



Public Hearing

Date: November 1, 2022

Court Reporter: April M. Metzler, CSR, RMR, CRR, CRC,
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LIVINGSTON COUNTY ZONING BOARD OF APPEALS
STATE OF ILLINOIS

PUBLIC HEARING
BEFORE THE LIVINGSTON COUNTY ZONING BOARD OF APPEALS
REGARDING THE LIVINGSTON WIND PROJECT, LLC
SPECIAL USE PERMIT CONSIDERATION
REGARDING CASE NUMBERS SU-9-22 AND V-3-22
NOVEMBER 1, 2022

April M. Metzler, CSR, RMR, CRR, CRC, FCRR

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1 APPEARANCES
2 MR. SCOTT B. KAINS, ESQ., FACILITATOR
3 MS. JOAN HUISMAN, ZONING BOARD CHAIRPERSON
4
5 BOARD MEMBERS:
6 Mr. William Flott, Mr. Dave Randolph, Mr. Richard
7 Runyon, Mr. Joe Stock
8
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13 PUBLIC HEARING BEFORE THE LIVINGSTON COUNTY
14 ZONING BOARD OF APPEALS REGARDING THE LIVINGSTON WIND
15 PROJECT, LLC SPECIAL USE PERMIT CONSIDERATION, on
16 November 1, 2022, between the hours of 6:04 p.m. Central
17 Time and 7:04 p.m. Central Time of that day, at the
18 Livingston County Historic Courthouse, 112 West Madison
19 Street, Pontiac, Illinois 61764, before APRIL M.
20 METZLER, CSR, RMR, CRR, CRC, FCRR, in a certain cause
21 now pending before the LIVINGSTON COUNTY ZONING BOARD OF
22 APPEALS, STATE OF ILLINOIS.
23
24

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1 IT IS HEREBY STIPULATED AND AGREED, by all
2 parties, that the public hearing may be taken in
3 shorthand by April M. Metzler, CSR, RMR, CRR, CRC, FCRR,
4 a Certified Shorthand Reporter, and afterwards
5 transcribed into typewriting.
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1 (Hearing commenced 6:04 p.m. CT.)
2 FACILITATOR KAINS: Good evening, ladies and
3 gentlemen. This is the support and allocation for a
4 special use permit in variation. And I believe we have
5 everyone assembled.
6 Mr. King, if you would call role, please.
7 MR. KING: Richard Kiefer.
8 MR. KIEFER: Here.
9 MR. KING: Richard Runyon.
10 MR. RUNYON: Here.
11 MR. KING: Bill Flott.
12 MR. FLOTT: Here.
13 MR. KING: Joe Stock.
14 MR. STOCK: Here.
15 MR. KING: Dave Randolph.
16 MR. RANDOLPH: Here.
17 MR. KING: Neil Turner.
18 (No audible response.)
19 MR. KING: Joan Huisman.
20 CHAIRPERSON HUISMAN: Here.
21 FACILITATOR KAINS: Thank you.
22 When last we met on October 20th of this year,
23 we had almost concluded the evidence. We have one
24 witness remaining.

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1 And if Becky Taylor would step forward to the
2 witness table.
3 MS. TAYLOR: The table or here?
4 FACILITATOR KAINS: The table would be fine. That
5 way you can just go through your report, if necessary.
6 (Ms. Taylor takes the stand.)
7 FACILITATOR KAINS: And, Ms. Taylor, if you would
8 raise your right hand to be sworn.
9 April, would you swear the witness, please.
10 (Ms. Taylor sworn.)
11 FACILITATOR KAINS: Now, could you please state
12 your name, spelling your first name and last name for
13 the record.
14 MS. TAYLOR: Sure.
15 Rebecca -- is this on?
16 FACILITATOR KAINS: There's a button ...
17 There you go.
18 MS. TAYLOR: Rebecca, R E B E C C A, Taylor,
19 T A Y L O R.
20 FACILITATOR KAINS: And what is your profession or
21 employment?
22 MS. TAYLOR: I am the resource conservationist with
23 the Livingston County Soil and Water Conservation
24 District.

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1 FACILITATOR KAINS: Very good. Thank you.
2 Now, you may proceed with your testimony.
3 WHEREUPON:
4 REBECCA TAYLOR,
5 of lawful age, being produced and sworn, testified and
6 says:
7 MS. TAYLOR: The Livingston County Soil and Water
8 Conservation District has reviewed the natural resource
9 information for a proposed wind farm in Round Grove,
10 Union, Broughton, and Sullivan Townships in Livingston
11 County.
12 The purpose of this report is to inform
13 officials of the local governing body and other
14 decision-makers with natural resource information.
15 This information may be useful when
16 undertaking land use decisions concerning variations,
17 amendments or relief of local zoning ordinances,
18 proposed subdivision of vacant or agricultural lands,
19 and the subsequent development of these lands.
20 This report is a requirement under Section
21 22.02A of the Illinois Soil and Water Conservation
22 Districts Act.
23 I will say I'm not going to walk through the
24 Board of every single page. It's a quite extensive

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1 report. I will try to hit the highlights.
2 And also, the conclusions of this report in no
3 way indicate that a certain land use is not possible but
4 it should alert the reader to possible problems that may
5 occur if the capabilities of the land are ignored.
6 We're going to start out with the land
7 evaluation and site assessment that was conducted for
8 this site.
9 The land evaluation score of 84 indicates that
10 these soils are considered to be productive soils.
11 The site assessment portion of this evaluation
12 looks at items, such as roads and infrastructure and the
13 degree to which the affected local government can bear
14 the additional costs that development may generate.
15 The site assessment score was 155. The
16 summary of the LESA score information indicates that
17 this project area has a high impact on agriculture from
18 the proposed development.
19 The Livingston County SWCD has always been an
20 advocate for preserving prime farmland whenever
21 feasible. Prime farmland soils are an important
22 resource for Livingston County. Each type is assigned a
23 rating, which is then used to determine the LESA score
24 for the site.

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1 The soils in this project area are either
2 prime farmland, prime farmland if drained, or farmland
3 of statewide importance. Once these soils have been
4 disturbed, it may be difficult to bring them back to the
5 productive level they currently have.
6 Development of this site should include a
7 sedimentation and erosion control plan, which is
8 required by the Illinois EPA. Sediment leaving the area
9 can damage streams, ponds, and wetlands. Best
10 management practices will need to be in place to protect
11 the site and surrounding areas from erosion and
12 sedimentation.
13 The Livingston County SWCD recommends the use
14 of NRCS guidelines and the Illinois Urban Manual in
15 selecting the proper best management practices for each
16 development site.
17 According to the Illinois State Geological
18 Survey, there is no aquifer material within 50 feet of
19 the surface located in the project area, so the
20 potential for aquifer contamination will be slight to
21 none.
22 The Natural Resources Conservation Services
23 wetland inventory does identify wetland areas on sites
24 in the project area, and later I will go over which

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1 sites those are.
2 A wetland delineation should be completed by a
3 certified delineation specialist to determine exact
4 locations so they could be protected during development.
5 Some sites in the project area are in the
6 floodplain. Best management practices should be
7 utilized during development of these sites and each map
8 has more information for that one.
9 Hydric soils are defined by the National
10 Technical Committee for [sic] hydric soils, as soils
11 that formed under conditions of saturation, flooding, or
12 ponding, long enough during the growing season to
13 develop anaerobic conditions in the upper part of the
14 soil. The project area does have some hydric soils or
15 soils that have hydric components included in them.
16 More information on that can also be found in the soil
17 information sheets for each site.
18 Some of the soils on the project area are
19 poorly drained and will frequently pond. The rating of
20 "frequent" means that ponding occurs on the average more
21 than once in two years. The chance of ponding is more
22 than 50 percent in any year. Planners need to take this
23 into consideration, as they develop the project area.
24 And once again, more information for each one can be

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1 found in the soil information sheets for each site.
2 You will find that many of the soils in the
3 project area can be wet and prone to flooding. So that
4 would mean there are limitations on construction of
5 roads and trenches, so caution should be exercised.
6 Several sites also have flow areas and ponding that
7 could impact the siting of the turbine and the access
8 roads.
9 Many of the sites are near to possible wooded
10 areas and wildlife habitat. There is also evidence of
11 hunting activity near one of the sites. So if a
12 comprehensive wildlife study has not been done, we would
13 recommend that one be done to make sure that there will
14 not be adverse effects to all wildlife species.
15 Looking at specific turbines that might have
16 issues. Just a second. I've got to count up here.
17 There are eight turbines that either -- that
18 have access roads that will affect current waterways
19 that are there. Some of them would be able to be moved;
20 some may not. If they cannot be moved with the
21 waterway, there needs to be a rock crossing put in, and
22 there is actual rock crossing construction standards
23 included in the report.
24 There are two that are next to existing

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1 terrace or was Roscow (phonetic) systems, which could
2 also affect how those terraces are functioning. So
3 those may affect the siting of those turbines.
4 There is -- there are three that have possible
5 wetlands on the site that either are near the turbine or
6 that the access road will go around or go through. This
7 is one where it may be beneficial to move your access
8 site to avoid those wetlands. And all of these are
9 marked on the maps for each site.
10 Also, there is access -- or site N2, that
11 access road is going to cross an old raised railroad
12 bed. It may be beneficial to actually connect the
13 access road from N2 to N3 and come in a different way
14 instead of trying to go up and over the old railroad
15 bed.
16 If we look at turbine P3, that is actually in
17 an HEL; so a highly erodible field. And that is one
18 that does have a possible wetland on the site as well.
19 And the turbine site and the access road are also in an
20 area that are to be considered good wildlife habitat.
21 Turbine P9 will be on the edge of existing
22 CRP. This could affect wildlife habitat and other
23 resource concerns that the CRP is addressing.
24 And there are -- R5 is also very near to

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1 existing CRP, which may affect the wildlife habitat.
2 And there are three turbines that are -- either the
3 turbine site or the access road are in the 100-year
4 Floodplain, so those would need to have special
5 considerations when they're being constructed.
6 The Livingston County SWCD would recommend
7 that a subsurface drain tile investigation be completed
8 before the project sites are disturbed. This could be
9 as simple as talking to the farmers and landowners or
10 the drainage districts just to see what tile is out
11 there, to minimize destruction of tile.
12 If drainage tile is damaged during the
13 implementation of this project, it should be repaired
14 according to the included specifications. The damage to
15 drainage tile on these project sites could have adverse
16 effect on neighboring properties.
17 And the Livingston County SWCD would like for
18 there to be a comprehensive decommissioning plan in
19 place to ensure that the properties could again be
20 productive, after the project has ended.
21 And finally, all buried utility and pipeline
22 need be identified and avoided.
23 Construction standards have been provided for
24 rock crossings for waterways, access roads, subsurface

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1 drain tiles, drain tile repair, electric transmission
2 lines, and decompaction (phonetic).
3 If there's any questions?
4 FACILITATOR KAINS: Thank you, Ms. Taylor.
5 Are there questions for Ms. Taylor from any
6 members of the Zoning Board of Appeals?
7 CHAIRPERSON HUISMAN: Yeah. This is Joan Huisman.
8 Were you going through Exhibit 180, or do you
9 have a different report that we were supposed to have in
10 front of us?
11 MS. TAYLOR: I don't know what number my report
12 was ...
13 CHAIRPERSON HUISMAN: Okay. There is a -- what
14 looks to be part of your typical report in the binder
15 that we were provided. But I didn't know what you were
16 referring to in your presentation.
17 MS. TAYLOR: Yeah, I just didn't focus on the -- I
18 didn't pull out the page numbers, like I do on some of
19 my other reports, just because some of it was focusing
20 on the maps themselves, and that would have been a lot
21 of flipping back and forth.
22 MR. GERSHON: Madam Chair, can I clarify?
23 She was specifically reviewing Exhibit 28, and
24 most of her comments -- many of her comments were from

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1 page 7, the exact summary on 28. That's -- we put her
2 report in the binder that was previously submitted.
3 CHAIRPERSON HUISMAN: Okay. Thank you.
4 THE STENOGRAPHER: And your name, sir?
5 FACILITATOR KAINS: Okay. I was going to say, we
6 need names of these gentlemen.
7 MR. GERSHON: Sorry. Mark Gershon, G E R S H O N.
8 FACILITATOR KAINS: Thank you, Mr. Gershon.
9 Are there any other questions for Ms. Taylor
10 from members of the Zoning Board of Appeals?
11 CHAIRPERSON HUISMAN: So have you gone over these
12 with the applicant?
13 MS. TAYLOR: The applicant has seen the report. I
14 haven't gone over specifically site by site, but they
15 have seen the report and the notes on each site.
16 CHAIRPERSON HUISMAN: I tried to catch what you
17 named the turbine, like N2 or T3. But to begin with, I
18 thought you said there's eight access roads --
19 MS. TAYLOR: Yeah. Some of them I grouped
20 together. I didn't list off every single turbine that
21 had -- or turbine site that might have had problems.
22 CHAIRPERSON HUISMAN: All right. Thank you.
23 FACILITATOR KAINS: Mr. Runyon, do you want the
24 floor?

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1 MR. RUNYON: Richard Runyon. Rebecca, did you say
2 the IDNR is adequate -- Broughton Creek, was that?
3 MS. TAYLOR: I didn't have an opinion on that,
4 because I have not reviewed the IDNR information on
5 that. Which turbine number was that?
6 CHAIRPERSON HUISMAN: This is Joan Huisman -- do
7 you need me to spell my name? Okay.
8 I think it's turbine F8.
9 MS. TAYLOR: Okay. Just so I can look at my notes
10 and see what I have here.
11 I didn't have anything about the IDNR
12 setbacks. But I do have down that it would be how close
13 it is to the creek there, that that could cause issues
14 with some other -- as far as, like, archeological sites.
15 I did not mention -- that one would be part of the "near
16 to wooded areas" that could be wildlife habitat. I
17 didn't have that mentioned specifically.
18 FACILITATOR KAINS: Any other questions from the
19 ZBA members for Ms. Taylor?
20 (No audible response.)
21 FACILITATOR KAINS: Questions regarding
22 Ms. Taylor's testimony from counsel for the applicant?
23 MR. GERSHON: No questions. Thank you.
24 CHAIRPERSON HUISMAN: Very good. Thank you.

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1 Are there questions for Ms. Taylor from
2 members of the audience?
3 (No audible response.)
4 FACILITATOR KAINS: And finally, are there
5 questions for Ms. Taylor regarding her testimony from
6 the county staff and consultants?
7 MR. SCHOPP: We have no comments -- or questions.
8 FACILITATOR KAINS: Thank you, Chuck.
9 All right. Ms. Taylor, thank you for your
10 testimony. You may step down.
11 MS. TAYLOR: Thank you.
12 (Ms. Taylor leaves the stand.)
13 FACILITATOR KAINS: There being no other witnesses,
14 a little housekeeping matter from last time.
15 Exhibit 58, the financial statement for EDF; Exhibit 58
16 has been distributed to members of the Zoning Board of
17 Appeals.
18 And Mr. Gershon, I assume you are moving to
19 admit that as well as the other exhibits?
20 MR. GERSHON: Yes, we are. Thank you.
21 FACILITATOR KAINS: Very good.
22 Now, last time I took under advisement the
23 issue of the admissibility of evidence. I have reviewed
24 the legal memorandum submitted by counsel for the

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1 applicant and have read the cases cited therein.
2 It is my opinion that the ZBA's own rules
3 allow for the admission of all exhibits, that the rules
4 state that the hearing shall not be governed by and the
5 ZBA shall not be bound by the strict rules of evidence.
6 I believe that hearsay evidence should be admitted as
7 well as evidence that may be lacking in traditional
8 in-court foundation.
9 I also am of the opinion that the testimony
10 and the reports of the experts should come in as well.
11 In light of my opinion, I am still of the mind that the
12 ZBA is allowed to judge the credibility of the evidence.
13 ZBA members should give the weight to the testimony and
14 each exhibit that they deem appropriate, as some
15 evidence naturally is more credible and reliable than
16 others.
17 One other important note, I am of the opinion
18 that most evidence in a public hearing, such as this,
19 should be admitted, in order to allow the ZBA to make an
20 informed decision and also to establish a complete
21 record should any aspect of the county's decision be
22 appealed. So all exhibits will be admitted.
23 Now that we have come to the conclusion of
24 evidence, it is time for the Board to consider draft

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1 findings of fact that have been prepared and
2 distributed.
3 It is 6:24 p.m. We're going to allow time for
4 the members of the Zoning Board of Appeals to review the
5 draft findings of fact that have been prepared. And so
6 we will come back on the record, once they have finished
7 reading the draft findings of fact. Approximately we
8 will be back in session on the record around 6:45, give
9 or take.
10 So we are in recess, but we do need to remain
11 quiet so that the Board can review the draft findings of
12 fact. Thank you.
13 (A short break was had.)
14 FACILITATOR KAINS: All right. Ladies and
15 gentlemen, back on the record.
16 Ladies and gentlemen, all of the evidence is
17 in. The Board has reviewed the draft findings of fact.
18 And I will turn this portion of the public
19 hearing over to Mr. Ahmad, who will go through the
20 findings of fact, and then the Board will engage in
21 discussion.
22 Mr. Ahmad?
23
24

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1 PRESENTATION OF SYED AHMAD
2
3 MR. AHMAD: Thank you, Mr. Kains.
4 I have open right now currently in front of
5 everyone the findings of fact and recommendations for
6 the special permit use application, and facilitating the
7 deliberations by the ZBA. And I can kind of go through
8 paragraph by paragraph, and if there are any recommended
9 changes by the ZBA, I can make the revisions as needed.
10 And then towards the end of it, we can have a roll call
11 vote to either approve, approve with conditions, or to
12 deny recommending it to the county board.
13 So we can start with paragraph 1, which is
14 "the applicant." I'm not sure if there's any feedback
15 by the ZBA members on that.
16 (No audible response.)
17 MR. AHMAD: If not, we can go down to the "project
18 summary." If there's any recommended revisions to that
19 portion of it ...
20 (No audible response.)
21 MR. AHMAD: Seeing none, we can move on to
22 paragraph 3, which is regarding "the application."
23 (No audible response.)
24 MR. AHMAD: And then number 4, "the hearing

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1 process."
2 (No audible response.)
3 MR. AHMAD: Number 5, "the applicable standards
4 from the ordinance." Any recommended changes?
5 (No audible response.)
6 MR. AHMAD: And moving on to paragraph 6, which is
7 "evidence."
8 (No audible response.)
9 MR. AHMAD: And then going on to paragraph 7,
10 "findings of fact." And then we can move on to the
11 first standard.
12 Are there any recommended changes or revisions
13 or additional comments?
14 (No audible response.)
15 MR. AHMAD: None on standard 1.
16 We can move on to standard 2.
17 (No audible response.)
18 MR. AHMAD: None on standard 2.
19 We can move on to standard 3.
20 (No audible response.)
21 MR. AHMAD: Seeing none on standard 3, we can move
22 on to standard 4.
23 CHAIRPERSON HUISMAN: Syed, this is Joan Huisman.
24 Are you going to go back and correct the

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1 spelling of "Livingston County" throughout the document?
2 MR. AHMAD: I can do that.
3 CHAIRPERSON HUISMAN: Okay.
4 MR. AHMAD: And then moving on to standard 5.
5 We have "additional considerations." These
6 are the -- factors that we consider. And I believe
7 there are a host of these.
8 So let's start with number 1.
9 CHAIRPERSON HUISMAN: Can we go back to standard 5?
10 Sorry.
11 MR. AHMAD: It's okay.
12 CHAIRPERSON HUISMAN: I was looking at it. I would
13 request that we change the statement that the top of, I
14 think what would be page 4 -- my pages are not
15 numbered -- but top of page 4, third line down says:
16 Testimony shall be expected and each proposed turbine's
17 respective positions are well below the limits. I would
18 just like for it say "below the limits."
19 MR. AHMAD: And "are within the limits"?
20 CHAIRPERSON HUISMAN: "Are within the limits," yes.
21 MR. AHMAD: Any other suggested changes on
22 number 5?
23 CHAIRPERSON HUISMAN: Nothing else from me.
24 MR. AHMAD: Moving on to "additional

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1 considerations." Number 1.
2 MR. FLOTT: I believe it's number 1 on paragraph 3,
3 "global fire districts."
4 MR. AHMAD: Yes.
5 MR. FLOTT: I would like to add -- and a lot of
6 these fire districts need mutual aid. So I think the
7 fire districts and any of them that provide mutual aid
8 should probably have that information.
9 MR. AHMAD: Do you mean, in terms of that's your
10 finding, or is that something that you would recommend?
11 MR. FLOTT: That's what I would recommend. And I
12 know that that's in number 3, also.
13 MR. AHMAD: I think the recommendations would come
14 towards the end. This is more the findings of facts
15 that we present.
16 MR. FLOTT: All right.
17 MR. AHMAD: Anything else on number 1?
18 CHAIRPERSON HUISMAN: Which we just have another
19 "Livingston County" that's misspelled.
20 MR. AHMAD: Where exactly is that?
21 CHAIRPERSON HUISMAN: Very last county on that
22 page, very bottom line on the page.
23 MR. FLOTT: Dr. David Loomis.
24 CHAIRPERSON HUISMAN: The very bottom -- oh, yeah,

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1 okay, sorry.
2 MR. AHMAD: Oh, right here.
3 MR. FLOTT: Yeah.
4 MR. AHMAD: I apologize.
5 Moving on to number 2.
6 CHAIRPERSON HUISMAN: Well, excuse me. On number
7 1, I understand it's consistent in all respects with the
8 Livingston County comprehensive plan -- I guess that's
9 the comprehensive plan. Sorry, I was thinking that
10 there are some points that we have left off, but it's --
11 forget it.
12 MR. AHMAD: And I'll make those corrections on the
13 "Livingston County" again.
14 All right. So any comments on number 2?
15 CHAIRPERSON HUISMAN: You caught the "Livingston
16 County" in paragraph 2?
17 MR. AHMAD: Yes, yes.
18 CHAIRPERSON HUISMAN: Okay.
19 MR. AHMAD: Anything in number 3?
20 (No audible response.)
21 MR. AHMAD: Okay. Moving on to number 4.
22 CHAIRPERSON HUISMAN: Oh, okay. In number 4,
23 second paragraph, where you say "but for the M8 turbine
24 which will."

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1 MR. AHMAD: "Which is not."
2 CHAIRPERSON HUISMAN: Okay.
3 MR. AHMAD: Anything else on number 4?
4 (No audible response.)
5 MR. AHMAD: Moving on to number 5.
6 CHAIRPERSON HUISMAN: Again, in paragraph 2, I
7 would say -- or request that we change that to they are
8 "within the limits," so it's at the very level
9 (phonetic) of the paragraph or "well below" and how we
10 changed that before to "within."
11 MR. AHMAD: Sorry. Where are you again?
12 CHAIRPERSON HUISMAN: So stated in number 2, it
13 starts off "positions are well below."
14 MR. AHMAD: Anything else on number 5?
15 (No audible response.)
16 MR. AHMAD: Moving on to number 6.
17 CHAIRPERSON HUISMAN: In number 6, in the second
18 paragraph, the sentence that starts "in addition the
19 proposed project are is."
20 MR. AHMAD: Sorry, where is that?
21 CHAIRPERSON HUISMAN: It's --
22 MR. AHMAD: "The proposed location of the project
23 is within an area."
24 CHAIRPERSON HUISMAN: No. Go down further. It's

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1 almost -- it's the last sentence of the paragraph --
2 MR. AHMAD: "In addition."
3 CHAIRPERSON HUISMAN: There you go.
4 MR. AHMAD: "The project area," it should be
5 "area." Sorry.
6 CHAIRPERSON HUISMAN: Okay.
7 MR. AHMAD: Anything else for number 6?
8 (No audible response.)
9 MR. AHMAD: Moving on to number 7.
10 (No audible response.)
11 MR. AHMAD: Seeing none, moving on to number 8.
12 (No audible response.)
13 MR. AHMAD: Okay. From here, I'm going to go on to
14 "recommendations."
15 And Mr. Kains, I think at this point the Board
16 can take the matter for a vote.
17 FACILITATOR KAINS: Very good. Thank you,
18 Mr. Ahmad.
19 CHAIRPERSON HUISMAN: Don't we wait to review the
20 conditions?
21 MR. AHMAD: Well, the conditions will be dependent
22 on whether or not the special use is going to be
23 approved, or if you guys would like to have conditions
24 or deny.

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1 And if the Board will decide to approve but
2 with conditions, then we can go over the conditions at
3 that time, or if you would like to go on with it before.
4 CHAIRPERSON HUISMAN: Well, that's one of the
5 options for us to choose from. So is everybody ready
6 for conditions?
7 MR. KIEFER: Yeah.
8 MR. AHMAD: Would you like to go over the
9 conditions first? We can do that.
10 CHAIRPERSON HUISMAN: Actually, the Board can do --
11 we typically do discuss conditions, that's ...
12 MR. AHMAD: We can move on to the "conditions."
13 Sorry. One second.
14 If I could just have one moment, please.
15 The "conditions" should be numbered in the
16 packet. For some reason, it's not showing up as
17 numbered here. So I can address that as we move
18 forward.
19 Okay. So moving on to the first paragraph on
20 the "commencement of special use."
21 Any concerns, additions?
22 (No audible response.)
23 MR. AHMAD: Seeing none, we can move on to
24 number 2, which is "the term."

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1 (No audible response.)
2 MR. AHMAD: And number 3 is "compliance."
3 (No audible response.)
4 MR. AHMAD: Number 4 is "the construction and
5 maintenance hours."
6 (No audible response.)
7 MR. AHMAD: Number 5 is "road agreements."
8 (No audible response.)
9 MR. AHMAD: Number 6 is "school buses and vehicular
10 traffic."
11 (No audible response.)
12 MR. AHMAD: Number 7 is "turbine."
13 (No audible response.)
14 MR. AHMAD: Number 8 is "turbine location."
15 (No audible response.)
16 MR. AHMAD: Number 9 is "environmental conditions."
17 Paragraph A.
18 (No audible response.)
19 MR. AHMAD: B.
20 (No audible response.)
21 MR. AHMAD: And paragraph C.
22 (No audible response.)
23 MR. AHMAD: Number 10 is "soil erosion,
24 conservation and drainage."

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1 (No audible response.)
2 MR. AHMAD: 11 is "transmission interference."
3 (No audible response.)
4 MR. AHMAD: 12 is "complaints and resolution."
5 (No audible response.)
6 MR. AHMAD: 13 is "decommissioning and security."
7 (No audible response.)
8 MR. AHMAD: Paragraph A.
9 (No audible response.)
10 MR. AHMAD: Got paragraph B.
11 (No audible response.)
12 MR. AHMAD: Paragraph C.
13 (No audible response.)
14 MR. AHMAD: Paragraph D.
15 (No audible response.)
16 MR. AHMAD: Paragraph E.
17 (No audible response.)
18 MR. AHMAD: Paragraph F.
19 (No audible response.)
20 MR. AHMAD: And then G.
21 (No audible response.)
22 MR. AHMAD: Going on to paragraph 14, which is the
23 "nonoperational or obsolete turbines."
24 (No audible response.)

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1 MR. AHMAD: Moving on to number 15, which is
2 "liability insurance."
3 (No audible response.)
4 MR. AHMAD: 16, "assignment."
5 (No audible response.)
6 MR. AHMAD: If I can just have one moment in the
7 numbering system.
8 Moving on to paragraph 17, "operating
9 requirements."
10 (No audible response.)
11 MR. AHMAD: Paragraph A.
12 (No audible response.)
13 MR. AHMAD: B.
14 (No audible response.)
15 MR. AHMAD: C.
16 (No audible response.)
17 MR. AHMAD: D.
18 (No audible response.)
19 MR. AHMAD: And E.
20 (No audible response.)
21 MR. AHMAD: And then we have paragraph 18, "noise
22 reduction and monitoring."
23 (No audible response.)
24 MR. AHMAD: Paragraph 19, "above-ground

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1 transmission lines."
2 (No audible response.)
3 MR. AHMAD: Paragraph 20, is "water use."
4 (No audible response.)
5 MR. AHMAD: Paragraph 21 is "the good neighbor
6 plan."
7 (No audible response.)
8 MR. AHMAD: 22 is "the fire protection districts
9 and emergency response."
10 Is that where you wanted to recommend the
11 changes?
12 MR. FLOTT: I actually don't know where to put it
13 there.
14 MR. AHMAD: I think you indicated something about
15 the local fire protection districts and ...
16 CHAIRPERSON HUISMAN: Mutual aid.
17 MR. AHMAD: (Continuing.) -- mutual aid.
18 MR. FLOTT: Yeah. "The districts will provide
19 mutual aid."
20 MR. AHMAD: So can I put "the districts will
21 provide mutual aid to them"?
22 MR. FLOTT: You want to put it in to the -- local
23 response agencies, which emergency response agency and
24 add "mutual aid," someplace in ...

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1 MR. STOCK: Can you just add the word "all" to
2 the -- mutual aid comes from ...
3 MR. FLOTT: That's fine.
4 MR. STOCK: So put "all" in.
5 MR. AHMAD: You suggested changes to the language.
6 MR. STOCK: Yeah. I just suggested to what Bill's
7 talking about in the first sentence; just put "all local
8 fire protection districts."
9 MR. AHMAD: Okay.
10 MR. STOCK: That would include the ones that are --
11 mutual aid.
12 MR. AHMAD: Okay.
13 Any concerns with that language or any other
14 language in this paragraph?
15 (No audible response.)
16 MR. AHMAD: If not, we can move forward to
17 paragraph 23.
18 Go ahead, Bill.
19 MR. FLOTT: Maybe "the fire protection districts
20 that provide mutual aid."
21 MR. RANDOLPH: No, it covers when we put the word
22 "all fire protection districts."
23 MR. AHMAD: So the first sentence now reads:
24 Company shall cooperate with all local fire protection

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1 districts.
2 Does that work for you, Bill?
3 MR. FLOTT: (Nodding.)
4 MR. AHMAD: Okay. Anything else on paragraph 22?
5 (No audible response.)
6 MR. AHMAD: On to 23, "existing underground utility
7 lines."
8 (No audible response.)
9 MR. AHMAD: Number 24, "aviation."
10 (No audible response.)
11 MR. AHMAD: Number 25, "reimbursement for county
12 expenses."
13 (No audible response.)
14 MR. AHMAD: Number 26, "validity of conditions."
15 (No audible response.)
16 MR. AHMAD: Number 27, "defense against claims."
17 (No audible response.)
18 MR. AHMAD: Number 28 is "turbines on adjacent
19 property."
20 (No audible response.)
21 MR. AHMAD: Number 29, is "financial assurance."
22 (No audible response.)
23 MR. AHMAD: Number 30, "aerial application."
24 (No audible response.)

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1 MR. AHMAD: 31 is "JULIE."
2 (No audible response.)
3 MR. AHMAD: 32 is "stream setbacks."
4 MR. STOCK: This refers to the Broughton Creek
5 setback, and that's the M8 turbine.
6 MR. AHMAD: That's correct. So the Broughton
7 setback, I believe, is under D1, and that is where
8 the -- so the M8 turbine is within the setbacks that --
9 well, let me rephrase that.
10 The M8 turbine would violate this condition,
11 which is a recommendation of the ND bond. But it's like
12 a recommendation of the ND bond.
13 MR. STOCK: So is this where we discuss this?
14 MR. AHMAD: Absolutely. The ZBA can definitely
15 discuss that and deliberate over that.
16 On whether or not we can include or exclude
17 this language, I don't think that if you are going to
18 permit the placement of the M8 turbine where it needs to
19 be, then this language would probably need to be
20 removed.
21 MR. STOCK: So I didn't even know this Board was
22 allowed to do something like that, consistent with the
23 recommendation of the IDNR.
24 MR. AHMAD: So the IDNR just makes a

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1 recommendation; it's not a requirement. So it's a
2 recommendation to the county.
3 MR. STOCK: Okay.
4 MR. AHMAD: So it's not a mandatory rule and part
5 of the --
6 MR. FLOTT: Does it make us more susceptible to a
7 lawsuit?
8 MR. AHMAD: I don't think so. And again, you have
9 to keep in mind the ZBA is making a recommendation to
10 the County Board. We're not actually enforcing or
11 forcing anybody to act one way or the other.
12 But all the IDNR says, is it recommends for
13 environmental reasons that the setback be that amount.
14 Again, the ZBA is free to recommend. I don't think
15 there would be any potential liability here.
16 MR. RANDOLPH: So you're saying to take that out?
17 MR. AHMAD: I'm saying that that is something to
18 consider. I am not recommending one way or the other.
19 CHAIRPERSON HUISMAN: So how did you write this? I
20 guess I'm reading it over and over.
21 MR. AHMAD: This language is actually from the IDNR
22 recommended setbacks -- recommendations.
23 CHAIRPERSON HUISMAN: So we're saying in 32 that:
24 The company shall maintain a minimum 500-foot setback

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1 for any perennial streams ...
2 MR. AHMAD: This is part B: For forested areas and
3 forested riparian zones, the company shall maintain a
4 minimum -- it has 1,000-foot setback -- from any
5 forested areas, from forested areas five acres or
6 larger -- this includes the following areas, which is
7 Broughton Creek and then I believe there's a legal
8 description there.
9 You know, the understanding from the evidence
10 is the M8 turbine would be -- would fall within it.
11 The language is from the IDNR itself.
12 CHAIRPERSON HUISMAN: For turbine M8, they're not a
13 thousand feet back from Broughton Creek, or are we just
14 identifying that here? Or why is this in here?
15 MR. AHMAD: Well, that was the recommendation from
16 the IDNR, so that's for the ZBA to consider it. And I
17 believe the testimony is that the M8 turbine is within
18 the thousand feet.
19 And the ZBA can make a determination whether
20 or not they're going to have this condition or not have
21 this condition, which could affect whether or not the M8
22 turbine can be placed.
23 CHAIRPERSON HUISMAN: So by putting it there, it
24 has to be a thousand-foot setback?

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1 MR. AHMAD: Yes. If you follow the recommendation
2 by the IDNR, that specific provision, then the M8
3 turbine is likely not going to be feasible.
4 CHAIRPERSON HUISMAN: Okay.
5 MR. GERSHON: May I ask for a point of
6 clarification on this, just a question?
7 These exceptions, I think, we talk about the
8 IDNR are solely related to turbines. That's not stated
9 here. The requirements you're putting here, are those
10 supposed to be -- we assume, as IDNR, that those are
11 only for turbines, and if so we would appreciate the
12 clarification.
13 MR. AHMAD: So this is for the IDNR recommendation
14 documents that are provided as part of the evidence
15 packet by the applicant. And the understanding is that
16 that includes the inability to place a wind turbine in
17 that area.
18 MR. GERSHON: But what I'm questioning is -- we
19 would request clarification here, that this is setbacks
20 with respect to turbines, not with respect to as an
21 example roadways or electric lines, et cetera. And I
22 think that's a clear from the IDNR report that they're
23 only talking about turbines.
24 MR. AHMAD: I believe that that is likely the

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1 correct interpretation.
2 MR. GERSHON: Yeah.
3 CHAIRPERSON HUISMAN: Do we need to clarify that
4 then, or change any language with respect to turbines
5 only? Or do you want time to look that up and make sure
6 that that's a true and accurate statement?
7 MR. AHMAD: Let me review that, real quick. Thank
8 you.
9 FACILITATOR KAINS: April, we're going to go off
10 the record for just a moment. Thanks.
11 (A short break was had.)
12 FACILITATOR KAINS: All right. We're back on the
13 record.
14 Mr. Ahmad.
15 MR. AHMAD: Thank you, Mr. Kains.
16 Having reviewed the IDNR, whatever the
17 recommendation, the letter is actually unclear and the
18 language here in the recommended conditions is the
19 actual language used therein. The IDNR letter does not
20 specify whether that's limited to the turbine or any
21 other buildings or structures.
22 MR. GERSHON: We would appreciate clarification
23 within the document that it relates to the turbines.
24 CHAIRPERSON HUISMAN: Syed, I'm sorry, can you

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1 repeat that?
2 MR. AHMAD: So the language in the conditions
3 that's up there for consideration is the actual language
4 used by the IDNR. The IDNR letter is not clear if their
5 recommendation is limited just to turbines or to any
6 development in that area.
7 MR. RANDOLPH: So if we were to remove this, they
8 can't build the M8 turbine there, correct?
9 MR. AHMAD: If you were to remove it or if you were
10 to keep it in?
11 MR. RANDOLPH: If we were to remove it.
12 MR. AHMAD: If you were to remove it, then they
13 would be able to build the M8 turbine.
14 MR. RANDOLPH: Motion, I think we should remove it.
15 MR. AHMAD: Mr. Kains, I would recommend the ZBA to
16 consider and -- the possibility of removing that
17 language, if that's what you want to.
18 FACILITATOR KAINS: I think at this point it's
19 going to require a motion.
20 MR. RANDOLPH: Motion to remove it.
21 FACILITATOR KAINS: Second --
22 CHAIRPERSON HUISMAN: Well, can we finish reviewing
23 it, and if there's any other revisions to this document,
24 we can do them all at once?

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1 MR. AHMAD: You would decide.
2 FACILITATOR KAINS: We can definitely do it that
3 way.
4 Let's move on, but we're going to -- there is
5 a motion on the floor. But is there a second?
6 MR. KING: I thought I heard a second.
7 MR. RUNYON: Second.
8 FACILITATOR KAINS: Discussion, just with respect
9 to the setback with Broughton Creek M8 turbine.
10 CHAIRPERSON HUISMAN: I would say leave it there.
11 It was put in there for some reason.
12 MR. RANDOLPH: There's a motion and a second call
13 for question.
14 CHAIRPERSON HUISMAN: It's a discussion.
15 FACILITATOR KAINS: Is there any more discussion?
16 MR. STOCK: Do we really know what effects are
17 going to happen, if we allow this to be built there,
18 since the IDNR recommends that we don't allow it? I
19 think Rebecca's recommendation was -- I don't even
20 remember now. I think I wrote it down.
21 CHAIRPERSON HUISMAN: What I wrote down is that
22 Rebecca reviewed it, noted that it's near a wildlife
23 habitat, but gave no opinion on the IDNR
24 recommendation -- or gave no opinion on the siting based

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1 on the IDNR recommendation.
2 FACILITATOR KAINS: Is there a discussion from the
3 Board?
4 (No audible response.)
5 FACILITATOR KAINS: Motion and second, discussion
6 concludes.
7 Mr. King, roll call.
8 MR. KING: Okay. Let me just clarify before we
9 vote, that a "yes" vote on this is saying you do agree
10 to remove the language; a "no" vote means you would like
11 to leave it in?
12 FACILITATOR KAINS: That's correct.
13 MR. KING: All right. Richard Kiefer.
14 MR. KIEFER: Yes.
15 MR. KING: Richard Runyon.
16 MR. RUNYON: No.
17 MR. KING: William Flott.
18 MR. FLOTT: No.
19 MR. KING: Joe Stock.
20 MR. STOCK: Yes.
21 MR. KING: Dave Randolph.
22 MR. RANDOLPH: Yes.
23 MR. KING: Neil Turner.
24 (No audible response.)

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1 MR. KING: Joan Huisman.
2 CHAIRPERSON HUISMAN: No.
3 MR. KING: Three to three.
4 MR. AHMAD: Then we're back on paragraph 32. We
5 removed B1. So now B1 is "forested corridor," and B2 is
6 "contiguous forest."
7 (No audible response.)
8 MR. AHMAD: Moving on to C.
9 (No audible response.)
10 MR. AHMAD: D.
11 (No audible response.)
12 MR. AHMAD: And moving on to paragraph 33, "the
13 work on substation site."
14 (No audible response.)
15 MR. AHMAD: Moving on to paragraph 34, "additional
16 site surveys."
17 (No audible response.)
18 MR. AHMAD: Are there any other proposed -- sorry.
19 Are there any other proposed conditions that
20 anybody would like to suggest?
21 CHAIRPERSON HUISMAN: Okay. Rich, we talked about
22 the "hours of operation." Are you comfortable with the
23 language that's in there?
24 MR. KIEFER: Yeah, I reread it.

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1 CHAIRPERSON HUISMAN: That will suffice.
2 MR. KIEFER: Yeah, they gave permission.
3 CHAIRPERSON HUISMAN: Okay.
4 (Brief pause.)
5 MR. AHMAD: And if there's no additional
6 conditions, then I will go back to Mr. Kains and leave
7 it up to the recommendations of the ZBA and put it to
8 deliberation.
9 FACILITATOR KAINS: Very good. Thank you,
10 Mr. Ahmad.
11 Now, it's time for the Board to make a motion
12 with respect to, first of all, the application for a
13 special use permit.
14 The recommendations, there are three
15 checkboxes.
16 I think in the interest of clarity, rather
17 than there be a motion to deny, which means a "yes"
18 would be "no," it would be appropriate if a motion were
19 made to either approve the application for special use
20 permit, or approve the application for special use
21 permit with conditions.
22 Is there a motion?
23 MR. RANDOLPH: Motion to approve SU-9-22 with the
24 conditions, sorry.

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1 FACILITATOR KAINS: Motion to approve with
2 conditions.
3 Is there a second?
4 CHAIRPERSON HUISMAN: I'll second. Joan Huisman.
5 FACILITATOR KAINS: Now discussion.
6 MR. STOCK: So we're approving it with the
7 conditions as we discussed?
8 CHAIRPERSON HUISMAN: Correct.
9 MR. STOCK: Are we at an impasse on -- was that --
10 I don't know if that -- did I miss something?
11 CHAIRPERSON HUISMAN: We were three to three.
12 MR. STOCK: So we voted to determine if we're
13 taking that out or not then. We're leaving it in?
14 FACILITATOR KAINS: It's going to stay in as there
15 was a tie vote, so it cannot be removed.
16 So with that condition and with all the other
17 conditions, discussion.
18 MR. RANDOLPH: Call for the question.
19
20 CALL THE QUESTION
21
22 FACILITATOR KAINS: Mr. Kiefer, did you have a
23 comment? I see you turned your mic on.
24 MR. KIEFER: I was going to (indicating).

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1 FACILITATOR KAINS: All right. With no additional
2 discussion, Mr. King.
3 MR. KING: Richard Kiefer.
4 MR. KIEFER: Yes.
5 MR. KING: Richard Runyon.
6 MR. RUNYON: Yes.
7 MR. KING: William Flott.
8 MR. FLOTT: Yes.
9 MR. KING: Joe Stock.
10 MR. STOCK: Yes.
11 MR. KING: Dave Randolph.
12 MR. RANDOLPH: Yes.
13 MR. KING: Neil Turner.
14 (No audible response.)
15 MR. KING: Joan Huisman.
16 CHAIRPERSON HUISMAN: Yes.
17 FACILITATOR KAINS: Now, a discussion or a motion
18 first to approve the applicant's petition for variance.
19 Is there a motion to approve the application for
20 variance?
21 MR. RANDOLPH: Motion to approve with variance.
22 FACILITATOR KAINS: Is there a second?
23 MR. STOCK: I'll second.
24 MR. KING: Who's the second?

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1 FACILITATOR KAINS: Who had the second?
2 MR. STOCK: Joe Stock.
3 FACILITATOR KAINS: Thank you, Mr. Stock.
4 Discussion on this issue, petition for
5 variance.
6 MR. STOCK: So I don't have the variance in front
7 of me right now. Did that go to the M8 turbine?
8 MR. KING: No, that was for the substation.
9 CHAIRPERSON HUISMAN: No, only for the substation.
10 But I don't think we've had that document in front of us
11 at the moment. I don't have that on -- is that right?
12 MR. AHMAD: There was an application within the
13 packet.
14 CHAIRPERSON HUISMAN: And you didn't give us
15 anything tonight?
16 MR. AHMAD: No. But the smaller document -- those
17 two documents were in there; one was variance.
18 CHAIRPERSON HUISMAN: Do we have a motion and a
19 second?
20 FACILITATOR KAINS: Yes. It's been moved to
21 approve the applicant's petition for variance.
22 CHAIRPERSON HUISMAN: Okay.
23 FACILITATOR KAINS: Mr. Stock seconded.
24 Now, discussion.

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1 CHAIRPERSON HUISMAN: Are you aware that there was
2 a condition page to this one, too?
3 MR. RANDOLPH: (Nodding.)
4 CHAIRPERSON HUISMAN: Is that what the motion did?
5 MR. RANDOLPH: (Nodding.)
6 CHAIRPERSON HUISMAN: Okay.
7 FACILITATOR KAINS: With conditions, approve with
8 conditions.
9 Just to clarify, Mr. Randolph, that is your
10 motion?
11 MR. RANDOLPH: Yes.
12 FACILITATOR KAINS: And Mr. Stock to clarify,
13 that's your second?
14 MR. STOCK: Yes.
15 FACILITATOR KAINS: Thank you.
16 Discussion.
17 MR. RANDOLPH: Call the question.
18
19 CALL THE QUESTION
20
21 FACILITATOR KAINS: Thank you.
22 Mr. King.
23 MR. KING: Richard Kiefer.
24 MR. KIEFER: Yes.

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1 MR. KING: Richard Runyon.
2 MR. RUNYON: Yes.
3 MR. KING: William Flott.
4 MR. FLOTT: Yes.
5 MR. KING: Joe Stock.
6 MR. STOCK: Yes.
7 MR. KING: Dave Randolph.
8 MR. RANDOLPH: Yes.
9 MR. KING: Neil Turner.
10 (No audible response.)
11 MR. KING: Joan Huisman.
12 CHAIRPERSON HUISMAN: Yes.
13 FACILITATOR KAINS: Thank you, folks. Thank all of
14 you who have been in attendance all five nights of this
15 public hearing.
16 Mr. Wentzell, thank you.
17 Counsel, thank you. Mr. Luntz (phonetic),
18 also, thank you.
19 And I would be remiss if we didn't say thank
20 you to the guy who runs the audio video. I don't know
21 the gentleman's name, but he's been here every night but
22 he's done a tremendous job.
23 I have conducted hearings in a number of
24 different counties in Central Illinois over the last

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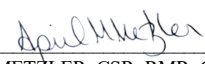
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1 four or five years, and this is the only Board that has
2 done an excellent job of listening, understanding, and
3 ferreting out the issues, and we appreciate them.
4 Thank you and -- oh, and thanks to April from
5 driving down from Schaumburg to take the testimony
6 tonight.
7 And now I think there's one more motion that
8 needs to be made.
9 MR. RANDOLPH: Motion to adjourn.
10 MR. STOCK: Second.
11 FACILITATOR KAINS: Motion and seconded by Joe.
12 Those in favor.
13 (Ayes.)
14 FACILITATOR KAINS: Those opposed.
15 (No audible response.)
16 FACILITATOR KAINS: Oh, you want to do roll call on
17 adjournment? Go ahead.
18 MR. KING: All right. Roll call, Richard Kiefer.
19 MR. KIEFER: Yes.
20 MR. KING: Rich Runyon.
21 MR. RUNYON: Yes.
22 MR. KING: William Flott.
23 MR. FLOTT: Yes.
24 MR. KING: Joe Stock.

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1 MR. STOCK: Yes.
2 MR. KING: Dave Randolph.
3 MR. RANDOLPH: Yes.
4 MR. KING: Neil Turner.
5 (No audible response.)
6 MR. KING: Joan Huisman.
7 CHAIRPERSON HUISMAN: Yes.
8 (Proceeding concluded at
9 7:40 p.m. CT.)
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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF COOK)
4
5 April M. Metzler, being first duly sworn, on
6 oath says that she is a Certified Shorthand Reporter,
7 Registered Merit Reporter, and Certified Realtime
8 Reporter, and Notary Public, doing business in the City
9 of Schaumburg, County of Cook and the State of Illinois;
10 That she reported in shorthand the proceedings
11 had at the foregoing public hearing;
12 And that the foregoing is a true and correct
13 transcript of her shorthand notes so taken as aforesaid
14 and contains all the proceedings had at the said public
15 hearing.
16
17 
18 APRIL M. METZLER, CSR, RMR, CRR, CRC, FCRR
19 CSR No. 084-004394
20
21 SUBSCRIBED AND SWORN TO
22 before me this
23 15th of November, 2022.
24
25 _____
26 NOTARY PUBLIC

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