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TRANSCRIPT  
OF  
PROCEEDINGS  
(Clark County Commissioners' meeting)  
March 27, 2017  
9:15 o'clock, a.m.

Commissioners Present:  
Violet Wicks, Chairperson  
Robert Bjerke, Vice Chairman  
Francis Hass, Commissioner  
Chris Sass, Commissioner  
Richard Reints, Commissioner

Taken at:  
Clark County Courthouse  
200 North Commercial  
Clark, South Dakota

1 people out there. You all are paying the price. Your  
2 community's not going the right direction.  
3 So if Geronimo would like to comment, but I  
4 believe you've been asked twice if you consider it a conflict  
5 of interest and I believe the answer is no. If you want to  
6 comment, fine. If not, I guess that's really all I have to  
7 say at this time.  
8 JAY HESSE: And for me, I've never -- I mean,  
9 from the social media avenue, I didn't play into that. I  
10 mean, we're just going through the process here and I make no  
11 accusation that you're being --  
12 COMMISSIONER BJERKE: No, no, no, nothing to do  
13 with your folks.  
14 JAY HESSE: Yeah.  
15 COMMISSIONER BJERKE: But I guess just at this  
16 point in time I would like to find out, because if there's --  
17 if this stuff is going to come up after we get done here  
18 which or the way we vote, I'd rather talk about it now, and I  
19 wish a lot of these would have got addressed that way, talked  
20 about upfront instead of after the fact, so if something's  
21 going to come up because we voted one way or the other, I'd  
22 rather talk about it right now, and I'm only talking for  
23 myself. The other boards didn't even know I was going to  
24 talk. It was just something I have to get off my chest  
25 because a lot of it's pointed at myself, so...

1 COMMISSIONER BJERKE: May I address.  
2 CHAIRPERSON WICKS: Yes, you may.  
3 COMMISSIONER BJERKE: I guess my thoughts -- I  
4 don't have everything written down, but the whole room is  
5 filled with emotion. I'm not going to go on, I just  
6 basically want to talk about the social media for about ten  
7 seconds and then I'm going to get off that because there's so  
8 much emotion in this community and right now social media is  
9 not making it any better, particularly Facebook, comments  
10 that are made on Facebook. Either side, it doesn't matter.  
11 We don't need to fuel the fire out there, and I guess when  
12 social media talks about me as a commissioner and my  
13 integrity, it's a problem.  
14 So I want to address that issue today. I've  
15 heard there's conflict of interest with myself and other  
16 commissioners and I'm going to ask Geronimo, if they don't  
17 want to comment, that's fine, but I believe they've been  
18 asked twice if they feel like there's a conflict of interest  
19 with myself and other commissioners on being unbiased. If  
20 there is, I would ask for you to bring it up at this time so  
21 we can just go on, because one thing I don't want to hear  
22 from anyone when this is done is the fact that somebody did  
23 or did not get something because I'm a better friend, because  
24 you're a relative or whatever else. I don't want that. The  
25 community doesn't want it. I'm not paying the price for the

1 JAY HESSE: I've got no issues.  
2 CHAIRPERSON WICKS: Thank you.  
3 JAY HESSE: No comment, I guess.  
4 COMMISSIONER BJERKE: Thank you.  
5 CHAD FJELLAND: The current motion on the table  
6 is a motion to approve. At this time, is there any other  
7 debate or discussion on that motion? There being discussion  
8 amongst the commissioners, ultimately the commissioners can  
9 ask questions this morning of the applicant.  
10 COMMISSIONER HASS: Geronimo, with the mile  
11 setback with the option of negotiating the nonparticipants,  
12 do you have a problem with that or --  
13 PATRICK SMITH: Yeah, we've negotiated with a lot  
14 of these folks, put fair offers in front of them. You know,  
15 we came to the boundary that we have here because of those  
16 negotiations.  
17 COMMISSIONER HASS: I'm talking about  
18 nonparticipants.  
19 PATRICK SMITH: We've approached all those folks,  
20 or almost all those folks with opportunities to participate  
21 in the project.  
22 UNIDENTIFIED MAN: I don't think that's true  
23 because I haven't been approached about anything.  
24 JAY HESSE: I think, yeah, from who's been  
25 approached with the offers, I mean it's anyone within the

1 boundary was offered the contract, the same contract, same  
2 deal for everybody. You know, with the mile setback and  
3 looking at those homes at that level, that wasn't the  
4 original rule in the zoning ordinance, and that wasn't a  
5 standard practice to go beyond that and offer contracts that  
6 way, but from a contract offering standpoint, everyone got  
7 the same deal inside of the --

8 PATRICK SMITH: Well, and I think, Jay, the thing  
9 you're missing there is that we had a larger boundary at one  
10 point. We approached a large portion of these folks. They  
11 declined participating and so we moved and your ordinance  
12 protects them for not participating, but we've introduced a  
13 letter that increases setbacks from nonparticipants because  
14 we've heard the concerns of the community, but a mile setback  
15 isn't bible for that project and further negotiation isn't  
16 going to address anything at this point.

17 COMMISSIONER BJERKE: When you say this project,  
18 how many megawatts is this project in total?

19 PATRICK SMITH: Right now, we're proposing  
20 400 megawatts.

21 COMMISSIONER BJERKE: When you say proposing,  
22 what do you mean by proposing?

23 PATRICK SMITH: In our application is what we  
24 would put in.

25 COMMISSIONER BJERKE: No, it still says 200.

1 discussions, the project has trended larger in size. As we  
2 see in the market, it makes projects more competitive. The  
3 recent media articles, there was other projects that are in  
4 South Dakota that are even significantly larger than this and  
5 that's what we compete against, and being in this remote area  
6 with this project, that's really the type of thing that is  
7 needed to get the price to the point where we can compete,  
8 and I think we've shared publicly before with you guys that  
9 we do not have a contract yet for this project to sell the  
10 energy and that will be one the key drivers as far as how  
11 much -- you know, what it would be built to, but from this  
12 point, or the from the land that we have signed with the  
13 participating landowners, we feel like we could get up to  
14 that, you know, with that many turbine locations which could  
15 be 400 megawatts, and so when we go and market the project to  
16 potential buyers, the higher the megawatts, generally the  
17 lower the price which makes it more competitive. So  
18 basically with the green signed land and meeting the  
19 ordinance, we look at that, you know, and how much can fit in  
20 there and then how many megawatts can we get out of there to  
21 plug out of the system to be the most competitive project we  
22 can possibly be. So that's our goal is to utilize the land  
23 of the willing participants to get the efficient project we  
24 can get to win, and we haven't -- you know, we don't have a  
25 contract yet for someone to buy it, but that's our goal.

1 BARRY FLADABOE: In the application it's up to  
2 219 turbine locations. So it's, from a marketability  
3 standpoint, up to 400.

4 PATRICK SMITH: So the megawatts is different  
5 than turbines. Not each turbine is one megawatt.

6 COMMISSIONER BJERKE: That's correct. So how did  
7 we get to 400 from the 200?

8 PATRICK SMITH: That was something we covered at  
9 the hearing last time.

10 COMMISSIONER BJERKE: No.

11 PATRICK SMITH: Where we have opportunity for  
12 additional interconnection and we also had a lot of interest  
13 from landowners in the area, so we saw aligned opportunities  
14 and we expanded the project accordingly.

15 COMMISSIONER BJERKE: Because your original  
16 request was for 200 megawatts and I haven't seen where that  
17 has changed in total megawatts in this whole -- everything in  
18 there is still saying 200 megawatts.

19 PATRICK SMITH: So our submittal to the county  
20 for an application specifies number of turbines. It doesn't  
21 specify megawatts, and I think that's maybe the source of the  
22 confusion there.

23 BARRY FLADABOE: I'll comment two things on that.  
24 I mean, one thing as Patrick commented on, is as we've gone  
25 along even from prior to being 200 megawatts in early

1 COMMISSIONER SASS: So to start this project, it  
2 was 75 to 125 towers. Was that going to work?

3 PATRICK SMITH: Well, we -- so to talk in those  
4 terms is to ignore the extent of amount of development that  
5 we've done on this project. So we started this project back  
6 2007, 2008 which is a very different market, very different  
7 transmission system. There's been a lot of build out of  
8 transmission lines. Very different interest in the  
9 community. You know, everything has changed from that point  
10 on. So we've been working on this project for just about ten  
11 years, and when you talk about what the original proposal was  
12 and the original idea, I mean, this is going back quite a  
13 ways in history.

14 COMMISSIONER SASS: So ten years ago, you thought  
15 there was going to be 219?

16 PATRICK SMITH: No. Ten years ago, it was a  
17 different market and different, you know, different  
18 structures for everything where, you know, we're here 2017,  
19 we're trying to put together the project in a way that we  
20 think is the most competitive, and that's what we've put  
21 before you guys.

22 COMMISSIONER SASS: You sent papers to us with  
23 response to a one-mile setback. It would lose 67 towers, is  
24 that right?

25 PATRICK SMITH: You know, we give a

1 quantification of that number, but it seriously damages the  
 2 project well beyond that. We didn't go through the effort to  
 3 complete the engineering to figure out how many towers we  
 4 would totally lose from an engineering standpoint, but we  
 5 would have some serious voltage problems on the collector  
 6 system which will eliminate well over half of the project.

7 COMMISSIONER HASS: That's where I thought the  
 8 negotiating to the nonparticipants, you could probably save  
 9 quite a few towers that way.

10 PATRICK SMITH: We continue to talk to  
 11 nonparticipants, and we've spent a lot of time negotiating  
 12 with these folks. I think that there is some misperception  
 13 that we haven't been willing to sit down. You know, we  
 14 engaged early. A long time ago we expanded the project when  
 15 we realized that there was some additional transmission  
 16 opportunity here and we contacted a large number of folks to  
 17 see if they wanted to participate in the project one way or  
 18 the other, and the answer was no. And so from a negotiation  
 19 standpoint, I don't really see this as being an opportunity  
 20 for us to negotiate further. We spent close to two years.  
 21 I'm not quite sure when that first letter went out, but we  
 22 expanded back in 2015, 2014, and we contacted a large number  
 23 of folks to the south, to the west, to the east over that  
 24 time frame.

25 COMMISSIONER HASS: See, you're probably

1 say. I know of seven towers you can probably get right back  
 2 easy.

3 UNIDENTIFIED MAN: Did you expand from a thousand  
 4 feet to 2,000 feet from the nonparticipating landowners?

5 PATRICK SMITH: From some nonparticipating  
 6 landowners that we had heard, you know, serious complaints  
 7 from, we did, and we will plan to build that way.

8 COMMISSIONER BJERKE: It doesn't matter if it's  
 9 Geronimo or who it is, I assume that -- I have to call them  
 10 rental payments, or whatever you want to call it, to put a  
 11 tower on a participant's land, I think it's all pretty  
 12 general, in the same ballpark as far as what's been being  
 13 paid from what I've been able to determine. Am I correct in  
 14 saying that it takes a little under four acres on most towers  
 15 for a road, a tower? I think I read that somewhere, am I  
 16 coming close? I'm not --

17 JAY HESSE: It's usually less than that. It's  
 18 usually less than an acre.

19 COMMISSIONER BJERKE: Okay. Less than an acre?

20 JAY HESSE: Yes.

21 COMMISSIONER BJERKE: Why do you pay such ungodly  
 22 amounts of rent to put towers on people's property? Why such  
 23 a large -- in my opinion that's a large sum of money. Why?  
 24 Why?

25 PATRICK SMITH: It's the markets.

1 misunderstanding me. I want the project to go through.

2 PATRICK SMITH: Yeah.

3 COMMISSIONER HASS: Why can't you negotiate with  
 4 the people where it doesn't -- where all I have to do is look  
 5 at it and get nothing off of it?

6 PATRICK SMITH: We've made that offer.

7 COMMISSIONER HASS: You made the offer?

8 JAY HESSE: To people in the footprint. I mean,  
 9 everyone -- even if you have one --

10 COMMISSIONER HASS: People outside the footprint  
 11 where they can see the tower lines across the road?

12 JAY HESSE: At this point, the offers have been  
 13 specifically to the boundary.

14 PATRICK SMITH: Well, Jay, I think that's not --  
 15 you're not doing it justice. We always make an offer of  
 16 personal land review. Some folks don't want to participate  
 17 to the land reviews, and so in those situations, we do offer  
 18 an opportunity to sign a setback agreement basically if  
 19 they're going to be looking at it, they can sign a contract  
 20 and you know, we get a little bit closer maybe, not a ton  
 21 closer, especially, you know, a small home site, but it is an  
 22 opportunity for them to participate, get some revenue from  
 23 the project, and so those things are always on the table,  
 24 and --

25 COMMISSIONER HASS: That's what I'm trying to

1 BARRY FLADABOE: Across the country, wind deals  
 2 pay a percentage of revenue that's generated from the  
 3 turbines to the landowner. It's about the same deal across  
 4 the country. From the overall revenue of the project, we  
 5 offer our landowners deals that are competitive to the  
 6 marketplace that landowners in South Dakota, North Dakota and  
 7 Minnesota all have the same type of deals. It's what it's  
 8 worth.

9 COMMISSIONER BJERKE: And I'm not referring just  
 10 to Geronimo saying why you pay so much.

11 BARRY FLADABOE: It's what it's worth. The same  
 12 way someone who has an oil well up in North Dakota gets a  
 13 percentage of the revenue from that oil well. A landowner  
 14 from that wind turbine gets a percentage of the revenue from  
 15 that turbine. We socialize our offers across our project  
 16 groups a little bit because there's -- you know, we don't  
 17 know where everything's going to fall out because we go  
 18 through these very long and arduous environmental permitting  
 19 process to cite permitting processes here and at the state,  
 20 so you know, it's not a percentage revenue deal, but that's  
 21 about what they get. So they receive what they're due based  
 22 on the value of the product created on their property.

23 COMMISSIONER BJERKE: And you probably wouldn't  
 24 be able to get them to sign up for \$5,000 a tower, I guess,  
 25 is that --

1 PATRICK SMITH: We just try to pay fair.  
 2 COMMISSIONER BJERKE: One acre of land and you're  
 3 paying -- that's \$10,000 a year, that's \$10,000 an acre for  
 4 renting land and --  
 5 BARRY FLADABOE: There's other considerations.  
 6 They're now farming around a field with -- you know, farming  
 7 around a road that may divide their field. There's other  
 8 impacts to them during construction and in living with the  
 9 operating project on their land. Again, you know, we try to  
 10 make offers that are competitive to the marketplace. The  
 11 offer we work on is pretty standard across the industry, and  
 12 you know, that's where we are and that's what we found it  
 13 takes to get people to sign deals, and so that's what we do  
 14 is get to an area where we can find the business deal with  
 15 our partners out here.  
 16 COMMISSIONER BJERKE: Thank you.  
 17 CHAIRPERSON WICKS: So do they get one standard  
 18 payment when they put the tower up and then they get so much  
 19 after that?  
 20 BARRY FLADABOE: It's all pro rata based on what  
 21 they have. If they have a turbine, they receive a certain  
 22 amount of money with that. They additionally receive an  
 23 acreage payment. It's a pretty simple contract at the end of  
 24 the day, but then they receive that each year with some  
 25 inflationary measures as long as the project operates.

1 CHAIRPERSON WICKS: Okay. Thank you.  
 2 COMMISSIONER BJERKE: What restrictions are on  
 3 that property as far as what they can or cannot do, or let's  
 4 just say an example, one of the concerns I have -- and I'm  
 5 all in favor of the project, but it's such a big project, I  
 6 got to tell you, it's overwhelming when it's basically our  
 7 first project. Yes, we have the one north of town, that's  
 8 kind of a mom and pop type, not being sarcastic but that's  
 9 kind of what it is. People have asked me to be open-minded,  
 10 think about the future. That also has two sides to it. If  
 11 everything is up and running, it's still going to be great in  
 12 20 years, but if it isn't, it's not going to be great. So  
 13 I'm trying to look at both sides, but in this huge block of  
 14 land, I think around 30,000 acres, what would happen if --  
 15 just a question, there's a lot of pipeline and that's  
 16 probably your competition, but pipelines going through, but  
 17 if some company or if Clark County needed something  
 18 underground to get for us to survive, are they able to go  
 19 through that block of land and what would they have to do to  
 20 do it? I guess that's one of my concerns tying up a large  
 21 block of land. It's not that I'm opposed to it, but I am  
 22 trying to think ahead and be a little bit proactive on what  
 23 we need to look out for as commissioners. We need to look  
 24 out for the whole county, and if they're not allowed to go  
 25 through that, then that could be a problem some day. So can

1 you just kind of -- I don't need a paragraph, but what is  
 2 allowed to happen through that block of land.  
 3 PATRICK SMITH: You know, anything that you would  
 4 normally do, you know, building utilities out, you know,  
 5 there's going to be a collector, a network of collector  
 6 lines. So if you're -- you know, if we need to do a  
 7 relocate, if we need to do whatever to accommodate something  
 8 the county's building, you know, we'll be working with you  
 9 guys on that because that's, you know, just part of normal  
 10 infrastructure expansion.  
 11 We work with our landowners on what they can  
 12 actually build because we don't want people building right up  
 13 next to the turbines, so we work with them on where they can  
 14 build and they're supposed to contact us if they want to put  
 15 up anything and we coordinate on build out within a certain  
 16 area around each turbine, but you know, if you're building  
 17 out a fiberoptic network to try and better serve rural  
 18 Internet, you know, it will be just a normal, you know,  
 19 letter to us, where's your collector lines, what's the -- how  
 20 do we get these crossings that you're planning to do, how do  
 21 we design it, and we get it done. It's not -- there's no  
 22 magic restriction. So it operates generally like it would  
 23 normally.  
 24 JAY HESSE: I was going to say, example, similar  
 25 when we come into an area that there's a lot of stuff that's

1 there already, so we do -- we call them consent and  
 2 crossings, so if the pipeline is there, you have to  
 3 coordinate. We've done them on other projects. We have to  
 4 figure out how to cross them and be safe, and there's a long  
 5 list of consent and crossings we get for our projects, and a  
 6 similar thing will happen when other facilities are built,  
 7 you know, after this, so it's fairly common.  
 8 COMMISSIONER BJERKE: So if Clark Rural Water,  
 9 let's just say if they wanted to go into an area, they would  
 10 have to go through you folks though to get a release on the  
 11 easements, is that correct?  
 12 PATRICK SMITH: Maybe. It depends upon how  
 13 they're installing their system. If they're just going in  
 14 the public right-of-way, then they may not need to. They'd  
 15 probably just want to sit down with the operations manager,  
 16 like you would with any other big project. You know, they're  
 17 going to cross pipelines, they're going to cross other stuff  
 18 with their rural water lines too. So they'll sit down with  
 19 the operations manager and they'll talk about, you know, how  
 20 deep do they need to be, where are the collector lines. You  
 21 know, there might be somebody from the wind farms' staff that  
 22 will be out there when they're doing a crossing install or  
 23 something like that to make sure that everything crosses  
 24 properly, but otherwise it would be like any other  
 25 construction project.

1 COMMISSIONER BJERKE: Okay. Thank you.  
 2 CHAIRPERSON WICKS: I have a question. You went  
 3 from 100 towers to 210? Is it 210? Am I correct?  
 4 COMMISSIONER BJERKE: 219.  
 5 CHAIRPERSON WICKS: 219, okay. Do you plan on  
 6 going above that?  
 7 JAY HESSE: No.  
 8 CHAIRPERSON WICKS: No?  
 9 JAY HESSE: And I think even the applications say  
 10 up to, I think it says --  
 11 CHAIRPERSON WICKS: So that would be the maximum?  
 12 JAY HESSE: Yeah.  
 13 CHAIRPERSON WICKS: Thank you.  
 14 COMMISSIONER SASS: In the landowner contract, is  
 15 the landowner guaranteed a tower at all with the easement?  
 16 JAY HESSE: No.  
 17 COMMISSIONER SASS: Okay.  
 18 COMMISSIONER BJERKE: I guess one -- when I -- I  
 19 was gone this weekend and I got home, I had some letters in  
 20 the mailbox, that's fine, but they're recent letters, and  
 21 even in your most recent handout, it still has a little pie  
 22 chart where the taxes are distributed to. I just wish that  
 23 someone somewhere would correct the school portion. I know  
 24 Geronimo, I believe you're familiar with what's going to  
 25 happen with our school funds starting in five years after the

1 completion of the project. Apparently a lot of people out  
 2 here don't know, and I'm not criticizing you for that, but  
 3 the letter I got stated again that the schools would get X  
 4 amount of dollars. It's like probably our zoning book, it's  
 5 outdated and should be changed because people come to me and  
 6 say, well, it's going to kill our school, it's going to -- or  
 7 not kill it, but they're still looking at the dollar amount  
 8 that's on here and I wish either get some of the stuff  
 9 changed, or when you talk to people, please don't tell them  
 10 that the school is going to get 6.6 million over 20 years  
 11 because in reality, I did the math and don't hold me to the  
 12 exact dollar, but that's actually going to be about two point  
 13 three or four million because the funds are going to  
 14 disappear in nine years after the product is done. It  
 15 starts -- we get the full thing for 5 years, and then on the  
 16 6th, 7th, 8th, and 9th year, it goes down 20 percent a year  
 17 and it all goes out to Pierre. So people are coming to me  
 18 and saying why can't you support -- and I do support the  
 19 project, but I don't support it, what Pierre is doing, and I  
 20 guess one of the things I wanted to say today is you, the  
 21 community, are supporting both sides of this, and that's what  
 22 you should do, if you're opposed or against. I wish some of  
 23 these efforts would go towards getting out to Pierre and  
 24 talking to them about this crazy law that they put into place  
 25 and working together in that way instead of us fighting and

1 arguing all the time. And then I would also state that  
 2 Geronimo should have a part of that because it would make  
 3 this one heck of a lot easier to make a decision if we knew  
 4 we were keeping our dollars here in Clark County. So I hope  
 5 if everything, if this project goes, that you will all work  
 6 together on getting ahold of people and see if we can't get  
 7 that changed. So it does frustrate me when I keep getting  
 8 stuff that says, well, our school is going to lose X amount  
 9 of dollars. Well, that's partially true, but we're losing it  
 10 no matter what in nine years anyway.  
 11 BARRY FLADABOE: We like to keep as much local as  
 12 we can obviously, but maybe since we -- that has changed, the  
 13 state law has changed. I think it does begin to add more --  
 14 but this does all go local, but it does impact how much the  
 15 state gives the local area. It basically impacts the state  
 16 funding of the local school.  
 17 COMMISSIONER BJERKE: No, it does not. According  
 18 to the board member I spoke to, it does not affect that at  
 19 all on the centrally assessed tax. If that's wrong, then the  
 20 board member told me wrong, but he gave me an answer and he  
 21 called me back again to confirm that we do not lose state  
 22 funding on this particular type of tax.  
 23 BRETT KOENECKE: This project isn't centrally  
 24 assessed.  
 25 COMMISSIONER BJERKE: Well, isn't that where our

1 taxes come from is off the utilities of the state?  
 2 JARVIS REIDBURN: It goes by -- over 11 towers  
 3 with Oak Tree out here is centrally assessed.  
 4 BRETT KOENECKE: I don't know why that would be,  
 5 but are you telling me you send the assessments to Pierre to  
 6 tell you what the taxes are in Oak Tree?  
 7 JARVIS REIDBURN: No, department of revenue has a  
 8 formulation of how much they generate for power and they set  
 9 the tax by that and then --  
 10 BRETT KOENECKE: Right, but that's not centrally  
 11 assessed. That sets the tax differently. It's not assessed  
 12 on its property value, so it's not centrally assessed. It's  
 13 simply taxed by according to the legislature's dictates.  
 14 JARVIS REIDBURN: By megawatt. But I don't put a  
 15 value on it as the director.  
 16 BRETT KOENECKE: And nobody's going to put a  
 17 value on it. Centrally assessed is like a utilities property  
 18 or a railroad's property and this isn't like that.  
 19 COMMISSIONER HASS: That's the way it is. We're  
 20 centrally assessed with these.  
 21 COMMISSIONER REINTS: The tax revenue that  
 22 generates out from this project is not a personal -- or a  
 23 property tax; it's a revenue producing tax.  
 24 BRETT KOENECKE: That's correct.  
 25 COMMISSIONER BJERKE: Okay, I used the wrong

1 terminology, but that's the same way. It's going to  
2 disappear.

3 PATRICK SMITH: Yeah, we'll follow up and get you  
4 guys some more information on that because we want to make  
5 sure that that's processed right because I think that's  
6 really important.

7 COMMISSIONER BJERKE: It's important to us, but  
8 it's also important to everyone out here.

9 PATRICK SMITH: Yeah.

10 COMMISSIONER REINTS: Anybody from Geronimo  
11 mention the one-mile setback is going to be too much to make  
12 the project viable, and I realize you've already widened it  
13 to 2,000 feet for the nonparticipating houses. What are you  
14 comfortable with? Some place between that or --

15 PATRICK SMITH: We spent a lot of time talking  
16 about what to do, how to make this work because we wanted to  
17 be fair to concerns. We wanted to make sure that the board  
18 knew that we were hearing those concerns, and you know, I  
19 think 2,000 feet is about what we can do. You know, I'm  
20 happy to provide an offer to folks again one last time and  
21 put it on the table. I don't see that being an issue, but  
22 we've made a lot of offers here and you know, you guys  
23 haven't necessarily seen all of it and it may not be  
24 represented to you that we made offers, but we really did.

25 UNIDENTIFIED MAN: Could you be specific, who did

1 county and in this area, a lot of the basis for the  
2 regulations that the northeast part of the state have,  
3 started with, well, initially regulations that were drafted  
4 in the late '90s, early 2000s and then implemented in  
5 Brookings County. They had worked on theirs and then once  
6 they had their first wind projects in the early 2000s, a lot  
7 of counties went through and adopted similar language,  
8 especially after the state PUC adopted a model ordinance that  
9 was, frankly, very similar to Brookings County, and so that's  
10 where you saw a lot of counties going to that, and now  
11 definitely over the last few years there's been a lot more  
12 talk about going back to wider on participating versus  
13 nonparticipating, but that's where those came from at the  
14 time. It came from just the practical application in  
15 Brookings County. The issues that they had had at that point  
16 in their initial ones revolved more around the actual  
17 construction of them when they went on and that's where  
18 counties started to add more specifics on haul road  
19 agreements, importance with that because that was where they  
20 ran into the most trouble, and down there, the most recent  
21 application they had was a few months ago, there were two  
22 people there to address the board about it. And so from that  
23 standpoint, I'm not saying you have to be Brookings County, I  
24 don't want to go down that road, but the point is that's  
25 where they came from, is where those regulations came from is

1 you make offers to?

2 PATRICK SMITH: You know, I'm not going to be  
3 specific here to be honest because that is -- that's an issue  
4 between us and the landowners and --

5 UNIDENTIFIED MAN: The nonparticipants?

6 PATRICK SMITH: Either, yep.

7 UNIDENTIFIED MAN: I'm not aware of any, not one.

8 PATRICK SMITH: And I guess that -- so to  
9 alleviate concerns that these folks might not have gotten  
10 offers, we'll sit down and we'll take a look and we'll make  
11 one last offer to the folks that we talked to already that  
12 we're hearing concerns from and put it on the table, and if  
13 they choose to take it, you know, we'd be more than happy to  
14 have them receive some of the revenue from the project,  
15 participate in some way.

16 UNIDENTIFIED MAN: Well, I did some research on  
17 the setbacks and the only place that they can figure out that  
18 the 1,000-foot setback come from was from wind tower  
19 themselves is where that came from and everybody just kind of  
20 adopted it, and independent studies that are being done  
21 around the country, more of them are going to a half a mile  
22 to two miles from independent studies, and that's all I have  
23 to say about research that I've done.

24 LUKE MULLER: Would you like me to answer  
25 anything to it? What will end up happening as far as this

1 just practical application. And I also don't want to make  
2 the point that they have to stay the same forever either  
3 because they don't either.

4 COMMISSIONER BJERKE: A question to Geronimo  
5 Energy. We've gotten some letters, phones calls from US  
6 Fish & Wildlife, South Dakota Game Fish & Parks, can you tell  
7 me how that -- I know they've both said that there needs to  
8 be like a two year, I want to say study done on impact.  
9 Impact study, I believe. Has any of that started, or are you  
10 waiting from us before that can start? Can you tell me how  
11 that works, please?

12 MELISSA SCHMIT: Yeah, I can speak to that. So  
13 we have been conducting environmental surveys for part of  
14 that process since last spring. We started in March, April,  
15 I believe. So we have just completed our first year and we  
16 are working on our second year. So we have been actively  
17 coordinating with them. We've been out to several meetings  
18 in Pierre, lots of conference calls for approval on our  
19 survey protocol for those various species of concern, so it  
20 is ongoing. So we're about a year into it as far as data  
21 collection goes.

22 COMMISSIONER BJERKE: So that is an impact study?  
23 You say survey. Can you tell me what you mean by survey?

24 MELISSA SCHMIT: Right, so we survey species of  
25 concern, so we're looking for eagles, golden eagles, bald

1 eagles, looking for certain species of butterfly that are  
 2 found in the area, looking for grassland birds and grouse  
 3 leks which is like the mating grounds for grassland birds.  
 4 We do migratory birds, bat species, various bat species doing  
 5 a -- setting up microphones to listen for -- you know,  
 6 identify the specific bat species that are within the project  
 7 area. Am I missing any? And then additionally we do a  
 8 cultural resource survey as well and a wetland delineation on  
 9 top of all the species specific surveys.

10 COMMISSIONER BJERKE: And you say you're about a  
 11 year into both of those, is that correct?

12 MELISSA SCHMIT: Yeah, so we have a year of  
 13 migratory bird/bat surveys under our belt, yes.

14 COMMISSIONER BJERKE: And once those are  
 15 completed when the two-year window is done, then those  
 16 results go back to US Fish & Wildlife and Game, Fish & Parks  
 17 and then they either sign off or reject, is that correct.

18 MELISSA SCHMIT: Yep, so we work with them on the  
 19 development. It's called an environmental assessment, an EA,  
 20 so it's a really detailed environmental impact report, and in  
 21 addition to presenting our full data, then we'll also  
 22 discuss, you know, mitigation and different measures that  
 23 we'll talk if we do have, you know, risk for a certain  
 24 species, and yes, and then at that point, you know, there's a  
 25 public comment period, which I think I outlined a little bit

1 to the county. So evidence of, you know, consultation with  
 2 them, that we're working with them, that we're doing our due  
 3 diligence, we're doing our surveys, you know, what we need to  
 4 be doing and that they're ongoing, and there will be a  
 5 discussion in the facility permit with the state as to, you  
 6 know, the surveys that we've completed so far. You know,  
 7 we'll have a bunch of appendices in the back that are going  
 8 to actually have our reports from our third-party consultants  
 9 on our various surveys that we've completed so far. So it's  
 10 going to be analysis of the environmental impact, but not as  
 11 detailed as the formal process I just described with the Fish  
 12 & Wildlife Service.

13 COMMISSIONER BJERKE: Okay. Thank you.

14 COMMISSIONER HASS: I guess I don't understand,  
 15 why couldn't you, if there's a little distance, can't you  
 16 just move it, you know, so we can both win on this, or for  
 17 both people to win on this? Can't you just move it wherever  
 18 you have to, a little ways here? There's what, 31,000 acres,  
 19 isn't there room to move them a little bit so we all can be  
 20 happy, or hopefully halfway happy?

21 PATRICK SMITH: I think that's what we tried to  
 22 put on the table here is halfway happy. There's a lot of  
 23 constraints on the site besides just homes.

24 COMMISSIONER HASS: Yeah, I suppose.

25 PATRICK SMITH: And there's hills and we were

1 in our hearing a few weeks ago, so there's going to be an  
 2 opportunity for the public to comment on that. There's going  
 3 to be tribal input as well for cultural resources, and then  
 4 yes, then the Fish & Wildlife Service would ultimately  
 5 release a finding of no impact, which would be ultimately  
 6 approval, and then the end result of that, again, would be  
 7 tied back to the grassland easements that are located in the  
 8 project area allowing us to construct facilities on those  
 9 grassland easements.

10 COMMISSIONER BJERKE: I'm sorry I'm asking so  
 11 many questions, but I've had a few weeks to compile some  
 12 stuff and there's a lot of questions I should have asked at  
 13 the hearing, but I wasn't aware of it. I apologize that I'm  
 14 doing most of the talking, but I guess whatever, we've all  
 15 done a lot of homework, so -- and I need to feel comfortable  
 16 about this whole thing. So once the US Fish & Wildlife and  
 17 Game Fish would finish all that, does that -- how does the  
 18 State PUC permit involve that process, if at all, or doesn't  
 19 their approval have anything to do with US Fish & Wildlife or  
 20 any of those type of -- that's a separate --

21 MELISSA SCHMIT: It's separate. So I mean, we  
 22 would be planning to go to the state shortly after we have  
 23 worked through the local CUP permitting process, and so as  
 24 far as our coordination with those wildlife agencies goes,  
 25 it's going to be very similar to what we presented in the CUP

1 actually running into engineering problems getting up some of  
 2 the hills so we had to move turbine positions because of  
 3 that. You know, there's a whole lot that goes into the  
 4 design of the project. So we really -- we feel we are -- you  
 5 know, this proposal here that we've put together is, you  
 6 know, what we feel competent we can achieve and still make  
 7 the project work, so I think it is a halfway happy spot. I  
 8 know that it doesn't feel like it necessarily, but we're --  
 9 we do think it's a halfway happy spot. We've tried to  
 10 accommodate as many people as we could.

11 COMMISSIONER SASS: You guys are looking at  
 12 400 megawatts apparently is what you're looking for. With  
 13 219 towers, you know, there's minimum -- from what I  
 14 understand, the minimum size is going to be a two megawatt  
 15 and you could go up to a what?

16 PATRICK SMITH: Up to like a three,  
 17 three-megawatt turbine, and we fully expect to lose  
 18 positions. You know, we already lost some here in what we're  
 19 revising, providing in that letter, but we're expecting to  
 20 lose positions in the state process and in working with the  
 21 Fish & Wildlife Service and finishing up our surveys because,  
 22 you know, we take all those things, all of the things that  
 23 come out of those processes into account. So if there's new  
 24 information that comes up environmentally in the state  
 25 process, you know, and environmentally, you know, it's human

1 and natural environment. It's not -- when I say that, don't  
 2 think I'm ignoring the human part of it, that's really  
 3 important to us. But there's other things that come up  
 4 environmentally in those two things and those two processes  
 5 that will cause us to change, lose positions, and we'll come  
 6 up with a layout. We're going to go out, do geotechnical  
 7 evaluations. We look down, you know, 50, 60 feet under the  
 8 ground to make sure that there's -- structurally the turbines  
 9 are going to be good for 20, 30 years and we lose positions  
 10 in that process too. So ultimately we'll see -- you know,  
 11 this project will probably, from what I've seen on how we  
 12 lose positions on projects, this project will probably just  
 13 barely get enough positions to get everything that we think  
 14 we need.

15 COMMISSIONER SASS: I guess I look at it if you  
 16 were able to put in a three megawatt, that would solve a lot  
 17 of tower issues to me as far as the amount of them.

18 PATRICK SMITH: Yeah, that's a market issue. We  
 19 don't -- you know, it's kind of what's available. We've run  
 20 into a number of times where one manufacturer just doesn't  
 21 have the ability to turn out what they -- you know, so we  
 22 don't know what turbines we're going to install, and it's all  
 23 out in the -- you know, what the market is for turbines.

24 COMMISSIONER SASS: As far as maintenance down  
 25 the road, I mean I've drove north up into the Day County

1 problems with oil down the towers. So I think it sometimes  
 2 is just unique to whatever is out there and whatever that  
 3 company, that particular company arranges, but one of the  
 4 long-term maintenance contract with the turbine manufacturer  
 5 revolves on warranties from them, so it should prevent any  
 6 issues along those points, and everything that we're looking  
 7 at -- you know, and for us to get a project done, for anybody  
 8 to get a project done, they need to be well-heeled companies,  
 9 you know, GE, Siemens, a Dutch company called Vestas that's  
 10 really well-known.

11 UNIDENTIFIED MAN: I just want to make a comment  
 12 on what you're just talking about.

13 COMMISSIONER SASS: Is it all right, or is it  
 14 public? We probably got too far into --

15 LUKE MULLER: Going with -- it's basically  
 16 anything you ask a question. If you've got a question for  
 17 someone, you can ask a question.

18 CHAIRPERSON WICKS: Okay. Dave, do you have a  
 19 question?

20 COMMISSIONER SASS: Do you have a question, Dave?

21 DAVE: Yeah, you're talking about the -- if the  
 22 one that's leaking oil, if they were going to take it down,  
 23 one of the 66 that are up, and I realize it's a different  
 24 project, but hypothetically if one were to happen here, who's  
 25 going to pay to take that tower down if it needs to be

1 farm. There's 66 of them up there. I understand there's --  
 2 right now they've got some issues with a few of them right  
 3 now, and in fact, if you drive around and you can see oil  
 4 coming down from them. I've heard the plan is if they get  
 5 bad enough, they're going to get shut off because I know it  
 6 costs quite a bit of money to fix those. I can imagine if  
 7 you're looking at a \$3 million tower, or whatever they cost  
 8 to put up, what's the plan with that? I mean, and I know  
 9 it's a maintenance schedule, but I mean, you go up there  
 10 right now and you can see oil coming down from them and  
 11 they're seven years old, I think. What's the plan for  
 12 maintenance on them?

13 PATRICK SMITH: You know, we'll have a  
 14 comprehensive warranty from the manufacturer. I don't know  
 15 if it's going to be a 5- or a 10-year warranty right now, but  
 16 we'll have a long -- you know, a long-term warranty, plus the  
 17 manufacturer will be providing staff to maintain them as well  
 18 as we will be providing staff to maintain them. I don't know  
 19 the particulars of what's happening up in Day County, but you  
 20 know, all of the projects that we built, we've got two  
 21 projects that are just hitting the 10-year mark. We've had  
 22 maintenance issues on them. In fact, we've changed out  
 23 blades entirely on those, but you know, we've never had a  
 24 problem, and we had a project that's about 5 years old that  
 25 we built that is operating just fine. We haven't had any

1 decommissioned?

2 COMMISSIONER SASS: That was kind of my question  
 3 too, I guess. You know, I know there's warranty on them.

4 PATRICK SMITH: Yeah, and I think we've provided  
 5 some information on how we set up decommissioning plans in  
 6 that letter. You know, that will be the same here. There  
 7 will be financial assurances to take care of that stuff and  
 8 there will be a timeline to remove.

9 DAVE: That was just the cost of what it cost.  
 10 Who pays for that?

11 PATRICK SMITH: Yeah, I think that's what I was  
 12 saying is we'll provide financial assurances and --

13 DAVE: Do you have any place?

14 PATRICK SMITH: At this very moment?

15 DAVE: Right.

16 PATRICK SMITH: We're not seeking a building  
 17 permit, so no.

18 DAVE: Okay. Will there be a bond or anything  
 19 like that?

20 PATRICK SMITH: Yes.

21 UNIDENTIFIED MAN: There will be, is that right?

22 PATRICK SMITH: Yep.

23 JARVIS REIDBURN: Barry, when we visited Monday,  
 24 I was wondering if you could give a little bit of an insight  
 25 to the board when you talked about the involvement of PUC,



1 just to try to help.

2 BARRY FLADABOE: You know, I think just as far as  
3 understanding their view of the rules more and stuff, they  
4 have a staff that oversees, you know, the energy site permit,  
5 so they're always, I think, available to you guys if you want  
6 to understand, you know, something specific in their rules or  
7 about how they'll interact with you with regard to whether  
8 it's decommissioning or something like that, that those are  
9 calls that you can always make and that that's what the staff  
10 is there for, so it was more so a piece of advice given that  
11 these are a big proceeding. You know, in general, yes, in  
12 South Dakota they are actively, you know, they're involved,  
13 they issue a permit which says they monitor our project, and  
14 if they see fit, they step in and they'll enforce some kind  
15 of financial requirement for a company that they think may be  
16 going into insolvency or something. I think thankfully in  
17 South Dakota that's not an issue that's come to pass, but  
18 that was just generally a piece of advice that those are  
19 staff members that are available to the board and to you to  
20 reach out to, you know, and that's what their job is, so that  
21 was, you know, what that comment was based on.

22 LUKE MULLER: I've got here some recommended  
23 conditions from state's attorney staff that were -- occurred.  
24 I think they're largely based out of discussions from the  
25 previous meeting and then also through the ordinance

1 themselves, and as I said, the state's attorney had prepared  
2 some language on these, and with him not able to be here, if  
3 you'd like, I could read what those suggested conditions are  
4 and if it is -- if you as a board are so inclined, you would  
5 either accept a motion to amend based on all, or name the  
6 specific ones, okay? If that's all right?

7 CHAIRPERSON WICKS: Okay.

8 LUKE MULLER: All right. The first one would be  
9 the construction and operation of the wind energy system  
10 shall be done in a manner so as not to interfere with the  
11 maintenance and operation of other utility and  
12 telecommunication lines specifically incorporating the terms  
13 and conditions contained in a resolution proposed by  
14 Interstate Telecommunications Cooperative which resolution is  
15 a part of the file in this matter.

16 And the second one listed is the applicant shall  
17 make a good faith effort to employ an aircraft detection  
18 lighting system designed to turn blinking lights atop the  
19 wind turbines on or off based on the presence or absence of  
20 aircraft in the vicinity of the wind energy system, and  
21 shall, as soon as practicable, commission a study to  
22 determine the feasibility of such a system, including pros,  
23 cons and estimated cost with the study being presented to the  
24 board of adjustment. So what that would mean is that  
25 particular information would not be a specific requirement

1 that they have to do so, but it would be a decision you would  
2 make after seeing a study prepared.

3 The next one. The applicant is required to meet  
4 or exceed all standards and regulations of the FAA, the State  
5 of South Dakota -- sorry, FAA would be Federal Aviation  
6 Administration, the State of South Dakota, and any other  
7 agency of the federal or state government having authority to  
8 regulate wind energy systems.

9 And the next one, the applicant shall make all  
10 reasonable efforts to protect county and township roads and  
11 shall enter into haul road agreements with Clark County and  
12 all affected townships. The applicant shall employ an onsite  
13 contact to deal with any county or township road issues or  
14 complaints during the construction of the wind energy system.

15 Next, the applicant shall at a minimum meet all  
16 the standards dictated in the zoning ordinance, or proposed  
17 in its application if more stringent than the zoning  
18 ordinance, including, but not limited to, the following  
19 categories, mitigation measures, roads, setbacks,  
20 electromagnetic interference, lighting, turbine spacing,  
21 footprint minimization, collector lines, feeder lines,  
22 decommissioning, abandoned turbines, pipe from ground  
23 surface, tower design, noise and permit expiration limitation  
24 of three years, and any other conditions the board of  
25 adjustment deems necessary.

1 And then the last one suggested from the staff  
2 level, the approval of this conditional use permit is subject  
3 to and shall become final only upon the board of adjustments  
4 approval of written findings mandated by the zoning ordinance  
5 which findings will be presented for approval at the next  
6 scheduled meeting of the board of adjustment. Meaning that  
7 if you voted in favor, or frankly in opposition to the  
8 application, the findings would be presented at the following  
9 board meeting.

10 And again, those would be handled as an  
11 amendment, and so if you were voting on one or all of those  
12 amendments that were listed, it would be only those  
13 amendments, and then they would be attached onto the main  
14 motion, because as you know, the main motion right now is to  
15 approve as presented.

16 And I will make one more point before I stop  
17 talking, is that obviously if you have other conditions you'd  
18 like to add, by all means you can do that as well as an  
19 amendment, but my suggestion would be if you felt comfortable  
20 with those things that were read prepared by the state's  
21 attorney, then maybe you'd take care of those right away.

22 COMMISSIONER BJERKE: You know the thing that's  
23 really missing here is our -- if we feel that we want  
24 something different with the setback distance, is that  
25 correct?

1 LUKE MULLER: Yeah, I would suggest that you  
2 probably want to handle that specifically, rather than  
3 bundled up into the four or five others into there. So that  
4 my suggestion again with that is that you'd probably handle  
5 whichever ones you could lump together as you would consider  
6 easily, and then if you want to take the other one, you feel  
7 like you may have differing opinions amongst your board,  
8 maybe you want to handle that one as a separate amendment.

9 CHAIRPERSON WICKS: Do we have to accept this  
10 amendment now?

11 LUKE MULLER: No, you do not, and frankly, it's  
12 up to you if you even want to have a motion on it.

13 UNIDENTIFIED WOMAN: Can I just reiterate one  
14 thing as far as listening to what Chad had to say a little  
15 bit earlier about Geronimo working with the nonparticipating,  
16 that they want the nonparticipating to sign up and agree to  
17 that 2,000 setback and that isn't what the nonparticipating  
18 -- that's not working with the nonparticipating, if we're  
19 caught in a circle or caught with turbines close to a  
20 nonparticipating. There's never been -- I've never had  
21 anybody at my doorstep to help me understand why the  
22 nonparticipating can't -- I don't know if I make any sense or  
23 not, but it's a part of what he said and that's the way it  
24 is.

25 UNIDENTIFIED MAN: We have no voice.

1 UNIDENTIFIED MAN: I have a question of Geronimo.  
2 Would this be -- if you bumped these turbines from a two to a  
3 three, would that just be a change of components in said  
4 windmill?

5 PATRICK SMITH: No. You've got to change the  
6 tower too. The seal needs to be thicker.

7 UNIDENTIFIED MAN: Okay. That would be starting  
8 all over again basically with the tower?

9 PATRICK SMITH: Yep.

10 UNIDENTIFIED MAN: From ground up?

11 PATRICK SMITH: It's a complicated answer and  
12 it's an engineering problem.

13 UNIDENTIFIED MAN: Well, and I realize, yeah,  
14 with time, technology improves.

15 PATRICK SMITH: Yeah.

16 UNIDENTIFIED MAN: You know, you can get more out  
17 of smaller.

18 PATRICK SMITH: Right.

19 UNIDENTIFIED MAN: But if that possibility is  
20 there, then 200 times three, now you're looking at 600  
21 megawatt some day. You're looking down the road. Yeah, your  
22 retirement.

23 PATRICK SMITH: Yeah, I mean, that's a more  
24 complicated -- you know, I don't know if I can even answer  
25 that question.

1 UNIDENTIFIED MAN: You have foresight. You're  
2 looking down the road as far as in 10, 20, 50 years, the  
3 industry is.

4 PATRICK SMITH: It is. I think the question  
5 you're asking is really hard to answer. There's just a lot  
6 of uncertainty there. And I mean, we would clearly be back  
7 here, if we were pulling down towers and moving things  
8 around, we'd be back here with the county getting another  
9 permit for the project, so it wouldn't -- you know, it  
10 wouldn't be an unregulated change, I guess, is what we view  
11 that as.

12 BARRY FLADABOE: As a practical matter as the  
13 turbine is a higher rate of capacity within this box, we'll  
14 need fewer of them and they'll need more space between each  
15 other to not disturb each other so --

16 UNIDENTIFIED MAN: Are there currently  
17 three-megawatt windmills in the United States operating?

18 PATRICK SMITH: Yeah.

19 UNIDENTIFIED MAN: Any bigger, any larger than  
20 three?

21 PATRICK SMITH: 3.4 I think is operating.

22 UNIDENTIFIED MAN: Okay. Is that what they're  
23 maxed out at now?

24 PATRICK SMITH: There's larger ones that haven't  
25 been installed in the US. There's larger ones in Canada and

1 elsewhere. But again, I mean like anything like that is  
2 outside of the scope of what we're talking about today and  
3 it's outside of the scope of what we're proposing in the  
4 permit, so I guess we'd be back going through permitting.

5 UNIDENTIFIED MAN: Well, what makes me think that  
6 you -- you know, if you were looking down that road is, you  
7 know, this initially was 10,000 acres and a hundred windmills  
8 and you know, here last summer 175 to 125 windmills, now  
9 you're up to 219. So you're not going to regress, you're  
10 going forward is my opinion.

11 PATRICK SMITH: I mean, we're talking -- you're  
12 talking 20, 30 years out. I mean the county --

13 UNIDENTIFIED MAN: Yes, I understand that.

14 PATRICK SMITH: -- can do their own work as far  
15 as comprehensive planning and you know, they can engage in  
16 their own processes.

17 UNIDENTIFIED MAN: Things changes, I understand  
18 over time, things change.

19 PATRICK SMITH: You know, that's my view of it.  
20 There's a lot of uncertainty in what that time frame looks  
21 at. Who knows who will be out there, what we'll need. Right  
22 now we're just proposing a project that fits the need we see  
23 in the market right now.

24 COMMISSIONER HASS: Our motion is a thousand feet  
25 right now, correct?

1 LUKE MULLER: Correct.  
 2 COMMISSIONER HASS: I'll amend our motion to say  
 3 a mile and have good faith that you people can -- for the  
 4 nonparticipating people to negotiate with them to save some  
 5 of them towers.  
 6 UNIDENTIFIED WOMAN: May I speak?  
 7 LUKE MULLER: There should be a second to that  
 8 motion before you do that.  
 9 COMMISSIONER SASS: I'll second it.  
 10 LUKE MULLER: And I just -- and to clarify,  
 11 Francis, your motion was that the setback distance from  
 12 existing off site nonparticipating residences shall be one  
 13 mile measured from the wall line of the neighboring principal  
 14 building to the base of the tower unless otherwise negotiated  
 15 in accordance with the zoning ordinance?  
 16 COMMISSIONER HASS: You said it perfect.  
 17 LUKE MULLER: Good. So that's an amendment  
 18 that's on the floor to the existing application. That matter  
 19 is debatable amongst the board, the same level of discussion  
 20 you've been at at this point, but that is a simple majority  
 21 vote on the amendment itself, and then we go back to the main  
 22 motion.  
 23 COMMISSIONER REINTS: I guess to discuss that  
 24 amendment, I feel that a mile is asking too much. I don't  
 25 feel --

1 UNIDENTIFIED WOMAN: I would like the opportunity  
 2 to speak. Geronimo proposes a bigger setback. I want it  
 3 publicly known that Steve and I are very willing to  
 4 compromise and give up four of our towers to make our  
 5 neighbors happy, but it seems that people still aren't happy  
 6 with that setback, and if it goes a mile, we will lose all of  
 7 our towers. So that's all I have to say. We're willing to  
 8 compromise, but it seems like it's still not compromised  
 9 enough. We're giving up and giving up and giving up, and we  
 10 desperately want to get along with our neighbors, and I'm  
 11 like -- I'm following Bob's lead this morning. It's very  
 12 emotional. It's hard to give up, but we want to be able to  
 13 drive down the road and wave to our neighbors. A mile would  
 14 take huge amounts of the towers out and it would take all of  
 15 ours out. That's all I have to say. Thank you.  
 16 COMMISSIONER REINTS: I appreciate that comment  
 17 and that kind of goes to what I was saying. I think the  
 18 mile --  
 19 UNIDENTIFIED WOMAN: It will kill the project  
 20 period. It doesn't seem like there is any compromise here on  
 21 the people that are for it and against it. We are trying,  
 22 trying, trying. There are other landowners I can't speak for  
 23 that are also giving up towers to keep neighbors happy and  
 24 it's still not enough.  
 25 CHAIRPERSON WICKS: What about three-quarters of

1 a mile?  
 2 UNIDENTIFIED WOMAN: It would put us out.  
 3 CHAIRPERSON WICKS: It would?  
 4 UNIDENTIFIED WOMAN: I'm not sure of the exact  
 5 footage. I'm not sure, but I know a mile is too much.  
 6 COMMISSIONER REINTS: I think the way Francis  
 7 stated it, if there are towers already planned within that  
 8 mile, that Geronimo could negotiate with those  
 9 nonparticipants to allow that tower to be closer than that  
 10 mile and probably within the 2,000 feet and within a mile  
 11 somewhere.  
 12 COMMISSIONER HASS: Correct.  
 13 UNIDENTIFIED WOMAN: Can I speak?  
 14 COMMISSIONER REINTS: I guess.  
 15 UNIDENTIFIED WOMAN: They haven't spoken to us up  
 16 till now. Are we to expect some communication before the  
 17 next meeting then from them?  
 18 COMMISSIONER SASS: Yes.  
 19 COMMISSIONER REINTS: If they would decide that  
 20 one mile is too close -- or too far away, and they would like  
 21 to move that tower closer to your place, it's possible that  
 22 they would come and talk to you, yes.  
 23 UNIDENTIFIED WOMAN: Closer to us?  
 24 COMMISSIONER REINTS: Closer than the one mile.  
 25 UNIDENTIFIED WOMAN: Oh, okay.

1 COMMISSIONER REINTS: Am I correct in that? I'm  
 2 not saying you have to, but it's a possibility?  
 3 PATRICK SMITH: Yeah, it's a possibility.  
 4 UNIDENTIFIED MAN: And they would make the  
 5 initiative?  
 6 COMMISSIONER REINTS: Don't ask me.  
 7 UNIDENTIFIED WOMAN: Okay, I mean, there's none  
 8 done yet, so I'd like to know.  
 9 COMMISSIONER SASS: We're giving them the  
 10 opportunity.  
 11 UNIDENTIFIED WOMAN: Okay. Thank you.  
 12 LUKE MULLER: Based upon the motion, based upon  
 13 the motion, what it would amount to is that the building  
 14 permit could only be issued if it was either greater than a  
 15 mile or there was some sort of negotiated something or other,  
 16 document presented before they could get a building permit.  
 17 So does that really answer that question that they have to  
 18 have something on file to allow it to be less than a mile  
 19 based on what this motion is.  
 20 UNIDENTIFIED WOMAN: In each individual  
 21 situation?  
 22 LUKE MULLER: In each individual situation.  
 23 UNIDENTIFIED WOMAN: Thank you.  
 24 UNIDENTIFIED MAN: That mile setback, that would  
 25 ruin a lot of mine too, so you just as well forget the

1 project then.

2 UNIDENTIFIED MAN: Well, since there has been so  
3 many different issues with other places with these setback  
4 regulations, don't you think you should err on the side of  
5 caution instead of -- instead of putting them too close to  
6 people's places? That would be my comment.

7 UNIDENTIFIED MAN: Well, what are we scared of?  
8 Are we scared of the noise or what? There's a lot of comment  
9 the corn dryer, the grain dryer in Clark is more noise than  
10 the decimal meter or whatever --

11 UNIDENTIFIED MAN: Is that year around?

12 UNIDENTIFIED WOMAN: I have a question. The  
13 original Clark County ordinance, that's not having any play  
14 into this project anymore, or where does our original  
15 ordinance play into this?

16 COMMISSIONER REINTS: The original ordinance  
17 started at 1,000 feet. Geronimo compromised to leave it at  
18 2,000 feet to the nonparticipants.

19 COMMISSIONER BJERKE: And the ordinance does say  
20 not less than minimum, so it can be more.

21 UNIDENTIFIED WOMAN: So 2,000 feet, I mean that's  
22 -- is that in the consideration at this point, or are we just  
23 stuck at the mile?

24 LUKE MULLER: Right now the amendment that's in  
25 front of them is a mile. Any amendment is something that can

1 UNIDENTIFIED MAN: How many proposed towers are  
2 on properties that have grassland easements on them?  
3 Geronimo, do you know a specific number?

4 MELISSA SCHMIT: I don't know the exact number  
5 off the top of my head, but I believe it's between 30 and 35.

6 UNIDENTIFIED MAN: Well, Jay, do you remember  
7 telling us that you would not put them on grassland easement  
8 properties?

9 JAY HESSE: There's 41.

10 MELISSA SCHMIT: 41? I believe that was prior to  
11 an actual process being --

12 UNIDENTIFIED MAN: That was last -- that was last  
13 May when you handled them?

14 MELISSA SCHMIT: Right, the process was  
15 brand-new. We'd be the first company that was going through  
16 it.

17 UNIDENTIFIED MAN: But, Jay, you remember saying  
18 that, correct, that you would not put them on -- Neil said  
19 you would not put them on grassland easements?

20 JAY HESSE: Before we had the right to go through  
21 the process, correct, but it's changed.

22 UNIDENTIFIED MAN: But at the time you knew you  
23 could put them on there?

24 PATRICK SMITH: Incorrect. No, when I told you  
25 we couldn't do it, we couldn't do it.

1 be amended. I know it's confusing, but in theory with the  
2 one mile on the floor, someone could propose an amendment to  
3 go less than that and you would vote on that portion first,  
4 and then if it fails, then it would be back to the one mile,  
5 or you could go down to less than a mile as I said.

6 UNIDENTIFIED MAN: I would like to say something.  
7 I think Geronimo has made some generous concessions here with  
8 the doubling it from 1,000 to 2,000, and I know they've  
9 agreed to move various towers or even eliminate some, and I  
10 would like to know the general feeling of the objectors, are  
11 they all -- all the objectors, do you all feel that you're  
12 opposed to that, or what do you actually want? A mile I  
13 think is ridiculous.

14 UNIDENTIFIED MAN: We could have started at two  
15 miles and worked our way down, but does that really make any  
16 difference? I mean, should we start at two miles and then  
17 come down to a mile? Does that make you feel better? I  
18 mean --

19 UNIDENTIFIED MAN: Well, I think the important  
20 thing is do we want these towers or not? I'm in favor of  
21 them. I want them.

22 COMMISSIONER HASS: I want them too.

23 UNIDENTIFIED MAN: We also have to think about  
24 the people who live around the outside of that too or in the  
25 thing.

1 UNIDENTIFIED MAN: That's not what Neil said and  
2 you were there, Jay. When we met with you, you said that you  
3 would not put them on there because it was more hoops to jump  
4 through and we all know that with the US Fish & Wildlife  
5 Service, you've got that issue. We all know that, I think.  
6 But yeah, when the one party testified here three weeks ago  
7 that was never contacted and he was told that they couldn't  
8 put them on grassland easements, otherwise he, you know, he  
9 would have signed up his land, 720 acres, but he was never  
10 contacted. I don't envy you commissioners.

11 UNIDENTIFIED MAN: I would ask to say something.  
12 Let's follow the good faith of Geronimo widening it from  
13 1,000 feet to 2,000 feet, follow the ordinance and get 'er  
14 done.

15 UNIDENTIFIED MAN: Amen.

16 UNIDENTIFIED WOMAN: Those of us landowners are  
17 giving up some towers, and giving them up. We're not setting  
18 them back. They're going away.

19 (Cross talking.)

20 PATRICK SMITH: I'm sorry, I didn't hear the  
21 question.

22 UNIDENTIFIED WOMAN: How far apart do the wind  
23 towers have to be apart on a piece land?

24 PATRICK SMITH: Three rotor diameter per the  
25 ordinance. There's some engineering considerations as well

1 so they end up being much further.

2 COMMISSIONER REINTS: The motion on the floor now  
3 is to amend our setback to one mile to nonparticipants. I  
4 guess I would like to amend that motion as a compromise from  
5 Geronimo to the one mile, two-thirds of a mile which would be  
6 approximately 3,000 feet, is that right? Two-thirds of a  
7 mile. I realize I need a second and a vote to get that  
8 approved, but that's my suggestion at this time. I will make  
9 that motion. Violet, you need to ask for a second to that.

10 CHAIRPERSON WICKS: All right. Do I have a  
11 second on that motion?

12 LUKE MULLER: So just to clarify, the motion on  
13 the floor for the amendment is essentially the same as I had  
14 read previously, except instead of saying one mile, it would  
15 be two-thirds of a mile, and there's a motion and you're  
16 waiting on a second.

17 CHAIRPERSON WICKS: There being no second, it  
18 fails, doesn't it?

19 COMMISSIONER REINTS: Yes, if there's no second,  
20 my motion to amend has died.

21 CHAIRPERSON WICKS: Okay.

22 LUKE MULLER: So it's back to one mile is where  
23 you would be.

24 COMMISSIONER BJERKE: I would make a motion to  
25 amend the one mile to three-quarters of a mile.

1 people and I think if we go knock on the door and be open to  
2 them and approach them, and I'm not saying -- that's up to  
3 you and them if there's got to be monetary negotiation. I  
4 think if we were to have three-quarters of a mile and  
5 somebody was at two-thirds of a mile as Dick suggested, I  
6 think some are going to say I'm happy about that, let's go  
7 forward. I could be wrong, I don't know, but I guess, 17  
8 towers, if that's the number, and give or take, I know  
9 there's going to be some give or take on there on top of what  
10 you offered. On 219, if the project won't work with that, I  
11 don't think it will work at all anyway in my opinion. I  
12 mean, I don't know what US Fish & Wildlife are going to tell  
13 you and I guess I can't worry about that because that's not  
14 my decision, but if this only takes out 20 some towers, I  
15 shouldn't say only, whatever, but you still have a lot of  
16 towers out there. You've still got close to 200 towers to  
17 deal with.

18 And honestly, if you could go to two landowners,  
19 two nonparticipants, they have a big part of those 17 towers.  
20 So there's five of them that I showed that just had one  
21 tower. There again, please don't hold me to these numbers  
22 because this was with me drawing circles. There was three  
23 nonparticipants that had only two towers that are in  
24 question, and there was, I believe, one with four and two  
25 with three towers. Leveta's absolutely correct, they are in

1 COMMISSIONER REINTS: I second your motion, Bob.

2 COMMISSIONER BJERKE: And I went up to Dekkers  
3 Hardware and bought a \$3.69 compass. For those of us that  
4 are my age, you remember what a compass is. The map that was  
5 provided by Geronimo that show the setbacks on the 2,000 foot  
6 offer that they put out, and I went around -- and like I  
7 said, this was just a compass and this is not exact  
8 measurements, okay. I used the scale at the bottom, the mile  
9 scale down there. I set it as close as I could and I started  
10 drawing some circles. It's not exact. Three-quarters of a  
11 mile, my findings were that there was -- this is after the  
12 2,000 foot that you folks had. I think that's about six or  
13 eight. So if it went beyond that and went out to  
14 three-quarters of a mile, there again, this is not rocket  
15 science, but I came up with 17 towers that were within that  
16 three-quarters of a mile, in addition to what you had, so  
17 we're talking 25 towers maybe. There again, this isn't  
18 exact. And a lot of those towers were very close to the  
19 three-quarter of a mile line that I -- circle that I put  
20 around.

21 It goes back to a little bit to what Francis  
22 talked about, I think if we could all back up a few months  
23 and start over -- this is just me being me, but  
24 nonparticipants, participants, whatever, get back to a  
25 neighborhood, and I might be wrong, I know a lot of these

1 an area where there's towers close. There's two or three  
2 different landowners around them or more, and I would go back  
3 to knocking on the door and see what you could do and go from  
4 there, but I guess anyway, that's why I feel that  
5 three-quarters of a mile is a good number.

6 Not only that, but I've made about close to a  
7 dozen trips north of town and listened to the towers that are  
8 out there on different types of days, sunny days, days when  
9 the wind's blowing 20, 30 miles an hour, some days when it's  
10 blowing five miles an hour. The sound varies every day.  
11 I've read stuff, as much as stuff as you could possibly read,  
12 and sometimes the best lesson is learned outside of the  
13 classroom in my opinion. I read something that actually one  
14 of your competitors had issued, they put out, and I can't  
15 remember the company name, and it was a proponent to the  
16 project and the proponent said, you know, if you have any  
17 questions, go out and do your own homework. So only speaking  
18 for myself, but I think we all have done it, but I've gone  
19 out and I'm -- sound wise, biggest issue. We're not going to  
20 get rid of the sight factor, I don't care if it's a mile or  
21 two miles. I drove in from west of town and wherever --  
22 however many miles it is from the Raymond corner up to the  
23 top of the hill, you can see the towers up. So we aren't  
24 going to get rid of the visible part, no matter what we do.  
25 I have focussed probably on the sound more than anything else

1 because I guess I'm like everybody else, I like to go out on  
 2 my backyard or deck or whatever and work and probably not  
 3 have to listen to the sound. Some days you don't have to go  
 4 that far, but I think as far as being safe, I think -- I  
 5 could be wrong, but I think most of the people would be happy  
 6 with three-quarters of a mile and this project could go  
 7 forward, so that's why I'm comfortable with that number.  
 8 CHAIRPERSON WICKS: Okay. We have a motion on  
 9 the floor and a second. Any more discussion among the  
 10 commissioners? If not, we will vote.  
 11 COMMISSIONER REINTS: We are voting on the  
 12 amendment to change it to three-quarters of a mile?  
 13 CHAIRPERSON WICKS: Yes.  
 14 COMMISSIONER BJERKE: They can negotiate down as  
 15 worded on there. I don't know --  
 16 CHAD FJELLAND: Let's clarify this. The motion  
 17 is to approve with a three-quarter mile setback all as  
 18 defined earlier I believe by Luke, and in those same  
 19 conditions that Luke read are a part of this motion, is that  
 20 correct?  
 21 LUKE MULLER: It would just start with -- it's  
 22 the one sentence and I will read the motion as it's suggested  
 23 be amended. The setback distance from existing offsite  
 24 nonparticipating residences shall be three-quarters of a mile  
 25 measured from the wall line of the neighboring principal

1 CHAIRPERSON WICKS: So we need to vote again?  
 2 COMMISSIONER REINTS: Yes.  
 3 CHAIRPERSON WICKS: Dick?  
 4 COMMISSIONER REINTS: I vote yes.  
 5 CHAIRPERSON WICKS: Chris?  
 6 COMMISSIONER SASS: No.  
 7 CHAIRPERSON WICKS: Francis?  
 8 COMMISSIONER HASS: Yes.  
 9 CHAIRPERSON WICKS: Bob?  
 10 COMMISSIONER BJERKE: Yes.  
 11 CHAIRPERSON WICKS: Yes.  
 12 COMMISSIONER REINTS: Motion carried as amended.  
 13 CHAIRPERSON WICKS: Yes.  
 14 CHAD FJELLAND: Findings regarding this will be  
 15 presented at the next meeting of the board of adjustment.  
 16 Chris, that is what day?  
 17 CHRISTINE TARBOX: April 4th.  
 18 CHAD FJELLAND: April 4.  
 19 CHRISTINE TARBOX: Is our next meeting.  
 20 CHAD FJELLAND: Okay. At 9:30.  
 21 LUKE MULLER: And just for clarification, we  
 22 still have, the only condition that's been added from the  
 23 initial application is only to require the setback distance  
 24 to be three-quarters of a mile. We haven't added any other  
 25 conditions at this time. So you recall I read one, two,

1 building to the base of the wind energy system tower unless  
 2 otherwise negotiated pursuant to the zoning ordinance.  
 3 CHAIRPERSON WICKS: Dick?  
 4 COMMISSIONER REINTS: I vote yes.  
 5 CHAIRPERSON WICKS: Chris?  
 6 COMMISSIONER SASS: No.  
 7 CHAIRPERSON WICKS: Francis?  
 8 COMMISSIONER HASS: Yes.  
 9 CHAIRPERSON WICKS: Bob?  
 10 COMMISSIONER BJERKE: Yes.  
 11 CHAIRPERSON WICKS: Yes. So motion passed,  
 12 right?  
 13 CHAD FJELLAND: The motion passes 4 to 1.  
 14 LUKE MULLER: You're probably going to be really  
 15 impressed with me as your parliamentarian for reading it that  
 16 way. The actual -- the language you would have to vote to  
 17 reaccept it that way, you were amending an amendment, so your  
 18 actual motion, what you did there was you took out one mile  
 19 and made it three-quarters of a mile. So now you're voting  
 20 on the amendment as I read it to you being the setback  
 21 distance from existing offsite nonparticipants residences  
 22 shall be three-quarters of a mile measured from the wall line  
 23 of the neighboring principal structure to the base of the  
 24 wind energy systems towers unless otherwise negotiated. So  
 25 now it's the sentence that I had read before.

1 three, four, five, six other conditions. That's up to you as  
 2 a board if you want to make that motion.  
 3 COMMISSIONER HASS: Chad, what about the ITC  
 4 ordinance?  
 5 CHAD FJELLAND: That's what Luke is discussing  
 6 right now.  
 7 COMMISSIONER HASS: That will be in the findings?  
 8 LUKE MULLER: That was one of the six others that  
 9 I read earlier, and if at any time you want me to read that,  
 10 but you will need a motion to accept those six others that I  
 11 had read.  
 12 COMMISSIONER REINTS: You need a motion to  
 13 approve that entire page?  
 14 LUKE MULLER: Correct.  
 15 COMMISSIONER REINTS: Including the three-quarter  
 16 mile?  
 17 LUKE MULLER: Correct.  
 18 COMMISSIONER BJERKE: What about, Chad, do you  
 19 remember on the supplemental information that was sent back  
 20 to us, they did adjust the map of the borderline to take out  
 21 the nonparticipants, so our original map does not show that.  
 22 So do we need to --  
 23 CHAD FJELLAND: Really that shouldn't be  
 24 considered as part of this, but really in actuality, it  
 25 changes nothing. It truly doesn't, the inclusion or the

1 disinclusion of those.

2 JARVIS REIDBURN: But the board can still ask if  
3 they want it, right, to have that updated if they --

4 CHAD FJELLAND: They can, yes.

5 JARVIS REIDBURN: Yeah, that's what he's asking.

6 COMMISSIONER REINTS: Violet, we did a motion to  
7 -- we approved Francis' amendment as amendment, but we still  
8 need to approve the conditional use permit.

9 CHAIRPERSON WICKS: Okay.

10 LUKE MULLER: And again your suggestion from  
11 staff was to add those six conditions I read before regarding  
12 one, adding the resolution from Interstate  
13 Telecommunications; two, that the applicant would provide a  
14 study regarding the viability of the aircraft detection  
15 lighting system that turns the lights on and off and provide  
16 this information back to you to make a final determination,  
17 but they would meet all federal and state requirements for  
18 wind energy systems; that they would work with the haul road  
19 -- work to create haul road agreements, and that they would  
20 meet the requirements of the zoning ordinance with a permit  
21 expiration of three years, and then the findings would be  
22 prepared at the following meeting. Those are the six other  
23 conditions. You do not have a motion on those, so they would  
24 not go in unless someone has a motion to amend by adding  
25 those six items. And with that, Mr. Bjerke, if you'd like to

1 condition that specifically says that the area that you're  
2 trying to protect will be protected, Francis, that's what I  
3 would do.

4 COMMISSIONER HASS: Okay.

5 COMMISSIONER BJERKE: I would make a motion to  
6 approve the items that he listed separately that were listed,  
7 the six, to approve that, and I would also like to amend the  
8 original map that was with the application to use this as the  
9 updated map which shows boundary lines and also shows the  
10 towers, I believe, 56 and 58 that are associated with the  
11 airport. And the only thing I would like to say about the  
12 boundary, there's one little area that I would like to have  
13 included outside of the area or taken out of the area, and  
14 wherever my note's at. It's Township 119N, Section 34, Range  
15 58W and it's the southeast one quarter of north -- I'm sorry.  
16 It's the northeast 40 of the southeast quarter, 40 acres  
17 there that are still within the boundaries. I'd like to see  
18 that out. This showed it still was in, the map you've given  
19 as far as black with what you're calling the project area.

20 PATRICK SMITH: Do you have it drawn on there?  
21 Can I just make sure that I'm looking at the right spot?

22 JARVIS REIDBURN: It's how it was before, you  
23 know, this line just came straight up, this line.

24 (Cross talking.)

25 JARVIS REIDBURN: So it's that little 40 -- it's

1 add the requirement that they update the map to show the  
2 project area boundaries, this would be probably a good time  
3 to do that as well.

4 COMMISSIONER HASS: That would include the  
5 airport tower in this new map which it shows here?

6 LUKE MULLER: It would include the what? Yes, if  
7 you just said --

8 COMMISSIONER HASS: The airport tower that's in  
9 the map, right, Bob?

10 COMMISSIONER BJERKE: The towers are highlighted  
11 according to -- this is not the original map. This is the  
12 supplemental map.

13 COMMISSIONER HASS: Am I correct on that?

14 LUKE MULLER: Right now nothing -- right now  
15 there would be nothing specific about leaving an area in  
16 between the airstrip, if that wasn't presented the first  
17 time. It's not to say they would have to put it in that  
18 area, but if you wanted specifically to point out that they  
19 need to leave whatever area open you're describing, you need  
20 to say that.

21 COMMISSIONER HASS: It's on the map. It's on the  
22 map.

23 LUKE MULLER: Then you would need to accept that  
24 map instead, or you would need to accept -- point out -- I  
25 guess I would do it -- sorry, folks. I would do it as a

1 the 40 of Mudgetts that you're talking about, right?

2 COMMISSIONER BJERKE: Yes.

3 JARVIS REIDBURN: They'd like to see the black  
4 line.

5 COMMISSIONER BJERKE: Then we've got that all  
6 taken care of. Does that motion cover everything?

7 PATRICK SMITH: I think with one point of  
8 clarification there is that we would be using the section  
9 line for our collector route there with the appropriate  
10 provisions from the township, so just a point of  
11 clarification that that would prevent us from using that  
12 section line for installation of the collector lines because  
13 there is already state provisions for that sort of thing.

14 Does that make sense? Otherwise the turbines that are up in  
15 the north --

16 JARVIS REIDBURN: I think what he's saying is  
17 that if we black line Terry's 40 out, the appearance would be  
18 that, you know, there's no way for them to get through there  
19 because everything is separated, but the original plan anyhow  
20 to get through there is through the section line road. He  
21 just wants to make sure that people know that they're going  
22 to go through the process and get easements to occupy the  
23 section line road or -- of the township and that by blocking  
24 that off doesn't impede them from being able to enter that  
25 negotiation.

1 COMMISSIONER BJERKE: Wouldn't as far as I'm  
 2 concerned. I just don't think that they should be included  
 3 in the project area, I guess, for other reasons, so I'm not  
 4 saying it to --  
 5 JARVIS REIDBURN: I don't think they're trying to  
 6 block you.  
 7 PATRICK SMITH: Yeah. No, I just wanted to make  
 8 sure that that was clarified.  
 9 COMMISSIONER REINTS: You would have to negotiate  
 10 with the township to be able to use that right-of-way?  
 11 PATRICK SMITH: Yep. Yep.  
 12 COMMISSIONER REINTS: Do you have a question?  
 13 UNIDENTIFIED MAN: Yeah, before you leave the  
 14 map, there was one land or one residence that was omitted,  
 15 Donette Dunlavy's residence.  
 16 UNIDENTIFIED MAN: Right across from the  
 17 pipeline.  
 18 (Cross talking.)  
 19 JAY HESSE: This map is just showing the unsigned  
 20 nonparticipants. It does not show every site.  
 21 COMMISSIONER REINTS: I will second Bob's  
 22 amendment to include the conditions that Luke had read here.  
 23 CHAIRPERSON WICKS: Okay. We have a motion and a  
 24 second. Any other discussion among the commissioners? If  
 25 not, we'll vote. Dick?

1 COMMISSIONER REINTS: Yes.  
 2 CHAIRPERSON WICKS: Chris?  
 3 COMMISSIONER SASS: Yeah.  
 4 CHAIRPERSON WICKS: Francis?  
 5 COMMISSIONER HASS: Yes.  
 6 CHAIRPERSON WICKS: Bob?  
 7 COMMISSIONER BJERKE: Yes.  
 8 CHAIRPERSON WICKS: Yes. Motion has passed.  
 9 COMMISSIONER REINTS: We still need to approve  
 10 conditional use.  
 11 CHAIRPERSON WICKS: Yes, we need a motion for  
 12 that.  
 13 COMMISSIONER REINTS: No, the original motion is  
 14 still on the floor.  
 15 CHAIRPERSON WICKS: Oh, okay.  
 16 UNIDENTIFIED WOMAN: Can I ask a quick question?  
 17 Was the cemetery, was that -- we had asked for a mile on that  
 18 one. Is that in with the zoning or what -- is there any  
 19 zoning that requires a certain distance from the cemetery  
 20 or --  
 21 COMMISSIONER SASS: Churches. Just churches, I  
 22 believe.  
 23 LUKE MULLER: If I may, the ordinance says -- all  
 24 that's in there is a requirement from the ordinance is the  
 25 distance from existing offsite residences, businesses and

1 churches and buildings owned or operated by governmental  
 2 entity shall be at least 1,000 feet. So right now, within  
 3 what you have approved, the setback that you would have would  
 4 be for 1,000 feet is what it would be approved. I don't know  
 5 where anything is set, but if you wanted to protect a certain  
 6 area around a cemetery, you'd probably have to do that  
 7 specifically as in through yet another amendment.  
 8 Unless -- I guess I should say unless it was the  
 9 intent of the people that made the motion to include all of  
 10 those things I read in that three-quarters of a mile. So if  
 11 it was the intent of the folks that made the motion to expand  
 12 the setback to three-quarters of a mile to include not only  
 13 off site residences, but also businesses, churches and  
 14 buildings owned or maintained by governmental entities, then  
 15 it would be expanded to three-quarters without making another  
 16 motion. My suggestion, do a separate motion.  
 17 COMMISSIONER HASS: Do you know what they are  
 18 talking about?  
 19 PATRICK SMITH: I just want to make sure. Can  
 20 you show me on the map there?  
 21 (Cross talking.)  
 22 COMMISSIONER SASS: There's nothing close to that  
 23 right now.  
 24 (Cross talking.)  
 25 UNIDENTIFIED WOMAN: To the south there. I don't

1 know if that's Handkes to the south.  
 2 (Cross talking.)  
 3 PATRICK SMITH: I think we're already at a mile  
 4 from that, but I'm not exactly sure from, you know, exact  
 5 measurements.  
 6 COMMISSIONER HASS: I'll move to leave it a mile  
 7 around the cemetery.  
 8 UNIDENTIFIED WOMAN: Thank you.  
 9 COMMISSIONER BJERKE: I'll second.  
 10 CHAIRPERSON WICKS: All in favor say aye?  
 11 (All commissioners replied aye.)  
 12 CHAIRPERSON WICKS: Okay. Motion carries.  
 13 UNIDENTIFIED WOMAN: I have a question about that  
 14 ITC document that you are saying is in the record. Can you  
 15 read on your six amendments so that's in the record?  
 16 LUKE MULLER: Yes.  
 17 UNIDENTIFIED WOMAN: Is that the ITC one that  
 18 names somebody other than Violet as chair?  
 19 LUKE MULLER: It would be -- the motion you're  
 20 referring to, or the portion of that says the construction  
 21 and operation of the wind energy system shall be done in a  
 22 manner so as not to interfere with the maintenance and  
 23 operation of other utility telecommunication lines  
 24 specifically incorporating the terms and conditions contained  
 25 in a resolution proposed by Interstate Telecommunication



1 Cooperative which resolution is a part of the file in this  
 2 matter. So the point is is that it would contain the  
 3 conditions that were listed.  
 4 UNIDENTIFIED WOMAN: Okay. So it will be a new  
 5 resolution with --  
 6 LUKE MULLER: No, it would basically be that the  
 7 conditions that -- what they approved here is to incorporate  
 8 all the conditions within that document into this conditional  
 9 use permit. So they wouldn't have a separate hearing,  
 10 separate action. They've just -- by attaching it to this  
 11 conditional use permit is essentially their resolution.  
 12 COMMISSIONER HASS: It's in, you're saying?  
 13 LUKE MULLER: Yeah, your resolution, you -- by  
 14 attaching it to this conditional use permit, you're  
 15 essentially accepting that as a resolution.  
 16 COMMISSIONER REINTS: The same as we're voting  
 17 here?  
 18 LUKE MULLER: Exactly.  
 19 COMMISSIONER HASS: Good question.  
 20 UNIDENTIFIED WOMAN: Well, that one didn't seem  
 21 complete when I read it. It didn't have her name on it. It  
 22 had lines to fill in the blanks that weren't filled in and --  
 23 LUKE MULLER: Yes, and what it's doing is it's  
 24 binding -- and again, I'm relying on the information provided  
 25 here, but it's binding the county and the applicant to the

1 COMMISSIONER BJERKE: Is that the right number,  
 2 Jarvis?  
 3 JARVIS REIDBURN: I don't know. Yes, 1-17.  
 4 CHAIRPERSON WICKS: We need a motion on that.  
 5 LUKE MULLER: You already have a motion. It's  
 6 time to vote.  
 7 CHAIRPERSON WICKS: Okay.  
 8 COMMISSIONER REINTS: The motion is to approve or  
 9 disapprove the motion to approve the wind farm?  
 10 LUKE MULLER: A yes vote would approve the wind  
 11 farm with the conditions provided. A no vote would deny it.  
 12 CHAIRPERSON WICKS: Okay.  
 13 COMMISSIONER REINTS: And that takes a two-thirds  
 14 majority vote?  
 15 LUKE MULLER: Two-thirds majority vote of the  
 16 members present and voting.  
 17 CHAIRPERSON WICKS: Okay. Dick?  
 18 COMMISSIONER REINTS: I vote yes.  
 19 CHAIRPERSON WICKS: Okay. Chris?  
 20 COMMISSIONER SASS: No.  
 21 CHAIRPERSON WICKS: Francis?  
 22 COMMISSIONER HASS: Yes.  
 23 CHAIRPERSON WICKS: Bob?  
 24 COMMISSIONER BJERKE: Yes.  
 25 CHAIRPERSON WICKS: Myself, yes. So the motion

1 conditions listed in there, not necessarily who signs it, and  
 2 so it's binding them to the conditions is the important part.  
 3 UNIDENTIFIED WOMAN: Okay.  
 4 UNIDENTIFIED WOMAN: Okay. I need to ask about  
 5 Calvary church as long as we're on the country church part or  
 6 the cemetery part and stuff anyway, then there's another  
 7 church that's involved as well, so that one has to be  
 8 included as well.  
 9 COMMISSIONER REINTS: That would be included in  
 10 the one-mile setback. Or three-quarter mile.  
 11 COMMISSIONER SASS: There's a cemetery there too.  
 12 PATRICK SMITH: I don't know where that is off  
 13 the top of my head.  
 14 (Cross talking.)  
 15 CHAIRPERSON WICKS: Okay. We need to have a vote  
 16 on CU 2-17 as well, that's for the --  
 17 LUKE MULLER: Hold on. Have you voted on this  
 18 application for the wind energy system first? All you've  
 19 done is amendments so far. So the suggestion would be to  
 20 handle that motion that's on the floor for this conditional  
 21 use permit, unless there are other amendments proposed, and  
 22 then you would move onto the other conditional use permit.  
 23 CHAIRPERSON WICKS: So the first one was 1-16?  
 24 CHRISTINE TARBOX: 1-17.  
 25 CHAIRPERSON WICKS: 1-17.

1 passed.  
 2 LUKE MULLER: The motion had passed 4 to 1. So  
 3 your next item would be the request number 2-17 which I  
 4 believe was a transmission project.  
 5 JARVIS REIDBURN: To construct approximately  
 6 eight miles of 345KV transmission line.  
 7 COMMISSIONER BJERKE: I'll move on that.  
 8 COMMISSIONER REINTS: I will second.  
 9 CHAIRPERSON WICKS: Any discussion among us? If  
 10 not, we'll vote. Dick?  
 11 COMMISSIONER REINTS: Yes.  
 12 CHAIRPERSON WICKS: Chris?  
 13 COMMISSIONER SASS: No.  
 14 CHAIRPERSON WICKS: Francis?  
 15 COMMISSIONER HASS: Yes.  
 16 CHAIRPERSON WICKS: Bob?  
 17 COMMISSIONER BJERKE: Yes.  
 18 CHAIRPERSON WICKS: Myself, yes.  
 19 COMMISSIONER REINTS: Motion carried.  
 20 CHAIRPERSON WICKS: Motion carried. Sorry.  
 21 COMMISSIONER HASS: I move we adjourn.  
 22 (These proceedings were concluded at 11 o'clock,  
 23 a.m.)  
 24  
 25

1 CERTIFICATE OF COURT REPORTER  
2 STATE OF SOUTH DAKOTA  
3 COUNTY OF BROWN

4 CERTIFICATE OF REPORTER

5 I, Tammy Stolle, Registered Professional Reporter  
6 and Notary Public, certify that as of the time I affix my  
7 signature to this transcript, it contains a true and correct  
8 record of the proceedings so had.

9 I further certify that I am not related by any  
10 consanguinity or affinity within the fourth degree to any  
11 party, his attorney, or an employee of any of them; that I am  
12 not financially interested in this action; and that I am not  
13 the attorney or employee of any party.

14 To all of which I have affixed my signature this  
15 11th day of April, 2017.

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/s/ Tammy Stolle  
Tammy Stolle, RPR  
511 N. Washington Street  
Groton, South Dakota  
(605) 470-0209

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