

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Chairperson Representative Gerry Ray at 3:30 p.m. on Tuesday, February 13, 2001 in Room 519-S of the Capitol.

All members were present except: Rep. Toplikar

Committee staff present: Mike Heim, Research Dept.
Kay Dick, Committee Secretary

Conferees appearing before the committee: See attached list (attachment A)

Others attending: See attached list (attachment B)

Representative Campbell made a motion to approve the minutes of January 11 and 16. Representative Gilbert seconded and the motion was passed. The minutes were approved as written.

Final action on HB 2119 - certain park and recreation districts; relating to improvements.

Representative Campbell made a motion to pass out the bill favorably. Seconded by Representative Gilbert. The bill passed with no opposition.

Action on HB 2120 - concerning amusement rides; inspection and regulations.

Representative Sloan presented 3 separate "balloons" for this bill. (attachments #1, 2, & 3)

Representative Campbell made a motion to amend:

1. Page 3; Sec. 3. lines 21 and 25. Seconded by Representative Storm. Motion passed. unopposed.

2. To amend (same page and section) line 25 again, after "amusement ride officials". Seconded by Representative Gilbert. Amendment passed with no opposition.

3. Page 3; Sec. 3. Line 27. Seconded by Representative Peterson. The motion carried.

Representative Peterson made a motion to amend page 4; Sec 7. Line 19;. Remove from Sec. 8 line 20, 21, and 22. Amend (same page and section) line 23. Representative Storm seconded. The motion passed.

Representative Campbell made a motion to amend page 5; Sec. 9. line 16. Representative Storm seconded the motion. Motion carried.

Representative Storm made a motion to move, page 1; Sec. 1. Line 36 and 37 "moon walks and other inflatable equipment" to (same page, and section) (a)(1)(A). Representative Hermes seconded the motion. Motion passes.

Representative Campbell made a motion to adopt the following amendments:

1. Page 4; Sec. 8. strike lines 24 and 25.

2. Add the "balloon" to line 29 (same page and section)

3. Insert the word "functioning" on line 30 (same page and section).

Representative Barnes seconded the motion. The motion carried.

Representative Storm made a motion to strike lines 8 and 9 from Section 8. Representative Barnes seconded. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

February 13, 2001

Page 2

Representative Storm moves to insert the revisor's replaced version to (d) line 8 (same section).

Representative Barnes seconded. Motion failed.

Representative Campbell made a motion that the committee approve the HB 2120 as amended. Seconded by Representative Gilbert. Motion passed.

Chair Ray opened the hearing on HB 2124 - improvement districts; relating to the powers and duties

Representative Osborne testified in regards to a unique local control issue. (Attachment #4)

Gary White, Lake Wabunsee Improvement District (LWID), spoke before the committee on behalf of (LWID) proposing an amendment to KSA 19-2765. The proposed change does not seek new powers for improvement districts, but merely seeks to have powers already conveyed to *some* improvement districts extended to the LWID. (attachment #5)

Chair Ray closed the hearing on HB 2124

Hearing was opened on HB 2185 - improvement districts; concerning the issuance of revenue bonds.

Representative Tapanelli gave testimony in support of **HB 2185**. He said that the proposed changes are intended only to apply to improvement district revenue bonds sold to the U.S. Government or an agency thereof. Also, the changes are meant to make the maturity length provisions applicable. (attachment #6) Representative Tapanelli answered questions asked by the committee.

Chair Ray directed the committee's attention to the written testimony of Kevin Cowan, Gilmore & Bell, and corrected the error of *New Economy* to Local Government. (attachment # 7)

Chair closed the hearing on HB 2185.

Chair Ray opened the Hearing on HB 2171 - counties; relating to the enforcement of county resolutions

Madam Chair announced that, in as much as there were 30 conferees, there would be a time limit of 2 minutes.

Proponents that testified in favor of HB 2171:

Judy Moler, Kansas Association of Counties, supported the bill. It extends to all counties the ability to have a county code court under KSA 19-4701 *et seq.* Currently, only counties with a population of over 150,000. (attachment #8)

Mike Pepoon, Director of Government Relations, Sedgwick County, submitted testimony in support of **HB 2171**. This bill will give Sedgwick County the authority to collect court costs of up to \$60 dollars and would also give count court judges the authority to order nuisance abatements. (attachment # 9)

Ben Sciortino, Sedgwick County Commissioner, gave testimony in support of **HB 2171**. Stating this is about the health, safety and well-being of the residents of Sedgwick County. (attachment # 10)

Carolyn McGinn, Chair of the Board, Sedgwick County Commissioners. She testified on favor of the bill stating that, one of the difficulties of the County Court system is that the Court has no authorization to order the clean up of property. County codes, regulations and reasonable enforcement are necessary in

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

February 13, 2001

Page 3

rural as well as urban areas. (attachment #11) The committee members received two handouts from Ms McGinn. James Younger and Robert Hay both were in favor of **HB 2171**. (attachment #11A & 11B)

Glen Wiltse, Director of Sedgwick County Code Enforcement. Requested the support of the committee on **HB 2171**. (attachment # 12)

Aaron Blase, Assistant County Counselor, Sedgwick Co., gave his support for **HB 2171**. (No written testimony)

David Yearout, appeared on behalf of the Kansas Association of County Planning and Zoning Office, testifying in favor of the bill. He had gave various handouts to the committee for their review. (attachment # 13 & 13A)

Diane Mooney, rural resident of Sedgwick County gave first hand experience in support of **HB 2171**. (No written testimony)

Robert Dix, resident of Sedgwick Co., asked the committee to approve the bill. (No written testimony)

George Clark, Clark Land Company, Inc., testified in favor of the bill, so as to keep up land values and make it a better place to live. (attachment #14)

Clifford Helms, Sedgwick Co. landlord, spoke in favor of **HB 2171**. He said it is important that we have Code Enforcement to follow up on nuisance complaints. (attachment #15)

Dean Lorenz, land owner in Sedgwick Co, spoke in support of the bill. He said that county codes and regulations are necessary in rural areas just as they are in the urban areas. (attachment #16)

Mr. Yearout answered question asked by Rep Hermes, Rep. Showalter, and Rep. Campbell. Rep. Hayzlett, Rep. Miller and the Chair asked question of Mrs.Mooney and Mr. Wiltse

Opponents that are opposing HB 2171:

Gary Simpson, represented himself and many neighbor opposing **HB 2171**. Testifying regarding their concern for property rights. (attachment #17)

Dan Russ, had written testimony opposing **HB 2171**, but gave up his time so Mr. Simpson could continue. (attachment #18)

Representative Thimesch testified that he stands neutral on this bill as issued. He strongly urged the committee to delay the act, for it not to take affect until July 2002, allowing the Task Force and County Commissioners enough time to redefine "nuisance" and develop better and more fair enforcement. (attachment # 19)

Charles Peaster stated several reasons for his opposition to **HB 2171**. (attachment # 20)

Tom Wiggins, resident of Sedgwick Co, gave testimony opposing the bill, siting a personal incident regarding the court. (attachment # 21)

John Todd spoke as a private citizen giving testimony in opposition to **HB 2171**. He requested the committee to modify the statute or repeal it entirely. (attachment #22)

Kelly Wendeln, Chanute, Kansas, gave testimony opposing the bill. He said that "Property owners are quickly losing their property rights." (attachment #23)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

February 13, 2001

Page 4

John Daily, asked the committee to reject **HB 2171**. He said that County Courts need to be abolished not given more power. ([attachment #24](#))

Roy Shelinbarger gave testimony speaking to the conflict between the interest of urban and rural zone codes. Competing interests of nuisance abatement and rural individuals' property rights. He feels that Sedgwick County does not "need additional power from the state to crack down on neighborhood nuisances. ([attachment #25](#))

Marin Wolf, resident, testified in opposition to **HB 2171**. ([attachment #26](#))

Rex Morley, Derby, Kansas, appeared before the committee as a neutral to address his concern about the Impact of **HB 2172**, which may affect not only his life, but all fellow Kansans lives and rights. ([attachment # 27](#))

Donald Abbey provided written testimony. He conceded his time to Mr. Morely. ([attachment #28](#))

Chair brought to the attention of the committee written testimony in support of **HB 2171**.

Sheila Dale. ([attachment #29](#))

Bill Yanek ([attachment #30](#))

Bentley Farms, L. C. ([attachment #31](#))

Gerald & Loreta Seibel ([attachment #32](#))

Sedgwick Co property owners petition ([attachment #33](#))

The Chair adjourned the meeting at 5:40 p.m.

CONFEREES APPEARING BEFORE THE HOUSE LOCAL GOVERNMENT COMMITTEE

TUESDAY, FEBRUARY 13, 2001

HB 2124

Proponents:

Representative Osborne

HB 2185

Proponents:

Representative Tafanelli

HB 2171

Proponents:

Judy Moler, Kansas Association of Counties
Mike Pepoon, Director of Gov. Relations, Sedgwick Co.
Ben Sciortino, Sedgwick County Commissioner
Carolyn McGinn, Chair of the Board, Sedgwick
County Commissioners
Glen Wiltse, Director of Sedgwick Co. Code Enforcement
Aaron Blase, Assistant Sedgwick Co. Counselor
David Yearout, Kansas Association of County Planning &
Zoning Office
Diane Mooney, citizen
George Clark, Clark Land Company, Inc.
Clifford Helms, Sedgwick County, landlord
Dean Lorenz, land owner

Opponents:

Gary Simpson
Dan Russ
Representative Thimesch
Charles Peaster
Tom Wiggins
John Todd
Kelly Wendeln
John Daily
Roy Shelinbarger
Marin Wolf
Rex Morley

**HOUSE LOCAL GOVERNMENT COMMITTEE
GUEST LIST
FEBRUARY 13, 2001**

[PLEASE PRINT YOUR NAME]

[REPRESENTING]

Mike Pegoon	Sedgwick County
Ben Scirtino	Sedgwick Co
Gren Hart	Sedgwick Co.
George Clark	Wichita and Sedgwick Co
Cliff W. Gehus	Sedgwick County
Robert Dix	Sedgwick County
Clancy Holman	Sedgwick County
AARON BLASE	Sedgwick County
Chris Niemann	Haas & Wilkerson Ins.
Margaret Nelson	Joyland Amusement Park Inc.
Stanley R. Nelson	Joyland Amusement Co, Inc.
DAVID GARRETT	HAAS & WILKERSON INS
JOE N Cheesman	Cheesman Bikes
W Dean Jeremy	Landowner from Sedg. Co.
Brenda Lorenz	Landowner " " "
Cyril M Ginn	Sedgwick County
Kirk Wilken	Sedg. Co.
GLEN WILTSE	SEDGWICK CO.
GENE LEHMAN	SEDGWICK CO. CITIZEN
Ronald D Abbey	Sedg. Co. Citizen
unknown visitor citizen	Sedgwick County

**HOUSE LOCAL GOVERNMENT COMMITTEE
GUEST LIST
FEBRUARY 13, 2001**

[PLEASE PRINT YOUR NAME]

[REPRESENTING]

Marine L. Wolf

K.A.R.Z.

ROY E. SHELINBARGER

Tom Wiggins

KARZ

CHARLES PEASTER

SG. COUNTY RESIDENT

DAN RUDD

Sumner County

Henry Ansell

Sumner County

Gary A. Swinson, M.D.

Sumner County

Robert Eugene, Grade

Sumner County

Jim D. Mooney Sr

Sedgwick county resident

Diana J. Mooney

Sedgwick county resident

GARY A. HEFLEY

" " "

Harry White

Lake Wabunsee

Paul Gray

Lake Wabunsee

Nelly Gendola

John Diana

1 tures, pictograms, guide books, brochures, videos, verbal information and
2 visual signals.

3 Sec. 2. (a) No amusement ride shall be operated in this state unless
4 at the time of operation the owner has in effect an insurance policy,
5 written by an insurance company authorized to do business in Kansas,
6 insuring the owner and operator against liability for bodily injury to per-
7 sons arising out of the operation of the amusement ride. Such insurance
8 policy shall:

9 (1) Provide for coverage in an amount not less than \$1,000,000 per
10 occurrence and not less than \$2,000,000 in the annual aggregate; and

11 (2) name as an additional insured any person contracting with the
12 owner for the amusement ride's operation.

13 (b) An insurance policy required by this section shall provide that the
14 insurer may not cancel or refuse to renew the policy without 30 days'
15 written notice to the insured unless inspection reveals the ride is unsafe
16 and appropriate repairs cannot or will not be made, in which case cov-
17 erage may be canceled immediately to force closure of the ride.

18 (c) A copy of the insurance policy required by this section shall be
19 available for inspection by any person contracting with the owner for the
20 amusement ride's operation.

21 Sec. 3. No amusement ride shall be operated in this state unless such
22 ride has a valid certificate of inspection by a person who holds current
23 certification evidencing compliance with the standards required on Jan-
24 uary 30, 1998, for at least a level 1 (basic) inspector certification of the
25 national association of amusement ride officials. An amusement ride
26 erected at a permanent location in this state shall be inspected by a qual-
27 ified inspector at least every 12 months. An amusement ride erected at a
28 temporary location in this state shall have been inspected by a qualified
29 inspector before it is first operated in this state in any calendar year. The
30 certificate of an inspection required by this subsection shall be signed and
31 dated by the inspector and shall be available to any person contracting
32 with the owner for the amusement ride's operation. In addition, a visible
33 inspection decal or other evidence of inspection shall be posted in plain
34 view on or near the amusement ride, in a location where it can easily be
35 seen.

36 Sec. 4. The owner of an amusement ride shall retain at all times
37 current maintenance and inspection records for such ride. Such records
38 shall be available to any person contracting with the owner for the amuse-
39 ment ride's operation.

40 Sec. 5. No amusement ride shall be operated in this state unless non-
41 destructive testing of the ride has been conducted in accordance with the
42 recommendations of the manufacturer of the ride and in conformance
43 with standards at least equivalent to those of the American society for

*Sloans
Balloon*

*Rep. Campbell
R-Storm
1st revision
amendment*

(a)

; and (b) a copy of such inspection certificate has first been filed with the
manager of the state fair

1

1 testing and materials that are in effect on the effective date of this act.

2 Sec. 6. (a) No amusement ride shall be operated in this state unless
3 the operator has satisfactorily completed training that includes, at a
4 minimum:

5 (1) Instruction on operating procedures for the ride, the specific du-
6 ties of the operator, general safety procedures and emergency
7 procedures;

8 (2) demonstration of physical operation of the ride; and

9 (3) supervised observation of the operator's physical operation of the
10 ride.

11 (b) No amusement ride shall be operated in this state unless the name
12 of each operator trained to operate the ride and the certificate of each
13 such operator's satisfactory completion of such training, signed and dated
14 by the trainer, is available to any person contracting with the owner for
15 the amusement ride's operation on the premises where the amusement
16 ride is operated, during the hours of operation of the ride.

17 Sec. 7. No amusement ride shall be operated in this state unless
18 there is posted in plain view on or near the ride, in a location where they
19 can be easily read, safety instructions for the ride.

and warnings

20 Sec. 8. (a) ~~Each patron of an amusement ride, by participation, ac-~~
21 ~~cepts the risks inherent in such participation of which an ordinary prudent~~
22 ~~person is or should be aware:~~

23 ~~(b)~~ Each patron of an amusement ride has a duty to:

exercise reasonable care under all circumstances, including, but not
limited to

24 (1) Exercise the judgment and act in the manner of an ordinary pru-
25 dent person while participating in an amusement ride;

26 (2) obey all instructions and warnings, written or oral, prior to and
27 during participation in an amusement ride;

28 (3) refrain from participation in an amusement ride while under the
29 influence of alcohol or drugs;

30 (4) engage all safety devices that are provided;

31 (5) refrain from disconnecting or disabling any safety device except
32 at the express direction of the owner's agent or employee; and

33 (6) refrain from extending arms and legs beyond the carrier or seating
34 area except at the express direction of the owner's agent or employee.

Potterson
Stoum

35 ~~(c)~~ (1) A patron, or a patron's parent or guardian on a patron's behalf,
36 shall report in writing to the owner any injury sustained on an amusement
37 ride before leaving the premises, including:

(b)

38 (A) The name, address and phone number of the injured person;

39 (B) a full description of the incident, the injuries claimed, any treat-
40 ment received and the location, date and time of the injury;

41 (C) the cause of the injury, if known; and

42 (D) the names, addresses and phone numbers of any witnesses to the
43 incident.

1-3

1 (2) If a patron, or a patron's parent or guardian on a patron's behalf,
2 is unable to file a report because of the patron's injuries, the patron or
3 the patron's parent or guardian on the patron's behalf shall file the report
4 as soon as reasonably possible.

5 (3) The failure of a patron, or the patron's parent or guardian on a
6 patron's behalf, to report an injury under this subsection shall have no
7 effect on the patron's right to commence a civil action.

8 ~~(d) Any parent or guardian of a patron shall have a duty to reasonably
9 ensure that the patron complies with all provisions of this act.~~

(c)

Storm
Barnes,
Sec. 8

(d) Violation of this section is a class c misdemeanor.

10 Sec. 9. Any person contracting with an owner for the amusement
11 ride's operation shall ensure that:

12 (a) Inspection certificates required by section 3, and amendments
13 thereto, are available;

14 (b) maintenance and inspection records required by section 4, and
15 amendments thereto, are available; and

16 (c) safety instructions for the ride are posted as required by section
17 7, and amendments thereto.

and warnings

18 Sec. 10. Whenever a serious injury results from the operation of an
19 amusement ride:

20 (a) Operation of the ride shall immediately be discontinued;

21 (b) operation of the ride shall not be resumed until it has been in-
22 spected and the qualified inspector has approved resumption of opera-
23 tion; and

24 (c) the owner, within 30 days after the injury, shall notify the man-
25 ufacturer of the ride, if the manufacturer is known and in existence at
26 the time of the injury.

Campbell
Storm

27 Sec. 11. (a) It is a class B misdemeanor for an owner or operator of
28 an amusement ride knowingly to operate, or cause or permit to be op-
29 erated, any amusement ride in violation of this act.

30 (b) It is a class C misdemeanor knowingly to violate the provisions of
31 section 9, and amendments thereto.

32 (c) Each day a violation continues shall constitute a separate offense.

33 Sec. 12. The attorney general, or the county or district attorney in a
34 county in which an amusement ride is located or operated, may apply to
35 the district court for an order enjoining operation of any amusement ride
36 operated in violation of this act.

37 Sec. 13. The governing body of any city or county may establish and
38 enforce safety standards for amusement rides in addition to, but not in
39 conflict with, the standards established by this act.

40 Sec. 14. This act shall take effect and be in force from and after
41 January 1, 2002, and its publication in the statute book.

HOUSE BILL No. 2120

By Committee on Local Government

1-23

*Industries
Broadleaves*

9 AN ACT concerning amusement rides; relating to inspection and regu-
10 lation thereof; prohibiting certain acts and providing penalties and
11 remedies for violations.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. As used in this act:

15 (a) (1) "Amusement ride" means any mechanical or electrical device
16 that carries or conveys passengers along, around or over a fixed or re-
17 stricted route or course or within a defined area for the purpose of giving
18 its passengers amusement, pleasure, thrills or excitement and shall in-
19 clude but not be limited to:

20 (A) Rides commonly known as ferris wheels, carousels, parachute
21 towers, bungee jumping, reverse bungee jumping, tunnels of love and
22 roller coasters;

23 (B) equipment generally associated with winter activities, such as ski
24 lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways; and

25 (C) equipment not originally designed to be used as an amusement
26 ride, such as cranes or other lifting devices, when used as part of an
27 amusement ride.

28 (2) "Amusement ride" does not include:

29 (A) Games, concessions and associated structures;

30 (B) any single passenger coin-operated ride that: (i) Is manually, me-
31 chanically or electrically operated; (ii) is customarily placed in a public
32 location; and (iii) does not normally require the supervision or services of
33 an operator;

34 (C) nonmechanized playground equipment, including, but not lim-
35 ited to, swings, seesaws, stationary spring-mounted animal features, rider-
36 propelled merry-go-rounds, climbers, slides, trampolines, moon walks
37 and other inflatable equipment and physical fitness devices;

— move to Sect. 1 (a)(1)(A)

38 (D) any nonprofit amusement ride owned by a political subdivision
39 of the state; or

40 (E) any amusement ride owned and operated by a not-for-profit or-
41 ganization and used by the public at not more than three events per year.

42 (b) "Certificate of inspection" means a certificate, signed and dated
43 by a qualified inspector, showing that an amusement ride has satisfactorily

2

- 1 passed inspection by such inspector.
- 2 (c) "Nondestructive testing" means the development and application
3 of technical methods such as radiographic, magnetic particle, ultrasonic,
4 liquid penetrant, electromagnetic, neutron radiographic, acoustic emis-
5 sion, visual and leak testing to:
- 6 (1) Examine materials or components in ways that do not impair the
7 future usefulness and serviceability in order to detect, locate, measure
8 and evaluate discontinuities, defects and other imperfections;
- 9 (2) assess integrity, properties and composition; and
- 10 (3) measure geometrical characters.
- 11 (d) "Operator" means a person actually engaged in or directly con-
12 trolling the operations of an amusement ride.
- 13 (e) "Owner" means a person who owns, leases, controls or manages
14 the operations of an amusement ride and may include the state or any
15 political subdivision of the state.
- 16 (f) "Parent or guardian" means any parent, guardian or custodian
17 responsible for the control, safety, training or education of a minor or a
18 disabled person, as defined by K.S.A. 59-3002 and amendments thereto.
- 19 (g) (1) "Patron" means any individual who is:
- 20 (A) Waiting in the immediate vicinity of an amusement ride to get
21 on the ride;
- 22 (B) getting on an amusement ride;
- 23 (C) using an amusement ride;
- 24 (D) getting off an amusement ride; or
- 25 (E) leaving an amusement ride and still in the immediate vicinity of
26 the ride.
- 27 (2) "Patron" does not include employees, agents or servants of the
28 owner while engaged in the duties of their employment.
- 29 (h) "Person" means any individual, association, partnership, corpo-
30 ration, limited liability company, government or other entity.
- 31 (i) "Qualified inspector" means a person who holds a current certi-
32 fication or other evidence of qualification to inspect amusement rides,
33 issued by a program specified by rules and regulations adopted under
34 section 3, and amendments thereto.
- 35 (j) "Serious injury" means an injury that results in:
- 36 (1) Death, dismemberment, significant disfigurement or permanent
37 loss of the use of a body organ, member, function or system;
- 38 (2) a compound fracture; or
- 39 (3) other significant injury or illness that requires immediate admis-
40 sion and overnight hospitalization and observation by a licensed physician.
- 41 (k) "Sign" means any symbol or language reasonably calculated to
42 communicate information to patrons or their parents or guardians, in-
43 cluding placards, prerecorded messages, live public address, stickers, pic-

1 tures, pictograms, guide books, brochures, videos, verbal information and
2 visual signals.

3 Sec. 2. (a) No amusement ride shall be operated in this state unless
4 at the time of operation the owner has in effect an insurance policy,
5 written by an insurance company authorized to do business in Kansas,
6 insuring the owner and operator against liability for bodily injury to per-
7 sons arising out of the operation of the amusement ride. Such insurance
8 policy shall:

9 (1) Provide for coverage in an amount not less than \$1,000,000 per
10 occurrence and not less than \$2,000,000 in the annual aggregate; and

11 (2) name as an additional insured any person contracting with the
12 owner for the amusement ride's operation.

13 (b) An insurance policy required by this section shall provide that the
14 insurer may not cancel or refuse to renew the policy without 30 days'
15 written notice to the insured unless inspection reveals the ride is unsafe
16 and appropriate repairs cannot or will not be made, in which case cov-
17 erage may be canceled immediately to force closure of the ride.

18 (c) A copy of the insurance policy required by this section shall be
19 available for inspection by any person contracting with the owner for the
20 amusement ride's operation.

21 Sec. 3. No amusement ride shall be operated in this state unless such
22 ride has a valid certificate of inspection by a person who holds current
23 certification evidencing compliance with the standards required on Jan-
24 uary 30, 1998, for at least a level 1 (basic) inspector certification of the
25 national association of amusement ride officials. An amusement ride
26 erected at a permanent location in this state shall be inspected by a qual-
27 ified inspector at least every 12 months. An amusement ride erected at a
28 temporary location in this state shall have been inspected by a qualified
29 inspector before it is first operated in this state in any calendar year. The
30 certificate of an inspection required by this subsection shall be signed and
31 dated by the inspector and shall be available to any person contracting
32 with the owner for the amusement ride's operation. In addition, a visible
33 inspection decal or other evidence of inspection shall be posted in plain
34 view on or near the amusement ride, in a location where it can easily be
35 seen.

36 Sec. 4. The owner of an amusement ride shall retain at all times
37 current maintenance and inspection records for such ride. Such records
38 shall be available to any person contracting with the owner for the amuse-
39 ment ride's operation.

40 Sec. 5. No amusement ride shall be operated in this state unless non-
41 destructive testing of the ride has been conducted in accordance with the
42 recommendations of the manufacturer of the ride and in conformance
43 with standards at least equivalent to those of the American society for

2nd amendment.

[National Association of
Amusement Ride Safety
Officials or
Amusement Industry
Manufacturers
and Suppliers
International.]

3rd amendment.

→ An amusement ride erected at a temporary location in this state shall have been inspected by a qualified inspector by May 1st of the year and have been inspected at least once every 12 months.

1 testing and materials that are in effect on the effective date of this act.

2 Sec. 6. (a) No amusement ride shall be operated in this state unless
3 the operator has satisfactorily completed training that includes, at a
4 minimum:

5 (1) Instruction on operating procedures for the ride, the specific du-
6 ties of the operator, general safety procedures and emergency
7 procedures;

8 (2) demonstration of physical operation of the ride; and

9 (3) supervised observation of the operator's physical operation of the
10 ride.

11 (b) No amusement ride shall be operated in this state unless the name
12 of each operator trained to operate the ride and the certificate of each
13 such operator's satisfactory completion of such training, signed and dated
14 by the trainer, is available to any person contracting with the owner for
15 the amusement ride's operation on the premises where the amusement
16 ride is operated, during the hours of operation of the ride.

17 Sec. 7. No amusement ride shall be operated in this state unless
18 there is posted in plain view on or near the ride, in a location where they
19 can be easily read, safety instructions for the ride.

20 Sec. 8. (a) Each patron of an amusement ride, by participation, ac-
21 cepts the risks inherent in such participation of which an ordinary prudent
22 person is or should be aware.

23 (b) Each patron of an amusement ride has a duty to:

24 (1) Exercise the judgment and act in the manner of an ordinary pru-
25 dent person while participating in an amusement ride;

26 (2) obey all instructions and warnings, written or oral, prior to and
27 during participation in an amusement ride;

28 (3) refrain from participation in an amusement ride while under the
29 influence of alcohol or drugs;

30 (4) engage all safety devices that are provided;

31 (5) refrain from disconnecting or disabling any safety device except
32 at the express direction of the owner's agent or employee; and

33 (6) refrain from extending arms and legs beyond the carrier or seating
34 area except at the express direction of the owner's agent or employee.

35 (c) (1) A patron, or a patron's parent or guardian on a patron's behalf,
36 shall report in writing to the owner any injury sustained on an amusement
37 ride before leaving the premises, including:

38 (A) The name, address and phone number of the injured person;

39 (B) a full description of the incident, the injuries claimed, any treat-
40 ment received and the location, date and time of the injury;

41 (C) the cause of the injury, if known; and

42 (D) the names, addresses and phone numbers of any witnesses to the
43 incident.

It is a class C
Misdemeanor for patron to
knowingly violate
any provision of this
Act.

1 (2) If a patron, or a patron's parent or guardian on a patron's behalf,
2 is unable to file a report because of the patron's injuries, the patron or
3 the patron's parent or guardian on the patron's behalf shall file the report
4 as soon as reasonably possible.

5 (3) The failure of a patron, or the patron's parent or guardian on a
6 patron's behalf, to report an injury under this subsection shall have no
7 effect on the patron's right to commence a civil action.

8 (d) Any parent or guardian of a patron shall have a duty to reasonably
9 ensure that the patron complies with all provisions of this act.

10 Sec. 9. Any person contracting with an owner for the amusement
11 ride's operation shall ensure that:

12 (a) Inspection certificates required by section 3, and amendments
13 thereto, are available;

14 (b) maintenance and inspection records required by section 4, and
15 amendments thereto, are available; and

16 (c) safety instructions for the ride are posted as required by section
17 7, and amendments thereto.

18 Sec. 10. Whenever a serious injury results from the operation of an
19 amusement ride:

20 (a) Operation of the ride shall immediately be discontinued;

21 (b) operation of the ride shall not be resumed until it has been in-
22 spected and the qualified inspector has approved resumption of opera-
23 tion; and

24 (c) the owner, within 30 days after the injury, shall notify the man-
25 ufacturer of the ride, if the manufacturer is known and in existence at
26 the time of the injury.

27 Sec. 11. (a) It is a class B misdemeanor for an owner or operator of
28 an amusement ride knowingly to operate, or cause or permit to be op-
29 erated, any amusement ride in violation of this act.

30 (b) It is a class C misdemeanor knowingly to violate the provisions of
31 section 9, and amendments thereto.

32 (c) Each day a violation continues shall constitute a separate offense.

33 Sec. 12. The attorney general, or the county or district attorney in a
34 county in which an amusement ride is located or operated, may apply to
35 the district court for an order enjoining operation of any amusement ride
36 operated in violation of this act.

37 Sec. 13. The governing body of any city or county may establish and
38 enforce safety standards for amusement rides in addition to, but not in
39 conflict with, the standards established by this act.

40 Sec. 14. This act shall take effect and be in force from and after
41 January 1, 2002, and its publication in the statute book.

Trial Lawyers Ballroom

HB 2120

4

testing and materials that are in effect on the effective date of this act.

Sec. 6. (a) No amusement ride shall be operated in this state unless the operator has satisfactorily completed training that includes, at a minimum:

- (1) Instruction on operating procedures for the ride, the specific duties of the operator, general safety procedures and emergency procedures;
- (2) demonstration of physical operation of the ride; and
- (3) supervised observation of the operator's physical operation of the ride.

(b) No amusement ride shall be operated in this state unless the name of each operator trained to operate the ride and the certificate of each such operator's satisfactory completion of such training, signed and dated by the trainer, is available to any person contracting with the owner for the amusement ride's operation on the premises where the amusement ride is operated, during the hours of operation of the ride.

Sec. 7. No amusement ride shall be operated in this state unless there is posted in plain view on or near the ride, in a location where they can be easily read, safety instructions for the ride.

Adopted
Adopted

Sec. 8. (a) ~~Each patron of an amusement ride, by participation, accepts the risks inherent in such participation of which an ordinary prudent person is or should be aware.~~

(b) Each patron of an amusement ride has a duty to _____ exercise reasonable care under all the circumstances, including but not limited to:

- (1) ~~Exercise the judgment and act in the manner of an ordinary prudent person while participating in an amusement ride;~~
- (2) obey all instructions and warnings, written or oral, prior to and during participation in an amusement ride;
- (3) refrain from participation in an amusement ride while under the influence of alcohol or drugs;

motion to adopt
Campbell
Barnes.

(4) engage all safety devices that are provided; _____ such that the patron is unable to safely participate in the amusement ride.

- (5) refrain from disconnecting or disabling any safety device except at the ~~express~~ direction of the owner's agent or employee; and
- (6) refrain from extending arms and legs beyond the carrier or seating area except at the ~~express~~ direction of the owner's agent or employee.

(c) (1) A patron, or a patron's parent or guardian on a patron's behalf, shall report in writing to the owner any injury sustained on an amusement ride before leaving the premises, including:

- (A) The name, address and phone number of the injured person;
- (B) a full description of the incident, the injuries claimed, any treatment received and the location, date and time of the injury;
- (C) the cause of the injury, if known; and
- (D) the names, addresses and phone numbers of any witnesses to the incident.

3

HB 2120

5

(2) If a patron, or a patron's parent or guardian on a patron's behalf, is unable to file a report because of the patron's injuries, the patron or the patron's parent or guardian on the patron's behalf shall file the report as soon as reasonably possible.

(3) The failure of a patron, or the patron's parent or guardian on a patron's behalf, to report an injury under this subsection shall have no effect on the patron's right to commence a civil action.

(d) ~~Any parent or guardian of a patron shall have a duty to reasonably ensure that the patron complies with all provisions of this act.~~

*Motion to strike.
Stoun
Barnes
passed -*

Sec. 9. Any person contracting with an owner for the amusement ride's operation shall ensure that:

(a) Inspection certificates required by section 3, and amendments thereto, are available;

(b) maintenance and inspection records required by section 4, and amendments thereto, are available; and

(c) safety instructions for the ride are posted as required by section 7, and amendments thereto.

land warnings

Sec. 10. Whenever a serious injury results from the operation of an amusement ride:

(a) Operation of the ride shall immediately be discontinued;

(b) operation of the ride shall not be resumed until it has been inspected and the qualified inspector has approved resumption of operation; and

(c) the owner, within 30 days after the injury, shall notify the manufacturer of the ride, if the manufacturer is known and in existence at the time of the injury.

Sec. 11. (a) It is a class B misdemeanor for an owner or operator of an amusement ride knowingly to operate, or cause or permit to be operated, any amusement ride in violation of this act.

(b) It is a class C misdemeanor knowingly to violate the provisions of section 9, and amendments thereto.

(c) Each day a violation continues shall constitute a separate offense.

Sec. 12. The attorney general, or the county or district attorney in a county in which an amusement ride is located or operated, may apply to the district court for an order enjoining operation of any amusement ride operated in violation of this act.

Sec. 13. The governing body of any city or county may establish and enforce safety standards for amusement rides in addition to, but not in conflict with, the standards established by this act.

Sec. 14. This act shall take effect and be in force from and after January 1, 2002, and its publication in the statute book.

STATE OF KANSAS

VERN OSBORNE

REPRESENTATIVE, SIXTY-FIRST DISTRICT

HOME ADDRESS: 6940 KIRTNER DRIVE

ST. GEORGE, KANSAS 66535-9453

(785) 494-2449

OFFICE ADDRESS: STATE CAPITOL, SUITE 110-S

TOPEKA, KANSAS 66612-1504

(785) 296-7672



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

TAXATION COMMITTEE

TOURISM COMMITTEE

KANSAS 2000 SELECT COMMITTEE

ECONOMIC DEVELOPMENT COMMITTEE

Thank you madam chair and committee members. I appreciate the opportunity to testify in regards to this unique local control issue.

The Lake Wabaunsee Improvement District has struggled over the years with governance problems because they fall within a 5-mile radius of an incorporated city. On page 3, lines 35 & 36 of the proposed bill reads that the board of directors of any improvement district located more than 5 miles from an incorporated city shall have the power to adopt various resolutions. We simply want to provide Lake Wabaunsee the same opportunity as improvement districts that fall outside that 5-mile radius. This will allow them to clearly take charge of their health and nuisance problems.

Attached for your information, is a letter from the city of Eskridge approving this action by a unanimous vote on January 16, 2001.

4



City of Eskridge

110 S. MAIN ST./PO BOX 156

ESKRIDGE, KS 66423

PHONE (785) 449-2621

FAX (785) 449-7289

Donald R. Rush, Mayor

Joe A. Elliott, City Administrator/ City Clerk

Janice K. Turnbull, City Treasurer

Gary W. Hanson, City Attorney

ESKRIDGE CITY COUNCIL: *Debra Fox - John Foster - Rex Kraus - Louella Mercer - Deann Williams*

January 19, 2001

Maritta Elliott, President
Lake Wabaunsee Improvement District
P.O. Box 101
Eskridge, Kansas 66423

Ref.: amending K.S.A. 19-2765

Dear Maritta,

It is the understanding of the Eskridge City Council that the L.W.I.D. has submitted a request to House Representative Vern Osborne concerning an amendment to K.S.A. 19-2765. It is further understood that the purpose of this amendment is to give legal authority to the L.W.I.D. in order to enforce health issues and property cleanup at Lake Wabaunsee by modifying the five mile stipulation in K.S.A. 19-2765. It is also understood that this amendment was initiated after numerous attempts had failed to get cooperative assistance from Wabaunsee County in these matters.

Therefore, the City of Eskridge realizes that it is powerless to aid in these situations legally and understands the problems involved. That being the case and after consulting with City Attorney Gary Hanson during the meeting of January 16th, 2001, at 7:28p.m., Council Person R. Kraus made a motion to approve this action taken by L.W.I.D., Council Person D. Fox seconded the motion and all aye.

If you have any need for further assistance on this, or for any other matter, do not hesitate to give us a call.

Sincerely,

Joe A. Elliott, City Administrator/Clerk

Lake Wabaunsee Improvement Dist.

P.O. Box 101
Eskridge, Kansas 66423
913-449-7271



**TO: MEMBERS OF THE HOUSE COMMITTEE
ON LOCAL GOVERNMENT**

**FROM: GARY D. WHITE, JR.
LAKE WABAUNSEE IMPROVEMENT DISTRICT**

DATE: FEBRUARY 13, 2001

RE: HOUSE BILL 2124

Chairman Ray and Members of the House Committee on Local Government. Thank you for the opportunity to appear before you today to comment on House Bill 2124. My name is Gary White, a Topeka attorney, and I am appearing here today on behalf of the Lake Wabaunsee Improvement District (LWID). I am also a property owner at Lake Wabaunsee.

The LWID is proposing an amendment to K.S.A. 19-2765, which concerns the powers and duties of improvement districts. The proposed change does not seek new powers for improvement districts but merely seeks to have powers already conveyed to *some* improvement districts extended to the LWID.

The LWID is an improvement district incorporated in Wabaunsee County, Kansas. The boundaries of LWID border the east, south and west shores of Lake Wabaunsee. The lake and the north shore are owned by the City of Eskridge, Kansas. The area encompassed by the district was platted in the late 1930's. Nearly all lakeside lots contain a home or cabin, as do many of the second tier lots. Many of the 200 homes and cabins are within 20 feet of each other. As such, the district residents live in very close proximity.

The LWID owns and maintains asphalt roads around the lake, owns and maintains a sewer system around the lake, and provides trash collection services for lake residents. The LWID is also in the process of building a water distribution system to provide potable water and fire protection to lake residents. As this demonstrates, the LWID provides numerous services to lake residents, many of which would be provided by an incorporated city. The county treasurer has advised us that the LWID is the largest improvement district in the State in terms of population, revenues and services.

5

HOUSE LOCAL GOVERNMENT

2/13/01

Attachment 5

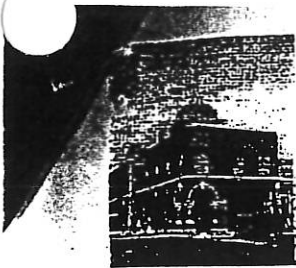
As you can imagine, lake residents often come to the board with concerns about public health issues around the lake. Unfortunately, as K.S.A. 19-2765 is currently written, LWID does not have the power to address these issues because it is within 5 miles of the boundaries of the City of Eskridge. If the LWID were more than 5 miles from the boundaries of the City of Eskridge, the district would have the power to address these issues that include public nuisances (such as rodent infested properties), very tall grass or weeds, and dogs and other animals running at large.

On the rare occasions that these issues arise, the LWID Board contacts the resident by telephone and/or in writing asking that the condition be abated. Generally such a communication results in the condition being abated. On the few occasions when the condition is not addressed we have contacted the Wabaunsee County Attorney to address the issue under applicable State statutes such as K.S.A. 65-159. Unfortunately, the county attorney has failed to act on the majority of these requests. For this reason, the LWID is seeking the amendment so that it can address these serious public health concerns when the issues arise.

In addition, it should be noted that with the amendment, LWID would have the power to assess unpaid bills or charges for utility services to the property receiving the service. Although it has not been a significant problem, it would be beneficial for the district to be able to assess the cost of utility services when a resident fails to pay for such services.

As indicated in the attached letter, the City of Eskridge has reviewed the proposed amendment and has no objection to the same.

Again, thank you for the opportunity to testify in support of HB 2124.



City of Eskridge

110 S. MAIN ST./PO BOX 156

ESKRIDGE, KS 66423

PHONE (785) 449-2621

FAX (785) 449-7289

Donald R. Rusk, Mayor

Joe A. Elliott, City Administrator/City Clerk

Janice K. Turnbull, City Treasurer

Gary H. Hanson, City Attorney

ESKRIDGE CITY COUNCIL: *Debra Fox - John Foster - Rex Kraus - Louella Mercer - Deann Williams*

January 19, 2001

Maritta Elliott, President
Lake Wabaunsee Improvement District
P.O. Box 101
Eskridge, Kansas 66423

Ref.: amending K.S.A. 19-2765

Dear Maritta,

It is the understanding of the Eskridge City Council that the L.W.I.D. has submitted a request to House Representative Vern Osborne concerning an amendment to K.S.A. 19-2765. It is further understood that the purpose of this amendment is to give legal authority to the L.W.I.D. in order to enforce health issues and property cleanup at Lake Wabaunsee by modifying the five mile stipulation in K.S.A. 19-2765. It is also understood that this amendment was initiated after numerous attempts had failed to get cooperative assistance from Wabaunsee County in these matters.

Therefore, the City of Eskridge realizes that it is powerless to aid in these situations legally and understands the problems involved. That being the case and after consulting with City Attorney Gary Hanson during the meeting of January 16th, 2001, at 7:28p.m., Council Person R. Kraus made a motion to approve this action taken by L.W.I.D., Council Person D. Fox seconded the motion and all aye.

If you have any need for further assistance on this, or for any other matter, do not hesitate to give us a call.

Sincerely,

Joe A. Elliott, City Administrator/Clerk

STATE OF KANSAS

LEE TAFANELLI
REPRESENTATIVE, 47th DISTRICT
JEFFERSON AND NORTHEAST
DOUGLAS COUNTY AREA
7075 122nd STREET
OZAWKIE, KANSAS 66070
(785) 945-3808

STATE CAPITOL, RM. 175-W
TOPEKA, KANSAS 66612
(785) 296-7698



TOPEKA
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: E-GOVERNMENT
HIGHER EDUCATION
TAXATION
GEN GOVT & HUMAN RESOURCES
BUDGET

TESTIMONY
LOCAL GOVERNMENT COMMITTEE
FEBRUARY 13, 2001
HB 2185

Madam Chairman and members of the Local Government Committee:

Thank you for the opportunity to come before you today and speak in support of HB 2185. HB 2185 would allow for improvement district revenue bond issues with a maturity length of up to 40 years instead of the current limitation of 30 years to be sold to the United States Department of Agriculture/Rural Development. A similar change was made to K.S.A. 10-103, which is part of general bond law in 1981. K.S.A. 10-103, however, only applies to general obligation bond issues of Kansas municipalities and is therefore not applicable to improvement district revenue bond issues.

In addition, K.S.A. 10-1201 et seq., which relates to utility revenue bond issues and provides for a maturity length of up to 40 years, is applicable only to cities and not improvement districts.

These proposed changes are intended only to apply to improvement district revenue bonds sold to the U.S. Government or an agency thereof. In addition, the changes are meant to make the maturity length provisions applicable to such bonds consistent with other Kansas bond law provisions. Thank you for your time and consideration.

Lee Tafanelli
Representative-47th District

6

HOUSE LOCAL GOVERNMENT
2/13/01
Attachment #6

GILMORE & BELL

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

ONE MAIN PLACE

100 NORTH MAIN, SUITE 800

WICHITA, KANSAS 67202-1351

316-267-2091

FACSIMILE: 316-262-6023

SUITE 1100
2405 GRAND BOULEVARD
KANSAS CITY, MISSOURI 64108-2821
816-221-0000
FACSIMILE 816-221-0118

ONE METROPOLITAN SQUARE
211 N. BROADWAY, SUITE 2380
ST. LOUIS, MISSOURI 63102-2733
314-436-1000
FACSIMILE: 314-436-106

LOCAL GOV.

Written Testimony to the House Committee on ~~New Economy~~ by Kevin M. Cowan of Gilmore & Bell, P.C. on February 13, 2001

Honorable Chair and distinguished members of the Committee, my name is Kevin M. Cowan and I am a shareholder with the law firm of Gilmore & Bell, P.C. in our Wichita office. Gilmore & Bell specializes in tax-exempt and taxable bond financing for state and local government entities and is one of the nation's leading public finance law firms. The firm has 31 attorneys and has offices in Kansas City and St. Louis, Missouri and in Wichita, Kansas.

I have been a municipal finance attorney for 7 years. My practice area at Gilmore & Bell primarily relates to traditional local government capital needs. I have worked on numerous Kansas local government bond issues that evidence and embody loans from the United States Department of Agriculture--Rural Development ("USDA/RD"). In the capacity of bond counsel, I have worked and continue to work on a wastewater collection and treatment system capital improvement project and related revenue bond issues for the Lakewood Hills Improvement District, a public corporation organized pursuant to K.S.A. 19-2753 *et seq.* in Jefferson County, Kansas, which bond issue is to be purchased by USDA/RD. In connection with my participation and representation in such transaction, I wish to provide my written testimony in support of HB 2185.

USDA/RD administers a program under which it makes loans (i.e., buys bonds) at reasonably low interest rates to finance various public projects (most frequently water supply or wastewater system improvements) of rural local government entities who don't otherwise have effective access to traditional capital markets. Typically, the maturity length of the bonds sold to USDA/RD is the relatively long period of 40 years, which long period keeps annual debt service payments at a more manageable level for the rural local government issuers of such bonds.

The changes to K.S.A. 19-2777 proposed by HB 2185 are technical changes and relate specifically to revenue bonds (i.e., bonds supported solely by a pledge of, and lien upon, a dedicated revenue stream, such as wastewater treatment and collection system revenues, with no pledge of ad valorem taxes) sold by an improvement district to USDA/RD to evidence a loan under the program described above. As it currently exists, K.S.A. 19-2777 provides for a maximum maturity length of 30 years for improvement district revenue bonds and therefore precludes the sale of 40 year improvement district revenue bonds to USDA/RD. The proposed

kmc\402606\written testimony

97

technical changes to K.S.A. 19-2777 would remedy such preclusion and allow the sale of such 40 year bonds to USDA/RD.

A similar legislative change was made to K.S.A. 10-103, which is part of the Kansas general bond law, in 1981 to accommodate the USDA/RD program. K.S.A. 10-103, however, applies only to *general obligation* bond issues (i.e., bonds supported by the full faith and credit of an entity, including unlimited ad valorem taxes) of Kansas municipalities and is therefore not applicable to improvement district *revenue* bond issues. In addition, K.S.A. 10-1201 *et seq.*, which (a) relates to utility revenue bond issues, (b) provides for a maturity length of up to 40 years and (c) is often used to authorize the issuance of revenue bonds that are purchased by USDA/RD, *is applicable only to cities, is not applicable to improvement districts and therefore cannot serve as authority for a 40 year improvement district revenue bond issue.*

I urge the passage of HB 2185. The proposed changes to K.S.A. 19-2777 by HB 2185 are intended only to apply to improvement district revenue bonds sold under the USDA/RD program, or any similar program of the U.S. Government, and will not affect other sales of improvement district revenue bonds, which will continue to be subject to the existing maximum maturity length of 30 years. *Most importantly, the changes proposed by HB 2185 will make the maturity length provisions applicable to such improvement district revenue bonds consistent with other Kansas local government bond law provisions, thereby providing improvement districts access to the benefits of the USDA/RD program on the same basis as other Kansas local government entities.*

Honorable Chair and members of the Committee, I thank you for the Committee's indulgence and attention to this technical matter, which I believe is important to rural improvement districts in the state of Kansas. If there are any questions regarding this matter, please feel free to contact me at the address shown above.



KANSAS
ASSOCIATION OF
COUNTIES

Kansas Association of Counties
In support of
County Code Courts HB 2171
Before the House Local Government Committee
By Judy A. Moler, General Counsel/Legislative Services Director
February 13, 2001

Chairman Ray and Members of the Committee:

The Kansas Association of Counties is in support of HB 2171 that extends to all counties the ability to have a county code court under K.S.A. 19-4701 *et seq.* Counties, if they so choose, could then appoint code enforcement officers and have their county codes enforced in a special procedure in the district court. Currently, only counties with a population of over 150,000 can do this.

Urges Favorable Passage

The bills also would allow board of county commissioners to set an amount of court costs for these actions and provide for the deposit of these moneys in the county general fund with the exception of \$1 which would continue to be remitted to the State Treasurer. An upper limit of \$60.00 would be placed on court costs with 25% of the assessed costs going to the court system. In this way, the code court would be funded as well as allowing some funding for the district court.

In addition, the judges pro tem hearing these cases have the ability to order the abatement of nuisances and to order the costs of the to be assessed against the property on which the nuisance was located. This would allow the code court to have the "teeth" necessary to enforce the judgments of the code court.

Thank you for your consideration.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to the KAC by calling (785) 272-2585.

8

6206 SW 9th Terrace
Topeka, KS 66615
785•272•2585
Fax 785•272•3585
email kac@ink.org

HOUSE LOCAL GOVERNMENT
2/13/01
Attachment #8



GOVERNMENT RELATIONS

Sedgwick County Courthouse
525 N. Main, Suite 365
Wichita, KS 67203
Phone: (316) 383-7552
Fax: (316) 383-7946

Michael D. Pepoon
Director

TESTIMONY ON H.B. 2171
House Local Government Committee
By Michael D. Pepoon, Director of Government Relations
February 13, 2001

Madam Chair and members of the committee. It is indeed a pleasure to have the opportunity to submit testimony in support of H.B. 2171 on behalf of Sedgwick County. This legislation would give Sedgwick County the authority to collect court costs of up to \$60 dollars and would also give county court judges the authority to order nuisance abatements.

By way of history, prior to 1988, violations of county resolutions were treated in the same manner as criminal misdemeanors and prosecuted by the District or County Attorney in District Court. The problem with this procedure, especially in Sedgwick County is that the District Attorney has many more important responsibilities prosecuting felonies and more serious misdemeanors and as a result county resolutions were ignored. Another problem is that maintaining actions in District Court in a county like ours can be very costly and time consuming. The result of these problems created great frustration on the part of locally elected county commissioners who would pass laws only to see them ignored. For these reasons I helped draft and supported legislation creating a county court for Sedgwick County.

In the last decade or so of operating a county court we have come to the conclusion that some additional fine-tuning of the court is necessary. The first change we are requesting is to allow us to collect additional court costs. The law currently provides that there can only be a \$1 court cost levied and such amount is turned over to the state treasurer. We are requesting in H.B. 2171 that a court cost of up to \$60 be allowed with 25% of this amount to go to the state. It is expensive to operate a county court system and this additional revenue will help defray some of the cost and furthermore redistribute some of the burden of this expense to persons violating county codes as opposed to the taxpayers in general.

The most important feature of this proposed legislation is the authority given to county court judges to order the abatement of nuisances for the failure of a person to comply with county codes and to allow the costs of such abatement to be assessed against the parcel of property on which the nuisance was located. This is needed because we have a few individuals living in the county that have created nuisances on their properties and we have very little power to force these individuals to comply with the law. You get an idea of what I see the pictures attached to my testimony. Some people feel they can junk up their property and

that neither their neighbors nor the governing body has a right to say otherwise. We feel this is wrong and that this proposed legislation will help remedy the situation.

All Sedgwick County is asking in regard to nuisance abatement authority is to have the same powers that currently exist for all classes of cities, even 3rd class cities in Kansas. So in effect, cities like Cheney and Mulvane have authority in our county that isn't granted to a county in this state that represents more than 400,000 people. If I decide not to mow my lawn in the City of Wichita, the city has the authority to do it for me and charge it back to my property. Yet Sedgwick County currently doesn't have similar authority to clean up a person's junk pile.

I would also like to briefly address some concerns that we have heard with respect to this legislation.

- 1.) *That Sedgwick County already has this authority now.* While it is true that we could try and institute a separate case in district court against violators this would be very costly and time consuming and it is unclear whether legally we could clean up the properties and/or recover the costs. The more likely remedy would some sort of injunctive relief.
- 2.) *That only District Courts should handle property rights.* Our County Court Judge is appointed by statute by the Administrative Judge of the district court. Any person feeling they are not being treated fairly by a ruling in county court has the authority to appeal such ruling to district court.
- 3.) *Concerns with how we are currently enforcing the county code.* The county is undertaking a complete review of county code enforcement at this time with a task force having been set up to assist in this process. There is nothing in this proposed legislation that dictates how Sedgwick County either adopts or enforces a county code. We feel strongly that enforcement of the county code is a matter of local concern and is best left to the discretion of those elected to govern the County. We are merely asking for the additional authority to solve our most serious nuisance problems.

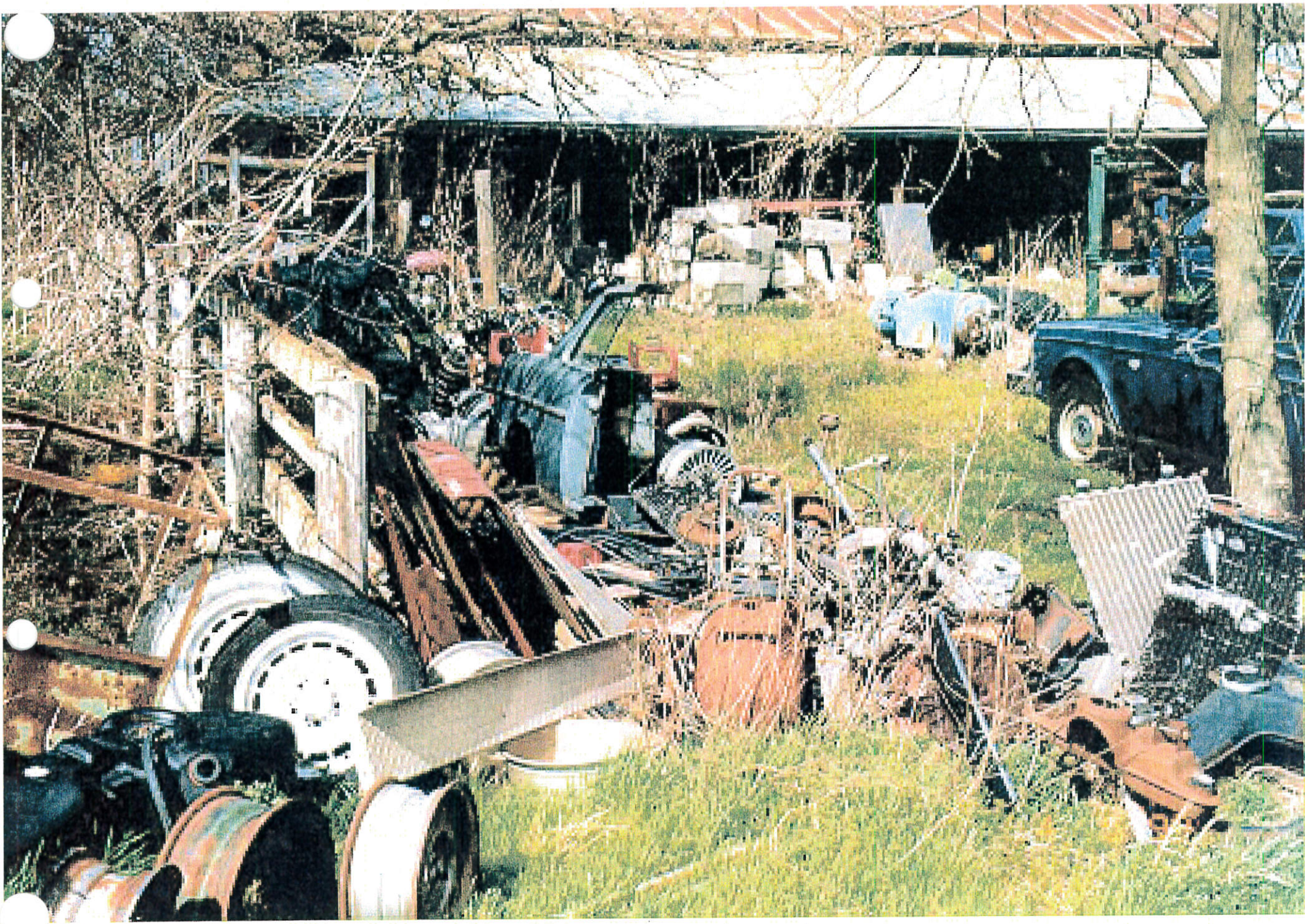
The Board of County Commissioners of Sedgwick County adopted a platform last November that made the provisions of H.B. 2171 our number one priority of this legislative session. Please support H.B. 2171.





11 12 '98





9-6



House Bill 2171
Testimony Regarding Nuisance Abatement

Sedgwick County Commissioner Ben Sciortino
FEBRUARY 13, 2001

Good afternoon. I am Sedgwick County Commissioner Ben Sciortino. I serve the 5th District of Sedgwick County, including southeast Wichita, Derby, Oaklawn and the unincorporated areas of southeast Sedgwick County.

Over the past two years, I have received numerous complaints from citizens about "bad neighbors"...neighbors who keep junk cars on their property... neighbors who pile trash and used appliances in the back corner of lots...neighbors who are a "nuisance."

These situations aren't just about keeping properties nice and pretty. Often these properties are a health hazard, attracting mice, bugs and other rodents. They also pose a risk to others who may get hurt around rusty, broken equipment. And, quite frankly, no one wants to live next to these neighbors.

Now, others will tell you they don't have "junk cars," but that they are "classic car collectors." But, I've seen these properties. Classic car collectors do not have cars with trees growing out of the engine area. They do not have cars stacked up across their property. These properties are a nuisance.

The most frustrating thing for me as a Commissioner is that there's not a lot we can do about these bad neighbors. We have Code Enforcement inspectors, who respond to each complaint that is presented...they visit these properties and they issue citations. Sometimes these cases go to County Court...but, there's not much that comes from that. The bottom line is, we can't enforce our laws.

So, the bad neighbors continue to be bad neighbors. They don't clean up their junk...the trees growing out of their cars get taller...and their properties continue to have a negative impact on others. Now, I appreciate of the rights of property owners...but, I also believe that sometimes people can take advantage of these rights, and infringe upon others when they allow their properties to become a nuisance.

I would ask you to please support House Bill 2171. This is about the health, safety and well-being of the residents of our community. It's about nuisance...and with your help, we can do something about it.

House Bill 2171
Testimony Regarding Nuisance Abatement

Sedgwick County Commissioner Carolyn McGinn
FEBRUARY 13, 2001

Good afternoon. I am Commissioner Carolyn McGinn, Chair of the Board of Sedgwick County Commissioners. I am here to speak in support of House Bill 2171.

Most people choose to move to the country for the quiet and the beauty; they enjoy having space between them and their neighbors. But, unfortunately, like a barrel of apples, a few can spoil it for everyone.

Those who spoil it accumulate cars, brush and other debris until their properties are unsightly. They also pose a health and safety risk to those who live around them.

As an agriculture producer, I can appreciate rural concerns. We all need to work to keep our communities looking good; that's part of being a good neighbor, whether you live in town or out in the country. In the farming community, we have trucks and farming equipment; but that doesn't mean your property has to be an eyesore.

In 2000, there were 541 nuisance complaints in Sedgwick County...complaints from citizens. There are some who respond and clean up their properties; there are others who do not. Unfortunately, we have no real enforcement power through County Court for those who do not comply.

There are four basic reasons why I think changes are necessary for the continued growth of our communities: Health, Safety, Quality of Life and Enforcement.

Nuisance properties pose a health risk to others. They have the potential to become the breeding ground for rats, mice, snakes, mosquitoes and insects. They can become a point of collection for stagnant water.

Nuisance properties can also be a source of danger for children and adults, through entrapment in areas of confinement that cannot be opened from the inside, through a danger of a vehicle falling or turning over, or through possible injury from exposed surfaces of metal, glass or other rigid materials.

Nuisance properties lower the quality of life for those who have to live around them. No one likes to sit on their deck and look out on a pile of cars. Your neighborhood, regardless of whether you live in the city or in the country, has an effect on perceived value...no one wants to buy a home or a lot next to a property piled with debris.

As County Commissioners, we are limited as to what we can do to effectively deal with nuisances. This is very frustrating to me. One of the difficulties of the County Court system is that the Court has no authorization to order the clean up of property. This is just not right.

We need your support of House Bill 2171. County codes and regulations are necessary in rural as well as urban areas. Reasonable enforcement of these codes and regulations is necessary for orderly and peaceful living.

HOUSE BILL No. 2171

Testimony of David L. Yearout, AICP

to the

House Local Government Committee

on behalf of the

Kansas Association of County Planning and Zoning Officials

an Associate Member of the

Kansas Association of Counties

February 13, 2001

13

**HOUSE LOCAL GOVERNMENT
2/13/01
Attachment #13**

RESOLUTION NO. 0101

A RESOLUTION OF THE LINN COUNTY BOARD OF COUNTY COMMISSIONERS supporting and endorsing House Bill #2171, amending and repealing K.S.A. 2000 Supp. 19-101d, 19-4707 and 20-310a.

WHEREAS, the State of Kansas has extended to the Board of County Commissioners certain home rule powers to govern the transaction of county business by providing for local legislative and administrative procedures and actions; and

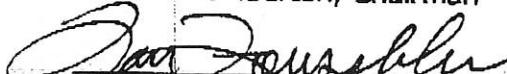
WHEREAS, the State of Kansas did establish an enforcement cost of \$1 to be assessed for violation of county codes and regulations with said assessment to be remitted totally to the State treasurer; and


WHEREAS, the Board of County Commissioners has reviewed and finds that the provisions previously adopted in K.S.A. 19-101(d), 19-4707 and 20-310a have discriminated against rural counties with populations of less than 150,000 and have not adequately provided counties the opportunity for assessing costs for enforcement and prosecution of violations of county codes.

NOW, THEREFORE, BE IT RESOLVED, the Board of County Commissioners of Linn County, Kansas, does support and endorse House Bill #2171 amending and repealing K.S.A. Supp. 19-101(d), 19-4707 and 20-310a.

PASSED AND ADOPTED by the Linn County, Kansas, Board of County Commissioners on this 5th day of February 2001.


Herbert Pemberton, Chairman


Tom Foerschler, Vice Chairman


Delbert Cannon, Member



ATTEST

Donald L. Proffitt, County Clerk

13A

Jan Satterfield
County Attorney



Assistant County Attorneys
Richard King
Morgan Metcalf
James Watts
Darrin Devinyne
Mary Ivester

BUTLER COUNTY, KANSAS
OFFICE OF THE COUNTY ATTORNEY
214 W. Central, El Dorado, KS 67042
Facsimile (316) 321-4120
Telephone (316) 321-6999
(800) 822-6374

February 13, 2001

Dear Congressmen and Congresswomen:

I have been advised that you are considering a bill today which would authorize a county code court. I am writing to you in favor of such a bill for a number of reasons. As a prosecutor, it is my belief that often important county issues, including but not limited to, zoning and other county resolutions are often neglected due to the competing criminal demands and priorities of a typical prosecutor's office. Additionally, it has always concerned me that individuals with no prior criminal record, but perhaps an issue with the county on zoning matters, are booked, fingerprinted and treated as any other criminal matter from the outset. In many cases, I do not believe such treatment to be appropriate. As a consequence, often these cases are treated with low priority. I also understand that it is important for growing counties to plan their growth and enforce certain county codes and zoning. It is important that a judicial process be structured that is sensitive to those needs, understands the complexity of any of those issues and is dedicated to doing what is appropriate, right and fair. I would appreciate your serious consideration of this important bill.

Respectfully submitted,

Jan Satterfield
Butler County Attorney

JLS/kc

RESOLUTION No. 2001, 0205:2

A RESOLUTION OF THE ANDERSON COUNTY BOARD OF COUNTY COMMISSIONERS SUPPORTING AND ENDORSING HOUSE BILL #2171, AMENDING AND REPEALING K.S.A. 2000 Supp. 19-101d, 19-4707 AND 20-310a.

WHEREAS, the State of Kansas has extended to the Board of County Commissioners certain home rule powers to govern the transaction of county business; by providing for local legislative and administrative procedures and actions; and

WHEREAS, the State of Kansas did adopt legislative amendments to those home rule powers regarding enforcement of county codes and resolutions but only for those counties with a population 150,000 or more; and

WHEREAS, the State of Kansas did establish an enforcement cost of \$1 to be assessed for violation of county codes and regulations with said assessment to be remitted totally to the State Treasurer; and

WHEREAS, the Board of County Commissioners has reviewed and finds that the provisions previously adopted in K.S.A. 19-101(d), 19-4707 and 20-310a have discriminated against rural counties with populations of less than 150,000 and have not adequately provided counties the opportunity for assessing cost for enforcement and prosecution of violations of county codes.

NOW, THEREFORE, BE IT RESOLVED, the Board of County Commissioners of Anderson County, Kansas does support and endorse House Bill #2171 amending and repealing K.S.A. Supp. 19-101(d), 19-4707 and 20-310a.

PASSED AND ADOPTED BY THE ANDERSON COUNTY, KANSAS BOARD OF COUNTY COMMISSIONERS ON THIS 5th DAY OF FEBRUARY 2001.



Phyllis Gettler
Phyllis Gettler, County Clerk

Eugene E. Highberger
Eugene E. Highberger, Chairman

Dean Register
Dean Register, Commissioner

W.H. Craig
W.H. Craig, Commissioner



Anderson County Planning Office

Larry D. Walrod, Planning Director
Anderson County Annex
409 South Oak
Garnett, Kansas 66032-1337

785 448 3724
FAX 785 448 3738
Email: ace@kanza.net

February 12, 2001

House of Representatives
Legislative Committee

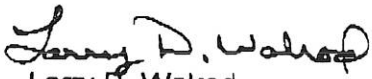
Dear Committee Member:

The Anderson County Board of County Commissioners has adopted the attached resolution supporting and requesting the legislation **NOT** to oppose House Bill #2171.

Currently, small and rural counties are not afforded the same opportunities as the large urban counties regarding the ability to enforce county codes and resolutions. The provisions set forth in HB #2171 corrects this inequity and provides the small rural counties equal treatment regarding capabilities to enforce codes and regulations.

Anderson County respectfully requests your support of HB #2171.

Sincerely,


Larry D. Walrod
Planning Director
Anderson County, Kansas



Jefferson County
Planning and Zoning
P.O. Box 628
Oskaloosa, Kansas 66066
Phone 785-863-2241
Fax 785 863-3325

February 5, 2001

Dear Senator Bob Lyon:

I write to ask your support for HB 2171 that is scheduled for hearing by the House Local Government Committee next week. This Bill would amend the existing statute that only allows counties with a population of 150,000 or more to establish a codes court. In my position at Jefferson County I serve as Planning and Zoning Administrator, Floodplain Administrator and 9-1-1 Addressing Administrator. I am a member, and past president, of the Kansas Association of County Planning and Zoning Officials.

My office is much like most county planning and zoning offices throughout the State, in that the staff consists of two or perhaps three persons. We do our best on a daily basis to provide a service to the residents and future residents of the county. We deal with a large number of people, providing them with information about regulations that have been adopted by the governing body of the county. We know that regulations are necessary to provide a good and safe place for people to live.

When you have zoning regulations they must be enforced or they are meaningless. As you well know, there are those who disregard regulations and notices sent by our office when there is a violation. Our only recourse, after we have exhausted all of our powers, is to ask the County Attorney to file a case in District Court. Most offices of the County Attorney are very busy with cases that have a greater priority than a zoning violation. Therefore, it takes a long time to get anything done. Those that disregard the regulations know this and it is a hopeless situation for our offices.

Jefferson County testified in support of this Senate Bill in 1999 and sent documentation in support again last year. By eliminating the county population figure to allow all counties to establish a codes court to handle zoning and sanitation violations is an answer to these problems. If you were to look at the population in the unincorporated area of counties with populations of over 150,000, you will find that the numbers are about the same or less than rural counties, such as Jefferson, that do not have a major municipality

within their boundaries. A municipality has the power to enforce by court and municipal judge. People are moving to the unincorporated areas in great numbers and we must have the ability to enforce our regulations.

Thank you for letting me state my views and concerns. If you have any questions please give me a call or contact me by fax or e-mail.

Respectfully,

June Huston
June Huston
Planning & Zoning Administrator

ENDORSED BY THE JEFFERSON COUNTY BOARD OF COMMISSIONERS

George H. Mathews
George Mathews, Chairman

Francis Hollmes
Francis Hollmes
Travis Oliver
Travis Oliver

Dave Yearout

From: "Holland, James" <james.holland@saline.org>
To: "Dave Yearout" <dyearout@austinmiller.com>
Sent: Monday, February 12, 2001 2:17 PM
Subject: RE: HB 2171 Testimony

Dave:

Our Commission will pass a proclamation of support next Tuesday. I'll send you a copy. Which committee is hearing the bill? My Commissioners may be willing to make some phone calls and lobby with neighboring counties. As you can well imagine, there are more photos in our photo library to pull from. Keep up the hard work.

Comments forthcoming.

James D. Holland, AICP

2/13/01

13A-7

Dave Yearout

From: "Holland, James" <james.holland@saline.org>
To: "'Dave Yearout'" <dyearout@austinmiller.com>
Sent: Monday, February 12, 2001 2:51 PM
Subject: RE: HB 2171 Testimony

Dave:

Good testimonial. As a local official I find the most difficult task regarding enforcement is to as you put it "fight for the attention of the County Attorney". Obviously when resolution and code violations are on the docket with violent offenses and other felonies, the code violations get little priority (unless the offending party is a public elected or appointed official). We actually had a junk car violation go to district court, but it was thrown out because of "selective enforcement". The defendant simply went around the County, took some pictures, and showed the judge that there were other violations that didn't end up in court. Talk about frustrating.

One of our new County Commissioners asked me what we would do if someone started building homes without proper zoning certificates. Needless to say my answer amounted to "Sir, I would bash my head against a brick wall for about two years, until I couldn't stand it anymore".

You may wish to expand on the "fighting for attention" topic. I don't know how much time you have to work with or whether the Butler and Sedgwick County contingent will expand on this. Would a copy of last years resolution supporting SB 319?

James D. Holland, AICP

—Original Message—

From: Dave Yearout [SMTP:dyearout@austinmiller.com]
Sent: Monday, February 12, 2001 1:40 PM
To: Andy Mayhugh; Judy Freeman; Chris Dunn; Rod Compton; Monty Wedel; Shelia Dale; June Huston; Gail McConnaughey; Glenn Wiltse; Larry Walrod; James Holland
Subject: HB 2171 Testimony

See attached. Review and comment. Send back to me ASAP. I'm asking for time to talk to the committee, but at least want to get this on the record.

James Holland sent me absolutely wonderful pictures. I've downloaded them and will print and attach to them to my handouts. Also, my summary of county population gives some pretty power comment on who really needs this info. If you didn't get to open it earlier, I'll try to get it available by fax after tomorrow.

If you have anything else to get to me, do so today. I'll have only tomorrow morning to get anything done with it before I head to Topeka. If you want to attend, the hearing will be at 3:30 p.m. in Room 519-S before the House Local Government Committee. I'll let everyone know what is happening as I hear more.

Have received Resolutions of support from Linn and Anderson counties. Keep it up. << File: HB2171 - 2001.doc >>

2/13/01

13A-8

Rank Order by Rural Population

	Rural - 2000	County	Total - 2000	Total - 1998	Rural - 1998
1.	58829	Sedgwick	448050	432779	54908
2.	42757	Shawnee	170364	164938	41678
3.	24046	Butler	61932	59226	22912
4.	19739	Riley	63615	64716	20001
5.	17653	Leavenworth	71299	69904	16745
6.	17492	Johnson	429563	408341	16935
7.	15643	Reno	63211	62901	15338
8.	14667	Miami	26597	25933	14142
9.	11505	Jefferson	18243	17514	10994
10.	11087	Douglas	96381	89899	10885
11.	10489	Cowley	36685	37055	10533
12.	10106	Sumner	27043	26901	9895
13.	10012	Montgomery	37089	37414	9982
14.	9749	Cherokee	22552	22505	9609
15.	9385	Pottawatomie	18691	17908	8836
16.	8754	Crawford	36360	36476	8986
17.	8474	Finney	36514	35545	8263
18.	8473	Franklin	24768	23981	8231
19.	7680	Osage	17139	16726	7353
20.	7325	McPherson	28630	27548	7278
21.	7154	Jackson	12130	11978	6991
22.	6681	Gearly	25370	26341	6947
23.	6675	Lyon	33920	34384	6706
24.	6655	Dickinson	19742	19856	6644
25.	6458	Barton	28944	28097	6770
26.	6422	Labette	23030	22869	6411

Rural - 2000	County	Total - 2000	Total - 1998	Rural - 1998
27. 6353	Harvey	34361	32000	5990
28. 6286	Saline	51617	51782	6265
29. 5851	Bourbon	15260	15159	5751
30. 5201	Ford	29382	29309	5136
31. 5194	Atchison	16908	16234	5126
32. 5042	Marion	13605	12898	5052
33. 4976	Neosho	16760	16893	4941
34. 4918	Linn	9158	8974	4777
35. 4638	Nemaha	10536	10389	4744
36. 4526	Marshall	11006	11286	4600
37. 4306	Ellis	26550	26186	5030
38. 4247	Allen	14556	14645	4254
39. 4104	Brown	11070	10965	4056
40. 4061	Kingman	8543	8545	4013
41. 4040	Wilson	10218	10353	4035
42. 3792	Wabaunsee	6651	6664	3778
43. 3636	Anderson	8060	8054	3607
44. 3331	Greenwood	8139	8090	3274
45. 3172	Doniphan	7856	7766	3183
46. 3095	Coffey	8696	8743	3076
47. 2992	Clay	9148	9319	3020
48. 2943	Washington	6490	6738	3039
49. 2819	Morris	6169	6340	2893
50. 2593	Rice	10360	10044	2592
51. 2554	Pawnee	7437	7470	2486
52. 2421	Cloud	10027	10247	2470
53. 2354	Republic	6102	6253	2411
54. 2293	Ottawa	5905	5815	2220

Rural - 2000	County	Total - 2000	Total - 1998	Rural - 1998
55. 2275	Pratt	9700	9746	2258
56. 2244	Gray	5595	5527	2215
57. 2114	Norton	5752	5762	2107
58. 2067	Thomas	8037	8326	2123
59. 2034	Phillips	6080	6194	2047
60. 2030	Seward	19984	20002	1987
61. 1881	Stafford	5000	5129	1900
62. 1856	Jewell	3867	4011	1919
63. 1855	Harper	6430	6524	1864
64. 1819	Woodson	3983	3980	1806
65. 1795	Grant	8012	7697	1750
66. 1784	Chautauqua	4360	4379	1788
67. 1750	Ellsworth	6285	6372	1747
68. 1713	Stevens	5371	5347	1739
69. 1673	Russell	7558	7658	1669
70. 1672	Smith	4588	4741	1740
71. 1640	Rooks	5660	5849	1678
72. 1579	Sherman	6511	6733	1629
73. 1557	Lincoln	3338	3388	1573
74. 1553	Haskell	3976	3922	1509
75. 1503	Mitchell	6936	7096	1546
76. 1503	Rawlins	3125	3249	1570
77. 1443	Barber	5342	5484	1456
78. 1418	Scott	5018	5029	1410
79. 1330	Chase	2950	2886	1298
80. 1313	Kearny	4177	4216	1335
81. 1306	Sheridan	2741	2760	1314
82. 1299	Gove	3054	3089	1305

Rural - 2000	County	Total - 2000	Total - 1998	Rural - 1998
83. 1298	Meade	4424	4436	1291
84. 1289	Elk	3351	3393	1303
85. 1279	Osborne	4712	4606	1287
86. 1250	Trego	3283	3440	1303
87. 1240	Cheyenne	3174	3220	1260
88. 1216	Graham	3204	3260	1228
89. 1203	Decatur	3456	3521	1213
90. 1178	Ness	3607	3663	1195
91. 1037	Edwards	3312	3471	1072
92. 1037	Hodgeman	2209	2231	1043
93. 1014	Rush	3413	3537	1038
94. 971	Kiowa	3470	3571	986
95. 967	Lane	2264	2211	960
96. 956	Wichita	2643	2725	994
97. 876	Wallace	1802	1812	877
98. 844	Logan	2987	3113	880
99. 790	Stanton	2265	2297	798
100. 766	Morton	3440	3315	738
101. 684	Greeley	1704	1754	699
102. 680	Hamilton	2343	2296	666
103. 592	Clark	2361	2382	590
104. 581	Comanche	2012	2072	599
105. 103	Wyandotte	152355	153427	104

Rank Order by Total Population

	Total - 2000	County	Total - 1998	Rural - 2000	Rural - 1998
1.	448050	Sedgwick	432779	58829	54908
2.	429563	Johnson	408341	17492	16935
3.	170364	Shawnee	164938	42757	41678
4.	152355	Wyandotte	153427	103	104
5.	96381	Douglas	89899	11087	10885
6.	71299	Leavenworth	69904	17653	16745
7.	63615	Riley	64716	19739	20001
8.	63211	Reno	62901	15643	15338
9.	61932	Butler	59226	24046	22912
10.	51617	Saline	51782	6286	6265
11.	37089	Montgomery	37414	10012	9982
12.	36685	Cowley	37055	10489	10533
13.	36514	Finney	35545	8474	8263
14.	36360	Crawford	36476	8754	8986
15.	34361	Harvey	32000	6353	5990
16.	33920	Lyon	34384	6675	6706
17.	29382	Ford	29309	5201	5136
18.	28944	Barton	28097	6458	6770
19.	28630	McPherson	27548	7325	7278
20.	27043	Sumner	26901	10106	9895
21.	26597	Miami	25933	14667	14142
22.	26550	Ellis	26186	4306	5030
23.	25370	Geary	26341	6681	6947
24.	24768	Franklin	23981	8473	8231
25.	23030	Labette	22869	6422	6411
26.	22552	Cherokee	22505	9749	9609

	Total - 2000	County	Total - 1998	Rural - 2000	Rural - 1998
27.	19984	Seward	20002	2030	1987
28.	19742	Dickinson	19856	6655	6644
29.	18691	Pottawatomie	17908	9385	8836
30.	18243	Jefferson	17514	11505	10994
31.	17139	Osage	16726	7680	7353
32.	16908	Atchison	16234	5194	5126
33.	16760	Neosho	16893	4976	4941
34.	15260	Bourbon	15159	5851	5751
35.	14556	Allen	14645	4247	4254
36.	13605	Marion	12898	5042	5052
37.	12130	Jackson	11978	7154	6991
38.	11070	Brown	10965	4104	4056
39.	11006	Marshall	11286	4526	4600
40.	10536	Nemaha	10389	4638	4744
41.	10360	Rice	10044	2593	2592
42.	10218	Wilson	10353	4040	4035
43.	10027	Cloud	10247	2421	2470
44.	9700	Pratt	9746	2275	2258
45.	9158	Linn	8974	4918	4777
46.	9148	Clay	9319	2992	3020
47.	8696	Coffey	8743	3095	3076
48.	8543	Kingman	8545	4061	4013
49.	8139	Greenwood	8090	3331	3274
50.	8060	Anderson	8054	3636	3607
51.	8037	Thomas	8326	2067	2123
52.	8012	Grant	7697	1795	1750
53.	7856	Doniphan	7766	3172	3183
54.	7558	Russell	7658	1673	1669

	Total - 2000	County	Total - 1998	Rural - 2000	Rural - 1998
55.	7437	Pawnee	7470	2554	2486
56.	6936	Mitchell	7096	1503	1546
57.	6651	Wabaunsee	6664	3792	3778
58.	6511	Sherman	6733	1579	1629
59.	6490	Washington	6738	2943	3039
60.	6430	Harper	6524	1855	1864
61.	6285	Ellsworth	6372	1750	1747
62.	6169	Morris	6340	2819	2893
63.	6102	Republic	6253	2354	2411
64.	6080	Phillips	6194	2034	2047
65.	5905	Ottawa	5815	2293	2220
66.	5752	Norton	5762	2114	2107
67.	5660	Rooks	5849	1640	1678
68.	5595	Gray	5527	2244	2215
69.	5371	Stevens	5347	1713	1739
70.	5342	Barber	5484	1443	1456
71.	5018	Scott	5029	1418	1410
72.	5000	Stafford	5129	1881	1900
73.	4712	Osborne	4606	1279	1287
74.	4588	Smith	4741	1672	1740
75.	4424	Meade	4436	1298	1291
76.	4360	Chautauqua	4379	1784	1788
77.	4177	Kearny	4216	1313	1335
78.	3983	Woodson	3980	1819	1806
79.	3976	Haskell	3922	1553	1509
80.	3867	Jewell	4011	1856	1919
81.	3607	Ness	3663	1178	1195
82.	3470	Kiowa	3571	971	986

	Total - 2000	County	Total - 1998	Rural - 2000	Rural - 1998
83.	3456	Decatur	3521	1203	1213
84.	3440	Morton	3315	766	738
85.	3413	Rush	3537	1014	1038
86.	3351	Elk	3393	1289	1303
87.	3338	Lincoln	3388	1557	1573
88.	3312	Edwards	3471	1037	1072
89.	3283	Trego	3440	1250	1303
90.	3204	Graham	3260	1216	1228
91.	3174	Cheyenne	3220	1240	1260
92.	3125	Rawlins	3249	1503	1570
93.	3054	Gove	3089	1299	1305
94.	2987	Logan	3113	844	880
95.	2950	Chase	2886	1330	1298
96.	2741	Sheridan	2760	1306	1314
97.	2643	Wichita	2725	956	994
98.	2361	Clark	2382	592	590
99.	2343	Hamilton	2296	680	666
100.	2265	Stanton	2297	790	798
101.	2264	Lane	2211	967	960
102.	2209	Hodgeman	2231	1037	1043
103.	2012	Comanche	2072	581	599
104.	1802	Wallace	1812	876	877
105.	1704	Greeley	1754	684	699

Rank by Percentage Rural Population

	% Rural - 2000	County	Total - 2000	Rural - 2000	Total Farms
1.	63.06	Jefferson	18243	11505	1018
2.	58.97	Jackson	12130	7154	1050
3.	57.01	Wabaunsee	6651	3792	597
4.	55.14	Miami	26597	14667	1245
5.	53.71	Linn	9158	4918	757
6.	50.21	Pottawatomie	18691	9385	787
7.	48.61	Wallace	1802	876	277
8.	48.09	Rawlins	3125	1503	431
9.	47.99	Jewell	3867	1856	579
10.	47.65	Sheridan	2741	1306	442
11.	47.53	Kingman	8543	4061	759
12.	46.94	Hodgeman	2209	1037	359
13.	46.64	Lincoln	3338	1557	454
14.	45.69	Morris	6169	2819	489
15.	45.67	Woodson	3983	1819	371
16.	45.35	Washington	6490	2943	780
17.	45.11	Anderson	8060	3636	686
18.	45.08	Chase	2950	1330	285
19.	44.81	Osage	17139	7680	890
20.	44.02	Nemaha	10536	4638	1007
21.	43.22	Cherokee	22552	9749	725
22.	42.71	Lane	2264	967	287
23.	42.53	Gove	3054	1299	439
24.	41.12	Marshall	11006	4526	922
25.	40.92	Greenwood	8139	3331	593
26.	40.91	Chautauqua	4360	1784	376

13D

13A-17

	% Rural - 2000	County	Total - 2000	Rural - 2000	Total Farms
27.	40.37	Doniphan	7856	3172	507
28.	40.14	Greeley	1704	684	273
29.	40.11	Gray	5595	2244	461
30.	39.54	Wilson	10218	4040	541
31.	39.06	Cheyenne	3174	1240	398
32.	39.05	Haskell	3976	1553	241
33.	38.83	Ottawa	5905	2293	498
34.	38.82	Butler	61932	24046	1256
35.	38.58	Republic	6102	2354	684
36.	38.46	Elk	3351	1289	383
37.	38.34	Bourbon	15260	5851	805
38.	38.07	Trego	3283	1250	399
39.	37.95	Graham	3204	1216	382
40.	37.62	Stafford	5000	1881	475
41.	37.37	Sumner	27043	10106	1064
42.	37.07	Brown	11070	4104	599
43.	37.06	Marion	13605	5042	968
44.	36.75	Norton	5752	2114	399
45.	36.44	Smith	4588	1672	557
46.	36.17	Wichita	2643	956	310
47.	35.59	Coffey	8696	3095	555
48.	34.88	Stanton	2265	790	253
49.	34.81	Decatur	3456	1203	396
50.	34.34	Pawnee	7437	2554	425
51.	34.21	Franklin	24768	8473	956
52.	33.71	Dickinson	19742	6655	893
53.	33.45	Phillips	6080	2034	501
54.	32.71	Clay	9148	2992	546

	% Rural - 2000	County	Total - 2000	Rural - 2000	Total Farms
55.	32.66	Ness	3607	1178	516
56.	31.89	Stevens	5371	1713	304
57.	31.43	Kearny	4177	1313	271
58.	31.31	Edwards	3312	1037	302
59.	31.03	Riley	63615	19739	468
60.	30.72	Atchison	16908	5194	632
61.	29.71	Rush	3413	1014	486
62.	29.69	Neosho	16760	4976	722
63.	29.34	Meade	4424	1298	416
64.	29.18	Allen	14556	4247	604
65.	29.02	Hamilton	2343	680	267
66.	28.97	Rooks	5660	1640	435
67.	28.87	Comanche	2012	581	256
68.	28.85	Harper	6430	1855	529
69.	28.59	Cowley	36685	10489	962
70.	28.26	Scott	5018	1418	335
71.	28.25	Logan	2987	844	326
72.	27.98	Kiowa	3470	971	318
73.	27.88	Labette	23030	6422	901
74.	27.84	Ellsworth	6285	1750	424
75.	27.14	Osborne	4712	1279	465
76.	27.01	Barber	5342	1443	433
77.	26.99	Montgomery	37089	10012	964
78.	26.33	Geary	25370	6681	223
79.	25.72	Thomas	8037	2067	553
80.	25.58	McPherson	28630	7325	1163
81.	25.09	Shawnee	170364	42757	823
82.	25.07	Clark	2361	592	260

	% Rural - 2000	County	Total - 2000	Rural - 2000	Total Farms
83.	25.03	Rice	10360	2593	519
84.	24.76	Leavenworth	71299	17653	1046
85.	24.75	Reno	63211	15643	1363
86.	24.25	Sherman	6511	1579	478
87.	24.14	Cloud	10027	2421	545
88.	24.07	Crawford	36360	8754	787
89.	23.45	Pratt	9700	2275	434
90.	23.21	Finney	36514	8474	520
91.	22.41	Grant	8012	1795	257
92.	22.31	Barton	28944	6458	742
93.	22.26	Morton	3440	766	233
94.	22.13	Russell	7558	1673	494
95.	21.67	Mitchell	6936	1503	487
96.	19.67	Lyon	33920	6675	855
97.	18.49	Harvey	34361	6353	779
98.	17.71	Ford	29382	5201	692
99.	16.21	Ellis	26550	4306	674
100.	13.13	Sedgwick	448050	58829	1395
101.	12.18	Saline	51617	6286	720
102.	11.51	Douglas	96381	11087	839
103.	10.19	Seward	19984	2030	251
104.	4.07	Johnson	429563	17492	604
105.	0.07	Wyandotte	152355	103	189

CLARK LAND COMPANY, INC.
2551 GREENLEAF
WICHITA, KS 67226
(316) 634-2894

February 10, 2001

State of Kansas Legislators
Topeka, Kansas

Re: House Bill No. 2171

*Supports
Bill*

Dear Legislators:

As a suburban residential developer in Sedgwick County since 1957, I have had continuing problems on my developments with a few individuals who blatantly violate both development restrictions and county zoning codes. I am in favor of House Bill No. 2171.

The problem with these few violators is that they have no regard about how their junk looks to their neighbors or the detrimental effect that it has on the property values. They are the most insensitive and uncharitable of individuals.

Living in peace with the neighbors and in conformance with zoning regulations is easy to do. If people want to collect old cars, they simply need to make sure that they have current registrations and keep them out of sight in metal buildings. The cost to them is far less than the accumulated degradation of the property values in the entire development caused by the unsightly mess of old cars, motors, and other junk lying around rusting.

Conformance with development restrictions and zoning regulations benefits everyone, keeps the development from becoming an eyesore, maintains property values, and does not prohibit anyone from exercising their freedom to collect old cars. Requiring conformance to zoning regulations makes these individuals really consider the true value of an old car prior to hauling it to their property, if they also have to get a current registration and keep it out of sight. True junk cars are not worth the effort or money in that case, and House Bill No. 2171 would allow the Department of Code Enforcement to require the violators to be honest in choosing between old cars that have real value and those that are merely junk.

Sincerely,

George L. Clark

CLARK LAND COMPANY, INC.
George L. Clark, President

14

HOUSE LOCAL GOVERNMENT

2/13/01

Attachment #14

**House Bill 2171
Testimony Regarding Nuisance Abatement**

Clifford Helms
212 N. Brookwood, Derby, KS 67037
(316) 788-4422

Madame Chair and committee members, thank you for allowing me to speak. My name is Clifford Helms, and I am a landlord in the Oaklawn community in Sedgwick County.

I am fully supportive of House Bill 2171, and understand Sedgwick County's frustration with the County Court system for nuisance laws. I know the County's Code Enforcement has visited with tenants and neighbors about junk on their properties. But, because the County Court system cannot make them clean it up, I have had to haul the junk off. Just last weekend, I hauled off a couch, chair, folding bed and a file cabinet.

It is important that we have Code Enforcement to follow up on nuisance complaints. But, it doesn't make sense to have laws and inspectors if we can't make people keep their properties clean.

Again, I support House Bill 2171 and thank you for your time.

15

W. Dean Lorenz
33413 W. 15th St. So.
Garden Plain, KS 67050-9518

Phone: 316-540-0149
Fax: 316-540-0113

02/13/2001

Supports

To: Committee Members

Subject: House Bill No.2171

My name is W. Dean Lorenz; I am a farmer and senior account executive for a major corporation. My wife and I operate a family farm in western Sedgwick County between Garden Plain and Cheney. I am a fourth generation farmer and hope that my sons and grandchildren will have the opportunity to be fifth and sixth generation farmers.

My wife and I recently purchased 80 acres of farm ground to the west of us in order to prevent this property from being developed. We will never be able to farm this property and pay for it from the income this land will produce, but we will be able to control the development and keep it from becoming one to five acre plots.

I have seen how developments with modular and non-structured housing affect the area surrounding these types of developments. I am not saying that all developments with this type of housing are a problem. I am saying that to maintain a healthy community it is important to those of us who value our farms and raising our children in the country to keep the land and property neat and clean.

As a property owner I expect and request my elected commissioners to maintain a clear standard regarding trash, junked vehicles, scrap, refuse, dangerous structures and hazards. You will hear the argument that as a property owner you have rights to do what you want with the land you own; and I agree that property rights are very important. The problem is when rights become avenues for developments that are unsightly, unkempt, cluttered and affect the neighbors and their property values and safety.

My neighbors and I are concerned with the loss of value for our property that these types of developments can create. We are concerned with the quality of life in our unincorporated areas. We are concerned with the ever moving and encroaching developments. As a property owner I want our commissioners to review current regulations for unincorporated areas to make sure the rules are clear, workable and current.

My Sedgwick County Commissioners have formed a task force of interested citizens with a variety of backgrounds and directed them to obtain public input

16

HOUSE LOCAL GOVERNMENT
2/13/01
Attachment #16

on current regulations. This task force will receive public input and make recommendations back to the commissioners on two particular parts of regulations.

- Current rules do not allow “inoperable vehicles” on property in the unincorporated areas of the county, unless the vehicles are enclosed within a building. How should the rule be adjusted to accommodate equipment used in agricultural production?
- Current rules state that “refuse” should be kept inside lidded, waterproof and fly proof containers; “refuse” includes such items as grass cuttings and tree trimmings. How should the rule be adjusted to include waste reduction or recycling projects like composting, yet still maintain a standard of neatness and cleanliness?

From a landowner and resident of Sedgwick County, these are good questions that need to be addressed by our residents. The commissioners have opened a dialog for citizens to express their thoughts, concerns and wishes to a committee that is made up of citizens like themselves.

My testimony is directed at how the enforcement in county court needs to have strength in dealing effectively with nuisances. The recommended changes before this committee in HB 2171 is important in doing that. I support the commissioners in attempting to enforce the codes for my protection.

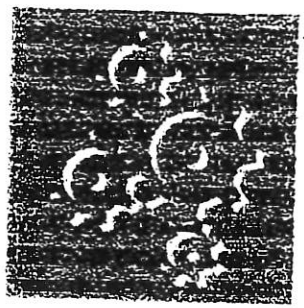
County codes and regulations are necessary in rural areas just as they are in the urban areas. Reasonable enforcement of county codes and regulations are important for orderly and peaceful living. Junk cars and unsightly trash detract from the beauty of our rural life. As a landowner, I do not want my property values/rights to be adversely affected by junk and trash. These properties that have allowed trash and junk creates health and sanitation problems in our county. I want our county courts to have the right and power to enforce the codes for my protection.

I want to express my appreciation to this committee for allowing me this opportunity. Thank you

Respectfully,



W. Dean Lorenz



James J Youngers
18308 W. 79th St. So.
Viola, Kansas 67149
Phone (316) 545-7364
Fax (316) 545-7540
E-mail info@jny.com

*Amendments
By
McGinnis*

Dear Chairman and Committee

In regards to HB2171 that will be debated this week in committee on the county codes and zoning towards nuisances, I have a few things for your consideration on this Bill.

Passing of HB2171 looks to be the right thing to do for the ability of Sedgwick County to enforce the codes and zoning on nuisances.

It is my understanding that a Task Force for Sedgwick County is working on the codes on zoning towards nuisances, and will modified them to bring up to new standards. I would think that before this new Bill is made active that the new codes would be in effect. Having the Task Force report back to your committee when they finish their changes on the codes and zoning regulations could do that.

The Commissioners of Sedgwick County have assured me the committee will do their very best to make the codes fair and harassment free. I do believe this but would like to see the new code regulations done before the Bill takes effect.

Again, I am in support of this change but want to be assured that everything is done right so we don't end up back in Topeka next year having to make changes because something went wrong.

Respectfully

James J Youngers
James J Youngers

11 A

9171 S. West St.
Haysville, KS 67060

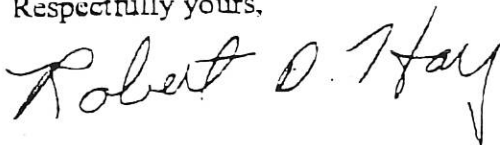
February 12, 2001

To Whom It May Concern:

Subject: House Bill 2171

My name is Robert Hay and I have lived in Sedgwick County all of my life. I own 800 to 1000 acres, all in Sedgwick County. I feel very lucky that I do not have any unsightly homesteads near my home. There is a development of homes to the north of us that is for the most part very well kept. Through our farming activities in Sedgwick Co. we pass by several developments. The problem with some of these developments is that they are totally unkempt, which lowers the value of the land around them. They are in some cases so cluttered with junk cars and mangled mobile homes that they have become a home for wild dogs and rodents. In my opinion this is unhealthy and dangerous to the residents of these properties and their neighbors. Many, but not all of these are mobile homes but "stick built", unkempt homes. They seem to have loads of all kinds of trash that is never removed. I am also the trustee of Ohio Township in Sedgwick County for 9 years running. This trash problem has become a burden on township employees, as it is our job to keep the roads and ditches clean and safe. Picking up trash in the township has increasingly become one of our biggest jobs. Needless to say we do not enjoy picking up others trash and we wish the people of Sedgwick County would take responsibility by keeping their homesteads clean and dispose of their trash properly which would keep the roads cleaner and safer and make our job easier. We believe that there needs to be some changes made in Sedgwick County so that everyone can exist together in harmony. Some steps need to be made to control this situation while at the same time protecting the property rights of landowners. We need some rules to live by in Sedgwick County, as it is rapidly becoming a thickly populated metropolis. I am in favor of parts of HB 2171 but it is my understanding that there is a task force in place to address this issue and I would hope that their suggestions would be considered.

Respectfully yours,



Robert Hay



HOUSE LOCAL GOVERNMENT

2/13/01

Attachment #11B

02/12/01 MON 10:55 [TX/RX NO 6922]

**House Bill 2171
Testimony Regarding Nuisance Abatement**

**Glen Wiltse,
Sedgwick County Code Enforcement Director**

February 13, 2001

Madame Chair and members of the Committee. My name is Glen Wiltse, and I am Director of Sedgwick County Code Enforcement. I have nearly 21 years of experience as a building inspector and department director, with the past four years at Sedgwick County. Currently, Sedgwick County Code Enforcement is in charge of building inspections, enforcing zoning regulations and nuisance regulations adopted by Sedgwick County.

I grew up in a farming community in southeast Kansas, and I lived on a farm. My father farmed his entire life, and my brother farms the family farm including additional acreage. I understand agricultural issues and the needs of farmers.

I am also a vehicle hobbyist and have owned Corvettes, sport cars and other custom vehicles. I still own custom vehicles, and I understand the issues of people keeping antique or hobby vehicles, but there are ways of pursuing your hobby so it will not impact your neighbors. Most of Sedgwick County Code Enforcement's nuisance cases are not related to either farming or classic cars, but instead salvage and junk.

During the year 2000, our inspectors responded to 541 complaints from citizens. Complaints can be brought to the office by individuals, by phone or sent in written form. The complainant does not have to provide their name, address or telephone number. And, our inspector's follow-up on these complaints, we do not instigate them. Most of the complaints are about cars piled up with trees and brush growing up around them and other debris.

Our goal is to address the complaint on the property. We have a procedure we follow on each complaint. When the initial complaint is sent out, the property owner is given 10-15 days to address the violation. A property owner may request a time extension, if the owner feels this is not an adequate amount of time. The extension may be granted for health reasons, weather or simply to provide sufficient time to take care of the violation. Again, our goal is to address the complaint, and to get properties cleaned up. Code Enforcement will grant extensions as long as legitimate progress toward the clean up is occurring. If the property owner is not willing to do this, we can address the violation with a citation. In many cases, however, these citations are ignored. It is not uncommon for many of these cases to be in court for 2 to 3 years. Furthermore, one of the difficulties in the County Court system is that the Court has no authorization to order clean up of property. It is frustrating to us that these laws cannot be enforced.

I request your support of House Bill 2171.

12

Petition to the local government committee of the House of Representatives of the Kansas State Government opposing House Bill #2171, by Gary Alan Simpson, M.D. of 1668 W. 100th Ave. N., Milton, Kansas of Summer County.

(I.) I oppose House Bill #2171 because it infringes our people's rights for the following reasons.

(A.) It allows for appointed (pro tem) county judges which will limit our rights to a jury trial. The Kansas Bill of Rights, Sec. 5 says "The right of trial by jury shall be inviolate."

(B.) It calls for "nuisance abatement" which means stealing people's property under color of law (but not real law). Private property can only be taken by government to satisfy unpaid taxes, to pay an actual fine or restitution from a genuine criminal or civil proceeding, or by the due process of eminent domain. This is not dealing with a genuine criminal case, such as a murder or rape and there is no civil lawsuit involved, so eminent domain is the only example that might apply, but that requires a lengthy due process in each case and requires the citizen to be paid a fair market value for the property seized, not as in this bill where the citizen is required to pay the govt. for the taking. We're not talking about refuse here. We're talking about old cars, trucks, scrap iron, etc.

(C.) 2171 and numerous county nuisance, salvage, and other zoning codes are unconstitutional infringements on our property rights for the following reasons.

(1.) Kansas Bill of Rights Sec. 20: Powers Retained by the People. "This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people."

(2.) Article IX of the U.S. Bill of Rights: similarly protects unenumerated rights of the people.

(3.) What are these protected, but unenumerated, rights? Both the Kansas Bill of Rights, Sec. 1 and the Declaration of Independence refer to these rights when they speak of "unalienable rights, among which are the rights to life, liberty, and the pursuit of happiness." What is the "pursuit of happiness"? Historically, we find that the term largely means the right to enjoy one's property as one sees fit. The government does not have the right to infringe on a person's constitutional property rights (except in the above mentioned and very unusual circumstances) except where the use of that property is truly harming a neighbor.

(a.) When is a person's use of property truly harming a neighbor?

(1.) The assertion that old cars, etc. harbor mice which pose a threat of Hunta virus is totally bogus. There has never been a case of someone getting Hunta virus from a neighbor's old car. The virus does not spread out, but is only a threat to the person who gets into a dusty confined space with the mouse excrement and without a dust mask.

(2.) Beautification or cleaning up "eyesores" is not a legitimate reason to infringe on a person's property rights. Despite what some hypochondriac might claim, there is no honest medical reason that a neighbor's old cars could make a person sick.

(3.) Developers and realators want these laws for the dual purpose of first causing hardships on people so they can get their property cheap and secondly then to clean out the neighborhood and drive up the price of property so they can sell lots for more money. Most people want to do the reverse and keep the price of property down so their children can afford to buy a house and so the property taxes stay low.

(II.) The Kansas Assoc. of Counties (K.A.C.) and it's parent group, the National Assoc. of Counties (N.A.C.), which are pushing House Bill 2171, have a socialist agenda. We hereby petition you to stop being unduly influenced by them.

(III.) There is a new grass roots group in Summer County, consisting of ordinary people from all walks of life, of which I happen to be a member. It is called Concerned Citizens of Summer County. It seems to be primarily concerned about the erosion of our property rights. It is about 400 strong and growing. **HOUSE LOCAL GOVERNMENT**

2/13/01

Attachment #17

Dear Chairperson and Committee Members

HOW

Please vote No on HB 2171

WHY

Why empower non elected bureaucratic officials with powers that supersede the constitution

Where

Where does this influence come from other than the National Association of Counties

When

When you cross a Tiger and a Canary

What

What did and can happen

Who

Who changed the original intent of zoning laws

Which

Which way will you chose.

A. Protect the individuals Property Rights

b. empower the non elected bureaucrat

DAN RUSS



Listening to the crowd



Sumner County Commissioners move meeting to Raymond Frye Complex when rural residents turn out for hearing on zoning issues

By Linda Stinnott

Wellington Daily News writer

In a true grass roots movement, rural Sumner County residents spread the word and appeared in person at Tuesday morning's meeting of the Board of Sumner County Commissioners. With nearly 150 people present, the meeting had to be moved to the Raymond Frye Complex to accommodate the numbers who appeared to tell the commissioners they don't like a proposed zoning/environmental code.

"This is the home of the free and the brave," said Gary Simpson, who had helped lead the efforts to bring a crowd to speak to the commissioners. "You are trying to make us all criminals."

At issue are changes to the zoning/environmental code the county is considering adopting.

Those changes establish health nuisances in rural Sumner County by establishing that filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal or any other offensive or disagreeable thing, stagnant ponds, grass or weeds or unsightly vegetation, abandoned appliances and all dead animals not removed from the property within 24 hours are nuisances. The changes would also give employees of the county planning and zoning department the right to enter any property and for

adopted in 1972 and revised in 1992. Bristor said the codes already allow the right of entry to property and several other of the items at issue, and the county had truthfully hoped to tighten the law, instead of loosening it as perceived by the crowd in attendance.

From the first speaker, those talking to the commissioners in the public hearing said many of the problems come about when housing additions are platted next to farm ground. People pay high prices for homes and suddenly find that in everyday life not everything down on the farm is pretty and smells good.

"They wanted to be in the country — folks it is the country," said Dennis Zimmerman of rural Belle Plaine.

Zimmerman said he specifically built his home away from neighbors, with a one-fourth mile long driveway that he must maintain.

"I don't want to bother anybody else and I don't want to be bothered," he said. "You as a county commission are not responsible for solving those problems."

He also reminded the county commissioners that they frequently complain about rules set up by state and federal regulators that step on the toes of the county.

"That's what you're trying to do to us," he said.

Others told the commissioners that the 24-hour rule on dead animals cannot be fol-

Henry Ancell, who lives south of Wellington, said that under current laws, farmers are no longer allowed to plow lands which hold water. He told the commissioners that the rules against stagnant water will get the farmers in trouble with laws already on the books with federal agencies.

"That's in contradiction to their own regulations," he said.

Several had direct questions for the commissioners and Bristor. Dennis Peterson of Wellington asked if there had been documented cases of health problems in the county from any of the proposed changes.

"Is this a huge problem?" he said.

Bristor said the regulations are complex health issues, but admitted that there are documented cases of problems from the rural areas of the county. However, he said, there are problems in the small, unincorporated communities, where wells have been contaminated by neighbors with improper septic systems.

He said the wording had come from suggestions from citizens in the county. Several farmers said the restrictions allow much leeway to those who don't understand rural life.

"My biggest concern is (the wording) is not precise," said Randy Melrose of Milton.

DAN THIMESCH
REPRESENTATIVE, 93RD DISTRICT
30121 WEST 63RD STREET SOUTH
CHENEY, KANSAS 67025
(316) 531-2995

STATE CAPITOL
ROOM 278-W
TOPEKA, KANSAS 66612-1504
(785) 296-7680
1-800-432-3924
(DURING SESSION)



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
AGRICULTURE RANKING MINORITY
ENVIRONMENT
LEGISLATIVE POST AUDIT
TAX, JUDICIAL & TRANSPORTATION BUDGET:
SUBCOMMITTEE
CAPITOL RESTORATION
SOUTH/CENTRAL/SEDGWICK COUNTY DELEGATION
GULF WAR ADVISORY BOARD

TESTIMONY BEFORE HOUSE LOCAL GOVERNMENT
FEBRUARY 13, 2001

Thank you Madam Chairman and Committee

I come before you today to express my concerns about HB 2171. When you debate this bill, you also have to look toward the need that Sedgwick County has for this change of law.

Passing HB 2171, in it's present form, will enable Sedgwick County Court to order abatement of nuisances resulting from a person's failure to comply with county codes or resolutions. In itself that isn't the problem.

The problem lies in that what Sedgwick County has adopted, is outdated and unfair regulations. Citations have been issued based on these outdated and unfair regulations. You will hear some of those stories today. You will also hear about real problems of nuisances that need to be taken care of.

I understand there is a Task Force working to address these outdated regulations and definitions. This is very much needed. This Task Force is charged to deliver its recommendations by February 28, 2001.

This is a big job. I have my doubts if this is enough time to complete this task properly.

Sedgwick County Commissioners have assured us that they didn't intend on harassing anyone. The fact is that in its present form, and how it is being enforced, the nuisance regulation can't help but harass some. It is also a fact that other are abusing the system.

If you decide to pass out HB 2171, I strongly urge you to delay this act, for it not to take affect until July 2002.

This will give the Task Force enough time and the County Commissioners enough time to redefine "nuisances" and develop better and more fair enforcement.

I also strongly encourage this committee to monitor this situation. If the County isn't able to accomplish this task, I ask that the legislature revise the act before it takes place next year and a post audit look into this matter, and audit Sedgwick County Zoning and Code enforcement.

Respectfully,

Daniel J. Thimesch

HOUSE LOCAL GOVERNMENT
2/13/01
Attachment #19

I AM SPEAKING TODAY IN OPPOSITION TO HOUSE BILL NO. 2171 FOR THE FOLLOWING REASONS.

THIS BILL REMOVES THE POPULATION EXCLUSION.

IT IS INCREASING COURT COSTS AS MUCH AS 6000 PER CENT.

IT WILL ALLOW A JUDGE THAT IS NOT ELECTED IN A COURT OF NO RECORD TO ORDER ABATEMENTS WHICH THEY HAVE NOT HAD AUTHORITY TO DO IN THE PAST.

IN COUNTY COURT YOUR CASE CAN NOT BE HEARD TO A JURY OF YOUR PEERS.

SEDGWICK COUNTY HAS APPROVED CODES THAT ARE VAGUE AND AMBIGUOUS AND CODE ENFORCEMENT IS ADDING TO THESE CODES WITH THEIR OWN INTERPRETATION OF WHAT THE CODE SAYS.

THE COUNTY COURT JUDGE LOOK AT A TICKET THAT HAD VAGUE AND AMBIGUOUS CHARGES FOUND ME GUILTY OF ONE OF TWO CHARGES AND THEN ASKS THE PROSECUTING ATTORNEY WHICH CHARGE HE HAD DISMISSED.

TO GIVE A COUNTY COURT OF NO RECORD WITH A JUDGE WHO IS NOT ELECTED THE POWER TO ORDER ABATEMENTS AND THEN ORDER THE COSTS OF THE ABATEMENT THE PARCEL OF PROPERTY SHOULD

OWN BE CRIMINAL.

IF COUNTY CODE ENFORCEMENT DEPT.
BELIVES I AM A BAD ENOUGH NUISANCE THEY
COULD TAKE ME TO DISTRICT COURT TO WIN
AN ABATEMENT ORDER.

IN DISTRICT COURT I CAN HAVE MY
CHARGES HEARD BY A JURY OF MY PEERS.

I RESPECTFULLY REQUEST THAT YOU
DO NOT ALLOW THIS BILL OUT OF COMMITTEE

SINCERELY

CHARLES H. PEASTER

9453 N 135ST W

SEBOWICK, KS.

67135

Mr. Chairman and Members of the committie.

I want to thank you for permitting me to testify before you today.

My name is Tom Wiggins.

I was born and raised in Kansas, I have lived in Sedgwick county since 1948.

I love this great State of Kansas, I have never thought about moving away until I was bothered by Sedgwick County Zoning Agent, Mr. George Bloesing. He told me that I had to remove all my cars from my property. I was upset by this, so I figured that he should know what the law is. So I got rid of most of my toys. While doing so, I got to thinking about where this law is so that I could read it. I purchased the Wichita/Sedgwick County Code Book. After I read this book ten times, I could not see any law that applied to my having vehicles on my property.

I was then cited and ordered to appear in Sedgwick County Court before Judge Richard Macias. The day my trial was to begin, Judge Macias took myself and the prosecutor behind closed doors. He preached to me that his job was to clean up the county and that he was just doing his job. I told him that I moved to the county to have my freedom and that this was very precious to me and that I was willing to fight for it.

Mr. Bloesing then wrote 8 citations for continuing violations. How can this happen when I had not been found guilty of the first violation?

My trial started after 9 months of being harrassed by having to appear in Court a number of times. The trial started in mid Decenber of 1999 and got delayed several times because I had filed several motions for them to dismiss the charges on the grounds that I was not in violation of any law. I asked the judge to show me where in the book that I was guilty of anything. The prosector objected and said that I was making a legal argument. I thought I had a right to make legal arguments.

The trial came to an end in April, 2000. The judge said that he would make a ruling the following week. Well I went to court and he said you don't need to come back, we'll send you a letter. I did not trust him about sending me a letter, so I went to the court every monday afternoon. I think it was the first of september, the Judge summoned me to the bench and read the verdict. He dismissed two citations because Bloesing trespassed to take his pictures. I was found guilty of six citations that were for continuing violations. Normally the journal entry would be made on the same day but I was told that it would be a week or ten days before it would be filed. I waited until the tenth day which is normally the dead line to file an appeal in District Court. Still no journal entry. So I went ahead and filed my appeal without the journal entry.

The County Prosecutor done every trick in the book to keep me from progressing to a jury trial. I was pro se, so I had quite an experience. I finally got to file a motion to dismiss

HOUSE LOCAL GOVERNMENT

2/13/01

Attachment #21

because the charges wer vague and ambiguous.

I finally got my day in court in front of a real judge. I presented my case to the judge to dismiss because the law was not in the book.

Judge Pilshaw asked Mr. Holman to show her where in this book does it say that the accused is not allowed to have these vehicles on his property? He tried to show her and after a few minutes of looking in the book. Judge Pilshaw said "I've been a judge for 7 years and an attorney a lot longer than that and I'm not seeing it Mr. Holman." I'm dismissing all the cases against Mr Wiggins.

"This is vague and ambiguous, I thought you were a better attorney than this Mr. Holman."

You should not give a person like this judge the authourity to order an abatement of a nusancefor the following reasons;


He is an employee of the county Commisioners.

He makes up the law as he sees fit to please the prosecutors.

I have seen good attorneys have trials in this court and get screwed over the way the judge operates. One attorney appealed in district court and asked for a jury trial. The prosecutor drop the charges the day before the trial was to begin. The county paid his fees.

I know of 5 cases that were appealed and were dismissed in District Court.

The County Court system was abolished back in the early seventies. Why is this system being renewed?


Tom Wiggins
9764 N. Meridian
Valley Center, Ks. 67147

316 755 1796

John R. Todd
1559 Payne
Wichita, Kansas 67203
(316) 262-3681 office
(316) 264-6295 residence
e-mail: john todd@fn.net

Date: February 13, 2001

To: Members of the HOUSE LOCAL GOVERNMENT COMMITTEE

Subject: Testimony regarding my **OPPOSITION TO HOUSE BILL #2171**

My name is John Todd. I live in Wichita, Sedgwick County, Kansas and am here to speak as a *private citizen* who is concerned about the abuse that is going on in Sedgwick County regarding the counties enforcement of codes and resolutions, and therefore *oppose* the passage of House Bill No. 2171, and *suggest* that serious consideration be given to major *revisions* of the current law as enumerated below, or lacking passage of the suggested revisions, to simply *repeal the existing statute!* I am not an attorney. I am a real estate broker by profession.

Before you consider expanding the current statute to counties with a population of less than 150,000, please consider some of the problems that are going on in Sedgwick County that need to be addressed.

Private property owners in Sedgwick County are being cited by county officials for code violations, and convicted in the County Court for misdemeanor crimes without knowing whom their accusers are. The Sixth Amendment of the United States Constitution requires that "In all criminal prosecutions, the accused shall have the right to be confronted with the witnesses against him".

Reports are circulating that Sedgwick County code enforcement officials and other County employees are ignoring no-trespassing signs and are trespassing on private

property without the owner's permission or without a search warrant, cutting wire fences, and confiscating the property owner's private property with County trucks and destroying, dumping or selling same. The Fourth Amendment of the United States Constitution requires that "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The Sedgwick County Court is not the appropriate place for trying serious property rights issues for a number of reasons. The court is not a court of record and therefore lacks a stenographic record of the proceedings. The County Attorney aggressively tries to persuade defendants in the court to "plea-bargain" and fails to explain to them that if they "plea-bargain" they are admitting guilt to the alleged crime, and are therefore forfeiting their right to appealing their case to the state District Court and their right to a trial by jury. The County Court Judge has allegedly admitted to a couple of people that he has been "Charged by the County Commissioners to '*Clean up the County*'." The Fifth Amendment of the United States Constitution requires that "No person shall be deprived of property, without due process of law; nor shall private property be taken for public use without just compensation."

Enclosed is a copy of the Oath of (the) Judge Pro Tem "to swear (or affirm, as the case may be) to support the Constitution of the United States...". This same judge presides over the Sedgwick County Court. Perhaps the United States Constitution does not apply to Sedgwick County law or perhaps it is more "politically expedient" in Sedgwick County to ignore the Constitution.

The solutions to the problems enumerated above are fairly simple, and they need to be incorporated into House Bill 2171 as follows.

1. County Code complaints need to be in writing so that the accused knows who accused him. Code complaints need to be limited to written complaints from property owners within a specified distance from the property owner being complained about, say 1000 feet, or similar to zoning change notifications.
2. The County Court needs to be abolished. A more appropriate method of dealing with property disputes would be Mediation. Enclosed is a brochure from the Mediation Center of Wichita, Inc. with funding provided in part by: Wichita Bar Association, Kansas Bar Foundation-IOLTA, Sedgwick County, and private donations. In court, there's a winner and a loser, and a third party makes the decision. In mediation, both parties are winners, and the third party is only a facilitator. The parties could also agree, in advance, to binding Arbitration if they deemed that method beneficial.
3. In the event Mediation proves unsuccessful, either party to a property complaint could file suit in the state Court and pursue the matter there and meeting the requirements of the Constitution.
4. The Legislature would be wise to incorporate these suggestions into state law, and applying them first in County's with a population over 150,000 before expanding them statewide.

5. In the event you don't abolish the County Court, don't increase Court costs over \$1.00.
6. Don't give Counties the power to assess the "costs of abatement" against private property.
7. The ½ mill tax that the County Commissions can assess for Code enforcement in the current statute needs to be eliminated. A County Commissioner in Sedgwick County indicated to me that the ½ mill tax in Sedgwick County was equal to approximately \$1,000,000.00 in property taxes. This needs to be reduced to \$0.00.

In closing, I would suggest to you can and should end the abuse of the rights of private property owners that is going on in Sedgwick County, and prevent it's spread to other counties in the state. The Sedgwick County Court needs to be eliminated and replaced with a system of Mediation where aggrieved parties can face each other and work out their differences. Ultimately, in our country, economics is the ultimate solution to property disputes. If you don't like the way your neighbor maintains or uses his property you can buy it and change it as you please, and by the same token, your neighbor has the same option available to him. Please modify the statute as suggested or repeal the statute entirely.

Thank you for allowing me to speak today. I would be glad to answer questions.

Sincerely,


John R. Todd


IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT OF SEDGWICK COUNTY, KANSAS

OATH OF JUDGE PRO TEM

STATE OF KANSAS)
) ss:
COUNTY OF SEDGWICK)

I, RICHARD A. MACIAS, do solemnly swear (or affirm, as the case may be) to support the Constitution of the United States and the Constitution of the State of Kansas, and to faithfully perform all my duties as Judge Pro Tem of the District Court of Sedgwick County, Kansas, on the dates as assigned by the Administrative Judge.

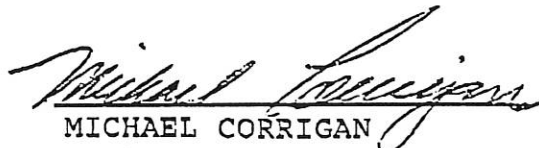
So Help Me God.



RICHARD A. MACIAS
Judge Pro Tem

State of Kansas)
) ss:
County of Sedgwick)

Subscribed and sworn to before me this 19th day of July, , 19 89



MICHAEL CORRIGAN
Administrative Judge
18th Judicial District

WHAT ARE THE BENEFITS OF THE PROGRAM?

Speed: The mediation session can be scheduled as quickly as the parties and mediator can agree on a time—usually within one week.

Cost: There may be an administrative fee from all parties involved in the dispute. The fee can be waived under certain circumstances.

Cost: Initial Contact \$10.00, Community Mediation \$25, Domestic mediation (sliding scale) starting at \$25 per hour.

Confidentiality: Since this is not a public session, it is kept between the parties involved. There is no public record of appearance or resolution unless both parties choose that.

Satisfaction: Each party has the gratification of knowing they solved their own dispute and controlled their own destiny.

WHO ARE THE MEDIATORS?

They are mature community volunteers who have received 20 hours of specialized mediation training provided by the consulting experts of the Mediation Center. No specific background or prior experience is necessary. Mediators have the ability to listen and to facilitate communication.

What Is The Mediator's Role?

As a trained mediator, the volunteer will conduct the sessions with citizens who are attempting to mutually resolve their conflict. The mediator's role is to listen to all parties to gain an understanding of how they wish to resolve the dispute. A mutually acceptable solution is decided upon by the parties, not the mediator.

How Do You Become a Mediator?

Contact the Executive Director
290-8241

What Is The Mediation Center?

In 1980 the Wichita Bar Association member attorneys saw a need to create a means by which citizens could resolve their own minor disputes and do it without relying on an already burdened court system.

The Association established an Alternative Dispute Resolution Committee in the early 1980's to study the potential of a mediation process in Wichita and to get it established.

The committee relied on national, regional, and local resources to set its guidelines.

The Center is now staffed by trained personnel. Its offices are located within the Wichita Bar Association.

Service to the public began in January, 1987.

In 1990, the Wichita Neighborhood Justice Center became organized as a not-for-profit corporation with its own board of directors. In 1994 it changed its name to better describe the services.

Contributions are needed and appreciated. In addition to funding contributions, other help is needed in staff volunteers, mediators, professional expertise, service and product donations.

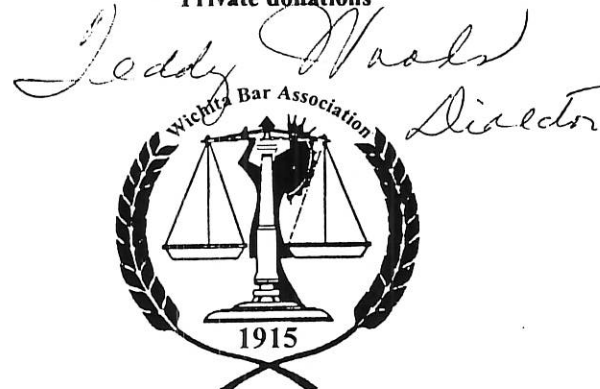
The Center is approved by the Director of Dispute Resolution, State of Kansas, Office of Judicial Administration.

Contributions to the Mediation Center are tax deductible.

(316) 290-8241

Funding provided in part by:

Wichita Bar Association
Kansas Bar Foundation-IOLTA
Sedgwick County
Private donations



200 N. Broadway, Suite 650
Wichita, Kansas 67202-2324
316/290-8241 FAX 316/290-8255

The process in which people agree to talk, agree to settle their dispute, and agree to agree.

In court, there's a winner and a loser, and a third party makes the decision.

In mediation both parties are winners and the third party is only a facilitator.

**There can be winners
without losers.**

The Mediation Center of Wichita, Inc. is a nonprofit organization dedicated to the resolution of disputes through mediation.

WHAT IS MEDIATION?

It simply is the informal resolution of disputes between people, often ones who have an on-going relationship. No Court. No Judge. No Jury. Minimal cost. No Delays.

Typical disputes have been consumer/merchant, landlord/tenant, family, friends, neighbors.

The key is that the parties to the dispute arrive at a mutually acceptable solution with the assistance of a neutral, trained mediator.

WHY THIS PROCESS?

There is a great local and nationwide demand from citizens who want a quicker, less expensive, more compassionate and non-confrontational method than the formal legal process. Mediation is the process of sitting down together and working out the problem. There are many programs similar to the Mediation Center throughout the nation.

Many people in Wichita have chosen mediation as a way of working out their disputes. Our court system believes that mediation is appropriate for certain cases. Police, Judges, and attorneys encourage this process to save tax money, reduce legal fees, unburden the court calendar and to give the power of decision back to the parties involved.

HOW DOES MEDIATION WORK?

The Mediation Center of Wichita staff will schedule a session between the parties and a trained mediator. The unbiased mediator listens to each side's view, then helps them get to the issues that need to be worked out. The parties decide how they will resolve the problem. Attorneys and witnesses are not required. If no agreement can be reached, either party may take the dispute to court.

WHAT TYPE OF CASES MIGHT BE INVOLVED?

The process is designed to resolve minor disputes which do not involve major property damage or serious bodily injury.

TYPES OF CASES:

Consumer/Merchant - faulty repair, poor quality service or product, refunds

Landlord/Tenant - security deposits, repairs, property damage

Family disputes - personal property, debts, harassment

Neighbors - harassment, loud noises, trespassing, barking dogs, property damage, trash

The *examples of conflict* below show how each side was unhappy. In every case the problems were solved through mediation.

NEIGHBORS

He said he would pay for half of the fence. Now he won't even talk to me, let alone pay his share.

He put up a fence that cost a lot more than we talked about. If he wants that kind of fence, he can pay for it.

Their dogs bark all the time. I can't get any sleep and my job is beginning to suffer.

We keep the dogs in the garage at night now: He just likes to complain.

They and their children are deliberately making our lives miserable.

At one time we were friends, now she harasses us and calls the police over every little thing.

Loud noise disturbs me; when I get home I like it quiet.

I have the right to have my music loud: It's my house.

FAMILY/FORMER FRIENDS

All I want are my own clothes out of Grandma's house.

I want an apology and back rent. She could have told me she was moving out.

I want my stepdaughter to pay for the long distance calls and to give back the clothes she took.
She never did like me. I don't have any money to give her. She said I could keep the clothes.

He moved out of our shared apartment. He owes me for rent, a loan and utility bills.

He's got things that belong to me and I want them.

CONSUMER/MERCHANT

I did the plumbing work; it cost me for the material and time. She needs to get her bill paid.

He did a poor job. His bill is unreasonable.

The sofa material has lots of splits in it and the springs squeak.

We've been out twice to evaluate and repair and she is still not happy. We've bent over backwards already.

The cracks are still there and the basement still leaks.
She told us to get out of there, so that's what we did.

LANDLORD/TENANT

She owes us back rent. I changed the locks.

I moved out and now he is refusing to give me the rest of my property.

The landlord is not keeping his agreement to keep the common areas clean and repair the floor.

All the five ladies tell me different things: I don't know what they want or who I am suppose to work with.

OTHER

When they ran into my car, they said they would pay for the damage. Now they are belligerent and won't pay.

The only part damaged was the tail light, not the bumper and the rear end. I will fix what I damaged.

That county put our car in storage without notifying us. We had to pay \$425 to get it out. They owe us that.

We followed our procedures. We are not fully responsible.

THE FREEMAN

IDEAS ON LIBERTY

Published by
The Foundation for Economic Education
Irvington-on-Hudson, NY 10533
Phone (914) 591-7230 FAX (914) 591-8910
E-mail: freeman@westnet.com
FEE Home Page: <http://www.fee.org>

President: Donald J. Boudreaux

Editor: Sheldon Richman

Managing Editor: Beth A. Hoffman

Editor Emeritus

Paul L. Poirot

Book Review Editor

George C. Leef

Editorial Assistant

Mary Ann Murphy

Columnists

Doug Bandow

Lawrence W. Reed

Mark Skousen

Contributing Editors

Charles W. Baird

Peter J. Boettke

Clarence B. Carson

Thomas J. DiLorenzo

Burton W. Folsom, Jr.

Joseph S. Fulda

Bettina Bien Greaves

Robert Higgs

John Hospers

Raymond J. Keating

Daniel B. Klein

Dwight R. Lee

Wendy McElroy

Tibor R. Machan

Ronald Nash

Edmund A. Opitz

James L. Payne

William H. Peterson

Jane S. Shaw

Richard H. Timberlake

Lawrence H. White

Walter Williams

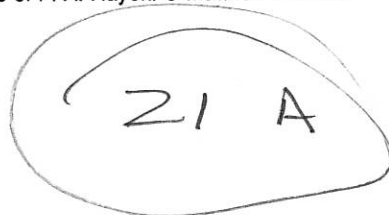
The Freeman is the monthly publication of The Foundation for Economic Education, Inc., Irvington-on-Hudson, NY 10533. FEE, established in 1946 by Leonard E. Read, is a non-political, educational champion of private property, the free market, and limited government. FEE is classified as a 26 USC 501(c)(3) tax-exempt organization.

Copyright © 1998 by The Foundation for Economic Education. Permission is granted to reprint any article in this issue, provided credit is given and two copies of the reprinted material are sent to FEE.

The costs of Foundation projects and services are met through donations, which are invited in any amount. Donors of \$30.00 or more receive a subscription to *The Freeman*. For foreign delivery, a donation of \$45.00 a year is suggested to cover mailing costs. Student subscriptions are \$10.00 for the nine-month academic year; \$5.00 per semester. Additional copies of this issue of *The Freeman* are \$3.00 each.

Bound volumes of *The Freeman* are available from The Foundation for calendar years 1972 to date. *The Freeman* is available in microform from University Microfilms, 300 N. Zeeb Rd., Ann Arbor, MI 48106.

Cover photo of F. A. Hayek: © Matthew Richard.



The Primacy of Property Rights and the American Founding

by David Upham

Progressives in the twentieth century have in large part aimed at turning the American people away from their traditional attachment to property rights. A salient feature of their efforts has been the promotion of new opinions concerning the American Founders and their appreciation for the importance of those rights.

Within intellectual circles, Progressives have tended both to acknowledge that the Founders attached great significance to property rights and to denigrate them precisely for this attachment. The harsher critics, beginning with Charles Beard, ascribed to the Founders selfish motives in establishing a constitution that provided generous protections for private property; his claim was that the principal goal of such a constitution was to protect the wealthy elite against the democratic majority.

Beard's assertion has been coupled with the claim made by other scholars that not only were the Founders selfish, but they also understood all human beings to be primarily selfish, acquisitive creatures. In his influential book, *The American Political Tradition*, Richard Hofstadter wrote:

They thought man was a creature of rapacious self-interest, and yet they wanted him to be free—free, in essence, to contend, to

engage in an umpired strife, to use property to get property. They accepted the mercantile image of life as an external battleground, and assumed the Hobbesian war of each against all.

Milder "liberal" critics tended to focus their criticism not on the selfishness of the Founders, but on the infeasibility of their system in modern America. In his book, *The Promise of American Life* (1909), Herbert Croly, the founder of *The New Republic*, argued that the Founders' individualism had been appropriate to an agrarian pioneering nation, but was destructive to the modern industrial state, which needed vigorous direction from the national government. He criticized his contemporaries who failed to realize "how thoroughly Jeffersonian individualism must be abandoned for the benefit of a genuinely individual and social consummation."

Outside intellectual circles, however, the popular rhetoric of the Progressives has not openly attacked the Founders for their attachment to property rights; rather, it has denied they had such an attachment. Franklin Roosevelt, eager to convince the public that the New Deal was not so new, but actually a "fulfillment of old and tested American ideals," often argued publicly that the Founders did not understand property rights to be as important as other individual rights. In one campaign speech, Roosevelt remarked that Jefferson had distinguished between the rights of "personal competency" (such as freedom of

David Upham is a doctoral candidate in politics at the University of Dallas. This is adapted from the essay that won the first prize in the 1997 Olive W. Garvey Fellowship program of the Independent Institute, Oakland, Calif., <http://www.independent.org>.

opinion) and property rights; while the former were inviolable, the latter should be modified as times and circumstances required.

Property Rights Paramount

A reading of the important founding documents, however, shows clearly that the Founders held property rights to be as important as other human rights. In fact, at times they insisted that the right to acquire and possess private property was in some ways the most important of individual rights.

Only one who ignores the history of the founding period could deny that the men of that era held the right to private property in high esteem. Indeed, it could be said that the central question of principle that animated the movements that led to independence and the framing of the Constitution concerned property rights; for it was a threat to property rights, in the form of taxation without representation, that initiated the crisis that led eventually to independence. Moreover, it was largely the undermining of property rights by state legislatures under the Articles of Confederation that prompted the framing of a new national constitution that would protect the individual right to property against infringement by national and state government power. (The state abuses of power during the 1780s included the cancellation of private debts either directly or indirectly, especially through deliberately inflationary policies and the emission of worthless paper money as legal tender.)

So insofar as the Founders made any distinction between property rights and other individual rights, they insisted that property rights were at least as important as personal rights. In Federalist 54, James Madison stated tersely: "Government is instituted no less for the protection of the property than of the persons of individuals."

As Madison later elaborated, property rights are as important as personal rights because the two are intimately connected. The right to labor and acquire property is itself an important personal right and entitled to government protection; and the property acquired through the exercise of this personal right is

entitled, by derivation, to an equal protection. As he put it in his "Address at the Virginia Convention":

It is sufficiently obvious, that persons and property are the two great subjects on which Governments are to act; and that the rights of persons, and the rights of property, are the objects, for the protection of which Government was instituted. These rights cannot well be separated. The personal right to acquire property, which is a natural right, gives to property, when acquired, a right to protection, as a social right.

If property rights were understood to be as important as other rights, how are we to account for the failure of the Declaration of Independence to mention the word and its conspicuous substitution of the phrase "pursuit of happiness," thus altering the traditional Lockean formula, "life, liberty, and property"? Does this not suggest at least a subordination of property rights to other rights? Indeed, some contemporary scholars have argued that the language of the Declaration manifests the Founders' intention to subordinate private property to happiness, understood as public happiness. Yet the founding documents make abundantly clear that their authors understood the right to property to be an integral part of the unalienable right to liberty. The authors of the Virginia Bill of Rights, the immediate antecedent to the Declaration, made this explicit. The first article of that charter states that all men "have certain inherent rights . . . namely, the enjoyment of life and liberty, *with the means of acquiring and possessing property*, and pursuing and obtaining happiness and safety" (emphasis added).

Taxation Without Representation

Because Americans understood the right to property as part and parcel of the right to liberty, they viewed taxation without representation—a violation of their economic freedom—as an attack on the whole of their freedom. The Stamp Act Congress, called to

protest the first of those taxes, declared that "it is inseparably essential to the freedom of a people . . . that no taxes should be imposed on them, but with their own consent." In a similar vein, Jefferson wrote: "Still less let it be proposed that our properties within our own territories shall be taxed or regulated by any power on earth but our own. The God who gave us life, gave us liberty at the same time: the hand of force may destroy, but cannot disjoin them."

In fact, American authors continually insisted that such taxation, however small the amount, on principle was tantamount to slavery. As one patriot, Silas Downer, affirmed, if the colonists yielded to the tax power of the British Parliament, this would place them "in the lowest bottom of slavery." He continued: "For if they can take away one penny from us against our wills, they can take all. If they have such power over our properties they must have a proportionable power over our persons; and from hence it will follow, that they can demand and take away our lives, whensoever it shall be agreeable to their sovereign wills and pleasure."

To make a claim on the economic liberty of individuals or their community is to make a claim on their entire freedom. In the end, no real distinction could rightfully be made between personal and economic liberty. Accordingly, the Founders understood unjust taxation as not merely a financial or economic issue but an issue with implications for the whole of human liberty.

The Founders' attachment to economic freedom was in no way, in their understanding, opposed to the principle of equality. As Lincoln repeatedly emphasized, the equality proclaimed in the Declaration is not an equality in all respects. The "authors of that notable instrument . . . did not mean to say all were equal in . . . intellect, moral developments, or social capacity. They defined with tolerable distinctiveness, in what respects they did consider all men created equal—equal in 'certain unalienable rights, among which are life, liberty, and the pursuit of happiness.' This they said and this they meant."

Moreover, not only did the Founders' understanding of equality not include all

kinds of equality (such as the equality of economic condition championed by the Progressives), their conception of human equality necessarily excluded equality of condition. They believed that everyone had an equal right to exercise his individual abilities to acquire property, abilities that were by nature unequal, and that the equal right to employ unequal talents would necessarily lead to economic inequality. As Alexander Hamilton stated at the Constitutional Convention: "It is certainly true that nothing like an equality of property existed: that an inequality would exist as long as liberty existed, and that it would unavoidably result from that very liberty itself."

Not only did the Founders affirm that property rights were as important as other personal rights, at times they insisted that property rights represented the most important of rights. In Federalist 10, James Madison wrote that the protection of "the faculties of men, from which the rights of property originate . . . is the first object of government." In what way did the Founders understand the protection of the acquiring faculties to be the first function of government? Contrary to the assertions of authors such as Richard Hofstadter, it was not because they believed that acquiring property was the main or most important human activity. Men who willingly risked their "lives, fortunes, and sacred honor" for the sake of their country's freedom were obviously not the type who considered the accumulation of material goods to be the end of human existence.

First Object of Government: Protect Property Rights

Nor did they understand property to be the most important right absolutely and in all respects. The Founders did not seem to share the Lockean view of property as the paradigmatic right by which all other rights can be understood; for the political writings of the period suggest that they understood the right to property to be a form of liberty rather than liberty a form of property. Moreover, other rights could certainly make a claim to prima-

cy. From one perspective, life is the most important of rights because it is that right upon which all others are dependent for their exercise. Religious freedom, as understood by the Founders, could also be seen as the most important right, because it is founded on the highest duty of the individual: the duty that he owes the Creator to worship Him according to the dictates of his own conscience, to paraphrase the Virginia Bill of Rights.

So property was not understood to be the most important right absolutely. The Founders, however, did seem to have viewed property rights as primary in two important respects. The first one is suggested in Federalist 10's discussion of the problem of faction. Madison there defines faction as a number of citizens "who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests in the community." After affirming that the protection of the acquisitive faculties is the first object of government and noting that "[f]rom the protection of these different and unequal faculties, the possession of different degrees and kinds of property immediately results," Madison pointed out that "the most common and durable source of factions has been the various and unequal distributions of property." The inference is that the rights most often threatened by faction are the rights of property.

This is a lesson that Madison and the other Founders learned from history, especially their own. On one hand, a foreign faction, the British Parliament, had begun its encroachment on colonial rights with an assertion of taxation power over the property of the colonists. On the other hand, after independence, Americans saw that a domestic faction, namely, a passionate majority operating in state legislatures, could also threaten individual rights; and the first right to be undermined was the right to property, through the pursuit of deliberately inflationary policies and the cancellation of private debts. From such experience, Madison and other leaders learned that statesmen should view property as the most important right because it is most often the first object of a faction's hostility.

Constitutional Protection of Property

Because of the relative vulnerability, property rights were afforded the most extensive guarantees in the Constitution. Among the specific limitations placed on congressional power in Article I, most either directly or indirectly were designed to protect property rights. These included: the restrictions on direct taxes, the ban on export duties, the prohibition on preferential treatment of different ports, and the ban on taxation of interstate commerce. These guarantees were later supplemented by the Fifth Amendment's due process clause and the ban on the national government's taking property without just compensation (later made applicable to state governments by the Fourteenth Amendment).

The original Constitution provided even more extensive guarantees for property rights against infringement by the state legislatures. These included the ban on state duties on imports and exports, as well as prohibitions on the coinage of money, the emission of bills of credit, the establishment of anything other than gold and silver as legal tender, and the passing of any law impairing the obligations of contracts. Moreover, the bans on state bills of attainder and ex post facto laws were designed to protect property rights more than personal rights. Finally, besides the specific guarantees, the framers of the Constitution established, with the use of such institutional devices as checks and balances, a government designed for stability—a feature they promoted as most friendly to economic freedom.

The second reason that property rights were viewed as primary was that they served as a practical guarantee for other rights. In effect, not only were property rights the most vulnerable, they were also the first line of defense for the other rights. According to the Founders, property was not only a right in itself, but also a means to the preservation of other rights. Economic freedom was understood to serve the other personal freedoms in two ways. First, property meant practical power. An economically independent people were best able to maintain their political independence. Indeed, the ownership of prop-

erty was of immense importance to the practical independence not only of the people as a whole, but also of the individual citizen. As Edmund Morgan wrote in *The Birth of the Republic*, the “widespread ownership of property is perhaps the most important single fact about Americans of the Revolutionary period. . . . Standing on his own land with spade in hand and flintlock not far off, the American could look at his richest neighbor and laugh.”

Moreover, the personal economic independence afforded by private property instilled in the citizenry a spirit of personal independence, a virtue absolutely necessary to a self-governing people. Economic dependence, on the other hand, “begets subservience and venality, suffocates the germ of virtue, and prepares fit tools for the designs of ambition,” Jefferson observed. The virtue of the people that comes from personal independence is important because, as Jefferson noted: “It is the manners and spirit of a people which preserve a republic in vigor. A degeneracy in these is a canker which soon eats to the heart of its laws and constitution.”

It was because the Founders understood property rights to be absolutely essential to republican virtue that many of them favored restricting the suffrage to property holders. One will look in vain for any statement by the leaders of that generation claiming that those without property were inferior in their unalienable rights or their fundamental human dignity. What many (not all) of the Founders did believe, rightly or wrongly, was that a state in which the privilege of voting was restricted to property holders was the best means to ensure a government that protected the basic rights of all, rich and poor. At the constitutional convention, John Dickinson

spoke for many present in arguing that “freeholders”—or landowners—(who constituted the vast majority of the people) were “the best guardians of liberty.”

Those without property were thought to be far too dependent on those with it to be able to exercise an independent vote. Gouverneur Morris argued: “Give the votes to people who have no property, and they will sell them to the rich, who will be able to buy them. . . . The man who does not give his vote freely is not represented. It is the man who dictates the vote.” Although ultimately, the convention decided not to establish national requirements for the suffrage and left it to the discretion of state governments, the sentiments expressed during the convention debates show why many states retained property qualifications for voting; for many leaders understood a property-holding citizenry to be the best guardians of freedom.

Whatever may be the merits of the extension of the suffrage only to property owners, this much is clear: the Founders’ opinions in this regard manifest clearly that they did not hold property rights in low esteem. As we have seen, they viewed the right to property to be not only as important as other human rights, but in some respects as the most important human right. Economic freedom was a most important freedom, and its vulnerability to factional hostility required that it be afforded extensive constitutional guarantees. Paradoxically, this most vulnerable of freedoms was also understood to be the best practical guarantee of the other freedoms; for the private ownership of property provided not only real power to the citizens, it also instilled in them that virtue of self-reliance and self-governance essential to a politically self-governing people. □



**Testimony to the Kansas House Local Government
Committee concerning HB 2171 (Additional Zoning
Power to Counties) bill on Tuesday, February 13, 2001
at 3:30 PM in Room #519S by opponent Mr. Kelly
Wendeln of 919 S. Highland, Chanute, Kansas**

Zoning Testimony

Property owners are quickly losing their property rights. One county official claimed there should be some "balance". He really wants more power to dictate to and penalize property owners.

Another county official claimed that you can't arrest or put property owners in jail for zoning code violations. -- Not true. I have heard of four owners who have experienced this and I know two of them.

News commentator Paul Harvey said that "Builders have become so prosperous that they can buy zoning officials."

Zoning officials act like a pit bull inside a cage full of bunny rabbits.

Mr. Chairman and Committee Members,

I want to thank you for letting me testify today.

My name is John S. Dailey.

I am a life long resident of Sedgwick County.

I am here to give my reasons why you should reject H.B.2171.

The county court as it now exists should be abolished, not given more power. Because it is not a fair court and abuses the power it now has.

This is a court of no record and you can't prove what takes place during a hearing.

This committee should observe and investigate how this court is conducted, before giving it more power.

This court has a part time judge that does not know the law or ignores the law and he creates law to match what the prosecutor wants in each case.

There is a public address system in the court room, but is not used. The citizens in the room can not hear what is being said by the Judge, the accused, the witnesses or the prosecutor.

The accused is not provided a public defender.

HB 2171, page 2, line 2-4 allows the county to hire the Code Enforcement Officers.

Page 3, lines 12-16, the prosecutors are hired by the county.

Page 4, lines 16-20, the judge pro tem is paid by the County.

All these positions are paid by and controlled by the County Commissioners. These positions also depend on each other for job security.

Page 4, starting line 12, deals with nuisance abatements.

Nuisances as defined by the county codes are vague and ambiguous.

Sedgwick county is attempting to enforce city codes on the rural citizens that live on 5 acres or larger tracts in county.

Too much power in zoning already exists.

Zoning inspectors trespass and interpret the code as they want. Not the way it is written!

Zoning administrators ignore or deny grandfathering as written in the law.

The County Commissioners change the zoning without notification.

John S. Dailey
P.O. Box 381
Valley Center, Ks 67147

316 755 1041

23

HR2171

February 12, 2001

To the Kansas State Legislative Committee Members it may concern:

An excellent example of misplaced legislative priorities within Sedgwick County's leadership was summarized by Steve Painter's report, "County hopes for state's help in getting yards cleaned" in the 24 November, 2000 Wichita Eagle. The article continued a series of reports that illustrate the growing statewide imbalance between urban and rural interests related to Zoning Codes. The competing interests of urban neighborhood nuisance abatement and rural individuals' property rights were correctly presented as the center of this issue. The result of this legislative initiative is currently before you as HR2171.

Sedgwick County does not "need additional power from the state to crack down on neighborhood nuisances". Representative Klein's assessment of the County's existing power to crack down under existing laws is informative. The County does not want to use this power because it must bring the matter in State District Court and provide the accused with the beneficial option of a jury trial before a judge who is not a county employee. The County Court system is streamlined to the extent that the accused does not have the same rights as in State District Court. The County obviously prefers this situation. The constitutional rights related to due process and takings without compensation would not exist under the HR2171 legislative initiative. Many of the same abuses attributed to the City of Wichita's Municipal Court system in matters now before the Kansas Supreme Court exist in the Sedgwick County Court system.

I must take issue with Sedgwick County Commissioner Sciortino's assertion of the county's "impotence" in the article. What "these people" (cited property owners) "are quickly learning" is:

- county management has been using the Wichita / Sedgwick Unified Zoning Code in a crusade against citizens possessing "inoperable vehicles and parts" in rural residential areas for nearly 5 years.
- at least two 18th Judicial District Court judges has found this "violation" insufficiently defined in the Wichita-Sedgwick County Unified Zoning Code to be within a State Court's subject matter jurisdiction.
- the Zoning Administrator is not interpreting the General Provisions of the Code related to the Agricultural Exemption or the Transitional Provisions in favor of the landowner per established case law.
- the reported "1397 complaints, including 190 about inoperable cars" implies that 1 in 7 cases in County Court are "inoperable vehicle" violations. Surveys taken at various times since December 1998 indicate that more than 50% of the County Court arraignments are related to the "inoperable vehicle" citation. Case # 00CC1242 (the 1242nd citation in year 2000) was an "inoperable

vehicle" arraignment on October 23, 2000 with trial set for a subsequent date. Based on the surveys and the reported number of complaints, it is believed that the number of "inoperable vehicle" citations far exceeds the number of actual complaints received by the Code Enforcement Office.

- at minimum, the Code Enforcement bureaucracy requires a Director of Code Enforcement, one lawyer hired on contract as judge pro tem, one full time lawyer and one lawyer hired on contract as prosecutors in the County Counselor's office, a full time County Court Clerk, and two Zoning Inspectors cruising all the county backroads for "violations".
- County Commissioners consider these bureaucratic resources a necessary straw in the Community Development budgetary milkshake.
- the product of this bureaucracy at the current budget levels is two bench trials per week maximum.
- consequently, if the Director of Code Enforcement allows more than 100 citations to go to trial, the County Court system will be operating beyond its capacity. It has been previously reported that citations for "inoperable vehicles" have increased from 48 in 1996, to 173 in 1997, 400 in 1998, and 405 through September 26, 1999. There appear to be no Code Enforcement Department career sanctions for issuing more "inoperable vehicle" citations than actual complaints received.
- the "two dozen property owners" the Director of Code Enforcement reports "are in county court over and over, answering nuisance citations" are there frequently because the County Court system is operating beyond its capacity - not because they are ignoring fines imposed by the Court.

As reported, "[t]he Sedgwick County Commission has made expanded county court authority its ***top priority*** (emphasis mine) for the next session of the Legislature." Commissioner Sciortino personally led that effort in the last legislature. Commissioner Winter's position on this issue was voiced in a political breakfast in Goddard last year. When asked if the Zoning Administrator's interpretations were consistent with County policy, his reply challenged the inquirer to produce an SCCS number for agricultural exemption consideration. For all other zoning compliance disputes, Commissioner Winter offered his services as compliance arbitrator. He knows compliance when he sees it. All citizens dealing with old cars by choice as a hobby or as a necessity because of economic circumstances should consider if they would like to invite "Arbitrator" Winter over to resolve a compliance inspection dispute every time a Code Enforcement officer issues a citation for a vehicle on jackstands or otherwise awaiting repair.

All rural residents and landowners in the unincorporated areas of Sedgwick County need to be aware that the consequences of this expansion of County Zoning power will further diminish their rights to use their property as they choose. All Kansas residents need to be aware of the HR2171 changes to state

law and how county zoning ordinances may be interpreted and applied to limit established uses on rural and agricultural property.

If Sedgwick County's top legislative priority is to get additional powers for County Court through passage of HR2171, accused persons rights must not be ignored. I wish to express my concerns about erosion of property rights, malicious prosecution, and the abuses of process in the Sedgwick County Court system. Please do not support HR2171 for passage in this Legislative session. I support abolishment of the County Court System used for County Code enforcement. The County should use the State District Court system that existed prior to the adoption of K.S.A. 19 - XXXX. Those laws, still in effect, are in K.S.A. 14 - XXX.

Sincerely,



Roy E. Shelinbarger
300 W 79th St S
Wichita, KS 67233
517-7809 (Work)
529-2672 (Home)

To whom it may concern

I am seventy-two years old and a small rancher located on seventy acres of land at the northeast corner of Webb Rd and 87th street south.

I am a graduate of Abilene Christian University in Abilene, Texas. Many years ago, on the way home from homecoming, a drunken driver hit us from the rear and crippled me for life.

With the settlement that I received from the accident, I purchased the above-mentioned land. All I could make was a down payment.

I remarried a fellow schoolteacher, Beverliann Harris. Her first husband died of a degenerative brain disease. But before he died, he was extremely brutal to his wife and the children. The movie, "The Burning Bed" starring Farrah Fawcett, is the best way that Beverly ever described her life with him.

Her son, Greg, was so brutalized by his dad that eventually we spent thousands of dollars to overcome Greg's problems.

Many people suggested that we declare bankruptcy, but we knew that if we did that, we would lose the land.

Eventually Mr. Jones, president of The Farmers and Merchant bank in Derby loaned us money so that we could buy a used trailer home and start living on our land. We had a flock of sheep.

A dog or coyote started killing our ewes. We didn't know which was doing it. Finally, we had a really hard rain and I was able to track the killer back to its home east of our place. It was a Siberian husky belonging to the Kenneth O'Brien family.

I am a Christian. If my dog did something wrong, I would expect to pay the damages, contain the dog and not have anybody shoot it. So, I did not shoot their dog, especially when Mr. O'Brien said that the dog belonged to his five year old daughter.

My wife called him up and requested that he pay for our dead ewes and tie up his dog. His reply was (and this was him speaking to a woman) "all you will get out of me is a crock of shit. I am out here now. There is no leash law in Sedgwick County and my dog can go wherever it wants to go. If you want to protect your sheep, you are going to have to pen them up or fence your land so that my dog can't get on to it."

I fence up my sheep with cattle panels. Unfortunately the sheep would lie down up against those panels and the dog would reach its muzzle through the openings in the panels and continue to kill and cripple sheep. I had no choice but to destroy those too crippled to survive and sell the rest.

There is a leash law in Sedgwick County. I called animal control and two young ladies came out to investigate. They started crying when they saw the dead and crippled lambs. Then they went over to the O'Brien's and posted a notice on his front door that he had to contain his dog.

This Mr. O'Brien did. But the dog did not belong to the five year old. It belonged to the sixteen-year-old boy. Every night he would turn the dog loose and every night it would come back to our place. Then every night, the boy would come over, carrying a rifle, to retrieve his dog.

By that time, I was working at Boeing, second shift, instead of teaching school. My wife was terrified by that boy coming to our place carrying that rifle because of the previous experiences of her first husband repeatedly forcing himself on her, holding a pistol to her head.

Once in the middle of the night, after I had come home at the end of my shift and gone to bed, our dog went absolutely nuts. The next morning in daylight, we could see that our car had been all scratched up. There was a row of big rocks piled clear across our driveway in front of our car that I had to remove before Beverly could go to work.

The next thing that that boy did was to cut every strand of every barbwire on both sides of every post from the gate of my pasture, which is directly across the road from the O'Brien's, up to my driveway (about and eighth of a mile).

This had to be done by some young person with a lot of energy. The officer who came out to see the damage said, "This is asinine".

I said, "can't you go over there and confront him? I know who did this."

His reply was, "No, because you didn't see him do it."

Naturally with no fence the cattle got out. And naturally they went across the road to O'Brien's. Instead of helping me try to get them home and put them in another pasture, Mr. O'Brien did everything that he could to hinder me.

He has a terrible temper. He got out his pickup and started driving directly toward me at a high rate of speed. I honestly thought that I was going to die. At the last minute, he swerved to one side. Then he turned me in for trespassing on his land!

A few days later I went to our mailbox to get our mail. It was taped shut and was completely blackened on the outside. I called the Derby postmaster. "Oh you know how kids are. It is no big deal. Kids are destroying mailboxes all the time."

I said, "Wait a minute. What about my mail? Your carrier was going to be the next person to open that box. And what about me?"

Suddenly, the postmaster began to realize the severity of the situation. "I guess that I had better call Kansas City and get a postal inspector down here."

About a day later, two men representing the United States government came to see me. They asked me about the mailbox and I told them to go across the road and ask the Craigs, because Mrs. Craig had told me that the O'Brien boy had manufactured the bomb in their barn.

Only a short time later, the men were back. They said that they had found out who bombed the mailbox. I asked about my cattle fence. They said that they were not authorized to ask about that.

Since then I have learned that there is a rule of law that says, "If one thing is true, then by the preponderance of evidence, then something else is also true." In other words the O'Brien boy bombed the mailbox. He admitted it. Nobody else but him destroyed that fence. But Johnnie Darr who was Sedgwick County sheriff at that time refused to help us.

The postal inspectors confiscated our mailbox. We never saw the men or the mailbox again. The O'Brien boy apologized for destroying the mailbox. He paid us \$15.00 for a new mailbox. That is all the money that we ever received. Nothing was ever paid for the dead sheep, destroyed fence or damage to our car. We sold our sheep and went strictly with cattle because the dog continued to be turned loose and the dog didn't seem to bother calves, and of course the cows were too big for the dog to attack.

Eventually the O'Brien's divorced. We never ever saw Mrs. O'Brien, the children or the dog again.

Two or three years after that time, a friend and I were working in my pasture. After we got done with what we were doing, I drove out first with instructions to my friend to secure that gate good when he left. He didn't! A day or two later, a south wind blew the gate open and one cow walked out the open gate.

My pasture gate is almost directly across the road from the O'Brien's driveway. There is no way onto his property except through the driveway opening. Naturally cows being cows, she walked across the road and onto his property. And naturally, cows being cows, she did not want to go back through his driveway entrance and back into my pasture. As I was struggling to get that cow back where she belonged, Mr. O'Brien came running out there. Instead of being a good neighbor and helping me, he had a camera and started taking pictures. "I've got you now!" He also stated that I had caused him a great deal of money. I can only surmise that he had had some kind of expense involving his son in getting him off whatever charges that the government leveled against him. Mr. O'Brien took the pictures that he took of me retrieving my cow to an attorney. In a few days I got a letter from this man warning me of the consequences of trespassing on O'Brien.

In the country cattle get out all the time. A year ago there was a bad wreck at the corner of my place, 87th street south and Webb road. This accident wiped out several feet of my corner fencing. Two days ago, as I write this Jan. 23, I was inspecting the northeast corner of my place. The wind had toppled a tree right on top of that fence crushing it to the ground. In neither case, the automobile wreck nor the blown down tree, were cattle in those particular fields, so none got out. But cattle do get out; gates get left open; fences get damaged; and just plain breachy cattle that will tear up a fence to get someplace else. Those things happen. Farmers don't run out with cameras and take pictures of the offending farmer trying to get his cattle back home and then go to an attorney charging the farmer with trespassing.

But as Mr. O'Brien told my dear wife at an earlier time "I am out here now!" These kinds of people move to the country knowing what their country neighbors places look like; knowing that there are livestock all around them; knowing that when a farmer tills his fields there is dust and noise. Instead of blending in and enjoying the sights and sounds that rural living brings, these kinds of city people want the country people to confer to their standard of living. And as I see it the Sedgwick County health and zoning departments are trying as hard as they can to make it difficult for Sedgwick County farmers and ranchers. The sooner that the area planning commissions, and that includes Wichita and Derby, can get rid of us, then the sooner that the real estate people and the builders move in to make this county a great big suburban metropolis, especially in the southeast corner of the county where I live.

I taught school fourteen years. I have a masters in education, plus special certification to teach remedial reading. The principal at Oaklawn Elementary, Don Crowell, instituted open classrooms. In an open classroom situation, the child, not the teacher, decides what the child will study. If the child doesn't want to study math, then that child doesn't have to. The idea being that eventually the child, on his own, will decide that he needs some mathematical instruction and at that time will start studying math.

Time has proven the open concept classroom wrong. But back then there was nothing that I could do to change the situation, except to continue to teach the traditional way, so I was edged out.

I enrolled in Wichita Automotive Body Shop and Restoration because I have had a lifetime fascination with antique automobiles. After graduation, some other graduates from the school and I for a time engaged in restoring antique and collector cars. I have professional body shop equipment and still work at it.

After a time I saw that there were too many variables to consider in such a business, namely insurance for employees and having to pay your own health insurance. When I was offered a good job at Boeing, I took it. I continued to add to my supply of tools and to working on automobiles on a part time basis. I did not do a lot though because eventually Boeing became almost a seven-day job with sometimes more hours added onto my eight-hour day. With my Boeing job and taking care of seventy acres and cattle,

very little antique restoration continued. My plan was and is to do more such work now that I am retired, both for sale and for pleasure.

I own all the vehicles that are on my place, cars and pickups. Some are inside. Some are outside. The oldest that I have is a 1915 GMC truck; the newest, a 1965 Mustang fastback; hardly "junk vehicles" as Tracy Cline stated when she came to inspect me.

Every one of these vehicles were to the north of my house where absolutely no one could see them unless they flew overhead, with the exception of one car and one pickup parked to the east side of my house. A friend and I measured the distance from my side of the road to where these vehicles were parked and it was over 600 feet. Hardly a front yard eyesore.

Mr. O'Brien doesn't even live across the road from me. He lives about an eighth of a mile to the east of me across from my pasture. There is nothing in that pasture that would depreciate the value of his place. And there was nothing in my yard, clear back to the west of him and that far to the north of my driveway that would depreciate his property value in any way. And his property isn't even for sale so what is getting depreciated?

Throughout the summer of the year 2000 the local TV news was full of stories of the Sedgwick County Health Dept. going around and harassing people about old cars parked on their property that didn't run. I am sure that this is how O'Brien got the idea to turn me in.

My wife, Beverliann, was an amputee confined to a hospital bed. Because of this, my front door was left unlocked all day, everyday, in order for caregivers to come in and take care of her. The reason for this was that she could not get out of bed to answer the door and I wasn't always in the house to answer the doorbell. At night I went to the door and locked the storm door and the door. There, taped to the glass on the storm door was a notice put there by Tracy Cline that I was in violation of some ordinance saying that I had salvage automobiles parked outside on my property.

First of all, they are not salvage automobiles. Second, they were on my property years before this law was passed and should have been grandfathered in. And third, that pickup was a farm pickup that I need badly in my work and I was working on it to get it running again.

I was so upset that I couldn't even deal with it. I asked Gary Renberger, an elder in our church and a good friend of mine, to call the telephone number that Tracy Cline left. Mr. Renberger is part owner of a Wichita business, Gateway. His business phone number is 316-264-0037.

Mr. Renberger called Tracy Cline and she informed him that a neighbor had turned me in because it was depreciating the value of his property. Mr. O'Brien!

Dr. Craig is the one neighbor that lives across the road from my house. I called him, and asked him directly if he had turned me in. His answer was, "We don't play those kind of games!"

And that is exactly what it is. It is a game with this O'Brien to cause me as much trouble as possible because in his mind, somehow, when we had trouble with the dog, the sheep and the boy, he was the injured party instead of my wife and I. And it is a deadly game that besides costing me an untold amount of grief and money, led directly to the death of my wife!

I keep saying that it had to be Kenneth O'Brien who turned me in. First of all, as I understand the situation in Sedgwick County, nobody from the health or zoning dept. is going down the road, section by section, or down city streets, block by block, looking for violations of Sedgwick County laws. It is only when someone actually sees a violation that really truly needs to be corrected, or in my case, someone who is deliberately looking for a way to get even for something in the past, that the health and zoning dept. gets these calls. Then someone from these agencies goes out and investigates.

Drive down 87th street south past my farm and you see a neat front yard. Bear in mind that my house and buildings are quite a ways back from the road, much farther than most homes themselves are. Between the house and the road are my front lawn and a small field. The hay crop on that field is always harvested in a timely manner and my lawn is kept trimmed. There is absolutely nothing that can be seen from the road (to merit an investigation by anyone) except of course the pickup that I was working on and an automobile, both way back from the road and very inconspicuous unless someone was deliberately looking for a way to cause me trouble.

Yes, I had inoperable vehicles in my backyard that nobody could see until Tracy Cline took it upon herself to deliberately trespass and take pictures of them.

As stated before, I live on a farm. To the north of me are two shelterbelts, and to the north of that are open fields clear to 79th street south, a full mile north of my place. To the north of that is simply more farms and open fields.

So whoever turned me in could only see what they saw from the road in front of my house.

There is nothing west of me but open fields. To the east of me are five more neighbors with inoperable vehicles parked on their places. One person, Atlas Turner, had old cars, a van, junk and a brush pile all in his front yard right up against the road all plainly visible. Nobody turned him in! His place is the very first farm east of O'Brien, right next door to O'Brien. If the person who turned me in were truly concerned about inoperable vehicles depreciating the value of their property, then Mr. Turner would also have been turned in because his place truly was an eyesore. Again, the finger points at O'Brien turning me in because this action had nothing to do with depreciating values and all about getting even.

After I got Tracy Cline's notice taped to my front door, I called Ben Sciortino, Sedgwick County Commissioner who represents the district that I am in. His first words to me were "you have an enemy my friend". As County Commissioner, he knows exactly how the system works. His very words say it all. "Want to get even with someone? Look for something that you can nail them on and call the health or zoning dept."

Mr. Sciortino said that he was too busy to come and see me, but he promised to drive by and look at everyone's property out here. This he did and I called him back. "Yes I drove out there and I saw old automobiles parked everywhere!" Again, I repeat, I am the only one that got reported.

Certain things in this county truly are eyesores. If Sedgwick County is going to try to make this county the garden spot of the state then do it. Help people to comply. Don't find nebulous things to quarrel about. Don't threaten them with fines and being subject to arrest and lying instead of telling the truth the way that I was treated. A person shouldn't have to hire an attorney to fight for them, as I have had to do.

Mr. Calvin D Ryder, my attorney, says that most of the people being harassed are poor people. And most of them simply can't afford to fight the system, even when they think that they are correct and the system is wrong. So they comply under protest leaving a bad taste in their mouths and the enforcers gloating.

I mentioned my five neighbors with inoperable vehicles. Three of them had cars that can be seen from the road. I was still trying to make sure that it was O'Brien's dirty work. I asked the health dept. people specifically about Mr. Turner's property because the violations on his farm were so glaring. I was told that no one had complained. So what did they do? They used me as the complainer and told Mr. Turner that they could hardly pick on me without also making him comply. I am very sorry about that because I did not complain about him. They simply used me as a means to get to him. Atlas Turner has Parkinson's disease. He is not physically able to do what they wanted him to do. And instead of simply asking him to clean up his front yard, they did him as they have done me. They inspected his whole farm and made it look like his whole place was in some kind of Sedgwick County violation. Get rid of the farmer, bring in the developers. We'll all get rich except of course, the poor farmers that are being pushed off of their land. They of course will deny this, but look at the facts. They don't quite have enough law on their side to make it happen, so they work around the edges to get rid of us and change our area to suburban.

I knew that trouble was coming. For years I had been planning to expand my barn to put my cars inside. As stated before, my wife had to have her right leg amputated. She became a complete invalid with no control over her bowels or urine. With some help from Medicare Beverly became almost totally dependent upon me twenty-four hours a day. This had gone on for over two years. Couple that with previous long hours at Boeing and taking care of my land and cattle, I did not have time to expand my barn.

Now with the health dept. breathing down my neck, I had to act. I gave away some of my vehicles. I sent two to shops to get running so that they would be in compliance and I hired a man with a bobcat to level ground for an addition to my barn.

Beverly's bed was in a north room overlooking bay windows in my back yard. I was attending Beverly when I looked out the window and there was this woman walking around looking at my cars, Tracy Cline!

I went flying out the door. "Do you own these salvage vehicles?" Notice the words that they use.

Most of those cars and trucks run. Most were tagged and insured. My personal automobile and farm pickup were included. Yet these people use inflammatory words like illegal and salvage rather than calling them what they truly are, antiques and personal vehicles found in almost everybody's driveway in the whole United States.

After she had read the riot act to me, I wanted to show her bare ground where I had already removed some cars and trucks. I wanted to show her the leveled dirt preparation for building an addition to house the vehicles that didn't run.

But she would not listen to me. "Your friend who called me (Gary Renberger) told me that you had a very sick wife and that I should go easy on you. But I won't. I'll see you in court!"

In due time, I received a certified letter from the health dept. I requested a hearing and got one. I called Mr. Sciortino. He told me to let him know when and where it was going to be and that he would try to be there, which I did. "I think that it would help if you had a county commissioner in your corner". He did not show.

My attorney and I went to the hearing. Mark Bradshaw for environmental health and Sedgwick county attorney Michelle Daise were there as was a Mr. Barry Carroll acting as supposedly impartial hearing officers.

The first thing that they did was trot out all of the pictures that Tracy Cline had taken. I exclaimed "but that's a picture of my tractor!" Included among the so-called violations was a picture of my antique John Deere tractor. Now even my tractors were health hazards!

Ms. Daise explained that Sedgwick County had a right to declare anything illegal that did not meet community standards. What a wonderful country that we live in! And again that John Deere tractor is clear back away from the road.

We went on to talk about each vehicle and what I intended to do about each one. Mr. Bradshaw explained that each vehicle that started and ran was not in violation. I explained that the rest would either be disposed of or put into my barn addition when it

was completed. I also explained that I had an old Chevrolet van parked beside my bullpen that I used to store feed in to keep it out of the weather for the bull.

Mr. Bradshaw and Ms Daise went out in the hall and had a private conversation. I have no idea what they said but when they came back in they had agreed to take the tractor and the van off the table.

Mr. Bradshaw stated that there would be no more unannounced inspections. He said that Ms Cline and he would come out at a time agreeable to both them and me and make, I quote, "a visual inspection of (my) property". Further, an "improvement plan will be developed and their staff would thereafter make periodic visits" to see how I was doing in meeting "compliance".

All of this is in a letter to me and to my attorney written by this Barry Carroll. "As agreed, you will be given a reasonable amount of time to continue with your planned improvements. I am hopeful that this agreement will resolve the existing problem. Should you have any questions, please call me at 268-4516. Barry Carroll"

Not one of those three people, Mark Bradshaw, Tracy Cline or Mr. Carroll kept their word!

KGE does not get out of their vehicles when they read your electric meters. They remain in their cars and use a pair of binoculars. In late July or early Aug. of 2000, I received a letter from KGE saying that the underbrush on some trees were keeping them from reading the meter on my barn.

At the time I was putting up prairie hay about six miles south of me. It was so hot and dry that once prairie hay is cut, it is soon cured and ready to bale. So I could only cut a small amount before I had to stop and bale what I had already cut.

Because of Beverly's health conditions, I could only leave her about three to four hours at a time. This meant that I would cut some hay, drive the six plus miles home to attend to her needs and then drive back to the hay field because the hay would be ready to bale. To do things quickly, I took a chain saw and cut off all of the low hanging branches on those trees so that the KGE reader could read the meter. I just let the limbs drop and left them where they fell, because at that time, I did not have time to do anything further with them.

A year or two earlier the township side trimmed and cut down trees along the road in my mile. Then they would push everything into a pile, close off the road from both directions and set fire to the piles.

This seemed such a waste to me of potentially good firewood that I requested that I be able to trim the good wood out before they burned the smaller limbs. Permission was granted. Again in order to save time, I cut the logs in short enough pieces that I could lift into my pickup and piled them in my backyard to cure and to be cut into firewood length

as needed at a later date. It takes about two years, a minimum of one, for wood to cure before being burnt for heating purposes.

Now come Tracy Cline and Mark Bradshaw to inspect the old car situation. I requested that Gary Renberger be present as a witness. These two went from car to car writing things down as they went. What was I going to do with each one of them? If they didn't start, I told them which ones were going into my building extension and which ones that I was going to dispose of. Gary and I went from car to car and pickup-to-pickup starting most of them. And Mr. Bradshaw would OK them. As he stated, "they were off the table".

Mr. Bradshaw was nice. Tracy Cline wasn't. She wrote down that my 1937 Dodge pickup was salvage because it didn't have a floorboard. What she didn't know was that many cars and pickups in the thirties and earlier had the battery under the floorboard. The battery was out of the pickup to be recharged! I had put brand new tires on a 1954 Pontiac. One of the tires didn't make a good seal and went flat. So I had jacked up the car and removed the wheel to get the tire resealed. She wrote down that the Pontiac was a salvage vehicle. I asked Mr. Bradshaw why on earth would she do that, when the car had brand new tires on it? His answer was that people tell them, that they are going to get flats fixed and move a car and they never do. Brand new tires on an automobile and it is a salvage vehicle that is not going to get moved!

I pointed out that these cars were on a farm, hidden from view, had been there for years and were not hurting anybody or destroying the value of anybody's property. His answer was that the cars were health hazards, because of mice and rats. Not twenty feet away from the vehicles were at least ten cats. I like cats, but ten of them! They were my wife's, who absolutely adored cats and got great pleasure in looking out her bay window to her little view of the world and her cats. Now that she is gone, I cannot bring myself to destroy them. I've got them all spayed and hope that some of them will eventually die off or get eaten by coyotes, so that I can get down to two or three. But the point is, those vehicles were never a health hazard because of mice and rats! And even if they were, a health hazard to who were they? Mice and rats bred on this farm don't migrate to the neighbors. Research has proven that they don't move that far from where they are born. They can't get into the house.

And I have lots of mice and rats, especially in a wet year. But they are out in the fields. As a crop is being cut and places for them to hide gets smaller and smaller, they congregate into the middle where the crop hasn't been cut yet. And circling overhead is usually my friend, a red tailed hawk, waiting for me to expose his next dinner. Mice and rats are part of the food chain. To say that vehicles on a farm are health hazards is a bunch of hogwash. "Put your vehicle inside and we will leave you alone". Mice and rats can be inside a building just the same as being outside. This using a static collection of vehicles as a health hazard is just something that the health dept. tries to hang their hats on.

Okay, the list of vehicles had been determined. Most were "off the table". It was agreed on what to do about the rest. And then suddenly things got vicious. About everything on this farm was a health hazard. By this time, I had started to cut the limbs into firewood length that I had removed from the trees so that KGE could read the meter. There were three piles: the firewood length wood, the brush and the limbs that I hadn't cut yet in stove length.

"All of this is illegal. You cannot have wood on your farm that is not cut into firewood length! You cannot have a brush pile!"

I pointed out that I was working on it. "There is the wood that I have already cut into stove length. Over there is my wood chipper to chip up the brush to use as mulch."

Even Mr. Bradshaw admitted that my planned disposal of brush was a good idea. But why is the brush pile itself illegal until it can be chipped into mulch? How can you get from step one to step three without step two, the brush pile itself? And when Gary Renberger, Roger Shelley and others helped me chip the wood, we found that my wood chipper was inadequate for green brush. The brush must be cured first for a small wood chipper, just as firewood must be cured to be burned in the stove.

The only way to stack loose firewood is to throw it into a cone or pyramid shaped pile. Loose firewood cannot be piled with straight up and down sides, as you would stack wood in a wood rack.

"Your wood pile is illegal! Your iron pile is illegal! You have some weeds in your fencerow. That is illegal! I am seventy-two years old! I could not get this farm up to that Mr. Bradshaw's standards, whatever those are, in the rest of my life.

He came out here to see what I was going to do about vehicles parked outside. He left condemning my whole place and everything on it.

I am a good steward of the land. I don't pollute it. I don't dump hazardous materials or oil onto the soil. I pick up what others dump along the road in front of my place. I don't have a meth lab, or an atomic waste disposal. I don't even use legal chemicals on my crops. And suddenly, I am no longer an upright citizen.

I have been cited and fined for bulky waste. I have been ordered into court, with threats of warrants being ordered for my arrest if I don't comply. What did I do wrong? I served my country during the Korean War. Suddenly, I am no longer a citizen. It is no longer my country. It now belongs to dishonest people who make dishonest laws and dishonest livings and then tell you how high to jump.

Christmas Day 1999 my wife was back in the hospital. I spent Christmas morning restacking wood and sobbing, tears running down my face, because of what these people had done to me. Restacking wood on Christmas Day! They had said that in a few more days that they would be back to see if I was complying!

As Mr. Bradshaw and Tracy Cline were leaving, Mr. Bradshaw said to me, "You have a good working plan. We will go away and leave you alone until after the first of the year, when we will come back to further inspect to see how you are doing. We will give you time to comply. We will work with you".

He did not keep his word! And when he didn't and I called Barry Carroll, he was out and never did return my call.

Instead, in January, after it had been raining incessantly to the extent that part of the cars were in my new storage but most weren't, Tracy Cline came back. She didn't come back to see how I was doing. She came back to order me into court and to pay a \$401 fine, because, she said, that Jan.1 of 2000 was my deadline, not a date that they would come back to see what progress that I had made! These people make up lie after lie and my troubles with them got bigger and bigger.

My brother and his two sons run a huge dairy up by Burns, Kansas. I am not a wealthy person able to hire professional help to do building. And at my age I don't think that I have any business up on a roof. These family members are experienced carpenters and promised to help me build my lean-to. But on a farm there is also a lot of fieldwork to do. There is ground to prepare, wheat to plant and fall crops to harvest. Had that building been ready immediately after Mr. Bradshaw first came, the vehicles could have been quickly put inside. As it was, putting them away was the last thing that I was able to do. I had to wait for odd times for my family to help me. Once the building took shape, I asked if I could start moving things inside. They told me not to do so because there was too much danger of them dropping a tool or a board falling and breaking a windshield so I had to hold off.

Instead, I spent the time from when Mr. Bradshaw came and when he promised to come back, to get the vehicles ready to roll; I sawed wood like he wanted; and we chipped up the brush pile.

I separated iron into two groups; iron that is useful on a farm to build and repair things and scrap iron that is only good to melt down and make something else. Gary Renberger and I hauled two such loads of scrap iron to Bogue Iron and Metal.

Had Mr. Bradshaw and Tracy Cline come back in peace, shortly after the start of the New Year 2000, they would have seen a building near completion with part of the inoperable vehicles put inside and all of the other work that I had completed.

Instead, they said "times up. Here is your fine for bulky waste. We'll see you in court on this date. You must pay this fine and if you don't get to court on this date, we will issue a warrant for your arrest". What kind of people do we have in this county that can treat their citizens that way? Oh, I forgot, evidently I am no longer a citizen and I really truly feel that I am not a citizen.

My wife and I worked hard all of our lives. Somewhere along the line, Beverly got lupus. We had been living in less than ideal homes most of our married life. I felt that it was time that we had a nice home so we applied for a building permit. The lady asked what we were going to do with the mobile home in which we had been living. I said that it would no longer be needed and that we would sell it. I was given a piece of paper to sign to that extent.

It took a long time to get our new home into operation. We had to wait on various contractors and the carpenter was extremely slow. In the meantime Beverly's health began to deteriorate rapidly, something that I had not anticipated. I had hoped that the two of us would be able to enjoy many years together in our new home. I had already planned to sell off a few acres to pay the mortgage incurred by building and that we would be able to enjoy life financially free. It was not to be.

Once we had the OK to move, we hired professional movers to move the heavy things. Books and the like out of the china cabinet and book cases were packed by these movers into boxes and moved into the new home. Since I was still working so many hours at Boeing, Beverly got a couple of her friends to help her pack and move smaller things. These things were put in a corner of our new back porch.

The boxes that the workmen packed and moved are right where they put them. They have never been unpacked! The boxes and bags that Beverly and her friends moved to the back porch are still there just like they left them! Suddenly, Beverly got ulcers on the bottoms of both of her feet. Into the hospital she went. Somewhere in the many times that Beverly had been in the hospital, she had contracted staph infection. The doctors could only isolate the infection finally to one foot. Her right leg had to be amputated. She was sent home and from that point forward became an invalid totally dependent upon others for care.

Medicare does not cover many, many expenses in these kinds of situations, prescription drugs being one of the most expensive. Beverly's medicine ran from \$600 to \$1000 per month, plus special transportation costs to get her to the doctor, treatments, etc., etc., etc. These expenses exhausted savings that I was counting on to help us enjoy life. We had a mortgage on our land and another mortgage on our home and I knew that Beverly was going to die. And with her death, I would lose the ability to pay off these mortgages without her social security and retirement incomes.

Upon her death my only way out was not only to sell land, but also our new home. I had built it for her. It was a nice size for both of us, but too big for me by myself and there would be too many memories. I still had the mobile home. Upon her death, I would move it to a parcel of land that I still owned and sell land and the new home.

Now I am accused of being dishonest! I gave my word to sell that mobile home and I didn't do it. These people in Sedgwick County that I am dealing with aren't even rational. In their minds, circumstances cannot change. Where do they want me to live? I know that it certainly isn't Sedgwick County! Don't these people have any

understanding of changing conditions? Don't these people have any compassion? Why can't they just work with a person on what they want done instead of all this ill treatment?

Oct. 26, 1999, Mark Bradshaw and Tracy Cline had been here, inspected, said what they wanted done, approved my plan and promised to work with me. Beverly was back in the hospital. I went to one of my cousin's funeral. As I left, I closed and locked my front gate. After the services, I went to the hospital to see Beverly. When I came home, a Sedgwick County vehicle was parked in the road in front of my farm. A man was walking around in my yard. As I unlocked and opened my gate, he sauntered down to meet me.

Now supposedly, I had already settled things with the health department. He was from the zoning department after the cars again! Tracy Cline had called him! He told me that she had turned me in to him. Tracy Cline is a lovely woman! I did not say anything about already being raked over the coals by the health department. I simply pointed toward my new building that was beginning to take shape to put the cars away.

Then he began on me about having "two dwellings on one piece of property". Since when is that illegal on a 70 acre farm? I pointed out that he was trespassing by climbing over a locked gate. "I am not trespassing. You don't have a 'No Trespassing' sign". They make up their own laws!

Since then, I have "No Trespassing" signs everywhere. Since Beverly's death, I keep my gate closed. Where once I was an open, friendly person, I have become a hermit, living inside closed gates because I don't know when these people are going to come back and cause me more trouble. I trust no one. You tell them the truth and they turn it into a lie. You try to be honest and they will look for a way to get you into trouble. It is a different world than back when I was once a United States citizen, which evidently I no longer am. In a word, they have made me paranoid.

The very next day, here came another Sedgwick County vehicle. This time it was a building inspector. "Mr. McDaniel hung a note on my door saying that you were building a building without a permit." Since when do you need one to add an addition to an existing building on a farm?

Mr. Boger was very nice to me. He looked at what I was doing and said that I was building it exactly like the code said that it should be built. He gave me some advice and pointers on how to proceed so that the rest of it would be within specifications. "You go get yourself a permit just to keep yourself out of their way".

Health department, zoning department, building department, where was it going to end? Actually it didn't even end there. One of the social workers that had checked on Beverly turned me in to SRS, saying that I wasn't keeping the house clean enough. Beverly told them to bug off. "The dishes and utensils that she ate with were disinfected in the dishwasher. I washed my hands good before preparing her food. Her clothes and linens

were always clean. And if the health and zoning departments would get off my back, I would have more time to vacuum the floor.

I went to Wichita to get my building permit. As I was doing so, I looked up and this Mr. McDaniel was standing there. He started in on me again. In defense, I said to him, knowing that Mr. Bradshaw had cleared all those vehicles that ran, "you know that most of those automobiles run!"

It doesn't make any difference. You are going to have to start and run them and repack them every 72 hours or put them inside! I notice that you have two farm trailers in your yard. They are going to have to be parked inside also! On a 70 acre farm!

Remember the pickup that I was working on in my side yard up by my barn? The one that O'Brien could see and use as an excuse to turn me in? I was working on it outside where I had plenty of room, better light to see by at age 71, and when I had to get down on the ground, dirt is softer than concrete. Why can't a farmer work on an implement, even a pickup outdoors? I have one pickup and one automobile that I use more than others. I don't ordinarily even use them every 72 hours. And putting farm trailers inside! As one friend said, "What do they want you to do, build a roof over your whole farm?" Why can't I be a citizen again like everybody else? Drive around and see all the inoperable vehicles, brush piles, woodpiles, and iron piles in this county. But I am no longer a citizen. Mr. O'Brien saw to that!

One day as I was headed for town, I came upon this McDaniel parked at the northeast corner of my place. I stopped, got out and spoke to him. He was furiously writing something down.

"What are you doing?"

"I am checking your gate?"

"What are you writing?"

"I am writing that your gate is locked!"

In a few days, I got a notice to appear in court in violation now, not of health violations, but zoning violations. That is what he was writing down!

By now my building was up and cars were moved inside.

This McDaniel and Tracy Cline stood before that judge and told him that I had an "illegal" building.

They not only lie, they use words like "bulky waste, salvage vehicles, illegal buildings" to make a person look bad. And the building inspector had already signed off on that "illegal building" saying that I had done a good job!

This thing had started in Aug. of 1999 with Tracy Cline's notice on my front door. It has gone on and on with charges snowballing into more and more and more serious charges. There seems to be no end to them.

Caring for Beverly at seventy-one years of age was an exhausting experience all by itself. I didn't need all the rest and I could not hide my unhappiness and emotions from her. I had always prided myself in trying to be a Christian, a good person and a good citizen. Now these people were making my world fall apart.

Shortly after Memorial Day 2000, Beverly was back in the hospital. I was spending most of my time with her. I went up to see her one-day and she told me that a social worker wanted to see me.

The social worker was joined by another caregiver who told me that they were sending Beverly home to die! I asked why and they told me that she refused to eat.

This was the second time that Beverly had acted this way. The first time I had gotten her over it. This time she was determined to kill herself.

Her doctor, Dr. Khurana, had asked her "why are you doing this to yourself? Your heart and lungs are good. You can go on living a long time".

Sedgwick County killed my wife! Beverly had said, "Pay the fines. Maybe they will leave you alone".

My lawyer had said, "Marine if you pay those fines, they will just charge you all over again and you don't own those fines to begin with".

Ben Sciortino, who had been so nice to me in the beginning, now wouldn't even return my calls. I appealed to Mr. Don Myers our State Representative who went to our church. Sciortino told him that he wanted to help me, but that I had too many cars. What a crock! If I had had a hundred, it shouldn't have made any difference as long as I worked out a solution.

Instead, Sciortino went to the state legislature to try to make laws even tougher on people like me.

Like me, Beverly saw the walls closing in on us. "Marine, I cannot take this anymore. You are going to have to deal with it by yourself!" And so she killed herself by refusing to eat. She would be alive right now, if these people had been honest with us and worked with us. But they do not care who they hurt, nor what mischief they may bring to anyone.

I have tried to comply. I have tried to explain about the mobile home. They still won't listen.

The judge told my lawyer that if he could see a contract with a real estate agent for me to sell out, he would be inclined to drop the charges. Why on earth should I have to do that?

I signed a contract to sell with Jeff Lange Real Estate thinking that the judge would drop the charges. Instead, I am scheduled to appear in court again Feb. 12, 2001. So far this has gone on one year and five months.

My attorney says that I owe him almost \$7,000 and he wants a second mortgage on my property.

They have broken my spirit. My wife is dead. I am continually hounded. What reason do I have to Live?

the transcript of such record shall be filed with the commission.

(d) The commission is hereby authorized to do all things necessary and incidental to the administration of its functions under this compact.

Article V.—Finance

(a) *Budget.* The commission shall submit to the governor of each member state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) *Appropriations by member states.* The moneys necessary to finance the general operations of the commission not otherwise provided for in carrying forth its duties, responsibilities and powers as stated herein shall be appropriated to the commission by the member states, when authorized by the respective legislatures. Appropriations by member states for the financing of the operations of the commission in the initial biennium of the compact shall be in the amount of fifty thousand dollars (\$50,000) for each member state; thereafter the total amount of appropriations requested shall be apportioned among the member states in the manner determined by the commission.

(c) *Incurring obligations and pledge of credit.* The commission shall not incur any obligations of any kind prior to the making of appropriations adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(d) *Accounts; audits.* The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) *Accounts; examination.* The accounts of the commission shall be open for inspection at any reasonable time.

Article VI.—Eligible Parties, Entry Into Force, Withdrawal and Termination

(a) *Eligible parties.* Any agricultural grain marketing state may become a member of this compact.

(b) *Entry into force.* This compact shall become effective initially when enacted into law by any five states prior to July 1, 1981, and in additional states upon their enactment of the same into law.

(c) *Withdrawal.* Any member state may withdraw from this compact by enacting a statute repealing the compact, but such withdrawal shall not become effective until one year after the enactment of such statute and the notification of the commission thereof by the governor of the withdrawing state. A withdrawing state shall be liable for any obligations which it incurred on account of its membership up to the effective date of withdrawal, and if the withdrawing state has specifically undertaken or committed itself to any performance of an obligation extending beyond the effective date of withdrawal, it shall remain liable to the extent of such obligation.

(d) *Termination.* This compact shall terminate one year after the notification of withdrawal by the governor of any member state which reduces the total membership in the compact to less than five states.

History: L. 1979, ch. 1, § 1; April 25.

Article 32.—PROTECTION OF FARMLAND AND AGRICULTURAL ACTIVITIES

Law Review and Bar Journal References: "Agricultural Law: Suburban Sprawl and the Right to Farm," Dana Ann Bradbury, 22 W.L.J. 448, 459, 465 (1983).

2-3201. Protection of farmland and agricultural activities; purpose. It is the declared policy of this state to conserve and protect and encourage the development and improvement of farmland for the production of food and other agricultural products. The legislature finds that agricultural activities conducted on farmland in areas in which nonagricultural uses have moved into agricultural areas are often subjected to nuisance lawsuits, and that such suits encourage and even force the premature removal of the lands from agricultural uses. It is therefore the purpose of this act to provide agricultural activities conducted on farmland protection from nuisance lawsuits.

History: L. 1982, ch. 3, § 1; July 1.

Research and Practice Aids:

States — 6.

C.J.S. States §§ 31, 32, 143.

Attorney General's Opinions:

County planning and zoning; agricultural purposes; greyhound operations. 90-68.

BROWN, DENGLER, GOOD & RIDER, L.C.
ATTORNEYS AT LAW

FARMERS AND BANKERS BUILDING
200 EAST FIRST, SUITE 200
WICHITA, KANSAS 67202
TELEPHONE (316)265-7600
ROSE HILL TELEPHONE (316)776-0155
FACSIMILE (316)265-0046

CALVIN D. RIDER
PAUL F. GOOD
PATRICIA M. DENGLER
ROBERT C. BROWN

OF COUNSEL:

KEVIN V. RIDER

September 19, 2000

Marine L. Wolf
9900 E. 87th Street South
Derby, KS 67037

Gary Renberger
121 S. Lulu
Wichita, KS 67211

RE: *The County of Sedgwick v. Marine L. Wolf*


Dear Marine and Gary:

As a follow-up to our telephone conversation yesterday, the Clerk of the Court has rescheduled the trial of the alleged zoning and code violations to Monday, November 20, 2000, at 2:00 p.m. The prosecutor wanted to continue this matter for sixty days to give Marine sufficient time to complete the survey and offer the property for sale. The prosecutor informed me that if he receives a copy of the survey and brokerage agreement, contract for sale or other document evidencing the attempts to sell the property, that he would be inclined to dismiss this case.

In the event we must still go to trial on the 20th, please plan on being in my office at 1:00 p.m. on that date. If you have any questions or have any further updates, please let me know. I will keep you both advised of any further developments.

Sincerely,

BROWN, DENGLER, GOOD & RIDER, L.C.

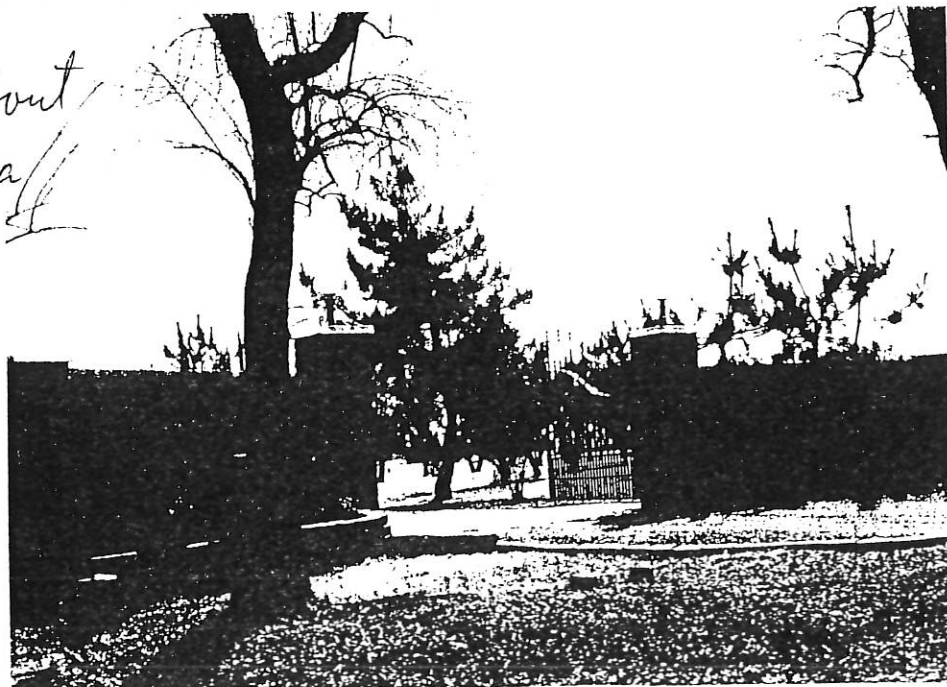


Calvin D. Rider

CDR:las

26-19

This is
the entrance
to Kenneth
O'Brien's
home, the man
that I am
sure was the
person who
turned me
in for health
violations.
His driveway
is not even
across the
road from
me, but
instead is about
one-eighth of a
mile to the
east of my
driveway.



SURGERY, ORTHOPAEDICS
SURGERY, HAND

OFFICE (316) 684-8211
FAX (316) 691-6710

JAY STANLEY JONES, M.D., P.A.

CLIFTON MEDICAL CENTER
1515 S. CLIFTON • SUITE 130
WICHITA, KANSAS 67218-2951

May 17, 2000

RE: Marine and Beverly Ann Wolf

To Whom It May Concern:

I have known both of these individuals for about the last ten years and have been active in their treatment over this time period. Beverly at this time is bedridden from spinal stenosis, peripheral vascular disease, and a below knee amputation. She requires almost 24-hour care. Mr. Wolf is supplying this and I know that he has a farm in which the county is questioning his upkeep of the farm. Seeing that he has a 24-hour job just in the care of his wife, I think he should be given some slack especially in the upkeep. He is trying to cut and put up hay, has an iron pile, which most farms have, and a woodpile. I think the county is going out of their way to harass Beverly and Marine both.

Please feel free to contact me directly if you have any questions.

Sincerely,


Jay Stanley Jones, M.D.

JSJ/bjl

Dictated not read

K·STATE

Kansas State University

**Cooperative Extension Service
Sedgwick County**

K-State Research & Extension

7001 W. 21st St. North

Wichita, KS 67205-1759

316-722-7721

FAX 316-722-7727

E-Mail: sginform@oznet.ksu.edu

Web: www.sedgwickcountyextension.com

15 November 2000

To whom it may concern:

Marine Woolf is a farmer in the Derby area and has a small cow herd on 70 acres. I recently toured his operation to help him evaluate grass management and hay management. His property is very typical of small farms in Sedgwick County. Many items are stored outside when not in use. Farm machinery is obviously parked next to fences and along side sheds and trees. Firewood is piled close to his home and scrap metal is next to the shed where it will be used. Hay is stacked next to pens for ease of feeding. All these things are normal for small farms and considered appropriate. This man is not bothering anyone.

I would be happy to discuss this with anyone.

Sincerely,



Steven A. Westfahl
Sedgwick County Extension Agent,
Agriculture

SAW/lfb

Sedgwick County

Kansas State University
Agricultural Experiment Station
and Cooperative Extension
Service.

K-State, County Extension
Councils, Extension Districts
and U.S. Department of
Agriculture Cooperating.

All educational programs and
materials available without
discrimination on the basis of
race, color, religion, national
origin, sex, age or disability.

*"Knowledge
for Life"*

26-22

Chairperson and Members of the Committee:

My name is Rex Morley from Derby, Kansas, in Sedgwick Co. I was born in Oketo, Ks., in 1944, and with the exception of my service in the Vietnam War, and a few years of working in other States, due to lack of Air Craft work here,, I have lived in Kansas all of my life. My Kansas "Roots", stretch back 4 generations.

I am addressing you with great concern about the Impact of this Bill 2171, which may affect not only my life, but those of my (and Your), fellow Kansans Lives and Rights. If this bill is passed without consideration of certain other Aspects needing correction first, then this Bill will only lead to additional Abuse by the Powers that Be.

I hope you have had a chance to glance at the accompanying copy of a "Notorized" statement, in particular, the sentence in the 12th line. I will at this time, go to a simple format of speaking spontaneously, addressing this sentence, and to other lines in this "Notorized" statement, and from my notes and/or Experiences, both mine and others that I know of, and hopefully end with enough time for you to ask any questions.

In conclusion, I thank You for your Time, and Hope you will address these commants I have made by putting this Bill aside till Peoples Rights, on "Both" sides of this Issue are insured.

26

To whom it may concern:

I, Julie Sander, took a Minority Studies class at WSU. I am not sure of the date it was around 1996-7. I would have to call WSU for the accurate date. For my class, we had to volunteer for certain programs they listed. One of the programs was for the Sedgwick County Health Department. The manager of the department sent me with field officers on their jobs. The first one was with the county K9 patrol who picked up animals; and the second was with an officer who went around issueing citations for people who need to clean up trash, yards, houses, and cars. Basicly, anything that someone called in and complained about. On our field run we where looking at houses, yards, and cars, I asked the officer what rules do you go by to write up a citation. He said the laws are so vague that he can put anything down that was close to the law or just about anything that he needed for a citation. I asked him what he used to write a citation and to my understanding he said whatever was complained about from someone who called in and complained or on those complaints if something looked runned down or unmoved for a while. I asked him about court and how the citation works in court. He said they pay for a judge to do their cases, so the judge usually agrees with whatever the citation say because the laws are so vague. To my knowledge, he told me most people paid their citations instead of the hassling with the courts and others could not pay for attorneys and were found guilty because they didn't know the law and had no attorneys. He said most of the people who went to court where farmers who do not know the laws or who said they have been there for years and thought they where grandfathered in, and was found guilty because they had no representation. I told him I was interested in the laws because I knew some people who had tractors and cars. I asked him for a copy for the laws and he printed me a copy. The person I gave the law to told me this is no help to him because it didn't say anything about what you could have or couldn't. I do remember for sure he said not to tell anyone what he told me because he could get fired.

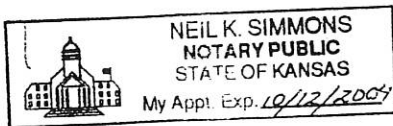
Julie Sander

Sworn:

12th February 2001

Julie Sander

Neil K. Simmons, Notary



Sedgwick County

My Commission Expires: 12th October 2004

26A



REALTOR®

TO: DESIGNATED REALTORS® & OFFICE MANAGERS

Please copy or post this weekly report so everyone in the office receives the information.

Deadlines - Week of April 10

None

PLEASE COPY AND DISTRIBUTE TO ALL MEMBERS !!!

***Voyager enhancements...**Days on Market should be back on April 18. If you haven't downloaded Voyager since April 3, you will need to download the service pack from RISCO's website at www.risco.net before April 17. If you don't, you won't be able to download after April 17. ***Voyager since** ... new CD from us

***Training...**will be provided again at the WAAR office on Wednesday, April 26 at 1:30 p.m. The session lasts about 1.5 hours, including questions. Be prepared to present information about the new mediation program to your buyers and sellers before it comes to you in one of the new contracts. We did presentations over a year ago, but not everyone had the opportunity. Call WAAR for a reservation (free) so we have sufficient space and materials.

Junk Cars in the County...are becoming an important issue. A local group called KARZ (Kansans Against Repressive Zoning) claims that property owners are being targeted and harassed by County Code Enforcement. The county wants WAAR to support beefing up the enforceability of nuisance violations, while KARZ wants us to help protect their personal property rights. Any feedback you have on this issue would be greatly appreciated. Please call Lynn Miller at 263-3167, or e-mail at lmiller@wichitarealtors.com.

Copies of... the brochure "Recycling and Reuse Opportunities in Sedgwick County" are available to give to clients, particularly new home buyers. We have a supply at the Association office, but if you need a large quantity, please contact Caroline Hosford, Sedgwick County Dept. of Environmental Resources at 721-9418.

Rain-Out...location is needed for the Picnic. If you know of a place that would hold 500 people, has a roof, parking, and restroom facilities, please call Kris Hubbard at the Association office.

I-Opener...is a specialized appliance for accessing the Internet. It will not work with the Internet-based MLS systems we are looking at, because they generally require Microsoft Internet Explorer 4.0 or higher. I-Opener uses its own browser. There are also many web sites and services that would not work with this type of device.

Free newsletter...can be sent automatically to your clients twice a month, branded with your photo, name, phone number, e-mail address, and web site address. It contains valuable information for both buyers and sellers. Check out Inman News site at www.inman.com/newsletter.asp, and find out how you can do this for FREE.

*denotes new information

Proposed changes to zoning regulations

- 1.) There should be no legislation which by application or implimentation would make current citizens in violation of such laws. The burden of proof that a citizen is not and was not in compliance at the time of the new regulations should be upon the complainer.
- 2.) The regulations should allow citizens to come into compliance without unreasonable expense or time.
- 3.) Allowances should be made so that the following barriers would be deemed as compliant.
 - a.) Fully enclosed structures
 - b.) Natural barriers ie.. tree rows, landscape
 - c.) Man made barriers ie.. privacy fence
 - d.) partial enclosures that would provide screening from public road and citizen that files complaint.
- 4.) Allowances made that allow citizens to keep property such as car parts, tractor equip., ect. stored in a manner such as on pallets or blocks. tires could be kept under an overhang or tarped on pallets. Vehicles stored with rodent controlling measures such as d-con or other rodent control. There should be any allowances made that can allow the complaine to keep their property if at all possible.
- 5.) There should be no anonymous complaints. A complaint should be filed by a citizen that resides within the area of the complaint. ie 1000 ft. This would help to keep complaints localized to just include residents of the area.
- 6.) The citizen that files the complaint must be a tenant of the area for longer than the citizen that the complaint is filed against. the only exception to this would be for any new storage that the complainer can document. This would eliminate new property owners from causing complaints for conditions that already existed.
- 7.) The property in question must be discernable from either the complainers property at ground level, (which would be determined by the public road height. ie 5ft from public road elevation.) or in plain view from public roads.
- 8.) Before any action is taken on property holder there should be a court mediator to try and resolve disputes without causing problems between property owners.

"At no Time should this be percieved as a means or way to get around any "Real" Public Health and Safety issue.

Proposed guidelines for filling a complaint

- 1.) Does the caller live within 1000 ft or less to the area they are calling about? (Ref. 1000 ft is the board of zoning appeals criteria for notification in unincorporated area's of the county.)
 - A.) Yes - Proceed to question 2
 - B.) No - Inform caller that they are unable to file a complaint unless they live within one mile

- 2.) Has the caller owned their property longer than the owner of the property the are calling about?
 - A.) Yes - Proceed to question 4
 - B.) No - Proceed to question 3

- 3.) Is the complaint about practices that have started since the caller purchased their property?
 - A.) Yes - Inform them that the burden of proof is upon them to prove that these are new practices. Proceed to question 4
Example. After the caller purchased their property the neighbor has decided to start collecting cars/ washing machines/ farm equipment/ ect...
 - B.) No - Inform caller that they are unable to file a complaint unless the complaint is about a new practice that has started since they purchased their property.
Example. The other property owner has been a farmer/ car collector/ ect. and was practicing these same activities since before the caller purchased their property.

- 4.) Are the potential violations visible from either the public road or from the callers property, not including second stories?
 - A.) Yes - Proceed to question 5
 - B.) No - Inform caller that you are unable to file a claim because only violations that are visible from either the public road or their property are able to be processed.

- 5.) Are the potential violations stored within manners that have been deemed as acceptable?

Examples of acceptable storage:

 - a.) Fully enclosed structures
 - b.) Natural barriers - ie. tree row/ landscaping/ ect..
 - c.) Man-made barriers - privacy fence/ hay bale row/ ect..
 - d.) Partially enclosed structures that provide screening from the public road and from the callers property.
 - A.) No - Proceed to form to allow caller to file a complaint. This form will require that the caller give full identity/ address/ phone number/ ect..
Also the caller will be required to come to court as a witness to substantiate their claim if the other property owner contests the complaint.
 - B.) Yes - Inform caller that they can not file a complaint because the practices are stored within acceptable manners.

Testimony to the Local government Committee on HB 2171

Good Afternoon , Members of the committee, Thank you for permitting me to testify today.

My name is Don Abby. I have been a life long resident of Wichita. I recently retired from the Gas Service Company.

I live in Wichita and 35 years ago, I purchased 5 acres on N. Broadwy in Sedgwick County. This is in a area surrounded by salvage yard businesses.

I purchased this property to pursue my hobby of collecting old cars, antiques, and old miscellaneous items that I have an interest in.

On August 7, 1999, I recieved a notice from George Bloesing of the Sedgwick County Code Enforcement about inoperable vehicles and car parts on the property. I called Mr. Bloesing. He told me that I had 30 days to clean the property up. I told him that I needed more time than that, then he said he would give me 60 days. He said that I had to remove every thing down to the last bolt.

I was told by others that if you disagreed with him, That he would harrass me by turning me in to other agencies (like the health department). I was also told by others that were threatned that if I didn't make the deadline, that I would be fined \$500.00 a day for a continuing violation until it's cleaned up.

At the time this occurred, I was working 10 hours a day, 7 days a week at my regular job.. I did not meet the deadline and was fined \$200.00.

The last word from George Bloesing was "get out of Sedgwick County into Park City," I went to the Park City folks and they told me that I would be welcome and that they would grandfather my property. No one has complained to Park City about my property since.

You can see that my rights have been violated and the law is very unclear.

There so I am asking you to vote against Bill 2171.
I don't see that we need a county court judge to serve as a judge on the issues of an abatement of a nuisance.

At the time this all taken place, the county judge would have ordered an abatement on my property because I didn't get it cleaned up in time!

"There nothing wrong with my property to start with!"

Donald D. Abbey
Donald D. Abbey
3403 St Louis
Wichita, Ks. 67203

316 942 3879

Came up time to Rep. Blouley

Land Use Coordinator

Courthouse
Lyndon, Kansas 66451

written

February 9, 2001

The Honorable Gerry Ray
Kansas House of Representatives
Room 115- S
State Capitol Building
Topeka, KS 66612

Dear Representative Gerry Ray :

I am a Land Use Coordinator from Osage County, Kansas. On behalf of the county, I urge you to support the proposal for County Code Courts. This proposal is contained in H.B. 2171, which is currently before the Local Government Committee.

This proposal would be beneficial to my county because without I must pursue zoning violation through the County Attorney for prosecution. This process can take up to four to six months before the case is heard in court. This process is too lengthy for things such as junk cars, failure to obtain a building permit and other regulations under the Land Use Development and Land Use Regulations. If the counties had authority to use the codes court system then court action could be handled in a more expeditious matter.

As a member of the House Local Government Committee, please give this bill your full attention and consider the positive effect to it would have on the neighborhood and the community as a whole. If you would like, I can provide you with additional information regarding zoning cases in Osage County or I would be happy to meet with you to discuss these issues.

Thank you for your leadership on Local Government and, if your schedule permits please let me know where you stand on HB 2171.

Sincerely



Sheila R. Dale
Osage County Land Use Coordinator

HOUSE LOCAL GOVERNMENT
2/13/01
Attachment #29



Kansas Association of REALTORS®

Wretten 35

3644 S.W. BURLINGAME ROAD • TOPEKA, KANSAS 66611-2098
TELEPHONE 785/267-3610 • 1-800-366-0069
www.KansasRealtor.com • FAX 785/267-1867



TO: HOUSE LOCAL GOVERNMENT COMMITTEE
FROM: BILL YANEK, Public Policy Coordinator
DATE: FEBRUARY 13, 2000
SUBJECT: HB 2171 COUNTY NUISANCE

Thank you for the opportunity to present testimony regarding HB 2271. The Kansas Association of REALTORS® supports the concepts in this proposal. We believe that county governments should have the capability to enforce county nuisance violations.

Continued nuisance violations negatively impact nearby residents' quality of life. Additionally, when nuisance ordinances are not enforced, property values and the ability to sell homes are negatively impacted.

Currently, residents may lodge numerous nuisance complaints and county governments may desire to enforce their nuisance laws. However, county enforcement actions are limited only to counties with a population in excess of 150,000.

HB 2271 will eliminate this limitation and allow all counties to reasonably enforce nuisance complaints.

While we support the essence of this bill, we would urge the committee to consider requiring a signed nuisance complaint before county enforcement would be authorized. This would allow the county to solve nuisance problems while protecting citizens from frivolous nuisance complaints.

Additionally, the Kansas Association of REALTORS® opposes any additional funding for code enforcement.

We respectfully request your favorable consideration of this legislation.

HOUSE LOCAL GOVERNMENT

2/13/01

REALTOR® is a registered mark which identifies a professional in real estate who subscribes to a strict Code of Ethics as a member of the NATIONAL ASSOCIATION OF REALTORS®. Attachment #30

Written

BENTLEY FARMS, L.L.C.

RESIDENTIAL REAL ESTATE DEVELOPMENT
1217 N. COACH HOUSE CT., WICHITA, KS 67235
CHARLES W. ROACH (316) 773-5887
JAMES F. ROACH (316) 838-1635

February 10, 2001

Kansas Legislators
Topeka, KS 66601

Re: House Bill No. 2171

Gentlemen/Ladies:

We have been residential developers in Sedgwick County since 1975. Over the years we have seen practically everything that people can do who move into the country. House Bill No. 2171 appears to be a step in the right direction in enabling the Sedgwick County Department of Code Enforcement to enforce the existing zoning regulations, and we hereby make known our wholehearted support for its passage.


The problems in suburban developments are caused by only a few individuals. They move out onto the acreage with the idea that they can do with the land whatever they want, which usually includes causing unsightly messes with junk cars. Development restrictions and zoning regulations prohibiting this activity are of limited value because someone still has to spend time and money to commence a legal action against the individuals responsible. Usually this does not happen, with the development sliding into ever-increasing decay over a few years, which hurts the property values and general appearance of the development as a whole.

House Bill No. 2171 would allow the county to cite and enforce the zoning regulations against violators before the situation on a development gets out of hand. Everyone would benefit in both the short and long run.

Sincerely,

28


Charles W. Roach


James F. Roach

Written

32

February 12, 2001

House Committee on Local Government
Ms. Gerry Ray, chairperson

To the committee;

We support the Sedgwick county code enforcement office request for increased authority to move against nuisances and statute violators in Sedgwick county.

For over two years we had a metal salvage operation adjacent to our property which was placed on land which was not zoned for such business and without a required conditional use permit. This illegal operation created considerable noise, dust, traffic, and debris which blew to adjoining properties.

When the metal shredder was running, which was usually eight hours or more per day, the noise level on adjoining properties would often exceed 80 decibels and the ground would shake at homes 1,000 feet from the shredder.

Although this business was clearly in violation of numerous codes and statutes, it took the county code enforcement office over one year to persuade the owner to find a different location for the scrsp metal business.

Sincerely:

Gerald Seibel
Loreta Seibel

Gerald & Loreta Seibel
6401 N. Woodlawn
Kechi, Kansas 67067



February 12, 2001

To Whom It May Concern:

The purpose of this petition is to show that the majority of the people in this community want their elected officials to be able to enforce the county codes and regulations that were designed for their protection. If the current codes and regulations are not sufficient, we plead with our government officials to implement new laws that will protect our rights as property owners. We believe the county must have the power to enforce, or clean up these nuisance properties if the owners refuse to comply.

We as property owners are frustrated because there are properties in our community that are public nuisances as well as being health and sanitation hazards. These properties are littered with junk cars and camping trailers, trash, heaps of old lumber and other refuse, old lawnmowers, yards that don't get mowed more than once per season, one of these properties has no water or sewage system and also has a 40ft. shipping container in the front yard 30 feet from the road, as well as many other makeshift outbuildings thrown together from old used material. We do not wish for our neighborhood to continue to decline in this manner.

These conditions drastically reduce property values and are not fair to the property owners who take pride in their property and their community. We as residents of Sedgwick County would like to be able to look out our windows or walk out our doors and see country, not garbage. We respectfully ask our local and state government for help in this matter of great importance.

Sincerely,

Name	Address
Jim + Diana Mooney	34175, 137th East Wichita
Daniel Swanson	3416 S. 137th - Eo Wichita
Patricia Smith	3434 S. 137 th E., WICHITA
Brian & Capps	3529 So. 137 th E. Wichita
Merisa J. Capps	
Marlene Wilke	3535 S. 137 th E. Wichita
Felix H. Garcia, Jr.	3552 S. 137 th E. Wichita
Joyce E. Garcia	3552 S. 137 th E. East

HOUSE LOCAL GOVERNMENT

2/13/01

Attachment #33

Alan Crump
Jackie Collins

3536 S 137th E
Wichita 67232
3501 S 137th E U7232

Imelanie Crump

3536 S. 137th E Wichita KS 67232
3501 S 137th E U7232

John Hill

Patricia Lancaster

3400 S. 137th E Wichita KS 67232

Lavon Gaddie

3318 S 137th East Wichita KS 67232

Mary Wood

13919 E. 31st S. Wichita, Ks. 67232

Walter Overley

3401 So 137th E Wichita 67232

Rose May Hamilton

3448 So. 137th E Wichita KS
67232