

MINUTES

DISASTER RELIEF AND RECOVERY SPECIAL COMMITTEE

October 26, 2007
Room 514-S—Statehouse

Members Present

Representative Lee Tafanelli, Chairperson
Senator Ruth Teichman, Vice-Chairperson
Representative Louis Ruiz, Ranking Minority Member
Senator Janis Lee
Senator Roger Pine
Senator Derek Schmidt
Representative Richard Carlson
Representative John Faber
Representative Dennis McKinney

Staff Present

Kathie Sparks, Kansas Legislative Research Department
Amy VanHouse, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Bruce Kinzie, Office of the Revisor of Statutes
Gordon Self, Office of the Revisor of Statutes
Jason Long, Office of the Revisor of Statutes
Judy Swanson, Committee Assistant

Conferees

Don Moler, League of Kansas Municipalities
Keith Osborn, Executive Vice-President & General Manager, Refining and
Marketing, Coffeyville Resources
Bill Chornyak, Deputy Director of Kansas Department of
Emergency Management
Dr. Daryl Buchholz, Associate Director, K-State Research and Extension
Dr. Duane Nellis, Provost, Kansas State University
Jan Cosgrove, Clinical Director, Four County Mental Health
Center, Independence
Sheldon Carpenter, Executive Director of Iroquois Center for Human
Development, Greensburg
Briana Nelson Goff, School of Family Studies and Human Services,
Kansas State University
Charlie Griffin, Research Assistant Professor of Family Studies and

Human Services, Kansas State University
Mitzi Hesser, Kiowa County Health Nurse, Kiowa County Health
Department
Ruth Bardwell, Administrator, Montgomery County Health Department

Others Attending

See attached list.

Morning Session

Chairman Tafanelli called the Committee meeting to order for the purpose of gathering more information about the disaster relief and recovery of the 2007 Kansas disasters. He welcomed all in attendance. He requested members give topics and recommendations they would like included in the final Committee report to Kathie Sparks, Kansas Legislative Research Department.

Jason Long, Office of Revisor of Statutes, presented a summary of Kansas law on unsafe or dangerous structures and abandoned property ([Attachment 1](#)). Kansas law permits a city to repair or remove an unsafe or dangerous structure, or to rehabilitate abandoned property. In order to exercise this authority, the city governing body must follow certain procedures. A city also may rehabilitate abandoned property. "Abandoned property" is defined as any residential real property for which taxes are delinquent for two or more years and which continuously has been unoccupied for at least 180 days. "Rehabilitation" means bringing the abandoned structure into compliance with applicable building codes.

The procedures for declaring property to be abandoned are essentially the same as for unsafe or dangerous structures. There is a process by which a third party organization may obtain temporary or permanent possession of an abandoned property for the purposes of rehabilitating the property and selling it to a new owner, but this process involves several steps. First, a petition must be filed by the organization in the district court. If the court grants possession to the organization, then the organization must file annual reports on the rehabilitation and use of property with the court. The property owner may seek to regain possession by petitioning the court, but if no attempt is made the organization may acquire ownership by either redeeming the property at a tax sale or requesting a judicial deed. Any subsequent purchaser of the property must agree to reside in the home for at least three years.

Unsafe or dangerous structure provisions do not provide for the transfer of any interest in the real property on which the structure is situated. A city's authority only extends to the repair or removal of the physical structure.

Mr. Long then presented a summary of the Eminent Domain Procedure Act ([Attachment 2](#)). An eminent domain proceeding is initiated when the prospective condemner seeking to acquire real property by eminent domain files a verified petition with the district court for the county in which the property is located. The court will set a date and time for a hearing to consider the petition and appoint appraisers. The court hearing serves two functions. First, the court considers the petition and determines whether the petitioner has the authority to exercise eminent domain, and if so, appoints three disinterested appraisers. The appraisers are required to conduct a physical viewing

of the land in question and a public hearing. The statute provides statutory guidance as to how the compensation award should be calculated by the appraisers.

If the condemner pays the compensation award plus court costs, then the condemner may take possession of the property to the extent necessary for the purpose of the taking as set forth in the petition. The clerk of the court must notify the condemnees within 15 days that the condemner has paid the compensation award into the court. If the condemner fails to pay the award into the court within 30 days after the filing of the appraiser's report, then the proceeding is abandoned and no taking is allowed.

Kansas law bifurcates (separates out) the appeal process in eminent domain proceedings. A condemnee may challenge either the authority and purpose of the taking, or the amount of the compensation award, but must do so in separate independent civil actions.

Only those entities expressly granted the power of eminent domain may exercise such power. Statute provides that private property shall only be taken for public use and with just compensation paid to the owner.

During discussion, Mr. Long responded there is no expressed position in the event of a disaster when someone abandons property, for the city or county to clean up the property and resell it. If the property is unsafe it would apply, but abandoned property is another issue. The fair market value would be determined at the time of the taking of the property, not at an earlier time. Without statutory authority, a city could not forgive property tax if the owner turns the property over to the city. Gordon Self, Revisor of Statutes Office, stated these statutes were not written for disaster situations; and, therefore, may not work well after a disaster. In response to Representative McKinney, Mr. Self said if the municipality would acquire the property and holds it rather than sells it, the restrictions would be minimized. Representative McKinney then suggested that putting a time limit for transfer might be a way to possibly make this work.

During discussion, the following answers were provided by staff:

- A city could not lease to a private entity with a future sale.
- Cities and counties do not have the authority to abate taxes.
- Property taxes remain the responsibility of the property owner and transfer with ownership. Taxes are attached to the property.
- ALL tax liability; including back taxes, go with the transfer of ownership.
- If the property is abandoned, it is difficult to determine it to be structurally unsafe.

Don Moler, League of Kansas Municipalities, said Mr. Long did an excellent job of giving a thorough explanation of eminent domain and abandoned property. He testified the problem with eminent domain in a disaster area revolves around property which has been significantly damaged by floods, tornado, or other natural disaster and where the owner of the property has taken their insurance payment, if any, and abandoned the property ([Attachment 3](#)). The real issue becomes apparent when there is an opportunity in a community to rebuild, but they do not have access to the necessary property to allow development to take place. He urged the Legislature to consider allowing, under certain limited circumstances involving disaster areas, for the use of eminent domain to allow for rebuilding of communities and improvement of the lives of the citizens who live within

those communities. He said if no legislation is presented by the interim Committee, the League of Kansas Municipalities will request some of the Legislature, because that is one of the organization's initiatives.

Chairman Tafanelli requested Mr. Moler provide some draft language and work with staff for a bill that would be focused strictly on disaster issues.

Kathie Sparks, Kansas Legislative Research Department, addressed the Committee concerning the posting of conferees' testimony on the legislative website. She said conferees will now be required to sign a release for their written testimony to be posted before testifying. Representative McKinney suggested that all materials submitted to a Committee become a part of the public record due to the Open Meetings Act.

Representative McKinney made a motion to refer the issue of requiring a signed release before a conferee testifies to the Legislative Coordinating Council. Senator Teichman seconded the motion. Motion carried.

Chairman Tafanelli said he will compose a letter and send it to the Legislative Coordinating Council on behalf of the Committee.

Keith Osborn, Executive Vice-President and General Manager, Refining and Marketing, Coffeyville Resources, testified they suffered great devastation by the flooding of the Verdigris River (Attachment 4). With little warning, floodwaters inundated the refinery and nitrogen fertilizer facility and necessitated an emergency shutdown. It normally takes more than 24 hours to shut down a refinery safely, but employees shut down both operations within five hours. Because of the floodwaters, an overflow of crude oil from a tank was experienced.

He said in the recovery of Coffeyville Resources, remarkable progress was made thanks to the skill and dedication of the company's employees and 1,200 contractors brought in to assist with restoring operations.

In coordination with the City of Coffeyville, Coffeyville Resources offered a voluntary Residential Purchase Program for those residents whose homes had been affected by the oil. The company offered to buy oil-affected homes in the area at 110 percent of pre-flood market value as determined by professional real estate appraisers. Through this program, the company purchased 315 of 327 eligible homes. Demolition will begin soon. Throughout the flood disaster and recovery, while the plant was shut down, the company continued to pay employees. The company continues to do all they can to provide assistance to the community.

During discussion, Mr. Osborn addressed Committee members' questions and concerns. The company has shut-down drills for Coffeyville Resources once a year. Twenty-four hours is the federal standard operating procedure for being able to shut down in emergency situations. A tank overflow caused the oil spill. The company has experienced floods previously, but this flood was by far the worst. In addition, the company estimates CO₂ emissions annually to the state and federal governments; working with regulatory agencies involved, and demolition on the purchased houses should begin soon. Mr. Osborn was not aware of the reason the 12 homeowners did not sell their houses to the company. Montgomery County Emergency Planning Committee and Coffeyville Resources have worked together in the past to plan for emergency operations. Unfortunately, there has been a large turnover of personnel which has caused issues.

Chairman Tafanelli thanked Mr. Osborn for his testimony and commended Coffeyville Resources for the efforts they took in working with their workforce and timeliness in getting the plant back up and running.

The Committee recessed from 11:15 a.m. to 1:19 p.m.

Afternoon Session

Bill Chornyak, Deputy Director of Kansas Department of Emergency Management (KDEM), gave an overview of the Kansas 2007 Presidential disasters (Attachment 5). He said the agency has been asked to make this presentation to numerous other states. The first disaster started December 31, 2006 and was a winter ice and snow storm that affected 44 counties. The next disaster was May 4, 2007, when Greensburg was destroyed by a tornado and 41 counties were affected by tornados and flooding. In June, record-setting floods hit Southeast Kansas affecting 23 counties. The current lost estimate of the three disasters is \$447.7 million.

The Greensburg tornado was 1.5 to 2 miles wide, destroyed 95 percent of the town, and had 14 fatalities. The State Emergency Operations Command activated within one hour and the Communication on Wheels (COWs) and National Guard Incident Response Vehicle were deployed. The challenges included being unable to identify who had responded; Incident Command System (ICS) protocol initially not followed; the town was evacuated without accountability for Greensburg citizens; it was too noisy for search and rescue (there were media and spectators from the air); weather warnings continued for three days; and local government officials were unavailable. The primary response issues were no power, fuel, food, water for miles, and no lodging for responders and citizens.

Mr. Chornyak listed what worked and what lessons were learned about transportation, communications, public works and engineering, firefighting, emergency management, housing and human services, resource support, health and medical, search and rescue, hazardous materials, agriculture and natural resources, energy, public safety and security, long-term recovery, and external communications.

The key facts of the tornado were 14 lives lost, hundreds injured, 1,019 homes destroyed in nine counties, over \$500 million in insurance payments for homes and businesses, 32 counties with over \$12 million in Public Assistance (PA) losses, and over \$1 million in Individual Assistance (IA) program payments.

In Southeast Kansas, the key facts were one life lost, 864 homes destroyed in 12 counties, The Individual Assistance amount approved was \$3,769,512, and very few people had flood insurance.

In all three disasters, they found relationships are the key to success. Recovery issues are very complex and not often planned. Documentation is a big issue. However, ICS does work in a disaster.

Committee discussion with Mr. Chornyak was held, and the following points were made:

- Representative McKinney has heard negative comments about the 211 System.

- Senator Teichman said when she heard from the Emergency Preparedness people, they had many concerns calling the Emergency Operations Center (EOC). They could not reach a person but only a recording.
- Mr. Chornyak said calls were not turned over to a live person, and they are working to correct that problem.
- When talking to people in disaster areas, Senator Teichman heard concerns about the lack of coordination of citizen volunteers, and wondered how this could be helped. Mr. Chornyak said that tasking has been given to the Federal Emergency Management Association (FEMA) within the past two months, and he has not had a chance to meet with FEMA and see what their plan is in Kansas. Senator Teichman requested an update from him when he gets this information.
- Senator Schmidt said the potable water was a problem, but suggested that could have been remedied by just putting in pumps. Mr. Chornyak said he would ask engineers to look into that.
- Representative Carlson said the 72 hours that residents were prohibited from getting back to their residences was far too long of a time. The Emergency Response power is very broad, and that was used to keep the people away from their residences and businesses.
- Senator Teichman requested that under Agriculture and Natural Resources, agricultural farmland be added.
- Representative McKinney suggested local officials be given proper identification so they can get back into a disaster area.
- Chairman Tapanelli requested Mr. Chornyak make the formal After Action Reports (AARs) available to Committee members.
- When questioned if his observations will be incorporated into the 2007 Kansas Response Plan, Mr. Chornyak said he gave that responsibility to his staff.
- Chairman Tapanelli requested they keep the 2007 Response Plan in draft form until after the Committee completes its work.
- Chairman Tapanelli addressed the Animal Health Department self-deployment during the disaster because of a major problem with the animals. He asked what Mr. Chornyak was doing to make sure there is an integrated state approach to this, and was told the KDEM is re-educating agencies.
- Identification and credentialing is what needs to be done.
- In response to Representative McKinney's concern over the unanswered email messages, Mr. Chornyak said that WebEOC was working, and if people understood the system, it will work. Committee members agreed the system should then be more user-friendly.
- EOC has morning and afternoon conference calls, and those are made available to the local emergency managers.

- In regard to the many concerns the Committee heard about communication breakdown, Mr. Chornyak said there has to be a simple solution, and they are putting in corrective measures.

In response to Senator Pine's request, Dr. Daryl Buchholz, Associate Director, K-State Research and Extension, gave an overview of how his Department fits in with disaster relief and recovery ([Attachment 6](#)). The Kansas Cooperative Extension Service operates under a federal regulation through the United States Department of Agriculture (USDA). A USDA County Emergency Board exists in every Kansas county with USDA Farm Service Agency, Natural Resources Conservation Service, and the Cooperative Extension Service as mandatory members of that local board. K-State Research and Extension has assigned individuals to serve on these emergency boards.

The K-State Extension process, following the New Year's blizzard, to estimate losses was one of making phone calls to their local offices throughout the affected areas. Some of the information was through the K-State Extension agents and specialists working in the disaster area, and the knowledge they gathered through discussions with farmers, ranchers, veterinarians, feedlot managers, and other reputable suppliers within the livestock industry in that part of Kansas. The estimates of economic impact come from years of data collection and experience. As a component of their education and facilitation function, Extension agents provided leadership in organizing informational meetings. They held meetings in Macksville, Haviland, Kinsley, Parsons, Paola, Independence, and Fredonia following the disasters.

During discussion, Dr. Buchholz said farmers were grateful for these meetings. Senator Teichman commented there were many concerns in the agricultural area concerning the timeliness of getting information quickly. In response to Senator Pine, Dr. Buchholz said low-interest loans, assistance with fencing, and potential for new irrigation systems were offered to farmers. Senator Teichman said insurance companies did not settle on irrigation systems unless the systems were set back up. Fencing relief was only given to Kiowa County, and she felt this should be reviewed. Unfortunately, most assistance stops at the edge of the city limits per Senator Pine, and every time this comes up, farmers are told that farming is not a business which is most upsetting to farmers. During the ice storm, the Extension service did not assist with coordinating services to feedlots. The KDEM was the coordinator.

Chairman Tafanelli requested Dr. Buchholz to communicate with the Congressional delegation on things that need to be changed at the federal level. He then requested he get that information to the Committee so it can be made a part of the Committee's report on recommendations focused from the agriculture perspective. In the current Kansas Response Plan, there is no mention of the Kansas Extension Service.

Dr. Duane Nellis, Provost, Kansas State University, (KSU) presented an overview of the supporting role that KSU played during the recent disasters, and what the University sees as the emerging role of land-grant universities in supporting preparation, response, and recovery from disasters ([Attachment 7](#)). The College of Agriculture provided trees to the City of Greensburg, the College of Arts and Sciences created the Greensburg Community Media Center, and the College of Business is working with others for the design and implementation of an anticipated business incubator in Greensburg. Dr. Nellis said he thought KSU could assist key agency leaders in engineering support, community planning, veterinary and agricultural support, aviation support, and educational support. He requested the Committee explore the best model to manage the relationship between various state agencies and KSU.

Discussion followed, and Dr. Nellis said KSU could perhaps assist school districts by faculty assignments, student teacher assistance, and help with facility planning. KSU has resources under community planning to help businesses prepare for disasters. Chairman Tafanelli said distance education and continuing education could be tapped into at any time, and should be utilized. He also said there is a tremendous education system, but no focus is being put into including those resources in emergency planning. Senator Lee suggested private and public universities come together to work in that area. Senator Teichman said it would be a big help if KSU could help mitigate the cost. Representative McKinney said he thought people who do basic research missed a tremendous opportunity by not being on the ground in the Greensburg area.

Jan Cosgrove, Clinical Director, Four County Mental Health Center, Independence, presented an after action report on community mental health response issues and concerns after a disaster (Attachment 8). The flood in Southeast Kansas cut off many towns from the rest of the region, leaving towns to manage alone. Shelters began to experience problems which can be expected when people are living in very tight quarters, deprived of privacy, and uncertain as to what they would find when allowed to return to their own homes. Getting people their medications was a challenge as the medications they grabbed in the evacuation process began to run out. The Kansas All Hazard Behavioral Health (KAHBH) program had done an excellent job of assisting communities with preparation, but they were not prepared for two natural disasters in Kansas within one month of each other. The majority of KAHBH people have other jobs, so taking more time away from their primary jobs to respond was not an option. Consequently, there was not a large initial response in Southeast Kansas.

Prior to the flood, Four County Mental Health Center had made application to provide Medicaid transportation service. This service went into full force after the flood. There are still unmet needs in the community which they have not had the resources to fulfill, especially housing and transportation. Ms. Cosgrove asked the State to help meet those needs to get the people back on their feet again.

In response to Chairman Tafanelli, Ms. Cosgrove said the mental health centers short-term need is a better calling tree, the mid-term need is assistance with getting people where they need to go, and the long-term need is making sure people in shelters do not have to wait for nine days to get back into their residences.

Sheldon Carpenter, Executive Director of Iroquois Center for Human Development, Greensburg, said his Center serves 425-450 consumers annually (Attachment 9). The Center has grown from four full-time and three part time employees in 1974 to the third largest employer in Kiowa County with over 60 employees. The Center was awarded monies by the Sunflower Foundation to assist with capacity building following the tornado. The grant provided funding for a part-time trauma recovery provider. He said agency response to consumers can be divided into three parts: (1) immediate; (2) transitional; and (3) longer term. A Comprehensive Disaster Plan would be a valuable tool in defining various critical tasks to be completed and various positions assigned to them. It was difficult for the Center's personnel to know what was needed and who should act.

Briana Nelson Goff, School of Family Studies and Human Services, Kansas State University, gave an overview of the Kansas All-Hazards Behavioral Health (KAHBH) program, which is only three years old (Attachment 10). KAHBH is responsible for core tasks of:

- Developing a compendium of resources for use at community and regional levels;
- Assisting hospital and public health regions by identifying key behavioral health professionals who can assist;

- Assisting SRS in the development of an KAHBH annex;
- Working with SRS Mental Health to identify minimum behavioral health training competencies;
- Developing a system for SRS Mental Health to identify and track trained health professionals; and
- Including the Department of Health and Environment in behavioral health preparedness.

Currently, over 400 people are in the KAHBH network database across Kansas ready to respond as needed. The Kansas Assistance Recovery Effort (KARE) also responded in Greensburg and Southeast Kansas.

Charlie Griffin, Research Assistant Professor of Family Studies and Human Services, Kansas State University, said lessons learned from the 2007 storms include the KAHBH structure provided rapid response, local responders knew culture and resources, they trained motivated responders with little start-up time, and had rapid local recognition (green vests). For the future, they need an initial advance team, need assessment structurally, and need to coordinate with other response systems. He said they lag behind in rural response, and farmers tend to be more self-sufficient in disasters. Senator Teichman complimented Mr. Griffin in what he did during the disasters. She and Representative McKinney both noted he did an outstanding job in the area of creativity in helping victims.

Mitzi Hesser, Kiowa County Health Nurse, Kiowa County Health Department, testified about what transpired after the Greensburg tornado ([Attachment 11](#)). She has spent much of her time in emergency preparedness, but the whole process can be very frustrating because of the effort it takes to stay in compliance with all the grant requirements and meetings. It is difficult to get the community involved. Public health is surveillance, observing communities. Following the tornado, this was her main goal. She set up a makeshift office in the Emergency Operations Command (EOC) compound. She reviewed the many issues that had to be addressed after the tornado, and complimented regional health departments that assisted her. There is a great need to have one person in the EOC track supplies, do paperwork, and other such tasks. Although it did not affect her, Ms. Hesser said she observed some of the key team players were not part of the Incident Command Center. The rules and regulations that govern her office are there for good reason, however, there needs to be allowed exceptions in emergency or disaster situations. A big concern now is how they are going to find enough funding to get the county entities up and running quickly. Ms. Hesser thanked the State for its continued support and efforts to help the county rebuild, and said she hopes they can be a model for small rural communities everywhere.

In response to questions, Ms. Hesser said child care rules and regulations are the ones that need to be adjusted for her particular area following the disaster. It has been extremely frustrating and time consuming to continue to do inspections as facilities are moved from temporary location to temporary location. Chairman Tafanelli invited Ms. Hesser to give any other specific examples for rules and regulation exceptions that would be helpful, and they will be made a part of the Committee report.

Representative McKinney complimented Ms. Hesser on her effectiveness during the disaster, and noted he personally knew her to be one of the strongest public servants spiritually, physically,

and emotionally he has ever met. She has received several awards for her leadership efficiency. Chairman Tafanelli congratulated her on her awards and thanked her for being such a beneficial employee to public service.

Ruth Bardwell, Administrator, Montgomery County Health Department, presented an After Action Review of the flood response (Attachment 12). She said the State was easy to work with, but when things did not go as well as she expected, the response was that Greensburg was the issue. Her county will not be reimbursed for vaccine they purchased without a task number. Committee members expressed concern that the Kansas Department of Health and Environment did not get vaccine to Montgomery County in a timely manner. It was suggested KDHE should have contacted neighboring states for vaccine. Ms. Bardwell went directly to a supplier herself and was able to purchase the vaccine with funds her county allotted her to spend. Chairman Tafanelli requested information from KDEM on why they will not reimburse Montgomery County for this vaccine. He also requested Ms. Bardwell give a detailed letter to the Committee outlining the circumstances of this issue, and the Committee will follow up on it.

Rita McKoon, Director, Miami County Health Department, reviewed events in Osawatomie when the city flooded. Her main task was to immunize for tetanus. She set up a clinic and immunized over 300 people in two hours. They do not have a communication problem in her area of Kansas, as she knows nearly everyone else did during the disasters. They handed out a great deal of information on mold and clean up procedures following the flooding. She made sure the information was consistent. She already has immunization clinics twice a year, and she instituted that procedure for the disaster.

Senator Teichman moved to approve the minutes of the October 3 and October 4 Committee meetings. Representative Ruiz seconded the motion. The motion passed.

There being no further business, the Committee meeting adjourned at 5:10 p.m.

Prepared by Judy Swanson
Edited by Kathie Sparks

Approved by Committee on:

November 13, 2007
(date)