

STATE OF ILLINOIS)
)SS
COUNTY OF LEE)

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

Testimony of Witnesses
Produced, Sworn and
Examined on this 3rd day
of November, A.D., 2021,
before the Lee County
Zoning Board of Appeals

Present:

Craig Buhrow
Gene Bothe
Rex Meyer
Bruce Forster, Chairman

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

Honorable Judge Tim Slavin, Facilitator

1 APPEARANCES:

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

5 Counsel for the County.

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

9 Counsel for the Applicant.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

INDEX

CLOSING ARGUMENTS (continued)

By	Page
Charles Fitts	7
Kristi Reiss.	10
Diana Westart	13
Peter Nichols	19

Findings of Fact.	58
---------------------------	----

Certificate of Shorthand Reporter	58
---	----

1 JUDGE SLAVIN: Well, good evening,
2 everyone. Welcome back.

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

8 As I do every -- at the beginning of every
9 session, I remind anyone who is trying to
10 find -- somehow is listening to us but can't
11 find their Zoom info, the Zoom meeting ID is
12 915-3923-9154, password is 209840.

13 UNIDENTIFIED ZOOM PARTICIPANT: Judge
14 Slavin.

15 JUDGE SLAVIN: Hello?

16 MS. HENKEL: I'll mute.

17 JUDGE SLAVIN: If you want to watch and
18 listen to us on YouTube, you go to
19 www.youtube.com. In the search bar, type "Lee
20 County IL," I-L, "Zoning Board of Appeals."
21 Don't worry about upper- or lowercase. Find the
22 session date you want, which is presumably
23 today, November 3rd, click on that and you
24 should be able to see and listen to us.

1 If you need -- if you're not a techno geek
2 and you need some help, Ms. Duffy's hotline --
3 technical hotline is 815.973.3449. Feel free to
4 call for some help.

5 All right. I note present in the Old Lee
6 County Courthouse, Third Floor Courtroom are
7 Chair of the ZBA, Mr. Forster; Mr. Buhrow is
8 present; Mr. Bothe is present; as is Mr. Meyer.

9 Ms. Duffy, the Zoning Officer, is present,
10 as is the Renewable Energy Coordinator, Alice
11 Henkel. Lee County's fine State's Attorney,
12 Charley Boonstra is present. The attorney for
13 the Petitioner, Courtney Kennedy, is present. I
14 see two representatives of the Petitioner. I
15 count -- the court reporter, Callie, and myself
16 are present.

17 I count in the courtroom Interested
18 Parties numbering 15. That means in the
19 courtroom we have 27 people.

20 Ms. Henkel tells me that on Zoom she
21 counts nine attendees.

22 Under the governor's current executive
23 order, all persons two years of age or older,
24 except those who have a disability as defined by

1 the Americans with Disabilities Act, are
2 required to wear a face mask covering their nose
3 and mouth when in an indoor public space such as
4 this regardless of whether they're maintaining a
5 social distance of more than 6 feet or not.

6 We're making an exception for those who
7 wish to speak. They can remove their face masks
8 during the time they're speaking.

9 At this point if you're in the courtroom,
10 I ask you to please turn your cell phones off or
11 at least to silent.

12 And we'll pick up where we left off last
13 time, which was the opportunity for Interested
14 Parties to give closing statements or public
15 comments. I have been through the people in the
16 hearing room in person once, but we have had an
17 interim of about a week. So in case there's
18 anyone in this space, in person, who has not
19 given a closing statement or public comment, if
20 you would raise your hand for me, I'll finish up
21 the people in the courtroom.

22 Charlie, do you want to find a microphone
23 and let us know what you have to say? There's
24 one right here on the podium up in front.

1 Are you able to stand, Charlie?

2 MR. FITTS: I can walk over there.

3 JUDGE SLAVIN: Okay. Charlie, I'll help
4 you get started. Why don't you state your name.

5 MR. FITTS: I'm Charles Fitts, and I guess
6 I'm next door to the solar farm.

7 JUDGE SLAVIN: All right. You take it
8 from there and give us any final comments you
9 want to make.

10 MR. FITTS: Okay. I want -- had open mic
11 last week and I guess we run out of time, and so
12 I knew I was going to be first and I prepared a
13 longer speech -- well, not a speech -- a longer
14 talk. I came early and I can't ask questions.
15 So I can say the reason why I want solar farms
16 or why I'm against, and so I guess that's all I
17 can say.

18 So anyway, I believe in science. I
19 believe that we should get the COVID-19 shots so
20 we all don't have to wear these masks anymore.
21 Because despite the disease and stuff, they
22 aren't very -- COVID-19 is not dying because
23 we're -- a lot of people don't get the shots,
24 but I believe that's why we're all wearing these

1 damn masks yet.

2 Anyway, and I also believe in trying to
3 change. I believe the scientists that are one
4 hell of a lot smarter than me and all of you in
5 this room. That's what I believe in.

6 So I don't know why they have to build
7 solar farms in Illinois. That was last week's
8 topic, and I didn't ask no questions. Because I
9 can hear the questions that the peons in the
10 back of the room ask, but I can't hear none of
11 them. I can hear the questions, but I don't
12 hear the answers because the experts from Duke
13 Energy, they practice their speeches when they
14 sell solar farms around America. They know what
15 the questions are going to be and they rattle
16 them off and they don't talk into the mic, and I
17 don't -- and everybody presumes I can't hear,
18 and I can't. Well, it don't matter why I can't
19 hear.

20 I don't believe -- I don't know why they
21 have to build in Illinois on prime farmland.
22 Maybe wind farms, to be close to Dixon to the
23 lines that bring the energy to Dixon because the
24 lines here -- because wind farms -- I have never

1 been close to a solar farm or a wind farm, even
2 in Illinois, in southern Lee County.

3 I believe you farm between the towers on a
4 wind farm. At least you're growing something.
5 Underneath the panels, you ain't growing
6 something.

7 And who knows what the future is going to
8 be in 40 years from now. That's how long the
9 wind farm, I think, is going to be -- last right
10 south of Dixon. What is the climate going to be
11 in 40 years?

12 Why can't they build them in Wyoming or in
13 Nevada? They can't even grow trees out there
14 and forests. At least Illinois has good dirt
15 that can grow food, not just corn and soybeans
16 or trees. And trees bring the carbon out of the
17 atmosphere more than glass does. Anyway, at
18 least Illinois can grow something. Why do they
19 have to put solar farms here? Maybe wind farms.

20 And well, that was -- and I can't ask no
21 questions.

22 And I guess that I believe in wind farms,
23 but I don't know why they have to build them in
24 Illinois. That's the end of my speech.

1 JUDGE SLAVIN: Thank you.

2 All right. Anybody else in the room?

3 All right. Yes, I see, in the back.

4 Almost didn't see you, but I did.

5 If you'll start with your name and where
6 you live, work or own a business in relation to
7 the project, and go ahead.

8 MS. REISS: Kristi Reiss, and we are a
9 landowner adjacent to the solar.

10 JUDGE SLAVIN: Sure. Kristi with a C-H?

11 MS. REISS: K-R-I-S-T-I.

12 JUDGE SLAVIN: K-R-I-S-T-I. And
13 R-E-E-S-E?

14 MS. REISS: R-E-I-S-S.

15 JUDGE SLAVIN: R-E-I-S-S. All right. Go
16 ahead.

17 MS. REISS: While attending these meetings
18 of the Lee County Board of Appeal, I have a new
19 admiration for each of you who take the time out
20 of your own busy lives to help ensure that the
21 rest of us have a safe and prosperous county to
22 live in. I'm saddened by the lack of interest
23 and attendance by the public. There are so many
24 people who live in Lee County that have no idea

1 of the magnitude of this project and that it
2 will be located so close to the edge of the city
3 of Dixon.

4 I understand that you gentlemen have
5 certain criteria that you must follow in order
6 to make your decision, but during these meetings
7 you have heard some very serious concerns voiced
8 by the citizens of our county, and I hope that
9 these concerns will reach the ears of the
10 members of the Lee County Board.

11 Please forgive us for not being polished
12 speakers. We lead with our emotions because
13 this is our home and we care about how accepting
14 one of the largest solar projects in the nation
15 into our backyard is going to have an effect on
16 all of us in the future.

17 Our community's roots are in agriculture,
18 and we should be considering projects that
19 embrace that. There are other solar projects
20 around the world that are promoting technology
21 and agriculture sharing the land, whether it be
22 using the land for pasture or for growing useful
23 crops.

24 If you haven't already, please drive out

In Totidem Verbis, LLC (ITV)
815.453.2260

In Totidem Verbis, LLC (ITV)

1 to 2328 South Galena Avenue. You will still be
2 in the city of Dixon. Go a few feet further to
3 the old Tyson hog buying station. Look to the
4 south, the east and the west and picture nothing
5 but solar panels. This is a vision that an
6 8-foot fence is not going to hide.

7 I also am concerned about an 8-foot fence
8 lining both sides of Route 26, starting at the
9 edge of Dixon down towards Route 30. I feel
10 it's going to be a very safe -- unsafe and
11 hazardous -- there will be hazardous conditions
12 because of the wildlife trying to get from field
13 to field, which they will not be able to, and
14 involved in traffic accidents.

15 So I am not an expert, but I just live
16 here. So thank you for your time.

17 JUDGE SLAVIN: Thank you.

18 Anyone else in the room? Yes, I see a
19 hand way in the back.

20 And if you'll help us get started with
21 your name and your proximity to the project,
22 whether it's where you live, where you work or
23 where you own a business.

24 My name is Diana Westart, and I am a

1 participant.

2 JUDGE SLAVIN: Would you spell your last
3 name? I'm sorry.

4 MS. WESTART: W-E-S-T-A-R-T.

5 JUDGE SLAVIN: Thank you. Okay. Go
6 ahead.

7 MS. WESTART: And I live in the midst of
8 the proposed solar farm project and if approved
9 it will be on all four sides of me.

10 My brother, Jim Schielein, and I grew up
11 on a corn, beans, wheat and hay farm. We milked
12 diary cows, we had cattle hogs, sheep, chickens,
13 several ponies and horses.

14 In 1983, my father bought this farm just
15 south of Dixon. Jim and I moved here in 1985.
16 We have lived, and Jim has farmed, for 36 and a
17 half years. Between us, we have raised 11
18 children, and we have both, along with our
19 children, been active in the community and in
20 the county.

21 We have listened to the questions and the
22 concerns during these meetings. One of the
23 concerns is that the panels are toxic and they
24 will affect our groundwater. There are many

1 areas in the country that have solar, and I have
2 yet to read factual information or findings that
3 people have died from living near solar panels.
4 If that was the case, I don't believe people
5 would build them on their residential properties
6 or put them on their roofs.

7 I am a parent of a severely-disabled son
8 whose had multiple medical issues. After caring
9 for him for 30 years, the last thing that I want
10 for anyone, including myself, is to put
11 something that is toxic around us.

12 Donaldson Company has put solar panels on
13 their property on Progress Drive and Dutch Road.
14 I wonder if anyone spoke to that company or put
15 out a petition to stop them from putting up
16 their panels?

17 Another concern is environmental. I have
18 an abundance of opossum, raccoons, skunks,
19 squirrels, rabbits, rats. They know very well
20 how to climb. They know how to dig underground
21 and they create tunnels. I doubt very much that
22 they will be affected by a fence.

23 The birds, pheasants, hawks will benefit
24 from the trees planted.

1 There are those that are not happy about
2 seeing the fence or the trees, I'm confused as
3 to how that will detour tourism interest, which
4 has been stated in previous meetings.

5 If you drive south on Route 26 along where
6 the area is proposed, Renner Quarry has grown
7 adult fir trees that buffer the quarry from the
8 road. Other than the sign at Renner Quarry, I
9 doubt that too many people driving down pay any
10 mind to the quarry there or any mind to the
11 trees that are grown there.

12 If you look at many of the residences
13 along there, many of people have planted their
14 own trees. They might have planted them for a
15 wind block, for privacy or for aesthetics. That
16 is not any different than what is proposed to
17 buffer the solar project.

18 There are people who are concerned about
19 herbicides being used to control weeds, and yet
20 farmers use herbicides and insecticides. For
21 years I have watched the crop dusters spray
22 crops on the farm next to ours.

23 I have listened endlessly to the phrase
24 prime farmland. Not one person has contacted us

1 to talk about our prime farmland. They have
2 never shown us any concern before. They will
3 state their disgust on social media, sign
4 petitions, and talk as if they have some kind of
5 ownership over our land that they don't own,
6 don't farm or make decisions on.

7 At the same time they are concerned about
8 prime farmland, they remark that the solar
9 project will stop progress for residential and
10 industrial projects. So they're not really
11 concerned about that for the prime farmland
12 taking; they just don't like the solar panels.

13 My brother has been continually
14 characterized as a County Board member who would
15 become a multimillionaire. I'm not sure that
16 that statement being said over and over again is
17 pertinent, as if it was nefarious or a conflict
18 of interest.

19 So let me tell you the facts on this. Jim
20 has been an advocate for ag industry his entire
21 life. He has given countless hours in research
22 and in education and has added to the betterment
23 of the community and the county. Not only is he
24 a County Board member, but he is also, and is, a

1 Lee County Farm Bureau Member, along with
2 several positions within that, a State Farm
3 Bureau Director for ten years, South Dixon
4 Township Supervisor, Dixon Public School Board
5 member, and is also now president of the Lee
6 County Republicans.

7 Our farm includes not just Jim, but four
8 generations and 24 people. We made this
9 decision to participate together and we will
10 continue to do our research and educate our next
11 generations. This is the only development that
12 will allow our farm ground to rest and then can
13 be turned back into crop production. From our
14 family's perspective, we have just changed
15 crops. It is no different than if we would have
16 changed to raise hogs or hay. We care about our
17 land. This is our love. This is our
18 livelihood. It is our business to make
19 decisions on.

20 Farming is a hard profession. Students do
21 not go to college to learn how to become a
22 farmer; they are typically grown to be a farmer.
23 Many sons and daughters decide to go to other
24 professions and careers. The political

1 atmosphere does not make it easy to farm.
2 Countless regulations and estate taxes, along
3 with the price of land and equipment, makes it
4 very difficult for our next generation to decide
5 to farm.

6 The current political administration, both
7 at the State level and the federal level, has
8 made green energy their top priority. Elections
9 have consequences. And they have decided, and
10 continue to speak, that that is where they
11 intend to go in the very near future.

12 I do not own a Tesla. I am not a shitty
13 neighbor. I do not intend to sell my property
14 and run. But I thank you for the opportunity to
15 speak.

16 JUDGE SLAVIN: Thank you.

17 Any other folks in the room?

18 (No indication.)

19 JUDGE SLAVIN: All right. Seeing none, I
20 will turn to the Zoomers.

21 Folks on Zoom, if you wish to give -- if
22 you wish to give a closing statement, public
23 comment, now is the time.

24 To remind you, at the bottom of your Zoom

1 screen I think you'll see an icon that says
2 "Participant." If you click on that, you should
3 see a -- some kind of list pop up, and you
4 should see one of the choices being "Raise
5 hand." If you click on that "raise hand," we
6 should see it here on the screen in the
7 courtroom and I will call on you. I won't be
8 able to do first-come, first-serve, but I'll
9 make sure you're called upon.

10 If you are teleconferencing, then stay on
11 the Zoom -- teleconferencing, meaning you're not
12 on visual but you're on audio -- stay on it, go
13 to your key pad, press asterisk, or star, and
14 then the number nine, and that should also
15 create the function of raising your hand.

16 So I'll give you some seconds, and then
17 I'll turn around and address anybody that has
18 public comments.

19 MS. HENKEL: Peter Nichols.

20 JUDGE SLAVIN: Okay. Mr. Nichols, Peter
21 Nichols, can you hear me, first of all?

22 MR. NICHOLS: I can hear you. Can you
23 hear me?

24 JUDGE SLAVIN: And we can hear you. Good.

1 MR. NICHOLS: Good.

2 JUDGE SLAVIN: We got that bridge crossed.

3 If you'll tell us your -- spelling your
4 name, spell your last name for us, please, and
5 then enlighten us where you live, reside or own
6 a business -- that sounded awful -- where you
7 live, work or own a business in relation to the
8 proposed project. And go ahead.

9 MR. NICHOLS: My name is Dr. Peter
10 Nichols, and I'm an owner, along with brother
11 and sister and sister-in-law, of parcels in the
12 project. So I would like to speak as an owner.

13 JUDGE SLAVIN: Would you spell your last
14 name for the court reporter, please.

15 MR. NICHOLS: Oh, I'm sorry. Yes. It's
16 N-I-C-H-O-L-S.

17 JUDGE SLAVIN: Thank you. Okay. Go
18 ahead.

19 MR. NICHOLS: It's right on the
20 participant list.

21 So I have prepared some comments because,
22 as you pointed out last time, Judge, sometimes I
23 rambled a little bit when I was asking a
24 question. So I'm going to be reading throughout

1 some prepared comments, and they're short.

2 So my name is Dr. Peter Nichols, who,
3 along with my brother, sister and sister-in-law,
4 own several parcels in the project. I have been
5 involved with these parcels for over 70 years.
6 My first involvement was with my grandfather,
7 H.C. Warner. I was his sidekick until he passed
8 away when I was 15. This was a valuable time
9 for me because it was formative for my
10 understanding of farming. He taught me, we are
11 stewards, not owners. H.C. Warner was a
12 prominent lawyer and farmer in Lee County until
13 he passed away in 1960.

14 One of the parcels in the project was a
15 frequent stop in my childhood, as well as now.
16 It was where Harland Chamberlain farmed for
17 around 50 years on the Dutch Road. I have the
18 original 80-page lease my grandfather and
19 Harland signed in 1944. It detailed how many
20 dairy cows, laying hens, beef cows and hogs
21 would be on the farm. Why do I mention this?
22 Because none of it exists anymore. In other
23 words, dramatic changes have occurred in my
24 lifetime in farming and dramatic changes will

1 continue to occur.

2 After my mother, Tatter Nichols, passed
3 away in 2001, my siblings and I took over
4 managing things. When we were approached by
5 Duke Energy a couple of years ago about placing
6 our land in a solar farm, we all agreed to
7 investigate.

8 I will give my thoughts, not necessarily
9 my siblings' thoughts, on how I arrived at my
10 decision to commit the land to solar for a
11 fairly long time. First, it is my opinion that
12 climate change is real and that we, as
13 individuals, communities, states, countries and
14 even continents need to be serious about it. I
15 further believe that renewable energy and
16 diminished use of fossil fuels is essential to
17 protecting the climate from climate change.
18 Therefore, further consideration of solar was
19 sort of a no-brainer.

20 Second, I believe our soils are being
21 depleted, and that 40 years of grass pollinator
22 mix instead of corn and soybeans will be good
23 for the soils. The evidence for me is that
24 post-CRP plantings show soil improvement even

1 though the first crop post-CRP is not always a
2 great one.

3 Third, I believe our waterways, all the
4 way to the Dead Zone in the Gulf of Mexico, are
5 being contaminated in part because of corn and
6 soybean farming. If you don't put fertilizer,
7 insecticide and herbicide on the land, they will
8 not contaminate the waterways. I recognize that
9 herbicides might be an issue, but no greater
10 than what's there now with corn and soybean
11 farming.

12 Last, the agreement results in
13 diversification with a new very generous revenue
14 stream. I believe this diversification is
15 important, as the future is unpredictable. One
16 change is that ethanol production, and therefore
17 corn production, is likely to decrease due to
18 decreased use of fossil fuels.

19 In summary, I can assist fighting climate
20 change by reducing fossil fuel used, improve the
21 soil for the next generation, reduce waterway
22 contamination, and at the same time I can
23 enhance and protect my revenue stream.

24 I would like to say that Duke Energy has

1 always been a good partner in addressing my
2 concerns from the beginning when we discussed
3 possibilities with Arnie Kellen and Tyler Coon
4 and now with Jeff Neves.

5 I hope you on the Board will all vote to
6 approve the project. Thanks very much.

7 JUDGE SLAVIN: Thank you.

8 Other folks on Zoom.

9 MS. HENKEL: Mr. Nicholoff says he wants
10 to share a video.

11 JUDGE SLAVIN: Mr. Nicholoff, today is
12 just for closing comments. The time to present
13 any evidence is gone. So if you have public
14 comments, that would be great.

15 MR. NICHOLOFF: Is it okay to present a
16 video as a public comment?

17 JUDGE SLAVIN: Is it your -- is it a video
18 of you giving a public comment?

19 MR. NICHOLOFF: No. It's video of farmers
20 and community members in the Chisago County area
21 in Minnesota, and they live with a --

22 JUDGE SLAVIN: No, that's more in the
23 nature of evidence. That time is gone.

24 MR. NICHOLOFF: Okay.

1 JUDGE SLAVIN: You can certainly give a
2 speech, a comment, that's great.

3 MR. NICHOLOFF: Nope, I think that's fine.
4 Thanks.

5 JUDGE SLAVIN: Okay. Very good.

6 Any other folks? Do you see any raised
7 hands? I don't, but. . .

8 MS. HENKEL: No.

9 JUDGE SLAVIN: Give you about five or ten
10 more seconds, folks. I don't want to lose
11 anybody.

12 Okay. I don't see any raised hands.

13 All right. The time for Interested
14 Parties' public comments/closing statements is
15 at an end.

16 Because you bear the burden of proof,
17 Ms. Kennedy, you have the opportunity, under the
18 Board's Rules, to give a rebuttal argument,
19 should you wish to do so.

20 MS. KENNEDY: I have none, Your Honor.
21 Thank you.

22 JUDGE SLAVIN: Okay. Very good. Then the
23 public participation stages of the ZBA hearing
24 is closed.

1 MR. FITTS: Sir.

2 JUDGE SLAVIN: Yes, Charlie?

3 MR. FITTS: Could I make an additional
4 comment?

5 JUDGE SLAVIN: No. We're all --

6 MR. FITTS: We're all done.

7 JUDGE SLAVIN: It doesn't go on and on.
8 We're at an end.

9 So we will begin the Board's factfinding
10 and recommendation stage after we take a break
11 and organize our technical stuff. So let's
12 resume again at quarter of.

13 (A recess was taken at 6:37 p.m.
14 and proceedings resumed at
15 6:53 p.m.)

16 JUDGE SLAVIN: All right. Gentlemen, I
17 would give my speech about factfinding and
18 recommendations, but I think you all are so
19 experienced and experts now that I don't have to
20 do that.

21 As Chair, I will now entertain -- the
22 floor is open for entertaining motions on
23 findings of fact and/or recommendations.

24 MR. BUHROW: Judge Slavin.

1 JUDGE SLAVIN: Yes, sir, Mr. Buhrow.

2 MR. BUHROW: I move that --

3 JUDGE SLAVIN: Just a minute here. I've
4 got to deal with my -- can I get that out of
5 there? Yeah, okay. Got it.

6 Go ahead. Sorry.

7 MR. BUHROW: I move that, on Section 1,
8 that the Lee County Zoning Board of Appeals
9 (hereinafter "ZBA" or "Zoning Board") finds that
10 on May 6th, 2021, South Dixon Solar, LLC,
11 (hereinafter the "Petitioner," the "Developer,"
12 "South Dixon Solar" or "Duke") a wholly-owned
13 subsidiary of Duke Energy Renewables Solar, LLC,
14 filed a petition with the Lee County Zoning
15 Administration Office, which is numbered
16 21-P-1566, requesting a Special Use Permit to
17 construct and operate a \$450 million capital
18 investment 500-megawatt solar energy system
19 (hereinafter "SES," "Solar Farm," "Project,"
20 "Facility" or "Development") all on 51 parcels
21 of real estate totaling 3,838 acres, owned by 25
22 landowners and zoned AG-1 within South Dixon
23 Township, generally bounded on the north by
24 Interstate 88, the east by Red Brick Road, the

1 south by U.S. Route 30, and on the west by Hoyle
2 Road. Portions of the project are within a
3 one-and-a-half-mile radius of the City limits of
4 Dixon. Subsequently, on the morning of
5 July 15th, 2021, South Dixon Solar, LLC, filed
6 an amended petition as to that requested Special
7 Use Permit.

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

10 MR. BOTHE: Second.

11 JUDGE SLAVIN: I have heard a second.
12 That opens the floor for debate.

13 Out of courtesy, it's your motion,
14 Mr. Buhrow, anything you want to say about it?

15 MR. BUHROW: No, sir.

16 JUDGE SLAVIN: Any other Board member want
17 to address this particular motion?

18 (No verbal response.)

19 JUDGE SLAVIN: Hearing none, I will put
20 the question. The question being put is the
21 adoption of the motion as so ably recited by
22 Mr. Buhrow.

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

1 And before I forget, Mr. Forster, the
2 Chairman of the ZBA is present, but he has, or
3 perceived, a business conflict of interest, and
4 chosen not to participate in any voting during
5 factfinding and recommendation.

6 So absent Mr. Forster, all those in favor
7 indicate by saying aye.

8 (All those simultaneously
9 responded.)

10 JUDGE SLAVIN: Opposed by nay.

11 (No verbal response.)

12 JUDGE SLAVIN: Motion is carried and is
13 adopted.

14 Let me do my housekeeping so I can get it
15 down later.

16 All right. The floor is open for other
17 motions.

18 MR. MEYER: Your Honor.

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

20 MR. MEYER: Number two, the Lee County ZBA
21 finds that the following submission of the
22 application, proper notice of the filing of the
23 petition and of an impending ZBA hearing was
24 published in the Dixon Telegraph on

1 September 21st, 2021.

2 Furthermore, certified mailings of the
3 same notice were sent to adjacent property
4 owners who would be within 500 feet of the
5 proposed project's boundary.

6 In addition, Zoning Officer Dee Duffy went
7 to extraordinary lengths to publish continually-
8 updated notices on her Department's pages of the
9 Lee County website and post the same throughout
10 the area in which the proposed development would
11 be located.

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

14 MR. BOTHE: Second.

15 JUDGE SLAVIN: Hearing a second, the floor
16 is open for debate.

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

19 MR. MEYER: No, sir.

20 JUDGE SLAVIN: Any other Board member?

21 (No response.)

22 JUDGE SLAVIN: Seeing none, hearing none,
23 I will put the question. The question being put
24 is on the adoption of the motion as so ably read

1 by Mr. Meyer.

2 Adoption of that motion requires a vote by
3 the majority. The vote will be by voice. Other
4 than Mr. Forster, all those in favor indicate by
5 saying aye.

6 (All those simultaneously
7 responded.)

8 JUDGE SLAVIN: Opposed by nay.

9 (No verbal response.)

10 JUDGE SLAVIN: Motion is adopted.

11 All right. Onward and upward.

12 MR. BUHROW: Judge Slavin.

13 JUDGE SLAVIN: Yes, sir.

14 MR. BUHROW: On Number 3, I move that
15 prior to initiating the hearing, the Board finds
16 that, under the authority provided by its own
17 Rules, it engaged the services of Tim Slavin, a
18 retired circuit court judge, as the Facilitator
19 for the proceedings.

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

22 MR. BOTHE: Second.

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

1 Your motion, Mr. Buhrow.

2 MR. BUHROW: Nothing.

3 JUDGE SLAVIN: Any other Board member?

4 (No response.)

5 JUDGE SLAVIN: Seeing none, hearing none,
6 I will put the question. The question being put
7 is whether the Board finds prior to initiating
8 the hearing, the Board finds that, under the
9 authority provided by its own Rules, it engaged
10 the services of Tim Slavin, a retired circuit
11 court judge, as the Facilitator for the
12 proceedings.

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

16 (All those simultaneously
17 responded.)

18 JUDGE SLAVIN: Opposed by nay.

19 (No verbal response.)

20 JUDGE SLAVIN: That motion is adopted as
21 well. The ball is back in your court,
22 gentlemen.

23 MR. MEYER: Number 4, Your Honor. The
24 motion would read, the Lee County ZBA finds that

1 the first stage of the public hearing regarding
2 the petition for the Special Use Permit was for
3 your Lee County ZBA to accept testimony, hear
4 arguments and receive public comments.

5 The evidentiary and comments portion of
6 the hearing began on October 7th, 2021, and
7 concluded on October 27th --

8 JUDGE SLAVIN: Actually, that's not true.
9 I didn't mean to be so rude to interrupt, but
10 today is November 3rd.

11 Would you take a friendly amendment to
12 make it November 3rd?

13 MR. MEYER: Let me start again at the
14 beginning of the "evidentiary and comments"
15 portion.

16 JUDGE SLAVIN: Sure.

17 MR. MEYER: The evidentiary and comments
18 portion of the hearing began on October 7th,
19 2021, and concluded November 3rd, 2021,
20 consisting of five total sessions --

21 JUDGE SLAVIN: Must be six.

22 MR. MEYER: -- six -- six total sessions;
23 the initial one beginning at 7 p.m. and all
24 subsequent ones at 6 p.m. All those sessions

1 took place in the former main courtroom on the
2 third floor of the Old Lee County Courthouse.
3 The totality of these sessions of the first
4 stage comprised, in total, of approximately
5 13 hours of hearing time.

6 JUDGE SLAVIN: See if that looks right
7 now.

8 MR. MEYER: I think that's correct now.

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

10 MR. BOTHE: Second.

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

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

15 MR. MEYER: Nothing to add.

16 JUDGE SLAVIN: Any other Board member?

17 MR. BOTHE: No.

18 JUDGE SLAVIN: Seeing none, hearing none,
19 the question -- since there was a little
20 confusion, the question being put is whether the
21 Lee County ZBA finds that the first stage of the
22 public hearing regarding the petition for
23 Special Use Permit was for your Lee County ZBA
24 to accept testimony, hear arguments and receive

1 public comments.

2 The evidentiary and comments portion of
3 the hearing began on October 7, 2021, and
4 concluded on November 3rd, 2021, consisting of
5 six total sessions, the initial one beginning at
6 7 p.m. and subsequent ones at 6 p.m. All those
7 sessions took place in the former courtroom on
8 the third floor of the Old Lee County
9 Courthouse. The totality of these sessions of
10 the first stage comprised, in total,
11 approximately 13 hours of hearing time.

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

15 (All those simultaneously
16 responded.)

17 JUDGE SLAVIN: Opposed by nay.

18 (No verbal response.)

19 JUDGE SLAVIN: Motion is adopted.

20 All right. I'll save that, and the floor
21 is back to you.

22 MR. BUHROW: Mr. Chairman.

23 JUDGE SLAVIN: Yes, sir, Mr. Buhrow?

24 MR. BUHROW: On Number 5, I move that the

1 Lee County ZBA finds that, throughout the
2 hearing process:

3 The proceedings adhered to the
4 then-currently applicable State of Illinois
5 COVID-19 guidelines for public gatherings, in
6 that all those attending in the hearing in
7 person were required to wear face masks, but an
8 exception was made for the time during which an
9 attendee was publicly speaking; and

10 For those who did not feel comfortable in
11 the somewhat-more-populated main courtroom,
12 accommodations were initially made within the
13 building to occupy the contiguous former jury
14 deliberation room, where they could participate
15 on a Zoom feed set up by Ms. Duffy and Lee
16 County's IT Department; however, there were
17 never any attendees appearing who took advantage
18 of that accommodation.

19 Additionally, Interested Parties were also
20 given the opportunity to remotely and virtually
21 participate in the process by video or
22 teleconferencing on the Zoom platform using a
23 computer, cell phone or similar device at a
24 location of their choosing.

1 Furthermore, Interested Parties could
2 remotely view and listen to the proceedings in
3 realtime, or later in the recorded mode, on a
4 YouTube feed, also courtesy of the Lee County IT
5 Department and Ms. Duffy.

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

14 JUDGE SLAVIN: All right. That's a
15 motion. Do I hear a second?

16 MR. BOTHE: Second.

17 JUDGE SLAVIN: Heard a second.

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

20 MR. BUHROW: No, sir.

21 JUDGE SLAVIN: Any other Board member?

22 MR. BOTHE: No.

23 JUDGE SLAVIN: Seeing none, hearing none,
24 I will put the question. The question being put

1 is on the adoption of the motion as so ably read
2 by Mr. Buhrow.

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

6 (All those simultaneously
7 responded.)

8 JUDGE SLAVIN: Opposed by nay.

9 (No verbal response.)

10 JUDGE SLAVIN: That motion is adopted as
11 well.

12 All right. Onward and upward.

13 MR. MEYER: Okay. Your Honor, Number 6.
14 My motion reads, the Lee County ZBA finds that,
15 over the course of the first stage, everyone --
16 the Petitioner and Interested Parties -- were
17 given a complete and fair opportunity to be
18 heard. Each was given the chance to present
19 evidence, including witnesses and exhibits,
20 cross-examine the witnesses of others, and to
21 present a closing argument, statement or public
22 comment, either orally or in writing.

23 JUDGE SLAVIN: All right. That's a
24 motion. Do I hear a second?

1 MR. BOTHE: Second.

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

5 MR. MEYER: No, sir.

6 JUDGE SLAVIN: Any other Board member?

7 (No response.)

8 JUDGE SLAVIN: Hearing none, seeing none,
9 I will put the question. The question being put
10 is whether the Lee County ZBA finds that over
11 the course of the first stage, everyone -- the
12 Petitioner and Interested Parties -- were given
13 a complete and fair opportunity to be heard.
14 Each was given the chance to present evidence,
15 including witnesses and exhibits, cross-examine
16 the witnesses of others, and to present a
17 closing argument, statement or public comment,
18 either orally or in writing.

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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

(No verbal response.)

JUDGE SLAVIN: Motion is unanimously adopted.

All right. Next.

MR. BUHROW: Mr. Chairman, Number 7. I move that we, the members of the Lee County Zoning Board of Appeals, find that we heard all of the evidence produced and examined each of the exhibits.

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

MR. BOTHE: Second.

JUDGE SLAVIN: Got a second.

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

MR. BUHROW: No.

JUDGE SLAVIN: Any other Board member wish to address it?

MR. BOTHE: No.

JUDGE SLAVIN: Hearing none, seeing none, I will put the question. The question being put is whether we, the members of the Lee County Zoning Board of Appeals, find that we heard all of the evidence produced and examined each of

1 the exhibits.

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: Motion is adopted.

10 All right. Moving on.

11 MR. MEYER: Your Honor, Number 8.

12 JUDGE SLAVIN: Yes, sir.

13 MR. MEYER: The motion reads, the Lee
14 County Zoning Board of Appeals finds that nine
15 people took the witness stand, were placed under
16 oath or affirmation and testified. Those
17 witnesses, in order of their appearance, with a
18 very brief summary of what they had to say, were
19 as follows:

20 Mr. Jeff Neves, offered by the Petitioner,
21 is the business development director for Duke
22 Energy. On behalf of the company and South
23 Dixon Solar, LLC, he committed to being bound by
24 all the representations made in the application

1 and statements made under oath by
2 representatives of those entities during the ZBA
3 hearing. He went on to give a general overview
4 of the proposed SES, the "big picture" of its
5 physical and financial footprint, and community
6 benefits and outreach efforts. He indicated
7 that, although he believed that the newest
8 iteration of the Lee County SES zoning
9 provisions were not applicable to the project
10 because the petition was filed in May of 2021,
11 before the Ordinance was passed in July of 2021,
12 the Developer intended to comply with almost all
13 of its requirements. The two differences were
14 pledges, first, to provide 100 percent of the
15 anticipated decommissioning costs without taking
16 salvage value into account, rather than the new
17 Ordinance's mandated 150 percent, and to pay all
18 of the Ordinance-required consulting and expert
19 fees, but not to put \$100,000 in escrow to
20 secure the same. On cross-examination,
21 Mr. Neves deflected many questions as the
22 bailiwicks of witnesses to come.

23 Mr. Patrick Smith, offered by the
24 Petitioner and a development engineer for Duke

1 Energy, also promised that Duke would be bound
2 by all representations made in the application
3 and statements made under oath during the ZBA
4 hearing. He then provided a bit more detail of
5 the proposed project, such things as maximum
6 bifacial solar panel composition, life
7 expectancy and height, setbacks, traffic issues,
8 laydown yards, a promise to comply with
9 applicable statutes, codes and standards,
10 including the new Lee County SES Ordinance
11 (except for its heightened decommissioning
12 financial security), fencing descriptions,
13 signage compliance, downcast and shielded
14 lighting locations, anticipated compliant noise
15 levels, the expected lack of glare, storage,
16 landscaping, fire safety, road and drainage tile
17 repair, insurance, communication interference,
18 construction activity times, minimal
19 electromagnetic fields and floodplain avoidance.
20 On cross-examination, Mr. Smith indicated that
21 the Developer did not anticipate creating any
22 well or septic system, that part of the
23 project's equipment would be combiner boxes at
24 the end of each panel string measuring

In Totidem Verbis, LLC (ITV)
815.453.2260

In Totidem Verbis, LLC (ITV)

1 approximately 10 foot by 8 foot by 6 foot, and
2 that, while such equipment (including inverters)
3 would make some significant noise, they do not
4 operate at night.

5 Mr. Jason Cooper, presented by the
6 Petitioner, is the Midwest lead civil engineer
7 of solar development for Kimley-Horn, an
8 engineering consultant firm. He testified that,
9 on behalf of the Developer, he prepared the site
10 plan in the instant application. He explained
11 the process by which he and his team created the
12 plan. He generally described the landscape
13 buffer and stormwater management provisions
14 found in the application and alluded to the
15 glint/glare analysis and noise study also found
16 therein. He promised that no structures would
17 be built in any floodplain -- any existing
18 floodplains, that a Spill Prevention Plan would
19 be created if any triggering equipment volume
20 came to pass. On cross-examination, Mr. Cooper
21 indicated that there --

22 JUDGE SLAVIN: Thank you.

23 MR. MEYER: -- would be 27 gated entrances
24 into the proposed Development and each would be

1 padlocked. He also allowed that wiring between
2 panels and downstream equipment up to the
3 substations would be placed underground where
4 possible and removed during decommissioning.
5 There may be some of its conduit left in place.

6 Mr. -- Ms. Wendy Ryerson, now the Lee
7 County Administrator, was presented by the
8 Petitioner. As the former Lee County, and a
9 certified, Assessor, she imparted her expertise
10 on property tax formulas as they relate to
11 commercial solar energy systems generally, and,
12 more specifically, similar matters as they
13 relate to the proposed project; such things as
14 the myths and realities of shifting tax burdens,
15 the effect of PTELL (Property Tax Extension
16 Limitation Law) on eligible taxing entities and
17 the relative benefits and detriments of the
18 statutory depreciation and repowering.

19 Mr. Mike MaRous, of MaRous and Company,
20 offered by the Petitioner, is a real estate
21 appraiser and consultant of more than 40 years,
22 holding a number of professional designations
23 and certificates. He rendered his opinion that
24 there was no evidence that proposed -- that the

1 proposed project would have any negative impact
2 on nearby property values and may increase the
3 value and marketability of agricultural
4 properties. In doing so, he outlined his scope
5 of work and detailed the protocols used in his
6 matched pairs analysis. He buttressed his
7 conclusion with the discussions he had with
8 various county assessors and peer-reviewed
9 expert literature. He also noted a University
10 of Rhode Island study that he said concluded
11 that renewable energy developments may have a
12 negative effect on prices in more populated
13 suburban regions but not in rural areas.

14 Mr. Tom Huddleston, offered by the
15 Petitioner, has been an owner of Huddleston &
16 McBride Drainage Company for more than 45 years.
17 He testified that, among his professional
18 drainage projects, he had located and rebuilt
19 drain tile systems for solar projects. He
20 explained his usual development process,
21 beginning with a drain tile survey to provide
22 siting information to a proposed project's
23 engineer, through his operation to remove and
24 replace existing tile to assure that the

1 involved drainage would be as good or better
2 than what exists when the development was in
3 place, including protecting the rights of
4 adjacent landowners' drainage benefits. He
5 concluded by opining that, in the long run, SES
6 improves the area's drainage because it allows
7 the land to rest while its deep-rooted grasses
8 add organic nutrients to the soil.

9 Ms. Jennifer Klingshirn, senior project
10 manager and an environmental scientist for the
11 renew -- for Energy Renewable Partners, LLC,
12 testified that she put together the Petitioner's
13 application. She went on to aver that she was
14 aware of the Lee County Comprehensive Plan,
15 outlined some of its details, and opined about
16 its compatibility with the proposed SES. In
17 doing so, she testified about various ways to
18 assess the proposed site's productivity index.
19 From there, she segued into an overview of
20 environmental issues and the steps the Developer
21 has taken in that regard; i.e., working with the
22 Illinois Department of Natural Resources' (IDNR)
23 EcoCAT tool, the ongoing consultation with the
24 State Historic Preservation Offices within the

1 IDNR, how the noise study met the Illinois
2 Pollution Control Board (IPCB) or EPA's
3 criteria, an overview of the project's Weed and
4 Grass Control Plan, possible Stormwater
5 Pollution Prevention Plan (SWPPP), and
6 Landscapes Plan and how any one or more of the
7 foregoing dovetail with the already-executed
8 AIMA. She finished by noting the site's LESA
9 score of 81 and that the Emmanuel Cemetery would
10 not be affected by construction, operation or
11 maintenance of the proposed facility.

12 Ms. Dee Duffy, the Lee County Zoning
13 Officer, presented her own testimony. She
14 explained that part of her official duties was
15 to maintain communications and documents
16 received in her office regarding pending
17 petitions. Relevant to this proceeding, she
18 explained, were written expressions of support
19 for the proposed project from Kevin Marx, on
20 behalf of the Lee County Industrial Development
21 Association, and Gary Perinar, on behalf of the
22 Chicago Regional Council of Carpenters, a list
23 of certified mailing receipts to the applicable
24 Interested Parties for this pending petition,

1 and the Lee County Soil and Water Natural
2 Resource Report for the proposed Development.

3 Dr. Ralph Heiniger, a professor at North
4 Carolina State University, was remotely called
5 to the witness stand by Jim Tourtillott, an
6 Interested Party. While acknowledging on
7 cross-examination that he did not know, nor read
8 about, any of the details of South Dixon Solar,
9 LLC's, vegetation management, decommissioning,
10 water control or community economic plans for
11 the proposed development, Dr. Heiniger went on
12 to give an overview of possible issues with
13 solar energy projects across the country,
14 including thumbnail sketches of what allegedly
15 happened with the constructed SES's -- with
16 constructed SES's in Virginia and North
17 Carolina.

18 That would be my motion, Your Honor.

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

21 MR. BOTHE: Second.

22 JUDGE SLAVIN: Got one.

23 Do you want to make any comment after your
24 long reading?

1 MR. MEYER: No comment, Your Honor.

2 JUDGE SLAVIN: Okay. Any other Board
3 member?

4 MR. BOTHE: No.

5 JUDGE SLAVIN: Hearing none, seeing none,
6 I will put the question. I won't read that
7 again. It was ably read by Mr. Meyer.

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

11 (All those simultaneously
12 responded.)

13 JUDGE SLAVIN: Opposed by nay.

14 (No verbal response.)

15 JUDGE SLAVIN: Motion is adopted.

16 And I'll save it, and you gentlemen can
17 have at it.

18 MR. BUHROW: Mr. Chairman, Number 9. I
19 move that the Lee County Zoning Board of Appeals
20 finds that the following exhibits were admitted
21 into evidence by the Facilitator and considered
22 by the Board:

23 Petitioner's Exhibits:

24 Number 1, hard copy of witnesses, Jeff

1 Neves and Patrick Smith's, PowerPoint
2 presentations;

3 Petitioner Exhibit Number 2, hard copy of
4 witness, Jason Cooper's, PowerPoint
5 presentation;

6 PET Number 3, hard copy of witness, Mike
7 MaRous's, PowerPoint presentation;

8 PET Number 4, hard copy of witness,
9 Jennifer Klingshirn's PowerPoint presentation;
10 and

11 PET Number 5, three-ring binder bound copy
12 of the Petitioner's application.

13 Zoning and Planning Officer Exhibits;

14 ZO Number 1, letter from Kevin Marx, Lee
15 County Industrial Development Association;

16 ZO Number 2, letter from Gary Perinar,
17 Chicago Regional Council of Carpenters;

18 ZO Number 3, compendium of required
19 certified mailing receipts to Ordinance-defined
20 Interested Parties;

21 ZO Number 4, the Lee County Soil and Water
22 Conservation District's voluminous report on
23 soils within the proposed Development (due to
24 its size, only available in the Zoning Office).

1 Interested Parties' Exhibits:

2 IP Number A, a Duke Energy photo of
3 partial block of solar panels in an SES;

4 Interested Party Number B, either a photo
5 or a mockup of an expanded view of an SES
6 development.

7 That's the motion.

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

9 MR. BOTHE: Second.

10 JUDGE SLAVIN: Got one.

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

13 MR. BUHROW: No, sir.

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

16 (No response.)

17 JUDGE SLAVIN: Seeing none, hearing none,
18 I'll put the question. The question being put
19 is on the motion regarding exhibits as so ably
20 read by Mr. Buhrow.

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

24 (All those simultaneously

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

responded.)

JUDGE SLAVIN: All those opposed by nay.

(No verbal response.)

JUDGE SLAVIN: Another one in the adopted column.

Anybody else?

MR. MEYER: Your Honor, I would like to skip Number 10 this evening and go to Number 11.

JUDGE SLAVIN: Okay. Or we can do 10 and I can add to it. You can add to it at the next session. It's up to you, your choice.

MR. MEYER: I think it would be better continuity if we just skip it and go to 11.

JUDGE SLAVIN: Fair enough.

MR. MEYER: Your Honor, my motion would read, the Lee County ZBA finds that:

As noted above, the petition for a Special Use Permit for the instant project was initially filed with the County's Zoning Office on May 6th, 2021; and

Later, on the morning of July 15th, 2021, an amended petition was filed; and

At the time of each such filings, there was in place a Lee County Ordinance specific to

1 solar energy systems, Section 10-15-20; and
2 Subsequent to each of those filings, on
3 the evening of July 15, 2021, the Lee County
4 Board passed a revised Ordinance,
5 Number 7-21-004, regulating the development of
6 solar energy systems; and

7 That, consequently, due to the above
8 timing of events, by uncontested operation of
9 law, the Ordinance applicable to this pending
10 petition is the then-Section 10-15-20, as last
11 amended by Number 12-19-2017.

12 JUDGE SLAVIN: All right. That's a
13 motion. Do I hear a second?

14 MR. BOTHE: Second.

15 JUDGE SLAVIN: Got a second.

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

18 MR. MEYER: No, sir.

19 JUDGE SLAVIN: Any other Board member?

20 (No verbal response.)

21 JUDGE SLAVIN: All right. I'll put the
22 question. The question being put is whether the
23 Lee County ZBA finds that:

24 As noted above, the petition for a Special

1 Use Permit for the instant project was initially
2 filed with the County's Zoning Office on
3 May 6th, 2021; and

4 Later, on the morning of July 15th, 2021,
5 an amended petition was filed; and

6 At the time of each such filings, there
7 was in place a Lee County Ordinance specific to
8 solar energy systems, Section 10-15-20; and

9 Subsequently to each of those filings, on
10 the evening of July 15, 2021, the Lee County
11 Board passed a revised Ordinance,
12 Number 7-21-004, regulating the development of
13 solar energy systems; and

14 That, consequently, due to the above
15 timing of events, by uncontested operation of
16 law, the Ordinance applicable to this pending
17 petition is the then-Section 10-15-20, as last
18 amended by -- actually, Ordinance Number
19 12-19-2017.

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

23 (All those simultaneously
24 responded.)

1 JUDGE SLAVIN: Opposed by nay.

2 (No verbal response.)

3 JUDGE SLAVIN: Motion is adopted.

4 And with the pass on one of the motions,
5 that's all -- there were two issues, first
6 getting everything in order, and then trying to
7 guess how much time there was going to be left
8 tonight. And I missed it by about an hour, I
9 guess, but so it goes.

10 We will recess -- I want to -- I really
11 want to do Tuesday, the 9th. I know the next
12 available one is the 8th, but there's some very
13 practical reasons.

14 I'm going to recess until Tuesday,
15 November 9th, 6 o'clock, here in the Third Floor
16 Courtroom, Old Lee County Courthouse.
17 6 o'clock, Tuesday the 9th.

18 I should check -- I have yeses from all
19 you gentlemen?

20 MS. DUFFY: I haven't heard anything from
21 Glen yet.

22 JUDGE SLAVIN: I haven't either. So it
23 goes.

24 Okay. We still have a quorum.

1 Mr. Forster is not voting, but we have three of
2 you that can be here.

3 Is that right, Mr. Buhrow, Meyer and
4 Bothe?

5 MR. BOTHE: Yes.

6 MR. MEYER: Yes.

7 MR. BUHROW: Yes.

8 JUDGE SLAVIN: Okay. Very good. We'll
9 see you then. Have a good evening, everyone.

10 (The hearing was recessed at
11 7:27 p.m.)

12

13

14

15

16

17

18

19

20

21

22

23

24

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

8 Bruce Forster, Chairman
9

10
11
12 Dee Duffy,
13 Zoning Enforcement Officer
14

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

17 Callie S. Bodmer
18 Certified Shorthand Reporter
19 Registered Professional Reporter
20 IL License No. 084-004489
21 P.O. Box 381
22 Dixon, Illinois 61021
23
24