

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Sharon Schwartz at 3:30 p.m. on February 10, 2009, in Room 446-N of the Capitol.

All members were present except:

- Representative Ann Mah- excused
- Representative Michael Peterson - excused

Committee staff present:

- Ken Wilke, Office of the Revisor of Statutes
- Martha Dorsey, Kansas Legislative Research Department
- Jill Shelley, Kansas Legislative Research Department
- Carol Bertram, Committee Assistant

Conferees appearing before the committee:

- Representative Vince Wetta
- Representative Pete DeGraaf
- Don Moler, Executive Director, League of Kansas Municipalities
- Michael Shultz, City of Overland Park
- Ben Sciortino, City of Mulvane
- Vic Miller, Shawnee County
- Whitney Damron, City of Topeka

Others attending:

See attached list.

Representative Schwartz, Chair, opened the hearing on **HB 2084 - Cities; annexation; strip annexations restricted.**

Ken Wilke, Office of the Revisor of Statutes, presented an overview of **HB 2084** explaining amendments contained in the bill.

Questions and answers followed.

Proponents:

Representative Vince Wetta appeared before the Committee and presented testimony in support of **HB 2084** (Attachment 1). He stated that **HB 2084** would clarify existing law and make certain types of annexation illegal. As part of his testimony, he distributed a map (Attachment 2) showing a recent annexation and K-53 highway, which is the county line between Sedgwick and Sumner Counties. He said voters north of the highway in Sedgwick County voted against allowing a casino and south of the highway in Sumner County voters approved gambling. He went on to identify several individuals from Wellington who also were present and in support of **HB 2084**.

Questions and answers followed.

Representative Pete DeGraaf appeared before the committee and presented testimony in support of **HB 2084** (Attachment 3). He stated this bill does not address "flag pole" or "strip" annexation. Its intent is to clarify and make illegal annexation that some call "ribbon" or "shoe string" annexation. He preferred to call it "snaking" annexation. He remarked that this is a Kansas issue and that citizens across the state need this clarification. Representative DeGraaf went on to read excerpts from letters from people who had submitted written only testimony in support of **HB 2084**: Kent and Rebecca Ott (Attachment 4), Shawn Townson (Attachment 5), Les Sims (Attachment 6), Paul Sutherland (Attachment 7), Kristy Sutherland (Attachment 8), Jacque Farnsworth (Attachment 9), Susan Pierce (Attachment 10), Darrell and Barbara Zimmerman (Attachment 11), Dean and Dorothy Mills (Attachment 12), Dusty Tavares (Attachment 13) and Graham Hamilton (Attachment 14).

CONTINUATION SHEET

Minutes of the House Local Government Committee at 3:30 p.m. on February 10, 2009, in Room 446-N of the Capitol.

Questions and answers followed.

The Chair recognized Gus Collins, City Manager of Wellington, Kansas, who appeared before the committee in support of **HB 2084** (Attachment 15). He stated that annexation is critical to all local units of government to be able to grow and develop, and that **HB 2084** will assist in the clarification of the statute that eliminates the “shoestring annexation”.

Opponents:

Don Moler, Executive Director, League of Kansas Municipalities, appeared before the Committee in opposition to **HB 2084** (Attachment 16). He stated **HB 2084** is unwarranted and unnecessary, and he would strongly urge the Committee to reject this bill.

Michael Shultz, City of Overland Park, appeared before the Committee to offer testimony in opposition to **HB 2084** (Attachment 17). He stated the problem with **HB 2084** is that it would prohibit a landowner from consenting to the annexation of a portion of his tract for development in the city. He said it would directly interfere with the rights of landowners who want to annex into a city.

The Chair recognized Ben Sciortino, City of Mulvane, who appeared before the committee to offer testimony in opposition to **HB 2084** (Attachment 18). In his testimony, he concluded that **HB 2084** would limit and impair a landowner’s right to voluntarily allow portions of land he or she owns to be annexed by a city, and that it is simply bad policy to set a retroactive date to undo something that has been done in accordance with current state statutes.

There being no further conferees to testify before the Committee in regard to **HB 2084**, Chair Schwartz closed the hearing on **HB 2084**.

Chair Schwartz opened the hearing on **HB 2032 - Cities; annexation; deannexation procedures**.

Ken Wilke, Office of the Revisor of Statutes, presented an overview of **HB 2032**, stating it deals with annexation and is similar in many ways to **HB 2029**.

Questions and answers followed.

Proponents:

Representative Vince Wetta appeared before the committee to read written testimony submitted by Representative Mah in support of **HB 2032** (Attachment 19).

Written testimony in support of **HB 2032** was received from Vic Miller, Shawnee County (Attachment 20).

Kelly Parks, Sedgwick County, appeared before the committee in support of **HB 2032**. No written testimony was submitted.

Opponents:

Don Moler, Executive Director, League of Kansas Municipalities, appeared before the Committee in opposition to **HB 2032** (Attachment 21). He stated this bill is unwarranted and unnecessary, and that to undertake this type of significant change to an existing statute is not appropriate. He strongly urged the Committee to reject this bill.

Michael Shultz, City of Overland Park, appeared in opposition to **HB 2032** (Attachment 22). He stated **HB 2032** would turn the annexation process from a carefully considered planning decision into a purely political decision by the board of county commissioners.

Whitney Damron, City of Topeka, appeared before the Committee to submit testimony in opposition to **HB**

CONTINUATION SHEET

Minutes of the House Local Government Committee at 3:30 p.m. on February 10, 2009, in Room 446-N of the Capitol.

**2032** (Attachment 23). He stated the City of Topeka does not support changes to existing laws relating to annexation and thinks current law allows for dispute resolution, in the rare instances it comes up, to be handled at the local level.


Written testimony in opposition to **HB 2032** was received from Jack Whitson, City Administrator, Park City, Kansas (Attachment 24).

There being no other conferees to appear before the Committee Chair Schwartz closed the hearing on **HB 2032**.

There had been reference made to a court opinion for Sumner County. Chair Schwartz informed the Committee that copies it would be available in her office at 161-W.

The next meeting is scheduled for February 12, 2009.

The meeting was adjourned at 5:40 p.m.

  
\_\_\_\_\_  
Representative Sharon Schwartz, Chair

# HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: 2-10-09

NAME	REPRESENTING
Don Miller	LKM
KELLY PARKS	WEST VALLEY (UNITED NEIGHBORHOOD COOP)
Ethan Patterson	Little Government
Joe Mosimann	Hein Law Firm
Graham Hamill	private citizens (resident)
Karen DeGraaf	Private citizen
Brian Utgen	KAC
Justin McFarland	Frieden & Forbes
Maribyn Witte	Private citizen
Janis Hallard	Summer Co Eco Devo Comm.
Gene Wallace	Kingman County, Eco Devo
Day Mays	City of Olathe
ERIK SARTORIUS	City of Overland Park
Robert J. Walker	City of Overland Park
Mark M. Stutz	City of Overland Park
Melissa Wargemann	KAC
PETE DEGRAAF	District 81
DEAN MILLS	PRIVATE CITIZEN
Dorothy Mills	Tax Payer

**Please use black ink**

# HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: 2-10-09

NAME	REPRESENTING
Thane Witta	5 <sup>th</sup> Dist
GUS COLLINS	CITY OF WELLINGTON
Mark A. Proda	City of Wellington / Chamber
J.C. Long	Self / Wellington
ROGER STALLBAUMER	CITY OF WELLINGTON / MAYOR
David Carr	<del>Chambers</del> - Summit Co. Econ. Devel.
Kevin Barone	Park City
Chris Gigstad	Federico Consulting
Whitby Dunn	City of Aspen
Patrick Herley	Summit County

**Please use black ink**

State of Kansas  
House of Representatives



**Vince Wetta**

80TH DISTRICT  
STATE CAPITOL  
TOPEKA, KANSAS 66612  
(785) 296-7665

1204 N. POPLAR  
WELLINGTON, KANSAS 67152  
(620) 326-5205

COMMITTEE ASSIGNMENTS  
MEMBER: AGRICULTURE AND NATURAL  
RESOURCES  
ENERGY AND UTILITIES  
TRANSPORTATION

Good Afternoon Madame Chairman and Members of the Committee.

My name is Vince Wetta, State Representative from the 80th District, which includes most of Sumner and the southern half of Harper Counties. We are here today to ask you to pass this annexation bill H.B. 2084. This bill has nothing to do with Gaming and everything to do with Gaming. To understand how we got to this point, we have to discuss how this Gaming issue transpired in Sumner County. The South Central Zone contained in S.B. 66 includes Sedgwick and Sumner Counties. Sedgwick County voted against the casino issue and Sumner County voted for gaming. On the maps you have before you is Highway 53, last year we named it the Patriot Guard Highway. That is the county line between Sedgwick and Sumner Counties. Therefore, north of Highway 53 we cannot build a casino, and south of the highway we can.

In December of 2007, after hearing testimony from anyone wishing to speak, the Sumner County Commissioners endorsed two casino developers at Exit 19 on the Kansas Turnpike, which is the Wellington exit. There were two proposals at Exit 33, the Mulvane exit, which were not endorsed. We have many citizens here who were present at the hearings in Wellington and can testify as to why the commissioners only endorsed the proposals at Exit 19. The co-sponsor of this bill, Representative Peter Degraaf can address that issue. On your maps you can see the Kansas Turnpike with the shaded area at Exit 33. That was the proposed gaming site. After the two proposals at Exit 33 were not endorsed, the city of Mulvane annexed the proposed casino site at the turnpike. This is approximately 5 miles from the city of Mulvane which sits on the county line. Approximately 82% of Mulvane sits in Sedgwick County and 18% sits in Sumner County. This annexation is a 100 foot strip of land, entirely in Sedgwick County, which meanders as you can see on the map into Sedgwick County to connect to land in Sumner County at Exit 33. This annexation took place in a county and a House District which repeatedly voted against gaming. Obviously, you would expect an annexation to be a straight line to a location. It is not. We have a statute which would allow this annexation. It is called "island annexation". The island annexation statute should have been used in this instance but it also requires meetings to take input from citizens and needs approval of the county. The city of Mulvane used the wrong statute to circumvent the law, thereby removing the people in the area and the Sumner County Commissioners from the process.

Local Government

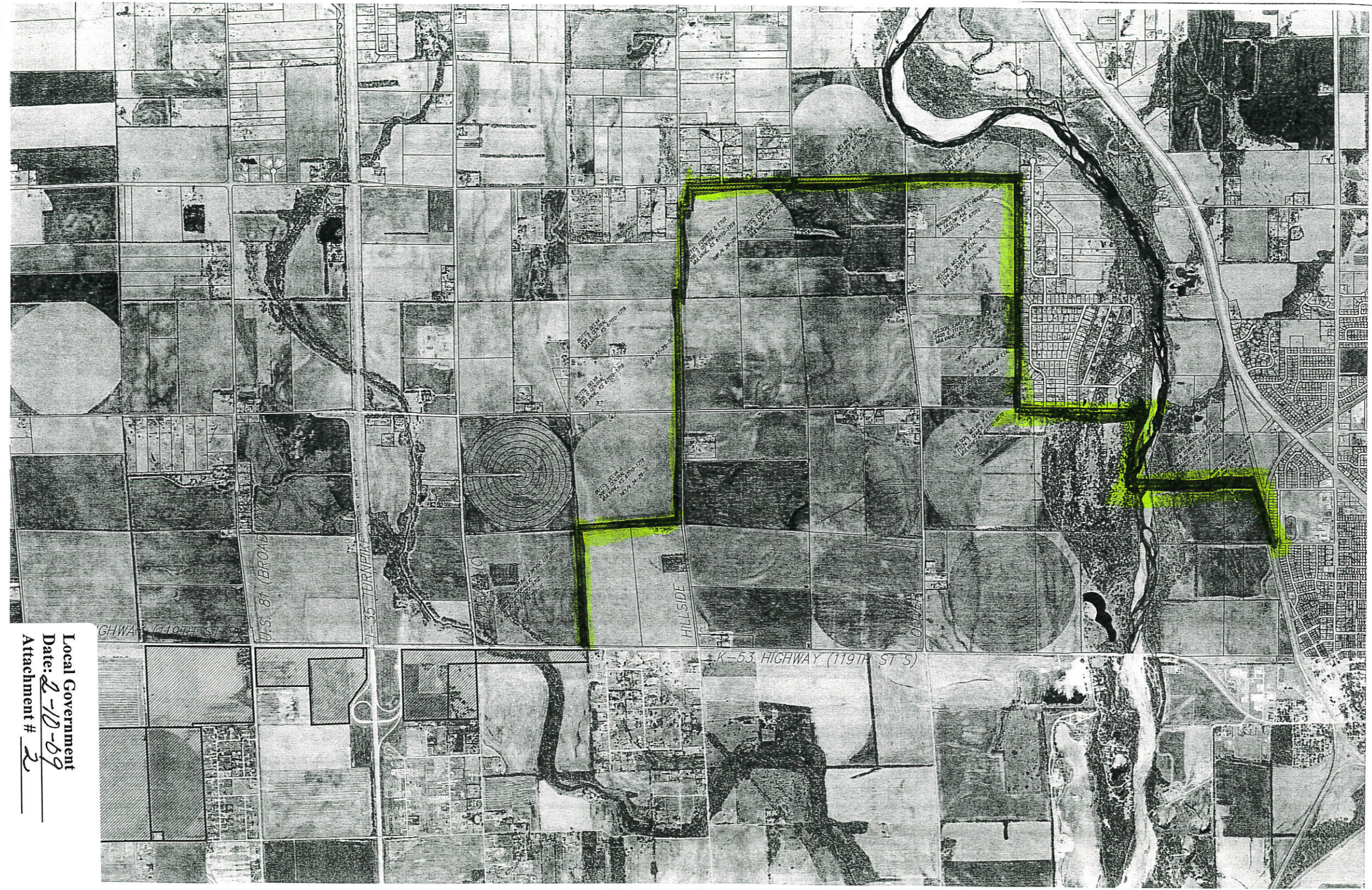
Date: 2-10-09

Attachment # 1-1

This bill, H.B. 2084, would clarify existing law and make this type of annexation illegal retroactive to January 1, 2008. This would include Mulvane's annexation. Some have said they thought this type of annexation was illegal and it is. The Sumner County District Court ruled that it was. So, why would we introduce this bill? Together, the city of Mulvane and Sumner County have spent around \$1,000,000 litigating this issue. We want it stopped.

There is precedent for passing a law retroactively against an annexation. H.B. 3166 was passed on April 13, 1982 and was published in the Kansas Register on April 15, 1982. Section (b) of the bill states, "The provisions of this section shall be applicable to any annexation proceedings commencing after December 31, 1981". This was the issue when the city of Junction City annexed Fort Riley. The Legislature passed H.B. 3166 and made it retroactive to the previous year. The case was appealed to the Supreme Court and the bill was upheld. The court said, in part, "In holding that H.B. 3166 was constitutional and retroactively effective, the district court reasoned as follows in its memorandum decision: The only constitutional limitation in the retrospective application of statutes is that they may not operate to deprive anyone of vested rights. In 'Board of Greenwood County Commissioners vs Nadel' our court held that there can be no vested right in an existing law. Further, Kansas cities cannot gain vested rights superior to the legislative prerogative with respect to annexation matters. Our constitution in Article 12 Section (5a) grants the legislature exclusive jurisdiction over the manner in which cities may alter their boundaries".

The last sentence of our bill states, "The corridor of land must have tangible value and purpose other than for enhancing future annexations of land by the city." This would not prohibit cities from doing a strip annexation that was legitimate. This annexation by Mulvane is not legitimate and is illegal. We hope this committee will pass H.B. 2084 and we can get on with the economic development in Sumner County. Regardless of what the business is, this type of annexation is just an attempt to circumvent the laws of the state of Kansas. Thank you and I will stand for questions at the appropriate time.



Local Government  
Date: 2-10-09  
Attachment # 2



STATE OF KANSAS

**PETE DEGRAAF**  
REPRESENTATIVE, 81ST DISTRICT  
1545 E 119TH  
MULVANE, KANSAS 67110  
(316) 777-0715  
petedegraaf@att.net



STATE CAPITOL BUILDING  
TOPEKA, KANSAS 66612  
pete.degraaf@house.state.ks.us

TOPEKA

HOUSE OF REPRESENTATIVES

TO: **Representative Sharon Schwartz**  
Chairman, Local Government Committee (Room 446-N)  
and other Committee Members

FROM: **Representative Pete DeGraaf**, 81<sup>st</sup> District

A handwritten signature in black ink, appearing to read 'Pete DeGraaf', written over the 'FROM' line of the memo.

DATE: Tuesday, February 10<sup>th</sup>, 2009 at approximately 3:30 pm

SUBJECT: Testimony in **SUPPORT of HB 2084** – Outlawing “Snaking” Annexation

Good afternoon Madame Chairman and Members of this Committee. My name is Pete DeGraaf, Representative from the 81<sup>st</sup> District. I am here today NOT only on behalf of the people of Mulvane, but on behalf of the entire 81<sup>st</sup> District. A number of my constituents are on both sides of this issue. Even so, I can say without a shadow of doubt that I speak for the majority of those living in the District. I'm, here today on their behalf, asking you to vote in favor House Bill 2084.

This Bill does NOT address “Flag Pole” or “Strip” annexation. Its intent is to clarify and make illegal annexation that some call “Ribbon” or “Shoe String” annexation. I prefer to calling it “Snaking” Annexation.

This is not just about Mulvane – this is a Kansas issue! This could happen in your community just as it has mine. This is not about annexing a piece of property where no one lives. Hundreds of people live right next to the proposed construction site and even more along the snaking crooked path. This is about bad interpretation of law. This is about the raw abuse of power. While some may want to make this a discussion about Casinos, this is really a discussion about how to clarify written law that has recently been abused and about restoring faith in our government.

The law, as currently written, seems to allow cities to snake their way through the countryside to some location away from their own population so they can build a garbage dump, sewer plant, or some other obnoxious and unpopular business right next to a group of tax paying homeowners that live out in the county or even right next to some other city. Worse, the annexation is done in such a way that those along the snaking path have NO statutory means of appeal, outside of a very expensive lawsuit. Even the County Commissioners on both sides of the path were excluded from the process, because of bad interpretations of the law.

Representative Wetta and I have provided each of you a map. I would like to point out a few things.

- It's shape
- It's width - 100 ft strip – could have been 10 inches
- It's offset
- Notice how the path jumps from one side of road to the other
- The numerous homes along the path

**Local Government**

Date: 2-10-09

Attachment # 3-1

In my opinion this snaking crooked path was specifically chosen because it allowed the Mulvane City Council and Mulvane Planning Commission to avoid getting approval from either Sedgwick or Sumner County Commissioners, and attempted to do so in such a way that those living along the crooked path, had **no formal notification or means of regress**. On top of that Mulvane never had any intention of providing these people with City services.

Fortunately, Sumner County decided to take legal action against Mulvane, and just two weeks ago **Judge Scott McQuin ruled that Mulvane actions were illegal**. In fact, early on in this process, Mulvane understood that what they had done was illegal, so they met night after night to both undo and then re-due the snaking path. Piece by piece, day after day, they worked their way along the path in hopes that the judge would rule in their favor. Judge McQuin was quoted in the Jan 12<sup>th</sup>, 2009 Wellington newspaper as saying, "the City circumvented the County's statutory right to approve or disapprove annexations when they strip annexed the land.... complete disregard for the County's rights... the strip owners have no bonifide interest in the land and the city has no other purpose in it other than to provide a conduit for other annexations."

As a side note, similar annexation attempts have happened in other States and the courts there have also declared those attempts as illegal. Some may argue, if so, then why do we need HB 2084 and why make it retroactive to January 1, 2008?

Because, **it's time for the legislature to stop this battle**. If this bill had passed both chambers last year, Mulvane and Sumner County would not have had to spend hundreds of thousands of dollars in litigation. Other cities may try the same thing again. It is just bad public policy....a nightmare in the making. This bill needs to be retroactive, because I and many others would like to put this issue to rest. Mulvane may still choose to appeal the Judge's decision. The average citizen does not have \$500,000 to challenge City Hall. I'm asking you to help us avoid future ligation and thereby save the taxpayers huge amounts of money. I'm asking you to help restore hope to those who have lived through this ordeal for the last 2 years. **Kansans across our state need this clarification, so something like this does NOT happen in your backyard.**

Madam Chair, in closing, I would like to quickly introduce others who are available for either testimony or questions as you deem helpful. (Some provided written testimony and may not be here.)

Past Representative **Ken Ott** – Lives along the Snaking Annexation Path  
Current Mulvane Councilmen **Shawn Townsen** – Voted against the Annexation  
Mr. **Les Sims** – Created the Petition asking for a Vote  
Mr. & Mrs. **Paul Sutherland** – Conducted survey of those living round Exit 33  
Ms. **Jackie Farnsworth** – 1<sup>st</sup> Amendment Violation Lawsuit  
Ms. **Sue Pierce** – Mulvane City Resident – Witness to numerous abuses of power  
Ms. **Barb Zimmerman** – Sedgwick County Resident  
Mr. & Mrs. **Dean and Dorothy Mills** – Long term residents of Mulvane

Committee members, on behalf of the people I serve, I appreciate you taking the time today to listen to testimony and to consider how to best to serve the people of this great State. I commend you for serving and passionately **urge you to vote in FAVOR of HB 2084.**

Madam Chair, with this, I conclude my testimony and am available for questions. Thank you!

February 9, 2009

Kansas State Capital  
Attention: Honorable Sharon Schwartz, Chairperson  
Local Government Committee  
Room 446-N  
Topeka, KS

Dear Chairperson Schwartz and Committee Members:

Thank you for the opportunity to express my support of House Bill 2084. I am writing in support of HB2084 because of our recent experience with annexation around our property. This bill will hopefully prevent a "snake" type of annexation in the future. My wife and I live and farm 3 miles from the City of Mulvane. Through one action of the Mulvane City Council, we found our farm partially surrounded by a city which was previously 3 miles away. However, the city surrounds us only with a 100 foot strip of annexed land.

I realize annexation policy has always been a contentious topic. It is a balancing act between the desire of a city to grow and the protection of ownership rights of land owners. Yet successful annexation occurs when city and county governments cooperate with one another and affected adjoining land owners.

This was not the case in our situation. In reality this was an island annexation as the property annexed was 5 miles from current city limits. A large out-of-state gambling company circumvented the process by influencing the City of Mulvane inappropriately. In turn the City of Mulvane did not work and cooperate with the Sumner County Commissioners to complete a valid island annexation.

The result of these actions has caused a community to be in turmoil, a city and county to be tied up in court, and annexation laws to be abused. I believe this bill would be the solution to prevent this in the future for other communities and landowners. Your positive consideration of this bill would be appreciated greatly.

Respectfully,

  
Kent A. Ott  
11621 S Hillside  
Mulvane, KS 67110  
316-777-1092

  
Rebecca Ott

Local Government

Date: 2-10-09

Attachment # 4

**Shawn Townson**  
710 Erin Lane  
Mulvane, Kansas, 67110  
316-259-7382

TO: Representative Sharon Schwartz  
Chairman, Local Government Committee (Room 446-N)  
And other Committee Members

FROM: Shawn Townson

DATE: Tuesday, February 10, 2009

SUBJECT: Written Testimony in **SUPPORT of HB 2084** – Outlawing “Snaking” Annexation

Good afternoon Madame Chairman and members of this Committee. Thank you for giving me the opportunity to offer the following testimony:

My name is Shawn Townson a resident 15 year resident of Mulvane.

During early 2008 the Mulvane City council took action to strip annex portions of land in an effort to have access to a larger piece of property to be annexed and therefore endorse a casino in the South Central Gaming Zone of Kansas. I have consistently opposed this deed and do not agree that this was the best course of action for the City of Mulvane to take in its pursuit of this Casino. The strip annexing was done for the sole purpose of gaining access to the larger piece of land at the opposite end of the strip 5 miles away from the City. The legislation which allowed this to happen needs to be reviewed and/or amended to ensure that future annexations are truly for the betterment of the land to be incorporated and the city it is to be annexed into.

I want to take this moment to thank you for serving and ask that you vote in **FAVOR of HB 2084.**

Respectfully

Shawn Townson

**Local Government**

Date: 2-10-09

Attachment : 5

**LES SIMS**  
214 Emery  
Mulvane, KS. 67110  
(316)-777-4140

TO: Representative Sharon Schwartz  
Chairman, Local Government Committee (Room 446-N)  
and other Committee Members

FROM: Les Sims

DATE: Tuesday, February 10<sup>th</sup>, 2009 at approximately 3:30 pm

SUBJECT: Written Testimony in **SUPPORT of HB 2084** – Outlawing “Snaking” Annexation

Good afternoon Madame Chairman and members of this Committee. Thank you for giving me a chance to offer the following testimony. My name is Les Sims and I am a resident of Mulvane, Kansas where I have lived since 1966. As a resident of Mulvane living in Sedgwick County I was afforded the opportunity to vote on the question of a casino in our community on Aug. 7, 2007. As a result of this election 61% of Mulvane residents voted NO to a casino. It should be noted that 82% of Mulvane residents live in Sedgwick County while 18% reside in Sumner County and were not provided the privilege of a ballot box vote.

Since the majority of citizens opposed a casino I felt that our city council would abide by the vote of the citizens and in Sept. 2007 Mayor Ford reportedly verified that “not one dime was being spent on the casino issue”. However, subsequent events indicated that the majority of our city council was aggressively pursuing a casino in opposition to our vote and without acknowledging their intent!

On Oct. 1, 2007 the City Council published an Agenda for their meeting including an item to discuss/review a study done by Wichita State University's Center for Economic Development and Business Research specifically addressing the “Fiscal and Economic Impact of Casino Gaming at I-35 and K-53 (commonly known as Exit 33)”. The study had specific information on the impact to the City of Mulvane. At this meeting I and several other citizens were in attendance to better understand this issue. Despite several efforts by one city council member, Shawn Townson, to address this agenda item Mayor Ford obstinately and repeatedly declared the item would not be discussed. Thus the Mayor unilaterally denied residents of his city the opportunity to understand an economic study conducted specifically for them. And, this item never appeared on any future council agenda!

Further, on Oct. 8, 2007 a letter from the Mulvane City Administrator was presented to the Sumner County Zoning Board committing that Mulvane could provide utilities and services to a casino at Exit 33. This commitment was being made while most citizens of

Local Government

Date: 2-10-09

Attachment # 6-1

Mulvane understood the city to be disengaged from casino activity based on the Mayor's published statement.

Since it was now apparent that our governing body was aggressively and covertly pursuing a casino against the vote of the citizens we, the citizens, initiated a petition and on Oct. 9, 2007 obtained the Sedgwick County Counselor's opinion that it was sufficient and met legal requirements (a copy of the petition and the Counselor's opinion are enclosed). On Oct. 12, 2007 a group of citizens, including me, began routing this petition to prohibit operation of a casino in the city of Mulvane and prohibit Mulvane providing services to a casino. This petition was rapidly (over 3 weekends) signed by 921 citizens and certified by the Commissioner of Elections on Nov. 7, 2007 to have enough qualified signatures to enact the ordinance or force an election (copy of certification enclosed).

Rather than acting on the petition the City Council chose to appeal to the Attorney General and were able to obtain an opinion that they did not have to enact the ordinance. Our group did not have the resources to obtain judgment to have this opinion overruled or verified and the majority of the City Council was thereby able to circumvent the will of their own electorate.

The City Council's process in their "snake" annexation of a 100 foot wide strip approximately 8 miles long to connect to a piece of property 4 ½ miles from our city limits shows the same disdain for the intent of our/your law. By every logical and ethical consideration this property should be ruled under the law controlling island annexations since that's what it is.

I want to take this moment to thank you for serving and ask that you vote in **FAVOR of HB 2084.**

Thank you!



Les Sims

Enclosures:

- 1) Petition
- 2) Written Advisory Opinion on Petition
- 3) Certification of the Commissioner of Elections



SEDGWICK COUNTY, KANSAS  
OFFICE OF THE COUNTY COUNSELOR

ROBERT W. PARNACOTT  
Assistant County Counselor

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COUNTY COURTHOUSE • 525 N. MAIN, SUITE 359 • WICHITA, KS 67203-3790  
PHONE (316) 660-9352 • FAX (316) 383-7007

October 9, 2007

Les Sims  
214 Emery  
Mulvane, KS 67110

Re: Written Advisory Opinion on Petition for Mulvane Ordinance Opposing the  
Operation of Casino Gambling Within the City

Dear Mr. Sims:

Pursuant to K.S.A. 25-3601, *et seq.*, (the act), a petition to request the City of Mulvane adopt an ordinance opposing the operation of a casino in the city was hand-delivered to the office of the County Counselor for Sedgwick County on October 9, 2007. A copy of that petition is attached for reference. As required by the act, this office has reviewed the sufficiency of the petition and the legality of the form of the question set out in the petition. This office hereby issues its opinion that the petition is sufficient and the form of the question meets legal requirements. I would note that K.S.A. 25-3601(a) provides this is an advisory opinion that only establishes a rebuttable presumption of compliance with requirements of the act. Please let me know if there are any questions, or if I can be of any further assistance.

Sincerely,

Robert W. Parnacott  
Assistant County Counselor

c: Bill Gale, Election Commissioner

enc.



Historic Courthouse • 510 North Main, Suite 101 • Wichita, Kansas 67203  
Telephone 316-660-7100 • Fax 316-660-7125 • [www.sedgwickcounty.org/elections](http://www.sedgwickcounty.org/elections)

## Certificate of Commissioner of Elections

I, Bill Gale, Commissioner of Elections of Sedgwick County, Kansas, do hereby certify that my staff and I (as well as the Sumner County Clerk and staff) have reviewed the copy of the petition received by us on November 7, 2007 that proposes an ordinance in the City of Mulvane, Kansas, prohibiting casino gambling within the City of Mulvane and services to a casino gambling facility and have found the following:

- The petition contains the signatures of 691 qualified electors of the City of Mulvane.
- The petition may contain the signatures of more qualified electors of the City, but determination of the same cannot be made from the information contained in the petition.
- The number of voters of the City who voted at the last preceding regular city election was 1,544. 40% of this number is 618.

Witness my hand and official seal this 13th day of November, 2007.

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Bill Gale  
Commissioner of Elections  
Sedgwick County, Kansas



SHALL THE FOLLOWING ORDINANCE BECOME EFFECTIVE?

# NO CASINO IN MULVANE

L. D. SIMS 214 EMERY MULVANE, KANSAS 67110 PHONE (316)-777-4140

## A PETITION FROM RESIDENTS OF MULVANE TO THE CITY COUNCIL OPPOSING THE OPERATION OF CASINO GAMBLING WITHIN THE CITY AND THE CITY PROVIDING SERVICES TO A CASINO GAMBLING FACILITY

We, the undersigned electors of the City of Mulvane, Kansas, do by this Petition request that the Mulvane City Council, as the governing body of the City of Mulvane, Kansas, pass the following Ordinance or submit the same to a vote of the electors of said City for adoption or rejection, as provided under K.S.A. 12-3013, said Ordinance being as follows, to wit:

SHALL THE FOLLOWING BE ADOPTED?

ORDINANCE No. \_\_\_\_\_

AN ORDINANCE prohibiting casino gambling within the City of Mulvane and services to a casino gambling facility. Be it ordained by the governing body of the City of Mulvane:

SECTION 1. The operation of a casino gambling business or casino gambling facility within the City of Mulvane is prohibited.

SECTION 2. The City of Mulvane shall not provide utilities, fire services, police services or any other service to a casino gambling facility.

I have personally signed this petition. I am a registered elector of the state of Kansas and of the City of Mulvane. My residence address is correctly written after my name.

NAME (PRINT)	SIGNATURE	STREET ADDRESS	DATE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

STATE OF KANSAS )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

I am the circulator of this petition and a resident of the state of Kansas and possess the qualifications of an elector of the state of Kansas. I have personally witnessed the signing of the petition by each person whose name it purports to be. I believe the statements herein and that each signature to the paper appended is the genuine signature of the person whose name appears thereon.

\_\_\_\_\_  
(Name) (Address)

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 2007, by

\_\_\_\_\_  
Notary Public

Paul Sutherland  
669 East 140<sup>th</sup> Ave N  
Peck Kansas 67120  
316-524-1319

February 8, 2009

To: The Honorable Sharon Schwartz  
Chairman, Local Government Committee (Room 446-N)  
And other Committee Members

Re: Written Testimony in **Support of HB 2084**- Outlawing snaking annexation

Madame Chairman and members of this Committee,

Thank you for giving me the chance to offer the following testimony.

My name is Paul Sutherland, and my wife and I live approximately 1-2 miles from the site that was annexed by the city of Mulvane for the Harrah's Casino. In early January 2008, the City of Mulvane announced they would have a public hearing on the annexation and endorsement of Harrah's Casino. Even though I live between 1-2 miles from the proposed site, in Sumner County. I was not allowed to speak, or address the city council members of Mulvane, because I do not live in their school district. The City of Mulvane allowed citizens who lived 15-20 miles from the annexed site; this included residents that lived in Sedgwick or Butler County. If they were in the Mulvane School District they were allowed to speak at the public hearing.

I went to the City of Mulvane meeting believing in Democracy. I felt if the majority of the citizens wanted the annexation for Mulvane and a casino at exit 33, I would support their decision. I also believed if the majority of residents did not approve of the annexation and casino, the Mulvane Commissioners would listen to their residents. I was wrong in my beliefs. The city of Mulvane leaders censored questions residents could ask. A lady was removed from this meeting for asking a question the commissioners did not want to answer. I felt I was in a third world country when the City of Mulvane discriminated on who was allowed to speak and the questions residents were allowed to ask. After this meeting I realized the City of Mulvane had no interest in annexation of property between the City of Mulvane and the Casino at exit 33. They were only interested in the end result at exit 33. Even Mulvane's Mayor Jim Ford said the land between the City of Mulvane and exit 33 would be a buffer zone to protect the city from crime that may come with a casino.

I felt no one was interested in listening to the residents who would be affected the most by our leaders decision, so I went door to door to the residents next to exit 33. I asked residents if they were interested in voicing their opinion yes or no if they wanted a casino at exit 33 by signing a survey. The results were 63 voted no, 19 voted yes, and one had no opinion. (Attached are copies of the signed survey of residents near exit 33. It includes their names, addresses, and their opinion.)

Local Government

Date: 2-10-09

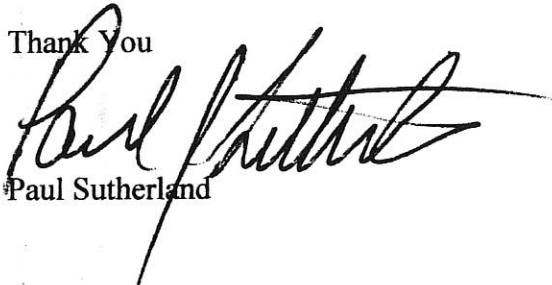
Attachment # 4-1

In closing if House bill 2084 is not approved and cities like Mulvane are allowed to annex land, then what will stop cities from annexation of land along highways for commercial development only, to achieve the most revenue, and as far as they desire to achieve the most revenue. Cities will be allowed to snake annex like Mulvane, cities will be allowed to collect taxes and police the annexed land only. They will put the burden of crime, drainage problems and other problems that comes with annexation and development on others. Cities will pass these burdens to county government or let residents outside the annexed area to fend for themselves.

House bill 2084 protects every homeowner from loopholes in current annexation laws. Mulvane annexation is the perfect example why this bill needs passed to protect homeowners.

I thank you for serving your state and ask that you vote in **favor of HB 2084**

Thank You

A handwritten signature in black ink, appearing to read "Paul Sutherland", written over a printed name.

Paul Sutherland



Number	Name & Address	Signature	Are you for a casino at the Mulvane Exit	Are you against a casino at Mulvane exit
	Debbie Tussey 1477 N. Meridian	<i>Debbie Tussey</i>		X
	Debbie Crawford 1449 N. Meridian	<i>Debbie Crawford</i>		X
	Dustin Jordan 1421 N. Meridian Rd	<i>Dustin Jordan</i>	X	
	Janice Bell 1420 N. Meridian Peck, KS 67120	<i>Janice K. Bell</i>		X
	Johanna Willson 752 E. 140th Ave. N. Peck, KS. 67120	<i>Johanna Willson</i>	X	
	Jason Paul 751 E. 140th Ave S.	<i>Jason Paul</i>		X
	Craig Zabel 791 E. 140th Peck, KS 67120	<i>Craig Zabel</i>	X	
	Loren Hathaway 794 E. Kinsman Rd	<i>Loren Hathaway</i>		X
	Sherry Hathaway 794 E Kinsman Peck	<i>Sherry Hathaway</i>		X
	Johnson Maston 1461 <del>300</del> <del>140th</del> 894 E 140th Ave N.	<i>Johnson Maston</i>		X
	Norma Culp	<i>Norma Culp</i>		X

Do you want to be contacted on new information please list email or phone
527-1020
:524-1219
204-0994
524-1383
524-2627
238-8100
524-5053
524-5053
554-7195

Number	Name & Address	Signature	Are you for a casino at the Mulvane Exit	Are you against a casino at Mulvane exit
	Richard Dietrich 892 E143 N.			X
	874 E. 144th Ave N. Peck Denise Bird	Denise Bird		X
	874 E. 144 Ave. N. Mike Bird	Mike Bird		X
	Jeanne Layman 870 E 144 Ave N Peck KS 67120	Jeanne Layman		X
	BRYCE BOE 1440 N-ESTATE PECK KS	Bryce Boe		X
	Graham Hamilton 1404 N Estate Rd	Graham Hamilton		X
	Jeff Hodges 1400 N. Broken Arrow	Jeff Hodges	X	
	James Ross 1451 Broken Arrow	James Ross	X	
	Darnel Baker 1409 N Broken Arrow	Darnel Baker	X	
	MARC Klein Rebecca Klein 1412 N Broken Arrow	Marc Klein	X	
	Sig Everhart 1416 N Broken Arrow	Sig Everhart	X	

Do you want to be contacted on new information please list email or phone
birdywood@yahoo.com
jeannie.layman@yahoo.com
YvonneandLwks.0 S4TV.COM
Jeffrohoes@pixius.net

80 years old

Number	Name & Address	Signature	Are you for a casino at the Mulvane Exit	Are you against a casino at Mulvane exit
	384 E 144th St Peck, KS	<i>Ray [unclear]</i>		C
	RICHARD CARPENTER 1441 N. ESTATE RD. PECK, KS.	<i>Richard Carpenter</i>		X
	Irene White 1430 N Estate		X	
	Marguerite Childers 1429 N Estate Rd Peck, KS	<i>Marguerite Childers</i>		X
	Isaiah Massey 1427 Estate Road Peck, KS 67120	<i>Isaiah Massey</i>	No Opinion	
	Bruce Humbolt 1427 N Estate Peck	<i>Bruce Humbolt</i>	X	
	Yvonne King 1424 N. Estate Rd Peck, KS 67120	<i>Yvonne King</i>		X
	Emel R Rose 1421 N. ESTATE RD Peck 125 67120	<i>Emel R Rose</i>	X	
	Miriam A. Rose 1421 n. Estate Rd Peck, KS 67120	<i>Miriam A. Rose</i>	X	
	Martha Lund 1417 N Estate Rd Peck, KS 67120	<i>Martha Lund</i>	X	
	Wanda Gray 1416 N Estate Rd 2076	<i>Wanda Gray</i>		X

Do you want to be contacted on new information please list email or phone

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Number	Name & Address	Signature	Are you for a casino at the Mulvane Exit	Are you against a casino at Mulvane exit
1421	N Broken Arrow Peck KS 67120 Jimmy Hurst	<i>Jimmy Hurst</i>		X
1426	N Broken Arrow Don & Joy MacIner	<i>Don MacIner</i>		X
	RAY BALL 1405 N. Broken Arrow	<i>Ray Ball</i>		X
	RICK KUAPP 1433N, BROKEN ARROW	<i>Rick Kuapp</i>	X	
	Joe L. Warner 1434 N. Tomahawk Peck, KS 67120	<i>Joe Warner</i>		X
	Dee Lanzrath 1436 N. Tomahawk Peck, KS. 67120	<i>Dee Lanzrath</i>	X	
	KRIS Berg 1442 N. Tomahawk Peck, KS 67120	<i>Kris Berg</i>		X
	Ali Ballinger 1441 N. Tomahawk Peck, KS 67120	<i>Ali Ballinger</i>		X
	Tonia Schneidewind 1439 N. Tomahawk Rd Peck KS. 67120	<i>Tonia Schneidewind</i>		X
	Rhonda Ryan 1437 N. Tomahawk Rd Peck, KS. 67120	<i>Rhonda Ryan</i>		X
	JERRY MARTIN 1435 N. Tomahawk RD Peck KS 67120	<i>Jerry Martin</i>	X	

Do you want to be contacted on new information please list email or phone
Warnej@KR24.net
Amballinger@sutv.com

Number	Name & Address	Signature	Are you for a casino at the Mulvane Exit	Are you against a casino at Mulvane exit	Do you want to be contacted on new information please list email or phone
	Diann Huggins 1425 N. Fortner Peck, KS 67120	<i>Diann Huggins</i>		✓	
	Cheryl L Batchelor 1426 N. Fortner Peck KS 67120	<i>Cheryl L Batchelor</i>		✓	
	Michelle Schulte 1411 N. Fortner Rd. Peck, KS 67120	<i>Michelle D. Schulte</i>		✓	
	Heidi Watson 1408 N Fortner Rd Peck KS 67120	<i>Heidi Watson</i>		✓	
	Jacque Farnsworth 1407 Fortner Rd Peck KS 67120	<i>Jacque Farnsworth</i>		✓	
	Kerry Farnsworth 1407 Fortner Peck KS 67120	<i>Kerry Farnsworth</i>		✓	Kerry.Farnsworth @yahoo.com
	Joseph M. Valeri 1400 North Fortner Rd Peck KS 67120	<i>Joseph M. Valeri</i>		✓	
	DAVID F. THRUSH 1401 N. FORTNER RD. PECK, KS 67120	<i>David F Thrush</i>		✓	
	DONALD HAMM 1404 BROKEN ARROW PECK, KS 67120	<i>Donald Hamm</i>		✓	
	Amy HAMM 1404 BROKEN ARROW PECK, KS 67120	<i>Amy Hamm</i>		✓	
	Kristy Sutherland 669 E. 140th Ave N Peck, KS 67120	<i>Kristy Sutherland</i>		✓	Kristy 669@gmail.com

**Kristy Sutherland**  
**669 E. 140<sup>th</sup> Ave. N**  
**Peck, KS 67120**  
**316-524-1319**

TO: Representative Sharon Schwartz  
Chairman, Local Government Committee (Room 446-N)  
and other Committee Members

FROM: Kristy Sutherland

DATE: Tuesday, February 10<sup>th</sup>, 2009 at approximately 3:30 pm

SUBJECT: Written Testimony in **SUPPORT of HB 2084** – Outlawing “Snaking” Annexation

Good afternoon Madame Chairman and members of this Committee. Thank you for giving me a chance to offer the following testimony. My name is Kristy Sutherland and I am strongly urging you to support HB 2084. You are probably aware of how the City of Mulvane annexed a narrow strip of land that snaked through the rural area to the proposed casino site. Please see the attached map. Highway 53 divides Sedgwick and Sumner County. Sedgwick County is on the north side of the highway and Sumner on the south side. They had to go deep into Sedgwick County to wind their way around. Harrah’s and the City of Mulvane kept referring to the annexed area as “in Mulvane” as you can see by the map it was not in Mulvane. This type of annexation allows a City to get the tax benefits and revenues from businesses that they do not want inside their city proper because they are undesirable. They want the benefits without having to deal with the problems that are created. When a citizen voiced a concern at public meeting that the casino would bring in other “undesirable businesses” and how would the City prevent that, Mayor James Ford commented that there is a five mile buffer of land, railroad tracks, and a river between the proposed casino site and the city proper of Mulvane. We do not want to be the buffer for the documented increases in crime and drunk driving in areas surrounding casinos. Since we were not in the area annexed, the Mulvane police, at the new substation one mile away would not be able to respond to our call if we needed help. We would still rely on the sheriff’s department who has only two officers on duty for the entire county, per shift. I do not believe the Mulvane city commissioners would support annexation and the casino if it were bordering their “city proper”.

We live one mile from the main area that was annexed. We were not given any notice of the annexation. The majority of the families that live in this area were opposed to the proposed casino, with the exception of those that are selling their land. We attended the meeting held at the Mulvane High School and listened to the presentation and comments from citizens. According to several citizens that did attend the council meeting that addressed the annexation, the public was not allowed to speak at that meeting. My husband and I were not allowed to speak at the meeting at the Mulvane High School because we are not in the Mulvane School District. The Mulvane School District stops

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Attachment # 8-1

right across the road. We were not allowed to speak and live a mile away, Mulvane residents were allowed to speak and live five miles away, others that were in the school district spoke and live up to 12 miles away. I believe it is fair to say that this will impact my life, safety, and home value a lot more than it will affect theirs. It does not seem that school district boundaries were the proper way to determine who could speak. 82% of Mulvane is in Sedgwick County, 61% of Mulvane, Sedgwick County voted against having a casino. The City Council members were not listening to the residents of their city and would not listen to anyone in the area surrounding the annexed site. The City Council members abused their power when they annexed this area. The way the annexation was handled made my husband and I wonder if we were in America.

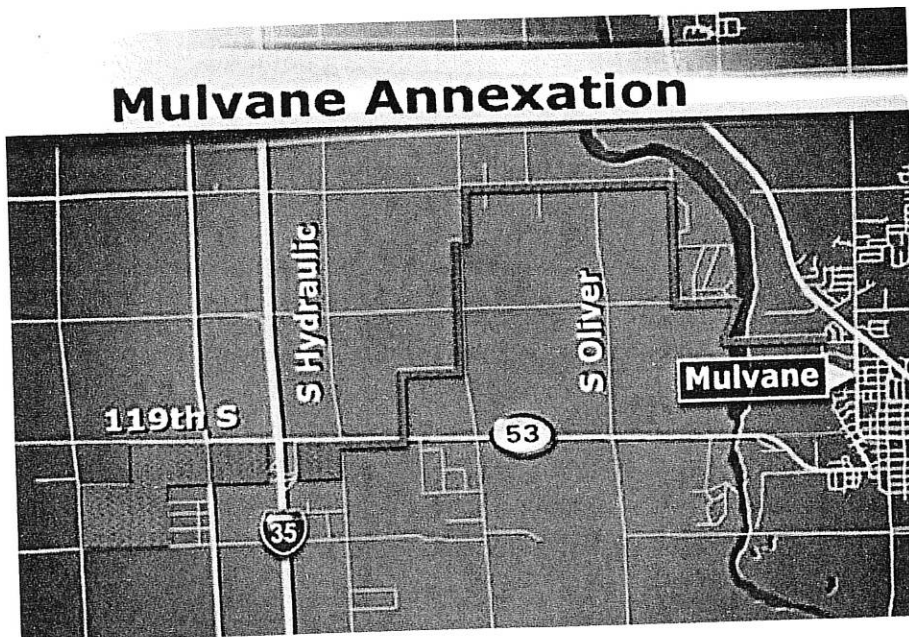
Please do not allow other families to be impacted so negatively by the greed of city officials that want the revenue, but not the problems. Cities can annex land adjacent to their city proper, take responsibility, and deal with the problems created by businesses they want to attract. I moved to this area 18 years ago to realize our families dream of living in the country in a rural atmosphere, that dream did not include a casino and large development.

I want to take this moment to thank you for serving and ask that you vote in **FAVOR of HB 2084.**

Thank you!

*Kristy Sutherland*

Kristy Sutherland



**Jacque Farnsworth**  
1407 N. Fortner  
Peck, KS 67120  
316-777-9678

Representative Sharon Schwartz  
Chairman, Local Government Committee  
And other Committee Members

Written Testimony in **SUPPORT of HB 2084** – Outlawing Shoestring Annexation

Thank you Madame Chairman and members of this Committee for allowing me the opportunity to provide my written testimony regarding the need to outlaw shoestring annexation.

Our family lives approximately one quarter mile from the I-35 Exit 33; most recently noted for the Casino/Annexation battle involving Mulvane and the rest of the populace affected in this area.

At every possible venue, the city of Mulvane has attempted to disregard and circumvent any responsibility to those of us who are truly affected by the outcome.

I want you to know that in my efforts to simply voice my concerns at the open Mulvane City Forum on January 16, 2006, I was called out of order by the Mayor of Mulvane and escorted out by the police. I was simply trying to clarify a previous question. After that meeting I contacted attorneys with the Alliance Defense Fund and they are suing the Mayor and the City of Mulvane for 1<sup>st</sup> Amendment Violations.

I still can not believe this is happening in America, yet alone in Mulvane. No outside entity should ever be able to push their agenda upon unwilling participants, in which the outcome does not affect them; especially when they anticipate great gain at the expense of those who would have to pay the ultimate price. Greed has no conscience.

I have so much to share, but space and time are limited. Thank you for your time and consideration. I would ask you to please keep these circumstances in your forethought; and consider the injustices that are inclined to transpire and affect the citizens who are voiceless to protect their properties, families, and property values if this type of annexation were allowed to be legal. It's bad business!!

Please vote in support of House Bill **2084**.

Thank you!



Jacque Farnsworth

Local Government

Date: 2-10-09

Attachment # 9

Tuesday, February 10<sup>th</sup>, 2009

Dear Representative Sharon Schwartz,  
Chairman, Local Government Committee  
and other Committee Members

Written Testimony in **SUPPORT of HB 2084** – Outlawing “Snaking”  
Annexation

Thank you for giving me a chance to offer the following testimony. My name is Sue Pierce, a resident of Mulvane for 25 years. The purpose of this letter is to request a strengthening of the law regarding the annexation process.

I have personally witness the abuse of “city government officials” and “media prejudice”, which included countless city council meetings (several illegal executive sessions) and other “gatherings” concerning an issue which would have adversely affected many families outside of town and also our entire small town of Mulvane. I was completely appalled at the shady manner in which our ‘faithful’ leaders went about the business of imposing, upon us all, a most diabolical plan which would have been much less likely to have been drawn out for nearly 2 years had legislation been in place to forbid such shenanigans.

Please do all you are capable of to protect Kansans from abuse of this nature in the future. We’re depending upon you to vote in **FAVOR of HB 2084**.

Sincerely,



Mrs. Susan Pierce  
533 Emery  
Mulvane, KS 67110  
316-305-7177

Local Government

Date: 2-10-09

Attachment # 10

February 9, 2009

Representative Sharon Schwartz  
Chairman, Local Government Committee Room (Room 446-N)  
and other Committee Members

Re: Written Testimony in **SUPPORT of HB 2084** – Outlawing “Snaking” Annexation

Dear Madame Chairman and members of this Committee:

Thank you for the opportunity to give our input regarding the issue of annexation in the State of Kansas.

We live at 1100 East 103<sup>rd</sup> Street South, Mulvane, Kansas. Our property is adjacent to the east side of the turnpike. The annexation ribbon used by the city of Mulvane came close by our home with exit 33 being only two miles south of us. We had no knowledge of the annexation until we read about it in the Wichita Eagle. We felt violated. In an attempt to stop this type of abuse of K.S.A. 12-520, we attended and spoke at the open meeting with the City of Mulvane. We contacted the Mulvane City Council by email to express our concerns. We contacted our Salem Township Trustee and have worked very closely with her. She was very helpful to us, but she too read about the annexation in the newspaper with no prior knowledge of it. She advised us to contact our County Commissioner, Tim Norton, which we did. We were also in contact with the Sedgwick County Commission, Sumner County Commission, our Representatives and Senators. No one seemed to be able to stop this abuse of the annexation laws. We believe that the Sedgwick County Commission could have done more to stop a city from coming through their county in annexing in this way. We had more help from the Sumner County Commission than we did from our own County Commission. We were appalled that our representative form of government was broken to the extent that we had NO REPRESENTATION when a city decided to land grab for their own benefit with no regard for the people of the township or county.

We are very grateful for Judge Scott R. McQuin who ruled against the city of Mulvane’s attempt to annex land in this despicable way in abusing the freedom of the citizens of the State of Kansas from having any voice in the matter. Mulvane totally disregarded the authority of Sumner County and treaded on the property of the citizens of Salem Township and Sedgwick County for their own gain.

Please strengthen the annexation process so that this type of abuse does not happen again in our State. Might it be considered that there be a greater area of influence for notification before annexing? Please make it illegal to do what was attempted by the city of Mulvane. We need clear-cut annexation laws to stop cities and other entities to stop land grabbing for their own gain at the expense of others.

Again, thank you for allowing our voice to be heard.

Sincerely,



Darrell and Barbara Zimmerman

Local Government

Date: 2-10-09

Attachment # 11

**Mr & Mrs. Dean and Dorothy Mills**  
504 Emery Street  
Mulvane, KS 67110  
316-777-1510

TO: Representative Sharon Schwartz  
Chairman, Local Government Committee (Room 446-N)  
and other Committee Members

FROM: Dorothy Mills

DATE: Tuesday, February 10<sup>th</sup>, 2009 at approximately 3:30 pm

SUBJECT: Written Testimony in **SUPPORT of HB 2084** – Outlawing “Snaking” Annexation

Good afternoon Madame Chairman and members of this Committee. Thank you for giving me a chance to offer the following testimony. My name is Dorothy Mills. My husband and I have lived in Mulvane for over 50 years. Our children grew up here.

Mulvane is a good family oriented community. We love our town and want to see other families have the same privileges our children have had. The casino issue at Exit 33 has caused so much bitterness and divisiveness that should never have happened. We have seen friends for life not even talk to each other over this issue. Our local city council acted dishonestly and without integrity or respect for so many of us who wanted to have our say concerning the casino at exit 33.

We can not trust our local government to do what is right or to even listen to the voice or concerns of its citizens. They had made up their minds and refused to hear us. Those of us who were against it decided to talk to the people of our town. We canvassed our town, Sedgwick and Sumner County getting signatures of folks who were against the casino to put it to a vote by the people. The council rejected the petition, calling it flawed. We the citizens of Mulvane were not allowed to vote on such an important issue.

The city council finally decided to let us have our say at the High School on an icy cold January night. Harrah's business men spoke telling us what they were going to do for our town. How much money we would get from their supposed profits. After that we were given 45 minutes to speak and we were not to bring up the moral or social issues. At that meeting one young lady was escorted out because she said something the Mayor considered moral and or a negative social impact. When the meeting was over the mayor called for an open vote with Harrah's present. One council member had asked the council to wait and vote at the next council meeting. It was rejected. They voted for Harrah's to proceed. I called that unconscionable and outrageous.

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We went thru the same thing with MGM Mirage/Foxwood even though they had voted for Harrahs. At this time I decided to speak on the moral and social of gambling. And again we were given just a few minutes to speak and told we could not speak on the moral or social issues. There are social and moral issue where gambling is concerned. Even so, when my time came, I spoke about my concerns and mayor called me out of order and refused to let me speak. I asked him if he was denying me my first amendment rights. Then, I was allowed to speak but when my time was over the mayor asked that it be stricken from the record.

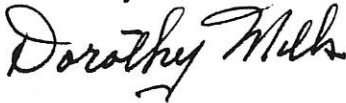
There are other reasons for the casino not to be built at exit 33 that I would like to mention.

1. Originally County Commissions voted for the Wellington site not Mulvane. Our City Council knowing that, decided to fight for it at Exit 33 - Greed has no conscience – and there is a law suit pending.
2. To get casino at Exit 33 the council members voted on an annexation with a strip of land 100' wide snaking thru Sedgwick county.
3. There are many homes close that will be affected. Would you want to live out there where the traffic will come and go all hours of the day and night, I wouldn't.
4. Deep on my heart are the people that become addicted to gambling, families torn apart, many divorces, suicide death, leaving many families destitute. And in need. Can the state pick up the tab to take care of these families. A casino may have to pay some money, but in the long run will cost the state much more. I ask you in the name of justice and mercy to keep casinos out of our State.

Annexation Laws must be strengthened in order to protect the common citizen from abuse. I want to take this moment to thank you for serving and ask that you vote in **FAVOR of HB 2084.**

Thank you!

Dorothy Mills



Dean Mills



February 9, 2009

Honorable Representative Pete DeGraaf  
Representative 81<sup>st</sup> District  
State of Kansas

**RE: HB 2084**

Dear Honorable DeGraaf,

I am a homeowner/resident of the City of Mulvane Kansas, Sedgwick County. I had the privilege to vote on August 7<sup>th</sup> 2007 as a Sedgwick County resident against allowing a Casino in Sedgwick County. I take my right to vote seriously and consider it an honor and a privilege as a citizen of this great county and the great State of Kansas.

You can only imagine my frustration upon being stripped of my basic right to vote on an issue so controversial as whether the City of Mulvane should partner with a Casino on a piece of land that was not even part of Mulvane yet and would later be annexed by a highly questionable, possible illegal, deceptive and convoluted manner. This was done by elected officials for the City of Mulvane; The Mulvane City Council (MCC).

This experience began for me in October of 2007 when I along with over 900 registered voters signed a petition to bring the Casino issue to a vote. As stated above these voters were denied the right to vote on this issue.

On January 16<sup>th</sup> 2007 I attended a meeting held by the MCC that gave the appearance of the correct political process and was completely astounded at the arrogance of the MCC's vote to support a Casino on land not yet part of the City of Mulvane. I was astounded at their arrogance because they completely ignored comments and concerns from many residents of Mulvane, including my self.

On January 21<sup>st</sup> 2007 the MCC questionable annexed a 5 mile strip of land connecting Mulvane to the Casino site. See attachment #1  
March 28<sup>th</sup> 2007 the MCC began a series of meeting to create the appearance of following the law regarding annexation of land. See attachment #2

On February 14<sup>th</sup>, 2007 I attended a zoning commission meeting that was held to address the zoning change of the land that was questionably annexed by the MCC. This particular meeting provided me with the absolute certainty that Sunshine Laws had been violated and that the MCC was systematically forcing the Casino on the residents of Mulvane without their knowledge or approval.

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The meeting was originally scheduled to be held at the Mulvane City building but due to the enormous attendance of residents of Mulvane it had to be transferred to the gymnasium at the Mulvane Recreation Center.

I was provided with a sheet of 17 factors that I was advised the zoning commission had to address before changing any zoning of land. See attachment #3. The public were encouraged to sign up to speak regarding these 17 factors. Two votes were to take place regarding this zoning meeting.

After many people spoke to the board the public comment time was closed and the board began its process. Little if any discussion went on regarding the public comments. One representative, Mr. Parker asked that the board table this vote until they could consider the lengthy public comments of that evening. His request was not honored. Another representative, Mr. Blue then pulled out a previously written, florescent colored, 4X6 note card and proceeded to read a motion to change the zoning of the land. Immediately following the reading of this motion the City Attorney (from across the room) advised Mr. Blue that he had mis-read the motion and advised him of the proper language needed. Mr. Blue restated the motion and it was second...a minor amount of discussion took place and then the board voted on it. One lone representative voted against it.

As second time of public opinion was opened up, and again a large number of people addressed the board. One particular citizen of Mulvane, Ms. Sue Pierce, had in hand the list of 17 factors and addresses over 8 items directly to the board. After the meeting Ms. Pierce was commended by the Consultant the city hired as to her direct responses to these questions and advised her that is exactly what needed to be done. Her concerns were not address by the board.

Once again, public comment time was closed and Representative Parker once again asked for to table the vote in order to review the public comments. His wish was denied. For a second time that evening, Representative Blue pulled out his previously written, florescent colored, 4X6 note card and proceeded to read his motion in favor of the zoning change. This time the City attorney actually stood up and in a prolonged comment advised Reprehensive Blue that "he did not read the motion as it was written" and he continued to advise Mr. Blue on what he needed to say. At this point, I could no longer endure the insult of arrogance by the city attorney and stood up and disrupted the meeting by advising the City Attorney to just go over and rewrite if for him *again*. I was called out of order by the zoning board chair and left the meeting, it was well after midnight by this time. I felt strongly that the zoning commission was party to the MCC's railroading our community into a partnership with a Casino for revenue.

Please note: The City of Mulvane, by ordinance adopted the "Comprehensive Development Plan for the Mulvane Area, for the period of 2000-2012. The MCC and the Mulvane Zoning commission completely disregarded and ignored the plan when it chose to annex and develop the land at Exit 33.

This plan specifically address' development at Exit 33. The comprehensive plan was brought to the attention of the zoning board members by numerous people in the public comment section at the February 14<sup>th</sup> 2007 zoning commission meeting. There was no proper response or address from the zoning commission regarding the City's Comprehensive Business Plan.

To conclude my letter I would like to reiterate concerns that I as a Mulvane City resident have:

- 1) My right to vote on this issue was stripped from me by the MCC.
- 2) There has been no due process for the residents of the city of Mulvane.
- 3) It is this writer's belief that Sunshine laws and possibly other laws have been violated by the MCC.
- 4) Residents of Mulvane have been deliberately mislead and forced into a situation that will put a permanent blithe on our City's reputation and history.

Submitted Respectfully by:



Dusty L. Tavares  
518 Olive Ct  
Mulvane, KS  
316-777-4020





000029946253

TOGETHER WITH  
Curt Hoobler

The south 100 feet of Government Lots 5 and 6 in the SW ¼, Sec. 24, Twp. 29S, R1E, of the 6<sup>th</sup> P.M., Sedgwick County, Kansas;

TOGETHER WITH  
Melvin Nelson

The south 100 feet of the SE ¼, Sec. 23, Twp. 29S, R1E, of the 6<sup>th</sup> P.M., Sedgwick County, Kansas;

TOGETHER WITH  
Butts

A tract 100 ft. wide by 100 ft. long in the NW corner of the NW ¼ of the NE ¼ of Sec. 26, Twp. 29S, R1E of the 6<sup>th</sup> P.M., Sedgwick County, Kansas.

TOGETHER WITH  
Butts

A Tract in the NW ¼, Sec. 26, Twp. 29S, R1E., of the 6<sup>th</sup> P.M., Sedgwick County, Kansas described as beginning at the NE Corner thereof; thence south along the east line of said NW ¼ 100 feet; thence west parallel with the north line of said NW ¼, to a point 325 feet east of the west line of said NW ¼; thence south parallel with the west line of said NW ¼, 464 feet; thence west parallel with the north line of said NW ¼, 225 feet; thence south parallel with the west line of said NW ¼, to a point on the south line of said NW ¼; thence west along the south line of said NW ¼, 100 feet to the SW corner of said NW ¼; thence north along the west line of said NW ¼, to a point 484 feet south of the north line of said NW ¼; thence east 225 feet; thence north 484 feet to a point on the north line of said NW ¼; thence east along the north line of said NW ¼ to the point of beginning.

TOGETHER WITH  
Grother

A tract 100 ft. wide by 100 ft. long in the SE corner of the S ½ of the NE ¼ of Sec. 27, Twp. 29S, R1E of the 6<sup>th</sup> P.M., Sedgwick County, Kansas;

TOGETHER WITH  
Butts

The East 100 feet, of the SE ¼, Sec. 27, Twp. 29S, R1E, of the 6<sup>th</sup> P.M., Sedgwick County, Kansas;

AH # 1

00000000000000000000

TOGETHER WITH  
Butts

The east 100 feet, and the south 100 feet of the NE ¼, Sec. 34, Twp. 29S, R1E of the 6<sup>th</sup> P.M., Sedgwick County, Kansas;

TOGETHER WITH  
Grother Trust

The east 100 feet of the SW ¼, Sec. 34, Twp. 29S, R1E of the 6<sup>th</sup> P.M., Sedgwick County, Kansas;

TOGETHER WITH  
Butts

All of Lot 2 of Section 3, Township 30 South, Range 1 East of the 6<sup>th</sup> PM, Sumner County, Kansas;

TOGETHER WITH  
Mangus/Storey

TRACT I: Beginning at a point on the East line, 65 feet South of the Northeast corner of the Northeast Quarter of Section 4, Township 30 South, Range 1 East of the 6<sup>th</sup> P.M., Sumner County, Kansas; thence South 0 deg. 00 min. East (assumed) along the East line of said Quarter Section, 321.08 feet to a point 1279 feet North of the Southeast corner of said Quarter Section; thence North 88 deg. 29 min. 18 sec. West, 683.12 feet; thence South 0 deg. 09 min. 15 sec. East, 1287.91 feet to the North line of the Southeast Quarter of said Section; thence North 89 deg. 13 min. 53 sec. West, along the North line of said Southeast Quarter, 1066.51 feet to an existing iron pin on the East right of way of the Kansas Turnpike; thence North 0 deg. 05 min. 43 sec. East, 1604.53 feet to an existing iron pin on the East right of way of the Kansas Turnpike; thence North 80 deg. 37 min. 14 sec. East, 252.99 feet to an existing iron pin on the East right of way of the Kansas Turnpike; thence South 87 deg. 21 min. 04 sec. East, along the South right of way of Highway #53, 1495.14 feet to the point of beginning, EXCEPT Lot 1, Storey Addition, Sumner County, Kansas.

TRACT II: A tract of land in Government Lot 6, Section 4, Township 30 South, Range 1 East of the 6<sup>th</sup> P.M., Sumner County, Kansas being more particularly described as follows: Beginning at the Northeast corner of the Southeast Quarter of said Section 4; thence on the North line of said Southeast Quarter, a distance of 679.47 feet; thence North, with an interior angle of 90 deg. 08 min. 11 sec., a distance of 1287.91 feet, more or less, to an iron bar; thence East, with an interior angle of 82 deg. 06 min. 59 sec., a distance of 683.12 feet, more or less, to the intersection with the East line of Government Lot 6; thence South, on said East

TWG REF: 290930  
Arbitration Ordinance

Att # 1



000028545283

line, a distance of 1279.00 feet, more or less, to the point of beginning, and is subject to public right of way on the East.

TRACT III: Lot 1, Storey's Addition, Sumner County, Kansas.

LESS a 50 foot wide strip along the South line of the NE 1/4 within Tracts I and II, and LESS the South 1,200 feet of the West 50 feet of Tract I lying adjacent to and East of the Kansas Turnpike Right of Way.

TOGETHER WITH  
Brewer.

TRACT I: Beginning at a point on the North line of Government Lot 1 in Section 4, Township 30 South, Range 1 East of the 6<sup>th</sup> P.M., Sumner County, Kansas, said point being 20.65 feet East of the Northwest corner of said Lot 1; thence South along the Kansas Turnpike Right of Way line, a distance of 741.70 feet on an assumed bearing of South 0 deg. 07 min. 15 sec. West; thence South 38 deg. 11 min. 51 sec. West, a distance of 27.65 feet to a point on the East line of Government Lot 4; thence continuing along said line a distance of 734.52 feet; thence South 0 deg. 07 min. 45 sec. West, a distance of 408.47 feet to a point on the South line of said Lot 4; thence North 89 deg. 10 min. 38 sec. West along said South line, a distance of 361.24 feet to the Southwest corner of said Lot 4; thence North along the West line of said Lot 4, a distance of 1537.49 feet to the Northwest corner of said Lot 4; thence South 87 deg. 40 min. 09 sec. East, a distance of 1320.05 feet to the Northeast corner of said Lot 4; thence North along the West line of Government Lot 1, a distance of 254.10 feet to the Northwest corner of said Lot 1; thence East 20.65 feet to the point of beginning, EXCEPT a tract commencing at the Northeast corner of Government Lot 2, in Section 4, Township 30 South, Range 1 East of the 6<sup>th</sup> P.M., Sumner County, Kansas; thence South along the East line of said Lot 2, and with an assumed bearing of South 00 deg. 08 min. 24 sec. East, a distance of 254.10 feet to the Southeast corner of said Lot 2, said point being also the Northeast corner of Government Lot 4 in said Section 4; thence North 87 deg. 40 min. 09 sec. West, along the common line between Government Lots 2 and 4, a distance of 50.56 feet to the point of beginning; thence continuing North 87 deg. 40 min. 09 sec. West along the common line between said Lots 2 and 4, a distance of 1,269.49 feet to the Northwest corner of Government Lot 4 in said Section 4; thence South 00 deg. 08 min. 42 sec. East, along the West line of Government Lot 4, a distance of 11.11 feet; thence South 87 deg. 40 min. 09 sec. East, a distance of 1,269.44 feet; thence North 00 deg. 07 min. 15 sec. East, a distance of 11.11 feet to the point of beginning.

TRACT II: Commencing at the Northeast corner of Government Lot 2, in Section 4, Township 30 South, Range 1 East of the 6<sup>th</sup> P.M., Sumner County, Kansas; thence South along the East line of said Lot 2, and with an assumed bearing of South 00 deg. 08 min. 24 sec. East, a distance of 60.06 feet to the point of

TWC REF: 290960  
Amendment Ordinance

AH #1



0000233-12283

TOGETHER WITH  
Grother

Lots 1, 2, 5 and 6, in Section 5, Township 30 South, Range 1 East of the 6<sup>th</sup> P.M., Sumner County, Kansas, EXCEPT that part decded for highway purposes; and EXCEPT that part of Lot 5 described as: Commencing at the Southwest corner of Lot 5, Section 5, Township 30 South, Range 1 East, running north 20 feet; thence Southeast to South line of said Lot, 20 feet from said above described corner; thence West to beginning; and EXCEPT the East 1,500 feet of the South 50 feet; and EXCEPT the West 50 feet of Lots 1 and 5, Sumner County, Kansas.

TOGETHER WITH  
Galen, Dorale Gerlach

The West half of the Southeast Quarter of Section 5, Township 30, Range 1 East of the 6<sup>th</sup> P.M., EXCEPT the East 50 feet thereof; and EXCEPT the South 50 feet thereof; and EXCEPT beginning at the Southwest corner of the West Half of the Southeast Quarter of Section 5, Township 30 South, Range 1 East; thence Northerly along the West line of said West Half of Southeast Quarter, a distance of 258.71 feet; thence Easterly parallel to the South line of said West Half of the Southeast Quarter, a distance of 258.71 feet; thence Southerly parallel to the West line of said West Half of Southeast Quarter, a distance of 258.71 feet; thence Westerly along South line of said West Half of the Southeast Quarter, a distance of 258.71 feet to the point of beginning, in Sumner County, Kansas.

TOGETHER WITH  
Butts

Southwest Quarter of Section 5, Township 30 South, Range 1 East of the 6<sup>th</sup> Principal Meridian, Sumner County, Kansas, EXCEPT the North 50 feet, and EXCEPT the West 50 feet, and EXCEPT the South 50 feet, and EXCEPT the East 50 feet of the South 308 feet thereof.

All subject to road right of ways of record.

Section 2. The Governing Body hereby finds (based on good faith and information) that the Owners of land described in Section 1 of this Ordinance have made their petition and request in anticipation of the construction and operation of a casino gaming facility and related facilities on a portion of the described land. Any such gaming facility and related facilities operating within the corporate city limits would require endorsement, selection and approval by various local and state agencies. Therefore, this annexation is made, and has been accepted by the Governing Body, with a reservation of right for the City to exclude such real property from the corporate limits of the City, if (i) it is ultimately determined that the selection and necessary approvals required for use of a portion of the described land as a casino gaming facility cannot reasonably be obtained; and (ii) the Owners thereafter request such exclusion. In such event, the

AH # 1

0000218542623

Governing Body may initiate proceedings consistent with K.S.A. 12-504 *et seq.* for the exclusion of the land described in Section 1 of this Ordinance.

Section 3. This Ordinance does not repeal but merely corrects a scrivener's error contained in original Ordinance No. 1268. This Ordinance shall take effect and be in force from and after its publication in the official City newspaper.

*[Remainder of Page Intentionally Left Blank]*

Att # 1

000028948283

Passed by the Governing Body of the City of Mulvane, Kansas this 21<sup>st</sup> day of January, 2008.

CITY OF MULVANE, KANSAS



By James P. Ford  
James P. Ford, Mayor

By Patty Gerwick  
Patty Gerwick, City Clerk

"I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said ordinance was passed on the 21<sup>st</sup> day of January, 2008; that it was published in the Mulvane News on the 24<sup>th</sup> day of January, 2008.  
Patty Gerwick  
City Clerk



TWG REF: 290950  
Annexation Ordinance

Att # 1

**Dusty Tavares**

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**From:** Kent Hixson [khixson@mulvanekansas.com]  
**Sent:** Friday, March 28, 2008 2:12 PM  
**To:** Kent Hixson  
**Subject:** Special City Council Meeting - March 28 at 8:00 p.m.  
**Attachments:** Special Council Agenda 03-28-08.DOC

Regarding Special Council Meetings:

When opponents challenge a municipal government action, it is not uncommon for a city council to address those concerns through affirmative action. The council is just trying to address any and all issues which have been raised about annexation of land and to do so in as efficient a manner as possible. Accordingly, the City will hold a series of special meetings over the next few weeks to address those issues.

Visit the City's web site at [www.mulvanekansas.com](http://www.mulvanekansas.com) for council meeting agendas and other information about our community.

Watch Cable TV Ch. 7 for announcements and current events.

AH # 2

~~CONFIDENTIAL~~

MULVANE CITY COUNCIL  
SPECIAL MEETING AGENDA  
Friday, March 28, 2008  
8:00 p.m. – City Hall

**Call Special Meeting to Order**  
**Roll Call**

1. Ordinance No. \_\_\_\_\_  
(An Ordinance Annexing Land into the City of Mulvane)

**Announcements**

**Adjournment**

A# #2

### ZONING

#### Factors considering a Zoning Reclassification

1. What is the character of the subject property and the surrounding neighborhood in relation to existing uses and their condition?
2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the request.?
3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?
4. Would the request correct an error in the application of these regulations ?
5. Is the request caused by change or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?
6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?
7. Would the subject property need to Be platted or replatted or in lieu of dedication made for rights-of - way , easements, access control or building setback lines?
8. Would a screening plan be necessary for existing and /or potential uses of the subject property?
9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?
10. If the request is for business or industrial uses , are such uses needed to provided more services or employment opportunities?
11. Is the subject property suitable for the current zoning to which it has been restricted ?
12. To what extent would the removal of the restrictions, I .e. , the approval of the zoning request detrimentally affect other property in the neighborhood?
13. Would the request be consistent with the purpose of the zoning district

Att # 3



classification and the intent and purpose of these regulations?

14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the plan?

15. What is the nature of the support or opposition to the request ?

16. Is there any information or are there recommendations on this request available from professional persons or persons with related expertise which would be helpful in its evaluation.

17. By comparison, does the relative gain to the public health , safety and general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request?

**Of those factors considered as relevant to the requested change in zoning districts classification or boundary, not all factors need to be given equal consideration by the commission in deciding upon its recommendation.**

AH # 3

February 8, 2009

Dear Honorable Representatives,

My wife and I, along with our six children, live within 1000ft from the result of a **"shoestring"** or **"predatory"** annexation parcel. We never dreamed our home would ever be in the center of such an awful mess. We had **no voice** in this annexation decision that will greatly affect our family, our neighborhood, and our property values. We were not annexed therefore; we are surrounded, by the city of Mulvane, on three sides of our subdivision and we have become an unrepresented island in a sea of Mulvane. Please, do not get me wrong I did not want to be annexed into Mulvane. I am happy living in the county, but with this annexation, the city of Mulvane, not Sumner County, will control the use of the land surrounding my home. This is America. **Everyone**, even small landholders, **should have a voice**. As a result of this type of predatory annexation, we live in a **NO-MANS-LAND** we have no representation. In this country, the public have a duty to be involved with their elected representatives, especially when it comes to events that affect their families. As a resident of Sumner County I had a voice, thus an ability to remind my commissioners of their accountability to me and other Northern Sumner County constituents. Our neighborhoods did that. Unfortunately, we are not represented in Mulvane, a city five miles away that initiated such a shameful land grab.

Without representation, I can not use my vote to remove those from office that will have a direct influence on the place where I have chosen to raise my family. In addition, further zoning shenanigans prevented my ability to legally protest additional zoning changes. It is common knowledge Mulvane chose this type of annexation to circumvent the need for annexation approval from the county. This land grab was not done to add additional houses to the Mulvane tax rolls it was done to allow Mulvane to endorse a casino proposal. It could easily have been any other type of controversial development - sewer plant, landfill, etc. No matter what the use of the land we, the residents of the four subdivisions adjacent to the annexation plot, will have no ability to hold the city representatives accountable.

A lack of representation effectively removes our voice from any decisions concerning our property. If it had not been for one city council member recommending that those in the school district be allowed to comment, we would not have been allowed to speak at any city zoning or endorsement hearings. When we made our comments, we were marginalized and in some instances called out of order. If this is any indication of how the city of Mulvane will choose to consider our needs, it only underscores the need for effective legislation that will address the rights of individuals caught in our situation.

What I implore you to do is:

1. Protect families and individuals from cities that use annexation to make land grabs without any regard for the residents adjacent to and most affected by the annexation.
2. Pass HB 2084 to undo the Mulvane annexation of property surrounding my subdivision.

Graham A. Hamilton  
1404 N. Estate Road  
Peck, Kansas 67120  
(316)522-7178

Local Government

Date: 2-10-09

Attachment: 14



# City of Wellington

## Memorandum

*To: House Local Government Committee*  
*From: Gus Collins, City Manager*  
*Date: February 5, 2009*  
*RE: HB 2084 ~ Testimony from City of Wellington, KS*

*The Governing Body of the City of Wellington appreciate the opportunity to testify in support of House Bill 2084, co-sponsored by Representatives Wetta and DeGraff.*

*Annexation is critical to all local units of Government to be able to grow and develop. Current annexation laws allow each municipality the ability to do this in a systematic manner and when following the intent of the law can be accomplished without any controversy. It is when municipalities begin to deviate from the intent of existing law that there are questions and the public trust in local units of Government deteriorates.*

*If this type of annexation is allowed to occur, this may have a negative impact on future growth for municipalities, which ultimately affects the State of Kansas. It could create a flurry of activity among cities to annex to where they absolutely had no plan to do so and could arguably hinder any type of relationships amongst cities and counties. A Judge/Court of Law has determined this type of annexation is null and void. HB 2084 would just simply solidify that ruling.*

*This Bill would basically eliminate the "shoestring annexation" that occurred in February 2008 that has absolutely no value to the landowners along the shoestring and/or flagpole. Bill 2084 is only specific to this type of annexation – does not affect or inhibit cities to proceed with annexation in the future. It will still allow cities to grow and annex as needed. I ask you, as Committee Members - seize this opportunity to correct a wrong. This technique has been often criticized and passage of this legislation will eliminate "gerrymandering" as a form of annexing which does not have any purpose in the annexation legislation. This Bill will assist in the clarification of this statute and prevent future abuse of this law.*

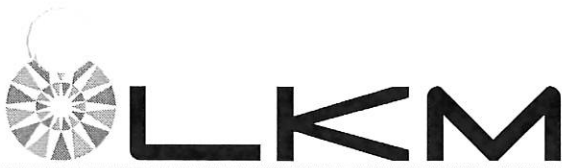
*As the City Council of the City of Wellington, we respectfully request that this Bill be approved for discussion by the House of Representative, and eventually the Senate Chamber.*

*Thank you for your consideration.*

**Local Government**

**Date:** 2-10-09

**Attachment #** 15



League of Kansas Municipalities

300 SW 8th Street  
Topeka, Kansas 66603-3912  
Phone: (785) 354-9565  
Fax: (785) 354-4186

**To:** House Local Government Committee  
**From:** Don Moler, Executive Director  
**Re:** Opposition to HB 2084  
**Date:** February 10, 2009

First I would like to thank the Committee for allowing the League to appear today in opposition to HB 2084. The history of the Kansas annexation statutes is long and storied. I will not bore the Committee with all of the details and nuances of its development today. Suffice it to say, the annexation laws, as they are currently structured, are the result of a major conflict and compromise which occurred in the mid-1980's. The League was a major player in this struggle and worked with many interested parties to reach the eventual compromise which led to the current statutes we see today. As far as the League knows, the annexation statutes have worked well over the past 22 years and we believe they continue to work well today.

The Committee should be aware that what is suggested by HB 2084 represents a significant change in public policy and one which should not be undertaken lightly. HB 2084 would amend the unilateral annexation statutes to prohibit on and after January 1, 2008, that a consent for annexation from a landowner *"may not be utilized by a city to annex a portion of an individual's tract of land."* It goes on to say that *"(h) No city may utilize any provision of this section from and after January 1, 2008, to annex a narrow corridor of land to gain access to noncontiguous tracts of land. The corridor of land must have a tangible value and purpose other than for enhancing future annexations of land by the city."* This bill is a problem as it fouls up the unilateral annexation law, particularly as it applies to consensual annexations. It should also be rejected as it attempts to change the rules retroactively to January 1, 2008. Finally, the committee should be aware that this legislation is not really about annexation, but rather it is a dispute between two cities in Kansas who are wrestling over which will get a destination gaming (gambling) facility in their community. Also, this matter is currently being litigated and is winding its way through the court system.

We would suggest that this bill is unwarranted and unnecessary. To undertake this type of significant change to an existing statute, in an effort to resolve a dispute concerning the location of a gaming facility is not appropriate, and we would strongly urge the Committee to reject this bill. I will be happy to answer any questions the Committee may have on this subject.

**Local Government**  
**Date:** 2-10-09  
**Attachment #** 16

8500 Santa Fe Drive  
Overland Park, Kansas 66212  
913-895-6100 • Fax: 913-895-5003  
www.opkansas.org

Testimony Before The  
House Local Government Committee  
Regarding  
House Bill No. 2084  
By: Michael M. Shultz

February 10, 2009

The City of Overland Park is pleased to be able to appear before the committee and to offer its testimony in opposition to House Bill No. 2084. HB 2084 makes two changes to K.S.A. 12-520, the statute that allows cities to annex land unilaterally. Each change would purport to cure a problem that does not actually exist and would create unforeseen and, likely, unintended consequences for cities and counties.

Existing K.S.A. 12-520(a)(7) allows a city to annex land that is contiguous to the city without the approval of the county and without any notice and hearing if the owner of the land petitions for or consents to its being annexed. The procedure for annexing land that adjoins a city with the consent of the landowner is simplified because the legislature has determined that a landowner who consents to annexation does not need complex procedures to protect the owner's interests.

The first change that HB 2084 makes is to amend K.S.A. 12-520(a)(7) so that a landowner cannot consent to the annexation of only part of his land. It makes no sense to prohibit a property owner from being able to annex a portion of his land into the city. In many cases, the land that surrounds a city consists of large tracts often ranging from 20 to 320 acres.

The problem with HB 2084 is that it would prohibit a landowner from consenting to the annexation of a portion of his tract for development in the city. Thus, if a landowner owns 160 acres and wants to consent initially to the annexation of only 40 acres so the owner can develop the land within the city, the owner cannot do so unless the whole 160 acres is brought into the city. Such a requirement could be contrary to the best interests of the landowner and impose unnecessary burdens on the local government which has to provide services to the whole 160 acres. Also, such a prohibition runs counter to the concept that the annexation laws exist to protect the interests of the property owner. HB 2084 directly interferes with the rights of landowners who want to annex into a city.

The second prohibition in HB 2084 is both narrower and broader than the first prohibition. It only applies to "corridors" of land that lack tangible value and purpose and are annexed as a means to annex other land, but it applies to all of the conditions in K.S.A. 12-520 that permit unilateral annexation, including consent annexations. If one owner has a small remnant of property with no inherent value, its only value might well come from selling it to an adjacent owner who can then have its property annexed by consent. The

language in this portion of the proposed bill concerning “corridors” and the “lack of tangible value and purpose” is very ambiguous and will likely create a great deal of confusion and litigation.

In this time of difficult economic conditions, it is poor public policy to enact laws that make it more difficult for cities and landowners to engage in economic development. If a landowner is willing to annex all or part of his land so that a city can then annex another piece of land on which there can be a significant economic development project, the law should make that process easier rather than harder.

The retroactive date in this legislation makes it clear that the law is directed more toward something that happened in the past (an annexation by the City of Mulvane) than toward the promotion of good annexation policy for the future. Overland Park does not believe that retroactive legislation is fair to cities that followed the rules at the time they annexed land. Both a city and property owner, and sometimes the county, put tremendous resources toward the accomplishment of a lawful annexation. It is fundamentally unfair, and potentially unconstitutional, to overturn any such annexation by legislative fiat.

In any event, the district court recently ruled against the Mulvane annexation, demonstrating that the annexation statutes work fine and that if a city misuses its power under the statutes, the courts will step in and correct the situation. However, the judicial process will need to work itself out to determine whether Mulvane did misuse its power.

The state’s annexation policy should not be driven by one or two examples of where the annexation statutes might have been used in a way that some critics believe is wrong. There should be careful consideration of this issue with a weighing of the pluses and minuses of prohibiting annexations where a landowner consents to annexation, and where a city council or commission finds that the annexation will promote the health, safety and welfare of its citizens.

Testimony provided to the  
House Local Government Committee on HB 2084  
Ben Sciortino  
City of Mulvane, Ks.

Chairman and Members of the Committee:

On behalf of the City of Mulvane, I appreciate the opportunity to provide testimony to the committee in opposition to HB 2084 related to restricting the ability of a city to annexation land.

In 2008 through petition by the property owners, the City of Mulvane annexed several parcels of land in order to bring two proposed gaming resort sites into our city limits so they could both be endorsed and submitted to the Kansas Lottery Commission for consideration. Either casino represented the largest private investment project in the history of south central Kansas.

HB 2747 and HB 2917 that were discussed during the 2008 legislative session would have negated that specific annexation.

First, let me emphasize that not only is the nature of the annexation unique but also the circumstances leading up to it. Sumner County is the only area a casino can legally locate within the South Central Gaming Zone. Originally, specifically to help avoid the current conflicts, the County Commissioners and the incorporated cities in Sumner County, including Mulvane, entered into an InterLocal Agreement adopting standards and policies for considering endorsement of gaming resorts and related developments. However, when the Sumner County Commissioners actually decided who to endorse they chose to disregard those standards and ignore the agreement. Their decision to impose criteria and considerations outside the contract eliminated the two proposals with the largest investment and projected revenue, both of which were proposed to be located close to or around Exit 33.

Prior to that sudden change in policy, the City of Mulvane had not suggested, required or proposed to either of the "Exit 33" gaming projects that those sites be annexed, notwithstanding the fact both had asked and we were willing to provide utilities and other services to those sites.

The abrupt change in policy and deviation from the InterLocal Agreement by the County Commissioners left many citizens of Sumner County shocked and disappointed. A group of these citizens came to the City and petitioned us to annex their land, along with the proposed gaming locations, in order to allow these two proposals to be considered by the State of Kansas.

**Local Government**  
**Date:** 2-10-09  
**Attachment #** 18-1

retro-active date to undo something that has been done in accordance with current state statutes.

Thank you for the opportunity to provide testimony in opposition to changing the annexation laws of the State.





TOPEKA

HOUSE OF  
REPRESENTATIVES

**ANN E. MAH**  
REPRESENTATIVE, 53RD DISTRICT  
3351 SE MEADOWVIEW DR.  
TOPEKA, KANSAS 66605  
(785) 266-9434

CAPITOL BUILDING  
TOPEKA, KANSAS 66612  
(785) 296-7668

Committee on Local Government  
Chairman – Rep. Schwartz  
HB 2032 Testimony

This is to support a change in the law regarding unilateral (KSA 12-520) annexation. Unilateral annexation has been an issue of contention with Kansas cities for a very long time. Over 70% of my constituents live in townships, largely because they do not want to be part of a city. Unilateral annexation represents an intrusion on property rights. It is no more fair than the taking of land by eminent domain. It is taxation without representation. It is no wonder that Kansas is one of only a handful of states that still allow this taking of land. It's time to change the rules.

**ACTION DURING THE 2008 SESSION**

In the 2008 session, the House passed HB 2978 on a vote of 90 to 35. This bill required county commission approval of unilateral annexations, shortened the timeframe for review of annexations to three years from five, and required the review hearings be held. The bill was not heard by the Senate Federal and State Affairs Committee. We felt it was a fair compromise that allowed cities to grow, but gave the people a voice in the process. Most of those same provisions (except for strip annexations) are incorporated into HB2032.

**THE MYTH ABOUT CITY GROWTH**

Cities need a plan for orderly growth. However, many times citizens being annexed feel as though their concerns are not heard. They have concerns about fire and police protection, road maintenance, the water districts, the future of their townships – or what will be left of them - and the ability of the city to bring services to their area in a timely manner. And why should cities listen? They hold all the cards.

When opponents of change testify, there is much said about how our proposal will be “the end of city growth”. That is a myth. If that were true, then the cities in most other states would be

in trouble. What this bill means is that the playing field will be leveled. Now cities will have to come to the table with more than a tax increase and list of services they will no longer provide. Now they will have to look for partners instead of prisoners. If a city cannot convince people that being a city resident has value, then they should not be able to annex them anyway.

Unilateral annexation can be a double-edged sword. In fact, the last time the City of Topeka tried to annex my neighborhood, the fiscal note showed that it would cost the city more than it would gain in new tax revenues. If I were a Topeka city resident, I'd be upset that the city would opt to spend money to annex a new area when it won't spend money to fill the potholes it has.

Too often cities have allowed their core neighborhoods to deteriorate in favor of the low-hanging fruit of suburban sprawl. Topeka is a prime example. There are many blocks within the city's core that can and should be developed or revitalized before the city expands. Cities can grow where they are planted, but why should they when they can go for a land grab on the outside of town?

The unfortunate result is that a "donut" develops. The city core deteriorates inside a circle of annexed suburbs. No one benefits from this. Cities should not annex any new areas until they can demonstrate they can maintain and grow what they have. Even when they do annex, services are often delayed in coming. Just ask the residents of Highland Park, annexed fifty years ago, where the improvements are. Ask them how much help they get compared to the west side of town.

You will hear that city residents are unfairly taxed twice – by the city and county – while county residents get the larger benefit of services. This is also a myth. In Shawnee County, for example, 70% of the residents are in the city. They pay about 70% of the county taxes and they get the same percentage of county services, if not more. While county residents do get the benefits of some city services, they also support those services through city sales taxes and other fees.

#### ANNEXATION – AS BIG AS YOU THINK

I sensed last session that some legislators felt that unilateral annexation was not a big deal and should be left alone. The issues in Overland Park dealing with bilateral annexations (KSA 12-521) overshadowed a property rights battle that had been going on for years. In reality, unilateral annexations have been the subject of several pieces of legislation over the last two decades and can be quite extensive in size and scope. They are a big deal.

## WE'VE BEEN HERE BEFORE

Over twenty years ago the Legislature recommended a boundary commission process to give landowners a voice in unilateral annexation situations, but no bill was passed. Finally, two bills passed by the legislature in 2003 and 2004 attempted in different ways to limit or eliminate unilateral annexation. Those were both vetoed by the Governor because they were limited to one or two counties and did not apply statewide. However, their passage points out that the legislature supported the idea of giving the people a voice in the annexation process. In 2005 and 2006 we were successful in getting some additional requirements added to city annexation plans, but did not get any substantial changes made to the process.

The City of Topeka's annexation plans were the driver for much of the annexation legislation in recent years. The city tried unsuccessfully in 2002 to annex 54 acres in southeast Shawnee County with about 3,000 residents. In 2004 another plan was developed to annex about 21,000 acres and about 18,000 residents. It is possible to unilaterally annex such a large area because KSA 12-520 (g) allows for consolidated annexations. A city can consolidate into one ordinance a number of what otherwise might be individual annexations. They start with the area that borders the city. Then when that is annexed they annex the area that borders the area just annexed. The City of Topeka's 2004 plan was such a "consolidated" annexation. That annexation proposal was put on hold in 2005 but the city announced it planned to pursue that plan in 2009.

## TWENTY YEARS IS ENOUGH TO DELIBERATE

It was suggested that we are moving too fast on this issue. I contend we could not drag it out longer if we tried. There is nothing more basic to our country than property rights. But, like in other cases of eminent domain, the cities seek the path of least resistance. If you look at other corresponding processes - like consolidation, incorporation, or expansion of city codes - a vote or protest process is provided. Yet Kansas continues to be one of the few states that clings to the undemocratic unilateral annexation process for "growing" cities.

It's time to give the people a voice. When you have lived outside a city for 20, 30, or 40 years, it is unconscionable to say the city can take your home inside its boundaries without your permission. Cities can learn to be partners with township residents, but today they have no incentive.

I am asking the Committee to consider supporting the concepts put forward in HB 2032 as passed by the House last session. It's a common sense solution to a problem that has been going on far too long.

Committee on Local Government  
Testimony HB 2032

Thank you Madam Chair and members of the Committee. My name is Vic Miller. I have enjoyed the privilege of representing the people of Shawnee County (both city and non-city) as county commissioner for almost 12 years and the people of Topeka for eight years prior to that as Topeka City Councilman. During my tenure as city councilman I had the opportunity to approve and reject a number of proposed unilateral annexations. While that was some time ago, there were none that I voted to approve that I would have been shy about asking the county commission to ratify. In fact, I believe such a process would have addressed much of the resentment held by those who are currently unrepresented by today's statutory framework.

I do not relate to any concept that county commissioners are not a representative body or that they have a preconceived bias against cities. To restate the obvious, county government is not impacted by city annexations. It would be a rare occurrence for any annexation to include the constituents of more than one county commissioner. Even for that commissioner, his or her constituents would undoubtedly include citizens of not only the area to be annexed but the existing corporate limits of the city.

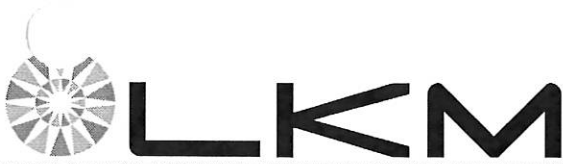
While we may not always be comfortable with it, decisions by county commissioners often involve "choosing one group over another". Just like you, commissioners can, and must, make decisions for the greater good and remain above a purely political calculation.

The Legislature already entrusts county commissions with the responsibility of ratifying certain annexations which can and do include unilateral annexations. As commissioner, I have had several occasions to rule on such matters. I have voted "yes" and I have voted "no" depending on the facts and the case made by the city. My decisions are subject to a specific statutory list of criteria and are reviewable by the courts for rationality and arbitrariness. What people get from this process that they lack from unilateral annexations adjacent to city limits, is that they are represented by someone that they actually have a say in electing. I just don't fathom how the "rights" of city government to annex trumps this fundamental principle of American democracy.

Lastly, I would like to share an experience I had just a few years ago. I was among a group of local officials and businesspeople who visited Springfield, Missouri on our annual tour of a "sister" city. Springfield had been selected because of the phenomenal growth being enjoyed by that community. While discussing recent annexations to that city, I was fascinated to learn that no annexations in Missouri can occur without a direct vote of approval by the citizens to be annexed.

How is it that city officials in growing and prospering cities like Springfield are able to present convincing cases to residents being annexed and yet Kansas cities fear their ability to do so in front of county commissioners that share a common constituency?

Local Government  
Date: 2-10-09  
Attachment # 20



League of Kansas Municipalities

300 SW 8th Avenue  
Topeka, Kansas 66603-3912  
Phone: (785) 354-9565  
Fax: (785) 354-4186

**To:** House Local Government Committee  
**From:** Don Moler, Executive Director  
**Re:** Opposition to HB 2032  
**Date:** February 10, 2009

First I would like to thank the Committee for allowing the League to appear today in opposition to HB 2032. The history of the Kansas annexation statutes is long and storied. I will not bore the Committee with all of the details and nuances of its development today. Suffice it to say, the annexation laws, as they are currently structured, are the result of a major conflict and compromise which occurred in the mid-1980's. The League was a major player in this struggle and worked with many interested parties to reach the eventual compromise which led to the current statutes we see today. As far as the League knows, the annexation statutes have worked well over the past 22 years and we believe they continue to work well today.

The Committee should be aware that what is suggested by HB 2032 is a significant change in public policy and one which should not be undertaken lightly. There is always a natural tension involved between landowners and cities when cities are growing as a result of economic development, population changes, and the need for public services. We understand that landowners feel the need to be protected and that is why there are so many protections currently found in the Kansas annexation statutes. The simple reality is that to adopt the language found in HB 2032 would effectively obliterate the unilateral annexation statutes, and completely reverse many years of sound public policy in this state.

HB 2032 would effectively eliminate unilateral annexations in Kansas. It does this by requiring that the county commission approve any "unilateral" annexations under K.S.A. 12-520 (a)(1), (4), (5) and (6). In effect, HB 2032 takes this decision away from the elected officials of the city and delegates it to the county commission. Thus, we can expect that this bill would signal the end of annexations in a number of counties in Kansas.

We would suggest that this bill is unwarranted and unnecessary. To undertake this type of significant change to an existing statute, which is working well, is not appropriate and we would strongly urge the Committee to reject this bill. I will be happy to answer any questions the Committee may have on this subject.

**Local Government**

**Date:** 2-10-09

**Attachment #** 21

8500 Santa Fe Drive  
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www.opkansas.org

Testimony Before The  
House Local Government Committee  
Regarding  
House Bill 2032  
By: Michael M. Shultz

February 10, 2009

The City of Overland Park appreciates the opportunity to appear before the House Local Government Committee and offer its testimony in opposition to House Bill No. 2032. HB 2032 proposes a drastic change in the state's unilateral annexation laws without any substantial basis for doing so, and it will create significant hardships for cities, counties and the state as whole.

The conditions that permit unilateral annexation under K.S.A. 12-520 have been in Kansas law in one form or another for over a hundred years.<sup>1</sup> For most of that time, cities have been able to annex land under the conditions set out in 12-520 without the approval of any other government or government agency. The reason is apparent—the conditions that permit these unilateral annexations are extremely narrow and restrictive and only permit unilateral annexation where it is undeniable that the land proposed to be annexed has a direct and immediate impact upon the city and is essentially a part of the city in all but name.

HB 2032 would require unilateral annexations to be ultimately approved by the board of county commissioners when there has been no consent to annexation. Thus, the bill applies to conditions 1, 4, 5 and 6 of K.S.A. 12-520(a). However, in order for a city to unilaterally annex land under these conditions, in every case, the land must first adjoin the city. In addition, the land must already be platted into lots and blocks, or be surrounded by or lie mainly within the city and have a common boundary with the city of at least 50%, or, if it is a single tract, have a boundary line, two-thirds of which abuts the city, or its annexation will make the city's boundary line straight or harmonious. The last two conditions are limited to areas of 21 acres or less.

In addition to the legislature creating very narrow conditions for unilateral annexations, the legislature also has imposed substantial procedural restrictions on cities that attempt unilateral annexations. A city that chooses to unilaterally annex land under K.S.A. 12-520 must adopt a resolution of intent to annex, give notice to affected property owners,

<sup>1</sup> See, 1907 Session Laws of Kansas, Ch. 114, Sec. 8: "Whenever any land adjoining or touching the limits of any city has been subdivided into blocks and lots, or whenever any unplatted piece of land lies within (or mainly within) any city, or any tract not exceeding twenty acres is so situated that two-thirds of any line or boundary thereof lies upon or touches the boundary-line of such city, said lands, platted or unplatted, may be added to, taken into and made a part of such city by ordinance duly passed...."

hold a public hearing, notify numerous area governments and then apply 16 criteria to determine if it should annex the land under consideration.

Beyond these requirements, the city must submit its proposed annexation to any planning commission that has jurisdiction over the area proposed to be annexed for a determination of the compatibility of the proposed annexation and land use plans for the area. The city also is required to prepare a service extension plan which forms the basis for the city's public hearing on the proposed annexation.

If a city works its way through these procedural requirements and annexes land under K.S.A. 12-520, any landowner who is annexed and certain cities may challenge the annexation in court. One wonders how we could make the unilateral annexation process any more difficult.

A year before the conditions for unilateral annexation were being incorporated into the 1967 annexation law that was applicable to all cities, the National League of Cities rejected the notion that the owners of land or residents on land in fringe areas of cities "should be given a veto power over the geographic, economic and governmental destiny of the city that is the source of the area's economy and whose proximity solely gives affected properties whatever tangible and intangible desirability they have as places of residence or economic activity."<sup>2</sup> Overland Park agrees with the National League of Cities. Under HB 2032, that veto power is given to the board of county commissioners even though the city has the greatest interest in whether the land is annexed or not.

The potential harm to cities from HB 2032 is great. First, cities can be significantly affected by the type of development that occurs on their doorstep. In nearly every case, a city has no power to limit what use is made of land that is outside of the city. Thus, where a county prohibits a unilateral annexation, there is a substantial likelihood of incompatible uses of land being established within or on the borders of the city. The potential for incompatible land uses can seriously stifle development within the city and affect the quality of life for city residents.

Some might argue that cities create these problems by growing in the first place, but the alternative would be that every city that incorporates never increases its size. No one can seriously suggest that cities should not be able to expand their boundaries to accommodate increases in population and economic development. This is why Kansas cities have had the power to annex since the establishment of statehood. Cities provide the type of services that most citizens want from their governments, including police, fire, water, sewer, recreation and others. This is why 82 percent of Kansans live in cities.

The other obvious issue with HB 2032 is that it would promote tax inequities. A subdivision on the boundary of an existing city is functionally a part of that city, especially when it obtains water and/or sewer services from the city. The persons living in these subdivisions are virtually identical to persons living in the city except they do not pay city taxes. At the same time, these platted subdivisions impose costs upon county governments when they generally can be better served by city government.

The bill also would promote tax leakage. This occurs when businesses set up on the edges of cities and offer their products for sale without the need to collect the city sales tax. This can create a significant tax revenue loss. Of course, the city also loses the property tax revenue from the developed land.

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<sup>2</sup> *Adjusting Municipal Boundaries*, Department of Urban Studies, National League of Cities, p. 64 (December 1966).

HB 2032 would impose a significant burden on counties. In order to do its job under the bill, a board of county commissioners will need to review the record of the city's public hearing on the proposed annexation, the service extension plan and the determination of the relevant planning commissions before it could render its determination. To do otherwise would be unlawful. This will create substantial work for counties, many without the staff to perform such a review. Moreover, all of the county's work needs to be done in 30 days.

HB 2032 has an additional significant flaw. The bill turns the annexation process into a purely political exercise. In 1974 and 1987, the legislature ensured that unilateral annexation decisions would be made based upon sound fiscal and land use planning by requiring the analysis of numerous criteria in the annexation approval process. HB 2032 abandons this important principle. Under HB 2032, the board of county commissioners may permit an annexation only if it determines "that the proposed annexation will not have an adverse effect on such county." Although the phrase is very vague, it appears that the board of county commissioners would consider how the proposed annexation affects the county, and it would not consider the interests of the city or the region taken as a whole. It is likely that the effect of HB 2032 would be to promote lawsuits against counties either by property owners who can now be annexed or by cities when annexations are denied.

HB 2032 is not needed. There are few examples to show how K.S.A. 12-520 has been misused, and the current statute already imposes enormous burdens on cities that wish to annex under the statute. HB 2032 would turn the annexation process from a carefully considered planning decision into a purely political decision by the board of county commissioners.





**TESTIMONY**

**TO: The Honorable Sharon Schwartz, Chair  
And Members of the House Local Government Committee**

**FROM: Whitney Damron  
On behalf of the City of Topeka**

**RE: HB 2032 – Cities; Annexation; Deannexation Procedures.**

**DATE: February 10, 2009**

Good afternoon Madam Chair Schwartz and Members of the House Local Government Committee. I am Whitney Damron and I appear before you today on behalf of the City of Topeka to offer comments in opposition to HB 2032, which would effectively repeal the authority for cities to utilize the power of unilateral annexation.

Annexation in general allows a city to plan for orderly growth to meet the needs of both its citizens and those who are located in close proximity to the city and (perhaps) eventually will be made a part of the city. The state of Kansas has recognized this need for planning and growth by allowing cities to impose planning and zoning restrictions in a three mile area surrounding its city limits.

Most annexations occur in Kansas through consensual annexations between cities and counties. In rare circumstances, an agreement on annexation between a city and a county cannot be reached and a city may seek to unilaterally annex a piece of property under K.S.A. 12-520. This ultimate authority, although rarely utilized by cities, is necessary and appropriate to insure there is an orderly procedure to resolve situations of stalemate between a city and a county in regard to annexation and growth.

The exercise of unilateral annexation authority is rarely utilized by cities and current law contains significant property owner protections. In recent years, annexation efforts by the City of Topeka have been cited as a reason to enact prohibitions on the use of unilateral annexation authority by all cities. However, during the 2008 session, we presented information to the House Elections and Governmental Organization Committee noting that since 1990, there have been more than 80 annexations made by the City of Topeka and all have been consensual.

Limitations on annexation powers of cities will preclude orderly growth and limit a city's ability to provide necessary services to its citizens due to the inability of a city to sustain itself from a shrinking tax base.

While we recognize a property owner's interest in remaining in the country, so to speak, the fact that their property is located in close proximity to a city necessarily serves notice to all property owners that they may someday be annexed into the city in which they are closely located, which is why the Legislature has afforded cities certain rights over property located within three miles of their existing city limits.

Those opposed to annexation oftentimes ignore or give short shrift to the benefits of living in close proximity to a city, including employment, community attractions, public safety, utilities, street and road improvements, shopping and access to professional services. Providing the infrastructure for these businesses and services requires a city to provide services to its citizens and plan for growth beyond its existing city limits.

The City of Topeka does not support changes to existing laws relating to annexation and believe current law allows for dispute resolution, in the rare instances it comes up, to be handled at the local level.

In closing, I would call the Committee's attention to a memorandum from the Planning Department of the City of Topeka that provides clarification on the issue of a previously-cited "Service Extension Plan" prepared in May, 2005 for the City.

Specifically, that study was performed on behalf of the City of Topeka to evaluate eligible parcels of land surrounding the City for potential annexation by petition to the Shawnee County Commission (emphasis added), not through unilateral annexation authority.

I would be pleased to stand for questions at the appropriate time.

Thank you.

WBD  
Attachment

# MEMORANDUM

PLANNING DEPARTMENT

**From:** David Thurbon, Planning Director

December 1, 2008

**TO:** Norton N. Bonaparte, Jr., City Manager

**SUBJECT:** Annexation

There appears to be some misunderstanding about the "Service Extension Plan" prepared in May 5, 2005 for the City of Topeka. The purpose of this memorandum is to state the actual purpose of that Plan.

It has been reported that the "Service Extension Plan" is an annexation plan and the City Council intends to use this study to unilaterally annex the areas surrounding the City. However, the cover page and the Introduction to the report clearly state that any annexation associated with this study is intended to be by petition to the Shawnee County Board of Commissioners.

The cover page states:

## SERVICE EXTENSION PLAN

FOR THE PROPOSED ANNEXATION BY PETITION TO THE SHAWNEE COUNTY BOARD OF COUNTY COMMISSIONERS OF ADJACENT AREAS SURROUNDING THE CITY OF TOPEKA (emphasis added)

The Introduction states:

The City of Topeka is proposing to annex certain eligible parcels of land by means of petitioning the Board of County Commissioners for properties within (sic) as authorized by K.S.A. 12-521. (emphasis added)

The consultant hired by the City of Topeka to assist in this study also included a description of the various methodologies of annexation allowed by Kansas State law; one of these being unilateral annexation. However, the cover page and Introduction clearly state the purpose of the study.

It should be noted that this study was completed three and one half years ago and no unilateral annexations have taken place. Moreover, no unilateral annexations have occurred in Topeka since the mid 1980s. All annexations since the mid 1980s have been by consent of the land owner.

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23-3



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February 9, 2009

TO: Committee on Local Government

Re: House Bill No. 2032

We oppose this bill because existing law provides for a hearing before the planning commission having jurisdiction over the land being annexed. Since land being annexed is in the County, that would be the County's Planning Commission. Most Counties have a Comprehensive Plan in place approved by their Planning Commission and the Board of County Commissioners, which typically defines growth areas for cities. Annexation and its effects is a planning issue, not a political issue that this bill would tend to make it. We believe the term "adverse effect" can be construed to be meaning many things. We think that such a term will lead to many unnecessary lawsuits and waste of public money. Most County Commissioners do not have the planning expertise to review the issues this bill implies. Annexation is a planning issue, not a political one.

For an example we had a case where the County's own attorney told the Commission that the City had complied with the extension of services outline in their plan. There were three Commissioners out of five voted against the City. One commissioner stated that he believed the City did provide the service, but because he didn't like the law he voted against the City. This same Commissioner voted for other cities service plans without a statement. It should be noted the City was in the middle of a lawsuit with the County at that time. Another Commissioner voted against the City, we guess, because he was being annexed by another city at the same time. The Commissioners who voted against the City wouldn't state to the City what services weren't provided. The Commissioners job was to determine if the City provided the services they said they would in their plan. We can see such an abuse occurring under this bill.

Originally a city had to provide services to annexed areas in five years. Then it was reduced to 2 1/2, and now proposed to one year. Reducing the time to one year is problem. Services such as water and sewer need to planned, and financed. These services if rushed can introduce errors, and possible waste of taxpayer's money. Often time it takes months just to get easements, not including design and construction. Also there could be an issue with townships. Townships have the right currently to continue maintaining streets for up one year after annexation, depending on when the annexation occurs. We believe the five years was too long, but one year is not enough to provide adequate service.

Thank you for your consideration.

Yours truly,

PARK CITY, KANSAS

Jack Whitson, City Administrator



Local Government

Date: 2-10-09

Attachment # 24