

**Wind and Prairie Task Force
Minutes, April 2, 2004**

The meeting was called to order at 10:12 a.m. on Friday, April 2, 2004, in the Kansas Technology Enterprise Corporation, 2nd Floor Conference Room, 214 SW. 6th, Topeka, Kansas, by Jerry Karr and Jerry Lonergan, Co-Chairs.

Present:

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| Rose Bacon | rancher |
| Claude Blevins | county zoning administrator |
| Sheila Frahm | Natural Resource Legacy Alliance |
| Jan Jantzen | tourism |
| Jerry Karr | farmer |
| Jerry Lonergan | Kansas Inc |
| Jim Ludwig | Westar |
| Alan Phipps | county commissioner |
| Alan Pollom | Nature Conservancy |
| Richard Porter | rancher |
| Richard Seaton | Audubon of Kansas |
| Jennifer States | JW Prairie Windpower |
| Don Stephens | rancher |
| Joseph Stout | rancher |
| John Strickler | Natural Resource Legacy Alliance |
| Monty Wedel | county planner |
| David Yearout | planning consultant |

Technical advisory group - Ex officio members

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| Niki Christopher | attorney |
| Ryan Dyer | Chair, Prairie Band Potawatomi Energy Committee |
| Bruce Graham | KEPCO |
| Mike Irvin | Kansas Farm Bureau |
| Ward Jewell | professor of electrical engineering at WSU |
| Robert Robel | professor emeritus of biology at KSU |

Staff

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| Lee Allison | SERCC Chair, Kansas Geological Survey |
| Liz Brosius | SERCC chief of staff, Kansas Geological Survey |
| Melany Miller | Task force secretary, Kansas Geological Survey |
| Ken Nelson | Kansas Geological Survey |

Agenda**WIND and PRAIRIE TASK FORCE***Agenda: Fifth Meeting – April 2, 2004*

Kansas technology Enterprise Corporation - 2nd Floor Conference Room

214 SW 6th - Topeka, Kansas (*same location as the first meeting*)

Parking (for task force and advisory committee members only) in lot at 6th and Van Buren (you will need to provide your vehicle license tag number to Ann Marshall to avoid ticketing).

http://www.kansasenergy.org/sercc_wptf_meetings.htm**10:00 Welcome and Introductions**, Jerry Karr and Jerry Lonergan, co-chairs**10:10 Review of Agenda****10:15 Committee Reports and Task Force Discussion****Land Leasing**, Richard Porter**Land Trust**, Joe Stout**Siting Guidelines**, Monty Wedel**Mapping**, Jerry Karr and Jerry Lonergan(mapping *did not* meet but update for task force)**Lunch** - Task Force will break for 1-hour lunch on your own (location and menu of selected restaurants will be distributed at meeting)**2:00 Presentation, Suggestions, and Discussion of Options Available for Wind Farm Development in Kansas**, Manhattan Carpool Riders, Jerry Karr, and Jerry Lonergan**3:00 Next Steps - Planning for Public Hearings****3:30 Adjourn***Times are approximate***Welcome and Introductions**

Jerry Karr opened meeting with a couple of announcements, comments:

- Governor will be in Cottonwood Falls, County Fairgrounds, April 6, to discuss proposed changes at National Tallgrass Prairie Preserve. There will be discussion groups on tourism, Z-Bar master plan, land trusts, but not on wind power.
- Later today will discuss types of open hearing meetings in the Flint Hills area (specifically, Butler County).
- The WPTF listserv serves as a large open meeting, allows us to receive mass amounts of e-mail from various places. These meetings are also open and minutes are posted. Reminder that listserv participants should be fair and polite to all members of the listserv.
- Regarding criticism directed at Jerry L and me about our visit to proposed site of wind farm near Alta Vista, this was one of many meetings we've attended as we try to sort out what wind power is about, understand the issues in the Flint Hills.
- Today's meeting focuses on task force direction. We have not scheduled any outside speakers.

Jerry Lonergan commented on the listserv, said he didn't want any task force members to feel harassed. Task force decided it didn't need a task-force-only listserv.

Committee Reports and Task Force Discussion***Land Leases Report***

Richard Porter distributed a draft document, "Guidelines for Kansas Landowners in Creating and Negotiating Equitable Wind Energy Leases," prepared by their committee (which also included Scott Ritchie, Roger McGowen, and Bernie Nordling). Porter noted that these guidelines were written more from the landowner's perspective, to give guidance to landowners.

Karr: This does not replace the landowners choice; it may be helpful to the landowner's attorney. Any questions for Richard?

Sheila Frahm asked if this document would be an appendix to our report. This was thought to be a good suggestion, once task force had adopted lease guidelines. Karr noted that this would be the kind of document it would be good to make available at the public forums.

Alan Pollom suggested that lease guidelines might be something that wind developers be required to distribute, similar to information provided with a mortgage lease, advising landowners not to sign anything until they've reviewed lease with attorney.

John Strickler asked if any of the wind developers had looked at the draft document, and Porter said they'd just completed it last night, so hadn't had time. Jennifer States commented that it will take some time to review and get comment from legal advisors about language.

David Yearout raised the question of whether the task force wanted to produce a model lease agreement. Porter said their committee felt creating a model lease would be more difficult, than providing guidelines for landowners to consider before entering a lease. States commented that financing language is very specific for each lease and indicated that guidelines would be more workable than a model. The guidelines could be an effective tool.

Karr reminded task force that this document could also be used outside the Flint Hills.

States expressed concern about endorsing lease guidelines without speaking with other wind power developers, and Karr responded that this document is now public record. Perhaps they will see something that we did not see and could give some input.

After some discussion about how best to circulate draft report (which touched on open meeting requirements), task force agreed that Porter would send his file to Brosius, who would make sure it was clearly marked "DRAFT" and then email to task force members and put a PDF version on web site.

Karr asked task force members to send their suggestions to Richard Porter or other committee members in the next two weeks (before 4/16 meeting).

Land Trust Report

Karr referred to the report on land trusts given by Joe Stout and Alan Phipps at last meeting and encouraged task force to direct any questions about conservation easements, etc., to Stout and Phipps.

Pollom noted that the key element was lack of funding, said Kansas was well behind the curve nationally in having funding available for purchase of lands and had reported this to the Governor.

Strickler raised idea of using the chickadee wildlife funds for such purposes, noting they'd want to check with Governor's staff before recommending. Natural resources have always been fee funding. Wind energy might be a tool for generating fees.

General discussion concluded that for conservation easements to be a successful strategy for preserving land, funds would be needed. Pollom said he could reproduce the report of what is happening elsewhere in the nation; we need this type of funding.

Siting Guidelines Report

Monty Wedel distributed draft outline of siting guidelines and presented report for the committee (which include Claude Blevins, Dave Yearout, Don Stephens, John Strickler, Mike Irvin, Alan Pollom, and Jan Jantzen).

Wedel said their committee came up with a skeletal outline of their approach, dealing with zoned and unzoned counties separately. Outlined a few options for unzoned counties to consider (ranging from adopting zoning or using building codes or permitting process to regulate some aspects to letting landowners decide). The discussion of what options were available to unzoned counties raised a few questions that committee was going to follow up on.

For zoned counties, a number of guidelines and questions were presented. Again, rather than trying to adopt a model set of guidelines, committee recommended listing issues and referencing counties that have already worked through it as examples. Also talked about possibility of regional or state oversight.

Karr commented that the committee used the current situation in Wabaunsee, Butler, and Riley counties as a basis to develop their questions. This draft siting guidelines document begins to address task force charges #2 and #3.

States noted that at windpower conference, there was discussion about other states that have such guidelines; these might be useful.

Jim Ludwig asked how many counties have zoning and was given map that Yearout had presented at earlier meeting. Wedel noted that some of the zoning wasn't countywide.

Niki Christopher commented that she would expect that local elected officials would want to be making policy decisions, setting the standards, rather than transferring authority to the state.

Yearout commented that many counties that have zoning today, went through through the process in response to a perceived threat from development (e.g., hog farms). They learned they cannot pass the buck upwards, if you want to control the outcome of the decisions.

Christopher concurred that state agencies are enforcers, not policy makers. KCC is only a statutory body, can only act as far as the state will allow them.

Following general discussion of zoning issues across state, Pollom noted that people in unzoned counties don't want to be zoned until something threatening comes along. Yearout adds that it also comes from a desire to also restrict one's neighbor's private property rights.

Strickler asked if anyone saw a change in how the general public felt about local control vs. state control, saying he assumed that counties still wanted to minimize state control, that he didn't sense a general openness to the state stepping in. Ludwig noted that state intervention on wind energy had failed up to this point.

States asked what would be the next step on siting guidelines, and Wedel said the committee would work on a revised draft and then get that out to the task force for review.

Additional discussion of scope of guidelines, whether task force should consider development other than wind energy, and difficulty of regulating any development in unzoned counties. Karr noted that preservation of tallgrass prairie had implications outside wind development.

Alan Phipps noted that Chase county doesn't see wind as a negative issue, but hog farms probably would be.

Lonergan distributed another draft document, "Options Available to Address Issues Related to Wind Resource Development in the Flint Hills and All Kansas." Karr asked task force to consider these four options over noon hour. Summarized options briefly.

Mapping Report

Ken Nelson, from the Kansas Geological Survey, gave a short presentation of online GIS mapping tools and answered questions from various task force members. The goal is to have a web-based tool available for demo at the public forums.

Break for lunch at 12:30.

Reconvene at 1:30

Options Available for Wind Farm Development

Co-chairs passed out more detailed handout on four options, ranging from "building a fence around the Flint Hills" to the status quo—that is, counties deciding for themselves.

Option 1

Dick Seaton outlined Option 1, "Total Flint Hills Preservation," which was developed by Seaton, Wedel, Strickler, and Irvin. This proposal was divided into several parts—basis, goal, qualifications, and implementation strategies—and would essentially preclude wind farms from the Flint Hills ecoregion, as defined on 2001 USGS Map, Ecoregions of Nebraska and Kansas.

Task force discussed need to define commercial wind development, whether it would include smaller, distributed systems, such as those proposed for Winfield and other smaller municipalities.

Much discussion about whether fencing off the Flint Hills was politically feasible or advisable: would the legislature approve the state taking on this much control? Would people living in the Flint Hills want to see such decision-making authority transfer from local government to the state?

Additional comments in response to Option 1 included:

- Walling off Flint Hills is of such importance, for tourism potential, that state should provide matching funds to help build this.
- One option is to go into protected region, Flint Hills, use money to leverage, where needed, so landowners not out of loop, and promote tourism. Second option is to transfer of development rights, can only be done in statewide permitting process.
- Not sure it's a good thing to get into business of compensating people for lost opportunity.
- Flint Hills is a unique area, but there are other areas in the state that are also unique. I don't think we should focus just on Flint Hills. I don't think this will fly in the legislature.
- What about the transmission system? Not realistic to think we would have the transmission systems upgraded in 1-3 years?
- Our charge is to exploit wind energy and preserve tall grass prairie. We're defeating ourselves if we say the only place we can do this is in the Flint Hills.
- Speaking of tradeoffs, if we were trading the Flint Hills for an appreciable amount of energy from wind development ... but according to Les Evans, wind energy currently provides less than 1% of our energy in Kansas. We need to look at what we are trading our Flint Hills for?
- We are attempting to take privately owned land and turn it into public land. We are saying it is important to public. We don't have money to do it. So lets hurry in and save it from them before they destroy it.
- If the federal government puts in place the production tax credits for another 9 years, that would strengthen growth...the public is making a large investment and should have some say in this.
- Farming is subsidized, but there are lots of strings on what you can do. The public has a right to say something about wind development.
- One concern to those opposed to wind in the native grasslands is that future (non-wind) developers will say you are not preserving the prairie, we are going to take some of it.
- Important to remember that technology is always changing. Look at all of KS. Five, ten, twenty years down the road to see what impact this will have on the areas.

More discussion on the subsidies to wind energy vs. the subsidies for traditional energy sources (oil, gas, nuclear). Karr noted that if subsidies for the oil industry were removed, we'd probably be paying \$5 a gallon at the pump. It was a policy decision that we wanted cheap energy.

Option 2

Lonergan presented Option 2, "Protect Areas Identified as Having Unique Value," stating that he tried to follow same format as the Manhattan folks used in Option 1. This option sets aside some areas we don't want to touch, calls for a buffer zone.

States asked what was the basis for the 7-mile buffer zone, and Lonergan said this seemed to be the generally agreed upon distance for protecting viewshed that he found on web sites.

Karr noted that this option identified areas of the Flint Hills that get the most traffic—I-70 and Turnpike—as a way to present the Flint Hills to the maximum amount of people. Other areas in which wind development would be prohibited include Z-Bar Ranch (National Tallgrass Prairie Preserve), Konza Prairie, scenic byway between Council Grove and Cassoday.

Question was raised about whether Nature Conservancy map of untilled areas was equivalent to untilled prairie. Pollom said yes, anything in the Flint hills is mostly untilled prairie.

Ludwig questioned whether it might make sense to encourage development along major highways, thus minimizing fragmentation of wildlife habitat. Might make more ecologic sense.

Wedel raised the question of what are we prepared to do to get tourism to develop if we're going to keep the wind development out?

Jantzen wondered if maximum traffic by headcount is the primary area to preserve? Turnpike viewers get an impression, so this is a promotional thing. But if they get off the turnpike and don't have anyplace to spend their money, what good will that do?

Wedel reiterated that we need to develop area for tourism as well in order to benefit from this.

Bruce Graham questioned idea that tourism is increased by leaving it native along highways. Put the turbines along the highways and leave the pristine areas alone. Let the turbines bring tourist in along the highways and develop along the major roads.

Seaton asked what was the enforcement mechanism with this option—how do you prevent a wind company from coming in to develop in that area? Lonergan said it was up to the landowner.

Jan Jantzen pointed out that there were many tourism businesses already in Flint Hills.

Option 3

Christopher outlined Option 3, "Regulation of Commercial Wind Power Siting by the KCC," an option she was asked to develop by the co-chairs. She noted that wind farms are usually part of a utility or have a contract with a utility. Currently KCC does not regulate most of these utilities and would have no say in siting these plants. It would take legislative action for KCC to become involved in this.

If siting wind farms were to become part of the KCC jurisdiction, this would have to be explicitly spelled out. Decide which kind you are bringing under the jurisdiction of KCC. What extent are the legislators going to be involved in decision making. Don't want KCC making the decisions.

Following some discussion about implications of having KCC take on this role, task force agreed that this was probably not an option they'd want to recommend.

Option 4

Karr outlined Option 4, "Primary control of wind development and prairie preservation should be based upon local control, free market forces, and private property rights with state control or regulation based upon health and environment concerns and the need to enforce federal laws."

Strickler came back to question of what the county commissions have in way of authority in unzoned areas. This is a critical question; if we can reach a resolution on this, this might change attitudes.

Karr commented that the much of the loss of farm and ranchlands is probably from urban and housing development. If you are serious about preserving prairies, ban people from building houses in the prairies.

States noted that wind farm development can help keep the land in the farmers hands.

Yearout said that land may not remain in agricultural use. Concern about trying to retain Flint Hills region for tourism potential takes us back to private property rights. I think it has to be in a zoning process to make it work. Commented on the agri-tourism opportunity zone; only able to do that by walking through the zoning process. If approved, it would create a buffer around that agri-tourism area. It is not a permanent thing. If the land owner wants to protect their area, you have to perform in order for that zoning status to remain. You must develop the tourism. It is initiated by the local landowners themselves.

Rose Bacon noted if you are going to preserve the Flint Hills, you have to develop. You have to make it work. You have no guarantee. Landowners are complaining they are going to lose their land if they do not develop it. If we don't change things, pitting one against the other, they all may end up in court.

Karr noted that Option 4 is the current reality: if there is no changes, this is the way it operates. It does not address if you want to preserve farmland.

Option 5

An additional option developed by Lee Allison, "Incentives to Promote Wind Development into Preferred Areas," was distributed to the task force for their review and comment.

Next Steps—Planning for Public Hearings

Karr opened the discussion of public hearings. Brosius circulated an ad for public involvement workshops from Oklahoma.

Karr suggested that task force could present to the public a package on land trusts and some options, have some maps that relate to the areas, etc. Porter and Ritchie could have info related to leases and people could ask questions. An area for public to interact with the task force members and let them have some discussion with public. We need to be able to hand them something: here are the land lease guidelines.

Brosius pointed out the ad as a model for a public hearing and asked if there was a consensus on how many public hearings we need to have?

Karr suggested Butler County. Jantzen suggested holding meeting in unzoned counties.

Agreed that co-chairs would try to find dates and locations for 2 public forums. Task force will flesh out details of public forums at next meeting on April 16.

Karr announced that next meeting would be on April 16. Public forums will be held in late April or early May, and then on either Monday, May 10 or Tuesday, May 11, Ted Eubanks can come back to present his report on Flint Hills tourism.

Bacon asks if we can get David Hartnett from Konza to present on science of tallgrass prairie. Karr noted that he's not been available for past meetings, but will try again.

Discussed viewing film on tallgrass prairie or perhaps a shorter version of it, in addition to or in place of presentation from prairie expert. Strickler said he didn't think we needed such a presentation, given the short time before report is due. Will it answer all of these questions?

Strickler suggested that at the public forums, it might be good to have a powerpoint presentation that gives key issues of private property rights, etc. so we don't have to listen to people saying the same things over and over.

Karr repeated that we need to have prepared materials to pass out. Get written feedback.

Frahm noted that this would become the primary beginnings of the report.

Karr noted that we will discuss Option #5 at next meeting.

Adjournment:

Meeting adjourned at 4:11 pm on Friday, April 2, 2004. The next meeting will be April 16 at a location to be announced, 10 am to 3:30 pm. Mark calendars for the May 10, 11 as well for possible meeting dates.

Minutes submitted by: Melany Miller, WPTF Secretary

Minutes approved by:
