

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street
Urbana, IL 61801

DATE: November 1, 2018

PLACE: Lyle Shields Meeting Room
1776 East Washington Street
Urbana, IL 61802

TIME: 6:30 p.m.

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

MEMBERS ABSENT: None

STAFF PRESENT: Lori Busboom, Susan Burgstrom, John Hall

OTHERS PRESENT: Marjorie Tingley, Erica Justus, Doug Nesbitt, Lisa Nesbitt, Matthew Herriott, Seven Herriott, Scott O’Neill, Jeff Justus, Joyce Hurd, Bill Glithero, David Jones, Tim Osterbur, Sandra Barcus, Brian Hartwig, David Barcus, Tannie Justus, Rebecca Sinkes, Patrick Fitzgerald, Daniel Solorzano, Colleen Ruhter, Charles White, Patrick Brown, George Gunnoe, Laurel Bergren, Jim Nonman, William McKee, Chris Fleming, Roger Negangard, Ernest Nemeyer, Bonnie Owens, David Owens, Becky Smith, Paul Swinford, Barbara Swinford

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.

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

None

5. Continued Public Hearing

Case 903-S-18 Petitioner: FFP IL Community Solar LLC, via agent David Dickson Request: Authorize two Community PV Solar Farms with a total nameplate capacity of 4 megawatts (MW), including access road and wiring, in the AG-1 Agriculture Zoning District, and including the following waivers of standard conditions: Part A: A waiver for a distance of 425 feet from the CR Conservation Recreation Zoning District in lieu of the minimum required one-half mile (2,640 feet), per Section 6.1.5B. (2) b. Part B: A waiver for not providing a Decommissioning and Site Reclamation Plan that include cost estimates prepared by an Illinois Licensed Professional Engineer Prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3. Other waivers may be necessary. Location: Part of a 121.79-acre tract comprised of part of Lot D of the Proprietor’s Survey of Lands Subdivision in Section 11 of Township 18 North, Range 10 East of the Third Principal Meridian in Sidney Township, and commonly known as the field east of the house located at 2232A CR 1000N, Sidney.

Case 906-S-18 FFP IL Community Solar LLC, via agent David Dickson Request: Authorize a Community PV Solar Farm with a total nameplate capacity of 2 megawatts (MW), including access road and wiring, in the AG-1 Agriculture Zoning District, and including the following waivers of standard conditions: Part A: A waiver for a distance of 135 feet from the CR Conservation Recreation Zoning District in lieu of the minimum required one-half mile (2,640 feet), per Section 6.1.5B. (2) b. Part B: A waiver for not providing a Decommissioning and Site Reclamation Plan that include cost estimates prepared by an Illinois Licensed Professional Engineer Prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3. Other waivers may be necessary. Location: A 40-acre tract in the Northeast Quarter of the Southeast Quarter of Section 3 of Township 19 North, Range 10 East of the Third Principal Meridian in St. Joseph Township, and commonly known as the farmland approximately 600 feet north of Schuren Nursery on the west side of CR 2200E, St. Joseph.

Case 907-S-18 FFP IL Community Solar LLC, via agent David Dickson Request: Authorize two Community PV Solar Farms with a total nameplate capacity of 4 megawatts (MW), including access road and wiring, in the AG-1 Agriculture Zoning District, and including the following waivers of standard conditions: Part A: A waiver for a distance of 338 feet from the CR Conservation Recreation Zoning District in lieu of the minimum required one-half mile (2,640 feet), per Section 6.1.5B. (2)b. Part B: A waiver for locating a PV SOLAR FARM within the Contiguous Urban Growth Area (CUGA) in lieu of outside the CUGA, per Section 6.1.5 B.(2) of the Zoning Ordinance; and Part C: A waiver for not providing a Decommissioning and Site Reclamation Plan that include cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3. Part D: A waiver for not entering into A Roadway Upgrade and Maintenance Agreement or waiver therefrom the relevant local highway authority prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G. Other waivers may be necessary. Location: Part of a 153.23-acre tract in Northwest Quarter of Section 12 of Township 19

1 **North, Range 10 East of Third Principal Meridian in St. Joseph Township, and commonly known as**
2 **the farmland at the southwest corner of CR 2350E and CR 1700E, St. Joseph.**

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4 Ms. Capel called Cases 903-S-18, 906-S-18 and 907-S-18 concurrently.

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6 Ms. Capel informed the audience that Cases 903-S-18, 906-S-18 and 907-S-18 are Administrative Cases
7 and as such, the County allows anyone the opportunity to cross-examine any witness. She said that at
8 the proper time, she will ask for a show of hands for those who would like to cross-examine, and each
9 person will be called upon. She requested that anyone called to cross-examine go to the cross-
10 examination microphone to ask any questions. She said that those who desire to cross-examine are not
11 required to sign the witness register but are requested to clearly state their name before asking any
12 questions. She noted that no new testimony is to be given during the cross-examination. She said that
13 attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross-examination.
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15 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign
16 the witness register for that public hearing. She reminded the audience that when they sign the witness
17 register they are signing an oath. She asked the audience if anyone desired to sign the witness register
18 and there was no one.
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20 Ms. Capel asked staff to indicate current information regarding these cases.
21

22 Mr. John Hall, Zoning Administrator, stated that there was a question at the last public meeting regarding
23 whether testimony needed to be heard at tonight's meeting. He said that he checked with the State's
24 Attorney's office and their opinion was that since the three cases are only on the docket tonight for Final
25 Determination, because the Board has already approved the Findings of Fact, heard testimony and allowed
26 cross-examination, and no new evidence is submitted, the Board is not obligated to take new testimony and
27 can simply take the final vote.
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29 Mr. DiNovo stated that what he is about to do is going to be unpopular, but he must notify the Board that his
30 calculations of the projected assessed values and property tax revenues generated by the three proposed solar
31 farms is off by a factor of three, and the values should be one-third of those stated in the document.
32

33 **Mr. DiNovo moved to reconsider the adoption of the Findings of Fact and Summary of Evidence for**
34 **Cases 903-S-18, 906-S-18 and 907-S-18, so that correct calculations of the projected assessed values**
35 **and property tax revenues generated by the three proposed solar farms can be inserted into the**
36 **record.**

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38 Mr. Passalacqua stated that the record indicates the Board's discussion regarding the accuracy of those
39 calculations, as compared to what the petitioner offered.
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41 Mr. DiNovo stated that the Board did discuss an error regarding those calculations, but this is an additional

1 correction. He said that he misread the statute and it does not provide a formula for calculating assessed
2 value but does provide a calculation for determining the fair cash value. He said that he does not know how
3 significant this is, but the tax revenue numbers should be approximately one-third of what he previously
4 estimated.

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6 Mr. Hall stated that it was his impression that the most recent law established what the value is for purposes
7 of taxation.

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9 Mr. DiNovo stated that the most recent law does, but unlike the farm assessment provisions that establish a
10 formula for calculating farmland assessed value, this statute creates a formula for calculating the fair cash
11 value. He said that if it is fair cash value the assessed value is one-third that amount. He said that he
12 misread the statute and assumed that if you were going to put a formula in then why not put a formula in for
13 assessed value, but that is not what they did, so the numbers that he presented were three times too high.

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15 Mr. Hall asked Mr. DiNovo if this is based on his own understanding.

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17 Mr. DiNovo stated that he noticed the numbers submitted in Case 898-S-18 and realized that those numbers
18 were a lot lower than he would have expected so he went back and reread the statute.

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20 Ms. Capel noted that there is a motion on the floor and asked the Board if there was a second.

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22 Mr. Passalacqua asked if the motion is to amend the record.

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24 Mr. DiNovo stated that the motion on the floor is a parliamentary matter and the Board must agree to
25 reconsider the earlier motions to approve the Summary of Evidence, Documents of Record and Findings of
26 Fact.

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28 Mr. Passalacqua stated that he looked at Mr. DiNovo's study in the same light as he takes any other study
29 that the Board receives, in that he appreciates it but does not necessarily take it for matter of fact, so it
30 doesn't have a lot of bearing on his thought process.

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32 Mr. DiNovo stated that if the study is not a consideration then this is not necessary, but he wanted the Board
33 to be apprised of it before it voted on any other cases.

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35 Ms. Capel asked the Board if there was a second to the motion on the floor.

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37 **Ms. Griest seconded the motion in accordance to Robert's Rules, which allows the subject to be**
38 **discussed as to whether or not the Board will allow the reconsideration of the Summary of Evidence,**
39 **Documents of Record and Findings of Fact.**

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41 Ms. Griest stated that she would like to hear staff's input on the material effect of changing the Summary of

1 Evidence versus not changing it, or whether staff could deal with the correction as an addendum at the
2 Environment and Land Use Committee meeting.

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4 Mr. Hall stated that the corrected information would not affect the Finding of Fact because the extent that
5 Finding of Fact discussed property tax values was very general and clearly did not commit to an amount, but
6 it is up to the Board whether they want to change it or not, although, he does not think it is necessary. He
7 said that, as a staff person, if there is known incorrect evidence in the Summary of Evidence and it can be
8 corrected tonight, then that would be best. He asked Mr. DiNovo if he brought the revised information to the
9 meeting.

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11 Mr. DiNovo stated that he did have revised estimates and noted that in the relevant areas of the Summary of
12 Evidence the word “significant” should be used.

13
14 Mr. Passalacqua stated that the revised calculation sheet is as speculative as the original document and is
15 subject to change, therefore he would move that the approved version be left alone.

16
17 Mr. DiNovo stated that he might agree with Mr. Passalacqua.

18
19 Mr. Elwell asked if the Summary of Evidence needed changed, could it be referred to as fair cash value.

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21 Ms. Capel stated no, because those words were not in the original Summary of Evidence. She asked Mr.
22 Hall to indicate the implications if the Board opens the Findings of Fact to implement this change. She
23 asked if every Finding of Fact had to be voted upon for each case.

24
25 Mr. Hall stated that he hasn’t heard anyone indicate that the Findings of Fact needed to be changed, because
26 it is only the Summary of Evidence that requires revision. He said that if the Board goes back and revises
27 the Summary of Evidence, then the Board needs to ask if anyone from the public desired to add testimony.

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29 Mr. DiNovo noted that the Board is not obligated to take redundant testimony and could require that only
30 new testimony would be accepted.

31
32 Mr. Hall stated that if the only thing that is being changed is the property tax valuation estimate, then only
33 testimony regarding that topic would be accepted.

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35 Ms. Capel asked the Board if there was any additional discussion by the Board. She said that there is a
36 motion on the floor to reconsider the Findings of Fact, Summary of Evidence, and Documents of Record for
37 Cases 903-S-18, 906-S-18 and 907-S-18.

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39 Mr. Hall asked Mr. DiNovo to restate his motion.

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41 **Mr. DiNovo moved, seconded by Ms. Griest, to reconsider the adoption of the Summary of Evidence,**

1 **Documents of Record and Findings of Fact for Cases 903-S-18, 906-S-18 and 907-S-18.**

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Mr. Hall asked Mr. DiNovo if he wanted his motion stated that broadly.

Ms. Griest stated that she thought Mr. DiNovo was only referring to the Summary of Evidence for each case, because that was the intent of her second.

Mr. DiNovo stated that the prior motion was to approve all three of those things; therefore, his motion was to reconsider the original motion.

Ms. Lee stated that basically Mr. DiNovo’s motion is to amend the information submitted and indicated in the Summary of Evidence for each of the three cases.

Mr. DiNovo stated that his motion was to reconsider the actual approved Summary of Evidence and Documents of Record, and then individual motions would be required to amend the Summary of Evidence and Documents of Record for each case, and a second individual motion to adopt the amended Summary of Evidence, Documents of Record and Findings of Fact for each case.

Mr. Hall asked Ms. Burgstrom if any values were entered into the Summary of Evidence.

Ms. Burgstrom stated yes.

Mr. DiNovo stated that the values were entered in Item 10.C.(4) d. for each case.

Ms. Griest called the question.

Mr. DiNovo stated that it is non-debatable.

The motion carried, with three opposing votes.

Mr. DiNovo moved, seconded by Ms. Griest to amend item 10.C.(4) d. of the Summary of Evidence for Case 903-S-18, as follows:

- d. A corrected comparison of estimated property tax valuations for existing farmland and the proposed solar farm use employing the methodology specified in P.A. 100-0871 was completed by ZBA member Frank DiNovo, a revised version of which was submitted and entered as a Document of Record at the continued public hearing on November 1, 2018. The analysis, which provides data sources but has not been verified by the Assessor’s Office, indicates that the current assessed value for the farmland on the 22.59-acre solar farm site is \$8,942 and, assuming historical trends in farmland values, would average \$12,539 over 25 years. The assessed value in year 1 for the subject property with the two, 2**

1 **MW solar farms installed would be \$290,667, and would average \$148,359 over 25 years,**
 2 **for a net increase in assessed value in year one of \$281,725 and an average of \$185,273 over**
 3 **25 years. Net increases in tax revenues reflect the net increase in assessed value and the tax**
 4 **rates of the various taxing bodies. Using current tax rates, the estimated net increase in**
 5 **annual tax revenue to all taxing bodies in Sidney Township will be \$18,528 in year 1 and**
 6 **average \$12,184 over 25 years.**

7
 8 Mr. Hall noted that Case 903-S-18 is a 4 MW solar farm.

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 10 Ms. Lee asked Mr. DiNovo if he had copies of the revised documents for the Board to review.

11
 12 Mr. DiNovo stated that he did not have copies to distribute to the Board, but he could circulate his one
 13 copy for the Board to review and would need it back so that he could continue with the motions
 14 regarding the same corrections for the other two cases.

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 16 **The motion carried by voice vote.**

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 18 **Mr. DiNovo moved, seconded by Ms. Griest, to amend item 10.C.(4) d. of the Summary of Evidence**
 19 **for Case 906-S-18, as follows:**

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 21 **d. A corrected comparison of estimated property tax valuations for existing farmland and the**
 22 **proposed solar farm use employing the methodology specified in P.A. 100-0781 was**
 23 **completed by ZBA member Frank DiNovo and received by P&Z Staff on November 1,**
 24 **2018 and entered as a Document of Record at the Public Hearing on that date. The**
 25 **analysis, which provides data sources but has not been verified by the Assessor’s Office,**
 26 **indicates that the current assessed value for the farmland on the 14.4-acre solar farm site**
 27 **is \$5,501 and, assuming historical trends in farmland values, would average \$7,703 over 25**
 28 **years. The assessed value in year 1 for the subject property with the 2 MW solar farm**
 29 **installed would be \$145,333, and would average \$98,906 over 25, for a net increase in**
 30 **assessed value in year one of \$139,840 and an average of \$91,203 over 25 years. Net**
 31 **increases in tax revenues reflect the net increase in assessed value and the tax rates of the**
 32 **various taxing bodies. Using current tax rates, the estimated net increase in annual tax**
 33 **revenue to all taxing bodies in St. Joseph Township will be \$9,872 in year 1 and average**
 34 **\$6,439 over 25 years.**

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 36 **The motion carried by voice vote.**

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 38 **Mr. DiNovo moved, seconded by Mr. Elwell, to amend item 10.C.(4) d. of the Summary of Evidence**
 39 **for Case 907-S-18, as follows:**

1 **d. A corrected comparison of estimated property tax valuations for existing farmland and the**
2 **proposed solar farm use employing the methodology specified in P.A. 100-0781 was**
3 **completed by ZBA member Frank DiNovo, a revised version of which was received by**
4 **P&Z Staff on November 1, 2018 and entered as a Document of Record at the public**
5 **hearing on that date. The analysis, which provides data sources but has not been verified**
6 **by the Assessor's Office, indicates that the current assessed value for the farmland on the**
7 **31.2-acre solar farm site is \$18,047 and, assuming historical trends in farmland values,**
8 **would average \$25,307 over 25 years. The assessed value in year 1 for the subject property**
9 **with the 2 MW solar farm installed would be \$290,667, and would average \$197,812 over**
10 **25 years, for a net increase in assessed value in year one of \$272,620 and an average of**
11 **\$172,505 over 25 years. Net increases in tax revenues reflect the net increase in assessed**
12 **value and the tax rates of the various tax bodies. Using current tax rates, the estimated net**
13 **increase in annual tax revenue to all taxing bodies in St. Joseph Township will be \$19,246**
14 **in year 1 and average \$12,178 over 25 years.**

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16 **The motion carried by voice vote.**

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18 Mr. Hall requested that Mr. DiNovo enter his document as a new Document of Record for each case.

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20 Mr. DiNovo agreed.

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22 **Mr. DiNovo moved, seconded by Ms. Griest, to enter the Revised Estimates of Property Tax Revenues**
23 **and the Revised text for item 10.C.(4) d. as Documents of Record for Cases 903-S-18, 906-S-18, and**
24 **907-S-18, as submitted at the November 1, 2018, public hearing.**

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26 Mr. Hall stated that it is important for staff to have these documents so that they can be included in the
27 ELUC mailing.

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29 **The motion carried by voice vote.**

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31 **Mr. DiNovo moved, seconded by Ms. Griest, to adopt the Revised Summary of Evidence and**
32 **Documents of Record for Cases 903-S-18, and the Findings of Fact for Case 903-S-18, as adopted at**
33 **the October 25, 2018, public meeting.**

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35 Ms. Lee asked if public testimony should be taken regarding the revised information regarding the estimates
36 of property tax revenues and the revised text for item 10.C (4) d. of the Summary of Evidence for each case.

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38 Mr. DiNovo stated that he is not opposed to receiving testimony regarding the revisions.

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40 Mr. Elwell asked Ms. Capel to keep the testimony limited to the revisions to the Summary of Evidence and
41 Documents of Record.

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Ms. Capel asked the audience if anyone desired to present testimony regarding the revisions to the Summary of Evidence and Documents of Record for Cases 903-S-18, and there was no one.

The motion carried by voice vote.

Mr. DiNovo moved, seconded by Mr. Elwell, to adopt the Revised Summary of Evidence and Documents of Record for Cases 906-S-18, and the Findings of Fact for Case 906-S-18, as adopted at the October 25, 2018, public meeting.

Ms. Capel asked the audience if anyone desired to present testimony regarding the revisions to the Summary of Evidence and Documents of Record for Cases 906-S-18, and there was no one.

Mr. DiNovo moved, seconded by Mr. Elwell, to adopt the Revised Summary of Evidence and Documents of Record for Cases 907-S-18, and the Findings of Fact for Case 907-S-18, as adopted at the October 25, 2018, public meeting.

Ms. Capel asked the audience if anyone desired to present testimony regarding the revisions to the Summary of Evidence and Documents of Record for Cases 907-S-18, and there was no one.

The motion carried by voice vote.

Mr. DiNovo thanked the Board, staff, and the audience for indulging him in this matter, and he apologized for the errors.

Ms. Capel entertained a motion to move to the Final Determination for Case 903-S-18:

Mr. Elwell moved, seconded by Ms. Griest, to move to the Final Determination for Case 903-S-18. The motion carried by voice vote.

Final Determination for Case 903-S-18:

Mr. DiNovo moved, seconded by Mr. Elwell, that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval of Section 9.1.11B. HAVE been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case 903-S-18 should be GRANTED WITH SPECIAL CONDITIONS to the applicant, FFP IL Community Solar LLC, to authorize the following as a Special Use on land in the AG-1 Agriculture Zoning District:

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Authorize two Community PV Solar Farms, each with a nameplate capacity of 2 megawatts (MW) for a total of 4 MW, including access road and wiring, and

SUBJECT TO THE FOLLOWING WAIVERS OF STANDARD CONDITIONS:

Part A: A waiver for a distance of 425 feet from the CR Conservation Recreation Zoning District in lieu of the minimum required one-half mile (2,640 feet), per Section 6.1.5 B. (2) b.

Part B: Not providing a Decommissioning and Site Reclamation Plan that include cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

- A. The revised Site Plan received October 17, 2018 is the approved site plan for Case 903-S-18.**
- B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**
- C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed PV SOLAR FARM until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code, if necessary.**
- D. The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture per the requirements established in Paragraph 6.1.5 R. of the Zoning Ordinance.**
- E. A signed Decommissioning and Site Reclamation Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois Professional Engineer.**
- F. The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR FARM:**
 - 1. Documentation of the solar module’s unlimited 10-year warranty and the 25-year limited power warranty.**

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- 2. **An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of “A” by S&P or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
- 3. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**
- 4. **Documentation regarding the seed to be used for the pollinator planting, per 6.1.5 F. (9).**
- 5. **The telephone number for the complaint hotline required by 6.1.5 S.**
- 6. **Any updates to the approved Site Plan from Case 903-S-18 per the Site Plan requirements provided in Section 6.1.5 U.1. c.**

G. A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior to going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:

- 1. **An as-built site plan of the PV SOLAR FARM including structures, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR FARM to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
- 2. **As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR FARM including any access road prepared by an Illinois Licensed Professional Engineer.**
- 3. **An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B. (3) b.**

H. The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with the following specific requirements that apply even after the PV SOLAR FARM goes into commercial operation:

- 1. **Maintain the pollinator plantings and required visual screening in perpetuity.**

- 1 2. **Cooperate with local Fire Protection District to develop the District’s**
- 2 **emergency response plan as required by 6.1.5 H. (2).**
- 3
- 4 3. **Cooperate fully with Champaign County and in resolving any noise**
- 5 **complaints including reimbursing Champaign County any costs for the**
- 6 **services of a qualified noise consultant pursuant to any proven violation of**
- 7 **the I.P.C.B. noise regulations as required by 6.1.5 I. (4).**
- 8
- 9 4. **Maintain a current general liability policy as required by 6.1.5 O.**
- 10
- 11 5. **Submit annual summary of operation and maintenance reports to the**
- 12 **Environment and Land Use Committee as required by 6.1.5 P. (1) a.**
- 13
- 14 6. **Maintain compliance with the approved Decommissioning and Site**
- 15 **Reclamation Plan including financial assurances.**
- 16
- 17 7. **Submit to the Zoning Administrator copies of all complaints to the telephone**
- 18 **hotline on a monthly basis and take all necessary actions to resolve all**
- 19 **legitimate complaints as required by 6.1.5 S.**
- 20

21 Ms. Capel requested a roll call vote.

22
23 The roll was called as follows:

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25	DiNovo – yes	Griest – yes	Lee – no
26	Randol – no	Passalacqua – no	Elwell – yes
27	Capel – yes		
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29 Mr. Hall reminded the Board that at the October 25th public hearing the Findings of Fact were adopted
30 with a vote that was 4 to 1. He said that any reasonable person would expect that a Finding that was
31 adopted by the Board with a vote of 4 to 1 would be approved by a vote of 4, so he cannot stress enough
32 to the Board members that adopting a Finding of Fact with an affirmative vote and then voting to deny
33 the Final Determination is inconsistent.

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35 Ms. Lee stated that she does not believe that the Board members voted differently tonight as they did at
36 the previous meeting regarding this case.

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38 Mr. Hall stated that he does know that some of the Board members did vote differently because the vote
39 was 4 to 1 to approve the Finding of Fact at the October 25th meeting.

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41 Ms. Lee stated that she knows for a fact that the vote that she posed at the last meeting is consistent with

1 her vote tonight regarding this case.

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3 Mr. Hall agreed with Ms. Lee. He said that a petitioner who received affirmative votes for the Findings
4 of Fact would expect the same affirmative votes for the Final Determination.

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6 Mr. DiNovo stated that Mr. Hall's point is legitimate, and it would be an issue if the ZBA was the final
7 authority and any court challenge would demand consistency between final action and the adoption of
8 the findings. He said that obviously there cannot be perfect agreement, but since this Board is making a
9 recommendation, there is an inconsistency and there is a close vote of 4 to 3. He said that the Board is
10 clearly divided in its opinions, but he is not concerned about this and it is more important for ELUC to
11 understand that the ZBA was clearly split on the vote. He said that ELUC members must account to
12 themselves if they recommend an action that is inconsistent with the findings.

13
14 Ms. Lee stated that she wanted it understood that she was consistent with her vote. She asked Mr. Hall
15 if he agreed.

16
17 Mr. Hall stated that Ms. Lee's consistent vote is understood, but he would not go as far as stating that he
18 agreed or disagreed.

19
20 Ms. Griest asked Mr. Hall if it is appropriate or prudent for the Board members who have a dissenting
21 opinion on the approval to express or document that as an addendum to the documents that move
22 forward to ELUC. She asked if it would be helpful for those Board members to clarify the points of
23 their objection. She said that the Board has done this previously, perhaps only once or twice, but it isn't
24 something that this Board typically does.

25
26 Mr. Hall stated that this is the ZBA's meeting and the Board can do whatever it wants, but he would
27 think that a better time for discussing differences in opinions about findings is when the Board is
28 adopting them. He said that at the last meeting four members voted to adopt an affirmative
29 finding and those same four people did not vote for it tonight, so in the future he would hope that the
30 Board would be consistent, even though he knows that there will always be differences in opinion. He
31 said that he was not trying to push for affirmative votes, but he is asking that individually the Board not
32 approve a finding of fact that is affirmative if that Board member cannot vote for it affirmatively in the
33 end, because that is inconsistent. He said that in cases where the Board is the final vote, such a case
34 could end up in court.

35
36 Ms. Lee stated that from her own perspective, a lot of it relates to what Mr. DiNovo did with his
37 economic benefits. She said that when her husband was still living she went home after the meeting and
38 she told him about the Board member that presented the economic benefits and he asked if that Board
39 member would like to continue eating. She said that some of the farm magazines have articles about
40 economic benefits and one indicated that there would need to be a 70% increase in the rate of crop
41 production in nine years, which is a significant fact in her book, and for the record that type of

1 information is what influenced how she voted.

2
3 Mr. Passalacqua stated that the Board is getting way beyond the main discussion.

4
5 Ms. Capel entertained a motion to move to the Final Determination for Case 906-S-18.

6
7 **Mr. Elwell moved, seconded by Ms. Griest, to move to the Final Determination for Case 906-S-18.**
8 **The motion carried by voice vote.**

9
10 **Final Determination for Case 906-S-18:**

11
12 **Mr. DiNovo moved, seconded by Ms. Griest, that the Champaign County Zoning Board of**
13 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**
14 **that the requirements for approval of Section 9.1.11B. HAVE been met, and pursuant to the**
15 **authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines**
16 **that:**

17
18 **The Special Use requested in Case 906-S-18 SHOULD be GRANTED WITH SPECIAL**
19 **CONDITIONS to the applicant, FFP IL Community Solar LLC, to authorize the following**
20 **as a Special Use on land in the AG-1 Agriculture Zoning District:**

21
22 **Authorize a Community PV Solar Farm with a total nameplate capacity of 2**
23 **megawatts (MW), including access roads and wiring, and**

24
25 **SUBJECT TO THE FOLLOWING WAIVERS OF STANDARD CONDITIONS:**

26
27 **Part A: A waiver for a distance of 200 feet from the CR Conservation Recreation Zoning**
28 **District in lieu of the minimum required one-half mile (2,640 feet), per Section**
29 **6.1.5 B. (2) b.**

30
31 **Part B: Not providing a Decommissioning and Site Reclamation Plan that includes cost**
32 **estimates prepared by an Illinois Licensed Professional Engineer prior to**
33 **consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3.**

34
35 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

- 36
37 **A. The Site Plan received October 11, 2108, is the approved site plan for Case 906-S-18.**
38
39 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
40 **issue a Zoning Compliance Certificate on the subject property until the lighting**
41 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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- C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed PV SOLAR FARM until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code, if necessary.**
- D. The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture per the requirements established in Paragraph 6.1.5 R. of the Zoning Ordinance.**
- E. A signed Decommissioning and Site Reclamation Plan that has been approved by the Environment and Land Use Committee is required at the time of application for a Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois Professional Engineer.**
- F. The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR FARM:**
- 1. **Documentation of the solar module’s unlimited 10-year warranty and the 25-year limited power warranty.**
 - 2. **An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of “A” by S&P or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
 - 3. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**
 - 4. **Documentation regarding the seed to be used for the pollinator planting, per 6.1.5 F. (9).**
 - 5. **The telephone number for the complaint hotline required by 6.1.5 S.**
 - 6. **Any updates to the approved Site Plan from Case 906-S-18 per the Site Plan requirements provided in Section 6.1.5 U.1. c.**

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- 7. **The review comments from the Illinois State Historic Preservation Office from a review of a Phase I Archaeological Survey of the project site and any necessary revisions to the site plan based on the comments from the Illinois State Historic Preservation Office.**
- 8. **A Floodplain Development Permit Application and any required information for it in addition to the Zoning Use Permit Application.**

G. A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior to going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:

- 1. **An as-built site plan of the PV SOLAR FARM including structures, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR FARM to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
- 2. **As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR FARM including any access road prepared by an Illinois Licensed Professional Engineer.**
- 3. **An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B. (3) b.**

H. The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with the following specific requirements that apply even after the PV SOLAR FARM goes into commercial operation:

- 1. **Maintain the pollinator plantings and required visual screening in perpetuity.**
- 2. **Cooperate with local Fire Protection District to develop the District’s emergency response plan as required by 6.1.5 H. (2).**
- 3. **Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.5 I. (4).**
- 4. **Maintain a current general liability policy as required by 6.1.5 O.**

- 1 5. **Submit annual summary of operation and maintenance reports to the**
- 2 **Environment and Land Use Committee as required by 6.1.5 P. (1) a.**
- 3
- 4 6. **Maintain compliance with the approved Decommissioning and Site**
- 5 **Reclamation Plan including financial assurances.**
- 6
- 7 7. **Submit to the Zoning Administrator copies of all complaints to the telephone**
- 8 **hotline monthly and take all necessary actions to resolve all legitimate**
- 9 **complaints as required by 6.1.5 S.**

10

11 Ms. Capel requested a roll call vote.

12

13 The vote was called as follows:

14

15 Griest – yes	Lee – no	Passalacqua – no
16 Randol – no	Elwell – yes	DiNovo – yes
17 Capel – yes		

18

19 Ms. Capel entertained a motion to move to the Final Determination for Case 907-S-18.

20

21 **Ms. Griest moved, seconded by Mr. Elwell, to move to the Final Determination for Case 907-S-18.**
22 **The motion carried by voice vote.**

23

24 **Final Determination for Case 907-S-18:**

25

26 **Mr. Elwell moved, seconded by Ms. Griest, that the Champaign County Zoning Board of Appeals**
27 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
28 **requirements for approval of Section 9.1.11B. HAVE been met, and pursuant to the authority**
29 **granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:**

30

31 **The Special Use requested in Case 907-S-18 should be GRANTED WITH SPECIAL**
32 **CONDITIONS to the applicant, FFP IL Community Solar LLC, to authorize the following**
33 **as a Special Use on land in the AG-1 Agriculture Zoning District:**

34

35 **Authorize two Community PV Solar Farms, each with a nameplate capacity of 2**
36 **megawatts (MW) for a total of 4 MW, including access road and wiring, and**

37

38 **SUBJECT TO THE FOLLOWING WAIVERS OF STANDARD CONDITIONS:**

39

40 **Part A: A waiver for a distance of 338 feet in lieu of one-half mile (2,640 feet) between a**

1 municipal boundary and a PV SOLAR FARM, per Section 6.1.5 B. (2) of the
2 Zoning Ordinance.

3
4 **Part B: A waiver for locating a PV SOLAR FARM within the Contiguous Urban Growth**
5 **Area (CUGA) in lieu of outside the CUGA, per Section 6.1.5 B. (2) of the Zoning**
6 **Ordinance.**

7
8 **Part C: Not providing a Decommissioning and Site Reclamation Plan that includes cost**
9 **estimates prepared by an Illinois Licensed Professional Engineer prior to**
10 **consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3.**

11
12 **Part D: Not entering into a Roadway Upgrade and Maintenance Agreement or waiver**
13 **therefrom with the relevant local highway authority prior to consideration of the**
14 **Special Use Permit by the Board, per Section 6.1.5 G.**

15
16 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

17
18 **A. The Site Plan received October 11, 2018, is the approved site plan for Case 907-S-18,**
19 **except that vegetative screening shall be added to the west side of the solar farm in**
20 **addition to the screening shown on the October 11, 2018 Site Plan.**

21
22 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
23 **issue a Zoning Compliance Certificate on the subject property until the lighting**
24 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

25
26 **C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
27 **proposed PV SOLAR FARM until the petitioner has demonstrated that the**
28 **proposed Special Use complies with the Illinois Accessibility Code, if necessary.**

29
30 **D. The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner**
31 **submits a copy of an executed Agricultural Impact Mitigation Agreement with the**
32 **Illinois Department of Agriculture per the requirements established in Paragraph 6.1.5**
33 **R. of the Zoning Ordinance.**

34
35 **E. A signed Decommissioning and Site Reclamation Plan that has been approved by**
36 **ELUC is required at the time of application for a Zoning Use Permit that complies**
37 **with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a**
38 **decommissioning cost estimate prepared by an Illinois Professional Engineer.**

39
40 **F. A Roadway Upgrade and Maintenance Agreement signed by the Highway**
41 **Commissioner and approved by the Environment and Land Use Committee shall be**

submitted at the time of application for a Zoning Use Permit.

G. The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR FARM:

- 1. Documentation of the solar module’s unlimited 10-year warranty and the 25-year limited power warranty.
- 2. An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of “A” by S&P or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.
- 3. A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.
- 4. Documentation regarding the seed to be used for the pollinator planting, per 6.1.5 F. (9).
- 5. A Transportation Impact Analysis provided by the applicant that is mutually acceptable to the Applicant and the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, as required by 6.1.5 G. 2.
- 6. The telephone number for the complaint hotline required by 6.1.5 S.
- 7. Any updates to the approved Site Plan from Case 907-S-18 per the Site Plan requirements provided in Section 6.1.5 U.1. c.

H. A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior to going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:

- 1. An as-built site plan of the PV SOLAR FARM including structures, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR FARM to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.
- 2. As-built documentation of all permanent soil erosion and sedimentation

- 1 improvements for all PV SOLAR FARM including any access road prepared
- 2 by an Illinois Licensed Professional Engineer.
- 3
- 4 3. An executed interconnection agreement with the appropriate electric utility
- 5 as required by Section 6.1.5 B. (3) b.
- 6
- 7 **I. The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with**
- 8 **the following specific requirements that apply even after the PV SOLAR FARM**
- 9 **goes into commercial operation:**
- 10 1. Maintain the pollinator plantings and required visual screening in
- 11 perpetuity.
- 12
- 13 2. Cooperate with local Fire Protection District to develop the District’s
- 14 emergency response plan as required by 6.1.5 H. (2).
- 15
- 16 3. Cooperate fully with Champaign County and in resolving any noise
- 17 complaints including reimbursing Champaign County any costs for the
- 18 services of a qualified noise consultant pursuant to any proven violation of
- 19 the I.P.C.B. noise regulations as required by 6.1.5 I. (4).
- 20
- 21 4. Maintain a current general liability policy as required by 6.1.5 O.
- 22
- 23 5. Submit annual summary of operation and maintenance reports to the
- 24 Environment and Land Use Committee as required by 6.1.5 P. (1) a.
- 25
- 26 6. Maintain compliance with the approved Decommissioning and Site
- 27 Reclamation Plan including financial assurances.
- 28
- 29 7. Submit to the Zoning Administrator copies of all complaints to the telephone
- 30 hotline on a monthly basis and take all necessary actions to resolve all
- 31 legitimate complaints as required by 6.1.5 S.
- 32

33 Ms. Capel requested a roll call vote.

34
35 The roll was called as follows:

36	Lee – no	Passalacqua -no	Randol – no
37	Elwell – yes	Griest – yes	DiNovo – yes
38	Capel – yes		
39			
40			

41 Mr. Randol stated that he is the one that threw the wrench in the machine and he thoroughly believes

1 that there are parts that he can agree with, but if at the end if he cannot agree with the total package, then
2 his vote will be no. He said that he does not feel that he had to vote yes throughout the line.

3
4 Mr. Hall informed the petitioner that he has received a recommendation of approval for all three cases
5 and they will be considered by the Environment and Land Use Committee at their November 8th meeting
6 in this same meeting room.

7 8 **6. New Public Hearings**

9
10 **Case 898-S-18 Petitioner: Bay-Wa r.e. Solar Projects, via agent Patrick Brown Request to authorize a**
11 **utility scale PV Solar Farm with a total nameplate capacity of 150 megawatts (MW), including access**
12 **roads and wiring, in the AG-1 and AG-2 Agriculture Zoning Districts, and including the following**
13 **waivers of standard conditions: Part A: A waiver for a distance of 1,175 feet between a PV Solar**
14 **Farm and the CR Conservation Recreation Zoning District in lieu of the minimum required one-half**
15 **mile (2,640 feet), per Section 6.1.5 B.(2) b.; and Part B: A waiver for not providing a**
16 **Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois**
17 **Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per**
18 **Section 6.1.1 A. 3.; and Part C: A waiver for not entering into a Roadway Upgrade and Maintenance**
19 **Agreement or waiver therefrom with the relevant local highway authority prior to consideration of**
20 **the Special Use Permit by the Board, per Section 6.1.5 G. Other waivers may be necessary. Location:**
21 **In Sidney Township the following sections are included with exceptions as described in the legal**
22 **advertisement: Sections 11, 12, 13, 14, 15, 22 and 23, Township 18 North, Range 10 East of the 3rd**
23 **Principal Meridian.**

24
25 Ms. Capel asked Mr. Hall to review Supplemental Memorandum #1 dated November 1, 2018, with the
26 Board.

27
28 Mr. John Hall, Zoning Administrator, stated that Supplemental Memorandum #1 includes changes to the
29 Special Conditions. He said that Special Condition G. now includes Crossing Agreements over right of
30 way and easement with the relevant Drainage Districts. He said that attached to the Supplemental
31 Memorandum is a memorandum from Jonathan Leech, Manager of Acoustics Air Resources at Dudek,
32 clarifying the location of the noise receivers used for the operational noise level analysis for the
33 proposed project. Mr. Hall said that the memorandum states that “for each residence immediately
34 adjacent to the project boundary, the receptor point is on the project property boundary, and for
35 residences not immediately adjacent (out to the 1,500-foot radius) the receptor is located at the residence
36 because there is a closer property line that was evaluated under the “adjacent” scenario.” He said that
37 attached to the Supplemental Memorandum is a letter dated November 1, 2018, from BayWa-r.e.
38 regarding methods and materials used to clean the Prairie Solar project equipment. He said that also
39 attached to the Supplemental Memorandum is a handout submitted after the last public hearing by Joyce
40 Hurd, which should be entered as a Document of Record.

41

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

5
6 Ms. Capel informed the audience that Case 898-S-18 is an Administrative Case and as such, the County
7 allows anyone the opportunity to cross-examine any witness. She said that at the proper time, she will
8 ask for a show of hands for those who would like to cross-examine, and each person will be called upon.
9 She requested that anyone called to cross-examine go to the cross-examination microphone to ask any
10 questions. She said that those who desire to cross-examine are not required to sign the witness register
11 but are requested to clearly state their name before asking any questions. She noted that no new
12 testimony is to be given during the cross-examination. She said that attorneys who have complied with
13 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

14
15 Ms. Capel stated that she would like to provide a statement regarding cross-examination and testifying.
16 She said that all of us are here doing a specific kind of work and she asked that everyone respect the
17 witnesses, the Board, the petitioners, and the process, because we are all doing our best.

18
19 Ms. Capel asked the petitioner if they would like to make a statement regarding their request.

20
21 Mr. Patrick Fitzgerald, attorney with Meyer Capel Law Offices, stated that he is present tonight to
22 represent BayWa-r.e., who is the developer of the proposed Prairie Solar Farm, which is a 150-megawatt
23 solar farm. He said that Patrick Brown, Director of Development and George Gunnoe, BayWa-r.e.
24 Project Manager, are present tonight to provide an overview of the proposed development and, at the
25 conclusion of their presentation, they will ask for a continuance of Case 898-S-18 to the November 15th
26 meeting so that they can have subject matter experts provide further detail on issues or questions that the
27 Board or the audience may have about vegetation, sound and drainage.

28
29 Mr. Patrick Brown, Director of Development for BayWa-r.e., whose office is located at 17901 Von
30 Karman Avenue, Irvine, California, stated that this project has been a long time coming and he is sure
31 that the Board and audience are anticipating this project. He said that he is hopeful that the information
32 that has been provided addresses everyone's concerns. He said that he has put together a well-informed
33 document and he hopes that everything in the document addresses all the questions and concerns
34 regarding the Ordinance. He said that at the next public hearing he hopes to have experts present that
35 would address any concerns or questions. He said that during his presentation he will be referring to the
36 new document, which has a high-level summary of each of the major issues that came up during the
37 ordinance process and at the end there are appendices, which indicates how they evaluated, discussed
38 with people, and consulted about any issues that they felt should be brought before this Board. He said
39 that this is a project that has been well thought out and planned and complies with the ordinance that
40 Champaign County approved.

41

1 Mr. Brown stated that BayWa-r.e. is a German company that was established in early 1923 and if anyone
2 speaks German, in a short way it means Bavarian trading company. He said that their primary office is
3 out of Munich, Germany, although the U.S. holding company that he works for is in Irvine, California.
4 He said that BayWa started out as an agricultural business, mainly working with energy and agriculture
5 building and construction. He said that that the core of what BayWa has stood for is to help the farmers
6 and they are heavily involved in commodities and seeds and anything that can help the farmers in
7 Europe. He said that BayWa is a \$17 billion-dollar revenue company per year and they have global
8 pipelines of projects in Europe and twenty other countries. He said that the company has a lot of
9 experience and core businesses that support the company as a whole and is well respected throughout the
10 globe.

11
12 Mr. Brown stated that the Prairie Solar Project is located southeast of the Village of Sidney in Sidney
13 Township. He said that as Mr. Fitzgerald previously mentioned, they are proposing a 150-megawatt
14 project located within approximately 1,275 acres, which would house all structures, including solar
15 panels, with single-axis tracking support structures, inverters, SCADA (Supervisory Control and Data
16 Acquisition), and interconnection facilities (on-site substation), all of which would be enclosed by a
17 perimeter security fence. He said that when they first planned project, before the adopted ordinance and
18 before they knew what the rules of engagement would be, the project (referring to page 4, Figure 1 of the
19 booklet dated October 2018), included land southwest of Sidney. He said that after several community
20 meetings with the Village of Sidney and this Board, they realized that it was a mistake to put the project
21 in its original location, so after hearing comments from the Board, the Village of Sidney and testimony
22 from the citizens, they made changes to the project respecting the concerns of the Village of Sidney, but
23 at the same time being able to achieve their goal of having this project in Champaign County.

24
25 Mr. Brown referred to the Village of Sidney's Comprehensive Plan located on page 6, Figure 3 of the
26 booklet dated October 2018. He said that where the railroad track travels diagonally through the Village
27 of Sidney, that area is considered industrial and the area east of that is considered agriculture with the
28 County. He said that they relocated the project east and south of the railroad track, as indicated on page
29 5, Figure 2 of the booklet dated October 2018, and it is outside of the one-half mile. He said that the
30 original design did not recognize the homes that they would apparently be encroaching upon, but the
31 new design indicates a voluntary further setback to accommodate separation distances from those homes
32 so that the project is not as intrusive as it was originally designed. He said that they never intended to
33 encroach upon these homes and it was a mistake on his part to assume that the five-acre homestead goes
34 with 1,000 acres behind it. He said that the new design is as far north as possible from any homes and
35 accommodates the required separation distances.

36
37 Mr. Fitzgerald stated that with a 38-page ordinance, it should not come as a great surprise that there are
38 difficulties with complying with every provision of the ordinance. He said that the previous cases that
39 the Board heard tonight included waivers in the Board's approval. He said that some of the waivers are
40 technical in nature, and by that he asked who approves the decommissioning plan and the roadway
41 agreement, is it this Board or is it the Environment and Land Use Committee (ELUC). He said that

1 BayWa fully understands that any decommissioning plan and roadway agreement must be reviewed and
2 approved by a public body. He said that the waiver that BayWa is requesting is consistent with the other
3 waivers that this Board has already heard for other cases, and simply requests that the more technical
4 waivers regarding the decommissioning plan and the roadway agreement be reviewed and approved by
5 ELUC and not the ZBA. He said that there is a substantive waiver which deals with the setback from the
6 CR Conservation-Recreation Zoning District. He said that BayWa's goal is to be a good, productive
7 corporate citizen of Champaign County and there have been multiple meetings with residents in and
8 around the Village of Sidney. He said that he personally attended one of the meetings with Mr. Brown at
9 the Sidney Fire Department, and Mr. Brown listened to what the residents had to say regarding the
10 original site plan, and it was made abundantly clear that the residents of Sidney did not want Prairie
11 Solar to be in close proximity to the residences. He said that in response to the citizen's concerns, Mr.
12 Brown and BayWa moved the proposed project east and north, and the movement of the proposed
13 development created a new conflict with the CR Conservation-Recreation District. He said that there is
14 CR District north of the proposed development. He said that the staff report discusses one of the
15 inherent conflicts between a development and a conservation area and highlights in part the impact that
16 it may have on wildlife, in particularly on deer. He said that as with any development there is always a
17 balancing of interests, and BayWa felt that the greater good was to side with the residents of Sidney and
18 move the development east, acknowledging that they would be coming into a potential conflict with the
19 animals, but realizing that between the wildlife area and the proposed development there are already two
20 man-made barriers, the County Highway and the railroad. He said that they respectfully submit that any
21 wildlife would already be significantly affected by the County Highway and the railroad as a barrier to
22 movement. He said that the BayWa development is now closer to the conservation area thus requiring a
23 waiver, which is a similar waiver requested during other solar development cases. He said that the
24 waivers are a reasonable trade-off in that the greater good is to side with the residents of Sidney rather
25 than the deer along the Salt Fork. He asked Mr. Brown to describe the new layout that allows the
26 wildlife to move, to the extent that there is wildlife in that area.

27
28 Mr. Brown stated that once they realized the conflict with wildlife they proposed a new layout. He said
29 that if there was a wildlife movement issue that needed to be addressed, the new layout would
30 adequately respond to that conflict. He said that the area along the drainage ditch will be open, per the
31 Ordinance requirements, and will not be enclosed so that any wildlife would be able to go through there,
32 which would naturally happen anyway due to the water located there. He said that there are large utility
33 easements which are 100 to 200 feet in width that bisect the project area, so they feel that with this case,
34 natural barriers already exist which prevent the animals going in the direction of the CR district. He said
35 that this project being within 1,100 feet of the conservation areas has a minimal impact associated with
36 this and they would ask that the waiver be granted. He said that if there was an animal that was able to
37 bypass the train and the County Highway, which is heavily traveled, there is adequate space for that
38 animal to travel south.

39
40 Mr. Brown stated that they provided several visual simulations of the site in the packet, and they hired a
41 highly respected company, Power Engineers, to take photographs of the site and capture the key

1 observation points. He said that they tried to capture what the view would be from some of the homes
2 and up-close to the project as well. He said that as the Board reviews the visual simulations they may
3 ask where the solar project is located, which is the point, because the visual aspect that the simulations
4 show is that a project that is eight feet tall, with large required setbacks, is hard to see. He noted that the
5 landscape barriers are not shown in the simulations, so the addition of those barriers will make the
6 project even harder to see. He said that he specifically asked the consultant to show what it would look
7 like if you were closer to the project, so the last simulation indicates that even with a 200 feet setback,
8 the solar farm is not much taller than the fence and there is plenty of light and space coming through
9 there and it isn't a big black solid object that sticks out. He said the he is hoping that the simulations
10 will indicate that with the visual aesthetics of the project area and the landscape barriers, the solar farm
11 will not be highly noticed.

12
13 Mr. Brown stated that through the Ordinance process, best prime farmland was heavily discussed. He
14 said that he listened, tried to adjust and provide information and assurance that what they are trying to do
15 would not take away from community and that they would be a good neighbor. He said that once they
16 start designing the project and disclosing what the project is, yes it does take up a lot of real estate to do
17 the project, but on 1,200 acres there are only panels on 306 acres. He said that when the project is
18 broken down as to what touches the earth there it is only the driven piers, substation pad that is the only
19 part that will consist of concrete and gravel, and the compacted access roads with no gravel. He said that
20 there is approximately 40 acres of land that would be disturbed with such a large project and he wanted
21 to point out that it is a large project, but if conversion of best prime farmland is the concern, then he
22 wanted to be clear that it isn't the entire 1,200 acres that is being converted but only 40 acres. Mr. Brown
23 stated that there are some things that they are required to do by state law, such as, the Agriculture Impact
24 Mitigation Agreement which the state approves. He said that the mitigation agreement is in line with the
25 ordinance, requiring that after the life of the solar farm, the land must be put back to its agricultural state.
26 He said that they have completed a weed control and ground cover plan so that after they have completed
27 construction they will install ground cover that will protect the land and allow the land to rest and not be
28 taken over by weeds. He said that also included in the packet of information for the Board's review is
29 the Natural Resources Report completed by the Champaign County Soil and Water Conservation
30 District, and all the previously mentioned documents are found in Appendices 3, 4 and 5 addressing all
31 the agricultural impacts.

32
33 Mr. Brown stated that during this process he has learned a lot about drain tiles and after having several
34 meetings discussing drain tiles, BayWa hired a highly respected consultant to assist them and they had a
35 meeting at the Farm Bureau inviting upstream and downstream neighbors to discuss the proposed
36 project. He said that they have contacted the drainage district and have discussed replacement of the
37 existing district tile because it is very old and aged, so as a community benefit, BayWa will replace the
38 existing district tile and the mutual tiles that are between the properties. He said that they intend to do a
39 grid pattern tile procedure which does not try to rescue all the old tile, because it is better for everyone if
40 they design the project and the drainage crew installs a grid pattern tile throughout to connect the entire
41 area, and that tile includes a 45-year warranty. He said that neither the County or BayWa should receive

1 a complaint regarding the drainage tile because BayWa is going to spend a lot of money to go in there,
2 replace the old tile and assure that the new tile works. He said that he intends to have a drainage expert
3 attend the next public hearing on November 15th so that they can address any questions or concerns that
4 the Board may have. He said that he wants the Board to know that BayWa listened and understood the
5 concerns regarding drainage and they are taking action to address those concerns. He said that the
6 landowners requested that the drainage tiles be protected because it is a tremendous investment in their
7 property, and when BayWa hands them back their land, the landowner will receive their property ready
8 to farm with new drainage tile that has been mapped on GPS and has standpipes that they can look into
9 to make sure that the water is flowing.

10
11 Mr. Brown stated that there were a lot of concerns regarding traffic, but mainly construction traffic. He
12 said that after the solar farm is constructed there will not be 500 people driving to it every day, but the
13 concern is more related to construction and employee traffic. He said that he reached out to the County
14 Engineer regarding haul routes, and they have consulted with the Sidney Township Highway
15 Commissioner regarding haul routes and a draft Road Use Agreement. He said that Appendix 6 includes
16 an example Road Use Agreement that the County used for the wind farm located in northeast
17 Champaign County, but the Sidney Township Highway Commissioner and the Sidney Township
18 Supervisor are working with their attorney to create a Road Use Agreement that everyone can be happy
19 with, and when they are ready to go into construction they will execute that agreement. He said that
20 when they are ready to begin construction they will have their contractors on board, they will know
21 where all the materials are coming from, how much and what it weighs, etc., and they are trying to
22 provide estimates in Appendix 6. He said that they worked with their procurement folks and they
23 proposed a haul route plan and estimated traffic trips, but this is an ongoing process with the Sidney
24 Township Highway Commissioner and Supervisor, and the County Engineer to find out what is required
25 to protect their roads. He said that BayWa does not want to damage roads, bridges and culverts, because
26 they want this to be a very smooth and effective project and protect the roads, have the agreement and
27 minimize any impacts.

28
29 Mr. Brown stated that there have been a lot of concerns expressed about noise, and he has never stood in
30 front of this Board and indicated that the project does not produce sound, and he believes that the Board
31 will agree. He said that he has always indicated that the solar farm would create sound but with distance
32 the noise becomes indistinguishable from ambient noise. He said that, as promised, they hired a very
33 reputable company to complete a noise analysis. He said that the company completes noise analyses
34 throughout the United States specifically for wind and solar farms; therefore, they are very aware of the
35 technology and they understand it. He said that the results of the noise analysis are included in
36 Appendix 7, which indicates that the solar farm complies with the ordinance, as written, and the
37 regulations of the Illinois Pollution Control Board, which the ordinance is based upon. He said that one
38 of the requirements was to go out to the community and take ambient noise measurements, so the
39 consultant went out to areas in town and near the project area and randomly placed meters. He said that
40 at night time there were noises between 54 and 72 decibels, and he would not consider these high, but it
41 isn't like the rural setting is as quiet as a library at night time either. He said that the noise consultant

1 modeled all the sensitive receptors at residences to make sure they knew who would be affected by any
2 noise created by the project. He said that Table 7 indicates the predicted noise level at the residences
3 that could be affected, and Colleen Ruhter's home, R12, is at 44 dB, which complies with the ordinance.

4 He said that noise reduction kits are installed on all the inverters within the solar farm and it is an added
5 cost to BayWa, but with all the testimony and concerns voiced at the public hearings they decided to go
6 the extra level and make the investment in the kits. He said that with the noise reduction kits installed
7 the noise level at Colleen Ruhter's home, R12, would be 38 dB. He said that testimony was received
8 that 39 dB was an unacceptable noise level, so they brought the dB down to 38 and complied with
9 everyone's concern. He said that every project gets redesigned, and when they come back for their
10 Zoning Compliance Certificate, they will submit another noise study that would meet the requirement of
11 38 dB, but with the actual building plans. He said that the original design is what they start with, but in
12 the very end the design changes; therefore, they will bring in a new noise study when it is time to
13 construct the project to demonstrate to the County that this is what we are doing, and this is the
14 technology that they are using. He said that they have gone above and beyond what is required to
15 mitigate sound, but they want to make sure that the community understands that they are not trying to
16 disrupt the Village of Sidney. He said that this is a very benign use and it shouldn't bother anyone and
17 the further away the solar farm is, the less anyone would even know that it exists.

18
19 Mr. Brown stated that regarding landscaping and grounds-keeping, they hired a soil biologist and a local
20 landscape architecture firm to work together to develop a plant palette and a ground cover seed mix that
21 would survive in this environment. He said that they are not going to go to California and hire someone
22 from California who knows nothing about Champaign County, plant their recommended seeds and have
23 them die. He said that they are working with local people to develop a good planting plan. He said that
24 the plan will be a concept plan because there is no indicated irrigation, so when they come back with the
25 final plan for ELUC it will indicate where the irrigation will be placed and what seeds would be planted.

26 He said that they have been working with some of the landowners to determine if they want the
27 landscaping around their property or 600 feet away, and they will work through this process until they
28 get to the final stage with ELUC. He noted that they are willing to do whatever the local property
29 owners want, but currently the plan indicates the landscaping is placed where the ordinance indicates it
30 should be placed. He said that for the ground cover, they are working with the soil biologist to plant
31 short grasses that will cultivate microbial matter, and over time while this farmland rests for the next 25
32 or 30 years, the small micro-organisms will return and with the new drainage the land will be better than
33 it was today. He said that a project they have in North Carolina had plenty of room between the rows of
34 panels, but the vegetation grows such that they must mow it all the time with the proposed project here,
35 shorter grasses can be planted where they would not require constant maintenance year-around. He said
36 that they cannot have the ground-cover going through the equipment because the owners will not allow it
37 and it isn't good for the equipment and the wiring.

38
39 Mr. Brown stated that they met with Sidney Fire Protection District Chief, Earl Bennett, and they
40 discussed the project. Mr. Brown stated that Chief Bennett confirmed in a letter that BayWa has
41 submitted a copy of the proposed project site plan and agrees to cooperate with the Sidney Fire

1 Protection District, and BayWa will provide emergency response training to the Sidney Fire Protection
2 District personnel, volunteers, and others as identified by the Sidney Fire Protection District. Mr. Brown
3 stated that life and safety is important to BayWa, and it is important to the folks that will be working on
4 solar farm during construction of the project. He said that fire is not an issue with this project because
5 they are made of steel and if there is a fire they burn inward. He said that the main concern regarding
6 life and safety is electrocution or falls, which is why they will work closely with the fire department
7 providing training where all the disconnects are located, but at the end of the day the fire department
8 would probably not go into the solar farm if electrocution is a possibility.

9
10 Mr. Brown stated that Appendix 11 relates to economic benefits, and Mr. DiNovo previously discussed
11 the tax benefits from the proposed solar farm. Mr. Brown stated that there will be a lot of construction
12 and maintenance jobs related to this project, but it will not be like a company such as Google or
13 Facebook that would provide full-time jobs. He said that the solar farm may create 10 full-time jobs
14 because it is a low intensity use as it is an unmanned facility. He said that there will be a lot of money
15 brought into the local community, and the Jobs and Economic Development Impact Model (JEDI),
16 developed by the National Renewable Energy Laboratory (NREL), demonstrates the economic benefits
17 associated with photovoltaic systems in the United States. He said that you must account for all the
18 people that will be working on the project, the fence installers, food trucks, hotel requirements for
19 workers, construction workers, etc. He said that overall the NREL model is not something that BayWa
20 created, but is publicly available, and indicates that during construction there would be 744.8 full-time
21 local construction and installation jobs created and over \$139 million dollars investment in Champaign
22 County. He said that he understands that this is a land use board and the determinations are based on
23 factual findings and not jobs, but overall, it is not all bad that this project is occurring in Champaign
24 County. He said that during operation, the NREL model indicates that there would be 15.6 full-time
25 local jobs created and local annual spending would be \$3,647,940, including wages, taxes, locally
26 purchased materials, and leases. He said that Appendix 11 includes an estimated first year tax revenue
27 utilizing 2017 rates based on Fair Market Value of \$218,000/MW. He said that he will not tell the
28 Board that BayWa will give the County the entire 30-year model, as they would be negotiating with
29 some taxing bodies to come up with agreements, but this first year these taxing entities will get the
30 indicated amount because during the first tax year they always get the modeled amount. He said that the
31 proposed solar farm is an economic benefit for the local community and the entire County.

32
33 Mr. Brown stated that this ends his organized presentation and he hoped that the Board found that the
34 provided information was helpful, but he and his colleagues are available to address any questions or
35 concerns.

36
37 Ms. Capel asked the Board and staff if there were any questions for Mr. Brown.

38
39 Ms. Lee stated that Mr. Brown indicated that he had been working with the Sidney Township Highway
40 Commissioner but made no mention about the South Homer Township Highway Commissioner. Ms.
41 Lee asked Mr. Brown to indicate why he has not contacted the South Homer Township Highway

1 Commissioner regarding the hauling route, since Ms. Burgstrom suggested it in the memorandum.
2

3 Mr. Brown stated that he has not spoken with South Homer Township because BayWa is going to try to
4 stay within the Sidney Township district. He said that the amount of time that this has taken and
5 meeting with the County Engineer, the Sidney Supervisor, and Sidney Township Highway
6 Commissioner, he has not spoken with South Homer Township and he has no intention in doing so. He
7 said that they really have to go back and think this whole thing through and it will be two years before
8 they start construction and at that time they will have all of the plans and indicate who they have talked
9 to, but in the short amount of time that they have had, they have tried to demonstrate to the Board that
10 they have talked to the appropriate entities and that they take the ordinance requirements seriously. He
11 said that they did as much homework as possible to bring this project before this Board.
12

13 Ms. Lee stated that she does not find Mr. Brown's answer acceptable. She said that the haul route
14 indicates some of South Homer Township, so BayWa should be treating both townships in an equal
15 manner.
16

17 Mr. Brown stated that his testimony is not that BayWa does not intend to contact South Homer
18 Township, but when the best haul route is determined, all the appropriate entities will be contacted. He
19 said that BayWa is requesting that the Board approve the waiver so that they have more time to get
20 everything figured out and who will or will not be involved.
21

22 Mr. Fitzgerald stated that they would certainly entertain and respect any special condition that would
23 require a sign-off from any township highway commissioner.
24

25 Ms. Capel informed Mr. Fitzgerald that the petitioner is not there yet.
26

27 Mr. DiNovo stated that, at this point, the road access plan indicates that they would come in to the site
28 from the west and there is no plan for any of the traffic to pass into South Homer Township.
29

30 Ms. Capel stated that there are two haul routes, one comes through Sidney and the other travels from
31 Ogden to US150 and then south.
32

33 Ms. Lee stated that it was her impression that the haul route went south on IL49 and took a jog through
34 Homer.
35

36 Ms. Capel stated that it does go south onto to US150 at Ogden, but not through Homer.
37

38 Ms. Lee stated that there was a document in the Board's information which indicated that the haul route
39 traveled through South Homer Township, and there was communication that Ms. Burgstrom had with
40 the petitioner indicating that the southeast portion of the haul route would be in South Homer Township.
41

1 Mr. Brown stated that the most current information is included in the packet. He said that at one time
2 there were two different routes proposed, and one of those routes did travel through South Homer
3 Township, but the one in the current information does not.
4

5 Ms. Lee asked Mr. Brown what he means by current information.
6

7 Mr. Brown stated that the draft haul-in map is just that, a draft. He said that they have no idea where the
8 equipment is coming from, which is the reason why they request to present a draft plan to ELUC and
9 have it approved by any village that they would affect.
10

11 Mr. Fitzgerald stated that it is fair to say that BayWa understands that the greater community, the people
12 of Champaign County, would want the final haul-in route approved.
13

14 Mr. Brown agreed.
15

16 Ms. Capel asked the Board if there were additional questions for Mr. Brown.
17

18 Mr. DiNovo stated that one of the findings that the Board is required to make is if the project is
19 necessary at this location for the public convenience. He asked Mr. Brown to indicate alternative
20 locations for a project of this nature, and how this site compares to other alternative sites.
21

22 Mr. Brown stated that when they came to Illinois, after the State of Illinois approved the Future Energy
23 Jobs Act (FEJA), they evaluated 20 different substations in the state of Illinois and they narrowed it
24 down to eight locations. He said that they visited each jurisdiction and they did a lot of electrical and
25 political homework, and they were looking for a market to sell this energy. He said that they really liked
26 Champaign County because of the Planning and Zoning Department, and the Economic Development
27 Corporation, and it appeared that there was a large energy need in the county and that is why they
28 specifically picked this project. He said that their first goal is to market this energy locally and it isn't
29 their goal to send it Michigan or Indiana. He said that this is a large project for central Illinois and they
30 thought that this project would be in a location to market locally and provide low cost renewable energy
31 to this local market.
32

33 Ms. Capel asked Mr. Brown to indicate the overall investment that BayWa would make in Champaign
34 County.
35

36 Mr. Brown stated that according to the JEDI report, \$138 million dollars, and the project capital cost
37 alone is over \$100 million dollars. He said that the JEDI report, not prepared by BayWa, indicates that
38 the local spending would be \$138 million dollars during the construction of and the long-term operation
39 of the project, based upon the jobs, hotels, restaurants, etc., for the 744 employees working on the
40 project. He said that there is a substantial investment for a project of this size, and of course the tax
41 revenue.

1
2 Mr. Elwell asked Mr. Brown to indicate the percentage of energy production that would stay in
3 Champaign County.
4
5 Mr. Brown stated that the goal is to contract all the energy production in Champaign County, but if they
6 can only fill a portion of it then they would continue their campaign for off-takers. He said that there are
7 large industrial uses, schools, hospitals, etc. in Champaign County and if they cannot get a full list of
8 subscribers they will reach out to the rest of Illinois. He noted that he could have gone to counties in
9 Illinois who do not have zoning to build the proposed project, but he picked Champaign County.
10
11 Mr. Passalacqua stated that at one time, Mr. Brown told him that the viability of the project was based
12 on the power purchase agreements that are made before construction would begin.
13
14 Mr. Brown stated that Mr. Passalacqua was correct. He said that construction of the project would not
15 begin until power purchase agreements are obtained.
16
17 Ms. Lee asked Mr. Brown if one of the reasons why BayWa located in Champaign County was due to
18 the transmission lines that are south of the proposed project and owned by Ameren, which travel into
19 Indiana and the east coast.
20
21 Mr. Brown stated that Ms. Lee's comment is partially correct. He said that they evaluated 20 substations
22 throughout the state and narrowed it down to eight, but the substation near Sidney is a phenomenal
23 substation in that it has availability and it has lines that go in every direction, which is what is desired.
24 He said that a solar farm developer does not want one line that is easily congested, because it would
25 make the project nonviable.
26
27 Ms. Lee asked Mr. Brown to indicate his response regarding the fact that the proposed solar farm would
28 take up some of the most valuable farmland in Champaign County or the world, when BayWa could
29 possibly locate the solar farm elsewhere on poorer soils.
30
31 Mr. Brown stated that the proposed solar farm would allow the valuable farmland to rest, which is not a
32 terrible thing, because the land is not being permanently converted. He said that the landowners have
33 the right to develop their land as they see fit, and several farmers in the area have decided that this is a
34 good financial decision for them versus farming. He said that at the end of the day the farmland
35 conversion is minimal for the size of solar farm that is being proposed.
36
37 Mr. Elwell asked Mr. Brown if he is correct in that there is a total of 1,275 acres involved, but only 306
38 acres would have actual panels and 40 acres would have the piers, access roads, etc. He asked how the
39 40 acres would be reverted back to farmland in 35 years.
40
41 Mr. Brown stated that the agriculture mitigation agreement requires them to revert the land, and in this

1 case, there is only one area that will have concrete and gravel and that is the substation pad, which is
2 probably twice as big as this meeting room. He said that all the concrete and gravel would be removed
3 and the rest of it would be decompaction. He said that they would remove the piles and de-compact the
4 roads which would lift the soil, and the farmer would re-till it anyway. He said that he went broad in
5 stating 40 acres, but when the piles are pulled out of the ground and everything is gone, there is nothing
6 left other than the soil and the microbes that are growing there. He said that it goes down to the
7 substation, which is small, one hundred feet by a couple of hundred feet with small concrete pads, so
8 there isn't that much land being converted and he is being over-conservative with his number.
9

10 Ms. Griest stated that she has heard a lot of the things from Mr. Brown tonight that she is very impressed
11 with, and she wanted to thank Mr. Brown for listening to the concerns that the audience expressed
12 during the earlier meetings and proposing solutions to those concerns. She asked if the pattern tiling that
13 is being proposed is going to be completed on all parcels under the development.
14

15 Mr. Brown stated yes.
16

17 Ms. Griest asked Mr. Brown if they would completely replace the district tile that runs through the
18 parcel.
19

20 Mr. Brown stated that this is the conversation that BayWa is having with the drainage district, because it
21 is a need that the drainage district has expressed to them. He said that when BayWa does projects
22 around the world, they try to include projects that would benefit the community, and at this point the
23 replacement of the district tile is the only benefit that has been brought to his attention and it has been
24 budgeted for the project and he is working with Mr. Krukewitt, Commissioner for Drainage District #1 –
25 Sidney. Mr. Brown stated that BayWa has no problem with replacing the district drainage tile because
26 they have budgeted for it and it is anticipated to cost that amount, so it is a winning situation for the
27 farmers in the area as well.
28

29 Ms. Griest stated that she hopes that the audience and the Board appreciates how significant that
30 investment is in the farming community and to those parcels of ground. She said that, like Ms. Lee, she
31 is a big advocate for farmland preservation and protection, but this is huge in respect to the farmland
32 preservation and long-term viability of the utilization of that ground and restoring it back into production
33 later. She said that she applauds BayWa if they are to move forward in that direction, because this
34 investment is huge. She thanked Mr. Brown for taking the concerns related to sound as seriously as he
35 has and dealing with some of the recommendations that the Board made regarding placing sound
36 deadening capsules or other devices over the inverter units to minimize the impact that they would have
37 in the area.
38

39 Mr. Brown thanked Ms. Griest for recognizing BayWa's cooperation with the Board and the community.
40

41 Ms. Lee asked Mr. Brown if they were going to relocate all the existing drainage tiles.

1
2 Mr. Brown stated that the existing drainage tiles would be abandoned, and a new drainage system
3 installed. He said that installing the new drainage system would keep them from having drainage issues
4 throughout the entire life of the project and it comes with a warranty and the project would not have to
5 deal with it and relocate it. He said that the new drainage system would be a better solution for BayWa
6 and the upstream landowners, and he is thankful that the consulting firm that they hired recommended
7 the new system because it will be a benefit to the entire area.
8

9 Ms. Lee asked Mr. Brown if the drainage tile would be located where the panels are proposed, or would
10 it be placed elsewhere.
11

12 Mr. Brown stated that he has been told that the project would be designed, and the consulting firm would
13 design the drainage tile pattern around the project. He said that the piles only have to be placed every 70
14 or 80 feet so there is plenty of room for the new drainage tile to be located so that everyone knows where
15 it is so that there would not be any conflicts.
16

17 Ms. Lee stated that the materials submitted indicated that BayWa would notify the Champaign County
18 Soil and Water Conservation District (CCSWCD) as to the location of the new drainage tiles, but they
19 are not the ones who deal with the individual drainage district tiles, it is the drainage district. She asked
20 Mr. Brown if there would be more than one drainage district involved with this project.
21

22 Mr. Brown stated that there are two drainage districts involved and he has met with both drainage
23 district commissioners at the Champaign County Farm Bureau. He said that during the meeting the idea
24 of replacing the drainage district tiles evolved. He said that there is only one drainage district main tile
25 located on the east side of the project, and that is the drainage district tile the one that would provide the
26 community benefit.
27

28 Ms. Griest informed Ms. Lee that when new pattern tile systems are placed they are put on file with the
29 CCSWCD and those tile maps are placed on record so that as a parcel is passed from one owner to
30 another there are records that the landowners can access from a central location.
31

32 Mr. Fitzgerald noted that at the November 15th meeting they plan to have their drainage consultant in
33 attendance so that he can address any concerns or questions from the Board and indicate what BayWa
34 has agreed to commit to.
35

36 Mr. Elwell asked Mr. Brown if the economic benefit includes the savings by the homeowners who
37 purchase the solar power or is it just the cost of doing business.
38

39 Mr. Brown stated that the number indicated is the cost of doing business. He said that community solar
40 projects promote the sale of energy to homeowners and those projects are specifically designed for
41 anyone to subscribe at a locked in rate over a certain period of time. He said that with utility scale

1 projects, which sell to schools and commercial companies, residents would not see any savings, and if
2 they sold to a utility it would be rate based and thrown into everything else. He said that residents would
3 see a direct benefit through community solar, not utility solar.

4
5 Mr. Elwell asked Mr. Brown if their targeted demographic is not residential, but industrial.

6
7 Mr. Brown stated absolutely, because you must consider how many residences would have to subscribe
8 to 150 megawatts. He said that to put this into perspective, this project would serve 50,000 homes and it
9 would be nearly impossible to get 50,000 homes to sign on to the project, but a 2-megawatt project is
10 easier to get 200 or 300 people to sign on to it.

11
12 Ms. Capel asked the Board if there were any additional questions for the petitioner.

13
14 Mr. Elwell asked Mr. Brown to indicate the economic benefit to the Unity School District.

15
16 Mr. Brown stated that it would be at the district level, depending on their use load. He said that the
17 required effort to enter into one of these contracts is very onerous. He said that if the district indicated
18 that it would require 20 megawatts, then the entire district would be entered into one contract for power,
19 but normally schools are not looking to buy into green attributes and what they are selling is a bundled
20 product which gives the capacity, renewable energy credit, and the brown power. He said that some
21 school districts may not want a bundled product, but a company like Frito-Lay may have a corporate
22 mandate for renewable energy, so BayWa would go after such a company with a high load so that they
23 could get a bundled product, which is more the strategy of a project of this size. He said that Parkland
24 Community College entered into a 2-megawatt project for their campus and they are buying their power
25 through a local project.

26
27 Ms. Capel asked the Board and staff if there were any additional questions for the petitioner, and there
28 were none.

29
30 Ms. Capel asked the audience if anyone desired to cross-examine the petitioners.

31
32 Ms. Colleen Ruhter stated that she was curious about the land that is being leased that is not inside the
33 fencing. She asked Mr. Brown if the land is being leased by the petitioner, or are the farmers being paid
34 for that land.

35
36 Mr. Patrick Brown responded no, it would be outside the lease area, and that it would go back to
37 farming.

38
39 Ms. Ruhter asked if the leased area is only within the fence.

40
41 Mr. Brown stated yes, that is their anticipated goal.

1
2 Ms. Ruhter asked if that separation from her house would remain the way it is now.
3
4 Mr. Brown stated yes.
5
6 Ms. Ruhter asked if 10 years from now, someone wants to come and build a neighborhood there, is it not
7 restrained within a lease with BayWa.
8
9 Mr. Brown stated that is correct.
10
11 Ms. Ruhter asked if someone were to do that, would they be grandfathered against the setback
12 requirements from the solar farm.
13
14 Mr. Brown responded that he does not know how the county would handle that in the subdivision
15 process, and that it is outside their lease area.
16
17 Ms. Capel asked the audience if anyone else desired to cross-examine the petitioner.
18
19 Mr. Matt Herriott stated that Mr. Brown testified that BayWa would pattern tile the project area, and
20 asked if the pattern tiling would be installed before or after the solar panels.
21
22 Mr. Brown said he imagined it would go in before the panels, because it would probably be too difficult
23 after with the machine; he does not know how big the machine is. He said it seems reasonable to do all
24 the civil work first, then the underground work, and then install the project.
25
26 Mr. Herriott asked, once the panels are all up, what the distance is going to be between the rows of
27 panels.
28
29 Mr. Brown stated that it varies; there is this thing called Ground Coverage Ratio (GCR). He said that in
30 this case, we are not ground constrained, so they can move the panel rows out wider, so that way they
31 don't shade on each other when they turn, and typically that is around 10 feet and you can drive a
32 backhoe or Bobcat between them as there is plenty of space in between them. Mr. Brown referred to a
33 picture of row spacing in their PowerPoint and said it is a good representation of the amount of space,
34 but the modules can also be unbolted and removed if more space is needed.
35
36 Mr. Herriott asked if the petitioner would be prepared to sign a contract that all the tile work would be
37 done before installing the solar panels.
38
39 Mr. Brown asked who the contract would be with.
40
41 Mr. Herriott said it would be with the drainage district and the other landowners that tie into that district.

1
2 Mr. Brown stated that could be something they could do, or they could work with the County to make a
3 condition.
4
5 Mr. Pat Fitzgerald, attorney for the petitioner, stated that is something that BayWa could certainly accept
6 as a condition.
7
8 Mr. Brown stated that it is more of a civil matter, but if the County wants to make findings based upon
9 making a condition, then they would accept that condition.
10
11 Mr. Fitzgerald told Mr. Herriott that they appreciate that talk is cheap, and they can sit up here and say
12 all kinds of things, but the real proof is, are they willing to be subject to a condition by the County, and
13 they obviously are.
14
15 Mr. Herriott stated that he understood that, but everyone needs to understand what the plan is, and now
16 is obviously the time to talk about concerns as well.
17
18 Mr. Fitzgerald said that the drainage consultant would attend the next meeting on November 15th if Mr.
19 Herriott would like to ask any particular questions of him.
20
21 Mr. Herriott asked if the Unit 7 School District is the only school the petitioner is aware of that this
22 project is in.
23
24 Mr. Brown said that is correct.
25
26 Mr. Herriott stated that a quarter of the project is in the Heritage School District.
27
28 Mr. Brown said that he appreciated the information and they would look into it.
29
30 Mr. Herriott asked if the 40-acre footprint of the actual pylons going into the ground would still be a 40-
31 acre footprint once the pylons are removed on that 1,200 acres.
32
33 Mr. Brown said that the 40-acre footprint is actual material touching the ground. He said that if Mr.
34 Herriott is asking about when the excavator goes in and rips out the pylons, they are not considering
35 where the tractor goes as it removes the pylons in the calculation of farmland conversion, and that it is
36 all going to be decompacted and reseeded anyway.
37
38 Ms. Capel asked the audience if anyone else would like to cross-examine the petitioner.
39
40 Ms. Joyce Hurd asked Mr. Brown, when the solar farms are decommissioned, are there any chemical
41 ground tests done, and is there a guarantee that there would be no toxic residue from the solar panels.

1
2 Mr. Brown stated that there are no chemicals coming out of the solar panels; it is basically silica, glass,
3 and aluminum. He said it is not like a plasma TV where you break it and liquid drips out, there is
4 nothing in it. He said that if anything were to fall on the ground it would be if the module would break
5 and glass would fall on the ground. He said there are no known substances, but there is one panel that is
6 made by First Solar, that BayWa has never installed before, which has cadmium telluride that is used in
7 the manufacturing process but is not a liquid that is going to fall on the ground and contaminate the
8 groundwater or anything like that.
9
10 Mr. Chuck White referred to selling the solar energy and asked if the petitioner had checked with Unit 7,
11 which has 4 schools.
12
13 Mr. Brown said that they had spoken with the school district on different matters, and it is something
14 BayWa is looking into.
15
16 Mr. White asked about the 14 jobs shown on the petitioner's graph in the presentation, and what would
17 those 14 jobs be.
18
19 Mr. Brown responded that with solar farms, a lot of the time they want to hire local employees to do
20 electrical work, mowing, any kinds of repairs that happen onsite, and module washing that they propose
21 at least once a year. He said that there are some labor-intensive jobs and some electrical jobs that they
22 would like to fill locally.
23
24 Mr. DiNovo asked for clarification on whether the 14 jobs are 14 Full Time Equivalent jobs.
25
26 Mr. Brown responded yes.
27
28 Ms. Colleen Ruhter asked Mr. Brown if he knows when their Erosion Control Plan would be completed
29 and would decommissioning, whenever that occurs down the line, would also need an Erosion Control
30 Plan.
31
32 Mr. Brown said that she is correct on the last statement; any time you have land disturbance in
33 construction you have to comply with NPDES. He said that this project is slated to start construction in
34 2021, so six months before construction they will do the design engineering, and the NPDES permit is a
35 State permit versus a county permit. He told Ms. Ruhter that he knows she requested to see the plan
36 when it becomes available, and he has no problem letting her see the plan and making sure that she has
37 protections around her property.
38
39 Ms. Ruhter asked if he had a timeline and said that Mr. Herriott brought up a good point about
40 decommissioning as well as construction.
41

1 Mr. Brown said it would not be anytime soon, and that the Erosion Control Plan for decommissioning
2 would basically be the reverse of construction, but you still must comply with NPDES.

3
4 Ms. Lisa Nesbitt stated that she lives on the north side of the highway. She said that when the petitioner
5 changed their solar farm site plan, they moved the project closer to her home. She said that she was in
6 the dark until this week that the project would be anywhere near them. She said she is confused because
7 one of the projects that just passed is community scale, and this project is commercial and appears to
8 create about 30 times more power.

9
10 Mr. Brown clarified that the project is 150 MW.

11
12 Ms. Nesbitt said that the community scale project was 4 MW on 22 acres, and Mr. Brown appeared to
13 say that the 150 MW farm went from 1,200 acres down to 306 acres down to 40 acres.

14
15 Mr. Brown said that the project will need 1,200 acres for the panels, equipment, road, fencing, setbacks
16 and such. He said that the 306 acres refers to if all the solar panels were laid side by side, it would cover
17 306 acres, and if all the pylons were set side by side, it would cover 40 acres.

18
19 Ms. Nesbitt asked how much of any of this acreage is still going to be farmable around the project.

20
21 Mr. Brown stated that they have found no compatible farm use for inside the fence, but outside the fence
22 is up to the landowner. He said that one of the reasons that they made the setbacks larger was so that
23 people can still farm those areas and not make them so small that they cannot do anything with it.

24
25 Ms. Nesbitt asked how much acreage would be left for farming on the subject properties.

26
27 Mr. Brown stated that he does not have that calculation of what the reduction was from the setback, they
28 are only calculating what is inside their fence for the permission. He said in some places the setbacks
29 are 600 feet long by one-half mile, it's rather large.

30
31 Mr. DiNovo said that if the total site is 1,275 acres and the area inside the fence is 1,140 acres, that
32 would leave 135 acres.

33
34 Mr. Brown stated that originally, the site was 1,685 acres, and the fenced area was 1,275 acres, so it is
35 about 400 acres when you start spreading it out and is large enough to farm.

36
37 Mr. Fitzgerald asked Mr. Brown if farming would be able to start again upon conclusion of the
38 development.

39
40 Mr. Brown said yes.

41

1 Ms. Nesbitt said she was also confused about what she has heard in testimony in the other community
2 solar farm cases about having to remove 3 feet of topsoil, but she did not hear Mr. Brown say that would
3 be part of taking everything out.

4
5 Mr. Brown stated that there is an agricultural mitigation agreement in the report that has several
6 requirements about topsoil replacement, trench locations, and similar details. He said that they are not
7 removing any of the soil; he said they are going to make trenches that are maybe 3 feet by 4 feet and are
8 going to take the soil out, stockpile it onsite, and then put that same topsoil right back on top of the
9 trench. He said they are not exporting any of the soil out, and all the best prime farmland will stay on
10 the site.

11
12 Ms. Nesbitt asked if BayWa is going to try to contract with Frito Lay for power since it is so close.

13
14 Mr. Brown said that he is not part of their power marketing department, so his general answer is that
15 they will go after any large corporations that have a high demand in this area first. He said if Frito Lay
16 ends up having renewable energy needs and they find out about it, absolutely because they need people
17 that have a high demand year-round that can take the power. He said that is part of the idea of why they
18 decided to site the project here in Champaign County.

19
20 Ms. Nesbitt asked what the setbacks for the project are because they do not live very far away. She
21 asked, for example, how far back from the railroad tracks would the solar farm be.

22
23 Mr. Brown stated that he does not know exactly where her home is, and staff helped clarify the location
24 on the site plan. He stated that without the actual engineering drawings in front of him it would be an
25 estimate.

26
27 Mr. Fitzgerald asked Mr. Brown if he could perhaps calculate the information later and get back with
28 Ms. Nesbitt at the next meeting.

29
30 Mr. Brown said they are at least a couple hundred feet from her property.

31
32 Ms. Nesbitt stated that she wants to make sure she is at least as far from the site as everyone else.

33
34 Ms. Griest stated that Mr. Brown should have the opportunity to indicate the requested information for
35 Ms. Nesbitt at the next public hearing.

36
37 Mr. Brown said he wanted to mention that there is a very high berm between her property and the site
38 due to the railroad tracks.

39
40 Ms. Nesbitt said that even with 12 feet corn over the top of it, she can see all the way beyond the
41 southernmost point of the site. She asked Mr. Brown if they would be willing to train all the volunteer

1 firefighters, not just from Sidney, but from Homer, Broadlands, Tolono, and possibly St. Joseph or
2 Ogden, because it is all volunteer out there.

3
4 Mr. Brown said that they would be willing to train anyone that is willing to show up, but they will not go
5 out and coordinate a bunch of training. He said that they are working with the Sidney and Homer fire
6 departments, but if they want to arrange for others to attend at the time of the training, they can do that.

7
8 Ms. Capel asked the audience if anyone else desired to cross-examine the petitioner.

9
10 Mr. Elwell asked Mr. Hall about a difference in acreage between the blue memo cover sheet and page 10
11 in the BayWa report.

12
13 Mr. Hall said that the blue sheet indicates that the fenced area is 1,275.25 acres, and that is on a total
14 area of 1,685.31 acres. He said he would like to know in the report where he found the 1,100 acres
15 number.

16
17 Mr. DiNovo said it was on page 10, Table 2, and it says total property acres are 1,586, total fenced area
18 acres are 1,140, and total solar panel acreage is 306.

19
20 Mr. Hall suggested that Mr. Brown take another look at Table 2 before the next meeting.

21
22 Mr. Jeff Justus asked Mr. Brown if BayWa was going to let people farm the land that is outside of the
23 solar farm fenced area. He said, for example, if the solar company has leased 80 acres, and there are 60
24 acres inside the solar farm fence, leaving 20 outside, he assumes that the whole 80 acres has been leased
25 by BayWa, and does that mean that the owner or farmer must lease the 20 acres back from BayWa to
26 farm the land.

27
28 Mr. Brown stated that they are still in negotiations with the landowners on the actual lease area. He said
29 there are two different things: the property they have under option, and the permit that is before the
30 county now. He said that this hearing, in his opinion, is only about what is inside the fence line, and
31 everything that is outside the fence line is in negotiation with the landowner, whether they are going to
32 have to lease it, or if BayWa is going to give it back to them to farm it. He said that they try to make the
33 setbacks big enough to where they can farm it, lease it out, or whatever they want to do with it.

34
35 Mr. Justus asked if BayWa leases an area outside the fence, is it not in BayWa's control.

36
37 Mr. Brown said kind of, but they are not motivated to lease more land than they need; otherwise, it hurts
38 the project economics.

39
40 Mr. Justus asked, in other words, they are going to lease the land that is inside the fence, and the area
41 outside the fence is going to be left to the landowner.

1

2 Mr. Brown stated that is correct.

3

4 Mr. Justus asked if it is the case that they will not know the number of solar panels they need until the
5 lease negotiations are done.

6

7 Mr. Brown said that is not correct, and that leasing the land and having entitlement to the land are two
8 different things. He said he could lease 1,000 acres but only get a permit for one acre, but still must pay
9 for the entire 1,000 acres. He said it is their goal to only lease the land that will be in the project fenced
10 area, and any land outside of that fence would go back to the owner to continue farming, lease to other
11 farmers, or whatever they want to do with it.

12

13 Mr. Justus said that they live south of Sidney and have kind of been left out of the negotiations of the
14 homes, and they are going to be kind of surrounded, so they would like to be included in some of
15 BayWa's negotiations as time goes on.

16

17 Mr. Brown asked Mr. Justus to identify his house on the map.

18

19 Mr. Justus stated that he goes back to the old saying, "if it's too good to be true, it probably is." He said
20 that he applauds what he is hearing, but it's a little hard to believe.

21

22 Mr. Brown said that he can assure Mr. Justus that the last thing this project wants to do is deal with
23 neighbors complaining that their drain tile is messed up or must go dig it up. He said that going out and
24 trying to locate these old drains and figure them out is so much effort, that at some point you're spending
25 more work trying to get out of work, and it's better to just go put a new one in so you know where it is,
26 and you move down the road. He said that with the warranty, if someone calls and says there is a
27 problem, they will call the drain tile guy and tell them to go fix the problem. He said it is a level of
28 insurance for the project that they don't ever have to deal with drainage tiles.

29

30 Mr. Justus asked if BayWa was only going to replace or reengineer the tiles on the farms they are going
31 to rent, because he has a main drainage tile that goes through his farm, but way up the line, there is the
32 large drainage district tile that is on other property not involved with the solar farm, and that is all kind
33 of interconnected. He said that they plan to replace the solar panel area with a nice new tile, but
34 upstream there is still old, broken tile, and he does not know where they are going to draw the line,
35 because a district tile is a long tile.

36

37 Mr. Brown said that BayWa has been in negotiations, and it is only the tile within the vicinity of the
38 solar project. He said, like any development that comes into this county, for example a new store, you
39 would not make them improve the road all the way from here to Chicago, you would only have them do
40 the part in front of their store. He said that this is how they are going to do the project here; they will
41 work on a certain section, and it's rather expensive to do. He said they will do the tile within their

1 project properties, locate it in a favorable area, and give rights to the drainage district to come in and
2 maintain it.

3
4 Mr. Fitzgerald asked Mr. Brown if it is fair to say that the money that the drainage district would
5 otherwise have to spend to repair old tile in this area, that if BayWa comes in and puts in new tile, that is
6 money the drainage district does not have to spend in that area and hopefully they would have money to
7 spend elsewhere and address some of Mr. Justus's issues.

8
9 Mr. Brown concurred, and said it is an added benefit to the community. He said that they are looking at
10 the mutual connections as well, so if a farm is next to their project, they are going to make sure they
11 connect to the farm tile and that it is appropriate. He added that if there is a guy a mile upstream whose
12 tile is not working well, that is outside the scope of what they are doing. He showed a visual simulation
13 of Mr. Justus's farm on the screen and said that it shows how far the project is set back from his
14 property, although it is not a perfect representation.

15
16 Mr. Justus asked if he could obtain a booklet like the Board was provided.

17
18 Mr. Brown responded that it is on the County's website, and said it is better online because he can pull
19 up the maps and see details better.

20
21 Mr. Justus said it would be interesting to hear what the drainage engineers have to say at the next
22 meeting, but for the soils here in Champaign County, the tile people recommend "X" amount of feet
23 between tile lines, so it will be interesting to see what they recommend and how the recommended tile
24 lines are going to coincide with the rows of solar panels.

25
26 Mr. Brown said that is the benefit because it can be between 70 and 80 feet, and basically, we'll have
27 tiles every 10 feet, and they are both grid patterns, so you can just shift grid patterns. He agreed with Mr.
28 Justus that the old tiles really don't have a pattern, so the new tile works well for them.

29
30 Mr. Justus said that there have been landowners who have pattern tiled in the last several years, and
31 asked Mr. Brown if their new pattern tiling would overlap the newer pattern tiling the landowners put in.

32
33 Mr. Brown responded no, there are two adjacent to Mr. Justus; one is pattern tiled and the other is not, so
34 they would go in and do the other that is not pattern tiled. He said they have language in their contract
35 that says that BayWa must preserve and take care of the tile, so they will not go over the pattern tiling
36 that is already done.

37
38 Ms. Capel asked the audience if anyone else desired to cross-examine Mr. Brown.

39
40 Ms. Lee said that she has a question based on what happened in the cross-examination. She asked Mr.
41 Brown how many more acres does BayWa have options on.

1

2 Mr. Brown said that he has options on the couple hundred acres he moved away from on the west side of
3 Sidney, and they own them for 18 months. He said they have lots of options, and they just try to find the
4 best place within the options.

5

6 Ms. Lee asked if they have other options close to this area.

7

8 Mr. Brown responded what they have proposed today, minus the area they moved away from, are the
9 only options they have in the area. He said they are not looking for more land, nor do they have time to
10 keep looking. He said it is an expensive cost to continue to move the project and redesign it, and at
11 some point, they must put their pencil down.

12

13 Ms. Capel called George Gunnoe to testify.

14

15 Mr. Gunnoe declined to testify.

16

17 Ms. Capel called Joyce Hurd to testify.

18

19 Ms. Joyce Hurd, 2232B CR 1000N, Sidney, stated that most of her questions have been answered. She
20 said she would like the article she sent from Forbes on October 25, 2018, to be made a Document of
21 Record for this case. She said she has a question about the economic projections, such as how well do
22 the solar panels work, and are they including down time in their predictions. She said she has a
23 comment about toxicity, because one of the gentlemen from another solar company said that solar panels
24 are pretty much equivalent to household electronics, and in saying that, it seems he was indicating that
25 they were safe. She said she wanted to point out that the State of Illinois said that household electronics
26 are not safe for landfills; we are no longer allowed to throw them away or put electronics in landfills
27 because of their lack of safety, so she is not 100% convinced that electronics out in the rain like these
28 solar panels are safe either. She said she hopes there would be actual testing to prove that the farmland
29 is safe if the decommissioning ever occurs.

30

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

32

33 Ms. Capel asked if anyone would like to cross-examine Ms. Hurd, and there was no one.

34

35 Ms. Capel called Lisa Nesbitt to testify.

36

37 Ms. Nesbitt declined to testify.

38

39 Ms. Capel called William McKee to testify.

40

41 Mr. McKee declined to testify.

1

Ms. Capel asked if anyone else would like to sign the witness register and present testimony.

3

Ms. Capel asked if there was any discussion from the Board.

5

Mr. DiNovo asked if the Sidney Comprehensive Plan was an officially adopted comprehensive plan.

7

Ms. Burgstrom stated that the Sidney Comprehensive Plan was adopted on June 5, 2000.

9

Ms. Lee stated that the bound volume the Board received makes references in the appendixes that the County has already received information and asked if the Board was going to receive additional information that the County already has.

13

Mr. Hall stated that the bound volume includes all information the County has received and sometimes staff received maps ahead of time, but the intent here is that the bound volume is the technical aspects of the application.

17

Ms. Burgstrom added that the new water usage memorandum handed out tonight is supposed to be part of the bound volume, but otherwise it is the same information that staff has received.

20

Mr. Hall asked if the Board wanted the petitioner to provide any specific information for the next meeting on November 15th. He said to those people who did not speak tonight, that tonight is the time to make a request if you are curious about some aspect that some expert needs to come talk about. He said we would like to know that tonight so that we can arrange for that on the 15th.

25

Ms. Capel stated that Ms. Hurd's questions about the panels and toxicity could be answered by a specialist.

28

Ms. Griest stated that Ms. Nesbitt wanted distance information from her residence across the railroad tracks.

31

Mr. Elwell asked to note the site area total acreage from page 10 in the bound volume compared to the acreage listed on the site plan.

34

Ms. Griest stated that Mr. Hall's question was to the audience members who did not testify tonight and decided to hold their questions for the next public hearing. She that if there is a concern that was not discussed tonight, she encouraged the audience to sign the witness register and present their questions as testimony tonight so that they are on record and the Board can request that the petitioner return on November 15th with that specific information. She said that if testimony is received on November 15th it may be too late in the game that their questions or concerns may not be answered or addressed.

41

1 Ms. Capel stated that the petitioner may not have the appropriate information with them at the next
2 public hearing to address questions or concerns that they were not aware of.

3
4 Ms. Capel requested a motion to continue Case 898-S-18.

5
6 **Ms. Griest moved, seconded by Mr. Elwell, to continue case 898-S-18 to the November 15, 2018,**
7 **public hearing. The motion carried by voice vote.**

8
9
10 **7. Staff Report**

11
12 Ms. Capel asked if there was a Staff Report.

13
14 Mr. Hall responded no.

15
16
17 **8. Other Business**

18 **A. Review of Docket**

19
20 Ms. Capel asked if there was discussion on the docket.

21
22 Ms. Lee said that she had a matter that the Board needed to discuss first. She said that prior to the
23 beginning of tonight's public hearing she asked Ms. Burgstrom if the Board was going to deal with the
24 July 26th minutes, because they did not vote on it last time because there were not the same four people
25 who were present at the July 26th meeting, but all four of them are here tonight. She said that Ms.
26 Burgstrom told her before the meeting that the Board could not vote on the July 26th minutes tonight
27 because they were not advertised on the agenda. Ms. Lee stated that the July 26th minutes were
28 advertised before on an agenda, so could we vote on them tonight.

29
30 Mr. Hall said that the July 26th minutes were not on the agenda for tonight, so they cannot be voted on
31 tonight. He said that staff will include the July 26th minutes on the agenda for November 15th.

32
33 Ms. Griest asked if, due to the time change, would the meeting would start at 6:30 on November 15th.

34
35 Mr. Hall responded yes.

36
37 Ms. Capel stated that there are no cases indicated on the November 29th docket.

38
39 Mr. Hall stated that November 29th is being reserved for continuing Case 898-S-18 should it be
40 necessary. He said we would like to wrap this case up while we have a full Board with informed Board
41 members.

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41

Mr. Randol stated that he would not be attending the November 15th meeting.

Mr. Passalacqua said that he noticed in a previous case that there was a curb replacement that the board fought and fought for, and the curb is back, but he noticed the parking arrangement is still the same. He asked what the next order of action is for enforcement.

Ms. Burgstrom said she could verify that the parking is still east-west, when it is supposed to be designed to run north-south with fewer spaces.

Mr. Passalacqua said that the curb replacement seems to be a small piecemeal thing to keep everyone away from coming back out for enforcement anymore. He asked how much more has been corrected.

Mr. Hall said that our office made a mistake with the Zoning Use Permit, so the owner has extra time to wrap everything up on that project. He said that at some point we can send a letter about parking within 10 feet and possibly, eventually go to court over parking within 10 feet of the lot line. He said that is not going to happen any time soon.

Mr. Passalacqua said that the owner had two deadlines, one for ADA compliance within a year, which is not enforced by the County, and asked if anything had been done about that.

Mr. Hall said that is where our office error was so bad, so the owner has until March or April 2019 to wrap up everything. He said that we do not contact permittees weekly or even monthly to see how they are doing; we wait until the end of the time, and then ask if it is done yet. He said we are not there yet.

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

Ms. Capel asked if there was any audience participation with respect to matters other than cases pending before the Board, and there was none.

10. Adjournment

Ms. Capel entertained a motion to adjourn the meeting.

Ms. Griest moved, seconded by Ms. Lee, to adjourn the meeting. The motion carried by voice vote.

The meeting adjourned at 9:11 p.m.

Respectfully submitted

ZBA

AS APPROVED JANUARY 31, 2019

11/01/18

1
2
3 Secretary of Zoning Board of Appeals
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