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FRANKLIN COUNTY PLANNING AND ZONING COMMISSION  
FRANKLIN COUNTY GOVERNMENT CENTER  
SECOND FLOOR COMMISSION CHAMBERS  
400 EAST LOCUST STREET  
UNION, MISSOURI 63084

TRANSCRIPT OF PROCEEDINGS  
PUBLIC MEETING  
APRIL 21, 2015  
(Commencing at 7:00 p.m.)

Reported by:  
Patsy A. Hertweck, C. R.  
Midwest Litigation Services

**PUBLIC HEARINGS 4/21/2015**

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IDENTIFICATION	DESCRIPTION	PAGE
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A	Franklin County Unified Land Use Regulations 2001	6
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(All exhibits, if any, were retained by the Commission, and will not be attached hereto.)

1 A P P E A R A N C E S

2

3 BOARD OF ADJUSTMENT MEMBERS:

4 William Evans, Jr., Chairman

5 Jay Schulteheinrich, Co-Chairman

6 Donald Voss, Commissioner

7 Bill McLaren, Commissioner

8 Ray Cunio, Commissioner

9 Ron Williams, Commissioner

10 Todd Boland, Commissioner

11 Dan Haire, Commissioner

12 John Fischer, Commissioner

13 Russell McCreary, Commissioner

14

15 PLANNING AND ZONING STAFF:

16 Ms. Scottie Eagan, Planning Director

17

18 LEGAL COUNSEL:

19 Mark Vincent, County Attorney

20

21 MIDWEST LITIGATION SERVICES:

22 By: Patsy A. Hertweck, C. R.

23 711 North Eleventh Street

24 St. Louis, Missouri 63101

25 (314) 644-2191

1 P R O C E E D I N G S

2 (April 21, 2015)

3 CHAIRMAN EVANS: I would like to call to  
4 order the Tuesday, the 21st, meeting of the Franklin County  
5 Planning and Zoning Commission. All right. The meeting has been  
6 called to order.

7 Scottie, will you please call roll.

8 MS. EAGAN: Bill Evans?

9 CHAIRMAN EVANS: Here.

10 MS. EAGAN: Jay Schultehenrich?

11 COMMISSIONER SCHULTEHENRICH: Here.

12 MS. EAGAN: Todd Boland?

13 COMMISSIONER BOLAND: Here.

14 MS. EAGAN: Tim Reinhold?

15 COMMISSIONER REINHOLD: (Not present.)

16 MS. EAGAN: Ray Cunio?

17 COMMISSIONER CUNIO: Here.

18 MS. EAGAN: John Fischer?

19 COMMISSIONER FISCHER: Here.

20 MS. EAGAN: Bill McLaren?

21 COMMISSIONER McLAREN: Here.

22 MS. EAGAN: Don Voss?

23 COMMISSIONER VOSS: Here.

24 MS. EAGAN: Dan Haire?

25 COMMISSIONER HAIRE: Here.

1 MS. EAGAN: Russell McCreary?

2 COMMISSIONER McCREARY: Here.

3 MS. EAGAN: And, Ron Williams?

4 COMMISSIONER WILLIAMS: Here.

5 SCOTTIE: Okay, we have quorum.

6 CHAIRMAN EVANS: Thank you. Would you  
7 please give us a presentation of the hearing procedures and  
8 exhibits.

9 MS. EAGAN: Tonight's Planning Commission  
10 hearing is governed by the Franklin County Unified Land Use  
11 Regulations of 2001.

12 At this time, I would like to place into the record  
13 these Regulations as Exhibit A, the official Zoning Map as  
14 Exhibit B, the official Master Plan as Exhibit C, and the case  
15 file for each case as Exhibit D for all the cases to be heard at  
16 this hearing.

17 (Thereupon, evidence was marked  
18 for identification and presented for the record  
19 as Planning and Zoning Exhibits A, B, C, and  
20 D.)

21 All Old Business items on the agenda will be dealt  
22 with first.

23 Once the Old Business issues have been taken care  
24 of, each item of New Business will be open for public hearing.

25 As each case is opened for hearing, the staff report

1 will first be read to the Commission, followed by any questions  
2 for the staff.

3 Then if anyone in the audience would like to speak  
4 or comment during this public hearing, they must first print  
5 their name on the sign-in sheet provided, then be sworn in by the  
6 Chairman.

7 When it is your turn to speak, you will come to the  
8 front of the room to address the Commission and only the  
9 Commission, not anyone in the audience, with any questions or  
10 comments.

11 It is possible for the Planning Commission to decide  
12 to move a New Business issue to Old Business and vote on it the  
13 same night.

14 At the conclusion of all questions, comments, and  
15 discussion concerning each case, the public hearing for that case  
16 will conclude, and the Planning Commission will proceed. Any  
17 decision by the Planning Commission may be appealed to the Board  
18 of Zoning Adjustment any time within 90 days.

19 Applications for such an appeal may be acquired from  
20 the Department offices during normal business hours.

21 CHAIRMAN EVANS: Thank you.

22 All the Commissioners should have received a copy of  
23 the March 17th minutes. If there are no changes or corrections,  
24 the Chair would entertain a motion to approve.

25 COMMISSIONER McCREARY: I'd like to make a

1 motion to approve the minutes.

2 COMMISSIONER McLAREN: Second.

3 CHAIRMAN EVANS: We have a motion and a  
4 second to approve the minutes. All in favor signify by saying  
5 aye.

6 COMMISSIONER VOSS: Aye.

7 COMMISSIONER McLAREN: Aye.

8 COMMISSIONER CUNIO: Aye.

9 CHAIRMAN EVANS: Aye.

10 COMMISSIONER BOLAND: Aye.

11 COMMISSIONER HAIRE: Aye.

12 COMMISSIONER FISCHER: Aye.

13 COMMISSIONER SCHULTEHENRICH: Aye.

14 COMMISSIONER McCREARY: Aye.

15 CHAIRMAN EVANS: Opposed? (None.)

16 Minutes are approved.

17 Old Business. We have none.

18 New Business File 140249, Sam Wagner.

19 Scottie, please give us the facts.

20 MS. EAGAN: This is File 140249. The

21 Applicant is Sam Wagner.

22 The Applicant wishes to rezone and create a Planned

23 Unit Development with 23 lots in the proposed Residential

24 Development 2 zoning district.

25 The property is located on Legacy Lane,

1 approximately 500 feet west of Highway M, in Boles Township.

2 The Facts: This request involves two different  
3 actions. The first is a rezoning from Suburban Development to  
4 Residential Development 2. The second action we are looking at is  
5 the creation of a 23-lot zero-lot line PUD.

6 The requests involve 12 existing lots and a section  
7 of open space totaling approximately 10 acres.

8 These properties are a part of a larger subdivision,  
9 Lake Wood Estates, that was platted in 2006.

10 These lots are a part of a long process of  
11 rezonings. In November 2004, the Applicant applied to rezone  
12 these properties, along with the rest of the current subdivision,  
13 to Residential Development 2. This was voted down in December  
14 2004.

15 The Applicant then applied to have these properties,  
16 along with the rest of the current subdivision, rezoned to  
17 Community Development in April 2005, and the County Commission  
18 again denied this request.

19 In December 2015, the Applicant applied to rezone  
20 these properties, along with the rest of the current subdivision,  
21 to Suburban Development to build 28 high-quality, single-family  
22 homes. This rezoning was approved in May 2006.

23 At the previous rezoning meeting, the rezoning to  
24 Suburban Development, it was stated that there should be no  
25 objections to the rezoning because this district limits the

1 Applicant to building only single-family homes. No duplexes or  
2 apartments may be built in that zoning district. The RD2 zoning  
3 district would allow the Applicant to build duplexes and  
4 apartments.

5 The properties surrounding the proposed rezoning are  
6 mostly zoned Non-Urban and Agricultural. The remaining part of  
7 the subdivision and the properties to the east of Highway M are  
8 zoned Suburban Development.

9 The surrounding properties are primarily  
10 medium-density residential, with a few low-density residential  
11 properties to the south and west.

12 Today the Applicant wishes to rezone the 12 lots to  
13 Residential Development 2 in order to do the zero-lot line  
14 development in a PUD.

15 The Residential Development 2 zoning district allows  
16 for a minimum lot size of 10,000 square feet for major  
17 subdivisions and 3 acres for minor subdivisions.

18 The maximum density in RD2 is one dwelling unit per  
19 5,000 square feet. The density in the proposed PUD is  
20 approximately one dwelling unit per 19,000 square feet.

21 The PUD is proposing to have 11 zero-lot line lots,  
22 1 single-family dwelling lot, and dedicated open space.

23 This development has an existing on-site wastewater  
24 treatment facility and central water.

25 Staff Comments: Rezoning are allowed in our

1 regulations due to the every-changing conditions that exist in  
2 the county and elsewhere. According to Article 14, Section 321,  
3 any such change must promote the health, safety, morals, comfort  
4 and general welfare of Franklin County by conserving and  
5 protecting property and building values by securing the most  
6 economical use of land and facilitating the adequate provision of  
7 public improvements in accordance with the Master Plan adopted by  
8 Franklin County.

9 Because this is a PUD with a rezoning, the Planning  
10 and Zoning Commission only makes the recommendation of both the  
11 rezoning and the PUD. The County Commission will make the final  
12 determination.

13 We have received information regarding the  
14 stormwater detention and have been informed that it appears to be  
15 an ERCO requirement.

16 We have received a letter from Chris Boone, an  
17 engineer for Cochran Engineering, verifying the existing sanitary  
18 sewer and water system has adequate capacity for the additional  
19 homes.

20 We have received a letter from the Public Water  
21 Supply District No. 3 indicating they currently provide water to  
22 this development and will continue to do so in the future.

23 We have received a letter from the bank financing  
24 the project that they are aware of the development and have no  
25 issues with such development.

1                   As of April 13, 2015, we have received multiple  
2     copies of the covenants and restrictions, but none that include  
3     the required eight-foot maintenance easement for zero-lot line  
4     developments.

5                   I will say that we did receive a draft version of  
6     the covenants and restrictions last week, Friday, and it now  
7     meets all the code requirements, and again, since you guys are  
8     only making a recommendation, typically you guys move it to Old  
9     Business that night, and pass it on to the County Commission  
10    because it is only a recommendation.

11                   CHAIRMAN EVANS: Thank you. So they have  
12    met all the requirements required for the PUD?

13                   MS. EAGAN: Yes, they have.

14                   CHAIRMAN EVANS; Okay.

15                   MS. EAGAN: And you did receive tonight a  
16    packet from Susanna Bullock that she did turn in prior to the  
17    meeting.

18                   CHAIRMAN EVANS: Is the Applicant present?

19                   MR. WAGNER: Yes, sir.

20                   CHAIRMAN EVANS: If you'd want to step  
21    forward. State your name, address and sign in, please.

22                   MR. WAGNER: My name is Sam Wagner. I  
23    live at 882 Destiny Drive in Villa Ridge, Missouri 63089.

24                   (Thereupon, the witness was sworn.)

25                   I have Ryan with me with Cochran Engineering. Is

1 that okay if he stays up here?

2 CHAIRMAN EVANS: We'll just have one at a  
3 time because he would have to be sworn in.

4 MR. WAGNER: Sure.

5 CHAIRMAN EVANS: Is there anything you  
6 would like to add?

7 MR. WAGNER: No, I believe we -- we did  
8 all the requirements that were asked of us, and we submitted some  
9 plans with some drawings of some of the units that we're wanting  
10 to build, of two-family dwellings that we're wanting to build.  
11 And I believe that again, the need is there. I have a couple of  
12 people here with me that are very interested in fact in having  
13 one of them built for them.

14 You know, we're -- I think we're above the  
15 requirements for the square footage of the -- of the acreage, and  
16 I think Scottie was saying that the minimum of 5,000 square foot  
17 or something like that is required. We're doing 19,000 I believe  
18 square feet per unit. So the land is there. We have quite a  
19 bit. You know, each -- each lot is three-quarters -- considered  
20 three-quarters acre. So --

21 CHAIRMAN EVANS: Okay. Do any  
22 Commissioners have any questions? Jay.

23 COMMISSIONER SCHULTEHENRICH: Can we be a  
24 little bit more specific -- maybe this goes over to Scottie -- on  
25 the bank financing the project has no issues with it. Does that

1 mean that the bank is -- has he secured credit with the bank?

2 MR. WAGNER: Absolutely. Mike Elliott  
3 with -- president of the Bank of Union, he's -- he's already  
4 verbally committed that he would fund us if we need to for the  
5 first two -- you know, two-family dwellings. So --

6 COMMISSIONER SCHULTEHENRICH: So you have  
7 that lined up on your whole development or just the partial  
8 development?

9 MR. WAGNER: On the -- the new  
10 development.

11 COMMISSIONER SCHULTEHENRICH: The new  
12 development is what I'm talking about.

13 MS. EAGAN: Part of the requirement  
14 that -- why we required it is in case something happens and the  
15 bank takes it over, they need to know that this is a PUD, and  
16 this is all that can be built there. That's what they are aware  
17 of, and they have no issues.

18 COMMISSIONER SCHULTEHENRICH: Okay. Then  
19 that's fine. Thank you, Mr. Chairman.

20 CHAIRMAN EVANS: Any other questions?

21 (None.)

22 Thank you, Mr. Wagner.

23 MR. WAGNER: Thank you.

24 CHAIRMAN EVANS: Anyone else present  
25 wishing to speak in support of this file? Please step forward.

1 If you would, state your name and address and sign in, please.

2 MS. FILLA: Judy Filla, 2 Tanya Lane,  
3 Washington, Missouri.

4 (Thereupon, the witness was sworn.)

5 I just wanted to state I think there is really a  
6 need for these villas or condos in, you know, in this community  
7 and that they go very well over in our Washington.

8 And I just really think there's a need. Sam is one  
9 of a great builder. He does not cut corners. He does quality  
10 work, and I just really think there's a good need for it. Okay.

11 CHAIRMAN EVANS: Thank you.

12 COMMISSIONER McCREARY: Thank you.

13 CHAIRMAN EVANS: Anyone else wishing to  
14 speak in support?

15 MR. COROMA: Hi. Jonathan Coroma, 4859  
16 South Point Road, Washington, Missouri

17 (Thereupon, the witness was sworn.)

18 I recently moved back into the area. I'm a veteran.  
19 I've been gone. I'm originally from Washington. I've been gone  
20 for a long time.

21 I just think that there's a need also -- wanted to  
22 re-enforce what Judy said -- for two-family homes, especially  
23 with the acreage that Sam has. I think in Washington you can get  
24 a two-family home for about 10,000, on a 10,000-square-foot lot,  
25 where in Villa Ridge -- you know, I have three kids. So to me

1 that's pretty appealing.

2 I just wanted to say that I think there is a  
3 definite need for it. Thanks.

4 CHAIRMAN EVANS: Thank you.

5 Anyone else wishing to speak in support?

6 MS. REPORTER: Your name.

7 MR. SEALS: Allan Seals. S-E-A-L-S.

8 (Thereupon, the witness was sworn.)

9 My name is Allan Seals, and I'm a real estate broker  
10 for Coldwell Banker Premiere, and I have presently two clients  
11 that are interested in purchasing out there. I have sold  
12 duplexes in Washington area, Rabbit Trail and also Stonecrest.  
13 And I can see this being a simular project as Stonecrest, and I  
14 think most people that would go through or know about Stonecrest  
15 are impressed with the property and the amount of taxes and the  
16 appearance of the place, and I can see it being as good, if not  
17 better than, Stonecrest. And so, therefore, I would highly  
18 recommend the passage of it. Thank you.

19 CHAIRMAN EVANS: Thank you.

20 Anyone else wishing to speak in support? (None.)

21 Anyone present wishing to speak in opposition?

22 MS. BULLOCK: My name is Susanna Bullock.

23 (Thereupon, the witness was sworn.)

24 If you approve this zoning change to intense density  
25 along St. Louis Rock Road, you're opening a can of worms, not

1 just this property, but property that is for sale along St. Louis  
2 Rock Road and in Villa Ridge area.

3           According to -- according to the Franklin County  
4 Master Plan, the zoning for that area is three plus acres most of  
5 the time. Now, we all know that Villa Ridge is a mix of  
6 everything. That's the best part about Villa Ridge. But if you  
7 vote to approve this, I want you to think about the home buyers,  
8 county taxes, which I know you do, jobs, home values along St.  
9 Louis Rock Road and Highway M particularly, and if this will add  
10 to the Villa Ridge community to those streets and neighborhoods  
11 and to Franklin County.

12           In my opinion, it won't, but I have witnessed you in  
13 the last few months make easy decisions. Mr. Hagedorn, who  
14 wanted to rezone the land near Bridgewater for residents, that  
15 was kind of an easy decision. It made sense, and it was -- it  
16 went through smoothly. And I've seen you be intelligent and kind  
17 to more difficult situations.

18           This one I'm trying to understand how you could  
19 possibly approve it because, if you look at the map, it was wonky  
20 when it was first proposed with one jaggy corner out at the end.

21           The new map that you probably have in your binder  
22 now has a wonky middle part, and to make ten acres, he's taken a  
23 whole acre of his pond, and that's his common ground. That's a  
24 little weird.

25           In your packet stormwater runoff, which one of you

1 said was not an issue, is an issue and has been since the  
2 beginning, and Mr. Wagner has not addressed it at all.

3 I've been doing research. According to the American  
4 Planning Association, communities may either limit the gross  
5 density of a tract to what would be permitted under conventional  
6 zoning or may choose to offer a density bonus, allowing more  
7 units than otherwise be allowed by allowing the bonus. The  
8 community can require a greater percentage of the tract to be  
9 common space in the middle of a pond.

10 Do not give away the farm, please. This common  
11 ground isn't particularly common ground, and if you see on the  
12 packet picture, it's also eroded. It's also going to keep being  
13 eroded unless something is done. He plans a 10-foot wide bark  
14 path uphill in an eroded area.

15 He also has not kept faith with the Planning and  
16 Zoning Commission since he started this. He said oh,  
17 three-quarters acre. He was actually even happy about  
18 three-quarter-acre lots, but since then he has believed that curb  
19 appeal is the first pictures where there's overgrown brush,  
20 erosion and not an appealing landscape. Tell the guy to plant  
21 some trees.

22 One more thing. Ask him to contribute something.  
23 What I found people of Franklin County are givers. They  
24 contribute time to charity. They help their neighbors. They  
25 take advice from their neighbors and they give it. This guy

1 hasn't kept faith with being a Franklin County citizen. He is  
2 asking more than he's giving. Please say no.

3 CHAIRMAN EVANS: Thank you.

4 MS. EAGAN: Can I make one clarification.  
5 I think she mentioned our Master Plan shows this as being over  
6 three acres. According to Master Plan, this is a medium-density  
7 area with lots less than three acres. I just want to just  
8 clarify that.

9 CHAIRMAN EVANS: Okay.

10 Anyone else present wishing to speak in opposition?

11 MS. LOEHR: My name is Clarice Loehr. I  
12 live in Villa Ridge.

13 (Thereupon, the witness was sworn.)

14 MS. REPORTER: I need you to sign in.

15 MS. LOEHR: There's nothing to sign.

16 CHAIRMAN EVANS: Ma'am, do you have the  
17 sign in sheet?

18 (Off-the-record comments.)

19 ATTORNEY VINCENT: There you are.

20 MS. LOEHR: Actually, I'm here to kind of  
21 ask a question about what I stated about runoff into my property.

22 The last time we were here and one of the gentlemen  
23 sitting over there stated that when they built the houses, there  
24 would be less runoff because of the houses. And I'm a woman.  
25 Okay. I'm going to just say you men know more than a woman,

1 right.

2 I want him to explain to me why there would be less  
3 runoff into my yard when there are houses that are covering the  
4 existing field that is now absorbing the water. You put  
5 something solid on that ground, it doesn't absorb the water it's  
6 absorbing now. It hits the top of the roofs and that and comes  
7 off on the street and comes back in my yard even more than it's  
8 coming now.

9 Can someone explain to me how it could be less or  
10 the same so that I would understand it?

11 CHAIRMAN EVANS: I think that would be in  
12 the engineering plans, or Bill mentioned it, I believe.

13 MS. LOEHR: Sir.

14 CHAIRMAN EVANS: Ron. We do have an  
15 engineer here.

16 MS. LOEHR: When we moved in, we did not  
17 have any water problems in our house or anything, and the people  
18 we bought it from stated they had not had any water in their  
19 basement.

20 The minute he started constructing this, we had two  
21 or more inches in my basement and had to go out and buy a sump  
22 pump, that a house that was over 20 years old that has stayed  
23 there all that time, never needed a sump pump. So if there is  
24 that much water runoff to the point that the neighbors and I had  
25 to buy sump pumps, I would like someone to explain to me how

1 there's going to be the same or less. And if you can explain it  
2 to me and if Mr. Wagner would do something to correct the runoff  
3 that is ruining my daughter's and my yard on both sides of my  
4 house and one side of her house, I'd be more than glad to say go  
5 ahead and build your thing.

6 All I want him to do is help with the runoff and to  
7 fix what his runoff has already ruined. He promised he would do  
8 that in 2006, and he's still -- it's 2015.

9 COMMISSIONER WILLIAMS: I'll take a stab  
10 at that.

11 CHAIRMAN EVANS: You'll take a stab at  
12 that.

13 MS. LOEHR: Okay. You were the one that  
14 said it would be even. That's who. Okay.

15 COMMISSIONER WILLIAMS: I did. I sure  
16 did. And the question was raised -- and I don't think this is  
17 working --

18 MS. LOEHR: I can hear you.

19 COMMISSIONER WILLIAMS: -- whether or not  
20 there was going to be additional runoff by changing of the zoning  
21 or with a PUD. When you look at differential stormwater runoff,  
22 you know, the amount pre- then post-development, you're looking  
23 at hard surface area. So what we had them do is resubmit their  
24 stormwater calculations -- their stormwater calculation to  
25 address what stormwater they anticipated, and that's going to be

1 due to the size of the houses because that's roof area, the  
2 risers, that sort of stuff.

3 The bottom line is changing from R single-family to  
4 duplex units. The hard surface area hardly changed.

5 MS. LOEHR: But this doesn't make any  
6 difference then, correct?

7 COMMISSIONER WILLIAMS: But -- that's  
8 correct. What I'm saying is the stormwater detention which is  
9 supposed to aid that situation isn't going to change. Now, what  
10 you have now whether or not that is adequate or not, I have no  
11 idea. I just got the revised.

12 MS. LOEHR: Well, how can we figure out  
13 that this man can build his subdivision so that his family can  
14 live and eat and that my yard will not be undermined or my pool's  
15 going to collapse and everything else around my house is going to  
16 collapse, because I just feel that if it's running this much on  
17 the one side and twice as much on the other side, I'm going to  
18 lose my home. And he's going to have all these new homes that's  
19 going to cause my home to go away, and I'm 71 years old. And I  
20 would like to live a few years longer in my home. He's going to  
21 wash me out.

22 COMMISSIONER WILLIAMS: And I understand.  
23 I wasn't here back in 2006 or '8 or when all this took place. So  
24 I apology.

25 MS. LOEHR: I'm not mad -- I'm not upset

1 with you. I'm upset with Mr. Wagner.

2 COMMISSIONER WILLIAMS: All I can do is  
3 review what's pertinent now, and that is, okay, are we making any  
4 change to the stormwater that was anticipated back when they  
5 started that development.

6 MS. LOEHR: I don't think Mr. Wagner  
7 realizes that when he promised us he would come in spring and fix  
8 it, we took him at his word. And if he had come and fixed it or  
9 even, after I was here at the last meeting, had called me on the  
10 phone and said, hey, I'll be down there and fix your yard so this  
11 won't happen anymore, don't you think I might be just a little  
12 bit more open-hearted to saying okay, you know, Sam, maybe you  
13 can do and do it so that you can feed your family.

14 But right now he hasn't showed me that he is honest  
15 to what he says he's going to do. Any person that had any kind  
16 of heart would have heard what I said last time and called me  
17 immediately the next day and said, you know, I totally forgot  
18 about that. I'll be down to fix that as soon as I can, and keep  
19 his word and do it.

20 Thank you for hearing me out.

21 CHAIRMAN EVANS: Thank you.

22 COMMISSIONER McCREARY: Mr. Chairman.

23 CHAIRMAN EVANS: Yes.

24 COMMISSIONER McCREARY: Over here. I  
25 wanted to address her question as to how you can possibly have

1 less runoff.

2           Number one, we're not talking about any more  
3 buildings that were originally planned to be there. What we're  
4 talking about is 11 more families to be there, same amount of  
5 buildings. Basically when they build the buildings, they don't  
6 sink them all the way to the ground and haul all the dirt off.

7           I've been around new construction for 30 something  
8 years. Basically the building line forward drains toward the  
9 street, and so that means about half your roof will drain away  
10 and into the street and away from your property. That's  
11 generally the rule on how they build these things.

12           As to whether Mr. Wagner is going to follow that or  
13 -- I mean, it's just common sense that it's really a cheap way to  
14 do it. Your home is raised up a little bit, your lot slopes.  
15 You don't have to haul stuff off. But the big thing is I've seen  
16 the pictures, and I believe what you say, and you've put up with  
17 it since 2004 at least. I would think I would rather have this  
18 young man as a neighbor living in that home than put up with the  
19 same past 10, 12 years of somebody's investment property. I  
20 think somebody would take care of their lawn and their yard and  
21 their neighbor a little bit better than a piece of investment.

22           So maybe it's time to try something different than  
23 what's been there for the last ten years.

24                           MS. LOEHR: That's right.

25                           CHAIRMAN EVANS: Anyone else wishing to

1 speak in opposition? (None.)

2 If not, any discussion, questions from the  
3 Commissioners?

4 MS. EAGAN: Bill, can I explain something  
5 real quick?

6 CHAIRMAN EVANS: Sure.

7 MS. EAGAN: I know it's probably confusing  
8 of why we're having a public hearing considering that we still  
9 have the preliminary plat and a rezoning and we typically don't,  
10 but the way the code is written when a PUD goes to the County  
11 Commission, for some reason when the code was written prior, that  
12 they wanted a public hearing when they did the final development  
13 plan before you guys and then another public hearing before the  
14 County Commission.

15 So I know it's a little odd for you guys to even be  
16 hearing a public hearing at this step, but that's the way the PUD  
17 regs are written.

18 COMMISSIONER McLAREN: I got about three  
19 questions. One -- the first one would be.

20 MS. EAGAN: Can you use your microphone.

21 COMMISSIONER McLAREN: The first -- the  
22 first one would be for the builder, the developer.

23 I only see two lot lines in here or two buildings  
24 that are approaching the lot line. Is it for 1850 square foot  
25 house? Is there an advantage being a villa instead of a

1 single-family? It looks like it'd still mostly be  
2 single-families on these lots, even divided the way they are. So  
3 I'm just curious about that and the marking.

4 And maybe that's not a fair question. The path  
5 going to the pond. You know, I went out and looked at that site.  
6 It needs to be more than a mulch path, and I would hope the  
7 Building Department or whoever reviews that would make  
8 improvement to that mulch path because it goes down across a huge  
9 ditch.

10 MS. EAGAN: That would be up to you guys  
11 to make that decision.

12 COMMISSIONER McLAREN: Right. Well, it  
13 goes down and across a huge ditch, and it's absolutely not -- you  
14 know, nobody is going to make it through there right now. So I  
15 would hope we would look at something more appropriate than that  
16 mulch path.

17 And if this was totally new, would we be requiring a  
18 detention pond on here?

19 COMMISSIONER WILLIAMS: Well, they have a  
20 detention pond.

21 COMMISSIONER McLAREN: I guess I missed  
22 it. Where is it -- where is it at?

23 COMMISSIONER WILLIAMS: It's --

24 MS. EAGAN: (Inaudible.)

25 COMMISSIONER McLAREN: I think -- is that

1 truly -- that's a retention pond. It's not -- is it a retention  
2 pond, or is it detention pond?

3 COMMISSIONER WILLIAMS: According to the  
4 calculations, it is detention. It detains water.

5 It's required by our stormwater regulations. Look  
6 at a ten-year and a hundred-year rainfall event, which they have  
7 looked at. According to their calculations, their detention  
8 meets those criteria.

9 COMMISSIONER McLAREN: Okay.

10 CHAIRMAN EVANS: As far as that path,  
11 Scottie, is that included in what he has turned in?

12 MS. EAGAN: On his final development plan,  
13 the one that looks like this, it has a ten-foot wide -- this  
14 common ground access easement mulch. Whether you guys want it to  
15 be mulch or something else, it's going to be between you guys to  
16 decide. That's one of those elements that you can --

17 CHAIRMAN EVANS: Well, Bill, your issue  
18 was maybe it should be whether it's mulch or rock.

19 COMMISSIONER McLAREN: Well, it's a big  
20 ditch to cross. It's a big ditch to cross to get there. And I  
21 think the lady that spoke, Ms. Bullock, was correct. I thought  
22 usually when you had some kind of a planned urban development,  
23 that there was accommodations made for more common ground, and if  
24 there is -- I think there needs to be a better way to use -- for  
25 that side of the development to use common ground, and I don't

1 see that that's possible right now without more significant  
2 improvements a path to there. You know, I think it ought to be a  
3 culvert and asphalt path, personally.

4 CHAIRMAN EVANS: Any other comments?

5 Because it is a PUD, we can put -- I don't want to  
6 say conditions on here, but we can put requirements on here.

7 MS. EAGAN: You can make a  
8 recommendation --

9 CHAIRMAN EVANS: Recommendations.

10 MS. EAGAN: -- to the County Commission.

11 CHAIRMAN EVANS: Right, to the Commission,  
12 so -- because it's a PUD. Jay?

13 COMMISSIONER SCHULTEHENRICH: Since it's a  
14 recommendation, I certainly agree with Bill. There ought to be  
15 something that it should be a hard surface. Okay. And any type  
16 of erosion should not be there in regards to a walkway or a walk  
17 path. Okay.

18 But also since it's a recommendation, I would think  
19 we also could in fact say that it is a strong recommendation from  
20 us that Mr. Wagner take care of any erosion or problems that may  
21 be existing in regards to water on other properties.

22 That's just a recommendation that I think we could  
23 certainly make and not direct as to how that needs to be  
24 addressed, but at least a recommendation.

25 CHAIRMAN EVANS: I don't know from, Mark,

1 from a legal standpoint that we would make that recommendation,  
2 that he has to address water issues on other properties.

3 ATTORNEY VINCENT: You can make it so that  
4 he -- you can make it so that he has to retain or detain the  
5 water on his side to avoid erosion on adjoining property. You  
6 could not do that if it's just a rezoning, but since it's a  
7 planned unit development, that's one of the benefits of a planned  
8 unit development. You can make those kind of requirements.

9 CHAIRMAN EVANS: Scottie, is it -- is that  
10 already included in the plan?

11 MS. EAGAN: The detaining all the water on  
12 his side?

13 CHAIRMAN EVANS: Right.

14 MS. EAGAN: That would be a question more  
15 for Ron, and he's the one that looked over all the stormwater  
16 stuff.

17 COMMISSIONER WILLIAMS: Now, the bottom  
18 answer there is -- the bottom answer there is no. It does not --  
19 the detention basin does not take everything. What they did is  
20 use a detention calculation and looked at the amount of detention  
21 they had to have and decided the detention basin.

22 But there are points where water sheds off of the  
23 development that does not go into the detention basin. But  
24 technically they met the detention requirements because they are  
25 detaining the amount of water they need to detain.

1 COMMISSIONER McLAREN: So in realty,  
2 what's happening is all the water off of Destiny Drive, is it  
3 being sent to the detention pond and all the water off of Legacy  
4 Lane is just going down into that ditch and eroding, correct?

5 The problem I -- and I shouldn't ask you that  
6 because you probably haven't reviewed it, but that's the way it  
7 looks driving and looking at it.

8 COMMISSIONER WILLIAMS: I want to say yes,  
9 because just looking at it, again without having the actual  
10 stormwater, you know, the storm facilities, I don't want to say  
11 that. But it appeared to be.

12 CHAIRMAN EVANS: Any other questions?

13 Well, again, since this is a recommendation, the  
14 Chair would be open to a motion that would include any changes or  
15 additions or recommendation that we forward to the Commission.  
16 Jay?

17 COMMISSIONER SCHULTEHENRICH: I'll try it.

18 But I'll make a motion that we add a condition upon  
19 any pathway to clearly that leads to and encompasses the common  
20 ground area, that it be a hard surface and that any eroded area  
21 be fixed so that the hard surface is of a level quality.

22 And I would also state I think another  
23 recommendation would be that there is the water drainage that  
24 runs off of this PUD over to the other area, that that should be  
25 addressed. It could be stormwater pipes that could be put into

1 that area, and that would certainly, I believe, would -- could  
2 control in taking that water at least to some other destination.  
3 And I guess that could in fact, Ron, be there that would take it  
4 over to the retention area. I would assume that that could be  
5 done that way.

6 COMMISSIONER WILLIAMS: I think it's going  
7 to be much better for the detention basin and size for the water  
8 that goes into there. So you got to be careful about adding more  
9 water in there because it's going to fill up faster.

10 It might be better to employ some erosion type  
11 preventative ways to slow down the water before it gets off the  
12 site, you know, in order to keep it from causing damage or  
13 erosion off-site.

14 COMMISSIONER SCHULTEHENRICH: Then I'll  
15 back off on my second consideration, but if we feel as though  
16 that needs to be addressed, I think we certainly would have the  
17 means of asking the submitting party to address that under a new  
18 final plat to be brought back to us. Would we not have that  
19 ready to do that for the next meeting? He has an engineer here  
20 that could potentially be looking into how to address that  
21 situation.

22 MS. EAGAN: That's up to you guys.

23 CHAIRMAN EVANS: Well, remember, this is a  
24 recommendation, and there will be another public hearing in front  
25 of the Commission; at which time, with these recommendations, I

1 would think that the builder would have addressed these issues.

2 MS. EAGAN: Because the way I'm  
3 understanding is, if you guys do this, or you'd be making the  
4 recommendation with these changes, and then, I mean, they could  
5 have all those questions answered at the next public hearing  
6 before the County Commission.

7 COMMISSIONER SCHULTEHENRICH: Okay. That  
8 would be true.

9 MS. EAGAN: And can I read what I have  
10 just I didn't finish the first part because you led into your  
11 second one, but I have so far "any path that leads to common  
12 ground be hard surface, and any eroded be fixed," and then I lost  
13 it.

14 COMMISSIONER SCHULTEHENRICH: So that it  
15 would be more of a level area of the walkway. Okay. Taking out  
16 any type of significant dips, et cetera.

17 MS. EAGAN: Okay. And the second  
18 recommendation I have is "any water drainage onto other  
19 properties needs to be addressed, and they need to add erosion  
20 measures to slow the water before it enters other properties."

21 COMMISSIONER SCHULTEHENRICH: That would  
22 be correct.

23 MS. EAGAN: Okay.

24 COMMISSIONER McLAREN: In order for them  
25 to build houses, they would have to have an adequate SWIFT plan

1 in place right now; is that correct?

2 Can we request an adequate SWIFT plan be -- I mean,  
3 we -- we passed that stormwater prevention plan a couple of  
4 months ago. Can that not be part of it, to have an adequate --  
5 to cover what we're saying to have an adequate SWIFT plan?

6 COMMISSIONER WILLIAMS: Well, the problem  
7 is is that the majority of -- the majority of the development is  
8 there. The infrastructure is there. So the only thing that's  
9 going to happen is they're going to build houses, which just  
10 requires erosion protection measures.

11 COMMISSIONER McLAREN: Well, then that's  
12 what the SWIFT plan is, but that's not active right now. I mean,  
13 it's pretty obvious, if you look at these pictures and you go out  
14 there, that the stormwater erosion is not -- not taking --  
15 there's nothing to prevent it right now.

16 So is it automatic that if they -- if they get this,  
17 that they're going to have stormwater protection prevention plan  
18 in place and functional?

19 COMMISSIONER WILLIAMS: They will need  
20 that for any building or disturbance that they do. And I'm  
21 saying it that way because obviously there'll be individual  
22 disturbance on lots, you know, as builders come in and build.

23 As far as the improvements, if they go back in there  
24 and do some alterations or stuff, then that would warrant and  
25 possibly could warrant a disturbance, another SWIFT plan to be

1 prepared and be approved by the State. It depends on the amount  
2 of disturbance. That's what it's all based on.

3 COMMISSIONER McLAREN: Well, I'd like to  
4 take a run and amend it like you say. I'd also like it to be a  
5 little bit more specific with what you said. I'd like a percent  
6 grade on the walk path so it's usable, whether it's 6 percent or  
7 8 percent or some kind of percent, because it's pretty steep  
8 going down there. I think more adequately says somebody can use  
9 the path, and I would like to make sure the SWIFT plan would be  
10 in place and enforced.

11 COMMISSIONER SCHULTEHENRICH: I guess,  
12 Bill, what we're saying then is with those recommendations and  
13 the other staff comments, I guess, then we'd be in a position of  
14 recommending to the County Commissioners -- to pass this on to  
15 them for their consideration with those considerations. That's  
16 the way I would understand. Scottie, is that correct?

17 MS. EAGAN: Right.

18 CHAIRMAN EVANS: Great. So you want to  
19 include all that in the motion, and basically we do have to move  
20 it to Old Business. So the motion is to move to Old Business  
21 with the changes.

22 COMMISSIONER SCHULTEHENRICH: That -- that  
23 will be fine. So we'll go with Bill's suggestion or  
24 recommendations on his wording in that regards on there. Can we  
25 basically change mine then to incorporate or to basically change

1 mine to what Bill had mentioned?

2 MS. EAGAN: I need to know what percentage  
3 you're talking about for slope.

4 COMMISSIONER McLAREN: What is a  
5 reasonable percent, 7?

6 COMMISSIONER WILLIAMS: Walking path,  
7 probably the maximum you want to ever go is 5 percent, and that  
8 is per accessibility guidelines that are in place now at the  
9 federal and state level.

10 COMMISSIONER McLAREN: Okay. So I would  
11 amend my motion that it be at 5 percent for the walking --  
12 hard-surfaced walking path.

13 CHAIRMAN EVANS: And, Jay, you would  
14 accept that change to your motion?

15 COMMISSIONER SCHULTEHENRICH: Yes, I will.

16 MS. EAGAN: And then for the second one.  
17 When you talk about the erosion, do you want me to say that they  
18 have to turn in an erosion plan that is approved? Ron, would you  
19 approve erosion plans? Is there --

20 COMMISSIONER WILLIAMS: I think it would  
21 need to be an erosion prevention and protection plan.

22 MS. EAGAN: Okay. Is that fine if I word  
23 it like that?

24 COMMISSIONER WILLIAMS: (Nodding.)

25 CHAIRMAN EVANS: We have a motion on the

1 floor. Do we have a second?

2 COMMISSIONER HAIRE: Second.

3 CHAIRMAN EVANS: All right. We have a  
4 motion and a second to move File 140249 with the changes to Old  
5 Business. All in favor signify by saying aye.

6 COMMISSIONER VOSS: Aye.

7 COMMISSIONER McLAREN: Aye.

8 COMMISSIONER CUNIO: Aye.

9 CHAIRMAN EVANS: Aye.

10 COMMISSIONER BOLAND: Aye.

11 COMMISSIONER HAIRE: Aye.

12 COMMISSIONER FISCHER: Aye.

13 COMMISSIONER SCHULTEHENRICH: Aye.

14 COMMISSIONER McCREARY: Aye.

15 CHAIRMAN EVANS: Opposed? (None.)

16 Motion is moved to Old Business.

17 File 150039 Planning and Zoning Department. No  
18 public comment accepted.

19 And before you even start on this, you know, this is  
20 not a public hearing, and Commissioner McCreary has recused  
21 himself from any discussion. Scottie.

22 MS. EAGAN: This is File 150039, the  
23 Planning and Zoning Department.

24 The Applicant is seeking to amend the 2001 Unified  
25 Land Use Regulations of Franklin County. The proposal includes

1 amendments to Article 2 and 10, specifically regarding utility  
2 and non-utility waste landfills.

3           Since I'm not an expert in this at all, I had no  
4 part in amending these regulations. So Mark is going to come up  
5 and discuss the changes and why they were changed.

6           ATTORNEY VINCENT: Let me see if I can  
7 make this thing work. What I'll have to do is give you a little  
8 background of why and how these things were done and who  
9 initiated them, and then go through each of the proposed changes  
10 one at a time. Okay.

11           I've recommended two parts. First I'll do the  
12 proposed amendments to the definition section and then the  
13 proposed amendments to the regulation sections themselves.

14           A lot of this stuff may be repetitive. Some of you  
15 guys are new on Planning and Zoning, and they may not be  
16 repetitive for what happened back in 2011, '12, '13, all that  
17 stuff was taking place.

18           The County first enacted these regulations affecting  
19 the utility landfills and non-utility waste landfills in 2011  
20 with the intent of the regulating both types of landfills. At  
21 that time, there was neither a state comment -- any state  
22 comments or any public service comment on any approval or action  
23 regarding any utility waste landfill by -- proposed by AMEREN.  
24 In fact, there was no application pending in Franklin County in  
25 any of our governmental agencies in Franklin County for approval

1 or asking to approve a utility waste landfill.

2 Since that time, there have been two major events  
3 which I think make it appropriate for us to amend the  
4 regulations.

5 The first one of those is that in 2015, January 2nd  
6 of this year, DNR has approved the project. DNR has approved it  
7 after lengthy opposition, public hearings, lobbying. On  
8 January 2nd, they issued the permit after reviewing the  
9 application, which I think was like 1500 pages, and the site  
10 study, which is also about 1500 pages. And they issued a  
11 detailed construction permit authorizing Ameren to build a  
12 utility waste landfill.

13 They permit and the construction permit confirmed  
14 that the landfill complies with State regulations, and they  
15 complied with Franklin County regulations in place at that time.  
16 Bear in mind that those plans are still in place. Those plans  
17 incorporated all the review and comments that Franklin County  
18 submitted with regard to leachate collection systems, with regard  
19 to the monitoring wells, with regard to the height of the berms,  
20 how the berms were to be constructed, all of those things were  
21 part of that plan which have now been approved.

22 The second issue that came about recently happened  
23 just last week, but it was the original reason why I approached  
24 the Commission, the Planning and Zoning -- the County Commission  
25 about amending the regulations. Last week the United States

1 Environmental Protection Association issued the landfill  
2 regulations, which are automatically applied to utility and waste  
3 landfills.

4           These are self-enforcing regulations. As of right  
5 now, Ameren or any other entity that wanted to do a utility waste  
6 landfill in Missouri would have to comply with the County  
7 specific regulations or the City of Pacific, wherever it's  
8 located, DNR regulations, and the new EPA regulations. There has  
9 been some comment that those do not need to be -- or they're not  
10 in effect yet. That's wrong. As being self-enforcing  
11 regulations, those are in place, and EPA has the right to enforce  
12 them.

13           In addition to the above, the two major levels of  
14 changes that I just mentioned, shortly after the enactment of  
15 these regulations, we've had several lawsuits filed. And right  
16 now I think there's three pending involving the landfill  
17 regulations that were adopted by the County Commission. One  
18 lawsuit challenged several issues, and that's been in the Supreme  
19 Court and back, and everybody now recognizes that, okay, the true  
20 issue for these regulations is whether or not Ameren can  
21 construct and operate a utility waste landfill next to the energy  
22 production center down at Labadie. That is a major difference  
23 than what was in place originally. That's one lawsuit.

24           The other lawsuit was filed by LEO against the BOZA,  
25 and the issue was the two-foot barrier, if you will, between the

1 bottom of the liner and the natural water table.

2 Those were -- that lawsuit was based upon, you know,  
3 we had lengthy testimony at a public hearing about what  
4 constitutes or what is a water table and where is the bottom of  
5 the liner. That lawsuit is still pending.

6 The third one was a lawsuit that was filed by  
7 Franklin County and Ameren against LEO for the purpose of trying  
8 to determine whether or not the Aquila case that was decided by  
9 the State of Missouri and the Western District Court of Appeals  
10 would preempt any of the regulations that we have. To avoid  
11 eliminating our regulations entirely if that were to happen, in  
12 November of 2014, at a public hearing -- I'm sorry, at a public  
13 meeting with several people present, Franklin County approved an  
14 authorized execution of a memorandum of understanding with Ameren  
15 that stated in effect that in the event a lawsuit resulted in a  
16 decision that our regulations were ineffective and could not  
17 supercede the PSE permit, which has also been issued to Ameren,  
18 that Ameren would still abide by many facets of our individual  
19 regulations that we adopted in 2011.

20 The ones that were not in EPA reg- -- I'm sorry, DNR  
21 regulations that we added specifically, ones like that are that  
22 the berm would be concrete clad. That is not in state  
23 regulations. It's in the current regulations, it's in the  
24 proposed regulations, and it was part of the memorandum that  
25 regardless of what happens, Ameren agreed to abide by. That's

1 still there, and will always be there.

2 The other one was the height of the berm, 500 feet  
3 flood, 500-foot flood. That's not in DNR regulations. It's in  
4 our regulations. It's still in our regulations.

5 The third one was leachate collection system. I  
6 think there is, if I'm not mistaken, it's been a long time this  
7 has been going on and a lot of stuff has happened, but I think  
8 the DNR regulations would have required seven monitoring wells,  
9 both some upstream and some downstream. Part of the plans that  
10 have been adopted and approved by DNR incorporated our  
11 recommendations, and demands basically were for 35 or 36  
12 monitoring wells upstream and downstream, some deep, some  
13 shallow.

14 Those have to remain in place. Those are still part  
15 of it. So we have not eliminated any of those things. Those are  
16 still there.

17 One bigger ones that are still in these regulations  
18 were in the original regulations and were part of the memorandum  
19 was -- is the requirement that no fly ash can be used -- or  
20 brought into -- rather, brought into this facility from any other  
21 facility that generates coal ash. Only coal ash residue that's  
22 created at the energy center at the Labadie site can be moved  
23 from there to the proposed utility waste landfill. It can't be  
24 brought in, and it cannot be taken out unless it's for a  
25 beneficial use.

1 Beneficial use, I think all of us realize,  
2 especially those in the construction business, that one of the  
3 beneficial uses for fly ash is to put it into Kwik Crete  
4 concrete. And that it's an ongoing practice a lot of different  
5 places.

6 Now, there is some use that Franklin County has made  
7 of it for years -- Mr. Williams told us about this -- we use it  
8 for cinders on roads in the event of bad weather. Those would be  
9 considered beneficial uses. So having said those two things,  
10 what -- why and -- what are we trying to do here and why.

11 I approached the County Commission, no one else did,  
12 in December of last year, 2014, and talked to the Commissioners  
13 individually and publicly in this -- these chambers during a  
14 meeting and asked for permission to draft amendments to the  
15 regulations to bring us in compliance with, to be consistent with  
16 the proposed -- the DNR regulations and address some of the  
17 proposed regulations that EPA at that time we thought were going  
18 to be become final.

19 And also advised the County Commission at that time  
20 that it was my opinion that, if they were to do these amendments  
21 and clarification, that we could potentially eliminate some of  
22 the existing lawsuits, but more importantly and the reason for  
23 doing it was to preclude future lawsuits.

24 For example, we have mentioned to you that we have a  
25 lawsuit involving BOZA -- the BOZA decision where the lawsuit is

1 over a disagreement between all kinds of experts and all kinds of  
2 testimony about how do you measure the water table and how -- and  
3 what constitutes the bottom of a liner, that we don't need to be  
4 involved in those kind of lawsuits anymore. The State and the  
5 federal government, EPA and DNR, are far more expert in those  
6 realms than we are.

7 So with respect to the first events, the DNR permit  
8 being issued, that process is now complete. And like I said  
9 before, those plans cannot be changed except for the requirement  
10 that was proposed in the EPA regulations that was adopted into  
11 the permit by DNR, which we have readopted in these -- in our  
12 proposed regulations that I am presenting to you tonight, that  
13 the bottom of the liner must be five feet above the water course.

14 So it's gone from what it was before, which was ours  
15 was more restrictive than DNR, to the point where it now meets  
16 what and has to meet because it's a restriction in the permit  
17 that's been issued. It has to meet the new regulations that EPA  
18 has issued. It's expressed in meters and feet, and I can't  
19 remember the meters, but it's five feet from the water course to  
20 the bottom of the liner.

21 So right now the plans that Ameren have do not meet  
22 DNR requirements, they don't meet EPA requirements, and they  
23 don't meet our requirements. Those were intervening factors.  
24 They have to submit the plans with the only change being that the  
25 bottom of the liner be raised to meet that 5-foot separation.

1 Okay. So that's a big difference.

2 We spent hours and hours and hours with Andrews and  
3 Associates, our independent registered professional engineer that  
4 I referred to as the "IRP". And I want to point out, of course,  
5 that we're one of the few, if not the only, local agency in  
6 Missouri that has an independent registered professional engineer  
7 involved in our regulations.

8 But we went hours, and some of them kind of testy,  
9 with Ameren and Ameren's engineers on what other requirements we  
10 should have in the sys- -- in the design and plans. Those are  
11 finished. All the stuff that we wanted that finally some of them  
12 had to be negotiated out, but a lot stricter than anyplace else  
13 in Missouri, those are in the plans and will remain in the plans.

14 The only way that that could change is if they  
15 started from scratch and went back to DNR and withdrew their  
16 application they currently have, withdrew all the studies,  
17 withdrew everything that they've submitted so far and started  
18 over. I will submit to everybody that that's not going to  
19 happen.

20 So that's what took place with regard to our  
21 recommendations.

22 There's been some talk about the EPA regulations.  
23 As I mentioned before, those rules are self-implementing. What  
24 does self-implementing mean? Self-implementing means that the  
25 rules are effective and enforceable regardless of whether a state

1 or some other regulatory body adopts the federal requirements.  
2 It doesn't matter. It doesn't matter what we do or whether or  
3 not we adopt those or whether or not the State of Missouri adopts  
4 those. Those are in place now, and they have to comply with  
5 those.

6           There is no doubt, and I'm sure that everything we  
7 do here tonight will be brought up again at another hearing,  
8 which is fine. I want to point out that there's been a lot of  
9 talk about that public hearing and the contents of that public  
10 hearing. I don't know why anybody is saying that because I'm not  
11 sure what the public hearing date will be for certain, nor have  
12 the rules for the public hearing been established.

13           A tentative date of May 21st has been set aside. It  
14 depends upon what you all decide tonight. If you make the  
15 recommendation tonight, that timing may work. If you don't,  
16 that's not going to work. That's why I have not stated to anyone  
17 that the hearing is going to be on May 21st. It would be  
18 premature for me to comment about when that public hearing will  
19 be. So I have not done so.

20           As far as the hearing itself is concerned, my  
21 recommendation to the County Commission, Mr. Brinker who is  
22 sitting here tonight, has been that we start at nine clock in the  
23 morning and we go as long as it takes.

24           There'll be restrictions and guidelines. There has  
25 to be. There'll be limitations on how long people can speak.

1 There has to be. I envision a situation where, since there  
2 really are two sides, if you will, to this, the Ameren side and  
3 the LEO side, that they be allocated special time. That's not  
4 been resolved for certain yet, but each would be given an  
5 opportunity to present their experts, to present whatever they  
6 want to with regard to these amendments and the overall  
7 regulations.

8 I mentioned too that the main -- one of my main  
9 reasons for doing this was the hope that we could prevent  
10 lawsuits in the future. We've had enough lawsuits over this.  
11 And if those lawsuits are a result of me drafting something  
12 improperly, that's ambiguous or inconsistent with DNR  
13 regulations, that's why I'm asking to get rid of those.

14 The experts on this is not Franklin County. The  
15 experts are DNR and EPA. We maintain the IRP relationship,  
16 Andrews Engineering -- Andrews and Associates Engineering were  
17 the -- was the IRP for the design. Then going forward Cochran  
18 Engineering will be the IRP for construction and operation.

19 There has been comments about changing "verify" to  
20 "review." Verify, when I looked at it in the regulations, what  
21 does verify mean? It had no standard tied to it. So what I  
22 added, and I'll go through it specifically, was that a review be  
23 done in accordance with engineering standards. As to review is  
24 what an approval of what DNR does. They review them; they  
25 approve them.

1           Verify to me was a word that could get us in trouble  
2   and lead to another some sort of litigation. It was not commonly  
3   used in this type of situation, and there was no standard tied to  
4   it. So we've now -- what I propose has a standard, you know, how  
5   they are to do it, and we still have the mechanism of enforcement  
6   and review of it. Before I get into the specific changes, like I  
7   said, I'll do those in two sections, one of them on the  
8   definitions, and once again, on the content of regulations  
9   themselves.

10           I want to stress and clarify a couple of points.  
11   There is in existence right now a permit that has been issued by  
12   PSE, by DNR with approval by Franklin County for the operation of  
13   the Ameren landfill, utility waste landfill. Now, having said  
14   that, because of the conditions, they cannot start construction  
15   of that until the plans are modified to reflect the five-foot  
16   change.

17           So the only thing that can be changed, once again,  
18   on those plans is the raising of the bottom of the liner to the  
19   point where it's five feet above the water course. Water course  
20   and water table is different. So there have been some comments  
21   that we've eliminated that. That is totally untrue. We have  
22   not.

23           So now what I'd like to do is go through some of the  
24   definitions that we've changed. Some of them I just flatly  
25   eliminated them because they weren't being used. And once again,

1 if they're not being used, if they're not of any relevance, why  
2 have them in there? Please remember I wrote these regulations in  
3 2011 after hours of public hearings based upon the EPA  
4 regulations, presented them to the County Commission at that  
5 time. There was some discussion with the Commission at that  
6 time. This is all after the public hearing took place, and we  
7 tried to incorporate some of the requirements and restrictions  
8 and comments that people had in those. But that's what it was  
9 based upon. But at that time, the regulations that EPA was  
10 proposing were not -- they were not regulations. They are now.

11 So if you look at your basic definitions and  
12 interpretations, I'll try to go through them one at a time. If  
13 you could save your questions for the end of this section, then  
14 I'll answer those, and we'll go to the Article 10 and the  
15 regulations themselves.

16 Okay. The first change is on the introduction,  
17 Section 15, Definitions, right at the top. Note with respect to  
18 the definitions applicable to all types of landfills, in the  
19 event there is a conflict between definitions set forth herein  
20 and the definition of the same term provided in Section 260, the  
21 statutory definition shall control.

22 We don't want to be in conflict with State law. I  
23 don't want to have us be in a situation where we're saying this  
24 and the State saying that and lead to a lawsuit again that could  
25 cause inconsistent rulings or problems. That's the only reason

1 why it's there.

2 The next one is on page 2.4 of the handout that you  
3 received. The bottom ash, and right below that is coal  
4 combustion residuals. Those were just taken out because they  
5 weren't being used. No other reason other than that.

6 Next page on 2.5 same thing applies to coal  
7 combustion products. Those were terms and definitions, these --  
8 this one and the two before it, that I pulled out of the proposed  
9 EPA regulations. Those are now part of the EPA regulations. We  
10 really don't use them in ours because we don't need them. That's  
11 why I'm recommending that we take them out.

12 The residual of -- we added where they're to be  
13 deposited, said fly ash, bottom ash, boiler slag and all this  
14 other stuff definition for disposal in a utility waste landfill.  
15 Then it's abbreviated. Only thing that was taken out was "and  
16 fossil fuel combustion waste." Okay. We don't use that, so I  
17 took it out.

18 Composite liner system, 2.6. It defines it, but as  
19 I stated earlier, I'll get to it in the regulatory parts of it.  
20 We've incorporated that into the requirements that they meet the  
21 DNR standards and any other special requirements or restrictions  
22 that are placed upon the permit by DNR, and that has been done.

23 Construction standards. There's conditions to that  
24 that I made. The ten different requirements and methods by which  
25 utility waste landfills must be constructed, and they're in

1 accordance with a requirement of Missouri Department of Natural  
2 Resources and the United States Environmental Protection Agency.

3           When I wrote these, these amendments, the effective  
4 date had not yet come for the self-enforcing mechanism of the EPA  
5 regulations. But I think all of us involved in this knew that  
6 those were coming. That's why it's in there, written that way.  
7 That way they'll be applicable.

8           The next one goes all the way over to page 2.9, the  
9 environmental resource officer. This was an idea that we had.  
10 Other entities do not have this. And why did we do it? It was  
11 not, as some imply, to raise money for the County. It was done  
12 because we have limited people in the County, and some jobs have  
13 to be duplicated. This job is assigned to the highway  
14 administrator, and his job in this regard is to work with the IRP  
15 to make sure that all reports and inspections are properly  
16 reported, not just to DNR but also to us.

17           In addition to that, everybody I've spoken with just  
18 on these regulations, our environmental resource officer also has  
19 responsibility to look at and review and be involved in any other  
20 hazardous waste or other environmental problem in the County.  
21 And so you all may not be aware of it, but we've had those  
22 before. We've had industries dump paint, solvents of that nature  
23 into various waterways. And I've been here a long time, and I've  
24 seen that happen. We -- and we at that time had no one who was  
25 assigned that responsibility. That's why we came up with this.

1                   Granted, we may have got aggressive in requiring  
2     payment as soon as the application was filed. I've discussed  
3     that with Ameren, that really is not supposed to pay until right  
4     before they start operating it. They have no intent of asking  
5     for a refund. Scottie got over on them.

6                   They were not -- this was not something that they  
7     wanted to do. Ameren did not ask for this. This was our idea to  
8     help fund the services that we have to provide.

9                   On page 2.11, grandfathered. After reading all of  
10    this stuff and plus all the lawsuits, it kind of came across to  
11    me that the term grandfathered, although we all use it all the  
12    time, was not very professional. So we replaced it later in the  
13    definition talking about non-conforming situations. So we still  
14    have it. It's just called something different.

15                  Groundwater. Water, we have changed that slightly  
16    so it's water saturation zone beneath the land surface. That's  
17    the groundwater. The groundwater monitoring system, we clarified  
18    that somewhat. "Groundwater shall be monitored by the owner of  
19    the utility waste landfill, or non-utility waste landfill." They  
20    both have to have them. Not just utility waste but also  
21    non-utility waste landfills have to have groundwater monitoring  
22    systems in compliance with the groundwater monitoring program of  
23    the DNR, and it's set forth in the permits applicable, and that's  
24    key in that one, permits applicable to utility waste landfills.  
25    They have issued the permit, and the permit requires 35 plus

1 monitoring wells. That has not been taken out. That's there.

2 The paragraph -- paragraph in use on page 2.13,  
3 2.13, the notwithstanding, the in-use provision definition, that  
4 is different. And we still require cells. Most facilities, and  
5 actually there are seven other facilities in the state of  
6 Missouri that have utility waste landfills, those seven issue  
7 blanket permits for the entire area. We are the only one that  
8 issues them in cells. And the content of cells are still  
9 required. The difference is here and probably later in the  
10 regulatory part of it has when can Ameren or who -- in this it's  
11 Ameren that we're talking about. Everybody knows that now.

12 If Ameren changes or goes into a new cell, they have  
13 to get permission from DNR to do so. Instead of having some -- I  
14 made a number before how full it had to be or could be before  
15 they could get another one. Instead of us trying to measure that  
16 and being involved with that analysis, we have defaulted to DNR  
17 so that DNR has to make a decision whether or not they need to  
18 have the landfill -- an extension, a lateral extension or a new  
19 cell.

20 Below that is one, another one that caused some  
21 consternation among some folks whether verify or review. It was  
22 change. It was replaced with review under the duties. Or -- but  
23 what was added is in the second part, next page, on 2.14 at the  
24 top:

25 "To monitor in accordance with

1 generally accepted engineering  
2 principles or practices, to monitor  
3 construction to determine if there  
4 are any material inconsistencies  
5 with the plans as submitted under  
6 Section 236 and ongoing construction."

7 We had no -- there was no guideline before. I'll  
8 take responsibility for not having that in there, but there was  
9 none. So but -- okay. So that we have a tool to measure by,  
10 that's why I did that.

11 The other duties, the other changes on the IRP are  
12 very minor, but they are there.

13 The leachate on page 2.15, leachate and leachate  
14 collection and removal system have been incorporated in the  
15 construction standards. It, once again, refers back to any  
16 special or specific conditions required by DNR in any permit. So  
17 the comment that we've eliminated the requirement for that is  
18 wrong. It's still there, and it's still part of the permit  
19 that's been issued. They have to stay there, and DNR -- we have  
20 incorporated their requirements, specific requirements.

21 License fee below that, that should have come out,  
22 but it did not, because we don't charge a license fee anymore.  
23 We do not license the operation. We permit it. So that's later  
24 on I changed license permit, but I missed that one. So that  
25 should come out.

1           The next one is license to operate was removed. So  
2 to make it consistent, we're talking about we have a permit to  
3 operate, not a license. A license is issued by DNR and PSE.

4           Then on page 2.18, we have a change dealing with  
5 non-utility waste landfills. I'm sure nobody is really concerned  
6 about that tonight. But then below that is a non-conforming  
7 situation which would also pertain to non-utility waste landfills  
8 as well as utility waste landfill. That's another way of saying  
9 the grandfathered. It sounds better.

10           Operating permanent was added in place of the  
11 license on top of page 2.20, and permit fee is added instead of  
12 the license fee.

13           Page 2.24 is the next one. 2.24, we added the  
14 definition of surface water since that's what the EPA refers to  
15 in their regulations, and those will be as defined by the  
16 Missouri Revised Statutes in Chapter 644.

17           On 2.26, there are several definitions that we're  
18 taking out. Once again, they were taken out because we did not  
19 use them. We don't use them anyplace else in the regulations,  
20 and they were redundant. Utility waste landfill was changed to  
21 make it more, I think, clearer as to what we're actually talking  
22 about and what is the purpose of it is, but it's still in essence  
23 the same.

24           We added the definition of waste landfills to  
25 include both non-utility and utility waste landfills, and then

1 waste materials below that, we added about fly ash as used as  
2 ballast material or construction berm as permitted by utility  
3 waste landfills, shall be considered waste provided that the  
4 Missouri Department of Natural Resources has approved such  
5 application and usage. That was added.

6 And, gentlemen, ladies, those are all the  
7 definitions. I can answer -- try to answer questions on those,  
8 or I can proceed right to the regulatory aspects of it. We felt  
9 it was important to bring the definitions forward also because in  
10 some instances, it just does not say this term means this. It  
11 has some operational stuff within the definition itself, and  
12 wanted to make sure that those were clean, clear and perhaps a  
13 lot better than they were so as to avoid any inconsistency with  
14 DNR so that we don't have fighting between -- down the road.  
15 We've had enough, and the intent of this was to, like I said  
16 before, to help eliminate future ones and hopefully maybe resolve  
17 some existing ones.

18 So questions on that part I can answer now, or we  
19 can -- I can go on into Article 10.

20 CHAIRMAN EVANS: Mark, I have one  
21 question.

22 ATTORNEY VINCENT: Sure.

23 CHAIRMAN EVANS: On 2.13 grade, you're  
24 talking about the independent registered professional engineer,  
25 verify and review thing, all designs for a new type of

1 non-utility waste or utility waste landfill. So as far as the  
2 Ameren one, that's complete anyway?

3 ATTORNEY VINCENT: That's complete. That  
4 would be applicable to any non-utility waste landfill and any  
5 other utility waste landfill that's built sometime in the future.

6 But as of right now, that review of the plans is  
7 done, except for the increase, the requirement they submit plans  
8 that show the raising of the bottom of the liner. And that will  
9 be reviewed by Cochran Engineering. It will be not the complex  
10 month-long -- months-long review that we did before, but that  
11 still will be done.

12 CHAIRMAN EVANS: Jay.

13 COMMISSIONER SCHULTEHENRICH:

14 Mr. Chairman, I'd like to, if I could, I think you started on  
15 independent registered professional engineer. But might I make a  
16 suggestion that we would start with the beginning as Mark did,  
17 and we move forward with anybody having any questions on any of  
18 the changes in the definitions that we -- that we may have  
19 instead of somebody going to this page and somebody going to ten  
20 pages back or something.

21 ATTORNEY VINCENT: You want to go right  
22 back to the beginning, that's fine. Sure. I have no problem  
23 with that, gentlemen.

24 COMMISSIONER SCHULTEHENRICH: I turn to  
25 you if that would be permitted, Mr. Chairman.

1 CHAIRMAN EVANS: Go ahead, Jay.

2 COMMISSIONER SCHULTEHENRICH: Okay. I  
3 have a question on the environmental resource officer.

4 In there, it talks about the -- that this officer  
5 will be there in regards to the utility waste landfill. But it  
6 does not reference other landfills. Shouldn't that be included?

7 ATTORNEY VINCENT: We could put that in  
8 there, but it's in the job description that we have on file.  
9 It's part of his job description, what he has to do with regard  
10 to other ones.

11 COMMISSOINER SCHULTEHENRICH: If these are  
12 the regulations --

13 ATTORNEY VINCENT: Right.

14 COMMISSIONER SCHULTEHENRICH: -- that  
15 we're going to basically --

16 ATTORNEY VINCENT: Don't have a problem  
17 with that.

18 COMMISSIONER SCHULTEHENRICH: -- look to  
19 and require the landfill operators, both utility and non-utility,  
20 I would suggest that we have that in there.

21 ATTORNEY VINCENT: Not a problem, sir.  
22 That's a -- we can include that in recommendations. I -- that --  
23 the reason it was not put in there was because it's in the job  
24 description, but I understand what you're saying, and that's  
25 certainly not a problem.

1 COMMISSIONER SCHULTEHENRICH: I think we  
2 wish to have the environmental resource officer involved with  
3 both.

4 ATTORNEY VINCENT: Yes, sir.

5 COMMISSIONER SCHULTEHENRICH: But there  
6 should be a non-utility landfill that the next petitioner comes  
7 in to Franklin County.

8 ATTORNEY VINCENT: Not a problem, sir.

9 COMMISSIONER SCHULTEHENRICH: Okay.

10 Mr. Chairman, I don't know how you wish to proceed  
11 or I'm going to make some -- I'm going to ask some questions or  
12 make some suggestions on some of these, and this will just be  
13 mine. I mean, I'm not sure everybody would necessarily be in  
14 agreement with what I'm suggesting. So I don't know how you wish  
15 to handle that. But --

16 CHAIRMAN EVANS: I would go ahead and make  
17 your suggestions. If anyone has any comments, then we'll --

18 COMMISSIONER SCHULTEHENRICH: Okay. All  
19 right.

20 Then I had a question on the groundwater monitoring  
21 systems, and there in the second part of that going down to about  
22 I guess the end of the suggested change there, you talk about  
23 permit for the applicable utility waste landfill issued by M-DNR.

24 Don't we also have concern there in regards to the  
25 non-utility?

1 ATTORNEY VINCENT: Yes, sir. It's -- I  
2 have non-utility waste landfill above, but I didn't put it there.

3 COMMISSIONER SCHULTEHENRICH: Yeah.

4 ATTORNEY VINCENT: Okay.

5 COMMISSIONER SCHULTEHENRICH: You just  
6 referenced on the top part, but not on the bottom part?

7 ATTORNEY VINCENT: Yeah.

8 COMMISSIONER SCHULTEHENRICH: So I think  
9 maybe we ought to --

10 ATTORNEY VINCENT: Good catch.

11 COMMISSIONER SCHULTEHENRICH: -- make sure  
12 clarification is there.

13 Then if we -- if we go over to in-use, and there  
14 you're making some -- what appears to be some changes there.  
15 Okay. And I guess my question there is, is the wording that  
16 we're basically being asked to consider, is that -- is that  
17 wording that basically comes out of the DNR?

18 ATTORNEY VINCENT: No, it came out of  
19 my -- I made it up.

20 COMMISSIONER SCHULTEHENRICH: Okay. So we  
21 are not sure in that regards as to how this fits in or so, or do  
22 we know how this fits in with -- with DNR potentially or so and  
23 on --

24 ATTORNEY VINCENT: They're independent.

25 COMMISSIONER SCHULTEHENRICH: I forgot

1 what it's called, in-use.

2 ATTORNEY VINCENT: In this part, they're  
3 independent. The EPA has its own requirements on what is  
4 grandfathered and what is not. And I had -- that's why the use  
5 of the word grandfather. If we say it's in -- the whole idea  
6 here is to figure when it's in use as far as if we were to change  
7 regulations. If we change something on ours, this would kick in  
8 as to how that would be determined, whether or not it would  
9 affect what was already in use or going forward on new lateral  
10 extension or new cells.

11 It would not affect -- EPA could say, okay, fine.  
12 Franklin County can do whatever they want, but we're saying you  
13 got to do this, and they would have to also comply with that.

14 COMMISSIONER SCHULTEHENRICH: So if I look  
15 on B under capacity of 10 percent of the construction, it says  
16 shall, as measured by construction costs, including without....

17 Does it then become our responsibility to judge  
18 this?

19 ATTORNEY VINCENT: IRP would do that.

20 COMMISSIONER SCHULTEHENRICH: Is that what  
21 they're doing?

22 ATTORNEY VINCENT: Uh-huh. The IRP would  
23 measure that as far -- and the same thing as before, we had  
24 7 percent capacity before.

25 COMMISSOINER SCHULTEHENRICH: Uh-huh.

1                   ATTORNEY VINCENT: And that would have to  
2 be measured by them or us using the IRP. This gives -- instead  
3 of trying out there and trying to stick a dipstick down in it and  
4 trying to measure what it was, this gives us dollar figures and  
5 values to use. That's the big difference.

6                   COMMISSIONER SCHULTEHENRICH: Okay. Well,  
7 that makes some sense. Then I think if we're -- if we're going  
8 to require or look upon the IRP to be the one as our source of --  
9 of monitoring, as you put in here, but if we're asking them to --  
10 to look in the -- be our eyes on the completion of 10 percent, et  
11 cetera, and monitor it, I think aren't we really asking him to  
12 verify? I mean, doesn't that really bring back that word verify  
13 as opposed to monitor?

14                   ATTORNEY VINCENT: Verify to what? Verify  
15 that they are at 10 percent?

16                   COMMISSIONER SCHULTEHENRICH: And in  
17 regards to verifying what is soft dollars, just land acquisition.  
18 So it's reported back to the County.

19                   ATTORNEY VINCENT: How about if we use the  
20 word confirm.

21                   COMMISSIONER SCHULTEHENRICH: Confirm is a  
22 better word than monitor.

23                   ATTORNEY VINCENT: Well, monitor, we have  
24 to monitor because that's an ongoing process.

25                   COMMISSIONER SCHULTEHENRICH: I don't have

1 a problem if you want to put monitor, but there needs to be some  
2 other word that gives a little bit of a -- more of a -- monitor  
3 is a very soft word, and I think verify or -- or to your words --

4 ATTORNEY VINCENT: Or confirm.

5 COMMISSIONER SCHULTEHENRICH: -- or  
6 confirm.

7 ATTORNEY VINCENT: Certainly.

8 COMMISSIONER SCHULTEHENRICH: That I think  
9 confirm is certainly a better word than monitor.

10 ATTORNEY VINCENT: Sure.

11 COMMISSIONER SCHULTEHENRICH: But we can  
12 have both in there. I wouldn't object to that.

13 ATTORNEY VINCENT: Putting it in the  
14 recommendation, I -- that doesn't -- I have no -- that doesn't  
15 bother me. These are my words, and if you have good comments  
16 like that, those will go to the County Commission, along with  
17 your recommendation. They will have to decide that ultimately  
18 after the public hearing.

19 COMMISSIONER SCHULTEHENRICH: I understand.  
20 But this is just a recommendation.

21 ATTORNEY VINCENT: You got it, sir. I  
22 understand.

23 COMMISSIONER SCHULTEHENRICH: But I'm  
24 going to jump down a little bit to --

25 COMMISSIONER HAIRE: Hey, Mark, before you

1 do that on that same subject, before we monitor or confirm,  
2 whatever we call it, the DNR does have to issue the -- the permit  
3 before that process?

4 ATTORNEY VINCENT: Oh, yes. The permit  
5 has already been issued. They have to do the -- they have to  
6 issue that. The construction permit has been issued. Once the  
7 construction is done, they will have to issue an operational  
8 permit, and the operational permit can't be done until all the  
9 new plans with the five-foot rise is in there.

10 What this talks about is if, you know, 10, 15 years  
11 from now they will need to expand or they believe they need to  
12 expand, they would have to get permission from DNR to do so. We  
13 would then also have to verify, confirm, review, whatever that  
14 the 10 percent cost is already there, and that would make a  
15 difference for us. But it may not make a difference to EPA and  
16 DNR. But I mean, I'm not going to speak for them. But I  
17 understand what you're saying, Jay.

18 COMMISSIONER SCHULTEHENRICH: Okay. Well,  
19 under independent registered professional engineer, the word  
20 solely stands out to me in there. I don't know why. That seems  
21 to be a word that basically is very limiting, and it crosses my  
22 mind that if the County is going to have an independent  
23 registered professional engineer involved, I don't think we want  
24 to basically --

25 ATTORNEY VINCENT: How about you take your

1 -- your recommendation is to take out solely in order --

2 COMMISSIONER SCHULTEHENRICH: I would  
3 suggest that we do -- would do that --

4 ATTORNEY VINCENT: Okay.

5 COMMISSIONER SCHULTEHENRICH: -- so that  
6 to ensure compliance which is where we're at.

7 ATTORNEY VINCENT: That's why you guys  
8 were given these a month in advance.

9 COMMISSIONER SCHULTEHENRICH: And I  
10 appreciate that because I had the opportunity at least to look it  
11 over, and certainly some of the wording raises a little question.  
12 I think that's why this is good to have this right now. Okay.

13 ATTORNEY VINCENT: If we can eliminate  
14 ambiguities and inconsistencies and avoid future lawsuits over  
15 it, Jay, I have absolutely -- I'm a hundred percent.

16 COMMISSIONER SCHULTEHENRICH: Then we're  
17 looking at over in the next -- on the next page, 2.14, at the  
18 top. There again, we have to monitor. Okay. I think I just  
19 don't like a soft word monitor when we want some true involvement  
20 of an individual that we're going to -- the County is going to  
21 hire for the purpose of seeing that compliance is met. Okay.

22 So again, I would suggest that monitor be changed to  
23 monitor and confirm or again verify or whatever would be the  
24 recommendation.

25 ATTORNEY VINCENT: Okay.

1 COMMISSIONER SCHULTEHENRICH: But --

2 ATTORNEY VINCENT: Okay.

3 COMMISSIONER SCHULTEHENRICH: The next one  
4 down, and when I look at the term there and in the past it was  
5 the owner/operator shall pay all fees and expenses charged by the  
6 independent registered professional engineer. You've added the  
7 word reasonable, and I don't know what -- surely we would expect  
8 the County to be reasonable on its charges. Okay.

9 ATTORNEY VINCENT: Well --

10 COMMISSIONER SCHULTEHENRICH: But do we  
11 need to basically put that in there? Reasonable to me can be  
12 more apt to be argued. What if we feel strongly that there is a  
13 need for a penalty to be assessed or fees to be charged, then  
14 let's just say without the word reasonable.

15 ATTORNEY VINCENT: Okay.

16 COMMISSIONER SCHULTEHENRICH: So that's  
17 just my thoughts.

18 ATTORNEY VINCENT: Once again, I have no  
19 problem at all with that recommendation. This came about there  
20 was a little -- it got a little testy at times, and so it's just  
21 -- that's based upon experience, and I have no problem with your  
22 recommendation to take it out.

23 COMMISSIONER SCHULTEHENRICH: I  
24 understand, you know, many would like to see reasonable in these,  
25 but in this case here, I think the County would be more apt to be

1 better off just taking that word out of there. Okay.

2 Under the -- I'm sorry, Mr. Chairman, I don't want  
3 to be the only one. If anybody else has any questions on any of  
4 these, please interrupt me because I would not need -- it would  
5 not hurt me at all to be interrupted.

6 CHAIRMAN EVANS: Jay, you're on a roll.  
7 Just go ahead.

8 COMMISSIONER SCHULTEHENRICH: Ron, had  
9 something I think he wanted to say.

10 COMMISSIONER WILLIAMS: While we're there,  
11 go back up to above where we are talking about being reasonable,  
12 and I suppose the first bullet point. There's two words in there  
13 that I don't think need to be in there, for lack of better term.  
14 It's generally accepted engineering practice.

15 ATTORNEY VINCENT: Well, when we go to  
16 court with you guys, engineers, that's what we have you testify  
17 to.

18 COMMISSIONER WILLIAMS: How about just  
19 accepted. What is generally doing in there?

20 ATTORNEY VINCENT: Well, once again,  
21 that's when we take you guys to court as experts, that's how we  
22 have to phrase it. So I have no problem with your comment, Ron.  
23 That's the jam of two engineers.

24 COMMISSIONER WILLIAMS: I caught it. Then  
25 down below there --

1 ATTORNEY VINCENT: A lot of times you guys  
2 aren't reasonable.

3 COMMISSIONER WILLIAMS: No, that's true,  
4 and if there are any material inconsistencies. What about just  
5 inconsistencies?

6 ATTORNEY VINCENT: So if it's a minor, di  
7 minimus, what happens?

8 COMMISSIONER WILLIAMS: What about it?

9 ATTORNEY VINCENT: Do we shut it down?

10 COMMISSIONER WILLIAMS: You're going to  
11 get an argument about what is --

12 ATTORNEY VINCENT: I understand that.

13 COMMISSIONER WILLIAMS: -- minor or major.

14 ATTORNEY VINCENT: And if we shut it down,  
15 we'll get in an argument too, but I understand. Your  
16 recommendations are fine, guys. That's why we're here tonight,  
17 whatever you want to recommend. That --

18 COMMISSIONER WILLIAMS: Those just seem  
19 kind of vague terms for --

20 ATTORNEY VINCENT: And I want to eliminate  
21 vagueness. That's what I told you guys before, and if you think  
22 they're vague, that's why you're looking at them.

23 COMMISSIONER SCHULTEHENRICH: Ron, where  
24 are you specifically at?

25 COMMISSIONER WILLIAMS: I'm on page 2.14

1 at the top. You wanted to add confirm in there by monitor. It's  
2 in that same section.

3 COMMISSIONER SCHULTEHENRICH: Okay. I see  
4 it now.

5 COMMISSIONER WILLIAMS: And all the way to  
6 the next line down it has material.

7 ATTORNEY VINCENT: Go for it.

8 COMMISSIONER WILLIAMS: Either accept it  
9 or it's not --

10 ATTORNEY VINCENT: I mean, it's -- you can  
11 make your recommendation surely. That's what you're here for,  
12 and if the Commission wants to change it after the public  
13 hearing, they have every right to do so.

14 Once I present these to you guys tonight and they  
15 become with your recommendations or whenever you make your  
16 recommendation, it goes up to the County Commission. That's what  
17 is submitted to the public for the public hearing, and that's  
18 what the Commission will look at, what I prepared that's accepted  
19 by your recommendation, plus what changes you made, that's what  
20 the public hearing will be held on.

21 Then after that, the County Commission will make  
22 decisions, whatever. So fair enough.

23 COMMISSIONER SCHULTEHENRICH:  
24 Mr. Chairman. The next one would be the leachate. Is that how  
25 you pronounce it?

1 ATTORNEY VINCENT: Leachate.

2 COMMISSIONER SCHULTEHENRICH: The  
3 collection and removal. Taking that out, I thought that I read  
4 in the regulations, I think we still refer to that though in the  
5 regulations.

6 ATTORNEY VINCENT: Only to the extent  
7 because we do with regard to any permit requirements imposed by  
8 DNR.

9 COMMISSIONER SCHULTEHENRICH: Shouldn't we  
10 keep that in there and reference back to DNR? Wouldn't that be  
11 more apropos?

12 ATTORNEY VINCENT: If we wrote it in such  
13 a way that we kept the leachate collection removal system in  
14 there but provided that as permitted by or restricted or  
15 conditioned by DNR, I don't want -- I don't want to have us get  
16 in a conflict with what DNR is requiring. As long as we require  
17 more, which we are.

18 COMMISSIONER SCHULTEHENRICH: And I  
19 understand that, but it at least would be minimally met by DNR  
20 requirements or something along those lines or something.

21 ATTORNEY VINCENT: Fair enough.

22 COMMISSIONER SCHULTEHENRICH: Okay.

23 ATTORNEY VINCENT: Sure.

24 COMMISSIONER SCHULTEHENRICH: I think  
25 since we're referencing it's still in the regulations, it would

1 be appropriate for us to reference it under definitions yet on  
2 there.

3 ATTORNEY VINCENT: Except it being -- I  
4 don't have the authority to say yes. You understand that?

5 COMMISSIONER SCHULTEHENRICH: Yes.

6 ATTORNEY VINCENT: But I have absolutely  
7 no problem at all with you all making your recommendations,  
8 however you'd like to. Then it turns to Mr. Brinker and Mr.  
9 Griesheimer and whoever once we have the public hearing, whenever  
10 that is.

11 COMMISSIONER SCHULTEHENRICH: The next one  
12 I had was under operating permit. The question that I have is  
13 the end there where you have the new definition, which I think  
14 was fine. But there you say in compliance with these  
15 regulations. The other places throughout here we're talking  
16 about section --

17 ATTORNEY VINCENT: 236.

18 COMMISSIONER SCHULTEHENRICH: -- 236.

19 ATTORNEY VINCENT: How about --

20 COMMISSIONER SCHULTEHENRICH: Now you're  
21 talking about these regulations. Is there a difference why we --

22 ATTORNEY VINCENT: No.

23 COMMISSIONER SCHULTEHENRICH: -- put these  
24 in regulations?

25 ATTORNEY VINCENT: I must have got lazy.

1 COMMISSIONER SCHULTEHENRICH: Okay. So we  
2 would refer back to the Section 236 and then --

3 ATTORNEY VINCENT: Yeah.

4 COMMISSIONER SCHULTEHENRICH: Okay.

5 ATTORNEY VINCENT: I must -- no, no  
6 excuse, sir. That's what they taught me at West Point to say.

7 COMMISSIONER SCHULTEHENRICH: And I know,  
8 Mr. Chairman, I think John here has asked to be leaving as well.  
9 I just wanted to inform you of that, or you want to say  
10 something.

11 COMMISSIONER FISCHER: No, I'm fine.

12 COMMISSIONER SCHULTEHENRICH: Okay.

13 (Thereupon, Commissioner Fischer  
14 left the meeting at 8:39 p.m.)

15 ATTORNEY VINCENT: Scottie needs to know  
16 that John copped out on us.

17 CHAIRMAN EVANS: That's right.

18 ATTORNEY VINCENT: What time.

19 MS. EAGAN: (Inaudible.)

20 CHAIRMAN EVANS: That's right at 8:40.

21 COMMISSIONER SCHULTEHENRICH: Not that  
22 it's necessary, but John indicated he had some surgery and that  
23 he was not feeling well now. So that's necessary to say.

24 Then under utility waste landfills there, you  
25 changed that around, and you talk about there being a management

1 fee. I don't know -- do we have a definition of what management  
2 areas or what that refers to necessarily on that, that last  
3 including without limitation water retention and management  
4 areas?

5 ATTORNEY VINCENT: Water management areas.

6 COMMISSIONER SCHULTEHENRICH: Water  
7 management areas?

8 ATTORNEY VINCENT: Yeah.

9 COMMISSIONER SCHULTEHENRICH: Can we  
10 define that a little bit --

11 ATTORNEY VINCENT: Yeah.

12 COMMISSIONER SCHULTEHENRICH: -- better  
13 than --

14 ATTORNEY VINCENT: Yeah.

15 COMMISSIONER SCHULTEHENRICH: -- just  
16 saying management areas?

17 ATTORNEY VINCENT: Sure I can.

18 COMMISSIONER SCHULTEHENRICH: All right.

19 ATTORNEY VINCENT: Once again, thank you  
20 for catching that stuff.

21 COMMISSIONER SCHULTEHENRICH: Then under  
22 waste materials, under the fly ash uses, all this material, I'm  
23 not sure I clearly understand that since I'm not an engineer, but  
24 you talk about are in the construction of berms are part of the  
25 utility waste landfills should not be considered waste.

1                   In the regulations, I thought I noticed where you  
2 had changed the word fly ash would be permitted to be used in the  
3 construction of berms.

4                   ATTORNEY VINCENT: That's just to make  
5 they're consistent that -- for that purpose or for Kwik Crete,  
6 concrete or whatever that that fly ash is not considered a waste.

7                   COMMISSIONER SCHULTEHENRICH: If it's used  
8 in concrete, I think we recognize that that already is an  
9 acceptable reusable means of fly ash. Okay.

10                  ATTORNEY VINCENT: Right.

11                  COMMISSIONER SCHULTEHENRICH: So for the  
12 concrete that's one thing, but the way I think you have this  
13 worded -- and again, I think this also has to be what we decide  
14 under the regulations --

15                  ATTORNEY VINCENT: Right.

16                  COMMISSIONER SCHULTEHENRICH: -- as to  
17 whether -- could I -- the way I'm interpreting this is that fly  
18 ash would be able to be utilized in, et cetera for -- for the  
19 purpose of building berms, and I think that's the way I'm reading  
20 some of it in --

21                  ATTORNEY VINCENT: That's not what I  
22 intended.

23                  COMMISSIONER SCHULTEHENRICH: -- the  
24 regulations.

25                  ATTORNEY VINCENT: If it's worded that

1 way, then that's not what I intended.

2 COMMISSIONER SCHULTEHENRICH: Okay.

3 ATTORNEY VINCENT: So it's supposed to be  
4 concrete berms, and they use fly ash in that.

5 COMMISSIONER SCHULTEHENRICH: I think that  
6 needs to then be --

7 ATTORNEY VINCENT: Okay.

8 COMMISSIONER SCHULTEHENRICH: -- I think  
9 it can be -- maybe it's just me, but if I'm interpreting that, I  
10 think it potentially could be interpreted that way as well. So I  
11 would ask that we would be clarifying that. Then it would just  
12 be --

13 ATTORNEY VINCENT: If there's a difference  
14 in interpretation between you guys and me, then there's others  
15 could have the same thought. So we need to make sure it's clear.  
16 That's very valid.

17 COMMISSIONER SCHULTEHENRICH: And I think  
18 we -- and again, say in the construction of berms, and I think  
19 that needs to be rewritten to the extent of the berms with it  
20 incorporated in in the material of concrete or whatever. Okay.

21 ATTORNEY VINCENT: Fair enough.

22 COMMISSIONER SCHULTEHENRICH: We haven't  
23 got into the regulation, but I would certainly have some strong  
24 objection if we're going to use fly ash in berms itself. But the  
25 concrete, that's one thing.

1 ATTORNEY VINCENT: Okay. Fair -- fair  
2 enough.

3 COMMISSIONER SCHULTEHENRICH: That's all I  
4 have under the definitions, Mr. Chairman.

5 CHAIRMAN EVANS: Thank you, Jay. Bill?

6 COMMISSIONER McLAREN: My comments  
7 probably won't be very acceptable, but I want to make a couple  
8 too.

9 I think fly ash is actually used in soil. I believe  
10 fly ash is actually used as soil stabilizer and goes underneath  
11 streets and underneath highways and has uses like that. So it's  
12 actually used in soil stabilization which is, you know,  
13 unfortunately, I guess, that's -- my comment is -- you know, this  
14 is definition for everything the County does, and not just for --  
15 I think we are being a little bit too specific to -- just to the  
16 landfill. And you know, my comments would be, you know, we --  
17 you want to take utility out of the definitions that are here,  
18 but you reference utility lots of times.

19 So I think some of these definitions need to stay in  
20 here. You know, I think that -- I think construction standards  
21 are not necessarily for all the things we review or just for this  
22 landfill. It could be streets in a subdivision. It could be in  
23 multiple things. I think we need to be careful that we don't get  
24 a definition that we've approved that can't be used in soil  
25 stabilization in a soft street somewhere where it's been --

1 that's what it's used for.

2 ATTORNEY VINCENT: I would think, Bill,  
3 that that would come into the part that we talk about beneficial  
4 use, and I may have to -- your recommendations, I'm sure whatever  
5 you decide to do with recommendations, that will be considered at  
6 the public hearing.

7 And honestly, I have no idea what the County  
8 Commission would do with regard to that, but there are some  
9 beneficial uses made of fly ash.

10 COMMISSIONER McLAREN: Well, and that's --  
11 you know, when you go back to generally accepted engineering  
12 practices, you use fly ash in soil stabilization, it's one of  
13 those things.

14 COMMISSIONER SCHULTEHENRICH: Well, and  
15 I'm -- Bill, I am not differing with you, per se, on it. But the  
16 reference in here is with the utility waste landfill. Okay. And  
17 that I do have -- I think the purpose of why they're building  
18 these cells is for the purposes of storing the fly ash. Okay.

19 So how far do you go on the utilization of my ash in  
20 berms? Okay. At that point in time, there's beneficial uses, as  
21 you point out, but I think if you're going to be in floodplain  
22 down there, I think the utilization of the concrete around as a  
23 berm, et cetera, is much more -- much better than the utilization  
24 of fly ash in the dirt itself. That's just my comment.

25 So I don't think we're regulating it here in regards

1 to whether it can be used as a drying mechanism in some other  
2 place or anything. I don't think we're regulating that in this  
3 section right here. Okay. So --

4 COMMISSIONER HAIRE: Mark, do you know  
5 what DNR says the construction of a berm, what their standing is?

6 ATTORNEY VINCENT: Either way it exceeds  
7 what DNR requires.

8 COMMISSIONER HAIRE: All right.

9 CHAIRMAN EVANS: Any other questions on  
10 the definitions?

11 MS. EAGAN: Bill, I do have a quick  
12 question for Mark.

13 Non-conforming situation, that definition, and  
14 non-conforming use, are those just -- I mean, to me they say the  
15 same thing. So should we remove one of them or keep both of  
16 them?

17 ATTORNEY VINCENT: I would have no problem  
18 with -- I wanted to get rid of the grandfathered.

19 MS. EAGAN: Okay.

20 ATTORNEY VINCENT: Okay. Maybe I did it  
21 overkill after that. If you all want to make a recommendation  
22 that those two be brought together in a consistent fashion, I  
23 have no problem with that at all.

24 CHAIRMAN EVANS: You know, I might even  
25 suggest leaving grandfathered in there and say see

1 non-conforming.

2 ATTORNEY VINCENT: Okay.

3 CHAIRMAN EVANS: Because you say that  
4 grandfather isn't professional, but at least --

5 ATTORNEY VINCENT: Everybody understands.

6 CHAIRMAN EVANS: -- looks at this, and  
7 everybody knows that.

8 ATTORNEY VINCENT: Okay. I'm going to be  
9 a grandfather next month.

10 CHAIRMAN EVANS: Congratulations.

11 Any other questions?

12 ATTORNEY VINCENT: Okay. We're on to the  
13 actually meat, the heart of it really, the regulatory aspects of  
14 it under Section 236, and that starts at passage 10.11 of the  
15 Article 10 that you got, you were provided.

16 And the first one is in paragraph A(1). That's  
17 really -- that's not a big deal there.

18 We allow for utility -- non-utility waste landfills  
19 to have a conditional use permit. We wanted to make sure that  
20 that was -- and then Scottie, in her anal manner, wanted to  
21 rename the Agricultural and Non-Urban to Non-Urban and  
22 Agricultural. So we had to flip-flop those names around. That's  
23 why that's being changed. And we state now that where they're  
24 permitted.

25 COMMISSIONER SCHULTEHENRICH:

1 Mr. Chairman, on this section here, can we basically maybe --

2 ATTORNEY VINCENT: Fine.

3 COMMISSOINER SCHULTEHENRICH: -- go

4 through and ask?

5 ATTORNEY VINCENT: Sure.

6 COMMISSIONER SCHULTEHENRICH: Or question

7 just a little bit or something in that regard just on that?

8 CHAIRMAN EVANS: Yeah, it's not as long, I  
9 think, and there's some significant changes. So I think it would  
10 be appropriate.

11 COMMISSIONER SCHULTEHENRICH: I think -- I  
12 think the wording is a little bit unclear on your last sentence  
13 on that number one on A, "Without obtaining" the and -- A-N-D, is  
14 that amendments?

15 ATTORNEY VINCENT: An amendment.  
16 Obtaining amendments. So that should come out. Thank you.

17 COMMISSIONER SCHULTEHENRICH: And just  
18 doesn't seem to be appropriate in there.

19 ATTORNEY VINCENT: Take it out. And  
20 amendments to the -- yeah, the and word and should come out.

21 COMMISSIONER SCHULTEHENRICH: Okay.

22 ATTORNEY VINCENT: So that's the type --  
23 that does the utility waste landfill. That's a non-utility waste  
24 landfill.

25 Okay. The changes in paragraph 2, right below that.

1 We just, for clarity's sake, we refer to Department of Natural  
2 Resources a lot of times is M-DNR. So put that in quotations --  
3 brackets and left it alone. Then there is also a comment about  
4 adding to clarify non-utility waste landfills which expand close  
5 to the nearest. So we had to make sure that was clear. Instead  
6 of just saying landfill, that was added.

7 The next are on just -- if I get going too fast,  
8 just holler at me, guys. I'll stop.

9 Next page on paragraph 2(d) took out Missouri  
10 Department of Natural Resources. That's abbreviating M-DNR, just  
11 replaced M-DNR. Right below that there's two places where I took  
12 out the Os after MoDNR. So we took those out, and we changed the  
13 word licensing to operating permit on that page.

14 Which takes us to page 10.13, unless there's  
15 comments. Then I guess I did here what I should have done on the  
16 other one, the other part, Jay, where I put in for compliance in  
17 Section 236. That's been added there. That's what I should do  
18 over there.

19 Rule of construction was added. I did that to make  
20 sure that there was a standard on how we were going to evaluate  
21 if there was discrepancies or misinterpretation, how we're going  
22 to construe these. Once again, we are not the experts of EPA or  
23 DNR. DNR governs these in Missouri. We can supplement the  
24 regulations, which we have. As I stated before, on the other  
25 seven, this would have been eight. We are by far the most

1 restrictive, but we want to make certain that if there's conflict  
2 in interpretation, that the construction of a term by Missouri  
3 law and by DNR would prevail and take precedent.

4 COMMISSIONER SCHULTEHENRICH: Being clear  
5 on that, you know, Mark. If we had a stronger regulation than  
6 DNR or EPA?

7 ATTORNEY VINCENT: No, not necessarily the  
8 regulation. The interpretation --

9 COMMISSIONER SCHULTEHENRICH:  
10 Interpretation.

11 ATTORNEY VINCENT: -- of a word or  
12 something that was a conflict. If we -- or for example, we  
13 require that the berms to be built like we were talking about  
14 before, --

15 COMMISSIONER SCHULTEHENRICH: Okay.

16 ATTORNEY VINCENT: -- that's more  
17 restrictive than what DNR. That's not ambiguous and that's not  
18 involving construction of a term. So if -- if we -- I'm trying  
19 to think of an example where something that we required that was  
20 not that much different than what DNR required, but they had --  
21 they interpreted it one way, we interpreted it another. I mean,  
22 it's not an additional requirement. Then DNR would prevail.  
23 Their interpretation of that word would prevail, verify or comply  
24 or whatever, but it has to do with the requirements that they  
25 have already adopted and made part of the permit. It has nothing

1 to do with that.

2 COMMISSIONER SCHULTEHENRICH: Having to  
3 replace and supercede the provisions of, is that -- you're  
4 meaning that to be interpretive?

5 ATTORNEY VINCENT: Uh-huh. Yes, sir.

6 COMMISSIONER SCHULTEHENRICH: Is that what  
7 you're saying?

8 ATTORNEY VINCENT: Yes, sir.

9 COMMISSIONER SCHULTEHENRICH: And I think  
10 this is clear enough to be understood to be interpretive?

11 ATTORNEY VINCENT: I think lawyers can  
12 understand it.

13 CHAIRMAN EVANS: I was just going to say.

14 ATTORNEY VINCENT: That's what it's for,  
15 Jay. That's what we talk -- language we use, and it's really not  
16 there for if we end up in litigation and somebody has to decide  
17 what it means, that's the -- what it would -- that's what  
18 we're -- that's what I'm saying in here. But it does not affect  
19 the requirement that we have on. It doesn't affect that.

20 COMMISSIONER SCHULTEHENRICH: Okay.

21 ATTORNEY VINCENT: Down at the bottom  
22 paragraph B under regulations concerning utility waste landfills,  
23 that once again, we had it worded that they kind of backwards  
24 where they could not be. I reversed that and say now where they  
25 can be. That's the only difference there.

1           Okay. And (B)(1)(c), it talks about I originally had  
2     it constructed in the section referred to as cells as hereinafter  
3     set forth. Now it says changes all utility waste landfills shall  
4     be constructed in cells, also known in the case as cell  
5     constructed for the first cell of utility waste landfill as  
6     lateral extensions. That's a word that I saw used in different  
7     places, and so I brought that in so that we're talking about  
8     cells or lateral extensions.

9           Yeah, Jay.

10           COMMISSIONER SCHULTEHENRICH: I don't  
11     think we got a definition of lateral extension.

12           ATTORNEY VINCENT: We make the reference  
13     of them being the same as cells, or new additional cells. I can  
14     make that -- even add that definition if you like.

15           COMMISSIONER SCHULTEHENRICH: So I find  
16     some consistency with understanding what a lateral extension, I  
17     have that underlined here. I'm not --

18           ATTORNEY VINCENT: Okay.

19           COMMISSIONER SCHULTEHENRICH: When I look  
20     through there, I look for what is meant by lateral extensions on  
21     there, and I think --

22           ATTORNEY VINCENT: Not a problem.

23           COMMISSIONER SCHULTEHENRICH: -- that  
24     definition ought to be somewhere to --

25           ATTORNEY VINCENT: Okay. We'll put it

1 back in Article 2. Put it back in there. Okay. That's not a  
2 problem at all.

3 I think it's the one we talked about previously in  
4 the definitions with what -- in the essence of what is  
5 grandfathered or not grandfathered. That's in paragraph B(1)(d).  
6 It's more stringent than what we had in the -- we have -- we have  
7 a dilemma here. We have these regulations and our code, or rest  
8 of our code, and the rest of our code the grandfathered  
9 provisions that we have are far more lenient than what we have in  
10 these regulations. We didn't take that out and make it and say  
11 that these are subject to grandfather provisions of Section 128  
12 or existing.

13 What we have done is we've tried to make it clear  
14 that there are some parameters that will govern whether or not  
15 something can be done if it's -- if the regulations change. And  
16 I hope that it's clear to you all. That's what the intent of it  
17 is. If DNR has issued a permit and it meets the requirements  
18 that we've talked about as far as the expenditure of funds to  
19 show that they have moved forward, in Missouri law, a lot of  
20 times, if you have spent any money on a project and regulations  
21 change, you are -- you have a vested right. I did not want to  
22 get into a situation where we had litigation over what is or is  
23 not a vested right.

24 COMMISSIONER SCHULTEHENRICH: This says  
25 the County has the means of basically involving itself upon when

1 a new cell is to be started.

2 ATTORNEY VINCENT: Yes, sir.

3 COMMISSIONER SCHULTEHENRICH: Is that the  
4 way I'm clearly understanding this?

5 ATTORNEY VINCENT: Yes, sir. You're  
6 exactly correct.

7 COMMISSIONER SCHULTEHENRICH: So it does  
8 still have County involvement?

9 ATTORNEY VINCENT: Yes, we do.

10 COMMISSIONER SCHULTEHENRICH: Thank you.

11 ATTORNEY VINCENT: Paragraph 2 at the  
12 bottom of 10.14 is the waste accepted. A lot of stuff changed,  
13 taken out, but the important part of it we have deferred back to  
14 -- or these regulations that I prepared have deferred back to DNR  
15 more on what waste can be accepted. But it also says at the  
16 bottom of that, "under no circumstance shall utility waste be  
17 brought onto the site from any non-contiguous facility for any  
18 other purpose."

19 You can't bring in waste from a utility, from an  
20 energy-generating in Illinois, Wisconsin, St. Charles County,  
21 Montana, anywhere. Only there.

22 The next paragraph on that page paragraph 3, design  
23 and construction. We had a lot of input into the design. That  
24 stuff is finished. To avoid any -- really any issue regarding  
25 that, what we -- what I've done here is said okay they're going

1 to be building it in accordance with the plans, drawings,  
2 specifications, regulations of DNR, and any specific restrictions  
3 or conditions that were placed upon them.

4           When DNR issued their permit to Ameren on January 2,  
5 2015, they conditioned the permit on, as I said several times  
6 tonight, that it meet the five-foot requirement. We are  
7 requiring that also, all of the stuff with what the design is  
8 part of the approved drawings and approved plans. Those can't be  
9 changed. Those are done. So the construction standards with  
10 regard to -- and I'll bring the leachate stuff -- the  
11 recommendation you're talking about, Jay, is fine. But the  
12 leachate system, the leachate collection system, the monitoring  
13 system, the berms, the how high it is, all those things are --  
14 except for the raising the level, those are all locked.

15           So we are not diminishing the restrictions that we  
16 had on there before.

17           COMMISSIONER SCHULTEHENRICH: When you say  
18 they are locked, Mark, this is where -- is it because, you know,  
19 the County granted a permit for this -- for the utility, the  
20 waste landfill, okay, and is part of that permit -- is part of  
21 the conditions placed within that permit requiring these  
22 things --

23           ATTORNEY VINCENT: Yes, sir.

24           COMMISSIONER SCHULTEHENRICH: -- to occur?

25           ATTORNEY VINCENT: Yes, sir.

1 COMMISSIONER SCHULTEHENRICH: And these  
2 are things -- we haven't seen those.

3 ATTORNEY VINCENT: Yes, you have.

4 COMMISSIONER SCHULTEHENRICH: We have, on  
5 the requirements on what the permit says?

6 ATTORNEY VINCENT: Well, I shouldn't say  
7 that because you probably have not because that's not something  
8 you guys would do. That is done --

9 COMMISSIONER SCHULTEHENRICH: That's where  
10 I think we're missing at least I -- just speaking for myself  
11 here. I think I am missing that.

12 ATTORNEY VINCENT: Once you all adopted  
13 the reg- -- or made your recommendations, they were presented to  
14 the Commission. Whether or not those regulations were complied  
15 with, enforced or the design was monitored or changed, whatever,  
16 those were not in your -- you're not seeing the actual permit  
17 itself.

18 That's why I mentioned to you early on, the  
19 memorandum of understanding that was executed between Franklin  
20 County and Ameren-UE back in November of 2014. Those are locked  
21 for several reasons. One, DNR has approved the permit only based  
22 upon our input into the requirements for the leachate collection  
23 system and the monitoring wells and the berms, and all those  
24 things. So I guess they could change, but what they'd have to do  
25 is it go pull their permit application. Ameren would have to

1 pull it all, pull their PSE permit and start all over. And even  
2 if they did that, they would still be bound by memorandum of  
3 understanding that we executed with them in 2014.

4 COMMISSIONER SCHULTEHENRICH: Okay. So I  
5 think one of the concerns that -- when I was reading through this  
6 is -- is are we changing anything in here that basically we say  
7 on what we require here in Franklin County could potentially be  
8 reduced under our requirements because of DNR or EPA changing  
9 their regulations?

10 ATTORNEY VINCENT: In my opinion, the way  
11 I wrote these, no, sir. And the reason why I say that, once  
12 again, is that we have had our input and that -- the input is  
13 part of the permit that's been approved. If you look at the  
14 wording here, what I said it refers back to and incorporates all  
15 those drawings and design plans that have been approved in a  
16 permit.

17 My concern is this, it's just the opposite way, what  
18 happens if in five years DNR comes up with more restrictive  
19 regulations or EPA does. Well, we don't adopt EPA because those  
20 are self-enforcing. But if DNR does and they put other  
21 conditions or restrictions on new permits, we adopt those  
22 automatically because we are tying into that. So it's not a  
23 question of giving -- we get more loose. I wanted to have a  
24 mechanism that we become tighter in the event DNR changes their  
25 position on future permit applications without having to go back

1 and redo our regulations all the time.

2 Now, we had that before, and we still have it.

3 COMMISSIONER SCHULTEHENRICH: Again, I was  
4 just ensuring whether or not we were weakening any of ours --

5 ATTORNEY VINCENT: No, sir.

6 COMMISSIONER SCHULTEHENRICH: -- by doing  
7 it.

8 ATTORNEY VINCENT: Absolutely not.

9 COMMISSIONER SCHULTEHENRICH: And what we  
10 have in here it does not do that?

11 ATTORNEY VINCENT: Absolutely does not.

12 COMMISSIONER SCHULTEHENRICH: Okay.

13 ATTORNEY VINCENT: Okay.

14 COMMISSIONER SCHULTEHENRICH: If you're on  
15 the number three there --

16 ATTORNEY VINCENT: Sure.

17 COMMISSIONER SCHULTEHENRICH: -- right  
18 just after on that -- just before all the changes in the  
19 Subsection A there. It goes up there to say the owner/operator  
20 must also comply with any special requirements or conditions  
21 placed on such a permit by M-DNR. Would you also add in Franklin  
22 County at that point in time in there? Otherwise, it appears  
23 you're just referring to any permit conditions, regulations being  
24 put on such a permit by M-DNR.

25 ATTORNEY VINCENT: A problem that I did

1 there, Jay, is that I'm not -- I'm acknowledging that as many  
2 people from both proponents and the opponents of this have stated  
3 that the only viable place for this to be placed is where Labadie  
4 is now, and those conditions already are all in place. But I  
5 have no problem with it.

6 We've already placed those conditions in there.  
7 We're the ones that required the design to include the number of  
8 monitoring wells and a leachate collection system that is there.  
9 Those were our mandates. So I can do that.

10 COMMISSIONER SCHULTEHENRICH: Just seemed  
11 to me as that it would be more clear if we were to make sure that  
12 maybe Franklin County regulations would also be included in such  
13 a permit there.

14 ATTORNEY VINCENT: Right. As long as  
15 everyone understands that the design is already finished except  
16 for that. Okay. So we're not going to go back and -- it won't  
17 go back and start over.

18 COMMISSIONER SCHULTEHENRICH: I  
19 understand.

20 ATTORNEY VINCENT: Okay.

21 10.16(b), all utility landfills shall be built and  
22 constructed in cells that's authorized by permit including any  
23 site-specific conditions. Same thing. And --

24 COMMISSIONER SCHULTEHENRICH: Can you,  
25 Mark, on top of that page 10.6, again the word is monitor. Again

1 can we modify that to show some additional --

2 ATTORNEY VINCENT: I hope you're keeping  
3 track of your motion you're going to make.

4 MS. EAGAN: I got all that except your  
5 last one.

6 COMMISSIONER SCHULTEHENRICH: Talk about  
7 C. Have you covered C or are you --

8 ATTORNEY VINCENT: No, I'm still looking  
9 at your monitor, trying to find that.

10 COMMISSIONER SCHULTEHENRICH: Okay.  
11 That's on the top of 11.16. For review and so as to monitor  
12 compliance. There it is. Confirm compliance with such monitor  
13 and confirm compliance. I think is the way we have talked about  
14 maybe.

15 ATTORNEY VINCENT: Maybe I'm not seeing  
16 what you're talking about. It's page 10.16.

17 COMMISSIONER SCHULTEHENRICH: I'm on top  
18 at the very beginning.

19 ATTORNEY VINCENT: All right. By the  
20 independent registered professional engineer?

21 COMMISSIONER SCHULTEHENRICH: Independent  
22 registered professional engineer for review and so as to monitor.

23 ATTORNEY VINCENT: I don't have that in  
24 mine.

25 COMMISSIONER SCHULTEHENRICH: Well, I got

1 a different one here.

2 MS. EAGAN: I have that.

3 ATTORNEY VINCENT: Okay. Yours is there.

4 Okay. Sorry. I'll get that fixed then.

5 Well, at least your recommendation, we'll make sure  
6 to put that in the motion.

7 COMMISSIONER SCHULTEHENRICH: Okay.

8 ATTORNEY VINCENT: Talk about paragraph B  
9 under that. We're down to C. We've taken out the talk about  
10 construction standards. We've already discussed that. We -- the  
11 construction standards that we refer back above to what we have  
12 done with the design requirements and incorporated in the DNR  
13 permits, which includes our requirements, plus the plan -- site  
14 plans, diagram drawings and everything. That's all part of the  
15 permit approval that's been approved by DNR.

16 So honestly some of the stuff was taken out because  
17 of the fact that that -- the likelihood of -- anybody's grinning,  
18 but the likelihood of having a future landfill like this is very  
19 remote. I guess it could happen. That is finished. That part's  
20 behind us. If you guys wanted to do something with regard to the  
21 design again, I just don't feel comfortable trying to duplicate  
22 EPA and DNR regulations at this point.

23 Looking at them in retrospect, we may have been a  
24 lot better off not trying to be as finite and detailed in our own  
25 regulations as we could have done like most other jurisdictions

1 do and just said we default to DNR. We didn't do that because of  
2 the feeling and belief out here that we needed to do something  
3 more to protect against any possible problem, which is what we  
4 did. But those designs are finished.

5 COMMISSIONER SCHULTEHENRICH: Because the  
6 County has issued permits as well. Okay. So is there  
7 potentially the inclusion of by the County in this one?

8 ATTORNEY VINCENT: I can do that. Yeah.

9 COMMISSIONER SCHULTEHENRICH: Okay.

10 ATTORNEY VINCENT: Take the next one out,  
11 but then one of the things I wanted to point out I guess to go  
12 along with what you said a while ago. It's down in I guess D,  
13 subparagraph two little I's down there, armored with concrete or  
14 cement based material. That's what the berm has to be made out  
15 of.

16 COMMISSIONER SCHULTEHENRICH: What's the  
17 difference between constructed with and armored with? I'm not  
18 sure I got that.

19 ATTORNEY VINCENT: On the outside armor.  
20 If you don't like the word armored, you just -- I don't have all  
21 exterior berm shall be armored with concrete or cement based  
22 materials which in effect for the purpose of intended. I -- and  
23 approved by the independent registered professional engineer.  
24 Now constructed. I don't care. I mean, that's --

25 COMMISSIONER SCHULTEHENRICH: Does that

1 mean it could contain some other material inside of it?

2 ATTORNEY VINCENT: Yeah, it could be --  
3 it'll be dirt inside of them, because you can have berms that are  
4 really thick. But they'll -- I don't know that we ever insisted  
5 that. I don't know how wide a berm is going to be right now,  
6 Jay.

7 COMMISSIONER SCHULTEHENRICH: Okay.

8 ATTORNEY VINCENT: So the IRP would verify  
9 that the armored plating, if you will, of concrete or cement type  
10 material would be enough to ensure that what we're trying to  
11 accomplish.

12 COMMISSIONER SCHULTEHENRICH: You had  
13 armored in there. I looked it up and the definition didn't quite  
14 come up to what I thought probably, but again, if you and I would  
15 go with your judgment, armored with is still sufficient to be --

16 ATTORNEY VINCENT: Well, if you guys --

17 COMMISSIONER SCHULTEHENRICH: -- I have no  
18 problem with it.

19 ATTORNEY VINCENT: Your decision there is  
20 to make the recommendation. I'm not -- I never --

21 COMMISSIONER SCHULTEHENRICH: Bill, do you  
22 use armored with versus constructed?

23 COMMISSIONER McLAREN: That -- we'll have  
24 to kind of (unintelligible).

25 COMMISSIONER CUNIO: Aren't you really

1 saying covered?

2 ATTORNEY VINCENT: Covered but thickness  
3 is the term that's approved by our IRP.

4 COMMISSIONER CUNIO: But armored doesn't  
5 dictate how thick it is.

6 ATTORNEY VINCENT: No, it does not.  
7 You're right. I don't know that I have the -- we have the  
8 ability to determine how thick that should be, but our IRP should  
9 have. And that's why the IRP looks at the plans and makes sure  
10 that whatever is approved by DNR in that regard is what would  
11 happen. But if you all feel that we need to do something there,  
12 that's fine.

13 COMMISSIONER SCHULTEHENRICH: When I read  
14 it, I mean, I saw the armored and then when I go down to the next  
15 sentence or so, I guess it says then only fly ash produced in the  
16 contiguous power generating plant may be used in the manufacture  
17 of concrete or other products to be used for the construction of  
18 any or more.

19 The word construction is used there, but again, it  
20 just seems to be for consistency, but again --

21 ATTORNEY VINCENT: Okay.

22 COMMISSIONER SCHULTEHENRICH: Armored is  
23 more apropos.

24 ATTORNEY VINCENT: Well, I'm not sure it  
25 is. I think what that -- I would request that you all make your

1 recommendation that you feel appropriate, and then that would be  
2 a decision for the County Commission to make ultimately.

3 I think it's still important to note that whether it  
4 is 20 feet thick, made out of concrete or it's thick enough  
5 armored over some other material, we are still so far beyond what  
6 other regulatory jurisdictions require that, yeah. It speaks for  
7 itself.

8 Like I said, there are seven others, and if you look  
9 at their stuff, they don't compare.

10 Scottie, you got that -- you have that down?

11 MS. EAGAN: (Nodding.)

12 ATTORNEY VINCENT: Okay. The compaction  
13 has been changed to go back to DNR really to mitigate any uplift  
14 pressures during a flood event. That's to be consistent with DNR  
15 regulations and how they interpret stuff.

16 On page 10.17, paragraph E, all utility landfills  
17 shall include a leachate collection system which shall be  
18 designed and constructed in the manner required by DNR. But  
19 remember we have already had the design and that includes --  
20 those will be included in the special terms and conditions and  
21 restrictions of that permit. It says in the letter that DNR sent  
22 out too we got a copy of. They included our stuff. That's why I  
23 did it, took it out.

24 I know I'm being redundant in a lot of those areas,  
25 but the design for the whole thing is finished except for the

1 five feet.

2 COMMISSIONER SCHULTEHENRICH: Does the  
3 owner/operator in this case -- they submitted the engineering  
4 drawings or designs to the County. That all just go strictly  
5 through --

6 ATTORNEY VINCENT: Oh, no. We -- we  
7 submit it into our County. I met with them. I met with a little  
8 bit of venturing knowledge that I have. Our IRP at that time,  
9 Andrews and Associates, spent months looking at that stuff.

10 COMMISSIONER SCHULTEHENRICH: Then maybe  
11 under that Section 4 would be drawings submitted to M-DNR also to  
12 -- and to Franklin County would be apropos to put that in there?

13 ATTORNEY VINCENT: No problem.

14 COMMISSIONER SCHULTEHENRICH: Okay.

15 ATTORNEY VINCENT: I want everybody to  
16 understand in that paragraph 4 that you're referring to talks  
17 about a zoning verification letter. We have revoked and  
18 rescinded the existing zoning verification letter. A new one  
19 will have to be issued once those plans -- the new plans are  
20 submitted showing that increase. Okay.

21 COMMISSIONER SCHULTEHENRICH: The increase  
22 of --

23 ATTORNEY VINCENT: The five feet.

24 COMMISSIONER SCHULTEHENRICH: -- the five  
25 feet?

1 ATTORNEY VINCENT: Uh-huh.

2 COMMISSIONER SCHULTEHENRICH: Versus the  
3 two feet in here.

4 ATTORNEY VINCENT: Right, sir. That's  
5 correct. The original plans that we gave the -- the zoning  
6 verification letter has to state that they're in compliance with  
7 our Planning and Zoning regulations, and at the time, they were  
8 based upon what BOZA and what we contend, but now they're not.  
9 And they know that. They know that they have to resubmit -- --  
10 have to submit amended plans, and we will then after our engineer  
11 reviews it, DNR reviews them, we will issue or make sure they  
12 complied with that five-foot rise. We'll issue, if it's a  
13 proper, the zoning verification letter so that they can start.  
14 That will put a fine list to whatever it is that we do.

15 COMMISSIONER SCHULTEHENRICH: Mark, can  
16 you specifically show where that five foot --

17 ATTORNEY VINCENT: It doesn't state that  
18 in the requirements. That's why I said it before, Jay. It's in  
19 the letter that we received from DNR. It requires that as part  
20 of it. And if we say five feet -- we had two feet before and  
21 that caused problems. Okay. It caused problems and then we got  
22 a lawsuit over it.

23 And honestly I'm trying to avoid another lawsuit  
24 over that wording. So we defaulted to -- in these, I defaulted  
25 to what DNR says and has already permitted and approved, and that

1 includes the five-foot rise.

2 COMMISSIONER SCHULTEHENRICH: Okay. Is  
3 that five foot -- is that part of the permit process?

4 ATTORNEY VINCENT: Yes, it's already done,  
5 permitted.

6 COMMISSIONER SCHULTEHENRICH: So it is  
7 through the permit. It's not just through a side letter or  
8 something?

9 ATTORNEY VINCENT: Permit. It is part of  
10 the permit.

11 COMMISSIONER SCHULTEHENRICH: It is  
12 clearly under the DNR permit?

13 ATTORNEY VINCENT: Yes, sir, it's in the  
14 permit.

15 COMMISSIONER SCHULTEHENRICH: Part of the  
16 permit which the DNR permitted part of our permit as well then?

17 ATTORNEY VINCENT: Yes, sir, and it's in a  
18 letter, and I've talked to Ameren to make sure that they  
19 understand that we -- and they know we went through, revoked and  
20 rescinded the zoning verification letter, and that we will not  
21 issue a new one until we get new plans that include -- they --  
22 right now they can't do -- they're not in compliance with our  
23 regulations because of that requirement from DNR, and they won't  
24 be until they submit those new plans that have that in it.

25 COMMISSIONER SCHULTEHENRICH: I'm a little

1 confused.

2 ATTORNEY VINCENT: I'm confused what  
3 you're asking, Jay, to tell you the truth.

4 COMMISSIONER SCHULTEHENRICH: I thought  
5 you said that DNR based their permit upon our permit as well.

6 ATTORNEY VINCENT: They did.

7 COMMISSIONER SCHULTEHENRICH: And if we  
8 rescind our permit, then does DNR then say that they are not  
9 basing their permit upon our permit, our regulations?

10 ATTORNEY VINCENT: They had a condition in  
11 there that they had -- that Ameren has to -- I don't have the  
12 letter with me. I apologize for that, but I'm sure it'll appear  
13 for the public hearing. They, DNR, in their letter, said we  
14 approve your application for the permit, but conditioned on that  
15 you must have this five-foot thing that EPA was recommending. It  
16 was not in effect yet, but EPA was recommending, and in that  
17 letter it refers to the design that's already been approved. And  
18 that design includes all the recommendations that we insisted on,  
19 or the conditions that we insisted on for the leachate  
20 collection, monitoring wells. All that stuff is already done.  
21 And that's part of the -- what has been approved.

22 COMMISSIONER SCHULTEHENRICH: And you say  
23 we -- that's the permit that you're talking about that Franklin  
24 County --

25 ATTORNEY VINCENT: And DNR.

1 COMMISSIONER SCHULTEHENRICH: -- had  
2 issued, right?

3 ATTORNEY VINCENT: And we don't issue --  
4 we issue a permit to operate, but we issue a zoning verification  
5 letter saying that they're in compliance with our regulations.

6 We did that because we thought they were in  
7 compliance, and then a lawsuit was filed. And That lawsuit is  
8 still pending, but our regulations at that time said hey, look,  
9 if something comes down later, you got to comply with that also.  
10 But it didn't state specifically what.

11 So when the EPA came along -- that's why I went to  
12 the Commission and said we need to adjust these regulations to  
13 make sure that we incorporate any special conditions or  
14 requirements made DNR with regard to that distance. I don't want  
15 to say five feet because what happens if that changes. What  
16 happens if the next they said six feet or seven feet. So we --  
17 and I'm not sure how to express it better, Jay. The construction  
18 has got to be done in the course with the permit that has already  
19 been approved and the design plans have already been approved by  
20 DNR which includes all of our recommendations and the five feet  
21 thing the EPA has came up with.

22 COMMISSIONER SCHULTEHENRICH: So for us  
23 here, because I don't know whether or not five feet is a --  
24 so-called a more realistic than the two feet is. Okay.

25 ATTORNEY VINCENT: About 250 percent

1 better.

2 COMMISSIONER SCHULTEHENRICH: But I guess  
3 in a public hearing, if there's any objection to either one of  
4 the two, I guess they can come out in the public hearing, I guess  
5 then.

6 ATTORNEY VINCENT: Well, yeah, it will  
7 come out.

8 COMMISSIONER SCHULTEHENRICH: And I don't  
9 know what would be the better or the other.

10 ATTORNEY VINCENT: If it doesn't happen,  
11 if these changes are not approved, which is possible, if these  
12 changes are not approved or some of them are approved or not  
13 approved, the -- our old one is still in effect. Under that,  
14 they would have to comply with the five feet because it's in the  
15 conditions required by DNR and now by EPA.

16 COMMISSIONER SCHULTEHENRICH: And the two  
17 feet, that would be --

18 ATTORNEY VINCENT: Well, ours refers to  
19 DNR regulations and become more restrictive. So it's kind of a  
20 circle, but the bottom line is this thing, if it's going to be  
21 built at all, cannot be built unless it is five feet above the  
22 water course, as opposed to two feet above the bottom liner I'm  
23 talking about, as opposed to being two feet above the water  
24 table.

25 Now we get into what is water course and what's

1 water table.

2 COMMISSIONER SCHULTEHENRICH: When you  
3 went over that, I don't know --

4 ATTORNEY VINCENT: That's why we deferred  
5 to DNR.

6 COMMISSIONER SCHULTEHENRICH: I'm going to  
7 defer to others. I don't know what it all means.

8 ATTORNEY VINCENT: We okay so far? Okay.  
9 Got done on page 10.17.

10 Let's see. Then on page 10.18, paragraph A, I  
11 mentioned already the zoning verification letter will have to be  
12 issued before the original construction can begin. We're in a  
13 situation now that we have a hold on that until we get the plans  
14 come in, and the plans will not be reviewed by me. They will be  
15 reviewed by DNR, they will be reviewed by our IRP, and if they  
16 meet this new requirement plus everything else that's already  
17 been approved, those are locked, then the permit to go forward  
18 would be reissued, and we would submit a new zone verification  
19 letter.

20 COMMISSIONER SCHULTEHENRICH: You're  
21 talking about A on here?

22 ATTORNEY VINCENT: Yes, sir. Uh-huh.

23 COMMISSIONER SCHULTEHENRICH: Why -- I  
24 guess the question I would have on that is when you look at C in  
25 making the decision the Planning and Zoning Director may solicit

1 advice from the independent. Wouldn't it also be to the part of  
2 that should be somewhat required since we look upon the  
3 independent professional engineer as our watch person there?

4 ATTORNEY VINCENT: She may not always be  
5 the zoning director, a Planning and Zoning director. We may get  
6 somebody down here that's got a big time engineering -- if you  
7 want to make it that they shall, I have no problem with that.

8 COMMISSIONER SCHULTEHENRICH: I think the  
9 word shall is a better word in this case here.

10 ATTORNEY VINCENT: I got to tease Scottie.

11 COMMISSIONER SCHULTEHENRICH: And then you  
12 have in there and/or. I don't think it's your intent that if the  
13 director decides not to go to the engineer, that individual can  
14 approach county counselor and avoid the engineer. The way I  
15 would interpret that with the word and/or, I don't think that's  
16 your intention.

17 ATTORNEY VINCENT: I think that certainly  
18 they should -- she should contact the IRP. Whether or not she  
19 talks to me, that's her choice.

20 COMMISSIONER SCHULTEHENRICH: Therefore, I  
21 think it ought to be worded so as to read appropriately for that  
22 to be the case.

23 ATTORNEY VINCENT: Okay.

24 COMMISSIONER SCHULTEHENRICH: That make  
25 sense, Mark?

1                   ATTORNEY VINCENT: No problem. The reason  
2 probably my problem how you worded it. Certainly Scottie is not  
3 an engineer. That's why we have the IRP. She needs to consult  
4 with them in that event. The consult with me would not be about  
5 the whether or not they meet the conditions, but would be the  
6 wording that would be set out in the zoning verification letter.

7                   If she's confident in how she words that and doesn't  
8 need my help, so be it.

9                   COMMISSIONER SCHULTEHENRICH: Makes sense  
10 to me that it would be both of you would be consulted. Okay.

11                  ATTORNEY VINCENT: Okay.

12                  COMMISSIONER SCHULTEHENRICH: But I don't  
13 think it would be she or he, whoever would be in that position,  
14 could potentially avoid the engineer, just going to the County  
15 Council, and I --

16                  ATTORNEY VINCENT: Right.

17                  COMMISSIONER SCHULTEHENRICH: -- don't  
18 think that's your intent.

19                  ATTORNEY VINCENT: Not the intent. That  
20 was not the intent.

21                  COMMISSIONER SCHULTEHENRICH: That's the  
22 way I think I can answer.

23                  ATTORNEY VINCENT: Got it down, Scottie?

24                  MS. EAGAN: Yes.

25                  ATTORNEY VINCENT: Anything in paragraph B

1 that follows there? Okay.

2 I'm going to take it down to operations and  
3 inspections. All utility waste landfills shall be operated in  
4 compliance with applicable requirements from DNR and to DNR  
5 requirements pertaining to the following, and those are let's see  
6 leachate collection system, which we have talked about before,  
7 the groundwater monitoring, the lining system and all components  
8 of the berm system.

9 COMMISSIONER SCHULTEHENRICH: And that's  
10 why I think over on that condition we ought to keep that  
11 leachate.

12 ATTORNEY VINCENT: Okay, fair enough.

13 We took a little bit of work away from the County  
14 environmental resource officer when I wrote these. We gave it --  
15 assigned it to the independent registered professional engineer  
16 to periodically inspect. If they run into problems, certainly  
17 this is a joint effort between all County officials involved. I  
18 am sure -- make sure everybody understands we're talking about  
19 reasonable fees again.

20 The way the IRP works is the County hires him, and  
21 the bill is sent by the IRP to the County. We do it that way on  
22 purpose so that it's clear that the IRP works for the County, not  
23 for Ameren. We then turnaround and request reimbursement, not --  
24 the engineer doesn't. The County does from Ameren for whatever  
25 those charges are because if they're -- we have the privity of

1 contract with the engineer. Ameren has no connection with or  
2 relationship with our engineer. That's why it's set up that way.  
3 Now --

4 COMMISSIONER SCHULTEHENRICH: That makes  
5 -- that's fine. But there's a change in here that I am  
6 struggling with a little bit, and that is where it says, after  
7 discussing such -- about the middle of that first paragraph  
8 there. Says after -- let's see. After discussing such violation  
9 with the owner/operator -- I don't have a problem there -- that  
10 it includes the owner/operator by saying the owner/operator and  
11 the project independent registered professional engineer shall  
12 establish a deadline for correcting the violations.

13 ATTORNEY VINCENT: Okay.

14 COMMISSIONER SCHULTEHENRICH: You're now  
15 bringing both parties into making that decision as far as a  
16 deadline. What happens if both parties are unable to reach a  
17 date for a deadline?

18 ATTORNEY VINCENT: Right. If you look  
19 back in the penalty part, we still have a penalty part. If we  
20 deemed that if we say forget it, we're done, we tried to work it  
21 out and we can't, we think you're in violation of it, we still  
22 have the right to do that.

23 COMMISSIONER SCHULTEHENRICH: Okay. I  
24 hear what you're saying, but I think when you have a requirement  
25 of both of these to be part of that decision-making and if both

1 are not in agreement, I'm not sure you can go back to a penalty  
2 when --

3 ATTORNEY VINCENT: Oh, I'm sure we can,  
4 Jay.

5 COMMISSIONER SCHULTEHENRICH: When this  
6 goes with just those two having to be part of the  
7 decision-making. That's why I wonder if it wouldn't be more wise  
8 for the owner/operator included in this decision when I think  
9 they can go there and discuss and seek a deadline for a violation  
10 to be corrected from -- seek input on that deadline, but I think  
11 the determination of when that deadline should exist would be  
12 resting with the County official, in this case the engineer.

13 CHAIRMAN EVANS: Well, Jay, I think what  
14 Mark's saying if you look back at the penalty and we talked about  
15 this, it says if an agreement as to a reasonable cure period  
16 cannot be achieved, then in such event, the environmental  
17 resource officer shall establish the cure period.

18 COMMISSIONER SCHULTEHENRICH: Where are  
19 you?

20 ATTORNEY VINCENT: The last section on the  
21 penalty.

22 MS. EAGAN: It's 10.21.

23 CHAIRMAN EVANS: So it's like negotiate  
24 and if you can't negotiate, then the IRP will decide.

25 ATTORNEY VINCENT: The IRP would report it

1 to the environmental resource officer, and then the environmental  
2 resource officer will set the deadline.

3 The IRP is an advisory body for us. The IRP, the  
4 environmental resource officer, and the County Commission and  
5 Scottie, we're all officials of the County, and myself. So --

6 COMMISSIONER SCHULTEHENRICH: I think I  
7 hear you, and I think that's fine, but when you have two places  
8 in there that potentially that could be argued, one of them being  
9 that both parties are granted the means of coming up with a  
10 deadline date, and if both parties are unable to do so, does the  
11 penalty kick in at that point in time? I hear Mark saying yes --

12 ATTORNEY VINCENT: Well, not necessarily.

13 COMMISSIONER SCHULTEHENRICH: I think it  
14 can be raised the argument on behalf this case the utility to say  
15 wait a minute, we haven't concluded our role as provided under  
16 the regulations, meaning that the -- what deadline date is  
17 established. So --

18 ATTORNEY VINCENT: Fair enough. I mean --

19 COMMISSIONER SCHULTEHENRICH: -- I think  
20 it would be wise to --

21 ATTORNEY VINCENT: Okay.

22 COMMISSIONER SCHULTEHENRICH: -- get the  
23 input from, in this case the landfill owner/operator, but I don't  
24 think they ought to be a decision-maker on the specific date. I  
25 think that should rest with still the County engineer on the part

1 of this case.

2 ATTORNEY VINCENT: So what you're -- what  
3 you're saying then, Jay, if I'm understanding correctly, they get  
4 together and discuss what the violation is and how to fix it?

5 COMMISSIONER SCHULTEHENRICH: That's  
6 correct.

7 ATTORNEY VINCENT: And if they come to  
8 a --

9 COMMISSIONER SCHULTEHENRICH: And how long  
10 it would take.

11 ATTORNEY VINCENT: How long it would take,  
12 and if they can't agree as to how long, what a reasonable time is  
13 to fix it, then the IRP would give it to the environmental  
14 resource officer and say okay, the deadline is this date.

15 COMMISSIONER SCHULTEHENRICH: Correct.

16 ATTORNEY VINCENT: If you don't do that,  
17 then after that, it's a violation.

18 COMMISSIONER SCHULTEHENRICH: Correct.

19 ATTORNEY VINCENT: And the penalty part  
20 still kicks in, plus one other thing kicks in. And I've  
21 explained this to Ameren and their representatives. At the time  
22 this was done, we did not have a municipal court for the County.  
23 We do now, and one of the primary purposes or reasons for the  
24 municipal court is to hear violations of -- or alleged violations  
25 of planning and zoning regulations. We have an option now that

1 if there is a violation, we can take it to our municipal court  
2 and not have to injunction relief and all that stuff. So --

3 COMMISSIONER SCHULTEHENRICH: Uh-huh,  
4 which is a plus.

5 ATTORNEY VINCENT: Okay.

6 MS. EAGAN: So I still -- are we changing  
7 anything?

8 ATTORNEY VINCENT: The recommendation is  
9 to change it to have the violation established by Franklin  
10 County, the date -- the deadline date established by Franklin  
11 County.

12 COMMISSIONER SCHULTEHENRICH: By the  
13 independent --

14 ATTORNEY VINCENT: No, I don't want him  
15 establishing the date. They can recommend a date --

16 COMMISSIONER SCHULTEHENRICH: Yeah.

17 ATTORNEY VINCENT: -- to --

18 MS. EAGAN: That's the environmental  
19 resource officer?

20 ATTORNEY VINCENT: Yeah, or Franklin  
21 County I think you could say.

22 MS. EAGAN: Okay.

23 ATTORNEY VINCENT: Any questions or  
24 concerns about the monitoring and the annual inspections?

25 There's not much difference in those. The penalties that it

1 comes out except for the fact that we still have third violations  
2 or zoning regulations, I don't need a penalty clause here.  
3 There's an overall penalty clause in our zoning regulations that  
4 any violation can be taken to our municipal court for  
5 prosecution.

6 Example, we have a requirement in these regulations,  
7 if they're adopted and everything goes forward from the current  
8 ones we have. And Ameren brings in a load of fly ash from  
9 Wyoming and brings it down there and dumps it. That's a  
10 violation of our regulations. We can -- I can file a charge that  
11 day against the president or chairman of Ameren and make him come  
12 out and see Judge Murry. That's just the way it is.

13 COMMISSIONER SCHULTEHENRICH: That's not a  
14 violation of the State?

15 ATTORNEY VINCENT: No. It's a violation of  
16 our regulations.

17 COMMISSIONER SCHULTEHENRICH: That's why  
18 -- why there is -- that's why they're additional requirements  
19 placed upon --

20 ATTORNEY VINCENT: Uh-uh. That's correct.

21 COMMISSIONER SCHULTEHENRICH: -- on this  
22 utility landfill? Okay.

23 ATTORNEY VINCENT: Page 10.19 with  
24 operation. Are there any questions about that, Jay, or anybody  
25 else?

1 COMMISSIONER SCHULTEHENRICH: No, I do  
2 not.

3 ATTORNEY VINCENT: Okay. That takes us  
4 over to page 10.20.

5 COMMISSIONER SCHULTEHENRICH: Wait, I do  
6 have a question.

7 ATTORNEY VINCENT: Okay.

8 COMMISSIONER SCHULTEHENRICH: Because  
9 you're taking out the means in which there -- there is --

10 ATTORNEY VINCENT: Oh, I'm sorry. Yeah, I  
11 see what you're saying.

12 COMMISSIONER SCHULTEHENRICH: -- on the  
13 trucking.

14 ATTORNEY VINCENT: Right. Let me explain  
15 that to you. I'll explain my rationale to you, and I've talked  
16 to a couple of people, and I have absolutely no problem with you  
17 putting that back in.

18 Here's the way it operates, and I researched this.  
19 The vehicles that are used by Ameren to transport their stuff  
20 from the energy center to the landfill stay there. They don't  
21 leave. You cannot bring any fly ash in, nor can you take it out  
22 except for beneficial use that's already made into something  
23 else.

24 Now, so I took it out because of that. I understand  
25 the concern. I talked to Todd about it. I talked to Dan about

1 it. I talked to Ray about it. I have absolutely no problem  
2 putting that back. So we have the wash station, the covered --  
3 in the event -- I don't think it's likely that something will  
4 leave there, but in the event something does happen, they got to  
5 wash it, and they got to cover it.

6 COMMISSIONER SCHULTEHENRICH: I think  
7 that's good to have it in here.

8 ATTORNEY VINCENT: Not a problem.

9 COMMISSIONER SCHULTEHENRICH: I've always  
10 -- I always felt that maybe there should be -- have been another  
11 road established instead of letting them come through --

12 ATTORNEY VINCENT: Let what come through?

13 COMMISSIONER SCHULTEHENRICH: -- in and  
14 out of --

15 ATTORNEY VINCENT: Bring what out?

16 COMMISSIONER SCHULTEHENRICH: Bringing the  
17 material out for the purpose of it being utilized in a productive  
18 meaning.

19 ATTORNEY VINCENT: Okay.

20 COMMISSIONER SCHULTEHENRICH: Meaning for  
21 the purpose of making cement and --

22 ATTORNEY VINCENT: Lot of the cement is  
23 made right there.

24 COMMISSIONER SCHULTEHENRICH: I  
25 understand, but they're also --

1 ATTORNEY VINCENT: I understand.

2 COMMISSIONER SCHULTEHENRICH: -- made  
3 elsewhere. And it's still allowed to come through Labadie. It  
4 really would have made more sense to me, and I know this is a  
5 decision the County Commissioners make and, therefore, let it be.  
6 But it would seem to me it would have been better to just come a  
7 different route. So therefore, I'm saying --

8 ATTORNEY VINCENT: Put it back in.

9 COMMISSIONER SCHULTEHENRICH: -- I really  
10 think it would be beneficial to keep that in there.

11 ATTORNEY VINCENT: Not a problem.

12 That was my rationale. It may not have been a very  
13 good rationale. Make a recommendation to put it back in. I have  
14 no problem with that at all. So that would take all of that plus  
15 down to paragraph -- put the three little I's, all that would  
16 come back in. Okay.

17 So we're down to the cell usage. And there we added  
18 the part that you can't do any new cells prior to the  
19 construction to approval by DNR. We have the right to review it  
20 all, and we have the right to -- we've talked about this several  
21 times already.

22 So we have it now where it's based upon any use  
23 being a measure of dollars expended, not how full a cell is that  
24 we would have a hard time measuring. So there's still a  
25 mechanism in place that must be approved by everybody.

1           So we took out of the CCP usage that's pulled some  
2 products. Took that out.

3           And then on page 10.21, the penalty. There are some  
4 people are saying that we took the penalty out. I don't know how  
5 they got that, but it's still here. This is a maximum fine that  
6 we could do. We have two remedies now. We have this as a civil  
7 remedy and a municipal court for violations of our regulations.  
8 So there's a lot more enforcement possibilities if there are  
9 violations now than there were before.

10           That's it.

11                           CHAIRMAN EVANS: Any questions?

12                           ATTORNEY VINCENT: Any questions for me?

13           I guess in summary, guys, I just want to make sure  
14 you understand that the intent of this was to become more -- I  
15 guess, less redundant, more consistent, recognizing that the  
16 permit -- I'm sorry, the design phase is totally completed except  
17 for the rise, and everything that we requested before is in  
18 there. Those are not being eliminated. The leachate collection  
19 system is in there. The berm is in there. I understand your  
20 concerns about how it's constructed. We can -- the Commission  
21 can look at that, the County Commission can look at that.

22           The 500-foot elevation is in there. We'll add back  
23 in to cover trucks and the washing. That's not a problem. I  
24 took it out because I thought it was -- my misunderstanding of  
25 how things -- and I can see where your concern is, Jay. I have

1 no problem with that.

2 So in any event, that's the reason, that's the how,  
3 that's why I got started. These are regulations that I prepared.  
4 And the intent, major intent, was hopefully for -- Franklin  
5 County is -- we've spent enough time, emotion and energy on  
6 lawsuits. We need to get beyond them, and the County Commission  
7 it's their say whether or not these amendments are done. And if  
8 they're not done, the current regulations stay in place.

9 I -- I'm going to stick my neck out, which I want  
10 you guys to know I don't have a problem doing. We have one  
11 lawsuit pending. It made the first one that's been to the  
12 Supreme Court and back down.

13 I think there's a possibility that a decision by  
14 that court could result in a new public hearing. So what I'm  
15 trying to do is, okay, if we're going to have to have a public  
16 hearing anyway, let's clean the regulations up and have them.

17 So that's why, to preclude future make it sensitive,  
18 get rid of redundancy, get rid of -- if I've done some vague  
19 things in here, let's fix those too and go forward with it.

20 Okay. That's what I've done.

21 CHAIRMAN EVANS: All right. Thank you,  
22 Mark.

23 MS. EAGAN: And, Bill, before you guys  
24 discuss it, I just want to remind you that since this is an  
25 amendment, typically a rezoning amendment gets moved to Old

1 Business that same night and voted on.

2 CHAIRMAN EVANS: Right. I would suggest  
3 that we maybe take a ten-minute recess. Be back on ten till.

4 (Thereupon, a break was taken at 9:38 p.m.  
5 till 9:50 p.m.; after which, the proceedings  
6 continued as follows:)

7 I'd like to call the Planning and Zoning meeting  
8 back to order again, please.

9 We've gone through all the changes, and probably  
10 what we need to do is, since we've got significant changes,  
11 Scottie, if you would like to review those changes.

12 MS. EAGAN: I will do what I have. I know  
13 there was one or two I missed. So, Jay, or you guys can help me  
14 if I missed one.

15 Recommendations under definitions. We have add the  
16 word non-utility waste landfill and the environmental resource  
17 officer definition.

18 Add non-utility waste landfill at the end of the  
19 groundwater monitoring definition.

20 Somewhere in the definition for independent  
21 registered professional engineer, use the word confirm or I think  
22 you said review.

23 ATTORNEY VINCENT: Verify.

24 MS. EAGAN: Verify. Use the word confirm  
25 or verify.

1 Remove "solely" and order from the independent  
2 registered professional engineer definition.

3 Remove the word reasonable from the fee section of  
4 it.

5 Remove "generally" under independent registered  
6 professional engineer's second bullet and the word material.

7 Keep leachate collection and removal system, and  
8 refer to DNR somehow in that definition.

9 Add Section 236 to the operating permit definition  
10 instead of these regulations. Define management areas in the  
11 utility waste landfill definition.

12 Clarify fly ash as waste in berms or look into what  
13 can be used or what waste is.

14 Leave "grandfathered", and refer to it as  
15 non-conforming, either situation or use.

16 Remove "and" from 10.11 A's number one.

17 Define lateral extensions in Article 10.

18 Those are all the recommendations I have. I didn't  
19 hear anybody say anything about the non-confirming use or  
20 non-confirming situation. So I left that as two separate  
21 definitions.

22 And is there anything else you guys can think of for  
23 Article 2?

24 CHAIRMAN EVANS: Any other changes,  
25 comments? Any discussion on what was covered, Jay?

1                   COMMISSIONER SCHULTEHENRICH: I think -- I  
2 think I don't know what your intension is in regards to this  
3 evening, but I wouldn't mind at least having an opportunity to  
4 see the wording on it, and then also we'd have the means of the  
5 minutes to go through to see if there was anything else  
6 potentially.

7                   Scottie, I think you did a very good job there  
8 reading them back. I'm not sure that's -- I'm pretty sure that  
9 sounded like everything to me, but I think the minutes would  
10 reflect some of that. So I'm not sure what the plans are,  
11 Mr. Chairman. But I would -- as I did, I think, in 2011, I  
12 believe that it's more appropriate for us to, before we make any  
13 recommendation, that it would be more apropos for us to at least  
14 see the actual wording so there is a comfort level at that point  
15 in time, and then to make our recommendation at that point in  
16 time after we have the chance to give it a final review.

17                   CHAIRMAN EVANS: Any other comments?  
18 (None.)

19                   And then the options are again to, as Jay said, see  
20 it in the final review. The other option is to go ahead and move  
21 it along as it is to get it to the next -- to the next level.  
22 And the only advantage to that would be obviously to get it out  
23 of our hands so we can get it to the Commission for a public  
24 hearing, then they can take action. There is nothing cannot  
25 really be done till where we go.

1 MS. EAGAN: What I did last time with  
2 these regulations, instead of going through and changing the  
3 regulations and having red lines and blue lines and then green  
4 lines for your guys' changes, I just made a separate document of  
5 what your guys' changes were.

6 So my plan isn't to incorporate all this into the  
7 regulations. It's to make a separate document that they can look  
8 at and see what you guys recommend, just so you're aware.

9 COMMISSIONER SCHULTEHENRICH: You're going  
10 to note though what sections that is --

11 MS. EAGAN: Yes.

12 COMMISSIONER SCHULTEHENRICH: -- in the --

13 MS. EAGAN: Uh-huh.

14 COMMISSIONER SCHULTEHENRICH: That's fine,  
15 not a problem.

16 MS. EAGAN: Then for changes to the  
17 regulations, I have looked at changing the terms monitor and  
18 review on the top of page 10.16; include the County in letter B  
19 on 10.16; look into the term armored and what it means; include  
20 County in number 4 on 10.17 so the plans would be submitted to  
21 M-DNR and the County; change "may" to "shall" on letter A 10.18;  
22 and reword the "and/or" to ensure that the Planning director  
23 talks with the independent registered engineer about the  
24 compliance; have the deadline date decided by Franklin County on  
25 10.19 letter D; add all the deleted stuff under 7(a) i, ii and

1     iii, which included the covered trucks, wash stations, the route,  
2     et cetera; and then again, going back to the issues on how the  
3     berm is constructed and using fly ash, whether or not to use fly  
4     ash.

5                     CHAIRMAN EVANS: Any other comments or  
6     corrections? (None.) Okay.

7                     The options are to approve this with the changes and  
8     move it to Old Business or to -- to table it.

9                     COMMISSIONER SCHULTEHENRICH:  
10    Mr. Chairman, I'll make a motion that I think it would be  
11    appropriate for us to table any action on this so that we would  
12    have the opportunity to review the language at our next meeting,  
13    and I think delaying for -- if that's what it's called -- for an  
14    additional month. I don't think there would be -- I don't see  
15    the harm in doing that because I think again it's -- I understand  
16    it's only a recommendation, but I would at least hope that the  
17    Commissioners give valued consideration upon our recommendations.

18                    So with that, I'll make that as a motion that we  
19    would table this until next meeting.

20                    CHAIRMAN EVANS: Do we have a second?

21                    COMMISSIONER BOLAND: I'll second that.

22                    CHAIRMAN EVANS: We have a motion and a  
23    second to table this to the next month's meeting. All in favor  
24    signify by saying aye.

25                    COMMISSIONER VOSS: Aye.

1 COMMISSIONER McLAREN: Aye.  
2 COMMISSIONER CUNIO: Aye.  
3 CHAIRMAN EVANS: Aye.  
4 COMMISSIONER BOLAND: Aye.  
5 COMMISSIONER HAIRE: Aye.  
6 COMMISSIONER SCHULTEHENRICH: Aye.  
7 CHAIRMAN EVANS: Opposed? No? (None.)  
8 Tabled.  
9 All right. Moving back to Old Business then.  
10 Have Sam Wagner File 140249. Any additional  
11 discussion, changes? If not, the Chair would entertain a motion.  
12 COMMISSIONER HAIRE: I move that we  
13 approve with the amendments.  
14 COMMISSIONER BOLAND: I'll second that.  
15 CHAIRMAN EVANS: We have a motion and a  
16 second to a approve File 140249. All in favor signify by saying  
17 aye.  
18 COMMISSIONER VOSS: Aye.  
19 COMMISSIONER McLAREN: Aye.  
20 COMMISSIONER CUNIO: Aye.  
21 CHAIRMAN EVANS: Aye.  
22 COMMISSIONER BOLAND: Aye.  
23 COMMISSIONER HAIRE: Aye.  
24 COMMISSIONER SCHULTEHENRICH: Aye.  
25 COMMISSIONER McCREARY: Aye.

1 CHAIRMAN EVANS: Opposed? (None.)

2 Motion is carried. File is approved.

3 Preliminary plats. We have none.

4 Planning and Zoning Commission Forum. Commissioners  
5 have anything they wish to discuss? (None.)

6 Planning Director's reporter.

7 MS. EAGAN: I don't have too much for you  
8 guys. Next month you're going to be getting a lot of changes to  
9 the regulations. We're still finding things that aren't quite  
10 working when we changed the regulations. And then we're trying  
11 to kind of tie-in my department with the IT/addressing  
12 department. So we're going to go through some definitions and  
13 tweak some things in there. So you'll see a lot of amendment  
14 changes next month with -- to my regulations.

15 That's about all I have for you.

16 CHAIRMAN EVANS: Okay. Thank you.

17 Communications and Visitors Comments. Anyone  
18 wishing to address the Commission? Again, this is not a public  
19 hearing, and limit your comments please to three minutes.

20 MR. REICHERT: Thank you very much. The  
21 first thing I -- comment would be is --

22 MS. REPORTER: Your name, please.

23 MR. REICHERT: It's not a hearing.

24 MS. REPORTER: I know, but I still need to  
25 know who you are.

1 MR. REICHERT: Oh, okay. My name is Eric  
2 Reichert. R-E-I-C-H-E-R-T.

3 MS. REPORTER: Thank you.

4 MR. REICHERT: Thank you.

5 Well, first I'd like -- like to comment with all the  
6 technology we have, there's no Power Point presentation for the  
7 audience to look at. There was no copies of the proposed  
8 amendments down here. As a matter of fact, they weren't posted  
9 on the web -- official website and a lot of those things.

10 One of the questions is, it's really interesting how  
11 they have changed the -- changed it from water table to water  
12 course. I think you all maybe ought to kind of check on that a  
13 little bit.

14 One of the things -- let's see. As far as you --  
15 there -- there seems to be a dispute about what's going to go  
16 into the berm, but maybe the elephant in the room is, I think  
17 it's been quoted that there's -- that before these regulations  
18 are going to be changed, there's going to be 500 to 600 thousand  
19 cubic yards of fill needed to be brought in. Well, you start  
20 thinking about that, that may be what, 30 cubic yards a truck?  
21 That's 200,000 trucks full of material that's going to have to  
22 come in for that -- for, by them saying, their in-fill.

23 I said 200,000 truckloads. And now we're going to  
24 make it a little higher. So that's going to mean even more  
25 truckloads. So you got 200,000 full trucks, you got 200,000

1 empty trucks. So you got 400,000 trucks going to be going up and  
2 down, going in and out of Labadie for however long it takes to  
3 bring in 600,000 cubic yards. Okay. Maybe you guys haven't  
4 thought about that. Maybe you have, but do the math, and then  
5 try to figure out how they're going to get it all there, what  
6 roads are they going to use?

7 I submit they're only going to use one road  
8 probably, and that's the county road because there's no weight  
9 limits on it. So -- and everything else. This was done. This  
10 is not a hearing and everything, but you know, my God, when does  
11 it stop? None of this has to be done. None of it has to be  
12 done. They want it to be done.

13 And you know, I do have to say that I just really  
14 appreciate you all just at least tabling it. Okay. At least get  
15 it to where you can get it all in black and white so that  
16 everybody knows exactly the same because I heard that, well,  
17 apparently maybe Mr. Vincent's copy had a change or something in  
18 there that wasn't in there, but that was in somebody else's.

19 So I think the fact that you guys are actually  
20 trying to -- trying to protect the citizens and everything, you  
21 all ought to be applauded. And I would suggest that maybe even  
22 next month might -- there still might be a few things that just  
23 need to be discussed and everything. Maybe we just got to table  
24 it for another month. There's no reason that this has to be done  
25 now. None whatsoever, except maybe that Franklin County would

1 maybe lose in a lawsuit or Franklin County gets sued by Ameren.

2 So that was my two cents. Thank you.

3 CHAIRMAN EVANS: Thank you.

4 Anyone else wishing to address the Commission?

5 MS. SCHUBA: Good evening. My name is

6 Patricia Schuba, S-C-H-U-B-A. I live in Labadie, and I just

7 wanted to say thank you for having the discussion tonight, and

8 for those of you who were able to participate in that and ask for

9 answers because there is a lot of questions. We appreciate that.

10 I had someone lean over to me and say you guys are

11 going to say thank you, right? So I'm up here to say thank you

12 to those of you who are giving yourself 30 days to review it.

13 I would urge you to ask for proof of some of the

14 things that were discussed tonight, like the role of the coal ash

15 rule in the DNR regulations --

16 ATTORNEY VINCENT: I broke it.

17 MS. SCHUBA: -- that would be in place in

18 lieu of the regulations actually that were fairly good and

19 protected us. Why not leave those in place. Recommend that to

20 the Commission, because they protect the water, they protect the

21 people, and there's no reason to change it now if they already

22 have their landfill. Leave it in place just in case there's

23 another one that ever gets built.

24 So thank you very much. We appreciate our time.

25 You stayed late tonight, and I hope you recognize that the public

1 was here to support you, and we stayed late too, as long we  
2 could.

3 Thank you. Have a good night.

4 CHAIRMAN EVANS: Thank you.

5 Anyone else wishing to address the Commission?

6 (None.)

7 If not, the Chair would entertain a motion to  
8 adjourn.

9 COMMISSIONER SCHULTEHENRICH: So moved,  
10 Mr. Chairman.

11 COMMISSIONER McLAREN: Second.

12 CHAIRMAN EVANS: All in favor signify by  
13 saying aye.

14 COMMISSIONER VOSS: Aye.

15 COMMISSIONER McLAREN: Aye.

16 COMMISSIONER CUNIO: Aye.

17 CHAIRMAN EVANS: Aye.

18 COMMISSIONER BOLAND: Aye.

19 COMMISSIONER HAIRE: Aye.

20 COMMISSIONER SCHULTEHENRICH: Aye.

21 COMMISSIONER McCREARY: Aye.

22 CHAIRMAN EVANS: Opposed? (None.)

23 The meeting is adjourned.

24 (Thereupon, the proceedings were concluded  
25 at 10:05 p.m.)

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CERTIFICATE OF REPORTER

I, PATSY A. HERTWECK, Professional Court Reporter and Notary Public within and for the State of Missouri, before whom the foregoing proceeding was taken, do hereby swear that the aforementioned was held at the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my hand.

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Patsy A. Hertweck, Court Reporter

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