

# JOHNSON COUNTY PLANNING COMMISSION

Zoom Webinar

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## MINUTES OF REGULAR MEETING

January 25, 2022

5:45 p.m.

### A. CALL TO ORDER

A meeting of the Planning Commission of Johnson County, Kansas, was convened at 5:45 p.m. on Tuesday, January 25, 2022, and was called to order by Randy Hutchins, Vice Chair, with the following members present and participating; to-wit: Randy Hutchins, Mike Levin, George Lund, Dave Johns, Mark Huggins, Jim Neese, Kelley Rast, and Randall Downing. Lindsay Grise, Chris Illiff and Roger Mason were absent. Also present were Jay Leipzig, Leslie Davis, Karen Miller, and Sean Pendley, Johnson County Planning Department.

Ms. Davis:

*To reduce the spread of COVID 19, the Johnson County Planning Commission meeting will be conducted online using Zoom Webinar. Commissioners will not be physically present in the Board meeting room. You may participate in the meeting using your computer, phone or other electronic device. Chat will be disabled once the meeting begins. If you have trouble with Zoom, please call 913-715-1700. If you would like to speak but did not register beforehand, please use the "raise hand" function, or \*9 if connecting via telephone. I will call your name when it is your turn to speak. All speakers will be limited to three minutes unless the Chair designates a different time period in order to accommodate all speakers desiring to speak. When your name is called by the moderator, your microphone will be unmuted. Please state your name and address for the record, followed by your comments. If you share concerns, comments or points made by others, please refrain from repeating those comments and instead note for the record that you agree with the previous individual's comments. There will be a ten-second-remaining warning sound. Planning Commissioners and presenters, please state your name every time you begin talking so the notes can be transcribed for the record. This is a public hearing. We are presenting live and recording the meeting.*

Vice Chair Hutchins: Okay, we do have a quorum, so I'd like to go ahead and move forward. Just out of common courtesy, staff did alert me that there may be members of the public that wanted to make comments regarding the solar farms, and I just wanted to make sure everyone knows in the interest of time, that we will not be taking up anything regarding the solar farms. There has been a recommendation and it has already been put forth by the Planning Commission to the Board of County Commissioners. They do have the action at this point in time. You're welcome to comment, but I just wanted to make sure that, out of common courtesy, we were letting everybody know that we will not be taking up solar farms on tonight's meeting.

### B. APPROVAL OF AGENDA

*Motion to approve the agenda by Commissioner Downing, seconded by Commissioner Rast.*

*The motion carried unanimously.*

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

Vice Chair Hutchins: Are there any additions, corrections or deletions to be made to last meeting's minutes? Hearing none, do I hear a motion to approve those meeting minutes?

*Motion to approve the minutes of the December 14, 2021, Planning Commission meeting by Commissioner Downing, seconded by Commissioner Huggins.*

*The motion carried unanimously.*

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

Vice Chair Hutchins: At this point in time, I would like to open it up for any public comments. Staff, if you could help us out with that aspect.

Ms. Davis: I do have 16 attendees. Some are staff, but nobody has raised their hand to speak.

Vice Chair Hutchins: All right, we'll just give them another ten seconds or so.

Ms. Davis: Now we have a hand.

Vice Chair Hutchins: Before we move on with the public comments, a little technical issue I'm having. I can no longer see the screen.

[technical difficulty]

Ms. Davis: Our first speaker will be Keri and Bill Brandon.

*Keri Brandon, 450 East 2300 Road, appeared before the Planning Commission and made the following comments:*

Ms. Brandon: I thought we had five minutes, but it says three minutes. In the agenda it said five minutes. Is that incorrect?

Vice Chair Hutchins: I will honor the five minutes, because I did see the same thing, so please go ahead.

Ms. Brandon: Hopefully you can still hear me. We don't have the best connectivity out here, so if I start to break up, let me know. The first thing I wanted to let you know is that tomorrow we will be dropping off packets for all of the Commissioners, as well as the Planning Commission board members, so please be aware that those are being dropped off at 111 South Cherry. I'll make sure that gets with some Planning staff, but it is printed materials that I think all of you would be happy to get, a printed version of a lot of the content that the community and registered voters have sent in. The second thing that I wanted to go on the record here with – and I think I sent public comment in about it as well, and that is the virtual-only meetings. The public isn't too keen on the fact that these meetings are virtual only, because it makes it very difficult for all citizens to have the ability to participate and make public comment when, a) they may not have the technology know-how and savviness, b) they may not have smart devices or computers, and c) they may have poor internet connection bandwidth. All of these things alienate a large majority of the population, and I don't think that's ethical and transparent on behalf of Johnson County local government. I just want to go on the record saying that. It's interesting also – I don't know if you can comment on this, Planning Commissioner Hutchins – but we're noticing that you're back after recusing yourself, I'm assuming. I don't know if you can speak to the public as to what has transpired there, but we're all curious. So thanks. That's all I had to say. Just wanted to make sure you guys check with the Planning staff at the Administration Building and make sure you pick up the packets if you would like them. They're about an inch thick and full of great information.

You've already received digital versions of the same content, though, but it is there for you in print. Thanks so much. That's all.

Vice Chair Hutchins: All right, very good. Do we have someone else that would like to make a public comment?

Ms. Davis: I have somebody by the name of "owner" – I do not know their name – with their hand up.

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

Ms. Whittier: I would like to point out that the Attorney General's Office has issued guidelines for holding meetings during this time, in a pandemic, and they specifically state that you have to make arrangements so that people without computers or with poor internet connections can still participate. So far, I've seen no evidence that you've done that. That's all I wanted to say. Thank you.

Vice Chair Hutchins: Very good. Do we have anyone else who would like to make a public comment? Very good. I'd like to thank everybody that's participating. Certainly, we want to hear from everyone possible from the community, so again, appreciate everybody participating. With that being said, we'll close the public comments section and move on to the Annual Comprehensive Plan Review.

## **E. ANNUAL COMPREHENSIVE PLAN REVIEW**

Vice Chair Hutchins: Karen, I assume that's you, or is that Sean?

Ms. Miller: That's me. I think Jay was planning a few words before me.

Vice Chair Hutchins: Okay, Jay, please go ahead.

Mr. Leipzig: Thank you, Mr. Chair. I don't have a lot to add except just to introduce Karen, who has been working on this report. This is an annual activity that we provide this update for the Board, so Karen is going to start off. I might fill in with a few details as we move further along.

Vice Chair Hutchins: Very good.

Ms. Miller: Thank you. In your packet you've received staff's review of the Comprehensive Plan and our report and recommendations. Our summary of the main issues starts on page two of the report. The first thing we consider is the Airport Compatibility Plans for New Century Air Center and Executive Airport, to ensure compatible development surrounding those two airports. To move forward with this update, Planning staff has reviewed both plans and are finishing an RFP (Request for Proposal) for further review and updates to the two plans as necessary. I'll turn this over to Jay to talk a little bit about the timing of this project.

Mr. Leipzig: Yes, just to elaborate, we are finishing up the development of the Requests for Proposals to engage a consultant to complete updates for both our New Century Airport Plan and the Olathe Executive Airport Plan. Both of those are critical items on our Comprehensive Plan update. As you're aware, there's a lot of activity around those airports, and we want to make sure that we protect the integrity of the airport in the future and also the surrounding land uses, and the safety of the public. They are just finishing up that process, getting ready to send that out to our RFP process. I believe it's called Ion Wave. It's the County's solicitation website. Once we receive responses back, we will review those RFP proposals. The approval process is, it will be

submitted to the Board of County Commissioners for review and a recommendation for a consultant. I anticipate that to be done probably in May, is the date that we're looking at, approximately, and then at that point the consultant will work on it. They probably will finish up that project, we believe, probably by spring of next year, approximately. I don't know the exact date. We have not seen the proposals. I anticipate that will be the approximate timeframe that we're looking at, but I anticipate they will be doing a lot of data collection between when the contract was awarded in the spring and the summer, throughout the fall and the end of 2022. So we'll look for the completion of that in early 2023.

Vice Chair Hutchins: Very good. Questions for Jay?

Ms. Miller: The next topic that I'll summarize is our work on solar facilities. Throughout 2021, the Planning Commission worked on drafting an amendment to both the Zoning Regulations and the Comprehensive Plan for the regulation of solar facilities, including utility-scale solar facilities. After a public hearing in November, the Planning Commission in December recommended approval of draft amendments and passed them to the Board of County Commissioners for consideration. A Board of County Commissioners COW (Committee of the Whole) was scheduled for January 20<sup>th</sup>, but that was cancelled due to the rapid rise of COVID cases. It is anticipated now that a Board of County Commissioners Committee of the Whole will be held on February 24<sup>th</sup>. This will be a briefing meeting in which County staff will update the Board of County Commissioners on the recommended solar facility amendments. It is anticipated that this meeting will be available for listening and viewing both in person and also via live broadcast. Action at this meeting will not be taken by the Board, and public comments will also not be taken from the Board at this meeting. Once the details are finalized, information will be posted on the Johnson County website. If you have difficulties finding this, you can always call the Planning office, and we can help you find any kind of information that you need. Also, please note that, due to unforeseen circumstances, the Board sometimes cancels meetings, such as this COW, and you are encouraged to check the website from time to time prior to the meeting.

After the COW, the Committee of the Whole, it is anticipated that that Board of County Commissioners will formally consider the Planning Commission's recommended amendments at the regular business meeting on March 10<sup>th</sup>. It is anticipated that public comments will be invited and considered at this regular business meeting. Again, once the meeting details are finalized, information will be posted on the Johnson County website, [boccm meetings.jocogov.org](http://boccm meetings.jocogov.org), and again, you can also call the Planning department for any kind of help that you might need. Before I move on, I'll ask, are there any questions about the details about the solar facilities?

All right, I'll move on to the next topic we considered, and that is the arterial lots. That was a 2018 update to the Zoning Regulations and a 2019 update to the Comprehensive Plan regarding arterial lots. Though the work wasn't completed last year, it's still fairly recent in the life of a Comprehensive Plan, and as a result of this work, the County has struck a really good balance between allowing a landowner to use and develop their property, while accommodating future city growth. More specifically, the policies within the Comprehensive Plan amendment recognize that arterial lots can be holding zones, and are not necessarily barriers to redevelopment, provided the issues are addressed, such as coordination with the plans of surrounding cities, connectivity to adjacent properties and upholding CARNP frontage requirements. These are really key to good planning and to the use of the arterial lots.

This idea of connectivity and CARNP frontages are a good transition to the next topic considered by Planning staff, and that is the Zoning and Subdivision audit that was done by a private

consultant. I won't discuss this topic in detail now because it's the Planning Commission's next agenda item for this evening. I'll just note that considering the proposed regulation changes within the audit could possibly spur further updates to the Comprehensive Plan.

The fifth topic that staff looked at were annexations. During our review of the Comprehensive Plan we saw that there is...I prepared general annexation data starting at the bottom of page three of the staff report. In 2021, the City of Edgerton annexed the largest area in the county, covering 675 acres over two townships, and also notably, this January, the City of De Soto annexed approximately 6,250 acres, or 9.8 square miles of area that generally covers the north two-thirds of the former Sunflower Army Ammunition plant. That is two percent of all county land. This De Soto annexation is staff's sixth topic considered in response to this large-scale annexation, County staff is preparing to review and update the Sunflower Army Ammunition Plant Planned Use Plan, which is an appendix in the Rural Comprehensive Plan.

I'll turn this topic over to Jay to give a little bit more information about this update to the De Soto Area Plan.

Mr. Leipzig: The only thing I will add on that is that we need to revise our Comprehensive Plan to accommodate or at least review that recent annexation to the City of De Soto. It appears after initial review, that most of that land is rural that is out there. We still have the Rural zoning. It will probably still be applicable, but we're looking at that. We need to start that review. We began coordination meetings with the City of De Soto, with City staff, some of their key leadership, to begin that process, and also, in addition to Planning staff, we have Public Works staff, as well as Wastewater and Engineering are part of those meetings as well to begin that coordination. We've had a couple of meetings. I think we have another meeting that's scheduled for next week as well, to begin that process.

Ms. Miller: And on page five of the report is Planning staff's recommendation. We recommend forwarding the 2022 Annual Plan Review report to the Board of County Commissioners along with a finding that the Comprehensive Plan generally remains current and is not obsolete, particularly the Plan's recommended goals, policies and action steps, due to the 2019 updates that I talked about, and that certain portions of the Plan, however, are in need of updating, and work is recommended to be completed as follows: To review the Airport plans and adopt amendments as needed; to adopt Comprehensive Plan and Zoning Regulation amendments for the provision of solar facilities, to complete our work that we started in 2021; and to review and update the Sunflower Army Ammunition Plan, which is an amendment to the Rural Comprehensive Plan, due to recent annexations. I'll take any questions, and also I'll point that there is a suggested motion if you care to use it at the bottom of page five. Thank you.

Mr. Pendley: Chairman, Jim Neese has his hand raised.

Vice Chair Hutchins: Mr. Neese, you have the floor.

Commissioner Neese: Thank you. Has there been any more information about the annexation of De Soto as being further south on the Sunflower Ammunition Plant? I know there was talk about that, and the last time you said there was discussions, but has that gone any further? Thank you.

Mr. Pendley: Chair Hutchins, if you like, I can try to answer that. Yes, Jim. We did ask the City of De Soto about that potential additional annexation of land south of 127<sup>th</sup> Street. They had indicated that their current annexation agreement with the City of Gardner goes to 127<sup>th</sup> Street, so at this time they do not have any plans to annex further south, on the Sunflower property, south

of 127<sup>th</sup> Street. So at this time, we anticipate that will still be in the unincorporated area of the county, and at some point that could be within the City of Gardner's future growth area.

Commissioner Neese: Thank you very much. Thank you.

Vice Chair Hutchins: Any other questions for staff? Sean, tailing on from the question Commissioner Neese just asked, the Sunflower Ammunition plant currently goes down to 143<sup>rd</sup>, so is there a part of the old Army Ammunition Plant that is not going to be incorporated, from what they're trying to do, and do you have an explanation, if not, as to why?

Mr. Pendley: That is correct. As Karen mentioned, the recent annexation that was approved by the City of De Soto was for 6,000 acres. That goes approximately from, I believe it's about 95<sup>th</sup> Street, all the way south to 127<sup>th</sup> Street. At this time, that land that's south of 127<sup>th</sup> Street that was part of the former Army Ammunition Plant will remain in the unincorporated area. That's what I think Karen was mentioning will be what we will be working on for the future update to the Rural Comprehensive Plan. At this time there is no planned use for that property, so that's what we are going to be working on, as far as to see what needs to be updated, if anything, with our Rural Comprehensive Plan in that area, but at this time there is nothing planned. But we do need to evaluate that. That's what we're looking at and why Jay had mentioned we're starting that conversation with the City of De Soto to understand, what are their future land use plans that go to 127<sup>th</sup> Street? And then, what, if anything, would need to change in the land area south of that?

Vice Chair Hutchins: Thank you, and then I guess the follow-up question would be – and perhaps Jay or Sean – so with what you're saying, you're meeting with the City of De Soto. Is there an expectation that we, as in this Commission and the Planning and Zoning boards in those areas, will still have some type of regulatory control over those areas, even if they would annex it? I just want to get a good feel for what you guys' thoughts are.

Mr. Leipzig: I'll begin the answer, and then Sean or Karen, feel free to jump, too. Johnson County, Kansas, has no regulatory oversight of the area that is annexed by the City of De Soto. In other words, the City is responsible for the zoning and any development that occurs in that area. However, the areas that are outside of the city of De Soto are Planning Commission, in terms of the land use amendments, the text amendments and our zoning boards in terms of the approval of development plans and plats would have authority on that area outside of the annexed areas in De Soto. Does that answer your question?

Vice Chair Hutchins: Yeah, so bottom line is our concern would be outside of what they are planning to annex at this point in time?

Mr. Leipzig: That is correct, and I think the most critical thing for me, frankly, the land use, but also the infrastructure. Kind of looking at that area out there and what that would entail, ensuring that there is adequate infrastructure.

Vice Chair Hutchins: Okay, thank you for the clarification. Any other questions? I do have one item that I'd like to bring up regarding the Comprehensive Plan, and this would be as a result of the meetings that we're having and have had with our Commissioners involving the Comprehensive Plan. That would be looking at a process that would be incorporated in the Annual Comprehensive Plan that would look at the improvements in the unincorporated area infrastructure, taking into account the elected County Trustees, involving them, and putting forth recommendations in terms of projects to be worked on, maintenance improvements, as well as proposing budgets in those areas to improve that. That's one thing that I know we're currently

working on, and I'd like to have incorporated into the Annual Comprehensive Plan review as well before we send it to the Count Commissioners.

Mr. Leipzig: Chairman Hutchins, I will say on that I think that's an item that will require some review, not only with Planning staff but with Public Works. But your comments are certainly noted. For consideration it certainly will have to have some time to meet and talk about that as a group as well.

Ms. Miller: And also, it should be considered as a whole when we look at our general improvements to the Zoning Regulations and perhaps the Comprehensive Plan. That will be conducted more comprehensively, and could be as part of the audit that we're looking at.

Vice Chair Hutchins: I think that we're looking at knowing something sooner than later, so my question is, how do we start moving in the direction and ensuring this new process is incorporated into or annual plan?

Mr. Leipzig: Just a couple of things. I wanted to follow up on what Karen Miller had just said about having that be a comprehensive review as part of our Subdivision Regulations. I think we could accomplish and do some great things through that avenue. I think long term. But addressing your concern about it being more of a short term process and short term review, I certainly need to visit with Public Works and ensure that we...and have them study that, and we will look at that as well and how that could fit into that process moving forward. That's something that we'll have to deliberate a little bit and study for further review.

Ms. Davis: A public voice is on the call. Do I need to allow them to talk?

Mr. Leipzig: I would say no at this point, Leslie.

Ms. Davis: Okay, and then Jim Neese is raising his hand.

Commissioner Neese: Thank you. In reference to Randy's comment, how much can we get in the weeds on that? I mean, we can have suggestions, but basically doesn't that come down to the budgetary allocations and how the County Commissioners decide to do that? I'm not sure how that works or how much...We can have some general input into what should be done, but it really gets down to doesn't the budgetary process really drive that? Am I wrong on that? I think what Randy is saying here is great, but I think the budget control is what drives that deal. I could be wrong. I don't know who to address that question to, but –

Mr. Leipzig: I'll try to attempt an answer of what I think is the case. Commissioner Neese, your comments are well-said. It's really part of the overall budget process. However, I think with deliberating between Planning department and Public Works and looking at how we could be very deliberate, or review those requests, I think is something that I'd like to explore a little bit. That will take some time, but I think that would begin to address the Chairman's questions, or his comments, I guess, to meet with Public Works, with Planning staff and also with Budgets to figure out the best way to do that and how that would fit in with the overall process in terms of the CIP, and then figuring out what those needs are in the community.

Mr. Pendley: Jay, I was just going to add, as you mentioned, that was the thing I was thinking about. This specific discussion, I know, absolutely will be essential for us to coordinate with Public Works staff, because it is integral, I think, with a capital improvements program, and that may be where the authority lies. There are goals in the Comprehensive Plan for transportation that would be relevant, but otherwise, for the Planning Commission's discussion and recommendations specifically, we'll just need to coordinate to figure out what is that authority and what kind of goals

we would look at, but certainly that's all a part of the discussion for the Comprehensive Plan transportation goals, but as to the specific infrastructure improvements, that's something that we really do need to coordinate with Public Works in terms of the CIP as well. We can certainly begin to have that discussion, and I think we have talked with the Public Works staff before and yes, Martin Ntonjira is available, but he did not have plans to talk about this subject tonight. He was here more for the Zoning and Subdivision Regulations audit discussion, but we can invite Public Works staff to future Planning Commission meetings to discuss this. To answer Mr. Hutchins' comment, we could certainly invite Public Works staff to future agenda items with the Planning Commission for that subject.

[technical difficulties, waiting for Vice Chair Hutchins to rejoin meeting]

Mr. Pendley: I will just note, as Karen mentioned, the item we are discussing at this time is the Annual Comprehensive Plan Update. Karen noted there is a suggested motion on the agenda on this report, so if anyone...I guess first we wait to see if Randy is able to rejoin us, and then we will entertain a motion.

[continued technical difficulties]

Mr. Pendley: Randy, I don't know if you caught this. I will just note at the end, after Jay had responded to Mr. Neese's questions, I had noted that for future reference we hadn't planned on anything on that specific discussion on tonight's agenda. However, we can invite Public Works staff to a future Planning Commission meeting to address this issue as it relates to the Comprehensive Plan Update. Certainly we can have that conversation with Public Works staff, and then invite them for a future Planning Commission meeting to discuss this.

Vice Chair Hutchins: I don't actually think that's the next step. I think the next stipulation is establishing the process and then working with the County Commissioners. Obviously, Public Works is going to be part of the process, but they're not going to be the ones establishing the process. That will be this Commission, the Township Trustees working with the Board of County Commissioners. So I guess at this point in time we need to figure out, what is your ask for this evening?

Mr. Leipzig: Basically, Chairman, the recommendation is just to receive the report, note the recommendations that staff have to those five items that Karen went through, and that will be forwarded on to the Board of County Commissioners.

Mr. Pendley: I will note, too, there is a suggested motion, too, as Karen noted, in the report, on page five. There is a suggested motion for the Annual Comprehensive Plan Update.

Vice Chair Hutchins: I think what we need to do is discuss as a committee if we feel like we're prepared at this point in time to send this forward to the Board of County Commissioners, or do we need to get more information around this to make sure we've got a fully vetted and updated Comprehensive Plan?

Commissioner Rast: Yeah, I'm somewhat confused at this – and of course, this is my first go-round on this – but it sounds like there is a lot of stuff that's in the process of being looked at waiting for more information and discussion. So, I'm confused at what we're sending forward and agreeing with if we haven't discussed it and there's still information that is unknown.

Ms. Miller: No, the purpose of those topics I brought up and considered was just to look at how the Comprehensive Plan is up-to-date or not up-to-date. So these are the areas that either show that we're up-to-date because we're working on it, or identifying a few areas that we need to. This

is something, by state statute, we're required to do every year, so every year we just take a snapshot and say, "Where are we in terms of the Comprehensive Plan?" and it's basically just kind of a checkup and reporting back to the Board of County Commissioners, just describing where we're at in terms of kind of the health of the Comprehensive Plan. No, we don't have to stop this Annual Review for any work that we're doing. We're just letting the Board of County Commissioners know we're active with respect to keeping the Comprehensive Plan up-to-date. We're working on it. Here's what we're doing, and here's our path forward. Nothing is set in stone, and what we've sent to them doesn't have to be everything that we're thinking about. It's just kind of a summary.

Commissioner Rast: I guess it's hard to think of the word "up-to-date" when it's not up-to-date, because we're still trying to figure maybe paths forward. Is there a way to say that these things are being look into, worked on, still –

Ms. Miller: And that's why we have in the wording the suggested motion. It remains current and not obsolete, particularly the Plan's goals, plans, policies and action steps, and certain portions of the Plan "...are in need of updating and work, to be completed as follows..." And we have a list of some things that need to, so generally the ideas in the Comprehensive Plan are up-to-date. We have a few things that we're working on. From the time you adopt a Comprehensive Plan, going forward there's always something to do on it, so it's not unusual to have some projects that you're working on.

Mr. Leipzig: Commissioner Rast, I guess how I look at this, this is an annual review of our Comprehensive Plan, is essentially what this is. So, there are some parts that are consistent, that our policy statements are consistent. There are some parts that are not, that we need or obviously are working on, and we're acknowledging that, so I guess in my mind when I look at this, this is an annual review of that document, if that helps. I don't know if that provides somewhat of an answer to your question.

Commissioner Rast: It kind of does. It's just very open-ended as "This is where we're at. It's up-to-date, but we're working on a lot of things." So it leaves a lot to be reviewed or discussed or figure out where we're going or what the final situation is. So will we be working on this from here on out to clarify and finetune all of this stuff? Because, like it doesn't look like we can do anything with the Airport for quite a while, because we're going to wait six months for –

Mr. Leipzig: I think, Commissioner Rast, the Airport issue, those are very significant, large projects. The Planning Commission will certainly be involved in that. There will be a steering committee that will be created, and there will be a variety of updates and information to go through. Those are the two major portions of our Comprehensive Plan, so yeah. There will be significant involvement of the Planning Commission moving forward for these items.

Mr. Pendley: I will note, too, this is sort of a snapshot. This is evolving and a continuous review. A Comprehensive Plan is in continual need of review and update, but as Karen noted, for our state statute, the requirement is to do an annual review as to where we are and what we are working on. So it's really kind of an action plan for what we're currently doing or what we need to do and have identified. As Jay mentioned, some of those updates with the Airport Compatibility Plans are very large and will require additional meetings with the Airport Commission as well as the Planning Commission, and Board of County Commissioners. So we're starting that. There are some things that are identified here that are definitely going to take additional review, and we will be bringing these items back before the Planning Commission to actually consider the details of it. All we're doing at this time is just saying, "Here's what we're working on," and that's the purpose

of this item on tonight's agenda is just to say what we're working on, and what we'll be bringing before the Planning Commission.

Ms. Davis: Commission Neese has his hand up, FYI.

Vice Chair Hutchins: Commission Neese, please.

Commissioner Neese: This is really no different than anything we've done in the past. Basically, it's a report card sent up to the State. The State requires it, and we give them some generalities that we're down here and we're working on some things. We've got an idea what we want to do. There's nothing in this that's going to prevent us from doing anything myopic on the roads or the Airport, or anything else. It's just a general report. Having said that, I'm going to make a motion that we send this to the County Commissioners. I'm sitting in a car out here, so I can't read paragraph five, but whatever paragraph five says, that's what I make a motion that we move this forward to the County Commissioners.

Vice Chair Hutchins: Before we move it to a vote, I guess the question I have on being a member of this committee, something as important as this, why have we not met and discussed this in a working setting as to what we believe the Annual Comprehensive Plan should be? After all, this is the Planning and Development Commission. So I feel like we're being put on the spot. Staff has come. They've put in here without any discussion amongst us in terms of what all do you see as our Annual Comprehensive Plan? What do you feel is important? What are we going to do over the next 12 months? I don't feel like we've been engaged. I just feel like we're showing up here tonight, and being asked to approve what staff brought forth tonight without any real understanding and discussion. That's my concern. I would expect that we would be driving what should be inclusive in the Annual Comprehensive Plan, what the priorities are and what we jointly agree should be put in the plan and carried forth.

Commissioner Rast: That's kind of how I'm feeling, too. So if we send it, then my understanding is then we're sorting of checking this box, but it's kind of a big box of a lot of information, and then we send it to the Board of County Commissioners, and they kind of approve it, but yet there hasn't been any real discussion on the planning side with the Planning Commissioners to understand what we're agreeing on and sending forth, other than you're making it sounds like it just an administrative deal at this point to just check the box that it's done, but I have the same concerns with Randy as well. Thank you.

Mr. Leipzig: Commissioner Rast or Chairman, just to elaborate on that a little bit. And following up with what Commissioner Neese just said. This is an annual review that we've done. The points in our Comprehensive Plan we've known for several years that we'd be getting close to this development process of the update to the Airport Plan. We've known that there is a significant amount of activity going on around the airport. That has been discussed. We know that is a priority that we look at to ensure the integrity of the airports and also safety. That is consistent with further discussions with the Planning Commission, because it involves a lot of different things. There's also our policy areas and our general policy statements within the Comprehensive Plan that we believe – and frankly, in looking at that – are still relevant. I, I guess, apologize because if the Planning Commission feels like this was just kind of set before them, that is not the intention. We realize that there is a lot of work that needs to be done on these things, but this just acknowledges the subject area of the thing that we're looking at. That's kind of what the Airport review, some of the items that Karen had mentioned about the arterial lots, there's things that we've done to try to keep the policies consistent within a growing county such as ours. So, it's an annual review that takes place. It's just a systematic review of our Comprehensive Plan. If this Commission would

rather wait and bring it back, we could do that, but really, we don't have any recommendations in terms of what needs to be done for the Airport. That's something that the consultant will be working on, going through that process, but there is a significant amount of work that will be forthcoming involving the Planning Commission.

Vice Chair Hutchins: Here's how I'm looking at it – and I even looked at the next item on the agenda – my question is, when as a Commission did we meet and agree that we had issues in our Zoning and Subdivision Regulations of which we needed to go out and hire a consultant? Did I miss that meeting? Have we even talked as a Commission what our concerns are and what we as the Commission would like to see changed? And then hire a consultant to figure out how do we accomplish those things? I just feel like they're doing their own thing. They're bringing something to the table and asking us to vote on it to pass it to the Board of County Commissioners. I believe our role as the Planning Commission, we get together. We have working meetings, or whatever, and we discuss what we believe are the challenges, what should be included, what are the priorities of the county of which we're going to work on for the next year? And then once we agree to that, we figure out how to execute on that plan, and once we have that plan understood, that's what we send forth to the Board of County Commissioners, and the State of Kansas to make sure, one, as a Commission we're hearing what the people in the unincorporated area's concerns are, and two, we're finding a way to address those needs, and three, we're figuring out the "how" that we're going to put forth. That's the way I believe the process should be facilitated versus us just being brought something to the table and asked to approve or deny. I'd like to hear from my other peer Commissioners, here.

Mr. Pendley: Mr. Hutchins, Mr. Neese has his hand raised again.

Commissioner Neese: Thank you. Well, basically I've got a motion. I haven't heard a second. If I don't get a second, I'll withdraw the motion, and we can go to studying the plan that's been in existence for a long time and is pretty general. But I'm not going to withdraw my motion until I hear whether or not I get a second, and then if I get a second, then we get to vote. So, what do you want to do, Mr. Chairman? Call for a second?

Vice Chair Hutchins: Let's go ahead and if there's other comments to be made on the Commission, let's hear those comments, and then we'll ask for a second to Mr. Neese's motion.

Commissioner Rast: What would be the alternative? Like, if we say no to this, at our next meeting would we dive a little deeper into each one of these and make sure the public has opportunities to comment, like Commission Hutchins was talking about, that we understand what we're looking at, even with the review or the update?

Commissioner Neese: Kelley, the way I look at this, basically what this is, it's like a company having some goals at the beginning of the year. We're in the company. We're going to try to make money. We're going to do some roads. We're going to do streets. We're not going to tell anybody how we're going to do it at the headquarters, but we're giving them some basic goals. That's what the Comprehensive Plan is. It's been worked on in-depth over the years, and it was accepted last year, and the only major changes they want to make are some generalities, so this is nothing in the weeds here. This is just a general statement to send up to the State that says, "We're doing things." I don't think it's designed to get real specific, and it's been accepted by this Board over the past, forever as far as I can remember. So it's not...I guess if you've got it in your mind – and I'm not trying to read your mind – that we're going to have meetings about whether or not we should spend more money on the roads in the county, or we're going to do this, or we're going to do that, that is not what this is for. This is just a general overall review of this is where, kind of, we

want to go. It doesn't mean that we're necessarily even going to go that way. It's just a thing that the State requires us to send up there. So that's why I'm not worried about it, as far as directing how the County is going to be actually going forward.

Commissioner Rast: Okay, -

Ms. Davis: Michael Levin sent in a text three minutes ago. He can't use his microphone, but he can hear what is being said, and he would like to second the motion. I'm sorry for interrupting, Kelley.

Commissioner Rast: Okay. I'll just finish my comment, and then we can go from there. I guess that's fine, but it sounds like it's an important thing. It's a Comprehensive Plan about our community, but then we're just kind of throwing it all out there, and it really doesn't mean anything at the same time. That's what I'm just a little confused on, so I don't want to vote on something that is supposed to be a yearly thing. It's done all the time. It's something that's required by the State. Sort of in the gray area there. Is it important, or is it not important? That's all.

Vice Chair Hutchins: Any other comments from the Commissioners? All right. There has been a second to the motion that Mr. Neese made.

*Motion by Commission Neese, seconded by Commissioner Levin, that the that the Planning Commission has completed it's 2022 annual review of the Rural Comprehensive Plan and determined that it remains current and is not obsolete, particularly the Plan's recommended Goals, Policies, and Action Steps, and that certain portions of the Plan, however, are in need of updating and work is recommended to be completed as follows:*

- *Review and update the New Century and Executive Airport Comprehensive Compatibility Plans;*
- *Complete adoption of the comprehensive plan and zoning regulation amendments for the regulation of solar facilities; and*
- *Review and update the Conceptual Land Use Plan, Sunflower Army Ammunition Plant.*
- *I further move to forward these findings to the Board of County Commissioners.*

Vice Chair Hutchins: That is what are getting ready to vote on. With that, I'd like to call roll if we may. Can we get staff to do roll and take the vote, please? If you support Mr. Neese's motion, vote so, or if you do not support his motion.

Vice Chair Hutchins: No

Commission Neese: Yes

Commissioner Levin: Yes. [Commissioner Levin voted yes via chat function]

Commissioner Huggins: Yes

Commission Rast: No

Commissioner Downing: Yes

Commission Johns: Yes

Commissioner Lund: [unable to vote, no audio]

The motion carried, 5-2-1.

Vice Chair Hutchins: The motion does pass, even without Mr. Lund's vote, so at this point in time we will pass on the Planning Commission's Comprehensive Plan to the Board of County Commissioners.

Ms. Cross: May I make a point? We only have five yes's unless I missed one. Could I repeat the vote? [discussion on whether vote passes]

[Commission Neese left the meeting]

## **F. ZONING AND SUBDIVISION REGULATIONS AUDIT**

Vice Chair Hutchins: Let's move on to the next agenda item, Zoning and Subdivision Regulations audit.

Mr. Leipzig: I'll try to tie in a little bit about the previous discussion as I introduce this topic as well. The next item is the presentation of the Johnson County Zoning and Subdivision Regulations Audit. About a year-and-a-half ago, the Planning Department retained White and Smith, which is a planning and law group in Lee's Summit, Missouri, to conduct an audit of our Subdivision Regulations. We are very fortunate to have Mark White with us this evening. Mark is the principal with White and Smith. They're right over in Lee's Summit, Missouri, however, they conduct subdivision development reviews and regulation updates and amendments throughout the country, throughout the United States, to complete an audit of our Zoning and Subdivision Regulations. This audit was really the first step as we began the update for our Comprehensive Plan and our Subdivision Regulations to help basically point out the areas that are inconsistent or that help prioritize our work as we move forward. We started discussion about a year-and-a-half ago. Frankly, I believe the report was finished around July of last year, but with the solar regulation discussion, we thought we would wait until that was concluded before we picked this item up. So this is really the preliminary work of the work involved with updating our Subdivision Regulations and our Comprehensive Plan. This would be the first step. Next step is updating the Comprehensive Plan, including the two airports, and then making some minor changes in there which will involve a lot of work with the Planning Commission and further meetings of the Planning Commission. The last step is updating our Subdivision Regulations, which is some of the things that Mr. White is going to be going over this evening in his report, and providing that information to us. With that. Sean or Karen, anything that I'm missing before we turn it over to Mark?

Mr. Pendley: I think that's a great overview, and looking forward to Mr. White's presentation.

Vice Chair Hutchins: Before we get into the presentation, did the Planning and Development Commission have a meeting and determine that we have a deficiency and make a motion to hire this consultant?

Mr. Leipzig: Mr. Chairman, when we had made one of our annual updates to the Planning Commission, this is part of that review. I think we mentioned it last year, and I believe even the year before, that we would be updating our Subdivision Regulations. To retain a consultant did not require any formal approval from the Board of County Commissioners for this amount. This is just a preliminary step, so staff made a decision to do this. Now, when we begin the formal process for the update of the Comprehensive Plan and the formal update of the Zoning and Subdivision Regulations, and we go through that formal process, those will both require Planning Commission recommendation in terms of reviewing the RFP, as well as approval by the Board of County Commissioners. Does that help answer your question, Randy?

Vice Chair Hutchins: Yes. Thank you, Jay.

Mr. Leipzig: Sure. With that, Mark, I think if the Chair is comfortable, we'll have you move forward.

Vice Chair Hutchins: Please do.

*Mark White, White and Smith, LLC, appeared before the Planning Commission and made the following comments:*

Mr. White: I am with White and Smith, LLC. We are in the Kansas City region, although we work on a national basis. We've done about 150 or so code updates or similar projects like that in 36 states around the country, including Kansas and including in Johnson County, so, we've got a lot of experience on the issues that are presented to us all over the country. What I'm going to hit on tonight are several things that were brought to my attention while reviewing your Zoning and Subdivision Regulations, and based on discussions we had with staff. I'll open it up to discussion with you all.

I'm going to talk about the Subdivision and Infrastructure Standards first, because that seems to have been one of the more difficult problems that staff is facing and the County faces in processing the kind of development that tends to happen in unincorporated Johnson County. I'm going to talk a little bit about the Zoning Regulations themselves, the districts. I'm going to talk about the sign regulations. Even if you all haven't met and decided to update those, there was a U.S. Supreme Court decision in 2015 that virtually requires every city and county in the United States to update their sign regulations, and there's another one coming our way this year. So I'll talk about that, and a little bit about what some peer communities have done in relation to some of the issues that we address, and turn it to discussion and feedback.

Your Zoning and Subdivision Regulations are kind of the enforcement of your long-term planning policies from the Rural Comprehensive Plan and the CARNP, that really don't establish the day-to-day law of what happens when somebody develops. These are the rules of the game, the shape, the density and intensity and character of new development. They set up the workflows for processing new development. Ideally, they are a balance between different views and perspectives in the county, and they also describe how everything goes forward while bridging that gap between long range planning policies, which, as was mentioned earlier in the plan update discussion, are generally fairly broadly written, and the specifics of what happens on the ground. So, it accomplishes all of that. It's really a legal document, so we want to make sure when we implement our plans, we've got the appropriate rules in place that direct new growth and development in unincorporated Johnson County in a way that delivers the outcomes that are set out in the Comprehensive Plan. We want to make sure those rules are as clear as possible, so that everybody understands them and that they are internally consistent with each other. And, of course, they're legal. There's a whole body of state and federal law that dictate what goes into zoning and subdivision regulations. I'm going to hit on a few of those as we go forward.

I'm going to start with the subdivision and infrastructure standards, especially your minimum infrastructure standards, which have several goals. One is to manage growth in the county. It's to make sure that development doesn't outpace the ability of infrastructure to serve it. It's got to have adequate capacity and availability, but also in turn, that you have infrastructure that's appropriate to the type of development. We don't want urban levels of infrastructure in rural areas. In areas right outside of the cities, though, we want to make sure that the infrastructure is adequate for what's coming in the future. We need a good systematic way of reviewing things, so that both the applicants know what's expected of them and decision-makers – that is, you all, the Board of County Commissioners, staff and others – know how to apply those rules. One of the big issues that has come up a lot is connectivity. I've dealt with that in a lot of regulations. I'll explain a little

bit about that later. And we want to make sure that review is coordinated between not only the departments that are involved in regulating, making recommendations on development – you all and the County Commission – but they are also coordinated with the County’s official planning policies and the character of development that’s described in all of our zoning districts, most of which are rural.

So you all, I’m sure, have seen the minimum infrastructure requirements. Some of them are absolutely required. Some of them – and this is interesting – they’re highly recommended, which means that they can be waived, but otherwise we require them. Or they’re just recommended. They’re not absolutely required. You’ve got it for several different types of infrastructure – fire, roads, stormwater, wastewater, water, schools and parks. Roads tend to be, sometimes, the most difficult to deal with because they’re not a closed-ended facility. Demands come from other places in addition to the new development. I’ll talk about that with proportionality a little bit later. Those policies are an important way to manage growth and to manage development in the county. Again, we want to make sure that not only does growth not outpace the kind of infrastructure we provide, but that in most of the unincorporated county, we don’t provide the wrong kinds of improvements that, in turn, spur development that is beyond the rural character identified in the plan, but that we also hold development to the capacity of the infrastructure that’s there serve it or that’s identified in long-term comprehensive plans. You all had a little bit of a dialogue about that earlier, which is found interesting.

One of the biggest issues that tends to come up with us is that infrastructure improvements are usually made in a fairly lumpy fashion, but most of your development tends to be piecemeal, in smaller subdivisions. So, we want to balance all of that as we go forward. This graphic that was done in Montgomery County, Maryland, outside of the D.C. area, which has dealt with this issue for many, many years, kind of presents that visually, how most of the time you get growth in small increments, but your infrastructure needs can’t always be provided on a piecemeal basis, and that creates a disconnect between what we can ask for development, but what we need to provide immediately to accommodate not only that development but future growth. So, it raises an important issue I’ll talk about, called proportionality. That’s a constitutional requirement. There’s been a lot of litigation around the country, and some guidelines by the U.S. Supreme Court on how we administer that.

What I dealt with in my report are some of the ways we can start recalibrating how we apply the minimum infrastructure standards and those things in a way that achieves that balance, in a way that’s not only consistent with the outcomes the County expects, but that respects the constitutional rights of property owners in those areas. Some of the limits or fees would be an easy way to do that. Everybody just pays no more than just what’s required of them. It’s a pretty simple calculation. You’ve got guidelines to spend them, but unfortunately you don’t have that authority under state law. So I’ve gotten into some concepts that I call concurrency and adequate public facilities, something we’ve done quite a bit of, or I have, certainly, in my three decades as an urban planner.

So, what proportionality means is that when you get an application for development, and you’re asking them to provide infrastructure, especially infrastructure offsite, that has to relate not only to the needs created by the development, to use roads as an example, every new subdivision puts traffic on our roads and our streets, so there is a type of nexus between development in a new residential subdivision, for example, and roads. But not only that, we cannot make the developer provide more than their fair share. We can’t make them provide improvements that go above and beyond the specific demands that they are creating. That’s where we get into that

disconnect between the lumpiness of how we provide infrastructure and the sort of small-scale, piecemeal type of development we get in a rural environment like much of Johnson County. What we need in our infrastructure standards in the zoning and subdivision regulations is something like a measurable level of service. What you've got with the minimum infrastructure standards, is something that tells you the type of improvements we need. It's the geometric design. It's how roads are paved, those sorts of things, but it doesn't always tell you how much. The level of service is a way to define that and measure that in a way that's enforceable against new development. It's also something that addresses another issue that was brought to our attention. When development comes in and it's fairly small but you need to meet your connectivity requirements, to meet what you know you're going to need in the future, the developer and the applicant will say – and I think quite understandably – that “I want a waiver, because I don't create the need for all of this. I create the need for some of this,” and the standards for that are fairly loose. It gives you a way to sort of work things out with applicants, but it is also somewhat unpredictable, and it also raises the specter of having a lot of small development that gets by without having to provide what you need, but when you put the cumulative impacts of all of that development together, you end up with a problem, because you end up with more traffic on the road than you actually asked development to provide.

So what the County can do is say, “We've set up a long-term capital improvements program,” for example. “We've identified the financial resources we have available to us, and we've described how we're going to provide the improvements we need to accommodate what we expect to happen over the long term, and you can, as a development, you can wait until those improvements are available, or we'll set up a system where you can contribute towards those improvements where we can measure specifically what those impacts are.” It gives you a better way to measure what happen there than just the availability of infrastructure, which is what your minimum improvements standards get you today.

Connectivity is also an issue, because internal to a subdivision, fairly easy to deal with a lot of times, and again, especially with piecemeal development, you need the connection to a subdivision next door that probably hasn't happened yet. So we need a way to measure what that is and what that means. We did the Unified Development Code Update for Olathe about five years ago and established for them what we call a connectivity metric. That gives subdividers a specific rule that they know from day one whether they meet it or not, when they lay their streets out, and a way for the County to fairly efficiently explain to an applicant whether they've met those standards or not, and ways to work it out if the external connections are an issue.

That is a summary of the minimum infrastructure standards part of the report. The zoning districts I got into as well, because when you get into whatever updates you're going to make to the Rural Comprehensive Plan and CARNP, et cetera, it's important to know what's in your zoning districts that shapes the character of development. Close to 90 percent of those zoning districts are in the RUR and the PRUR, which are minimum ten-acre lots that are served by rural-designed infrastructure, and you have spots of higher-intensity, relatively speaking, to that interspersed throughout the county for the residential piece, mostly outside of incorporated areas. You've got spots of employment-type districts throughout the county, as well as – and this image is the rural areas that are higher intensity than your PRUR – and then spots of retail interspersed throughout the county. Most of those also are close to incorporated areas.

Some of our recommendations for the zoning districts to make sure that they implement the Rural Comprehensive Plan, to make them easier to use is, one, having a unified table of uses. Right now, your districts sort of have a laundry list for each of the districts of the uses, as opposed to a

unified table. You do have something in our appendix. But you could have all of that in one place. And the table of uses probably needs an update, just given the passage of time. Some of the dimensional standards were pointed out as a problem, frequent subjects of requests for variances or modifications, just because they didn't seem to make sense for large lots. And there are also supplemental use regulations you have. I'm not going to go over the renewable energy – solar, for example – because you've been in the weeds on that over the last year and plan to finalize it this year. Things like cell towers and other telecommunications facilities should probably be updated. There are some recent developments in federal law on that, especially with small cell and 5G and things like that. Alcohol-related uses. Accessory dwellings, which you've got identified as something that's allowed in the county, and things like tiny homes and other housing types that are appropriate for the rural area.

The other issue, the last substantive one here, is the sign regulations, as I mentioned. Sign regulations implicate the First Amendment, because signs are a form of communication, so we have to make sure the whatever we do is compliant with First Amendment case law, and that means not controlling the message of the signs. That's something that courts consider to be a form of censorship. Making sure the sign regulations are written in language that is fairly precise and that we've got a process that's fairly quick and expedient for people who are putting signs up. The U.S. Supreme Court case I mentioned, decided in 2015, *Reed vs. Town of Gilbert*, talked about the principle of content neutrality. We cannot define sign types or trigger sign regulations. That means whether we require a permit or not, how big or tall, or whether the sign can be lighted or not, that sort of thing, based on what the sign says.

One example of that is a business sign. You have to read that sign to determine whether that's a business sign or not. Something like a category, like monument sign. That's a sign that looks like the one on the right, which looks exactly like the one on the left. It's based on the physical characteristics of the sign, and that's what we need to make sure you do when you re-calibrate your sign regulations. Come up with a new set of categories and so forth. It has to be based on those structural and physical characteristics, and not the message it is designed to communicate. There are a lot of things you can regulate that don't trigger these strict content neutrality rules. Once you've defined those physical categories, we can regulate size, materials, whether they're lighted, whether they're digital or not. We can vary those categories by district and so forth. There's a lot of things we can do that respect the character of development you've identified in your future land use policies and your zoning districts. We just can't do that by message.

The thing that's coming up this year is on-premises versus off-premises signs. The U.S. Fifth Circuit Court of Appeals, which governs Texas, Louisiana, a few other states, ruled that that's considered a content-based kind of regulation that doesn't meet those strict requirements that the U.S. Supreme Court has identified, and whether that's considered content-based or not is something pending in front of the U.S. Supreme Court. We'll know sometime this year whether the U.S. Supreme Court agrees with that or not, and if so, what the rules of the game are. For some of my clients, kind of anticipating that, I've defined billboards as just a physical thing and not based on whether it's an on versus off premise message, because where this usually comes up is those large panel signs on a metal superstructure, and that's what most people are thinking of when they think of as off-premise signs, so that's something we could do, or you could do in advance of that, or we could just wait until we know what those rules of the game are by the Supreme Court.

Something else I've found to be useful in sign code updates – I've done quite a bit of them since 2015 – is, again, a simple table that defines by sign type whether they're allowed in the district,

how many you can get, what the physical dimensions of that sign can be, where it's located in terms of street setback, and the physical characteristics of that sign. So whether or not you've got a pole sign, if you get one, this can tell you whether it can be digital or not, what kind of illumination it can have, whether it can have changeable copy and so forth. That's something a lot of my clients find quite useful.

The last topic here is just reorganizing the Zoning and Subdivision Regulations so that they are just easier to read, easier to use, easier to find the information you're looking for. A lot of communities have...You have a unified code that consolidates your zoning and subdivision regulations, but something that's integrated better. You have a lot of scattered information throughout the code, especially when it comes to procedures. You've got an awful lot of articles. Most communities have anywhere from 8 to 12. You've got 33, which sometimes makes it, I think, hard for a typical reader to find information, and some definitions that aren't quite complete. So, reducing the number of articles, putting the interesting stuff upfront. The first thing the reader probably wants to see is the zoning district regulations, because that really shapes the character of their neighborhoods and where they live, or if you're an applicant, it really tells you what you can do with your property, so that usually tends to be upfront. Then you have the development standards, then you have your workflows, and then you have kind of your technical information in the back. Also, making sure we have a complete set of definitions. I know whenever I do, for example, a use table, I do it in Excel spreadsheet, and I make sure that every single use is defined and the ordinance, so it's not guesswork. I also make sure, for example, with parking regulations, which usually vary by use, that that terminology is used consistently throughout the ordinance.

Those are some of our regulations for reorganizing things. Near the back of the report I presented examples of some other communities. Some of them are former clients of ours. Some of them are not, that have addressed some of the things that we hit on in the report. Just to show you that if you decide to implement those things – and this isn't an item that you have to decide tonight, for sure – you're not alone. So, communities like Jackson County across the state line, new Castle County, Delaware, which is south of Philadelphia; Howard County, Maryland, which is between Baltimore and Washington, D.C.; Hillsborough County in the Tampa area, all have dealt with this concept of adequate public facilities and concurrency. That's something they have used. Hillsborough County, a former client of mine implemented a connectivity ratio years ago. New Castle County does it, interestingly, by state law. The Delaware Department of Transportation has connectivity standards. We worked with them a few years ago to update their concurrency requirements.

Sedgwick County, I looked at them because they're the only other community in the state of Kansas that operates under the same zoning enabling legislation that Johnson County has. So I thought I better take a look at what they do. As you know, that's outside of Wichita. They have a unified zoning code and a unified set of subdivision regulations that they implement with the City of Wichita. I think you have a lot more larger communities in Johnson County, so that would be a neat trick if did something like that here, but they do consolidate the terminology of their zoning and subdivision regulations to avoid inconsistencies between the two, and they also have an urban growth area that's incorporated in rural areas outside of it. They also have an interesting kind of fee that they apply at the subdivision stage. I'm not sure where they found the authority for that. It's not listed in their regulations. But it did raise the issue that I raise in the report as well. Since we don't have authority for impact fees, whether we could do something with special assessments to address that piecemeal versus lumpy improvements issue you're facing.

Douglas County, Kansas, has access management and variable standards by growth area. Clay County, Missouri has minimum infrastructure standards as well. They're not as fleshed out as yours are, but they do have a concept they call shadow platting outside of their incorporated areas, where somebody can provide a very generalized plat with maybe a phase of a subdivision, and then showing how the rest of it would be developed once it's annexed. So it's a concept, maybe, that the County could explore further if the County thinks there's merit in that.

So anyway, I wanted to get through that quickly, just to give you a summary of the report. I'm not sure if you all have had a chance to read it in any detail, but that's what's in it, and I welcome any discussion from the Planning Commission. Thank you.

Vice Chair Hutchins: Very good. I'd like to open it up for questions from the Commissioners. Do we have any questions? Thank you very much for the presentation. I guess the question I do have is [inaudible] steps regarding this topic, then.

Mr. Leipzig: Chairman, could I make just a general comment?

Vice Chair Hutchins: Yes.

Mr. Leipzig: Not interrupting the other Commissioners, but I just wanted to mention he had a lot of great information here provided by the consultant, the high level overview of things we're going to be looking at. You can see in looking at this, there are definitely some areas that we need to focus upon in the next few year, in terms of development standards, looking at the organization of our subdivision regulations, how to make them more user friendly. We have done some of that work, looking at access management and some of our issues on the arterial lots and street frontages, some of that work that we were doing previously, but this is kind of a high level overview of where we will be for the next couple years and thinking about things. As we move forward – and this is just a general thought as we begin to think about these things – I think it might behoove us to create a subcommittee in the Planning Commission that can look at these things as we move forward, as we start to look at the Subdivision Regulations. It's premature to do that now, but just to kind of keep that in mind. I think that process worked well in the past, and I think as we bite into this, that would make a lot of sense as we get the consultant onboard and begin this review.

Vice Chair Hutchins: All right, thank you, Jay. Any other comments or questions regarding this agenda item? Hearing none, let's move on, Jay, if you will, to the Director's Report.

## **G. DIRECTOR'S REPORT**

Mr. Leipzig: Thank you, Mr. Chairman. I'll be very brief. The Board of County Commissioners actions, that report that was included in your agenda packet. You should have that. If you have questions about that, I'd be happy to answer them. We talked about the Comprehensive Plan update, and then our Subdivision Regulations update this evening. The other piece that I wanted to mention is at our previous meeting we had talked about the creation of new bylaws for the Planning Commission. It has been quite some time since we've had bylaws for our Planning Commission, so in working with our Legal staff, Peg Trent, our County Counselor, has a draft document that she has prepared for the bylaws for the Planning Commission as well as our zoning boards. It's something that's long overdue that we have been intending to do for the last couple of years, but with the variety of projects it ended up getting delayed, but we do have draft ready for distribution and we'll be sending that out, I believe, tomorrow for discussion at our meeting in February of the Planning Commission, which I believe at this point we should be back in person for that meeting. That date would be February 22, 2022, so 2-22-22 would be our next meeting of

the Planning Commission to discuss the bylaws as well as the upcoming election of officers. We'll have election of a Planning Commission Chair and the Vice Chair of the Planning Commission. Mr. Chairman, that completes my report for this evening.

Vice Chair Hutchins: Very good. Any questions for Jay? All right, let's move on to the next item.

## **H. UPDATES/OTHER BUSINESS**

Vice Chair Hutchins: One thing that I would like to bring up and discuss here is going back to the original conversation. Do you all feel it would be of value if we set up a strategy session, to where we could talk about some of the hot points, or points of pain that we currently experience in the County, and talk about what we want to set as a Commission as goals and objectives for 2022?

Commissioner Johns: Yeah, I agree with that, Randy. You made that point earlier. I think that some of those questions would give us some, just like you said, some strategy towards the future.

Ms. Davis: Michael Levin has said, "Yes, I believe it would be pertinent."

Vice Chair Hutchins: Okay. Anyone else have an opinion before I ask Jay a question? Jay, my vision of this session was more "roll up your sleeves." We can do it over lunch or whatever, and just kind of spitball or whiteboard some of the items that are near and dear to each individual, and then we talk about an overall prioritization or strategy. Knowing that we want this to be more of a working session, understanding we need to make sure that we're keeping everything open to the public as well, can you recommend a forum which will allow us to do something of that nature? But keep us whole from a public perspective?

Mr. Leipzig: Yes, Mr. Chairman. I would suggest either of two things, and certainly whatever the direction would be at the pleasure of the Commission, of having a full group work session, where we do provide, usually there's a light supper at those meetings, so getting everyone together, this would be the full, all 11 members, of the Planning Commission participating in a work session, where we would talk about a strategy, our long-term strategy for the next couple of years. That's one option with the full Commission, because it's a public meeting, so the public could be there, but it would be with that focus, being a work session. The other option would be a subcommittee of the Planning Commission that could be done where you have, for example, three members of the Planning Commission and then we could involve some Public Works staff as well as Planning staff. That could more of a typical kind of a work session of what you're thinking. You might recall we did something like that when we were working on the arterial lots, where you would have a working group that could come up with some basic premises or basic assumptions, and then would report back to the full Commission. I think that's what I would suggest, either of those two options would seem viable. I think the advantage if you have a working group, then you don't have to have the full Commission, but obviously that group is small enough to be able to work through some things, work through concepts, but then you'd want to bring them back to the full Commission for review and approval.

Commissioner Downing: Mr. Chairman, a question for Jay. If we set up a meeting like this, Jay, there's other entities we should probably look to. The Airport Commission, they make a lot of decisions, and some of their decisions are really based on what the FAA will allow them to do, so I think we need to look at all those things, because you need to make sure that if you're making any planning decisions that it's congruent with what the Airport is going to be able to do. The FAA regulates height and a lot of different things around the airports, and so we need to make sure they're there, and it probably wouldn't hurt to have Public Works just somewhat give an overview

of what they see coming up. That might be beneficial to all the different departments and commissions.

Mr. Leipzig: Commission Downing, and to that point, too – and I’m just thinking a little bit ahead – as we start this review process for the Comprehensive Plan update to the Airport, that will include that. There will be members of the Planning Commission, a couple zoning board members, an Airport Commission member, as well as possibly some city representatives as well as that working group to look at things very holistically. So yeah, your point is well taken.

Vice Chair Hutchins: So, Jay, what I just want to make sure we achieve is all the Commissioners having an opportunity to share what is important to them and their constituents in their area. That, to me, is of utmost importance, is making sure we get that voice known for each of the Commissioners and then we work as a team to figure out what it is we want to prioritize as a Commission for the next year. So does it make sense to have that working session with the focus of the Commissioners in the first meeting and then based on what we want to set as our priorities, then pull in additional groups to help educate us in those areas? Does that make sense?

Mr. Leipzig: Yes, it does, Chairman. I think that makes sense, and I think we could even – I’m just thinking out loud, here – we could have that discussion even at the meeting in February, I think. We would have those two items. The bylaws will be on there, as well as the election of officers, but we could start just a general working session with the Planning Commission on goal-setting or priorities for the next couple of years, at least identify the areas. As you mentioned, staff has an idea of what we think those areas are, but then your point, Mr. Hutchins, in terms of the Planning Commission in terms of ensuring that we cover the areas that are noted by the zoning boards. For example, one thing that came to mind with me during Mr. White’s presentation was the terms of CUPs. We’ve talked about that for some time, about kind of looking at that, and that would be part of that discussion. We certainly could look at that. I think that approach would be fine, and then depending on where we go that first meeting if we want to either set up a subcommittee or other maybe working sessions after we have that initial meeting, I think that would be fine. That would help lay out a process.

Vice Chair Hutchins: Yeah, I think that kind of makes sense. We have a meeting of the whole at first, and then once we identify our priorities then perhaps what we can do, to your point, Jay, we can have the subcommittees formed, and we can bring in the subject matter experts for the cities or whomever, to help in those different areas, so we just kind of start breaking it down from that perspective. So with that being said, is it realistic that we can house that type of meeting with our next, February, meeting? Or is there enough, Jay, on our agenda for our 2-2-22 meeting that’s a separate meeting? What would be your recommendation there?

Mr. Leipzig: I think – I’m going to kind of look for nodding heads from Sean or from Karen – but I think that’s possible. You have a fairly light agenda for this next meeting in February, so it would be a good chance to start that. I think it’s one of those things that could be – I don’t want to say a work in progress – but just that continual discussion of the priorities as things change, just have that working group, that working meeting. It would be a good meeting to kick that off, I think. Because you don’t have, it’s not a real full agenda, but I think in terms of staff laying out a framework and then get some feedback from the Planning Commission that initial step, I think that would be fine in February.

Mr. Pendley: I agree, Jay. It seems like a perfect meeting, actually, in February just to do that, Randy, just because as Jay mentioned, we talked about possible adoption of the bylaws and election of officers. It seems like probably a good time to evaluate that. Also to note, I can’t

remember if Jay had mentioned this, we do also plan later this year, possibly at the beginning of the summer, to have either a Planning Commission meeting or a group Board meeting to have updates on certain meeting procedures and general ex parte, kind of a refresher on some of the legal training we've had in the past. We do plan to do that later this year as well, but I think for what you're talking about for a goal-setting meeting, I think next month that would work. We could certainly do that, and just we would ask the Commissioners to be thinking about that, I guess, for what we want to identify and what we want to include on that. Certainly we could open that up to the Commission.

Vice Chair Hutchins: That would be great.

Commissioner Downing: Just a quick statement. You know there was some consternation awhile ago on passing something on to the County Commission that some people didn't think had been fully vetted. I think that there's a lot of things that go on, that if we tried to get ahead of them would help everyone. As these builders go out and they start incorporating areas and building subdivisions, but water and the sewer departments, these guys all know what's going on ahead of time, before anyone else in a lot of cases. They know what the big future plans are going to be and where they're going to be – where you lay the sewer pipe and the water pipe and things are going to follow, so I think it might help if we look at all aspects of things that could happen to the unincorporated area and maybe just have a quick review from those different departments to talk about, "What does the county look like in the next year, and five years, and where to go?" I know we've had some real surprises this year, some things that have come up, but maybe just looking at totally what's going on with the county and what's going on around the county could help everyone, and when this discussion comes up again, yes, we have looked at everything and we can send it on to the County Commission, knowing full well that we accomplished it.

Vice Chair Hutchins: I think that's a great idea. So the question becomes...Mr. Downing, do you believe we should have that information-gathering sessions ahead of us having our brainstorming session, if you will, amongst the Commission of what we'll say our top three things are we want to put up on the white board.

Commissioner Downing: Are you asking me if we should do that for this next meeting?

Vice Chair Hutchins: Yes, so are you suggesting we do that ahead of us doing our strategy session?

Commissioner Downing: Well, I think it needs to be tied in. In all honesty, the Commission, every time the cities annex more things, this Commission is doing away with itself over time, so I think it would be good to have some handle on where the cities and where all the development is going to happen, so we can make sure that it's all going to fit into where we think we're going, so whether or not we want to do it that quick, or we want to look at some of these other things, so when we go into a meeting we have some better idea of what the future brings. That's up to everyone to make a decision on that, but I think it's important that we know all those things.

Vice Chair Hutchins: I agree with you. So Jay, what I think I'm hearing is I don't think from what I'm gathering – and Commissioner Downing, you can correct me – I agree with what he's saying. I'm not sure that our next meeting at which we want to start doing our strategy session would be dependent upon that. However, he is correct. We need to look at a future meeting where perhaps we can invite in a department or two to make sure we understand what their points of pain or their concerns are, or things that they want us to be aware of and plan for coming up. Does that make sense?

Mr. Leipzig: Yes, Mr. Chairman, it does. I'm thinking in terms of other departments. We would want to involve Wastewater, probably the Parks Department and Public Works to get their input on future growth areas or concerns. Yeah, I think that would be very productive.

Vice Chair Hutchins: Okay, so for our next meeting we all have a homework assignment. Prepare to bring your top three things that you would like that you can put up on a whiteboard in our working session that you would like to see us focus on in 2022, and then Jay, this is going to be important that we have an onsite working session. I'm thinking downstairs in the basement where we have a large room, we have whiteboards, et cetera, that we can get things up on the board and have a good seating whether it be in a u-shape or whatever, where everybody can see everybody and write at the board at the same time. Does that make sense?

Mr. Leipzig: Yes, Mr. Chairman. That does. I believe on a Tuesday evening there should be a room available downstairs. My only hesitation with what you're proposing, it might be helpful to have a session strictly on background information first. But in terms of what you're talking about – having those three priorities and being able to discuss those as a group, I can see that working just as well. I don't know. Sean or Karen, do you have any thoughts on that? I think it would work.

Mr. Pendley: Yeah, I agree. I think it would be helpful maybe if we try to identify what we think from a staff standpoint. We could provide, in the way of updates, to make sure we're addressing what the Planning Commission wants, but probably it will have to be something we just discuss to see what's the best way of doing that, but either way, whether we do that as part of the regular session on February 22<sup>nd</sup>, or set up a separate special meeting for that, one way or the other, I'm open to ideas as well.

Mr. Leipzig: You know, Mr. Chairman, I think – as I'm thinking out loud – maybe after this next meeting it probably, I think, would be helpful for the Planning Commission members to maybe come up with their three focus areas they wish to discuss or would like to focus on, and then maybe talk about that just briefly at our next meeting. But then after that meeting, then we'd set up maybe the less formal work session where we really kind of roll up our sleeves and look at those various items. Because at that point, once we know what they are, then we'll be able to do some additional research, too.

Vice Chair Hutchins: Yeah, and we could bring in those groups that Commissioner Downing was referencing, right?

Mr. Leipzig: Right.

Vice Chair Hutchins: Yeah, that's a great idea.

Mr. Pendley: I would also just mention that, as we had talked about, there will be other future updates to the Comprehensive Plan. Maybe it would be helpful for us just to provide a general framework for here's what we do have in the way of current policies and goals in the Comprehensive Plan and things that maybe we'll look at that to see what the Planning Commission wants us to focus on for the next year. We could certainly do that as well, just as a refresher to all the other items in the Comprehensive Plan that we want to address.

Vice Chair Hutchins: All right. I like it. I guess from that standpoint, Jay and Sean, we'll look for some information coming out from you, but at this point in time we'll plan on having a working session on the 22<sup>nd</sup> of February. Everybody bring their top three if you will, and be prepared to give just to give a 20- or 30-second overview if you will, on each one and why you believe it's important to the county. We'll just go around the room and make sure we've got everything on the

whiteboard, and then we can discuss how can we potentially logically start categorizing things, if there are similar topics and whatnot, and from there we can agree to start pulling additional source groups and whatnot, whether it be Public Works or whomever, to give us the information that we feel is going to be necessary to have a good understanding from that point. Does that make sense, Jay?

Mr. Leipzig: Yes, Mr. Chairman, it does, I believe. I know we can come up with something that would be a good agenda for this next meeting. At least as an introduction to those items, I think that would be good. I'm also about 90 percent certain the room would be available downstairs, so it would give us a little bit of room. We could spread out as well.

Vice Chair Hutchins: Very good. Any other new business from the Commission? All right, with that, I'll entertain a motion to adjourn.

## **I. ADJOURNMENT**

*Motion to adjourn by Commissioner Downing, seconded by, Commissioner Johns.*

*The motion passed unanimously.*

Thereupon, with no further business to come before the Johnson County Planning Commission, Acting Chairman Neese, at **7:44** p.m. declared the meeting to be *Adjourned*.