

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chair Sharon Schwartz at 3:30 p.m. on February 2, 2010, in Room 144-S of the Capitol.

All members were present except

Representative Michael Peterson, Excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes

Kristen Kellems, 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 Vincent Wetta, 80th District

Representative Peter DeGraaf, 81st District

Don Moler, Executive Director, League of Kansas Municipalities

Whitney Damron, City of Topeka

Erik Sartorius, City of Overland Park

Others attending:

See attached list.

Chair Schwartz drew the Committee's attention to the minutes of January 21, 2010, which had been distributed by e-mail earlier. It was moved by Representative Huebert, seconded by Representative Slattery that the January 21, 2010, minutes be approved as written. The motion carried.

Chair Schwartz stated that unless there is a change in the time of the meeting or the meeting room she does not plan to announce an upcoming Local Government Committee meeting after Session.

Chair Schwartz opened the hearing on **HB 2471 - Cities; annexation; strip annexation restricted.**

Martha Dorsey, Legislative Research Department, presented the Committee with an overview of **HB 2471**. She stated this bill would prevent a city from annexing only a portion of an individual's tract of land, or from annexing a narrow corridor of land in order in order to gain access to noncontiguous tracts of land.

Questions from the Committee followed.

Proponents

Chair Schwartz recognized Representative Vince Wetta, 80th District, who presented testimony in favor of **HB 2471 (Attachment #1)**. He stated the intent of the bill is not to limit a city's ability to annex, but to clarify the current law. He encouraged the Committee to pass this bill favorably. Questions from the Committee followed.

Representative Peter DeGraaf, 81st District, presented testimony in support of **HB 2471**, and encouraged the Committee to send this bill quickly to the House Floor for passage (**Attachment #2**).

There being no further proponents to present testimony, Chair Schwartz drew the Committee's attention to six written-only testimonies: Gus Collins, City Manager, City of Wellington (**Attachment #3**); Kristy Sutherland, private citizen (**Attachment #4**); Paul Sutherland, private citizen (**Attachment #5**); Shawn Townson, private citizen (**Attachment #6**); Graham A. Hamilton, private citizen (**Attachment #7**); and Terry Holdren, Government Relations, Kansas Farm Bureau (**Attachment #8**).

Opponents

Don Moler, Executive Director, League of Kansas Municipalities, stated **HB 2471** is unwarranted and

CONTINUATION SHEET

Minutes of the House Local Government Committee at 3:30 p.m. on February 2, 2010, in Room 144-S of the Capitol.

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 he strongly urged the Committee to reject the bill (Attachment #9). Questions and answers followed.

Whitney Damron, City of Topeka, presented testimony in opposition to **HB 2471** (Attachment #10). He stated the City of Topeka had two concerns with the bill as written. (1) The bill proposes to restrict or otherwise prohibit an annexation that is agreed upon by a property owner and the city. (2) New section 2 (h) of the bill attempts to define what is prohibited, but that definition is vague and likely will lead to litigation.

Questions by the Committee and discussion followed.

Erik Sartorius, City of Overland Park, appeared in opposition to **HB 2471** (Attachment #11). He stated the state's annexation policy should not be driven by an isolated instance 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. Questions and answers followed.

Chair Schwartz drew the Committee's attention to two written-only opponent testimonies, from Kent Hixson, City Administrator, City of Mulvane (Attachment #12) and Jennifer Bruning, Overland Park Chamber of Commerce (Attachment #13).

There being no further conferees to appear before the Committee, Chair Schwartz closed the hearing on **HB 2471 - Cities; annexation; strip annexation restricted**.

Chair Schwartz opened the hearing on **HB 2478 - Cities; annexation; county approval of certain annexations**.

Martha Dorsey, Legislative Research, presented the Committee with an overview of **HB 2478**, pointing out certain aspects of the bill.

Proponents

Representative Ann Mah, 53rd District, presented testimony in support of **HB 2478** (Attachment #14). She asked the Committee to support the concepts of **HB 2478** as a common-sense solution to a problem that has continued far too long.

Kelly Parks, West Valley, presented testimony in support of **HB 2478** (Attachment #15). He said it could be a first step in burying outdated and archaic law allowing unilateral annexation that only two states in the nation have left in state law. He went on to urge the Committee to pass a comprehensive annexation law that protects the right to own property by rural citizens. Questions and answers followed.

There being no further proponents to testify, Chair Schwartz drew the Committee's attention to six written-only testimonies: (1) State Senator Anthony Hensley, 19th District (Attachment #16); (2) Mark and Debbie Hudson, private citizens (Attachment #17); (3) Dennis F. Schwartz, private citizen (Attachment #18); (4) Terry Holdren, Government Relations, Kansas Farm Bureau (Attachment #19); (5) Representative Mike Burgess, 51st District (Attachment #20); and Fred and Jane Mosteller. Private citizens (Attachment #21).

Opponents

Don Moler, Executive Director, League of Kansas Municipalities, spoke in opposition to **HB 2478**. He stated this bill is unwarranted and unnecessary and that to undertake this type of significant change to an existing statute is not appropriate. The League of Kansas Municipalities would strongly urge the Committee to reject the bill (Attachment #22). Questions and answers followed.

CONTINUATION SHEET

Minutes of the House Local Government Committee at 3:30 p.m. on February 2, 2010, in Room 144-S of the Capitol.

Whitney Damron, City of Topeka, spoke in opposition to **HB 2478**. He stated this bill would effectively prohibit the use of unilateral annexation authority by a city, that annexation is intended to allow for the orderly growth of a city to meet the needs of both its citizens and those who are located close to the city, and that most annexations occur in Kansas through consensual annexations between cities and property owners. Under current law he said, a city can utilize unilateral annexation authority only under certain circumstances based upon well-established criteria and statutory provisions (Attachment #23).

Erik Sartorius, City of Overland Park, appeared in opposition to **HB 2478** stating that the bill is not needed. That the current statute already imposes enormous burdens on cities that wish to annex under the statute, and that the bill would turn the annexation process from a carefully considered planning decision into a purely political decision by the board of county commissioners (Attachment #24). Questions and answers followed.

There being no further opponents present to testify, Chair Schwartz drew the Committee's attention to four written-only testimonies in opposition to **HB 2478**: (1) Robert W. Parnacott, Assistant County Counselor, Sedgwick County (Attachment #25); (2) Dale Goter, Government Relations Manager, City of Wichita (Attachment #26); (3) Jennifer Bruning, Overland Park Chamber of Commerce (Attachment #27); and (4) Kent Hixson, City Administrator, City of Mulvane (Attachment #28).

Chair Schwartz closed the hearing on **HB 2478**

The next meeting is scheduled for February 4, 2010.

The meeting was adjourned at 5:00 p.m.

S. S.

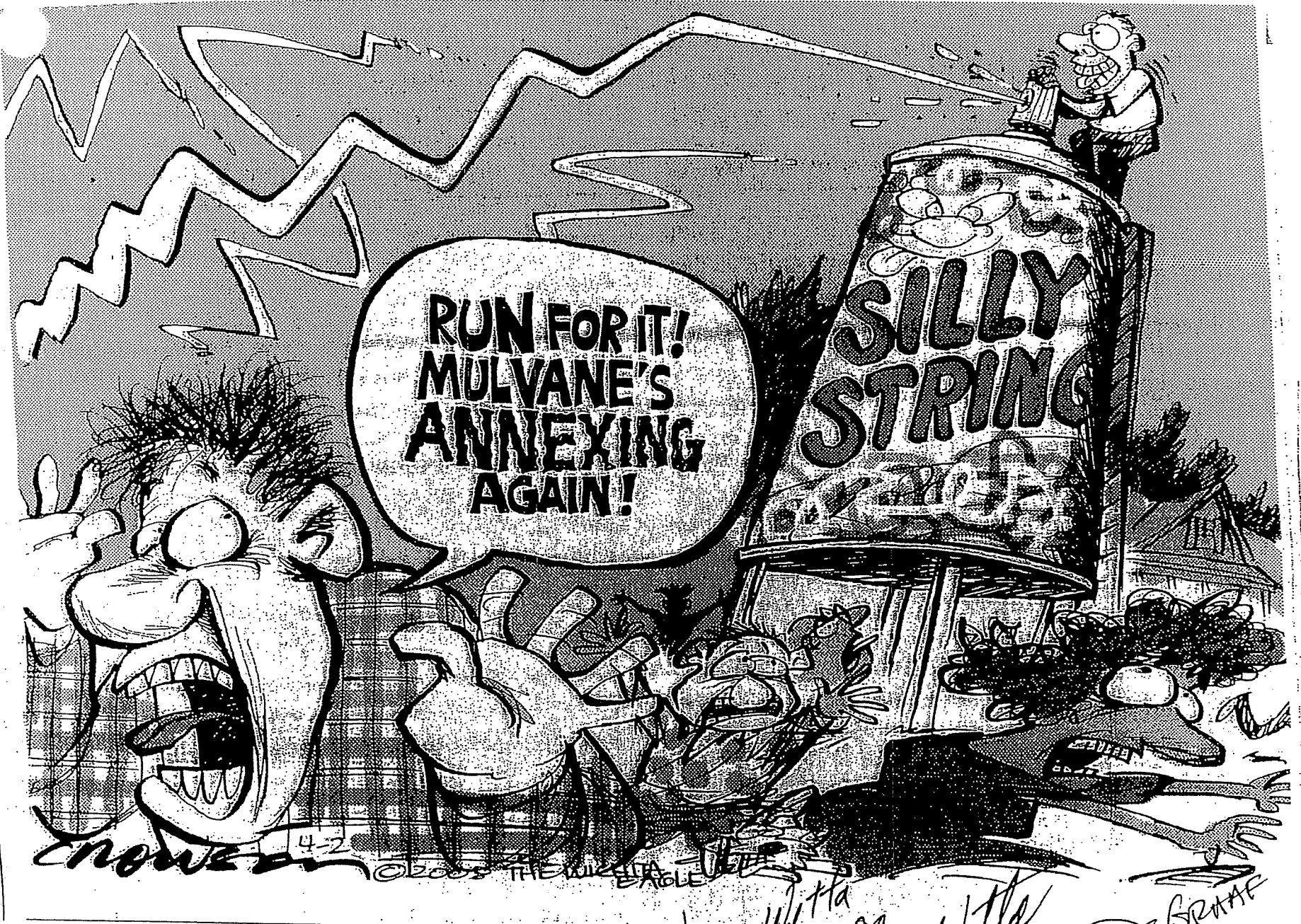
Representative Sharon Schwartz, Chair

HOUSE LOCAL GOVERNMENT COMMITTEE

DATE: February 2, 2010

NAME	REPRESENTING
Dawn Holtz	Kee
Whitney Jamm	City of Igou
ERIK SARTORIUS	City of Overland Park
Michelle Peterson	Capitol Strategies
Karen Desj	
LARRY BERG	CITY OF HAYS
JELLY PARKS (2478)	R. A. B. WEST VALLEY
Patrick Shurley	Chisholm

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Local Government
Date: 2-2-10
Attachment # 1

Vince Witla #88
Vincent W. Witla
PETE DEGRASSE #81

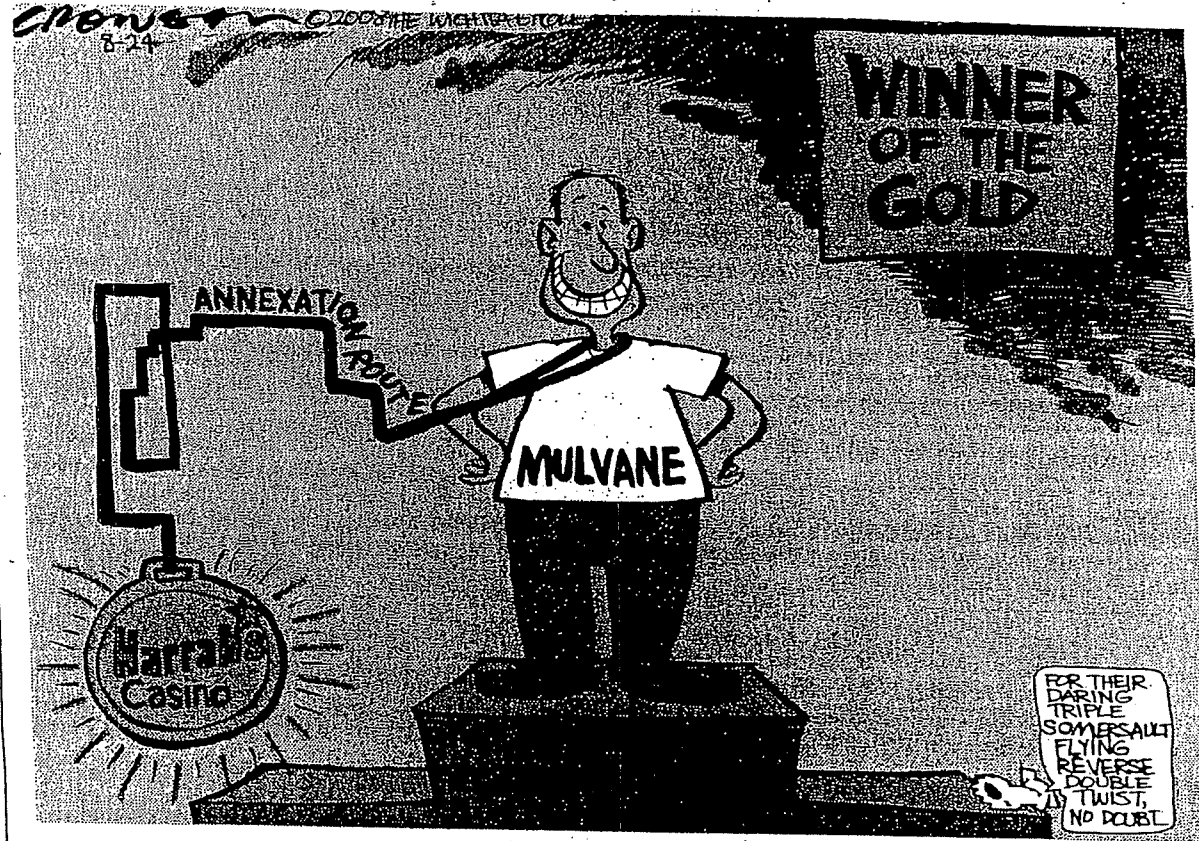
OPINION

10A

SUNDAY
AUGUST 24, 2008

Now you know.

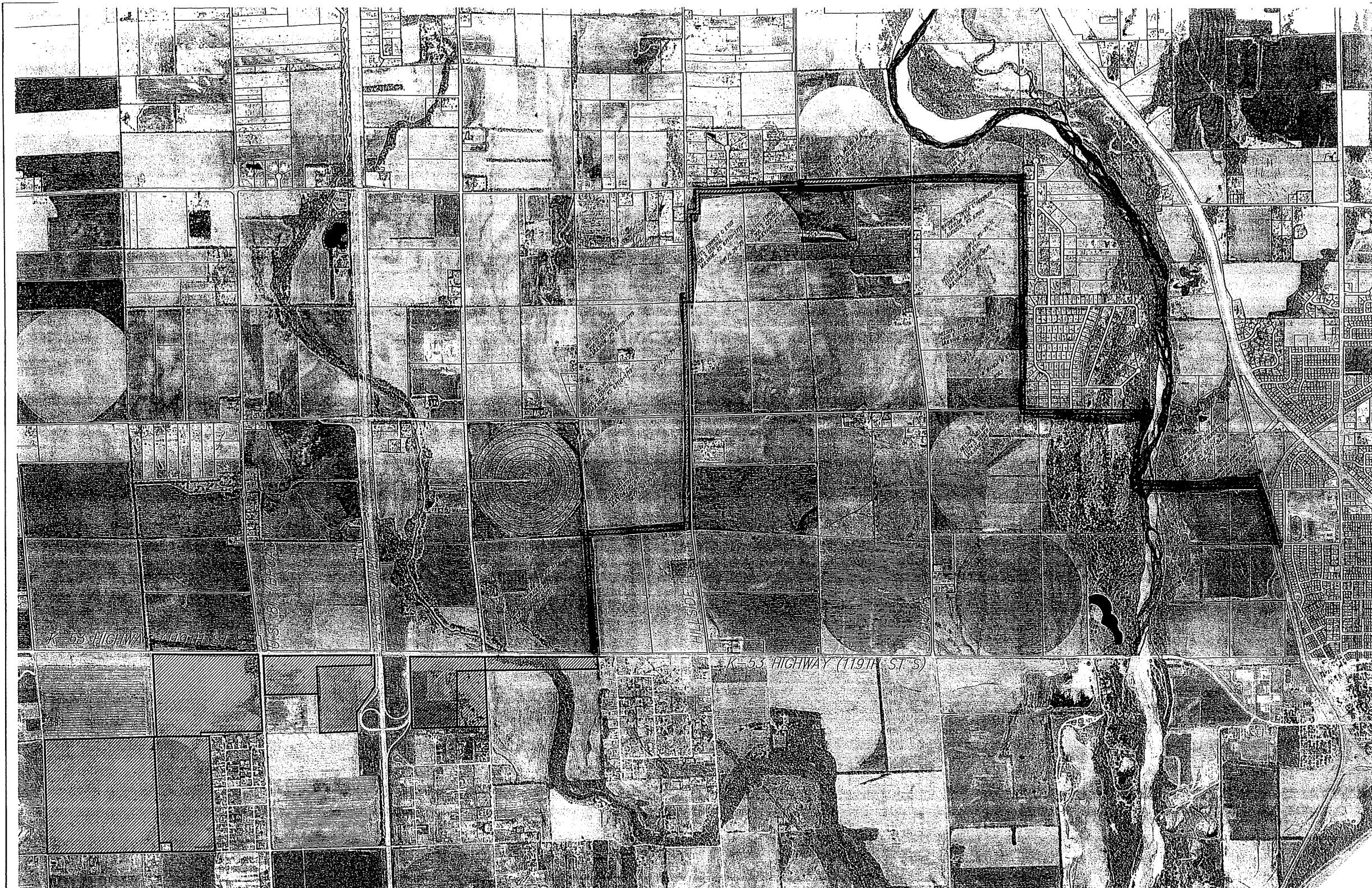
CROWSON'S VIEW



READER VIEWS

Vincetta Ha
80
Univ. of W. Va.
PETER DEGRAAF
81
[Signature]

1-2



K-53 HIGHWAY (119TH ST S)

US 81

HILLSIDE

K-53 HIGHWAY (119TH ST S)

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
and other Committee Members

FROM: Rep. Peter DeGraaf

DATE: Monday February 01, 2010

SUBJECT: Written Testimony in **SUPPORT of HB 2471** – Outlawing “Snaking” Annexation

Good afternoon Madame Chairman and members of this Committee. Thank you for giving me a chance to offer the following testimony for a bill that has been passed by your committee at least twice before. As you know, **I am strongly urging your continued support of HB 2471.**

To give you some history, this is essentially the same bill that passed this committee and the House a number of times. In the last hours of the session last year the Senate passed this bill and combined it with a number of other annexation bills. It was reported that as Governor Parkinson vetoed the combined bill, he said that he did not like **snaking annexation** and if it had come to his desk alone, he would have signed that bill.

I have been involved in this challenge from the beginning and believe it is the legislature’s duty to clarify that this kind of annexation was never our intent. One of the reasons for the snake was to go around private property owners that did not want the city to annex their property. **Adjacent property owners were specifically given no voice.**

If annexations of these types are allowed the messy city limits, tangled webs, and islands that could be created are unimaginable. Utilities, road maintenance and public safety are just a few of the challenges this type of annexation presents.

You may not be aware but since this bill was last seen by this committee both the Mulvane mayor and the city council were found guilty of 1st Amendment violations. Due to the grievous nature in which this annexation was done, this bill should become law as soon as possible. **Request you quickly send this bill to the House Floor favorably for passage** and do all you can to ensure it gets to the Governor’s desk unencumbered.

Respectfully,

A handwritten signature in black ink, appearing to read 'Pete DeGraaf', written over a horizontal line.

Rep Pete DeGraaf

Local Government

Date: 2-2-10

Attachment # 2



City of Wellington

Memorandum

*To: House Local Government Committee
From: Gus Collins, City Manager
Date: February 1, 2010
RE: HB 2471 ~ Testimony from City of Wellington, KS*

The Governing Body of the City of Wellington appreciate the opportunity to testify in support of House Bill 2471, co-sponsored by Representatives Wetta and DeGraff. The City's position is unchanged from previous testimony of Senate Bill (HB2084 2009) for the following reasons.

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 "narrow corridor" 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 2471 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 2471 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. Both Chambers passed similar legalization (By our 100 votes in the House) last year. 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: 2-2-10
Attachment # 3

Kristy Sutherland
669 E. 140th Ave. N
Peck, KS 67120
316-524-1319

TO: Representative Sharon Schwartz
Chairman, Local Government Committee
and other Committee Members

FROM: Kristy Sutherland

DATE: Monday February 01, 2010

SUBJECT: Written Testimony in **SUPPORT of HB 2471** – 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 2471. 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 right across the road. We were not allowed to speak and live a mile away, Mulvane

Local Government

Date: 2-2-10

Attachment # 4

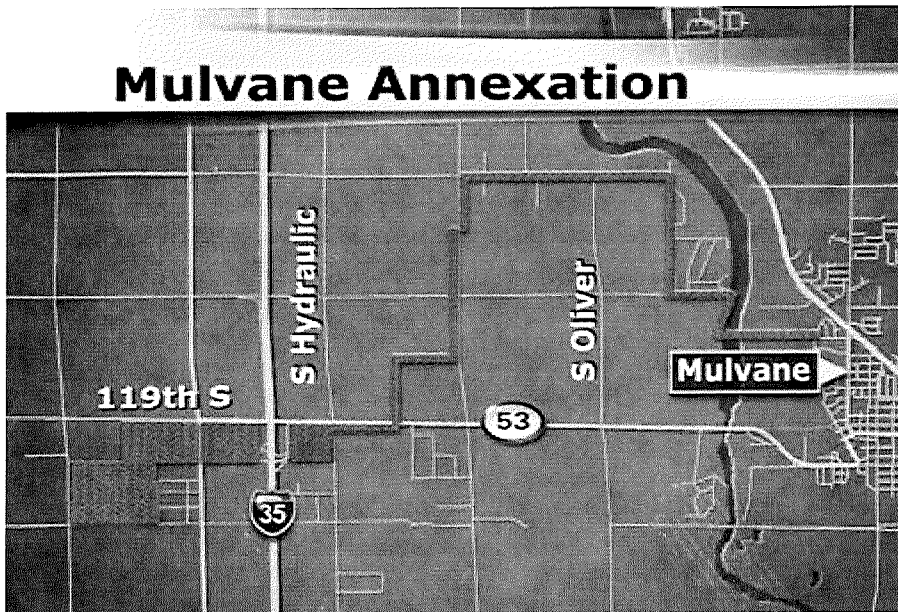
residents were allowed to speak and live five miles away, others that were in the school district spoke and live up to 12 miles away. I believe it is fair to say that this will impact my life, safety, and home value a lot more than it will affect theirs. It does not seem that school district boundaries 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 2471.**

Thank you!

Kristy Sutherland



Paul Sutherland
669 East 140th Ave N
Peck Kansas 67120
316-524-1319

Monday February 01, 2010

To: The Honorable Sharon Schwartz
Chairman, Local Government Committee
And other Committee Members

Re: Written Testimony in **Support of HB 2471**- 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.

Local Government

Date: 2-2-10

Attachment : 5

In closing if House bill 2471 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 2471 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 2471**

Thank You

Paul Sutherland

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

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

FROM: Shawn Townson

DATE: Monday, February 01, 2010

SUBJECT: Written Testimony in **SUPPORT of HB 2471** – 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 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 2471.**

Respectfully

Shawn Townson

Local Government

Date: 2-2-10

Attachment # 6

Monday, February 01, 2010

Dear Honorable Representatives,

In **support of HB 2471** - 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 legislation that will encompass the Mulvane annexation of property surrounding my subdivision.

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

Local Government
Date: 2-2-10
Attachment # 7



PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON LOCAL GOVERNMENT

RE: HB 2471 & 2478; Restrictions on annexation

February 2, 2010

**Submitted by:
Terry Holdren
KFB Government Relations**

Chairperson Schwartz and members of the House Committee on Local Government, thank you for the opportunity to share the policy developed and adopted by our members. I am Terry Holdren, National Director – Government Relations at Kansas Farm Bureau. As you know KFB represents farmers, ranchers and rural residents totaling more than 110,000 who live and work in each of the states 105 counties.

KFB members continually express a great deal of concern regarding the practices of cities seeking to annex surrounding lands. These practices have numerous negative consequences for agricultural operations and rural landowners, including but certainly not limited to financial impacts on land values and homeowners who will undoubtedly face higher tax bills for services they may not receive benefits from.

Annexation also has significant impacts on rural water districts, fire districts, electric cooperatives and townships, many of whom have developed, and bonded, infrastructure projects to provide services to the residents living within their boundaries. It's these units of government that will face extreme hardship in continuing to serve their remaining populations and in meeting their financial commitments for infrastructure improvements.

Our member adopted policy favors annexation only after a majority vote of the residents of the area to be annexed. Our policy also supports the current law requiring cities to follow additional procedures and submit to a review of the reasonableness of their action. We also strongly support the prospect of ending the misguided practice of strip or snake

Local Government

Date: 2-2-10

Attachment # 8

annexation, used primarily to allow cities to “reach” desirable or high-value properties and to add those parcels to their tax roles.

We would submit that there are reasonable restrictions that can be placed on cities to ensure that rural residents and service providers are protected in the annexation process. The proposal before you today in HB 2478 requiring County Commission review of some types of annexations provides an opportunity to strike that kind of balance and we also support that measure.

Thank you once again for the opportunity to comment on this issue. We respectfully ask for your favorable consideration of both of the bills before you today and stand ready to assist as you seek solutions for all Kansans.

For more information please contact:

Terry Holdren
Kansas Farm Bureau
800 SW Jackson, Suite 1300
Topeka, KS 66612
785.234.4535
holdrent@kfb.org

Kansas Farm Bureau represents grass roots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.



League of Kansas Municipalities

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

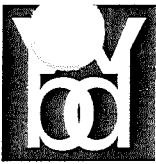
To: House Local Government Committee
From: Don Moler, Executive Director
Re: Opposition to HB 2471
Date: February 2, 2010

First I would like to thank the Committee for allowing the League to appear today in opposition to HB 2471. 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 23 years and we believe they continue to work well today.

The Committee should be aware that what is suggested by HB 2471 represents a significant change in public policy and one which should not be undertaken lightly. HB 2471 would amend the unilateral annexation statutes to prohibit 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 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. Finally, the committee should be aware that this legislation is not really about annexation, but rather originated from a dispute between two cities in Kansas who were wrestling over which will get a destination gaming (gambling) facility in their community.

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: 2-2-10
Attachment # 9



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 2471 – An Act concerning cities; relating to annexation of territory.

DATE: February 2, 2010

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 in opposition to HB 2471 that would restrict a city's ability to "annex a portion of an individual's tract of land" as defined under the bill.

The City has historically opposed any further proposed restrictions on its ability to annex land as the members of this committee are aware. We believe current law has adequate checks and balances for all parties concerned.

Our concerns with the provisions of HB 2471 are two-fold:

- First of all, HB 2471 proposes to restrict or otherwise prohibit an annexation that is agreed upon by a property owner and the city. Historically, when a landowner desires to be annexed by a city, it is a relatively straightforward and simple process that has few, if any parties in opposition.
- Secondly, new section 1 (h) of the bill attempts to define what is prohibited, but that definition is vague and will likely lead to litigation.

Proponents of HB 2471 have expressed their opposition to strip annexation due to a specific set of facts that arose out of an annexation in Sumner County and during testimony there have been references to a few other annexations undertaken in recent years. However, there may be instances where strip annexation is appropriate and in the best interests of all concerned.

For example, there are occasions where a manufacturer or warehouse might need to be located outside the city limits due to the size of a parcel of land required to meet their needs, but the property owner may wish to receive city services or otherwise be a part of the city rather than the county. We have such a case in Topeka with the Target Distribution Center and there are certainly other examples in our state, such as industrial parks.

Rather than annex large blocks of land to bring in such a development, which necessarily includes all of the responsibilities of an annexation (i.e., extension of services), it might be more responsible and appropriate for a city to utilize a strip annexation in order to accommodate business and industry. Furthermore, when such an annexation is requested by a property owner, the owners of the parcels of land in between may not be interested in having their land annexed into the city, making strip annexation appropriate for all concerned. Accordingly, by prohibiting a strip annexation, the proponents of this legislation may actually force a city to annex more land than they need or is appropriate under the circumstances.

One set of circumstances or a bad fact pattern cannot sustain making a significant change in annexation policy that affects the entire state. Accordingly, we would urge the Legislature to not adopt HB 2471.

On behalf of the City of Topeka, we thank you for your consideration of our comments.

Whitney Damron

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Testimony Before The
House Local Government Committee
Regarding
House Bill 2471
By Erik Sartorius

February 2, 2010

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 2471. HB 2471 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 2471 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 2471 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 2471 directly interferes with the rights of landowners who want to annex into a city.

The second prohibition in HB 2471 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

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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 impetus for this legislation was a specific annexation performed by the City of Mulvane. The district court ruled against the Mulvane annexation, demonstrating that the annexation statutes work. 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 an isolated instance 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.

HB 2471 Testimony

Testimony provided to the
House Local Government Committee
February 2, 2010

Kent Hixson – City Administrator
City of Mulvane, Ks.

House Bill 2471 Concerning Cities; Relating to Annexation of Territory

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 House Bills 2471.

The current annexation laws are sufficiently restrictive to protect the interests of individual property owners and to allow the orderly, controlled growth of cities.

The proposed change in Section (7) of HB 2471 stating *“This subsection may not be utilized by a city to annex a portion of an individual’s tract of land”* severely and unfairly limits the rights of a property owner to do with their land as they deem fit or act in their own best interest. Annexation by petition is not forcing the property owner into anything. Not only that, but many people own hundreds of acres but may only desire a portion to be annexed, for example, as part of a staged development. In fact, developments are usually annexed and platted in “phases”. This is the very backbone for both residential growth and economic development for cities in Kansas. This bill would eliminate that option. Annexation into a city may improve the value of the property as most cities require annexation before they will extend utilities.

Section (h) *“No city may utilize any provision of this section 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”*

A narrow corridor of land” is not, and probably cannot, be adequately defined. Furthermore, many annexations are done with no further annexation planned, but others will inevitably follow.

The average residential building lot in Mulvane measures 70’ x 90’. Many homes could be built “on a narrow corridor of land” in compliance with Mulvane’s subdivision development standards on any one of the tracts of land annexed. These subdivision regulations are common throughout the State.

Conclusion:

This bill limits and impairs a landowner's right to voluntarily allow portions of land they own be annexed by a city. It is not a limitation on cities as much as an impairment and infringement on a person's right to choose what to do with their property.

Thank you for the opportunity to provide testimony in opposition to HB 2917.



Testimony in opposition to HB 2471

Submitted by Jennifer Bruning
On behalf of the Overland Park Chamber of Commerce

House Local Government Committee
Tuesday, February 2nd, 2010

Madam Chair and Committee Members:

My name is Jennifer Bruning, and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am submitting written testimony today in opposition to House Bill 2471 on behalf of our board of directors and our nearly 1,000 member companies.

One of the standing priorities of the Overland Park Chamber is to oppose changes to statutes further restricting a city's ability to annex unincorporated land needed for growth. Our chamber has witnessed the successful growth of Overland Park for many years, and we believe it is due in large part to the city's willingness and ability to plan strategically to accommodate the growth.

Throughout our history of development and growth, annexation has been a tool used by area cities to successfully allow our area to grow. Planning for growth is a fundamental responsibility of cities, and we believe HB 2471 will severely impact that ability by prohibiting a city's ability to annex a portion of an individual's land and narrowing the ability to annex "a narrow corridor of land" that is not deemed to have "tangible value."

We foresee several problems with this bill. First, the first provision prohibits a landowner from consenting to the annexation of a portion of his land even if he deems it to be in his best interest, thus requiring him to either submit to annexation of all of his property or none at all. This intrusion runs counter to the argument that annexation laws exist to protect the interest of the landowner. Plus it places an undue burden on the city that must annex and provide services to the entire piece of land rather than just the small portion that both the city and the landowner feels is justified.

Second, the provision of this bill prohibiting annexation of a narrow corridor of land to gain access to noncontiguous tracts of land is extremely vague. Who is to determine whether the corridor of land has "tangible value" or not? We foresee this language creating a litigious environment of uncertainty, as well as being counterproductive to our city's efforts to make the process of annexation easier rather than harder.

9001 W. 110th Street • Suite 150
Overland Park, KS 66210
t: 913.491.3600 • w: onks.org

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In this time of economic uncertainty, we must make it easier for cities and landowners to engage in economic development projects, especially when both are in full consent of the measure. We believe the process currently in place (without these prohibitions) has been shown to work well and is in the best interest of consenting landowners and the cities looking to annex their land. Please vote "no" on HB 2471. Thank you very much.

9001 W. 110th Street • Suite 150
Overland Park, KS 66210
t: 913.491.3600 • w: opks.org

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

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HOUSE COMMITTEE ON LOCAL GOVERNMENT
 CHAIRMAN – REP. SCHWARTZ
 TESTIMONY – HB 2478

This testimony is to support a change in the law regarding unilateral 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. Under subsections (a) (1), (4), (5), and (6) of KSA 12-520, once a city touches boundaries with a landowner's property, the city may annex that property without the consent of the landowner using a simple city ordinance. This is an intrusion on property rights. It is taxation without representation. It is wrong, and Kansas is only one of a handful of states that allows the taking of land in this way.

CHANGING THE RULES

HB 2478 changes the procedure so that the proposed unilateral annexation is reviewed by the county commission. The county commission has 30 days to approve the annexation, disapprove it, or just do nothing and allow it to become law. In this way, the annexation plan is reviewed by the landowners' elected commissioner. It gives the landowners a voice in the process. This is a fair approach and is less costly than previous proposals for a vote of those being annexed or an annexation study commission. This bill does not impact annexations that are done at the request of a landowner or developer.

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 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 demonstrates 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 substantive changes to the process itself. All of the decisions are made by one party – the city.

ACTION DURING PREVIOUS SESSIONS

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 and changed guidelines on the subsequent county commission review of annexations once passed. The bill was not heard in the Senate. In the 2009 session, the House passed the same concept as HB 2478 under two different numbers – HB 2032 and House Substitute for SB 204. The Senate did a "gut and go" on HB 2032. SB 204 is still sitting in the

Local Government

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Senate Federal and State Affairs Committee. Our goal is to get the bill to the Senate earlier in the session this year and press for a hearing there.

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. In reality, unilateral annexations can be quite extensive in scope. A copy of a unilateral annexation map proposed in Topeka in 2004 is attached. This proposal was bigger than any bilateral annexation proposed in Johnson County in recent years. They are a big deal.

TWENTY YEARS IS ENOUGH TO DELIBERATE

It was suggested last year 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 than property rights. 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” its cities.

Others say that we should not fix something that isn't broken – that the process works. Yes, it works well for cities that don't want to be bothered with those pesky landowners who would like something more than a tax increase and a list of services they will no longer receive once annexed. But it doesn't work worth a hoot for those landowners.

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 allow a city to take your home inside its boundaries without your permission. Cities can learn to be partners with township residents, but today they have no reason to do so. They hold all the cards in a rigged game.

I am asking the Committee to support the concepts of HB 2478 as passed by the House three times already. It is a common sense solution to a problem that has continued far too long.

Kansas Legislature

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12-520

Chapter 12.--CITIES AND MUNICIPALITIES

Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE

12-520. Conditions which permit annexation; ordinance; severability of ordinance where annexation invalid. (a) Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:

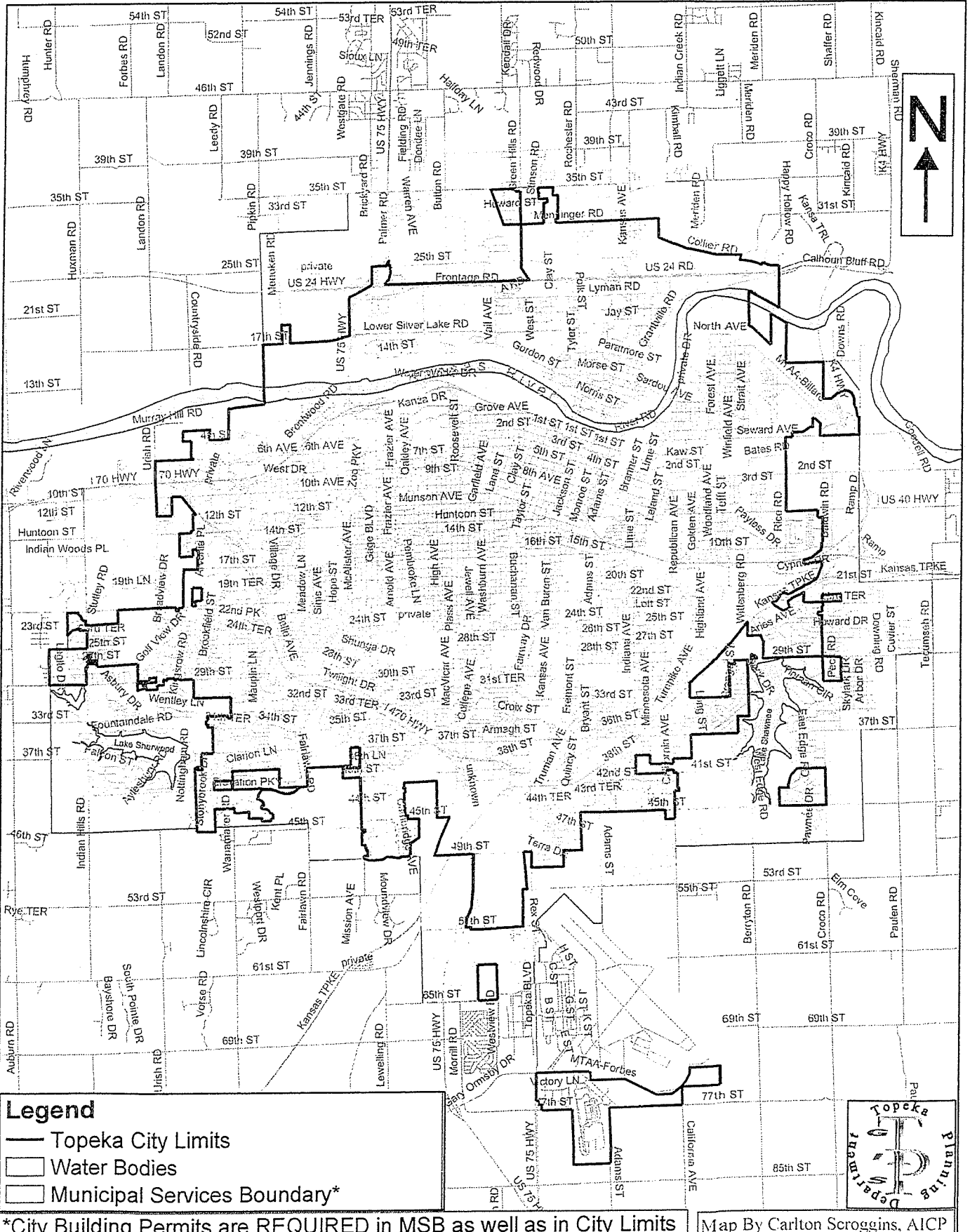
- (1) The land is platted, and some part of the land adjoins the city.
- (2) The land is owned by or held in trust for the city or any agency thereof.
- (3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city except that no city may annex land owned by a county without the express permission of the board of county commissioners of the county other than as provided in subsection (f).
- (4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.
- (5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.
- (6) The tract is so situated that 2/3 of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.
- (7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.
 - (b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.
 - (c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A 19-2753 et seq., and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.
 - (d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.
 - (e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority of this section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.
 - (f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides

thereof is already within the city or is annexed to the city in the same proceeding. The board of county commissioners may notify the city of the existence of any highway which has not become part of the city by annexation and which has a common boundary with the city. The notification shall include a legal description and a map identifying the location of the highway. The governing body of the city shall certify by ordinance that the certification is correct and declare the highway, or portion of the highway extending to the center line where another city boundary line abuts the opposing side of the highway, annexed to the city as of the date of the publication of the ordinance.

(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

History: L. 1967, ch. 98, § 2; L. 1974, ch. 56, § 4; L. 1980, ch. 62, § 1; L. 1986, ch. 70, § 2; L. 1987, ch. 66, § 2; L. 1993, ch. 147, § 1; L. 2005, ch. 166, § 11; L. 2005, ch. 186, § 6; L. 2007, ch. 142, § 1; April 26.

Municipal Services Boundary & Topeka City Limits



H.B. 2478

Time: 4 minutes
Presenter: Kelly Parks
Address: 8005 N. Hoover
West Valley (Unincorporated)
67147

Thank you for allowing me to address your committee today. Some of you may remember me from the last two years, for those of you that do not, I'm Kelly Parks, my occupation happens to be a County Commissioner from Sedgwick County, HOWEVER , I am not here today representing that body. I have been asked to speak for about 300 inhabitants from the area just to the West of Valley Center, being the community of West Valley, who's attempt to become a City of the third class last year was denied by the SGC board of County Commissioners on a 2 to 3 vote. As you may assume, and rightfully so, there was unilateral annexation planned by the City of Valley Center to wit: the residents in our area came out in numbers against.

I come today knowing that this may very well be an exercise in futility, that this law may have been crafted to pacify such groups of ours, and quite frankly, we find it woefully short of our expectations. I am testifying as a proponent of this bill only as it could be a first step in burying this outdated and archaic law that only two states in the nation have left in state law. Lawmakers in 48 states have seen the terrible injustice in forced annexation, and have enacted laws to protect those people who have no other elected voice than their state legislature. Many of would look to this bill and say that the county commission could be their voice, however as we both know, many times opponents of such a bill come from City councils, and those city council members frequently run for state representative positions as well as county commission seats. Therein lays the problem. The sheer numbers and power positions are often overlooked with the victims of forced annexation with very little protection afforded. When I was here 2 years ago, I saw quite a pony show from Overland Park. Their community had a service plan that was about 30 pages in length. I show you one from Valley Center that is one sheet front and back. APPENDIX A. Those people in this area will get a hearing this year on what? One page that is a disgrace for service. One landowner checked to see what it would cost for sewer and water to be provided across a natural

Local Government

Date: 2-2-10

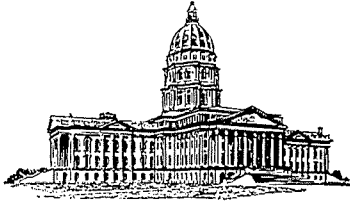
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boundary of a river, and was told \$800,000 for water and One million for sewer. I have seen a copy of that letter. Please stop this injustice in our state law now, by passing a COMPREHENSIVE annexation law that protects the right to own property by rural citizens.

I stand for any questions and feel free to contact me at the numbers or addresses provided. Kelly Parks

State of Kansas

Senate Chamber



ANTHONY HENSLEY
STATE SENATOR, NINETEENTH DISTRICT
SHAWNEE, DOUGLAS & OSAGE COUNTIES

HOME ADDRESS:
2226 S.E. VIRGINIA AVENUE
TOPEKA, KANSAS 66605-1357
(785) 232-1944—HOME

E-MAIL
ANTHONY.HENSLEY@SENATE.KS.GOV

Office of Democratic Leader

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FAX (785) 296-0103

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STATEMENT IN SUPPORT OF HB 2478 By Senator Anthony Hensley February 2, 2010

Chairwoman Schwartz and Committee Members:

I would like to voice my strong support for House Bill 2478, which would require a city to get the board of county commission's approval if the city wishes to annex land pursuant to certain circumstances provided by K.S.A. 12-520.

Currently, Shawnee County has no control over unilateral annexations, which take place without the consent of county commissioners or affected landowners living near the city of Topeka.

As a lifelong resident of Topeka, and legislator for 34 years, I know that these kind of involuntary annexations too often divide a community and involve significant tax increases for those property owners being annexed. Homeowners have absolutely no say in the process. If this is not taxation without representation, I don't know what is.

In plain words, unilateral annexation allows a few to decide what is best for thousands. As a state, we must change our system so that the voices of landowners are heard and their rights are considered the highest priority.

To ensure responsible practices are followed, the legislature must require the county commission's approval of any unilateral annexation.

While we must continue to promote economic growth in our state, we must first and foremost respect the important rights of property owners. I urge you to support House Bill 2748.

Local Government

Date: 2-2-10

Attachment # 16

January 31st, 2010

Mark and Debbie Hudson
6904 S Broadway Ct.
Haysville KS 67060
316-640-1073

Regarding Support for Bill HB-2478

First, I apologize for not being able to attend the committee hearings tomorrow for this bill. I do believe that unilateral annexation should be stopped period, there is no reason why Kansas and Nebraska should be the only two States whom still allow this predatory practice. HB-2478 will not fix the problem; however, it will give the people some oversight and put a much needed compromise between the County, Cities, Townships, and landowners involved. We the people are helpless in this land ordeal, and we need some protection and answers when this comes about. It's all about the politics and not about the people, and you cannot ignore this unilateral annexation no matter how you feel politically, ask your constituents who elected you if it happened to them, it would be alright or it's just another political move.

As small cities say they are growing their tax base and tightening their boundaries, and for the landowners, it more than just taxes, its I urge you to ask, who protects the landowners? I urge you to walk in our shoes the past five years. We have a small community that has used that excuse to bring us financial harm and to create a service plan knowing that we cannot afford the services, and with no remorse. We all have septic systems and lagoons. Also, the poor children in our neighborhood have had to change the way they are raised , they no longer can have animals within City Limits. So much for the horses, cows, and chickens. No one thinks about the people, just the boundaries and the tax base. That is why this predatory practice must be stopped.

As a Realtor as well, when you sell someone a home in a new housing community, they are well aware of the current specials, the land use, and taxes associated with the purchase. When you sell someone an existing home, they too know what the land use is and the taxes. When you unilateral annex land, you are at the mercy of the City annexing and no opinion to how much your taxes can and will go up. For example, our house payment went up 131.00 a month, average of 1443.00 the first year we were annexed in 2004.

I ask you, so put the shoe on the other foot. Here is what is happening, and if you think for a moment, that unemployment is driving these homes to foreclosure and that health costs are making senior citizens choose to pay taxes over prescriptions, you are wrong. You the elected officials are the ones allowing this predatory annexation and allowing small governments to drive these seniors out of their homes, and to landowners to sell their homes. Pass this bill because it's the right thing to do, and in the future, I hope we can say as Proud Kansan's that we no longer allow unilateral annexation in the State Of Kansas.

Sincerely,

Mark and Debbie Hudson

Local Government

Date: 2-2-10

Attachment # 17

Dennis F. Schwartz
5441 SE 45th Street, Tecumseh, KS 66542

COMMENTS IN SUPPORT OF HOUSE BILL 2478
BEFORE THE HOUSE COMMITTEE ON LOCAL GOVERNMENT
February 2, 2010

Honorable Chairman and Members of the Committee:

The annexation of lands by a city has significant effect on many landowners as well as other local governmental entities. By its very nature unilateral annexation requires a decision only by the annexing body and may be totally without regard for the interests of those landowners or other units of local government.

It is apparent by the significant amount of time that this issue has demanded of the Kansas Legislature that there is notable dissatisfaction with the law as it currently stands.

It is most logical that there should be at least some oversight by elected officials representing affected landowners and local governmental units.

Please consider giving favorable consideration to the advancement of House Bill 2478.

Respectfully submitted,
ss Dennis F. Schwartz

Local Government
Date: 2-2-10
Attachment # 18



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The Voice of Agriculture

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PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON LOCAL GOVERNMENT

RE: HB 2471 & 2478; Restrictions on annexation

February 2, 2010

Submitted by:
Terry Holdren
KFB Government Relations

Chairperson Schwartz and members of the House Committee on Local Government, thank you for the opportunity to share the policy developed and adopted by our members. I am Terry Holdren, National Director – Government Relations at Kansas Farm Bureau. As you know KFB represents farmers, ranchers and rural residents totaling more than 110,000 who live and work in each of the states 105 counties.

KFB members continually express a great deal of concern regarding the practices of cities seeking to annex surrounding lands. These practices have numerous negative consequences for agricultural operations and rural landowners, including but certainly not limited to financial impacts on land values and homeowners who will undoubtedly face higher tax bills for services they may not receive benefits from.

Annexation also has significant impacts on rural water districts, fire districts, electric cooperatives and townships, many of whom have developed, and bonded, infrastructure projects to provide services to the residents living within their boundaries. It's these units of government that will face extreme hardship in continuing to serve their remaining populations and in meeting their financial commitments for infrastructure improvements.

Our member adopted policy favors annexation only after a majority vote of the residents of the area to be annexed. Our policy also supports the current law requiring cities to follow additional procedures and submit to a review of the reasonableness of their action. We also strongly support the prospect of ending the misguided practice of strip or snake

Local Government

Date: 2-2-10

Attachment # 19

annexation, used primarily to allow cities to “reach” desirable or high-value properties and to add those parcels to their tax roles.

We would submit that there are reasonable restrictions that can be placed on cities to ensure that rural residents and service providers are protected in the annexation process. The proposal before you today in HB 2478 requiring County Commission review of some types of annexations provides an opportunity to strike that kind of balance and we also support that measure.

Thank you once again for the opportunity to comment on this issue. We respectfully ask for your favorable consideration of both of the bills before you today and stand ready to assist as you seek solutions for all Kansans.

For more information please contact:

Terry Holdren
Kansas Farm Bureau
800 SW Jackson, Suite 1300
Topeka, KS 66612
785.234.4535
holdrent@kfb.org

Kansas Farm Bureau represents grass roots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.

Kansas House of Representatives



Representative Mike Burgess
51st District

Docking State Office Building, 7th Floor
Topeka, KS 66612

785-296-7653
mike.burgess@house.ks.gov

Testimony in Support of HB2478

Chairman Schwartz and members of the House Local Government Committee:

Thank you for the opportunity to submit testimony in support of HB2478. This bill is about fairness. It changes the procedures for unilateral annexation so that landowners in an area proposed for annexation could have a voice in the process. Today they do not.

I urge you to pass HB2478 and recommend it favorable for passage.

Local Government

Date: 2-2-10

Attachment # 20

**Proponent for Bill number 2478 with some additions.
From Fred and Jane Mosteller 4563 Cherry, Wichita Ks 67217
Please support Change in the Annexation Statutes
Cities Currently have The POWER
To create Economic Devastation to an area thru annexation**

The following Kansas statutes, already states that the county commission should not allow injury to be manifested.

12-521 Chapter 12.--CITIES AND MUNICIPALITIES Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE 12-521. Petition to county commissioners for annexation of certain lands city not authorized to annex; contents; plans; reports, contents; statement of plans; hearing, time and place; publication notice; notice to landowners; sketch of area; procedure at hearing; criteria to be considered; granting of order; entry in journal, effect; appeals to district court ...The board shall make specific written findings of fact and conclusions determining whether such annexation or the annexation of a lesser amount of such area causes manifest injury to the owners of any land proposed to be annexed,

I believe the bill you pass should also include the same language.

Haysville and the Wichita Sedgwick County Metropolitan Planning Department had approved the land we bought for large lot development in the Riverside Township with a private road, water wells and septic tanks.

Haysville then proposed annexation while the houses were still being built. Carol Neugent, Director of Governmental Services in Haysville, admitted they annexed for the increased taxes.

I believe cities should be required to list their intention of annexation with there local County and Metropolitan Planning Department planning and approval process or not be allowed to annex.

Also a 30-year growth plan is a map designed by a City showing their intended growth areas. This should be a guideline to help prospective land buyers know about the future growth plans of a City. When we bought our land between Wichita and Haysville it was not on either cities 30 year growth plan. Haysville annexed us anyway. Why should families be forced into unplanned annexation and consequently higher taxes and restrictions

I believe cities should be required to list any area they are thinking about annexing in the growth plans or not be allowed to annex..

Our Haysville's annexation plan provided for city water, sewer and road improvements upon our request. However according to their figures it would cost us approximately \$2,396,842.00 spread over 12 properties. On my limited income I consider this would manifest a devastating injury to me. The specials would cost more than the value of the property, it is now a liability.

We believe what happened to us should never happen to anyone else without the Right to have some input into their future.

Please support the individual citizens & Support Fair Annexation Changes

Local Government
Date: 2-2-10
Attachment # 21



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 2478
Date: February 2, 2010

First I would like to thank the Committee for allowing the League to appear today in opposition to HB 2478. 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 23 years and we believe they continue to work well today.

The Committee should be aware that what is suggested by HB 2478 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 2478 would effectively obliterate the unilateral annexation statutes, and completely reverse many years of sound public policy in this state.

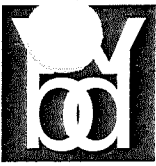
HB 2478 would effectively eliminate unilateral annexations in Kansas. It does this by requiring that the county commission approve any "unilateral" annexations under K.S.A. 12-520 (a)(1) "The land is platted, and some part of the land adjoins the city," (4) "The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%", (5) "The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose" and (6) "The tract is so situated that 2/3 of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition." In effect, HB 2478 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: 2-2-10

Attachment # 22



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 2478– An Act concerning cities; relating to annexation.

DATE: February 2, 2010

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 in opposition to HB 2478 that would effectively prohibit the use of unilateral annexation authority by a city.

Annexation is intended to allow for the orderly growth of a city to meet the needs of both its citizens and those who are located in close proximity to the city. The state of Kansas has recognized the need for planning and growth by cities as they allow for 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 property owners. In rare circumstances, an agreement on annexation between a city and a property owner cannot be reached and a city may seek to unilaterally annex a piece of property into the city limits under K.S.A. 12-520. This ultimate authority is necessary to resolve situations where annexation is appropriate given the geography or characteristics of a given piece of property, but where the property owner will not consent to annexation.

Such circumstances might include situations where the city has grown around a piece of property adjacent to a city or otherwise has the characteristics of the city in proximity to where it is located.

In the case of the City of Topeka, since 1990 there have been more than 80 annexations made by the City and all have been consensual.

While the City recognizes 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.

919 South Kansas Avenue ■ Topeka, Kansas 66612-1210

(785) 354-1354 (O) ■ (785) 354-8092 (F) ■ (785) 224-6666 (M)

www.wbdpa.com ■ wbdamron@aol.com

Local Government

Date: 2-2-10
Attachment # 23

Under current law a city can utilize unilateral annexation authority only under certain circumstances based upon well-established criteria and statutory provisions. Under HB 2478, all of this authority and process is replaced with an arbitrary and undefined standard that the proposed annexation “will not have an adverse effect on such county.”

The City of Topeka would submit that such a standard will be difficult to quantify, define or overcome.

The City of Topeka supports current law in regard to annexation laws and would respectfully request this legislation not be advanced out of committee.

Thank you.

Whitney Damron

OVERLAND PARK

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Testimony Before The
House Local Government Committee
Regarding
House Bill 2478
By Erik Sartorius

February 2, 2010

The City of Overland Park appreciates the opportunity to appear in opposition to House Bill 2478. HB 2478 proposes a drastic change in the state's unilateral annexation laws, 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.¹ 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 2478 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, hold a public hearing, notify numerous area governments and then apply 16 criteria to determine if it should annex the land under consideration.

¹ 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...."

Local Government

Date: 2-2-10

Attachment # 24

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."² Overland Park agrees with the National League of Cities. Under HB 2478, 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 2478 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.

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 2478 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.

HB 2478 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.

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

HB 2478 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 2478 abandons this important principle. Under HB 2478, 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 2478 would be to promote lawsuits against counties either by property owners who can now be annexed or by cities when annexations are denied.

HB 2478 is not needed. The current statute already imposes enormous burdens on cities that wish to annex under the statute. HB 2478 would turn the annexation process from a carefully considered planning decision into a purely political decision by the board of county commissioners.



COUNTY COUNSELOR'S OFFICE

Sedgwick County Courthouse
525 N. Main, Suite 359
Wichita, KS 67203
Phone (316) 660-9352
Fax (316) 383-7007
rparnaco@sedgwick.gov

Robert W. Parnacott
Assistant County Counselor

TESTIMONY HB 2478
House Committee on Local Government
February 2, 2010

Chairperson Schwartz and members of the committee, my name is Robert W. Parnacott, Assistant County Counselor for Sedgwick County. Thank you for the opportunity to provide this testimony.

Sedgwick County supports legislation that provides for the proper growth and orderly development of cities, while also respecting the rights of landowners in the unincorporated area to receive services from the city, if annexed, at or better than the level of services offered before annexation, particularly in light of the increase in property taxes that almost always follows annexation. Sedgwick County also supports protections for any local government units, including townships, fire districts and rural water districts that can often be negatively impacted by annexation.

Many of our cities in our county have grown in a proper and orderly manner, and have worked with landowners in the unincorporated area to bring them into the city as willing residents. Other cities in our county, unfortunately, have not acted appropriately, leading to litigation and of course, support for legislative changes like what we are discussing today.

Sedgwick County does not support legislation that would significantly increase the role counties have in the annexation process, particularly where the changes result in unfunded mandates, or which undermines the ability of counties and cities to work together on local concerns.

We are willing to offer more detailed suggestions on appropriate revisions to the bill as it moves through the legislative process. Thank you again, Chairperson Schwartz for this opportunity to present testimony. I would be happy to respond to any questions.

"...Working for you."

Local Government

Date: 2-2-10

Attachment # 25



TESTIMONY

City of Wichita

455 N Main, Wichita, KS. 67202

Wichita Phone: 316.268.4351

dgoter@wichita.gov

Dale Goter

Government Relations Manager

Kansas House Committee on Local Government

Opposition testimony on HB2478

3:30 p.m., Tuesday, Feb. 2, Room 144S

Chairman Swartz and members of the House Local Government Committee. Thank you for this opportunity to register the opposition of the City of Wichita to HB2478.

Current annexation laws are the product of years of debate and compromise. As such, they have served the City of Wichita well for the past several decades and continue to provide a mechanism for the orderly growth of our community.

The changes prescribed in HB2478 would undermine the current process for annexation that has served our community well during the notable growth that has taken place in recent years. Annexation will always generate some degree of controversy, and current law provides adequate safeguards to balance the interests of private landowners and local governments.

Any significant change in state statute, as would be the case with HB2478, should be prefaced by a comprehensive evaluation of all annexation issues. A strategy of "fixing" annexation with legislation that takes a piecemeal approach will only result in more harm than good to the public's interest.

The City of Wichita echoes the concerns voiced by the League of Kansas Municipalities and our fellow communities around the state. HB2478 would do more harm than good and should be rejected.

Local Government

Date: 2-2-10

Attachment # 26



Testimony in opposition to HB 2478

Submitted by Jennifer Bruning
On behalf of the Overland Park Chamber of Commerce

House Local Government Committee
Tuesday, February 2nd, 2010

Madam Chair and Committee Members:

My name is Jennifer Bruning, and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am submitting written testimony today in opposition to House Bill 2478 on behalf of our board of directors and our nearly 1,000 member companies.

One of the standing priorities of the Overland Park Chamber is to oppose changes to statutes further restricting a city's ability to annex unincorporated land needed for growth. Our chamber has witnessed the successful growth of Overland Park for many years, and we believe it is due in large part to the city's willingness and ability to plan strategically to accommodate the growth.

Throughout our history of development and growth, annexation has been a tool used by area cities to successfully allow our area to grow. Planning for growth is a fundamental responsibility of cities, and we believe HB 2478 will severely impact that ability by drastically changing our state's unilateral annexation laws which have been in place for over 100 years. We feel the statute as it currently reads already has the appropriate checks and balances in place to ensure proper utilization of unilateral annexation by a city.

This bill would require an extra unit of government (the board of county commissioners) to approve a unilateral annexation when the property owner does not consent to the annexation, even after the city has met thorough criteria including having public hearings and creating a service extension plan. However, under current statute, any landowner who is annexed under the thorough conditions and restrictions of this statute can still challenge the annexation in court. We disagree with the proposed provision in this bill under which veto power of a proposed annexation is given to the county board of commissioners when it's the city that has the greatest interest in whether the land is annexed or not. This type of law can stifle development in our city and greatly affect the quality of life of our citizens.

The Overland Park Chamber feels that the current unilateral annexation statute already has the necessary conditions and restrictions in place to ensure that a city is making a sound decision when it moves forward with the annexation process. This bill politicizes this process by allowing a county to nix a proposed annexation if they determine that it will have "an adverse effect on the county," without even potentially

9001 W. 110th Street • Suite 150
Overland Park, KS 66210

t: 913-331-2000

Local Government

Date: 2-2-10

Attachment # 27



considering the interests of the City or the region as a whole. HB 2478 presents numerous other challenges as well, including the promotion of tax inequities and promotion of tax leakage.

We believe the proposals in this bill are not sound policy, and we feel that HB 2478 hinders our city's ability to effectively manage and control the growth that is occurring in our area. We urge you to oppose HB 2478.
Thank you.

9001 W. 110th Street • Suite 150
Overland Park, KS 66210
t: 913.491.3600 • w: opks.org

HB 2478 Testimony

Testimony provided to the
House Local Government Committee
February 2, 2010

Kent Hixson – City Administrator
City of Mulvane, Ks.

House Bill 2478 Concerning Cities; Relating to Annexation of Territory

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 House Bills 2478.

The current annexation laws are sufficiently restrictive to protect the interests of individual property owners and counties and to allow the orderly, controlled growth of cities.

The finding of “*adverse effect on such county*” is subjective and probably cannot be adequately defined. When land is annexed into a city, the county does not lose any tax base or forfeit any property taxes. In most instances, the county is relieved of providing many tax supported public services (police, code enforcement, nuisance abatement).

Annexation into a city may improve the value of the property as most cities require annexation before they will extend utilities. Improved property values also benefit the county.

Conclusion:

Rather than being a check and balance against aggressive city annexation, this bill introduces another layer of bureaucracy that impairs a landowner’s right to voluntarily allow portions of land they own be annexed by a city. The subjective nature of “adverse effect” would serve to introduce more litigation and less cooperation between cities and counties. It is not a limitation on cities as much as an impairment and infringement on a person’s right to choose what to do with their property.

Thank you for the opportunity to provide testimony in opposition to HB 2978.