

Approved February 15, 1990
Date

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Sen. Don Montgomery at
Chairperson

9:00 a.m./~~p.m.~~ on February 14, 1990 in room 531-N of the Capitol.

All members were present except:

Sen. Steineger - Excused

Committee staff present:

Mike Heim, Legislative Research
Emalene Correll, Legislative Research
Theresa Kiernan, Revisor of Statutes
Shirley Higgins, Committee Secretary

Conferees appearing before the committee:

Helen Stephens, Kansas Society of Land Surveyors
George Barbee, Kansas Consulting Engineers
Bill Henry, Kansas Engineering Society
Sen. Don Sallee

Sen. Lee testified in support of SB 599 concerning land surveys. She testified for Bill Stowell, an attorney from Phillipsburg, who was not able to come to the meeting. (See Attachment I). Sen. Lee also had pass outs of copies of statutes to which Mr. Stowell refers in his written testimony. (See Attachments II and III). Also included was an Attorney General's opinion (See Attachment IV) and an information letter to Sen. Lee (See Attachment V). Sen. Allen confirmed that the statutes have not been revised in the nine years since the Attorney General's opinion was written (Attachment IV).

Helen Stephens, Kansas Society of Land Surveyors, testified in support of SB 599. The surveyor who was scheduled to testify could not come, but Ms. Stephens related that the surveyors support Sen. Lee's testimony. She informed the committee that SB 104 would do the same thing, but it has not been heard. It has been in a subcommittee since last session. If SB 104 were passed out of committee, SB 599 could be incorporated in it. If SB 104 does not pass, she would like SB 599 to be reported favorably.

Sen. Burke began a discussion as to if all county engineers are licensed. It was concluded that, for the most part, they are, but the bill allows county surveyors or engineers to review for the county.

George Barbee, Kansas Consulting Engineers, testified in opposition to the bill. (See Attachment VI).

Bill Henry, Kansas Engineering Society, stood in support of Mr. Barbee and to inform the committee that there is no precise definition "plat", the first attempt is in SB 104.

Attention was turned to SB 584 relating to fire departments in certain townships. Sen. Sallee, the author of the bill, testified. He explained that the bill would allow Jackson County townships to be included in the list of counties participating in the firemen's relief fund if they have been supporting a township fire department for a period of not less than 15 years. Such townships would be authorized to adopt a resolution without the presentation of a petition.

The meeting was continued until tomorrow due the the lack of a quorum when some committee members had to leave.

The meeting adjourned at 9:35 a.m.

TAUROS - FAX: 543-5111

STOWELL AND STOWELL - CHARTERED
 766 4TH STREET, POB 448
 PHILLIPSBURG KS 67661
 Phone: (913) 543-2511

Doris D. Stowell ----- William H. Stowell

C:\LTRS\L09

386A: SENMIKEJOHNSTON.B12

Date: 03:53:34 MONDAY FEB 12,1990

To: SENATOR MIKE JOHNSTON
 STATE SENATOR
 TOPEKA KS 66612

FAX: 913-296-0103

I am writing you in support of a needed change in the land survey statutes, that would make it clear that qualified Land Surveyors can in addition to other things, prepare plats, and the certification for recording that such plats meet all requirements of the land surveys act. Further, to avoid the trap that any plat of survey is intended to be reviewed by the county surveyor - where there is one - or the county engineer, if there is no county surveyor, I suggest that the language in K.S.A. 58-2005 be modified from its present "Before a subdivision plat or plat of survey can be recorded --,," it be modified to "Before a subdivision plat or plat of modification of a subdivision can be recorded --...."

Although K.S.A. 74-7001 (k) indicates that qualified land surveyors can make original descriptions for record and prepare maps or certificates of survey, and details an impressive list of qualifications needed to become a land surveyor, there has been some contention that the language in K.S.A. 58-2005 "or plat of survey does not relate as a modifier back to the word "subdivision" so that it means "plat of a survey of a subdivision," but rather that it means any plat or map of survey in the county for any purpose. It is my thought that any public purpose would have to be limited to the subdivision plat or a modification of the subdivision plat.

For many years Phillips County has had no official County surveyor. It must be 30 years since we have had a resident County Engineer. By requiring that all plats of survey be submitted for review before recording, this 1) creates a delay in getting a delay in getting the plat sent out, approved and sent back, and 2) an additional layer of cost. Phillips County has to send these out and pay for them on a contract basis.

Surveys are very common, but it is the plat that best illustrates the locations of the various points, boundaries, buildings, etc. Especially when surveys use degrees, minutes and seconds in various angles, some of which do not specifically designate the orientation, the plat gives meaning to the description, and



Senate Local Gov't
 2/14/90
 Attachment I

SENATOR MIKE JOHNSTON; LOCAL GOVERNMENT
LETTER FOR HEARING 9 A.M. WED., FEB.14, 1990; ROOM 531N

enables the purchaser, owner or title examiner an exactitude of the placement of the land and other features on it, which in many cases is not clear from the written description. In short, there is a great utility in these surveys by qualified land surveyors, whose recordation should be encouraged by the legislature.

My thought is that the changes should be as indicated by the underlined portions below:

K.S.A. 74-7003 (k) "Practice of land surveying" means the application of mathematics and the principles of law and methods of land measurement for the location or relocation of land boundaries and land monuments; the measurement and calculation of land areas; the preparation of the original descriptions of real estate for conveyance or recording, and the preparation of plats, maps or certificates of survey thereof, and the certification for recording that such plats meet all requirements of the land surveys act.

K.S.A. 58-2005. Review by County Surveyor before recordation; certification. Before a subdivision plat or plat of modification of a subdivision can be recorded, it shall be reviewed by the county surveyor or in the absence of the county surveyor, the county engineer shall be responsible for the enforcement of this act, and shall certify that such plat meets all requirements of this act: Provided, however, That in the event any such plat is required to be submitted to any planning commission for review and approval that such review and approval duly certified upon the face of such plat shall constitute full compliance with the review required in this section.

Respectfully presented.



William H. Stowell

I-2

tric utility a certificate of compliance with the maximum lighting standards established pursuant to K.S.A. 58-1313 and amendments thereto which is executed by such architect or engineer. The electric utility shall submit a copy of each such certificate of compliance to the state corporation commission.

History: L. 1979, ch. 235, § 3; L. 1983, ch. 258, § 9; July 1.

58-1315. Same; supersession of local standards; applicability to modified buildings. (a) The maximum lighting standards adopted as provided in K.S.A. 58-1313 and amendments thereto shall supersede any like standards of a local building code unless the standards of such code are more stringent than those adopted pursuant to K.S.A. 58-1313 and amendments thereto.

(b) The maximum lighting standards adopted as provided in K.S.A. 58-1313 and amendments thereto shall apply to the lighting modifications required in any renovation or addition to any existing public building which is completed after January 1, 1980.

History: L. 1979, ch. 235, § 4; L. 1983, ch. 258, § 10; July 1.

Articles 14 to 19.—RESERVED

Article 20.—LAND SURVEYS

Law Review and Bar Journal References:

Survey of Kansas law on real and personal property (1965-1969), 18 K.L.R. 427, 428 (1970).

58-2001. Monumentation of corners in boundaries of subdivisions before recording plat; type. All corners in the boundary of a subdivision of land shall be monumented prior to recording of the plat submitted for recording after the effective date of this section. This monument shall be a metallic bar or tube set rigidly in a concrete base.

History: L. 1967, ch. 309, § 1; July 1.

58-2002. Same; subdivision control; monumentation. Where any section corner, quarter section corner or section center is involved in the control establishing the location of a subdivision boundary, said point shall be clearly monumented and labeled before it is used in the subdivision control.

History: L. 1967, ch. 309, § 2; July 1.

58-2003. Recording measurements from visible objects to location of point;

description; alternative. When any section corner, quarter section corner or section center is set or reset by a surveyor and when any such corner is located by a surveyor in the course of carrying out a public survey, there shall be recorded with the county register of deeds, reference measurements from permanent, visible objects to the location of the point as set, reset or located. These reference objects shall be described clearly: *Provided*, That in lieu of reference measurements from visible objects such reference measurements may be made from triangulation stations established by the United States coast and geodetic survey.

History: L. 1967, ch. 309, § 3; July 1.

58-2004. Information required with plats. The following information shall be submitted with all plats for subdivisions of land:

(a) Exterior boundary plat showing: (1) Locations of the monuments, (2) bearings and distances between the monuments, (3) closure calculations.

(b) All horizontal lot calculations and street calculations.

History: L. 1967, ch. 309, § 4; July 1.

58-2005. Review by county surveyor before recordation; certification. Before a subdivision plat or plat of survey can be recorded, it shall be reviewed by the county surveyor or in the absence of the county surveyor, the county engineer shall be responsible for the enforcement of this act, and shall certify that such plat meets all the requirements of this act: *Provided, however*, That in the event that any such plat is required to be submitted to any planning commission for review and approval or disapproval that such review and approval duly certified upon the face of said plat shall constitute full compliance with the review required in this section.

History: L. 1967, ch. 309, § 5; July 1.

58-2006. "Person" defined. As used in this act, "person" means any individual, partnership, corporation, unincorporated association or governmental entity.

History: L. 1982, ch. 133, § 1; July 1.

58-2007. Land survey advisory committee; members appointed by secretary of state; terms; vacancies; expiration of term. (a) There is hereby established the land survey advisory committee. The committee

(b) The office of economic opportunity and director of economic opportunity established by this act, respectively, shall be continuations of the Kansas office of coordinator for the state technical assistance program and coordinator for the state technical assistance program created by order of the governor on May 14, 1965.

History: L. 1975, ch. 395, § 3; July 1.

74-6904. Transfer of employees; rights preserved; appointments. Effective July 1, 1977, officers and employees who were engaged prior to said date in the performance of powers, duties and functions of the state economic opportunity office established in the office of the governor and who, in the opinion of the director of economic opportunity, are necessary to perform the powers, duties and functions of the state office of economic opportunity established in the department of social and rehabilitation services shall become officers and employees of the state economic opportunity office established in the department of social and rehabilitation services. Such officers and employees shall retain all retirement benefits which such officers and employees had before July 1, 1977, and their services shall be deemed to have been continuous. Within the limitations of appropriations made therefor, the secretary shall appoint such other personnel as he or she shall deem necessary to carry out the provisions of this act. Such personnel shall be in the classified service of the Kansas civil service act and shall exercise all functions and perform all duties prescribed or imposed under the provisions of this act, at the direction and under the supervision of the director. Such personnel employed immediately prior to the effective date of this act who are continued in employment under this section shall attain permanent status in their classified position without examination and without a probationary period.

History: L. 1975, ch. 395, § 4; L. 1977, ch. 282, § 3; July 1.

74-6905. Governor to resolve conflicts. When any conflict arises as to the disposition of any power, function or duty or the unexpended balance of any appropriation as a result of any abolishment, transfer, attachment or other change made by this act, or under authority of this act, such conflict

shall be resolved by the governor, and the decision of the governor shall be final.

History: L. 1975, ch. 395, § 5; July 1.

Article 70.—STATE BOARD OF TECHNICAL PROFESSIONS

Law Review and Bar Journal References:

"Interference with Economic Relations of Attorneys," Martin E. Conrey and Lawrence M. Gurney, 23 W.L.J. 528, 529 (1984).

74-7001. Technical professions; unlawful practice; representation and use of title. (a) Except as otherwise provided in this act, it shall be unlawful for any person to practice or to offer to practice in the state of Kansas, any profession included within the term technical professions, as such term is defined in the provisions of this act, unless such person has been duly licensed to practice such profession under this act or holds a certificate of authorization issued under K.S.A. 74-7036.

(b) Any person practicing any technical profession in this state, or calling or representing such person as a licensed practitioner of such technical profession, or using the title of a licensed practitioner of such technical profession shall be required to submit evidence that such person is qualified to practice such technical profession and is duly licensed under this act or holds a certificate of authorization issued under K.S.A. 74-7036.

History: L. 1976, ch. 334, § 1; L. 1978, ch. 326, § 1; L. 1980, ch. 244, § 2; July 1.

CASE ANNOTATIONS

1. Cited; witness may not be disqualified as an expert solely because he or she is not licensed in Kansas. *Dickey v. Corr-A-Glass*, 3 K.A.2d 721, 601 P.2d 691.

74-7002.

History: L. 1976, ch. 334, § 3; Repealed, L. 1978, ch. 326, § 28; July 1.

74-7003. Definitions. As used in this act: (a) "Technical professions" include the professions of engineering, land surveying, architecture and landscape architecture as the practice of such professions are defined in this act.

(b) "Board" means the state board of technical professions.

(c) "License" means a license to practice the technical professions granted under this act.

(d) "Architect" means a person, who, by

reason of his or her knowledge of mathematics, the physical sciences, and the principles of architecture acquired by professional education or practical experience, is qualified as provided in this act to engage in the practice of architecture and who is licensed by the board.

(e) "Practice of architecture" means the rendering of service by consultation, planning, or designing of buildings or the responsible administration of construction projects.

(f) "Landscape architect" means a person who is professionally qualified as provided in this act to engage in the practice of landscape architecture, who teaches landscape architecture in a recognized college or university or practices landscape architecture and who is licensed by the board.

(g) "Practice of landscape architecture" means the performing of professional services such as consultation, planning, designing or responsible supervision in connection with the development of land areas for preservation and enhancement; and the designing of land forms and nonhabitable structures for aesthetic and functional purposes such as pools, walls, and structures for outdoor living spaces for public and private use. It encompasses the determination of proper land use as it pertains to: Natural features; ground cover, use, nomenclature, and arrangement of plant material adapted to soils and climate; naturalistic and aesthetic values; settings and approaches to structures and other improvements; soil conservation erosion control; drainage and grading; and the development of outdoor space in accordance with ideals of human use and enjoyment.

(h) "Professional engineer" means a person who, by reason of his or her special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified as provided in this act to engage in the practice of engineering and who is licensed by the board.

(i) "Practice of engineering" means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering

sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, teaching engineering in a university offering an approved engineering curriculum of four (4) years or more by a person who is a licensed professional engineer, engineering surveys and the inspection of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects and including such architectural work as is incidental to the practice of engineering.

(j) "Land surveyor" means a person who is professionally qualified as provided in this act to engage in the practice of land surveying and who is licensed by the board.

(k) "Practice of land surveying" means the application of mathematics and the principles of law and methods of land measurement for the location or relocation of land boundaries and land monuments; the measurement and calculation of land areas; the preparation of the original descriptions of real property for conveyance or recording; and the preparation of maps or certificates of survey thereof.

(l) "Person" means a natural person, firm, corporation or partnership.

History: L. 1976, ch. 334, § 2; L. 1978, ch. 326, § 2; July 1.

74-7004. State board of technical professions; purpose; appointment; vacancies. For the purpose of administering the provisions of this act and in order to establish and maintain a high standard of integrity, skills and practice in the technical professions and to safeguard the life, health, property and welfare of the public, the governor shall appoint a state board of technical professions consisting of nine members. At least 30 days prior to the expiration of any term other than that of the member appointed from the general public, professional societies and associations which are respectively representative of each branch of the technical professions may submit to the governor a list of three or more names of persons of recognized ability who have the qualifications prescribed for board members for appointment from that branch of the technical

Senate Local Gov't
2-14-80
Attachment III



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

November 14, 1980

MAIN PHONE (913) 296-2215
CONSUMER PROTECTION 296-3751

ATTORNEY GENERAL OPINION NO. 80- 248

Mr. Thomas Sullivan
Phillips County Attorney
Phillipsburg, Kansas 67661

Re: Personal and Real Property--Land Surveys--Review by
County Surveyor or Engineer Before Recordation

Synopsis: A subdivision or survey plat prepared by a registered
land surveyor on behalf of the landowner may not be
recorded in the office of the register of deeds unless
first reviewed as required by K.S.A. 58-2005.

Where a county does not have a county surveyor or county
engineer to perform the review as required by K.S.A.
58-2005, the board of county commissioners may contract
with either a licensed professional engineer or a
"practical and competent" surveyor to perform the
review in compliance with K.S.A. 58-2005.

The county's costs incurred for the review of subdivision
and survey plats as required by K.S.A. 58-2005 are
"charges and expenses" within the meaning of K.S.A. 1979
Supp. 19-241, and should be paid out of the county general
fund. Cited herein: K.S.A. 12-3903, 12-3907, K.S.A.
1979 Supp. 19-101a, as amended by L. 1980, chs. 84, 85,
19-241, 19-1401, K.S.A. 58-2001, 58-2005, K.S.A. 1979
Supp. 68-501, 68-502.

* * *

Dear Mr. Sullivan:

You advise that Phillips County does not have a county surveyor or
a county engineer or the funds available for establishing these

Senate Local Group
2-14-90
Attachment IV

Mr. Thomas Sullivan
Page Two
November 14, 1980

offices. As a result, the provision of K.S.A. 58-2005 which requires that subdivision and survey plats be reviewed by either a county surveyor or county engineer before they can be recorded by the register of deeds has not been fulfilled, and the Phillips County Register of Deeds refuses to file any such plats. You further advise that the board of county commissioners has found a qualified engineer who could be appointed to perform only the review function and who would charge on a "per plat" basis. This engineer is the same person with whom the board has contracted to carry out the statutorily required duties of the county engineer as prescribed in K.S.A. 1979 Supp. 68-502 and other sections. You further advise that the board wants to be reimbursed for the cost of the engineer's services and proposes to do so by imposing a fee on the plats which require his review.

In this context, you ask several questions. You first inquire whether a plat prepared by a registered land surveyor on behalf of the landowner may be recorded in the office of register of deeds without the statutorily required review, where the county does not have either a county surveyor or county engineer.

The language of K.S.A. 58-2005 is specific and mandatory. The law requires that all subdivision plats or plats of a survey be reviewed by a county surveyor or county engineer before they can be recorded. K.S.A. 58-2005 states in pertinent part:

"Before a subdivision plat or plat of survey can be recorded, it shall be reviewed by the county surveyor or in the absence of the county surveyor, the county engineer shall be responsible for the enforcement of this act, and shall certify that such plat meets all the requirements of this act." (Emphasis added.)

As is evident from the language of the statute, the purpose of the review is to assure that all the requirements of the provisions of K.S.A. 58-2001 et seq. are enforced. These provisions require the monumentation of corner boundaries of subdivisions and the recording of reference measurements for plats, and further require that certain information be submitted along with the plats. The person who reviews the plats is held responsible for assuring that the plats meet all the requirements of the act, and to enforce the act. In light of this statutory responsibility, it is our opinion that the person who performs the review should be responsible to and derive his or her authority from the county, not from the person who hired him or her to prepare the plat. Furthermore, since this procedure is specifically

Mr. Thomas Sullivan
Page Three
November 14, 1980

labeled a review, it would not be appropriate, in our judgment, to have the land surveyor who prepared the plat for the landowner certify its compliance with the provisions of the act. We conclude that a plat prepared by a registered land surveyor may not be recorded unless first reviewed as required by K.S.A. 58-2005.

The above-stated conclusion does not necessarily mean that a county which does not have either a county surveyor or county engineer would have to establish one of those positions in order to have plats properly recorded. Your second question anticipated this alternative when you asked whether the board of county commissioners could appoint a qualified person for the purpose of reviewing plats and thereby satisfy the requirements of K.S.A. 58-2005. In our opinion, the board of county commissioners may contract with a qualified individual to perform the review of plats in compliance with K.S.A. 58-2005.

In Attorney General Opinion No. 80-98 (copy enclosed), we noted that a county may pass a resolution by authority of K.S.A. 12-3903 and consolidate two offices into one office. This consolidated office would then become "the successor in every way to the powers, duties and functions . . . imposed upon the offices or agencies so consolidated." K.S.A. 12-3907. As a result of the consolidation, a county could then eliminate one of the offices. However, as we cautioned in Opinion No. 80-98, a county may not relieve itself of obligations imposed by law in effecting such consolidations, and that if a person who holds the consolidated office does not meet the statutory requirements for one of the offices, the performance of functions specifically required of that office by statute would have to be done by qualified consultants or individuals hired by the county commissioners.

You advise that Phillips County has already consolidated the office of road supervisor with the office of county engineer and thereby eliminated the latter office. However, the current road supervisor is not a licensed professional engineer and for that reason the board of county commissioners contracts with a licensed professional engineer to perform a county engineer's statutory duties. Thus, for the reasons expressed in Attorney General Opinion No. 80-98, it is our opinion that the Phillips County Commissioners may also contract with a qualified person to review plats to satisfy the requirements of K.S.A. 58-2005.

What qualifications must such person have in order to review said plats? To be qualified to review plats in accordance with the statute in question, it is necessary that such person meet the statutory qual-

Mr. Thomas Sullivan
Page Four
November 14, 1980

ifications established for either a county surveyor or county engineer, since those are the only two officers who may perform the review of plats under the statute. The eligibility requirements for a county surveyor are set forth in K.S.A. 1979 Supp. 19-1401 which states, in pertinent part: "No person shall be eligible to hold the office of county surveyor who is not a practical and competent surveyor." K.S.A. 1979 Supp. 68-501 establishes the qualifications for a county engineer and requires that such officer be a "licensed professional engineer." Accordingly, the individual with whom the county contracts to review plats in accordance with K.S.A. 58-2005 must be either a "practical and competent surveyor" or a "licensed professional engineer."

The third question you have raised is whether the board of county commissioners, pursuant to its home rule powers, may impose a fee to offset the county's costs of complying with K.S.A. 58-2005. In our opinion, it may not. K.S.A. 1979 Supp. 19-241 provides, in pertinent part:

"It shall be the duty of the board of county commissioners of each county in this state to levy in each year, in addition to the taxes for other purposes, a county tax sufficient to defray all county charges and expenses incurred during such year. . . ."
(Emphasis added.)

In State, ex rel., v. Commissioners of Marion County, 21 Kan. 419 (1879), the Kansas Supreme Court construed the phrase "county charges and expenses" to mean "such charges and expenses as are incidental in conducting the business of the county government for the current year." 21 Kan. at 434. (Emphasis added.) In our judgment, the county's costs incurred for the review of subdivision and survey plats as required by K.S.A. 58-2005 are "charges and expenses" within the meaning of K.S.A. 1979 Supp. 19-241, and should, therefore, be paid out of the county general fund.

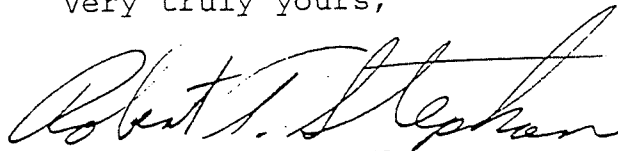
In County Board of Education v. Austin, 276 S.W. 2 (1925), the Supreme Court of Arkansas defined the county general fund as "a fund raised to meet the expenses incident to county government." 276 S.W. at 5. The Supreme Court of North Carolina characterized the county general fund as that fund established for payment of "general expenses recurring regularly in the ordinary course of and as necessary steps in the orderly operation of county government." Southern Ry. Co. v. Cherokee County, 10 S.E.2d 607 (1940). Guided

Mr. Thomas Sullivan
Page Five
November 14, 1980

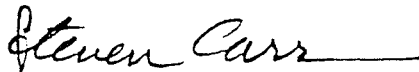
by these definitions, we conclude that the county's expenses incurred for the review of subdivision and survey plats pursuant to K.S.A. 58-2005 should be paid out of the county general fund. The review of the plats is a regularly recurring county function, the responsibility for which is vested in a county officer or employee. The statutory duty vested in the county as prescribed by 58-2005 is no less a part of the business of the county than those functions performed by the offices of the county clerk, the register of deeds, or the sheriff whose general operations and expenses are paid out of the county general fund.

In summary, we conclude that a subdivision or survey plat prepared by a registered land surveyor may not be recorded unless first reviewed as required by K.S.A. 58-2005. Secondly, where a county does not have a county surveyor or county engineer to perform the review as required by K.S.A. 58-2005, the board of county commissioners may contract with either a licensed professional engineer or a "practical and competent" surveyor to perform the review in compliance with K.S.A. 58-2005. Finally, we conclude that the county's costs incurred for the review of subdivision and survey plats as required by K.S.A. 58-2005 are "charges and expenses" within the meaning of K.S.A. 1979 Supp. 19-241, and should be paid out of the county general fund.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Steven Carr
Assistant Attorney General

RTS:BJS:SC:phf

STOWELL AND STOWELL - CHARTERED
766 4TH STREET, POB 448
PHILLIPSBURG KS 67661
Phone: (913) 543-2511

Doris D. Stowell ----- William H. Stowell

C:\LTRS\L09
386A: 5m11:JANISLEE.q22
Date: 06:30:11 MONDAY MAY 22, 1989

To: SENATOR JANIS LEE
RR
KENSINGTON KS 66951

INFORMATION ON RECORDATION OF LAND SURVEYOR PLATS

At present we have one active Land Surveyor in this County, Alfred Vanderplas, RR 3, Phillipsburg.

K.S.A. 47-7001 (k) "Practice of land surveying" means the application of mathematics and the principles of law and methods of land measurement for the location or relocation of land boundaries and land monuments; the measurement and calculation of land areas; the preparation of the original descriptions of real estate for recording; and the preparation of maps or certificates of survey thereof.

I have emphasized by underlining the particular portion of the statute which deal with my concern, in view of the following statute:

K.S.A. 58-2005. Review by county surveyor before recording; certification. Before a subdivision plat or plat of survey can be recorded, it shall be reviewed by the county surveyor, or in the absence of the county surveyor, the county engineer shall be responsible for the enforcement of this act, and shall certify that such plat meets all the requirements of this act: Provided, however, that in the event any such plat is required to be submitted to any planning commission for review and approval or disapproval that such review and approval duly certified on the face of said plat shall constitute full compliance with the review required in this section.

For many years Phillips County has had no official county surveyor. It must be at least 30 years since we had a resident county engineer.

Although K.S.A. 74-7001 (k) indicates that qualified land surveyors can make original descriptions for recording and prepare maps or certificates of survey, and details an impressive list of qualifications needed to become a land surveyor, there has been some contention that the language in 58-2005 "or plat of survey does not relate as a modifier back to the word "subdivision" so that it means

LETTER TO SENATOR JANIS LEE OF MAY 21, 1989 ON REGISTRATION OF MAPS,
ON PLATS OR SURVEY OF LAND SURVEYORS

"plat of survey of a subdivision," but rather means any plat of survey in the county for any purpose.

If this later construction is followed, then all plats of surveys must be submitted to the county surveyor if there is one (which we do not have) and then to the county engineer, which Phillips County has on a contract basis. This creates a delay in getting the plat signed and back (approved) and an additional layer of cost.

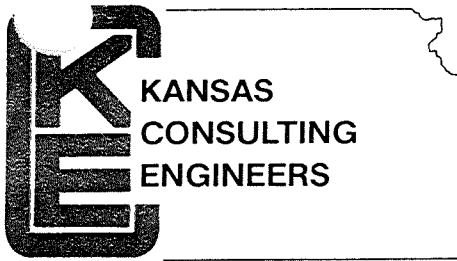
Surveys are very common, but it is the plat that best illustrates the location of the various boundaries, buildings, etc. Especially when surveys use degrees, minutes and seconds in various angles, some of which do not specifically designate the orientation, the plat gives meaning to the description, and enables, for example, the purchaser, or owner an exactitude of the placement of the land and other features on it, which in many cases is not clear from the written description. In short, there is a great utility in these surveys, whose recordation should be encouraged.

I would suggest that the language be modified to state:

"... the preparation of the original descriptions of real estate and the preparation of plats, maps or certificates of survey thereof, which may be recorded. The requirement for approval of K.S.A. 58-2005 shall apply only to a subdivision plat or plat of modification of a subdivision."



William H. Stowell



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TO: Senate Committee on Local Government
FROM: George Barbee, CAE
Executive Director
DATE: February 14, 1990
RE: Senate Bill 599

Mr. Chairman and members of the committee, my name is George Barbee, President of Barbee & Associates appearing today representing the Kansas Consulting Engineers. This association consisting of engineering firms located throughout the state is in opposition to Senate Bill 599. The licensing of land surveyors is administered by the Board of Technical Professions which is a Governor appointed board of nine persons. In 1988 that board held public hearings as a prerequisite step toward proposing legislative amendments to the statutes which governs the licensing of Engineers, Architects, Land Surveyors and Land Scape Architects. That bill has not received revision since 1978 when all of those agencies were combined into one board.

The public hearing effort lead to the introduction, in 1989, of Senate Bill 104 which now resides in the Senate Committee on Federal and State Affairs. The bill proved to be so controversial that it was assigned to a subcommittee last year which meet one time prior to the Chairman, Senator Bond, directing the professions to meet throughout the summer of 1989 to seek compromises on the several issues of conflict.

We did meet and meet and meet until the result became the recent recommended substitute Senate Bill 104 to be heard by the full Federal & State Affairs Committee at some future date.

One of those controversial issues was about the role that Land Surveyors could perform in the preparation of plats without infringing on the practice on engineering. We found that defining the contents of a "Plat" was difficult and that some persons went beyond the location of structures, improvements and boundaries into the area of designing curbs, gutters, streets, drainage and other design features not yet constructed on a piece of property.

*Senate Local Gov't
2-14-90
Attachment VI*

AFFILIATED WITH:

Even though it was a difficult task we did arrive at an agreeable compromise with all the involved professions. Language contained in substitute Senate Bill 104 would amend KSA 74-7003 to allow preparation of plats by Land Surveyors and includes a definition of plats. We believe that substitute Senate Bill 104 has received a great deal of attention by the board and several associations and is the proper vehicle to deal with the subject of plats.

We understand that this bill may have been requested because of a situation where a county does not employ a county engineer. KSA 65-501 requires that each county have a county engineer and KSA 68-503 allows for joint county engineer districts where a county does not have enough work to justify employing a county engineer on a full time basis. It seems that this bill could possibly allow someone to practice a function of engineering without a license and that it would be more appropriate to resolve this issue and substitute Senate Bill 104.

Mr. Chairman and members of the committee we appreciate the opportunity to ask that you report this bill unfavorably due to the reasons stated. We have worked long and hard to arrive at the agreed upon compromises in substitute Senate Bill 104 and we would appreciate it if we could continue that effort to its conclusion.

I would be glad to respond to any questions you may have.