

STATE OF ILLINOIS        )  
                                      )SS  
COUNTY OF LEE            )

In the Matter of the Petition  
                              of  
South Dixon Solar Development  
Lee County, Illinois

Testimony of Witnesses  
Produced, Sworn and  
Examined on this 22nd day  
of November, A.D., 2021,  
before the Lee County  
Zoning Board of Appeals

Present:

Craig Buhrow  
Gene Bothe  
Rex Meyer  
Glen Hughes  
Bruce Forster, Chairman

Alice Henkel, Secretary/Renewable Energy Coordinator  
Dee Duffy, Zoning Enforcement Officer

Honorable Judge Tim Slavin, Facilitator

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APPEARANCES:

LEE COUNTY STATE'S ATTORNEY CHARLES BOONSTRA  
of the Lee County State's Attorney's Office  
309 South Galena Avenue, Suite 300  
Dixon, Illinois 61021

Counsel for the County.

ATTORNEY COURTNEY KENNEDY  
of the firm of Ehrmann Gehlbach Badger &  
Considine  
215 East First Street, Suite 100  
Dixon, Illinois 61021

1 JUDGE SLAVIN: Well, good evening,  
2 everyone. I call out of recess Lee County  
3 Zoning Board of Appeals hearing on Petition  
4 Number 21-P-1566, South Dixon Solar, LLC's,  
5 request for a Special Use Permit to construct a  
6 solar energy system in South Dixon Township.

7 For those of you wanting to join us on  
8 Zoom but maybe are listening on YouTube and  
9 can't recover the Zoom particulars, the meeting  
10 ID on Zoom is 915-3923-9154 and the password is  
11 209840.

12 If you are listening on Zoom or some other  
13 means and you want to watch and listen on  
14 YouTube, on your computer or cell phone, use  
15 your browser, go to [www.youtube.com](http://www.youtube.com). In the  
16 search bar, type "Lee County IL," I-L, short for  
17 Illinois, "Zoning Board of Appeals." Don't be  
18 concerned with upper- or lowercase letters.  
19 Find the session date you want, presumably  
20 today, November 22nd, and click on it and you  
21 should be seeing and listening to us.

22 If you are not a technical geek and need  
23 some assistance, you may call Ms. Duffy's  
24 hotline, 815.973.3449, for technical assistance.

In Totidem Verbis, LLC (ITV)  
815.453.2260

In Totidem Verbis, LLC (ITV)

1 I note tonight we are honored to have with  
2 us the presence of the following ZBA members:  
3 its Chairman, Mr. Forster, and in a non-voting  
4 capacity; its Vice Chair, Mr. Buhrow; Mr. Bothe  
5 is present; Mr. Hughes is present; as is  
6 Mr. Meyer.

7 The honorable Dee Duffy, Zoning Officer of  
8 Lee County, is present, along with her  
9 compatriot, Renewable Energy Coordinator, Alice  
10 Henkel. The fine State's Attorney of the  
11 county, Charlie Boonstra, is present.  
12 Representing the Petitioner is Attorney Courtney  
13 Kennedy.

14 I see seven Interested Parties in the --  
15 here in the courtroom. I see two Petitioner's  
16 representatives. I did have Lee County's new IT  
17 guru, but I don't see him any longer. Of  
18 course, we don't have any witnesses. The court  
19 reporter and myself are present.

20 That makes one, two, three, four, five,  
21 six, eight, nine, 11 -- I think 20 folks here in  
22 the courtroom.

23 MS. HENKEL: Four on Zoom.

24 JUDGE SLAVIN: Four on Zoom, Alice tells

1 me. For a total attendance of 24 people.

2 Under the governor's current executive  
3 order, all persons 22 (sic) years of age or  
4 older are -- except for those having a  
5 disability as defined by the Americans with  
6 Disabilities Act, are required to wear a face  
7 mask covering their nose and mouth when in an  
8 indoor public space such as this.

9 At this point, if you are in the courtroom  
10 or -- well, if you're in the courtroom -- there  
11 are no other people in the back room -- please  
12 turn your cell phones off or at least to silent.

13 Thank you for your understanding on both  
14 matters.

15 When we last left off, we were in the  
16 middle of fact-finding, the Board's fact-finding  
17 and recommendations, and I will open the floor  
18 for further motions.

19 MR. HUGHES: Mr. Facilitator.

20 JUDGE SLAVIN: Yes, sir.

21 MR. HUGHES: We might as well continue  
22 with Number 73, Draft Number 73, to be made as a  
23 motion. The ZBA finds that it is being proposed  
24 that the aforementioned Special Use Permit would

1 be for the following structures:

2 Bi-facial solar modules (panels) in an  
3 anodized aluminum frame approximately 6-3/4 feet  
4 long, 3-1/3 feet wide, and about 1-1/4 inches  
5 thick; and

6 A ground-mounted racking system on which  
7 the panels would be placed supported by  
8 galvanized and stainless steel pilings driven  
9 into the ground which would not need concrete to  
10 be stabilized; and

11 Approximately 200 inverters throughout the  
12 solar arrays which would convert solar-  
13 panel-collected DC current into AC current; and

14 Collection cables either:

15 When site conditions allow, buried 5 to 6  
16 feet underground; or

17 When site conditions would not allow, run  
18 through above-ground conduit; and

19 A new South Dixon Solar, LLC,-owned  
20 substation, including three transformers; and

21 A ComEd-owned interconnection switching  
22 station; and

23 An operations and maintenance (hereinafter  
24 "O & M") building the size of a single-wide

1 trailer; and

2 One larger temporary construction outdoor  
3 storage area ("laydown yard") and a number of  
4 smaller ones; and

5 28 site access roads for site construction  
6 consisting of temporary stabilized 8-inch-thick  
7 aggregate rock entrances 15 feet by 50 feet.

8 That is the motion.

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

11 MR. BOTHE: Second.

12 JUDGE SLAVIN: Got one.

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

15 MR. HUGHES: No, sir.

16 JUDGE SLAVIN: Any other Board member? I  
17 can't see you all, so if you have a comment you  
18 want to make, besides raising your hand, say,  
19 Hey you, or something.

20 (No verbal response.)

21 JUDGE SLAVIN: Hearing none, I will put  
22 the motion. The motion being put is as  
23 Mr. Hughes so ably read it.

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: That motion is unanimously  
8 adopted. Highlight it and on we go.

9 MR. BUHROW: Mr. Chairman.

10 JUDGE SLAVIN: Yes, sir.

11 MR. BUHROW: The motion is, Number 74, the  
12 Lee County ZBA finds that through either its  
13 application or through the testimony of one or  
14 more agents that:

15 The Developer is seeking a power purchase  
16 agreement to sell power that would be generated  
17 by the proposed project; and

18 If approved, the proposed SES would  
19 produce electricity sufficient to power a  
20 representative 100,000 homes.

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

23 MR. BOTHE: Second.

24 JUDGE SLAVIN: Got it.



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

3           MR. BUHROW: No, sir.

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 whether the Lee County ZBA finds that through  
9 either its application or through the testimony  
10 of one or more agents that:

11                   The Developer is seeking a power purchase  
12 agreement to sell power that would be generated  
13 by the proposed project; and

14                   If approved, the proposed SES would  
15 produce electricity sufficient to power a  
16 representative 100,000 homes.

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: We have another unanimous

1 occurrence. Save it, and onward and upward.

2 MR. MEYER: Number 75, Your Honor the  
3 motion would read, the Lee County ZBA finds that  
4 the Applicant verified that there would be no  
5 communication interference from the proposed SES  
6 project.

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

9 MR. BOTHE: Second.

10 JUDGE SLAVIN: I got a second.

11 Anything you want to say about your own  
12 motion, Mr. Meyer?

13 MR. MEYER: No, sir.

14 JUDGE SLAVIN: Any other Board member?

15 (No verbal response.)

16 JUDGE SLAVIN: Hearing none, seeing none,  
17 I will put the question. The question being put  
18 is whether the Lee County ZBA finds that the  
19 Applicant verified that there would be no  
20 communication interference from the proposed SES  
21 project.

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.

1 (All those simultaneously  
2 responded.)

3 JUDGE SLAVIN: Opposed by nay.

4 (No verbal response.)

5 JUDGE SLAVIN: That one is adopted as --  
6 without dissent as well. Okay.

7 MR. HUGHES: Moving on to Draft Number 76,  
8 and I will have some wording changes in here.

9 The motion being, the Lee County ZBA finds  
10 that the Applicant explained that it would not  
11 have much need --

12 JUDGE SLAVIN: Just a minute.

13 MR. HUGHES: That's why I stopped.

14 JUDGE SLAVIN: Yeah, thank you.

15 Would not have much need.

16 MR. HUGHES: For cleaning.

17 JUDGE SLAVIN: Just a minute. As soon as  
18 I find the cursor. There it is.

19 For cleaning.

20 MR. HUGHES: The SES equipment.

21 JUDGE SLAVIN: Yup.

22 MR. HUGHES: Comma, due to the weather,  
23 comma, or more specifically, comma, the  
24 precipitation.

1 JUDGE SLAVIN: Whoops, I lost you there.

2 I zoned out. Due to the weather or?

3 MR. HUGHES: More specifically.

4 JUDGE SLAVIN: Or, comma, more. Yup.

5 MR. HUGHES: Comma, the precipitation.

6 JUDGE SLAVIN: Okay. Take a look.

7 MR. HUGHES: That would be the motion, and  
8 probably can -- I'm not the best on grammar, but  
9 I think we can -- okay. I was going to say,  
10 move the other comma, but that's fine.

11 JUDGE SLAVIN: Does it look right, other  
12 than that?

13 MR. HUGHES: Yes.

14 JUDGE SLAVIN: I'm just going to highlight  
15 it all, make it all red.

16 All right. Do I hear a second?

17 MR. BOTHE: Second.

18 JUDGE SLAVIN: Hearing a second, anything  
19 you want to say about your motion, Mr. Hughes?

20 MR. HUGHES: Just wanted to amend it for a  
21 little clarification. I think the testimony was  
22 that they did not expect to have to do much  
23 cleaning due to the weather and, more  
24 specifically, the rain and the snow. I didn't

1 think it was an absolute, I think there might  
2 have even been some commentary about inability  
3 to clean the panels if needed, but it was not  
4 expected. So I just wanted to be a little bit  
5 more clarified on that.

6 JUDGE SLAVIN: Okay. Any other Board  
7 member want 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 finds that the  
12 Applicant explained that it would not have much  
13 need for cleaning the SES equipment due to the  
14 weather or, more specifically, the  
15 precipitation.

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: All opposed by nay.

22 (No verbal response.)

23 JUDGE SLAVIN: Motion is adopted.

24 All right. Moving on.

1 MR. BUHROW: Mr. Chairman.

2 JUDGE SLAVIN: Yes, sir.

3 MR. BUHROW: Moving to Number 78. The  
4 motion reads, the Lee County ZBA recommends to  
5 the Lee County Board that South Dixon Solar,  
6 LLC's, petition for Special Use be approved.

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

9 MR. BOTHE: Second.

10 JUDGE SLAVIN: Hearing a second,  
11 Mr. Buhrow, anything you want to address on your  
12 own motion?

13 MR. BUHROW: No, sir.

14 JUDGE SLAVIN: Any other Board member want  
15 to make any comments?

16 MR. MEYER: I would like to talk to that.  
17 I made the motion the last time this was before  
18 us, and South Dixon Solar has gone beyond the  
19 current Ordinance that they have to meet, and I  
20 do have reservations about putting it on the  
21 farm ground that it is -- I know it's not Class  
22 A soil, but it is better than some soils -- but  
23 they have met all the requirements, and they  
24 should -- it should be recommended to the County

1 Board and sent to them.

2 JUDGE SLAVIN: All right. Thank you.

3 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 South Dixon Solar, LLC's,  
9 petition for Special Use be approved.

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

13 (All those simultaneously  
14 responded.)

15 JUDGE SLAVIN: Opposed, nay.

16 (No verbal response.)

17 JUDGE SLAVIN: Motion is unanimously  
18 adopted.

19 MR. MEYER: Number 79, Your Honor.

20 JUDGE SLAVIN: Yes, sir.

21 MR. MEYER: The motion reads, the Lee  
22 County ZBA recommends to the Lee County Board  
23 that, if South Dixon Solar, LLC's, petition for  
24 a Special Use Permit is approved, that

1 conditions of the permit issued, binding on the  
2 Applicant and any future entities-in-interest,  
3 be those required by the applicable Ordinance,  
4 whether or not specifically addressed herein.

5 Additionally, based on the promises the  
6 Developer made in its application and by one or  
7 more of its agents on the witness stand, that it  
8 would comply with all of the requirements of the  
9 July 2021 enacted (but not legally applicable to  
10 this proposed project) SES Development Ordinance  
11 (Number 07-21-004) except the deposit of "an  
12 initial engineering fee of no less than  
13 \$100,000" and a "security bond of 150 percent of  
14 an (engineer's decommissioning) estimate" and  
15 would exceed certain Number 07-21-004  
16 requirements (such as particular enhanced  
17 setbacks), the Lee County ZBA recommends to the  
18 Lee County Board that, if the requested permit  
19 for the Special Use is allowed, conditions,  
20 based on the "new" SES Ordinance and Applicant's  
21 promised enhancements thereof, whether or not  
22 otherwise addressed herein, be included in the  
23 Permit issued, and that they shall also be  
24 binding on the Applicant and any future

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1 entities-in-interest.

2 JUDGE SLAVIN: Do I hear a second?

3 MR. BOTHE: Second.

4 JUDGE SLAVIN: Hearing a second, I will  
5 ask Mr. Meyer if you have any comment about your  
6 own motion?

7 MR. MEYER: No, sir.

8 JUDGE SLAVIN: Any other Board member?

9 (No verbal response.)

10 JUDGE SLAVIN: Hearing none, seeing none,  
11 I'm going to put the question. Sometimes when  
12 they get longer, I don't read them, but this one  
13 I am going to read.

14 The question being put is whether the Lee  
15 County ZBA recommends to the Lee County Board  
16 that, if South Dixon Solar, LLC's, petition for  
17 a Special Use Permit is approved, that  
18 conditions of the permit issued, binding on the  
19 Applicant and any future entities-in-interest,  
20 be those required by the applicable Ordinance,  
21 whether or not specifically addressed herein.

22 Additionally, based on the promises the  
23 Developer made in its application and by one or  
24 more of its agents on the witness stand, that it

1 would comply with all of the requirements of the  
2 July 2021 enacted (but not legally applicable to  
3 this proposed project) SES Development Ordinance  
4 (Number 07-21-004) except the deposit of "an  
5 initial engineering fee of no less than  
6 \$100,000" and a "security bond of 150 percent of  
7 an (engineer's decommissioning) estimate" and  
8 would exceed certain Number 07-21-004  
9 requirements (such as particular enhanced  
10 setbacks), the Lee County ZBA recommends to the  
11 Lee County Board that, if the requested permit  
12 for the Special Use is allowed, conditions,  
13 based on the "new" SES Ordinance and Applicant's  
14 promised enhancements thereof, whether or not  
15 otherwise addressed herein, be included in the  
16 Permit issued, and that they shall also be  
17 binding on the Applicant and any future  
18 entities-in-interest.

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: Those opposed by nay.

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(No verbal response.)

JUDGE SLAVIN: Motion is unanimously adopted.

(No verbal response.)

JUDGE SLAVIN: All right. The ball is back in your court, gentlemen.

MR. HUGHES: Moving on to Draft Number 80. Motion being, the Lee County ZBA recommends a condition that an -- recommends, excuse me, that an Illinois licensed professional engineer certify the proposed SES foundations would be within accepted professional standards.

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

MR. BOTHE: Second.

JUDGE SLAVIN: Got a second.

Anything you want to say about your own motion, Mr. Hughes?

MR. HUGHES: No. Just a clarification. Take out "a condition." Just move "recommends that."

JUDGE SLAVIN: Absolutely.

Is that all right with you, Mr. Bothe? You're the one that seconded it.

1 MR. BOTHE: Yeah, that's fine.

2 JUDGE SLAVIN: All right. Anything else,  
3 Mr. Hughes?

4 MR. HUGHES: No.

5 JUDGE SLAVIN: Any other Board member?

6 (No verbal response.)

7 JUDGE SLAVIN: All right. I will put the  
8 question. The question being put is whether the  
9 Lee County ZBA recommends that an Illinois  
10 licensed professional engineer certify the  
11 proposed SES foundations would be within  
12 accepted professional standards.

13 Adoption of the motion requires a vote by  
14 the majority. The vote is going to be by voice.  
15 All 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: Motion is adopted. Okay.

21 MR. BUHROW: Mr. Chairman.

22 JUDGE SLAVIN: Yes, sir.

23 MR. BUHROW: Moving on to 81, which the  
24 motion reads, the Lee County ZBA recommends

1 conditions that:

2 The collector panels be designed with an  
3 anti-reflective coating; and

4 All electrical components have an  
5 Underwriter Laboratories listing.

6 JUDGE SLAVIN: Second?

7 MR. BOTHE: Second.

8 JUDGE SLAVIN: Got a second.

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

11 MR. BUHROW: No, sir.

12 JUDGE SLAVIN: Any other Board member?

13 (No verbal response.)

14 JUDGE SLAVIN: Hearing none, seeing none,  
15 I will put the question. The question being put  
16 is whether the Lee County ZBA recommends a  
17 condition that:

18 The collector panels be designed with an  
19 anti-reflective coating; and

20 All electrical components have an  
21 Underwriter Laboratories listing.

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 is adopted.  
Okay. Your choice. Gentleman's choice.

MR. MEYER: Number 82, Your Honor. The  
motion would read, the Lee County ZBA  
recommends, other than transmission lines,  
utility poles, and other poles and equipment  
used in connecting a ground-mounted piece of  
equipment to an electrical line, all systems,  
equipment and structures not exceed 20 feet high  
when ground-mounted.

JUDGE SLAVIN: Do I hear a second?

MR. BOTHE: Second.

JUDGE SLAVIN: Got a second.

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

MR. MEYER: Just I would take "a condition  
that" out. So it just reads, "The Lee County  
ZBA recommends, other than transmission."

MS. HENKEL: Do you think that's going to  
be confusing for the County Board though? You

1 want to make it clear that you're recommending  
2 these as conditions to the permit, not as  
3 recommendations.

4 MR. HUGHES: We're making them as  
5 recommendations, not findings of fact. So as a  
6 recommendation, I would assume that --

7 MS. HENKEL: But they're going to --

8 MR. HUGHES: -- in and of itself becomes a  
9 condition of that permit. Clarification --

10 MS. HENKEL: I don't think it's going to  
11 be clear.

12 STATE'S ATTORNEY BOONSTRA: I think Alice  
13 is right, that they're going to be confused. If  
14 you're making a recommendation, that's one  
15 thing, but if you're making a recommendation for  
16 a condition, that's another thing.

17 See, right now you're recommending these  
18 facts to the County Board, but you're not  
19 recommending the conditions to the County Board  
20 unless you're saying it.

21 MS. HENKEL: Conditions are different for  
22 every petition, and so we want to make it clear  
23 to the County Board what you're wanting to  
24 recommend in addition to what is under the

1 Ordinance.

2 MR. HUGHES: Okay. I'll -- to me it just  
3 seemed --

4 MR. MEYER: It seems a little wordy, but I  
5 would go ahead and change my motion to put "a  
6 condition" back in.

7 JUDGE SLAVIN: Is that all right with you,  
8 Mr. Bothe?

9 MR. BOTHE: Yes, fine.

10 JUDGE SLAVIN: Okay. All right. Any  
11 other Board member?

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 recommends a  
16 condition that, other than transmission lines,  
17 utility poles, and other poles and equipment  
18 used in connecting a ground-mounted piece of  
19 equipment to an electrical line, all systems,  
20 equipment and structures not exceed 20 feet high  
21 when ground-mounted.

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: Those opposed by nay.

(No verbal response.)

JUDGE SLAVIN: Well, just a minute. That means maybe we ought to retreat to the one immediately before -- or no, two before. Can't remember who --

MR. HUGHES: It was me.

MS. HENKEL: Glen.

JUDGE SLAVIN: Okay.

MR. HUGHES: I will accept that.

JUDGE SLAVIN: All right. First of all, is that all right with you, Mr. Bothe?

MR. BOTHE: Yeah, that's okay.

JUDGE SLAVIN: Okay. Then I'm going to repeat the question -- well first of all, any other Board member want to comment on this word change?

(No verbal response.)

JUDGE SLAVIN: Question being put is whether the Lee County ZBA recommends a condition that an Illinois licensed professional engineer certify the proposed SES foundations

1 would be within accepted professional standards.

2 Adoption of this 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: All right. Let's move on  
10 up.

11 Next.

12 MR. HUGHES: Draft Number 83. The motion  
13 being, the Lee County ZBA recommends a condition  
14 that, in addition to that which the Developer  
15 otherwise promised, any of the proposed  
16 Development's security fencing:

17 Will be a minimum of 6 feet in height; and

18 Will, at the request of an adjacent  
19 nonparticipating resident, install an 8-foot  
20 woven wire fence at the boundary of that  
21 resident's Exclusion Zone; and

22 Any of the proposed Development's security  
23 fencing would have appropriate warning signage  
24 that would be in accordance with ANSI and OSHA

1 regulations; and

2 The required fencing be maintained to  
3 prevent the growth of woody vegetation or  
4 noxious weeds within and along it.

5 JUDGE SLAVIN: Do I hear a second?

6 MR. BOTHE: Second.

7 JUDGE SLAVIN: Got it.

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

10 MR. HUGHES: No, I don't think so.

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 whether the Lee County ZBA recommends a  
16 condition that, in addition to that which the  
17 Developer otherwise promised, any of the  
18 proposed Development's security fencing:

19 Will be a minimum of 6 feet -- foot in  
20 height; and

21 Will, at the request of an adjacent  
22 nonparticipating resident, install an 8-foot  
23 woven wire fence at the boundary of that  
24 resident's Exclusion Zone; and

1           Any of the proposed Development's security  
2           fencing would have appropriate warning signage  
3           that would be in accordance with ANSI and OSHA  
4           regulations; and

5           The required fencing be maintained to  
6           prevent the growth of woody vegetation or  
7           noxious weeds within and along it.

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 is adopted.

16          Back atcha.

17          MR. BUHROW: Mr. Facilitator.

18          JUDGE SLAVIN: Yes, sir.

19          MR. BUHROW: On Point 84, the motion  
20          reads, the Lee County ZBA recommends conditions  
21          that setbacks will meet or exceed the following  
22          requirements:

23                           For equipment:

24                           15 feet from a property line;

1           400 feet from the foundation of an  
2           adjacent nonparticipating primary dwelling;

3           500 feet from the property line of any  
4           platted subdivision;

5           500 feet from any dwelling for an  
6           inverter, transformer or storage equipment;

7           60 feet from the centerline of a Township  
8           roadway;

9           75 feet from the centerline of a County  
10          roadway;

11          50 feet from the right-of-way of a State  
12          road;

13          For fencing:

14          3 feet from the property lines except for  
15          fences adjoining roadways;

16          500 feet from the property line of a  
17          platted subdivision;

18          400 feet from the foundation of any  
19          adjacent nonparticipating primary dwelling;

20          1,000 feet from the exterior fence of the  
21          proposed substation and utility switching  
22          station to the nearest structural portion of any  
23          occupied residence of a nonparticipating  
24          landowner.

1 JUDGE SLAVIN: Do I hear a second?

2 MR. BOTHE: Second.

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

6 MR. BUHROW: I think it's all there.

7 JUDGE SLAVIN: All right. Any other Board  
8 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 recommends  
13 conditions that setbacks will meet or exceed the  
14 following requirements:

15 For equipment:

16 15 feet from a property line;

17 400 feet from the foundation of an  
18 adjacent nonparticipating primary dwelling;

19 500 feet from the property line of any  
20 platted subdivision;

21 500 feet from any dwelling for an  
22 inverter, transformer or storage equipment;

23 60 feet from the centerline of a Township  
24 roadway;

1           75 feet from the centerline of a County  
2 roadway;

3           50 feet from the right-of-way of a State  
4 road;

5           For fencing:

6           3 feet from the property lines except for  
7 fences adjoining roadways;

8           500 feet from the property line of a  
9 platted subdivision;

10          400 feet from the foundation of any  
11 adjacent nonparticipating primary dwelling;

12          1,000 feet from the exterior fence of the  
13 proposed substation and utility switching  
14 station to the nearest structural portion of any  
15 occupied residence of a nonparticipating  
16 landowner.

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: That motion is a winner.

1 Back to you.

2 MR. MEYER: Number 85, Your Honor.

3 The motion would read, the Lee County ZBA  
4 recommends the following screening conditions:

5 That there be two screening options  
6 elected by a nonparticipating dwelling owner  
7 adjacent to the proposed development, either:

8 A one-time payment equal to the cost of an  
9 Illinois registered landscape architect design,  
10 installation, maintenance and removal of a  
11 visual screen; or

12 The actual design, installation,  
13 maintenance and ultimate removal of a visual  
14 screen by the Applicant in accordance with the  
15 "Standards for a Visual Screen" as provided in  
16 the new Lee County SES Ordinance; and

17 Failure of the landowner to make either of  
18 above elections after the Developer has made  
19 good faith efforts to contact and engage such  
20 landowner in the Screening option process will  
21 result in a landowner forfeit -- in a landowner  
22 forfeit to the payment option;

23 That at least 30 days before the issuance  
24 of the building permit, the Developer provide



1 the Zoning Administrator a signed copy of a  
2 Memorandum of Understanding outlining the terms  
3 of the Visual Screening Option between the  
4 Applicant and the owner of any adjacent,  
5 nonparticipating dwelling;

6 That visual screening, adequate to  
7 minimize the single-story visual impacts of the  
8 proposed Development on adjacent,  
9 nonparticipating dwellings in a platted  
10 subdivision, shall be provided.

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

13 MR. BOTHE: Second.

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

17 MR. MEYER: No, sir.

18 JUDGE SLAVIN: Any other Board member,  
19 anything you want to say?

20 (No verbal response.)

21 JUDGE SLAVIN: Hearing none, seeing none,  
22 I'm going to put the question. I'm going to  
23 read this because there were a couple changes.

24 The Lee County ZBA recommends the

1 following screening conditions:

2 That there be two screening options  
3 elected by a nonparticipating dwelling owner  
4 adjacent to the proposed development, either:

5 A one-time payment equal to the cost of an  
6 Illinois registered landscape architect design,  
7 installation, maintenance and removal of a  
8 visual screen; or

9 The actual design, installation,  
10 maintenance and ultimate removal of a visual  
11 screen by the Applicant in accordance with the  
12 "Standards for a Visual Screen" as provided in  
13 the new Lee County SES Ordinance; and

14 Failure of the landowner to make either of  
15 above elections after the Developer has made  
16 good faith efforts to contact and engage such  
17 landowner in the Screening option process will  
18 result in a landowner forfeit -- in a landowner  
19 forfeit to the payment option;

20 That at least 30 days before the issuance  
21 of the building permit, the Developer provide  
22 the Zoning Administrator a signed copy of a  
23 Memorandum of Understanding outlining the terms  
24 of the Visual Screening Option between the

1 Applicant and the owner of any adjacent,  
2 nonparticipating dwelling;

3 That visual screening, adequate to  
4 minimize the single-story visual impacts of the  
5 proposed Development on adjacent,  
6 nonparticipating dwellings in a platted  
7 subdivision, shall be provided.

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 is adopted as  
16 well.

17 Excuse me, guys, while I try and get  
18 technical.

19 Okay. Back to you.

20 MR. HUGHES: Okay. Moving on to Draft  
21 Number 86, which is substantially shorter than  
22 the last two we have had. The Lee County ZBA  
23 recommends a condition that there be no outdoor  
24 storage of materials and equipment once the

1 project is constructed and operational.

2 JUDGE SLAVIN: Do I hear a second?

3 MR. BOTHE: Second.

4 JUDGE SLAVIN: Got it.

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

7 MR. HUGHES: No.

8 JUDGE SLAVIN: Any other Board member?

9 (No verbal response.)

10 JUDGE SLAVIN: Hearing none, seeing none,  
11 I'll put the question. The question being put  
12 is whether the Lee County ZBA recommends a  
13 condition that there be no outdoor storage of  
14 materials and equipment once the project is  
15 constructed and operational.

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: This motion is adopted as  
24 well.

1           Okay. Gentlemen.

2           MR. BUHROW: Mr. Chairman.

3           JUDGE SLAVIN: Yes, sir.

4           MR. BUHROW: Moving on to Point 87. The  
5 motion reads, the Lee County ZBA recommends a  
6 condition that the Applicant locate, design and  
7 operate the proposed SES so as to avoid and, if  
8 necessary, mitigate any impacts to wildlife to a  
9 sustainable level of mortality.

10          JUDGE SLAVIN: Do I hear a second?

11          MR. BOTHE: Second.

12          JUDGE SLAVIN: Got it.

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

15          MR. BUHROW: No, sir.

16          JUDGE SLAVIN: Any other Board member?

17                         (No verbal response.)

18          JUDGE SLAVIN: Hearing none, seeing none,  
19 I'll put the question. The question being put  
20 is whether the Lee County ZBA recommends a  
21 condition that the Applicant locate, design and  
22 operate the processed SES so as to avoid and, if  
23 necessary, mitigate any impacts to wildlife to a  
24 sustainable level of mortality.

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's a winner. Unlike  
9 the Illini against Marquette, the ball is still  
10 in your court, gentlemen.

11 MR. MEYER: Number 88, Your Honor. The  
12 motion reads, the Lee County ZBA recommends a  
13 condition that the Applicant have a conforming  
14 Ordinance Number 07-21-004 Road Use Agreement  
15 approved by the Lee County Board not less than  
16 30 days prior to the issuance of the required  
17 building permit.

18 JUDGE SLAVIN: Do I have a second?

19 MR. BOTHE: Second.

20 JUDGE SLAVIN: Got it.

21 Anything you want to say, Mr. Meyer?

22 MR. MEYER: No, sir.

23 JUDGE SLAVIN: Any other Board member?

24 (No verbal response.)

1 JUDGE SLAVIN: Hearing none, seeing none,  
2 I'll put the question. The question being put  
3 is whether the Lee County ZBA recommends a  
4 condition that the Applicant have a conforming  
5 Ordinance Number 07-21-004 Road Use Agreement  
6 approved by the Lee County Board not less than  
7 30 days prior to the issuance of the required  
8 building permit.

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: Another one bites the dust.  
17 There's a song like that, too. I can't remember  
18 who sang it, but somebody.

19 MS. HENKEL: Queen.

20 JUDGE SLAVIN: Who?

21 MS. HENKEL: Queen.

22 JUDGE SLAVIN: Very good. Alice gets the  
23 gold star for tonight.

24 Next?

1 MR. HUGHES: Moving on to Draft Number 89.  
2 Making the motion that the Lee County ZBA  
3 recommends a condition that the Developer  
4 directly pay, or reimburse Lee County, the  
5 engineering consultant and legal fees incurred  
6 during the duration of the project from  
7 conception to completion.

8 JUDGE SLAVIN: Do I hear a second?

9 MR. BOTHE: Second.

10 JUDGE SLAVIN: Got it.

11 Anything you want to say, Mr. Hughes?

12 MR. HUGHES: No.

13 JUDGE SLAVIN: Any other Board member?

14 (No verbal response.)

15 JUDGE SLAVIN: Hearing none, seeing none,  
16 I will put the question. The question being put  
17 is whether the Lee County ZBA recommends a  
18 condition that the Developer directly pay, or  
19 reimburse -- a bunch of commas. Of course, you  
20 all know I love commas -- Lee County, the  
21 engineering consultant and legal fees incurred  
22 during the duration of the project from  
23 conception to completion.

24 Adoption of this motion requires a vote by



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

3 (All those simultaneously  
4 responded.)

5 JUDGE SLAVIN: Opposed by nay.

6 (No verbal response.)

7 JUDGE SLAVIN: Motion is declared adopted.  
8 All right. Back to you.

9 MR. BUHROW: Mr. Chairman.

10 JUDGE SLAVIN: Yes, sir.

11 MR. BUHROW: As we move on to Number 90,  
12 the motion reads, the Lee County ZBA recommends  
13 a condition that the Developer have a stormwater  
14 management plan and drainage permit in  
15 accordance with the Lee County Stormwater  
16 Management Ordinance approved by the county  
17 engineer before the issuance of a building  
18 permit.

19 JUDGE SLAVIN: Do I hear a second?

20 MR. BOTHE: Second.

21 JUDGE SLAVIN: Got it.

22 Anything you want to say about your  
23 motion, Mr. Buhrow?

24 MR. BUHROW: Self-explanatory.

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 a  
6 condition that the Developer have a stormwater  
7 management plan and drainage permit in  
8 accordance with the Lee County Stormwater  
9 Management Ordinance approved by the county  
10 engineer before the issuance of a building  
11 permit.

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

15 (All those simultaneously  
16 responded.)

17 JUDGE SLAVIN: Opposed by nay.

18 (No verbal response.)

19 JUDGE SLAVIN: That motion is on the  
20 adopted.

21 All right. What do you say, gentlemen?

22 MR. MEYER: Number 91, Your Honor. The  
23 motion reads, the Lee County ZBA recommends a  
24 condition that no topsoil may be removed,

1 stripped or sold from the proposed SES site.

2 JUDGE SLAVIN: Do I hear a second?

3 MR. BOTHE: Second.

4 JUDGE SLAVIN: Anything you want to say,  
5 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 whether the Lee County ZBA recommends a  
12 condition that no topsoil may be removed,  
13 stripped or sold from the proposed SES site.

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

17 (All those simultaneously  
18 responded.)

19 JUDGE SLAVIN: Opposed by nay.

20 (No verbal response.)

21 JUDGE SLAVIN: That one is adopted as  
22 well.

23 What do you say?

24 MR. HUGHES: I say we move on to Draft

1 Number 92.

2 Motion being, the Lee County ZBA  
3 recommends conditions that:

4 In order to minimize any disturbance of  
5 prime farmland within the proposed Development,  
6 good engineering practices be utilized during  
7 construction, operation and decommissioning; and

8 If there is any such disturbance, to  
9 offset the same by the use of vegetative ground  
10 cover in accordance with the applicable  
11 provisions of the 7 -- or, excuse me, Number  
12 07-21-004 Ordinance; and

13 To initiate and comply with all such  
14 recommendations in the Lee County Soil and Water  
15 Conservation District's Natural Resources and  
16 Information Report as to the appropriate  
17 vegetative ground cover species selections;  
18 and --

19 I'm going to add another condition here.  
20 I'm going to read through it, and I do have it  
21 typed out that I can give it to you to --

22 JUDGE SLAVIN: No. Now is the time.

23 MR. HUGHES: You want to try and --

24 JUDGE SLAVIN: Yup, try.

1 MR. HUGHES: Prior to the issuance of any  
2 building permit, the Applicant shall submit a  
3 financial guarantee in the form.

4 JUDGE SLAVIN: Whoop.

5 MR. HUGHES: Okay.

6 JUDGE SLAVIN: In the form, yup.

7 MR. HUGHES: Of a letter of credit, cash  
8 deposit, or bond in favor of Lee County equal to  
9 125 percent of the cost to establish a  
10 vegetative ground cover, period. The financial.

11 JUDGE SLAVIN: Whoops. Period. I'm  
12 sorry. Another paragraph or --

13 MR. HUGHES: No, just another sentence.

14 JUDGE SLAVIN: Okay.

15 MR. HUGHES: The financial guarantee shall  
16 remain in effect until vegetation is 90 percent  
17 or more established, period, end of motion.

18 JUDGE SLAVIN: All right. Let me clean up  
19 a little bit.

20 Okay. I assume you're reading as I'm  
21 trying to do my little typos. How does that  
22 look, Mr. Hughes?

23 MR. HUGHES: Yeah, that's fine.

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

1 MR. BOTHE: Second.

2 JUDGE SLAVIN: Anything you want to say  
3 about your motion, Mr. Hughes?

4 MR. HUGHES: No. Just following --  
5 following through on the ground cover  
6 requirements and the financial guarantee  
7 required by the Ordinance.

8 JUDGE SLAVIN: Okay. Any other Board  
9 member want to address this?

10 MR. BUHROW: Mr. Chairman, we have  
11 discussed this and thought about the situation,  
12 and Glen has covered quite a bit of it, but I --  
13 the other point would prob- -- the problem I can  
14 see happening is with the size of this project,  
15 roughly 4,000 acres, it almost needs to be  
16 seeded as it's finished instead of one time, you  
17 know, waiting until the end and then coming in  
18 and seeding 4,000 -- I don't know how we would  
19 put that in, but good husbandry would be to tell  
20 them that they would start seeding as soon as an  
21 area was ready to -- was finished with the  
22 building.

23 JUDGE SLAVIN: Any other Board member with  
24 a comment?

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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 conditions that:

In order to minimize any disturbance of prime farmland within the proposed Development, good engineering practices be utilized during construction, operation and decommissioning; and

If there is any such disturbance, to offset the same by the use of vegetative ground cover in accordance with the applicable provisions of the Number 07-21-004 Ordinance; and

To initiate and comply with all such recommendations in the Lee County Soil and Water Conservation District's Natural Resources and Information Report as to the appropriate vegetative ground cover species selections; and

Prior to the issuance of any building permit, the Applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit or bond in favor of Lee County equal to 125 percent of the cost to establish a

1 vegetative ground cover. The financial  
2 guarantee shall remain in effect until the  
3 vegetation is 90 percent or more established.

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: Motion is adopted.

12 Okay. Onward and upward.

13 MR. BUHROW: Mr. Chairman.

14 JUDGE SLAVIN: Yes, sir.

15 MR. BUHROW: On Number 93, which reads,  
16 the motion is that the Lee County ZBA recommends  
17 a condition that within ten working days after  
18 being notified, the Developer will respond to  
19 any complaint from a property owner within a  
20 1-mile radius around the project boundary  
21 related to interference with local broadcast  
22 television or radio signals and use  
23 commercially-reasonable efforts to mitigate any  
24 problems on a case-by-case basis.



1 JUDGE SLAVIN: Do I hear a second?

2 MR. BOTHE: Second.

3 JUDGE SLAVIN: I got a second.

4 Anything you want to say about your  
5 motion, Mr. Buhrow?

6 MR. BUHROW: 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 whether the Lee County ZBA recommends a  
12 condition that, within ten working days after  
13 being notified, the Developer will respond to  
14 any complaint from a property owner within a  
15 1-mile radius around the project boundary  
16 related to interference with local broadcast  
17 television or radio signals and use  
18 commercially-reasonable efforts to mitigate any  
19 problems on a case-by-case basis.

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: That motion is adopted as  
4 well. Okay.

5 MR. MEYER: Number 94, Your Honor. The  
6 motion reads, the Lee County ZBA recommends a  
7 condition that, on or before the first  
8 anniversary of the commercial operation date,  
9 the Developer submit to the Lee County Zoning  
10 Administrator a summary of any operation and  
11 maintenance reports.

12 JUDGE SLAVIN: 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. Meyer?

17 MR. MEYER: 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 whether the Lee County ZBA recommends a  
23 condition that, on or before the first  
24 anniversary of the commercial operation date,

1 the Developer submit to the Lee County Zoning  
2 Administrator a summary of any operation and  
3 maintenance reports.

4 Adoption of this 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: The motion is adopted.

12 Okay. Handing it off.

13 MR. HUGHES: Then we'll move on to  
14 Number 95. The motion being that the Lee County  
15 ZBA recommends that, if any is created or used,  
16 the Developer shall remove, handle, store,  
17 transport and dispose all solid or hazardous  
18 waste and materials related to the construction,  
19 operation and maintenance of the SES in  
20 accordance with all applicable local, state and  
21 federal laws.

22 JUDGE SLAVIN: Do I hear a second?

23 MR. BOTHE: Second.

24 JUDGE SLAVIN: Got one.

1           Mr. Hughes, anything you want to say about  
2 your own motion?

3           MR. HUGHES: No, sir.

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 whether the Lee County ZBA recommends that,  
9 if any is created or used, the Developer shall  
10 remove, handle, store, transport and dispose all  
11 solid or hazardous waste and materials related  
12 to the construction, operation and maintenance  
13 of the SES in accordance with all applicable  
14 local, state and federal laws.

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: This one is added as well.  
23 Okay, gents.

24           MR. BUHROW: Mr. Chairman.

1 JUDGE SLAVIN: Yes, sir.

2 MR. BUHROW: Motion Number 96, which is  
3 the last large one in our copy, which reads, the  
4 motion is, Lee County ZBA recommends:

5 That, with regard to the Applicant's  
6 promised general liability policy covering  
7 bodily injury and property,

8 In addition to naming the entity of Lee  
9 County as an additional insured, it also shall  
10 name Lee County's officers and employees and the  
11 landowners identified in the Special Use Permit  
12 as additional insureds; and

13 All such additional insureds shall be on a  
14 primary and non-contributory basis for both  
15 ongoing and completed operations with a waiver  
16 of subrogation and an extended 3-year reporting  
17 period; and

18 The "per occurrence" limit be \$5 million;  
19 and

20 Any notice of cancellation of no more than  
21 30 days.

22 That the Applicant maintain a current  
23 Commercial Automobile policy of at least  
24 \$1 million;

1           That the Applicant maintain Workman's  
2           Compensation insurance in the following amounts  
3           and provisions:

4           \$1 million per accident; and

5           \$1 million per employee with a limit of  
6           \$1 million for occupational disease; and

7           With a notice of cancellation of no more  
8           than 30 days;

9           That the Applicant maintain pollution  
10          liability insurance in the amount of \$5 million.

11          JUDGE SLAVIN: Do I hear a second?

12          MR. BOTHE: Second.

13          JUDGE SLAVIN: Got it.

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

16          MR. BUHROW: I don't think so.

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 so ably recited by  
22          Mr. Buhrow.

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: That one is adopted as  
7 well.

8 Okay. Back to you guys.

9 MR. MEYER: Number 97, Your Honor. The  
10 motion would read, the Lee County ZBA recommends  
11 that, prior to obtaining the building permit,  
12 the Applicant shall coordinate with the Lee  
13 County Zoning Administrator to develop a system  
14 for logging in and investigating complaints  
15 related to the proposed SES.

16 JUDGE SLAVIN: Okay. Second?

17 MR. BOTHE: Second.

18 JUDGE SLAVIN: Anything you want to say  
19 about your motion, Mr. Meyer?

20 MR. MEYER: No, sir.

21 JUDGE SLAVIN: Any other Board member?

22 (No verbal response.)

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

1 is whether the Lee County recommends that, prior  
2 to obtaining the building permit, the Applicant  
3 -- another missed comma -- shall coordinate with  
4 the Lee County Zoning Administrator to develop a  
5 system for logging in and investigating  
6 complaints related to the proposed SES.

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: Opposed by nay.

13 (No verbal response.)

14 JUDGE SLAVIN: This motion is adopted.

15 Moving on up.

16 MR. HUGHES: To 98. The Lee County ZBA  
17 recommends that during construction of the SES,  
18 construction activities shall be permitted --

19 JUDGE SLAVIN: Just a minute, please.

20 MR. HUGHES: Leave the "commence."

21 JUDGE SLAVIN: I hope you guys  
22 understand --

23 MR. HUGHES: Don't delete the "commence no  
24 earlier than."



1 JUDGE SLAVIN: Oh.

2 MR. HUGHES: Shall be permitted.

3 JUDGE SLAVIN: Shall be permitted.

4 MR. HUGHES: And.

5 JUDGE SLAVIN: And.

6 MR. HUGHES: Commence no earlier than.

7 JUDGE SLAVIN: Okay. Sorry about that. I  
8 get it.

9 MR. HUGHES: 7 a.m.

10 JUDGE SLAVIN: All right. Let me -- if I  
11 don't do it now, I'll make a mess of it at my  
12 desk.

13 No earlier than -- did you say 7 a.m.?

14 MR. HUGHES: Yes.

15 And shall be discontinued no later than  
16 8 p.m. on Monday through Saturday.

17 You can eliminate "day of the week."

18 JUDGE SLAVIN: Yup. Within.

19 MR. HUGHES: Within one-quarter mile of a  
20 nonparticipating residence.

21 JUDGE SLAVIN: Take a look. Actually, I'm  
22 going to make -- take a look there, Mr. Hughes,  
23 and see how that squares with what you want.

24 MR. HUGHES: That's fine. I know you're

1 going to want to put a little bit more in red.  
2 There we go.

3 JUDGE SLAVIN: Got it. Thank you. Okay.  
4 That look right?

5 MR. HUGHES: Yes, sir.

6 JUDGE SLAVIN: Do I hear a second?

7 MR. BOTHE: Second.

8 JUDGE SLAVIN: Got a second.

9 Anything you want to say about your own  
10 motion -- substantively you want to say about  
11 your own motion, Mr. Hughes?

12 MR. HUGHES: Yeah, I think some  
13 clarification. The Ordinance does provide for 6  
14 to 9; however -- and I don't -- I don't know  
15 that there's necessarily going to be a lot of  
16 noise, other than potentially the pounding of  
17 the support posts, I-beams, but just in -- kind  
18 of following with the good neighbor aspect, just  
19 thought that the little bit shorter hours and  
20 the defined period of Monday through Saturday,  
21 at least within one-quarter of a mile within a  
22 nonparticipating landowner, would be  
23 appropriate.

24 JUDGE SLAVIN: Any other Board member?

1 MR. BUHROW: Mr. Chairman.

2 JUDGE SLAVIN: Yes, sir.

3 MR. BUHROW: I'm assuming then that this  
4 means that the rest of the project that they can  
5 build on 24 hours a day? This brings to light,  
6 I just went by a windmill last Friday night  
7 about 8, 9 clock that had lights on that they  
8 were working on that late at night. That brings  
9 to mind. So I'm assuming that's the case.

10 MR. HUGHES: Actually, the Ordinance  
11 provides for 6 a.m. to 9 p.m., and so otherwise  
12 that's their limitations. I'm just shortening  
13 this up, kind of a good neighbor policy basis.

14 MR. BUHROW: But that's just within a  
15 quarter mile of a residence. The rest of the  
16 distance --

17 MR. HUGHES: Yeah, the rest of the  
18 distance it would be subject to the 6 a.m. to  
19 9 p.m.

20 And I hope the wind project that you were  
21 looking at wasn't later than 9.

22 JUDGE SLAVIN: Any other Board member?

23 (No verbal response.)

24 JUDGE SLAVIN: Hearing none, seeing none,

1 I will put the question. The question being put  
2 is whether the Lee County ZBA recommends that  
3 during construction of the SES, construction  
4 activities shall be permitted and commence no  
5 earlier than 7 a.m. and shall be discontinued no  
6 later than 8 p.m. on Monday through Saturday  
7 within one-quarter mile of a nonparticipating  
8 residence.

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: Motion is adopted.

17 Unlike the Illini on Saturday against  
18 Iowa, the goal line is in sight.

19 MR. BUHROW: When we finish this, then  
20 we'll discuss that.

21 Point 99, the Lee County ZBA recommends an  
22 archeological assessment be completed, and that,  
23 if further study or other action is recommended  
24 or required, the Developer comply with the same.

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

3 MR. BOTHE: Second.

4 JUDGE SLAVIN: Got it.

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

7 MR. BUHROW: No, sir.

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 recommends that an  
13 appropriate archaeological assessment be  
14 completed, and that, if further study or other  
15 action is recommended or required, the Developer  
16 comply with the same.

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: Motion is adopted.

1           Okay, guys.

2           MR. HUGHES: Moving on to 100. I will be  
3 making some substantial changes from what we're  
4 originally looking at.

5           JUDGE SLAVIN: Okay.

6           MR. HUGHES: The Lee County ZBA recommends  
7 that the Special Use Permit be for a period of  
8 35 years. If approved --

9           JUDGE SLAVIN: Whoop.

10          MR. HUGHES: I'm sorry.

11          JUDGE SLAVIN: Now my cursor is acting up.  
12 Be -- I'm sorry. Be.

13          MR. HUGHES: Be for a period of 35 years.

14          JUDGE SLAVIN: Yup.

15          MR. HUGHES: If approved by the --

16          JUDGE SLAVIN: Period?

17          MR. HUGHES: Yes. Thank you. Yup.

18          JUDGE SLAVIN: Okay.

19          MR. HUGHES: If approved by the Lee County  
20 Board, comma, that 35-year period shall begin as  
21 of the date of the approval by said Board,  
22 period.

23          JUDGE SLAVIN: I'll get the typo there in  
24 a minute.

1 MR. HUGHES: Yeah, no, not a problem.

2 The SES shall be fully decommissioned,  
3 comma, consistent with all terms and conditions  
4 of the Decommissioning Plan, comma, at the end  
5 of said 35-year period, period.

6 And that would be my motion.

7 JUDGE SLAVIN: While I'm trying to correct  
8 my typos, if you want to give it a look.  
9 Sometimes the cursor might get in the way,  
10 but. . .

11 MR. HUGHES: Yes, that appears to be  
12 correct.

13 JUDGE SLAVIN: I'm just going to make this  
14 red all the way through here.

15 Okay. Does that look right?

16 MR. HUGHES: Yes.

17 JUDGE SLAVIN: Do I hear a second?

18 MR. BOTHE: Second.

19 JUDGE SLAVIN: Hearing a second,  
20 Mr. Hughes, anything you want to address?

21 MR. HUGHES: Yes, actually quite a bit.

22 This gets back to the term and what is  
23 purported as one of the key advantages of the  
24 SES in allowing the land to rest and regenerate.

1           It also goes back to, our original  
2 approval on this SES we had recommended 35 years  
3 at that time. I was actually a little perturbed  
4 at the fact that, based on the comments and the  
5 discussion that was had during the original  
6 meeting -- or hearings on South Dixon Township  
7 and which continued to be mentioned during this  
8 hearing, that the -- that it was being  
9 proposed -- instead of the 35 plus 35 the last  
10 time, it was bumped to 40 years.

11           It has been noted repeatedly that even at  
12 35 years, that appears to be almost too long,  
13 but I do have an understanding of their desire  
14 to get as much out of their investment as  
15 possible. Probably more appropriately a 20- or  
16 25-year period would have been better. But, as  
17 I said, we did approve the 35 years without  
18 extension last time, and I decided to stay  
19 consistent with that 35 period -- -year period,  
20 as originally approved.

21           JUDGE SLAVIN: Okay. Any other Board  
22 member, comments?

23           MR. BUHROW: Mr. Chairman.

24           JUDGE SLAVIN: Yes, sir.



1 MR. BUHROW: Could I ask the State's  
2 Attorney for his interpretation of this motion  
3 as far as is there any latitude that he could  
4 see down the road as far as the County being  
5 able to change this or is this going to be set  
6 in stone?

7 STATE'S ATTORNEY BOONSTRA: Are you  
8 saying -- I don't even know if this is working  
9 or not, but . . .

10 MR. HUGHES: It's on.

11 STATE'S ATTORNEY BOONSTRA: Are you asking  
12 the question that if they came back at the end  
13 of the 35 years and wanted to extend it?

14 MR. BUHROW: Yes, if the company wanted to  
15 extend whatever -- the way it's set right now,  
16 it should be, Glen, the way you're reading it,  
17 it needs to be decommissioned at 35 years.

18 If the County wanted to extend that, is  
19 that feasible with this motion or not?

20 STATE'S ATTORNEY BOONSTRA: I think it  
21 could be extended, yes.

22 MR. HUGHES: I have to admit, you know, if  
23 they wanted to come back and if they wanted to  
24 avoid the decommissioning, they probably have to

1       come back a couple years ahead of time, but  
2       that's up to the -- that's up to the County at  
3       that time to decide if agriculture is still the  
4       viable alternative here.

5               But, as it's being proposed and as it's  
6       interpreted in terms of agricultural use, a  
7       viable Special Use for agriculture, the key  
8       component to that is that it provides for  
9       temporary resting and an opportunity for that  
10      land to redevelop and the land does not get  
11      taken out of agricultural use.

12             To me, 35 years is too long of a period,  
13      but we need to work within parameters.  It's --  
14      if it's going to be agricultural, I would hope  
15      that down the road the County doesn't extend it,  
16      but they have that opportunity, if South Dixon  
17      Solar should come to them two, three years ahead  
18      of time, before they start to do their  
19      decommissioning, and ask for the ability to  
20      extend it.  They would also have to go to the  
21      property owners to get that opportunity as well.

22             JUDGE SLAVIN:  Any other comments?

23      Mr. Buhrow?

24             MR. BUHROW:  No, sir, other than the same

1 line of thinking that Glen has, is that in 35  
2 years we may have different forms of energy by  
3 then too.

4 JUDGE SLAVIN: Any other Board member?

5 (No verbal response.)

6 JUDGE SLAVIN: Hearing none, seeing none,  
7 I will put the question. This question needs to  
8 be read. The Lee County ZBA recommends that the  
9 Special Use Permit be for a period of 35 years.  
10 If approved by the Lee County Board, that  
11 35-year period shall begin as of the date of the  
12 approval by the Lee County Board. The SES shall  
13 be fully decommissioned, consistent with all  
14 terms and conditions of the decommissioning  
15 plan, at the end of said 35-year period.

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: Adopted unanimously.

24 All right, guys.

1 MR. MEYER: Number 101.

2 JUDGE SLAVIN: On the golf course if you  
3 shoot this, they call it a birdhouse, a 101.

4 MR. MEYER: The resolution would read, the  
5 Lee County ZBA finds that, thereafter, your ZBA  
6 considered its findings of fact and  
7 recommendations over the course of three  
8 sessions: on November 4th, 2021; November 9th,  
9 2021; and November 22nd, 2021, lasting about --  
10 if you could help me. I think it's about five  
11 and a half hours?

12 JUDGE SLAVIN: I think that sounds right.

13 MR. MEYER: In total.

14 JUDGE SLAVIN: Do I hear a second?

15 MR. BOTHE: Second.

16 JUDGE SLAVIN: Anything you want to say  
17 about your motion, Mr. Meyer?

18 MR. MEYER: No, sir.

19 JUDGE SLAVIN: Any other Board member?

20 (No verbal response.)

21 JUDGE SLAVIN: Hearing none, seeing none,  
22 I will put the question. The question being put  
23 is whether the Lee County ZBA finds that,  
24 thereafter, your ZBA considered its findings of

1 fact and recommendations over the course of  
2 three sessions: on November 4th, 2021; November  
3 9th, 2021; and November 22nd, 2021, lasting  
4 about 5.5 hours in total.

5 Adoption of this 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: That motion is adopted as  
13 well.

14 That concludes all the proposed motions.  
15 I think I always -- and if I don't, I should --  
16 ask at this point -- particularly it would be a  
17 good break time anyway -- are there any Board  
18 members who want to take ten minutes to see if  
19 there are any other motions that they want or  
20 need to be made?

21 All you need to do is say yeah and we'll  
22 take ten minutes. Anybody?

23 (No verbal response.)

24 JUDGE SLAVIN: Okay. Then I'm going to

1 turn the floor back to you, Mr. Forster.

2 MR. FORSTER: Dee knows the question I'm  
3 going to ask.

4 JUDGE SLAVIN: If there's any motions  
5 to --

6 MS. DUFFY: To recess.

7 MR. FORSTER: Yes, motion to recess until?

8 MS. DUFFY: December 21st, I believe, is  
9 the County Board meeting. I think they changed  
10 it.

11 MR. FORSTER: December 21st?

12 MS. DUFFY: I believe so. It's a Tuesday  
13 night.

14 MR. FORSTER: When is our next ZBA  
15 meeting?

16 MS. DUFFY: December 2nd.

17 JUDGE SLAVIN: Off the record.

18 (A discussion was held off  
19 the record.)

20 JUDGE SLAVIN: I didn't realize it would  
21 be a recess. I'll take it over, Mr. Forster.

22 I will then recess this matter until  
23 December 21st, this year, 2021.

24 MS. DUFFY: Yes.

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JUDGE SLAVIN: All right. Sorry, I shouldn't have put -- you guys recess, as opposed to some other counties do it differently. I apologize.

So we're recessed until December 21st, 2021.

(The hearing was recessed at 7:22 p.m.)

1           On this 22nd day of November, A.D., 2021, I do  
2 signify that the foregoing testimony was given  
3 before the Lee County Zoning Board of Appeals.  
4  
5  
6  
7

8                           Bruce Forster, Chairman  
9

10  
11  
12                           Dee Duffy,  
13                           Zoning Enforcement Officer  
14

15  
16                           -----  
17                           *Callie S. Bodmer*

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