

Approved: March 21, 2006
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Tim Huelskamp at 1:30 P.M. on March 8, 2006 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department
Mike Heim, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes
Zoie Kern, Committee Secretary

Conferees appearing before the committee:

None

Others attending:

See attached list.

Ken Wilke summarized **HB 2720** - Planning and zoning; plat approval procedure; reasons for non-approval. Discussion.

Written testimony submitted by John T. Smith of Liberal Kansas in favor of **HB 2720** (Attachment 1).

An amendment (Attachment 2) proposing clarification was reviewed. A motion made by Senator O'Connor and seconded by Senator Betts to favorable send **HB2720** without amendment to Senate for clarification. Motion left on the table.

Meeting adjourned.

Respectfully submitted,

Zoie C. Kern, Committee Secretary

JOHN T. SMITH

Land planning, development & management # investments # real estate brokerage
404 N Kansas # Liberal, KS 67901-3330 # vox/fax 620-624-1834 # itsa@liberal.net

Tuesday, March 07, 2006

Sen. Tim Huelskamp, Chm.
Elections & Local Govt.
Capitol Office 423-S
Topeka, KS 66612

Re: HB 2720

Dear Chm Huelskamp & Committee Mbrs,

It is well recognized in the planning profession, as well as in enabling legislation generally related to land subdivision and development, that planning boards interpret and implement the subdivision rules and regulations established by the governing body. In Kansas this is covered under subparagraph (b) of KSA 12-752 wherein a subdivision is processed through review with the land owner or owners, the charge being stated in the first sentence as "*The planning commission or the joint committee shall determine if the plat conforms to the provisions of the subdivision regulations.*"

The resulting approved final subdivision plat is then submitted to the governing body for the acceptance of dedications of that part of the plat intended for public use, if any. In Kansas this is covered in subparagraph (c) of the same KSA section, the first sentence reading "*The governing body shall accept or refuse the dedication of land for public purposes within 30 days after the first meeting of the governing body following the date of the submission of the plat to the clerk thereof.*"

There have been few, if any, changes in our planning legislation in the last 12-15+ years. There have been, however, many instances state wide where the roles of the respective entities, that is the planning commission or joint committee and the governing body, have deviated from the legislative intent referenced above related to subparagraphs (b) & (c). In testimony presented before the house it was pointed out there remains much confusion about these roles on the part of part of planning professionals, elected officials and the Kansas courts.

The House has made a valiant attempt to clarify this process and responsibility in HB 2720. This is a welcome step and its 124:1 margin of passage is indicative not only of the need for clarification but also its nature as essentially a house keeping matter.

Careful review of HB 2720 suggests there may still be some ambiguity in the attempt to clarify. In keeping the focus of the action on the statutory intent of the acceptance being based on compliance with requirements established by the governing body, and as emphasized by the House amendments, the following suggested wording change to the first sentence of the above referenced subsection (c) would further clarify the intent.

The governing body shall accept ~~or refuse~~ the dedication of land for public purposes, **except in cases of noncompliance with the requirements established by the governing body**, within 30 days after the first meeting of the governing body following the date of the submission of the plat

Senate Elections and Local
Government Committee
March 8, 2006
Attachment 1

to the clerk thereof.

Incorporation of the above wording in the amended bill would further clarify the statutory intent of the provisions regarding the subdivision of land. Your support of the House's amendments to HB 2720 with the above change would most certainly aid in clarifying the original statutory intent and would be greatly appreciated.

Sincerely,

John T. Smith, AICP

Master in Urban Planning (Mich St Univ)
Certified Planner (Am Inst of Certified Planners)

\\sec32\legis hb 2720 hearing s

KSA 12-752

(c) The governing body shall accept ~~or refuse~~ the dedication of land for public purposes, *except in cases of noncompliance with the requirements established by the governing body*, within 30 days after the first meeting of the governing body following the date of the submission of the plat to the clerk thereof. The governing body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the governing body. No additional filing fees shall be assessed during that period. If the governing body defers or refuses such dedication, it shall ~~advise~~ **notify** the [owner or owners of the land and the] planning commission or joint committee of ~~the reasons therefore~~ such **fact. Such notice shall be in writing and if the deferral or refusal of the dedication of land is based upon noncompliance with the requirements established by the governing body, the notice shall specify in detail the nature of such noncompliance.**

3/7/2006