

Jefferson County Planning & Zoning

Oskaloosa, Kansas

OFFICIAL

OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

Minutes of the Planning Commission

Meeting of Apr. 24th, 2023

Item 1. Call to Order

Item 2. Approval of the Agenda

Dustin Parks (Staff): I apologize for interrupting. There is a request to table the first public hearing by the applicant in lieu of providing a different orientation for the road on their submitted plat. And as staff we would like to also request that that be tabled until the next Planning Commission meeting so that we can send out courtesy notices to the public to let them know what has changed.

Chairman Benyshek: Okay. I got part of that there. So, if I understood you right there, Dustin, as far as the agenda goes, and I see it here, obviously, we're recommending tabling the one case we have this evening here just due to give proper public notice because of the change in the proposed plat. Is that correct?

Dustin Parks (Staff): Correct.

Chairman Benyshek: Okay. There you have it.

Dan Moore – Applicant (9800 Valley View Dr, Ozawkie): Will we have a chance to address that?

Chairman Benyshek: Yes, yes. Yes, there is and feel free to chime in here guys on here, as far as the public hearing portion of it goes, we can, as a committee here, motion to table it until the next meeting. However, we do have a section in our agenda for public comment on here on items, I guess that would be on or not on the agenda here. But unless the Commissioners here would like to make a change in our list of items here, I'm open to suggestions on that.

Secretary Asher: I make a motion that we table that item, approve the agenda without that item, and they can speak during public comment.

Commissioner Johnson: I'll second that.

Chairman Benyshek: Tiffany's motion, Paul's seconded. I'm not going to try and repeat that motion there. Hopefully, everybody got it there. So, all those in favor, please say aye or raise your right hand if you're on Zoom. Okay. All opposed, same sign.

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 <i>Chairman</i>	Matt Scherer <i>Vice Chair</i>	Tiffany Asher <i>Secretary</i>	Stephen Phillips	Paul Johnson	Greg Hazen	Vacant
PRESENT	PRESENT	PRESENT	PRESENT	PRESENT	PRESENT	---

Item 4. Approval of the Mar. 27th, 2023, meeting minutes.

Chairman Benyshek asked if there were any corrections for the minutes. Vice Chair Scherer moved to approve the minutes and Secretary Asher seconded.

Votes were taken by Ayes and Nays as follows:

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

Motion Passed 5-0

Item 5. Public Hearing

****ITEM ONE WAS TABLED UNTIL THE MAY 22nd MEETING – The applicants, Dan and Carole Moore and their surveyor, Jess Noll were present. Matt and Becky Moore from the public were present also for this case.**

- I. **PR2023-04 & Z2023-04:** A request for the preliminary & final plat of the Valley View Park Subdivision No. 5, a three-lot subdivision located off of Valley View Dr, south of K92 Hwy. This request is being brought by Daniel L. & Carole A. Moore of 9800 Valley View Dr, Ozawkie, KS 66070. There is also a request to rezone Lot 2 of the proposed subdivision from “RR” Rural Residential to “SR” Suburban Residential. *Staff recommends tabling this case due to a change to the proposed plat.*
- II. **Yearly Re-Organization of the Planning Commission Board Officers** – The Planning Commission will vote to elect the Chairman of the Board, the Vice Chair, and the Secretary.

Chairman Benyshek: Moving on to a portion of our public hearing process here. Skipping to item number two on the public hearing process is the yearly reorganizing organization, the Planning Commission Board officers, we need to vote to elect a Chairman of the board and Vice Chair and Secretary so, I'm a little foggy on my rules of order here, so yes, obviously the first one is Chairman of the board here, the Chair of the Commission. So, I don't know if I'm out of order by saying this, but I guess I am perfectly fine with re nominating myself for another term as Chairman. But I'm not going to fight anybody else for it if they so choose to.

Secretary Asher: I second your nomination.

Chairman Benyshek: I figured there'd be more discussion. Well, with the nomination, and a second, unless there's any further discussion to be had, which doesn't sound like there is. I guess all those in favor of me remaining the Chairperson of this Commission, please say aye. Aye. Raise your right hand.

Votes were taken by Ayes and Nays as follows:

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

Motion Passed 5-0

Chairman Benyshek: I'm duly appointed. And Mr. Matt here is currently our Vice Chair. So, I would open it up to the floor at this point in time for any nominations or self-nomination of the Vice Chair position.

Commissioner Phillips: I nominate Mr. Matt.

Secretary Asher: Is there a term limit?

Chairman Benyshek: That is a good point of order. Is there a term limit?

Dustin Parks (Staff): No more than three consecutive years.

Chairman Benyshek: Okay. So, this is what would be year two?

Vice Chair Scherer: Yes.

Chairman Benyshek: I believe Steve has nominated Matt to remain our Vice Chair here. Would there be a second to that nomination?

Secretary Asher: I'll second.

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

Chairman Benyshek: And last but not least, is the Secretary position, which Tiffany is our current Secretary for the Commission here. So, at this point in time, I'll open it up again to the floor for nominations for the Secretary position.

Secretary Asher: Okay, I will not be self-nominating, but I won't protest being the Secretary.

Vice Chair Scherer: I will nominate Tiffany for Secretary.

Chairman Benyshek: It's been nominated by Matt, for Tiffany to be the Secretary of Commission here.

Commissioner Johnson: I will second that. I have an information question if I may? There was some debate about how much staff would take over as far as the Secretary's role.

Secretary Asher: Since I've been coming up here, I've just been signing stuff.

Commissioner Johnson: I knew that was an option that we could we could use the staff, which other Planning Commission's do, but I just wanted clarification.

Dustin Parks (Staff): Staff has no problems with Tiffany continuing to be Secretary.

Chairman Benyshek: Well, it's been moved and seconded for Tiffany to be the Secretary for the Planning Commission. All those in favor, please say aye or raise your right hand.

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

Chairman Benyshek: All right. You are duly appointed or reelected. How about that? So, unless I got the wrong agenda here. I believe that concludes our yearly reorganization of the Planning Commission of our board officers there. So, the public hearing portion of the meeting is duly closed here. So, item number six on our agenda is comments from the public on items that are not on the agenda, typically, but since we have our hearing candidates here that for the case that got tabled, now would be your time for comments on any items there. So, we'll open it up to the floor here. And then if you would, when you make your comments, just take the podium, and state your name and address for the record, please.

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

Dan Moore – Applicant (9800 Valley View Dr, Ozawkie): Thank you, ladies and gentlemen, lady, and gentlemen, for hearing our request. I'm Daniel Moore. And with me is my wife Carole, and my son Matthew and his wife, Becky. And Jess Noll with Landplan has done our design and he would be available for questions as well. I've got just a little bit of a hangover from the last of the allergy seasons. You know, well and I'm not contagious. I'm sorry about the scratchiness. Gosh, we first platted the first part, there's about twenty homes along one one half mile private street. I think we first platted that about 50 years ago. So, I don't suppose any of you were on the commission then. It's it's worked well. Annual Meeting of property owners and we pay some dues, and we maintain it. The County has never had to spend any money on the road at all. Concerning our request tonight, we got ahead of ourselves a little bit. We had Jess plat a preliminary plat for the street in a certain manner. Once we met once we had some surveying had been done. And we met with an excavating contractor, it was determined that we would be far better off to move the house up the hill or the road up the hill a little bit. Matt And Becky will be building on one of the two sites.

Dustin Parks (Staff): Mr. Chairman, I apologize for interrupting, but I don't think it's really prudent that the applicant be giving the presentation that would normally be for the presentation during the hearing. As much as I loath to interrupt a public member while they're speaking, I think this is more prudent to be done during the case itself. So, unless there are comments, in general, about options for the Planning Commission, I really think this is something that should be discussed at the next meeting.

Chairman Benyshek: Okay. All right. Well, sorry to interrupt you there, but I appreciate your comments there that we did get. So, I guess at this point in time, if any other members of the public here have, I guess, comments and I guess, just comments that aren't probably prudent to the tabled case here this evening, you're more than welcome to take the podium. If not, we will move on through our agenda here.

Anna Driscoll (Zoom coordinator): So, will this item be on the next month?

Chairman Benyshek: Did you hear that? Dustin?

Dustin Parks (Staff): I didn't hear her question. No.

Chairman Benyshek: Her question would be would this be since we tabled it tonight, would this be on the agenda for the May meeting?

Dustin Parks (Staff): Yeah, since the Planning Commission didn't designate another meeting date for it, it would just automatically fall to the next available meeting, which is the May meeting. And to be clear, if there's any members of the public who just have general comments, even if it's about the case, that was tabled, that's fine. But the applicant shouldn't be trying to give the presentation of that hearing during the public comment portion.

Chairman Benyshek: Yeah. Very good.

Dan Moore – Applicant (9800 Valley View Dr, Ozawkie): So, he's not the applicant, could he speak?

Chairman Benyshek: Sure, sure. I don't have a problem with that. We'll get the cameras turned back on the podium here.

Matt Moore (9259 Apple Valley Lane, Ozawkie): Okay, yeah, my name is Matt Moore and my wife, Becky, we live at 9259 Apple Valley Lane. And we are interested in purchasing land for when this happens, but I guess my only comment tonight would be it would be sure advantageous for us for scheduling and for many reasons, we have our property sold now that if we could have an expedited maybe another hearing or even if it would be at all possible to have a decision on this, on this process tonight, it would certainly be quite helpful to us, I realized we have to go through procedures. I don't know, Dustin kind of mentioned maybe we can do a different meeting, that would be a little sooner. I don't know if that if I understood him there, right?

Dustin Parks (Staff): What I was meaning was technically the Planning Commission can say we're going to table this out for three months to the to the meeting, you know, in June or July, the meeting dates for the Planning Commission are kind of prescribed by the bylaws and the resolutions from the County Commission to dictate the monthly meeting dates. And since the meeting was already tabled on the agenda, and we have to send out notices to the public still about the change to the plat because the plan is not the same as it was originally submitted until the public gets that notice in the general area, because we'll send it out to everyone who lives within 1000 feet to let them know that the plan has changed up until they get that notice then we can't really even hold a hearing on the change.

Matt Moore (9259 Apple Valley Lane, Ozawkie): I understand that I guess, you know, the change is quite minor. And doesn't really affect anybody else's property. But the one we're looking at here, it just seems like it's a matter that could maybe handled differently. But I know that you have rules. When is the next meeting? Is that a month from now, basically, but we would how long of a timeframe would we have then we'd be able to make the next next meeting?

Dustin Parks (Staff): Yeah, it's automatically been scheduled for the next meeting. So, the next meeting would be May 29th or the week before. Let me pull up the calendar right quick. It would be the 22nd meeting.

Matt Moore (9259 Apple Valley Lane, Ozawkie): And that would allow enough time for for public viewing and so forth. Okay. Well, I understand that and that's why we have to wait on will will likely do that. Thursday way to expedite that would be awesome too. So, I won't take any more time now your time.

Chairman Benyshek: I guess one last time if anybody else would like to make general comments that's in public attendance tonight, now is that time here, so? If not, go ahead Dan.

Dan Moore – Applicant (9800 Valley View Dr, Ozawkie): I had one question. We tabled the plat. We also table the zoning?

Chairman Benyshek: Yes, the entirety of the case will be tabled until I think they said May 22nd, which would be our next meeting. So yes, you're correct. And then yes, by all means, unfortunately, since the case has been tabled, you're more than welcome to stay for the rest of our meeting, but by all means there's no requirement to stay.

Members of the public left the meeting.

Chairman Benyshek: If I read the case packet correctly here, their initial plat submitted to us, they made, from what they had indicated there, and what I saw, made revisions to where I believe the roadway was going to run in the initial plat versus the final plat. And so obviously, with the change in the plat, change in application past, to late pass the deadline to get it out publicly. Unfortunately, like Dustin stated, anybody who lives within 1000 feet of the proposed changes there, we have to give them public notice, unfortunately. And I guess thanks, Dustin, for chiming in there because I was a little out of my depth on that side of things there.

Dustin Parks (Staff): That's fine. The biggest thing on this one, you know, since it's a road that, Mr. Moore, the son is correct, and that the roadway doesn't touch any other properties other than the applicant's property. But because the notice goes beyond their properties, we need to make sure to notify the general public and since the application change happened, like the chairman was saying, since it happened outside the timeframe that would allow us to do that, at that point, the only body that can table the case is the Planning Commission unless the case is withdrawn. So, I can't table it. I can recommend tabling I just can't actually table it. And then we can't act until the case is tabled.

Commissioner Johnson: Obviously, it was it was somewhat news.....

Dustin Parks (Staff): It wasn't, it wasn't. Their surveyor included me on emails where they selected to go ahead and have it tabled. I just don't know if they understood exactly what that meant.

Chairman Benyshek: I kind of gathered I think they maybe know what it meant. But maybe they were in hopes that there was gonna maybe be an exception, being made kind of thing which is understandable. But unfortunately, due process is in order there.

Dustin Parks (Staff): It was postponed a little bit longer than normal, also, because it's just barely inside the city of Ozawkie notification area. And the city of Ozawkie never made comment on it. And since the city of Ozawkie is not within 1000 feet, the roadway change doesn't affect them. We don't have to re-notify them, because the renotification of the tabled hearing and the change is a courtesy. But it's still in the long run safer for both the applicants and us in terms of that public notification.

Chairman Benyshek: Just out of curiosity, I didn't see anything in this packet here, did we? And maybe I skipped over it. Was there any public comment made on this first application? I didn't see any but just in case I missed something there.

Dustin Parks (Staff): We had a couple of phone calls, but they just wanted information, there were no actual opinions made on the case.

Chairman Benyshek: Thank you. Moving on, then here to item number seven, which is just old business and our general staff report.

Item 7: OLD BUSINESS, GENERAL STAFF REPORT

Dustin Parks (Staff): So old business is kind of, it's all because it's happened since the last time we've met, but it's going to be ongoing. So last week, we had our first meeting, to discuss the proposals that were submitted to the Planning Commission and the selection committee for the RFP update. Paul was present for that one. And if anyone wants to zoom links, to just kind of listen into the interviews, you're more than welcome, just shoot me an email, and I can get you a link to those. Because technically, any member of the Planning Commission can be on the selection committee. But it's kind of volunteer as long as we have at least one member from the Planning Commission, some department heads and one member from the County Commission. We've met our requirement there. So, if you want to listen in on the interviews, just let me know and we are going to record them, and so that any member of the steering committee can listen to those if they want to. But we did narrow down the selection, I'm not going to talk a lot about it, because we haven't officially selected anybody yet. And I don't want that out there floating around the public. But we had some pretty good proposals, and a couple of them really stood out. So, the steering committee has set up interviews with two firms. That doesn't necessarily mean the other firms are out of the running. It's just that we want to hear from those two firms first and can go from there. So, I think that we're on track. Our interview dates for those are February 28. So, this Friday, and I'm February, good lord, April, April 28, this Friday. And I think that, hopefully, we'll have either a good selection after that meeting, or we'll be able to get a better idea and move forward with a different selection the following week. So, we are on track to hit our deadline timeframes to at least get it in front of the County Commission for them to look at selecting and moving forward with a contract. So that's really all from that.

Commissioner Johnson: And times are 1:30, Friday afternoon, and 3:00?

Dustin Parks (Staff): 1:30 and 2:30. They, basically, they each have about 45 minutes for their interviews, and I mean, I created a list of questions for each one. Based on the conversations that were had at the meeting. I don't think I'm gonna have to ask all of them. But I've got them there, just in case so. And then let's see, they did, the County Commission approved the subdivision on Lake Dabinawa Drive. So that's been approved, it is not signed and filed yet, but it is approved. And that's I think the only case thing that's happened since the last meeting.

Chairman Benyshek: I don't know if this is still categorized under old business, but have we I guess gained any new, I guess information or any word on any potential regulations being put in place or started on about the fun little crypto facility I guess, and or wind and solar energy stuff.

Dustin Parks (Staff): So, I'm hoping probably for the wind and solar stuff, some of the wind stuff I've kind of gotten already kind of laid out because it was, I'm using, I've said before, I'm using Marion County, Kansas as a framework, because their regs are very, very similar to ours. The solar stuff I'm still kind of digging into a little bit before I present anything to the board. And the same thing with the data center type regulations, I've got some mock stuff that I've drawn up. But it's nothing that I've shown anyone yet it's just I'm kind of reading through it, seeing how it feels in you know, in my head and basing it off of other stuff that I've seen in other states. So, I have to kind of gauge how our state statutes work with that and kind of put that out there. So, they're in the work at least the very, very, very, very, very early stages in my office. And I imagine that we'll probably have to bring on some kind of consultant or something to read review those and look through those before we before I bring anything to the Planning Commission for actual review and the process for that. I'm hoping to have that kind of stuff or at least for the wind and solar in place before September, at least to have the Planning Commission review those and I'm hoping shortly thereafter, we can look at the data center stuff.

Chairman Benyshek: Paul has a question here for you Dustin.

Commissioner Johnson: But the County Commission has moved ahead and put a moratorium on crypto on wind and commercial wind and commercial solar development in Jefferson County?

Dustin Parks (Staff): You are correct about the commercial wind and the commercial solar. The other thing is a little bit more expansive than that. It's not just crypto, it's commercial data centers. And I don't have the resolution in front of me to read everything on it. But yes, there is a moratorium in place for those specific uses that you mentioned. And there for at least a year. And I don't see them resending them anytime soon.

Commissioner Johnson: So, the County Commission has the statutory authority in the state to do a yearlong moratoriums on those projects?

Dustin Parks (Staff): Yes. As far as I'm aware, the County Counselor agreed.

Commissioner Johnson: I thought we had a six-month limit on the poultry farms in terms of Tyson plant in Tonganoxie.

Dustin Parks (Staff): That was a state issued thing because of the confined animal feeding operation. They had their own special rider on that.

Chairman Benyshek: Okay. So, unless there's any other old business it looks like we are moving into item number eight here new business, which, I know, with our packets here, we got I assume a draft of the bylaws, rules and regs for Jeff County Planning Commission here to review here.

Item 8: NEW BUSINESS

Dustin Parks (Staff): We got, there should be both for the Board of Zoning Appeals and for the Planning Commission. So, under new business, the board wants to review those bylaws, and see if they want to make any changes for the Planning Commission. Feel free to do so. If not, it would probably behoove the board to make a motion to approve the bylaws so that we can get those signed and then put in place. And then once you guys are done with that discussion, I'll talk a little bit about the Board of Zoning Appeals change that was made, and kind of what the next steps for that look like.

Chairman Benyshek: I know, before the meeting started here, we had made mention of the number of committee members for the Planning Commission, and then also the Board of Zoning Appeals there and that is seven members on Planning Commission. Correct. And five on the Board of Zoning Appeals. Correct.

Dustin Parks (Staff): So presently, we have five members on the Board of Zoning Appeals. Well, actually we only have three, but the Board of Zoning Appeals was established to be five members. However, the resolution that was passed today says that it can be seven, and the state statutes say that the Board of Zoning Appeals has to be at least five and can be up to seven. If need be. So, we can do seven since that's what our Planning Commission is.

Chairman Benyshek: Okay. Any other input or questions?

Secretary Asher: This is just on the Planning Commission stuff?

Dustin Parks (Staff): Right. Yeah, the bylaws right now would be just for the Planning Commission.

Secretary Asher: Okay, I have no questions.

Chairman Benyshek: Paul.

Commissioner Johnson: I have a couple. So, we we deal with the the board, this existing board, the Planning Commission now, and then we move through that, and we adjourn and then we move into a separate meeting for the Board of Zoning Appeals.

Dustin Parks (Staff): That's the intention. Yes.

Commissioner Johnson: I apologize that I obviously didn't go through that packet as close, and I didn't see the rules and regs for the Planning Commission that I guess my question is about the provision for members of the Planning Commission that.

Dustin Parks (Staff): Are you going to bring up the abstention vote counting in the majority?

Commissioner Johnson: Right? Yes, you got it.

Dustin Parks (Staff): What about it Paul? Make a change.

Commissioner Johnson: The fact that if you abstain from a particular case, then your vote is counted as an affirmative vote.

Dustin Parks (Staff): It's only counted with the majority; it can be considered negative if the board votes against something.

Commissioner Johnson: Well, but why isn't it a neutral vote if you can't participate?

Dustin Parks (Staff): Because there is no such thing as a neutral vote. You need to be for or against or not at all, and the bylaws currently state.... The bylaws say right now that it is an abstention vote. You as a Planning Commissioner can right now make a motion to change that to say that an abstention vote is just not counted? I am not in charge of the bylaws; the Planning Commission is. So, make a change.

Chairman Benyshek: So, you're talking about the bylaws of the Board of Zoning Appeals, right?

Commissioner Johnson: No, but it's the same thing, it's the same thing for the Planning Commission.

Vice Chair Scherer: Page 56 of the handout. Item nine.

Dustin Parks (Staff): For those that don't have it in front of you, it says all members, except the chair on matters requiring only affirmative vote of the members present and voting shall vote when present, except that a member shall automatically disqualify him or herself from voting on any decision in which there might be a conflict of interest, and should state the conflict of interest and should state the nature of conflict for the minutes. And further, should any member abstain from voting, that members vote shall be considered cast with the majority.

Secretary Asher: You just want to clean up that last part.

Commissioner Johnson: Yeah, I don't think you think you're abstaining, that should be counted as a positive vote.

Dustin Parks (Staff): Do you think it should be counted as a negative vote?

Commissioner Johnson: No, I think I think I shouldn't I don't think it should be counted at all.

Dustin Parks (Staff): Okay. That's an important distinction. That's why I was asking.

Commissioner Johnson: I think if a person is abstaining for you know, the right reason or whatever reasons, they take themselves off the case, that I don't think that vote ought to be part of the deciding decision.

Secretary Asher: So, what happens if I'm not here than I just don't vote, right? It doesn't count towards the majority. So why wouldn't that be the same? As if I'm absent?

Vice Chair Scherer: Well, I think the idea is to make sure that everybody that is present and heard the case, expresses an opinion. I'm not sure I agree with that.

Secretary Asher: Like so in Douglas County, if I abstain due to conflict of interest, I have to leave the room. I don't even get to hear the case.

Commissioner Phillips: That's different. That is disqualified.

Secretary Asher: Is that not the same?

Dustin Parks (Staff): No, no, they are treated differently. If you have a conflict of interest, that is you saying I'm not participating in this at all. If you're voting in abstention, that means you are literally saying I'm abstaining from voting, even though I'm qualified to vote.

Secretary Asher: Why would anybody ever do that?

Dustin Parks (Staff): Ask Paul.

Vice Chair Scherer: Or Steve, both have good arguments.....inaudible.

Dustin Parks (Staff): That's true. Steve does too. I was saying ask Paul, because you actually sit on, you know, you do stuff for the legislature. I'm sure you've seen this a lot.

Chairman Benyshek: But I can tell you there's only been two cases that I've been a part of here that I personally by this verbiage, and I can tell you right now I improperly stated it in those meetings that I had a true conflict of interest with the applicant because they were my customer from my job at the bank, however, in saying I abstained from voting or participating in the case. I will sit here and tell you I sat right here where Paul's sitting and listened to the whole case. However, I did not comment I did not vote.

Dustin Parks (Staff): You don't have to leave the room.

Chairman Benyshek: But I guess in that case.....

Dustin Parks (Staff): No because you stated you had a conflict.

Chairman Benyshek: What I'm saying is if we do make changes on here, it's important for all committee members to know, including myself at the time, which I didn't with the differences between disqualifying yourself from voting and abstaining from voting means. Which, I mean, I'm perfectly fine with removing the verbiage about abstaining from voting. I mean, we're quite frankly, unless it comes down to a quorum issue, quite frankly, disqualifying yourself is a zero vote.

Commissioner Phillips: There's a difference between disqualifying and abstaining. Earlier, I'd spoken, meetings ago about disqualification. And my question was, can the disqualified person speak as a member of the public? And my opinion was yes. On the abstention issue, I'm opposed to removing this verbiage, simply because I'm worried that it might cause cases where not to be an affirmative or negative vote. I'd hate to see a tie vote, or something not pass or not fail just because of an abstention. So, my personal opinion is this language should stay in on abstentions.

Secretary Asher: Can somebody tell me why you would ever do that? Like, what's an example of why you would just not vote?

Chairman Benyshek: Yeah, I mean, I get the point where you abstain, you're basically you're negating the fact of, you're not gonna raise your hand yes or no, but your vote is gonna, you have to be okay with going to the majority, whether that has a positive effect or a negative effect on the case.

Dustin Parks (Staff): The way ours is worded is that an abstention vote could cause a tie vote. And in which case, at that point, the Chairman has to vote. That's because the Chair is there to break ties.

Secretary Asher: There are always gonna be uncomfortable cases, but I mean isn't that your job. You are here to vote so vote.

Dustin Parks (Staff): So also, in the bylaws if there is a disagreement on how to handle a situation. It actually states that we refer to Robert's Rules of Orders. And Robert's Rule of Order on abstention vote says that they can based on the bylaws either count as the majority, or they don't count as a yay or nay. However, it also states that if you do not count the vote as the majority, the reason for abstention must be noted in the minutes. So, if you're not comfortable making a vote, you need to know the reason why. And you need to state that other than just saying I'm abstaining. So please keep in mind that if you decide to remove this portion, it will require whoever is abstaining to state the reason for their abstention. Because that's what Robert's Rules of Order says.

Commissioner Johnson: I'm good with that.

Chairman Benyshek: Well, we've spent enough debate time on this. So, I guess as the Chair, I'm going to either ask, or I'm going to ask one of our Commission members here to either make a motion to approve these as submitted or make a motion to submit a change to them.

Commissioner Phillips: I move we approve both as submitted.

Chairman Benyshek: Okay. Steve has moved that we approve our Jeff County Planning Commission bylaws as proposed in the packet sent out here. Do I have a second?

Secretary Asher: I'll second.

Chairman Benyshek: And then Tiffany has seconded that motion. So, unless.... Yes, go ahead Matt.

Vice Chair Scherer: There may be other items here to discuss.

Chairman Benyshek: Well, I may be out of order here but we're going to hold that motion and second and reopen the bylaws for further discussion here and potential correction before we, I guess approve them as read here. Go ahead, Matt.

Vice Chair Scherer: Well, I have a couple of things that are just questions like article one, part two, item three. I actually don't understand what that says. It shall be the responsibility of the Board of Zoning Appeals. And I believe this is similar to the section that we have as well. To authorize specific cases a special exception of the terms as allowed by the regulations. I thought that through several times, and I have no idea what it actually means.

Dustin Parks (Staff): Let's see, are you, you said article one, which line?

Vice Chair Scherer: Part two, item three.

Dustin Parks (Staff): Is that the Board of Zoning Appeals you're looking at?

Vice Chair Scherer: It is.

Dustin Parks (Staff): Okay. We're not there yet.

Secretary Asher: It's in the Planning Commission.

Dustin Parks (Staff): Okay, I'm sorry. Oh, good Lord. That is, okay. So, article one, part two, where it says the areas of responsibility for the Board of Zoning Appeals. That is not the official document. That is a carryover and I apologize. That was a carryover from when I was working on both at the same time. So that is not in the official bylaws for the Planning Commission. So, I apologize about that. I didn't even notice that.

Vice Chair Scherer: So, we should strike article one part two.

Dustin Parks (Staff): It's not technically an official document. So yes, you can strike it from what's presented, but the actual printed one that we would use for signing I don't think is there. And if it is, Erin take it out really quick. Because initially, I was going to do the bylaws for both boards, in one bylaw document, and then I found out that by state statute, it is best to keep well, not by state statute, but the way the state statute reads and then the way Robert's Rules of Order reads for meetings, it is best to keep those bylaws separate, because they are separate boards. So, I apologize for the confusion there.

Vice Chair Scherer: My next question is article three, meetings. It actually says meetings shall be held in the County Commissioners room on the first floor of the County Courthouse, except the Chair may cancel. I hate to be nitpicky, but we ought to have the opportunity to meet somewhere else without modifying our bylaws.

Dustin Parks (Staff): So that is actually covered under state statute. It does allow for the movement as long as the movement is posted at the original meeting place. So technically, the established meeting place is always the courthouse. And then as long as we post notification at that meeting place, now we tend to do it in the paper and send it out to the public as well, but by state statute, as long as we also post at the entrance for that meeting place where the meeting has moved to, you're still within state statute requirements. Otherwise, at that point, technically, the chair could say we're gonna meet at my house tomorrow. I mean, technically, I guess the chair could still do that. Like publishing in an official paper, you have to designate an official meeting spot. And then state statute allows for the alteration of where that is. But if you want to adjust that language, please feel free. It's just not technically necessary.

Vice Chair Scherer: I guess I understand what you're saying it seems clearer otherwise. I have a question that I've always wanted an answer to, and this seems like a good time to ask. We regularly say a majority of the Planning Commission membership. Is that a majority of the current membership or a majority of the seven? Like we currently only have six, for example.

Dustin Parks (Staff): That's a good question. I believe it's because the membership is supposed to be seven.

Vice Chair Scherer: That is the way it was treated, we always had to have a quorum before.

Dustin Parks (Staff): Steve, you want to weigh in here at all?

Commissioner Phillips: Well, all I can tell you is that's really a question for your County Counselor that I don't know the answer to off the top of my head. But there is an attorney general's opinion on point. But it would take somebody some legal research to get an answer. And I don't think we should just guess I don't know.

Dustin Parks (Staff): How about this Matt? I will do my best to find research for that. Because the bylaws don't have to be adjusted only at the yearly reorganization. Technically the board can adjust them anytime. And so, I'll do research for that. And if I find out that it is by wording different than we've been treating it, I'll let you know.

Vice Chair Scherer: Well, I'm just curious as to what the right answer is. I think the way it's written it could go either way.

Dustin Parks (Staff): I can see some ambiguity there. Yeah.

Commissioner Phillips: Something that's come up before you can find, you need some legal research on this.

Dustin Parks (Staff): Okay. Thanks, Steve.

Vice Chair Scherer: Article three, item 10 strikes me as backwards by the procedural and parliamentary rules adopted by the Planning Commission conflict, parliamentary procedures shall be according to the Robert's Rules of Order. And maybe it doesn't actually conflict but I'm not sure how that would occur.

Dustin Parks (Staff): It just did. Technically, by Robert's Rules of Order, if you're going to do the change to the how abstention works, you follow Robert's Rules of Order for that because the disagreement is whether or not you should abstain, or if your abstention vote should count. And so, Robert's Rules of Order, secondarily says, okay, if you're not going to do this, you need to do this. And that's where you state your reason for abstention and that sort of thing. To me, it's at least to me.

Vice Chair Scherer: I took this to be that there's a conflict between procedural and parliamentary rules, parliamentary rules would supersede that, that strikes me as backwards, you should be able adopt procedures that are not in accordance in accordance with Robert's rules as long as you adopt formally in your bylaw.

Dustin Parks (Staff): I think that's another question I should ask the County Counselor. Yeah,

Vice Chair Scherer: Yeah, I'm just confused.

Chairman Benyshek: Any other comments or inquisitiveness?

Commissioner Phillips: Sounds like we're ready to table this.

Chairman Benyshek: Yeah, I was gonna say I guess I didn't mean to get the cart ahead of the horse there.

Vice Chair Scherer: I do have one more. It's just an editorial one. Article Seven, number two, I think he dropped the verb 'are' at the end of the sentence there as they 'are' created.

Dustin Parks (Staff): So, I'm gonna have to ask the County Counselor about that. And I'm gonna be honest, the Board of Zoning Appeal bylaws are written the exact same way because these are the bylaws, we've had some minor alterations over the years, but these are the same bylaws that were put in place in 2009 for both boards. So, we might as well just assume moving forward that the Board of Zoning Appeals, I'll need to look at this as well for those, for the bylaws, at least.

Commissioner Phillips: Do we have bylaws then to operate under if a case should come up, or do we need to approve these and then....

Dustin Parks (Staff): In my opinion, and from what I've researched, technically the most recently adopted board bylaws for both are still qualifying.

Commissioner Phillips: But does that work now that we have different board structures, I guess is my question.

Dustin Parks (Staff): Yes, because the Board of Zoning Appeals still exists, and the Board of Zoning Appeals bylaws still exist for that Board of Zoning Appeals. The resolution didn't abolish the Board of Zoning Appeals. It just abolished the resolution that said they had to be separate.

Commissioner Phillips: Okay. I'm good with that. I don't know, procedurally how we do this....

Chairman Benyshek: Well, I'm gonna, I'm gonna back way up here, Steve. And I am going to assume you want to rescind your earlier motion to approve these as presented here.

Commissioner Phillips: Couldn't have said it better.

Chairman Benyshek: Okay. Very good.

Commissioner Johnson: So, what's what's a good timeline for giving Dustin the opportunity to, you know, research this.

Chairman Benyshek: I'm gonna ask Dustin that question. There's no better person to ask than the person who's gonna do it so?

Dustin Parks (Staff): Well, I would say I'd hope I'd be helpful to have this to you next month. But that's kind of reliant on our County Counselor. I should hopefully have a response by September. But I should also maybe hopefully have something by June. But I could have my first kid in there sometime. So that might change my timing.

Chairman Benyshek: That's fine. If we see them in June, great. If not, they better be in July. No, just kidding. So that'd be just fine. So, then I'm gonna recommend that we table the bylaws until future meetings. I can't motion it though. Somebody else has got a motion.

Dustin Parks (Staff): Technically, technically, there's no active agenda item for the bylaws. So, we just reviewed them, so we've decided to review them at a later date.

Chairman Benyshek: Okay. We've decided to review them at a later date. So, any other new business I guess before?

Dustin Parks (Staff): So, what happened today was the Board of County Commissioners did sign a resolution that specifies that the Planning Commission shall serve as the Board of Zoning Appeals, the Planning Commission members shall serve as the Board of Zoning Appeals membership. So, what that means is, is that you basically are automatically appointed to one board, you're appointed to both boards. And so that means the schedule has to be amended, and that sort of thing. We already had the schedule, and I wrote the resolution in a way and had it confirmed by County Counsel in a way that would allow us to basically, once the Board of Zoning Appeals meets for the first time basically introduces, you know, that does an officer election because it is April, and they do their officer elections in April as well. And after that meeting, adjourns we're allowed to post to the new Planning Commission and Board of Zoning Appeals meeting dates that are the same. So, there's not going to be a separate meeting you guys have to worry about in terms of different dates and times. It'll all be on the same date and time. So well, not at the same time. Technically, I did write it in so that they happen after Planning Commission business has ended.

Chairman Benyshek: Well, hold your horses there. I got a question. You just said the County Commissioners voted correct to essentially, if you're on the Planning and Zoning Commission, you're also on the Board of Zoning Appeals. Correct?

Dustin Parks (Staff): Correct.

Chairman Benyshek: Is that the same as far as the I guess, officer position carry over then? Not that I am looking for another chair position, but I'm just making sure that I didn't just sign up to be the Chair for one and a Chair for the other I guess is what I'm getting at.

Dustin Parks (Staff): So right now, Greg pay very close attention to this, so right now, technically, Greg is the chair of the Board of Zoning Appeals, which means he also has authority to open up, he has the ability to open up that for a vote and recuse himself from ever getting it again, if he wants to, because he's been on it for two years as the Chair. So, he could open it up and just say yep, okay, now someone else is doing it. But yeah, it's not inherent, the boards could decide that the Board of Zoning Appeals could decide to just carry over whoever is the chair for the Planning Commission can also do the same thing. But that's a board decision.

Commissioner Phillips: Does that happen in April?

Dustin Parks (Staff): Yes. So tonight, after this meeting adjourns, we will have to adjourn this meeting, convene the Board of Zoning Appeals meeting. The only agenda item is the yearly reorganization. We have that. There's no new business for it. There's no old business, and then they can adjourn. And then we can get the new schedules posted.

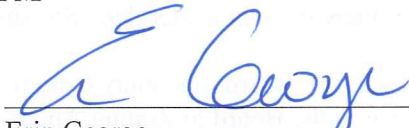
Secretary Asher: Dustin, I have a question. So, you said everyone on the Planning Commission automatically gets on the BZA. Does that mean everyone, are there people on the BZA now, do they join the Planning Commission?

Dustin Parks (Staff): So right now, we have three members of the Board of Zoning Appeals. Two of them are presently already on the Planning Commission. And one of them used to be but had too many personal commitments and decided to just do the Board of Zoning Appeals. She was Gale Rudolph; she was already on the Board of Zoning Appeals. And previously she was on the Planning Commission. So technically, yes, that means she becomes a member of the Planning Commission. But we're trying to get a hold of her to see if she's interested in that or if she wants to just get off both boards totally. But I think that's all we have. So, I think we're on item nine.

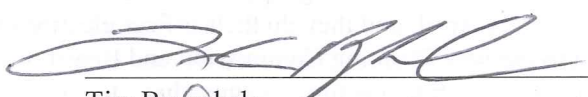
Chairman Benyshek: Yeah, that's sounds like a great idea. So, with no further business, I would seek a motion for adjournment to our April meeting.

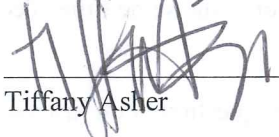
Secretary Asher moved to adjourn the meeting. Vice Chair Scherer. All said aye.

Item 9: ADJOURNMENT – 8:00 PM

Minutes taken by: 
Erin George

Approved: May 22, 2023
Date

Chair: 
Tim Benyshek

Secretary: 
Tiffany Asher

