



association of central oklahoma governments

Joint Land Use Study (JLUS) Communication Group Quarterly Meeting

July 23, 2010, 1:30 p.m.

Association of Central Oklahoma Governments (ACOG) Board Room
21 E. Main Street, Suite 100
Oklahoma City, OK 73104

AGENDA

- I. Call to Order and Introductions
- II. Approval of April 26, 2010 Meeting Summary ([Attachment II](#))
- III. Presentation on Readiness and Environmental Protection Initiative (REPI) Program by Tinker AFB Staff ([Attachment III - DoD Handouts](#))
- IV. Reports on JLUS Implementation Activities:
 - a. Del City
 - b. Midwest City
 - c. Oklahoma City
 - d. Oklahoma County
 - e. Other JLUS Communities
 - f. Greater Oklahoma City Chamber of Commerce
 - g. Tinker Air Force Base
- V. Discussion of Local JLUS Implementation Needs / Potential REPI Opportunities
- VI. Next Meeting
- VII. Adjourn

JOINT LAND USE STUDY (JLUS) COMMUNICATION GROUP

Quarterly Meeting Summary

April 26, 2010 – 2:30 p.m.

Del City Municipal Building, Basement Training Room
3701 SE 15th Street, Del City, OK 73115

Presiding
Dave Howe

Organization/Entity
Choctaw

Attendees

Robert Conner
Bill Dalke
Mark Edwards
Ron Green
Tom Leatherbee
Hon Brian Linley
Col. Scott C. Merrell
LouAnna Munkres
Gary Pence
Jay Sweat
Ruth Walters
Hon. Pete White
Randy Young

Organization/Entity

OSMPC, Oklahoma Aerospace Institute
Tinker Air Force Base
City of Del City
City of Midwest City
City of Del City
City of Del City
Tinker Air Force Base
Tinker Air Force Base
Greater OKC Chamber of Commerce
U.S. Department of Defense, OEA
Oklahoma County
City of Oklahoma City
Greater OKC Chamber of Commerce

ACOG Staff Present

John G. Johnson
Holly Massie

Call to Order and Introductions

John G. Johnson called the meeting to order. He introduced himself and reminded the group that ACOG served as the coordinating agency for the Joint Land Use Study that originally brought everyone to the table. He asked each member to introduce them self and the organization that they represent.

Appointment of Chairman for the JLUS Communication Group

Mr. Johnson stated that Dave Howe served as chairman during the JLUS and in the interest of maintaining efficient and effective meetings, staff has asked if he would continue to serve as the resident chairman and he has graciously agreed. John Johnson moved, and Gary Pence seconded, that the group appoint Dave Howe to serve as chairman of the JLUS Communication Group. All in attendance voted aye.

Welcome to Robert Conner, Tinker AFB Representative on the OSMPC

Chairman Howe welcomed Bob Conner to the meeting, who is now the Tinker AFB representative on the Oklahoma Strategic Military Planning Commission, commenting that the State and this group will be well served by Mr. Conner's participation. He asked Mr. Conner to say a few words about his background with Tinker and the OSMPC.

Robert Conner discussed previous rounds of Base Realignment and Closure (BRAC) when he was at McClellan Air Force Base in California in 1993 and at Tinker beginning in 1995. He said that McClellan was not supported by the surrounding communities; there were constant complaints about noise from air traffic, as well as environmental issues. He said that one of the strengths of Tinker over the years has been the support of the communities. During the 1995 BRAC there was one red dot on the map for Tinker, and he did not believe that the crosswind runway had been looked at in previous rounds. Oklahoma County has since cleared the auto dealership and strip commercial that caused the concern.

Mr. Conner advised that the Department of Defense and Air Force will likely get smaller in the future due to budget pressures and the current administration. Another factor could be the increased use of smaller, unmanned aircraft that do not require large crews and large maintenance facilities. Mr. Conner emphasized the importance of continued communication among the communities and Tinker, offering his assistance to the group. He said that another BRAC is possible within the next decade and it is very important to avoid red dots on the map.

Randy Young concurred with Mr. Conner's assessment and advised that there's becoming more emphasis on unmanned aircraft and consolidating workloads. Gary Pence stated that there will also be more emphasis in the future on consolidating industrial complexes because there doesn't need to be duplication of Air Force, Navy and Army engine repair facilities. Jay Sweat agreed that there will be more of this in the future, and Col. Merrell advised that Tinker is already doing some of this.

Community Reports / JLUS Implementation Activities

Del City – Mayor Linley welcomed everyone to the new Del City Municipal Building. He advised that the Del City Council unanimously approved a resolution on April 5 expressing continued support of Tinker and the JLUS. Mayor Linley advised that the development at the southwest corner of SE 29th Street and Sooner Road will include an On Cue station and some light office, and that all of the tanks for the On Cue will be located outside of the APZ. Tom Leatherbee explained that the On Cue originally wanted to develop on land that was within the APZ I, but the City denied that request. Therefore, they purchased the entire apartment complex so that the tanks and all critical parts of the business could be moved outside of the APZ, with only a small portion of the building clipped by the APZ. He said that overall, 750 apartment units were removed from the property, some of which were within the APZ I, and new development in that area may include low-density office and a car wash.

Mark Edwards stated that the city has continued to have meetings with the Wildlife Department concerning Canadian Geese along the creek bank inside the APZ II. They have met with federal and state representatives concerning methods to control the wild geese, which are protected. The state has registered trappers that can be used to trap and relocate the geese, and the Wildlife Department has also recommended several plantings that can be put along the creek bed to serve as a repellent to

the geese. City staff is keeping an eye on the situation and the City's Animal Control personnel occasionally attempt to scare the geese off.

Tom Leatherbee advised that the City is continuing to utilize its interim zoning guidelines for the APZ II, and recently denied occupancy permits for a daycare and medical facility with incapacitated patients, which would be incompatible uses in that area. He said that these interim guidelines will remain in effect until the City can complete a new comprehensive plan and zoning ordinance, which will take at least a year to complete. Jay Sweat asked how this would be handled, and Tom replied that they have been looking at several consultants.

John Johnson handed out a letter from DFW Consultants, who conducted the Tinker AFB JLUS, in which they provided several tasks and associated costs for JLUS implementation activities. One of those items is the development of a comprehensive plan for Del City. This proposal was just received by ACOG staff, so Mr. Johnson suggested that the group may want to take time to review it and meet again to discuss it further. Jay Sweat stated that there is federal money available for JLUS implementation activities, and the use of federal money will require a competitive selection process. He also advised that there are many good consultants available with expertise in comprehensive planning and who can apply the JLUS to the comp plan update. Mr. Sweat advised that ACOG could serve again as the grantee for federal funds, if that is the desire of the group, which would mean that ACOG would be the party responsible for the competitive selection process.

Midwest City – Ron Green stated that the City's new comprehensive plan was recently approved, which was prepared by Freese and Nichols of Dallas. The City has hired the same consultant to revise its zoning and subdivision regulations, and the zoning ordinance is 95 percent complete. He said that a draft of the revised airport zoning ordinance is available for anyone who wishes to review it, and it includes the accident zones and noise contours from the AICUZ and JLUS studies. Mr. Green advised that the ordinance will include a Tinker open space zone and revises the height limitations in conformance with the JLUS. Holly Massie said that he could send her the draft ordinance and she would send it to the committee. John Johnson asked about the projected timeline to complete the zoning ordinance, including the airport zoning ordinance, and Mr. Green said they hope to complete it within 90 days.

Mr. Johnson mentioned Task 3 in the DFW proposal, which directly impacts Midwest City. He asked Mr. Green to share that with his city manager and see what his thoughts are about that particular item.

Oklahoma City – Councilman White mentioned Oklahoma City's SE Sector Plan which appears to be compatible with the JLUS recommendations. He said that the City continues to field questions about zoning and building permits in areas that could have an impact on Tinker, recognizing that their situation is simpler than that of communities located north of the base due to the rural nature of the area in Oklahoma City south of the base. He stated that Oklahoma City is beginning a new comprehensive plan, which is in the very early stages and probably 2-3 years away from completion. He stated that he is confident that their new plan will not present any conflicts with Tinker or the JLUS recommendations. Mr. White mentioned that the city has attempted for the past two years to schedule a controlled burn of the thick undergrowth north of Draper Lake, but they have never been able to find a time with favorable conditions due to high winds, etc. However, they will continue to

coordinate with Tinker until there is an appropriate time; the burn is needed to help preserve the natural aspect of the lake.

Holly Massie advised that Oklahoma City staff could not be in attendance today, but Aubrey Hammontree emailed her the following status report concerning the City's implementation of the JLUS: City staff has incorporated the recommended ordinance changes from the JLUS into the City's annual code amendment process, which is scheduled for the end of this year. Staff continues to consider JLUS land use issues when evaluating and making recommendations on proposals for development around Tinker. The City is beginning development of its new comprehensive plan, which will incorporate policy and land use recommendations from the JLUS.

Oklahoma County – Ruth Walters stated that all of the County-owned land around Tinker AFB is under the jurisdiction of the cities, and everything that needed to be taken out of the clear zone was addressed with the 2002 bond issue. In response to a recent question about a mini-storage business on SE 29th Street west of Douglas, Ms. Walters advised that the business is not within the Clear Zone, but just outside of it. It was later determined that the small triangle of land within the Clear Zone is public right-of-way for I-40 owned by the Oklahoma Department of Transportation.

Oklahoma City Chamber of Commerce – Randy Young mentioned that the Chamber is hoping to be successful in receiving an earmark for Tinker AFB for a new tower. He also commented that he had attended a conference in Phoenix last week and there was a lot of interest by DoD contractors to locate work here and do business with Tinker. It was discussed that Tinker AFB is the largest energy user in the Air Force due to its size and the age of many of the buildings. Gary Pence mentioned the increasing problem with wind farms when they are located too close to airports because they can interfere with aircraft radar. The Chamber intends to look into this closer. This could affect the bases in Enid and Altus.

Tinker Air Force Base – Col. Merrell stated that the Air Force budget will be getting tighter, and cuts are expected in FFY 2011. He agreed with earlier discussion that the use of unmanned aircraft will continue to increase. He mentioned Tinker's green efforts and the need to put some projects on the books to target management of resources and conservation. He said that as more work is transferred to the Tinker Aerospace Complex (TAC), they will be able to remove older, energy guzzling buildings, such as the saw tooth buildings that are expensive to heat and cool. This should help reduce Tinker's energy consumption.

Col. Merrell also mentioned the air show that will be held at Tinker June 19 and 20. He said this will also be an Air Force open house and they expect to receive about 130,000 people over the two days. He said that they are partnering with the surrounding communities for this event.

He advised that Col. Jamerson will move to Director of Staff for Air Force Materiel Command and will be replaced by Col. Robert LaBrutta. These changes are expected in late June.

Reports / Announcements by Jay Sweat, Project Manager, DoD Office of Economic Adjustment

Mr. Sweat stated that top priorities of the new Deputy Under Secretary of Defense are energy and the environment. He stated that there is a growing concern with wind farms near bases so, while we want to move toward cleaner energy, we don't want to jeopardize safety.

Mr. Sweat concurred with previous discussion that there will likely be another BRAC within the next decade. He said that the 2005 BRAC was larger than all previous ones combined. There was a lot of consolidation and closing of smaller army reserve and guard facilities, and joint basing will be more prevalent in the future.

Mr. Sweat said there is a lot of good coordination happening around the country and any best practices information that he comes across he will pass on to ACOG for distribution to the group. He reminded everyone that the OEA has funding to assist with JLUS implementation, and he encouraged Del City and Midwest City to determine what their needs are so we can determine how to get them addressed.

LouAnna Munkres asked Jay to discuss REPI (Readiness and Environmental Protection Initiative). Mr. Sweat advised that it is a partnership involving a non-profit organization where DoD money is used to purchase property or acquire an easement to protect the base and the health, safety and welfare of the community. He said that the funding is from a different pot of money than what OEA is allocated, but it is through a "sister" agency. Ms. Munkres advised that the program is used primarily for the purchase of perpetual conservation easements and, for example, could be used in an area for flood control. Holly Massie asked if it could be used for the purchase of private property, and Mr. Sweat replied that it could. Mr. Sweat and Ms. Munkres offered to provide a presentation on REPI at the next meeting.

Other Discussion

Mr. Conner advised that the Oklahoma Aeronautics Commission is working on a piece of state legislation that deals with zoning around airports, and it all started because of a wind farm in Weatherford which changed the approach to the Weatherford airport. He asked if there should be someone from the Aeronautics Commission on this committee since their job is to watch out for the interest of airports around the state. Mr. Johnson stated that we will make that request.

Mr. Sweat mentioned that other JLUS committees that he's worked with often have a state legislator on the committee. Chairman Howe stated that a couple of legislators have attended past meetings – Rep. Scott Inman and Rep. Gary Banz.

Next Meeting

Holly Massie stated that the next quarterly meeting would fall in July. However, if there is a need to meet earlier to discuss pursuing an implementation grant, after Jay and Del City and Midwest City talk further, a meeting can be convened sooner. It was determined that the July meeting would be held at ACOG at a date and time to be announced.

Adjourn

The meeting was adjourned at approximately 4:15 p.m.

Frequently Asked Questions

General Information



What is the Readiness and Environmental Protection Initiative (REPI)?

The Department of Defense (DoD) Readiness and Environmental Protection Initiative (REPI) enables the military to work with local and state governments and non-governmental organizations to limit incompatible development and protect valuable open space and habitat around key test and training areas to support military readiness. Granted statutory authority (10 U.S.C. § 2684a) for this initiative by Congress in Fiscal Year (FY) 2003, DoD works together with willing partners who help provide cost-sharing land conservation solutions that benefit military readiness and preserve natural habitat. REPI helps Services with projects using the statutory authority.

What is 10 U.S.C. § 2684a?

This statutory authority allows the Services to enter into agreements with eligible entities to address incompatible development or habitat protection. This authority was designed to be used by the Services with their own Operation & Maintenance funding or by the Office of the Secretary of Defense (OSD) and can be used to acquire interest in land or acquire water rights.

How does 10 U.S.C. § 2684a help address encroachment?

Working through local land use planning process is our primary tool/strategy to prevent encroachment near our installations. However, there are situations when this strategy may be inadequate or inappropriate and other strategies/tools should be employed. Thus, this statutory authority provide an addition tool we can include in our encroachment management strategy tool box.

When does the annual call for REPI projects occurs?

OSD has established a fixed schedule for the annual call for REPI projects. The formal call is issued to the Services every May.

When are the submissions due?

Service submissions are due on 1 August to A7CIB and 1 September to OSD.

When should potential partners be identified?

Installations and MAJCOMS should not wait until May to identify potential partners. Establishing relationships with eligible entities and developing agreements takes time. Therefore, installations should work throughout the year to develop potential projects.

What criteria must be met to have a valid project under 10 U.S.C. § 2684a?

- The proposed project must meet one or both of the defined purposes in § 2684a.
- There must be an eligible entity (EE) or entities that meet the defined qualifications. The EE cannot be the landowner. There are at least three parties to these projects—Air Force, EE and the landowner.
- An agreement will be developed that will provide for the acquisition by the EE for an interest (either total or partial) in the property identified in the project.
- The agreement will require the EE to transfer a portion of the property or interest acquired to the United States (US) Government upon request.
- The cost of the acquisition will be shared by the US Government and EE in accordance with § 2684a.
- The owner of the property must be a willing seller (cannot be acquired through condemnation).



Of these project criteria, which ones have to be met prior to submission?

The only criterion that may not be known at the time of the project submission is the willing seller. Eligible entities may not be willing or interested in approaching landowners until they know there is a funded project. Any project not meeting the other criteria at the time of submission should not be submitted until they can be met.

How much REPI funding is available?

Due to funding constraints, OSD has placed a cap of \$3 million (\$4 million for joint projects) on all FY09 projects. However, projects may be considered for funding above the cap amount under extraordinary circumstances based on compelling Service justification.

How and when are funding allocations made?

Funding allocations will be made to each Service for specific projects and for specific dollar amounts. These allocations will be made by OSD as soon as possible after Congress appropriates and authorizes the funds and the OSD budget allocations are finalized. .

What are the requirements for obligating and expending REPI funds?

REPI funds must be obligated no later than 30 September in the fiscal year during which the funding was received. However, funding can be expended in the following years. REPI program policy is that the funds be expended (i.e., money spent on actual acquisitions) within 18 months of the distribution of funds.

What can REPI funds be used for?

All OSD REPI funds must be used for actions that directly implement the designated projects. These direct costs include due diligence costs such as appraisals, surveys, title searches and insurance, reviews of mineral and water rights, environmental assessments, and other costs required to close the transaction.

What should Service or non-DoD partner funds be used for?

The costs of administrative tasks and planning costs such as REPI program administration, costs, mapping, planning, land ownership research, land owner contacts and outreach, etc., are beyond those associated with the acquisition of the property interest (i.e., direct costs covered by REPI funds) and must be provided by the Service or the non-DoD partner.

Can REPI funds be used for managing natural resources?

Yes. Recent changes to 10 U.S.C. § 2684a allow the agreements to also provide for the management of natural resources on these properties and for the payment of all or a portion of the costs of the natural resource management if it is appropriate (see § 2684a(d)(3)). This cost can be funded with Service funds, or Services can request REPI funding for natural resource management on the property in those situations where these activities (habitat enhancement or restoration) are necessary to ensure the purposes of the agreement and the requirements of 10 U.S.C. § 2684a(2)(B) will be met. Funds proposed for habitat management will be identified in the funding section of the project description form. OSD retains the rights not to approve their funds for habitat management purposes.

10 USC § 2684a – Agreements to limit encroachments and other constraints on military training, testing, and operations

(a) Agreements Authorized — The Secretary of Defense or the Secretary of a military department may enter into an agreement with an eligible entity or entities described in subsection (b) to address the use or development of real property in the vicinity of, or ecologically related to, a military installation or military airspace for purposes of—

(1) limiting any development or use of the property that would be incompatible with the mission of the installation; or

(2) preserving habitat on the property in a manner that—

(A) is compatible with environmental requirements; and

(B) may eliminate or relieve current or anticipated environmental restrictions that would or might otherwise restrict, impede, or otherwise interfere, whether directly or indirectly, with current or anticipated military training, testing, or operations on the installation.

(b) Eligible Entities — An agreement under this section may be entered into with any of the following:

(1) A State or political subdivision of a State.

(2) A private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal, as determined by the Secretary concerned.

(c) Inapplicability of Certain Contract Requirements — Chapter 63 of title 31 shall not apply to any agreement entered into under this section.

(d) Acquisition and Acceptance of Property and Interests —

(1) An agreement with an eligible entity or entities under this section shall provide for—

(A) the acquisition by the entity or entities of all right, title, and interest in and to any real property, or any lesser interest in the property, as may be appropriate for purposes of this section; and

(B) the sharing by the United States and the entity or entities of the acquisition costs in accordance with paragraph (3).

(2) Property or interests may not be acquired pursuant to the agreement unless the owner of the property or interests consents to the acquisition.

(3) An agreement with an eligible entity under this section may provide for the management of natural resources on real property in which the Secretary concerned acquires any right, title, or

interest in accordance with this subsection and for the payment by the United States of all or a portion of the costs of such natural resource management if the Secretary concerned determines that there is a demonstrated need to preserve or restore habitat for the purpose described in subsection (a)(2).

(4)

(A) The Secretary concerned shall determine the appropriate portion of the acquisition costs to be borne by the United States in the sharing of acquisition costs of real property, or an interest in real property, under paragraph (1)(B).

(B) In lieu of or in addition to making a monetary contribution toward the cost of acquiring a parcel of real property, or an interest therein, pursuant to an agreement under this section, the Secretary concerned may convey, using the authority provided by section 2869 of this title, real property described in paragraph (2) of subsection (a) of such section, subject to the limitation in paragraph (3) of such subsection.

(C) The portion of acquisition costs borne by the United States under subparagraph (A), either through the contribution of funds or excess real property, or both, may not exceed an amount equal to, at the discretion of the Secretary concerned—

(i) the fair market value of any property or interest in property to be transferred to the United States upon the request of the Secretary concerned under paragraph (5); or

(ii) the cumulative fair market value of all properties or interests to be transferred to the United States under paragraph (5) pursuant to an agreement under subsection (a).

(D) The portion of acquisition costs borne by the United States under subparagraph (A) may exceed the amount determined under subparagraph (C), but only if—

(i) the Secretary concerned provides written notice to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives containing—

(I) a certification by the Secretary that the military value to the United States of the property or interest to be acquired justifies a payment in excess of the fair market value of the property or interest; and

(II) a description of the military value to be obtained; and

(ii) the contribution toward the acquisition costs of the property or interest is not made until at least 14 days after the date on which the notice is submitted under clause (i) or, if earlier, at least 10 days after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title.

(E) The contribution of an entity or entities to the acquisition costs of real property, or an interest in real property, under paragraph (1)(B) may include, with the approval of the Secretary concerned, the following or any combination of the following:

(i) The provision of funds, including funds received by such entity or entities from a Federal agency outside the Department of Defense or a State or local government in connection with a Federal, State, or local program.

(ii) The provision of in-kind services, including services related to the acquisition or maintenance of such real property or interest in real property.

(iii) The exchange or donation of real property or any interest in real property.

(5) The agreement shall require the entity or entities to transfer to the United States, upon the request of the Secretary concerned, all or a portion of the property or interest acquired under the agreement or a lesser interest therein. The Secretary shall limit such transfer request to the minimum property or interests necessary to ensure that the property concerned is developed and used in a manner appropriate for purposes of this section.

(6) The Secretary concerned may accept on behalf of the United States any property or interest to be transferred to the United States under the agreement.

(7) For purposes of the acceptance of property or interests under the agreement, the Secretary concerned may accept an appraisal or title documents prepared or adopted by a non-Federal entity as satisfying the applicable requirements of section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651) or section 3111 of title 40, if the Secretary concerned finds that the appraisal or title documents substantially comply with the requirements.

(e) Acquisition of Water Rights.— The authority of the Secretary concerned to enter into an agreement under this section for the acquisition of real property (or an interest therein) includes the authority to support the purchase of water rights from any available source when necessary to support or protect the mission of a military installation.

(f) Additional Terms and Conditions.— The Secretary concerned may require such additional terms and conditions in an agreement under this section as the Secretary considers appropriate to protect the interests of the United States.

(g) Annual Reports.—

(1) Not later than March 1, 2007, and annually thereafter, the Secretary of Defense shall, in coordination with the Secretaries of the military departments and the Director of the Department of Defense Test Resource Management Center, submit to the Committees on Armed

Services of the Senate and the House of Representatives a report on the projects undertaken under agreements under this section.

(2) Each report under paragraph (1) shall include the following:

(A) A description of the status of the projects undertaken under agreements under this section.

(B) An assessment of the effectiveness of such projects, and other actions taken pursuant to this section, as part of a long-term strategy to ensure the sustainability of military test and training ranges, military installations, and associated airspace.

(C) An evaluation of the methodology and criteria used to select, and to establish priorities, for projects undertaken under agreements under this section.

(D) A description of any sharing of costs by the United States and eligible entities under subsection (d) during the preceding year, including a description of each agreement under this section providing for the sharing of such costs and a statement of the eligible entity or entities with which the United States is sharing such costs.

(E) Such recommendations as the Secretary of Defense considers appropriate for legislative or administrative action in order to improve the efficiency and effectiveness of actions taken pursuant to agreements under this section.

(h) Funding —

(1) Except as provided in paragraph (2), funds authorized to be appropriated for operation and maintenance of the Army, Navy, Marine Corps, Air Force, or Defense-wide activities may be used to enter into agreements under this section.

(2) In the case of a military installation operated primarily with funds authorized to be appropriated for research, development, test, and evaluation, funds authorized to be appropriated for the Army, Navy, Marine Corps, Air Force, or Defense-wide activities for research, development, test, and evaluation may be used to enter into agreements under this section with respect to the installation.

(i) Definitions — in this section:

(1) The term “Secretary concerned” means the Secretary of Defense or the Secretary of a military department.

(2) The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.