

# JOHNSON COUNTY PLANNING COMMISSION

Johnson County Administration Building

111 South Cherry Street, Olathe, Kansas

Board of County Commissioners Hearing Room, 3<sup>rd</sup> Floor

## MINUTES OF REGULAR MEETING

October 12, 2021

5:45 p.m.

### A. CALL TO ORDER

A meeting of the Planning Commission of Johnson County, Kansas, was convened at 5:50 p.m. on Tuesday, October 12, 2021, and was called to order by Chris Iliff, Chair, with the following members present and participating; to-wit: Michael Levin, Randy Hutchins, Kelley Rast, James Neese, Roger Mason and Dave Johns (via Zoom). Randall Downing, Lindsey Grise, George Lund and Mark Huggins were absent. Also present were Jay Leipzig, Leslie Davis, Karen Miller, and Sean Pendley, Johnson County Planning Department.

Chairman Iliff: I'm going to read a notice, but first of all I want to thank the public for being here. We appreciate your attendance and your concern about this issue. We are here to listen and to hear your concerns and pass those on to the Board of County Commissioners when this matter comes to a resolution with regard to what we do, in fact, pass on to the Board of County Commissioners.

*Due to the COVID-19 situation, we are taking action to minimize attendance at the Planning Commission meetings, and we will be conducting the October 12, 2021 meeting with an option for attendance online using Zoom Webinar or in person at the County Administration Building. Details and instructions regarding how the public can participate in the Zoom meeting will be posted to the County website. Any person desiring to give evidence this evening, comment or testimony regarding an agenda item is encouraged to call or email the Planning Department prior to the date of the meeting. The Planning Department will provide all comments and questions received to the Planning Commission, and the comments will be made part of the public record. The Planning Department may be reached by telephone at 913-715-2200 or email to [Planner@jocogov.org](mailto:Planner@jocogov.org).*

Chairman Iliff: I'll say, just as a matter of record, that when we get to the public hearing phase of this that public comments will be limited to two minutes per person.

### B. APPROVAL OF AGENDA

Chairman Iliff: Are there any objections to the agenda by the Planning Commission as printed?

Comm. Hutchins: Mr. Chairman, perhaps it's due to my change of address, but I haven't seen the actual agenda tonight, so I don't know if it could be put up on screen so we have an opportunity to look at it briefly.

Chairman Iliff: Can that be done easily, Leslie? I can give you my copy.

Comm. Hutchins: Mr. Chairman, I guess one are that I would like to try to advance if possible is that we...As a Commission, we agreed that we wanted to meet more regularly, to roll up our sleeves and essentially go line-by-line on the rules and regulations so that we could put our stamp

and our footprint on that. I guess my question is, at what point during this meeting are we going to do that? I'm hoping...and we set out a month ago, and we stated that we were going to have working sessions, and we have yet to be able to do that. We've heard from cities. We've heard from consultants, but yet we've really never, from the Commission itself. So, at what point in time are we going to, again, roll up our sleeves, go line-by-line and start putting our stamp on this?

Chairman Iliff: Can I ask you to put that question on hold for just a second?

Comm. Hutchins: Yes, sir.

Chairman Iliff: Are you objecting to the agenda?

Comm. Hutchins: Well, I'm just trying to figure out where it fits in the agenda.

Chairman Iliff: I get that. I get that. Mr. Leipzig, would you like to respond to that?

Mr. Leipzig: Chairman Iliff, Mr. Hutchins, tonight is the evening when we go through line-by-line and item-by-item and receive direct comments from the Planning Commission. That's the intention of the meeting this evening is to go through this memo in detail and get some feedback from you all on those areas.

Comm. Hutchins : Very good. With that being said, Mr. Chairman, does it make sense to promote the public comments ahead of us going into that?

Chairman Iliff: I don't have an opinion on that. I think the public's comments are welcome, whether before or after. We've heard from the public on two prior occasions. Perhaps the public would be better informed in their comments addressed to us if they had heard discussion with this group, so I would say keeping the public comments to the end might make a certain amount of sense.

Comm. Hutchins: Very good.

Comm. Neese: Mr. Chairman, I thought we were going to do that on the 28<sup>th</sup>. I thought we were going to start doing the line-by-line on the 28<sup>th</sup> meeting. Am I wrong there?

Chairman Iliff: I don't think we set a specific time for it.

Comm. Neese: I thought that was kind of the discussion.

Mr. Leipzig: Commissioner Neese, on the 28<sup>th</sup> we had talked about doing the... Tonight was discussion, and then the next meeting in October, which I believe is the 26<sup>th</sup> of October, that we would kind of assemble it all together and talk in more detail. We're looking at having a public hearing possibly on November 16<sup>th</sup>, but we haven't set that date yet.

Comm. Rast: I have one more comment for the agenda, and I know we've kind of already started off offshoot, but I would like to propose a motion that we do start the meetings with the Pledge of Allegiance. We can start it next time or this time or whatever.

Chairman Iliff: Okay. I've been doing this for 20 years, and they've never done this before, so it's a thought.

Comm. Rast: It's a good thought.

Chairman Iliff: All right. Do I hear any objections to the agenda as printed? All right, hearing no objection, the agenda will be accepted.

### **C. CONSIDER MINUTES OF PREVIOUS PLANNING COMMISSION MEETING**

Chairman Iliff: Are there any objections or corrections to the minutes of the August 10, 2021, meeting?

*Motion by Commissioner Hutchins, seconded by Commissioner Levin, to approve the minutes of the August 10, 2021, Planning Commission meeting.*

*Motion passed unanimously.*

Chairman Iliff: The same question with regard to the September 14, 2021, meeting minutes. Any objections, corrections? Do I hear a motion for acceptance of those meeting minutes?

*Motion by Commissioner Neese, seconded by Commissioner Hutchins, to approve the minutes of the September 14, 2021, Planning Commission meeting.*

*Motion passed unanimously.*

Chairman Iliff: The minutes of both meetings, therefore, are accepted into the record.

### **D. UTILITY-SCALE SOLAR FACILITIES - AMENDMENTS TO COMPREHENSIVE PLAN AND ZONING REGULATIONS**

Chairman Iliff: The next item on the agenda is utility-scale solar facilities and amendments to Comprehensive Plan and zoning regulations. Mr. Leipzig?

Mr. Leipzig: Thank you, Mr. Chairman, Members of the Commission. A couple of housekeeping things, just to reiterate, as we had just discussed. The intention or goal of this evening is to go through item-by-item on the memorandum that was distributed to you yesterday. I also wanted to update. You have quite a bit of information in your packet. The agenda that was received up until October 4<sup>th</sup> for the mail-out actually mailed in the packet, and then we also received some additional comments in emails after the mail-out, up until 2:00 p.m. today, October 12<sup>th</sup>. Those citizens that have submitted the comments are Bonnie Glade, Larry Price, Greg Cromer, Senator Mike Thompson, Joyce Whittier (five emails), Steven Clark (two emails), Jacqueline Smith, Jeffrey Hunningshake, Lee Ann Antes – I apologize to Ms. Antes. She did submit an email to me before the 4<sup>th</sup> that we could submit in the packet, but I didn't receive it or didn't forward it on, so I apologize, but that is in your material this evening – and Barbara Kerr. We also have comments from Johnson County Wastewater that are included in your packet.

One thing I was going to suggest that we have the ability to do on a topic like this – frankly, it's never been an issue – but we have so much information that's coming at you. I guess what I would like to propose – and we'll see if the Planning Commission is comfortable with this – is when we receive items after the mail-out date, we will just copy it, make it into a PDF and post it on the County's website. That way it's instantly made available, and you would be able to read it, and it would give you more time to read it, essentially. We have that technology. As a matter of fact, it would really help in terms of saving staff time as well. It's a little different than what we've done in the past, but for something like this I think it's a good opportunity to do that. I would suggest that we do that if you all are comfortable with it. As we receive documents, we'll just put the link on the County's website for that meeting date, for the Planning Commission, and all of those documents can be found in one place. Any additional comments on that?

Chairman Iliff: You know, I think that may be a practical resolution to the problem with the materials that we have confronting us and by making it available to the public as soon as it is

available, as well as to the Planning Commission. At least there can't be any complaint that we're getting things that other people aren't getting, so I think that's probably a good resolution.

Mr. Leipzig: Okay. Thank you, Mr. Chairman. Continuing on, in your packet was a memorandum dated October 11<sup>th</sup>, from myself, Sean Pendley and Karen Miller that summarizes. What we tried to do was encapsulate the public comments that you've heard, the comments from the cities, as well as additional research that staff has completed and assemble that again and look at revising or finding additional comments on the earlier memorandum that we had assembled on June 16<sup>th</sup>. I'm going to walk through this memo. It's going to be kind of a tag team approach this evening, between myself and Sean and Karen, and go through these various points.

Beginning on page 1, we had talked about Johnson County Comprehensive Plan amendments, unique impacts identified to the utility-scale solar facilities such as large scale, wide geographic distribution, intense site coverage, long lifespans, future city development and maintaining the rural character and open space, and wildlife and stormwater issues. We have drafted some selected draft policies related to the Comprehensive Plan that we believe provide future city growth, protect the unincorporated area, provide for efficient development of other infrastructure and services, and promote the County's rural character and open space. Those are high-level policy statements and policy issues included in our Comprehensive Plan.

The next component of that is looking at our Zoning Regulations, those various components and how they fit together. I'm going to briefly go through this. You all have it in front of you, as well as on the screen, but to go through some of the various high points, the high level, regarding the selected development standards for utility-scale solar facilities, utilizing a Conditional Use Permit and the Conditional Use Permit process. I might note that we have not received an application. This discussion and presentation this evening for the Planning Commission is policy-level for Comprehensive Plan amendments and our Subdivision Regulations, which is the recommendation we've made that will be forwarded to the Board of County Commissioners, and they will either approve the recommendation or remand it back. The actual application, when that is received, will go before the Zoning Board, and it will be a similar process. There will be a public hearing before the Zoning Board. That body will make a recommendation, and we'll send that to the Board of County Commissioners, so this is the policy framework and then actual application itself will go before the Zoning Board. I just wanted to point that out because there is some confusion on that. Johnson County is a little bit different, in that most cities have a combined Planning Commission with Zoning. In our case in Johnson County, it's separate. It's always important to keep that in mind.

Looking at the first item in the memo is the term of the proposed utility-scale solar facility. The Planning Department still believes that the term of 20 years is appropriate. My other caveat in this discussion is these recommendations need to be taken holistically, because they all work together to form the policy framework. We've have put a lot of thought into why we're making these recommendations. I think, 20 years, some people might regard as too restrictive. Others, it could be too long, but we think, in general, that is our planning framework that we look at in the County, of 20 years. That can be renewed, so you can go through a renewal process, but I think 20 years is enough time to make a determination if it will impact growth. It might be perceived as too short for some. It might be too long for others, but I think in our case, in our planning timeframe, that that is the best case scenario and balances the various issues between the right of the property owner as well as the growth that's going on in our fringe cities.

Comm. Neese: Could I ask a question regarding the 20 years? Is that appropriate at this time, Mr. Chairman?

Chairman Iliff: Is it appropriate for the head of the Planning Department to comment on why they're recommending 20 years? Yeah, sure, I think it's appropriate.

Comm. Neese: I'm not going to ask that. You don't know my question, sir.

Chairman Iliff: Well, speak up then. I guess I didn't hear you.

Comm. Neese: Okay. Jay, I've got a question. At a zoning board, in our zoning board, we're looking at things, and the most we're looking at is ten years. Even a rock quarry that was highly studied, and it's got a renewable of ten years, so my question to you is, as a zoning board member, when somebody comes for a tower or something else, is 20 years going to now be the standard?

Mr. Leipzig: Commissioner Neese, no, not necessarily. Thank you for bringing that up, sir, because that is one of the benefits of the Conditional Use Permit. It can vary. I don't believe – and there again, this is kind of for further discussion – that 20 years will be the new standard. I think in many cases ten years is appropriate. The zoning board has flexibility to ultimately either make it shorter or make it longer, depending on the various issues associated with the application.

Chairman Iliff: Thank you, Mr. Neese .

Mr. Leipzig: Moving on to page 2 –

Comm. Hutchins: Before we move on, I guess the one question that I've got is more directed to NextEra. Does the 20 years fit within the payback period? In order for them to be profitable, is there a longer duration of which they need in order to be profitable? So, at this point in time, I would like to call upon NextEra to provide some insight to that.

Chairman Iliff: Why don't we do this? Let's stay with the agenda. I do think NextEra has already commented on this, at least once if not more, and I think that that would be something that they would very much want to address. Why don't we go ahead and just go through the Planning Department's report on this, and then we'll let NextEra deal with that particular issue?

Comm. Hutchins: To be clear, are we going all through this, and then we're coming back to the original line item, and then discussing and agreeing or disagreeing on what the rules and regulations are going to be as a commission? At what point in time do we have the debate on what should it be?

Chairman Iliff: Well, we can begin debating right now if we want, but we can't ask members of the public or the potential applicants to come and comment on each of these items at this time. So, I think, given the fact that we have at least one more meeting before we would call for a public hearing, at which we would make a final recommendation, that it would be good to go through the critical parts of this report, get the Planning Department's comments on these things, and that of course opens the agenda for members of the public to make comments, to make criticisms, as well as representatives of NextEra. And then I think next month would probably be the time where members of the Planning Commission express their opinions about each of these items and where we go. Then, based upon that, we'll probably be ready for a public hearing.

Comm. Rast: My understanding, as well as what I feel should be done, my personal opinion, is that we need to be setting policies in a general sense, not assuming that there's anybody here to put anything in. This is what's best for the county, not what's best for somebody who might be interested in doing something, so we need to be looking at what we feel is right for our county and what kind of policies we want, because that's where, later, the CUP grants that next step, correct? We need to stick with just what we're looking at from our side, not any individual situation, or else we're never going to get done.

Chairman Iliff: Very well. Go ahead.

Mr. Leipzig: I will just continue with the memo, and I will note that all of these questions and comments will be part of the record as we move forward. I'll try to go through this fairly quickly, so we can have the discussion. Item 2, the maximum project area, staff is recommending 2,000 acres maximum project area, which is 3.1 square miles. This recommendation has remained unchanged from the previous version that was issued in August. The current draft regulations allow the solar facility to be a collection of non-contiguous parcels, which are separated by not more than one-half mile from each other. There has been some comments from the property owners stating that they believe that if non-contiguous that will create fragmentation issues, but I believe that with the 2,000-acre requirement it is large enough, but yet we're still allowing some separation. It won't create those impacts that you would see if it was entirely contiguous, but that is a discussion that we should have in the Planning Commission as well.

Number 3, the distance from other solar facilities, at least two miles separation between other solar facilities. This is consistent with the previous recommendation that came with our draft dated August 10<sup>th</sup>. Staff has also explored regional planning efforts. As you might recall, we talked about possibly having a regional planning effort with Douglas County. I believe that as we looked at this further, doing additional research and looking at the Golden Criteria and Golden analysis that we do for every application, which basically looks at impacts of surrounding land uses which can apply also, in reviewing that, not only within Johnson County but also in an adjacent county, whether it's Douglas County or somewhere else, we have the ability to look at that. That's why I believe that a two-mile separation is sufficient, and staff is comfortable with that recommendation as well, remaining unchanged.

Comm. Neese: I've got one quick question. Is this the segment that you address if a facility goes up – I'm going to make this up – a mile from the lines that they're going to connect to, do you address eminent domain? because wherever these are going to be they're going to cross somebody else's property. Is that here, or is that later on?

Mr. Leipzig: That would be part of that review process, Mr. Neese.

Comm. Neese: Okay, so if a facility goes in – whatever the size is – and they have to get to a power line, and they have to go across somebody else's property, eminent domain, do we write the regs on that, or is that just something...? Like if somebody wants to put a power line across my farm, if KCP&L wants to put a line across there, they say eminent domain, and it's done. Do we address that at all?

Mr. Leipzig: We do not, unless... I'm looking at Sean or Karen.

Mr. Pendley: I'm not aware of any use of eminent domain for a private utility-scale solar facility. So if a private utility provider needed to acquire a right-of-way or easement, it would be private for that user. It is possible that there could be public right-of-way or a public dedication of property if a property owner were willing to do that, but the provider would need to work with the property owner to acquire that land. I'm not aware the of the public, the County, going through that process to use eminent domain for a use for a private utility.

Comm. Neese: I'm asking for the transmission lines, okay? So you're telling me if I have a piece of property and put a system on my 500 acres, and I'm a mile away from where I'm going to hook up, that unless the property owner allows me to run a power line across my property, it won't happen.

Mr. Pendley: Not in that location. Not without the private property owner's consent. The County would not go through a process to acquire land for a private utility provider to install a power line.

Comm. Neese: So these power lines are under different rules and regulations, as opposed to KCPL? Are there different rules? I mean, KCPL technically is a private company, I believe. It's a utility, and if they want to run a power line across your property, it's going to go across your property.

Mr. Pendley: And that utility can use the powers that they have to acquire what they need for easements. For the County, we would only use... It could be, in some cases, power lines may be within public right-of-way, which is often located along a public road. It is possible that a utility could be located within a public right-of-way, but in a case such as this, if you're talking about going through the middle of a private property for the sake of a utility-scale solar facility, that private utility provider would have to work with the property owner to acquire the easement under whatever powers they have. The County would not use eminent domain for that, at least not that I'm aware. I guess we could probably consult with other [inaudible, crosstalk].

Mr. Neese: I don't want to beat the point. I'm not saying the County... I guess what I'm asking is, I guess we have no control if it's a utility, and they want to run a power line through my farm, they can request that power line to run through my farm from public domain. It wouldn't have anything to do with the County. It would just be... Anyway, I don't want to –

Mr. Pendley: I think that would be a question for a utility provider, whether that be Evergy or whatever power company that is.

Mr. Leipzig: I would suggest that we pose that question to a utility provider. We could certainly find out additional information on that, too, and talk about that.

Ms. Miller: I had some of those very questions for the Kansas Corporation Commission. I just got some information today. It's on my desk. I haven't had time to review it, but I do know in a lot of cases, the rules for a public utility and a private utility are different.

Mr. Leipzig: And this would be a private utility.

Ms. Miller: There are two different cases. Yeah, we need to get back to you, but yeah, we have started reaching out to figure out those questions.

Mr. Leipzig: Okay, continuing on, I will begin to discuss item 4, which is the distance from cities. Staff's original recommendation was greater than one mile, and have a one-mile buffer. We've had some discussion about that. As you might recall, the City of Gardner had requested perhaps a two-mile buffer. The City of Egerton had requested a three-mile buffer. Staff looked at this a variety of different ways, and this kind of goes back to my point about looking at the term of the Conditional Use Permit of 20 years. I think a better approach and recommendation that staff would make is for a growth buffer of 1.5 miles. It fits in very well with a 20-year term, and the other requirements that we've stipulated in our recommendation.

Just giving an overview of what the cities' recommendations are, the other issue that we really tried to pay particular attention to are watersheds. Sean is going to show some maps that show those boundary future growth areas for the cities, and you can see how that matches up long-term, beginning I believe, in the early 80's up until today, but we think that it's better to proceed with caution with a 1.5-mile buffer, and there is a waiver that is available for that. If there is a particular project that, in working with the city to receive that with a waiver and get approval for that, they can go through that, but that would require approval through the Board of County

Commissioners as well. With that, I'm going to turn it over to Sean if you're ready, and talk a little bit about the animation and some of the maps that we have for the future growth areas.

Mr. Pendley: One of the things we wanted to point out, following the last meeting, where we had the study sessions with city comments that were received – and those were included again in your packet – as Jay indicated, one of the key areas we're looking at for where a utility-scale solar facility would be located would be in areas that are not in conflict with future city growth areas or areas of future infrastructure improvements, watersheds or other environmentally sensitive areas. So, one of the first things we looked at is growth areas of cities. Obviously there's been a lot of growth, and we're just using as an example over the last 40 years, because we're looking at a general lifespan for a solar facility could be up to potentially 40 years. So, we went back just over 40 years, about 44 years, I believe, looking at the growth of cities and incorporated areas in the county. Our AIMS Department had a wonderful illustration here in an exhibit that shows an animated map. We're going to play this. It starts at 1978, going all the way to the present, in 2021. I'll start this. [playing animation] It pretty much goes year-by-year, but there were a couple years missing in here. It generally goes one year at a time, so starting at 1978, going through year-by-year showing the growth of all of the cities. Obviously, there's a rapid growth starting in the 90's.

You'll see the areas, of course, that we're concerned about are the fringe area cities that we're looking at adjacent to the unincorporated area – De Soto, Olathe, Gardner, Edgerton, Spring Hill and Overland Park. Now we're up to the 2000's and to the current 2021. So obviously, in that 44 years that is a quick rundown. I could go back at any point here and show any changes in time. But obviously, in the last 20 years we saw rapid growth. We saw almost a doubling of the size of the cities of Olathe and Overland Park, and in other cities, like Gardner, Edgerton and Spring Hill, exponential growth, a much faster rate of growth. We saw in that time, 40 years, extensive growth. Every city is different. I think the annexation rates were different too, given the time and the laws that were allowed for annexation at the time of the 90's to the early 2000's. The State has passed annexation laws recently that would not allow such exponential growth, because the island annexations are not as easily approved. They have to go through a county review, and it's a little more difficult to annex the way some of the previous annexations were done. Nevertheless, cities are still growing, and they will continue to grow. This was just an illustration showing that growth.

The next exhibits – and like I said, I can go back, if there's any question about a time period, we can go back and look at that – but what we wanted to do next was looking at the buffer maps. As we explained at the last meeting, these maps that I'm going to go through are the different buffers from the current city limits. So, what we're looking at here, these red boundaries are the minimum buffers that we're recommending from the current city limits. All of the other colors that you're seeing outside of the gray areas are future land use areas that have been designated by the cities where they're expecting growth, and they have future land use plans. But the red boundaries, we'll start with the one-mile buffer here. This is showing a one-mile minimum buffer around the current city limits. The cities have future growth area limits as well. It's kind of hard to see at this scale, but if you look at the maps that are in your packet, you'll see a dashed black outline around those cities where they have their future growth areas. Some of those extend well beyond one mile. Some are really close to one mile, but these limits are showing essentially the future growth areas that have been designated at this time. We recognize, as Jay mentioned, the one-mile buffers didn't quite go out to as far out as the cities were growing. We felt that there probably could be a better buffer distance that would more closely align with those future growth areas.

The next one that we looked at is the one-and-a-half-mile buffer. This is much closer to getting to that future growth areas of the cities, and in some cases goes beyond that. You'll see some of

the areas around the west of Gardner, they go to at least to the edge of their future area, or even just a little bit beyond. As Edgerton had indicated, their future area they consider to at least three miles outside of their city. So technically, it would go beyond this, but generally speaking the one-and-a-half-mile buffer, if you look to the south, that extends well south of Overland Park and Olathe and goes beyond their future growth areas. I will note also, this one-and-a-half-mile buffer also extends beyond the Blue River Watershed. As Karen had prepared some information in the memo and I think has indicated before, we were coordinating with Johnson County Wastewater in looking at future growth areas. We'll talk a little bit more about this. Their Blue River Watershed, this one-and-a-half-mile buffer goes beyond that. We'll talk a little bit more about that as well.

The next buffer map we looked at was a two-mile buffer. This went even further beyond at least some of the cities' growth areas. We felt that this is probably a little bit beyond what we would plan for at this time as far as meeting our recommendations for a minimum distance from cities, but we do know that this would align with, as I believe the City of Gardner had indicated, this is what they would request, a two-mile buffer. It leaves much less area as we had mentioned before, I think this gets to approximately 13,000 acres left in the unincorporated area that would be eligible or available for utility-scale solar facilities, so it's much more restricted.

Finally, the three-mile buffer, this basically eliminates any of the south unincorporated area of the county, and the only area that would be able to have a utility-scale solar facility would be the far west central area of the county. And this, I think, reduced the eligible area down to just over 2,000 acres of unincorporated area. So we looked at all of these different buffer maps, and upon review and analysis of the city comments and analysis of the future city growth areas, we recommend an increased buffer of one-and-a-half miles from the city limits. Again, that provides additional protection of future development areas for the cities, and it more closely follows the future city growth limits that we showed on those buffer maps. Finally, just as I noted earlier, after consulting with Johnson County Wastewater, they indicated that the one-mile buffer as we originally drafted and is currently drafted, did have certain areas of the Blue River Watershed that extended beyond that, so of course, to avoid any conflicts with watershed areas such as that, that are in an area south of Overland Park, we recommended additional buffers. A one-and-a-half-mile buffer goes beyond that, so that would take out any conflicts with the Blue River Watershed.

There are waivers available for this minimum city buffer distance. As currently drafted, a waiver will be available upon review and approval by the Board of County Commissioners with findings that the waiver does not conflict with planned uses for the subject area. We have language written in the draft regulations currently that state this. What the cities requested were additional requirements to specify that the applicant would be required to provide the reasons for a waiver to be forwarded to the city, and that the cities would be allowed to provide comments and findings that would be forwarded to the BOCC and that the BOCC would consider the city comments when making their findings. Staff agreed with that. That makes sense. We didn't think it was necessary to incorporate a formal review process and providing timelines or a formal finding from the city. However, we recognize and agree that it is appropriate for the County to provide any application, forward it to the respective city and require an applicant, if they are requesting a waiver from the distance requirement, that they provide reasons for the waiver and that those be forwarded to the cities, and the cities be allowed to provide comments. We agreed with that, and we would recommend incorporating that additional language in the draft regulations. That's a review of the buffers and the changes that we're recommending. We'd be happy to answer any questions on the distance requirements.

Comm. Hutchins: Is there a precedent set where we as a Commission have drawn a line and said, “You can’t do ‘X’ within ‘X’ miles of a city,” or put a cap in place of, “You can’t exceed ‘X’ square feet, or ‘X’ miles, or ‘X’ acres?”

Mr. Pendley: I am not aware of any other use that the County would recommendation prohibiting a use within a certain area. I’m not aware of such a use.

Comm. Hutchins: Thank you.

Mr. Leipzig: Commissioner Hutchins, one additional comment. That is why we wanted to emphasize that waiver is available. In some locations that is a tool that can be used for that purpose.

Ms. Miller: We have requirements for communication towers. They cannot be located within a mile of each other, so you asked about caps. That would be one similar requirement. I’ll try to think of some other ones.

Mr. Leipzig: Karen, are you doing item 5?

Ms. Miller: Good evening. Number 5 in the staff memo talks about development ratio, meaning the ratio of the photovoltaic panels to the project area. This is an idea proposed by the consultant. They have looked at hundreds of applications and solar facilities and saw a pattern that good solar facilities with good stormwater management tended to have in the area of about a 70-percent coverage ratio. So this would be a requirement that acts in concert with other requirements, like the setbacks, the buffers, that type of thing. Staff concurs with the recommendation of the consultant, to continue to recommend a 70-percent coverage requirement, and this would be in support of stormwater, primarily, by ensuring the overall open space that contributes to absorption of the stormwater in a timely manner.

Number 6 in the memo is the idea of setbacks. As drafted, the requirement would be that the panels and fencing should be at least 50 feet from the project boundary or if there is an official street line it should be 50 feet from the official street line, with additional setback of at least 25 feet of those structures from existing dwellings, and a waiver would be available for these to look at on a case-by-case basis upon an actual Conditional Use Permit application. Again, this requirement is intended to work in combination with the screening and the coverage ratio. Just to point out, right now, thinking in particular about solar facilities, but thinking just in terms of the Rural District, which is what most of unincorporated area Johnson County is zoned, it’s zoned RUR, Rural District, for the most part. That setback in that zoning district is 50 feet from the streets, the property lines fronting on streets, and if there’s an official street line, which occurs along those major arterials like 175<sup>th</sup>, 199<sup>th</sup>, Ridgeview, those types of roads, 50 feet from the official street line.

The important thing to remember is that the County has already done a lot of work. We’ve already done a lot of work thinking about the official street line. That is the area we reserve for future streets. That’s why we’re here. That’s why planners are here and the Planning Commission is here, is to look forward 10, 20, or 40 years to think about what the county will be and what will be in the county, so along these important arterial streets we have the official street line to keep structures out, and then beyond that we have setback requirements. In this Rural District, this 50-foot setback requirement achieves several things. Part of that is to provide room to put easements for utilities, like the water. Planning talked with Water District No. 7. They were gracious enough to spend some time talking with me and then draft up an email with a really good illustration about how Water 7 tends to try to organize their water lines and their easements. They tend to want to

have that actual water line five feet off of the official street line, with 10 feet of easement on either side. That gives them room to install and work on those water lines. It gives space so that the water line is kept away from the other utilities. So, that is one easement for one utility. That utility is a pretty deep one. They need to do a lot of digging. There are other requirements for other utilities and easements. Sometimes utilities can share an easement, and sometimes they don't do it very well. We just today got a letter from the Wastewater Department, and if we have a 1.5-mile buffer, we won't have a lot of involvement with the Johnson County Wastewater Department with Blue River Water Basin, but they just talked in general how things worked for sewer district lines. Some of the main, major transmission lines for sewer lines need to go very deep, and they need to have a fairly wide easement, but they do tend to follow streamways, so that would be something that would be important in general to think about. Also, just the local sewer lines, they're not as big or deep, but they do need to have some area within an easement. That is one reason in general for a setback, especially for a setback from the road, is to provide an area. The County has already done a bunch of that heavy lifting and thinking, with the official street line and the 50-foot front yard setback from those lines.

Other things that the setbacks provide would be upholding a general character of the neighborhood. In the Rural District, you tend to have those open spaces and setbacks, and it also provides buffering between, like, a street and a dwelling or other sensitive areas, and so forth. So that setback requirement is important, and I'll also point out that even with state statute, state statute gives an ag exemption for agricultural purpose, with the exception that structures used for agricultural purposes still have to meet the setback requirements of that particular county. So even agricultural buildings are not exempt from our setback requirement.

Comm. Rast: Could I ask a quick question? If you drive out there, a lot of those roads, between County Road or Evening Star Road, a lot of them are just almost one-way roads. They're not widened, they're not a typical width of a two-way road, so with growth and with the setbacks, do you decide that you should do a little bit more, knowing that the roads are going to need to be expanded to be true two-lane roads, or how do you factor that component in?

Ms. Miller: That's an excellent question. That is why we have the official street line, and the official street line is not right-of-way dedication. The official street line is measured from the center line of that arterial road, which is usually the section line, so it basically measures this distance from the section line and says this 60 feet from the section line, which is like half of a right-of-way for the future, is going to be where we measure our setbacks. So it keeps the structures out of these important critical areas, like future road right-of-way, which we acknowledge right now. Five or ten years, we might not need it, but this is planning. In the Planning Commission, we're planning for the future roads. Now, the time when we take right-of-way dedication or receive it would be usually in platting. So in certain situations – not every situation – but in certain situations, when you plat, when you create like a residential subdivision, and this is the end result of your land division, this is our end development, these homes. That's when we would do right-of-way dedication. At that point, it's usually 60 feet from the section line, or the center line of the road. So there's kind of two different things. There's the official street line, where we measure our setbacks. That is thinking to the future. That's planning for future improvements. And then there's the actual development when you plat and you do right-of-way dedication .

Comm. Rast: Thank you.

Comm. Neese: I've got a quick question, Karen. If I want to build a structure in an ag area, and I want to build a barn. Well, it wouldn't be ag because you can build an ag barn anywhere, I guess.

Ms. Miller: Like a detached garage.

Comm. Neese: Yeah, okay. From the center line of a road, is it that you can't build anything back 120 feet?

Ms. Miller: It's 110 feet, and that's the combination of two things. One is the official street line, which you measure from the center. That official street line is where we measure the setback. And then, it's a 50-foot setback probably where you live, so 60 plus 50 is 110.

And then, just to acknowledge, we've heard some requests for other alternative setbacks recommended by the public. We've heard increased setbacks from dwellings, decreased setbacks from the project boundary. Those can be handled during an actual CUP application with either the waiver available, or with increased requirements as just part of the flexibility of the Conditional Use Permit process. So even if we do proceed forward with that 50-foot setback, we can also adjust it to a particular situation.

Number 7 in the staff memo is screening. Just a comment about setbacks. Setbacks require that open space. It's a type of buffer. A buffer helps with screening. It helps with mitigating those impacts, and then screening can also be landscaping, existing landscaping, landscaping that's required to be planted. Berming, we've taken several comments about the berms. No, we aren't trying to require berms in every particular application. It's just there in case it makes sense. Sometimes the applicant would prefer to berm instead of plant landscaping. It's just available. It's not required to be used. And then also decorative fencing could also be used, but it can't be used completely. There's only a portion of the required screening that could be decorative fencing. Planning staff does not recommend additional changes to the drafted screening requirements. Just a comment on why we continue to recommend those screening requirements. The PV panels and other structures with the solar facility, they're not commonly found in agricultural areas in and in unincorporated area Johnson County. They have a more industrial rather than rural character. Also, we are moving forward with our regulations with caution. This is a new technology. This is a new use that we have never before regulated, and we want to make sure that the rural areas and just generally unincorporated area Johnson County is not overrun by this one particular use, so it's important to mitigate these impacts.

Just to point out, I'm going to show examples from two different solar companies that this type of screening is actually required and installed by other companies. Examples 1, 2 and 3 were provided by Lightsource bp. They are the operators of the solar facility that we visited in Pueblo, Colorado. I'm pretty sure, looking at the landscape here that this is not in Colorado, but this is some examples that they provided us. This is an example of a visual impact analysis in and then the proposed mitigation. So right here is the area where a solar facility might be proposed, and this is the proposed type of screening that Lightsource bp was proposing as part of one of their applications. Here's another example. Here's the existing view, and then here's the proposed screening along the road that Lightsource bp was proposing. This is another poster. I think you can see the picture in your actual printout, but here's basically the plantings. This is a row of evergreens, and they make the note that, "Agricultural land can continue between the project and the roadway," so just because we have a 50-foot setback from the official street line it means that the structures for the solar facility can't occur, but that doesn't mean that the farmer can't still put their crops in that area. Here is an example from Lightsource bp of a proposed row of evergreens. This last example was taken by County staff. We were visiting a solar facility at Independence, Kansas. This is inside the solar facility looking out, so along this fence is a row of evergreen trees, and beyond that are existing trees. There's a road not too far. So that's screening.

Security fencing – this is not decorative fencing. This is security fencing. We propose to continue to not allow it to be more than 12 feet in height, not allow chain link with slats, and to be located 50 feet from the project boundary or official street line. I was a little bit broad-brush in this particular slide. I said that the waiver is available upon review from the BOCC. But really, the waiver is allowed from the setback requirement. As written, there's no waiver for the height requirement. I just want to emphasize that it's a little bit inaccurate here. But just a comment that not all fencing is alike. A 12-foot chain link fence has probably a definite industrial character, but I've seen slides and pictures of solar facilities that have maybe a four-foot fence with wood posts and not chain link fencing but more like wire that you would see in an agricultural application. Perhaps some fencing like that could receive a waiver, as opposed to allowing a 12-foot chain link fence right up against the road. I think that would be an area that would be good to think about or at least eligible for waivers.

Just a comment, number 9, battery energy storage facilities, this is silent in the regulations now as drafted, but we might want to limit the capacity of the battery energy storage facilities so that it remains more of an accessory to the solar power being generated onsite and doesn't become a primary use in and of itself.

Then there are a couple areas that staff has been pursuing. These are not in the regulations that perhaps should be put in the regulations. I've been talking with Building and Codes staff. They recommended two references to building codes that have been adopted after our 2018 codes. Our building codes and fire codes were adopted in 2018. There are two references we should adopt regarding battery energy facilities that kind of regulate some of the safety. Also, Anoush, our Code Official, has been looking at the building code and fire code, and he just wanted to emphasize that right now there is a requirement for emergency planning and preparedness, and that right now in the adopted codes, they would be required to show a fire safety plan, a fire evacuation plan, location of hazardous equipment and many other things that I didn't list. So right now, a lot of those safety issues are already addressed in our Building Code and Fire Code.

Comm. Neese: Karen, if you go back up to the previous side, the recommendations, the one prior to that, decommissioning. When are we going to see the definition of how to handle financially the decommissioning and take-down? These are generalities, but when are we going to see specifics about how monies are going to be put up, or how letters of credit and all that kind of stuff?

Ms. Miller: The way it's written now, there's leeway for the County, the Board of County Commissioners and the Zoning Board and Planning staff to deal with an actual applicant and come up with the specific type of surety, so –

Comm. Neese: I don't think our Zoning Board is going to take, or has the expertise or the time or the energy, to write if somebody comes and wants something in our area, to really define what –

Ms. Miller: This is something that County would need to hire a third party.

Comm. Neese: Beg your pardon?

Ms. Miller: This is an area where the County would most likely need to hire a third party for assistance in reviewing whatever the applicant proposes. It's structured now for the applicant to have to do surety and to have to have the amount of surety reviewed between every one to five years.

Comm. Neese: What I'm trying to understand is, you mean that when there is an application made, at that point in time of the application, we're going to determine how he's going to... either

the Zoning Board or the County Commissioners, they're not going to take the time. Isn't it our place to determine that... 20 years, it's going to be 40 years, because nobody's going to not renew it – 40 years from now, so that so much money needs to be put up after a facility has been sold two or three times to investors, or what have you? That we're not going to define how that's going to be funded?

Ms. Miller: A good example would be the quarry. The quarry is required to put up surety, so the quarry submitted to Planning staff their calculations for, I think it was decommissioning. Was it decommissioning? Reclamation. So, they had to submit their reclamation plan to the County, and their calculations and how they were going to post their surety. The County hired a third party that reviewed it. They found that the applicant's proposal was not to their satisfaction. They discussed it with the applicant, and the applicant in the end agreed with the recommendation of the third party.

Comm. Neese: So 40 years from now, when an applicant's facility is going to be shut down, it's done. So he's then going to go to County staff, and he's going to say... I know sometimes they want to count scrap, or whatever, for the future value of money and so on, "We propose that 'X' amount of dollars, and this is how financially we want to back the close-down." So, 40 years from now, the existing facility would request the County how to pay for the decommissioning.

Ms. Miller: Can you restate that?

Mr. Pendley: Mr. Neese, I think I understand your question. As Karen was indicating, in the regulations, they're not going to specify on any one application what type of surety is provided in general. However, at the time of the Conditional Use Permit the applicant will provide their estimate for the overall cost of decommissioning, which includes all removal of equipment, and that will be re-evaluated with every renewal. That estimate that they provide, and the surety will cover the total cost of decommissioning and reclamation of the site, all things included. The County would hire a third party review, a third party engineer or consultant, to review that. The costs I think would all be included in the applicant's cost, but that would be reviewed by a third party for the validity of the cost of the surety, so to make sure that it actually does cover the removal of all of the equipment. But again, this would have to be evaluated, at each renewal. Because after 20 years, of course, the costs will change. And that increases, so that example that Karen gave with the quarry, as you recall when those Conditional Use Permits are up for renewal, the costs of the reclamation goes up and the cost of that surety goes up. That increases due to inflation, the costs of whatever the current value is, so that will be re-evaluated. We just don't have a specific type of surety drafted in the regulations, but that will be determined.

Comm. Neese: You can't determine whether it would be a letter of credit or a bond set? For example, the quarry that you're using – and this is in the form of a question, not an argument, Mr. Chairman – the quarry, for example, wanted to keep doing business. I was really involved with that. You had your appraisal which would be done, because the previous owner wasn't keeping it up the way he should and so on, so the new owner said, "We'll agree to this," and they've done an excellent job, by the way. But they wanted to keep doing business. So at the end of 40 years, with the changes of the system that they've got in there, at the end of 40 years they say, "We're out of business. We don't want to do this anymore. We're closing down," and they close down. They close the financials, turn the ground back, and they say to the County, "We don't have the money, because we're closing down." So, we don't have any recourse to give them direction early on of how they're going to do the reclamation. There's a difference between bonds and letters of credit. There's a difference between that and cash, which they're to going want to do, the

percentages, and so on and so forth. So the pressure – I'm asking this question – seems to me to be different in this situation as opposed to a quarry that wanted to keep on doing business.

Comm. Hutchins: I agree a hundred percent with Mr. Neese. We said this was a show-stopper from the beginning. Legal had the action. We were told six months ago that within 30 days they would have a recommendation for us. We have not seen it. We need this resolved before we take it forward, quite frankly.

Mr. Leipzig: Mr. Hutchins, that's the recommendation of Legal. They recommend that we have some levity on that, whether it's a bond or letter of credit, because it's going to depend on the particular situation. It's reviewed every five years, so I think the approach that they're using actually makes some sense, because that... And there's also a third party consultant, a reviewer, that's going to be looking at that. When that applicant is approved or up for review by the Board of County Commissioners, to make a determination, what would be the best way to provide that reclamation? I think that the way it is written, frankly... That way we're not stuck, whether it's just a bond or a letter of credit. There's other resources, other tools, that might be out there, that don't exist today but might in the future. So, I think that's what Legal's assumption was in making the recommendation the way they wrote it.

Comm. Hutchins: We need something more definitive than that. I mean, to go a five-year review period, in five years they could be on the verge of bankruptcy, and it's too late by then. We have got to have something more definitive than that. If I'm in NextEra's shoes, I need to have some assurance that I know what the criteria is. I've met the criteria, so in five years they don't double the ante on them. In my mind there needs to be something very definitive. When they go into this project they know full good and well this is the upfront investment, or this is the requirement that's going to be met, that the landowner, the County and the State aren't going to get stuck with the cleanup of this.

Comm. Rast: There needs to be some sort of guarantee, and big companies, even if they don't go technically bankrupt, they can reorganize. There's ways for them to get around certain accountability processes if certain areas of their company are not succeeding. There's got to be something that holds them accountable from day one of approval, and it's got to be solid. That's just silly. That's to protect the landowner and everybody.

[inaudible, cross-talk]

Chairman Iliff: One at a time, please. Jim Neese.

Comm. Neese: It's just that the point that you're making, the rock quarry operated for years out of compliance and nobody stopped them until we finally brought that to fruition and wrote the rules and regulations that made it cow to what needed to be done right. Anyway, I second, Randy, what you're saying.

Chairman Iliff: We've been at this now an hour and 15 minutes. We're going to take a five-minute break. Thank you.

*[Five-minute break]*

Ms. Miller: Thank you. I'll wrap this up. I just wanted to mention, on page 10, our areas that the staff is looking into, and recommended additions to the draft regulations. Building codes and Public Works staff. We had Public Works staff talk with our planning consultant about the specific issues with stormwater and solar facilities. For Public Works' specific issues with stormwater and solar facilities, our Public Works engineers are considering the issue. I'll have further updates with

you after Public Works has thought about and looked into the idea of stormwater and solar facilities. Also, Public Works is interested in a requirement where the pre and post conditions of the road prior to and after installation of the solar facilities and decommissioning are documented, and a surety is posted for maintenance of the road.

Also, Planning staff has some recommendations. We are beginning to think about the scope of an application for some of the solar facilities, and it's possible that we would need an amended process to provide additional staff time to review such an application. For example, if we needed to get third party reviews of additional information, that takes some extra time finding these people and letting them work and give us their findings. Then also, Mr. Peterson last time was talking about the typical Midwestern solar facility installation. He showed a really nice picture where the solar panels follow the existing fields and leave the existing tree lines and streamways and stands of trees, that type of thing. Planning was thinking about that. We think that's a good idea, to acknowledge the assumption that the PV panels would be following the existing fields and not clear-cutting and looking like some kind of desert solar facility. So, we're recommending that we add some kind of wording, acknowledging that kind of Midwestern approach to solar facilities.

Also, the Audubon Society reached out to me several weeks ago. I had a really great conversation. The Conservation Chair of the Burroughs Audubon Society is going to forward me some information and recommendations regarding solar facilities and bird life and wildlife, so I really appreciated that. Sean covered a lot of the city comments and recommendations already. I'll also mention that just today I received information from the Kansas Corporation Commission, and I'll be looking at that and see if there is any information that I need to come back with that. On the last page of the memo, page 11, is just a possible upcoming Planning Commission schedule. We mentioned the upcoming Tuesday, October 26<sup>th</sup> regularly scheduled Planning Commission meeting. I didn't know if Jay or Sean had any additions to that idea.

Mr. Leipzig: No, not unless additional comments here.

Ms. Miller: Okay, and then a possible public hearing on November 16<sup>th</sup>. In order to be able to have that public hearing, I had to send notice to the paper, so that has been published. That does not mean we have to have the public hearing on November 16<sup>th</sup>. It just means that we would be able to if we desire to. With that, I'll stand for questions.

Comm. Neese: I've got a quick question. That picture that they had for the panels kind of meandered with the fields and things, but if we do that – maybe I'm putting on my zoning board hat here – how can we do that if we're allowing 70 percent of the property to be solar panels? Would that have to be an exception? Is it, like, amend it and hope they do it, or what do you - ?

Ms. Miller: The consultant developed that 70-percent ratio with the idea – it's my understanding of doing just that – is following the fields and allowing for keeping the natural vegetation and streamways and stuff. So I think the 70-percent ratio was designed to be compatible with that scenario.

Comm. Neese: Originally it was less than 70 percent, wasn't it? Was it 65 originally? Did you increase it to 70?

Ms. Miller: Yes.

Mr. Leipzig: Commissioner Neese, that also does include the additional setbacks that we're including, so if we have less of a setback, that increases that amount, or vice versa. So that's why at 70 percent, that encompasses the entire area, including all of the setbacks, any other open

space that might be on the site, and then just the natural contours of the land, streamways, that type of thing, tree lines on the property.

Comm. Rast: So what you're saying is if somebody came in with a proposal, would they actually have to produce a drawing or an artist rendering over the actual landscape to show...? So like if this was an example of the area, that you would know upfront that this whole hedgerow of trees, they would stay, versus... Because when you drive out there, it's a pretty wooded area. There's some open; there's some wooded, so again, that would be my concern. There's got to be something that holds them to it, and that 70 percent is a maximum, right? If they don't get the full 70 percent because of the trees and stuff, that's just –

Mr. Leipzig: They would have to submit a concept plan, and that's what staff would base our review on in looking at that so it doesn't exceed the 70 percent. That is something that the zoning board could also place additional restrictions on as well and make a recommendation. If there are certain cases, other features of the land that might dictate it, it might need to be more, for example, in some cases.

Chairman Iliff: Questions of Planning staff? [none] Thank you, Ms. Miller.

Mr. Pendley: Mr. Chairman, I did just want to clarify, too, I know there were some questions regarding the decommissioning and surety requirements. In the draft regulations we do have requirements that the decommissioning and a development agreement would be required at the time of an application, so that form of guarantees will be set and the values would be required at the time of approval of a CUP. A guarantee will be required, and an agreement will be required to cover all costs, so that will be a requirement, and that is set in the regulations. I just wanted to clarify that.

Chairman Iliff: Thank you, Mr. Pendley.

Comm. Mason: Have you guys considered a waiver on the 70 percent thing, too, because you're going to find some of these fields out there are pretty flat and pretty square, and they may be able to get a better yield out of those?

Mr. Pendley: I'll just note, Commissioner, I think the one thing we're taking into consideration is the overall project area, so we're not looking at any one site. So it could be that any one property could theoretically have more than a 70-percent coverage, but what we're talking about is the overall project area, maximum 70 percent, so that might take that into consideration.

Mr. Leipzig: Commissioner Mason, there are waivers, for example, on the setbacks and that type of thing, but like Sean was saying, when you look at it holistically, there's other individual components of that that would affect that percentage.

Ms. Miller: I will point out, as written, though, there is not a waiver from the 70 percent requirement.

Chairman Iliff: Thank you, Ms. Miller. I note the recommendation on the agenda that we receive and discuss city comments and other information presented and provide direction to the staff. My sense is there will be considerably more written material that will be submitted to the Planning Commission between now and the next meeting, so please do as you have done in the past and get those forwarded to us as quickly as possible. Go ahead and get them posted on the internet, so that the public can have the benefit of receiving them, and we will, I think, probably use our next meeting to take some more comments, but it will also be an opportunity I think for the Planning Commission to give direction at that point. I think you'll get some direction. We may need

to take a vote, or it may be a matter that we just simply go through our comments and would get a sense of proposed amendments to the report at that time.

#### **D. PUBLIC COMMENTS**

Chairman Iliff: We're now at the point of public comments, so I will turn this over to Ms. Davis for calling on people. I would remind you that you will have two minutes. If two people signed up together – husband and wife or two individuals – and one wants to cede his or her time to the other, I will accept that. You can request it, and I will accept it. Ms. Davis, do you have a list of people there to call upon?

Ms. Davis: Yes, sir. The first person I have to speak is Steven Clark. That's the only person who signed up through Zoom. We want to do Zoom first, right?

Chairman Iliff: Yes, please.

*Steve Clark, 3422 Kensington Court, El Dorado Hills, California, appeared before the Planning Commission via Zoom and made the following comments:*

Mr. Clark: It's proven that utility-scale solar power offers important public benefits. As a result, solar project construction has taken off. Since 2007, in the United States alone, 969 separate utility-scale projects have been built in 43 states, in conservative and liberal states, and in between, within city limits and in rural areas. It is not new, unknown or unproven. Together these projects total 38,700 megawatts, about equal to 38 nuclear power plants. Though nearly 1,000 solar plants are in operation, there has been virtually no bad news reported about them. Local zoning regulations across the U.S. have allowed this large fleet of solar projects to be built while also addressing valid public concerns. I know of no county or state that has effectively prohibited solar project construction through excessive zoning regulations. However, the zoning restrictions included in today's staff memo are very restrictive, much more so than hundreds of other counties across the whole country, which have addressed the valid public concerns.

The most objectionable zoning restrictions are a CUP term of only 20 years, which is inadequate for a capital-intensive project like solar. A one-and-a-half-mile minimum distance between solar projects and city limits; a 50-foot wide setback with extensive visual screening requirements in a rural setting. With due respect, has Johnson County Planning surveyed other county zoning regulations? Has Johnson County Planning consulted with local experts – Black and Veatch or Burns McDonald – about regulations? It appears the Planning Commission has overly relied on their single consultant who has limited solar experience. I encourage Johnson County to adopt reasonable solar zoning regulation as hundreds of other counties have in the U.S. Thank you.

Chairman Iliff: Thank you, Mr. Clark..

Ms. Davis: Our next in-person speaker will be Alan Anglyn.

*Alan Anglyn, 17090 Evening Star Road, Edgerton, Kansas, appeared before the Planning Commission and made the following comments:*

Mr. Anglyn: The solar industry likes to talk about job creation. What they don't like to talk about is how temporary those jobs are. Representatives from the City of Edgerton recently visited a solar farm in Arizona, 3,200 acres, two permanent jobs. That's one person per 2.5 square miles, and that employment rate is going to persist for decades. The City of Edgerton closes their feedback asking a great question. Are solar facilities the highest and best use for thousands of acres of land? That's a very legitimate question that you have to ponder as you consider these zoning regulations. The City of Edgerton also highlights that all vegetation will be removed from the solar

facility sites during construction, and the land will be void of vegetation for a significant period of time. In doing so, the City of Edgerton recommends banning the use of herbicides as these can be detrimental in stormwater runoff and to adjacent landowners. Regarding herbicides, a publication from ComEd, a Northern Illinois electric company, states that application timing of herbicides is difficult to implement on a large scale. ComEd suggests consideration be given to avoid applications in high winds, atmospheric inversions, conditions of dew, so limiting greatly the amount of opportunity to safely administer herbicides, and consider the fate of the environment in selecting herbicides with low drift, low runoff, low residual activity and aquatic-approved. ComEd notes potential effects are acute toxicity in high doses, and in low doses, the potential to impair cognition, cause learning disabilities and have other negative physiological impacts. Landowners in the solar industry want minimal setbacks and assert it's the landowner's right to do so. However, setbacks allow for a buffer between humans that live in the area and the poisonous herbicides the industry uses on a grand scale to control vegetation. One farmer estimated for a project the size of 2,000 acres, it would take 1,000 gallons of concentrated herbicide. Some of that herbicide stays in the ground for up to 12 months. Please, I ask you to consider the safety of the people who live in the area as we go forward. Thank you.

Chairman Iliff: Thank you, Mr. Anglyn.

Ms. Davis: We do have somebody that has signed up late on Zoom to speak, and I am going to go ahead and let them talk. They are named Climate Plus Energy Project.

Unidentified Speaker: I actually did not have any public comments this evening. I'm just listening, but appreciate the conversation. Thank you.

Ms. Davis: The next in-person speak is Richard Gall

Chairman Iliff: Mr. Gall has asked that he be allowed to use his wife's ceded two minutes, and I have told that that would be all right.

*Richard L. Gall, 38400 West 183<sup>rd</sup> Street, Edgerton, Kansas, appeared before the Planning Commission and made the following comments:*

Mr. Gall: This says three. Where's the four?

Chairman Iliff: Well, we're splitting the difference.

Mr. Gall: My wife of 59-plus years, Donna and I, live at 38400 West 183<sup>rd</sup> Street. By the way, my girlfriend and I went on our first date the 29<sup>th</sup> of April, 1955. Anyway, I made my living the last 35 working years of my life as a lineman. Thirty of that was with Kansas City Power and Light. I retired and worked for Capital Electric on Kansas City Power and Light property. During that time, I went out of town several places because of storms and people out of lights, and wherever it was they needed more help to get those people's lights back on. I was happy to do that. I know I got paid well for it, but anyway, it was satisfying to be able to throw a switch in and let there be light. It's pretty cool. I, along with I'm sure everyone else in this room, have our wants and our needs. So many times – and I know I'm speaking just for myself – our wants are way, way greater than our needs. In my mind, you can combine those two when you mention electricity. My example for that is if we want our refrigerator to work, we want to plug it into that 120-volt outlet, and when we do that then it cools off to satisfy our need to keep that food preserved. It's wants and needs or whatever, they're all one in my opinion when it comes to electricity.

Another thing, you hear all this talk about this growth. Where's the electricity going to come from? You can't just turn the switch on every time and keep using more and more and more. It finally

runs out. It's got to come from somewhere, and on the weather channel this morning, they talked about how efficient and cheap the electricity from solar energy is. It was the first time I had ever...and we watch the weather channel every morning for a while. That's the first time I had ever seen anything like that. I know there are people, "I don't want to see them." "Don't put them here," or whatever. Speaking personally, for me, when I see solar panels, in my mind I tell myself they're generating electricity for somebody to fill their wants and needs. I don't mind looking at them at all. I could live among them, maybe. That's kind of silly, but anyway, it's helping our neighbor, and that's important to keep people going with the things that they want and need with electricity. With that, I have a funny for you, okay?

Chairman Iliff: You've got ten seconds.

Mr. Gall: Okay, you know what deodorant and common sense have in common? People that need to use it the most never do.

Chairman Iliff: Thank you very much, Mr. Gall.

Ms. Davis: Our next person in line is John Peterson.

*John Peterson, Polsinelli, PC, on behalf of NextEra appeared before the Planning Commission and made the following comments:*

Mr. Peterson: Thank you, Mr. Chairman. Thank you again for the opportunity. Tonight I heard a great term used by staff – agribusiness. And that is, in fact, how we approach this. We're not only addressing a need of environmental sensitivities, but we're bringing a new form of agribusiness. I've also heard people say, "Well, you're in agribusiness. You don't need to adhere to many of the zoning regulations due to your ag status." That is not the approach NextEra is taking. NextEra has appreciated the opportunity to engage, to work out a set of rules and regulations that will work well for surrounding landowners, work well for the County, work well to bring a viable project forward. Each provision has been evaluated in each step of the process to see how it can work so we can bring a project together that works and serves its needs.

It appears working with staff, listening, modifying, evaluating, we're there. It appears on setbacks, wildlife corridors, utility corridors. Great point, make sure growth, that we're setting aside those corridors. Coverage percentages that we talked about tonight, sureties for the decommissioning of the projects. Those are elements we're moving towards. We can live with these regulations, but three remain. They're challenging, and they really are potentially fatal to bringing a viable project forward. Acreage caps, city separation, term. Acreage caps, we're asking for a minimum of 3,000. When you start squeezing us on those setbacks, start squeezing us on separations, we need the flexibility to have enough acreage to address all of the ramifications of the project in an appropriate manner. City separation, Johnson County Comprehensive Plan right now says one mile. I would just put down for consideration, why is this agribusiness being treated any different than any other business that attempts to come into the unincorporated area? And then, term, 30 years. It is a financing concern, and the distinction between that and a rock quarry, we have to enter into contracts for 30 years. Rock quarries enter into contracts for the next contractor that needs rocks, and if it dries up, most of their equipment is on wheels. They can leave. But all of this is really bundled together –

Chairman Iliff: You're at your time.

Mr. Peterson: Key point. I'd ask you, one thing we will bring back much additional information next time in terms of evaluating the watersheds, and when the infrastructure will really be in place to bring other types of commercial and residential development to the area. Thank you.

Ms. Davis: Our next speaker is Billy Wilkins.

*Billy Wilkins, NextEra, appeared before the Planning Commission and made the following comments:*

Mr. Wilkins: John Peterson addressed several issues, and I'd like to use my time to address a few. First to Commission Neese, eminent domain is not an authority that we have for the transmission line. That could be something that Evergy can actually employ, but that's not something, as a private development, that we actually have. I did want to address that right up front. I'd like to use my time to talk to buffering and screening requirements. As drafted, the regulations require use from abutting roads, parcels, with residential zoning and existing dwellings to be screened. Although a waiver would be available upon review, we ask for reconsideration of mandatory buffering along abutting roads. The project area that we're proposing is based on landowner participation and is partially segmented with roads running throughout the project area. Mandatory buffering along every road is unnecessary, and especially along roads that are considered low usage. Mandatory buffering can be extremely costly and make a project unviable economically. Now, as a practice, we often screen along parcels with existing dwellings, and plan on continuing this practice. We've been appreciative of this opportunity to work with staff, to work with the County, and we're encouraged with the progress that the staff has made in developing the final draft regulations. We would ask that you consider the recommendations we've made this evening, and that we will continue to bring forward as you work to finalize the County's regulations. Thank you for the time.

Chairman Iliff: Thank you.

Ms. Davis: Our next speaker is Karleen Thompson.

[the speaker conceded]

Ms. Davis: Donna Knoche?

*Donna Knoche, 238 North Maple Street, Gardner, Kansas, appeared before the Planning Commission and made the following comments:*

Ms. Knoche: After reading an article in the Sunday paper about energy crisis in the world because of shortages of natural gas and coal in all the foreign countries, our country needs to be concerned. NextEra is a world leader in renewable energy that builds solar and wind farms. NextEra found the place to build a west Gardner solar farm which is close to the west Gardner substation. This area has few residents and minimum traffic. The landowners signing leases with NextEra are doing it by choice, not forced. The leases have 25 years contracts with renewable options. Solar farms do not pollute the air or give off toxins. They are quiet. The Gardner area is growing, with at least four new developments and a warehouse in the area. The Planning Commission needs to move forward in encouraging the use of energy to benefit Johnson County and the State of Kansas. I have one question for you. Can you think of anything that you have not been in touch with something from electricity? Thank you for your time.

Chairman Iliff: Thank you, Ms. Knoche.

Ms. Davis: Our next speaker is Dr. Robert Knoche.

*Robert Knoche, 238 North Maple, Gardner, Kansas, appeared before the Planning Commission and made the following comments*

Dr. Knoche: We leased this property about three-and-a-half years ago as a solar farm, now on the USSF, all has been changed. A farm matter of energy 150 years ago that was producing energy just the same as it is today, with crops and cattle and things like that, all that energy came from the sun, and now it really is a farm. That's what we've got to think about instead of USSF As a farm, you've got certain rights. We should have the right to do this. You should be worried. You people should be worried more about people getting hurt around electricity than you are about all these other things. I mean, this produces energy a little different way, and people could get hurt. You should be worried about the fence they put around this and the safety concerns instead of all the setbacks and everything. The setbacks, you have the Conditional Use Permit. These are not usable. It will not work if you do not... You can kill this project just by leaving your deals the way they are right now, so you've got to make... If you want it, and other people want it, why shouldn't we have it here in Johnson County? Thank you.

Chairman Iliff: Thank you, Dr. Knoche.

Ms. Davis: Our next speaker is Jane Knoche.

*Jane Knoche, 23535 West 74<sup>th</sup> Street, Shawnee, Kansas, appeared before the Planning Commission and made the following comments:*

Ms. Knoche: I'm going to reference the Resolution 079-17. I'm glad to be here again. What else do I do every other Tuesday night, right? I'm glad to see that we have a summary of the draft plans. But I am a little concerned with some of the words in there. On the very front page of the summary, in italics, it says, "Proceed with caution." Under item number 7, it talks about screening and caution. Well, we know that solar farms and solar plants have been around for a while. They're not unknown. They're not unproven. There about 1,000... Well, let's be exact, 969, I think, solar farms operating in the United States, so this is obviously a proven technology. So, when we're not sure about this stuff, have we as planners or as Commissioners had to ask, have you checked with other cities? Have we checked with other resources than just the one consultant? Like in Kansas City we have Black and Veatch, Burns and McDonald. We're a pretty well known engineering city. When I was in first year's out, we were number four in the nation in engineering firms. So if you utilize these resources to find out more about, what it is? Or have you relied... And I think you have been over-reliant on just one consultant who has only been in the consulting business for seven or eight years. Batteries have been around for over eight years.

Sean Pendley stated in his description today that solar project life is 40 years. I was surprised to hear that during this. If you're only going to have a 20-year CUP, you're going to look like an outlier compared to all the other counties and places in here, so does Johnson County really want to look like an outlier? Especially when the Board of County Commissioners has signed up with the metro area, I believe, on climate accords. I think you need to line your thinking and your regulations to go a little bit further on that.

I want to talk about the project being agribusiness. So a \$320 million project coming in, if only half of that is in Johnson County, that's what, [inaudible] or would that be rural development? I'd say rural development, agribusiness development. I want to bring up this November 16<sup>th</sup>, 2017, Resolution I pulled off. Every so often it pops right up on the website when I go to Johnson County website. It's a resolution about agricultural land use and agritourism-related activities in the unincorporated areas of Johnson County, Kansas. I don't know if you can pull that up or not. But down under the position statement, number two, I would refer you to that. "If the use of the property is agricultural, but the use is not registered as agritourism, then the County will recognize that the use and those events that are directly in support of the agricultural purpose are exempt

from zoning regulation.” So you might think that over, because I think NextEra just said we’re trying to come and meet up with you and propose regulations and do it in a proper manner. Yet you have a position paper that says, “Whereas, whereas, whereas,” especially the second, “Whereas.” “The policy in Kansas is to preserve agricultural land uses and to prevent and minimize the regulation of farming and agricultural-related activities.” So I want to have you think about that. And lastly, we’re generating solid waste. We’re generating water, but we have no means of generating our own power in Johnson County. So, I think Johnson County should take a share of this responsibility by hosting a power plant. Thank you.

Chairman Iliff: Thank you.

Ms. Davis: Our next speaker is Stan Knoche.

*Stan Knoche, 8708 West 82<sup>nd</sup> Street, Overland Park, Kansas, appeared before the Planning Commission and made the following comments:*

Mr. Knoche: Yes, I’m for the West Gardner solar farm. Talking about the Conditional Use Permit, it needs to be 25 years. Why? Because solar equipment lasts longer than 25 years. Solar panels are warranted and guaranteed for 25 years and last with an efficiency past 30 to 35 years. The 25 years CUP would help secure bonds and finance partners for the solar farm to get off the ground. This project is estimated at \$32 million or more. It doesn’t make sense to me that the permit be limited to 20 years with a possible extension. I understand that banks that lend money for solar projects require 25 years or more on permits to agree to lend their money. Just the possibility of an extension beyond 20 years isn’t good enough. It must be certain.

On barriers, hedge rows, produce border boundaries, they provide privacy buffers for the noise, wind, made to make animal, stockproof barrier, provide shelter, but mainly used as a border barrier between neighboring landowners. Barbed wire was attached to the hedge. These hedge rows don’t need additional fencing. They should be allowed solar panels to be built as close as needed to be productive in generating the process of solar energy. Hedge, their normal state already produces a fencing barrier and berm. Most property is already fenced that should back at the barrier line. Any fencing should be security fence, and that should be the discretion of NextEra to keep intruders out. For me, solar panels don’t look bad. They’re professionally installed and uniform rows. thank you.

Chairman Iliff: Thank you.

Ms. Davis: Our next speaker is Al Osterhaus.

*Al Osterhaus, 9920 West 65<sup>th</sup> Place, Merriam, Kansas, appeared before the Planning Commission and made the following comments:*

Mr. Osterhaus: I just have a couple statements and questions. Of all the current being generated from the solar plant, are there guarantees that none of this power would be sold out of state? Will it be kept right here in Kansas or Johnson County and not...? If we’re paying anything for a property tax or anything to go toward this, we ought to make sure there’s a resolution that none of this stuff would be sold out of state. I know in other states that’s a big contention where power is being generated from wind generators and being sold into Wisconsin, and people are upset about that. Anyway, that’s one thing that I want to ask about. Also, the solar panels, all of this type of plants we’re kind of looking for the future...and we know that the commodity of energy, one thing about electricity, it has to be used as soon as it’s generated, or it goes to ground. Is there a provision in here so that you guys install battery storage units incorporated into this plant? I think it’s only wise that you do, and I’m hoping...That is another issue. I hope that all these panels that

are used will be made in the United States and not shipped in from other countries. That really should be a major factor. Also, one thing about the 70 percent. I agree with the gentleman on the end. If you have the land, be careful not to have too many buffers because you want the most yield out of this that you can get. Out in the country, especially, you can go right up to the fence line. A farmer can spread his manure right up to the fence line, plant his corn right up to the fence line with no problem. I don't see why you don't want to maximize the acreage that you have for as much solar power as you can get.

Chairman Iliff: Your time is up, sir. Sorry. Thank you.

Ms. Davis: Our next speaker is Joyce Whittier.

*Joyce Whittier, 7414 Flint Street, Shawnee, Kansas, appeared before the Planning Commission and made the following comments:*

Ms. Whittier: I want to discuss noise levels associated with construction of solar farms. After clearing the land, one of the first things that happens is the installation of pipes to hold the solar panels, and this involves pile driving. There are two types of pile drivers – impact and vibratory. Impact pile driving is the most common. A heavy weight of up to 3,000 pounds is dropped against the top of a steel pole, driving it into the ground. Blows are delivered at one-second intervals, and it can take several hours to drive just one pole into the ground. According to comments made to the Pueblo Planning Commission, the sound can be heard half a mile away. Vibratory hammers use a series of oscillating weights that continuously transfer vertical vibrations into the pole at frequencies ranging from 12 to 2,400 vibrations per minute. This type of pile driver operates continuously. Hearing damage is a major concern. According to the construction noise assessment, immediate hearing damage occurs at 140 decibels. Sound travels faster through water than air. The noise is 160 decibels at half a mile from the source of the noise, making it extremely harmful for marine life. We have watersheds and gas lines in the proposed area, and the vibrations of pile driving could rupture the gas lines and damage the watersheds. Several environmental studies must be completed before an application can be approved, as mentioned in Mike Thompson's letter. OSHA requirements must be followed. Since none of these studies have been completed, it is imperative that you cease any further action until these studies have been approved by every federal and local agency involved. Thank you.

Chairman Iliff: Thank you.

Ms. Davis: We have a couple folks, Carrie Brandon and Bill Brandon, who have conceded their time to Greg Cromer, so now we are loading the video for Greg Cromer if you'll give us a few moments while our wonderful IT guy gets that together for us. That will be a total of six minutes, Greg.

*Greg Cromer, 7527 West 140<sup>th</sup> Street, Overland Park, Kansas, 66223, appeared before the Planning Commission and made the following comments:*

Mr. Cromer: While we're waiting for that, I get an additional minute. I'll use some of that, and then when the video starts, I'll just back off and let it play. I don't see solar as an agricultural type of use. I've heard that term used quite frequently in all the meetings that we've been at. A solar panel is not a rutabaga. You don't go to a farmer's market and pick out a hybrid solar panel when you're searching for food. It's absolutely absurd to equate the two. I mean if it wants to self-identify as an agriculture, I suppose it has the right to do that, but in reality that's absolutely absurd, and I appreciate, just from a professional standpoint, that we refer to it for what it is, industrial solar,

just for the record. I'd appreciate that if we address the solar as solar and not as an agricultural commodity. Thank you. Are you ready?

Chairman Iloff: Mr. Cromer, you have a total of six minutes. How long is this video?

Mr. Cromer: Five minutes.

Chairman Iloff: All right.

[Waiting for video]

Mr. Leipzig: If we're not able to get this video to load, I'd suggest maybe putting on the Planning Commission in our agenda packet for review.

Chairman Iloff: That would be fine.

Mr. Leipzig: That might make more sense, I think.

Chairman Iloff: Yeah, and that would be available to the public as well?

Mr. Leipzig: Yes.

Chairman Iloff: Okay.

Mr. Cromer: No, I want to see the video tonight. Just turn the audio on. If you want to defer to the last while he's fiddling with it, I'd be okay with that, for other people to speak while he's trying to get it to pull up.

Chairman Iloff: Your time is running, Mr. Cromer. I'm sorry.

Mr. Cromer: You know, sir, the other gentleman got to have 30 minutes almost every time I came to these meetings, and we have two minutes each person. I think you can indulge me to watch a five-minute video.

Unidentified Speaker: This is not his issue.

Mr. Cromer: This is not my fault that your equipment doesn't work.

Unidentified Speaker: Yeah, if it was working he'd be going. It would be fine. We need to come up with a better solution, but that's not okay, in my opinion. Sorry.

Chairman Iloff: As Chairman of this, we have to have some order, and we can't just let it go on forever. We'll see if we can get it going. If it does, we'll let it play out. If it doesn't, the next best thing is to put it on the internet, and everybody here can watch it at their own –

Mr. Cromer: Or how about just showing it at the next meeting?

Chairman Iloff: You're welcome to come to any meeting you want, sir.

Ms. Davis: I had, prior to the meeting, let Mr. Cromer know that the video was too long, and that is why we are ill-prepared. I was not prepared that two other people were going to give him their time. But you all have received this video, via email, just so you know.

Mr. Cromer: It's not just the Commission. It's the public that needs to see it as well.

Comm. Rast: We've watched it, but I think everybody wants to see it.

Mr. Cromer: I'm not just here to address the officials. I'm here to address the –

Unidentified Speaker: Here it is. Here we go.

[video transcript]

*Have you ever heard of Unobtainium? It's the magical energy mineral found on the planet Pandora in the movie, Avatar. It's a fantasy in a science fiction script. But environmentalists think they've found it here on earth in the form of wind and solar power. They think all the energy we need can be supplied by building enough wind and solar farms and enough batteries. The simple truth is that it can't, nor should we want to, not if our goal is to be good stewards of the planet. To understand why consider some simple physics realities that aren't being talked about. All sources of energy have limits that can't be exceeded. The maximum rate at which the sun's photons can be converted to electrons is about 33 percent. Our best solar technology is at 26 percent efficiency. For wind, the maximum capture is 60 percent. Our best machines are at 45 percent, so we're pretty close to wind and solar limits, Despite PR claims about big gains coming, there just aren't any possible. And wind and solar only work when the wind blows and the sun shines, but we need energy all the time. The solution we're told is to use batteries. Again, physics and chemistry make this very hard to do.*

*Consider the world's biggest battery factory, the one Tesla built in the lab. It would take 500 years for that factory to make enough batteries to store just one day's worth of America's electricity needs. This helps explain why wind and solar currently still supply less than three percent of the world's energy, after 20 years and billions of dollars of subsidies.*

*Putting aside the economics, if your motive is to protect the environment, you might want to rethink wind, solar and battery, because like all machines, they're built from non-renewable materials. Consider some sobering numbers. A single electric car battery weighs about a half-ton. Fabricating one requires digging up, moving and processing more than 250 tons of earth somewhere on the planet, building a single 100-megawatt wind farm to power 75,000 homes requires some 30,000 tons of iron ore and 50,000 tons of concrete, as well as 900 tons of non-recyclable plastics for the huge blades, to get the same power from solar, the amount of cement, steel and glass needed is 150 percent greater. Then there are the other minerals needed, including the elements known as rare earth metals. With current plans, the world will need an incredible 200- to 2000-percent increase in mining for elements such a cobalt, lithium and dysprosium to name just a few. Where is all this stuff going to come from? Massive new mining operations, almost none of them in America, some imported from places hostile to America, and some places we all want to protect.*

*Australia's Institute for a Sustainable Future cautions that a global "gold rush" for energy materials will take miners into "...remote wilderness areas that have maintained high biodiversity because they haven't yet been disturbed." And who is doing the mining? Let's just say that they're not all going to be union workers with union protections. Amnesty International paints a disturbing picture. "The marketing of state-of-the-art technologies are a stark contrast to the children carrying bags of rocks." And then the mining itself requires massive amounts of conventional energy, as do the energy-intensive industrial processes needed to refine the materials and then build the wind, solar, and battery hardware.*

*Then there's the waste. Wind turbines, solar panels, and batteries have a relatively short life; about twenty years. Conventional energy machines, like gas turbines, last twice as long. With current plans, the International Renewable Energy Agency calculates that by*

*2050, the disposal of worn-out solar panels will constitute over double the tonnage of all of today's global plastic waste. Worn-out wind turbines and batteries will add millions of tons more waste. It will be a whole new environmental challenge.*

*Before we launch history's biggest increase in mining, dig up millions of acres in pristine areas, encourage childhood labor, and create epic waste problems, we might want to reconsider our almost inexhaustible supply of hydrocarbons—the fuels that make our marvelous modern world possible. And technology is making it easier to acquire and cleaner to use them every day.*

*The following comparisons are typical, and instructive: It costs about the same to drill one oil well as it does to build one giant wind turbine. And while that turbine generates the energy equivalent of about one barrel of oil per hour, the oil rig produces 10 barrels per hour. It costs less than 50 cents to store a barrel of oil or its equivalent in natural gas. But you need \$200 worth of batteries to hold the energy contained in one oil barrel. Next time someone tells you that wind, solar and batteries are the magical solution for all our energy needs ask them if they have an idea of the cost... to the environment. "Unobtainium" works fine in the movies. But we don't live in movies. We live in the real world.*

*I'm Mark Mills, Senior Fellow at the Manhattan Institute, for Prager University.*

[applause]

Chairman Iliff: Thank you, sir.

Ms. Davis: While we get that closed out, our next speaker is Lezgo [phonetic] Braden. I don't see anybody, so the next person is Mike Thompson.

Unidentified Speaker: Leslie, is Mr. Thompson our last speaker?

Ms. Davis: No, we have one more. Give us just one minute to get the timer back up, please, Mr. Thompson.

*Mike Thompson, Senator, District 10, 4923 Constance Street, Shawnee, Kansas, appeared before the Planning Commission and made the following comments:*

Senator Thompson: I've supplied written testimony. It's in your packet because there's an awful lot to talk about. One thing I want to point out, it's very important that you haven't heard [inaudible]. In Kansas, we have 56 percent excess generating capacity before we even consider solar and wind power. So we're already overpaying for electricity in Kansas. You add all of this additional renewable energy, which only operates part of the time in Kansas, as indicated by the London Economics study, which was authorized by the Kansas Legislature, shows that the average retail price of electricity in Kansas is now higher than all of the surrounding states in the region, and that's because we've added all of this additional transmission line, the peaking generation necessary for the renewables that includes solar, and as a result it's making us less competitive. The only real reason to add any additional generating capacity to Kansas in the form of any renewables is so that these investors can get the subsidies, the tax credits, the virtual power purchase agreements that gives them enough money to make a profit before they generate an ounce of electricity, which all of it, at least for the wind power, we know, is being transported out of state. So Kansans are footing the bill for other states to benefit from the electricity that we are paying for.

Property tax, they will not pay property tax, this farm, for ten years, so they will have a chance to depreciate before they ever come onto to the tax rolls, and we are allowing financial institutions

to dictate the energy policies in this state. The more we add of this stuff, the harder it's going to be to get this problem under control and make us competitive, so I would consider the fact that adding this is just exacerbating this problem that we have in the state of Kansas. I would stand for any questions or be available for anybody who has questions about this. I am the Utilities Chairman for the State of Kansas in the Senate, and I've studied this quite a bit. Thank you for your time.

[applause]

Chairman Iliff: Thank you, Mr. Thompson.

Ms. Davis: Our last speaker is Patty Puricelli.

*Patty Puricelli, 15750 Cedar Street, Overland Park, Kansas, appeared before the Planning Commission and made the following comments:*

Ms. Puricelli: The 2021 evaluation report by the Johnson County Appraiser states that Johnson County absorbs or expands approximately 2,500 acres a year every year since 2015, so we have limited land. NextEra employee, just a few speakers ago, said that they need a minimum of 3,000 acres for one of these facilities. So is this really the best way to use one entire year of growth that Johnson County sees, to use it for these facilities? You Johnson County officials should evaluate what is best for Johnson County's citizens in terms of jobs and tax benefits. January 26, 2021, the Johnson County Planning Commission meeting, Darren Coffey of the Berkley Group spoke, and he stated these industrial-scale facilities use lots of acres, but do not generate jobs or tax benefits. Overland Park and Edgerton both have stated that their Planning Commissions are concerned whether this utility-scale facility will inhibit the growth of Johnson County. Johnson County partnered with the United Community Services recently to evaluate the needs of Johnson County for housing and other needs of Johnson County citizens. The result of that report states that long-term placement of USSF facilities seem in conflict with Johnson County's goals to promote economic development and a variety of housing options for its Johnson County citizens. So the answer is clear. This is not the best use of land for Johnson County citizens in terms of jobs and taxes, and I urge you not to move forward with this.

Chairman Iliff: Thank you. We are now at the end of public comments. Our next meeting is scheduled for October 26<sup>th</sup>. Is that correct?

Mr. Leipzig: Yes, that is correct, Mr. Chair.

Chairman Iliff: Mr. Leipzig, any further comments?

Mr. Leipzig: Just to give feedback from the Commission in terms of what might be the most helpful for you, if we were take what we discussed tonight, put these changes and amendments into the draft that we've submitted on August 10, 2021, would that be beneficial? Or even go line-by-line, or item-by-item through that? I want to make sure we're responsive to how you would like to see this information presented to you.

Comm. Hutchins: I think that would be helpful.

Comm. Neese: I've got a quick question. The lady that presented the plan, the planner from Edgerton, presented several requests and suggestions that she had, and I think you so stated that you would answer those requests that she had of information, that we consider those. In the minutes they're not listed one through ten or twenty, whatever they are, and I don't know that we've really addressed those individually. I think they were all pertinent, especially to Edgerton. Would it be possible for you, for the next meeting, to review her comments and then address

those kind of like line item by line item, because as I recall there were some pretty good comments and concerns she had.

Mr. Leipzig: Commissioner Neese, we could, although frankly we tried to utilize something very similar in the memo that we distributed for this evening. It was that same format, talking by issue or by whatever the stipulation. We kind of went through that same exercise. Now we could do something, look at that again, if that would be helpful, but that was kind of the purpose of what we were trying to do with the memo that we've prepared. It followed the same... and actually Edgerton had utilized the same format that we had used previously in June, going through by issue and summarizing that.

Comm. Hutchins: Mr. Neese, they actually were pretty similar comments and feedback [inaudible].

Comm. Neese: I did find them in [inaudible], so I'll get a copy of that. That was mailed to us?

Mr. Leipzig: It was emailed last night for this evening. I can certainly get you a copy of that, Mr. Neese. I believe that will answer your questions in that same format. I apologize if you have not seen that.

Comm. Rast: I know at one point we had talked about doing a subcommittee, and then everybody wanted to be on it, but observing over the past month it kind of seems like there's a few people than seem more involved in making this a priority, whether it's being able to be here and putting time into it. Is that something that maybe we could re-look at, doing a subcommittee first and meeting and going through it line-by-line, and nailing it down that way?

Chairman Iliff: I think we've handled that pretty conclusively several meetings ago when everybody agreed that we would serve as a committee as a whole. I don't know what you mean by some people being more involved than others. Some people have expressed opinions, and others have –

Comm. Rast: No, I just mean some haven't been able to be at the meetings, whether people have done stuff on the side. It was just kind of like that, or even a time commitment. Some people want to get through the meetings pretty quick. Others... from that standpoint. Just re-look at a subcommittee again to do the extra time for line-by-line and that kind of thing.

Chairman Iliff: If somebody is interested in a subcommittee, is there a motion?

*Motion by Commissioner Rast, to form a subcommittee to meet with the planners to study the draft regulations, line-by-line.*

Chairman Iliff: Is there a second?

Comm. Blevin: I don't have a second. I have a question. I guess at this point, having done what we've done so far, I'm still struggling to see how a subcommittee at this point would really benefit.

Comm. Rast: If we went through what was presented tonight, I don't necessarily agree with all the things that had been suggested, so I'd kind of like I'd like to hear other peoples' opinions and talk about pros and cons, whether it's what the requirements are for the city limits, the buffers. I mean, I know the planners have done their due diligence and come up with sort of an average or what they feel is best based on all of the information that has come, but like Randy has said, when do we get to get involved and engaged and say, "This is what I think, and this is why," which is not necessarily what is on the paper here?

Chairman Iliff: Well, there will be a time for that, and we're constrained by open meetings laws, so that the kind of meeting you're talking about has to be open to the public, has to be publicized,

has to be given enough time. We've kind of chosen a course. I'm not interested in a subcommittee, but if somebody else wants to second it and if it passes for a vote, we can discuss it. Is there a second?

Comm. Hutchins: What I'm thinking in my mind is let's give the next meeting a chance and see if we can roll up our sleeves and go line-by-line and see if we can have that discussion. I think they're looking forward... and if you don't feel like we accomplished that, then I would agree. We would probably need to look at a subcommittee. Right now, Mr. Chairman, I guess I'd lean towards let's give the 26<sup>th</sup> a shot and see if we can kind of plan things out there.

*Charlotte O'Hara, Johnson County Commissioner, District 3, appeared before the Planning Commission and made the following comments:*

Comm. O'Hara: I just again want to compliment everyone on being civil and everyone willing to listen to the other. Obviously, we have a diversity of opinions, but again we've shown in this county that we know how to present those opinions in a very civil manner, and I just want to congratulate everyone. I wanted to compliment the Planning Commission to have the patience to go through all of this. This is a lot of work. Thank you.

Chairman Iliff: Thank you. Being no second to the motion, it dies. Are there any questions for staff? If not, we're adjourned.

**E. UPDATES/OTHER BUSINESS**

**F. ADJOURNMENT**

Thereupon, with no further business to come before the Johnson County Planning Commission, Chairman Iliff, at 8:12 p.m. declared the meeting to be *Adjourned*.