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July 13, 2017

KELLY DANAHEY
C/O JEFF LANGE REALTY
4911 S. MERIDIAN
WICHITA, KS 67217

Dear Kelly,

Enclosed is a copy of RWD #4's Subdivision Policies applicable to provision of water to proposed subdivisions and the initial cost deposit required for the preliminary engineering to determine whether or not service can be provided as requested and an estimate as to the cost of providing such service.

In addition, this proposed development faces the issue that none of the property is currently within the legal boundaries of the District. Expansion of the adjacent boundaries of the District is possible thru attachment proceedings which involves a public hearing before the Sedgwick County Commission. This hearing, in addition to the requirements of the statutes governing attachment of property to existing rural water districts, must overcome the special requirements imposed by K.S.A. 19-270 as your property is within the 3 mile urban fringe area around the City of Wichita. A marked copy of this statute is enclosed for your information.

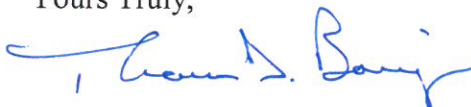
My research shows that the published 2015-2035 Urban Growth Areas Map published by the Wichita-Sedgwick County Planning Commission shows your development area clearly within the planned Wichita Growth Area. In fact it appears that your property is within .5 to .75 miles of the existing City boundaries at this time. The Future Growth Concept Map clearly shows Wichita anticipates employment type and residential uses "planned for" North of K-42 to be within the City within this time period and also at least the Eastern portion of your area South of K-42 to also be within the City limits within this time period. These expectations of the City when taken in conjunction with the requirements of K.S.A. 19-270 lead me to believe that the required super majority of the Commission vote necessary to authorize the attachment of your property to the District will be almost impossible to obtain if the City objects to the expansion of the District boundaries and provision of water by the District to your area. The FIRST MATTER TO BE DETERMINED is the City's position on the attachment and service by the District. There is even a SECOND MATTER TO BE DETERMINED in the event the City is initially opposed.

Since City water is not currently on site and the current cost of extending such services from the existing City line to your area may be prohibitive, it may be possible to negotiate interim or temporary service by the District to your area until the City naturally grows out to your property. The City would then acquire or take over the lines and service and connect it to the City system when it

reaches your area. Costs for a simple attachment procedure typically run about \$3500. There may be additional costs incurred for the negotiation and preparation of special agreements with the City and its Water Department if a temporary service situation is necessary.

I have calls in to the City\County to get a preliminary indication as to their position and hope to have an answer soon. I'll call with an update this week.

Yours Truly,



Thomas D. Borniger

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19-270. Special benefit districts; creation or enlargement; approval of board of county commissioners, required. (a) (1) A special benefit district shall include any:

- (A) Sewer district;
- (B) water district, rural water district and water supply district;
- (C) fire district;
- (D) improvement district;
- (E) industrial district; and
- (F) drainage district.

(2) The fringe area of a city means the area of unincorporated territory lying outside of but within three miles of the nearest point on the city limits of a city which has adopted subdivision regulations under K.S.A. 12-749, and amendments thereto.

(b) No special benefit district shall be created, within the fringe area of any city unless approved by at least a ¾ majority vote of the board of county commissioners of the county in which the city is located. The boundaries of any such district shall not be extended within the fringe area of the city unless approved by at least a ¾ majority vote of the board of county commissioners of the county in which the city is located. If the boundaries of the district cross county lines and if the district to be created or the boundaries to be extended would be located within the fringe area of a city, the board of county commissioners of each county in which such a city is located shall be required to approve the creation of the district within the fringe area of the city or the extension of the boundaries of the district within the fringe area of the city by at least a ¾ majority vote of the board. If a hearing is not already required to be held prior to the creation or expansion within the fringe area of a city of a special benefit district, the board of county commissioners shall call and hold a hearing on the proposed action. Notice of the hearing shall be published once in the official county newspaper. The notice shall be published at least seven days prior to the date of the hearing.

At the hearing, the board shall receive testimony from the city, township, county or regional planning commission having jurisdiction over any of the affected land area. Such testimony shall address any incompatibilities between the creation or expansion of the district within such fringe area and any adopted land use or comprehensive plans. The governing body of the city may present testimony of any proposed annexation of the affected land area. Any interested person may present testimony before the board. As a guide in determining the advisability of authorizing the creation or change in boundaries of a special benefit district within the fringe area of a city, the board's considerations shall include, but not be limited to, any testimony offered at the public hearing concerning: (1) The size and population of such city; (2) the city's growth in population, business and industry during the past 10 years; (3) the extension of its boundaries during the past 10 years; (4) the probability of its growth toward the territory during the ensuing 10 years, taking into consideration natural barriers and other reasons which might influence growth toward the territory; (5) the willingness of the city to annex the territory and its ability to provide city services in case of annexation; and (6) the general effect upon the entire community, all of these and other considerations having to do with the overall orderly and economic development of the area and to prevent an unreasonable multiplicity of independent municipal and special district governments. The board shall approve or disapprove the creation or change in boundaries of the special benefit district within 30 days of the hearing. Any person or city aggrieved by the decision of the board of county commissioners may appeal from the decision of the board within 30 days following the rendering of the decision to the district court of the county in which the affected area is located. The appeal shall be taken in the manner provided by K.S.A. 19-223, and amendments thereto. Any city so appealing shall not be required to execute the bond prescribed therein.

History: L. 1986, ch. 70, § 1; L. 1995, ch. 57, § 1; L. 1997, ch. 143, § 1; May 8.

**Rural Water District No. 4
Sedgwick County, Kansas
SUBDIVISION DEVELOPMENT POLICY**

The District's standard measure of usage\pricing is based on a single family residential use and the majority of its bylaws, rules, and regulations and policies and procedures and costs of service are based on that unit of measure. In general, the District's water system is designed, built, and operated for the primary purpose of providing single family residential service.

Subdivision development however has characteristics of both commercial use and residential use. These projects present different engineering, cost, and service issues to the District than individual single family service. Typically, on subdivisions, the District allows the water line extensions (the "line extensions") to be designed and constructed prior to and separate from the acquisition of the actual right to receive water (the "benefit unit").

On subdivisions, the District's policy is to require that the development comply with the District's Subdivision Guidelines attached as Exhibit A which generally provide for the construction and payment for water distribution lines throughout the development. This is solely a line extension project, although the District will not approve the project unless it has sufficient capacity at the time the project is approved for construction to serve the subdivision. Such capacity is not reserved in any way.

No water service is guaranteed or reserved to any lots or tracts in the subdivision unless water benefit units are applied for and obtained at the time the project is approved for construction or, if capacity is thereafter still available, at the date of acceptance of application. There is a separate cost for each such benefit unit and a minimum monthly payment required on each such benefit unit. The District will process **completed** water benefit unit applications in the order in which the **completed** water benefit applications are received. If and when a water benefit unit is acquired for a particular lot, then all interior lines (from the member's side of the meter on) shall be installed and maintained by the member-owner in compliance with all State, Local, and Federal statutes, rules and regulations, including all KDHE standards regarding the transmission and delivery of potable water.

THE DISTRICT RESERVES THE RIGHT TO CHANGE THE GUIDELINES FROM TIME TO TIME. NOTWITHSTANDING THE GENERAL POLICY, THE DISTRICT MAY REQUIRE OR AGREE TO OTHER ARRANGEMENTS IF IT DETERMINES SUCH IS IN THE BEST INTEREST OF THE DISTRICT AND ITS MEMBERS.

The determination of the District's ability to provide water service to a subdivision project is subject to an engineering study, to be performed at the sole cost of the applicant- developer, by the District's engineers. Matters to be analyzed include capacity at the location proposed for delivery of service, effect on system and area capacity and pressure of providing service, water and pressure availability, suggested meter size, flow restrictions and/or operational limitations, if any, maximum area/users to be served as well as any line extensions or infrastructure improvements required to provide or enable service, if service is reasonably possible and economically and operationally feasible. This study is dependent upon information such as plats, easements, proposed usages, number and location of lots, timing, etc. that must be provided to the engineer by the applicant.

After completion of the engineering study, if service is possible and feasible, the Board of Directors shall determine an estimated cost for the construction of the required water lines and the appurtenant work and determine, if necessary, such other terms and conditions as shall be applicable to such service and may cause a written agreement to be prepared setting forth any special terms and conditions to apply to such service in addition to the District's regular bylaws, rules and regulations, and such shall be submitted to applicant.

EXPENSE DEPOSIT: An expense deposit of **\$ 5400** which is equal to two times the single residential Benefit Unit cost must be deposited with the District by any applicant-developer prior to commencement of any engineering study, processing of information, or preparation of written service agreement. All legal, engineering, and other processing costs shall be charged against this deposit. Costs in excess of the deposit shall be paid by applicant within 10 days after billing. The balance, if any, of the deposit shall be applied toward the construction costs as finally determined if the subdivision water lines are constructed or in the event applicant withdraws the request for service to the subdivision, the deposit less all legal, engineering and processing fees shall be returned to applicant without interest.

NO LINE EXTENSION PROJECT TO OR WITHIN A SUBDIVISION SHALL BE DEEMED EFFECTIVE TO CAUSE ANY PORTION OF THE SYSTEM'S CAPACITY TO BE ALLOCATED OR SET ASIDE TO THE PROJECT UNTIL THE BENEFIT UNITS ARE APPLIED FOR AND THE COSTS FOR SUCH BENEFIT UNITS ARE PAID IN FULL, THE WRITTEN SERVICE AGREEMENT IF ANY IS SIGNED BY APPLICANT AND SUBMITTED TO THE DISTRICT, THE APPLICATION IS COMPLETE WITH ALL INFORMATION, PLATS, ETC. SUBMITTED AS MAY BE NECESSARY IN THE DISTRICT'S OPINION TO ALLOW THE DISTRICT TO PROCESS THE APPLICATION FOR ACCEPTANCE, AND IF CONSTRUCTION OF ADDITIONAL LINES OR INFRASTRUCTURE IS TO BE PAID BY APPLICANT, UNTIL APPLICANT'S PORTION OF THE CONSTRUCTION COSTS ARE DEPOSITED WITH THE DISTRICT.

DEVELOPMENT GUIDELINES

1. These policies and guidelines provided herein shall be applicable to subdivisions or developments involving two or more contiguous parcels of property developed at the same time.
2. Developers shall be responsible for providing required easements to the District from the point of connection with the District to and through out the development including all costs of acquisition, if any. All easements shall be in form and substance satisfactory to the District.
3. All line extensions (to the closest District line of sufficient capacity) and throughout the development shall be at developer's sole cost and expense as required by the District's Main Extension Rule and shall include all direct and indirect construction costs (including but not limited to actual construction costs, legal, engineering and inspection) and easement acquisition costs if any.
4. The following terms shall be applicable to all line extensions:
 - a. The District shall contract for and supervise and control the building of all water lines and appurtenances up to the meter locations on each lot. Developer or homeowner shall be responsible for all lines from the District's meter to the improvements on the property.
 - b. The lines up to the District's meter and the meter box, pressure regulator and check valves shall be the property of the District.
 - c. After construction of the lines, all maintenance and operation of the District's lines shall be at the sole cost and expense of the District and shall be subject to its rules, regulations, policies and Bylaws.
 - d. All designs within a development shall provide for water service to all lots without the necessity of additional road bores or additional line extensions (except in phased developments where such is agreed to specifically in writing by the District).
5. The following terms and conditions shall be applicable to the provision of water service and acquisition of water benefit units:
 - a. There shall be no guarantee or reserve of water to any lot for which a Water Benefit Unit has not been acquired as a result of the construction of pipelines within the development. Water service to any such lot shall be subject to capacity at the time application for service to such lot is made.
 - b. Each application shall be on a first come, first served basis as required by the Bylaws of the District.
 - c. The minimum monthly payment per Water Benefit Unit will commence upon the first day of the month following completion of line construction and/or acceptance of the application for water service by the District, whichever is later.
 - d. Water Benefit Units shall be assigned to specific lots or parcels at the time acceptance of an application for a water benefit unit within the development is approved by the District and its Engineer.
 - e. All transfers are subject to normal transfer costs and approval of the Board of Directors.
6. The District shall cause its Engineer to estimate the direct and indirect development/construction fees for each project. The Developer shall pay such costs in full to the District prior to any bid or negotiation of construction or the commencement of any construction.
7. The District reserves the right to review with the developer the proposed development and the benefits, if any, which may be derived by the District and any costs or other problems which may be incurred and to make such arrangements, including arrangements and charges different from those set forth herein, as shall be determined to be in the best interests of the District, in the sole judgment of the District's governing body.
8. Unless otherwise specifically agreed to by the District in writing, all developers shall be required to comply with the following terms regarding utility easements and rights-of-way, crossovers of existing lines and comply with all federal, state and local statutes, laws, rules and regulations, including specifically health department regulations, relating to potable water lines:
 - a. Along main exterior roads (mile roads) the District requires a 30' easement adjacent to and parallel to the road right-of-way (this may overlap platted subdivision utility easements) and an easement\consent from the landowner for the District's use of any public right of way on the landowners' property, if any.

b. On all interior streets the District requires a minimum 15' easement adjacent to and parallel to the street right-of-way. This may be by plat or grant of easement.

c. In all development situations where streets are or will be constructed crossing existing District water lines or where water lines are to be constructed across roadways, minimum cover to be maintained over the water line is 36" and maximum coverage is 54". The line shall be raised or lowered to maintain this coverage. Measurement of minimum coverage shall be from the lowest point (center line of ditch, etc.) above the water line. **All lines shall be encased at road crossings** from a minimum of the center line of the drainage ditch to the center line of the drainage ditch on the opposite side of the road or a minimum of 5' from the each edge of the roadway, whichever is further. *All work shall be performed and supervised by the District and the cost of modifying existing lines to comply with these requirements and costs of all such encasements shall be borne by the Developer, whether or not the Developer acquires water service for the development, as a condition precedent to any use or crossing of the District's easement or the District's prior use of public right of way.*

d. The following Protection Considerations, as currently adopted or hereinafter revised, as promulgated by the Kansas Department of Health and Environment as part of its policies governing the design of public water supply systems in Kansas are hereby adopted and incorporated as part of the requirements of Rural Water District No. 3, Sedgwick County, Kansas. All sewers, septic tanks, septic tank absorption fields and other pollution sources constructed after the construction of the District's water lines shall meet the criteria set forth in these Protection Considerations:

Protection Considerations

1. Separation of Water Mains and Sewers

a. **WATER MAINS PARALLELING AND CROSSING SEWER LINES** - When potable water pipes and sanitary sewers are laid parallel to each other, the horizontal distance between them shall be not less than 10 ft. (3.0 m). The laying of water pipes and sanitary sewers shall be in separate trenches with undisturbed earth between them.

When a water pipe and a sanitary sewer cross and the sewer is 2 ft. (.6 m) or more (clear space) below the water pipe, no extra protection to the later is needed. At all other crossings, the sewer is to be constructed of either cast iron pipe with leaded joints or approved plastic pipe with bonded joints for a distance of 10 ft. (3.0 m) in either direction from the crossing. Joints are not to be in the immediate vicinity of the water main and as far from it as practicable. Where water mains are laid across or through an area where there are existing sewers and the extra protection is needed, the existing sewers shall be encased in concrete with a minimum of 5 inches (15 cm) thickness for the required distance on each side of the crossing.

b. **WATER SERVICES AND BUILDING SEWERS** - The same horizontal separation requirements as listed above apply to water service lines and building sewers. The same vertical distance separations and the extra protections as required above for potable water mains and sanitary sewers apply in the same manner to water service pipes and building sewers.

c. **SEWER CONNECTIONS** - There are to be no physical connection between any parts of the potable water system with building sewers, sanitary sewers or wastewater treatment facilities by means of which it would be possible for sewage, even under exceptional circumstances, to reach the wells, storage reservoirs, or distribution system.

d. **FORCE MAINS** - There shall be at least a 10 ft. (3.0 m) horizontal separation between water mains and sanitary sewer force mains. There shall be an 2 ft (0.6 m) vertical separation at crossings as required above.

e. **SEWER MANHOLES** - No water pipe shall pass through or come in contact with any part of a sewer manhole.

f. **DRAINS** - Underground drains from fire hydrants or valve pits should not be directly connected to sewers or storm drains.

2. Separation of Water Mains and Other Pollution Sources - It is of utmost importance that potable water lines be protected from any source of pollution. The following shall pertain to instances where individual or industrial septic tanks, absorption fields, waste stabilization ponds, wastewater lines discharging into roadside ditches, feedlots, or other sources of pollution are encountered.

a. A minimum distance of 25 ft. (7.6 m) shall be maintained between all potable water lines and all septic tanks, waste stabilization ponds, or open sewage discharge locations.

- b. Under no circumstances shall a water line extend through a septic tank tile absorption field, or feedlot. All water lines shall be located a minimum of 25 ft (7.6 m) from the farthest known extent of any sewage absorption. Under no condition will it be considered that encasement of the water main through an area of real or potential pollution would provide the protection needed to the water supply.

It should be noted that the above requirements were adopted specifically for rural water mains, but are equally applicable for use by cities in non-sewered residential areas.

3. Cross-Connections - There should be no physical connection between the distribution system and any pipes, pumps, hydrants, tanks, or non-potable water supplies whereby unsafe water or other contaminating materials may be discharged or drawn into the system. KDHE approval shall be obtained for interconnections between potable water supplies. KDHE does not approve of interconnections of RWD lines and individual or independent water supply sources such as home wells. Neither steam condensate nor cooling water from engine jackets or other heat exchange devices shall be returned to the potable water supply.

APPROVED AND ADOPTED: NOVEMBER 30, 2000
REVISED: APRIL, 2001
REVISED: JANUARY 27, 2005