

Approved: 2-14-95  
Date

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairperson Kent Glasscock at 1:30 p.m. on February 9, 1995 in Room 521-S of the Capitol.

All members were present except: Representative John Toplikar - Excused  
Representative Robert Tomlinson - Excused

Committee staff present: Mike Heim, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Fulva Seufert, Committee Secretary

Conferees appearing before the committee: Representative Doug Lawrence  
Anne Spiess, Director of Legislation-Kansas Association of  
Counties  
Jim Reardon, General Counsel-Kansas Association of Counties  
Mark Tallman, Kansas Association of School Boards  
Jacque Oakes, Schools for Quality Education  
Ann Charles, Kansas Press Association, Inc.  
Richard Baker, KKSU-AM (Manhattan)  
Jeff O'Dell, KVOE (Emporia)  
Ken Vandruff, KFDI (Wichita)  
Keen Umbehr  
Sandra Norton  
Harriett Lange, Kansas Broadcasters Association  
Major General James Rueger, Adjutant Gen., State of Kansas  
Brenda Bell, Attorney - Manhattan

Others attending: See attached list

Chairman Glasscock opened the meeting at 1:30 p.m. The minutes of the February 7, 1995 meeting were distributed. Representative Mays moved that the minutes be approved. Representative Ott seconded. Motion passed.

The Chairman opened public hearings for HB 2162 and HB 2195.

HB 2162                    Open meetings; social gatherings; meetings defined; closed or executive sessions

HB 2195                    Meetings and decision-making of public and quasi-public bodies required to be open to public

Chairman Glasscock asked the committee to keep their questions focused and succinct due to the number of conferees. He also asked the conferees to keep their testimony as brief as possible.

Representative Lawrence gave some comments on HB 2162 since last summer he served as vice chairman of a special committee charged with looking at the state's open meetings statutes. He said the committee spent two days listening to many different officials and members of the media have open dialogue on the open meetings law. He believed that their dialogue was important and beneficial. He stated that out of that process, the committee compiled a list of areas where there are problems or stress related to the laws. The language of H 2162 is a reflection of some of those areas that the committee felt deserved more attention. He said the special committees, a joint committee, did not really endorse any language relating to the open meetings law. Essentially they found that these are areas of concern that are worthy of further discussion and consideration, and that it's appropriate that the legislature take a look at this language and these issues. HB 2162

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engenders three of those issues the committee talked about, and **HB 2195** includes some of that language, too.

Mr. Don Moler, General Counsel for the Kansas League of Municipalities, spoke as a proponent for **HB 2162**. He addressed three specific concerns: 1) should social gatherings, travel and educational gatherings be excluded from the definition of open meeting? 2) should discussion of potential appointees be specifically listed as a proper subject for executive session? and 3) should the majority of a quorum language be examined in light of those instances when a quorum is required by law to take action on a given matter? (Attachment 1)

Representative Ott asked for clarification about the majority of the quorum and the fact that the law can be circumvented by one or two meeting together. Mr. Moler replied that this can be done now one at a time, and since the mayor is not part of a quorum, he can talk individually to all five of the council members under the current act.

Representative Powers asked if this law was being challenged due to the public's perception of possible violation of the open meetings law. Mr. Moler replied that it probably has to do with the local media and what their perception is and how they report it. He stated that the problems the League hears is governing body members are afraid to talk to one another outside of an open meeting. He used an example of a city in which the city manager lists all open action, non-agenda meetings such as baby showers, cub scouts, etc. because more than one of the governing body will be there.

Anne Spiess, Kansas Association of Counties, introduced Mr. James Reardon, their General Counsel who like Mr. Moler, was a supporter of **HB 2162**. His testimony supported requiring meetings of governmental bodies to be held in sessions which are open to the public, but he also urged caution in adopting certain language in **HB 2195**. He mentioned that the current language is too broad and exceeds the original intent of the legislature which creates unintentional violations of the Kansas Open Meetings Act. He said **HB 2162** recognizes this problem and offers valuable clarifications. He also gave a historical overview. (Attachment 2)

The Chairman introduced Mr. Mark Tallman, Director of Governmental Relations for Kansas Association of School Boards, who said that he basically agreed with everything Mr. Moler said and that he would be happy to address any questions the committee had in regard to school boards. (Attachment 3)

Written testimony was presented by Jacque Oakes, representing Schools for Quality Education, an organization of 113 small school districts. This testimony was in favor of **HB 2162** which clarifies "social gatherings" and makes an exception to the closed meeting law of being able to discuss appointments to non-elected boards and other similar bodies. (Attachment 4)

The testimony of the first opponent to **HB 2162** was Ann Charles, publisher of the Parsons Sun who is serving this year as the Legislative Director for the Kansas Press Association. She appeared in opposition to two elements of **HB 2162** and concerns about a third element. First, the Kansas Press Association is strongly opposed to the amendment that would allow a majority of a quorum to discuss business. She said most of their members are opposed to the proposed amendment that would allow governing bodies to discuss appointments to non-elected boards. And last, she stated the third element of **HB 2162** would codify a practice already allowed by law -- permitting public officials to meet socially as long as they do not discuss or conduct public business. She recommended that if **HB 2162** needs to be passed from the Local Government Committee that it address only the codification of existing law which allows social gatherings when public business is not discussed. (Attachment 5)

Representative Powers asked Ann Charles if she felt we would be better off without **HB 2162** and she replied, "Yes."

Chairman Glasscock introduced Mr. Richard Baker, Past President, Kansas Associated Press Broadcasters and News Director, KKSU Radio, Manhattan. Mr. Baker was speaking as an individual when he spoke in opposition to **HB 2162** because he believes it is an attempt to clarify an already existing law. He believes it complicates the law and further weakens what is already an almost toothless law. (Attachment 6)

Jeff O'Dell, News Director, KVOE AM and FM, KFFX FM in Emporia, spoke in opposition of **HB 2162** because he believes certain aspects of the bill as proposed will not improve service to the public. (Attachment 7)

Representative Mays made a comment about the majority of a quorum. The example he used was in the case of a nine member council, three people make up a majority of a quorum. He asked why that couldn't be expanded to say the number necessary to take action, which in this case, three or four could meet, but five couldn't.

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Ken Vandruff, KFDI, Wichita gave his "dittos" to the last three speakers and said that he was not only here as a newsman but also as a Kansan and for friends who cannot take the time themselves to be here. He said that was one of the reasons newspeople want to be at all public meetings. He strongly opposed **HB 2162** because he feels that changes to the Kansas Open Meetings Act proposed in **HB 2162** would make an already weak law worthless. (Attachment 8)

The Chairman introduced Mr. Keen Umbehr who lives in Alma and owns and operates a refuse disposal company. He questioned whether the legislature wishes to restore public faith and trust in government by making the processes of government incremental and more forthright, or does the legislature want to dilute the open meetings act so as to lessen the burden of elected officials of explaining to the public the business of the public. (Attachment 9)

Sandra Norton from rural El Dorado spoke in her behalf and for approximately 400 other citizens of Butler County in opposition to **HB 2162**. She had documentation of examples as to how the KOMA is not being adhered to by the Butler County Commission. She stated that non-notification of regular meetings, non-notification and short notification of special meetings is common practice. (Attachment 10)

After all the testimony was heard, Chairman Glasscock closed the public hearing on **HB 2162**.

Chairman Glasscock announced that the public hearing was open for **HB 2195**. Representative Lawrence spoke in favor without written testimony, which he said would be supplied after the meeting. He mentioned that there are three discrete sections to **HB 2195**. He said the first section attempts to clarify the reasons for the open meetings law and explicitly states that the intention is to have the law interpreted in a broad way to protect the public's right of access to the decision-making process of government. He pointed out that every time an open meetings law case is litigated in this state that he gets nervous. He said that there's been a great deal of damage to the protection afforded by these statutes with each court ruling. He said that each year the open meetings law is eroded further. He gave an example that just this past Friday yet another opinion was issued by a district court judge which will have a very negative impact on the laws. He hopes the first group of changes considered in **HB 2195** will slow that erosion. He further stated that in Kansas, apparently the courts haven't read the intent as strongly as he would like them to, and that is why he felt like it was appropriate to strengthen the language to make it clear. He informed the committee that there is no inherent right of access to government. Neither the U.S. Constitution nor the Kansas Constitution requires open government. There is no body of constitutional law and no case law which supports the requirement of open government. He stressed that the only protection we have is through the Open Meetings Law--statutes like this-- and open records. (No Written Testimony Was Ever Supplied).

Chairman Glasscock introduced Major General James F. Rueger, the Adjutant General of Kansas who was here in behalf of the Department of Emergency Management. He said had he known this meeting was going to be so controversial, he would have sent his deputy. The audience chuckled. He spoke as an opponent for **HB 2194**. He stated that he supports open meetings and agrees that they are the foundation of building trust in our governing bodies. In the case of disaster emergencies, he supports the intent of **HB 2195** to waive the requirement to give notification of meetings. (Attachment 11)

Ann Charles appeared in support of **HB 2195**. She said that the amendment proposed in **HB 2195** would clearly specify that if a group receives, spends or is supported in whole or in part by public funds, then the public must have a rights of access to the decision-making process of that group, so that the Kansas Press Association supports such a public policy and encourages this committee to favorably recommend this bill. (Attachment 12)

The Chairman introduced Brenda Bell, an attorney from Manhattan, who apologized for not having written testimony because she did not know she was testifying until yesterday. She represents Mr. Umbehr and wanted to let the committee know of Judge Bullock's decision which she believes is a clear violation of KOMA. She supports **HB 2195** because she believes the enforcement of the current state of this law has no teeth at all.

The Chairman announced that Harriett Lange, President, Kansas Association of Broadcasters, provided written testimony opposing the enactment of **HB 2195** or any proposal that effectively weakens the KOMA. (Attachment 13)

Richard Baker had written testimony stating his concerns about the part of **HB 2195** that addresses emergencies. He cited the example that during the heavy flooding a couple years ago, he didn't remember any time when such authority was needed. He said most areas have some kind of disaster guidelines set up, and

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notification, even a limited type of notification , could be part of those guidelines. (Attachment 14)

Don Moler spoke not as a proponent or opponent, but said that he appreciated Representative Lawrence's effort in behalf of the open meetings law. He expressed his support for quasi-body language. He suggested that a single bill--the best of the open meetings act of 1994 and Representative Lawrence's- be put together.

Mark Tallman also submitted written testimony expressing concerns about **HB 2195**. He said the KASB supports the concept of open meetings for the deliberation of public business. However, what is public business is greatly expanded by the definition of "quasi-public body." He stated that the proposed change would include many groups that do not have the authority to make final decisions but make recommendations to the board. He further mentioned that the notice requirement of the district is really expanded by defining "quasi-public body" to include any committee, advisory group, or other group created by the board or created by any entity created by the board. (Attachment 15)

Jeff O'Dell, News Director of KVOE AM and FM., KFFX FM in Emporia, has written testimony saying that much of **HB 2195** receives his support, but he was concerned about the part of the proposal which would not require notice to media outlets regarding administrative actions in emergency situations. (Attachment 16)

Mike Worth, Coordinator of Ellis County Emergency Management, spoke in support of the emergency provision.

The Chairman announced that the public hearing for **HB 2195** was closed.

Representative Mays moved for a courtesy introduction of the following bills: Representative Weber's bill concerning certain airport authorities; Representative Heinemann's bill concerning public building commissions; relating to the rental of building space and other facilities; and Representative Sloan's bill concerning township roads. Representative Ott seconded. Motion passed.

Chairman Glasscock appointed a subcommittee on Open Meetings. Representative Sloan will be the Chairperson and Representative Fuerborn and Representative Beggs will serve on this subcommittee.

The meeting adjourned at 3:35 p.m.

The next meeting is scheduled for February 14, 1995.

# LOCAL GOVERNMENT COMMITTEE GUEST LIST

DATE: THURSDAY, FEBRUARY 9, 1995

| NAME          | REPRESENTING                              |
|---------------|---|
| Jeff Odell    | KVOE Emporia KS                           |
| Sandra Norton | Concerned Citizen                         |
| Ken Vandruff  | KFDI Wichita                              |
| Keen Umbehr   | Concerned Citizen                         |
| Richard Baker | KKSU - Manhattan                          |
| JAMES RUSTEN  | KANSAS ADJ GEN (D.EM.)                    |
| Traei Carl    | A.P.                                      |
| Jim Reedman   | Ks. Assn of Counties                      |
| Ann Charles   | Ks Press Assn                             |
| Mark Tallman  | Kans. Assoc. of School Boards             |
| Rob Houston   | KIUL-KWUR- Garden City<br>Leadership GC   |
| Jim Long      | 457 Garden City<br>Leadership Garden City |
| David Kamp    | Koch Crime Commission                     |
| Tom Bell      | Ks. Hospital Assn.                        |
| BRAD SMOOT    | KUEA                                      |
| Brenda Bell   | Keen Umbehr                               |
|               |   |
|               |   |
|               |   |



**League  
of Kansas  
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 S.W. 7TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

**LEGISLATIVE TESTIMONY**

**TO: House Local Government Committee**  
**FROM: Don Moler, General Counsel**  
**DATE: February 9, 1995**  
**RE: Support for House Bill 2162, Concerning Open Meetings**

Thank you very much for the opportunity to appear before you today in support of HB 2162, concerning open meetings. This past summer the Special Committee on Open Meetings met to study the range of problems that have been identified with the Kansas Open Meetings Act (KOMA) and possible solutions to those problems. This interim study came on the heels of the 1994 amendments to the KOMA which clearly extended the KOMA to telephone calls and other interactive forms of communication.

HB 2162 addresses three of the concerns raised before the interim committee last interim:

1. Should social gatherings, travel and educational gatherings be excluded from the definition of open meeting?
2. Should discussion of potential appointees be specifically listed as a proper subject for executive session?
3. Should the majority of a quorum language be examined in light of those instances when a quorum is required by law to take action on a given matter?

**Social Gatherings**

This past interim the Special Committee heard considerable testimony from local officials and their representatives that the KOMA is now being interpreted by the public to prohibit even social gatherings by local elected officials on the same governing body. While the law may not literally preclude such social gatherings, the prevailing citizen view in many cities appears to be that social contacts are not allowed.

The League conducts regular training and education seminars for elected city officials during which I frequently preach the importance of teamwork among the governing body and staff, effective communication, consensus building, and effective relations with the electors. I urge the elected officials to get to know each other personally by inviting each other to lunch or dinner. In these sessions I have been told--quite literally and frequently--that in many cities the governing body members not only will not have lunch or dinner with each other, but they also avoid socializing with each other in other ways for fear of being accused of a KOMA violation.

How effective would you be if you could not have even social contact with your colleagues in the legislature? Not very effective, I would submit. In some of our cities, however, I am told that governing body members even try to avoid running into each other in public in order to avoid the appearance of a violation of the law in the mind of the public. Such conduct drives wedges between elected officials who need to get to know each other in order to be effective. The statement in lines

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23 - 25 on page one of HB 2162 will provide some much needed assurance that socializing with other members of the governing body is acceptable and encouraged.

### **Discussion of Appointees**

The subject which the KOMA first recognized as appropriate for discussion in executive session was and is "personnel matters of nonelected personnel." (See page 2, line 9 of HB 2162). This provision has enabled local and state governing bodies to conduct what have to be their most sensitive discussions in private—as long as any binding action is taken in public. In opinions from the Office of the Attorney General over the years, however, it is clear that this provision is not broad enough to include nominees to appointed boards, commissions, councils, etc., including local planning commissions, plumbing boards, aviation advisory boards, etc.

Why is it desirable to conduct these discussions in private? The simple answer is that such discussions are necessary in order to ensure a full exchange of views concerning the qualifications of individuals to serve in these important posts. If the discussions do not happen because of the KOMA, it would appear that the public interest in having the most qualified persons in these positions is being thwarted. Furthermore, it is important to safeguard the reputation of nominees and avoid any possible damage that may result from a public discussion of a nominee's qualifications.

### **Majority of a Quorum Requirement**

The third change to the KOMA found in HB 2162 is found on page one, lines 32:37. This change would allow discussions among governing body members, outside an open meeting, whenever the subject being discussed could only be enacted by a quorum or super-majority vote of the entire membership of the council or commission. Thus, in a city governing body with five council members, two members would be able to discuss a potential ordinance of the city since statute requires a majority of the members-elect of a council to vote yes to pass an ordinance.

We believe this change would help the flow of information at the local level and still leave in place the protections of the KOMA for the public. We do not believe this change harms the purpose, intent or effect of the KOMA and would urge the committee to favorably report this legislation.

Thank you for your consideration of these amendments. In requesting this legislation the League purposely limited the scope of the bill to these three items. These amendments will respond to some significant needs in many communities of the state.



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Executive Director
John T. Torbert, CAE

To: Representative Kent Glasscock, Chairman
House Local Government Committee
From: Kansas Association of Counties
Date: February 9, 1995
Re: HB 2162 & HB 2195 - Kansas Open Meetings Act

The Kansas Association of Counties supports requiring meetings of governmental bodies to be held in sessions which are open to the public. However, while we urge your support of HB 2162 we urge caution in adopting certain language in HB 2195

It is our contention that the current language of K.S.A. 75-4317a is overbroad, exceeds the original intent of the legislature, and creates unintentional violations of the Kansas Open Meetings Act. HB 2162 recognizes this problem and offers valuable clarifications.

A Historical overview:

The original Act was enacted in 1972. It recognized that public officials when acting in an official meeting have the ultimate power of enactment. It required all meetings for the conduct of governmental affairs and the transaction of governmental business to be open to the public.

The original language was never intended to prevent elected officials from having chance encounters and social gatherings.

In 1977, the Act was amended to clarify the definition of meeting. Also in 1977, legislation was introduced that would have added the following language to K.S.A. 75-4317a:

"No chance meeting, social meeting or electronic or written communication shall be used in circumvention of the spirit or requirements of this act."

This wording was rejected by the 1977 legislature.

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## Protective Language Added in 1977

It appears, however, that when the 1977 legislature rejected electronic or written communications they also realized the possibility that "chance meetings" and "social meetings" were not official meetings of governmental bodies. Therefore, the following language was added in 1977:

"As used in this act 'meeting' means any prearranged gathering or assembly by a majority of a quorum of the membership of a body or agency subject to this act for the purpose of discussing the business or affairs of the body or agency".

This language became codified as K.S.A. 75-4317a.

The word "prearranged" had never been contained in the original definition. It was clear that the legislature wanted to protect local governments from the possibility that chance meetings and social gatherings could violate KOMA. The addition of the word "prearranged" provided the necessary protection.

### **The Legislature Reacts to a Supreme Court Decision:**

HB 2784 was introduced in the 1994 session in response to a ruling by the Supreme Court of Kansas in Stephen v Board of Seward Co. Commissioners 254 Kan. 466 (1994). In this decision the Supreme court ruled that the definition of "meeting" contained in K.S.A. 75-4317a is construed not to include telephone calls.

Because the 1977 legislature had the opportunity to expand the term "meeting" to include telephone calls but instead chose to include only a prearranged gathering or assembly; the court determined that "meeting" requires the gathering or assembly of persons in the physical presence of each other. Clearly, said the court, a telephone call is not a "meeting" as defined by the 1977 legislature.

In the zeal to expand KOMA to telephonic and electronic communications the Attorney General's office totally undid what the 1977 legislature passed. HB 2784 re-introduced the exact language rejected by the 1977 legislature and eliminated the "prearrangement" language the legislature had thoughtfully included. This language was further modified by the legislature and the result is a chaotic statute that ignores the following stern warning issued by the Kansas Supreme Court.

**In Stephen v Seward Board of County Commissioners the Supreme Court urged caution in crafting language to amend KOMA:**

"If the legislature does amend KOMA, hopefully, such amendments will clearly spell out what conduct is to be prohibited by the act. K.S.A. 75-4320a(b) places the burden of proof on the public body or agency to sustain its action...."

"Public officials need to know just what conduct is proscribed by KOMA. Uncertainty is not in the best interest of either the public or public officials subject to KOMA. We note over 50 Attorney General Opinions have been issued to answer various questions raised by KOMA. Considerable confusion obviously exists as to what KOMA requires."

Most violations of K.S.A. 75-4317a are "acts of ignorance" rather than "acts of arrogance". They are unintentional and essentially harmless transgressions which take place at social gatherings, or as a result of uncertainty as to what conduct was prescribed by HB 2784. It is our opinion that KOMA was never intended to apply to unofficial meetings of local officials. This law will continue to have unintended consequences until social gatherings are excluded from KOMA language.

#### **1995 Legislative Proposals:**

We think the language of HB 2162 is essential to meeting the admonitions expressed by the Supreme court in Stephen v. Seward Board of County Commissioners. It addresses many of the problems county officials are experiencing with the Open Meetings Act and we urge you to give this language the study it deserves.

We think the language of HB 2195 addressing emergency management situations at Section e. (3) is very necessary based on testimony heard during the interim hearings.

**We urge extreme caution in adopting further language of HB 2195.**

**Example:** Section 1 (c) would expand public access well beyond "open meetings" to the "decision making processes" of government.

**Example:** Section 2 would expand public access to the decision making processes of "subordinate groups"--even those acting under interlocal agreements.

There are literally thousands of subordinate level decisions made each week by local governments across Kansas. If these provisions were enacted, every city and county road crews' safety committee meetings would fall under the notice provisions of the Open Meetings Act.

We consider this language to be a prime example of the kind of needless, over-reaching, and ill-defined language that causes local governments to exercise undue and even comical precautions in order not to violate its nebulous terms.

Thank you for your consideration of our concerns.



TO: House Committee on Local Government  
FROM: Mark Tallman, Director of Governmental Relations  
DATE: February 9, 1995  
RE: Testimony on H.B. 2162

Mr. Chairman, Members of the Committee:

We appreciate the opportunity to appear today as proponents of H.B. 2162, which makes certain amendments to the Kansas Open Meetings Act. KASB supports the concept of open meetings for the deliberation of public business. We believe that in certain areas, however, KOMA is unduly restrictive. H.B. 2162 addresses several of these areas.

First, it clarifies that members of a public body may be together in social gatherings without violating KOMA, as long as no public business is discussed. While this may seem obvious or even somewhat petty to bring up, we assure you that many school board members have expressed concern that simply being seen together for any reason could be seen as a violation, and in fact, under 1994 amendments that removed the requirement that a meeting be "prearranged," they have reason to be concerned. At a time when many districts report having trouble finding citizens to run for the school board, we believe members should not feel unable to sit together a football game or attend a Christmas party together.

Second, the bill would allow public bodies, including school boards, to go into executive session to discuss appointments to advisory bodies. Perhaps the best example for school boards are the school site councils required by state law. Not all site councils are appointed by school boards; the method of selecting membership varies among districts. But it seems to us clearly in the public interest to allow board members to discuss privately any concerns that may arise about individual appointments.

Third, it would allow a majority of a quorum to meet without violating the open meetings act if a full quorum is required for binding action. The practical effect would be to allow three board members - instead of the current two - to meet without constituting an official meeting, because under state law, four board members are required to take any action.

Thank you for your consideration.

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# Kansas Press Association, Inc.

5423 SW 7th Street, Topeka, KS 66606 Phone 913-271-5304, Fax 913-271-7341

Testimony  
before  
House Committee on Local Government  
HB 2162  
Thursday, Feb. 9, 1995

My name is Ann Charles and I am the publisher of the Parsons Sun, serving this year as the Legislative Director for the Kansas Press Association. KPA is the trade association representing the 51 daily newspapers and 210 weekly newspapers in Kansas.

I appear today on behalf of the association in opposition to two elements of House Bill 2162 and concerns about a third element.

I attended the interim hearing this summer that led to these proposed amendments and the association has presented testimony before the Senate Local Government Committee which is considering a similar bill, HB 82.

KPA and its members are strongly opposed to the amendment that would allow a majority of a quorum to discuss business. Most of our members are opposed to the proposed amendment that would allow governing bodies to discuss appointments to non-elected boards.

In both cases, the discussion leading up to a decision is an integral part of the decision-making process -- a process that should not be kept secret from the public.

The third element of HB 2162 would codify a practice already allowed by law -- permitting public officials to meet socially as long as they do not discuss or conduct public business. In testimony this summer and last week before the Senate Committee, representatives of cities and counties acknowledged that elected officials can meet socially, and there appears to be confusion about the law.

Publishers in smaller communities report to us that commissioners meet for lunch, drive to state association meetings, attend funerals, weddings and church and no one complains. It is only when public officials are discussing upcoming issues and votes do problems arise. The Kansas Press Association has no problem with codification of the existing law if it is clear that social meetings do not become a mechanism for circumventing the open meetings law.

At a time when it appears the public is asking elected officials on the national and state level to bring more accountability back to government, granting additional methods of keeping government behind close doors does not appear in everyone's best interest.

On behalf of our industry, we would recommend that if HB 2162 needs to be passed from this committee, it address only the codification of existing law which allows social gatherings when public business is not discussed.

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TO: MEMBERS OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

FROM: RICHARD BAKER  
PAST PRESIDENT, KANSAS ASSOCIATED PRESS BROADCASTERS  
and NEWS DIRECTOR, KKSU RADIO, MANHATTAN

RE: PROPOSED CHANGES IN OPEN MEETINGS LAW, HOUSE BILL 2162

House Bill 2162 is seen as an attempt to clarify an already existing law. Instead, it not only further complicates the law, but weakens what is already an almost toothless law.

The Kansas Open Meetings Law, as written, needs no clarification. There is nothing in the law to prevent officials, elected or otherwise, to get together. . . and get together for any reason. All the law says is that they cannot discuss business when they do it. This is not a difficult concept. The law needs no further clarification.

But, let's continue with a further examination of 2162. In Section 1, Part (c), what does "conduct of governmental affairs or transaction of governmental business" mean? Is conducting or transacting the same as discussing or talking or negotiating or agreeing or coming to a consensus? The public needs to know.

Section 2, Part (c) is far from a clarification. "In the case of a body or agency with at least five members, a majority of a quorum of the membership of such body or agency may discuss business or affairs of the body or agency when it is otherwise required by law that binding action of the body or agency requires approval by a quorum or super-majority vote of the entire membership of such body or agency." In other words, two officials are, indeed, allowed to discuss business at social gatherings or anywhere else out of the public's scrutiny.

A true clarification and simplification of the law might simply read "two or more people from any body or agency cannot discuss the public's business."

Another quick point of clarification and simplification would be to change the words "closed or executive" to "secret." There is no need to beat around the bush. . . call the meetings what they are, secret meetings out of the public eye in which no-one is held accountable.

In Section 3, Part (c), the idea that no binding action shall be taken during a secret meeting is nonsense. That's why the meeting is secret. The only binding action not taken in secret is the vote.

The Kansas Open Meetings Law already allows eleven exceptions to open discussion, and now it is proposed to add a twelfth to an already pitifully weak law. Next year there may be another and another the year after. Florida only allows two blanket exemptions, while they are a little more complicated than this, the exemptions are basically confidential personal information and trade secrets.

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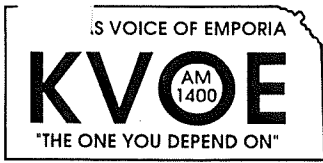
The current law needs no clarification. . . and it certainly does not need to be weakened. However, in light of the current effort at changing government in both Washington and Topeka, the law does need some help. The law's purpose ought to be two-fold. . . first of all, for the vast majority of Kansas officials working very hard to do a good job under difficult circumstances, the law should be a guideline for doing what the public wants done. Secondly, the law should be some kind of a barrier for those who have their own agenda while holding the public's trust.

To that end, the current law should have its list of exemptions cut to two and maybe three. . . no more. And the \$500 for each violation should have another zero added to it. . . \$5,000 for each violation. Public officials ask for the responsibility and they ask for the trust of those they represent. All their constituents ask is that they conduct their business openly and fairly.

On a personal note, I once heard it said that there are two things one does not want to see made . . . sausage and public policy. In today's world I want to know what I eat, and what public officials do in my name and why they did it!

All that said, please reject House Bill 2162. It strikes at the heart of open, democratic government.





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TO: Members of the House Local Government Committee  
FROM: Jeff O'Dell, News Director, KVOE AM & FM, KFFX FM, in Emporia  
RE: Proposed Changes in Kansas Open Meetings Law - House Bill 2162  
DATE: February 9, 1995

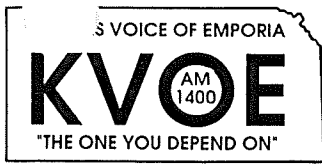
Certain aspects of House Bill 2162 as proposed will not improve service to the public. Those aspects are those elements that would have nothing in the act be construed to prohibit social gatherings at which there is no conduct of governmental affairs or transaction of government business. The current Kansas Open Meetings Act now does not prohibit elected or appointed officials from attending a social gathering now. I have attended social gatherings in which elected officials have also attended -- the invitation to discuss public business, I have observed, comes from others not involved in the government process, and many times they are surprised to find out there are elements of law regarding that discussion. But, I have not seen anyone yet who did not understand the ramifications of the law when it was explained to them. I am also opposed to allowing a majority of a quorum privately discussing public business when binding action is needed by a quorum or super-majority vote of the entire membership. That discussion is to come under the eye of the public, so it can participate. The public has a bad taste in its mouth when action seems to be taken in rapid fire action. Some would have you believe allowing discussion by, for example, two members of a

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Attachment 7





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H.B. 2162 Page 2

public body, would make government appear more people friendly in recruiting future governing body members. But perhaps "distaste for rapid fire politics lasts longer than the sweet taste of an easy recruitment."

I would also offer thought on another element of House Bill 2162. That is, that part which would allow discussion in executive session by public bodies regarding appointments to non-elected boards, commissions, committees, and so on. Much of the same distrust of government, and distaste for participation in it, will come when selection of members comes from discussion away from the public arena. Private discussion can turn from accomplishments and abilities as qualifications, to other elements of selection. These non-elected groups serve in advisory capacities to governing bodies in areas the governing body delegates, and can have as much impact on public arena decisions as the elected officials themselves. This proposed change can, in no way, serve the public interest.

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TESTIMONY BEFORE HOUSE LOCAL GOVERNMENT COMMITTEE  
REGARDING PROPOSED CHANGES TO KANSAS OPEN MEETINGS LAW

KEN VANDRUFF, WICHITA, KS.

Thank you for the opportunity to speak to the committee about the Kansas Open Meetings Law (KOMA). I'm afraid voters really don't understand the importance of the Open Meetings Act, and too many well-intended government officials see it only as a means for the news media to pry into their business.

Section 1 of the KOMA clearly defines its purpose: "In recognition of the fact that a representative government is dependend upon an informed electorate, it is declared to be the policy of this state that meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public."

This principle is why I must strongly oppose House Bill No. 2162. Changes to the KOMA proposed in this bill would make an already weak law worthless.

The proposed Sec. 1(c) is unnecessary. The current law allows for social gatherings at which there is no discussion of governmental business. The proposed language creates opportunity to move the public's business out of the meeting hall and onto the cocktail circuit. What is meant by "no conduct of governmental affairs?" Does this mean there can be discussion and concensus building, but no vote?

If I were a city council member of county commission trying to convince a business to locate a substantial number of jobs in my community, I could probably find a friend to arrange a dinner party and suggest a guest list. And as I read the proposed language, if that company's president and a couple of other government members were there, and we just happen to discuss what kind of incentives might be available, we could vote later.

And as I see HB 2162's proposed Sec. 2(b), adoption of this language would

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equated to a repeal of the KOMA. Two members of a five member body represents 40% of the body's constituents. Allowing two members of a five member body to discuss government business waters down the rights of the other 60%. It allows back-office conspiracies and deals. Many voters already feel they are shut out of the discussion before an issue reaches public hearing. This proposed language makes that perception a much greater reality.

As for the additional reason for allowing a secret meeting, the Legislature should be cutting the list, not adding to it.

Now, turning my attention to House Bill 2195. I can give qualified support to this measure. Its proposed language takes steps reversing a trend to create special groups to guide a locality's public policy discussion behind closed doors. Most of these quasi-public bodies are created with good intentions. However, their tendencies to conduct much of their business behind closed doors leaves the public with a sense they are being left out of the discussion while the proverbial fat cats with big cigars make their deals in smoke-filled rooms. HB 2195 makes it clear these groups are just as much a part of the public business as the local planning commission, and their discussions should be just as open to public scrutiny.

My reservations of HB 2195 concern the provisions of allowing a public or quasi-public body to meet without notice during declared state of disaster emergency. Such language creates an invitation for a governing body to condemn damaged property, sell it to a selected friend and pocket the difference. I covered the aftermath of the Hesston and Andover tornadoes, the flood that inundated Halstead and Sedgwick and other disasters. In each case, our news coverage efforts were based near command centers so we had quick access to disaster management personnel and government officials. KFDDI made its remote broadcasting facilities available to those officials to directly provide their residents with information. Most disaster scenes have a public affairs coordinator who does most of the talking for the officials. I cannot imagine that notification of a special meeting can take more than five minutes when the

offic s have that kind of access to the news media.

A Wichita City Council member once complained to me the KOMA made it difficult to do the public's business. My reply is who said doing the public's business should be easy. Even private business must keep its stockholders informed. When it comes to the public's business, the voters are the stockholders. Voters believe they have the right of access to their government. The Kansas Open Meetings Act protects that right. It should be strengthened rather than turned into a sieve. Thank you.

February 9, 1995

In Opposition to HB 2162

My name is Keen Umbehr. I live in Alma, Kansas where I own and operate a refuse disposal company. I believe, that as a responsible citizen, I need to be fully informed as to how my local government operates. To be informed, I must have meaningful public access to governmental proceedings. At the present, I have only one statutory provision which allows me access to my local governmental decision making process. That is the Kansas Open Meeting Act (KOMA).

The people's right to know hinges on their right to attend meetings during which the business of government is transacted. If we are to have an effective, functioning, democratic process, then the right to be informed should be protected and even strengthened. The rationale for an open meetings law is to restore public confidence in government. Weak or ineffectual open meetings laws serve only to increase the level of secrecy in government and is perceived by the public as synonymous with deceit, misconduct and dishonesty. Effective and enforceable open meetings laws restore public faith in government.

The question before you today is essentially this. Do we wish to restore public faith and trust in government by making the processes of government incrementally more forthright? Or do we dilute the open meetings act so as to lessen the burden of elected officials of explaining to the public the business of the public?

House Bill 2162 will dilute the already ailing KOMA. The provisions of HB 2162 result in increased secrecy of the public's business, reduction in governmental accountability and an undermining of public confidence in government. With the exception of "meetings during natural disasters", all other provisions of HB 2162 serve only to ease elected officials burden and responsibility of keeping the public informed. This legislation puts up a shield of deception by allowing the decision-making process to be conducted out of the view of the public, thereby making the governmental officials unaccountable for the final decision. Elected officials are servants of the public. It's supposed to be a difficult and tedious job. HB 2162 merely takes the burden of public scrutiny off the shoulders of our elected leaders.

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In closing, I ask you to consider the statement articulated in Washington State's Open Meetings Act.

"The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instrument they have created."

My name is Sandra Norton and I live in rural El Dorado. I want to thank you for the opportunity to come before you and address the concerns of myself and approximately 400 other citizens of Butler County.

I have been attending commission meetings since May of 1994. If for some reason I am unable to attend, another lady, Myrna Byfield, attends and tapes the meeting so I may listen to it later. Usually we are both in attendance.

The Kansas Open Meetings Act is not being adhered to by the Butler County Commission. It is almost impossible for the public to be aware and knowledgeable of the activities and decisions of our county government.

There has been non-notification of regular meetings, non-notification and short notification of special meetings. Meetings held between commissioners and department heads discussing county business at another time and place than designated by resolution. These were declared staff meetings and no records or minutes were kept. They have been held for two years, even after they were advised the meetings were probably in violation. The County Attorney, Mike Ward, has written letters and gone to commission meetings trying to solve these problems and "educate" the commissioners.

Inappropriate and miscalled executive sessions are normal. There is no way to possibly tell what they will be discussing. Sessions with county counsel and commissioners have been held discussing legal matters with the commission secretary present. They discuss county business with two or all commissioners present before meetings, during recess, and after adjournment.

When we finally convinced commissioners we would not tolerate the staff meeting violations and the new Monday meetings, they passed a resolution on December 22, 1994 ratifying all actions of the commission retroactively to November 8, 1994. That is like closing the barn door after the horse is let out. This resolution still does not declare a location for the staff meetings. I might add the resolution was written and condoned by the County Counselor, Norman Manley

Special meetings, on major issues, are held away from El Dorado during business hours. El Dorado is the county seat and is centrally located. These actions make it difficult for interested citizens to attend

The Butler County Commission does have an agenda. But, only one copy is placed on the secretary's desk just minutes before the meeting. If you want a copy you must wait until she has time to copy it or you hand copy it yourself. Therefore, you have no idea what topics the commission will be discussing unless you are there at the moment.

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It is difficult to get on the agenda and, of course, if your name does not appear you have no right to speak. The commissioners and committee chairmen have no problem in pointing out this fact to you. But they amend the agenda at their convince, sometimes on major issues. Minutes to meetings are not available for as long as four to six weeks after meetings are held. So, issues are a "done deal" before the public know they exist.

Our commissioners have what they refer to as an office. This office consists of one long room, adjacent to the meeting room, with three cubicles. It is not at all private. Consequently, one commissioner can easily overhear the conversations of the other commissioners. In fact it would be impossible not to overhear. I myself have heard them holding conversations among themselves and with others.

I understand there is no way to prove the discussion of county business outside official meetings, but, with all the other improprieties that have taken place in Butler County, it is hard to believe this does not happen. I have heard and read that some officials are complaining to the legislature that they do not feel free to meet on the street, go to baby showers, or any type of function together without being accused of breaking the law. This is not the case in Butler County. They have gone to a dinner theater as the guests of an entire county committee, and have taken the Greenwood county commissioners to lunch at the country club. You can observe them having lunch or attending social functions together frequently. Even if you can't hear what they are saying.

Mrs. Byfield recently attended a meeting of the solid waste committee. Upon voicing her concern that the information being discussed was not being made available to the public, one committee member- and I am paraphrasing somewhat- stated "Oh no, we don't want that, then they would show up and we couldn't get any work done." This seems to be the pattern of the way business is conducted by the Butler County Commission and some of its committees. They don't want the public to know what they are doing or have any input until the decisions are made.

I have filed a complaint with the Attorney General's office asking for an investigation and that charges be filed for two of these violations. I am also asking for suspension of duties and ouster of two of the current commissioners, but it is my understanding that in the history of these laws, there has been a fine of only \$35. and letters of reprimand for violations.



These laws need to be enforceable with penalties that fit the crime. Is it to be impossible to hold our public officials accountable except at election time? Are they to be allowed to decide what is best for us without our input? Without enforceable laws, the public loses the ability to be informed about, and aware of, the proceedings of its government.

February 8, 1995

My name is Jerry Hicks, president of Butler County Tax Alert Inc. I am unable to attend the meeting today and have asked Mrs. Norton to read this letter with your permission. I would also like to take this moment to thank you for the opportunity to be heard on this very serious matter.

Throughout the last 12 to 15 months we have asked the Butler County Commission to cease what we deem as very serious open meetings law violations. They have persisted in continuing to violate the act even against their own County Counsel and the County Attorney recommendation.


Our anger and frustration comes from our Commission's constant violation and absolute defiance to any tax payer who even remotely challenges them. Yet we are unable to get any noticeable help from our County Attorney on this matter. We have read Mrs. Norton's proposed testimony and totally concur with her findings.

It is our contention until the laws governing this matter are enforced to the maximum or new stiffer laws made the public official will continue to violate them, knowing little, if any consequences to their actions. We as a group of 428 tax payers concur with the Wichita Eagle to either totally do away with the open meetings act law or enforce them where consequences have some meaning.

Again I would like to thank you for your time and we would be available to help in this matter if such a request were made.

Please feel free to contact me at (316) 321-7724 if you have any questions.

Sincerely,



Jerry Hicks  
Butler County Tax Alert, Inc.

JH/bah

CHARTER RESOLUTION NO. 93-988

A CHARTER RESOLUTION EXEMPTING BUTLER COUNTY FROM THE PROVISIONS OF K.S.A. 19-209 AND ESTABLISHING TIMES OF MEETINGS OF THE BOARDS OF COUNTY COMMISSIONERS OF BUTLER COUNTY, KANSAS.

WHEREAS, the provisions of K.S.A. 19-209 are not uniformly applicable to all counties within the State of Kansas; and

WHEREAS, the provisions of Article XII, Section 5 of the Constitution of the State of Kansas permit municipalities to exempt themselves from legislative enactments not uniformly applicable; and

WHEREAS, it is deemed advisable by the Board of County Commissioners of Butler County, Kansas to establish times and places of meetings more appropriate for the handling of local matters than those provisions provided for within K.S.A. 19-209;

NOW, THEREFORE, be it resolved by the Board of County Commissioners of Butler County, Kansas as follows:

1. That the Board of Commissioners of Butler County, Kansas shall meet from time to time for the transaction of the business pertaining to their office and in general such meetings shall take place at the County Courthouse commencing at 9:00 a.m. on Tuesdays until adjournment; provided, however, that such meeting day shall be substituted for the last day of the calendar month if the last day of such calendar month falls upon a day other than Tuesday. If the last day of the month falls upon a weekend or legal holiday, the Board shall meet on the last Friday of the month.

2. The general schedule of meetings provided for herein shall be adhered to unless determined impractical by virtue of holidays, attendance at out-of-town meetings and conventions, or

Other circumstances creating conflicts or situations rendering the general schedule of meetings impractical.

3. The Board may meet in special session on the call of the chairman for the transaction of any business, general or special, at the request of two members of the Board.

4. Subsequent to the effective date of this Resolution, the generalized schedule of meetings provided for herein may be altered, amended, or repealed by simple resolution; provided, however, that such future resolution be approved by a two-thirds majority of the Board.

5. This Resolution shall take effect 60 days following its passage and publication once each week for two consecutive weeks in the official county newspaper unless within 60 days of its final publication a petition signed by not less than 10% of the number of electors who voted at the last preceding regular county election shall be filed in the office of the county clerk demanding that such Resolution be submitted to the vote of the electors. In such event, this Resolution shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

ADOPTED this 7<sup>th</sup> day of December, 1993.



BOARD OF COUNTY COMMISSIONERS  
BUTLER COUNTY, KANSAS

Leon White  
Leon White, Chairman

Cindy Ball  
Cindy Ball, Commissioner

Neal Parrish  
Neal Parrish, Commissioner

Ernest Sifford  
Ernest Sifford, County Clerk

RESOLUTION NO. 94-063

A RESOLUTION RE-ESTABLISHING REGULAR MEETING DAYS OF THE BUTLER COUNTY COMMISSION.

NOW, THEREFORE, be it resolved by the Board of County Commissioners of Butler County, Kansas as follows:

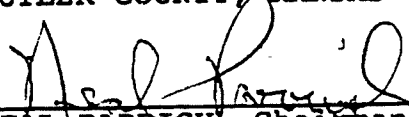
Section 1. That effective November 8, 1994 the Board of Commissioners of Butler County, Kansas shall meet regularly in the courthouse county commission meeting room for the transaction of the business commencing at 1:30 p.m. on Mondays until adjournment and at 9:00 a.m. on Tuesdays until adjournment; provided, however, that the second and last Tuesday meeting of the month shall begin at 8:30 a.m. and shall initially convene in the basement meeting room of the jail judicial building or such other location designated for county staff meetings. The last Tuesday meeting in a month shall be substituted with the last day of the calendar month if the last day of the calendar month falls upon a day other than Tuesday. If the last day of the calendar month falls upon a weekend or legal holiday, the last Tuesday meeting in a month shall be substituted with the last Friday of the month.

Section 2. All actions of the county commission taken on Monday afternoon meetings since November 8, 1994 are hereby ratified.


Section 3. This Resolution shall take effect upon its publication in the official county newspaper and shall amend Section 1 of Butler County Charter Resolution No. 93-988

ADOPTED this 22 day of DEC, 1994.

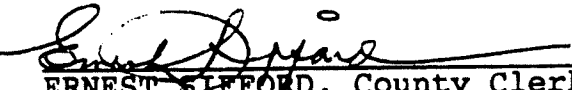
BOARD OF COUNTY COMMISSIONERS  
BUTLER COUNTY, KANSAS

  
NEAL PARRISH, Chairman

  
CINDY BALL, Commissioner

  
LEON WHITE, Commissioner

ATTEST:

  
ERNEST SIFFORD, County Clerk



Mike Ward  
County Attorney  
Phyllis K. Webster  
First Assistant County Attorney



Charles Fuson  
Jan Satterfield  
Assistant County Attorneys  
Richard King  
Special Prosecutor

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**BUTLER COUNTY, KANSAS**  
**OFFICE OF THE COUNTY ATTORNEY**  
214 W. Central  
El Dorado, Kansas 67042  
FAX No. (316) 321-4120  
Phone No. (316) 321-6999

February 6, 1995

Mrs. Sandra Norton  
RR 4, Box 153  
El Dorado, Ks. 67042

RE: Open meetings correspondence with county commissioners

Dear Mrs. Norton:

You had requested copies of any correspondence between myself and the Butler County Commission regarding open meetings compliance. Enclosed herewith please find copies of what I was able to find in this regard, to wit: letters dated May 13, 1993; January 10, 1994; April 19, 1994; May 5, 1994; and May 24, 1994.

I understand that Ms. Nobuko Folmsbee of the Attorney General's office is presently handling your open meetings complaint regarding the Butler County Commissioners. I appreciate the fact that she is handling this matter, because as I told you, I simply would not have had the time to look at it for awhile. I am scheduled to try a first degree murder case beginning February 13 and lasting for several weeks. As soon as that case concludes, I am scheduled to begin another first degree murder trial approximately 3 weeks later. In addition, I am presently writing an appellate brief in a previous first degree murder case which I tried. The transcript of that trial exceeds 1000 pages. Suffice it to say that I will be tied up with these projects until at least the middle of April.

I have spoken with Nobuko to thank her for taking the time to address your open meetings complaint. I am copying her on this letter so that she will have the benefit of having the same information I am providing to you. Please advise if this office can be of further assistance in this matter.

Sandra Norton letter, p. 2

Yours Truly,

A handwritten signature in cursive script that reads "Mike Ward". The letters are fluid and connected, with a prominent loop at the end of the word "Ward".

Mike Ward

Encls:

pc: Nobuko Folmsbee with enclosures



May 13, 1993

Mr. Lee White, General Mgr.  
KSRX Radio  
P.O. Box 550  
El Dorado, Kansas 67042

Re: April 20 County Commission meeting; Open Meetings question

Dear Lee:

By letter of April 30, 1993 you have asked that I determine whether the Board of Butler County Commissioners violated the Open Meetings law on April 20 during an executive session with their attorney, Mr. Norman Manley. You contend that during the April 20 executive session, the commissioners authorized Mr. Manley to send a letter on their behalf to the Terramara board spelling out certain actions they wanted that board to take. You further contend that the effect of the letter was to terminate the county's contract with Terramara. Your concern is that such action by the County Commission constituted "binding action", which as you correctly point out, may not be taken in executive session.

Following my meeting with you on April 30, I discussed this matter with Mr. Manley. He contends that there was no "binding action" taken by the commissioners during the April 20 executive session. Rather, the commissioners discussed what their options were in the event that Terramara decided not to comply with certain agreements previously reached with the County. Mr. Manley was directed by the commissioners to reduce to writing certain decisions which the County Commissioners had earlier made in open sessions regarding the contract with Terramara. The commissioners directed Mr. Manley to send a letter advising Terramara's attorney that the County considered the existing contract to be a valid and enforceable document on which the County intended to rely.

I have taken the time to go back and review the minutes of the County Commission meetings since June of 1992. In doing so, it is

apparent that the commissioners addressed the Terramara contract on a number of occasions in open meeting. On June 8, 1992, the commissioners discussed Terramara contract revisions with Mr. Manley. On September 1, 1992, commissioners reviewed the amended Terramara by-laws with Mr. Manley. On November 24, 1992, commissioners discussed with Mr. Manley the possibility of seeking another provider of services if Terramara failed to amend its by-laws as they had agreed to do.

On January 12, 1993 and again on February 17, 1993, there was discussion regarding the provision of the contract regarding Don Morrill's status as director. On March 2, 1993, commissioners met with the Terramara board to discuss the contract and the makeup of the Terramara board.

It is evident that the commissioners discussed the Terramara contract on a number of occasions in open meeting. As already stated, Mr. Manley explains to me that during the April 20 executive session, the County Commissioners made no new decisions regarding the Terramara contract. They simply discussed their options in the event that Terramara chose not to comply with previously agreed upon contractual provisions. In fact, the minutes of the May 4, 1993 commission meeting show that the commissioners voted in open session that day to notify Terramara that the contract would be terminated in 90 days.

Based on the foregoing, it is my opinion that the Butler County Commissioners did not violate the Open Meetings Act during their April 20 executive session because it does not appear that they took any new "binding actions." However, the point of your letter is well taken. Although the county commissioners have every right to meet in executive session under certain statutorily recognized circumstances, they are not empowered to take "binding action" while in executive session. They can discuss matters and reach a consensus while in executive session, but they cannot bind the entity they represent except by action taken in open public session.

Yours Truly,

Mike Ward, Butler County Attorney

cc: County Commissioners  
Norman Manley

BUTLER COUNTY, KANSAS



OFFICE OF THE COUNTY ATTORNEY

*Jail-Judicial Building*  
El Dorado, Kansas 67042  
FAX No. (316) 321-0969  
Phone No. (316) 321-1210

Mike Ward  
County Attorney

Phyllis K. Webster  
Charles Fuson  
Deputy County Attorneys

January 10, 1994

Butler County Commissioners  
Butler County Counselor  
Township Boards of Butler County  
City Governing Bodies within Butler County  
City Attorneys

In re: **Open Meetings Act compliance**

Dear Commissioners, Council Members, Township Board  
Members, and Attorneys:

Enclosed herewith please find an outline of the Kansas Open Meetings Act recently revised by the Kansas Attorney General's Office. This outline is the document I most frequently refer to when asked questions about the Kansas Open Meetings Act. I am providing it to all of you to serve as a frame of reference to answer your questions.

Should any of the governing bodies have questions about compliance with the Kansas Open Meetings law, they should consult with their own attorney. My job as County Attorney would be to enforce any alleged violations of the Open Meetings Law, should the same occur.

I hope this outline will serve a useful purpose for each of you.

Very truly yours,

MIKE WARD

MW/mm  
Enclosure



Mike Ward  
County Attorney  
Phyllis K. Webster  
First Assistant County Attorney

Charles Fuson  
Jan Satterfield  
Assistant County Attorneys  
Richard King  
Special Prosecutor

**BUTLER COUNTY, KANSAS**  
**OFFICE OF THE COUNTY ATTORNEY**  
214 W. Central  
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Phone No. (316) 321-6999

April 19, 1994

Butler County Commissioners  
Butler County Courthouse  
El Dorado, Kansas 67042

RE: Kansas Open Meetings Law

Dear Commissioners:

As you know, the Kansas Open Meetings law was recently amended to provide that telephone calls between a majority of a quorum of public bodies were "meetings" within the purview of that statute. Therefore, the Open Meetings law would now cover such telephone calls. We have asked that a full text of the new law be sent to us and we will provide you with copies of the same upon its receipt.

In thinking about and reading about the Open Meetings law again recently, it occurred to me that the County Commission may have a problem with the manner in which you gather on Mondays, your "non-meeting" day. The problem is that all three of you are together in a small room separated only by partitions on a day of the week when the public is not invited to be present. It is my understanding that you declare yourselves "not in session" on Mondays.

If at any time on Mondays, any two of you speak with each other concerning county business, such discussion would in my opinion constitute a "meeting" and would therefore violate the Open Meetings law, because such meeting would not be open to the public. You need to be aware of this problem so that you can avoid violating the Open Meetings law.

This letter will also serve to answer a question posed to me by Commission Chairman Parrish concerning the Open Meetings law. Neal asked me how the Sedgwick County Commission was able to get away with having two of its five members meet privately and not be in violation of the Open Meetings law.

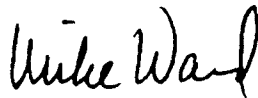
The Sedgwick County Commission is a five-member board. Normally a quorum of a five-member board is three (one-half plus

one the number of members). However, a county commission may by Home Rule powers raise its quorum to a number greater than a majority of its members. *State ex rel. Stephan v. Board of Sedgwick County Commissioners*, 244 Kan. 536 (1989). That is precisely what the Sedgwick County Commission did and the Supreme Court agreed that the Open Meetings law authorized them to do so. I enclose herewith a copy of that opinion for your review.

If, as Sedgwick County did, a five-member county commission raises its quorum requirement to four of five members, then a "majority of a quorum" would be three members and any number less than that would be authorized to meet in private.

I intend this year to take a more active approach in open meeting matters. By that I mean that I will endeavor to answer any questions posed to me about the Open Meetings law. I will also, as time permits, maintain an aggressive stance in the enforcement of the Kansas Open Meetings law. Please let me know if you have any comments or questions.

Sincerely,



Mike Ward

CC: Norman Manley  
Encl: *State ex re. Stephan v. Board of Sedgwick County Commissioners*



Mike Ward  
County Attorney  
Phyllis K. Webster  
First Assistant County Attorney

Charles Fuson  
Jan Satterfield  
Assistant County Attorneys  
Richard King  
Special Prosecutor

**BUTLER COUNTY, KANSAS**  
**OFFICE OF THE COUNTY ATTORNEY**  
214 W. Central  
El Dorado, Kansas 67042  
FAX No. (316) 321-4120  
Phone No. (316) 321-6999

May 5, 1994

Butler County Commissioners  
Butler County Courthouse  
El Dorado, Kansas 67042

RE: Kansas Open Meetings Law; telephone calls

Dear Commissioners:

When I last visited with you, Commissioner Ball posed the following question:

If a staff member calls county commissioners at separate times on the phone (not a conference call) to get their opinion about a particular matter (e.g. replacing a piece of equipment which has broken), does the Open Meetings law come into play and prevent commissioners from discussing the matter?

The answer is no. The Open Meetings law does not prohibit this. A meeting does not even occur unless a majority of a quorum of the body is together at the same time discussing the business of that body. It should be noted that phonecalls are now included within the definition of the term "meeting." Enclosed herewith is a copy of H.B. 2784 by which this amendment was effected. The Governor has signed this bill into law.

Sincerely,

Mike Ward

Encl: H.B. 2784

Mike Ward  
County Attorney  
Phyllis K. Webster  
First Assistant County Attorney



Charles Fuson  
Jan Satterfield  
Assistant County Attorneys  
Richard King  
Special Prosecutor

**BUTLER COUNTY, KANSAS**  
**OFFICE OF THE COUNTY ATTORNEY**  
214 W. Central  
El Dorado, Kansas 67042  
FAX No. (316) 321-4120  
Phone No. (316) 321-6999

May 24, 1994

Butler County Commissioners  
Butler County Courthouse  
El Dorado, Kansas 67042

**RE: Notice Requirements of the Kansas Open Meetings Act**

Dear Commissioners:

You have asked me to provide you with some guidance on how to comply with the notice requirements of KOMA in light of the recent spate of requests for notice pursuant to that statute. With that in mind, I would offer the following:

1. A person must request notice before notice is required to be given to that person.
2. The request for notice should be but does not have to be in writing. You should also respond to and comply with all oral requests for notice.
3. Your secretary should keep a current list of all notice requesters, which list should contain the name, address and phone number of all notice requesters. With this list maintained in the secretary's PC, mass mailings of form letter notices should be fairly simple and not very time consuming. Wordperfect 5.1 has features which make such mass mailings quite simple.
4. Once the list of notice requesters has been compiled, you may separate out (if you wish) those requests for notice which were made by petition. The law allows you to send just one notice to a designated person within the petition.
5. One notice at the start of each calendar year to all notice requesters of the date, time and place of the regularly scheduled meetings for that year will satisfy the notice requirement for those regular meetings. Now that you have received requests for notice from a number of people, I would suggest that you promptly send all notice requesters a schedule of regular meetings for the balance of this calendar year. This should be done as soon as possible.
6. Once this first round of notices goes out, your requirement for notice has been satisfied unless or until you conduct any meetings outside of these regularly scheduled times. Please keep in mind that the definition of "meeting" is quite broad and would

essentially include any discussion by two or more of you of county business. If "meetings" of the Butler County Commission occur outside of the regularly scheduled meetings, you must notify notice requesters of such meetings.

7. Notice may be by telephone or in writing, and should be made far enough in advance of the meeting to reasonably allow the notice requester to attend if they so desire. The KOMA does not require that a notice of meetings be published in a newspaper.
8. No fee for notice may be charged.
9. No agenda for meetings is required. However, if an agenda is made, it should include all topics which are planned for discussion and it should be made available to the public. It does not have to be mailed to notice requesters. It may simply be left for inspection or distribution in a public place, such as the commission meeting room.

KOMA begins with the following language:

"In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the policy of this state that meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public. It is declared to be against the public policy of this state for any such meeting to be adjourned to another time or place in order to subvert the policy of open public meetings as pronounced..." K.S.A. 75-4317(a).

KOMA was enacted to implement that policy. I trust that the foregoing will be helpful to you in determining how to satisfy the notice requirements of KOMA. I stand ready to assist and advise you in the future on how to comply with this statute and its various requirements. As stated to you in an earlier letter, I also stand ready, as time permits, to take an aggressive stance in the enforcement of KOMA.

Yours Truly,



Mike Ward

cc: Norman Manley



**BUTLER COUNTY**  
**BOARD OF COMMISSIONERS**



May 25, 1994

Myrna Byfield  
RR# 3, Box 194  
El Dorado, Ks. 67042

Dear Ms. Byfield,

On Tuesday, May 24, 1994, County Attorney, Mike Ward met with the Butler County Board of Commissioners to discuss notice requirements outlined in the Kansas Open Meetings Act.

Discussion took place concerning the best way to comply with the public's request for meeting notification, agenda items and copies of the minutes of Commission Meetings. Mr. Ward advised that written notice should be sent to all individuals who have asked to be informed of all scheduled Commission Meetings for 1994. I've enclosed Charter Resolution No. 93-988, which addresses meeting days and times. In the event, that a special meeting is called, you will be notified by phone or by mail which ever is more appropriate.

Mr. Ward advised an agenda for meetings was not required. However, if an agenda was made, it may simply be left for inspection or distributed in a public place, such as the commission meeting room. It does not have to be mailed to notice requesters. The list of Commissioners Agenda Items are generally available toward the close of regular business on Monday prior to the meeting on Tuesday. However, the actual type written copy of the agenda is not available for public view until one hour prior to the meeting. This is done to allow for any schedule adjustments, in the event, there are additional items and/or cancellations made by Department Heads, Businessmen and so forth.

Mr. Ward stated concerning minutes, they are to be made available to the public and not required to be mailed. Minutes are normally approved as the first Commission Agenda Item, and can be picked up in the Commission Office anytime after they are approved at no charge.

The Board of Commissioners requested that I inform you of this information. I trust what I've provided will be helpful to you, but if you should have any questions or I can assist with any other concerns, please give me a call at the Commission Office.

Sincerely yours,

*Marcia Goldsmith*

Marcia Goldsmith  
Secretary  
Butler County Commissioners

mg:

Enclosed Charter Resolution No. 93-988

Cindy Ball, 1st District

Neal Parrish, 2nd District

Leon White, 3rd District

921 S. 160th East, Wichita, KS 67230

1716 Fairway Dr., Augusta, Kansas

1928 Jamaica, El Dorado, Kansas

NEW REFRIGERATING E.V.C. (HEAVY WINDOW)

CARPET STEEL SILL OF VAULT DOOR AS REQ'D.

10-20



23'6"

10'5"

27'8"

STORAGE  
Commissioner's  
Office

REMOVE CHAIR RAIL  
& PATCH HOLES

WORK AREA  
Commission Meeting Room

NEW COUNTER  
BY OWNER

OFFICE  
Storage + File Room

EXIST'G.

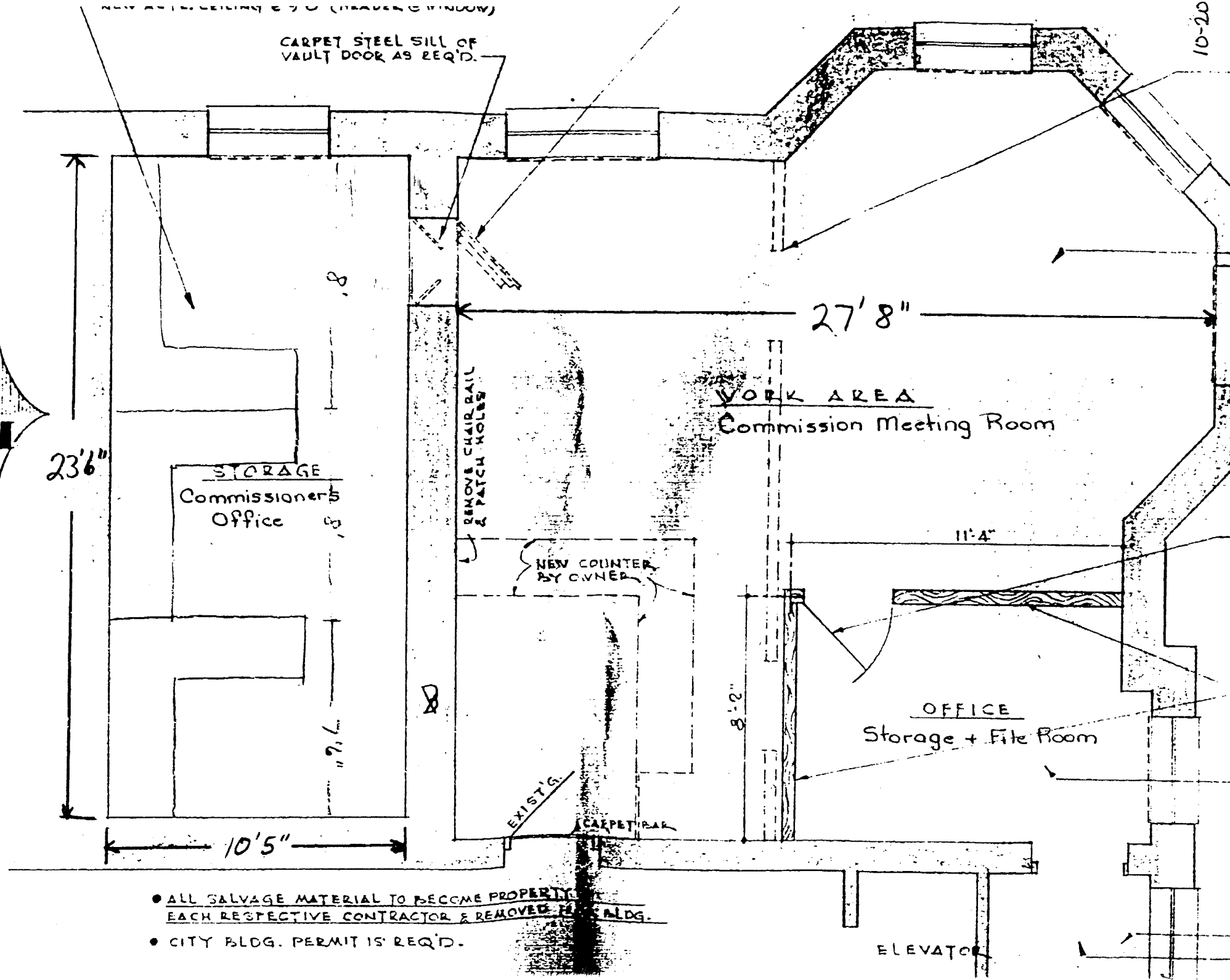
CARPET BAR

8'2"

11'4"

- ALL SALVAGE MATERIAL TO BECOME PROPERTY OF EACH RESPECTIVE CONTRACTOR & REMOVED FROM BLDG.
- CITY BLDG. PERMIT IS REQ'D.

ELEVATOR



Nobuko K. Folmsbee  
Asst. Attorney General  
2nd Floor, Judicial Center  
Topeka, Kansas 66612-1597

December 29, 1994

Mrs Folmsbee.

I have been on the list to be notified of Butler County Commission special meetings since June of 1994. After approving a county policy made November 8th, they have started meeting on Monday's as well as Tuesday's. I was only notified of the meeting held November 21, 1994. I was not notified of meetings held November 28th, December 5th, 12th, or 19th. (Please refer to Resolution #94-063)

They have also been meeting, for approximately two years, at another time and place other than stated in their Charter Resolution No. 93-988, for staff meetings, with a quorum of the commissioners.

As per our past discussions and correspondence, I still feel the refusal of the commissioners to allow inspection of line items for the 1995 budget is a KORA violation.

I am formally lodging a complaint for these violations and asking for the ouster of Butler County Commissioners Leon White, Neal Parrish, and Cindy Ball. I would also request they be suspended from their duties until such time as action can be taken.

Thank You.

*Sandra K. Norton*

Sandra K. Norton  
RR#4, Box 153  
El Dorado, Kansas 67042  
(316) 321-6301



**COPY**

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

January 6, 1995

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
TELECOPIER: 296-6296

Norman Manley  
Butler County Counselor  
116 N. Star St.  
El Dorado, Kansas 67042

RE: Alleged Open Meetings Act Violation by Butler County  
Commissioners

Dear Mr. Manley:

This office is in receipt of a faxed letter written by Mrs. Sandra K. Norton, dated December 29, 1994, concerning the above referenced matter. She states that she has requested to be notified of the county commissioners' meetings, but has not received notice of the meetings held on November 28, December 5, 12, and 19, 1994. We are also in receipt of a faxed letter from Mr. Randy Hughes, KSRX Radio, stating that he did not receive notice of the special meeting on December 27, 1994, although he had requested notification on December 22, 1994.

In order to determine whether there was a violation of the Kansas open meetings act (KOMA), we need further factual information regarding their allegations and your response. I am sure you are aware that the KOMA requires notice to be given to any person requesting such notice, and it is the duty of the presiding officer to furnish the notice. K.S.A. 75-4318.

Please provide sufficient information regarding the allegations of the KOMA violations by the county commissioners. You may provide us statements by each commissioners involved, a copy of a list of individuals who have requested notice, and/or whether the actual notice was given to the complainants.

We appreciate your prompt attention to this matter. If you have further questions, please do not hesitate to contact this office.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL  
ROBERT T. STEPHAN

Nobuko K. Folmsbee  
Assistant Attorney General

NKF:bas  
cc: Sandra Norton  
Randy Hughes

January 9, 1995

Mrs. Nabuko Folmsbee  
Asst. Attorney General  
2nd Floor, Kansas Judicial Center  
Topeka, KS 66612

Dear Mrs. Folmsbee:

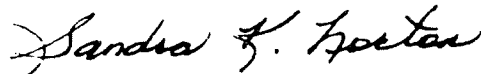
Enclosed please find a copy of a letter written to the Butler County Commissioners by Mr. Mike Ward, County Attorney, dated May 24, 1994.

Mr. Ward not only wrote this letter explaining the KOMA laws, he attended the commission meeting to explain it to them. I was not present at this meeting, but Mrs. Norma Leritz was. She has given me her permission to give you her name, address and telephone number, if you need to contact her.

Mrs. Norma Leritz  
Rt. 5, Box 965  
Augusta, KS 67010  
(316) 775-7055

I hope this information will be of additional help in investigating my complaint. As I told you via our telephone Mr. Ward, said he would be happy to assist you in any way he could locally.

Very Truly Yours,



Mrs. Sandra K. Norton

Mike Ward  
County Attorney  
Phyllis K. Webster  
First Assistant County Attorney



Charles Fuson  
Jan Satterfield  
Assistant County Attorneys  
Richard King  
Special Prosecutor

**BUTLER COUNTY, KANSAS**  
**OFFICE OF THE COUNTY ATTORNEY**  
214 W. Central  
El Dorado, Kansas 67042  
FAX No. (316) 321-4120  
Phone No. (316) 321-6999

May 24, 1994

Butler County Commissioners  
Butler County Courthouse  
El Dorado, Kansas 67042

**RE: Notice Requirements of the Kansas Open Meetings Act**

Dear Commissioners:

You have asked me to provide you with some guidance on how to comply with the notice requirements of KOMA in light of the recent spate of requests for notice pursuant to that statute. With that in mind, I would offer the following:

1. A person must request notice before notice is required to be given to that person.
2. The request for notice should be but does not have to be in writing. You should also respond to and comply with all oral requests for notice.
3. Your secretary should keep a current list of all notice requesters, which list should contain the name, address and phone number of all notice requesters. With this list maintained in the secretary's PC, mass mailings of form letter notices should be fairly simple and not very time consuming. Wordperfect 5.1 has features which make such mass mailings quite simple.
4. Once the list of notice requesters has been compiled, you may separate out (if you wish) those requests for notice which were made by petition. The law allows you to send just one notice to a designated person within the petition.
5. One notice at the start of each calendar year to all notice requesters of the date, time and place of the regularly scheduled meetings for that year will satisfy the notice requirement for those regular meetings. Now that you have received requests for notice from a number of people, I would suggest that you promptly send all notice requesters a schedule of regular meetings for the balance of this calendar year. This should be done as soon as possible.
6. Once this first round of notices goes out, your requirement for notice has been satisfied unless or until you conduct any meetings outside of these regularly scheduled times. Please keep in mind that the definition of "meeting" is quite broad and would

essentially include any discussion by two or more of you of county business. If "meetings" of the Butler County Commission occur outside of the regularly scheduled meetings, you must notify notice requesters of such meetings.

7. Notice may be by telephone or in writing, and should be made far enough in advance of the meeting to reasonably allow the notice requester to attend if they so desire. The KOMA does not require that a notice of meetings be published in a newspaper.
8. No fee for notice may be charged.
9. No agenda for meetings is required. However, if an agenda is made, it should include all topics which are planned for discussion and it should be made available to the public. It does not have to be mailed to notice requesters. It may simply be left for inspection or distribution in a public place, such as the commission meeting room.

KOMA begins with the following language:

"In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the policy of this state that meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public. It is declared to be against the public policy of this state for any such meeting to be adjourned to another time or place in order to subvert the policy of open public meetings as pronounced..." K.S.A. 75-4317(a).

KOMA was enacted to implement that policy. I trust that the foregoing will be helpful to you in determining how to satisfy the notice requirements of KOMA. I stand ready to assist and advise you in the future on how to comply with this statute and its various requirements. As stated to you in an earlier letter, I also stand ready, as time permits, to take an aggressive stance in the enforcement of KOMA.

Yours Truly,

Mike Ward

cc: Norman Manley





**COPY**

State of Kansas

**Office of the Attorney General**

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

**CARLA J. STOVALL**  
ATTORNEY GENERAL

January 31, 1994

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
FAX: 296-6296

Norman Manley  
Butler County Counselor  
116 N. Star St.  
El Dorado, Kansas 67042

RE: Alleged Open Meetings Act Violation by Butler County  
Commissioners

Dear Mr. Manley:

Thank you for your response to our inquiry regarding the above referenced matter. I neglected to ask you to address another issue which was brought up by Mrs. Norton. Mrs. Norton stated that she requested to be notified of the county commissioners' meetings since June of 1994. She states that she has not been notified of staff meetings held on Tuesdays. Although it is called a staff meeting, we were informed that all three county commissioners attend the meetings to discuss county business with the department heads. We understand that the staff meetings are included in resolution no. 94-063. However, an adoption of a resolution which designates the time and place of the meetings will not substitute notice requirements under the KOMA.

I would appreciate your prompt response to our inquiry. Thank you for your cooperation of the matter of mutual concerns. If you have any question on this letter, please do not hesitate to contact this office.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL  
CARLA J. STOVALL

Nobuko K. Folmsbee  
Assistant Attorney General

NKF:bas  
cc: Sandra Norton  
Randy Hughes

HOUSE BILL 2195  
TESTIMONY OF  
MAJOR GENERAL JAMES F. RUEGER  
THE ADJUTANT GENERAL OF KANSAS

9 FEBRUARY 1995

FIRST OF ALL, I SUPPORT OPEN MEETINGS AND  
AGREE THAT THEY ARE THE FOUNDATION OF  
BUILDING TRUST IN OUR GOVERNING BODIES.

HOWEVER, IN THE CASE OF DISASTER EMERGENCIES,  
I FULLY SUPPORT THE INTENT OF THIS BILL TO  
WAIVE THE REQUIREMENT TO GIVE NOTIFICATION OF  
MEETINGS. DURING A DISASTER, A DELAY IN  
DECISION MAKING CAN BE CRITICAL OR EVEN LIFE  
THREATENING. THIS BILL WOULD ALLOW LOCAL  
ELECTED OFFICIALS VALUABLE FLEXIBILITY UNDER  
EMERGENCY CONDITIONS TO CONDUCT  
ADMINISTRATIVE BUSINESS IN ACCORDANCE WITH  
THE DISASTER EMERGENCY PLAN.

House Local Government  
2-9-95  
Attachment 11.

# Kansas Press Association, Inc.

5423 SW 7th Street, Topeka, KS 66606 Phone 913-271-5304, Fax 913-271-7341

Testimony  
before  
House Local Government Committee  
on HB 2195  
Thursday, Feb. 9, 1995

My name is Ann Charles and I am the publisher of the Parsons Sun, serving this year as the Legislative Director for the Kansas Press Association. KPA is the trade association representing the 51 daily newspapers and 210 weekly newspapers in Kansas.

I appear today on behalf of the association in support of House Bill 2195.

As the running of government has become more complex, elected officials have turned to the creation of appointive boards and commissions to assist in the policy-making and administrative duties of government. In some cases, these quasi-public bodies -- financed in whole or in part by public funds -- have been delegated broad governmental powers.

In the daily lives of many Kansans, these quasi-public bodies can have as much impact as the formal weekly meeting of a city commission, county commission or school board. Yet, the law has been unclear on whether the meetings of these subordinate groups is covered by the open meetings act. While the attorney general's office has routinely ruled that such bodies -- if they operate with tax support -- are covered by the open meetings act, some groups still conduct their business in secret.

The amendment proposed in House Bill 2195 would clearly specify that if a group receives, spends or is supported in whole or in part by public funds, then the public must have a right of access to the decision-making process of that group. The Kansas Press Association supports such a public policy and would encourage this committee to favorably recommend this bill.

Also included in this bill is a provision to allow the waiver of the formal notice provisions in the open meetings act during times of emergencies. Confined to the situations outlined in the bill, the Kansas Press Association would not oppose this provision.

House Local Government  
2-9-95  
Attachment 12



**Kansas Association of Broadcasters**

800 SW Jackson #818, Topeka, Kansas 66612-1216

PHONE (913) 235-1307

FAX (913) 233-3052

February 9, 1995

TO: Members of the House Local Government Committee

FROM: Harriet Lange, <sup>HL</sup>President RE: HB 2162 and HB 2195 / Kansas Open Meetings Act (KOMA)

**HB 2162**

The Kansas Association of Broadcasters opposes the enactment of HB 2162 or any proposal that effectively weakens the KOMA.

There is nothing in the KOMA now that prohibits elected officials from attending the same social gathering. The language on page 1, lines 23-25 is unnecessary.

The proposed language on lines 32-37, concerning a majority of a quorum discussing the public's business in secret is a more blatant circumvention of the intent of the KOMA and we urge you not to adopt it.

Further, we feel there is no compelling reason to expand the use of "executive session" to discuss appointments to non-elected boards.

The primary point to be made is the public's business should be discussed and conducted in public. It may be cumbersome, it may be uncomfortable for some public officials, and it may at times be inefficient. That is the price we pay for living in a democracy.

**HB 2195**

The KAB supports the provision in HB 2195 that spells out in statute the public's right to access to the "decision-making process" and that the law should be "liberally construed" to protect and encourage the public's right of access to the decision-making process . . . "

We further agree that "quasi-public" bodies, if discussing and conducting public business, should be subject to the provisions of the KOMA.

We disagree with the provision that would exempt from "notice" requirements, meetings held during a "state of disaster emergency". At these times, above all, public bodies need to communicate with the public through the media. If accuracy in reporting is important during a disaster, it seems to us public bodies would welcome the presence of the media, not discourage it by lack of notification. Making public decisions during an emergency out of view of the public, undermine's the public's trust in their government.

The KAB serves a membership of radio and television stations in Kansas. We appreciate your consideration of our viewpoint.

House Local Government  
2-9-95  
Attachment 13

TO: MEMBERS OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

FROM: RICHARD BAKER  
PAST PRESIDENT, KANSAS ASSOCIATED PRESS BROADCASTERS  
and NEWS DIRECTOR, KKSU RADIO, MANHATTAN

RE: PROPOSED CHANGES IN OPEN MEETINGS LAW,  
HOUSE BILL 2195

Last month the Board of Directors of the Kansas Associated Press Broadcasters was polled concerning House Bill 2195. At that time I felt no real need to oppose the measure. While it does not worry me nearly as much as 2162, I have changed my thoughts and feel a need to express my concern about part of the measure.

The part that is of concern is Section 3, Part (b) (4), which I see no necessity for. During the heavy flooding we experienced a couple of years ago, I do not remember any time when such authority was needed. Most areas have some kind of disaster guidelines set up, and notification, even a limited type of notification, could be part of those guidelines.

One quick point, it is during these disasters that the public most needs information, and to cut that off runs counter to serving the public's needs.

I am sure most in the media would be very happy to sit down before a disaster and come up with some approach that would allow the public agency or body to work easily within the law.

I would question if any effort in that direction has been tried, and if not, I would like to know why not before we change the law.

House Local Government  
2-9-95  
Attachment 14





TO: House Committee on Local Government  
FROM: Mark Tallman, Director of Governmental Relations  
DATE: February 9, 1995  
RE: Testimony on H.B. 2195

Mr. Chairman, Members of the Committee:

We appreciate the opportunity to appear today to express our concerns about H.B. 2195. KASB supports the concept of open meetings for the deliberation of public business. However, what is public business is greatly expanded by the definition of "quasi-public body". The proposed change would include many groups that do not have the authority to make final decisions but make recommendations to the board.

The notice requirement of the district is really expanded by defining "quasi-public body" to include any committee, advisory group or other group created by the board or created by any entity created by the board.

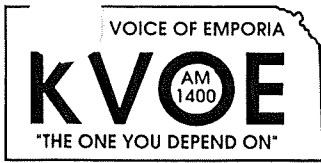
For example:

- a. Meetings of the administrative committee created to allow principals to coordinate activities among the various buildings would be a public meeting.
- b. Notice would be required for staff curriculum committee meetings. A group of teachers that were committee members would not be able to work together to prepare material for a meeting if they constituted a majority of a quorum.
- c. A committee approved by the board to allow staff to recommend a school calendar would be subject to the Act even if no board members were included and no binding action could be made by the group.
- d. A parent advisory group approved by the board to provide information and recommendations to the principal of a single building would require notice to all persons requesting notice for the district.
- e. A committee of teachers created by board policy to allow all math teachers to coordinate the district or building math instruction would be subject to the law and require notice of the meeting.

House Local Government  
2-9-95  
Attachment 15

The purpose of the Open Meetings Act is to allow the public to observe the decision-making process of the governing body. Our policies have long supported the concept that official board action take place in open meetings. Most administrative tasks and efforts of staff and patrons to implement the board decisions are more efficiently completed without public notice and formal meetings as the above examples indicate.

Thank you for your consideration.



Emporia's Radio Stations

*The New  
Country 101.7 FM*



TO: Members of the House Local Government Committee  
FROM: Jeff O'Dell, News Director - KVOE AM & FM, KFFX FM, in Emporia  
RE: Proposed Changes in Kansas Open Meeting Law - House Bill 2195  
DATE: February 9, 1995

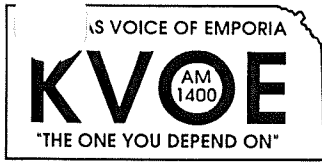
House Bill 2195 has a key line that I feel should be a dominant thought as legislators consider changes in the Kansas Open Meetings Law. To paraphrase, a representative government is dependent on an informed electorate and access to the decision making process of government is the key to having an informed electorate. Much of House Bill 2195 receives my support -- Representative Lawrence's Bill is crafted well. It shows some direction based on real experience. But, I would add some thoughts to page three, lines one through eight. I am concerned about the part of the proposal which would not require notice to media outlets regarding administrative actions in emergency situations. Notice can be given, and action taken -- a perceived lack of time to give notice does not prohibit a public group from opening the meeting and conducting business in an emergency situation, for example in disaster assistance. It gives media outlets the chance to report what's happening -- knowing that a meeting was conducted puts in the position to still collect the information and relay it to the public. Tornadoes have struck Emporia in past years -- flooding has also occurred in disaster proportions. In a situation as serious as

P.O. Box 968 • Emporia, KS 66801 • 316-342-1400 • FAX 316-342-0804

**VALU-BROADCASTING INC.**  
A division of the Valu-Line Companies.

House Local Government  
2-9-95  
Attachment 16





*Emporia's Radio Stations*

*The New  
Country 101.7 FM*



H.B. 2195 Page 2

that, my radio stations go to continuous coverage of what is happening, how the public is affected and how situations are remedied. Most of the time, notification of those situations is begun by simply voicing it to the media groups, because we are already there. Immediate information is key to facilitating the public interacting with a disaster situation. Many times, knowing that action is occurring is just as comforting as the action itself. The public should be part of the decision process -- they need information even more so at that point. If notice is given and media outlets choose not to attend -- that is their choice, and in no way delays the action of the public body or the quasi-public body. In times of mobile telephone technology, very little prevents a group from immediate notification in an emergency.

P.O. Box 968 • Emporia, KS 66801 • 316-342-1400 • FAX 316-342-0804

**VALU-BROADCASTING INC.**

*A division of the Valu-Line Companies.*

16-2