

STATE OF ILLINOIS     )  
  )SS  
COUNTY OF LEE         )

In the Matter of the Petition  
  of

BSW DevCo, LLC, Big Sky Repower  
Lee County, Illinois

Testimony of Witnesses  
Produced, Sworn and  
Examined on this 1st day  
of April, A.D., 2019,  
before the Lee County  
Zoning Board of Appeals

Present:

Mike Pratt  
Gene Bothe  
Glen Hughes  
Rex Meyer  
Craig Buhrow, Acting Chairman

Alice Henkel, Secretary  
Dee Duffy, Zoning Enforcement Officer

Honorable Judge Tim Slavin, Facilitator

1 APPEARANCES:

2 LEE COUNTY STATE'S ATTORNEY MATTHEW KLAHN  
3 of the Lee County State's Attorney's Office  
4 309 South Galena Avenue, Suite 300  
5 Dixon, Illinois 61021

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Counsel for the County.

In Totidem Verbis, LLC (ITV)  
815.453.2260

In Totidem Verbis, LLC (ITV)

1 MR. BUHROW: We'll turn this meeting over  
2 to Judge Slavin.

3 JUDGE SLAVIN: Thank you, Mr. Acting  
4 Chairman.

5 For the record, we have one member of the  
6 public here with us, we have Zoning Officer  
7 Duffy, the secretary, Alice, and five members of  
8 the ZBA. Mr. Meyer now takes his seat as the  
9 alternate.

10 The chairman, Mr. Forster, is not present,  
11 but Mr. Hughes, Mr. Bothe, Mr. Pratt,  
12 Mr. Buhrow, along with Mr. Meyer, are present.

13 All right. Gentlemen, you were about to  
14 consider findings of fact, and thereafter  
15 recommendations to the Lee County Board for BSW  
16 DevCo, LLC's, petition for Special Use Permit to  
17 repower a wind energy conversion system in your  
18 county.

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

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

11 I'd like to highlight a few points to make  
12 sure we're all on the same page regarding those  
13 rules. While I'm present to assist you in the  
14 mechanical operation of your decisionmaking, I  
15 hope you understand that I cannot help you make  
16 any substantive decisions in any fashion. This  
17 means that I am not permitted to direct your  
18 attention to any issues of evidence that I  
19 personally feel you might be overlooking or  
20 misinterpreting. The substance of the decisions  
21 you make are, as the ZBA, yours alone to make.

22 From this point going forward, it would be  
23 much better if all remarks; that is, motions,  
24 debate, comments, are addressed to me as "Judge

1 Slaviv," "Mr. Facilitator," "Hey, you." I will  
2 then recognize you in the order in which I think  
3 you were asking for the floor. Once in this  
4 rhythm, it will prevent the discussion or debate  
5 from deteriorating into a disjointed course of  
6 voices and agitated members.

7 Hoping you understand all the reasons for  
8 it, I will be politely assertive that there will  
9 be no general discussion on any substantive  
10 matter, and that any such general -- any such  
11 discussion be only on the pending motion.

12 Therefore, once recognized, your first comment  
13 should begin with, I move that the Lee County  
14 ZBA," and then go on to your motion.

15 Please, when making a motion state it in  
16 the exact words you wish to have heard. This  
17 ensures that all members, me, your secretary,  
18 and the public know precisely what is being  
19 brought to the floor. This is extremely  
20 important. Doing so eliminates confusion and  
21 the corrosion of your decisionmaking.

22 If a motion is made and receives no  
23 second, it becomes out of order and the floor is  
24 again open for another motion. If a motion

1 receives a second, it is then the subject of  
2 debate.

3 Now, I should mention that despite what  
4 people think, nobody has to recognize who made  
5 the second. Merely that a second is heard is  
6 sufficient.

7 The movant, that is the person making the  
8 motion, is bound by the rules to affirmatively  
9 vote for his motion. The person seconding the  
10 motion is not. After a motion has been made and  
11 receives a second, I will take the time to  
12 display it. It is then immediately a pending  
13 motion and the subject of debate.

14 If a member wishes to amend a pending  
15 motion, he, of course, may do so. If that kind  
16 of motion receives a second, it becomes the  
17 immediately-pending motion for debate, and the  
18 question becomes whether or not the main motion  
19 should be amended as stated.

20 There is such a thing as a motion to amend  
21 a motion to amend, but I strongly urge avoiding  
22 the imaginations of that complicated process.

23 During the debate, unless a motion is made  
24 to extend or limit the debate, each member has

1 two 10-minute opportunities for his remarks on  
2 the motion. I will call on the movant for his  
3 remarks first. Thereafter, if you wish to be  
4 heard on the motion, please ask for recognition  
5 without interrupting the fellow member who has  
6 the floor and is speaking.

7 Once each member has used up the limits of  
8 his debate or determined no further debate has  
9 been had, I will put the question for a vote. I  
10 will do so by announcing the pending motion. I  
11 will indicate the number of members needed to  
12 carry the motion and the manner of the vote.

13 Robert's Rules contain many other  
14 procedural axioms. We will deal with any of  
15 those -- hopefully not -- more infrequent  
16 matters as they arise.

17 I am sure we will move through this  
18 process in an organized and efficient manner. I  
19 look forward to working with you all during the  
20 process.

21 Gentlemen, the floor is open to receive  
22 motions on either findings of fact or  
23 recommendations.

24 Mr. Pratt?

1 MR. PRATT: May I ask you a question,  
2 first?

3 JUDGE SLAVIN: Sure. Yes.

4 MR. PRATT: Mr. Facilitator --

5 JUDGE SLAVIN: Yes. Hey, you.

6 MR. PRATT: The list you provided us --

7 JUDGE SLAVIN: I should announce that I  
8 have provided a -- not what you should do, but  
9 I -- at the request of the Board, the Zoning  
10 Officer, and as I have done in the past, I gave  
11 you suggestions of things you might want to  
12 consider. So did, by the way, the attorney for  
13 the Applicant, Mr. Streicker, and so did  
14 Mr. Klahn.

15 MR. PRATT: Right. So a lot of what we  
16 have been provided are not recommendations  
17 concerning the petition, they are statements of  
18 fact.

19 JUDGE SLAVIN: That's what findings of  
20 fact are.

21 MR. PRATT: Do you want us to try and get  
22 as much history on record as we can?

23 JUDGE SLAVIN: Well, I don't want you to  
24 do anything in particular. And I am not trying



1 to be difficult, but as -- Mr. Hughes asked me  
2 sort of the same question, and that is, this is  
3 your report that goes to the County Board.

4 MR. PRATT: I see, okay.

5 JUDGE SLAVIN: And if something happens  
6 publicly, you want to have something backing up  
7 to show what you have done, both as a political  
8 matter and as a procedural matter, and for the  
9 County Board.

10 If something happens and a lawsuit ensues,  
11 don't you want to have a report so that it's  
12 defensible, so that the Court knows exactly what  
13 you considered and what you didn't, that shows  
14 that you were aware of everything that occurred  
15 over the last, whatever, three weeks?

16 MR. PRATT: Okay. Thank you.

17 JUDGE SLAVIN: What we did -- what you  
18 have before you is mostly gleaned from what we  
19 did before.

20 MR. PRATT: Right, yeah. Okay.

21 JUDGE SLAVIN: And then when you make  
22 those motions and whatever ones are passed, I  
23 put them in a report form and submit it to Dee  
24 and Forster, and she signs it, and it goes to

1 the County Board.

2 MR. HUGHES: Did anybody have any concerns  
3 with any of the first five?

4 MR. PRATT: No.

5 MR. HUGHES: They were strictly -- they  
6 were strictly documentary, correct?

7 JUDGE SLAVIN: Guys, let's just start  
8 making the motions and you'll find out where  
9 people stand.

10 MR. HUGHES: Judge Slavin --

11 JUDGE SLAVIN: Yes, sir.

12 MR. HUGHES: -- I believe, at least on  
13 those items relative to the history you have  
14 provided, you have some initial document- -- or  
15 some additional -- or initial wording, excuse  
16 me, that you had proposed.

17 JUDGE SLAVIN: I'm sorry. I'm not sure I  
18 understand. All you've got to do is pick out a  
19 suggestion or make a motion, and I'll get it up  
20 on there on the board.

21 MR. HUGHES: Okay. As a finding of fact  
22 for documentary purposes, the Lee County Zoning  
23 Board of Appeals -- or I guess I have to say  
24 I --

1 JUDGE SLAVIN: I move that.

2 MR. HUGHES: I move that the Lee County  
3 Zoning Board of Appeals, hereinafter "ZBA,"  
4 finds that on February 11th, 2019, BSW DevCo,  
5 LLC, a wholly-owned subsidiary of EverPower Wind  
6 Holdings, Inc., filed a petition with the Lee  
7 County Zoning Administration Office, which was  
8 numbered 19-P-1542, requesting a Special Use  
9 Permit to repower the existing Big Sky Wind  
10 energy conversion system, hereinafter "WECS" or  
11 "wind farm," by decommissioning all existing  
12 wind turbine generators, hereinafter "WTGs,"  
13 including various assorted appurtenances and  
14 replacing the same with no more than 97  
15 purportedly newer, larger, and more efficient  
16 models, along with some upgraded foundations and  
17 collection systems.

18 As further background, the ZBA finds that:

19 A, 58 WTGs make up the Lee County portion  
20 of the existing project;

21 B, The repowering would take place in the  
22 townships of East Grove and May within Lee  
23 County, utilizing nothing but the current  
24 Special Use Permit real estate;

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1 C, The existing Big Sky WECS holds 73  
2 leases for all 114 turbines in Lee and Bureau  
3 Counties and has previously, or in anticipation  
4 of repowering, obtained or will obtain any  
5 necessary waivers for setbacks or other concerns  
6 and issues in Lee County, such as shadow  
7 flicker;

8 D, If the necessary waivers are not  
9 obtained as described in Paragraph Number 2  
10 immediately above, the Petitioner has indicated  
11 that the WTG, wind turbine generator, causing  
12 the problem will be curtailed;

13 E, The Petitioner is requesting relief  
14 from County Ordinance 10-2A-3, which requires  
15 the Zoning Administrator to revoke a Special Use  
16 Permit where said use has not been established,  
17 or substantially underway, within one year from  
18 the date the Special Use was granted;

19 F, Following the submission of the  
20 application, proper notice was established (sic)  
21 in the Dixon Telegraph on February 13, 2019, the  
22 Amboy News on February 13th, 2019, and in the  
23 Bureau County Republican on February 16, 2019,  
24 and certified mailings of notice were sent to

1 the property owners inside and within one-half  
2 mile of the project boundary, completing the  
3 required notification;

4 G, The first stage of the public hearing  
5 regarding the petition of the Special Use Permit  
6 was for your Lee County Zoning Board of Appeals,  
7 "ZBA," to accept testimony, hear arguments, and  
8 receive public comments;

9 H, Prior to the hearing, the Board, under  
10 the authority provided it by its own rules,  
11 engaged the services of Tim Slavin, a retired  
12 circuit judge, as the facilitator for the  
13 proceedings;

14 I, Over the course of the first stage,  
15 everyone -- the Petitioner and the members of  
16 the public -- were given a complete and fair  
17 opportunity to be heard. Each was given the  
18 chance to present evidence, including witnesses  
19 and exhibits, cross-examine the witnesses of  
20 others, and to present a closing argument or  
21 statement, either orally or in writing;

22 J, The evidentiary portion of the hearing  
23 began on March 7th, 2019, and concluded on March  
24 20, 2019, consisting of four total sessions, all

1 beginning at 7 o'clock p.m., and all heard in  
2 the main courtroom on the third floor of the Lee  
3 County Courthouse. The totality of these  
4 sessions of the first stage comprised, in total,  
5 approximately nine hours of hearing time;

6 JUDGE SLAVIN: We can go back to K later.

7 MR. HUGHES: Yeah, that's what I was  
8 debating, if this was the appropriate --

9 Next, what I have in the preliminary is L,  
10 since we have skipped over preliminary K, The  
11 entirety of the proceedings were taken by a  
12 certified shorthand reporter and subsequently  
13 transcribed;

14 M, We, the members of the Lee County  
15 Zoning Board of Appeals, heard all of the  
16 evidence produced and examined each of the  
17 exhibits;

18 N, During the course of the testimony, the  
19 Petitioner testified it had not yet determined  
20 the model of turbine which would be used;  
21 however, the two General Electric models,  
22 2.3-116 and 2.5-116 wind turbine generators,  
23 were used for the purposes of the studies  
24 performed, and it is expected that the final

1 choice will be consistent with those models.

2 Item Number 2, The Lee County Zoning Board  
3 of Appeals finds that six people took the  
4 witness stand and one individual was called to  
5 the stand twice over the four hearing dates.  
6 Those witnesses, in their order of appearance,  
7 with a very brief summary of what they had to  
8 say, include as the following:

9 Dr. -- or excuse me, Mr. Kevin Wetzel, of  
10 Pattern Energy Group, testified regarding his  
11 opinion on the impacts the proposed repowering  
12 would have on the criteria outlined in Lee  
13 County Ordinance Section 10-2B-2.D.1;

14 Ms. Natalie McCue, of Pattern Energy  
15 Group, testified about environmental matters,  
16 generally about noise, shadow flicker, and air  
17 traffic concerns, setback issues regarding 11  
18 WTGs, including, with particularity as to one of  
19 them, Number 74, and the cure for two returned  
20 notifications, represented by C.4, immediately  
21 following.

22 C, Mr. Paul Crossland, of Pattern Energy,  
23 was offered by Petitioner, and he testified  
24 about any potential interference with modes of

1 communication and the protocols, if there were  
2 any such interference.

3 D, Mr. David Meyer, of Comsearch, was  
4 offered by the Petitioner, and introduced the  
5 communication study;

6 E, Mr. Chris Howell, of Burns and  
7 McDonnell, was offered by the Petitioner and  
8 discussed the sound study;

9 F, Mr. Aaron Anderson, of Burns and  
10 McDonnell, was offered by the Petitioner and  
11 explained the shadow flicker study.

12 Item 3, the Lee County Zoning Board of  
13 Appeals finds that the following exhibits were  
14 admitted into evidence by the Facilitator and  
15 considered by the Board:

16 Lee County Petition Binder 19-P-1542;

17 Hard copy of PowerPoint slides for  
18 witness, Mr. Wetzel.

19 C, Agricultural Impact Mitigation  
20 Agreement;

21 D, Copy of notification of petition to  
22 affected landowners;

23 E, Letter confirming publication of the  
24 Dixon Telegraph;



1 F, Letter confirming publication from the  
2 Amboy News;

3 G, Letter confirming publication from the  
4 Bureau County Republican;

5 H, Hard copy of the PowerPoint slides for  
6 witness Ms. McCue;

7 I, Petitioner's map or plat book binder;

8 J, Stantec letter to Zoning Administrator  
9 Duffy responding to IDNR recommendations;

10 K, United States Department of Commerce  
11 letter advising the appropriate federal agencies  
12 represented on the interdepartment radio  
13 advisory committee of the repowering plans for  
14 Big Sky had been notified and no issues had been  
15 relayed;

16 L, The presently-operative Special Use  
17 Permit issued in 2006 to Big Sky Wind, LLC;

18 M, Hard copy of PowerPoint slides for  
19 witness, Mr. Crossland;

20 N, Curriculum vitae, or resumé, for  
21 witness, Mr. David Meyer;

22 O, Hard copy of PowerPoint slides for  
23 witness, Mr. Howell;

24 P, Hard copy of PowerPoint presentation

1 for witness, Mr. Anderson;

2 Q, Returned notifications to Blaine;

3 F, Returned notifications to Long -- or  
4 excuse me, R, not F, returned notification to  
5 Long.

6 Number 4 --

7 JUDGE SLAVIN: You missed one.

8 MR. PRATT: He made number 4, S.

9 MR. HUGHES: Oh, okay.

10 JUDGE SLAVIN: I'm not telling you what to  
11 do, but I know I admitted the photo of  
12 Gonigam --

13 MR. HUGHES: I had that as Number 4 on my  
14 copy.

15 JUDGE SLAVIN: Okay. Sorry.

16 MR. HUGHES: But that's fine, I believe  
17 that that's more documentary than anything.

18 JUDGE SLAVIN: My apologies.

19 MR. HUGHES: S, Photos of Gonigam  
20 residence.

21 5 --

22 JUDGE SLAVIN: 4. Excuse me. My fault.

23 MR. HUGHES: Or, yes, that's changed.

24 That's changed.

1           Okay. Number 4, Lee County Zoning Board  
2 of Appeals finds that following the closing of  
3 the testimonial phase, the Board heard or read  
4 what could be characterized as closing arguments  
5 or public comment from the following:

6           Mr. David Streicker, attorney for the  
7 Petitioner, who advanced all the reasons shown  
8 during the hearing as to why the Lee County ZBA  
9 should recommend to the Lee County Board that  
10 BSW DevCo's petition should be approved and a  
11 Special Use Permit be issued.

12           And, B, Mr. Robert Gonigam, an interested  
13 party, who, because of the location of WTG 74  
14 near his residence, requested that that  
15 particular turbine not be repowered.

16           That should be the primary evidentiary and  
17 documentary information at this point.

18           JUDGE SLAVIN: Okay. Do I hear a second  
19 to that motion?

20           MR. MEYER: Second.

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

23           It is your motion, Mr. Hughes. Anything  
24 you wish to say in support of your motion?

1 MR. HUGHES: No, Your Honor.

2 JUDGE SLAVIN: Any other debate from any  
3 other member?

4 MR. BUHROW: Judge, I have got a question  
5 on one.

6 JUDGE SLAVIN: Well, don't ask me. Go  
7 ahead, just --

8 MR. BUHROW: Well, in this one, D, I think  
9 it's a typo. It says Number 2 above, and I  
10 assume that should be C above, it refers to the  
11 paragraph above it in 1D.

12 JUDGE SLAVIN: 1D.

13 MR. HUGHES: Yes. In Paragraph C,  
14 immediately above, rather than Paragraph 2  
15 immediately above. I believe that would be the  
16 case.

17 MR. BUHROW: It's just housekeeping.

18 JUDGE SLAVIN: Yup. Thank you. You're  
19 absolutely correct. All right.

20 Any other debate? Members, indicate by  
21 indicating somehow you want to say something.

22 (No verbal response.)

23 JUDGE SLAVIN: All right. Seeing none,  
24 first time I have got to do this. Okay. It's

1       been moved and seconded as has been displayed on  
2       the board, and I'm got going to -- this one I'm  
3       not going to read in its entirety because it's  
4       more procedural than anything else. The  
5       question is on the adoption of this motion. It  
6       requires a majority of those voting. The vote  
7       will be by voice. All in favor of adopting the  
8       motion, signify by saying aye.

9                               (All those simultaneously  
10                              responded.)

11       JUDGE SLAVIN: All opposed by nay.

12                              (No verbal response.)

13       JUDGE SLAVIN: Hearing none, the Chair  
14       finds the motion passed.

15       Excuse me while I do this part of the  
16       housekeeping.

17       All right. The floor is again open.

18       MR. PRATT: Mr. Facilitator.

19       JUDGE SLAVIN: Yes, Mr. Pratt.

20       MR. PRATT: I would like to make a motion  
21       that the Lee County ZBA finds that in BSW -- I'm  
22       going to use your Number 6.

23       JUDGE SLAVIN: Thank you. That helps me  
24       just find it. Yup.

1 MR. PRATT: Make a motion that the Lee  
2 County Zoning Board of Appeals finds that, in  
3 BSW DevCo's petition for a Special Use Permit,  
4 that Petitioner has stated that it will be bound  
5 by any and all proposals and representations in  
6 its petition and made under oath at the public  
7 hearing before the Lee County ZBA.

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

10 MR. HUGHES: Second.

11 JUDGE SLAVIN: I have heard a second.

12 It has been moved and seconded that the  
13 Lee County Zoning Board of Appeals finds that,  
14 in BSW DevCo's petition for Special Use Permit  
15 the Petitioner has stated it will be bound by  
16 any and all proposals and representations in its  
17 petition and made under oath at the public  
18 hearing before the Lee County ZBA.

19 Debate. It's your motion, Mr. Pratt.  
20 Anything you would like to address?

21 MR. PRATT: No.

22 JUDGE SLAVIN: Any other member wishing to  
23 address the motion.

24 (No verbal response.)

1 JUDGE SLAVIN: Seeing no indication to do  
2 so, the question is on the adoption of the  
3 motion. To adopt the motion requires a majority  
4 of those voting. The vote will be by voice.  
5 All those in favor indicate by saying aye.

6 (All those simultaneously  
7 responded.)

8 JUDGE SLAVIN: All those opposed, nay.

9 (No verbal response.)

10 JUDGE SLAVIN: The motion is declared  
11 passed.

12 All right. The floor is again open.

13 MR. PRATT: Mr. Facilitator.

14 JUDGE SLAVIN: Yes, Mr. Pratt.

15 MR. PRATT: Number 7 on your list.

16 JUDGE SLAVIN: 7 on my list, got it.

17 MR. PRATT: I make a motion that the Lee  
18 County ZBA finds that, the character of the land  
19 within the footprint of the Big Sky complex is  
20 agricultural.

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

22 MR. BOTHE: Second.

23 JUDGE SLAVIN: Excuse me just a minute.

24 Do I hear a second to the motion?

1 MR. PRATT: Yes.

2 MR. HUGHES: Yes, there was one discerned.

3 JUDGE SLAVIN: I'm sorry?

4 MR. BOTHE: Second.

5 JUDGE SLAVIN: Oh, I'm sorry. I did hear  
6 that. I recognize the second.

7 It has been moved and seconded that the  
8 Lee County ZBA finds that, the character of the  
9 land within the footprint of the Big Sky complex  
10 is agricultural.

11 I'll put the question. To adopt the  
12 motion requires a majority of those voting. The  
13 vote will be by voice. All those in favor,  
14 indicate by saying aye.

15 (All those simultaneously  
16 responded.)

17 JUDGE SLAVIN: All those opposed, by nay.

18 (No verbal response.)

19 JUDGE SLAVIN: The motion is passed.

20 MR. HUGHES: Your Honor, I would like to  
21 reference your Item Number 5.

22 JUDGE SLAVIN: Okay. Just a minute. Just  
23 give me just a minute.

24 My Item Number 5, reference, yes, sir.



1 MR. HUGHES: But I'm going to be making  
2 some clarifications on that.

3 JUDGE SLAVIN: All right. Fine. That's  
4 good.

5 MR. HUGHES: The Lee County ZBA finds  
6 that, the Petitioner --

7 JUDGE SLAVIN: That the Petitioner or  
8 petition?

9 MR. HUGHES: Excuse me. The petition is  
10 not -- is not in compliance with the current Lee  
11 County Zoning Ordinance 2006-04.

12 JUDGE SLAVIN: Wait a minute. I'm sorry.  
13 That's just my not keeping up. 2006.

14 MR. HUGHES: -04.

15 JUDGE SLAVIN: -04.

16 MR. HUGHES: -06.

17 JUDGE SLAVIN: -06.

18 MR. HUGHES: -001.

19 JUDGE SLAVIN: -001.

20 MR. HUGHES: For WECS as it regards WTG  
21 Number 74.

22 JUDGE SLAVIN: Wait a minute. As regards.  
23 I'm not -- I just am not keeping up well. As  
24 regards WTG?

1 MR. HUGHES: Number 74.

2 JUDGE SLAVIN: Number 74.

3 Want to look on the board? Anytime you  
4 want to look on the board to see how I'm doing,  
5 please.

6 MR. HUGHES: It's a little further away.

7 JUDGE SLAVIN: How about I make it a  
8 little bigger?

9 MR. HUGHES: That would help. I mean,  
10 it's just readable. Oh, that's very readable.

11 JUDGE SLAVIN: We got all sorts of skills  
12 here.

13 MR. HUGHES: But is in compliance in all  
14 other aspects.

15 JUDGE SLAVIN: Okay. All right. Take a  
16 look before I ask for seconds, see if that --

17 MR. HUGHES: I was -- that appears to  
18 be -- that appears to be what I intended.

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

20 MR. MEYER: Second.

21 JUDGE SLAVIN: Okay. Having heard a  
22 second, it's your motion, Mr. Hughes. Would you  
23 like to comment upon it?

24 MR. HUGHES: The only comment I have, or

1 not the only. The comment that I have regarding  
2 that is that that turbine is inside of the  
3 distance that was allowable for waiver. Current  
4 Ordinance provides for 1400 feet and waived  
5 down to a thousand feet. This turbine, based on  
6 the evidence provided, was at 832 feet.

7 So even if a waiver had been proposed, and  
8 as I understand from the current resident of  
9 that property, he is not aware of a waiver, but  
10 that -- at that distance, it was not waivable  
11 anyways, or does not appear that based on the  
12 wording -- the wording of the Ordinance, that  
13 that distance, at 832, was waivable anyways.

14 JUDGE SLAVIN: Any other comment?

15 Mr. Pratt.

16 MR. PRATT: Are you sure that it's -- that  
17 they're in compliance with all the other  
18 aspects? There's several that are not in  
19 compliance with the 350-foot setback. When you  
20 say it's the Ordinance, I don't know if the  
21 Ordinance says that they can be waived out.

22 MR. HUGHES: Yes, it -- actually, it does.  
23 It provides for -- it provide for waivers on the  
24 exceptions. But in particular -- in terms of

1 this in particular, and Number 3 regarding  
2 setback requirements, Paragraph B, no wind  
3 turbines shall be located nearer than 1400 feet  
4 from any existing or occupied residence or from  
5 the boundary of any lot, which as of the date of  
6 the approval of the use is in a platted  
7 subdivision, and that would be boundary of any  
8 lot that's in a platted subdivision. A turbine  
9 may be placed as near as a thousand feet from an  
10 occupied residence with prior written approval  
11 of the owner. Distance shall be measured from  
12 the foundation at the base of the turbine.

13 JUDGE SLAVIN: Any other debate?

14 MR. PRATT: I'm done.

15 JUDGE SLAVIN: Members?

16 (No verbal response.)

17 JUDGE SLAVIN: All right. Seeing no  
18 indication to do so, I will put the question.  
19 The question being put, and I'm going to read  
20 this one out loud, is that the Lee County ZBA  
21 finds that, the petition is not in compliance  
22 with the current Zoning Ordinance 2006-04-06-001  
23 for WECS as regards WTG Number 74 but is in  
24 compliance as to all other aspects.

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

4                           (Buhrow, Bothe, Hughes and  
5                           Forster simultaneously  
6                           responded.)

7           JUDGE SLAVIN: All those opposed by nay.

8           MR. PRATT: Nay.

9           JUDGE SLAVIN: I find the motion carries.  
10           Okay. The floor is again open. Guys,  
11           it's a public hearing, so be careful of the --

12           MR. PRATT: Talking about the weather.  
13           Mr. Facilitator.

14           JUDGE SLAVIN: Yes, sir.

15           MR. PRATT: Your Number 9.

16           JUDGE SLAVIN: My Number 9. My proposed  
17           9. My draft 9. Got it.

18           MR. PRATT: I would like to make a motion  
19           that the Lee County ZBA finds that, the proposed  
20           project could decrease noise levels from that  
21           presently existing at some property lines  
22           because of the reduction in the total number of  
23           turbines and because of technology of the new  
24           models.

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

3 MR. MEYER: Second.

4 JUDGE SLAVIN: Having heard a second, the  
5 floor is open for debate on the motion.

6 Your motion, Mr. Pratt. Anything you  
7 would like to speak to?

8 MR. PRATT: No, no comment.

9 JUDGE SLAVIN: Any other member debate?

10 (No verbal response.)

11 JUDGE SLAVIN: Hearing none, I will put  
12 the question. The question being put is whether  
13 the Lee County ZBA finds that the proposed  
14 project could decrease noise levels from that  
15 presently existing at some property lines  
16 because of the reduction in the total number of  
17 turbines and because of the technology of the  
18 new models.

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

22 (All those simultaneously  
23 responded.)

24 JUDGE SLAVIN: All those opposed by nay.

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(No verbal response.)

JUDGE SLAVIN: The ayes have it. The motion is passed.

And once again, please give me a minute while I clean it up.

Okay. The floor is again open.

MR. HUGHES: We may have some numbering differences here.

JUDGE SLAVIN: Sure.

MR. HUGHES: We just found some.

JUDGE SLAVIN: We'll find them.

MR. HUGHES: I have what would -- on my copy would have been Number 12.

JUDGE SLAVIN: Tell me how it begins and I'll --

MR. HUGHES: Lee County ZBA finds that, based on the modeling evidence.

JUDGE SLAVIN: Got it. It's 11, yup. I'll blow that up here. Oops. Sorry. Where did it go? Touchy mouse. I've got to get it a little smaller. Can you guys see that?

MR. HUGHES: Yup.

JUDGE SLAVIN: Okay. Go ahead.

MR. HUGHES: Okay. I was just doing some

1 quick renumbering while you were doing that.

2 JUDGE SLAVIN: Sure. No, that's fine.

3 MR. HUGHES: Lee County ZBA finds that,  
4 based on the modeling evidence, the proposed  
5 repowering will create acoustical exceedances of  
6 the Illinois Pollution Control Board Regulations  
7 at 37 -- or excuse me, at any -- at 62  
8 properties within the entire project, both Lee  
9 and Bureau Counties, 37 of which will be at  
10 nonparticipating residences.

11 JUDGE SLAVIN: Kind of give that a look  
12 and make sure that's what --

13 MR. HUGHES: Yes.

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

15 MR. MEYER: Second.

16 JUDGE SLAVIN: Hearing a second, the floor  
17 is up for debate. It's your motion, Mr. Hughes.

18 MR. HUGHES: No additional comment.

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

21 (No verbal response.)

22 JUDGE SLAVIN: All right. I will put the  
23 question. The question being put is whether the  
24 Lee County ZBA finds that, based on the modeling



1 evidence, the proposed repowering will create  
2 acoustical exceedances of the Illinois Pollution  
3 Control Board Regulations at 62 properties  
4 within the entire project, parens, both Lee and  
5 Bureau Counties, end parens, 37 of which will be  
6 at nonparticipating residences.

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

10 (All those simultaneously  
11 responded.)

12 JUDGE SLAVIN: All those opposed, by nay.

13 (No verbal response.)

14 JUDGE SLAVIN: The ayes clearly have it.  
15 The motion is passed.

16 And once again, if you'll give me just a  
17 minute.

18 Okay. The floor is once again open.

19 MR. PRATT: Mr. Facilitator.

20 JUDGE SLAVIN: Yes, sir.

21 MR. PRATT: Be your Number 12.

22 JUDGE SLAVIN: Okay.

23 MR. PRATT: Make a motion that the Lee  
24 County ZBA finds that, the Petitioner's proposed

1 setbacks do not sufficiently mitigate the effect  
2 of noise to people and animals subjected to it  
3 for some proposed turbine locations.

4 JUDGE SLAVIN: Okay. Take a look at the  
5 board, first of all, and see if that looks like  
6 what you want to move.

7 MR. PRATT: That's my motion.

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

9 MR. BOTHE: Second.

10 JUDGE SLAVIN: Having heard a second, open  
11 for debate. Mr. Pratt, your motion, you're  
12 first.

13 MR. PRATT: We had testimony that stated  
14 that there was 18 turbines that will -- 18  
15 residences that will exceed the noise tolerance  
16 level.

17 JUDGE SLAVIN: Okay. Any other member?

18 (No verbal response.)

19 JUDGE SLAVIN: All right. I will then put  
20 the question. The question being put is whether  
21 the Lee County ZBA finds that the Petitioner's  
22 proposed setbacks do not sufficiently mitigate  
23 the effect of noise to people and animals  
24 subjected to it for some proposed turbine

1 locations.

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

5 (All those simultaneously  
6 responded.)

7 JUDGE SLAVIN: All those opposed by nay.  
8 (No verbal response.)

9 JUDGE SLAVIN: Hearing none, the motion is  
10 indeed passed. And the floor is again open.

11 MR. HUGHES: Mr. Facilitator.

12 JUDGE SLAVIN: Yes, sir.

13 MR. HUGHES: A motion, the Lee County  
14 Zoning Board of Appeals --

15 JUDGE SLAVIN: Can you call my --

16 MR. HUGHES: Excuse me. Your number 13.

17 JUDGE SLAVIN: It just helps, that's all.

18 MR. HUGHES: No, I understand. I'm just  
19 jumping the gun.

20 JUDGE SLAVIN: Let me blow it up for  
21 everybody. Boy, this is a touchy mouse. There  
22 we go. Okay. Go ahead.

23 MR. HUGHES: The Lee County ZBA finds  
24 that, the Petitioner has obtained or has

1 committed to obtain waivers for these  
2 exceedances, and that if they do not have such a  
3 waiver, the -- have such a waiver, the offending  
4 WTG will not be replaced.

5 JUDGE SLAVIN: Okay. While I'm taking off  
6 the highlight, tell me if that looks like what  
7 you mean to bring to the floor.

8 MR. HUGHES: Yes, sir.

9 JUDGE SLAVIN: Do I hear a second?

10 MR. BOTHE: Second.

11 JUDGE SLAVIN: Second. Having heard a  
12 second, the floor is open for debate of the  
13 motion.

14 Your motion, Mr. Hughes.

15 MR. HUGHES: No further comment.

16 JUDGE SLAVIN: Any other member, comment?

17 (No verbal response.)

18 JUDGE SLAVIN: No indication of a comment  
19 forthcoming, I will put the question. The  
20 question being put is whether the Lee County ZBA  
21 finds that, the Petitioner either has obtained  
22 or has committed to obtain waivers for these  
23 exceedances, and -- let me just permit my Type A  
24 punctuation needs -- for these exceedances, and

1 that if they do not have such a waiver, the  
2 offending WTG will not be replaced.

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

6 (All those simultaneously  
7 agreed.)

8 JUDGE SLAVIN: All those opposed by nay.

9 (No verbal response.)

10 JUDGE SLAVIN: Hearing none, the motion  
11 passes unanimously.

12 All right. Okay.

13 MR. HUGHES: Your Number 15.

14 JUDGE SLAVIN: Let me reduce the size of  
15 this one. You know what happens if I don't,  
16 this turns into about a hundred pages and then  
17 it becomes really unmanageable.

18 MR. HUGHES: Yup.

19 JUDGE SLAVIN: Okay. 15, you said, sir.  
20 Like, right there. Okay.

21 MR. HUGHES: Make a motion that the Lee  
22 County ZBA finds that, the Petitioner has  
23 committed to an acceptable noise complaint  
24 resolution protocol.

1 JUDGE SLAVIN: All right. Does that look  
2 like your motion on the board there, sir?

3 MR. HUGHES: Yes, sir.

4 JUDGE SLAVIN: I'll entertain a second.

5 MR. BOTHE: Second.

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

8 Your motion, Mr. Hughes. Anything you  
9 want to comment about it?

10 MR. HUGHES: Nothing further.

11 JUDGE SLAVIN: Any other member?

12 (No verbal response.)

13 JUDGE SLAVIN: Seeing no indication of  
14 such, I will put the question. The question  
15 being put is whether the Lee County ZBA finds  
16 that, the Petitioner has committed to an  
17 acceptable noise complaint resolution protocol.

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

21 (All those simultaneously  
22 responded.)

23 JUDGE SLAVIN: All those opposed by nay.

24 (No verbal response.)

1 JUDGE SLAVIN: The motion is passed.

2 Okay. Open for business again.

3 MR. PRATT: Mr. Facilitator.

4 JUDGE SLAVIN: Mr. Pratt.

5 MR. PRATT: Your Number 17.

6 JUDGE SLAVIN: My 17. By Joe, we've got  
7 it. Blow it up and get it shown. Okay.

8 MR. PRATT: I make a motion that the Lee  
9 County ZBA finds that, based on the modeling  
10 evidence provided, shadow flicker on 35 of the  
11 272 known occupied residences will exceed the  
12 limitation of 30 hours of shadow flicker per  
13 year.

14 JUDGE SLAVIN: Okay. While I'm getting  
15 rid of the highlights, does what's displayed on  
16 the board look like what you intend?

17 MR. PRATT: That's my motion.

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

19 MR. HUGHES: Second.

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

22 Mr. Pratt, anything you want to say about  
23 your motion?

24 MR. PRATT: No comment.

1 JUDGE SLAVIN: Any other member want to  
2 comment?

3 (No verbal response.)

4 JUDGE SLAVIN: Seeing no new indication of  
5 such, I will put the question. The question  
6 being put is whether the Lee County ZBA finds  
7 that, based on the modeling evidence provided,  
8 shadow flicker on 35 of the 272 known occupied  
9 residences will exceed the limitation of 30  
10 hours of shadow flicker per year.

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

14 (All those simultaneously  
15 responded.)

16 JUDGE SLAVIN: All those opposed by nay.

17 (No verbal response.)

18 JUDGE SLAVIN: The motion is passed  
19 unanimously.

20 MR. HUGHES: Mr. Facilitator -- or do I --  
21 I better let you get that downsized.

22 JUDGE SLAVIN: Let me get my housekeeping  
23 done here.

24 Yes, sir.



1 MR. HUGHES: I motion that the Lee  
2 County --

3 JUDGE SLAVIN: Help me out.

4 MR. HUGHES: Oh, I'm sorry. Your number  
5 18, I believe.

6 JUDGE SLAVIN: Okay. Got it.

7 MR. HUGHES: The Lee County ZBA finds  
8 that, the shadow flicker study performed for the  
9 project used a conservative modeling approach  
10 with project site-specific conditions. For  
11 example, the study modeled each receptor as a  
12 greenhouse, meaning each receptor was modeled as  
13 having windows on all sides and effectively  
14 created a model home susceptible to flicker  
15 effects in all directions. Further, the project  
16 site was modeled as if no obstacles were  
17 present, including trees or buildings, which  
18 would significantly reduce or eliminate the  
19 duration and/or intensity of the shadow flicker  
20 at a receptor. Due to the conservative approach  
21 of the study, the actual duration and intensity  
22 of shadow flicker at each receptor is expected  
23 to be less than those reported in the study.

24 JUDGE SLAVIN: All right. That's all

1 fitting on the board -- rats.

2 MR. HUGHES: Actually, I would like to  
3 change one of the words in there.

4 JUDGE SLAVIN: Sure. Absolutely your  
5 motion.

6 MR. HUGHES: The last line.

7 JUDGE SLAVIN: Last line altogether?

8 MR. HUGHES: Yeah. Well, it says "shadow  
9 flicker at each receptor" and I would like to  
10 change that to "may be."

11 JUDGE SLAVIN: Okay. So may be less.

12 MR. HUGHES: May be expected to be less.

13 JUDGE SLAVIN: May be expected to be less.

14 Okay. Take a look, if you can see it. I  
15 had to shrink it a little.

16 MR. HUGHES: That I can see, just fine.

17 JUDGE SLAVIN: Okay. Good.

18 MR. HUGHES: Whatever font you used for  
19 that, that may help both sides.

20 JUDGE SLAVIN: I can deal with that.

21 Okay. Do I hear a second?

22 MR. BOTHE: Second.

23 JUDGE SLAVIN: Having heard a second, the  
24 floor is open for debate.

1           Anything you want to say, Mr. Hughes?

2           MR. HUGHES:  Nothing additional.

3           JUDGE SLAVIN:  Any other member?

4                           (No verbal response.)

5           JUDGE SLAVIN:  Seeing no indication of  
6           such, I will put the question.  The question  
7           being put is whether the Lee County ZBA finds  
8           that, the shadow flicker study performed for the  
9           project used a conservative modeling approach  
10          with project site-specific conditions.  For  
11          example, the study modeled each receptor as a,  
12          quote-unquote, greenhouse, meaning each receptor  
13          was modeled as having windows on all sides and  
14          effectively created a model home susceptible to  
15          flicker effects in all directions.  Further, the  
16          project site was modeled as if no obstacles were  
17          present, including trees or buildings, which  
18          would significantly reduce or eliminate the  
19          duration and/or intensity of the shadow flicker  
20          at a receptor.  Due to the conservative approach  
21          of the study, the actual duration and intensity  
22          of shadow flicker at each receptor may be  
23          expected to be less than those reported in the  
24          study.

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

4                           (All those simultaneously  
5                           responded)

6           JUDGE SLAVIN: All those opposed by nay.

7                           (No verbal response.)

8           JUDGE SLAVIN: The motion passed.

9           MR. PRATT: Mr. Facilitator.

10          JUDGE SLAVIN: Yes, Mr. Pratt.

11          MR. PRATT: I would like to create a new  
12 one. That would be, what, Number 19?

13          JUDGE SLAVIN: I'm going to call it 18A,  
14 just so I -- see, I put it all together in a  
15 report. So that helps me keep up. Okay. Yeah,  
16 go ahead. Or 18B I'll call it.

17          MR. PRATT: I make a motion that the Lee  
18 County ZBA finds that the Petitioner  
19 testified --

20          JUDGE SLAVIN: Wait a minute. Wow. Okay.  
21 I guess I've just got to type it out.

22          May I make a suggestion already? Do you  
23 want to name the witness? I mean, the  
24 Petitioner is a company, so it can't testify.

1 So the Petitioner's representative, or a name of  
2 the witness?

3 MR. PRATT: Maybe I should say that in  
4 their petition they state.

5 JUDGE SLAVIN: That the Petitioners --  
6 that the petition states. Yeah, okay, how about  
7 that?

8 MR. PRATT: That's fine.

9 States that they will contract a  
10 third-party qualified professional.

11 JUDGE SLAVIN: Oops. They will contract a  
12 third-party.

13 MR. PRATT: Qualified professional.

14 JUDGE SLAVIN: Oops. Qualified. Thank  
15 you.

16 MR. PRATT: To be approved by the Lee  
17 County Zoning Enforcement Officer to perform a  
18 shadow flicker analysis.

19 JUDGE SLAVIN: To perform a shadow flicker  
20 analysis.

21 MR. PRATT: Parentheses, post-construction  
22 shadow flicker study.

23 JUDGE SLAVIN: How about if we put perform  
24 a post-construction shadow flicker.

1 MR. PRATT: That's fine.

2 JUDGE SLAVIN: Is that all right?

3 MR. PRATT: That's fine.

4 JUDGE SLAVIN: I'm just trying to make it  
5 less -- shadow flicker analysis. Yup.

6 MR. PRATT: Of the operating WTGs.

7 JUDGE SLAVIN: Of the --

8 MR. PRATT: For the project.

9 JUDGE SLAVIN: Operating WTGs of the  
10 project.

11 MR. PRATT: The study will be completed.

12 JUDGE SLAVIN: The study will be  
13 completed.

14 MR. PRATT: And returned.

15 JUDGE SLAVIN: And returned.

16 MR. PRATT: To the Lee County zoning  
17 Office.

18 JUDGE SLAVIN: Returned to the Lee County  
19 Zoning.

20 MR. PRATT: Zoning Office.

21 JUDGE SLAVIN: Zoning Office. Yup.

22 MR. PRATT: Within 60 days.

23 JUDGE SLAVIN: Within 60 days. Yup.

24 MR. PRATT: After a WTG.

1 JUDGE SLAVIN: WTG.

2 MR. PRATT: Has been constructed and is  
3 operational.

4 JUDGE SLAVIN: Okay. While I'm cleaning  
5 up my spelling messes, how does it look?

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

7 JUDGE SLAVIN: How does that look? Good?

8 MR. PRATT: Yes.

9 JUDGE SLAVIN: Okay. Except for the  
10 capital on "Lee."

11 All right. Let me blow it up for  
12 everybody. All right. Do I hear a second?

13 MR. BOTHE: Second.

14 JUDGE SLAVIN: Having heard a second, the  
15 motion is open for debate.

16 Your motion, Mr. Pratt.

17 MR. PRATT: No comment.

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

20 (No verbal response.)

21 JUDGE SLAVIN: I think I see shaking  
22 heads. All right. I'll put the question. The  
23 Lee County -- the question being put is whether  
24 the Lee County ZBA finds that, the petition

1 states that they will contract a third-party  
2 qualified professional to be approved by the Lee  
3 County Enforcement Officer to perform a post-  
4 construction shadow flicker analysis of the  
5 operating WTGs of the product -- of the project,  
6 excuse me. The study will be completed and  
7 returned to the Lee County Zoning Office within  
8 60 days after a WTG has been constructed and is  
9 operational.

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

13 (All those simultaneously  
14 responded.)

15 JUDGE SLAVIN: All those opposed by nay.

16 (No verbal response.)

17 JUDGE SLAVIN: Another motion passes  
18 unanimously.

19 MR. HUGHES: Mr. Facilitator, can we take  
20 a recess until about quarter after?

21 JUDGE SLAVIN: Absolutely. I was thinking  
22 about it in the next five minutes anyway, so  
23 good thought. All right. Let's do quarter  
24 after.



1 (A recess was taken at 8:09 p.m.  
2 and proceedings resumed at  
3 8:17 p.m.)

4 JUDGE SLAVIN: For the record, we welcome  
5 Mr. Klahn to the fold, State's Attorney  
6 representing Lee County and its various bodies  
7 and officials.

8 The floor is open for further motions,  
9 gentlemen.

10 MR. HUGHES: Go ahead.

11 MR. PRATT: Mr. Facilitator.

12 JUDGE SLAVIN: Yes, sir.

13 MR. PRATT: Number 19 on your list.

14 JUDGE SLAVIN: Okay. Everybody said you  
15 could see font 20. Let me make sure that's  
16 right. Oops. Yes?

17 MR. HUGHES: Yes.

18 MR. PRATT: Good.

19 JUDGE SLAVIN: Okay.

20 MR. PRATT: I would like to make a motion  
21 that the Lee County ZBA finds that, the  
22 Petitioner has committed to an acceptable shadow  
23 flicker complaint resolution protocol.

24 JUDGE SLAVIN: Does that look like your

1 motion on the screen?

2 MR. PRATT: Yes, it does. That's my  
3 motion.

4 JUDGE SLAVIN: Or actually, wall.  
5 All right. Do I hear a second?

6 MR. BOTHE: Second.

7 JUDGE SLAVIN: The floor is open for  
8 debate.

9 Your motion, Mr. Pratt.

10 MR. PRATT: No, no comment.

11 JUDGE SLAVIN: Any other board member?

12 (No verbal response.)

13 JUDGE SLAVIN: Okay. Hearing none, I will  
14 put the question. The question being put is  
15 whether the Lee County ZBA finds that, the  
16 Petitioner has committed to an acceptable shadow  
17 flicker complaint resolution protocol.

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

21 (All those simultaneously  
22 responded.)

23 JUDGE SLAVIN: All those opposed by nay.

24 (No verbal response.)

1 JUDGE SLAVIN: The motion is passed once  
2 again by unanimous vote.

3 MR. HUGHES: Only had one conflicted one.

4 JUDGE SLAVIN: A little disagreement once  
5 in a while is healthy, so.

6 Okay. Open again.

7 MR. HUGHES: Mr. Facilitator.

8 JUDGE SLAVIN: Yes, sir.

9 MR. HUGHES: Your Number 20, I believe.

10 JUDGE SLAVIN: Oops. Come on, come on,  
11 come on. There it is. Yes, sir.

12 MR. HUGHES: The Lee County -- I motion  
13 that the Lee County ZBA finds that, the  
14 Petitioner has committed to the existing  
15 decommissioning and site restoration plan for  
16 the Big Sky complex.

17 JUDGE SLAVIN: Does that look like your  
18 motion on the board?

19 MR. HUGHES: Yes, sir.

20 JUDGE SLAVIN: On the wall. I keep saying  
21 board.

22 MR. MEYER: Second.

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

1 Any comments on your motion, Mr. Hughes?

2 MR. HUGHES: No, sir.

3 JUDGE SLAVIN: All those -- how about any  
4 other members, debate?

5 (No verbal response.)

6 JUDGE SLAVIN: Seeing no indication, I  
7 will put the question. The question being put  
8 is whether the Lee County ZBA finds that, the  
9 Petitioner has committed to an existing  
10 decommissioning and site restoration -- that  
11 would be a capital R -- plan for the Big Sky  
12 complex.

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

16 (All those simultaneously  
17 responded)

18 JUDGE SLAVIN: All those opposed by nay.

19 (No verbal response.)

20 JUDGE SLAVIN: The ayes have it  
21 completely. Motion has passed.

22 And the floor is once again open.

23 MR. HUGHES: Mr. Facilitator, your number  
24 21.

1           Make the motion the Lee County ZBA finds  
2           that, the proposed project will not likely  
3           impact any communication services. If there is  
4           any interference, television signals would be  
5           most likely communications to be affected.

6           JUDGE SLAVIN: Looking at the board, does  
7           that look like what you want?

8           MR. HUGHES: Yes, sir.

9           JUDGE SLAVIN: Okay. I will take a  
10          second.

11          MR. BOTHE: Second.

12          JUDGE SLAVIN: Hearing a second, the floor  
13          is open for debate.

14          Mr. Hughes, your motion.

15          MR. HUGHES: None.

16          JUDGE SLAVIN: Any other member?

17                                (No verbal response.)

18          JUDGE SLAVIN: Seeing no indication, I  
19          will put the question. The question being put  
20          is whether the Lee County ZBA finds that, the  
21          proposed project will not likely impact any  
22          communication services. If there is any  
23          interference, television signals would be the  
24          most likely communication to be affected.

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

4                           (All those simultaneously  
5                           responded.)

6           JUDGE SLAVIN: All those opposed by nay.

7                           (No verbal response.)

8           JUDGE SLAVIN: The motion passes once  
9 again unanimously.

10           Oops. How many times do I write "passed"?  
11 I don't know how I did that.

12           And the floor is again open.

13           MR. HUGHES: Mr. Facilitator.

14           JUDGE SLAVIN: Yes, sir.

15           MR. HUGHES: Your Number 22.

16           I would motion that the Lee County ZBA  
17 finds that, the Petitioner has committed to an  
18 acceptable communication interference complaint  
19 resolution protocol.

20           JUDGE SLAVIN: And looking at the board,  
21 does that look like what you want?

22           MR. HUGHES: Yes, sir.

23           JUDGE SLAVIN: Except for a rather odd T.  
24 Well, you know that's a T. I'll fix that at

1 home.

2 MR. HUGHES: It's probably the 12 font, it  
3 probably didn't catch the increase for some  
4 reason.

5 JUDGE SLAVIN: Oh, I see. Yup, you are  
6 correct. Okay.

7 Do I hear a second?

8 MR. BOTHE: Second.

9 JUDGE SLAVIN: Debate? Mr. Hughes, it's  
10 your motion.

11 MR. HUGHES: No additional.

12 JUDGE SLAVIN: Okay. Any other member?

13 (No verbal response.)

14 JUDGE SLAVIN: Seeing no indication, I'll  
15 put the question. The question being put is  
16 whether the Lee County ZBA finds that, the  
17 Petitioner has committed to an acceptable  
18 communication interference complaint resolution  
19 protocol.

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

23 (All those simultaneously  
24 agreed.)

1 JUDGE SLAVIN: All those opposed by nay.

2 (No verbal response.)

3 JUDGE SLAVIN: The motion is passed.

4 And the floor is once again --

5 MR. HUGHES: Mr. Facilitator, your Number  
6 23.

7 JUDGE SLAVIN: Just a minute. I'm trying  
8 to make this look a little better.

9 My 23 you said, sir?

10 Dee Duffy, you've got the fastest mouse in  
11 the west. Enter this in some kind of contest.

12 Okay. I forgot who was talking.

13 Mr. Hughes?

14 MR. HUGHES: Yes. I'm sorry.

15 JUDGE SLAVIN: No, that's okay.

16 MR. HUGHES: I started -- I got  
17 sidetracked and I had to get back to where I  
18 wanted to be.

19 JUDGE SLAVIN: Got it.

20 MR. HUGHES: Motion that the Lee County  
21 ZBA finds that, the IDNR has made seven project  
22 environmental recommendations to Lee County.

23 JUDGE SLAVIN: Looking at the board, does  
24 it look like what you want?



1 MR. HUGHES: Yes, sir.

2 JUDGE SLAVIN: Do I hear a second?

3 MR. MEYER: Second.

4 JUDGE SLAVIN: Debate, Mr. Hughes?

5 MR. HUGHES: Not from me.

6 JUDGE SLAVIN: Any other member?

7 (No verbal response.)

8 JUDGE SLAVIN: Seeing none, I will put the  
9 question. The question being put is whether the  
10 Lee County ZBA finds that, the IDNR has made  
11 seven project environmental recommendations to  
12 Lee County.

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

17 (All those simultaneously  
18 responded.)

19 JUDGE SLAVIN: All those opposed by nay.

20 (No verbal response.)

21 JUDGE SLAVIN: Motion is, once again,  
22 unanimously passed. Okay.

23 MR. HUGHES: Mr. Facilitator, your Number  
24 24.

1 JUDGE SLAVIN: 24. Okay. Shoot.

2 MR. HUGHES: I would make the motion that  
3 the Lee County ZBA finds that, the Petitioner's  
4 response to the seven project environmental  
5 recommendations is acceptable.

6 JUDGE SLAVIN: Okay. I assume that looks  
7 like it.

8 MR. HUGHES: Yes, sir.

9 JUDGE SLAVIN: Do I hear a second?

10 MR. BUHROW: Second.

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

13 Mr. Hughes?

14 MR. HUGHES: None.

15 JUDGE SLAVIN: Any other member?

16 (No verbal response.)

17 JUDGE SLAVIN: Put the question. The  
18 question being put is whether the Lee County ZBA  
19 finds that, the Petitioner's response to the  
20 seven project environmental recommendations is  
21 acceptable.

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

1 (All those simultaneously  
2 responded.)

3 JUDGE SLAVIN: All those opposed by nay.

4 (No verbal response.)

5 JUDGE SLAVIN: The motion is, once again,  
6 passed unanimously. Okay.

7 MR. PRATT: Mr. Facilitator.

8 JUDGE SLAVIN: Yes, sir.

9 MR. PRATT: I want to create a new one  
10 again.

11 JUDGE SLAVIN: Okay. Is it -- well, it  
12 doesn't matter. Just a minute. I don't know  
13 why that turned -- huh. Okay. Shoot.

14 MR. PRATT: Make a motion that the Lee  
15 County ZBA finds that, Mr. David Streicker  
16 testified --

17 JUDGE SLAVIN: Well, I'm going to stop you  
18 there. He -- Mr. Streicker never testified,  
19 that I remember.

20 MR. KLAHN: Arguments.

21 MS. DUFFY: Closing.

22 JUDGE SLAVIN: Made arguments. Testified  
23 means you're under oath.

24 MR. BUHROW: He wasn't under oath.

1 JUDGE SLAVIN: Streicker was the attorney  
2 for the Petitioner/Applicant.

3 MR. PRATT: Well, then that's -- I don't  
4 know how I will state that then.

5 MR. KLAHN: What do you have?

6 MR. PRATT: They made a statement that  
7 they were going to remove the two towers on Ryan  
8 Wetlands' recommendation.

9 JUDGE SLAVIN: Off the record.

10 (A discussion was held off the  
11 record.)

12 JUDGE SLAVIN: Okay. Go ahead. Back on  
13 the record.

14 MR. PRATT: Mr. David Streicker, attorney  
15 for the Petitioner, committed --

16 JUDGE SLAVIN: I don't think I spelled his  
17 name right -- just a minute. I'm sorry,  
18 Mr. Pratt. Okay.

19 MR. PRATT: Committed.

20 JUDGE SLAVIN: How about during arguments,  
21 or during his statement.

22 MR. PRATT: That's fine.

23 JUDGE SLAVIN: How about during his  
24 closing statement? Is that when you remember it

1 occurring?

2 MR. PRATT: That's fine.

3 MR. KLAHN: Do you remember when he said  
4 it? He, at times, interjected with some  
5 arguments before the closing.

6 MR. PRATT: I think it was before the  
7 closing statement.

8 JUDGE SLAVIN: How about --

9 MR. KLAHN: Committed on behalf.

10 JUDGE SLAVIN: Stated that.

11 MR. KLAHN: Stated on behalf of the  
12 Petitioner.

13 JUDGE SLAVIN: Stated. How about on  
14 behalf of -- okay.

15 MR. PRATT: Per the request.

16 JUDGE SLAVIN: That according -- is that  
17 okay? In conjunction.

18 MR. PRATT: According to the request of  
19 Ryan Wetlands.

20 MR. HUGHES: I think according to the  
21 request of Ryan Wetlands.

22 MR. PRATT: It wasn't really Ryan Wetlands  
23 that requested that?

24 MR. HUGHES: It was Deb Cleary for Ryan

1 Wetlands.

2 MR. BUHROW: It was Deb Cleary.

3 JUDGE SLAVIN: Is it wetlands or wetland?  
4 I just don't know. It's not that big of a deal.

5 MR. PRATT: I got an S, but I don't know.

6 MR. KLAHN: We can double-check that.

7 MR. PRATT: They would remove the two  
8 towers -- the two WTGs.

9 JUDGE SLAVIN: States on behalf of --  
10 according to the request.

11 MR. HUGHES: Probably per his original  
12 thought, per the request.

13 MR. KLAHN: That Petitioner would remove.

14 JUDGE SLAVIN: If that's what you want,  
15 fine. Per the request of Ryan Wetlands, that  
16 the -- that -- excuse me. Let me read it out  
17 loud.

18 The Lee County ZBA finds that, Mr. David  
19 Streicker, attorney for the Petitioner, stated  
20 on behalf of the Petitioner, that per the  
21 request of Ryan Wetlands, the --

22 MR. PRATT: Petitioner.

23 JUDGE SLAVIN: Petitioner, yup.

24 MR. PRATT: Removed.

1 JUDGE SLAVIN: Will remove or just remove?

2 MR. PRATT: Will remove WTGs.

3 JUDGE SLAVIN: WTGs.

4 MR. PRATT: Number 84 and 85.

5 JUDGE SLAVIN: 84.

6 MR. PRATT: 86. 84 and 86, they're  
7 telling me.

8 JUDGE SLAVIN: Okay. Period?

9 MR. PRATT: Period.

10 JUDGE SLAVIN: End?

11 MR. PRATT: Yeah, that's it.

12 JUDGE SLAVIN: Let me blow it up and make  
13 sure it's what you want. How is that?

14 MR. PRATT: That's fine. That's my  
15 motion.

16 JUDGE SLAVIN: Okay. Second?

17 MR. BOTHE: Second.

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

20 Mr. Pratt, your motion.

21 MR. PRATT: No comment.

22 JUDGE SLAVIN: Any other board member?

23 MR. HUGHES: No comment.

24 JUDGE SLAVIN: Hearing none, no

1           indication, I will put the question. The  
2           question being put is whether the Lee County ZBA  
3           finds that, Mr. David Streicker, attorney for  
4           the Petitioner, stated on behalf of the  
5           Petitioner, that per the request of Ryan  
6           Wetlands the Petitioner will remove WTGs Number  
7           84 and Number 86.

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

11                             (All those simultaneously  
12                             responded.)

13           JUDGE SLAVIN: All those opposed by nay.

14                             (No verbal response.)

15           JUDGE SLAVIN: Motion is indeed passed.

16           MR. KLAHN: Can we go off the record just  
17          real quick?

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

20           JUDGE SLAVIN: Floor is open again for a  
21          motion.

22           MR. HUGHES: Let's address your Number 25.

23           JUDGE SLAVIN: Okay. Wait a minute. I've  
24          got to change this to 24B, because I want to.



1 All right. 25 should be following 24.  
2 And miraculously, there it is. Okay. Shoot.

3 MR. HUGHES: Make a motion that the Lee  
4 County ZBA finds that, no evidence was presented  
5 as to the impact of the repowering could have on  
6 property values within the area of the proposed  
7 project.

8 JUDGE SLAVIN: All right. I think that's  
9 right on the board.

10 Do I hear a second?

11 MR. MEYER: Second.

12 JUDGE SLAVIN: Debate, Mr. Hughes? Your  
13 motion.

14 MR. HUGHES: None additional.

15 JUDGE SLAVIN: Any other members, debate?  
16 Comments?

17 (No verbal response.)

18 JUDGE SLAVIN: Hearing none, I will put  
19 the question. The question being put is whether  
20 the Lee County ZBA finds that, no evidence was  
21 presented as to the impact the repowering could  
22 have on property values within the area of the  
23 proposed project.

24 Passing the motion requires a vote by the

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

3 (All those simultaneously  
4 responded.)

5 JUDGE SLAVIN: All those opposed by nay.

6 (No verbal response.)

7 JUDGE SLAVIN: The motion is passed.

8 Okay. Floor is again open.

9 MR. HUGHES: Mr. Facilitator, your Number  
10 26.

11 JUDGE SLAVIN: By Joe, there it is.

12 MR. HUGHES: Make the motion the Lee  
13 County ZBA finds that, no evidence was presented  
14 as to any impact repowering could have on air  
15 traffic within the area of the proposed project.

16 JUDGE SLAVIN: I assume that looks like  
17 your motion on the wall?

18 MR. HUGHES: Yes, sir.

19 JUDGE SLAVIN: Do I hear a second?

20 MR. MEYER: Second.

21 JUDGE SLAVIN: Debate, Mr. Hughes? Your  
22 motion.

23 MR. HUGHES: No additional.

24 JUDGE SLAVIN: Any other members?

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(No verbal response.)

JUDGE SLAVIN: Hearing none -- or seeing none, I put the question. The question being put is whether the Lee County ZBA finds that no evidence was presented as to any impact the repowering could have on air traffic within the area of the proposed project.

Passing 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: All those opposed by nay.

(No verbal response.)

JUDGE SLAVIN: Hearing none, it is passed by unanimous -- passed unanimously again.

Okay. Open again.

MR. HUGHES: Your Number 27.

I would make the motion that the Lee County ZBA finds that, the Petitioner will comply with any and all FAA recommendations.

JUDGE SLAVIN: Okay. Do I hear a second?

MR. BOTHE: Second.

JUDGE SLAVIN: Hearing a second,

1 comment -- or the floor is open for debate.

2 Mr. Hughes, any comment on your motion?

3 MR. HUGHES: No, sir.

4 JUDGE SLAVIN: Any other member?

5 (No verbal response.)

6 JUDGE SLAVIN: Seeing none, I'll put the  
7 question. The question being put is whether the  
8 Lee County ZBA finds that, the Petitioner will  
9 comply with any and all FAA recommendations.

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

13 (All those simultaneously  
14 responded.)

15 JUDGE SLAVIN: All those opposed by nay.

16 (No verbal response.)

17 JUDGE SLAVIN: Motion is passed  
18 unanimously.

19 Okay. Open again. Open for business.

20 MR. HUGHES: Your Number 28.

21 JUDGE SLAVIN: Okay.

22 MR. HUGHES: Make the motion the Lee  
23 County ZBA finds that, the proposed project will  
24 increase area employment during the construction

1 phase, thus helping the local economy.

2 JUDGE SLAVIN: Does that look like it on  
3 the board?

4 MR. HUGHES: Yes, sir.

5 JUDGE SLAVIN: Second, gentlemen?

6 MR. BUHROW: Second.

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

9 Mr. Hughes, your motion.

10 MR. HUGHES: No additional.

11 JUDGE SLAVIN: Any other Board member?

12 (No verbal response.)

13 JUDGE SLAVIN: Seeing no indication, I'll  
14 put the question. The question being put is  
15 whether the Lee County ZBA finds that, the  
16 proposed project will increase area employment  
17 during the construction phase, thus helping the  
18 local economy.

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

22 (All those simultaneously  
23 responded.)

24 JUDGE SLAVIN: All those opposed by nay.

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(No verbal response.)

JUDGE SLAVIN: Hearing none, the motion is passed unanimously.

MR. PRATT: Mr. Facilitator.

JUDGE SLAVIN: Yes, sir.

MR. PRATT: Your Number 30.

JUDGE SLAVIN: My Number 30. Let me expand it a little for everybody's eyesight.

MR. HUGHES: You want to do 29, not 30?

JUDGE SLAVIN: Okay. Yup.

MR. PRATT: No, that one.

MR. HUGHES: I thought you wanted 31.

JUDGE SLAVIN: You have the floor, Mr. Pratt.

MR. PRATT: It is 31, his 30.

JUDGE SLAVIN: You have the floor.

MR. PRATT: I've got to remember where I'm at on the floor.

I'd like to make a motion that the Lee County ZBA finds that, a decision to recommend or not recommend approval of the petition is not based on an increase or decrease in revenue for taxing bodies.

JUDGE SLAVIN: Okay. Take a look, see if

1 that's what you want.

2 MR. PRATT: Yes, that's my motion.

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

4 MR. BOTHE: Second.

5 JUDGE SLAVIN: Debate, Mr. Pratt? Your  
6 motion.

7 MR. PRATT: No comment.

8 JUDGE SLAVIN: Any other member?

9 (No verbal response.)

10 JUDGE SLAVIN: All right. I see no  
11 indication. I will put the motion -- I will put  
12 the question.

13 The question being put is whether the Lee  
14 County ZBA finds that, a decision to recommend  
15 or not recommend approval of the petition is not  
16 based on an increase or decrease in revenue for  
17 taxing bodies.

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

21 (All those simultaneously  
22 responded.)

23 JUDGE SLAVIN: All those opposed by nay.

24 (No verbal response.)

1 JUDGE SLAVIN: The ayes have it  
2 completely. Motion passes.

3 The vernacular okey dokey.

4 MR. PRATT: Mr. Facilitator.

5 JUDGE SLAVIN: Yes, sir.

6 MR. PRATT: Number 31.

7 Make a motion that the Petitioner -- that  
8 the ZBA finds that, the Petitioner has promised  
9 a two-year warranty on drain tile breakage.

10 JUDGE SLAVIN: Somebody got lazy when I  
11 drafted this, huh, didn't I?

12 MR. PRATT: They did.

13 JUDGE SLAVIN: Okay. Take a -- oops.

14 MR. PRATT: That's fine, my motion.

15 JUDGE SLAVIN: Okay. It's on the board --  
16 or on the wall, gentlemen. Do I hear a second?

17 MR. MEYER: Second.

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

20 Mr. Pratt, your motion.

21 MR. PRATT: No comment.

22 JUDGE SLAVIN: Any other member, comment,  
23 debate?

24 (No verbal response.)



1 JUDGE SLAVIN: Seeing no indication, I'll  
2 put the question. The question being put is  
3 whether the Lee County ZBA finds that, the  
4 Petitioner has promised a two-year warranty on  
5 drain tile breakage.

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

9 (All those simultaneously  
10 responded.)

11 JUDGE SLAVIN: All those opposed by nay.

12 (No verbal response.)

13 JUDGE SLAVIN: The motion passes.

14 Okay. Floor is again open.

15 MR. HUGHES: Mr. Facilitator, your number  
16 32.

17 Motion that the Lee County ZBA finds that,  
18 the proposed Special Use will have the following  
19 impacts on the character of the neighborhood and  
20 the surrounding properties: the visual  
21 character of the neighborhood will not change;  
22 shadow flicker will not present an additional  
23 impact on nonparticipating --

24 JUDGE SLAVIN: Just a minute. Will not,

1 right? Not impose, you said?

2 MR. HUGHES: Impose an additional impact.

3 JUDGE SLAVIN: Impact on. I assume I left  
4 out "on."

5 MR. HUGHES: Nonparticipating residences,  
6 and will not -- and noise will not impose  
7 additional impact on nonparticipating  
8 residences.

9 JUDGE SLAVIN: Better read this one. I  
10 kind of got lost in my own words.

11 MR. HUGHES: I think you were doing okay  
12 when I --

13 JUDGE SLAVIN: Take a look.

14 MR. HUGHES: Yes.

15 JUDGE SLAVIN: Okay. Second, gentlemen?

16 MR. BOTHE: Second.

17 MR. SLAVIN: Hearing a second, comment on  
18 your motion, Mr. Hughes?

19 MR. HUGHES: No, sir.

20 JUDGE SLAVIN: Any other member?

21 (No verbal response.)

22 JUDGE SLAVIN: Seeing none, the Chair puts  
23 the question. The question being put is whether  
24 the Lee County ZBA finds that, the proposed

1 Special Use will have the following impacts on  
2 the character of the neighborhood and  
3 surrounding properties: the visual character of  
4 the neighborhood will not change; shadow flicker  
5 will not impose an additional impact on  
6 nonparticipating residences; and noise will not  
7 impose an additional impact on nonparticipating  
8 residences.

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

12 (All those simultaneously  
13 responded.)

14 JUDGE SLAVIN: All those opposed by nay.

15 (No verbal response.)

16 JUDGE SLAVIN: The motion passes.

17 Okay. "Okay" means the floor is open  
18 again.

19 MR. HUGHES: Your Number 34.

20 JUDGE SLAVIN: Yes, sir.

21 MR. HUGHES: The Lee County ZBA finds  
22 that, the proposed Special Use will have the  
23 following impacts on traffic conditions: there  
24 will be a temporary increase in traffic during

1 decommissioning and construction periods, but  
2 there will not be any material long-term impact.

3 JUDGE SLAVIN: How does that look on the  
4 board, sir?

5 MR. HUGHES: Fine.

6 JUDGE SLAVIN: Okay. A second, gentlemen?

7 MR. MEYER: Second.

8 MR. BOTHE: Second.

9 JUDGE SLAVIN: I hear seconds. Floor is  
10 open for debate.

11 Mr. Hughes?

12 MR. HUGHES: No, sir.

13 JUDGE SLAVIN: Any other member, indicate.

14 (No verbal response.)

15 JUDGE SLAVIN: No indication; therefore, I  
16 will put the question. The question being put  
17 is whether the Lee County ZBA finds that, the  
18 proposed Special Use will have the following  
19 impacts on traffic conditions: there will be a  
20 temporary increase in traffic during  
21 decommissioning and construction periods, but  
22 there will not be any material long-term impact.

23 Passing the motion requires a vote by the  
24 majority. The vote will be by voice. All those

1 in favor indicate by saying aye.

2 (All those simultaneously  
3 responded.)

4 JUDGE SLAVIN: All those opposed by nay.

5 (No verbal response.)

6 JUDGE SLAVIN: Motion, indeed, passes.

7 Oops. You also have a mouse that has a mind of  
8 its own, but I'm not complaining because without  
9 it we would still be on the first motion, as I  
10 was trying to do this with my finger.

11 Okay.

12 MR. BUHROW: Mr. Chairman.

13 JUDGE SLAVIN: Yes, sir.

14 MR. BUHROW: To your Number 33, I have got  
15 some different language.

16 JUDGE SLAVIN: Fine. That's what it's  
17 there for. I just --

18 MR. BUHROW: I move that the Lee County  
19 ZBA --

20 JUDGE SLAVIN: Whoa, whoa. Let me get it  
21 big enough so you can see as I go ahead. Yes,  
22 go ahead. I'm sorry. Go ahead.

23 MR. BUHROW: I move the Lee County ZBA  
24 finds that, the proposed Special Use will not

1 impose.

2 JUDGE SLAVIN: Will not impose.

3 MR. BUHROW: New impacts on public health,  
4 safety, and general welfare.

5 JUDGE SLAVIN: New impacts on public  
6 health, safety, and/or general welfare.

7 MR. BUHROW: Probably should be a  
8 semicolon or something in there, or comma.

9 JUDGE SLAVIN: You tell me what you want  
10 and I'll --

11 MR. BUHROW: Comma.

12 JUDGE SLAVIN: Where? After welfare?

13 MR. BUHROW: After welfare.

14 JUDGE SLAVIN: Yes, sir.

15 MR. BUHROW: The whole neighborhood is  
16 still impacted by the visual of the project --  
17 the whole neighborhood is still impacted by the  
18 visual nature of the project.

19 JUDGE SLAVIN: Will still be impacted or?  
20 I just didn't. Take a look.

21 MR. BUHROW: Let's go with the whole  
22 neighborhood continues to be impacted by the  
23 visual nature of the project.

24 JUDGE SLAVIN: How about will continue?

1 MR. BUHROW: To be impacted.

2 JUDGE SLAVIN: Take a look there.

3 MR. BUHROW: I think that's okay.

4 JUDGE SLAVIN: Okay. Second, gentlemen?

5 MR. MEYER: Second.

6 JUDGE SLAVIN: Okay. I heard a second.

7 The floor is open for debate.

8 Mr. Buhrow, your motion.

9 MR. BUHROW: Nothing.

10 JUDGE SLAVIN: Any other member?

11 (No verbal response.)

12 JUDGE SLAVIN: Seeing none, I will put the  
13 question. The question being put is whether the  
14 Lee County ZBA finds that, the proposed Special  
15 Use will not impose new impacts on public  
16 health, public safety, and/or general welfare,  
17 but the whole neighborhood will continue to be  
18 impacted by the visual nature of the project.

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

22 (All those simultaneously  
23 responded.)

24 JUDGE SLAVIN: All those opposed by nay.

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(No verbal response.)

JUDGE SLAVIN: The motion is passed.

MR. HUGHES: Your Number 36.

JUDGE SLAVIN: There you go, I think.

MR. HUGHES: Motion that the Lee County ZBA finds that, the proposed project will not substantially impact local wildlife and/or threatened species -- or threatened species.

JUDGE SLAVIN: Does that look right? I think that does.

MR. HUGHES: Yes, sir.

JUDGE SLAVIN: Okay. Second, gentlemen?

MR. BOTHE: Second.

JUDGE SLAVIN: Moved and seconded. Floor is open for debate.

Mr. Hughes?

MR. HUGHES: Nothing additional.

JUDGE SLAVIN: Any other member?

(No verbal response.)

JUDGE SLAVIN: Seeing none, I will put the question. The question being put is whether the Lee County Zoning Board of Appeals -- let's make that ZBA, because all the rest of them have said ZBA -- finds that the proposed project will not



1 substantially impact local wildlife and/or  
2 threatened species.

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

6 (All those simultaneously  
7 responded.)

8 JUDGE SLAVIN: All those opposed by nay.

9 (No verbal response.)

10 JUDGE SLAVIN: The ayes have it  
11 completely, and the motion is passed.

12 Yes, sir -- sirs.

13 MR. HUGHES: Are there any other -- then  
14 I'd like to go to your Number 38.

15 JUDGE SLAVIN: Yes, sir.

16 MR. HUGHES: After considering and  
17 balancing -- make the motion that after  
18 considering and balancing all of the foregoing  
19 facts found, and Ordinance standards applied,  
20 the Lee County ZBA recommends to the Lee County  
21 Board that BSW DevCo's WECS Special Use Petition  
22 is allowed.

23 JUDGE SLAVIN: Be allowed, right?

24 MR. HUGHES: Be allowed, yes.

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

3 MR. MEYER: Second.

4 JUDGE SLAVIN: The floor is open. I hear  
5 a second. Floor is open for debate.

6 Mr. Hughes?

7 MR. HUGHES: No additional.

8 JUDGE SLAVIN: Any member?

9 (No verbal response.)

10 JUDGE SLAVIN: Seeing no indication, I  
11 have put the question. The question being put  
12 is whether, after -- after considering and  
13 balancing all of the foregoing facts found and  
14 Ordinance standards applied, the Lee County ZBA  
15 recommends to the Lee County Board that BSW  
16 DevCo's WECS Special Use Petition be allowed.

17 Mr. Klahn, do you want to think about that  
18 a minute?

19 MR. PRATT: Mr. Facilitator.

20 JUDGE SLAVIN: Do you want to do that  
21 right now?

22 MR. KLAHN: The other issue would be --

23 JUDGE SLAVIN: I think we better take a  
24 break.

1 MR. HUGHES: Well, I was going -- if I  
2 could speak to this, I was looking at this  
3 portion, and then maybe we could recess to come  
4 back with rec- -- specific recommendations to be  
5 implemented under it or --

6 JUDGE SLAVIN: But -- off the record.

7 (A discussion was held off the  
8 record.)

9 JUDGE SLAVIN: Mr. Hughes.

10 MR. HUGHES: I would -- based on timing  
11 recommendation from Counsel, I would withdraw  
12 this motion at this time.

13 JUDGE SLAVIN: Is that acceptable to you,  
14 Mr. Meyer?

15 MR. MEYER: It is.

16 JUDGE SLAVIN: Okay. Withdrawn.

17 MR. HUGHES: And then the other thing I  
18 would --

19 JUDGE SLAVIN: Let's go off the record  
20 again.

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

23 JUDGE SLAVIN: By sort of consent, we will  
24 go into recess until 7 o'clock, Wednesday, April

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3rd, here at the Old Lee County Courthouse.

(The hearing was recessed at

9:06 p.m.)

1 Now on this 1st day of April, A.D., 2019, I do  
2 signify that the foregoing testimony was given  
3 before the Lee County Zoning Board of Appeals.  
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8 Bruce Forster, Chairman  
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12 Dee Duffy,  
13 Zoning Enforcement Officer  
14  
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16

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