



1 APPEARANCES:

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1 JUDGE SLAVIN: Good evening, ladies and  
2 gentlemen. I call out of recess -- -- let's try  
3 that. Very good. Sorry about that. Technical  
4 issues.

5 I call out of recess Lee County Zoning  
6 Board of Appeals Hearing on Petition Number  
7 21-P-1563, BSW DevCo, LLC's, latest petition for  
8 Special Use Permit to repower an existing WECS  
9 development in portions of East Grove and May  
10 Townships here in Lee County.

11 For those of you who, I don't know, are  
12 either watching on -- listening on YouTube and  
13 have forgotten, the Zoom meeting ID, should you  
14 wish to join us on Zoom, is 915-3923-9154, and  
15 the password is 209840.

16 If you want to join us on YouTube on your  
17 computer or cellphone, use your browser, go to  
18 [www.youtube.com](http://www.youtube.com). In the search bar, type "Lee  
19 County IL Zoning Board of Appeals." No need to  
20 be concerned with upper or lower cases. Find  
21 the session date which you want, presumably this  
22 evening, June 21st, and there we should be.

23 If you need technical assistance with any  
24 of that, you can call Ms. Duffy's technical

1 assistance number, 815.973.3449.

2 I note, for the record, that the Chairman  
3 of the Zoning Board of Appeals, Mr. Forster, is  
4 present; Mr. Bothe is present; Mr. Pratt is  
5 present; and Mr. Meyer is present.

6 On behalf of the Petitioner, its attorney,  
7 Mr. Streicker, is present, with one of his  
8 client's representatives. Ms. Duffy is present.  
9 Her able assistant, Alice, is present. There  
10 are no witnesses present, obviously. Our fine  
11 court reporter, Callie, is present. Himself is  
12 present. The fine State's Attorney, Charlie  
13 Boonstra, is present.

14 That's the total I see in the hearing  
15 room. Three, four, five, six, seven, eight,  
16 nine, ten -- there's 11 folks in person. There  
17 are no Interested Parties in any of the  
18 ancillary rooms here in the Old Lee County  
19 Courthouse.

20 And, Alice, since my screen is full of  
21 tonight's possible motions, are there anybody --  
22 is there anybody on Zoom?

23 MS. HENKEL: Just Mike Speerschneider, for  
24 the Applicant.

1 JUDGE SLAVIN: Okay. And one person on  
2 Zoom representing the Petitioner.

3 Okay. Very good. Thank you all for  
4 enduring that. And I think we're ready to  
5 begin.

6 We begin the ZBA's findings of fact and  
7 recommendations. You guys have been through  
8 this many times before. So the floor is open  
9 for motions.

10 MS. HENKEL: Can you actually share that?

11 JUDGE SLAVIN: Yes, I can. Thank you for  
12 reminding me.

13 How did that work?

14 MS. HENKEL: It worked.

15 JUDGE SLAVIN: All right.

16 MR. PRATT: Your Honor.

17 JUDGE SLAVIN: Mr. Pratt.

18 MR. PRATT: I would like to make a motion  
19 that the Lee County Zoning Board of Appeals  
20 (herein after called ZBA) finds that on  
21 April 15th, 2021, BSW DevCo, LLC, (hereinafter  
22 the Petitioner, the Developer, BSW, or simply  
23 Big Sky), a wholly-owned subsidiary of Vitol  
24 Wind 1, LLC, an affiliate of Vitol,

1 Incorporated, and an arm of the Danish parent  
2 company, Vitol, filed a petition with the Lee  
3 County Zoning Administration Office, which was  
4 numbered 21-3-1563, requesting a Special Use  
5 Permit to repower the existing Big Sky Wind  
6 Energy Conversion System (hereinafter the WECS,  
7 the W-E-C-S, WECS, Development or Project):

8 A, Following the submission of the  
9 application, proper notice was published in both  
10 the Amboy News and the Dixon Telegraph on  
11 April 21, 2021, and due diligence mailings of  
12 the notice were sent to property owners adjacent  
13 to the project boundary by the United States  
14 Postal Service.

15 B, Prior to the hearing, the Board, under  
16 the authority provided by its own Rules, engaged  
17 the services of Tim Slavin, a retired circuit  
18 court judge, as the facilitator for the  
19 proceedings.

20 C, The first stage of the public hearing  
21 regarding the petition for the Special Use  
22 Permit was for your Lee County Zoning Board of  
23 Appeals to accept testimony, hear arguments, and  
24 receive public comments.

In Totidem Verbis, LLC (ITV)  
815.453.2260

In Totidem Verbis, LLC (ITV)

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

9           E, The evidentiary portion of the hearing  
10 technically began on May 6, 2021 -- but, due to  
11 constraints created by the length of time taken  
12 by already-scheduled matters, the hearing was  
13 merely opened by Judge Slavin, with no other  
14 part of the process commenced that evening --  
15 and concluded on June 10th, 2021, consisting of  
16 four total sessions, the latter three of which  
17 began at 6 p.m., all heard in the main courtroom  
18 on the third floor of the Old Lee County  
19 Courthouse. The totality of these sessions of  
20 the first stage comprised, in total,  
21 approximately six hours of hearing time.

22           F, Throughout the hearing process, the  
23 proceedings adhered to the applicable State of  
24 Illinois COVID-19 Guidelines for public

1           gatherings.

2           G, These guidelines provided for  
3           gatherings of no more than 50 people; so

4           I (sic), No more than that number was  
5           allowed to be in the hearing room at any given  
6           time. I guess that was 1.

7           2, Within the building, accommodations  
8           were made for 13 Interested Parties to occupy  
9           the contiguous former jury deliberation room.  
10          Those additional 13 potential attendees would  
11          have been able to participate by Zoom from those  
12          spaces, where Ms. Duffy and Lee County's IT  
13          Department had the equipment ready to be used;  
14          however, there were never enough spillover  
15          attendees at any one session to make use of that  
16          space; and

17          Number 3, Under the Coronavirus mitigation  
18          protocol, within the hearing room all attendees  
19          were required to wear masks except when  
20          speaking, and social distancing was reasonably  
21          maintained;

22          And, Number 4, Additionally, Interested  
23          Parties were also given the opportunity to  
24          remotely and virtually participate in the



1 process by video or teleconferencing on the Zoom  
2 platform through the use of a computer or cell  
3 phone at a location of their choosing;

4 Number 5, The proceedings were also  
5 broadcast on YouTube, during which viewers could  
6 see and hear the proceedings take place in  
7 realtime;

8 Number 6, The entirety of the proceedings  
9 was taken down by a certified shorthand  
10 reporter, which was subsequently transcribed.  
11 Those transcripts of all testimony, arguments,  
12 public comments and ZBA debate were, and  
13 continue to be, available on the Zoning and  
14 Planning web pages within the Lee County  
15 website;

16 H, We, the members of Lee County Zoning  
17 Board of Appeals, heard all of the evidence  
18 produced and examined each of the exhibits.

19 Judge, that's my motion.

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

22 MR. BOTHE: Second.

23 JUDGE SLAVIN: Hearing a second, any  
24 debate on the motion.

1           It's your motion, Mr. Pratt. You get to  
2 go first, should you choose to make any comment.

3           MR. PRATT: No, no comment.

4           JUDGE SLAVIN: Any other Board member?

5                   (No verbal response.)

6           JUDGE SLAVIN: Seeing no indication, I'll  
7 put the question. The question being put is on  
8 the motion as Mr. Pratt so ably read it and was  
9 displayed both on the screen here in the  
10 courtroom and on the Zoom, maybe YouTube as  
11 well.

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

15                   (All those simultaneously  
16 responded.)

17           JUDGE SLAVIN: Opposed by nay.

18                   (No verbal response.)

19           JUDGE SLAVIN: That motion is adopted.

20           MR. MEYER: Your Honor.

21           JUDGE SLAVIN: Just a minute. Okay.

22           MR. MEYER: Your Honor, Motion 2.

23           JUDGE SLAVIN: Yeah, just a minute.

24           Something is not quite right here.

1 MS. HENKEL: You're in the wrong document.

2 JUDGE SLAVIN: What?

3 MS. HENKEL: You're in the wrong document.

4 JUDGE SLAVIN: Somebody left it up, didn't  
5 they?

6 MS. DUFFY: Sorry.

7 JUDGE SLAVIN: All right. There it is.  
8 Okay. I'm sorry.

9 Go ahead. Who was it? Mr. Meyer?

10 MR. MEYER: My Motion Number 2 would read,  
11 The Lee County ZBA finds that six people took  
12 the witness stand. Those witnesses, in order of  
13 their appearance, with a very brief summary of  
14 what they had to say, include, as follows:

15 Mr. Mike Speerschneider, a partner in Exus  
16 Management Partners, an independent investment  
17 and asset management firm, focused on the  
18 renewable energy sector, and in this case for  
19 Vitol, the parent company of the Petitioner,  
20 testified at length about various matters  
21 involved in BSW's repower plans. He first  
22 outlined the repower details and the scheduling  
23 if the SUP is approved. He went on to explain  
24 his view of the regional and overall benefits of

1 the SUP proposal, the efforts being made in the  
2 community engagement, and the agreements made  
3 with participating landowners, the Illinois  
4 Department of Natural Resources (hereinafter  
5 IDNR), and the Illinois Department of  
6 Agriculture, the efforts being made at reaching  
7 Road Use Agreements with Lee County and East  
8 Grove and May Townships, present and future  
9 decommissioning parameters, BSW's shadow flicker  
10 commitment, the anticipated hearing testimony  
11 relating to sound, communications, and  
12 environmental matters, the nature of 11 setback  
13 requests, the lack of air space concerns, the  
14 engineer's certification for reusing the  
15 foundations, the nature of the noise of the  
16 proposed Vestas WTGs, the planned reuse of the  
17 other development infrastructure other than just  
18 the foundations and towers, some of the  
19 specifications of the proposed Vestas WTGs;

20 Mr. Andrew de Pass, the head of Vitol  
21 Incorporated Renewables, another parent company  
22 of the Petitioner, explained the structure of  
23 the business of Vitol and gave his opinion of  
24 the virtues of having Vitol as the developer of

1 the Big Sky Repower Project. He also touched on  
2 the subject of Road Use Agreements, Vestas WTG  
3 efficiency, and the intended Big Sky energy  
4 production customers.

5 Mr. Chris Howell, an engineer from Burns &  
6 McDonnell, was offered by Petitioner.

7 Mr. Howell began by outlining his qualifications  
8 and then testified that he oversaw a noise  
9 evaluation for the proposed repower project. He  
10 explained various aspects of the sound theory,  
11 governmental sound level criteria, the  
12 conservative approach input assumptions made for  
13 the acoustical modeling and, finally, relevant  
14 results of the study.

15 Mr. Terry Van De Walle, a Stantec  
16 Consulting Service principal biologist and the  
17 Independence, Iowa, office manager, was offered  
18 by the Petitioner and testified about various  
19 environmental issues. After outlining his  
20 qualifications, he related that he had had a  
21 hand in creating and supervising the preparation  
22 of the project's Site Characterization Report  
23 and the Bird and Bat Conservation Strategy and  
24 gave an overview of the methodology that went

1 into the same. He went on to highlight issues  
2 with the species of concern that were either  
3 known to be found of which had been suitable  
4 habitat within the project footprint. He went  
5 on to go over various communications with the  
6 IDNR, including the IDNR's seven April 16th,  
7 2021, consultation letter recommendations, and  
8 he finished with the developer's promise to  
9 comply with those recommendations.

10 Mr. Aaron Anderson, the director of  
11 renewable energy for Burns & McDonnell, was  
12 offered by the Petitioner. He testified that he  
13 oversaw a shadow flicker study for the proposed  
14 project. He explained the shadow theory, the  
15 absence of laws governing the WECS related to  
16 shadow flicker, an industry shadow flicker  
17 standard, and the relevant results of the  
18 modeling results.

19 Mr. Dennis Jimeno, a telecommunications  
20 engineer for Comsearch, who was a supervisor on  
21 the Telecommunications Impact Report, was  
22 offered by the Petitioner. He testified about  
23 the five studies prepared under his direction as  
24 to the effects of the proposed repowering would

1 have on microwave, AM/FM radio, land, mobile and  
2 emergency services, mobile phones, and  
3 over-the-air television signals.

4 And that would be my motion.

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

7 MR. BOTHE: Second.

8 JUDGE SLAVIN: Hearing a second, you get  
9 to comment on your motion first, Mr. Meyer.

10 MR. MEYER: No comments.

11 JUDGE SLAVIN: Any other Board member?

12 (No verbal response.)

13 JUDGE SLAVIN: Seeing no indication, I  
14 will put the question. The question being put  
15 is on the adoption of the motion as again so  
16 ably recited by Mr. Meyer.

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: Motion -- all those opposed  
23 by nay.

24 (No verbal response.)

1 JUDGE SLAVIN: This motion is also  
2 adopted.

3 Okay. Floor is open again.

4 MR. PRATT: Your Honor.

5 JUDGE SLAVIN: Yes, sir.

6 MR. PRATT: I'd like to make a motion,  
7 Number 3, that the Lee County ZBA finds that the  
8 following exhibits were admitted into evidence  
9 by the Facilitator and considered by the Board:

10 Petitioner's Exhibits:

11 Number 1, BSW DevCo, LLC's, petition for a  
12 Special Use Permit;

13 Petitioner's Exhibit Number 2, Michael  
14 Speerschneider's CV;

15 Petitioner Number 3, hard copy of Michael  
16 Speerschneider's PowerPoint presentation;

17 Petitioner Number 4 -- Petitioner's  
18 Exhibit Number 4, hard copy of the email string  
19 between Deb Carey and Michael Speerschneider,  
20 showing that the entity Ryan Wetland and Sand  
21 Prairie Land and Water Reserve in May Township  
22 has no issues with the proposed repowering;

23 Petitioner's Exhibit Number 5, official  
24 notification of Special Use and Variation



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petition;

Petitioner's Exhibit Number 6, certificate of publication from the Amboy News;

Petitioner's Exhibit Number 7, certificate of publication from the Dixon Telegraph;

Petitioner's Exhibit Number 8, March 1, 2019, Illinois Department of Natural Resources (hereinafter IDNR) consultation letter to Lee County Zoning and Planning Officer, Dee Duffy;

Petitioner's Exhibit Number 9, March 11, 2019, Stantec letter to Lee County Zoning and Planning Officer, Dee Duffy, responding to IDNR consultation letter of March 1, 2019;

Petitioner's Exhibit Number 10, April 16, 2021, IDNR letter to the Lee County Zoning Officer, Dee Duffy, outlining the State and federally-listed species, Illinois nature preserves, IDNR owner properties, and natural area inventory site results of Vitol Wind 1's EcoCAT submission;

Petitioner's Exhibit Number 11, April 29, 2021, United States Department of Commerce letter advising that proper federal agencies represented on the Interdepartment Radio

1       Advisory Committee had been notified of the  
2       repowering plans for Big Sky, and that after a  
3       period of review, no radiofrequency blockage  
4       issues have been indicated;

5                Petitioner's Exhibit Number 12, a copy of  
6       an executed 2019 AIMA between the Illinois  
7       Department of Agriculture and BSW;

8                Petitioner's Exhibit Number 13, hard copy  
9       of Richard de Pass PowerPoint presentation;

10               Petitioner's Exhibit Number 14, hard copy  
11       of Chris Howell PowerPoint presentation;

12               Petitioner's Exhibit Number 15, hard copy  
13       of Terry Van De Walle PowerPoint presentation;

14               Petitioner's Number 16, hard copy of Aaron  
15       Anderson's PowerPoint presentation;

16               Petitioner's Exhibit Number 17, hard copy  
17       of Dennis Jimeno's testimony.

18               Judge, that's my motion.

19               JUDGE SLAVIN: Do I hear a second?

20               MR. BOTHE: Second.

21               JUDGE SLAVIN: Hearing a second, any  
22       comment you want to make about your own motion,  
23       Mr. Pratt?

24               MR. PRATT: No, no comment.

1 JUDGE SLAVIN: How about any other Board  
2 member?

3 (No verbal response.)

4 JUDGE SLAVIN: Seeing no urgency or need  
5 to do so, I will put the question. The question  
6 being put is, once again, on the motion as so  
7 ably presented by Mr. Pratt.

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: All those opposed by nay.

14 (No verbal response.)

15 JUDGE SLAVIN: That motion carries as  
16 well.

17 The floor is back atcha.

18 MR. MEYER: Your Honor.

19 JUDGE SLAVIN: Yes, sir.

20 MR. MEYER: Motion Number 4, the Lee  
21 County ZBA finds that following the close of the  
22 testimonial phase, the Board heard or read what  
23 could have been characterized as a closing  
24 argument or public comment from the following:

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

7           JUDGE SLAVIN: Do I hear a second?

8           MR. BOTHE: Second.

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

12          MR. MEYER: No comment.

13          JUDGE SLAVIN: Any other Board member?

14                           (No verbal response.)

15          JUDGE SLAVIN: Seeing none, I will put the  
16          question. The question being put is on the  
17          adoption of the motion as recited by Mr. Meyer.

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

21                           (All those simultaneously  
22                           responded.)

23          JUDGE SLAVIN: Opposed by nay.

24                           (No verbal response.)

1 JUDGE SLAVIN: That motion is,  
2 unsurprisingly, adopted as well.

3 Okay. Gents.

4 MR. PRATT: Your Honor.

5 JUDGE SLAVIN: Sir.

6 MR. PRATT: Let's look at Number 5. I'd  
7 like to make a motion that the Lee County ZBA  
8 finds that the Petitioner:

9 Is currently operating the existing Big  
10 Sky WECS development in East Grove and May  
11 townships in Lee County; and

12 Was previously granted Special Use Permit  
13 for a repower; but

14 Is now requesting a new SUP to repower the  
15 following-numbered whole project WECS -- that's  
16 not WECS -- WTGs in Lee County, and these are  
17 the numbers, 58, 59, 60, 61, 62, 63, 64, 66, 67,  
18 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79,  
19 89, 81, 83, 83 -- let's change that record.  
20 Let's go 79. Leave out that 89.

21 JUDGE SLAVIN: Yup.

22 MR. PRATT: -- 79, 81, 83, 84, 85, 86, 87,  
23 88, 89, 90, 92, 93, 94, 95, 96, 97, 98, 99, 100,  
24 101, 102, 103, 105, 106, 107, 108, 110, 111,

1 114, 115, 116, 117, 118, 120, 121, 124 and 125.

2 JUDGE SLAVIN: Hold on a minute. Off the  
3 record, take a break.

4 (A discussion was held off  
5 the record.)

6 JUDGE SLAVIN: Okay. Mr. Pratt, sorry, I  
7 just saw some commotion and wanted to cure it.

8 MR. PRATT: So I ended with 125, and I'll  
9 continue.

10 And has stated that:

11 The existing WTG model and the two  
12 previously-approved WTG models were no longer  
13 feasible, and that, if repowered -- that if  
14 approved, the repower would be done with the  
15 Vestas models V110-2.2 MW and V120-2.2 MW  
16 models; and

17 The proposed replacement WTGs would  
18 continue the whole of the project's generative  
19 capacity to 239.8 from 239.4 megawatts, MW; and

20 While that nameplate generative capacity  
21 would be virtually the same, due to the  
22 efficiency of the proposed Vestas model WTGs,  
23 the net capacity factor would increase 60  
24 percent;

1           Would be repowering by utilizing:  
2           A, The current Special Use Permit parcels  
3 of real estate; and  
4           B, the existing foundations; and  
5           C, the existing WTG towers; and  
6           Is not requesting:  
7           Any new WTG locations; or  
8           Any alterations to the existing  
9 substation; or  
10           Any alterations to the existing  
11 transmission line; or  
12           A new O and M facility; but  
13           May be replacing about 3 percent, or  
14 approximately 4,000 feet, of underground  
15 collection lines.

16           JUDGE SLAVIN: May I -- before you tender  
17 your motion, can you go up to Paragraph -- if  
18 you look on the board, I changed a word from  
19 "continue," and it's now in red, "increase."  
20 That was my error, overlooking.

21           It said, Continue the generative capacity  
22 from 239.8.

23           MR. PRATT: I see. I agree.

24           JUDGE SLAVIN: All right. Is that your

1 motion?

2 MR. PRATT: That's my motion.

3 JUDGE SLAVIN: Do I hear a second?

4 MR. BOTHE: Second.

5 JUDGE SLAVIN: Got a second.

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

8 MR. PRATT: The only thing that I wanted  
9 to bring up, and whether these guys can help me  
10 out, is the second model number that I listed,  
11 the V120-2.2, are they both the same output,  
12 both 2.2 models, though one has a bigger blade?  
13 I don't remember that. Anybody else remember  
14 that?

15 JUDGE SLAVIN: Off the record.

16 (A discussion was held off the  
17 record.)

18 MR. PRATT: I have no other comments.

19 JUDGE SLAVIN: Okay. Any other -- he has  
20 no comment about his motion.

21 Any other Board members, anything you want  
22 to say?

23 (No verbal response.)

24 JUDGE SLAVIN: Seeing none, I will put the



1 question. The question being put is on the  
2 adoption of the motion as once again so ably  
3 recited by Mr. Pratt.

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

7 (All those simultaneously  
8 responded.)

9 JUDGE SLAVIN: Opposed by nay.

10 (No verbal response.)

11 JUDGE SLAVIN: That motion is also  
12 adopted.

13 Okie dokie. That's lingo for "next."

14 MR. MEYER: Number 6, Your Honor. My  
15 motion would state, the Lee County ZBA finds  
16 that the Petitioner:

17 Would completely -- would be completely  
18 decommissioning and removing five of the  
19 development's existing WTG's, one of which may  
20 be in Lee County; and

21 Would be installing new nacelles, blades,  
22 hubs, pad transformers on the existing  
23 foundations and towers; and

24 Is requesting 11 property line WTG setback

1       waivers, all on land owned by participating  
2       property owners who have waived the same; and

3               Is requesting relief from the County Code  
4       10-2A-3, which requires the Zoning Administrator  
5       to revoke a Special Use Permit where said use  
6       has not been established or substantially  
7       underway within one year from the date the  
8       Special Use was granted, and instead asking that  
9       it be extended to 36 months; and

10              The repowered WTGs will have the following  
11      new dimensions:

12              The V110-2.2 MW:

13              Rotor diameter of 361 feet;

14              Hub height of 277 feet;

15              High point of the blades, 458 feet;

16              Low point of the blades, 97 feet.

17              The V-120-2.2 2 MW:

18              The rotor height would be 394 feet;

19              Hub height, 277 feet;

20              High point of the blades, 475 feet;

21              Low point of the blades, 82 feet.

22              Would be temporarily widening the access  
23      roads and may be creating new crane paths during  
24      the repowering construction, but would be

1 returning them to the previous existing  
2 dimensions, none of which would be paved;

3 Would be creating a temporary laydown yard  
4 or staging area of approximately six acres near  
5 the current O and M building.

6 That's my motion.

7 JUDGE SLAVIN: Second?

8 MR. BOTHE: Second.

9 JUDGE SLAVIN: Anything you want to say,  
10 Mr. Meyer?

11 MR. MEYER: No comment.

12 JUDGE SLAVIN: Any other Board member?

13 (No verbal response.)

14 JUDGE SLAVIN: Seeing none, I will put the  
15 question. The question being put is on the  
16 adoption of the motion as once again so aptly  
17 recited by Mr. Meyer, displayed on the Board  
18 here in the courtroom and screen-sharing Zoom.

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

22 (All those simultaneously  
23 responded.)

24 JUDGE SLAVIN: Opposed by nay.

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(No verbal response.)

JUDGE SLAVIN: Motion is adopted.

Call the play: the quarterback hands it off to the ZBA.

MR. PRATT: Judge, Your Honor, I would like to make a motion, Number 7, the Lee County ZBA finds that there would not be any lighting or glare in the proposed repowered Big Sky Development spilling over onto the operators of motor vehicles, pedestrians or lands used -- land uses in the vicinity, because the Petitioner agreed that there would be none other than that needed for security and the FFA requirements -- FAA requirements.

Yes, I changed "promised" to "agreed."

That's my motion.

JUDGE SLAVIN: Yup, got to catch up with the -- okay. I got it.

Do I hear a second?

MR. BOTHE: Second.

JUDGE SLAVIN: Mr. Pratt, any comment you want to make?

MR. PRATT: No, no comment.

JUDGE SLAVIN: Any other Board member?

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(No verbal response.)

JUDGE SLAVIN: Seeing no indication, I will put the question. The question being put is whether the Lee County ZBA finds that there would not be any lighting or glare in the proposed repowered Big Sky Development spilling over onto operators of motor vehicles, pedestrians or land uses -- land -- got to make corrections as I go or I'll never recover -- land uses in the vicinity, because the Petitioner agreed that there would be none other than that needed for security and the FAA requirements.

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

(All those simultaneously responded.)

JUDGE SLAVIN: Opposed by nay.

(No verbal response.)

JUDGE SLAVIN: Mr. Pratt's motion is adopted.

And pass the ball off to the ZBA.

MR. MEYER: Your Honor, Motion Number 8,

1 the ZBA finds that, other than during  
2 construction, there would probably not be any  
3 vibration associated with the proposed repowered  
4 Big Sky Development.

5 JUDGE SLAVIN: Do I hear a second?

6 MR. BOTHE: Second.

7 JUDGE SLAVIN: Got a second.

8 Your motion. Anything you want to say,  
9 Mr. Meyer?

10 MR. MEYER: No further comments.

11 JUDGE SLAVIN: Any other Board member?

12 (No verbal response.)

13 JUDGE SLAVIN: Seeing none, I will put the  
14 question. The question being put is whether the  
15 Lee County ZBA finds that, other than during  
16 construction, there probably would not be any  
17 vibration associated with the proposed repowered  
18 Big Sky Development.

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

22 (All those simultaneously  
23 responded.)

24 JUDGE SLAVIN: Opposed by nay.

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(No verbal response.)

JUDGE SLAVIN: That one carries as well.  
Okay.

MR. PRATT: Your Honor.

JUDGE SLAVIN: Yes, back to you.

MR. PRATT: Number 9. I would like to make a motion that the Lee County ZBA finds that, from the Petitioner's application and through testimony produced, there would be some noise from the proposed repower affecting the zoning districts specified in this particular section of the Lee County Code.

JUDGE SLAVIN: Okay. I think I got it right.

MR. PRATT: That's my motion.

JUDGE SLAVIN: Okay. Do I hear a second?

MR. BOTHE: Second.

JUDGE SLAVIN: Mr. Pratt, any comment?

MR. PRATT: No.

JUDGE SLAVIN: Any other Board member?

(No verbal response.)

JUDGE SLAVIN: Hearing or seeing none, I put the question. The question being put is whether the Lee County ZBA finds that, from the

1       Petitioner's application and through testimony  
2       produced, that there would be some noise from  
3       the proposed repower affecting the zoning  
4       districts specified in this particular section  
5       of the Lee County Code.

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

9                       (All those simultaneously  
10                      responded.)

11               JUDGE SLAVIN: All those opposed by nay.

12                       (No verbal response.)

13               JUDGE SLAVIN: That one is, I believe,  
14       unanimous as well.

15               So we go to double digits.

16               MR. MEYER: Your Honor, Number 10, the Lee  
17       County ZBA finds that, other than, perhaps,  
18       during construction, there probably would not be  
19       any air pollution associated with the proposed  
20       repowered Big Sky Development.

21               JUDGE SLAVIN: Do I hear a second?

22               MR. BOTHE: Second.

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



1 Mr. Meyer?

2 MR. MEYER: No, Your Honor.

3 JUDGE SLAVIN: Any other Board member?

4 (No verbal response.)

5 JUDGE SLAVIN: Seeing none, I will put the  
6 question. The question being put is whether the  
7 Lee County ZBA finds that, other than, perhaps,  
8 during construction, there probably would not be  
9 any air pollution associated with the proposed  
10 repowered Big Sky Development.

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

14 (All those simultaneously  
15 responded.)

16 JUDGE SLAVIN: Opposed by nay.

17 (No verbal response.)

18 JUDGE SLAVIN: Another uncontroversial  
19 one, which is now saved.

20 Two stick fingers next.

21 MR. PRATT: Your Honor, I would like to  
22 make a motion. The Lee County ZBA finds that  
23 other than, perhaps, during construction, there  
24 probably would not be any odor associated with

1 the proposed repowered Big Sky Development.

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

4 MR. BOTHE: Second.

5 JUDGE SLAVIN: Anything you want to say,  
6 Mr. Pratt?

7 MR. PRATT: You need to do away with  
8 "would" on that.

9 JUDGE SLAVIN: Did I miss something? Oh.  
10 Thank you.

11 MR. PRATT: That's my motion.

12 JUDGE SLAVIN: Do I hear a second?

13 MR. BOTHE: Second.

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

16 MR. PRATT: No.

17 JUDGE SLAVIN: Any other Board member?

18 (No verbal response.)

19 JUDGE SLAVIN: Seeing no indication,  
20 hearing no indication, I will put the question.  
21 The question being put is whether the Lee County  
22 ZBA finds that other than, perhaps, during  
23 construction, there probably would not be any  
24 odor associated with the proposed repowered Big

1 Sky Development.

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

5 (All those simultaneously  
6 responded.)

7 JUDGE SLAVIN: All those opposed by nay.

8 (No verbal response.)

9 JUDGE SLAVIN: The motion carries.

10 Oh, rats. Excuse me while I fix my  
11 fat-fingered mistake.

12 Okay. Sorry about that. Your court.

13 MR. MEYER: Your Honor, I would like to  
14 skip the next one listed as 12 and go to  
15 Number 13.

16 JUDGE SLAVIN: Do whatever.

17 MR. MEYER: And make it Number 12.

18 My motion will read, the Lee County ZBA  
19 finds that, other than, perhaps, glare during  
20 construction, there would be no heat or glare  
21 associated with this proposed repowered  
22 development that would affect adjoining  
23 properties, because a WECS does not produce  
24 heat, the Petitioner has promised in its

1 application that the WTGs would be painted a  
2 nonreflective and nonobtrusive color, such as  
3 gray or white, which will provide a general  
4 uniformity.

5 JUDGE SLAVIN: While I'm playing with  
6 scrivener's, just take a look. Make sure I kept  
7 up with you. I think I did, but I never know  
8 for sure. Look right?

9 MR. MEYER: Looks right.

10 JUDGE SLAVIN: Okay. Second?

11 MR. BOTHE: Second.

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

15 MR. MEYER: No, Your Honor.

16 JUDGE SLAVIN: Any other Board member?

17 MR. PRATT: I hate to bring this up, but I  
18 don't like the word "promised."

19 JUDGE SLAVIN: Some day you'll have to  
20 explain that to me.

21 MR. PRATT: I like "agreed."

22 JUDGE SLAVIN: Well, it's his motion, so.

23 MR. PRATT: I know. I can live with it.

24 JUDGE SLAVIN: Okay. Any other Board

1 member?

2 (No verbal response.)

3 JUDGE SLAVIN: That means I will put the  
4 question. The question being put is whether the  
5 Lee County ZBA finds that other than, perhaps  
6 glare during construction, there would be no  
7 heat or glare associated with this proposed  
8 repowered development that would affect  
9 adjoining properties, because a WECS does not  
10 produce heat, and the Petitioner has promised in  
11 its application that the WTGs would be painted a  
12 nonreflective and unobtrusive color, such as  
13 gray or white, which will provide general  
14 uniformity.

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: All those opposed by nay.

21 (No verbal response.)

22 JUDGE SLAVIN: This motion is adopted as  
23 well.

24 Okie dokie.

1 MR. PRATT: Your Honor, I'd like --

2 JUDGE SLAVIN: Yes, sir.

3 MR. PRATT: I'd like to continue on with  
4 Number 14 on your list. The Lee County -- make  
5 a motion, the Lee County ZBA finds that there  
6 would not be any identifiable fire or explosion  
7 hazards associated with this repowered  
8 development.

9 I left out "particularly," but that's up  
10 to you.

11 JUDGE SLAVIN: You left that out, right?

12 MR. PRATT: I left that out.

13 JUDGE SLAVIN: All right. Does that look  
14 right?

15 MR. PRATT: Yup.

16 JUDGE SLAVIN: The "particularly" is just  
17 a reminder I need to take it out.

18 Second?

19 MR. BOTHE: Second.

20 JUDGE SLAVIN: Anything you want to say,  
21 Mr. Pratt?

22 MR. PRATT: No.

23 JUDGE SLAVIN: Any other Board member?

24 (No verbal response.)

1 JUDGE SLAVIN: Given that, I will put the  
2 question. The question being put is whether the  
3 Lee County ZBA finds that there would not be any  
4 identifiable fire or explosion hazards  
5 associated with this repowered development.

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

9 (All those simultaneously  
10 responded.)

11 JUDGE SLAVIN: All those opposed by nay.

12 (No verbal response.)

13 JUDGE SLAVIN: This motion is a winner.  
14 Keep at it.

15 MR. MEYER: Your Honor, Number 15. My  
16 motion would read, the Lee County ZBA finds that  
17 the Petitioner has agreed to submit a copy of  
18 the site plan to the local fire protection  
19 districts.

20 JUDGE SLAVIN: Good Lord. It's  
21 infectious.

22 All right. Do I hear a second?

23 MR. BOTHE: Second.

24 JUDGE SLAVIN: Anything you want to say

1 other than the "agreed"?

2 MR. MEYER: No, that's it, Judge.

3 JUDGE SLAVIN: Any other Board member?

4 (No verbal response.)

5 JUDGE SLAVIN: Hearing none, I will --  
6 seeing none, I will put the question. The  
7 question being put is whether the Lee County ZBA  
8 finds that the Petitioner has agreed to submit a  
9 copy of the site plan to local fire protection  
10 districts.

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

14 (All those simultaneously  
15 responded.)

16 JUDGE SLAVIN: Opposed by nay.

17 (No verbal response.)

18 JUDGE SLAVIN: This one is added to the  
19 archives.

20 Alrighty.

21 MR. PRATT: Your Honor, Number 16. I'd  
22 like to make the motion that the Lee County ZBA  
23 finds that the Petitioner has -- that the  
24 Petitioner agreed to promptly remove all solid



1 waste related to the construction, operation and  
2 maintenance from the site of this proposed  
3 repowered development.

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

5 MR. BOTHE: Second.

6 JUDGE SLAVIN: Hearing a second, anything  
7 you want to say?

8 MR. PRATT: No, no comment.

9 JUDGE SLAVIN: Any other Board member?

10 (No verbal response.)

11 JUDGE SLAVIN: Hearing none, I will put  
12 the question. The question being put is whether  
13 the Lee County ZBA finds that the Petitioner  
14 agreed to promptly remove all solid waste  
15 related to the construction, operation and  
16 maintenance from the site of this proposed  
17 repowered development.

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

21 (All those simultaneously  
22 responded.)

23 JUDGE SLAVIN: Opposed by nay.

24 (No verbal response.)

1 JUDGE SLAVIN: This one is in the W column  
2 as well. Okay.

3 MR. MEYER: Your Honor, Number 17. My  
4 motion reads, the Lee County ZBA --

5 JUDGE SLAVIN: Oops. I'm sorry. It's a  
6 jumpy mouse. Very jumpy mouse.

7 Okay. Go ahead.

8 MR. MEYER: The motion reads, the Lee  
9 County ZBA finds that, based on the application,  
10 the Petitioner agreed:

11 In conformity with all applicable laws, to  
12 handle, store, transport and dispose of all  
13 hazardous materials related to the construction,  
14 operation and maintenance of the proposed  
15 repower project; and

16 To develop a spill prevention control and  
17 countermeasures plan.

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

20 MR. BOTHE: Second.

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

23 MR. MEYER: No other comments.

24 JUDGE SLAVIN: Any other Board member?

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(No verbal response.)

JUDGE SLAVIN: Seeing no indication, I will put the question. The question being put is whether the Lee County ZBA finds that, based on the application, the Petitioner agreed:

In conformity with all applicable laws, to handle, store, transport, and dispose of all hazardous materials related to the construction, operation and maintenance of this proposed repower project; and

To develop a spill prevention control and countermeasure plan.

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

(All those simultaneously responded.)

JUDGE SLAVIN: All those opposed by nay.

(No verbal response.)

JUDGE SLAVIN: Victorious. And I think you can go -- move on.

MR. PRATT: Your Honor.

JUDGE SLAVIN: Moving on up.

MR. PRATT: Your Honor, Number 18. I'd

1 like to make a motion that the Lee County ZBA  
2 finds that the Petitioner's application complies  
3 with the required basic application information  
4 because it:

5 Shows the property lines of the proposed  
6 site of construction; and

7 Shows the location of the WECS; and

8 Shows the location of all the structures  
9 located on the proposed WECS site property and  
10 described those structures; and

11 Shows the location of all aboveground  
12 utility lines within a radius of two times the  
13 height of the proposed WTGs; and

14 Does not show the location of all  
15 underground utility lines on the proposed WECS  
16 property site; and --

17 JUDGE SLAVIN: Do you want to -- instead  
18 of "and," how about "but"? Just a suggestion.

19 MR. PRATT: That's fine.

20 JUDGE SLAVIN: Let me -- can I just stop  
21 you for a minute, just while I do some  
22 highlighting? It has nothing to do with  
23 anything other than my trying to keep up. It  
24 also gives you a chance, Mr. Pratt, to make sure

1 I have done my job for you.

2 MR. PRATT: I'm watching you.

3 JUDGE SLAVIN: I think that's where we  
4 left off.

5 MR. PRATT: Yup.

6 Contains a dimensional representation of  
7 structural components of the tower construction,  
8 including the base and footings; and

9 Shows a schematic of the electrical  
10 systems associated with the proposed WECS; and

11 Does not contain the manufacturer's  
12 specifications, installation and operation  
13 instructions, or the proposed WECS design  
14 information; and --

15 JUDGE SLAVIN: I encourage you to put a  
16 "but" there instead of the "and."

17 MR. PRATT: That's fine.

18 COURT REPORTER: Judge, I think you put  
19 the "but" in the wrong spot.

20 JUDGE SLAVIN: Oop, thank you. Okay.  
21 Caught up, I think.

22 MR. PRATT: And does not contain a  
23 certification by a registered professional  
24 engineer that the tower design is sufficient to

1       withstand wind load requirements for structures  
2       defined by ICC, but has promised to provide the  
3       same before obtaining a building permit.

4               That's my motion.

5               JUDGE SLAVIN: Make sure I -- I think I  
6       have got it. Do I hear a second?

7               MR. BOTHE: Second.

8               JUDGE SLAVIN: Anything you want to say,  
9       Mr. Pratt?

10              MR. PRATT: No comment.

11              MS. HENKEL: BOCA should be ICC.

12              JUDGE SLAVIN: Say again.

13              MR. PRATT: Oh, yeah, by ICC instead of  
14       BOCA.

15              JUDGE SLAVIN: Oh. Do you agree with  
16       that? Okay.

17              Does that conform to your second,  
18       Mr. Bothe?

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

20              JUDGE SLAVIN: Anything else, Mr. Pratt,  
21       you want to say about your motion?

22              MR. PRATT: No.

23              JUDGE SLAVIN: All right. Any other Board  
24       member?

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(No verbal response.)

JUDGE SLAVIN: Seeing none, I will put the question. The question being put -- there's been so many changes, I'm going to read it. It's long enough, I would usually just say as Mr. Pratt so ably recited, but. . .

The question being put is, the Lee County ZBA finds that the Petitioner's application complies with the required basic application information because it:

Shows the property lines of the proposed site of construction; and

Shows the location of the WECS; and

Shows the location of all of the structures located on the proposed WECS site property and describes those structures; and

Shows the location of all above-ground utility lines within a radius of two times the height of the proposed WTGs; but

Does not show the location of all underground utility lines on the proposed WECS property site; and

Contains a dimensional representation of the structural components of the tower

1 construction, including the base and footings;  
2 and

3 Shows a schematic of the electrical  
4 systems associated with the proposed WECS; but

5 Does not contain the manufacturer's  
6 specifications, installation and operation  
7 instructions, or the proposed WECS design  
8 information; and

9 Does not contain a certification by a  
10 registered professional engineer that the tower  
11 design is sufficient to withstand wind load  
12 requirements for structures defined by ICC, but  
13 has promised to provide the same before  
14 obtaining a building permit.

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: Motion is adopted.

23 MR. MEYER: Number 19, Your Honor. My  
24 motion reads, the Lee County ZBA finds the



1 blades on the proposed WTGs will be at least 15  
2 feet from the ground at their lowest arc point,  
3 because, in its application, the model  
4 specifications show the lowest blade tips will  
5 actually be 82 feet above ground level.

6 JUDGE SLAVIN: Do I hear a second?

7 MR. BOTHE: Second.

8 JUDGE SLAVIN: Hearing a second, anything  
9 you want to say, Mr. Meyer?

10 MR. MEYER: No.

11 JUDGE SLAVIN: Any other Board member?

12 (No verbal response.)

13 JUDGE SLAVIN: Seeing no indication or  
14 hearing none, I will put the question. The  
15 question being put is whether the Lee County ZBA  
16 finds that the blades and the proposed WTGs will  
17 be at least 15 feet from the ground to their  
18 lowest arc point because, in its application,  
19 the model specifications show that the lowest of  
20 the blade tips will actually be 82 feet above  
21 ground level.

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

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(All those simultaneously  
responded.)

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

JUDGE SLAVIN: That motion is adopted as  
well.

Moving on up.

MR. PRATT: Number 20, Your Honor. Make a  
motion that the Lee County ZBA finds that the  
Petitioner agreed in its application that climb  
prevention measures would be taken, along with  
appropriate warning signage.

JUDGE SLAVIN: Do I hear a second?

MR. BOTHE: Second.

JUDGE SLAVIN: Want to speak to it,  
Mr. Pratt?

MR. PRATT: No comment.

JUDGE SLAVIN: Any other Board member?

(No verbal response.)

JUDGE SLAVIN: Hearing none, seeing none,  
I will put the question. The question being put  
is whether the Lee County ZBA finds that the  
Petitioner agreed in its application that climb  
prevention measures would be taken, along with

1 appropriate warning signage.

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

6 (All those simultaneously  
7 responded.)

8 JUDGE SLAVIN: All those opposed by nay.

9 (No verbal response.)

10 JUDGE SLAVIN: It is a done deal, and the  
11 next deal is yours.

12 MR. MEYER: Number 21, Your Honor. The  
13 motion would read, the Lee County ZBA finds the  
14 proposed WECS would be interconnected with the  
15 PJM merchant market utility system via the ComEd  
16 Lee County Substation, and the Petitioner made a  
17 showing that the proposed WECS would meet the  
18 utility's interconnection requirements as it is  
19 presently being utilized.

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

21 MR. BOTHE: Second.

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

1 MR. MEYER: No, sir.

2 JUDGE SLAVIN: Any other Board member?

3 (No verbal response.)

4 JUDGE SLAVIN: Seeing no indication, I  
5 will -- or hearing no indication, I will put the  
6 question. The question being put is on the  
7 adoption of the motion whether the Lee County  
8 ZBA finds that the proposed WECS would be  
9 interconnected to the PJM merchant market  
10 utility system via the ComEd Lee County  
11 Substation, and the Petitioner made a showing  
12 that the proposed WECS would meet the utility's  
13 interconnection requirements as it is presently  
14 being utilized.

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: The motion is adopted.

23 Okay. Your next?

24 MR. MEYER: Your Honor, Number 22 on your

1 list. I'd like to make a motion that the Lee  
2 County ZBA finds that:

3 There are no proposed WTGs within 350 feet  
4 of a dedicated roadway, railroad right-of-way,  
5 or a right-of-way for an overhead transmission  
6 or distribution line; and

7 If approved, there would be 11 WTGs within  
8 350 feet of participating landowners' property  
9 lines.

10 JUDGE SLAVIN: All right. Second?

11 MR. BOTHE: Second.

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

14 MR. PRATT: No comment.

15 JUDGE SLAVIN: Okay. Any other Board  
16 member?

17 (No verbal response.)

18 JUDGE SLAVIN: Seeing, hearing none, not  
19 being advised of any, I put the question. The  
20 question being put is whether the Lee County ZBA  
21 finds that there are no proposed WTGs within 350  
22 feet of a dedicated roadway, railroad  
23 right-of-way, or a right-of-way for overhead  
24 transmission or distribution lines; and

1           If approved, there would be 11 WTGs within  
2           350 feet of participating landowners' property  
3           lines.

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 no.

10                           (No verbal response.)

11           JUDGE SLAVIN: Motion is adopted.

12           Back to you.

13           MR. MEYER: Number 23, Your Honor. The  
14           motion reads, the Lee County ZBA finds that the  
15           developer has indicated that:

16                           The Vestas WTGs would be slightly quieter  
17           at lower wind speeds than the present Suzlon  
18           model and would be noisier at higher wind  
19           speeds; but

20                           Represented the notion that at higher wind  
21           speeds there would be higher ambient noise that  
22           would drown out any increased WTG noise.

23           JUDGE SLAVIN: Do I hear a second?

24           MR. BOTHE: Second.

1 JUDGE SLAVIN: Anything you want to say,  
2 Mr. Meyer?

3 MR. MEYER: No, Your Honor.

4 JUDGE SLAVIN: Any other Board member?

5 (No verbal response.)

6 JUDGE SLAVIN: Not being advised of such,  
7 the question being put is whether the Lee County  
8 ZBA finds that the developer has indicated that:

9 The Vestas WTGs would be slightly quieter  
10 at lower wind speeds than the present Suzlon  
11 model and would be noisier at higher wind  
12 speeds; but

13 Represented the notion that at higher wind  
14 speeds there would be higher ambient noise that  
15 would drown out any increased WTG noise.

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

19 (All those simultaneously  
20 responded.)

21 JUDGE SLAVIN: Opposed by nay.

22 (No verbal response.)

23 JUDGE SLAVIN: No dissenters. Motion  
24 carries.

1 Back to you.

2 MR. PRATT: Your Honor.

3 JUDGE SLAVIN: Sir.

4 MR. PRATT: Can we go off the record for a  
5 second?

6 JUDGE SLAVIN: Sure. Actually, we can  
7 take a break. That's just fine with me.

8 MR. PRATT: Well, I don't --

9 JUDGE SLAVIN: I was going to in about  
10 five minutes anyway.

11 MR. PRATT: It's up to you.

12 JUDGE SLAVIN: Let's take a break. I'm  
13 getting a little goofy.

14 (A recess was taken at 7:07 p.m.  
15 and proceedings resumed at  
16 7:15 p.m.)

17 JUDGE SLAVIN: I think the ball is back in  
18 the ZBA's court.

19 MR. PRATT: Your Honor, Number 24. I'd  
20 like to make the motion that the Lee County ZBA  
21 finds that Chris Howell testified --

22 JUDGE SLAVIN: Wait a minute.

23 MR. PRATT: That Chris Howell testified.

24 JUDGE SLAVIN: Let me find that.



1           He spells his name with a C-H-R-I-S,  
2           right?

3           MR. PRATT:   Right.

4           -- testified that of the Lee County  
5           residences within the footprint of the proposed  
6           repower project, 18 participating landowner  
7           residences would receive IPCB nighttime noise  
8           level exceedances of 41 or more dBs and 14  
9           nonparticipating residences would receive those  
10          exceedances.

11          JUDGE SLAVIN:  Take a look, make sure I  
12          have got it.

13          MR. PRATT:  Looks right.

14          JUDGE SLAVIN:  All right.  Second?

15          MR. BOTHE:  Second.

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

18          MR. PRATT:  No comment.

19          JUDGE SLAVIN:  Any other Board member?

20                         (No verbal response.)

21          JUDGE SLAVIN:  Seeing none, hearing none,  
22          I will put the question.  The question being put  
23          is whether the Lee County ZBA finds that Chris  
24          Howell testified that -- comma there -- of the

1 Lee County residences within the footprint of  
2 the proposed repower project, 18 participating  
3 landowner residences would receive IPCB  
4 nighttime noise level exceedances of 41 or more  
5 dB and 14 nonparticipating residences would  
6 receive those exceedances.

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 MR. PRATT: You have got an "O" that you  
15 left out there after "testified."

16 JUDGE SLAVIN: Okay. Thanks. Come get it  
17 here in a minute. Thank you.

18 All right. Back to you guys.

19 MR. MEYER: Number 25, Your Honor.

20 JUDGE SLAVIN: Yes, sir.

21 MR. MEYER: The motion reads, the Lee  
22 County ZBA finds that the repowered WTGs could  
23 result in a decrease of noise level at lower  
24 wind speeds from that presently existing at some

1 property lines because of the possible reduction  
2 in the total number of turbines and because of  
3 technology of the proposed models.

4 JUDGE SLAVIN: Do I hear a second?

5 MR. BOTHE: Second.

6 JUDGE SLAVIN: Hearing a second, I will  
7 ask for any comment. You first, Mr. Meyer.

8 MR. MEYER: No comment.

9 JUDGE SLAVIN: Any other Board member?

10 (No verbal response.)

11 JUDGE SLAVIN: Seeing none, hearing none,  
12 I will put the question. The question being put  
13 is whether the Lee County ZBA finds that the  
14 repowered WTGs could result in a decrease of  
15 noise levels at lower wind speeds from that  
16 presently existing at some property lines  
17 because of the possible reduction in the total  
18 number of turbines and because of technology of  
19 the proposed models.

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 brings home the  
4 bacon as well.

5 Okay. Next.

6 MR. PRATT: Your Honor, Number 26. Make a  
7 motion that the Lee County ZBA finds that the  
8 repowered WTGs could result in an increase of  
9 noise levels at higher wind speeds from that  
10 presently existing at some property lines due to  
11 the technology of the proposed models, but that  
12 increase may be offset by higher wind speeds  
13 creating higher ambient sound and possibly fewer  
14 turbines.

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

16 MR. BOTHE: Second.

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

19 MR. PRATT: No comment.

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

22 (No verbal response.)

23 JUDGE SLAVIN: Not being advised of such,  
24 I'll put the question. The question being put

1 is whether the Lee County ZBA finds that the  
2 repowered WTGs could result in an increase of  
3 noise levels at higher wind speeds from the  
4 presently existing -- from that presently  
5 existing at some property lines due to the  
6 technology of the proposed models, but that  
7 increase may be offset by higher wind speeds  
8 creating higher ambient sound and possibly fewer  
9 turbines.

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 by nay.

16 (No verbal response.)

17 JUDGE SLAVIN: That motion is not a loss.  
18 How about it? How about some more?

19 MR. MEYER: Number 27, Your Honor. The  
20 motion reads, the Lee County ZBA finds that the  
21 Petitioner's proposed setbacks do not totally  
22 mitigate the effect of noise to people and  
23 animals subjected to it for some proposed  
24 turbine locations.

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

2 MR. BOTHE: Second.

3 JUDGE SLAVIN: I got one.

4 MR. MEYER: Do not totally mitigate --

5 JUDGE SLAVIN: Yup.

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

8 MR. MEYER: No, Your Honor.

9 JUDGE SLAVIN: Any other Board members?

10 (No verbal response.)

11 JUDGE SLAVIN: Hearing none, seeing none,  
12 I will put the question. The question being put  
13 is whether the Lee County ZBA finds that the  
14 Petitioner's proposed setbacks do not totally  
15 mitigate the effect of noise to people and  
16 animals subjected to it for some proposed  
17 turbine locations.

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

21 (All those simultaneously  
22 responded.)

23 JUDGE SLAVIN: Opposed by nay.

24 (No verbal response.)

1 JUDGE SLAVIN: That one finishes first as  
2 well.

3 Okay. Let's keep at it.

4 MR. PRATT: Your Honor, Number 28. I make  
5 a motion that the Lee County ZBA finds that the  
6 Petitioner has agreed to mitigate any  
7 residential exceedances in one of the following  
8 ways:

9 Waivers; or

10 WTG mitigation management that would  
11 reduce the noise level received at any offended  
12 residence to within the IPCB limit.

13 JUDGE SLAVIN: Good catch. I want you to  
14 notice that I put "agreed." I must have been  
15 thinking of you at 6 a.m. some morning.

16 MR. PRATT: That's good.

17 JUDGE SLAVIN: Okay. Does that look  
18 right?

19 MR. PRATT: Yup.

20 JUDGE SLAVIN: Second?

21 MR. BOTHE: Second.

22 JUDGE SLAVIN: Hearing a second, I'll ask  
23 for any comments. How about you, Mr. Pratt?

24 MR. PRATT: No comment.

1 JUDGE SLAVIN: Any other Board member?

2 (No verbal response.)

3 JUDGE SLAVIN: Hearing none, seeing none,  
4 I put the question. The question being put is  
5 whether the Lee County ZBA finds that the  
6 Petitioner has agreed to mitigate any  
7 residential exceedances in one of two -- one --  
8 in one of the two following ways:

9 Waivers; or

10 WTG mitigation management that would  
11 reduce the noise level received at any offended  
12 residence to within the IPCB limit.

13 Within the IPCB limit.

14 Adoption of that 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: You have made another  
22 motion feel good. Okay.

23 MR. MEYER: Your Honor, Number 29. The  
24 motion reads, the Lee County ZBA finds that the



1           Petitioner did commit to a post-construction  
2           expert noise study.

3           JUDGE SLAVIN: Do I hear a second?

4           MR. BOTHE: Second.

5           JUDGE SLAVIN: Hearing one, anything you  
6           want to say about that, Mr. Meyer?

7           MR. MEYER: No comment.

8           JUDGE SLAVIN: Any other Board member?

9                           (No verbal response.)

10          JUDGE SLAVIN: Seeing none, hearing none,  
11          I put the question. The question being put is  
12          whether the Lee County ZBA finds that the  
13          Petitioner did commit to a post-construction  
14          expert noise study.

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: Dissenters, nay.

21                           (No verbal response.)

22          JUDGE SLAVIN: The motion is adopted.

23          On the stairway to heaven, the next stair.

24          MR. PRATT: Your Honor, Number 30. Make a

1 motion that the Lee County ZBA finds that the  
2 Petitioner has made a sufficient assurance that  
3 the proposed WECS would be installed or operated  
4 in compliance with the Federal Aviation  
5 Administration (FAA) regulations and the Lee  
6 County Code 10-15-13.

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

8 MR. BOTHE: Second.

9 JUDGE SLAVIN: Any comment, Mr. Pratt?

10 MR. PRATT: No, none.

11 JUDGE SLAVIN: Any other Board member?

12 (No verbal response.)

13 JUDGE SLAVIN: Hearing none, seeing none,  
14 I put the question. The question being put is  
15 whether the Lee County ZBA finds that the  
16 Petitioner has made a sufficient assurance that  
17 the proposed WECS would be installed or operated  
18 in compliance with the Federal Aviation  
19 Administration (FAA) regulations and Lee County  
20 Code Section 10-15-13.

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

24 (All those simultaneously

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responded.)

JUDGE SLAVIN: All the pessimists, nay.

(No verbal response.)

JUDGE SLAVIN: Motion is adopted.

Geewillikers, we're on to the next one.

MR. MEYER: Your Honor, Number 31.

JUDGE SLAVIN: Just a minute.

I don't know how you take this day in and day out, Ms. Duffy. Wow.

Okay. Yeah, sorry.

MR. MEYER: Number 31, Your Honor. The motion reads, the Lee County ZBA finds that in its application and through the testimony it produced, the Petitioner has stated that all of the electrical distribution lines for this proposed repower would be located underground.

JUDGE SLAVIN: Okay. Second?

MR. BOTHE: Second.

JUDGE SLAVIN: Heard one.

Anything you want to say, Mr. Meyer?

MR. MEYER: No comment.

JUDGE SLAVIN: Any other Board member?

(No verbal response.)

JUDGE SLAVIN: Hearing none, seeing none,

1 I put the question. The question being put is  
2 whether the Lee County ZBA finds that in its  
3 application and through the testimony it  
4 produced, the Petitioner has stated that all of  
5 the electrical distribution lines for this  
6 proposed repower would be located underground.

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: The underground motion is  
15 now aboveground. Okay.

16 MR. PRATT: Your Honor, Number 32.

17 JUDGE SLAVIN: Yes.

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

20 The WTGs within the proposed repowered  
21 development would be designed with an automatic  
22 overspeed control to feather the system when  
23 winds are blowing at an excessive speed; and

24 The WTGs within the proposed repowered

1 development would have both a standard and  
2 redundant braking system.

3 JUDGE SLAVIN: Do I hear a second?

4 MR. BOTHE: Second.

5 JUDGE SLAVIN: Got one.

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

8 MR. PRATT: No, no comment.

9 JUDGE SLAVIN: Any other Board member?

10 (No verbal response.)

11 JUDGE SLAVIN: Seeing none, hearing none,  
12 I put the question. The question being put is  
13 whether the Lee County ZBA finds that the WTGs  
14 within the proposed repowered development would  
15 be designed with an automatic overspeed control  
16 to feather the system when winds are blowing at  
17 an excessive speed; and

18 The WTGs within the proposed repowered  
19 development would have both a standard and  
20 redundant braking system.

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

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(All those simultaneously  
responded.)

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

JUDGE SLAVIN: Another olive wreath for  
some words.

Yeah. Go. We'll go on.

MR. MEYER: Number 33, Your Honor. The  
motion reads, the Lee County Zoning Board of  
Appeals finds that, through its agent, Mike  
Speerschneider's, testimony, the Petitioner  
stated that it will be bound by any and all  
proposals and representations in its petition  
and made under oath at the public hearing before  
the Lee County ZBA.

JUDGE SLAVIN: Okay. This goes to the  
meaning of agreed.

Do I hear a second?

MR. BOTHE: Second.

JUDGE SLAVIN: Anything you want to say  
about your motion?

MR. MEYER: No comment.

JUDGE SLAVIN: Mr. Pratt, do you want to  
particularly address this? Mr. Forster?

1 Mr. Bothe?

2 (No verbal response.)

3 JUDGE SLAVIN: All right. Hearing none, I  
4 will put the question. The question being put  
5 is whether the Lee County Zoning Board of  
6 Appeals finds that, through its agent, Mike  
7 Speerschneider's, testimony, the Petitioner  
8 stated that it will be bound by any and all  
9 proposals and representations in its petition  
10 and made under oath at the public hearing before  
11 the Lee County ZBA.

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

15 (All those simultaneously  
16 responded.)

17 JUDGE SLAVIN: Opposed by nay.

18 (No verbal response.)

19 JUDGE SLAVIN: The motion is adopted.

20 This mouse has got a mind of its own. It  
21 moves without the operator telling it to do so,  
22 unless you have got a little secret thing over  
23 there, Ms. Duffy, which lets you control it.

24 Okay.

1 MR. PRATT: Your Honor, Number 34.

2 JUDGE SLAVIN: Yes, sir.

3 MR. PRATT: I make a motion that the Lee  
4 County ZBA finds that the character of the land  
5 within the footprint of the Big Sky complex is  
6 agricultural.

7 JUDGE SLAVIN: Do I hear a second?

8 MR. BOTHE: Second.

9 JUDGE SLAVIN: Anything you want to say,  
10 Mr. Pratt, or any other Board member?

11 MR. PRATT: Nope.

12 JUDGE SLAVIN: Put the question. The  
13 question being put is whether the Lee County ZBA  
14 finds that the character of the land within the  
15 footprint of the Big Sky complex is agricultural  
16 -- agriculture -- agricultural.

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: All those opposed by nay.

23 (No verbal response.)

24 JUDGE SLAVIN: Another one is colored red.



1           How about it?

2           MR. MEYER:   Number 36, Your Honor.

3           JUDGE SLAVIN:   36?   Skip 35?

4           MR. MEYER:   Skip 35.

5           JUDGE SLAVIN:   Okay.   Let me just make a  
6           note.   It's only when you would have to watch me  
7           put all this together, you'd understand why I  
8           have to do those little thing.

9           MR. MEYER:   I understand.

10          JUDGE SLAVIN:   Otherwise I would be  
11          absolutely trapped.

12          Go ahead.

13          MR. MEYER:   Number 36, the motion reads,  
14          the Lee County ZBA finds that, while there are  
15          no local, State or federal laws, rules or  
16          regulations limiting the amount of shadow  
17          flicker permitted on a receptor, the Petitioner  
18          has an accepted industry standard of no more  
19          than 30 hours of shadow flicker on a residence.

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

22          MR. BOTHE:   Second.

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

1 MR. MEYER: No, sir.

2 JUDGE SLAVIN: And any other Board member?

3 (No verbal response.)

4 JUDGE SLAVIN: Hearing none, seeing none,  
5 I put the question. The question being put is  
6 whether the Lee County ZBA finds that, while  
7 there are no local, State or federal laws, rules  
8 or regulations limiting the amount of shadow  
9 flicker permitted on a receptor, the Petitioner  
10 has accepted an industry standard of no more  
11 than 30 hours of shadow flicker on a residence.

12 Adoption of the motion requires a vote by  
13 the majority. The vote will be by voice. All  
14 those 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: And the motion is adopted.

20 Is it too late to take this mouse back to  
21 the store, Ms. Duffy? Must have got it at the  
22 same place you got the chairs.

23 MR. BOONSTRA: From the '80s?

24 JUDGE SLAVIN: Yeah.

1           Sorry about that. Okay. We're set now.

2           MR. PRATT: Your Honor, Number 37. I make  
3 a motion that the Lee County ZBA finds that the  
4 shadow flicker study performed for the project  
5 used a conservative modeling approach with  
6 project site-specific conditions. For example,  
7 the study modeled each receptor as a  
8 "greenhouse"; meaning, each receptor was modeled  
9 as having windows on all sides, and effectively  
10 created a model home susceptible to flicker  
11 effects in all directions. Further, the project  
12 site was modeled as if no obstacles were  
13 present, including trees or buildings, which  
14 would significantly reduce or eliminate the  
15 duration or intensity -- and/or intensity of the  
16 shadow flicker at a receptor. Due to the  
17 conservative approach of the studies, the actual  
18 duration and intensity of the shadow flicker at  
19 each receptor may be expected to be less than  
20 those reported in the study.

21           JUDGE SLAVIN: Do I hear a second?

22           MR. BOTHE: Second.

23           JUDGE SLAVIN: Got one.

24           Anything you want to say about your

1 motion, Mr. Pratt?

2 MR. PRATT: No comment.

3 JUDGE SLAVIN: Any other Board member?

4 (No verbal response.)

5 JUDGE SLAVIN: Seeing none, hearing none,  
6 I will put the question. The question being put  
7 is whether the Lee County ZBA finds that the  
8 shadow flicker study performed for the project  
9 used a conservative modeling approach with  
10 project site-specific -- project site-specific  
11 conditions; for example, the study modeled each  
12 receptor as a "greenhouse"; meaning, each  
13 receptor was modelled as having windows on all  
14 sides and effectively created a model home  
15 susceptible to flicker effects in all  
16 directions. Further, the project site was  
17 modeled as if no obstacles were present,  
18 including trees or buildings, which would  
19 significantly reduce or eliminate the duration  
20 and/or intensity of the shadow flicker at a  
21 receptor. Due to the conservative approach of  
22 the study, the actual duration and intensity of  
23 the shadow flicker at each receptor may be  
24 expected to be less than those reported in the

1 study.

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

5 (All those simultaneously  
6 responded.)

7 JUDGE SLAVIN: Opposed by nay.

8 (No verbal response.)

9 JUDGE SLAVIN: Another king is crowned.  
10 Well, it's a pawn probably.

11 Oh, my God. Do I just have to think about  
12 it and it changes?

13 MR. BOTHE: It's playing with you.

14 JUDGE SLAVIN: I think it is. It's a  
15 conspiracy.

16 Okay. Sorry. Go ahead.

17 MR. MEYER: Number 38, Your Honor.

18 JUDGE SLAVIN: Yes, sir.

19 MR. MEYER: The motion reads, the Lee  
20 County Zoning Board of Appeals finds that, based  
21 on the modeling evidence provided, there will be  
22 no shadow flicker on 14 of the 189 known  
23 residences within Lee County's portion of the  
24 development, less than or equal to the industry

1 standard limitation of 30 annual hours on  
2 another 153, and more than 30 yearly hours of  
3 shadow flicker on 22 turbines, nine of which  
4 would involve receptors of participating  
5 landowners.

6 JUDGE SLAVIN: Take a look. Look good?

7 MR. MEYER: Correct.

8 JUDGE SLAVIN: Okay. Second?

9 MR. BOTHE: Second.

10 JUDGE SLAVIN: Hearing one, anything you  
11 want to elaborate on?

12 MR. MEYER: No comment.

13 JUDGE SLAVIN: Any other Board member?

14 (No verbal response.)

15 JUDGE SLAVIN: Seeing none, hearing none,  
16 I will put the question. The question being put  
17 is -- I really do know how to do this. It's so  
18 jumpy. Well, I have got to do it.

19 Question being put is whether the Lee  
20 County Zoning Board of Appeals finds that, based  
21 on the modeling evidence provided, there will be  
22 no shadow flicker on 14 of the 189 known  
23 residences within Lee County's portion of the  
24 development, less than or equal to the industry

1 standard limitation of 30 annual hours on  
2 another 153, and more than 30 yearly hours of  
3 shadow flicker on 22 -- that shouldn't be  
4 turbines.

5 MR. MEYER: That should be residences.

6 JUDGE SLAVIN: -- residences, nine of  
7 which would be -- would involve receptors of  
8 participating landowners.

9 Adoption of this 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 carries.

17 MR. FORSTER: You have "tresidences."

18 JUDGE SLAVIN: Yup, I'll get that. That I  
19 probably would pick up. That's a true kind of  
20 residence, it's one in a tree, tresidence.

21 MR. FORSTER: Tree houses.

22 JUDGE SLAVIN: Okay.

23 MR. PRATT: Your Honor.

24 JUDGE SLAVIN: Yes, sir.

1 MR. PRATT: Number 39. I make a motion  
2 that the Lee County ZBA finds that the  
3 Petitioner states that they will contract a  
4 third-party qualified professional to be  
5 approved by the Lee County Zoning Enforcement  
6 Officer to perform a post-construction shadow  
7 flicker analysis of the operating WTGs of the  
8 project.

9 JUDGE SLAVIN: Second?

10 MR. BOTHE: Second.

11 JUDGE SLAVIN: Got it.

12 Anything you want to say, Mr. Pratt?

13 MR. PRATT: No comment.

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 Petitioner states that they will conduct a  
20 third-party qualified professional -- contract a  
21 third-party qualified professional to be  
22 approved by the Lee County Zoning Enforcement  
23 Officer to perform a post-construction shadow  
24 flicker analysis of the operating WTGs of the



1 project.

2 Adoption of the motion requires a vote by  
3 the majority. The vote will be by voice.

4 All 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: First place.

10 Okay. Go ahead. We're done with the 30s.

11 MR. MEYER: Number 40, Your Honor. My  
12 motion reads, the Lee County ZBA finds that the  
13 Petitioner is committed to an acceptable shadow  
14 flicker complaint resolution protocol that  
15 includes:

16 Obtainable waivers from the affected  
17 residence owners; or

18 Mitigating the shadow flicker.

19 JUDGE SLAVIN: Okay. How about it? Can I  
20 get a second?

21 MR. BOTHE: Second.

22 JUDGE SLAVIN: Anything you want to say,  
23 Mr. Meyer?

24 MR. MEYER: No comment.

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 finds that the  
6 Petitioner has committed to an acceptable shadow  
7 flicker complaint resolution protocol that  
8 includes:

9 Obtaining a waiver from the affected  
10 residence owners; or

11 Mitigating the shadow flicker.

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

15 (All those simultaneously  
16 responded.)

17 JUDGE SLAVIN: Those of you who are  
18 opposed by nay.

19 (No verbal response.)

20 JUDGE SLAVIN: Another one crosses the  
21 finish line and breaks the tape.

22 MR. PRATT: Your Honor.

23 JUDGE SLAVIN: Yes, sir.

24 MR. PRATT: Number 41. I make a motion

1 the Lee County ZBA finds that:

2 In its application, the Petitioner  
3 committed to the existing decommissioning and  
4 site restoration plan for the Big Sky complex;  
5 but

6 In its agent, Mike Speerschneider's  
7 testimony, there was an indication that the same  
8 would include the tilt-fell method.

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

10 MR. BOTHE: Second.

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

13 MR. PRATT: No comment.

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:

19 In its application, the Petitioner  
20 committed to the existing decommissioning and  
21 site restoration plan for the Big Sky complex;  
22 but

23 In its agent, Mike Speerschneider's,  
24 testimony, there was an indication that the same

1 would include the till-fell method.

2 Adoption of this motion requires a vote by  
3 the majority. The vote will be by saying so,  
4 because if you are in favor, say aye.

5 (All those simultaneously  
6 responded.)

7 JUDGE SLAVIN: If you're opposed, by nay.

8 (No verbal response.)

9 JUDGE SLAVIN: Another victor. Back to  
10 you.

11 MR. MEYER: Number 42. Your Honor, my  
12 motion reads, the Lee County ZBA finds that for  
13 various signal characteristics, the proposed  
14 project likely will not impact any microwave,  
15 AM/FM radio, land, mobile, and emergency  
16 services, mobile phone, or over-the-air  
17 television communication services.

18 JUDGE SLAVIN: Okay. Do I -- somebody  
19 want to second that one?

20 MR. BOTHE: Second.

21 JUDGE SLAVIN: Done.

22 Anything you want to say, Mr. Meyer?

23 MR. MEYER: No, sir.

24 JUDGE SLAVIN: Any other Board member?

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(No verbal response.)

JUDGE SLAVIN: I will then put the question. The question being put is whether the Lee County ZBA finds that very various signal -- for various signal characteristics, the proposed project likely will not impact any microwave, AM/FM radio, land, mobile and emergency services, mobile phone or over-the-air television communication services.

Adoption of this motion requires a vote by the majority. The vote is going to be by saying so. All in favor, aye.

(All those simultaneously responded.)

JUDGE SLAVIN: Opposed by nay.

(No verbal response.)

JUDGE SLAVIN: Motion is adopted.

We go to the next page, if you choose to do so.

MR. PRATT: Your Honor, Number 43. I make a motion that the Lee County ZBA finds that if there is any interference, television signals from any one or more 16 over-the-air stations would be the most likely communication to be

1 affected.

2 JUDGE SLAVIN: Can I add "of the 16"?

3 Take a look. Is that okay?

4 MR. PRATT: Yeah, that's fine.

5 JUDGE SLAVIN: Excuse me a minute.

6 Okay. Do I hear a second?

7 MR. BOTHE: Second.

8 JUDGE SLAVIN: Hearing a second, I will

9 put the question. Anything you want -- no.

10 MR. PRATT: No comment.

11 JUDGE SLAVIN: Ask for debate.

12 MR. PRATT: No comment.

13 JUDGE SLAVIN: Okay. Any other Board

14 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 if

19 there is any interference, television signals

20 from any one or more of the 16 over-the-air

21 stations would be the most likely communication

22 to be affected.

23 Adoption of the motion requires a vote by

24 the majority. You can say your vote by aye, in

1 favor.

2 (All those simultaneously  
3 responded.)

4 JUDGE SLAVIN: Opposed by nay.

5 (No verbal response.)

6 JUDGE SLAVIN: Motion carries. All right.

7 MR. MEYER: Number 44, Your Honor. The  
8 motion reads, the Lee County ZBA finds that the  
9 Petitioner has committed to an acceptable  
10 communication interference complaint resolution  
11 protocol by working with the complainant within  
12 ten working days to mitigate the issue. Among  
13 the mitigation options for interruption of  
14 over-the-air television signals would be:

15 A cable signal feed; or

16 A satellite signal feed; or

17 A directional antenna; or

18 A digital receiver.

19 JUDGE SLAVIN: Do I hear a second?

20 MR. BOTHE: Second.

21 JUDGE SLAVIN: Got one.

22 Anything you want to say, Mr. Meyer?

23 MR. MEYER: No, sir.

24 JUDGE SLAVIN: Any other Board member?

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(No verbal response.)

JUDGE SLAVIN: Hearing none, seeing none, I put the question. The question being put is whether the Lee County ZBA finds that the Petitioner has committed to an acceptable communication interference complaint resolution protocol by working with the complainant within ten days to mitigate the issue. Among mitigation options for interruption of over-the-air television signals would be:

- A cable signal feed; or
- A satellite signal feed; or
- A directional antenna; or
- A digital receiver.

If you want this motion to be part of the report you submit to your Board, the vote requires a vote by the majority. The vote is going to be by saying, out loud, aye, in favor.

(All those simultaneously responded.)

JUDGE SLAVIN: Opposed by, out loud, nay.

(No verbal response.)

JUDGE SLAVIN: I have run out of other words, so you're no longer going to be



1 entertained. Okay.

2 MR. PRATT: Your Honor, Number 45. I make  
3 a motion, the Lee County ZBA finds that the  
4 Petitioner has promised to provide all microwave  
5 transmission providers and local emergency  
6 providers with copies of the project summary.

7 JUDGE SLAVIN: Got it. Agreed.

8 MR. PRATT: There you go. I missed that  
9 one.

10 JUDGE SLAVIN: Not only are there a bunch  
11 of motions winning, Mr. Pratt was a winner in  
12 the word contest tonight.

13 All right. Does that look correct?

14 MR. PRATT: That looks much nicer now.

15 JUDGE SLAVIN: Okay. Good.

16 How about, anybody else, you think it  
17 looks so nice that you want to put a second on  
18 it?

19 MR. BOTHE: Second.

20 JUDGE SLAVIN: Anything you want to say,  
21 Mr. Pratt?

22 MR. PRATT: No, no comment.

23 JUDGE SLAVIN: Okay. Any other Board  
24 member?

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(No verbal response.)

JUDGE SLAVIN: Hearing none, seeing none, I put the question. The question being put is whether the Lee County ZBA finds that the Petitioner has agreed to provide all microwave transmission providers and local emergency providers with copies of the project summary.

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

(All those simultaneously responded.)

JUDGE SLAVIN: Opposed by nay.

(No verbal response.)

JUDGE SLAVIN: The motion is adopted. Back atcha.

MR. MEYER: Number 46, Your Honor. My motion reads, the Lee County ZBA finds that the proposed project's footprint has been the subject of an environmental site characterization study.

JUDGE SLAVIN: Any other Board member agree with that motion going to the floor, by saying second?

1 MR. BOTHE: Second.

2 JUDGE SLAVIN: Anything you want to say,  
3 Mr. Meyer?

4 MR. MEYER: No further comment.

5 JUDGE SLAVIN: Hearing none, seeing none,  
6 I'll put the question whether the Lee County ZBA  
7 finds that the proposed project's footprint has  
8 been the subject of an environmental site  
9 characterization study.

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 by nay.

16 (No verbal response.)

17 JUDGE SLAVIN: This motion is adopted, and  
18 we can go --

19 MR. PRATT: Your Honor.

20 JUDGE SLAVIN: Yes, sir.

21 MR. PRATT: Number 47. I make a motion  
22 that the Lee County ZBA finds that the  
23 Petitioner has consulted with the Illinois  
24 Department of Natural Resources (IDNR) regarding

1 the proposed project's impact on local wildlife.

2 JUDGE SLAVIN: Anybody second that?

3 MR. BOTHE: Second.

4 JUDGE SLAVIN: Got it.

5 Anything you want to say, Mr. Pratt, or  
6 anyone else?

7 MR. PRATT: Nope.

8 JUDGE SLAVIN: All right. I will put the  
9 question. The question being put is whether the  
10 Lee County ZBA finds that the Petitioner has  
11 consulted with the Illinois Department of  
12 Natural Resources (IDNR) regarding the proposed  
13 project's local impact on local wildlife.

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

17 (All those simultaneously  
18 responded.)

19 JUDGE SLAVIN: Motion is -- by nay.

20 (No verbal response.)

21 JUDGE SLAVIN: Motion is adopted. All  
22 right.

23 MR. MEYER: Number 48, Your Honor.

24 JUDGE SLAVIN: Yes, sir.

1 MR. MEYER: The motion reads, the Lee  
2 County ZBA finds that the IDNR has made project  
3 environmental recommendations to Lee County.

4 JUDGE SLAVIN: Second anybody?

5 MR. BOTHE: Second.

6 JUDGE SLAVIN: Got it.

7 Mr. Meyer, or anybody else, want to  
8 comment?

9 MR. MEYER: No comment.

10 JUDGE SLAVIN: Hearing none, seeing none,  
11 I put the question. The question being put is  
12 whether the Lee County ZBA finds that the IDNR  
13 has made project environmental recommendations  
14 to Lee County.

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: Hearing none, the motion is  
23 adopted.

24 MR. PRATT: Your Honor, Number 49. I'd

1 like to make the motion that the Lee County ZBA  
2 finds that the Petitioner's commitment to all of  
3 the IDNR project environmental recommendations  
4 is an acceptable response.

5 JUDGE SLAVIN: Okay. Second?

6 MR. BOTHE: Second.

7 JUDGE SLAVIN: Hearing a second, any Board  
8 member want to make a comment, including  
9 Mr. Pratt on his own motion?

10 MR. PRATT: No comment.

11 JUDGE SLAVIN: I'll put the question. The  
12 question being put is whether the Lee County ZBA  
13 finds that the Petitioner's commitment to all of  
14 the IDNR project environmental recommendations  
15 is an acceptable response.

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 those opposed by nay.

22 (No verbal response.)

23 JUDGE SLAVIN: Chalk it up. Now we're  
24 into the 50s.

1 MR. MEYER: Number 50, Your Honor.

2 The motion reads, the Lee County ZBA finds  
3 that there are seven threatened or endangered  
4 species in the vicinity of the project area:

5 The ornate box turtle;

6 The Blanding's turtle;

7 The regal fritillary butterfly;

8 The bog club moss;

9 The woodland horsetail;

10 The tubercled orchid; and

11 The wood orchid.

12 JUDGE SLAVIN: Do I hear a second?

13 MR. BOTHE: Second.

14 JUDGE SLAVIN: Got a second.

15 Anything you want to say, Mr. Meyer?

16 MR. MEYER: No comment.

17 JUDGE SLAVIN: Thank you.

18 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 finds that there  
23 are seven threatened or endangered species in  
24 the vicinity of the project area:

1           The ornate box turtle;  
2           The Blanding's turtle;  
3           The regal fritillary butterfly;  
4           The bog club moss;  
5           The woodland horsetail;  
6           The tubercled orchid; and  
7           The wood orchid.

8           Adoption of this 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: All those opposed by nay.

14                           (No verbal response.)

15          JUDGE SLAVIN: This one is also a winner.

16           You must have really steady hands,  
17          Delorese. Okay.

18          MR. PRATT: Your Honor, Number 51. I make  
19          a motion, the Lee County ZBA finds that the  
20          predominance of cultivated crops renders the  
21          site generally unsuitable for all of those  
22          endangered or threatened species, except the two  
23          turtles, whose highly suitable habitat is found  
24          within the Ryan Wetland and Sand Prairie



1 Conservation District, and there are 14 WTGs --  
2 T78, T81, T84, T86, T87, T95, T96, T97, T98,  
3 T99, T100, T111, T124 and T125 -- in close  
4 proximity thereto which create the highest  
5 potential risk to those turtles.

6 As a result, the developer has agreed to:

7 Install exclusion fencing when doing the  
8 repower construction on those WTGs; and

9 Engage a contemporaneous biological scout  
10 to monitor for the presence of specimen of those  
11 named turtles during particular construction  
12 activity.

13 JUDGE SLAVIN: Do I hear a second?

14 MR. BOTHE: Second.

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

17 MR. PRATT: You need to add "within,"  
18 after "with."

19 JUDGE SLAVIN: Okay. I'm looking.

20 MR. PRATT: Is found -- ahead of the Ryan  
21 Wetland. Is found within.

22 JUDGE SLAVIN: Oh, yup. Certainly.

23 MR. PRATT: Otherwise, that's my motion.

24 JUDGE SLAVIN: Do I hear a second?

1 MR. BOTHE: Second.

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

4 MR. PRATT: No comment.

5 JUDGE SLAVIN: Any other Board member?

6 (No verbal response.)

7 JUDGE SLAVIN: Seeing none, hearing none,  
8 I will put the question. The question being put  
9 is whether the Lee County ZBA finds that the  
10 predominance of cultivated crops renders the  
11 site generally unsuitable for those endangered  
12 or threatened species, except the two turtles,  
13 whose highly suitable habitat is found within  
14 the Ryan Wetland and Sand Prairie Conservation  
15 District, and there are 14 WTGs -- T78, T81,  
16 T84, T86, T87, T95, T96, T97, T98, T99, T100,  
17 T111, T124 and T125 -- in close proximity  
18 thereto which create the highest potential risk  
19 to those turtles.

20 As a result, the developer has agreed to:

21 Install exclusion fencing when doing the  
22 repower construction on those WTGs; and

23 Engage a contemporaneous biological scout  
24 to monitor for the presence of specimen of those

1 named turtles during particular construction  
2 activity.

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

6 (All those simultaneously  
7 responded.)

8 JUDGE SLAVIN: Opposed by nay.

9 (No verbal response.)

10 JUDGE SLAVIN: The motion is adopted.

11 Okay.

12 MR. MEYER: Number 52, Your Honor. The  
13 motion reads, the Lee County ZBA finds, Lee  
14 County is a range of two federally and  
15 State-listed bat species, the Indiana bat and  
16 the northern long-eared bat;

17 There are 2448 acres of suitable bat  
18 habitat within the proposed project area; and

19 Two State-listed birds, the northern  
20 harrier and the upland sandpiper, have been  
21 observed in the project area; and

22 As a consequence, the Petitioner has  
23 developed an acceptable bird and bat  
24 conservation strategy to avoid and minimize

1 impacts of the avian wildlife associated with  
2 the operation of the proposed repowered WECS,  
3 and includes IDNR-approved raised cut-in speeds  
4 and feathering for particular sets of WTGs  
5 annually from April 1st through October 15th.

6 JUDGE SLAVIN: Do I hear a second?

7 MR. BOTHE: Second.

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

10 MR. MEYER: No comment.

11 JUDGE SLAVIN: Any other Board member?

12 (No verbal response.)

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

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 All right. The next one.

2 MR. PRATT: Your Honor, Number 53. I make  
3 a motion the Lee County ZBA finds that in the  
4 Petitioner's Agricultural Impact Mitigation  
5 Agreement with the Illinois Department of  
6 Agriculture, the execution of the AIMA must be  
7 made as a condition of the Special Use Permit  
8 the Petitioner is requesting in this petition.  
9 As used, AIMA refers to the Agricultural Impact  
10 Mitigation Agreement dated March 5th and  
11 March 6th, 2019, entered as Petitioner's Exhibit  
12 Number 8, and any executed amendments to that  
13 AIMA.

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

16 MR. BOTHE: Second.

17 JUDGE SLAVIN: Anything you want to say,  
18 Mr. Pratt?

19 MR. PRATT: No comment.

20 JUDGE SLAVIN: Any other Board member?

21 (No verbal response.)

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

1           Petitioner's Agricultural Impact Mitigation  
2           Agreement with the Illinois Department of  
3           Agriculture, the execution of the AIMA must be  
4           made as a condition of the Special Use Permit  
5           the Petitioner is requesting in this petition.  
6           As used, AIMA refers to the Agricultural Impact  
7           Mitigation Agreement dated March 5th and  
8           March 6th, 2019, entered as Petitioner's Exhibit  
9           Number 8, and any executed amendments to that  
10          AIMA.

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

14                               (All those simultaneously  
15                               responded.)

16                   JUDGE SLAVIN: Opposed by nay.

17                               (No verbal response.)

18                   JUDGE SLAVIN: That motion is adopted.

19                   All right. For those of you in the  
20           mid-50s, next.

21                   MR. MEYER: Number 54, Your Honor. The  
22           motion is, the Lee County ZBA finds that there  
23           was sufficient evidence that the 2019 executed  
24           Agricultural Impact Mitigation Agreement, AIMA,

1 did not need to be updated and could continue to  
2 be as the operative one.

3 JUDGE SLAVIN: Second?

4 MR. BOTHE: Second.

5 JUDGE SLAVIN: Hearing a second, anything  
6 you want to say, Mr. Meyer?

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 will put the question. The question being put  
12 is whether the Lee County ZBA finds that there  
13 was sufficient evidence that the 2019 executed  
14 agricultural impact mitigation agreement (AIMA)  
15 did not need to be updated and could continue as  
16 the operative one.

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 MR. PRATT: Your Honor, Number 55.

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

3 MR. PRATT: Number 55, make a motion the  
4 Lee County ZBA finds that no evidence was  
5 presented as to the impact the proposed  
6 repowering could have on property values within  
7 the area of the proposed project.

8 I'm going to stop there.

9 JUDGE SLAVIN: Do I hear a second?

10 MR. BOTHE: Second.

11 JUDGE SLAVIN: Okay. Anything you want to  
12 say on your own motion, Mr. Pratt?

13 MR. PRATT: No comment.

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 no  
19 evidence was presented as to the impact the  
20 proposed repowering could have on property  
21 values within the area of the proposed 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 motion is adopted.

6 Okay.

7 MR. MEYER: Number 56, Your Honor.

8 JUDGE SLAVIN: Yes, sir.

9 MR. MEYER: The motion reads, the Lee  
10 County ZBA finds that the Petitioner indicated  
11 that it presently would be a merchant, selling  
12 its power directly into the market, but that it  
13 may enter into a power purchase agreement with a  
14 commercial customer.

15 JUDGE SLAVIN: All right. Second?

16 MR. BOTHE: Second.

17 JUDGE SLAVIN: Any comment you want to  
18 make, Mr. Meyer?

19 MR. MEYER: No comment.

20 JUDGE SLAVIN: I'm not sure what that  
21 said, but -- any other Board member?

22 (No verbal response.)

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

1 is whether the Lee County ZBA finds that the  
2 Petitioner indicated that it presently would be  
3 a merchant, selling its power directly into the  
4 market, but that it may enter into a power  
5 purchase agreement with a commercial customer.

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

9 (All those simultaneously  
10 responded.)

11 JUDGE SLAVIN: Opposed by nay.

12 (No verbal response.)

13 JUDGE SLAVIN: This one is adopted as  
14 well.

15 Next up.

16 MR. PRATT: Your Honor, Number 57. I make  
17 a motion the Lee County ZBA finds that the  
18 Petitioner agreed to develop a health and safety  
19 plan and hold meetings in coordination with  
20 local emergency management groups.

21 JUDGE SLAVIN: Boy, I must be getting soft  
22 in my old age. I got "agreed" again.

23 Do I hear a second?

24 MR. BOTHE: Second.

1 JUDGE SLAVIN: Anything you want to say  
2 about your own motion, Mr. Pratt?

3 MR. PRATT: No.

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 the  
9 Petitioner agreed to develop a health and safety  
10 plan and hold meetings in coordination with  
11 local emergency management groups.

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

15 (All those simultaneously  
16 responded.)

17 JUDGE SLAVIN: Opposed by nay.

18 (No verbal response.)

19 JUDGE SLAVIN: It's on the board as  
20 adopted -- well, no it's not, because now the  
21 wrong things are in red. Okay.

22 MR. MEYER: Number 58, Your Honor.

23 JUDGE SLAVIN: Yes, sir.

24 MR. MEYER: The motion reads, the Lee

1 County ZBA finds that the Petitioner represented  
2 in its application that the FAA did not identify  
3 any aviation hazards and that no other evidence  
4 was produced regarding air traffic issues.

5 JUDGE SLAVIN: And do I hear a second?

6 MR. BOTHE: Second.

7 JUDGE SLAVIN: And do I hear any comment  
8 on your own motion, Mr. Meyer?

9 MR. MEYER: No comment.

10 JUDGE SLAVIN: Any other Board member?

11 (No verbal response.)

12 JUDGE SLAVIN: Hearing none, seeing none,  
13 I put the question. The question being put is  
14 whether the Lee County ZBA finds that the  
15 Petitioner represented in its application that  
16 the FAA did not identify any aviation hazards  
17 and that no other evidence was produced  
18 regarding air traffic issues.

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

22 (All those simultaneously  
23 responded.)

24 JUDGE SLAVIN: Opposed by nay.

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(No verbal response.)

JUDGE SLAVIN: Adopted. Oh. Adopted just like a redheaded stepchild, geez.

All right.

MR. PRATT: Your Honor, Number 59.

JUDGE SLAVIN: Yup.

MR. PRATT: Make a motion that the Lee County ZBA finds that the proposed project could increase area employment with as many as 150 jobs during the construction phase, potentially helping the local economy.

JUDGE SLAVIN: Take a look, Mr. Pratt.

MR. PRATT: That's my motion.

JUDGE SLAVIN: Do I hear a second?

MR. BOTHE: Second.

JUDGE SLAVIN: Anything you want to say about it, Mr. Pratt?

MR. PRATT: No.

JUDGE SLAVIN: Any other Board member?

(No verbal response.)

JUDGE SLAVIN: Hearing none, seeing none, I'll put the question. The question being put is whether the Lee County ZBA finds that the proposed project could increase area employment

1 with as many as 150 jobs during the construction  
2 phase, potentially helping the local economy.

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

6 (All those simultaneously  
7 responded.)

8 JUDGE SLAVIN: Opposed by nay.

9 (No verbal response.)

10 JUDGE SLAVIN: This motion is adopted.

11 And we can move into the next decade, for  
12 all those of you who are interested in the '60s  
13 or are 60 years old. You have got the floor.

14 MR. MEYER: Number 60, Your Honor. The  
15 motion reads, the Lee County ZBA finds that the  
16 proposed repower would increase property taxes  
17 and extend the same over a longer period of  
18 time.

19 JUDGE SLAVIN: And what do you think?  
20 Somebody going to second that?

21 MR. BOTHE: Second.

22 JUDGE SLAVIN: And any comment, Mr. Meyer?

23 MR. MEYER: No comment.

24 JUDGE SLAVIN: Any other Board member?

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(No verbal response.)

JUDGE SLAVIN: Hearing none, seeing none, I will put the question. The question being put is whether the Lee County ZBA finds that the proposed repower would increase property taxes and extend the same over a longer period of time.

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

(All those simultaneously responded.)

JUDGE SLAVIN: Opposed by nay.

(No verbal response.)

JUDGE SLAVIN: Thank you.

And next.

MR. HAYES: Your Honor, Number 61. Make a motion the Lee County ZBA finds that if this repower project were approved, the Petitioner has agreed to fund a community benefit program for the Ryan Wetland and Sand Prairie Conservation District.

JUDGE SLAVIN: Did I put "agreed" again? That would be agreed.

1 Second?

2 MR. BOTHE: Second.

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

5 MR. PRATT: No comment.

6 JUDGE SLAVIN: Any other Board member?

7 (No verbal response.)

8 JUDGE SLAVIN: Okay. I will put the  
9 question. The question being put is whether the  
10 Lee County ZBA finds that if this repower  
11 project were approved, the Petitioner has agreed  
12 to fund a community benefit program for the Ryan  
13 Wetland and Sand Prairie Conservation District.

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 motion is adopted as  
22 well.

23 What do you think?

24 MR. MEYER: Number 62, Your Honor. The



1 motion reads, the Lee County ZBA finds that if  
2 this repower project were approved, the  
3 Petitioner has agreed to fund a community  
4 benefit program for nearby communities.

5 JUDGE SLAVIN: And do I hear a second?

6 MR. BOTHE: Second.

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

9 MR. MEYER: No, sir.

10 JUDGE SLAVIN: Mr. Pratt, any other -- or  
11 any other Board member?

12 (No verbal response.)

13 JUDGE SLAVIN: Nope. Put the question.  
14 The question being put is whether the Lee County  
15 ZBA finds that if this repower project were  
16 approved, the Petitioner has agreed to fund a  
17 community benefit program -- to fund a community  
18 benefit -- taking out the "a" -- community  
19 benefit programs for nearby communities.

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

23 (All those simultaneously  
24 responded.)

1 JUDGE SLAVIN: All those opposed by nay.

2 (No verbal response.)

3 JUDGE SLAVIN: Motion is adopted.

4 MR. PRATT: Your Honor.

5 JUDGE SLAVIN: Sir.

6 MR. PRATT: I would like to make a motion  
7 that the Lee County ZBA finds that the proposed  
8 project would increase landowner payments to  
9 participating and nonparticipating landowners.

10 JUDGE SLAVIN: While I'm trying to do  
11 this, do I hear a second?

12 MR. BOTHE: Second.

13 JUDGE SLAVIN: Hearing a second, I'll ask  
14 if anyone has a comment.

15 You first, Mr. Pratt.

16 MR. PRATT: No, no comment.

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 whether the Lee County ZBA finds that the  
22 proposed project would increase landowner  
23 payments to participating and nonparticipating  
24 landowners.

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: Motion is adopted.

9 I'm kidnapping this mouse, Ms. Duffy, and  
10 you're going to have to pay a ransom to get it  
11 back.

12 MS. DUFFY: I know. I just do that to  
13 mess with you.

14 JUDGE SLAVIN: I know you do, believe me.  
15 Back to you.

16 MR. MEYER: Number 65, Your Honor.  
17 Skipping 64.

18 JUDGE SLAVIN: Okay. Let me skip 64 a  
19 minute, if the mouse will let me do it. Okay.  
20 It did.

21 MR. MEYER: Number 65. The motion reads,  
22 the Lee County ZBA finds that the Petitioner has  
23 agreed to repair any field drain tile damage  
24 within ten working days of notification and

1 other drainage facilities within six months.

2 JUDGE SLAVIN: Do I hear a second?

3 MR. BOTHE: Second.

4 JUDGE SLAVIN: Any comment you want to  
5 make, 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 finds the  
12 Petitioner has agreed to repair any field drain  
13 tile damage within ten working days of  
14 notification and other drainage facilities  
15 within six months.

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: And I have another motion  
24 being adopted.

1 MR. PRATT: Your Honor.

2 JUDGE SLAVIN: Yes, sir.

3 MR. PRATT: I want to skip 66 and go to  
4 67. Are you ready?

5 JUDGE SLAVIN: Not quite yet, but almost.  
6 Okay.

7 MR. PRATT: Make a motion that the Lee  
8 County ZBA finds that the Petitioner has  
9 indicated that there will be no surface or  
10 groundwater contamination, as it will use little  
11 water, will haul in the water that is needed,  
12 will dispose of any potentially hazardous  
13 materials off site, and sanitary wastewater will  
14 be collected in portable facilities and taken  
15 away by a licensed hauler.

16 JUDGE SLAVIN: Do I hear a second?

17 MR. BOTHE: Second.

18 JUDGE SLAVIN: Hearing a second, any  
19 comments, Mr. Pratt?

20 MR. PRATT: No comment.

21 JUDGE SLAVIN: Any other Board member?

22 (No verbal response.)

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

1 is whether the Lee County ZBA finds that the  
2 Petitioner has indicated that there will be no  
3 surface or groundwater contamination, as it will  
4 use little water, will haul in water that is  
5 needed, will dispose of any potential hazardous  
6 materials off site, and sanitary wastewater will  
7 be collected in portable facilities and taken  
8 away by a licensed hauler.

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: The motion is adopted.

17 MR. MEYER: Number 68, Your Honor.

18 JUDGE SLAVIN: Yes, sir.

19 MR. MEYER: The motion reads, the ZBA --  
20 the Lee County ZBA finds that the Petitioner has  
21 agreed that no blasting would take place without  
22 prior notice to the landowner on whose property  
23 such would take place, property owners adjacent  
24 to that land, and any property owners within

1 1500 feet of the blast site, officials of the --

2 JUDGE SLAVIN: Whoops, okay. So, site.

3 MR. MEYER: Site, comma.

4 JUDGE SLAVIN: Comma.

5 MR. MEYER: Officials of the township in  
6 which the blasting is to occur, comma.

7 JUDGE SLAVIN: Wait a machine. Yup.

8 MR. MEYER: And the Lee County Zoning  
9 Administrator, period.

10 JUDGE SLAVIN: Who would have been  
11 Ms. Duffy but, given this mouse, is probably  
12 going to lose her job.

13 MR. MEYER: Right after Township, in which  
14 "the blasting" instead of "he blasting."

15 JUDGE SLAVIN: Yup.

16 All right. Does that look right?

17 MR. MEYER: It does.

18 JUDGE SLAVIN: Do I hear a second?

19 MR. BOTHE: Second.

20 JUDGE SLAVIN: Hearing a second, I will  
21 ask for any comments.

22 Mr. Meyer, anything you want to elaborate  
23 on that?

24 MR. MEYER: No comments.

1 JUDGE SLAVIN: Any other Board members?  
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 finds that the  
6 Petitioner has agreed that no blasting would  
7 take place without prior notice to the landowner  
8 on whose property such would take place,  
9 property owners adjacent to that land, or any  
10 other property owners within 1500 feet of the  
11 blast site, officials of the township in which  
12 the blasting would occur, and the Lee County  
13 Zoning Administrator.  
14 Adoption of that 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: All those opposed by nay.  
20 (No verbal response.)  
21 JUDGE SLAVIN: Motion is adopted. Okay.  
22 MR. PRATT: Your Honor, I want to skip 69  
23 and go on to --  
24 JUDGE SLAVIN: Oh, that was the year I



1 graduated from high school. Class of '69. We  
2 just had our 50th a couple years ago. All  
3 right.

4 MR. PRATT: I --

5 JUDGE SLAVIN: So we move on to somebody's  
6 age, right?

7 MR. PRATT: 70, yes.

8 JUDGE SLAVIN: Okay.

9 MR. PRATT: Make a motion that the Lee  
10 County ZBA finds that:

11 The Petitioner has promised not to allow  
12 any advertising material or signage on any  
13 component of the proposed repowered WECS --

14 JUDGE SLAVIN: May I change that to WT --  
15 well, I guess that's right. Never mind. Never  
16 mind. Forget I said a thing.

17 MR. PRATT: -- and the Petitioner has  
18 promised that the WTGs will be of a neutral  
19 white or a gray color.

20 JUDGE SLAVIN: Do I hear a second?

21 MR. BOTHE: Second.

22 JUDGE SLAVIN: Hearing a second, I will  
23 ask for any comments. Mr. Pratt?

24 MR. PRATT: No comment.

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 finds that:

6 The Petitioner has promised not to allow  
7 any advertising material or signage on any  
8 component of the proposed repowered WECS; and

9 The Petitioner has promised that the WTGs  
10 will be of a neutral white or gray color.

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

14 (All those simultaneously  
15 responded.)

16 JUDGE SLAVIN: Opposed by nay.

17 (No verbal response.)

18 MR. PRATT: I gave you a break there. You  
19 noticed that, didn't you?

20 JUDGE SLAVIN: Oh, my God. Must be time  
21 to quit. I'm about ready because I can't take  
22 much more, unless -- we have got four more  
23 pages. I'd keep pushing it, but I don't think  
24 we can do that without being here -- I really

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don't. I mean, we have got 70. I think it's 90 now, but there's a couple long ones coming up and a little confusion.

So I will recess until tomorrow night, still 6 o'clock? Okay with everybody? Should be able to make it reasonably quick tomorrow.

Okay. Recess until tomorrow night, here, 6 o'clock, Old Lee County Courthouse, Third Floor. Even though Ms. Duffy thinks it's on the second floor, it is the third floor.

(The hearing was recessed at  
8:28 p.m.)

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On this 21st day of June, A.D., 2021, I do  
signify that the foregoing testimony was given  
before the Lee County Zoning Board of Appeals.

Bruce Forster, Chairman

Dee Duffy,  
Zoning Enforcement Officer

-----  
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