

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Vice-Chairperson Kay O'Connor at 3:30 p.m. on February 10, 2000 in Room 521-S of the State Capitol.

All members were present except: Representative Carlos Mayans, excused
Representative John Toplikar, excused

Committee staff present: Michael Heim, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:

Representative Kent Glasscock
Representative Larry Campbell
J. Bart Budetti, Senior Assistant City Attorney, Overland Park
Larry Engler, Topeka
Toni Brouhard, Topeka
Joan and Robert Sebring, Topeka
Webb Garlinghouse, Founder, Lake Edun, Topeka
David Bitters, Mission Hills
Gloria Rhoads, Eudora
Mike and Susan Jan, Wichita
Pam Bybee, Member, Prairie Haven Nudist Camp, Lee Summit, Missouri
Mike Karstens, Lenexa
Jaun Bauer, American Association for Nude Recreation and Attorney, Midwest
Sunbathing Association, Bloomington, Indiana

Others attending: See Guest List, Attachment 1

The Chair opened the hearing on **HB 2646** (Planning and zoning; amendments of zoning regulations; protest petitions) and welcomed Representative Kent Glasscock, one of the sponsors of the bill.

Representative Glasscock described the effects of the 1995 amendments to K.S.A. 1999 Supp. 12-757 which, in actuality, have taken away property owners' rights to protest zoning changes when developers purchase a large piece of property and effectively makes it impossible for property owners surrounding the proposed rezoning area to get sufficient signatures for a protest petition. He believes **HB 2646** evens the scales state-wide so the interests of everyone involved are treated equally. It retains the 1995 change for cases when cities or counties request rezoning as they are omitted from the protest calculation. (See testimony, Attachment 2.)

Representative Larry Campbell (and Mayor of Olathe), supporting **HB 2646** testified that the bill is a "technical correction" measure with significant implications on the rezoning process in the way the protest area is calculated in a rezoning protest petition. The 1995 amendment may have unintentionally changed the protest area to also include the area being altered. The city of Olathe supports **2646** to restore citizens rights that existed prior to 1995. (See Attachment 3.)

B. Jeff Budetti, of Overland Park, testifying in support of **HB 2646**, stated the bill's basic reason for passage is to make clear that property subject to rezoning should be excluded in the calculation for the protest petition. Mr. Budetti gave scenarios where current law could cause a protest petition to be ruled invalid, or cause it to disappear entirely. He stated the city of Overland Park interprets the law as it was before the 1995 amendments. (See testimony, Attachment 4.)

Robert Fincham, representing the American Institute of Architects, included on the agenda, withdrew from testifying after listening to the testimonies mentioned above.

CONTINUATION SHEET

The Chair stated that Representative Rehorn, a sponsor of the bill, had submitted written testimony in support of the bill (Attachment 5).

There being no others present to testify, the hearing on HB 2646 was closed. The Chair announced no action would be taken on the bill at this time.

The Chair then opened the hearing on SB 2726 (Nudist camps declared a common nuisance) and announced that because of the number of conferees scheduled, each would be limited to three minutes of testimony.

The following conferees testified in support of **HB 2726**, each stating the problems they have encountered as the result of Lake Edun, a naturist association located near their homes in Topeka. Complaints included loud noises and vulgar language over loud speakers from the lake, discarded trash on their properties, and nudists outside the camp's boundaries. A Shawnee County District Court judge ruled in 1999 the Lake is operating in violation of its agriculture-residential zoning; but the decision is on appeal to determine if the grandfather clause in the zoning ordinance applies. Conferees were:

- Larry Engler, see Attachment 6.
- Toni Brouhard, see Attachment 7.
- Joan and Robert Sebring, see Attachment 8.

Some questions were asked of the proponents to determine why the bill was proposed. Mr. Engler answered that efforts to close Lake Edun failed at the county level so the District Court lawsuit was filed. Asked what the proponents wanted from the state, Mr. Engler answered new guidelines for nudism and its associated commercial activities.

Several conferees testified in opposition to the bill, including Webb Garlinghouse who owns and operates the Lake Edun Foundation (a 503(c) non-profit organization) near Topeka. He defended the activities at the Lake and described his reasons for opposing the bill. (See his testimony, Attachment 9.) Other conferees stated their opposition to the bill by briefly describing the activities of the three other Kansas nudist camps they patronize. Those conferees were:

- David Bitters, see Attachment 10.
- Gloria Rhoads, see Attachment 11.
- Mike Jan, see Attachment 12.
- Susan Jan, see Attachment 13.
- Pam Bybee, see Attachment 14.
- Mike Karstens, see Attachment 15.

Juan Bauer, representing the American Association for Nude Recreation and as the Attorney for the Midwest Sunbathing Association (from Bloomington, Indiana) presented testimony in opposition to **HB 2726**, for the reasons listed in Attachment 16. He stated the previous conferees who are in opposition to the bill were "on point." He believes the committee should not get involved in local issues such as zoning, planning, and law enforcement.

Mr. Garlinghouse was asked how many generally participate in Lake Edun's annual three-day summer party. He answered about 150. He said at other times throughout the year, members have access to the Lake for small gatherings or for individual use. Mr. Jan stated the behavior protocol for the nudist camps is established by each camp; the national nudist associations do not set it. Also he noted there are three nude beaches in Kansas at Cheney Lake, El Dorado Lake, and Marion Reservoir.

There being no other conferees to testify, the hearing on HB 2726 was closed.

The committee minutes of January 25, February 1, and February 3, 2000 were approved.

The meeting was adjourned at 5:30 p.m.

The next meeting of the committee is scheduled for February 15, 2000.

**HOUSE COMMITTEE ON LOCAL GOVERNMENT
GUEST LIST
FEBRUARY 10, 2000**

[PLEASE PRINT]

NAME	REPRESENTING
Jim + Sue Jones	Prairie Haven
Terry + Darcel Chesters	Prairie Haven
Doug Bennett	Self
Jandy Jaquet	League of Ks Municipalities
Janet Anderson	Rep Troy Kinley
Erik Sartorius	Johnson Co. Board of Realtors
Judy Gron	Am Inst of Architects
Robert Fenichan	"
Curtis Stan	Rep Ballard
Millicent Martin	Rep. Sue Storm
Alan + Evelyn Anderson	Prairie Haven
Dale Williams	LAKE EORN
Tom Huff	Prairie Haven
Marie Rouse	Prairie Haven
Jaimie Clauson	intern with Cindy Adams

**HOUSE COMMITTEE ON LOCAL GOVERNMENT
GUEST LIST
FEBRUARY 10, 2000**

[PLEASE PRINT]

NAME	REPRESENTING
David Polenberg	Lake Eden
Keeley Kuetala	City of Overland Park
Barz Budetti	City of Overland Park
Majorie Van Buren	self
DAVID BITTERS	NATURIST ACTION COMMITTEE
MIKE + SUSAN JAN	NATURIST ACTION COMMITTEE AIR CAPITAL NATURIST SOCIETY SANDY LANE CLUB
Cecilia Garthwaite	Lake Eden Foundation, Inc
Katrina Hull	University Daily Kansan
Roger Toelkes	Senator Nunsley Office

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STATE REPRESENTATIVE
62nd District
P.O. Box 37
Manhattan, Kansas 66505
(785) 776-5353, Ext. 108

HOUSE OF REPRESENTATIVES

**Testimony
Submitted by
House Majority Leader Kent Glasscock
to the
House Local Government Committee**

Today, I would like to ask for your support of House Bill 2646. For years, Kansas law has protected property owners by giving them the right to protest when a piece of land next to theirs was proposed for rezoning. For decades, the law stated that surrounding property owners could submit a protest petition to force a supermajority vote of the governing body approving the zoning change. Unfortunately, the unintended consequence of a 1995 change in zoning law has put that protection of Kansas property owners at risk.

In 1995, a concern rose about how to protect property owners from unwanted zoning changes requested by the city or county. The legislature's answer was to provide property owners of the actual area to be rezoned, as well as the property owners surrounding the area in question, with the right to protest the change. This took great strides to protect citizens from unsolicited actions by cities or counties.

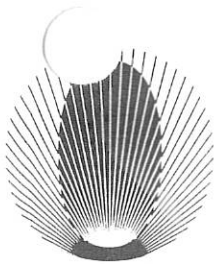
However, in doing so, the legislature inadvertently tipped the scales in favor of developers. It is good public policy to allow the property owner of an area to be rezoned to have protest rights when the local governing body has introduced the proposed change in zoning against their will. But, when a developer has instituted the request for a change in zoning, we are finding that regular citizens surrounding the area in question are being denied protest rights. These are the citizens that Kansas law has always tried to protect.

How does that happen you ask? Already Manhattan and Olathe have real life examples of the situation. In Manhattan last summer, a developer purchased a piece of property so large that it became effectively impossible for the residents surrounding the proposed development to get enough signatures for the protest petition. Current law states that 20% of those who receive notice regarding the proposed rezoning must sign the protest petition for it to be valid. In Manhattan, the developer's property was so large, it constituted more than 80% of the total area in question. In short, there was no way the surrounding property owners could come up with 20% of the signatures. The developer was given a veto vote.

This bill evens out the scales again so the interests of citizens and developers are treated equally.

In the bill, we retain the change made in 1995 for cases when cities or counties request the rezoning. However, when developers make the request for the zoning change, they are omitted from the protest petition calculation. Only the surrounding area gets a vote.

The need for this change is pressing – the loop-hole must be closed before developers all over Kansas use it to side-step opposition to zoning changes. This bill solves the problem by reinstating the protections surrounding property owners have always had when rezoning requests are in a Kansas citizen's backyard. I hope you will support this effort to create a level playing field for property owners, both big and small. Thank you.



City of Olathe

MEMORANDUM

TO: Members of the House Local Government Committee

FROM: Donald R. Seifert, Management Services Director

SUBJECT: **HB 2646**; Zoning Protest Petitions

DATE: February 10, 2000

On behalf of the city of Olathe, thank you for the opportunity to present this statement in support of HB 2646. We would characterize HB 2646 as a “technical correction” measure, but one that has significant implications on the rezoning process. The bill would clarify some confusion that has arisen in the interpretation of K.S.A. 12-757 concerning the calculation of the protest area in a rezoning protest petition.

The right of adjacent landowners to be notified and protest nearby rezoning decisions has existed in Kansas law since the early part of this century. A sufficient protest petition, typically representing 20% of the area within 200 feet of the land being rezoned, triggers the requirement for a supermajority vote of the governing body to approve a rezoning. Historically, the area to be rezoned was not included in the calculation of the 20% area.

The 1991 legislature, in a comprehensive recodification of zoning laws, enacted K.S.A. 12-757, which provided that the protest area would include the owners of record who were required to receive written notice of a proposed rezoning of a specific property. As enacted, the 1991 notice area included property owners within 200 feet of the rezoning.

In 1995, the legislature made further changes to K.S.A. 12-757. Subsection (b) was amended to require that owners of the property to be altered also receive written notice. This amendment was intended to address a specific situation in which a tract was downzoned at a city’s initiative without notice to the individual owners of the property. The legislative history of this amendment indicates the intent was to change the written notice, not the protest petition requirements set forth in subsection (f). However, by extending the written notice requirement to the property to be altered, the legislature may have unintentionally changed the protest area to also include the area being altered.

Recently in several Kansas communities, the 1995 amendment has been interpreted by attorneys for land developers to include the area to be rezoned in the 20% protest area calculation. This interpretation would effectively dilute, and in some cases, totally eliminate the mathematical possibility of a successful protest petition. The city of Olathe

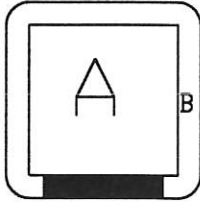
believes this consequence was unintended, and that the legislature should act to correct this interpretation. Protest petitions are relatively rare, but when they occur, cities need clear direction on the proper calculation. The city supports HB 2646 to clarify the petition sufficiency language and restore the full right of citizens to protest rezoning decisions as it existed before the 1995 change.

Thank you for the opportunity to support this bill.

200 Foot Buffer Calculations

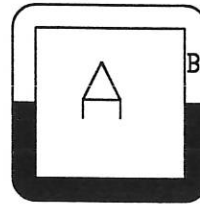
20 Percent Protest Area Comparison

3: A = 40 acres



1,320' x 1,320'
A+B = 67 ac.; B = 40%, A = 60%

3: A = 40 acres



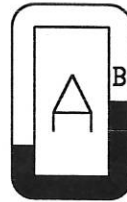
1,320' x 1,320'
A+B = 67 ac.; B = 40%, A = 60%

5: A = 20 acres



660' x 1,320'
A+B = 41 ac.; B = 50%, A = 50%

5: A = 20 acres



660' x 1,320'
A+B = 41 ac.; B = 50%, A = 50%

6: A = 10 acres



660' x 660'
A+B = 25 ac.; B = 60%, A = 40%

6: A = 10 acres

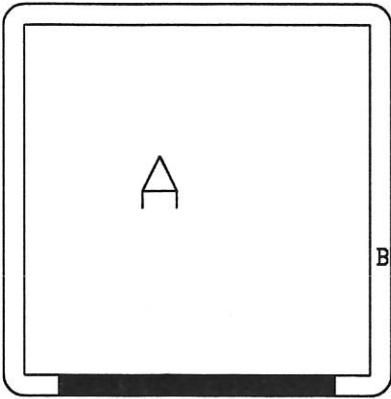


660' x 660'
A+B = 25 ac.; B = 60%, A = 40%

200 Foot Buffer Calculations

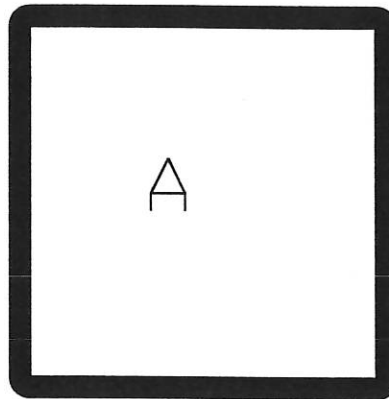
20 Percent Protest Area Comparison

1: A = 258 acres



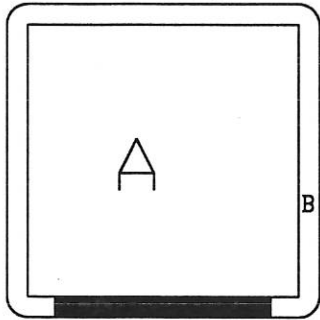
3,355' x 3,355'
A+B = 323 ac.; B = 20%, A = 80%

1: A = 258 acres



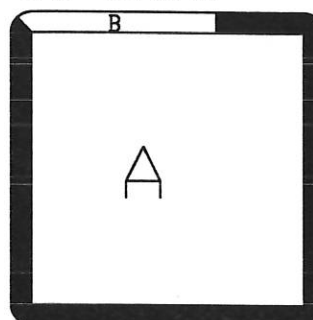
3,355' x 3,355'
A+B = 323 ac.; B = 20%, A = 80%

2: A = 160 acres



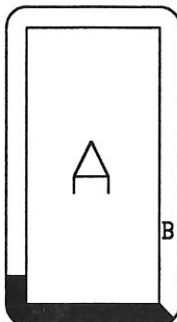
2,640' x 2,640'
A+B = 211 ac.; B = 24%, A = 76%

2: A = 160 acres



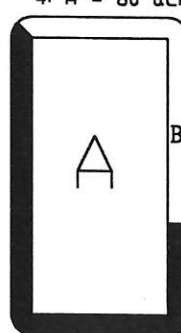
2,640' x 2,640'
A+B = 211 ac.; B = 24%, A = 76%

4: A = 80 acres



1,320' x 2,640'
A+B = 119 ac.; B = 33%, A = 67%

4: A = 80 acres



1,320' x 2,640'
A+B = 119 ac.; B = 33%, A = 67%

TESTIMONY OF J. BART BUDETTI, SENIOR ASSISTANT CITY ATTORNEY,
CITY OF OVERLAND PARK, KANSAS ON HB 2646

Up until 1995 K.S.A. 12-757 provided that written notice of a proposed rezoning was to be given to the owners of record of lands located within 200 feet of the property to be rezoned. That statute also provided that for a protest petition to be valid, it had to be signed by the owners of record of 20% of the total area that was required to be provided a written notice. Obviously, that reference was intended to refer to the area within 200 feet, and all jurisdictions, in determining the validity of a protest petition, calculated the area of the property within 200 feet, minus some exclusions for streets and ways, and then compared that calculation with the area of the property whose owners had signed a protest petition, and if that total was 20% or greater, the petition was valid.

In 1995 the Legislature, in an effort to address a completely different issue, amended 12-757 to specify that the real property within the area that was the subject of the rezoning application also had to be notified of the proposed rezoning. That was a perfectly appropriate amendment clearly intended to ensure that the owner of the property that was the subject of the rezoning application was notified of that proposed action. Unfortunately that amendment failed to distinguish between zoning applications filed by the owner, for which it would seem to serve little purpose to notify them of an action they were taking, and a rezoning application filed by the local government, for which notice should be required. However, that amendment was not perceived as causing any change or disruption to the protest petition process and the method of calculating the validity of a protest petition.

To my knowledge, the current issue of what area to include in calculating the total land area "required to be notified" arose in the City of Manhattan, where an attorney for an applicant set forth the argument that the statute, interpreted literally, required inclusion of the property being rezoned within that total land area. In looking into the issue, I believe my experience was similar to that of the Manhattan City Attorney. I called a number of local government legal officials knowledgeable on the law of protest petition, presented them the argument, asked them to go back and trace the statutory language, and the result was almost uniform:"[expletive deleted], the statute does appear to say that."

A careful review of the legislative history of the 1995 amendment makes it clear beyond question that no mention was ever made of a possible change to the protest petition resulting from the adoption of that amendment. For over 4 years no one ever thought that this was a possibility.

Absent legislative clarification, this problem will, and already has, caused much confusion, possible unfairness and hardship to those who may be adversely affected

by conflicting interpretations of the law, and result in costly and protracted litigation. This situation presents a classic conflict between two bedrock black letter law principles: proper interpretation of a statute should reflect legislative intent on the one hand, but on the other hand you normally don't reach legislative intent unless there is ambiguity in the wording of the statute.

These issues aside, there is one basic reason why the statute needs to be amended to make it clear that the property subject to the rezoning should not be included in calculating the base total area for determining the validity of a protest petition. If you include that property, the effect, dependent on the size of that property, is to weaken and ultimately destroy the right of abutting property owners to file a valid protest petition. Of course, increasing the base total area also increases the area constituting 20% of that total area, thus increasing the percentage of the area within 200 feet of the parcel being rezoned necessary to reach the required level. For example, a 10 acre site being rezoned with dimensions of 660' x 660' would usually have an area within 200 feet of 15 acres. 20% of that 15 acres would be 3 acres, which would, absent the 1995 amendment, be the amount of property whose owners could file a valid protest petition. If you apply the literal terms of the 1995 amendment, and include the 10 acres being rezoned in the total area, that area increases from 15 acres to 25 acres, thus requiring the owners of 5 acres of abutting property to sign a protest petition. The end result is that, if 5 of the 15 acres within 200 feet abutting the property to be rezoned have to sign the petition, we effectively have a 33 1/3% requirement instead of the 20% requirement. This increase until when you approach a parcel the size of 258 acres, the rezoning application filed by the owner of that 258 acre site becomes "bullet-proof" and no valid protest petition can be filed, even if signed by 100% of the property within 200 feet.

I would submit this stands the purpose and intent of the statutory provisions allowing for a protest petition to be filed in a rezoning on its head: assuming the reason for protest petitions in the first place is because of the impact of the rezoning on abutting property within 200 feet, and assuming the larger the size of the property to be rezoned the greater that impact will be, the 1995 amendment, if interpreted literally, provides that the greater the impact the more difficult it is to file a valid protest petition until ultimately, if the project is large enough and has enough adverse impact on that property within 200 feet, the right to file a valid protest petition disappears entirely.

One other point. If a city, in good faith on advice of its attorneys, interprets the statute literally and rules that a protest petition is not valid, that forces the abutting neighbors to summon the resources necessary to file a timely legal challenge or forever suffer the effects if that rezoning ultimately is approved by less than a super-majority of the governing body. Even if the courts in a separate case later rule differently, once the zoning is published and the project built, those neighbors will have no relief available to them. For that reason, the City of

Overland Park will continue to interpret the statute the way it was before the 1995 amendments, and face the risk that a developer will file a legal challenge to such decisions.

Cities should not have to face the dilemma of either being unfair to their residents or subjecting themselves to expensive and time-consuming litigation. Please fix this problem. The City of Overland Park supports adoption of HB 2646. Thank you.

J. Bart Budetti
Senior Assistant City Attorney
City of Overland Park.

RICK REHORN
REPRESENTATIVE, 32ND DISTRICT
WYANDOTTE COUNTY
STATE CAPITOL, ROOM 278-N
TOPEKA, KS 66612-1504
(785) 296-7680

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
BUSINESS, COMMERCE AND LABOR
FEDERAL AND STATE AFFAIRS
JUDICIARY

TO: House Local Government Committee
FROM: Representative Rick Rehorn
RE: HB 2646
DATE: February 10, 2000

As a sponsor of HB 2646, I am requesting the committee pass this legislation favorably.

HB 2646 corrects an unintended and unfair anomaly in the zoning law which prevents our citizens from filing valid protest petitions against private development. While this has yet to affect Wyandotte County, when an article appeared in the KC STAR about this, I received numerous calls from constituents about the unfairness of the current law.

Our local government apparently received numerous calls also. The Unified Government of Wyandotte County/Kansas City, Kansas put this legislation on its "wish list" for this session. While this bill does not directly benefit the local government, it is seen as a fairness issue for citizens effected by potential development.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Rick Rehorn".

Rick Rehorn
Representative, 32nd District

HOUSE LOCAL GOVERNMENT
2-10-00
Attachment 5

Chairperson - Committee Members;

My great grandfather homesteaded in Southwest Shawnee County in or about 1865. All of our families have lived or worked and raised our families in the Topeka area.

Our neighborhood is generally a quiet, peaceful retreat for families, young and not so young. We all maintain decent surroundings taking a certain responsible attitude and pride in preserving peace, beauty and quiet gifts God has given us. Many families have moved to the country to have a safe and enjoyable home life for bringing up their families.

As some of you are aware, the operation of Lake Edun threatens this life style that we respectfully call neighborhood. It is not owner occupied. It is a business enterprise that continues to operate without proper and legal zoning. It attracts an element that may not have any connection with the naturist lifestyle that the members claim; however out of some perverse attraction to the area there have been incidents that have led to unsafe and lewd consequences.

In the past, due to the increased car traffic, the discarded beer and drink containers and other trash have been left in our yards. The loud music, the yelling and screaming has at times continued well into the morning hours making it impossible to sleep. This resulted in calls to local law enforcement officers on a number of occasions. There have been reported occasions of public nudity in the parking lot and on Indian Hills Road. This seems inconsistent with the true naturist code of conduct.

After pleading with the county government for the last four years to enforce the regulation, our community had no choice but to ask the State Legislature to consider laws concerning these matters. We believe when the Secretary of State's office granted a "not for profit" status to the Lake Edun Foundation, the State became involved in this matter. Also Lake Edun has conferred with the State Board of Tax Appeals.

While we as residents respect the freedoms and lifestyle choices of other persons, we feel that our freedom as residents is being diminished day by day.

I would at this time make reference to items from the local newspaper dated November 18, 1999, which states, "Wichita Council moves to ban public nudity". It seems that Air Capital Nature Society is trying to dictate the city ordinances in Wichita concerning the regulation of topless bars that would give law enforcement some guide lines concerning this issue. We, as local residents, believe that if naturists have the freedom to dictate laws, we should have the right to respond and recommend laws concerning the location of nudist camps. (Please refer to attached copy.) Please note that the bill has nothing to do with taking away freedoms or rights of nudists.....it is a simple matter of location of their facilities in populated areas as is this neighborhood, where there are contrasting lifestyles.

I have reviewed an E-mail concerning this bill which states in part "If the people in the vicinity of Lake Edun don't like the facilities, maybe they should consider why.. And perhaps they should also consider who was there first".

In reply to these statements, I believe the first one has been addressed. In regard to "who was there first", I for one have lived in this area all my life on ancestral land owned by my family since 1865. Some residents have lived in the area 30 or more years. Many new young families are moving into the area frequently. (See attached map). Please note that the bill has nothing to do with taking away freedoms or rights of nudists.....it is a simple matter of location

Due to the fact that small problems are gradually escalating, I beseech the committee to seriously consider House Bill 2726 in its entirety to be presented to the legislature. I also plead with you to support wholeheartedly Rep. Hermes as she is doing an excellent job in the 51st District. We are fortunate to have an honest, dedicated representative as she is.

Thank you for your time.

Respectfully,
Larry Engler

Wichita council moves to ban public nudity

NOV 18 - 99 TOPEKA
The Associated Press
CAPITAL JOURNAL

WICHITA — Saying nudity may represent European culture but not Midwestern values, city council members have taken action to put a wrap on public nudity.

By a 5-1 vote, the city council Tuesday night gave initial approval to banning all forms of public nudity. Supporters say the ban is needed to eliminate topless bars and curb sexual activities in public parks.

However, one nudist, wearing a suit, pleaded with the council to reconsider.

Mike Jan, founding member of the Air Capital Nature Society, said the ban "might drastically interfere with our lifestyle as nudists."

The society was founded this year with 20 families, with an additional 20 families in the process of becoming members, Jan said.

He found one supporter in council member George Rogers, who voted against the ban.

Rogers said the ban would allow him to mow his lawn with his shirt off, but prevents his wife from doing the same. He questions the legality of the ordinance.

"We're into a precarious situation

here," Rogers said.

Wichita's ban would prohibit the display of genitals or female breasts in public, with some exceptions. Excluded are theatrical productions, public restrooms and hospitals. Children under 10 also are exempted.

Final approval of the ban is expected next week. The council hopes the ban forces the closure of five topless bars in the city limits.

Council member Joe Pisciotte said while nudity is allowed on some beaches in Europe, the ordinance is an effort to reflect Wichita's values.

The ordinance is crafted to ban nudity not only in parks and on streets, but at businesses where the public is likely to be present, even at clubs that require memberships.

It is the first attempt by the city to rewrite nudity laws since the mid-1990s. City Attorney Gary Rebenstorf said police asked for clarification of city nudity laws following rumors that a topless bar was planned for the Old Town area.

Dan Phillippi, who owns buildings near Old Town, is against further restrictions. He said the new ban would take away the intended use of one of the buildings, which he has spent considerable money renovating.

Outline for Speech

I. Introduction:

- Toni Brouhard; 5036 SW Indian Hills (about 1 mile north of Lake Eden)
- A. A mother of three.
 - B. Wife
 - C. Voter
 - D. I have Five voters in the house. Three are in college as of recently.

II. Reasons why I am against having a nudist resort – lake – commune within five miles of my home.

- A. Safety for my family.
 - 1. Has attracted undesirable people to the neighborhood.
 - 2. Rachael's encounter.
- B. Trash that is left behind in the ditch or on my property.
- C. Noise level
 - 1. The neighbors have called repeatedly to ask for the noise to be turned down or stopped. This was to no avail.
 - 2. This was then reported to the sheriff as a last resort.
- D. Traffic – the residential roads are not made for commercial traffic.
 - 1. Speeders
 - 2. No license plates on vehicles.
- E. The probability that our homes will be harder to sell. This will force some of us to sell for less than we have invested in them.

III. Conclusion: Again I would like to restate, why I have concern for the nudist to have the right to relax and be content. I wonder why they would what to be around a neighborhood? I feel that for all concerned, out in the country and away from the homes of those who have the right to be content at home, should be where they would feel comfortable and so would the neighborhood.

My name is Joan Sebring and Lake Edun is directly across the road from where my husband and I live.

We are for the House Bill #2726 for the following reasons:

At some of the events there is loud music and noise until three or four o'clock in the morning. The music and noise is so bad we cannot fall asleep. The amplified bass is turned up so loudly that we can feel the resounding vibrations.....and this is with the house closed up. We also hear vulgar language over the loud speakers and have called the sheriff several times.

We have seen nude people walking across the dam and in the parking lot. We have eleven grandchildren and do not feel that this is an appropriate activity for them to see.....

We have been sound asleep and awakened at 3 a.m. with what we thought were gunshots. When we looked out, someone was setting off fireworks at the lake. We have been awakened at 2 a.m. to loud laughing and hollering and got up to see what was going on and saw people walking North past our place. The noise goes on on most weekends.

There was one time when two teenaged girls from Lake Edun came to our place to use the phone to call their parents and the sheriff's department because someone stole their money and car keys while they were swimming.

Since Lake Edun has been there, there is more trash up and down our road. Cars turn around in our driveway all the time because they missed the entrance to Lake Edun. Cars also park along the side of the road and many of the cars have out of state license plates. There is a big increase in traffic, since they opened, some are sightseers. When we are driving from our place, often with grandchildren, it is not unusual to be greeted with inappropriate sign language.

One Saturday afternoon we heard an argument going on at the Lake. One man told another "I came out here this weekend to have fun with my girlfriend and if you don't quit bothering us, I am going to get your -----(angry expression indicating some kind of threat), I am going to cut your -----(more inappropriate language)."

At the south gate of Lake Edun there are cars stopping all the time. The activity seems quite suspicious. One person will go behind the solid gate and after a few minutes will come back out and leave. In five to twenty minutes another car will drive up and someone will get out and go behind the gate, come back out and leave. There are times when we have seen people exchanging things. This goes on quite often.

These are just a few of the many unsavory incidents that we have observed.

When we moved to our place in 1967, it was a quiet and peaceful area. There wasn't much traffic and there was not loud noise or commotion going on over at the lake. Since it has been Lake Edun, it has become an unbearable nuisance. We would like to see it go back to the way it used to be.

We do not want to take away the nudists rights. If they want to live that way, that is their right...We just don't want this activity right at our front door.

We were here long before Lake Edun and we would prefer that they continue their activity away from our family residence.

Thank you,

Robert and Joan Sebring

**Testimony before the
Committee on Local Government
House of Representatives
Kansas Legislature**

February 10, 2000

Presented by

Webb Garlinghouse

Good Afternoon, Ladies and Gentlemen. My name is Webb Garlinghouse. I live at 3331 Spring Creek Place in Topeka. I appear before you to testify against House Bill 2726 as a representative of the Lake Edun Foundation, a not-for-profit, 501c3 educational foundation. My wife and I are also the landowners; we lease this property to the Foundation. The Lake Edun Foundation is dedicated to educating the citizens of Kansas and Western Missouri about the beneficial impact living a clothing-free lifestyle can have on the individual, the family, child development, and society. To accomplish this, the Foundation produces an informative newsletter, conducts educational seminars, holds clothing-free activities, and leases a facility where members may experience first hand the benefits of living a clothing-free lifestyle. We are members of the Greater Topeka Chamber of Commerce. We strive to be good corporate citizens and support the communities we serve. We believe it is good and entirely appropriate that the legislature is considering this bill at this point in our history.

Seventeen years ago, a Gallup poll found that about 172 million Americans "believe that people who enjoy nude sunbathing should be able to do so without interference from officials as long as they do so at a beach that is accepted for that purpose." That was 71.6% of the population. Just seven years later, in 1990, that had grown to 74%. In 1985, a Roper poll found that about one in six Americans had personally gone skinny-dipping or nude sunbathing in a mixed group of men and women. If the people in this room are average, that means about ____ of you have enjoyed this activity at some time in your life. However, since I believe the educational level of the people in this room is better than average, I would expect that more than ____ of you have done so.

Because of its nature, Naturism seems to attract a lot of misunderstanding and assumptions that are not accurate and cannot be supported. I believe the best way to counter such misinformation is with good, factual information. This proposed legislation affects every Naturist facility in Kansas. However, its sweeping language might also impact most swimming pools, locker rooms at health clubs, dating activities in our fine colleges and universities, and will interfere with the ability of families to raise their children in the healthiest manner known to researchers. However, it seems to be principally targeted at our facility near Topeka, Lake Edun.

Residents of Eastern Kansas have been able to enjoy clothing-free recreation at Lake Edun since 1983. About 3-4 years ago, evidently as a result of an article in *Pitch Weekly*, a few of the families that live within a mile of the lake decided to do something. They have written letters to Safe Streets, the sheriff, the zoning administrator, the county counselor, the county commissioners, and others in an attempt to alter the lake's use. Now, they have successfully gotten a bill introduced that is before your committee. It imposes draconian punishments on offenders.

In the past, these neighbors have alleged the presence of Lake Edun impacts property values in the area and makes it more difficult to sell their property. In fact, there were about eight houses within ½ mile of Lake Edun when it became a Naturist site. Today, there are 19 houses, a 237%

increase. Most of those new homes have been built in the last 4 years, after all the publicity. And, more homes are being built. A new development is going on just to the south of Lake Edun with four acre lots selling for \$29,000 to \$35,000. From personal observation, I have noticed when a home goes on the market, it seems to sell quickly. I talked with a realtor friend who said he has sold lots in the area; that he has disclosed the presence of Lake Edun to the prospective buyer; and they were not concerned. He does not believe Lake Edun impacts property values in the area.

Our rules at Lake Edun are simple: Everyone must register upon arrival; they must enjoy the area in the same state as when their Creator brought them into this world; and they must act responsibly and with consideration of others. A few years ago, during a routine check of the land on a sunny afternoon, I found a neighbor swimming in the lake with another person, not the spouse. When confronted, they admitted they had not signed in. They did so and left. Interestingly, this same neighbor has sent letters and signed petitions to close us down. Hopefully, this sounds inconsistent to you; it certainly does to me.

Another neighbor, who lives over ½ mile from Lake Edun and over a hill, seeks to have this legislature declare all naturist facilities throughout our state a “common nuisance.” This neighbor, and, perhaps others, are upset because something has changed; it’s not like it was in the good old days. I agree, something has changed and it’s not like it was in the good old days. But, before we go off with wild, half-baked, and ill-considered “solutions,” let’s be sure we understand what has changed.

Prior to its present use, the land that is Lake Edun was leased to a hunting club whose members, I was told, came out and whooped it up. I heard stories from neighbors about their late night parties and reckless use of guns. One farmer told me he once heard a bullet whistle past his head while he was on his tractor. Admittedly, our use, peacefully lying in the sun, swimming, fishing, and caring for a crop of trees, represents a change.

The nude body has always been considered the best form for art. Can you imagine Michelangelo’s David with clothes on; or the Louvre without any nudes? If the nude body is OK for art, why is it not OK for every day? Something has changed.

But, it’s not like it used to be, some lament. Paintings by American Artists: Norman Rockwell, Rockwell Kent, Andrew Wyeth, Thomas Eakins, John Sloane, and Grant Wood depict skinny dipping and outdoor nudity. Athletes performed nude in the original Olympics. Plato just presumed his Guardians would live a co-ed, communal, and nude lifestyle. Benjamin Franklin took daily “air baths.” Thoreau was a frequent skinny dipper. Alexander Graham Bell was a skinny dipper and nude sunbather. George Bernard Shaw, Walt Whitman, Eugene O’Neill, and painter Thomas Eakins argued in favor of social nudity. President John Quincy Adams used to take an early morning nude swim in the Potomac and gave the very first presidential press conference while nude. Theodore Roosevelt frequently swam nude in Rock Creek Park, sometimes with foreign diplomats. LBJ sometimes swam nude with guests in the White House pool, including Barry Goldwater and Billy Graham. Yes, today’s opposition to nude recreation is clearly not like it used to be. Something has changed.

Well, maybe. But, it’s not moral. What would Christ say? Good question. Morals are difficult to define and change with time and between cultures. It is not uncommon for good people to have widely different moral values. Ladies, please think, for a moment, what you would do if you were surprised in your bath. Now, listen to this paragraph written more than 70 years ago:

“It is instructive . . . to consider the results of surprising a modest woman in her bath in various countries: a Mohammedan woman would cover her face; a Laos woman would cover her breasts; a Chinese would hide her feet; in Sumatra and the Celebes hands would at once endeavor to conceal the knee; in Samoa it would be the navel; in Alaska the woman would make all haste to replace the ornamental plug which she wears in her lip.”

I am fairly confident each woman here anticipated her reaction would be different. We would not want these women to judge our reaction to this surprise as immodest. Likewise, it would be arrogant for us to judge these women as immodest because they do not have the same reaction as we. Moral values and moral behavior when it comes to nudity can be very subjective.

Religious attitudes toward nudity, however, are clear. We come into this world naked. If I do not stand naked before my Creator after I die, I'm not sure what I will wear. Nudity has often been used in the Christian tradition as symbolic of renouncing the world to follow Christ. Jewish prophets were commonly naked – so commonly that when Saul stripped off his clothes and prophesied, no one considered his nakedness remarkable. Everyone assumed he must be a prophet also. The Bible records that God directly commanded Isaiah to loose the sackcloth from his hips, and he went naked and barefoot for three years. The prophet Micah may have done the same thing. Under this proposed law, we can be certain none of these prophets would ever visit Kansas.

Pope John Paul II agrees that nudity, in and of itself, is not sinful. He writes, “The human body in itself always has its own inalienable human dignity.” Ilsley Boon was the head of AANR, the largest association for nude recreation for a long time in the 20's and 30's. He was also a Baptist minister. A Catholic Priest has contributed articles to *Nude and Natural*, the publication of The Naturist Society.

Other religions also practice nudism. Tribal Hindus held an annual nude worship service attracting 100,000 in Chandragutti, India until 1987, when it was stopped by police. This was done in reaction to violence which had erupted the prior year when social workers tried to force clothing on the participants. Clearly, Christ or any other responsible religious leader concerned about the soul of his or her followers does not care how that soul is clad. If any religious leader suggests otherwise today, that would be a change.

Ok, maybe for adults. But, I am concerned about my family and children. Ah, children. The current political hot button. Anything can be done if it helps children; anything can be opposed if people believe it hurts children. And I am certainly interested in providing a positive environment for children. If you are a parent, consider this: Suppose I produced convincing research that shows if you stand on your head for 15 minutes every morning, your children will grow up to be better adjusted, more accepting of others, smarter, and have a healthier self-concept. What responsible parent would not be willing to spend 15 minutes every morning standing on their head?

Now, suppose I produce convincing, credible research that shows there is an inexpensive way to help children be more self-confident, more self-accepting, and more sexually well adjusted than average; to feel better about their bodies and more comfortable with their sexuality; for boys to develop into men more affectionate with all family members. What responsible parent or legislator would not want these results for their children or the children of Kansas? I am delighted to report there is a substantial body of evidence that shows these are the results you can expect for children raised in a clothing-free setting.

As a bonus, sociologists testing children of several nations found those thinking at the higher levels of moral development are more accepting of nudity. Perhaps most convincing, parents fortunate enough to have grown up in Naturist families themselves see such benefits that they overwhelmingly choose to raise their own children in the same, wholesome way. Aren't these outcomes we all want for all our children?

Research shows countries with fewer reservations about nudity (and sexuality in general) also have lower teen pregnancy and lower abortion rates. Social nudism in general and the Lake Edun Foundation in particular are strong supporters of family values.

Research funded by AANR reveals that nearly 50% of all Americans either have visited a clothing-free recreational facility or would be likely to do so.

Times do change, and so must we. But, we should change for the better and in a way that brings improvement. In the 20's, men were arrested on the beaches of New Jersey because they swam without a top to their bathing suit. Morals at the time determined society did not want to see their hairy chest. Times have changed. Today, some women (and men) wear the skimpiest swim suits leaving very little (except titillation) to the imagination. Is there really a difference between these suits and a birthday suit? Times have change. I am told men were required to swim naked at the YMCA here in Topeka until about 1962. This practice was common at Y's, health clubs, Scout camps, colleges, and high schools across the country until the 70's. Times have changed. In high school and college, I always had to take a shower after gym class; now some schools (including Topeka High) no longer require showers after gym. Times have changed. No, Naturism is not new; it is societal reaction to Naturism that has changed. And, if it is true that Naturism promotes mental and physical health as well as strong family values as has been documented by the academic research, I do not believe we should change it on the basis of fear mongering.

Naturism is about body acceptance. Our bodies change over time; Naturists accept this. We are part of our environment; Naturists like this. Not everyone has a perfect body; Naturists realize this.

For the women present, the reporter from *Pitch Weekly* opened my eyes to a new perspective in her article.

“Women who participate in nude recreation experience a freedom from anxiety and shame. Body acceptance seems to flow naturally from the nudist experience.

[she quotes a source] “The more I've talked to women, I've found that they have received such love and acceptance, it really raised their self-esteem. At a (Naturist) gathering women are treated with such respect. It is really a beautiful thing.”

[She found these] “observations held true at the Return to Edun gathering. Women were spoken to, and spoken about, with respect. When you talked to a man, you could expect him to look you in the face, not the chest. The off-color jokes and innuendoes which make women uncomfortable were thankfully absent. Also absent was the competition between women for the men's attention. There was no artful posing or provocative glances. The women seemed to regard each other as companions, not comparisons.”

Skinny dipping or nude sun bathing is really no different than playing a game of golf and it is probably healthier. Naturism promotes family togetherness and a healthy outlook. Since it can co-exist with agricultural uses, it does not take acres of good farm land out of production. It should be no more controversial than a golf game. Activities at Lake Edun are not particularly different

than would be found at any country club. While I accept not everyone wants to go skinny dipping; I expect others to realize I do not wish to play golf. I do not object when others play golf; I do not expect them to object when I go to Lake Edun. It's a matter of choice.

For all the lip service we, as a nation, give to the benefits of diversity, we have a miserable record when it comes to accepting people with ideas different from our own. In the earliest days, settlers in Massachusetts burned those who were different at the stake. Blacks have long been a target . . . because they are different. We are reminded by the news about the terrible race riots in Tulsa 80 years ago. During the Second World War, Americans of Japanese descent were sent to our own concentration camps because they were different, while Americans of German descent were sent to the front lines. For all our high words, if another person is different or we don't understand them, we treat them badly.

In the last decade, society has tried to educate our youth and ourselves about the value of diversity. But, we have problems even with this. According to one person prominent in the diversity education program in the Topeka area, "diversity" is narrowly defined to include only race, religion, national origin, and sexual orientation. It's a shame our diverse society has difficulty embracing people with different hobbies, different philosophies, and different values. Acceptance of people who are different begins with our leaders; it begins here, in the houses of our legislature. If we attempt to criminalize an entire class of people simply because they hold values different from most, we begin down a slippery descent toward a tyranny of the majority.

The Department of Parks and Recreation has wonderful facilities that provide enrichment, enjoyment and relaxation for all segments of Kansas citizens . . . Except Naturists. If the Kansas Legislature were really interested in limiting the number of private Naturist facilities in the state, they would direct the Department Parks and Recreation to designate appropriate portions of our state parks as clothing optional. This would send a message to the world that we welcome the diverse interests of our citizens and seek to accommodate them.

Now you have some good, factual information about clothing-free recreation. If others are scandalized by the concept, we must be responsible and ask them what specific research they have access to that demonstrates any of our activities are bad for anyone. We have cited credible research, done with scientific controls showing it is clearly beneficial.

Good Afternoon Ladies and Gentlemen of the Committee on Local Government. Thank you for giving me this opportunity to express my views on House Bill 2726.

My name is David Bitters. I live at 6427 Sagamore Rd. in Mission Hills, KS.

I am a member of the faculty of the U.S. Army Command and General Staff College and the College's statistician. I have taught mathematics, statistics, operations research and decision analysis as an adjunct professor at several universities in the Kansas City area, as well as at the U.S. Naval Postgraduate School in Monterey, California.

I am also the Kansas City area representative for the Naturist Action Committee, a national nude recreation and body acceptance advocacy organization.

In my travels around the country I have visited over two dozen public-lands nude beaches, a dozen proprietary or co-operative nudist parks and several other venues at which nude recreation is not the main focus, but which bill themselves as "clothing-optional." Last May I participated, *in the nude*, in San Francisco's famous Bay to Breakers 12K run - among 150,000 or so of my friends. So I'm no stranger to nude recreation.

I'm also a keen student of the phenomenon of social and recreational nudity. I've discovered that an understanding of our culture's nudity taboo provides powerful insights into many of its quirks and contradictions. If one accepts the scientific evidence on evolution as in any way accurate, one must acknowledge that as a species, *homo sapiens* has lived in the nude for the vast majority of its existence. In fact, as recently as the time of Columbus's landing in the West Indies the majority of the native peoples of the Americas were nude.

If this be the case, it is very much in the public interest to re-think the implicit premise of House Bill 2726 that the nude human form is somehow obscene or shameful.

I believe that social nude recreation can provide a bridge between the two opposing factions in our great national "culture war." The adult entertainment venues that at once fascinate and repulse some social conservatives trade on the curiosity that the nudity taboo engenders.

Perhaps each of you knows someone who suffers an eating disorder or some other phobia because they believe that in some way they don't "measure up."

These are examples of problems that involve what we Naturists call *Body Acceptance*.

On visiting a nudist park or a nude beach, people (particularly women) quickly discover that the shape of their bodies just isn't an issue. Very quickly their body acceptance problems just *go away*. Thus, nude recreation venues, rather than being public nuisances (as House Bill 2726 alleges) are in fact *public treasures*. The therapeutic effects of nude recreation venues are well documented in the literature.

For a variety of important cultural, public policy and individual liberty reasons, we Naturists take the position that *government has no business setting dress codes. Period.*

In the early 1990s I tried to interest the Kansas Department of Wildlife and Parks in converting the swimming beach at Clinton State Park to clothing-optional status. The bathhouse was in disrepair and the beach was poorly attended. Moreover the beach, set at a distance and down a hill from the parking lot, would have made an ideal nude recreation venue.

Based on research done by parks and recreation specialist Prof. George Harker on McGregor Park, a county park near Austin, Texas, I estimated that this beach would generate \$50,000-\$100,000 per year of additional revenue for the State – *at no cost and with no increase in taxes or user fees*, as a clothing-optional beach. Shirley Mason, the woman largely responsible for the success of Miami Beach's famous clothing-optional Haulover Beach, found my figures conservative. McGregor Park generates about \$500,000 a year for Travis County and largely supports the other 18 county parks.

My quest to free the Clinton Park beach, however, was a bit like trying to push over a brick wall.

Meanwhile, Webb Garlinghouse and his wife opened their private property south of Topeka to nude recreation use, available to all who were willing to behave themselves and follow his rules.

I have served as an informal consultant to Webb's Lake Edun from time to time for the past five years or so. I have always advised Webb to be absolutely open and honest and to maintain the highest possible standards. And he always has done so. He aims to provide a comfortable, non-threatening environment in which men and women, young and old, fat and thin, couples and singles can enjoy wholesome family-oriented nude recreation without fear of harassment. It absolutely baffles me that the State would seek to declare such a venue a public nuisance.

Social nude recreation is one of the fastest-growing segments of the recreation and tourism industry. The last I heard, Kansas ranks 50th in the nation in tourism. Instead of trying to run Lake Edun out of business, we should be promoting it as a vacation destination that's among the best Kansas has to offer.

Philosopher George Santayana famously reminded us that "those who do not remember the past are condemned to repeat it." So I'd like to take you back to California, April 9, 1945. On that day the General Assembly heard testimony on Bill No. 344, "An Act To Prohibit Nudism in California," also known as the Dills Bill. Herbert Webb, a member of Olympic Fields Nudist Park (later Camp McConville and now Mystic Oaks) documented this in his short book *Eden Regained*. Here's an excerpt from his testimony:

"Now I have told you why I believe in nudism. What is the other side of the picture? What are the objections to it? Well, there is poison oak. And there is the unpleasantness of putting on clothes again after having been without them. Apart from that I have yet to hear any objection that is not based on ignorance, prejudice and/or misinformation.

"TO PASS THIS BILL WOULD BE SENSELESS! It would do no good. But it would do harm to us who have found so much that is good in nudism, - real solid good, showing clearly in improved nerve tone, healthy tanned skin, and more than average immunity from colds.

"Where else can one get this combination, and that complete relaxation and sense of release, which comes with the absence of clothes, and which all nudists claim they experience.

"If we were trying to force ourselves on other people there might be some reason for the bill. BUT ALL THE PUBLICITY HAS COME FROM THOSE WHO ARE ATTACKING US. We retire out of sight, far away in the woods, where we can be seen only if we are sought out, and then only by trespassers."

The Dills Bill was defeated by a committee vote of 7 opposed, 2 abstaining.

It was my pleasure to spend a weekend at Herb Webb's beloved Camp McConville in July 1992. I had the distinct feeling that I'd stepped back in time about 60 years, to a simpler, more innocent time. And Lake Edun offers this same sense of innocence and simplicity. Indeed, Herb Webb's testimony of 55 years ago might well have been written in defense of Lake Edun.

Writing in the July 17, 1988 San Francisco Examiner, columnist Burr Snider did a fine job of describing why some of us are willing to take time off from our jobs to defend nude recreation as an activity with real social utility:

"And for your Uncle Burr the real nude-beach wonders aren't the young, hubris-ridden gods and goddesses with the flawless hardbodies and the cocoa-butter ultratans. As terrific as it is watching beautiful naked people flipping Frisbees or frolicking in the waves, it's those less-than-perfect folks whose egos transcend fleshly matters and who can bare themselves unself-consciously, warts and wattles, sags and cellulite and all, who make nude beaches such a joy.

"Like the old people you sometimes see naked on a beach, wrinkles-be-damned - those great, wonderful free birds who fly their own route and gulp deeply of the fount of life and who will probably never end up pushing a walker to the Safeway for an afternoon's torturous exercise."

This, ladies and gentlemen, is what you will eliminate if you vote for House Bill 2726. The world already knows that this bill is pending. At the cusp of the millennium, nude recreation is on the ascendance in civilized countries around the globe. You can bring Kansas along with them into the 21st century. Or, you can move Kansas back into the 19th century. The choice is yours; I urge you to make the right one.

My immediate loved ones and I are nudists, even though we may not “look” like nudists. There are tens of thousands of others just like us – in the World, the U.S. and Kansas.

We are everyday people from all walks of life who vote, pay taxes, support economy and bring good to communities.

I grew up in Olathe, work in Overland Park and live in Eudora (near Lawrence).

When I enter the gate to my own Club, there’s an instant sense of relief & freedom from stress and also from the constraints and restrictions that clothing place upon one.

As an Administrative Executive, I am forced to work in a textile world but prefer to live in a nudist world. I certainly take nudist vacations.

There are many misconceptions about nudism. It is not about sex. As I’ve traveled and visited nudist resorts & establishments throughout the country, I take great comfort - as a woman - in knowing that misconduct is never tolerated and, if found, is dealt with harshly.

I have been a member of a sizable nudist community 7 years – Prairie Haven, near Scranton, KS. My family and I are close, decent, church-going people. We feel there’s no conflict or inconsistency between our nudist lifestyle and our strong faith.

Nudity is a great equalizer because there’s:

no Rank no Status no one is Perfect

Nudism:

- Promotes the highest positive attitude about oneself and increases self-esteem
- Allows us to shed hypocritical trappings of clothing & just be ourselves
- Rejuvenates the body and spirit
- Calls us to take other people for what they are instead of how they dress or what they do.

Nudists have always embraced the philosophy of “Live and Let Live.”

They are the most kind, understanding union of people you’d hope to meet.

If you tried it sometime, you’d probably enjoy it! (And we invite you to be a part!)

Nudists are now being singled out and treated as criminals and punished state-wide instead of the responsible parties resolving a local issue within a local community. We should not be subject to a small group of individuals on a local level with axes to grind over a zoning issue.

I feel this bill is an affront to my rights as a Kansas citizen -- specifically, to my right to privacy. For this bill to single out a specific group of people and deem what we do privately as illegal -- simply because it may be a different or misunderstood lifestyle to some -- should be unacceptable to this Committee.

Thank you for your time.

Gloria J. Rhoads
1229 Spruce Street
Eudora, KS 66025

**Testimony of Mike Jan, Naturist Action Committee Area Representative
for the State of Kansas, to the Committee of Local Government
On Thursday, February 10, 2000**

Good Afternoon Ladies and Gentlemen of the Committee on Local Government. Thank you for giving me this opportunity to speak before you about House Bill 2726.

My name is Mike Jan. I live at 2804 South Emporia in Wichita, KS.

I am a design engineer for The Boeing Company in Wichita. I have also worked at Gulfstream Aerospace designing the actual shape of the aircraft manufactured there and for NASA designing experiments used on the space shuttle.

I am the Area Representative of Naturist Action Committee, the volunteer political action arm of The Naturist Society, for the State of Kansas except for Mr. Bitters' region in the Kansas City area. The Naturist Society represents naturists across the United States who use public lands, clubs, resorts, beaches and parks in a responsible clothing optional or nude manner.

I am also the Executive Director of the Air Capital Naturist Society based out of Wichita whose membership includes a mix of professions, incomes, social status, religions, political affiliations, and personalities. All of these people have come together for a simple purpose. To socialize and enjoy each other's company in a nude non-sexual family atmosphere where everyone is truly equal. This is true for all other naturist or nudist groups within the State of Kansas. Such as Sandy Lane Club located outside of Hutchinson and for whom I am the authorized agent in this matter and a member.

I come before you to ask this Committee not to recommend House Bill 2726 for further action for various reasons. The most obvious reason is that this bill boils down to the State being forced to take sides in a local conflict between Webb Garlinghouse and one of his neighbors. It is patently unfair to nudists and naturists elsewhere in Kansas to bring the police powers of the state against them because of a local dispute. Especially one in which Mr. and Mrs. Garlinghouse are well within their rights.

House Bill 2726 calls nudist camps, clubs or buildings common nuisances. The Merriam-Webster dictionary tells us a nuisance is something that harms or injures in some way. I have yet to see anything but positive benefits coming from the association of families and nudist clubs. The second definition from Merriam-Webster says that a nuisance is something or someone that is annoying, unpleasant, or obnoxious. This tells me if something is a nuisance; it is because it is somebody's opinion and not necessarily based on facts or the truth. Being legislators, you know everyone has an opinion on something. So why destroy people's lives, liberties and their pursuit of happiness, not to mention their rights, based on one person's opinion?

This bill, if it becomes law, could close down naturist groups across the state and unfairly have all their property seized at the whim of the local District Attorney. This could even include a private home of a family entertaining a nude social event with friends and other families. This could also include an apartment complex that allows unmarried couples to rent there. Since these unmarried couples would see each other nude, by using the language of this bill, the apartment owners must either evict them or lose the property. The same holds true with motel and hotel operators and owners.

In Section 1, paragraph (2) subsection (b) it states *"The provisions of this section shall apply to any nuisance described in subsection (a), which is located within five miles of any property zoned for residential use."* When nudist clubs begin, they are normally quite a distance away from any town or city. As time goes by and the town or city grows, they grow to where the nudist club property is, not the other way around. This tells me that someone wants this type of property to develop because the surrounding area is also growing. Common sense would ask doesn't it mean anything that the nudist club was first there long before the encroachment of the city? Sandy Lane Club, for example, has been around since 1957. On the other hand, what if the nudist club itself had a residential area as many do around the country and maybe in the near future some in Kansas. Would this mean they would have to shut themselves down for violating the "5 mile rule?" Why take that choice away from families for living where they want?

Overall, House Bill 2726 looks at the nudist club in an entirely unjust light. Many communities and states have embraced nudist clubs. Many are on the Chambers of Commerce, many are asked to sponsor different events at various festivals. One club was even asked by the mayor of the community they are near to have a float in a city parade. We at Air Capital Naturist Society are planning to co-sponsor a Wichita River Festival event or activity. Sandy Lane Club has held clothing drives and food drives for the Hutchinson area. Heartland Naturists hold teddy bear drives to support the efforts of local law enforcement dealing with children caught in the middle of domestic disputes. Moreover, let us not forget tourism. Nudists have paid out over one billion dollars a year in travel alone. Even Carnival Cruises have a nude cruise now. So how can a simple nudist club be a nuisance?

Section 1, Paragraph (2), subsection (b) calls for a fine up to \$25,000 and imprisonment for not more than one year or both. Sounds like something you would give somebody that has caused actual bodily harm to another person. Not a family having a social event in the nude that benefits everyone in attendance! Where's the common sense in that?

Section 1, Paragraph (2), subsection (f), exemption (1), states that the provisions of this section shall not apply to: *"The exposure of the genitals for medical or surgical treatment or to determine the need for medical or surgical treatment . . . continuing on through to . . . or by a person under the direction of such nurse or person licensed to practice medicine and surgery."* Does this mean that unless a person holds some type of medical license a volunteer helping the elderly cannot give them a bath? Dress them in clean clothes? Assist them in the bathroom? How many people will thank you for that portion of this bill if passed into law? Now they cannot take care of Grandma because they would be in violation of Section 1, Paragraph (2), subsection (f), exemption (2), that states the provisions of this section shall not apply to *"persons married to each other."*

By introducing bills like House Bill 2726, you are attacking an old and well-established lifestyle. A way of life that has been undeniably proven beneficial to any one who has taken the time to actually experience it. It would be interesting to find out who has gone skinny-dipping in this room sometime in their life. When families discover the clothing optional or nude lifestyle and have honestly tried it, they find family bonds strengthened. They discover that self-esteem and self-confidence has grown tremendously. They find people have become more accepting of others. They find behavior problems become almost non-existent. Even teen pregnancy almost disappears. This happens because people have discovered that after losing the false pretenses

clothing forces upon everyone, we are the same underneath. We are just wrapped in different packages. How can these undeniable facts be from what this bill is considering a nuisance?

It is difficult for me to believe that this esteemed body would want to be responsible for destroying a lifestyle that has benefited countless families and people and has been around since the dawn of Mankind. All for the sake of a local dispute involving a person who does not agree with someone else's chosen lifestyle!

Again, please do not give House Bill 2726 a favorable committee recommendation or any others of its kind. Bills such as this are anomalies that might address the issue at hand, but then have detrimental circumstances that are unforeseen and far-reaching and, most often ruins a large number of unintended victims, especially families. That is why lawmakers need to understand the naturist lifestyle before doing anything like this bill suggests. If anything else, nudist club owners should be congratulated for providing such a nurturing and helpful environment to raise our children in.

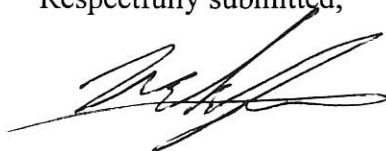
To put it simply, House Bill 2726 would just make bad law! If passed, this bill would surely be challenged in a court of law and most likely lose. This could cause people to take a second look at lawmakers who pass such laws and cost taxpayers money to try to defend. Besides, is it not the trend today for state governments not to get involvement in local issues such as this?

However, to close I invite all of you, and your fellow legislators, to please spend a summer with your families or partners with one of Kansas' naturist or nudist groups. Three clubs with facilities on their property and two groups rent out facilities in their areas for events. Then you could understand what naturists have learned; clothing does NOT make the person. The person does.

Now, who's ready for some good ol' fashion skinny-dippin'?

Thank you and Good Day.

Respectfully submitted,



Mike Jan
P.O. Box 16251
Wichita, KS 67216
<http://www.naturistsociety.com/nac/>
<http://www.aircapital.org/>
<http://www.sandyaneclub.org/>

Testimony of Susan Jan to the Committee of Local Government On Thursday, February 10, 2000

Good Afternoon Ladies and Gentlemen

My name is Susan Jan. I live at 2804 South Emporia in Wichita, KS. I have been a resident of Wichita for almost 3 years and I am a card-carrying nudist. I am a member of both the American Association for Nude Recreation and The Nudist Society. I am also one of the co-founders of the Air Capital Nudist Society.

I come here today to see that House Bill 2726 does not go through.

I have read in this bill that nudists are a nuisance. I would like to ask you how are we a nuisance? Do we conduct ourselves in a manner where we have to have law enforcement officers come to our facilities because someone has complained on our behavior? No! Do we have open sex on the grounds as some people assume we do? No! Do we conduct ourselves in a manner that is inappropriate, even if we were clothed? No! My question remains how are we a nuisance? We have never had a complaint from neighbors near where Sandy Lane Club is located.

Another item mentioned is that it is wrong. Why is it wrong? We conduct ourselves in a manner no different from clothed people, we just do it nude. We talk with friends, we work in our gardens and yards, we relax, all in the nude. We look out for one another. Again we just do it nude, the way we were born, the way God intended us to be.

Another item is the punishment. This punishment is pointless. There are thousands of people all over the world living this lifestyle. Some who are members of a nudist club, some who visit clothing optional beaches, and there are those who only practice the lifestyle in their homes because of fear and unjust ridicule.

By passing this bill into law, will law enforcement officers knock on every door to see if the inhabitants are nude and if so, are they married? I think not. Also, if more people are found this way, do you think they will not fight to keep their homes causing taxpayers to pay because these people are being taken to court just because they were nude in their home? Think of all the apartment complexes where some of these people live, including couples who live together. Do you think the owners will give up their businesses because a few of their renters are nude together and "get caught?" Do you think motel businesses are going to ask customers whether they are married, or sleep in the nude? Are they going to turn potential customers away, married or not? I do not think so.

I am a nudist and have been for the last two and one half years. I, like many other people, did not understand the lifestyle before my husband introduced me to nudism. I honestly did not know what to expect the first time we visited Sandy Lane Club, which is now our home away from home.

As you can see I am no bathing beauty but being a nudist has helped my self-confidence, my self-esteem and nudism has helped me see who I really am, a warm and caring person. In addition, by being a nudist, it has given me the confidence to be here and speak in a situation I normally would have avoided, public speaking.

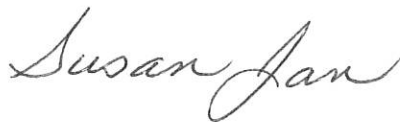
I feel the most comfortable when I am relaxing with other nudists, whether being male or female, at our clubs. I never feel threatened or stared at, or feel ridiculed on how I look. I have more respect for these people, because they treat me with the same respect. So far, every club we have visited, we have been welcome like long lost relatives although we have never been there before. What other social situation can claim that type of acceptance?

The people, or textile impaired, who do not understand our lifestyle has a tendency to hide behind their clothes. However, put them in a setting where they have to strip off their clothes, they will be a completely different person. Nudists are lawyers, doctors, CEO's, blue and white collar workers, housewives, single men and women, families and even members of the clergy, including a Catholic Bishop that I know of. No matter what their occupation or title we all treat each other the same, with honor and respect. I believe that if everyone in this room tried nudism at least once, you would see how healthy and happy you feel when you leave. I know I did.

Therefore, I ask you again not to pass this bill because of the effect that it will have on our state. If this bill is passed, it will be a major downfall for the state, which I know people do not want to see. By having these nudist clubs, it will increase the revenue of the economy. It will bring more people into our state for vacations. Some will continue to keep coming back. Moreover, they help people, like me, grow to become better persons.

Thank you and Good Day.

Respectfully submitted,

A handwritten signature in cursive script that reads "Susan Jan".

Susan Jan
P.O. Box 16251
Wichita, KS 67216
<http://www.aircapital.org/>
<http://www.sandyaneclub.org/>

February 10, 2000
Bill #2726

GOOD AFTERNOON

Mr. Chairman, Ladies and Gentlemen of the Committee

My name is Pam Bybee. I am a member of Prairie Haven Nudist Club, Scranton, Kansas. I am here today to express my feelings as to why I am against Bill #2726.

My husband Jim and I became members of Prairie Haven in July, 1985. During the years that we have been members at Prairie Haven we have strived to achieve promoting a positive attitude towards the family oriented nudist lifestyle. We have been interviewed at our campground with reporters from the Kansas City Star and the Topeka Capital Journal Newspapers and the Topeka Television Channels 13 and 27. Jim and I have both served on the Board of Directors at our club. There is no compensation for being on the Board of Directors. You volunteer your time and energy. Our compensation was meeting and becoming friends with so many wonderful people.

Our club was started in 1972 and has been at its present location in Osage County since that time. We are ever mindful of being a good neighbor to the local residents and businesses. Our neighbors are very much aware of the fact there is a nudist club in the community, but we don't disrupt the peace and tranquility that we have found and truly love in the beautiful countryside.

Jim and I have such love for the nudist lifestyle that we encouraged our daughter to come and visit Prairie Haven. Our daughter was 17 at that time and now she is 32. When her busy schedule allows her to come and visit the camp she continues to do so. One of our greatest joys is our granddaughter. At the age of 5 she started going to camp with Papa Jim and Grammy. Our granddaughter is now 9 years old.

My husband, Jim, died suddenly this past November while we were on vacation in Mesa, Arizona. One of my granddaughters concerns was whether or not she would still get to go to camp. I have assured her that I would still take her to Prairie Haven. Prairie Haven is a safe and healthy environment for many people of all ages and all walks of life.

In closing, I feel Bill #2726 is unfair. Bill #2726 will harm a lot of good decent people, not just nudists, but the small business owners in our community. This is a local issue and should not encompass the State of Kansas.

Thank You for your time and consideration.

Dear Representatives:

My name is Michael Karstens of Lenexa Kansas, and I am against HB 2726 that will ban nudist clubs. I currently live at the corner of Lenexa, Olathe, and Overland Park, Kansas and have been employed at Sprint for 11 years. My family (wife and 2 children) and I have also been a member of the Prairie Haven nudist club in Scranton Kansas for 8 years. I am currently a Director for the regional nudist organization, Midwest Sunbathing Association (MSA), which is affiliated with the national organization, American Association for Nude Recreation (AANR).

In this bill, Prairie Haven would be considered a nudist club and therefore a nuisance. A nuisance this club is not. In fact, because of the misperceptions in the general public today about nudity, most club members do not proclaim their affiliation and likewise we do not purposely direct the attention of surrounding neighbors and towns towards our club. If there is a nudist club that is having legal issues, please deal with the issue on legal merit. Broadly banning all nudist clubs for just being a nudist club is wrong.

I realize the many of you reading this statement, may have some misperceptions or lack the understanding of nudist clubs. Nudist clubs are not for everybody, but they are not a bad place, as I feel many believe. It is difficult to change the perceptions of the masses, but I will attempt to briefly give you my perspective on nudist clubs.

- Being a nudist does not conflict with my ethical or moral obligations as a devoted Christian.
- Nudist clubs offer a variety of people a chance to escape life's stress and enjoy camping with friends in a place that offers many activities like swimming, volleyball, tennis, basketball, shuffleboard, frisbee golf, and much more. It offers my family quality time together without a television or telephone.
- Nudist clubs are a place where you can be yourself. Social status is not an issue, you cannot tell a doctor from a janitor.
- I have never been to a place where friendship and community means so much.
- Most of the nudist clubs are regulated by a national organization. This provides me with comfort to know that our club and many others I visit will maintain the same code of conduct that I trust.
- From a tourism perspective, Prairie Haven regularly brings people to the middle of Kansas from South Dakota, Iowa, Nebraska, and Missouri. There are also many nudist traveling across country that will spend time with us.

I hope this helps in understanding why HB 2726 should not progress any further and why future bills relating to nudity should be sensitive to the positive expression of nudity. If you have any questions you would like to ask me on this bill or any other nudist related questions, please feel free to contact me.

Thanks for consideration,

Mike Karstens
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Lenexa, KS 66215
913-661-2940
drewkat@sprintmail.com



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February 7, 2000

Carlos Mayans
Chairperson
Local Government Committee
State Capitol
Topeka, KS

VIA HAND DELIVERY

Re: *The American Association for Nude Recreation (AANR)'s and Midwest Sunbathing Association (MSA)'s opposition to Kansas House Bill #2726*

Dear Chairperson Mayans:

On behalf of many Kansas members, and the AANR / MSA clubs throughout the state to which those members belong, we are writing to express our grave concerns about HB 2726, a bill that would leave declare any nudist resort in the state a "public nuisance."

After reviewing this position paper, we trust that you and the committee will vote against HB 2726 for the following reasons:

- ◆ HB 2726 is an attempt to deal with a local zoning issue with an unnecessarily broad statewide ban;
- ◆ HB 2726 will harm the many innocent nudists and their families who enjoy our wholesome resorts in Kansas;
- ◆ HB 2726 automatically dubs any nudist resort as a "public nuisance" subject to a \$25,000 fine, one year in prison, and civil forfeiture.

Thank you for considering our concerns. I invite you to contact Jawn Bauer, MSA's attorney who will be addressing your committee at its hearing or myself if we may be of additional assistance.

Sincerely,

Erich E. Schuttauf, J.D.
Government Affairs Coordinator
American Association for Nude Recreation

HOUSE LOCAL GOVERNMENT
2-10-00
Attachment 16

Member of:
American Recreation Coalition
National Recreation and Park Association
National Association of RV Parks and Campgrounds
International Naturist Federation
Local Chambers of Commerce