

Approved March 31, 1987  
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

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

9:10 a.m./~~p.m.~~ on March 27, 1987, 1987 in room 531-N of the Capitol.

All members were present except:

Committee staff present: Arden Ensley, Mike Heim, Emalene Correll, Sandy Ragsdale.

Conferees appearing before the committee: Mayor Neil Peterson, Fairway; Bob Wendel (city councilman), Roeland Park.

Chairman Montgomery called the meeting to order. Chairman Montgomery introduced Mayor Peterson of Fairway to give testimony on SB 386. Mayor Peterson gave testimony concerning small cities such as Fairway, being land-locked with little business, whose nature of matters of variances handled by the Board of Zoning Appeals is relatively insignificant when compared to that of larger cities. He would like to have the committee favorably revise the bill so that the mandate of the existing statute, K.S.A. 12-714, which creates a formalized Board of Zoning Appeals, can be modified. (Attachment 1)

Discussion followed the testimony regarding other methods of regulating zoning appeals through a city council, rather than having a formal Board of Zoning. Arden Ensley, Revisor of Statutes, stated that SB 386 is an attempt to depart from the present law which states that a Board of Zoning Appeal be used, regardless of city size. He also stated that through any method of appeal upon which an issue cannot be settled, that issue will end up in district court. Senator Gaines moved to amend SB 386 by striking line 35 after the period and in line 36 before "The", regarding members of the board serving without compensation. The motion was seconded and the amendment adopted. Senator Steinger moved to recommend favorably for passage SB 386. The motion was seconded by Senator Mulich and the motion carried.

Final action on HB 2227 regarding county procedure for adopting resolutions was discussed. Senator Allen moved to recommend HB 2227 favorably for passage. The motion was seconded and the motion carried.

HB 2360, regarding the establishment of a Shawnee County Fair Association, was discussed. It was recommended to amend HB 2360 by striking in line 98 all preceding "approval" and inserting in lieu thereof, "board of county commissioners, and, upon the board's". Senator Allen moved to recommend HB 2360 favorably for passage as amended. Senator Daniels seconded the motion, and the motion carried. Senator Langworthy requested her "nay" vote to be recorded.

Senator Gaines moved to recommend HB 2115 favorably for passage, which concerns an easement to the city of Topeka along the Kansas river for the purpose of the city building a low water weir. Senator Mulich seconded the motion and the motion carried.

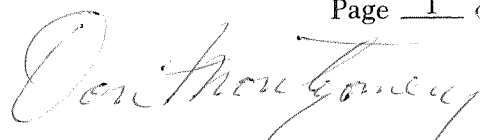
HB 2116 concerning airport authorities and the power and duties thereof was discussed. It was moved by Senator Mulich to favorably pass HB 2116. Senator Allen seconded the motion, and the motion carried.

Senator Daniels moved to approve the minutes of the March 25th meeting. Senator Langworthy seconded the motion, and the motion carried.

Chairman Montgomery requested that Senator Langworthy carry SB 386, Senator Daniels carry HB 2227, and that Senator Salisbury carry HB 2115 and HB 2116. Senator Montgomery announced that he will carry HB 2360.

The Chairman adjourned the meeting.

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.





Mr. Chairman  
Members, Senate Local Government

Re: SB-386

My name is Neale Peterson. I am, and have been for several years, Mayor of the City of Fairway in Johnson County. Fairway is both landlocked and completely developed, as are several other small cities in the county. Because of this configuration, we neither have, nor do we need, to encumber our City Code with "developmental" kinds of ordinances.

It then follows that the nature of all matters of variances handled by our Board of Zoning Appeals is relatively insignificant when compared to those occurring in larger cities. In fact, almost all zoning variances in Fairway deal with either business identification signs, residential building set-backs, or fences. Analysis of these variances over a period of years shows that about 10% were regarding signs, 20% about set-backs and 80% for fences. While not actually researched in other small cities, it seems reasonable to assume the results would resemble ours.

The mandate of the existing statute, which creates a formalized Board of Zoning Appeals akin to that of the Planning Commission, imposes an unnecessary and burdensome vehicle for the handling of these matters in Fairway and other small cities.

It is also most difficult to find five individuals in a small city who are capable and willing to volunteer their time and effort to the handling of such minor matters.

Aside from the practicality of our proposed change, there are at least a couple of philosophical questions that beg pondering, because of the mandatory nature of the existing statute:

1. Should final variance decisions really be made by appointees, who are not subject to censure of the electorate, rather than by an elected body such as the City Council?
2. Isn't it unreasonable and unfair not to afford applicants a course of administrative appeal before undertaking litigation in District Court?

I urge you to favorably consider the simple revision of K.S.A. 12-714 we are proposing. In doing so, you will have afforded small cities the latitude to configure a Board of Zoning Appeals which will provide themselves a more practical working mechanism.

(ATTACHMENT I, ) LOCAL GO 3/27/87