Approved: February 12, 2007
Date

MINUTES OF THE HOUSE ELECTIONS AND GOVERNMENTAL ORGANIZATION COMMITTEE

The meeting was called to order by Chairman Mike Burgess at 3:30 P.M. on February 8, 2007 in Room 231-N of the Capitol.

All members were present except:
Representative Mike Peterson- excused

Committee staff present:
Martha Dorsey, Legislative Research Department
Matt Spurgin, Legislative Research Department
Mike Heim, Revisor of Statutes Office
Maureen Stinson, Committee Assistant

Conferees appearing before the committee:
David Unruh
Don Moler
Dee Stuart
Rep. Steven Brunk
Carol Williams
Eric Sartorius

Others attending:
See attached list.

HB 2267 Unilateral annexation; county-owned lands excluded

Chairman Burgess opened the hearing on **HB 2267**.

David Unruh, Chairman of the Board of County Commissioners, Sedgwick County, testified in support of the bill (Attachment 1). He explained that the bill would prohibit cities from unilaterally annexing land owned by a County. He summarized their belief that fairness requires that counties be treated with the same accord and respect as cities when it comes to forced annexation.

Don Moler, LKM, testified in opposition to the bill (Attachment 2). He recommended that the committee not retroactively apply this proposed statutory change. He stated that it is a poor approach to public policy.

Dee Stuart, Mayor of Park City, KS, testified in opposition to the bill (Attachment 3). She stated **HB 2267** is nothing more than an attempt by Sedgwick County to do an end around of a legal proceeding enacted by Park City in December, 2006. She said that HB 2267 not only changes the law, but also would make it retroactive to a date prior to the vote of Park City.

Eric Sartorius, City of Overland Park, testified as neutral to the bill. He explained that they plan to meet with the legal department of Sedgwick County concerning a possible amendment to the bill to clarify the language concerning right of ways.

Chairman Burgess closed the hearing on **HB 2267**.

HB 2083 Campaign finance, use of unexpended campaign funds

Chairman Burgess opened the hearing on **HB 2083**.

Rep. Steven Brunk testified in support of the bill (Attachment 4). He said the bill allows a candidate to transfer campaign funds to a bonafide successor committee. He stated, in short, that this bill allows a candidate for elective office to transfer his or her funds to another personal successor campaign.

Carol Williams, Ethics Commission, testified neutral to the bill (Attachment 5). She explained that **HB 2083** amends three provisions of the Campaign Finance Act. She said these amendments would permit a candidate for a state or local office to transfer the residual funds from his or her original campaign account to a new

campaign account which is established by the candidate when he or she files for a different state or local office.

Chairman Burgess closed the hearing on **HB 2083**.

Chairman Burgess appointed sub-committees to meet on **HB 2197** and **HB 2198**. Chairman Burgess will serve as Chairman of both committees. Representatives Melody McCray - Miller and Sheryl Spalding will serve on both sub-committees as well.

Rep. Vickrey made a motion for the favorable approval of the minutes for the February 6th and February 7th, 2007 meetings. Rep. Lane seconded the motion. The minutes were approved.

The meeting was adjourned.

The next meeting is scheduled for Monday, February 12, 2007.

House Elections and
Governmental Organization Committee

Date 2-08-2007

Name	Representing
Andy Schlapp	Sedgwick County
Dave Lindruh	Sedgwick County
Bob Parnacott	Sedgwick County
Kevin Barone	City of Park City
Dee Stuart	City of Park City
Mary Davis	City of Park City
Lonny Smith	KCA/KCAA
Don Moler	LKM

DAVE UNRUH
Chairman
Commissioner - First District

BOARD OF COUNTY COMMISSIONERS
SEDGWICK COUNTY, KANSAS

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TESTIMONY
HB 2267
House Committee on Elections and Government Organizations
February 8, 2007

Chairman Burgess and members of the committee, my name is David Unruh and I am Chairman of the Board of County Commissioners of Sedgwick County. Thank you for the opportunity to testify in support of HB 2267. This is a bill that would prohibit cities from unilaterally annexing land owned by a County.

Current law provides for a number of prohibitions to keep a city from annexing property against the will of the landowner. A city cannot force annex property owned or held in trust for another city. Cities cannot force annex property within an improvement district created before 1987. Cities cannot force annex property over 21 acres used for agricultural purposes. Cities cannot force annex property that is part of a military reservation. And finally, cities cannot annex certain property owned by a county when such land ***"has a primary use as a county-owned and operated airport, or other aviation related activity or which has a primary use as a county owned and operated zoological facility, recreation park or exhibition and sports facility."*** HB 2267 is intended to simplify the current restrictions to forced annexation of county property by providing all county property with the same protection against forced annexation that is currently given to city-owned property. There is no valid reason to treat cities differently than counties with respect to such forced annexations.

There are situations where county-owned property should be annexed into a city. County property may need to be developed in such a way that will require certain city services such as water and sewer. But such endeavors should be done in a spirit of cooperation and at the request of a county. What are the public policy reasons for a city to be able to annex the county's property without the county's consent?

Both cities and counties have home rule authority and can exercise broad police powers within their respective jurisdictions. Forced annexations between these levels of government can create unnecessary ill-will by giving one government the power to regulate the other government. This in fact has happened in Sedgwick County resulting in a lawsuit between the City of Park City and Sedgwick County. Unless we clear up the current ambiguity in the annexation laws, other cities in Sedgwick County could attempt to annex parts of the Sedgwick County Zoo or the Kansas Coliseum. While these properties are clearly owned by Sedgwick County, there could always be attempts to question whether the properties are exempt from annexation.

Furthermore, under current annexation law a county is required to hold a hearing in front of its

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determine if the city has provided services to the annexed property. So another absurdity that occurs under current law is that a county by statute would have to notify itself of a public hearing, invite itself to come to the public hearing, testify in front of itself at the public hearing, and then make findings concerning this testimony. Surely the legislature never intended this result when enacting the current annexation law.

In summary, Sedgwick County believes that fairness requires that counties be treated with the same accord and respect as cities when it comes to forced annexations. Laws should be enacted that encourage cooperation between cities and counties instead of providing for potential conflict and ill-will. For all of the above reasons we respectfully request that you support HB 2267.

LKM
League of Kansas Municipalities

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To: House Elections & Governmental Organization Committee

From: Don Moler, Executive Director

Date: February 8, 2007

Re: Opposition to HB 2267

First I would like to thank the Committee for allowing the League to testify today in opposition to HB 2267. In a nutshell, the League believes that this legislation is unnecessary and ill advised. At its core it involves a dispute between one city and one county in the State of Kansas. As you know, there are 627 cities and 105 counties in Kansas. It seems unreasonable to suggest changing a state statute which applies to all cities and counties in the State simply because there is a dispute involving a single city and a single county.

Secondly I would point out that the unilateral annexation laws of Kansas, of which K.S.A. 12-520 is the central statute, were amended as recently as 2005. That amendment was the result of a compromise among numerous parties. We would urge the Committee not to further amend this statute as it continues to work well and was the result of a compromise agreement.

Finally, we would strongly recommend to the Committee not to retroactively apply this proposed statutory change. Looking in Subsection (d) of Section 1, the legislation would retroactively apply to "any annexation proceeding commenced after September 1, 2006." Quite frankly, this is the same as attempting to change the rules of the game while the game is being played, just because you don't like the outcome. It is a poor approach to public policy, and we would suggest it should be discarded out of hand.

In conclusion we believe that the annexation laws of the State of Kansas continue to work well and that this legislation is ill advised and unnecessary. As a result would urge the Committee to not report HB 2267 favorable for passage.

City of Park City - HB2267 Testimony

TO: House Elections and Governmental Organizations

FROM: Dee Stuart, Mayor of Park City

DATE: February 9, 2007

RE: Testimony in Opposition of HB2267

Good Afternoon Chairman and members of the Committee. My name is Dee Stuart and I currently serve as Mayor for the City of Park City, KS. I am here today to testify in OPPOSITION of HB2267. HB2267 is nothing more than an attempt by Sedgwick County to do an end around of a legal proceeding enacted by Park City in December 2006.

HB2267 was presented to this committee as an attempt to keep the City of Park City from annexing land that it is legally entitled to do and has done so thru the process that was established by the state legislature. Park City voted to annex the property in question on December 6, 2006, having gone through the appropriate legal process for annexation, including holding open public hearings, giving proper notice of all hearings and stating Park City's reasons for taking the action that we did.

Looking at my map of Park City in my office one day, I wondered what options we had that would enable us to close a big hole in the middle of our city. I asked Tom Powell, our city attorney, to research all possible options and one of the first options brought to the City Council was to annex the land that we did.

Mr. Powell told us that there is law preventing our annexation of other areas because the Kansas Coliseum property is described as County owned property, operated by that same County as an entertainment or sports facility. The area we annexed was NOT PART of the County operated entertainment or sports facility - based on direct public record information from the County regarding that area of land. Given the information that we had, the annexation item was put on the City Council agenda in the form of a proposed resolution. The Council approved it unanimously on September 26, 2006.

Once the proposed resolution was given public notice, members of the Sedgwick County Commission wanted to talk to us. County Manager Bill Buchanan, Legislative Representative Andy Schlapp, and Attorney Robert Parnacott asked for a meeting and came to Park City. City Attorney Tom Powell, Park City Administrator Jack Whitson and I met with the three of them. We quickly found out that the purpose of this meeting was to talk Park City out of going through with the annexation procedure for the specific land area. They suggested that we not do this at all or at the very least hold off having any votes on the issue. There was even an attempt by a County

Attorney to meet with "as many of the City Council members as we could gather." We pointed out this would be a violation of the Kansas Open Meetings law and would not do that. There were faint attempts to bargain for an alternative area for annexation, however the County would not put anything in writing. When the County realized that we were not going to delay the annexation issue, the county threatened suing us or bringing legislative action against this annexation and making it retroactive to stop the annexation. Apparently the County Commission has done both.

The matter came before the Sedgwick County Metropolitan Planning Commission. The Planning Commission stated the annexation was found to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan and County Director of Planning John L. Schlegel duly notified Park City Clerk Carol Jones by letter. This happened on October 19, 2006.

The County Commission filed a Kansas Open Records Act request for all information dealing with the annexation issue. We provided that information as requested in a timely manner. We also provided the County 30 minutes of time to testify at the November 28th, 2006, City Council meeting. The County, using taxpayers' money, hired an outside attorney to come and testify. The testimony amounted to their attorney trying to convince the City Council that the procedure the City was using was illegal. The attorney for the County tried to also convince the City Council that the land in question was part of the County owned and operated entertainment district, when we had prior testimony that the County used to clearly state that the land in question was NOT part of the entertainment facility. The attorney accused the Council of holding an illegal annexation meeting since the hearing was not actually held on the land being annexed. At this the Council stopped the hearing and continued it the next week at the land in question. The Council as well as residents of Park City were somewhat offended by the remarks and accusations made in their testimony.

I would also like to state that on December 22, 2006, Sedgwick County filed suit against the City of Park City. There is a hearing date scheduled for February 22nd. As stated earlier, the County threatened a lawsuit or legislation and in fact have done both. I believe it is important, and has been the past practice of the legislature, that a committee should hold off on any legislative issues while there is pending litigation regarding an issue that is not a statewide concern.

HB2267 not only changes the law but also would make it retroactive to a date prior to the vote of Park City. This is the "end around" I spoke of earlier. Is this the policy this legislature wants to adopt - that when there is a local issue in dispute that the state should pick sides and pass a law against one side and make it retroactive if necessary? What is the next issue that could end up here, where does it end? If a County, protecting one tenant, not even a resident, can go to these lengths something is going on. Do we really want to start a policy of making laws retroactive to change something that has been done according to the rules that the Kansas Legislature has set? How are cities to know what procedures to follow, which laws to obey?

I would also like to point out that in the recent election the County Commission has changed somewhat. On Wednesday, February 07, 2007, the issue of support for this bill came up in the regular County Commission meeting. The vote to support it was split, 3-2, with the newly elected commissioners voting against.

I truly believe that passage of this bill would set a dreadful precedent and give the wrong impression of the rationale behind the laws of the State of Kansas. I ask you to let this bill die right here in this committee.

Thank you for allowing me to testify today and now I will stand for any question you may have.

STEVEN R. BRUNK
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TESTIMONY

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

TOPEKA

COMMITTEE ASSIGNMENTS
CHAIRMAN, COMMERCE & LABOR
MEMBER: ELECTIONS & GOVERNMENTAL ORGANIZATION
FEDERAL AND STATE AFFAIRS
JOINT COMMITTEE ON STATE BUILDING & CONSTRUCTION

TO: The Honorable Mike Burgess, Chair
And Members of the
House Elections & Governmental Organizations Committee

RE: HB 2083 - Campaign finance, use of unexpended campaign funds.

DATE: February 8, 2007

Thank you for allowing me to testify on behalf of HB 2083. This bill relates to the use of unexpended campaign funds

It allows a candidate to transfer campaign funds to a bonafide successor committee. That is more clearly stated on page 4, lines 22-29.

This bill further allows for the dispensation of those funds should there be no successor committee. Please note page 6 line 9-36.

In short, this bill allows a candidate for elective office to transfer his or her funds to another personal successor campaign.

I urge you to pass HB 2083 intact to the full house floor for debate.

Thank you

Steven R Brunk

Representative Steven R. Brunk
District # 85

House Elections & Gov. Org.
Date: 2-8-2007
Attachment # 4

STATE OF KANSAS

Administration of
Campaign Finance,
Conflict of Interest
& Lobbying Laws

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GOVERNMENTAL ETHICS COMMISSION

www.accesskansas.org/ethics

Testimony before House Committee on Elections and Governmental Organization

House Bill 2083

by Carol Williams, Executive Director

February 8, 2007

On behalf of the Governmental Ethics Commission, I stand before you today as neither a proponent nor an opponent of HB 2083. The Governmental Ethics Commission does not take a position on this bill. This testimony is being provided as background information and to explain the amendments and new language being provided for K.S.A. 25-4143 and K.S.A. 25-4157a.

House Bill 2083 has been introduced to address the Kansas Supreme Court decision in *Joan Cole v Carlos Mayans and Winston Kenton* handed down in December of 2003. In its decision, the Court ruled that Carlos Mayans, a candidate for Mayor in the city of Wichita, was prohibited from transferring funds from his legislative campaign account to his mayoral account. The Court ruled the transfer of funds from one campaign account to another is a contribution and that K.S.A. 25-4157a(c) prohibits contributions between candidacies.

As background, in July of 2002, Representative Mayans requested an advisory opinion from the Commission as to whether he could use his State Representative campaign funds to run for Mayor of Wichita. In Opinion 2002-20, the Commission stated "Nothing in the Kansas Campaign Finance Act prohibits a state legislator from using his existing campaign funds to run for a city office". Acting upon Opinion 2002-20, Representative Mayans transferred funds from his State Representative campaign account to a new mayoral campaign account. In February 2003, Mr. Mayans' attorney requested another advisory opinion from the Commission. The Commission was asked if the Campaign Finance Act prohibits a former State legislator from transferring funds from his legislative campaign fund to his Mayoral campaign fund, whether Mayans' Mayoral campaign was a bona fide successor committee or candidacy, and whether the transfer of funds by a candidate from one candidacy to a bona fide successor candidacy

constitutes a contribution. The Commission opined that as long as a candidate carries over the remaining balance of his first campaign fund to a bona fide successor campaign, the Act does not prohibit the transfer. In addition, since Mr. Mayans intended his mayoral campaign to be a successor campaign to his legislative campaign, the Commission considered the Mayoral campaign to be a bona fide successor candidacy, and that carryover funds by a candidate to a bona fide successor candidacy does not constitute a contribution. Since 1976, the Commission has issued eight advisory opinions to legislators and other individuals inquiring whether a candidate could transfer excess campaign funds to a campaign account for another state or local office. In each opinion issued since 1976, the Commission has opined that it is permissible to make such a transfer and that these transfers do not constitute a contribution. A minimum of 60 candidates have made such transfers over the years.

House Bill 2083 amends three provisions of the Campaign Finance Act. These amendments would permit a candidate for a state or local office to transfer the residual funds from his or her original campaign account to a new campaign account which is established by the candidate when he or she files for a different state or local office.

In addition, on page 5, line 13, the word "charitable" is added. Current language permits a candidate to use campaign funds for any membership dues or donations paid to a community service or civic organization in the name of the candidate or candidate committee of any candidate.

New section 4 requires a candidate to terminate his or her original candidacy when all debts have been retired.

New section 5 provides that any candidate who transferred campaign funds to a bona fide successor candidacy commencing January 1, 1976 through the day preceding the effective date of this act, will have made such transfer in compliance with the provisions of the Campaign Finance Act.