

Approved \_\_\_\_\_ Date \_\_\_\_\_

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Senator Audrey Langworthy at \_\_\_\_\_  
Chairperson

9:07 a.m./~~pm~~ on Tuesday, February 25, 1992 in room 531-N of the Capitol.

All members were present except: Senators Petty and Ehrlich were excused  
Senator Gaines was absent

Committee staff present: Theresa Kiernan, Revisor of Statutes  
Mike Heim, Legislative Research  
Elizabeth Carlson, Committee Secretary

Conferees appearing before the committee:

Janet Stubbs, Kansas Home Builders Association  
Senator Phil Martin  
Gordon T. Garrett, Commercial Property Association of Kansas  
Jack Crocker, Manhattan Building, Inc.  
Tim Earnest, General Manager of West Ridge Mall  
Karen France, Kansas Association of Realtors  
Art Davis, City of Lenexa  
Request for withdrawal of bill

Janet Stubbs, Kansas Home Builders Association appeared to request the withdrawal of her request for introduction of a bill to negate regulations which make housing less affordable and which are unnecessary to protect the safety and health of the occupants. She stated the problem with the Division of Water Resources over the rules promulgated had been resolved.

Senator Montgomery moved the withdrawal of the request for introduction of the bill. Motion seconded by Senator Frahm. Motion carried.

SB 663 - Referendums on increasing ad valorem taxes to fund cities or counties.

Mike Heim, Legislative Research, went over the provisions of the bill for the committee, stating it would provide a budget lid in lieu of a tax lid on cities and counties.

Senator Phil Martin appeared for Senator Petty as a proponent of the bill and to give testimony in explanation of the bill. (Attachment 1) He stated this is a statutory measure with questions raised by debate in the House on the 45 mill levy for school finance. SB 663 would limit funding of city and county budgets through property tax revenue increases, effect a rollback when assessment are increased, and increase citizen awareness and participation.

Senator Burke asked if the bill provides for any option to make up for lost revenue? Senator Martin stated "No, if there is an increase above the 1%, it could go to a vote." Senator Burke asked if the raising in sales tax is the only option in the bill; if this bill was passed, what would the shortfall be for all local units? Senator Martin said if the general public wants to fund it, if it goes above 1%, the public could vote on it.

Senator Montgomery asked about a time table for a referendum for an election or mail ballot. Discussion was held concerning the calendar timetable, (Attachment 2) and they figured that it would be November 3rd at the earliest time an election could be held and that would be too late to do a budget. Discussion was also held on the cost of a mail ballot. Senator Martin responded the goal is to move away from property tax as a funding source.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT

room 531-N, Statehouse, at 9:07 a.m./p.m. on Tuesday, February 25, 1992

Senator Lee asked what has been the average increase in taxes the past 5 years? Senator Martin said he thought the average raise in property tax has been 7% and the average raise has been below 5%. Senator Lee asked about sales tax which is about the only local option, what else can we look to for revenue sources? Senator Martin said there are other fees, but we need to move away from property taxes.

Senator Webb asked about counties who are taking a 10% cut. Why should the state mandate to local units what their budgets should be? Would you support federal legislation that would limit state budgets to 1%? Senator Martin replied "I might, if there are enough options."

Gordon Garrett, Commercial Property Association of Kansas, appeared as a proponent of SB 663. (Attachment 3) He listed some points to consider in the deliberations of the bill. He said the issue is, local units of government must find a way to reduce their reliance on the property tax to fund government.

Jack Crocker, Manhattan Buildings, Inc. spoke as a proponent. (Attachment 4) He said he was appearing at the request of Senator Petty. He said he thinks SB 663 has a great deal of merit. It gives the citizens a chance for more input in the providing of services. This would be done by how much they would be willing to pay. He said this bill would not limit governments who were able to communicate with their constituents.

Timothy G. Earnest, General Manager of West Ridge Mall and West Ridge Plaza in Topeka, Kansas, appeared as a proponent. He stated commercial tax rates in Shawnee County are currently 5.4% of appraised value which is at least three times higher than the national average which their company pays in 37 states. (Attachment 5) This proves that Kansas is over reliant on ad valorem taxes. The solution will be to lower the commercial tax base. He said SB 663 fills this purpose.

Karen France, Kansas Association of Realtors, also appeared as a proponent of SB 663. (Attachment 6) She stated the association supports the concept of letting voters have the ability to approve or disapprove of property tax increases. She recommended the bill be amended to provide that budgetary increases be automatically subject to a vote of the people.

Art Davis, City of Lenexa, appeared as an opponent to SB 663. (Attachment 7) He stated he opposed the concept of placing further limitations on local governing bodies. In some other states where a limitation has been placed on local governing bodies, the legislature has had to work to provide other means of funding local governments. He stated when businesses have relocated from greater Kansas City to Johnson County, some of the reasons have been for the quality schools and the quality public services desired in a community.

The meeting adjourned at 10:00 a.m.



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TOPEKA

SENATE CHAMBER

CHAIR: SHAWNEE COUNTY DELEGATION  
MEMBER: ASSESSMENT AND TAXATION  
ECONOMIC DEVELOPMENT  
JUDICIARY  
LABOR, INDUSTRY AND SMALL BUSINESS  
LOCAL GOVERNMENT  
JOINT COMMITTEE ON KPERS INVESTMENT PRACTICES  
KPERS BENEFIT STUDY COMMISSION  
KANSAS FILM COMMISSION  
CAPITOL AREA PLAZA PLANNING AUTHORITY

SB663  
Property Tax Revenue Limit

In "How States Limit City and County Property Tax and Spending" produced by NCSL, it is reported that 43 states limit local expenditures or taxes. Fifteen states limit property tax revenue increases and 12 states require that tax rates be rolled back when assessments are increased as a result of revaluation of property. The result is 27 states with revenue limitations. Sixteen states have full disclosure provisions which increase citizen awareness. Property tax controls on local government are not unique.

SB663 would limit funding of city and county budgets through property tax revenue increases, effect a rollback when assessments are increased, as the public was told would be the case with reappraisal, and increase citizen awareness and participation.

What does SB663 do?

- .Allows for 1% growth in revenue from property taxes.
- .Simplifies the tax lid.
- .Tightens the number of exemptions.
- .Requires notification to taxpayers on certification of budget if it exceeds 1% increase in property tax revenue.
- .Abolishes "chartering out" step with tax lid and puts increase directly to a vote via protest petition.
- .Provides for protest petition upon 5% of voters each year.

Why is SB663 needed?

- .Growth in use of property tax revenue should be controlled.
- .Kansas tax is too structure dependent on property taxes
- .Previous tax lids have promoted shifts into exempt levy categories.
- .Local government has said the public wants more services, but doesn't want to pay for them.
- .This is a chance for officials to clarify to the public that services are reduced if the public isn't willing to pay.

*Attachment 1-1  
Senate Local govt  
Feb 25, 1992*

- .This provides an opportunity for local officials to sell programs to the community and reestablish priorities.
- .Offers the public immediate recourse of our budget preparation, rather than replacing a local official after the tax is already in effect.

What opportunities does SB663 provide?

- .Sets a higher expectation of dialogue between governments and community, with governments responsible for "selling" the funding of programs.
- .Encourages creating more flexible revenue options at a local level.

Local options-

- .Tighten budgets.
- .Expand revenue sources through user and service fees.
- .Pursue voluntary service fees and payments-in-lieu of taxes.
- .Expand functional consolidation and interlocal agreements among local taxing units.
- .Examine tax abatements.
- .Shift from property to sales tax funding, requiring public approval and the selling of funding to the public.
- .Pursue delinquent taxes.

State options-

- .Give cities authority to raise sales tax in 1/4 cent increments, subject to a public vote. This raises about \$55 million statewide to remain with local government.
- .Review state mandates which are not funded.
- .State wide school levy with replacement dollars for schools.
- .\$30 to \$60 million non-tax revenue afforded by expanding investment authority of state treasure. (SB480)
- .Review delinquent taxes problem.

Possible amendments:

1. 30 days to 45 days
2. Mail ballot used only in odd numbered years
3. Allow additional exemptions for levies approved by public vote, i.e.. aging mil levy.

### JANUARY

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### NOVEMBER

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### DECEMBER

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**Senate Bill #663:**

- #1 - publish budget
- #2 - hold budget hearing
- #3 - protest petition is filed
- #4 - absolute earliest the mail ballots could be counted (it takes 45 days minimum to prepare for a mail ballot election) The County Clerk/Election Officer must first write a detailed plan on how the election will be conducted and this must be approved by the Secretary of State.
- #5 - time of general election in every even-numbered year - - We would hold two elections five days apart??? (A mail ballot cannot be conducted the same day as other elections) Mail ballot elections are more costly than other elections.

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**Gordon T. Garrett**  
Vice President



**Testimony of Gordon T. Garrett**  
before  
**Senate Local Government Committee**  
February 25, 1992

**Board of Directors**

**Randy Austin**  
Fairlawn Plaza  
Topeka

**Mary Bourne**  
Commercial Invest.  
Garden City

**Greg Erbert**  
AlFAM Enterprises  
Godfather's Pizza of Ks  
Mulvane

**George Laham**  
Commercial Real Estate  
J. P. Weigand & Sons  
Wichita

**Mike McPherson**  
McPherson Contractors  
Topeka

**Colby Sandlian**  
Developer  
Wichita

**Cindy Sherwood**  
Dentist  
Independence

**Bob Shmalberg**  
Scotch Industries  
Lawrence

**Ross Stiner**  
Realtor & Developer  
Olathe

**Eldon Thorman**  
Motels  
Clay Center

**Dan Tucker**  
Banker-Businessman  
Kansas City, KS

**Larry Winn**  
Attorney  
Overland Park

My name is Gordon T. Garrett. I am an attorney and developer in Topeka. I am the Vice-President and Founder of the Commercial Property Association of Kansas.

Ben J. Neill of Overland Park is CPAK's general counsel and other lobbyist. Ben is unable to be here this morning as his wife just delivered a baby girl last night.

We wish to speak in support of Senate Bill #663.

We would like to make the following points for you to consider in your deliberations on this bill.

1. In our view, the citizens of Kansas are rapidly coming to the conclusion that property has a finite ability to fund government.

This bill makes a strong statement that as a matter of tax policy, the Kansas Legislature believes that property has reached (or exceeded) its ability to fund government.

2. Kansas has among the highest commercial tax rates of any state in the United States. \* (example) The prospect of it going higher is almost unthinkable-but that is what will inevitably happen if some sort of lid or cap is not placed on the amount of property tax collection.

Even if some kind of property tax relief passed the Legislature (other than a cap) what happens after tax relief?

If the 30% assessment rate is lowered, with mill levy creep the tax rate for commercial property will be back at these stratospheric levels in no time.

3. This bill is not a solution or panacea to Kansas property tax problem. It is an important first step. The Legislature, in our view, still needs to address the issue of the relative burden of taxation currently on commercial real estate and take steps to roll back the tax rate for commercial real estate.

*Attachment 3-1  
Senate Local govt*

*Feb 25, 1992*

4. Remember that this bill deals with approximately 40% of local government spending (education is 60%). This bill would give local units of government a strong message from the legislature that the ability of property tax to fund government has reached its limit and they need to find other sources of revenue.

5. This measure should not be considered in a vacuum. It could have great meaning particularly if combined with a substantial rollback in commercial property tax rates. Senate Bill #663 is a tourniquet to stop the bleeding-which is necessary before you can start transfusions.

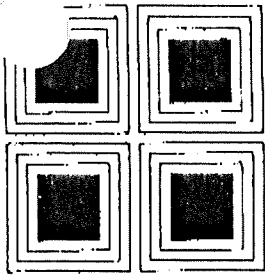
6. Remember that with this bill the citizens themselves can override this lid on ad valorem taxation through a vote. This could be a good vehicle to facilitate a meaningful dialogue between taxpayers and local government officials.

\* At the moment the public actually has no recourse if taxes are raised. If taxes are raised they can of course vote local government officials out of office-but that is after the fact.

7. In conclusion, this bill would accelerate a discussion of what will be one of the major issues in the Legislature for 1992 and following years. That issue is, that local units of government must find a way to reduce their reliance on the property tax to fund government.

Attachment 3-2  
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Feb 25, 1992





# MANHATTAN BUILDINGS, INC.

109 S.W. 9TH STREET □ TOPEKA, KANSAS 66612  
913/233-8283

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## COMMENTS BEFORE SENATE LOCAL GOVERNMENT COMMITTEE February 25, 1992

My name is Jack Crocker, I am president of Manhattan Buildings Inc a real estate development company. I am appearing at the request of Senator Marge Petty, my state senator. Over the past few years, back to when she was City Councilperson Petty, we have had numerous conversations related to tax issues and general government funding.

My comments are tempered by my experience in government as well as business. I spent four year as the director of a local government organization in Manhattan Kansas representing and assisting four counties and their local governments in dealing with various state and federal programs. I assisted in the preparation of local community budgets and well as reviewing programs.

I spent two years working in State government during the Bennett administration trying to implement recommendations from private sector companies and experts on improving the operation of state government. In these capacities I developed an understanding of what could be done to provide services at a lower cost to the constituent and an understanding of why local and state officials resist input and new ways of providing more efficient services.

Senate Bill 663 has a great deal of merit in my opinion in providing governmental consumers a chance to limit or at least express their opinion of what services they collectively want to have provided. This would be done through the limitation of how much they are willing to pay. It would not limit the governments who are able to communicate to their constituents the benefits of additional taxes or programs requiring additional funding. It would not effect the operation of governments representing constituents who wish to acquiesce to the wishes of their elected officials. It may cause some elected officials to become more communicative with the people providing the resources for them to provide services.

My specific comments related to Senate Bill 663 are as follows:

1. The bill does not establish the base year for the 101% to be compared with. If it becomes effective I presume it would be the budget established in 1991 for the current tax year.

*Attachment 4-1  
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2. The provision of subsection (b) exempting payments for principal and interest on bonds, temporary notes and no-fund warrants or judgments seems too broad. If this was limited to those DEBTS in place on the effective date of the bill then I can see that a lid would be more effective in limiting the total cost of government funded by ad valorem taxes. However, any future bonds etc should fall under the possibility of the lid in that if no petition is developed or a positive vote cast then no difference would exist from the current situation. Each year after a supportive vote the cost of the new bonds or other debts would be covered by the base for the ensuing years. If, however, the electorate seem to be somewhat apprehensive to take on the additional cost (taxes) then the elected officials would (a.) call for an election on the bond as it impacts the budget or (b.) float the budget with the bonds and see if the necessary signatures will be found and then hold the election on the budget increase. In either case if the majority want the item paid for by the increase in budget then they would have it. Some may suggest that this potential limit would impact the bond ratings and subsequent interest rates on governmental bonds. I suggest that if submitted to a vote or if voters acquiesce and don't petition in the allotted time then the bonds will be as secure as if this law was not on the books. Any bonds or debts of a city or county are not the debt of the government but are secured by the citizens and economic entities in the community. Why not give them more of a chance to express their support or opposition on spending more of their money on any item. If a business or individual voluntarily incurs debt or loses a suit it must deal with the situation and cut costs to meet expenses. Why should government be exempt from the problems faced by it's constituents from time to time? If government is forced to cut services due to a vote of the people, who will suffer the consequences of the vote? - The people who voted.

In Sec. 7 subparagraph (c) the elimination of contributions for social security, workers compensation, unemployment insurance, health care costs, employee benefit plans, and employee retirement and pension programs does not make sense to me. If cost that are growing the fastest for all sectors are excluded from calculation of "budget" then what does the limit really do for the citizens. This seems more like the federal government program of taking items off of the budget to make the deficit be less. In this case it is not allowing people to be able to effect the total cost of their local government, should they choose.

In closing I support the concept of SB-663 but would feel that it is not as tight as I would desire as a citizen. I would prefer that "ALL" budgeted items supported by ad valorem taxes be covered

*Attachment 4-2  
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under the option of an election for approval of increases. SB-663 would in my opinion encourage elected officials to be more open about their plans and the impact it will have on all citizens and would not, in the long term, effect the provision of government services to any degree greater than that supported by the majority of the voting public. It may encourage local units of government to seek other forms of funding and greater efficiencies in providing services to their constituents. No where in this bill does it say any covered unit of government "shall" be under this limit automatically. Rather it would be the people the government serves that will determine whether there is a need or desire to require this limit to be followed. Who do elected officials serve - status quo or the people. Thank you for the opportunity of appearing before this committee.

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# SIMON

SIMON MANAGEMENT COMPANY

Timothy G. Earnest  
General Manager of West Ridge Mall and West Ridge Plaza in Topeka, Kansas

Melvin Simon & Associates  
Owners of shopping centers in 37 states throughout the country and owners and operators of 4.5 million square feet of real estate in Kansas.

## CURRENT SITUATION:

Commercial tax rates in Shawnee County are currently 5.4% of appraised value. This is at least three times higher than the national average our company pays in the 37 states in which we are currently operating. Because of this high rate, commercial property development and/or enhancement throughout Topeka and the State of Kansas has slipped to an anemic rate. This proves that the State of Kansas is over reliant on ad valorem taxes to fund programs. Such a system will no doubt result in a stagnant or even diminishing long-term commercial property tax base, thereby more of the burden will systematically be transferred to residential as well as surviving commercial businesses. The only solution which will abate this downward spiraling of the commercial tax base is to significantly lower tax rates to levels similar to the national average. This can only be accomplished through a change in the classification rate on commercial real estate, coupled with some type of mechanism to establish tight control of mill levy increase so that lower classification rates are not affected by corresponding mill levy increase of commercial and residential real estate. As I see it, Senate Bill #663, now before this committee, fills this purpose.

Without indexing budget growth (ad valorem taxing entities), then reclassification will only be a temporary solution.

## FUTURE:

If the system remains status quo and we assume a conservative growth in budgets of 4% for ad valorem taxing entities, commercial property tax rates in Shawnee County will be in excess of 6.5% by the year 1995 (assuming minimal change in assessed valuation). This level is not economically feasible for small or large businesses in Topeka nor throughout the State of Kansas.

*Attachment 5-1  
Senate Local govt  
Feb 25, 1992*



Executive Offices:  
3644 S. W. Burlingame Road  
Topeka, Kansas 66611  
Telephone 913/267-3610

TO: THE SENATE LOCAL GOVERNMENT COMMITTEE  
FROM: KAREN FRANCE, DIRECTOR, GOVERNMENTAL AFFAIRS  
DATE: FEBRUARY 25, 1992  
SUBJECT: SB 663, LOCAL BUDGET REFERENDUMS

Thank you for the opportunity to testify. On behalf of the Kansas Association of REALTORS®, I appear today to support SB 663 and offer some amendments.

As we understand the bill, whenever the local governing bodies of cities and counties propose budgets which exceed 101% of the previous year's budget, the budget is subject to a citizen referendum, initiated by a protest petition of 5% of the registered voters.

We support the concept of letting voters have the ability to approve or disapprove of property tax increases caused by budgetary increases. The current property tax system has let local units of government raise property taxes without any real input from the people. Modern society has produced city and county budgets which are lengthy and detailed and difficult for the average citizen to walk in off the street and understand. Modern society has also produced many activities which prevent citizens from attending budget hearings-- children's baseball and softball practices and games, plays and play practices. As a percentage, the number of citizens who attend budget hearings is very small.

*Attachment 6-1  
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Some argue that citizens have control by voting for or against their city or county commissioners at election time. However, many times there are no

qualified candidates running against incumbents, therefore, there is no real choice for citizens to make.

We believe that if budgetary increases were subject to a vote of the people, the people would feel like they had regained control of their local government and their property taxes. As it happens now, all they can do is point fingers at local officials. The only time the people get to vote on property tax increases is when a bond issue is at stake.

Under this bill, the local officials would have the opportunity to explain the increases to the people before the additional property tax is inflicted, instead of having to justify it after the bad news comes in the property tax bills. They could have the opportunity to have real feedback from the community over whether new spending is what the community wants. Right now it is very hard to get a feel for what the community supports or opposes because such a small minority turns up at budget hearings.

While we generally support the concept of the bill we would like to recommend that the bill be amended to provide that budgetary increases would automatically be subject to a vote of the people, rather than waiting for a protest petition drive as the bill currently provides.

While the protest petition process may appear to be a simple thing to accomplish, for many citizens it is very confusing. If we are truly trying to give some control to the people, then it would be much more direct to have a ballot issue automatically when the proposed budget increases exceed a certain limit. If the budget ballot were to be made automatic, we would support permitting budgetary increases in an amount equal to the Consumer Price Index for the previous year without voter approval, rather than the 101% limitation which the bill currently provides.

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These amendments would give local governments more leeway in their budget increases, while at the same time, the automatic ballot provision in the event budget increases did exceed the CPI would give citizens more control. This would appear to be a reasonable balance between the two competing interests.

The existing property tax system is wearing ragged at the edges. While we believe the best method of reform is to constitutionally cap property taxes, the concept discussed here may provide some viable reform which should seriously be considered. We ask for your support of the concepts we have presented.

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Feb 25, 1992

TESTIMONY TO SENATE COMMITTEE ON LOCAL GOVERNMENT

RE: SENATE BILL 663

TUESDAY, FEBRUARY 25, 1992

Chairperson Langworthy and Members of the Committee:

My name is Art Davis, Assistant to the City Administrator in Lenexa, a city of 35,000 residents located in Johnson County. On behalf of Mayor Rich Becker and the Lenexa City Council, I am here to testify in opposition to Senate Bill 663 and oppose the concept of placing further limitations on locally elected governing bodies and their ability to fund the services they provide.

I find it ironic that the property tax was not even an issue until the state legislature proposed to the voters a potentially flawed reclassification amendment in the 1980's. Unfortunately, it has become easy for a few legislators to blame all local governments for their perceived exorbitant spending. Local elected officials are held every bit as accountable by their constituents as state elected officials for their actions. All communities are different and unique and local officials are best able to determine local needs. If citizens are displeased with a particular local government, then they should appear before them at their budget hearings. That is what a democracy is all about.

In Lenexa, there was a .3 mill decrease in the mill levy for the 1992 budget, and a .7 mill increase for the 1991 budget. Local governments are extremely limited in their ability to raise revenues. Lenexa's primary sources of revenue include a very limited sales tax set by the state, various fees for services, and the property tax. Cities are mostly a service organization providing police and fire protection, planning and recreation services, street maintenance, and building inspection services to name a few. Almost 80% of a city's general fund budget can be attributed to employee costs.

It was stated earlier that many other states have imposed limitations on local units of government. However, that does not mean it is a good idea. After talking with several of my peers in California, I have found out that their local

*Attachment 7-1  
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governments have been devastated since Proposition 13 was passed in the late 1970's. The California legislature has since had to work around that constitutional limitation in order to provide other means of funding local governments. In other words, local public hospitals have closed, and early release programs for prisoners have been implemented for cities and counties in that state.

Finally, a good example of what state imposed limitations can do to local governments can be seen our neighboring state to the east. The state of Missouri requires a public vote on every general obligation bond issue and mill levy increase which I believe has hindered their ability to attract business. When businesses have relocated to the greater Kansas City region, one of the primary reasons a business moves to Johnson County is because of an ability to provide quality schools, and an ability by local units of government to provide infrastructure prior to development along with the quality public services desired in a community. I encourage this committee to defeat Senate Bill 663 which would put a strangle hold on local governments' ability to provide services for their residents and businesses.

I would be happy to answer any questions you might have. Thank you.

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