

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Vice-Chairman George Gomez at  
Chairperson

1:37 ~~XX~~/p.m. on MARCH 19, 1991 in room 521-S of the Capitol.

All members were present except:

Representative M. J. Johnson, excused

Committee staff present:

Mike Heim, Legislative Research Dept.

Theresa Kiernan, Revisor of Statutes

Connie Smith, Committee Secretary

Conferees appearing before the committee:

Monty Robson, City of Wichita

Ernie Mosher, League of Kansas Municipalities

Vice-Chairman Gomez opened a hearing on SB 150.

SB 150 - City retailers' sales tax; class B city.

Staff gave an overview of SB 150. Staff explained this bill was requested by Senator Petty last year and amends K.S.A. 12-188 which establishes classes of cities. SB 150 changes the population bracket of the county in which class B cities are located. It is a cleanup bill. No questions for staff.

There were no proponents or opponents to SB 150.

Vice-Chairman Gomez opened a hearing on SB 56.

SB 56 - Municipalities; employee benefits contribution fund; tax lid.

Staff explained that SB 56 was introduced to resolve a conflict when K.S.A. 12-16,102 was amended by two bills in the 1990 legislature. It repeals the conflicting section. No questions from committee.

No proponents or opponents to SB 56.

Vice-Chairman opened a hearing on SB 57.

SB 57 - Repair or removal of unsafe structures.

Staff gave an overview of SB 57. SB 57 allows the cities to appoint a structures appeals board to determine if a structure is unsafe or dangerous. The board makes written findings and transmits such findings to the governing body for its review. If the governing body finds the structure is unsafe or dangerous, the city may order the structure to be repaired or removed. If the owner fails to repair or remove the structure, the city may cause the repair or removal of the structure. Under the bill, it reduces the time period between publication of notice of hearing and the hearing from 30 to five days. It defines "repair" to mean to make a structure safe and secure.

Vice-Chairman Gomez recognized Monty Robson, City of Wichita, who testified in support of SB 57. (Attachment 1) Mr. Robson stated the city of Wichita is supportive of the changes reflected in SB 57 and feels that they are necessary to expedite the process once the public hearing date has been set. Approval of this bill will enable the city to more readily upgrade or remove dangerous or unsafe structures.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

room 521-S Statehouse, at 1:37 ~~XX~~ p.m. on MARCH 19, 1991.

Vice-Chairman Gomez recognized Ernie Mosher, League of Kansas Municipalities, who testified in support of SB 57. (Attachment 2) Mr. Mosher stated that his testimony duplicates that which has already been heard.

A question and discussion period followed.

There were no opponents to SB 57.

Vice-Chairman closed the hearing on SB 57.

Vice-Chairman opened a hearing on SB 349.

SB 349 - Jennings, Kansas, authority to transfer money to general fund.

Vice-Chairman Gomez recognized Senator Sheila Frahm, who testified in support of SB 349. (Attachment 3)

A committee member asked Barbara Butts, Dept. of Administration, if there are other small towns that have the same problem. Ms. Butts stated there are other cities and U.S.D.'s law has the language in it to allow such a transfer. Ms. Butts stated there was an old Attorney General's opinion and offered to get a copy for staff.

Vice-Chairman Gomez stated the Attorney General could review the old opinion.

There were no opponents to SB 349.

Vice-Chairman Gomez closed the hearing on SB 349.

Representative Brown moved to approve the minutes of March 8, 1991. The motion was seconded; by Representative Macy. The motion carried.

The meeting was adjourned at 2:30 p.m.



# THE CITY OF WICHITA



OFFICE OF THE CITY MANAGER  
CITY HALL — THIRTEENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4351

CITY OF WICHITA  
SENATE BILL 57 - DANGEROUS AND UNSAFE STRUCTURES  
MARCH 19, 1991

CHAIRMAN JOHNSON AND MEMBERS OF THE HOUSE LOCAL GOVERNMENT COMMITTEE, MY NAME IS MONTY ROBSON AND I AM SUPERINTENDENT OF CENTRAL INSPECTION FOR THE CITY OF WICHITA. ON BEHALF OF THE CITY OF WICHITA, I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU IN SUPPORT OF SENATE BILL 57.

THIS PAST YEAR, THE CITY OF WICHITA REVIEWED OUR OWN PROCEDURES ASSOCIATED WITH DANGEROUS AND UNSAFE STRUCTURES, AND FOUND A NUMBER OF AREAS WHERE THE CONDEMNATION PROCESS COULD BE IMPROVED. CITY STAFF ESTIMATES THAT THE AVERAGE PROCESSING TIME FOR A CONDEMNATION CASE TAKES 49 DAYS. THIS IS FROM THE POINT AT WHICH THE COUNCIL ADOPTS A RESOLUTION SETTING THE HEARING DATE, TO THE DATE OF PUBLIC HEARING. WITH THE CHANGES SUGGESTED IN SENATE BILL 57, THIS TIME PERIOD COULD BE SHORTENED TO 28 DAYS. MY FOLLOWING COMMENTS ADDRESS STATUTORIAL CHANGES TO EXPEDITE THE PROCESS.

THE FIRST CHANGE ALLOWS THE GOVERNING BODY TO APPOINT A STRUCTURES APPEALS BOARD OF NOT LESS THAN THREE INDIVIDUALS TO REVIEW CONDEMNATION CASES. CURRENTLY, OUR CITY COUNCIL SERVES AS THIS APPEALS BOARD AND CONDUCTS THE PUBLIC HEARING TO REVIEW SUCH CASES.

IT SHOULD BE NOTED THAT BEFORE THE WICHITA CITY COUNCIL REVIEWS A CONDEMNATION CASE, THE BOARD OF CODE STANDARDS AND APPEALS HOLDS A HEARING AND MAKES A RECOMMENDATION TO THE COUNCIL. THIS IS A NINE-MEMBER BOARD, COMPRISED OF EXPERTS IN THE CONSTRUCTION INDUSTRY AND CITIZENS AT-LARGE. THUS, IN ESSENCE, A CONDEMNATION CASE IN THE CITY OF WICHITA ACTUALLY RECEIVES TWO PUBLIC HEARINGS, ONE WITH THE BOARD OF CODE STANDARDS, AND A SECOND PUBLIC HEARING, AS REQUIRED BY STATE STATUTE, WHICH TAKES PLACE AT A CITY COUNCIL MEETING.

WITH THE STATUTORIAL CHANGE TO ALLOW A STRUCTURALS APPEALS BOARD, THE CITY OF WICHITA'S EXISTING BOARD OF CODE STANDARDS AND APPEALS COULD BE THE ENTITY RESPONSIBLE FOR CONDUCTING THE PUBLIC HEARING. THE CITY IS ALSO CONSIDERING ESTABLISHING AT LEAST A THREE-MEMBER BOARD, POSSIBLY COMPRISED OF COUNCIL MEMBERS, TO CONDUCT THE FORMAL PUBLIC HEARING. IF THIS PROCEDURE IS ADOPTED, THE NINE-MEMBER BOARD OF CODE STANDARDS WOULD CONTINUE IN THEIR ADVISORY CAPACITY, AND THE CITY WOULD FOLLOW THE TWO PUBLIC HEARING PROCEDURE. IN EITHER CASE, THE COUNCIL WILL TAKE FINAL ACTION ON THE CONDEMNATION OF THE STRUCTURE BY PASSAGE OF A RESOLUTION. THE MAIN CHANGE WILL BE THAT THE CITY COUNCIL IN ITS

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*Attach. 1*

ENTIRETY IS NOT RESPONSIBLE FOR CONDUCTING THE PUBLIC HEARING. INSTEAD, THEY RECEIVE THE RECOMMENDATION BY THE REVIEW BOARD, AND THIS ITEM OF BUSINESS IS PLACED ON THE CONSENT AGENDA FOR FINAL ACTION.

THE SECOND STATUTORY CHANGE CENTERS AROUND THE PUBLICATION DATES OF THE RESOLUTION FOR THE PUBLIC HEARING. SENATE BILL 57 PROPOSES TO ALLOW THE RESOLUTION TO BE PUBLISHED ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS, AT LEAST FIVE DAYS APART, INSTEAD OF "ON THE SAME DAY OF EACH WEEK." THIS CHANGE IS SUGGESTED TO ALLOW THE CITY TO EXPEDITE THE PROCESS. FOR EXAMPLE, IF THE CITY PUBLISHED THE RESOLUTION ON WEDNESDAY OF THE FIRST WEEK, THE NEXT PUBLICATION DATE COULD BE MONDAY OF THE FOLLOWING WEEK. UNDER THE CURRENT STATUTE, THE CITY WOULD HAVE TO WAIT UNTIL THE NEXT WEDNESDAY FOR THE SECOND PUBLICATION.

A THIRD CHANGE RELATES TO THE MINIMUM NUMBER OF DAYS BETWEEN THE LAST PUBLICATION OF THE RESOLUTION FOR THE PUBLIC HEARING, AND THE DATE THAT IS SET FOR THE HEARING. THE CURRENT STATUTE SPECIFIES THAT 30 DAYS SHALL ELAPSE BETWEEN THE LAST PUBLICATION DATE, AND THE HEARING DATE. SENATE BILL 57 PROPOSES THAT THIS PERIOD BE SHORTENED TO 5 DAYS.

A QUESTION MAY ARISE AS TO WHETHER THE OWNER OF THE PROPERTY HAS HAD AMPLE TIME TO IMPROVE OR DEMOLISH THE PROPERTY. IT SHOULD BE NOTED THAT PRIOR TO THE PUBLIC HEARING, THE CITY OF WICHITA'S CENTRAL INSPECTION DIVISION HAS WORKED WITH THE OWNER OF THE PROPERTY ON THE AVERAGE OF AT LEAST FOUR TO SIX MONTHS. I WILL BRIEFLY EXPLAIN THE PROCEDURE THAT HAS TAKEN PLACE UP UNTIL THIS POINT.

- 1) A COMPLAINT HAS BEEN FILED BY A CITIZEN OR OCCUPANT, OR A CODE VIOLATION HAS BEEN OBSERVED BY THE CITY'S CENTRAL INSPECTION DIVISION.
- 2) THE OWNER HAS RECEIVED A "NOTICE OF IMPROVEMENTS" WHICH OUTLINES THE DETERIORATED NATURE OF THE STRUCTURE. THE NOTICE STATES THAT IT IS A VIOLATION OF CITY CODE, AND CORRECTION IS NEEDED. THE OWNER IS GIVEN A MINIMUM OF 30 DAYS TO CORRECT THE PROBLEM.
- 3) IF THE OWNER DOES NOT CORRECT THE DEFICIENCIES WITHIN THIS TIME FRAME, THEY ARE GIVEN A SECOND NOTICE, WHICH USUALLY ALLOWS AN ADDITIONAL 15 OR 30 DAYS FOR ACTION.
- 4) IF THE OWNER STILL FAILS TO RESPOND, THEY ARE SENT BY CERTIFIED MAIL, A NOTICE OF CONDEMNATION LETTER WHICH GIVES THEM ANOTHER 30 DAYS TO COMPLY.
- 5) IF NO COMPLIANCE IS ACHIEVED AT THIS POINT, A CERTIFICATE OF TITLE IS ORDERED. ONCE THE CERTIFICATE OF TITLE IS RECEIVED, THE LAW DEPARTMENT REVIEWS AND DETERMINES WHO NEEDS TO BE NOTIFIED. THE OWNER OF THE PROPERTY, ALONG WITH ANY LIEN HOLDER, IS NOTIFIED THAT THERE WILL BE A PUBLIC HEARING ON THE STRUCTURE. ORDERING THE TITLE, AND LAW DEPARTMENT REVIEW TAKES AT LEAST ANOTHER 30 DAYS BEFORE THE HEARING DATE CAN BE ESTABLISHED.

THUS, IN LIGHT OF THE CITY OF WICHITA'S CONDEMNATION PROCEDURES, IT IS OUR BELIEF THAT AMPLE TIME HAS ALREADY BEEN GRANTED TO REPAIR OR REMOVE THESE STRUCTURES, AND REDUCING THE PERIOD OF TIME BETWEEN THE LAST PUBLICATION DATE, AND THE DATE OF THE HEARING FROM 30 DAYS TO 5 DAYS IS REASONABLE.

A FINAL SUGGESTED CHANGE RELATES TO THE ABILITY TO PERSONALLY SERVE NOTIFICATION OF THE RESOLUTION FOR PUBLIC HEARING, AS WELL AS THE RESOLUTION FOR ACTION TO THE OWNERS, AGENTS, OR LIEN HOLDERS. IT MAY BE MORE CONVENIENT AND/OR CHEAPER TO PERSONALLY SERVE THE NOTICE, AND THUS IT WOULD BE HELPFUL TO HAVE THIS ALTERNATIVE.

IN WICHITA, ALL OF THE CONDEMNATION CASES PROCESSED BY THE CENTRAL INSPECTION DIVISION CONCERN VACANT PROPERTIES. CONDEMNATION PROCEDURES ARE NOT INITIATED WHEN THE STRUCTURE IS OCCUPIED. CITY STAFF ESTIMATE THAT IN AT LEAST 50% OF THE CASES, NEITHER THE OWNER, OR THE LIEN HOLDER RESPOND TO THE NOTICE TO REPAIR OR THE NOTICE FOR PUBLIC HEARING. THUS, AS A RESULT OF WAITING UNTIL A PROPERTY IS VACATED AND GIVEN STATUTORIAL AND CITY OF WICHITA DUE PROCESS NOTIFICATION PROCEDURES, RESIDENTS IN THE NEIGHBORHOOD MAY HAVE LIVED WITH THE PROBLEM FOR MONTHS BEFORE THE PUBLIC HEARING PROCEDURE CAN BE INITIATED. DETERIORATED VACANT PROPERTIES ARE A PUBLIC NUISANCE. THEY CAN BE INVITING, HAZARDOUS PLAY AREAS FOR SMALL CHILDREN; THEY CAN HOUSE STREET GANGS AND DRUG USERS, AS WELL AS BEING AN EYESORE TO THE NEIGHBORHOOD.

IN SUM, THE CITY OF WICHITA IS SUPPORTIVE OF THE CHANGES REFLECTED IN SENATE BILL 57 AND FEELS THAT THEY ARE NECESSARY TO EXPEDITE THE PROCESS ONCE THE PUBLIC HEARING DATE HAS BEEN SET. APPROVAL OF THIS BILL WILL ENABLE THE CITY TO MORE READILY UPGRADE OR REMOVE DANGEROUS OR UNSAFE STRUCTURES.



**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:** SB 57 -- City Dangerous Structures Statute  
**DATE:** March 19, 1991

**Position.** The League supports the passage of SB 57.

**General Explanation.** K.S.A. 12-1750 et seq., relating to the repair or removal of unsafe or dangerous structures within cities, now requires the city governing body to hold all hearings as to the condemnation of structures to secure their repair or removal. In some cities, especially larger cities, this requires considerable time at official governing body meetings. The principal changes made by the proposed bill permit the appointment of a structures appeals board to conduct the hearing. The city governing body would still be required to make the final order.

**Specific Changes.**

1. Section 2 amends K.S.A. 12-1751 to authorize the city governing body to appoint a structures appeals board of not less than three electors to conduct the required hearings.

2. In Section 2, K.S.A. 12-1752 is amended to make the following changes:

(a) the preliminary resolution for scheduling the "show cause" hearing is required to be published once each week for two consecutive weeks, at least five days apart, instead of "on the same day of each week".

(b) The minimum number of days between the last publication and date of hearing is reduced from 30 days to 5 days. Under the present law, about 40 days of elapsed time at the minimum is required between the finding by the enforcement officer and the date of hearing and possible order.

The effect of this change is to require a minimum of about 12 days between the first publication and the hearing date. Since the dangerous structures procedure normally follows many weeks of informal attempts to get the owner to do something, we don't think this is unreasonable.

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*3-19-91*  
*attach. 2*

**President: Frances J. Garcia**, Commissioner, Hutchinson \* **Vice President: Robert G. Knight**, Mayor, Wichita \* **Past President: Irene B. French**, Mayor, Merriam \* **Directors: Michael A. Conduff**, City Manager, Manhattan \* **Ed Ellert**, Mayor, Overland Park \* **Harry L. Felker**, Mayor, Topeka \* **Greg Ferris**, Councilmember, Wichita \* **Idella Frickey**, Mayor, Oberlin \* **William J. Goering**, City Clerk/Administrator, McPherson \* **Judith C. Hollinsworth**, Mayor, Humboldt \* **Jesse Jackson**, Commissioner, Chanute \* **Stan Martin**, City Attorney, Abilene \* **Mark Mingenback**, Councilmember, Great Bend \* **Joseph E. Steineger, Jr.**, Mayor, Kansas City \* **Bonnie Talley**, Commissioner, Garden City \* **Executive Director: E. A. Mosher**

(c) In lieu of the required certified mailing of the resolution, the bill would permit personal service. Personal service appears appropriate when (1) some urgent action is necessary or (2) it is cheaper than certified mail (\$1.10 each, plus \$.90 for return receipt).

3. In Section 3, K.S.A. 12-1753 is amended to:

(a) implement the option of using a structures appeals board. In such instance, the board would make its findings to the governing body for its review. Whether by review of the board's findings, or after the conclusion of the hearing by the governing body, it is the governing body which adopts findings (i.e. makes the final decision), by resolution.

(b) the present sentence as to the publication of the final order (lines 23:27, page 2) is switched to lines 33:37 so that it follows the provision as to the contents of the order. Further, the final order (resolution) could be mailed or personally served on the affected parties.

4. In Section 5 of the bill, as in line 32 of Section 4, the word "repaired" or "repair" is substituted for the word "razed" or "raze". These changes were proposed by the State Historical Society. The word "repair" is defined in Section 1 as meaning "to make a structure safe and secure". This may permit the preservation of a historically significant structure that can be made safe short of its complete removal.

The League urges your favorable recommendation of SB 57.





TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

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RULES AND REGULATIONS  
VICE CHAIRPERSON: EDUCATION  
MEMBER: AGRICULTURE  
ASSESSMENT AND TAXATION  
ENERGY AND NATURAL RESOURCES  
LOCAL GOVERNMENT

SHEILA FRAHM

DISTRICT 40

CHEYENNE, DECATUR, GOVE, GRAHAM,  
LOGAN, RAWLINS, SCOTT, SHERIDAN,  
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COUNTIES

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(913) 462-6948—HOME

3-19-91

SB 349

Representative Mary Jane Johnson, Chairman  
House Committee on Local Government

Madam Chair and members of the committee:

Thank you for the opportunity to bring SB 349 to the attention of your committee. This bill was prepared at the request of Jennings, KS, a small community in Northwest Kansas. Some years ago the city of Jennings had some general obligation bonds and levied taxes to pay off those bonds. These bonds are all paid off. No tax is being levied currently; however, a little over \$4000 remain in the account.

SB 349 authorizes the governing body of the City of Jennings to transfer any unexpended balance in the city bond and interest fund to the city general fund. The Senate Local Government Committee did make an amendment. Originally we had written the bill to say not to exceed \$4000 and then they discovered that some interest had accrued.

Again, thank you for this committee hearing. I, and certainly the City of Jennings, would appreciate your favorable action on this local issue.

A handwritten signature in cursive script that reads "Sheila Frahm".

LF  
3-19-91  
Attach. 3