

STATE OF ILLINOIS)
)SS
COUNTY OF LEE)

In the Matter of the Petition

of

Shady Oaks Wind 2, LLC

Lee County, Illinois

Testimony of Witnesses
Produced, Sworn and
Examined on this 17th day
of June, A.D., 2020,
before the Lee County
Zoning Board of Appeals

Present:

Craig Buhrow
Mike Pratt
Gene Bothe
Glen Hughes
Bruce Forster, Chairman

Alice Henkel, Secretary
Dee Duffy, Zoning Enforcement Officer

Honorable Judge Tim Slavin, Facilitator

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APPEARANCES:

LEE COUNTY STATE'S ATTORNEY CHARLES BOONSTRA
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Counsel for the County.

ATTORNEY COURTNEY KENNEDY
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Counsel for the Applicant.

1 JUDGE SLAVIN: Well, good evening, ladies
2 and gentlemen. Those of you joining us, tonight
3 is a continued session of Shady Oaks Wind 2,
4 LLC's, petition for 28 Special Use Permits,
5 Numbered 20 P 1552 in Ms. Duffy's zoning office.

6 When we left off the last session, the
7 Applicant and interested parties had finished
8 presenting evidence. Closing arguments, closing
9 statements, public comments were heard, and
10 tonight begins our -- the Board's factfinding
11 and recommendations session. At this stage, the
12 only participation is from the Lee County Zoning
13 Board of Appeals members.

14 Gentlemen, you are about to consider first
15 finding of facts, and thereafter recommendations
16 to the Lee County Board for Shady Oaks 2's
17 petition for Special Use Permits to construct a
18 wind energy conversion system in your county.

19 Your Board Rules provide that your meeting
20 will be governed by the Robert's Rules of Order.
21 These axioms have been in use for well over a
22 hundred years. While at first blush they may
23 seem to be some kind of unnecessarily rigid
24 measures that only get in the way, the reverse

1 is actually true. Correctly followed, these
2 guidelines ensure a fair and civilized forum for
3 all members' viewpoints to be addressed and
4 issues to be decided. They are in place to
5 provide a step-by-step formalized process by
6 which you, as a Board, can methodically go about
7 your business at hand. Accordingly, I hope
8 you'll agree that we should try to adhere to
9 them to the best of our collective abilities.

10 I want to highlight a few things. While
11 I'm present to assist you in the mechanical
12 operation of your decisionmaking and have given
13 you somewhat of a start by the way of suggested
14 areas to address, and the alternative, I hope
15 you understand that I cannot help you to make
16 any substantive decisions in any fashion. This
17 means that I am not permitted to direct your
18 attention to any issues or evidence that I
19 personally feel you might be overlooking or
20 misinterpreting. The substantive decisions you
21 make as the ZBA are yours alone to make.

22 From this point going forward -- I'll skip
23 that.

24 Hoping you understand all the reasons for

1 it, I will be politely assertive that there be
2 no general discussions on any substantive
3 matter, and that any debate be only on a pending
4 motion.

5 Please, when making a motion, state it in
6 exact words. This ensures that all the members,
7 that I, your secretary, and the public know
8 precisely what is brought to the floor. This is
9 extremely important. Doing so eliminates
10 confusion in the corrosion of your
11 decisionmaking.

12 If a motion is made and receives no
13 second, it becomes out of order and the floor is
14 again open for another motion. If a motion does
15 receive a second, it is the subject of debate.
16 The movement is bound by the Rules to a vote
17 affirmatively for this motion. The person
18 seconding a motion is not required to vote for
19 it.

20 After a motion has been made, I will take
21 the time to display it by screen-sharing, I
22 hope. It is then immediately a pending motion
23 and is ready for a second. If it receives a
24 second, it is, like I said, the subject of

1 debate.

2 If a member wishes to amend a pending
3 motion, he of course may do so. If that kind of
4 motion receives a second, it becomes the
5 immediately-pending motion for debate, and the
6 question becomes whether or not the main motion
7 should be amended or not.

8 There is such a thing as a motion to amend
9 a motion to amend; however, I strongly urge
10 avoiding the machinations of that complicated
11 process.

12 During debate, unless a motion is made to
13 extend or limit it, each member has two
14 five-minute opportunities for his remarks on the
15 motion. I will call on the movant for his
16 remarks first. Thereafter, if you wish to be
17 heard on the motion, please make yourself known
18 when I ask the Board generally if there are
19 members other than the movant that would further
20 comment on the pending motion.

21 However, the order I call on members will
22 not strictly be first-come, first-serve, as I
23 will try to alternate between members wishing to
24 speak.

1 Once either each member has used up the
2 limits of his debate time or I determine there
3 is no further debate to be had, I will put the
4 question for a vote. I will do so by verbally
5 announcing the pending motion. I will indicate
6 the manner of the vote and the number of members
7 needed to carry the motion.

8 Robert's Rules contain many other
9 procedure maxims. We will deal with any of
10 those more infrequent matters if they arise.
11 I'm sure we can move through this process in an
12 organized and efficient manner.

13 So the floor is open for motions. And I
14 have got to kind of turn my head around. The
15 floor is open for motions. If there are none,
16 we are going to close and there won't be any
17 factfinding, so.

18 MR. PRATT: So, question.

19 JUDGE SLAVIN: Yes.

20 MR. PRATT: Do you want all the exhibits
21 listed and entered as a --

22 JUDGE SLAVIN: I don't want anything. You
23 guys, it's up to you.

24 MR. PRATT: But isn't that already a

1 record?

2 JUDGE SLAVIN: Yeah, but the County Board
3 won't know that unless you put it in a
4 factfinding and recommendations so that they can
5 see it. Remember, this is a report to the
6 County Board.

7 MR. PRATT: Right, right.

8 So if I read all this in, how are you
9 going to record it then?

10 JUDGE SLAVIN: You watch. You watch.

11 MR. PRATT: You're not going to type it as
12 I speak.

13 JUDGE SLAVIN: You watch. All you have to
14 say is, I move -- it helps me, if you're going
15 to use some of my alternatives, to give me the
16 number so I can find it.

17 MR. PRATT: Well, somebody else, go ahead.

18 MR. HUGHES: You can take the procedural
19 stuff. I'll take the next procedural one, if
20 you want.

21 MR. PRATT: Judge, I would like to make a
22 motion.

23 JUDGE SLAVIN: Okay. Call my attention to
24 a number so I know.

1 MR. PRATT: Number 1.

2 JUDGE SLAVIN: Okay. Wait a minute. Wait
3 a minute. I'm sorry. That's my fault. That
4 was a technical mistake. Oh, my God, I have
5 goofed it up already.

6 MR. PRATT: Can I make a comment on that?

7 JUDGE SLAVIN: No.

8 Mike, I have -- wait a minute. Wait a
9 minute. Okay.

10 MR. BOTHE: Don't leave.

11 JUDGE SLAVIN: Don't leave, please don't
12 leave.

13 Where did the screen -- there. Okay.
14 It's down at the bottom. All the sudden it
15 moved.

16 All right. Do you gentlemen see that well
17 enough?

18 MR. HUGHES: It needs to be a little -- I
19 mean, barely. I can read it, but if it could be
20 a little bigger, it would help.

21 MR. McBRIDE: Down at the -- do you see
22 where it says a hundred percent?

23 JUDGE SLAVIN: Yeah. So go to 200, or
24 just go up the percentage right there?

1 MR. McBRIDE: Yeah.

2 JUDGE SLAVIN: What do you think, Glen?
3 150?

4 MR. HUGHES: I was going to say 120, 125
5 probably would be sufficient.

6 JUDGE SLAVIN: How about that?

7 MR. HUGHES: That's great.

8 JUDGE SLAVIN: Okay. Mr. Pratt, I'm
9 sorry, I interrupted you.

10 MR. PRATT: Judge, I would like to make a
11 motion to the Lee County Zoning Board of
12 Appeals, hereinafter ZBA or Zoning Board, finds
13 that on March 6th, 2020, Shady Oaks 2, LLC,
14 hereinafter the Petitioner, the Developer, Shady
15 Oaks 2, or Liberty Power, is a wholly-owned
16 subsidiary of Algonquin Power Company, doing
17 business as Liberty Power, filed a petition with
18 the Lee County Zoning Administration Office,
19 which was numbered 20-P-1552, requesting a
20 Special Use Permit to construct and operate a
21 wind energy conversion system, hereinafter WECS
22 or wind farm system, all on parcels of real
23 estate zoned AG-1 within Wyoming and Brooklyn
24 Townships.

1 Further, the ZBA finds that:

2 Number 1, it is being proposed that the
3 aforementioned Special Use Permit would be for
4 the following structures:

5 A, 28 wind turbine generators on 24
6 different parcels of real estate.

7 B, one electrical substation on one
8 parcel.

9 And, C, one temporary lay down or batch
10 plant on one parcel.

11 Number 2, following the submission of the
12 application, proper notice was published in the
13 Dixon Telegraph on May 12th, 2020, the Mendota
14 reporter on May 13th, 2020, the Chicago Road
15 Shopper on May 21, 2020 --

16 JUDGE SLAVIN: Oop, thank you.

17 MR. PRATT: That should be 2020.

18 JUDGE SLAVIN: Got it.

19 MR. PRATT: -- and in the Ogle County Life
20 during the week beginning May 21, 2020.

21 In addition, Zoning Officer Dee Duffy went
22 to extraordinary lengths to publish
23 continually-updated notices on her department's
24 pages of the Lee County website and post the

1 same throughout the area in which the proposed
2 development would be located.

3 Number 3, furthermore, certified mailings
4 of the notice were sent to property owners
5 inside and within one half mile of the project
6 boundary, completing the required notification.

7 Number 4, prior to the hearing, the Board,
8 under the authority provided by its own rules,
9 engaged the services of Tim Slavin, a retired
10 circuit judge, as the facilitator for the
11 proceedings.

12 Number 5, the first stage of the public
13 hearing regarding the petition for the Special
14 Use Permit was for your Lee County ZBA to accept
15 testimony, hear arguments, and receive public
16 comments.

17 Number 6, the evidentiary portion of the
18 hearing began on June 4th, 2020, and concluded
19 on June 10th, 2020, consisting of four total
20 sessions, all beginning at 7 p.m. and all heard
21 in the Committee Room attached to the former
22 main courtroom on the third floor of the Old Lee
23 County Courthouse. The totality of these
24 sessions of the first stage comprised, in total,

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1 of approximately six hours of hearing time.

2 6(a), during the hearing process, the
3 proceedings adhered to the existing State of
4 Illinois Guidelines for public gatherings.

5 Number 1, appropriate social distancing
6 was maintained.

7 Number 2, no more than ten people were
8 allowed to be in any space at any given time.

9 Number 3, the proceedings were broadcast
10 on YouTube, during which interested parties
11 could see and hear the proceedings take place in
12 realtime.

13 Number 4, interested parties were given
14 the opportunity to remotely and virtually
15 participate in the process.

16 5, videoconferencing on the Zoom platform
17 through the use of a computer, or by
18 teleconferencing on the Zoom platform through
19 the use of a phone, or by appearing at the Old
20 Lee County Courthouse in person, listening via
21 YouTube in the first floor lobby; and, for
22 questions, testimony, or public comments,
23 proceeding in a staggered queue to the third
24 floor podium set up in the hearing room.

1 Paragraph 7, over the course of the first
2 stage, everyone, the Petitioner, and members of
3 the public, hereinafter called interested
4 parties, were given a complete and fair
5 opportunity to be heard. Each was given a
6 chance to present evidence, including witnesses
7 and exhibits, cross-examine the witnesses of
8 others, and to present a closing argument or
9 statement, either orally or in writing.

10 Number 8, therefore, your ZBA considered
11 its findings of fact and recommendations over
12 the course of two sessions -- well, we don't
13 know -- June 17th and maybe later, covering a
14 little over three hours in total.

15 Number 9, the entirety of the proceedings
16 were taken by a certified shorthand reporter and
17 subsequently transcribed.

18 Number 10, we, the members of the Lee
19 County Zoning Board of Appeals, heard all of the
20 evidence produced and examined each of the
21 exhibits.

22 That's my motion.

23 JUDGE SLAVIN: Okay. Do I hear a second?

24 MR. HUGHES: I second.

1 JUDGE SLAVIN: Hearing a second, they --

2 COURT REPORTER: You didn't change the
3 date.

4 JUDGE SLAVIN: I have to change it later.
5 You can't apparently share the screen and make
6 corrections. Can't do it. I thought I could,
7 but I can't. I tried. The cursor goes there,
8 but nothing happens.

9 So the floor is open for debate.
10 Mr. Pratt, it's your motion. Any comments on
11 your motion?

12 MR. PRATT: I think it's pretty
13 self-explanatory.

14 JUDGE SLAVIN: Okay. Any other members
15 wishing to address the motion? I'm looking for
16 a hand raise or a grunt.

17 Mr. Buhrow?

18 MR. BUHROW: On Number 8, do we have to
19 leave that out until we're done, to get the
20 proper date and times?

21 JUDGE SLAVIN: Yeah, and I was going to
22 suggest to you, at the end you give the Chair
23 the authority to sign the factfinding and
24 recommendations, having filled in the correct

1 information. You can't tell, right, tonight.

2 MS. DUFFY: Is that the date we were
3 talking about?

4 COURT REPORTER: I was talking about
5 Number 2.

6 MS. DUFFY: Mendota Reporter?

7 COURT REPORTER: Yeah.

8 MS. DUFFY: All right.

9 JUDGE SLAVIN: Any other debate?

10 (No verbal response.)

11 JUDGE SLAVIN: Seeing none, I'm going to
12 put the question. Very often I -- most often I
13 read the entire motion, but I -- this is, I
14 assume, fairly noncontroversial. I'm not going
15 to read the motion, unless any member wants me
16 to do so.

17 So I will put the question. Passing the
18 motion requires a vote. The vote will be by
19 voice. It will take a majority to pass the
20 motion. Those in favor of the motion signify by
21 saying aye.

22 (All those simultaneously
23 responded.)

24 JUDGE SLAVIN: Those opposed by nay.

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(No verbal response.)

JUDGE SLAVIN: The motion is carried unanimously.

Okay. Floor is back open for debate. Mr. Hughes?

MR. HUGHES: I would like to make a motion.

JUDGE SLAVIN: Can you direct --

MR. HUGHES: Motion Number 2.

JUDGE SLAVIN: Okay.

MR. HUGHES: Regarding witnesses. The Lee County Zoning Board of Appeals finds that eight people took the witness stand, and two individuals were called to the stand twice over the hearing sessions. Those witnesses, in order of their appearance, with a very brief summary of what they had to say, include as follows:

1, Ms. Dee Duffy, Lee County Planning and Zoning Officer, testified as to the extraordinary efforts made by her and her staff to continually publish and post notices for this Zoning Board of Appeals hearing throughout its COVID-19 scheduling difficulties.

2, Ms. Laura (sic) McLeod of Liberty

1 Power, project manager of Shady Oaks, LLC,
2 testified to an overview of the proposed wind
3 energy development and her opinion as to the Lee
4 County benefits thereof.

5 3, Mr. Sean Fairfield of Liberty Power --
6 JUDGE SLAVIN: Steve.

7 MR. HUGHES: You've got Steve; it's
8 actually Sean.

9 JUDGE SLAVIN: All the sudden I can make
10 the corrections.

11 COURT REPORTER: Do you want to change
12 Laura to Lauren?

13 JUDGE SLAVIN: What?

14 COURT REPORTER: Isn't it Lauren?

15 MR. HUGHES: Yes, it was Lauren. Yes,
16 that should be Lauren.

17 JUDGE SLAVIN: Got it.

18 MR. HUGHES: Mr. Sean Fairfield of Liberty
19 Power testified during two different sessions
20 regarding structural specifics of the two
21 possible models of the WTGs within the proposed
22 wind energy development, his opinion of the
23 benefits of the project to the Lee County
24 community, Liberty Power's intended protocol to

1 handle shadow flicker complaints, and to the
2 hours of construction activity.

3 4, Mr. Mike MaRous of MaRous & Company was
4 offered by Petitioner, and he testified as to
5 his expert opinion regarding the effect of the
6 proposed development -- the proposed development
7 would have on property values in the area.

8 5, Mr. Chris Howell, project manager with
9 Burns & McDonnell, testified regarding the noise
10 modeling study of the proposed development and
11 his resulting opinions of the impacts on the 509
12 identified residence receptors.

13 6, Mr. Aaron Anderson, director of
14 renewable energy with Burns & McDonnell,
15 testified regarding the shadow flicker modeling
16 analysis of the proposed development and his
17 resulting opinion of the impact on the same 509
18 residence receptors.

19 7, Mr. Jeff Zirpoli, director of
20 ecological services with Shoener Environmental,
21 testified as to any possible environmental
22 consequences to natural resources of the
23 proposed development and the conservation
24 measures the developer intends to use to address

1 any issues.

2 8, Ms. Karen McInnis, who, living in
3 Compton, Illinois, and, at its nearest point,
4 2.6 miles from the footprint boundary of the
5 proposed development, described experiences from
6 previous WECS developments in her area wherein a
7 rotor blade flicker crossed a roadway on which
8 she was driving and a concurrent repower startup
9 and a brownout occurred in the family business
10 shop. She also noted that Mr. MaRous's matched
11 pair analysis did not include any Compton
12 residential sales, and she testified that there
13 were 139 WTGs within five miles of Compton.

14 That's my motion.

15 JUDGE SLAVIN: Thank you. Do I hear a
16 second?

17 MR. BUHROW: Second.

18 JUDGE SLAVIN: Hearing a second, the floor
19 is open for debate.

20 Mr. Hughes, it's your motion. You have
21 the first opportunity to make any comments
22 regarding it.

23 MR. HUGHES: No additional comments.

24 JUDGE SLAVIN: Any other Board member wish

1 to address this motion?

2 MS. DUFFY: Can I make a clarification?

3 JUDGE SLAVIN: Yes.

4 MS. DUFFY: Number 2, project manager of
5 Shady Oaks, could we put a "2" behind that? I
6 don't know if she's the project manager for --

7 JUDGE SLAVIN: Do you take that friendly
8 amendment, Mr. Hughes?

9 MR. HUGHES: Absolutely.

10 JUDGE SLAVIN: And I forget how to make
11 the corrections on the screen. I don't know if
12 they are going to save, but I can show them.

13 Any other member wishing to debate this
14 motion?

15 (No verbal response.)

16 JUDGE SLAVIN: All right. Hearing none, I
17 will put the question. This is another motion
18 that I don't feel I should have to repeat. It's
19 probably pretty noncontroversial.

20 To adopt the motion requires a majority of
21 those voting. The vote will be by voice. All
22 those in favor signify by saying aye.

23 (All those simultaneously
24 responded.)

1 JUDGE SLAVIN: All those opposed by nay.

2 (No verbal response.)

3 JUDGE SLAVIN: The motion is carried.

4 Give me just a minute. I'm going to try
5 something. I don't know if I can -- yeah, it
6 saves. Okay. Let me do one more thing so I can
7 keep up now.

8 All right. The floor is again open for
9 motions.

10 MR. BUHROW: Mr. Chair.

11 JUDGE SLAVIN: Mr. Buhrow.

12 MR. BUHROW: I move that on Number 3,
13 Exhibits, the Lee County Zoning Board of Appeals
14 finds that the following exhibits were admitted
15 into evidence by the Facilitator and considered
16 by the Board:

17 Number 1, Petitioner's Exhibits.

18 A, Petitioner's Exhibit Number 1A, a group
19 of letters of support from local trade unions.

20 B, Petitioner Number 2 -- P Number 2, a
21 group of letters of support from local
22 organizations.

23 1C, P Number 3, a group of photos of
24 scenes from the -- photos of scenes from the

1 Village of Paw Paw.

2 1D, Petitioner Number 4, a certified copy
3 of a resolution of the Paw Paw Village Board
4 granting the proposed development's encroachment
5 into its jurisdictional 1.5 mile radius and
6 authorization to enter into a Community Benefit
7 Agreement.

8 E, P Number 5, a compilation of hard
9 copies of the PowerPoint presentations used as
10 demonstrative evidence for the testimony of
11 various witnesses.

12 F, P Number 6, a three-ring binder
13 containing Liberty Power's petition and a
14 compendium of supporting documents.

15 Number 2, Interested Parties' Exhibits.

16 A, Interested Party Number 1, a group
17 exhibit submitted by Karen McInnis detailing the
18 height growth of local WECS WTGs over time.

19 B, IP Number 2, a demonstrative site
20 schematic of a 2003 Mendota Hills WTG as
21 compared to the proposed Shady Oaks 2 Vestas
22 model submitted by Karen McGinnis.

23 C, IP Number 3, a schematic demonstrating
24 the growth of four local developments' WTGs over

1 time.

2 2D, IP Number 4, letter from Jack Beranek.

3 2E, IP Number 5, a journal article from
4 www.frontiersin.org submitted by Jack Beranek.

5 That's the motion, Judge.

6 JUDGE SLAVIN: Thank you. Do I hear a
7 second?

8 MR. FORSTER: Second.

9 JUDGE SLAVIN: Debate on the motion.
10 Mr. Buhrow, any comments you want to make?

11 MR. BOTHE: No.

12 JUDGE SLAVIN: Okay. Any other Board
13 member want to comment on the pending motion?

14 (No verbal response.)

15 JUDGE SLAVIN: Seeing no indication to do
16 so, I will put the question. The question
17 being -- well, I won't read this one either.
18 It's got to be fairly noncontroversial. You
19 gentlemen can all see it on the board, the
20 public can see it.

21 So I will put the question. To adopt this
22 motion requires a vote by the majority. The
23 vote will be by voice. All those in favor
24 indicate by saying aye.

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(All those simultaneously
responded.)

JUDGE SLAVIN: All those opposed by nay.

(No verbal response.)

JUDGE SLAVIN: The motion is unanimously
adopted.

The only reason there's different colors
up there is so I can find the things I have to
address.

Okay. The floor is again open.

MR. PRATT: Judge.

JUDGE SLAVIN: Yes, sir, Mr. Pratt.

MR. PRATT: I'd like to make a motion.

JUDGE SLAVIN: Call my attention to --
unless it's your own motion.

MR. PRATT: Let's do Number 4.

JUDGE SLAVIN: Number 4, okay.

MR. PRATT: Closing Statements. The Lee
County Zoning Board of Appeals finds that
following the close of the testimonial phase,
the Board heard or read what could be
characterized as closing arguments or public
comment from the following:

Number 1, Ms. Courtney Kennedy, attorney

1 for Petitioner, who advanced all the reasons
2 shown during the hearing as to why the Lee
3 County ZBA should recommend to the Lee County
4 Board that Shady Oaks 2, LLC's, petition should
5 be approved and Special Use Permits be issued.

6 Number 2, Ms. Karen McInnis, an interested
7 party, opined reasons why the Lee County ZBA
8 should recommend to the Lee County Board not to
9 grant Shady Oaks 2, LLC's, petition.

10 Number 3, Mr. Jack Beranek, an interested
11 party, submitted a letter, supplemented by a
12 journal article from www.frontiersin.org,
13 regarding his reasons why the Lee County ZBA
14 should not recommend approval of the petition to
15 the Lee County Board.

16 JUDGE SLAVIN: That's your motion?

17 MR. PRATT: That's my motion.

18 JUDGE SLAVIN: Do I hear a second?

19 MR. BUHROW: Second.

20 JUDGE SLAVIN: Hearing a second, debate on
21 the motion.

22 Mr. Pratt, it's your motion. Anything you
23 want to comment about it?

24 MR. PRATT: No.

1 JUDGE SLAVIN: Any other board member?

2 (No verbal response.)

3 JUDGE SLAVIN: Seeing no indication, I
4 will put the question. And again, it's one of
5 those I'm not going to bore everybody with
6 reading. You can see it on the board.

7 Adoption of the motion requires a vote by
8 the majority. The vote will be by voice. All
9 those in favor indicate by saying aye.

10 (All those simultaneously
11 responded.)

12 JUDGE SLAVIN: All those opposed by nay.

13 (No verbal response.)

14 JUDGE SLAVIN: The motion is unanimously
15 adopted.

16 Yes, sir, Mr. Hughes, I think.

17 MR. HUGHES: Mr. Facilitator, relative to
18 Conformity.

19 JUDGE SLAVIN: Is that number --

20 MR. HUGHES: 5.

21 JUDGE SLAVIN: 5, okay. Thank you.

22 MR. HUGHES: The Lee County Zoning Board
23 of Appeals finds that in Shady Oaks 2, LLC's,
24 petition for a Special Use Permit, the

1 Petitioner has stated that it will be bound by
2 any and all proposals and representations in its
3 petition and made under oath at the public
4 hearing before the Lee County ZBA.

5 JUDGE SLAVIN: That's your motion?

6 MR. HUGHES: Yes, that's my motion.

7 JUDGE SLAVIN: And a second, do I hear a
8 second?

9 MR. PRATT: Second.

10 JUDGE SLAVIN: Debate on the motion. It's
11 your motion, Mr. Hughes. Anything you want to
12 supplement?

13 MR. HUGHES: Nothing, Your Honor.

14 JUDGE SLAVIN: Debate from other Board
15 members? Raise your hands and indicate to me
16 you have something to say.

17 Seeing none, I will put the question. The
18 question being put is whether the Lee County
19 Zoning Board of Appeals finds that in Shady Oaks
20 2, LLC's, petition for Special Use Permit, the
21 Petitioner has stated that it will be bound by
22 any and all proposals and representations in its
23 petition and made under oath at the public
24 hearing before the Lee County ZBA.

1 Adoption of the motion requires a vote by
2 the majority. The vote will be by voice. All
3 those in favor indicate by saying aye.

4 (All those simultaneously
5 responded.)

6 JUDGE SLAVIN: All those opposed by nay.

7 (No verbal response.)

8 JUDGE SLAVIN: Hearing none, once again we
9 have a unanimous adoption of the motion.

10 The floor is again open.

11 MR. BUHROW: Mr. Chairman, Number 6.

12 JUDGE SLAVIN: Mr. Buhrow, you may.

13 MR. BUHROW: The Lee County ZBA finds that
14 the Petitioner is in compliance with the current
15 Lee County Zoning Ordinance 10-15-15, Section C,
16 for wind energy systems because it:

17 1, shows the property lines of the
18 proposed site of construction, Section C.1.

19 2, shows the proposed location of the
20 WECS, Section -- in parentheses, Section C.2.

21 3, shows the location and description of
22 all structures located on the property where the
23 WECS site is proposed, Section C.3.

24 Under that 3, Number 1, including that it

1 will utilize up to 12 of the Siemens Gamesa 114,
2 2.625 MW WTG model and up to 16 of the Vestas
3 150, 5.6 MW WTG model in this WECS development.

4 4, shows the location of all aboveground
5 utility lines within a radius equal to two times
6 the height of the proposed WECS, Section C.4.

7 5, shows the location of all underground
8 utility lines on the property, Section C.5.

9 Contains dimensional representation of the
10 structure components of the tower construction,
11 including the base and footings. That's a typo
12 there. Missing an S. Base. Section C.6.

13 7, contains a schematic of the electrical
14 systems associated with the WECS, including all
15 existing and proposed electrical connections,
16 Section C.7.

17 Number 8, contains manufacturer's
18 specifications and installation and operation
19 instructions or specific WECS design
20 information. Section C.8.

21 And 9, contains a certification by a
22 registered professional engineer that the tower
23 design is sufficient to withstand wind load
24 requirements for structures as defined by BOCA,

1 B-O-C-A, Section 9.

2 Judge, that's the motion.

3 JUDGE SLAVIN: Okay. Do I hear a second?

4 MR. PRATT: Second.

5 JUDGE SLAVIN: I heard a second.

6 The floor is open for debate on the
7 motion. And it's yours, Mr. Buhrow, so you may
8 go first.

9 MR. BUHROW: The only question -- Number
10 9.

11 JUDGE SLAVIN: Well, it's your motion, but
12 go ahead.

13 MR. BUHROW: Yeah, I didn't look this up,
14 but I -- anybody else remember, as far as
15 engineer's specs on 9, does that have to be done
16 by building permit time or is that actually
17 included in the presentation?

18 JUDGE SLAVIN: Okay. Any other Board
19 member, comment?

20 MR. HUGHES: Yes, I remember the
21 testimony. That was to be provided before the
22 start of construction.

23 MR. BUHROW: That's what I was thinking,
24 that we didn't have it yet.

1 JUDGE SLAVIN: So do you want to --

2 MR. BUHROW: Leave Number 9 out then, or
3 change the wording.

4 JUDGE SLAVIN: I have got a second to the
5 motion. On the other hand, it's your motion.
6 All right. I'm going to remove Number 9 if --
7 and with that removed, Mr. Buhrow, do you want
8 to make a new motion that excludes Number 9?

9 MR. BUHROW: Could we alter Number 9?

10 JUDGE SLAVIN: Oh, boy.

11 COURT REPORTER: Push "undo."

12 JUDGE SLAVIN: Push un-what?

13 COURT REPORTER: Go up to "file" and just
14 push "undo."

15 JUDGE SLAVIN: Oh, I know that, but then
16 it's going to go back to the last time I --

17 COURT REPORTER: It will just undo the
18 last thing you did.

19 JUDGE SLAVIN: Oh, it will just do the
20 last thing I did?

21 COURT REPORTER: Okay. Do it again.

22 JUDGE SLAVIN: Hey, learned something.
23 Thanks.

24 Yes, Mr. Buhrow. We're going to start

1 again. You make a motion.

2 MR. BUHROW: Well --

3 JUDGE SLAVIN: I am removing that motion
4 from the floor, and you may make another motion
5 now.

6 MR. BUHROW: For Number 9?

7 JUDGE SLAVIN: I'm going to have you start
8 again.

9 MR. BUHROW: On Number 9 only?

10 JUDGE SLAVIN: Nope. From the top.

11 MR. BUHROW: So I have to read everything?

12 JUDGE SLAVIN: Yup.

13 MR. BUHROW: You're not going to have too
14 many volunteers tonight.

15 I was trying to reword Number 9 to make it
16 work. All right. We'll leave out Number 9 for
17 now.

18 MR. HUGHES: Excuse me. Since Ms. Duffy
19 is nearby, can we get a clarification on that?
20 Because, as I remember --

21 JUDGE SLAVIN: Sure.

22 MR. HUGHES: -- as I remember the
23 testimony, we didn't have the specs yet but --

24 JUDGE SLAVIN: You can't ask Dee about the

1 testimony, but you can ask her about some
2 procedure.

3 MR. HUGHES: That's what I was going to --
4 do we have those -- the wind load requirement
5 information?

6 JUDGE SLAVIN: All right. We're going to
7 take a break. Let's everybody take a break and
8 let's all reconnoiter here. Let's take a break
9 for five minutes.

10 (A recess was taken at 7:40 p.m.
11 and proceedings resumed at
12 7:51 p.m.)

13 JUDGE SLAVIN: The floor is open. You
14 have withdrawn your previous motion; is that
15 right, Mr. Buhrow?

16 MR. BUHROW: Okay.

17 JUDGE SLAVIN: Is that right?

18 MR. BUHROW: Yes.

19 JUDGE SLAVIN: Okay. The floor is open
20 for motions.

21 MR. BUHROW: Can I move again?

22 JUDGE SLAVIN: Yes, you certainly may.

23 MR. BUHROW: I move on Number 6, the Lee
24 County ZBA finds that the Petitioner is in

1 compliance with the current Lee County Zoning
2 Ordinance 10-15-15, Section C, for wind energy
3 systems because it:

4 1, shows the property lines of the
5 proposed site of construction, Section C.1.

6 2, shows the proposed location of the
7 WECS, Section -- in parentheses, Section C.2.

8 3, shows the location and description of
9 all structures located on the property where the
10 WECS site is proposed, Section C.3.

11 Under that 3, Number 1, including that it
12 will utilize up to 12 of the Siemens Gamesa 114,
13 2.625 MW WTG model and up to 16 of the Vestas
14 150, 5.6 MW WTG model in this WECS development.

15 4, shows the location of all aboveground
16 utility lines within a radius equal to two times
17 the height of the proposed WECS, Section C.4.

18 5, shows the location of all underground
19 utility lines on the property, Section C.5.

20 Contains dimensional representation of the
21 structure components of the tower construction,
22 including the base and footings, Section C.6.

23 7, contains a schematic of the electrical
24 systems associated with the WECS, including all

1 existing and proposed electrical connections,
2 Section C.7.

3 Number 8, contains manufacturer's
4 specifications and installation and operation
5 instructions or specific WECS design
6 information. Section C.8.

7 Number 9, does not contain a certification
8 by a registered professional engineer that the
9 tower design is sufficient to withstand wind
10 load requirements for structures as defined by
11 BOCA, Section 9.

12 That concludes the motion.

13 JUDGE SLAVIN: Do I hear a second to the
14 entirety of the new motion?

15 MR. BOTHE: Second.

16 JUDGE SLAVIN: Mr. Bothe -- I hear a
17 second.

18 All right. Debate on the motion. Back to
19 where we started. Sorry. Your motion,
20 Mr. Buhrow. Any other comments you want to make
21 about it?

22 MR. BUHROW: No, sir.

23 JUDGE SLAVIN: Any other Board member?

24 MR. HUGHES: Yes.

1 JUDGE SLAVIN: Sure.

2 MR. HUGHES: While I believe that we need
3 to keep Item 9 in there as it's stated,
4 identifying the fact that the application does
5 not contain the registered professional
6 engineer's certification, I believe that, based
7 on that, we ought to possibly amend the heading
8 or the beginning of that motion to allow for
9 that to make notice of that exception.

10 JUDGE SLAVIN: Okay. Are you making a
11 motion to amend?

12 MR. HUGHES: Yes.

13 JUDGE SLAVIN: Okay. Your motion is to
14 amend how? You don't have to read the whole
15 thing, just the line or paragraph.

16 MR. HUGHES: I think it would be the
17 opening -- it would be the opening line, and I
18 think it's easier if I read the whole thing.

19 The Lee County ZBA finds that the petition
20 is in compliance with the current Lee County
21 Zoning Ordinance 10-15-15, Section C, for wind
22 energy systems excepting -- or except for
23 Application Requirement Number 9, which is yet
24 to be addressed.

1 JUDGE SLAVIN: May I make a friendly
2 suggestion?

3 MR. HUGHES: Please.

4 JUDGE SLAVIN: Lee County ZBA finds, with
5 the exception of Paragraph 9 below.

6 MR. HUGHES: Yup, that's fine. That's
7 where I originally wanted to put it. I couldn't
8 get the wording. It was easier to put the
9 wording at the end. Thank you.

10 JUDGE SLAVIN: Excuse me while I -- while
11 you watch me perform my version of word
12 processing.

13 All right. Mr. Hughes, it's your motion.
14 Does that look like how you want it to read?

15 MR. HUGHES: Yes, sir.

16 JUDGE SLAVIN: Okay. Do I hear a second?

17 MR. BOTHE: Second.

18 JUDGE SLAVIN: Mr. Bothe seconds.

19 Other -- now, remember, this is on the
20 motion to amend. It's not on the main motion
21 yet. It's just whether the motion --
22 Mr. Buhrow's motion should be amended to add
23 essentially the clause now in the first
24 sentence.

1 Debate on that only?

2 (No verbal response.)

3 JUDGE SLAVIN: Hearing none, I will put
4 the question. The question being put is whether
5 the main motion, Mr. Buhrow's motion, should be
6 amended to read, the only difference in
7 paragraph 1, that the Lee County ZBA finds that,
8 with the exception of Paragraph Number 9
9 following, the petition is in compliance with
10 the current Lee County Zoning Ordinance
11 10-15-15, Section C, for wind energy systems
12 because it.

13 All in favor of that motion to amend
14 signify by -- excuse me. The vote to adopt the
15 motion requires a vote by the majority. The
16 vote will be by voice. All those in favor of
17 amending the motion as proposed, signify by
18 saying aye.

19 (All those simultaneously
20 responded.)

21 JUDGE SLAVIN: All those opposed, nay.

22 (No verbal response.)

23 JUDGE SLAVIN: All right. The motion is
24 amended.

1 That brings back to the floor the main
2 motion, Mr. Buhrow's motion, and I will go
3 around the horn again.

4 Mr. Buhrow, anything you want to add to
5 your motion?

6 MR. BUHROW: No.

7 JUDGE SLAVIN: Okay. Any other member
8 wanting to debate it?

9 (No verbal response.)

10 JUDGE SLAVIN: This is why we follow
11 Robert's Rules I guess a little more strictly.

12 All right. I am going to put the
13 question. The question being put is whether the
14 Lee County ZBA finds that, with the exception of
15 Paragraph Number 9 following, the petition is in
16 compliance with the current Lee County Zoning
17 Ordinance 10-15-15, Section C, for wind energy
18 systems because it:

19 Shows the property lines of the proposed
20 site of construction, Section C.1.

21 Shows the proposed location of the WECS,
22 Section C.2.

23 Shows the location and description of all
24 structures located on the property where the

1 WECS site is proposed, Section C.3.

2 Subsection I, including that it will
3 utilize up to 12 of the Siemens Gamesa 114,
4 2.625 megawatt WTG models and up to 16 of the
5 Vestas 150, 5.6 megawatt WTG model in this WECS
6 development.

7 4, shows the location of all aboveground
8 utility lines within a radius equal to two times
9 the height of the proposed WECS.

10 Section C.4, shows the location of all
11 underground utility lines on the property.

12 Section C.5, contains a dimensional
13 representation of the structure components of
14 the tower construction, including the base and
15 footings.

16 Section C.6, contains a schematic of
17 electrical systems associated with WECS,
18 including all existing and proposed electrical
19 connections.

20 Section C.7, contains manufacturer's
21 specifications and installation and operation
22 instructions or specific WECS design
23 information.

24 Section C.8, does not contain a

1 certification by a registered professional
2 engineer that the tower design is sufficient to
3 withstand wind load requirements for structures
4 as defined by BOCA, Section C.9.

5 Adoption of the motion requires a vote by
6 the majority. The vote will be by voice. All
7 those in favor indicate by saying aye.

8 (All those simultaneously
9 responded.)

10 JUDGE SLAVIN: All those opposed by nay.

11 (No verbal response.)

12 JUDGE SLAVIN: The motion is now carried.

13 And let me clean up my mess again,
14 otherwise I will forget that it's there.

15 Okay. Thank you for the patience, and
16 we're on to the floor being open for the next
17 motion.

18 MR. PRATT: Your Honor.

19 JUDGE SLAVIN: Yes, sir, Mr. Pratt.

20 MR. PRATT: Number 7 on your list.

21 JUDGE SLAVIN: Got it.

22 MR. PRATT: The Lee County ZBA finds that
23 the petition is in compliance with the current
24 Lee County Zoning Ordinance 10-15-15, Section D,

1 for wind energy systems because the blade
2 clearance of either WTG model contemplated for
3 use in the development will be more than 15 feet
4 from the ground.

5 That's my motion.

6 JUDGE SLAVIN: Okay. Do I hear a second?

7 MR. BOTHE: Second.

8 JUDGE SLAVIN: Hearing a second, debate on
9 the motion. Your motion, Mr. Pratt.

10 MR. PRATT: No comment.

11 JUDGE SLAVIN: Okay. Any other Board
12 member wish to debate the motion?

13 (No verbal response.)

14 JUDGE SLAVIN: Seeing no indication of a
15 desire to do so, I will put the question. The
16 question being put is whether the Lee County ZBA
17 finds that the petition is in compliance with
18 the current Lee County Zoning Ordinance
19 10-15-15, Section D, for wind energy systems
20 because the blade clearance of either WTG model
21 contemplated for use and development will be
22 more than 15 feet from the ground.

23 Adoption of this motion requires a vote by
24 the majority. The vote will be by voice. All

1 those in favor indicate by saying aye.

2 (All those simultaneously
3 responded.)

4 JUDGE SLAVIN: All those opposed by nay.
5 (No verbal response.)

6 JUDGE SLAVIN: The motion is unanimously
7 adopted.

8 Okay. Floor is again open.

9 MR. HUGHES: Mr. Facilitator.

10 JUDGE SLAVIN: Yes, Mr. Hughes.

11 MR. HUGHES: Number 8. The Lee County ZBA
12 finds that the petition is in compliance with
13 the current Lee County Zoning Ordinance
14 10-15-15, Section E, for wind energy systems
15 because the Petitioner has promised that the WTG
16 tower access will be controlled by a 6-foot
17 fence, anti-climbing devices, and a shock hazard
18 sign with the required verbiage.

19 That is my motion.

20 JUDGE SLAVIN: Do I hear a second?

21 MR. PRATT: Second.

22 JUDGE SLAVIN: Hearing a second, the floor
23 is open for debate.

24

1 Your motion, Mr. Hughes.

2 MR. HUGHES: No further.

3 JUDGE SLAVIN: Any other Board member,
4 comment or question?

5 (No verbal response.)

6 JUDGE SLAVIN: Seeing no indication of a
7 desire to do so, I will put the question. The
8 question being put is whether the Lee County ZBA
9 finds that the petition is in compliance with
10 the current Lee County Zoning Ordinance
11 10-15-15, Section E, for wind energy systems
12 because the Petitioner has promised that WTG
13 tower access will be controlled by a 6-foot
14 fence, anti-climbing devices, and a shock hazard
15 sign with the required verbiage.

16 Passage of this motion requires a vote by
17 the majority. The vote will be by voice. All
18 those in favor indicate by saying aye.

19 (All those simultaneously
20 responded.)

21 JUDGE SLAVIN: All those opposed by nay.

22 (No verbal response.)

23 JUDGE SLAVIN: The motion is adopted.

24 Okay. Floor is again open.

1 MR. HUGHES: I would like to make Motion
2 Number 9; however, I need to clarification for
3 part of this regarding Section H. We are
4 addressing the height or the setbacks on the
5 installation. I believe that we also, under
6 Section H, but I am not positive, include the
7 setbacks from public buildings, as well as
8 residential platted subdivisions. So I'm
9 going -- I just want to clarify whether it's in
10 that section or --

11 JUDGE SLAVIN: I think now is a good time
12 for a break. I think that's a good question of
13 your fine State's Attorney. It's also a perfect
14 time for a break. Let's take until 20 after --
15 well, by that clock. That's fine, yeah.

16 (A recess was taken at 8:08 a.m.
17 and proceedings resumed at
18 8:20 a.m.)

19 JUDGE SLAVIN: Let's pick it up again.
20 Alice, you got us back?

21 MS. HENKEL: Yup.

22 JUDGE SLAVIN: Mr. Hughes, as far as I'm
23 concerned, you have the floor.

24 MR. HUGHES: Thank you.

1 Number 9, the Lee County ZBA finds that
2 the petition is in compliance with the current
3 Lee County Zoning Ordinance 10-15-15, Section H,
4 for wind energy systems:

5 1, because there would be no WECS
6 structure in the proposed development
7 constructed in a dedicated easement, or roadway,
8 or within any Ordinance setback unless such
9 setback requirement has been waived by the
10 property owner.

11 2, because there is no proposed
12 installation of a WTG within 350 feet of any
13 property line, unless such property line --
14 property owner has waived that 350-foot buffer,
15 and there is no proposed WTG within 350 feet
16 of --

17 JUDGE SLAVIN: Got it.

18 MR. HUGHES: -- of a dedicated roadway,
19 railroad right-of-way, or right-of-way for
20 overhead electrical transmission or distribution
21 lines.

22 That would be my motion.

23 JUDGE SLAVIN: All right. Do I hear a
24 second?

1 MR. BUHROW: Second.

2 JUDGE SLAVIN: Hearing a second, the floor
3 is open for debate. Mr. Hughes, it's your
4 motion.

5 MR. HUGHES: No further comment.

6 JUDGE SLAVIN: Okay. Any other Board
7 member wishing to address the motion?

8 (No verbal response.)

9 JUDGE SLAVIN: Seeing none, I will put the
10 question. The question being put is whether the
11 Lee County ZBA finds that the petition is in
12 compliance with the current Lee County Zoning
13 Ordinance 10-15-15, Section H for wind energy
14 systems:

15 1, because there would be no WECS
16 structure in the proposed development
17 constructed in a dedicated easement or roadway
18 or within any Ordinance setback, unless such
19 setback requirement has been waived by the
20 property owner, Section H.1.

21 Because there is no proposed installation
22 of a WTG within 350 feet of any property line,
23 unless such property owner has waived that
24 350-foot buffer, and there is no proposed WTG

1 within 350 feet of any dedicated roadway,
2 railroad right-of-way, or right-of-way, for
3 overhead transmission or distribution lines.

4 Adoption of the question requires a vote
5 by the majority. The vote will be by voice.
6 All those in favor indicate by saying aye.

7 (All those simultaneously
8 responded.)

9 JUDGE SLAVIN: All those opposed by nay.

10 (No verbal response.)

11 JUDGE SLAVIN: The motion is unanimously
12 adopted.

13 All right. The floor is once again open.

14 MR. BUHROW: Mr. Chairman.

15 JUDGE SLAVIN: Mr. Buhrow.

16 MR. BUHROW: I move that Number 10, the
17 Lee County ZBA finds that the petition is in
18 compliance with the current Lee County Zoning
19 Ordinance 10-15-15, Section 1 --

20 JUDGE SLAVIN: I think that's an I.

21 MR. BUHROW: -- I, for wind energy
22 systems, because pre-construction modeling sound
23 study results are that no residences in the area
24 of the proposed WECS development will receive an

1 exceedance of the Illinois Pollution Control
2 Board's noise standards.

3 That's the motion.

4 JUDGE SLAVIN: Do I hear a second?

5 MR. HUGHES: Second.

6 JUDGE SLAVIN: Hearing a second, the floor
7 is open for debate.

8 Your motion, Mr. Buhrow. Anything you
9 want to say about it?

10 MR. BUHROW: No, thank you.

11 JUDGE SLAVIN: Any other Board member?

12 (No verbal response.)

13 JUDGE SLAVIN: Seeing no hands raised or
14 any other sounds, I will put the question. The
15 question being put is whether the Lee County ZBA
16 finds that the petition is in compliance with
17 the current Lee County Zoning Ordinance
18 10-15-15, Section I, for wind energy systems
19 because pre-construction modeling sound study
20 results are that no residences in the area of
21 the proposed WECS development will receive an
22 exceedance of the Illinois Pollution Control
23 Board's noise standards.

24 Adoption of the motion requires a

1 majority. The vote will be by voice. All those
2 in favor indicate by saying aye.

3 (All those simultaneously
4 responded.)

5 JUDGE SLAVIN: All those opposed by nay.

6 (No verbal response.)

7 JUDGE SLAVIN: All right. I open the
8 floor.

9 MR. PRATT: Your Honor.

10 JUDGE SLAVIN: Yes, sir, Mr. Pratt.

11 MR. PRATT: Number 11, the Lee County ZBA
12 finds that should a residence receive an IPCB
13 exceedance, the Petitioner did propose an
14 appropriate complaint resolution or mitigation
15 plan.

16 That's my motion.

17 JUDGE SLAVIN: Do I hear a second?

18 MR. BOTHE: Second.

19 JUDGE SLAVIN: Hearing a second, the floor
20 is open for debate.

21 Mr. Pratt, you get the first crack at your
22 own motion.

23 MR. PRATT: No comment.

24 JUDGE SLAVIN: Any other Board member?

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(No verbal response.)

JUDGE SLAVIN: Seeing no indication to make a comment, I put the question. The question being put is whether the Lee County ZBA finds that should a residence receive an IPCB exceedance, the Petitioner did propose an appropriate complaint resolution or mitigation plan.

Adoption of the motion requires a vote by the majority. The vote will be by voice. All those in favor indicate by saying aye.

(All those simultaneously responded.)

JUDGE SLAVIN: Opposed by nay.

(No verbal response.)

JUDGE SLAVIN: The motion is adopted.

Okay. The floor is open.

MR. HUGHES: Number 12.

JUDGE SLAVIN: Is that still -- it's still big enough to see, isn't it?

MR. HUGHES: Yup.

JUDGE SLAVIN: Okay.

MR. HUGHES: The Lee County ZBA finds that the petition is in compliance with the current

1 Lee County Zoning Ordinance 10-15-15, Section J,
2 for wind energy systems because during
3 construction and operation the Petitioner has
4 indicated that it will comply with IDOT's
5 provision of the Illinois Administrative Code
6 section regarding aviation safety.

7 That is the motion.

8 JUDGE SLAVIN: Do I hear a second?

9 MR. BUHROW: Second.

10 JUDGE SLAVIN: Hearing a second, the floor
11 is open for debate.

12 Mr. Hughes, anything you want to
13 supplement to your motion?

14 MR. HUGHES: No additional comment.

15 JUDGE SLAVIN: Any other Board member wish
16 to address the motion?

17 (No verbal response.)

18 JUDGE SLAVIN: Seeing no indication of
19 willingness or want to do so, I'll put the
20 question. The question being put is whether the
21 Lee County ZBA finds that the petition is in
22 compliance with the current Lee County Zoning
23 Ordinance 10-15-15, Section J, for wind energy
24 systems because during construction and

1 operation the Petitioner's -- the Petitioner,
2 excuse me, has indicated that it will comply
3 with IDOT's provisions of the Illinois
4 Administrative Code section regarding aviation
5 safety.

6 Adoption of the motion requires a vote by
7 the majority. The vote will be by voice. All
8 those in favor indicate by saying aye.

9 (All those simultaneously
10 responded.)

11 JUDGE SLAVIN: Opposed by nay.

12 (No verbal response.)

13 JUDGE SLAVIN: Another motion adopted
14 unanimously.

15 Trying to think of new ways to say this.
16 So, back at it, gentlemen.

17 MR. PRATT: Your Honor.

18 JUDGE SLAVIN: Yes, sir.

19 MR. PRATT: Let's look at your Number 13.
20 The Lee County ZBA finds that the petition is in
21 compliance with the current Lee County Zoning
22 Ordinance 10-15-15, Section K, for wind energy
23 systems because the petition indicates that all
24 electrical wires and lines will be located

1 underground.

2 JUDGE SLAVIN: Okay. Do I hear a second?

3 MR. BUHROW: Second.

4 JUDGE SLAVIN: Hearing a second, the floor
5 is open for debate.

6 Anything you want to address on your own
7 motion, Mr. Pratt?

8 MR. PRATT: No.

9 JUDGE SLAVIN: Any other Board member
10 wanting to address, raise your hand or make a
11 noise.

12 (No verbal response.)

13 JUDGE SLAVIN: Seeing or hearing none, I
14 will put the question. The question being put
15 is whether the Lee County ZBA finds that the
16 petition is in compliance with the current Lee
17 County Zoning Ordinance 10-15-15, Section K, for
18 wind energy systems because the petition
19 indicates that all electrical wires and lines
20 will be located underground.

21 All those in -- excuse me. Adoption of
22 the motion requires a vote by the majority. The
23 vote will be by voice. All those in favor
24 indicate by saying aye.

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(All those simultaneously
responded.)

JUDGE SLAVIN: Opposed.

(No verbal response.)

JUDGE SLAVIN: Hearing none, the motion is
indeed adopted.

Okay. Gentlemen, the floor is all yours.

MR. BUHROW: Mr. Facilitator.

JUDGE SLAVIN: Yes, Mr. Buhrow.

MR. BUHROW: Number 14, the Lee County ZBA
finds that the petition is in compliance with
the current Lee County Zoning Ordinance
10-15-15, Section I -- L -- L, for wind energy
systems because:

Number 1, the Petitioner has indicated
that either of the proposed WTGs are designed
with an automatic overspeed control to render
the system inoperable when winds are blowing in
excess of the speeds for which the machine is
designed, Section L.1.

Number 2, the Petitioner has indicated
that either of the proposed WTGs have a
manually-operable method to render the system
inoperable in the event of a structural or

1 mechanical failure of any part of the system,
2 including the overspeed control. Section L.2.

3 Number 3, the Petitioner has indicated
4 that either of the proposed WTGs are designed
5 with an automatic control to render the system
6 inoperable in case of a loss of utility power to
7 prevent the WECS from supplying power to a
8 de-energized electrical distribution system.
9 Section L.3.

10 That concludes the motion.

11 JUDGE SLAVIN: Do I hear a second?

12 MR. HUGHES: Second.

13 JUDGE SLAVIN: Having heard a second, the
14 floor is up for debate.

15 Mr. Buhrow, you get the first whack at
16 your motion.

17 MR. BUHROW: Nothing, sir.

18 JUDGE SLAVIN: Any other Board member?

19 (No verbal response.)

20 JUDGE SLAVIN: Seeing none, I will put the
21 question. The question being put is whether the
22 Lee County ZBA finds that the petition is in
23 compliance with the current Lee County Zoning
24 Ordinance 10-15-15, Section L, for wind energy

1 systems because:

2 Number 1, the Petitioner has indicated
3 that either of the proposed WTGs are designed
4 with an automatic overspeed control to render
5 the system inoperable when winds are blowing in
6 excess of the speeds for which the machine is
7 designed, Section L.1.

8 Number 2, the Petitioner has indicated
9 that either of the proposed WTGs have a
10 manually-operable method to render the system
11 inoperable in the event of a structural or
12 mechanical failure of any part of the system,
13 including the overspeed control. Section L.2.

14 Number 3, the Petitioner has indicated
15 that either of the proposed WTGs are designed
16 with an automatic control to render the system
17 inoperable in case of a loss of utility power to
18 prevent the WECS from supplying power to a
19 de-energized electrical distribution system.
20 Section L.3.

21 Adoption of this motion requires a vote by
22 the majority. The vote will be by voice. All
23 those in favor indicate by saying aye.

24 (All those simultaneously

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responded.)

JUDGE SLAVIN: Opposed by nay.

(No verbal response.)

JUDGE SLAVIN: Motion is adopted
unanimously.

Moving on.

MR. HUGHES: Let's go with Number 15.
Character of the Land. The Lee County ZBA finds
that the character of the land within the
footprint of the proposed Shady Oaks 2
development is predominately agricultural.

JUDGE SLAVIN: I can't spell it.

MR. HUGHES: There you go.

JUDGE SLAVIN: Get rid of the bold. I
don't know why that occurred, but it did.

Okay. Mr. Hughes, I have been fooling
around enough. Does that look like your
motion --

MR. HUGHES: Yes, sir.

JUDGE SLAVIN: -- now?

Okay. Do I hear a second?

MR. BUHROW: Second.

JUDGE SLAVIN: Hearing a second, the floor
is open for debate on the motion.

1 Your motion, Mr. Hughes.

2 MR. HUGHES: No further question.

3 JUDGE SLAVIN: Any other Board member?

4 (No verbal response.)

5 JUDGE SLAVIN: Seeing none, the -- I'll
6 put the question. The question being put is
7 whether the Lee County ZBA finds that the
8 character of the land within the footprint of
9 the proposed Shady Oaks 2 development is
10 predominately agricultural.

11 Do you mind if I put -- will you accept a
12 friendly "LLC," too, Mr. Hughes?

13 MR. HUGHES: That's fine.

14 JUDGE SLAVIN: Adoption of the motion
15 requires a vote by the majority. The vote will
16 be by voice. All those in favor indicate by
17 saying aye.

18 (All those simultaneously
19 responded.)

20 JUDGE SLAVIN: All those opposed by nay.

21 (No verbal response.)

22 JUDGE SLAVIN: The motion is adopted
23 unanimously.

24 Sorry about that, gentlemen.

1 Back to you.

2 MR. PRATT: Your Honor, Number 16. The
3 character of the land is predominately
4 agricultural --

5 JUDGE SLAVIN: If I can spell it right
6 this time.

7 MR. HUGHES: You're going to make it.

8 MR. PRATT: -- but the Petitioner did not
9 provide an executed version of the statutorily-
10 required Agricultural Impact Mitigation
11 Agreement to the Lee County ZBA.

12 JUDGE SLAVIN: Okay. As soon as I finish
13 cleaning up the formatting, you tell me if
14 that -- oops -- tell me if that reflects your --

15 MR. PRATT: That's my motion.

16 JUDGE SLAVIN: Does that look right?

17 MR. PRATT: Yup.

18 JUDGE SLAVIN: Do I hear a second?

19 MR. BUHROW: Second.

20 JUDGE SLAVIN: Hearing a second, the floor
21 is open for debate.

22 Mr. Pratt, you may comment on your own
23 motion.

24 MR. PRATT: No comment.

1 JUDGE SLAVIN: Any other Board member want
2 to address this motion?

3 (No verbal response.)

4 JUDGE SLAVIN: Seeing none, I will put the
5 question. The question being put is whether --
6 I'm going to have to ask you to accept this.

7 MR. PRATT: It should say, "The Lee County
8 Board finds."

9 JUDGE SLAVIN: You can tell when I did one
10 late at night, can't you?

11 MR. PRATT: I'm not sure that's how you
12 spell character either. Is that right?

13 MR. HUGHES: Yeah, it is.

14 JUDGE SLAVIN: Yeah, that's right.

15 But after my last performance, you are
16 free to. . .

17 All right. I asked Mr. Pratt if he had
18 any comment on his own motion. Did any other
19 Board member have a comment now that it's
20 cleaned up?

21 (No verbal response.)

22 JUDGE SLAVIN: All right. Hearing none, I
23 will put the question. The question being put
24 is whether the Lee County ZBA finds the

1 character of the land is predominately
2 agricultural, but the Petitioner did not provide
3 an executed version of a stat- -- of the
4 statutorily-required Agricultural Impact
5 Mitigation Agreement to the Lee County ZBA.

6 Adoption of this motion requires a vote by
7 the majority. The vote will be by voice. All
8 those in favor indicate by saying aye.

9 (All those simultaneously
10 responded.)

11 JUDGE SLAVIN: All those opposed.

12 (No verbal response.)

13 JUDGE SLAVIN: Hearing none, the motion is
14 unanimously adopted.

15 Okay. Moving on up.

16 MR. BUHROW: Mr. Chairman.

17 JUDGE SLAVIN: Mr. Buhrow, come on down.

18 MR. BUHROW: Number 17, I move the
19 Construction Activity Section, the Lee County
20 ZBA finds that the Petitioner has promised that:
21 Number 1, construction of its WECS
22 development will begin within 36 months of the
23 Special Use Permit approval by the Lee County
24 Board.

1 Number 2, no construction activity will
2 begin before 6 a.m. or continue after 9 p.m. on
3 any day of the week within one-quarter mile of
4 any nonparticipating landowner's residence
5 without a waiver.

6 Number 3, no blasting will occur without
7 notification to any property owner within 1500
8 feet of such a blasting site.

9 That concludes the motion.

10 JUDGE SLAVIN: Okay. Thank you.

11 Do I hear a second?

12 MR. BOTHE: Second.

13 JUDGE SLAVIN: Hearing a second, I will
14 open the floor for debate.

15 Mr. Buhrow, your motion. Anything you
16 want to say about it?

17 MR. BUHROW: Nothing, sir.

18 JUDGE SLAVIN: Okay. Any other Board
19 member want to address the motion? Mr. Pratt?

20 MR. PRATT: I would like to suggest that
21 it read, the Lee County ZBA finds that the
22 Petitioner has agreed that, 1, 2, 3, instead of
23 "promised."

24 JUDGE SLAVIN: Is that a motion?

1 MR. PRATT: I make that motion.

2 JUDGE SLAVIN: Okay. Mr. Pratt is making
3 the motion that the word promised be replaced by
4 agreed.

5 Do I hear a second to that motion?

6 MR. BOTHE: Second.

7 JUDGE SLAVIN: Hearing a second, any
8 comment you want to make on your motion to
9 amend, Mr. Pratt?

10 MR. PRATT: Just that they have agreed to
11 do that. It's more binding than a promise.

12 JUDGE SLAVIN: Any other Board member?

13 (No verbal response.)

14 JUDGE SLAVIN: Hearing none, I'm going to
15 put the question. The question being put is
16 whether the main motion, the motion pending on
17 the floor, will be amended to replace the word
18 promised with the word -- promised with the word
19 agreed.

20 Passage of the motion requires a vote by
21 the majority. The vote will be by voice. All
22 those in favor indicate by saying aye.

23 (All those simultaneously
24 responded.)

1 JUDGE SLAVIN: All those opposed, nay.

2 (No verbal response.)

3 JUDGE SLAVIN: Motion carries. The main
4 motion is now amended to the word agreed.

5 All right. We're back to the main motion.
6 Now that it's been amended, Mr. Buhrow, it was
7 your motion. Any comment you want to make on it
8 as it now is proposed?

9 MR. BUHROW: None.

10 JUDGE SLAVIN: Any other Board member?

11 MR. HUGHES: Yes.

12 JUDGE SLAVIN: Mr. Hughes.

13 MR. HUGHES: Actually, I have got a couple
14 of comments on it, and I'm not sure that I'm
15 ready to make a motion on it yet, but I just
16 want to put those comments.

17 JUDGE SLAVIN: That's what the floor is
18 for.

19 MR. HUGHES: The first item is not, at
20 this point, I guess, an agreed point because
21 they're asking for a waiver of the current
22 criteria, which is 12 months, and until we
23 decide whether or not that we're going to agree
24 to that waiver, I'm not sure that the first line

1 of that, although they have indicated it, is --
2 I don't believe that, since it's being requested
3 to waive, is appropriate in there.

4 And the other thing is, in the third line,
5 it's also stated in the application that any
6 property owner within 15- -- any property owner,
7 officials of the township in which blasting is
8 to occur, and Lee County Zoning Administrator
9 would be notified. So I think we -- from my
10 standpoint, I would want to expand on Number 3
11 and eliminate Number 1.

12 JUDGE SLAVIN: You make a motion and I'll
13 try and --

14 MR. HUGHES: Before I make the motion, I
15 just wanted to get any additional feedback.

16 JUDGE SLAVIN: Yeah, fair enough.

17 Any other Board members, he's asking for
18 further debate.

19 MR. PRATT: I -- Judge.

20 JUDGE SLAVIN: You don't -- yup.

21 MR. PRATT: I have no problem with the
22 changes you're talking about. The Number 1
23 could be completely eliminated. The statement
24 about the construction --

1 JUDGE SLAVIN: Well, now, think about
2 that. When you get to recommendations, you may
3 want to talk about a recommendation, whether
4 you're going to.

5 MR. HUGHES: Yes.

6 MR. PRATT: Sure.

7 JUDGE SLAVIN: But is it not true that
8 that's what they have said in their petition?
9 And you want to ignore that?

10 MR. HUGHES: Actually, if you go by their
11 petition, they're going to start sooner than
12 that. So -- and they're asking for waiver of
13 the current conditions. They haven't --

14 JUDGE SLAVIN: Okay.

15 MR. HUGHES: I think we need to address
16 that --

17 JUDGE SLAVIN: Separately.

18 MR. HUGHES: -- as a later condition.

19 JUDGE SLAVIN: Okay.

20 MR. HUGHES: So I would --

21 JUDGE SLAVIN: You make a motion.

22 MR. HUGHES: I would make a motion to
23 eliminate Item 1.

24 JUDGE SLAVIN: Wait a minute.

1 MR. PRATT: Well -- go ahead, you make a
2 motion.

3 JUDGE SLAVIN: Let's not interrupt. He's
4 making a motion.

5 MR. PRATT: Yeah.

6 JUDGE SLAVIN: Okay. So I'll get rid of
7 that, right?

8 MR. HUGHES: Yes.

9 And I would expand what is now Number 2 to
10 state that no blasting will occur without
11 notification to any property owner, officials of
12 the township in which the blasting is to
13 occur --

14 JUDGE SLAVIN: Wait a minute. Any
15 property owner within 1500 feet.

16 MR. HUGHES: Property owner, comma,
17 officials in which -- the township in which the
18 blasting is to occur.

19 JUDGE SLAVIN: Then it will read,
20 "township officials within 1500 feet." I'm just
21 putting a -- make sure there's no confusion. So
22 township --

23 MR. HUGHES: Okay. I see what -- okay.
24 Yes, fine.

1 JUDGE SLAVIN: It actually modified --

2 MR. HUGHES: Yup, I understand.

3 JUDGE SLAVIN: Oops, that's just a typo.

4 I can spell officials -- of the township in
5 which the blasting is planned to -- is that what
6 you said?

7 MR. HUGHES: I said, "is to occur," yeah.
8 I don't know if you need the "planned" in there.
9 And Lee County Zoning Administrator.

10 JUDGE SLAVIN: Take a look at that.

11 MR. HUGHES: You have got "and" between
12 Zoning and -- it should be Lee County Zoning
13 Administrator.

14 JUDGE SLAVIN: No, I think she's actually
15 the --

16 MR. HUGHES: Okay.

17 JUDGE SLAVIN: -- Lee County Zoning and
18 Planning Administrator. I think that's what she
19 is.

20 MR. HUGHES: All right. That's fine.

21 JUDGE SLAVIN: Can I just mention, if you
22 were somebody that's going to blast, what
23 township official -- what are you going to do,
24 notify all of them? Is that what they said in

1 their petition?

2 MR. HUGHES: Yeah.

3 JUDGE SLAVIN: Okay. Fair enough.

4 I have got a motion to amend by -- well,
5 to reflect what's on the board, and that is, the
6 Lee County ZBA finds that the Petitioner has
7 agreed that no construction at this time will
8 begin before 6 a.m. or continue after 9 p.m. on
9 any day of the week within one-quarter mile of
10 any nonparticipating landowner's residence
11 without a waiver.

12 And no blasting will occur without
13 notification to any property owner within 1500
14 feet, township officials of the township in
15 which the blasting is planned to occur, and the
16 Lee County Zoning and Planning Administrator of
17 such blasting site.

18 Do I hear a second?

19 MR. PRATT: Second.

20 JUDGE SLAVIN: I have heard a second.
21 Now, the motion is to amend the main motion. So
22 the -- any debate on -- Mr. Hughes made comments
23 about it, but any further comment you want to
24 make?

1 MR. HUGHES: No, thank you.

2 JUDGE SLAVIN: Any other Board member,
3 comment on the motion to amend?

4 (No verbal response.)

5 JUDGE SLAVIN: All right. Seeing or
6 hearing none, I will put the question. The
7 question being put is whether the main motion
8 should be amended to read: The Lee County ZBA
9 finds that the Petitioner has agreed that no
10 construction activity will begin before 6 a.m.
11 or continue after 9 p.m. on any day of the week
12 within one-quarter mile of any nonparticipating
13 landowner's residence without a waiver.

14 2, no blasting will occur without
15 notification to any property owner within 1500
16 feet, township officials of the township in
17 which the blasting is planned to occur, and the
18 Lee County Zoning and Planning Administrator of
19 such blasting site.

20 Adoption of the motion to amend is by
21 majority vote. The vote will be by voice. All
22 those in favor indicate by saying aye.

23 (All those simultaneously
24 responded.)

1 JUDGE SLAVIN: All those opposed by nay.

2 (No verbal response.)

3 JUDGE SLAVIN: Motion carries.

4 Back to the main motion. Who's was that,
5 Mr. Pratt? Yeah, it was you who made the --

6 MR. HUGHES: Mr. Buhrow.

7 JUDGE SLAVIN: Mr. Buhrow, any other
8 comment?

9 MR. BUHROW: No.

10 JUDGE SLAVIN: Any other Board member wish
11 to address the motion as it's now amended?

12 (No verbal response.)

13 JUDGE SLAVIN: Seeing no indication of
14 wanting to do so, I will put the question. The
15 question being put is actually what I just read,
16 but I want to do it again.

17 The Construction Activity. The Lee County
18 ZBA finds that the Petitioner has agreed that no
19 construction at this time will begin before
20 6 a.m. or continue after 9 p.m. on any day of
21 the week within one-quarter mile of any
22 nonparticipating landowner's residence without a
23 waiver.

24 2, no blasting will occur without

1 notification to any property owner within 1500
2 feet, township officials of the township in
3 which the blasting is planned to occur, and the
4 Lee County Zoning and Planning Administrator of
5 such blasting site.

6 Adoption of the motion requires a vote by
7 the majority. The vote will be by voice. All
8 those in favor indicate by saying aye.

9 (All those simultaneously
10 responded.)

11 JUDGE SLAVIN: All those opposed by nay.

12 (No verbal response.)

13 JUDGE SLAVIN: Hearing none, the motion is
14 adopted unanimously.

15 Next.

16 MR. PRATT: Your Honor.

17 JUDGE SLAVIN: Yes, sir.

18 MR. PRATT: Let's look at Number 18.

19 JUDGE SLAVIN: Okay.

20 MR. PRATT: Aesthetics. The Lee County
21 ZBA finds that the Petitioner has agreed in its
22 petition that:

23 Number 1, lighting on structures within
24 the proposed development will be minimized while

1 complying with existing applicable rules and
2 regulations.

3 Number 2, WTGs will be painted white,
4 gray, or another unobtrusive color.

5 Number 3, no advertising will be allowed
6 on any of the development's structures.

7 JUDGE SLAVIN: Motion.

8 MR. PRATT: That's my motion.

9 JUDGE SLAVIN: Second, do I hear a second?

10 MR. HUGHES: Second.

11 JUDGE SLAVIN: Hearing a second, debate.

12 Mr. Pratt, anything on your own motion?

13 MR. PRATT: No.

14 JUDGE SLAVIN: Any other Board member?

15 (No verbal response.)

16 JUDGE SLAVIN: Seeing none, I will put the
17 question. The question being put is whether the
18 Lee County ZBA finds that the Petitioner has
19 agreed in its petition that, lighting on
20 structures within the proposed development will
21 be minimized, while complying with existing
22 applicable rules and regulations.

23 WTGs will be painted white, gray, or
24 another unobtrusive color.

1 3, no advertising will be allowed on any
2 of the development's structures.

3 Adoption of the motion requires a vote by
4 the majority. The vote will be by voice. All
5 those in favor indicate by saying aye.

6 (All those simultaneously
7 responded.)

8 JUDGE SLAVIN: All those opposed by nay.

9 (No verbal response.)

10 JUDGE SLAVIN: Motion is adopted.

11 Back to you.

12 MR. HUGHES: Number 19. The Lee County
13 ZBA finds that the shadow flicker modeling study
14 performed by the approved expert, Burns &
15 McDonnell, reliably showed that there were 509
16 receptors that could possibly be affected by the
17 WTGs within the development. A conservative
18 approach model concluded that, of the
19 aforementioned 509 possible receptors, 458 would
20 receive no annual shadow flicker; 31 would
21 receive 1 to 9 hours of shadow flicker; 15 would
22 receive between 10 and 29 hours of shadow
23 flicker --

24 JUDGE SLAVIN: You keep saying -- are you

1 skipping the word annually? Do you want me to
2 remove that?

3 MR. HUGHES: I'm sorry. Yes, for some
4 reason --

5 JUDGE SLAVIN: It's okay.

6 MR. HUGHES: Yes. Why I skipped it, I
7 have no idea.

8 And, 4, five would receive 30 hours or
9 more of shadow flicker annually.

10 JUDGE SLAVIN: Okay. Does that look like
11 it?

12 MR. HUGHES: Yes, sir.

13 JUDGE SLAVIN: Do I hear a second?

14 MR. BOTHE: Second.

15 JUDGE SLAVIN: Hearing a second, comments
16 on your own motion, Mr. Hughes?

17 MR. HUGHES: No comment.

18 JUDGE SLAVIN: Any other Board member?

19 MR. PRATT: Your Honor.

20 JUDGE SLAVIN: Mr. Pratt.

21 MR. PRATT: He states reliably showed. I
22 would like to make a motion that we change that
23 wording to "has shown" instead of "reliably
24 showed."

1 JUDGE SLAVIN: Okay. That's a motion to
2 amend?

3 MR. PRATT: Yes. Has shown.

4 JUDGE SLAVIN: Like that?

5 MR. PRATT: Yup.

6 JUDGE SLAVIN: Okay. That's a motion. Do
7 I hear a second?

8 MR. BOTHE: Second.

9 JUDGE SLAVIN: Okay. Hearing a second,
10 debate on the motion. Mr. Pratt?

11 MR. PRATT: I don't know if we need to
12 make an opinion between reliably or just shown.
13 So that's the reason I changed that.

14 JUDGE SLAVIN: Okay. Any other comment
15 from any other Board member?

16 (No verbal response.)

17 JUDGE SLAVIN: Seeing or hearing none --
18 seeing and hearing none, I will put the
19 question. And, of course, this is on the motion
20 to amend. Whether or not the Lee County ZBA
21 finds that the shadow flicker modeling study
22 performed by the approved expert, Burns &
23 McDonnell, has shown that there were 509
24 receptors that could possibly be affected by

1 WTGs within the development. A conservative
2 approach model concluded that, of the
3 aforementioned 509 possible receptors, 458 would
4 receive no annual shadow flicker; 31 would
5 receive between 1 and 9 hours of annual shadow
6 flicker; 15 would receive between 10 and 20
7 hours of annual shadow flicker; and five would
8 receive 30 hours or more of annual shadow
9 flicker.

10 Adoption of the motion to amend requires a
11 vote by the majority. The vote will be by
12 voice. All those in favor indicate by saying
13 aye.

14 (All those simultaneously
15 responded.)

16 JUDGE SLAVIN: All those opposed by nay.

17 (No verbal response.)

18 JUDGE SLAVIN: All right. The main motion
19 is back on the floor as I just read it.

20 I forgot who made the motion. Mr. Pratt?

21 MR. PRATT: No.

22 JUDGE SLAVIN: Oh, Mr. Hughes -- no, you
23 made the motion to amend. Mr. Pratt made the
24 main motion.

1 MR. PRATT: No, you have them backwards.
2 I made the motion to amend. Mr. Hughes made the
3 main motion.

4 JUDGE SLAVIN: Okay. That's right, you
5 did. I'm sorry.

6 Mr. Hughes, comment about your motion?

7 MR. HUGHES: No for the comment.

8 JUDGE SLAVIN: Okay. Any other Board
9 member?

10 (No verbal response.)

11 JUDGE SLAVIN: Hearing none, I will put
12 the question. The question being put is whether
13 the Lee County ZBA finds that the shadow flicker
14 modeling study performed by the approved expert,
15 Burns & McDonnell, has shown that there were 509
16 receptors that could possibly be affected by
17 WTGs within the development. A conservative
18 approach model concluded that, of the
19 aforementioned 509 possible receptors, 508 would
20 receive no annual shadow flicker; 31 would
21 receive between 1 and 9 hours of annual shadow
22 flicker; 15 would receive between 10 and 29
23 hours of annual shadow flicker; and five would
24 receive 30 hours or more of annual shadow

1 flicker.

2 Adoption of the motion requires a vote by
3 the majority. The vote will be by voice. All
4 those in favor indicate by saying aye.

5 (All those simultaneously
6 responded.)

7 JUDGE SLAVIN: Those opposed by nay.

8 (No verbal response.)

9 JUDGE SLAVIN: Motion is adopted. And, of
10 course, the other correction I have got to make,
11 is no part of the motion, was the footnote. So
12 I will take that out.

13 Okay. The floor is open again.

14 MR. BUHROW: Judge.

15 JUDGE SLAVIN: Yes, sir.

16 MR. BUHROW: Number 20, I move that the
17 Lee County ZBA finds that the Petitioner has
18 proposed an appropriate remedial shadow flicker
19 mediation plan for:

20 Number 1, residences which will appear to
21 receive between 10 and 29 hours of annual shadow
22 flicker.

23 2, by shutting off offending WTGs during
24 the times that a residence would appear to

1 receive 30 hours or more of shadow flicker.

2 JUDGE SLAVIN: Okay. Do I hear a second?

3 MR. HUGHES: Second.

4 JUDGE SLAVIN: Hearing a second, floor is
5 open for debate. Your motion, Mr. Buhrow.

6 MR. BUHROW: Nothing, sir.

7 JUDGE SLAVIN: Any other Board member,
8 comments about the motion?

9 (No verbal response.)

10 JUDGE SLAVIN: Hearing none, I will --
11 hearing no indication of wanting to do so, I
12 will put the question. The question being put
13 is whether the Lee County ZBA finds that the
14 Petitioner has proposed an appropriate remedial
15 shadow flicker mediation plan for:

16 Residences which will appear to receive
17 between 10 and 29 hours of annual shadow
18 flicker.

19 By shutting down offending WTGs during the
20 times that a residence would appear to receive
21 30 hours or more of shadow flicker.

22 Adoption of the motion requires a vote by
23 the majority. The vote will be by voice. All
24 those in favor indicate by saying aye.

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(All those simultaneously
responded.)

JUDGE SLAVIN: All those opposed by nay.

(No verbal response.)

JUDGE SLAVIN: Motion is adopted.

Okay. Gentlemen, the ball is in your
court.

MR. PRATT: Your Honor, Number 21. Make a
motion that the Lee County ZBA finds that the
Petitioner has committed to being covered by a
liability insurance policy which the ZBA finds
to be sufficient.

That's the motion.

JUDGE SLAVIN: All right. Since there
were a couple choices there, I'll ask you if
that looks correct first?

MR. PRATT: Yup.

JUDGE SLAVIN: Okay. Second?

MR. HUGHES: Second.

JUDGE SLAVIN: Hearing a second, your
motion, Mr. Pratt. Anything you want to talk
about?

MR. PRATT: No.

JUDGE SLAVIN: Okay. Any Board member

1 have a question or comment?

2 (No verbal response.)

3 JUDGE SLAVIN: Hearing or seeing none, I
4 will put the question. The question being put
5 is whether the Lee County ZBA finds that the
6 Petitioner has committed to being covered by a
7 liability insurance policy which the ZBA finds
8 to be sufficient.

9 Passage of the motion requires a vote by
10 the majority. The vote would be by voice. All
11 those in favor indicate by saying aye.

12 (All those simultaneously
13 responded.)

14 JUDGE SLAVIN: All those opposed by nay.

15 (No verbal response.)

16 JUDGE SLAVIN: The motion is adopted
17 unanimately.

18 Okay. "Okay" means next up.

19 MR. HUGHES: All right. Then we'll move
20 on to 22, Indemnity. The Lee County ZBA finds
21 that the Petitioner has specifically indicated
22 in its petition that it will defend, indemnify,
23 and hold Lee County and its officials harmless
24 from and against claims and expenses, including

1 attorney's fees, arising out of the acts or
2 omissions of Shady Oaks 2, LLC's, operation of
3 this WECS development.

4 JUDGE SLAVIN: Okay. I will ask for a
5 second.

6 MR. PRATT: Second.

7 JUDGE SLAVIN: Hearing a second,
8 Mr. Hughes, any comment you want to make on your
9 own motion?

10 MR. HUGHES: No further comment.

11 JUDGE SLAVIN: Anybody else want to
12 address the motion?

13 (No verbal response.)

14 JUDGE SLAVIN: Seeing no indication to do
15 so, I will put the question. The question being
16 put is whether the Lee County ZBA finds that the
17 Petitioner has specifically indicated in its
18 petition that it will defend, indemnify, and
19 hold Lee County and its officials harmless from
20 and against claims and expenses, including
21 attorney's fees, arising out of the acts or
22 omissions of Shady Oaks 2, LLC's, operation of
23 this WECS development.

24 Adoption of the motion requires a vote by

1 majority. The vote will be by voice. All those
2 in favor indicate by saying aye.

3 (All those simultaneously
4 responded.)

5 JUDGE SLAVIN: All those opposed by nay.

6 (No verbal response.)

7 JUDGE SLAVIN: It is once again unanimous.
8 Back at 'cha, gentlemen.

9 MR. BUHROW: Judge, Number 23,
10 Decommissioning. I move that Lee County ZBA
11 finds that the Petitioner has represented that
12 each real estate lease on which a project
13 structure is located contains a decommissioning
14 clause, but the ZBA was not made privy to any
15 such clause.

16 JUDGE SLAVIN: Do I hear a second?

17 MR. BOTHE: Second.

18 JUDGE SLAVIN: Hearing a second,
19 Mr. Buhrow, do you want to address -- want to
20 make any comment about your own motion?

21 MR. BUHROW: Nothing.

22 JUDGE SLAVIN: Any other Board member?

23 MR. PRATT: Your Honor.

24 JUDGE SLAVIN: Yes, sir.

1 MR. PRATT: Craig, are you sure that they
2 said that?

3 MR. BUHROW: Well, I'm looking for it.

4 MR. HUGHES: Yes, as I remember. Because
5 it was a question.

6 MR. PRATT: Just a clarification.

7 MR. HUGHES: I believe that was in Sean's
8 testimony.

9 MR. PRATT: I don't have my notes on it.
10 I don't think it's in the petition.

11 MR. BUHROW: I was thinking after I read
12 it that I didn't hear it.

13 MR. HUGHES: Yeah, that's what I was
14 thinking, that it was in Sean's testimony,
15 because somebody had asked the question about
16 the decommissioning clause, and he said he
17 didn't have it available but that it was in the
18 leases. I'm sure that that was the comment.

19 MS. DUFFY: 41.

20 JUDGE SLAVIN: I think she's giving you a
21 page number.

22 MR. HUGHES: Yup, each wind turbine lease
23 signed to host wind turbines includes
24 decommissioning clause.

1 MR. PRATT: That's all I needed.

2 JUDGE SLAVIN: That's what debate is all
3 about.

4 Any other questions or comments?

5 (No verbal response.)

6 JUDGE SLAVIN: Seeing none, I will put the
7 question. The question being put is whether the
8 Lee County ZBA finds that the Petitioner has
9 represented that each real estate lease on which
10 is a project structure is located contains a
11 decommissioning clause, but the ZBA was not made
12 privy to any such clause.

13 Adoption of the motion requires a vote by
14 the majority. The vote will be by voice. All
15 those in favor indicate by saying aye.

16 (All those simultaneously
17 responded.)

18 JUDGE SLAVIN: Opposed by nay.

19 (No verbal response.)

20 JUDGE SLAVIN: The ball is in your court,
21 gentlemen. Runner is on base.

22 MR. PRATT: Your Honor.

23 JUDGE SLAVIN: Yes, sir.

24 MR. PRATT: Let's do Number 24,

1 Communications. The Lee County ZBA finds that
2 in its petition, the developer's expert, an
3 approved expert, Comsearch, has appropriately
4 analyzed the proposed development's effects on
5 various communication services. Its conclusions
6 are as follows:

7 Number 1, mobile phone carriers. There
8 would be no harmful effect.

9 Number 2, land mobile and emergency
10 services. There is no expected effect. That
11 was A.

12 B, if there is an effect, the Petitioner
13 has promised it would address the same in a
14 commercially-reasonable manner.

15 Number 3, communication towers, no effect,
16 as the nearest WTG to such a tower is 1.5
17 kilometers.

18 Number 4, AM or FM radio stations. There
19 would be no impact.

20 Number 5, television, if there is any
21 communication interference, it is reasonable to
22 conclude that Comsearch's analysis suggests
23 television signals would be the most likely
24 communication service to be compromised.

1 Regarding the same, A, cable and direct
2 satellite protocols would not be impacted.

3 B, off-air TV stations within 150 miles of
4 the project are the most likely to be affected.

5 And, C, the Petitioner has promised that,
6 upon -- Petitioner has agreed that, upon
7 receiving a TV reception written complaint from
8 any property owner within a one-mile radius of
9 the development's boundary, it will respond
10 within ten working days and use any
11 commercially-reasonable efforts to mitigate the
12 problem.

13 That's my motion at the moment.

14 JUDGE SLAVIN: Okay. Second?

15 MR. HUGHES: Second.

16 JUDGE SLAVIN: Heard a second.

17 That was a long motion. Mr. Pratt, do you
18 want to address any part of it?

19 MR. PRATT: No.

20 JUDGE SLAVIN: Okay. Other Board members,
21 question, comment, criticism, complaint, or none
22 of the above?

23 (No verbal response.)

24 JUDGE SLAVIN: Seeing no indication of a

1 desire to do so, I will put the question. The
2 question being put is whether the Lee County ZBA
3 finds that in its petition developer's expert,
4 the approved -- oops. How about a very friendly
5 amendment to take one out of the "experts"
6 there, Mr. Pratt. Is that okay?

7 MR. PRATT: Yes.

8 JUDGE SLAVIN: Now no way to stumble over
9 it.

10 Developer's expert, an approved expert,
11 Comsearch, has appropriately analyzed the
12 proposed development's effects on various
13 communication services. Its conclusions are as
14 follows:

15 Number 1, mobile phone carriers. There
16 would be no harmful effect.

17 Number 2, land mobile and emergency
18 services. There is no expected effect. That
19 was A.

20 B, if there is an effect, the Petitioner
21 has promised it would address the same in a
22 commercially-reasonable manner.

23 Number 3, communication towers, no effect,
24 as the nearest WTG to such a tower is 1.5

1 kilometers.

2 Number 4, AM or FM radio stations. There
3 would be no impact.

4 Number 5, television, if there is any
5 communication interference, it is reasonable to
6 conclude that Comsearch's analysis suggests
7 television signals would be the most likely
8 communication service to be compromised.

9 Regarding the same, A, cable and direct
10 satellite protocols would not be impacted.

11 B, off-air TV stations within 150 miles of
12 the project are the most likely to be affected.

13 And, C, the Petitioner has promised that,
14 upon -- Petitioner has agreed that, upon
15 receiving a TV reception written complaint from
16 any property owner within a one-mile radius of
17 the development's boundary, it will respond
18 within ten working days and use any
19 commercially-reasonable efforts to mitigate the
20 problem.

21 Adoption of this motion requires a vote by
22 the majority. The vote will be by voice. All
23 those in favor indicate by saying aye.

24 (All those simultaneously

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responded.)

JUDGE SLAVIN: All those opposed by nay.

(No verbal response.)

JUDGE SLAVIN: The motion carries. It is adopted.

Okay. Onward and upward.

MR. HUGHES: Okay. Moving on to Number 25, Environment. The Lee County ZBA finds that the Illinois Department of Natural Resources, IDNR, has indicated that there are no state-listed endangered or threatened species, Illinois Natural Inventory Sites, or nature preserves within the footprint of the proposed development.

2, there is no need for any further consultation.

JUDGE SLAVIN: That's the motion. Do I hear a second?

MR. BUHROW: Second.

JUDGE SLAVIN: Hearing a second, any comment on your own motion, Mr. Hughes?

MR. HUGHES: No, no comment.

JUDGE SLAVIN: Any other Board member?

(No verbal response.)

1 JUDGE SLAVIN: Seeing none, I will put the
2 question. The question being put is whether the
3 Lee County ZBA finds that the Illinois
4 Department of Natural Resources, IDNR, has
5 indicated that there are no state-listed
6 endangered or threatened species, Illinois
7 Natural Inventory Sites, or nature preserves
8 within the footprint of the proposed
9 development.

10 2, there is no need for any further
11 consultation.

12 Adoption of the motion requires a vote by
13 the majority. The vote will be by voice. All
14 those in favor indicate by saying aye.

15 (All those simultaneously
16 responded.)

17 JUDGE SLAVIN: Opposed by nay.

18 (No verbal response.)

19 JUDGE SLAVIN: The motion is adopted.

20 Okay. Back at 'cha.

21 MR. BUHROW: Mr. Facilitator.

22 JUDGE SLAVIN: Yes, sir.

23 MR. BUHROW: Number 26, on property
24 values. The Lee County ZBA finds that

1 sufficient expert evidence was presented that
2 the proposed development would not have a
3 negative impact on the property values within
4 the area of the proposed project.

5 JUDGE SLAVIN: Does that look right now?

6 MR. BUHROW: Yes.

7 JUDGE SLAVIN: Okay. Do I hear a second?

8 MR. HUGHES: Second.

9 JUDGE SLAVIN: Hearing a second, I will
10 ask for comments on the motion. You're first,
11 Mr. Motion-maker Buhrow.

12 MR. BUHROW: Nothing.

13 JUDGE SLAVIN: Any other Board member,
14 comment?

15 (No verbal response.)

16 JUDGE SLAVIN: Okay. Hearing none, seeing
17 none, I will put the question. The question
18 being put is whether the Lee County ZBA finds
19 that sufficient expert evidence was presented
20 that the proposed development would not have a
21 negative impact on the property values within
22 the area of the proposed project.

23 Adoption of the motion requires a vote by
24 the majority. The vote will be by voice. All

1 those in favor indicate by saying aye.

2 (All those simultaneously
3 responded.)

4 JUDGE SLAVIN: All those opposed by nay.
5 (No verbal response.)

6 JUDGE SLAVIN: Motion is adopted.

7 Another first down. First down and ten to
8 go.

9 MR. PRATT: Your Honor.

10 JUDGE SLAVIN: Yes, sir.

11 MR. PRATT: Number 27, we'll do that, Tax,
12 Revenue and Jobs. The Lee County ZBA finds that
13 the proposed project will increase area
14 employment during the construction phase, thus
15 helping the local economy.

16 Number 2, the Lee County ZBA finds that
17 participating landowners will realize an
18 economic benefit from the development.

19 Number 3, the Lee County ZBA finds that a
20 decision to recommend or not recommend approval
21 of the petition is not based on an increase or
22 decrease in revenue for taxing bodies.

23 That's my motion.

24 JUDGE SLAVIN: Okay. Do I hear a second?

1 MR. BOTHE: Second.

2 JUDGE SLAVIN: Hearing a second, I --
3 Mr. Pratt, anything to say about your own
4 motion?

5 MR. PRATT: I think Number 3 is a very
6 important statement for this Board.

7 JUDGE SLAVIN: Any other Board member?

8 MR. HUGHES: Just a scrivener's mark on
9 Number 2.

10 JUDGE SLAVIN: Yes, sir.

11 MR. HUGHES: Landowners will realize "an."

12 JUDGE SLAVIN: Thank you. Any other
13 comment?

14 (No verbal response.)

15 JUDGE SLAVIN: All right. Hearing none, I
16 will put the question. The question being put
17 is whether the Lee County ZBA finds that the
18 proposed project will increase area employment
19 during the construction phase, thus helping the
20 local economy.

21 Number 2, the Lee County ZBA finds that
22 participating landowners will realize an
23 economic benefit from the development.

24 Number 3, the Lee County ZBA finds that a

1 decision to recommend or not recommend approval
2 of the petition is not based on an increase or
3 decrease in revenue for taxing bodies.

4 Adoption of the motion requires a vote by
5 the majority. The vote will be by voice. All
6 those in favor indicate by saying aye.

7 (All those simultaneously
8 responded.)

9 JUDGE SLAVIN: Opposed by nay.

10 (No verbal response.)

11 JUDGE SLAVIN: Another one bites the dust.

12 MR. PRATT: Your Honor.

13 JUDGE SLAVIN: Yes, sir.

14 MR. PRATT: Number 28, Drainage. The Lee
15 County ZBA finds that the Petitioner has agreed
16 that it will repair any damage it does to
17 drainage tiles within ten working days, and to
18 ditches and waterways as soon as possible, but
19 in no event no longer than six months.

20 JUDGE SLAVIN: Does that look like your
21 motion up there?

22 MR. FORSTER: Except he said that it will
23 repair, not that "if" will repair.

24 JUDGE SLAVIN: He shouldn't have said that

1 because that's a typo.

2 Okay. Is that your motion?

3 MR. PRATT: Yes.

4 JUDGE SLAVIN: Second?

5 MR. BOTHE: Second.

6 JUDGE SLAVIN: Debate. Mr. Pratt, do you
7 want to address your own motion?

8 MR. PRATT: No.

9 JUDGE SLAVIN: Okay. Any other Board
10 member?

11 (No verbal response.)

12 JUDGE SLAVIN: Hearing or seeing none, I
13 will put the question. The question being put
14 is whether the Lee County ZBA finds that the
15 Petitioner has agreed it will repair any damage
16 it does to drainage tiles within ten working
17 days, and to ditches and waterways as soon as
18 possible, but in no event longer than six
19 months. And that was a quote.

20 Adoption of the motion requires a vote by
21 the majority. The vote will be by voice. All
22 those in favor indicate by saying aye.

23 (All those simultaneously
24 responded.)

1 JUDGE SLAVIN: All those opposed by nay.

2 (No verbal response.)

3 JUDGE SLAVIN: Motion is adopted.

4 Okay. Gentlemen, maybe a couple more.

5 MR. HUGHES: Actually, Your Honor, I was
6 going to suggest that, considering the time and
7 the fact that several of these following will
8 require something of a fill-in-the-blank --

9 JUDGE SLAVIN: Thank you. You don't have
10 to say any more. That's an -- I'm wearing out
11 too. I think you guys need to remember some of
12 the things we --

13 MR. HUGHES: Yes.

14 JUDGE SLAVIN: -- sort of put on hold. So
15 that would be great.

16 The 23rd, which is a week from yesterday,
17 Tuesday, right, we sort of talked about. Is
18 everybody still available the 23rd, a week from
19 yesterday? Great.

20 Ladies and gentlemen that are watching, we
21 will -- I will recess this session until next
22 Tuesday night, June 23rd, beginning at
23 7 o'clock, here at the Old Lee County
24 Courthouse. Thanks, everybody.

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(The hearing was recessed at
9:23 p.m.)

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Now on this 17th day of June, A.D., 2020,
I do signify that the foregoing testimony was
given before the Lee County Zoning Board of
Appeals.

Bruce Forster, Chairman

Dee Duffy,
Zoning Enforcement Officer

Callie S. Bodmer

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