



# ENERGY FACILITY SITING COUNCIL

■ Kent Howe, Chair ■ Cindy Condon, Vice-Chair ■ Marcy Grail ■ Ann Beier ■ Richard Devlin ■ Patty Perry

## Energy Facility Siting Council Meeting Minutes

Oregon Department of Energy  
550 Capitol St. NE  
Salem, OR 97301

Friday, December 19, 2025 8:30 AM

- A. Consent Calendar (Action & Information Item)<sup>1</sup> – Council Secretary Report; and other routine Council business.
- B. Annual Rulemaking Schedule (Action Item)<sup>2</sup>
- C. Modernization Rulemaking Consideration of Rules (Action Item)<sup>3</sup>
- D. Public Comment Period<sup>4</sup>
- E. Annual Financial Assurance Evaluation (Action Item)<sup>5</sup>
- F. Habitat Mitigation Banking (Information Item)<sup>6</sup>
- G. Exemption Rulemaking – Notice of Proposed Rulemaking (Action Item)<sup>7</sup>
- H. Election of officers (Action Item)<sup>8</sup>

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<sup>1</sup> Audio/Video for Agenda Item A = 00:03:43 – 2025-12-19-EFSC-Meeting-Audio/Video

<sup>2</sup> Audio/Video for Agenda Item B = 00:30:46 – 2025-12-19-EFSC-Meeting-Audio/Video

<sup>3</sup> Audio/Video for Agenda Item C = 01:07:15 – 2025-12-19-EFSC-Meeting-Audio/Video

<sup>4</sup> Audio/Video for Agenda Item D = 01:26:34 – 2025-12-19-EFSC-Meeting-Audio/Video

<sup>5</sup> Audio/Video for Agenda Item E = 01:29:33 – 2025-12-19-EFSC-Meeting-Audio/Video

<sup>6</sup> Audio/Video for Agenda Item F = 01:40:39 – 2025-12-19-EFSC-Meeting-Audio/Video

<sup>7</sup> Audio/Video for Agenda Item G = 02:53:51 – 2025-12-19-EFSC-Meeting-Audio/Video

<sup>8</sup> Audio/Video for Agenda Item H = 02:45:58 – 2025-12-19-EFSC-Meeting-Audio/Video

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:** Chair Howe called the meeting to order on December 19, 2025, at 8:33 a.m.

**Roll Call:** Chair Kent Howe, Vice-Chair Cynthia Condon, Council Members Ann Beier, Richard Devlin, and Patty Perry were present in person. Council Member Marcy Grail attended virtually.

Oregon Department of Energy representatives present were: Assistant Director for Siting/Council Secretary Todd Cornett, Senior Policy Advisor Sarah Esterson, Rules Coordinator Tom Jackman, Fiscal Analyst Sisily Fleming, and Administrative Assistant Nancy Hatch. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe was also present.

**Agenda Modification:** There were no agenda modifications.

**A. Consent Calendar (Action & Information Item)**<sup>9</sup> – Council Secretary Report; and other routine Council business.

**Council Secretary Report** - Secretary Cornett offered the following comments during his report to the Council:

Agenda Clarification: The agenda was noticed to the public with Agenda Item E - Financial Assurance Evaluation as an Information Item. This was a mistake. It is an Action Item. The version on the Council Webpage reflects that and we updated Council about that with Packet 2 materials.

#### Project Updates

- Biglow Canyon Wind Farm Amendment # 4 – This is a 450 MW wind project consisting of 217 turbines, located in Sherman County. The facility has been operational since 2007 and the Certificate Holder is Portland General Electric. Staff are currently reviewing Amendment #4 which proposes to add solar and battery storage.

The original amendment included 385 MW of solar PV in two areas approximately three miles apart; two battery energy storage systems equaling 1,500 MW; two 230 kV transmission lines equaling 2.65 miles total; two 34.5 kV collector substations; and two O&M buildings. This would add approximately 1,409 acres to the site boundary. The new components would occupy up to 3,980 acres (or 6.2 square miles) of private Exclusive Farm Use zoned land to the site boundary. This was the description in the notice of the preliminary request for amendment. Based on the Department's review of the preliminary request and responses to its requests for additional information received, the certificate

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<sup>9</sup> Audio/Video for Agenda Item A = 00:02:39 - 2025-09-19-EFSC-Meeting-Audio/Video

holder provided a revised version of the amendment, which removed facility components in a “Southern Solar Area.” The updated amendment #4 includes 125 MW of solar PV; one battery energy storage systems equaling 500 MW; One 34.5 kV collector substation; and one O&M building. This would add no additional acreage to the site boundary but the new components would occupy up to 1,924 acres (or 3. square miles) of private Exclusive Farm Use zoned land to the site boundary.

The Proposed Order and Public notice were both issued on December 16<sup>th</sup>. The public information meeting is scheduled on Thursday, January 15<sup>th</sup> in Grass Valley in Sherman County.

- Speedway Energy Facility – This is a proposed 1,400 MW solar PV and wind project, including 500 MW of battery storage project in Sherman County. We received the Notice of Intent on October 24 and issued a public notice on December 16<sup>th</sup>. There will be a public informational meeting held in the same location as the Biglow Canyon public hearing in Grass Valley on January 14<sup>th</sup>.
- Saddle Butte Energy Facility – The Department received a Notice of Intent for this project on December 12<sup>th</sup>. This project would be a 488 MW wind energy project consisting of up to 70 turbines which would each be up to 698 feet tall. There would also be 488 MW’s of battery storage. The project location is in Gilliam County, approximately 6 miles SW of the City of Arlington. The parent company is Brookfield Renewables. A project page and a public notice are currently being developed.
- Wheatridge Renewable Energy Facility III Amendment #1 - This project has a complicated history. It was originally approved as the Wheatridge Wind Energy Facility in 2017 as a 500 MW wind facility with up to 292 turbines in Morrow and Umatilla Counties. It has since been split and amended numerous times. The parent company is NextEra. The current Wheatridge Renewable Energy Facility III project came into existence when Wheatridge Renewable Energy Facility II was divided under amendment #1 in May 2020. It currently exists as a 50 MW operational solar facility and includes an additional 100 MW of unconstructed solar in Morrow County. The parent company is still NextEra. The amendment was submitted on November 21 and public notice was sent on December 2. The amendment proposes to create two new energy facilities.
  - Wheatridge Renewable Energy Facility III – 50 MW of operation solar and 15 distributed battery energy storage sites
  - Wagon Trail Solar II – 100 MW of approved but not yet constructed solar and 26 distributed battery storage sites

The preliminary request for amendment is included on the project page. Staff are currently reviewing the request for completeness.

- Boardman to Hemingway Transmission Line, Amendment Determination Request - On December 12, 2025, Idaho Power Company submitted an Amendment Determination Request seeking a written determination on whether a site certificate amendment is needed to expand the micrositing corridor by 1.22 acres in Union County for road modifications. The proposed expanded micrositing corridor is within the approved site boundary. The two primary changes are proposed within the 1.22 acre micrositing corridor expansion area include: 1) the creation of two new spur roads and a wider turn radius workspace in areas where slopes are greater than 30%, 2) construct approximately 315 feet of new road segment (while abandoning the previously reviewed segment extending 350-feet, to avoid impacting guy wires of an existing transmission line). Following review of the Amendment Determination Request, the Department will issue a written determination, which will be provided on the project webpage, and announced at a subsequent Council meeting.
- Leaning Juniper IIA Wind Power Facility, Amendment Determination Request - On November 21, 2025, the Department received an Amendment Determination from Leaning Juniper Wind Power II. This is a 98 MW wind power generation facility consisting of 40 turbines in Gilliam County. The parent company is Avangrid. The Amendment Determination Request relates to whether an amendment is required for a tax equity, sale-leaseback transaction with a national financial institution. Under the Leaseback Agreement the Bank will acquire legal title/ownership interest of the facility equipment. The Bank will not take any ownership interest in the certificate holder, nor will it take control or possession of the facility. The certificate holder will retain its interest in underlying real property rights and some related or supporting facilities and will continue to operate the facility and maintain, service and repair equipment. Following review of the Amendment Determination Request, the Department will issue a written determination, which will be provided on the project webpage, and announced at a subsequent Council meeting.

*Council Member Beier stated Council has reviewed this type of Amendment Determination request for another project.*

### Compliance Updates

### **Incidents**

Trojan Nuclear Facility – This was a 1,130-megawatt nuclear-fueled power plant in Columbia County that was decommissioned in 2004. There is an Independent Spent Fuel Storage Installation on the plant site comprised of thirty-four dry casks of spent nuclear fuel. The site is owned and managed by Portland General Electric. On November 21, 2025 there was a security incident on site. The incident details are classified under 10 CFR 2.390: sensitive unclassified non-safeguards information. Portland General Electric followed all required federal, state, and local notification procedures for the incident.

**Annual Reviews** – Staff are close to concluding the annual report reviews. As a reminder, each certificate holder for projects that are in operation must submit an annual report by April 30th for the prior calendar year, although there are a few facilities on different schedules. The annual reports that are being reviewed are for the 2024 calendar year. There were some issues of non-compliance from those reports since the last Council meeting:

- Shepherds Flat Central – This is a 290 MW wind energy facility located in Gilliam and Morrow Counties. The project has been operational since 2012 and the parent company is Brookfield Renewable U.S. The site has had persistent issues with weed control and revegetation efforts since initial construction and following the 2019 repower process. While the site was not compliant with these conditions in 2024, Brookfield Renewable is making a concerted effort to address these conditions and progress has been made in 2025 for managing weeds, updates are underway for the weed control plan, revegetation plan, and the required raptor mitigation strategy. Staff are working with them to become compliant in 2026.
- Klamath Falls Cogeneration – This is a 525 megawatt, combined-cycle natural gas-fueled electric generating facility located in Klamath Falls. The parent company is Avangrid. The facility remains in non-compliance with a Site Certificate Condition related to the use of boiler blowdown as cooling water makeup. The Department is seeking to resolve this issue in 2026.

*Vice Chair Condon questioned the reasons for the long period of time allowed for projects to resolve issues of non-compliance.*

*Secretary Cornett stated it is partly due to the lack of staff and staff resources as well as the large amount of time required for reviewing the conditions, evaluation of all the provided information and ensuring that the conditions are being met, in addition to site inspections. It is the certificate holder's responsibility and obligation to meet the conditions. The Department has not had the staff to ensure that was being done.*

*Vice Chair Condon stated Council dedicates substantial amount of time in reviewing and approving a site certificate with specific agreed to conditions. Her concern is whether the conditions are not clear enough for the certificate holder.*

*Secretary Cornett offered as these are big and complicated facilities, there are daily decisions made regarding where time and resources are going to be spent. Our responsibility is to ensure that they are motivated to spend time and resources on ensuring the conditions are met.*

*Vice Chair Condon stated the obligation to resolve issues of non-compliance in a timely manner should be included in Council's review of the Organizational Expertise Standard.*

**B. Annual Rulemaking Schedule (Action Item)<sup>10</sup>** – Thomas Jackman, Siting Policy Analyst and Rules Coordinator presented the proposed 2026 Rulemaking Schedule, which included the following for each proposed rulemaking: a summary; recommendations for how to obtain public input; and a draft schedule. The opportunity for members of the public to provide oral comments was provided. Council provided direction to staff on the rulemaking.

*Council Member Beier noted it will be interesting to review the public feedback for the amendment rulemaking as it is one of the processes that Council is trying to streamline while maintaining public participation.*

*Chair Howe stated his appreciation for the work done by the dedicated Staff providing continued and additional improvements to Rulemaking as requested by Council.*

*Secretary Cornett, noting changes in the rulemaking process over the past years, stated since the Department has had a dedicated rulemaking position, a tremendous amount of work on rulemaking has consistently been done every year.*

During the Council discussion, Council Members discussed the many benefits to having Council Members participate in the Rulemaking Advisory Committee's. The feedback at the rulemaking stage is critical. Council stressed to the members of the public who want to make changes, participating in a RAC is a good way to get involved.

*Vice Chair Condon questioned the meaning of Natural Hazard Mitigation.*

*Council Member Beier stated that Oregon has had a hazard mitigation plan for many years. It involves mitigation for natural hazards such as flooding, landslides and wildfires. The idea is to prevent damage from natural hazards. There are variations in the plans based on each particular county.*

*Secretary Cornett noted that each county has a natural hazards plan, which includes all the natural hazards in that specific county.*

*Mr. Jackman added where there is elevated risk of natural hazards, the county can decide to invest resources into mitigation efforts in order to be better prepared for the inevitable natural hazard.*

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<sup>10</sup>Audio/Video for Agenda Item B = 00:30:46 – 2025-12-19-EFSC-Meeting-Audio/Video

*Vice Chair Condon questioned whether Council should build natural hazards into site certificate conditions.*

*Secretary Cornett stated Council considers the hazard characteristics for each specific proposed site and then applies the appropriate conditions to that site for protection of the site, protection of the resources, and protection of the adjacent landowners.*

**Public Comments on the Rulemaking Schedule provided:**

Mr. Les Pool - Stated his recommendation that natural hazards mitigation be the initial rulemaking item on the rulemaking schedule.

**Council Member Devlin motioned that the Council approve the 2026-2028 EFSC Rulemaking Project Schedule as presented and recommended by staff, with the following prioritization of the identified Phase 3 rulemakings: 1) Structural Standard + Soil Protection; 2) Protected Areas + Scenic Resources + Recreation; 3) Fish and Wildlife Habitat and Threatened and Endangered Species; 4) Waste Minimization + Public Services + Land Use 5) Historic, Cultural and Archaeological Resources**

**Council Member Grail seconded the motion.**

**The motion was carried unanimously.**

**C. Modernization Rulemaking Consideration of Rules (Action Item)<sup>11</sup>** – Tom Jackman, Siting Policy Analyst & Rules Coordinator presented a response to comments received on this rulemaking and an opportunity to adopt permanent rules or issue a new notice with updated rule language.

*Vice Chair Condon, in reference to a comment received from Renewable Northwest regarding concerns for the use of geospatial data, questioned whether the use of geospatial data for presenting evidence is new and whether there are concerns of confidentiality with such use.*

*Mr. Jackman provided the requirement for the use of geospatial data is newer though it has been used for some projects. As geospatial data contains many layers of information, there are concerns from some developers that the geospatial data they submit would have more information than needed or required, and possible information that they would rather not reveal. The standardization of how we receive the data will help our review and also help public reviews.*

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<sup>11</sup>Audio/Video for Agenda Item C = 01:07:15 – 2025-12-19-EFSC-Meeting-Audio/Video

*Secretary Cornett stated the technology has been around for more than 30 years, and most developers have used this for a long time, as well as local and state governments. The geospatial data allows Staff to know specifically where the facility is located, where the components are, where the turbine locations are and where the Operations and Maintenance building is located. This is ensuring that they do provide it for our review. If there is information that is not required and it is of concern to them, then that information does not have to be included.*

*Council Member Beier noted as there have been comments from the public about the ease of use for geospatial data, particularly the mapping functions. This is also an example of Staff and Council's continued efforts to make more efficiencies and provide developers and the public with current information.*

*Secretary Cornett stated providing the geospatial data has a lot of benefits to developers in terms of reducing the cost and the time to conduct the reviews by Staff and by the agencies from which we seek input and reviews.*

*Council Member Beier stated her belief is that the retroactive provisions to the modernization rulemaking are not a substantial revision. Given the language presented from the courts in the ODFW case, she suggested re initiation of the noticing would be wise.*

*Mr. Rowe, referencing the ODFW case, stated while the changes might not be substantial, out of an abundance of caution, he would like to have an additional notice and comment period.*

**Council Member Beier motioned the Council approve re-initiation of formal proceedings on the Modernization Rulemaking, with the scope, objectives and reasoning recommended in the staff report; approve staff to re-file a notice of proposed rulemaking with the draft rules that are included in Attachments 1 to the staff report; and authorize staff to schedule a public comment period.**

**Vice Chair Condon seconded the motion.**

**The motion was carried unanimously.**

**D. Public Comment Period (Information Item)<sup>12</sup>** – This time was reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment. Items closed for comment include: Yellow Rosebush Energy Center Application for Site Certificate and Draft Proposed Order.

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<sup>12</sup>Audio/Video for Agenda Item D = 01:26:34 – 2025-12-19-EFSC-Meeting-Audio/Video

**There were no Public Comments provided.**

**E. Annual Financial Assurance Evaluation (Action Item)<sup>13</sup>** – Sisily Fleming, Fiscal Analyst, presented Council’s annual review of financial assurance providers and the bond and letter of credit templates for certificate holders’ use in meeting the Council’s Retirement and Financial Assurance standard in 2026.

*Vice Chair Condon questioned whether Staff has additional confidence in AM Best rating agency as they only review Bonds, noting that one Financial Institution reviewed, Hanover Insurance Group, has a bbb rating.*

*Ms. Fleming stated the “bbb” rating is within the top three categories for AM Best ratings. She noted the Fitch rating for Hanover Insurance Group was AAA, the highest rating. Both ratings indicate a stable outlook.*

*Vice Chair Condon confirmed her understanding that if financial situations changed and the ratings for a financial institution were negatively affected, Council would receive a report of such.*

*Ms. Fleming confirmed that is correct as well as if a certificate holder wished to use a financial institution not on the approved list.*

*Council Member Devlin confirmed his understanding that bonds or letters of credit are only accessible if a facility is terminated and the certificate holder does not proceed with the closure. It can not be accessed to move a site into compliance, nor can it be accessed by a third party who may have a claim against a developer.*

*Ms. Fleming confirmed it is solely for the retirement and restoration of a facility in the event that the site certificate holder should not do it according to a Council approved retirement plan.*

*Vice Chair Condon questioned whether there is working knowledge of how many outstanding bonds or letters of credit a certificate holder or parent company currently has.*

*Ms. Fleming stated that is not data accessible to the Department. She added that these are standalone bonds. The Financial Assurance Evaluation is looking at the overall long term ability for a financial institution to meet their obligations as well as a two year forecast evaluation.*

**Council Member Devlin motioned the Council approve the recommended list of financial institutions in Attachment 1 to the staff report, for use by site certificate holders in obtaining**

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<sup>13</sup>Audio/Video for Agenda Item E = 01:29:33 – 2025-12-19-EFSC-Meeting-Audio/Video

**bonds and letters of credit and, the recommended templates for bonds and letters of credit in Attachments 2 & 3 to the staff report, as presented and recommended by staff.**

**Council Member Grail seconded the motion.**

**The motion was carried unanimously.**

**F. Habitat Mitigation Banking (Information Item)<sup>14</sup>** – Greg Jackle, ODFW’s Sage Grouse Mitigation Coordinator, Nathan Ayers, Terra West Consulting and Charles Clinger, CEO of Terra West Consulting. ODFW provided an update on their review of Mitigation Banks, Habitat Management Plans and Credit Validation. Terra West Consulting, an approved mitigation bank, provided an update on their experience developing and implementing habitat management plans, obtaining ODFW approval of mitigation credits and how applicants and certificate holder can learn more about mitigation banking as a mitigation option.

*Chair Howe questioned his understanding that mitigation land bank could be miles away from the location of an energy facility and its impacts.*

*Mr. Clinger provided that is correct, adding the proximity component depends on the type of mitigation. Essentially, an impact within a service area would be offset by the regional mitigation bank.*

*Council Member Beier requested information regarding ODFW’s policy and process for approving mitigation banks.*

*Mr. Jackle provided history of the process thus far with ODFW, noting several meetings with an interagency review team which includes local habitat biologists, fish and wildlife service, local Bureau of Land Management and Department of Land Conservation and Development staff.*

*Council Member Beier stated the mitigation banks seems to address one of the local approval issues, which is durability of the mitigation for the lifetime of the project.*

*Council Member Devlin questioned whether there were examples of mitigation where maintaining the geographic diversity a distance away (example of 20 miles) would not result in the same mitigation impact.*

*Mr. Jackel stated if an impact area is being built, it would be in a different location than the facility site. It should be placed somewhere that is not affecting the value of the mitigation*

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<sup>14</sup>Audio/Video for Agenda Item F = 01:40:39 – 2025-12-19-EFSC-Meeting-Audio/Video

site based on the location of the facility site. It is important to set the service areas appropriately to whatever species is being impacted.

Council Member Devlin noted one of the criticisms of mitigation for wetlands is the loss of biodiversity in natural wetlands and there are less efforts toward avoidance of impacts.

Mr. Jackel stated Terra West does not advocate for the mitigation rules or for the requirements. They respond to decisions made by elected officials. In reference to wetland mitigation, Terra West has not delved into the process for such, noting it requires development of a new wetland site.

Council Member Devlin noted he has seen many examples of unsuccessful mitigation plans due to lack of follow up.

Mr. Clinger stated there are a lot of lessons being learned. A lot of mitigation happened on the "other side of the fence" and the indirect loss was already being realized before actually putting things into motion or into action that would have created a benefit.

Secretary Cornett stated beginning in the 2000's there was mandatory offsite compensatory mitigation for wind facilities, to which there is a minimal amount of impact in terms of acreage. While the mitigation met requirements for in proximity of a project and size of the mitigation, durability of the plans was an issue. As mitigation plans evolve, the Department is seeing the mitigation plans in a broader scope. The bigger projects, solar projects and the larger amount of acreage with different types of inputs create a lot more issues with long term durability. There are different choices that need to be made or different options that need to occur in order to deal with those types of projects.

Council Member Beier stated mitigation banking has evolved quickly to begin addressing mitigation issues. She emphasized Council needs to start thinking about what that looks like and what satisfies this Council, what satisfies state agencies and what satisfies the business model. She stated mitigation banking is a private negotiation process that does not involve EFSC.

Vice Chair Condon noting the private negotiation process, questioned what are the long term risks for land mitigation by mitigation banking.

Mr. Jackel stated one of the biggest risks is wildfire.

Vice Chair Condon questioned the financial risk to the mitigation bank succeeding for 30 years as energy projects are long term.

*Mr. Clinger explained the mitigation bank's long term stewardship plan sets out a perpetual management plan with perpetual funding. There are contingencies built into the funding for any unknowns. Terra West has put together the best program that potentially exists today and its likelihood for success is far superior to what has been done to date.*

*Vice Chair Condon expressed her concern for the role of Council if mitigation issues arise if the mitigation bank is involved. She also stated her concern for the use of credits as they can be problematic if the amounts are not adjusted regularly for current financial concerns and inflation.*

*Mr. Clinger provided the program involves annual monitoring reporting verification, periodic reporting and the land trust conservation annual report as well as coordination with ODFW. Those reports are combined and submitted with an annual report, similar to Council's compliance report. As ODOE becomes involved with the mitigation banking, the Council will receive the same annual reports. There is an annual report being sent next month.*

*Secretary Cornett stated currently if there is a compensatory mitigation plan, there is a habitat mitigation plan that has to be done as the details get fleshed out later in the process, when more circumstances are known. There are annual reporting requirements, that are all built in and based upon ODFW's habitat categorization, which Council Standard's implement those habitat categories. This would be a different set of circumstances, but the same concepts would still be included.*

*Chair Howe noted his experience with mitigation has involved the wetland areas of Willamette Valley. This is a different concept than wetland improvements.*

**H. Election of officers (Action Item)<sup>15</sup>** – Todd Cornett, Assistant Director for Siting/Council Secretary, Consistent with OAR 345-011-0010(1), Council completed its obligation to annually elect a Chair and a Vice Chair.

**Council Member Devlin motioned the Council elect Cindy Condon to serve as Chair and elect Ann Beier to serve as Vice-Chair starting in January of 2026.**

**Council Member Grail seconded the motion.**

**The motion was carried unanimously.**

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<sup>15</sup>Audio/Video for Agenda Item H = 02:45:58 – 2025-12-19-EFSC-Meeting-Audio/Video

**G. Exemption Rulemaking – Notice of Proposed Rulemaking (Action Item)<sup>16</sup>** – Tom Jackman, Siting Policy Analyst & Rules Coordinator. Council considered staff’s recommendation to initiate the Exemption Rulemaking.

*Council Member Beier questioned whether the language in the rulemaking allows for the rule to be retroactive.*

*Secretary Cornett clarified retroactive language is not currently included in the rulemaking. Staff could create language that would be consistent with Council’s specific recommendations. He noted some of the exemptions go back 25 years and may have never been constructed.*

*Council Member Beier stated her desire for Council to start receiving the information regarding the status of current exemptions.*

*Secretary Cornett noted the request, stating it should not be a difficult task to seek input from those projects on a yearly basis.*

*Vice Chair Condon and Council Member Grail agreed.*

*Secretary Cornett, regarding Cogeneration power (CHP), stated these facilities by their definition are energy facilities that require a site certificate. Specific ones can receive an exemption as there is value in the exemption. It is an incentivization to have a high efficiency CHP that then is not losing all its heat. It is being utilized for some adjacent industrial use so that then it does not have to draw power from the grid.*

*Mr. Jackman provided the language in the legislative history for combined cycle plants clearly states that this exception is only for instances where the waste heat is being used as heat.*

*Council Member Devlin questioned whether there have been discussions regarding the relative emissions from plants as he believes there may be cogeneration plants where emissions might be more significant.*

*Mr. Jackman stated wherever CHP is being used, it is reducing emissions.*

*Council Member Devlin noted CHP have a long list of problems created by them, but hydroelectric systems are amongst the most efficient systems.*

*Secretary Cornett provided if a high efficiency cogeneration facility is given an exemption, then it is not subject to Council standards and review, therefore, it doesn't have to meet the*

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<sup>16</sup>Audio/Video for Agenda Item G = 02:53:51 – 2025-12-19-EFSC-Meeting-Audio/Video

*carbon standards. There would not be any kind of carbon offset. The project must meet all local land use and DEQ standards.*

*Vice Chair Condon confirmed her understanding that the energy must be used on site and not exported.*

*Mr. Jackman confirmed that was correct.*

*Chair Howe expressed his concern for the statutory language “shall ensure that the fuel chargeable to power heat rate value for facilities qualifying under the high efficiency code generation exemption remains significantly lower.” Significantly lower is discretionary. He suggested clearer language.*

*Mr. Jackman stated the language included is in effort to match with the original statute for the gap with the understanding that as a facility becomes increasingly efficient, it becomes harder to be lower.*

**Council Member Beier motioned the Council approve initiation of formal proceedings on the Exemption Rulemaking, with the scope and objectives recommended in the staff report; approve staff to file a notice of proposed rulemaking with the draft rules that are included in Attachment 1 to the staff report; and authorize staff to schedule a public hearing during the public.**

**Council Member Devlin seconded the motion.**

**The motion was carried unanimously.**

**The December 2025 meeting was adjourned at 12:29 p.m.**