

JOHNSON COUNTY PLANNING COMMISSION

Johnson County Administration Building
111 South Cherry Street, Olathe, Kansas
Board of County Commissioners Hearing Room, 3rd Floor

MINUTES OF REGULAR MEETING

March 22, 2022

5:45 p.m.

A. CALL TO ORDER

A meeting of the Planning Commission of Johnson County, Kansas, was convened at 5:53 p.m. on Tuesday, March 22, 2022, and was called to order by Chris Iliff, Chair, with the following members present and participating; to-wit: Michael Levin, Mark Huggins, Randy Hutchins, George Lund, Jim Neese, Dave Johns, Kelley Rast, Roger Mason, Lindsay Grise, Randall Downing. Also present were Peg Trent, Chief Legal Counsel; Rick Lind, Legal Department; Jay Leipzig, Karen Miller, Sherry Cross, and Megan Lynch, Johnson County Planning Department.

B. APPROVAL OF AGENDA

Chairman Iliff: The first item on the agenda is the approval of the agenda. Are there any objections or corrections or additions that need to be made to the agenda? Hearing none, the agenda will be approved as printed.

C. CONSIDER MINUTES OF THE PREVIOUS PLANNING COMMISSION MEETING

Chairman Iliff: We have two sets of minutes here to consider for approval. The first of those is for the February 22, 2022 meeting. We were meeting on 2-22-22, weren't we? I would ask if there are any objections or additions or deletions that ought to be made from those minutes. Mr. Leipzig, your concern is with the December?

Mr. Leipzig: Yeah, I just wanted to point out the page number where that change is in the December 14th meeting minutes.

Chairman Iliff: We're just going to take the February ones right now, and then I'll call on you, if you would. Hearing no recommendations for changes, is there a motion to approve the meeting minutes for the February 22, 2022 meeting?

Motion by Commissioner Hutchins, seconded by Commissioner Lund, to approve the minutes of the February 22, 2022, Planning Commission meeting.

The motion carried unanimously.

Chairman Iliff: With regard to the December 14, 2022, meeting minutes, Mr. Leipzig, you have a comment?

Mr. Leipzig: Thank you, Chair. I just wanted to point out on the top of page 13, there is a correction on these meeting minutes. If you look at the highlighted portion, it says "Motion by Commissioner and restated by Chairman Neese." That is the revised meeting minutes. I just wanted to point that out.

Chairman Iliff: And with that correction, in your opinion, are the meeting minutes otherwise accurate?

Mr. Leipzig: Yes, they are accurate.

Chairman Iliff: Okay.

Motion by Commissioner Neese, seconded by Commissioner Levin, to approve the minutes as corrected.

The motion carried unanimously.

D. PUBLIC COMMENTS

Chairman Iliff: We now come to the topic of public comments. This is an opportunity for members of the public to address the Planning Commission on any item which does not appear on the agenda. Are there any members of the public who are here that would like to address the Planning Commission? Seeing no one, we will move past the public comments and go to our continued discussion of proposed bylaws of the Planning Commission. I would recognize the Chief Legal Counsel for Johnson County, Peg Trent.

E. CONTINUED DISCUSSION OF PROPOSED BYLAWS OF THE PLANNING COMMISSION

Ms. Trent: Good evening. Thank you. I'm glad to be back here a second time to go over the bylaws. I did receive, since our last meeting, some comments from a few of you, and I hate to say this but I've been away on vacation last week, so I didn't have a chance by the time they came in to get it to you in advance, so I apologize. But what I'm going to do is walk through some of those revisions. It still is going to require, by some of the questions that were raised, that we have some discussion about what you would like to see, and if you had any additional questions as a result of those questions that were posed to me last week.

If I may, I'm going to go through, looking at some of this was housekeeping, meaning punctuation. The first one, in Article 2, Purpose and Mission, I've tried to highlight, if you can see this. Is it appearing on your screens in front of you as well so you can see it? I just deleted that, so then we get down to the next revision. Just so you are aware, there were three individuals that did make comments. One was from the public, from Joyce Whittier. The second one was from Randy Hutchins and Lindsay Grise. They had actually come up with some great thoughts that we need to discuss tonight to get your input.

On 2.02, there was a question – and I apologize if I misstate it – but there was a question as to wording and how are you to bring this forward, this Comprehensive Plan? Meaning, the way it's currently written, it just basically says you are to review, but in theory, and in reality, since you're doing that right now, and you've gone through it with the solar, as you recall, that's with the assistance of Planning staff and outside professionals. I appreciate that Lindsay called that out to make sure that it's clear that you would review this with the assistance of those individuals. I think that's more clear of the intent. In addition, it was brought to my attention in 2.02 that when you review those amendments, you are not presenting them to the Board for final adoption. You are making recommendation. Again, that's in line with the current law on what you're doing, and words mean everything. So this was from wording, and I will submit to you that I've borrowed a lot of this language from your existing resolutions of where the genesis of some of this language came from and state statute, so these were good points that were brought to my attention.

The next one, 2.03, it was typographical. It should be ensure, not insure. As we went to 2.04.03 and 2.04.04 – and I want to take a moment to have some conversation about this clause, because there were a few questions that were raised about this clause. The resolution from 1984, that was the actual genesis, or the re-formation, if you will, and I explained that to you the last time I was here, of the Planning Commission. At that time, I looked into the resolution. What were you directed to do as a Planning Commission once you were reconfigured? Because the state statute also came into being at that time. I also looked to the prior resolution to give more direction to you when you're reviewing, because you're reviewing, but what standards or policies are you supposed to be utilizing? Actually, prior to 1984, the resolution actually laid out pretty well what you were to look towards, so those are going to be some of our conversations right now, because I did speak with Planning staff. There actually were more in the resolutions that we reviewed that put this together, but after talking with Planning staff and with your Counsel for the Planning Commission, Rick Lind, it was consolidated into these four points, kind of giving you guidelines.

I'm not going to read to you, but I am, just to give you context here, the JC Planning Commission shall consider the following policy matters when you're adopting matters adopted by the Board in this Resolution, in the revisions of the Comprehensive Plan and the zoning. This gives you direction as to standards you're looking at. So, you're going to look at, when you're looking at zoning regulations or you're looking at a comprehensive plan, the Commission had previously outlined what they wanted you to look towards as policymakers, and they wanted you to look toward the provisions for an orderly growth, which makes sense. We don't want...the way you grow into the unincorporated area and what happens, we want to make sure that growth is orderly. So they're recommending you consider developmental policies concerning appropriate density, platting, land use patterns, the need for transition between undeveloped, partially developed and full urban development. That actually provides you guidance as you are coming through looking at these regulations, and when you review it in its entirety.

The Commissioners also had put in there a mechanism to reduce the County's subsidies recommend development standards and cost-sharing, which is a very big priority of the Board, as you may know right now, of cost-sharing procedures to support capital projects. So, when you are in collector roads as an integral part of the development process, so when you are considering the Regulations or the Comprehensive Plan, it is the direction of the Commission from this previous Resolution that you look at how can we do cost-sharing procedures that being with the cities and with the communities as you develop into the unincorporated area.

But the two areas where I had a lot of questions from – and I shouldn't say a lot, but from some of you – was 2.4.03 and 2.4.04. Again, I did not draft this. I did not pull this out of the air from staff. This actually came from this Resolution which created you. So, that gives you the direction. The actual context in which that was put forward was you were developing a new Comprehensive Plan, so that would also apply, in my legal opinion, to when you're reviewing your Comprehensive Plan and deciding when to revise it and your Regulations. One of the items was coordination with cities. This was taken from, a combination from that resolution, but it just left with "Recommend the means by which the Rural Comprehensive Plan and subsequent regulations can appropriately reflect the plans for growth and development of the respective cities in the county." So I guess I pause there. What does that mean? I think there was some question about the effect of that. Are we asking you to adopt the City's plans? Are we asking you to coordinate it, or what are we saying here? I guess I would pause and say, what do you think, at this point? Do you feel there's confusion the way that this is written, and does it need clarity? With you being the experts in that unincorporated area, what you would like to see in that coordination with cities?

Commissioner Hutchins: From my perspective, we've always tried to reach out to many groups and organizations to get their feedback, but again, that feedback was information that we could use to help develop the Comprehensive Plan, so in my mind, this reads that we shall adopt or support the growth plans developed by the City. So I just want to make it clear that absolutely we want to hear from the cities, but at the same time, it's this Commission that's developing the Comprehensive Plan.

Ms. Trent: Okay. So, if I was to amend this to clarify that you are to review the revisions and recommend the means by which the Comprehensive Plan can appropriately reflect the plans for growth and development. How about "consider?"

Commissioner Grise: I was just about to say, "with due consideration of the growth plans." Appropriate consideration. Because certainly with the solar it was very helpful to hear from Gardner and other cities on what their growth plans were, and it was informative, but not directive. It was not the end-all-be-all.

Commissioner Neese: From a zoning board perspective, I think we take directive from this, and in the past we always ask the cities to give their opinions, give an idea of what they think of any kind of application, so this really wouldn't change anything. I think historically, that's what we've done on the Zoning Board level.

Ms. Trent: But to make this clear, would it be more appropriate to say "recommend the means by which the Rural Comprehensive and Regulations can appropriately..." I wouldn't say appropriately. I would just say "consider." Jay, do you have any suggestions?

Mr. Leipzig: Yes. Counsel, I think "recommend" or "consider." I guess you could maybe put that word in. Also, rather than "can" you could use the word "may appropriately reflect the plans for growth and development." That's more open, I think. I don't know if you all agree with that or not.

Ms. Trent: How is the way I've worded it there? Does that sound better? We did recommend, because we wanted to keep with including that recommend. What you're doing is recommend...So that wouldn't right. Sorry.

Commissioner Grise: I think if you delete the word "may," I think it might read a little better. But I like your suggestion. Like, "consider" at the beginning and then –

Ms. Trent: Well, we're trying to keep it -

Commissioner Grise: Oh, sure, sure.

Ms. Trent: Yeah, I know. "recommend the means by which the rural..." I guess we're going to see how sausage is made tonight on television. "Recommend the means by which the Rural Comprehensive Plan may appropriately reflect," but we're not telling you to do it. You want to consider it. Consider the plans.

Unidentified Speaker: I think it is important that we take into account any plans the cities have for the areas we're improving zoning or development. It doesn't mean they have plans, but if they do, the progress of this county is that the cities are going to keep growing, and pretty soon in the county there's not going to be any unincorporated area. But I think it's important that this wording reflect that we will take their plans into account. That doesn't mean we have to follow them, but it does have to have a firm statement about considering those plans and utilizing them.

Ms. Miller: This is just a thought. In our Comprehensive Plan our land use plan sets out some guiding principles, and one of them is coordination with the cities. I think it's really clear in the

Comprehensive Plan that, no, we're not wanting to adopt the cities' plans, but we're wanting to coordinate, with the eye of helping ensure their proper growth.

Commissioner Neese: Right now, if we have something, for example, in the Zoning Boards, aren't we pretty much required to notify the cities it affects?

Ms. Miller: Yes, we do notify them within a certain area, the fringe area. They provide comments, and we consider the comments, but we aren't required to adopt the comments.

Ms. Trent: So would this be appropriately worded, then, to say "coordinate with the plans and growth and development of respective cities in the county." Would that be sufficient, Randy? Does that sound better or not?

Commissioner Hutchins: No. Consider is the more appropriate word. Coordinate suggests that we need to do it. Consider means we take it into consideration, as well as many other factors in the unincorporated area, to ultimately lead to our final determination. So again, I fall back on "consider."

Ms. Trent: Okay. So, Mr. Chair, how do you want to handle as we move forward here? Because we're not –

Chairman Iliff: We're not making progress.

Ms. Trent: We're going to vote as a whole document, so do you want me to put "consider" in here?

Chairman Iliff: If possible, I'd like to get this finalized tonight, so if necessary we can put it to a vote. Let me ask, just informally. Does anyone have any objection to the use of the term "consider" rather than "coordinate with?" There being no objections, it sounds to me like we ought to go with "consider."

Ms. Trent: All right. Got it. All right, the next paragraph was also questioned. This dealt with improved procedures and recommendations. So you're to, once again, in the revisions of the Comprehensive Plan and the Zoning Regulations and Subdivision Regulations, to recommend procedural improvements concerning decision formats, findings of fact and legal procedures to comply with recent court rulings and legislation. So you're going to get advice that, "Hey, the law has changed in this area, and you may need to revise it. "Propose new zoning and subdivision regulation amendments based on the Comprehensive Plan and its recommended policies which will streamline and improve the administration of such regulations by township zoning boards and staff, and new amendments should attempt to strike a balance in order to achieve quality development, protection of existing uses, and a timely, expeditious and uncomplicated review of zoning applications." This was brought as a concern, Mr. Chair, and I don't know if any of you had concerns with the way that was written.

Chairman Iliff: I liked it. To me, anything that speeds the process for individual applicants without doing away with the opportunity for all stakeholders to be heard is a good thing. We've all seen minor applications that got hung up for some reason or another, and it went on for months. If we could have avoided that I think it would have made life better for the applicant, for people who were coming to zoning board meetings to speak to the issue, and for Planning staff as well. So, I'm for this. For example, there's a Supreme Court decision with regard to content-neutral sign language, and we really need to be cognizant of those kinds of changes in the law that have an impact on our Zoning and Subdivision Regulations. I think that is covered in here as well. I thought the paragraph was good.

Ms. Trent: I don't know if there was anyone else that had concerns with it. No? Okay. I'm just bringing...I try to go through all of the comments to make sure I addressed it. The next one was a really good. And again, portions of this process were pulled also from the Board of County Commissioners' Rules of Order. I took some of that and incorporated it into your bylaws for operation. These paragraphs were borrowed. And again, this was a good comment, because it said, "All members present and participating in meetings have the right to participate and debate when discussion is permitted," and it just stopped there. Well, who decides that? When does that happen? I think that's a good understanding. Is it the Chairman? Is it under...? And I think what the intent was, in my opinion, in reading this – and I was not, again, the author of this – it says, "Is permitted under..." I believe, the Roberts Rules of Order, and not the Chairman. So, debate is determined by Roberts Rules of Order when something is to be debated, and that would be the genesis of when you have a right to participate, if that sounds permissible.

The next was a very good catch as well, because now that we have the hybrid method of meetings and how we're meeting occasionally, it's important that if you do appear, it's "in attendance," not "present." That's an old – I'm guilty of it – from the Roberts Rules of Order, of presence, but we're moving away from that to "in attendance."

The next area of question was, what did we mean – and this was taken from, I believe...Correct me Rick. He's going to be my backup on this, I think. This was from the state statute that three of the 12 members shall be residents of the unincorporated area. I think that was a direct quote from the state. I may not agree with it, but that's how it is laid out. Am I wrong on that Rick?

Mr. Lind: I want to say the "three members shall be residents of the unincorporated area," I want to say that came from our Zoning Regulations.

Ms. Trent: I thought the genesis was in state statute. We'll take a quick look.

Mr. Lind: I can go grab that if you want me to.

Ms. Trent: Do you mind, Rick? I think that would help clear up, because this was a really interesting point, and it was raised by more than one person, so that's why I'm taking a look, and I apologize I didn't have...As you can imagine, just getting back in town. I've been in a lot of meetings, so I didn't have a chance to pull the statute, but I think it was in there, so I'll come back to that one.

The next item was just typographical errors to make sure that there's consistency throughout. I think I probably want to put, listed in Section 4 through Section 4.07.04, because I had listed that before the others.

Another correction, again typographical. We say the Code of Ethics. Technically, it's the Code of Ethics for Johnson County Government. What I did, so I don't have to re-type that everywhere throughout the document, I just put Code of Ethics. This gives you clarification so that you know with the Code of Ethics. While I'm on the Code of Ethics right now. I'm kind of backtracking. I know there were three members that weren't present at the previous meeting that now have signed their Oaths of Office, I've been told, and have now also signed the Acknowledgment of the Code of Ethics. I think everybody has. I just want to make sure for the record. Is that correct?

Ms. Kriks: I would say if anyone in this room has not signed both of those, please say so now, because you are all here.

Ms. Trent: Wow. We got it. Okay, so we can check that one off. It's been done. The reason I bring this up, the Code of Ethics, within the Johnson County Code of Ethics – and that was originally, I

believe, adopted – I can't remember off the top of my head, but back in the 80's at that time – there was noted in the Code of Ethics a form you were to fill out, as board members and/or elected officials were doing this, where you fill out – and it's different from the state form of substantial interest. It's a form where basically you disclose any conflicts. So it's asking for information, so when you went to get on this Board, you made an application. You may have given your background, answered a few questions. Well, this goes a little bit further to get some information.

The purpose of that form is so that as items come in front of you as a Board, someone is looking to see if you have conflicts. In addition, as we get down here below, under "Conflicts of Interest," it's important that legally in our Legal Department through Rick Lind or myself, or someone in our Legal Department, if you have a question of whether you have a conflict or you have a concern, you're raising that to Legal Counsel so we can consult with you as to whether you have a conflict. This form will help us, too, so that staff and Legal are keeping apprised, so that if something comes up it's on our radar to make sure we visit with you to have a discussion. What we don't want happening is that people are coming forward during the middle of considering an item saying, "Hey, you have a conflict."

At this point, as new Chief Counsel, almost a year here now – I'm at nine months, I think, ten months – so at this point what is really important – and I'll take responsibility of this – is they have not had that process in place. What happens is you're telling people but no one over here on our end legally is reviewing it? So what we're doing now, as I explained from the last meeting, is we're trying to get processes in place now so that when you come to Counsel you can come to Legal Counsel – and I would prefer you come through the Legal Department and that we speak with you and give you an opinion and answer your question – that's your golden ticket. Because if we said it's okay, then you have the blessing of the Legal that you do not have a conflict to go forward on that item. So, coming down to Conflicts of Interest, I want to spend some time on this, because this was a discussion item as well in comments. And I think this is correct.

Chairman Iliff: May I interrupt just to say, with regard to resignation, one small item. It says a person can resign in writing by giving his or her resignation to the Planning Commission Chairperson. But then it says if they're doing it verbally, give it to the Director of Planning, who will thereafter alert the Clerk of the Board. Question – do we have a Clerk of the Board? Or is it a Secretary of the Board?

Ms. Trent: I think you are correct. It is secretary. Am I right, Jay?

Mr. Leipzig: Yes, that is correct.

Chairman Iliff: I mean, this is really minor.

Ms. Trent: No, I think that words have meaning, and we have to make sure that when they're looking at this years from now, we have the right... Okay, thank you for calling that to our attention.

The next one was something I have to agree. What we're looking at here is if someone has a pecuniary interest. That means a financial interest of some interest. It could be other, not just pecuniary, but you could have an interest in a matter directly or indirectly. We're looking for someone who derives some direct and tangible personal thing, not likely to, because that could be anybody. So this was a good catch to kind of narrow it down, to make sure we're really critical what we're talking about in this area.

And then, the process of what happens when you have a conflict, "You shall be disqualified from debating, discussing and voting." Again, we did not have these bylaws in process up to now. This

was not in place. We had been using the other bylaws that were pushed aside, because the Board was dissolved, but now...So Rick, you have that answer?

Mr. Lind: I do.

Ms. Trent: Okay, and the drum roll.

Mr. Lind: The state statute says that “The Commission shall consist of not less than 9 or more than 12 members who shall be appointed by the Board of County Commissioners. Nine of such members shall be residents of the unincorporated area of the county.” The Zoning Regulations say, “Three of the 12 members shall be residents of the incorporated area of the county.” I think what occurred is the Zoning Regulations clarify that. Although nine need to be from the unincorporated, three will be from the cities. Although the statute doesn’t say that, that’s what the Board of County Commissioners put in and the Planning Commission would have recommended that three come from the cities.

Ms. Trent: So, what’s written is correct, that three of the 12 members shall be residents of the incorporated, not the unincorporated. So for clarification let’s put, “shall consist of 12 members who are appointed. Nine of the members shall be residents of the unincorporated area. Three of the 12 members shall be residents of the incorporated area of the county.”

Commissioner Hutchins: I’m sorry. I don’t see that three of them need to be from the unincorporated area in state statute.

Ms. Trent: Incorporated, meaning cities.

Commissioner Hutchins: Incorporated, exactly. I do not see that in state statute.

Mr. Lind: The state statute does not say that. The County Zoning Regulations do say that. This body, when they adopted our zoning regulations, recommended to the Board of County Commissioners that the three positions which are not spoken for in the statute will go to people who live within the cities.

Commissioner Hutchins: So, let’s be clear. The three people, by state statute, do not need to be appointed by people living in the incorporated area.

Mr. Lind: The state statute does not require that three people from the cities be on the Planning Commission. The Zoning Regulations do say that.

Commissioner Hutchins: Okay, so to be clear. That’s not the state statute zoning regulations. That is at the county level zoning regulations.

Ms. Trent: Which are applicable to you right now.

Commissioner Hutchins: Thank you.

Ms. Trent: So you are correct, but that’s applicable to you. That’s why that’s in there. But I’m glad you asked the question because this is why we need to make sure we have that dialogue. At this point, since you are the Planning Commission I will ask Jay and Karen and Sean there, is the intent for this to come back – the zoning regulations – where there could be a revision of that, to take that out? I didn’t know. Are you considering that right now?

Mr. Leipzig: I guess I don’t know about this particular portion. I guess we were not.

Commissioner Grise: Is there, because this is a recommending body and whatever we recommend for our bylaws will go before the County Board of Commission, who would be the

ultimate arbitrator, so to my fellow Commissioner's point, if we want to make a change here, are we empowered to do so, or would you have to amend the originating zoning regulation first, prior to the change?

Ms. Trent: Yes, but what I was going to do was just omit this, maybe, right now. Let nature take its course, but this is the current law. Law being regulation.

Commissioner Grise: Does the Zoning Regulations have jurisdiction over the bylaws of the Planning Commission?

Chairman Iliff: Well, the Zoning Regulations were adopted by the Board of County Commissioners. Those are the law of Johnson County. Therefore, anything that we do is subject to the Zoning Regulations.

Commissioner Grise: Completely agree, but if we are proposing a change – not that I'm saying that we would – but if we were to propose a change here, it would still go before the County Board of Commissioners, who would be the ultimate one that would change it. I guess I was just curious. Maybe the recommendation from Council is we should simply omit it and allow the originating regulation to be amended first, rather than having conflicting regulations.

Ms. Trent: Or my recommendation as I said at the last meeting, is I think you need to be reviewing these annually. Why don't we let the processes take place? Because there's a lot, as you know, to go into. Just so you know, you serve for zoning regulations, too, that come from you to review, so let the process take its course. If it changes when you come up for your annual review, or biannual, whenever you do that, then you will review it then and take it out, but for now this does apply to you.

Commissioner Grise: One last thing. The highlighted sentence is not absolutely necessary to be in the bylaws, in my estimation. If there is an existing zoning board regulation it would apply regardless of whether this sentence was in there or not, and by omitting it from here, it would make it easier, we wouldn't have to omit two things. We'd only have to omit one if it ends up coming before us later.

Ms. Trent: The only problem with that is that this is a document that people are going to be looking towards for moving forward, so as we fill – I think we have one vacancy, still, on this Board, and we have a member of 12 – and if someone leaves the Board, there is going to be a vacancy filled, and it's easier for...I mean, it's been pretty much a struggle to pull all these resolutions, pull everything together. I'm trying to get you organized in a manner that you have one document that is applicable when someone looks here as to composition and qualifications. So at this point, my recommendation legally is leave it in. annually, make a note of it – Jay will – that this is something that you revisit at a later date. Because that is the way the process is working right now.

Chairman Iliff: We've spent a lot of time on this area. I would recommend that we move on unless somebody wants to make a motion that it be deleted.

Commissioner Hutchins: I think this is extremely important, quite frankly. This Planning and Development Commission is essentially the unincorporated's city council, so that's why I think it's extremely important that we look at this. I can agree with Legal Counsel that we can go ahead and leave it as is, but with the understanding that in near meetings we can take this back up and we can amend this again if that's satisfactory to the Commission.

Chairman Iliff: By the nods around the table, it sounds like it's acceptable.

Ms. Trent: Okay, on 4.02, Term of Office, just for clarification I didn't highlight this. It generally, in bylaws, you also use this as a genesis, the beginning document of origin, and you never had one, so this is your first to do it. When you formed, the original Board when they were appointed it was one, two and three years you were in staggered terms. You've now evolved as a Board since 1984 of being re-formed, where now you serve for appointed three-year terms, so that's what that language means, but we have to include the genesis of where you started so that's why that language was included.

Commissioner Grise: I apologize. It just feels very confusing to me when I read it. It said the members first appointed by the Board. Does this mean initially back in 1984?

Ms. Trent: Yes.

Commissioner Grise: Can we start off with, "In 1984..." because to me, when I read this, it appeared to me to say, Members are first appointed to the Board for terms of one, two or three years. The terms are divided equally as possible between the members and then "thereafter..." It almost seemed after the three years then you get...Do you know what I mean? It didn't read to me as two different points in time or an evolutionary concept.

Ms. Trent: My problem with putting...I don't know if they followed the law. I don't know because they didn't have the bylaws. So I can only go by, at this point, moving forward. So I'd be comfortable with adding "the members initially appointed." Get rid of "first." The members initially appointed by the Board. It's not appointed by you. It was appointed by -

Unidentified Speaker: The BOCC.

Ms. Trent: Oh, yeah. That's the Board, BOCC. "Shall be appointed for terms of -

Commissioner Grise: Would it be possible to say, "The members initially appointed in 1984 by the Board,"

Ms. Trent: I don't know if they were appointed in 1984.

Commissioner Grise: Then, I'm not sure, what is the statutory or regulatory importance of the first two sentences. Doesn't it just matter what we're doing now?

Ms. Trent: I understand your concern, but generally speaking, in bylaws it's a document to show from the origin of the board of creation and moving forward. So this needs to reflect it. And this is from, I believe, again, the state statute in 1984 when it was created it said when you initially start up. Am I wrong?

Mr. Lind: No, you're correct. If you say, the members initially appointed by the Board were appointed for terms of one, two and three years...that would indicate that that's what happened in the past, and going forward, you're doing three-year terms.

Commissioner Grise: Mr. Lind, instead of thereafter, we could say currently, or something like presently,

Ms. Trent: How about "presently?"

Commissioner Grise: Yeah. Thank you. I think that alleviates my confusion.

Ms. Trent: No, I understand. And thank you for the questions. Okay. Moving forward to 4.07, again, typographical error of me neglecting to put "section." In 4.704, we got down to conflicts of interest. Down here at conflicts of interest back to 4.09, where we were. Down here it says, "in

case of an inquiry or a complaint filed by a member of public,” that was probably not a good thing to put that it would be the chairman that would determine, or the board will determine, whether there is a disqualification. It’s the County Attorney’s office that would, or I would put the County Attorney of the JCPC that determines whether there is a disqualification. And then because we’re making the legal determination and/or someone came forward. You can’t vote, because let’s say you vote, “Hey, it’s not a disqualification,” and we’re saying, “Yes, it is. It’s legally a conflict.” So, it’s the attorney that should be making that decision and then if that decision is not agreed upon, then it goes under the Code of Ethics to your Ethic Advisory Board where that decision will be made by that Board oversight of what the County Attorney is recommending. And the County Attorney, as I explained at the last meeting, would recuse themselves. That’s my intent, to recuse myself from that board because we made a decision at the lower level that’s being reviewed.

Commissioner Grise: Quick question. There’s a lot that this Commission does upon the advice and recommendations getting advice from Legal Counsel, and we take it into consideration along with the Planning staff. I’m curious why this process would be removed from the purview of the voting members of this board, rather than if you, as the County Attorney, if you had a recommendation for a recusal or conflict, to present that information before the Board if the particular commissioner did not want to recuse, and allow that commissioner to speak in a public forum about the potential conflict, and allow us to vote on it. I guess I’m surprised this is different than the others.

Ms. Trent: Actually, the Code of Ethics that you have says the Chief Counsel is to be the one, so I could have put me in here, which I could do instead of the County Attorney. I just was trying to keep it with the attorney for your board. But generally speaking, it is the Chief Counsel that makes that decision, an interpretation of the law, and renders an advisory opinion and opinions on these matters. And as my duties under the Charter, it is one of my duties to interpret conflicts. That would not be appropriate to have a board voting on whether you have a conflict. That is not your role legally, because there could still be a conflict, and you voted, “Hey, that’s not a conflict,” and we’re saying, “No, legally it is.” You’re still going to have the person going through the process of the ethic board because we’re the ones charged with looking at the law of whether that’s a conflict. It’s our responsibility.

Commissioner Grise: I would never dream of taking it out of your purview. Throughout this entire process you’ve given legal opinions of the Board, and I would say it’s completely within your purview, and we would need and benefit from your legal opinion, but typically the arbiter of decisions within the commission are made by the commissioners and not by the Chief Counsel. You give an advisory opinion and inform us, but then we make the decision and vote as a board.

Ms. Trent: Okay, how about “The Chief Counsel will make a recommendation with your vote for a majority of that.”

Commissioner Grise: That’s the only –

Ms. Trent: I just didn’t want to put it out in the public forum. I think it’s important that it gives and empowers an individual that if we come to them and say, “Hey, you’ve got a conflict,” confidentially, they can recuse themselves without having to make a whole ordeal over it. What I’m trying to do is...It’s like a personnel matter. I’m trying to protect people, too.

Commissioner Grise: I completely appreciate and think that is the correct thing. To me, that would only be a process if the member disagreed with your conclusion that there was a conflict and

wanted to, in a public forum, voice why they disagreed, and then you could give your advisory opinion, up for a vote. I'm the only one talking. I'd be curious about my fellow –

Commissioner Levin: I apologize. I'm a little confused now. There was a lot of back and forth. I think I understand but are we saying then that Ms. Trent please correct me if I'm wrong, your interpretation – would it mean that then you would provide a legal opinion and then it would go to the board members to actually make the vote? I just want to make sure I'm understanding.

Ms. Trent: Yes. So let's say I was to make a recommendation that one of the members had a conflict. I speak to that person, and they say, "Hey, I'm not going to recuse myself." Then, it would go in a public meeting to say, "Hey, I am making a legal recommendation that this person has a conflict you're about to," and then you're going to vote on it. And the problem that presents itself in my opinion is, if I'm saying as an attorney – and I'm also, I'm recusing, I'm on the advisory board, too, but I'm recusing myself because I'm making this early determination – the problem that presents itself is if you vote and say, "No, it's okay. You don't have a conflict," and I'm legally saying, I'm still going to move to the next level, because that person has a conflict and should not be there. Now, if I'm wrong, then I'm wrong. The board will make that determination. If I'm right and that person voted, they will be removed from the board potentially.

Commissioner Levin: Would they be removed from the board, or removed from that vote.

Ms. Trent: Potentially they can be removed from the board. They can be, let it go", or they can modify like, "Your vote didn't count."

Commissioner Levin: Okay, and who makes that determination?

Ms. Trent: So, in your situation with the Code of Ethics, it would go to the Ethics Advisory Board, and I believe they make the recommendation to the Board of County Commissioners, and the Board of County Commissioners vote and make a recommendation that you should be removed from the Board, or your vote didn't count, which could then kill the item that went forward. The problem is that item, like your advisory board is moving up to the BOCC. We're waiting over here to determine whether your vote could count, and it may be a close call, and then we're in a very interesting situation. So, our recommendation, that's why I'm really firm that it should be that what we say would be the recommendation. Now, you can recuse yourself, then take it up to appeal later on. But the bottom line is at this point I really have a concern that legislation could be affected by this one or two people. You say we have to recuse. You say I'm wrong, and then it goes on, and then it's going to come right back, and we've wasted all this time with legislation.

Commissioner Levin: Okay, thank you.

Commissioner Grise: Ms. Trent, two quick questions. That process that you describe where a person may be removed from the board, is that process set in stone, or is part of what we're looking at?

Ms. Trent: It's set in stone. It's in your Code of Ethics.

Commissioner Grise: And that's what we signed last board meeting.

Ms. Trent: And that's been in effect since the 80's.

Commissioner Grise: Right, so then, the second question I'd have for you is, my hesitation, given that members of this committee have gotten letters about recusal on the solar regulations, is that my concern is that – and I mean this with absolutely no disrespect, as you know – it gives the County Attorney a ton of power. Meaning, if the second that a suggestion for a recusal is made,

that person is obligated now to recuse, and now they are taking themselves out of participating in hearings and then there's a whole separate process, that I'm not sure about the timing, how fast that process is. Whereas, to me, at least the way I've seen it happen on other boards is we appreciate very much the opinions from our county attorneys. It gives us a lot to think about. If for some reason a commission...And I know all of the Commissioners here take those very seriously and read those and really look deep within themselves to make sure that there is not a conflict, but if they truly believe there isn't, then it seems that at least that commission should have the right to plead their case, if they want, in public, to be a part and participate as we were appointed to do.

Ms. Trent: I'll be candid. I've been doing this a long time, over 30 years. I've never heard this discussion, and I'll tell you why –

Chairman Iliff: Neither have I.

Ms. Trent: Because it's a volunteer board.

Chairman Iliff: We need to move this along. There's only so many hours I'm willing to commit to this every week, and that does not include hearings on recusals with issues that we all have to have a debate on. I'm not going to do that. I'm not going to participate in that. We need to move along on this. I'm content with the language as it is, and I would just ask for kind of a straw vote here. Maybe I'm wrong, but I'm content to let the County Attorney make these decisions. And I don't want this conversation to go on any longer, so all those who are in favor –

Commissioner Rast: Hold on. I'd like to just say one thing. The only thing I'm concerned about is our transparency, because there was a lot of stuff where different people were supposedly going to be recused. They were asked to be recused, but we got no information. So, I don't care which way we go, but there's got to be transparency.

Chairman Iliff: Right.

Commissioner Rast: And I also feel like everybody needs to remember we're all 54:50 50:50

Chairman Iliff: Everybody who thinks that the Board should have the final say on recusal and that the language should be put in here, indicate by raising your right hand. I see two.

[crosstalk]

Ms. Trent: What I put in, the way I've revised it right now.

Mr. Lind: Mr. Chairman, regardless of whether you give yourself the final authority on this, it can't stand legally, and the reason it can't is because the Board of County Commissioners is the final decision-maker, so you can't tie the Board of County Commissioners' hands by a vote on recusal. The reason it has to go to an advisory body is they are going to make a recommendation to the Board of County Commissioners so I think it would be a nullity to give yourself that authority.

Chairman Iliff: Thank you, Mr. Lind.

Commissioner Hutchins: But at the same time, we're a recommending organization today. So essentially, what we're doing is recommending to the Board of County Commissioners of what we believe -

Mr. Lind: Well, the way I heard of recommending –

Commissioner Hutchins: - so it is going to go to the Board of County Commissioners, and they will make the final determination.

Mr. Lind: Well, the way I heard it was you were giving yourself the final decision or determination.

Commissioner Grise: Maybe a happy medium, Mr. Lind, to your point, is in the interim, the Board can vote pending the decision of the County Board of Commissioners, so that would at least give an interim decision to a board member pending resolution from the Board of County Commissioners. That might be a happy compromise.

Ms. Trent: Well, unfortunately, the happy compromise doesn't exist, because to form an advisory board of the four members bringing it there's no time limits in the current Code of Ethics. There's a lot of issues that currently exist that it would not, and there renders the thing. But, if you want to proceed with this, this is fine. This document as you vote as a whole then would go to the BOCC for their consideration.

Chairman Iliff: Again, it's my recommendation that the original language with regard to the Chief Counsel making a recommendation on this be the final word and that we not have debates or a vote of this board. But we need to move on. We're not going to be here until 10:00 to discuss something that absolutely no member of the public cares about, and which is very unlikely to happen at any time in the future, because it's never happened in the past. So, again, all of those who feel like... We'll just do it in a simple raise of hand. If you feel like this board should have the opportunity to vote on the recommendation of the County Attorney to have someone recuse themselves, raise your right hand. I see three hands risen.

Commissioner Rast: I'm abstaining because I feel like it hasn't been made real clear, and we're just being bullied into making a decision right now –

Chairman Iliff: Well, yeah, I guess –

Commissioner Rast: And if anybody does not want to be here, they should just leave.

Chairman Iliff: Moving along, that's correct. Next item.

Ms. Trent: So I'm leaving this in right now, because if I saw the total... Just for clarification, Mr. Chairman, if I think I saw the hands risen that they agreed with this as written right now where the majority –

Chairman Iliff: Three out of the 11 here. Correct. Which means 8 out of the 11 here agree with this.

Ms. Trent: Okay.

Chairman Iliff: With the position taken by you on this.

Ms. Trent: Okay, I'll put that in then. Okay, and then moving down, telecommunication, this is a clerical error. There shouldn't be a .01. There were others in the initial draft before it came to you, but I deleted that to move that up. And I believe – believe it or not – that concludes all of the amendments.

Commissioner Grise: Apologies. I think there was one additional one that I had emailed, and apologies for delaying in advance. I don't think it was clear in these bylaws about whether there was language in here that seemed to indicate or prohibit our discussions with members of the public. I guess I wasn't clear whether these bylaws expressly permitted, as the bylaws of the City of Lenexa, the City of Overland Park and many of our neighboring cities do, which allow members

of the commission to have conversations with members of the public so long as they as disclosed in the following meeting.

Ms. Trent: I didn't put any of that in there that you could not. It's not in the bylaws at all.

Commissioner Grise: Understand. There's, at least the way that I read some of the open meetings, it could be interpreted that way, and I was surprised that there wasn't an express allowance for that so long as the Commissioners were obligated to disclose, and I'm not sure what the hesitation would be to allowing that.

Ms. Trent: I am not sure...Well, the reason...It isn't a hesitation. Believe me, I am into transparency and accountability. The issue that's presenting is I don't see in this document where it said that you were prohibited from – as you had put – prohibited from speaking with the public. Now, I did put out to you when we did the training last month a document that went into ex parte communication, and I've had dialogue with the commissioners about ex parte communication. As part of that, we discussed how that looks and what was going, but there was nothing that was put into this document related to that.

But you did bring up one thing I did overlook that a person from the public did bring up about public participation. I am going to need to remove some language within 6.12. It does violate First Amendment rights, some of what's in it. This was borrowed from the Rules of Order, and for the Board of County Commissioners this was direct language taken from the current Rules of Order that were in effect for the Board of County Commissioners from 2009, originally from 2007, and this language was in it. There has been case law subsequent that has found that some of this would be inappropriate. The meeting that the Chairman does, he's aware of that Supreme Court decision, so he allows people to talk and they come up with different things that they have on outfits and so forth, but this was something that does need to be revised, and that was brought to my attention, and it does have it in the public participation. I would recommend that if you move forward with the approval of this, that it be contingent upon a legal review and removal of some of this language that is in conflict with a First Amendment right. That would be consistent with what we are recommending to the Board of County Commissioners when they amend their Rules of Order.

Commissioner Neese: I've got a question. During the last County Commissioners meeting there was some discussion. What I drew from what your comments were the narrow discussions that can be held, the County Commissioners, and I left that meeting – and I think it would apply to us – I left that meeting thinking that, from what you said, that if there was a pending decision or ruling that was going to be made that there was to be no discussion by our elected Board of County Commissioners and it kind of applied to us here or on the zoning board, the way I heard you is that that was the case. Did I read you wrong there?

Ms. Trent: Yes. And I clarified, too, to the Board. What we are saying –

Commissioner Neese: You said it publicly, so I would like to hear –

Ms. Trent: What I said, though, in context, is that when the public...you're getting ready to make a decision on an application or anything where we know there is a potential of a quasi-hearing. For me, a public hearing, that they are going to have a public hearing on the second part related to the storage of battery facility, they are having a public hearing, and when you're about to go and hear a public hearing, just like you, you're supposed to listen to the public comments and to consider those. But if you have somebody speaking to you as a commissioner on a board, talking to you about their position, that position should be put, in my opinion, on the record, that "I spoke

with such-and-such and this is what they said, and this is what is considered.” Or what I had suggested to the Commissioners is to direct that person to put it in writing so it’s put with Planning to be made part of the record. So right now what’s going on with the solar, you’ll notice – and it should be up on the site – if a commissioner had received discussions outside, we’re making sure that those are reduced to writing and put up so that everyone knows what they’ve considered when they came forward to make their decision.

Commissioner Grise: Ms. Trent, that process that you just described is exactly the process that I don’t think is described in these bylaws, and there is a lot of discussion about public participation, public hearing, but there is no obligation, as I read it in these bylaws, for a commission member to disclose ex parte communications, or even an allowance for that activity. I was just curious, since many of the other townships around here, just surveying them, have a section in their bylaws for that. I wasn’t sure if that process, is as easy as it could be, should be memorialized to obligate us to disclose and to allow us to participate in those discussions should a member of the public reach out to us directly.

Ms. Trent: Well, Ms. Grise, [crosstalk] interestingly, Commissioner O’Hara had emailed me today, and she had made the record request of all of the community, so I’m sure you’re aware of that –

Commissioner Grise: Sure.

Ms. Trent: And in her request, she did email me today the exact clause that you’re referring to, and I can add that to this document if you so desire. Let me read that to you. This is from Lenexa. There were two documents she sent. One is from Overland Park and one is from Lenexa. You’re preferring the one from Lenexa. Is that correct?

Commissioner Grise: I have no preference, but for example, I have an email from Commissioner O’Hara directed toward me. Right now there is no obligation for me to disclose that communication to the public.

Ms. Trent: Oh no, I’m not asking that.

Commissioner Grise: It seems like it should be disclosed, so that the public could have a full record.

Commissioner Neese: I’ve got one for you. I’ve got one question, to kind of back up a minute. Is what you’re saying is, let’s say – and we’ll use the solar thing as an example, or anything. I don’t care if it’s a cell tower.

Ms. Trent: Let’s not use the solar.

Commissioner Neese: Okay, let’s not. Let’s just use an application, a cell tower that comes before us and somebody is for and against and so on and so forth, public hearing. There’s going to be another public hearing, and the applicant has a meeting, or one of us has a meeting with staff to discuss the previous activities at the public hearing. Is that inappropriate?

Ms. Trent: No, not at all. You can do that with staff. We’re talking about public. You can talk to the public, but what we’re saying is if you’re going to consider an application, or you’re considering having a public hearing, we want to make sure that you’ve put all of your communications with the public are on the record. What I did...I was in your position. What I do is I would just say, “Hey, would you put it in writing what you told me and submit it?” Then it’s made part of the record. It’s not putting the onus on you, but it’s just saying, “Hey, I like your comments. Other commissioners would like to hear what you have to say. They would like to hear what persuaded you or did not

persuade you so that everyone has the same information when you come forward to decide.” So all I’m suggesting is we could add language. The ones from Lenexa and from Overland Park, however, say an application. We could just say that members of the Commission should disclose the nature of any ex parte contacts and any information obtained through those contacts that may have on a bearing on their decision. We could put that in here. We generally...I could put it in. You don’t have to have it in. My hope is that every year Rick will be in front of this Board in an open meeting, training you on these issues that come up that you have questions through the course of the year, and as they come along. And you don’t need to put it in. If you would like, I can add it for clarification. We can call it ex parte communication.

Commissioner Grise: I would appreciate if it was added, just so that we don’t have a situation where we inadvertently stub our toe at some later point, and I think the only clarification I would add to the language you just suggested was “only disclosure of ex parte communications with the public.” Obviously, we can reach out to Planning staff for opinions, and I don’t know that those necessarily need to be made public, unless we have a desire to do so.

Chairman Iliff: I think there’s real merit in that.

Ms. Trent: Okay, I’m adding it right now.

Commissioner Huggins: At what point do discussions among Commission members affect the open meeting laws?

Ms. Trent: So are you saying that potentially if you as a member on the Planning Commission have a conversation with a Board of County Commissioner about an item that you have considered is it before you considered, or after?

Commissioner Huggins: I’m not only talking the Board of County Commissioners but other planning commissioners, and before the meeting.

Ms. Trent: They should not be talking to you, because the Commission will be deciding the issue that’s coming before you. That’s why I told some of the Commissioners tonight, “You’re going to be deciding this so you shouldn’t be behind this because you’re going to vote, and the vote is the most powerful thing that you have, so at this point, that should not be occurring prior to your vote. After your vote, yes, you can talk.

Commissioner Grise: Ms. Trent, I thought the only prohibition on Commissioners talking was if we formed a quorum, if there was enough members of a sidebar conversation to form a quorum. This is the first I’ve heard that we can’t have individual conversations with other Commissioners outside of this.

Ms. Trent: Well, the issue that presents itself is, is that an ex parte communication? Are they acting as a member of the public or a BOCC member telling you how to vote and what to do? I mean there’s some questions –

Chairman Iliff: Pardon me, Ms. Trent. I think there’s two different conversations going on here. One is conversations within the Planning Commission itself. The other is conversations between planning commissioners and boards of county commissioners. Your position is clear on not talking to BOCC members with regard to issues that are going to come for a vote there, but Ms. Grise’s question is – and I think Mr. Huggins’ initial question – related to, at what point do we violate the Open Meetings Act by discussing a matter that will come for a vote among ourselves? And I think that the law there is pretty clear that it has to be less than...it cannot be a quorum. Anything that would be a quorum or more, that would be unlawful.

Ms. Trent: And also serial...So you could have serial if, like for instance, if one of you speaks to another, who speaks to another, who speaks to another, and you're going down the line and you get to a quorum, then that becomes a violation of the Open Meetings Act.

Chairman Iliff: Right. And we can have training on that with regard to Open Meetings laws and that sort of thing, but I think the question that you have, Mark, can you and I have a conversation about an item that is coming before us, and the answer to that is yes. But if you're sending me an email, and I'm sending the email on to another member, who sends it on to another member and to another member, then we might have an issue.

Commissioner Huggins: And the reason I asked that question is I don't see where that's addressed here.

Ms. Trent: We don't address everything in the bylaws regarding open meetings, open records. There's all these other laws that come into play. Those are usually through training Rick will give you as a board, so we can schedule a time that we can train you on the Open Meetings Act and how that work, so that you would know.

Commissioner Grise: Mr. Commissioner, the one thing I would say is, given that the penalties, it appears, are very harsh for violations, can be pretty harsh, and given that we can write whatever we want in here, we don't have to rely on a training to tell us what we can do. We could state in here that Commissioners are allowed to talk to each other, as long as there is not a quorum. We could write that in here, and then it would be clear.

Chairman Iliff: Well, my concern with that is that basically we would have to put the entire Kansas Open Meetings Act in here in order to have it in one place. And that is the purpose of training, and for people who have served on this board for a couple of years or more, they've all been through this training. For those of us who have been on this board or zoning boards and other boards for many years, we've gone through it many times. I think that Ms. Trent's statement that you don't need to put every law that applies to us into our bylaws makes sense, because we want to have everything in one place, but we also want a document that's readable and is short enough that everybody can understand what's going on in it. If we put in chapters from the Kansas Statutes that apply to us, then we wouldn't have bylaws anymore. We would have duplication of the Kansas Statutes.

Commissioner Grise: Chairman Iliff, I agree with you. The one comment that I heard that I'd like some clarification if possible, Ms. Trent. The County Board of Commissioner member was an elected official, and the person who appointed me. I hope and aspire to fulfill the goals and policies of what that person, who was elected by the community would do, and in doing so, I've often engaged in communications with that Board of County Commissioners member on pending matters, to make sure that my votes and my questions are aligned with what the public voted for. So I guess it surprises me to hear – and I think maybe I misunderstood you – that if there's a pending matter that we would somehow be prohibited from reaching out to the Board of County Commissioner when we are appointed to, in part, kind of fulfill their mandate that they feel from the voters. Could you maybe give me some more clarification on that?

Ms. Trent: I'll get back with you on a legal opinion on that verbally. I think right now I think we've taken a lot of time on this, and quite frankly it's going down a road, I'm not sure what's going on, so let's just focus on the ex parte communication. I did add some language while you were discussing on that issue that this would be disclosed to Planning staff. I want you to have the ability, too, that if the person didn't, you could do it during an open meeting. I think that that's

important that you could provide the Planning staff or during aYou can disclose it to Planning staff or during an open meeting, during a JCPC meeting, and that way it's made part of the record.

Commissioner Grise: Thank you.

Mr. Leipzig: Mr. Chairman, I just wanted to point out one additional change on page five, in section 5.01. Ms. Trent missed that there is a...and we had talked about these two items at our previous meeting, about the annual meeting of the Planning Commission, moving it from February to June and removing the term limit clause on the election of officers.

Ms. Trent: Oh, excuse me. I forgot that. Thank you. So we put regular February meeting, that did not get changed there. Thank you for doing that.

Mr. Leipzig: That's in section 5.01.

Ms. Trent: And then also, this right here.

Mr. Leipzig: It should be to June.

Ms. Trent: Okay. And then, each officer shall serve a one-year term, and each officer may be re-elected for two additional consecutive terms. So that's three years they can serve in the position, right?

Mr. Leipzig: But that sentence was struck. Each officer may be re-elected for two additional –

Ms. Trent: Oh, we got rid of that. Okay. All right. It's just one-year term, is all they can serve? Is that what the board wants?

Mr. Leipzig: That is what we've historically been doing is one year term. That was the draft that was before us.

Chairman Iliff: That doesn't mean they can't be elected to a successive one-year term.

Ms. Trent: Okay, so we just got rid of it. It's just every year it's re-elected. Okay.

Mr. Leipzig: If you all are in agreement on that.

Commissioner Rast: I do have a question, but going back to where we were talking about, just to clarify. Like, our term when we're appointed is a three-year term, but we're going to use the Chairman's office term only being one year.

Ms. Trent: That's what I'm, sitting here...Yeah, that's a good point. It's up to you what you want. If you want it to be three years, it can be.

Mr. Lind: Mr. Chairman, I think the way the statute is written, is that the intent was that the chairman's term will be one year, such that you can't do like they do for the federal reserve chairman and elect him to a ten-year term. His term should be for one year. I do not believe that the language of the statute prohibits the chairman from being re-elected to successive one-year terms. So they're limited to a one-year term, but that does not mean they can only serve one year.

Ms. Trent: So you could serve ten years? Fifteen years, 20 years, just as long as you're elected every year.

Mr. Leipzig: Which is consistent with what Commissioner Rast had just clarified. Right?

Ms. Trent: Okay. All right. Is there any other...? Is this ex parte language okay, then, what I added?

Commissioner Grise: It's fine with me if it's fine with everybody else.

Chairman Iliff: I think it looks good, so the question we have now before us is whether we take a vote on this with the changes that have been made tonight and the suggested minor revisions that Ms. Trent has discussed, or whether we put this over to next month where we just take a quick look at it and do a final vote.

Commissioner Rast: Is there any way that this can be re-written up and gotten out to us, like in 10 days, so that then we can review the whole thing written out completely and double check it and then if we have any extra question we can send in to you in email and then be ready to discuss or vote? But if we can get a revised copy?

Ms. Trent: I have it right now ready for you.

Commissioner Mason: I would move that we take the Chairman's suggestion and accept the changes that have been recommended here and send this on up to the BOCC for approval.

Commissioner Grise: Chairman, super quick. I thought that you said that you had to do additional research on a First Amendment issue, so I was curious – I'm all for voting on it – I'm just curious. Would it be weird to approve something that isn't finalized, or would you rather have one additional month to delete the parts that are inappropriate due to the First Amendment?

Ms. Trent: I think I deleted...Okay, I'm going to stand corrected here. I think I removed the troublesome piece already. I apologize. I'm trying to think. I knew that we had an issue with it, but I do think you can approve it subject to that piece being legally reviewed. I just want to make sure I have the right statement. I know that I took out some things, but I want to make sure. I'm just saying, I don't want to pass it along, and then there's something concerning in there. It hasn't been reviewed.

Commissioner Grise: Which is why I think it might...I don't know if there's a need if it would be beneficial to give our Legal group one additional time to make sure that the language is finally written. I'm fine either way.

Commissioner Levin: I would actually like an opportunity to read it in the whole, after the revisions before we vote on it. I would like to put it off for one month.

Chairman Iliff: There is a motion on the floor. Is there a second?

[inaudible]

Chairman Iliff: Okay, it's been moved and seconded that we move this on to the Board of County Commissioners as it now stands subject to minor revisions by the Legal Department. All those in favor indicate by saying aye.

[voice vote]

Chairman Iliff: Let's do a roll call vote, if we could. We'll start down at the end here. Just state your name and how you vote, whether you're in favor or opposed.

Commissioner Downing: I'm in favor.

Commissioner Rast: Opposed.

Commissioner Mason: In favor.

Commissioner Huggins: In favor.

Commissioner Lund: In favor.

Commissioner Grise: Opposed.

Commissioner Hutchins: Opposed.

Chairman Iliff: Opposed.

Commissioner Levin: Opposed.

Commissioner Neese: Opposed.

Commissioner Johns: Opposed.

Chairman Iliff: Okay, the motion goes down. So effectively, that gives you one more month, and bring it back. And I certainly would agree with Commission Rast's suggestion that if you can get it out in the next few days, that would be great.

[inaudible]

Chairman Iliff: Hopefully, this discussion will just be a matter of minutes next time.

Ms. Trent: Okay.

Commission Rast: I do have one question, thought, too. When you were talking about and I was thinking you were going to go back and do more research on the 6.12 section –

Ms. Trent: What's that?

Commissioner Rast: The public participation, with the freedom of speech and that kind of stuff, but then you said you were not, so I do have some concerns as far as, who decides? What's?

Ms. Trent: No, I was very confused up here.

Commissioner Rast: So you're still going to review that?

Ms. Trent: I can't remember if I removed some language already out of it, so I do need to look at it and confirm that it needs to be revised, so it's my intent to take that clause and to review it to make sure, because I don't want you to have anything that would be a violation of our constitution in there, and I want to make sure, because there's been changes in the law.

Commissioner Rast: Thank you.

Chairman Iliff: All right. We either need to take a break or we need to have a brief discussion of the 2022 priorities for the Planning Commission. Do we need a break? Okay, Chairman's decision. We'll take a short break, five minutes.

[break]

CONTINUED DISCUSSION OF 2022 PRIORITIES OF THE PLANNING COMMISSION

Chairman Iliff: Next item on the agenda is the continued discussion of 2022 priorities of the Planning Commission. I'm going to let Mr. Leipzig make a few comments about this.

Mr. Leipzig: Thank you, Mr. Chair. My comments this evening will be fairly brief on this item. First of all I wanted to tell the Planning Commissioners I appreciate the responses we received. Those are all part of your packet, as well as Planning staff recommendations for key topics. Essentially, we are still working on these items. There is quite a bit of work here. It's great ideas and great suggestions. Given the time we have tonight and the amount of discussion we've had, I guess

what I would propose, I mentioned this at our previous meeting, of having a workshop or a study session with the Planning Commission. I would like to do that if you all are agreeable to it. Some dates that I'm thinking, and as we move forward, our April 26th meeting, we'll be discussing the bylaws on April 26th, which will be our regular meeting for the month of April. We could set up a work session with this Planning Commission on Thursday, the 28th, late in the afternoon. Or a better suggestion, I think, would be if you all are available on a Friday afternoon. For example, on Friday, May 6th, would be a possible date, or the following week if that would work for everybody. We've got a full quorum tonight, a full group, I thought I would just throw some dates out there and see if you all would be available. Frankly, from staff's perspective it doesn't matter. I think May 6th might be the best date, just because we're going to have a fairly full April, I believe. It looks like May is getting full as well, but I think that would be a better use of our time for this evening, and just kind of really look at this stuff, because some of these suggestions, we're still looking at some of the legal repercussions of what we can do, some legal options of some of the suggestions we've had, so I could appreciate that additional time as well. But how does everyone's calendars look for May 6th? Would that work?

Commissioner Levin: I'm not available on May 6th.

Commissioner Rast: I'm not available either.

Mr. Leipzig: Okay. Let me grab my phone here. So if we did May 13th?

Commissioner Grise: I'm available.

Chairman Iliff: I'm available.

Commissioner Levin: Available.

Commissioner Rast: available.

Commissioner Johns: Available.

Mr. Leipzig: Okay. I'm just, hypothetically, we could start at noon and maybe go from noon until 3:00 on that afternoon. We'll, of course, have lunch for you that day, but I think just having three hours or so, or two hours, we could really focus on this topic and have a presentations from staff, also possibly Public Works as well. I think it would be beneficial for everybody. So May 13th would work? Okay, I see nodding heads.

Commissioner Grise: Thank you, Mr. Leipzig.

Commissioner Hutchins: So, just to be clear, is this going to be more of a working meeting? What I don't want it to be is people bringing in presentations and us sitting and listening to presentations. This should be the Commissioners working together to figure out what the priorities are. So I would table any presentations until we can figure out where we want to put our focus and then we can bring in the presentations.

Mr. Leipzig: Okay. I'm agreeable with that, Commissioner. Okay, great. May 13th. I appreciate it. I figure we have everybody here together at one time. It's a good chance to talk about calendars. That concludes that item.

G. DIRECTOR'S REPORT

Chairman Iliff: Director's report?

Mr. Leipzig: The other item I have, a couple of items, an update on the Board of County Commissioners Committee of the Whole meeting was held on February 24, 2022. There also is the Board of County Commissioners Public Hearing on our utility-scale solar facilities and our proposed amendments for our Comprehensive Plan and our Subdivision Regulations. That hearing date is set for April 4, 2022. That's at 2:00 p.m. That is a Monday, so just keep that in mind. It's a Monday afternoon at 2:00, and that will be at the Embassy Suites in Olathe on that day.

The other item that I skipped over is also in your packet are the applications reviewed by the Board of County Commissioners dated for the month of February and March. That is in your packet. If you do have questions about that, please let me know. And then last item I wanted to mention, and I discussed it just very briefly at our previous meeting. I think since we have the technology available to us, I think we'd like to have these meetings – all of our Planning Commission meetings in the future – will be televised as well if we're in this room. It's fairly easy to do. We tried to do it for this meeting, but there are some technical details we had to work out with the broadcasting medium for our internal system, as well as the YouTube channel, but I'd like to propose that we have these meetings in a hybrid format that are televised, and I think that would be certainly more accessible to the public to attend those, and I believe they are closed captioned as well. So, beginning in April, we'll start that process.

Chairman Iliff: Just a comment. I think it's great to have the hybrid, and I think it's especially important because it does allow people, members of the public, to hear what's going on without necessarily being present. I would like to encourage all of the fellow board members to be here present in person as much as possible. I think the discussion is more vigorous and I think that the end result is probably going to be more acceptable if we try to do that. But we recognize that the circumstances, such as they are, that people will have to travel, but it would allow people who are even on vacation or are traveling on business to participate.

Commissioner Hutchins: Would we be able to extend this opportunity for the hybrid meetings to the zoning boards as well, Jay?

Mr. Leipzig: Thank you, Commissioner Hutchins. That's exactly what I was going to mention. We're going to try to do that. I was going to talk to them about that for the next month at their subsequent meetings. There are some issues in terms of where they are meeting, but I would like to talk to them about that and get some feedback from them.

Commissioner Hutchins: I think that would be awesome, especially a lot of us engaged in agricultural activities. It's tough trying to be in person, but we can certainly do it remotely.

Mr. Leipzig: Mr. Chairman, that concludes my report.

H. UPDATES/OTHER BUSINESS

I. ADJOURNMENT

Motion to adjourn by Commissioner Levin , seconded by, Commissioner Lund.

The motion passed unanimously.

Thereupon, with no further business to come before the Johnson County Planning Commission, Acting Chairman Neese, at 8:34 p.m. declared the meeting to be *Adjourned*.

