

## MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Sharon Schwartz, Chair at 3:32 p.m. on February 5, 2009, in Room 446-N of the Capitol.

All members were present except

Representative Mike Peterson - Excused

Representative Mike Slattery - Excused

Committee staff present:

Ken Wilke, Office of the Revisor of Statutes

Jill Shelley, Kansas Legislative Research Department

Carol Bertram, Committee Assistant

Conferees appearing before the committee:

Brad Smoot, No Annexation Coalition

Norman Pishney, No Annexation Coalition

Tom Watson

Don Moler, Executive Director, League of Kansas Municipalities

Michael M. Shultz, Overland Park

Dave Holtwick, Vice President of Government Affairs, Overland Park Chamber of Commerce

Whitney Damron, City of Topeka

Melissa Mundt, Assistant City Administrator, City of Gardner

Doug Mays, City of Olathe

Others attending:

See attached list.

Representative Schwartz, Chair, noted that the minutes of the January 15 and January 20, 2009 meetings were distributed to the committee members electronically. Since there had been no changes or revisions requested, Chair Schwartz asked for a motion to approve the minutes. Representative Goico moved that the minutes of the January 15 and January 20, 2009 meetings be approved as written, seconded by Representative Huebert. The motion carried.

Representative Schwartz, Chair, opened the hearing on **HB 2030–Cities; annexation; board of county commissioners; agriculture land restriction.**

Chair Schwartz recognized Ken Wilke, Office of the Revisor of Statutes, who presented an overview of **HB 2030** noting the changes recommended by the Special Committee on Eminent Domain in Condemnation of Water Rights.

Concerning questions, Chair Schwartz stated that the committee will hear all the proponents and then ask questions.

Proponents:

Brad Smoot, Legislative Counsel for No Annexation Coalition, presented testimony as a proponent to **HB 2030** (Attachment 1). He noted that the No Annexation Coalition is composed of landowners in the 15 square miles of land recently proposed for annexation by Overland Park, and said this appears to be the largest involuntary annexation in Kansas history. The No Annexation Coalition believes that K.S.A. 12-521 deserves immediate attention. This statute should be repealed or amended to limit the amount of land which may be annexed.

Norman C. Pishny presented testimony as a proponent to **HB 2030** (Attachment 2). He said that the Special Committee on Eminent Domain in Condemnation of Water Rights got it right. There are a multitude of issues with current annexation statutes, but the revisions that committee proposed addresses the top issues. Therefore, he believes **HB 2030**, which requires landowner approval for annexation of 21 acres unplatted agricultural land, should be implemented into law.

Representative Schwartz, Chair, recognized Tom Watson who spoke as a proponent to **HB 2030**. No written

## CONTINUATION SHEET

Minutes of the House Local Government Committee at 3:32 p.m. on February 5, 2009, in Room 446-N of the Capitol.

testimony was provided the committee. Mr. Watson said he owns land in the area proposed for annexation.

Questions and answers followed.

Opponents:

Don Moler, Executive Director, League of Kansas Municipalities, presented testimony in opposition to **HB 2030** (Attachment 3). He noted that to adopt the language found in **HB 2030** would limit the ability of cities to effectively use the annexation power found in K.S.A. 12-521, and would significantly modify many years of sound public policy in this state.

Michael M. Shultz, City of Overland Park, presented testimony in opposition to **HB 2030** (Attachment 4). He stated the City of Overland Park opposes the bill because it will interfere with the proper growth and development of city and county governments and the regions in which they exist. Also, the annexation of tracts of land of 21 acres or more and devoted to agricultural use can provide benefits to the community as a whole and is not detrimental to the owner of the land or the community. Where such danger exists as part of an annexation, the board of county commissions has the right to deny a city from annexing such land.

Dave Holtwick, Vice President of Government Affairs with the Overland Park Chamber of Commerce, presented testimony in opposition to **HB 2030** (Attachment 5). He stated **HB 2030** would impede a city's ability to plan for and accommodate growth causing the growth that is going to occur to be less efficient and more costly. In Overland Park, there are policies and procedures in place now to allow a rural area to be joined to a city when it begins to be urbanized. **HB 2030** will disrupt the natural development pattern that is occurring now. Therefore, he encouraged the committee to oppose **HB 2030**.

Whitney Damron, City of Topeka, presented testimony in opposition to **HB 2030** (Attachment 6). He stated to require a city to annex land in small parcels or in the alternative, to work around agriculture land that is not platted with no means to require a property owner to acquiesce to annexation into the city, will create a significant impediment to orderly growth.

Chair Schwartz invited questions from the committee. The opponents responded as they were called upon.

Written Testimony:

Representative Schwartz, Chair, drew the committee's attention to four written only testimonies received:

- John Donley, Assistant General Counsel, Kansas Livestock Association, submitted written only testimony as a proponent to **HB 2030** (Attachment 7).
- Terry Holdren, National Director, Kansas Farm Bureau Government Relations, submitted written only testimony as a proponent to **HB 2030 & 2031** (Attachment 8)
- Ron R. Fehr, City Manager, City of Manhattan, submitted written only testimony as an opponent to **HB 2030 & HB 2031** (Attachment 9).
- Melissa Mundt, Assistant City Administrator, City of Gardner, submitted written only testimony as an opponent to **HB 2030 & HB 2031** (Attachment 10).

Chair Schwartz reminded the committee that a written only testimony had been previously received from Rob Chestnut, Vice-Mayor of the City of Lawrence, who opposes all annexation bills.

There being no further conferees appearing before the committee in regard to **HB 2030** the hearing on **HB 2030** was closed.

Representative Schwartz, Chair, opened the hearing on **HB 2031 - Cities; annexation; board of county commissioners decision; election required.**

Chair Schwartz recognized Ken Wilke, Office of the Revisor of Statutes, who presented an overview of **HB 2031**, noting the changes recommended by the Special Committee on Eminent Domain in Condemnation of

## CONTINUATION SHEET

Minutes of the House Local Government Committee at 3:32 p.m. on February 5, 2009, in Room 446-N of the Capitol.

Water Rights.

Proponents:

Brad Smoot, Legislative Counsel for No Annexation Coalition, was present to present testimony as a proponent to **HB 2031**. Since his testimony on **HB 2030** was combined with his testimony to be presented on **HB 2031**, he directed the committee's attention to his previous testimony which is part of Attachment 1 of these minutes. Mr. Smoot went on to answer questions directed to him by the committee.

Chair Schwartz recognized Norman C. Pishny who was present to present testimony as a proponent to **HB 2031**. Mr. Pishny had presented testimony earlier as a proponent to **HB 2030** and at that time his testimony was combined with **HB 2031**. His testimony for **HB 2031** is part of Attachment 2 of these minutes.

Opponents:

Don Moler, Executive Director, League of Kansas Municipalities, presented testimony in opposition to **HB 2031** (Attachment 11). Mr. Moler stated **HB 2031** takes the decision-making authority away from the elected officials of the county who represent the individuals in the area to be annexed and replaces it with a vote of the people who live in the area or who own land in the area. The idea that a handful of landowners should be determining what is best for the community at large is bad public policy. Mr. Moler went on to answer questions directed to him by the committee.

Michael M. Shultz, City of Overland Park, presented testimony in opposition to **HB 2031** (Attachment 12). He summarized that the state needs to figure out how to grow the economy and promote job development. It is difficult to see why the state should change 100 years of annexation law to placate the special interests of persons who want the benefits of being near a city, but who do not want to share in the burdens that come as part of being part of a community. The state needs to trust our elected officials and let city and county officials perform their obligations in the same way that the members of this legislature do. Mr. Shultz went on to answer questions directed to him by the committee.

Dave Holtwick, Vice President of Government Affairs with the Overland Park Chamber of Commerce, presented testimony in opposition to **HB 2031** (Attachment 13). He noted that the process currently in place has been shown to work well and provides multiple opportunities for review and evaluation before annexation moves forward.

Whitney Damron, City of Topeka, presented testimony in opposition to **HB 2031** (Attachment 14). He stated that **HB 2031** would have seriously negative consequences for cities and should not be adopted. Mr. Damron went on to answer questions from Representative Mah.

After Representative Schwartz opened the floor to anyone else who would want to speak to **HB 2031**, Melissa Mundt, Assistant City Administrator, City of Gardner, who is an opponent to **HB 2030 & HB 2031** emphasized the City of Gardner supports the currently established state statutes and opposes any changes that further limit the ability of cities to grow in a planned and reasonable fashion which promotes the health, safety and welfare while fairly and equitably protecting the interests of all parties.

Doug Mays, City of Olathe, presented himself as an opponent to **HB 2031**. No written testimony was provided the committee.

Questions and answers followed.

There being no further conferees to appear before the committee on **HB 2031**, Chair Schwartz closed the hearing on **HB 2031**.

The meeting was adjourned at 5:55 p.m.

The next meeting of the committee is scheduled for Tuesday, February 10, 2009.

CONTINUATION SHEET

Minutes of the House Local Government Committee at 3:32 p.m. on February 5, 2009, in Room 446-N of the Capitol.

---

Representative Sharon Schwartz, Chair