

DR 79-3 - Proposed Wichita  
Zoning Commission

# ACTION

| COMMITTEE                                                            | DATE          |
|----------------------------------------------------------------------|---------------|
| M.A.P.C. <i>Recommend that City Zoning Commission not be Created</i> | <i>2-1-79</i> |
| B.C.C./B.C.C.                                                        |               |

DR 79-3 - Proposed Wichita  
Zoning Commission

*Reply  
File in MAPC*

March 22, 1979

E. H. Denton, City Manager  
Robert A. Lakin, Director of Planning  
City Zoning Commission

In evaluating the proposed action of the City Commission to create a separate zoning commission, apart from the MAPC, I do not believe there will a significant change or set of requirements involved in our staffing and support services. It is my understanding the intent of the governing body of the City is that the Metropolitan Area Planning Commission would continue to exist to consider other items. It is my further understanding that the Metropolitan Area Planning Department would remain a single department servicing the Metropolitan Area Planning Commission, and the new City Zoning Commission. It is my further opinion that, should such a City Zoning Commission be created, the County would, in all likelihood, establish a separate County Zoning Commission to handle their particular zoning.

The main impact would be servicing three separate groups. Although the number of cases would remain constant, there would be a slight increased time required to prepare three separate agendas and minutes, as well as to provide staff to service the meetings at independent times. There is also the problem of finding senior staff time to set with these boards at independent times. Although theoretically it should not take any more time, just simply setting up and holding separate meetings will increase time obligations of staff in servicing these boards. We are already grossly overextended in the area of Current Plans, and in servicing the Planning Commission, Subdivision Committee, and existing Board of Zoning Appeals. The use of my Administrative Secretary to take minutes for the MAPC already results in overtime, as well as inability to have her services available for my use as Department Director and for other department affairs. Accordingly, I would estimate that we would need additional resources for one-half Secretary II position, and one-half Principal Planner time in order to properly service these boards, in addition to what we are currently undertaking. This would result in a cost of 17,575 dollars per year. Also the sending of separate agendas and separate mailouts therefor would result in approximately 3,445 additional dollars in terms of postage and duplication, and separate handling, assembling charges, stationery stores, and/or outside printers.

*See BCC  
action 5-17-79*

E. H. Denton, City Manager  
March 22, 1979  
Page 2

In summary such a change would create the need for 21,020 dollars. No internal organizational changes would be required within the MAPD staff.

I've also inquired of Central Inspection what costs they might have if they were to be involved in enforcement of zoning within three miles of the City of Wichita. Attached is a reply from Mr. Feldner which you have received earlier under separate cover.

---

Robert A. Lakin  
Director of Planning

RAL:rme  
Attachment

THE CITY OF WICHITA  
OFFICE OF Central Inspection Division

DATE March 1, 1979




TO E. H. Denton, City Manager  
FROM Robert B. Feldner, Superintendent of Central Inspection

SUBJECT City Zoning Commission

Re: Memo from Director of Planning to Director of Housing and Economic Development on the above subject and dated February 5, 1979

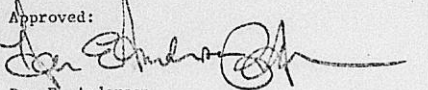
Upon receipt of the correspondence, Central Inspection collected all information available on the area within three miles of the city. Unfortunately, "hard", factual information pertinent to zoning enforcement is largely unavailable. Thus, a partial survey of the area was conducted. This survey, utilizing the Zoning Ordinance of the City of Wichita as the standard of comparison, indicated literally hundreds of violations: particularly in and around the areas north of Beech Aircraft, Park City, Shulte, Prospect, Oatville, Midland and Oaklawn. It is evident that if a viable inspection/enforcement program is to be conducted in this area, a significant expenditure (and expansion) of resources and manpower will be required.

Conversely, assuming annexation of these areas at some future date, partial resolution of the problems would have transpired. Thus, it appears the problems in these areas will need to be addressed at some future point in time. However, due to the unavailability of specific demographic data and/or experience, definitive conclusions are most difficult to ascertain.

  
Robert B. Feldner  
Superintendent of Central Inspection

RBF:mml

cc: Robert Lakin, Director of Planning Department ✓  
Robert Finch, Deputy City Manager

Approved:  
  
Don E. Anderson  
Director of Housing and Economic Development

WICHITA-SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT

|                    |            |
|--------------------|------------|
| RECEIVED           | DATE       |
|                    | FEB 6 1979 |
| Central Inspection | Division   |

TO Don E. Anderson, Director of Economic Development  
 FROM Robert A. Lakin, Director of Planning  
 SUBJECT City Zoning Commission

The Board of City Commissioners has indicated an interest in creating a City Zoning Commission separate and apart from the MAPC. One of the questions asked of me by the Manager's office, has been what organizational change would be required if such a change occurred. As a part of organizational change, financial considerations were also to be taken into account.

Part of the City Commission's request was to consider as jurisdiction, the area three miles within the City of Wichita as well as that within the City. I would assume that if this jurisdiction was obtained, that we would be required to enforce within that area, as well as hear zoning changes. As enforcement is your departmental responsibility, would you please provide to me and/or to the City Manager directly, your assessment of what additional cost and/or problems you might have organizationally to enforce zoning within the three mile area of Wichita. It has been forwarded to the Board of County Commissioners for their comment, and I assume will be scheduled before the City when the County returns its comments. If you have any questions, please advise.

COPY

*RAL*  
 Robert A. Lakin  
 Director of Planning

RAL:rme

cc: Robert Feldner, Superintendent of Central Inspection  
 Robert Finch, Deputy City Manager

|           |            |
|-----------|------------|
| ROUTE TO: | DATE       |
| <i>AI</i> | <i>2-7</i> |
| <i>JD</i> |            |

March 19, 1979

Metropolitan Area Planning Commission

Robert A. Lakin, Director of Planning

City Zoning Commission

Attached is a response from the County to the City on City Zoning Commission. Attached also is a copy of your minutes and your position, as well as my comments and that of Central Inspection.

This is for your information.

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Robert A. Lakin  
Director of Planning

RAL:rme  
Attachments



SEDGWICK COUNTY, KANSAS  
BOARD OF COUNTY COMMISSIONERS

TOM SCOTT  
CHAIRMAN  
COMMISSIONER SECOND DISTRICT

DONALD E. GRAGG  
CHAIRMAN PRO-TEM  
COMMISSIONER FIRST DISTRICT

EVERETT PATRICK  
COMMISSIONER  
THIRD DISTRICT

COUNTY COURTHOUSE • SUITE 320 • WICHITA, KANSAS 67203 • TELEPHONE (316) 268-7411

March 16, 1979



The Honorable Connie Peters  
Mayor  
City of Wichita  
City Hall  
Wichita, Kansas 67202

Re: City-County Zoning Boards

Dear Mayor Peters:

I apologize for the delay in answering your letter of January 30, 1979, pertaining to the above referenced zoning boards. In response to your question, I would like to state that I am strongly opposed to separate zoning boards for many reasons. If I understand the concept correctly, the proposed city board will control zoning within the city limits and a three mile ring, which is a growth area, then this, of necessity, would dictate that they will impose their will and thinking on the county population.

If the Metropolitan Area Planning Commission is not getting along now, it is only some people and time has a way of taking care of those people.

I think that if anything is done to change the duly constructed body of MAPC, it will set in motion a self-destructive action which would be most detrimental to the citizens of the city and county. When two governments live as closely together as the City of Wichita and Sedgwick County, whose goals and prosperity of the community are so closely interrelated, they cannot allow the destiny of that city or that county to rely upon three or four votes that are perhaps in the majority today, but become the minority tomorrow.

The Honorable Connie Peters  
March 16, 1979  
Page 2

I have transmitted copies of this letter to the interested parties and if the Board of County Commissioners can be of further assistance, please contact us.

Sincerely yours,



Tom Scott, Chairman  
Board of County Commissioners

/ct


cc: The Honorable Don Gragg, County Commissioner  
The Honorable Everett Patrick, County Commissioner  
The Honorable Board of City Commissioners  
E. H. Denton, City Manager  
Robert A. Lakin, Director of Planning

February 15, 1979

The Board of City Commissioners  
(Through the City Manager)  
Robert A. Lakin, Director of Planning

Proposed Wichita Zoning Commission

At the time the City Commission considered the above item, one of the Commissioners requested that the proposal be brought to the attention of the MAPC for their review and comments. The Planning Commission, in considering this item, by a motion of five in favor (Bell, Bayouth, Taylor, Savina and Hennessy), and two opposed (May and Cole) voted to adopt comments made by Commissioner Taylor as the Commission's position. These comments are setforth in full in the attached minutes.

  
\_\_\_\_\_  
Robert A. Lakin  
Director of Planning

RAL:rme  
Attachment

EXCERPT FROM PLANNING COMMISSION MINUTES OF FEBRUARY 1, 1979:

20. Development of comments concerning the City Commission's proposal to create a City Zoning (Planning) Commission.

ROBERT A. LAKIN, Director of Planning, stated that the above titled proposal has been suggested by Commissioner Porter to the City Commission and they have, by unanimous vote of those present, referred it to the County Commission. He said that the City Commission was asking the County to concur in allowing the City to create a City Zoning Commission with responsibility for recommending zoning within the City of Wichita, and three miles thereof. LAKIN said that it was his understanding that the City Commission's position was it would not change the MAPC as to its other roles of Subdivision approval and/or Comprehensive Planning, and would not affect the staff. There was a request by one of the City Commissioners to have some response from the Planning Commission before they finally acted, and also that staff prepare some information. He said that he had not had time to write anything on the subject, but that he had been asked by the City Manager to comment relative to cost and what it might do organizationally.

LAKIN said that from an organizational standpoint he did not see where it would change very much at all from the Planning Department's standpoint. It would require a moderate amount of additional effort to send agendas, attend three meetings even though the number of cases of zoning, City, County and other planning items would not change. The assumption is that the end result of such a proposal would be a City Zoning Commission, a County Zoning Commission, and the Metropolitan Area Planning Commission. He said that he anticipated the staff feeling some crunch and maybe having to ask for moderate budget increases primarily for secretarial time. He has not discussed it with Mr. Anderson, but if the City was to embark in three mile ring zoning or granting zoning, it would need to include the enforcement of the zoning which would impact Central Inspection. However, this should also slightly reduce the requirements for the County. The County would still be issuing construction permits in the same area, thus precluding any significant staff reduction.

JONES stated that the trend of thinking of people generally is that there should be fewer commissions and boards instead of more. He said that he noticed by the newspaper that the Commissioner who had introduced this idea of having a separate city zoning commission referred to the fact that it was not right to have someone from Derby deciding on Wichita (zone) cases. If residency is determined to be a valid qualification for voting on zone cases, he questioned why it would not also apply to other matters pertaining to Wichita, such as whether the Allis Hotel should be used for a transit center or whether it should be designated as an historic landmark. He felt no more or no less qualified to vote on one or the other. He believed that he was the only one of the ten MAPC members that lives outside the boundaries of the City of Wichita, and he was not about to change his location in order to be qualified to act on zoning matters. He did not see where it made any difference on one's qualification and/or abilities whether he was a City appointee or County appointee.

BELL stated he was interested in Mr. Jones' comments because a great part of his thinking parallels his thinking on this matter at this point. He appreciated having Mr. Jones on this Commission. He didn't always agree with Mr. Jones' votes or position, but it was in keeping with his philosophy in understanding what this Commission has been all about was to have wide segments of the total community to act as a sounding board for these various interests, and to permit an opportunity for a resolution of different interests. Sometimes it takes a person with a little distance from the problem to have enough perspective to say it wasn't right, and felt that this was a valuable thing to have on a Commission like this. He felt that City-County cooperation has long been a goal of more enlightened leaders of our local government, and felt it should continue to be. He said the concept of creating a schism where none truly exist is ill-conceived, ill-advised, and he hoped that it would be ill-fated.

TAYLOR read the following prepared statement:

"The current situation and question regarding a possible modification of the structure of MAPC represents the ultimate in case studies of the conflict between the rationality principles of planning--"the greatest benefit for the greatest number" -- with the individuals and special interest groups who play key roles in the political process of our community.

It is generally agreed by theorists that the planners' recommendations are usually based upon different criteria for decision making than that of the politicians -- the politicians tend to make decisions based upon political power and equity rather than technical merit.

A separation of powers and responsibilities in zoning would, in this commissioner's opinion, not be in the best interests of the City or of the total City-County community: 1) if for instance, the City should have its own zoning commission, but that commission does not have authority in the three-mile ring, there would be an absence of any kind of moderating influence; 2) the interests of the total community can best be served by the proper blending of zoning with planning -- zoning is not a function in and of itself -- it is a tool of planning -- the mechanism by which the public interest is protected in the execution of planning policies. As one commissioner interested in making recommendations in the broad public interest, I would urge 1) that the County Commission reject the proposed separation of zoning jurisdictions and 2) that the City Commission choose the first alternative on page 2 of the City Director of Law's memorandum of January 15, 1979 - i.e., to "abandon the idea of creating a separate zoning body". This commissioner would further urge that discussions between the City governing body and the County governing body be initiated with

a view to analyzing whether a structural and/or organizational problem does in fact exist. Family problems are most often solved by sessions around the kitchen table -- that failing, oftentimes counseling is sought from a knowledgeable person or persons outside the family. Perhaps this is a time for counseling by a knowledgeable person from outside the MAPC-City-County family who can present an objective view.

This is proposed so that the governing bodies will make their decisions regarding the future of planning in our area in a well-reasoned manner -- not on the basis of personalities or past actions of any individual or group of individuals -- but on the basis of what is best for our total community.

A United States Chamber of Commerce publication entitled: "City Planning and Urban Development" defines City or urban planning as "intelligent forethought applied to the development of the community" -- let us use "intelligent forethought".

COLE stated that part of the problem here is one with equity. He said that all of the other cities have their own zoning boards. We don't zone in Derby, Haysville or Valley Center, yet members from those particular areas could sit on this Commission and zone in Wichita. If our present posture is right for the City of Wichita, why is it then not equally right for Goddard, Cheney, Valley Center, Haysville, Derby, etc. If the overall zoning should be of impact to the whole metropolitan area, then he has as much interest in the zoning that goes on in the City of Valley Center as he does in the County or City of Wichita. COLE said that there has been some problems, some separation in votes between the County and City appointees in the past. Apparently there is a difference of opinion represented on this bench by the appointees from the separate bodies. He said that might be healthy but that it also means sometimes that nothing happens. If it works well for the City of Derby, he was not sure it wouldn't work equally well for the City of Wichita, or conversely if our present posture is good for the County and Wichita, then that posture should be extended to the other second class cities.

JONES remarked that unless he had been badly misinformed this Commission does not zone for Wichita either, they make recommendations. The elected officials are the ones that make the final determination. If his vote was out of line because it was out of territory, that could be corrected at the City Commission meeting. Just because he lives five miles from the City of Wichita instead of three, as he understood it, if he was within the three-mile limit, he would be eligible for appointment. He said that he was not trying to preserve his position on this board, but if Wichita should grow the boundaries would change too, and there's no question that the people in Derby or between Wichita are also interested in Wichita. He said he also read that one of the Commissioners had said that

some unfortunate appointments had been made, but added that sometimes the electorates makes unfortunate decisions too.

MAY asked Lakin to discuss the three-mile ring, and what the State Statutes tell us about under whose jurisdiction this would fall at the present time.

LAKIN said that there tends to be some confusion when talking about the three-mile ring in areas other than zoning such as in terms of subdivision control and planning jurisdiction under City planning Statute. He pointed out that the City of Wichita, as do all other cities, maintain the last say so of granting zoning changes within their corporate boundaries, and under State Statute no one else may do that. There is a different pattern existing in the extra-territorial areas (three-mile ring area). He said there is legal authority now for cities to do zoning outside the City if the Board of County Commissioners chose not to exercise their authority to zone in that area themselves. LAKIN said that we have both situations in this county. The County exercises zoning authority around Wichita, Goddard, Haysville, Valley Center, Cheney, and Mulvane. Some of the third class cities, Mount Hope, Andale, Colwich and Garden Plain exercise zoning both within and without their cities. It is a matter of the Board of County Commissioners determining whether or not they think it most appropriate that they maintain that control or whether they grant it back to the cities. He felt that in the unincorporate area of this county, he would prefer to see one set of zoning regulations the same as now exists for building codes.

BAYOUTH stated that he lived in Wichita and he was a County appointee. He did not feel the argument was valid.

SAVINA stated that several years ago the Planning Commissioners asked Lakin to make a report like this as to how many of the MAPC recommendations were followed by the City. He said that in answer to Mr. Cole statement about being treated like Colwich and Derby, etc., he could get treated that way, but the only way he could be treated that way was to dissolve the Metropolitan Area Planning Commission and be a complete City Planning Commission. He said that there had to be a hidden prejudice of some sort to take away the zoning recommendations of this Commission. He felt that this Commission makes a sounding board out of some problems that perhaps they shouldn't, but he did not know of anything healthier.

**MOTION:** That the Planning Commission adopt the comments of Commissioner Taylor as the recommendation of this Commission. Bell moved, Bayouth seconded.

COLE felt that Mr. Jones was taking the comments as though they were directed at him personally. COLE said that he didn't believe that it was, it was directed at a representative of another city having power in Wichita that a Wichita

representative would not have in another city. The record would probably show that he had complimented Mr. Jones many times, and was happy that he was on this Commission, and was happy to serve with him. He said the record would also show that where there was a split vote, more often than not, he would vote with Mr. Jones. The intent of the change is that there be equity. He remarked on the comment by Mr. Savina, that the only way to get Wichita treated the same way as the other cities was to dissolve the MAPC, was obviously absurd at face value. Colwich is treated the same as Andale or other cities now with the MAPC being in existence. He indicated he would vote against the motion.

MAY explained her vote, stating that she favored consideration of the split originally between the Commissions based on what would happen to the three-mile ring and the results that would take place, because the City would probably not have jurisdiction over them. However, she asked that the record show that she was voting in opposition to the motion, not because she disagreed, but because her basis for judgment was other than Mrs. Taylor was offering to them.

VOTE ON THE MOTION: It carried with a vote of 5 in favor (Bell, Bayouth, Taylor, Savina and Hennessy), and 2 opposed (May and Cole). Jones abstained from voting. Barrier and Greider were absent.

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DR 793

February 5, 1978

Don E. Anderson, Director of Economic Development

Robert A. Lakin, Director of Planning

City Zoning Commission

The Board of City Commissioners has indicated an interest in creating a City Zoning Commission separate and apart from the MAPC. One of the questions asked of me by the Manager's office, has been what organizational change would be required if such a change occurred. As a part of organizational change, financial considerations were also to be taken into account.

Part of the City Commission's request was to consider as jurisdiction, the area three miles within the City of Wichita as well as that within the City. I would assume that if this jurisdiction was obtained, that we would be required to enforce within that area, as well as hear zoning changes. As enforcement is your departmental responsibility, would you please provide to me and/or to the City Manager directly, your assessment of what additional cost and/or problems you might have organizationally to enforce zoning within the three mile area of Wichita. It has been forwarded to the Board of County Commissioners for their comment, and I assume will be scheduled before the City when the County returns its comments. If you have any questions, please advise.

  
Robert A. Lakin  
Director of Planning

RAL:rme

cc: Robert Feldner, Superintendent of Central Inspection  
Robert Finch, Deputy City Manager

# THE CITY OF WICHITA

January 30, 1979

OFFICE OF THE MAYOR  
CITY HALL - FIRST FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 258-4331



The Honorable Tom Scott, Chairman  
Board of County Commissioners  
Sedgwick County Courthouse  
Wichita, Kansas 67203

Dear Tom:

On January 23, 1979, the Wichita City Commission discussed the possibility of establishing a city zoning board to review and make recommendations to the City Commission on all zoning matters in the city and the three mile ring. The discussion was based, in part, on the legal opinion of the City Attorney (copy enclosed) which outlined the legal options of the City Commission.

The City Commission has asked that I convey to you and the members of your Board the consensus of the majority of the Commission that a city zoning board be created within the structure of the MAPC for zoning matters only. The city zoning board could be composed of the city appointees of the MAPC with additional representation by persons in the three mile ring. Likewise, we would anticipate that the county appointees would rule exclusively on those zoning matters outside the city jurisdiction.

It is our intent that comprehensive and long range planning activities, which are certainly of metropolitan concern, continue to be conducted on a metropolitan basis under the current structure of the MAPC.

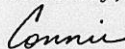
The general philosophy of the City Commission in making this request is that zoning matters are generally of a localized concern; thus they should be addressed at the city level exactly as do other cities in Sedgwick County that have a city zoning board.

Please bring this matter to the attention of the Board of County Commissioners. We would ask that you provide us an indication of whether your Board will cooperate with the City in effecting the creation of a city zoning board.

THE CITY OF WICHITA  
The Honorable Tom Scott  
January 30, 1979

If you or your Board would like to meet and confer, please advise me and a meeting can be scheduled at a mutually convenient date.

Sincerely,



Connie A. Peters  
Mayor

CAP/tgt

Enclosure

cc: The Honorable Don Gragg, County Commissioner  
The Honorable Everett Patrick, County Commissioner  
The Honorable Board of City Commissioners  
E. H. Denton, City Manager  
Robert A. Lakin, Director of Planning

THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE January 15, 1979

|                                   |                               |
|-----------------------------------|-------------------------------|
| Office of the City Manager        |                               |
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TO ROBERT G. FINCH, DEPUTY CITY MANAGER

FROM JOHN DEKKER, DIRECTOR OF LAW

SUBJECT Wichita Zoning Commission

This analysis is in response to your memo of December 13, 1978 concerning the establishment of a Wichita zoning commission. This matter was reviewed with Mr. Lakin, Director of Planning, is based on existing law and does not involve a change in the state statutes.

The present zoning regulations applying to the City of Wichita are interwoven directly into the function and jurisdiction of the Wichita - Sedgwick County Metropolitan Area Planning Commission by reason of:

1. K.S.A. 12-716, authorizing cooperating cities and counties to engage in joint planning and zoning cooperation and activities; and
2. The joint ordinance-resolution adopted by the City and Sedgwick County on December 29, 1967; and
3. The agreement between the county and the city implementing the provisions of the joint ordinance-resolution.

The Metropolitan Area Planning Commission constitutes the joint "planning commission" contemplated by K.S.A. 12-716. Said state statute does not authorize the creation of "sub-agencies". By reason of the above referenced joint ordinance-resolution and agreement, all of the planning and zoning activities of Wichita and the county have been transferred to the Metropolitan Area Planning Commission.

#### Step One

Because of the involvement of Wichita (city) zoning under the existing law the first step would seem to mandate a conference with the Board of County Commissioners of Sedgwick County to determine the willingness of the County to go along with the proposed separation of the zoning jurisdiction from the functions and jurisdiction of the MAPC. This is probably the most important consideration at this time.

REFERENCE ITEM 45-CM  
AGENDA FOR: JAN 23 1979

Robert G. Finch, Deputy City Manager  
January 15, 1979  
Page 2.

A. If the Board of Commissioners of Sedgwick County rejects the proposal of separating the zoning jurisdiction as proposed for the City of Wichita, then one of two alternatives would appear to be available:

- a. Abandon the idea of creating a separate zoning body, or
- b. Eliminate the Metropolitan Area Planning Commission and rescind the joint ordinance-resolution and agreement. Both governing bodies could then establish their separate planning commissions under state law and independent of each other.
- c. Under the second alternative an ordinance terminating the joint ordinance-resolution should be adopted to take effect 60 days after its service upon an officer of MAPC.

Step Two

If the Board of County Commissioners concurs in the proposed separation of zoning jurisdiction, the following steps could be taken to establish a Wichita Zoning Commission.

1. The City Commission could create a city planning commission under the authority of K.S.A. 12-701 and 12-702 for the purpose of exercising zoning jurisdiction within the corporate limits of the city and the 3-mile radius or ring thereof. (The zoning functions authorized under the provisions of K.S.A. 12-707 through K.S.A. 12-715 inclusive).

- a) The County would have to abandon or rescind any zoning regulations for the area outside the City but within three (3) miles thereof (K.S.A. 12-715b).
- b) The City would have to notify the county in writing at least 60 days prior to initiating zoning regulations for such area (K.S.A. 12-715b(d)).

2. MEMBERSHIP: Not less than seven (7) nor more than fifteen (15) electors of which two (2) members shall reside outside of but within three (3) miles of the corporate limits of the city.

The terms of the first appointees shall serve respectively for terms of one year, two years and three years, divided equally or as nearly equal as possible between these terms.

Robert G. Finch, Deputy City Manager  
January 15, 1979  
Page 3.

The administrative duties of the new and separate commission could be assigned to the existing MAPD including all procedural requirements connected with zoning applications and matters.

#### Step Three

After the new commission has been created, the appointments made and the 60 day notice referred to in Step Two (sub b above) given to the County, the following action should be taken.

1. The City and the County should amend the joint ordinance-resolution to divest the Metropolitan Area Planning Commission of zoning jurisdiction within the corporate limits of the City of Wichita and the 3-mile ring surrounding the City.
2. The several ordinances and regulations contained in Chapters 2 and 28 of the City Code would have to be reviewed and changes made from the present reference to the MAPC to the newly created Commission. No serious problem would be encountered in this regard.
3. Except for the loss of zoning jurisdiction within the city and the 3-mile ring, the MAPC could continue to exercise the functions and jurisdiction it presently has including the "Comprehensive plan" authorized under K.S.A. 12-704. Under the provisions of K.S.A. 12-720, a City may continue to have its own planning commission and may request the MAPC to assume such duties and functions of local planning agencies in whole or in part.

#### Options as to Membership

It has already been pointed out that K.S.A. 12-716 does not authorize "sub-agents" under a joint planning commission nor does it preclude the possibility of a member of the MAPC being appointed to a separate and distinct City planning commission.

1. If the city commission decided to appoint the 5 city appointees presently serving on the MAPC, it could do so. However, an amendment to Chapter 2.12.010(4) would be required since said subsection prohibits the appointment of a person as a member of more than one Board or Commission of the City at the same time.

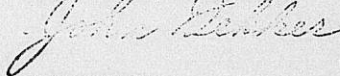
Robert G. Finch, Deputy City Manager  
January 15, 1979  
Page 4.

2. Of course, in addition to the 5 appointees an additional two electors residing outside the City limits but within the 3-mile ring would still have to be appointed.

NOTE: The state statute (K.S.A. 12-702) specifies a 3-year term whereas the governing body of the city has been operating on a 4-year basis in connection with its appointments to the MAPC.

3. Other options would be available if the state statutes were to be amended.
  - a. K.S.A. 12-702 could be amended to authorize the appointment to the new city commission for 4-year terms. This has been done in connection with the Board of Zoning Appeals (K.S.A. 12-714).
  - b. K.S.A. 12-716 and 12-718 could be amended to specifically permit "sub agency" action. This might then authorize the city appointees to the MAPC to act separately on zoning matters within the city.

Respectfully submitted,



JOHN DEKKER  
DIRECTOR OF LAW

January 25, 1979

**Metropolitan Area Planning Commission**

**Robert A. Lakin, Director of Planning**

**City Zoning Commission**

The Board of City Commissioners, at its meeting of January 22, voted to ask the Board of County Commissioners to agree to amend the Joint Ordinance-Resolution creating the MAPC and setting forth its duties. The purpose of such amendment would be to allow the City to establish a separate City Zoning (Planning) Commission to hear and recommend on zoning within the City of Wichita, and within three miles thereof. The MAPD would stay the same and all other functions of the MAPC would remain the same.

Members of the Board of City Commissioners have asked for any comment the MAPD and MAPC may have. The legal opinion from Dekker was furnished to those present at the last meeting. This item has been placed on your agenda of February 1, for you to take such action as you deem appropriate.

---

Robert A. Lakin  
Director of Planning

RAL:rme

**THE CITY OF WICHITA**

**OFFICE OF CITY MANAGER**

**DATE** January 24, 1979

**TO** Robert A. Lakin, Director of Planning

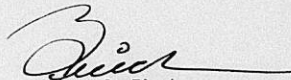
**FROM** Robert G. Finch, Deputy City Manager

**SUBJECT** Proposed Zoning Commission for  
the City of Wichita

On January 23, 1979, the City Commission authorized the Mayor to communicate with the County Commission regarding the possibility of establishing a Wichita Zoning Commission to consider only zoning matters within the City of Wichita. A copy of John Dekker's opinion which was used as the discussion paper in this matter is attached.

Concurrent with the Mayor's contacts with the County it is requested that the Metropolitan Area Planning Department (MAPD) staff evaluate the organizational and financial effects upon the Planning Department should such a separate commission be created, i.e. staffing and funding breakdown (which should be commensurate with MAPD activities for other cities in Sedgwick County).

It is also requested that you bring the proposal to the attention of the Metropolitan Area Planning Commission at an early date for its review and comments.



Robert G. Finch  
Deputy City Manager

RGF/pd  
Attachment  
cc: Connie A. Peters, Mayor





Robert G. Finch, Deputy City Manager  
January 15, 1979  
Page 3.

The administrative duties of the new and separate commission could be assigned to the existing MAPC including all procedural requirements connected with zoning applications and matters.

#### Step Three

After the new commission has been created, the appointments made and the 60 day notice referred to in Step Two (sub b above) given to the County, the following action should be taken.

1. The City and the County should amend the joint ordinance-resolution to divest the Metropolitan Area Planning Commission of zoning jurisdiction within the corporate limits of the City of Wichita and the 3-mile ring surrounding the City.
2. The several ordinances and regulations contained in Chapters 2 and 28 of the City Code would have to be reviewed and changes made from the present reference to the MAPC to the newly created Commission. No serious problem would be encountered in this regard.
3. Except for the loss of zoning jurisdiction within the city and the 3-mile ring, the MAPC could continue to exercise the functions and jurisdiction it presently has including the "Comprehensive plan" authorized under K.S.A. 12-704. Under the provisions of K.S.A. 12-720, a City may continue to have its own planning commission and may request the MAPC to assume such duties and functions of local planning agencies in whole or in part.

#### Options as to Membership

It has already been pointed out that K.S.A. 12-716 does not authorize "sub-agents" under a joint planning commission nor does it preclude the possibility of a member of the MAPC being appointed to a separate and distinct City planning commission.

1. If the city commission decided to appoint the 5 city appointees presently serving on the MAPC, it could do so. However, an amendment to Chapter 2, 12.019(4) would be required since said subsection prohibits the appointment of a person as a member of more than one Board or Commission of the City at the same time.

Robert G. Finch, Deputy City Manager  
January 15, 1979  
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2. Of course, in addition to the 5 appointees an additional two electors residing outside the city limits but within the 3-mile ring would still have to be appointed.

NOTE: The state statute (K.S.A. 12-702) specifies a 3-year term whereas the governing body of the city has been operating on a 4-year basis in connection with its appointments to the MAPC.

3. Other options would be available if the state statutes were to be amended.

- a. K.S.A. 12-702 could be amended to authorize the appointment to the new city commission for 4-year terms. This has been done in connection with the Board of Zoning Appeals (K.S.A. 12-714).
- b. K.S.A. 12-716 and 12-718 could be amended to specifically permit "sub agency" action. This might then authorize the city appointees to the MAPC to act separately on zoning matters within the city.

Respectfully submitted,

*John Dekker*

JOHN DEKKER  
DIRECTOR OF LAW

THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE January 15, 1979

TO ROBERT G. FINCH, DEPUTY CITY MANAGER

FROM JOHN DEKKER, DIRECTOR OF LAW

SUBJECT Wichita Zoning Commission

This analysis is in response to your memo of December 13, 1978 concerning the establishment of a Wichita zoning commission. This matter was reviewed with Mr. Lakin, Director of Planning, is based on existing law and does not involve a change in the state statutes.

The present zoning regulations applying to the City of Wichita are interwoven directly into the function and jurisdiction of the Wichita - Sedgwick County Metropolitan Area Planning Commission by reason of:

1. K.S.A. 12-716, authorizing cooperating cities and counties to engage in joint planning and zoning cooperation and activities; and
2. The joint ordinance-resolution adopted by the City and Sedgwick County on December 29, 1967; and
3. The agreement between the county and the city implementing the provisions of the joint ordinance-resolution.

The Metropolitan Area Planning Commission constitutes the joint "planning commission" contemplated by K.S.A. 12-716. Said state statute does not authorize the creation of "sub-agencies". By reason of the above referenced joint ordinance-resolution and agreement, all of the planning and zoning activities of Wichita and the county have been transferred to the Metropolitan Area Planning Commission.

#### Step One

Because of the involvement of Wichita (city) zoning under the existing law the first step would seem to mandate a conference with the Board of County Commissioners of Sedgwick County to determine the willingness of the County to go along with the proposed separation of the zoning jurisdiction from the functions and jurisdiction of the MAPC. This is probably the most important consideration at this time.

Robert G. Finch, Deputy City Manager  
January 15, 1979  
Page 2.

A. If the Board of Commissioners of Sedgwick County rejects the proposal of separating the zoning jurisdiction as proposed for the City of Wichita, then one of two alternatives would appear to be available:

- a. Abandon the idea of creating a separate zoning body, or
- b. Eliminate the Metropolitan Area Planning Commission and rescind the joint ordinance-resolution and agreement. Both governing bodies could then establish their separate planning commissions under state law and independent of each other.
- c. Under the second alternative an ordinance terminating the joint ordinance-resolution should be adopted to take effect 60 days after its service upon an officer of MAPC.

Step Two

If the Board of County Commissioners concurs in the proposed separation of zoning jurisdiction, the following steps could be taken to establish a Wichita Zoning Commission.

1. The City Commission could create a city planning commission under the authority of K.S.A. 12-701 and 12-702 for the purpose of exercising zoning jurisdiction within the corporate limits of the city and the 3-mile radius or ring thereof. (The zoning functions authorized under the provisions of K.S.A. 12-707 through K.S.A. 12-715 inclusive).

- a) The County would have to abandon or rescind any zoning regulations for the area outside the City but within three (3) miles thereof (K.S.A. 12-715b).
- b) The City would have to notify the county in writing at least 60 days prior to initiating zoning regulations for such area (K.S.A. 12-715b(d)).

2. MEMBERSHIP: Not less than seven (7) nor more than fifteen (15) electors of which two (2) members shall reside outside of but within three (3) miles of the corporate limits of the city.

The terms of the first appointees shall serve respectively for terms of one year, two years and three years, divided equally or as nearly equal as possible between these terms.

Robert G. Finch, Deputy City Manager  
January 15, 1979  
Page 3.

The administrative duties of the new and separate commission could be assigned to the existing MAPD including all procedural requirements connected with zoning applications and matters.

#### Step Three

After the new commission has been created, the appointments made and the 60 day notice referred to in Step Two (sub b above) given to the County, the following action should be taken.

1. The City and the County should amend the joint ordinance-resolution to divest the Metropolitan Area Planning Commission of zoning jurisdiction within the corporate limits of the City of Wichita and the 3-mile ring surrounding the City.
2. The several ordinances and regulations contained in Chapters 2 and 28 of the City Code would have to be reviewed and changes made from the present reference to the MAPC to the newly created Commission. No serious problem would be encountered in this regard.
3. Except for the loss of zoning jurisdiction within the city and the 3-mile ring, the MAPC could continue to exercise the functions and jurisdiction it presently has including the "Comprehensive plan" authorized under K.S.A. 12-704. Under the provisions of K.S.A. 12-720, a City may continue to have its own planning commission and may request the MAPC to assume such duties and functions of local planning agencies in whole or in part.

#### Options as to Membership

It has already been pointed out that K.S.A. 12-716 does not authorize "sub-agents" under a joint planning commission nor does it preclude the possibility of a member of the MAPC being appointed to a separate and distinct City planning commission.

1. If the city commission decided to appoint the 5 city appointees presently serving on the MAPC, it could do so. However, an amendment to Chapter 2.12.010(4) would be required since said subsection prohibits the appointment of a person as a member of more than one Board or Commission of the City at the same time.

Robert G. Finch, Deputy City Manager  
January 15, 1979  
Page 4.

2. Of course, in addition to the 5 appointees an additional two electors residing outside the City limits but within the 3-mile ring would still have to be appointed.

NOTE: The state statute (K.S.A. 12-702) specifies a 3-year term whereas the governing body of the city has been operating on a 4-year basis in connection with its appointments to the MAPC.

3. Other options would be available if the state statutes were to be amended.
  - a. K.S.A. 12-702 could be amended to authorize the appointment to the new city commission for 4-year terms. This has been done in connection with the Board of Zoning Appeals (K.S.A. 12-714).
  - b. K.S.A. 12-716 and 12-718 could be amended to specifically permit "sub agency" action. This might then authorize the city appointees to the MAPC to act separately on zoning matters within the city.

Respectfully submitted,

*John Dekker*

JOHN DEKKER  
DIRECTOR OF LAW

Read  
File  
January 9, 1978

H. R. Kuhn, Assistant City Attorney  
Robert A. Lakin, Director of Planning  
Wichita Zoning Commission

I have reviewed the Statutes and local ordinances in relation to the request from the City Commission on the above subject. I also note in Finch's memo that an alternative would be to consider such a zoning commission either as separate or group, or as a subagency of the present MAPC.

In viewing this latter alternative first, I would think that a subcommittee of the Planning Commission could be created whose sole purpose would be to hear zoning matters on land within the City of Wichita. At the same time, I assume there would be the creation of a separate subcommittee to hear zoning cases for only the unincorporated area. The membership of these committees could be established as being the five City appointees for the city cases, and the five County appointees for county cases. To do this, I think that only the joint ordinance-resolution would need to be amended with specific provisions as to the creation of such committees and their composition included. Also a more general amendment to the joint ordinance-resolution could be had, setting the framework for such a proposal and using an amendment to the bylaws of the MAPC, for the specific committee structure. This would take the concurrence and participation by the Planning Commission as well as the agreement of the City and the County Commissions. I arrived at these conclusions by looking at the authority that the MAPC is created under. Looking to 12-716, there are no special provisions that say how zoning shall be handled. The assumption of powers is taken from the basic City zoning authority 12-709. As an example now, (although 12-709 creates a city's planning commission of a specific membership) the only thing that we do now is hold a public hearing by the MAPC where 13-709 said that a planning commission should hold the public hearings. If when we create a joint planning commission, we are free to write our own ground rules as long as we follow the procedural requirements of, 1) advertising, 2) sending notices, 3) holding a public hearing, 4) having a written record, and 5) referral to the governing body. I would think that we would be able to amend our local regulations to provide for a committee structure rather than a hearing by the Commission as a whole. I can see also where there may be some precedent set as to dealing with subdivisions by this device, such as a subcommittee of the City appointees handling only City plats, etc. There would be one advantage that I see, if this is a legal way of handling the situation, in that the same group of people

H. R. Kuhn, Assistant City Attorney  
January 9, 1979  
Page 2

that is dealing with City zoning cases would still be involved in the "overall planning", and thus policywise be somewhat tied to the general thrust of the planning program. It also would take off some pressure of tying zoning to a comprehensive plan which I will discuss in subsequent paragraphs.

The other alternate is to create a City Zoning Commission. The Statutes do not provide for a "Zoning" Commission, but do provide for a City Planning Commission. There is no question in my mind that by amending the joint ordinance-resolution to delete as part of the MAPC's charge, their obligation and authority to deal with City zoning, coupled with the creation of a City Planning Commission, that the net affect could be a Wichita Zoning Commission. It could not have that name, and may, as I will point out, be required to do other things other than zoning alone. If a City Planning Commission is created, it would require a membership of 7 to 15, appointed by the Mayor, with the consent of the governing body. Two of this membership (which I assume would either be a 10 or 15 size group) would have to be from an area outside the corporate limits and within three miles of the City of Wichita. Also, a specific three-year term is required under the City Planning Statutes, whereas our governing body wishes to operate on a four-year basis to match their own terms. It might be noted that a statutory amendment might be in order here similar to that in 12-714 which deals with Board of Zoning Appeals which says that the cities may appoint either three or four year terms, whichever meets their convenience.

If the City were to elect to create a City Planning Commission, and limit its powers to primarily zoning, the issue would have to be also dealt with as to its role in comprehensive planning. I think the Statutes are clear that it is assumed that the comprehensive planning process will also occur for the City jurisdiction as a condition of exercising zoning authority. The Statutes in 12-709, however, do speak to doing either studies, or adopting a comprehensive plan as the basis of having a zoning ordinance. I see several courses of action here as alternates. One, the City Planning Commission could adopt the same plan submitted to MAPC insofar as it pertains to the City of Wichita. The plan would have to go through separate advertising and separate public hearings. The danger here would be modifications which may not be complimentary to adopted MAPC plans (or vice-versa). Two, have the creating ordinance contain a provision which says that all plans adopted by MAPC are the plans that the City Planning Commission will use in pursuing its zoning action. Three, would be the development of separate plans for the City Planning Commission. Hopefully they would be coordinated and complimentary with those directed to MAPC, but it would be a time consuming and staff intensive process. In summary it would seem also to raise certain questions of having a City Planning Commission which dealt with zoning only and left the long range planning to another

H. R. Kuhn, Assistant City Attorney  
January 8, 1979  
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body. There is a large amount of litigation, I believe, involving the comprehensive plan as a condition preceding to zoning. In our Kansas cases, we have largely argued that the zoning ordinance and zoning maps itself are the "plan" and sufficient to meet the statutory test of Kansas law. However, our new Overland Park case blazed some new ground that I wasn't really anticipating, and it's very possible that if the issue was presented to the Court, that we might get a result somewhat like Fasano versus Board of County Commissioners, Washington County, 264 Oregon 574, 507 P2d 23, (1973). The Fasano case, as I generally view it, along with several others that have occurred, simply say that there must be a comprehensive plan for zoning to be based on, and then when that occurs, then the zoning ordinance indeed must follow and be subservient to the comprehensive plan. The basic question, underlying the preceding dialogue is that if we have a City Planning Commission with only zoning powers, what substitutive planning requirements must go along with it for zoning to be able to stand up by itself and be defended?

Also in creating a separate City Planning Commission, the Statutes would require that all Capital Improvement Programs be reviewed by the City Planning Commission as the MAPC now reviews the City's Capital Improvement Program. One possibility is to place in the creating ordinance a provision that says that the CIP review is hereby waived and transferred and continued as a part of MAPC operation.

There is also the issue which I think should be raised concerning subdivision control. If a City Planning Commission is created, and if its primary function is zoning, will anybody raise the question of whether or not similar treatment should be given to Subdivision authority? This raises a number of interesting questions concerning the Statutes because if it is broken out separately and the County was to claim any jurisdiction in the three mile ring, and if the City was to similarly claim three mile jurisdiction, there would be required to be created a separate board above and apart from MAPC to administer required joint subdivision regulations. I view this to be almost a "catch-22" and I would think that we should indicate the desirability of not entering into any changes in this area if possible.

The Statutes also require for a city having a zoning ordinance to have a Board of Zoning Appeals. We of course now have this. The Statute provides that one of its members may be a member of a planning commission. Our City ordinances require that the member shall be from the Metropolitan Area Planning Commission. This of course then would have changed, I assume, to where the Planning Commission member would come from the City Planning Commission rather than the MAPC.

There is also a needed clean-up of a number of ordinances and regulations some of which I will note below. One, amend the joint ordinance agreement creating MAPC and MAPD. This is found

H. R. Kuhn, Assistant City Attorney  
January 9, 1979  
Page 4

in the Code at 2.12.390. Within this section it speaks of the Planning Commission having the authority to hold public hearings and make recommendations on zoning within the City (and County also). To amend this would require the joint approval of both the City of Wichita and the governing body, and the County Commission, as well as notice to all of our member cities. I see nothing in the joint Agreement which would require any changes. The joint agreement in Section 3 merely provides that the Planning Commission will proceed with studies of zoning and shall recommend zoning of all and within its jurisdiction as defined within the joint ordinance-resolution. Thus a correction of 2.12.390 will satisfy this condition.

Section 2.12.560 deals with the Board of Zoning Appeals membership and its tie to MAPC. This would have to be corrected.


2.12.1021 of the City Code deals with the Landmark Committee and requires certain action by the MAPC. I assume this would also be changed to a new City Planning Commission.

The zoning ordinance would also have to be changed in several areas. Sections 28.04.020 would have to have the definition of Commission changed from MAPC to the new City Planning Commission. 28.04.136 in the University District refers to Planning Commission. I would assume where we find places in the Code that refer to "Planning Commission", and since there might be two of them, that the language would be changed to refer to "Commission" only. Section 28.04.195 relates to the Historic Landmark Districts, and again should change from MAPC to Commission. In the Administrative Section of the Ordinance 28.04.210, including subparagraphs 2.1, 3.1, and 3.3, there is uncommonly large number of "Board of Commissioners", and "Planning Commission". This entire section should be scanned and changed to the common "governing body", and "Commission".

In summary, it would look as if it can be done either way, and that the critical element to doing it would be obtaining the agreement of the Board of County Commissioners in the amending of the existing ordinance-resolution creating MAPC and setting forth its duties. All other requirements would be procedural in nature with a good share of them being amendments to Title 28, and thus hearings before the Planning Commission with the ultimate authority before the Board of City Commissioners to amend and adopt local ordinances. Once agreement with the County had been reached, I would assume there would be an amendatory ordinance to the joint ordinance-resolution with an effective date sufficiently far in advance to allow for the creation then of a City Planning

H. R. Kuhn, Assistant City Attorney  
January 9, 1979  
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








Commission, and the corresponding corrective ordinances on Title 28 and Title 2.12. I would be pleased to sit down and review these comments with you at your convenience.

  
Robert A. Lakin  
Director of Planning

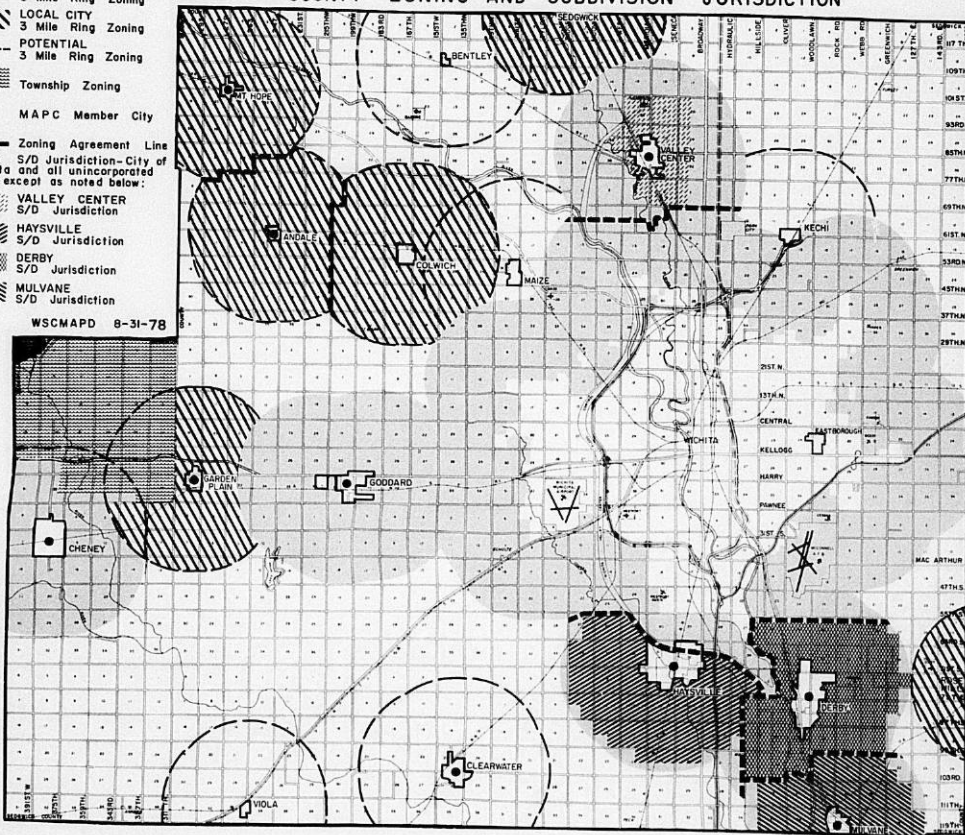
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cc: John Dekker, Director of Law  
Jack H. Galbraith, Chief Planner, Current Plans Division

# COUNTY ZONING AND SUBDIVISION JURISDICTION

-  SEDGWICK COUNTY  
3 Mile Ring Zoning
-  LOCAL CITY  
3 Mile Ring Zoning
-  POTENTIAL  
3 Mile Ring Zoning
-  Township Zoning
-  MAPC Member City
-  Zoning Agreement Line
-  MAPC S/D Jurisdiction - City of  
Wichita and all unincorporated  
areas except as noted below:
-  VALLEY CENTER  
S/D Jurisdiction
-  HAYSVILLE  
S/D Jurisdiction
-  DERBY  
S/D Jurisdiction
-  MULVANE  
S/D Jurisdiction

WSCMAPD 8-31-78



THE CITY OF WICHITA

OFFICE OF

CITY MANAGER

DATE December 13, 1978

TO John Dekker, Director of Law

FROM Robert G. Finch, Deputy City Manager

SUBJECT Wichita Zoning Commission

On December 12, 1978, the City Commission instructed the administrative staff to provide a report as to what legal steps would be necessary to establish a Wichita Zoning Commission and the options available for the membership of such a Commission.

The proposed Zoning Commission would be a separate or sub-agency of the present MAPC and would consider only zoning matters within the City of Wichita.

Please provide a report in this matter for the agenda of January 23, 1979.

You will want to have Mr. Lakin's input in this matter.



ROBERT G. FINCH  
Deputy City Manager

RGF/sw

cc: Robert A. Lakin, Director of Planning



12-702-

7-15 member by Mayor w/ consent  
2 from 3 mile area  
3 yr term.

12-704-

Auth to make plan  
shall cause to be made necessary & selected  
of part + present condition.  
Such plan shall show recommendations on  
a the f

Can this be  
adopted by reference  
in any existing  
of City PC?

May approve plan -  
having 60 day delay back.

Such plan shall constitute the basis or guide  
for public action

zoning

shall annually review plan.

12-704a- When plan adopted - (CIP review)  
would overlap w/ MAPC

12-705 May adopt S/D Regs if not has adopted plan.

12-705a. If w/draw S/D from MAPC, then City + Co may  
if both claim area w/ 3 mile, be required to set up  
joint comm. i. should not w/D 3 mile from MAPC

12-707 already have "studies" + hearings. +  
"or if the City (not a PC) shall have adopted a plan  
the recommendations shall be based thereon.

Land  
Procedure

12-714 B2A, one member may be from 3C.  
(also 3 options)

### Zoning Ordinance

28.04.020

Definition = Commission.  
~~(Appears to be)~~

28.04.136 U. defined. Re Planning Commission. Study  
planning + <sup>use</sup> ~~map~~ @ new defini.

28.04.145. Hurlow. Refers to MAPC. change to Comm  
also refers to MAPD

28.04.210

2.1 Change Bd of Comm to governing body -  
change PC to C  
appear several times

3.1 Same

3.3 " . Speaking zoning committee  
would need to determine if these be so.

Law -

MAPC or sub-agency of present, MAPC.

- legal to create committee to hear city laws  
similar city-to get Ord/Resol.

a b. amend by-law?

c

Does this meet test of law. Yes CPC auth to MAPC  
MAPC structure locally, meet test of due process, notice  
etc.

Adv - keeps same people involved - uses  
more staff time for separate meeting, no need  
for dual plan approval -

Alt. Create a City Plan Com.

a. Criteria:

b. need for Comp Plan:

(1) adopt same plan MAPC then approved

(2) Have creating and accept plan?

(3) Develop ref plan + hope for coord w/MAPC

(4) See Farano v Bd of Comm of Washington  
264 Or 574 507 P2d 23 1973

c. CIP review required unless delegated in Ord  
Ord.

d. Time of ID.

e. BZA member.

f. Clean up Ord/Regn.

Substantive  
Planning  
Requirements

~~344~~  
~~830~~  
~~50~~ 10 24  
1015

Ord/Agreement

Code:

2.12 390 (Ord <sup>29610</sup> ~~24~~ ~~24~~ ~~24~~ TR Z  
zoning w/ city

2.12 560 33378  
B2A membership from MAPC

2.12.1021 (From Land mark committee  
action by MAPC to CPL

Agreement Sect 3-

Proceed w/ Study of zoning studies & shall  
recommend zoning of all land w/ its jurisdiction -  
we define w/ the joint Ord/Resol.

DEC 29 1967

ORDINANCE NO. 29-610

JOINT ORDINANCE OF THE CITY OF WICHITA, KANSAS, AND RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, PROVIDING FOR THE CREATION OF THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, DESIGNATING THE AREA OF PLANNING JURISDICTION, PROVIDING FOR THE METHOD OF ACCEPTING OTHER PARTICIPATING AGENCIES, PROVIDING FOR JOINT AGREEMENTS BETWEEN THE COOPERATING CITIES AND COUNTIES AND REPEALING A CERTAIN ORDINANCE AND RESOLUTION RELATING THERETO.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA: AND

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, BEING IN REGULAR SESSION IN THE OFFICE AT THE COURTHOUSE IN WICHITA, KANSAS, THIS 6th DAY OF December, 1967.



SECTION 1. Creation. There is hereby created the Wichita-Sedgwick County Metropolitan Area Planning Commission, as authorized by K.S.A. 1965 Supp. 12-716, et seq. Its membership, authority, function, responsibility, budget and staff shall be as established in agreements between the cooperating agencies, unless provided for herein.

SECTION 2. Planning Area Jurisdiction. The area of planning jurisdiction for comprehensive planning as may be defined by Statute or further agreement between the cooperating agencies, shall include all of Sedgwick County and such other areas which, in the opinion of the Commission bears a direct relationship to the development of the area. The Planning Commission shall hold hearings on all zoning matters within the City of Wichita and within the unincorporated area three miles from the City of Wichita or from any City becoming a member of the Metropolitan Area Planning Commission; or for such area as may be determined appropriate if zoning is established under the provisions of K.S.A. 1965 Supp. 19-2919, et seq. The Planning Commission shall have subdivision jurisdiction within the City of Wichita and the unincorporated area within three miles thereof, and/or such other unincorporated area as may be determined appropriate by the Board of County Commissioners of Sedgwick County, either by Resolution of that Board or by concurrence with Subdivision Regulations adopted by the Planning Commission. The Planning Commission shall also have such other jurisdiction as may be possessed by any member governing body or their planning commission when expressly delegated to the Wichita-Sedgwick County Metropolitan Area Planning Commission by Resolution or Ordinance. All matters pertaining to planning, zoning or subdivision affecting land within three miles of any member city or county shall be referred to the local Planning Commission, if there be one, for discussion and recommendation before said matter shall be considered before the Metropolitan Area Planning Commission for action.

SECTION 3. Member Cities or Counties - Acceptance - Dissolution. Any city in Sedgwick County, or county abutting Sedgwick County, or any city within such County, wishing to attach itself as a member, may become a member by first notifying the Wichita-Sedgwick County Metropolitan Area Planning Commission at least 15 days before adopting an ordinance (City) or Resolution (County), which ratifies this joint ordinance-resolution (and amendments or supplements thereto), and existing agreements between the cooperating cities and counties concerning the Metropolitan Area Planning Commission. The Ordinance-Resolution shall provide for the ratification and concurrence of this ordinance-resolution and any agreements concerning the establishment of the Metropolitan Area Planning Commission, as well as any delegation of or assignment of areas of planning jurisdiction. The Ordinance-Resolution shall also provide that in addition to all existing agreements being ratified, all future and amendatory agreements are also ratified unless within 30 days after service of such agreement upon a member city or county, they reject said amendment or new agreement. Such ordinance or resolution shall not become effective until all member units have been served a copy thereof. In the event any member shall wish to terminate its membership, the adoption of an ordinance or resolution shall be required, provided that such ordinance or resolution shall not become effective for 60 days after its service upon an officer of the Metropolitan Area Planning Commission.

SECTION 4. Agreements. The City of Wichita and the County of Sedgwick, concurrently with the adoption of this Joint Ordinance-Resolution, shall enter into an agreement specifying the general purpose of the Planning Commission, designate the functions in addition to those contained herein, determining the number and qualifications of its members, provide for the manner of cooperation, the means and methods of operation and functioning of the Planning Commission, including the creation of a Planning Department, providing for the employment of personnel and consultants, determining the proportionate share of costs and expenses and such other matters as may be determined proper for consideration. Copies of such agreement shall be served upon the Clerks of the member cities or counties and the Chairman of their Planning Commissions, if there be any.

SECTION 5. Severability. If this Joint Resolution and Ordinance, or any part thereof, shall be held or determined to be unconstitutional, illegal, ultravires or void, the same shall not be held or construed to change or annul any provision hereof which may be legal or lawful; and in the event this Joint Ordinance and Resolution, or any part thereof, shall be held unconstitutional, illegal, ultravires or void, the same shall not affect any action heretofore taken by the Wichita City Planning Commission, the Sedgwick County Planning Commission, or the Wichita-Sedgwick County Metropolitan Area Planning Commission as heretofore established and constituted.

SECTION 6. Repeal. Ordinance No. 29-359 of the City of Wichita is hereby repealed.

SECTION 7. ~~REPEAL~~. The Joint Ordinance-Resolution of the Board of County Commissioners of Sedgwick County, Kansas, adopted June 21, 1967, be and the same is hereby repealed.

PASSED AND APPROVED, at Wichita, Kansas, this 19<sup>th</sup> day of December 1967.

Clarence E. Vollmer  
Mayor Clarence E. Vollmer

ATTEST:

Ralph C. Eberly  
City Clerk Ralph C. Eberly  
(SEAL)

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, this 6<sup>th</sup> day of December, 1967, after due consideration of all members being present and voting as follows:

|                 |            |
|-----------------|------------|
| TOM SCOTT       | <u>Aye</u> |
| ELMER S. PETERS | <u>Aye</u> |
| EARL E. RUSH    | <u>Aye</u> |

DATED AT WICHITA, KANSAS, this 6<sup>th</sup> day of December, 1967.

BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

Tom Scott  
Chairman  
Elmer S. Peters  
Commissioner  
Earl E. Rush  
Commissioner

ATTEST:

Marie Warden  
County Clerk  
(SEAL)

A G R E E M E N T

---

THE BOARD OF COMMISSIONERS OF THE CITY OF WICHITA AND THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, ON THIS 26th DAY OF June, 1973, PURSUANT TO THE ADOPTION OF A JOINT ORDINANCE-RESOLUTION CREATING THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, DO HEREBY AGREE TO THE FOLLOWING:

1. Membership, term, qualifications and compensation.

The Wichita-Sedgwick County Metropolitan Area Planning Commission shall consist of ten (10) members, five (5) of whom shall be appointed by the Mayor of the City of Wichita by and with the consent of the Board of Commissioners of the City of Wichita, and five (5) of whom shall be appointed by a majority vote of the Board of County Commissioners of Sedgwick County, Kansas. All terms shall commence on September 1 and expire on August 31. All terms of office other than the terms of the initial appointees shall be for four (4) years and until their successors shall have been duly appointed and qualified.

Each of the appointments shall be made so that three (3) City of Wichita and three (3) Sedgwick County appointees shall be made in the year the greater number of Commissioners of each body are elected. In the year the lesser number of Commissioners of each body are elected, two (2) appointments shall be made by each body. Initial appointments shall be made as follows: City of Wichita, three (3) appointments expiring August 31, 1975, and two (2) appointments expiring August 31, 1977; Sedgwick County, two (2) appointments expiring August 31, 1975, and three (3) appointments expiring August 31, 1977.

In case of death, incapacity, resignation or disqualification of any member, the Board making the appointment of such member shall appoint another member for the unexpired term of

NOTE: The actions taken were on June 20, 1973 by the County Commission and on June 26, 1973 by the Wichita City Commission. The latest date was used to date the Agreement.

such deceased, incapacitated, resigned or disqualified member. Any person residing within the City of Wichita shall be eligible for appointment by the Board of Commissioners of the City of Wichita. Any person residing within Sedgwick County (including incorporated areas), shall be eligible for appointment by the Board of Commissioners of Sedgwick County. Members of the Wichita-Sedgwick County Metropolitan Area Planning Commission shall serve without compensation, but may be reimbursed for expenses actually incurred in the performance of their duties as members of the Wichita-Sedgwick County Metropolitan Area Planning Commission.

2. Meetings, organizations, records. The Wichita-Sedgwick County Metropolitan Area Planning Commission shall convene for its meetings at such time and place as shall be fixed by its Chairman, and shall meet not less frequently than once a month. Said Planning Commission shall elect one member as Chairman and one member as Vice Chairman. The terms of the Chairman and Vice Chairman shall be for one year and until his successor shall have been elected and qualified. Special meetings of the Planning Commission may be called by the Chairman, or in his absence, by the Vice Chairman, or a majority of all of the Commissioners, on not less than 24 hours notice, such notice to be by mail or personal service by the Secretary or his representative, at the address given to the Secretary of the Planning Commission by such member. A quorum of the Planning Commission shall consist of six (6) members. The Planning Commission shall designate a Secretary and may also designate an Assistant Secretary, neither of whom need be members of the Planning Commission. The Secretary shall cause a proper record to be kept of all the proceedings of the Planning Commission. All action taken by the Wichita-Sedgwick County Metropolitan Area Planning Commission superseded hereby shall continue in full force and effect.

3. Planning Commission authority, function, responsibility. The Wichita-Sedgwick County Metropolitan Area Planning Commission, herein sometimes referred to as the Planning Commission, shall have such power and duties as may be prescribed by law from time to time. As a primary function, the Planning Commission shall have the responsibility for the preparation, adoption, recommendation and maintaining of a long-range Comprehensive Development Plan to guide the future physical, social and economic development of the area within the planning jurisdiction as established in the joint ordinance-resolution creating the Wichita-Sedgwick County Metropolitan Area Planning Commission. Such Comprehensive Development Plan shall consist of at least a land use element, a circulation element, and a facilities element. The Plan shall provide a statement of population distribution and density and proposed building intensities and other uses of land. The Commission shall recommend development plans for specific public works projects and for urban renewal. Such development plans shall be related to the Comprehensive Development Plan and shall ensure the integration of proposed land uses and for matters of access and relationship to the neighborhood within which such development plans provide for construction. Development plans shall also contain analysis of methods of financing proposed public works. The Planning Commission shall cause to be prepared zoning studies and shall recommend the zoning of all land within its jurisdiction as defined within the joint ordinance-resolution. The Planning Commission shall cause to be prepared recommendations governing the control of subdivisions within the area of its jurisdiction as heretofore defined.

The Planning Commission may cause to be undertaken such studies as may be needed or requested by the governing bodies relative to the social problems and activities within the community, including but not limited to such areas as delivery of social services, planning for providing for the needs of the poor

and disadvantaged; attending to problems of racial inequity, and other forms of discrimination, plans leading to the economic betterment of the community and those residing therein, for identifying and planning for the alleviation of social ills, including but not exclusively limited to problems of the youth, aged, drugsusers and alcoholics and for plans which coordinate and interrelate with other planning units, such as areawide health planning, law enforcement, areawide economic development, industrial development, manpower and other similar specialized planning units created under Federal, state or local law.

The Planning Commission shall cause to be prepared annually for the jurisdictions that they represent, a statement of current and past growth and development trends and anticipated growth for the succeeding year and for the succeeding five years. Such annual statement of anticipated growth and development shall also contain an annual review of the status of the General Plan and recommended adjustments in such Plan. Such annual review statement shall be transmitted to the administrative heads of the political jurisdictions involved for the use by the respective jurisdictions in the preparation of their annual capital improvement budget. The Planning Commission shall cause to have reviewed annually the proposed capital improvement budgets of the respective jurisdictions and shall comment upon the proposed budget in terms of its conformity to and furtherance of the Comprehensive Development Plan. The Wichita-Sedgwick County Metropolitan Area Planning Commission shall assume and perform all of the powers, duties and functions heretofore vested in the Wichita City Planning Commission, in the Sedgwick County Planning Commission, and in the previously constituted Wichita-Sedgwick County Metropolitan Area Planning Commissions.

4. Wichita-Sedgwick County Metropolitan Area Planning Department - Establishment thereof. There is hereby established and created the Wichita-Sedgwick County Metropolitan Area Planning

Department. The Director of such Department shall be appointed by the City Manager of the City of Wichita and by the majority vote of the Board of County Commissioners of Sedgwick County, Kansas, by joint appointment. All subordinate employees shall be similarly appointed, but it shall be the responsibility of the Personnel Division of the Department of Administration of the City of Wichita to make such examinations, conduct such tests, obtain such records and generally supervise the personnel of the Planning Department as may be reasonably necessary and in accordance with general personnel practices and procedures of the City of Wichita. The Director of Planning and all subordinate employees shall serve at the pleasure of the majority vote of the Board of County Commissioners and of the City Manager of the City of Wichita.

5. Budget, disbursing agent. At such times as may be prescribed by the governing bodies, the Planning Department shall submit to the Board of County Commissioners of Sedgwick County, Kansas, to the City Manager of the City of Wichita, and to all other local governing bodies of their planning commissions, who directly contribute to the funding of the Planning Commission, a budget of income and expenditures for the ensuing fiscal year. This budget shall be submitted for review and comment. After such review and comment, such budget shall be considered by the Board of County Commissioners of Sedgwick County, Kansas, and the Board of City Commissioners of the City of Wichita, Kansas, and such budget as submitted, or as the same may be amended shall be approved and adopted by said governing bodies to the extent of approximately 50% of such amended or revised budget by the Board of County Commissioners and to the extent of approximately 50% of such amended or revised budget by the Board of Commissioners of the City of Wichita, and such fiscal support by any other member city or county, as any one or more of such cities or counties feel it can make. The City Treasurer of the City of Wichita is hereby designated as the custodian and disbursing agent for the total

budget; and the Board of County Commissioners shall direct the County Treasurer to pay over direct to the City Treasurer of Wichita the County's portion of such budget.

6. Planning Matters - prior action and pending proceedings. All planning and zoning actions of every kind or character heretofore taken by the Wichita City Planning Commission, or the Sedgwick County Planning Commission, or by the Wichita-Sedgwick County Metropolitan Area Planning Commission heretofore created, shall be continued in full force and effect and shall in no wise be affected by this joint resolution and ordinance. All petitions for zoning change, petitions for vacation of streets, alleys and other publicways, requests for changes in street names, requests for approval of plats and dedications, Master or Comprehensive Plans, and all other matters pending before the Wichita-Sedgwick County Metropolitan Area Planning Commission upon the effective date of this joint resolution-ordinance shall continue to be processed by said Commission before which such applications may be pending until such matters are concluded.

7. Agreement and Effective Dates. This Agreement between the City of Wichita and Sedgwick County shall be ratified by either ordinance (City) or resolution (Counties) of any city or county desiring to become a member of the Wichita-Sedgwick County Metropolitan Area Planning Commission.

AGREED TO this 26th day of June, 1973, at Wichita, Kansas.



ATTEST

Ed. J. [Signature]  
County Clerk

(SEAL)

ATTEST

Ralph E. [Signature]  
City Clerk

(SEAL)

By the BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY

Earl E. Rush  
Chairman  
[Signature]  
Commissioner  
[Signature]  
Commissioner

By the CITY OF WICHITA

[Signature]  
Mayor

ADDENDUM TO AGREEMENT OF JUNE 26, 1973  
BETWEEN BOARD OF COMMISSIONERS OF THE  
CITY OF WICHITA AND THE BOARD OF COUNTY  
COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

This Addendum to the Wichita - Sedgewick County Agreement of June 26, 1973 is made and entered into by the Board of Commissioners of the City of Wichita, Kansas, and the Board of County Commissioners of Sedgewick County, Kansas.

1. The following provision is added to Section 2 of said Agreement relating to "Meetings, organizations, records.":

The Wichita-Sedgewick County Metropolitan Area Planning Commission shall adopt By-laws, Rules and Regulations to govern its proceedings. Said By-laws, Rules and Regulations shall be subject to and become effective upon the approval thereof by both governing bodies.

2. The Agreement between the Board of Commissioners of the City of Wichita and the Board of County Commissioners of Sedgewick County, Kansas, dated the 26th day of June 1973, pursuant to the adoption of the joint Ordinance-Resolution creating the Wichita-Sedgewick County Metropolitan Area Planning Commission with the foregoing Addendum shall in all respects remain in full force and effect.

AGREED to this 10<sup>th</sup> day of July, 1974, at  
Wichita, Kansas.

By the BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY

Carl E. Ruck  
Chairman

Carl E. Ruck  
Commissioner

Carl E. Ruck  
Commissioner



ATTEST:

Wanda L. ...  
County Clerk  
(SEAL)

ATTEST:


Wanda L. ...  
City Clerk  
(SEAL)

By the CITY OF WICHITA

Wanda L. ...  
City Clerk

# THE CITY OF WICHITA

January 30, 1979

  
OFFICE OF THE MAYOR  
CITY HALL - FIRST FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4331

The Honorable Tom Scott, Chairman  
Board of County Commissioners  
Sedgwick County Courthouse  
Wichita, Kansas 67203

Dear Tom:

On January 23, 1979, the Wichita City Commission discussed the possibility of establishing a city zoning board to review and make recommendations to the City Commission on all zoning matters in the city and the three mile ring. The discussion was based, in part, on the legal opinion of the City Attorney (copy enclosed) which outlined the legal options of the City Commission.

The City Commission has asked that I convey to you and the members of your Board the consensus of the majority of the Commission that a city zoning board be created within the structure of the MAPC for zoning matters only. The city zoning board could be composed of the city appointees of the MAPC with additional representation by persons in the three mile ring. Likewise, we would anticipate that the county appointees would rule exclusively on those zoning matters outside the city jurisdiction.

It is our intent that comprehensive and long range planning activities, which are certainly of metropolitan concern, continue to be conducted on a metropolitan basis under the current structure of the MAPC.

The general philosophy of the City Commission in making this request is that zoning matters are generally of a localized concern; thus they should be addressed at the city level exactly as do other cities in Sedgwick County that have a city zoning board.

Please bring this matter to the attention of the Board of County Commissioners. We would ask that you provide us an indication of whether your Board will cooperate with the City in effecting the creation of a city zoning board.

THE CITY OF WICHITA

The Honorable Tom Scott  
January 30, 1979

If you or your Board would like to meet and confer, please advise me and a meeting can be scheduled at a mutually convenient date.

Sincerely,

*Connie*

Connie A. Peters  
Mayor

CAP/tgt

Enclosure

cc: The Honorable Don Gragg, County Commissioner  
The Honorable Everett Patrick, County Commissioner  
The Honorable Board of City Commissioners  
✓ E. H. Denton, City Manager  
Robert A. Lakin, Director of Planning

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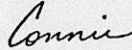
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CAP/tgt

Enclosure

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Robert A. Lakin, Director of Planning

THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE January 15, 1979

TO ROBERT G. FINCH, DEPUTY CITY MANAGER

FROM JOHN DEKKER, DIRECTOR OF LAW

SUBJECT Wichita Zoning Commission

This analysis is in response to your memo of December 13, 1978 concerning the establishment of a Wichita zoning commission. This matter was reviewed with Mr. Lakin, Director of Planning, is based on existing law and does not involve a change in the state statutes.

The present zoning regulations applying to the City of Wichita are interwoven directly into the function and jurisdiction of the Wichita - Sedgwick County Metropolitan Area Planning Commission by reason of:

1. K.S.A. 12-716, authorizing cooperating cities and counties to engage in joint planning and zoning cooperation and activities; and
2. The joint ordinance-resolution adopted by the City and Sedgwick County on December 29, 1967; and
3. The agreement between the county and the city implementing the provisions of the joint ordinance-resolution.

The Metropolitan Area Planning Commission constitutes the joint "planning commission" contemplated by K.S.A. 12-716. Said state statute does not authorize the creation of "sub-agencies". By reason of the above referenced joint ordinance-resolution and agreement, all of the planning and zoning activities of Wichita and the county have been transferred to the Metropolitan Area Planning Commission.

Step One

Because of the involvement of Wichita (city) zoning under the existing law the first step would seem to mandate a conference with the Board of County Commissioners of Sedgwick County to determine the willingness of the County to go along with the proposed separation of the zoning jurisdiction from the functions and jurisdiction of the MAPC. This is probably the most important consideration at this time.

Robert G. Finch, Deputy City Manager  
January 15, 1979  
Page 2.

A. If the Board of Commissioners of Sedgwick County rejects the proposal of separating the zoning jurisdiction as proposed for the City of Wichita, then one of two alternatives would appear to be available:

- a. Abandon the idea of creating a separate zoning body, or
- b. Eliminate the Metropolitan Area Planning Commission and rescind the joint ordinance-resolution and agreement. Both governing bodies could then establish their separate planning commissions under state law and independent of each other.
- c. Under the second alternative an ordinance terminating the joint ordinance-resolution should be adopted to take effect 60 days after its service upon an officer of MAPC.

Step Two

If the Board of County Commissioners concurs in the proposed separation of zoning jurisdiction, the following steps could be taken to establish a Wichita Zoning Commission.

1. The City Commission could create a city planning commission under the authority of K.S.A. 12-701 and 12-702 for the purpose of exercising zoning jurisdiction within the corporate limits of the city and the 3-mile radius or ring thereof. (The zoning functions authorized under the provisions of K.S.A. 12-707 through K.S.A. 12-715 inclusive).

- a) The County would have to abandon or rescind any zoning regulations for the area outside the City but within three (3) miles thereof (K.S.A. 12-715b).
- b) The City would have to notify the county in writing at least 60 days prior to initiating zoning regulations for such area (K.S.A. 12-715b(d)).

2. MEMBERSHIP: Not less than seven (7) nor more than fifteen (15) electors of which two (2) members shall reside outside of but within three (3) miles of the corporate limits of the city.

The terms of the first appointees shall serve respectively for terms of one year, two years and three years, divided equally or as nearly equal as possible between these terms.

Robert G. Finch, Deputy City Manager  
January 15, 1979  
Page 3.

The administrative duties of the new and separate commission could be assigned to the existing MAPD including all procedural requirements connected with zoning applications and matters.

#### Step Three

After the new commission has been created, the appointments made and the 60 day notice referred to in Step Two (sub b above) given to the County, the following action should be taken.

1. The City and the County should amend the joint ordinance-resolution to divest the Metropolitan Area Planning Commission of zoning jurisdiction within the corporate limits of the City of Wichita and the 3-mile ring surrounding the City.
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THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE January 15, 1979

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FROM JOHN DEKKER, DIRECTOR OF LAW

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The Metropolitan Area Planning Commission constitutes the joint "planning commission" contemplated by K.S.A. 12-716. Said state statute does not authorize the creation of "sub-agencies". By reason of the above referenced joint ordinance-resolution and agreement, all of the planning and zoning activities of Wichita and the county have been transferred to the Metropolitan Area Planning Commission.

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DIRECTOR OF LAW

THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE January 15, 1979

TO ROBERT G. FINCH, DEPUTY CITY MANAGER

FROM JOHN DEKKER, DIRECTOR OF LAW

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2. The joint ordinance-resolution adopted by the City and Sedgwick County on December 29, 1967; and
3. The agreement between the county and the city implementing the provisions of the joint ordinance-resolution.

The Metropolitan Area Planning Commission constitutes the joint "planning commission" contemplated by K.S.A. 12-716. Said state statute does not authorize the creation of "sub-agencies". By reason of the above referenced joint ordinance-resolution and agreement, all of the planning and zoning activities of Wichita and the county have been transferred to the Metropolitan Area Planning Commission.

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Because of the involvement of Wichita (city) zoning under the existing law the first step would seem to mandate a conference with the Board of County Commissioners of Sedgwick County to determine the willingness of the County to go along with the proposed separation of the zoning jurisdiction from the functions and jurisdiction of the MAPC. This is probably the most important consideration at this time.

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A. If the Board of Commissioners of Sedgwick County rejects the proposal of separating the zoning jurisdiction as proposed for the City of Wichita, then one of two alternatives would appear to be available:

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- b. Eliminate the Metropolitan Area Planning Commission and rescind the joint ordinance-resolution and agreement. Both governing bodies could then establish their separate planning commissions under state law and independent of each other.
- c. Under the second alternative an ordinance terminating the joint ordinance-resolution should be adopted to take effect 60 days after its service upon an officer of MAPC.

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If the Board of County Commissioners concurs in the proposed separation of zoning jurisdiction, the following steps could be taken to establish a Wichita Zoning Commission.

1. The City Commission could create a city planning commission under the authority of K.S.A. 12-701 and 12-702 for the purpose of exercising zoning jurisdiction within the corporate limits of the city and the 3-mile radius or ring thereof. (The zoning functions authorized under the provisions of K.S.A. 12-707 through K.S.A. 12-715 inclusive).

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The administrative duties of the new and separate commission could be assigned to the existing MAPD including all procedural requirements connected with zoning applications and matters.

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3. Other options would be available if the state statutes were to be amended.
  - a. K.S.A. 12-702 could be amended to authorize the appointment to the new city commission for 4-year terms. This has been done in connection with the Board of Zoning Appeals (K.S.A. 12-714).
  - b. K.S.A. 12-716 and 12-718 could be amended to specifically permit "sub agency" action. This might then authorize the city appointees to the MAPC to act separately on zoning matters within the city.

Respectfully submitted,

*John Dekker*

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