

# Jefferson County Planning & Zoning Oskaloosa, Kansas

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## OFFICIAL

### OFFICIAL MINUTES OF THE JEFFERSON COUNTY PLANNING COMMISSION

#### Minutes of the Planning Commission Meeting of May 22<sup>nd</sup>, 2023

**Item 1. Call to Order**

**Item 2. Approval of the Agenda**

*Vice Chair Scherer moved to accept the agenda as presented and Secretary Asher seconded.*

Votes were taken by Ayes and Nays as follows:

| <b>Tim Benyshek<br/>Chairman</b> | <b>Matt Scherer<br/>Vice Chair</b> | <b>Tiffany Asher<br/>Secretary</b> | <b>Stephen Phillips</b> | <b>Paul Johnson</b> | <b>Greg Hazen</b> | <b>Gale Rudolph</b> |
|----------------------------------|------------------------------------|------------------------------------|-------------------------|---------------------|-------------------|---------------------|
| DNV                              | Aye                                | Aye                                | ---                     | Aye                 | Aye               | Aye                 |

Motion Passed 5-0

**Item 3. Roll Call**

| <b>Tim Benyshek<br/>Chairman</b> | <b>Matt Scherer<br/>Vice Chair</b> | <b>Tiffany Asher<br/>Secretary</b> | <b>Stephen Phillips</b> | <b>Paul Johnson</b> | <b>Greg Hazen</b> | <b>Gale Rudolph</b> |
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| PRESENT                          | PRESENT                            | PRESENT                            | ABSENT                  | PRESENT             | PRESENT           | PRESENT             |

**Item 4. Approval of the Apr. 24<sup>th</sup>, 2023, meeting minutes.**

*Chairman Benyshek asked if there were any corrections for the minutes. Secretary Asher moved to approve the minutes and Commissioner Rudolph seconded.*

Votes were taken by Ayes and Nays as follows:

| <b>Tim Benyshek<br/>Chairman</b> | <b>Matt Scherer<br/>Vice Chair</b> | <b>Tiffany Asher<br/>Secretary</b> | <b>Stephen Phillips</b> | <b>Paul Johnson</b> | <b>Greg Hazen</b> | <b>Gale Rudolph</b> |
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| DNV                              | Aye                                | Aye                                | ---                     | Aye                 | Aye               | Aye                 |

Motion Passed 5-0

**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.*

- 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. *CASE TABLED AT APRIL MEETING*

**During this time, staff asked who was here for the first case. The applicants, Dan and Carole Moore and their surveyor Jess Noll from Landplan Engineers were present. Matt & Becky Moore and Bob Chartier from the public were present also for this case.**

**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.**

**Chairman Benyshek:** I just have one quick question or maybe a couple here. I guess first off on the road extension, I presume they have to develop that and maintain it to the same standard of the existing private road there? Is that correct?

**Dustin Parks (Staff):** Yes. But the recommendation from the Road and Bridge department, from the Director of Public Works, is that they, they should do it to the county standard, though they don't have to because it's a private road. But they should at least do it to the same as the existing road is. The recommendation to do it to the county standard is just in case the road ever turns over, it's at least built to a county standard. But since it's a private road, there's no promise the County Commission would ever take it over. So, it's not a requirement. Just a recommendation. But that's not a recommendation we have in writing, just the conversation I had.

**Chairman Benyshek:** Sure, sure. And then this may be more of a question for the applicant when their time comes here to present on here. And maybe this really isn't relevant. But I'll ask the question. Anyway, I was just looking through the packet and notice, on the tax information here, it showed that the first half had been paid. But the second half were still outstanding on there. I didn't know if that runs into any requirement with us that the taxes be up to speed or maybe this is outdated.

**Dustin Parks (Staff):** That's because they initially applied in February.

**Chairman Benyshek:** Oh, okay.

**Dustin Parks (Staff):** But just as a process clarification, with every subdivision, what happens is, is if it's approved, before it can be filed in the Deeds office, all the taxes have to be paid. So regardless of the recommendation of approval or denial, once it gets to the point where well, I guess I shouldn't say regardless of denial, regardless of the status of the taxes upon recommendation, all taxes have to be paid before it can be filed in the Deed's office. So, the Deeds office won't accept it if the taxes aren't paid.

**Chairman Benyshek:** I kind of figured that much but I figured I'd clarify that. And I figured they were probably paid up, but I just, something I noticed. So that's all the questions I have for you. So, if other Commission members have questions for Dustin...

**Commissioner Rudolph:** I have a question about the first round, is that going to be absorbed into number two's property? Or is that going to stay in existence? I'm just curious. Because if they're going to provide a second one, just kind of curious how that that first one is going to be handled if it's going to stay in existence, or if it's going to be absorbed into this second lot property.

**Dustin Parks (Staff):** So, the way it's shown is it's shown as part of the roadway. It's not shown as within the bounds of the of the lot. So, I would assume it's probably, they're going to go ahead and keep that, you know, but they're under no requirement to keep it as a roadway. Because the only thing that the Planning Commission has purview over is whether or not the extension of the road is okay, because the previous stuff was approved already. But it's up to the HOA at that point whether or not they keep it but it's platted, or it's represented on the plat as still maintaining part of the road.

**Commissioner Rudolph:** Thank you.

**Commissioner Johnson:** How often does, is it usual for the County Commission to step in and make a special ruling on a request for a private road like this?

**Dustin Parks (Staff):** No, because we don't often get extension requests for private roads. So, while it's not something that happens often. Matter of fact, it's not anything that I've had to deal with since I've been here. When I looked back at the case history of this particular instance, because in all honesty, when this application came through, when I talked to the applicant, I said that they couldn't extend the road because of that article in the Subdivision Regs. And then I got to looking at the old case, this PR2016-01 and Z2016-02, and it was determined at that time between the Zoning Administrator prior to me, the last time I was here, Sam, and Counsel and the County Commission that that did not necessarily apply to existing private roads. And it was decided at that time, that the proper way to move through that was to ask the County Commission for permission to extend a private road as part of a plat like this. So, I can't say that it happens often. But I can say that there is historical precedents for it occurring.

**Commissioner Johnson:** So, who's responsible for maintaining this private road?

**Dustin Parks (Staff):** That would be the HOA. One of the reasons that the County Commission approved that is because the HOA is active in the road repair. If I'm not mistaken, there may actually be a member of the public who's present who actually partakes in helping to keep the road maintained. But because the HOA is active in that, and has been for a number of years, that's why the County Commission went ahead and approved the exemption request.

**Commissioner Johnson:** So, if it were not maintained for whatever reason, or the homeowner's association, you know, broke apart or, you know, whatever, does it fall to the County's responsibility?

**Dustin Parks (Staff):** No. No private roads are private roads. And if they're not accepted into the road maintenance network, then they just, you know, you can ask Matt, they just kind of fall to the wayside. That is the risk of private roads, which is why they have to ask for a special exemption, because it's also a way for my office and the County Commission to go look, yes, you can extend this private road, but understand that if the HOA goes away, we're not taking it over. It's a private road.

**Commissioner Johnson:** So, these, in essence, then grandfather in because of when it was developed and so going forward, we have restrictions on this kind of private road development?

**Dustin Parks (Staff):** Correct. Case in point, I actually spoke and clarified about this, when I was researching this. So, let's say that Valley View Drive runs north and south, but they wanted to do an East West Road, that would have been an automatic denial from our office, because that's creating a new private road. So even within this subdivision, the creation of a new private road wouldn't have been recommended for approval from my office. But because it's an extension of the existing private road with the same name along the same path, that sort of thing. That's why the exemption was requested. But that's also why I'm recommending an exemption or the request for a condition that says no more exemptions on this road, because there's not a whole lot of space left to take this road.

**Commissioner Johnson:** So, the last question. So, do we have a number of these instances of grandfathered in private roads in Jefferson County?

**Dustin Parks (Staff):** Every private road that exists is technically grandfathered in. Because they existed before we had regs that say you can't do them. So, I don't know how many there are off the top of my head because really the roads are not our department.

**Chairman Benyshek:** There's four or five off the top of my head that I know of that exists in the county. But I can tell you some folks do a lot better job of maintaining them than others, but that's irrelevant on this matter. So, any further questions for staff before we move into the applicant presentation here? All right. Well, seeing none, now is the point where if the applicant or applicant representatives would like to make some brief comments or presentation if you would make your way to the podium and state name and address for the record and fire away.

**Applicant Dan Moore (9800 Valley View Dr.):** My name is Daniel Moore. 9800 Valley View Drive, Ozawkie. We live on what has been shown as lot number three. Been there pretty close to 50 years this year. With me is my wife, Carole, and my son Matt and his wife, Becky, who will be purchasing one of the lots and buildings this summer. And also, Jess Noll with Landplan Engineering is here as well. I'm just here to answer questions at this point. I won't belabor the the meeting at all, but happy to answer questions.

**Chairman Benyshek:** Not to pick on the roadway any more than we already have, but I've been back up in there a few times and this and that. And I can't remember, is it just graveled up that way Dan or did you guys actually pave it back that way? I kind of forget.

**Applicant Dan Moore (9800 Valley View Dr.):** Yeah, it's gravel? Yeah. Yeah. Homeowners Association has stayed active through all the years and no reason why to why they shouldn't in the future because it's in everyone's best interest. When I originally platted that land the lots, it was the intention that after all the utilities had gotten in and and all the street crossings and so forth, that we would make it a public road and seal it. But in the meantime, the standards became much more severe than just a sealed road, asphalt road requirement. And so, it became prohibitive for the homeowner's association to go ahead and asphalt it, but the situation is and it has worked fine for everybody.

**Chairman Benyshek:** Any other questions from Commissioners for the applicant at this point in time?

**Commissioner Johnson:** Normally I get a printed copy from the Planning office to be able to review this case. I didn't get that. So, I didn't go through as much over the internet as I probably should have. How many members are in this Homeowners Association?

**Applicant Dan Moore (9800 Valley View Dr.):** I can't tell you but I'm gonna guess about twenty.

**Commissioner Johnson:** Okay. And do you have other annual meetings of the Homeowners Association, or do you have officers or how is that organized?

**Applicant Dan Moore (9800 Valley View Dr.):** We have officers. We have annual meetings. We set the dues every year. We've got some money in the bank, which helps sustain.

**Commissioner Johnson:** And the dues go for obviously, road maintenance and then other activities.

**Applicant Dan Moore (9800 Valley View Dr.):** About the only other item is liability insurance on the road. And that's a small item, but the bulk of it is for road maintenance. And the people only, typically it's \$100 a year. The road is essentially mostly on a high grade where it doesn't have a lot of water washing the street out and so forth.

**Commissioner Johnson:** So, so if you have flood events or problems with the road, then that's dealt with by the Homeowners Association.

**Applicant Dan Moore (9800 Valley View Dr.):** Yes.

**Commissioner Johnson:** And so when you say gravel, it's not chip and seal or it's not, it's just basic gravel.

**Applicant Dan Moore (9800 Valley View Dr.):** Yes.

**Dustin Parks (Staff):** I would like to make a point of clarification. Paul, that is the packet that I handed you in person when we met for the RFP.

**Commissioner Johnson:** Sorry.

**Dustin Parks (Staff):** No worries.

**Chairman Benyshek:** Okay, if there are no further questions of the applicant, we'll move right along to any members of our audience or public here would wish to speak in favor of the application, now is your chance to approach the podium and be heard. Right, well, and I'm assuming if there's anyone in the audience who'd like to speak in opposition of the application, it would be your time now to approach the podium and be heard. And I assume there's no rebuttal coming after that.

**Dustin Parks (Staff):** There is no one else on Zoom, other than Commissioners and us?

**Chairman Benyshek:** Yeah, sorry. I looked up there. I didn't see anybody so. So okay. We will go ahead and close the public comment and presentation portion of it here. So, are there any other final comments or questions on the application or staff or otherwise, now would be the time and if not, would be glad to hear any motions or recommendations here? Yes, Matt.

**Vice Chair Scherer:** I'd like to see the proposed motion, since it's not in our packet.

**Dustin Parks (Staff):** Oh, yeah. Hold on. Let me, I'm going to share my screen. There's the recommended motion. You can always use your own motion; you don't have to do the one that's recommended.

**Vice Chair Scherer:** We recommend approval of application Z2023-04 and PR2023-04 based upon the recommendation of staff specifically not including the recommendation regarding the extension.

**Chairman Benyshek:** Just so I'm clear here you're moving approval upon staff's recommendation with the exception of not including the last sentence there of no further extensions or regulatory exemptions?

**Commissioner Asher:** As to why you don't like it.

**Vice Chair Scherer:** I'm not so much opposed to recommending but what I'm concerned about is us recommending to the County Commissioners that they not do something, because they're the ones that provide exemptions and that kind of stuff. And that's, I tried to reword it in my head and couldn't come up...I suppose we could say... recommend the County Commissioners not provide any further extensions?

**Commissioner Asher:** Unless they want to?

**Dustin Parks (Staff):** You could add the language that if you do want to include that, you know, in a way that would allow the County Commission to view it as a Planning Commission recommendation but not a demand from the Planning Commission. You could state that instead of saying no further extensions or regulatory exemptions be permitted. You could say that the Planning Commission recommends approval of the applications as proposed as you did with your motion and then also state and further recommends the County Commission consider no further extensions or regulatory exemptions on Valley View Drive. That's not telling them that they can't or can't, and it's still leaving it to the County Commission to make the determination. And then they would be able to put that as a requirement on the on the final plat.

**Vice Chair Scherer:** Well, that's the language I couldn't come up with, so that's certainly satisfactory. So, I consider my motion amended.

**Chairman Benyshek:** The amended motion would be seeking approval for Z2023-04 and PR2023-04 as stated by staff, and recommending the County Commission consider no further extensions or regulatory exemptions be permitted in relation to Valley View Drive. So. Okay. Hopefully everybody on Zoom caught that amendment there or the gist of it. So, we have a motion on the floor currently. Tiffany has now seconded that motion. So, unless there's further discussion to be had, I would call a vote and all those in favor, please say aye.

**Dustin Parks (Staff):** Gale, did you have a question?

**Chairman Benyshek:** I'm sorry, I can't see the folks on zoom here.

**Commissioner Rudolph:** No, I didn't have a question. I was just voting for.

**Dustin Parks (Staff):** Sorry about that. I didn't realize I was still sharing my screen.

**Chairman Benyshek:** Matt and Gale for, Greg, I apologize. I didn't hear see your hand. Are you for approval of the motion there?

**Commissioner Hazen:** Well, I guess, you know, I don't object to this rewording, but I think at the same time, you might be doing the Commissioners a favor by taking that question out of their hands. I don't see any merit in making that a through street. In fact, I think if it became a through street, you probably would have the 22 residents of the HOA in here irate because their private drive has now become a through street. So, I'm in favor of the staff report recommendation.

**Chairman Benyshek:** Well, the question is, is are you in favor of the motion that's been presented? Yay or Nay? You're on mute, Greg.

**Commissioner Hazen:** Nay.

**Chairman Benyshek:** Okay. We've got three, three ayes one nay. So, three to two. Sorry. So just for the record. We have Paul nay, Greg, nay, Matt, Tiffany and Gale as yeses or yeas or ayes for the motion. So, the motion for recommendation to the County Commissioners would be approved. I hope I got that right there.

**Dustin Parks (Staff):** I believe so.

**Vice Chair Scherer moved to approve PR2023-04 and Z2023-04. Secretary Asher seconded.**

Votes were taken by Ayes and Nays as follows:

| <b>Tim Benyshek<br/>Chairman</b> | <b>Matt Scherer<br/>Vice Chair</b> | <b>Tiffany Asher<br/>Secretary</b> | <b>Stephen Phillips</b> | <b>Paul Johnson</b> | <b>Greg Hazen</b> | <b>Gale Rudolph</b> |
|----------------------------------|------------------------------------|------------------------------------|-------------------------|---------------------|-------------------|---------------------|
| DNV                              | Aye                                | Aye                                | ---                     | Nay                 | Nay               | Aye                 |

Motion Passed 3-2

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

**No public left.**

**Item 7: OLD BUSINESS, GENERAL STAFF REPORT**

**Dustin Parks (Staff):** Old business. So, I'm going to be honest, I'm going to kind of go through this stuff kind of quick. I don't know if this is old business or new business. But as you guys know, we're expecting our first kid. And on Friday is the official due by date. So that's when they're going to induce but she could go pretty much at any time. So, I'm going to be in and out of the office this week. And then probably for a couple of weeks after Friday, if not a little longer. So, the cases that were reviewed for the text amendment and the Martin Subdivision. Previously, those have both been finalized and approved and move forward. The Martin subdivision there on Lake Dabinawa has been filed already. Matter of fact, I think they even closed on the sale of the property that precipitated the actual split. And for old business, I think that's it for old business.

**Chairman Benyshek:** I don't want to spend a lot of time on this, but I don't want to keep necessarily bringing it up every meeting. But has there been any further movement on the crypto place?

**Dustin Parks (Staff):** So, I'm gonna cover that in new business.

**Chairman Benyshek:** Okay. Fair enough. So, okay. Unless there's any other questions from Commissioners, we'll move...go ahead Paul.

**Commissioner Johnson:** Actually, to piggyback on what we just went through with this private road. So, going forward will that be a debate within maybe a revision of our Comprehensive Plan and....

**Dustin Parks (Staff):** Maybe we should talk about that with the Comp Plan revision of new business. Maybe I had something planned, Paul.

**Commissioner Johnson:** Thank you.

**Commissioner Johnson:** Cluster development is something that I think we need a detailed discussion about.

**Dustin Parks (Staff):** Way to steal my thunder.

**Chairman Benyshek:** But I will add of all the Subdivisions in Jefferson County, I will say the one that we just heard is probably the unfortunately or fortunately, however, you want to look at the least of our concerns when it comes to maintaining and expansion. But yeah, it's a valid point on private roads, nonetheless.

**Commissioner Johnson:** We have different plans on septic systems, you know, where the, you know, Homeowners Association, or community septic system, then, you know, there's clear responsibility and then it falls to the County when the Homeowners Association falls apart. And you know, so just clarification.

**Chairman Benyshek:** We're gonna give you your thunder back. We're back on to new business here.

#### **Item 8: NEW BUSINESS**

**Dustin Parks (Staff):** So, three quick things. One. I'm now tempted not to talk about it at all, just to poke at Paul a little. So, the County Commissioners are still reviewing the RFP proposals that I emailed you guys. I anticipate if they have a meeting next week, that I'll get a final answer next week, if they don't have a meeting, it'll be the following meeting. So, I don't know for sure if they're going to hold a meeting next week. At this point, I don't think they're planning on it, unless something comes up. So, I'm hoping to have a final solid answer on if they've selected the proposal no later than June 5. With that being said, this kind of ties into what Paul was talking about. Both proposals have a level of regulation update, whether that's taking a lot of our regs and redoing them and reworking them to fit the Comp Plan and better, better guidance, or whether it's redoing them entirely from the ground up. Both proposals have a level of that in there. And I think Matt made some really good comments. And I did forward those to the selection committee. And one of the big things that for me, personally, and that, that I recommended to the to the selection committee, was that there are a lot of our regulations that are starting to not stand the test of time, whether through changes in statutory requirements, changes in housing requirements, changes in interpretation. There's a lot of regulation that either needs updated, or entirely reworked. When I say reworked, I mean, you know, we gut it and redo it. Updated, just kind of to me means, you know, some changes to language to make it fit better with what we have that sort of thing. In that, in that vein, there are things in our Subdivision Regulations that definitely clarification. Because, you know, stating that no private road shall be on a plat, can lead to some interesting questions, for instance, like Lake Dabinawa, that's the only road there. So, does that mean that nobody's allowed to utilize that for anything, even if they're not a part of the association? And there's no clarification on that, it just says, no, don't do it. Yeah, but that's, you know, you got to under state law, you have to have a mechanism in place for how to do something like that. Even if that mechanism is, it can no longer be a private road, you must go ahead and get it accepted into the County Road maintenance network and pave it. An expensive mechanism. but there's at least a mechanism. And in that, in that regard, a lot of those private roads, like Paul was talking about, we're going to need to figure out what we do with them. Because at a certain point, any more things like community sewers, and stuff like that, that Paul was mentioning, are actually now mandated by KDHE. They weren't when our regs were written in 2009. But if you have, over a certain number of people utilizing the same system, it becomes a public system and public systems are, are designed and monitored by KDHE. Now, that doesn't mean the sewer district itself wouldn't be taken over by the County, which we have, I think, 12 of. I think the County is in charge of 12 different sewer districts. But, you know, the County doesn't want to do that either. And so, there's a level of, of incongruity between state law, our

regs, and our Comp Plan that needs to be addressed. And I think both proposals the County Commission has in front of them are capable of doing so. And I think one of them, one of them probably better than the other. But because they haven't decided I'm not going to go into that. And so, yeah, that I think that the RFP situation, I think we'll have a better clearer picture of by our June meeting. Obviously, when I find out, I'll let the Planning Commission know, because Planning Commission members are not required, but encouraged to be a part of the steering committee, because not only do you represent different areas of the County, but you're the most familiar with the regulations and the Comp Plan, aside from the folks in our office, so you know, if you if you have the time to that, to dedicate to that, that'd be fantastic. And we'd love to have you on the steering committee, but that will depend on kind of how the County Commission moves forward. You know, there's still a chance the County Commission can look at me and say, we're not spending this money. We're not doing it. I don't think that's the case because the money has already been set aside. But there's a chance it's out there. That's a possibility. Nod or shake your head. I think that's everything I had. Yeah, that's everything I was going to cover for new business. Because the RFP is kind of right now up in the air, we have a lot of stuff we need to discuss, but it's going to depend on who is selected before we can figure out exactly how that discussion takes place.

**Commissioner Johnson:** So, with Marvin, that was integrated into their cost proposal, they would do a complete rewrite of....

**Dustin Parks (Staff):** Some of this, Paul, I'm going to stop you because the County Commission hasn't decided on this. And not all of this is public knowledge.

**Commissioner Johnson:** Well with PEC, it would be a further expense?

**Dustin Parks (Staff):** To get a complete rework of the regs was not included in their proposal, correct.

**Commissioner Johnson:** And can you talk a little bit about? Well, I don't know, obviously, we have to wait till the proposals been determined who gets it. But do you see differences in how we would put together a steering committee over it?

**Dustin Parks (Staff):** No, I don't. I mean, I imagine the processes might be slightly different. But I see it being a very similar process between the two. I mean, it's, you know, reaching out to stakeholders, reaching out to the individual cities. You know, there's criteria, there are checkboxes you have to hit no matter who does your you know, no matter who your contractor for that is. So, while I see the processes may be slightly different. And I can't tell you what those are, because I don't have those people in front of me to talk about it. I see the end result being very similar in terms of forming a steering committee.

**Commissioner Johnson:** Are we still talking about a 16-to-18-month timeline?

**Dustin Parks (Staff):** Yes, and if the regs are included, maybe a little longer.

**Chairman Benyshek:** Matt had a question for you here, Dustin.

**Vice Chair Scherer:** Just a minor one. You sort of implied that we have cases for a June meeting?

**Dustin Parks (Staff):** Oh, yes, we do. We have one case for the June meeting that was applied for. It's a four-lot subdivision that is correcting, how's the best way to put this? They correctly did an Ag lot split, and then thought that because they did the Ag lot split, they were allowed to create another piece of property, so like they kind of did something for mortgage, so they basically accidentally made their property non-compliant. And so, they're kind of trying to fix that. So, it's a four-lot subdivision where we've got kind of Paul's bread and butter, we've got three two to three acre lots like right next to each other, and then like 45-50 acres behind it. So, because they're just kind of trying to correct that Ag lot split mistake that they did. And then we have two other cases that were applied for this month, but they're within city notification areas. So, they won't be until July. So, we have at least two cases in July.

**Chairman Benyshek:** And then, the only other thing I'm gonna hold you to it, you told me to wait till new business was if there's any update on our McLouth crypto place or so maybe there's not.



**Dustin Parks (Staff):** The rumor is right now that everyone's held out of the property. There's still equipment on site, but they haven't touched it in over a month, month and a half. As far as the crypto stuff itself, it hasn't been touched since we issued the stop order. Matter of fact, it's actually less, they've removed some of the equipment, some of the generators and all that stuff. But even the oil and gas stuff seems to have been put on hold. And as I said to the County Commission today, our guess is that it has to do with some of the backend litigation that was happening between lease holders and property ownership and all that stuff. As far as the regulatory stuff goes with that, I believe is going to be a bigger conversation with whoever we choose for the firm to help us update our regs. I have started some stuff just kind of, you know, playing around with wording and stuff like that. But since both of our proposals offered updates to regulations, at the very least, I'm going to kind of hold off until we can get some professionals on that.

**Commissioner Johnson:** So, we have a moratorium on commercial wind, commercial solar, and obviously the crypto piece at this point. Does that prevent doing, especially on commercial wind, people doing more doing, pilot testing of wind potential....

**Dustin Parks (Staff):** Like MET towers and stuff? Yes. Yeah, it prevents that too, because it's related to commercial wind.

**Commissioner Johnson:** I don't know if this is within your bailiwick, but I mean, I know that Commissioner Malm talked about that it was looked at 10 or 15 years ago. And it seems unviable at that point in terms of the you know, what commercial wind systems were available, etc. Given the larger wind systems and our ability to operate it, and more wind speeds? Is Jefferson County any more viable than it was 15 years ago?

**Dustin Parks (Staff):** I mean, statistically, yes. You know, it's, it's not an impossibility, which is why we asked him to put it on hold, because we were getting questions from a lot of you know, and I know, I've said this multiple times before. You know, we were getting questions from engineering firms and law firms in the Kansas City Metro and some other major cities, you know, calling asking what our regulations looked like. And it really felt like we were being put on a list of easy targets, because we don't really have any. So that's why I asked them for a moratorium so that we can research getting them. Because whether or not they're more viable doesn't matter, honestly, because eventually they will be. So, it's not what's available today, it's what we're planning for in the future.

**Commissioner Johnson:** So, what authority does the county have in terms of, there's been an incredible debate about, you know, this direct current line coming out of western Kansas going across northern Kansas, for the Grain Belt express in terms of moving power to the eastern part of the state. What, what does, what authority does Jefferson County have in terms of the siting of high-power voltage lines?

**Dustin Parks (Staff):** That is a question for the County Counselor because we have some regs that talk about transmission lines. But there's a lot of questions as to whether or not we even have the authority to do that, because it's a utility. And the state has exempted utility from a lot of zoning requirements. So that's a question for the County Counselor.

**Commissioner Johnson:** So, I have this document in front of me called the official oath. Yes.

**Dustin Parks (Staff):** Yes. That's the last thing, I was just waiting for you to finish your questions.

**Commissioner Johnson:** Well, so didn't I pledge to the God and the Constitution when I was reaffirmed as a Planning Commissioner?

**Dustin Parks (Staff):** You did, but you're now on the Board of Zoning Appeals as well. So, these, we don't have to do the whole you know, hold your hand up and say it out loud anymore. They just need to be signed. But they need to be signed by a witness. And so, if you're on camera, now you can sign it. Or if you don't have one, we can either get you to stop by the office. Um, and get it signed. If you're already on the Board of Zoning Appeals, you really don't need to worry about it, because you're only supposed to have to do it once. But Erin rightfully insisted that we have the new Board of Zoning Appeals folks to do it. And I was tempted to argue with her, but I have argued enough other stuff lately

that I felt that that was a no-win scenario. So just go ahead, if you have it in front of you, please feel free to sign it. If you do not, we will get one in the mail to you. And we can get you to sign it either in front of a witness or you can swing through our office, whichever is easier for you.

**Commissioner Johnson:** So, I'm gonna use up my full four minutes here. So, are you gonna send out, when we actually get a case for the Board of Zoning Appeals....

**Dustin Parks (Staff):** You'll get a staff report and everything just like you do with the Planning Commission.

**Commissioner Johnson:** We will get notified right?

**Dustin Parks (Staff):** Yeah. You'll get stuff just like with the Planning Commission.

**Commissioner Johnson:** That will be part of the Planning Commission's packets?

**Dustin Parks (Staff):** Yes. I mean, technically, it'll be separate, it'll be separate documents and everything. We have to do separate minutes and all that stuff. But yeah, it'll be part of the packet. And the other thing is that I'm working on getting you guys documentation. To give you more information about the zoning appeals, I'm actually working with the American Planning Association on getting some documentation from them on Board of Zoning Appeals standards and stuff like that, just so that you guys have some information.

**Commissioner Johnson:** We're gonna do a 101 course on what the zoning appeals thing is? I mean, you try and deal with it in house administratively if you can, right?

**Dustin Parks (Staff):** Yeah. And so, in short, you need to look at the Board of Zoning Appeals as what is the most politically correct way, I can put this? When I say something, someone doesn't like about their property, whether they can do something, they can't do something. And that something is not directly related to a Planning Commission case. So, for instance, the subdivision request today, for the road extension, that has to do with a subdivision or zoning regulation that deals directly with a Planning Commission related case. So that's either got to be done through you guys as the Planning Commission, or the County Commission, but anything administrative, if I tell someone, no, you can't build that, if I say, this is what this regulation means. Somebody can disagree with that. The property owner can disagree with that. And they bring that grievance to the Board of Zoning Appeals. So, it's not something that the Planning Commission would see, because it's not a public hearing case, in terms of they are changing land use. It's something where they disagree with my decision about what they can and can't do, administratively. So, you guys are my, the Board of Zoning Appeals is the state statutory allowed check for zoning officials. And then from you guys, if they don't like what you guys have to say they take it to District Court.

**Commissioner Johnson:** But in the case of what we saw with the private road, they can, if they want, they can jump to the County Commission, to basically then the County Commission becomes the Board of Zoning Appeals?

**Dustin Parks (Staff):** No. So, the County Commission does not oversee the Board of Zoning Appeals. So, in that instance, because that thing was directly related to what would become a Planning Commission case. They could talk to the County Commission about that. But if I had told them, here's a good example, if I had told them, you have to do your setbacks like this, and it doesn't meet what our regs say. That's not the Planning Commission doesn't have the purview of the regulation for setbacks per property, because the regulations for the setbacks are already in place, right. So, if I told them, you know, you can't put your building there, because it doesn't meet the setbacks, but it did. They would then go to the Board of Zoning Appeals and say, hey, the zoning official here said that this building doesn't meet the setbacks. And it does. Here's my survey that shows it does they just didn't agree with this. Then you guys determine if that's accurate or not. Or sometimes there would be people who go I know it doesn't meet the setbacks, but I have to build closer to the property line because of x, y and z. I'm not allowed to approve that administratively. And the County Commission doesn't see that, that is specifically the purview of the Board of Zoning Appeals. So yeah, there's a fine line with what can go before the County Commission and what must go before the Board of Zoning Appeals

**Chairman Benyshek:** All right. So, if there's not any further new business, we might be ready for adjournment this evening.

**Secretary Asher moved to adjourn the meeting. Commissioner Rudolph seconded. All said aye.**

**Item 10: Adjournment – 8:11 PM**

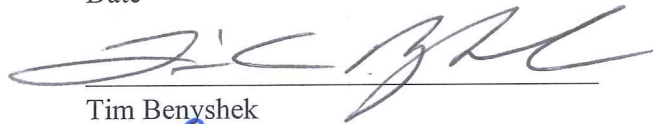
Minutes taken by:

  
Erin George

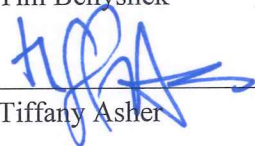
Approved:

6-26-2023  
Date

Chair:

  
Tim Benyshek

Secretary:

  
Tiffany Asher

