

Approved: 4-4-97
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson David Corbin at 8:06 a.m. on March 21, 1997 in Room 254-E of the Capitol.

All members were present.

Committee staff present: Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Sub for HB 2331- Solid waste permits; requiring certification that facility is consistent with official solid waste plan.

Chairperson Corbin called attention to information from Greg Ferris, council person from the city of Wichita opposing Sub for HB 2331 that had been distributed (Attachment 1).

The hearing on Sub for HB 2331 was closed.

Chairperson opened the committee discussion on **HB 2219 - certain federal standards inapplicable to small exempt landfills.**

Senator Morris distributed an amendment on HB 2219 that would add a new section (k), the language would state all plans and specifications submitted to the department for new construction or new expansion of confined feeding facilities may be, but are notp required to be, prepared by a professional engineer or a consultant. This issue was addressed previously in SB 120 passed by this committee and also the full Senate (Attachment 2). Committee discussion followed. Senator Morris moved the amendment be adopted. Senator Huelskamp seconded the motion. Motion carried. Senator Morris then moved that HB 2219 be passed as amended. Senator Huelskamp seconded the motion. The motion carried.

Sub for HB 2331 - concerning solid waste permits - Furley/Wichita bill.

Chairperson Corbin opened the floor for discussion on the bill. Senator Karr mentioned that Bill Bider had distributed a balloon copy of the bill asking for an amendment on page 4, striking all of (I), and adding a new paragraph (I). Staff explained that the amendment was to make sure that land being considered for a solid waste management facility was consistent with the plan that the property was zoned properly, certification by the local planning and zoning authority that the processing facility or disposal area is consistent with local land use restrictions, or if the location is not zoned certification form the board of county commissioners that the facility of disposal are is compatible with surrounding land use. Senator Karr moved to adopted the proposed amendment. Senator Biggs seconded the motion. The motion carried. Senator Biggs than moved that HB 2331 be passed as amended. Senator Huelskamp seconded the motion. The motion carried.

Sub for HB 2140 - Energy efficiency of new structures; adopting certain standards.

Senator Morris moved to amended the bill to elimtate manufactured home construction. A balloon copy of the amendment was distributed (Attachment 3). Senator Schraad seconded the motion. Motion carried. Senator Huelskamp made a motion Sub for HB 2140 be passed as amended. Senator Tyson seconded the motion. Senator Karr made a substitute motion to table Sub for HB 2140. Senator Biggs seconded the motion. The motion carried.

HB 2307 - Nonresidents eligible for deer permit each year.

Senator Tyson made a motion to amend the bill to include the amendment offered by the Kansas Livestock Association when they testified. The amendment would permit the landowner or tenant to sell their permits for an amount in excess of the cost to the landowner. Senator Huelskamp seconded the motion. Staff pointed out "tenant" needed to be added after landowner in the amendment. Senator Tyson said that was included in his amendment.. The vote was taken and the motion carried. There was some discussion if the definition of collateral ascendant or descendants needed to be struck. Staff was called on to clarify the current status of the bill as amended. Senator Tyson moved **HB 2307** be passed as amended. Senator Pugh seconded the motion. Motion carried.

The meeting adjourned at 8:30 a.m.

The next meeting is scheduled for March 24, 1997.

SENATE ENERGY & NATURAL RESOURCES
COMMITTEE GUEST LIST

DATE: 3-21-97

NAME	REPRESENTING
D. Holman	Western Resources
Tom Bruno	Allen & Assoc.
Martha Jean Smith	KMHIA
STEVE KEARNEY	WMX
Mike Taylor	City of Wichita -
Charles Bergman	KS Sierra Club / KNRC

THE CITY OF WICHITA



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TESTIMONY

Senate Energy and Natural Resources Committee

Re: House Bill 2331

Testimony Delivered by Greg Ferris
City Council Member, District V

Dear Senator:

On Friday, March 21, 1997, you will be considering HB2331. There has been a lot of misinformation concerning the land in Northeast Sedgwick County. I was the lead Wichita City Councilmember regarding that land acquisition and the waste management issue, at the time. I would like to give you my understanding of the events.

The process started when it was determined not to build a landfill next to the current Brooks Landfill. Had we pursued that landfill, all of this discussion would be moot. Certain members of the City Council believed the groundwater was not deep enough, and the soil too sandy for a landfill. Based on this the Wichita City Council hired a consultant to determine the best place for a landfill. The following criteria were established by the Council:

- The site needed to be in an area where groundwater was deep beneath the soil.
- The site needed to be in an area of Sedgwick County where the soil was not sandy, but had a high degree of clay.
- The site could not be near an airport.
- The site should be in an area where population density was low, so as to affect the least number of people possible.
- The site needed to be near a major highway.
- The preferred amount of land was 1000-1500 acres, 400-500 acres for the landfill, and the rest for buffer.

After these criteria were established, a map of Sedgwick County was published showing the possible areas that meet these criteria, and it was presented to the Wichita City Council in a public workshop. The Council endorsed the map, and instructed the City Manager to accept offers on land in those areas. The map was published on the front page of the Wichita Eagle.

Sen Energy & Nat Res.
2-21-97
Attachment 1



Made with Recycled Paper

The Council instructed the City Manager to take any proposals given to the city to the consultant for evaluation. I received calls from realtors wanting to know the process. All were told to forward any offers to the city for evaluation. We received six offers over a three to four-month period. One proposal was from Venture Land and Trust through Weigand Real Estate office, for land near Furley in northeast Sedgwick County. While it was in the proscribed area, the land was rejected, because it had a creek running through the property. The other sites were also rejected for a variety of reasons. None of these sites was rated good by our consultant, meaning the sites did not meet all of the above criteria.

The representative from Weigand, Joe McFall, met with me and the City Manager. He was told the site was rejected. He asked if we were still interested, and we told him we were, if the criteria were met. Three weeks later the city was presented with another parcel in the same area. Our consultant evaluated the site and found it met all the criteria. This land was brought to the Council in executive session, under state statutes allowing the discussion of the purchase of real property for public purpose in executive session. When we returned to open session, a motion was made to authorize the City Manager to spend up to \$50,000 for options for land for waste disposal. This was made with reporters in the room, and in open session.

The committee of staff and two Council Members determined that anything less than \$4-5,000 per acre would be reasonable to pay for this land. This was based on the following reasons:

- The city recently paid between \$2-6,000 per acre for park land and land for a drainage project approximately the same distance outside the city limits.
- The price paid for the land next to Brooks Landfill was \$3,000 adjusted to the current rate.
- The cost of land at this price was less than 2% of the projected cost of the landfill.
- If the city had to condemn land for this purpose, litigation would cost much more.

The land was purchased for between \$1,890 to \$3,480 per acre based on the location, and whether it had improvements. This land was purchased from Venture Land and Trust, through J. P. Weigand Company. The city later secured options for two other parcels from two separate owners for \$3,000 and \$3,500 per acre.

Venture Land and Trust was later found to be owned by George Laham. While I knew Mr. Laham was involved, I did not know the ownership of Venture. Mr. Laham assembled the land under a different name because of his desire to avoid the threats that had been associated with another such parcel. His total income from the project was a 6% real estate commission after his

expenses. The city has had the opportunity to audit his records and concur that except for expenses and real estate commissions all of the money went to the property owners.

There seems to be some statements that none of the property owners knew this land was for a landfill. I have spoken to Mr. McFall and Mr. Lahan and they told me that every seller knew that this was for a landfill. This is born out by the fact that the city asked for a 30-day extension on the options after the media had published the tracts and price. Not one parcel owner refused to extend the options, which was purely at his/her discretion.

You may ask why did the city get options instead of purchasing the land outright. The City of Wichita was doing a detailed analysis on waste management. We were still the designated responsible party by the County Commission for solid waste in Sedgwick County. Landfilling has been the selected method of waste management; however, we had chosen to evaluate all options. The only way to correctly evaluate all options, was to have a site to evaluate. We had not, however, received the final cost analysis on the other options. We, as a city, had determined not to make a final decision until all of the information was received. No one was coerced into selling. They all had the right to back out 30 days after signing the first option. The City authorized every step of the way in a public meeting. Everyone had an equal chance to present proposals for land to the city for evaluation.

I could spend many pages on the details of how this was done in a very open manner. I personally held three news conferences to answer every question about this issue. I believe the city acted in a responsible manner. The only people who made money on this were real estate agents who made a fair commission, and land owners who owned very valuable land.

I apologize for spending so much time on the background; however, I feel it was important for you to hear the other side. My primary reason for this letter is to encourage you to vote against this bill. Mike Taylor has testified regarding many of these reasons, all of which I agree. There may have been some points on which he did not elaborate. Please let me point these out.

If this bill passes, technical stipulations could be imposed by elected officials instead of by experts from KDHE or EPA. If a county's solid waste plan calls for extra or unnecessary additions to Subtitle D landfill regulations under this legislation it would be necessary to comply. Regardless of what any regulator or expert would say, no variance would be allowed. This would result in added expense with no logical reason. This is in effect a hidden tax.

Under current law the only way a variance could be granted is if there was some unusual compelling reason for it to happen. The Secretary of KDHE has already informed the city it would take some very drastic measure for a variance to be granted. This is a form of check and balance to keep any elected officials from being arbitrary. Almost all state law is written in

Page 4
Testimony HB2331
March 21, 1997

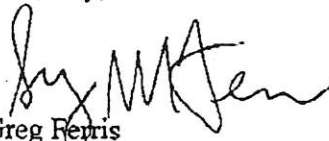
ways to keep this from happening. This law would eliminate any check and balance.

This is clearly a situation that is local in nature. Is it in the best interest of the legislature to involve itself in every local matter? With the overwhelming number of important statewide issues, this could set a precedent for using the legislature to resolve local issues. This certainly has not been the practice of the legislature in the past, and couldn't possibly be of benefit in the future.

There is no evidence that the system is broken. KDHE has never been faced with a situation of this nature. No county has brought something to the legislature saying this was an issue. Even Sedgwick County's current plan calls for landfilling as a possible solution. The City of Wichita is meeting regularly with Sedgwick County to make sure resolution takes place at the local level. There simply isn't any reason for the legislature to concern itself at this time.

I chose to send written remarks rather than appear in person due to the lateness in the session. I know how valuable your time is this time of year. God speed in resolving the tough issues left before you. Please let me know if I can be of any help.

Sincerely,



Greg Ferris
Council Member
District V

GF/ph

Amend into House Bill 2219 the following:

K.S.A. 1996 Supp. 65-171(d)
add new section (k)

All plans and specifications submitted to the department for new construction or new expansion of confined feeding facilities may be, but are not required to be, prepared by a professional engineer or a consultant.

- This issue was addressed previously in a bill (SB 120) passed by the Senate Committee on Environment and the full Senate.

Sen. Energy & Nat Res
3-21-97
attachment 2

Substitute for HOUSE BILL No. 2140

By Committee on Utilities

2-19

9 AN ACT concerning energy efficiency of new structures; adopting certain
10 standards; relating to powers of the state corporation commission; re-
quiring certain disclosures; repealing K.S.A. 66-131a.

12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) The American Society of Heating and Air Conditioning
15 Engineers/Illuminating Society of North America 1989 90-1 Standard or
16 Code (ASHRAE/IES 90.1-89) is hereby adopted as the applicable thermal
17 efficiency standard for new commercial and industrial structures in this
18 state.

19 (b) The state corporation commission has no authority to adopt or
20 enforce energy efficiency standards for residential, commercial or indus-
21 trial structures.

22 Sec. 2. The person building or selling a previously unoccupied new
23 residential structure shall disclose to the buyer, in writing, the following
24 information regarding the structure:

25 (a) Insulation values (R-value of insulation installed) for each of the
26 following:

- 27 (1) Ceiling with attic above.
- 28 (2) Cathedral ceiling.
- 29 (3) Opaque walls.
- 30 (4) Floors over unheated spaces.
- 31 (5) Floors over outside air.
- 32 (6) Foundation type: (A) Slab-on-grade; (B) crawlspace; and (C) base-
33 ment and percent of basement walls underground.

34 (b) Thermal properties of windows and doors for each of the follow-
35 ing:

- 36 (1) Entry door(s) R-value.
- 37 (2) Sliding door(s) R-value.
- 38 (3) Other exterior doors R-value.
- (4) Garage to house door R-value.
- (5) Window U-value (determined from NFRC rating label or default

41 table).

42 (c) HVAC equipment efficiency levels:

- 43 (1) Heating systems: Gas fired forced air furnace AFUE rating and

, except such structures do not include structures which are subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403,

Sen Energy & Nat Res
3-21-97
Attachment 3