

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Sharon Schwartz at 3:35 p.m. on February 12, 2009, in Room 446-N of the Capitol.

All members were present except:

Representative Lana Gordon - Excused
Representative Michael Peterson - Excused

Committee staff present:

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

Conferees appearing before the committee:

Luke Bell, Kansas Association of Realtors
Janine Joslin, Executive Director, Kansas Preservation Alliance
Michael Bradley, Friends of Bethany Place
Sally Hatcher, Leavenworth Preservation Commission
Greg Kite, President of Historic Preservation Alliance
Sally Kahle, Potwin Place Association
Bill Wagnon, City of Topeka
Pedro L. Irigonegaray, Council of Friends of Bethany Place
Julia Manglitz, American Institute of Architect
Jennie Chinn, Executive Director, Kansas Historical Society
Chris Wilson, Executive Director, Kansas Building Industry Association
Marci Francisco, Kansas State Senator
Cindy Sundell-Guy, Century 21

Others attending:

See attached list.

Representative Holmes, Vice Chairman, opened the hearing on **HB 2083** – Historical preservation; of environs review.

Ken Wilke, Office of the Revisor of Statutes, presented an overview of **HB 2083**, explaining to the committee how this bill will affect historic property or the environs of a historic property.

Questions and answers followed.

Proponents:

Luke Bell, Vice President of Governmental Affairs, Kansas Association of Realtors, appeared before the Committee to offer testimony in support of **HB 2083** (Attachment 1). He presented a summary of the legislation, an overview of the history of the historic environs review requirements, as well as an overview of historic preservation laws at the federal and state levels. In summary, he concluded that the Kansas Legislature should pass **HB 2083** to protect private property rights by eliminating the historic environs review process. He stated unelected state officials and local historic preservation advocates should not have the authority to unreasonably restrict a property owner's use of his or her property.

Chris Wilson, Executive Director of Kansas Building Industry Association, presented testimony in support of **HB 2083** (Attachment 2). She stated that in restricting private property use beyond applicable local zoning, public safety and building code regulations, the statute goes beyond other states' laws, which apply the restrictions to governmental projects. The language in the statute seems to apply only to governmental projects, because it refers to "the state or any political subdivision of the state, or any instrumentality, thereof," but that has been interpreted more broadly to encompass all private property as well.

Questions and answers followed.

Neutral:

Jennie Chinn, Executive Director and State Historic Preservation Officer, Kansas State Historical Society appeared before the Committee as a neutral conferee to provide information on the state preservation law as it now functions,

and to answer any questions the Committee may have about the process ([Attachment 3](#)). She stressed that the job of the Kansas State Historical Society is to help the state preserve its history, and that the Society's job is to advise local governments, not to decide local restrictions.

Questions and answers followed. Patrick Zollner, Division Director of Historic Preservation of the Kansas State Historical Society also was available for questions.

Opponents:

Janine Joslin, Executive Director, Kansas Preservation Alliance, presented testimony in opposition to **HB 2083** ([Attachment 4](#)). She stated **HB 2083** seeks to limit the protection of the Kansas Historic Preservation Act solely to a listed property, thus putting at risk all historic properties in this State. If a property worthy of listing on the National or State Register may nevertheless become the next-door neighbor of any type of development, no matter how detrimental, with no required analysis by the governing body having jurisdiction, then it is of little use to protect the property itself.

Michael Bradley, board member of Friends of Bethany Place, appeared before the Committee in opposition to **HB 2083** ([Attachment 5](#)). (With his testimony he submitted examples of development within environs of historic sites including pictures.) Mr. Bradley stated those who live in the environs of historic sites need the support of the historic preservation laws that have been passed.

Sally Hatcher, Leavenworth, presented testimony in opposition to **HB 2083** ([Attachment 6](#)). She stated **HB 2083** certainly does not protect the property rights of those who restore and maintain the historic homes and commercial buildings that give Kansans their unique sense of place.

Greg Kite, President, Historic Preservation Alliance of Wichita and Sedgwick County, presented testimony in opposition to **HB 2083** ([Attachment 7](#)). He stated the purpose of the Kansas state historic preservation law is to protect the state's historical and architectural treasures and that the bill, which eliminates the historic environs review requirements, would denigrate that purpose.

Sally Paige Kahle, Potwin Place Historic District, presented testimony in opposition to the proposed changes to **HB 2083**. With her testimony she also submitted a signed petition in opposition to the changes ([Attachment 8](#)). Ms. Kahle stated the law is reasoned and well thought out in its original form, and she asked the Committee to deny the proposed changes.

At this time, Vice Chair Holmes, Vice Chairman, turned the meeting over to Chair Schwartz.

Bill Wagon appeared before the Committee in opposition to **HB 2083**. He stated he opposed the purpose of **HB 2083** to remove the requirement for reviews of the environmental impact involving properties designated for historic preservation ([Attachment 9](#)).

Kansas State Senator Francisco submitted written testimony from Dennis J. Brown, President of the Lawrence Preservation Alliance, in opposition to **HB 2083** ([Attachment 10](#)).

Pedro Irigonegaray, Counsel for Friends of Bethany Place, presented testimony in opposition to **HB 2083** ([Attachment 11](#)). He stated the present status of the law provides a fair and reasonable process for the protection and preservation of our historic sites. **HB 2083** removes from our laws important safeguards for the protection of Kansas' historic heritage.

Julia Manglitz, Chair of the American Institute of Architects Kansas Committee for Historic Resources, presented testimony in opposition to **HB 2083** ([Attachment 12](#)). She stated this bill eliminates the notice to the State Historic Preservation Officer of proposed projects that may encroach upon or are within the environs of historic properties listed on the State or National Register of Historic Places. She asked the Committee not to approve the bill, which she said would harm irreplaceable historic properties and the rich stories they tell.

Barbara Quaney, President of Friends of Bethany Place, submitted written only testimony in opposition to the proposed changes in Kansas preservation law, **HB 2083** ([Attachment 13](#)).

Chair Schwartz invited anyone else who would like to present testimony in regard to **HB 2083**.

Cindy Sundell-Guy with Century 21 presented testimony in opposition to changes in **HB 2083** ([Attachment 14](#)).

Clair Wellenberg, a realtor in the Wichita area, submitted written-only testimony from David Franks, also a realtor in the Wichita area ([Attachment 15](#)). Ms. Wellenberg and Mr. Franks both are opposed to any changes to **HB 2083**.

Questions and answers followed.

At this time, Chair Schwartz closed the hearing on **HB 2083**.

Chair Schwartz informed the committee that the Office of the Revisor of Statutes had drafted a balloon amendment for the committee's consideration on the three annexation bills (**HB 2029, HB 2030, and HB 2031**) recommended by the Interim Committee. Ken Wilke, Staff, guided the committee through the balloon amendment pointing out the various amendments necessary to combine the three bills. It was moved by Representative Heubert, seconded by Representative Seiwert that the three bills **HB 2029, HB 2030, and HB 2031** be combined. The motion carried.

After discussion, the Committee determined that additional clarifying language needed to be added to **HB 2029** in regard to qualified voters. Representative Goico offered a substitute motion that clarifying language be added to **HB 2029** as amended. The substitute motion was seconded by Representative Huebert. The motion carried with two opposing votes.

After a brief discussion, it was moved by Representative Goico that the committee pass **HB 2029** as amended favorably for passage, seconded by Representative Otto. The motion carried with one opposing vote.

The next meeting is scheduled for February 17, 2009.

The meeting was adjourned at 5:30 p.m.

Representative Sharon Schwartz, Chair