

Approved February 19, 1991
Date

MINUTES OF THE House COMMITTEE ON Local Government

The meeting was called to order by Representative M. J. Johnson at
Chairperson

1:30 ~~xxx~~/p.m. on February 12, 1991 in room 521-S of the Capitol.

All members were present except:

Representative Holmes, excused

Committee staff present:

Mike Heim, Legislative Research Dept.
Theresa Kiernan, Revisor of Statutes
Connie Smith, Committee Secretary

Conferees appearing before the committee:

Representative Alex Scott
Representative Rick Bowden
Joe Norton, attorney with Stinson, Mag & Fizzell of Wichita
Mayor Lee Harp, City of Goddard
Pastor Tim Meyer, Grace Southern Baptist, Goddard, Ks.
E. A. Mosher, League of Kansas Municipalities

Representative Scott appeared before the committee to request a bill which would reduce publication of orders of the board of tax appeals from three consecutive weeks to one.

Representative Sluiter moved to introduce the bill; seconded by Representative Lahti. The motion carried.

Chairman Johnson asked staff to explain a bill request on behalf of Representative Roper. Staff explained this bill eliminates the statutes which concerns the consolidation or elimination of certain useful offices. It provides a special provision affecting county offices that whenever the duties of a county office is transferred, it deems it an elimination for the provision of the whole act, and makes it subject to the mandatory election.

A motion was made by Representative Harder to introduce the bill; seconded by Representative Gomez. The motion carried.

Chairman Johnson called for a hearing on HB 2110.

HB 2110 - Concerning cities; relating to the payment of costs of public improvements.

Representative Bowden appeared as a proponent and explained that HB 2110 is not localized to the City of Goddard and has statewide application. This statute gives the cities of the second and third class the privilege the cities of the first class have had with respect to payment of delayed special assessments. Representative Bowden recognized several of his constituents from the City of Goddard. No questions from committee.

Joe Norton, Bond Counsel to the City of Goddard, testified as a proponent to HB 2110 and outlined the legal technicalities of HB 2110. Mr. Norton explained that it gives cities of second and third class same power as cities of first class have under KSA 13-10-135 et seq. It reduces acreage to 2½ acres. Chairman asked for written testimony. Mr. Norton faxed a copy of the summary of his comments made to the committee. (Attachment 1)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Local Government,
room 521-S, Statehouse, at 1:30 ~~am~~/p.m. on February 12, 1991

Mayor Lee Harp, from Goddard, provided written testimony and testified in support of HB 2110. Mayor Harp stated this proposed legislation will be an asset to all second and third class cities, some which may have been preempted in the past in the area of infrastructure improvement and economic development. (Attachment 2)

Tim Meyer, Pastor of Grace Southern Baptist in Goddard, provided written testimony on behalf of Pastor N. N. Antonson, of the Tyler Road So. Baptist Church in Wichita, and testified as a proponent on HB 2110. (Attachment 3)

No questions from committee.

E. A. Mosher, League of Kansas Municipalities, testified in support on HB 2110 and provided amendments for the committee to consider. (Attachment 4) Mr. Mosher suggested making the 2½ acre provisions applicable to all cities. Discussion followed.

There were no opponents to HB 2110.

Chairman Johnson closed the hearing on HB 2110.

A motion was made by Representative Watson to approve the minutes of February 6, 1991; seconded by Representative Brown. The motion carried.

Chairman stated that Local Government will be meeting on Tuesday, Wednesday, and Thursday of next week.

Meeting adjourned at 2:20 p.m.

STINSON, MAG & FIZZELL
(GILMORE & BELL)

ONE MAIN PLACE

SUITE 800

WICHITA, KANSAS 67202-1398

(316) 267-2091

ONE KANSAS CITY PLACE, 40TH FLOOR
1200 MAIN STREET
KANSAS CITY, MISSOURI 64105
(816) 221-1000

THE MAST BUILDING
7800 WEST 110TH STREET
OVERLAND PARK, KANSAS 66210-2329
(913) 451-8600

1100 LASALLE BUILDING
509 OLIVE STREET
ST. LOUIS, MISSOURI 63101-2332
(314) 438-1000

920 MAIN STREET
P. O. BOX 418251
KANSAS CITY, MISSOURI 64141-6251
(816) 842-8600

February 15, 1991

Rep. Mary Jane Johnson
Chairperson
House Committee on Local Government
State Capitol
Topeka, KS 66612

Re: House Bill No. 2110

Dear Representative Johnson:

On Monday, February 11, 1991 the House Committee on Local Government (the "Committee") conducted a hearing on House Bill No. 2110 (the "Bill"). At that time the undersigned, as Bond Counsel to the City of Goddard, Kansas (the "City") testified with respect to certain technical and legal matters relating to the Bill. The purpose of this correspondence is to summarize the comments made to the Committee.

The Bill proposed to amend certain sections of an act relating to delay in payment of special assessments, K.S.A. 13-10,135 (the "Act"). The Act, in its present form relates only to cities of the first class. The Act provides that such cities may provide for the delay of payment of special assessments to be levied for any public improvement previously authorized by the governing body of such city for undeveloped property [13-10,135]. The delay is for a period of not to exceed 15 years, and may, under certain circumstances be extended for an additional 10 year period [13-10,136]. In order to be eligible for such delay, the undeveloped property must be in excess of four acres, be primarily used for agricultural purposes, have a population density of less than one family per acre and not be served by such public improvement [13-10,138]. In the event that delay is granted by the governing body of such a city, the city at large would provide payment on any bonds issued to finance the improvements until such delay expired; thereafter the property owner benefitted by the delay must repay the city the same amount that was originally specially assessed [13-10,139].

1002b

LD
2-12-91
attach I

Rep. Johnson
February 15, 1991
Page 2

The Bill proposes to amend the Act to allow any city to utilize the delay in payment of special assessment procedures [section 1]. The Bill also provides a different size limitation of undeveloped properties for cities of the first class (4 acres) from all other cities (2.5 acres) [section 3]. All other provisions of the Act would remain intact.

The Bill was requested by the City in order to remedy a perceived inequity in assessing a certain public improvement project in the City. The City was prepared to proceed to implement its own delay in payment guidelines for such project pursuant to its home rule powers granted in Article 12, Section 5 of the Kansas Constitution, as had other cities in similar situations. However, prior to adoption of such home rule ordinance, the decision of the Kansas Supreme Court in the case of Blevins vs. Douglas County, et al. ("Blevins") was rendered. The language in Blevins has caused Bond Counsel and the Attorney General to advise the City that adoption of such an ordinance would not be proper; legislation would be needed.

It is important for the Committee to note that the Bill and the Act do not authorize any city to commence any public improvement project. Specific other authority must be followed to initiate projects. The Act, as amended by the Bill, only authorizes governing bodies of cities to consider delay in payment of special assessments along the guidelines set forth in the legislation; the Act is discretionary not mandatory. It is also important to note that the Bill, if adopted in its present form, would make the Act nonuniform and subject to charter ordinance under the Constitutional provisions mentioned above.

During the course of the hearing, Mr. Mosier of the League of Municipalities requested that the Bill be amended in several respects. The undersigned would concur in all such amendments offered to sections 1 and 2 of the Bill. In addition, Representative Brown inquired as to the possibility of deleting section 3(e) of the Bill [page 2, line 18]. This deletion, which would eliminate the factual question of whether a particular property was "served" by a public improvement, would not disparage the integrity of the Act.

Rep. Johnson
February 15, 1991
Page 3

The undersigned appreciates the opportunity to appear before the Committee. Should you or any other Committee members or staff have any questions concerning this matter, please feel free to contact the undersigned.

Very truly yours,

STINSON, MAG & FIZZELL

Joe L. Norton 

JLN:rrb

cc Representative Bowden
City of Goddard, Kansas

GREETINGS FROM THE CITIZENS OF THE CITY OF GODDARD, AND THE GODDARD CITY COUNCIL. MY NAME IS LEE HARP, MAYOR OF THE CITY OF GODDARD. WE APPRECIATE THIS OPPORTUNITY TO TESTIFY.

AS POLICY DIRECTOR, AND SPOKESMAN FOR THE CITY OF GODDARD, I WOULD LIKE TO PRESENT THE OPINION OF THE GODDARD CITY COUNCIL CONCERNING THIS PROPOSED LEGISLATION.

ON 7-13-90 THE GODDARD CITY COUNCIL PROPOSED A CHARTER ORDINANCE, UNDER AUTHORITY OF HOME RULE, THAT WOULD ALLOW FOR DEFERRED PAYMENT OF SPECIAL ASSESSMENTS TO AGRICULTURAL PROPERTIES INCLUDED IN A BENEFIT DISTRICT. THE PROPOSED ORDINANCE MIMICED A STATE STATUTE WHICH CURRENTLY AFFORDS FIRST CLASS CITIES THIS SAME LUXURY, WITH A MINOR CHANGE IN MINIMUM ACREAGE REQUIREMENTS. THIS PROPOSED LEGISLATION WAS THEN SENT TO THE ATTORNEY GENERAL'S OFFICE FOR AN OFFICIAL OPINION AS TO ITS LEGALITY. IN RESPONSE, WE RECEIVED A PHONE CALL FROM THE A.G.'S, INDICATING THAT THEY FOUND NO PROBLEMS WITH THE PROPOSED LAW AND THAT THEY WOULD FOLLOW UP WITH AN OFFICIAL WRITTEN OPINION. THIS WRITTEN OPINION WAS NEVER RECEIVED, AND UPON ADDITIONAL INQUIRES WE WERE INFORMED THAT THE KANSAS SUPREME COURT HAD RECENTLY ISSUED A DECISION THAT QUESTIONED THE AUTHORITY OF HOME RULE, AND THAT, AS A RESULT, THE ATTORNEY GENERAL'S OPINION HAD BEEN REVERSED.

THIS BACKGROUND EXPLAINS TO YOU WHY WE ARE BEFORE YOU TODAY.

LY
2-12-91
Mark D

THE GODDARD CITY COUNCIL STRONGLY BELIEVES THAT OUR CURRENT DRAINAGE AND STREET PROJECTS ARE JUST AS IMPORTANT AS THOSE OF ANY FIRST CLASS CITY. WE ALSO STRONGLY BELIEVE THAT PROPERTY OWNERS IN THE CITY OF GODDARD SHOULD BE AFFORDED THE SAME RIGHTS AND PRIVILEGES AS PROPERTY OWNERS IN FIRST CLASS CITIES.

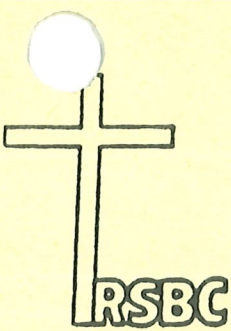
WE CURRENTLY HAVE TWO PROPERTIES IN OUR BENEFIT DISTRICT THAT WILL BE IMPACTED BY THIS PROPOSAL. THE FIRST ONE IS A FAMILY FARM RESIDENCE, AND GROUNDS, USED FOR LIVESTOCK. IT COMPOSES APPROX. 2.75 ACRES OF THE BENEFIT DISTRICT.

THE SECOND PARCEL OF LAND BELONGS TO THE GRACE SOUTHERN BAPTIST CHAPEL. IT COMPOSES APPROX. 9.5 ACRES OF THE BENEFIT DISTRICT, OF WHICH OVER EIGHT ACRES IS ACTIVE WHEAT GROUND. A REPRESENTATIVE OF THE CHURCH IS PRESENT TO INFORM YOU OF THEIR DILEMMA, HOWEVER I WILL STATE THAT THE GODDARD ENGINEER ESTIMATES THAT THE CHURCHES TOTAL COMMITMENT ON THE UPCOMING BOND ISSUES TO BE APPROX. \$70,000.00.

IN CONCLUSION, WE BELIEVE THAT THIS PROPOSED LEGISLATION WILL BE AN ASSET TO ALL SECOND AND THIRD CLASS CITIES, SOME OF WHICH MAY HAVE BEEN PREEMPTED IN THE PAST IN THE AREAS OF INFRASTRUCTURE IMPROVEMENT AND ECONOMIC DEVELOPMENT. WE DO NOT BELIEVE THAT WE ARE ASKING FOR PREFERENTIAL TREATMENT, RATHER THAT WE ARE MERELY ASKING FOR EQUAL TREATMENT, VIA STATUTE SUPPORT.

I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE
REGARDING THIS IMPORTANT ISSUE.

THANK YOU FOR YOUR CONSIDERATION.



Tyler Road Southern Baptist Church

571 South Tyler Road • Wichita, Kansas 67209

316-722-4511

N. N. Antonson
PASTOR

February 11, 1991

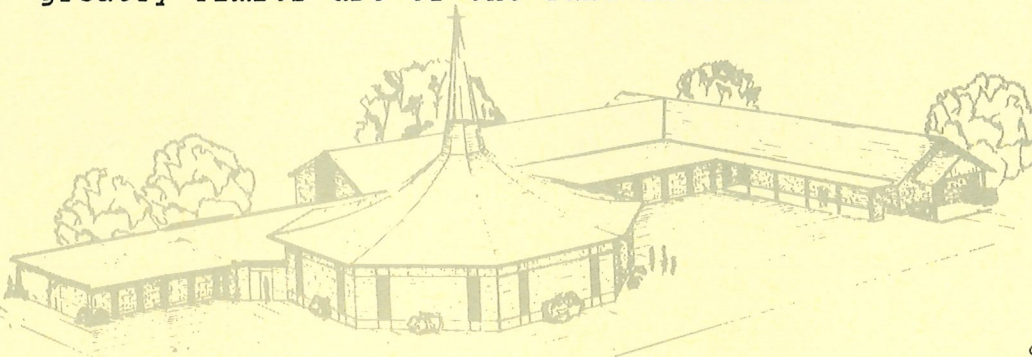
Local Government Committee
House of Representatives
State Capitol
Topeka, Kansas

Dear Representatives:

Thank you for hearing the special bills for the small cities of the state to allow tax deferment appeals (Bills #1310-135; #1310-136; #1310-137; #1310-138; and #1310-139). This vitally effects the Grace Southern Baptist Chapel, which is located in the proposed drainage assessment area and the Main Street assessment area of the City of Goddard. The Grace Southern Baptist Chapel is a mission of Tyler Road Southern Baptist Church, Wichita. The mission is trying to be self-supporting so the Tyler Road Southern Baptist Church gives minimal financial support.

Please consider the following factors:

1. The land in question is:
 - (a) Lot 10, Western Acres, 2nd Addition, City of Goddard, 2.17 acres, purchased for \$8,500, August 16, 1984.
 - (b) Lot 9, Western Acres, 2nd Addition, City of Goddard, 2.57 acres, purchased for \$11,500, June 22, 1983.
 - (c) Lot F (B2, B1B, B1A1), Western Acres, 2nd Division, City of Goddard, 4.84 acres, purchased for \$115,000, June 20, 1985.
2. Please note the enclosed plot plan. You will see an easement runs across all sections for a high pressure gas line. No buildings can be placed on this easement, which greatly limits use of the land involved.



LS

2-12-91

attach. 3

3. The area to have the special assessment was first purchased with the idea that Grace Chapel would be built on the property (lots 9 & 10). After the purchase was made, the Pentecostal Church approached us to buy their church building and land, which adjoined ours, since they desired to relocate. The building fronts on Swanee Street. We made this purchase. Since that time the vacant land has been planted in wheat. A farmer does this in exchange for keeping the grounds presentable, so there is no monetary gain to Grace Baptist Chapel. It has been hoped that the grounds could some day be developed as a park and playground for the church and community.
4. The special assessment for drainage and Main Street paving is estimated to be \$56,932.10. The annual income of the Grace Baptist Chapel is \$29,252.75. As you can see a tax assessment load such as this would be impossible for Grace Baptist Chapel. It would also hinder or limit the work of Tyler Road Southern Baptist Church. Therefore, we need the deferment to allow ample time to prepare to meet the obligation.

Thank you for your consideration.

Sincerely,

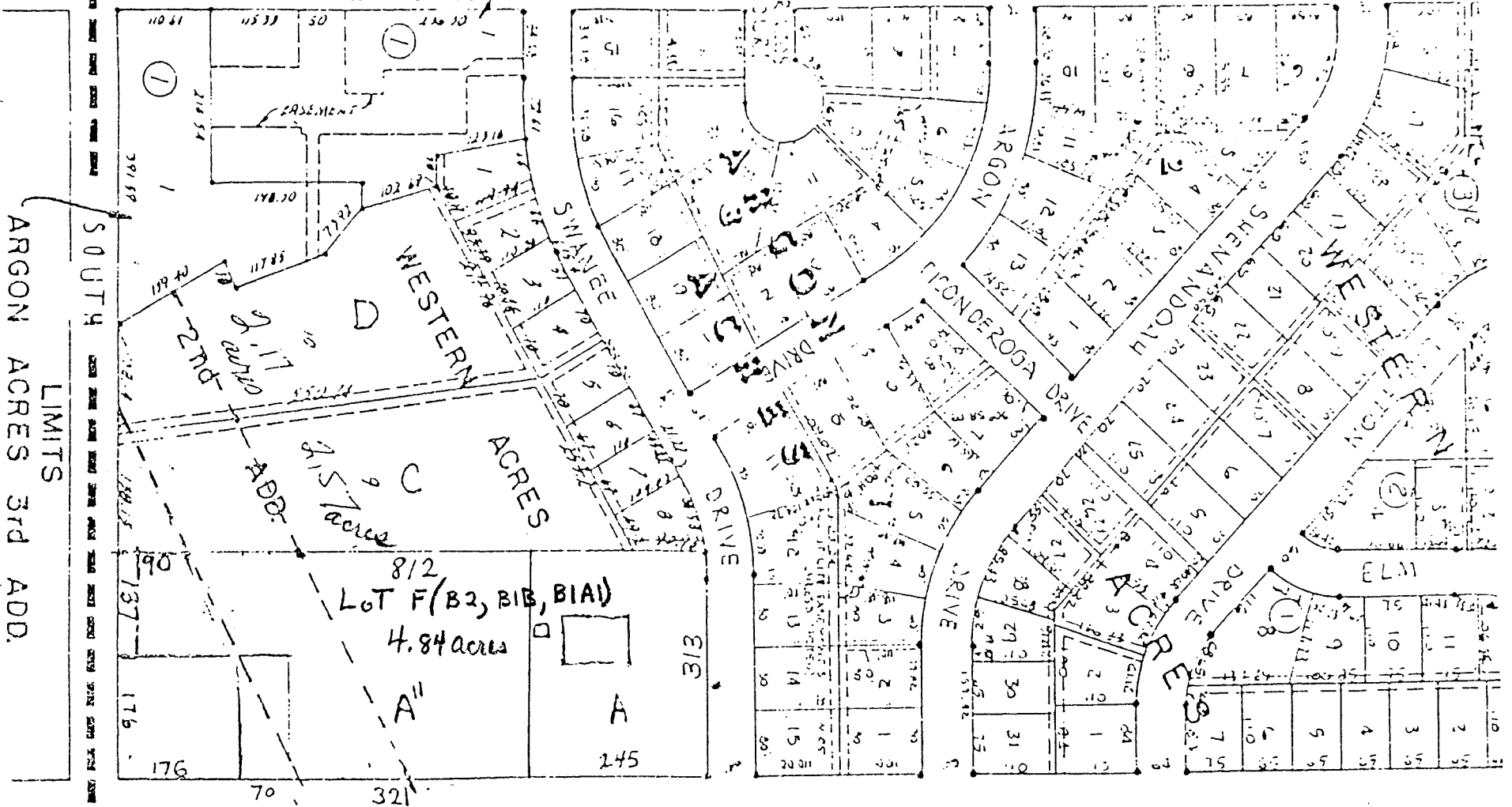


N. N. Antonson, Pastor
Tyler Road So. Baptist Church

NNA/jh

Enclosure

ARGON ACRES 2nd ADD.



ARGON ACRES 3rd ADD. LIMITS SOUTH

Total
 2.17 Acres
 2.57 "
 4.84 "

 9.58 Acres

DRAWN BY
 2160 WEST

GOD



1	2	3	4
5	6	7	8
9	10	11	12
13	14	15	16
17	18	19	20
21	22	23	24
25	26	27	28
29	30	31	32

INDUSTRIAL
 GOD



**League
of Kansas
Municipalities**

**Municipal
Legislative
Testimony**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Local Government
FROM: E.A. Mosher, Executive Director, League of Kansas Municipalities
RE: House Bill No. 2110--City Deferment of Special Assessments
DATE: February 12, 1991

The League is in support of HB 2110, which would authorize the governing bodies of all cities to extend special assessments under certain circumstances.

Most city special assessments in Kansas are undertaken pursuant to the K.S.A. 12-6a procedure. Under K.S.A. 12-6a10, the maximum period of time for which a city may permit the payment of special assessments is 20 equal annual installments. Usually, the bonds necessary to finance a local public improvement, covering both the city's share and the share to be paid by the benefiting property, are issued for 10 or 15 years, and the annual installments are set so that the payments equal the principal and interest due each year.

In some instances, such as for the extension of water or sanitary sewer mains, some property within the benefit district may be undeveloped, and the owners of such property may be very reluctant to pay special assessments until they can make actual use of the benefit, even though the value of the property is enhanced by the availability of the improvements. Further, the owners of undeveloped property occasionally permit their taxes and special assessments to become delinquent. In these situations, the deferment of the specials may be of benefit to the public as well as the property owner.

Since the bill would be applicable to all cities, we propose some amendments for your consideration.

The first amendment would insert the words "following a financial analysis," after the word "payment" on line 36. The purpose of this amendment is simply to make sure that the governing body is aware of the financial repercussions of deferring special assessments. Since the contractor must be paid, and the bonds retired, there is no "free lunch"--that which is not paid for by the property owner must be paid for by the public-at-large. Further, under the provisions of K.S.A. 13-10,139, the amount of the deferred payments may not "exceed the original assessment plus prorated interest which would had been charged initially for a ten-year installment payment schedule." The reality is that some special assessment improvement districts are promoted and initiated by persons and companies which will derive a financial benefit from the action. The requirement of a financial analysis would help make certain that

*LS
2-12-91
Attach. 4*

the governing body is aware of all the financial repercussions, including the fact that it may be a number of years before the taxpayers-at-large are, in effect, reimbursed for their previous payments of the amount deferred.

The second amendment would insert the words "some or all special" before the word "assessment" on line 40, page 1. The purpose of this amendment is to clarify that the governing body has discretion as to the amount deferred. For example, it may be practical to require that half the special assessments be paid during the first ten years, with the remaining half deferred to commence with the 15 year period maximum or the development of the property. The "some or all" discretionary authority is probably implicit in the present law, but should be specified.

The third possible amendment would relate to line 1 on page 2. As written, the authority to have an additional extension of ten years following the first 15 years is removed. We do not know whether this was intended by the sponsor, so we simply call to your attention that this change made in the bill is significant.

Finally, we suggest you may want to make the 2 1/2 acre provision in section 3 applicable to all cities. Since it is discretionary authority, and since it is the size of the benefit district and cost of the project that is significant, not the size of the city, perhaps a common acreage requirement is significant.