VALUES GO UP. THESE OTHER SERVICES MUST BE PAID JUST AS THE HOMEOWNERS PAY FOR THEIR SWIMMING POOLS, JACUZZIS OR OTHER LAND IMPROVEMENTS.

FOR THE LEGISLATURE TO OPEN THE DOOR FOR A MINORITY TO HAVE THE ABILITIES TO COERCE THE MAJORITY IS TO OPEN A PANDORA'S BOX. THANK YOU FOR YOUR TIME. STAFF IS HERE AND WOULD BE GLAD TO STAND FOR ANY QUESTIONS.

CITY OF WICHITA ANNEXATIONS SINCE
JANUARY 1, 1970, BY YEAR, SIZE AND TYPE

<u>YEAR</u>	<u>TOTAL NUMBER OF ANNEXATION CASES</u>	<u>NUMBER OF UNILATERAL CASES</u>	<u>PERCENT OF TOTAL CASES</u>	<u>TOTAL ACRES INVOLVED</u>	<u>ACRES OF UNILATERAL CASES</u>	<u>PERCENT OF TOTAL ACRES</u>	<u>NO. OF CASES CONTESTED</u>
1970	8	0	0	1723.2	0	0	0
1971	2	0	0	839.94	0	0	0
1972	7	0	0	295.13	0	0	0
1973	15	0	0	1592.27	0	0	0
1974	7	1	14%	920.12	296.18	32%	1
1975	3	0	0	462.88	0	0	0
1976	9	1	11%	1000.56	121.1	12%	0
1977	8	0	0	638.29	0	0	0
1978	9	0	0	912.34	0	0	0
1979	12	0	0	1242.35	0	0	0
1980	23	1	4%	2463.04	141.55	6%	0
1981	15	4	27%	2749.91	1511.00	55%	1
1982	19	7	37%	783.47	190.03	24%	0
1983	9	0	0	556.31	0	0	0
1984	7	0	0	231.59	0	0	0
1985	5	0	0	610.49	0	0	0
TO DATE	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
TOTAL SINCE 1970	158	14	9%	17021.89	2259.86	13%	2

The table indicates that since January 1, 1970, the City of Wichita has processed 158 annexation cases incorporating 17021.89 acres of property into the City. Of these 158 cases, only 14 cases (9%) were undertaken unilaterally by the City. These unilateral cases covered 2259.86 acres (13%) of the total area incorporated. Of the 14 unilateral annexation cases undertaken over the past 16 years, only 2 were contested in the Courts.

Both of the cases contested in the courts were appealed through the Kansas Supreme Court. The Court upheld the City's action in the first case (Callahan-Westport area) and partially upheld the City's actions in the second case (west side annexation case).

The two years indicated in the table as having the highest percentage of unilateral annexation cases (1981 and 1982) were a result of the steady progressive growth experienced by the City during the 1970's. By 1981, the City's boundary had been extended by virtue of adjoining property owners' requests for service, to the point of encompassing several properties already developed for urban purposes. The unilateral cases were undertaken to incorporate these urbanizing areas into the City.

V. F. Testimony of
Mayor Reece Kuhn, Bonner Springs
July 24, 1985



City of
BONNER SPRINGS



TESTIMONY TO THE SPECIAL COMMITTEE ON LOCAL GOVERNMENT
PUBLIC HEARING ON PROPOSAL NO. 45-ANNEXATION LAW REVIEW
BY REECE KUHN, MAYOR, CITY OF BONNER SPRINGS, KANSAS

Dear Members of the Committee:

The City of Bonner Springs is a city of the second class located in both Wyandotte and Johnson Counties, Kansas. The City currently has an estimated population of 7,000 and is approximately 17 square miles in size. A full range of public services including water, sewer and refuse utilities are provided by the city in this service area. In addition, the City provides Fire and Ambulance services outside the city as a result of annexations during the early 1970's and agreements with Delaware Township which has since gone out of business.

Between 1972 and 1974, the City of Bonner Springs increased in size from approximately 2 square miles to over 17 square miles. This growth in territory occurred at a time of annexations by four entities within Wyandotte County. The growth in size has been the major reason that the city currently is of sufficient size to be economically viable through both its property tax base and its sales tax revenue capacity. In addition, the city's water and sewer utilities have a sufficient number of customers, due to the annexation, to provide quality services at competitive prices in the metropolitan area.

Since this spurt of growth some ten years ago, the city has only annexed property two times. The first increase was an adjoining subdivision which was annexed shortly after 1974 as the subdivision was platted for development. The most recent annexation occurred two years ago and was requested by the property owners. This annexation involved some 300 acres of property located directly adjacent to the city but across the county line in Johnson County.

This 300 acre site was owned by four owners who have had historical ties to the Bonner Springs community and the school system. The owners chose to request annexation by petition. The land that was annexed has since been platted as an Industrial Park and water utility service extended to the area across the Kansas River. The City is working closely with the local economic development group to extend service roads and sewers. This industrial park will provide a needed increase in local jobs while improving our tax base.

205 E. 2nd STREET, BOX 38, BONNER SPRINGS, KS 66012 913-422-1020

The City's policy on annexation for approximately 10 years has been to annex that property which develops adjoining the city and requests the use of city utilities for development. The City will also consider annexation when requested by property owners if we believe the community as a whole will benefit.

The City of Bonner Springs currently exists as an economically viable community in terms of taxes and utility rates only because of its ability to annex territory at the appropriate time. We believe this should remain a city decision. Our city has promptly honored its commitments to newly annexed areas by providing police, fire, ambulance, citizen transportation, road maintenance, road improvement and city regulatory activities. In addition, city water and sewer systems have been extended as development warrants. In point of fact, the city has extended and improved the water system in advance of development to improve fire water supply capabilities to areas that were annexed during the early 1970's.

We encourage the Committee to provide a balanced recommendation to the legislature keeping in mind that the law must be applied by local officials who also are elected. The growth and prosperity of our cities, even our economic survival may well depend upon our being permitted the latitude to make local annexation decisions. We respectfully suggest that our state is best served if elected city officials retain this latitude.

VI. Editorials Supporting Retention of
Current Annexation Law

As We See It:

Annexation Law Is Fine as It Is

ONE reason Kansas cities generally have avoided "Bostonization" — being hemmed in by suburbs or unincorporated areas — is the state's sensible annexation law. But the House last year passed a bill that could inhibit the ability of Kansas cities to grow: County commissions would gain the power to override cities' annexation decisions, if 51 percent of the property owners in the targeted area protested them.

Then, last summer, the legislative Interim Committee on Local Government compounded the House's folly by recommending another layer of government be created in counties facing annexation disputes: a politically appointed boundary commission. This proposal is so onerous that even Sedgwick County, which vigorously supported the original House annexation bill, is against it.

To be fair, the interim committee was attempting a compromise among the state's cities, which generally think annexation law is fine as is, and the state's counties, some of which want a piece of the annexation action: Boundary commissions would mediate between protesting property owners, who stand to pay higher taxes for services provided by cities trying to annex them, and the cities themselves.

If there's any flaw in current annexation law, it's that owners of property targeted for

annexation have no elected representatives to defend their interests: They didn't vote for the commissioners of the city to which their properties stand to be joined. Creating a boundary commission to hear property owners' grievances wouldn't correct that flaw. Sedgwick County properly argues that county commissioners, at least, are elected both by residents of cities, and by owners of property targeted for annexation.

But the counties seeking a change in the law and the interim committee have missed the germane points about current annexation law: Cities right now can't arbitrarily "grab" land beyond their borders without providing owners of targeted properties due process. The Kansas Supreme Court this fall made clear that cities must respect this right, and prescribed additional steps cities must take to ensure it's respected. Too, the Supreme Court effectively said current annexation law is constitutional. So much for the argument that current law is undemocratic.

It's better to stick with a law that works than to inject political interference into the annexation process. Giving county commissions — or boundary commissions — the right to decide annexation disputes could erode the principle on which current law is based: that those living adjacent to cities should help pay for urban amenities.

Editorials

Along for the ride

A state legislator from Topeka says Kansas cities have erred in their annexation attempts. They have, but not in the ways cited by the lawmaker.

Cities have erred by giving away the services they have to offer.

In Topeka, for instance, the city wishes to annex some areas immediately adjacent to the city limits. Those areas are already benefiting from most if not all city services.

If Topeka withheld city services from residents outside the city limits or required them to pay a fair price for those services in lieu of taxes, it would be a different scenario. Likely, residents would ask to be annexed.

Those living in the potential annexation areas benefit from city sewer and water.

But those outside Topeka enjoy other benefits subsidized by city taxpayers, including streets, parks and a free library.

Perhaps those who pay city taxes should receive a break when using city services. Non-residents could pay more to attend the Topeka zoo, use Topeka swimming pools and city recreation facilities and attend Washburn.

It's no wonder no one wants to be annexed into Topeka under the current arrangement. Why pay for something when you're already getting it for nothing?

The Topeka Capital Journal Tuesday, November 5, 1985

Editorials

Borrowers and lenders

The Topeka Public Library provides many wonderful services — and not just at 10th and Washburn.

The most visible of the library's outreach services, of course, is its bookmobile. That library-on-wheels creates once-a-week neighborhood libraries throughout the city.

Another, less visible service is its "red carpet service." Books are delivered to nursing homes, shut-ins and others who have difficulty making the trip to the main library.

Currently, all county residents are allowed free access to Topeka Public Library because the library is a member of the Northeast Kansas Library System. Therefore, it receives a share of the ¼-mill tax that rural county residents pay to that system. City residents pay a 5-mill tax. The differential is great enough that the library cannot afford to extend its outreach programs into the county.

But the "extras" that the city residents enjoy from library services would be

highly beneficial in the areas under consideration for annexation. While the bookmobiles appeal to all ages, the red carpet service serves primarily retirement complexes. And there would be two large ones included in the annexation: Aldersgate Village and one just now being developed at 21st and Urish Road.

Because of the heavy concentration of population on the outskirts of Topeka, the Topeka library finds itself in a unique position. The number of households with library patrons is about evenly divided between city and county. Yet the half that live outside Topeka are funding only about 3 percent of the library's budget.

County residents opposed to annexation like to argue that they would be paying more taxes for no new services. But the library is just one example that proves otherwise. Library services could be improved — and their financing would be more equitably divided among users — with annexation.

The Topeka Capital Journal Friday, December 27, 1985

Hitler doesn't live at City Hall

At least one local politician is trying to make Topeka out to be a greedy land-grabber.

In announcing a public meeting on the topic, State Rep. Charles F. Laird, whose district encompasses the Lake Shawnee area on the eastern limits of the city, likened Topeka to Hitler. He claimed the city's long-range plans call for annexing everything east to the Douglas County line.

This is not an election year, so it is hard to understand the use of such inflammatory rhetoric, especially when the facts don't support the charges.

The expansion of Topeka's city limits has come gradually and orderly. As development spread, so have city borders. That is as it should be.

Now a city committee is studying an annexation plan involving 3,000 to 4,000 acres. It is nowhere near finalized. But even if all of the area under consideration were annexed, it would get nowhere near the Douglas County line. In fact, it wouldn't even reach past Lake Shawnee, although there is extensive development along Croco Road that reasonably could be considered.

Every bit of the land included in the

city's annexation proposal is highly developed, mostly as residential areas. The residents of those areas depend on Topeka to provide them with good streets to get them to work and shopping. They benefit from police and fire protection while they are here. They use the public library. They enjoy city-sponsored recreation activities. They do everything their neighbors on the other side of the city-limit sign do — only they don't pay for it.

True, they do contribute via sales tax. But so do city residents.

These bedroom developments on the fringe of cities create unfair taxation. Annexation is a way to equalize the burden for all of those who benefit from a city. The targets are not the outlying communities of Silver Lake, Auburn or Tecumseh or the farm lands, but the highly developed areas adjacent to current city boundaries.

Laird was wrong in his hysterical characterization of the city. Topeka is not a Hitler out to grab everything in sight; it is simply trying to collect for services rendered. Annexation is one approach to the problem; another is an earnings tax.

IT'S a parliamentary truism that bills written in committee and on the floors of legislative bodies tend to be flawed. The bill to drastically reduce the annexation powers of Kansas cities, heavily amended in committee and on the House floor, proves that truism, in this instance, accurate: If enacted, HB 2117 would make the procedure whereby cities can grow a mishmash.

HB 2117 is intended to protect the helpless property owner who finds himself in the path of urban expansion. If 51 percent of the property owners in an area a city targets for annexation sign protest petitions, county commissioners would gain virtual veto power over that city's annexation policy. The proposed 15-step procedure by which county commissioners would weigh the property owners' petitions is incredibly cumbersome. If county commissioners faithfully followed the procedure, it's doubtful they could reach an intelligent or timely decision on whether the annexation should proceed. The bill, as is, likely wouldn't serve the interests of its

anti-annexation proponents.

Those proponents touted the fairness-to-property-owners side of the issue, even as they allowed amendments to render the bill virtually useless. Now the other side of the issue needs exploring: Is it truly fair to a city when residents of adjacent unincorporated areas — whose livelihoods usually depend on that city — don't pay to support it? Is it right, for example, that such residents use city streets, contributing to their deterioration, but don't help pay to maintain them? Considering that such residents, upon annexation, get such city services as fire and police protection in return, has annexation truly harmed them?

What's needed in the Senate, which now takes up the matter, is an application of that reliable rule: If it ain't broke, don't fix it. Present state annexation law encourages urban economic growth and discourages urban decay — without undue harm to property owners at the city periphery. There's no compelling reason why it should be changed.

Wichita Eagle Beacon, May 12, 1985

Balancing benefits and burdens

It's not surprising that the word "annexation" displeases some residents outside a city's perimeters.

It conjures up thoughts of higher taxes, increased bureaucracy and a loss of freedoms. Too often, few benefits are tied to annexation.

The Kansas House of Representatives passed 63-61 and sent to the Senate Thursday a bill designed to give property owners a louder voice in whether they will be annexed into a city.

The annexation bill provides a procedure under which property owners who don't want to be annexed could file a petition with the local board of county commissioners if 51 percent of the owners in the area to be annexed were opposed to coming into a city.

The county commissioners would decide whether to approve or deny the annexation.

Supporters of the proposal say proper-

ty owners opposed to annexation have no effective way of voicing their protests under present law.

At times property owners should have a say in a pending annexation. But not without corresponding responsibilities.

If owners in an area elect not to accept the "burdens" of annexation, they should also not reap the benefits.

The city should then look at services provided to the area. If the property owners reject annexation, they should be prepared to pave their own streets, provide their own fire and police protection and administer independent water and sewer services.

Too often residents want city benefits and expertise, but don't wish to support those advantages financially.

There is no reason to spend municipal taxpayer-provided resources on services to those who vote not to be a part of that city.

VII. News Stories on Annexations Rejected or
Scaled-Down Following Public Hearing



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

A. K.S.A. 12-520 Unilateral Annexations Terminated or Scaled-Down Following Public Protest

Atchison Daily Globe

DEC. 17, 1985

Annexation Voted Down After Protest Of Residents

By ANGIE BLAKLEY
Globe Staff Writer

City commissioners last night started out to consider a resolution showing their intent to annex a parcel of land, but they ended up holding an unscheduled public hearing.

After about 15 residents protested the annexation of their lots in southern Atchison, commissioners defeated the resolution by a vote of 4 to 1.

City Commissioner Norm Ellis voted for the resolution, saying he was the one who questioned why that land had been exempted from previous annexation proceedings. If the commission was going to annex enclaves throughout the city, then all should be annexed, he said.

During their Dec. 2 meeting, commissioners approved a resolution which began annexation proceedings for those bits of county land sitting within the city or surrounded on three sides by city boundaries. Ellis and Mayor Ray Krupinski voted against it.

The enclave southwest of South Eighth and Cottage streets was not included in the resolution because of the expected costs to provide sewer services there.

But after that meeting, city staff determined that an existing sewer

line on South Eighth Street could be used to service the area. Construction costs for sewer extension were estimated at \$44,100 and street construction costs were estimated at \$32,627.

"It's all going to be a big cost to the city and it isn't going to do any good," said Willetta Barker, 108 Cottage St. "It would be better to leave us alone."

"I don't see why you even want to be bothered with it," said Mary Foster, also a resident of the Eighth and Cottage streets area.

The residents said they were satisfied with the services they currently receive or provide for themselves.

Melba King said she could buy a rural fire protection contract with the city for less money than she would spend on city taxes. Barker said she is satisfied with her rural water contract. Others said they've disposed of their own trash for years and don't need the city to do it now.

"The fact that you don't want to be in the city, I think that's kind of normal," said City Manager Bill Sachs. "But you're in the middle of the city right now."

The land is, in fact, surrounded on all sides by annexed property.

According to Sachs, the city is not "picking on" the residents as some

claimed at the meeting. The city is trying to eliminate the enclaves, the septic tanks and basically, improve the infrastructure of the community, he said.

A resolution to annex simply shows the commission's intent to annex and then allows them to set a date for a public hearing, Sachs added.

City Commissioner Dodie Emery said she voted for the Dec. 2 resolution to force a public hearing, where she could speak to residents and get their views on annexation. The hearing for all enclaves, except the Eighth and Cottage streets one, has been set for 4:30 p.m. Feb. 3.

Because Emery heard the southern enclave residents' protests last night, she voted against the resolution, she said.

Jul. 31, 1965

City Council Rejects Annexation

—Plan Dropped Until 'Whenever'

In probably one of the shortest meetings for a council known to have short meetings, the city nixed annexation plans Tuesday night. The issue of adding area to the city limits was put on a back burner in less than 10 minutes.

Mayor Loren Dinkel opened the meeting with a review of the annexation program. The council followed with a motion confirming the special meeting request by three council members as required.

Howard Vlarar introduced a motion that "the land proposed for annexation be dropped — until whenever." He added he could not see what the city would gain. His motion drew applause from the 70 people jammed into the small council chamber.

Following a statement of personal opinion by council member Don Haberer, a vote sealed the fate of the move to expand the city.

Haberer's remarks may have set the stage for later discussion when he said his opinion is "that the city must consider some kind of program to begin annexing this property. It's a matter of neglect and should have been done 30 years ago."

"We are a total community," Haberer said. "All use city services."

The councilman warned that "there are a lot of problems ahead if the area outside the city becomes too large."

"We as a council need to proceed further," Haberer concluded. "We have an obligation to proceed with annexation."

Residents of areas tabbed for annexation began arriving at the small city council room in city hall about a half-hour before the special meeting scheduled at 7:30 p.m. Attorney John C. Woelk, representing a majority of the group, signed petitions against the plan although the issue was moot at that point as the council had already voted to drop the proposal.

In the closing minutes of the 10-minute session, it was Woelk who spread calming oil on the waters being troubled by a small group who protested the plan and wanted to argue about it. "Tell me," one said, "what the city is going to do for us by annexation?"

Woelk expressed appreciation "for the action this evening." He added that the group he represents is not opposed "to anyone being annexed who wants to be annexed."

There are more than 300 jobs for Russell area residents in the areas under consideration, Woelk said. "Come out and talk to the people next time before you talk about annexation."

Annexation was divided into three major areas. The plan was developed by a Kansas City area municipal planning consulting

firm. The review of growth and development was authorized by the council in May, 1964. A report was presented in June, 1965.

At the June, 1965, meeting, the council asked the city staff to prepare estimates of cost differences for those living in the affected areas, comparing in-city and out-city expenses. The motion to go ahead with the annexation plan carried a 5-3 vote with one council member absent.

When controversy arose, Dinkel requested City Manager Glenn Hill not to send out notices to property owners as required although the city's petition to county commissioners had been filed. Commissioners have a 10-day time frame, not less than 70 nor more than 70, after receiving the petition in which to call a public hearing.

That process was cut short when three council members requested a special meeting this week, forcing Mayor Dinkel to call the session for Tuesday night.

Under the plan selected by the city from several provided by Kansas law, county commissioners, after a hearing, determine if

there is "manifest injury" to the property involved. If no harm is found, commissioners certify their ruling to the city and the land is annexed without further action.

Areas proposed are:

Tract 1 — The west side of Van Houten Street from Dorrance Street north to the north side of the Union Pacific Railroad right-of-way and west on both sides of West Wichita Avenue from Van Houten Street to the west side of the drive-in theater property.

Tract 2 — The area in the southwest part of Russell, from Dorrance Street south to both sides of Witt Avenue west of Russell's Inn, from Main Street west to include both sides of South Van Houten Street. Small areas around the interchange with Interstate 70 are included.

Tract 3 — Wendall Acres, residential development east of Memorial Park, and both sides of East Wichita Avenue east to the section line road between Russell and the airport.

Petitions indicate that from 90 to 100 percent of the property owners in each area protest annexation.

Olathe puts brakes to annexation plan

By TOM HUTTON

Daily News Reporter

A chunk of land north of Olathe will not be annexed until other, less expensive, avenues are explored, city commissioners decided Tuesday night.

The commissioners met in a study session Tuesday to discuss an area north of Olathe bordered roughly by existing city limits on the south and east, K-10 on the north and Cedar Niles Road on the west.

However, because of fears the annexation would lead to prohibitively high costs, the commissioners will wait before bringing the land into the city limits.

Instead, city manager Lee Brodbeck will begin talking with Johnson County officials about possibly increasing county building codes to parallel those already established in Olathe.

The commission did not take up the annexation issue until 9:45 p.m. — more than 2½ hours after the meeting started. At the beginning, several people interested in the annexation issue sat in the commission chambers. But after the prompting of commissioner Larry Huckleberry, Brodbeck explained the area under consideration was not one that affected those in attendance. Within moments, the chambers were empty.

Brodbeck said he thought many people in areas just outside the city limits have gotten the benefits of city services for too long without paying for them. He is also concerned the Legislature will limit the ability of cities to annex property in the near future.

"You, me and the rest of the residents of this city are subsidizing the services of the rest of the population," Brodbeck said.

But there are problems to consider as the city boundaries expand.

For example, Brodbeck said, several homes on Woodland Street will be uncomfortably close to the street if it is widened. He also pointed to thinly-paved and haphazardly-designed streets unable to hold a fire truck. A videotape showed another example of possible problems — running water lines to areas such as Lone Elm Road, where fire destroyed a home Monday.

All of those items would mean high assessments for land owners, a problem that is particularly distasteful when so much of the land is used for agricultural purposes.

Those fears, coupled with the knowledge of past annexation fights, led the commissioners to instruct Brodbeck to begin talking with county commissioners and building officials to strengthen building codes for property surrounding the Olathe city limits.

There is also a sentiment among area legislators to limit annexation moves. Sen. Gus Bogina, R-Lenexa, recently proposed a bill to limit city annexation powers and Rep. Nancy Brown, R-Stanley, was an opponent to Overland Park's recent annexation of the Stanley and Morse communities.

However, commissioner Marilyn Swartley told the other commissioners Brown was willing to talk to Olathe about annexation and was not opposed to it in principle.

That news brought a few chuckles and a comment from commission Herman Cline.

"That's like Jerry Falwell saying he's not against homosexuals," Cline said. "He just doesn't like what they do."

Winfield Daily Courier

JAN. 11, 1986

Ark City commissioners amend annexation plan

By E.L. KEMP

ARKANSAS CITY — City commissioners passed an amended form of the city's Phase I annexation plan during Friday's reconvened commission meeting.

Commissioners had recessed following a public meeting where many of the 250 to 300 people had expressed dissatisfaction with the plan Tuesday night.

According to Mayor Mark Paton, a motion was passed deleting Viola Industries, Denton Industrial Park and the Skyline Corp. from the annexation plan.

The motion was in keeping, he said, with the commission's philosophy of leaving industry outside the city.

All areas south of the Arkansas River were dropped.

To the east, properties belonging to Bob Wilson, Jack Byrne, Winfred Barker, Lawrence Miller, E.B.

Brewer and a Mr. Childs were cut. The Cottonwood tracts and the East Chestnut tracts on that side of town were also deleted.

The biggest problem with annexing those areas, said Paton, was the cost of providing city services.

A motion to delete other areas east of town died for lack of a second, he said. And a motion to delete four pieces of property northwest of the city was defeated by a 3-2 vote.

According to Paton, the new annexation program is a reasonable step, one the commissioners spent a lot of time studying. He also said he believes it is a good step forward in the city's efforts to continue to grow.

However, he admitted the decisions involved were not easy ones. "We (the commission members) spent a lot of time before arriving at a decision — it was not easy to decide," he said.

B. K.S.A. 12-521. County Board-Approval Annexations
Disapproved by the County Commission

Salina Journal

NOV. 19, 1985

Commission rejects annexation request

By GORDON D. FIEDLER Jr.
Staff Writer

Monday's decision by city commissioners to deny annexation of 40 acres south of the city limits has temporarily pulled the wheels from under a plan to build a mobile home subdivision on the property.

Bob Gile, one of the developers of the 121-lot project, said he will consider other alternatives, including county approval of the development.

"We haven't given up," Gile said.

Commissioners voted 3-2 to deny the annexation request. Commissioners Sydney Soderberg, John Burgess and Mayor Merle Hodges opposed the annexation. Commissioners Joe Ritter and Steve Ryan voted in favor of a motion to approve the annexation.

The property is located about a quarter-mile south of Salina on the south side of Schilling Road, east of Ninth Street.

Trustees of the property, Dorris and Dorothy Winslow, said they would proceed with the rezoning and development of the property only if the annexation was approved. Without it becoming a part of the city, the land would not be eligible for city services.

Some residents in the Bonnie

Ridge and Key Acres subdivisions in south Salina opposed the project. Some complained that the development could devalue their homes; others wondered what elementary school would serve the development.

The biggest worry, however, was drainage.

Portions of the land west of the Union Pacific Railroad tracks, including the proposed 40-acre mobile home site, has experienced high water during heavy rains. The City Engineering Department has approved the plans for controlling the water runoff from the site.

When questioned by Ryan, City Planner Keith Rawlings said that according to the city's specifications for subdivision drainage, the runoff would be no worse or no better than if the property remained undeveloped.

Hodges said he based his vote solely on the drainage issue.

"I can only see this as contributing to the problem," the mayor said of the development.

Soderberg, who attended a neighborhood meeting of Bonnie Ridge and Key Acre residents Sunday to answer questions about the proposed subdivision, said she was not opposed to the development, only that it was in the wrong place.

County rejects annexation by KCK

By Steve Farnsworth
Of the Metropolitan Staff

The Wyandotte County Commission, amid cheers and a standing ovation, voted unanimously Monday night against a request by Kansas City, Kan., to annex about 17 square miles in the county's northwest corner.

The vote came at a 10-minute commission meeting at Piper High School-Junior High Complex and was the highlight of a four-month

dispute among city and county officials and residents of the contested area. The hearing is unlikely to be the last word on the matter, however.

After the vote, Kansas City, Kan., Mayor Jack Reardon challenged residents of Prairie and Delaware townships to incorporate as a city and pay for their own services, rather than receive them from the county.

"I think it is time they pay for

their own sheriff's patrol, their own street maintenance and snow removal, which is subsidized by Kansas City, Kan., by over 90 percent right now," he said in a telephone interview.

The county, which receives about 92 percent of its tax dollars from Kansas City, Kan., provides those services to the unincorporated area, commonly known as Piper.

Mr. Reardon, who did not at-

tend the meeting, said that if the area did not take steps to incorporate within six months, he would again ask the City Council to seek annexation.

"That would make it about July, the same time the county is preparing its budget," Mr. Reardon said. "We could see how much money is going to Piper."

Prairie Township Attorney Charles D. Kugler said that town-

See COUNTY, A-2, Col. 1

Continued from Page A-1

ship residents may be willing to incorporate if it means that they can remain independent of Kansas City, Kan.

"If incorporation is what it takes to be independent, that may be a challenge residents would gladly welcome," he said.

He also rejected the city's argument that its taxpayers are subsidizing services to the county's rural residents.

County Commissioner Patrick L. Scherzer, whose district includes the area in question, made the motion to deny the city's annexation request. After cheers died down from a crowd of about 350, Commissioner Clyde Townsend seconded the motion and provided a majority vote.

Then, after the second outburst subsided, Commission Chairman Bill Burns said he also opposed the city's request. Cheers then erupted a third time.

"As the majority of the land to be annexed is agricultural land with a rural population density, the area would receive no benefit from annexation," Mr. Burns said. "The area would only receive the additional burden of taxation."

At the Nov. 7 annexation hearing before the County Commission,

City Administrator David T. Isabell said that Piper residents would save an average of \$1,200 annually by being annexed.

Though taxes would increase as much as \$1,000 a year for an average household, Piper area residents would receive police and fire protection, street maintenance, municipal utilities and other city services for their money at a cost that would more than offset the city taxes, he said.

In the wake of the vote, Mr. Reardon said the city should abolish the Kansas City-Wyandotte County, Kansas Joint Port Authority, reiterate its policy of not permitting the Board of Public Utilities to offer its services to areas outside the city without council approval and press for an answer on how the Piper area will solve its sewer problems.

"It is totally unacceptable for the citizens of Kansas City, Kan., to subsidize the solution to their sewer problem," Mr. Reardon said.

The township has been fined \$3,117 plus \$50 a day by the Kansas Department of Health and Environment since last fall for illegal discharges from the sewer system. The system serves fewer than one-third of the area's approximately 1,500 residents.

Mr. Kugler said that the issue could be resolved for less than

\$100,000 if the county were willing to run the system and the state would give the county a wastewater discharge permit. City officials have estimated the cost of a new sewer system for the township to be at least \$2 million but have said the area could be connected to city sewers for \$700,000 if the area were annexed.

Though the city could appeal the county's decision to the courts, Councilman George Lee Dunn predicted a majority on the council would oppose such a move. After the meeting, Councilman Ed Alvey, along with Mr. Dunn, also challenged the area to incorporate.

The annexation odyssey began on Sept. 5, when the City Council voted unanimously to ask the County Commission for permission to annex Prairie and Delaware townships, an area of 16.9 square miles in the county's northwest corner.

Residents of the area, mainly north of State Avenue and west of 115th Street, have vigorously opposed the proposal. Anti-annexation activists planted street signs proclaiming "We oppose annexation by K.C.K." and heckled Mayor Jack Reardon and other city officials who went to Piper to explain the proposal.

In an October mail-in referendum, city residents said they fa-

vored the city's annexation request by a nearly 2-1 margin. But nearly half of the city's 67,000 voters did not cast ballots in the non-binding election.

City residents in each of the three County Commission districts also voted for the plan by a margin of at least 58 percent.

If the county had voted to approve annexation, it could have meant a reduction in the size and influence of county government. While Mr. Scherzer said that no county jobs would have been eliminated had the city's annexation request been approved, some county department heads said that some county functions, such as road and bridge maintenance and the sheriff's road patrol, could have been cut back or eliminated.

Mr. Kugler said that new city taxes generated from the area would not have covered the costs of the new city services and had warned Kansas City, Kan., residents that their taxes would increase under annexation.

City officials said that no tax increase would have been necessary to cover the costs of annexation. The expenses of increasing services to the area would have been borne by the people living there, city officials said.

JUN 14 1985
EVA MUMUCU

Spring Hill expansion rejected by county

By GEORGE B. PYLE

Daily News Reporter

A request from the city of Spring Hill that it be allowed to annex nearly six acres at the northwest corner of 199th Street and US-169 was unanimously denied Thursday by Johnson County Commissioners.

Commissioners were prepared to approve the request until some 30 neighboring landowners protested it. The neighbors said the landowner, Gene Brown, was only trying to get into Spring Hill so he could have the property zoned for a tavern.

Last year, an application to zone the property for a private club under county jurisdiction was opposed by the neighbors, county staff and the township zoning board before the owner withdrew his request.

"This seems to be an end run around the zoning," said Ronald Jackson, one of the protesting landowners.

Keith Hubbard, Spring Hill city administrator, told commissioners his city council was asking county approval for the annexation because the landowner wanted it and because the city is in desperate need of a broader tax base.

"Not too long ago we had the highest property tax rate in the state of Kansas," Hubbard said. "We managed to get that down to the 10th highest but, with new sewage treatment requirements being put on us by the federal government, we will probably regain our number one spot again. We need assessed valuation."

Brown was not at the meeting and could not be reached for

comment.

Commissioner Kent Crippin, whose 3rd District includes the Spring Hill area, said he had been ready to accept the city's word that the annexation was a good idea. But after hearing the opposition he changed his mind.

"The city of Spring Hill needs to do some planning as to what's going to go along that highway," Crippin said.

Commission Chairman Janet Leick agreed.

"I don't think the city has made a good case on their need for this and their plan to serve this piece of ground," she said.

After the meeting, Hubbard said Brown had already applied for city zoning to allow an existing underground home on the property to be converted to a restaurant, and to build an ice cream parlor and miniature golf course next door. He said he did not tell commissioners that because it seemed a lost cause.

"With all those people there there wasn't any use in arguing," Hubbard said. "They weren't going to listen."

Even if the land was to be used for a tavern or private club, he said, such an establishment would be better regulated in the city than in the county.

Gene Denton, county administrator, said the county's planning staff was willing to help Spring Hill with a development plan for the US-169 corridor if it wants to expand into that area. He said if such a plan existed, the city would have better luck with its annexations.

"If they had leveled with us on the plans for this site, they probably would have come out better," he said.

VIII. Example Service Extension Plan--Excerpt from
Plan for Current Unilateral Annexation by City of Topeka



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: Senate Committee on Local Government
FROM: League of Kansas Municipalities
DATE: January 28, 1986
SUBJECT: Sample Annexation Proposal/Service Extension Plan--City of Topeka

This document is the annexation proposal and service extension plan which is currently under consideration by the City of Topeka. The document presents the history, policy, purpose and description of the annexation proposal under consideration.

The original document includes 26 separate descriptions and service extension plans and is 302 pages long. The League of Kansas Municipalities has excerpted the introductory material and one representative service extension plan for your review. This plan meets all the current statutory requirements for a service extension plan and the introductory material helps explain the policy and rationale behind the City's intent to hold hearings on the proposed annexations.

This document is offered to the Committee as an example of a service extension plan and one municipality's open approach on this issue. The Table of Contents, listed below, gives the original page numbers in the report. Keep in mind the material in pages 1-14 addresses, in general, the annexations of 26 separate parcels of land.

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A 8 5 / 3

**ANNEXATION
PROPOSAL**

**AND
PLAN FOR THE EXTENSION,
FINANCING, AND TIMETABLE
OF MUNICIPAL SERVICES
AND FACILITIES**

**By
CITY of TOPEKA, KANSAS**

JANUARY 1986

Executive Summary:

The annexation of 4.9 square miles would increase the area of the City of Topeka to 57.7 square miles and would increase the population by approximately 5600.

Based upon the information, data and assessment of each of the Sub-Areas, the general condition of the existing infrastructure is substantially below that of the City of Topeka. This points out the real problem facing the City of Topeka with respect to the past, present and future development of the fringe area. Development of the fringe areas are not required to meet "urban standards" and therefore result in costly repair, maintenance and reconstruction over time. Consequently, the responsibility falls to the City of Topeka when such areas are annexed. Because of current statutory laws governing annexation, new or developing territory that is not adjacent to the City corporate limits cannot be annexed. The development of these territories have been aided in part by the extension of municipal services such as public water, fire protection and operation - maintenance of sanitary sewer treatment facilities.

The proposed annexation will result in a substantial redistribution of tax revenue to support the required expenditures for facilities and services. The feasibility from a revenue/expenditure standpoint would initially be less than a "break even" position for the City of Topeka in the 1986 as the required expenditure for municipal facilities and services would far exceed the revenues to be received. There are three (3) basic reasons:

1. The Area is exclusively single family residential and lacks commercial/industrial base.
2. The condition of the present infrastructure requiring substantial repairs and maintenance.
3. The required capital improvements to extend "essential" municipal services.
 - a. New Fire Station and Manpower.
 - b. Police Equipment and Manpower.
 - c. Street Maintenance Equipment.
 - d. Park and Recreation Facilities and Service.

Therefore, the proposed annexation should be reviewed in terms of the short and long term benefit to both the residents affected and the City of Topeka. Because of the development potential of the Area, there will be a "balancing" effect in revenues/expenditures at such time as full development occurs. (Projected to be 2010).

The Plan identifies and describes the existing conditions, the recommended improvements and the economic/financial implications of annexation. Also included are Revenue Projections based on the future development potential of the Area. The Projections should be considered as a general indication of the level of revenue that would accrue

since they are based upon present data that are subject to variations over time.

Summary of Expenditures Required To Provide Municipal Facilities and Services:

The expenditures which will be required to provide a comparable level of municipal facilities and services to the subject Area must be assessed with respect to the present and future financial ability of the City to undertake this expansion. Estimates and projections for each type of service have been provided by the various Departments of the City based upon the provision of a comparable level of service to the Area as is currently provided in the corporate area. Such estimates and projections have been derived from a careful and thorough inspection of the subject Area by the various Departments. This summary therefore, identifies the types of service and the expenditures required on an annual basis as well as those that are to be provided over a period of time.

Basically, the types of services may be divided into two (2) general categories; one, is the provision of essential service operations which would include:

1. Fire Protection
2. Police Protection
3. Street and Bridge Maintenance
4. Water Service
5. Health and Code Enforcement
6. Parks and Recreation
7. Refuse Collection and Disposal
8. Water Pollution Control
9. Traffic-Safety

the other is the physical or capital improvements which are deemed necessary either to support the provision of the services identified above or to improve the existing infrastructure of the Area. Obviously, capital improvements require financial planning and programming leading to construction and therefore such improvements cannot be provided immediately upon annexation. In order however to provide the essential services, some capital investments will be necessary subsequent to annexation. For example, additional equipment for street maintenance operations will be needed in order to serve the Area. Likewise a new fire station will be needed in Section One as well as additional police equipment for protection and coverage of the Area.

Summary of Expenditures for "Essential" Services:

Fire Protection:

Annual	\$ 481,570
Capital Improvement	\$1,025,000
Total	\$1,506,570

Police Protection:

Annual	\$ 894,443
Capital Improvement	\$ 140,788
Total	\$1,035,231

Street/Bridge/Traffic Safety:

Annual	\$ 628,256
Capital Improvement	\$ 354,730
Total	\$ 982,986

Parks and Recreation:

Annual	\$ 379,500
Total	\$ 379,500

Storm Drainage:

Annual	\$ 12,700
Total	\$ 12,700

Street Lighting:

Annual	\$ 21,971
Total	\$ 21,971

Health and Code Enforcement:

Annual	\$ 5,550
Total	\$ 5,550

Total Annual Expenditures	\$2,423,990
Total Capital Improvements	\$1,520,518
Total	<u>\$3,944,508</u>

Therefore, the expenditure of \$3,944,508 will be required as a result of annexation to provide "essential" municipal services. The expenditure of \$1,025,000 for a new Fire Station however would normally be included in the Capital Improvement Program and be paid by the issuance of general obligation bonds over an extended time period.

The Parks and Recreation Department has identified the capital improvements which would be needed to accommodate the additional territory as part of the overall park and recreational program. Such improvements are not totally and directly related entirely to the subject Area as such new facilities and services will also serve existing areas currently in the corporate limits where additional park and rec-

reational facilities are needed. Therefore, the recommended Park improvements in the amount of \$2,353,500 would be scheduled over an extended time period through the Capital Improvement Program. Acquisition of additional park lands in the amount of \$450,000 would be financed in part from special assessments and the Capital Improvement Program.

Other Improvements/Expenditures:

Existing Streets: The Public Works Department has assessed the existing streets in the Area which will require extensive repair and reconstruction in order to reduce costly-continual maintenance.

Street Reconstruction \$4,615,950

The street reconstruction program would be financed through special assessment districts.

Sanitary Sewer Reconstruction: The Public Works Department has assessed the sanitary sewer collection system in the Sherwood Improvement District and has determined that certain repairs and reconstruction are necessary to prevent further deterioration and meet the standards for satisfactory operation.

Sanitary Sewer Reconstruction \$ 428,240

The sewer reconstruction program would be financed through the Capital Improvement Program.

Topeka Metropolitan Transit Authority: In order to provide mass transit service to the Area, the following expenditures will be required:

Annual \$ 71,000
Capital Improvement \$300,000
Total \$371,000

This service is financed in part from property tax, federal financial assistance and user charges.

Loss of Current Revenue:

The City of Topeka is currently providing certain municipal services to certain areas within the subject Area and therefore annexation would result in a loss of revenues because of the change in rates.

Water Revenue Loss \$254,234
Sanitary Sewer Revenue Loss \$ 24,270
Fire Service Contracts \$ 13,671
Total Revenue Loss \$292,175

Summary/Conclusion:

The net effect of annexation would result in the following:

Revenue:

From Property Tax	\$ 453,786
From Franchise Fees	\$ 83,006
From Sales Tax	\$ 25,791
Total	\$ 562,584(*)

Expenditures:

Annual	\$2,423,990
Capital Improvements	1,520,518
Total	\$3,944,508

(*) The total revenue would increase from the taxes collected from personal property assessment applicable to the area.

Recommendation:

Annexation of the 4.9 square mile area would conform with the objectives of Resolution No. 5101 (Policy on Annexation) adopted by the City Council. The initial financial requirements to extend facilities and services will substantially exceed the level of revenues to be received from the subject area and will require careful financial planning and budgeting by the City. However, orderly growth and development should be an overriding concern of the City. The current, fiscal impact of annexation will only increase if delayed. This annexation will result in the overall improvement to the subject Area and therefore result in the enhancement and benefit to the City of Topeka. Throughout the entire history and growth of the City new land has been consistently annexed for the purpose of obtaining municipal services and thereby improving and increasing value and opportunities. In conclusion, there are no apparent physical, legal or political reasons to preclude the annexation of the subject territory.

The Planning Director and Staff recommends the annexation of the subject territory.

Introduction:

As a result of a report presented to Mayor Douglas S. Wright in July, 1985, the City Council was requested to consider certain areas adjacent to the corporate limits which would meet the requirements for unilateral annexation. In addition, the Mayor presented an Annexation Policy in Resolution form which was adopted on July 23, 1985, by the City Council.

The Policy is as follows:

WHEREAS, the Governing Body of the City of Topeka, Kansas, recognizes its responsibility to plan and deliver essential municipal services to the urbanized areas within the fringe areas surrounding the City; and

WHEREAS, the Governing Body of the City of Topeka, Kansas, recognizes that land adjacent to the City is enhanced in value because of its proximity to the City, and by the municipal services, facilities and benefits provided therein; and

WHEREAS, the Governing Body of the City of Topeka, Kansas, deems it necessary and prudent to establish objectives and policies to be followed in considering such adjacent land within the fringe area for annexation into the City.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Topeka, Kansas, that the following shall be the objectives to be considered when territory is proposed for incorporation into the City:

1. To insure that adequate land will be available for the continued growth and planned development of the City.

2. To insure that new development will not take place in a sub-standard manner and thereby result in a detriment to the entire area.
3. To further sound capital improvement planning and thus protect the City's financial position and its ability to finance and construct capital improvements necessary to the growth and economic welfare and prosperity of the entire community.
4. To promote the orderly and harmonious development of the community.

BE IT FURTHER RESOLVED by the Governing Body of the City of Topeka, Kansas, that it shall be the intent of the City that such land shall be considered for annexation when its proximity, the rate of development, population growth, expansion of municipal services and other factors indicate that annexation of the land would aid and promote the orderly and harmonious development of the entire area or when annexation is deemed necessary to insure development to City standards, or to prevent development that is not consistent with the long range land use needs of the area. The Governing Body shall, from time to time, identify general areas which may be considered for study, review and legislative action in accordance with the laws of the State of Kansas.

An annexation committee was created by the City Council consisting of the following members: Council Members, Alan Bibler, Mary Holmgren and Joe Huerter. The Metropolitan Planning Agency was assigned the responsibility to assist the committee in the identification and examination of the areas.

The committee held a series of meetings at Washburn University . . . which times the Staff made reports with respect to the identification of areas, the application to the statutory provisions and requirements, as well as other related matters including a draft water/sewer policy and a proposed livestock/health code revision. The meetings were attended by interested persons residing in the areas.

The committee approved a map identifying the areas which met the statutory requirements for unilateral annexation by the City of Topeka and presented the report to the City Council on November 19, 1985. The City Council received the report and requested the Metropolitan Planning Staff to prepare a Plan for the Extension and Financing of Municipal Services and Facilities for review, consideration and action.

Purpose:

The primary purpose of this Plan is to identify and describe the municipal facilities and services that would be extended upon annexation to the subject Area, including the method of financing and the timetable for implementation. Secondly, the Plan would provide the City Council with the necessary and appropriate financial information on which to base its decision to proceed with annexation with respect to each sub-Area. The Plan would further provide affected persons with information relative to the extension, financing and timetable for such services and facilities. The Plan is required by K.S.A. 12-519 et. seq. in conjunction with a unilateral annexation proposal and most importantly, it is a statement of public policy on which to take action.

This Plan also identifies and describes other related financial considerations that would apply to both the City of Topeka and other

units of government as well as to the property owners that be effected. It is apparent that there are notable differentials not only in taxes to the local units of government but differentials in utility rates, franchise fees and sales tax that will accrue from annexation.

The City of Topeka, however, will be most concerned with the financial implications to extend an appropriate level of service and facilities to the subject areas under consideration. Other such financial implications such as library, educational, and mass transit levys are not under the control or jurisdiction of the City of Topeka and are therefore irrelevant to the "municipal services" requirement of Kansas Statutes Annotated.

Perhaps the most common misunderstanding of an annexation proposal by those persons effected is that an annexed territory will be provided with upgraded streets, sanitary sewer, storm sewer, street lights and public water. The City, as a matter of policy, law, and budgetary limitations cannot physically, or financially undertake all such improvements. The City assumes the general responsibility for extending and improving the major facilities such as trafficways, interceptor sewers and treatment facilities, major water transmission lines and treatment, parks and recreation, fire, police and general municipal services. The improvement and extension of minor facilities such as residential streets, main and lateral sewers, street lights, and water mains are initiated by area property owners and are financed through special assessments by Benefit/Improvement District(s) created under the authority and approval of the City Council. Therefore, the essential municipal services which are provided by the City of Topeka to the existing corporate area will be uniformly extended to the proposed Area upon annexation.

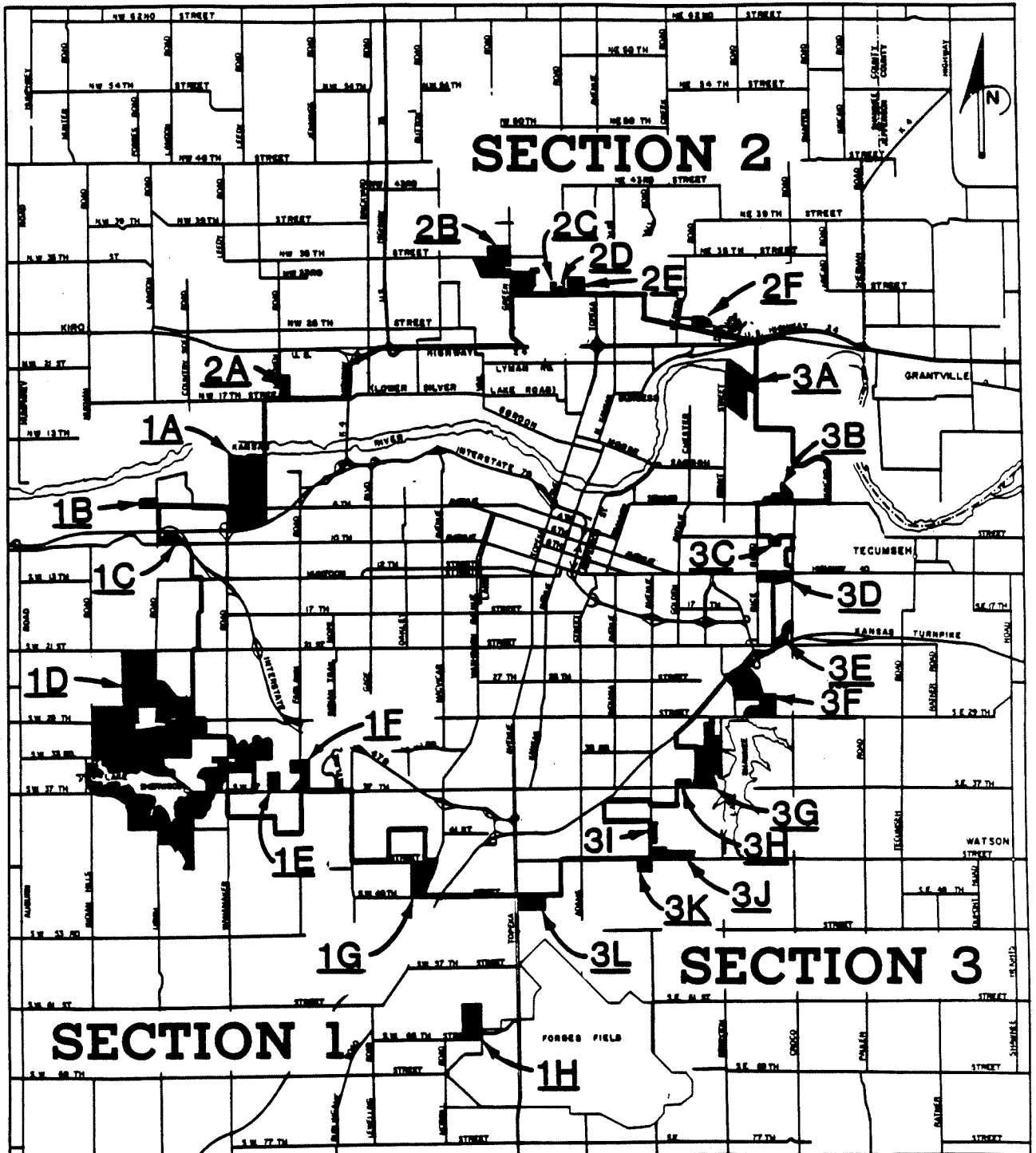
General Description of Area:

The Area identified in this Plan contains 4.90 square miles and an approximate population of 5,600. The total area is further identified and described by Section and Sub-Areas. There are twenty-six (26) separate territories in the total area.

The Sub-Areas are immediately adjacent to the present corporate limits and therefore meet the requirements for unilateral annexation under the Laws of Kansas.

For the most part, the Sub-Areas are subdivided into lots, blocks and streets, and are primarily developed or are developing as single family residential neighborhoods. In some instances, there are certain Sub-Areas which contain zoning to permit higher density multi family, institutional and light commercial use. There are two (2) Sub-Areas identified that involve industrial development. Two (2) of the Sub-Areas contain land dedicated for park and recreational use and are owned by the City of Topeka.

The Area which is the subject of this Plan and Report is identified on the following map.



Procedure/Statutory Requirements:

Kansas Statutes Annotated 12-519 et. seq. sets forth the conditions and provisions which apply to the annexation of territory by a City of the First Class.

The unilateral annexation procedure is:

- (1) Preparation of a Plan for the Extension and Financing Municipal Services and Facilities.*

Note: The Plan, upon acceptance by the Mayor and City Council, shall be available for public inspection by all interested persons.

- (2) Adoption of a Resolution declaring the City's intent to consider annexation, setting forth the date, place and time of the public hearing.*
- (3) Notification to the affected property owners by forwarding a copy of the Resolution by certified mail within ten (10) days following adoption of the Resolution.*
- (4) The Resolution is to be published not less than one (1) week nor more than two (2) weeks prior to the date of public hearing.*
- (5) The City shall present the Plan at the public hearing.*
- (6) The Mayor and City Council may annex the subject area by adoption of an Ordinance.*

Application to Statutory Requirements:

The Metropolitan Planning Staff and City Legal Staff have carefully examined each Sub-Area included in this Plan for applicability and conformance to the statutory provisions of K.S.A. 12-519 et. seq., which are repeated here for reference:

K.S.A. 12-520: Except as otherwise herein provided, the governing body of any city may by ordinance annex land to such city if any one or more of the following conditions exist:

- (1) The land is platted, and some part of such land adjoins the city.
- (2) The land is owned by or held in trust for the city or agency thereof.
- (3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city except that no city may annex land owned by a county which has primary use as a county-owned and operated airport, or other aviation related activity, without the express permission of the board of county commissioners of such country.
- (4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than fifty percent (50%).
- (5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of twenty (20) acres shall be annexed for this purpose.
- (6) The tract is so situated that two-thirds (2/3) of any boundary line adjoins the city, except that no tract in excess of twenty (20) acres shall be annexed under this condition.
- (7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

The following indicates the applicable statutory provision for each Sub-Area:

Section 1

<u>Sub-Area</u>	<u>Statutory Reference</u>
A	1
B	1
C	4
D	1, 2 (Topeka Public Golf Course)
E	4
F	4
G	1
H	2

Section 2

<u>Sub-Area</u>	<u>Statutory Reference</u>
A	1
B	1
C	1
D	1
E	1
F	1

Section 3

<u>Sub-Area</u>	<u>Statutory Reference</u>
A	4
B	4
C	4
D	4
E	1
F	1
G	1
H	6
I	1
J	1
K	1
L	1

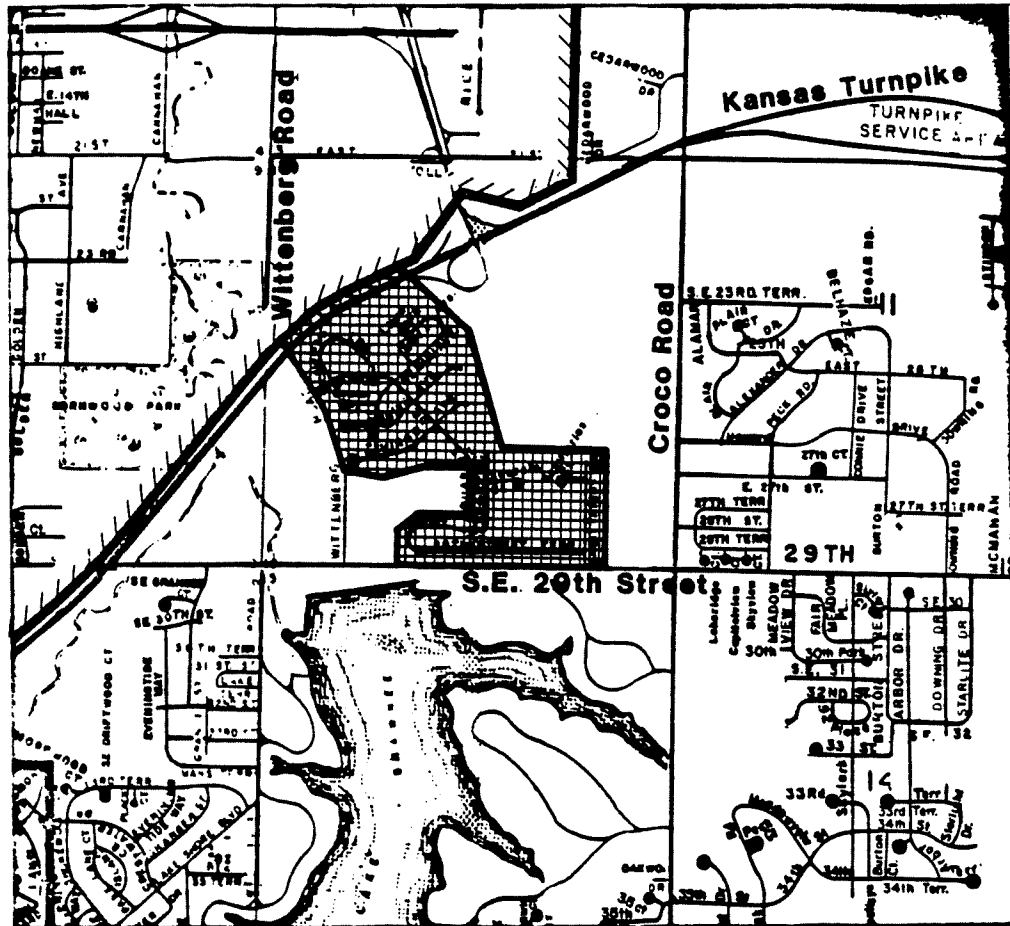
The Plan For the Extension of Services to the areas proposed for annexation shall include:

- (1) A sketch (or map) clearly delineating the land proposed to be annexed and the area of the city adjacent thereto to show the following information:
 - (a) The present and proposal boundaries of the city affected by such proposed annexation.
 - (b) The present streets, water mains, sewers and other city utility lines and the proposed extension thereof.
 - (c) The general land use pattern in the areas to be annexed.
- (2) A statement setting forth the plans of the city for extending to the area to be annexed each major municipal service provided to persons and property located within the city at the time of annexation, setting forth the method by which the city plans to finance the extension of such services to such area. Such statement shall also include a timetable of the plans for extending each major municipal service to the area annexed.


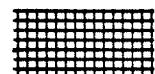

RESOLUTION NO. _____
(Pursuant to K.S.A. 12-520a)

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

The City of Topeka hereby gives NOTICE, that it is considering the annexation of the following described land, located in Shawnee County, Kansas:



STUDY SECTION 3
STUDY AREA F

-  - Present City of Topeka Boundry Line.
-  - Land Proposed to be Annexed
-  - Proposed City of Topeka Boundry Line

Begin at the intersection of the east line of the west one-half of the northeast quarter of Section 10, Township 12 south, Range 16 east of the Sixth P.M. with the northerly right of way line of the Kansas Turnpike; thence southerly on the east line of the west one-half of said northeast quarter section to the southerly right of way line of the Kansas Turnpike; thence southwesterly following said southerly right of way line to its intersection with the east line of the west one-half of Section 10, also being the northeast corner of Aquarian Acres Subdivision; thence southerly on the east line of said west one-half of Section 10 on a bearing of south 00°20'38" west for a distance of 834.34 feet to the center of said Section 10; thence continuing southerly on the bearing of south 00°20'38" west for a distance of 1191.13 feet; thence easterly on a bearing of north 83°44'50" east for a distance of 212.41 feet; thence easterly on a bearing of south 85°33'30" east for a distance of 1437.76 feet; thence southerly on a bearing of south 00°44'00" east for a distance of 547.74 feet; thence southerly on a bearing of south 00°07'06" east for a distance of 756.40 feet to the north line of East 29th Street; thence westerly on said north line of East 29th Street to a point 959.92 feet westerly of the east line of the southwest quarter of Section 10, Township 12 south, Range 16 east of the Sixth P.M.; thence northerly on a bearing of north 00°28'40" west for a distance of 314.48 feet; thence northerly on a bearing of north 10°04'12" east for a distance of 178.32 feet; thence northeasterly on a bearing of north 38°26'16" east for a distance of 178.09 feet; thence northeasterly on a bearing of north 67°05'08" east for a distance of 178.09 feet; thence easterly on a bearing of north 88°14'21" east for a distance of 160.87 feet; thence easterly on a bearing of north 89°31'20" east for a distance of 500 feet to the east line of the southwest quarter of Section 10; thence northerly on the east line of said quarter section for a distance of 520 feet; thence westerly on a bearing of south 89°31'20" west for a distance of 425 feet; thence southwesterly on a bearing of south 56°43'28" west for a distance of 243.98 feet; thence westerly on a bearing of south 79°49'36" west for a distance of 594 feet; thence westerly on a bearing of north 75°54'28" west for a distance of 369.75 feet to the east line of Wittenberg Road; thence northerly and westerly on the east line of Wittenberg Road to the northerly right of way line of the Kansas Turnpike; thence northeasterly to the intersection of the westerly right of way line of Service Road "L" of the Kansas Turnpike Authority and the northerly right of way line of the Kansas Turnpike; thence northeasterly across said Service Road "L" to intersection of east line of Service Road "L" and the northerly line of the Kansas Turnpike; thence easterly on a bearing of south 70°46'40" east for a distance of 337.69 feet; thence continuing northeasterly on the north right of way line of the Kansas Turnpike on a bearing of north 69°36'00" east for a distance of 452.77 feet; thence northeasterly on a bearing of north 63°15'40" east for a distance of 790.86 feet to the east line of the west one-half of the northeast quarter of Section 10 and the point of beginning.

NOTICE OF PUBLIC HEARING

TO: Anyone interested in the matter of the annexation of the land described above.

Date and Time

Take Notice that the City Council shall hold a public hearing to consider annexing the above described land to the City of Topeka. The hearing will commence at _____ o'clock p.m. on the _____ day of _____, 1986, at _____,

Shawnee County, Kansas. At that time, a representative of the City will present a proposal for annexation, including the City's plan for extension of services to the areas proposed to be annexed. Comments from interested persons will be accepted by the Council following said presentation.

Plan Availability

A copy of the Plan for the Extension and Financing of Municipal Services to the land proposed to be annexed is on file in the office of the City Clerk in City Hall at 215 E. 7th Street, Topeka, Kansas, and is available for inspection during regular office hours.

Another copy of the Plan for the Extension and Financing of Municipal Services to the land proposed to be annexed is on file in the office of the Planning Director in the Columbian Building at 820 Quincy, Room 320, and is available for inspection during regular office hours.

Service of Notice

A copy of this resolution shall be mailed by certified mail to each owner of land proposed to be annexed within ten days after this resolution is adopted.

FINALLY, BE IT RESOLVED that the City Clerk shall cause this resolution to be published in the official city newspaper not less than one week and not more than two weeks preceding the date fixed for such public hearing.

ADOPTED and APPROVED by the Council of the City of Topeka on this _____ day of _____, 1986.

Douglas S. Wright, Mayor

ATTEST:

Norma E. Robbins, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 12/27/85 BY R. J. [Signature]

Study Section 3
Area F

PROFILE

Location: This area is located generally north of Shawnee Lake (29th Street) and southeast of the Kansas Turnpike. This area is in Tecumseh Township.

Area: 169.88 acres.

Land Use:

	<u>Acreage</u>	<u>Percentage</u>
Single Family	33.98	20
Multiple Family		
Office and Institutional		
Commercial		
Industrial		
Public/Quasic-Public		
Vacant/Undeveloped	135.9	80

Zoning:

	<u>Acreage</u>	<u>Percentage</u>
Single Family District*	169.88	100
Two Family District		
Multiple Family District		
Office and Institutional District		
Commercial District		
Industrial District		
*with Resolution of Intent for "M-2" and "C-1"		

Population: Estimated population: 61. (corrected to 161 on 1/15/86)

Housing Units: 58.

Assessed Valuation: \$418,280.

School District: U.S.D. #450 - Shawnee Heights.

**INFRA-STRUCTURE/SERVICES
EXISTING CONDITIONS**

A. Streets/Traffic Control/Maintenance: Existing conditions relating to right-of-ways, traffic control and maintenance responsibilities are presented for review in the following categories: major traffic thoroughfares as reflected in the 1990 Transportation Plan Element of the Comprehensive Plan, opened local classified residential streets; and unopened local classified residential streets.

Major Traffic Thoroughfares:

- o Wittenberg Road (Aquarius to Sub-line): This 24 ft. wide, chip and seal surface street with no curb is 1,160 ft. in length. It is generally constructed to rural standards and is classified as a minor arterial. This street is maintained by Tecumseh Township.
- o S.E. 29th (Sub-line (E) to Aquarius): This 24 ft. wide, unimproved asphalt surface street is 959 ft. in length, has no curbs and is generally constructed to rural standards. It is classified as a minor arterial. This street is maintained by Shawnee County.
- o S.E. 29th (Aquarius (E) to Sub-line): This 24 ft. wide, asphalt surface street is 1,662 ft. in length. This unimproved street has no curbs but is generally constructed to rural standards and is classified as a minor arterial. This street is maintained by Shawnee County.

Opened Local Classified Residential Streets: Unless otherwise noted the following streets are maintained by Tecumseh Township.

- o Aquarius Drive (Capricorn Avenue to 29th): This 29 ft. wide, asphalt surface street is 3,535 ft. in length. It is improved, has curbs and is constructed to rural standards.
- o Capricorn Avenue (Aquarius Drive (N) to Leo Avenue): This 29 ft. wide, asphalt surface street and is 741 ft. in length. It is improved, has curbs and is constructed to rural standards.
- o Leo Drive (Aquarius (N) to Capricorn Avenue): This 29 ft. wide, asphalt surface street is 839 ft. in length. It is improved, has curbs and is constructed to rural standards.
- o Gemini Avenue (Aquarius (N) to Libra Avenue): This 29 ft. wide, asphalt surface street is 1,112 ft. in length. It is improved, has curbs and is constructed to rural standards.
- o Pisces Aveue (28th Terr. to Aquarius): This 29 ft. wide, asphalt surface street is 919 ft. in length. It is improved, curbs and is constructed to rural standards.
- o 28th Terrace (Pisces to Aquarius): This 29 ft. wide, asphalt surface street is 904 ft. in length. It is improved, has curbs and is constructed to rural standards.
- o Libra Avenue (Gemini Avenue to Gemini Avenue): This 29 ft. wide, asphalt surface street is 1,084 ft. in length. It is unimproved, has curbs and is constructed to rural standards.
- o Pisces Avenue (Aquarius to Scorpio): This 29 ft. wide, asphalt surface street is 317 ft. in length. It is improved, has curbs and is constructed to rural standards.
- o Scorpio Avenue (Pisces (N) to Dead End): This 29 ft. wide, asphalt surface street is 500 ft. in length. It is improved, has curbs and is constructed to rural standards.

Unopened local classified residential streets: The following list streets represent right-of-ways which have been dedicated by plat of subdivisions but remain unimproved. The future improvement of these streets will, in accordance with applicable subdivision of land regulations, be accomplished as a responsibility of the developer, or as an owner petitioned special assessment district. The timing of the improvements will be dependent on the aforementioned method of improvement. This list represents some 9,949 lineal ft. of unopened streets.

- Gemini Avenue (Aquarius to Virgo)
- Virgo Avenue (CDS (E) to Sub-line)
- Aries Avenue (CDS (E) to Sub-line)
- Gemini Court (CDS (E) to Gemini Avenue)
- Aquarius Drive (Wittenberg to Capricorn)
- Libra Court (CDS (E) to Libra Avenue)
- Sagittarius (Sub-line (S) to 29th)
- S.E. 28th Terr. (Aquarius to Sagittarius)
- Sagittarius Court (CDS (E) to Sagittarius)
- Scorpio Court (Scorpio (E) to CDS)

Traffic Control Devices: The street network in this area includes various traffic control devices which are maintained by either Shawnee County or Tecumseh Township. Such devices include: street name assemblies, regulatory, warning and informational signs, object markers, and street surface striping.

B. Wastewater Treatment: The existing systems is entirely owned and operated by the City of Topeka.

C. Storm Drainage: There is currently no public storm drainage system in place in this area.

D. Public Water Supply: This area has water mains and fire hydrants (12) on all paved streets. The area is in the service jurisdiction of the water division of the Department of Public Works. An accompanying study area graphic reflects the water distribution system. Furthermore, the appendix includes a recommended improvement map to the City's current distribution system as prepared for the Water Division for major mains of 8" in diameter or greater.

E. Street Lighting: There are currently no street lights in this area.

F. Health & Environment: The Health Department currently supplies this area with Air Pollution Control, School and Adult Care Inspections, Sewage Disposal Control and Consultation, Vector Control, Water Supply Monitoring, Community Hygiene, Clinical Services, Primary Care Services, WIC Program and Adult Field Services.

G. Law Enforcement: This area is served by the Shawnee County Sheriff's Department.

H. Fire Protection: This area is currently served by the Tecumseh Township Fire Department from Station #1 (2626 S.E. Shawnee Heights Road) and Station #13 (5301 California).

I. Mass Transit: There is currently no fixed route bus service, however, limited handicapped service is available.

J. Parks & Recreation: The westernmost half of this area lies within the 2 mile radius service area of Hillcrest Community Park. Dornwood Park, which serves as a conservation area as well as a neighborhood park lies just to the west of this area.

K. Refuse Service: Refuse service is currently provided by a private contractor.

L. Community Planning: This service is currently provided by Topeka-Shawnee County Metropolitan Planning Commission and Agency.

M. Zoning (Building) Permits/Code Enforcement: The Shawnee County Zoning Administrator currently administers the zoning code. A building code has not been adopted for unincorporated Shawnee County.

N. General Governmental Operation: Local legislative, administrative, financial and associated support services are provided by Shawnee County and Tecumseh Township.

STATEMENT SETTING FORTH THE PLAN FOR EXTENSION, FINANCING AND TIMETABLE OF MUNICIPAL SERVICES

A. Streets/Traffic Controls/Maintenance: The City of Topeka Department of Public Works would immediately assume the responsibility of the existing streets of the study area.

Anticipated costs for the general maintenance and repairs of existing streets for this area have been projected, based on routine maintenance activity, type of service and construction, needed repairs, required equipment and staffing needs.

Annual operating costs	\$63,420.00
Annual personnel costs	\$13,471.00
Total	<u>\$76,891.00</u>
Equipment purchase costs	\$25,283.00

Funding for the above service is derived from city property taxes and motor fuel taxes.

Snow Removal: Streets, for snow removal, are selected considering primary traffic ways, hills, possible drifting, access in and out, schools, bus routes, homes for the aging and medical facilities within each area or neighborhood costs vary depending on the number, type and severity of each storm during any given season.

Traffic Control Devices: It is recommended that two (2) street name signs and three (3) "End of Roadway" markers be installed in this area within 3 to 6 months of annexation. These additions would be paid out of the division budget and would require minimal annual operating costs. The cost is \$265 for materials city property tax and motor fuel tax funds this service.

B. Wastewater Treatment: The City will continue to service this area. Annual operation costs are financed from user fees.

C. Storm Drainage: The Department of Public Works would immediately assume the responsibility to evaluate and monitor area drainage problems. However, any future drainage improvements would be considered only in conjunction with owner petitioned storm sewer projects, future street improvement projects or on the replatting of the property.

D. Public Water Supply: The City of Topeka Water Department will continue to supply water to this area. New mains and hydrants will be added, as development warrants, at developer's expense. Operational expenses are paid for from user fees.

E. Street Lighting: This service will be provided by the Water Division of the City of Topeka Public Works Department. It is recommended that 22 lights be installed at an annual cost (fee) of \$1,544, to be paid from a special ad valorem tax levy.

F. Health & Environment: The area will continue with the existing services of the City-County Health Agency. In addition, the Health Department will begin immediately with housing and unsafe structures code administration, mosquito spraying, weed and right-of-way mowing. This service is funded by user fees, city and county property taxes, federal assistance and state assistance.

G. Law Enforcement: The Topeka Police Department will provide immediate service to this area. On a pro rata basis, the Department recommends the following needs and associated annual operating expenditures for servicing this area:

1.6 Division Sworn Officers	\$48,994
.23 Division Non-sworn Officers	\$ 2,785
Annual Operating Cost	\$51,779
0.45 Division Vehicles	\$ 8,143

This service would be funded by the City of Topeka through city property tax and city sales tax.

H. Fire Protection: The City of Topeka Fire Department will provide immediate service from Station #9 (engine and ladder company located at 2447 E. 29th Street) and Station #5 (engine company located at 1715 Topeka Avenue). The first two due in companies are located one (1) mile from this area. This service would be funded from city property tax and city sales tax.

I. Mass Transit: The Topeka Metropolitan Transit Authority indicates that should a substantial demand become apparent and adequate funding be supplied, it would be possible to supply this area with bus service. Authority funds are from user fees, city property tax and federal assistance.

J. Parks & Recreation: The Parks and Recreation Department of the City of Topeka would assume the responsibilities for park and recreation services to this area as well as street tree maintenance service. (See recommendation for Section 3, Area G). Parks are acquired by a special assessment district or by General Obligation Bonds from City property tax. Operational Costs are funded by user fees and city property tax. Street tree care is anticipated to annually cost \$1,000 for this area.

K. Refuse Service: To be immediately serviced by either the Shawnee County Refuse Department public or private providers. This service is funded by user fees.

L. Community Planning: The Topeka-Shawnee County Metropolitan Planning Commission and Agency would continue to provide planning service to the subject area. This service is funded through application fees, city and county property tax, and federal assistance.

M. Building Permits/Code Enforcement: The Building Inspection Division of the Public Works Department would immediately assume the responsibility to administer the provisions of the Uniform Building Code and provide building, plumbing, electrical, and mechanical field inspection services. Said Division will also enforce applicable zoning, subdivision, and sign code regulations. Additional staffing to provide the aforementioned inspection services will generally be funded from permit fee revenues. Expenditures attributed to code enforcement is expected to be minimal.

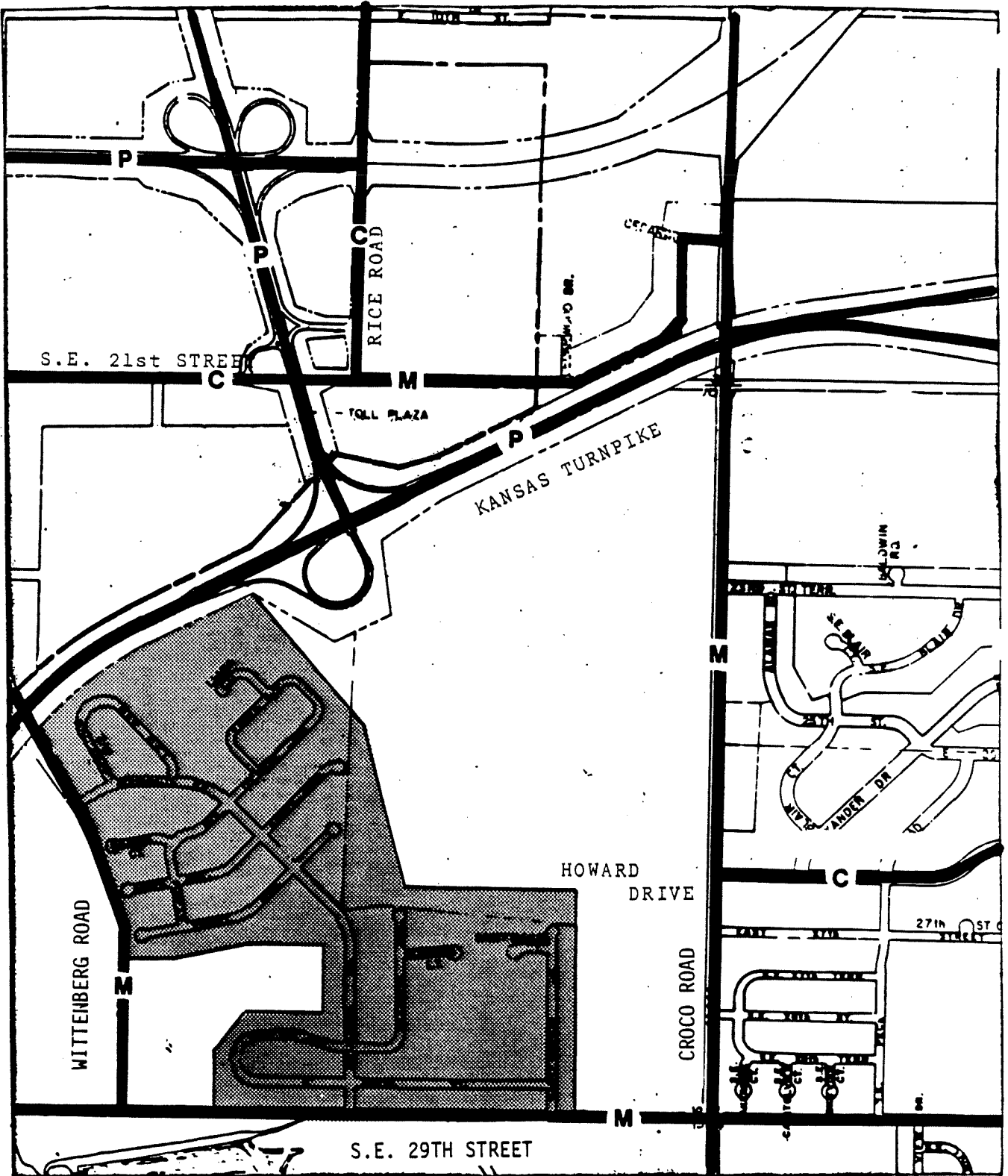
N. General Governmental Operations of the City: Legislative, administrative, financial, and associated support services of the City of Topeka will at the time of annexation be provided to the citizens of the subject area. Funding for these services is derived from franchise fees, city property taxes, license fees, permit fees, and other revenue. Minimal expenditures is anticipated for these services.


SUMMARY



PLAN FOR THE EXTENSION, FINANCING & TIMETABLE OF MUNICIPAL SERVICES



<u>Services/Maintenance/Operation Available to the Proposed Area</u>	<u>Financing</u>	<u>Timetable</u>	<u>Economic Impact/Cost to the City of Topeka on an Annual Basis Unless Otherwise Noted</u>
Streets/Bridges/Traffic Controls	city property tax/motor fuel tax	Immediate Responsibility	\$76,891 (annual operations) \$25,283 (equipment purchase/repairs)
Wastewater Management	user fee/city property tax/repairs	Continuance of Responsibility	\$145/Revenue loss
Storm Drainage	city property tax	Immediate Responsibility	Not Applicable
224 Public Water	user fee	Immediate Responsibility	\$914/Revenue loss
Street Lighting	city special ad valorem tax levy	Immediate Responsibility	\$1,544
Health & Environment	user fee/city and county property tax/federal and state assistance	Continuance of Responsibility	Minimal
Law Enforcement	city property tax/city sales tax	Immediate Responsibility	\$51,778 (annual operating cost) \$ 8,143 (new vehicles)
Fire Protection	city property tax/city sales tax	Immediate Responsibility	Minimal



MAJOR STREETS



STUDY AREA 

PRINCIPAL ARTERIAL  P 

MINOR ARTERIAL  M 

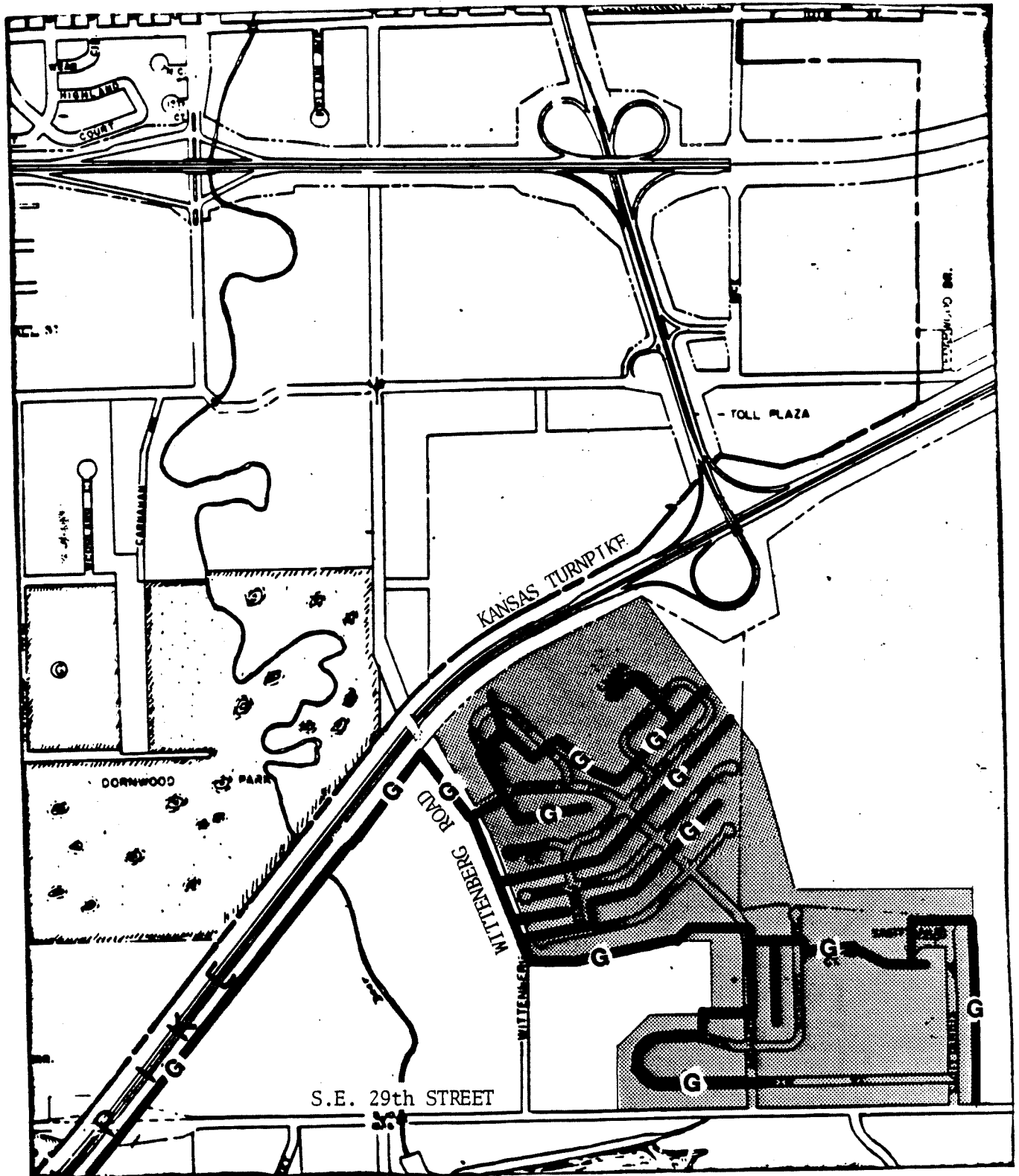
COLLECTOR  C 

STUDY SECTION 3

STUDY AREA F

<i>Mass Transit</i>	<i>user fee/city property tax /federal assistance</i>	<i>Within 6 mos., if demand & funds are available.</i>	<i>Minimal</i>
<i>Parks & Recreation</i>	<i>user fee/city property tax</i>	<i>Immediate Responsibility</i>	<i>\$1,000 (tree service)</i>
<i>Refuse</i>	<i>user fee</i>	<i>Continuance of Responsibility</i>	<i>Not Applicable</i>
<i>Community Planning</i>	<i>application fee/city & county property tax/federal assistance</i>	<i>Continuance of Responsibility</i>	<i>Minimal</i>
<i>Codes & Enforcement</i>	<i>permit fees/ city property tax</i>	<i>Immediate Responsibility</i>	<i>Minimal</i>
<i>General Governmental Operations</i>	<i>franchise fees /city property tax/licenses /permit fees</i>	<i>Immediate Responsibility</i>	<i>Minimal</i>
<i>Public Library</i>	<i>city property tax/NE Kansas library tax/ user fee/state assistance</i>	<i>Continuance of Responsibility</i>	<i>Not Applicable</i>
<i>Washburn University</i>	<i>Individual tuition/city property tax /state credit hour assistance /out of district aid & tuition/ grants & endowments /KTWU dedications/ idle fund investments</i>	<i>Continuance of Responsibility</i>	<i>Not Applicable</i>

SANITARY SEWERS



LIFT STATION 

FORCE MAIN 

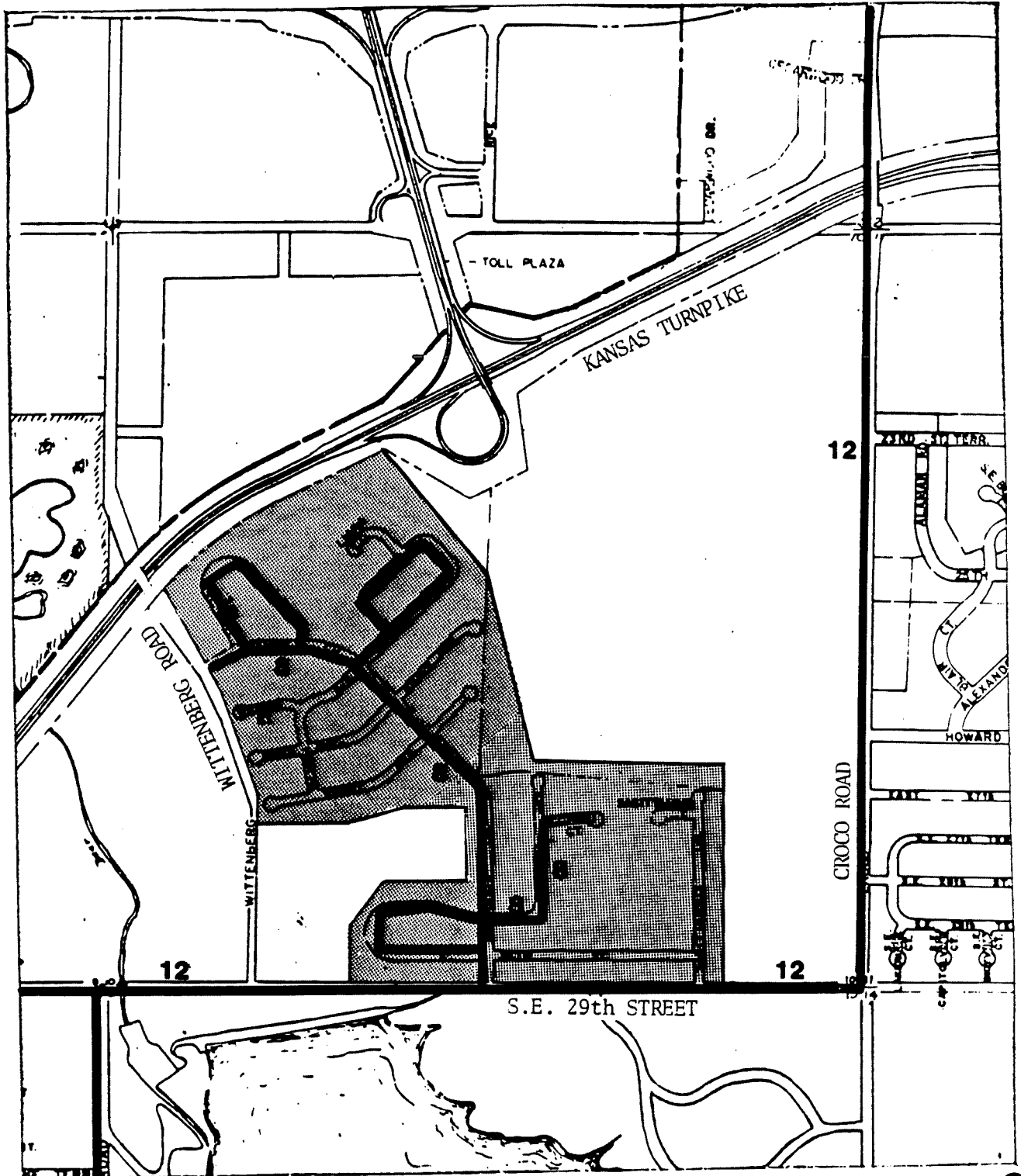
GRAVITY LINE 



STUDY SECTION 3

STUDY AREA F

WATER MAINS

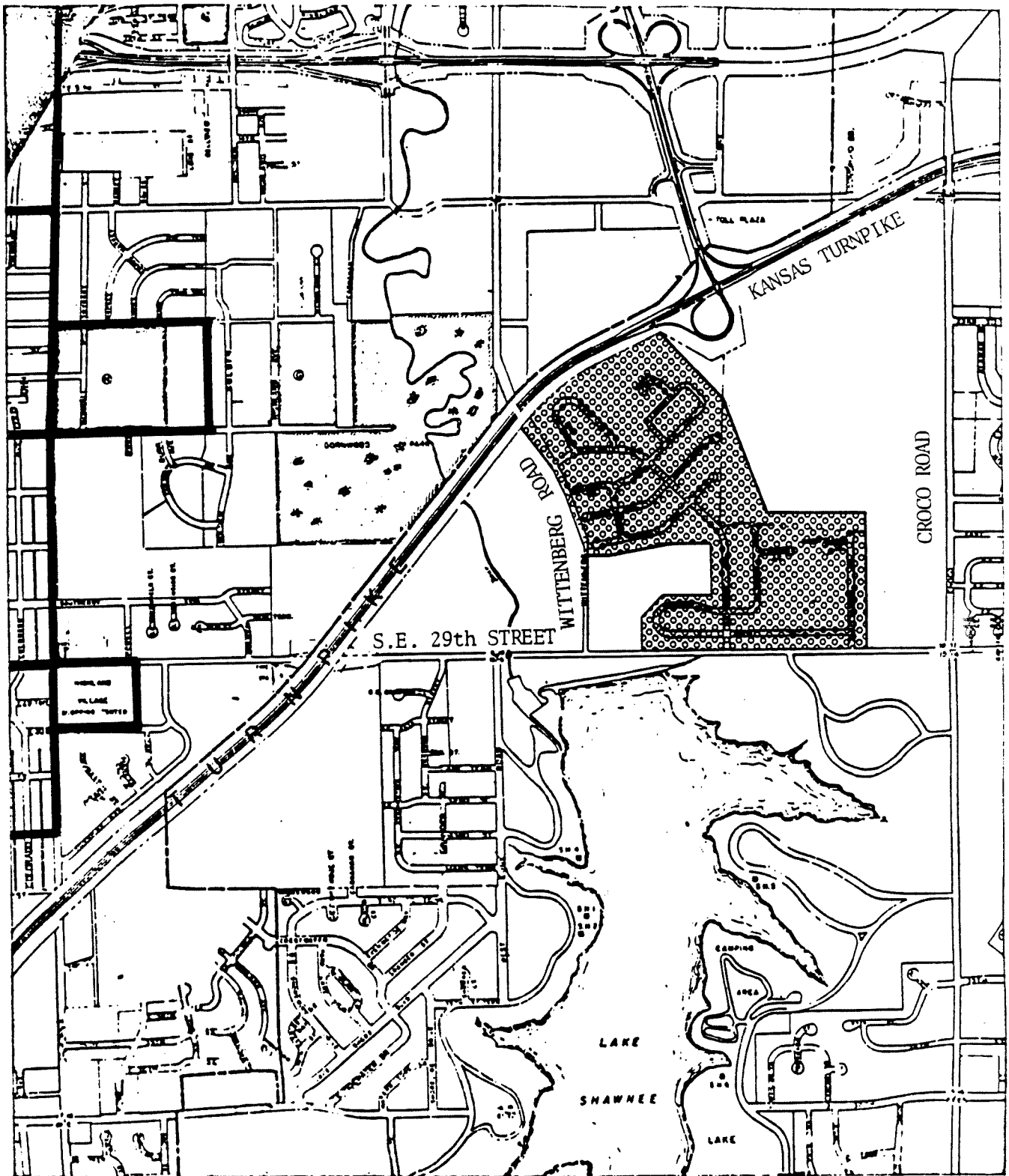


WATER MAIN ———
STUDY AREA


North

STUDY SECTION 3
STUDY AREA F

TRANSIT ROUTES



ROUTE 

STUDY AREA 

STUDY SECTION 3

STUDY AREA F

IX. News Stories on City-Initiated
Economic Development Projects



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

A. Examples of City Economic Development Initiatives

Ottawa Herald

DEC. 20, 1985

2 Positive Boost

The Ottawa City Commission deserves accolades for its decision to double the city's commitment to economic development.

At a session this week, commissioners agreed to budget \$30,000 to assist the Chamber of Commerce in setting up a budget for the coming year. The additional funds will be used in part to employ a combined Chamber executive director and economic coordinator.

Persons with the expertise to handle both jobs aren't easy to find and aren't exactly cheap help.

Anyone remotely interested in economic development knows that competition for new businesses, retail, manufacturing or otherwise, is fierce. It takes professional know-

how to get the job done.

Since city officials are serious in their efforts, the next question, naturally, is why isn't the Franklin County Commission?

Past efforts to gain county help have been to no avail. The usual answer is great, but come back next year. A county commitment to economic development is badly needed. And not just lip service but with dollars.

Economic development means jobs. With the farm situation, more and more farmers are turning to jobs off the farm. But somehow, this hasn't gotten through to the County Commission.

Further, economic expansion means a broader tax base, which, in turn, benefits us all—city and county.

NOV 20 1995

City lands Walker manufacturing firm

City commissioners said yes. Pottawatomie County representatives squirmed a little, but finally they said yes, too. And so the Butler Manufacturing Company also said yes this morning.

Yes, it will open a significant manufacturing operation here before the end of the year.

Dale Carlson, planning and quality manager for Butler Inc., announced the decision, following on the heels of approval both by the city and Pott County governments of \$100,000 loan

packages to the firm. The loans will be used to help the company construct a permanent facility in the Industrial Park. Until that structure is raised, however, the firm plans to temporarily operate out of a section of the old Guerdon Industries building.

Walker, a division of Butler which manufactures electrical products, is relocating a segment of its present Parkersburg, W. Va., plant here. This is the segment that manufactures modular wiring systems. Plans call for the immediate em-

See No. 4, back page

City lands Walker

4 Continued from Page A1

ployment of 30 persons.

Carlson said the firm was moving from Parkersburg to Manhattan in order to take advantage of more favorable labor and distribution characteristics here. He said that there are no plans at present to move other parts of the Parkersburg facility.

Manhattan won out over about a dozen other communities in two states as a home site for the plant, primarily, Carlson said, because of numerous positive "livability" factors. Those included the presence here of a major university, the availability of a building for immediate temporary occupancy, and "a good work ethic." A Dec. 16 date is targeted for the onset of operations.

Carlson said company officials will begin taking applications for work starting Thursday morning at the Chamber office, 505 Poyntz, and continue through Friday with interviews next week. He said that since the plant primarily deals in assembly, no exceptional skill in electronics is required, and what training is necessary will be provided to chosen workers.

In addition to approving the loan Tuesday, the City Commission also agreed to sell the chamber a five-acre tract in the Industrial Park for construction of the 20,000-square-foot building the firm will need. Chamber president Mike Hauser asked that the land be sold for \$1, with the understanding that the full price of \$8,000 an acre will be turned over to the city if Walker buys the site in the future.

The loan by the city includes no principal or interest payments for the first three years, and no interest payments for an additional three years.

The facility is estimated to cost \$450,000 to construct, Hauser said.

In approving the loan out of the city's industrial promotion fund, commissioners said they viewed the request as a reasonable use of those monies. Mayor Suzanne Lindamood said the request was "reasonable...in return for 30 jobs," and that the only loss to the city would be six years worth of interest on the \$100,000.

In response to questions about the industry, Hauser said there would be no toxic waste byproducts from production and that there were good reports about the firm from the community in which it is now located. Hauser said the firm is moving a portion of its business here because of the labor climate and to reduce transportation costs.

Pottawatomie County commissioners hurriedly gave their assent to the loan package in a special meeting this morning, although expressing some reservations about the necessity for rushed action. Pressed, however, by company representatives who stressed the desirability of immediate action due to the short-term nature of the planned moving process, county representatives found the package too enticing to chance against, and so they agreed.

KSU President Duane Acker called the decision by the Butler firm to locate part of its Walker subsidiary here "a clear boost for our economy and we hope an omen of many good developments yet to come. We cannot underestimate the importance of continuing to broaden our economic base and of providing new jobs and payrolls. For everyone of us as individuals and our institutions, this is a red-letter day."

Commission OK's bonds for new plant

By DAVID WIDMER
Staff writer

The Coffeyville City Commission approved Monday a \$300,000 industrial bond issue for construction of a new plant that is to create 15 jobs within two years.

The skill and craftsmanship of local workers were cited by Thomas Warburton, president of Warburton Valve, as the reason he wanted to expand his business in Coffeyville rather than in another area closer to the refineries which use the company's valves and fittings.

"If you have an idea and all you need is manpower, you should come to Coffeyville, because I think it's our greatest resource," Warburton said.

Warburton told commissioners the company, which remanufactures valves and fittings used by oil refineries and chemical plants, had "wrapped up all the valve repair business in the refineries within about 300 miles." He said the company also has plans to establish a distribution network in the Chicago and Rocky Mountain areas to expand business there.

"This is all dependent on our ability to get more valves out the door," Warburton said.

Warburton said the company's present location at 1811 W. Fourth contained less than 2,000 square feet, and was too small for the company's needs. The new plant is planned for a 10-acre site the company owns north of Sherwin-Williams on Cline.

The new plant, which will include a warehouse and office, will have about 22,000 square feet.

Parsons Sun

DEC 10 1985
center at 401-3600

Oswego amends budget to help purchase land

By The Sun staff

OSWEGO — The Oswego City Council Monday night amended the city's budget in order to be able to help finance the purchase of about 30 acres of land to expand the city's industrial site.

Cheri Hollingsworth, city clerk, said that \$8,398 was taken from the industrial fund to help finance the purchase of the land, for which the city is paying one-third. The remainder is being paid for by Oswego Industries, a group of business leaders who work toward attracting more industries to the city.

Mrs. Hollingsworth said the money had been building up in the fund for several years. The amendment was necessary because although the

money was in the budget, it had not been budgeted to spend this year, she said.

The council also received a request from a member of the Oswego Senior Citizens Building Committee, Bob Crowell, who asked the council if the city could provide some financing to the project.

The committee hopes to construct a building solely on donations, and has estimated that \$100,000 is needed.

Preliminary plans have been made, along with a sketch of the proposed building.

The council appointed two council members, Steve Lewis and Bill Cunningham, to look into possible ways the city could financially help the project.

JAN. -7 1986

City schedules new hearing on hotel bonds

By **DEBON D. FIEDLER Jr.**
Staff Writer

A new public hearing on a revenue bond issue for the old Hilton Hotel at Fifth and Iron will be Jan. 27.

The hearing was to have been Monday, but it was delayed because the original \$1.45 million bond request has been increased to \$1.65 million.

Local attorney C.L. Clark, representing Salina Motel Partnership, said the change was necessary because the cost of renovating the 144-room motel, which has been closed for two years, is higher than originally estimated.

The bonds would finance renova-

tion, as well as the purchase of the motel, club and restaurant.

Clark said the partners in the venture had budgeted \$520,000 for renovation but discovered they needed \$200,000 more because the cost of rehabilitation was more than the architect's estimate.

The partners, including Salinans Darwin and Jim Sampson, plan to contribute \$345,000 to the project, bringing the total investment to nearly \$2 million.

The motel closed after its last owners lost the Hilton franchise and failed to keep the motel from bankruptcy under the name Hospitality Inn.

In other business, commissioners agreed to acquire the property at 120 S. Santa Fe as part of the downtown renovation plan.

The property, known as the Shank building, will be razed to create a pedestrian arcade joining Santa Fe with Seventh Street.

Cost of the acquisition is \$49,500.

The existing arcade property in the 100 block of South Santa Fe will be sold, said City Manager Rufus Nye, when the other is built.

Chanute Tribune

DEC 19 1985

Commission approves request from Justus

By **KEITH WRIGHT**

Full abatement of ad valorem taxes for the Justus Cylinders plant over the last seven years of a 10-year industrial revenue bond issue received 3-1 City Commission approval Tuesday night.

The action will reduce tax revenues divided principally among the city, county, 413 school district and community college by more than \$80,000 a year starting in 1987.

Tax abatement is a state-authorized coordinate of industrial revenue bonds as an economic development incentive. In this instance it wasn't requested at the time of the bond issue in 1983, when Justus Enterprises acquired the Chanute plant.

THE REQUEST presented and approved is tied to a planned plant expansion, outlined for the commission by Bill Babcock, Justus Cylinders

president. A written statement submitted by Babcock said in part:

"It has become apparent...to all of us in management at Justus that expansion time has arrived.

"At the present time we are manufacturing on orders for 272,000 stainless steel medical cylinders, 83,000 aluminum medical cylinders, and have a \$3 million contract with Dacor for scuba diving tanks.

"In addition we are receiving calls from various new customers almost daily.

"In light of the bright prospects for our future, we are preparing to spend \$1.4 million for new equipment and to employ, within the next few weeks, an additional 35 to 50 new people toward an expected addition of approximately 100 people before the year 1986 is out...

"We are requesting that the city join us in this effort by granting to Justus Cylinders an abatement of its

taxes as an amendment to the bond issue..."

Commissioner Seth Gray opposed the request and cast the lone vote against it. Commissioner John Scully abstained from both the discussion and vote because of an employee relationship with Justus.

Charles Secher, who was a commission member when the bonds were issued, also spoke in opposition.

IN EXPRESSING their viewpoints, Gray and Secher said they recognized the need for economic growth but were against tax abatement in principle as an incentive. The concerns they voiced included erosion of the tax base, establishment of precedents and equity in taxation.

Those supporting the request said they believed jobs to be a primary need of the community and promotion of economic development a path to securing them. Successful

economic growth, in their view, would more than compensate for the direct tax abatement revenue loss.

Gray stressed the points of tax equity and precedent, spelling out that the Justus abatement will reduce not only the city's revenue but that of other local taxing units as well. The net result, he said, is a shift in tax load.

"If you take it away one place, you have to make it up some place else," he said.

He also noted that in the time he has been on the commission none of the 18 industrial revenue bond issues approved have included provision for tax abatement.

"This is opening the gate," he said. Secher said a precedent also is being set by for the first time exempting existing property acquired with industrial revenue bonds from taxation. He also said the Justus issue, as

do other IRB issues in their financing advantages, provides a tax exemption in that the bonds are exempt from federal tax.

BABCOCK'S STATEMENT said of the plant's taxes, current status and expected growth:

"Our taxes at the present time are \$80,521 annually. These are real property taxes of \$12,864 and personal property taxes of \$47,656, levied on the equipment purchased with proceeds of the bond issue..."

"In addition to the number of new people we plan to employ, I think you should be aware we presently employ 130 residents of this area with an average weekly payroll of \$34,650, or an average monthly payroll \$147,552., which equals an annual payroll of \$1,770,626. We have an average hourly pay rate of \$8.54 an hour, and Justus through its payroll is encouraging the circulation of a great

deal of money in our community.

"With the addition I have discussed, of approximately 130 to 150 additional employees, the payroll going into the Chanute economy will be at least twice the present payroll, which should recirculate approximately seven times and thereby create a \$14 million to \$20 million addition to our economy."

Gray at one point in the discussion asked the other commissioners how they would regard an equivalent adjustment in the plant's city utilities costs in place of tax abatement. He said he suggested the thought because it involved only city revenue, and in his opinion the city's electric rates are inequitable for large users such as Justus. The idea received no support.

Babcock said he didn't have the plant's exact utilities costs in mind but placed them in the range of \$150,000 a year, largely for electricity

JAN. 11, 1986

City, county officials view development program

City and county officials took a look at a coordinated countywide economic development program during a joint meeting Thursday night at The Old Mill.

Members of the Newton City Commission and the Board of Harvey County Commissioners spent part of the three-hour meeting discussing the Newton Area Jobs Development Program. A cornerstone of the program is the proposed hiring of a countywide economic development coordinator.

According to County Administrator Gene Kristenson, both the county and city have been asked to help fund the coordinator's post. County officials want to emphasize the countywide aspect of the proposal.

"This program must be a countywide effort," Commission Chairman Dr. Charles Benjamin said, drawing support from fellow commissioners Eugene Wendling and E.J. Brubacher.

"We all agree there's a need for further economic development in this area," Kristenson said. "It's important to establish new jobs and stabilize the ones that are here through economic development sponsorship and cooperation."

The two groups also discussed the city's proposed annexation of a stretch of land near Old 81 from Main to Prestressed Concrete.

County officials raised no objections to the annexation proposal, but requested a meeting

with area public safety officials to clarify possible post-annexation law enforcement responsibilities.

The city and county also agreed on a regular schedule for the joint meetings. The two groups will meet at 3 p.m. on the first Monday of each month.

"We want to reemphasize our feeling that the city and county need regular meetings to discuss individual concerns, update each other on our goals and discuss mutual service levels," Kristenson said. "Even if we have a difference of opinion on how different items should be handled, the important thing is that we communicate."

Chanute Tribune

NOV. 20, 1985

Application given approval

Application for an economic development grant on behalf of Casework Concepts, Inc., received formal approval of the City Commission Tuesday night.

Casework, with home offices in Minneapolis, Minn., is preparing to start manufacturing operations in the former Woodmark plant in the Safari Industrial Park. If the grant is received, the money will be applied to establishment of the new plant.

Bob Iwaszewycz and other management representatives of Casework were present for the required public hearing preceding adoption of a resolution forwarding the application to the Kansas Department of Economic Development.

Iwaszewycz, the only person to comment during the hearing, said preparation of the Woodmark building, being assumed under lease-purchase agreement, is already in progress. Production is expected to begin in January, regardless of whether the grant is received, starting with 10 to 15 employees.

THE GRANT application projects an employment of 130 within 18 months after production starts. Amount of the grant sought is \$400,000.

The application was prepared by the Southeast Kansas Regional Planning Commission. Information in a summary includes:

The grant would be used together with \$137,750 in private funding for acquisition of plant and equipment. Private funding would provide \$275,000 in working capital and \$500,000 for machinery and equipment, making a total project figure of \$1,312,750.

The plant will produce specialized wood and laminated store fixtures.

The grant would be administered by the city, through a 6-percent-interest loan to Casework. Repayment would start in 18 months with the money going into a city revolving fund for assistance to other economic development projects.

Principal and interest combined, the revolving fund would receive approximately \$750,000 from the repayment.

B. Annexations Undertaken Specifically to Promote or Accommodate Economic Development

Colby Free Press

DEC. -2 1985
more energy efficient.

Commission approves annexation

2 By ANN KLANN
Staff Reporter

The Thomas County Commission approved annexation by the city of Colby of land to provide a site for a sunflower seed processing plant during Monday's meeting.

The area to be annexed is on College Drive, east of Country Club Drive to just across the railroad tracks.

According to a letter written by John Featherstone, president of Ag Dynamic Systems, Inc., Fresno, Calif., the company seeking to build the plant, the truck traffic on the road to the facility is expected to be about 1,700 large vehicles per year.

The letter also stated, "The road, in its present configuration and condition, will not support this kind of use.

"We need to determine from the county what the cost would be for making the road an all-weather type with minimum investment and with a widening to support good drainage and two-way traffic. Then we would like to determine how the county might help us provide the road we need for our daily business."

Ernest Kistler, commission chairperson, said he felt Ag-Dynamic Systems is willing to work with a cost-share plan.

He also suggested a meeting with Featherstone in early January to discuss plans for the plant with county personnel.

Commissioner Jimmie Nickel expressed concern over the county taking over the road. It is currently a township road.

"Probably sometime we'll maintain the road," said Nickel.

Kistler added, "We want to give the township a chance to maintain the road."

City Manager Jack Heaton commented he had heard "no opposition" to the proposed sunflower plant.

Heaton explained the City is hoping to receive a \$400,000 EDG (Economic Development Grant.) He said this money can be loaned out again after Ag Dynamic Systems is finished with it. The funds will be repaid the city by the company.

City moves to approve annexation

Preliminary approval was given to the annexation of a 220-acre tract between Wanamaker and Fairlawn, south of 37th, by the Topeka City Council Tuesday night.

The action of the council was to direct Ron Miller, chief administrative officer, to have the annexation ordinance for the property prepared. When the ordinance is prepared the council will hear first reading and not vote on it until at least one week later.

The vote to have the ordinance drafted was unanimous.

The property is owned by Hoshall E. and Oleta I. Thomas of Norman, Okla. The Thomases propose a long-range plan for the property, including a retail and office complex at the southeast corner of 37th and Wanamaker and a mix of residential developments in the remainder of the area, according to Mike Engler, a landscape architect with Bartlett and West Engineers.

Engler told the council Tuesday night the Thomases would like to have the property annexed as soon as possible. He said three zoning applications have been filed with the Topeka-Shawnee County Planning Commission based on the assumption that the property will be inside the city limits. He said the developers are planning to build the development according to city standards and are planning to follow the zoning process for property inside the city.

Engler has predicted the development of the entire area will take several years. The initial development will be by the Thomases' company, Thomas Land Co. But the Thomases may work with local developers on future developments.

Jim Schlegel, city-county planning director, said the proposed annexation had been reviewed by all the appropriate city departments and that they found no major problems.

Topeka Capital-Journal, October 31, 1985

Perry planners urge annexation

PERRY — The planning commission here voted Wednesday night to recommend annexation of a 120-acre site at the southeast edge of the city where a 30,000-square-foot paper and plastic container plant will be built.

In September, the city council issued a letter of intent to issue \$2 million in industrial revenue bonds to fund construction of the plant for Lawrence Paper Co. Councilman Tom Hotchkiss said Wednesday's recommendation on the annexation now goes to the Jefferson County Commission for final approval Dec. 6.

If county commissioners approve the recommendation, the city will be able to approve zoning requirements for the site and issue the bonds, Hotchkiss said.

No one spoke in opposition to the annexation, and the vote was unanimous, he said.

Jefferson County Commission

approves annexation to Perry

By The Capital-Journal state staff

12/7/85

OSKALOOSA — Members of the Jefferson County Commission Friday approved a request by the city of Perry to annex 110.93 acres into the city limits.

Part of the newly-annexed land will be used as the site of a new plant for Lawrence Paper Co.

The commission gave its approval after about a 20-minute public hearing. Although some questions were raised concerning drainage and street maintenance during the hearing, no one spoke in opposition to the annexation.

The site that was annexed is smaller than the site that was proposed originally to the commissioners, according to Perry City Attorney Larry Hendricks, Topeka.

Hendricks said the city originally had asked to annex 210.93 acres. He said the request was cut by 100 acres after Bob Russell, the owner of the property, informed the city he did not want the land annexed unless the paper company was going to

purchase it. Hendricks said that although the Lawrence company has an option to buy the additional acreage, the land has not been sold to them.

Justin Hill Jr., Lawrence, secretary-treasurer of the firm, said the 32,000-square-foot plant the company plans for Perry will be used for specialty paper operations and the manufacture of plastic products. He said the plant will probably employ 10 to 15.

Hill said company officials hope to start construction early next spring and have the plant in operation by late next summer.

Hill said company officials have no plans to move the Lawrence operation to Perry.

The plant will be located on the southeast edge of the city.

Hendricks said the annexation will become official next week after the annexation ordinance and one stating the city's intent to issue \$1.6 million in industrial revenue bonds to the Lawrence Paper Company are published in the official city newspaper.

Salina Journal

SEP. 25, 1985

Commission endorses annexation of 40 acres

By GORDON FIEDLER Jr.
Staff Writer

Saline County Commissioners adopted a resolution Tuesday endorsing the annexation of almost 40 acres by the city of Salina.

The owners of the property, Doris and Dorothy Winslow, want the land annexed in order to develop the tract into a mobile home subdivision.

The action returns the matter to the Salina City Commission, which sent it to the county for its consideration. The joint involvement is required by state statute because the property subject to the annexation is non-contiguous to the city limits.

The property is a quarter-mile east of South Ninth Street on the south side of Schilling Road, and is a quarter-mile south of the city limits.

The applicants, while awaiting action on the annexation request, have applied to the Salina Planning Com-

mission for rezoning the property as a planned development district. That application and an accompanying preliminary plat of the proposed mobile home subdivision are scheduled for planning commission consideration Oct. 1.

City Planner Keith Rawlings told county commissioners the property was up for annexation several years ago and the request was denied, based in part on a lack of fire protection.

A new fire station in south Salina is under construction and that might be a factor in the commission's decision, Rawlings said.

STATE OF KANSAS

MARVIN E. SMITH
REPRESENTATIVE, FIFTIETH DISTRICT
SHAWNEE AND JACKSON COUNTIES
123 N.E. 82ND STREET
TOPEKA, KANSAS 66617



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: ASSESSMENT AND TAXATION
EDUCATION
TRANSPORTATION

February 5, 1986

TO: HOUSE LOCAL GOVERNMENT COMMITTEE
RE: HOUSE BILL 2726 AUTHORIZING RESCUE SERVICES

Mr. Chairman and Members of the Committee:

House Bill 2726 is to provide permissive legislation to township fire departments in Kansas. This authority would help establish and operate as a township function, "rescue service-emergency care" and/or ambulance service. Present law allows cities and counties to provide these services. HB 2726 intent is to provide statewide authority to all townships in Kansas.

Your favorable consideration would be appreciated.

ATTACHMENT II
2-5-86
Hs. Local Gov.

Testimony on HB 2726 offered by Richard Maginot, Chief,
Soldier Township Fire Department

On January 30, 1986, I appeared before this committee to testify in favor of HB 2725. This bill (HB 2725) would allow our fire department to continue providing Emergency First Response services under Statute 80-1903, with which our department was organized.

HB 2726 would allow townships state-wide to organize ambulance or rescue services. We offer our support to this bill also, provided it would be amended in lines 34-38 to read as follows:

(C) "Qualified Personnel" means any individual who has been trained to provide emergency medical care and meets the minimum standards of health care as defined in K.S.A. 65-2891, K.S.A. 65-2891a and amendments thereto.

Bob McDanel, representing the EMS Council, testified last week that he thought HB 2726 would provide authority statewide, which it would. He also stated that he believed HB 2725 was not needed because of HB 2726.

We, however, ask that you consider both bills. HB 2725 would allow any fire department organized under 80-1903 to continue operating their emergency medical programs in the present form without interruption. Funds for our first responder program come from our fire fund. If we must change to HB 2726 for funding, a new resolution would have to be passed and a new tax levy established. Funds from this levy would not be available until 1987 at the earliest. If a petition in opposition were filed, either a special election would be needed or the question would have to be placed on the next General Election ballot, causing further delays. I have no doubt that the citizens of our township would vote favorably for a first responder program. However, because of the time this would take, we feel our program would suffer seriously.

ATTACHMENT VI

2-5-86

Hs. Local Gov.

We are authorized to raise up to 4 mils for the fire fund and our levy for 1986 is 2.57 mils so we feel we have sufficient resources to adequately fund both our fire budget and our first responder program. HB 2726 would become a future source for revenue for us if the need should ever occur.

We urge your support for both HB 2725 and HB 2726 as we feel both bills are needed.

Thank you for your kind attention. Are there any questions from the members of the committee?

HOUSE BILL No. 2726

By Representatives Smith, Barr and Laird

1-23

0017 AN ACT concerning townships; authorizing rescue services
0018 provided through township fire departments; amending
0019 K.S.A. 80-1423, 80-1424, 80-1425, 80-1426, 80-1427 and 80-
0020 1428 and repealing the existing sections.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 New Section 1. As used in K.S.A. 80-1423 to 80-1428, inclu-
0023 sive, and amendments to these sections:

0024 (a) "Rescue service" means a service which provides emer-
0025 gency care by qualified personnel through a township fire de-
0026 partment.

0027 (b) "Emergency care" means the services provided after the
0028 onset of a medical condition manifesting itself by acute symp-
0029 toms of sufficient severity such that the absence of immediate
0030 medical attention could reasonably be expected to: (1) Place the
0031 patient's health in serious jeopardy; (2) seriously impair bodily
0032 functions; or (3) result in serious dysfunction of any bodily organ
0033 or part.

0034 (c) "Qualified personnel" means any individual who holds a
0035 certificate as a crash injury management technician, an emer-
0036 gency medical technician, an emergency medical technician-in-
0037 termediate or a mobile intensive care technician, as these terms
0038 are defined in K.S.A. 65-4301, and amendments thereto.

0039 Sec. 2. K.S.A. 80-1423 is hereby amended to read as follows:
0040 80-1423. The township board of any township may establish and
0041 operate as a township function an ambulance service *or rescue*
0042 *service, or both*, within or without such township or may contract
0043 with any city, county, person, firm or corporation for the fur-
0044 nishing of ambulance services *or rescue services, or both*, within
0045 all or any part of the township upon such terms and conditions,

PROPOSED AMENDMENT

0046 and for such compensation as may be agreed upon.

0047 Sec. 3. K.S.A. 80-1424 is hereby amended to read as follows:
0048 80-1424. The township board of such township may establish
0049 charges to persons utilizing the ambulance service *or rescue*
0050 *service* inside or outside of such district. The charges so made
0051 and received shall be deposited in the general funds of such
0052 township, and the same may be used in addition to funds re-
0053 ceived under the tax levies authorized by this act.

0054 Sec. 4. K.S.A. 80-1425 is hereby amended to read as follows:
0055 80-1425. The township board of such township is authorized to
0056 levy taxes for ambulance service *or rescue service* purposes but
0057 shall not fix a rate of levy in any one year exceeding two mills. No
0058 levy shall be made under the provisions of this act until a
0059 resolution authorizing the making of such levies be passed by
0060 the township board by publication for three successive issues in
0061 a newspaper of general circulation within the township, where-
0062 upon such levies may be made unless a petition in opposition to
0063 the same, signed by not less than 10% of the registered voters of
0064 such township as determined by the vote for secretary of state in
0065 the last preceding election, is filed with the township clerk of
0066 such township within 30 days following the last publication of
0067 the resolution.

0068 In the event such petition is filed it shall be the duty of the
0069 township board to submit the question to the voters at an elec-
0070 tion called for such purpose or at the next general election. The
0071 levy herein authorized for ambulance purposes *or rescue service*
0072 *purposes, or both*, shall be in addition to all other tax levies
0073 authorized or limited by law and shall not be subject to or within
0074 the aggregate tax levy limit prescribed by K.S.A. 79-1962, and
0075 amendments thereto.

0076 Sec. 5. K.S.A. 80-1426 is hereby amended to read as follows:
0077 80-1426. Any operating funds of such township may be used for
0078 the operation of an ambulance service, *or rescue service, or both*,
0079 together with any funds received under such contracts. Any
0080 township board shall have the authority to purchase ambulances
0081 and equipment *and equipment for a rescue service* and to pay
0082 therefor with funds of the township.

0083 Sec. 6. K.S.A. 80-1427 is hereby amended to read as follows:
0084 80-1427. The township board of such township shall establish
0085 minimum standards for the operation and equipping of ambu-
0086 lances *and rescue services, or both*, and for the qualifications and
0087 training of any personnel operating such ambulances: ~~Provided,~~
0088 ~~That~~ *or rescue service, or both*. No person shall act as an
0089 ambulance driver or attendant unless such person shall have
0090 completed a basic course in first-aid or a comparable course in
0091 life support procedures.

0092 Sec. 7. K.S.A. 80-1428 is hereby amended to read as follows:
0093 80-1428. The township board of any township is hereby autho-
0094 rized and empowered to furnish ambulance service *or rescue*
0095 *service, or both*, within or without the boundaries of such dis-
0096 trict.

0097 Sec. 8. K.S.A. 80-1423, 80-1424, 80-1425, 80-1426, 80-1427
0098 and 80-1428 are hereby repealed.

0099 Sec. 9. This act shall take effect and be in force from and
0100 after its publication in the Kansas register.

Proposal for HB 2725, HB 2726

Proposal for qualified personnel in bills to authorize
rescue services in townships.

(3) "Qualified personnel" means any individual who has been trained to provide emergency medical care and meets the minimum standards of health care as defined in K.S.A. 65-2891, K.S.A. 65-2891a and amendments thereto.

RELATED STATUTES

65-2891. Emergency care or assistance at scene of emergency or accident by certain person; liability; standards of care applicable. --

(a) Any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(b) Any health care provider may render in good faith emergency care or assistance, without compensation, to any minor requiring such care or assistance as a result of having engaged in competitive sports, without first obtaining the consent of the parent or guardian of such minor. Such health care provider shall not be liable for any civil damages other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

(c) Any health care provider may in good faith render emergency care or assistance during an emergency which occurs within a hospital or elsewhere, with or without compensation, until such time as the physician employed by the patient or by his or her family or by his guardian assumes responsibility for such patient's professional care. The health care provider rendering such emergency care shall not be held liable for any civil damages other than damages occasioned by negligence.

(d) Any provision herein contained notwithstanding, the ordinary standards of care and rules of negligence shall apply in those cases wherein emergency care and assistance is rendered in any physician's or dentist's office, clinic, emergency room or hospital with or without compensation.

(e) As used in this section the term "health care provider" shall mean any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, registered podiatrist, registered pharmacist and registered physical therapist, and any physician's assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for physicians' assistants of the American board of medical examiners, any person who has successfully completed an approved emergency service program as defined by K.S.A. 1977 Supp. 65-2891a, any mobile intensive care technician who has successfully completed an approved training program required by K.S.A. 1977 Supp. 65-4308, any person who holds a valid certificate for the successful completion of a course in first aid offered by the American red cross, by the American heart association or by the mining enforcement and safety administration of the bureau of mines of the department of interior and any person engaged in a postgraduate training program approved by the state board of healing arts.

65-2891a. Same; emergency service program defined. As used in this act, emergency service program means a program of instruction, approved by the university of Kansas school of medicine, consisting of eighty-one (81) clock hours or the equivalent thereof, of preliminary emergency medical care and at least eight (8) clock hours annually of supplemental instruction.

Testimony on HB 2726 offered by Vern Evans, Treasurer,
Soldier Township

Mr. Chairman and Members of the Committee:

I am here today to offer support to both HB 2726
and HB 2725.

HB 2726 will enable townships statewide to form
ambulance or rescue services and provide funding for
those services.

Soldier Township has, for several years, provided an
Emergency First Responder Program which has been funded
by our fire levy. In order to continue this practice,
we ask that HB 2725, affecting the statute under which
our fire department is organized (80-1903), also receive
your support.

Through the passage of both bills, we would not have
to put in place another fund at this time. Our fire mil
levy can raise up to 4 mils. Presently we are using 2.57
mils. If, for some reason in the future, we need more
funding, we could use HB 2726 to obtain the needed funds.

I would be happy to answer any questions and would
like to thank you for listening to this testimony.

ATTACHMENT VII

2-5-86

Hs. Local Gov.

February 5, 1986

House Bill 2726
Testimony of Karl W. McNorton, Manager
Kansas Fire Information System
Kansas State Fire Marshal Department

The State Fire Marshal Department wishes to support H.B. 2726 which will allow townships not only to provide ambulance services but also to allow rescue services or both. In most instances the fire departments in the state are the entity which provides this type of service. Recently it was brought out that these township fire departments or fire districts may not be authorized to use their current funding due to the type of language used in the statutes that they may be organized under.

Recently, we were asked how many fire departments were providing rescue services and according to the fire departments reporting incidents to our Fire Information System, 33% were responding to some type of medical emergency. We also noted that 43% of the over 65,000 total incidents were rescue calls and only 23% (14,939) were fire calls.

The Fire Marshal Department also wishes to point out that the section outlining qualifications for qualified personnel may be excessive in that many of these small township fire departments respond on their own time with no compensation or benefits and in many cases with little or no training. Requiring these people to be certified would be difficult as most of them wouldn't be

ATTACHMENT VIII
2-5-86
Hs. Local Gov.

able to devote the time required to receive the training needed to be certified. We are not saying that they don't need to be trained but that a minimum level be established to let these firefighters provide initial treatment and stabilization until the ambulance arrives and takes over the medical emergency.

Thank you for allowing me the opportunity to address your committee.

I will be pleased to answer any questions you may have.



TOPEKA - TECUMSEH FIRE DEPARTMENT

2626 Shawnee Heights Rd. • Tecumseh, Kansas 66542 • 913-379-0566

The Topeka-Tecumseh Fire District would like to be included under the provisions of H.B. No. 2725 or H.B. No. 2726 because under current law the Fire District does not have the statutory authority to provide emergency medical care. On May 5, 1983, the Kansas Attorney General issued an opinion stating: "The Topeka-Tecumseh Fire District, created pursuant to K.S.A. 80-1540 et seq., is without statutory authority to provide emergency medical care unrelated to the providing of firefighting services in its territorial district." (Opinion No. 83-67.) A copy of the Attorney General's Opinion is attached.

The Topeka-Tecumseh Fire District is not covered by the current versions of H.B. No. 2725 or H.B. 2726 because the Fire District is a joint township fire district created and operating under K.S.A. 80-1540 et seq. The current versions of H.B. No. 2725 and H.B. No. 2726 only apply to single township fire districts operating under K.S.A. 80-1903 and K.S.A. 80-1423 et seq.

Because it lacks statutory authority under current law, the Fire District does not now provide emergency medical care unrelated to firefighting services. However, the Fire District already has fifteen firemen who are certified EMTs and who have the training to provide emergency medical care. The Fire District has the capability of providing emergency medical care if it is given the statutory authority to do so, and if the voters approve of the funding.

If the current version of H.B. No. 2725 and H.B. No. 2726 are passed without including joint township fire districts, Topeka-Tecumseh Fire district will be the only fire district in Shawnee County, and possibly the state, which does not have the statutory authority to provide emergency medical services. The Fire District will be unable to provide emergency medical services even though it covers one-fourth of the territory in Shawnee County.

TESTIMONY OF
BOB HAZELWOOD, CLERK
ATTACHMENT IX

2-5-86

Hs. Local Gov.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

May 5, 1983

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 83- 67

Donna Voth
County Counselor
Shawnee County Courthouse
200 East Seventh
Topeka, Kansas 66603

Re: Townships and Township Officers -- Fire Protection --
Power to Provide Emergency Medical Treatment

Synopsis: The Topeka-Tecumseh Fire District, created pursuant to K.S.A. 80-1540 et seq., is without statutory authority to provide emergency medical care unrelated to the providing of firefighting services in its territorial district. Cited herein: K.S.A. 19-3623b, 19-3636a, 65-2891a, K.S.A. 1982 Supp. 80-1423, K.S.A. 80-1540, K.S.A. 1982 Supp. 80-1541, K.S.A. 80-1544, 80-1546.

* * *

Dear Ms. Voth:

As county counselor for Shawnee County, you have requested, on behalf of the Shawnee County Ambulance Advisory Board, our opinion on whether a township fire district, created pursuant to K.S.A. 80-1540 et seq., is prohibited from participating in, and expending funds for, an emergency medical care first response program in its territorial district. You inform us that Shawnee County is attempting to formulate a county-wide first response system and is desiring the Topeka-Tecumseh Fire Department to render emergency first aid to victims in situations not involving a fire-fighting function.

We are informed that Topeka Township and Tecumseh Township created a joint township fire district in 1966 pursuant to K.S.A. 80-1540 et seq. That statute provides that the governing board of the townships may create a fire district. Such

fire district may include any or all of such townships. The powers delegated to a joint fire district are set out in K.S.A. 1982 Supp. 80-1541, which provides in pertinent part:

"[T]he governing body of the fire district . . . shall have the authority to levy taxes or assessments, to enter into contracts, to acquire, and operate and maintain fire fighting equipment and to acquire and construct buildings to house the same and to do all things necessary to effectuate the purposes of this act."

In addition to the powers provided for in this section, the governing body of the fire district shall have any powers granted to a fire district under K.S.A. 1982 Supp. 80-1514a. K.S.A. 80-1544 further delineates the vested powers of the district, stating:

"The governing body of such fire district shall have full direction and control over the operation of such fire department and may select regular employees, provide for their compensation, and furnish quarters for such employees if deemed desirable; and may also provide for the organization of volunteer members of such department, to be compensated at a specified rate when attending fires, and may provide special clothing and equipment for such employees and volunteers, and may insure such employees and volunteers against accidental death and injury in the performance of their duties, and may do all other things necessary or desirable to maintain and operate such department so as to furnish fire protection for the inhabitants of such district" (Emphasis added.)

A township under Kansas law is a statutory creation (K.S.A. 80-101 et seq.), and "has only such powers and authority as may be conferred upon it by statute." Paul v. Topeka Township Sewage District, 199 Kan. 394, 399, 430 P.2d 228 (1967). Township Board of Ash Creek v. Robb, 166 Kan. 138, 199 P.2d 521 (1948). As the fire district is a separate governmental entity created pursuant to K.S.A. 80-1540, it has only those powers as are delegated to it by statute.

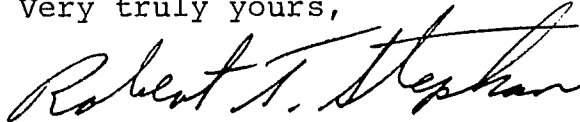
"In this state it has long been the rule that school districts and other subdivisions of the state have only such powers as are conferred upon them by statute, specifically or by clear implication, and that any reasonable doubt as

to the existence of such power should be resolved against its existence." (Citations omitted.) (Emphasis added.) Wichita Public Schools Employees Union v. Smith, 194 Kan. 2, 4, 397 P.2d 357 (1964). See also Gragg v. U.S.D. No. 287, 6 Kan. App. 2d 152, 627 P.2d 335 (1981).

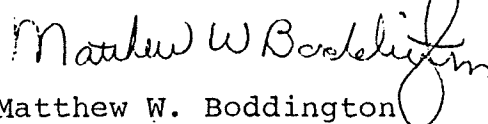
We have examined the case law of this and other jurisdictions and can find little authority for the proposition that the provisions of fire protection necessarily includes the rendering of emergency medical care unrelated to circumstances involving fires or explosions. Moreover, Kansas law provides for emergency medical care service programs pursuant to K.S.A. 65-7891a and specifically provides for counties and certain other governmental entities to deliver emergency medical care. See K.S.A. 19-3623b and 19-3636a. Additionally, there are separate provisions for the providing of ambulance services on a township level. K.S.A. 1982 Supp. 80-1423. No such authority is expressly granted township fire districts created pursuant to K.S.A. 80-1540 et seq., nor do we have reason to find that such is necessarily implied.

Therefore, we must concur with counsel for the Topeka-Tecumseh Fire District that such district is without statutory authority to provide emergency medical care in circumstances unrelated to the providing of firefighting services.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Matthew W. Boddington
Assistant Attorney General

RTS:BJS:MWB:hle

SUMMARY OF TESTIMONY
BEFORE THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

HOUSE BILL 2726

PRESENTED BY THE KANSAS HIGHWAY PATROL

February 5, 1986

APPEARED IN SUPPORT

The Kansas Highway Patrol supports, with reservations, H.B. 2726. Township fire departments should have the authority to establish and operate rescue services as defined in this bill. Rescue services provide a valuable adjunct to ambulance services. Emergency care can be provided more quickly and at a lower cost than ambulance services operating alone.

The reservations of the patrol concern sec. 6. This section requires the township board to establish minimum standards for the operation and equipping of ambulances and rescue services, or both and for the qualifications and training of any personnel operating such ambulances. The patrol recommends that this section be deleted.

The patrol believes that state regulation of ambulance services and qualified personnel as provided in K.S.A. 65-4301 through 65-4328 preempts sec. 6 of this bill and makes this section unnecessary and unwise.

The concept of this bill is also endorsed by the Emergency Medical Services Council, a council appointed by the governor whose statutory responsibilities include the adoption of administration rules and regulations and the development of a state plan for emergency medical services. The council voted at its January 10, 1986 meeting to endorse legislation which would permit township fire departments to operate rescue services.

ATTACHMENT X

2-5-86

Hs. Local Gov.

Council names members to study areas for potential annexation

A three-member committee of the Topeka City Council was established Tuesday to examine possible areas for annexation to the city.

The decision to create the committee came in an informal work session prior to the formal council meeting Tuesday evening. The council gathered at 4 p.m. at City Hall for a work session to discuss annexation.

Much of the 90-minute meeting involved Planning Director Jim Schlegel's explanation of Topeka annexation history and the ramifications of annexation.

Schlegel said he would recommend that only platted areas immediately adjacent to the city boundaries be studied for annexation.

Councilman Vic Miller asked Schlegel to provide the council with a map of the areas surrounding the city that met those criteria. Schlegel said he could probably have that map ready early next week.

Pointing at a map of the existing city limits, Schlegel said there were areas west and southwest, east and southeast, south to the Forbes-Montara area, and "a couple of isolated areas to the north" that he thought should be studied for possible annexation.

Councilman Gene Miles asked how long the entire process of annexing those areas would take.

Schlegel said that his department

would need 45 days to prepare the required studies detailing the cost of providing city services to the proposed new areas. Then 60 days would be needed for notice of a formal public hearing on annexing those areas. After the public hearings, the council would need to adopt ordinances annexing the areas.

"Then we could make it prior to the end of the year, prior to the Legislature meeting, before they take the power away from us," Miles said.

Attempts were made in the 1985 session of the Kansas Legislature to further restrict cities' ability to annex property. One bill would have allowed residents of the affected area to vote on whether they would be annexed. A later version would have

allowed the county commission to decide.

The Legislature took no action on annexation legislation, but opponents and proponents of restricting annexation agreed to meetings this year on the issue.

Miles later recommended that council members Alan Bibler, Joe Herter and Mary Holmgren form a committee on annexation. He said after Schlegel provides the map showing the platted areas adjacent to the city limits, the committee would work with Schlegel to select the areas for formal study leading to annexation. The recommendations of the committee would need to be approved by the full council before Schlegel would be authorized to initiate the formal studies, Miles said.