

1 APPEARANCES:

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In Totidem Verbis, LLC (ITV)
815.453.2260

In Totidem Verbis, LLC (ITV)

1 JUDGE SLAVIN: All right. I call out of
2 recess Lee County Zoning Board of Appeals
3 hearing on Petition Number 21-P-1563, BSW DevCo,
4 LLC's, latest petition for a Special Use Permit
5 to repower an existing WECS development in
6 portions of East Grove and May Townships here in
7 Lee County.

8 If you are on YouTube and trying to join
9 us on Zoom, the Zoom meeting ID is
10 915-3923-9154, and the passcode is 209840.

11 If you're somehow otherwise listening to
12 us and cannot remember how to get to us on
13 YouTube, on your computer or cellphone, use your
14 browser, go to www.youtube.com. In the search
15 bar, type "Lee County IL," short for Illinois,
16 I-L, "Zoning Board of Appeals," don't worry
17 about upper- or lowercase, and find the session
18 date, which should be today probably, July 7th,
19 and click on that and you should be able to see
20 and hear us.

21 If you need help with any of those things,
22 Ms. Duffy's technical assistance number is
23 815.973.3449.

24 I will note the presence of the following

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1 people here in the third floor courtroom of the
2 Old Lee County Courthouse: the Chairman of the
3 ZBA, Mr. Forster; the Vice Chair, Mr. Buhrow;
4 Mr. Bothe is with us; Mr. Pratt is with us; and
5 Mr. Meyer is with us.

6 The Petitioner is here by its attorney,
7 Mr. Streicker, and one of its representatives.
8 The honorable Dee Duffy, Zoning Administrator,
9 is present with her able assistant, Alex --
10 Alice. Did I say Alex? There are no witnesses,
11 of course, present. The court reporter and
12 himself are present. Mr. Boonstra, the
13 honorable State's Attorney of Lee, is present.
14 And there are no other Interested Parties in the
15 courtroom.

16 I'm not sure it makes much difference
17 anymore for purposes of COVID count, but that
18 leaves us with four, five, six, seven, eight,
19 nine, ten, 11 -- 11 folks here in the courtroom.

20 When last we left off, we were in the
21 midst of -- it was a couple weeks ago, we were
22 in the midst of the Board finding facts and
23 making recommendations, and we left off at a
24 proposed Number -- we left off after considering

1 Number 71, and the ball is back in your court,
2 gentlemen.

3 MR. MEYER: Number 71, Your Honor.

4 JUDGE SLAVIN: Yes, sir.

5 MR. MEYER: The Lee County ZBA finds that
6 the Petitioner has promised to maintain a broad
7 form comprehensive insurance coverage policy
8 insuring the Petitioner and parcel owners
9 against loss or liability in an amount of not
10 less than \$1 million per occurrence, 2 million
11 aggregate, and an umbrella of \$20 million.

12 That would be my motion.

13 JUDGE SLAVIN: Do I hear a second?

14 MR. BOTHE: Second.

15 JUDGE SLAVIN: Hearing a second, I will
16 ask for any debate.

17 Anything you want to say about your own
18 motion, Mr. Meyer?

19 MR. MEYER: No, sir.

20 JUDGE SLAVIN: Any other Board member?

21 (No verbal response.)

22 JUDGE SLAVIN: Seeing none, hearing none,
23 I will put the question. The question being put
24 is whether the Lee County ZBA finds that the

1 Petitioner has promised to maintain a broad form
2 comprehensive insurance coverage policy insuring
3 the Petitioner and parcel owners against loss or
4 liability in an amount of not less than
5 \$1 million per occurrence, 2 million in the
6 aggregate -- not in -- 2 million aggregate, and
7 an umbrella of \$20 million.

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

11 (All those simultaneously
12 responded.)

13 JUDGE SLAVIN: Opposed by nay.

14 (No verbal response.)

15 JUDGE SLAVIN: That motion carries.

16 I think I was reminding myself of changes
17 by highlighting things. So let me get that
18 taken care of.

19 All right. Back to you, gentlemen.

20 MR. PRATT: Your Honor.

21 JUDGE SLAVIN: Yes, sir.

22 MR. PRATT: Number 72 on your list.

23 JUDGE SLAVIN: Yes, sir.

24 MR. PRATT: I make a motion that the Lee

1 County ZBA finds that the Petitioner has
2 promised that, in construction and operation,
3 the project would comply with the following
4 pertinent Codes and Standards:

5 The American Concrete Institute;

6 The American National Standards Institute
7 (ANSI);

8 The American Society of Civil Engineers
9 (ASCE);

10 The American Society of Testing and
11 Materials;

12 The Institute of Electrical and Electronic
13 Engineers;

14 The International Electrotechnical
15 Commission;

16 The National Electric Code (NEC);

17 The National Electrical Safety Code;

18 The National Fire Protection Agency;

19 The National Electrical Testing
20 Association;

21 The Occupational Safety and Health
22 Administration (OSHA);

23 The PJM Interconnection;

24 Underwriters Laboratories (UL).

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In Totidem Verbis, LLC (ITV)

1 JUDGE SLAVIN: All right. That's your
2 motion?

3 MR. PRATT: That's my motion.

4 JUDGE SLAVIN: Do I hear a second?

5 MR. BOTHE: Second.

6 JUDGE SLAVIN: Hearing a second, anything
7 you want to say, first of all, about your own
8 motion, Mr. Pratt?

9 MR. PRATT: No.

10 JUDGE SLAVIN: Any other Board member want
11 to address it?

12 (No verbal response.)

13 JUDGE SLAVIN: Hearing none, seeing none,
14 I will put the question. The question being put
15 is on the adoption of the motion as so ably read
16 by Mr. Pratt.

17 Adoption requires a vote by the majority.
18 The vote will be by voice. All those in favor
19 indicate by saying aye.

20 (All those simultaneously
21 responded.)

22 JUDGE SLAVIN: Opposed by nay.

23 (No verbal response.)

24 JUDGE SLAVIN: That motion carries as

1 well.

2 Back to you.

3 MR. MEYER: Number 73, Your Honor.

4 JUDGE SLAVIN: Yes, sir.

5 MR. MEYER: The Lee County ZBA finds that
6 the Variances previously granted for the
7 development would continue.

8 JUDGE SLAVIN: All right. Do I hear a
9 second?

10 MR. BOTHE: Second.

11 JUDGE SLAVIN: Hearing a second, anything
12 you want to say about your own motion,
13 Mr. Meyer?

14 MR. MEYER: No comment.

15 JUDGE SLAVIN: Any other Board member?

16 (No verbal response.)

17 JUDGE SLAVIN: Hearing none, seeing none,
18 I will put the question. The question being put
19 is whether the Lee County ZBA finds that the
20 Variances previously granted for the development
21 would continue.

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: Opposed by nay.

(No verbal response.)

JUDGE SLAVIN: That motion carries as
well. Okay.

MR. PRATT: Your Honor.

JUDGE SLAVIN: Yes, sir.

MR. PRATT: Number 74. I make a motion,
the Lee County ZBA finds that the Petitioner has
requested 11 Variances from the Lee County
Ordinance 350-foot property line setback.

JUDGE SLAVIN: Do I hear a second?

MR. BOTHE: Second.

JUDGE SLAVIN: Got a second.

Anything you want to address, Mr. Pratt?

MR. PRATT: No.

JUDGE SLAVIN: Any other Board member?

(No verbal response.)

JUDGE SLAVIN: Hearing none, seeing none,
I will put the question. The question being put
is whether the Lee County ZBA finds that the
Petitioner has requested 11 Variances from the
Lee County Ordinance 350-foot property line

1 setback.

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: Opposed by nay.

8 (No verbal response.)

9 JUDGE SLAVIN: That motion is a winner as
10 well.

11 Okay. Guys, your pleasure next.

12 MR. BUHROW: Mr. Chairman.

13 JUDGE SLAVIN: Yes, sir.

14 MR. BUHROW: Number 75. I move that the
15 Lee County ZBA finds that, specifically, those
16 Variance requests are, by turbine number and by
17 setback reduction, are:

18 Number 59, 193 feet;

19 Number 61, 2 feet;

20 Number 63, 136 feet;

21 Number 64, 4 feet;

22 Number 68, 116 feet;

23 Number 70, 57 feet;

24 Number 73, 31 feet;

1 Number 98, 76 feet;
2 Number 106, 23 feet;
3 Number 114, 53 (sic) feet; and
4 Number 120, 139 feet.

5 JUDGE SLAVIN: Would you look at 114
6 again, please?

7 MR. BUHROW: Okay. Is that one off?

8 JUDGE SLAVIN: Would you read Number 114
9 again?

10 MR. BUHROW: 51 feet. Is that correct?

11 JUDGE SLAVIN: Okay. Thank you.

12 Do I hear a second?

13 MR. BOTHE: Second.

14 JUDGE SLAVIN: Hearing a second, anything
15 you want to say about your own motion,
16 Mr. Buhrow?

17 MR. BUHROW: No, sir.

18 JUDGE SLAVIN: Any other Board member?

19 (No verbal response.)

20 JUDGE SLAVIN: Hearing none, seeing none,
21 I will put the question. The question being put
22 is on the adoption of the motion as so ably read
23 by Mr. Buhrow and displayed here on the board in
24 the courtroom.

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: Opposed by nay.

7 (No verbal response.)

8 JUDGE SLAVIN: That one goes on the win
9 column as well, just like the White Sox. Okay.

10 MR. PRATT: Your Honor.

11 JUDGE SLAVIN: Yes, sir.

12 MR. PRATT: Make a motion, the Lee County
13 ZBA finds that a strict application of the
14 setback requirements --

15 JUDGE SLAVIN: Let me -- thank you for
16 slowing -- of the?

17 MR. PRATT: Setback requirements.

18 JUDGE SLAVIN: Setback.

19 MR. PRATT: Does impose practical
20 difficulties and/or particular hardship on the
21 Petitioner.

22 JUDGE SLAVIN: Okay. Let's give it a look
23 on the board, make sure I did what you want.

24 MR. PRATT: That's correct.

1 JUDGE SLAVIN: Given that, do I hear a
2 second to the motion?

3 MR. BOTHE: Second.

4 JUDGE SLAVIN: Got a second.

5 Anything you want to say about your
6 motion, Mr. Pratt?

7 MR. PRATT: No.

8 JUDGE SLAVIN: Any other Board member?

9 (No verbal response.)

10 JUDGE SLAVIN: Hearing none, seeing none,
11 I will put the question. The question being put
12 is whether the Lee County ZBA finds that a
13 strict application of the setback requirement
14 does impose practical difficulties and/or
15 particular hardship on the Petitioner.

16 Adoption of the 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: Opposed by nay.

22 (No verbal response.)

23 JUDGE SLAVIN: I'll correct that. I have
24 been using the word "adopted." Didn't think

1 "carried" sounded right. That's me talking to
2 myself, just ignore it.

3 All right. Back in your court.

4 MR. MEYER: Number 77, Your Honor. The
5 motion reads, the Lee County ZBA finds that
6 granting the requested Variations would not
7 serve as a convenience to the Petitioner but
8 would be necessary to alleviate a hardship
9 created by the configuration of the parcels and
10 topography involved.

11 JUDGE SLAVIN: All right. Do I hear a
12 second?

13 MR. BOTHE: Second.

14 JUDGE SLAVIN: Hearing a second, anything
15 you want to say about your own motion,
16 Mr. Pratt -- Mr. Meyer?

17 MR. MEYER: No comment.

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

20 (No verbal response.)

21 JUDGE SLAVIN: Hearing no desire to
22 comment, I'll put the question. The question
23 being put is whether the Lee County ZBA finds
24 that granting the requested Variation would not

1 serve as a convenience to the Petitioner but
2 would be necessary to alleviate a hardship
3 created by the configuration of the parcels and
4 topography involved.

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: Opposed by nay.

11 (No verbal response.)

12 JUDGE SLAVIN: Adopted.

13 All right. Hand off.

14 MR. BUHROW: Mr. Chairman, I move that the
15 Lee County ZBA finds that the requested
16 Variances are in harmony with the general
17 purpose and intent of Lee County's zoning
18 provisions.

19 JUDGE SLAVIN: I want to go slow so -- are
20 in harmony.

21 Do I hear a second?

22 MR. BOTHE: Second.

23 JUDGE SLAVIN: Hearing a second, anything
24 you want to say about your own motion,

1 Mr. Buhrow?

2 MR. BUHROW: No.

3 JUDGE SLAVIN: Okay. Any other Board
4 member want to address it?

5 (No verbal response.)

6 JUDGE SLAVIN: Hearing none, seeing none,
7 I will put the question. The question being put
8 is whether the Lee County ZBA finds that the
9 requested Variances are in harmony with the
10 general purpose and intent of Lee County's
11 zoning provisions.

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: Gold medal for that one as
20 well. Back to you.

21 MR. PRATT: Your Honor.

22 JUDGE SLAVIN: Yes, sir.

23 MR. PRATT: Number 79, the Lee County ZBA
24 finds that all Variances are relative to

1 participating property owners, and waivers have
2 allegedly been obtained, but no written
3 instrument was introduced during the ZBA
4 hearing.

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

6 MR. BOTHE: Second.

7 JUDGE SLAVIN: Got one.

8 Anything you want to say about your
9 motion, Mr. Pratt?

10 MR. PRATT: No.

11 JUDGE SLAVIN: Any other Board members?

12 (No verbal response.)

13 JUDGE SLAVIN: Hearing none, seeing none,
14 I'll put the question. The question being put
15 is whether the Lee County ZBA finds that all
16 Variances are relative to participating property
17 owners, and waivers have allegedly been
18 obtained, but no written instrument was
19 introduced during the ZBA hearing.

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: How about opposed?

2 (No verbal response.)

3 JUDGE SLAVIN: Another torchlighter.

4 Okay. We're up to 80.

5 MR. BUHROW: Mr. Chairman, on 80, I move
6 that the Lee County ZBA finds that the
7 Petitioner has provided Variance maps in its
8 application.

9 JUDGE SLAVIN: Do I hear a second?

10 MR. BOTHE: Second.

11 JUDGE SLAVIN: Got one.

12 Anything you want to say about your own
13 motion, Mr. Buhrow?

14 MR. BUHROW: No.

15 JUDGE SLAVIN: How about any other Board
16 member?

17 (No verbal response.)

18 JUDGE SLAVIN: Hearing none, seeing none,
19 I will put the question. The question being put
20 is whether the Lee County ZBA finds that the
21 Petitioner has provided Variance maps in its
22 application.

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: Opposed?

5 (No verbal response.)

6 JUDGE SLAVIN: First place for that one as
7 well.

8 All right. Onward and upward.

9 MR. MEYER: Your Honor, Number 81. The
10 motion would read, the Lee County ZBA finds that
11 the Petitioner has stated it will comply with
12 setbacks from primary structures occupied by at
13 least one person (i.e., such as residences,
14 commercial buildings, hospitals, churches,
15 schools, public buildings and daycare
16 facilities), public roads, third-party
17 transmission lines, communication towers, or
18 nonparticipating property lines, to wit:

19 At least 1.1 times the WTG height from any
20 primary structure on a nonparticipating parcel;

21 At least 1.1 times the WTG height from any
22 residences located on a project parcel;

23 And at least 1.0 times the WTG height for
24 public roads, third-party transmission lines,

1 and communication towers;

2 And at least 1.0 times the WTG height from
3 the property lines of a nonparticipating parcel.

4 JUDGE SLAVIN: All right. Do I hear a
5 second?

6 MR. BOTHE: Second.

7 JUDGE SLAVIN: Hearing a second, anything
8 you want to say about your motion, Mr. Meyer?

9 MR. MEYER: No comment.

10 JUDGE SLAVIN: Any other Board member?

11 (No verbal response.)

12 JUDGE SLAVIN: Hearing none, seeing none,
13 I will -- I'm going to read this one -- put the
14 question. The question being put is whether the
15 Lee County ZBA finds that the Petitioner has
16 stated it will comply with setbacks from primary
17 structures occupied by at least one person
18 (i.e., such as residences, commercial buildings,
19 hospitals, churches, schools, public buildings
20 and daycare facilities), public roads,
21 third-party transmission lines, communication
22 towers, or nonparticipating property lines, to
23 wit:

24 At least 1.1 times the WTG height from any

1 primary structure on a nonparticipating parcel;

2 At least 1.1 times the WTG height from any
3 residences located on a project parcel;

4 And at least 1.0 times the WTG height for
5 public roads, third-party transmission lines,
6 and communication towers;

7 And at least 1.0 times the WTG height from
8 the property lines of a nonparticipating parcel.

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

12 (All those simultaneously
13 responded.)

14 JUDGE SLAVIN: Naysayers.

15 (No verbal response.)

16 JUDGE SLAVIN: Hearing none, the motion is
17 unanimously adopted.

18 Okay. Hand off back to you. It's yours.

19 MR. PRATT: Your Honor.

20 JUDGE SLAVIN: Yes, sir.

21 MR. PRATT: Make a motion that the Lee
22 County ZBA finds that, if granted, the proposed
23 Special Use would have the following impacts on
24 the character of the neighborhood and the

1 surrounding properties:

2 The character of the neighborhood would
3 not change, but the whole neighborhood,
4 including surrounding properties, will continue
5 to be impacted by the visual nature of the
6 project;

7 There would be an impact on traffic
8 conditions, as there would be a temporary
9 increase in traffic during decommissioning and
10 construction periods, but there will not be any
11 material long-term impact;

12 There would be a temporary impact on
13 public utilities with the WECS contribution to
14 electric utilities being reduced during the
15 repowering construction, but would return to the
16 same level upon completion, in that there would
17 be no impact on sewer and water;

18 There would not be any substantial impact
19 on local wildlife and/or threatened species;

20 There would be new impacts on public
21 health, public safety and/or general welfare.

22 JUDGE SLAVIN: Just one behind you, so
23 give me a minute.

24 MR. PRATT: There would be.

1 JUDGE SLAVIN: How does that look?

2 MR. PRATT: Go ahead. Up there in the
3 second bullet point, there would be "a" impact.

4 JUDGE SLAVIN: No, that would be "an."

5 MR. PRATT: It should be "an"?

6 And then substantially, did you change
7 that one too? You did that.

8 Okay. That's my motion.

9 JUDGE SLAVIN: I got it right?

10 MR. PRATT: That's my motion.

11 JUDGE SLAVIN: Okay. Second?

12 MR. BOTHE: Second.

13 JUDGE SLAVIN: Got a second.

14 Anything you want to say about your
15 motion, Mr. Pratt?

16 MR. PRATT: No.

17 JUDGE SLAVIN: Any other Board member?

18 (No verbal response.)

19 JUDGE SLAVIN: Hearing none, seeing none,
20 I will put the question. The question being put
21 is on the motion as Mr. Pratt recited and is
22 displayed on the board here in the courtroom.

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: Opposed by nay.

5 (No verbal response.)

6 JUDGE SLAVIN: Motion is adopted.

7 All right, guys.

8 MR. BUHROW: Mr. Chairman.

9 JUDGE SLAVIN: Yes, sir.

10 MR. BUHROW: Number 83. The Lee County --
11 I move that the Lee County ZBA recommends to the
12 Lee County Board that BSW DevCo's petition for
13 Special Use be approved.

14 JUDGE SLAVIN: Do I hear a second,
15 gentlemen?

16 MR. BOTHE: Second.

17 JUDGE SLAVIN: All right. Anything you
18 want to say about your own motion, Mr. Buhrow?

19 MR. BUHROW: No, sir.

20 JUDGE SLAVIN: Any other Board member?

21 (No verbal response.)

22 JUDGE SLAVIN: Seeing none, hearing none,
23 I will put the question. The question being put
24 is whether -- is on the adoption of the motion

1 that the Lee County ZBA recommends to the Lee
2 County Board that BSW DevCo's petition for
3 Special Use be approved.

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: That one crosses the finish
12 line first, as well.

13 Your choice. Gentlemen's choice.

14 MR. MEYER: Number 84, Your Honor. The
15 motion reads, the Lee County ZBA recommends to
16 the Lee County Board that, if BSW DevCo's WECS
17 Special Use Petition under consideration is
18 allowed, it be granted a two-year waiver beyond
19 the one year required under Section 10-2A-3 for
20 the requested use to be established
21 (substantially underway).

22 JUDGE SLAVIN: Okay. Second?

23 MR. BOTHE: Second.

24 JUDGE SLAVIN: Got it.

1 Anything you want to enunciate, Mr. Meyer?

2 MR. MEYER: No, no comment.

3 JUDGE SLAVIN: Any other Board member want
4 to address it?

5 (No verbal response.)

6 JUDGE SLAVIN: Seeing none, hearing none,
7 I'll put the question. The question being put
8 is whether the Lee County ZBA recommends to the
9 Lee County Board that, if BSW DevCo's WECS
10 Special Use Petition under consideration is
11 allowed, it be granted a two-year waiver beyond
12 the one year required under Section 10-2A-3 for
13 the requested use to be established
14 (substantially underway).

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

18 (All those simultaneously
19 responded.)

20 JUDGE SLAVIN: Opposed by nay.

21 (No verbal response.)

22 JUDGE SLAVIN: Everybody agrees to that
23 one as well. Get that saved before I goof that
24 up.

1 And up, up and away.

2 MR. PRATT: Your Honor.

3 JUDGE SLAVIN: Yes, sir.

4 MR. PRATT: I make a motion that the Lee
5 County ZBA recommends to the Lee County Board
6 that all of the 11 requested setback Variances
7 be allowed.

8 JUDGE SLAVIN: Nice mouse, Mrs. Duffy.

9 MS. DUFFY: Thank you, Judge.

10 JUDGE SLAVIN: You spend a lot of time on
11 this mouse.

12 All right. Second?

13 MR. BOTHE: Second.

14 JUDGE SLAVIN: Anything you want to say
15 about your motion, Mr. Pratt?

16 MR. PRATT: Sir, you need to eliminate
17 "denied" at the end of it.

18 JUDGE SLAVIN: Yup, sure do. Thank you.
19 More interested in the mouse.

20 Okay. How about that?

21 MR. PRATT: Looks good.

22 JUDGE SLAVIN: Any other comment you want
23 to make?

24 MR. PRATT: No.

1 JUDGE SLAVIN: Any other Board member?

2 (No verbal response.)

3 JUDGE SLAVIN: Hearing none, seeing none,
4 I will put the question. The question being put
5 is whether the Lee County ZBA recommends to the
6 Lee County Board that all of the 11 requested
7 setback Variances be allowed.

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

11 (All those simultaneously
12 responded.)

13 JUDGE SLAVIN: Opposed by nay.

14 (No verbal response.)

15 JUDGE SLAVIN: Another one is the first
16 place win for show. Okay.

17 MR. BUHROW: Mr. Chairman.

18 JUDGE SLAVIN: Yes, sir.

19 MR. BUHROW: I move, on Item Number 86,
20 that the Lee County ZBA hereby indicates that a
21 decision to recommend or not recommend approval
22 of the petition is not based on an increase or
23 decrease in revenue for taxing bodies.

24 JUDGE SLAVIN: May I make a suggestion

1 that the "recommend" or "not recommend" was in
2 the alternative?

3 MR. BUHROW: Yeah.

4 JUDGE SLAVIN: Do I hear a second?

5 MR. BOTHE: Second.

6 JUDGE SLAVIN: All right. Mr. Buhrow,
7 your motion. Anything you want to say about it?

8 MR. BUHROW: No. I kind of had the same
9 question.

10 JUDGE SLAVIN: Any other Board member want
11 to address it?

12 (No verbal response.)

13 JUDGE SLAVIN: Hearing none, seeing none,
14 I'm going to put the question. The question
15 being put is whether -- on the adoption of the
16 motion whether the Lee County ZBA hereby
17 indicates that a decision to recommend approval
18 of the petition is not based on an increase or
19 decrease in revenue for the taxing bodies.

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: Opposed by nay.

2 (No verbal response.)

3 JUDGE SLAVIN: Motion is adopted.

4 All right. Back to you.

5 MR. MEYER: Number 87, Your Honor. The
6 motion reads, if BSW DevCo's WECS Special Use
7 Petition under consideration is allowed, the Lee
8 County ZBA recommends to the Lee County Board a
9 condition of the Special Use that the Petitioner
10 be bound by any and all representations,
11 proposals, promises and agreements made under
12 oath at the public hearing before the ZBA or
13 within its application, even if not explicitly
14 specified herein.

15 JUDGE SLAVIN: Okay. Can we do this one
16 at a time?

17 MR. MEYER: Please.

18 JUDGE SLAVIN: Good. Thank you.

19 Do I hear a second?

20 MR. BOTHE: Second.

21 JUDGE SLAVIN: Hearing a second, anything
22 you want to say about your motion, Mr. Meyer?

23 MR. MEYER: No, sir.

24 JUDGE SLAVIN: Any other Board member?

1 (No verbal response.)

2 JUDGE SLAVIN: Hearing none, seeing none,
3 I will put the question. The question being put
4 is whether the Lee County ZBA recommends to the
5 Lee County Board a condition of the Special Use
6 that the petition be bound by any and all --
7 Petitioner be bound by any and all
8 representations, proposals, promises and
9 agreements made under oath at the public hearing
10 before the ZBA or within its application, even
11 if not explicitly specified herein.

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

16 (All those simultaneously
17 responded.)

18 JUDGE SLAVIN: Opposed by nay.

19 (No verbal response.)

20 JUDGE SLAVIN: The motion is adopted.

21 All right. Guys, I'd appreciate, because
22 we are making a record, when you read it,
23 remember, you can't see what's on the board,
24 that each one of the recommendations you choose

1 to be put on the floor be prefaced by that first
2 sentence that I'll highlight in yellow.

3 MR. PRATT: Your Honor.

4 JUDGE SLAVIN: Yes, sir.

5 MR. PRATT: Make a motion, if BSW DevCo's
6 WECS Special Use Petition under consideration is
7 allowed, the Lee County ZBA recommends to the
8 Lee County Board a condition of the Special Use
9 that the Petitioner and a landowner may agree to
10 setbacks, shadow flicker, and other impacts
11 different from those allowed in the Special Use
12 Permit only if a written waiver has been
13 obtained from the landowner and is on file with
14 the Zoning Administrator prior to the issuance
15 of any relevant building permit.

16 JUDGE SLAVIN: All right. Do I hear a
17 second?

18 MR. BOTHE: Second.

19 JUDGE SLAVIN: Hearing a second, I will
20 put the question. The question being -- excuse
21 me.

22 Anything you want to say, Mr. Pratt?

23 MR. PRATT: No.

24 JUDGE SLAVIN: Any other Board member?

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(No verbal response.)

JUDGE SLAVIN: Hearing none, seeing none, I will put the question. The question being put is whether the Lee County ZBA recommends to the Lee County Board a condition of the Special Use that the Petitioner and the landowner may agree to setbacks, shadow flicker and other impacts different from those allowed in the Special Use Permit only if a written waiver has been obtained from the landowner and is on file with the Zoning Administrator prior to the issuance of any relevant building permit.

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: That one crosses the finish line, breaks the tape. And you may continue.

MR. MEYER: Your Honor.

MR. BUHROW: Go ahead.

JUDGE SLAVIN: Yes, sir.

1 MR. MEYER: Your Honor, my motion would
2 read, if BSW DevCo's WECS Special Use Petition
3 under consideration is allowed --

4 JUDGE SLAVIN: Wait a minute. Is this one
5 of them?

6 MR. MEYER: It's C.

7 JUDGE SLAVIN: Oh, I'm sorry.

8 MR. MEYER: I read the yellow.

9 JUDGE SLAVIN: Yes, you did. You did
10 exactly what I asked, and I forgot. Thank you.

11 MR. MEYER: The Lee County ZBA recommends
12 to the Lee County Board a condition of the
13 Special Use that the Petitioner shall not
14 commence construction activity associated with
15 the WECS project before 7 a.m. or continue past
16 8 p.m. on any day of the week within one-quarter
17 mile of any nonparticipating landowner's primary
18 residence unless a waiver is obtained from such
19 landowner.

20 JUDGE SLAVIN: Okay. Give me a minute to
21 highlight as a reminder, please.

22 Okay. Does that look right, Mr. Meyer? I
23 kind of got lost in my own --

24 MR. MEYER: That is correct.

1 JUDGE SLAVIN: Do I hear a second?

2 MR. BOTHE: Second.

3 JUDGE SLAVIN: Anything you want to say
4 about your own motion, Mr. Meyer?

5 MR. MEYER: No, sir.

6 JUDGE SLAVIN: Any other Board member
7 wanting to address it?

8 (No verbal response.)

9 JUDGE SLAVIN: Hearing none, seeing none,
10 I will put the question. The question being put
11 is whether the Lee County ZBA recommends to the
12 Lee County Board a condition of the Special Use
13 that the Petitioner shall not commence
14 construction activity associated with the WECS
15 project before 7 a.m. or continue past 8 p.m. on
16 any day of the week within one-quarter mile of
17 any nonparticipating landowner's primary
18 residence unless a waiver is obtained from such
19 landowner.

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: Opposed by nay.

2 (No verbal response.)

3 JUDGE SLAVIN: Motion is adopted.

4 I didn't -- it should say

5 "nonparticipating." I think I did.

6 All right, guys.

7 MR. BUHROW: Mr. Chairman.

8 JUDGE SLAVIN: Yes, sir.

9 MR. BUHROW: On 87, D, if BSW DevCo's WECS
10 Special Use Petition under consideration is
11 allowed, the Lee County ZBA recommends to the
12 Lee County Board a condition of the Special Use
13 that any and all proposed terms and/or
14 conditions presented within the petition for
15 Special Use Number 21-P-1563 that are not in
16 conflict with any term or condition within the
17 AIMA (AIMA) be incorporated, and that if,
18 indeed, a term and/or condition within the
19 petition for Special Use is in conflict,
20 contrary or repugnant to the AIMA, the terms
21 and/or conditions of the AIMA -- A-I-M-A --
22 shall be binding.

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

1 MR. BOTHE: Second.

2 JUDGE SLAVIN: Hearing a second, anything
3 you want to say about your own motion,
4 Mr. Buhrow?

5 MR. BUHROW: No, sir.

6 JUDGE SLAVIN: Any other Board member?

7 (No verbal response.)

8 JUDGE SLAVIN: Seeing none, hearing none,
9 I will put the question. The question being put
10 is on the adoption of the motion as so ably read
11 by Mr. Buhrow.

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 MR. MEYER: Your Honor.

20 JUDGE SLAVIN: Yes, sir.

21 MR. MEYER: If BSW DevCo's WECS Special
22 Use Petition under consideration is allowed, the
23 Lee County ZBA recommends to the Lee County
24 Board a Special Use -- a condition of the

1 Special Use is that the Petitioner, at its
2 expense, maintain a broad form comprehensive
3 coverage policy of public liability insurance
4 insuring the Petitioner, project parcel owners
5 and participating parcel owners against loss or
6 liability caused by the Petitioner's occupation
7 and use of property under the lease, in an
8 amount of not less than \$5 million of combined
9 single limit liability coverage per occurrence,
10 accident or incident, with \$10 million in the
11 aggregate, with a deductible of no more than
12 \$25,000 U.S. dollars, and naming Lee County as
13 an additional insured.

14 JUDGE SLAVIN: And I missed your
15 aggregate.

16 MR. MEYER: 10 million.

17 JUDGE SLAVIN: Yeah, okay. I got it. Let
18 me type in some numbers here.

19 All right. Do I hear a second?

20 MR. BOTHE: Second.

21 JUDGE SLAVIN: Have a second.

22 Anything you want to say, Mr. Meyer?

23 MR. MEYER: No, sir.

24 JUDGE SLAVIN: Any other Board member?

1 (No verbal response.)

2 JUDGE SLAVIN: Hearing none, seeing none,
3 I'm going to put the question. The question
4 being put is whether the Lee County ZBA
5 recommends to the Lee County Board a condition
6 of the Special Use that the Petitioner, at its
7 expense, maintain a broad form comprehensive
8 coverage policy of public liability insurance
9 insuring the Petitioner, project parcel owners
10 and participating parcel owners against loss or
11 liability caused by the Petitioner's occupation
12 and use of the property under the lease, in an
13 amount not less than \$5 million of combined
14 single limit liability coverage per occurrence,
15 accident or incident, with a \$10 million U.S.
16 dollars in the aggregate, and a deductible of no
17 more than \$25,000 and naming Lee County as an
18 additional insured.

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

22 (All those simultaneously
23 responded.)

24 JUDGE SLAVIN: Opposed by nay.

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(No verbal response.)

JUDGE SLAVIN: Robert's Rules says that's a winner as well.

Okay. Gents.

MR. PRATT: Your Honor.

JUDGE SLAVIN: Yes, sir.

MR. PRATT: I make a motion that if BSW DevCo's WECS Special Use Petition under consideration is allowed, the Lee County ZBA recommends to the Lee County Board a condition of the Special Use that all WECS turbines shall be set back at least 523 feet, or 1.1 times the WECS turbine height, whichever is greater, from any primary structure, school, church or public building located on a nonparticipating parcel.

JUDGE SLAVIN: Okay. Take a look, make sure I got it, please.

MR. PRATT: That looks correct.

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

MR. BOTHE: Second.

JUDGE SLAVIN: Hearing a second, anything you want to say about your own motion, Mr. Pratt?

1 MR. PRATT: No.

2 JUDGE SLAVIN: Any other Board member?

3 (No verbal response.)

4 JUDGE SLAVIN: I will put the question
5 then. The question being put is whether the Lee
6 County ZBA recommends to the Lee County a
7 condition of the Special Use that all WECS
8 turbines shall be set back at least 523 feet, or
9 1.1 times the WECS turbine height, whichever is
10 greater, from any primary structure, school,
11 church or public building located on a
12 nonparticipating parcel.

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: Those opposed by nay.

19 (No verbal response.)

20 JUDGE SLAVIN: Another victor.

21 And back to you, guys.

22 MR. BUHROW: Mr. Chairman.

23 JUDGE SLAVIN: Yes, sir.

24 MR. BUHROW: I move that if BSW DevCo's

1 WECS Special Use Petition under consideration is
2 allowed, the Lee County ZBA recommends to the
3 Lee County Board that the Petitioner shall
4 notify the County of any material changes to the
5 property lines of the proposed site of
6 construction and representative manufacturer's
7 specifications or specific WECS project design
8 information.

9 JUDGE SLAVIN: Do I hear a second?

10 MR. BOTHE: Second.

11 JUDGE SLAVIN: Got a second.

12 Anything you want to say about your own
13 motion, Mr. Buhrow?

14 MR. BUHROW: No, sir.

15 JUDGE SLAVIN: Any other Board member want
16 to comment? debate?

17 (No verbal response.)

18 JUDGE SLAVIN: Hearing none, seeing none,
19 I will put the question. The question being put
20 is whether the Lee County ZBA recommends to the
21 Lee County Board a condition of the Special Use
22 that the Petitioner shall notify the County of
23 any material changes to the property lines of
24 the proposed site of construction and

1 representative manufacturer's specifications or
2 specific WECS project design information.

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: Opposed by nay.

9 (No verbal response.)

10 JUDGE SLAVIN: That will ring the
11 victorious bell as well.

12 And you can continue.

13 MR. MEYER: Your Honor, Number -- my
14 motion would read, if BSW DevCo's WECS Special
15 Use Petition under consideration is allowed, the
16 Lee County ZBA recommends to the Lee County
17 Board a condition of the Special Use that prior
18 to issuance of any building permits, the
19 Petitioner shall provide to the Zoning
20 Administrator certification by a registered
21 professional engineer that the WECS tower's
22 design is sufficient to withstand wind load
23 requirements for the structure as defined by the
24 International Code Council and certifying that

1 the foundations are within accepted professional
2 standards given soil and climate conditions.

3 JUDGE SLAVIN: All right. Do I hear a
4 second?

5 MR. BOTHE: Second.

6 JUDGE SLAVIN: Anything you want to say,
7 Mr. Meyer?

8 MR. MEYER: No, sir.

9 JUDGE SLAVIN: Any other Board member?

10 (No verbal response.)

11 JUDGE SLAVIN: Hearing none, seeing none,
12 I'll put the question. The question being put
13 is on the adoption of the motion as so ably
14 presented by Mr. -- orally presented by
15 Mr. Meyer and displayed on the board here in the
16 courtroom.

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

20 (All those simultaneously
21 responded.)

22 JUDGE SLAVIN: Opposed by nay.

23 (No verbal response.)

24 JUDGE SLAVIN: Another first place medal.

1 And we can keep moving for a short while.
2 Back to you guys, or if anybody ever wants to
3 take a break, just tell me. You know, I'm doing
4 the easy work up here.

5 MR. MEYER: Your Honor, the motion would
6 read, if BSW DevCo's WECS Special Use Petition
7 under consideration is allowed, the Lee County
8 ZBA recommends to the Lee County Board a
9 condition of the Special Use that the Petitioner
10 shall defend, indemnify and hold harmless Lee
11 County and its officials from and against any
12 and all claims, demands, losses, lawsuits,
13 causes of action, damages, injuries, costs,
14 expenses and liabilities whatsoever, including
15 but not limited to, reasonable attorney's fees
16 arising out of acts or omissions by the
17 Petitioner concerning the operation of the WECS
18 project, without limitation, whether said
19 liability is premised upon either contract or
20 torte actions or other related claimed legal
21 theory.

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

23 MR. BOTHE: Second.

24 JUDGE SLAVIN: Got a second.

1 Anything you want to say about your
2 motion, Mr. Meyer?

3 MR. MEYER: No, sir.

4 JUDGE SLAVIN: Any other Board member?

5 (No verbal response.)

6 JUDGE SLAVIN: Hearing none, seeing none,
7 I'm going to put the question. The question
8 being put is on the adoption of the motion as so
9 clearly presented by Mr. Meyer, displayed here
10 on the screen in the courtroom.

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

14 (All those simultaneously
15 responded.)

16 JUDGE SLAVIN: Opposed by nay.

17 (No verbal response.)

18 JUDGE SLAVIN: It is adopted as well.

19 Okay, guys.

20 MR. PRATT: Your Honor.

21 JUDGE SLAVIN: Yes, sir.

22 MR. PRATT: Make a motion, if BSW DevCo's
23 WECS Special Use Petition under consideration is
24 allowed, the Lee County ZBA recommends to the

1 Lee County Board a condition of the Special Use
2 that, unless a waiver is otherwise obtained from
3 the affected owner of a nonparticipating parcel,
4 all WECS turbines shall be --

5 JUDGE SLAVIN: I'm going to have to --
6 from an affected owner of a nonparticipating
7 parcel, did you say?

8 MR. PRATT: Hang on a second. Maybe I
9 don't want to say that.

10 Obtained from an affected owner. Is that
11 what you have on yours? Let's leave it like
12 that. I'm working off of two sheets here.

13 JUDGE SLAVIN: Okay. Comma. I got it
14 okay.

15 MR. PRATT: All WECS shall be set back at
16 least 523 feet, or 1.1 times the WECS turbine
17 height, whichever is greater.

18 JUDGE SLAVIN: Okay. I'm sorry, I'm just
19 wanting to catch up before I lost it. Okay.
20 Does that look right so far? So far.

21 MR. PRATT: Yes.

22 From any primary structures, (i.e., such
23 as residences, commercial buildings, hospitals,
24 churches, schools, public buildings and daycare

1 facilities) occupied by at least one person,
2 with the distance for the above setback being
3 measured from the point of the above-described
4 structure's foundation closest to the WECS
5 turbine to the base of the WECS tower turbine at
6 ground level -- WECS tower. I'm sorry. Either
7 way.

8 JUDGE SLAVIN: You said turbine.

9 MR. PRATT: That's fine.

10 JUDGE SLAVIN: I think that's consistent
11 too.

12 MR. PRATT: Yeah, that looks like my
13 motion.

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

15 MR. BOTHE: Second.

16 JUDGE SLAVIN: Got a second.

17 Anything you want to say, Mr. Pratt?

18 MR. PRATT: Not really, no.

19 JUDGE SLAVIN: Okay. Do I hear a
20 second -- or other Board members want to -- I
21 I'm sorry. Other Board members want to comment?

22 MR. BUHROW: Yeah, does this apply to our
23 County Code of 1400 feet, do you know, Mike?

24 MR. PRATT: The County Code is 1.1 times

1 the height of the turbine.

2 MR. BUHROW: Originally, because we had
3 talked doing from --

4 JUDGE SLAVIN: You've got to keep your
5 voice up.

6 MR. BUHROW: We had talked about going
7 from 1400 to 2,000 at one time.

8 MR. PRATT: Right, but the Ordinance
9 states 1.1. We have had a standard of 1400 or a
10 different number, but we didn't have that in
11 place when this thing was built. It's hard
12 to -- hard to come back, so that's my reasoning.

13 MR. BUHROW: Okay.

14 JUDGE SLAVIN: Okay. Any other Board
15 member? I'm sorry. I didn't lean into the
16 microphone. Any other Board member?

17 (No verbal response.)

18 JUDGE SLAVIN: Hearing none, seeing none,
19 I'm going to put the question. The question
20 being put -- I am going to read this one -- is
21 whether the Lee County ZBA recommends to the Lee
22 County Board a condition of the Special Use
23 that, unless a waiver is otherwise obtained from
24 an affected landowner, all WTGs shall be set

1 back at least 523 feet, or 1.1 times the WECS
2 turbine height, whichever is greater, from any
3 primary structures (that is, such as residences,
4 commercial buildings, hospitals, churches,
5 schools, public buildings and daycare facility)
6 occupied by at least one person, with the
7 distance for the above setback being measured
8 from the point of the above-described
9 structure's foundation closest to the WECS
10 turbine to the base of the WECS turbine at
11 ground level.

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: Motion is adopted.

20 All right. Guys, let's give it a couple
21 more here.

22 MR. BUHROW: Mr. Chairman.

23 JUDGE SLAVIN: Sir.

24 MR. BUHROW: If BSW DevCo's WECS Special

1 Use Petition under consideration is allowed, I
2 move that the Lee County ZBA recommends to the
3 Lee County Board a condition of the Special Use
4 that Petitioner need not obtain a Variance from
5 the Lee County Zoning Board of Appeals upon the
6 granting of a setback easement by a parcel
7 owner, and any negotiated setback easements
8 shall run with the land and be recorded with the
9 Lee County Recorder.

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

11 MR. BOTHE: Second.

12 JUDGE SLAVIN: Got one.

13 Anything you want to say about your
14 motion, Mr. Buhrow?

15 MR. BUHROW: No.

16 JUDGE SLAVIN: Any other Board member?

17 (No verbal response.)

18 JUDGE SLAVIN: Hearing none, seeing none,
19 I will put the question. The question being put
20 is whether the Lee County ZBA recommends to the
21 Lee County Board a condition of the Special Use
22 that Petitioner need not obtain a Variance from
23 the Lee County Zoning Board of Appeals upon the
24 granting of a setback easement by a parcel

1 owner, and any negotiated setback easements
2 shall run with the land and be recorded with the
3 Lee County Recorder.

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: That one is unanimously --
12 unanimously carries as well.

13 Okay. Guys, I'm still in it.

14 MR. MEYER: Your Honor.

15 JUDGE SLAVIN: Yes, sir.

16 MR. MEYER: The motion reads, if BSW
17 DevCo's WECS Special Use Petition under
18 consideration is allowed, I move that the Lee
19 County ZBA recommends to the Lee County Board a
20 condition of the Special Use that a copy of all
21 written waivers for setbacks, shadow flicker,
22 noise and/or other impacts are to be provided to
23 the Zoning Administrator prior to the issuance
24 of any building permits.

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

2 MR. BOTHE: Second.

3 JUDGE SLAVIN: Got one.

4 Anything you want to say, Mr. Meyer?

5 MR. MEYER: No, thank you.

6 JUDGE SLAVIN: Any other Board member?

7 (No verbal response.)

8 JUDGE SLAVIN: Hearing none, seeing none,
9 I'll put the question. The question being put
10 is whether the Lee County ZBA recommends to the
11 Lee County Board a condition of the Special Use
12 that a copy of all written waivers for setbacks,
13 shadow flicker, noise and/or other impacts are
14 to be provided to the Zoning Administrator prior
15 to the issuance of any building permits.

16 Adoption of the 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: Opposed.

22 (No verbal response.)

23 JUDGE SLAVIN: Motion is victorious.

24 Well, okay. I'm ready for couple more.

1 MR. PRATT: Your Honor.

2 JUDGE SLAVIN: Yes, sir.

3 MR. PRATT: I'll make a motion that if BSW
4 DevCo's WECS Special Use Petition under
5 consideration is allowed, the Lee County ZBA
6 recommends to the Lee County Board a condition
7 of the Special Use that prior to the issuance of
8 any building permits, Petitioner shall submit an
9 updated decommissioning plan that is consistent
10 with the information presented in its
11 application, including but not limited to,
12 58 2.2-megawatt wind turbine generators with
13 80-meter towers and 120-meter rotor diameters,
14 the site roads and meteorological towers.

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

16 MR. BOTHE: Second.

17 JUDGE SLAVIN: Got one.

18 Anything you want to say about your
19 motion, Mr. Pratt?

20 MR. PRATT: No.

21 JUDGE SLAVIN: All right. Any other Board
22 member want to say anything?

23 (No verbal response.)

24 JUDGE SLAVIN: Hearing none, seeing none,

1 I'll put the question. The question being put
2 is whether the Lee County ZBA recommends to the
3 Lee County a condition of the Special Use that,
4 prior to the issuance of any building permits,
5 Petitioner shall submit an updated
6 decommissioning plan that is consistent with the
7 information presented in its application,
8 including but not limited to, 58 2.2-megawatt
9 wind turbine generators with 80-meter towers and
10 120-meter rotor diameters, the site roads and
11 meteorological towers.

12 Adoption of this 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: This motion is adopted as
20 well.

21 Okay. How about another one?

22 MR. BUHROW: Mr. Chairman, I move that
23 if -- I have to find my -- I had that memorized.
24 I just moved my page. I have to find the

1 initial part.

2 JUDGE SLAVIN: Well, you give me a good --
3 not that I'm upset, I have been wanting to take
4 a break anyway. I'm getting a little -- ten
5 minutes.

6 (A recess was taken at 7:04 p.m.
7 and proceedings resumed at
8 7:21 p.m.)

9 JUDGE SLAVIN: All right. A little
10 delayed recess, but we're back on the record
11 now.

12 And the ball is back in your court,
13 gentlemen of the ZBA.

14 MR. BUHROW: Mr. Chairman, I was going to
15 start once I refound my heading.

16 I move that if BSW DevCo's WECS Special
17 Use Petition under consideration is allowed, I
18 move that the Lee County ZBA recommends to the
19 Lee County Board a condition of the Special Use
20 that the Petitioner shall provide an annual
21 certification report (WECS annual operating
22 report) to include the number of days each WECS
23 project unit was available for operation and
24 actually in operation, and will report to the

1 Lee County Zoning Administrator when any WECS
2 project unit has been inoperable for more than
3 90 consecutive days, including the date the unit
4 became inoperable and the expected date for the
5 WECS turbines to return to service.

6 JUDGE SLAVIN: All right. Do I hear a
7 second?

8 MR. BOTHE: Second.

9 JUDGE SLAVIN: Heard a second.

10 Anything you want to say about your
11 motion, Mr. Buhrow?

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

14 JUDGE SLAVIN: Any other Board member want
15 to address it?

16 (No verbal response.)

17 JUDGE SLAVIN: Seeing none, hearing none,
18 I will put the question. The question being put
19 is on the motion as enunciated by Mr. Buhrow and
20 displayed on the screen here in the courtroom
21 and on Zoom and on YouTube.

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: Opposed by nay.

(No verbal response.)

JUDGE SLAVIN: Motion is adopted.

Okay. Gents.

MR. MEYER: Your Honor.

MR. PRATT: Your Honor.

JUDGE SLAVIN: Oh, a chorus in stereo.

MR. PRATT: Your Honor, I make a motion
that if BSW DevCo's WECS Special Use petition is
allowed, the Lee County ZBA recommends to the
Lee County Board a condition of the Special Use
that any WECS project unit which has been
inoperable for 365 consecutive days, or 425
total days in two consecutive calendar years,
shall be presumed inoperable and/or abandoned.

MS. HENKEL: I think you're on the wrong
one.

MR. PRATT: I skipped one. I'm on --

JUDGE SLAVIN: That's fine. I was
starting to think --

MR. BUHROW: Did you want to skip one?

MR. PRATT: That's fine. You guys --

1 JUDGE SLAVIN: Doesn't matter what order
2 they're in.

3 MR. PRATT: Yeah, you can go back.

4 JUDGE SLAVIN: I just got temporarily
5 confused. It's a constant state up here for me.

6 All right. I'm going to make sure --
7 anything -- do I hear a second?

8 MR. BOTHE: Second.

9 JUDGE SLAVIN: Any comment you want to
10 make on your own motion, Mr. Pratt?

11 MR. PRATT: No, sir.

12 JUDGE SLAVIN: Any other Board member?

13 (No verbal response.)

14 JUDGE SLAVIN: All right. Hearing none,
15 seeing none, I'm going to put the question and
16 read this one. We -- and it's fine, we just got
17 out of order, so we'll make sure we're on the
18 same page.

19 The motion under consideration is whether
20 the Lee County ZBA recommends to the Lee County
21 Board a condition of the Special Use that any
22 WECS project unit which has been inoperable for
23 365 consecutive days, or 425 total days in two
24 consecutive calendar years, shall be presumed

1 inoperable and/or abandoned.

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: Opposed by nay.

8 (No verbal response.)

9 JUDGE SLAVIN: That motion is adopted.
10 Okay. Back to you guys.

11 MR. MEYER: Your Honor.

12 JUDGE SLAVIN: Mr. Meyer.

13 MR. MEYER: If BSW DevCo's WECS Special
14 Use Petition under consideration is allowed, I
15 move that the Lee County ZBA recommends to the
16 Lee County Board a condition of the Special Use
17 that of the Petitioner fails to file a WECS
18 annual operating report within 425 total days of
19 the date of initial commercial operation or if
20 the last filed WECS annual operating report, the
21 Lee County Zoning Administrator may request the
22 Lee County Zoning Board of Appeals to convene a
23 public hearing to determine whether abandonment
24 of the WECS project facilities has occurred. At

1 such hearing, the Petitioner will be provided
2 with an opportunity to present evidence
3 demonstrating that the WECS project facilities
4 are operable and are not abandoned.

5 JUDGE SLAVIN: All right. Do I hear a
6 second?

7 MR. BOTHE: Second.

8 JUDGE SLAVIN: Hearing a second, do you
9 want to address your own motion, Mr. Meyer?

10 MR. MEYER: No comment.

11 JUDGE SLAVIN: Any other Board member?

12 (No verbal response.)

13 JUDGE SLAVIN: Hearing none, seeing none,
14 I will put the question. The question being put
15 is on the adoption of the motion as so clearly
16 read by Mr. Meyer.

17 Adoption requires a vote by the majority.
18 The vote will be by voice. All those in favor
19 indicate by saying aye.

20 (All those simultaneously
21 responded.)

22 JUDGE SLAVIN: Opposed by nay.

23 (No verbal response.)

24 JUDGE SLAVIN: That motion is adopted.

1 Okay. Very gallantly back to you,
2 gentlemen.

3 MR. BUHROW: Mr. Chairman, I move that if
4 BSW DevCo's WECS Special Use Petition under
5 consideration is allowed, the Lee County ZBA
6 recommends to the Lee County Board a condition
7 of the Special Use that a determination or
8 finding of presumed inoperability and/or
9 abandonment by the Lee County Zoning
10 Administrator is grounds for the Lee County
11 Zoning Board of Appeals to conduct a public
12 hearing to consider revocation of the Special
13 Use Permit covering the WECS project unit in
14 question.

15 JUDGE SLAVIN: Do I hear a second?

16 MR. BOTHE: Second.

17 JUDGE SLAVIN: Hearing a second, anything
18 you want to say, Mr. Buhrow?

19 MR. BUHROW: No, sir.

20 JUDGE SLAVIN: Any other Board member?

21 (No verbal response.)

22 JUDGE SLAVIN: Hearing none, seeing none,
23 I will put the question. The question being put
24 is whether the Lee County ZBA recommends to the

1 Lee County Board a condition of the Special Use
2 that a determination or finding of presumed
3 inoperability and/or abandonment by the Lee
4 County Zoning Administrator is grounds for the
5 Lee County Zoning Board of Appeals to conduct a
6 public hearing to consider revocation of the
7 Special Use Permit covering the WECS project
8 unit in question.

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

12 (All those simultaneously
13 responded.)

14 JUDGE SLAVIN: Opposed by nay.

15 (No verbal response.)

16 JUDGE SLAVIN: You can hear it by the
17 silence, there were no nays. So the motion is
18 adopted.

19 All right.

20 MR. PRATT: Your Honor.

21 JUDGE SLAVIN: Back atcha. Yeah, yes,
22 sir.

23 MR. PRATT: I make a motion, if BSW
24 DevCo's WECS Special Use Petition under

1 consideration is allowed, the Lee County ZBA
2 recommends to the Lee County Board a condition
3 of the Special Use that the Lee County Zoning
4 Administrator shall notify the Petitioner and
5 the WECS project site landowner of his or her
6 intention to seek revocation of the Special Use
7 at least 30 days prior to issuance of a notice
8 of public hearing by the Lee County Zoning Board
9 of Appeals of such recommendation, at which
10 Petitioner will be provided an opportunity to
11 present evidence demonstrating that the WECS
12 project facilities are operable and not
13 abandoned.

14 JUDGE SLAVIN: Do I hear a second?

15 MR. BOTHE: Second.

16 JUDGE SLAVIN: Hearing a second, anything
17 you want to say about your motion, Mr. Pratt?

18 MR. PRATT: No, sir.

19 JUDGE SLAVIN: Any other Board member want
20 to address it?

21 (No verbal response.)

22 JUDGE SLAVIN: Hearing none, seeing none,
23 I will put the question. The question being put
24 is on the adoption of the motion as so clearly

1 read by Mr. Pratt and displayed on the screen
2 here in the courtroom and on Zoom and YouTube.

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: Opposed by nay.

9 (No verbal response.)

10 JUDGE SLAVIN: Motion is adopted.

11 Okay, guys.

12 MR. MEYER: Your Honor.

13 JUDGE SLAVIN: Yes, sir.

14 MR. MEYER: The motion would read, if BSW
15 DevCo's WECS Special Use Petition under
16 consideration is allowed, the Lee County ZBA
17 recommends to the Lee County Board a condition
18 of the Special Use that a condition of the
19 Special Use that any Lee County Zoning Board of
20 Appeals recommendation to revoke the Special Use
21 for inoperable and/or abandoned WECS project
22 facilities shall be forwarded to the Lee County
23 Board for consideration of the recommended
24 revocation of the Special Use Permit.

1 JUDGE SLAVIN: Do I hear a second?

2 MR. BOTHE: Second.

3 JUDGE SLAVIN: Got it.

4 Anything you want to note about this
5 motion, Mr. Meyer?

6 MR. MEYER: No, sir.

7 JUDGE SLAVIN: Any other Board member?

8 (No verbal response.)

9 JUDGE SLAVIN: Hearing none, seeing none,
10 I will put the question. The question being put
11 is on the adoption of the oral motion made by
12 Mr. Meyer, displayed on the -- and displayed on
13 the screen here in the courtroom and on Zoom and
14 YouTube.

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

18 (All those simultaneously
19 responded.)

20 JUDGE SLAVIN: Opposed by nay.

21 (No verbal response.)

22 JUDGE SLAVIN: Unanimously adopted.

23 Okay, guys.

24 MR. BUHROW: Mr. Chairman.

1 JUDGE SLAVIN: Yes, sir.

2 MR. BUHROW: I move that if BSW DevCo's
3 WECS Special Use Petition under consideration is
4 allowed, the Lee County ZBA recommends to the
5 Lee County Board a condition of the Special Use
6 that the revocation of the Special Use for one
7 or more WECS project units does not revoke the
8 Special Use approval for other WECS project
9 facilities approved by a common, original
10 Special Use petition.

11 JUDGE SLAVIN: Do I hear a second?

12 MR. BOTHE: Second.

13 JUDGE SLAVIN: Hearing a second, anything
14 you want to say, Mr. Bothe?

15 MR. BUHROW: No, sir.

16 JUDGE SLAVIN: Any other Board member want
17 to address Mr. Buhrow's motion?

18 (No verbal response.)

19 JUDGE SLAVIN: Hearing none, seeing none,
20 I will put the question. The question being put
21 is as Mr. Buhrow so ably read and as displayed
22 here on the screen in the courtroom, Zoom and
23 YouTube.

24 Adoption of the motion requires a vote by

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

3 (All those simultaneously
4 responded.)

5 JUDGE SLAVIN: Opposed by nay.

6 (No verbal response.)

7 JUDGE SLAVIN: And that motion is adopted
8 as well. Okay.

9 MR. PRATT: Your Honor.

10 JUDGE SLAVIN: Yes, sir.

11 MR. PRATT: I make a motion that if BSW
12 DevCo's WECS Special Use Petition under
13 consideration is allowed, the Lee County ZBA
14 recommends to the Lee County Board a condition
15 of the Special Use that in the case of
16 revocation of the Special Use Permit for any
17 WECS project facilities by the Lee County Board,
18 the Lee County Zoning Administrator will notify
19 the Petitioner and the landowner that an updated
20 decommissioning plan must be submitted to the
21 Lee County Zoning Office within 60 days of the
22 certified revocation date.

23 JUDGE SLAVIN: Do I hear a second?

24 MR. BOTHE: Second.

1 JUDGE SLAVIN: Got one.

2 Mr. Pratt?

3 MR. PRATT: No, no comment.

4 JUDGE SLAVIN: Any other Board member?

5 (No verbal response.)

6 JUDGE SLAVIN: Hearing none, seeing none,
7 I will put the question. The question being put
8 is on the adoption of the motion as read out
9 loud by Mr. Pratt, displayed on the board here
10 in the courtroom and on Zoom and YouTube.

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

14 (All those simultaneously
15 responded.)

16 JUDGE SLAVIN: Opposed by nay.

17 (No verbal response.)

18 JUDGE SLAVIN: The motion is adopted.

19 I think that's -- oop. There's one hiding
20 down below.

21 MR. MEYER: Your Honor.

22 JUDGE SLAVIN: Yes, sir.

23 MR. MEYER: My motion would read, if BSW
24 DevCo's WECS Special Use Petition under

1 consideration is allowed, that the Lee County
2 ZBA recommends to the Lee County Board a
3 condition of the Special Use that all
4 decommissioning and restoration work conducted
5 pursuant to the revocation of the Special Use
6 Permit by the Lee County Board shall be
7 completed in a timely manner not to exceed 240
8 days after the date of revocation order by the
9 Lee County Board, and that up to 180 days of
10 additional time to accomplish decommissioning
11 and restoration may be granted if the Lee County
12 Zoning Administrator determines additional time
13 is in the best interest of Lee County landowners
14 and area highway authorities.

15 JUDGE SLAVIN: Do I hear a second?

16 MR. BOTHE: Second.

17 JUDGE SLAVIN: Got it.

18 Anything you want to say about your own
19 motion, Mr. Meyer?

20 MR. MEYER: No comment.

21 JUDGE SLAVIN: Any other Board member?

22 (No verbal response.)

23 JUDGE SLAVIN: Hearing none, seeing none,
24 I will put the question. The question being put

1 is on the adoption of the motion as read out
2 loud by Mr. Meyer and displayed on the screen
3 here in the courtroom, Zoom and YouTube.

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: Nay.

10 (No verbal response.)

11 JUDGE SLAVIN: Okay. That's a winner too.
12 Yes, gentlemen.

13 MR. PRATT: Your Honor.

14 JUDGE SLAVIN: Yes, sir.

15 MR. PRATT: I would like to bring back to
16 the table and reconsider one of our conditions.

17 JUDGE SLAVIN: All right. You tell me --

18 MR. PRATT: F.

19 JUDGE SLAVIN: -- just so I can display
20 it. That's up to you, I just want to make sure
21 we're talking about the same thing.

22 Okay. Yes, sir.

23 MR. PRATT: I would like to withdraw that.

24 JUDGE SLAVIN: Well, it's already been

1 adopted. So the motion is to amend and adopt --
2 yeah, and adopt your motion. Motion to amend.
3 You tell me how you want to amend it. We'll get
4 it done.

5 MR. PRATT: I would like to delete the
6 whole condition.

7 JUDGE SLAVIN: In other words, you don't
8 want it to exist at all?

9 MR. PRATT: Correct.

10 JUDGE SLAVIN: Okay. Withdraw the motion
11 to --

12 MR. PRATT: Well, I guess I can correct
13 it. I can correct it. Let me do it this way --

14 JUDGE SLAVIN: It's up to you.

15 MR. PRATT: No, I can correct it.

16 Let's do it, the Lee County ZBA recommends
17 to the Lee County --

18 JUDGE SLAVIN: Off the record, Callie,
19 while he's reading to himself.

20 (A discussion was held off
21 the record.)

22 JUDGE SLAVIN: Back on the record, Callie.

23 MR. PRATT: I'll make a motion --

24 JUDGE SLAVIN: Motion to amend.

1 MR. PRATT: -- motion to amend that if BSW
2 DevCo's WECS Special Use Petition under
3 consideration is allowed, the Lee County ZBA
4 recommends to the Lee County Board a condition
5 of the Special Use that all WECS turbines shall
6 be set back at least 350 feet from any primary
7 structure --

8 JUDGE SLAVIN: Wait a minute. I just want
9 to make sure I catch up.

10 MR. PRATT: -- from any primary structure,
11 school, church or public building located on a
12 nonparticipating parcel.

13 JUDGE SLAVIN: Look at the board.

14 MR. PRATT: Yeah, that's correct.

15 JUDGE SLAVIN: That's a motion to amend.
16 Do I have a second on the motion to amend?

17 MR. BOTHE: Second.

18 JUDGE SLAVIN: Anything you want to say
19 about your proposed amendment, Mr. Pratt?

20 MR. PRATT: Yes, let me explain what has
21 been pointed out, that I was looking at their
22 petition that they filed and working off the 1.1
23 times the turbine height, is what they stated in
24 their petition.

1 But in the paragraph prior to that list of
2 setbacks, it says that: If the Petitioner
3 intends to voluntarily implement the setback
4 requirements listed below, unless in some cases
5 the implementation becomes unworkable.

6 So that paragraph I did not read. So that
7 caused me to change that condition.

8 JUDGE SLAVIN: Any other Board member want
9 to comment?

10 MR. MEYER: I concur with the 350 feet.

11 JUDGE SLAVIN: Okay. Any other Board
12 member?

13 (No verbal response.)

14 JUDGE SLAVIN: Hearing none, seeing none,
15 the motion -- I'll put the question. The
16 question being put is on a motion to amend what
17 we're referring to as, I think, 87, is it --
18 87, F.

19 MR. MEYER: F.

20 JUDGE SLAVIN: And as follows, the Lee
21 County ZBA recommends to the Lee County Board a
22 condition of the Special Use that all WECS
23 turbines shall be set back at least 350 feet
24 from any primary structures, schools, church, or

1 public building located on a nonparticipating
2 parcel.

3 Adoption of the motion to amend requires
4 a -- let's see, it's the same session, so
5 adoption of the motion requires a vote by the
6 majority. The vote will be by voice. The only
7 condition of a motion to amend is that the
8 amender has to -- the proposed amender has to
9 vote in favor.

10 All those in favor indicate by saying aye.

11 (All those simultaneously
12 responded.)

13 JUDGE SLAVIN: Opposed by nay.

14 (No verbal response.)

15 JUDGE SLAVIN: The motion is adopted.

16 Now we have an amended motion before us,
17 and that amended motion is on -- is now ready
18 for decision, and it is exactly the same,
19 whether the Lee County ZBA recommends to the Lee
20 County Board a condition of the Special Use that
21 all WECS turbines shall be set back at least 350
22 feet from any primary structures, schools,
23 church or public building located on a
24 nonparticipating parcel.

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: Opposed by nay.

7 (No verbal response.)

8 JUDGE SLAVIN: Now the motion in total is
9 adopted.

10 All right, guys, back to you.

11 MR. PRATT: Your Honor.

12 JUDGE SLAVIN: Yes, sir.

13 MR. PRATT: I would like to make a motion
14 to amend on Condition J.

15 JUDGE SLAVIN: Got it.

16 MR. PRATT: Maybe it's not J.

17 MR. MEYER: Yeah, it is.

18 MR. PRATT: Okay. So my motion is, if BSW
19 DevCo's WECS Special Use Petition under
20 consideration is allowed, the Lee County ZBA
21 recommends to the Lee County Board a condition
22 on the Special Use that, unless a waiver is
23 otherwise obtained from an affected owner of a
24 nonparticipating parcel, all WECS turbines shall

1 be set back at least 350 feet -- I'm back to
2 reading off the two of them here -- from any
3 primary structures (such as residences,
4 commercial buildings, hospitals, churches,
5 schools, public buildings and daycare
6 facilities) occupied by at least one person,
7 with the distance for the above setback being
8 measured from the point of the above-described
9 structure's foundation closest to the WECS
10 turbine to the base of the WECS turbine at
11 ground level.

12 Judge, I want to go back and change from
13 "an affected owner" cross out "of a
14 nonparticipating parcel."

15 JUDGE SLAVIN: That's fine. Before it's
16 seconded, you can make fit any changes you want.

17 But just to make sure, give everybody --

18 MR. PRATT: Can I make another correction?

19 JUDGE SLAVIN: Oh, yeah, you have got the
20 floor.

21 MR. PRATT: Okay. So after "350 foot" --

22 JUDGE SLAVIN: Yup.

23 MR. PRATT: -- or voluntarily agreeing to
24 1.1 times the height of the turbine.

1 JUDGE SLAVIN: Give it a read while I'm
2 highlighting things here.

3 MR. PRATT: I'm not sure that's quite the
4 way I want it stated.

5 JUDGE SLAVIN: You have time.

6 MR. PRATT: I'll go with that. I'll go
7 with that. That's my motion, motion to amend.

8 JUDGE SLAVIN: Do I hear a second?

9 MR. BOTHE: Second.

10 JUDGE SLAVIN: Got a second.

11 Mr. Pratt?

12 MR. PRATT: So the same argument I made on
13 the last amendment, that the Petitioner has
14 agreed to 1.1 -- he voluntarily agreed to 1.1.
15 That's why I'm stating that.

16 JUDGE SLAVIN: Okay. Any other Board
17 member want to address it?

18 (No verbal response.)

19 JUDGE SLAVIN: Hearing none, seeing none,
20 I'm going to put the question. The question
21 being put is on the amendment of the motion
22 already passed -- excuse me -- as explained by
23 Mr. Pratt and now displayed on the board here in
24 the courtroom, on Zoom and on YouTube.

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: Opposed by nay.

7 (No verbal response.)

8 JUDGE SLAVIN: All right. Now we have a
9 new motion.

10 Was there anything you would like to add
11 to your new motion, Mr. Pratt?

12 MR. PRATT: No.

13 JUDGE SLAVIN: Okay. Any other Board
14 member, comments?

15 (No verbal response.)

16 JUDGE SLAVIN: Hearing none, seeing none,
17 I will put the question. I think it's important
18 that this one be read, just like the last one we
19 amended.

20 The question being put is whether the Lee
21 County ZBA recommends to the Lee County Board a
22 condition of the Special Use that, unless a
23 waiver is otherwise obtained from an affected
24 owner, all WTGs shall be set back at least 350

1 feet, or voluntarily agreeing to 1.1 times the
2 WTG height, from any primary structures (such as
3 residences, commercial buildings, hospitals,
4 churches, schools, public buildings and daycare
5 facilities) occupied by at least one person,
6 with the distance for the above setback being
7 measured from the point of the above-described
8 structure's foundation closest to the WECS
9 turbine to the base of the WECS turbine at
10 ground level.

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

14 (All those simultaneously
15 responded.)

16 JUDGE SLAVIN: Opposed by nay.

17 (No verbal response.)

18 JUDGE SLAVIN: It's adopted.

19 Okay. Ball is back in your collective
20 court.

21 MR. MEYER: Your Honor, I would like to
22 amend Findings of Fact Number 81.

23 JUDGE SLAVIN: 81. Let me find it, first
24 of all. Excuse me. It's a very slow mouse, you

1 know. I asked that it be sped up, but. . .

2 Yes, sir.

3 MR. MEYER: I want to insert the words,
4 "the Petitioner has stated it will voluntarily
5 comply with the setbacks."

6 JUDGE SLAVIN: So --

7 MR. MEYER: That would be the only change.

8 JUDGE SLAVIN: Okay. Does that look right
9 then?

10 MR. MEYER: It does.

11 JUDGE SLAVIN: Okay. And you're asking
12 that motion be amended in that manner.

13 Do I hear a second?

14 MR. BOTHE: Second.

15 JUDGE SLAVIN: Okay. Anything you want to
16 say about your proposed amendment, Mr. Meyer?

17 MR. MEYER: Just, I think it makes it more
18 accurate.

19 JUDGE SLAVIN: Okay. Any other Board
20 member?

21 (No verbal response.)

22 JUDGE SLAVIN: Hearing none, seeing none,
23 I'm going to put the question. The question is
24 on the amendment to a motion we have numbered,

1 for this purpose tonight, Number 81, to insert
2 the word "voluntarily" between the first
3 sentence "will" and -- the word "will" and the
4 word "comply."

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: Opposed by nay.

11 (No verbal response.)

12 JUDGE SLAVIN: Motion carries.

13 Now we have an amended motion to consider.
14 Anything you want to say about your motion as
15 it's now amended, Mr. Meyer?

16 MR. MEYER: No, sir.

17 JUDGE SLAVIN: Any other Board member?

18 (No verbal response.)

19 JUDGE SLAVIN: Hearing none, seeing none,
20 I will put the question. The question being put
21 -- and I am going to read ones that are
22 changed -- is whether the Lee County ZBA finds
23 that the Petitioner has stated it will
24 voluntarily comply with setbacks from primary

1 structures occupied by at least one person (that
2 is, residences, commercial buildings, hospitals,
3 churches, school, public buildings and daycare
4 facilities), public roads, third-party
5 transmission lines, communication towers or
6 nonparticipating lines, to wit:

7 At least 1.1 times the WTG height from any
8 primary structure on a nonparticipating parcel;

9 At least 1.1 times the WTG height from any
10 residences located on a project parcel;

11 And at least 1.0 times the WTG height for
12 public roads, third-party transmission lines,
13 and communication towers;

14 And at least 1.0 times the WTG height from
15 the property lines of a nonparticipating parcel.

16 Adoption of the 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: Opposed by nay.

22 (No verbal response.)

23 JUDGE SLAVIN: The amended motion is now
24 adopted.

1 Back to you guys.

2 MR. PRATT: Your Honor.

3 JUDGE SLAVIN: Yes, sir.

4 MR. PRATT: Now we move down to Number 88.

5 JUDGE SLAVIN: Okay. Just a minute.

6 Yes, sir.

7 MR. PRATT: Make a motion that the Lee
8 County ZBA recommends to the Lee County Board
9 that any one or more of the recommended --

10 JUDGE SLAVIN: This would be prefaced by
11 the above 80- -- whatever it is, the first
12 sentence on 87?

13 MR. PRATT: No. I don't think this is a
14 condition.

15 JUDGE SLAVIN: Okay. Got it. I agree,
16 now that I look at it. Yes, sir.

17 MR. PRATT: Lee County ZBA recommends to
18 the Lee County Board that any one or more of the
19 recommended setback Variances be allowed only if
20 a written waiver is provided to the Zoning
21 Administrator.

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

23 MR. BOTHE: Second.

24 JUDGE SLAVIN: Hearing a second, anything

1 you want to say about your motion, Mr. Pratt?

2 MR. PRATT: No, sir.

3 JUDGE SLAVIN: Any other Board member?

4 (No verbal response.)

5 JUDGE SLAVIN: Hearing none, seeing none,
6 I will put the question. The question being put
7 is whether the Lee County ZBA recommends to the
8 Lee County Board that any one or more of the
9 recommended setback Variances be allowed only if
10 a written waiver is provided to the Zoning
11 Administrator -- gallantly provided -- no,
12 provided to the Zoning Administrator.

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: That motion is adopted.

21 Okay. Back to you, guys.

22 MR. PRATT: We don't know the totals on
23 this one, Judge.

24 JUDGE SLAVIN: I don't either. Let me ask

1 you this: can somebody make a motion that you
2 give me the authority to fill in those blanks?

3 MR. PRATT: Yes, sir.

4 JUDGE SLAVIN: And of course Mr. Forster
5 will check it before he signs it anyways, so.

6 MR. MEYER: I move to adopt that motion,
7 with Judge Slavin filling the numbers in.

8 JUDGE SLAVIN: In good faith.

9 MR. MEYER: In good faith.

10 JUDGE SLAVIN: Any other -- second?

11 MR. BOTHE: Second.

12 JUDGE SLAVIN: Any debate on your motion?

13 MR. MEYER: No, sir.

14 JUDGE SLAVIN: Any other Board member?

15 (No verbal response.)

16 JUDGE SLAVIN: All right. The motion
17 pending is that the Board is giving me the
18 limited authority to fill in the two blanks in
19 the following finding, and that is: After the
20 evidence and comments stage, your ZBA considered
21 its finding of fact and recommendations over the
22 course of blank sessions, on blank and blank,
23 covering blank hours in total.

24 I'm allowed to fill in those four blanks.

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: Opposed by nay.

7 (No verbal response.)

8 JUDGE SLAVIN: That motion carries.

9 Okay. Gentlemen, any other motions?

10 MR. PRATT: Not from me.

11 JUDGE SLAVIN: Hearing none, silence is
12 golden, Mr. Chairman, I have completed my
13 Facilitator obligations. Did you want to take
14 back over -- I can never remember if you adjourn
15 the meeting at this point or if you want to take
16 some other action?

17 MR. FORSTER: We'll let you adjourn the
18 meeting.

19 MS. DUFFY: Recess, yes.

20 JUDGE SLAVIN: I can do that.

21 MR. FORSTER: Until after the County Board
22 makes its decision.

23 JUDGE SLAVIN: I will then recess this ZBA
24 meeting until after the County Board meeting

1 on --

2 MS. DUFFY: I believe it's the 15th of
3 July.

4 JUDGE SLAVIN: Yeah, July 15th. At your
5 first regularly-scheduled meeting after
6 July 15th.

7 MS. DUFFY: August 2nd. August 2nd is our
8 next.

9 JUDGE SLAVIN: Okay. Until August 2nd.
10 Very good. 7 o'clock?

11 MS. HENKEL: 5th.

12 MS. DUFFY: I thought it was --

13 JUDGE SLAVIN: Okay. August 5th,
14 7 o'clock, here, third floor, Old Lee County
15 Courthouse.

16 (The hearing was recessed at
17 7:55 p.m.)

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On this 7th day of July, A.D., 2021,
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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