

DR 79-6 - Board of City Commissioners request review of Extension of Water and Sewer Service Outside of the City.

ACTION

COMMITTEE _____

DATE: _____

M.A.P.C.

*Recommended to continue
with current policy*

2-1-79

B.C.C.

*See memo 2-13-79
Adopted Change*

1-2-79

B.C.C./B.

*Adopted Change
in Policy (see minutes)*

2-13-79

B.C.C.

*Amended the
Policy Change (see minutes)*

4-24-79

DR 79-6 - Board of City Commissioners
request review of Extension of
Water and Sewer Service Outside of
The City.

THE CITY OF WICHITA
OFFICE OF WATER DEPARTMENT

DATE December 26, 1978

Office Of The City Manager	
<input type="checkbox"/> EHM	<input type="checkbox"/> HP
<input type="checkbox"/> IS	<input type="checkbox"/> MS
<input type="checkbox"/> RT	<input type="checkbox"/> SH
DEC 27 1978	
<input type="checkbox"/> Copies To	_____
<input type="checkbox"/> Send To	_____
<input type="checkbox"/> File	_____

TO The Honorable Board of City Commissioners
(through E. H. Denton, City Manager)
FROM John D. Wynkoop, Director of Water & Water Pollution Control
Robert A. Lakin, Director of Planning

SUBJECT Extension of Water and Sewer Service
Outside of the City

Submitted are alternative policy statements regarding extension of utility (water and sewer) services outside of the city.

Separate memorandums have been submitted regarding:

- 1) The basis for determining the amount and the technique for transferring pro-rata shares of imbedded cost of the existing system to new users.
- 2) The status of plans recognizing growth areas.
- 3) Legal obligations to provide water and sewer services related to geographic location and time of providing services.

The following are alternate policies which the Commission may wish to consider. There may also be combined alternatives not listed separately.

Policy No. 1: Operate as a regional source of supply; treat and distribute water in accordance with adopted plan.

Pros: Provides efficiency of operation and development of sources of water, quality of water and reliability of services. Costs of developing unified sources less than all "user groups" competing for and developing separate sources. Eliminates duplication and overlap.

Cons: Requires development of more water resources; places City in center of political controversy regarding sources of supply; requires large capital outlays. Could encourage sprawl if not properly controlled and managed.

Policy No. 2: Supply water wholesale to rural water districts.

Pros: Provides a needed source to those without. Checks sprawl (assuming existing form of contract continued).

Cons: Utilizes part of the Wichita developed sources for non-Wichita residents.

RECORDED FILED #4-CM
AGENDA FOR: JAN 2 1979

Policy No. 3: Serve urbanizing area based on development guide (land use plan) when binding legal agreements to annex are provided. (Existing policy) This includes both deferred and immediate annexation depending on ownership patterns and boundaries.

Pros: Develops the utility system in accordance with the adopted comprehensive plan. Eliminates competing and overlapping systems. Provides stability to growth area and development industry dealing with known reliability of system. Prevents development of other systems by County or general improvement districts (often incompatible with city system) for areas that will probably be annexed in the future.

Cons: Ad valorem taxes not provided in support of other community services utilized by the water users has not fully recovered imbedded costs. When annexed, strong citizen resistance occurs, even though legally bound. Legislature could void agreements with change in law.

Policy No. 4: Serve only when annexable.

a) Require "adjacency" to city. This in effect would be to serve only after annexation.

Pros: Removes arguments by those being annexed after developer agrees to it. Provides tax base (and liabilities) as development occurs. Keep development patterns "tight". Reduces capital investment for water.

Cons: Increases capital investment for sewer on the cost side. May create leap frog development beyond 3 mile ring or induce the creation of new development districts or cities. Raises cost of land and housing due to limited supply. May introduce competing water and sewer systems.

b) "Island" annexation with consent of both County and landowner.

Pros: Provides for fair share of support of urban services thru ad valorem taxes as development occurs. People buy with full knowledge of status being within the city. Carries out adopted development guide. Removes difficulty of future annexation hearings.

Cons: On interim basis, creates difficult service areas for other services such as fire, police and street maintenance. Could be overcome by cooperative agreements by City to the County for interim fire, police and other services until logical service units (police beats, fire station service areas) can be established. The County has not been receptive to this approach except in unique situations.

Policy No. 5: Provide no outside city services. (May include 4 (a) by inference if area annexable)

Pros: Induce more central/inner city development/redevelopment if developable land at fringe becomes short in supply. Reduce capital outlay by better utilizing existing development. Establish more control on timing and sequencing of development.

Cons: Create pressures for leapfrog development. Set up competing systems i.e. El Dorado water, new wells. Raises cost of land if new developable land becomes in short supply. Rural water districts with other water sources (even though not as dependable or not as good in supply) may provide service. Design criteria different (size, pressure, fire protection). System incompatible in event of future annexation.

Policy No. 6: Require all extensions to be without cost to the City. (includes all oversizing, looping costs, etc.)

Pros: Eliminates costs to those who have "already bought" into system thru payment of bills.

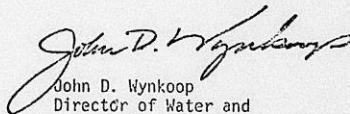
Cons: May be susceptible to litigation by improving "offsite" and oversizing costs on any one development. Old system users all benefited from investments of prior users.

Recommendation: It is recommended that the following policies be considered:

- 1) That water be provided outside of city when:
 - a) Immediately annexable under the statutes (actual service would then be in the city by project development time); or
 - b) The County concurs in island annexation. (This should be done in conjunction with negotiation with the County to provide by contract at a fee level acceptable to both governing bodies, continued fire protection, sheriffs surveillance, snow removal and other services as may be determined appropriate. Contracts could include collecting County sewer service fees with water billing.); or
 - c) Formal agreements for annexation are provided when a or b is not possible.
 - d) The present City Commission policy on rural water districts remain in force.
- 2) Accept growth lines. Approve the service area limits as recommended in Mr. Lakin's memo on Growth Patterns.

December 26, 1978

- 3) Developer (outside the city) be responsible for all costs of extending water service, unless specifically approved otherwise by the Board of City Commissioners because of unusual circumstances. This shall include looping, metering and pipe oversizing.
- 4) That the ordinance pertaining to water main extensions be amended to provide the developer (outside of the city) a rebate of 25% of the gross revenue derived from each customer served by the main that is oversized. The repayment period will be for a 15-year period and the rebate shall not exceed the cost of the oversizing. Further, that the developer (outside the city) be given the option with concurrence by the City Commission to spread the cost of oversizing as a special assessment against the property in the benefit district.
- 5) That the imbedded costs of the utility continue to be recovered from customers outside of the city through the present 50% surcharge on water rates.



John D. Wynkoop
Director of Water and
Water Pollution Control



Robert A. Lakin
Director of Planning

JDW:RAL:sd

THE CITY OF WICHITA
OFFICE OF WATER DEPARTMENT

DATE December 13, 1978

TO The Honorable Board of City Commissioners
(through E. H. Denton, City Manager)

FROM John D. Wynkoop, Director of Water & Water Pollution Control

SUBJECT Cost of Extending Water Service
Outside the City Limits

The cost of providing water service to any area can be considered to consist of both direct and indirect costs. Direct costs include the expense of distribution lines, fire hydrants, service lines and meters, and related equipment which connects the new customers to the existing water system. Indirect costs include the expense in having provided sufficient capacity in the existing facilities to make possible the extension of water service to the new customers and the cost of providing for extension of water beyond the new area.

I. Direct Costs

- A. Cost of Equipment. An 8" main, normally required for adequate domestic water service and fire protection, costs \$15.00 per lineal foot, including valves and fire hydrants. Installation of a 1" meter set and service line averages \$170.00 and a 1" meter costs \$50.00.
- B. Average cost per new customer. Direct cost of extending water to an average size lot outside the city limits is estimated as follows:

Distribution line	\$ 1,050.00
Service line and meter set	170.00
Meter	50.00
	<hr/>
	\$ 1,270.00

Under the present policy, a new customer outside the city pays all of these costs, except the cost of the meter.

II. Indirect Costs

- A. Existing Facilities. There are a variety of opinions as to the most accurate way to apportion to new customers the costs of already existing facilities which make possible the extension of water service to them. The basis of these costs is the utility's equity in its plant: the amount that has been paid by the customers through the water rates. The Wichita water utility's equity in its system is approximately \$33,500,000. This represents all assets minus all liabilities, and does not include the depreciated value of plant that was paid for by federal sources, annexed improvement districts, or benefit districts.

The utility's equity amounts to \$373 for each present customer. The calculation of this amount is detailed on the attachment to this report.

B. Providing for Future Expansion. Feeder mains in a new area are oversized if it is expected that water lines will in the future be extended beyond the immediate area. This is done in order that the future extension will not diminish service to the existing customers. Cost of this oversizing ranges from \$7 per lineal foot (where 12" main is installed) to \$45 per lineal foot (where 30" main is used). Usually, one half mile of oversized feeder main serves a quarter section which can contain 400 new customers. Cost per new customer for oversizing would be from \$46 per lot to \$297 per lot, depending on the size of the feeder main.

III. Total Cost to Extend Water

The direct and indirect costs of extending water to an average size lot outside the city limits are estimated as follows. For the purposes of this example, an average lot is considered to be one with a 70-foot frontage in a quarter section where a water system exists at the edge of the area to be served.

Direct Cost	Oversizing	Indirect Cost Equity per Customer	Total Cost	Currently	
				Paid by Customer	Paid by Utility
\$ 1,270	(12") \$ 46	\$ 373	\$1,689	\$ 1,220	\$ 469
1,270	(16") 138	373	1,781	1,220	561
1,270	(20") 178	373	1,821	1,220	601
1,270	(24") 231	373	1,874	1,220	654
1,270	(30") 297	373	1,940	1,220	720

IV. Alternatives for Recovering the Utility's Indirect Cost.

A. Current Policy. Under the current policy, all the utility's customers, through the payment of water service charges, have shared the cost of the existing facilities and the cost of oversizing for main extensions. Customers outside the city limits pay a 50% surcharge above the rates paid inside the city. For an average residential customer, this surcharge amounts to \$70 per year for the domestic service.

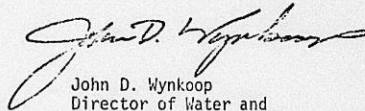
The revenue from this surcharge is sufficient to retire the utility's indirect costs in 6½ to 10 years.

B. Developer Pays Oversizing Cost. In order to reduce the City's investment in facilities outside the city limits which may not be fully utilized, the City may wish to require the developer of each benefit district to pay the cost of oversized mains, loop eliminations, and similar work for which the utility now pays the cost, and to refund to the developer 25% of the revenue from each customer served by the line, until the developer's cost is repaid, or for 15 years, whichever comes first. Even if the utility refunds 25% of this revenue, it will realize 12½% more revenue from these customers than from inside the city customers using the same amount of water. In this way, the utility would incur expenses for outside-the-city facilities only as it derived revenue from the new customers. If an area failed to develop as expected, the developer would stand the unpaid costs. If an area develops as expected (estimated 400 homes per quarter section), the developer should recover the costs from the refund within 15 years.

December 13, 1978

C. Benefit District Pays Indirect Costs. The City may wish to require each member of a benefit district outside the city to pay the indirect costs of extending service, by adding the costs to the special assessments against the property. Under this plan, the utility would incur no expense for facilities serving people outside the city. As indicated by figures previously shown, adding the indirect costs would increase the assessment against each lot by 35% to 55%.

D. Customer Pays Indirect Costs Through Connection Fee. Each new customer outside the city currently pays a fee of \$170 for the cost of installing a service line and meter set. The City may wish to add to that fee the indirect costs of providing water. In this way the utility would incur the expense of investing in facilities outside the city, as it now does, but would recover the indirect costs as each area develops. This would reduce, but not eliminate, the utility's indirect expense in providing water outside the city limits.



John D. Wynkoop
Director of Water and
Water Pollution Control

JDW:sd

attachment

COMPUTATION OF CUSTOMERS' EQUITY

IN WICHITA WATER SYSTEM

AS OF OCTOBER 31, 1978

I. Number of Customers:	Inside City	88,558
	Outside City	<u>1,930</u>
		90,488
	Lawn Services	<u>726</u>
	Number of Customers	89,762
II. Utility's Equity:		
	Depreciated value of plant	\$ 76,693,381
	Outstanding long-term debt	<u>40,229,690</u>
		\$ 36,463,691
	Other assets, less other liabilities	<u>10,076,366</u>
	Total equity	\$ 46,540,057
	Contributions from other sources (original value)	
	Federal	\$ 7,424,377
	Benefit Districts	8,808,638
	Annexed Improvement Districts	<u>794,513</u>
		\$ 17,027,528
	Estimated depreciation on contributions	<u>\$ 3,973,239</u>
	Depreciated value of contributions	\$ 13,054,289
	Amount of equity paid by utility's customers	\$ 33,485,768

III. Equity per customer

$$\frac{\text{Equity paid by customers}}{\text{Number of customers}} = \frac{\$33,485,768}{89,762} = \$ 373 \text{ per customer}$$

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

December 22, 1978

TO E. H. Denton, City Manager
FROM Robert A. Lakin, Director of Planning
SUBJECT Growth Patterns

As a result of a number of studies, the Metropolitan Area Planning Commission has adopted certain plan documents under the "Master Plan" provisions of the State Statutes. The plans assume both new housing and an increase in population by year 2000. The document which addresses the location and type of development is the "General Development Guide" adopted officially by MAPC in 1978, received and filed without action by the Board of City Commissioners August 1, 1978.

The Water Plan adopted by MAPC also shows growth derived from the development Plan. The adopted Water Plan establishes the need for a well engineered, reliable water system, both for quality urban living and for fire protection purposes. These plans propose compact growth adjacent to and contiguous to the existing Wichita urban area. Although not specific to each individual parcel, the plans are clear and concise enough to establish the areas for urban services. The Development Guide supports additional in-fill of the center city as well as expanded growth in selected areas at the edge. The plans in my opinion, by mandating location of water and sewer service areas work against sprawl or dispersed growth and establishes a well ordered and efficient urban system, protective of our resources.

Other plans such as the Sewer Plan and Transportation Plan support this compact growth pattern. Should the City withdraw from furnishing water until a development is in the City, the most likely occurrence will be the development of non-standard (To Wichita) systems for those growth areas rather than development not taking place. If it is assumed that such growth will take place, and it will be ultimately annexed, any policy which would result in separate, non-standard systems would not be in the City's long-range best interest.

As a basis for developing a workable water extension policy, and to allow the Water Department to have a base from which design system needs, it is recommended that the City Commission accept these "growth areas" as the appropriate areas to serve, subject to such additional conditions (such as annexation, connection fees, payment for system extensions, etc.) as they may deem appropriate. Attached is a map which is an adaption from the plan maps showing areas which both Wynkoop and I, as well as the MAPC, believe ought to be provided urban water service from Wichita. This could be used as the base from which to review water requests. Others lying outside of these areas would need special analysis and would need to provide the City sufficient reason to extend water beyond this proposed policy line.

E.H. Denton
December 22, 1978
Page 2

It is recommended that for planning purposes and for developing the basis of a water extension policy, the Board of City Commissioners concur in the "General Development Guide" and approve the use of the attached, or similar, water service area map.


Robert A. Lakin, Director of Planning

RAL:bp
Attachment

THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE December 13, 1978

TO John Wynkoop, Director of Water & Water Pollution Control

FROM Thomas R. Powell, Assistant City Attorney

**SUBJECT Extension of Water and Sewer
Services Outside of the City**

QUESTION: Does the City have a legal obligation to provide water and sewer service outside the city limits?

ANSWER: K.S.A. 12-808 gives the City authority to sell water outside the City limits. This statute reads as follows: "Subject to the provisions of K.S.A. 66-104 and 66-131, and amendments thereto, any City operating water works, fuel, power or lighting plant may sell and dispose of water, fuel, power or light to any person within or without said City." This statute is obviously permissive as to whether a city will provide water to persons whose land is located outside the city.

The general rule of law is that local governments have no obligations to provide utility services to nonresidents where no clear duty to serve nonresidents has been imposed by law. See McQuillan, Municipal Corporations, Volume 12, "Ownership of Utility", Section 35.34c and Municipal Corporations Law, Volume 2, "Utility, Airports and Cemeteries" Section 19.03. However, the case law in several jurisdictions have established several exceptions to this general rule of law.

The question of whether or not a city must provide services to a non-resident, in these cases, turns on whether or not the City has acceded to the status of a public utility. If it is found that the City has acceded to the status of a public utility, then the City must, in a nondiscriminatory manner, provide services to all nonresidents who are located within the service area of the City.

A recent case that addressed the issue of when a City accedes to the status of a public utility is the Robinson vs. City of Boulder case, 547 P.2d 228 (1976). In this case, the Colorado Supreme Court held that the City of Boulder had acceded to the status of a public utility where the City was the sole, exclusive provider of water and sewer service in an area surrounding a 79-acre tract whose owner was seeking to subdivide for residential development. In addition to being the exclusive, sole provider of water and sewer services, the City had entered into agreements with other local water and sanitary districts which precluded those entities from servicing residents in the

area where the tract in question was located. Also, the City had opposed the application of a water company which would have provided water in the area where the tract in question was located. Under these circumstances, the Court held that the City had acceded to the status of a public utility and could not refuse service to the area in question unless it was prevented from doing so by a "utility-related reason". An example of a "utility-related reason" that was given in this case, is a situation where the water supply available to the City is insufficient to provide service to persons located within the City if service is also provided to those outside the City. A "utility-related reason" might also exist where the water or sewer main which is accessible to the land for which water and sewer services are being sought is already operating at maximum capacity.

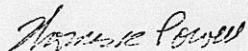
Another recent case that involves the obligation of a City to provide water and sewer service to nonresidents is the case of Delmarva Enterprises, Inc. vs. Mayor and Council of Dover, 282 A2d 601 (1971). In this case, the plaintiff Delmarva Enterprises, Inc. petitioned the City of Dover for water and sewer services for a parcel of land located outside the City of Dover. In the past, a water and sewer system main had been built by the City that was accessible to the property in question. This main had been hooked up to two other developments that were also outside the City. The petition of Delmarva was denied by the City by reason of a policy established by the City to not extend water and sewer services to properties not annexed to the City. Under this set of facts, the Court held that the City had acceded to the status of a public utility and that, therefore, the City could not discriminate against customers but must make its facilities available to all alike, including the plaintiff in this case.

It is my opinion that it would not be unreasonable to anticipate that the Supreme Court of Kansas would apply the principles of law set out in the above two cited cases if a case with facts similar to the two above cases came before the Court. In this regard, it is my understanding that the City of Wichita is now providing water and sewer services to all persons whose land is located outside the City and within that area defined to be the "planned growth area" by the MAPD, when such persons, by petition, agree to be annexed by the City sometime in the future. It is also my further understanding that the City is the sole provider of water in the "planned growth area".

Operating under the rules of law set forth in the above cited cases and applying those rules to the City of Wichita's situation, it is my opinion that the City, as a matter of policy, could refuse to provide water and sewer services to nonresidents. If such a policy is established, it would be important to follow the policy in a strict manner. That is, no exceptions should be made whereby a nonresident would be provided water and sewer services unless the exception is to be applied in a uniform manner across the board to all nonresidents. Also, unless the utility can establish a "utility-related reason",

John Wynkoop
December 13, 1978
Page 3

the policy not to provide water and sewer services should not include not providing service to those nonresidents whose land is accessible to existing water and sewer mains. If the Supreme Court of Kansas applies the principles of law set forth in the above cited cases, the "service area" for the City of Wichita, in my opinion, would probably be designated as that area accessible to existing water and sewer mains, and the City would be held to have attained the status of a public utility in those service areas where water and sewer services are available from no source other than the City of Wichita.



Thomas R. Powell
Assistant City Attorney

TRP:cdh

cc: John Dekker, Director of Law

WICHITA-SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT

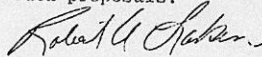
DATE

December 14, 1978

TO Board of City Commissioners
(through the City Manager)
FROM Robert A. Lakin, Director of Planning
SUBJECT Sewer and Water Extension

Office Of The City Manager	
<input checked="" type="checkbox"/> Mr. [initials]	<input type="checkbox"/> Mr. [initials]
<input type="checkbox"/> Mr. [initials]	<input type="checkbox"/> Mr. [initials]
DEC 15 1978	
Copies To _____	
Send To _____	
<input type="checkbox"/> File _____	

The Metropolitan Area Planning Commission has, by unanimous vote, requested that before the City Commission finalizes any review policies on water extension outside the cooperate limits, that the Planning Commission be given the opportunity to review and comment on any such proposals.



Robert A. Lakin
Director of Planning

RAL:rme

cc: Jerry Greider, Chairman, Metropolitan Area Planning
Commission

Robt Lakin

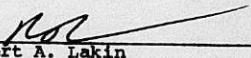
October 15, 1980

Don Gragg, First District Sedgwick County Commissioner

Robert A. Lakin, Director of Planning

Out of City Service Agreements

The City Commission, by unanimous vote, approved City of Wichita Policy No. 2 - Financing of Public Improvements, at their meeting on October 14, 1980. A copy of this policy is attached for your information. It is the policy that provides for the addition of an anti-incorporation provision in the agreements for outside of City water and sewer.



Robert A. Lakin
Director of Planning

RAL:rme
Attachment

Subject: Financing of Public Improvements

Distribution of costs for financing of public improvements in the City of Wichita shall be in accordance with the policies outlined herein.

STREETS

The cost of original construction of streets, except intersections, shall be assessed 100% to the property within the benefit district. The benefit district is defined as including those properties on either side of the proposed street improvement half the distance to the next paralleling street as provided by statute.

For projects initiated under provisions of K.S.A. 12-6a01, et seq. (Chesney Law), the City may pay such cost as the governing body may determine, but not more than 90% thereof.

Cost of maintenance and repair of streets will be paid by the City at large except for repair of damage that can be attributed to an act or acts of a specific person or persons.

Costs of reconstruction or replacement of residential streets shall be paid 100% by special assessment except for cost of intersections. In the event the street reconstruction or replacement is made prior to the expiration of the anticipated useful life of the street as a result of increased traffic or other factors, the City Engineer may recommend to the City Commission that a portion of the cost of reconstruction or replacement may be paid by the City at large.

Costs of reconstruction of major traffic streets shall be distributed with land within the benefit district paying the cost equivalent of a residential street at the same location and the City at large paying the cost of excess width or thickness to major traffic street standards. Special assessments may not exceed 50% of the project cost.

Costs of curb cuts and driveways on residential streets or major traffic streets or major traffic streets for original construction and reconstruction shall be paid by special assessment against the benefitted property.

Costs of major traffic street construction where total access control is required by or dedicated to the City will be paid by the City at large.

SANITARY SEWERS

Costs of construction of sanitary sewers shall be distributed between benefit districts and the City at large in accordance with the following schedule based on the type of sewers.

*BCC 9-30-80 Refer 2nd 3
BCL 10-14-80. Approved*

- (1) Lateral Sewer: Costs to be assessed 100% against land in the benefit district.
- (2) Main (Submain) Sewer: Cost to be assessed 50% against land in the benefit district and 50% to the City at large.
- (3) Interceptor Sewer: Cost to be paid 100% by the City at large.

Costs of maintenance and repair will be paid by the City at large except for repair of damage that can be attributed to an act or acts of a specific person or persons.

Maximum use will be made of federal financial assistance for sewer construction where appropriate.

Connection charges as set forth in Section 16.04.040 of the City Code will be made for properties which have not been assessed for main (submain) construction or lateral construction or which are outside the City limits.

Special assessments for sanitary sewer construction against unplatted and undeveloped land may be deferred in accordance with K.S.A. 13-10, 136. Deferrals shall be for a period of 15 years and may be extended for 10 additional years if 50% of the property remains undeveloped at the end of the first 15 years.

STORM DRAINAGE

Costs of storm water sewer construction shall be paid in accordance with the following:

- (1) All improvements to the Arkansas River and to creeks, canals and sloughs shall be funded through budgeted maintenance funds, general obligation bonds, and such federal funds as may become available.
- (2) Drainage improvements in older areas of the City that have generally been included in a previous benefit district shall be funded 100% City at large.
- (3) Drainage improvements in older areas of the City that have not generally been included in a benefit district shall be funded 50% City at large and 50% by special assessments.
- (4) Drainage improvements in new areas of the City shall be funded 100% by the developer or landowner or they may be assessed to the benefit district as approved by the Commission.
- (5) Pumping stations required as a result of City drainage improvements shall be funded 100% City at large.

SIDEWALKS

Costs of construction, reconstruction or replacement and repair of sidewalks shall be paid 100% by the benefitted property except:

- (1) When constructed along arterial streets.
- (2) When repair or reconstruction is a result of damage that can be attributed to an act or acts of a specific person or persons and for repairs required as a result of utility operations.
- (3) When it is necessary in connection with a reconstruction project to remove and replace a sidewalk determined by the City Engineer to be in good condition.

WATER SYSTEM IMPROVEMENTS

Costs of construction and reconstruction of water system improvements shall be distributed between land in the benefit district and the Water Department Utility Improvement Fund in accordance with Title 17 of the City Code.

SPREADING OF SPECIAL ASSESSMENTS

Special assessments for public improvements shall be distributed in accordance with the statute under which the project was initiated.

When appraisers are required in connection with determining property values within the benefit district, qualified appraisers shall be retained in accordance with Administrative Regulation 7. Appraisers will be instructed as to their duties by the City Clerk.

EXTENSIONS OF WATER AND SANITARY SEWER SYSTEMS OUTSIDE THE CORPORATE LIMITS

Any requests for extension of water and sanitary sewer systems outside the corporate limits of the City of Wichita must be accompanied by a request for annexation and a covenant (to be recorded) prohibiting the person from petitioning for incorporation. The cost of any system extension will be paid 100% by the petitioner.

CITIZEN PARTICIPATION

Appropriate systems will be utilized to permit maximum citizen participation in the preparation of the City capital improvement program as it relates to public improvements.

Notification procedures as provided in Administrative Policy 3 will be used to advise affected citizens of impending City Commission action to initiate a public improvement except in those instances where the improvement has been requested by owners of 100% of the benefitted property.

SEDGWICK COUNTY, KANSAS
BOARD OF COUNTY COMMISSIONERS

DATE September 25, 1980

*EEG 9/30 12:45
09/14*



TO Robert A. Lakin, Director of Planning

FROM Don Gragg, First District Sedgwick
County Commissioner

SUBJECT Memo - September 12, 1980
Out of City Service Agreements

Please provide me of what action the Wichita City Commission took on September 23, 1980.

DEG/nlo

Attachments (2)

cc: Everett Patrick, Chairman
Tom Scott, Chairman Pro-Tem
Theodore H. Hill, County Counselor

RECEIVED

SEP 26 1980

METROPOLITAN PLANNING

ROUTE _____

WICHITA-SEDGWICK COUNTY

Commissioner Kragg

METROPOLITAN AREA PLANNING DEPARTMENT

September 12, 1980

TO Board of County Commissioners
FROM Robert A. Lakin, Director of Planning
SUBJECT Out of City Service Agreements

Attached is a memorandum that I forwarded to the City for their consideration based on action of the Planning Commission. Since this involves service in the unincorporated areas, I thought that you would want to be aware of the Commission action. This should be on the City Commission agenda of September 23.

Robert A. Lakin
Robert A. Lakin
Director of Planning

RAL:rme
Attachment
cc: Craig Robinson, Assistant County Counselor

RECEIVED
SEP 15 1980

09 15 1980

File

THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE September 9, 1980

TO ROBERT A. LAKIN, Director of Planning

FROM H. R. KUHN, Assistant City Attorney

SUBJECT Our of City Service Agreements

Your memo of September 3, 1980 directed to John Dekker, Director of Law, was handed to me for review and response.

The specific question posed by you is a novel one. My research has revealed no precedent for including the commitment of the property owner not to petition for incorporation or for annexation unto any other city.

The Authority of the City to enter into agreements for Out of City Services is authorized by the provisions of K.S.A. 12-821. This Section seems to be somewhat inconsistent with the provisions of K.S.A. 13-1018j which seems to fix a maximum period of 5 years insofar as the operation of a sewer systems is concerned. This latter statute applies to cities of the First Class and was enacted in 1929. K.S.A. 12-821 was originally enacted in 1913 but has been revised several times, the most recent revision being in 1968. I believe that a reasonable construction of the two statutes would support the proposition that the provisions of K.S.A. 12-821 control the Out of City Service Agreements.

Finding nothing to prohibit including the additional restriction as to petitioning the incorporation or annexation unto any other city, I am of the opinion that such provisions could be included with the Out of City Service Agreements. However, if they are, I would recommend that they be treated as covenants running with the land. They should be properly executed and acknowledged by all of the property owners involved and should be filed of record in the office of the Register of Deeds. This would impart notice to any subsequent purchaser of any portion of the land so as to possibly preclude his complaining at a later date.

If I can be of any further assistance, please advise.

Respectfully submitted,

H. R. Kuhn

H. R. KUHN
ASSISTANT CITY ATTORNEY

HRK:mb

cc: John Dekker, Director of Law

RECEIVED

SEP 10 1980

METROPOLITAN PLANNING

ROUTE

THE CITY OF WICHITA
OFFICE OF LAW DEPARTMENT

DATE October 10, 1980

~~26~~
~~26~~
~~26~~
26

TO John D. Wynkoop, Director of Water & Water Pollution Control
FROM John Dekker, Director of Law
SUBJECT Application for Sewer Service Outside the City

On September 22, 1980, you sent a proposed updated application for sewer service outside the city limits to me for review and comment. The same has now been reviewed by H. R. Kuhn, Assistant City Attorney, and I am attaching hereto his comments and suggestions. Unless you have questions, it would be my opinion that you should follow the suggestions set out in Mr. Kuhn's memorandum.

John Dekker
Director of Law

JD:cr
Attachment

cc: ✓ Robert A. Lakin, Director of Planning

RECEIVED

OCT 13 1980

METROPOLITAN PLANNING

ROUTE _____

THE CITY OF WICHITA

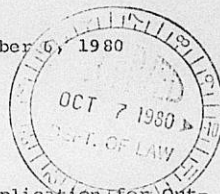
OFFICE OF Department of Law

DATE October 6, 1980

TO JOHN DEKKER, DIRECTOR OF LAW

FROM H. R. KUHN, ASSISTANT CITY ATTORNEY

SUBJECT Form of Application for Out-of-City Service Agreement



This is in response to your memo of September 26 concerning the above noted matter. You requested that I report directly to you.

I have reviewed the form which Wynkoop has sent through for review by the different department heads. For your ready information I am attaching a copy of his proposed form.

I am suggesting the following changes and the reference should be made to the form submitted by Wynkoop:

1. I am suggesting that the form itself should possibly be headed up as follows:

APPLICATION AND PERMIT FOR OUT-OF-CITY
SERVICE BY CWTY OF WICHITA AND RELATED
CONSENT TO ANNEXATION, AGREEMENTS AND
COVENANTS.

2. I am suggesting that paragraph 3 of Wynkoop's form should be changed somewhat to read as follows:

It is stipulated and agreed that all sewer lines on said land and all connections to the sanitary sewer system of the City shall be maintained in good repair during the time this agreement and permit is in force and effect and that the City will not be responsible for maintaining said sewer facilities serving the above described property. However, should the services of the City be desired and the City consents to perform such services, it is agreed that the applicant will pay all actual costs incurred by the City in performing such services.

3. I am suggesting that paragraph 5 be revised to read as follows:

The undersigned agrees not to transfer title to the above premises or any portion thereof without notifying the Clerk of the City of Wichita, and notifying the purchaser of the existence of this application and permit, but failures of purchasers of above-described property or any portion thereof

to have actual notice of this application and permit, shall in no way diminish nor enlarge the rights or obligations imposed hereunder.

4. I am suggesting that paragraph 6 be revised to read:

The undersigned agrees that upon failure to comply with the terms of this agreement and permit, the covered service may be denied to the property above described and said service may be terminated without notice, all in accordance with the ordinance and regulations of the City. This remedy is in addition to all other legal remedies available to the City to assure full compliance with this agreement and permit.

5. I am changing the latter part of Wynkoop's proposed agreement and breaking the same down into separate paragraphs. Said paragraphs would read as follows:

7. The owners of the land covered hereunder do hereby consent to the annexation of such lands by the City at such times as it determines appropriate (as contemplated in K.S.A. 12-519 et seq.). Until such time as the annexation occurs the owners covenant and agree they will not seek incorporation as a separate city nor annexation to any other city of the land, or any part thereof, covered hereunder.

8. The foregoing consent to annexation and covenants are hereby made binding on all heirs, successors and assigns and constitute covenants to run with the land and shall not be withdrawn without the consent of the City of Wichita; and in the event such consent is given, said services may be terminated at the option of the City of Wichita.

1980. EXECUTED at Wichita, Kansas, this ____ day of _____,

THE UNDERSIGNED: (Fill in lines applicable)

(If an individual, application must be signed by husband and wife,
if there be such) (See acknowledgment attached)

A PARTNERSHIP

By _____

(If a partnership, all partners must sign or if only one partner
signs, proof of partnership authority by other partners must be
attached) (See form of acknowledgment on attached sheet)

ATTEST:

A CORPORATION

By _____

Secretary

President

(If a corporation it must be signed by the President and attested by
the Secretary) (See form of acknowledgment on attached sheet)

APPROVED BY:

Director of Water and Water
Pollution Control

Director of Planning

Director of Engineering

In consideration of the above and foregoing application, and pursuant
to the terms of such application and by virtue of the authority
granted by ordinances of the City of Wichita, Kansas, the applicant is
hereby granted a revocable permit to discharge sewage into the sanitary
sewer system of the City of Wichita, and the fee shall be as provided
in Section 16.04.040 of the Code of the City of Wichita, Kansas.

EXECUTED AT WICHITA, KANSAS, this _____ day of _____, 19____,
by authority of the Board of Commissioners of the City of Wichita.

CITY OF WICHITA, KANSAS

By _____
Mayor

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this _____ day of _____, 1980, personally appeared before me, a Notary Public in and for the County and State aforesaid, _____, husband and wife, to me personally known to be the same person(s) who executed the foregoing instrument of writing and duly acknowledged the execution thereof.

My Appointment Expires: _____ Notary Public

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this _____ day of _____, 1980, personally appeared before me, a Notary Public in and for the County and State aforesaid, _____, being all of the partners of _____, a Co-partnership, to be personally known to be the same person(s) who executed the foregoing instrument of writing and duly acknowledged the execution thereof.

My Appointment Expires: _____ Notary Public

STATE OF KANSAS, SEDGWICK COUNTY, SS:

BE IT REMEMBERED, that on this _____ day of _____, 1980, personally appeared before me, a Notary Public in and for the County and State aforesaid, _____, President of _____ and _____, Secretary of _____, to me personally known to be the same person(s) who executed the foregoing instrument of writing and duly acknowledged the execution of the same, for and on behalf, and as the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year above written.

My Appointment Expires: _____ Notary Public

October 1, 1980

John Wynkoop, Director of Water & Water Pollution Control

Robert A. Lakin, Director of Planning


Application for Sewer Service Outside the City

We have reviewed the proposed revision to the sewer application form and believe it to be generally satisfactory.

I would ask that you check with Dekker and ensure that the annexation clause still meets with his full satisfaction. It has been suggested to me that the phrase whereby the landowners "request the annexation" leaves a loophole as opposed to the language that is contained within the statutes. The statutory language provides that a "written petition for or consent to annexation" is filed with the City. You may, therefore, want to include a grouping of words such as follows: "The owners of land do hereby request, petition and consent for the annexation of lands described above", etc.

You also may wish to hold making any changes until it is decided whether the anti-incorporation covenant will be required or is to be made a part of the application as a covenant, or is to be carried separately as a covenant.

Please also inquire of Dekker, since these agreements are going to be binding and filed for record, as to whether or not we need parties and interest, such as mortgage holders also signing and consenting to the conditions in terms therein.


Robert A. Lakin
Director of Planning

RAL:rme

cc: John Dekker, Director of Law
H. R. Kuhn, Assistant City Attorney

FROM _____

DATE _____

ADMINISTRATION	ADVANCED PLANS	CURRENT PLANS	GRAPHICS
<input checked="" type="checkbox"/> Lakin	<input type="checkbox"/> Stockwell	<input checked="" type="checkbox"/> Edgerton <i>OK</i>	<input type="checkbox"/> Pierce
<input type="checkbox"/> Walter	<input type="checkbox"/> Funk	<input type="checkbox"/> Lytle	<input type="checkbox"/> Stafford
<input type="checkbox"/> Eubanks	<input type="checkbox"/> —	<input checked="" type="checkbox"/> Young	<input type="checkbox"/> Commer
<input type="checkbox"/> Hanson	<input type="checkbox"/> Apodaca	<input checked="" type="checkbox"/> Chambers	<input type="checkbox"/> Crook
<input type="checkbox"/> Henderson	<input type="checkbox"/> Bechtel	<input checked="" type="checkbox"/> Nagley	<input type="checkbox"/> Garland
<input type="checkbox"/> Lakin, E.	<input type="checkbox"/> Curfman	<input checked="" type="checkbox"/> Oliver	<input type="checkbox"/> Singhal
<input type="checkbox"/> Nelson	<input type="checkbox"/> Feigenbaum	<input type="checkbox"/> Shirkey	<input type="checkbox"/> Whitney
	<input type="checkbox"/> Haas	<input type="checkbox"/> —	<input type="checkbox"/> —
	<input type="checkbox"/> Lickteig		
	<input type="checkbox"/> Losew		
	<input type="checkbox"/> Reed		
	<input type="checkbox"/> Schafer		
	<input type="checkbox"/> Shen		
	<input type="checkbox"/> Vinson		

<input type="radio"/> Note & Return	<input type="radio"/> Signature
<input type="radio"/> Handle	<input type="radio"/> Library
<input type="radio"/> All Staff	<input type="radio"/> Information
<input checked="" type="radio"/> Comment	<input type="radio"/> Files

REMARKS _____

T9-105

THE CITY OF WICHITA
OFFICE OF WATER DEPARTMENT

DATE September 22, 1980

TO See Distribution

FROM John D. Wynkoop, Director of Water and Water Pollution Control

SUBJECT Application for Sewer Service
Outside the City

Attached is a proposed updated application for sewer service outside the City limits.

I will appreciate your review and comments on this proposed form.

John D. Wynkoop
Director of Water and
Water Pollution Control

JDW/b

attachment

To: Don Anderson, Director of Housing and Economic Development
John Dekker, Director of Law
Ray Bruggeman, Director of Engineering
Robert Lakin, Director of Planning ✓

1) Do name for h2o

2) Anti incorporation covenant

3) Do we need parties in interest (i.e. mortgage or
lien holder) to sign?

RECEIVED

SEP 22 1980

METROPOLITAN PLANNING

ROUTE

CITY OF WICHITA, KANSAS

APPLICATION AND PERMIT
FOR SEWERAGE SERVICE FOR PROPERTY
LOCATED OUTSIDE THE CORPORATE LIMITS OF THE CITY OF WICHITA

Application is hereby made to the City of Wichita for sewerage service to serve the following described property:

Owner: _____

The primary use of the above described property is of the type or types indicated below:

- Residential property (buildings used as dwellings only)
Number of families living in above residential property ()
- Commercial property (non-residential buildings used for other than the manufacturing of salable products)
- Industrial property (buildings used for the manufacture and processing of salable products)
- Other property (explain): _____

The undersigned covenants and agrees as follows:

1. To connect to the sewer system of the City at a point or points designated by the City in accordance with plans and specifications approved by the Director of Engineering and the current sewer ordinances of the City, and subject to inspection by the Superintendent of Central Inspection.
2. To discharge into the City sanitary sewer system only ordinary sanitary wastes and to discharge no toxic or hazardous pollutants, radioactive materials, corrosive or abrasive matter, air conditioning water, surface or building drainage, any sewage prohibited by current sewer ordinances, or any sewage other than that being discharged at the time of this application, without the written consent of the City.
3. It is further stipulated and agreed that all sewer lines on said land and all connections to the sanitary sewer system of the City shall be maintained in good repair throughout the life of this permit and that the City will not be responsible for maintaining said sewer facilities

servicing the above described property. However, should the services of the City be desired and the City consents to perform such services, it is agreed that the applicant will pay all actual costs incurred by the City in performing such services.

- 4. The undersigned hereby releases, indemnifies, and agrees to hold harmless the said City and any and all its agents and employees from any claim for damages to persons or property of every kind of character arising or claimed to arise by reason of this application and permit.
- 5. The undersigned agrees not to transfer title to the above premises or any portion thereof without notifying the Clerk of the City of Wichita, and notifying the purchaser of the existence of this application and permit, but failures of purchasers of above-described property or any portion thereof to have actual notice of this application and permit shall not entitle such purchasers to any greater rights than the undersigned shall have hereunder.
- 6. The undersigned agrees that upon failure to comply with the terms of this permit, sewerage service may be denied to the property above described and said property may be disconnected without notice, all in accordance with the ordinance and regulations of the City.

The owners of land do hereby request the annexation of lands described above, by the City of Wichita at such time as it determines appropriate. The request is hereby made binding on all heirs, successors and assigns and is made a covenant to run with the land and shall not be withdrawn without the consent of the City of Wichita; and in the event such consent is given, said services above may be terminated at the option of the City of Wichita.

Executed at Wichita, Kansas, this _____ day of _____, 19____.

THE UNDERSIGNED: (Fill in lines applicable)

(If an individual, application must be signed by husband and wife, if there be such.)

(Co-partners - must be signed by at least one partner.)

(Corporation - must be signed by an executive officer.)

STATE OF KANSAS)
SEDGWICK COUNTY) SS

Personally appeared before me a Notary Public in and for the County
and State aforesaid _____

_____ to me personally known to be the same person who executed the foregoing
instrument of writing and said person duly acknowledged the execution
thereof.

Dated at Wichita, Kansas, this _____ day of _____, 19____.

Notary Public

My Commission expires _____.

APPROVED BY:

Director of Water and Water Pollution Control

Director of Planning

Director of Engineering

In consideration of the above and foregoing application, and pursuant to the
terms of such application and by virtue of the authority granted by ordinances
of the City of Wichita, Kansas, the applicant is hereby granted a revocable
permit to discharge sewage into the sanitary sewer system of the City of
Wichita, and the fee shall be as provided in Section 16.04.040 of the Code of
the City of Wichita, Kansas.

EXECUTED at Wichita, Kansas, this _____ day of _____, 19____,
by authority of the Board of Commissioners of the City of Wichita.

CITY OF WICHITA, KANSAS

BY: _____
MAYOR

September 12, 1980

Board of City Commissioners
(through E. H. Denton, City Manager)
Robert A. Lakin, Director of Planning

Out of City Service Agreements

The Metropolitan Area Planning Commission requested a legal opinion as to whether or not the Out of City Service Agreements that the City utilizes in providing sewer and water service could be amended to include a clause which would prohibit the person requesting the service from petitioning the incorporation of, or annexation to any other city. The legal opinion has been submitted and is attached. In summary, it appears that such additional clause is possible to include in our agreements. The opinion suggests that it be done in the form of a covenant.

The Planning Commission, in reviewing this matter as an off agenda item at their September 11 meeting, moved to recommend to the City Commission that they include such clause in future agreements, and request the Department of Law to provide such covenant language at the earliest possible date; and to instruct the Subdivision Committee of the Planning Commission not to process any plats in areas to be provided City of Wichita services until such agreement has been obtained. The vote of the motion was unanimous.

Robert A. Lakin
Director of Planning

RAL:zme
Attachment

cc: John Dekker, Director of Law
H. R. Kuhn, Assistant City Attorney

THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE September 9, 1980

TO ROBERT A. LAKIN, Director of Planning

FROM H. R. KUHN, Assistant City Attorney

SUBJECT Out of City Service Agreements

Your memo of September 3, 1980 directed to John Dekker, Director of Law, was handed to me for review and response.

The specific question posed by you is a novel one. My research has revealed no precedent for including the commitment of the property owner not to petition for incorporation or for annexation unto any other city.

The Authority of the City to enter into agreements for Out of City Services is authorized by the provisions of K.S.A. 12-821. This Section seems to be somewhat inconsistent with the provisions of K.S.A. 13-1018j which seems to fix a maximum period of 5 years insofar as the operation of a sewer systems is concerned. This latter statute applies to cities of the First Class and was enacted in 1929. K.S.A. 12-821 was originally enacted in 1913 but has been revised several times, the most recent revision being in 1968. I believe that a reasonable construction of the two statutes would support the proposition that the provisions of K.S.A. 12-821 control the Out of City Service Agreements.

Finding nothing to prohibit including the additional restriction as to petitioning the incorporation or annexation unto any other city, I am of the opinion that such provisions could be included with the Out of City Service Agreements. However, if they are, I would recommend that they be treated as covenants running with the land. They should be properly executed and acknowledged by all of the property owners involved and should be filed of record in the office of the Register of Deeds. This would impart notice to any subsequent purchaser of any portion of the land so as to possibly preclude his complaining at a later date.

If I can be of any further assistance, please advise.

Respectfully submitted,

H. R. Kuhn
H. R. KUHN
ASSISTANT CITY ATTORNEY

HRK:mb

cc: John Dekker, Director of Law

Sawyer - find with J. Kuhn documents
Send cc to [unclear]

RECEIVED

SEP 10 1980

METROPOLITAN PLANNING

ROUTE

September 3, 1980


John Dekker, Director of Law

Robert A. Lakin, Director of Planning

Out of City Service Agreements

The Planning Commission, at it's regular meeting of August 28, 1980, was considering a zone change request for property located in the Crestview development. The question was asked whether or not the City's service agreements for water and sewer could be changed to include a statement that the owners of property will not petition for the incorporation of any city, or petition for the annexation into any other city?

Although there was an attempt to attach this to the condition of zoning that goes to the Board of County Commissioners on September 24, it was decided that this should properly, if legal, be a part of the Subdivision process of ensuring the adequate provision of public facilities. Inasmuch as this plat is moving forward and is on our Subdivision Committee agenda on September 4 as a final plat, I would appreciate an early response. I do not need the answer by September 4, but if approved at the Planning Commission, it will be coming to the Board of City Commissioners for their consideration in a relatively short time. The time would be dependent on the completion of the final tracing, title opinions and the more mechanical details of finaling the plat.


Robert A. Lakin
Director of Planning

RAL:eme

cc: E. H. Denton, City Manager
H. R. Kuhn, Assistant City Attorney
Jack H. Galbraith, Chief Planner, Current Plans Division

August 21, 1980

Jack H. Galbraith, Chief Planner, Current Plans Division

Robert A. Lakin, Director of Planning

Out of City Agreements - Water and Sewer

On all plats processing through Subdivision Committee, make sure that there is a current request for sewer or water service outside the City Agreement, if indeed, they will be using City water or sewer, and/or outside the City. Several old agreements exist like on Crestview. We want to make sure that any new subsequent plat that comes through or replat signs a new agreement. Make sure that nothing goes on City Commission without that or at least having been called to my attention if we don't have it, and make sure that those are pointed out to engineers as they bring their plats through. Comments should also be extended to pink and green sheets as needed.


Robert A. Lakin
Director of Planning

RAL:rme

cc: Louise Olivarez, Senior Planner
Forrest Nagley, Junior Planner

August 12, 1980

John Dekker, Director of Law

Robert A. Lakin, Director of Planning

Out of City Agreements - Water and Sewer

In reviewing the Out of City Agreements on Bel Aire, you found that those agreements were five-year contracts. These appear to be common among some of the earlier agreements we had on water and sewer. I suspect there are many like the Bel Aire one whose five years have expired. In particular, I am looking at a copy of one submitted by Rock Island Oil and Refining Company, signed January 26, 1967, and expiring five years later. To my knowledge it has not been renewed and services are still being provided.

I would suggest that you have someone research the status of these contracts and be prepared to recommend what action, if any, should be taken by the City in asking that these contracts be renewed and/or the termination of services, or that no action be taken. Since this is a policy item obviously as well as a legal issue, as soon as you have your research completed, I would suggest that the Manager's office, Wynkoop, you and I sit down and discuss the alternatives.

May I suggest that we have this by August 25, when we have a draft of a report that the Manager has asked for concerning a position paper on annexation.



Robert A. Lakin
Director of Planning

RAL:rme

cc: Robert Finch, Deputy City Manager
John Wynkoop, Director of Water and Water Pollution Control

April 24, 1979

Martin Umansky

Martin Umansky, General Manager of KAKE-TV and Radio, Inc., spoke in support of the request and stated that he would be willing to provide for a review in one year, and if opposition is still valid they would cancel the operation or if something should occur that would make the operation unsafe or not a good thing for the community then they would terminate it themselves. He also suggested that the area could be surveyed after a trial period.

Discussion

Discussion was had regarding licensing on a trial basis, and the Director of Law stated that he would need time to research temporary licensing, or trial basis licensing, but advised the Commission that a poll of the neighborhood for approval of licensing would not be allowable under law.

John Dekker

Mr. Dekker stated that he would need about three weeks to research the matter, and Mr. Umansky stated that he would have no objection to delaying the matter for further study.

Motion--

Casado moved that the City Manager and the Legal Department research the matter for possible options and any recommendations for licensing, to be returned in four weeks.

The following persons spoke in opposition to the request for a helistop at subject location:

Ilene Jones, Peggy Veges, and Howard Whatley, all residents in the area.

--carried

Motion carried 5 to 0.

Recess

The City Commission recessed at 10:45 A.M. and reconvened at 11:05 A.M.

PROPOSED ANNEXATION
OF ONE CONTIGUOUS
AND SIX ISLAND
TRACTS GENERALLY
LOCATED AT THE
FOUR MILE CREEK
SEWER BASIN FROM
HARRY TO 13TH AND
FROM THE CITY
LIMITS TO 143RD
STREET EAST

Proposed annexation of one contiguous and six island tracts generally located at the Four Mile Creek sewer basin from Harry to 13th and from the city limits to 143rd Street East, presented.

On February 13, 1979, the City Commission amended the policy of the City on the extension of water and sewer service to provide that such service would not be extended outside the city limits only when:

- a) the tract is immediately annexable under the statutes; or
- b) the County concurs in island annexation;
- c) require that the developer will be responsible for all costs of extending water service

Presented for consideration are seven annexation cases which involve the extension of water service. The Commission has been provided with a memorandum and detailed report on the annexation cases and the following alternative courses are offered:

(1) Proceed in accordance with existing policy and:

- a) Approve and place on first reading an annexation ordinance for the contiguous property south of Harry Street and east of Webb Road.
- b) Approve the resolutions specifying the intent to annex the noncontiguous properties to the City of Wichita.
- c) Direct the City Clerk to forward a certified copy of the approved resolutions to the Board of Sedgwick County Commissioners for their consideration and upon favorable consideration by the Board of Sedgwick County Commissioners, return a standard annexation ordinance to the agenda for first and second readings; or

(2) Proceed in accordance with existing policy and place on first reading the annexation ordinance of the one contiguous property, but decline to initiate island annexation of the remaining six tracts. Because of prior contractual obligations on five of the six island tracts, the Director of Water and Water Pollution would proceed to bring forward the extension of water service to those tracts. Extension of water service to one tract, the Bridgewood Addition, would not be authorized.

COMMISSIONERS PROCEEDINGS

7311

April 24, 1979

(3) Revise the existing policy to permit extensions of water service in identified "growth" areas of the City, subject to the applicant signing an agreement to request annexation at such time as they become contiguous with the City limits, and paying 100% of the cost of the extension. The Commission could proceed to place on first reading the annexation ordinance of the one contiguous tract and authorize the extension of water service to the six island tracts.

(4) Take no action at this time on the annexations and authorize the Director of Water and Water Pollution Control to proceed with project initiation on the service extensions where the City has a contractual obligation made prior to the policy change.

In accordance with the existing policy of the City Commission, the administrative staff recommends Alternative (1).

Bob Lakin

Director of Planning presented slides showing the developing areas outside the City limits within the designated growth area and the location of the proposed annexation areas, and reviewed the availability of water and sewer to serve those growth areas. He indicated that only one of the six island tracts has not signed an agreement for annexation but has expressed their willingness to seek annexation if they could meet the City's requirements for same. He answered questions by the Commission regarding annexable properties.

W. G. Ward

W. G. Ward, 300 Callahan, spoke in support of making water service available to property outside the City whether annexable or not, if they want to pay for it.

Dave Bayouth

Dave Bayouth, MAP Commissioner, stated that it was hoped that the Commission could provide some guidance to the MAPC as to policy, both water and annexation, for development in the 3-mile area.

Art Woodman

Art Woodman, Chairman of the Water Resources Committee, Chamber of Commerce, felt the present water policy should be reconsidered, suggesting a utility type approach be considered or possibly a more lenient water policy, for the desired development to occur and enhance the growth of Wichita.

Comm. Brown

Commissioner Brown stated that he felt it very necessary to make water available in order for Wichita to progress.

Brown moved that alternate #3 outlined above be approved and the ordinance annexing the one contiguous property be placed on first reading. (Motion later amended).

Comm. Porter

Commissioner Porter stated that he was opposed to the alternative spoken to in the motion as he felt it would continue to subsidize developments outside the City rather than promoting a fair and equal share of the cost being paid by those receiving City services. He also noted that there is no unwillingness on the part of the Commission to provide water service under the current policy.

Mayor Casado

Mayor Casado stated that he was opposed to island annexation and this was his main problem with the current water policy.

Comm. Knight

Commissioner Knight stated that he shared some of the views expressed by Commissioner Porter, but he had reservations to using water as a lever, and he felt the denying of water to those areas outside the City would inhibit growth.

Discussion

Discussion was had regarding the alternatives.

John Dekker

Director of Law requested a clarification in wording in Alternate #3 which was placed as a motion, and it was the consensus that in extending water service to identified "growth" areas that the applicant/owner should sign a request for annexation to become effective when it becomes contiguous with the City limits. Mr. Dekker felt that should be made a part of the deed transferring title from the developer so the purchaser is aware of that binding agreement and annexation will occur without any further action being required by the new owner.

Brown moved an amendment to the motion that the following wording be inserted as recommended: "to permit extensions of water service in identified 'growth' areas of the City, subject to the applicant/owner signing a request for annexation to become effective when it becomes contiguous with the City limits, and paying 100% of the cost of the extension. Amendment carried 5 to 0.

February 13, 1979

On January 23, 1979, the Commission deferred the matter to February 13, 1979, in order to allow additional preparation time and also to provide the Environmental Resources Advisory Board and the Board of Health an opportunity to review the proposal prior to presentation to the City Commission.

Management Report #109 "Suggested Options and Alternatives Related to an Environmental Resources Entity for the City of Wichita and Sedgewick County" has been previously provided the City Commissioners as well as the County Commissioners, members of the Environmental Resources Advisory Board and the Board of Health. The report outlines four alternative approaches to an environmental resources entity.

The Environmental Resources Advisory Board and the Board of Health are scheduled to review the Management Report on February 7 and February 8, respectively. It is anticipated that comments from the two boards will be available at the time the matter is presented.

E. H. Denton

City Manager gave a general overview and reviewed the alternatives spoken to in the report furnished the Commission.

Roger Turner

Roger Turner, Board of Health, stated that the Board unanimously supported alternate #2; however, they would stand ready to work with whichever alternative is chosen. He also stated, in reply to inquiry by the Commission, that his personal feeling was that the Environmental Consumer Services aspect should be broadened.

Barbara Ciboski

Barbara Ciboski, Budget Office, answered questions by the Commission regarding the report.

Dr. Edgar Cleaver

Director of Public Health responded to questions by the Commission regarding what portion of the report was prepared by the Health Department.

Joan Kamas

Joan Kamas, representing the Citizens' Group which proposed the creation of such a department, spoke in support of Alternate #1, as they felt it would provide a greater independence for a separate department.

Mary A. Horsch

Mary Alice Horsch, Chairperson, Environmental Resource Advisory Board, stated that the Board recommended adoption of Alternate #1; however, the Board felt the matter should be deferred for further discussion as to other possible alternatives.

Comm. Donnell

Commissioner Donnell felt that incorporation of "green belts" or agricultural areas within the City would be beneficial, noting that it will require cooperation, and he hoped to direct his vote for improving the lot of future generations.

Ms. Horsch

Ms. Horsch answered questions by the Commission and stated that the County Commission indicated in discussions that a separate department would be more acceptable. She further felt that it would require cooperation between the City and the County to bring this to a reality.

Discussion

The Commission discussed the merits and the cost benefit ratio to the City taxpayers as opposed to County taxpayers under a jointly funded operation.

Motion--

Donnell moved that alternate #1 be approved.

Discussion

Discussion was had regarding a more equitable distribution of cost for services, and it was the consensus that a department funded by a tax levied by the County would be more equitable.

Substitute motion--

Shanahan moved a substitute motion that the City Commission adopt as a policy statement and as a proposal and request to the Board of County Commissioners, that the Board of County Commissioners establish a separate Environmental Assessment and Evaluation Board, to be funded from the County budget by County taxes, as a County Department, and supported by County funds, to serve all cities, communities, and citizens within the County as requested or asked or needed.

Comm. Casado

Commissioner Casado expressed support for Alternate #2 over Alternate #1.

--carried

Substitute motion carried 4 to 1. Casado "no".

*Mayor Peters excused for a short time. Vice-Mayor Shanahan in the Chair.

Policy alternatives for extension of water and sewer service outside of

(POLICY ALTERNATIVES
FOR EXTENSION OF
WATER AND SEWER
SERVICE OUTSIDE OF
THE CITY

) the City.

February 13, 1979

On November 14, 1978, the City Commission heard a "focus" presentation by the Departments of Water and Planning on policy considerations in the extension of water and sewer service outside of the City. At that time the Commission requested that the administrative staff return with suggested alternative policy statements for further consideration. The Commission also requested reports on the cost of extending water and sewer service to include imbedded capital costs and the legal obligation, if any, of the City to provide water and sewer services to outside of the City customers.

The Commission has been provided with several staff reports which address the items above. Policy alternatives include:

Policy #1--Operate as a regional source of supply; treat and distribute water in accordance with the adopted plan.

Policy #2--Supply water wholesale to rural water districts.

Policy #3--Serve urbanizing area based on development guide (land use plan) when binding legal agreements to annex are provided. This is the existing policy and includes both deferred and immediate annexation depending on ownership patterns and boundaries.

Policy #4--Serve only when annexable.

Policy #5--Provide no outside city services.

Policy #6--Require all extensions to be without cost to the City, including oversizing, looping costs, etc.

There are also combinations of the various alternatives which are not listed separately.

The administrative staff recommends that the Commission adopt the following as the policy for extension of water and sewer services outside the City:

- (1) That water be provided outside of the City when:
 - a) Immediately annexable under the statutes; or
 - b) The County concurs in island annexation; or
 - c) Formal agreements for annexation are provided when (a) or (b) is not possible.
 - d) The present Commission policy on rural water districts remain in force.
- (2) Adopt a service area limits, the "growth lines" as set out in the material provided by the Metropolitan Area Planning Department.
- (3) Require that the developer will be responsible for all costs of extending water service outside of the City.
- (4) Amend the City Ordinance on water main extensions to provide that the developer (outside of the City) be granted a rebate for a period of 15 years of 25% of the gross revenues derived from each customer served by the main that is oversized with the total rebata not to exceed the cost of oversizing.
- (5) That the imbedded costs of the utility continue to be recovered from customers outside of the city through the present 50% surcharge on water rates.

On January 2, 1979, the City Commission reviewed the policy alternatives and referred the matter to the Planning Commission and Environmental Resources Advisory Board for their review and recommendations. The recommendations of those boards have been received and provided to the City Commissioners.

The City Manager recommends that the Commission adopt as policy on water and sewer service extensions, the policy proposal outlined above.

Bob Lakin

Director of Planning discussed with the Commission the alternatives, the projected growth area limits (based on assumptions), and the annexable developments at the periphery of the City. He noted that the southwest boundary crosses property owned by Amortibanc, and they have requested inclusion of their

COMMISSIONERS PROCEEDINGS

7039

February 13, 1979

property within the growth area, if the boundary outlined is adopted.

H. H. Denton

City Manager reviewed his recommendation with the Commission, and discussed the changes to the existing policy which would result should the recommendation be approved as outlined. It was also noted that growth would be affected by whether island annexations would be approved by the County Commission.

*Commissioner Shanahan excused for short time of discussion.

Discussion

Discussion was had regarding effects in development, and it was noted that extension of water service outside of the City without annexation encourages development in those areas of the County rather than in the area immediately annexable to the City, or within the City.

Mayor Peters

Mayor Peters inquired if anyone desired to speak on this matter.

Lowell Richardson

Lowell Richardson, Mid-Kansas Federal Savings and Loan and Wichita Homebuilders, felt water should be considered a regional resource and urged that the policy not be too restrictive; that the Commission not limit the growth area to annexable property; that any rebate program be kept simple; and that the Commission not continue the moratorium if a decision cannot be reached.

Action--

Shanahan moved that as a policy for the extension of water and sewer services outside the City, that the City Commission adopt as policy Item (1) a), b), d), and Item (5) as outlined above.

Discussion

H. H. Denton

Discussion was had and the City Manager stated that if this policy is adopted, he would explore the possibility of contracting with the County for police and fire services on island annexations on an intergovernmental basis.

John Wynkoop

Director of Water advised that the island annexation was not looked on favorably by the County Commission when that subject was brought up at a previous meeting, and Commissioner Porter felt that was a matter developers should take up with the County. Mr. Wynkoop answered questions by the Commission concerning water service to outlying areas and concerns of the future.

Amendment--

Amendment carried

Donnell moved an amendment to the motion encompassing Item (3), requiring the developer to be responsible for all costs of extending water service to areas outside the City unless specifically approved otherwise by the Board of City Commissioners because of unusual circumstances. Amendment carried 5 to 0.

PROPOSED NEW ANIMAL
ADOPTION PROGRAM AND
REPORT ON ANIMAL
CARE ORGANIZATION
SUB-CONTRACT WITH
DR. LOESCH

Proposed new animal adoption program and report on animal care organization sub-contract with Dr. Loesch.

Dr. L. D. Loesch, Wichita Animal Shelter, has requested to appear before the City Commission to address the problems associated with the present adoption program administered at the Wichita Animal Shelter by the Animal Care Organization (ACO) and to propose a new adoption program. Dr. Loesch has indicated that Ms. Anne Gonnerman, Regional Director, United States Humane Society, will also be present to speak to the proposed new adoption program.

In a related matter, on February 6, 1979, the Commission deferred discussion on the Animal Care Organization sub-contract with Dr. Loesch for three weeks and asked that the Department of Law act as mediator between Dr. Loesch and representatives of the ACO to attempt to resolve the contractual problems and to develop written procedures for the operation of the adoption program. The Director of Law was prepared to report on the results of any meetings held prior to this date.

John Dekker

Director of Law, reported that in his investigation the current system is an impossible situation and it was his firm belief that the two parties will not work together. He reviewed the alternatives included in his prepared report furnished the Commission, the alternatives being separation of the ACO and the Animal Shelter, physically; or contract with Dr. Loesch for the adoption program. He further stated that if those alternatives are not satisfactory then the Commission could call in all contracts, prepare specifications, and put it out for bids to the general public.

Dr. Dean Loesch

Dr. Dean Loesch, Wichita Animal Shelter, read a prepared statement in which he took issue with complaints expressed against his animal shelter operation by various persons and organizations. He noted that the present animal shelter program is being carried on by him at a cost of about \$30,000 less than what was spent on the previous contract arrangement. He felt his past record speaks for itself, and he explained his proposed program for adoption services.

February 7, 1979

02-61

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

Extension of Water and Sewer Service Outside of the City

The Metropolitan Area Planning Commission has discussed the policy alternates at two formal sessions and two informal sessions. Prior to taking action, they did request that the Board of County Commissioners comment on the policy alternatives. The County received and filed the report (Lakin and Wynkoop memo to Board of City Commissioners, dated December 26, 1978) and instructed the County Counselor's office to develop for the County Commission alternative courses of action they could take based on each alternative being considered by the City.

The MAPC after hearing from two citizens unanimously (Barrier and Greider absent) recommend that the City continue the City's existing policy of extending water and sewer with annexation agreements; continue to serve rural water districts under the City's current guidelines; and for the Board of City Commissioners to take such action as it deems appropriate as to costs for oversizing, looping, etc. (See minutes for discussion and motion).

Robert A. Lakin
Director of Planning

RAL:rme
Attachment

cc: John Wynkoop, Director of Water & Water Pollution Control
Metropolitan Area Planning Commission w/a

12. Discussion of policy relating to water/sewer service outside of the City of Wichita.

ROBERT A. LAKIN, Director of Planning, stated that the City Commission had raised the issue of whether or not they should continue a practice of serving water outside the City of subdivisions that are not in the City. He said that the current policy is to provide the service subject to the owners of property agreeing to annexation at such time as the City finds them legally annexable and wishes to do so. The latter is done in the form of an agreement and filed with the Register of Deeds.

LAKIN said he did prepare along with Mr. Wynkoop of the Water Department, a series of alternatives which were submitted to the City Commission. LAKIN reviewed the alternatives with the Planning Commission, and discussed each one with them. He mentioned that he had received from the Health Department a copy of the action by the ERAB Board stating that they agreed with the recommendation submitted by Mr. Wynkoop and himself as the most acceptable policy of those offered. They pointed out that the alternatives assumed unlimited resources. LAKIN disagreed with their assumption. He said that within the Water Plan it was recognized that there were limited resources. Whether the City should proceed to acquire them or pursue alternate courses such as conservation or reuse is open for debate. He said his impression is that the main concern of ERAB is in the area of conservation. LAKIN said the policy issue is more a question of geographical hookup (or landuse distribution) and not conservation. He pointed out that at the time this issue was before the City Commission, the conservation was discussed and the City Commission directed Mr. Wynkoop to return to the Commission his recommendations on proceeding toward additional conservation activities. He said the conservation issue was spoken to in the Water Plan, but lightly.

LAKIN stated that the Planning Commission did ask that the County Commission comment. He reviewed the policy alternatives at length with the County Commission. Their action was to receive and file the report submitted to them, and to instruct their legal department to provide them alternatives that the County Commission might look at in the event the City Commission adopted any one or all of the policies outlined in the memorandum before the City Commission. He said that there were statements made but not included in the motion that they should look for water to be a regional operation, and that the County may well have to get into the water business. It was Lakin's view that the County believes that there is a need for water in the areas as shown on the map, and would be willing to be prepared to take steps to provide it in the event it was not available otherwise.

JOHN M. ROBERTS, 104 North Armour, said that his interest was in the development field, and his greater interest was in helping the consumer of housing to obtain a quality product at the very most competitive price. The City Commissioners have expressed themselves in the same vein in the recent industrial bond issue for housing.. He said a number of employers of the city have expressed the desire for affordable homes to be built. He felt any change in the City water policy could only deter development, raise the cost to the consumer, and lower the quality of service to the consumer. Speaking of the Oaklawn Water District, he said it was common knowledge that the system was substandard. The water and services were substandard, so much so that the City of Wichita does not appear to have the desire to be involved. He requested that the current water policy be retained and that the moratorium for approving water be removed. He said the Water Department had done a good job in servicing the public at large, and he recommended that it continue to serve the public at large, and to prevent the County from being forced into the water business along with the number of small individual water districts.

LOWELL RICHARDSON, Mid-Kansas Federal Loan Association and member of the Wichita Area Homebuilders, stated it was obvious there was a need to plan for growth not only for Wichita, but for the County which was the Planning Commission's function. He felt that it would be a grave mistake to not allow the Wichita Water Department to become the kind of department it needs to be. He said that we have an excellent water department and it does the job. He did not believe the County really wanted to be in the water business, but if we are too restrictive with the water policy it would leave the County no alternative but to get into the water business. He strongly recommended that the Planning Commission not recommend to the City Commission that water service be limited to only those areas which could be immediately annexed. He pointed out that it would boost the cost of housing. He said that they strongly object in the delay (in processing water petitions) while the decisions are being made. He said that his company has a tremendous amount of money invested not only in housing, but in land development projects which were brought about because of a policy which was in effect at the time and now suddenly those areas cannot be served. He recommended that the present policy be continued until one could be arrived at. There are subdivisions being held up because of the water situation. He felt that the Wichita Water Department should be able to serve at a minimum the urbanizing area. This system works and he felt they should continue with the expertise the water company has built.

BAYOUTH felt this issue should not be delayed again. It cost money to delay these projects.

MOTION: That the Planning Commission recommend to the City Commission that Policy #2 and #3 be adopted. Bell moved,

Bayouth seconded. (Note the number refer to policy alternates in Wynkoop-Lakin memo to Board of City Commissioners, dated 12-26-78).

COLE felt that it was wise to continue to provide water from the centralized source rather than for the fragment services to the region. He believed that there are problems that would be more compounded if different areas had to compete for their sources of water. He hoped that the City could continue to provide water where they wanted to encourage annexation and growth. The policy that exists does have some positive aspects to it in that way. He also hoped that they continue to require an agreement that areas that are served will not at a later time oppose annexation. He said that he liked the idea of requiring the developer to pay all of the costs, but if there was any rebating that comes about, he would hope that the rebate be returned to the ultimate property owner as opposed to returning it to the developer. The developer would recover most of his cost with the extension of water when he sells the property. COLE mentioned island annexation as a solution and the problems thereto in the area of police and fire, he said that those problems could be solved if there was a will on both sides of the street to solve them. If additional people were hired by the County to provide for the police and fire protection of these areas, it would appear to him that the contract could be that at the time these areas were absorbed into the City, that those people could transfer onto the City with no loss of seniority. He said that he would be hesitant to recommend anything that would further increase the load to the residents inside the City limits paying to support services provided exclusively to people outside the City limits within the County, and that would be what would happen if the County was forced to establish a water department. COLE continued that part of the property base that supports the County is within the City of Wichita. He said that it would make more sense to consolidate services.

Discussion continued with the realization that the motion did not cover all that was wanted to be proposed. BELL stated that he would amend his motion with the consent of the second. BAYOUTH consented.

AMENDED MOTION: That the Planning Commission recommend to the City Commission to supply water wholesale to Rural Water Districts under the existing City guidelines; and continue to serve the urbanizing areas including agreements for annexation; and with the further recommendation that the decision as to oversizing, looping and other costs of the projects be made by the City Commission as it determines to be in the best interest of the City. Bell moved,

Bayouth seconded and it carried
unanimously. Barrier and Greider
were absent.

COLE said that he had a general sympathy with the frustration that the City Commission was dealing with in trying to attack a whole series of problems and not having very many handles. He wanted to reaffirm that he hoped the discussion goes forward as to the consensus of this Commission, and that some of them feel a great deal of sympathy and like-frustration with the complex problems involved. He did not feel the water policy was the way to attack the problems.

BAYOUTH added that to use utilities as a tool to stop urban sprawl was not a way to handle it. He felt the City Commission should come up with incentives for developers and single family lots for the people to develop in the innercity.

Letter

02-45

THE WICHITA-SEDGWICK COUNTY DEPARTMENT OF COMMUNITY HEALTH

OFFICE OF Environmental Health

DATE January 30, 1979

TO E. H. Denton, City Manager

FROM Mary Alice Horsch, Chairperson, ERAB

SUBJECT Proposed Policy - Extension of Water
and Sewer Service Outside of City

The Wichita-Sedgwick County Environmental Resource Advisory Board after several meetings and discussions took action, with one negative vote, at its regular meeting on January 29, 1979, to adopt the attached statement in relation to the proposed water extension policy.

Mary Alice Horsch
Mary Alice Horsch, Chairperson
Environmental Resource Advisory Board

MAH:pp

cc Board of County Commissioners
Bob Lakin, Director of Planning
John Wynkoop, Director of Water & Water Pollution

Attachment

STATEMENT OF
WICHITA-SEDGWICK COUNTY ENVIRONMENTAL RESOURCE ADVISORY BOARD

In general we agree with the recommendations of Mr. Lakin and Mr. Wynkoop as the most acceptable policy of those offered to ensure controlled growth and adequate return on investment, however, this and all other proposals brought to our attention are based on the assumption of unlimited resources (in this case, water). No proposal addresses the fact that both the quality and quantity of the resource is limited and no proposal addresses the development and promotion of the effective use of this resource and/or the discouragement of waste. The historical assumption of an infinite supply leads only to the continued waste of high quality water and continuation of the traditional approach to methods of pricing that guarantees waste and discourages conservation. This historical- traditional approach to resource exploitation will be increasingly difficult to maintain as inflation and resources become limiting. Unless the traditional ways of viewing water consumption and related land use management are modified, levels of service and credibility will deteriorate as will our regional environment.

We suggest that the No. 2 recommendation be placed as No. 1 and be modified to read as follows: (1) that water be provided only within the urban water service area as depicted on Mr. Lakin's December 22, 1978, map, and in accordance with the following items: 2, 3, 4 and 5.

1-29-79

THE CITY OF WICHITA

OFFICE OF WATER DEPARTMENT

DATE December 26, 1978

TO The Honorable Board of City Commissioners
(through E. H. Denton, City Manager)
FROM John D. Wynkoop, Director of Water & Water Pollution Control
Robert A. Lakin, Director of Planning

SUBJECT Extension of Water and Sewer Service
Outside of the City

Submitted are alternative policy statements regarding extension of utility (water and sewer) services outside of the city.

Separate memorandums have been submitted regarding:

- 1) The basis for determining the amount and the technique for transferring pro-rata shares of imbedded cost of the existing system to new users.
- 2) The status of plans recognizing growth areas.
- 3) Legal obligations to provide water and sewer services related to geographic location and time of providing services.

The following are alternate policies which the Commission may wish to consider. There may also be combined alternatives not listed separately.

Policy No. 1: Operate as a regional source of supply; treat and distribute water in accordance with adopted plan.

Pros: Provides efficiency of operation and development of sources of water, quality of water and reliability of services. Costs of developing unified sources less than all "user groups" competing for and developing separate sources. Eliminates duplication and overlap.

Cons: Requires development of more water resources; places City in center of political controversy regarding sources of supply; requires large capital outlays. Could encourage sprawl if not properly controlled and managed.

Policy No. 2: Supply water wholesale to rural water districts.

Pros: Provides a needed source to those without. Checks sprawl (assuming existing form of contract continued).

Cons: Utilizes part of the Wichita developed sources for non-Wichita residents.

Policy No. 3: Serve urbanizing area based on development guide (land use plan) when binding legal agreements to annex are provided. (Existing policy) This includes both deferred and immediate annexation depending on ownership patterns and boundaries.

Pros: Develops the utility system in accordance with the adopted comprehensive plan. Eliminates competing and overlapping systems. Provides stability to growth area and development industry dealing with known reliability of system. Prevents development of other systems by County or general improvement districts (often incompatible with city system) for areas that will probably be annexed in the future.

Cons: Ad valorem taxes not provided in support of other community services utilized by the water users, has *Done* not fully recovered imbedded costs. When annexed, strong citizen resistance occurs, even though legally bound. Legislature could void agreements with change in law.

Policy No. 4: Serve only when annexable.

a) Require "adjacency" to city. This in effect would be to serve only after annexation.

Pros: Removes arguments by those being annexed after developer agrees to it. Provides tax base (and liabilities) as development occurs. Keep development patterns "tight". Reduces capital investment for water.

Cons: Increases capital investment for sewer on the cost side. May create leap frog development beyond 3 mile ring or induce the creation of new development districts or cities. Raises cost of land and housing due to limited supply. May introduce competing water and sewer systems.

b) "Island" annexation with consent of both County and landowner.

Pros: Provides for fair share of support of urban services thru ad valorem taxes as development occurs. People buy with full knowledge of status being within the city. Carries out adopted development guide. Removes difficulty of future annexation hearings.

Cons: On interim basis, creates difficult service areas for other services such as fire, police and street maintenance. Could be overcome by cooperative agreements by City to the County for interim fire, police and other services until logical service units (police beats, fire station service areas) can be established. The County has not been receptive to this approach except in unique situations.

Policy No. 5: Provide no outside city services. (May include 4 (a) by inference if area annexable)

Pros: Induce more central/inner city development/redevelopment if developable land at fringe becomes short in supply. Reduce capital outlay by better utilizing existing development. Establish more control on timing and sequencing of development.

Cons: Create pressures for leapfrog development. Set up competing systems i.e. El Dorado water, new wells. Raises cost of land if new developable land becomes in short supply. Rural water districts with other water sources (even though not as dependable or not as good in supply) may provide service. Design criteria different (size, pressure, fire protection). System incompatible in event of future annexation.

Inconvenient w/above

Policy No. 6: Require all extensions to be without cost to the City. (includes all oversizing, looping costs, etc.)

Pros: Eliminates costs to those who have "already bought" into system thru payment of bills.

Cons: May be susceptible to litigation by ^{imposing} ~~improving~~ "offsite" and oversizing costs on any one development. Old system users all benefited from investments of prior users.

Recommendation: It is recommended that the following policies be considered:

- 1) That water be provided outside of city when:
 - a) Immediately annexable under the statutes (actual service would then be in the city by project development time); or
 - b) The County concurs in island annexation. (This should be done in conjunction with negotiation with the County to provide by contract at a fee level acceptable to both governing bodies, continued fire protection, sheriffs surveillance, snow removal and other services as may be determined appropriate. Contracts could include collecting County sewer service fees with water billing.); or
 - c) Formal agreements for annexation are provided when a or b is not possible.
 - d) The present City Commission policy on rural water districts remain in force.
- 2) Accept growth lines. Approve the service area limits as recommended in Mr. Lakin's memo on Growth Patterns.

- 3) Developer (outside the city) be responsible for all costs of extending water service, unless specifically approved otherwise by the Board of City Commissioners because of unusual circumstances. This shall include looping, metering and pipe oversizing.
- 4) That the ordinance pertaining to water main extensions be amended to provide the developer (outside of the city) a rebate of 25% of the gross revenue derived from each customer served by the main that is oversized. The repayment period will be for a 15-year period and the rebate shall not exceed the cost of the oversizing. Further, that the developer (outside the city) be given the option with concurrence by the City Commission to spread the cost of oversizing as a special assessment against the property in the benefit district.
- 5) That the imbedded costs of the utility continue to be recovered from customers outside of the city through the present 50% surcharge on water rates.

John D. Wynkoop
Director of Water and
Water Pollution Control

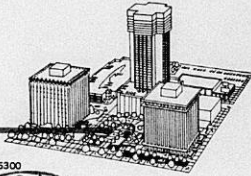
Robert A. Lakin
Director of Planning

JDW:RAL:sd



AMORTIBANC INVESTMENT COMPANY, INC.

GARVEY CENTER ■ 300 WEST DOUGLAS ■ WICHITA, KANSAS 67202 ■ 316 - 251-5300



January 19, 1979

Bob Lakin
Metropolitan Area Planning Dept.
10th Floor - City Hall
455 North Main
Wichita, Kansas 67202



Re: Policy of the City of Wichita concerning extension of sewer and water lines beyond the City Boundaries

Dear Mr. Lakin:

I am currently involved in planning a development project on the site noted on the enclosed "Urban Water Service Area" map, and described as the East half of the Southwest Quarter and the West half of the Southeast Quarter, Section 31, Township 27 South, Range 1 West, Sedgwick County, Kansas. As you will notice on the enclosed map, the boundary of the proposed water service area appears to bisect the site, leaving the implication that approximately one-half of the site could be served by Wichita water services and approximately one-half could not. If I understood you correctly at the informal MAPC meeting yesterday, you said that the boundaries on the map are in the nature of guidelines to aid in decision-making and that consideration should be given to including other areas where it is reasonable to do so. Since the site described above is under common ownership, and since there appears to be no physical limitations to extending water service to the entire site at some time, I request that the entire site be included within the limits of the Urban Water Service Area of the City of Wichita.

I am sure you can appreciate the difficulty I am experiencing in trying to plan this project with the issue of City sewer and water extension policy in this period of uncertainty. I urge you to use your best efforts to get an equitable policy established as soon as possible and to stick with that policy.

It is my opinion that the Wichita area has the opportunity to become a center of employment for many people who do not live in this area now. The actions taken by the MAPC, City Commission, and County Commission regarding this issue will determine to a large extent, whether jobs that can be made available by Wichita business interests, will be filled by people who will move to this area if additional housing is available. I strongly urge the City of Wichita adopt a policy toward sewer and water extensions that will allow this additional housing to be made available at the lowest possible cost to the consumer.



REAL ESTATE LOANS AND INSURANCE

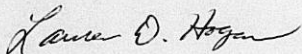


Bob Lakin
Page Two
January 19, 1979

Thank you for your continued cooperation. If I can be of any assistance,
please call me at 2615309.

Sincerely,

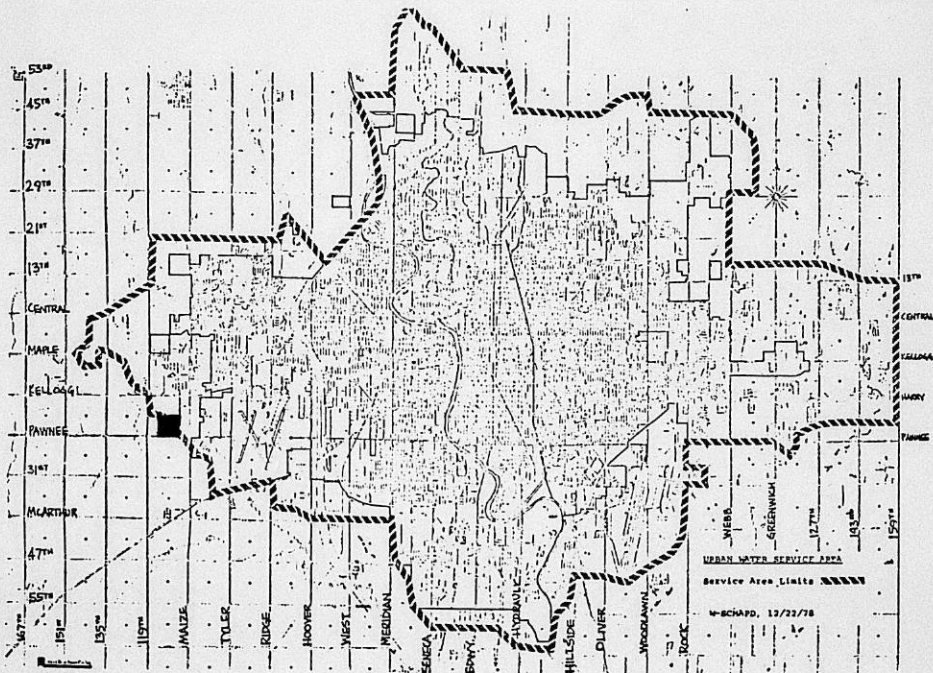
AMORTIBANC INVESTMENT COMPANY, INC.



Lauren D. Hogan
Land Development Manager












LDH/deo

Enclosure

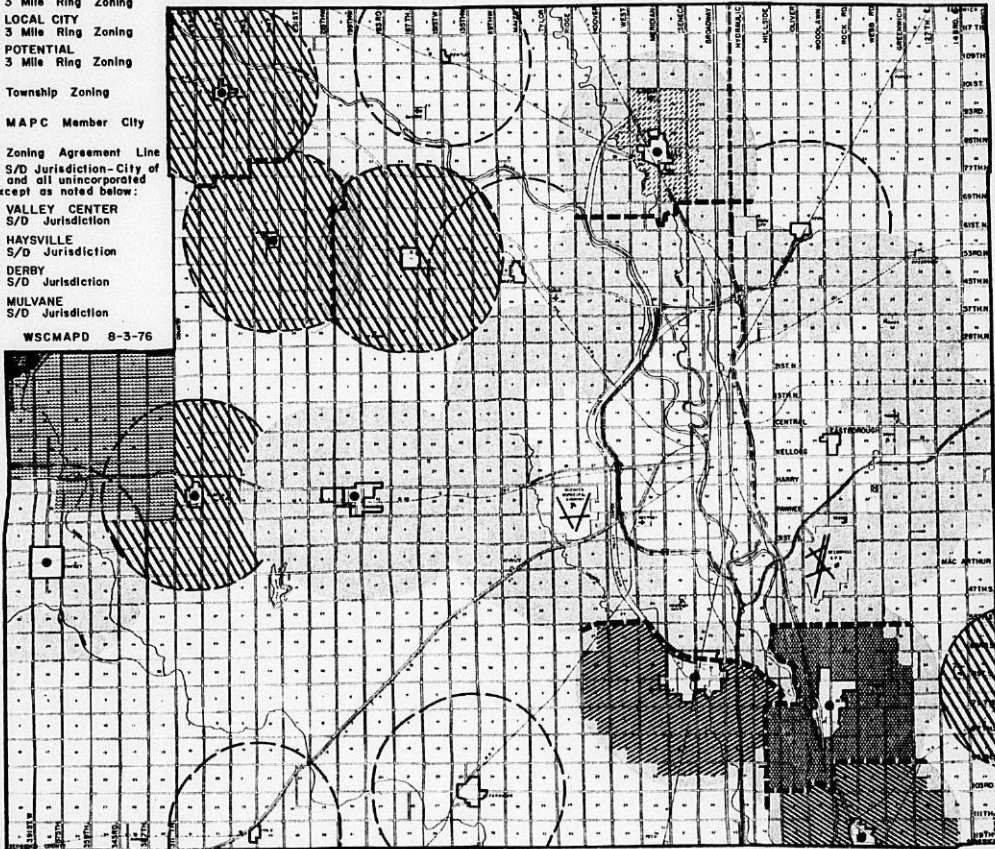


PRESENTATION IDENTIFICATION			PROJECTOR #	PRESENTATION IDENTIFICATION		
PROJECTOR #	SLIDE #			PROJECTOR #	SLIDE #	
		CITY Comm 1-2-79				
01	PRJ 01	SLD 4	Water - See other list	02	PRJ 60	SLD 12 Z-2093 & DP 91
02	PRJ 01	SLD 1	LIS 0401 Map		PRJ 61	SLD CUP
	PRJ 02	SLD	Ded Map		PRJ 62	SLD Outside Photos
	PRJ 03	SLD	Overall Dr. Ded.		PRJ 71	SLD ↓ ↓
	PRJ 04	SLD	2 S/D 77-164 Map		PRJ 72	SLD
	PRJ 05	SLD	Plat		PRJ 73	SLD 13 A 78-4
	PRJ 06	SLD	Site Plan		PRJ 74	SLD Water - Westlink - 17th
	PRJ 07	SLD	St. Map - Eng		PRJ 75	SLD Water - "
	PRJ 08	SLD	SWS " - "		PRJ 76	SLD Water - "
	PRJ 09	SLD	3 S/D 78-19 Map	✓	PRJ 77	SLD (2) Buttonwood Tree - San S
	PRJ 10	SLD	Aerial		PRJ	SLD
	PRJ 11	SLD	Plat		PRJ	SLD
	PRJ 12	SLD	4 S/D 78-62 Map		PRJ	SLD
	PRJ 13	SLD	Plat		PRJ	SLD
	PRJ 14	SLD	Pav - Eng		PRJ	SLD
	PRJ 15	SLD	5 S/D 78-95- Map		PRJ	SLD
	PRJ 16	SLD	Plat		PRJ	SLD
	PRJ 17	SLD	6 S/D 78-114 Map		PRJ	SLD
	PRJ 18	SLD	Plat		PRJ	SLD
	PRJ 19	SLD	7 Z-2085 Map		PRJ	SLD
	PRJ 20	SLD	Sk. Plat		PRJ	SLD
	PRJ 21	SLD	Outside Photos		PRJ	SLD
	PRJ ↓	SLD	↓ ↓		PRJ	SLD
	PRJ 28	SLD			PRJ	SLD
	PRJ 29	SLD	8 Z-2088 Map		PRJ	SLD
	PRJ 30	SLD	Outside Photos		PRJ	SLD
	PRJ ↓	SLD	↓ ↓		PRJ	SLD
	PRJ 34	SLD			PRJ	SLD
	PRJ 35	SLD	9 Z-2090 Map		PRJ	SLD
	PRJ 36	SLD	Outside Photos		PRJ	SLD
	PRJ ↓	SLD	↓ ↓		PRJ	SLD
	PRJ 41	SLD			PRJ	SLD
	PRJ 42	SLD	10 Z-2091 - Protest Map		PRJ	SLD
	PRJ 43	SLD	Outside Photos		PRJ	SLD
	PRJ ↓	SLD	↓ ↓		PRJ	SLD
	PRJ 50	SLD			PRJ	SLD
	PRJ 51	SLD	11 Z-2092 Map		PRJ	SLD
✓	PRJ 52	SLD	Outside Photos		PRJ	SLD
	PRJ 59	SLD			PRJ	SLD

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 8-3-76



*File
4-20-1979
PR.*

THE CITY OF WICHITA
OFFICE OF WATER DEPARTMENT

DATE January 19, 1979

TO Robert A. Lakin, Director of Planning
FROM Joe Botinelly, Executive Assistant

SUBJECT Annual Reports

Enclosed are ten copies of the most recent (1977) water utility financial statements for the Metropolitan Area Planning Commission. We will put the Commission on the mailing list for future reports.

After listening to the Commission, I wonder if they were able to review the Water Department's analysis of costs (attached). If they were not, I will be happy to provide copies of that for their review before their next meeting.

Botinelly
Joe Botinelly
Executive Assistant

JB:sd
enclosures



THE CITY OF WICHITA
OFFICE OF WATER DEPARTMENT

DATE December 13, 1978

TO The Honorable Board of City Commissioners
(through E. H. Denton, City Manager)

FROM John D. Wynkoop, Director of Water & Water Pollution Control

SUBJECT Cost of Extending Water Service
Outside the City Limits

The cost of providing water service to any area can be considered to consist of both direct and indirect costs. Direct costs include the expense of distribution lines, fire hydrants, service lines and meters, and related equipment which connects the new customers to the existing water system. Indirect costs include the expense in having provided sufficient capacity in the existing facilities to make possible the extension of water service to the new customers and the cost of providing for extension of water beyond the new area.

I. Direct Costs

- A. Cost of Equipment. An 8" main, normally required for adequate domestic water service and fire protection, costs \$15.00 per lineal foot, including valves and fire hydrants. Installation of a 1" meter set and service line averages \$170.00 and a 1" meter costs \$50.00.
- B. Average cost per new customer. Direct cost of extending water to an average size lot outside the city limits is estimated as follows:

Distribution line	\$ 1,050.00
Service line and meter set	170.00
Meter	50.00
	<hr/>
	\$ 1,270.00

Under the present policy, a new customer outside the city pays all of these costs, except the cost of the meter.

II. Indirect Costs

- A. Existing Facilities. There are a variety of opinions as to the most accurate way to apportion to new customers the costs of already existing facilities which make possible the extension of water service to them. The basis of these costs is the utility's equity in its plant: the amount that has been paid by the customers through the water rates. The Wichita water utility's equity in its system is approximately \$33,500,000. This represents all assets minus all liabilities, and does not include the depreciated value of plant that was paid for by federal sources, annexed improvement districts, or benefit districts.

The utility's equity amounts to \$373 for each present customer. The calculation of this amount is detailed on the attachment to this report.

B. Providing for Future Expansion. Feeder mains in a new area are oversized if it is expected that water lines will in the future be extended beyond the immediate area. This is done in order that the future extension will not diminish service to the existing customers. Cost of this oversizing ranges from \$7 per lineal foot (where 12" main is installed) to \$45 per lineal foot (where 30" main is used). Usually, one half mile of oversized feeder main serves a quarter section which can contain 400 new customers. Cost per new customer for oversizing would be from \$46 per lot to \$297 per lot, depending on the size of the feeder main.

III. Total Cost to Extend Water

The direct and indirect costs of extending water to an average size lot outside the city limits are estimated as follows. For the purposes of this example, an average lot is considered to be one with a 70-foot frontage in a quarter section where a water system exists at the edge of the area to be served.

Direct Cost	Oversizing	Indirect Cost Equity per Customer	Total Cost	Currently	
				Paid by Customer	Paid by Utility
\$ 1,270	(12") \$ 46	\$ 373	\$1,689	\$ 1,220	\$ 469
1,270	(16") 138	373	1,781	1,220	561
1,270	(20") 178	373	1,821	1,220	601
1,270	(24") 231	373	1,874	1,220	654
1,270	(30") 297	373	1,940	1,220	720

IV. Alternatives for Recovering the Utility's Indirect Cost.

A. Current Policy. Under the current policy, all the utility's customers, through the payment of water service charges, have shared the cost of the existing facilities and the cost of oversizing for main extensions. Customers outside the city limits pay a 50% surcharge above the rates paid inside the city. For an average residential customer, this surcharge amounts to \$70 per year for the domestic service.

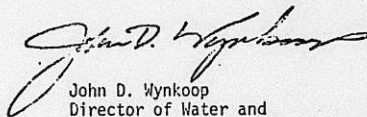
The revenue from this surcharge is sufficient to retire the utility's indirect costs in 6½ to 10 years.

B. Developer Pays Oversizing Cost. In order to reduce the City's investment in facilities outside the city limits which may not be fully utilized, the City may wish to require the developer of each benefit district to pay the cost of oversized mains, loop eliminations, and similar work for which the utility now pays the cost, and to refund to the developer 25% of the revenue from each customer served by the line, until the developer's cost is repaid, or for 15 years, whichever comes first. Even if the utility refunds 25% of this revenue, it will realize 12½% more revenue from these customers than from inside the city customers using the same amount of water. In this way, the utility would incur expenses for outside-the-city facilities only as it derived revenue from the new customers. If an area failed to develop as expected, the developer would stand the unpaid costs. If an area develops as expected (estimated 400 homes per quarter section), the developer should recover the costs from the refund within 15 years.

December 13, 1978

C. Benefit District Pays Indirect Costs. The City may wish to require each member of a benefit district outside the city to pay the indirect costs of extending service, by adding the costs to the special assessments against the property. Under this plan, the utility would incur no expense for facilities serving people outside the city. As indicated by figures previously shown, adding the indirect costs would increase the assessment against each lot by 35% to 55%.

D. Customer Pays Indirect Costs Through Connection Fee. Each new customer outside the city currently pays a fee of \$170 for the cost of installing a service line and meter set. The City may wish to add to that fee the indirect costs of providing water. In this way the utility would incur the expense of investing in facilities outside the city, as it now does, but would recover the indirect costs as each area develops. This would reduce, but not eliminate, the utility's indirect expense in providing water outside the city limits.



John D. Wynkoop
Director of Water and
Water Pollution Control

JDW:sd

attachment

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

December 22, 1978

TO E. H. Denton, City Manager
FROM Robert A. Lakin, Director of Planning
SUBJECT Growth Patterns

As a result of a number of studies, the Metropolitan Area Planning Commission has adopted certain plan documents under the "Master Plan" provisions of the State Statutes. The plans assume both new housing and an increase in population by year 2000. The document which addresses the location and type of development is the "General Development Guide" adopted officially by MAPC in 1978, received and filed without action by the Board of City Commissioners August 1, 1978.

The Water Plan adopted by MAPC also shows growth derived from the development Plan. The adopted Water Plan establishes the need for a well engineered, reliable water system, both for quality urban living and for fire protection purposes. These plans propose compact growth adjacent to and contiguous to the existing Wichita urban area. Although not specific to each individual parcel, the plans are clear and concise enough to establish the areas for urban services. The Development Guide supports additional in-fill of the center city as well as expanded growth in selected areas at the edge. The plans in my opinion, by mandating location of water and sewer service areas work against sprawl or dispersed growth and establishes a well ordered and efficient urban system, protective of our resources.

Other plans such as the Sewer Plan and Transportation Plan support this compact growth pattern. Should the City withdraw from furnishing water until a development is in the City, the most likely occurrence will be the development of non-standard (To Wichita) systems for those growth areas rather than development not taking place. If it is assumed that such growth will take place, and it will be ultimately annexed, any policy which would result in separate, non-standard systems would not be in the City's long-range best interest.

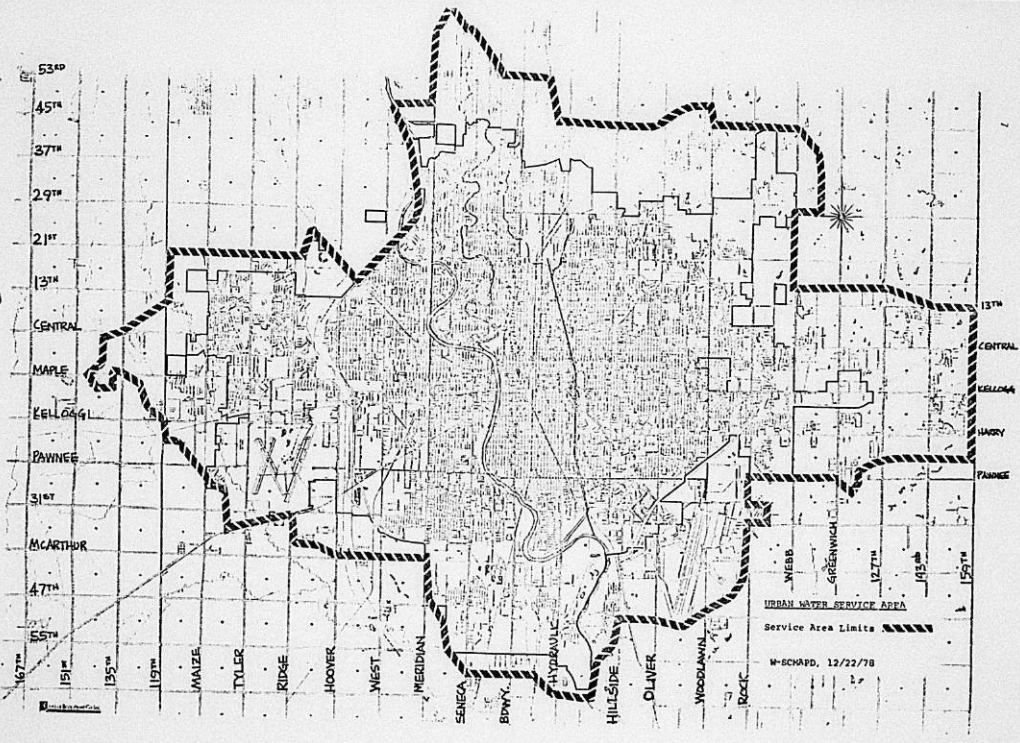
As a basis for developing a workable water extension policy, and to allow the Water Department to have a base from which design system needs, it is recommended that the City Commission accept these "growth areas" as the appropriate areas to serve, subject to such additional conditions (such as annexation, connection fees, payment for system extensions, etc.) as they may deem appropriate. Attached is a map which is an adaption from the plan maps showing areas which both Wynkoop and I, as well as the MAPC, believe ought to be provided urban water service from Wichita. This could be used as the base from which to review water requests. Others lying outside of these areas would need special analysis and would need to provide the City sufficient reason to extend water beyond this proposed policy line.

E.H. Denton
December 22, 1978
Page 2

It is recommended that for planning purposes and for developing the basis of a water extension policy, the Board of City Commissioners concur in the "General Development Guide" and approve the use of the attached, or similar, water service area map.


Robert A. Lakin, Director of Planning

RAL:bp
Attachment



WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

December 22, 1978

TO E. H. Denton, City Manager
FROM Robert A. Lakin, Director of Planning
SUBJECT Growth Patterns

As a result of a number of studies, the Metropolitan Area Planning Commission has adopted certain plan documents under the "Master Plan" provisions of the State Statutes. The plans assume both new housing and an increase in population by year 2000. The document which addresses the location and type of development is the "General Development Guide" adopted officially by MAPC in 1978, received and filed without action by the Board of City Commissioners August 1, 1978.

The Water Plan adopted by MAPC also shows growth derived from the development Plan. The adopted Water Plan establishes the need for a well engineered, reliable water system, both for quality urban living and for fire protection purposes. These plans propose compact growth adjacent to and contiguous to the existing Wichita urban area. Although not specific to each individual parcel, the plans are clear and concise enough to establish the areas for urban services. The Development Guide supports additional in-fill of the center city as well as expanded growth in selected areas at the edge. The plans in my opinion, by mandating location of water and sewer service areas work against sprawl or dispersed growth and establishes a well ordered and efficient urban system, protective of our resources.

Other plans such as the Sewer Plan and Transportation Plan support this compact growth pattern. Should the City withdraw from furnishing water until a development is in the City, the most likely occurrence will be the development of non-standard (To Wichita) systems for those growth areas rather than development not taking place. If it is assumed that such growth will take place, and it will be ultimately annexed, any policy which would result in separate, non-standard systems would not be in the City's long-range best interest.

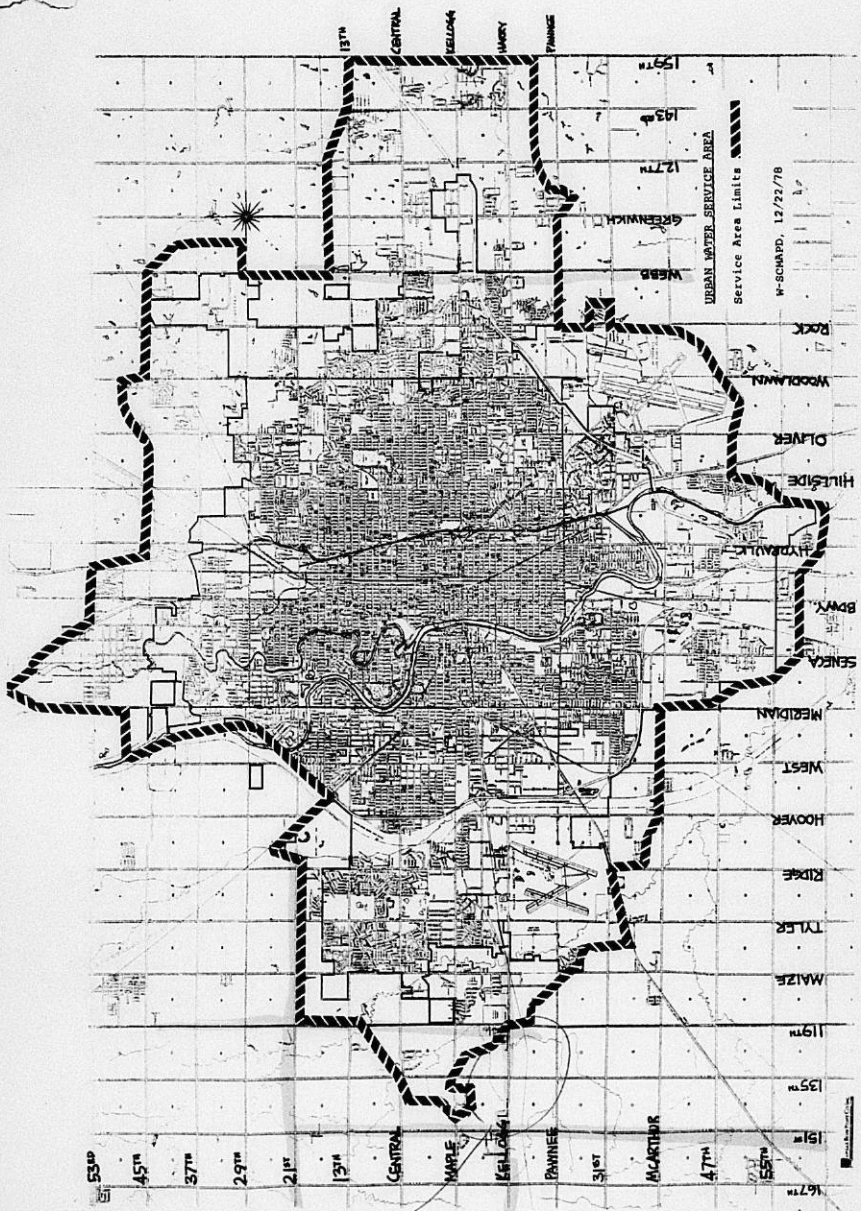
As a basis for developing a workable water extension policy, and to allow the Water Department to have a base from which design system needs, it is recommended that the City Commission accept these "growth areas" as the appropriate areas to serve, subject to such additional conditions (such as annexation, connection fees, payment for system extensions, etc.) as they may deem appropriate. Attached is a map which is an adaption from the plan maps showing areas which both Wynkoop and I, as well as the MAPC, believe ought to be provided urban water service from Wichita. This could be used as the base from which to review water requests. Others lying outside of these areas would need special analysis and would need to provide the City sufficient reason to extend water beyond this proposed policy line.

E.H. Denton
December 22, 1978
Page 2

It is recommended that for planning purposes and for developing the basis of a water extension policy, the Board of City Commissioners concur in the "General Development Guide" and approve the use of the attached, or similar, water service area map.


Robert A. Lakin, Director of Planning

RAL:bp
Attachment



6540

45th

37th

29th

21st

13th

CENTRAL

MAPLE

KEIL

BARNES

31st

ALCANTARA

4TH

15th

135th

119th

MAIZE

TYLER

RIDGE

HOOVER

WEST

MEDIAN

SENECA

BONY

HYDRAULIC

HILLSIDE

OLIVER

WOODLAWN

ROCK

W-SCHMIDT, 12/22/76

SERVICE AREA LIMITS

URBAN WATER SERVICE AREA

159th

143rd

127th

GREENWICH

W-SB

CENTRAL

BELL

LUCKY

FRANKS

167th

151st

135th

119th

MAIZE

TYLER

RIDGE

HOOVER

WEST

MEDIAN

SENECA

BONY

HYDRAULIC

HILLSIDE

OLIVER

WOODLAWN

ROCK

W-SCHMIDT, 12/22/76

SERVICE AREA LIMITS

URBAN WATER SERVICE AREA

159th

143rd

127th

GREENWICH

W-SB

CENTRAL

BELL

LUCKY

FRANKS

167th

151st

135th

119th

MAIZE

TYLER

RIDGE

HOOVER

WEST

MEDIAN

SENECA

BONY

HYDRAULIC

HILLSIDE

OLIVER

WOODLAWN

ROCK

W-SCHMIDT, 12/22/76

SERVICE AREA LIMITS

URBAN WATER SERVICE AREA

159th

143rd

127th

GREENWICH

W-SB

CENTRAL

BELL

LUCKY

FRANKS

167th

151st

135th

119th

MAIZE

TYLER

RIDGE

HOOVER

WEST

MEDIAN

SENECA

BONY

HYDRAULIC

HILLSIDE

OLIVER

WOODLAWN

ROCK

W-SCHMIDT, 12/22/76

SERVICE AREA LIMITS

URBAN WATER SERVICE AREA

159th

143rd

127th

GREENWICH

W-SB

CENTRAL

BELL

LUCKY

FRANKS

167th

151st

135th

119th

MAIZE

TYLER

RIDGE

HOOVER

WEST

MEDIAN

SENECA

BONY

HYDRAULIC

HILLSIDE

OLIVER

WOODLAWN

ROCK

W-SCHMIDT, 12/22/76

SERVICE AREA LIMITS

URBAN WATER SERVICE AREA

159th

143rd

127th

GREENWICH

W-SB

CENTRAL

BELL

LUCKY

FRANKS

167th

151st

135th

119th

MAIZE

TYLER

RIDGE

HOOVER

WEST

MEDIAN

SENECA

BONY

HYDRAULIC

HILLSIDE

OLIVER

WOODLAWN

ROCK

W-SCHMIDT, 12/22/76

SERVICE AREA LIMITS

URBAN WATER SERVICE AREA

159th

143rd

127th

GREENWICH

W-SB

CENTRAL

BELL

LUCKY

FRANKS

167th

151st

135th

119th

MAIZE

TYLER

RIDGE

HOOVER

WEST

MEDIAN

SENECA

BONY

HYDRAULIC

HILLSIDE

OLIVER

WOODLAWN

ROCK

W-SCHMIDT, 12/22/76

SERVICE AREA LIMITS

URBAN WATER SERVICE AREA

159th

143rd

127th

GREENWICH

W-SB

CENTRAL

BELL

LUCKY

FRANKS

167th

151st

135th

119th

MAIZE

TYLER

RIDGE

HOOVER

WEST

MEDIAN

SENECA

BONY

HYDRAULIC

HILLSIDE

OLIVER

WOODLAWN

ROCK

W-SCHMIDT, 12/22/76

SERVICE AREA LIMITS

URBAN WATER SERVICE AREA

159th

143rd

127th

GREENWICH

W-SB

CENTRAL

BELL

LUCKY

FRANKS

167th

151st

135th

119th

MAIZE

TYLER

RIDGE

HOOVER

WEST

MEDIAN

SENECA

BONY

HYDRAULIC

HILLSIDE

OLIVER

WOODLAWN

ROCK

W-SCHMIDT, 12/22/76

SERVICE AREA LIMITS

URBAN WATER SERVICE AREA

159th

143rd

127th

GREENWICH

W-SB

CENTRAL

BELL

LUCKY

FRANKS

167th

151st

135th

119th

MAIZE

TYLER

RIDGE

HOOVER

WEST

MEDIAN

SENECA

BONY

HYDRAULIC

HILLSIDE

OLIVER

WOODLAWN

ROCK

W-SCHMIDT, 12/22/76

SERVICE AREA LIMITS

URBAN WATER SERVICE AREA

159th

143rd

127th

GREENWICH

W-SB

CENTRAL

BELL

LUCKY

FRANKS

167th

151st

135th

119th

MAIZE

TYLER

RIDGE

HOOVER

WEST

MEDIAN

SENECA

BONY

HYDRAULIC

HILLSIDE

OLIVER

WOODLAWN

ROCK

THE CITY OF WICHITA
OFFICE OF WATER DEPARTMENT

DATE December 13, 1978

~~John~~
~~Wynkoop~~
R&Z

Draft

TO The Honorable Board of City Commissioners
(through E. H. Denton, City Manager)
FROM John D. Wynkoop, Director of Water & Water Pollution Control

SUBJECT Cost of Extending Water Service
Outside the City Limits

The cost of providing water service to any area can be considered to consist of both direct and indirect costs. Direct costs include the expense of distribution lines, fire hydrants, service lines and meters, and related equipment which connects the new customers to the existing water system. Indirect costs include the expense in having provided sufficient capacity in the existing facilities to make possible the extension of water service to the new customers and the cost of providing for extension of water beyond the new area.

I. Direct Costs

- A. Cost of Equipment. An 8" main, normally required for adequate domestic water service and fire protection, costs \$15.00 per lineal foot, including valves and fire hydrants. Installation of a 1" meter set and service line averages \$170.00 and a 1" meter costs \$50.00.
- B. Average cost per new customer. Direct cost of extending water to an average size lot outside the city limits is estimated as follows:

Distribution line	\$ 1,050.00
Service line and meter set	170.00
Meter	50.00
	<hr/>
	\$ 1,270.00

Under the present policy, a new customer outside the city pays all of these costs, except the cost of the meter.

II. Indirect Costs

- A. Existing Facilities. There are a variety of opinions as to the most accurate way to apportion to new customers the costs of already existing facilities which make possible the extension of water service to them. The basis of these costs is the utility's equity in its plant: the amount that has been paid by the customers through the water rates. The Wichita water utility's equity in its system is approximately \$33,500,000. This represents all assets minus all liabilities, and does not include the depreciated value of plant that was paid for by federal sources, annexed improvement districts, or benefit districts.

December 13, 1978

The utility's equity amounts to \$373 for each present customer. The calculation of this amount is detailed on the attachment to this report.

B. Providing for Future Expansion. Feeder mains in a new area are oversized if it is expected that water lines will in the future be extended beyond the immediate area. This is done in order that the future extension will not diminish service to the existing customers. Cost of this oversizing ranges from \$7 per lineal foot (where 12" main is installed) to \$45 per lineal foot (where 30" main is used). Usually, one half mile of oversized feeder main serves a quarter section which can contain 400 new customers. Cost per new customer for oversizing would be from \$46 per lot to \$297 per lot, depending on the size of the feeder main.

III. Total Cost to Extend Water

The direct and indirect costs of extending water to an average size lot outside the city limits are estimated as follows. For the purposes of this example, an average lot is considered to be one with a 70-foot frontage in a quarter section where a water system exists at the edge of the area to be served.

Direct Cost	Oversizing	Indirect Cost Equity per Customer	Total Cost	Currently	
				Paid by Customer	Paid by Utility
\$ 1,270	(12") \$ 46	\$ 373	\$1,689	\$ 1,220	\$ 469
1,270	(16") 138	373	1,781	1,220	561
1,270	(20") 178	373	1,821	1,220	601
1,270	(24") 231	373	1,874	1,220	654
1,270	(30") 297	373	1,940	1,220	720

*9mths
\$50*

IV. Alternatives for Recovering the Utility's Indirect Cost.

A. Current Policy. Under the current policy, all the utility's customers, through the payment of water service charges, have shared the cost of the existing facilities and the cost of oversizing for main extensions. Customers outside the city limits pay a 50% surcharge above the rates paid inside the city. For an average residential customer, this surcharge amounts to \$70 per year for the domestic service.

*\$ 373
469
561
601
654
720*

The revenue from this surcharge is sufficient to retire the utility's indirect costs in 6½ to 10 years.

B. Developer Pays Oversizing Cost. In order to reduce the City's investment in facilities outside the city limits which may not be fully utilized, the City may wish to require the developer of each benefit district to pay the cost of oversized mains, loop eliminations, and similar work for which the utility now pays the cost, and to refund to the developer 25% of the revenue from each customer served by the line, until the developer's cost is repaid, or for 15 years, whichever comes first. Even if the utility refunds 25% of this revenue, it will realize 12½% more revenue from these customers than from inside the city customers using the same amount of water. In this way, the utility would incur expenses for outside-the-city facilities only as it derived revenue from the new customers. If an area failed to develop as expected, the developer would stand the unpaid costs. If an area develops as expected (estimated 400 homes per quarter section), the developer should recover the costs from the refund within 15 years.

C. Benefit District Pays Indirect Costs. The City may wish to require each member of a benefit district outside the city to pay the indirect costs of extending service, by adding the costs to the special assessments against the property. Under this plan, the utility would incur no expense for facilities serving people outside the city. As indicated by figures previously shown, adding the indirect costs would increase the assessment against each lot by 35% to 55%.

D. Customer Pays Indirect Costs Through Connection Fee. Each new customer outside the city currently pays a fee of \$170 for the cost of installing a service line and meter set. The City may wish to add to that fee the indirect costs of providing water. In this way the utility would incur the expense of investing in facilities outside the city, as it now does, but would recover the indirect costs as each area develops. This would reduce, but not eliminate, the utility's indirect expense in providing water outside the city limits.

John D. Wynkoop
Director of Water and
Water Pollution Control

JDW:sd

attachment

COMPUTATION OF CUSTOMERS' EQUITY

IN WICHITA WATER SYSTEM

AS OF OCTOBER 31, 1978

I. Number of Customers:	Inside City	88,558
	Outside City	<u>1,930</u>
		90,488
	Lawn Services	<u>726</u>
	Number of Customers	89,762

II. Utility's Equity:

Depreciated value of plant	\$ 76,693,381
Outstanding long-term debt	<u>40,229,690</u>
	\$ 36,463,691
Other assets, less other liabilities	<u>10,076,366</u>
Total equity	\$ 46,540,057

Contributions from other sources (original value)	
Federal	\$ 7,424,377
Benefit Districts	8,808,638
Annexed Improvement Districts	<u>794,513</u>
	\$ 17,027,528

Estimated depreciation on contributions	\$ 3,973,239
Depreciated value of contributions	<u>\$ 13,054,289</u>

Amount of equity paid by utility's customers	\$ 33,485,768
--	---------------

III. Equity per customer

$$\frac{\text{Equity paid by customers}}{\text{Number of customers}} = \frac{\$33,485,768}{89,762} = \$ 373 \text{ per customer}$$

THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE December 13, 1978

TO John Wynkoop, Director of Water & Water Pollution Control

FROM Thomas R. Powell, Assistant City Attorney

SUBJECT Extension of Water and Sewer
Services Outside of the City

QUESTION: Does the City have a legal obligation to provide water and sewer service outside the city limits?

ANSWER: K.S.A. 12-808 gives the City authority to sell water outside the City limits. This statute reads as follows: "Subject to the provisions of K.S.A. 66-104 and 66-131, and amendments thereto, any City operating water works, fuel, power or lighting plant may sell and dispose of water, fuel, power or light to any person within or without said City." This statute is obviously permissive as to whether a city will provide water to persons whose land is located outside the city.

The general rule of law is that local governments have no obligations to provide utility services to nonresidents where no clear duty to serve nonresidents has been imposed by law. See McQuillan, Municipal Corporations, Volume 12, "Ownership of Utility", Section 35.34c and Municipal Corporations Law, Volume 2, "Utility, Airports and Cemeteries" Section 19.03. However, the case law in several jurisdictions have established several exceptions to this general rule of law.

The question of whether or not a city must provide services to a non-resident, in these cases, turns on whether or not the City has acceded to the status of a public utility. If it is found that the City has acceded to the status of a public utility, then the City must, in a nondiscriminatory manner, provide services to all nonresidents who are located within the service area of the City.

A recent case that addressed the issue of when a City accedes to the status of a public utility is the Robinson vs. City of Boulder case, 547 P.2d 228 (1976). In this case, the Colorado Supreme Court held that the City of Boulder had acceded to the status of a public utility where the City was the sole, exclusive provider of water and sewer service in an area surrounding a 79-acre tract whose owner was seeking to subdivide for residential development. In addition to being the exclusive, sole provider of water and sewer services, the City had entered into agreements with other local water and sanitary districts which precluded those entities from servicing residents in the

John Wynkoop
December 13, 1978
Page 2

area where the tract in question was located. Also, the City had opposed the application of a water company which would have provided water in the area where the tract in question was located. Under these circumstances, the Court held that the City had acceded to the status of a public utility and could not refuse service to the area in question unless it was prevented from doing so by a "utility-related reason". An example of a "utility-related reason" that was given in this case, is a situation where the water supply available to the City is insufficient to provide service to persons located within the City if service is also provided to those outside the City. A "utility-related reason" might also exist where the water or sewer main which is accessible to the land for which water and sewer services are being sought is already operating at maximum capacity.


Another recent case that involves the obligation of a City to provide water and sewer service to nonresidents is the case of Delmarva Enterprises, Inc. vs. Mayor and Council of Dover, 282 A2d 601 (1971). In this case, the plaintiff Delmarva Enterprises, Inc. petitioned the City of Dover for water and sewer services for a parcel of land located outside the City of Dover. In the past, a water and sewer system main had been built by the City that was accessible to the property in question. This main had been hooked up to two other developments that were also outside the City. The petition of Delmarva was denied by the City by reason of a policy established by the City to not extend water and sewer services to properties not annexed to the City. Under this set of facts, the Court held that the City had acceded to the status of a public utility and that, therefore, the City could not discriminate against customers but must make its facilities available to all alike, including the plaintiff in this case.

It is my opinion that it would not be unreasonable to anticipate that the Supreme Court of Kansas would apply the principles of law set out in the above two cited cases if a case with facts similar to the two above cases came before the Court. In this regard, it is my understanding that the City of Wichita is now providing water and sewer services to all persons whose land is located outside the City and within that area defined to be the "planned growth area" by the MAPD, when such persons, by petition, agree to be annexed by the City sometime in the future. It is also my further understanding that the City is the sole provider of water in the "planned growth area".

Operating under the rules of law set forth in the above cited cases and applying those rules to the City of Wichita's situation, it is my opinion that the City, as a matter of policy, could refuse to provide water and sewer services to nonresidents. If such a policy is established, it would be important to follow the policy in a strict manner. That is, no exceptions should be made whereby a nonresident would be provided water and sewer services unless the exception is to be applied in a uniform manner across the board to all nonresidents. Also, unless the utility can establish a "utility-related reason",

John Wynkoop
December 13, 1978
Page 3

the policy not to provide water and sewer services should not include not providing service to those nonresidents whose land is accessible to existing water and sewer mains. If the Supreme Court of Kansas applies the principles of law set forth in the above cited cases, the "service area" for the City of Wichita, in my opinion, would probably be designated as that area accessible to existing water and sewer mains, and the City would be held to have attained the status of a public utility in those service areas where water and sewer services are available from no source other than the City of Wichita.



Thomas R. Powell
Assistant City Attorney

TRP:cdh

cc: John Dekker, Director of Law

January 8, 1978

Metropolitan Area Planning Commission

Robert A. Lakin, Director of Planning

Proposed Policy - Extension of Water and Sewer
Service Outside of City

As we have previously advised you, the Board of City Commissioners have raised the policy issue of extending water and sewer service outside the City. At your request and that of ERAB (Environmental Resources Advisory Board), the issue has been referred for your review and comment. This is a critical matter in relation to adopted land use and water plans as significant changes in policy would probably require a new look at those plans.

Attached is a package sent to the Board of City Commissioners for their consideration. Included are memorandums on the legal issues, imbedded cost of the system, growth patterns and alternate policies for extending utility services. Please review these as they will be the basis of our discussions.

The City Commission has asked that the matter be returned in at least five weeks. This will be on your agenda of January 18, 1979, both for formal and informal action. Although Mr. Wynkoop is out of the office on that day, other of his staff will be present to answer questions.

Robert A. Lakin
Director of Planning

RAL:rme
Attachments

cc: Board of County Commissioners w/a
E. H. Denton, City Manager
Theodore H. Hill, County Counselor w/a

THE CITY OF WICHITA

OFFICE OF

CITY MANAGER

DATE January 3, 1979

TO James Aiken, Staff Ex Officio, Environmental Resources Advisory Board
FROM E. H. Denton, City Manager

SUBJECT Proposed Policy - Extension
of Water and Sewer Service
Outside of City

On January 2, 1979, the City Commission referred the proposed policy alternatives for extension of water and sewer service outside of the City to the Environmental Resources Advisory Board for review and comment within 5-weeks.

A copy of the staff reports containing these recommendations is attached. Please bring this matter to the attention of the Environmental Resources Advisory Board for its review and comment to the City Commission at its meeting of February 13, 1979.


E. H. Denton
City Manager

EHD/fsw

Attachments

cc: Robert A. Lakin, Staff Ex Officio, Metropolitan Area Planning Commission
John Wynkoop, Director of Water and Water Pollution Control

THE CITY OF WICHITA

OFFICE OF CITY MANAGER

DATE January 3, 1979


TO Robert A. Lakin, Staff Ex Officio, Metropolitan Area Planning Commission

FROM E. H. Denton, City Manager

SUBJECT Proposed Policy - Extension
of Water and Sewer Service
Outside of City

On January 2, 1979, the City Commission referred the proposed policy alternatives for extension of water and sewer service outside of the City to the Metropolitan Area Planning Commission for review and comment within 5-weeks.

A copy of the staff reports containing these recommendations is attached. Please bring this matter to the attention of the Metropolitan Area Planning Commission for its review and comment to the City Commission at its meeting of February 13, 1979.



E. H. Denton
City Manager

EHD/fsw

Attachments

cc: James Aiken, Staff Ex Officio, Environmental Resources Advisory Board
John Wynkoop, Director of Water and Water Pollution Control

THE CITY OF WICHITA
OFFICE OF WATER DEPARTMENT

DATE December 26, 1978

Office Of The City Manager	
<input type="checkbox"/> ENR	<input type="checkbox"/> HP
<input type="checkbox"/> MS	<input type="checkbox"/> MS
<input type="checkbox"/> KR	<input type="checkbox"/> SH
DEC 27 1978	
<input type="checkbox"/> Copies To _____	
<input type="checkbox"/> Send To _____	
<input type="checkbox"/> File _____	

TO The Honorable Board of City Commissioners
(through E. H. Denton, City Manager)
FROM John D. Wynkoop, Director of Water & Water Pollution Control
Robert A. Lakin, Director of Planning

SUBJECT Extension of Water and Sewer Service
Outside of the City

Submitted are alternative policy statements regarding extension of utility (water and sewer) services outside of the city.

Separate memorandums have been submitted regarding:

- 1) The basis for determining the amount and the technique for transferring pro-rata shares of imbedded cost of the existing system to new users.
- 2) The status of plans recognizing growth areas.
- 3) Legal obligations to provide water and sewer services related to geographic location and time of providing services.

The following are alternate policies which the Commission may wish to consider. There may also be combined alternatives not listed separately.

Policy No. 1: Operate as a regional source of supply; treat and distribute water in accordance with adopted plan.

Pros: Provides efficiency of operation and development of sources of water, quality of water and reliability of services. Costs of developing unified sources less than all "user groups" competing for and developing separate sources. Eliminates duplication and overlap.

Cons: Requires development of more water resources; places City in center of political controversy regarding sources of supply; requires large capital outlays. Could encourage sprawl if not properly controlled and managed.

Policy No. 2: Supply water wholesale to rural water districts.

Pros: Provides a needed source to those without. Checks sprawl (assuming existing form of contract continued).

Cons: Utilizes part of the Wichita developed sources for non-Wichita residents.

REFERENCE ITEM #4-CM
AGENDA FOR: JAN 2 1979

Policy No. 3: Serve urbanizing area based on development guide (land use plan) when binding legal agreements to annex are provided. (Existing policy) This includes both deferred and immediate annexation depending on ownership patterns and boundaries.

Pros: Develops the utility system in accordance with the adopted comprehensive plan. Eliminates competing and overlapping systems. Provides stability to growth area and development industry dealing with known reliability of system. Prevents development of other systems by County or general improvement districts (often incompatible with city system) for areas that will probably be annexed in the future.

Cons: Ad valorem taxes not provided in support of other community services utilized by the water users has not fully recovered imbedded costs. When annexed, strong citizen resistance occurs, even though legally bound. Legislature could void agreements with change in law.

Policy No. 4: Serve only when annexable.

a) Require "adjacency" to city. This in effect would be to serve only after annexation.

Pros: Removes arguments by those being annexed after developer agrees to it. Provides tax base (and liabilities) as development occurs. Keep development patterns "tight". Reduces capital investment for water.

Cons: Increases capital investment for sewer on the cost side. May create leap frog development beyond 3 mile ring or induce the creation of new development districts or cities. Raises cost of land and housing due to limited supply. May introduce competing water and sewer systems.

b) "Island" annexation with consent of both County and landowner.

Pros: Provides for fair share of support of urban services thru ad valorem taxes as development occurs. People buy with full knowledge of status being within the city. Carries out adopted development guide. Removes difficulty of future annexation hearings.

Cons: On interim basis, creates difficult service areas for other services such as fire, police and street maintenance. Could be overcome by cooperative agreements by City to the County for interim fire, police and other services until logical service units (police beats, fire station service areas) can be established. The County has not been receptive to this approach except in unique situations.

Policy No. 5: Provide no outside city services. (May include 4 (a) by inference if area annexable)

Pros: Induce more central/inner city development/redevelopment if developable land at fringe becomes short in supply. Reduce capital outlay by better utilizing existing development. Establish more control on timing and sequencing of development.

Cons: Create pressures for leapfrog development. Set up competing systems i.e. El Dorado water, new wells. Raises cost of land if new developable land becomes in short supply. Rural water districts with other water sources (even though not as dependable or not as good in supply) may provide service. Design criteria different (size, pressure, fire protection). System incompatible in event of future annexation.

Policy No. 6: Require all extensions to be without cost to the City. (includes all oversizing, looping costs, etc.)

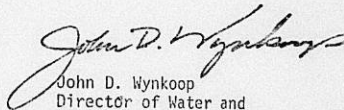
Pros: Eliminates costs to those who have "already bought" into system thru payment of bills.

Cons: May be susceptible to litigation by improving "offsite" and oversizing costs on any one development. Old system users all benefited from investments of prior users.

Recommendation: It is recommended that the following policies be considered:

- 1) That water be provided outside of city when:
 - a) Immediately annexable under the statutes (actual service would then be in the city by project development time); or
 - b) The County concurs in island annexation. (This should be done in conjunction with negotiation with the County to provide by contract at a fee level acceptable to both governing bodies, continued fire protection, sheriffs surveillance, snow removal and other services as may be determined appropriate. Contracts could include collecting County sewer service fees with water billing.); or
 - c) Formal agreements for annexation are provided when a or b is not possible.
 - d) The present City Commission policy on rural water districts remain in force.
- 2) Accept growth lines. Approve the service area limits as recommended in Mr. Lakin's memo on Growth Patterns.

- 3) Developer (outside the city) be responsible for all costs of extending water service, unless specifically approved otherwise by the Board of City Commissioners because of unusual circumstances. This shall include looping, metering and pipe oversizing.
- 4) That the ordinance pertaining to water main extensions be amended to provide the developer (outside of the city) a rebate of 25% of the gross revenue derived from each customer served by the main that is oversized. The repayment period will be for a 15-year period and the rebate shall not exceed the cost of the oversizing. Further, that the developer (outside the city) be given the option with concurrence by the City Commission to spread the cost of oversizing as a special assessment against the property in the benefit district.
- 5) That the imbedded costs of the utility continue to be recovered from customers outside of the city through the present 50% surcharge on water rates.



John D. Wynkoop
Director of Water and
Water Pollution Control



Robert A. Lakin
Director of Planning

JDW:RAL:sd

THE CITY OF WICHITA
OFFICE OF WATER DEPARTMENT

DATE December 13, 1978

TO The Honorable Board of City Commissioners
(through E. H. Denton, City Manager)

FROM John D. Wynkoop, Director of Water & Water Pollution Control

SUBJECT Cost of Extending Water Service
Outside the City Limits

The cost of providing water service to any area can be considered to consist of both direct and indirect costs. Direct costs include the expense of distribution lines, fire hydrants, service lines and meters, and related equipment which connects the new customers to the existing water system. Indirect costs include the expense in having provided sufficient capacity in the existing facilities to make possible the extension of water service to the new customers and the cost of providing for extension of water beyond the new area.

I. Direct Costs

- A. Cost of Equipment. An 8" main, normally required for adequate domestic water service and fire protection, costs \$15.00 per lineal foot, including valves and fire hydrants. Installation of a 1" meter set and service line averages \$170.00 and a 1" meter costs \$50.00.
- B. Average cost per new customer. Direct cost of extending water to an average size lot outside the city limits is estimated as follows:

Distribution line	\$ 1,050.00
Service line and meter set	170.00
Meter	50.00
	<hr/>
	\$ 1,270.00

Under the present policy, a new customer outside the city pays all of these costs, except the cost of the meter.

II. Indirect Costs

- A. Existing Facilities. There are a variety of opinions as to the most accurate way to apportion to new customers the costs of already existing facilities which make possible the extension of water service to them. The basis of these costs is the utility's equity in its plant: the amount that has been paid by the customers through the water rates. The Wichita water utility's equity in its system is approximately \$33,500,000. This represents all assets minus all liabilities, and does not include the depreciated value of plant that was paid for by federal sources, annexed improvement districts, or benefit districts.

The utility's equity amounts to \$373 for each present customer. The calculation of this amount is detailed on the attachment to this report.

B. Providing for Future Expansion. Feeder mains in a new area are oversized if it is expected that water lines will in the future be extended beyond the immediate area. This is done in order that the future extension will not diminish service to the existing customers. Cost of this oversizing ranges from \$7 per lineal foot (where 12" main is installed) to \$45 per lineal foot (where 30" main is used). Usually, one half mile of oversized feeder main serves a quarter section which can contain 400 new customers. Cost per new customer for oversizing would be from \$46 per lot to \$297 per lot, depending on the size of the feeder main.

III. Total Cost to Extend Water

The direct and indirect costs of extending water to an average size lot outside the city limits are estimated as follows. For the purposes of this example, an average lot is considered to be one with a 70-foot frontage in a quarter section where a water system exists at the edge of the area to be served.

<u>Direct Cost</u>	<u>Oversizing</u>	<u>Indirect Cost</u> Equity per Customer	<u>Total Cost</u>	<u>Currently</u>	
				<u>Paid by Customer</u>	<u>Paid by Utility</u>
\$ 1,270	(12") \$ 46	\$ 373	\$1,689	\$ 1,220	\$ 469
1,270	(16") 138	373	1,781	1,220	561
1,270	(20") 178	373	1,821	1,220	601
1,270	(24") 231	373	1,874	1,220	654
1,270	(30") 297	373	1,940	1,220	720

IV. Alternatives for Recovering the Utility's Indirect Cost.

A. Current Policy. Under the current policy, all the utility's customers, through the payment of water service charges, have shared the cost of the existing facilities and the cost of oversizing for main extensions. Customers outside the city limits pay a 50% surcharge above the rates paid inside the city. For an average residential customer, this surcharge amounts to \$70 per year for the domestic service.

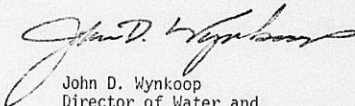
The revenue from this surcharge is sufficient to retire the utility's indirect costs in 6½ to 10 years.

B. Developer Pays Oversizing Cost. In order to reduce the City's investment in facilities outside the city limits which may not be fully utilized, the City may wish to require the developer of each benefit district to pay the cost of oversized mains, loop eliminations, and similar work for which the utility now pays the cost, and to refund to the developer 25% of the revenue from each customer served by the line, until the developer's cost is repaid, or for 15 years, whichever comes first. Even if the utility refunds 25% of this revenue, it will realize 12½% more revenue from these customers than from inside the city customers using the same amount of water. In this way, the utility would incur expenses for outside-the-city facilities only as it derived revenue from the new customers. If an area failed to develop as expected, the developer would stand the unpaid costs. If an area develops as expected (estimated 400 homes per quarter section), the developer should recover the costs from the refund within 15 years.

December 13, 1978

C. Benefit District Pays Indirect Costs. The City may wish to require each member of a benefit district outside the city to pay the indirect costs of extending service, by adding the costs to the special assessments against the property. Under this plan, the utility would incur no expense for facilities serving people outside the city. As indicated by figures previously shown, adding the indirect costs would increase the assessment against each lot by 35% to 55%.

D. Customer Pays Indirect Costs Through Connection Fee. Each new customer outside the city currently pays a fee of \$170 for the cost of installing a service line and meter set. The City may wish to add to that fee the indirect costs of providing water. In this way the utility would incur the expense of investing in facilities outside the city, as it now does, but would recover the indirect costs as each area develops. This would reduce, but not eliminate, the utility's indirect expense in providing water outside the city limits.



John D. Wynkoop
Director of Water and
Water Pollution Control

JDW:sd

attachment

COMPUTATION OF CUSTOMERS' EQUITY

IN WICHITA WATER SYSTEM

AS OF OCTOBER 31, 1978

I. Number of Customers:	Inside City	88,558
	Outside City	<u>1,930</u>
		90,488
	Lawn Services Number of Customers	<u>726</u> 89,762

II. Utility's Equity:

Depreciated value of plant	\$ 76,693,381
Outstanding long-term debt	<u>40,229,690</u>
	\$ 36,463,691
Other assets, less other liabilities	<u>10,076,366</u>
Total equity	\$ 46,540,057

Contributions from other sources (original value)	
Federal	\$ 7,424,377
Benefit Districts	8,808,638
Annexed Improvement Districts	<u>794,513</u>
	\$ 17,027,528

Estimated depreciation on contributions	\$ 3,973,239
Depreciated value of contributions	\$ 13,054,289

Amount of equity paid by utility's
customers \$ 33,485,768

III. Equity per customer

$$\frac{\text{Equity paid by customers}}{\text{Number of customers}} = \frac{\$33,485,768}{89,762} = \$ 373 \text{ per customer}$$

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

December 22, 1978

TO E. H. Denton, City Manager
FROM Robert A. Lakin, Director of Planning
SUBJECT Growth Patterns

As a result of a number of studies, the Metropolitan Area Planning Commission has adopted certain plan documents under the "Master Plan" provisions of the State Statutes. The plans assume both new housing and an increase in population by year 2000. The document which addresses the location and type of development is the "General Development Guide" adopted officially by MAPC in 1978, received and filed without action by the Board of City Commissioners August 1, 1978.

The Water Plan adopted by MAPC also shows growth derived from the development Plan. The adopted Water Plan establishes the need for a well engineered, reliable water system, both for quality urban living and for fire protection purposes. These plans propose compact growth adjacent to and contiguous to the existing Wichita urban area. Although not specific to each individual parcel, the plans are clear and concise enough to establish the areas for urban services. The Development Guide supports additional in-fill of the center city as well as expanded growth in selected areas at the edge. The plans in my opinion, by mandating location of water and sewer service areas work against sprawl or dispersed growth and establishes a well ordered and efficient urban system, protective of our resources.

Other plans such as the Sewer Plan and Transportation Plan support this compact growth pattern. Should the City withdraw from furnishing water until a development is in the City, the most likely occurrence will be the development of non-standard (To Wichita) systems for those growth areas rather than development not taking place. If it is assumed that such growth will take place, and it will be ultimately annexed, any policy which would result in separate, non-standard systems would not be in the City's long-range best interest.

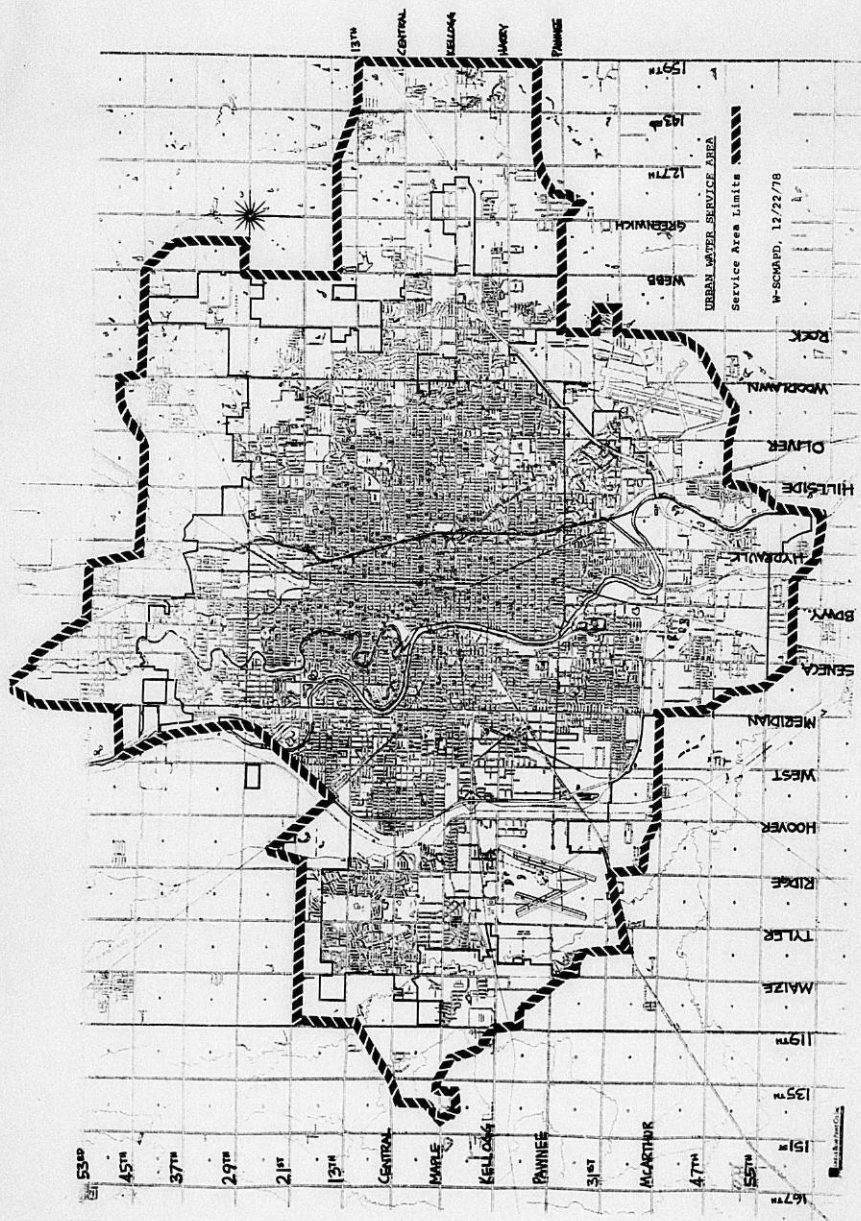
As a basis for developing a workable water extension policy, and to allow the Water Department to have a base from which design system needs, it is recommended that the City Commission accept these "growth areas" as the appropriate areas to serve, subject to such additional conditions (such as annexation, connection fees, payment for system extensions, etc.) as they may deem appropriate. Attached is a map which is an adaption from the plan maps showing areas which both Wynkoop and I, as well as the MAPC, believe ought to be provided urban water service from Wichita. This could be used as the base from which to review water requests. Others lying outside of these areas would need special analysis and would need to provide the City sufficient reason to extend water beyond this proposed policy line.

E.H. Denton
December 22, 1978
Page 2

It is recommended that for planning purposes and for developing the basis of a water extension policy, the Board of City Commissioners concur in the "General Development Guide" and approve the use of the attached, or similar, water service area map.


Robert A. Lakin, Director of Planning

RAL:bp
Attachment



THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE December 13, 1978

TO John Wynkoop, Director of Water & Water Pollution Control

FROM Thomas R. Powell, Assistant City Attorney

SUBJECT Extension of Water and Sewer
Services Outside of the City

QUESTION: Does the City have a legal obligation to provide water and sewer service outside the city limits?

ANSWER: K.S.A. 12-808 gives the City authority to sell water outside the City limits. This statute reads as follows: "Subject to the provisions of K.S.A. 66-104 and 66-131, and amendments thereto, any City operating water works, fuel, power or lighting plant may sell and dispose of water, fuel, power or light to any person within or without said City." This statute is obviously permissive as to whether a city will provide water to persons whose land is located outside the city.

The general rule of law is that local governments have no obligations to provide utility services to nonresidents where no clear duty to serve nonresidents has been imposed by law. See McQuillan, Municipal Corporations, Volume 12, "Ownership of Utility", Section 35.34c and Municipal Corporations Law, Volume 2, "Utility, Airports and Cemeteries" Section 19.03. However, the case law in several jurisdictions have established several exceptions to this general rule of law.

The question of whether or not a city must provide services to a non-resident, in these cases, turns on whether or not the City has acceded to the status of a public utility. If it is found that the City has acceded to the status of a public utility, then the City must, in a nondiscriminatory manner, provide services to all nonresidents who are located within the service area of the City.

A recent case that addressed the issue of when a City accedes to the status of a public utility is the Robinson vs. City of Boulder case, 547 P.2d 228 (1976). In this case, the Colorado Supreme Court held that the City of Boulder had acceded to the status of a public utility where the City was the sole, exclusive provider of water and sewer service in an area surrounding a 79-acre tract whose owner was seeking to subdivide for residential development. In addition to being the exclusive, sole provider of water and sewer services, the City had entered into agreements with other local water and sanitary districts which precluded those entities from servicing residents in the

John Wynkoop
December 13, 1978
Page 2

area where the tract in question was located. Also, the City had opposed the application of a water company which would have provided water in the area where the tract in question was located. Under these circumstances, the Court held that the City had acceded to the status of a public utility and could not refuse service to the area in question unless it was prevented from doing so by a "utility-related reason". An example of a "utility-related reason" that was given in this case, is a situation where the water supply available to the City is insufficient to provide service to persons located within the City if service is also provided to those outside the City. A "utility-related reason" might also exist where the water or sewer main which is accessible to the land for which water and sewer services are being sought is already operating at maximum capacity.

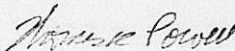
Another recent case that involves the obligation of a City to provide water and sewer service to nonresidents is the case of Delmarva Enterprises, Inc. vs. Mayor and Council of Dover, 282 A2d 601 (1971). In this case, the plaintiff Delmarva Enterprises, Inc. petitioned the City of Dover for water and sewer services for a parcel of land located outside the City of Dover. In the past, a water and sewer system main had been built by the City that was accessible to the property in question. This main had been hooked up to two other developments that were also outside the City. The petition of Delmarva was denied by the City by reason of a policy established by the City to not extend water and sewer services to properties not annexed to the City. Under this set of facts, the Court held that the City had acceded to the status of a public utility and that, therefore, the City could not discriminate against customers but must make its facilities available to all alike, including the plaintiff in this case.

It is my opinion that it would not be unreasonable to anticipate that the Supreme Court of Kansas would apply the principles of law set out in the above two cited cases if a case with facts similar to the two above cases came before the Court. In this regard, it is my understanding that the City of Wichita is now providing water and sewer services to all persons whose land is located outside the City and within that area defined to be the "planned growth area" by the MAPD, when such persons, by petition, agree to be annexed by the City sometime in the future. It is also my further understanding that the City is the sole provider of water in the "planned growth area".

Operating under the rules of law set forth in the above cited cases and applying those rules to the City of Wichita's situation, it is my opinion that the City, as a matter of policy, could refuse to provide water and sewer services to nonresidents. If such a policy is established, it would be important to follow the policy in a strict manner. That is, no exceptions should be made whereby a nonresident would be provided water and sewer services unless the exception is to be applied in a uniform manner across the board to all nonresidents. Also, unless the utility can establish a "utility-related reason",

John Wynkoop
December 13, 1978
Page 3

the policy not to provide water and sewer services should not include not providing service to those nonresidents whose land is accessible to existing water and sewer mains. If the Supreme Court of Kansas applies the principles of law set forth in the above cited cases, the "service area" for the City of Wichita, in my opinion, would probably be designated as that area accessible to existing water and sewer mains, and the City would be held to have attained the status of a public utility in those service areas where water and sewer services are available from no source other than the City of Wichita.



Thomas R. Powell
Assistant City Attorney

TRP:cdh

cc: John Dekker, Director of Law

WICHITA-SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT

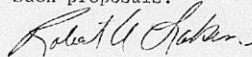
DATE

December 14, 1978

TO Board of City Commissioners
(through the City Manager)
FROM Robert A. Lakin, Director of Planning
SUBJECT Sewer and Water Extension

Office Of The City Manager	
Mr. _____	<input type="checkbox"/> HP
Mr. _____	<input type="checkbox"/> MS
Mr. _____	<input checked="" type="checkbox"/> SH
DEC 15 1978	
Copies To _____	
Sent To _____	
<input type="checkbox"/> File	

The Metropolitan Area Planning Commission has, by unanimous vote, requested that before the City Commission finalizes any review policies on water extension outside the cooperate limits, that the Planning Commission be given the opportunity to review and comment on any such proposals.



Robert A. Lakin
Director of Planning

RAL:rme

cc: Jerry Greider, Chairman, Metropolitan Area Planning
Commission

2-1-79

Extension of #20

- Roberts, change in policy should not occur.

Lowell Richardson - Mib's Fed + Sam:

- need to plan for future

- " " " " growth.

- do not work into #20 however.

- policy of freezing only will boost cost of housing

- recommend no delay if decision can not be avoided.
or plate is maintained.

Feb 13

Bell - Recommend adoption of policy of #3.

Cole - -Hager #20 units returned to purchaser rather than developer.

- Island

? on Policy -

Bell - motion - Policy 2+3 + take such
action as may be necessary

MC-8-0

"Transfer of entire region into #20 supply.

James
C. [unclear]

Cole

Decision to go forward/mater

H2O policy not way to attack problem

[Faint, mostly illegible handwritten notes on lined paper, possibly including a table or list of items.]

SECTION II

3. PROPOSED AMENDMENT TO THE INDUSTRIAL REVENUE BOND RESOLUTION TO INCLUDE PROVISIONS FOR MULTI-FAMILY HOUSING.

On December 19, 1978, the Board of City Commissioners approved the use of industrial revenue bonds for multi-family housing that specifically included language limiting the use of industrial revenue bonds for multi-family housing as well as requested that a "quality of life" site evaluation also be included in the policy.

The industrial revenue bond resolution has been amended as follows to include the necessary language to implement the use of industrial revenue bonds for multi-family housing:

In order to provide for the expansion of the city of Wichita's labor supply and meet demands of its many major employers, housing projects, exclusive of land, will generally be considered for the industrial revenue bond financing when those projects can show economic impact on area employment. Bonds will be issued for up to 500 units of new construction only and be subject to all bond criteria outlined in this resolution with specific attention to the needs for maximum financial security for the bonds. Such housing projects, when approved for industrial revenue bond financing, will be subject to full property tax payment. Proposals shall include elements which address the proximity of the planned development to resident services such as, but not limited to, elementary/secondary schools, parks, public transportation, shopping, and major employment centers. Proposals shall also address the status of zoning and platting for the proposed site with special attention given to the effects of the proposed project on the need for future public improvements or services which might be required as a result of this development.

ACTION: Adopt the amended resolution providing criteria for the issue of industrial revenue bonds.

NOTE: The following item is scheduled for 1:30 p.m.

4. POLICY ALTERNATIVES FOR EXTENSION OF WATER AND SEWER SERVICE OUTSIDE OF THE CITY.

On November 14, 1978, the City Commission heard a "focus" presentation by the Departments of Water and Planning on policy consideration in the extension of water and sewer service outside of the city. At that time the Commission requested that the administrative staff return with suggested alternative policy statements for further consideration. The Commission also requested reports on the cost of extending water and sewer service to include imbedded capital costs and the legal obligation, if any, of the City to provide water and sewer services to outside of the city customers.

The Commission has been provided with several staff reports which address the items above. Policy alternatives include:

Policy #1 -- Operate as a regional source of supply; treat and distribute water in accordance with the adopted plan.

Policy #2 -- Supply water wholesale to rural water districts.

Policy #3 -- Serve urbanizing area based on development guide (land use plan) when binding legal agreements to annex are provided. This is the existing policy and includes both deferred and immediate annexation depending on ownership patterns and boundaries.

Attachment -

*Donnell report
to MARC + ELMC
Postponed until 1/23/79
Wynkoop return w/
concurrent plan w/
6/21/78
Shirley Howard
Return w/annex
NET 4-D
5 weeks from
Jan 2.*

ITEM #4 Continued

Policy #4 -- Serve only when annexable.

Policy #5 -- Provide no outside city services.

Policy #6 -- Require all extensions to be without cost to the city, including oversizing, looping costs, etc.

There are also combinations of the various alternatives which are not listed separately.

The administrative staff recommends that the Commission adopt the following as the policy for extension of water and sewer services outside of the city:

- (1) That water be provided outside of the city when:
 - a) Immediately annexable under the statutes; or
 - b) The County concurs in island annexation; or
 - c) Formal agreements for annexation are provided when (a) or (b) is not possible.
 - d) The present Commission policy on rural water districts remain in force.
- (2) Adopt as service area limits, the "growth lines" as set out in the material provided by the Metropolitan Area Planning Department.
- (3) Require that the developer will be responsible for all costs of extending water service outside of the city.
- (4) Amend the City ordinance on water main extensions to provide that the developer (outside of the city) be granted a rebate for a period of 15 years of 25% of the gross revenues derived from each customer served by the main that is oversized with the total rebate not to exceed the cost of oversizing.
- (5) That the imbedded costs of the utility continue to be recovered from customers outside of the city through the present 50% surcharge on water rates.

The Planning Commission and Environmental Resources Advisory Board have requested that any proposed policy be referred to each board for review and comment prior to final Commission action.

ACTION:

Receive and file the staff reports and authorize the administrative staff to take the necessary actions to implement the policy as outlined in the recommendation above.

Bertie Ketcher - Jerry - Re Construction
Jerry Jones

5. REQUEST TO APPROVE THE MINORITY AND DISADVANTAGED CONTRACTORS OF MISSOURI-KANSAS, INC. COMMUNITY SERVICES ADMINISTRATION (CSA) FUNDING APPLICATION.

The Federal Community Services Administration (CSA) has asked the Wichita Community Action Agency Advisory Board to review the 1979 funding application of the Minority and Disadvantaged Contractors of Missouri-Kansas, Inc. (Mo-Kan) in the amount of \$222,000. The requested funds will be used to provide assistance to minority contractors in the following manner:

- (1) Identification of construction projects affording 1,000 construction contracting employment opportunities.

THE CITY OF WICHITA
OFFICE OF WATER DEPARTMENT

DATE December 26, 1978

Office Of The City Manager			
<input type="checkbox"/> EUP	<input type="checkbox"/> IP	<input type="checkbox"/> MS	<input type="checkbox"/> SH
<input checked="" type="checkbox"/> R	<input type="checkbox"/> MS	<input type="checkbox"/> SH	<input type="checkbox"/>
<input type="checkbox"/> R	<input type="checkbox"/> PR	<input type="checkbox"/> SH	<input type="checkbox"/>
<input type="checkbox"/> Copies To _____			
<input type="checkbox"/> Send To _____			
<input type="checkbox"/> File _____			

TO The Honorable Board of City Commissioners
(through E. H. Denton, City Manager)
FROM John D. Wynkoop, Director of Water & Water Pollution Control
Robert A. Lakin, Director of Planning

SUBJECT Extension of Water and Sewer Service
Outside of the City

Submitted are alternative policy statements regarding extension of utility (water and sewer) services outside of the city.

Separate memorandums have been submitted regarding:

- 1) The basis for determining the amount and the technique for transferring pro-rata shares of imbedded cost of the existing system to new users.
- 2) The status of plans recognizing growth areas.
- 3) Legal obligations to provide water and sewer services related to geographic location and time of providing services.

The following are alternate policies which the Commission may wish to consider. There may also be combined alternatives not listed separately.

Policy No. 1: Operate as a regional source of supply; treat and distribute water in accordance with adopted plan.

Pros: Provides efficiency of operation and development of sources of water, quality of water and reliability of services. Costs of developing unified sources less than all "user groups" competing for and developing separate sources. Eliminates duplication and overlap.

Cons: Requires development of more water resources; places City in center of political controversy regarding sources of supply; requires large capital outlays. Could encourage sprawl if not properly controlled and managed.

Policy No. 2: Supply water wholesale to rural water districts.

Pros: Provides a needed source to those without. Checks sprawl (assuming existing form of contract continued).

Cons: Utilizes part of the Wichita developed sources for non-Wichita residents.

REPORTING ITEM 4-CM
AGENDA FOR: JAN 2 1979

Policy No. 3: Serve urbanizing area based on development guide (land use plan) when binding legal agreements to annex are provided. (Existing policy) This includes both deferred and immediate annexation depending on ownership patterns and boundaries.

Pros: Develops the utility system in accordance with the adopted comprehensive plan. Eliminates competing and overlapping systems. Provides stability to growth area and development industry dealing with known reliability of system. Prevents development of other systems by County or general improvement districts (often incompatible with city system) for areas that will probably be annexed in the future.

Cons: Ad valorem taxes not provided in support of other community services utilized by the water users has not fully recovered imbedded costs. When annexed, strong citizen resistance occurs, even though legally bound. Legislature could void agreements with change in law.

Policy No. 4: Serve only when annexable.

a) Require "adjacency" to city. This in effect would be to serve only after annexation.

Pros: Removes arguments by those being annexed after developer agrees to it. Provides tax base (and liabilities) as development occurs. Keep development patterns "tight". Reduces capital investment for water.

Cons: Increases capital investment for sewer on the cost side. May create leap frog development beyond 3 mile ring or induce the creation of new development districts or cities. Raises cost of land and housing due to limited supply. May introduce competing water and sewer systems.

b) "Island" annexation with consent of both County and landowner.

Pros: Provides for fair share of support of urban services thru ad valorem taxes as development occurs. People buy with full knowledge of status being within the city. Carries out adopted development guide. Removes difficulty of future annexation hearings.

Cons: On interim basis, creates difficult service areas for other services such as fire, police and street maintenance. Could be overcome by cooperative agreements by City to the County for interim fire, police and other services until logical service units (police beats, fire station service areas) can be established. The County has not been receptive to this approach except in unique situations.

Policy No. 5: Provide no outside city services. (May include 4 (a) by inference if area annexable)

Pros: Induce more central/inner city development/redevelopment if developable land at fringe becomes short in supply. Reduce capital outlay by better utilizing existing development. Establish more control on timing and sequencing of development.

Cons: Create pressures for leapfrog development. Set up competing systems i.e. El Dorado water, new wells. Raises cost of land if new developable land becomes in short supply. Rural water districts with other water sources (even though not as dependable or not as good in supply) may provide service. Design criteria different (size, pressure, fire protection). System incompatible in event of future annexation.

Policy No. 6: Require all extensions to be without cost to the City. (includes all oversizing, looping costs, etc.)

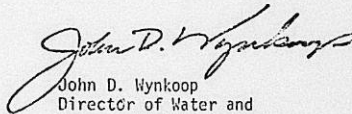
Pros: Eliminates costs to those who have "already bought" into system thru payment of bills.

Cons: May be susceptible to litigation by improving "offsite" and oversizing costs on any one development. Old system users all benefited from investments of prior users.

Recommendation: It is recommended that the following policies be considered:

- 1) That water be provided outside of city when:
 - a) Immediately annexable under the statutes (actual service would then be in the city by project development time); or
 - b) The County concurs in island annexation. (This should be done in conjunction with negotiation with the County to provide by contract at a fee level acceptable to both governing bodies, continued fire protection, sheriffs surveillance, snow removal and other services as may be determined appropriate. Contracts could include collecting County sewer service fees with water billing.); or
 - c) Formal agreements for annexation are provided when a or b is not possible.
 - d) The present City Commission policy on rural water districts remain in force.
- 2) Accept growth lines. Approve the service area limits as recommended in Mr. Lakin's memo on Growth Patterns.

- 3) Developer (outside the city) be responsible for all costs of extending water service, unless specifically approved otherwise by the Board of City Commissioners because of unusual circumstances. This shall include looping, metering and pipe oversizing.
- 4) That the ordinance pertaining to water main extensions be amended to provide the developer (outside of the city) a rebate of 25% of the gross revenue derived from each customer served by the main that is oversized. The repayment period will be for a 15-year period and the rebate shall not exceed the cost of the oversizing. Further, that the developer (outside the city) be given the option with concurrence by the City Commission to spread the cost of oversizing as a special assessment against the property in the benefit district.
- 5) That the imbedded costs of the utility continue to be recovered from customers outside of the city through the present 50% surcharge on water rates.



John D. Wynkoop
Director of Water and
Water Pollution Control



Robert A. Lakin
Director of Planning

JDW:RAL:sd

THE CITY OF WICHITA
OFFICE OF WATER DEPARTMENT

DATE December 13, 1978

TO The Honorable Board of City Commissioners
(through E. H. Denton, City Manager)

FROM John D. Wynkoop, Director of Water & Water Pollution Control

SUBJECT Cost of Extending Water Service
Outside the City Limits

The cost of providing water service to any area can be considered to consist of both direct and indirect costs. Direct costs include the expense of distribution lines, fire hydrants, service lines and meters, and related equipment which connects the new customers to the existing water system. Indirect costs include the expense in having provided sufficient capacity in the existing facilities to make possible the extension of water service to the new customers and the cost of providing for extension of water beyond the new area.

I. Direct Costs

- A. Cost of Equipment. An 8" main, normally required for adequate domestic water service and fire protection, costs \$15.00 per lineal foot, including valves and fire hydrants. Installation of a 1" meter set and service line averages \$170.00 and a 1" meter costs \$50.00.
- B. Average cost per new customer. Direct cost of extending water to an average size lot outside the city limits is estimated as follows:

Distribution line	\$ 1,050.00
Service line and meter set	170.00
Meter	50.00
	<hr/>
	\$ 1,270.00

Under the present policy, a new customer outside the city pays all of these costs, except the cost of the meter.

II. Indirect Costs

- A. Existing Facilities. There are a variety of opinions as to the most accurate way to apportion to new customers the costs of already existing facilities which make possible the extension of water service to them. The basis of these costs is the utility's equity in its plant: the amount that has been paid by the customers through the water rates. The Wichita water utility's equity in its system is approximately \$33,500,000. This represents all assets minus all liabilities, and does not include the depreciated value of plant that was paid for by federal sources, annexed improvement districts, or benefit districts.

The utility's equity amounts to \$373 for each present customer. The calculation of this amount is detailed on the attachment to this report.

B. Providing for Future Expansion. Feeder mains in a new area are oversized if it is expected that water lines will in the future be extended beyond the immediate area. This is done in order that the future extension will not diminish service to the existing customers. Cost of this oversizing ranges from \$7 per lineal foot (where 12" main is installed) to \$45 per lineal foot (where 30" main is used). Usually, one half mile of oversized feeder main serves a quarter section which can contain 400 new customers. Cost per new customer for oversizing would be from \$46 per lot to \$297 per lot, depending on the size of the feeder main.

III. Total Cost to Extend Water

The direct and indirect costs of extending water to an average size lot outside the city limits are estimated as follows. For the purposes of this example, an average lot is considered to be one with a 70-foot frontage in a quarter section where a water system exists at the edge of the area to be served.

Direct Cost	Oversizing	Indirect Cost Equity per Customer	Total Cost	Currently	
				Paid by Customer	Paid by Utility
\$ 1,270	(12") \$ 46	\$ 373	\$1,689	\$ 1,220	\$ 469
1,270	(16") 138	373	1,781	1,220	561
1,270	(20") 178	373	1,821	1,220	601
1,270	(24") 231	373	1,874	1,220	654
1,270	(30") 297	373	1,940	1,220	720

IV. Alternatives for Recovering the Utility's Indirect Cost.

A. Current Policy. Under the current policy, all the utility's customers, through the payment of water service charges, have shared the cost of the existing facilities and the cost of oversizing for main extensions. Customers outside the city limits pay a 50% surcharge above the rates paid inside the city. For an average residential customer, this surcharge amounts to \$70 per year for the domestic service.

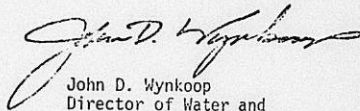
The revenue from this surcharge is sufficient to retire the utility's indirect costs in 6½ to 10 years.

B. Developer Pays Oversizing Cost. In order to reduce the City's investment in facilities outside the city limits which may not be fully utilized, the City may wish to require the developer of each benefit district to pay the cost of oversized mains, loop eliminations, and similar work for which the utility now pays the cost, and to refund to the developer 25% of the revenue from each customer served by the line, until the developer's cost is repaid, or for 15 years, whichever comes first. Even if the utility refunds 25% of this revenue, it will realize 12½% more revenue from these customers than from inside the city customers using the same amount of water. In this way, the utility would incur expenses for outside-the-city facilities only as it derived revenue from the new customers. If an area failed to develop as expected, the developer would stand the unpaid costs. If an area develops as expected (estimated 400 homes per quarter section), the developer should recover the costs from the refund within 15 years.

December 13, 1978

C. Benefit District Pays Indirect Costs. The City may wish to require each member of a benefit district outside the city to pay the indirect costs of extending service, by adding the costs to the special assessments against the property. Under this plan, the utility would incur no expense for facilities serving people outside the city. As indicated by figures previously shown, adding the indirect costs would increase the assessment against each lot by 35% to 55%.

D. Customer Pays Indirect Costs Through Connection Fee. Each new customer outside the city currently pays a fee of \$170 for the cost of installing a service line and meter set. The City may wish to add to that fee the indirect costs of providing water. In this way the utility would incur the expense of investing in facilities outside the city, as it now does, but would recover the indirect costs as each area develops. This would reduce, but not eliminate, the utility's indirect expense in providing water outside the city limits.



John D. Wynkoop
Director of Water and
Water Pollution Control

JDW:sd

attachment

COMPUTATION OF CUSTOMERS' EQUITY

IN WICHITA WATER SYSTEM

AS OF OCTOBER 31, 1978

I. Number of Customers:	Inside City	88,558
	Outside City	<u>1,930</u>
		90,488
	Lawn Services Number of Customers	<u>726</u> 89,762

II. Utility's Equity:

Depreciated value of plant	\$ 76,693,381
Outstanding long-term debt	<u>40,229,690</u>
	\$ 36,463,691
Other assets, less other liabilities	<u>10,076,366</u>
Total equity	\$ 46,540,057

Contributions from other sources (original value)	
Federal	\$ 7,424,377
Benefit Districts	8,808,638
Annexed Improvement Districts	<u>794,513</u>
	\$ 17,027,528

Estimated depreciation on contributions	\$ 3,973,239
Depreciated value of contributions	<u>\$ 13,054,289</u>

Amount of equity paid by utility's customers	\$ 33,485,768
---	---------------

III. Equity per customer

$$\frac{\text{Equity paid by customers}}{\text{Number of customers}} = \frac{\$33,485,768}{89,762} = \$ 373 \text{ per customer}$$

WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

December 22, 1978

TO E. H. Denton, City Manager
FROM Robert A. Lakin, Director of Planning
SUBJECT Growth Patterns

As a result of a number of studies, the Metropolitan Area Planning Commission has adopted certain plan documents under the "Master Plan" provisions of the State Statutes. The plans assume both new housing and an increase in population by year 2000. The document which addresses the location and type of development is the "General Development Guide" adopted officially by MAPC in 1978, received and filed without action by the Board of City Commissioners August 1, 1978.

The Water Plan adopted by MAPC also shows growth derived from the development Plan. The adopted Water Plan establishes the need for a well engineered, reliable water system, both for quality urban living and for fire protection purposes. These plans propose compact growth adjacent to and contiguous to the existing Wichita urban area. Although not specific to each individual parcel, the plans are clear and concise enough to establish the areas for urban services. The Development Guide supports additional in-fill of the center city as well as expanded growth in selected areas at the edge. The plans in my opinion, by mandating location of water and sewer service areas work against sprawl or dispersed growth and establishes a well ordered and efficient urban system, protective of our resources.

Other plans such as the Sewer Plan and Transportation Plan support this compact growth pattern. Should the City withdraw from furnishing water until a development is in the City, the most likely occurrence will be the development of non-standard (To Wichita) systems for those growth areas rather than development not taking place. If it is assumed that such growth will take place, and it will be ultimately annexed, any policy which would result in separate, non-standard systems would not be in the City's long-range best interest.

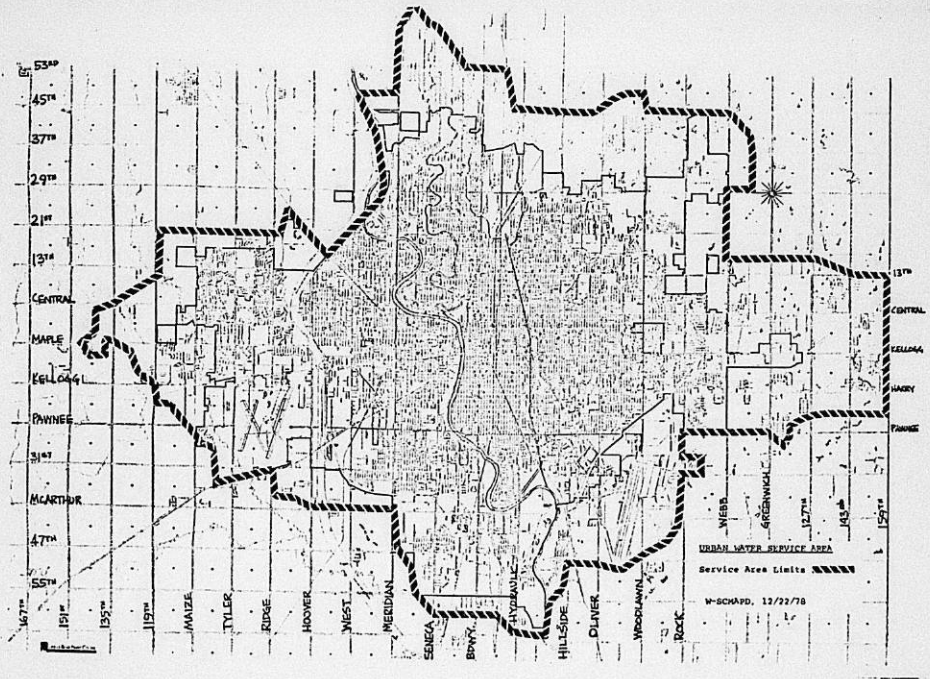
As a basis for developing a workable water extension policy, and to allow the Water Department to have a base from which design system needs, it is recommended that the City Commission accept these "growth areas" as the appropriate areas to serve, subject to such additional conditions (such as annexation, connection fees, payment for system extensions, etc.) as they may deem appropriate. Attached is a map which is an adaption from the plan maps showing areas which both Wynkoop and I, as well as the MAPC, believe ought to be provided urban water service from Wichita. This could be used as the base from which to review water requests. Others lying outside of these areas would need special analysis and would need to provide the City sufficient reason to extend water beyond this proposed policy line.

E.H. Denton
December 22, 1978
Page 2

It is recommended that for planning purposes and for developing the basis of a water extension policy, the Board of City Commissioners concur in the "General Development Guide" and approve the use of the attached, or similar, water service area map.


Robert A. Lakin, Director of Planning

RAL:bp
Attachment



THE CITY OF WICHITA

OFFICE OF DEPARTMENT OF LAW

DATE December 13, 1978

TO John Wynkoop, Director of Water & Water Pollution Control

FROM Thomas R. Powell, Assistant City Attorney

SUBJECT Extension of Water and Sewer
Services Outside of the City

QUESTION: Does the City have a legal obligation to provide water and sewer service outside the city limits?

ANSWER: K.S.A. 12-808 gives the City authority to sell water outside the City limits. This statute reads as follows: "Subject to the provisions of K.S.A. 66-104 and 66-131, and amendments thereto, any City operating water works, fuel, power or lighting plant may sell and dispose of water, fuel, power or light to any person within or without said City." This statute is obviously permissive as to whether a city will provide water to persons whose land is located outside the city.

The general rule of law is that local governments have no obligations to provide utility services to nonresidents where no clear duty to serve nonresidents has been imposed by law. See McQuillan, Municipal Corporations, Volume 12, "Ownership of Utility", Section 35.34c and Municipal Corporations Law, Volume 2, "Utility, Airports and Cemeteries" Section 19.03. However, the case law in several jurisdictions have established several exceptions to this general rule of law.

The question of whether or not a city must provide services to a non-resident, in these cases, turns on whether or not the City has acceded to the status of a public utility. If it is found that the City has acceded to the status of a public utility, then the City must, in a nondiscriminatory manner, provide services to all nonresidents who are located within the service area of the City.

A recent case that addressed the issue of when a City accedes to the status of a public utility is the Robinson vs. City of Boulder case, 547 P.2d 228 (1976). In this case, the Colorado Supreme Court held that the City of Boulder had acceded to the status of a public utility where the City was the sole, exclusive provider of water and sewer service in an area surrounding a 79-acre tract whose owner was seeking to subdivide for residential development. In addition to being the exclusive, sole provider of water and sewer services, the City had entered into agreements with other local water and sanitary districts which precluded those entities from servicing residents in the

John Wynkoop
December 13, 1978
Page 2

area where the tract in question was located. Also, the City had opposed the application of a water company which would have provided water in the area where the tract in question was located. Under these circumstances, the Court held that the City had acceded to the status of a public utility and could not refuse service to the area in question unless it was prevented from doing so by a "utility-related reason". An example of a "utility-related reason" that was given in this case, is a situation where the water supply available to the City is insufficient to provide service to persons located within the City if service is also provided to those outside the City. A "utility-related reason" might also exist where the water or sewer main which is accessible to the land for which water and sewer services are being sought is already operating at maximum capacity.

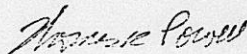
Another recent case that involves the obligation of a City to provide water and sewer service to nonresidents is the case of Delmarva Enterprises, Inc. vs. Mayor and Council of Dover, 282 A2d 601 (1971). In this case, the plaintiff Delmarva Enterprises, Inc. petitioned the City of Dover for water and sewer services for a parcel of land located outside the City of Dover. In the past, a water and sewer system main had been built by the City that was accessible to the property in question. This main had been hooked up to two other developments that were also outside the City. The petition of Delmarva was denied by the City by reason of a policy established by the City to not extend water and sewer services to properties not annexed to the City. Under this set of facts, the Court held that the City had acceded to the status of a public utility and that, therefore, the City could not discriminate against customers but must make its facilities available to all alike, including the plaintiff in this case.

It is my opinion that it would not be unreasonable to anticipate that the Supreme Court of Kansas would apply the principles of law set out in the above two cited cases if a case with facts similar to the two above cases came before the Court. In this regard, it is my understanding that the City of Wichita is now providing water and sewer services to all persons whose land is located outside the City and within that area defined to be the "planned growth area" by the MAPD, when such persons, by petition, agree to be annexed by the City sometime in the future. It is also my further understanding that the City is the sole provider of water in the "planned growth area".

Operating under the rules of law set forth in the above cited cases and applying those rules to the City of Wichita's situation, it is my opinion that the City, as a matter of policy, could refuse to provide water and sewer services to nonresidents. If such a policy is established, it would be important to follow the policy in a strict manner. That is, no exceptions should be made whereby a nonresident would be provided water and sewer services unless the exception is to be applied in a uniform manner across the board to all nonresidents. Also, unless the utility can establish a "utility-related reason",

John Wynkoop
December 13, 1978
Page 3

the policy not to provide water and sewer services should not include not providing service to those nonresidents whose land is accessible to existing water and sewer mains. If the Supreme Court of Kansas applies the principles of law set forth in the above cited cases, the "service area" for the City of Wichita, in my opinion, would probably be designated as that area accessible to existing water and sewer mains, and the City would be held to have attained the status of a public utility in those service areas where water and sewer services are available from no source other than the City of Wichita.



Thomas R. Powell
Assistant City Attorney

TRP:cdh

cc: John Dekker, Director of Law

WICHITA-SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT

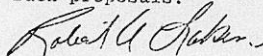
DATE

December 14, 1978

TO Board of City Commissioners
(through the City Manager)
FROM Robert A. Lakin, Director of Planning
SUBJECT Sewer and Water Extension

Office of The City Manager	
<input checked="" type="checkbox"/> BO	<input type="checkbox"/> HP
<input type="checkbox"/> MS	<input type="checkbox"/> SH
DEC 15 1978	
Copies To _____	
Send To _____	
<input type="checkbox"/> File _____	

The Metropolitan Area Planning Commission has, by unanimous vote, requested that before the City Commission finalizes any review policies on water extension outside the cooperate limits, that the Planning Commission be given the opportunity to review and comment on any such proposals.



Robert A. Lakin
Director of Planning

RAL:rme

cc: Jerry Greider, Chairman, Metropolitan Area Planning
Commission