

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Senator Don Montgomery at _____
Chairperson

9:07 a.m./~~p.m.~~ on February 26, 1987 in room 531-N of the Capitol.

All members were present except: Senators: Mulich

Committee staff present: Mike Heim, Theresa Kiernan, Emalene Correll and Lila McClaflin

Conferees appearing before the committee:

Steve Lackey, Director of Operations, City of Wichita, Ks.
Jim Kaup, League of Kansas Municipalities, Topeka, Ks.
Douglas J. Moshier, Assist. City Attorney, City of Wichita, Ks.
Hannes Zacharias, City of Lawrence, Ks.
Scott Lambers, City of Overland Park, Ks.

S.B. 171 - Concerning cities; relating to the abatement of nuisances.

Senator Daniels stated this bill was sponsored by the Sedgwick County Delegation. It does, however, have statewide application. Representatives from the City of Wichita were present to testify in support of the bill.

Steve Lackey expressed support for S.B. 171. He suggested several amendments they would like to see made. His written testimony is (ATTACHMENT I).

Jim Kaup stated the League did not take a position on this bill, but modification of this statute could save some cities money.

S.B. 204 - Concerning the acquisition of land for certain improvement; relating to the costs thereof.

S.B. 204 was introduced at the request of Senator Talkington. Staff reviewed the bill. The bill would amend KSA 12-692. The cost of acquiring tracts of land for street or highway easement; or proposed storm sewer or drains; the expense to acquire property not dedicated or conveyed would be paid by the city-at-large.

Douglas J. Moshier stated if this bill was passed they would lose a much needed flexibility in establishing capital improvement programs while still working to hold the line on property tax levels. (ATTACHMENT II)

Hannes Zacharias stated the bill has been introduced because of a situation that arose in Douglas County.

Jim Kaup stated the League opposed the bill.

Scott Lambers stated their city opposed the bill.

Committee discussion followed. No action was taken on the bill.

Senator Daniels moved to amend S.B. 171 by striking "occupant," in line 50 of the bill. The motion was seconded by Senator Bogina. The motion carried.

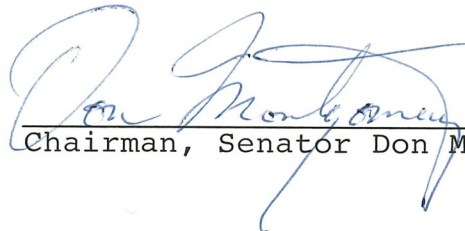
CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT,
room 531-N, Statehouse, at 9:07 a.m./~~p.m.~~ on February 26, 1987

The Committee discussed the mailing procedure. There was some discussion that cities could take care of the situation of nuisances now under home rule. No action was taken on the bill.

Senator Daniels moved to adopt the minutes of February 24 and February 25, 1987. The motion was seconded by Senator Bogina. The motion carried.

The meeting adjourned at 9:57 a.m., next meeting will be on February 27, 1987.



Chairman, Senator Don Montgomery

THE CITY OF WICHITA



DEPARTMENT OF
OPERATIONS AND MAINTENANCE

OFFICE OF THE DIRECTOR
CITY HALL — EIGHTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1685
(316) 268-4497

February 26, 1987

TO: Chairman Montgomery and Members of the Senate Local Government
Committee

FROM: Steve Lackey, P.E., Director of Operations and Maintenance
CITY OF WICHITA

RE: S.B. No. 171 NUISANCE ABATEMENT

Mr. Chairman and Members of the Committee:

The City of Wichita wishes to express its support of Senate Bill No. 171 to amend the certification and notification procedure for weed/grass abatement.

In the past cities were allowed to publish a general notice of weed/grass limitations and mail notices to property owners advising them that the vegetation on their property exceeded the limits and would be mowed by the City. Costs were billed or assessed to the property if the problem was not resolved within the specified period of time. This system worked well for the City of Wichita, balancing due process with the need for timely and cost-efficient elimination of the vegetation.

Currently K.S.A. 12-1617e establishes a process that increases the time and expense required to eliminate the health, fire, and visual hazard that overgrown vegetation represents by requiring that property owners or occupants be notified by personal delivery. The City of Wichita issues approximately thirty-five hundred overgrown vegetation notices each season. About 70 percent of these notices are personally delivered at a cost of \$24,500 (\$10 per notice). We are required to use restricted mail for notices to non-resident owners at a cost of \$2.92 per notice. Although cities are now allowed to charge property owners for the expense of notification, the administrative cost to recover that expense makes it economically infeasible to do so unless we also bill that property for mowing by the City. About half of our notified property owners resolve the nuisance themselves.

In addition K.S.A. 12-1617e requires our joint Board of Health to certify in writing that the rank vegetation is a menace and dangerous to the health of the community. However, as with many other cities, the actual mowing is

(ATTACHMENT I) LOCAL GO 2/26/87

Re: S.B. #171 Nuisance Abatement

done by a different department - in our case Operations and Maintenance Department - because they have the personnel and equipment to do the job. Thus, Health Department employees must certify each site exceeding the vegetation limits and then notify Operations and Maintenance to begin the abatement procedure. Operations and Maintenance employees are already working throughout the community and could add monitoring of overgrown vegetation to their responsibilities without additional staff support, while allowing us to emphasize more complicated health matters with Health Department employees.

The City of Wichita requests your support of Senate Bill No. 171 to allow governing bodies the option to notify owners or agents by certified mail or personal notification. We feel that certified mail, requiring the recipient's signature for receipt of notice, protects property owners' due process rights, yet allows us to reduce notification expenditures and response time. Related to that, we ask that SB No. 171 be amended to delete the word "clerk" from line #41 so that the City can specify which department will actually send out the notices, and substitute "certified" for "restricted" mail on line #50.

The City further requests your support of the provisions of this bill to allow governing bodies to define by ordinance the circumstances or conditions that constitute an overgrown vegetation health hazard, and to designate an agency to certify when vegetation exceeds those limits. Current statute allows governing bodies to do this with noxious weeds and to also use either restricted mail or personal delivery of notices. The City of Wichita supports extending this authority for the removal of overgrown vegetation to save administrative time and expense and improve the response time to eliminate the hazard.

THE CITY OF WICHITA

JOHN DEKKER, Director of Law and City Attorney
THOMAS R. POWELL, Senior Assistant City Attorney



DEPARTMENT OF LAW
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February 26, 1987

TO: Chairman Montgomery and Members of the
Senate Local Government Committee

FROM: Douglas J. Moshier, Assistant City Attorney

Re: SB 204
Assessment of Land Acquisition
Costs

The City of Wichita is opposed to Senate Bill 204 for the following reasons:

1. The amendment takes away any option cities have with respect to allocating the cost of right-of-way acquisitions to the properties which are benefitted by the street and storm sewer improvements for which the right-of-way is required.
2. The amendment does away with the only financial motive that exists to encourage dedication of rights-of-way and/or easements necessary for the construction of street and storm sewer improvements.
3. The amendment precludes cities from implementing policies concerning the allocation of the costs of acquiring right-of-way which can deal with the individual inequities which likely prompted the introduction of Senate Bill 204.

The City of Wichita recognizes that inequities can occur in situations where some property owners within an improvement district dedicate right-of-way for an improvement and some refuse, requiring the City to incur acquisition costs which are subsequently assessed against the improvement district, including the property owners who have dedicated right-of-way.

The City of Wichita, however, does not believe that the only solution to this problem is a choice between treating the property owner who dedicates unfairly by accepting his property and then making him pay for a portion of what his neighbor insisted on receiving for his land, or treating all property owners in the

City unfairly by requiring them to pay a portion of the costs of an improvement which for all other purposes is considered to be one which benefits only a specific improvement district.

We suggest that there is a middle ground. That is the approach the City of Wichita has taken for years. The City has a policy that is designed to prevent the sort of inequity described above. The City of Wichita does not record dedications or grants of right-of-way from property owners in a benefit district which is to pay all or some share of right-of-way acquisition costs if fewer than one hundred percent (100%) of the property owners from whom right-of-way is required dedicate. Thus, no owner is ever faced with having dedicated early on in a project only to find when the costs are spread that his neighbors received compensation for their right-of-way and he is being required to pay for a portion of what they received in payment. Instead, because of the City's policy, the owner who dedicated early would have his dedication returned, unrecorded and his right-of-way would be acquired through condemnation or purchase along with all others. The improvements district would then pay for these right-of-way costs, with such costs allocated to the property owners in the same manner as the cost for the improvement.

While this solution is not perfect, it does reserve to cities a means by which they can address the problem with some flexibility. Under this policy the City, at least, has a means by which acquisition costs can be assessed against the improvement district when the improvement clearly benefits the property owners in the district. In addition, the City has some financial incentive to hold in front of property owners to encourage one hundred percent (100%) dedication of necessary right-of-way.

If the amendments to K.S.A. 12-692 contained in Senate Bill 204 are implemented, cities will lose a much needed flexibility in establishing capital improvement programs while still working to hold the line on property tax levels. In order for cities to have the options we suggest, Senate Bill 204 cannot be enacted.