



ENERGY FACILITY SITING COUNCIL

Marcia Grail, Chair ■ Kent Howe, Vice-Chair ■ Hanley Jenkins ■ Mary Winters ■ Jordan Truitt ■ Cynthia Condon ■ Perry Chocktoot

Energy Facility Siting Council Meeting Minutes Friday, October 22, 2021 8:30 a.m. WebEx Teleconference

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The meeting materials presented to Council are available online at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx>

Call to Order: The meeting was called to order at 8:43 a.m. by Chair Grail.

Roll Call: Chair Marcia Grail, Vice-Chair Kent Howe, Council Members, Cynthia Condon, Hanley Jenkins and Perry Chocktoot were present. Council Member Jordan Truitt joined the meeting during agenda item C.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary, Todd Cornett; Senior Policy Advisor, Sarah Esterson; Siting Policy Analyst and EFSC Rules Coordinator, Christopher Clark; Senior Siting Analyst, Katie Ratcliffe; Compliance Officer, Duane Kilsdonk; Operations and Policy Analyst, Wally Adams; and Fiscal Analyst, Sisily Fleming. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe, counsel to EFSC, was also present.

Chair Grail confirmed that agenda modifications were not proposed.

A. Consent Calendar (Information and Action Item) – Approval of minutes, Council Secretary Report, and other routine Council business.

Consideration of the September 24, 2021 Meeting Minutes

¹ Audio for Agenda Item B=00:25:10 - 2021-10-22-EFSC-Meeting-Audio

² Audio for Agenda Item C=01:26:42 - 2021-10-22-EFSC-Meeting-Audio

³ Audio for Agenda Item D=01:36:06 - 2021-10-22-EFSC-Meeting-Audio

⁴ Audio for Agenda Item E=01:46:04 - 2021-10-22-EFSC-Meeting-Audio

⁵ Audio for Agenda Item C²=03:56:12 - 2021-10-22-EFSC-Meeting-Audio

⁶ Audio for Agenda Item F=04:03:00 - 2021-10-22-EFSC-Meeting-Audio

⁷ Audio for Agenda Item G=04:34:25 - 2021-10-22-EFSC-Meeting-Audio

⁸ Audio for Agenda Item H=05:04:04 - 2021-10-22-EFSC-Meeting-Audio

Vice-Chair Howe motioned Council to approve the minutes of the September 24, 2021 meeting as presented.

Council Member Condon stated that she had a suggested language changes regarding her questions and comments related to the Boardman Solar Energy Facility (found on page 2 of the draft minutes), and asked Secretary Cornett to share her proposed edits.

Secretary Cornett detailed the following specific modifications at the bottom of Page 2 of the draft minutes and explained that the added language captures the justification for the changes made to the motion offered. The language in bold would be added.

*Council Member Condon, referencing the heading of 345-027-0385 on line 33, page 12 of the Draft Proposed Order requested the following statement be struck “The Department acknowledges that it is not possible to commence construction without contracts to deliver the energy generated by a constructed facility and financing for which to hire qualified contractors to complete facility construction”, **because this statement is not accurate. It is certainly possible to commence construction without a power purchase agreement.***

Council Member Condon appreciated the changes made and expressed the importance that her specific concerns were reflected.

Vice-Chair Howe and Chair Grail confirmed with Secretary Cornett that a restatement of the motion for the record was needed.

Vice-Chair Howe motioned Council to approve the minutes of the September 24, 2021 meeting with modifications as provided by Secretary Cornett.

Council Member Condon seconded the motion.

Motion carried unanimously.

Council Secretary Report

Secretary Cornett offered the following comments during his report to the Council.

Staffing / Council Appointment Updates

- Kristin Sheeran, the Governor’s Energy, Climate and Transportation Policy Advisor left the Governor’s office at the end of September and has been replaced by Amira Streeter.
- Phil Stenbeck, Jefferson County Planning Director has been appointed by Governor Brown to replace Council Member Winters; confirmation hearings will be held during Legislative Days the week of November 15. If confirmed Mr. Stenbeck will attend the November 18-19 Council meeting.
- No appointment has been made to replace Council Member Jenkins, who is term limited.
- Workday (software platform) is now the platform to apply for Board and Commission positions.
- HB 2992 increased the potential reimbursement for Council members from \$30 per day to \$151 per day to be consistent with the Oregon State Legislature. Eligibility requirements apply, and a self-attestation form is required, and will be provided via email communication from the Department of Administrative services.

Project Updates

- Boardman to Hemingway
Contested Case proceeding is currently in the Written Direct Testimony stage, which required parties and limited parties to submit direct testimony and evidence related to the issues that are part of the contested case by October 21, 2021. The next stage will be Cross Examination. More details were provided to Council in the Hearing Officer's update provided on October 21, 2021.
- Obsidian Solar Center
Written Closing Response phase has just concluded, and the Hearing Officer will issue the Proposed Contested Case Order as the next step.
- Bakeoven Solar Project Amendment #1 - Amendment Determination Request
Amendment seeks review under Type B to split the currently approved, 303 MW Solar PV project, with 100 MW battery storage capacity into three separate Site Certificates (one 60 MW facility, one 140 MW facility, and one 103 MW facility) remaining under the current parent company, Avangrid. The Department determined on September 27, 2021 that the Type B request was justified and issued the Draft Proposed Order. Comment deadline for the Draft Proposed Order is October 27, 2021.
- Stateline Wind Project Amendment #6 – Amendment Determination Request
Amendment seeks review under Type B to construct and operate a 50 MW battery storage system within the existing site boundary; to replace wind turbines and blades on 43 new and existing wind turbines increasing blade tip height, reducing ground clearance, and increasing generation capacity; and construct 2 new wind turbines and decommission and replace others. The Department determined on October 19, 2021 that Type A review will be required. Only the Certificate holder can request Council review of the Department's determination.

Future Meetings

- All Council Members present confirmed their availability for the next Council meeting to be held virtually November 18/19, except for Chair Grail who will only be available on the 19th.
- December meeting will likely be a one-day meeting on the 17th.

B. ODA Presentation on Farm Impacts from Land Use Development (Information Item)⁹ – Jim Johnson, Oregon Department of Agriculture, presented to Council on the impacts to farming from land use development projects.

More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During the presentation the following discussion occurred:

Secretary Cornett prefaced the agenda item by explaining that at the local level there are land use ordinances, comprehensive plans, Oregon Revised Statutes, Oregon Administrative Rules and case law, all of which are everchanging and complex. An added layer of complexity for ODOE staff and Council is understanding what is and isn't applicable to energy facility siting which means that it all must be evaluated on a case by case basis. The Council's role is to balance impacts to resources with the importance of energy, which is different than that of the local government. For example, the Council can apply Goals directly. He acknowledged this as the starting point of the conversation and noted additional dialogue on land use in general and EFSC's version of land use will occur during future Council meetings.

⁹ Audio for Agenda Item B=00:25:10 - 2021-10-22-EFSC-Meeting-Audio

Council Member Howe, referencing the graph depicting Oregon Land in Farms 1954-2017 acreage, noted the significant drop in acreage around 2001/2002, and asked Mr. Johnson to explain.

Mr. Johnson explained that there was a bit of a boom with the combination of growth and Measures 37 and 49 claims, however there was also a definitional change that eliminated some lands out of 'Agriculture' that were previously considered as such by the US Department of Agriculture. He went on to share that this type of shift is seen often due to changes of definitions.

Council Member Jenkins, referencing Mr. Johnson's mention of the Stop the Dump Coalition versus Yamhill County Case. The explanation regarding how the evaluation of the general criteria for non-farm uses are now conducted as a result of that case, he expressed concern for the cumulative impacts from non-farm uses on agricultural lands, noting the difficulty in completing a cumulative impact observation of these developments on a "farm by farm" basis and questioned whether the timing would be too late. He acknowledged his concerns may be more relevant to the exceptions process, but he believed it would be germane to these criteria in the evaluation of larger projects against these two standards.

Mr. Johnson stated that the cumulative impacts assessment comes up most in Energy Siting in linear developments such as a transmission line spanning two or three counties. In terms of large projects, he suggested the cumulative impacts would be easier to address, if applicable, and would be addressed under the general farm impacts test and the question of conversion of the footprint. He shared that limited case law exists related to cumulative impacts and agreed that Department of Land Conservation and Development should look into better defining impacts. He reiterated the legitimacy of the concern and shared that more direction has come from the Supreme Court, and that the issue is being studied in many areas, though hard to quantify.

Council Member Condon, recalling one of her first Council meetings where a farmer, intended to lease land for a proposed energy development due to lack of water to farm the land. The farmer submitted a letter in support of the proposed project claiming that due to lack of this would be the best use of the land. Council Member Condon asked Mr. Johnson for his thoughts on what that could mean for the future, and whether more farmers might come to this same conclusion due to lack of water.

Mr. Johnson pointed out that when land is determined to be agricultural or not it is based on the capability and suitability of the land, not the farmer. He frankly cautioned against accepting that justification without digging deeper, sharing experiences of farmers claiming the land couldn't be farmed while other farmers were willing to lease the same land considering it to be viable. He explained that land use is, however, dynamic and land uses can change, and could be evaluated for a different land use designation long term, on a case by case basis.

Vice Chair Howe appreciated Mr. Johnson's time and effort in providing a great presentation and Secretary Cornett for organizing the presentations to provide information to the Council. Chair Grail echoed these remarks.

Secretary Cornett reiterating the comments he made at the beginning of the agenda item regarding the complexity and dynamic nature of land use as it applies to state jurisdictional energy facilities.

Mr. Johnson recognized the representatives from other state agencies participating on the call and applauded the Siting staff for bringing everyone together to coordinate on issues.

Council Member Chocktoot stated that this issue will be continuing to grow in Southern Oregon, characterizing it as a "Solar Mecca". He indicated he'd recently received eight emails detailing information on eight separate

proposed solar developments in a single day. He stated that farmers that aren't able to irrigate their land are turning to solar as a way to continue to make money, but this eliminates the ability to grow a crop and impacts migratory species. He stressed the importance of evaluating all the impacts to determine whether the facilities are a good fit for communities.

Chair Grail and the Council thanked Mr. Johnson for his time and presentation.

C. HB 2064 Rulemaking (Action Item)¹⁰ – Chris Clark, ODOE Siting Policy Analyst & EFSC Rules Coordinator, recommended the Council initiate formal rulemaking proceedings to amend the administrative rules related to a quorum of the Energy Facility Siting Council, consistent with House Bill 2064.

More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During the presentation the following discussion occurred:

Council Member Jenkins asked Mr. Clark whether this quorum requirement is consistent with other Boards and Commissions.

Mr. Clark affirmed that it is consistent with other commissions and council's representing other agencies.

Council Member Jenkins motioned for Council to initiate formal proceedings to implement HB 2064, as recommended by staff, and direct staff to issue a Notice of Proposed Rulemaking, as presented as Attachment 2 to the staff report for this agenda item.

Vice Chair Howe seconded the motion.

Motion carried unanimously.

(Please see comments made prior to the beginning of Agenda Item F for an amendment to this motion)

D. Public Comment Period¹¹ – This time is reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment.

- Jodi Parker – Laborers ' Union of North America
Expressed her gratitude to the Council and staff for their service and commitment to public service. Ms. Parker urged the Council to consider labor standards in the development of energy facilities, and it provides jobs and resources to the communities to increase buying power. She expressed the importance of labor standards in ensuring safety and employee morale. She went on to appreciate Mr. Johnson's presentation on agriculture.
- Julia Pommert
Ms. Pommert appreciated Mr. Johnson's presentation. She stressed the importance of water and temperature to agriculture in an ever-changing climate. She stressed the importance on weighing the reduction of greenhouse gasses to support the ability to preserve agriculture.

¹⁰ Audio for Agenda Item C=01:26:42 - 2021-10-22-EFSC-Meeting-Audio

¹¹ Audio for Agenda Item D=01:36:06 - 2021-10-22-EFSC-Meeting-Audio

E. Compliance Update (Information Item)¹² – Duane Kilsdonk, ODOE Compliance Officer and Sarah Esterson, ODOE Senior Policy Advisor provided Council with an update on compliance program activities.

More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During Mr. Kilsdonk’s portion of the presentation the following discussion occurred:

Council Member Condon asked, regarding the 162 MW added to the Montague Wind Power Facility, what the percentage of additional energy generation was added to the project.

Mr. Kilsdonk stated that the Montague Wind Facility was originally sited with only wind capacity, and asked Ms. Esterson for the originally approved capacity.

Ms. Esterson recalled it as a 400 MW wind facility.

Mr. Adams stated that before the facility was split, through amendment 4, it was approved for 404 MW.

Ms. Esterson explained that amendment 4 added the solar components but did not increase the MW capacity beyond 404.

Council Member Condon explained that her curiosity is related to growth of these projects as additional components (solar, wind, battery, etc.) are added through the amendment process.

Secretary Cornett informed that it varies by project. Some projects may split the generation components within their approved capacity or may choose to increase capacity to add additional components.

Ms. Esterson added that developers are seeking approval through the permitting process for battery storage and optionality of solar versus wind but may not actually move forward with it. There are several site certificates that have been approved for battery storage but have not included it in the final design.

Council Member Condon asked Mr. Kilsdonk to confirm whether the solar panel stands had been installed at the Boardman Solar Energy Facility site.

Mr. Kilsdonk affirmed that some but not all metal risers have been installed for the solar panels to be placed on and had to be drilled into the ground due to the high content of rock in the ground.

Council Member Condon, regarding the extension approved at the last meeting, questioned whether the installation of risers meet the statutory threshold for beginning construction beyond \$250,000, to which Mr. Kilsdonk informed it did not.

Council Member Condon asked, regarding the Perennial Wind Chaser Station and the Summit Ridge Wind Farm, whether the roads that have been constructed constitute the beginning of construction and for Mr. Kilsdonk to explain what prompts the pause in those situations, presuming the construction start and end times aren’t paused.

Mr. Kilsdonk explained that the pause is related to the phased nature of the construction.

¹² Audio for Agenda Item E=01:46:04 - 2021-10-22-EFSC-Meeting-Audio

Secretary Cornett explained that the construction activities at both the Perennial Wind Chaser and Summit Ridge Wind Power met the threshold for beginning construction and that while activities at each facility may be temporarily paused, the date by which each needs to complete construction remains the same.

Council Member Jenkins, referring to the Compliance Inspection Calendar for June 2021 – July 2022 in Mr. Kilsdonk's presentation, asked Mr. Kilsdonk to explain the significance of the "+1" that is listed next to some of the projects on the calendar.

Mr. Kilsdonk explained it is to indicate facilities where additional technical assistance may be required on the site visit, such as a representative from the Oregon Department of Fish and Wildlife, or a consultant.

Secretary Cornett added that these indicators also signify site inspections that cover a large number of conditions or require a more significant look at specific conditions.

Council Member Condon asked Mr. Kilsdonk if he must return to a site if he finds an issue of non-compliance to confirm compliance later.

Mr. Kilsdonk provided that he does go back to verify that actions are corrected but those can also be handled through corrective action reports and pictures.

Chair Grail asked Mr. Kilsdonk, regarding the transformer spill at the Biglow Canyon Wind Farm, whether there is a pattern of incidents, and whether it would be appropriate for the Council to request further information from PGE regarding the spills at this facility.

Mr. Kilsdonk stated that Biglow does have the highest rate of transformer spills compared to other projects, and hesitantly speculated that the transformers used may be under the needed specifications, and it may not be cost effective for them to be changed out all at one time.

Secretary Cornett offered the Council the opportunity to request PGE to come and provide the answers Council is looking for, rather than staff speculating about the reasons.

Chair Grail appreciated Secretary Cornett's offer and explained that her desire to hear from PGE was not to be punitive, but to increase Council awareness and help to inform decisions on future projects.

Council Member Chocktoot asked whether any of the transformer spills have caused wildfires in the area due to an explosion under pressure.

Mr. Kilsdonk responded that he is not aware of any of these transformer issues causing fires in his eleven years.

During Ms. Esterson's portion of the presentation the following discussion occurred:

Council Member Jenkins, referring to the Golden Hills Wind Facility and Ms. Esterson's earlier comments, confirmed with Ms. Esterson that the change in megawatts from 400 to 200 also impacted the number of turbines, and asked whether the turbines now being constructed have a higher generating capacity.

Ms. Esterson provided that the site certificate allows for up to 400 MW of capacity to be built, however their interconnection agreement would not allow them to build a facility generating more than 200 MW. She went on to state that the total number of turbines have decreased through the amendments, and that there are two different types of turbines. She indicated she could provide the details on the mix of megawatt height.

Council Member Jenkins explained that he is interested in the per turbine output.

Ms. Esterson added that the original approval authorized 267 turbines with a maximum capacity of 400 MW, and now they only have 51 turbines.

Council Member Condon, referring to the map provided for the Wheatridge Renewable Energy Facility III, confirmed that the site certificate approved the entire area as the site boundary and asked Ms. Esterson whether the site boundary is modified in the site certificate in the event that a developer chooses not to develop the entire area as approved, and whether another developer could then apply to utilize the same land.

Ms. Esterson explained that the Department and Council wouldn't be precluded from evaluating a proposal showing overlapping site boundaries; the issues would be more between the developers and landowners, or in the event the projects intended to share any facility components.

Council Member Condon confirmed her understanding of the response to mean that a developer would not be precluded to propose a project overlapping a site boundary that was not developed under another approved site certificate.

Ms. Esterson confirmed that Council Member Condon's understanding was accurate and explained that an issue could be presented if a developer was not coordinating with a site certificate holder with the overlapping boundary.

Secretary Cornett agreed with Ms. Esterson's comments and added that once the beginning or ending construction deadline are past, then a site certificate holder no longer has the authority to develop on lands even within their site boundary without an approved amendment, or a new site certificate.

Council Member Condon followed up and asked whether once construction has started within the construction start deadline, what would preclude a certificate holder from building out farther, assuming they've met the requirement.

Secretary Cornett reminded that if a site certificate holder does not build everything that is authorized in the site certificate by the deadline to end construction, the certificate holder is no longer authorized to build further.

Council Member Condon asked whether the Council has ability to reduce the site certificate boundary.

Secretary Cornett explained that the site boundary can only be changed through the amendment process, and due to the cost, is typically handled through a larger amendment request.

Council Member Condon explained she didn't anticipate a certificate holder to request the amendment to reduce the site boundary but rather the Council move to amend the site boundary after the construction deadline and suggested discussing it further offline.

Ms. Esterson added that the term site boundary is defined as "proposed by the applicant" and is supposed to be the perimeter of the facility and its components. She echoed Council member Condon's desire to have these changes reflected in the site certificates in an administrative process, which could greatly reduce complexity moving forward.

Council Member Condon expressed surprise that only the site certificate holder may request an amendment given there are two parties to the site certificate.

Council Member Jenkins, using Golden Hills Wind Facility as an example of a facility that has been approved for a much larger generating capacity than is being constructed, he inquired about the opportunity for the site certificate holder to market the additional capacity to another company for development prior to the construction completion deadline.

Ms. Esterson informed that the certificate holder does indeed have that ability and that the Department would not stand in the way of a project being fully built out.

Secretary Cornett agreed and provided that certificate holders market their power and ultimately build to meet the demand, but because the Council no longer has a Need Standard to justify the project, that information is outside of Council's purview.

Council Member Jenkins noted the timing complexities that would be involved if a certificate holder did attempt to market additional capacity after construction.

Vice Chair Howe inquired as to whether there was a more formal request that needed to be made regarding the transformer failures at the Biglow Wind Facility and the potential for the certificate holder, PGE, to provide a presentation to Council.

Chair Grail acknowledged that additional conversations would be had with Secretary Cornett to discuss the possibility and noted that PGE is an investor owned utility with Integrated Resource Plans and PUC regulations to follow as well.

Secretary Cornett committed to reaching out to PGE to have a representative present information about the transformer failures at a future Council meeting.

Mr. Kilsdonk explained that not all transformers are located in the same place at every facility, some may be located up tower or in the basement, though the industry seems to be moving away from having them in the basement due to the large amount of clean up that is presented when there is a failure.

Secretary Cornett informed the Council that if they are interested in going to any of the site visits with Staff to let him know, and he will coordinate.

C.² HB 2064 Rulemaking (Action Item - Continued)¹³ – Chris Clark, ODOE Siting Policy Analyst & EFSC Rules Coordinator

Prior to Mr. Clark's presentation for Agenda Item F, he informed Council that upon filing the Notice of Proposed Rule Change with the Secretary of State for the HB 2064 rulemaking he realized a comment period of at least 21 days is required which will mean that the comment period could not close until at least November 22, 2021, which is after the next Council meeting. He recommended Council extend the comment deadline to either November 22, 2021, which is the minimum allowed, or to December 10, 2021 at 6pm which represents a 49-day comment period.

Vice Chair Howe asked whether the deadline of December 10, 2021 would impact the intended effective date of January 2022.

Mr. Clark responded that Council could still take action at the December meeting.

¹³ Audio for Agenda Item C²=03:56:12 - 2021-10-22-EFSC-Meeting-Audio

Council Member Jenkins asked whether an amendment to the motion was needed, to which Assistant Attorney General Rowe affirmed.

Council Member Jenkins moved to change the comment period end date for the HB 2064 Rulemaking to December 10, 2021.

Vice Chair Howe seconded the motion.

Motion carried unanimously.

F. Trojan ISFSI Rulemaking (Action Item)¹⁴ – Chris Clark, ODOE Siting Policy Analyst & EFSC Rules Coordinator, recommended the Council initiate formal proceedings to amend the administrative rules related to the Trojan Independent Spent Fuel Storage Installation (ISFSI) to ensure the rules are up to date and address the terms and technical specifications of PGE’s renewed Special Nuclear Materials license issued by the Nuclear Regulatory Commission.

More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During the presentation the following discussion occurred:

Council Member Condon asked if this rule change is specific to the Trojan ISFSI or it will impact anything else, such as small nuclear facilities.

Mr. Clark explained that the current rules are written with general applicability, so if there were another nuclear installation in Oregon, they would apply, however he noted that the Trojan ISFSI isn’t legally considered to be a nuclear installation and the only other applicability would be for the university research reactors, which are exempt from these rules.

Council Member Condon confirmed, based on her understanding, that the proposed rules do not address future nuclear development.

Mr. Clark noted that a new nuclear power plant can not be approved without being referred to the popular vote, and if that were to occur, or a new nuclear installation was proposed, the Council would need to adopt new rules at that time.

During his presentation, Mr. Clark recommended the following modifications to the Draft Notice of Proposed Rulemaking provided in the Council’s staff report:

- *Adding a clarifying sentence regarding the US Nuclear Regulatory Commission’s issuance of a renewed license to the Statement of Need.*
- *Amending Proposed Rules to exclude ORS 469.530 from the statutes implemented line for OAR 345-026-0170 and include ORS 469.410 in statutes implemented line for other rules in OAR 345-026.*
- *Correcting a reference in the proposed OAR 345-026-0390(4)(a)(C) to refer to paragraph (4)(a)(B) of that rule.*

¹⁴ Audio for Agenda Item F=04:03:00 - 2021-10-22-EFSC-Meeting-Audio

Vice-Chair Howe motioned Council to initiate formal proceedings to amend the rules related to the Trojan ISFSI, recommended by staff, and direct staff to issue a Notice of Proposed Rulemaking, as modified by staff as Attachment 2 to the staff report for this agenda item.

Council Member Jenkins seconded the motion.

Council Member Condon asked if there was any possibility of a nuclear facility being developed by someone without rules.

Mr. Clark responded that all of the general standards would still apply, so there would be some rules – however in the terms of a hypothetical situation of an application being processed without the Council adopting specific standards for a nuclear installation, he responded that it would be technically possible, but in his opinion highly unlikely.

Motion carried unanimously.

G. Wildfire Prevention and Response Rulemaking (Action Item)¹⁵ – Chris Clark, ODOE Siting Policy Analyst & EFSC Rules Coordinator, and Katie Ratcliffe, Senior Siting Analyst, provided an update on the Oregon Public Utility Commission’s Wildfire Mitigation Rulemaking (PUC Dockets AR 638 and 648), and will recommend the Council initiate informal proceedings to develop draft proposed standards or requirements related to wildfire prevention, preparedness, and response as part of the energy facility siting review process.

More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During the presentation the following discussion occurred:

Council Member Condon asked for confirmation that the rules would apply to a cooperative that builds a large community solar project that is within EFSC jurisdiction, but would not apply to facilities outside of EFSC’s jurisdiction.

Mr. Clark affirmed that the rules will only apply to facilities within EFSC’s jurisdiction. He went on to state that if a cooperative or consumer owned utility were to propose a facility subject to the Council’s jurisdiction and if it were part of a ratified wildfire protection plan under SB 762, Council may need to evaluate whether an exemption is needed.

Council Member Condon asked whether an exemption would be required, or whether their plan could just be accepted.

Mr. Clark agreed that accepting their wildfire protection plan could be another policy option to be considered.

Chair Grail thanked staff for their presentation and stated the importance of the rulemaking.

Council Member Jenkins motioned the Council to initiate the wildfire rulemaking project as recommended by staff and authorize staff to conduct one or more public workshops to assist in the development of the draft proposed rules.

Vice Chair Howe seconded the motion.

¹⁵ Audio for Agenda Item G=04:34:25 - 2021-10-22-EFSC-Meeting-Audio

Motion carried unanimously.

H. Council Appointment of Consultant for Nolin Hills Wind Power Project (Action Item)¹⁶ – Sarah Esterson, Senior Policy Advisor, presented a request to Council for the Department’s use of consultants for assistance in completing the Draft Proposed Order for the Nolin Hills Wind Power project in Q1 2022.

More information is located on the [Council Meetings website](#) for additional details pertaining to this [presentation](#).

During the presentation the following discussion occurred:

Council Member Jenkins asked whether the proposed use of a consultant for the project is intended to be limited duration.

Ms. Esterson replied the intent is limited to the phase, not necessarily a duration.

Council Member Jenkins noted that the request is for general assistance and not for a specific section area.

Ms. Esterson affirmed that the request is for general technical writing assistance and would be limited to sections deemed necessary by Ms. Ratcliffe.

Council Member Jenkins confirmed that Hart Crowser and Haley Aldrich are one in the same, to which Ms. Esterson confirmed, explaining that Haley Aldrich was recently acquired by Hart Crowser, and the names are used interchangeably at the Department.

Council Member Jenkins motioned Council approve the Department’s request to use Haley Aldrich for assistance in completing the Draft Proposed Order for the Nolin Hills Wind Power project.

Vice Chair Howe seconded the motion.

Council Member Condon questioned whether the timing should be included in the motion language.

Council Member Jenkins stated that since the request is related to the phase, not the timing, the motion is specific to the Draft Proposed Order.

Chair Grail explained that putting a specific end date on it may require staff to return and she was satisfied with the specificity in referring to the Draft Proposed Order phase.

Motion carried unanimously.

Adjournment

Chair Grail appreciated staff for their time and efforts. Secretary Cornett and Council acknowledged Ms. Esterson’s birthday and thanked her for her service.

Chair Grail adjourned the meeting at 2:25 pm.

¹⁶ Audio for Agenda Item H=05:04:04 - 2021-10-22-EFSC-Meeting-Audio