

ACTION

DATE

COMMITTEE

Resound that the
M.A.P.C. Part to placed on 3/21/85
B.C.C./B.C.C. Review present projects
4-2-85

DR 85-7 POSSIBLE AMENDMENT - To sign regulations to provide directional signs for Churches.

WICHITA TRAFFIC COMMISSION MINUTES
March 20, 1984 Meeting

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The Wichita Traffic Commission met on Wednesday, March 20, 1985, at 1:30 p.m. in the City Commission Meeting Room, First Floor of City Hall, 455 North Main, Wichita, Kansas.

ROLL CALL

President John Ziegelmeyer, Jr. was in the chair and called the meeting to order, and the following Commissioners were in attendance: Robert Cady, Maurice Coulson, Marvin M. Cox, Jr., Sue Horn Estes, David Farnsworth, and Sheets Winkler. Commissioners Robert Edmiston, Colleen Kelly Johnston and Michael D. Relihan were absent.

Staff members present included: Bill McKinley, Traffic Engineer; Paul E. Taylor, Traffic Operations and Maintenance Director; Bob Mielke Associate Traffic Engineer; Captain S. L. Brown, Wichita Traffic Bureau; and Joyce Blanchard, Recording Secretary.

* * * * *

APPROVAL OF THE FEBRUARY 20, 1985 TRAFFIC COMMISSION MINUTES AS MAILED

Commissioner Estes made a motion, seconded by Commissioner Cox, that the Minutes of the February 20, 1985 Traffic Commission meeting be approved, as mailed. The motion passed unanimously.

* * * * *

RESULTS OF SPEED AND TRAFFIC COUNT STUDY ON ROCKHILL/BROADMOOR

At the February 20, 1985 Traffic Commission meeting, the Traffic Commissioners directed the Traffic Engineering staff to install chevron signing through the Broadmoor/Rockhill curve and conduct a traffic study.

Bill McKinley, Traffic Engineer, stated that Traffic Engineering personnel installed the doubled-backed chevron signs which direct motorists through the curve, no matter which direction motorists are driving, and he thought they were effective. He presented slides of the Broadmoor/Rockhill streets showing the chevron signs installed on the curved area near Tallyrand Street.

He explained that Traffic Engineering staff made a 24-hour traffic count at Broadmoor, just south of 21st Street, which revealed 3,650 vehicles. In comparison with two other traffic counts that were taken at the same time on the same day, there were 1,986 vehicles traveling through the Broadmoor/Rockhill curve at Tallyrand; the count at Rockhill was 1,147 vehicles. He said that a lot of traffic enters and leaves the subject neighborhood because there are two apartment complexes on either side of Tallyrand. He explained that both Broadmoor and Rockhill Streets were designed to be collector streets, able to carry 7,000 to 8,000 vehicles per day, and their purpose is to collect the traffic in the neighborhood and bring it out to the major arterials, 21st Street and Rock Road.

He continued by saying that there was a count taken on a Saturday and Sunday, which showed a lower traffic count, but he explained that no matter where a

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traffic count is made in the City the volumes are normally lower on the weekends. He stated that a radar study was also made on Rockhill at Tallyrand, and the radar picked up the speed of the vehicles before they reacted to the curve; the average speed being 32 miles per hour, with the 85 percentile being 37 miles per hour.

He stated that a motorist can drive through the subject curve at 40 miles per hour without any real problem, and it is safe at 35 miles per hour under normal weather conditions. He also explained the future growth that is contemplated for the subject area, individual homes, apartment complexes, duplexes, offices, commercial developments, etc., and the projected traffic volume after the new residences and offices are built would be close to 6,600, but not all those vehicles would travel over the subject streets.

He concluded by saying that he knew of two accidents that occurred in the curves themselves on days when the pavement was slick. He stated that the legal speed in residential areas, according to Kansas law, is 30 miles per hour unless posted otherwise. He stated that Traffic Engineering's recommendation would be to leave the chevron signs at the subject site because he felt it gave motorists a better alignment of the roadway, especially to those motorists that have never driven through the curves.

Steve Marshall, 1944 Tallyrand, thanked Mr. McKinley and his staff for the fine job they did. He stated that the average speed limit that Traffic Engineering came up with was not accurate, because the Police car equipped with radar was sitting directly in front of his home and the motorists could see the car waiting there as the motorists started to enter the curve. He stated that because he sees the traffic traveling through the curve in front of his home every day, he felt he could judge the difference between vehicles traveling 30 miles per hour and one traveling 45 miles per hour, which he felt was a more accurate speed through the curves.

He wanted to see some speed limit enforcement, perhaps in the form of two speed humps; one north of Tallyrand on Broadmoor, and one east of Windstead on Rockhill. He felt motorists would not want to drive over the speed humps, which might put the traffic back on 21st Street and Rock Road where it should be.

He explained that one of the apartment complexes in the neighborhood is getting ready to open a new approach for a parking lot, which is situated across from Tallyrand on Broadmoor; and he hoped the City would make the management move the approach north of Tallyrand where it enters Broadmoor and possibly close off the approach south of Tallyrand on Rockhill. He continued by saying that money was being spent to keep barricades on his property, for chevrons, and for law enforcement measures to lower speed limits, etc., but he thought it could be spent more wisely on the construction of two speed humps and post 25 miles-per-hour signs. He concluded by saying that he had incurred three structural damage accidents in his front lawn in the last two years. Last summer he had picked up a motorcycle from the corner of Tallyrand and Broadmoor because it was speeding and could not stop, and the driver of the motorcycle was injured.

Lou Anderson, 1922 Tallyrand, stated that he felt his neighborhood resembles a raceway at times. He said he and his wife take their dogs for a walk each afternoon and they walk up Tallyrand and cross Broadmoor to either walk east to Rock

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Road or north to 21st Street. He stated that the traffic does not travel too fast that they can't cross the streets, but occasionally you would be taking your life into your hands crossing Tallyrand to reach Broadmoor. He also thought it was dangerous to cross Rockhill where a driveway enters the street from a parking lot. He thought the City should investigate installing a stop sign for Tallyrand at Broadmoor.

President Ziegelmeier - asked Mr. McKinley if he would give a copy of the City's Speed Hump Policy to Mr. Marshall.

Mr. McKinley - replied that the City had not formally adopted a policy; it was more like guidelines but he would see that Mr. Marshall received a copy of the guidelines. He continued by saying that when the committee met to formulate a speed hump policy, the committee agreed that the City would not build speed humps on collector streets. He stated that if Mr. Marshall received his copy of the guidelines, the Traffic Commission might want to change that section in some manner to circumvent that problem. He stated that if the Traffic Commissioners desired to place speed humps in the subject area, he felt that the other residents living there should be notified that the City would be holding a public hearing with regard to the matter, because the cost of speed humps have to be borne by the citizens requesting them.

Commissioner Farnsworth - stated that a motorist has to drive through two curves to get to the main curve on Tallyrand, and as he recalled, speed humps cannot be installed in curved street. He suggested that perhaps a speed hump could be installed on the other approach.

MOTION

Commissioner Coulson made a motion that the City leave the chevron signs in place on Tallyrand, but not to take any further action. Seconded by Commissioner Winkler.

Commissioner Estes - asked if there was going to be any selective police enforcement continued in the area.

Captain S. L. Brown, Wichita Traffic Bureau, stated that if the Police Department sent a police car with radar visible to the motoring public, or if they sent out a police car with flashing red lights, or a car that had police identification on it, most motorists would slow down to 20 miles per hour instead of traveling the average of 27 to 32 miles per hour. He stated that realistically and economically he did not have the manpower to have a police car parked at the subject curves permanently, and to catch a few motorists that might be speeding was not a viable alternative.

AMENDED MOTION

Commissioner Cady amended the motion by requesting the addition of curve warning signs at each end of the chevron signs, both northbound and south-bound. Seconded by Commissioner Estes.

The amended motion passed unanimously

The original motion passed unanimously

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1985 ARTERIAL SIDEWALK PROGRAM

The Traffic Engineering Division has been compiling requests for arterial sidewalk locations from the Citizen Participation Organization Councils, Wichita Public School Administrators and concerned citizens. A list of these sidewalks and recommendations for priorities of installing them were presented by the Traffic Engineering staff.

Paul Taylor, Traffic Operations & Maintenance Director - explained that he was requesting the Traffic Commission to consider postponing the discussion until their April meeting so that they could compile more information, which in turn would help the Traffic Commissioners make more knowledgeable decisions on which sidewalks would be selected for construction. He stated that there were last-minute changes which might effect their decisions. He also described the Woodlawn sidewalk location that carried over from the 1984 Arterial Sidewalk Program which has not been let to bid because of the extreme amount of time involved in the designing the sidewalk.

He continued by saying that the City would be taking bids on Friday, April 12, 1985 which would be the Friday before the next Traffic Commission meeting, and if the Traffic Commissioners would postpone the discussion of the 1985 program, the sidewalks that are on the 1984 list that do not get funded could be considered in 1985. He thought there were several locations on the 1984 list that were very important to the Board of Education and the City of Wichita, and they might be of a higher priority than some that will appear on the 1985 list.

MOTION

Commissioner Winkler made a motion that the Traffic Commission postpone the discussion of the 1985 Arterial Sidewalk Program until the April 17, 1985 Traffic Commission meeting. Seconded by Commissioner Cady. The vote in favor was unanimous.

Mr. Taylor - then presented slides of a particular location on the north side of 13th Street, east of West Street, that involved a request for sidewalks near West Park Tower, a low-income apartment complex for the elderly. He continued by saying that the request was to relocate the existing sidewalk back to what is now today's property line, because years ago the property line was different and presently there is more right-of-way available. He stated it was an unusual request because the existing sidewalk is in good condition, but some elderly tenants have a difficult time walking to the shopping center at 13th and West Street and it would be safer if the sidewalk could be built away from the street and curb. If an additional 150 feet could be constructed to join the existing sidewalk that runs directly in front of West Park Tower, the cost would be approximately \$1,500, and perhaps lower, through the Arterial Sidewalk Program.

MOTION

Commissioner Winkler made a motion that the Traffic Commission recommend to the City Commission that the sidewalk near West Park Tower be extended an additional 150 feet as soon as possible, as part of the 13th Street and West Project. Seconded by Commissioner Cox. The vote in favor of the motion was unanimous.

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REVIEW OF THE TOP TEN ACCIDENT LOCATIONS BY NUMBERS AND RATES FOR 1984

In January of each year, the Traffic Engineering Division requests the Police Department to provide a computer listing of all intersections where one or more reported accidents have occurred during the preceding year. The Traffic Engineering Division reviews this listing to establish the top 50 accident intersections based solely on the total number of reported accidents, as well as to determine the top 50 accident intersections based on the accident occurrence rate. Both the accident numbers and accident rates are studied to determine predominant accident patterns and to initiate action, where possible, to reduce the occurrence of accidents. Such action ranges from making relatively simple signal timing changes to initiating projects for intersection geo-metric changes. From this list projects are selected for Hazard Elimination Safety funding which the Kansas Department of Transportation administers, the funds being provided by the Federal Highway Administration to reduce the number of hazardous locations throughout the State.

Bob Mielke, Associate Traffic Engineer, gave an in-depth report on each of the high-accident locations for 1984 and then explained the recommended action to improve the safety at each location:

<u>Number of Accidents</u>	<u>Accident Rate</u> <u>(Accidents-Million Vehs.)</u>
Kellogg and Broadway (59)	Emporia and 11th Street N. (4.67)
Kellogg and Topeka (48)	I 135 and 1st Street (West) (4.12)
McLean and Seneca* (43)	Cleveland and Murdock (4.03)
Kellogg and West (40)	Hillside and 21st St. N.* (3.97)
Hillside & 21st St. N.* (39)	McLean and Seneca* (3.96)
Kellogg and Rock (35)	Seneca and 55th St. S. (3.28)
Kellogg and Woodlawn (33)	Market and Murdock (3.22)
Kellogg and Main (33)	Edgemoor and Mt. Vernon (3.20)
Grove and 21st St. N. (31)	Emporia and Murdock (3.18)
Oliver and 13th St. N. (29)	Mosley and 17th St. N. (3.09)

*Note that two of the above intersections are included on both lists resulting in a total of 18 individual intersections reviewed.

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DIRECTIONAL SIGNS FOR EPISCOPAL CHURCHES ALONG MAJOR STREETS

Mr. Timothy Paul, the attorney representing the Episcopal Churches in Wichita, requested permission to place signs on City streets to direct people to nearby Episcopal Churches located off the major street system.

Mr. Paul appeared on the public agenda of the City Commission's March 5, 1985 meeting to present his request. The City Commission directed that the matter be referred to the Traffic Commission and the Planning Commission for their review and recommendation. The City Code does not allow such signs to be placed on City right-of-way; therefore, Mr. Paul requested that the City Code be changed and guidelines be established for the installation of such signs.

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Timothy Paul, Attorney at Law, stated that his firm has been retained by seven of the eight Episcopal Churches in Wichita in order to request directional signs so that citizens seeking to attend Episcopal church functions in Wichita will be able to locate the churches. He stated that many of the older churches were built in neighborhoods that are now mostly residential and they are difficult to find. The newer churches being built today offer convenience to the participants many of them being built on major arterial streets which include large parking lots and, because they are highly visible, the people can find them easily.

He stated that he was pleased that the City Commissioners voted unanimously in favor of the directional signs, and they also requested that the matter be expedited. He stated that St. Mark's Episcopal Church was one of the most difficult to locate, as it is bounded on the east by the Big Arkansas River, bounded on the west by Interstate 235, and it is located on Westridge near 21st Street and West Street. Motorists need directional signs on West and 21st Street in order for them to locate St. Mark's which requires making the correct turns on Westridge because the church building is situated in the middle of a residential area. All they were requesting were directional signs which would include the name of the church, an arrow pointing in the direction of the church along with the number of city blocks the motorists would drive to reach the church. He concluded by saying that he hoped the Traffic Commission would endorse his request, as he was to appear before the Metropolitan Area Planning Commission the following day.

Commissioner Coulson - asked Mr. Paul if the Episcopal Churches in Wichita were prepared to pay for the signs and the eventual maintenance of them in the future.

Mr. Paul - stated that after the City Commission meeting, Mr. Lakin of the Metropolitan Area Planning Commission (MAPD) arranged for him to meet with two individuals from MAPD and two from Traffic Engineering the following day and they discussed who would pay for the signs, who would pay for the installation and who would be responsible for maintenance. He stated that there were architects and engineers that were members of the Episcopal parishes and they would comply with the City specifications and they did not expect it would cost the City money, but it was suggested that there should be an administrative fee charged.

Commissioner Estes - asked Mr. Paul if all eight churches were requesting the directional signs.

Mr. Paul - answered by saying that the two major churches, St. John's and St. James, did not have the same problem as the six parish churches that are difficult to find. St. John's and St. James will support the request because it has been requested by the majority of Episcopal churches. He stated that Mr. Lakin had proposed that there would be a maximum of two signs for each church and they would be located at a distance not to exceed one half mile from the church grounds.

Commissioner Coulson - inquired of Mr. Paul if the request was for transient people passing through Wichita on a weekend or Sunday, or was it for the citizens of Wichita.

Mr. Paul - stated that the proposed signs would be a benefit of people visiting Wichita, but the primary concern is to help lost Episcopalians that do not attend church on a regular basis. He continued by saying one citizen called his church's

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office and said that she had tried to find St. Mark's and gave up after three attempts.

Commissioner Cox - stated that the City would have to set up a descriptive sign code, and according to Mr. Lakin of MAPD, other informational devices may be reasonable alternates to signs on the streets; he wondered what they would be.

Mr. Paul - stated that in Mr. Lakin's memorandum dated March 13, 1985 with regard to possible City Code amendments, one criteria was that if the request were to be approved, the signs shall not exceed five square feet of surface area as defined in the zoning ordinance. He stated that most churches in Wichita have major advertising programs around Easter and Christmas, as do the Episcopalian churches, some of which is on radio and television but even though all kinds of information is printed in the newspapers about the church services, it would be hard to print the instructions for finding the hard-to-find Episcopalian churches. He concluded by saying that Mr. Robert Lakin was an excellent Planner, but Mr. Lakin had not enlightened him as to how the problem could be solved other than Mr. Lakin is opposed to putting more signs than necessary in the City of Wichita.

Commissioner Farnsworth - wondered if the City Attorney had dealt with the question of the City using public property for identifying churches because of separation of church and state.

Mr. Mielke - answered that he had not received an answer yet.

Mr. Paul - stated that he had hoped to get some decision regarding placement on public property before Easter, because if the signs were to be permitted on private property, the zoning code would need amendments which would take 90 to 120 days to accomplish.

Commissioner Cox - stated that he feared that the other 300 plus churches in Wichita, and all the other non-profit institutions might request consideration for directional signs for their facilities.

Bob Mielke - stated that he wanted the Traffic Commissioners to know that the specific request could not be granted to one church group without giving equal or due consideration to all the other church demoninations. He wanted to remind them during their consideration of the matter that it would establish a precedence if the request was to be approved, and the possible applications to signing requests from the myriad number of non-profit organizations and even for-profit businesses that could probably qualify.

He continued by saying that the City Code is specific in denying the use of public right-of-way for signs other than those installed to warn, regulate and direct the general motoring public. He stated that Traffic Engineering receives many requests each year for permission to install signs such as Mr. Paul requested, and most are handled administratively by referring to the codes and signing regulations governing such signs. Traffic Engineering staff can only recommend that Mr. Paul's request be denied, not because his request for 10 or 12 signs might severely impact the safety of the City streets, but rather with the forethought of the handling of all future similar requests.

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Mr. Mielke explained that the right-of-way on major streets already has a multitude of traffic control signs as required by law, possibly more signs than the average motorist can comprehend, and the addition of irrelevant signs will only demand that much more for the motorists' attention. He stated that if the Traffic Commissioners did feel that Mr. Paul's request was in the best interest of the public, then the Traffic Engineering staff and the Metropolitan Area Planning Department staff suggest that such signs be permitted by issuing a minor street privilege permit subject to the ten conditions set out in Mr. Lakin's memorandum dated March 13, 1985. He stated that the City Attorney's verdict is that the City has no authorization to issue permits to allow private signs on public right-of-way.

Commissioner Cady - stated that he did not know if the City had the right to be in the business to decide between church and state; if signs were erected, which he personally opposed, they should be a generic sign which doesn't favor the Episcopalian church at all. He mentioned the problem of some churches having the ability to pay for signs, whereas the low-income churches that cannot afford to advertise, have large buildings, or have large signs on the church building itself, could not afford a program such as this.

An in-depth discussion followed between the Traffic Commissioners regarding the question of using public property for religious reasons; it would put the City of Wichita in the position of determining what the church's message would be on signs, and it could set a precedent for other organizations and businesses requesting the same privilege.

MOTION

Commissioner Coulson made a motion that the Traffic Commission postpone discussion of the subject until such time as the Traffic Commission can have a legal opinion from the City of Wichita's Legal Department as to whether this request is permissible or not. Motion died for lack of a second.

Mr. Paul - asked the Traffic Commission to bear in mind that if they prohibited an action it may result in consequences if they did not have the right to make that prohibition. If you try something and it doesn't work, you then have the basis to prohibit, and he suggested that they would be far better off setting the criteria upon which activity could occur, such as the size of the sign, the generic sign, the location or distance from the church proper. It is not a prohibition to require insurance, to require hold-harmless agreements, to require that the church be responsible for maintenance of the signs; they are reasonable requirements and could be readily supported by your respective staffs. By entering into it by saying "no, we won't let you do it", means that he would have to go back to the eight Episcopal parishes he represents and they would have to find a solution to the problem they have because of where the churches are located, not because of their finances.

Mr. McKinley - stated that the Planning Commission would be holding their meeting after today's Traffic Commission meeting, and if they had an opinion out of the City Attorney's office, they might take some action one way or the other, and then it would be presented to the City Commission on April 2, 1985.

Chita Traffic Commission Meet.
March 20, 1985

MOTION

Commissioner Cady made a motion that the Traffic Commission take the first "Recommended Action" that Mr. Robert Lakin suggested in his memorandum of March 13, 1985 concerning the possible code amendments: "Concur in the recommendation that the ordinances not be amended to permit directional signs for churches on public right-of-way. Seconded by Commissioner Farnsworth.

Commissioner Estes - stated that she was concerned the signs could be put up with a Minor Street Privilege, but she was assured that the second alternate which was to permit signs to be installed with a Minor Street Privilege, would be killed automatically.

The vote in favor was unanimous, 7 to 0.

There being no further business to discuss, the meeting adjourned.

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WICHITA-SEDGWICK COUNTY

March 26, 1985

METROPOLITAN AREA PLANNING DEPARTMENT ^{LNR}

TO: E. H. Denton, City Manager
FROM: Robert A. Lakin, Director of Planning
SUBJECT: DR 85-7 - Possible Code Amendments
Re: To permit directional signs for churches
on public right-of-way.

In accordance with the instructions of the City Commission on March 5, 1985, the request made by Mr. Timothy Paul on behalf of several Episcopal Churches for directional signs on public right-of-way was referred to the Traffic Commission and the Planning Commission for their consideration at the earliest possible date. This matter was discussed by the Traffic Commission on March 20, 1985, and by the Planning Commission on March 21, 1985. Copies of the minutes of both meetings are attached for information of the City Commission.

In a meeting on March 6, 1985 with Mr. Paul and representatives of the Traffic Engineer's Division and the Planning Department, it was agreed that consideration of signs on public right-of-way could be expedited more rapidly than could changes in the ordinances for directional signs on private property. It was on that basis that this matter was referred to the Traffic and Planning Commissions for their consideration. A copy of the memo to the Planning Commission is attached for your information.

It was the unanimous recommendation of the Traffic Commission that the ordinances not be amended to permit directional signs for churches to be located on public right-of-way. The Metropolitan Area Planning Commission also recommended that such signs not be permitted on public right-of-way. The Planning Commission did, however, by consensus opinion, ask the staff to review the zoning ordinance and consider amending the text to permit directional signs for churches on private property along major streets. It was noted that any such amendment would take 90 to 120 days to process.

Both commissions were concerned about the use of public right-of-way for private purposes. The staff concerns are set out in my memo to the MAPC. At the Traffic Commission, it was noted that there has also been litigation over the use of public right-of-way for private signs. Comments from the Law Department re: the legal issue is being requested on this matter.

E. H. Denton
DR 85-7 -Page 2

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RECOMMENDED ACTION:

1. Concur in the recommendation of the Traffic Commission and Planning Commission and not change the ordinances to permit directional signs for churches on public right-of-way.
2. Such other action as the Commission may deem appropriate.

Robert A. Lakin

Robert A. Lakin
Director of Planning

RAL:GEL:sad

Attachments

cc: John Dekker, Director of Law
Monty Robson, Superintendent of Central Inspection
David Stowe, Director of Operations & Maintenance
Bill McKinley, Traffic Engineer
Timothy Paul, Attorney, 400 North Woodlawn, Wichita

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Commissioner Farnsworth - wondered if the City Attorney had dealt with the question of the City using public property for identifying churches because of separation of church and state.

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March 20, 1985

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An in-depth discussion followed between the Traffic Commissioners regarding the question of using public property for religious reasons; it would put the City of Wichita in the position of determining what the church's message would be on signs, and it could set a precedent for other organizations and businesses requesting the same privilege.

MOTION

Commissioner Coulson made a motion that the Traffic Commission postpone discussion of the subject until such time as the Traffic Commission can have a legal opinion from the City of Wichita's Legal Department as to whether this request is permissible or not. Seconded by Commissioner Fransworth.

Mr. Paul - asked the Traffic Commission to bear in mind that if they prohibited an action may result in consequences if they did not have the right to make that prohibition. If you try something and it doesn't work, you then have the basis to prohibit, and he suggested that they would be far better off setting the criteria upon which activity could occur, such as the size of the sign, the generic sign, the location or distance from the church proper. It is not a prohibition to require insurance, to require hold-harmless agreements, to require that the church be responsible for maintenance of the signs; they are reasonable requirements and could be readily supported by your respective staffs. By entering into it by saying "no, we won't let you do it", means that he would have to go back to the eight Episcopal parishes he represents and they would have try to find a solution to the problem they have because of where the churches are located, not because of their finances.

Whita Traffic Commission Meeting
March 20, 1985

Mr. McKinley - stated that the Planning Commission would be holding their meeting after today's Traffic Commission meeting, and if they had an opinion out of the City Attorney's office, they might take some action one way or the other, and then it would be presented to the City Commission on April 2, 1985.

The vote on Motion failed unanimously (7 to 0).

MOTION

Commissioner Cady made a motion that the Traffic Commission recommend to the City Commission that the City not put up signs for churches. Seconded by Commissioner Estes.

Commissioner Cox - asked Commissioner Cady to amend the motion to read "churches or any other not-for-profit organizations"; Commissioner Cady agreed.

President Ziegelmeyer - suggested a substitute motion that the Traffic Commission take the first "Recommended Action" that Mr. Lakin suggested in his memorandum of March 13, 1985 concerning the possible code amendments:

SUBSTITUTE MOTION

President Ziegelmeyer made a motion that the Traffic Commission "Concur in the recommendation that the ordinances not be amended to permit directional signs for churches on public right-of-way."

Commissioner Estes - stated that she was concerned the signs could be put up with a Minor Street Privilege, but she was assured that if she agreed to the substitute motion, and withdrew her second from Commissioner Cady's motion, the second alternate which was to permit signs to be installed with a Minor Street Privilege, would be killed automatically. Commissioner withdrew her second and seconded President Ziegelmeyer's motion.

Chita Traffic Commission Meeting
March 20, 1985

The vote in favor was unanimous, 7 to 0.

There being no further business to discuss, the meeting adjourned.

EXCERPT FROM PLANNING COMMISSION MINUTES OF MARCH 21, 1985

10. DR 85-7 - Consideration of Request to Permit Directional Signs for Churches on Public Property.

LAKIN stated that this request has been referred to the Planning Commission and the Traffic Commission by the City Commission. He said that Mr. Timothy Paul, attorney, representing the Episcopal churches in Wichita appeared before the City Commission asking for some authority or permission to locate directory type signs for churches in street right-of-way. LAKIN mentioned that a memorandum was prepared for the Planning Commission giving some background on the request and staff's views and recommendations which was that the City not get in the business of allowing directory type signs in street right-of-way for the Episcopal church or any of the other churches, which in staff's view would lead to a proliferation of signs if you include all churches and the various non-profit clubs that we have in the community. LAKIN said that some of the reasons staff did not feel that this was a good policy to do so was the number of signs and the potential confusion of the visual elements along the roadways. The second one was the impractical one which was the area in the parking between the sidewalk line and the curb line where the signs would be was the same area where the City allows utilities, such as the telephone cables and others, and the installation of additional signs could cause disruptions. He said that the Traffic Commission took action on this request at their meeting, and recommended that the signs not be permitted in the right-of-way area.

BAYOUTH asked if this could be handled through the minor street privilege permits.

LAKIN related that minor street privilege permits would be part of the process if the Commission pursued signage.

BAYOUTH asked why could they not seek off-site signs on private property instead of public property.

LAKIN stated that Galbraith discussed this with Mr. Paul about off-site signs on private property and felt it would not accommodate their request as the ordinance is now written.

TIMOTHY PAUL, Attorney, stated that a member of their vestry drove around the neighborhood for three weeks trying to find a church. He said that this was a similar situation with 6 of the 8 Episcopal churches. He said that they have come to the government saying that they have a problem, what can they do. The response from the government hopefully gives some idea of what can be done. He said that he did not believe that this was an issue of church and State. There were basically two problems that the Traffic Commission had at their meeting. One was the argument of church and State. He also pointed out that the Commission has a precedence for allowing directional signs, not for profit organizations, that are sponsored by religious groups, namely Wesley Hospital. PAUL said that there was also the argument at the Traffic Commission meeting that if you were a small church you cannot afford this, and if you are a big church, you do not need it. He stated he had advised the rector of the action by the Traffic Commission. The rector encouraged him to struggle on. He felt that the concern with the utilities was a real one because he had hit them before in his own yard, but as he recalled, by contacting the utilities, they will mark where their lines are supposed to be. PAUL continued that there was some suggestion given at the Traffic Commission meeting, without any specifics, that there was a case out of Donovan County that suggests that such signage cannot be placed in the right-of-way. He said that he has not had a chance to review that case, but his logical response was that if a city was without the authority to state what may be placed in the right-of-way, that it would seem that there was some question as to how the city may prohibit what was placed in the right-of-way. PAUL said that there was also the concern raised in Mr. Lakin's briefing paper as to the number of signs. To suggest that 300 churches yield 600 signs begs a question. St. Johns and St. James are on major thoroughfares.

One of them has been here before the 1900's. PAUL said that he did not believe that 600 signs would be erected in the City of Wichita. He suggested that the purpose of having city government was to regulate a use commensurate with a need. The Episcopal churches are suggesting that they have a need and would appreciate some response other than saying, "no, you can't do that". PAUL said that lastly there was the matter of liability. He said that immediately after the City Commission meeting he met with a group of priests from the Southwest Convocation which included all of the priests from the City of Wichita. That afternoon he met with the Traffic and Planning Department individuals. They made it very clear that the City would not assume any liability nor maintain the signs.

MOTION: That Mr. Paul be given all the time he needed to finish his presentation. Bayouth moved, Hansen seconded and it carried unanimously. Moore was not present. Banzer, Chisholm and Goebel were absent.

PAUL asked that the Commission recommend that this request be approved by the Planning Commission with the conditions. First of all an approval by the City Attorney's office. PAUL felt that the Director of Law should have an input as to whether he believes that this was an excessive liability, and if so, how it could be dealt with. That could also involve a Director of Safety if there was one. The second condition would be pursuant to Mr. Lakin's proposals. He said that Lakin had done an excellent job in outlining the concerns or the manner in which this should be regulated. The third might well be that before any sign be placed, it be sent directly back to the Citizens Participation Organization for their approval. PAUL said that the state of the law, as he understands at this time, was prohibition. He suggested that they consider responding to the need of some type of sign. In the event that the Commission did not give this favorable consideration with whatever conditions that might be appropriate, he would ask for some enumeration as to the reasons for denial so that between now and April 2 he could attempt to go back to the clerics and say that this was what was on the City's mind.

GARDNER asked Paul if he was troubled in the least by the proliferation of hardware adorning the City's roadways presently.

PAUL felt that there were a considerable number of markings literally that may be less utility than should otherwise be provided. None of the markings, unfortunately, tends to provide locations for churches. He said that to consider large portable signs went against the dignity of the church.

GARDNER stated that they were dealing with an issue of some degree to aesthetics, and felt that with all due respect to the appropriateness of Mr. Paul's case as he had stated it, that to some degree the Commission was confronted with an issue of aesthetics as to where they draw the line. He offered that there had been over the years a great deal of change and thought in various churches, councils, dioceses and so on as to what does or does not constitute an appropriate location for a church. He said that he supposed that those theories, although he was not sure that they were particularly refined, vary widely from one church to another. GARDNER said that he believed Mr. Paul's problem with an interior location in a neighborhood, although he felt that churches make good neighbors and an interior neighborhood locations were desirable, he was not sure that the wisdom of the past, was something that should cause other people to be afflicted with additional street furniture in their front yards to help provide direction to the obscure location. GARDNER said that a portion of the site selection process, whether to be on a major arterial with visual exposure or an interior location was the sort of thing a church kind of assumed the burden of, and he was not sure it was appropriate to request this kind of signage to alleviate what might be perceived as a mistake in locational theory. He said that he has difficulty when they open the door to church organizations or other not-for-profit institutions as to where they begin to

draw the line for not-for-profit bingo games, or not-for-profit bazaars, or other not-for-profit organizations. He said that he was really troubled by the idea of opening the door to that specter.

PAUL said that Gardner's point was well made. He said that first of all there was a very talented staff in the City which if there was a way and if there was a suggestion that this be pursued, they can draft whatever regulations were necessary to best protect the beauty of the City which was everyone's concern. The separate balance was the suggestion to go back to the CPO. He said that a study shows that there are less Episcopalians than the national norm attending their churches in Wichita. He said that he did not believe that means that they have less Episcopalians. He did know for a fact that they had trouble finding the church because they had told him. When they have weddings it was almost like needing to print maps. He said that if any of them caught the news the day of the City Commission meeting, they actually gave the map to the newsperson and said, "find the church", and it was marked and she could not do it. PAUL said that if the neighborhood felt that it was of benefit or greater benefit, then perhaps their opinion should be given deference.

WILSON stated that he had a personal problem. He was the past senior warden of St. John's and had been on the vestry for 10 years, and he and Mr. Paul had lunch yesterday, and he was wondering if he should disqualify himself or not. If he did, they would not have a quorum. He said that he was a little prejudiced on this matter, and thought that he would not disqualify himself, but would not vote on the matter.

CROCKETT speaking to Mr. Paul, stated that he thought the case that he had reference from Donovan County was Stauber vs. City of Elwood. He felt it was germane to the Commission's decision, but the findings was, "before a City may authorize the use of the public right-of-way for private purposes, there must be a clear showing that the primary use of the right-of-way will benefit the public, and any private use must be incidental to the public purpose". He said that it seemed to him that what that case was telling them was that they were going to have to find that advertising or directional signs for a church was actually in the public interest as opposed to private interest before they could do it even if they were otherwise inclined.

CROCKETT said his second concern was that he and Mr. Paul had shared a couple of cases together over time, and he knew from experience that Mr. Paul was familiar with the manual on uniform traffic controls. CROCKETT stated that the manual on uniform traffic controls was a manual that was published for the purpose of guiding State and local governments in the selection and placement of signs, and one of the premises of that manual was that if you oversign or clutter that you were actually creating a hazard. He said that he would be concerned with the proliferation of signs on the right-of-way for fear that would have exactly that affect.

PAUL asked what was being requested in the Stauber case?

CROCKETT said that apparently the City of Elwood authorized a couple of private individuals to erect an advertising sign.

PAUL said that he did not believe, after yesterday's hearing, that this request was any different from any other non-municipal not-for-profit organization saying "couldn't we please put up a sign". If that includes Cow Town, Omnisphere, and hospital, he did not see the churches as being different. He said that the signs that they were suggesting were no where near the size of those signs. He pointed out that it was suggested yesterday that rather than "St. Michaels" and "All Angels" two blocks, that it might be a sign that showed a steeple with an arrow. The extent to which there is a problem with placing this sign in the right-of-way or on the City's property perhaps it would give rise to consideration for allowing the placement of signs on private property.

BAYOUTH felt that if the Commission allows this to take place they would be opening it up for everybody. He felt that could amend some of the billboard recommendations and allow churches to go in on private properties without them being heavy commercial. He said that he has a hard time with living with dedicating streets for signs.

PAUL stated that if St. Marks relocate, which was part of the recommendation given to them, whatever church does acquire that property, they would have the same need.

GARDNER commented that the entire locational system of the City was based upon the presumption that people could take an address and a street location and if they have a level of intelligence sufficient to operate an automobile and read street signs, they ought to be able then to eventually locate something. He said that he was offended by the presumption that they have to put up a sufficiency of signage and symbols and otherwise that people who are unable to find a given address would then otherwise be unable to locate something. It was sort of "the sky's the limit" in terms of how much signage was adequate presuming that people were unable to adequately locate things by a simple addressing system. He said that he was not sure he was wise enough to say "how much is enough". He felt the problem was whether or not an address was sufficiently clear and/or people were sufficiently familiar with an area to locate something. GARDNER added that when you get into areas where there are curvilinear streets, traversed by major drainageways and only a few bridges, even the neighborhood residents, until they learn the area, have trouble making their way through things. He did not feel that the City needed to assume the obligation of putting signs up to direct people. He asked if there was a public need.

PAUL stated that 25 years ago St. Marks met at OK school. They now have a church proper. When the church building was built, the only houses in the area was Lester Wilkerson's law office which was on the river at 21st Street and the farm house. Since that time the trees have grown and the neighborhood has grown up around the church. PAUL said that when they go back and ask the Episcopalians if they can find the churches, the answer inevitably comes back, "not without a guide".

HANSEN stated that she agreed with Gardner. She could not imagine that if she wanted to go to church why she would not pick up the phone book and call them and say that she lives roughly in the neighborhood, and to please tell her how to find it. HANSEN related to Mr. Paul that she found two of Episcopal churches during Operation Holiday with nothing but a map.

WILSON commented that he was not going to vote, but wanted to make a statement. He felt that everybody was thinking about a great big sign. He felt that basically all that Mr. Paul was requesting was a small sign that indicates where the churches are. He felt that if the sign was placed on private property off of the sidewalk, if that was the best that was available, it would help.

BAYOUTH asked what size sign was allowed for home occupations?

LYTLE said that it was two square feet.

PAUL said that as he recalled one of the recommendations was that the surface area not exceed five square feet. It was certainly not intended that it cost the City money to put the signs up or maintain them. PAUL said that he was impressed that Commissioner Hansen could find the two churches, but pointed out that there were eight churches and until she has had the fortune to look for all of them, some of them were hard to find.

HANSEN said that she was not very diligent, she just picked up a phone book and found them.

WILSON stated that he would not vote because of a conflict of interest.

BILL McKINLEY, Traffic Engineer, stated that the concern of the Traffic Commission about the private signs on public right-of-way, and there has been some legal opinion, and it does show some precedence in another case that it was not possible for them to allow private signs on public right-of-way. They are concerned about the signs from a point of view of safety. Depending on the sign and where it was placed, it could interfere with the regulatory sign that was on the public street system. He said that they would like to have some control over it if the Planning Commission decided to approve the request. He believed the best place for the signs would be on private property.

GARDNER asked McKinley if there was any place to submit a suggestion that they reduce a number of signs that they presently have on municipal rights-of-way.

McKINLEY said that they would be happy to look at any case that the Commission wanted them to look at. They would like to eliminate a lot of the signs, and they have in some areas.

PAUL said that it would seem that as the Commission discharge their public trust today and make their vote, he would ask that they consider one thing. If they do have a loyal parishioner who was living on the street that the church was trying to place their sign, and as part of their mission they want to put a sign there now, not on public right-of-way, but on their property, they are currently prohibited from doing that. He asked that the Commission consider allowing that sign to be placed on private property.

MOTION: That the Planning Commission concur in the recommendation of the staff that the ordinances not be amended to permit directional signs for churches in public right-of-way. Hansen moved, Crockett seconded and it carried unanimously. Wilson abstained. Moore was not present. Banzer, Chisholm and Goebel were absent.

CROCKETT did not feel that the Commission had material in front of them to do what Mr. Paul asked them at this point which was essentially to make a recommendation in regard to a rewrite of the ordinances governing signs on private property. He said he had no objections to looking at a proposal from staff, but would feel a little uncomfortable trying to do it right now, because what staff had provided the Commission with was the malices of putting them on public right-of-way. He said that he was inclined to think that Mr. Paul may have a point in reference to private property, but until he saw what staff analysis was and have a chance to look at the current ordinances on signs on private property, he really was not prepared to proceed this afternoon on that, and he suggested that it be deferred for later consideration.

GARDNER suggested asking the CPO for recommendations of placing signs on private property.

LAKIN commented that one of the reasons the Planning Commission was brought into this discussion was that it was unclear as to whether or not Mr. Paul's intention was to try to deal with things as private property or public. He said that the very first meeting with Mr. Paul the indication was he did not have any interest in the private property and thus it was brought forth in this way. LAKIN said that if they deal with the issue of putting them on private properties, they are no longer dealing with Title 24, they now have to deal with Title 28 of the code and the statutes, and that means preparation of a text, and the advertising of it, which meant about 90 days time frame in order to implement it, and that was the reason staff primarily dealt with public right-of-way, and Mr. Paul's need for a timely decision.

During the discussion it was the consensus of the Planning Commission that staff study the possibility of signs on private property and bring it to the Commission at a later date.

WICHITA-SEDGWICK COUNTY

March 13, 1985

METROPOLITAN AREA PLANNING DEPARTMENT

TO: Wichita-Sedgwick County Metropolitan Area Planning Commission

FROM: Robert A. Lakin, Director of Planning

SUBJECT: DR 85-7 Possible code amendments
Re: To permit directional signs for churches
on public right-of-way.

Mr. Timothy Paul, Attorney representing the Episcopal Churches in the Wichita area, appeared on the public agenda at the City Commission meeting on March 5, 1985. He requested changes in the City codes to permit the erection of directional signs on City streets to help the public find churches located away from major streets. It was the City Commission's decision to refer this matter to the Traffic Commission and the Planning Commission for their review and recommendation.

This matter will be considered by the Traffic Commission at their meeting on Wednesday, March 20, 1985. Their recommendation and comments should be available to the Planning Commission at the meeting on March 21, 1985.

The request made by Mr. Paul is only for the Episcopal Churches, but any consideration should include all the churches (300+) within the City of Wichita. It would also be expected that other nonprofit and eleemosynary institutions would also request similar consideration.

BACKGROUND:

Signs permitted on public right-of-way by present regulations are limited to traffic and regulatory devices installed and maintained by the City and State, and the installation of directional signs to public buildings and uses such as the Indian Center, Century II, Cowtown, etc., that are also maintained by Traffic Engineering. In order to accommodate the request made by Mr. Paul, it would be necessary to amend several sections of the City code. It would also depend on the method or procedure that would be used as to whether other amendments might be necessary. If signs are to be permitted on private property, the zoning code would need amendments also. This would take 90 to 120 days. Mr. Paul has indicated that he is not requesting the zoning code to be amended.

Although directory and off-site signs may be of assistance in locating churches, it is felt that other informational devices may be reasonable alternates to signs on the streets. There are several reasons for not allowing directional signs on public right-of-way would include the following:

March 13, 1985

1. Possible interference or confusion with traffic signs, existing or future, that are needed to instruct the public along the streets (too many visual elements).
2. Installation of signs in an area in which many underground utilities are located increases the possibility of damage to the utilities (we have had recent cable cuts even with traffic signs).
3. Increases the potential liability for damages or injury in accidents if signs are not properly located or installed.
4. Potential conflict over the use of public right-of-way adjacent to a property owner that is not receptive to the sign being located in front of their property.
5. Cost of administration to assure that the signs will be installed and maintained in conformance with conditions deemed appropriate.

Although the staff cannot recommend changes to open public streets to siting of signs for church and other community based groups, we have prepared conditions under which signing should be regulated if the Metropolitan Area Planning Commission, Traffic Commission and Board of City Commissioners determine such action is in the public interest.

If such signs are to be permitted, it is suggested that such signs be permitted by a minor street permit (Title 10.08 of the City code) and should be subject to the following conditions:

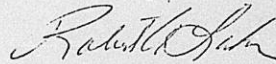
1. Any application for a minor street permit must include the signature of the owner of record of the abutting property owner that they do not object to the request.
2. Signs shall be limited to churches that are located and addressed on streets not designated as arterials, collector, expressways or service roads there to.
3. Not more than two signs shall be permitted for any one church and such signs shall not exceed 5 square feet of gross surface area as defined in the zoning ordinance.
4. Signs shall be located within one-half mile of the church property.
5. Signs shall be directional only and the message, letter size, shape and color shall be in accordance with standards adopted by the Traffic Commission.
6. Signs shall be located and installed so as to not interfere with any traffic sign or device, and in accordance with all other standards deemed appropriate for the installation of signs on public right-of-way.
7. Appropriate fees shall be established that will adequately cover the cost for the administration and inspection of each sign permitted under a minor street permit.

March 13, 1985

8. The installation and maintenance shall be the responsibility of the church. This shall include the necessary liability insurance for the sign.
9. Signs installed on public right-of-way without benefit of a minor street permit or have become a hazard to the public may be removed by the Department of Operations and Maintenance without notice.
10. Signs that are not maintained in conformance with the conditions of a minor street permit may be removed if the owner fails to maintain the sign after 10 days written notice of the violation.

RECOMMENDED ACTION:

1. Concur in the recommendation that the ordinances not be amended to permit directional signs for churches on public right-of-way; or
2. Concur in the request by Mr. Paul that the ordinances should be amended to permit directional signs for churches on public right-of-way by minor street permit subject to conditions number 1 thru 10 as set forth above.



Robert A. Lakin
Director of Planning

RAL:GEL:sad

cc: Robert Finch, Deputy City Manager
David Stowe, Director of Operations & Maintenance
Monty Robson, Superintendent of Central Inspection
Bill McKinley, Traffic Engineering
Mr. Timothy Paul, Attorney, 400 North Woodlawn, Wichita 67208

WICHITA-SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT

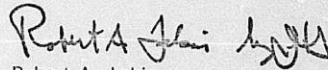
March 26, 1985

TO: John Dekker, Director of Law
FROM: Robert A. Lakin, Director of Planning
SUBJECT: Legal opinion for signs on public right-of-way

There has been a recent request, made by Attorney Timothy Paul representing the Episcopal Churches in Wichita, to locate directional signs in public right-of-way. This matter was referred to the Traffic Commission and Planning Commission for their recommendation by the City Commission.

During the review by the Traffic Engineering staff and in discussion of this matter with other communities, it was discovered that there has been a fairly recent court case on the use of public right-of-way for private signs. The City of Topeka also has furnished a copy of an opinion issued by their Law Department. Copies of this material are attached.

Since the recommendations of the Traffic and Planning Commissions are being forwarded to the City Commission for consideration on April 2, 1985, I would appreciate any comments that you might wish to make on this matter. I understand that Bill McKinley, Traffic Engineer, has discussed this item with you.



Robert A. Lakin
Director of Planning

RAL:GEL:sad

Attachments

cc: E. H. Denton, City Manager
Bill McKinley, Traffic Engineer

CITY OF TOPEKA
INTE DEPARTMENTAL COMMUNICATION

TO: Dave Gingerich, Public Works

FROM: Richard J. Lind, Legal

SUBJECT: Signs on public right-of-way

DATE: December 27, 1984

Dear Dave:

This office was requested to render an opinion concerning the placement of directional signs by a church on public rights-of-way. After researching the topic, I came across Stauber v. City of Elwood, 3 Kan App. 2nd 341, which would appear to be on point. Please find attached a copy of said opinion.

Stauber holds that absent a specific city ordinance providing for private use of signs on the public right-of-way, which the City of Topeka does not have, a city in this state generally has no power to give permission to an individual to use the street (or the right-of-way) for a purely private purpose.

There are exceptions to this rule, but they involve questions of interpretation which I think are better left alone. Briefly, a city may authorize the use of the public right-of-way for private purposes, if there is a clear showing that the primary use of the right-of-way will benefit the public and any private use must be incidental to the public purpose. A careful reading of Stauber reveals that the church in our situation could not meet such a test.

Barring exceptional circumstances, cities cannot allow private use signs on the public right-of-way. If you have any questions, please contact me. I am

Sincerely yours,

Richard J. Lind

Richard J. Lind
Assistant City Attorney

RJL/sh

CC: Howard Uhl, Building Inspection

P.S.: FYI, in the future you might reference this case for your authority and not the so-called Attorney General Opinion of 10-22-75. Upon close inspection, see attached sheet, the paragraph you referenced is a legal caption prepared by the League of Kansas Municipalities and not an A.G. Opinion and would have little, if any, legal value



RECEIVED

DEC 29 1984

PUBLIC WORKS
TOPEKA, KANSAS

Staubert v. City of Elwood

70 P.2d 1117

No. 16086

RALPH O. STAUBERT, ANNA STAUBERT, and MARY S. BODER, *Appellants*,
 v. THE CITY OF ELWOOD, KANSAS, J & L OUTLET and ALLIED
 MILLS, INC., *Appellants*.

Petition for review denied July 13, 1970

SYLLABUS BY THE COURT

1. CITIES AND MUNICIPALITIES—*Police Power—Application*. The police power when exercised by a city must bear a rational relationship to the general health, safety, and welfare of the community.
2. SAME—*Police Power—Permits for Private Advertising Signs on Public Property—Improper Exercise of Power*. Permitting private parties to erect advertising signs on public property for private profit is not a proper exercise of police power by a city.

Appeal from Doniphan District Court, WILLIAM L. STEVENSON, judge. Opinion filed May 18, 1970. *Reversed*.

Jack R. Euler, of Euler and Euler, of Troy, for the appellants.

Ralph O. Staubert, *pro se*.

Before FOLLE, C.J., PARKS and SWINELHART, JJ.

SWINELHART, J.: Defendants appeal from an order granting a mandatory injunction requiring them to remove certain advertising signs constructed upon a public right-of-way in the City of Elwood.

The defendant City of Elwood authorized the defendants J & L Outlet and Allied Mills, Inc., both private business firms, to erect signs in the right-of-way of 7th Street in Elwood. The right-of-way upon which these signs were constructed adjoined a tract of land owned by the plaintiffs Ralph Staubert, Anna Staubert and Mary Boder. The trial was to the court. Based upon the evidence presented, a mandatory injunction requiring the defendants to remove their signs from 7th Street and an injunction that enjoined all defendants from locating private advertising in the future on the public ways in Elwood at any point where the property of the plaintiffs is contiguous to the public way were issued.

On appeal the defendants raise the following questions:

- (1) Does the authorization, erection and maintenance of the signs in the 7th Street right-of-way constitute an unlawful taking of access to the plaintiffs' property without due process of law?
- (2) Does the authorization, erection and maintenance of the signs in the 7th Street right-of-way constitute an unlawful interference with plaintiffs' use and enjoyment of their property and therefore constitute a nuisance?

Legal Department

Stamber v. City of Elwood

(3) Did the City of Elwood exceed its police power in permitting the remaining defendants to erect and maintain the signs in the public right-of-way?

(4) Was it error for the trial court to enter an order requiring the defendants to remove the signs complained of and enjoining the defendants from any future erection of signs in the right-of-ways adjoining plaintiffs' property?

The plaintiffs own a tract of land containing approximately 8.8 acres in the City of Elwood. At the time this action was brought and for at least the prior twenty years the land had been used solely for agricultural purposes. However, the tract has been zoned and taxed as industrial property. The plaintiffs have unrestricted access to this tract on all four sides of its perimeter except for the southeast corner where the signs in question are located, and possibly for some locations along U.S. Highway 36. In 1972 the City granted the defendant Allied Mills written permission to erect one of the signs which gives directions to the Allied facilities. The Allied Mills plant had been financed by industrial revenue bonds issued by the City of Elwood. The second sign involved in this appeal was erected by the J & L Outlet under a permit issued by the City. This particular sign carries advertising both for J & L Outlet and its licensee, Tires Unlimited. As a condition for the issuance of this permit, the City required J & L Outlet to include information concerning the location of the business district of the City of Elwood on this sign, which was done.

The above mentioned permits were not received into evidence, and even though the findings of the trial court indicate that the City had an ordinance providing for the erection of signs in industrial areas, there does not seem to be an ordinance providing for the placement of the signs in question, i.e., private use signs, on the public right-of-way.

The two signs are located in the right-of-way on 7th Street approximately one foot east of the plaintiffs' abutting property and extend northerly from Highway 36 for a distance of approximately forty feet. The signs are near the southeast corner of the plaintiffs' tract where the plaintiffs' property is approximately three or four feet lower than the surface level of 7th Street adjoining it to the east. The evidence presented does not show that the plaintiffs had attempted to utilize that portion of the tract

of land for access at any time prior to the placement of the signs. The signs which are embedded in a concrete base do not overhang the travelled portion of the street or highway, and do not obstruct or impede the free movement of traffic along 7th Street. They do not give offense to or endanger life or health, violate the laws of decency, or pollute the air.

The trial court found that the signs constituted an unlawful interference with the use of plaintiffs' land and therefore were a nuisance; that the erection of the signs resulted in the taking of access to plaintiffs' property without due process; and that the City of Elwood had improperly exercised its police power by granting permits for private individuals or corporations to erect signs on public streets for private profit. Prior to trial plaintiffs' claim for damages was dismissed.

We will first consider the defendants' allegation that the court erred in its conclusion No. 8, to-wit:

The actions of the City of Elwood, Kansas, in granting permits for private individuals or private corporations to erect signs on public streets for such private persons or corporations own private pecuniary profit are not a proper exercise of the police power of said city.

In Kansas the general rule that streets are public ways for use by the public has long been followed. Streets are to be free of obstructions or unreasonable encroachments to permit safe travel, subject, of course, to reasonable police regulations. 10 McQuillin, Municipal Corporations § 30.54 (3rd ed. 1966). That a City has authority to erect structures on the public right-of-way in some instances is not disputed. (See *City of Hutchinson v. Harrison*, 173 Kan. 18, 241 P.2d 222 [1952], where the validity of a parking meter ordinance and the collection of revenues therefrom was contested.) As to signs in particular, the City generally may not allow private individuals to post advertisements on city streets. 10 McQuillin, Municipal Corporations § 30.93 (3rd ed. 1966). In *City of Emporia v. Humphrey*, 132 Kan. 682, 297 Pac. 712 (1931), the court stated: "Ordinarily a city in this state has no power to give permission to an individual to use the street for a purely private purpose." 132 Kan. at 689-690. However, exceptions have been recognized, e.g., permit to authorize a sign erected on private property to overhang a public alley was upheld in *Restaurants of Wichita, Inc. v. City of Wichita*, 215 Kan. 636, 527 P.2d 969 (1971). See also *Watson v. City of Topeka*, 194 Kan. 585,

Legal Department

400 P.2d 689 (1965), recognizing the right of a private person to deposit materials to improve his property on a public street temporarily is subject to reasonable regulation. In a quo warranto case decided before the home rule provisions of the Kansas Constitution were enacted, the Supreme Court examined the authority of the City of Hutchinson to permit traffic signs with private advertising on the back of them on the public streets. There the court found that private advertising performed no traffic regulation function and bore no relation to the public welfare. Therefore, the court found that the City exceeded its statutory authority to regulate signs on the public way. The court emphasized the signs were maintained by private corporations for private profit. *State, ex rel., v. City of Hutchinson*, 141 Kan. 700, 62 P.2d 865 (1936).

In this action the defendants have attempted to show that the location of the private businesses is of importance to the public on several grounds. First, they contend that the signs and the directions contained thereon ease the site search for the businesses. Second, since Allied Mills operates a facility that was financed by public industrial revenue bonds, directions to its location constitutes a public purpose. Additionally, in conjunction with the development of its plant, Allied had paved a rather lengthy stretch of street near its facility in Elwood. In fact, it is the only hard-surfaced road in the City. Third, the J & L Outlet sign contains not only directions to the private businesses, but also gives directions to the Elwood business district. Defendants also claim the signs in no way interfere with the public as they do not impede traffic.

In *Restaurants of Wichita, Inc. v. City of Wichita*, 215 Kan. 636, the plaintiff leased and occupied property on which it had erected a sign which overhung a public alley by approximately four feet pursuant to a city permit. Plaintiff sued to enjoin the City from revoking its permit. Although this case arose from a factually distinguishable setting, it does provide some guidance in the instant action for reviewing the exercise of police power with respect to sign regulation. In *Restaurants*, the court recognized that under home rule no enabling legislation was necessary for the City to exercise the police power and that the regulation of signs fell within that power. Citing *Grigsby v. Mitchum*, 191 Kan. 293, 380 P.2d 363 (1963), *cert. denied* 375 U.S. 966 (1964), relied upon here by the trial court, the court said:

"The action of a municipality in exercising its police power is always subject to the test of reasonableness.

In applying this test, a court will not substitute its own judgment of reasonableness for that of the legislative body charged with the primary duty and responsibility of determining the question of reasonableness." *Restaurants*, 215 Kan. at 630.

Under the facts of this case the trial court found the City's police power was improperly exercised because the permits bore no real or substantial relation to the health, morals or general welfare of the public, even though it is undisputed that one of the signs gives directions to the downtown business district of Elwood and the other sign gives directions to a company located on a site developed through City of Elwood industrial revenue bonds.

The argument of counsel for the defendant Allied Mills, Inc., that Allied paid the cost of construction of a hard-surfaced road for the distance from the highway to its plant, that it was the only hard-surfaced roadway in the City, and that it was an improvement and enhanced the value and use of the plaintiffs' property is of considerable interest. However, this is totally immaterial in deciding the issues involved in this case.

The facts in this case are not in dispute. The City of Elwood under its home rule power has the right to exercise its police power to control the erection and maintenance of private signboards on public property. When such acts are challenged as an invasion of the rights and liberties guaranteed by fundamental law it then becomes the duty of the courts to determine if the exercise of this power bears a rational relationship to the public good.

In *State, ex rel., v. City of Hutchinson*, 144 Kan. 700, the court held that the placement of private advertising on traffic signs performed no traffic regulation functions and so bore no relationship to the public welfare in the use of the trafficways. Consequently, the City was without power to authorize their erection. Likewise, in this case the trial court found that the City did not properly exercise its police power by granting permits to the private persons to erect the signs. Our scope of review on appeal is to determine whether or not there was substantial competent evidence to support the trial court's findings. *McGil-*

City of Elwood
Local Department

Bray v. Scholfield Winnabago, Inc., 221 Kan. 605, Syl. ¶3, 561 P.2d 832 (1977), *Baker v. Ratzlaff*, 1 Kan. App. 2d 285, Syl. ¶2, 564 P.2d 153 (1977). Without question a preponderance of the evidence shows that the signs permitted by the City of Elwood serve only the purely private purposes of those who constructed them. The fact that the signs give directions to the Elwood business district and might aid the public in locating the businesses does not overcome their primary purpose, which is to benefit private advertisers and not the public who use the roadway in the vicinity of the signs. The defendants have failed to show that there was any rational relationship to the health, safety and general welfare of the City of Elwood in this attempted exercise of the police power. We hold that the trial court properly found that the issuance of the permits was an improper exercise of the police power on the part of the City of Elwood.

In sum, before a city may authorize the use of the public right-of-way for private purposes there must be a clear showing that the primary use of the right-of-way will benefit the public and any private use must be incidental to the public purpose. Such private use need not be prohibited merely because private persons might derive monetary or other benefits therefrom. Therefore, this opinion does not disturb, for example, private advertising on bus stop or park benches or on municipally owned or operated buses when such private uses have been authorized pursuant to an otherwise proper exercise of the police power. Here the defendants have failed to make the necessary showing that there is a primary public purpose to be served by the erection of the signs in question. Since we find the improper exercise of its police power by the City of Elwood is dispositive of this case, we do not reach the other issues raised by the appellants.

Judgment is affirmed.

March 22, 1985

Timothy E. Paul, Attorney
400 North Woodlawn
Wichita, Ks. 67208

Re: DR 85-7 Possible Code Amendments
to Permit Directional Signs for Churches
on Public Right-of-Way

Dear Mr. Paul:

The Planning Commission at its meeting of March 21, 1985 considered the above-captioned item. Their action was to concur in the recommendation of the staff that the ordinances not be amended to permit directional signs for churches on public right-of-way. The consensus of the Commission was that the staff should review the zoning ordinance and consider amending that text to permit directional signs for churches on private property. It was pointed out that amending the zoning ordinance is a 90-120 day process and that there are several other items being reviewed by staff at this time.

The action of the Planning Commission will be forwarded to the Manager's Office to be scheduled for consideration by the Board of City Commissioners on April 2, 1985 in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas and begins at 9:00 a.m.

If you have questions on this matter, please call.

Sincerely,

Jack H. Galbraith
Chief Planner

cc: Robert Finch, Deputy City Manager
David Stowe, Director of Operations & Maintenance
Monty Robson, Superintendent of Central Inspection
Bill McKinley, Traffic Engineering

RE: AGENDA ITEM NO. 10

WICHITA-SEDGWICK COUNTY

March 13, 1985

METROPOLITAN AREA PLANNING DEPARTMENT

TO: Wichita-Sedgwick County Metropolitan Area Planning Commission
FROM: Robert A. Lakin, Director of Planning
SUBJECT: DR 85-7 Possible code amendments
Re: To permit directional signs for churches
on public right-of-way.

Mr. Timothy Paul, Attorney representing the Episcopal Churches in the Wichita area, appeared on the public agenda at the City Commission meeting on March 5, 1985. He requested changes in the City codes to permit the erection of directional signs on City streets to help the public find churches located away from major streets. It was the City Commission's decision to refer this matter to the Traffic Commission and the Planning Commission for their review and recommendation.

This matter will be considered by the Traffic Commission at their meeting on Wednesday, March 20, 1985. Their recommendation and comments should be available to the Planning Commission at the meeting on March 21, 1985.

The request made by Mr. Paul is only for the Episcopal Churches, but any consideration should include all the churches (300+) within the City of Wichita. It would also be expected that other nonprofit and eleemosynary institutions would also request similar consideration.

BACKGROUND:

Signs permitted on public right-of-way by present regulations are limited to traffic and regulatory devices installed and maintained by the City and State, and the installation of directional signs to public buildings and uses such as the Indian Center, Century II, Cowtown, etc., that are also maintained by Traffic Engineering. In order to accommodate the request made by Mr. Paul, it would be necessary to amend several sections of the City code. It would also depend on the method or procedure that would be used as to whether other amendments might be necessary. If signs are to be permitted on private property, the zoning code would need amendments also. This would take 90 to 120 days. Mr. Paul has indicated that he is not requesting the zoning code to be amended.

Although directory and off-site signs may be of assistance in locating churches, it is felt that other informational devices may be reasonable alternates to signs on the streets. There are several reasons for not allowing directional signs on public right-of-way would include the following:

March 13, 1985

1. Possible interference or confusion with traffic signs, existing or future, that are needed to instruct the public along the streets (too many visual elements).
2. Installation of signs in an area in which many underground utilities are located increases the possibility of damage to the utilities (we have had recent cable cuts even with traffic signs).
3. Increases the potential liability for damages or injury in accidents if signs are not properly located or installed.
4. Potential conflict over the use of public right-of-way adjacent to a property owner that is not receptive to the sign being located in front of their property.
5. Cost of administration to assure that the signs will be installed and maintained in conformance with conditions deemed appropriate.

Although the staff cannot recommend changes to open public streets to siting of signs for church and other community based groups, we have prepared conditions under which signing should be regulated if the Metropolitan Area Planning Commission, Traffic Commission and Board of City Commissioners determine such action is in the public interest.

If such signs are to be permitted, it is suggested that such signs be permitted by a minor street permit (Title 10.08 of the City code) and should be subject to the following conditions:

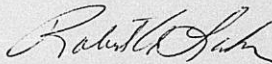
1. Any application for a minor street permit must include the signature of the owner of record of the abutting property owner that they do not object to the request.
2. Signs shall be limited to churches that are located and addressed on streets not designated as arterials, collector, expressways or service roads there to.
3. Not more than two signs shall be permitted for any one church and such signs shall not exceed 5 square feet of gross surface area as defined in the zoning ordinance.
4. Signs shall be located within one-half mile of the church property.
5. Signs shall be directional only and the message, letter size, shape and color shall be in accordance with standards adopted by the Traffic Commission.
6. Signs shall be located and installed so as to not interfere with any traffic sign or device, and in accordance with all other standards deemed appropriate for the installation of signs on public right-of-way.
7. Appropriate fees shall be established that will adequately cover the cost for the administration and inspection of each sign permitted under a minor street permit.

March 13, 1985

8. The installation and maintenance shall be the responsibility of the church. This shall include the necessary liability insurance for the sign.
9. Signs installed on public right-of-way without benefit of a minor street permit or have become a hazard to the public may be removed by the Department of Operations and Maintenance without notice.
10. Signs that are not maintained in conformance with the conditions of a minor street permit may be removed if the owner fails to maintain the sign after 10 days written notice of the violation.

RECOMMENDED ACTION:

1. Concur in the recommendation that the ordinances not be amended to permit directional signs for churches on public right-of-way; or
2. Concur in the request by Mr. Paul that the ordinances should be amended to permit directional signs for churches on public right-of-way by minor street permit subject to conditions number 1 thru 10 as set forth above.



Robert A. Lakin
Director of Planning

RAL:GEL:sad

cc: Robert Finch, Deputy City Manager
David Stowe, Director of Operations & Maintenance
Monty Robson, Superintendent of Central Inspection
Bill McKinley, Traffic Engineering
Mr. Timothy Paul, Attorney, 400 North Woodlawn, Wichita 67208

DOUGHERTY AND PAUL

ATTORNEYS AT LAW

205 WOODLAWN-CENTRAL BUILDING
400 N. WOODLAWN
WICHITA, KANSAS 67208

316-685-3200

PATRICK L. DOUGHERTY

INDIVIDUAL PRACTITIONERS

TIMOTHY E. PAUL

March 15, 1985

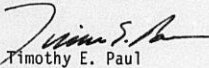
Mr. Jack Galbraith
Planning Commission
Wichita City Building
455 N. Main
Wichita, Kansas 67202

Dear Mr. Galbraith:

This letter will advise you of my appreciation for your meeting with me on such short notice last week. Also that it is my intention to appear at your respective meetings the week of March 18th.

If I can assist you in any preparation for those meetings, or in any other way please let me know.

Very truly yours,


Timothy E. Paul

TEP:pc

RECEIVED

MAR 18 1985

METROPOLITAN PLANNING

ROUTE

DOUGHERTY AND PAUL

ATTORNEYS AT LAW

205 WOODLAWN-CENTRAL BUILDING
400 N. WOODLAWN
WICHITA, KANSAS 67208
316-685-3200

PATRICK L. DOUGHERTY

INDIVIDUAL PRACTITIONERS

TIMOTHY E. PAUL

March 15, 1985

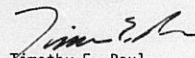
Mr. Glenn Lyttle
Planning Commission
Wichita City Building
455 N. Main
Wichita, Kansas 67202

Dear Mr. Lyttle:

This letter will advise you of my appreciation for your meeting with me on such short notice last week. Also that it is my intention to appear at your respective meetings the week of March 18th.

If I can assist you in any preparation for those meetings, or in any other way please let me know.

Very truly yours,


Timothy E. Paul

TEP:pc

RECEIVED

MAR 18 1985

METROPOLITAN PLANNING

ROUTE _____

*Subm
1-101*

26

A D D E N D U M

TO THE AGENDA
WICHITA TRAFFIC COMMISSION MEETING
Wednesday, March 20, 1985 - 1:30 P.M.

5. DIRECTIONAL SIGNS FOR EPISCOPAL CHURCHES ALONG MAJOR STREETS

Mr. Timothy Paul, attorney representing the Episcopal Churches in Wichita, is requesting permission to place signs on City streets to direct people to nearby Episcopal Churches located off the major street system.

Mr. Paul appeared on the public agenda of the City Commission's March 5, 1985 meeting to present his request. The City Commission directed that this matter be referred to the Traffic Commission and the Planning Commission for their review and recommendation. This item will be considered by the Planning Commission at their March 21, 1985 meeting. The City Code does not allow such signs to be placed on City right-of-way; therefore, Mr. Paul is requesting that the code be changed and guidelines be established for the installation of such signs.

Mr. Bob Mielke, Associate Traffic Engineer, will review the past history of directional signing requests, will present this Division's views on the request and also review guidelines which should be considered if Mr. Paul's request is honored.

RECEIVED

MAR 07 1985

METROPOLITAN PLANNING

ROUTE _____

THE CITY OF WICHITA

OFFICE OF CITY MANAGER

DATE March 5, 1985

TO Robert A. Lakin, Director of Planning

FROM Robert G. Finch, Deputy City Manager

SUBJECT Directional Signs for Churches

On March 5, 1985, Timothy Paul, attorney representing several Episcopal Churches, appeared before the City Commission requesting an amendment to the city code to allow placement of directional signs within a specified distance of each parish. The information which Mr. Paul presented to the Commission is attached for your review.

The Commission referred the matter to the Planning Commission and Traffic Commission for review and recommendation as expeditiously as possible.

Although Mr. Paul represents only the Episcopal Churches, the request for directional signs should be considered in the context of including all churches in Wichita.

Please assume lead responsibility for coordinating consideration by both the Planning and Traffic Commissions with a report to be returned to the City Commission on April 2, 1985.



Robert G. Finch
Deputy City Manager

RGF/hpd
Attachments
cc: Bill McKinley, Traffic Engineer

RECEIVED

MAR 06 1985

METROPOLITAN PLANNING

ROUTE

PA #1

DOUGHERTY AND PAUL
ATTORNEYS AT LAW

205 WOODLAWN-CENTRAL BUILDING
400 N. WOODLAWN
WICHITA, KANSAS 67208
316-685-3200

PATRICK L. DOUGHERTY

INDIVIDUAL PRACTITIONERS

TIMOTHY E. PAUL

March 4, 1985

Wichita City Commission
455 N. Main
Wichita, Kansas 67203

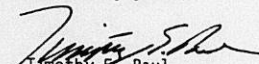
In Re: Sign Regulations and Standards

Dear Commission Members:

I have the privilege to represent several of the Episcopal Churches which exist within the Wichita City Limits and have been requested by them to propose an amendment to Title 24, BILLBOARDS AND SIGNS, Chapters: 24.04, Sign Regulations and Standards. An amendment to that portion of the City Code might allow for the placement of a restricted number of directional signs to be placed within a specified distance of each parish.

Your cooperation in modifying the City Code would be of great assistance to the Churches of our community in their efforts to assist in the growth and development of the City of Wichita.

Very truly yours,


Timothy E. Paul

PJB

Enclosures

**Double-face sign*
complete with
hanging bracket**



Specifications

1. Double-face sign, size 24"x30", 16-gauge steel, rectangular shape, rounded corners, 2 mounting holes at top, 2 mounting holes at bottom. Enameled in red, white, blue and black. Space at bottom for two or three lines of copy—to be submitted by you. (No line to contain more than 24 letters and spaces.) **\$71.39**

2. Scroll type bracket of rigid construction including strap hangers for sign. **\$21.39**

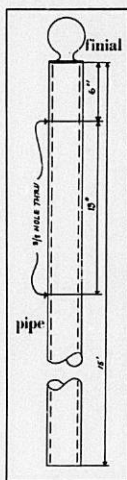
Total for sign and bracket. \$92.78

FOB Sand Springs, Oklahoma. Bracket and sign shipped by express. Shipping weight 22 lbs. Sign alone, 16 lbs.

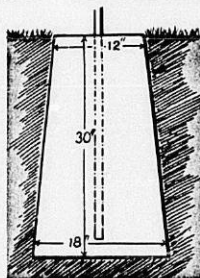
*Also available in Spanish.

**How to
assemble
your
hanging
sign**

1. Purchase locally (from a lumberyard, hardware store or fence company) a 15-foot length of standard 2-inch steel pipe, and a finial to seal the open top from rain.
2. Drill $\frac{3}{8}$ " holes, in parallel—one 6" from the top end, a second 19" from the top end.
3. Mount finial on top end of pipe, and fix firmly in place—with a set screw or otherwise.
4. Paint entire pole with aluminum paint (obtainable from paint store).
5. Mount bracket on pole, using drilled holes.
6. Attach hanging sign to bracket.



**How to
install
the pole**



Plant pole firmly in ground to a depth of 30".

NOTE: The only completely satisfactory method is to set pole in concrete. The concrete should be of pyramid shape, as shown, measuring 12" across at the top and 18" across at the bottom; it should be 30" deep. A sign assembly anchored this way will have a wind resistance of up to 100 mph.

**Single-face sign*
for use where
only one side
is seen**



Specifications

Single-face sign, size 24"x30", 16-gauge steel, rectangular shape, rounded corners, eight mounting holes. Enameled in red, white, blue and black. Space for two or three lines of copy—to be submitted by you. (No line to contain more than 24 letters and spaces.) Back of sign plain porcelain enamel. **\$50.81**

FOB Sand Springs, Oklahoma. Sign shipped by express. Shipping weight 15 lbs.

*Also available in Spanish.

Religion

Episcopal Churches Plan Some Moves

By Tom Schaefer
Staff Writer

It isn't terminal, but the diagnosis by a church consultant who examined five of Wichita's eight Episcopal churches last year could mean some radical surgery in the coming months.

Four of the churches should move from their present locations, said Ter Samples, a church consultant and a United Methodist cleric hired last June by the southwest convocation of the Episcopal Diocese of Kansas.

"The convocation of about 4,000 members consists of 14 churches, eight in Wichita and one each in Derby, El Dorado, Newton, Wellington, Arkansas City and Winfield."

"It was necessary because the Episcopal Church did some very poor planning 20 years ago," said the Rev. Robert Hutchinson of St. Matthias Episcopal Church. "There are eight parishes in the city, but only two have visibility. We have suffered from that ever since."

"I have been a priest in Wichita for 18 years," said the Rev. Jeffrey Black of St. Christopher's Episcopal Church. "There were as many Episcopalians then as there are now. I don't want to be a part of a closed operation."

TO RELIEVE the pains of low visibility and lack of growth, priests of the five parishes said they are looking at the following remedies as part of a 10-year plan of increased interchurch cooperation.

• St. Mark's, 2516 Westridge, will decide by December 1986 whether to relocate on a main thoroughfare in west Wichita.

• St. Matthias, 569 Peterson, hopes to build a new church at its present location within three years.

• St. Bartholomew's, 2000 Jewett, plans to have a new site and building within about four years, probably in the same southeast area of the city.

• St. Christopher's, 2211 S. Bufl, hopes to open its property to a major thoroughfare for better access.

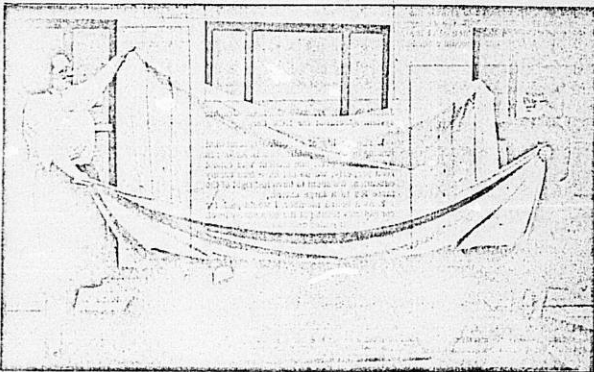
St. Alban's, formerly at 591 E. 25th N., began meeting at Gammon Elementary School last Sunday while looking for land in east Wichita to build a new church in about 18 months.

According to the Rev. Sam Criss of St. Alban's, Samples' 2 1/2-day study emphasized three primary needs in establishing a new church — location, location and location.

"The old idea was that you bury a church in a residential area," he said. "With a more mobile society that looks at signs and goes to shopping centers for services, any new church has to be where it will be highly visible."

Criss said St. Alban's location near Wichita State University did not attract a large enough following.

"We're moving because we're poorly located," he said. "There's not enough popu-



At Gammon School, Callie Dorselt, left, and Jackie Snyder of St. Alban's lift cloth from portable altar.

tion in our area to support an Episcopal church."

Criss said the church tried to attract Wichita State University students and faculty, but had limited success.

"We don't like to move away from the university," he said. "But there's not enough university people to support an Episcopal church."

The 75-member congregation moved Sunday to Gammon Elementary School, 3210 Rockwood, to hold its 10 a.m. worship service.

Criss said the church hopes to move to a new site with a new building near Gammon Elementary in about 18 months.

The congregation's old building has been sold to St. Andrew's Missionary Baptist Church, Criss said.

AT ST. MARK'S, a decision about relocating will not come as quickly.

"We don't have the same urgency," said the Rev. Robert Harvey. "We have some pressing matters with Christian education space, but we're taking temporary measures."

Samples recommended that St. Mark's relocate on 21st or at 13th and West, but Harvey said much of that property is too big-otted.

"The wisest course would be to relocate," he said. "The question is how and where."

Harvey said the 250-member congregation probably would make a decision about whether to relocate or expand its present facilities by December 1986.

Meanwhile, Harvey said, the congregation hopes to put up signs on 21st and West that would direct people to the church at 2000 Westridge and to buy other advertising.

"We may find that those efforts don't pay off," he said. "That may put more pressure on us to relocate."

OF THE CHURCHES studied by Samples, the Rev. Robert Hutchinson said his St. Matthias in west Wichita is "in the best position of all."

"We have adequate facilities and could serve a larger congregation," he said. "We've got young and enthusiastic people."

But like the majority of its Episcopal church cousins in Wichita, St. Matthias is in a residential area.

"The reason why St. Matthias hasn't grown that much, the big reason, is that nobody could find us," Hutchinson said.

"People move into this area and drive right past it on their way to work and never know it's there," he said. "So, if you're an Episcopal, you go to St. John's. We've got to solve that problem."

Despite the location of St. Matthias, Hutchinson said his membership has increased from 49 families to about 85 in three years, though "we should have at least a couple hundred families."

Hutchinson said the congregation investigated relocating, but decided to stay put.

"The cost of land is prohibitive," he said about possible sites on main streets.

IN JANUARY, members of St. Bartholomew's

met to talk about a six-year plan to relocate and build a new church.

According to the Rev. Robert Layne, who has been part-time and hopes to become full-time rector on July 1, the timetable allows members to purchase a site, build a church — preferably in southwest Wichita — and "settle in" to the new surroundings.

"For 22 years, we sat on Jewett Avenue and nobody knew we were there," Layne said. "I even painted the building bright brown, yellow and red when I first moved in there. When it (St. Bartholomew's) was designed as a neighborhood church, we didn't realize what we'd forfeit by visibility and accessibility."

To gear up for a church move, Layne said he will also phase out his psychotherapy practice by the end of the year.

For St. Christopher's, however, relocation is not feasible.

"We have too big a capital investment," said the Rev. Jeffrey Black, citing the church's 4 1/2-acre plot with four buildings and about 800 members.

"Some of our problems can be corrected by access," he said about the church's distance from a main thoroughfare.

Although the five parishes did not accept Samples' suggestions in toto, all five priests agree that there is a renewed sense of mission at their churches since Samples spoke to them last June.

"It's the most exciting thing that's happened here in the last five to 10 years," said Criss about the St. Alban's move.