

Prairie County Board of Commissioners Meeting

September 30th, 2025

Prairie County Court House Commissioners Room

217 West Park St Terry, MT 59349

www.prairiecounty.org

Prairie County Board of Commissioners Todd Devlin, Christine Keltner and Dennis Teske met in regular session at 9:00 a.m. In attendance Administrative Assistant Harry McNall.

9:00 a.m. Pledge of allegiance and call to order. Public Comment.

Shane Eaton: Question I have going forward, who's the puppets and who's the puppet masters? Last meeting you denied the permits and then got lectured by the county attorney. Hour 1:16 minutes from last audio recording. The recording for September 17th, 2025. The county attorney had said they should have approved the permits. Shane questions the advice from the county attorney. There is state and BLM land that these permits affect. There seems to be communications between NextEra Attorney and the County Attorney. There should be a road haul agreement before permits are accepted or approved and should be included in the road haul agreement.

Commissioner Teske: had a conversation with the county attorney about communications. He also had a conversation with Shane Mintz with MDOT, and that roads must be engineered and submitted to MDOT. There are many concerns with the road development for this project.

Rolane Christopherson, landowner who leased their land to NextEra. They are submitting a letter to the commissioners (Appendix A). The letter was written by Commissioner Teske over Oil Pipeline 5 years ago, in support. We need support for development, like Wyoming and why do other people have the right to tell us what we can do on our own property?

Shane Eaton: Commissioner Teske spoke about engineering. I had a part of the oil pipeline, they provided engineering ahead of time. If roads are widened there must be ditches.

Commissioner Teske responded to the letter he wrote for oil pipeline in the county. The pipes are buried and would not have an effect on neighboring properties etc. Wind towers would, he continued to explain what he didn't agree with concerning wind turbines.

Rolane Christopherson: She feels like the landowners who signed the agreements are not being considered concerning these decisions.

Commissioner Keltner: Have the participating landowners and non-participating got together?

Commissioner Keltner: has anyone tried to get out of the leases, by paying back the fee's etc?

Rolane Christopherson, if there are landowners who signed leases, are not happy they should not be using the county to get out of the contracts. Zoning is for managing industry not stopping

industry or development. Every development has its negative effects. You should consider the businesses and how they will be affected by not supporting development.

9:35 a.m. Road Department with Road Supervisor Todd Henry, to go over road policy. The commissioners have assigned you to use warning signs for grading and other road work. Todd Henry explained he has ordered new signage.

Concerning the Road Policy, the Census needs revised it is currently 2010 data, and county road mileage is out of date. The commissioners and Road Supervisor went over the policy together. Discussions on rates for work carried out concerning road policies, cattle guards, etc. They discussed sales and services prices suggested by Road Supervisor Todd Henry.

Commissioner Devlin made a motion to make building cattle guards at \$200 per ft, and adjusted for CPI, seconded by Commissioner Keltner, open to discussion.

Commissioner Teske made an amendment to the motion from Commissioner Devlin, to increase all proposed and all other prices by 10% plus CPI, seconded by Commissioner Devlin, open to discussion on amendment, all in favor "motion passed".

Any discussion on main motion, "all in favor" motion passes for original motion.

Commissioner Keltner made an amendment to the motion above, "to send the motion to resolution" seconded by Commissioner Teske, "all in favor" motion passes.

10:30 a.m. Karli King with MACo Cyber Security & Technology. Previous discussion concerned price, quality and availability of services compared to the current provider. There are cost savings on hardware, which would be considerable \$600-800 dollars per device on laptops and computers, and additional savings for servers etc. They also will have monthly onsite visits to support the county.

11:09 a.m. County Attorney Dan Rice provided a letter from NextEra's Attorney Lucas Forcella.

11:12 a.m. Clerk & Recorder Shari Robertson provided the Commissioners with Payroll to review and sign.

Prairie County Voucher #1032 \$72,095.92

Prairie County Voucher #1033 \$2,723.00

Prairie County Voucher #1036 \$32,385.24

Prairie County Voucher #1101 \$9,746.70

Prairie County Voucher #1037 \$222.68

Prairie County Voucher #1035 \$19,286.87

Prairie County Voucher #1034 \$20,955.16

Prairie County Voucher #5 \$9,811.62

Prairie County Voucher #1010 \$1,138.40

11:30 a.m. Commissioners reviewed expenditure sheets.

12:00 p.m. Adjourned for Lunch

1:00 p.m. Commissioners reviewed the Culvert Replacement on S-340, from two round culverts to a box culvert.

1:13 p.m. Commissioner Keltner made a motion to accept the "FY2026 Extension Service Agreement between Montana State University Extension and Prairie County, Montana", seconded by Commissioner Devlin, "all in favor" motion passed.

1:23 p.m. Commissioner Keltner made a motion to accept the contract on S340 Culvert Replacement, seconded by Commissioner Teske, "all in favor" motion passed.

1:30 p.m. Commissioner Keltner made a motion for "26-9- A Resolution of Intent to Receive Public Feedback Pertaining to the Statutorily Required Finding that the Public Interest or Convenience Requires that Creation of the Big Sheep Mountain Park Citizen Initiated Zoning District, and To set a Public Hearing Thereon" Intent to establish the Big Sheep Mountain Zoning District with a public hearing for October 22nd, 2025, at 7 p.m.," second by Commissioner Devlin, "all in favor" motion passed.

Commissioner Devlin explained the process going forward concerning the above motion.

Rick Holden approving merit, what is the merit that you will be approving since there is already established applications and owners have already signed the application.

Reene Pirtz: Who is the letter addressed to that came from Lucus Forcella. It was addressed to the County Attorney and CC on the attached letter to County Commissioners.

The Commissioners were given the letter by County Attorney Dan Rice. The Commission did not receive via email.

There were questions about extending comment times the night of the hearing, allowing others to use other people's times, written testimony, video testimony and sign up and priority testimony.

Shane Eaton, I think you should have a formal reply to this letter and what position the county will take under the threat of litigation.

2:00 p.m. Deputy Clerk & Recorder Aria Walters provided commissioners with claims to review and sign.

She provided the commissioners with journal adjustments number 114.

Prairie County Voucher # 1039 \$3,235.95

Prairie County Voucher # 1038 \$27,437.02

Commissioner Devlin read the minutes from September 3rd, 2025, Commissioner's meeting.

2:20 p.m. Commissioner Keltner made a motion to accept the minutes from September 3rd, 2025 Commissioners meeting as corrected, second by Commissioner Teske, “all in favor” motion passed.

3:00 p.m. Public Comment.

David Kasten; he has a comment about the letter received by Lucus. They should have contacted people ahead of time. The letter is a threat, it’s garbage.

Joylynn Manewright; Public comment time and we expect some answers. Mr. Devlin, we ask questions and you should respond. Who has control over the Sheriff to have volunteers to search for an individual. Sheriff Keiffer said we have a right to form a posse, and they would be protected under the law. Joylynn says it is concerning that volunteers were used.

Arron Martinson; he has a comment concerning the question above, and had a meeting with County Attorney Dan Rice, and Arron would like to request all emails concerning industrial development from County Attorney Dan Rice.

Reene Pirtz; is there a procedure for retrieving emails etc? Is there anything to make sure it is done correctly.

Neva Rathbun; the letter sounds more like a personal letter than an official letter.

Shane Eaton; the letter doesn’t say who they represent, and CC the Commissioners. This seems like a back channel letter instead of it being send directly to the Commission. It should bother you about them questioning the citizens first amendment rights.

Joylynn Manewright; read the process for record requests.

Lon Reukauf; Had a public comment about bonding, it occurs to me that I don’t trust the bonding for the decommissioning. State law says they don’t have to do it till year 15. Lon is against tax abatement. It might be better to have our own decommissioning fund paid for by the taxes received from the project. If it sells before the 15 year bond, what makes the new buyer paying the bond before year 15? What if the project is abandoned before year 15?

Shane Eaton; there are still proposed boundaries for the wind turbines on the map in the hallway of the courthouse. The revenue projections come from NextEra, the numbers are speculated.

Lon Reukauf; look into these decommission bonds. We need to try to protect ourselves.

Commissioner Devlin, talk to great west engineering to audit and get a third-party estimate cost of decommissioning.

Reene Pirtz: Bonding should be done on the front end. Talking about property rights, and merit.

Joylynn Manewright; are bonds transferable?

Shane Eaton; the cost today to decommission is not going to be the same as it will be in 50 years.

Norma Reilly; in a meeting in Dawson County, how do they decommission, do they leave the cement down in the ground?

Joylynn Manewright; when do we get to say okay decommission? In statute it says 2 years?

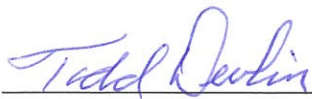
Lon Reukauf; when will the decision be made on the petition? Has NextEra or Glendive LLC provided a list of contracts signed.

Reene Pirtz; she would like to get her number out 208-866-5213 so the newspaper has it for contacting her in the future.

4:00 p.m. Lon Reukauf; the growth policy is out and has the commissioners received any comments? Commissioner Keltner had a few comments about the growth policy. The original intention was to perform a quick update, so that zoning could be done etc. So the full update took much longer than anticipated.

4:25 p.m. Commissioner Teske made a motion to adjourn the meeting, seconded by Commissioner Devlin.

Signed this 8th day of October 2025



Todd Devlin, Commissioner Chair

ATTEST:



Shari Robertson, Clerk & Recorder

by: 

Aria Walters, Deputy Clerk: Recorder

7T/

Teske Farms

Appendix A

406-486-5454 • Fax: 406-486-5453 • P.O. Box 687 • Terry, MT 59349

7T/
RA

TO: TC Energy

From: Teske Farms Inc.

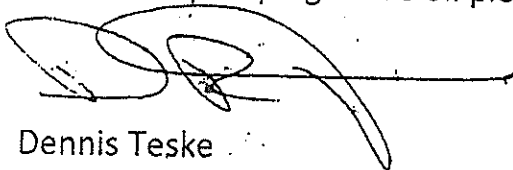
I fully support the construction of the XL Pipeline that will be built from Canada to Nebraska. Thank you for going above and beyond the challenges that have been placed upon your company.

Prairie County has watched our citizen age and her young people move away. Our county is agricultural based with limited growth over the last 25 years. The construction of the pipeline will create many construction jobs and dozens of long term jobs. Regionally it will allow a safer and more competitive transportation of Balkan crude oil to market. It will be 46% carbon emissions cleaner. The pipeline will help keep America energy independent.

Small population counties always struggle with making financial end meet. Tax wise TC Energy is a God send. Those new tax streams will back fill many of our budget shortages. The county could hire new road personal and update old equipment that are greatly needed. September 20, 2020

The land owners I speak with have been very complimentary towards your company. TC is fair in value, communicates well and is a good neighbor.

If I can help promote your project or be of any service to finally see this pipeline buried and pumping crude oil please feel free to call.



Dennis Teske

Farmer/Rancher/Philosopher and part time politician

To the Residents of Prairie County:

Over the past year and a half we have heard many reasons why we should not have wind development in Prairie County. These reasons include: they are not pleasing to look at, they are too tall, noisy, shed fiberglass, may tip over or catch fire, have flashing red lights and they kill birds.

Following is another view of these issues:

- They are not pleasant to look at which is in the eye of the beholder. Consider living next to a refinery such as we have in Billings, oil well flares which have happened in North Dakota, large feedlot operations like those in Nebraska or tall power lines which run all across our country. All of these provide essential services that we all use and want.
- They are too tall. Do we want the wind developer to make them all 200' rather than the proposed 500' – 600'? This could force them to build 2 or 3 times as many towers for the same energy output.
- They are noisy. Noise has been reduced and is hardly noticeable due to new technology and proper maintenance. Statements from nearby county landowners prove this.
- They shed ice. This type of shedding also happens when large semis travel through snow and ice. New technology is also helping to reduce these incidences from occurring.
- They shed fiberglass. If they are coated properly this rarely happens. Consider for a moment how many things are made of fiberglass: vehicles, campers, farm equipment, stock tanks for watering. Do we stop using all of these because they may shed fiberglass?
- They cause fire or tip over. Possibly, but most likely this is caused from improper maintenance, tornadoes or lightning. This can also happen to oil rigs and wells.
- They have red flashing lights. Yes, these could be bothersome, but are necessary to make sure aircraft do not run into them. If a HELIP flight was on its way to or from a town with a member of your family aboard, I would think safety would be of the utmost importance. The wind development company is currently working with the FAA to see if some changes can be made here.
- They will kill lots of birds. How many birds die each year flying into our windows, hitting our vehicles, by planting and harvesting practices which are destroying bird's nesting areas, the use of herbicides and pesticides

which can be deadly to bird life, natural predators and bird hunters. Do we stop all of these practices?

I recently attended a meeting and listened to ranchers from Garfield County talk about the reservations they had after signing up for the wind development. Yes, there were some construction inconveniences as there would be with any development, but they are now extremely satisfied with the project and are seeing benefits such as funds to help cover summer crop loss due to severe weather. Roads have been significantly improved, especially one which was nearly unusable during certain times of the year. They are seeing no significant bird loss, little noise, and their cattle are happy having a place to lie in the shade during the hot summer months. One rancher even said that when a fire started in the county the first to respond were the wind farm employees.

On an economic note, has anyone talked to our local businesses and asked them how this development could improve their business outlook? Have you talked to the farmer/rancher who has leased their land hoping to bring in enough funds to keep their property in the family and pass it on to their children? For years we've felt that our agricultural legacy was built on the backs of small farmers and ranchers. Do we want to see them disappear only to be bought up by large corporations or out of state investors? A significant amount of the revenue generated from wind development will be deposited in local banks which in turn can be loaned to individuals to purchase homes, autos, businesses to purchase inventory, and local ag producers for their annual operations. Would we not want to provide this opportunity for our county?

Commissioner Devlin continues to meet with other officials in Washington, DC to try and get more PILT (payment in lieu of taxes) funding for Prairie County to help replace those taxes we lose because a large portion of our county is owned by federal and state government. Commissioner Teske wrote a letter in 2020 in support of the TransCanada pipeline (Keystone) because he felt this would bring jobs and increased funding to Prairie County. I would think these two actions are a clear indication that Prairie County needs additional funding to continue providing equal or better services. If the county is unable to find additional funding it could mean the continuation of more mill levies which, if passed, means more taxes for all of us or possible loss of some services if not passed.

Zoning is the latest tactic being used by individuals to stop the wind development. If most of you remember, the Town of Terry tried to zone to get ready for oil development and the impact it could have in our community. There was never any mention of negative impact that oil development could have such as oil spills, chemicals put in the ground, contaminated waste water, flaring wells. Only the "You can't tell me what to do on my property" mindset. We were met with great resistance and it was finally voted down. Some of these same individuals are now promoting zoning as a great thing for Prairie County. If personal property rights were so important then, why are those farmers/ranchers who have leased their property (signed binding contracts) having no say as to what will happen with wind development on their property? What changed? Zoning is not meant to be used as a way to stop development, but as a way to manage what happens.

In closing let's find a way to work together, move forward and make Prairie County a better place to live and call home.

In full disclosure we have leased our land to Nextera for wind development.

Rolane Christofferon

Lisa Everett

September 30, 2025

Via E-Mail and Certified Mail

County Attorney, Prairie County
217 Park St. West
P.O. Box 564
Terry, Montana 59349
pcatty@prairiecounty.org

Re: Prairie County Zoning

Dear Dan:

I understand that the Prairie County Commission may vote later today (September 30, 2025) on a resolution which publishes its intent to create a citizen initiated zoning district. That district and its proposed regulations would directly impact my client's business in Montana along with the property rights of numerous County residents. The county is not required to pursue such a costly course of action. As you advise the County Commissioners on this petition, I want to highlight several points for your attention.

1. Prior Use Remains Permissible

In Montana, "zoning regulations must allow for the nonconforming use of land or buildings legal at the time or prior to the time that a zoning regulation or amendment to the regulation was adopted." Mont. Code Ann. § 76-2-105 (emphasis added). While Montana's caselaw is limited on zoning, whole chapters of respected legal sources have been devoted to addressing how prior, non-conforming use is exempt from zoning. As they pertain to Glendive Wind, at least two points are especially relevant.

First, the full and final use of a property is not required. Dozens, if not hundreds, of cases stand for the proposition that claimants who have undertaken "substantial steps" towards implementation of a particular use create a "vested right" to that use despite a change in zoning. *See, e.g.*, 36 Causes of Action 2d 583, Am. Jur. 2d, Zoning and Planning §§ 566, 571 to 581; Vested Right in Continuation of Zoning, 13 Am. Jur. Proof of Facts 2d 373; Young, Anderson's American Law of Zoning § 6:06; Ziegler, Rathkopf's The Law of

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Re: Prairie County Zoning

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Zoning and Planning § 50.01. As a result, there is a significant body of law that supports the conclusion my client has a vested right to continue with the Glendive Wind Project. Among the many substantial steps it has taken: it has spent tens of thousands of dollars acquiring the legal rights to construct the turbines, substations, and transmission lines that will generate and transmit power; it has spent further funds designing and planning for such project, engaging specialists in their fields to analyze its requirements, engineer its elements, and proactively engage with the public; it has conducted aerial and ground surveys, including wildlife (avian use, raptor nest, greater sage-grouse lek, bat acoustic), wetland, aquatic, tribal resource, and land surveys (boundary and topography); it has conducted studies, including economic impact, preliminary haul route planning, construction traffic, ice throw and blade failure simulation studies; it has drafted, submitted and began negotiations for a Development Agreement, Decommissioning Agreement, Impact Fee Agreement, and Road Use Agreement; it has sponsored numerous community events and institutions; it has spent significant efforts on detailed plans of the development including plans for road design, reclamation, emergency response, public outreach, cultural and paleontological resources, noxious weeds, noise, and visual resources; it has emplaced physical structures to make precise measurements regarding the impacts of meteorology in the area on siting; and, as you know, it has entered into numerous meetings with Prairie County in an attempt to forge a mutually-beneficial relationship grounded in respect and partnership.

Second, even if all of the foregoing steps do not legally establish use and have not met the criteria for a vested right, nonconforming use can still be validated by obtaining a variance based on undue hardship. *See, e.g.,* 36 Causes of Action 2d 583, Am. Jur. 2d, Zoning and Planning § 749; C.J.S., Zoning & Land Planning § 304. Here, as has been discussed previously, the property owners who have entered into contracts related to the Glendive Wind project stand to earn significantly more from their properties than they would if they were zoned pursuant to the petition. This deprivation of income alone is an unnecessary, and undue, hardship for those County residents, aside from the undue hardship on my client, whose estimated \$1+ billion dollar investment in Prairie County would be jeopardized.

Lest there be any confusion about Montana's approach to the subject, our legislature weighed in on the subject less than six months ago. In doing so, it amended several of the zoning statutes and specifically added the following to the analysis of citizen initiated zoning:

Any ambiguity or uncertainty in the zoning regulations as to whether a nonconforming use is allowed or whether the use was allowed when it was commenced must be interpreted in favor of the nonconforming use.

Mont. Code Ann. § 76-2-105.

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Re: Prairie County Zoning

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Here, numerous property owners in Prairie County have entered into binding contracts to allow the Glendive Wind project to be built on or otherwise use their property. My client has taken countless substantial steps in pursuit of that end, exercising its rights under such contracts to implement the project. As a consequence, the Glendive Wind project has established preexisting use for the purposes of zoning. Additionally, an attempt to “zone out” the project using the arbitrary height and setback restrictions proposed in the petition would cause undue harm.

In light of the foregoing, and the crystal-clear intent of Montana’s legislature, there can be no reasonable doubt whether the Glendive Wind project in Prairie County may be banned by trying to impose zoning years after the project began. I respectfully request that the Commissioners either reject the zoning district, or explicitly recognize that the Glendive Wind project is exempt through its prior non-conforming use. The alternative, discussed below, could present significant challenges for the County.

2. Destruction of Private Property Rights

Montana, and especially eastern Montana, has long been a stronghold of American values, promoting and sustaining the liberties on which our nation was founded. This way of life has been indelibly stamped onto many generations of Montanans, each taking care of their private affairs without undue interference from their government. Thankfully, the Montana Supreme Court has repeatedly sustained this view, and for nearly one hundred years it has consistently held that “[o]ur government was not designed to be paternal in form.” *State v. Gateway Mortuaries*, 287 P. 156, 161 (Mont. 1930).

In applying such view to the police power by which counties may enact zoning ordinances, the Court has long held,

Under the guise of protecting the public or advancing its interest, the state may not unduly interfere with private business or prohibit lawful occupations, or impose unreasonable or unnecessary restrictions upon them. Any law or regulation which imposes unjust limitations upon the full use and enjoyment of property, or destroys property value or use, deprives the owner of property rights. A business is a property right, and as such is entitled to the protection of both the state and Federal Constitutions.

Freeman v. Board of Adjustment of City of Great Falls, 34 P.2d 534, 538 (Mont. 1934) (emphasis added).

To be clear, I am not suggesting that property rights would be destroyed in the abstract if the County were to impose zoning. As the County is well aware, and as is discussed above, numerous of its citizens have already entered into contracts regarding the Glendive Wind project. Those

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Re: Prairie County Zoning

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property rights would be destroyed in actuality if the zoning proposed was approved. If the County were to choose to impose zoning restrictions that would cut off the rights held under such contracts, doing so could open itself up to liability from a whole class of plaintiffs whose valuable property rights have been taken.

As I believe I have said before, and I know my client's representatives have expressed, Prairie County stands to benefit greatly from the Glendive Wind project, and my client's development team earnestly desires to work with the County, instead of against it. If the County insists on pursuing the proposed zoning, however, I respectfully request that the County place a litigation hold on all records, documents, and correspondence related to the Glendive Wind project.

Respectfully,



Lucas H. Forcella

CC: Prairie County Board of Commissioners
LHF/ch