AS APPROVED MARCH 29, 2018

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

DATE:	**March 1, 2018**	**PLACE:**	**Lyle Shields Meeting Room** **1776 East Washington Street**
TIME:	**6:30 p.m.**		**Urbana, IL 61802**

MEMBERS PRESENT: Catherine Capel, Frank DiNovo, Ryan Elwell, Jim Randol, Brad Passalacqua

MEMBERS ABSENT : Debra Griest, Marilyn Lee

STAFF PRESENT : Connie Berry, Susan Burgstrom, John Hall

OTHERS PRESENT : Patrick Brown, Ben Lindenmeier, Tim Montague, Mark Wilkerson, Phil Fiscella, Mike Kobel, David Kirby, Brad Uken, Aaron Esry

1. Call to Order

The meeting was called to order at 6:30 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present with two members absent.

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

3. Correspondence

None

4. Approval of Minutes (September 14, 2017; September 28, 2017; January 25, 2018)

Ms. Capel stated that due to receiving recent corrections from Mr. DiNovo, staff has requested that the approval of the September 14, 2017, minutes be deferred to the March 15th meeting, so that the corrections can be inserted into those minutes.

Ms. Burgstrom stated that Mr. DiNovo also submitted corrections to the January 25, 2018, minutes and those corrections are as follows: page 10, line 15, change "fact are" to "fact those that are"; page 10, line 16, delete "in a way"; page 11, line 35, change "your own" to "a", this change occurs in two places in that same

sentence; page 37, line 12, change "see what: to "see plans for what".

Ms. Capel asked the Board if there were any additional corrections to the September 28, 2017, or the January 25, 2018, minutes, and there were none.

Ms. Capel entertained a motion to approve the September 28, 2017, and January 25, 2018, minutes as amended.

Mr. Passalacqua moved, seconded by Mr. Elwell, to approve the September 28, 2017, and January 25th, minutes as amended. The motion carried by voice vote.

5. Continued Public Hearing

Case 886-S-17 Petitioner: **Dave Kirby, and the Champaign County Fair Association, with a Board of Directors as follows: Bill Alagna, President; Kent Weeks, 1st Vice-President; Edgar Busboom, 2nd Vice President; John Bell, Director; Pam Barham, Secretary; HD Brown, Treasurer; Dave Price, Director; Bob Williams, Director; Chris Wallace, Director, Jared Little, Director; Debbie Weeks, Director; and Marty Polling, Director. Request to authorize the expansion of Special Use Permit 836-S-16 for the Champaign County Fairgrounds and Parking Lot in the CR Conservation Recreation Zoning District to allow the construction and use of a BMX track as an accessory use on the Fairgrounds, subject to the following waiver of standard conditions required by Section 6.1.3 of the Zoning Ordinance: Authorize a waiver for side and rear yards of 20 feet in lieu of the minimum required 50 feet for the Fairgrounds Special Use.** Location: **A 53.79-acre tract in the Northwest Quarter of Section 8, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township and commonly known as the Champaign County Fairgrounds with an address of 1302 North Coler Avenue, Urbana.**

Ms. Capel informed the audience that Case 886-S-17 is an Administrative Case and as such, the County allows anyone the opportunity to cross-examine any witness. She said that at the proper time, she will ask for a show of hands for those who would like to cross-examine and each person will be called upon. She requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions. She said that those who desire to cross-examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. She noted that no new testimony is to be given during the cross-examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

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

Ms. Capel asked the petitioner if he or his representative would like to make a statement regarding this case.

Mr. David Kirby, who resides at 305 South East Street, Mansfield, stated that he has submitted all the required documentation and is ready to move forward.

Ms. Capel asked John Hall, Zoning Administrator, if he had new information for the Board.

Mr. John Hall, Zoning Administrator, distributed a revised draft Documents of Record dated February 22, 2018, which corrects the attachments on the Preliminary Memorandum dated January 4, 2018. He noted that the date of the preliminary memorandum needs to be corrected to indicate January 4, 2018. He said that a letter received February 26, 2018, from the Urbana Park District was distributed for the Board's review. He said that the letter indicates that the Urbana Park District has worked extensively with Illini BMX and the Urbana Park District has no further objections provided the conditions of the permit and erosion plan are met. He said that Supplemental Memorandum discusses the work that has been done to ensure that erosion control meets the expectations of the Urbana Park District and the City of Urbana in making sure that there are no water quality impacts on Crystal Lake. He said that to get all of jurisdictions to sign off on the final version takes a lot of multiple reviews and the Urbana Park District, the City of Urbana's engineering staff, the petitioner, and Bruce Stikkers with Pheasants Forever, have done everything that was needed so that this case could obtain final action tonight.

Ms. Capel called Mike Kobel to testify.

Mr. Mike Kobel, who resides at 1408 East Florida, Urbana, stated that he is a former board member for the Champaign County Fair Association (CCFA) and is the point of contact for this project because it started during his term on the CCFA Board; therefore, he wanted to see it through to the end. He said that all of the entities involved have been wonderful to work with and Ms. Burgstrom and Mr. Hall have been tremendous help while they worked through this process.

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

Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony regarding Case 886-S-17, and there was no one.

Ms. Capel closed the witness register.

Mr. Hall noted that several of the special conditions were changed and they are different from the version that was accepted at the last meeting. He recommended that the Board review the special conditions with the petitioner and receive his agreement of those special conditions. He said that staff has requested an

opinion from the State's Attorney regarding whether the petitioner must agree to the special conditions, and until an opinion is received we will continue our normal practice.

Ms. Capel read revised special condition E. as follows:

E. If a valid complaint is received about fugitive dust and/ or erosion on and from the proposed BMX Track surface, the Zoning Administrator shall require that the petitioner and/or the Champaign County Fair Association apply water to control dust and, if necessary, SOILTAC soil stabilizer and dust control agent may be applied per the manufacturer's directions to minimize fugitive dust and to stabilize the Track surface or any other reasonable control to minimize fugitive dust and/ or erosion

The special condition stated above is to ensure the following:

That the proposed BMX Track does not harm the public health, safety and general welfare.

Ms. Capel asked Mr. Kirby if he agreed to revised special condition E.

Mr. Kirby stated that he agreed to revised special condition E.

Ms. Capel read revised special condition G. as follows:

G. Construction and operation of the proposed BMX Track shall abide by the erosion and sedimentation controls summarized in the handout titled Special Use Permit Case 886-S-17 Erosion and Sedimentation Control Plan Requirements DRAFT February 13, 2018, so as to prevent sedimentation and pollution in the storm water runoff entering the storm drain system.

The special condition stated above is required to ensure the following:

That the proposed BMX track shall not be allowed to pose any significant risk to water quality in Crystal Lake.

Ms. Capel asked Mr. Kirby if he agreed to revised special condition G.

Mr. Kirby stated that he agreed to revised special condition G.

Ms. Capel read revised special condition H. as follows:

H. A screen planting of tall native grasses shall be established between the proposed BMX Track and the east property line as follows:

(1) The screen planting shall be as proposed by Pheasants Forever in a letter dated February 12, 2018, and as referred to in the January 22, 2018, email from Derek Liebert with the Urbana Park District.

(2) The screen planting shall occupy an approximate 150 feet by 50 feet area between the proposed BMX Track and the east property line.

(3) The screen planting shall be seeded and/or planted prior to any actual shaping and grading of the proposed BMX Track and shall be maintained in perpetuity as long as the BMX Track exists.

(4) If for whatever reason the screen planting of tall native grasses does not achieve or maintain an adequate density of growth of 40% land cover even with repeated plantings and with all recommended maintenance, the tall grasses may be replaced with a screen planting of evergreen plants a minimum of 4 feet tall at time of planting and planted at a spacing that will provide a 50% screen within 2 years and if necessary to achieve the 50% screen within 2 years the plantings shall be in staggered rows.

The special condition stated above is required to ensure the following:

To help ensure that the proposed BMX Track is compatible with Crystal Lake Park.

Ms. Capel asked Mr. Kirby if he agreed to revised special condition H.

Mr. Kirby stated that he agreed to revised special condition H.

Ms. Capel read revised special condition J. as follows:

J. The Zoning Administrator shall not issue a Zoning Use Permit or a Zoning Compliance Certificate for the proposed BMX Track until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.

The special condition stated above is necessary to ensure the following:

That the proposed Special Use meets applicable state requirements for accessibility.

Ms. Capel asked Mr. Kirby if he agreed to revised special condition J.

Mr. Kirby stated that he agreed to revised special condition J.

Ms. Capel read revised special condition K. as follows:

K. The proposed BMX Track and all ground surface in the vicinity of the proposed BMX Track shall be maintained at all times so as to ensure the control and/or eradication of noxious weeds consistent with the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.)

The special condition stated above is necessary to ensure the following:

Compliance with Illinois state law and the Champaign County Nuisance Ordinance.

Ms. Capel asked Mr. Kirby if he agreed to revised special condition K.

Mr. Kirby stated that he agreed to revised special condition K.

Ms. Capel entertained a motion to approve the revised special conditions as read.

Mr. Randol moved, seconded by Mr. Elwell, to approve the revised special conditions as read. The motion carried by voice vote.

Ms. Capel noted that staff distributed a handout tonight indicating the updated Documents of Record.

Mr. Hall stated that he has a recommended change for item #9.C (2) b. of the Summary of Evidence. He read his recommendation as follows:

b. Zoning Administrator John Hall has determined that the proposed BMX track will not require a Storm Water Management Plan provided that the Fair Association completes a Storm Water Management Plan at the next non-exempt increment of construction to the Fairgrounds.

Mr. Hall stated that the background of this is, if you add up the surface area of the track it exceeds the threshold that is exempted by the Storm Water Management and Erosion Control Ordinance, and its about 20,000 square feet of bare dirt in a 90,000 square feet area and the exemption is for 10,000 square feet or less. He said that technically there should be a storm water drainage plan, but frankly it would be difficult to do one for just the track, which suggests that the exemptions in the Storm Water Management and Erosion Control Ordinance are not as expansive as they should be and we always have a problem with small projects. He said that the fair thing to do is that for the next increment of construction on the fairgrounds that exceeds the existing impervious area is to require the storm water drainage plan requirement. He said that the other option is to apply for a variance for this requirement, but he has not mentioned it because he was hoping that we could just use this administrative determination to make

sure that eventually, if there is further construction, that this will be brought into conformance with the Storm Water Management and Erosion Control Ordinance. He said that he strongly feels that if we try to make it comply right now we would end up with an engineering dilemma and would not be able to make an engineering design for this small amount of area, even though it is not exempted by the ordinance. He said that this was mentioned to Mr. Kirby and Mr. Kobel, but this is not something that they can decide because it is a decision for the CCFA. He said that if there is another increment of construction on the fairgrounds that goes beyond the existing impervious area, the storm water drainage plan requirement will be a necessary consideration at that time, and he is just suggesting that this project be part of that consideration and not at this time.

Mr. DiNovo stated that, just to be clear, during a future increment of construction on the fairground this impervious area will have to be taken in to account and compensatory storage provided.

Mr. Hall stated yes, and asked Mr. Kobel if he received any input from the CCFA regarding this issue.

Mr. Kobel stated no. He said that he addressed it with a couple of the officers of the CCFA, but received no input. He said that he will discuss this with the CCFA Board again.

Ms. Capel stated that the Board will now move to the Findings of Fact for Case 886-S-17.

FINDINGS OF FACT FOR CASE 886-S-17:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 886-S-17 held on January 25, 2018, and March 1, 2018, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit IS necessary for the public convenience at this location.

Mr. Passalacqua stated that the requested Special Use Permit IS necessary for the public convenience at this location because it is the only one in the community, and it is in a well-suited area.

2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

a. The street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.

Mr. Passalacqua stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.

b. Emergency services availability is ADEQUATE.

Mr. Randol stated that emergency services availability is ADEQUATE.

c. The Special Use WILL be compatible with adjacent uses.

Mr. Passalacqua stated that the Special Use WILL be compatible with adjacent uses because we have testimony that the track is being screened from Crystal Lake and the Fairgrounds is an appropriate location.

d. Surface and subsurface drainage will be ADEQUATE.

Mr. Randol stated that surface and subsurface drainage will be ADEQUATE the CCSWCD has done their survey and found that there are no problems with drainage and there is a storm sewer in the development area.

e. Public safety will be ADEQUATE.

Mr. Passalacqua stated that public safety will be ADEQUATE.

f. The provisions for parking will be ADEQUATE.

Mr. Passalacqua stated that the provisions for parking will be ADEQUATE because events are going to be scheduled to stagger with other events at the Fairgrounds.

Ms. Capel stated that they will park on the grass by the BMX track and will not hold events in bad weather.

Mr. Passalacqua stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located because:

a. The Special Use will be designed to CONFORM to all relevant County ordinances and codes.

Mr. Elwell stated that the Special Use will be designed to CONFORM to all relevant County ordinance and codes.

b. The Special Use WILL be compatible with adjacent uses.

Mr. Elwell stated that the Special Use WILL be compatible with adjacent uses.

c. Public safety will be ADEQUATE.

Mr. Elwell stated that public safety will be ADEQUATE.

Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance because:

a. The Special Use is authorized in the District.

b. The requested Special Use Permit IS necessary for the public convenience at this location.

Mr. Elwell stated that the requested Special Use Permit IS necessary for the public convenience at this location.

c. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public heal, safety, and welfare.

d. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

Mr. Randol the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance

5. The requested Special Use IS NOT an existing nonconforming use.

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6. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:

A. BMX track events shall be scheduled such that adequate parking is available on the Fairgrounds site.

The special condition stated above is required to ensure the following:

That the Fairgrounds provides sufficient parking capacity for all uses.

B. No overnight camping shall be allowed on the Fairgrounds related to BMX track events.

The special condition stated above is required to ensure the following:

That the Fairgrounds are secure after BMX track events.

C. Use of the BMX track must be supervised at all times. Adequate security shall be provided, including enclosing the BMX track in a minimum 6 feet tall security fence with locked gates.

The special condition stated above is required to ensure the following:

That the use prioritizes public health, safety and general welfare.

D. Use of the BMX track shall be limited to daytime hours and no artificial lighting shall be used.

The special condition stated above is required to ensure the following:

That lighting specifications for the Special Use are reflected on the approved Site Plan and are in accordance with Section 6.1.2 of the Zoning Ordinance.

E. If a valid complaint is received about fugitive dust and/ or erosion on and from the proposed BMX Track surface, the Zoning Administrator shall require that the petitioner and/or the Champaign County Fair Association apply water to control dust and, if necessary, SOILTAC soil stabilizer and dust control agent may be applied per the manufacturer's directions to minimize fugitive dust and to stabilize the Track surface or any other reasonable control to minimize fugitive dust and/ or erosion

The special condition stated above is to ensure the following:

That the proposed BMX Track does not harm the public health, safety and general welfare.

F. Sound amplification shall be minimized and used only as absolutely necessary during use of the BMX track.

The special condition stated above is required to ensure the following:

That nearby park users are not disrupted by excessive noise.

G. Construction and operation of the proposed BMX Track shall abide by the erosion and sedimentation controls summarized in the handout titled Special Use Permit Case 886-S-17 Erosion and Sedimentation Control Plan Requirements DRAFT February 13, 2018, so as to prevent sedimentation and pollution in the storm water runoff entering the storm drain system.

The special condition stated above is required to ensure the following:

That the proposed BMX track shall not be allowed to pose any significant risk to water quality in Crystal Lake.

H. A screen planting of tall native grasses shall be established between the proposed BMX Track and the east property line as follows:

(1) The screen planting shall be as proposed by Pheasants Forever in a letter dated February 12, 2018, and as referred to in the January 22, 2018, email from Derek Liebert with the Urbana Park District.

(2) The screen planting shall occupy an approximate 150 feet by 50 feet area between the proposed BMX Track and the east property line.

(3) The screen planting shall be seeded and/or planted prior to any actual shaping and grading of the proposed BMX Track and shall be maintained in perpetuity as long as the BMX Track exists.

(4) If for whatever reason the screen planting of tall native grasses does not achieve or maintain an adequate density of growth of 40% land cover even with repeated plantings and with all recommended maintenance, the tall grasses may be replaced with a screen planting of evergreen plants a minimum of 4 feet tall at time of planting and planted at a spacing that will provide a 50% screen within 2 years and if necessary to achieve the 50% screen within 2 years the plantings shall be in staggered rows.

The special condition stated above is required to ensure the following:

To help ensure that the proposed BMX Track is compatible with Crystal Lake Park.

I. No motorized vehicles shall be allowed to use the BMX track, and a sign stating this shall be posted on the security fence surrounding the track.

The special condition stated above is required to ensure the following:

That noise from BMX track use is minimized.

J. The Zoning Administrator shall not issue a Zoning Use Permit or a Zoning Compliance Certificate for the proposed BMX Track until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.

The special condition stated above is necessary to ensure the following:

That the proposed Special Use meets applicable state requirements for accessibility.

K. The proposed BMX Track and all ground surface in the vicinity of the proposed BMX Track shall be maintained at all times so as to ensure the control and/or eradication of noxious weeds consistent with the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.)

The special condition stated above is necessary to ensure the following:

Compliance with Illinois state law and the Champaign County Nuisance Ordinance.

Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings of Fact, as amended.

Mr. DiNovo requested a voice vote for Finding of Fact items 3.a. and 4.

Ms. Capel read items 3.a and 4. as follows:

3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance because:

a. The Special Use is authorized in the District.

b. The requested Special Use Permit IS necessary for the public convenience at this location.

c. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

d. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

Ms. Capel entertained a motion to approve items 3.a. and 4. of the Findings of Fact for Case 886-S-17, as read.

Mr. Passalaqua moved, seconded by Mr. Randol, to approve items 3.a. and 4. of the Findings of Fact for Case 886-S-17, as read.

Mr. DiNovo stated that he has a concern with respect to whether or not the use conforms to the applicable regulations and standards of the district and whether the use is in harmony with the general purpose and intent of the district. He said that the subject property is zoned CR, Conservation-Recreation and pursuant to Section 4.2.1.C. of the Zoning Ordinance, multiple principal uses are not allowed on a single lot in the CR district, and the only way that this use would be allowed is if it is permitted as an accessory use to the fairground. He said that while he understands the underlying logic of this case, he disagrees with it. He said that the definition of an accessory use indicates that it has to be customarily incidental and subordinate to the principal use, so there are two elements that both must be satisfied for the use to be deemed accessory. He said that he has no problem with the conclusion that this use is subordinate to the fairgrounds, because testimony and evidence suggests that it is not only of lesser impact to the fairground as a whole, but the impact is of comparable quality. He said that we have to look at the issue of whether or not it is customarily incidental, and he believes that for one use to be absolutely incidental to another there has to be a functional relationship between the two. He said that generally, the relationship would be necessary and without it the principal use would not be

possible, for example, a parking lot is accessory but it is necessary for the business. He said that alternatively the accessory use must enhance the principle use, such as, a swimming pool at a residence, and you get into the "but for" situation because if it wasn't for the residence there would not be a swimming pool. He said that we cannot conclude that the BMX track is necessary to the fairground or that it enhances the operations of the fairground, because it is not conducted in conjunction with the fair and it is not conducted jointly with the fair board and is not part of anything else that occurs on the fairground. He said that the only relationship between the BMX track and the CCFA for the operation of the BMX track is a landlord/tenant situation and he does not believe that is enough to establish the incidental and therefore permitted as an accessory use. He said that he would be concerned about Mr. Frazier coming in and claiming that since he had a use that was subordinate to his facility that his landlord/tenant situation was enough to make it incidental. He said that while he understands that there are sound and practical reasons for taking this approach, he cannot agree with the concept that the BMX track is an accessory use to the fairgrounds.

Mr. Hall stated that he agonized for months over whether this case could come to the ZBA like this, and this is not a small issue. He said that if he brings things to this Board that should not be brought to this Board, then he is wasting everyone's time. He said that he does not take offense to Mr. DiNovo's concerns and he appreciates that those concerns were raised; he just wishes they had been raised earlier. He said that he does not believe that this is an accessory use, but is a primary use of the fairgrounds because it is a race track, and the fairgrounds has less racing on it now than it historically has had, and that is why he had no problem in presenting this accessory use to the ZBA in this way. He said that he does believe that the CCFA is treading very close in having such a variety of events throughout the year that it will lose its identity as fairgrounds, and thus exceed what neighbors expect of fairgrounds and we will finally reach the point where another amendment to the ordinance will be necessary or we would need to tell the CCFA that they cannot do something, but we are not at the point currently. He said that he does not worry about customary, because he does not know of anything that stays customary in today's society, but he does believe that this use is customary and is an expansion of the primary use which is why he brought this case before the ZBA in this manner.

Mr. Passalacqua stated that the impact of racing on the BMX track for an entire year is less than the impact of one carnival.

Mr. Hall stated that they do not race on the BMX track during the entire year.

Mr. Passalacqua stated that the BMX track is well suited on a fairground property, regardless of what the fine print indicates regarding accessory use, because it is compatible.

Mr. DiNovo stated that he agrees with the customariness question, because it is a worse than useless term in the ordinance. He said that he also agrees that the overall impact of the use is not objectionable, but the notion of considering it part of the principal use is even more of an issue with him, especially because it is not under unified management control with the CCFA. He said that if the CCFA was

operating the BMX track, he might be persuaded by the argument.

The motion carried with one opposing vote.

Mr. Passalacqua moved, seconded by Mr. Elwell to adopt the Summary of Evidence, Documents of Record, and Findings of Fact, as amended.

Ms. Capel informed Mr. Kirby that currently the Board has two members absent; therefore, it is at the petitioner's discretion to either continue Case 886-S-17 until a full Board is present or request that the present Board move to the Final Determination. She informed the petitioner that four affirmative votes are required for approval.

Mr. Kobel stated that it is almost spring and they are ready to build the track; he asked if there were any other options other than waiting for a full Board. He asked if the Board does not approve the case tonight, is that the end of it.

Mr. Hall stated that if the case happened to fail tonight, the petitioner would have to wait for one year to re-petition, or he could change his petition and re-apply. He said that he understands that this is a tough call, but tonight there were four affirmative votes on all of the findings, and if the Board failed to come up with four affirmative votes for the final determination, then the Board is doing something wrong because they provided four affirmative votes for the findings.

Mr. Kobel stated that they have a stockpile of material at the fairgrounds and they are just waiting to move forward.

Mr. Kirby requested that the present Board move to the Final Determination for Case 886-S-17.

Ms. Capel entertained a motion to move to the Final Determination for Case 886-S-17.

Mr. Randol moved, seconded by Mr. Passalacqua, to move to the Final Determination for Case 886-V-17. The motion carried by voice vote.

FINAL DETERMINATION FOR CASE 886-S-17:

Mr. Passalacqua moved, seconded by Mr. Randol, that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval 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 886-S-17 is hereby GRANTED WITH SPECIAL CONDITIONS to the applicants, Dave Kirby and the Champaign County Fair Association,

to authorize the following:

Authorize the expansion of Special Use Permit 836-S-16 for the Champaign County Fairgrounds and Parking Lot in the CR Conservation Recreation Zoning District to allow the construction and use of a BMX track on the Fairgrounds.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

A. BMX track events shall be scheduled such that adequate parking is available on the Fairgrounds site.

B. No overnight camping shall be allowed on the Fairgrounds related to BMX track events.

C. Use of the BMX track must be supervised at all times. Adequate security shall be provided, including enclosing the BMX track in a minimum 6 feet tall security fence with locked gates.

D. Use of the BMX track shall be limited to daytime hours and no artificial lighting shall be used.

E. If a valid complaint is received about fugitive dust and/ or erosion on and from the proposed BMX Track surface, the Zoning Administrator shall require that the petitioner and/or the Champaign County Fair Association apply water to control dust and, if necessary, SOILTAC soil stabilizer and dust control agent may be applied per the manufacturer's directions to minimize fugitive dust and to stabilize the Track surface or any other reasonable control to minimize fugitive dust and/or erosion.

F. Sound amplification shall be minimized and used only as absolutely necessary during use of the BMX track.

G. Construction and operation of the proposed BMX Track shall abide by the erosion and sedimentation controls summarized in the handout titled Special Use Permit Case 886-S-17 Erosion and Sedimentation Control Plan Requirements DRAFT February 13, 2018, so as to prevent sedimentation and pollution in the storm water runoff entering the storm drain system.

H. A screen planting of tall native grasses shall be established between the proposed BMX Track and the east property line as follows:

(1) The screen planting shall be as proposed by Pheasants Forever in a letter dated February 12, 2018, and as referred to in the January 22,

2018, email from Derek Liebert with the Urbana Park District.

(2) The screen planting shall occupy an approximate 150 feet by 50 feet area between the proposed BMX Track and the east property line.

(3) The screen planting shall be seeded and/or planted prior to any actual shaping and grading of the proposed BMX Track and shall be maintained in perpetuity as long as the BMX Track exists.

(4) If for whatever reason the screen planting of tall native grasses does not achieve or maintain an adequate density of growth of 40% land cover even with repeated plantings and with all recommended maintenance, the tall grasses may be replaced with a screen planting of evergreen plants a minimum of 4 feet tall at time of planting and planted at a spacing that will provide a 50% screen within 2 years and if necessary to achieve the 50% screen within 2 years the plantings shall be in staggered rows.

I. No motorized vehicles shall be allowed to use the BMX track, and a sign stating this shall be posted on the security fence surrounding the track.

J. The Zoning Administrator shall not issue a Zoning Use Permit or a Zoning Compliance Certificate for the proposed BMX Track until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.

K. The proposed BMX Track and all ground surface in the vicinity of the proposed BMX Track shall be maintained at all times so as to ensure the control and/or eradication of noxious weeds consistent with the Illinois Noxious Weed Law (505 ILCS 100/1 et seq).

Ms. Capel requested a roll call vote.

The roll was called as follows:

Randol – yes	**Elwell – yes**	**DiNovo – no**
Griest – absent	**Lee – absent**	**Passalacqua – yes**
Capel – yes		

Mr. Hall informed Mr. Kirby that he has received an approval for his request, and staff will be in touch regarding any final paperwork.

Mr. Kirby thanked the Board and staff.

6. New Public Hearings

895-AT-18 Petitioner: **Champaign County Zoning Administrator Request to amend the Champaign County Zoning Ordinance as follows: Part A: Amend Section 3 by adding definitions including but not limited to "NOXIOUS WEEDS: and "SOLAR FARM"; Part B: Add paragraph 4.2.1 C.5 to indicate that SOLAR FARM may be authorized by County Board SPECIAL USE permit as a second PRINCIPAL USE on a LOT in the AG-1 DISTRICT or the AG-2 DISTRICT; Part C: Amend Section 4.3.1 to exempt SOLAR FARM from the height regulations except as height regulations are required as a standard condition in new Section 6.1.5; Part D: Amend subsection 4.3.4 A. to exempt WIND FARM LOT and SOLAR FARM LOT from the minimum LOT requirements of Section 5.3 and paragraph 4.3.4 B. except as minimum LOT requirements are required as a standard condition in Section 6.1.4 and new Section 6.1.5; Part E: Amend subsection 4.3.4 H. 4. to exempt SOLAR FARM from the Pipeline Impact Radius regulations except as Pipeline Impact regulations are required as a standard condition in new Section 6.1.5; Part F: Amend Section 5.2 by adding "SOLAR FARM" as a new PRINCIPAL USE under the category "Industrial Uses: Electric Power Generating Facilities" and indicate that SOLAR FARM may be authorized by a County Board SPECIAL USE Permit in the AG-1 Zoning DISTRICT and the AG-2 Zoning DISTRICT and add new footnote 15. to exempt a SOLAR FARM LOT from the minimum LOT requirements of Section 5.3 and paragraph 4.3.4. B. except as minimum LOT requirements are required as a standard condition in new Section 6.1.5.; Part G: Add new paragraph 5.4.3 F. that prohibits the Rural Residential OVERLAY DISTRICT from being established inside a SOLAR FARM County Board SPECIAL USE permit; Part H: Amend subsection 6.1.1 A. as follows: 1. Add SOLAR FARM as a NON-ADAPTABLE STRUCTURE and references to the new Section 6.1.5 where there are existing references to existing Section 6.1.4; and 2. Revise subparagraph 6.1.1 A. 11c. by deleting reference to Section 6.1.1A. and add reference to Section 6.1.1A.2; Part I: Add new subsection 6.1.5 SOLAR FARM County Board SPECIAL USE Permit with new standard conditions for SOLAR FARM; Part J: Add new subsection 9.3.1 J. to add application fees for a SOLAR FARM zoning use permit; and Park K: Add new subparagraph 9.3.3 B.8. to add application fees for a SOLAR FARM County Board SPECIAL USE permit.**

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

Ms. Capel asked the audience if anyone desired to sign the witness register, and there was no one.

Ms. Capel asked the petitioner if he would like to make a statement regarding this case.

Mr. John Hall, Zoning Administrator, stated that this is a case that he has previously mentioned to the Board, and this case has been docketed for the next three Zoning Board of Appeals meetings. He said that staff hopes that this Board could take final action at the March 29th meeting, but the Board should not feel rushed and should take as much time that they need. He said that staff has docketed three solar farms for approval and have docketed those cases far out on the docket leaving time for County Board final action in May, but everyone understands that this is not a guaranteed approval date. He said that the ZBA should work through this at their own speed. He said that a lot of material was included with the Preliminary Memorandum and there is one large reference that was posted to the website, but copies were not provided to the Board, and it needs to be listed as a Document of Record. He said that there is not a promulgated model solar farm ordinance in the state of Illinois, although staff does have the recommendations of the Illinois Solar Energy Association, but it doesn't begin to be a model ordinance. He said that Champaign County is one of the last counties in Illinois with a zoning ordinance who have not adopted a solar farm ordinance and that it is simply because he naively hoped that staff would not have to spend time to do this. He said that 2017 was a busy year and staff was dealing with other issues, but the fact is that we currently have three applications for solar farms proposed to be located in Champaign County, so an ordinance is required.

Mr. Hall stated that one of the attachments that was mailed with the Preliminary Memorandum was a short PowerPoint presentation of solar farms in Illinois and was provided courtesy of Kankakee County. He said that he has not seen a better introduction of solar farms, and staff has the presentation on a flash drive if the Board would like to review that presentation tonight, but there are several experienced solar farm developers present tonight who are desiring to present testimony. He said that, as the Board knows, receiving all of the testimony regarding a proposed text amendment becomes the major part of the text amendment. He said that the Board may want to begin with review of the PowerPoint presentation, or hear testimony from the witnesses you have signed the witness register.

Mr. Hall noted that there is a new Supplemental Memorandum dated March 1, 2018, that was distributed to the Board for review. He said that the memorandum includes emails from Ted Hartke, which were the subject of Supplemental Memorandum#1. He said that there is also an email from Patrick Brown, representative for BayWa-r.e. Solar Projects, who is an applicant for one of the proposed solar farms in Champaign County, and Mr. Brown provided two attachments. He said that Mr. Brown's attachments are promulgated by the state of North Carolina for solar farms. Mr. Hall said that Mr. Brown's company has done a lot of solar farm development in North Carolina. Mr. Hall stated that Mr. Hartke's email also includes an attachment, "Example Template Solar Energy Facility Ordinance (North Carolina)" but it is not promulgated by the state of North Carolina and is only promulgated by another entity in North Carolina. Mr. Hall stated that also attached to the new memorandum is an email from Patrick Brown that includes Mr. Hall's responses.

Mr. Hall stated that also as an attachment to the new memorandum is a Comparison Table of the proposed Champaign County ordinance versus six other solar ordinances in Illinois. He said that the comparison includes two North Carolina documents, one submitted by Ted Hartke, and the other from the North Carolina Sustainable Energy Center and North Carolina Clean Energy Technology Center. He said that there

is also a column showing recommendations from the Illinois Solar Energy Association. He said that there is snapshot of bulleted comments which summarizes the comparison table and when the Board has time, he would recommend that the Board reviews the snapshot prior to the comparison table. He said that the Champaign County ordinance may not be the most restrictive solar ordinance, but it is probably the most comprehensive and he does not know why other counties do not include a plan for mitigating impacts to farmland. He said that farmland is a big concern in any county that has zoning, so the proposed Champaign County ordinance is the most comprehensive, but is not the most restrictive, but there has not been a final recommendation yet. He said that the Board can either take the time to review the snapshot with bulleted comments and the comparison table, or take testimony from the experienced developers.

Mr. DiNovo requested a five-minute recess.

The Board recessed at 7:26 p.m.
The Board resumed at 7:34 p.m.

Ms. Capel called Patrick Brown to testify.

Mr. Patrick Brown, Director of Development for BayWa-r.e. Solar Projects, whose address is 17901 Von Karman Avenue, Suite 1050, Irvine, California, stated that along with Mr. Hall, he has been putting in a lot of work regarding the proposed solar ordinance. He said that he attended the ELUC hearing in January when the temperature was seven degrees below zero, so the weather for tonight's meeting was much appreciated. He said that he also appreciates that Mr. Hall has put into this ordinance and Mr. Hall has been very responsive to all of Mr. Brown's comments. He said that the industry's position is that they understand why the County and its citizens require certainty on how solar development will occur, and as a developer, they require the same thing, and whether the ordinance is fair and consistent and that they know what they are getting themselves into. He said that currently the ordinance is developing very well and appears to be meeting the goals for both sides. He said that they want to extend their time, efforts and resources to provide information to the Board so that they also know what the County will be getting into and what they are approving. He said that he will be attending all of the meetings until the ordinance goes to the Board, so answers to questions or any information that the Board requires will be provided. He said that his original letter had 25 comments regarding the proposed solar ordinance, but since then he only has a few comments and concerns.

Mr. Brown stated that Section 6.1.5.P.4.e is the decommissioning section, and they acknowledge that decommissioning is required and they make sure that the landowners understand that this is something that their company will take care of, and there is a decommissioning agreement with a letter of credit or bond or some sort of financial instrument to back up the financial responsibility of that decommissioning. He said that his company does this practice across the United States and it is a very common practice. He said that the main thing for them is to make sure that it is not financially burdensome for the project. He said that sometimes it sounds good to replace cash at year 13, but sometimes when you run an economic model on the pro forma, stuff like that can kill the models. He said that their goal is to work with the Board to come up

with something reasonable and that the required amount of money to decommission the plant is available to the county for its comfort, but not be overly onerous for the project to have a loss. He said that these projects are very competitive and solar energy is becoming equal with other types of energy on the market and to do that they must control all costs and not just agree to things that will hurt the project later. He said that they call it death by 1,000 cuts, so if you don't monitor the 1,000 cuts, eventually you do not have a project and overall, society does not have clean renewable energy. He said that they would like to have something more reasonable regarding the replacement of the security and they would recommend a letter of credit or bond for the duration, because these projects are not just 20-year projects, but 30 to 40-year projects. He said that the manufacturers of the modules provide a 20-year warranty, and these projects live way beyond that 20-year point. He said that these are very expensive projects even 20 years out, and to put a lot of money up front for the project hurts how the economic model treats cash. He said that cash money up front earlier in the project over a long duration of time actually costs a lot more money, and would be equivalent to you putting money into a retirement fund with zero interest; it would be a terrible loss to your retirement. He said that they want to provide the appropriate security, but the form of security that is appropriate for the project and can be updated periodically to assure that the costs are current.

Mr. Brown referred to Section 9.3.1. J. regarding the fee for the County Board Special Use Permit fee. He said that for a very small project, this is not very much money, but for a large project, the fee could go into the hundreds of thousands of dollars. He said that they want to make sure that there is a nexus for the fee; if the County needs hundreds of thousands of dollars to perform inspections, etc. then they have no problem with the fee and they expect to pay their way and do not expect the citizens of the County to pay for their project, but at the same time they want the fee to be fair. He said that a sizable fee is needed for the size of project that they are proposing, but it should also reflect the smaller projects to assure that they are not overpaying as well.

Mr. Passalaqua asked Mr. Brown if he has a problem with the decommissioning costs because they are building the array in an area that does not get enough sunlight, thus the reason for trying to carve costs.

Mr. Brown stated that Mr. Passalacqua is partly correct, that is part of the competitive nature, the amount of solar energy in Illinois is not comparable to the desert area. He said that this is the same issue of whether the production was either really good or really bad, but it makes it even tighter and even worse the further north and east you go. He said that anywhere that they would do this, they would not want to put cash money down, but they do want to put up security by either a letter of credit or bond with a good bank, not a fly by night bank, in a manner that doesn't cost them six times as much to do the same time. He said that at the end of the day they strongly believe that the salvage value of the power plant will more than take care of the cost of decommissioning, but no agency that he has worked at has ever indicated that they want cash. He said that they are willing to work with the County to accomplish this, but if you do not run economic models every day, you don't really realize what these types of things do. He said that he will present evidence of what this does to the model at the next meeting and they will give the County what is required, but they want to make sure that it is fair and not onerous to the point where it hurts the project.

Ms. Capel asked Mr. Brown why they desire to build in Champaign County, especially if it isn't sufficient.

Mr. Brown stated that they want to build in Champaign County because the citizens of the state of Illinois desire to have clean renewable energy in their state and the Illinois Power Authority is having renewable energy auctions for renewable energy credits for the state. He said that there is a market here and just like Baywa-r.e. other solar developers would not be in Illinois if it didn't pencil at the end of the day, but it is a very competitive market and it is always a race to the bottom as to how you sell the power, and it isn't very lucrative, so that you can sell the power at any rate you want. He said that they must compete with every other developer in and out of the state of Illinois. He said that the way the network is set up on the grid, power can be sold out of state and into the state. He said that at the end of the day they must manage costs.

Mr. Hall asked Mr. Brown to indicate what the typical decommissioning requirements are in North Carolina and California, and do they follow a similar approach on financial assurance for decommissioning.

Mr. Brown stated that each individual agency is different, and currently he is going through this same process in Kentucky, and every county and jurisdiction in California does it differently. He said that some of them give you a simple condition requiring a secured agreement, and some of them have very complicated language regarding formulas for how you treat salvage value. He said that letters of credit and bonds are typically the lowest cost for secured capital with a big operating bank where money is put aside in a letter of credit or bond and you pay a portion of that bond for a large portion of money and it is secured. He said that if the developer does not follow through with their obligation, the county can draw on that money. He said that letters of credit and performance bonds are very common in construction, especially for developers who build huge bridges or infrastructure projects that cost millions of dollars.

Mr. Hall asked Mr. Brown if he has ever seen a requirement where a letter of credit must be converted to an escrow account within the first 12 years of life.

Mr. Brown stated that he has not seen that before, and if he could indicate what he wants, it would be what the mining industry gets. He said that on day one, there can only be a small hole; therefore, the security is small, but as the hole gets bigger, more and more security is put up and as the hole is reclaimed and gets smaller and smaller, the security is reduced. He said that in twelve years, a one hundred million dollar power plant is worth eighty million dollars in year twelve, so having someone come in and take it away for free would be very popular and people would be standing in line to do it. He said that other jurisdictions want security up front, but the county has a lot of leverage, because they could pull that special use permit and the power plant could not operate and could not sell power. He said that when you get into the older part of the power plant it is very understandable why the security needs to be put into place and not have any looseness. He said that meeting somewhere in the middle is fair for the industry and the county, but replacing cash and placing it in an escrow account really hurts the bottom line of a project. He said that they look at these projects over a 40-year period; therefore, Champaign County will be saying that when the power plant is only 13 years into its life, depending upon the size of the project, the next 27 years should have two to three million dollars cash sitting in an escrow account, which is a real hurt.

Mr. Hall stated that Mr. Brown raised these same concerns at ELUC (Environment and Land Use Committee). He said that ELUC looked at this twice and it is fair to say that he was prodding to let this come to a public hearing soon so that it could go back to ELUC soon. He said that at the last ELUC meeting, the Board members realized that they were not ready to suggest any revisions to the financial assurance requirements, although it is fair to say that ELUC members were interested in Mr. Brown's testimony, but they could not make any decision at that point. He said that this issue is an issue that the County Board does need to consider, and if at the end of this hearing the ZBA is ready to recommend less than what is in the amendment currently, then the ZBA could certainly do that. He said that he does not want the ZBA to feel pressured into thinking that they need to change the financial assurance requirements, but if the ZBA believes that there is a cause to change it, then they should do that. He said that it is fine if the ZBA does not recommend a change to the financial assurance requirements, because it will be an issue when the case comes back to ELUC. He said that the ZBA has only done the one very small wind farm case, which was for 30 turbines, and wind farms seem to be going through a second phase right now and the statement was made to him that, due to the requirements, no one would propose a future wind farm in Champaign County. He said that he wants to make sure that the ZBA understands that Mr. Brown raised these same concerns at ELUC, ELUC discussed them, and realized that they did not have time to make any recommended changes, but they did listen to Mr. Brown's concerns.

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

Mr. DiNovo asked Mr. Brown to indicate the total investment for one of these projects.

Mr. Brown stated that it is based on size. He said that it is in the millions when you start talking about megawatts (MW) and when you talk about hundreds of megawatts, the investment is hundreds of millions of dollars, because it is all sizeable and scalable.

Mr. DiNovo asked Mr. Brown what the investment would be for a smaller scale solar project.

Mr. Brown stated that a 2 MW project would be an investment of six to seven million dollars. He said that it is a commodity market, and as module prices go up and down it could be a $40 million-dollar investment range. He said that a substantial amount of money is invested for these projects.

Mr. Elwell asked Mr. Brown if he was familiar with the University of Illinois' solar farm.

Mr. Brown stated yes.

Mr. Elwell asked Mr. Brown to estimate the megawatts for a solar farm of that size.

Mr. Brown stated that a good rule of thumb would be five to seven acres per megawatt, which includes the roads, fence and setbacks from the fence. He said that five to seven acres per megawatt is a good metric to

use, but there are so many variables. He said that the solar farm at the University of Illinois has a lot of panels jammed into the small acreage and that is not something that they would ever design because they want more space and more production out of the equipment.

Mr. Hall stated that he had heard that the solar farm at the University of Illinois is on a 20-acre parcel.

Mr. Brown stated that it is probably a 3-megawatt project, but he doesn't really know for sure.

Mr. Hall stated that he would be happy to obtain that information.

Mr. Elwell asked Mr. Brown to indicate the average acreage for Champaign County.

Mr. Brown stated that their project is for 150 MW and they have 1,200 acres under control outside of Sidney. He said that it could be a 50 or 75 MW project, and have the ability for 150 MW, but it is scalable depending upon the client power offtake. He said that it is a large-scale project but it is also transmission interconnected, so once you get into the interconnection projects you need to have bigger projects to help pay for the transmission upgrades, the substation, and the millions of dollars in upgrades that go into the initial infrastructure investment. He said that smaller projects that are 10 MW or smaller can go on the distribution side of the projects and they can be placed on smaller acreages.

Mr. Elwell asked Mr. Brown to indicate his knowledge about the productivity of the land, as in the southwest versus here, where farmers raise 250 bushels per acre corn. He asked if there is any type of tradeoff for one acre in the desert versus here, is there any kind of economic tradeoff.

Mr. Brown stated that there is different production in different zones. He said that they look at kWh (kilowatt hour) per square meter, and as you go into different parts of the southwest and North Carolina the kWh is a lot higher, and Illinois is a lot lower, so it isn't an apples to apples comparison. He said that if he goes to the Mohave Desert in California, the environmentalist would be all over him for destroying endangered species' habitat. He said what kind of value do you put on a desert tortoise versus a Mohave ground squirrel versus the number of bushels of corn in Illinois or tobacco in North Carolina. He said that at the end of the day all land has its own attributes that are important, and as a developer they are trying to reduce the amount of land and put the highest rated module as they can and minimize the amount of land that there are using. He said that they are not just going out there and getting a bunch of land to cover with modules, but are trying to optimize the project with as little land as possible for the needs of the amount of output that they are trying to produce. He said that there is a very intense optimization process that occurs.

Ms. Capel asked Mr. Brown to indicate what kind of infrastructure is involved with the 1,200-acre project.

Mr. Brown stated that the initial investment would be five to six million dollars, which would generally include the construction of a large substation, to put the project on to the grid.

Ms. Capel asked Mr. Brown if their project would connect to an existing substation.

Mr. Brown stated yes, their project would be located near Sidney where there is an existing Ameren substation. He said that a separate substation would have to be constructed to collect the power and inject it into the Ameren substation.

Mr. Randol asked Mr. Brown if they would not propose a project at a location where there was not already a substation constructed within 10 miles.

Mr. Brown stated that they could go to an area and construct a substation that the utility would own half of it, so that the power goes into that utility's system and Baywa-r.e. would own the other half, but that approach is very, very expensive. He said that it is better to find an existing infrastructure and build your piece of it that puts your project together and then feed it into theirs; it is much more economical to do that than build both sides of the substation. He said that they have done both, but they prefer to not build both sides of the substation and then give it to the utility company, but they will if they have to. He said the way that this project is planned, they will be able to utilize the Ameren substation which is very robust.

Ms. Capel asked Mr. Brown if they would be interconnecting by utilizing overhead lines.

Mr. Brown stated yes. He said that there would be a short Gen-Tie into the substation.

Ms. Capel asked Mr. Brown to indicate the height of the poles that will be used for the Gen-Tie.

Mr. Brown stated that the poles would be 150 feet tall.

Mr. Passalacqua asked Mr. Brown to indicate how much the federal government subsidizes the solar farms.

Mr. Brown stated that currently there is a 30% investment tax credit (ITC) for the solar equipment, and the substation is not considered to be ITC eligible. He said that he placed a solar system on his house and he obtained a 30% tax credit for the solar equipment. He said that the 30% ITC entices investors all over the world to invest in renewable energy and it is typical for our government to provide a subsidy for all industries so that they will thrive.

Mr. DiNovo stated that ethanol was also heavily subsidized by the federal government.

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

Ms. Capel called Ben Lindenmeier to testify.

Mr. Lindenmeier declined to testify at this time.

Ms. Capel called Tim Montague to testify.

Mr. Tim Montague, who resides at 2001 Park Ridge Drive, Urbana, stated that he is present tonight as a resident of Champaign County but also as an employee of Continental Electrical Construction Company which builds commercial and utility solar arrays of all sizes. He thanked Mr. Hall for his work on the solar ordinance. He said there is a huge need for education about solar energy in Illinois, because it is so new here in the Midwest. Unlike his peers from California who are present tonight are a good decade ahead of us, so we are playing catch-up. He said the foundation is solid here now due to the Future Energy Jobs Act (FEJA) that went into force on June 1, 2017, and that is the foundation for the industry, and that is why you are seeing so much economic activity. He said solar developers are moving into Illinois, and they are going to install 3,000 megawatts (MW) of solar in the next 10 years. He said we have to keep in mind that it sounds like a lot, but it is not a lot in the greater scheme of things. He said he wants to put some numbers on what 3,000 MW means for Illinois. He said we are talking about rooftop, parking lots, and at the larger scale, some farm ground and brownfields, and in total we are talking about 15,000 acres of development. He said to keep that in perspective, we have 640,000 acres in Champaign County alone, so that would be 2.3% of Champaign County if all 3,000 MW went into Champaign County. He said the reality is that those 3,000 MW are going to be spread over the entire state; there will be a greater concentration in northern Illinois corresponding to the concentration of population and demand for electricity, among other reasons. He said we don't have to be afraid that we are going to pave over all our prime farmland with solar arrays; that just is not going to happen, and we would be lucky to have a handful of projects here in Champaign County. He said he wanted to note that he thinks it is a mistake to build off a wind ordinance for a solar ordinance. He said that wind farms are so different from solar farms that it will scare the solar developers away from Champaign County if we use the wind farm ordinance. He said he thinks Mr. Hall made the point that you notice that the wind developers are staying away from Champaign County, and that is because of the ordinance. He said that we have the same wind as they have in surrounding counties, but we have a restrictive ordinance. He said that solar farms are very low profile, and have very few moving parts, as they are fixed or single axis tracker, and that is something we really need to understand a little bit. He said the moving parts are just the arrays following the sun throughout the day. He said the typical array profile is 10 feet or shorter; most of the ordinances reference 20 feet or lower, but it would be unusual to have a 20 foot tall solar array. He said the biggest difference between solar farms and wind farms is the size of the asset. He said that wind farms require hundreds or thousands of acres, and solar farms are going to be the full spectrum from half an acre to hundreds of acres on the large end, such as the proposed BayWa-r.e. project. He said that at a utility scale, which is 2 MW and up, we are going to see perhaps 5,000 acres of development in the whole state. He said in Champaign County, we have the opportunity with the community solar arrays, which are 500 kilowatts (KW) up to 2,000 KW, equivalent to 2 MW AC (alternating current). He said that a 2,000 KW project is 20 acres at the high end and 10 acres at the low end. He said you could build a 2,000 KW project on 10 acres, but it would have to be the fixed type as opposed to trackers. He said that the trackers are bigger, and need to be spaced out a little more.

Mr. Montague stated that he wanted to make a couple of points about airports. He said he is local and he really wants to spend some time with Mr. Hall especially, but he has been negligent. He apologized and stated that he is working statewide and he drove to and from Lake County just today, so he is on the road a lot. He said that with regard to airports, you don't really need to make any special arrangements, because all the projects near an airport must go through the Federal Aviation Administration (FAA) for approval. He said this is a common misperception, that there has to be some local ordinance about that, but you really don't have to since the FAA has it and the developers have to go through it, so there are plenty of requirements. He said the setback requirements should be as minimal as possible, whatever you require for a building. He said that a building is perhaps 20 feet tall, and that is the maximum height of a solar array, no bigger than a building. He said it is going to have fence around it, and it is no prettier or uglier than any building we see here in east central Illinois. He said that some people like solar arrays and some people don't; some people like barns, some people don't – it is a matter of taste. He said there is no technical reason why you have to set these facilities back from roads or buildings or people.

Ms. Capel asked if all solar farms are fenced as a matter of course.

Mr. Montague responded that they are, because the National Electric Code requires solar farms to be fenced. Regarding underground power lines, he said that he is not an expert, and encouraged the Board to do a little more research because the proposed ordinance seems a little onerous on this topic. He said that when you are building a solar farm, one of the things you do as a matter of course is that you trench and bury electric cables in conduit. He said that is a disturbance of the land, which causes potential environmental impacts, and the goal of the developer is to minimize environmental impacts on the ground. He said that if you insist burying the cable at 5 feet, for example, that would cause more environmental harm than a lesser requirement, in his opinion. He said that he would try to find some better resources on this subject, but it seems to be forcing more environmental damage than necessary. He said that he understands you want to avoid the drainage tile issue, which is really between the land owner and the developer. He said the developer is signing an agreement to build a facility on somebody else's land; they are leasing land for 20 years typically, with the option to extend the lease sometimes 5, 10, or more years. He said that the land owner knows full well if there is an issue with drain tile or not, and they are going to be highly protective of that asset, so it seems somewhat onerous for the county to weigh in on that matter; it is really between the land owner and the developer. He said it is private property, and if the land owner wants special steps to be taken around tile, that's great, but it doesn't seem like something that local government really needs to get involved with.

Ms. Capel asked what is customary if you don't bury the cabling.

Mr. Montague said that the cabling could be run above ground. He said he is not a code expert, but there is nothing technically that prevents a cable from being run above ground in conduit. He said that people are not moving around in the facility unless they are highly qualified electricians, and the facility is gated and fenced. He said that if you are running cable outside the fence, between the equipment and the infrastructure like a substation or 3-phase power lines, then you have to take precautions, and

underground would protect the cable from other damage from vehicles or whatever.

Mr. DiNovo asked Mr. Montague if, for the utility connection, it was necessary to run a line to the utility, would that normally be the utility's line or would it be the developer's line and they have to acquire the right-of-way to make the connection.

Mr. Montague stated that it is his understanding that it is generally the developer's responsibility to build that, but they are getting the permission of the utility and the utility is fully aware of the infrastructure that it is being added to. He said that getting the permit to build this asset is one small part; there are many other hurdles that a developer must get through, such as getting an interconnection agreement with the utility. He said there is a long queue of those, and you can't just put a solar farm anywhere; there has to be a grid with the capacity for all that power, and that is unknown until you go through an interconnection study with the utility, which costs tens of thousands of dollars and has an unknown outcome.

Mr. Montague stated that, regarding decommissioning, a solar farm is an asset that has intrinsic value; it is made of steel, copper, glass, silicon, and a few precious metals like silver. He said you take a solar array, age it 25 years, which is generally the end of life of a solar array, someone will pay you to come take it out of the ground. He said there is very little concrete; it is literally raw steel being driven into the ground that is the main structure of a solar farm. He said that steel is highly recyclable and worth money, because it takes a lot of energy to make steel out of raw materials. He encouraged the Board to minimize the decommissioning requirements; bonding seems like a reasonable approach, and as BayWa-r.e. indicated, the harder you make it for a project to get off the ground, the less likely it is to happen. He said that there are all kinds of hoops that developers have to jump through, and so you just don't want to scare them away. He is not saying that solar farms should just go anywhere; they need to go through a permit process, absolutely, but we don't want to make it too onerous. He said that Illinois is a huge state, and there are $200 million in subsidies that are raining down on the state now. He said it is those counties that are more forward, or progressive, toward renewable energy that are going to capture those resources. He said that is money that is going into the pockets of farmers in the form of lease payments; a farmer is getting 2-3 times in renting their ground for solar farms as they would versus crop farming. He said it is real income for farmers. He said for large facility owners, if they are leasing their roof, that is another group that benefits.

Mr. DiNovo asked if the $200 million Mr. Montague mentioned was from the state.

Mr. Montague responded yes, it is from FEJA – Future Energy Jobs Act. He said that FEJA fuels the renewable portfolio standard (RPS); we have had a portfolio standard since 2008 or 2009, which says we are to achieve 25% green power by 2025. When Mr. Brown from BayWa-r.e. said that the citizens of Illinois have decided, this is what he was referring to. Mr. Montague said we have a RPS and now we need to fulfill that RPS; we fell off track for a while when the RPS was broken, and FEJA puts it back on track to achieve this. He said that many states are considering 50% green power, much greater

aspirations than 25%, but 25% is a good initial goal for Illinois. He said it puts us on the map with regards to renewable energy; the Midwest has been lagging behind many other places, and there are some good reasons for that. He said that Illinois is now a top 5 solar development state, so it is lucrative for builders to build assets here and it is lucrative for the local economy – it's a win-win. He said that one could estimate that the $200 million could translate into $12 billion of construction projects, just to put it into perspective. He said that the subsidies are just a small portion of the actual asset that will get built. He said there are many long-term benefits – tax benefits and clean energy benefits. He said if he were a business owner, and he built a solar array, he could reduce his power bill by 75%. He said that if he is spending tens of thousands of dollars a month, and he works with many industrial clients that spend that amount, he is saving them tens of thousands of dollars a year. He said he has a client that is saving $250,000 per year on their power. He asked what do you think they are going to do if they have an extra $250,000 in their coffers at the end of the year. He said they are going to use that for economic development – hire more people, do more research and development, build more facilities – it's an engine. He said renewable energy is a very positive force when it comes to economic development.

Mr. Passalacqua asked Mr. Montague if that is a net savings after the costs of the infrastructure.

Mr. Montague replied no, that is the energy savings on an annual basis. He said the project would be in the red for the first 4 or 5 years.

Mr. Passalacqua said that you thus have about 20 to 21 years of savings.

Mr. Montague said it is well over $1 million, closer to $4 to $5 million, return on investment for a large industrial solar array.

Mr. Passalacqua said that Mr. Montague is referring to a building the size of Kraft that has photovoltaic solar on its roof.

Mr. Montague said that was correct.

Mr. Hall stated that he would like to use some of Mr. Montague's points as they relate to the ordinance. He said that one change he made to the ordinance since the ELUC meetings – was requiring all wiring to be underground that was feasible. He said the change he made since then, in Section 6.1.5 d.2.b, talks about how burying communication lines underground shall be minimized, consistent with best management practices regarding solar farm construction and minimizing impacts on agricultural drainage tile. He said there may be a better way to word that, but the point is that this amendment does not require any wiring to be underground unless the solar farm developer thinks that is the better route. He said it is true that the farm owner needs to come to terms with the solar farm developer regarding tiles, but in Champaign County, proper functioning of agricultural tiles is so important that we cannot leave that up to private entities. He said he is sure that Board members noticed that we are requiring a signed agreement with the Department of Agriculture, an Agriculture Impact Mitigation form. He said in

fact, so far, the Department of Agriculture does not have an Agriculture Impact Mitigation form for solar farm; frankly, he does not think it is going to look any different from the one for a wind farm. He said they are working on one for solar farms, and there is a bill in both the senate and the house to make that agreement a requirement for county approvals of solar farms. He said that the 5 foot depth requirement for buried wiring comes from the Department of Agriculture mitigation standards, and they in fact do not require for it to be 5 feet in all instances, but this amendment proposes to adopt their standards for the depth of burial, but again, this doesn't require any wiring to be buried.

Mr. Hall asked Mr. Montague if the FAA looks out for Restricted Landing Areas (RLAs), because we have a lot of RLAs in Champaign County. He said that if a solar farm were proposed in the RLA's approach area, then this ordinance would require an analysis using the FAA tool for analyzing glare. He said that probably at the next meeting, staff would have a map showing the locations of all the approved RLAs in the county; he does not want anyone to think that is all the RLAs in the county, but it is all of them that have been duly approved or are non-conforming.

Mr. Montague stated that he did not know.

Mr. Hall said that he knows RLAs are listed on the flight maps that IDOT Division of Aviation puts out, but he does not think the FAA actually regulates RLAs. He said that given the number of RLAs in Champaign County, he thinks that is something we have to be careful of and we don't want to create problems unnecessarily. He recommends that the Board consider an addition to this amendment, which he has not had a chance to add yet, is something about the solar farm operator being required to cooperate, assist, or somehow work with aerial applicators on adjacent farmland. He said particularly for those solar arrays that have rotating panels, maybe there needs to be some accommodation for aerial application, which is important for a lot of farmland in Champaign County. He said he thinks it is going to grow in importance over the years, and we don't have that in the ordinance yet. He said that certainly the aerial applicators have to likewise cooperate with the solar farms; good luck with that. He said that the complaint hotline is a process going into the future whereby ELUC might well hear complaints about an aerial applicator not being able to applicate because a solar farm won't cooperate; that will be up to ELUC to figure out.

Mr. Passalacqua asked Mr. Hall if he was referring to glare, because everything he is reading in testimony is that the solar panels do not glare, because then they wouldn't absorb the light.

Mr. Hall said that is true most of the time, but it is not true all of the time. He said there will be glare if you're positioned in the right location, and glare is bound to happen to some aerial applicators.

Mr. Passalacqua asked that, speaking of aerial application of herbicide, if the ordinance addresses vegetation control if you lay conduit for the wiring on the ground, which would force someone to use chemical vegetation control, and if you bury it, then we have the possibility of mechanical vegetation control.

Mr. Hall responded that we would leave that up to the solar farm developer, who can propose what is going to work best for them, and it is going to be the Board's job to ensure that their decision is not going to result in other problems.

Mr. Passalacqua asked if we would default to the IEPA.

Mr. Hall stated that we would default to the Department of Agriculture.

Mr. Elwell stated that he is a private pilot, but he has not flown over a solar farm before. He asked if there is a problem with flying over solar farms, other than glare; in other words, what would stop us from having a solar farm close to a RLA.

Mr. Montague stated that he believes there are some solar farms in Illinois that are adjacent to airports; it is in the popular media, so you can find these stories online. He encouraged staff to contact those counties and see how they have dealt with those issues, but he is not aware of solar being a problem for pilots today. He said historically, it may have been, but the panels are rigorously designed to avoid glare and absorb as much light as possible, and that has improved over time. He said he thinks we need to make sure we are looking at the modern era and not 10 or 20 years back; it is an evolving industry, and we are only installing brand new, state-of-the-art equipment. He said that is what is getting installed in Illinois.

Mr. Hall stated that he appreciated Mr. Montague's point about making a solar ordinance that looks like a wind ordinance. He said that the issues, by and large, seem to be the same, though flicker is not a problem with solar, so there is nothing in the ordinance about flicker. He said that glare is not a problem with the wind farm, and glare probably won't be a problem with a solar farm, but he knows that at ELUC, there was a concern that ELUC members wanted something to hang a hat on in the case that glare was a problem. He said they did not want to require a bunch of studies up front, and they were willing to take the developer's word for glare not being a problem, but they did want something to go to in case there is a problem. Regarding road agreements, Mr. Hall said that just on the face of it, the issues with regard to impacts on roads for a wind farm are much different than those for a solar farm, but most solar farm developers will say they are fine with a road agreement for a large solar farm. He said we have a good road agreement model in our wind farm section, so it has been copied, but we have deleted everything we can that's not necessary because we are dealing with a solar farm. He said that at first glance, it may look similar, but the point is, in fact, many of the issues are similar to begin with, but if you have any experience at all, you soon find out that they are somewhat different. He said yes, the solar farm ordinance looks like our wind farm ordinance, but we have good procedures already in our ordinance.

Mr. Montague stated, with regards to the roads, there is a difference between a 2 MW project and a 150 MW project. He said you could think of a megawatt as a 40 foot shipping container; that is the amount of panels for a megawatt of solar. He said you could build a 2 MW project with 4 or 5 shipping

containers worth of material. He said that 150 MW would obviously be more; is there a way to scale that requirement based on the size of the project.

Mr. Hall said that this is another change that ZBA is looking at, compared to what ELUC saw. He said that the amendment in front of the ZBA provides that for Community Solar Farms, 2 MW or less, the highway authority can waive the requirement for a road use agreement. He added that if they don't think it's worth their time, they could waive it, or waive only parts of it; it's up to them.

Mr. Passalacqua stated that earlier in the process, there was a plan in the pipeline for a 1,200-acre solar farm. He asked if we know how long it takes to construct a 1,200-acre solar farm.

Mr. Hall asked the solar farm representatives at the meeting to provide an estimate.

Mr. Montague stated that it depends on the circumstances; a rough estimate would be six months to a year. He said it would depend on how big the construction crew is.

Mr. Passalacqua stated that with the wind farms, we had a lot of information about the manufacturer's criteria, warranty, and data on the turbines. He asked Mr. Hall if there would be similar information in the ordinance regarding the solar equipment from the manufacturer.

Mr. Hall responded that the only thing he has found necessary to specify is that it be compliant with the National Electrical Code. He said we are not building foundations, so we don't need any foundation engineering; we are not building a 350 foot tall tower that we need to make sure is going to stand; he is not aware of any other codifying body that we would need to worry about.

Mr. Passalacqua said that with the tornadoes we have around here, does that equipment immediately become flying debris. He said there is no footing, so that basically makes it like a fencepost.

Mr. Hall said that it is like a very good fencepost.

Ms. Capel called Mark Wilkerson to testify.

Mr. Mark Wilkerson, who resides in Stelle, Illinois, stated that he has been in the solar industry for 34 years; he was selling solar electricity in 1983, and there are not that many folks that have been doing it that long that are still doing it. He said he moved to Stelle in 1993, and up until a couple of years ago, he was traveling coast to coast just to do his job, because there was no solar business here. He said that now there is. He said that all that time he was working on the equipment side, so he knows every photovoltaic technology there is, and he could talk all night about any of them you want to. He said he is available; he'll give the Board his card, in case they have questions about any of the technologies. He said that he now represents a company that is only doing community solar – 2 megawatts, 12 to 15 acres, that's all they are looking for. He referred to an artist's rendering that he brought showing the typical

layout of what his company does.

Ms. Capel requested a digital copy of the image as a document of record.

Mr. Wilkerson said he would send one to staff. He said the main points he wants to make have already been covered by his colleagues. He said that community solar is the perfect way to cap his career; it enables the 80% or so of people to get access to solar who cannot get it from their own roof. He said with the big wind and big solar you have to pump that right into the transmission line and get a long-term buyer who is not a typical person who owns a house. He said with community solar, you could buy a subscription to just a couple of panels. He said the only problem he saw in reading through the documents was the 5 foot underground line depth. He said there is a fixed bucket of money; either the project will pencil or it will not. He said the more it will cost, the less likely it is to pencil. He said that if you require some elaborate landscaping, that lessens the cost, lessens the lease payments. He said that burying the cable at 5 feet, which he understands is now not an issue, will add costs, which will make the project less likely to happen. He said that he knows some industry colleagues who have said that if this agricultural impact mitigation is required, they are out of the state, because they are already covering these things with the lease with the land owner. He said the legislation that is in Springfield right now does not account for all the things that have already happened. He said there is enough paper for projects in the state right now that there will not need to be any more after this mitigation impact thing is required. He said that right now, for instance, ComEd has 800 MW of applications in the queue, and the state only has room for 3000 MW. He said that Ameren is in the same situation. He said he hears ComEd is getting 20 applications a day, which could be between community, utility, and residential. He said there are about 30 developers from out of state that are flooding the area. He said again, the harder it is to do business in a county, the less likely it is that a developer will do business in the county. He said that can be good or bad, depending on what the local folks want. He said he wanted to stress Mr. Montague's point, that if you did all 3,000 MW that are slated under this legislation, it is less than 3% of the land in one county. He said that they try to take great pains to only use the least attractive, least productive farmland. He said that Midcreek Organic Farm is behind his house, and it is owned by a neighbor. He said he wasn't even going to approach his neighbor; he did not think his neighbor would want to do solar on his organic farm. He said that his neighbor explained to him that it is going to make his organic farm more economically viable. His neighbor told him that he if he could take 12 to 15 acres and know that he would have this income stream, it will help him be more viable. Mr. Wilkerson said that he is going to have 2 MW literally in his back yard, and he doesn't mind.

Ms. Capel asked if his neighbor is going to graze the solar acreage.

Mr. Wilkerson said that his neighbor has insisted that in the least, they do not cut vegetation with fossil fuel, so they cannot mow this area like they normally would. He said they would normally plant a fescue that would grow a maximum of 18 inches high to minimize the need for cutting, but his neighbor wants to use his sheep. Mr. Wilkerson said they went to the long-term owner and asked if they would allow grazing. He said the long-term owner said yes, but the neighbor had to start a company and get

insurance; he can't just do it whenever he feels like grazing his sheep among the array. He said that yes, they will let the neighbor do that.

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

Mr. DiNovo asked for verification that Mr. Wilkerson said that we are going to reach the 3,000 MW with the existing applications in the pipeline.

Mr. Wilkerson responded yes. He said that the problem with saying we have 800 MW in the pipeline today is that a lot of them will fall out. He said that in his experience, he has had land owners who want to do it, with perfect land, perfect 3-phase interconnection, but the grid was already at 120% capacity with solar projects already in the queue ahead of us. He said that there are so many hurdles that have to happen to make everything work, and right now, we are running into lines that are already at capacity. He said that in the case of the 300 MW of wind energy, EDF Energy Renewables had to spend over $10 million to transport this high voltage electricity into a substation they had to rebuild. He said that with a small 2 MW solar farm, there is not that kind of money to build that kind of thing, but with a large-scale utility size, yes, you can build that kind of thing. He said that we have to look for 3-phase that has capacity.

Mr. Elwell asked if there is capacity in Champaign County.

Mr. Wilkerson said that they have not looked here yet, but he intends to. He said he understands that Ameren is a little bit different than ComEd; he has 1 lease signed in Ameren territory, in Iroquois County, and so far, the experience has been good.

Mr. Hall asked Mr. Wilkerson how the subscription for solar works; more specifically, is that going to have to be local people that subscribe.

Mr. Wilkerson replied that the way the law is written, anyone in Ameren territory can subscribe to any solar farm in Ameren territory.

Mr. Hall asked Mr. Wilkerson how that is marketed.

Mr. Wilkerson said that is another part of the equation that can be very tricky. He said it is up to the long-term owner and the developer to sell that electricity. He said to go out and sell a subscription to individual homeowners is going to be very expensive. He said that the law says that one owner can only own up to 40% of the output from any one 2 MW array. He said that means you have 1 anchor tenant at 40%, so the remaining 60% has to be individual subscribers. He said he thinks that the minimum subscription is 200 watts.

Mr. Hall stated that it is all written in the Future Energy Jobs Act. He asked Mr. Wilkerson if he thinks

that if someone applies for a Special Use Permit for a Community Solar Farm, would they already have those subscribers lined up, or is that something they would do once they get the approval.

Mr. Wilkerson said to make the project pencil, the Renewable Energy Credits (RECs) have to be included in the deal, and to get the RECs, he believes you have to have your subscribers. He said that all those things have to happen at the same time.

Mr. Elwell asked Mr. Wilkerson if he, living in Champaign County, could have a subscription to a solar array in Iroquois County.

Mr. Wilkerson said yes, if it is in Ameren territory, if they drop the moratorium, which is just until they finish a solar farm ordinance. He said he was in Paxton yesterday; they combined their solar with their wind ordinance, and he had to go make sure they knew the difference.

Ms. Capel asked Mr. Wilkerson if Eastern Illini Cooperative participates.

He said he has tried working with electric cooperatives, but they are not compelled by the law to do this, and so they are not doing this.

Ms. Capel said that the co-ops even make it difficult to do home size projects.

Mr. Wilkerson said that the co-op world is democratic, one member, one vote; if they have enough votes, then they will have it, but they have to be reminded of that.

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

Ms. Capel called Phil Fiscella to testify.

Mr. Phil Fiscella, whose address is 505 West Green, Champaign, stated that he is leasing 20 acres on his farm in Vermilion County to a developer, and was curious about what the rules are in Champaign County. He said he feels like this is a really great opportunity for the county; from what he has seen, especially with his more marginal land in Vermilion County, it is an order of magnitude in income above what he would get by farming the land. He said environmentally, especially with the Class B land, this is a much better use of the land as far as erosion, pollution, and soil loss. He said he feels that it will be good for taxing districts; right now, his farm pays less than $1,000 per year in taxes. He said he thinks the payment in lieu of taxes will be substantially more. He said it is good to be concerned about potential impacts, but he would like to see more of this happening in Champaign County because he feels that the farmers who are getting the rent payments are predominantly going to be spending the money locally. He feels that it would create more jobs than farming would, especially in the short term, but even in the longer term as far as maintenance. He said there would certainly be more tax payments with less demand

for services. He feels like this could be a real boon to rural communities especially. He said it seems to him that there is a lot of competition; the proposed solar farm near Sidney would potentially consume one-quarter to one-third of the utility scale capacity of projects in the state. He said this is huge, and it would be a considerable amount of money for the county, a few million dollars at least. He said his feelings about landowners negotiating with solar companies are as follows: working with Nexamp talking about their construction projects, most of what they are doing is vibrating I-beams into the ground. He said he has talked with his attorneys and his tenant farmer, and various other people about what do you do if these guys disappear, and his feeling is there is substantial salvage value. He said that if they do disappear, he thinks he would stand to make a substantial profit by selling or scrapping the equipment himself. He said farmers are pretty good at figuring out how to do that kind of thing. He said a lot of us have a great deal of junk and old buildings and stuff sitting around, and we find ways to monetize that when the price is right. He said as far as farm tile goes, he agrees that is a valid point. He said he has neighbors' tile running across his property, but there are legal mechanisms in place to make sure that we maintain tile that runs across our property. He said that thus far, his experience has been that his neighbors have been extremely conscientious about mapping those tiles, and most farmers have a pretty good idea of where those tiles are on their properties. He said that when you have any topography at all and have a tile burst up, it's kind of a mess; you'll have a lot of water coming out on the ground and gullies. He said it is his understanding that these companies do not want substantial surface erosion under their solar arrays since they have to run equipment back there such as mowers. He said he thinks it is in their best interest as well to make sure the tiles are functioning. He said there is also liability if you impact somebody else upstream. He said overall, he thinks the County should see this as more of an opportunity and maybe less of an inconvenience if at all possible. He said we want to be sensible, but we should bear in mind that most farmers are accredited investors; these are people with substantial experience and assets who can negotiate on pretty equal terms with these companies for the most part.

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

Ms. Capel asked the audience if anyone desired to sign the witness register and present testimony regarding this case, and there was no one.

Mr. DiNovo, referring to Section 5.2, asked Mr. Hall how he would treat one of these applications in the absence of the proposed text amendment.

Mr. Hall stated that he told the first applicant that if they wanted to proceed under the wind farm requirements, requesting whatever waivers they think are necessary, they could do that, or they could wait for the solar farm amendment. He said that prior to that, Invenergy, the company that did the 30 wind towers we have, called last January trying to line up properties for solar farm development and they are very familiar with our wind farm requirements, and they said they did not want to develop under our wind farm requirements; they wanted to wait for development of the solar amendment. He said that apparently, we were not attractive enough, because he never heard from them again. He said that the group that submitted the Community Solar Farm applications that we have are also content to wait for a

solar ordinance amendment, although they seem to be somewhat more anxious about timeline and they are really hoping that we can get this amendment done in time.

Mr. DiNovo asked if Mr. Hall had ever considered an alternative such as a steam turbine peaker plant.

Mr. Hall responded that he had considered doing it just as a substation, when the U of I project was being discussed and it wasn't clear if they were exempt from zoning or not. He said that the U of I project turned out to be exempt from zoning, so he did not need to proceed with that. He said that in his view, doing it as a peaker plant would be even more problematic than doing it as a wind farm. He said when it comes right down to it, it's only going to be a solar farm, so he didn't really consider that.

Mr. DiNovo said that he understands, given the nature of the impacts, and the multiple separate parcels that are included in wind farms, why that would be necessary – they affect such a large area – why they should be treated as a County Board Special Use. He said that these are single, compact locations and he knows that this Board is competent to make decisions about gas turbine peaker plants, gravel pits, and sewage treatment plants. He said that unless this is coming from the County Board, he does not understand why this would need to be a County Board Special Use Permit instead of a regular Special Use Permit.

Mr. Hall said he appreciates Mr. DiNovo mentioning that. He said he thinks it should be a County Board Special Use Permit because of the need for a reclamation plan with decommissioning makes determination of value critical, and he thinks that should be left up to the County Board. He said that peaker plants, for some reason we did not include decommissioning; he thinks a peaker plant would be the easiest of these three different things to decommission, and so maybe that is why we did not have the need of a decommissioning plan and financial assurance. He said when you start dealing with financial assurance and the County is going to be responsible for those large amounts, even though we take into account the recycle value, it is still a lot of financial value, and for that reason he thinks it should be the County Board.

Mr. Elwell asked Mr. Hall if he could give an idea of the property tax, or the fees solar array companies would be paying to Champaign County; for example, if they cross over to Vermilion County instead of developing in Champaign County. He asked if the farmer is still going to pay his same property tax when this is going to be an improvement to the land.

Mr. Hall stated that the solar farm developers who have so far talked to our Supervisor of Assessments have said that they want the solar farm developer to be responsible for the real estate tax on the solar farm, not the land owner. He said that these are going to be leased lands, so there should not be any real estate tax impact on the land owner except they will no longer pay any real estate tax on the land as far as he knows, but he is not an expert on that.

Mr. Passalacqua stated that he thinks what Mr. Elwell is angling at is what Mr. Fiscella mentioned – a

farmer may be paying $1,000 on a whole parcel, but the revenue to the County is going to be much greater under this plan.

Mr. Hall said until the legislature makes an amendment to the tax law to reduce that, like they did for wind farms; he is assuming that will happen, but maybe it won't. He said those things might be considered as part of the reason why solar farms might be good, but we still have to deal with the impacts. He said that the principal thing this Board would deal with is making sure we have addressed the impacts.

Ms. Capel asked Mr. Hall to indicate how many big substations are in Champaign County.

Mr. Hall responded that we have two: one at Sidney and one at Rising. He said he fully expects to get some proposal for something near Rising; he has had some inquiries, but nothing has developed. He said that one of the solar farm developers have been interested in Rising, and he suggested the Sidney substation, and Sidney won out. He said we still have another opportunity at Rising, but the task is assembling enough land owners who are interested.

Ms. Capel asked Mr. Hall to indicate the LESA scores are around those substations.

Mr. Hall stated that they are both almost all best prime farmland. He said he does not know how close the development would need to be to the Rising substation, but when you get about a mile away from it, you start getting into significant amounts of non-best prime farmland there on the moraine. He said one inquiry he had was on the moraine that might not have been best prime farmland, but that has not developed into anything concrete.

Ms. Capel said that one of the things she noticed from reading the email from Ted Hartke was about fire, and another issue she has kind of picked up on is there is a certain amount of water use.

Mr. Hall stated that he does not know about water use and we still require some further explanation of that. He said in his further readings, he does not know that they would use that much water; they might just be able to rely on rain except in dry conditions. He said that in regards to fire, he has read that also, that depending on which photovoltaic (PV) technology they have used, fire can release some undesirable, hazardous materials. He said that he heard a discussion today with a local Fire Protection District that if there is ever a fire at a solar farm, the fire will go its own course and they will make sure it doesn't get outside the solar farm. He said he does not know how likely it is for a fire to happen, but he has read there can be some significant cleanup after a fire.

Mr. Hall stated that one thing he would like to get clear on tonight is if the Board has any assignments for staff for the next hearing. He asked if there are any things that the Board wants more information on, so we can try to find it.

Mr. DiNovo stated that, reading the definition in the amendment, it did not provide a minimum for a community solar project, including minimum number of subscribers. He said you could theoretically argue that an individual residential installation would fall under that. He said he cannot believe that is intended.

Mr. Hall stated that the definition of community solar farm incorporates the definition of solar farm; it is inconceivable to him that the term can be applied to a residence wherein you are selling the excess energy.

Mr. DiNovo said he went back and looked at the definition of a community solar farm in the Future Energy Jobs Act, and he did not see where it said more than one. He said, no subscriber can have more than 40%, which means there has to be at least two.

Mr. Hall asked Mr. DiNovo if he was suggesting making the definition of community solar farm a little more robust; adding that requirement would make it clear to a future Zoning Administrator.

Mr. DiNovo said it makes him wonder if glare and other subjects of concern would be an issue for something like arrays. He said he could imagine things that did not qualify as solar arrays that were designed simply to serve single installations. He said you might want to tie in to the utility, but you might not, under the terms of the law. He said that he is wondering if there is some category of these things that is not categorized under the law.

Mr. Hall said there might be, and he would be happy to follow up with another amendment after this dealing with smaller scale solar installations, just like we did for wind farms. He said that we got the big wind farms amendment in place, so we could deal with wind farms, and then we followed it up with smaller wind turbines. He said he does not really want to spend time on it now, on the smaller things, but he would be happy follow up with another amendment dealing with small scale solar installations. He said that right now, we are approving these small things, and we have not had any complaints.

Mr. DiNovo said that if he put a solar array on his garage and he does not need a County permit for that. He said if you put it on the ground, you need a permit.

Mr. Hall said that if you place a solar array on your roof, you do not need a permit, but if you place a solar array on the ground you do need a permit, and staff has processed those permits.

Ms. Capel closed the witness register for tonight.

Ms. Capel stated that if there is no more discussion, we should continue this case. She entertained a motion to continue this case to March 15, 2018.

Mr. Passalacqua moved, seconded by Mr. Randol, to continue Case 895-AT-18 to the March 15,

2018 ZBA meeting. The motion carried by voice vote.

Ms. Capel stated that our March 15th meeting technically starts at 7:00 p.m. rather than 6:30. She said that if we start earlier, then we would have more time for discussion.

Mr. Passalacqua said that 6:30 p.m. would be fine for the March 15th meeting, but beginning at 6:30 p.m. would start to get tight for him after that.

Mr. DiNovo said that he would prefer to start at 6:30 p.m.

Ms. Capel entertained a motion to approve the 6:30 p.m. start time for the March 15th meeting.

Mr. Randol moved, seconded by Mr. DiNovo, that the March 15th meeting begin at 6:30 p.m. The motion carried by voice vote.

7. Staff Report

None

8. Other Business

A. Review of the docket

Mr. Hall asked the Board if there were any upcoming absences, and there were none.

9. Public participation in respect to matters other than cases pending before the Board.

None

10. Adjournment

Ms. Capel entertained a motion to adjourn the meeting.

Mr. DiNovo moved, seconded by Mr. Randol, to adjourn the meeting. The motion carried by voice vote.

Then meeting adjourned at 9:06 p.m.