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APPEARANCES:

LEE COUNTY STATE'S ATTORNEY CHARLES BOONSTRA
of the Lee County State's Attorney's Office
309 South Galena Avenue, Suite 30
Dixon, Illinois 61021

Counsel for the County.

ATTORNEY KYLE C. BARRY
of the firm of McGuireWoods
One North Old State Capitol Plaza, Suite 410
Springfield, Illinois 62701

Counsel for the Applicant.

1 MR. FORSTER: I'd like to call to order
2 the Lee County Zoning Board of Appeals meeting
3 for Thursday, April 7th, 2022.

4 Would you call the roll, please.

5 MS. HENKEL: Bruce Forster?

6 MR. FORSTER: Here.

7 MS. HENKEL: Craig Buhrow?

8 MR. BUHROW: Here.

9 MS. HENKEL: Mike Pratt?

10 MR. PRATT: Here.

11 MS. HENKEL: Glen Hughes?

12 MR. HUGHES: Here.

13 MS. HENKEL: Rex Meyer?

14 MR. MEYER: Here.

15 MR. FORSTER: I would like to thank Gene
16 Bothe for all of his service for the time that
17 he has spent on the Zoning Board. He was not
18 reappointed to the Board this year. Rex Meyer
19 has been appointed for a full-time position --
20 or not a full-time position, a regular Board
21 member, and Glen Hughes has been reappointed for
22 another term.

23 But thanks, Gene, for all you have done
24 for the Board over the years.

1 The next thing that we need to do is the
2 approval of the previous minutes from March 3rd,
3 March 9th, March 14th, March 16th, 21st and
4 22nd.

5 MR. HUGHES: Move to approve as presented.

6 MR. PRATT: Second.

7 MR. FORSTER: We have a motion and a
8 second. All in favor say aye.

9 (All those simultaneously
10 responded.)

11 MR. FORSTER: All opposed.

12 (No verbal response.)

13 MR. FORSTER: Motion carries.

14 MS. HENKEL: YouTube is not -- or Zoomers
15 are not able to hear you. So can you guys
16 please make sure you're speaking into the mic?

17 MR. FORSTER: Okay.

18 MR. HUGHES: I'm speaking into the mic but
19 the mic is not working.

20 MS. HENKEL: Okay. Maybe that's -- do
21 they have a battery in yours?

22 JUDGE SLAVIN: Is yours working,
23 Mr. Chairman?

24 MR. HUGHES: No.

1 MR. FORSTER: I don't know, is it?

2 MS. DUFFY: Can you call out your number,
3 Bruce?

4 MR. FORSTER: 22.

5 MS. DUFFY: Try it again.

6 MR. FORSTER: Okay.

7 MS. HENKEL: This isn't on.

8 MR. FORSTER: Try it again now.

9 MS. HENKEL: Hold on.

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

12 MR. FORSTER: With that, we will now
13 convene the public hearing as to the GSG Wind,
14 LLC's, petition for Special Use as to the
15 components of a wind energy system all proposed
16 to lay within Brooklyn, Lee Center and Sublette
17 Townships here in Lee County.

18 First, however, under our Rules, this body
19 is permitted to engage the services of an
20 independently-contracted facilitator to conduct
21 these proceedings. I will now entertain a
22 motion to engage retired Judge Tim Slavin as the
23 facilitator for the evidentiary argument and the
24 fact-finding phases of this hearing.

1 MR. HUGHES: So moved.

2 MR. FORSTER: Do we have a second?

3 MR. PRATT: Second.

4 MR. FORSTER: All in favor say aye.

5 (All those simultaneously
6 responded.)

7 MR. FORSTER: I will now turn the hearing
8 over to that facilitator, Judge Slavin.

9 JUDGE SLAVIN: Thank you, Mr. Chairman.

10 Thank you, Mr. Chairman and members of the
11 Lee County ZBA. Welcome, good evening,
12 everyone. I hope everyone is healthy and
13 remaining safe.

14 My name is, indeed, Tim Slavin, and I'm a
15 retired circuit judge now engaged as an
16 independent contractor to what is called
17 facilitate this hearing. I have no adjudicatory
18 responsibilities. I am not for or against any
19 particular position. I am a neutral. I am here
20 hopefully, however, to add some process,
21 organization, efficiency and flow to these
22 proceedings.

23 This is, indeed, GSG Wind, LLC's, amended
24 petition, Lee County Number 22-P-1591, for a

1 Special Use Permit to what is called repower an
2 existing wind energy conversion system, acronym
3 WECS, in Brooklyn, Lee Center and Sublette
4 Townships here in Lee County.

5 As shown by certificates of publication,
6 notice of this hearing was published in the
7 Amboy News, the Mendota Reporter, and the Sauk
8 Valley News, all on March 23rd, less than --
9 just about two weeks ago.

10 Mailed notices to adjoining property
11 owners within one-half mile of the proposed
12 project were also sent by United States Postal
13 Service, certified mail delivery.

14 First of all, I hope you all understand,
15 all of our Zoning Board of Appeals session
16 tonight will be taken up by organizational
17 matters as we set some ground rules, do some
18 preliminary scheduling and work through any
19 technical or practical protocols we have planned
20 to accommodate everyone.

21 Additionally, as opposed to the last
22 almost two years of hearings, there are no
23 longer any COVID-related masking or social
24 distance requirements in our state. That does

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1 not mean any of us should not be sensitive to
2 possible risks to our friends, neighbors and
3 fellow attendees. As such, I simply encourage
4 all to wear a mask and maintain distances when
5 practical and certainly to be respectful of
6 others' desire to do so.

7 In addition to this former courtroom -- I
8 was going to say this, but I didn't check. Is
9 there a space in the rear jury room, if someone
10 wants to --

11 MS. DUFFY: There sure is.

12 JUDGE SLAVIN: In addition to this former
13 courtroom, there is a space in the rear former
14 jury deliberation room where attendees can
15 watch, listen and participate in the proceedings
16 on the Zoom remote videoconferencing platform.

17 I hope this all helps everyone feel
18 medically comfortable. And if not, one can also
19 participate from your home, office or other
20 remote location on that Zoom platform, or, while
21 not being able to participate, one can also
22 watch and listen on YouTube.

23 The meeting ID and password -- excuse me.
24 The Zoom platform allows an Interested Party to

1 actually participate. It is interactive. One
2 may not only see and hear what is taking place,
3 but when the appropriate stage comes, one may
4 ask a witness questions, call a witness, testify
5 oneself or give a closing comment.

6 The Zoom meeting ID is 915-3923-9154, and
7 the password is 209840. That meeting ID and
8 password will remain the same throughout this
9 hearing.

10 Further, in an attempt to try to be as
11 transparent and inclusive as possible, we are
12 also streaming this proceeding on YouTube.
13 However, YouTube is not an interactive platform.
14 On it one can only watch and hear what is being
15 said during the hearing but not participate. As
16 to YouTube, on your computer or cell phone, use
17 your browser, go to www.youtube.com. In the
18 search bar, type "Lee County IL," I-L, short for
19 Illinois, "Zoning Board of Appeals." There's no
20 need to be concerned with upper- or lower-case
21 letters. This should bring up a list of Lee
22 County ZBA YouTubes. Input or select the date.
23 Assuming you want tonight, you put in 4/7/22
24 and, whala, you should be seeing us here in the

1 hearing room. However, please be advised that
2 this YouTube feed will, because of those
3 cyberspace thingies, have a short realtime
4 delay.

5 In case you're not a techno geek, for
6 assistance with any of these things you may call
7 Ms. Duffy's technical assistance hotline,
8 815.973.3449.

9 Now for a bit more substance. As I have
10 alluded, there are two groupings of attendees as
11 to this Zoning Board of Appeals hearing as it
12 moves forward. One bunch I refer to as
13 "necessaries." These are people who must, as a
14 practical matter, attend this hearing in person.
15 They consist of your hardworking, practically-
16 volunteer Zoning Board of Appeals members,
17 including its newest addition, Mr. Meyer;
18 Ms. Duffy, your County's outstanding Zoning
19 Officer; her Alternate Energy Coordinator,
20 Alice; Petitioner's attorney, Kyle Barry, who is
21 seated in the front row with one of his
22 representatives; your adroit State's Attorney,
23 Charlie Boonstra; at any given time, of course,
24 a witness; myself; and finally, hardly but not

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1 least, our hardworking and skilled court
2 reporter, Callie.

3 The other group I call Interested Parties.
4 These are those of you folks who are with us
5 either in the building or remotely on Zoom or
6 YouTube because you simply want to observe your
7 county government at work or, beyond that, you
8 have a particular interest in the proceedings.

9 The next process I will try to explain is
10 the way in which Interested Parties participate.
11 I emphasize, please, please know that everyone
12 will have that opportunity for the benefit of
13 all, and I want to provide the opportunity to
14 participate in a manner that is orderly and as
15 efficient as possible. However, because of the
16 electronic filtering, my usual process becomes
17 even more central, and I will try to flesh that
18 out more in my presentation tonight and as we
19 move through our time together in the coming
20 weeks.

21 There are many possible reasons for an
22 Interested Party's appearance this evening and
23 during subsequent sessions, whether in person or
24 remotely. You could be a member of the public

1 who is joining us simply as a citizen and
2 spectator. That's great;

3 A member of the public who wants to be
4 heard. This does not necessarily mean someone
5 who is absolutely for or absolutely against the
6 requested Special Use, but someone who wants to
7 participate.

8 If you are such a person, you will fall
9 into any one or more of the following three
10 subcategories:

11 A, you want to give testimony. This means
12 that you desire, under oath, to have you or a
13 witness of your calling to testify to facts
14 relevant to the Board's eventual decision. Such
15 is not the time to describe your feelings or
16 announce your opinion, but to aver facts. And
17 you are subject to cross-examination. Everyone
18 so wishing to testify will be given one
19 opportunity to do so;

20 B, you could be a person who wants to be
21 able to cross-examine witnesses. But, please,
22 that is just to ask questions of a particular
23 witness, not to argue with him or her. Everyone
24 so wishing to cross-examine will be given one

1 opportunity to cross-examine each and every
2 witness;

3 Or, C, you could be participating because
4 you want to make a closing statement or a public
5 comment. Then is the opportunity for a speech,
6 to tell the Board how you feel or give them your
7 opinion based on the facts adduced during the
8 whole hearing process as to what their decision
9 should be.

10 During this closing statement or public
11 comment stage, one cannot allege new facts.
12 When one thinks about it, the reason for that is
13 pretty simple. The two most important parts of
14 adducing the truth of matters at a hearing are
15 missing then: one, a person is not under oath
16 when you're giving a public comment; nor is one
17 subject to cross-examination during that time.

18 Everyone so wishing to give a closing
19 statement will be given one opportunity to do
20 so.

21 For those of you joining us on the Zoom
22 platform this evening or in the future, that
23 interactive software allows an Interested Party
24 to indicate a desire, when the time comes, to

1 ask questions of a witness, to present one's own
2 witness, to testify oneself, or to give a
3 closing statement or make a public comment.

4 So when I indicate the time has come to
5 begin one of those Interested Party stages, I
6 will ask for participation from the Zoomers,
7 whether here in the Old Courthouse or in a more
8 remote location. If one is videoconferencing,
9 one simply clicks on the icon at the bottom
10 center of the Zoom screen labeled
11 "Participants," and from the options that then
12 appear, click, "Raise hand."

13 If one is remotely teleconferencing -- in
14 other words, not using video, probably on your
15 cell phone -- while remaining connected, one
16 hits the star, or asterisk, symbol on your
17 keypad and then the -- so the star/asterisk
18 symbol, and then the Arabic numeral number nine
19 on your phone. Either way, we should then see
20 any raised hands, and I will call on each raised
21 hand.

22 However, we won't be able to do so on a
23 first-raised, first-come basis. So calling on
24 the raised hands will probably be done randomly

1 by referring to the name, email address or last
2 four digits of the phone number that appear on
3 our display here in the hearing room.

4 Also, written communications sent in
5 advance of this hearing or any written materials
6 intended as something for the Board to consider
7 is subject to Board Rule Article 5, Section 12,
8 that eight copies be provided. Any
9 communications received that do not comply with
10 this requirement may not be considered by the
11 Board.

12 In that vein, I have tonight received a
13 copy of an Agricultural Mitigation Agreement --
14 Agricultural Impact Mitigation Agreement, AIMA,
15 and an amended -- an amendment to that agreement
16 which was executed a couple days ago, which
17 means it now statutorily conforms to the
18 requirement that the AIMA be in place before the
19 hearing begins.

20 I will now review the chronological
21 process of the hearing. I know that the
22 narration that follows is really boring and
23 tedious, but, please, reciting it is for
24 everyone to feel comfortable and not have to

1 worry that you will not have a fair and complete
2 opportunity to participate, but, at the same
3 time, to alert you when the three distinct
4 opportunity forms of participation will present.

5 The Applicant has the burden of initially
6 going forward. Accordingly, its agent or
7 attorney may make an opening remark. Then the
8 Applicant presents evidence, one witness or
9 document at a time. I will place each witness
10 under oath or affirmation. After each Applicant
11 witness, the State's Attorney, the Zoning
12 Officer and members of the ZBA, first, and then
13 Interested Parties, both onsite and remote, have
14 the opportunity to cross-examine; that is, ask
15 questions of that witness. But, please, that is
16 only the time for questions directed to that
17 particular witness.

18 After the Applicant's evidence, the Zoning
19 Officer has the opportunity to present witnesses
20 and documents. I will place each of her
21 witnesses under oath. After any Zoning Officer
22 witness, then first the Petitioner, then the
23 State's Attorney, and then members of the ZBA,
24 and finally Interested Parties, both onsite and

1 remote, will have the opportunity to
2 cross-examine each of those witnesses. And,
3 once again -- that's a reminder I'm going to
4 probably say again and again -- please, this is
5 just the time for questions directed to the
6 witness testifying.

7 After the Applicant and Zoning Officer
8 have presented their respective evidence, then
9 Interested Parties may present their evidence,
10 one witness or document at a time. I will place
11 each such witness under oath or affirmation.
12 After each Interested Party witness, the
13 Applicant, the State's Attorney, the Zoning
14 Officer, members of the ZBA, and other
15 Interested Parties have the opportunity to
16 cross-examine each one of those witnesses.

17 Then the Applicant has the opportunity to
18 offer rebuttal witnesses or documents, one at a
19 time, and around the horn we go again.

20 If the Applicant does present any rebuttal
21 witnesses, Interested Parties may present
22 surrebuttal witnesses, one at a time, and so on.
23 If, however, the Applicant does not present any
24 surrebuttal evidence after Interested Parties

1 have finished their evidence, then the
2 evidentiary portion of the hearing is at an end.

3 Finally, the Applicant is given the
4 initial opportunity for closing remarks. Then
5 Interested Parties will be given one opportunity
6 each for closing statements, public comments or
7 speeches, whichever term you prefer.

8 All of this is simply a process designed
9 to give all a chance to be heard in a thorough
10 but orderly fashion.

11 There are some very minor sub-rules, after
12 which I promise I will not -- I will be finished
13 boring you any further.

14 Each session has a time limit under the
15 Zoning Board Rules of two and a half hours.
16 However, we certainly don't want to cut off
17 anybody right in the middle of something. So I
18 will certainly make a reasonable effort to let
19 someone finish a particular stage when the time
20 limit has been reached. Or, if there is little
21 time remaining at the end of a stage, I may
22 simply continue the session rather than starting
23 on another stage. I also have, for everyone's
24 benefit, the discretion to call for short

1 recesses.

2 Under the Zoning Board Rules, I have the
3 duty to rule on the admissibility of evidence.
4 While the strict Judicial Rules of Evidence do
5 not apply, I will exercise some equitable
6 control of what is being presented, with or
7 without an objection.

8 We do, and will continue to have, a court
9 reporter taking down what is said during the
10 proceedings. I ask all to be mindful of her
11 job. She cannot take down two people talking at
12 once. She cannot take down nodding heads or
13 other gestures. And while I know how very
14 skilled she is, there is a limit to how fast a
15 person can talk, including yours truly, and
16 expect her to keep up.

17 I do please ask for civility and decorum.
18 This is certainly a public forum, but please be
19 respectful of all who consider it important
20 enough to be here. I ask to refrain from
21 displays of approval or disapproval. And, as
22 now with all public gatherings, I request that
23 you either turn off your cell phone or at least
24 put them on silent.

1 Lastly, your Zoning Board of Appeals,
2 these fine, hardworking and practically-
3 volunteer gentlemen, act as finders of fact,
4 much akin to a jury during this hearing. In
5 that role, their decisions during the last stage
6 of the proceedings, the findings of fact and
7 recommendations, are based on the sworn
8 testimony, admitted exhibits and closing
9 statements or public comments they receive
10 during the process.

11 They are your friends, your neighbors,
12 your fellow citizens of Lee County. So please
13 appreciate and respect their role as we move
14 through the days and weeks ahead. I ask you not
15 to put them in a compromised position by
16 lobbying them or having extra-hearing
17 conversations or correspondence until the entire
18 hearing, including their decisions, have been
19 completed.

20 In fact, they have been asked to avoid
21 these appearances of impropriety by politely
22 telling an Interested Party something like, "I'm
23 sorry, but I'm not allowed to discuss the matter
24 until the ZBA's work of finding of facts and

1 making recommendations is completed."

2 Thank you for your kind understanding in
3 all of these regards.

4 Okay. On to some really boring details.
5 First thing, for the record, I will note the
6 presence in the hearing room tonight of the ZBA
7 Chair, Mr. Forster; its Vice Chair, Mr. Buhrow;
8 Mr. Hughes is present; Mr. Pratt is present;
9 Mr. Meyer is present. Zoning Officer Duffy is
10 present. Alternative Energy Coordinator, Alice,
11 is present. State's Attorney Boonstra is
12 present. Attorney for the Petitioner, Kyle
13 Barry, is present with one of his client's
14 representatives. Court reporter is present.
15 And, of course, I am. That makes 12
16 necessaries.

17 I note the presence of, at least
18 presumptively, seven Interested Parties here in
19 the Old Lee County Courthouse, Third Floor
20 Hearing Room.

21 I don't think there's anybody back in the
22 jury room, is there?

23 And on Zoom we have how many, Alice?

24 MS. HENKEL: Seven.

1 JUDGE SLAVIN: And we have seven attendees
2 on Zoom.

3 Okay. Very good.

4 Now, gentlemen, if you'll get out your
5 diaries, we're going to go through some days.
6 You may wonder why we're not covering a number
7 of days in April. Between days when the
8 courtroom is not available, staff are not
9 available, the days got -- April days got
10 shortened. So if you say, Hey, Tim, why not
11 that day? It's because one or more people are
12 not available or the courtroom is not available.

13 I will say it this way: these dates are
14 available. That does not mean necessarily that
15 those are the dates on which we're going to have
16 a hearing. I assure you that before the close
17 of any hearing date we'll make sure we announce
18 what the continued session is.

19 But available dates are Tuesday --
20 Wednesday, the 13th; Tuesday, the 26th;
21 Wednesday, May 4th; Monday, May 9th; and
22 Thursday, May 12th. That's just as it stands
23 now.

24 Is there anything else, Ms. Duffy, that

1 needs to be covered at the moment?

2 MR. HUGHES: Starting time on these?

3 JUDGE SLAVIN: Oh, thank you. Yeah.

4 Do I understand your rhythm is that during
5 April it's still 6 o'clock but May it moves to
6 7? Is that --

7 MR. MEYER: I prefer 7.

8 MR. PRATT: Yeah, I think it's time to
9 make a change.

10 JUDGE SLAVIN: Even now?

11 MR. PRATT: Yes.

12 JUDGE SLAVIN: Are you going to violate
13 your great grandfather?

14 MR. PRATT: Who's my great --

15 JUDGE SLAVIN: That you plant before
16 May 1st.

17 You guys seriously want to start at 7
18 going forward?

19 MR. PRATT: I would.

20 JUDGE SLAVIN: Okay. 7 o'clock starting
21 the next session.

22 MR. HUGHES: Hang on. There's still
23 discussion.

24 JUDGE SLAVIN: Sure.

1 MR. PRATT: The 13th would be probably
2 okay, but I don't know whether we want to start
3 and switch the whole hearing process. I think
4 it would be simpler --

5 JUDGE SLAVIN: I don't think changing the
6 time makes any difference, as long as we
7 announce it.

8 So the 13th, 6 o'clock is okay?

9 MR. PRATT: That's fine.

10 JUDGE SLAVIN: Okay.

11 MS. DUFFY: 6 or 7?

12 JUDGE SLAVIN: 6.

13 MR. HUGHES: 6 on the 13th and 7
14 thereafter.

15 JUDGE SLAVIN: So I'm going to continue
16 this session until April 13th at 6 p.m., once
17 again, Old Lee County Courthouse, Third Floor
18 Courtroom.

19 Then we'll deal with the other dates after
20 that, but they will start at 7. The next
21 available date after that is the 26th. Even
22 though Mr. Meyer can't be present, we've got to
23 get some of them in.

24 Okay. Very good. Continue to, like I

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said, April 13th, 6 o'clock, same place, same
time, same channel. Thanks, guys. Have a good
one.

(The hearing was recessed at
6:34 p.m.)

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Now on this 7th day of April, A.D., 2022, I do
signify that the foregoing testimony was given
before the Lee County Zoning Board of Appeals.

Bruce Forster, Chairman

Dee Duffy,
Zoning Enforcement Officer

Callie S. Bodmer

Callie S. Bodmer
Certified Shorthand Reporter
Registered Professional Reporter
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