



STATE OF KANSAS

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June 6, 1980

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ATTORNEY GENERAL OPINION NO. 80-120

Thomas W. Stockwell
City Attorney
Suite 302
United Kansas Bank & Trust Bldg.
Highway 50 at Antioch
Merriam, Kansas 66202

RE: Cities and Municipalities -- Planning and Zoning --
Salaries or Expenses for Commission Members.

SYNOPSIS: The governing body of any city which by ordinance has created a city planning commission for such city in accordance with the provisions of K.S.A. 12-701, et seq., may pay a nominal salary to members of its planning commission or in the alternative pay members' expenses incurred coming to and from meetings as well as going to on site inspections relating to property that is subject to an action before the planning commission when such governing body has complied with the provisions of K.S.A. 12-706. Cited herein: K.S.A. 12-701, 12-706, 79-2925, et seq.; Article 12, Section 5, of the Kansas Constitution.

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Dear Mr. Stockwell:

You request our opinion on whether or not a city of the second class may pay a nominal salary to members of its planning commission or in the alternative pay members' expenses incurred coming to and from meetings as well as going to on site inspections relating to property that is subject to an action before the planning commission.

As noted in the synopsis, the city planning commission is formed pursuant to K.S.A. 12-701. Therefore, we would direct your attention to K.S.A. 12-706 which states in pertinent part:

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"On or before the first Monday in July of each year the city planning commission shall prepare and submit to the governing body of the city its budget of expenditures for the ensuing budget year, itemizing the expenses and amounts and the purpose. The city governing body shall thereupon consider said budget and make such allowances to the said city planning commission as it shall deem proper including funds for the employment of such employees or consultants as the governing body may authorize and provide and shall add the same to the general budget of such city"

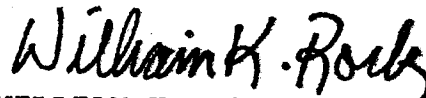
While K.S.A. 12-706 does not expressly provide for the payment of budget items such as nominal salaries or travel expenses, one should also consider Article 12, Section 5, of the Kansas Constitution concerning cities' powers of home rule. Under Article 12, Section 5, of the Kansas Constitution, cities are empowered to determine their "local affairs and government" as they deem appropriate, except as limited by uniform enactments of the legislature. Although K.S.A. 12-706 contains no express provision for payment of budget items as noted above, cities may so provide for same here in the exercise of their constitutional authority.

However, when budgeting items per K.S.A. 12-706, it is important to additionally satisfy the requirements of the Kansas Budget Law as contained within K.S.A. 79-2925, et seq. Thus it is our opinion that a city governing body may authorize either salary or expenses as the case may be for its members of the planning commission when proceeding consistent with the statutory provisions cited herein.

Sincerely,



ROBERT T. STEPHAN
Attorney General of Kansas



WILLIAM K. RORK
Assistant Attorney General

WKR:vls