



THE LEAGUE OF WOMEN VOTERS
OF TOPEKA/SHAWNEE COUNTY

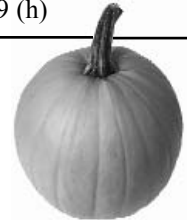
VOTER

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November 2004



2 Tuesday Topics - Lunch 11:30 am

Panel Discussion on “**Annexation**” - Panel: **Mike Heim**, Kansas State Legislative Research Department & **Dave Thurbon**, City of Topeka Planning Commission.
Our meal is Soup, tossed salad, rolls, cookie, water and tea.

Remember: VOTE today in the Presidential Election!

9 LWVT/SC Board Meeting - Members welcome

5:30 pm, O’Dooley’s, 1930 Westport Dr. (north of Petsmart on Westport Dr.)

17 Legislative Issues Dinner - Ramada Inn Regency Ballroom

6:00 pm, Social; 6:30 pm, Dinner

Main course: Chicken breast in chardonnay cream sauce

Guests will be the Shawnee County State Legislators

Reservations should be made by Nov. 12 by contacting Jan Waide at 233-7008

(A sign-up sheet will also be passed at the November Tuesday Topics meeting.)

Jan is contacting potential speakers to discuss **Kansas Juvenile Justice System**

December 2004 • No VOICE meetings in November or December —so plan to attend the Legislative Dinner, Nov. 17

7 Tuesday Topics - Lunch 11:30 am

Discussion on “**LWV Study Topics**” at state & local level - Janis McMillan & Doris Slocombe, LWVK, and Jan Waide & Nancy Kindling, LWVT-K

Our meal is Barbeque beef sandwich, baked beans, potato salad, brownie, water and tea.

14 LWVT/SC Board Meeting - Members welcome

5:30 pm, O’Dooley’s, 1930 Westport Dr. (north of Petsmart on Westport Dr.)

(VOTER info is due for Jan. VOTER will be due on 12/14. Send materials to Carol

Yoho:cyoho@cox.net)

Tuesday Topics

November & December Tuesday Topics will be held in room **JCM 101B**, across from the Millennium Cafe at the Topeka-Shawnee County Public Library. Meals are available to the first twenty-five arriving, @ \$8.25/ea.
If you need a ride to any League event, contact Betsy Rohleder.



PreZ SeZ...

November 2004

Thank you! I appreciate going as your representative on the Inter City Visit to Lincoln and Omaha. The trip was so packed with information that my head spins.

The unification of Douglas County and the City of Omaha was presented on Friday morning on the bus ride from Lincoln to Omaha by a fellow who had chaired the study commission.

Findings? Not a lot of overlap but LOTS of parallels.

Recommendation: Total structural unification. It would take the same time, resources, money and efforts to do the functional restructuring as it would to do total unification and functional changes were just as tough as a total unification. The current legislation is flawed yet the attitude was that ultimately better legislation will be passed and the public vote to unify will occur (3+ years out!).

The city of Omaha is already beginning to talk with the County and doing functional mergers when they can. 911 is done and their Information and Computer departments are merged.

The push currently is to educate constituents. **Tax Equity** is the key focus and **Efficiency in Government** is the desired outcome. When tax dollars are tight, it becomes a lot more important to NOT have 2 of every service or department!

Bottom line? If the political leadership is opposed, it cannot happen! The leadership of the business community is also very important. In Omaha the Chamber, the Mayor and 3 1/2 of the county's 7 commissioners are in favor of the unification.

Next month...some comments on annexation!

— Betsy Rohleder

Joint Voice Meeting, Annexation

September 23, 2004

Approximately 17 members and one guest met at McFarland's Restaurant to discuss the compilation of responses to survey questions posed regarding annexation issues. Responses were received from 4 city council persons, 3 county commissioners, 3 planning commission members, one consultant and one researcher.

There was a lively discussion of the responses. Suggestions from the group following the discussion were as follows: We need to see a copy of the city's Growth Management Plan. What is the city's policy on unilateral annexation? What are the possibilities with unilateral annexation? To what extent could our committee recommend unilateral annexation? Do the county residents pay higher premiums for homeowners insurance for comparable housing than city dwellers?

The group complimented the committee for its hard work and encouraged them to continue their study.

— Jan Waide
Pres. Elect

League of Women Voters T-SC

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Tuesday Topics Report: October 5, 2004

report and photo by Carol Yoho

Ernest Mosher

Retired Executive Director,
League of Kansas Municipalities

“Shawnee County in the 21st Century”

Mr. Mosher served as executive director of the League of Kansas Municipalities and was editor of “Kansas Government Journal.” He was active in the formation of the Kansas Association of Counties, serving as lobbyist at 33 sessions of the Kansas Legislature. He has served on the Topeka-Shawnee County Metropolitan Area Planning Commission.



Ernest Mosher

“**T**hat which is urban should be municipal” is Mr. Mosher's point of view.

Early counties were administrative arms of the state, providing state services to rural areas. Shawnee County has emerged as an active local government. Ours is an “urbanizing” county.

Topeka has a larger percentage of citizens over 65 years of age than most other Kansas cities. The median per capita income is lower in Topeka than in the area outside city limits. Non-white population within the city is 21.5%, with .5% of non-whites living outside city limits. More single parent families and others needing social services live inside Topeka city limits than outside. Only 456 farmers in the county report farming as their principal occupation. It is apparent that the structure of the county is becoming urban.

In the past the Township took care of farmers and the City took care of townfolk. That system has changed, both in terms of structure and of loyalty.

Shawnee County should preserve its farmland and open spaces and prevent urban sprawl. “Smart growth” saves real farmland and avoids sprawl.

Combining city and county governments may not save money immediately, but it could increase efficiency by eliminating duplication. It also redistributes the tax base.

“It's people, not property, who use services.”

Changes **WITHIN** the current system **COULD** include:

1. **Provide for a Professional County Administrator.** There are currently 17 Kansas

counties with an administrator and these counties contain 62% of the state's population.

2. **Enlarge the County Board.** Nine Kansas counties have enlarged their board size, collectively containing 45% of the state's population. “When the Shawnee County budget is over \$100,000,000 is it appropriate to have only a three-member Board?” Mosher feels there is a need to increase the size of the Board to 5, or perhaps 7, members.

3. **Transfer and/or ask county to assume these functions:** airports, golf courses, jail services, parks and recreation, social services, zoo.

4. **Change Law Enforcement function:**

4a. **Consolidation.** Not likely to happen soon, but should be studied.

4b. **Redistribute service levels.** Shifting various police services and programs from the City to County.

4c. **Service-Tax Districts;** delivery of certain urban services in townships

5. **The Highway function.** A true county-wide highway system is needed in Shawnee County like that in Johnson County, financed countywide. Also, the county should treat bridges within the cities in the same manner as within the townships, and has legal authority to do so.

Changes **OUTSIDE** the current system **COULD** include:

6. **Modify method of electing County Board members.** Elect the chair countywide, with some commissioners nominated by districts but elected at large.

7. **Service-Tax Districts.** Shift taxes to include a fair and equitable distribution of costs of meeting public needs. Potentials to preserve farmland and prevent further urban sprawl.

—continued on p. 4

Voter Services for 2004

Starting with Jan Waide's efforts with the Kansas' Head Start programs for parents and professionals, League members have registered voters at 8 different sites. The Back-to-School Fair in August registered 17 voters, but gave 300+ children at chance to win one of the three surprise bags of school supplies, health aids, and goodies.

Between mid-September and mid-October, five more sites were set up at Security Benefit Groups; Hallmark Cards, Inc.; UMB bank in southeast Topeka; Washburn University at Morgan Hall; and the Veterans Hospital. Nancy Garfield and Mary Ann Bradford shared the responsibility of organizing these events.

In keeping with League efforts nationally to recruit young voters, the Washburn University site provided the largest number of registrants with 89. All the people who registered at all of the sites seemed very excited to vote and participate in the upcoming election. It was interesting to note that more of them chose affiliation with the Democratic Party while the least chose Unaffiliated.

The LWVTSC's VOTE bookmarks have been distributed liberally and not surprisingly contained the exact information that most people wanted. Thanks to Wright, Henson, Cohen, and (Anne) Baker Law Offices for contributing to their printing.

Our deepest appreciation to the Leaguers who helped make these events possible: Jan Waide, Audrey Frentzel, Dona Peterson, Jo Ann Myers, Larry Bradford, Carol Rousey, Nancy Sargent, Sybil Wiegman, YeVonne Kimmitt, and Nickie Stein.

The voter information forum, "Your Vote Counts More in 2004", held on October 9th was the latest of our voter services. The TSC Public Library, Bob Beatty and several of his WU students, Project Voter Smart and the League jointly presented the forum. The students presented an overview of the platforms of the five presidential candidates, the 4 US Senate candidates, and the 2 US Representative candidate through a power point program which they created as part of their classwork. Bob discussed presidential general election statistics, the pitfall of the Electoral College that assigns all six of the Kansas' electors to the Republican candidate as the majority party. Project Vote Smart presented a film showing the problems of many campaign advertisements. Mary Ann spoke about methods of choosing a candidate as well as voters' rights at the polling place while Nancy "manned" the display.

—Mary Ann Bradford
Voter Services

2004 Scott School Elections

We had another good year at Scott School, Scott City Mayoral Elections. We registered and voted over 90% of the students at Scott School. My thanks to the League for this important voter education project. We are teaching approximately 500 students the importance of registering to vote and voting. The League provided over 75 hours of volunteer time to carry out this project.

A special thanks to the following members of the League who helped with this project; Betsy Rohleder, Judy Moler, Alta Morris, Carol and Clyde Rousey, sue Trast, Mary ann and Jack Travis, Jan Waide, Winnie Crapson, Larry Wilson, Carol Yoho and Dottie Harder.

My thanks to all of you in carrying out the Scott City Mayoral process.

—Bob Harder

Scott School Mayoral Edition Coordinator

Mosher—continued from p. 3

State legislation would be required.

8. **The "Consolidation" Issue.** The Nov. 2 ballot proposition really deals with two questions (to study the consolidation of governments OR services) but requires one vote. Studies are good! A "no" vote assures the status quo. A "yes" vote ONLY authorizes a study. Any further action is likely to require further voter approval.

The election question is:

"Shall a consolidation commission be appointed to recommend a plan of consolidation of Topeka, Kansas and Shawnee County governments or the consolidation of certain offices, functions, services and operations thereof?"



LWV-US: Opinions About Voting Technology Security

InfoSENTRY researched how much the American public trusted—or mistrusted—the major election technologies that are competing to replace the vast number of punchcard, lever, and paper-based voting systems in the United States. The firm contracted with Opinion Research Corporation (ORC), to conduct a benchmark survey of public opinion toward the security of certain voting technologies. Major findings are summarized below:

1. Significantly more U.S. voting-age adults expressed trust in the confidentiality and accuracy of election results produced by electronic voting systems, the so-called **Direct Record Electronic** systems, than expressed trust in other voting technologies.
2. Internet voting, the newest and least used of the voting technologies, is also least trusted to produce confidential and accurate election results.
3. Trust in the confidentiality and accuracy of DRE voting technology is consistently positive across gender and age groups, except for persons 65+ years old, among whom the technology still receives positive trust ratings.
4. Whites, Blacks, and Hispanics have overall positive trust levels of DRE voting technology, although Blacks' trust is not as strongly held as is the trust among Whites and Hispanics.
5. Overall trust in DRE voting systems is positive in all regions with highest ratings in the South and West.
6. Trust in optical scan (precinct count) voting systems is consistently positive among men and women and across most age groups.
7. White adults and self-identified Hispanic adults express higher trust levels in optical scan (precinct count) voting devices than do Black adults.
8. Respondents in Western states expressed substantially higher trust in precinct-count optical scan voting systems than did respondents in other regions.
9. Respondents in both genders and most age groups have consistent, net negative views of optical scan (Vote By Mail) technology.
10. African-Americans have a more negative view of Vote By Mail than do Hispanics or Whites.
11. Adults in Western States gave higher ratings to Vote By Mail and central count optical scan technology than did respondents in other regions of the country.
12. Women are slightly less negative than men toward Internet voting systems, although majorities of both genders fail to place trust in the technology's ability to deliver confidential and accurate election results.
13. There is an inverse relationship between age and trust in the Internet's ability to deliver accurate and confidential election results.
14. Hispanics gave substantially higher ratings to Internet voting security than either White or Black respondents.
15. The Western region is least negative to Internet voting security, while the South is most negative to this electronic network voting technology.
16. Internet users are significantly more likely than non-Internet users to trust the confidentiality and accuracy of DRE voting systems.
17. Republicans and Independents who lean toward Republican candidates have a slightly higher level of trust in the security of both electric and paper-based voting technologies than do Democrats and Independents who lean toward Democrats.

We draw **two basic conclusions** from all the findings and interpretations of this survey's numbers.

First, the trust levels are not as high as we, and we believe all election officials, would like to see them. We can only imagine that election officials and voting system vendors share that wish. Still, election officials, vendors, and the critics of specific voting technologies have a responsibility to advocate positions and take steps that will improve trust in the election system.

Second, a widely reported concern over all-electronic, in-precinct (DRE) voting, which might call for radically altering the design and function of these systems to provide "paper backup," does not exist. A substantial majority of American adults trusts in the confidentiality and accuracy of DREs. A smaller majority also trusts in the confidentiality and accuracy of in-precinct optical scan voting systems. There is a lack of nationwide trust in both Vote By Mail and Internet voting. We suggest this lack of trust rests on a lack of familiarity with Vote By Mail and a general mistrust of the Internet.

Annexation in Topeka & Shawnee County —report by Allyn Lockner

Part 3: Kansas Annexation Procedures

Purpose

“The October edition of the Voter contains an article entitled “Part 2: Kansas Annexation Procedures.” Topeka and Shawnee County use these procedures when Topeka seeks to annex tracts of land.

First, this article explains three potential improvements of annexation operational practices which are intended to enhance the likelihood that annexation stakeholders will be satisfied with the annexation decisions and outcomes. These improvements seek to complement, but not replace, the statutory procedures discussed in the article entitled “Part 2: Kansas Annexation Procedures.” The potential improvements involve Topeka, Shawnee County and other annexation stakeholders:

- Developing written and signed annexation agreements under Kansas Statutes Annotated (KSA);
- Engaging in principled negotiation when developing the agreements; and
- Using, if necessary, skilled mediation to resolve disputes which block negotiation of annexation agreements.

Second, the article provides a summary and discusses implementation of the potential improvements. This brief discussion indicates how the improvements would be put into operational practice by Topeka and Shawnee County. The article also states conclusions.

Third, the article ends by asking questions about these potential improvements. The explanation and questions are intended to provide members of the League of Women Voters of Topeka and Shawnee County (the local League) with information which informs and prepares them to vote for concurrence or nonconcurrence with a public policy position proposed by the local League's Annexation Study Committee and its Board of Directors.

Annexation Agreements

The Kansas unilateral, island and county-approved annexation procedures do not contain any provisions regarding annexation agreements. These agreements might complement these procedures. There are key questions about the practice of using these agreements.

What is an annexation agreement? An annexation agreement is a negotiated accord or contract, written and signed by all stakeholders in the annexation, that specifies what actions stakeholders agree to perform and what conditions they agree to comply with in order for a city, one of the stakeholders, to annex one or more tracts of land in the unincorporated area surrounding the city. The agreement is sometimes called a "pre-annexation agreement" since it developed and approved before the proposed annexation occurs.

What are the contents of an annexation agreement? The actual contents vary among agreements, depending on the number, sizes and development of territories or parcels of land proposed for annexation, the number of stakeholders, whether the proposed annexation is contested, and other specific circumstances surrounding the proposed annexation. Examples of the contents of an agreement:

- Stakeholders who are parties to the agreement
- Evidence of the need for an agreement
- Description of land proposed for annexation
- Annexation policies:
 - Description of urban growth area
 - Development plan for urban growth area
 - Rights, responsibilities and limitations
 - Urban growth area policies review committee
 - Service plans
 - City commitments
 - County commitments
 - Effective date
 - Stakeholder approval signatures
 - Landowner commitments
 - Other stakeholder commitments
 - Joint ventures
 - Land development process within urban growth area
 - Land use zoning and building codes
 - Federal, state and local permits
 - Costs and financing of the agreement
 - Revenue sharing among parties
 - Duration of the agreement
 - Revision of the agreement
 - Mutual cooperation among stakeholders
 - Public approval hearing (varies)

Once the agreement is approved, the agreement becomes effective immediately and is ready for implementation.

What are other features of successful annexation agreements? Besides the annexation agreements having the needed contents, stakeholders are mindful of other factors during the development of successful agreements. Examples include:

- Avoiding past issues among stakeholders; these issues are not on the table, but attention is focused on current and future annexation issues.
- Allowing stakeholders to state early what they want and why; each issue is brought to the table individually and given time for discussion and resolution.
- Raising issues up front which can serve as catalysts for change, leading to their potential occurrence and resolution within the scope of the agreement.
- Getting stakeholders to see the common ground among themselves, and finding ways to create innovative solutions together; this leads to decisions that are better informed, more creative, balanced and enduring.
- Addressing not only the issues, but also getting at what is behind each of them so that stakeholders can better understand each other's interest and viewpoint.
- Getting all the issues on the table often reveals that an annexation dispute goes beyond the proposed annexation itself; other factors often have to be cleared before the annexation can be decided.
- Maintaining an open perspective; "breakthrough thinking" may be necessary; focus on current and future issues instead of past issues and disputes.
- Choosing a convenient neutral site for negotiations, one which has no history of past disagreements and which cannot be perceived to give any one side an advantage.
- Being capable of addressing the annexation of one or many and small or large parcels at one or many locations, usually contiguous to the city.
- Providing an early opportunity for all stakeholders to participate in the negotiations that lead to achieving a consensus on the proposed annexation.
- Choosing small annexations for resolution, or alternatively dealing with enough issues simultaneously so that every stakeholder can win something.
- Achieving success with small issues provides practice for resolving large issues and more likely engages stakeholders in difficult issues.
- Acting to eliminate or at least reduce stakeholder legal challenges which are likely to be a barrier to successful agreement.
- Providing at least some certainty regarding annexation project design and impacts to stakeholders as circumstances permit.
- Disclosing and discussing at some point the costs of not achieving agreement, such as resources consumed by lengthy lawsuits and dissatisfaction with negative image created by protracted disputes.

The specific provisions in an annexation agreement depend on the specific local situation regarding the land proposed for annexation and the particular circumstances surrounding its annexation. The situation and circumstances vary widely among proposed annexations.

How can an annexation agreement improve a community or region? It is true that an annexation agreement itself will not improve water quality or increase the amount of open space in a community. However, cities with annexation agreements in place report that their agreements are supportive of good planning and planning goals and they foster regional cooperation. Discussions surrounding the annexation agreement also provide a forum for discussing how communities want to grow. Typically, every community wants a "sense of place" and to be differentiated from its neighbors. Annexation agreement discussions can be framed to address how a city will establish its identity at its borders, for example, what are the growth issues; what automobile, bus and rail transportation plans are needed; whether there should be open-space buffers in place; what kinds of connectivity should occur with other cities and the county (other than major thoroughfares); and what are the common approaches to land use that benefit all parties to the agreement. Also, annexation agreements allow for better planning and more efficient utilization of infrastructure; reduce if not eliminate land disputes and potential legal conflict between neighboring governments; aid in knowing where a city will grow; and serve as a cornerstone of "smart growth" and may help avoid unintentional sprawl. Cities, counties and other local governments and stakeholders work together to determine where cities will grow and discuss what needs to be in place in order for smart growth to occur. The bottom line is that by working together, communities can determine where they will grow in the future and be better able to plan for that growth.

Do annexation agreements lead to sprawl by encouraging cities to grow as big as they can as fast as they can? They may, if a community's leadership does not exercise the political will to put in place, and follow, land use policies that promote cluster-type development, open space preservation, good connectivity (including bicycle and pedestrian connectivity) and mixed uses. The key is to use annexation agreements as a de facto urban growth policy, and to carefully plan and implement what happens inside the city's borders.

What are local governments that use annexation agreements? Examples include: Town of Round Hill and Loudoun County, Virginia; City of High Point and Randolph County, North Carolina; City of Champaign and Stamey Family Farms, Illinois; City of

Lincoln, Lancaster County, a developer and a religious organization, Nebraska; City of Thorton and Adams County, Colorado; City of Santa Fe and several land owners, New Mexico; and City of Port Angeles and Wal-Mart Stores, Inc., Washington.

Legality of Annexation Agreements in Kansas

A crucial question is “Are annexation agreements legal under Kansas law?” Annexation agreements are authorized by state law in some states. In other states these agreements are authorized by local ordinance. KSA does not explicitly authorize city and county use of these agreements. If KSA does not specifically authorize annexation and revenue-sharing agreements, does KSA contain any other provisions which might cover city and county use of these agreements?

Interlocal cooperation provisions are contained in KSA 12-2901 to 12-2910. These sections cover interlocal agreements by public agencies, including cities, counties and other local entities. For example:

- KSA 12-2904(a) states, in part, “...any power or powers, privileges or authority capable of exercise by a public agency [including a city or county] of this state including but not limited to those functions relating to economic development, public improvements, public utilities, police protection, ..., flood control and storm water drainage, sewage disposal, refuse disposal, park and recreation programs and facilities, ambulance service, fire protection, ... , may be exercised and enjoyed jointly with any other public agency of this state or with any private agency,”
- KSA 12-2904(b) states, in part, “Any public agency may enter into agreements with one or more public or private agencies for joint or cooperative action Appropriate action by ordinance, resolution ... shall be necessary before any such agreement may enter into force.”
- KSA 12-2904(g) states, in part, “Every agreement hereunder, ..., shall be submitted to the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state.”

Can these provisions for interlocal cooperation and agreements be interpreted to authorize Topeka City and Shawnee County to utilize annexation agreements? In other words, must KSA authorize city and county use of annexation agreements?

Three legal experts on annexation law state: “...Although specific statutory authorization is helpful to show the necessary public purposes that is recognized by the state, only a handful of states appear to have adopted legislation enabling local governments to enter into annexation agreements. ... Apparently, the prevalence of statutory annexation provisions, together with a recognition that local governments have the powers they need to exercise their authorized powers (such as annexation), has convinced most courts considering the matter to uphold the annexation agreement in the absence of enabling statutes. ...”

In some states, annexation agreements are linked to local plans. KSA 12-744 and 19-2959 authorize planning agreements between cities and counties. KSA 12-747 authorizes comprehensive plans for the development of cities and unincorporated areas outside cities which form communities which are part of the cities.

Based on the above information, it is concluded that Topeka and Shawnee County can utilize annexation agreements to complement the unilateral, island and county-approved annexation procedures. These procedures are described in the article entitled “Part 2: Kansas Annexation Procedures” in the October *Voter*.

Negotiation of Annexation Agreements

Negotiation usually involves the stakeholders themselves or their representatives using a specific and uniform practice to resolve annexation issues without the assistance of outside and neutral persons. Negotiation of annexation agreements increases the chances of achieving consensus on agreements which satisfy stakeholder interests and/or address effects on stakeholders. An example of such a practice is “principled negotiation.”

Principled Negotiation. Negotiation is the practice of people conferring with one another so as to arrive at a solution or settlement of some problem. It involves dealing with some problem that requires ability for its successful handling. Negotiation also involves arranging for or bringing about a solution through conference, dialogue, discussion, and consensus or compromise.

Negotiations should be efficient, not costly in terms of time and effort. Lastly, negotiations should improve, or at least not damage relations among negotiators.

A wise agreement meets the legitimate needs of negotiators, resolves conflicting interests fairly, is durable over the required time period, and takes the stakeholders into account.

“Principled negotiation” meets these criteria. It contains four basic features that indicate how negotiators can meet these criteria in their negotiations about an idea, issue or problem. Principled negotiation:

- separates the people from the problem;
- focuses on interests, not positions;
- generates a variety of possibilities before deciding what to do; and
- insists that results be based on some objective standard.

The four propositions are relevant from the time the negotiator begins to think about negotiating until the time either an agreement is reached, or he or she decides to break off the effort. That period is divided into three stages:

- **Analysis.** During the analysis stage, using the four propositions, the negotiator is simply trying to diagnose the situation—to gather information, organize it, and think about it. The negotiator will want to consider the people problems of partisan perceptions, hostile emotions, and unclear communication, as well as identify the negotiator's own interests and those of the other side. The negotiator will want to note options already on the table and identify any criteria already suggested as a basis for an agreement.
- **Planning.** During the planning stage the negotiator deals with the same four elements a second time, both generating ideas and deciding what to do. How does he or she propose to handle the people problem? Of the negotiator's interests, which are the most important? And what are some realistic objectives? The negotiator will want to generate additional options and additional criteria for deciding among them.
- **Discussion.** During the discussion stage, when the parties communicate back and forth, looking for agreement, the same four elements are the subjects to discuss. Differences in perception, feelings of frustration and anger, and difficulties in communication can be acknowledged and addressed. Each side should come to understand the interests of the others. All can then jointly generate options that are mutually advantageous and seek agreement on objective standards for resolving opposing interests.

These features allow the negotiators to achieve a wise agreement—an agreement that reflects their understanding of the problem, interests, options and criteria, and their unusual discernment and judgment in dealing with them. The method permits negotiators to reach a gradual consensus on a joint decision efficiently without all the transactional costs of digging into positions only to have to dig themselves out of them. And separating the people from the problem allows negotiators to deal directly and emphatically with one another as human beings, thus making for an amicable agreement.

What if the other side is more powerful? When the other side has a stronger bargaining position, the most that a negotiator can do is to meet two objectives. First, protect the negotiator against making an agreement he or she should reject. Second, the negotiator needs to make the most of the assets he or she does have so that any agreement will satisfy his or her interests as well as possible.

Regarding self protection, the negotiator must realize that the reason for negotiation is to produce something better than the results obtainable without negotiating. What are those results? What is the alternative? What is negotiator's BATNA—Best Alternative to a Negotiated Agreement? That is the only standard which can protect the negotiator, both from accepting terms that are too unfavorable and from rejecting terms it would be in his or her best interests to accept.

What does the negotiator do if the other side will not negotiate? There are ways of dealing with this situation which, in the interest of brevity, are not explained here.

Principled negotiation does not guarantee that an agreement will be reached. But it does increase the chances of achieving a lasting agreement.

Local Negotiation Resources. Annexation stakeholders or their representatives negotiating annexation agreements would need to know how to conduct principled negotiation. A short course, entitled "Leading People: Negotiation Skills," is taught at the Public Management Center, University of Kansas, located in Topeka. The course differentiates between positional negotiation and principled negotiation. It demonstrates how to focus on satisfying the interests of the parties and helps managers to significantly improve their negotiation skills.

Mediation of Annexation Agreements

Sometimes negotiation of annexation agreements, conducted by stakeholders or their representatives, is not able to satisfy conflicting interests of stakeholders and/or to resolve expected negative effects of annexation on them. A dispute exists among stakeholders. While negotiation usually does not engage outside persons, skilled mediation is a practice which involves one or more outside and neutral persons helping the disputants to resolve their conflict. In one scenario, skilled mediation occurs when a successful outcome is not achieved through principled negotiation. Under another scenario, mediation is not preceded by negotiation but includes negotiation. The latter scenario is likely when disputes occur before and/or are expected to occur during the development of an annexation agreement.

Skilled Mediation. As a way of minimizing if not avoiding time-consuming and costly litigation, skilled mediation as an alternative method of dispute resolution has key elements. Examples of the elements are:

- The outside and neutral person, the mediator, is the one who makes mediation work. As long as there is a neutral facilitator or conciliator, the parties can trust that they have some safety and are not being abused by an interested party. Mediation works because the mediator is known to either be neutral or supportive of the parties and is not an interested party. The mediator facilitates, that is aids the parties in a neutral fashion to find their own best interests and to make decisions.
- The mediator protects the integrity of the proceedings. Not only does the mediator not take sides for or against any party to the mediation, the mediator does not usurp the parties' rights to disclose or not disclose information. Generally, there are no records kept by the mediator. When there is no record, it becomes much harder to breach integrity or to try to use the mediator to prove or force a particular point not finalized in the agreement. The mediator is not subject to court subpoena and thus cannot be made as witness. Without notes or the mediator, the only method to breach integrity is the testimony of an interested party who is usually bound by law not to disclose more than is agreed.
- The mediator requires a good faith from the parties. Good faith includes entering into mediation with the intent to work towards a resolution. It also includes not using the process for outside purposes. Thus there are rules that provide for no service of process during mediation, and for similar bars to the abuse of the mediation process by attorneys and non-attorneys alike. What makes the proceedings mediation, and not something else, is that the parties are in the process of seeking solutions rather than for an ulterior purpose, such as to abuse the other party by use of the process. Both the behavior and integrity of the mediator are important in creating and preserving good faith.
- The presence of the parties is essential. Those persons with full authority to act for the parties must attend so that the parties can work towards resolution. These persons must check with their parties during the process in order to exchange information about the problems and their solutions, and to ensure that they are accurately representing their parties. If the decision makers do not attend, the process becomes something other than mediation. Also, all parties necessary to resolve the problems should interact with the mediator. It is the parties who are being resolved as much as it is the problem that is being solved.
- Choosing an appropriate location is essential. Generally, this means a neutral site that is conducive to the mediation process. It must be a place where neutrality, integrity and inclusiveness may be obtained. The venue is sometimes as important as the parties and is a part of the process often overlooked.

In order for mediation to be successful, all stakeholders in an annexation need to agree to use mediation, to comply with mediation ground rules, to participate in the mediation, and to accept the outcome of the mediation. Stakeholders may even choose the mediator.

Mediation is applicable to public policy disputes, including those involving annexation. A mediator helps the stakeholders involved in the annexation of land to reach a consensus or compromise very early in the annexation procedures. The items on which there is consensus or compromise are included in a written annexation agreement which is approved, signed and implemented by the stakeholders.

Mediation of public policy disputes, like annexation, requires a different set of skills than mediation of private disputes, like divorce and maintenance. For example, the number of stakeholders involved in public disputes is usually larger than the number involved in private disputes. So the mediator has to be skilled in working with a larger number of parties who are stakeholders in the proposed annexation.

Local Mediation Resources. Persons mediating annexation disputes would need to know how to carry out skilled mediation. KSA 5-501 and the following sections contain provisions pertaining to alternative dispute resolution (ADR) which encompasses conciliation, mediation, arbitration, etc. Mediation statutes are administered in Kansas by the Dispute Resolution Coordinator, Kansas Office of Judicial Administration, located in Topeka. The coordinator's staff does not mediate disputes. However, it arranges training for people interested in learning the skills of mediation, distributes information to people who have questions about mediation and other ADR techniques, and has a list of trained and skilled mediators. The coordinator can provide a list of public policy dispute negotiators upon request.

The Public Management Center, University of Kansas, located in Topeka, provides mediation training seminars to state managers for handling conflict and, upon request, would probably offer training to other persons wanting to learn these skills. The director and assistant director are trained mediators and teach mediation seminars.

Implementation

Topeka, as a stakeholder, which proposes the annexation in Step 1 of the annexation procedures would, in consultation with Shawnee County and other local governments, take the lead and identify all stakeholders and call the first stakeholder meetings immediately after Step 1 of the annexation procedures. At this meeting the stakeholders would discuss and decide the scheduling, organization and

other pertinent matters related to subsequent meetings. The stakeholders or their representatives would develop the contents of the annexation agreement through principled negotiation. If disputes occur or are expected to occur, stakeholders would reach a consensus on utilizing skilled mediation to help them resolve their disputes and develop a consensus annexation agreement. Once the stakeholders reach consensus on an agreement, the signed and approved agreement would be included or addressed in:

- the Topeka resolution and public hearing at Step 3, Step 5 and Step 8 of the unilateral procedure;
- the Topeka resolution at Step 2 of the island procedure; and
- the Topeka petitions at Step 2 and Step 6, the Topeka proposal at Step 9, and the Shawnee County Commission hearing at Step 10, Step 11 and Step 12 of the county-approved procedure.

The signed and approved annexation agreement, after any modifications made at public hearings and supported by stakeholder consensus, would be a part of a Topeka annexation ordinance or attached to the ordinance.

Conclusion

Researchers and practitioners have written about city annexation of land and people in the United States. Their work and an analysis of Kansas annexation procedures are the foundation of this three-part study of annexation in Topeka and Shawnee County, and non-statutory improvement of local annexation.

Annexation agreements, principled negotiation and skilled mediation are based on Principles of Annexation and are potential non-statutory improvements of statutory unilateral, island and county-approved annexation procedures. The improvement would be most useful when contested annexations exist or are expected in Topeka and Shawnee County. These potential improvements would likely:

- provide early stakeholder participation;
- reduce time, effort and costs;
- reduce and/or prevent annexation disputes;
- minimize annexation litigation;
- increase successful annexations; and
- aid smart growth in the metropolitan region.

However, there is no assurance these outcomes will be achieved since other factors affect annexations. Examples of these factors are the willingness and ability of stakeholders to communicate, cooperate, coordinate and collaborate with one another. But annexation agreements, principled negotiation, and skilled mediation would likely increase these “four Cs” among annexation stakeholders and increase their consensus on proposed annexations.

Questions

The local League members are asked to refer to the “Principles of Annexation” in the article entitled "Part 1: Overview of Annexation" in the September edition of the *Voter* and to the article entitled “Part 2: Kansas Annexation Procedures” in the October edition. These principles and procedures suggest questions. For example:

- Would the use of annexation agreements complement and improve the procedures, and increase the chances of successful needed annexations in Topeka and Shawnee County?
- Would the use of principled negotiation complement and improve the procedures, and increase the chances of successful needed annexations in Topeka and Shawnee County?
- Would the use of skilled mediation complement and improve the procedures, and increase the chances of successful needed annexations in Topeka and Shawnee County?

Answers of local League members to these questions will help them to ask, review and discuss their own questions and answers, and to prepare them to vote for concurrence or nonconcurrence with a local public policy position proposed by the local League's Annexation Study Committee and its Board of Directors.

Annexation Stakeholder Interview Responses

A separate report of the Annexation Study Committee summarizes the responses of selected Topeka and Shawnee County officials and other annexation stakeholders to a standard set of specific questions about annexation. This report is distributed to members of the local League and complements the three-part annexation study appearing in the *Voter*.

September 23, 2004

Set date of Oct. 7 for the public hearing on creating a Shawnee County Main Sewer District No. 91, Lateral District No. 1 in RockFire at the Lake Subdivision. Same date set for the hearing on Sn. Co. Main Sewer District No. 46, Lateral District No. 11 in Sherwood Estates Subdivision Nos. 59 and 62; and also for the creation of Sherwood Estates Subdivision Nos. 59 and 62 Storm Sewer District.

They approved creating a street benefit district in the RockFire at the Lake Subdivision and one for Sherwood Estates Subdivision Nos. 59 and 62.

Contracts with United Way of Greater Topeka, Kansas Children Service League and SRS were approved to continue offering an intensive home visitation program for at risk families with young children or families who are expecting children.

September 30, 2004

No meeting. Two commissioners went on the Omaha/Lincoln trip.

October 7, 2004

This was a public hearing day for the vacation of a part of NW Humphrey Road. Three neighbors affected by this attended the meeting. Grove Township is supposed to maintain this road but defer the responsibility to the County without giving the county enough of the funds to do so properly.

The neighbors did not want the road closed north of Soldier Creek as they access their fields by way of it. Other than that, one farmer testified, it is only used by “lovers, hunters and lost people”.

The public hearing on storm sewer benefit districts mentioned in the report of September 23 was held. No citizen testimony. Comm. Kane wanted it made clear that if the area is annexed by the city the benefit district continues to be paid out as the annexation does not absolve homeowners of their obligation to the county.

Major discussion was held of the architects presentation of plans for the remodeling of the ticket entrance at the Expocentre. It appeared that the architects worked at the County's direction but the general manager of the Expocentre was not consulted. He attended this meeting. The total lease/purchase agreement will be for \$2.25 million which will come from the general fund. This will have no impact on the 2005 budget but will be built into the 2006 budget. There will be a positive impact on fire insurance costs when fire safety at the Expocentre is improved. The total contract will be for improvements to six facilities at the Expocentre; most were characterized as maintenance priorities. The general manager pointed out that the center is not fire code compliant down by the dressing and locker rooms. The Expocentre Advisory Board will study the proposed improvements.



New Member Orientation

An October LWV New Member Orientation was hosted by Membership Chair Patty Pressman and held at the home of League member Jane Holt.

We welcome **Phyllis Kelly**, who attended the orientation as a new member. Phyllis worked 27 years for the State Department of Education and is currently Executive Director of Kansas Adult Care Executives Association. Patty Pressman, who recruited Phyllis to League, says of her, “Phyllis is a learner. She is always interested in learning.” *Welcome, Phyllis!*

We hope to feature other newer members in future issues of the Voter.

October 6, 2004

A Resolution introduced by Councilmember Lover Chancler that would amend the public comment section of the agenda by televising the second meeting of the month. This Resolution would reverse a measure passed in October 2003, when the council voted 6-3 to remove public comments and reports by individual council members and the city's chief administrative officer from the public telecasts of council meetings.

Councilman Pomeroy, said he would be willing to televise public comments once a month, but not at every meeting. The members voted 5-4 to approve the move to allow public comment during

the fourth meeting of each month; amended from a resolution that would have allowed television public comments every week. Voting in favor were Alcala, Haynes, Pomeroy, Lover Chancler and Tiffany Muller. Voting against were Stubbs, Duffy, Nave and Preisner.

Council members voted 8-1 to authorize city employees to prepare a plan outlining how the city would go about providing municipal services to several areas the city might seek to annex. The council was advised at a previous meeting that the Shawnee County Commission would require such a plan before approving any request for annexation.

LWVK Updates

LWVUS President Kay Maxwell will be in Missouri the week of October 18, and in Kansas City on October 21 and 22. This is part of her "5 Things You Need to Know on Election Day" multi-state tour to talk about voter's rights and protecting the vote. Her primary hosts will be the recently combined Jackson-Clay-Platte County League, with assistance from the Johnson County League. Her schedule for the Kansas City area visit is still being finalized at this writing. We are attempting to arrange meetings with The Kansas City Star editorial board, as well as the boards of the two bilingual Hispanic newspapers (Dos Mundos and KC Hispanic News), KMBZ drive-time talk radio, and the "Up To Date" talk show on Kansas City's NPR affiliate, KCUR. A reception was planned for Kay in Independence, MO for October 21.

Lobbying for the 2005 Legislative Session: It's not too early to think about joining our Lobby Corps for the upcoming session. If you are interested, or if you know someone in your League whom you think would be good in this role, please let me know. The Education area will likely consume a significant portion of this session, following whatever ruling the State Supreme Court makes later this fall; there will be much to cover and warrants more than one lobbyist. The Governor plans some major initiatives in con-

sidering alternative energy sources, and in health care, with particular emphasis on providing for the high numbers of uninsured citizens. And of course, this is the year when there is considerable turnover in the Legislature. So—please give consideration to helping the League put forward the issues of importance to us.

A reminder that during your program planning for next year, it's also the year to propose a State study for the next two years. The State Board needs to receive your proposals in January.

National 19th Amendment Society: This organization, based in Charles City, IA, was formed in 1991 to purchase and restore the girlhood home of Carrie Chapman Catt, just south of Charles City. The community of Charles City has contributed to the project, but more money is now needed to complete these efforts. The Society is asking that each League consider making a donation of \$1/ member. If your League (or any of your members individually) chooses to make a donation of any amount, please send it to Rhoda McCartney, P.O. Box 33, Charles City, IA 50646-0033. Donations are tax-deductible.

—**Janis McMillen**, LWVK President

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ADDRESS CORRECTION REQUESTED

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November/December 2004



Mark Your Calendar: Wed, Nov. 17
Legislative Issues Dinner
5:00 pm, Social, 5:30 pm, Dinner

Please contact Nancy Kindling at 273-8578 or e-mail nmkindling@aol.com if you are interested in helping to follow actions by groups on the change in city government or attend some of the meetings. Nancy will be glad to contact you if you are interested.

We still have **VOTE pins**. We hope all members will still be able to sell or buy those pins remaining.

Nominating committee is looking for suggestions for next year's Board. Contact Sue Gaither, 267-0325



Remember!
Vote Nov. 2

YES!

I want to add my voice to yours by joining the League of Women Voters. I enclose:
 \$48 for 1-year Individual Membership \$72 for a 1-year Household Membership
 \$85 for a 1-year Sustaining Membership Please send more information.
 I am unable to join the League at this time, but enclose a contribution of \$ _____

Name _____
 Address _____
 City, State, Zip _____
 Phone (hm) _____ (wk) _____
 E-Mail (for Action Alerts) _____

Please send to:
 Sybil Wiegman, Treasurer
 2805 SW Tall Grass Dr.
 TOPEKA KS 66614-6026
 785-478-1679

Make checks payable to League of Women Voters of Topeka-Shawnee County