

BOARD OF COUNTY COMMISSIONERS DOUGLAS COUNTY, KANSAS

1100 Massachusetts
Lawrence, KS 66044
785-832-5268
785-832-5148 (Fax)

November 3, 2006

Lawrence City Commission
Six East Sixth Street
Lawrence, Kansas 66044

Dear Commissioners:

It has long been recognized that the County's growth regulations were outdated and counterproductive. They were adopted in the 1960's when no one would have described any part of Douglas County as urban, nor perceived the need to protect the agricultural assets of the county. But while it has long been recognized that the county's regulations need comprehensive revision, reaching a consensus on how they should be revised, has been very difficult for both the County Commission and the entire community.

We have been committed to finding an alternative to the five-acre exemption since we took office. . We were hoping to be able to base our revisions on the recommendations of the Planning Commission. But after many months of discussion, we determined that the reforms proposed by the Planning Commission did not address all of the objectives we had. So in the spring of 2005, the County Commission agreed to take upon itself the task of thoroughly examining and updating all of the county's growth regulations. The County Commission had four important overall goals, and we believe that the proposal before you; accomplishes all of those goals:

- Repeal the five-acre exemption. This exemption was originally intended to protect the ability of a rural resident to set aside land for his children on his property. But unfortunately, the exemption eventually became a loophole that has been exploited by developers to avoid requirements to plan for rational land use.
- Rely on an administrative process to remove as much uncertainty as possible for the property owner.
- Simplify the regulations so they can be easily understood by the average citizen.
- Regulate the development of properties in the urban growth areas of the county in order to better accommodate easy and cost-effective annexation.

After eighteen months of discussion, compromise, and public meetings, the County Commissioners voted unanimously on the evening of October 18th, to endorse the attached package of changes to Horizon 2020, subdivision regulations, floodplain regulations, and zoning regulations. We respectfully submit this package to the city commission for its review and approval.

These changes would:

- prohibit new subdivisions outside the Urban Growth Areas;
- adopt the City floodplain freeboard requirements within the UGA;
- disallow septic systems within the 100 year floodplain;
- require future-looking "build-through" plans for development within the UGA;
- install mechanisms to preserve heritage sites, riparian corridors, and environmental/geographically sensitive land; and
- replace the 5-acre exemption with an allowance for no more than three building permits on a limited number of 20-acre parent parcels where the parcel has two road accesses, and no more than two building permits where there is only one road access to the parcel.

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Page 2 of Letter to Lawrence City Commission

By unanimous vote on October 26th, the County Commission also revised the county road access management standards to limit driveway cuts onto collector and arterial routes. While these standards do not require approval from the City Commission, they have been revised for the purpose of minimizing the future cost to both the city and county of upgrading these roads to accommodate higher traffic loads as the city and county grow. Specifically, these regulations replace the single 250 foot frontage standard with: 250' on a local road, 330' on a minor collector, 500' - 660' on a major collector, 660' on a minor arterial, and 1330' on a principal arterial.


We also remain deeply committed to preserving heritage sites and environmentally/geographically sensitive lands. Our fear is that a regulatory approach – involving listed assets – could lead to the destruction of those very things we would most like to preserve. Ideally, we would find incentive mechanisms so compelling that landowners would voluntarily advance preservation. We left set-aside provisions in the draft subdivision regulations, but welcome better ideas and are very willing to support a detailed consideration of Transferable Development Rights or other such incentive-driven approaches.

We hope that you recognize that this recommendation reflects the end product of a political process that by necessity contains many compromises that have left no one completely satisfied with the every detail of the final recommendation. But, we came to recognize that the compromises were essential in order to balance the public good of well planned urban and rural growth with the private rights and concerns of property owners.

We look forward to discussing these issues with you.

Sincerely,


Robert Johnson
County Commissioner


Jere McElhaney
County Commissioner


Charles Jones
County Commissioner

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Dear Commissioners:

As the Lawrence City Commission and the Douglas County Commission approach a consensus on significant improvements in the rural development regulations for the unincorporated areas of Douglas County, we would like to remind the City Commissioners of one outstanding issue that remains unresolved: the contractual restrictions on the growth of water meters contained in most of the contracts between the City of Lawrence and the Douglas County rural water districts.

From the beginning of the effort to revise the subdivision regulations, one of the county's objectives has always been removal of these meter limitations. The City of Lawrence has agreed that the meter limitations contained in these contracts, are a very poor tool for controlling growth in the unincorporated area. But the City Commissioners felt that the county's existing set of subdivision regulations, provided inadequate controls on the quality and quantity of growth in the unincorporated areas of the county, making the restrictions on the growth of rural water meters necessary.

The County Commissioners understand that the City could not renegotiate these agreements until the revised subdivision regulations were completed. We also understand that not all of the water districts in Douglas County may see the immediate need to renegotiate these contracts. However, now that the rural subdivision issues appear to be substantially resolved, we trust that the City of Lawrence will move forward with renegotiating their interlocal agreements with those rural water districts that are interested in renegotiation.

The RWD's are not asking to acquire water from the City, but rather they are asking to continue to have their water treated by the City and distributed to pickup points near the City limits. The County Commissioners feel that the City should take the future projected needs of the RWD's into account in planning for water treatment capacity, and that the City would then charge the districts appropriately for the burden this demand for treatment places on the City's infrastructure. Clearly the contract should still contain adequate controls to assure that the City is in fact treating rural water district water for the districts, rather than selling City water to the districts.

A renegotiation of the limits on the growth in meters would better protect public health by assuring that rural homeowners have access to a safe water supply on a countywide basis. The City's current policies on severely limiting the growth in water meters issued by the rural water districts, has not only been largely ineffective, it has increased the risk of a significant public health crisis by increasing the number of homes that depend on well water as their only source of supply. Well water always carries a significantly greater risk of contamination than water provided by a water district.

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Page 2 of Letter to Lawrence City Commission

We hope the City will move toward timely and good faith negotiations with the Water Districts and that revised contracts can be developed and put into effect at the earliest possible date. Toward that end, we trust the following issues will be properly addressed in those negotiations.

1. The City should give strong consideration to the elimination of limitations on water meters, and other regulation by the City on the usage of water by the RWD's. As an alternative the City and RWD'S might want to consider limitations that are tied directly to the Lawrence's need to assure that the water used by the rural water districts is limited to their water, rather than water controlled by the City of Lawrence.
2. The RWD's and the City of Lawrence should attempt to find mutually agreeable language that enables the RWD's to project their future water treatment demand, and to contract for the provision of the quantity of treatment requested from the City, on a reasonable timeframe that enables the RWD's to finance their capital improvements, and enables the City to meet the needs of the RWD's without placing any cost on the ratepayers of the City of Lawrence.

The County Commissioners believe that the proposed revision to the rural water development regulations will reduce the City's annexation costs by providing for a much improved development process in the County. We feel that these actions should enable the City of Lawrence to renegotiate its contracts with the rural water districts based upon our previous discussions.

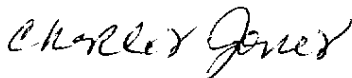
Sincerely,



Robert Johnson
County Commissioner



Jere McElhaney
County Commissioner



Charles Jones
County Commissioner