AS APPROVED APRIL 26, 2018

MINUTES OF REGULAR MEETING
CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
1776 E. Washington Street
Urbana, IL 61801

DATE:	**March 29, 2018**	**PLACE:**	**Lyle Shields Meeting Room** **1776 East Washington Street**
TIME:	**7:00 p.m.**		**Urbana, IL 61802**

MEMBERS PRESENT: Catherine Capel, Frank DiNovo, Ryan Elwell, Debra Griest, Marilyn Lee, Jim Randol

MEMBERS ABSENT : Brad Passalacqua

STAFF PRESENT : Connie Berry, Susan Burgstrom, John Hall

OTHERS PRESENT : Cindy Shepherd, Colleen Ruhter, Scott Willenbrock, Ted Hartke, Tim Osterbur, Jeff Justus, Patrick Brown, Tim Montague, Tom O'Brien, Ann Parkinson, Ray Griest, Daniel Herriott, Jim Nonman, Aaron Esry, Shawn Walker, Kara Walker, Andy Robinson, Christine Walsh, Rebecca Sinkes, Elise Doody-Jones, Stan Harper, Patsi Petrie

1. Call to Order

The meeting was called to order at 6:30 P.M.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present with one member absent.

Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. She reminded the audience that when they sign the witness register they are signing an oath.

3. Correspondence

None

4. Approval of Minutes (March 1, 2018)

Ms. Capel asked the Board if there were any corrections or additions to the March 1, 2018, minutes.

Ms. Burgstrom stated that Mr. DiNovo emailed staff his corrections to the March 1, 2018, minutes. She read Mr. DiNovo's corrections as follows: page 14, line 2, insert "alternatively" between "He said that" and "accessory"; page 14, line 5, delete "or accessory" after "BMX track is necessary"; page 14, line 11, insert "and therefore, permitted as an accessory use" after "incidental"; page 21, line 3, change "over" to "overly"; page 21, line 36, delete "well" after "the power plant will"; page 24, line 18, insert "in" between millions of dollars" and "upgrades"; page 24, line 33, change "maximize" to minimize"; page 24, line 35, change "much" to "little"; page 24, line 36, change "incur" to "produce"; page 32, line 34, change "Steele" to "Stelle"; page 33, line 38, insert "vegetation" between "do not cut" and "with fossil fuel". Ms. Burgstrom stated that Mr. DiNovo questioned if Mr. Fiscella stated "accredited investors" on page 36, line 24, although staff checked the audio and "accredited investors" is what Mr. Fiscella stated. She continued with Mr. DiNovo's correction to page 39, line 31, insert "if" between "said that" and "he put".

Ms. Capel asked the Board if there were any additional corrections to the March 1, 2018, minutes, and there were none.

Ms. Capel entertained a motion to approve the March 1, 2018, minutes, as amended.

Mr. DiNovo moved, seconded by Mr. Randol, to approve the March 1, 2018, minutes, as amended. The motion carried by voice vote.

5. <u>Continued Public Hearing</u>

895-AT-18 Petitioner: **Champaign County Zoning Administrator Request to amend the Champaign County Zoning Ordinance as follows: Part A: Amend Section 3 by adding definitions including but not limited to "NOXIOUS WEEDS: and "SOLAR FARM"; Part B: Add paragraph 4.2.1 C.5 to indicate that SOLAR FARM may be authorized by County Board SPECIAL USE permit as a second PRINCIPAL USE on a LOT in the AG-1 DISTRICT or the AG-2 DISTRICT; Part C: Amend Section 4.3.1 to exempt SOLAR FARM from the height regulations except as height regulations are required as a standard condition in new Section 6.1.5; Part D: Amend subsection 4.3.4 A. to exempt WIND FARM LOT and SOLAR FARM LOT from the minimum LOT requirements of Section 5.3 and paragraph 4.3.4 B. except as minimum LOT requirements are required as a standard condition in Section 6.1.4 and new Section 6.1.5; Part E: Amend subsection 4.3.4 H. 4. to exempt SOLAR FARM from the Pipeline Impact Radius regulations except as Pipeline Impact regulations are required as a standard condition in new Section 6.1.5; Part F: Amend Section 5.2 by adding "SOLAR FARM" as a new PRINCIPAL USE under the category "Industrial Uses: Electric Power Generating Facilities" and indicate that SOLAR FARM may be authorized by a County Board SPECIAL USE Permit in the AG-1 Zoning DISTRICT and the AG-2 Zoning DISTRICT and add new footnote 15. to exempt a SOLAR FARM LOT from the minimum LOT requirements of Section 5.3**

and paragraph 4.3.4. B. except as minimum LOT requirements are required as a standard condition in new Section 6.1.5.; Part G: Add new paragraph 5.4.3 F. that prohibits the Rural Residential OVERLAY DISTRICT from being established inside a SOLAR FARM County Board SPECIAL USE permit; Part H: Amend subsection 6.1.1 A. as follows: 1. Add SOLAR FARM as a NON-ADAPTABLE STRUCTURE and references to the new Section 6.1.5 where there are existing references to existing Section 6.1.4; and 2. Revise subparagraph 6.1.1 A. 11c. by deleting reference to Section 6.1.1A. and add reference to Section 6.1.1A.2; Part I: Add new subsection 6.1.5 SOLAR FARM County Board SPECIAL USE Permit with new standard conditions for SOLAR FARM; Part J: Add new subsection 9.3.1 J. to add application fees for a SOLAR FARM zoning use permit; and Park K: Add new subparagraph 9.3.3 B.8. to add application fees for a SOLAR FARM County Board SPECIAL USE permit.

Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. She reminded the audience that when they sign the witness register they are signing an oath. She asked the audience if anyone desired to sign the witness register and there was no one.

Mr. John Hall, Zoning Administrator, distributed new Supplemental Memorandum #6, dated March 29, 2018, to the Board for review. He said that attached to the memorandum is a Source or Brief Justification of All Proposed Standard Conditions for Solar Farms, and the Board may find that attachment helpful during their review. He said that page 2 of the memorandum includes the proposed revision to Section 6.1.5 B.2.a.(2) of the proposed solar farm text amendment. He said that staff realized that requiring a Resolution of Municipal Non-opposition pre-supposes that there will be a Resolution of Municipal Non-opposition, and since no one knows what will happen when the legal advertisement is placed, staff decided to revise Section 6.1.5 B.2.a.(2) to indicate a municipal Resolution regarding the PC Solar Farm. He said that this could be a Resolution of Non-opposition or it could be a Resolution of Opposition, but staff does not want to pre-judge these things and this will let the case continue without having to do a new legal advertisement.

Mr. Hall stated that a Preliminary Draft Finding of Fact dated March 29, 2018, was distributed as an attachment and page 2 of the distributed memorandum includes an excerpt of the part of the evidence regarding the disturbance of best prime farmland. He said that for one of the applications that staff has in the office, the largest solar farm, staff completed an analysis of the by-right lots that could be created from the 1,299 acres before a Rural Residential Overlay (RRO) would be required, and these by-right lots can be created by means of a survey or minor plat of subdivision. He said that 38 existing parcels and 86 additional building lots could be created, and since these will be located on best prime farmland, the maximum lot size for these lots is 3 acres. He said that staff tallied an amount for a typical house, garage, driveway, septic system, reserve septic system and a 10 feet buffer around the house to identify the disturbed areas, and then staff determined how much that is as a percent of the total acreage and compared that to the solar farm plans that staff currently has on file. He said that staff added up the amount of disturbed earth due to the posts supporting the solar arrays, the underground wiring, access

roads, driveways, and the substation. He said that there have been some lots created after January 1, 1998, which is the date that staff used for tracking these things, and when staff compared those two totals, the proposed solar farm right now, based on the plans on file, will disturb 2.9% which includes the driveways consisting of compacted earth and no gravel. He said that for the 86 residential lots, the disturbance is 2.2%, so the solar farm including the compacted earth and access roads will disturb 0.7% more land. He said that this is part of Policy 1.1.6, which discusses minimizing the conversion of best prime farmland and staff is recommending that this amendment will HELP minimize the conversion of best prime farmland given the comparison of those two amounts. He said that HELP minimize the conversion of best prime farmland is staff's recommendation, but the Zoning Board of Appeals (ZBA) could change that recommendation if the Board does not find it acceptable.

Ms. Lee asked Mr. Hall if staff's comparison included the substation.

Mr. Hall stated yes. He said that the draft ordinance included the separation to substations and transmission lines. He said that staff included the phrase transmission lines because staff didn't mean to include all the overhead electrical lines. He said that there are some minor overhead electrical lines which are the same height as those in the rural area already, and then there are the larger electrical overhead transmission lines. He said that Patrick Brown, Director of Development for BayWa-r.e. Solar Projects, suggested that is intending lines that are above 34.5 kVA; therefore, staff is proposing that change and adding that specificity.

Mr. Randol asked Mr. Hall if the disturbance of best prime farmland was counted once or twice.

Mr. Hall stated that the disturbance of best prime farmland was only counted once.

Mr. Randol asked if it would be doubled in 30 years.

Mr. Hall stated no. He said that for the post supporting the arrays, staff assumed one square foot during their calculations, although the posts are 8" by 8", but when they are removed more than one square foot will be disturbed. He said that staff assumed that if decommissioning occurred, this would be the estimated amount disturbed.

Ms. Griest asked Mr. Hall if staff is approaching this by equating conversion with disturbance, as opposed to conversion being usage.

Mr. Hall stated that regarding conversion, he would have to say that it is 100% conversion, because it is no longer being used for agricultural production.

Ms. Griest stated that Item 9.A.(2)d. states that the proposed amendment will HELP minimize the conversion of best prime farmland.

Mr. Hall stated that Item 9.A.(2)d. utilizes the same language as the policy.

Ms. Griest stated that she is not sold on the justification as being in support of minimizing conversion, because it isn't minimizing conversion but is minimizing disturbance, and those are two separate issues.

Mr. Hall asked Ms. Griest if she believes that it would be more helpful to distinguish between conversion and disturbance. He said that staff's point is that, in the way that we think about it there is conversion, but staff is suggesting that disturbance may be a more critical consideration.

Ms. Griest stated that she is not buying in on that yet. She said that disturbance speaks to preservation, but it still doesn't speak strictly to conversion in that you are only disturbing a portion of what you are converting, but you are you are converting all of it.

Mr. Hall stated that two analyses could be done for conversion, because as we talk about conversion for those 86 residential lots we are talking about 3 acres per lot, which is going to be a very small acreage compared to the 1,299 acres, but all numbers should be as accurate as possible.

Ms. Griest stated that we are discussing a substantial difference in acreage comparably similar in disturbance, but she can't in good conscience buy in that it minimizes conversion.

Mr. Hall stated that it sounds like Ms. Griest would be willing to buy in on something other than HELP minimize the conversion of best prime farmland, but to point out something about disturbance in addition to the conversion.

Ms. Griest stated that she likes the idea of putting the actual conversion numbers in the recommendation, because it is important for the County Board members to see the detail; however, she is not sure how we can get from 1,299 acres and what the lots would take out and claim that it HELPS minimize conversion. She said that this is an excessive conversion of the best prime farmland, but if we were talking about the less productive soils then she could be persuaded, but we are not and are using some of the most productive soils in the County.

Mr. DiNovo asked Mr. Hall if it is our belief that in the absence of this text amendment, solar farms would be impractical if they had to meet the standards for wind farms. He said that it is not as though the current Zoning Ordinance prohibits solar farms, because they would be treated as wind farms. He said that he is trying to understand the underlying logic of the amendment more clearly. He asked if it is to make these projects feasible at all, because otherwise they would have to meet the requirements for wind farms, or is it to just have more logical and appropriate standards than would otherwise apply. He said that if we would think that people would move forward under the current ordinance, the amendment would not have much effect on conversion by itself.

Mr. Hall stated that the issue of conversion would have to be dealt with in each individual solar farm

case. He said that resolving the issue of using best prime farmland is essential before this Board reviews their first solar farm.

Mr. DiNovo stated that the amendment itself is what this Board is evaluating and how it would affect the decisions people might make regarding the conversion of best prime farmland. He asked if we can reasonably conclude that the Board would not be reviewing any solar farms with this amendment.

Mr. Hall stated that he would believe that Mr. DiNovo is partly accurate, one solar farm developer told him that they would not develop under the wind farm regulations. He said that the small community systems applicants are so eager to develop and they may be willing to take the chance under the wind farm regulations, but we are only talking about 12 acres of area.

Mr. DiNovo stated that the amendment does facilitate these developments and does change the status quo.

Ms. Lee asked Mr. Hall if any part of the 1,299 acres will be farmed or will it all consist of solar panels.

Mr. Hall stated that the way it has been described to him, they do not want to do any farming within the solar farm area, because the solar panels are very expensive to replace. He said that he hopes to see some sort of apiary (beehive) activities occurring there, but he doubts that there will be any other agricultural use.

Ms. Lee stated that she attended a seminar at the Champaign County Farm Bureau and it was indicated that only part of the land would be used and the farmers would have to farm around the solar farm.

Mr. Elwell asked Mr. Hall if any economic data has been received indicating what the 1,299 acres is currently producing. He said that he would like to see a comparison regarding the productivity between 1,299 acres of best prime farmland versus 1,299 acres of a solar farm, and is there a way to equate per square foot of land.

Mr. Hall stated that the only comment that he can make is that the landowners appear to be happier is receiving the income from a 1,299 acre solar farm versus 1,299 acres of row crop.

Mr. Elwell asked if the County should care if the solar farm is located on best prime farmland versus non-best prime farmland.

Mr. Hall stated that Champaign County has an established Champaign County Land Resource Management Plan and the Board must address those goals and policies, otherwise they are completely meaningless and when they are considered under a different context the Board would be reminded as to how meaningless they were.

Ms. Capel stated that in the language of the goals, the word conversion is the standard.

Mr. Hall stated that Land Use Goal 9 Energy Conservation, Objective 9.5: Renewable Energy Sources, indicates the following: "Champaign County will encourage the development and use of renewable energy sources where appropriate and compatible with existing land uses."

Mr. DiNovo stated that there are two meanings of farmland preservation; one is focused on the acreage available to farm, and the second is protection of the soil resource. He said that the word conversion applies to the number of acres available for people to farm, and anything you do to make that land unavailable to farm is conversion. He said that somewhere the fact should be mentioned that the nature of this conversion is not dissimilar to the typical kinds of development because it involves the same type of land disturbance. He said that if you had those 86 or 96 lots with houses, septic systems, driveways and garages, the cost of reconverting the land so that it could be farmed would be prohibitive, because recovery of farmland under a subdivision is not practical to farm again. He said that the farmland under a solar farm can practically be recovered and farmed again, and is not lost forever in the same sense as urban development would render the land lost forever. He said that the land under a solar farm is converted, but only temporarily.

Ms. Griest stated that she would dispute temporarily and would rephrase that to say in a manner that is recoverable.

Mr. Hall stated that the new Supplemental Memorandum #6 also includes the Draft March 15, 2018, minutes, which are for discussion only. He said that a noise study of photovoltaic projects was not mailed out in the mailing packet, but was placed on the website for review. He said that the 2012 noise study was for a photovoltaic solar farm in Massachusetts and is the only bona fide noise study that staff could find, but he is sure that there are others out there. He said that the noise study is interesting but it does not provide a lot of detail that is useful in the context of drafting an ordinance, except that it establishes that 150 feet from the boundary of the array that was being studied, noise was not an issue. He said that the study does not indicate how far away the inverters were from the boundary of the array, but it is an interesting study and staff believed that it was worth making it available on the website.

Mr. DiNovo stated that the different site plans provided to the Board for review indicate that all the inverters are located in the interior of the project and are not located at the perimeter, and he would suspect that there is a reason for that placement.

Mr. Hall stated that the plans that are located in the Department of Planning and Zoning office indicate the inverters are centrally located, but sometimes, in the larger solar farms that are spread out, it is hard to identify where central is located, thus the proximity to the property line becomes more critical.

Ms. Capel asked the Board if there were any additional questions for Mr. Hall.

Ms. Lee stated that Attachment B, to Supplemental Memorandum 6 indicates Standard Condition 6.1.5D.2. which states the following: "Minimum 100 feet separation from adjacent dwelling and not less than 50 feet

separation from adjacent lot of three acres or less in area." She asked why this standard condition is not for all residences, because on a farm there could be a dwelling at the edge of the property and the solar farm could have the same effect on that farmstead as it would for a dwelling on a three-acre parcel.

Mr. Hall stated that the standard condition regarding separation to a dwelling applies to all dwellings. He said that the separation to the property line only applies to lots that are three acres or less.

Ms. Lee asked Mr. Hall to indicate which standard condition only applies to three acres or less.

Mr. Hall stated that the property line separation only applies to the small lots.

Ms. Lee asked Mr. Hall if he is talking about the 50 feet separation.

Mr. Hall stated yes.

Ms. Lee asked why the minimum 50 feet separation from adjacent dwellings does not apply to all lots, because there could be a farm dwelling located at the boundary line and the solar farm would create the same effect as it would for a three-acre parcel. She said that at one point her residence did not have the land to the north under the same ownership and their dwelling was right next to the 40 acres to the north; therefore, they could have been in the same situation as someone on a three-acre lot.

Mr. Hall stated that the 100 feet applies to any dwelling regardless of how many acres that dwelling is on.

Ms. Lee asked Mr. Hall if the 50 feet separation only applies to the three acres.

Mr. Hall stated yes.

Ms. Lee stated that there could be a situation where farm property could be 50 feet from the boundary line or even less and it would be treated differently than a three-acre lot.

Mr. Hall asked Ms. Lee if she is concerned about farmland that is in production.

Ms. Lee stated that she is talking about the location of the farm residence.

Mr. Hall stated that a farm house is treated the same way as any other dwelling and the minimum separation is 100 feet.

Ms. Lee stated that the 50 feet separation does not apply to a farm property.

Mr. Hall stated that staff is not proposing to require a greater separation around farmland, because that would lead to taking more best prime farmland out of production.

Ms. Griest stated that a lot of the confusion is due to the two separations being included under one standard condition. She suggested that, for clarity, the two separations be divided into two separate standard conditions.

Mr. Hall stated that he is always happy to add space.

Mr. DiNovo stated that the way the standard condition is currently written only applies to lots that are three acres or less, so conceivably it would apply to vacant lots that are less than three acres or lots that were occupied by commercial operations. He said that if the concern is really about residences, it would be easier to create a standard for just residences.

Mr. Hall stated that all the standard conditions are waivable by the ZBA, and we can always add more space and detail, but in fact that is the complaint that he receives about our regulations, they are too long.

Mr. DiNovo stated that maybe a separate standard for separation to the lot line is unnecessary, if we have a separation distance from the dwelling itself. He said that such a standard would treat all dwellings the same.

Mr. Hall stated that if you think about a three-acre lot that is just the 200 feet average lot width and no separation is required from the property line, there could easily be a solar farm which is very close to the back one and one-half acres of that lot, and he does not believe that is what the residents of Champaign County want. He said that if you have a long lot with the residence at one end, at the other end the solar farm will be right up to the back of the lot.

Mr. DiNovo stated that only the standard setback would apply. He said that he thought there was a greater setback.

Mr. Hall stated that there is the setback from the dwelling itself and then there is the setback from the property line, on lots three acres or less. He said that a three-acre lot could be 600 feet deep. He said that all the standard conditions are waivable, but we are trying to get standards in place so that a solar farm developer has a reasonable expectation of what would meet the conditions.

Ms. Capel asked the Board if there were any additional questions or discussion regarding Attachment B.

Ms. Lee stated that Standard Condition 6.1.5E.3 states the following: "Maximum height shall be as approved in Special Use Permit." She stated that there is no maximum height proposed, and Ms. Burgstrom has previously indicated that one of the proposed solar farms has a height of seven feet. Ms. Lee stated that initially the amendment was proposed to have a maximum height of 50 feet, and Kankakee County has a maximum height of 30 feet. She asked Mr. Hall why Champaign County does not follow Kankakee County and require a maximum height of 30 feet, rather than having no height requirement.

Mr. Hall stated that the trouble with a table like the one for Attachment B. is that it is never the same as the proposed amendment. He said that the intent of the amendment is to allow the ZBA to establish the height during any hearing. He said that he has no idea how large a transmission line pole may need to be and it is best for the solar farm developer to indicate how large it needs to be and the Board can review it during the public hearing. He said that page A-9, Item #8.E.3. of Attachment I, dated March 29, 2018, states as follows: "Maximum height. The height limitation established in Section 5.3 shall not apply to a PV SOLAR FARM. The maximum height of all above ground STRUCTURES shall be identified in the application and as approved in the SPECIAL USE PERMIT. "

Ms. Lee stated that there could be a situation where the same standards are not applied to every solar farm.

Mr. Hall stated yes. He said that he does not believe that this Board is in the position of determining the height of transmission poles. He said that the Board is in the position of determining that they do not want to see poles of that height so close to dwellings or a village, but until a proposal is presented to this Board, it is best to not adopt something that will have to be waived later.

Ms. Lee asked Mr. Hall if Kankakee's maximum height was for the panels.

Mr. Hall stated that he does not know what Kankakee's maximum height is for, but he does not believe that they were working with a 1,299 acres solar farm like the one that this Board may be reviewing once the amendment is adopted. He said that as he reviewed many of the ordinances, he believes that they were drafted and are appropriate for a small scale solar farm where the issues are very simple. He said that once this Board sees a solar farm that envelopes existing dwellings, the Board will be hard pressed in referring to any other ordinance that anticipates dealing with something like that, and he wonders if the proposed amendment does enough for people in those instances. He said that one of the critical things that this Board must decide is when there is solar farm that is proposed on all three sides of a property, does the proposed amendment provide enough mitigation.

Ms. Griest asked Mr. Hall if he had any thoughts about what type of additional mitigation might be reasonable. She said that she does not believe that those landowners who own a three-acre lot and are completely surrounded on all sides by the solar farm are not being provided enough mitigation during a Special Use Permit consideration for her to say that it is a good idea. She said that this flies in the face of what the ZBA attempts to do as far as good development. She said that rural development is one thing, but those residences, many of them are farmsteads that maybe have been in existence for 100 years or more.

Mr. Hall stated that he had such a bad experience with ELUC regarding the waste of good prime farmland that he was very cautious on the amount of separation and things like that, because he heard so many comments about not wasting best prime farmland with buffers. He said that with the photovoltaic systems that are proposed currently, there is only one with transmission poles that will be over 8 feet in height. He said that if the vegetative buffer is required to be seven feet in height, it will not be there in year one or two, but eventually it will be there and will be no different than a cornfield, although it will be photovoltaic solar

panels year around. He encouraged the Board to expand the amendment as they see fit, but he does not recommend a 1,000 feet separation, because if the Board does recommend such a separation, or even a 500 feet separation, the County will probably not have any solar farms. He said that there are not many things in the Zoning Ordinance which requires a 500 feet separation or more, and if the panels are no more than 8 feet high and they are shielded by vegetation, how much separation is enough. He said that he hopes that the Board receives comments from people from those types of areas, such as Ms. Justus, because he is sure that they do have some concerns.

Mr. DiNovo stated that 100 feet measured from the dwelling in four directions, and he assumes that there are some lots that are close to just one acre, is a radical change in the expectations of the people who purchased their lots and to be completely surrounded within 100 feet from their home by an eight feet barrier, whether it is vegetative or not. He said that his property is wooded, but he makes a concerted effort to keep one side of their property open, otherwise it would be claustrophobic. He said that he is bothered by the notion that people who bought a lot that is usually open nine months out of the year, to suddenly be put in a situation where they are completely surrounded by an eight feet barrier.

Mr. Hall stated that if that lot is surrounded by an eight feet barrier there will be no more homes coming in, no subdivisions, no Rural Residential Overlay (RRO), no spreading of lime in the spring, no planting in the spring, no harvesting in the fall.

Ms. Lee stated that she in lives in the rural area of the County and she feels confined when her dwelling is surrounded on three sides by corn, and that is only for part of the year.

Ms. Capel stated that hopefully the Board will hear testimony from people who will be involved by a proposed solar farm that will surround their properties.

Ms. Capel stated that the Board will now move to the Witness Register.

Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. She reminded the audience that when they sign the witness register they are signing an oath. She asked the audience if anyone else desired to sign the witness register.

Ms. Capel called Cindy Shepherd to testify.

Ms. Burgstrom informed the Board and staff that Ms. Shepherd provided copies of her written statement, and those copies were distributed to the Board and staff tonight.

Ms. Cindy Shepherd, who resides at 2010 Burlison Drive, Urbana, thanked the Board for their public service and for watching out for the health and wellbeing of the Champaign County community. She said that she is the Central Illinois Director for a non-profit organization called Faith in Place, and they work with communities of all religious traditions on projects that build healthier communities by protecting the air,

land and water that God's people share. She said that they have been active in supporting the *Future Energy Jobs Act* (FEJA) and they are excited about the opportunities it creates for renewable energy, especially solar, in Illinois. She said that there are two reasons why they support renewable energy; one is that carbon based pollution endangers our children and families in many ways, and we know that is important for people of faith to lead the way in seeking clean energy solutions for the long-term wellbeing of our planet and the people on it. She said that the second reason is that they believe that one way we can love and help our neighbors who are economically challenged is by lowering energy cost and by providing good jobs. She said that the clean energy sector is poised to do that in Illinois, and according to the Clean Jobs Midwest Report issued in September by E2 and Clean Energy Trust, there are approximately 120,000 people working in clean energy jobs in Illinois, a 4.8 percent increase since 2015, and 54 of those people live in Champaign County. She said that many more jobs can be added as FEJA reaches its goal of going from 74 to 3,000 megawatts of solar power in the grid in Illinois.

Ms. Shepherd stated that community solar projects play an important role in these benefits, and she would like to draw the Board's attention to an area that may not be obvious when the discussion focuses on solar developers, land leases, and such. She said that community solar is designed to fill the niche in the energy market for people who are not as fortunate as I am, to be able to put solar panels right on my roof. She said that for many people, that option is limited because they do not own their home. She said that we have a lot of renters in Champaign County, and not just students; 43% of Champaign residents rent. She said that others, both people and non-profit groups like churches, would like to use clean solar energy, but they lack the right kind of roof, or they get too much shade, or, and this is a big issue, they do not have the thousands of dollars in up front installation costs to purchase outright. She said that there are tax credits available for people who have tax liability, but communities of faith and non-profit agencies and schools don't pay taxes, so that is useless to them and they have to work with investors. She said that community solar, large or smaller, fills this need if it remains affordable. She said that subscribers can sign up with community solar and their energy dollars support these carbon free, quiet, environmentally responsible power producers. She said that solar costs less than coal, oil or gas, and a lot less than nuclear energy to produce. She said that the savings was meant to be passed on to consumers, many of whom are low income, and all of whom can use that money in other areas of the local economy. She said that churches and communities of faith love the idea that they could cut the utility portion of their budgets and use that money to enlarge their youth ministry, or their community outreach, or raise their pastor's salary.

Ms. Shepherd stated that community solar doesn't require up front entrance fees to join, and it cuts the supply portion of a subscriber's electricity bill significantly. She said that good estimates and experiences in other counties and states leads us to expect that total energy bills could be reduced by 15% to 20%, and this is especially important for families surviving on low and fixed incomes. She said that in Champaign County, very low-income families spend close to 27% of their income on energy, based on data by the independent firm Accounting Insights, who shared their data with Inside Energy. She said that economists say that affordable energy is when someone pays 6% of their income, and if the low-income people could cut 20% of that big expense, it would mean better food, more school supplies, or a new coat for grandma. She said that when the Board is thinking about adding huge costs and restrictions to a solar project in Champaign

County, please don't think that you are just impacting fat cat solar developers, or the landowner who would be leasing to a solar farm instead of a row crop farmer. She said that if the Board makes regulations so restrictive that solar doesn't make sense for investors here, then you are also and more importantly, impacting non-profits and our most vulnerable neighbors. She said that if the restrictions and regulations that this Board recommends keep solar out of Champaign County, the Board would be making sure that communities of faith who rely on members gifts to do their work, and families who scrape by with pay-check to pay-check, social security check to social security check, will be shut out of solar, and they won't be able to choose what would be best for their environment or their budget, and that would be a real shame.

Ms. Shepherd stated that others will speak to the environmentally friendly aspects of solar development, and how it is possible to protect the rich beautiful land we all love, and she would ask that the Board considers drafting this zoning ordinance in such a way that it watches over solar, but also welcomes the kinds of projects that could make Champaign County a leader in providing clean power to all its citizens.

Ms. Capel asked the Board and staff if there were any questions for Ms. Shepherd and there were none.

Ms. Capel called Colleen Ruhter to testify.

Ms. Colleen Ruhter, who resides at 910 CR 2200E, Sidney, thanked the Board for the opportunity to speak tonight. She said that she is not against solar energy, and she has spent most of her career as a civil engineer advocating for environmentally friendly design and construction. She said that she would love to see solar panels on the roof of every house in this country, but that word country has another meaning, a rural setting. She said that most people in Champaign County, outside of the city limits would say that they live in the country. She said that she and her husband just officially established their own small family farm that they dubbed "That Little Farm in the Country" and just established their Limited Liability Company (LLC). She said that if a solar farm is constructed near and around their home, that ideal no longer exists, because they will be "That Little Farm in the Industrial Park". She said that aside from the complete change in the setting of their community, or any rural community where solar may come in, she has other concerns as well, which will apply to solar farms implemented anywhere and should be considered on a planning level by this Board.

Ms. Ruhter stated that she is concerned about being caged in by tunnels of fence. She said that seven feet high fences on either side of the road makes for a claustrophobic experience when driving on otherwise open roads. She said that she is concerned that there is a project on file at the County for a large solar farm, part of which will be directly in front of her house, and part of which will be behind her house although a small buffer exists. She said that she only found out about the proposed solar farm three weeks ago when her neighbor called her and told her about it. Ms. Ruhter stated that it should be a requirement that notification be sent to any house within one-quarter to one-half mile of a solar project as soon as the first documents are filed at the County; the neighbors have a right to know and it shouldn't just be by word of mouth.

Ms. Ruhter stated that it is her understanding that screening will be required for any home within 1,000 feet of the project, except if that property is over three acres, this is a mistake. She said that their property is 5.5

acres, but only 1.5 acres is yard and the rest is pasture used for agricultural purposes. She said that the pasture sits behind and to the side of their home and the solar panels will be in the field directly in front of their house and less than 100 feet from their front door. She said that if this is not screened because their property is too large, that is an unfair judgement placed on them. She said that in the case of the project proposed near Sidney, only two or three of the affected homes are over three acres, so why not just have the ordinance require screening within 1,000 feet of all homes affected. She said that there are 12 or 13 homes that will be impacted, her home for sure and two others that are around the three-acre threshold, but the rest are less than three acres. She said that the discussion before her property is exempt from setbacks, so if the field at the back of her property was involved, she could have solar panels within five feet of her garden in her back yard. She said that she and her husband worry deeply about the ecological and environmental impacts. She asked how the large swaths of land being fenced off will affect the wildlife. She said that as a small farmer she is not a fan of predators taking my animals, especially her chickens, but she does think that coyotes, foxes, raccoons, deer, and other predators need the fields for hunting and migrating. She said that she knows that the solar farm will impact the ecosystem and should be taken into consideration. She asked how the ordinance can ensure that wildlife has access to these areas. She said that she and her husband are concerned about noxious weeds as well, because they have three acres of fairly lush pasture and she would hate to see weeds move in. She said that she has been told that one plan would be to plant wildflowers in the areas affected, but she can tell the Board from experience that trying to grow native wildflowers from seed is difficult. She said that she has three patches in her yard that in only two or three years have slowly been overgrown with weeds because the wildflowers never really took and she didn't manage them properly. She said that she could not imagine trying to manage something like this or a very large scale would be nearly impossible, so would this result in the need for spraying to control the weeds. She said that successful establishment of native plants and grasses could be a huge benefit for pollinators; we all know that the bees are in trouble, and if that would happen she would finally be able to get her beehive she built a few years ago up and running. She said that a field of weeds being sprayed a couple of times per year will be a detriment to the environment. She said that the ordinance needs to consider what plants will be allowed and required, native only she hopes. She asked how the plants will be manages and how it will be ensured that there is adequate growth and establishment of the plant materials. She said that perhaps the Board could consider a means for a wildflower farmer to have the rights to access and manage the areas properly.

Ms. Ruhter stated that, as mentioned earlier, perhaps other dual uses could be allowed to provide additional benefits to the community. She asked if the ordinance could be written in a way that a solar developer would have to consider or even have to allow certain uses like chickens. She asked if a wildflower habitat were established, could she or any other small farmer lease the land cheaply if they brought in low profile chicken tractors and portable fencing. She said that with 10 feet between the rows of arrays, she could easily move a chicken tractor around without causing any damage. She said that this practice would help provide pest and weed control, there will be lower predator threats due to the fencing, ample shade and shelter under the arrays, and would provide a highly beneficial secondary use of the land that is otherwise sitting unused. She said that the ZBA should consider ways to make solar farms beneficial to the community beyond the land owners getting the lease money and the solar farm developers directly making money from the development.

Ms. Ruhter stated that she and her husband also worry about flooding and erosion. She said that barren soil or poorly vegetated soil is likely to become hard panned, which becomes prime for erosion. She said that water will sheet flow from the arrays onto a small area of ground and cause flooding and erosion on the ground, and without a good layer of topsoil to soak up the water, it will wash off or pool up. She said that many of these fields flood regularly, even when tiled and planted, just look at all the tiling projects taking place lately. She said that if the soils become degraded, she expects flooding and erosion to become a problem in these fields and surrounding areas, and the ZBA needs to account for this possibility in the solar ordinance. She said that forty years of land sitting fallow will no longer be considered best prime farmland, even with the equipment being removed.

Ms. Ruhter stated that another concern is noise, which has been brought up many times. She said that they have two small children, a nice yard, a vegetable garden, and a small farm and they spend a lot of their time outdoors. She said that a noise study needs to be required so that any solar developer can guarantee that noise levels anywhere on the adjacent private properties will not exceed the 39-decibel limit because it isn't just her home that will be affected, but it will be their entire way of life if they are too uncomfortable to go outdoors on their own property or to any part of their property to tend to their garden, play with their kids, or anything else.

Ms. Ruhter stated that as any device ages it begins to wear in ways that are sometimes hard to predict. She said that when you are dealing with high energy transmissions that have the potential to emit energy in harmful ways, how will the ZBA protect the citizens of Champaign County. She said that they feel that this is comparable to radiation being emitted as the equipment starts to breakdown, and that should be taken into consideration.

Ms. Ruhter stated that their last concern is property values. She said that she and her husband worked really hard to afford their dream homestead property, they wanted a nice house on five acres of land and they finally found one in Champaign County four years ago when they moved back home. She said that they have been told that property values won't drop, but we all know better. She asked how the ordinance will protect the property values for all the adjacent and nearby properties. She asked if there is some sort of property value guarantee provided. She said that one means of directly ensuring that property values don't drastically drop on any home directly affected by a large solar farm, within the same 1,000 feet setback as the fencing, would be to have the ordinance require a home solar system be installed on these properties. She said that if they are going to install 1,299 acres of solar panels around her home, what's another extra 2,000 square feet. She said that at least if she is going to have to look at solar panels, basically in her front yard, they could get the benefits of solar with a reduced electric bill, and it would be a prop up on their property value in case they ever decided to sell it.

Ms. Ruhter stated that in conclusion, she just wanted to say again, that she is not against a solar farm ordinance or even a solar farm in her community, but she does have a lot of concerns that she hopes the ZBA will take into consideration as they draft this ordinance to protect the citizens in Champaign County and even the wildlife varieties.

Ms. Ruhter stated that she would like to comment on previously submitted testimony. She said that her son loves tractors and two years ago he had to get stitches when he fell trying to run and see the tractor across the street that the farmer (Shawn Walker) was driving. She said that they ride in combines owned by Mr. Walker or one of the other farmers during harvest. She said that they do not like the spraying and they usually try to leave, but they chose to live in a farming community and they like living in it.

Ms. Capel asked Ms. Ruhter to provide her written testimony for proper transcription of the minutes.

Ms. Ruhter submitted her written testimony to staff.

Ms. Capel asked the Board if there were any questions for Ms. Ruhter and there were none.

Ms. Capel called Scott Willenbrock to testify.

Mr. Scott Willenbrock, who resides at 1017 W. White Street, Champaign, stated that like many people, he was unconcerned about climate change until he started reading and learning about it, and he became alarmed. He said that he was surprised to find that the scientific community has been sounding the alarm bell since the 1970's, and the United Nations convened the first panel to study the climate change in 1988, which is 30 years ago. He said that about five years ago, he decided to take personal action and he installed a solar array on his home's roof in Champaign, and he is glad that he did it. He said that after he installed his solar array, over 100 additional solar arrays have been installed in Champaign County and that is a great thing, but to really make an impact we cannot just do roof top solar arrays, because there are not enough roofs and not enough people who can afford it. He said that it is important that we support larger utility scale solar farms. He said that he works at the University of Illinois and two years ago they turned on a 20-acre solar farm which they are very pleased with, but that is fenced although no vegetative buffer was planted because they felt that it was very important for the public to see it. He said that 20 acres is a large solar farm, but it is not enough because the University of Illinois uses a lot of electricity and the solar farm only provides about 2% of the campus' electricity over the course of one year. He said that 2% is significant, but is not nearly enough to make the kind of impact that is needed. He said that it is important to have solar farms across the nation, because electricity is used throughout the nation and transmitting electricity over long distances if very expensive and leads to congestion in transmission. He said that having large solar farms spread throughout the nation is important and the State of Illinois needs to have some large scale solar farms. He encouraged the Board to support the development of solar farms in Champaign County and to draft regulations to make possible to develop them in our County.

Ms. Capel asked the Board and staff if there were any questions for Mr. Willenbrock.

Ms. Griest asked Mr. Willenbrock if he was involved with the University of Illinois solar farm, or is it part of his job.

Mr. Willenbrock stated no, he was just a physics professor at the time of the first solar farm's installation.

Ms. Griest asked Mr. Willenbrock if he would describe the residences that are near the solar farm on the University of Illinois campus. She asked Mr. Willenbrock to indicate the distance between the solar farm and the nearest residence.

Mr. Willenbrock stated that there are no residences near the solar farm. He said that he is not judging people who desire screening, and if they want screening then that is fine with him, but another choice to make is to not have screening. He said that if he was an adjacent landowner, he would not want screening, but that would be his choice and he is not judging people who feel differently.

Ms. Griest asked Mr. Willenbrock if the solar panels at the University of Illinois are photovoltaic solar panels.

Mr. Willenbrock stated yes.

Ms. Capel asked the Board and staff if there were any additional questions for Mr. Willenbrock, and there were none.

Ms. Capel called Ted Hartke to testify. She noted that Mr. Hartke has presented testimony to the Board during previous public hearings regarding Case 895-AT-18; therefore, she reminded Mr. Hartke that only new testimony should be presented tonight.

Mr. Ted Hartke, who resides at 1183 CR 2300E, Sidney, stated that he would like to address Attachment B. to Supplemental Memorandum #6. He said that Item # 6.1.5C.2 on page 2 of Attachment B. indicates a minimum 100 feet separation from an adjacent dwelling and not less than 50 feet separation from an adjacent lot of three acres or less in area. He said that if a person has a lot that is 3.1 acres, that is a non-factor in the specific location for the reason why the Board is amending the ordinance for solar. He said that almost all the parcels are more than 3 acres who are the most affected citizens who live next to the proposed solar farm; therefore, he believes that the 3 acres should be reconsidered and increased. He said that he found it not good that the separation was only 100 feet from the dwelling, because 100 feet from a home is pretty close. He said that the notes for Item 6.1.5D.2. indicate that Knox, Tazewell, and Whiteside counties require 500 feet separation from adjacent dwellings. He said that a 500 feet separation is a lot, but Champaign County only having one-fifth the separation as compared to counterparts throughout the State of Illinois who already have their ordinances in place is short changing the neighbors. He said that personally he would never want solar panels located 100 feet from his home. He said that Item # 6.1.5I., Allowable noise level on page 3 of Attachment B. states the following: "Similar to Champaign County wind farm requirements based on Illinois Pollution Control Board requirements but less documentation may be required." He reminded the Board that he abandoned his house because the Illinois Pollution Control Board requirements are too loud, and the reason why is because this noise source will be all day long. He said that the solar developer testified that in the morning when the sun comes up the noise will be 45 dBA, which means that

the neighbors will not be able to sleep inside their homes when the sun comes up, and the noise will increase quickly and that will impact their houses. He said that he advocates for 39 dBA at the property line as a maximum level and for it to never be more than 34 dBA at the property line designed per Dr. Schomer's wind farm testimonies throughout Illinois. He said that the notes for Item # 6.1.5I. state that noise should be less of a problem with a PV solar farm compared to a wind farm. He said that there are instances where communities constructed their own solar farms and when the community turned on their solar panels they were shocked as to how loud they really were. He said that he will send the Board documents indicating the changes that one community had to do once they turned on their solar farm. He noted that just because something is supposed to be less noisy doesn't mean that it will actually be less noisy.

Mr. Hartke stated that Policy 4.3.5 on page 13 of the Preliminary Draft Finding of Fact dated March 29, 2018, states, "On best prime farmland, the County will authorize a business or other non-residential use only if: a. It also serves surrounding agricultural uses or an important public need. He said that at the bottom of page 13, Item a.(b) indicates that a PV Solar Farm serves an important public need for renewable energy. He said that there is no need for any more power, because there are no electrical shortages and he has never heard that there are any electrical shortages. He said that we do not need renewables; maybe we want them, but do not need them. He said that perhaps this is a draft Finding of Fact, and he does not believe that the word need should be in this document, because it is a lie. He said that earlier he heard John Hall speak to the Board, and Mr. Hartke felt like Mr. Hall was scolding the Board. Mr. Hartke said that Mr. Hall was discussing the panels being next to a dwelling and how it could be better, because there will be no planting, harvesting, spraying of lime dust, or subdivisions. Mr. Hartke said that he grew up in the country as a child and he basically lives in the middle of the woods as an adult, and planting and harvest occurs one day near a home each year and every three years lime is put on the fields. He said that the area where the solar farm is proposed to be located will probably not see a subdivision around the affected homes in 40 years, because the nearest town does not have sewer connection availability. He said that he would bet that people would generally appreciate only three days per year of planting, spraying and harvesting activity compared to the 280 sunny days each year when the solar panels will turn on at 6:00 a.m. and operate until 8:30 p.m. at a noise level of 45 dBA like the developer has said that they would. He said that this is theft of a person's property. He said that after having his own experience, there will be people coming before this Board indicating that a solar farm is for the greater good, and that we must do this and we owe it to other children elsewhere; however, this County should protect the smallest minority, which is the individual. He said that he does not believe that it is fair for any church congregation located in the city to vote to take away the use and enjoyment of a property that is 20 or 100 miles away. He said that this call for the greater good, does not sound the like the United States of America, but communism. He said that he is a person of faith, and he believes that if someone really needs or wants their own solar source he does not feel sorry for them if they have too many trees, but he does feel sorry for the person who had to give up their property's enjoyment or use of their yard for someone else to keep their trees. He said that this is the basic health, safety and welfare of the immediate neighbors next to solar power. He said that the claims that these renewable projects will be lower cost for the needy and poor who cannot afford electricity is false, because there are no renewable energy projects that have been lower cost as they are all subsidized by taxpayers and rate payers. He said that there are situations in Australia and Europe where the renewable energy push has caused energy poverty,

because the costs of the renewables were passed down to the taxpayers and rate payers caused people to shut off their power and live in cold homes. He said that he would very much appreciate it if this Board would look after the health, safety and welfare of citizens who live in homes near the wind and solar farms. He said that he would hope that the Board remembers the purpose of their job and it isn't to make people feel good about where their power comes from and it isn't the Board's job to make landowners profitable to host facilities or assist special interest groups in making money. He said that this Board is here to protect the citizens of Champaign County. He thanked the Board for the opportunity to speak tonight.

Ms. Capel asked the Board if there were any questions for Mr. Hartke, and there were none.

Ms. Capel called Tim Osterbur to testify.

Mr. Tim Osterbur, who resides at 302 Witt Park Road, Sidney, stated that the wind ordinance has a one and one-half mile jurisdiction requirement from incorporated municipalities, and he would hope that the Board would strongly consider making that same requirement for solar farms, as it will lower property values. He said that he lives on three acres and he has 160 acres of field across from his home, and although the solar farm will not be in his area, he does feel for the people who will be affected by the proposed solar farm.

Mr. Hall stated that Sidney is one of two substations in the County that has the capacity to serve a utility scale solar farm, and the County Board wants to allow utility scale solar farms and Sidney is a proposed location. He said that it remains to be seen if the County Board is interested in that, but ELUC was supportive of the amendment going through the public hearing; it is unknown if they will still be supportive when it returns to ELUC for their review and recommendation. He said that we could conceivably have an ordinance that allows community scale solar farms, but prohibits utility scale solar farms, and he cannot stress enough that if this is what the ZBA wants then that is what the Board should recommend.

Mr. Randol asked Mr. Hall if the 100 feet separation would also apply to the city limits as well.

Mr. Hall stated that there is no separation that is proposed for a municipal area.

Ms. Griest asked Mr. Hall if there is a one and one-half mile separation from municipal boundaries for wind farms.

Mr. Hall stated yes, it is state law. He said that it is included in the ordinance, but even if it wasn't state law would not allow it.

Mr. Osterbur stated that there is no state law for solar farms, only wind farms.

Mr. Hall stated that Mr. Osterbur was correct.

Ms. Capel asked the Board and staff if there were any questions for Mr. Osterbur, and there were none.

Ms. Capel called Jeff Justus to testify.

Mr. Jeff Justus, who resides at 2155 CR 900N, Sidney, stated that he is a lifelong farmer in the Sidney area and he lives in the area where a solar farm is proposed. He said that he is concerned about the drainage on the farms that will be involved in the proposed solar farm near Sidney. He said that he does not own one of the farms that are involved in the proposed solar farm, but he does farm one of the farms.

Ms. Capel noted that this hearing is only about the text amendment to the Zoning Ordinance, which are the rules for the entire County. She said that the Board is only discussing the solar text amendment and not one particular solar farm. She reminded Mr. Justus and the audience that testimony should be focused only on the text amendment for the entire county. She said that she understands that Mr. Justus owns property that will be affected by a solar farm that is not before this Board, but if he could speak about drainage in a general way that will benefit the text amendment as a whole rather than just the area around Sidney, it will benefit the Board.

Mr. Justus stated that all farmland is drained and a lot of the tiles are large, main tiles which are 18" or 24" that drain into a drainage ditch, and then sub-tiles that can be between 8" to 14" and they drain into the main tile. He said that if any of the tiles become damaged by compaction the tiles will require maintenance. He said that a lot of the older tiles are clay tiles and these were installed by hand and were not placed any deeper than they needed to be. He said that the older clay tiles blow out, which causes holes in the ground and the dirt is sucked in causing a plugged tile. He said that when the tiles are plugged, the water from upstream cannot come down through the tile to the drainage ditch, and the people upstream are ticked off because their land cannot drain. He said that all farmland is drained in this fashion; therefore, if solar panels cover the land, how will farm tiles be maintained.

Ms. Capel stated that one of the provisions in the ordinance requires the solar operator to keep the drainage tiles repaired.

Mr. Justus stated that this is a very loose requirement. He asked if you have an 18" or 24" tile on a farm that is covered with solar panels, how are you going to get in there with a backhoe to fix it, especially if the tile is underneath the solar panel.

Ms. Capel stated that most of the damage could be done during installation of the solar panels.

Mr. Justus stated that a farm tile can breakdown at any time.

Ms. Capel stated that she supposed that was true.

Mr. Justus stated that he knows it is true. He said that when you have a farm covered with solar panels and three months down the road a tile blows up or is damaged, how is someone going to get a backhoe in there to

fix it, especially if it is underneath the solar panel, because there are not too many people who are willing to dig it by hand.

Ms. Griest stated that Mr. Hall previously indicated that there are two locations in the County where there are two substations adequate to handle a large-scale utility solar farm and one of those substations happens to be near Sidney and Mr. Justus indicated in his testimony that he farms near there. Ms. Griest asked Mr. Justus if he is a drainage commissioner in that district.

Mr. Justus stated no.

Ms. Griest asked Mr. Justus if there are any district tiles near the substation near Sidney, because typically an18" or 24" tile is a district tile and not a farm tile. She asked Mr. Justus if he is aware of the location of the drainage district tiles in that area.

Mr. Justus stated that he knows that one is located in farmland that is not near the subdivision. He said that he also knows of a drainage district tile that is located in the area of the proposed solar farm.

Ms. Griest asked Mr. Justus if he knows which drainage district he is located in.

Mr. Justus stated that he knows which one it is, but he does not know its proper name. He said that this is general common sense, whether you do or do not have solar panels on your farm, because it is just how it works. He said that a blocked tile that does not allow upstream water to flow, regardless of whether you have solar panels on your farm or not, the upstream landowners need drainage and they are going to want the tile repaired. He said that water is a touchy issue and currently there is already water standing in the fields, but when you have a blocked tile, it is a loss of income for everyone concerned and it is a huge problem. He said that the same problem exists with the windmills, because if a tower is sitting on a tile, the landowner can go around the windmill with a jog and repair the tile. He said that when you have 1,200 acres of solar farm panels that are fairly close together, there is no way to get a backhoe in there very easily to fix it, especially if the tile is under the solar panel. He said that drainage is a very large concern, because it affects a lot of landowners and acres.

Ms. Capel stated that the ordinance only discusses drainage tile repair during construction and not during the life of the wind or solar farm.

Mr. Justus stated that it is long term, because there are always repairs on the tiles regardless of any construction. He said that repairing tiles is very costly and the older tiles are shallow and overworked and it is his experience, from seeing other utility work in the area, that they do most of their installation work during the muddiest time of the year, which creates compaction. He said that during installation and compaction a lot of the tiles will be broken down before the entire installation project is complete. He said that the fencing that is proposed is chain link fence, and it will catch a lot of snow and as it begins to melt the fence will become worn down and the top bar can end up looking like a pretzel which is not going to look

very appealing in the community. He said that the proposed solar farm's economic impact on the community, if we have 1,200 acres of solar panels, is going to reduce the amount of money spent locally by the farmers, and the grain is hauled to Premier Cooperative in Sidney or Frito-Lay outside of Sidney. He said that personally, he does not know what the community will gain tax wise or whether they will gain anything, but it does affect our local businesses as well and that is money that will not be spent in our community for 40 years. He said that in 40 years he will not care as he will probably not be here, but we must deal with this today.

Ms. Capel asked the Board and staff if there were any questions for Mr. Justus, and there were none.

Ms. Capel called Patrick Brown to testify

Mr. Patrick Brown, Director of Development for BayWa-r.e. Solar Projects, whose address is 17901 Von Karman Avenue, Suite 1050, Irvine, California, thanked the Board and staff for their work and time on the proposed ordinance amendment. He said that he believes that the ordinance is headed in a good direction and it is the Board's job to make sure that what the Board recommends works for industry, but also protects the people of Champaign County. He said that there are three items he believes still require additional work in the ordinance. He said that he still believes that a letter of credit needs to be held for security, and he submitted something in writing and a source to back it up. He said that a letter of credit is a very stable financial instrument that is used nationwide and in other jurisdictions. He said that he has no proof that Champaign County uses letter of credits, but he does know that for capital improvement projects, Champaign County requires some form of security to back up that the capital improvement project will be completed. He said that letters of credit are very standard and stable and if we are worried that the entire banking system in the United States is going to come crashing down and the letters of credit are no longer valid, we are not going to be worried about removing the solar farm but where our retirements went. He said that he still would like the Board to understand that this is something that they as an industry would like this Board to support, as it is a standard in every community that he goes to where decommissioning requirements are required and the letter of credit is not even challenged. He said that everything else regarding the decommissioning he believes can be handled and dealt with.

Mr. Brown stated that they want to make sure that Champaign County is made whole for any work that any developer brings forward, and this is something that as a citizen he would want in his own county. He said that Mr. Hall has mentioned that staff will spend a lot of time at the solar farm making sure that everything was constructed and installed per the submitted plans and approvals. He said that one of things that they do during the beginning of a project is have an American Land and Title Association (ALTA) Survey completed for the project to indicate where the project will go, and at completion of the project for financing purposes they will have an as-built ALTA Survey completed. He said that typically the surveyor will go to the site and measure points and corners of arrays, fence line, driveways, substation, etc. and then do a flyover of the project as well. He said that at the end of the day, staff will receive an as-built survey in pdf format indicating that all those points have been made and those points are all scalable. He said that as-built ALTA Surveys are standard for financing to make sure that what they paid for was actually constructed. He said

that he can provide more information about the ALTA Survey, but he would hate to see staff at the site attempting to hand measure the project.

Mr. Brown stated that he agrees that screening needs to be provided, in fact he discussed screening with Ms. Justus regarding his project near Sidney which is not part of the public hearing. He said that he thinks screening should be required, but also one thing he does not want the Board to lose track of is their discretion as a Board; don't hamstring yourselves with something that is very onerous by requiring it to be 1,000 feet in either direction when in reality it may not make any sense. He said that the Board should put screening in to the ordinance and it should be something that makes sense, but the Board should give themselves some flexibility because every project is going to be different. He said that sometimes an ordinance can be very strict and just have this standard, and then someone comes in with a different project and the Board's hands are tied because the ordinance indicates that it had to be "x". He said that whether a parcel is three acres or five acres, if a project is getting too close to them, as a good neighbor of the community the developer should attempt to accommodate that landowner in some form. He said that some landowners may not want screening and would enjoy seeing the solar panels, but if the ordinance indicates a requirement for screening the developer has no choice but to comply. He said that there should be some discretion for this Board and the County Board to take each project on a project by project basis and perhaps require a landscape and screening plan that is subject to the discretion of this Board, but some minimum standards in it; that way the Board has discretion but has it covered in the ordinance.

Ms. Capel asked the Board and staff if there were any questions for Mr. Brown.

Mr. Hall stated that we do include a provision for a waiver. He asked Mr. Brown if he is indicating if the ordinance is adopted with a 100 feet separation from an adjacent dwelling and not less than 50 feet separation from the property line of a lot that is three acres or less in area, and there is an instance where the property Board believes that there needs to be a 200 feet separation, he would be good with that.

Mr. Brown stated that he believes that every project needs to live and die on its own merits and sometimes there are circumstances that may apply to one project but not another. He said that these are discretionary permits and sometimes you must do things that may not make a lot of sense from a business aspect, but sometimes you have to concede to make the overall project succeed. He said that this is why he does not like standard flat standards.

Mr. Hall stated that he always feels like that if we are going to go so far as to adopt a standard condition, the Board does have the authority to require more but some developers would say, why did you put that in the ordinance to begin with, although some type of standard had to be in the ordinance. He said that after listening to the discussion with Mr. Brown tonight, Mr. Hall believes that the 100 feet separation should include the phrase, "or greater for any particular instance that the Board so determines," and then the Board has not set a standard that is too demanding and it makes it clear to anyone who applies that a greater separation than 100 feet may have to provided. He said that he is not saying that this will solve all the problems with the 100 feet separation, but he does believe that adding that phrase is important. He said that

this is something that staff and the ZBA understands, but we all try to do our upmost to make the applicant aware of what the expectations are, so that is something that occurs to him as he listens to Mr. Brown's testimony.

Mr. Brown stated that as the ordinance is being amended, everyone is thinking about the project that cannot be discussed, but we must think about community solar and that a developer doesn't come in for a 15-acre community solar project and believe that everything is perfect and then finds out that he must provide a 100 feet setback. He said that there should be two different standards, so that it isn't too onerous on the community solar, because it should be an easy process that should be completed in a quick manner of time. He said that as long as there is something in the ordinance regarding solar projects with "x" number of acres versus smaller, we don't want to saddle those smaller solar projects with that requirement.

Mr. DiNovo stated that to be clear for everyone, the difference is subtler than what is being suggested. He said that we could not have standards and then impose them as special conditions; the Board does have the discretion to do that, or we have standard conditions and as part of special use permit process the applicant requests waivers of those standards for the specific areas where they are onerous. He said that the difference is not as stark as it might appear and the discretion is always going to be there, and it will be beneficial to everybody if the applicant could flag every waiver that they may want from the get go so that the case does not have to be republished. He said that there is not that much of a difference whether the standards are in the ordinance and can be waived, or if they are imposed without any prior publication.

Mr. Brown stated that as long as the standards can be waived is fine. He said that as an outsider, he pulled up the Champaign County Zoning Ordinance on the website which indicates that this, this, and this are required, and since it appears very onerous, in many cases developers won't even call the County and will move on to the next place. He said that as long there is language in the standard condition indicating that a waiver may be granted, or it is clear that generally the standard conditions can be waived. He said that he is concerned about the next developer who wants to do a project in Champaign County, he said that when he contacted the County there was no ordinance, thus the reason why he is here tonight, but the next developer will need to understand that the standards can be waived, otherwise they will move to the next County.

Mr. Hall stated that the problem with the waivers is that, when staff takes in the application and the legal advertisement is published, the applicant comes back to staff and asks if requesting a waiver for a standard condition is reasonable. He said that staff has no idea what is considered reasonable to the Board; therefore, he would rather make it clear that the Board has the discretion to require a greater separation, but here is the minimum, and that way there is no misunderstandings and staff if not being asked questions that they cannot answer and Champaign County is not being ignored because it has a bad reputation for being too restrictive. He said that Champaign County does not want a bad reputation for not protecting its citizens, and in any public hearing that is the approach that the Board must take, but we are trying to get something on the books that is not a project killer, passed the public hearing and the County Board has found it reasonable.

Ms. Capel asked Mr. Hall if the Board ever recommends higher standards than what the ordinance requires.

Mr. DiNovo stated yes, they are called special conditions and we do this all the time.

Mr. Hall stated that Mr. DiNovo is correct, but many times when there is not a standard condition, the Board will require a special condition. He said that he cannot stress enough that the ordinance must be clear that these standard conditions may not be the last word, and the Board knows this but the applicants do not.

Mr. Randol asked Mr. Brown if they contact drainage districts to find out where their tiles are located. He asked Mr. Brown if their engineers are instructed to go around a 24" or 30" drainage tile or do they just determine what to do when they find such a tile. He asked if the as-built ATLA Survey indicates the location of drainage tiles.

Mr. Brown stated that they hire a local surveyor who will go to the site and locate all the drainage tiles and indicate those on the ALTA Survey and that information transfers over to the civil design plans. He said that this information assures that they are not driving posts into drainage tiles, but the landowners that his company is involved with wants them to preserve their drainage tiles and there are requirements in their leases for the landowners to inspect the project on their land. He said that the issue of drainage tiles has come up a lot and he has learned a lot about it while being in Champaign County, because it is unique for this area. He said that they also have an interest in preserving the drainage tiles, because they do not want a flooded solar farm either. He said that not only is it a landowner requirement, but if they find or cause a damaged tile, they want to fix them.

Mr. Randol asked Mr. Brown if the solar panels are established and a drainage tile requires repair, how will they get in there to repair the tile.

Mr. Brown stated that just as easily as they put the solar farm in, they can take it apart so that the appropriate machinery can get in and repair the drainage tile. He said that there are rows that are 10 feet wide and a mini-excavator can go in there to fix the tile, but in their case, the modules turn and more space can be created.

Ms. Lee asked Mr. Brown if he plans to own the land where the substation will be installed or will the land be leased.

Mr. Brown stated that they currently have leases with the landowners where the proposed solar farm will be installed. He said that area where the private substation will be installed is also leased; he noted that there will be two substations; Ameren which they do not own, and the private substation which they will own.

Ms. Lee asked Mr. Brown if the private substation will be located on leased land as well.

Mr. Brown stated yes.

Ms. Lee stated that Mr. Brown previously testified that there would be an investor for the proposed solar farm. She asked Mr. Brown if the LLC will just be for installing the solar farm and then another LLC as the entity to operate the solar farm after construction is completed.

Mr. Brown stated that they establish the LLC in the beginning and all the assets, permits, interconnection agreement, and land leases go into the LLC as an operating unit and when it gets a power contract they finance and build the project, and in their case the Independent Power Producers (IPP) will own and operate the solar farm. He said that, in their case, they will sell the assets to an equity investor who will own the project company and they will operate it.

Ms. Lee stated that they reason why she is asking these questions is so that the County has a trail on how it will work if the County needs to notify the people who own the entity, and what kind of entities there will be down the road. She said that the County needs to know who all the successors of title are at any given time, even when it turns it over to the investors.

Mr. Brown stated that the LLC that holds the power contract, all the leases, agreements, permits, contract with Ameren and everything that is done within that project are isolated, in his case, in Prairie Solar 1, LLC, and that entire entity is bundled and sold and since it is a Baywa-r.e. project they will stay on and do the operations and maintenance. He said that Baywa-r.e. will still be the front people and the signs will indicate that Baywa-r.e. are the people to contact, but on the back end there will be a company that basically pays the bills. He said that this is common practice and they do this for every project, they are all bundled as an LLC, and it basically can't be split apart because everything is contracted together under that LLC.

Ms. Lee stated that basically there will be two LLCs during the life of the project.

Mr. Brown stated no, there will be a one asset manager that owns it, the equity investor, and they will hire an operations and maintenance manager to be out there to clean the modules, cut the grass, etc.

Ms. Lee asked if, at that point, Baywa-r.e. will not be involved at all.

Mr. Brown stated that with the Baywa-r.e. project, they will be involved with the operations and maintenance. He said that the owner will contract with Baywa-r.e. to make sure that the solar farm is taken care of, weeds cut, trash picked up, drainage tiles repaired, Baywa-r.e. will do all of that for the owner, and to be clear, every solar farm has an operations and maintenance manager that does those things for them.

Ms. Capel asked the Board if there were any additional questions for Mr. Brown.

Ms. Griest stated that Mr. Brown indicated that he found Champaign County to be very unique with its drainage issues, but she assured him that Champaign County is not that unique. She asked Mr. Brown if he was familiar with the *Illinois Drainage Law*, and if he is not, she would encourage Mr. Brown to become familiar with it because there are differences between drainage district owned tiles and privately-owned

drainage tiles. She said that drainage districts have rights that Baywa-r.e. needs to learn about and respect that could impact their project, especially if there is a district tile on the subject property. She said that the drainage tile is what makes Champaign County farmland farmable, and converted to some of the most productive ground.

Ms. Lee stated the provision is in the draft amendment regarding liability insurance. She asked Mr. Brown if they have terrorism insurance.

Mr. Brown stated that he is not sure what the limits of the liability insurance covers, but it does cover hurricanes, tornadoes, theft and everything else so he would not be surprised if terrorism is somewhere in the endorsement.

Ms. Lee stated that they have separate terrorism insurance on a farm that they operate, so it is available. She said that things do happen and the Baywa-r.e. solar farm will be in an area where there are two substations, the intersection of two railroads, and it is possibility. She said that she would hate to see anything happen, but she did report suspicious activity in June 2017 at the area where the bridge goes over the railroad that goes north and south, and people were looking around in an area where they didn't need to be looking around.

Mr. Brown stated that they did construct and finance a project near the Mexican border and they do not seem to have that as an issue, other than a module shot out from time to time.

Ms. Capel asked the Board and staff if there were any additional questions for Mr. Brown.

Ms. Capel called for a five-minute recess.

The Board recessed at 9:05 p.m.
The Board resumed at 9:11 p.m.

Ms. Capel called Tim Montague to testify.

Mr. Tim Montague, who resides at 2001 Park Ridge Drive, Urbana, stated that it is relevant to his testimony that he has a Masters in Ecology from the University of Wisconsin in Madison, and he is also an employee of Continental Electrical Construction Company and he designs solar systems. He said that he mostly works with commercial and industrial customers, but he also works with solar developers and provides the layouts for some of the solar projects that are coming into the State of Illinois, thanks to the *Future Energy Jobs Act* (FEJA). He said that FEJA funds 3,000 megawatts of solar development and everyone is paying for that, although it is not a tax, but is part of the law of the land. He said that we do have a law that funds $2 million dollars in subsidies and anyone who has electrical service in Illinois is paying into these funds, both residences and businesses. He said that it is those homes, businesses, counties, villages, towns and individual landowners, that install solar on their properties who will ultimately benefit from FEJA and re-

coop those funds. He said that this is why it is important to recognize that if we have a good solar ordinance that allows solar, the County will benefit economically. He said that everyone is already paying for FEJA and it is only fair that we also benefit, and the up-side is that we will re-coop those funds, but only if solar is built.

Mr. Montague stated that he would like to address three things about the impacts of solar farms, and that is land, water, and economics. He said that there has been a lot of talk about how the construction of a solar farm is a change in land use versus row cropping. He said that he agrees that it is a change, but as every farmer knows, when you take a piece of land and you stop cropping it, you are letting the land go fallow, and that is what a solar farm is, it does have a structure imbedded in the soil, but it very much a living, breathing piece of land still. He said that grass and herbs are being grown on the land and controlling the weeds. He said that the solar developer has a lot of incentives, primarily to the landowners, as the solar developer is a guest on the land and the landowner wants their land taken care of. He said that there is a relationship between the landowner and the solar developer, and there is a financial arrangement, but it is also an owner/tenant relationship that needs to be moderated, and they do not want a dispute. He said that the land is laying fallow and there are some significant benefits to that, as any farmer knows, when you crop the land you are degrading the land because you must add chemicals to keep the fertility of the crop soils. He said that there is no negative impact in letting the land go fallow, and to the contrary, it will naturally become more productive. He said that if at the end of the life of the solar farm, the developer decides to remove the solar farm, the farmer can go right back to cropping the land and it will be highly productive. He said that as Mr. Brown pointed out, he is highly concerned about maintaining the drainage tile drainage system, especially for the landowners and the neighbors, and he does not want a solar farm that is sitting in a puddle. He said that if he is a farmer who is renting the property and cropping it, he must also get along with the owner because he too is a tenant. He said that a solar developer is not different and they have rights and responsibilities to care for and meet the agreements that they have signed. He said that Mr. Brown pointed out that is part of the agreement with the landowners, in that they must protect and maintain the integrity of the drainage system, so that should not be a concern.

Mr. Montague stated that besides the economic impacts that he has presented, Sidney will become a tourist attraction, because they are so lucky to have a solar array proposed near Sidney. He reminded the Board that all of FEJA, worst case scenario, is financing 15,000 acres of solar development in the State of Illinois and we happen to have 630,000 acres in Champaign County alone; therefore, if the entire 3,000 megawatts or 15,000 acres were in Champaign County, it would be 2.3% of the landscape of Champaign County and is a trivial piece of the County, unless Champaign County does not want solar. He said that we do not have to be concerned that there will not be any more bread basket in central Illinois, because the bread basket is very large, and the ecological impacts of solar farms are much better than the ecological impacts of industrial farming.

Mr. Hall stated that he read a handout from the Citizen's Utility Board that FEJA calls for only 400 megawatts of community solar by 2050, and with FEJA being what it is he hasn't really hunted down where that is. He asked Mr. Montague to comment on this.

Mr. Montague stated that he hasn't memorized the carve outs for the different segments, but there are four or five categories. He said that roughly speaking it will be 1/3 – utility scale; 1/3 – small utility (community solar); and 1/3 – industrial and residential rooftop solar. He said that he would be happy to look it up and email the page number from FEJA.

Mr. Hall stated that would be helpful, but the main reason why he is interested is, we know the limits of the larger utility scale solar farm development in Champaign County, but how many of these community solar farms is Champaign County likely to see. He said that if there are only 400 megawatts called for, he would think that would put a limit on what is likely in any one county.

Mr. Montague stated that it would be a handful in any one county.

Mr. DiNovo stated that 2 megawatts per community installation is 200 and it might be reasonable to think that something less that all of Illinois counties will have something built there, because there is no population and demand. He said that at a minimum, he would expect four community solar projects in Champaign County.

Mr. Hall stated that Champaign County is already at four community solar projects.

Ms. Griest stated that during Mr. Montague's testimony, he indicated that the County will benefit. She asked Mr. Montague to elaborate why he believes Champaign County will benefit from solar projects.

Mr. Montague stated that during his testimony he addressed many benefits; financial, ecological, participation in recapturing the FEJA money that we are all paying for.

Ms. Griest stated that she is unfamiliar as to how the County will recapture the FEJA money. She asked Mr. Montague to explain how this process works.

Mr. Montague stated that $200 million dollars per year is being collected by utilities Ameren and Com-Ed, and power bills have a line item referring to the renewable portfolio standard. He said that every megawatt per hour of electricity that is generated produces one renewable energy credit. He said that a renewable energy credit is around $45, so if you owned a solar array that produced 10 renewable energy credits per year, you would receive a check for $450 per year for having a solar array that produces clean power and that is paid over a five-year period. He said that this accumulates to 25% of the value of the project that is installed at the home and the project goes from having a payback before we had FEJA of 10 to 15 years, to having a payback of 4 to 5 years. He said that it incentivizes the adoption of solar, and the whole purpose of FEJA is to achieve the renewable portfolio standard which was instituted in 2009, which says that there will be 25% clean power by 2025.

Ms. Griest stated that it really isn't the County that will benefit, but the individual company or person who

chooses to install and operate a solar array, because they are receiving renewable energy credits.

Mr. Montague stated that Ms. Griest is incorrect. He said that it is many parties who will benefit.

Ms. Griest stated asked Mr. Montague if the renewable energy credit goes solely back to the person who installs the system.

Mr. Montague stated no. He said that renewable energy credits typically go to the system owner; it could be a third-party developer, building owner, or landowner, but every situation is different in that regard.

Ms. Griest stated that benefit is not going to go to the County, and will not go county wide benefiting every citizen with a reduction in their power bill.

Mr. Montague stated that this is an incorrect generalization.

Ms. Griest stated that was not a generalization at all and was pretty specific.

Mr. Montague stated that most of the renewable energy credits will go to the County. He said that if a solar array is built in Illinois, most of the renewable energy credits will go to Champaign County.

Ms. Griest clarified the definition of county as she is using it, which would be Champaign County government. She asked Mr. Montague if she is accurate in assuming that Champaign County would not receive a check for renewable energy credits.

Mr. Montague stated yes.

Ms. Griest stated that the renewable energy credits would go to the owner, developer, installer, or the operator of the solar facility or array, whether it is an individual homeowner that places it on their home or the owner of a commercial scale project.

Mr. Montague stated that the renewable energy credits would mainly go to system owners.

Ms. Griest stated that Champaign County will only benefit by having the system in the county and the benefits that are intrinsic with that, but not monetary.

Mr. Montague begged to differ.

Ms. Griest asked Mr. Montague to clarify it then, and indicate where she is incorrect.

Mr. Montague stated that there are all kinds of benefits. He said that if he were a landowner, he would be receiving three times the amount of rent that he did by renting his land for cropping, but now he will rent it

for a solar farm, and he will benefit the County financially because he will be paying more taxes and payroll.

Ms. Griest stated that the renewable energy credits do not come to the County, but to the owners. She said that there is no money that is changing hands directly to Champaign County as the result of the renewable energy credits. She said that she and Mr. Montague should agree to disagree and that they should both respect each other's opinion.

Ms. Capel asked the Board and staff if there were any additional questions for Mr. Montague, and there were none.

Ms. Capel called Tom O'Brien to testify.

Mr. O'Brien was not present when called to testify.

Ms. Capel called Anne Parkinson to testify.

Ms. Anne Parkinson, who resides at 1604C S. Lyndhurst Drive, Savoy, stated that she is excited about what the Board is considering tonight. She said that she saw the news clip on television and decided that she had to come tonight to state her support. She said that the Board is so forward in thinking and intelligent in trying to preserve our land and water, and now is the time to do it and this Board is moving ahead. She said that every week she drives past the County Extension Office and she sees a sign that states "Champaign County farmers feed 174,000 people every year." She said that the News Gazette published a prediction that we will have approximately 189,000 people sometime in the next few years living in Champaign County. She said that with that disconnect we know that a lot of farming is corn and soybeans and we are at the mercy of global competition and things that are not within our control. She said that solar is within our control and she believes that this is a great move. She said that living in the city, she sees a lot of strip malls that are not as large as 1,299 acres; however, she is all for putting solar wherever it can be placed. She said that in other countries, such as, Canada, almost every farmer has solar panels on their barns or sheds and she assumes that the panels are for their own usage and are not connected to a grid, although she is not sure about it. She said that she is here to also represent her children who attended the University of Illinois and took sustainability classes, etc., and they do not want to have kids because they know what is coming for the future. She said that if you have read Chris Hedges' book, "On Contact" between 2020 and 2030 we will not have an American empire anymore and we will be responsible for our energy, and she knows that no one wants to hear that. She said that she does not know how many people have read Naomi Klein's book, "This Changes Everything," but Champaign County has always been in the forefront of change and protecting our own. She said that she is glad that Champaign County has the time to do this and that the Board is doing it.

Ms. Capel asked the Board and staff if there were any questions for Ms. Parkinson, and there were none.

Ms. Capel called Ray Griest.

Mr. Ray Griest, who resides at 1802 Cindy Lynn, Urbana, stated that he is one of the drainage commissioners for the Saline Branch Drainage District. He recommended that the Board checks to see that there are no drainage district tiles through the proposed solar farm's property. He said that the drainage tiles are basically super-highways for the drainage and there are easements for those drainage tiles and he would highly recommend that the solar developer does not construct on those easements.

Ms. Capel asked the Board and staff if there were any questions for Mr. Griest.

Mr. Hall asked Mr. Griest if every drainage district tile has an easement that has been established for it over the entire length of the tile.

Mr. Griest stated that it is supposed to be that way, but it isn't always that way.

Mr. Hall asked Mr. Griest if it isn't that way, is the landowner obligated to give that easement free of charge.

Mr. Griest stated that he cannot answer Mr. Hall's question.

Ms. Lee stated that there are some easements that are per statute in the *Illinois Drainage Law*. She said that when her husband was on a drainage district board, a landowner constructed a fence and the drainage district could not do maintenance work on an area of the drainage ditch due to the constructed fence.

Mr. Hall stated that everyone knows where a drainage ditch is located and where its easement is located. He asked Ms. Lee if there is a drainage district tile and no one knows where it is, how is anyone supposed to know where the easement is located.

Ms. Lee stated that unfortunately, she went to a meeting in Champaign County and one of the engineers who attended the meeting told her that there were records that were destroyed in the Circuit Clerk's office when they moved. She said some of the old records that were destroyed were invaluable and provided information as to where some of the drainage districts' tiles and easements were located. She said that some drainage districts may have their own records which will indicate the same thing, but they do not always get transferred from one generation to the next.

Ms. Griest stated that the easement may exist, but it may not be recorded on the deed and filed at the Champaign County Recorder's office. She said that when some of the records were destroyed they were lost, but many of the engineers in Champaign County do have records indicating those drainage district tiles and easements in their offices.

Mr. DiNovo stated that not having the drainage district tiles and easements recorded was probably a customary practice, because right-of-way for ditches was established as part of a court proceeding and those records were filed with the Circuit Clerk, and no conveyances were filed with the Recorder. He said that only with a diligent title search would you know to go to the Circuit Clerk's office to investigate those

records.

Mr. Griest encouraged the developer to contact the drainage commissioners in the subject area regarding any available maps of the drainage district tiles and easements.

Ms. Capel called Daniel Herriott to testify.

Mr. Daniel Herriot, 30 Dunlap Woods, Sidney, stated that he is a third-generation resident of Sidney and he is currently raising the fourth generation in Sidney. He said that his family has lived in Sidney for a very long time and will continue to live there in the future. He said that he heard that the lease for a proposed solar farm is going to be 40 years, but the life of the panels is only 25 years so there is a lapse of 15 years where new panels must be installed. He asked as a lifelong resident of Sidney, that the Board put a lot of thought into the decommissioning clause and what the solar farm will look like at year 39. He said that some people that are here tonight may not still be living in the area, but for someone like himself and his family, they will. He said that his family does farm land near the proposed solar farm, but that is an entirely different issue that is probably not an issue for this Board.

Mr. DiNovo stated that Mr. Herriott brings up a good point; it is called repowering, which is basically replacing the panels when necessary. He said asked if the Special Use Permits will run indefinitely.

Mr. Hall stated yes.

Mr. DiNovo asked Mr. Hall how repowering will be addressed.

Mr. Hall stated that repowering would be treated as repair, unless in the case of a wind farm when you are putting on more equipment with greater output, then the ordinance states that a new Special Use Permit is required. He said that in the case of a solar farm he could not imagine why a new Special Use Permit would be required if the only replacement is for the panels that were already authorized.

Mr. DiNovo stated that he could imagine that in the future the panels would be more efficient; therefore, increasing the output.

Mr. Hall stated that he is glad that Mr. Herriott brought up the issue of repowering, because it argues for one supporting factor for requiring an escrow account. He said that the ordinance indicates that the developer can draw against the escrow account to repower. He said that the alternative version of the decommissioning that went out, with the escrow account, you do not have to start converting the letter of credit to escrow until year 20 and then it is done by year 25, which is a great time to repower and draw against the escrow account. He said that there still must be an escrow account, but it can be used to repower.

Mr. DiNovo stated that the escrow account is an incentive to repower.

Mr. Hall stated that at year 25 the panels are expected to still be at 80% of their output. He said that it isn't like the panels need replaced at year 25, but they will continue to lose some productivity over time and will eventually require repowering.

Ms. Capel stated that they will need repowered or decommissioned.

Mr. Herriott stated that the developer indicated that the life span is approximately 25 years, so if the project is not profitable at year 25, do they scrap the project and go away and the citizens are left with whatever is there.

Ms. Capel stated that the required letter of credit is updated until year 20, and then the estimated cost of decommissioning is converted to an escrow account. She said that the escrow account would be available in case decommissioning is required and the company abandons the solar farm.

Mr. Herriott asked if the letter of credit is required to be updated every three years.

Mr. Hall stated that there are two versions; the current procedure where the letter of credit is updated every three years until year 12, and then every year. He said that he does not want the office to always be working on the letter of credit/escrow account, and he has always wanted the current procedure to be changed to every two or three years. He said that the alternative decommissioning adopts the 5-year cycle, as in the Agriculture Impact Mitigation Agreement.

Mr. Herriott stated that the Agriculture Impact Mitigation Agreement goes with the wind farms currently, but they are working on one for the solar farms. He said that someone from the Illinois Farm Bureau indicated that the Agriculture Impact Mitigation Agreement would not go into place for leases that are signed before it becomes law and would not be retroactive. He asked Mr. Hall if the person from the Illinois Farm Bureau was correct with their statement.

Mr. Hall stated that he has not seen the legislation as written, but the way that the amendment is written requires an Agriculture Impact Mitigation Agreement, and he hopes that they will figure out a way to make it retroactive, or the amendment could indicate that the Board is happy with an Agriculture Impact Mitigation Agreement based on a wind farm, because most of the agreement is not specific to a certain power generation. He asked Mr. Herriott to send the Department of Planning and Zoning an email with any updated information that he receives.

Ms. Capel asked the Board and staff if there were any additional questions for Mr. Herriott, and there were none.

Ms. Capel called Colleen Ruhter to testify.

Ms. Colleen Ruhter, who resides at 910 CR 2200E, Sidney, stated that there are only two substations in

Champaign County that are capable of handling a large solar farm, but they just updated the Sidney substation two years ago. She asked Mr. Hall what is to keep any other small substation from being upgraded to handle such a large solar farm in five to ten years.

Mr. Hall stated that it could, but these are the only two substations owned by Ameren, the others are owned by cooperatives and they are not interested in encouraging solar, but that could change.

Ms. Ruhter stated that 40 years is a long time and the ordinance should take this into consideration, because it isn't just her community, but could be in a lot of other people's communities, in perpetuity. She said that the long-term effects should be considered by this Board.

Ms. Capel asked the Board and staff if there were any questions for Ms. Ruhter, and there were none.

Ms. Capel asked the audience if anyone else desired to sign the witness register and present testimony regarding Case 895-AT-18, and there was no one.

Ms. Capel asked the Board if there were any questions for staff.

Mr. DiNovo stated that the Board has a lot to talk about, but there are only ten minutes left for the meeting. He asked Mr. Hall if the Board could not take public testimony at the next public hearing so that the Board could review the text amendment.

Mr. Hall stated that the State's Attorney has advised staff that if people attend the public hearing to present testimony regarding a case, they are to be allowed to do so.

Mr. DiNovo stated that the public could be informed that if they intend to testify they may do so after 10:00 p.m. He said that the Board needs time to discuss the text amendment amongst themselves and argue the points where the Board disagrees and ask questions, and it would be best for this to occur at the beginning of the meeting while the Board is fresh and sharp and not at the end of the meeting.

Ms. Capel stated that at tonight's meeting, the Board had ample opportunity prior to public testimony to discuss the text amendment tonight, and the Board did not thoroughly grasp that opportunity.

Mr. DiNovo stated that the Board did not get anywhere near getting close to covering all the things that need to be talked about. He said that he had pages of notes and he was sure that other Board members had pages of notes to discuss the text amendment. He asked if the Board reserved the preponderance of the next meeting for the Board's discussion, and at the end of that meeting the Board could possibly be down to something which is darn close to done. He said that there is one more meeting, April 26th, for the Board to review the Findings of Fact, etc., and that meeting would also provide additional comments and the opportunity to ask any questions.

Mr. Hall stated that there is an opportunity to have a special ZBA meeting next Thursday, because if people attend the meeting to speak about the text amendment, they must have the opportunity to do so. He said that Mr. DiNovo is correct in that the Board needs time to work through these issues. He said that it is possible that the two scheduled meetings in April that are for the text amendment may be enough time for the Board to make a recommendation, but his impression is that the Board will be very lucky to finish all the debate that they will have and adopt the Finding of Fact in only six more hours. He said that there is an opportunity for the Board to have a special meeting next Thursday, April 5th, but staff will not have an opportunity to get any new information out between now and then. He said that the Board could come back and take the discussion regarding the text amendment again at that special meeting.

Mr. DiNovo agreed with Mr. Hall, but the Board cannot have meetings that are only about public input because the Board never has time to complete their work. He said that at some point the Board must have time to do what they are supposed to do and get this done.

Mr. Hall noted that this is the same way that the wind farm ordinance was adopted.

Ms. Griest moved, seconded by Mr. DiNovo, to hold a special meeting of the Zoning Board of Appeals on April 5th at 7:00 p.m. regarding Case 895-AT-18.

Mr. Randol noted that he would be unable to attend the special meeting on April 5th.

Ms. Capel asked the Board if anyone else present tonight would be unavailable for a special meeting on April 5th, and there was no one.

Ms. Griest stated that she had questions regarding the text amendment.

Mr. Hall stated that the Board may be well served in reviewing Ms. Griest's questions tonight, even if the Board had to go past 10:00 p.m.

Ms. Griest stated that she could have her questions posed prior to 10:00 p.m.

Ms. Capel asked the Board to finalize the motion for a special meeting on April 5th.

The motion carried by voice vote.

Ms. Griest asked Mr. Hall if any information had been received regarding glare or reflectivity on neighboring residences.

Mr. Hall stated that staff has little information regarding glare or reflectivity, and no glare analysis is required. He said that he had proposed a glare analysis to the Environment and Land Use Committee (ELUC), but they were not happy with it. He said that paragraph 6.1.5.N, on page 19 of the Clean

Amendment, states that the design and construction of the PV Solar Farm is to minimize glare and if problems occur after construction and ELUC determines that the glare is excessive, they must work with the operator to fix it.

Ms. Griest stated that she did see the proposed language in paragraph 6.1.5.N, but it wasn't adequate in answering her question, because to her, paragraph 6.1.5.N. is a factor to what the setback needs to be. She said that depending upon how much it reflects during operation onto adjacent properties, how far do the panels need to be to mitigate that glare.

Mr. Hall stated that photovoltaic panels are non- reflective.

Ms. Griest stated that information regarding the fact that photovoltaic panels are non-reflective should be in the evidence somewhere. She said that for the next meeting, she would like the Board to discuss the possibility of a 500 feet setback from the nearest residence, with the ability to reduce it with a waiver in order to decrease that setback, as opposed to, having a minimal standard with the ability to increase that setback. She said that it has been her experience that increasing the setback is much more difficult than reducing it, especially if there is cooperation and concurrence that it is okay to reduce it, then fine, but since the other counties that Champaign County would normally be in competition with have 500 feet as their minimum, it seems like a good place to begin the discussion, as opposed to 100 feet. She asked Mr. Hall if any comments or input have been received from the Champaign County Farm Bureau.

Mr. Hall stated no.

Ms. Griest asked Mr. Hall if staff has reached out to the Champaign County Farm Bureau.

Mr. Hall stated yes, many times.

Ms. Capel stated that Mr. Uken attended the March 1st meeting.

Ms. Griest stated that she did not attend the March 1st meeting. She asked if Mr. Uken made comments for the Champaign County Farm Bureau, or himself.

Ms. Capel stated that Mr. Uken did not testify.

Ms. Griest stated that the Board should consider not permitting the developers to construct over a drainage district tile, and that there should be a 60 feet wide easement for that drainage district tile that is non-buildable. She said that 60 feet is the standard width of a drainage district easement and building on top of the drainage district tile is problematic in so many ways. She said, to be clear, she is not talking about private farm tiles, but drainage district tiles, which are 18" or above in diameter and the drainage district owns and maintains them. She said that there is a lot of discussion in the materials regarding the letter of credit. She asked if the company or LLC becomes financially unstable, will the banks continue to issue a

letter of credit, or once they become financially unstable, if it were to happen in 15 years, how renewable is the letter of credit. She asked if the letter of credit is based on the economic health and stability of the company for which they are issuing the letter of credit, so the letter of credit is only as good as the financial stability of the company issuing that letter. She said that she is not convinced that the County is protected with a reclamation bond.

Mr. DiNovo stated that there are a couple of instances where the County requires actions by other units of government, such as municipalities and township road districts. He asked that theoretically, if you take the standard conditions at face value, if the municipality refuses to adopt a resolution with respect to the solar farm, what does that do, because it looks like the County would be delegating authority to units to government which seems legally questionable. He asked staff to run this language past the State's Attorney to assure that they do not disagree with it. He said that he isn't saying that such language is not necessary, but it may need tweaked.

Mr. Hall stated that there is no need to run the road use agreement by the State's Attorney's office, because they have already reviewed it. He said that it would be better if the Board could come up with language that does not have to be reviewed by the State's Attorney, yet serves the intended purpose. He asked Mr. DiNovo if he had any suggestions for staff.

Mr. DiNovo stated that in terms of a mandate for the applicant, he is not sure that the Board can ask for much more than when they formally request action by the municipality. He said that if the municipality doesn't act, for whatever reason, it is not held against the applicant, if they present evidence of engagement, or something like that.

Mr. Hall stated that staff will prepare language like that, but asked if it would answer Mr. DiNovo's concerns regarding delegation of authority.

Mr. DiNovo stated yes. He said that he had a question, that the Board can get into later, about prohibiting waivers in the impact mitigation agreement with the Department of Agriculture. He said that the only thing that the applicant could do is waive performance on the part of the Department of Agriculture.

Mr. Hall stated that the applicant could waive the requirement to replace that district tile if it is interrupted.

Mr. DiNovo stated that is enforced by the Department of Agriculture and they can't waive that without the Department of Agriculture's approval.

Mr. Hall stated that Department of Agriculture Impact Mitigation language states that any part of it can be waived.

Mr. DiNovo stated that it can only be waived by both parties.

Mr. Hall stated no, the landowner. He said that it doesn't make sense, but that is what it states.

Ms. Griest moved to extend the meeting to 10:05 p.m.

Mr. DiNovo withdrew his question.

Ms. Capel asked the Board if there were any additional questions for staff, and there were none.

Ms. Capel asked Mr. Hall if staff require additional time.

Mr. Hall stated that staff did not require additional time tonight.

The motion failed by lack of a second.

Ms. Griest moved, seconded by Mr. Elwell, to continue Case 895-AT-18 to April 5, 2018. The motion carried by voice vote.

6. New Public Hearings

None

7. Staff Report

None

8. Other Business
A. Review of Docket

No review of the docket occurred.

9. Audience participation with respect to matters other than cases pending before the Board

None

10. Adjournment

The meeting adjourned at 10:01 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals