

Jefferson County Planning & Zoning

Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of the Planning Commission Meeting of Feb. 27th, 2023

Item 1. Call to Order

Item 2. Approval of the Agenda

Chairman Benyshek: Okay. We'll go ahead and call the February 27th, 2023, Jefferson County Planning Commission meeting now to order. Just one kind of housekeeping, topic share for people entering and sitting in our crowd in attendance tonight. I've been informed that the microphone on the TV setup we have here is extremely sensitive. So therefore, if there is a lot of chatter in the crowd, that microphone is going to zoom to you. And the camera will also zoom to you as well. So, if you want to be on candid camera, I guess, make a lot of noise, but I prefer you don't. So anyways, so the first order, item, on our agenda this evening, is the approval of our agenda. And I'm sure as many Commission members are well aware of already and probably most attendees this evening, the third item on our agenda, which is the conditional use permit 2023-02, the request for a commercial data center with generators and computer data storage containers on it. We did receive word this afternoon roughly around, I believe, 2:15pm, that the deeded property owner has, in fact, I guess pulled that application from consideration of this Commission here. So that case will not be heard this evening on here, and the request is off the table as of right now. So, and then furthermore, I feel it is important to announce, and Dustin correct me if I'm wrong, it sounds like our Jefferson County Commissioners have also issued a 12 month moratorium on any conditional here I'm sorry, any applications for rezoning or conditional use pertaining specifically, specifically to crypto data or crypto data storage facilities, or mining operations? So, in other words, until we feel we have proper time to update rules and regulations surrounding those types of facilities, we will not be entertaining any applications.

Chairman Benyshek: So back to the agenda, I guess, I seek a motion for approval of the agenda striking the CU2023-02 request. I believe everything else on there would be valid unless we want to talk about tabling potentially the text amendment requests on here. That is pertaining to the definition of guesthouses.

Dustin Parks (Staff): I would suggest tabling TA2023-01.

Chairman Benyshek: And that's fine. That's fine. So, I guess two additional things other than the pulling of the application on the data center there we would also be looking at tabling the TA2023-01 till our next meeting. If there is a motion by our fellow Commissioners, I would accept a motion to make those alterations to the agenda.

Commissioner Johnson moved to accept the agenda with the said alterations and Vice Chair Scherer seconded.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
DNV	Aye	Aye	Aye	Aye	Aye	---

Motion Passed 5-0

Item 3. Roll Call

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
PRESENT	PRESENT	PRESENT	PRESENT	PRESENT	PRESENT	---

Item 4. Approval of the Jan. 23rd, 2023, meeting minutes.

Chairman Benyshek asked if there were any corrections for the minutes. Secretary Asher moved to accept the minutes as presented and Commissioner Hazen seconded.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
DNV	Aye	Aye	Aye	Aye	Aye	--

Motion Passed 5-0

Commissioner Johnson: A point of order. So, you know we've tabled or for 12 months the crypto mining operation.

Dustin Parks (Staff): Correction. That's not true. The applicant withdrew the case. The County Commission has placed a moratorium on accepting any further applications. So, it's not that this application has been tabled. It's that this application has been withdrawn entirely and any further applications cannot be accepted until after that moratorium has expired.

Commissioner Johnson: So, my last comment would be so once we get through the one case we have tonight, and we have a period of public comments for items that are not on the agenda. For folks who want to comment about a potential case, is that in order?

Chairman Benyshek: Yes, per item number six on our agenda, there are comments from the public on items that are not on the agenda. It states here on the agenda, the schedule lasts 30 minutes or five minutes per person on comments from the public on items that may come up that we're not actively discussing in the case. So as Paul stated any public at that time that have, I guess, comments or questions at that time, that is the time that we'll be taking those comments, suggestions or questions. So as stated, we have one case, remaining on the docket for this evening.

Item 5. Public Hearing

Chairman Benyshek explained the Commission meeting procedures to the public and opened the public hearing. Chairman Benyshek asked if any Commissioners currently have any ex parte communication with the applicants or any conflict of interest towards this case that would exclude them from giving a vote this evening. There were none.

PR2023-02 and Z2023-02: A request for the preliminary and final plat of the O'Neil Acres subdivision, a two-lot subdivision located South of 150th Street, with additional frontage along Wellman Road. This request is being brought by Jay K. O'Neil and Harold G. O'Neil of 16657 150th, Winchester, KS 66097. There is also a request to rezone lots one and two of the proposed subdivision to Rural Residential.

During this time, staff asked who was here for the first case. The applicants, Jay and Sheila O'Neil and Harold O'Neil were present in person.

Chairman Benyshek asked staff to give their report. Staff gave their report. After their report, Chairman Benyshek asked the board if they had any questions for staff.

Commissioner Johnson: There we go. Okay. Dustin, I wanted to ask you about the water availability issue. And so since they're now certified wells and those will not be monitored by the County. If these properties come up for resale, then will there be a check on the water source from those wells and/or any mandate for rural water service?

Dustin Parks (Staff): Being as we don't monitor well or water activity after the sale of land, then the answer to that question would be no.

Commissioner Johnson: So, if a potential buyer of one of these lots is on their own as to water availability?

Dustin Parks (Staff): Correct, since this subdivision is not proposing new vacant lots, they're already established parcels with residency on them. No water requirement or no proof of water was required as part of the application.

Chairman Benyshek: Any further questions from the Commission members? Okay, well, I do not have any questions of staff myself, either on this report here. So, with no further comments at this time from Commissioners, we would move into the application, or I'm sorry, the applicant presentation and the public comment portion section of the hearing. And before we do that, or hear from the applicant, if they so choose. I should have done this at the beginning of the case, but I apologize. So, when the applicant or any member of the public is giving testimony for the Commission here, when giving testimony please introduce yourself and provide your address. Please make all comments directly to the Planning Commission. Please refrain from repeating what has been said before you and please avoid involving personalities. Be as factual as possible. And then as far as the order goes, which we went over, the applicant would make their presentation, then those who wish to speak in favor of the application will then be heard. And then if there's any opposition, they will be heard and then the applicants allowed to make a rebuttal statement. And also, the Planning Commission reserves the right to question anyone who provides testimony. And the chair reserves the right to swear in anyone who provides testimony. So with that, if the applicant is present and would like to make a statement on their case, I believe we got you at the desk here front and center if anyone is present. Come to the front, state your name and address, and make a brief few comments or presentation. Please.

Jay O'Neil – Applicant: My name is Jay O'Neil and I live at 16657 150th St in Winchester. That is the northern section on here. It's approximately three acres. My brother, Harold back here and his wife, Sheila, those are the two properties in question. We've sold two approximate 80 ac tracts west of that this past year is part of my father's farm that we inherited from him. We kept the 40 acres between our two properties. And we're simply dividing that between us and is the only reason we're doing this.

Chairman Benyshek: Thank you. I would ask is there any questions from the Commissioners of the applicant? I didn't figure there was but, thank you for that. I appreciate your comment there. And then if anybody at this point in time would wish to speak in favor of the application, please step forward. And we'll do just the opposite. If there's anybody who would like to speak in opposition about the current application, it would be the same, as to please come forward and present. Seeing no opposition, I'm sure we can pass the applicants' rebuttal statements since there was nothing to rebut there. So as far as that goes that will conclude the public comment there. And so, moving forward here, I just ask if any Commission members have any further questions on this case of staff before we entertain a motion on this case here? Seeing no questions, I would entertain a motion on said case here.

Secretary Asher made a motion to approve PR2023-02 and Z2023-02 and Vice Chair Scherer seconded the motion.

Votes were taken by Ayes and Nays as follows:

Tim Benyshek Chairman	Matt Scherer Vice Chair	Tiffany Asher Secretary	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
DNV	Aye	Aye	Aye	Aye	Aye	---

Motion passed 5-0

Dustin Parks (Staff): So just kind of a good discussion on how this works because I have prepared one. So there is, after the Planning Commission makes recommendation, there is a 14 day protest petition period that activates and that starts starting tomorrow. So, for instance, with the O'Neil Acre subdivision, starting tomorrow morning, a 14 day protest petition period opens to the public. And those property owners that are within 1000 feet of the proposed plat, they have an opportunity to file a protest with the clerk's office. And what that protest does is if enough people in that 1000-foot area have protested it signifies to the County Commission that they must vote the three fourths majority. However, since we only have three County Commissioners, that means they have to vote unanimously to go against the recommendations of the Planning Commission because of the protests. In this case, since this Planning Commission voted to recommend approval. That would mean that the County Commission in order to approve the case, if a valid protest petition was filed, all of them would have to vote for approval. So those can be picked up, protest petitions can be picked up, usually in the Clerk's office, we also have them on our website with instruction sheets. But that 14 day period, because both the Planning Commission and the County Commission meetings are on Mondays usually means that we have about a three week timeframe between the time when the Planning Commission makes a recommendation and when the County Commission sees the case. And so for this one, it will be March 20th, we will send out a letter to the applicants, letting them know the date and time of the hearing. But usually it's, so this one will be March 20th, and usually it's about 1:30pm. But we'll get with the County Clerk and let the applicant know what the date and time specifically will be is. So we'll send you a letter usually within the next couple days. You should be getting that letter but that is it.

Chairman Benyshek: So, moving into item six on our agenda here. And I guess I just want to make a couple comments before we get into item six. Obviously, our case, that I'm sure most of you were here tonight to hear is not going to happen. But before we get into maybe some public comments on that. I just want to thank Dustin, Erin, and Donna and all the staff at the Planning office because I know that it was not probably been the funnest of jobs with them handling that case to get out to the public and to us Commissioners. So, I just want to say I appreciate all your hard work and the package you put together here even though it didn't quite make it to our hearings here. So, I appreciate that. Thank you.

Item 6: COMMENTS FROM THE PUBLIC ON ITEMS THAT ARE NOT ON THE AGENDA

Chairman Benyshek: And so item six on here is then comments from the public on items that are not on the agenda. So, anyone who would like to step up to the table up front here, the podium so to speak, who would like to make any comments or questions to the Commission here, now would be your time to come forward. And if you would, I would make one point, I'm not sure if we need this or not on this particular item, but I assume we will probably want you to state your name and address for the record as well on this section. So, anyone who would like to come forward, now is that time.

Julie Zule (10139 N K92 Hwy, McLouth): My name is Julie Zule and I live at 10139 N K92 Hwy, McLouth. I had just a couple of questions. On the withdrawal of the conditional use permit, who's the current owner that has done the withdrawal, because it seems like that property has gone through some different owners really quickly.

Dustin Parks (Staff): The deeded owner is currently Marginy Oil and Gas. What we got was a letter that requested withdrawal. We got that on Saturday, and I had advised them that we couldn't do anything unless a deed was filed. And then a deed was filed today for the change of ownership. They had said in their letter, they were working on getting the deed filed, but we couldn't act on anything until the deed was filed. So, they filed that and they sent us an email along with that filing said, we filed it and we still want to withdraw.

Julie Zule (10139 N K92 Hwy, McLouth): I guess the concern is that I think that Emily over here running the camera had spoken with somebody from the Crypto Colo company today and they're saying that the ownership hasn't changed.

Dustin Parks (Staff): So as far as the Planning and Zoning office goes, we only can reference deeded ownership. So, while there may be disputes of who owns what, in the back end.....and so the current deed we have is this, and it was the filed deed that was from one owner, who was the current deeded owner to another person or another company in this case, and that company requested that withdrawal. So that's all we have. Anything else beyond that, is outside of our office and outside the purview of Planning and Zoning.

Julie Zule (10139 N K92 Hwy, McLouth): Is there potential that there's deeds that haven't been filed or registered yet?

Dustin Parks (Staff): I mean, there's always a potential but we can't act on that. Again, if it's not filed, it's not registered. If it's not registered, you don't have record of ownership.

Julie Zule (10139 N K92 Hwy, McLouth): So, what if one of the register of deeds.....(inaudible)is the Crypto Colo Company.....

Dustin Parks (Staff): That's not a question I can answer. That is something the courts will have to answer because the deeded owner, the most recent deeded owner withdrew the case.

Julie Zule (10139 N K92 Hwy, McLouth): And then, just another question, because it seems like there were a lot of activities happening on that property outside of McLouth, without having had the approval of the conditional use permit. Is there some sort of system in place to monitor that those type of activities are not ongoing?

Dustin Parks (Staff): We've been doing periodic site inspections by UAS, which is unmanned aerial systems, by a certified drone pilot that works for the County and works for our IT department. And so, we have him go out with Erin and they do periodic inspections. So, we have to kind of be careful because some of the oil and gas operations are outside of the purview of Planning and Zoning. But the stuff that is obviously directly related to the use were keeping track of.

Julie Zule (10139 N K92 Hwy, McLouth): How often?

Dustin Parks (Staff): We're not going to say how often, because we don't want them to figure out how often we're out there. But so far, we've been out there three times in less... well, as of today, I guess within the last week or so. And twice, two of those times have been since Friday.

Julie Zule (10139 N K92 Hwy, McLouth): I mean, for me, you know, just trying to figure out, you know, how we monitor that, and make sure that the property isn't used, because the people that were doing stuff before, had no compunction, or anything like that had no qualms about doing things without having permits in place. And so just trying to make sure that we're keeping an eye on that type of activity. And then my next comment is probably more for the Commissioners, or the Planning Commission, but just kind of the moratorium, that's great. And I think everybody here, or at least me, are glad that that was done and I very much appreciate the work that you guys have done because we realize that you guys had a lot coming from us. But making sure that you know, in this twelve months of moratorium time, are we putting into place things to help prevent something like this from happening again, where something is happening almost underneath our noses but that we're not aware of.

Dustin Parks (Staff): I can say that the resolution that was passed was in order for us to research and put forward regulation that would help better control stuff like this in the future. I can't say what shape that's going to take obviously because it was passed less than 12 hours ago but that is the intention.

Julie Zule (10139 N K92 Hwy, McLouth): Awesome. Thank you.

Janet Lowther (109 W Cynthia St (PO Box 72), McLouth): This morning, I talked to an engineer at KDHE. These people had not applied for either an air permit or even an air construction permit.....(inaudible)they need a KDHE test from the engineer's department in charge of the Bureau of Water. Is there a way that you can assure, that you are not taking action on proposals that are not properly permitted with the state?

Chairman Benyshek: I'm going to comment on that, and then Dustin feel free to fill in the gaps here. So, if I'm understanding correctly, I think you're addressing probably the use of the property that pertains to oil and gas?

Janet Lowther (109 W Cynthia St (PO Box 72), McLouth): Actually, the use pertaining to generators.

Chairman Benyshek: Okay. What I understand from the information that was submitted, the generators were going to be powered by natural gas. I'm not in the oil and gas industry, but supposedly there is natural gas underneath that ground. However, Jeff County Planning and Zoning Commission and any county in the state of Kansas, however, does not have the authority to regulate anything when it comes to oil and gas or construction of devices that are powered by oil and gas

and that is all unfortunately regulated by the KCC which is the Kansas Corporation Commission. And so, when it comes to any drilling activities, or oil and gas activities, or I guess I would say byproducts there are, generally speaking, and in my experience, this Commission does not have authority to say what they do or don't do on that.

Janet Lowther (109 W Cynthia St (PO Box 72), McLouth): The Power plant would require the air construction permit and the air emissions permit..... (inaudible).....

Chairman Benyshek: Dustin do you care to elaborate? I don't know if I have the know, unfortunately, to reply to that other than what I've stated already.

Dustin Parks (Staff): So, it is kind of like what the Chairman said, it's kind of a fine line between what we can review and require versus what's permitted at the State, depending on the department. A lot of times, what we do is we recommend either environmental study from a third party, at least be reviewed by a third party that can speak to those or we make a condition that they get all state and federal permits required. The downfall, is that we don't always know what all states and federal permitting is required for a given use. However, that said, particularly in this case, in the staff report, I mentioned that we would like to see a more detailed environmental study, specifically because of the potential impact that they were using this property for. Considering that the equipment is still on site, I feel comfortable saying, using the property, because it's out there. But it is not necessarily the purview of the Planning Commission in general, to review state permitting requirements, because we don't have authority over those entities. Not on the same page, but in a similar regard, are things like dog kennels. Where KDA and KDHE both handle some of the permitting regarding dog kennels and we rely on those agencies to do their permitting, just as they rely on us to do ours.

Janet Lowther (109 W Cynthia St (PO Box 72), McLouth): (Inaudible).....condition of confined animal feeding operation, data processing system.....(inaudible).....

Dustin Parks (Staff): As far as the state permitting requirements, that's kind of really all I have the ability to cover and hopefully the information off the environmental studies and rely on those agencies. And a lot of times we will ask questions on them, but we have to have the information from the applicant first. And that's what my staff report is requesting or was requesting in this case, was that information so that we can reach out to the state agencies and say, hey, this is what was proposed, do you require any permitting on this type of stuff?

Janet Lowther (109 W Cynthia St (PO Box 72), McLouth): Apparently, somebody else beat me to the punch on complaining about their lack of permits. So, I don't know who it was, but I wasn't the first at contacting them.

Dustin Parks (Staff): I wasn't either.

Chairman Benyshek: Anybody else at this time that might have comments or questions for Commissioners?

Rynette Reiling (201 E Lucy St., McLouth): My name is Rynette Reiling at 201 E. Lucy St., McLouth, and I just have a question. So if the next steps and the new company comes forward or we are trying to work on regs and things like that to set this up. Is there a process that maybe, or how can we help or how can we be involved with making sure we're moving forward each month, because we are only getting 12 months to get through this. Is there a process or something for us to be able to watch as things are happening? Or how can this? How can we know what's happening, I guess?

Dustin Parks (Staff): So every month, if we're going to have a Planning Commission meeting, we put a notice in the Oskaloosa Independent. And not only that, but we also post the agenda on our website, the same place you guys have gotten the staff report. Every month we're going to have a meeting we will put something up. In all honesty, a lot of times these bigger things like this, staff will take a couple of months to do research, reach out to folks, reach out to engineers, look at other sites, see what other communities have done regulatorily and then we start drafting regulation for review. Then we get that reviewed by legal counsel and then once that happens, we bring it to the Planning Commission to start discussing. And once we bring actual written regulation in front of the Planning Commission is when we start notifying and putting that in the paper, that we're going to have a text amendment that covers this. There are a lot of possibilities here. So it could be that we come to find out that in some counties, a moratorium is put in place to do research, and they find out it's not something that they're interested in doing and the County Commissioners put a blanket 'no' across the

board on applications. You'll see a lot of this on wind turbines. There are a bunch of counties in Kansas right now that they have basically permanent moratoriums on accepting applications. I'm not saying it's the case, but it's a possibility. But all of that, we will have the agendas online. And we'll have that notice in the paper anytime we're doing something public hearing related regarding this. And once that text is actually formulated, it's going to be presented. That's when we start putting it in the notice. Because for instance, we have the text amendment that was on the agenda today. That was in the paper. And that's how that process works. I would normally have brought them information, we would talk about it, we've probably already talked a little bit about it just to see which direction they want to go and if they have any questions. But anything official, anything that has decisions to be made, or anything, once we get to the point where public input can actually change the process is when you need to start looking in the paper. The first step is to get information and putting some at least what we call mock regulation together, just to see how it looks. And then that's when we start getting public input on what we have kind of put together so that we can start making changes. So, I guess the short answer is pay attention to the paper and the website for the agenda. You can always email and ask where we are in the process. Because we can let you know, and I'll be honest it maybe we're still doing research. But you know, we're looking at doing this and if I have a timeline then I can share that timeline. Right now, like I said, I have no idea what the timeline looks like, because 12 hours ago, I thought I was going to be sitting here doing the staff report still for this case.

Rynette Reiling (201 E Lucy St., McLouth): I guess I understand exactly what you're saying. And I totally get that. And you guys have really done a lot of research and your homework up to now. I guess I'm just thinking like, I know it takes months to sometimes get things through and pass through and things and all of a sudden, we're down to three months left, and we.....(inaudible) and that's freaking me out.

Dustin Parks (Staff): So, 12 months is the initial timeframe. The County Commission has the authority to extend that again, and again if they need to. So, 12 months is the initial timeframe that gives us the ability, much like the wind and solar turbine case with solar turbines, wind turbine and solar farm regulations that we had a moratorium on passed last month. I'm just now, I don't know why, for some reason, being able to look at how some of those regs look. This last month or so it's been all encompassing. But now I can start to formulate those regs and put those into some kind of documentation to bring before the Planning Commission with the next couple of months. But if let's say October, we're still arguing about and hashing things out. The County Commission is well within its authority to say we're going to extend this for three months or six months. So, the deadline isn't necessarily as important as getting public input process.

Rynette Reiling (201 E Lucy St., McLouth): Okay. And then also another question and thank you for that answer. And I love that extension part, so that makes me feel a little bit better. But another question is, is like the Sierra Club and some of those that deal with a lot bigger picture of everything and how it affects? Are you in connection with some of them? Or have they been reporting to you?

Dustin Parks (Staff): I am now. A month ago, not so much. Now, that said, a lot of times, especially when we do regulations that we reach out to larger organizations, or like I said, counties who have done this to get input. And a lot of times that includes two or three. Now things like the Sierra Club and stuff like that, they're, they're more than happy to provide assistance.

Rynette Reiling (201 E Lucy St., McLouth): So, do they need to check in with you often or are you in connection with them and you're working with them.

Dustin Parks (Staff): It's basically, I'll reach out to them at some point, we're going to need information on something that I'm lacking or where I'm trying to figure out information from information that they have. So, it's more like, I'll reach out to them when time appropriate. And once that conversation starts, then a lot of times they're kept in the loop the whole time. I've seen in the past, not here, obviously, especially with this, those kind of clubs would be a part of those meetings, either by zoom, or in person to be there as well.

Rynette Reiling (201 E Lucy St., McLouth): I just know that they were already working on some of those things for us. So, I wanted to make sure that you're not backtracking or needing something.

Dustin Parks (Staff): Oh no, I am a huge fan of not reinventing the wheel.

Rynette Reiling (201 E Lucy St., McLouth): I just wanted to make sure that we're on the same page, and that the people that have already put in the hard work for the environment for all these different things, that that's already being of use, instead of, hey, we're going to do our work. And then we'll ask, does that make sense, I want to make sure that we're proactive instead of reactive.

Dustin Parks (Staff): I can't say that it's obviously already useful. Some of the public comments, and some of the reports, especially from utilities, you know, already are formulating stuff that we can work on. So, if those clubs, as soon as they're finishing reports, they are always welcome to send those to us.

Rynette Reiling (201 E Lucy St., McLouth): They can stay consistent moving forward on their end.....(inaudible)

Dustin Parks (Staff): Like I said, it may not be, you know, acted on immediately. But it's always good to have especially because I'm a huge fan of not reinventing the wheel. And so, if it's out there.....

Rynette Reiling (201 E Lucy St., McLouth): I just want to make sure that that's a positive statement, we've got all these people already working that they can submit what they do have at least if it helps with the big picture.

Dustin Parks (Staff): We're working on the very, very beginning stages of redoing a comprehensive plan as a county. So, the Comprehensive Plan is a guidance document that is supposed to help both the Planning Commission and the County Commission to keep things in line with what the public sees as the direction for Jefferson County. As we began the process in January, currently we are getting responses to the RFP, usually we have a contractor come in and help formulate a document and help with public meetings. And it tends to be where we have public meetings in different places around the county to get public input on how this works. And the reason you may not have heard about it, but it's because the last time it was done here was 2001. Our Comprehensive Plan is almost officially old enough to drink. You're supposed to really do them every 10 years, updating them as you go. It's kind of a living document. But it's really good to refresh them.

Rynette Reiling (201 E Lucy St., McLouth): So that will be happening this year?

Dustin Parks (Staff): So, then they will submit their proposals to us by Mar. 31st and then we're hoping to select somebody no later than August-ish, so that we can begin that process later in the year. So, we're hoping that by late August, early September, we'll already be rolling on that process. And so, what that means, on that process, that's when we officially start, and that's what this company, where do we get public input from? How do we get it? By website? What's the best way to aggregate that data on?

Rynette Reiling (201 E Lucy St., McLouth): What's the name of that project so that we can keep our eyes out for it.

Dustin Parks (Staff): Just the Comprehensive Plan. We are working on kind of creating a website that is dedicated to just that function, so that we will be able to share that out there with the public because that's hopefully where we're going to get our public comments from. We just want to get that plug out there, because sometimes it's hard to get public participation unless something pops up that gets the public engagement. And so this is something where we can put that out there and say, hey, you know, take an active role in helping drive this document in the future.

Rynette Reiling (201 E Lucy St., McLouth): Is that something that you could, you know, ask for a couple of people from each town to be involved in?

Dustin Parks (Staff): So usually, what happens is, at least for the selection of contractors, is kind of internal with department heads for a couple of months, the Planning Commission, and one County Commissioner. Then from there, usually we work within the individual areas, to gather for public reviews, so that we can say, you know, aggregate the data to say "Hey, we need public input, we haven't gotten really much for McLouth, you know, can we set up a meeting to where the citizens can come to talk about this." We can present what we have and get public input from there. And then we aggregate all that information together. And then once all that stuff is done, and the contractor kind of puts together, the report looks like that's when you go into your steering committees together for that. So, it's not something that will happen within a year. Normally, a Comp Plan review takes two to three years.

Rynette Reiling (201 E Lucy St., McLouth): I guess what I was trying to say is, sometimes it's nice(inaudible) to be someone that's on a committee already, because it's kind of nice to have other sides.....

Dustin Parks (Staff): Oh, yes. No, that is, that's probably, once it gets to that part of the process. That's when we tend to get together people from like, what we call members at large. And try to get one or two members from each community to be able to be on that board to discuss what happens, and then not to get into the weeds. But then, after all, that's decided, extensive public meetings just like this going through.

Rynette Reiling (201 E Lucy St., McLouth): And I'm willing and able to do that. So, keep me on your list. I think you've answered everything that I needed.

Chairman Benyshek: Any other folks that would like to comment or have questions?

Doug Packer (16942 78th St, Oskaloosa): 16942 78th St, Oskaloosa. At the County Commission meeting today, what did they vote on that put it off for 12 months?

Dustin Parks (Staff): The moratorium.

Doug Packer (16942 78th St, Oskaloosa): Okay, the moratorium at the very end had language in it that I did not hear very well. And it sounded like there was an optional thing where that deadline of 12 months, it could end, the moratorium could end quicker.

Dustin Parks (Staff): So, in every case, they do that. They don't want to lock themselves, if we develop regulations in the next six months, and we're settled on that. And the County Commission and public and everything has gotten through.....inaudible.... determine whether or not regulation is needed, or what the County Commission would like to do. And inside that resolution, it states that at their discretion, they can rescind that moratorium if they deem necessary. So essentially at that point, considering that they voted on it. What that usually means, is that the County Commission will resend it if regulation they feel is sufficient that we put in place. So, it's no longer needed at that point.

Doug Packer (16942 78th St, Oskaloosa): Yeah, I understand that one and it seemed like there were two ways that it could end.

Dustin Parks (Staff): If I'm not mistaken. I haven't read the resolution because they voted on it today, and it hasn't been posted yet. But the one that I wrote for the wind turbines, which I'm guessing is going to be somewhat similar because the county counselor wrote this one today, but I wrote it for the wind turbines a month ago. And in that one it was either that the date of expiration will automatically sunset unless extended or the County Commission can withdraw it at any time.

Doug Packer (16942 78th St, Oskaloosa): Was there any mention at all of KCC having an impact on the resolution?

Dustin Parks (Staff): Not that I'm aware of. But again, I haven't seen it. They voted on it and they read it, but it should be posted online. I don't believe that the KCC was involved in that.

Chairman Benyshek: Anyone else? Sure.

Julie Zule (10139 N K92 Hwy, McLouth): Sorry, when Janet was talking a while ago, on the generators, you were saying that if they're fueled by natural gas, that we don't have the ability to regulate them?

Chairman Benyshek: Basically, obviously, to run those generators, they are going to have to drill and extract the natural gas out of the ground.

Dustin Parks (Staff): It's getting, the getting the fuel is what we can't regulate.

Julie Zule (10139 N K92 Hwy, McLouth): So, generators themselves?

Dustin Parks (Staff): The generators themselves we can.

Chairman Benyshek: I apologize if I misspoke there. I guess before we take potentially any other comment on it, I'll make just one quick statement. And I know you guys are being very patient with us up here. I would just like to say the fact that, you know, you've all had good questions and comments for us up here. However, I want to emphasize the point that the Planning and Zoning Commission here, this is the first step for any applicant to rezone or apply for a conditional use permit. And obviously, the case that did not happen this evening that has drawn a lot of attention. And in the three and a half, four years, I've been on this Commission, it's the only application that I've ever seen that has had 100% opposition to so with that being said, my point is, is that we are a recommending body, as you probably heard me say, in prior case, therefore, this condition permitting, we don't approve rezoning we recommend approval or denial. And where I'm going with this, it does, as I'm sure most everybody in this room with the exception of a few Commissioners, your County Commissioners have the final say so, and I'm not trying to pass the buck by any means here, because you know, they're relying on our opinions to pass, you know, what they feel is best, you know, use for our county and the ground in it. But that is where, you know, I guess if you have the time to pick up the phone, and not just your County Commissioner, make sure you talk to the other two County Commissioners around the county because obviously, McLouth sits on the extreme eastern edge of Jefferson County. And what may affect McLouth has nothing to do with Meriden which sits on the extreme western edge of the county. And I'm not saying that the County Commissioners don't care, but they just may not be as well informed. And so that's my plug. I'll leave it there. I just want to inform everyone of other avenues to visit with not just this committee, not that we don't want you here. Thank you. And with that being said, is there any other comments that would like to be heard yet this evening before we move on to our next agenda?

Commissioner Johnson: So how far has CCC moved with preparing the site for operation without approval from the Board of County Commissioners for a change of use.

Dustin Parks (Staff): Far enough that we issued a stop work order, and part of the issue since the stop work order is they have put up a couple of generators that are obviously related to this use, and a couple of the crypto mining rigs or pods. They're individual pods that they are put together. They have physically prepared the other site or other phase. But they've done earth work with that, and, as I've said, in the County Commission meeting and in my staff report, the earth work is permitted (allowed). Because we don't issue permits for dirt work. If we permitted earth work, we'd have to ask every farmer for a permit if they want to do grade work in their field. ...inaudible...Structurally they're not allowed to continue, this is also one of the reasons we've done several inspections last week and will continue to do so. And so, I guess that answers the question?

Commissioner Johnson: Yes, thank you.

Julie Zule (10139 N K92 Hwy, McLouth): Are they fined for doing something like this?

Dustin Parks (Staff): So not from a zoning perspective. How that works is if they violate the stop order initially the first the first penalty is an utter halt of the conditional use permit hearings and or the application until they remove all the offending structures or whatever caused the violation. However, since the application has been withdrawn, that automatically takes them to the next step. And that next step is once the County Commission deems, they have violated this, then they talk to the county counselor or county attorney on prosecution. Because under the Jefferson County Zoning regs, it's a misdemeanor to violate the regs. But it's up to the county attorney to prosecute.

Julie Zule (10139 N K92 Hwy, McLouth): I'm concerned they may sue the county.

Dustin Parks (Staff): It's possible. You can sue the county, or you can sue anyone for anything. But it is possible that they would, or they could, sue us. That is, luckily, above my paygrade. The County Commission has the authority there, and they're the ones who can direct us to file an initial violation with the County Attorney for him to prosecute. So ultimately, the County Commissioners are the ones that can decide on the violation which warrants us to move forward to submit to the County Attorney, and then it's up to the County Attorney to prosecute. So, and I have seen in the past \$500 a day fines. I know judges can probably do more than that, but that's what's in our regs is at least \$500 a day because the assumption is it's not a multibillion-dollar company who is doing this. It's somebody who built a shed without a permit. That's because we're a rural community and that's how our regs are written. And that's why we didn't have regs for this, it's in the staff

report. We don't have regs for data centers, and we don't have for regs for you know, crypto mining facilities. We do have commercial and industrial use regs, which is where we hung our hat with this conditional use permit.

Julie Zule (10139 N K92 Hwy, McLouth): Hopefully they'll be in the next 10-year plan.

Chairman Benyshek: Okay, before we move on to our old business section here, I'll give one last thought anybody would like to offer comments? Yes, sir. Come up. State your state your name, address, please.

Fred Decker, Jr. (200 S Union, McLouth): So today I just have a couple quick questions. You talked about regulations and the process that's involved in inaudible....are there any ordinances that follow along with the EPA for like noise?

Dustin Parks (Staff): So, the most, of the time, nuisance abatement regulations like that or in the county's case, it's resolutions, those are usually associated with a County Commission resolution. We don't have any nuisance abatement regulations or resolutions in place regarding specifically sound, but we do have the regulations, protections that we are allowed to look at regarding noise, dust, and potential hazards.

Fred Decker, Jr. (200 S Union, McLouth): How would we go about enacting one?

Dustin Parks (Staff): That is a question for the County Commission directly, because it's like I said, it's resolution based. So, cities pass ordinances, counties pass resolutions. Resolutions are essentially like Ordinances and but there's a statutory difference. The county can enact noise resolutions, and they can be specific. They can say after hours, or they can be very specific or not at all and just say, nothing over this level. That is all on them. At this point, now, as we go through the reg updated and stuff like that, that's when we can include it in our conditional use permits and stuff like that. But theoretically, Monday they could pass a noise resolution.

Fred Decker, Jr. (200 S Union, McLouth): And that's why I was asking, because this sounds like a very time sensitive situation, on your end, and on the applicant who withdrew. It sounds like this is kind of a cat and mouse time sensitive situation. And I think that's why a lot of people are here tonight, despite the fact that there is a moratorium, it doesn't sound like it's gonna go away, regardless. So, I was wondering if there are other options being looked at or being considered to prevent or inaudible.... are the general public's concerns?

Dustin Parks (Staff): Not that I can speak to because it has happened so quickly. Like I said, literally 12 hours ago I was over here setting up the Zoom stuff to make sure that worked, because we were going to have this humungous case. So, considering they passed the moratorium after 2pm today, I can't speak to what the County Commission is considering. There are other options out there. And something we're definitely going be looking into the near future in regard to the zoning office but I can't say what that is at this point.

Fred Decker, Jr. (200 S Union, McLouth): My other question would be for a small community, like McLouth, and I'veinaudible.....What, if any, options does the city itself have in enacting something if there's a possibility of annex and annexing this property in the city limits, because it's only about 900ft off the north side of the city?

Dustin Parks (Staff): It's about roughly a third of a mile, the property begins there, and what options they have, unfortunately, I'm not aware because I don't know handle city zoning regulations. But the city if the city were to annex property, it would be entirely under their control, and I can say that cities are allowed by Kansas state statute to be more aggressive with their regulatory authority.

Fred Decker, Jr. (200 S Union, McLouth): And that's why I asked.

Commissioner Johnson: Let me ask a follow up question here. The state has taken over regulation we sawinaudible.... that our county has no control over confined animal feeding facilities in essence. We had a battle a few years ago about Tonganoxie and Tyson chicken and what that would have meant for chicken's barns, you know, within because that was certainly going to encompass Jefferson County, as far as hogs or that that's totally been preempted by the State of Kansas. So, our our county, we wanted to regulate dust, odor, you know, impact of certain animal facilities. It's not our call at this point.

Item 7: DISCUSS TA2022-01: TABLED

Chairman Benyshek: Okay, anyone else? I'm sure we have killed our 30-minute allowance for comments not on the agenda. I will ask one more time, if anyone else would like to speak. If not, we are we are going to move on into our old business. Normally, I would save this.... inaudible.... for the rest of our meeting however if you choose to adjourn yourself early you are more than welcome as well. So, moving on to item seven here, old business and general staff. Dustin, do you have anything for your general staff report or do we have any old business?

Item 8: OLD BUSINESS, GENERAL STAFF REPORT

Dustin Parks (Staff): As I stated earlier.....inaudible..... we're passed the deadline for RFP folks to ask questions. We're in a holding pattern until March 31st for the submission deadline. We've had a couple reach out, but we might get more. Sometimes they won't ask questions and just submit. We'll see what happens on March 31. ...inaudible... Actually, as soon as we get some, I'll be notifying everyone and maybe asking for some volunteers from the board to be on the steering committee for that to use for those RFPs. But beyond that, the two cases last month that we had the County Commission approved both of those. And yes, the County Commission agreed, so I'm working on a resolution to merge the Planning Commission and the BZA into the same board. And again, the BZA very rarely meets in Jefferson County. But we do need to get that resolution done so the meeting dates can be the same. We will have to probably at the March meeting for this, amend the bylaws for the BZA, and we might just wait till April when the BZA is actually supposed to meet to do that kind of thing and then we can just amend the bylaws to dictate that the meetings happen on the same day.

Vice Chair Scherer: Just out of curiosity, are there any members of the current Board of Zoning Appeals that are not on the Planning Commission?

Dustin Parks (Staff): One, and that's Gale, who had to leave the Planning Commission because she had personal conflicts. So, we'll reach out to her and see if she wants to continue.

Chairman Benyshek: Paul you had something else?

Commissioner Johnson: Clarification on the Comp Plan. So, this time, we're going to do the Comprehensive Plan in alignment with zoning and subdivision regulations.

Dustin Parks (Staff): That is a question that I need you to qualify.

Commissioner Johnson: Well, in 2001 we adopted the comprehensive land use plan for Jefferson County and then it took us eight years to 2009 to adopt.

Dustin Parks (Staff): Are you asking me if we are going to do the regs and the Comp Plan at the same time?

Commissioner Johnson: Yes.

Dustin Parks (Staff): No, we'll be doing them shortly thereafter the Comp Plan. The RFP only covered the Comp Plan.

Commissioner Johnson: So, let's have a discussion further about that because it was eight years.

Dustin Parks (Staff): Paul, no offense, but not tonight. You can email questions about it. But we've been this this crypto case has eaten up so much of our life. But in all seriousness, the intention when I talked to the County Commission, was that we would do the comp plan and get that in line because then we have a better idea of what regulations we need to work on and where we can go. So, the intention is to have the comp plan once it's approved within six months to a year, put out again RFPs for the regulations.

Item 9: NEW BUSINESS

Chairman Benyshek: If there's no further old business item, we can move on to item nine, new business. Which I don't have any.

Dustin Parks (Staff): We have a meeting next month.

Chairman Benyshek: And how many cases are we looking at next month?

Dustin Parks (Staff): One plat and rezoning and the text amendment.

Commissioner Johnson: A bit of clarification on you know, obviously the County Commissioner voted a year moratorium on solar farms and commercial wind in Jefferson County. So what's the lead up to educating the County Commission about what is the best options for our county about those installations?

Chairman Benyshek: I'll answer that. That's probably gonna be they're gonna look at counties exactly like my hometown in Republic County who just recently, within the last year approved, wind farm generators, and they are going to look at probably Marshall County, Nemaha County, Butler County and every other county in the state of Kansas that has wind farms, see how they are conducive to the nature of the property and how they're working out and probably form an assessment of how they would work in Jefferson County, and vote whether or not, just like the crypto facilities, of whether, quite frankly, they're gonna be allowed in part or at all in the County. Dustin, you fill in the blanks there.

Dustin Parks (Staff): Actually, that was pretty succinct. Yeah, right now we're doing the research from other counties and how they formulated their opinions on those and any ramifications that we've seen, not just reaching out to the counties themselves, but seeing if there were any grassroots movements, for or against and try to reach out to those folks. And that's kind of been put on hiatus last month for some reason.

Commissioner Johnson: Obviously, I'm not sure commercial wind is going to be a real player in Jefferson County. Some of the initial testing that was done 10 years ago indicated that we did have a wind resource that particularly interests some of the commercial developers. Now wind systems have gotten a lot larger, and so you can use less land to generate power. So, we're going to see how that plays out. I think solar farms are a much more serious effort. And how we're going to look at that, and Douglas and Johnson County have gone through months and months recently, having a debate about you know, what is the proper size, you know, how where are they located, you know, environmental impact, blah, blah, but so I'm guessing that we may take some guidance from some of those counties.

Dustin Parks (Staff): Yes. Wabaunsee County as well. Pottawattamie County has too, and Douglas County is working on right now. And there's a couple out in southwestern Kansas that have formed regs.... inaudible.... about flat ground out there. But they've also got some out there that they're that they're kind of looking across the board, not just in the state of Kansas, but I kind of have to look in Kansas mainly because the statutes requirements but kind of have to focus in Kansas ...inaudible...

Commissioner Johnson: Last comment. You know, we approved two years ago, a couple, actually solar farm site in Jefferson County a couple miles north of me on 59, by Freestate Electric Coop, they put in 10 acres about 8 acres of solar panels there for that. And, you know, we approved it two years ago in December and was operating by May 1. So, it's amazing to how quickly that can turn around. But so the last thing I want to say is that I hope that next time we approve solar farms is that we take the potential of gardening and grazing around these facilities, which is what a lot of people research at this point about, you know, how multi-functional those facilities can be.

Dustin Parks (Staff): Douglas County did quite a bit of excellent research on that.

Chairman Benyshek: Okay. I need a motion to adjourn.

Secretary Asher moved to adjourn the meeting. Vice Chair Scherer seconded. All said aye.

Item 10: Adjournment – 8:30 PM

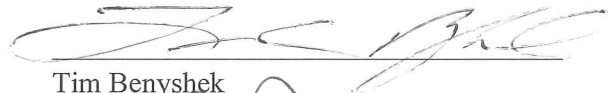
Minutes taken by:


Erin George

Approved:

March 27, 2023
Date

Chair:


Tim Benyshek

Secretary:


Tiffany Asher