

STATE OF ILLINOIS  
PIATT COUNTY ZONING BOARD

**PROSPERITY WIND, LLC**  
**APPLICATION FOR A SPECIAL USE PERMIT**

October 3, 2023  
5:30 p.m. to 8:45 p.m.

PIATT COUNTY ZONING OFFICER:

Ms. Keri Nusbaum

HEARING FACILITATOR:

Mr. Scott Kains, Esq.

PIATT COUNTY ZONING BOARD MEMBERS:

Mr. Loyd Wax, Chairman

Mr. William Chambers

Mr. Kyle Lovin

Mr. Dan Larson

PIATT COUNTY BOARD MEMBERS:

Todd Henricks

Michael Beem

Gail Jones

Kathleen Piatt

Paul Foran

COUNSEL FOR THE PIATT COUNTY BOARD:

Mr. Andrew J. Keyt, Esq.

COUNSEL FOR THE APPLICANT:

Ms. Amy Antonioli, Esq.

APPLICANT - PROSPERITY WIND, LLC:

Mr. Alan Moore, Senior Development Manager

COURT REPORTER:

Ms. Jamie J. Mumm, CSR

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County Exhibit #3 admitted over objection..... 6

1 (Proceedings had on October 3, 2023)

2

3 DR. WAX: I'd like to call the meeting to  
4 order please. May we have a roll call, please?

5 MS. NUSBAUM: Yes. Mr. Larson?

6 MR. LARSON: Here.

7 MS. NUSBAUM: Mr. Harrington? Mr. Lovin?

8 MR. LOVIN: Here.

9 MS. NUSBAUM: Mr. Chambers?

10 MR. CHAMBERS: Here.

11 MS. NUSBAUM: Mr. Wax?

12 DR. WAX: Here.

13 MS. NUSBAUM: We do have a quorum.

14 DR. WAX: All right. Could we call roll for  
15 the County Board Members, please?

16 MS. NUSBAUM: Yes. Mr. Henricks?

17 MR. HENRICKS: Here.

18 MS. NUSBAUM: Mr. Edwards?

19 MR. EDWARDS: Here.

20 MS. NUSBAUM: Mr. Beem?

21 MR. BEEM: Here.

22 MS. NUSBAUM: Miss Jones?

23 MS. JONES: Here.

24 MS. NUSBAUM: Miss Piatt?

25 MS. PIATT: Here.

1 MS. NUSBAUM: Mr. Foran? Thank you.

2 DR. WAX: Thank you, ma'am for the roll  
3 call. I want to welcome you all here. We're glad to see  
4 you, and we're looking forward to a good meeting and I  
5 turn this meeting over to our hearing facilitator.

6 MR. KAINS: All right. Thank you,  
7 Mr. Chairman. Good evening, folks. Tonight is the  
8 deliberations night on findings of fact and conditions,  
9 and ultimately a Zoning Board of Appeals vote. I will  
10 note for the record that we do have a quorum present,  
11 and I will also note for the record that I have had  
12 occasion to speak with Mr. Lovin and with Mr. Larson who  
13 are seated to my right, to your left. I've had occasion  
14 to speak with them about whether they have, in fact,  
15 reviewed the transcripts, because each of the nights of  
16 this hearing were transcribed by a court reporter.  
17 We've had several of these court reporters cycle  
18 through. They've prepared written transcripts of all of  
19 the proceedings and they have been provided, and  
20 Mr. Lovin and Mr. Larson both answered in the  
21 affirmative, yes, they have reviewed the transcripts. So  
22 we do have a quorum, and these gentlemen are eligible to  
23 vote as well on this particular issue on the  
24 recommendation that will be made by the Piatt County  
25 Zoning Board of Appeals to the full Piatt County Board.

1           With that said, before we begin, Miss Antonioli,  
2 do you have any preliminary matters to bring before the  
3 Zoning Board?

4           MS. ANTONIOLLI: No, we don't.

5           THE COURT: Okay. Very good. Mr. Keyt?

6           MR. KEYT: I don't have any preliminary  
7 matters. The only thing I'll bring up is that the  
8 County has received from the Piatt County Soil & Water  
9 Conservation District a number of NRI reports. I have  
10 marked those as Group Exhibit Number 3, as the County's  
11 Group Exhibit Number 3 for the record.

12           MR. KAINS: And are you moving to admit  
13 those?

14           MR. KEYT: Yes, sir.

15           MR. KAINS: Miss Antonioli, have you had a  
16 chance to review the National Resource Inventory or NRI  
17 report from the Piatt County Soil & Water Conservation  
18 District?

19           MS. ANTONIOLLI: Yes, I did. Yesterday, we  
20 received twenty-one reports -- or one report for  
21 twenty-one different parcels on the Property Wind  
22 Project, and I would just renew our general objection to  
23 using these reports generally for a project like a wind  
24 farm, because there won't be any permanent conversion of  
25 agricultural land. And then specifically with respect

1 to Prosperity Wind, I would also remind the ZBA that the  
2 statutory deadlines used in the reports has passed. We  
3 don't object to them coming into the record today, of  
4 course, but then there are some specific -- the 350-page  
5 report that we received yesterday, and we are still  
6 reviewing it. Just an initial reaction that we see for  
7 the report is we're concerned about the use of certain  
8 setting of assessment factors such as the proximity to  
9 central water and central sewer, for a project like a  
10 wind farm, we don't see the relevance and we would just  
11 note for the ZBA that we think those put together  
12 factors shouldn't be considered for a project like this.

13 MR. KAINS: Very good. Thank you. We will  
14 note your continuing objection as to the relevance of  
15 these reports, of the report that was submitted on  
16 October 2, 2023, your continuing objection is noted as  
17 of record, and County Exhibit 3 will be admitted in  
18 evidence. Anything further, Counsel?

19 MR. KEYT: The only thing I'll note is on the  
20 last prior night of our hearings, September 5th, I  
21 believe, we did have an agreement as to the utilization  
22 of the NRI reports by the Board, and my assumption is  
23 that agreement still stands subject to the limited  
24 objection that was still out there from the Applicant.

25 MS. ANTONIOLLI: Yeah, and that's correct.

1 And I think we also had a statement on the record that  
2 the NRI -- or I believe the NRI report shouldn't be  
3 relied on as, you know, to approve or deny the  
4 Application, and that came from Mr. Keyt, and I would  
5 agree with that statement.

6 MR. KAINS: Very good. Thank you, Counsel.  
7 Okay. With that matter taken care of, that County  
8 Exhibit 3 is in evidence. Okay. It is time now for the  
9 Board to deliberate on findings of fact and conditions  
10 that would be attached to the siting approval, if it is  
11 in fact granted. Mr. Keyt, what's your pleasure? Do  
12 you want to do findings of fact first?

13 MS. ANTONIOLLI: Mr. Kains, my apologies. I  
14 think we are on, as far as the process, the order of  
15 progression, I think we are now on Number 16. Does that  
16 mean the evidence should close at this point?

17 MR. KAINS: Yes, we are on number 16,  
18 deliberation and vote, yes. With the submittal of the  
19 October 2, 2023, letter from Piatt County Soil & Water  
20 Conservation District, regarding the NRI reports, the  
21 evidence now is closed in this hearing. There will be no  
22 more additional evidence to be submitted, ruled upon,  
23 and considered by this Zoning Board of Appeals. Thank  
24 you, Counsel.

25 MS. ANTONIOLLI: Thank you.

1           MR. KAINS: Now Mr. Keyt, your pleasure is  
2 to start with findings of fact?

3           MR. KEYT: Yes.

4           MR. KAINS: You may proceed.

5           MR. KEYT: At this point in time, the Zoning  
6 Board of Appeals has a draft copy of Findings of Fact.  
7 It is only a draft. That draft copy is for the Board's  
8 consideration. The Board can change them, add to them,  
9 revise them as they wish. The Findings of Fact then  
10 would be set. The Board will have to vote as to the  
11 final set of Findings of Fact, which we'll go through  
12 tonight, and then we'll go through the Proposed  
13 Conditions, if the Zoning Board wishes. The Zoning  
14 Board has the ability to recommend conditions to the  
15 County Board. And then finally we'll have to have a  
16 vote on whether to recommend or not recommend approval  
17 of the Application by the County Board. So there's  
18 essentially three things that we'll have to get through  
19 tonight.

20           The Findings of Fact will be up on the screen for  
21 everybody to view. The Zoning Board has a copy in front  
22 of them. As I think everyone is aware, the Zoning Board  
23 does not have final say on approval of the Project or  
24 the conditions. That ultimately falls to the  
25 responsibility of the County Board.



1           With that, we'll get started and we'll start  
2 going through the Findings of Fact. And again, these  
3 are entirely up to the Zoning Board. So if there are  
4 items that you wish to add, change, supplement or  
5 revise, we'll do that as we go. As we go through it,  
6 this is our discussion, the Zoning Board's discussion of  
7 the Findings. So as we go through these Findings of  
8 Fact, it is up to the Zoning Board to make that  
9 discussion occur. I'll prompt you as we go through it,  
10 but if there's any discussion, revision as we go, we'll  
11 address them as we go through them.

12           Okay. So the Findings of Fact essentially start  
13 with Title. There is a brief summary of the Applicant.

14           The Project Summary is summarized in item number  
15 II. It's a 300-megawatt project covering approximately  
16 twenty-three thousand nine hundred acres of footprint.  
17 The Applicant seeks approval of fifty-three turbines,  
18 turbine locations, but the Applicant is only going to  
19 construct fifty turbines.

20           Roman Numeral III talks about the Application  
21 itself. The Applicant has filed it. It is on file with  
22 the Piatt County Zoning Office, and copies of the  
23 notifications and publications required by the Illinois  
24 Counties Code are available in the office.

25           Roman Numeral IV talks about the hearing process

1     itself. So we're required to hold a public hearing under  
2     the Special Use Provision of the Illinois Counties Code  
3     and under the newly revised Wind & Solar Siting  
4     Provision in the Counties Code. We have held that  
5     hearing. I think as most people are aware, we are now on  
6     night number, I think, six of our hearing, and should be  
7     the final night for Findings and Conditions to be set.

8             Included in that hearing process is a list of the  
9     witnesses who have testified that includes those people  
10    who have testified or given public comment in relation  
11    to the Project. As I think the Zoning Board's aware, we  
12    can consider evidence and testimony and records that are  
13    submitted into evidence. We are not to consider public  
14    comment.

15            I then list out the exhibits that have been  
16    provided during the course of this hearing and admitted  
17    into the record. It includes the Group Exhibit 3 that  
18    was just put into evidence tonight.

19            We then get into the Applicable Standards, the  
20    standards that are found in the Illinois Counties Code  
21    and within our Ordinance. Our Ordinance is set and had  
22    to be revised, as I think everyone is aware, earlier  
23    this year. Those essentially set the standards for us to  
24    judge a special use for a wind application in the  
25    County.

1           Okay. Then we get to the important part, which  
2 is the Findings of Fact. The Findings of Fact then go  
3 through -- are laid out in the order -- excuse me, are  
4 laid out in the order that we essentially take the  
5 technical criteria of the ordinance, and we apply the  
6 facts that have come in through the evidentiary process  
7 that we've heard so far. There's a number of items, I  
8 would say technical criteria, things like sound, shadow  
9 flicker, setbacks, things like that, that we've all  
10 heard evidence on. I'm going to go through each of the  
11 technical requirements. I'm not going to necessarily  
12 read, since the Zoning Board has it in front of them,  
13 word-for-word, but I will take a pause at each section,  
14 and if there are any changes, revisions, supplementation  
15 that anyone wants to make, now would be the time to do  
16 that.

17           MS. ANTONIOLLI: May I comment?

18           MR. KEYT: Yes.

19           MS. ANTONIOLLI: Would you possibly have an  
20 extra copy, a hard copy of the Findings of Fact?

21           MR. KEYT: I do. Okay. So on to the  
22 Findings of Fact. If we take criteria number 1. In  
23 their Application, our Ordinance requires the Applicant  
24 to submit a Project summary. That Project summary has  
25 to include a general description of the Project,

1 approximate name plate location where the WECS or wind  
2 towers are going to be, the maximum number, the  
3 approximate name plate capacity, and the height of each  
4 tower, and a description of the Applicant, Owner and  
5 Operator and their business structures. So the Applicant  
6 has submitted evidence. That evidence is listed here  
7 under paragraph number 1. It gives a summary of what has  
8 been provided.

9 Is there any discussion on item number 1  
10 from the Zoning Board?

11 DR. WAX: No. We do not have any.

12 MR. KEYT: Okay. Hearing none, we'll move on  
13 to item number 2. Name of the Applicant, addresses,  
14 phone numbers and signatures of the Applicant. The  
15 Evidence in relation to number 2 is listed there.  
16 Applicant has submitted required information as part of  
17 Group Exhibit Number 1. That was the written Application  
18 as you may recall. Any changes, revisions to item  
19 number 2? Okay, hearing none.

20 Going on to item number 3. "Any waivers from  
21 the setback requirements executed by the occupied  
22 community building owners and/or non-participating  
23 property owners, bearing a file stamp from the County  
24 Recorder of Deeds." The evidence is listed there.  
25 "Waivers contained in leases with the participating

1 property owners. Application provided a form lease with  
2 the relevant setback waiver."

3 Is there any change to item number 3?

4 DR. WAX: I would ask, are you satisfied  
5 with that, completely satisfied with that, the way it's  
6 written?

7 MR. KEYT: With item number three? Just from  
8 the attorney's perspective, I would say I'm satisfied  
9 with item number 3, but again, it is an issue for the  
10 Zoning Board's consideration. I would say from the  
11 attorney's perspective I would say I am satisfied with  
12 it. Okay?

13 Item number 4, discusses "Waivers from shadow  
14 flicker mitigation requirements executed by occupied by  
15 the occupied community building owners and/or  
16 non-participating property owners bearing file stamp  
17 with the Recorder of Deeds." In this aspect the  
18 Applicant has submitted a shadow flicker modeling that  
19 indicates no residences or community buildings will  
20 receive greater than thirty hours of shadow flicker per  
21 year per, per our ordinance requirements and statutory  
22 requirements. Accordingly, no shadow flicker waivers  
23 are required. Is there any changes, supplementation to  
24 item number 4? Okay. Hearing none.

25 We'll go on to item number 5. Item number 5 is a

1 site plan requirement. It's a site plan showing planned  
2 location of the WECS Tower, including legal descriptions  
3 for each site, guy lines, and anchor bases (if any). It  
4 also will need to include location of vegetative  
5 screening and fencing, access roads and turnout  
6 locations, batch plants, permanent Met towers,  
7 electrical cabling from the WECS Tower to the  
8 Substation, flood plain, drainage structures including  
9 surface ditches and subsurface drainage lines. Is there  
10 any suggested revision changes to the evidence listed in  
11 item number 5?

12 DR. WAX: I was kind of thinking about this.  
13 Mr. Keyt, would you explain the last sentence of the  
14 evidence?

15 MR. KEYT: I think what you are referring to  
16 is Applicant's Exhibit Number 18 -- well let me go back.  
17 So the Applicant, as you may recall, there was -- we  
18 have a setback requirement which is the requirement  
19 essentially laid out by the State. Applicant submitted a  
20 map that's part of the their setback criteria. The map  
21 that was in our written evidence, you couldn't tell what  
22 was setback or how far it was set back. It was just too  
23 small to be readable. The Applicant though did  
24 supplement their record with Exhibit Number 18, I  
25 believe it was, which was a table listing all of the

1 required setbacks, each turbine, all the required  
2 setbacks, and where that turbine lied in relation to  
3 those setback requirements. If you take that -- if you  
4 take Exhibit 18 as accurate, they would be in compliance  
5 with the setback requirements. Now you may recall  
6 Mr. Minder provided some testimony, and he indicated in  
7 his review it satisfied the setback requirements.

8 DR. WAX: You and Mr. Minder believe these  
9 are accurate and should be accepted. Is that what you're  
10 saying?

11 MR. KEYT: Well, that is up to the Zoning  
12 Board to decide. Mr. Minder's testimony was that he was  
13 satisfied with the setback requirements.

14 MR. LOVIN: This talks about a site plan.  
15 Does it say where the site plan needs to be or how  
16 accessible it is, or...

17 MR. KEYT: On how or what?

18 MR. LOVIN: On how accessible this site plan  
19 is?

20 MR. KEYT: They have a site plan within their  
21 Application in Group Exhibit Number 1. I believe it's  
22 under Exhibit B. There is essentially an overall map  
23 that is listed as the site plan. There is not a  
24 requirement, if your questioning about accessibility, I  
25 think is what you asked. There's not a requirement that

1 it necessarily be published on a web site or something  
2 like that. It just has to be within their Application.

3 MR. LOVIN: I guess in this it's showing a  
4 plan location of each WECS Tower, but then below it  
5 refers to the preliminary site plan. So how do we really  
6 know in that wording?

7 MR. KEYT: Which part are you referring to?

8 MR. LOVIN: The very first sentence, it says:  
9 "A site plan for the WECS Project showing the planned  
10 location of each WECS Tower." Then below it talks about  
11 the evidence, you know, the Preliminary Site Plan. Do  
12 they actually have it?

13 MR. KEYT: They do, yeah.

14 MR. LOVIN: Okay.

15 MR. KEYT: There is a Preliminary Site Plan  
16 that shows the location of each tower in their plan.

17 MR. LOVIN: That's all fifty?

18 MR. KEYT: It actually has fifty-three  
19 because there's three alternate sites.

20 MR. LOVIN: Okay.

21 DR. WAX: Anyone have anything else? That's  
22 all we have.

23 MR. KEYT: Okay. Are there any changes or  
24 revisions or corrections in the evidence as to number 5?  
25 Very good. I'll go on to number 6, if the Board's



1 ready.

2 DR. WAX: Please do.

3 MR. KEYT: Number 6 discusses the landscape  
4 plan as required as part of the site plan review. It  
5 lists the criteria that the site plan has to have, and  
6 then also what the plan maintenance would be. Some of  
7 these items are operational requirements. For example,  
8 Maintenance, one of the biggest revisions. It states:  
9 "All landscaping materials shall be maintained in good  
10 condition, shall present a healthy, neat and orderly  
11 appearance." Of course the project hasn't been built  
12 yet. That's really an operational requirement. However,  
13 there are some provisions in there regarding what they  
14 would need to provide. The Applicant did provide a  
15 preliminary landscape plan for the Project Substation  
16 O&M building as Appendix E to Applicant's Group Exhibit  
17 Number 1. Applicant's Group Exhibit Number 1 indicated  
18 that the "landscaping materials are subject to  
19 availability." Now that is what they would install is an  
20 operational requirement as opposed to an application  
21 requirement. So the Applicant is now requesting  
22 variances for the requirement as to what might be  
23 available or not available. So by setting the Finding of  
24 Fact, you're not allowing necessarily for a variance.  
25 I'm just noting that for the record. But they did

1 provide a Preliminary Landscape Plan.

2 Any suggested changes or revisions to number 6?

3 DR. WAX: We do not.

4 MR. KEYT: Moving on. Number 7 is all  
5 required studies, reports, certifications, and approvals  
6 demonstrating compliance with the provisions of this  
7 ordinance. Now that's kind of a broad topic. But  
8 essentially what I've laid out is -- essentially what's  
9 been laid out in the Draft copy here is the various  
10 reports that they've provided and waivers. So the  
11 Applicant submitted a number of studies and reports and  
12 certifications and approvals in furtherance of the  
13 Application. Those are contained largely within Group  
14 Exhibit Number 1. They did have some power points that  
15 they presented as evidence, and I just list those out.  
16 These are:

17 Economic Impact Analysis; Market Impact Analysis,  
18 Natural Resource Impact Assessment; Proposed Road Use  
19 Agreements for both Goose Creek and Blue Ridge  
20 Townships; Sound Modeling; Shadow Flicker; Wildlife  
21 Studies; the Department of Defense, their No Objection  
22 Letter; Agreement with the Village of Deland; Microwave  
23 Path Analysis; Prosperity Wind Emergency Management  
24 Plan; Decommissioning Plan, and they've supplemented, as  
25 you may recall, their Decommissioning Plan during the

1 course of the hearing, and that's listed as the Updated  
2 Decommissioning Plan.

3 Any changes or revisions to item number 7?

4 DR. WAX: We do not have any changes.

5 MR. KEYT: Okay. Moving on to item number 8.  
6 All Applications for Determinations of No Hazard to Air  
7 Navigation from the FAA. They've provided those. Those  
8 are listed in Applicant's Group Exhibit Number 1,  
9 Appendix F, and I reference those there. Are there any  
10 changes or revisions to item number 8?

11 DR. WAX: To your knowledge, does that no  
12 hazard situation apply to all the turbines, all  
13 fifty-three?

14 MR. KEYT: Yes. So --

15 DR. WAX: Primarily on the height situation?

16 MR. KEYT: Correct. So when they make an  
17 Application, before they make the Application to us,  
18 what happens is they submit all of the tower locations  
19 to the FAA, the FAA then reviews them and determines  
20 whether there are hazards to air navigation. For each  
21 of the turbines they then issue a separate report.  
22 There is a separate report for each of those turbines in  
23 Appendix F.

24 DR. WAX: And they are all under the FAA  
25 requirements?

1 MR. KEYT: Yes, sir.

2 DR. WAX: Okay. We have nothing else.

3 MR. KEYT: Item number 9, discusses a  
4 financial assurance that the Project can be developed as  
5 proposed before the construction permit is issued. Now  
6 this is an item that isn't necessarily required at this  
7 stage because it comes -- if they were to get approved,  
8 they would then before they get a construction permit  
9 from the County, they would have to demonstrate this at  
10 that time. So this isn't a criteria that is required at  
11 this point, but it's in your ordinance, so it's listed  
12 here. Are there any changes or corrections to item  
13 number 9?

14 DR. WAX: So if I understand you correctly  
15 in this, the financial responsibility is not required  
16 until they get to the permitting process?

17 MR. KEYT: Correct.

18 DR. WAX: Okay, thank you. We have nothing  
19 else.

20 MR. KEYT: Item number 10 then is any other  
21 information normally required by the County as part of  
22 the its Zoning Ordinance, including NRI/LESA reports for  
23 each affected parcel.

24 Now you may recall, the Zoning Board wanted  
25 to have some NRI use reports from the Soil & Water

1 Conservation District. There was some discussion about  
2 that. This is the issue that was resolved last time. We  
3 do have twenty-one of the NRI reports from Soil & Water  
4 at this point. My understanding is Soil & Water may  
5 continue to do others but that's outside our purview  
6 whether they do that or not. I've just listed here what  
7 the resolution was on item number 10. Is there any  
8 revision to item number 10?

9 DR. WAX: So these combined twenty-one have  
10 been accepted and they're in as an exhibit at this point  
11 in time?

12 MR. KEYT: Yes, sir.

13 DR. WAX: Right?

14 MR. KEYT: They are Group Exhibit 3.

15 DR. WAX: That's what I thought. Exhibit 3.  
16 Okay. No further comments.

17 MR. KEYT: Okay. That brings us to item  
18 number 11, executed AIMA agreement with the Illinois  
19 Department of Agriculture. They have that as part of  
20 their Appendix D1. Any revision to that?

21 DR. WAX: We do not.

22 MR. KEYT: Item number 12 is Proposed  
23 Decommissioning Plan for the WECS Project including cost  
24 estimates. They did provide a Decommissioning Plan. As  
25 you may recall, they provided an Updated Decommissioning

1 Plan during the hearing based on the comments of Mr.  
2 Minder. So there's actually two. There's one that is a  
3 Decommissioning Plan and there's the one that's referred  
4 to as the Updated Decommissioning Plan.

5 DR. WAX: And the Updated Plan was based on  
6 some comments and suggestions from Mr. Minder?

7 MR. KEYT: Correct. They provided an Updated  
8 Plan.

9 DR. WAX: That's been admitted?

10 MR. KEYT: Yes.

11 DR. WAX: Nothing further.

12 MR. KEYT: Okay. Then that takes us to item  
13 number 13, which is Information Demonstrating the WECS  
14 Project will Avoid Protected Lands. They submitted  
15 requisite evidence in the form of maps as part of Group  
16 Exhibit 1, Appendix B. I just indicated that's somewhat  
17 difficult to decipher on that map.

18 MR. KAINS: Mr. Keyt, for the public's  
19 information, could you scroll down on your laptop  
20 please? Thank you.

21 DR. WAX: Mr. Keyt, to your knowledge, are  
22 there data available that are less difficult to decipher  
23 than the size on these particular exhibits?

24 MR. KEYT: In my review, I didn't find  
25 anything more detailed than what was in the maps. That's

1 all I can say. I mean I didn't see anything more  
2 detailed as to the Protected Lands issue.

3 DR. WAX: No further comment.

4 MR. KEYT: Number 14, Information  
5 Demonstrating that the Mahomet Valley Water Aquifer  
6 Authority has been notified of the Proposed Project and  
7 provided with a Site Plan. There was e-mail  
8 correspondence from July 24th, 2023, from a  
9 representative of Apex to what purports to be Counsel  
10 for the Mahomet Valley Water Aquifer Authority. There  
11 wasn't anything in the record substantiating that  
12 Counsel for the Authority was actually Counsel for the  
13 Authority or whether that the Site Plan was sent  
14 directly to the Authority.

15 MS. ANTONIOLLI: If I may, the Applicant's  
16 Exhibit 3, has links in the e-mail to the Site Plan for  
17 the Prosperity Wind Project.

18 MR. KEYT: Okay.

19 DR. WAX: Would you repeat that please?

20 MS. ANTONIOLLI: The e-mail that was sent to  
21 Miss Rupiper includes not only the Application, but also  
22 the Site Plan with links to the Site Plan. So you just  
23 click through. In fact, it's stated in the e-mail you  
24 just click through to the Site Plan.

25 MR. KEYT: For clarity for the Board here,

1 what was provided to us was a paper copy of an e-mail, I  
2 believe. So there's essentially no way for the ZBA to  
3 click on a link from a paper copy. Now that's neither  
4 here nor there actually. If there are changes or  
5 additional information you want to include you could  
6 include to say it appears that there were links provided  
7 in the record.

8 DR. WAX: So you do have a copy that you're  
9 satisfied with? Or you do not?

10 MR. KEYT: Yeah. This is up to the ZBA. I  
11 can't make that finding for you. But what I'll tell you  
12 is, there is a paper copy of an e-mail that was provided  
13 to the Zoning Board in that Application.

14 DR. WAX: Okay.

15 MR. CHAMBERS: So basically we're just  
16 concerned with whether the Mahomet Valley Water Aquifer  
17 Authority got access to the Site Plan, and we just don't  
18 have anything from them that says they did or didn't?

19 MR. KEYT: There's nothing to say one way --  
20 necessarily one way or the other. There's no reasonable  
21 -- let me put it this way, there's no reason to believe  
22 that the e-mail isn't accurate.

23 MR. CHAMBERS: Right. I don't see any reason  
24 to change it if that's the only thing that's missing is  
25 confirmation from them. That's not really an issue. I



1 don't see any reason to change it.

2 DR. WAS: Okay. That's okay with us.

3 MR. KEYT: Item 15. An Applicant or Owner  
4 proposing to use any county, municipal, township, or  
5 village roads, essentially has to provide a draft road  
6 use agreement. We had quite a bit of testimony about  
7 road use agreements. The County Engineer, Mr. Seibring,  
8 was here and provided some testimony about that as well.  
9 Essentially the Applicant has submitted draft Road Use  
10 Agreements for the three road authorities involved in  
11 the Project which is Piatt County, Goose Creek and Blue  
12 Ridge Townships. "The Road Use Agreements define the  
13 roads to be used. Applicant provided testimony of  
14 Mr. Seibring, Piatt County Engineer. Mr. Seibring  
15 testified that he is satisfied with the Road Use  
16 Agreements and they are substantially similar to the  
17 Road Use Agreements from the Goose Creek Wind Project  
18 which the County Board did approve."

19 Any changes, supplementation to number 15?

20 DR. WAX: Do you have anything, Will?

21 MR. CHAMBERS: No.

22 DR. WAX: We do not have any changes.

23 MR. KEYT: Okay. That brings us to number  
24 16, which is whether the Applicant intends to offer a  
25 good neighbor plan or property value guarantee or any

1 other financial incentive plan in connection with a  
2 proposed WECS project, a copy of such plan shall be  
3 included with the Special Use Application at the time  
4 the Application is submitted. As you may recall, there  
5 was a pretty substantial change to the Illinois Counties  
6 Code. Now my understanding is there is not a good  
7 neighbor plan or property value guarantee included in  
8 the written Application. However, it's important to note  
9 that the statutory change does not allow the County to  
10 require such a plan. The point being of that is that  
11 there is not a good neighbor plan or a property value  
12 guarantee plan in the Application, but the County cannot  
13 require it under the statutory change.

14 DR. WAX: We have no changes.

15 MR. KEYT: Okay. Number 17 discusses "The  
16 Applicant shall provide fourteen copies of the WECS  
17 Special Use Application upon submittal of the WECS  
18 Special Use Application fee. A minimum of one copy  
19 shall be submitted in electronic format." The Applicant  
20 has submitted those requisite copies. Any changes to  
21 that?

22 DR. WAX: Do we have anything? We don't  
23 have a problem with that.

24 MS. ANTONIOLLI: I want to just go back to  
25 16, and we've addressed the good neighbor plan in

1 Section 3.17 of the Application.

2 MR. KEYT: Okay. Is there, I guess, a  
3 question then? My assumption is you're not offering a  
4 good neighbor plan.

5 MS. ANTONIOLLI: No.

6 MR. KEYT: Am I correct?

7 MS. ANTONIOLLI: But you can site that  
8 section of the Application.

9 MR. KEYT: Oh, I see. You're saying there  
10 isn't one being offered?

11 MS. ANTONIOLLI: Right.

12 MR. KEYT: On item number 16, which is the  
13 good neighbor property value guarantee, they're  
14 essentially saying there isn't one being offered, but  
15 that is -- that reference is within their Group Exhibit  
16 Number 1.

17 DR. WAX: So the change is that in fact  
18 there is a good neighbor plan being offered; is that  
19 what is you're saying?

20 MR. KEYT: No. I think there is not. My  
21 understanding from the Applicant, what they've said --

22 MS. ANTONIOLLI: There is a template for a  
23 participation agreement, and that's in Appendix A, but  
24 there is no property value guarantee, just to clarify  
25 what I said earlier.

1 MR. KEYT: Okay. I think I followed that.  
2 It's up to the Board if you want to revise that  
3 provision number 16 or not.

4 MS. ANTONIOLLI: Right, because we have  
5 offered such a plan.

6 MR. KEYT: I guess the question is, have you  
7 offered a good neighbor plan?

8 MS. ANTONIOLLI: If you're calling the good  
9 neighbor plan, yeah -- if you look at 3.17, the last  
10 sentence of that section says: "While these  
11 Participation and Support Agreements can differ, a  
12 template Participation and Support Agreement can be  
13 found in Appendix A", and they have been offered.

14 MR. LOVIN: But not a property value  
15 guarantee?

16 MS. ANTONIOLLI: Correct.

17 MR. CHAMBERS: So the revision would be, um  
18 -- the second sentence of Evidence, says: "It is  
19 unclear if any such plans are being offered". So it's  
20 not unclear if such plans were being offered. We could  
21 change that to say that, you know, a good neighbor plan  
22 was offered but a property value guarantee plan was not?

23 MR. KEYT: Yeah, I think what the Applicant  
24 is saying is, the second sentence states: "It is  
25 unclear if any such plans are being offered to

1 potentially impacted residents or landowners." My  
2 understanding is there isn't a copy -- an executed copy  
3 being provided to the Board. However, I think what the  
4 Applicant is saying is that they have a template for  
5 what they refer to as a good neighbor plan that is part  
6 of their Application.

7 MR. CHAMBERS: But no executed copies within  
8 the Application?

9 MR. KEYT: I did not see any executed copies,  
10 but I believe there was.

11 MS. ANTONIOLLI: They have been provided in  
12 the hyperlinks that we provided in the Application.

13 MR. KEYT: I would say, if you were to  
14 revise it, I think it would be to the extent to say,  
15 Applicant represents that there are what they refer to  
16 as a good neighbor plan that has been offered or that  
17 they intended to offer.

18 MS. ANTONIOLLI: And they have been recorded  
19 with the County and they are on file.

20 MR. KEYT: Okay. It's up to the Zoning Board  
21 if you want to modify that section.

22 DR. WAX: Do you understand?

23 MR. LOVIN: Yeah.

24 DR. WAX: Are you okay, Will?

25 MR. CHAMBERS: Yeah, with revising it. Yeah,

1 I would be fine with just revising it for clarity.

2 DR. WAX: Okay. I think we're okay with  
3 what you have there, Mr. Keyt.

4 MR. KEYT: Okay. So I just reflected the  
5 revision to state the Applicant represents a good  
6 neighbor plan has been offered to various landowners and  
7 is included within the Application.

8 DR. WAX: That's fine.

9 MR. KEYT: Okay. That brings us to item -- I  
10 believe we're on 18. We've covered 17. We're on 18. "A  
11 map showing the location of the drainage districts  
12 delineated in Piatt County Geographic Information System  
13 data, that overlaps with the WECS Project, along with a  
14 list of any overlapping drainage districts. The  
15 Applicant shall forward a copy of the full Special Use  
16 Permit Application to the drainage district commission  
17 of any Overlapping Drainage District and that district's  
18 attorney within five (5) days of filing such an  
19 Application." Okay. "The Applicant did submit the  
20 requisite map demonstrating the drainage districts at  
21 issue as part of Group Exhibit Number 1, Appendix B.6.  
22 Group Exhibit 1 also indicates that a copy of the full  
23 use Special Use Permit Application will be forwarded to  
24 the respective district's commission and the district's  
25 attorney within five (5) days of filing the Application.

1 There's no subsequent written evidence submitted by the  
2 Applicant to demonstrate compliance with this provision.  
3 There was testimony from Applicant witness Adam Carlson  
4 that the Applicant has been attempting contact with the  
5 drainage districts for over a year."

6 Any changes or revisions to item 18?

7 DR. WAX: Do you see anything that concerns  
8 you, Will?

9 MR. CHAMBERS: I don't think so.

10 DR. WAX: We're okay with it as written.

11 MR. KEYT: The last item on this first  
12 section deals with other information. So I essentially  
13 just put the information from Mr. Minder. "Matthew  
14 Minder, of Patrick Engineering performed a review of the  
15 Application on behalf of the County, including the  
16 various appendices. His review found general compliance  
17 with the technical requirements of the Ordinance. His  
18 initial review was unable to confirm compliance with the  
19 setback requirements. Subsequent provision of  
20 Applicant's Exhibit 18 shows setback compliance in terms  
21 of various distances along with applicable waivers."

22 Any changes or revisions to that?

23 DR. WAX: You're basically asking for that  
24 first section? Does the Zoning Board generally agree  
25 with what we've talked about so far?

1           MR. KEYT: You could do that now. I mean  
2 there's more to go through, but if you have any other  
3 changes to that first section of the findings --

4           DR. WAX: I do not believe that we do.

5           MR. LARSON: I have one question on number  
6 10. Would it be safe to put in this that they've not  
7 completed the reports for all the sites?

8           MR. KEYT: Well, here's what -- you could say  
9 that. There's some issue here though when it comes to  
10 the new statute. So there's a couple of issues that the  
11 new statute addresses in terms of things that requires  
12 the County to consider - sound, shadow flicker,  
13 setbacks, decommissioning agreements, road use  
14 agreements, things like that, that are listed out in the  
15 statute. Also listed or stated in the statute is that  
16 the statute or any Ordinance of the County cannot be  
17 more restrictive than what the State statute states. So  
18 there's a lot of questions about exactly what that  
19 means. Now you can say, factually speaking, not all  
20 NRI/LESA reports were provided for all parcels, but a  
21 portion of them were. However, you likely will not be  
22 able to use that as a determining factor in what your  
23 decision is.

24           MR. LARSON: Right.

25           MR. KEYT: So you could state that from a



1 factual, you know, perspective. You could state that.  
2 It is though an issue, from my perspective and my advice  
3 would be that you consider that in rendering your  
4 decision.

5 DR. WAX: You guys okay? Any suggestions or  
6 changes?

7 MR. LARSON: Not if you guys don't.

8 DR. WAX: Okay. We're okay with it?

9 MR. LARSON: That's correct.

10 DR. WAX: Okay. We're okay with it as  
11 written.

12 MR. KEYT: Okay. So that takes us through --  
13 up to page nine. Page nine starts where, as you may  
14 recall from the last hearing, the Goose Creek hearing,  
15 we went through what we generally termed the  
16 LaSalle/Sinclair factors. Those factors remain in your  
17 Ordinance. They may work or operate a little  
18 differently, but they're still there. So I essentially  
19 took each of the factors listed and I went through and  
20 filtered in the information as to each of the factors or  
21 information that may be relevant for the Board's  
22 consideration. I'm going to run through them just  
23 paragraph or by topic here, and the first one will take  
24 the longest, but once we get through that one, it should  
25 take about the same amount of time as we took on the

1 first section of technical.

2           So the first factor to consider is: "The  
3 establishment, maintenance or operation of the WECS  
4 Project will not be detrimental to or endanger the  
5 public health, safety, orals, comfort or general  
6 welfare."

7           There is a general overview of the Project  
8 listed, essentially is a repeat of what's up above in  
9 the intro of this document.

10           And then the next section is turbine systems and  
11 tower heights. I just factually list out what turbines  
12 they're proposing, what the heights of those turbines  
13 are, and that the Applicant has testified that they --  
14 that fifty turbine sites will be selected for final  
15 construction.

16           We talked about the setback requirements. That is  
17 essentially already covered above.

18           Then the next one where it gets into some  
19 substance and we'll have to discuss, is financial  
20 impacts. So we heard testimony from Dr. Loomis about  
21 financial impacts. Those are essentially listed  
22 beginning there at the bottom of page 11 and proceeding  
23 to the top of page 12. It is a general summary. I  
24 don't go word-for-word as to what Mr. Loomis testified  
25 to.

1           Are there any changes as to the information  
2 listed there, largely comes from Dr. Loomis. There was a  
3 union representative, Mr. Riley that also provided  
4 testimony.

5           DR. WAX: At this point in time, as I  
6 understand it, we're reviewing all of a; is that  
7 correct?

8           MR. KEYT: Yeah. I think in terms of  
9 simplicity what I would suggest is that you review the  
10 financial impact section that's listed there under that  
11 bold section, and that goes from page -- the bottom of  
12 page -- well actually maybe on your document it's  
13 probably the top of page 10, just that section, and stop  
14 before you get to Sound.

15           DR. WAX: Just stop right there at the  
16 bottom of page 10 for current consideration?

17           MR. KEYT: Yeah.

18 (Microphone falls from table to the floor.) (Laughter in  
19 the courtroom.)

20           MR. CHAMBERS: Did I get your attention? Is  
21 it working now or did I break it? I've got one edit  
22 here just for clarity. So the third paragraph down,  
23 second sentence is: "The project will create  
24 approximately 500 construction jobs in Piatt County  
25 during construction, eight new permanent jobs on site,

1 and 28 long-term jobs in Piatt County." The eight  
2 permanent jobs are pretty concrete. The 28 long-term  
3 jobs in Piatt County is a number based on modeling? So  
4 I would want to differentiate those and have it say  
5 eight new permanent jobs on site, and is modeled to  
6 create 28 long-term jobs in Piatt County, which would  
7 provide stimulus to the local economy, and then on from  
8 there. I just want to differentiate between those  
9 numbers since they're arrived at different ways.

10

11 (Microphone falls from the table to the floor. Laughter  
12 in the room.)

13 MR. KEYT: Understood. I took your  
14 revision, Mr. Chambers, by the way for the Board and the  
15 public, and just added that to state eight new permanent  
16 jobs on site and is modeled to provide 28 long-term.  
17 Okay, any other suggestions, revisions or changes to  
18 that financial impact section?

19 DR. WAX: I think it's ample change.

20 MR. KEYT: We then come to sound. I think as  
21 everybody knows, the Illinois Pollution Control Board  
22 sets the limits for sound. The statute requires that we  
23 apply the Pollution Control Board limits. It just goes  
24 through the Applicant's evidence that was submitted.  
25 Applicant submitted the evidence that the Project met

1 the sound requirements of Piatt County, and they  
2 submitted the testimony of Eddie Duncan. In addition,  
3 documentary evidence from the Applicant includes a sound  
4 modeling report which was included in Applicant's Group  
5 Exhibit 1. There is one issue here in that there was not  
6 sound modeling provided for the three alternate turbine  
7 sites. There was sound modeling provided for the fifty,  
8 for fifty turbine sites. But as you recall, there is  
9 three alternate sites that they also proposed, even  
10 though they're only constructing fifty, there's three  
11 alternates. I did not locate in the Application or  
12 during the hearing any sound modeling for those three  
13 alternate sites. There was also some testimony from  
14 people indicating that an audiologist had indicated  
15 infrasound may impact a number of health issues, and  
16 that is listed. There was also -- I also generally  
17 referred to the testimony of Mr. Hartke regarding his  
18 personal experience of living near a wind farm in  
19 Vermilion County, and that his family had to move, but  
20 there was no testimony from him or evidence presented  
21 that this particular Project will exceed the Illinois  
22 Pollution Control Board limit.

23 There was some testimony from Mr. Smith regarding  
24 a project that he lives near by.

25 Then the final sentence there states that there

1 was no testimony that any portion of the Project has  
2 exceeded the IPCB standard which Piatt County is  
3 mandated to apply.

4 Are there any suggestions or revisions or changes  
5 from the Zoning Board as to the sound portion listed  
6 there?

7 MS. ANTONIOLLI: What is not noted in this  
8 section is Mr. Minder's testimony that the three spare  
9 locations were the same locations that were included in  
10 the Goose Creek Application that were modeled to be  
11 compliant with the IPCB limits.

12 MR. KEYT: Okay.

13 DR. WAX: I do not know what the other Board  
14 Members would feel about this, but my interpretation of  
15 this whole package is that the Applicant's statements,  
16 because of all the expert witnesses, and their  
17 statements by attorneys, that view is somewhat  
18 amplified, and those that are opposition comments,  
19 individual testimony is pretty much minimized. That's  
20 the way I see it.

21 MR. KEYT: Okay. Any change to the sound  
22 provision from the Zoning Board?

23 DR. WAX: Do you have anything, Will?

24 MR. CHAMBERS: Maybe just a thought here, in  
25 follow-up to Miss Antoniolli. If there -- so the Goose

1 Creek Application gets referred back to often on some  
2 things, but since that -- so that those three spare  
3 sites were modeled in that Application, but that  
4 Application is, I guess, technically not part of the  
5 record for this hearing, is that an issue as far as --  
6 can we refer to that here, or do we just leave that out?

7 MR. KEYT: Nobody has submitted any portion  
8 of the Goose Creek modeling or testimony as part of this  
9 hearing.

10 MR. CHAMBERS: And the evidence is closed, so  
11 it's too late to add the Application?

12 MR. KEYT: Correct. Unless the Board wanted  
13 to open it back up. Now that's not for me to say, but  
14 there's no -- nobody has submitted, for example, the  
15 sound modeling for Goose Creek.

16 MS. ANTONIOLLI: No, and we wouldn't ask to  
17 submit that at this time, but just that the expert  
18 testimony that those spare locations for sound modeling  
19 are compliant with IPCB limits.

20 MR. CHAMBERS: Well that was just my  
21 thought. I recognize that the bottom one would indicate  
22 that they are compliant, but as far as the record for  
23 this hearing, simply we don't know, you know. It says  
24 they are. So I didn't know if we wanted to open that up  
25 to have that put in or just leave it as is.

1           MR. KEYT: That's ultimately up to the Zoning  
2 Board. We have, just for clarity, we have closed the  
3 record. Now, it's the Zoning Board's hearing. So if you  
4 want to open it back up, you could open it back up, but  
5 at this juncture is there any changes to the sound  
6 portion that anyone has?

7           MR. CHAMBERS: I do not.

8           DR. WAX: We don't have any changes.

9           MR. KEYT: Okay. Moving on to shadow  
10 flicker, that next section. Our Ordinance as per the  
11 State statute limits shadow flicker to non-participating  
12 residences and occupied community buildings to thirty  
13 hours per calendar year. They submitted a shadow flicker  
14 report demonstrating compliance with the Ordinance and  
15 they also provided some testimony. Any changes to that  
16 provision?

17           DR. WAX: Anything, Will?

18           MR. CHAMBERS: No.

19           DR. WAX: We do not have any changes.

20           MR. KEYT: Okay. That us takes us to  
21 environmental issues, which is wildlife, Avian and Bats  
22 for the most part. The Applicant under our Ordinance has  
23 to provide an avian habitat study to determine whether  
24 it will have a substantial impact on birds and/or bats.  
25 They did provide evidence from wildlife experts



1 regarding the impact of the Project on wildlife. They  
2 also submitted their Application to the U.S. Fish and  
3 Wildlife Service and the Illinois Department of Natural  
4 Resources. The turbines have been cited to comply with  
5 the recommended buffers of both U.S. Fish and Wildlife  
6 Service and IDNR. IDNR, as I think the ZBA is aware,  
7 provides what's called an EcoCAT, a categorical  
8 assessment. The IDNR's recommendations are relayed to  
9 the Zoning Board as part of the Application that was  
10 submitted. They also submitted a letter with various  
11 recommendations, and those recommendations are reflected  
12 in the correspondence in Group Exhibit Number 1.

13 DR. WAX: Do you see anything, Will?

14 MR. CHAMBERS: I do not.

15 DR. WAX: We do not have any changes.

16 MR. KEYT: Okay. Then that takes us to  
17 physical safety issues. Physical safety, generally  
18 things like emergency management plan are noted here.  
19 They did submit an Emergency Management Plan. It's  
20 approved, Exhibit 1, Appendix E.3. The Emergency  
21 Management Plan indicates redundant automated systems  
22 within the plan. There's also a reference to a Remote  
23 Operations Control Center connected to the facility  
24 that has control capabilities to isolate when there is  
25 an emergency. They can isolate a turbine and take it

1 off line.

2 They're also required to meet with the County  
3 Emergency Management Personnel to coordinate drills with  
4 local emergency responders. There is evidence about that  
5 in their Application and in testimony.

6 Mr. Conley, we did hear -- there was a  
7 significant amount of information regarding Firetrace  
8 System which is a fire suppression system on -- that  
9 would be installed on the turbines. That's reflected  
10 there.

11 And then there was also discussion of the Mahomet  
12 Valley Aquifer, and they testified that if a well was  
13 negatively impacted they would work with the landowner  
14 to find a solution to the issue.

15 Any changes to that section related to physical  
16 safety issues?

17 DR. WAX: Just a question while the other  
18 Board Members are looking this over. Concerning the  
19 physical safety issues, apparently it's been stated that  
20 there will be -- there will be annual meetings with the  
21 County Emergency Management to coordinate emergency  
22 drills and local emergency responders. I assume that  
23 will take place?

24 MR. KEYT: Yes.

25 DR. WAX: That's the plan at least. At some

1 time during the presentation, it seemed like there was a  
2 plan to get the volunteer fire fighting people together  
3 and run them through a whole series of drills, and it  
4 says here that walkthroughs are done with firefighters  
5 as well as conducting emergency response drills. When is  
6 that done?

7 MR. KEYT: Well, generally that would be done  
8 --

9 DR. WAX: After they're established?

10 MR. KEYT: Correct.

11 DR. WAX: -- and after construction and  
12 they're done on a periodic basis; is that your  
13 understanding?

14 MR. KEYT: Generally yes.

15 DR. WAX: Okay. During the testimony it just  
16 was not clear to me that there was a real -- much of a  
17 significant interaction to date with the volunteer  
18 firefighters to plan to organize anything like that, but  
19 I'm assuming that it's going to happen. But at the time  
20 we heard this, it didn't seem like there was much of a  
21 plan.

22 MR. KEYT: The one thing I would say is that  
23 you could also handle enforcement of that through a  
24 condition.

25 DR. WAX: Anything, Will?

1 MR. CHAMBERS: No.

2 DR. WAX: We have nothing else.

3 MR. KEYT: That then takes us to  
4 communications interference analysis. They provided in  
5 their Application a microwave path analysis and analysis  
6 of the potential effects of radio, TV, land mobile  
7 licenses, and communication towers, weather surveillance  
8 radar, and a letter of no concern from U.S. Department  
9 of Commerce. What's listed there is essentially a very  
10 -- an overview of the evidence that is contained within  
11 the Group Exhibit Number 1. To sum it up, there was no  
12 indication or anticipated obstruction to any licensed or  
13 applied non -- federal microwave links, and the Project  
14 was not anticipated to cause any perceivable effects on  
15 radio station transmission or reception or to land  
16 mobile radio facilities, so long as the Project was  
17 installed according to the current codes and correct  
18 industrial installation procedures.

19 There is also a review of the potential impact on  
20 weather radar as conducted by Westslope. The model  
21 locations will not be within the line-of-sight of the  
22 Lincoln National Weather Service's Next Generation  
23 Radar, and Westslope's conclusion is that it does not  
24 expect any impact on NWS's Central Illinois WFO  
25 operations at or below this blade-tip-height of six

1 hundred feet.

2 DR. WAX: We do not have any suggested  
3 changes.

4 MR. KEYT: That takes us to the FAA  
5 administration compliance. So the FAA reviews each of  
6 the turbine sites. The FAA has issued approval of the  
7 locations via determinations of no hazard and approved  
8 the ADLS lighting plan submitted by the Applicant.

9 Any changes or omissions to that section?

10 DR. WAX: We do not have any changes.

11 MR. KEYT: Moving on to the next one,  
12 decommissioning. Applicant submitted a Decommissioning  
13 Plan. It was then updated based upon Mr. Minder's  
14 testimony, and submitted in a revised Decommissioning  
15 Plan. That is Applicant's Exhibit 20.

16 Any changes to that section?

17 DR. WAX: No changes.

18 MR. KEYT: That then takes me to agricultural  
19 land impacts. They did submit what they have termed the  
20 Natural Resource Impact Assessment and there was -- I'll  
21 summarize what's there. As to the hosting parcels, less  
22 than 1% of the total area will be taken up with Project  
23 facilities. Remaining parcels will remain in  
24 agricultural land uses.

25 Impacts upon wetlands and flood plains are

1 avoided. There is approximately .06 acres in accordance  
2 with the U.S. Army Corp of Engineers recommendations.

3 Then there was a foundation study by RRC Power &  
4 Energy, LLC. The foundations are spread-footing  
5 foundations consisting of reinforced concrete. The  
6 foundations would be excavated to twelve and thirteen  
7 feet in depth with a maximum foundation width of  
8 approximately 82 feet. The remaining above ground  
9 pedestal will be approximately eighteen feet in width  
10 with a gravel turnaround extending approximately twenty  
11 feet beyond the pedestal. The Applicant has sited the  
12 wind turbines away from the public drainage systems.  
13 The turbine foundation has been designed to account for  
14 storm water events and drainage. There will be a 2%  
15 gradient along the top surface of backfilled material.  
16 It's all contained within Group Exhibit 1, Appendix C.3.

17 DR. WAX: We do not have any changes.

18 MR. KEYT: Okay. That then takes me to the  
19 portion discussing other evidence. This is the last  
portion of that factor, letter a. There were a couple  
of references here, and I'll go through them relatively  
quickly.

There was some testimony that other energy  
sources have to back up wind power and wind power may be  
transient and unable to meet capacity needs. That's

potentially relevant to the health, safety and welfare factor. However, there was not any testimony or evidence submitted that this particular Project will lead to service disruptions.

Then we also have some testimony from Piatt County that there are numerous other projects in the queue for construction and that an electric grid supplied only by wind and solar isn't feasible.

Then there was some testimony that we heard regarding various issues in relation to the 2023 Referendum, that the Project was previously rejected by the County, that there is some absentee landowners, and that -- I'll stick to those factors. That evidence doesn't stop there.

Any changes, revisions to that last section of subparagraph a?

DR. WAX: Do you have anything? Will?

MR. CHAMBERS: I don't believe so.

DR. WAX: I don't think we have any changes. I have a personal comment on this whole section. I am uncomfortable with the idea that this Project will not be detrimental to the health, comfort or general welfare of the public, especially the non-participants.

MR. KEYT: Okay. Any revision? It sounds like there was no revision necessarily to that

particular section.

DR. WAX: No. It's just my opinion. We have no changes.

MR. KEYT: Understood. So that takes us through -- we're up to about page 14. We've been going about an hour-and-a-half. It's up to the Board if you want to take a break or to keep going.

MR. KAINS: Mr. Keyt, how much longer do you think the review of the Findings of Fact by the Board will take?

MR. KEYT: I would guess twenty minutes.

MR. KAINS: Would it be all right to continue and then take a break?

DR. WAX: Twenty more minutes, and then take a break?

MR. KAINS: Jamie, are you doing all right? Okay.

MR. KEYT: Moving on. We would then go down to sub-section b.

"The WECS Project will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties." In this section there is reference to the property values, testimony and exhibit



from Mr. MaRous. You may recall he provided some testimony and the potential impact on property values of nearby properties.

Any changes as to the property values section listed there?

DR. WAX: I can't change the testimony of Mr. MaRous. My personal belief again is that I believe there will be substantially -- there will be some substantially diminishing of and impairment of property values of especially the non-participating properties.

MR. KEYT: Okay.

MR. CHAMBERS: I might have an edit for this but I'm not sure. My memory between the first set of hearings and this set of hearings is kind of blended, so I don't know if I'm remembering this hearing or the last one, but I believe we did have a member of the public who testified in opposition that cited property values as a concern, and referenced -- either referenced a study or referenced the previous hearing, the evidence in the previous hearing, but I do not remember exactly who that was. I just remember that being brought up by a Piatt County resident. So I think if that's the case, if my memory is correct, that would -- it would be apt to note that below the section on Michael MaRous's testimony.

MR. KEYT: So I think if what you're -- if I'm understanding correctly, what you want to do, Mr. Chambers, is add a sentence that would state that there was testimony from the public indicating that property values may be diminished?

MR. CHAMBERS: Right. That would be a shorter way to put it.

MR. KEYT: Just so that we're clear, is there -- is that the wish of the Board to include that provision?

DR. WAX: Say again?

MR. KEYT: I think what Mr. Chambers is saying, is that he would like to add a sentence that states there was testimony from the public, a member of the public, indicating that property values would be diminished. He would like to add that, if I'm understanding him correctly, he would like to add that as a sentence.

DR. WAX: Yes. We would like to add that.

MR. KEYT: Any other changes to that particular section?

DR. WAX: We can move on.

MR. KEYT: Okay. Next section deals with the Mahomet Valley Aquifer.

"The Applicant did submit a document that's

titled by the Applicant as Natural Resources Impact Assessment. That report included a hydrology study regarding the impact to the Mahomet Aquifer. Barr Engineering performed a drawdown analysis and hydrology study to evaluate the potential impact of the Project on the Mahomet Aquifer. The report assumed extreme scenarios of water use by the temporary concrete batch plant. The study found that the Mahomet Aquifer is the principal source of drinking water for many communities in east central Illinois. Barr Engineering's study assumed the well would penetrate the deep sand and gravel aquifer at a rate of two hundred gallons per minute. The aquifer is expected to be thin at the batch plant location. A well in that location is likely to be capable of pumping two hundred gallons per minute, though the site specific drilling and testing would provide more information. The assessed impact, based on simulation, found that the batch plant well is expected to have minimal impact on the Mahomet Aquifer." That was in Group Exhibit 1, Appendix C.3.

Any suggested changes or revisions to that particular section?

DR. WAX: I have a question. Perhaps you can clarify this. In the paragraph, "Barr Engineering's study assumed the well would penetrate the deep sand and

gravel aquifer at a rate of 200 gallons per minute. The aquifer is expected to be thin (approximately 35 feet) at the batch plant location." What aquifer are we actually talking about? From the maps, it did not look like to me that they're going into the Mahomet Aquifer. It's shallower, fairly thin, but I'm not clear. I'm not clear on that. It doesn't specify specifically.

MR. KEYT: All I can tell you is that's how the report was worded.

DR. WAX: Pardon me?

MR. KEYT: That's how the report was worded. I couldn't tell you specifically what aquifer they're going into, but I think it's the Mahomet Aquifer.

DR. WAX: Okay. Thank you. Any changes? Anything, Will?

MR. CHAMBERS: No.

DR. WAX: Okay. No changes.

MR. KEYT: That takes us to subparagraph c. The establishment of the WECS Project will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

"The Project lies in an agricultural area of the County with developed uses (agriculture and residential) already existing. The properties upon which the facility infrastructure will sit is zoned agricultural.

Further, the statute specifically provides that commercial wind energy facilities may not be disallowed in districts zoned to allow for agriculture." There is a specific reference to the statute.

Any changes to what's written in subparagraph c?

DR. WAX: I realize the statement says that you can't deny that or you can't be concerned about that, but I am not convinced personally that there will not be some impediment to the normal orderly development, especially residences that might be in the area. I'm not suggesting any change. I'm giving an opinion.

MR. KEYT: Understood. Okay. Any changes to that specific provision?

Hearing none, I'm going to move on then to subparagraph d, Adequate utilities, access roads, drainage or necessary facilities have been or will be provided.

Public road use and drainage. Road use, we've already talked about. There are Road Use Agreements. Road Use Agreements for the County Board's consideration between Piatt County and the developer.

Any changes to that provision regarding Road Use Agreements?

DR. WAX: We do not have anything. We believe

that Mr. Seibring went over this and put together a fairly extensive Road Use Agreement, and I don't think we have any changes.

MR. KEYT: Okay. That takes us to Drainage. Drainage, the Applicant did provide the requisite Agricultural Impact Mitigation Agreement which is required by the State. The AIMA requires the Project minimize impacts on agricultural land and to repair drain tiles. That's also required within the statutory requirements. Part of the AIMA requirements includes repairing any damaged drainage tile or facilities, documenting the repair including the provision of GPS coordinates for the repair, and providing such information to the landowner.

Applicant has provided a Farmland Drainage Plan as part of its Application. That plan is to bore entirely under all public drainage facilities, boring schematics, commitments to repair any private drainage facilities that are damaged, and detailed site maps showing details of public drainage facilities that will be crossed.

Any proposed changes to subparagraph d?

DR. WAX: Anything? Anything, Will?

MR. CHAMBERS: No.

DR. WAX: It seems like the Applicant has put

together a pretty good Drainage Plan. I was disappointed, even though it's not technically required, disappointed in the lack of extensive communication with the drainage district. That seems like a poor way to go, in my opinion. We don't suggest any changes.

MR. KEYT: Okay. That then takes us to subject paragraph e. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. It's a relatively short section.

"All parcels have access to public roads and sufficient ingress and egress. Road Use Agreements will require necessary improvements and future maintenance of the Project.

Any other changes to that paragraph or any changes to that paragraph?

DR. WAX: We have none.

MR. KEYT: Okay. Two more provisions here. The proposed WECS Project is not contrary to the objectives of the current comprehensive plan of the County.

"The Applicant did not provide any evidence as to whether the proposed Project will meet/comply with the Piatt County Comprehensive Plan. It is noted that the Project will remove approximately 38 acres from

agricultural production but will not otherwise disrupt agricultural uses within the County."

Any other changes to paragraph f?

DR. WAX: We have none.

MR. KEYT: That takes us to the final factor as subparagraph g. "The WECS Project shall in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the County Board."

The applicant has demonstrated compliance with the applicable Ordinance, with exceptions as noted above, and those were the zoning district in which it is proposed."

Any other changes to that provision?

MR. CHAMBERS: Just a quick question for you. Has that one been reworded since the last hearing? Because I remember the language adopting about the preamble to the regulations of the district, and I didn't hear that here. Has that just been reworded?

MR. KEYT: You mean in comparison to the Goose Creek one?

MR. CHAMBERS: Right.

MR. KEYT: Yeah. It is worded somewhat



differently than it was in the Goose Creek one. I didn't necessarily refer back to the Goose Creek one.

MR. CHAMBERS: Right. I just remember the clarity on the way that one was worded. It was a little bit of a question mark last time.

MR. KEYT: Yeah, I didn't refer back to the Goose Creek one.

DR. WAX: So has the wording on these things been changed somewhat because of the State statutes?

MR. KEYT: Yeah, so --

DR. WAX: Could you explain, please?

MR. KEYT: Yeah, sure. So the statute that was passed back in January, essentially required the counties to change their Ordinances and essentially set criteria that the State wanted you to set. There wasn't a lot of lead way area. Essentially there wasn't a lot of lead way into what criteria you can set. So for example, the setbacks are set at a certain distance. Those are the setbacks. You can't adopt anything more restrictive than what those particular setbacks state. Sound, same thing. Shadow flicker, same thing. So for example, the State has a shadow flicker requirement of thirty hours. There's a sound requirement that we have that the County has to impose, the IPCB limit, they can't impose anything else in relation to sound. So it

does significantly change how the lens through which the ZBA and ultimately the County Board reviews a project that comes before them. So the ZBA in this situation. Last time you may recall, we had a pretty significant discussion about the factor test that we kind of went through here towards the end. That factor test, in my opinion, though it's debated under the legal (inaudible due to coughing in the room) at the moment. I would say that factor test can only come into play to the extent that it's not going to be utilized in contradiction to the State statute. So, for example, State statute sets the shadow flicker limit at thirty hours. If there was some testimony that shadow flicker might impact someone at twenty-eight hours, and they might have some sort of issue related to or being impacted in that way, the ZBA couldn't then turn around and say well that's a health safety issue. The reason being is that it's already set by the shadow flicker requirement that is within the State statute. So you couldn't then set more strenuous standards through the Findings of Fact. Is it a significant handcuff on the County? It is. I don't make any representation as to whether it's a good or bad statute. But it does severely change how the counties view projects like this. So that's why the findings look a little different than they did the last time. It's not

a straight LaSalle/Sinclair factor test. Largely what you have to look at is whether or not the Applicant has met the technical criteria that's been laid out in the Ordinance and what is mandated by the State. So that's why we went through a number of the essentially technical criteria in the beginning to set those Findings of Fact that way. It is different than it used to be. It is not the same as it was for the last project, and at least it won't be the same going forward in the foreseeable future.

DR. WAX: Would it be fair to say that the State statute has significantly limited the options available to the ZBA?

MR. KEYT: It limits your discretion. I'm not saying that the County does not have any discretion, but what I would tell you is that it limits the discretion.

DR. WAX: Okay. Any changes in this? Anything, Will?

MR. CHAMBERS: No.

DR. WAX: Okay. No changes.

MR. KEYT: With that then I think it would be appropriate to have a motion to approve the Findings of Fact with the noted changes from the Zoning Board which I'll incorporate and provide for signature. But there should be a motion here then to approve the Findings of

Fact as written with these recommended changes from the Zoning Board.

DR. WAX: So you're recommending at this point in time that we have a motion to approve the Findings of Fact in total, which I understand that. It also makes it difficult because there's some in there that some of the group might feel very strongly about, some items might be very negative on one or two items, and reasonably positive on other items. But we need to take it as a whole package?

MR. KEYT: Right.

DR. WAX: Okay. So at this point in time it would be appropriate then for us to call for a motion to approve the Findings of Fact as written and as revised?

MR. KEYT: Correct.

DR. WAX: So gentlemen, would you entertain a motion to approve these Findings of Fact as they are written and revised?

MR. CHAMBERS: I'll make a motion to approve the Findings of Fact as written with all of the revisions.

DR. WAX: Okay. Can we have a second?

MR. LOVIN: I second.

DR. WAX: Okay. Kyle, second. Kyle, any further discussion?

MR. LOVIN: No.

DR. WAX: No further discussion. Could we have a roll call please?

MS. NUSBAUM: Mr. Larson?

MR. LARSON: Yes.

MS. NUSBAUM: Mr. Lovin?

MR. LOVIN: Yes.

MS. NUSBAUM: Mr. Chambers?

MR. CHAMBERS: Yes.

MS. NUSBAUM: Mr. Wax?

DR. WAX: Yes.

MR. KEYT: Okay. I think it would be appropriate now to take a break, and we'll handle the conditions next. And then after we get through the conditions, it would be then time to do a motion on the Application itself, whether to recommend the approval or not, and with conditions or not.

MR. KAINS: Mr. Chairman, I have 7:17 p.m. With the Chair's permission, recess until 7:30?

DR. WAX: Sounds good.

MR. KAINS: Very good. We're in recess until 7:30.

(Recess taken.)

MR. KAINS: If we could resume.

(Proceedings resumed.)

MR. KAINS: Mr. Keyt, thank you for your comments and revisions. And Miss Antonioli, thank you for your comments as well relative to the Findings of Fact.

The next things to be considered by the Zoning Board of Appeals are the Conditions that would attach to a Permit -- Special Use Permit, should it be approved by the County Board. And again, these are recommendations from the Zoning Board with respect to conditions that would attach, and this is a recommendation that would go to the full County Board for its consideration.

Mr. Keyt, you have the floor again for the Conditions.

MR. KEYT: Okay. Thank you, Mr. Kains. The same process, we have put the conditions up on the overhead, and then there is a draft set of Conditions. If anyone would like some light reading, the Board has a copy of the Draft Conditions, the exact same as sitting here on the table. As a reminder, the Conditions are merely left amended if the Zoning Board wishes to recommend them or not. They don't have to. The County Board is free to consider them or not. They're free to adopt them or change them. So the only role that the Zoning Board has related to the Conditions revisions is

to make recommendations if they so choose. If a Project like this were to be approved, I make no representation as to whether it should be or not be approved, that's not my role, but if a Project of this size were to be approved, I would always recommend there be Conditions attached to it to ensure compliance with certain Conditions. So there is a Draft set of Conditions, if the Board wishes to consider them. My assumption is that you do wish to consider them and that should stop me from talking. So with that, I'll proceed.

Up on the screen, and sitting in front of you, the Zoning Board Members, is the Draft set of Conditions. The first part is merely an intro. It looks a lot like every other set of Conditions that might relate to a wind project or solar project or any large application that might be pending in a county. I'm going to go each paragraph. There are, I believe, 28 paragraphs in total -- 31 paragraphs in total. Some of these are very boiler plate language, but I'm just going to take them one by one. A lot of these Conditions look similar to ones that were proposed or recommended from the Goose Creek hearing. However, there are some changes to these Conditions because some of those changes may be just simply mandated by the statute, the statutory change. Also, as you recall, when you revised your

Ordinance earlier this year, you incorporated some issues that might otherwise be part of a Condition. So it's not necessary to have it as part of a Condition and part of an Ordinance. So if it was repeated in the Ordinance, or it's already in the existing Ordinance, I didn't include it here. So there may have been Conditions that were part of the Goose Creek portion that they got incorporated as part of the Ordinance and it's not necessary to include them here. Also the Conditions are based on the evidence that we heard. So, they insinuate or relate back to whatever evidence or information.

So with that, we start with the commencement of special use. Paragraph number 1.

This requires construction -- commencement of construction to begin by December 31, 2026, and then there's a time period for the company to substantially complete construction which is 24 months after the commencement of the construction. Commencement of the construction is deemed to be the issuance of a construction permit for a wind turbine in the Project by the Zoning Administrator of Piatt County.

Any changes or suggestions or revisions to paragraph number 1?

DR. WAX: Mr. Keyt, I would like to ask the



question concerning the terminology here, hopefully not showing any bias one way or the other. I don't intend to do this, and I'm just saying, okay, the third line says "If any litigation is filed challenging the approval of the Project". Does that include approval and disapproval? It could go either way? Or does that imply that hey, anything concerning the approval of a Project would follow?

MR. KEYT: Good point. You could add, if there's any litigation filed challenging the decision of the Board.

DR. WAX: Pardon me?

MR. KEYT: Right now the way it reads, if any litigation is filed challenging the approval. So if somebody filed a case then it would stay that. Now if it was denied, that provision wouldn't necessarily apply because they don't have approval to go get the permit.

DR. WAX: If it's approved and somebody wants to complain about it.

MR. KEYT: Now you could state that any litigation filed, well, related to the Project decision.

DR. WAX: I don't want to necessarily change it. I'm just trying to clarify.

MR. KEYT: Understood.

DR. WAX: No changes.

MR. KEYT: Moving on to number 2. Term. Special use for the Project shall be granted for a term of thirty years. That's from the date that the substation is commissioned and connected to the electrical grid. After the thirty years, they would have to come back for a new Special Use or amend the Special Use term. And so they would have to come back before the Board.

Any additions, changes to the paragraph number 2?

DR. WAX: May I assume that with this, the same would apply, because most of these, as I understand, have an option for two ten-year extensions. So you would have to come back for each one of these. Would that be correct?

MR. KEYT: You mean an extension on their lease with landowners? Is that what you're referring to?

DR. WAX: I believe, probably I may not be right, but aren't these things technically thirty years with an option of two, ten-year extensions? Would that be correct?

MR. MOORE: That is in the lease.

DR. WAX: Okay. And I assume then we would have to come back for each of those?

MR. KEYT: Well, whatever their agreement is

with the landowner is something separate and distinct from how the County would view it.

DR. WAX: Okay.

MR. KEYT: So at the end of the thirty-year period, our term of Special Use isn't tied to how long they have a lease with the landowner.

DR. WAX: Right.

MR. KEYT: But it is relatively standard that a wind farm project has essentially a life span of somewhere between 25 and 30 years, and then at the end of that, we want them to come back. We don't want them to have a perpetual one because technology changes over time. So we don't -- we wouldn't necessarily tie that to how long their leases are with the landowner.

DR. WAX: Thank you. Any changes? We don't have anything.

MR. KEYT: That takes us to paragraph 3. Paragraph 3 deals with compliance. Construction and operation of the Project shall be in compliance with essentially all the law. The Applicant -- I did add a sentence in there. The Applicant has represented that they will only construct fifty turbines. I added a line in there at the very end saying Company is limited to the construction of fifty turbines.

Any changes or revision to paragraph 3?

DR. WAX: That sounds good to us.

MR. KEYT: Okay. Subparagraph 4 deals with construction and maintenance hours. Essentially construction of the project and routine maintenance, we set up a time schedule that we would prefer that to take place. Now we have set out things like emergencies, if there's an emergency that takes place they can go in and makes repairs, but generally in terms of construction and maintenance on the Project, we want those routine maintenance and construction periods to take place between certain hours, so that not to disturb every one in the County. And then there would not be any construction performed on Sunday.

Any restrictions or changes to paragraph 4?

DR. WAX: We're okay with that.

MR. KEYT: Okay. Paragraph 5 deals with road agreements, that's just the requirement in a nutshell, is they would have to have road agreements in place before construction permits were issued by the Zoning Office.

So any changes or additions to paragraph number 5?

DR. WAX: Keri, it seems you're mentioned several times in this paragraph. Are you okay with that?

MS. NUSBAUM: Yes.

DR. WAX: Okay. Will?

MR. CHAMBERS: I'm okay with it.

DR. WAX: We're okay with the wording.

MR. KEYT: Okay. Number 6 deals with school buses and vehicular traffic. Essentially we would want them to comply with any restrictions or requirements imposed by the County Board or Zoning Administrator upon Project construction and maintenance traffic in order to avoid conflicts with school bus traffic and school bus stops, and with the farm and other vehicular traffic in the Project area. Essentially what we would be requiring is that they maintain a web site that would update the public regarding planned traffic patterns within 72 hours in advance, and can change up to 48 hours, and they would also have to post that on a web site and also a Facebook or some other social media site with links to the information on there regarding traffic.

DR. WAX: Sounds like you've got it covered.

MR. KEYT: Okay. That takes us to paragraph 7. It deals with turbine to be constructed. They have submitted evidence regarding the Vestas V162 6.0 MW turbine. They have provided sound and shadow flicker as to the fifty turbine sites, primary sites. There was not

a sound or shadow flicker submitted as to a model, in this project as to the three alternate sites, so I excluded those. Now it's up to the Zoning Board and County Board ultimately. Then there is a provision here about the Company providing post-construction sound studies within 180 days of commencing commercial operation of those five occupied primary structure receptor sites that had the highest modeled noise. So those turbines, or those locations I'm sorry, that had the highest modeled noise from the noise modeling we would be requiring them to do a sound study, not just a model, but sound study after it's built to ensure it's compliance with the ordinance. Now that would be contingent upon those sites allowing access to place a receptor there, but that would be a provision. And then in relation to shadow flicker, if there is some demonstration that an occupied community building or non-participating resident is experiencing greater than thirty hours of shadow flicker in a calendar year, we would require them to do studies of those particular locations.

MS. ANTONIOLLI: We did ask the Board to consider in this Condition permitting or allowing the Applicant to use one of the spare sites as long as it's submitted in an updated sound and shadow flicker report

prior to submitting a building permit application. That would be the one provision we would ask for in this condition.

DR. WAX: I'm not sure I understand.

MR. KEYT: I think I can distill it down a little. The Applicant has three alternate sites that did not have sound or shadow flicker modeling submitted during the evidence of the hearing. What they're asking is that rather than having to come back for a special use for those three modeled sites -- or non-modeled sites, that they be allowed to utilize them if they submit to the Zoning Office sound and shadow flicker studies prior to receiving their construction permit, sound and shadow flicker studies showing compliance that those three would be in compliance.

DR. WAX: That sounds reasonable to us.

MR. KEYT: Okay. I'll make that change. Just so you know, that will change some of the wording of it and that's okay, but what I'll do is I'll make that change, and then that change will show up in the changes that are sent to the County Board. Okay. Any other changes to paragraph number 7?

DR. WAX: Do you have anything, Will? We do not have any changes.

MR. KEYT: That takes us to paragraph 8.

Turbine location. As you may be aware, there's times what's called micro siting, when a turbine gets placed on a particular property of a landowner that may want it moved for a particular reason or it may be that there may be a drain tile that nobody knew was there, sitting there, and they have to move that turbine a little bit. This would allow the developer to move turbines within a hundred feet in any direction as set forth in the Application. It doesn't allow them to violate a setback limit or sound or shadow flicker limit. It just allows for micro siting, still to be compliant with the code.

DR. WAX: No changes.

MR. KEYT: Okay. Then that takes us to paragraph number 9. Crop damage. Similar to the one from the Goose Creek Project, a company shall investigate crop damage within seven days. The results of any investigation shall be provided to the Zoning Administrator and the person making the complaint within sixty days, including the resolution or proposed resolution of said complaint. It doesn't preclude any private right of action, and does not apply to any contractual agreements between the company and landowners or farmers regarding crop damage issues.

Any changes to paragraph number 9?

DR. WAX: Sounds reasonable to you? We do not



have changes.

MR. KEYT: That takes us to paragraph 10. Decommissioning and security. "The Company shall provide security for decommissioning the Project and an agreed upon Decommissioning Plan and Agreement as presented during the public hearing on the Project." That essentially is a requirement of their Decommissioning Plan or agreement.

Any changes to that particular provision?

DR. WAX: No changes.

MR. KEYT: Paragraph 11. Non-operational or obsolete turbines.

"Any turbine that is determined to be abandoned or have no remaining useful life in accordance with the Agricultural Impact Mitigation Agreement, shall be decommissioned and removed by the Company in accordance with the AIMA."

Any changes to that provision?

DR. WAX: We're good with that.

MR. KEYT: Liability insurance. This would require the Applicant to maintain their liability insurance as required by our Ordinance, and that if the Ordinance changes and increases the liability insurance, they would need to increase their insurance coverage accordingly.

Any changes to paragraph 12?

DR. WAX: That's fine.

MR. KEYT: That take us to paragraph 13.

There's quite a bit here, but I think I can distill this down to this: This is the same paragraph from the Goose Creek Project. So it's essentially an assignment provision. So if the Applicant is going to sell the Project to somebody, the County wants to retain some control if they're going to sell it to someone to be sure that whoever is buying it, the Project, has the ability to operate it and is able to do so. This usually isn't an issue, when it comes down to it, because if they have the funds to be able to purchase the Project, they're probably going to be able to have funds to be able to operate it and experience the use of. So with that, it is very similar to the provision I wrote that was previously approved by the Board during the Goose Creek Project.

Any changes or revisions as to number 13?

DR. WAX: Any suggestions? Will?

MR. CHAMBERS: Nothing from me.

DR. WAX: We are covering a, right?

MR. KEYT: Well, we can take them a and b. I was referring to the whole thing.

DR. WAX: What were you proposing that we --

MR. KEYT: Let's just stick with a.

DR. WAX: We're doing a?

MR. KEYT: Any changes to a? Sounds like not.

DR. WAX: We don't have any changes.

MR. KEYT: Then we'll go to b, which is essentially discusses a sort of continuation. "Notwithstanding the above, Company does have the right to assign in its sole discretion and without any consent from the County, certain circumstances like, for example, if another subsidiary of Apex is purchasing the Project, which could happen, we would require them to show up to the County and say this is proof that it can be done, right? So that's what b talks about.

Any changes to subparagraph b?

DR. WAX: We have no changes to b.

MR. KEYT: That takes us to subparagraph 14 which discusses operating requirements. These are essentially a supplement of what is in our Ordinance. General overview is we want turbines to be non-obtrusive and non-reflective colors like white, off white or gray. They won't have any advertising on them except for perhaps the manufacturer's name. Warning signs will need to be posted. Other general conditions including need to be operated in a safe and well maintained manner. They

need to respond to any emergency event within a certain time period. Maintain a phone number.

Any changes to paragraph 14?

DR. WAX: Mr. Keyt, could I have an explanation on item e? It seems like when we were having the testimony, it seems there was some concern or -- maybe I'm perhaps just confused on this, is whether there's going to be a gate at the end of the access road, or something next to the -- so what is meant by the entrance in this particular case?

MR. KEYT: I think that would be actually at the entrance to the turbine itself.

DR. WAX: Okay. We're with this.

MR. KEYT: Okay. That takes us to paragraph 15, which is sound monitoring and mitigation. Overview is that they cannot install a turbine that would be in violation of the Pollution Control Board limit. It also covers what would happen if there is a suspected violation and the Company could investigate and take such action against the Company if they warranted and then discuss what some of those actions could be, and that the County would have -- or the Company, I'm sorry, would be responsible for any costs that would be related to that.

DR. WAX: We're okay with the wording on

that.

MR. KEYT: 16 is above-ground transmission lines. Essentially it's the prohibition against above-ground transmission lines except those extending from the substation to the point of interconnection. Other than that, all connections between the turbines from the turbines to the substation would have to be buried.

Any changes to paragraph 16?

DR. WAX: That sounds reasonable.

MR. KEYT: Okay. Paragraph 17, Water usage. That is very similar to the Conditions that was in Goose Creek that you reviewed. This provision essentially states the same thing. If there is a demonstration of an adverse impact upon a well, the County water supply, the County shall have the right to reasonably limit or otherwise regulate the use of water by the Company.

Any change or revision to paragraph 17?

DR. WAX: We have no changes.

MR. KEYT: That brings us to paragraph 18, deals with fire protection districts and emergency response. This provision requires the cooperation of all local fire protection districts and provide funding necessary for training and new equipment to prepare the districts to respond to fire and other emergencies

concerning the Project. They also have to assist with emergency response. They also need to cooperate with emergency response drills relating to the Project as part of coordinating its training for the WECS and emergency response personnel. They would also need to coordinate a bi-annual review of policies, procedures, drills, training and equipment needs between Company representatives and local emergency response agencies and provide the documentation to the Zoning Administrator.

Any changes to paragraph 18?

MR. KAINS: Mr. Keyt, could you please scroll so the public can see paragraph 17 and 18?

DR. WAX: No changes, Mr. Keyt.

MR. KEYT: Okay. That takes us to paragraph 19, existing underground utility lines. There may be a pipeline or other underground utilities in the area of the Project. We just want them to coordinate and make sure to ensure the integrity of the pipelines and other utilities in the area so that we want them to work with the appropriate utilities. That's paragraph 19.

Any changes to that?

DR. WAX: That sounds good.

MR. KEYT: Okay. 20 discusses reimbursement for County expenses. So during the term of a special

use or decommissioning period, if there is some expenses that the County has to incur in relation to the Project, that they have to -- the County has to make, you know, hire consultants or other outside experts, they have to reimburse the County for those expenses.

MR. LOVIN: What's the --

(Inaudible due to loud noise in the room.)

MR. KEYT: I didn't hear you.

MR. LOVIN: What can we say about the word promptly on getting reimbursed? Can we put a day limit on that?

MR. KEYT: You could. If you wanted to put, you know, a standard reimbursement time period would be thirty days.

MR. LOVIN: I'd like to see that.

MR. KEYT: I'll add that to the Condition for the County Board's consideration.

DR. WAX: Thank you. Other than that, we're fine with that.

MR. KEYT: That takes us to you paragraph 21. Validity of the conditions. So we don't want the Company to challenge the Conditions after they start building it. So essentially the provision is that by constructing and operating the Project, they're agreeing to waive any claims regarding the Conditions.

DR. WAX: We're good with that.

MR. KEYT: Paragraph 22, discusses defense against claims. So if for some reason the County, County Board, or anyone else, is the subject of a lawsuit in relation to the Project, this would require the Company shall reimburse the County for all reasonable legal fees and other expenses, including experts and attorneys to defend the action.

Any changes to pair photograph 22?

DR. WAX: No changes.

MR. KEYT: Takes us to paragraph 23. 23 deals with turbines on adjacent property. So to explain what this means, so that the County is going to -- the County that approves some project unrelated to this one, but approves a Project say of another company, we don't want this Company to come back on us and say well you approved another project in the same area and that reduces our wind resources for some reason, or some other plan. So, if that occurs, we don't want the Company to come back on the County with some sort of plan. That's the purpose of paragraph 23. Any changes to paragraph 23?

DR. WAX: We're okay with that.

MR. KEYT: That take us to paragraph 24, which deals with financial assurances. So before is



construction permit's issued, the Company would have to issue either a bond or some other financial assurance to cover the costs of the construction of the Project, or the reasonable evidence of financing, as approved by the County Board demonstrating their ability to complete the construction of the Project. The purpose is once they begin construction and you issue permits, you want to make sure that they have the ability to finish the Project.

DR. WAX: The wording sounds reasonable.

MR. KEYT: That takes us to paragraph 25. 25 deals with aerial application. If for some reason, an adjacent owner or somebody might be impacted by an increased cost for their aerial application, we want the Company to reimburse that landowner or farmer for the aerial application. This isn't aerial application -- this wouldn't involve aerial application of participating owners. This would be non-participating owners. And as long as there was some demonstration or receipt or some evidence to substantiate that they had an increased cost, then the Company would have to reimburse that cost.

MR. CHAMBERS: So is the language in this sufficient for say a neighboring landowner who can't get an aerial application? In that case they would -- I

guess that's my hang-up with this one is. There would probably be instances where an aerial applicator would charge more to apply in close proximity to the turbines, but if they had an aerial applicator that says the field is just too close or it's within the footprint, and they just outright said no, then there's not -- there's not really an increased cost there, there's just the -- there's just a lack of getting the application in the first place? Would that be, I guess -- how would we remedy that if they're not really able to submit an invoice for the increased costs because it didn't happen?

MR. KEYT: Yeah. I'm understanding what you're saying. This paragraph deals with an increased cost in the aerial application. I think what you're saying, is what if they can't even get an aerial applicator to come at all. It's up to the Zoning Board. You could potentially have a revision simply stating that they have to pay for any increased costs or damage related to the lack of being able to have an aerial application.

DR. WAX: What have you decided to do?

MR. CHAMBERS: So just my thoughts on this is, the way this is written is that the landowner would invoice the Company for any increased costs for aerial

application due to the presence of the Project. My thinking is say you have an example of a non-participating parcel within the Project area, where say there's turbines on all four sides and the aerial applicator just says we're not doing it, then you don't have the instance of an increased cost. You just have the instance of, you know, a lost application on the crop, which is kind of, you know, I don't want it to be too open-ended, but you can't really quantify that. But I just wanted to see if you have any thoughts, if there would be any way that we could, you know, add that language into there. Does that make sense?

DR. WAX: Seems to make sense. What do you think?

MR. LOVIN: It's important.

DR. WAX: I think it makes sense. Is there any way you can word that?

MR. KEYT: I believe so. I think it could say something along the lines, in addition, the Company shall reimburse the increased costs or damage due to or as a consequence of inability of the landowner or farmer to have an aerial application.

DR. WAX: Are you okay with leaving that to Mr. Keyt?

MR. CHAMBERS: What you just said sounds

about right.

DR. WAX: That's fine.

MR. KEYT: Massage it a little bit, but that's what I came up with on the fly.

DR. WAX: We have confidence in you.

MR. KEYT: So paragraph number 26 deals with contacting JULIE before they start digging.

DR. WAX: Sounds reasonable, and I think JULIE would be contacting them if they didn't. So we're okay with that.

MR. KEYT: Number 27 then deals with Avian/Bat/Wildlife/Environmental. The Company shall comply with all current recommendations of the IDNR and the U.S. Fish & Wildlife Service during the construction, operation and decommissioning of the Project. Company shall perform one year of post-construction monitoring as represented in their Special Use Permit Application.

Any changes to paragraph 27?

DR. WAX: We're okay with that.

MR. KEYT: Number 28 and 29, I'm going to cover them together, but 28 covers before they pull their Construction Permits they have to provide surveys for each turbine tower and substation to show exactly what it is they're proposing to construct. And then

once it's done, we would require As-built drawings. That's 28 and 29. Any changes to those paragraphs?

DR. WAX: No changes.

MR. KEYT: 30 deals with cure period. So if there's some provision of the Conditions or alleged breach of violation, we would give them notice and then they have an opportunity to cure that notice. Pretty standard.

Any changes to paragraph number 30?

DR. WAX: We do not have any changes.

MR. KEYT: That takes us to paragraph 31. Proof of compliance. If we request some proof that they have complied with some Condition or a portion of the Ordinance, we want them to provide it. That's what paragraph 31 is about.

Any changes to that?

DR. WAX: Sounds good to us.

MR. KEYT: Okay. We're now at the end of that document Conditions. It would be appropriate for a motion to approve the Conditions as written with the recommended changes for the County Board. Again, it's recommendations to the County Board. These are not final set Conditions. It goes to the County Board.

DR. WAX: Do we have such a motion to approve the Conditions as written and revised?

MR. LOVIN: I'll make that motion.

DR. WAX: Motion by Kyle.

MR. CHAMBERS: I'll second.

DR. WAX: Second by Will. Any discussion? If not, could we have a roll call, please?

MS. NUSBAUM: Mr. Larson?

MR. LARSON: Yes.

MS. NUSBAUM: Mr. Chambers?

MR. CHAMBERS: Yes.

MS. NUSBAUM: Mr. Lovin?

MR. LOVIN: Yes.

MS. NUSBAUM: Mr. Wax?

DR. WAX: Yes.

MR. KEYT: Okay. We've done the Findings of Fact. We've done the Conditions. Now it's time for a motion to either recommend or not recommend the Project, and whether you would recommend the Conditions. Since we've already approved the Conditions, I would suggest either a motion to approve or a motion to -- I'm sorry, a motion to either recommend a denial or a motion to recommend not -- I'm getting tongue-tied. At this point you have a motion on the Application is what you need to make. So that motion should either be a motion to recommend approval or a motion to recommend denial of the Application.

DR. WAX: That will be one to tie it to the Conditions in with this as well, if we approve it.

MR. KEYT: Yeah, if you're recommending approval, I would suggest a recommendation of approval with the Conditions.

MR. LOVIN: Do we have to do it in a positive way like that?

MR. CHAMBERS: I think the last hearing the way it was laid out was, for clarity sake, that the motion should be in the positive with the attached Conditions, whether or not the -- without any bearing on the vote, just so that it's clear, you know, no matter what the recommendation is, that a no vote is a no and a yes vote's a yes. That way you're not flip flopping the negative. That's the way we did it last time, and that seemed to be clear enough. So I think we'll probably do that.

MR. KEYT: For clarity, you're going to roll all the vote. So whatever your motion is, is typically best to make a motion positive as to what the vote is going to be.

MR. LOVIN: So make a motion and then you can roll call a vote yes or no?

MR. KEYT: Typically.

MR. LOVIN: You want to make a motion that's

positive so it's clear what the votes are.

DR. WAX: Well we're open for a motion, a positive motion to approve, and subject to the Conditions. You have to include the Conditions to approve it or not. It would be simpler to going to move to approve it, and it should involve the conditions as well. So we're open to a motion of that nature regardless of how you you're voting.

MR. CHAMBERS: I'll make that motion. So I would make a motion to approve the Project subject to the Conditions that we have submitted.

DR. WAX: Thank you. Do we have a second?

MR. LOVIN: I second.

DR. WAX: Kyle seconds it.

MR. CHAMBERS: And then this would also be if there's to be discussion, it would be at this point, or we can just go ahead and do the vote. So our format is a little different, and for the public that was here at the last hearing, our format there was a little bit different going through each factor and having discussion. In this case with the changes to the State law, that's not how this is laid out. So if we do want to have a discussion, it will just be open discussion now. And if not, it's just the vote and then that's it.

MR. KEYT: I think to distill that, to



clarify, I think what Mr. Chambers is saying is that there's a motion and there has been a second. So the motion's on the floor. Now would be an appropriate time if you want to discuss -- if you want to have discussion.

DR. WAX: So do we need discussion of this or do you want to talk about the pros and cons of what should be? Any input that you have would be fine that we can discuss. Anything else? Will, any discussion on this?

MR. CHAMBERS: Well, I did talk quite a bit last time, and some of my thoughts would be along the same lines, but now we have a different landscape as far as the State goes. So we have -- so I have thoughts on that, of course, that aren't relevant to the vote. So we we've just kind of been put into an odd spot here. We all have our opinions on why we vote a certain way on certain factors, but we're not doing that. We're just doing it all in one. So it almost feels kind of moot to just ramble on about the Project as a whole. I think we can either, you know, discuss some of our thoughts on each individual -- kind of how we would have before. It's just on a little more limited basis. Or you can kind of say your thoughts in general and move to the vote.

So I guess starting with me, my general feeling, so after the first set of hearings we, you know, went through everything and kind of laid out our reasoning on different evidence and different concerns, and now with this hearing we have a lack of that evidence because we have a new hearing and not the same body of evidence for us to deliberate off of which leads us to -- seems to be by design that way, leaves us with less ground to stand on when we go through these things. So just for the record, that bothers me. I think that should bother everybody that's been a part of both hearings that we're just excluding a great deal of testimony and evidence, because we don't have the same people here. We don't have -- the opposition has spent their money on representation and are no longer represented in this hearing, and so there's a very lopsided pile of evidence for this hearing compared to the last hearing. And then the State law added on top of that just -- basically the State law says that the four of us up here do not matter, that our opinion does not matter, that Piatt County shouldn't get to decide what happens in Piatt County. So why are we -- why am I here? So I think as far as the Zoning Board's recommendation to the County, we'll vote on basically the same reasonings as we have before, but the Zoning

Board -- the Zoning Board's job is to protect surrounding property owners in the County from a use of other property that could be injurious to them. The Zoning Board's job is not to, as the State says, shall do this because they say so. So obviously I have some strong feelings on that.

So my vote's going to be a no, and it's -- that would be based on the same reasoning and same evidence that we've been through multiple times, and is also based on the residents in my district and what they have expressed that they want and what they have testified to about their property, their land their enjoyment of their property, and those things speak to me an awful lot. So that's what's behind my reasoning, and I recommend if anybody is new -- was not present for the last hearing, that they perhaps read those transcripts for the previous hearings for some context. I know what's been done for this hearing has been pretty abbreviated. But as far as the Zoning Board's concerned, there's a lot more in our memory than what's happened since the Prosperity Wind Application. So there's more to it than that, and then there's the State to muddle it up. So, I think that's probably about all I'll say on that. Did you guys have some other thoughts?

MR. LARSON: Well said.

MR. LOVIN: Will, you summed it up pretty well there. I think we're put in a very bad position. None of us really want to be here doing this time and time again, but we are here for the residents of Piatt County, whether that be good or bad.

(Court Reporter requests speaker to speak louder.)

MR. LOVIN: I apologize. Prosperity has given us a good case. They've presented a lot to us and given us a lot of factual background, but you know, whether the State wants to hear it or not, we are here for that reason, no reason other than to stand up for Piatt County. It's not always about chasing money. There are people I feel that haven't been here and are nervous about speaking up. Many tenant farmers have expressed that. I'm afraid that landowners may look for somebody else to farm their ground if they come out and say they don't want these things here. But in my line of work, and living in the southern part of the County and dealing with many people down in that area, there's a lot of nervousness that if this comes through there will be more down there. So they're expressing their opinions to me that they don't want to see it either. That's about all I have to say on that.

MR. LARSON: I basically agree with both of

them. I just agree with what both of them said. I mean we've heard this for two years from our residents, good and bad, but unfortunately the other side has spoken. I don't know. You guys said it pretty well.

DR. WAX: Thank you. Thank you. I think Will and Dan and Kyle spoke very well. I think I can see both sides of the thing, but it concerns me that the non-participants and their concerns about health, safety, comfort and diminished -- potentially diminished values has been mostly diminished, and not much attention paid to it, and I still have some concerns about the drainage arrangements. And so, that's where I'm coming from. I'm worried about the non-participants and the people that are concerned. Anybody else have any discussion or comments? Are we ready? We have a motion. We have a second. We've had discussion. If we're are finished, let's have a roll call, please.

MS. NUSBAUM: Mr. Larson?

MR. LARSON: No.

MS. NUSBAUM: Mr. Lovin?

MR. LOVIN: No.

MS. NUSBAUM: Mr. Chambers?

MR. CHAMBERS: No.

MS. NUSBAUM: Mr. Wax?

DR. WAX: No.

(Applause in the room.)

MR. KAINS: Mr. Chairman, the recommendation from the Zoning Board of Appeals will go to the Piatt County Board as a no, a recommendation of denial of the Special Use Permit Application. It's my understanding that the County Board will meet in special session Friday evening October 13, 2023 at 6:30 p.m. -- at 6:00 p.m. Thank you. Six p.m. the County Board will vote at the Courthouse?

MS. NUSBAUM: We will be at the high school auditorium.

MR. KAINS: It will be at the Monticello High School auditorium. The County Board will have a special meeting to vote on this issue, taking the Zoning Board of Appeal's recommendation under consideration. Again, Monticello High School auditorium, 6:00 p.m. on Friday October 13, 2023. Mr. Chairman?

DR. WAX: Do we just assume that the tomorrow night meeting, was that just an alternative? So we don't have to come to that?

MR. KAINS: Was there one scheduled for tomorrow night?

MS. NUSBAUM: There was one scheduled.

MR. KAINS: Very good. Then there's going to need to be a motion, and vote on canceling the hearing

date of tomorrow night, October 4th.

DR. WAX: We are open to a motion to cancel the meeting for tomorrow night.

MR. LOVIN: I make that motion.

MR. LARSON: Second.

DR. WAX: Kyle has made the motion and Dan has seconded it. Any discussion on this? All in favor? Could we have a roll call, please?

MS. NUSBAUM: Yes. Mr. Chambers?

MR. CHAMBERS: Yes.

MS. NUSBAUM: Mr. Larson?

MR. LARSON: Yes.

MS. NUSBAUM: Mr. Lovin?

MR. LOVIN: Yes.

MS. NUSBAUM: Mr. Wax?

DR. WAX: Yes. We need a motion to adjourn.

MR. LOVIN: I will.

MR. WAX: Kyle.

MR. CHAMBERS: I second it.

DR. WAX: Will. Roll call, please?

MS. NUSBAUM: Mr. Larson?

MR. LARSON: Yes.

MS. NUSBAUM: Mr. Chambers?

MR. CHAMBERS: Yes.

MS. NUSBAUM: Mr. Lovin?

MR. LOVIN: Yes.

MS. NUSBAUM: Mr. Wax?

DR. WAX: Yes.

MR. KAINS: Public hearing is adjourned.

(Proceedings this date concluded.)

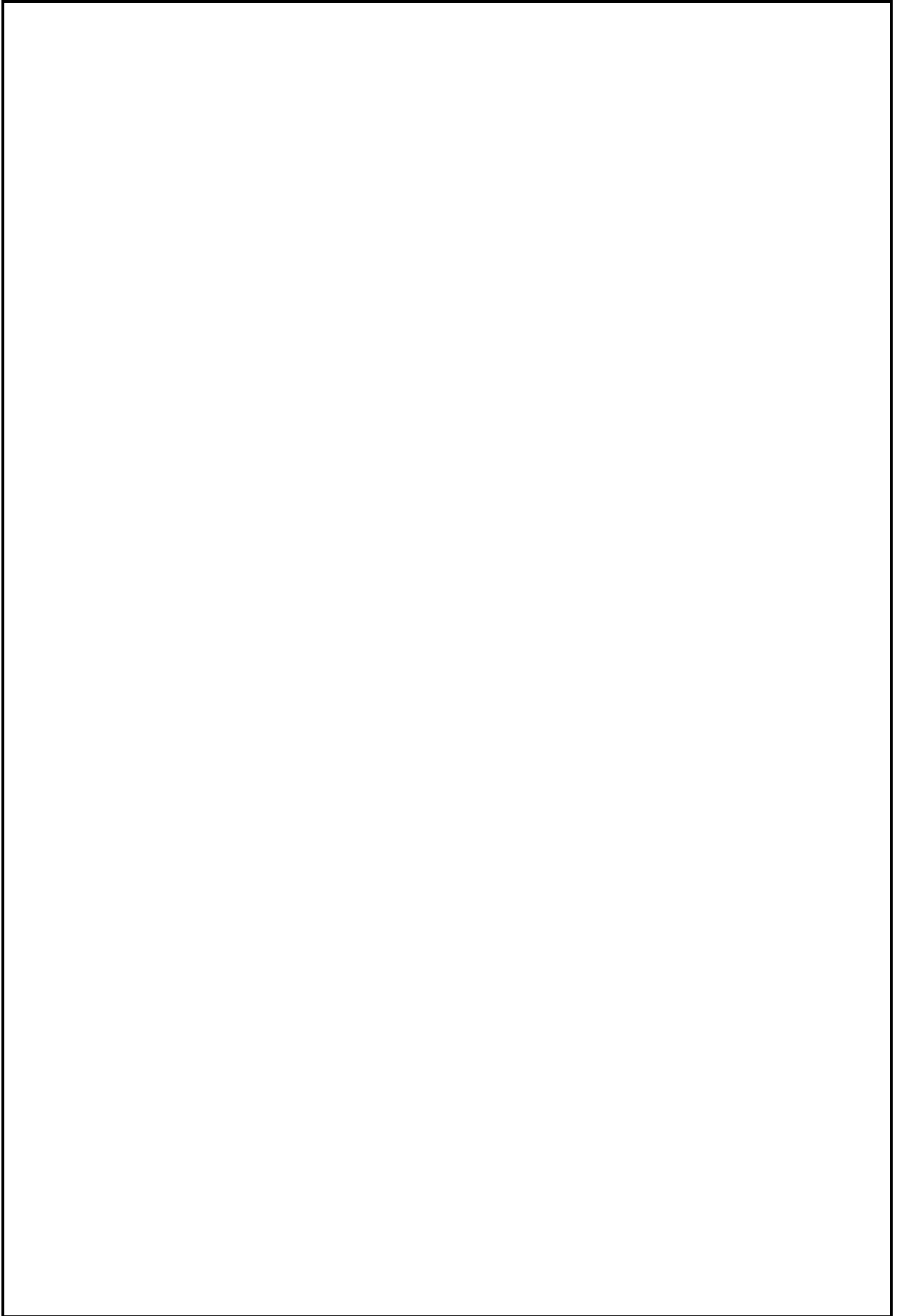


I, Jamie J. Mumm, an Official Court Reporter and  
Certified Shorthand Reporter in and for the Sixth  
Judicial Circuit of the State of Illinois, do hereby  
certify that I transcribed from shorthand notes the  
foregoing proceedings and that the foregoing is a true  
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Jamie J. Mumm, CSR  
Official Court Reporter  
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