



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
*Attorney General*

February 16, 1977

ATTORNEY GENERAL OPINION NO. 77-60

Mr. Frank Johnson  
Shawnee County Counselor  
Shawnee County Courthouse  
Topeka, Kansas 66603

Re: Counties--Sewer Districts--Alteration of Territory

Synopsis: There is no statutory authority for incorporation of all or part of an existing improvement district into an adjacent sewer district or for consolidation of an improvement district with an existing adjacent sewer district into a new sewer district comprising the territory of both so as in any way to diminish the corporate powers of the improvement district.

\* \* \*

Dear Mr. Johnson:

You advise that the Sherwood Improvement District has been organized in Shawnee County pursuant to K.S.A. 19-2753 et seq., whereas Shawnee County Sewer District No. 16 has been organized under K.S.A. 19-2701 et seq. The developers of the area to be serviced by the sewer district have been refused a sewer permit by the Kansas Department of Health and Environment, you advise, on the ground that the development is closely adjacent to the Sherwood district, which has a functioning sewer plant and system. However, the Sherwood Improvement District has refused to allow properties in the territory of the sewer district to connect with its sewerage system and plant.

In order to resolve an apparent impasse, it is proposed that Shawnee County assume jurisdiction of not only the sewer district,

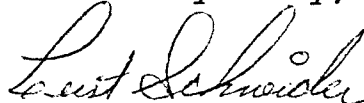
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operates as a county sewer district, but also of the area served by the sewer plant and system of the improvement district. In short, it is proposed to incorporate a larger sewer district which would incorporate the area to be served by both the existing sewer district, and the territory of the Sherwood improvement district, into a new and larger county sewer district organized under K.S.A. 19-2701 et seq.

Upon its establishment, the Sherwood Improvement District became a "body politic and corporate under said corporate name, and shall have perpetual succession." K.S.A. 19-2756. It may be altered only as provided by statute. Several provisions provide for inclusion of additional territory in an existing improvement district (K.S.A. 19-2782); for incorporation of an existing drainage district as an improvement district (K.S.A. 19-2786); consolidation of two adjoining improvement districts (K.S.A. 19-2786a); annexation of all or part of an existing improvement district by a city (K.S.A. 19-2786d and -2786e); and for dissolution of an existing improvement district (K.S.A. 19-2786g). I find no statutory provision for incorporation of all or part of an existing improvement district into an adjacent sewer district, or for consolidation of an improvement district with an existing adjacent sewer district into a new sewer district comprising the territory of both in any way so as to alter or diminish the corporate powers of the improvement district regarding any matter within its lawful authority, including the operation of a sewer plant and system of such improvement district.

In short, I find no authority which would support the proposed incorporation of Sherwood Improvement District into Sewer District No. 16. If further questions arise concerning this matter, please do not hesitate to call upon us.

Yours very truly,

  
CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj