

March 11, 2024

To: Kansas House Committee on Local Government

From: Carl R. Wood, County Commissioner, Jim Emerson, County Counselor

Subject: Proponent of SB162

Chair Bergquist and Committee Members:

I am here today to speak in support of Senate Bill 162 on behalf of the Board of Crawford County Commissioners. This bill will give Crawford County and Riley County the ability to abate nuisances and place a special assessment against property in violation of a county nuisance resolution while providing important due process protections for property owners.

Historically, counties used home rule resolutions to abate nuisances. These resolutions were patterned after those found in cities where a city has authority to abate a nuisance, bill the taxpayer and if the bill is unpaid, place a special assessment against the property. Counties operated under that same system until 2012 when the Kansas Court of Appeals decided Barnes v Board of County Commissioners of Cowley County and determined that a County cannot use home rule powers to abate nuisances. The Court ruled that counties must use the enforcement procedures contained in K.S.A. 19-101d which include injunction, fine and/or imprisonment.

As Crawford County has found in the 12 years since the Barnes case was decided, fines and or jail time are inadequate to solve the nuisance problem. In Crawford County we send violation notices by certified mail. If the nuisance remains, we issue the offending party a citation and summons to appear in codes court. If no action is taken to clean up the property the person can be found guilty and fined by the court. This results in a month's long process resulting in a fine to the violator meanwhile the nuisance remains. County Commissioners, the public and county employees charged with enforcing the nuisance code end up frustrated at the lack of progress with these cases because the County's only option is to cite them again in codes court.

This bill solves two problems with the current system. First of all, it provides certainty to the offending landowner and complaining neighbors that the nuisance will be abated either voluntarily (which is always our preferred method) or by the County. Second, once a nuisance is abated it will encourage property owners to keep their property compliant with the nuisance regulations.

Attached to this testimony is a short narrative and pictures of three of the worst sites in Crawford County. I ask for your support of Senate Bill 162. Thank you for your consideration and allowing me to speak today in support of Senate Bill 162. I would be happy to answer questions at the appropriate time.

Property #1

This property has been in violation since early 2012. Several attempts to have him clean-up went ignored until 2015, with the help of the state, the property was cleaned-up and paid for by the state. The cost of this clean-up was roughly \$20,000. After 2015, the property owner proceeded to fill the property up with junk and various debris. The property owner has refused to communicate with the Nuisance Officer. The county has made several attempts to purchase the property and clean it up. This problem is a public health hazard and is beyond what codes court can handle.

Property #1 (Update)

Multiple attempts to serve the property owner for Codes Court were unsuccessful for the first six months of 2023. Property owner was finally served and had his first appearance in July 2023. Property owner has been trying to abate the nuisance; however, this problem is beyond what he can handle and still refuses any offer of purchase. The property continues to be a public health hazard and beyond the scope of what codes court was intended for.











Property #2

This property has been in violation from March 2016 onward. It was partially cleaned-up in early 2017 (by the property owner), but has since become continually worse. The property owner has been in codes court in January 2019, August 2021 and September 2021. (the gap in dates represents the COVID-19 Pandemic when all courts were closed down) The Nuisance Officer is continually sending letters asking them to clean-up, to no avail. In this last year, the property owner has added a second dilapidated camper on the property and another wrecked, inoperable vehicle. The property owner will be summoned for March 2023 Codes Court.

Property #2: (Update)

Since March 2023, the property owner has been in codes court several times. The property owner removed two dilapidated campers and a wrecked vehicle. Abatement was slow but eventually the property was mostly clean and the case was to be dismissed. Instead, the property owner has begun collecting items again, which will result in another summons to codes court. This property has been a nuisance to Crawford County since 2016 and continues to be.

Property #2: (Update)

Since November 2023, the nuisance has grown in size yet again. The property owner is continually placing dilapidated vehicles on the property and accumulating junk and trash throughout the property. Property owner has been to Codes Court since then, and they have no immediate plans to abate the nuisance. This property will become more than what Codes Court can handle if the property owner continues to refuse any compliance.







Property #3

This property became a violation in fall/early winter 2023. The problem started as a wastewater complaint as the property owners' daughter and others started an encampment on the property with a camper and no means of proper wastewater disposal. It eventually became a nuisance complaint as the property and other lands around it were littered with trash/debris that were brought in by the people staying in the camper. Multiple attempts were made by the nuisance officer and county sanitarian to contact property owner. Property owner has been summoned to Codes Court. Property owner did show up for Codes Court and vowed to abate the nuisance. Minimal progress was attempted and they have since ceased any further abatement measures. Due to the scale of the nuisance and possibility of the encampment returning, this could become beyond what codes court was intended.



