

Planning Commission- County of Wyoming Pennsylvania

Minutes # 688

June 24, 2026

6:00 pm

WYOMING COUNTY PLANNING COMMISSION

Randy Ehrenzeller
Matthew J. Austin
Jeremy Leaidicker

Ed Coleman
Dale Brown
Paul Rowker

Stacy Huber
Roger Hadsall
Robert Thorne

Meeting Location:

Wyoming County Emergency Operations Center
3880 State Route 6, Tunkhannock, PA

I. Call to Order & Pledge of Allegiance

The pledge was taken. Staff Director Matt Jones then verbally notified all participants that audio from the meeting would be recorded.

II. Roll Call

Chairman Randy Ehrenzeller called the Planning Commission to order. He stated there are eight (8) members present constituting a quorum. Mr. Paul Rowker appeared at the meeting later and made the member total nine (9).

Present	Absent	Staff
Randy Ehrenzeller, Chair		Matthew C. Jones, Director
Ed Coleman, Vice-Chair		Meghan Coury, Assistant
Stacy Huber, Secretary		Paul Litwin, Solicitor
Roger Hadsall, Treasurer		
Matthew J. Austin		
Dale Brown		
Jeremy Leaidicker		
Paul Rowker		
Robert Thorne		

III. Approval of Today's Agenda (additions or deletions?)

Mr. Ehrenzeller asked if there were any additions or deletions to the Agenda. Director Jones responded in the negative.

IV. Public Comment- (If audience members wish to address the commission, please let the Chairman know which Agenda item you wish to address, or that you wish to address an item not on the agenda)

Chairman Randy Ehrenzeller said the public could comment now or at any time during the meeting on any item on the Agenda or on any item they would like to discuss with the members. The Director asked the audience present to please make sure they signed the attendance sheet. He said the audio of the meeting will be recorded because meeting minutes are taken for that purpose. Their participation at the meeting is their consent to be recorded. Mr. Ehrenzeller tells the audience that there is one Item on section IX that is fairly complex item. He believes there may be numerous comments and he will be limiting individual comment to ten minutes. He asks for commentors to identify themselves when they speak.

V. Announcements: None to report from Staff.

VI. Approval of minutes #687 from last meeting of May 20, 2026

Mr. Ehrenzeller said copies of the minutes were provided to Board member and asked if there were any questions about the minutes. There were no comments and he asked for a motion to approve. Mr. Dale Brown made the motion and it was seconded by Vice Chairman Ed Coleman. It was approved unanimously.

VII. Correspondence: Review of Chronological Report from May 7, 2026 through June 10, 2026.

Mr. Ehrenzeller said Item VII is a Review of Chronological Report from May 7th through June 10th. He asks if there are any questions or comments about the chronological report. Mr. Dale Brown commented that he was amazed at how many new applications came in the past month. Mr. Ehrenzeller notes it is a busy time. Hearing no questions or comments it was approved as presented.

VIII. Subdivision and Land Development

A. Review Minor/Unique Plans Report from May 7th through June 10th, 2026.

Mr. Ehrenzeller said members have copies and asked if there were any questions or comments on the Minor/Unique Plans Report. He comments to Matt Jones that it has been a busy month in the Planning Office. Hearing no questions or comments the Minor Subdivision and Land Development Report will stand approved as presented.

B. Staff recommends Planning Commission provide final vote of **Disapproval** for the following projects for reasons they have been withdrawn by the Applicant Landowner Tunkhannock Area School Board:

- **Tunkhannock Primary School Solar Project – Land Development Plan – Tunkhannock Borough Tunkhannock Township** – File #2025-25

- **Tunkhannock High School Solar Project – Land Development Plan – Tunkhannock Township** – File #2025-46

- **Mehoopany Solar Project – Land Development Plan – Mehoopany Township** – File #2026-03

Mr. Ehrenzeller states Item B under Section VIII there is a request for Disapproval from Staff. The Applicant/Landowner, Tunkhannock Area School District has withdrawn all 3 projects. He asks for clarification from Director Jones. Matt Jones states that the School District has encountered changing financial circumstances. The price quote from the electric company is five times different from the original quote. Also, federal subsidies for solar projects have gone by the wayside in recent years. So, they have decided to withdraw all three projects. When the Planning Office gets an application we have to say yes or no or yes with conditions based on our Ordinance within ninety (90) days. They have been given a few time extensions. Some of the projects even had Conditional Approval and were working to button up those final conditions. Now they have decided that they are no longer going to pursue these projects. The School Board and the School Administration have voted to discontinue these projects and they have given that to us in writing.

Mr. Ehrenzeller said if there were no questions he would take a motion to disapprove the three listed solar projects from Tunkhannock Area School District. Mr. Roger Hadsall made a Motion for Disapproval for all three Tunkhannock Area School District's Solar projects because they have been withdrawn by the Applicant Landowner. The Motion was seconded by Mr. Stacey Huber. The Disapproval was unanimous.

- IX. New Business: Discuss and Possibly Make Recommendations** to the Board of Commissioners regarding the **Draft Amendment** to the Wyoming County Subdivision and Land Development Ordinance: **"Affecting Land Developments Including Those Pertaining to Data Centers"**.

Chairman Ehrenzeller said to help with the process he would make a couple recommendations. He says there are four (4) packets that have been presented to the Planning Commission and the public this evening. The first is the Recommendations that Director Matt Jones made relative to modifications to the Ordinance. Secondly, he has provided some background on each of those items in a Staff Memo, further explaining reasons for the suggested language. Mr. Ehrenzeller suggests these be referred to as Items #1 and #2, respectively.

Then from the County Solicitor, Paul Litwin, we have alternate suggestions in a document titled Wyoming County SALDO Amendment Data Centers / High Intensity Development. This will be called Item #3. Mr. Litwin also provided an alternate proposed draft SALDO amendment. This will be called Item #4. Mr. Ehrenzeller hopes this helps people to follow the conversation.

There is a lot of information here to consider. He suggests starting with Mr. Jones' initial Ordinance amendment proposal, Item. #1. The front page lists the ten (10) sections contained therein. He suggests looking at each item individually and discussing whether the Planning Commission wishes to provide any recommendations for any of the sections' contents. If we do, we'll document that today as part of our discussion and it can be later presented to the County Commissioners when complete.

If you look at the Definitions listed on the first and second page in Item #1, they attempt to flesh out concepts like screening, sound, noise reduction, etc. As members read through this, Chairman Ehrenzeller suggests they feel free to reference any other documents in front of them if helpful.

Mr. Matt Austin asks whether more generalized terminology would be desirable. For example, he wonders if the word Data Center should not be explicitly used. Commissioner Tom Henry said that

the term can be used, but this legislation would not apply only to Data Centers. Attorney Litwin says he has suggested substitutional usage of the term High-Intensity Nonresidential Land Developments, and to focus the amendment's regulations on objective criteria pertaining to water consumption, size, impervious coverage, transportation needs, and utility needs, especially water. Any proposals that trigger such higher use would become subject to these standards. Matt Austin said it would just be a verbiage change then. Mr. Ehrenzeller stated that it would be a definition change. Mr. Coleman said the content would be changed to be objective and list the regulations developers would be held to.

Attorney Litwin says he understands how Chairman Ehrenzeller wishes to proceed by reviewing and comparing his and Director Jones' documents, but that this might prove difficult. His recommendations are not completely an "apples to apples" contrast with the Director's documents. His sets up a different structure on how to regulate what he calls High-Intensity Nonresidential Land Developments. Both of their Ordinances starts with a list of definitions, but as one goes forward, changes emerge between the two documents. Attorney Litwin says that he attempted to take Mr. Jones' recommendations and policy approaches, and tried to make them more applicable/supportable in a Land Development context. As the Planning Commission knows: a Subdivision and Land Development Ordinance is different than a Zoning Ordinance. A zoning ordinance can regulate where new developments can be proposed/located; can regulate specific land uses; can have performance standards. A subdivision and land development ordinance, which is what we are working with, controls how a specific lot is developed. It looks at stormwater and infrastructure, etc.

Chairman Ehrenzeller said that, for any suggestions to be forwarded to the Board of County Commissioners (such as a definition change, for example), he would like a formal motion and majority vote to make such a recommendation official. Suggestions could also include recommending that the County Planner and the County Solicitor attempt to collaborate on reconciling an item or group of items, if possible. Mr. Ehrenzeller says he is not sure they want to discuss all "nuts and bolts" tonight.

Attorney Litwin says that he prepared a stand-alone amendment. He suggests that if the Planning Commission wants to follow his recommendations, then they should start with his ordinance. If they want to follow Mr. Jones' package, then they should start with his document as the starting point. He says they are not completely comparable section by section, side by side.

Mr. Coleman says he doesn't understand why the documents cannot be reviewed side by side. He does see cross-overs between them. Jeremy Leaidicker said he agrees. Mr. Litwin says he is not trying to complicate things, but just wanted to point out that the structure of his document contains substantial differences from Mr. Jones'. If his structure were the one the Commission wishes to follow, then the first action that should be taken would be to adopt the substitutional term High-Intensity Nonresidential Land Development... and possible the related criteria suggested by Attorney Litwin. This language is not included in Mr. Jones' package. The rest of Mr. Litwin's document follows that framework.

Mr. Dale Brown suggests discussing both SALDO Amendments being presented, and pick-and-choose the favored pieces.

Members decided to look at the definition sections first. Mr. Austin asks if Attorney Litwin's version is Mr. Jones' version but more polished. Attorney Litwin said he tried to incorporate as much of Mr.

Jones' as he felt comfortable incorporating, saying he had a lot of great points and policy goals, but tried to put it more squarely within the framework of a SALDO.

Mr. Coleman expressed reservations over adding language to the County's SALDO using the term Data Centers- worrying it would appear we singled them out for targeting, and no other entities. Attorney Litwin said such an approach is appropriate through the vehicle of a zoning ordinance. Mr. Coleman suggested the regulations we adopt utilize a broader definition of proposed developments that meet certain criteria.

Attorney Litwin noted that some municipalities within the County have enacted zoning ordinances, and others could consider enacting them if they wanted to call out different types of land uses and regulate them on a performance standards basis, and restrict where various kinds of land uses may be proposed/established... municipalities may adopt or amend their zoning ordinance accordingly. Regarding the concept of creating a separate land use regulation in a SALDO: Wyoming County could do so by creating a whole class of uses considered High Intensity. Mr. Ehrenzeller offers that a business such as Proctor & Gamble, or warehousing operation, could be classified as a High-Intensity Development, if any new such application were newly proposed subsequent to the County enacting such an amendment. Mr. Litwin agreed in concept.

Mr. Ehrenzeller suggested that a decision should be made among the Planning Commission regarding whether to recommend using the definition High-Intensity Nonresidential Land Development and whether to strike use of the definition Data Center Campus/Complex Park. Attorney Litwin said the changes wouldn't need to be made if his framework was to be followed.

Mr. Austin said it was his impression that the essential goal of tonight's meeting was to discuss the documents presented; nothing needs to be completed this evening. A robust discussion would demonstrate the Planning Commission is working on the matter and is trying to make choices.

Director Jones asked Board of County Commissioners Chairman Rick Wilber, present in the audience, if he has any parameters on the timetable for enacting new legislation from the perspective of the Commissioners. Chairman Wilber said he would like to see recommendations made by the Planning Commission soon, but now he doesn't think that would happen naturally considering the pace of the present meeting. Commissioner Tom Henry also wondered aloud whether urging a specific timetable would be desirable- possibly instruct the Planning Commission to wrap up and communicate any recommendations within another month's time. Alternately- He mused aloud whether a different timeframe would be desirable. Mr. Leadicker said some time would be appreciated so they could develop a set of recommendations, and possibly get the Commissioners' reaction to them.

Chairman Wilbur said he would reserve judgement on imposing a deadline for now: "Let's see how tonight goes."

Mr. Brown asked the group whether it would be desirable to utilize the term High-Intensity Nonresidential Development, but also occasionally include use of the term Data Center in the amendment, or whether the term Data Center should not be used at all. Attorney Litwin said he wouldn't specify any land uses at all; suggesting the amendment should be criteria driven. He also noted there is a sizeable turnout of the public here this evening, and because we have two competing frameworks for regulation, it might be helpful to just hear public comments tonight. Board members

could subsequently compare the separate proposals and come to the next meeting with ideas for which directions should be chosen.

Roger Hadsall suggested that whatever recommendations they submit to the Commissioners, and whatever package the Commissioners decide to adopt, will need to be able to withstand a legal challenge. He believes that is where Attorney Litwin is coming from; Attorney Litwin is trying to steer us toward something that would not fail if challenged by a future Developer. Attorney Litwin stated that, to be fair, he does not believe Director Jones' proposed SALDO amendment would fail. He believes his own structure is a little more suited to a SALDO which is what we are working with.

Mr. Coleman makes a Motion to recommend to the Board of County Commissioners that the term Data Centers be removed from the proposed amendment and replaced with High-Intensity Nonresidential Land Development, and that be the foundation the rest of the amendment be built upon.

Chairman Ehrenzeller said that both documents should be looked at as it may become desirable to meld provisions the Commissioners support with recommended edits derived from Attorney Litwin's version. He expresses doubtfulness that the Planning Commission will ultimately recommend following only one draft or the other exclusively. He understands that changing one definition changes the whole landscape and he's not sure that he can follow what all those implications will be, but he thinks they need to start with that item here tonight.

Chairman Ehrenzeller says there is a motion on the floor from Mr. Coleman. It would need a second to advance.

Director Jones asks if that motion will include the striking of any definition of Data Centers or Data Center Campuses as well or no. Mr. Coleman responds in the affirmative. He opines that the County should not make the appearance of singling out Data Centers, but Data Centers may fall under the category of High-Intensity Nonresidential Land Development.

Mr. Ehrenzeller suggests the triggers of what will qualify as High-Intensity Nonresidential Land Development will be based on objective criteria- possibly: building area/footprint, impervious coverage, water usage, or other items.

Mr. Brown asks what else would be included as High-Intensity Nonresidential Land Development, and would it include big box stores? Attorney Litwin said it could include whatever the Planning Board determines. Mr. Coleman said he believes it should be pitched back to Mr. Jones to answer such questions based on his research and knowledge (size of development that qualifies; scale of water usage that qualifies; as possible examples). The only drawback he sees in choosing to use the term High-Intensity Non-Residential Land Development is that some Data Centers can be very small. They may be able to skirt this effort but I'm not sure if we can stop that from happening.

Mr. Hadsall seconds Mr. Coleman's motion. It passes unanimously.

Mr. Ehrenzeller states that the landscape has changed and the group should continue to proceed again back and forth between the documents. But before that, he suggests taking public comment. He invites public comment, and requests commentators please identify themselves in advance. Director Jones asks anyone who wishes to speak to mention their name and also where they reside.

Mr. Mark Weber introduces himself and says he lives off Webby Road in Eaton Township. He believes the Board made a lot of sense by suggesting the term High-Intensity Nonresidential Land Development. He thinks it should be made as broad as possible and to not just list Data Centers. He asks if there is any research on any municipalities that have regulated the matter successfully so that hopefully their path could be followed. The amount of money that people are throwing at Data Centers is real and we have to make sure the Ordinance is buttoned up well.

Mr. Weber states that if someone wants to develop a Data Center they will bring a lot of money to make that happen. Whatever we can learn from other areas that were successful in keeping Data Centers out of their communities is important because he does not want the facilities here.

Attorney Litwin states that most of the lawsuits being seen in other parts of the State involve challenges to zoning ordinances. As the meeting was started, the differences between zoning ordinances and SALDOs were discussed. He said if Mr. Weber resides in Eaton Township, he might be interested to learn that Eaton Township has a zoning ordinance it shares with Monroe Township. Eaton Township had recently proposed an amendment to the zoning ordinance in an attempt to regulate Data Centers. That amendment is a viable vehicle by which the Township may regulate Data Centers by means of performance standards, restriction on the locations where Data Centers could be proposed/developed. Regarding other jurisdictions that have regulated Data Centers by means of a SALDO, he has not identified any.

Mr. Ehrenzeller directs everyone to look at Director Jones' last page of Item Number Two page 15 of 15. There he has already listed several municipalities that have attempted to enact zoning amendments, or have already enacted zoning amendments, in an effort to regulate Data Centers. He assures Mr. Weber that officials around the region are trying to address the matter.

Attorney Litwin said we know that Bradford County has also been working on the issue as well as Susquehanna County. But the original question of whether there have been any challenges upheld against SALDO regulation of Data Centers: He is not currently aware of any.

Director Jones comments that Susquehanna County has already passed Data Centers provisions for their county-wide SALDO. Tioga County has also passed provisions. Bradford County has proposed them. These are listed on page three of his second packet. Also, on page 15 as Mr. Ehrenzeller indicated, there are at least a dozen townships or counties that have done it through zoning.

Commissioner Henry reminds the audience that their local township or borough can comprehensively address the issue by enacting or amending a zoning ordinance. He says that Wyoming County is filled with rolling hills that might limit where these kinds of developments could be feasibly located. Flatlands with water resources can accommodate them better. Individuals might consider approaching their township or borough officials to encourage them to consider zoning.

Director Jones notes that Falls Township in Wyoming County has already done it; they adopted new regulations for Data Centers when they underwent a recent overhaul and reissuance of their Township Zoning Ordinance. The regulations further restrict where and how Data Centers can be proposed/developed.

Director Jones notes that any local town within Wyoming County that has local zoning... their local

zoning rules always trump the County SALDO regulations.

Director Jones notes that Eaton Township has been exploring whether to amend its Joint Zoning Ordinance with Monroe Township. He does not know if they have finished their work yet. Washington Township also recently proposed a new zoning amendment restricting the location of where Data Centers could be proposed/developed.

Bob Killian, who resides in Northmoreland Township, says his Township does not have zoning. He asks if new applications would fall back on the County SALDO and the County Planning Commission in such a case. And can a local municipality enact a new ordinance?

Attorney Litwin responds to him and notes that Wyoming County is his client as well as the County Planning Commission. He also happens to represent Northmoreland Township. The Municipalities Planning Code (MPC) is the State law that allows counties and local municipalities to regulate land use. Northmoreland Township could certainly adopt a zoning ordinance. To do so, they should first publish a comprehensive plan. The lead up for a zoning ordinance is pretty significant. He knows that when Eaton and Monroe adopted their joint Zoning Ordinance... Northmoreland and Noxen Townships were also in the study area. For whatever reasons, at the time, Northmoreland and Noxen decided they did not want zoning. There is nothing that can be done overnight. A municipality cannot regulate land uses without following the MPC or else they risk becoming subject to a legal challenge.

Mr. Coleman said on tonight's evening news the House of Representative in Pennsylvania passed a bill today that would give all local governments the option to undergo a six-month moratorium to give them more time to develop Data Center regulations. It has not been passed by the State Senate but is through the House and going to the Senate. If enacted it would afford us more time.

Mr. Killian said he does not like zoning. He said Northmoreland Township did not enact zoning because they did not want alternate setbacks or restrictions on farmland. He understands that without zoning it will fall back on the County's rules. Mr. Ehrenzeller confirms and states only on the County SALDO. We do not want to add provisions to the County SALDO that would fail a legal challenge.

Mr. Coleman states that the SALDO is completely different than zoning. The SALDO applies once the building site is determined, but it cannot restrict by zone where a developer can go. Attorney Litwin suggests that the SALDO is not the most appropriate vehicle for performance standards either.

Mr. Ehrenzeller suggests that now that a change in terminology has been recommended, he would like Director Jones to come back to the next meeting with proposed standards of what would trigger the classification of High-Intensity Nonresidential Land Development. This could include how many square feet the project would be or the amount of water usage. He also suggested Mr. Jones have a follow-up conversation with Attorney Litwin and the Commissioners about the triggers that might qualify a project as a High-Intensity Nonresidential Land Development.

Matt Jones answered that he has already effectively done this work. He sees the certain as key triggers such as heat generating features and noise generating features of a certain scale that he's already defined in the draft amendment he prepared at the direction of the Commissioners. He reminds the group that some Data Centers can be as small as the size of half a room, and some can comprise gigantic complexes. Mr. Ehrenzeller says if they are only using 50 gallons of water a day then they would not hit the trigger. If they are using 500,000 gallons a day then they would hit the trigger. This

is the guidance he requests and he thinks it sounds reasonable and could be presented to the County Commissioners. Director Jones said even one building could have a field of gas fired generators or back up electric generators associated with its use. That is very loud and is stated in his draft amendment as triggering regulation.

Commissioner Henry mentions that the County Emergency Operations Center building where the meeting is being held has a giant room full of generators and back up generators. It could be called a Data Center because County data is housed in the facility. He concedes that Data Centers can come in all different sizes. They can be as small as this building or many orders of magnitude larger. An unknown member of the audience commented that she does not want to see a "Level 5" facility.

Mr. Ehrenzeller said they will continue to look at items this evening. He doesn't think they can proceed with just solely with one and not the other.

Mr. Weber speaks and says that Data Centers have been around for a long time. He's been working in Data Centers for 40 years. The current developments that are being brought in are a completely different animal. A server room, a data center or even a large data center of the past do not use the amount of resources that the current projects are using. This is why he would prefer not to use the word Data Centers going forward. It should all be about the development's noise and its consumption of resources. Data centers have been around for fifty years but many times they merely comprised a little room.

Director Jones states he has been a professional Land Use Planner or Zoning Official for a number of different county governments, and studied land-use planning in higher education for 15 years. In order to regulate effectively, the regulation has to be explicit, he urged. There have to be red lines. Legislation should be drawn up in a manner whereby- If a development proposes to bring certain features, then these trigger regulations, or a range of regulations, pertinent to it. There can be a certain level of discretion afforded to the Planning Commission within a range or waiver process, if the range or process is made clear in the legislation. Regulators should call a feature what the feature is. If not, then developers can wriggle out from whatever the legislative intent of the regulations was. Developers are always looking to claim, with legitimacy if they can, that particular regulations do not apply to them and their proposed projects. A county planner cannot hold a developer to a regulation if the regulation is nebulous, non-explicit, or could reasonably be interpreted as not applicable to them.

At this point, Planning Commission member Paul Rowker joined the meeting.

Director Jones urged officials present to support the explicit package of regulations he drafted at the direction of the Commissioners. If a County Planner has nothing to work with (inside the enacted legislation) to hold a developer to during the plan-review process, then the project cannot be effectively regulated.

Mr. Ehrenzeller said Mr. Jones can suggest to the Planning Commission next month if it is "x" square feet then it creates a trigger; if it generates "x" amount of heat, that's a trigger; if it fits in a closet, then it doesn't trigger; etc. He believes he's in agreement with Mr. Jones; they just might be calling it different things. These are the types of trigger point descriptions where they can nod in agreement or discuss such things as square footage not in an antagonistic way but as a discussion point.

Attorney Litwin said that in his framework, the Developer would be asked up front to perform noise

models and studies by an engineer. A County hired engineer could review it and make sure it's accurate. Lighting and glare could be addressed the same way. Again, how a SALDO works is land development. So once those models are generated he suggests during the design/planning process the Commission could require developers to put in features to mitigate those issues. At that point, features could be included that would mitigate noise, lighting, whatever was identified in those upfront studies.

Attorney Litwin suggested that, after a development has been approved, there is no further regulation after that, so long as they build according to the plan. If the developer does not follow the plan (change something onsite that was not approved) then you do have some enforcement authority there. But he suggested this not be a noise ordinance. He suggested we will not want to be standing at the property boundary with a decibel reader. This is a land development planning process; implementing mitigations measures during the plan design process to mitigate impacts. A SALDO would not define where a Data Center could be located. Zoning would be the vehicle for that.

Mr. Ehrenzeller asks if a development is anticipated to generate a lot of noise- Do we have to set a limit ahead of time? When the data center is proposed, that it be made clear it must not exceed a certain number of decibels. Attorney Litwin replies this would be difficult to do. He refers to the version of the ordinance amendment he drafted (Item Number 4, Page 2). In it is an item listed Offsite Sound Impact. It says "predicted sound, low frequency sound, total sound, vibrational and related acoustical effects generated by a proposed land development and reasonably anticipated based on a sound impact study to be perceptible or memorable at or beyond the exterior boundary of the development site or at the adjacent property line." So, if a sound study comes up with that conclusion then they need to implement mitigation measures. He also put in a definition for Noise Screening describing how noise impacts could be screened. We are not telling them what to do or how to do it or how to operate a business. All of these items describe what should be addressed during the design stage.

Director Jones reviewed both his and Attorney Litwin's documents. He says 55 decibels is roughly the background sound in a suburban neighborhood. 70 decibels is the sound of back up electric generators running nearby. The difference between Attorney Litwin's approach and his own is very similar except his said they would have to strive toward meeting the 55 decibel limit and do a sound study with an engineer. The developer would be required to hire a sound engineer. The county would hire an engineer to review their work, and the Developer would be responsible for paying the county engineer. The potential for background noise, and offsite noise generated by the project itself, is acknowledged with any project... but if they are bringing in gas-fired turbines, back up electric generators, and other noise generating features to their development- it is known that all of those features are going to generate certain noise levels. The amendment I drafted prescribes explicit noise limits rather than merely asking them whether they are going to put in any noise mitigating measures. The end result risked with Attorney Litwin's approach is that the developer can say "we will be really loud, and we may or may not put in any sound mitigating measures, and that's it; we're done," because no explicit limit was prescribed.

Attorney Litwin said there is a significant difference between his and Mr. Jones' approaches. He tried to follow the Director's framework and his components, but he tried to avoid including performance standards which appear in zoning ordinances, and not SALDOs. We can address concerns through developers' plan designs. A confidential e-mail analysis was sent to Planning Commission members. He does not want to further discuss anything further until the County is ready to adopt something. Any concerns Counsel has with an ordinance amendment that may be adopted should not be discussed publicly because that might help a challenger defeat it. There are reasons for all of his

recommendations, and they were communicated to the Planning Commission. Maybe it wasn't made clear enough, but performance standards are the specific reason for his concern with this item.

Mr. Ehrenzeller wanted to come back to the specific noise levels for a development. Matt Jones is proposing the noise level at the property boundary be limited to 55 decibels. He asks Attorney Litwin: If a Developer produces a study that says their center will generate 800 decibels... How does this get addressed? Mr. Litwin says any land use that falls under High-Intensity Nonresidential Land Development is going to generate noise. The purpose of the study is determining what type of noise would be produced. Is the noise vibrational? We have a lot of valleys around here. If you put something in a valley along the river you might not hear something right next door but a half mile away it's deafening. There are all types of things that need to be looked at. He's not saying that they have performance standards that the land use has to meet. He's suggesting that the land use is going to be developed here he'd want to incorporate mitigation measures to lessen the effect on the community.

Mr. Ehrenzeller posits this scenario: The developer does a sound study, and we think it's legitimate, and we are informed that the noise level is going to be 100 decibels. What would the Planning Commission's basis be for saying: "No, we won't accept your project." Attorney Litwin says he understands their good point but, this is not a zoning ordinance. It is a SALDO. It is not a performance standards type thing.

Mr. Ehrenzeller continues to press: What action could be taken in the posited scenario? Attorney Litwin says that the development could be denied by the Planning Commission. Mr. Ehrenzeller asks: "But based on what?" Mr. Litwin says: "Based on the mitigation measures not being 'adequate.'"

Mr. Leaidicker said: So... the County's consulting engineer would be assessing whether the developer was putting in mitigating measures that would be effective enough.

Mr. Hadsall asked: Would the mitigation measures be trying to achieve a certain decibel level at the property boundary? Attorney Litwin says that is what he is trying to avoid, and perhaps further conversation about the matter should be in the form of a confidential attorney-client consultation.

Mr. Coleman says: The mitigation should be aimed at ensuring that neighbors are not being subjected to a loud level of noise.

Attorney Litwin said the Planning Commission needs to be informed on what may be approved. The Planning Commission in the context of a SALDO is not a gate keeper with a wand that can bestow approvals on applicants. You are required to look at the SALDO and if a plan comes in that meets it you are required to approve it.

Director Jones points out: The County SALDO contains 1-acre minimums for newly-proposed subdivision parcels. We have rules that say: If you are going to install lighting onsite, then it has to be downward facing and cannot glare offsite. Our Ordinance contains red lines, limits, and standards for other purposes. Attorney Litwin suggests debating and arguing this point should not be done publicly.

Chairman Ehrenzeller says he is trying to decide what the Planning Commission's role is. If it is not clear what their latitude is, then he is not sure they can be very effective. Attorney Litwin suggests that if the Planning Commission has any questions, then they task him with researching the answers. But

in the context of a SALDO, he might not be able to give them a black-and-white answer because, frankly, this type of litigation does not occur under SALDOs because they are not designed to work as performance standards. He can certainly research it for the Board and give them a confidential attorney client opinion. You can consider that before you make a decision. It does not need to be done publicly. This is not because he is trying to hide anything from the public present. The Planning Commission may decide to recommend adoption of what Matt Jones has proposed. You don't want me to sit here and say how that proposed amendment could be challenged. It is not helpful to do this.

Mr. Coleman says, now that they have recommended adopting the term High-Intensity Nonresidential Development- Can they now task Director Jones and Attorney Litwin to come back with a combined/reconciled Ordinance amendment to reflect that definition? He states that Mr. Jones' proposal was strictly Data Centers. Now Mr. Coleman wants to know how the change in use of terminology might further change the Director's proposal. Paul Litwin says that his Ordinance followed the Director's framework. Everything that Matt Jones wanted to address he did his best to address more in a SALDO context and less in a zoning context.

Mr. Austin asks: Should the Planning Commission have a "hammer-out session in order to finish up this work?" He feels the group could wrap things up soon for the evening, and that great progress has been made. He thinks they are all on the same page, and share the same goals and targets. We are aware that zoning might be a better way to handle this but no one wants zoning. People feel that zoning is good for their neighbor but not for them.

Attorney Litwin stated many local municipalities have zoning, and perhaps it is the kind of regulation that is best undertaken at a local municipal level. Hand out number 3 identified what was in Matt Jones' version and highlighted reasons Attorney Litwin had suggested some changes. Item number 4 is what Attorney Litwin's version of the ordinance amendment would look like, if enacted.

Mr. Ehrenzeller acknowledges it has taken half an hour to go through 1 of approximately 10 items. He wonders aloud: What is the most effective way to proceed? Perhaps they should go to Mr. Litwin's Item Two and compare against Mr. Jones' Item Two. Mr. Litwin says: For Item 2, he suggests keeping the Director's concept and strengthening and clarifying a few points. He wishes to express that in many ways, he is not at odds with Mr. Jones, but regarding the content of the amendment, he is. He says they have different roles as Planner and Solicitor.

Mr. Ehrenzeller said triggers were discussed if you go back to Item One: possibly examples including square footage of a building, impervious coverage, land disturbance, etc. Now in Item 2, he sees that Attorney Litwin has raised points about clarifying time, preliminary plan/final plan, etc. Those are not items Mr. Ehrenzeller thinks the Planning Commission should be discussing. He thinks that the Planner and Solicitor should be discussing them, and should both come back with not two pieces of paper, but one piece of paper should be submitted to the Planning Commission. One Planning Commission members asks: "But is that possible?"

Mr. Jones explains that he and Solicitor Litwin already had exhaustive conversations for months in advance of this meeting, and they are at odds over what should comprise the final content of the amendment. Attorney Litwin says he agrees with this assessment: "We are at complete odds."

Mr. Leaidicker asks Mr. Jones: With the new terminology suggested relating to High-Intensity Nonresidential Land Development- Does that adjust your perspective on what has been presented here

tonight? Mr. Jones: If the Board of County Commissioners subsequently agree with the concept of Mr. Coleman's motion that was passed here tonight... they can decide whether or not they want to see that adjustment made. If the Commissioners determine they want to adjust the draft amendment, he thinks this would have implications for the definitions section of the amendment. It depends on the whole package of what the Planning Commission recommends and how the Board of County Commissioners react to it. If the Board of Commissioners subsequently decide to task me with reconciling the amendment with everything the Planning Commission recommends, in terms of possibly tweaking this, or possibly tweaking that, then I would have been given my marching orders. I am an agent of the County, and I must ultimately respond to what kind of amendment the Board of Commissioners eventually decide they want to see pass in their final voting session. The Commissioners would have to consider the grouping of recommendations made by the Planning Commission, and decide whether they agree with this or don't agree with that. He thinks the definitions can be tweaked and there might be implications for other pieces of the amendment, if this comes to pass. He'd have to go back and look.

Mr. Coleman says the Planning Commission has made a recommendation to the Commissioners that the term High-Intensity Nonresidential Land Development be used. Now the Commissioners will have to react to that. Do they accept that or not? And if they do, then you will have your marching orders.

Mr. Hadsall asks: Would it be desirable for the Planning Commission Chair to appoint a committee to work with Matt Jones and Paul Litwin? He suggests perhaps Chairman Ehrenzeller could be on such a committee.

Mr. Ehrenzeller says that such a subgroup would still have to come back to the full Planning Commission. Attorney Litwin notes that subcommittee meetings would still need to be public. Dates would have to be arranged, and notice published for the public.

Attorney Litwin suggests that a better approach for the full group might be to choose whether they will follow his approach or Matt Jones' approach. Chairman Ehrenzeller says he's not so sure it's an either or proposition. When I look at the details, I may say there's something in Matt's we may want to retain or strike. There's something in yours we may want to adopt or ignore. It can't be an either or in front of the Planning Commission.

Mr. Coleman says he has read both proposals, and he sees overlaps in them. The Planning Commission has made a recommendation to change the definitions/terminology. That may drive a change. Some of the information in Matt Jones' documents should be incorporated and some of Attorney Litwin's should be incorporated into the final product, from his perspective

Director Jones says: An extra effort I pursued with precision was to look at the existing Ordinance and determine which language should be tweaked and where it would be tweaked. Which precise sections or subsections in the existing ordinance should see something removed or added.

An unknown person from the audience suggests "everyone work together and figure it out."

Mr. Austin says: We all want noise control. Mr. Litwin says vibration. Matt Jones says 55 decibels. Mr. Austin suspects that the Planning Commission is going to want to see a specific number or limit emerge, such as 55 decibels. Even though it might not be perfect, I think we will get together on this.

Attorney Litwin says he has tried to be helpful as legal counsel. He will advise the Planning Commission more, off the record, with follow-up attorney client communication. He says all language he has recommended, he also specified within what Ordinance section it would be located.

Attorney Litwin says that the Board of Commissioners has afforded the Planning Commission the opportunity to provide recommendations. They want to hear from you. They want public meetings. They want your thoughtfulness. When they have all that, then they'll make their decision. Two of the Commissioners are here this evening, and they can correct him if he is wrong.

Commissioner Henry says that, ideally, the Commission would like to give the Planning Commission time to make an informed recommendation.

Mr. Brown says that if the State Senate passes a House bill currently before it, then we would be empowered to enact a six-month moratorium on new Data Center proposals, and have more time to work on the amendment. Commissioner Wilbur expresses doubts that the bill will be signed into law by the Governor, because the Governor has to-date been vocally supportive of Data Centers.

Chairman Ehrenzeller says "Let's move on," and directs the group's attention to Item 2 on both proposals. It has to do with electric connection.

Mr. Ehrenzeller said Matt Jones' proposal has language about an applicant going to Penelec, etc. Attorney Litwin's plan lists clarify timing, preliminary plan, final plan, interconnection agreements. Those are very general in description. Mr. Litwin clarifies that what Matt Jones has prepared is pretty good. What he would recommend is at preliminary plan stage evidence of feasibility of the utility connection or power plant they might be building. Before final approval they would need executed agreements, permits or whatever the PUC is going to give or whatever a utility provider requires such as a will serve letter. That's what he's suggesting at final approval. At preliminary approval present evidence that it can be done. At final approval they should provide evidence that it will happen.

Mr. Ehrenzeller said this is basically what is in our Ordinance today. If it is necessary for an applicant to have an NPDES Permit, or a will serve, these are called conditions of approval. The Director's job is to see that they are in place before final approval. We can be here until 1:00 a.m. tonight. Should the decision tonight be go with your document or Matt Jones' document. There's been a suggestion that both of you go into a room and decide on one document going forward. Attorney Litwin said he is giving legal advice, and Matt Jones is the Planner. If there is something wrong, I will give you legal advice.

Chairman Ehrenzeller said he does not believe there is a right or wrong here. He is trying to figure out how to proceed. Some interest has been expressed that Matt Jones set triggers around High-Intensity Nonresidential Land Development. He could look at square footage, impervious surfacing, and whatever anything else he thinks is appropriate. I'd like to review what he might come up with next month.

Mr. Coleman says he thinks Paul Litwin's Item 2 is generalized, and Matt Jones's Item 2 is more explicit, making clear who the interconnection electric providers are, which is fine.

Mr. Coleman asks: Can we ask developers what impact their energy consumption is going to have on local residents and their electric bills? Attorney Litwin says, yes, but we will not be able to regulate it.

Matt Jones is asked the same question. He says we cannot demand an answer to such a question. He thinks it is in the realm of State regulators and interstate grid compacts. Attorney Litwin says: We can ask during the application process, but we cannot regulate it. Whatever the answer is there is nothing we can do about it.

Mr. Ehrenzeller says they are trying to get to reconcile Item 2. There is Matt Jones' words and his. Do we put them together or do we pick one over the other? Is something being lost if some of Matt Jones' verbiage is not taken? I'm trying to make sure we are operating in a responsible way and trying to find out how we proceed. I would prefer if Matt Jones could reconcile the versions and come up with one page for each of these items whether it's number two or number five. The other option would be for the Planning Commission to vote on one proposal over the other. I'm not sure if that is appropriate either. I don't know if each member of the Planning Commission agrees with every line item of each proposal.

Matt Jones says he did quite a bit of research on this. The Will-Serve Letters... these are the forms they come in... and the specific electric-providing companies that issue them within Wyoming County. They can come in the form of an electric services agreement (ESA) or a transmission services agreement (TSA). As part of that agreement to connect there is sometimes infrastructure that has to be built to provide that interconnection. The electric companies expect the developer to bear the costs of installing the interconnection infrastructure, after they've collaboratively agreed upon what infrastructure would be needed. The reason I've proposed the specific language contained in Item 2 is to make it obvious during application and plan-review processes which specific parties are involved and the exact mechanisms involved. By the way- The PUC can regulate certain things but they don't get involved with these agreements. These would be the specific kinds of will-serve letters needed, and they're tied to what additional infrastructure does the development need to put in place that they will need to pay for to connect. Triggering this level of specificity allows the County to require a developer depict the proposed interconnection infrastructure on their Land Development Plan while it's still under review. We would see what easements may be necessary, do they have their ducks in a row, where would the infrastructure be placed? Is its proposed location compatible with the County's rules and restrictions. Can the site accommodate the interconnection? Mr. Jones tried to make this language as specific as possible in part to help the Planning Commission through the decision-making process. But this would also help prospective developers in learning how to pursue scoping of their development.

Mr. Ehrenzeller refers to Attorney Litwin's document: It states "under the preliminary plan, evidence of utility feasibility and coordination." The Developer would say that he has to go to Penelec. We are still trying to reconcile these two proposed amendment versions.

Mr. Jones says- If you're asking me; I'm an advocate of more specificity. Mr. Coleman agrees with him and says Matt Jones' is more specific and Paul Litwin's gives a more general approach. Over which way to go- He believes Mr. Jones is saying the same thing as Mr. Litwin; he's just more into the nitty gritty; it's more elaborate, with detail that probably needs to be covered.

Mr. Austin says: The more I read these drafts, the more I think they are fantastic. Our legal advisor has suggested certain changes. He says if Attorney Litwin's suggestions can be reconciled with the other version by next month, then we are going to have something fantastic. Mr. Brown says he is very impressed with what both gentlemen have done; they just need to be intermeshed.

Matt Jones asks if there is a group consensus as to whether they want to make a first and second motion to any effect?

Mr. Austin makes a motion that Director Jones merge the two documents with our legal advice so it can be reviewed next month. Mr. Coleman seconds the motion.

Mr. Ehrenzeller says: We have a motion and a second to ask Matt Jones to combine the two proposals into a single document that can be reviewed next month. He asks if there is any more discussion before calling a vote.

Mr. Hadsall and Mr. Coleman suggest the audience be given one more occasion to provide input now.

Susan Barzilowski in the audience asks where such facilities might be located in the County. "What areas are you potentially looking at in the County?" Commissioner Henry says no such applications have yet been filed. Mr. Ehrenzeller says he does not feel it is the responsibility of the Planning Commission to determine where they should be proposed. Ms. Barzilowski: "So Wyoming County hasn't been approached yet about a Data Center?" "Nope- That is correct," replied Commissioner Henry. "You all are just trying to be prepared in case they do. Is that right?," asks Ms. Barzilowski. "Yeah. We want to be ahead of the game," says Commissioner Henry. "We want you to be ahead of the game," says Ms. Barzilowski.

Matt Jones asks Matt Austin if his motion requests the proposals be synthesized/combined together or just have Paul Litwin's proposal supersede the one he presented. He responds no. Mr. Leaidicker says: Take Attorney Litwin's advice and use it to fine tune Matt Jones' proposal.

The vote is called and the motion passes unanimously.

Mr. Ehrenzeller believes this is Matt Jones' marching orders. He thinks that when one document has been presented to them showing the different approaches, side by side, one highlighted in red, the other in a different color, the Planning Commission can say they like one over the other for whatever reason, and finish making their recommendations for the County Commissioners.

A member of the audience asked when the next meetings would occur. It was explained that the Planning Commission meets the third Wednesday of every month, unless a deviation is announced in advance.

X. New Business: None to report from Staff

There was no new business. There were no further comments offered.

XI. Visitor and Guests:

Paula Puza, Landowner, Jan Ambrucetis, Landowner, Betty Busc, Landowner, Bob Killian, Landowner, Ralph Schwartz, Landowner, Sue Barzilowski, resident, Mr. Rick Wilbur, Commissioner, Gloria Pasternak, Landowner, Mauri Rapp, Rocket Courier, Mr. Thomas Henry, Commissioner, Eric Mark, Press Examiner, Rhonda Wethirlzer, Landowner, Pam Heeman, Candidate for PA State Rep, Mark Weber, Landowner

XII. Adjournment:

Mr. Dale Brown made a motion for Adjournment. The Motion was seconded by Robert Thorne. It was carried unanimously.

The meeting concluded at 7:16 p.m.

Commission staff may be reached at:

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