

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  
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 Bleyenberg 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

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

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