



STATE OF KANSAS

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May 2, 1991

ATTORNEY GENERAL OPINION NO. 91- 47

Charles D. Kugler
Attorney at Law
10 Cambridge Place, Suite 200
10 E. Cambridge Circle Dr.
Kansas City, Kansas 66103-1334

Re: Roads and Bridges; Roads -- County and Township
Roads; County Road Unit System -- Maintenance of
Former Township Roads in County Road Unit System

Synopsis: Townships within counties which have adopted the
county road unit system have no authority to
maintain former township roads. Responsibility for
road maintenance of all roads within the county
road unit system lies with the county. If a county
considers removal of dead animals from roads to be
a part of road maintenance, such removal should be
done uniformly throughout the county. Cited
herein: K.S.A. 1990 Supp. 68-516; K.S.A.
65-516a; 68-516b

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Dear Mr. Kugler:

As attorney for Prairie township you ask our opinion regarding
maintenance of roads within Prairie township. Specifically
you ask, as between Wyandotte county and Prairie township,
which entity has the legal responsibility for removing dead
animals from the roads within Prairie township.

You inform us that Prairie township is located within Wyandotte county. We are further informed that in 1974 Wyandotte county adopted the county road unit system. As we stated in Attorney General Opinion No. 85-132:

". . . K.S.A. 68-515(b) through 68-518 sets forth the procedures for the adoption, application and abandonment of the county road unit system. Upon adoption of the system, all townships within the county are to relinquish to the board of commissioners all money and equipment accumulated by them for road construction and maintenance purposes. K.S.A. 68-516a and 68-516b. Thereafter, townships within counties adopting the county road unit system have no further authority to construct or maintain any roads, even those within the boundaries of the township. See also K.S.A. 1984 Supp. 68-526."

Once a county has adopted the county road unit system, "township roads" no longer exist. See K.S.A. 1990 Supp. 68-516. Maintenance of what were formally township roads is no longer the responsibility of the township but becomes the responsibility of the county which has adopted the county road unit system. Neither Kansas statutory nor case law define the parameters of what is encompassed by road maintenance. Therefore, it is a matter of discretion for county determination after taking into account equipment, budgetary and liability concerns.

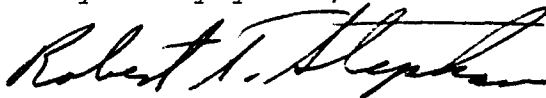
Assuming that a county determines it is either necessary or appropriate to remove dead animals from its roads, that responsibility should be carried out throughout the county. There is no rational basis for a county to remove dead animals from some of its roads but not from other of its roads. Therefore, to answer your question, if Wyandotte county has determined to remove dead animals from county roads, that should be done uniformly throughout Wyandotte county for all roads under the authority of the county.

In conclusion, as between Wyandotte county and Prairie township, it is the responsibility of the county to keep its roads maintained. If the county determines that removal of

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dead animals from its roads is a part of its road maintenance program, such removal should be conducted uniformly throughout the county.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Camille Nohe
Assistant Attorney General

RTS:JLM:CN:bas