

1 COMMISSIONER KARSKY: We will now move on to
2 our public hearing and second reading to consider
3 adoption of ordinance amendment number 2302.
4 Scott Anderson, planning director. Before we get
5 to this, Scott, does any group wish to take a few
6 minutes to break to conference? Everybody is
7 good? I don't see anybody looking to do that.
8 Okay. Go ahead, Scott.

9 MR. ANDERSON: Thank you, Scott Anderson,
10 planning director. And today, as you indicated,
11 is the public hearing, the second reading and
12 possible final adoption of an ordinance amendment.

13 As we're aware, this is an ordinance amendment
14 that would regulate transmission pipelines. And
15 this has gone before the planning commission. It
16 was at the planning commission in April and it was
17 voted six-zero to approve the ordinance and send
18 it on to the county commission.

19 And before we -- I'll give you a brief -- and
20 the audience -- a brief explanation because
21 sometimes zoning can be complicated, but this sets
22 up transmission pipelines as a permitted special
23 use in several zoning districts in the county.

24 Now, I want to explain the differences
25 between -- because this is vital and it's

1 important for everyone to know -- there -- so you
2 have a zoning district, and then you have --
3 within that zoning district you have permitted
4 uses, special permitted uses, and conditional
5 uses.

6 Permitted uses are things that are just
7 allowed. For example, you know, agricultural
8 crops or a house is just a permitted use in a
9 residential district.

10 Then you get in -- the next category is
11 permitted special uses, and that would be uses
12 that if you meet criteria that is set forth in the
13 zoning ordinance, you meet all that criteria, it's
14 permitted.

15 If you do not meet that criteria, you have the
16 option of taking that use and applying for a
17 conditional use and then that would go to the
18 planning commission. A conditional use is a use
19 that's specified that always has a public hearing
20 before the planning commission, so those are the
21 three differences.

22 Now, the way this ordinance -- the proposed
23 ordinance is being brought to you is a
24 transmission pipeline would be a permitted special
25 use. That would mean there is a -- some set

1 criteria. If that transmission pipelines meets
2 all that criteria, for example, setbacks,
3 providing information, a number of criteria that's
4 set forth. If the applicant can meet all of that
5 criteria, it's permitted. They have the right
6 to -- we issue a special permitted use. They move
7 ahead.

8 If for some reason they cannot meet that
9 requirement, the requirements set forth, then they
10 have the option of requesting a conditional use
11 permit. And that would go to the planning
12 commission, neighbors would be notified, property
13 owners within 500 feet would all be notified. A
14 sign would be posted on the property and we go
15 through the hearing process.

16 The hearing process being it goes through the
17 planning commission. We have a public hearing.
18 The planning commission can make recommendations,
19 add conditions, and so on.

20 And then after that, there is a one-week
21 period that anyone can appeal that planning
22 commission decision. The applicant could appeal.
23 A neighbor or a property owner, an aggrieved
24 citizen, anyone can appeal. The planning staff
25 could appeal. Anyone can appeal that and we place

1 it on an agenda for the county commission to have
2 a hearing and we go through that process.

3 So what -- let me explain the districts that
4 we're adding the permitted special use to and the
5 reasons for that. So the transmission pipeline is
6 going to be -- we're propose to add this as a
7 permitted special use in the A1 agricultural
8 district. The rural residential district. The R1
9 residential district. The C commercial district.
10 The I1 light industrial district. The I2 general
11 industrial district and the RC recreation
12 conservation district.

13 And then, in addition, the proposed ordinance
14 sets up additional use regulations. This is the
15 meats and bones, the nuts and bolts of what they
16 need to meet in order to apply for the permitted
17 special use, and then it also -- the ordinance
18 also sets forth several definitions because we did
19 not have definitions for transmission pipelines,
20 and let's see, it was transmission pipelines that
21 are created, a gas pipeline facility, a hazardous
22 liquid pipeline facility, a regulated substance,
23 and transmission pipeline.

24 So those definitions are included in the
25 ordinance, and those will be either added or

1 amended to the existing ordinance. And then,
2 finally, there's a severability clause, which is
3 basically saying that if a portion of the
4 ordinance is overturned, then not the entire
5 ordinance is overturned.

6 So there -- there is a setback that's being
7 proposed, and, Trish, if you could scroll back to
8 the proposed setback, because that's really, I
9 think, going to be one of the major talking points
10 that you're probably going to hear today is there
11 is some criteria, some separation criteria, that
12 is put forth in the proposed ordinance. From a
13 dwelling, a church, or a business, we're proposing
14 a 750-foot setback. From a public park or a
15 school, there's 1,000-foot setback. And then
16 there's some setbacks from first class, second
17 class, and third class municipalities, and those
18 are spelled out on the threshold for the size of
19 those municipalities. And then the setback is
20 either going to be one mile, three-fourths of a
21 mile or half a mile.

22 Now, the way this is prepared they, an
23 applicant, "they" being the applicant, need to
24 meet the criteria, the setback -- minimum setback
25 criteria. If they do not meet that criteria,

1 there is an option written in the ordinance that
2 the landowner can sign a waiver and they could
3 build closer providing that landowner has signed
4 that waiver, so there's some mechanics in
5 there. If they cannot obtain the waiver and they
6 still need to -- they can't meet that setback,
7 that would trigger the conditional use permit
8 process.

9 So with that being said, I also have prepared
10 some maps. If at some point you'd like to look at
11 them, there is some general maps that show the
12 entire county and what a 750-foot setback would
13 look like, and then we also have a map for each
14 township going from northwest to northeast sort of
15 through the entire county. And that's just for
16 visual effect. It's not -- because we're always
17 going to be adding new residences, so it is at
18 that point -- right now it shows you what a
19 general setback would look like and then gives you
20 an idea that there are areas that you could have a
21 proposed pipeline go through, so I'd be glad to
22 answer any questions.

23 COMMISSIONER KARSKY: Why wait? Let's see the
24 map.

25 MR. ANDERSON: So if you could bring those up,

1 Trish, we'll -- because this is sort of
2 interesting, yeah, just do the -- let's do the --

3 COMMISSIONER KARSKY: Whole county?

4 MR. ANDERSON: -- full county and then we'll
5 do the -- yeah, there you go. There you go. So
6 this shows basically -- it's very interesting, and
7 we don't -- sometimes don't -- we don't realize
8 how densely populated our county is. But so the
9 blue dots basically show every residence and a
10 750-foot setback around that. And then it shows
11 the setback around municipalities. And if you'd
12 like, we can go through, for example, why don't we
13 go back to one of the townships, Trish. If you go
14 back to the township map and we'll -- there you
15 go. So we have this set up. This would be
16 starting in the northwest county. This, I think,
17 is Buffalo Township, and it would show you the
18 setbacks from existing residences. And if you
19 keep on scrolling, it will go to the next -- I
20 think it goes to the -- that's Buffalo Township.
21 If you scroll down, this is the next one which I
22 think is Taopi. If you scroll down a little bit
23 further, Trish, I think it's Taopi. Yep.

24 So if you go back up, it shows you, you know,
25 Colton, the setback for Colton, and then the

1 residences. And we have this -- we can pull up
2 any township you want, but like I indicated, they
3 start at the northwest corner, they go across and
4 then down, and then over and down and over and
5 down and over. So if you'd like, we can look at a
6 specific township, but this just gives you the
7 general idea of what we've prepared and the
8 wonders of GIS, so...

9 COMMISSIONER KARSKY: Just for clarification,
10 this setback is from the property line, not from
11 the structures?

12 MR. ANDERSON: Right now the way the ordinance
13 is written, it's from the property line.

14 COMMISSIONER KARSKY: Okay. Thank you. Other
15 questions? All right.

16 MR. ANDERSON: Thank you.

17 COMMISSIONER KARSKY: Thank you, Scott. All
18 righty. Now we will go into testimony from
19 proponents, and proponents are those that are in
20 favor of this ordinance. I am going to ask that
21 if there's a spokesperson, that they go first.
22 And that spokesperson, if you would have your
23 people that you're speaking for at least raise
24 their hand or stand so we have an understanding of
25 the size of your group. Yeah, put it there and

1 she can pass it down.

2 * * * * *

3 MR. ELDRIDGE: Good morning, commission.

4 Thank you all for your time. I do have a handout,
5 so I'll pass this out if your --

6 COMMISSIONER KARSKY: If you want to hand them
7 to Tyler, he can take care of that for you. Thank
8 you.

9 MR. ELDRIDGE: Thank you. So, again, my name
10 is Aaron Eldridge. I am the South Dakota Project
11 Manager for the Summit Carbon Solutions project
12 and pipeline. And so I want to spend just a few
13 minutes talking about some of the things that
14 we've covered and providing a little bit of
15 additional information, so what we're handing out
16 right now is a list of maps of pipelines that are
17 existing in Minnehaha County in South Dakota, near
18 some cities in South Dakota, as well as just our
19 general project footprint. And so while you guys
20 are looking over that, I do want to touch on a few
21 things. So, obviously, the consensus of the group
22 here is that this ordinance does not pertain to
23 safety. That that's what -- this ordinance has to
24 do with intelligent land use is what we're
25 hearing. And what we see from that is that

1 immediately after that statement a comment is if
2 there's a shorter distance the pipeline companies
3 would like to use, we'd like them to provide their
4 plume studies, which brings us back to safety.
5 Right?

6 So I understand that's not exactly what this
7 discussion is, but I would like to touch on that a
8 little bit on that safety aspect just to provide
9 some additional information.

10 So Mr. Godfrey was up here and he spoke on
11 PHMSA and some of the regulations that have been
12 put in place for the last 40 years, and so I would
13 just like to touch on some specifics on what PHMSA
14 regulates with CO2 pipelines, with hazardous
15 liquid pipelines.

16 Specifically, in this case -- so who is PHMSA?
17 Real quick, PHMSA is a part of the federal
18 government. It's a part of the DOT, and it's the
19 Pipeline Hazardous Materials Safety
20 Administration, and they oversee 3.3 million miles
21 of hazardous pipelines in the United States.

22 And as you go to one of the later maps, you'll
23 see just how many of those pipelines are in the
24 Midwest, and it's overlaid with the Summit Carbon
25 Solutions pipeline route.

1 So they regulate all different kinds of
2 pipelines, including the 5,100 miles of CO2
3 pipelines that are currently operating in the
4 United States. Specifically with our CO2
5 pipeline, some of the things that they regulate
6 include design, construction, testing of the line
7 after construction and prior to the startup,
8 operator qualifications for construction of the
9 pipeline and also the operation of the pipeline,
10 the requirements that the operators have to follow
11 and have to be able to work on that.

12 Corrosion control to ensure that the line
13 continues to operate safely into the future, and
14 then operations in maintenance. And in that
15 operations in maintenance, that includes emergency
16 response and preparedness. That's something that
17 we do as a project as a whole and a commitment
18 that Summit is making to work with the local
19 emergency responders as well to ensure that they
20 are trained and properly equipped for the
21 incidents that are very, very unlikely in this,
22 but to ensure that we have that ongoing
23 relationship with local emergency response in this
24 case.

25 And so I do want to talk about some of the

1 maps that we have, because as we talk about
2 intelligent land use, the main comment we hear is
3 that it restricts growth and that it lowers land
4 values. And, unfortunately, I don't remember the
5 exact order of those maps, but as you go to the
6 second map, I believe, it shows Minnehaha County
7 and just the number of the pipelines in this
8 county as a whole. There's over 105 miles of
9 hazardous pipelines that go through Minnehaha
10 County.

11 And if you go to the next map, you'll see
12 Harrisburg, which is not in this county, but you
13 can see just how many pipelines run directly
14 through Harrisburg and the growth that it's had
15 over the past many years with those pipelines
16 still being in operation there.

17 So as we showed the map earlier, with proposed
18 setbacks, with these setbacks, it is extremely,
19 extremely difficult, if not impossible, to put any
20 kind of a pipeline through this county, not just
21 the CO2 pipelines, but including the 105 miles of
22 existing pipelines that have been operating safely
23 in this county for many, many years.

24 If you go to the last slide that you have, the
25 last page that you have, it talks about some of

1 the safety standards and -- some of the safety
2 statistics, rather. And what that shows is that
3 of those 105 miles of pipelines in Minnehaha
4 County, in the last 25 years there have been a
5 total of five incidents, that involves any kind of
6 leak or injury, but there have been zero injuries
7 and zero fatalities.

8 If you look at the statistics for rail in
9 Minnehaha County, that answer is vastly different.
10 There have been many fatalities, and there have
11 been many, many injuries involving rail in the
12 county.

13 And so as we look at transporting any kind of
14 liquid or any kind of material, pipelines are by
15 far the safest way. There is a history of these
16 pipelines operating safely in Minnehaha County, in
17 the State of South Dakota, and we're able to do
18 that with the laws and regulations that are
19 currently in place through the oversight of PHMSA
20 through those regulations.

21 The final thing that I would like to mention
22 is that as we look at these ordinances, as we talk
23 through there, we hold the belief that PHMSA, that
24 the federal government preempts the routing of
25 these pipelines. And Summit Carbon Solutions is

1 currently engaged in some litigation in Iowa where
2 a county did put in some ordinances, and I would
3 just like to quote -- so they're looking at
4 1,000-foot to two-mile setbacks, similar,
5 depending on the area, and what the -- what they
6 were trying to route around, and they had some
7 limited fees associated with that.

8 And Judge Stephanie M. Rose of the U.S.
9 District Court in Iowa, on the first page of the
10 transcript, and I would be able to provide that if
11 that would be requested, stated that, In my view,
12 having read all of the materials, preemption is
13 pretty clear here. I don't know that there is any
14 argument that isn't preempted in one way or
15 another.

16 And so while we appreciate the effort that
17 goes into making sure that these pipelines are
18 routed appropriately and that they operate safely,
19 we do believe that these are preempted by federal
20 law and we want to make sure that that statement
21 is clear.

22 I will be here. I would be more than happy to
23 answer any questions from design, construction,
24 operation, including some -- again, these maps and
25 the data related to the pipelines and rail that

1 currently exists in Minnehaha County. Thank you
2 all for your time.

3 COMMISSIONER KARSKY: Thank you, Mr. Eldridge.

4 MS. HOWARD: Good morning. My name is Monica
5 Howard. I'm with Navigator. My title with them
6 is Vice President of Regulatory and Environmental
7 Permitting. Just a little background on me, I've
8 been doing pipeline energy and linear
9 infrastructure permitting and regulatory processes
10 for over 20 years, so I am not a stranger to
11 conditional use permitting and land siting
12 criteria and requirements, but I will say that the
13 ordinances, this draft that -- or the readings
14 that we're seeing here, that is not familiar to
15 me. Talking about, you know, land use
16 development, you know, and responsible land usage,
17 we fully support and want to be, you know, a part
18 of that process and not prohibit it.

19 In our experience, across the country with
20 pipelines, you can find the easements only really
21 restrictive about, you know, 50 feet of that, from
22 a land use requirement, and that's for permanent
23 structures to be developed on it.

24 You know, he showed you some county maps of
25 local land in South Dakota. You see hazardous

1 liquid pipelines built throughout highly populated
2 areas with infrastructure all around us so that
3 it's not precluding additional development.

4 One thing additional about the -- kind of the
5 order of the ordinance and the timing, let's say,
6 of the application and the requested information.
7 While there's, you know, mention of a hierarchy of
8 regulations when it comes to, you know, PHMSA, the
9 PUC process, and the local ordinances, it comes
10 with environmental permitting as well. And so the
11 blue and purple color-coded map that was provided
12 showing what the county looks like with the
13 setbacks in place.

14 There are also federal environmental policy
15 acts that we need to comply with when siting a
16 pipeline. There's not one singular factor that
17 goes into routing a pipeline to establish, like,
18 this is the right place for it to be.

19 In fact, there's very intelligent AI software
20 out there now that helps facilitate proper and
21 responsible routing of pipelines taking into
22 account thousands of data points and different
23 resources to determine what is that right location
24 including, you know, environmental factors,
25 population factors, growth factors, existing

1 infrastructure. But looking at that colored map,
2 that -- I didn't see a route on there that would
3 pass muster in getting some of our federal
4 environmental permits that are also necessary for
5 that, so I worry about it being precluded or
6 preempted in other ways as well.

7 And like the gentleman from Summit said, I'm
8 happy to stick around and answer any questions. I
9 guess I should have started with the "me too"
10 statement that, you know, I supported everything
11 that was said in advance of that and just wanted
12 to add those few extra items. Thank you.

13 COMMISSIONER KARSKY: Thank you, Ms. Howard.

14 MR. KLUDT: Good morning, commissioners. I'm
15 Charlie Kludt. I'm with the South Dakota
16 Firefighters Association, and I am going to be the
17 first one to admit, I hope I'm the last one here
18 because I could -- I feel I'm not a proponent or
19 an opponent of this ordinance, but my involvement
20 will become because the Firefighters Association
21 oversees the training of the volunteer and career
22 firefighters in the state of South Dakota.

23 So any pipeline, any pipeline that runs
24 through the state, we will have a little skin in
25 that game when it comes about.

1 Currently I work with the PUC and the Pipeline
2 Emergency Response Initiative. I also work with
3 individuals from the National Volunteer Fire
4 Council that are part of PHMSA. They're a group
5 of individuals that help make those regulations
6 for PHMSA. And so when this came about, when I
7 first caught wind of it, had a few phone calls,
8 people asked me about the carbon capture
9 pipelines, I was -- have to admit, I wasn't up to
10 snuff on what was going on, so I started making
11 phone calls.

12 I started calling individuals that I knew both
13 here in the state. I contacted the PUC. I
14 contacted my friends from Mississippi, from
15 West Virginia, from Illinois that are all experts
16 in pipeline transportation. And then I talked to
17 them personally once again just last week when I
18 had my National Volunteer Fire Council meetings.
19 And I talked to them last year as well, and I
20 said, Educate me on this a little bit more. I
21 said, I'm not understanding what the main concern
22 is with carbon capture.

23 And the one individual who is -- I consider
24 the leading expert in this would -- from
25 West Virginia, he said, I don't know why they're

1 concerned either. All the other pipelines in this
2 country have things a lot more hazardous and
3 things to be concerned about if something goes
4 wrong than they will with those.

5 I said, Okay. I guess that helps me a little
6 bit.

7 But this -- your ordinance doesn't just deal
8 with carbon capture. It deals with all pipelines.
9 And so that's where I do come in with the -- my
10 concern comes in for that.

11 I've read some of the reports from -- or the
12 PHMSA report on the one issue that is typically
13 brought up about the pipeline that burst down in
14 Mississippi. I read that entire report -- okay,
15 I'm that kind of individual -- up until the point
16 where they started talking about the testing of
17 welds, then it got a little bit over the top of my
18 head.

19 Along with that, you've heard already,
20 pipelines are the safest way to transport
21 hazardous materials. I don't believe there is any
22 other agency that would come up and refute that.
23 And so if things have to be transported, I am glad
24 it's going to be in the pipeline.

25 I don't consider myself an expert in

1 pipelines, but I do consider myself well-educated
2 because I work with the South Dakota Pipeline
3 Association on an annual basis. When they do
4 their -- have their meetings, I am part of those
5 meetings because of the fact that we are the ones
6 in charge of getting that training out or helping
7 them get training out to all the responders in the
8 state.

9 So with that, from a more personal note, I
10 have other pipelines that run within half a mile
11 and a mile of the -- the TransCanadian and the
12 Dakota Access pipelines. Those are the two last
13 major pipelines that ran through this state.

14 And my family farm up in the Beadle County
15 area. This is also going to be in some of that
16 territory where carbon capture is going to be at
17 as well. But I know what the landowners, our
18 family, our neighbors and everyone went through
19 when these pipelines went through. They were very
20 well taken care of, both by the contractors and by
21 the companies.

22 I am glad I had to see the number of
23 individuals here that are -- that have concern
24 because I heard those concerns from my relatives
25 and friends and neighbors back up when those

1 pipelines were coming through as well.

2 However, right now, I could run absolutely
3 everyone in the room here, and everyone that's
4 listening, up to those territories and show you
5 where the pipelines are. And unless you saw these
6 signs, which you will see, for every pipeline,
7 these are the signs that -- I say the 60-second
8 training for pipelines, I'll guarantee when you
9 drive home you'll see these pipelines along
10 right-of-ways. They tell you what is there, whose
11 it is, and what phone number to call.

12 From an emergency responder standpoint, from
13 some of the other comments that were made in the
14 past, that's also why I decided I needed to come
15 here because I had other fire departments and
16 emergency responders saying, Why are people saying
17 that firefighters are going to drive into a plume?
18 Why are they saying they're going to drive into a
19 hazardous area?

20 Okay. First off, that's done in the very
21 first few weeks of firefighter training that you
22 don't put yourself in that situation, whether it's
23 smoke or any time of hazardous material, liquid or
24 gas.

25 So from that standpoint, as a president, I

1 didn't like getting chewed out by other
2 firefighters saying, Don't let that be the only
3 representation of firefighters, so that is also
4 why I'm here. And I'll be here for any other
5 further questions. Thank you for your time.

6 COMMISSIONER KARSKY: Thank you, Charlie.

7 * * * * *

8 COMMISSIONER KARSKY: Appreciate your civility
9 up to this point. As I said, I really anticipate
10 that you'll maintain that. Just kind of -- so you
11 have an understanding if things look goofy up
12 here. As the chair, I cannot make a motion or a
13 second. So if I wish to do that, I will hand the
14 gavel off to Commissioner Beninga. He will then
15 take the rest of that portion of the debate and
16 then hand the gavel back to me. So just so you
17 have an understanding of why or what we're doing,
18 I guess.

19 At this point I will turn the debate and the
20 discussion over to the commission for them to ask
21 questions, comment, and possible amendments. And
22 I will always look to me legal counsel if I missed
23 something. Obviously, I have a lot of help up
24 here and I appreciate it, so thank you. So,
25 commissioners.

1 COMMISSIONER BLEYENBERG: Commissioner Karsky.

2 COMMISSIONER KARSKY: Yes.

3 COMMISSIONER BLEYENBERG: Just a question. Do
4 we have the ability to ask questions again of your
5 staff of Scott?

6 COMMISSIONER KARSKY: Yes.

7 COMMISSIONER BLEYENBERG: And then I would
8 just like to start by saying thank you to
9 everybody who put so much time in. I know our
10 planning and zoning office helped to draft this
11 ordinance and spent a lot of time doing research.
12 And then the state's attorney's office, you know,
13 scrutinized it to make sure that it was going to
14 be the best it could be for us. And then with
15 planning and zoning, or the planning commission, I
16 should say, voting to support it, I really just
17 want to say thank you because there are a lot of
18 people smarter than me that were involved in
19 drafting it, and it really gives me a lot of peace
20 of mind knowing that we can support it, just as it
21 was written, knowing that we've really worked hard
22 as a county to be able to make sure that it's a
23 good compromise. And I think, to quote Carol, who
24 quite often I've heard say, A good compromise is
25 when both sides are not happy. I think that's

1 where we find ourselves. So that kind of is a
2 guideline that I follow also just to see, you
3 know, where we're at.

4 And I did hear quite a few people say that
5 750 feet seems like an arbitrary number, and I
6 just think with the amount of effort that went in
7 from our different offices that were involved, I
8 think we did a good job of trying to make it as
9 unarbitrary as possible.

10 I don't really think "arbitrary" is the word
11 that we should use after it's been vetted by all
12 these different organizations or different groups
13 in our county.

14 And I know we've all gotten a lot of feedback,
15 a lot of comments from people. And I can share
16 the concerns on both sides. I think the economic
17 development, the thousands of jobs, the things
18 like that that the proponents of the pipeline
19 mentioned are not things that we want to take
20 lightly. You know, those are valuable
21 contributions.

22 And then those who have been opposed to the
23 pipeline, you know, have all kinds of different
24 comments also that they've shared with us.
25 Landowner rights. We heard a lot about rupture

1 modeling, and things like that, and I just keep
2 coming back to, from what I can understand, our
3 job is not to really take on any of those topics.

4 I think, if I understand it correctly, the
5 commission's job is to do the best job that we can
6 to find how this should be allowed through the
7 county. And I think to say that a 750-foot
8 setback would preclude the pipeline is giving us
9 probably too much credit.

10 I think it -- after looking at the maps, and
11 after the planning and zoning office working with
12 everyone on this, I do put a lot of my faith in
13 what's been created.

14 And I guess when we talk about the future of
15 our county, we all know the growth that's
16 anticipated, so I do think it's wise for us to
17 take a long, hard look at how we want that growth
18 to be developed.

19 I don't know that we would want to limit areas
20 like Hartford, for example. I know I heard a
21 resident talk about how that could have a negative
22 impact on the growth in that area.

23 I also just wanted to mention that being a
24 rural resident, we are pretty excited when
25 property values go up, although that does

1 inevitably mean taxes go up, too. I just think
2 there's a good likelihood that having a CO2
3 pipeline near your property could scare off a
4 potential buyer which could have a negative impact
5 on your property value, and so that's one factor
6 that I do take into consideration when -- when
7 thinking about what the -- what the setback should
8 be.

9 So for those reasons, I think I would be very
10 supportive and very appreciative, again, of the
11 ordinance as it's written.

12 COMMISSIONER KARSKY: Thank you, commissioner.

13 COMMISSIONER KIPPLEY: Mr. Chair.

14 COMMISSIONER KARSKY: Commissioner Kippley.

15 COMMISSIONER KIPPLEY: I got the pleasure of
16 being on the center of quite a few of these
17 debates now. I served on planning and zoning, and
18 I think I can echo Commissioner Bleyenbergs's
19 sentiments that we've all gotten an ear full, and
20 I think Chase might have said two ears full, so
21 that's as many ears as I've got. So I appreciate
22 that.

23 I want to thank you staff for their work on
24 this and my fellow planning commission members.
25 Took a lot of public input. I believe this is

1 easily the number one issue since, in our short
2 time -- Commissioner Bleyenbergh and I are new to
3 this -- but, you know, I thought this was probably
4 the most constructive back and forth we've had in
5 the months and months of feedback we've had.

6 Of course, some isn't -- hasn't been germane
7 to our approach specifically in Minnehaha County
8 or to the role of a county, so I kind of have been
9 beating that drum for a while of just what our
10 role is. I think that's an important element of
11 our system of government and constitutional
12 structure to understand -- and I appreciate a few
13 state legislators being in the room, too, and
14 helping with their frame of reference and input.

15 But, you know, our role is not related to
16 eminent domain, you know, tort liability or
17 related insurance matters. That's for our friends
18 in the state legislature.

19 Our role is not to permit the pipeline in its
20 nature as a pipeline as that permitting process is
21 with the state's Public Utilities Commission. And
22 our role -- I know one topic that came up quite a
23 bit yet today was still safety concerns, and I
24 think that's a natural human instinct, and that's
25 going to be at least a subcomponent of what we're

1 talking about even in a planning and zoning
2 circumstance. But our role is really not to
3 second-guess any safety specifications of the
4 pipeline, you know, such as thickness of the pipe
5 or its depth in the ground and some other safety
6 circumstances. That's left to the federal
7 government and its Pipeline and Hazardous
8 Materials Safety Administration.

9 So what is our role? And our role as the
10 county is firmly grounded in principles of
11 traditional planning and zoning. So this involves
12 considerations for future growth, land use,
13 suitability for certain land use adjacent to other
14 types of land use, et cetera.

15 So as local leaders, I do believe we play an
16 important role in aspects of routing that will
17 make a substantial and essentially permanent
18 impact on land in our county.

19 So while ours is an important role, that
20 doesn't necessarily require us to take up an
21 adversarial role. I've sought some neutral
22 principles and objective guidelines grounded in
23 existing federal regulatory structure to try to
24 keep us as neutral and not out to kill any
25 particular project or take sides in this.

1 I kind of felt my sentiments echoed by our
2 state president of the firefighters that maybe --
3 neither a proponent or opponent, but just trying
4 to stick to good objective guidelines where we
5 can.

6 So with that in mind, I'm just kind of tipping
7 my hand a little bit, I do plan on offering three
8 amendments to more narrowly tailor the process and
9 the substance of the county's regulatory approach
10 on these matters.

11 I believe this is a good faith effort to work
12 with the pipeline companies, both the current
13 proposals and any future expansions of those
14 proposals or future companies that would want to
15 do similar -- similarly situated projects. So to
16 work with them, it related to reasonable routing
17 restrictions, which I believe is firmly within
18 our, albeit limited, authority of planning and
19 zoning. And I think that came clear -- I think,
20 just to speak more broadly -- I think it's a fair
21 assessment, and I think our friends that commented
22 as opponents kind of are asking that existential
23 question, kind of a libertarian instinct of why
24 any regulation at all. So why -- essentially on a
25 setback, I think, is substance we're thinking

1 about.

2 So I do think again it fits within our role of
3 planning and zoning. While this might not be new
4 to the United States, it is the novel to our area.
5 Also, it's -- when we talk about routing being one
6 of our expert testimony, which I really
7 appreciated that background, that was great
8 testimony, but when you emphasize that routing is
9 to address threats, I would kind of like the
10 county to have a seat at the table to have those
11 discussions about, What are the threats? How can
12 we be helpful? How can we, as local leaders, talk
13 about that? And you can see how a planning and
14 zoning hearing could bring some of those things
15 out, and there might be some value added to a
16 process where you get to -- the opportunity to
17 work with our great planning and zoning staff to
18 work together on that.

19 And then also the other lesson from -- we've
20 heard a lot about the Satartia, Mississippi,
21 incident. And, again, a takeaway from that was
22 public awareness. So I think the county being
23 involved and being some kind of stakeholder puts
24 that on the map of public awareness, and so I
25 think that has an incidental effect of safety, but

1 it just puts everyone in a position to be more
2 successful. And so I can kind of talk through
3 some of the elements here as I want to give all my
4 colleagues an opportunity to just give initial
5 first impressions, but, again, I'll summarize the
6 ordinance in three component parts, and I'll have
7 an amendment kind of tailoring each section a
8 little bit more.

9 But, again, the three component parts would
10 be, first, an application process for permitted
11 special use for hazardous material pipelines with,
12 second, a series of setback provisions that, if
13 not met, trigger, third, a conditional use process
14 with a fee structure.

15 So I think we got pretty good feedback from
16 the public on the ordinance as drafted, and I
17 think, Mr. Chair, you were kind enough, I think,
18 to offer the opportunity to potentially give
19 feedback on any specific amendments offered.

20 But with that, I think that's kind of my
21 initial -- initial thoughts as we get started in
22 this, but I want to give everybody a chance to
23 give their initial thoughts before I propose a
24 first amendment.

25 COMMISSIONER BENINGA: Well, since I'm the

1 last one before it goes to the chair -- I've been
2 around a long time, so I like short and sweet,
3 maybe not always sweet, but I do like short, and
4 I'm thinking you get paid by the hour right now.
5 He has a legal background, so I understand that.

6 I really appreciate the fact that we had so
7 much input into this process, most of the time it
8 was very professional, and I appreciate that a
9 lot, because we all have experienced differences
10 on occasion. But the legal support we got from
11 the State's Attorney's office, from the staff, who
12 did a tremendous amount of work, planning and
13 zoning. It's been a process that we've all
14 learned from, I think, and I appreciate the fact
15 that you all are in attendance today. You're not
16 all going to be happy. That's not our job is to
17 make everybody happy. Our job is to do the right
18 thing at the right time.

19 We don't know what the future holds for
20 everything we've done in the past, and when we
21 have new commissioners in the future, they may
22 change some of the stuff that we've already put in
23 place.

24 So with that, I'll say thank you for being
25 here. We'll go through the process and hopefully

1 make at least 51 percent of you happy.

2 COMMISSIONER KARSKY: Optimistic.

3 COMMISSIONER BENINGA: I am.

4 COMMISSIONER KARSKY: And I've heard from --
5 in e-mails and texts from legislators, state
6 senators, state legislators that are both for and
7 against, so this is a very complex process, and
8 it's not black-and-white in my mind, so a lot of
9 these things are probably my opinion.

10 So I am open to the discussion on amendments.
11 I think it's important that we at least hear them
12 and discuss them and hear the pros and cons of
13 them, so I am open to hearing the amendments that
14 Commissioner Kippley may propose. I don't know if
15 I'll be in favor of them or not, but I am in favor
16 of hearing them and at least having the discussion
17 on them.

18 One question did come up, Scott, where --
19 there you are -- the question is: What is the
20 current setback? I mean, what exists right now
21 for any guidelines on what could be done?

22 MR. ANDERSON: Thank you. So to answer that,
23 right now it's not addressed in the zoning
24 ordinance, so it would fall back to any federal
25 regulations. And I believe it's a 50-foot

1 setback. I think that PHMSA guidelines would fall
2 under the standard, and they would need to meet
3 any federal requirements and federal setbacks.

4 COMMISSIONER KARSKY: So federal law is the
5 default at this point?

6 MR. ANDERSON: Yes.

7 COMMISSIONER KARSKY: Thank you. Okay. Any
8 other questions of staff or any of the
9 testimony -- people that gave testimony or public
10 comment?

11 COMMISSIONER BLEYENBERG: I have a question.

12 COMMISSIONER KARSKY: Commissioner Bleyenber.

13 COMMISSIONER BLEYENBERG: Thank you.

14 Commissioner Kippley, I think when we discussed
15 your amendments there were -- in the setbacks --
16 there were two different points, and I'm wondering
17 if we could potentially discuss them separately?
18 Would you be opposed to that or --

19 COMMISSIONER KIPPLEY: I would be open to that
20 if it facilitates better discussion and isolating
21 in on what issues we're in agreement or not in
22 agreement. I am happy to itemize them rather than
23 bundling them unnecessarily, so I am open to that.

24 I was going to go, just to walk you through,
25 if you have any other suggestions, again, the

1 first element of the ordinance is the application
2 process, so I had an amendment on that. And then
3 second was the setback distance itself and the
4 measurement thereof. We can separate those into
5 two and three, as needed. And then fourth was an
6 element of the fee structure on conditional use
7 permit. So if that gives you a sense, we can just
8 take them one at a time and see where we end up,
9 if we need to bifurcate them or not. We can deal
10 with that as we go.

11 COMMISSIONER KARSKY: Okay.

12 COMMISSIONER BLEYENBERG: Thank you.

13 COMMISSIONER KARSKY: Sound good to me. Okay.

14 So with that, I think unless we have other
15 questions, we can go into proposed amendments to
16 the ordinance.

17 COMMISSIONER KIPPLEY: Okay. Mr. Chair, I
18 guess staff was helpful in drafting these
19 amendments for me, and I think we're going to
20 help -- let see. This is -- start with number
21 one. Eric will help me.

22 COMMISSIONER KARSKY: I kept a copy.

23 COMMISSIONER KIPPLEY: We'll distribute those
24 to my colleagues here first, and we should have
25 some for the audience. And then, Tyler, I'll put

1 you on the spot if maybe we can get one up on the
2 screen because I don't think we have enough copies
3 for everybody. Can we do the ELMO? The ELMO?
4 Yeah. Eric will get you a copy -- so, again, a
5 couple of these are more procedural. I'm
6 guessing, as Commissioner Bleyenbergh kind of
7 tipped her hand, too, of, we might have more
8 discussion in substance on either the measurement
9 of the setback or the setback number itself, but
10 thought we'd kick off the process.

11 And, again, the spirit of this first amendment
12 is, again, not to -- I think I am coming back to
13 this concept that we have an important role, but
14 it's not necessarily an adversarial role with any
15 business or project kind of trying to come into
16 our area, but we have a duty to the general public
17 and a duty to the citizens of Minnehaha County to
18 assert what authority has been granted to us as
19 Minnehaha County commission and our planning and
20 zoning authorities.

21 So this is -- just comes in some conversation
22 with just the practicalities. I think we have two
23 examples between the Summit proposal and Navigator
24 proposal that are going through a pretty arduous
25 process with -- yeah, we've got two pages there,

1 Tyler, so I appreciate you navigating us through
2 here.

3 So the proposal ends up being a pretty long
4 and arduous process to go through the PUC. And
5 we're not trying to put up, again, arbitrary
6 barriers for a pipeline proposal, but, again,
7 trying to get to that point where we can have a
8 seat at the table on issues like routing and have
9 some input with the project to nudge them along
10 the way that, Hey, this might be a good routing
11 decision or we need this information.

12 And the way this is written currently isn't
13 necessarily a bad way to do it, but it was largely
14 a -- you know, basically immediately after you
15 file with the PUC, we want to document dump, and I
16 just didn't see that as practical to our planning
17 staff, and also some of this information will be
18 duplicative with either going to our highway
19 superintendent related to information, map
20 identifying entry into the counties'
21 right-of-ways, et cetera.

22 The PUC docket, as I think a lot of the people
23 in this audience are very familiar with it being
24 available online. Do we really need them to print
25 that out and document dump it on us or -- and,

1 then, probably most importantly, it's an evolving
2 process. When we would ask, you know, seven days
3 after the PUC filing to have a document showing
4 the center line, I think that's just, again,
5 trying to be a good faith negotiator and to work
6 with the pipeline companies, that just -- they're
7 going to be able to give us a corridor of here's
8 where we're thinking we're going, but I think it
9 kind of starts us off on the wrong foot such that
10 it gives this amendment, then, changes that amount
11 to 30 days after the PUC filing, let's us digest
12 what the project is and basically just asks for
13 letter of intent. You intend to come through our
14 territory of Minnehaha County, and then it
15 empowers the planning director and puts the ball
16 in his court to then ask for the documentation
17 that's relevant at the time, and makes that more
18 of a dialogue and a conversation, and that's the
19 spirit of how I would want to approach these
20 negotiations and dealing with good faith
21 negotiation on both sides to try to get to the
22 more substantive items, which will come later, on
23 trying to put some teeth into it of we would like
24 you to route it in a certain way with certain
25 setbacks.

1 I think this is an application process that
2 gets us on the right foot, but largely this is,
3 again, procedural.

4 Finally, if we turn to the next page after,
5 again, just the amendments there, what we've
6 covered so far is just the days, written intent,
7 and kind of pivoting the duty onto the planning
8 director to request what documents are necessary
9 in that list.

10 And then, finally, we just note that, again,
11 this is not meant to be an arbitrary delay on the
12 project. If anything, we note that we will make a
13 determination if this meets all the setbacks and
14 any other substantive requirements and qualifies
15 as a special permitted use, or if it needs to be a
16 CUP, conditional use permit, process.

17 At least in no event more than 30 days after
18 they would receive PUC approval, so not looking to
19 arbitrarily delay the project. And then if in
20 that interim time, while we're studying the issue,
21 the PUC would deny such a permit, that would
22 essentially kill the application as it would be a
23 requirement of any PUC -- any conditional use
24 permit that they have the PUC permit, so it would
25 kind of defeat itself.

1 But, again, just another sign of good faith
2 that we will review this with all due diligence,
3 and it's not going to be a situation where the
4 planning director just sits on it and doesn't
5 request any information. But, no, we will be
6 working with due diligence and trying to come to a
7 conclusion on whether this meets all the setbacks
8 and other special permitted use criteria.

9 So that's kind of my proposal. And, I guess,
10 would be open to any questions about the amendment
11 or do we need a formal motion and second to get it
12 on the floor for discussion?

13 COMMISSIONER KARSKY: We do. But, I guess,
14 I'd take questions first.

15 COMMISSIONER BLEYENBERG: Questions from the
16 commission?

17 COMMISSIONER KARSKY: Please.

18 COMMISSIONER BLEYENBERG: Can you help me
19 understand, Commissioner Kippley, the
20 difference -- could you define the difference
21 between the letter of intent and an application?
22 What would be the change that you're looking for?

23 COMMISSIONER KIPPLEY: Really, because I've
24 taken a lot of the substance out of the
25 application, since I'm not asking them to submit

1 any of these forms because I find that they're
2 largely pre-mature. Like, if you're not going to
3 have a center line, I think it's kind of odd to
4 ask for them to give us routing information with a
5 center line. It's kind of just setting the back
6 and forth up for failure at the outset. But,
7 basically, just put us on notice, a letter of
8 intent, this is what we plan to do, here is a
9 reference, too, that we've submitted documents
10 with the PUC which would give broader context. So
11 just say we intend to come into Minnehaha County,
12 then that puts the ball into our court, and our
13 planning director can then go down that list and
14 ask for the items and create more of a dialogue.
15 I've just seen more success.

16 This is, again, the kind of practical local
17 field that goes on here that I think I've seen
18 more success on people bringing forth proposals to
19 our staff when it's kind of a dialogue and a back
20 and forth rather than, again, maybe our word of
21 the day of an arbitrary list of we're going to say
22 you need to provide these things even though it's
23 not really ripe yet in the process.

24 And, if anything, I'd like to -- that's been
25 kind of the trouble with some of this process here

1 is we're coming in -- I would reject the notion
2 that we're changing the rules in the middle of the
3 game, but that we are coming in late to a process
4 that would have been ideal if we had had this in
5 place earlier on to start that dialogue.

6 Instead, I feel like we're kind of coming to a
7 point where some of those -- that general routing
8 process has already been baked in to some degree,
9 and now we're playing defense rather than being a
10 constructive player at the outset.

11 So I know I've went on a little bit, and
12 Commissioner Beninga will give me a hard time
13 here, but largely it's just that the letter of
14 intent as opposed to a substantive application is
15 just the distinction of just putting the company
16 or the applicant -- putting us on notice of their
17 intent to go through the special permitted use
18 process, and we then would have the burden to ask
19 for the information about the routing process,
20 have that dialogue, that conversation, and see if
21 they meet it or not. Is that helpful?

22 COMMISSIONER BLEYENBERG: It is. Thank you.
23 This is just our time for questions. Okay.

24 COMMISSIONER KARSKY: I guess my question
25 Commissioner Kippley, is under section B, the --

1 at the request of the planning director. It seems
2 like we're giving a lot of discretionary authority
3 to the planning director. Wouldn't that be best
4 if that information was provided with the full
5 knowledge that, you know, this is just a plan and
6 plans are always subject to change?

7 COMMISSIONER KIPPLEY: I am open to other
8 theories of how we would approach this. I would
9 be open to Scott's feedback, too, as we're kind of
10 putting -- maybe placing some duty on him to
11 request. I guess I'm coming at it from the
12 perspective of a lot of this information is going
13 to change over time, too. So I think there's
14 going to be -- they might be able to throw a lot
15 of stuff at us at the beginning, and I don't want
16 to get whitewashed with paper like they just dump
17 a lot on us.

18 But certain things are going to evolve, like
19 the PUC docket evolves over time, and this allows
20 basically us to say here is what we need and we
21 can kind of start off the conversation is the
22 framework I'm looking at.

23 I just think we can put anything on a piece of
24 paper to say, We will demand this information.
25 But if the information doesn't exist or it's

1 always a moving target, it won't solve all the
2 problems.

3 COMMISSIONER KARSKY: If I may. Yeah, because
4 even B1, all forms -- all required forms
5 prescribed by the planning director. Again, it's
6 leaving a lot of authority in the hands of the
7 planning director. And maybe that's clearly where
8 it should be. I don't know if "clearly" is the
9 right word, but, I guess, from my perspective, as
10 a commissioner, when I am reviewing these types of
11 requests, sometimes what isn't given to me is, you
12 know, that blank spot that I am -- you know, what
13 you don't know, you don't know, and the questions
14 that should be asked don't get asked because of
15 that lack of knowledge. So I would prefer that
16 even if we get whitewashed, at least I know it's
17 there and I can look for it. So if you were to
18 propose this amendment, I would ask that you
19 remove "at the request of the planning director"
20 from B.

21 COMMISSIONER KIPPLEY: Yeah. I am open to
22 that. And like you said, within B1, all forms
23 prescribed by the planning director, so the
24 planning director still does have authority to ask
25 for additional information or create forms of --

1 here's the initial information we need off the
2 bat. And, I think, again, at the local level,
3 there's some reasonable back and forth on all
4 types of applications that we receive. There's
5 always a dialogue back and forth. People create
6 site plans for different things and then it
7 evolves and it changes, so I am open to that.

8 I think with that feedback, was there any
9 other questions? I'll make a motion that I think
10 is going to be amenable. I'll move, what we see
11 on the screen as amendment JK-01, without striking
12 that addition of "at the request of the planning
13 director," and then the rest of that amendment
14 would stand, so that is my motion.

15 COMMISSIONER BENINGA: I'll second that, so I
16 don't end up with a gavel.

17 COMMISSIONER KARSKY: We have a motion and a
18 second. I will -- any other comment from the
19 commissioners?

20 COMMISSIONER BLEYENBERG: Yes. I have a
21 question. Commissioner Kippley, I think you said
22 that someone in the office or in the county helped
23 create this, the amendments that you're proposing?

24 COMMISSIONER KIPPLEY: Just to the extent --
25 just to be clear -- just to the extent of -- it's

1 all my language, and we had legal staff form it
2 into the form of an amendment with the stricken
3 and addition words, but I'm not proclaiming that
4 has the complete buy-in of all staff or whatnot.

5 COMMISSIONER KARSKY: Substance but not
6 form -- or form but not substance.

7 COMMISSIONER KIPPLEY: Yes. That's fair.

8 COMMISSIONER BLEYENBERG: I should have asked
9 that for specifically, I guess. I just wanted to
10 make sure because, like I had said earlier, I
11 really felt like the ordinance as it stood was
12 very well scrutinized, and so I am just curious if
13 these amendments have been scrutinized also by the
14 State's Attorney's office, or planning and zoning,
15 if they're in line with what would -- what we
16 would like to adopt? I guess I don't know if
17 that's a question for the State's Attorney.

18 COMMISSIONER KARSKY: Any comments from
19 planning and zoning?

20 MR. ANDERSON: Well, first of all, I
21 appreciate the work the State's Attorney has done
22 to put it in this format and review it. And I
23 have reviewed this just at the meeting now and I
24 don't see any issue. I think that the changing
25 from seven days to 30 days is probably a good

1 idea. It gives us a little bit more time to work
2 with applicants or the project managers or project
3 personnel, so I think it's good.

4 COMMISSIONER KARSKY: Does that answer your
5 question, Commissioner?

6 COMMISSIONER BLEYENBERG: Yes. Should we
7 check with the State's Attorney to make sure that
8 it's --

9 COMMISSIONER KARSKY: I don't want to put him
10 too much on the spot on giving a legal opinion,
11 but if the State's Attorney has any comments, now
12 would be the time to make them.

13 MR. BOGUE: Mr. Chair, I appreciate
14 Commissioner Kippley's clarification because I did
15 not review these for substance. I just put them
16 in a form so that it was digestible as an
17 amendment. Most of the question is really an
18 issue of policy.

19 My only concern is very limited, and
20 that's the -- I believe, some ambiguity as to what
21 a letter of intent versus an application is and
22 how that applies for the mechanics of this
23 process.

24 That may be clearer to the commission than it
25 is to me at this particular moment. But other

1 than that, I really would not want to start
2 becoming the now missing fifth commissioner
3 commenting on the policy aspect.

4 COMMISSIONER KARSKY: Thank you, sir. All
5 righty. Okay.

6 COMMISSIONER BLEYENBERG: Are you comfortable
7 with?

8 COMMISSIONER KARSKY: Well, if you're
9 comfortable -- so we'll now open it to up ten
10 minutes of public comment from the proponents, and
11 it will be the same proponents. Whether you like
12 this amendment or not, you would still be the
13 proponents, so we have ten minutes and, please,
14 three minutes of time per. Anybody have any
15 comments? This is mostly, like I said, a form
16 versus substance -- well, I guess on substance.
17 So, please.

18 MS. NICHOLS: Good morning. My name is Linda
19 Nichols. My address is Hartford, South Dakota. I
20 first want to thank you guys for all your time
21 planning and zoning, State's Attorney, everybody.
22 I agree with how this was put together. I thought
23 it was put together very well.

24 With this amendment, what I was looking at,
25 kind of what the State's Attorney alluded to, a

1 letter of intent as opposed to an application, is
2 that going to give you enough information? The
3 information is really not burdensome. The
4 information is already there. They have it.

5 I kind of agree with the timeline with that,
6 but they already have the information. Why -- why
7 would we change that? And I just kind of get hung
8 up on that letter of intent also. Like, an
9 application -- wouldn't we want to know that
10 information?

11 Like, if there is a threat. To me, that is
12 grave information that you guys should know. So I
13 think a letter of intent is kind of -- I don't
14 know -- not -- to me, you want more information
15 than what is there, so to me an application would
16 be appropriate, so thank you.

17 COMMISSIONER KARSKY: Any other from
18 proponents?

19 MR. JONES: Dennis Jones, Sioux Falls,
20 South Dakota. Under B, number 3 and 4, it says a
21 map identifying each entry --

22 COMMISSIONER KIPPLEY: Please speak into the
23 microphone, please.

24 MR. JONES: Yes. Can you hear me now?
25 Number 3 under B, a map identifying each entry

1 into the county's right-of-way and each proposed
2 crossing of a county road or other county
3 property. And number 4, a map and a listing
4 containing the names and addresses of all affected
5 property owners.

6 Right now, I don't think they even have a map
7 that addresses that right today. We can't get
8 identification from them exactly where they're
9 going to put it. It just says, Sign this easement
10 and we'll put it where we want to put it. Thank
11 you.

12 COMMISSIONER KARSKY: Thank you, Mr. Jones.
13 Any other proponent comments? Seeing nobody
14 rushing. I will open it up to the opponents.
15 Opponent testimony on this proposed amendment?

16 MS. HOWARD: Hi. Monica Howard with Navigator
17 again. I think this speaks a little bit to the
18 fact where I was talking about the hierarchy of
19 permitting and, you know, it reflects the
20 necessary gap. So I do want to make it very clear
21 that a state code requires us to send you the
22 application that's on file with the PUC, and so
23 hard copies of that is provided upon our submittal
24 to the PUC. It also already comes to the county.

25 Some of the information, just to kind of

1 explain why it's premature a little bit to have
2 it, you know, within seven day or possibly even
3 30 days, but I respect the edit as it's provided.

4 As far as identifying the center line and have
5 it surveyed by an RPLS -- a registered land
6 surveyor -- within that amount of time. So when
7 we submit to the PUC, we still have a corridor
8 that we're looking at permitting that we're
9 routing and siting within such that, you know, if
10 we identify a new house a landowner is building,
11 we might have to move it, you know, out of that
12 way, or something like that.

13 So to be providing specific center line
14 information and where we're going to cross those
15 roads, and those things, is really premature at
16 that phase of the PUC process, and so we kind of,
17 like I explained, go through state permitting, and
18 then it comes down to the local level to get those
19 road haul agreements, road crossing agreements,
20 and those types of things.

21 In that regard we -- I understand that. And
22 we are -- in the industry, in development, we're
23 familiar with letters of intent, and it's just a
24 prescribed letter of, we acknowledge what you
25 have. We intend to follow something -- we intend

1 to follow up with you at the appropriate time.
2 And it is an acknowledgment that that process will
3 be followed so that that's not foreign to those of
4 us in the industry.

5 And also appreciate the comments on the ACE --
6 did we get to the second page? Is it the whole
7 thing or just -- okay. Just the timeliness and
8 understanding of the review and approval process
9 is also appreciated for the close-out of that
10 permit. Thank you.

11 COMMISSIONER KARSKY: Let me ask you a
12 question.

13 MS. HOWARD: Yes.

14 COMMISSIONER KARSKY: Is it my understanding
15 that your -- the letter of intent that you would
16 submit would include the application to the PUC?
17 Is that the standard way that things would be
18 done?

19 MS. HOWARD: It's usually a reference to a
20 code or the ordinance itself saying that -- kind
21 of like an FYI letter. We -- putting new -- well,
22 we also send a cover letter when we send you a
23 copy of the hard copy, the application that goes
24 on file with the PUC. So it would be a second
25 letter to that or a piece of that where it would

1 acknowledge the ordinance that you have and our
2 intent to apply for it at that time and that, Here
3 is a copy of the docket as filed, probably with a
4 link to the website, because the PUC is very
5 orderly about having everything, all the updates.
6 Any questions they ask, if we need to update a
7 map, or anything, it all goes right onto that
8 docket.

9 So just an acknowledgment that, Here is where
10 we are in the process and here is where we intend
11 to go with you knowing that you have an ordinance.

12 COMMISSIONER KARSKY: Okay. Thank you. Other
13 opponent testimony? Okay. I'll give the chance
14 for rebuttal a couple minutes. Any rebuttal? All
15 righty. Discussion from the commission.

16 COMMISSIONER KIPPLEY: Mr. Chair, I don't
17 really have anything else to add. I just think
18 this, again, has become a highly contentious issue
19 in our community and trying to just project
20 forward as any of these things would come up
21 again. Again, trying to get our local planning
22 and zoning staff to be able to assert our
23 authority that I think we have, but to do that in
24 a way that gets us off on the right foot of
25 reasonable good faith conversations with the

1 project applicant.

2 COMMISSIONER KARSKY: Thank you. So before I
3 call for a vote, any other comments?

4 COMMISSIONER BLEYENBERG: No.

5 COMMISSIONER KARSKY: So before I call for a
6 vote, so nobody thinks I'm making up rules as I go
7 along, what we will do is we'll have a vote, and
8 if this fails two to two, theoretically, or in
9 realty, I could postpone the rest of the hearing
10 until the June 6th commission meeting.

11 At the discretion of the chair, I have decided
12 that, if this should fail, we will hear the other
13 amendments and go through each one, some may fail,
14 some may succeed, but it would delay the final
15 vote to the June 6th meeting unless I missed
16 something.

17 Okay. So just so you know, we will have a
18 vote on this. If it succeeds, we will move on, or
19 fails, we will move on. If it fails, the final
20 vote will only come at the Jun 6th meeting. So I
21 will look for a roll call vote on the motion as
22 it's presented.

23 COMMISSIONER BLEYENBERG: Chairman -- sorry to
24 interrupt. I apologize. I just wanted to clarify
25 if we had removed that --

1 COMMISSIONER KARSKY: "At the request"?

2 COMMISSIONER BLEYENBERG: -- "at the request"?

3 COMMISSIONER KARSKY: Yes. That's been
4 removed.

5 COMMISSIONER KIPPLEY: That was my motion.
6 Thank you.

7 SECRETARY: Kippley.

8 COMMISSIONER KIPPLEY: Aye.

9 SECRETARY: Beninga.

10 COMMISSIONER BENINGA: Aye.

11 SECRETARY: Bleyenberg.

12 COMMISSIONER BLEYENBERG: Aye.

13 SECRETARY: Karsky.

14 COMMISSIONER KARSKY: Aye. Motion to amend
15 carries. We'll move on to the next motion.

16 COMMISSIONER KIPPLEY: Let's see, see if Eric
17 and Tyler can help me out again. We've got
18 amendment 2, which the amendment that Tyler is
19 going to display is amendment JK-02. I think I'm
20 going to take Commissioner Bleyenberg's point and
21 probably, as we get to a formal motion, maybe, at
22 least, divide this into two. But we can just
23 digest where we're coming from here, so I think
24 we've got, yeah, two moving pieces, and especially
25 as Mr. Chair is allowing us to take all of these

1 amendments one by one and get through them today
2 regardless of the outcome, I think it's worth
3 probably separating these and seeing where we all
4 stand.

5 So as it stands now, in one amendment, it's
6 got two concepts here, is the setback itself --
7 and I think I might start with -- actually, the
8 second element here is the measurement of
9 separation. I think we've all just kind of been
10 throwing numbers about, and I think it's
11 important, especially when we talk about, like,
12 the application and the center line measuring from
13 that to another point, it's important what is --
14 to clearly define what that other point is. And
15 to this point, our initial draft had the
16 separation distance set forth in the table above
17 there is measured from that center line of the
18 proposed pipeline to the closest parcel boundary
19 of a use reference in that table.

20 So we can imagine, in rural settings, we're
21 going to have a home or a dwelling that is going
22 to be setback itself on a parcel line some number
23 of feet, you know, even a thousand feet, so then
24 we get de facto into a place where even the 750
25 just becomes too high of a measurement to be

1 sustainable within the parameters of -- again,
2 we'll talk about different federal regulations and
3 the regulatory structure, where do we truly have
4 authority? So to tighten that up, and I think
5 just to be more clear about what we're measuring,
6 and when we're trying to provide some either
7 protection, is one element, but, again, safety
8 isn't the primary goal, maybe an incidental goal
9 of planning and zoning, but just that land use,
10 what is it? Is it a residential use? Are we
11 zoning it for light industrial? What is going to
12 go into this area for future growth? I would just
13 say this is a better way of measuring that.

14 And then, if I could, I guess I'll just speak
15 to both elements and we can take feedback on both,
16 but we can still make the motion separately.

17 So the 330 feet, an amendment that would bring
18 that down from 750 to 330. One, some of that --
19 and, again, I'd reference an emergency response
20 book for my friend, the President of the
21 Firefighters Association, so I've gotten the honor
22 of hanging out with some of the Fire Chiefs
23 Association here in the county, and we attended
24 one training put on by the Navigator project that
25 had these books and talked about different

1 separation that obviously, I think, again, back to
2 good faith conversation among local leaders here,
3 the pipeline company -- none of us want to be
4 close -- I mean, ideally -- I think in an ideal
5 world, they want to have some good separation.
6 And sometimes that's just not possible or there's
7 other circumstances where obviously they plug into
8 the ethanol plant itself, so there's going to be
9 circumstances where obviously they come within
10 certain distances. And they kind of use a rule of
11 thumb in that conversation of training that, you
12 know, 300 to 400 feet, we want to follow that.

13 And I did a little bit of my own digging into
14 this manual and looked up what compressed carbon
15 dioxide for our emergency management professionals
16 that are coming across the scene, what would you
17 contain the scene to? What would you evacuate?
18 So an immediate precautionary measure would be to
19 isolate or evacuate 100 meters or 330 feet.

20 So that, to me, when it's coming from PHMSA,
21 essentially if we're trying to follow a federal
22 regulatory scheme, not add on top of it or make
23 something that is arguably arbitrary in a number,
24 being tied to the federal regulatory scheme and
25 saying 330 feet, it gives us the circumstance of

1 why do we want to regulate this at all?

2 If so, 330 feet gives us a radius that we know
3 anything that moves into it in the future gets a
4 building permit or we want to request new zoning
5 to be near that. I think one analogy is -- the
6 idea of railroads got brought up a little bit, and
7 I think there's maybe arguments on both sides of
8 this.

9 I don't necessarily see this as something that
10 will constrain or kill economic development, and
11 no one wants to be near a pipeline. Some entities
12 will want to be near that pipeline, and so that's
13 the tradeoffs and the different land use arguments
14 we're going to have to take is creating a buffer
15 zone that's reasonable tied to a federally
16 regulated structure. I think this is imminently
17 defensible, and then within that 330 feet, about a
18 football field buffer zone, maybe we want to
19 welcome new businesses to Minnehaha County that
20 want to be near the pipeline, want to tap into it.

21 So providing a buffer zone, and happy to hear
22 my colleagues' input on that. I just think -- my
23 other point would be on the 750, and especially as
24 measured currently, the map that Scott showed
25 there is just, I think, going to be on the verge

1 of unworkable, so I think we need one or both of
2 these amendments. I bundled them together because
3 I think we need both, but I think that gets my
4 thoughts on the table. Happy to hear my
5 colleagues.

6 COMMISSIONER KARSKY: Okay. Questions from
7 commissioners of Mr. Kippley. I guess mine --
8 I'll give somebody else a chance to jump in after
9 mine, but I fully understand, you know, when we
10 talk about the setback being from a property line,
11 there can be a lot of, I guess, wiggle room
12 because one structure might be 200 feet from the
13 property line and another one might be ten feet
14 from a property line. So, I mean, especially for
15 dwellings, churches, and businesses, for the
16 measurement to be from the structure would seem to
17 make more sense and be more consistency in our
18 ordinance that the boundary be from the structure,
19 not from the property line. You know, when we're
20 talking public parks, schools, municipalities,
21 from the boundary line to me makes some sense.

22 I think I understand your argument that the
23 330 feet, that it's kind of already in federal
24 standards. I don't know if it's regulations or
25 not. I am open on that for discussion, so I'd

1 like to hear more talk about it, but I'm, for
2 certain, on the measurement of separation, where
3 that measurement begins, I am fully in favor of
4 that. Any other questions?

5 COMMISSIONER BLEYENBERG: I'm just not sure if
6 it's questions or comments.

7 COMMISSIONER KARSKY: Comments, questions,
8 yeah, what you might --

9 COMMISSIONER BLEYENBERG: Okay. Great.

10 COMMISSIONER KARSKY: If you were to approve
11 this as it is or what you might like to see as far
12 as changes to it.

13 COMMISSIONER BLEYENBERG: I guess I like the
14 idea of looking at them separately. And to the
15 point about where to measure, I think that when
16 somebody makes an investment in an acreage or in a
17 farm or property outside of town, that investment
18 is not just in the house. If it was, they would
19 live in town.

20 So that whole parcel is the purchase, and I
21 know from my personal experience, when we bought
22 our first acreage, we purchased an additional five
23 acres with the option to build there later and
24 live in the smaller, older house in the meantime.
25 And I think that's a relatively common practice

1 that you see people buy the land for the land with
2 the intent to build somewhere else on the property
3 later.

4 We all know the eligibility restrictions, so I
5 think a lot of times it doesn't have to do with
6 the eligibility, it has to do with the location,
7 maybe the school district, for me, the trees in
8 the area, and then we, you know, project where we
9 would like to build down the road.

10 So I feel like measuring from the parcel line
11 would do service to the people who have spent the
12 money on those parcels as opposed to a lot.

13 COMMISSIONER KARSKY: Commissioner Beninga.

14 COMMISSIONER BENINGA: Well, I would agree
15 with what Commissioner Bleyenbergh said about the
16 property line. Frankly, I think that 750 feet is
17 a reasonable setback. That is one that we
18 presented to the community. In all the
19 conversations that have been brought up today,
20 they use that number. I think in an act of good
21 faith, they've made some concessions. I think
22 that's a number we should use. I think it's
23 something that the feds have a problem with, we'll
24 hear from them, but I am willing to move on with
25 the thousand -- or the 750 on this particular

1 description.

2 COMMISSIONER KARSKY: Okay. Other comments?

3 Move for a motion. Commissioner Kippley.

4 COMMISSIONER KIPPLEY: If I can just make a
5 quick response there. So some of this structure,
6 again, came from, we basically stole this table
7 straight from the CAFO regulations, so that's
8 where we got the rows and picked slightly
9 different numbers and whatnot. But the
10 measurement of separation comes from there, too,
11 where I think -- I think what you're getting at,
12 Commissioner Bleyenbergh, is just the kind of
13 traditional use and enjoyment of the land. How
14 are you using the land, and you're using all of
15 it, so when you're protecting against odor,
16 smells, sights, CAFO, you want to, again, protect
17 the use and enjoyment of can you go out into your
18 front yard and have a cup of coffee in the morning
19 or are you -- right across the street is the
20 noxious smells of a CAFO. Those are some of the
21 considerations there.

22 Really, this here -- I mean, it's even a
23 little bit of a marginal call as the land use
24 involved, it's under the ground. There's no sight
25 issue. Really, the only thing you're concerned

1 with is the leak, eruption, emission, and that is
2 where I am tieing to 330 feet. But, again, that
3 would only affect your use and enjoyment of the
4 land. If we take that literally by those federal
5 standards, if your house is, again, set back even
6 further from the parcel line, then the people
7 respond that you're out of the evacuation zone.

8 So I guess if you just take some of these
9 federal standards in their literal form and that
10 we're doing our best to kind of follow and
11 regulate within our span of control, if you will,
12 a dwelling that the parcel line happens to be 750,
13 or in my case, 330 feet away, but then the
14 dwelling is another 300 feet back, which is common
15 in a rural area. I mean, these are big parcels of
16 land.

17 So I think it becomes, again, kind of an
18 arbitrary use of our authority when I think maybe
19 that's -- the only other thing I'd ask before we
20 make maybe a couple motions and make a couple
21 votes on this, Scott, is could we pull up that map
22 again that showed -- because I think we clarified
23 that that is 750 feet and by parcel line, so it
24 would reflect the ordinance as currently existing.

25 If we can back that out to the county level

1 and just take a look at that, you'll see some kind
2 of -- obviously, if it was pinpointed to the
3 residence, you'd imagine it being a perfect
4 circle. Some of those are oblong shapes.

5 MR. ANDERSON: That's correct.

6 COMMISSIONER KIPPLEY: They're a little bit
7 odd corners, so that reflects the parcel line. So
8 that's fine. That just is what it is. But I look
9 at this map and just don't feel like I could sit
10 down, or Scott could sit down with that
11 application from the pipeline company and have a
12 reasonable conversation of, Oh, yeah, you just
13 move here or move there. I think that's going to
14 be a very difficult task. Or at least it would
15 basically automatically kick the whole process to
16 a conditional use permit, which I think defeats
17 some of our structure and initial effort to make
18 this at least kind of hold out that incentive that
19 if you work with us, this could be a special
20 permitted use and you could get through.

21 But that's kind of my two cents on where I'm
22 coming from with -- both of those changes would
23 reduce those blue circles.

24 MR. ANDERSON: Yeah. We can -- maybe it would
25 be helpful if you'd like to look at a specific

1 township like Wall Lake. Maybe that would be
2 helpful. So why don't we scroll through --
3 Wall Lake is going to be sort of towards the
4 bottom because it's one of the last townships,
5 but...

6 COMMISSIONER KARSKY: There it was.

7 MR. ANDERSON: So this would be, for example,
8 Wall Lake showing that 750-foot from the parcel.
9 If you go back up, why don't you scroll up one,
10 Trish, that would be -- just a second -- that
11 would be what was -- that's the Red Rock.

12 So it shows you Valley Springs. This is sort
13 of another area -- we're talking two different
14 pipelines, but this is maybe the other pipeline
15 route would show you the setback from Brandon,
16 from Valley Springs, and then the additional
17 setbacks from -- from residences and other
18 churches.

19 COMMISSIONER BLEYENBERG: Chairman Karsky.

20 COMMISSIONER KARSKY: Commissioner, I'm going
21 to leave it to Kippley for right now.
22 Commissioner.

23 COMMISSIONER KIPPLEY: Are you ready for a
24 motion? She's got a comment. Let's have her
25 comment and then I'll make my motion.

1 COMMISSIONER BLEYENBERG: Sure. I know we
2 also have ten minutes of input from each side. Is
3 that before or after?

4 COMMISSIONER KARSKY: After the motion.

5 COMMISSIONER BLEYENBERG: Okay. Got it. So I
6 guess taking our thoughts and our feelings out of
7 it, I would just, again, rely on the work that was
8 put in by planning and zoning when they created
9 the ordinance of the 750 feet setback from the
10 parcel line.

11 I think from what I understand, and you can
12 correct me if I'm wrong, but I think that map is
13 what we started with when we determined the 750,
14 and I think that if the planning commission and
15 the State's Attorney's office scrutinized it and
16 have decided that it's a defensible and a wise
17 move, I am not willing to second-guess that. I
18 would be in favor of keeping it to measuring from
19 the parcel line and at 750 feet.

20 COMMISSIONER KARSKY: Okay. I guess my only
21 comment/question is, Commissioner Kippley, would
22 you consider making your motion without the last
23 sentence of paragraph D that you added?

24 COMMISSIONER KIPPLEY: To clarify, your
25 question is would I consider not having a change

1 in the measurement methodology?

2 COMMISSIONER KARSKY: Correct.

3 COMMISSIONER KIPPLEY: Keep it as-is.

4 COMMISSIONER KARSKY: The measurement itself
5 that you're proposing at 330 feet, but leaving the
6 measurement from the property line, property
7 boundary.

8 COMMISSIONER KIPPLEY: I am -- I guess I am
9 willing to separate them to create a vote to give
10 clarity to where we all are on that idea, but I
11 would be a yes vote on both in the sense of
12 amending, so happy to.

13 COMMISSIONER KARSKY: Are we tipping the hand
14 a little bit, so I'll just, you know, let you make
15 that decision.

16 COMMISSIONER KIPPLEY: Okay. Well --

17 COMMISSIONER KARSKY: I'll let you make a
18 motion.

19 COMMISSIONER KIPPLEY: Yeah. Let's get to the
20 motions here. So I will -- you know what? Okay.
21 I will make a motion for the amendment on, just
22 for now, the -- D, the measurement of separation,
23 and that addition of the last clause in part D.

24 COMMISSIONER KARSKY: One more time. I want
25 to clarify that I understand your motion.

1 COMMISSIONER KIPPLEY: My motion is an
2 amendment for the measurement of separation,
3 part D, adding the red underlined language there.

4 COMMISSIONER KARSKY: So you're including it
5 or you're not including it? I apologize for my --

6 COMMISSIONER KIPPLEY: I am including the red
7 change there, just the -- change the measurement
8 of separation.

9 COMMISSIONER KARSKY: But not including the
10 330 feet?

11 COMMISSIONER KIPPLEY: We'll deal with that
12 one separately.

13 COMMISSIONER KARSKY: Okay. So the motion is
14 to amend the ordinance to change the methodology
15 for measurement from the structure, not from the
16 property line?

17 COMMISSIONER KIPPLEY: Correct. That's my
18 motion.

19 COMMISSIONER KARSKY: Okay. I'm going to let
20 that motion die for lack of a second.

21 COMMISSIONER KIPPLEY: All right. Then we
22 will make a motion to change the setback distance
23 for dwellings, churches, and businesses from 750
24 to 330 feet.

25 COMMISSIONER BENINGA: I'll second it just for

1 conversation, so you have to keep the gavel.

2 COMMISSIONER KARSKY: All right. So we have a
3 motion and a second to change the setback to
4 330 feet for dwellings, churches, and businesses.
5 And it's 330 feet from the property boundary. So
6 we have a motion and a second. Any other
7 questions or discussion from the commission?

8 COMMISSIONER BLEYENBERG: This is a good
9 lesson in Robert's Rules for me. Were we -- do we
10 need to have public input on each of the two
11 separately or do we take them both --

12 COMMISSIONER KARSKY: No. Because the first
13 one died for lack of a second, so we only have one
14 motion and it is on the distance of measurement
15 from the property boundary.

16 COMMISSIONER BLEYENBERG: Okay. Thank you.
17 And do we have a moment for comment on that
18 specifically or is that --

19 COMMISSIONER KARSKY: If you would hold your
20 comment until we take public comment. Is that
21 okay? Okay. So now we have ten minutes public
22 comment from proponents of the ordinance, so we
23 have a proposed change for setback at 330 feet.
24 So I am going to ask you to limit again to about
25 three minutes.

1 MS. BURKHART: Kay Burkhart from Valley
2 Springs. Just one comment is: Are we all aware
3 that PHMSA is meeting on May 31st to June 1st for
4 input in Des Moines, Iowa, to create new rules for
5 CO2 pipelines? If I understood right,
6 Commissioner Kippley is making his numbers off of
7 the PHMSA rules, and what if those numbers change
8 -- I have no idea what they're doing -- if they
9 change and this pipeline is put in the ground,
10 then do we desert that pipeline and start a new
11 one? Just some questions for making those
12 regulations.

13 COMMISSIONER KARSKY: Thank you.

14 MS. HOHN: Good morning, commissioners. I am
15 Joy Hohn from Hartford, and the county planning
16 and zoning staff are experienced with ordinances
17 that have proven to be effective in upholding
18 county goals of current and future best land use.
19 The planning and zoning staff, along with the
20 State's Attorney, have developed a CO2 pipeline
21 ordinance containing a setback of 750 feet.

22 This setback is not arbitrary. It is the
23 result of careful consideration. The setback
24 allows a defensible pathway for CO2 companies to
25 build pipelines while also giving consideration to

1 landowners. Once in the ground, the pipes do not
2 just go away. There are permanent aboveground
3 effects. The pipeline companies have described a
4 vigorous inspection schedule, which includes
5 flyovers, aerial drone monitoring, inspectors
6 walking or driving through the easement
7 right-of-way on a regular basis.

8 The further away from homes and businesses
9 that the easements are, the better it is for
10 everyone. Much like CAFO setbacks, that are
11 designed to protect better esthetics for sight and
12 smell, and wind tower setbacks for noise, CO2
13 setbacks are needed to protect our county citizens
14 from intrusions on privacy.

15 This is a very real aspect of quality of life,
16 security, and protection of rural land and home
17 values. An attractive well-rounded community has
18 a variety of quality living options.

19 This has nothing to do with the ethanol
20 companies or prohibiting these pipelines from
21 coming through the county.

22 This ordinance should not be looked at in a
23 way of being exclusionary. It is about
24 intelligent land use. The pipeline companies can
25 negotiate in good faith. They can be a good

1 neighbor.

2 All along they said that they want to work
3 with landowners like Mr. Todd Brown. He had the
4 choice. He had the ability to make the choice to
5 work with them. The pipeline companies say that
6 they want 100 percent volunteer easements. They
7 can negotiate and bring forth a variance or a
8 waiver to the county.

9 At the minimum, we're asking that you please
10 pass this ordinance. This is the largest and
11 longest CO2 pipeline ever built in the United
12 States. Mr. Godfrey from DMV, from my
13 understanding, Summit and Navigator have not
14 provided plume modeling or dispersion analysis.

15 The burden of proof should be on the
16 companies. Mr. Godfrey should be providing that
17 information to you guys along with the pipeline
18 companies.

19 Personally, myself, and the majority of the
20 constituents from Minnehaha County in this room
21 would like to see higher setbacks. This is
22 intelligent land use and the fastest growing
23 county in the state, and they still refuse to show
24 us plume modeling.

25 After reviewing the modeling and analysis,

1 then you can lower the setbacks. But, please, for
2 the citizens of our county, consider a 1,500-foot
3 setback like Brown County or at least 1,000-foot.
4 We really thank for your time and consideration.
5 And I know Chase Jensen is going to speak after
6 me.

7 MR. MONTGOMERY: Scott Montgomery, Fairview,
8 South Dakota. I was here and testified before the
9 planning and zoning commission, and I can't
10 understand where they come up with a 750, let
11 alone a 330. You take dwellings, churches, and
12 businesses. The only one that wouldn't apply to
13 populations less than 500 where you're requiring a
14 2,640-foot. I mean, you have churches that have
15 populations of 500 at times. Why are we not
16 applying the same rules here?

17 If nothing, I'd like everyone in this room to
18 do, go and take a plastic bag and put it over your
19 head. Snuff it up tight. See how far you can run
20 with that because that's what carbon dioxide does.
21 It removes the oxygen. See how far you can run.
22 Can you run 750 feet? Can you run 330 feet? Can
23 you get away from this? I don't think so. Thank
24 you very much.

25 COMMISSIONER KARSKY: I am going to remind

1 everybody, if you haven't signed in, please sign
2 in so we have your information for public record.

3 MR. JENSEN: Thank you. Commissioners, Chase
4 Jensen once again. As far as the point of
5 businesses that would like to locate closer to the
6 pipeline, there's already a mechanism within your
7 ordinance that allows them to waive their right.

8 I don't see why you would strip a setback that
9 would affect everybody else who may not want to be
10 that close just in order to do something that
11 could already be done.

12 As far as we can tell, one of the main
13 determinants in developing the setback, that it
14 would not prove to be prohibitive, and so clearly
15 there's legal reason to believe the 750 is
16 defensible.

17 The county has also clearly and explicitly not
18 used safety considerations in the development, so
19 I am just struggling to understand how using a
20 PHMSA regulation on an emergency evacuation zone
21 clears that standard but rupture modeling doesn't.
22 That doesn't make any sense to me.

23 I've also looked at that document that PHMSA
24 put out, and there's no distinction between source
25 of CO2, volume of CO2. I would cast serious doubt

1 that whatever that regulation is, it's talking
2 about high pressure CO2 pipelines, which can vary
3 in both PSI. It can also vary in length size of
4 pipe. There's no way that a regulation would be
5 stuck at 330. That would apply from everything
6 from a refrigerator in the basement of a
7 restaurant that leaks to a potential rupture of a
8 20-mile section of a 24-inch pipeline under 21
9 PSI. That's mind-boggling.

10 So I don't think that there's any firmer
11 foundation on the number 330. If it's tied to
12 that, then what you already have is a reasonable
13 750 that was developed and is defensible.

14 COMMISSIONER KARSKY: I see two people in
15 line, so I am going to limit -- ask you to limit
16 your time to two minutes, if you don't mind, and
17 then we're going to move on to the opponent
18 testimony.

19 MR. STANGELAND: Michael Stangeland. My
20 understanding is that this 330 is determined by --
21 well, that's what this federal government agency
22 says is good. The problem with that is that, one,
23 I think we've seen in recent history that, you
24 know, federal government guidelines are not -- are
25 not really instinctively the best option to go

1 with.

2 This is also the same federal government that
3 is the reason this pipeline happens, that kind of
4 wants the pipeline to happen. So my thinking is:
5 Going with the idea of, Well, this is what the
6 federal government says, it's good enough for the
7 federal government, it's good enough for us, is
8 very much a shortsighted approach to the
9 situation.

10 MR. MINOR: Gary Minor. In my previous
11 statement I said anybody who had the guts to lower
12 this better be able to look at the landowners in
13 the eye and tell them that they were simply
14 collateral damage.

15 I know we're supposed to stick to the facts,
16 not emotion, but I'm way past emotion. You might
17 as well spit in our face. Do you know that this
18 24-inch pipeline at a 20-mile span for shut-off
19 valves carries 8 million cubic feet of liquid.
20 When a liquid turns to gas, it expands 535 times.
21 That means there will be 4,280,000,000 cubic feet
22 of gas coming over or moving across the ground.
23 You might as well make that 3 feet as 330. I am
24 asking you all to please reject this. This is
25 just plain an insult.

1 COMMISSIONER KARSKY: Testimony from
2 opponents.

3 MR. ELDRIDGE: Hey, commissioners. Aaron
4 Eldridge, Summit Carbon Solutions again. Real
5 brief, just on behalf of Summit Carbon Solutions,
6 we oppose this amendment, not specifically due to
7 the merits of the amendment itself, but rather in
8 opposition to the ordinance as a whole and any
9 amendments pertaining to that as we believe this
10 is preempted by federal law. So for the sake of
11 time, I don't plan to stand up and say this for
12 all of the amendments, but I did want to get that
13 on the record. Thank you.

14 COMMISSIONER KARSKY: Thank you. Other
15 opponent testimony? All righty. We will move on
16 back to commission discussion. Commissioner, I
17 think you are first.

18 COMMISSIONER BLEYENBERG: Okay. Thank you.
19 Just back to Commissioner Kippley's point, I think
20 you maybe stated that you thought 750 feet was too
21 high to be sustainable. And I just go back to the
22 fact that we started out with a map with planning
23 and zoning and that we worked through all of those
24 processes, and I am just deferring to the work
25 that was put in. I know that Commissioner Kippley

1 has been on those planning and zoning meetings and
2 put in those late nights with the other members of
3 the commission, and I really -- I would like to
4 show respect for the time and the effort that
5 they've put in. And I would be in favor of
6 sticking with the 750, and I understand the 330
7 came from the emergency response guidebook, and I
8 do kind of assume that that's probably a minimum,
9 not necessarily to be taken into consideration
10 across the board. I think it probably is the very
11 least that the federal government could regulate,
12 so for those reasons I still -- I am still content
13 and happy and thankful for the work that was put
14 in for the 750 feet.

15 COMMISSIONER KARSKY: Other comments?

16 Commissioner Kippley.

17 COMMISSIONER KIPPLEY: Thanks, Mr. Chair.

18 See, I guess some background and history since
19 we're doing -- I appreciate the deference to
20 planning and zoning. That's a group of volunteers
21 that volunteer their time. We had a hearing on
22 this that was started at 7:00 p.m., and we tried
23 our darnedest to make it to midnight, but we
24 adjourned at 11:55, so that was basically a
25 five-hour meeting. We had a couple other issues

1 involved, too, but there has been a lot of
2 diligence put into this.

3 I would just -- my procedural, again, as the
4 liaison to that body, coming back and telling this
5 body, my colleagues, I would say a lot of that was
6 we needed a vehicle to get across the finish line.
7 I think we have some duty to -- if we're going to
8 pass something -- to try to get that done before
9 the PUC hearings to both give a sister agency in
10 the PUC our sentiments towards these issues and
11 our sense of desire for local control. And in
12 fairness to the pipeline companies seeking those
13 permits, before they would break ground and get on
14 with their project to know whether we're going to
15 regulate them or not.

16 So we had a bit of a timeline, and to delay
17 that, after a five-hour meeting, to delay that
18 again to consider amendments, so I would just
19 argue that this was a good draft that was always
20 understood. And I made comments both at the
21 planning commission and at the next county
22 commission meeting that next Tuesday to say this
23 was a work in progress and there would be
24 amendments coming in.

25 I would describe the 750 as largely a

1 recognition that 1,000 was too big. So I would
2 try to defend it from a perception that it is
3 completely arbitrary because it is less than
4 1,000, but I would argue that 330 has a basis in
5 some guidelines. And although a lot of the
6 feedback we got just now in considering a number
7 was completely about safety. I will try to pivot
8 that to -- give a sense for why this is about land
9 use.

10 So the concept involved here of having -- and,
11 again, it is not our role to second-guess the
12 federal government and PHMSA. So if they say,
13 Here is a diameter of a pipe that's allowed. Here
14 is a thickness of a pipe that's allowed. Here is
15 the depth it can be. That -- we just -- we don't
16 have the authority to second-guess it. So even
17 though I get a sense there's members of our
18 community that would love the number to be
19 basically as high as possible, I get that
20 perception, and that's an argument to take up
21 basically on the safety merits with PHMSA and the
22 federal government.

23 At our level, we're looking for a land use
24 regulation that we want to understand what goes
25 into -- whether it's 750 or 330 feet -- we want to

1 understand what is going into that area. And
2 330 feet has a basis, because as you get a
3 building permit, the idea would be you understand
4 that that building may have to be evacuated. And
5 maybe that's the wrong number. But it's not --
6 again, it's not this body to decide whether it
7 happens to be 330 feet. If PHMSA wants to change
8 that, they can.

9 But in the environment that we live in today,
10 if we're talking about a land use regulation, to
11 know what types of buildings and structures can be
12 built within some radius of this pipeline,
13 330 feet has a basis in, we would be at training
14 and asking our first responders to know, Here is
15 buildings that are within that radius and here's
16 buildings that are not. It is actually a
17 nonarbitrary line that would say, Those buildings
18 that are not within this would not be part of your
19 response plan and would not be part of -- at least
20 the initial response. There might be other
21 circumstances that change. In any emergency
22 management, you'd have secondary considerations,
23 and whatnot. But I think that is important
24 distinction to then go into planning and zoning
25 discussions for future things that would come

1 there.

2 I did have one response that, yes, building
3 entities that want to be near the pipeline could
4 obviously waive any requirements of having a
5 pipeline near them. But that, again, is part of
6 the land use process is to designate a buffer that
7 says, Hey, we want to reserve this space for
8 potentially light industrial. That some
9 businesses, we want the potential for growth in a
10 certain sector in this area. So, again, creating
11 that buffer zone allows for that growth.

12 So, again, when -- I think when you kind of
13 know our role vis-a-vis the federal government and
14 the PHMSA agency and what they've -- what they've
15 given us, I think 330 is reasonable, measured in
16 something, based in something.

17 The other point I would make, if we wanted to
18 take PHMSA completely literally and just take all
19 the safety comments into consideration, PHMSA
20 would say only a 50-foot setback. So we're
21 already stretching beyond safety. And we need
22 another justification besides safety because
23 otherwise PHMSA would say a 50-foot setback is
24 reasonable, and that's what depth would cover
25 three feet. If you go down four feet, there's

1 essentially no setback. So all the safety
2 commentary really doesn't get us anywhere unless
3 we want no regulation and just fall back on PHMSA
4 itself. So I think if we're going to get
5 something across the finish line, I am strongly in
6 favor of the 330 feet.

7 COMMISSIONER KARSKY: Thank you, Commissioner.
8 I'll take the last comments then before we go to a
9 vote. First of all, this is not personal. This
10 is a very difficult decision being made by your
11 county commission. It was brought forth by the
12 planning commission. And we respect all the work
13 that that volunteer group does. They are not the
14 elected officials, and that's why we're here.

15 So we get to make the difficult decisions in
16 passing this into ordinance. This isn't personal
17 and we don't intend it -- I, at least, do not
18 intend it to be a personal thing.

19 You know, the question when it comes to PHMSA
20 and upcoming meetings, you know, if they --
21 personally, if they lower it from 330 to 100, I'm
22 probably not going to ask that we bring it back
23 and lower it from 330 to 100. And, likewise, if
24 they change it from 330 to 500, well, yeah, then I
25 might ask that we reconsider it.

1 I think 330 is a good basis for measurement at
2 this point. It seems like a logical number to use
3 based on the ten minutes of Commissioner Kippley's
4 argument. But at the same point, they spent one
5 evening and a lot of hours of input, and it is
6 somewhat arbitrary, so I am looking for a number I
7 can tie my hat to that says that this is a good
8 reason.

9 The other thing is when I look at the map and
10 I see the circles on the 750 feet, from what I can
11 see, and I haven't taken that hard of a look, it
12 does appear to really eliminate a lot of places
13 that -- or eliminate totally the ability to permit
14 a pipeline based on the 750-foot setback.

15 I am not in favor of that. I think we have to
16 allow free enterprise, and there's a lot of people
17 that are for this. There's a lot of people that
18 are against it. We're just trying to come up with
19 reasonable rules for us to move this forward. So
20 any other comments? Commissioner Beninga.

21 COMMISSIONER BENINGA: Well, I am not going to
22 support the 330. Frankly, I even have trouble
23 understanding the difference between what's public
24 parks, schools, churches, and businesses, and
25 dwellings, having two different categories. It

1 seems to me if we're, frankly, interested in
2 saving more people, if we exceed the federal
3 guidelines, that's our choice. If the individual
4 landowner wants to waive their right for the
5 minimum setback, that's their choice, so I am not
6 going to support the 330. I think the number was
7 used with common sense, and, frankly, I think
8 that's what we need to stick with.

9 COMMISSIONER KARSKY: Okay. Roll call vote on
10 the amendment to change the setback to 330 feet
11 from the property boundary.

12 SECRETARY: Kippley.

13 COMMISSIONER KIPPLEY: Aye.

14 SECRETARY: Beninga.

15 COMMISSIONER BENINGA: No.

16 SECRETARY: Bleyenberg.

17 COMMISSIONER BLEYENBERG: I'm sorry. Was
18 there an opportunity or is there going to be an
19 opportunity to make any changes to the amendment
20 or has that passed?

21 COMMISSIONER KARSKY: I'll ask our Robert's
22 Rule of Orders expert.

23 MR. BOGUE: As to the question that's being
24 voted on right now?

25 COMMISSIONER BLEYENBERG: Yes. On this

1 specific amendment.

2 MR. BOGUE: No. You could make another
3 amendment if you wish, but this one is already
4 past the point for discussion, so that's at a vote
5 now.

6 COMMISSIONER BLEYENBERG: Okay. No.

7 SECRETARY: Karsky.

8 COMMISSIONER KARSKY: Aye. So motion is two
9 to two. That automatically will carry this debate
10 over to June 6th on this proposed amendment.

11 Commissioner Bleyenber, I'll open the floor to
12 you if you would like to make a substitute motion.

13 COMMISSIONER BLEYENBERG: Is there an
14 opportunity for discussion among the commission --

15 COMMISSIONER KARSKY: Yes.

16 COMMISSIONER BLEYENBERG: -- on a substitution
17 motion?

18 MR. BOGUE: Ms. chair, if I could clarify the
19 chair's comment. That's actually not a substitute
20 motion. There's no motion on the table. This is
21 just a new motion.

22 COMMISSIONER KARSKY: Thank you. I'm sorry.

23 COMMISSIONER BLEYENBERG: Okay. So I'm going
24 to make a motion to amend Commissioner
25 Kippley's amendment.

1 MR. BOGUE: Submit your own fresh amendment.

2 COMMISSIONER BLEYENBERG: Okay. A fresh
3 amendment. Okay. Thank you. In regards to
4 changing the setback from the 750 feet that the
5 planning and zoning and planning commission has
6 created, I would entertain conversation about some
7 neutral ground for the sake of --

8 COMMISSIONER KARSKY: And what are you
9 proposing?

10 COMMISSIONER BLEYENBERG: Would 650 feet be
11 close to -- 600 feet. I will say 600 feet.

12 COMMISSIONER KARSKY: Okay. So I'm going to
13 ask Mr. Bogue if Commissioner Kippley could amend
14 his motion that was voted on or if that's just
15 done or if we can reconsider?

16 MR. BOGUE: Mr. Chair, unfortunately the way
17 that SDCL 7-8-18 is worded, it says, "When the
18 board of county commissioners is equally divided
19 on any question, it shall be deferred to a
20 decision until the next meeting of the board when
21 the matter shall then be decided by a majority of
22 the board."

23 COMMISSIONER KARSKY: Okay.

24 COMMISSIONER BLEYENBERG: Okay.

25 MR. BOGUE: As far as the continuance until

1 the 6th, that ship has sailed. So this will all
2 be concluded on the 6th.

3 COMMISSIONER KARSKY: Okay.

4 MR. BOGUE: And even if you reach consensus on
5 a new number, you still have a tie vote on one
6 that will have to be resolved on the 6th.

7 COMMISSIONER KARSKY: So to that point, then,
8 Commissioner Bleyenberg, I would ask that if you
9 do have reconsideration, that maybe it be best
10 addressed at the June 6th meeting.

11 COMMISSIONER BLEYENBERG: Thank you.

12 COMMISSIONER KARSKY: Would you be willing to
13 carry that over until then?

14 COMMISSIONER BLEYENBERG: Absolutely. Thank
15 you.

16 COMMISSIONER KARSKY: Okay. Thank you. So we
17 will go on to the next amendment.

18 COMMISSIONER KIPPLEY: Mr. Chair, our last
19 amendment is, again, more of a procedural element
20 that if and when we have a conditional use
21 application, this amendment would just delete some
22 ongoing fees and just maintain an initial
23 application fee of the \$25,000.

24 Again, the explanation on this is just largely
25 feedback and conversation within staff and the

1 pipeline companies, again, looking to have
2 something that's reasonable for the ongoing
3 relationship. And it honestly gets fairly
4 burdensome to -- on staff time -- to collect this
5 fee, so I think we just take our shot of --
6 obviously, this has some expenses to the county.
7 We make that in the fee up front. The pipeline is
8 paying property taxes and ongoing revenue streams,
9 so this is, I feel, just a clean-up to acknowledge
10 that this isn't really a revenue generator or
11 something that we want to deal with on an annual
12 basis, so I see it as a clean-up that I don't
13 really have strong opinions on, but just would
14 like us to focus on the work of the county rather
15 than having to collect nominal fees annually.

16 COMMISSIONER KARSKY: All righty. Questions
17 from the commission?

18 COMMISSIONER BLEYENBERG: Chairman Karsky, I
19 have a question.

20 COMMISSIONER KARSKY: Commissioner Bleyenber.

21 COMMISSIONER BLEYENBERG: Commissioner
22 Kippley, you mentioned feedback from staff also.
23 Is that -- can you elaborate? How is that
24 burdensome?

25 COMMISSIONER KIPPLEY: Yeah. I guess I can

1 ask Scott a question. I can't remember what the
2 topic was, but there are a few things that we do
3 collect annual fees. Certain -- X number of acres
4 of this type of use, we have, you know, a couple
5 hundred dollar fee. For each one we have to send
6 out invoices for a thousand bucks or something.

7 MR. ANDERSON: Yeah. It's actually -- so one
8 of the fees you're referring to is an unreclaimed
9 mining fee. So when a mining company gets a
10 conditional use permit to do sand and gravel
11 mining or hardrock mining, the way the ordinance
12 is written is they have to annually provide or
13 pay a fee -- and I think it's \$50 an acre for
14 every open acre of sand and gravel pit. And it
15 comes to, I think, less than four or five thousand
16 dollars a year.

17 And it does require, you know, sending out an
18 invoice, tracking it. It's -- I wouldn't say it's
19 a huge revenue generator. It's work. So that's
20 one of the fees.

21 COMMISSIONER KARSKY: Thank you. Scott, don't
22 leave yet. Do you have more questions? I do of
23 Scott. So I'm trying to understand this. A fee
24 of \$250 shall be charged for filing an application
25 for a conditional use permit in any district. So

1 a couple things there. What's a "district"? And
2 if they're filing a conditional use permit to go
3 across multiple properties and trying to do it all
4 at once, are they filing one \$250 fee or is it
5 \$250 per --

6 MR. ANDERSON: I need to grab my reading
7 glasses. It's going to take me about -- all
8 right. Let's see here. So you have read off A.

9 COMMISSIONER KARSKY: A, correct.

10 MR. ANDERSON: And that's not being changed.
11 So if you look at --

12 COMMISSIONER KARSKY: Oh. Thank you.

13 MR. ANDERSON: It's adding -- it would be
14 adding B, which is -- which indicates that the
15 fees shall be charged for the pipeline. And then,
16 in addition, there would be -- there would be the
17 fee for -- the 25,000 fee would be the application
18 fee for the conditional use permit for
19 specifically a transmission pipeline.

20 The other -- what you read applies to the
21 conditional use permit fee for a kennel or a
22 daycare. That's -- so that would not change for
23 those other conditional use permits.

24 COMMISSIONER KARSKY: So the new language that
25 we're addressing today -- so this is somewhat

1 confusing -- B is the total language. A already
2 exists. Is that correct?

3 MR. ANDERSON: Yes. And it's being -- it's
4 being -- except for the B. So it added the B
5 item, which is the pipeline item.

6 COMMISSIONER KARSKY: Okay. Thank you.

7 MR. ANDERSON: Uh-huh.

8 COMMISSIONER KARSKY: Other questions?

9 COMMISSIONER BLEYENBERG: Comment?

10 COMMISSIONER KARSKY: You bet.

11 COMMISSIONER BLEYENBERG: If we maintain the
12 fee for open gravel pits, I don't see why we would
13 not keep that for other conditional use permits.
14 And then a question would be: Does that go into
15 the general fund? Where does that fee go? Thank
16 you.

17 MR. ANDERSON: All fees collected by the
18 planning department go into the general fund.

19 COMMISSIONER BLEYENBERG: Okay.

20 COMMISSIONER KARSKY: Okay.

21 COMMISSIONER BLEYENBERG: And then regarding
22 the property tax income, I am not sure,
23 Commissioner Kippley, if you can enlighten me a
24 little bit on what that specifically is.

25 COMMISSIONER KIPPLEY: I've just heard -- I

1 don't know, maybe somebody that has estimates --
2 I've heard into the hundreds of thousands of
3 dollars, at least tens of thousands of dollars'
4 worth of property tax revenue, so that's an
5 ongoing revenue source. So it's not like the
6 entity involved is not paying some ongoing aspect,
7 but I would defer to Carol if she's got a better
8 answer.

9 MS. MULLER: Carol Muller, commission office.
10 I do not have a definitive answer for you on that.
11 But what happens through -- annually, is by the
12 fourth Thursday of August, I believe, we are to be
13 told essentially an assessed number that comes to
14 the auditor's office, and that number is going to
15 be what we receive on any utility, pipelines, rail
16 lines, those types of things. And, please, I'd
17 probably suggest not quoting me on this because I
18 don't have all the definitive information on it,
19 but I do remember it's that fourth Thursday that
20 we come across and we get the taxes that are out
21 of there.

22 I would just state that when they talk about
23 much money comes to the county, remember that that
24 is then disbursed out to a lot of taxing
25 authorities out there, and that, on average, we

1 keep 20 percent of any property taxes that come
2 in. So that's just a very general answer for you
3 and would defer if the attorney has anything that
4 he would like to add.

5 MR. BOGUE: Mr. Chair.

6 COMMISSIONER KARSKY: Please.

7 MR. BOGUE: On that question, I did reach out
8 to the Department of Revenue. They did confirm
9 that this will be centrally assessed property.
10 They do not have any computation as of yet what
11 Minnehaha County will receive, so no number is
12 determined yet by the Department of Revenue.

13 COMMISSIONER KARSKY: So my understanding,
14 windmill or wind generation, pipelines, et cetera,
15 are all assessed by the state, not by the county,
16 and that revenue is funneled through the state
17 back to the counties?

18 MR. BOGUE: That's correct. And as Carol
19 pointed -- sorry. As Carol pointed out, then
20 that's distributed across several different taxing
21 entities or governmental entities that normally
22 receive the property tax, so...

23 COMMISSIONER KARSKY: All righty.

24 Commissioner.

25 COMMISSIONER BLEYENBERG: I would just

1 reemphasize my initial point. I don't feel like
2 we're -- yeah.

3 COMMISSIONER KARSKY: Other comments.

4 COMMISSIONER BENINGA: Frankly, if I might.

5 COMMISSIONER KARSKY: Please.

6 COMMISSIONER BENINGA: I don't think the \$300
7 per linear mile is going to put anybody in the
8 pipeline industry out of business. The other
9 piece of that is we're going to have ongoing
10 issues to provide townships and rural communities
11 with support of their volunteer fire departments,
12 and all that kind of stuff, so I have no problem
13 with the \$300.

14 COMMISSIONER KARSKY: All righty. I have no
15 comments. Commissioner Kippley, do you want to
16 make a motion?

17 COMMISSIONER KIPPLEY: And fail for lack of a
18 second? I think, yeah, let's go through the
19 motions, I guess. I will make a motion for
20 amendment JK-03, striking 24.05 B2.

21 COMMISSIONER KARSKY: So we have a motion to
22 remove 2 from 24.05 B. Look for a second. Okay.
23 I am going to let that die for lack of a second.
24 Prophetic of you, Commissioner.

25 All righty. So where we're at now. We have

1 no other amendments being proposed. We will have
2 a vote on the 330-foot setback with maybe future
3 amendments. Maybe they're higher, maybe they're
4 lower. That's totally open at the June 6th
5 meeting as to what could be proposed. So we will
6 have a meeting on June 6th. It will address the
7 setbacks, and then we will have -- well, and
8 possibly more -- and then we will have hopefully
9 five commissioners here and we will have the
10 opportunity to vote on the entire ordinance.

11 I will caution you that testimony at the
12 June 6th meeting will be limited. We will not
13 take repeat testimony. So if you said it today,
14 we're not going to hear it again in two weeks.

15 That being done, I don't think I need a motion
16 to delay this because it's already been delayed --
17 or do I need a motion to delay to a specific date?

18 MR. BOGUE: Mr. Chairman, I would agree with
19 you that by statute language, it's automatically
20 continued or deferred, so I don't think you're
21 required to have a motion at this point.

22 COMMISSIONER KARSKY: So June 6th is our next
23 regular meeting. That's the date that this will
24 be hopefully finalized, so that gives fortunately
25 everybody time to talk to us or anybody else, so

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we encourage communication from our constituents
and from proponents and opponents. We will move
on, then, to -- my commuter died, so I've got to
find my paperwork.