AS APPROVED JUNE 13, 2019

MINUTES OF REGULAR MEETING

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

DATE:	**June 28, 2018**	**PLACE:**	**Lyle Shields Meeting Room**
			1776 East Washington Street
TIME:	**7:00 p.m.**		**Urbana, IL 61802**

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

MEMBERS ABSENT: Ryan Elwell

STAFF PRESENT: Lori Busboom, Susan Burgstrom, John Hall

OTHERS PRESENT: Phillip Geil, Tannie Justus, Mary White, Tim Osterbur, Vince Koers, Ted Hartke, Tiffany McElroy-Smetzer, Daniel Herriott, Charles White

1. Call to Order

The meeting was called to order at 7:00 p.m.

2. Roll Call and Declaration of Quorum

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

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

Mr. DiNovo stated that he had information to submit as evidence. He asked if it would be appropriate for him to sign the witness register and submit the information as a witness and not as a Board member.

Mr. Hall stated that Mr. DiNovo is a Board member; therefore, it is not necessary for him to sign the witness register.

Mr. DiNovo stated that, procedurally, he could wait until the Board took witness testimony.

Mr. Passalacqua asked Mr. DiNovo if his information should be part of ordinance building.

Mr. DiNovo stated that the information is extremely relevant to building the ordinance, and he will make his argument at the appropriate time.

3. Correspondence - None

4. Approval of Minutes - None

5. Continued Public Hearing

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

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

Ms. Griest asked Mr. Hall to review the new information with the Board.

Mr. John Hall, Zoning Administrator, stated that Supplemental Memorandum #17, dated June 28, 2018, was emailed to the Board for review. He said that the memorandum starts off at the point where the Board ended at the last meeting, the decision point regarding whether or not to recommend retention of an escrow account as a requirement or go with only a letter of credit. He said that Supplemental Memorandum #14, dated June 7, 2018, included a submittal from Lauren Bergren, Vice-President, ARC Perspectives, Inc., which is a consultant for Baywa-r.e. Mr. Hall said that Ms. Bergren had contacted him and asked what her firm could do to assist with any remaining issues, and he mentioned the issue regarding retention of an escrow account versus a letter of credit. He said that it was difficult to find any useful information, so Ms. Bergren

submitted a handout from Lorman Education Services dated May 3, 2018, that she had acquired from a banking contact. Mr. Hall stated that the handout reviewed the advantages of a letter of credit and clarified that an irrevocable letter of credit is an asset based on the bank's resources and they only gives this to a company that they know can back it up, but in the event that the company goes bankrupt, the letter of credit is drawn against the issuing bank. He said that the bankruptcy has nothing to do with the letter of credit, because if the letter of credit is with a strong bank, there should be little risk. He said that Objective 9.5 of the Land Resource Management Plan (LRMP) states that Champaign County wants to encourage solar farms, which suggests that Champaign County doesn't want to have onerous decommissioning requirements but does want to have adequate decommissioning requirements. He said that the question of onerous is the question that he has been trying to resolve and he does not know if this new information did that.

Mr. Hall stated that unlike an escrow account, a draw against a letter of credit should be honored at all times with no questions asked, but a draw against an escrow account is not the same thing and can be questioned. He said that he does not know how one goes about doing that, but if Champaign County had to draw against an escrow account, one could imagine that it would not be the situation that the County wanted to be in. He said that if the possibility of a dispute is heightened, he does not know, and the information from Lorman Educational Services indicates that there is a difference between the two. He said that having both a letter of credit and an escrow account on file for the wind farm, he reviewed the letter of credit and it says nothing if there is a dispute. He said that the escrow account has an entire paragraph regarding if there is a dispute, and if there is a dispute the issuer does not have to issue anything on the draw and can simply wait for the litigation to play out. He said that he sent this information to Jacob Croegaert, Assistant State's Attorney, who is unfortunately no longer with the County, and before he left he sent Mr. Hall an email indicating that the information appears to be correct. Mr. Hall stated that Mr. Croegaert reviewed the County's letter of credit and escrow account information and reviewed what legal information he could find, and he intended to work on this more, but time did not allow him that opportunity before he left the County. Mr. Hall stated that after talking to Ms. Barb Mann, Chief of the Civil Division of the State's Attorney's office, she wanted to follow up with more knowledgeable attorneys and she mentioned a firm in Chicago. Mr. Hall stated that he passed along Ms. Mann's recommendation to Laurel Bergren, Vice-President with ARC Perspectives, Inc., hoping that someone might have time to find better information, but that task was unsuccessful.

Mr. Hall stated that Supplemental Memorandum #17 includes new evidence for item 16.B.(5)c. through i. He said that item 16.B.(5)c. in the Finding of Fact talks about the second zoning ordinance purpose, which is where staff previously had information regarding decommissioning. He said that the current evidence is indicated in black and the new evidence is indicated in red. He said that in the memorandum he points out that the decommissioning requirements are based on the wind farm requirements, which are the only wind farm requirements in the State of Illinois that require an escrow account. He said that is because when the wind farm ordinance was adopted on June 24, 2010, shortly after or in the middle of the great recession, County Board members were keen in having the least risk for the County. He said that the Board has heard testimony from Patrick Brown, Director of Development from Baywa-r.e., indicate how costly an escrow account is in lieu of a letter of credit, because an escrow account just sits in the bank drawing very little interest, and it can't be used. He said that Objective 9.5 of the Champaign County Land Resource Management Plan calls for encouraging the development and use of renewable energy sources where appropriate and compatible with existing land uses. He reviewed the fact that there is not much information available regarding the advantages of an escrow account versus letter of credit for financial assurance in either wind farm or solar farm decommissioning. He said that he prepared a table containing a very basic comparison of an escrow account versus a letter of credit. He said that he contacted Patrick Brown and told him that he was going to indicate that an escrow account at least costs a developer 10% to set that aside, and

a letter of credit would cost approximately 1.5%. He said that the actual numbers that any company would be use are proprietary, and Mr. Brown checked with his auditing department and they confirmed that they were good percentages to use. Mr. Hall stated that he knows for a fact that these are not the numbers that Baywa-r.e. uses, but they are representative numbers, and staff will never indicate what anyone's numbers are during a public hearing, although these are in the realm of all likelihood. He said that there is a question of risk, but with the escrow account the money is there, and staff receives monthly statements indicating how much money is in that account. He said that with a letter of credit, it sits in staff's file until the County has the need to draw on it, but both accounts have a standard form for making a draw upon the account.

Mr. Passalacqua asked Mr. Hall how often the bank obtains a credit score for the company that they are providing a letter of credit for.

Mr. Hall stated that he has no idea.

Mr. Passalacqua stated that he can't see them writing a letter of credit for millions of dollars and never reviewing their finances and credit score again.

Mr. Hall agreed. He said that the letter of credit that the County currently has for the wind farm is a continually renewable letter of credit, so they have to be looking at the financial stability and credit score of the company.

Mr. Passalacqua stated that this information washes out the thought that the letter of credit is so much safer, because if their performance begins to fail, perhaps not in the solar farm area but in another division of the company's operations, the bank may not want to renew the letter of credit.

Mr. Hall stated that if the bank desires to drop the client, they have to give the County a 120-day notice.

Mr. Passalacqua stated that he does not believe that the letter of credit is as safe as Ms. Bergren indicates.

Mr. Hall stated that Ms. Bergren is not stating anything, but she did provide information from Lorman Educational Services, who provides training for attorneys.

Ms. Griest stated that if the letter of credit was not to be renewed, even though it is irrevocable, the County has 120 days before they can draw it out, and the County can only draw on it for decommissioning. She said that if the County is not ready for decommissioning, the County does not have a reason to draw upon the letter of credit.

Mr. Hall stated that the County could draw on the letter of credit if the special use permit is voided, and if there is not a letter of credit, then the special use permit is voided.

Ms. Griest asked Mr. Hall if that language is written into the ordinance or is that something that needs to be added.

Mr. Hall stated that the language should be included in item 6.1.5. Q. or 6.1.1. A. of the proposed amendment. He said that item 6.1.1. A.9.f. on page of 5 of 39 of Attachment H. Revised Proposed Amendment – Annotated, indicates the following: "the owner of record has failed to replace an expiring letter of credit within the deadlines set forth in Section 6.1.1 A. 6.; or"

Ms. Lee stated that the discussion indicates that if they do not renew the letter of credit, they are supposed to provide a 120-day notice.

Mr. DiNovo noted that it is actually a 180-day notice.

Mr. Hall thanked Mr. DiNovo for the correction, and frankly it is hard to keep all the timelines straight, but advance notice is required.

Mr. Passalacqua stated the Board is not strictly talking about decommissioning, but drawing the funds out if it appears that they will not qualify for renewal.

Ms. Lee stated that in withdrawing funds, the County would be changing from a letter of credit to an escrow account.

Mr. Hall stated that at that point he would be withdrawing the funds. He said that if a company has been notified that their letter of credit will expire on a certain date, then he will give them enough time to obtain a new one, but before that date of expiration arrives, he will withdraw the funds.

Mr. Randol asked Mr. Hall if the funds would go into an escrow account, or would the County just have those funds.

Mr. Hall stated that it would probably go in the safe at the Treasurer's Office. He said that this is the one thing about his job that he hates, because he is not getting paid enough to have these kinds of headaches.

Ms. Capel asked Mr. Hall if there is a letter of credit, is it escalated to the amount that it is to cover. She asked if the letter of credit is for 125% of the cost of decommissioning right at the beginning.

Mr. Hall stated that this is one of the things that the Board needs to determine tonight. He said that staff proposed to have the step process, but the Board has not made a recommendation yet.

Mr. DiNovo stated that he had a few legal questions, and since he did not attend the wind farm hearings, he does not know if these legal questions were addressed at that time. He asked Mr. Hall if the State's Attorney's Office looked at the provision for Counties Code 55 ILCS 5/5 – 1123, regarding builder or developer cash bond or other surety.

Mr. Hall stated that he would assume that the State's Attorney was familiar with it.

Mr. DiNovo stated that it appears that the intent of the provision is that, when the County requires a performance guarantee of a contractor or developer, it must accept a letter of credit. He said that there is a question of whether this applies to decommissioning. He said that there is new language in the new version of the State of Illinois Agricultural Mitigation Agreement. He said that in the amendment to the Counties Code regarding agricultural mitigation agreements, it says that a commercial solar facility owner shall provide the county with an appropriate financial assurance mechanism consistent with the department's standard agricultural mitigation agreement. He said that this is new language in the amendment and it has passed both houses, and he does not doubt that it will be signed. He said that this amendment and SB-486 passed with large majorities. He said that there is a call for consistency, and the agricultural mitigation

agreement has not been updated. He said that the schedule is different than what staff currently has distributed.

Mr. Hall stated that the schedule that he downloaded has a watermark date of April 2017 and that is the one he took the schedule from.

Mr. DiNovo stated that he downloaded his copy of the 2018 Agricultural Impact Mitigation Agreement this afternoon with a watermark that states "template" on it.

Mr. Hall stated that the one that he had recommended to the Board did not match the Agricultural Impact Mitigation Agreement schedule, because they were willing to wait until the end of the first year of operation to get anything at all.

Mr. DiNovo stated that the time schedule is different, and when it defines financial assurance it says, reclamation bond or other commercially available financial assurance, which raises another legal question. He said that normally, when a statute indicates "consistent with" it may or not be interpreted to mean that it has to match. He said that the effect of this may be to take the discretion for an escrow account out of the County's hands. He said that there are two legal questions about an escrow account.

Mr. Hall asked if there is language in the new version that seems to suggest that counties cannot have more restrictive requirements.

Mr. DiNovo stated that it states the following: "an appropriate financial assurance mechanism consistent with the department's standard agricultural mitigation agreement." He said that it hinges on the interpretation of consistent.

Mr. Hall asked if that is really saying that, the IDAG for solar farms wants a type of financial assurance consistent with the other agricultural impact mitigation agreement.

Mr. DiNovo stated that the language is odd because this is actually creating a duty on the part of the developer, but it is also in the County's code, so what that actually means is unclear. He said that the duty of the developer is to enter into an agreement that is consistent with the standard agreement which defines financial assurance in such a way other than an escrow account.

Mr. Hall stated that is outside of zoning, and they are not limiting counties to that language.

Mr. DiNovo stated that there is no explicit authority anywhere for decommissioning financial guarantees, except for the agriculture mitigation requirements in this law, and that is the only place where language regarding decommissioning occurs. He said that the only other authority for adopting performance guarantees is this, which seems to say that if you are going to accept the performance guarantee then you have to accept the letter of credit. He said that there is nothing directly on point, as he reads it, and it is not clear how you read all of this together consistently. He said that it would seem to him that the most conservative way to approach this is to say that you do a financial guarantee requirement that matches the one that is in the state model agreement, as that would eliminate any questions but may be too conservative. He said that you could have a more stringent requirement but accept a letter of credit, as this text seems to suggest, but beyond that the text is very murky and there are a lot of questions that he cannot answer. He said that the consistency language is new and did not exist with the wind farms.

Mr. Passalacqua asked Mr. DiNovo to indicate where it says that this overrides any other county in Illinois that has their own zoning and ordinances.

Mr. DiNovo stated that if there were explicit provisions in the zoning section indicating that counties had the right to impose performance guarantees, then that would govern, but in the absence of any explicit provisions, a county has no authority and must accept what authority that the state gives it. He said that if the county is going to do anything, it must find a provision somewhere in the *Counties Code* to hang its hat on, and these were the only things that he could find that talked about counties having the authority to require performance guarantees and it would suggest that yes, we can do that, but it has to be through a letter of credit. He said that he is not indicating that he knows the answer, but it raises a question in his mind about where the authority of requiring a performance guarantee comes from, because this crazy thing regarding the agriculture impact mitigation agreement creates a duty for the developer but does not say anything about the authority of the county. He said that he does not know how to read it and he does not know how a judge would read it either, because a judge would have to take all of these pieces and try to make sense of them.

Mr. Hall suggested that it is referring back to the agriculture impact mitigation agreement that was developed for wind farms, which in the first condition and indicates the following: A. All Construction or Deconstruction activities may be subject to County or other local requirements. However, the specifications outlined in this AIMA shall be the minimum standards applied to all Construction or Deconstruction activities. He said that this would still apply.

Mr. DiNovo stated that this is an administrative document and it doesn't trump the statute, which required consistency. He said that if this Paragraph A. in the agreement is what governs, then the consistency provision is meaningless, because there is nothing to be consistent with, except that maybe this creates a floor, and maybe that is a way that you can read the two of them together, and the consistent is no less stringent than this. He said that it could be argued that if the legislature meant no less stringent then they would have said it, but the problem is the word consistency. He said that in his experience, the word consistency in Illinois has normally been interpreted to mean that the county will have the same standards as the State. He said that he does not know how to read this, and his only point is that there is question that can't be resolved by this Board.

Mr. Hall recommended that the Board do what the Board believes is best, and since Mr. DiNovo has raised this legal issue with some of the other statutes, he will have the State's Attorney take a look at that. He said that if the County is not able to do anything more than a letter of credit, then the County will finally be in line with the State statutes.

Mr. DiNovo stated that this does not affect the Board's recommendation.

Mr. Passalacqua stated that if the State had the intent to cut the County off at the knees, then it would clearly have said that it supersedes any County ordinance. He asked Mr. DiNovo if his theory is true, then why is the Board here tonight.

Mr. DiNovo stated that the State does not have to expressly limit the County's authority, because the county doesn't have any authority that the State doesn't give us.

Mr. Passalacqua stated that he does not interpret what was read as the State taking any authority away from the County.

Mr. Hall stated that the Board should return to the evidence.

Ms. Lee stated that during a previous meeting, she had made suggested revisions to the Standard Condition for the Decommissioning Plan and Site Reclamation Plan. She said that in Attachment H. Revised Proposed Amendment – Annotated Version to Supplemental Memorandum #14 dated June 14, 2018, Paragraph Q. on pages 26 and 27, was revised to indicate "applicant or successor", and the revision is very evident in the annotated version. She said that item b.(a)i. on page 30 of the annotated version of the attachment indicated that the applicant shall maintain the PV SOLAR FARM free and clear of liens and encumbrances, including financing liens, and shall provide proof of the same prior to issuance of the SPECIAL USE Permit. She said that it is important to revise these sections to indicate, "applicant or successor," so that we have someone who is a legitimate party, because some of the solar farms may be sold off to another owner, as noted by previous testimony by one of the solar developers. She said that anywhere in Attachment H. where it refers to the applicant, it should be revised to indicate "applicant or successor."

Mr. Hall stated that staff will make that global change throughout the document.

Ms. Lee stated that she would appreciate that.

Ms. Griest referred to the letter of credit and said that Mr. Hall had provided a lot of good evidence. She said that one point that is unclear for her is a nebulous term, a "strong" bank, and she is very uncomfortable with that. She asked if we have a floor on a bank rating that we are not willing to accept less than, she said that a good attorney could make a case for "strong" for just about anyone who is not in danger of collapsing. She said that "strong" is not enough for her to go all the way with a letter of credit. She said that the things that we have produced here give her enough confidence to say she can go with a letter of credit, but can we sort out this "strong" with an actual bank rating level.

Mr. Hall said that he could not provide that tonight.

Ms. Griest asked Mr. Hall if there is a mechanism by which he could provide that to the County Board when they review this to where they could make that amendment to this language.

Mr. Hall stated that he assumes that you could include a condition with whatever recommendation the Board makes, recommending that if the County Board is inclined to accept a letter of credit, then they should identify some indicator of minimal financial soundness of a bank. He said he had not researched this at all.

Mr. DiNovo asked about the provision that a letter of credit be drawn on a local institution.

Mr. Hall said that it must be within 200 miles of the project site. He cited section 6.1.1A.5.

Ms. Lee said that her inclination is to prefer a letter of escrow over a letter of credit, just because she thinks it gives you more financial assurance. She said that we have seen in the last 10 years that banks fail.

Mr. Hall concurred that banks do fail. He said he does not know that we would have ever seen a letter of credit from any bank that he knows of that failed.

Ms. Griest said that what swayed her that a letter of credit might be a viable tool for us is based on the draw and the lack of dispute on the draw. She said that Ms. Lee, being an attorney, knows how litigious it could become if someone wanted to make a draw on the escrow and someone challenged it, and then it's tied up, and you've really defeated the whole purpose of the escrow if you can't get to the money. She said that the letter of credit provides you with that ability to draw to meet the needs of the decommissioning, and then if there is a dispute, it has to be resolved later; that was the deciding factor for her.

Ms. Capel stated that she likes the idea of a letter of credit too, but she would expect the 125% performance bond right up front with the letter of credit.

Mr. Passalacqua stated that he puts no weight on a warranty whatsoever. He said that the electrician who comes out to the site and screws in one contact two pounds past the torque rating, then guess what, the warranty is no good. He said that warranties like that are so full of escape routes that he thinks the warranty value is zero.

Mr. DiNovo stated that he does not think that is what we want to rely on. He said that staff sent out that final order from the Commerce Commission, and he read it and realized that he could not make heads or tails out of it without reading the plan, so he read that too. He said it is important to realize the way the financial incentive for these projects is set up. He said that the Illinois Power Authority acquires these Renewable Energy Credits (RECs) from the developers. He said that the developers sign a contract with the utility that guarantees the provision of a certain amount of electricity for 15 years, and it is measured in megawatt hours; one megawatt hour of electricity is one REC. He said that the developers get those RECs paid out to them in the first five years in equal payments, and there are claw back provisions where if they do not get their power, then a utility can take their RECs back and use the money to buy RECs from somebody else. He said the developers thus have a very strong incentive to make sure that their plant is operating for those five years; the RECs are what make this economically attractive to anybody. He said that he thinks for the first five years, the interests of the developer and the interests of the County are pretty closely aligned; after those first five years, not so much. He said that the developers also have to provide a 5% collateral to the utility so that if something happens at the end of the five years, the utility can hold on to 5% of the REC money and go in and use that to acquire electricity from somebody else or otherwise meet their Renewable Portfolio Standard requirements. He said that apart from our financial guarantees, there is a financial guarantee of the utility and there is a built-in incentive, at least for those first five years, for the developers to make sure their plant is operating, because if they are not delivering power, they are not going to get RECs. He said not only that, if they develop a bad reputation, they can get kicked out of the program altogether. The Illinois Power Authority is going to be supervising the performance of these companies, and if they have a bad track record of meeting their obligations, then they get kicked out of the program.

Mr. Passalacqua stated that puts the County at even more risk.

Mr. DiNovo stated not in the first five years. He said in the first five years, there is powerful incentive to keep their plant running.

Mr. Passalacqua stated that he would like a combination like we did with wind, with a letter of credit and an escrow account, and he would like 125% from day one as well.

Ms. Lee stated that she agrees.

Mr. DiNovo said that when it comes down to it, we'll just have to vote on the two options.

Mr. Hall stated that the options in front of the Board are based on a previous preliminary determination, that the Board did accept the second and third stages of the Agricultural Impact Mitigation phased approach to the financial assurance, albeit at the higher values we had recommended, with the 125% being provided at year 11, not from the beginning.

Mr. Passalacqua stated that the rationale was performance and the warranty on the product, if he remembers correctly.

Mr. Hall stated that he thinks it was partly that and partly so that Champaign County would be seen as being competitive with other counties in regard to their requirements. He said he knows Ms. Griest had mentioned that as a consideration.

Mr. Passalacqua stated that he understands we want to still be competitive, but he wants to be restrictive just out of protection and being conservative. He said that he thinks there are a lot of smoke and mirrors in the rhetoric that a little extra assurance isn't going to make this project pencil. He said that if he was the developer, he would want to go into this as cheap as possible too.

Ms. Capel said right, but the difference between 10% and 1.5% is pretty significant too.

Mr. DiNovo stated that he was talking with a couple of solar installers who are kind of peripherally involved in this community solar idea and they suggested that when the State finally gets its rules in place and they start accepting applications, that the first block of applications for community solar projects is going to be over-subscribed within 10 seconds because they are filed electronically and everybody is going to be sitting there with their finger poised over their phone. He said that the way that the program is set up, the price for RECs for community solar programs is a schedule established by the Illinois Power Authority; it is not bid. He said for the utility-scale projects, you are bidding to the Illinois Power Authority, so they are going to buy the RECs at the lowest price they can get. He said for the community ones, there is a fixed schedule that is divided into three blocks, and the idea is to get as much built as fast as possible. He said that if you are in the first one-third of capacity (the first block), you get one rate; if you are in the second third, you get a 4% lower rate, and if you are in the last third, you get a rate 4% lower than that. He said that his point is that there is a lot of competition out there for this program.

Ms. Capel asked if the Board wanted to look at the decision points.

Mr. Hall said that this is the decision point that we left off with last time.

Mr. DiNovo asked Mr. Hall if there were basically two decision points that were being considered, with one being escrow versus no escrow and the other is the schedule.

Mr. Hall stated that, as far as, the decisions points, we had never gotten down to deciding whether to have an escrow account at all. He said that the only reason he is bringing this up tonight is in case there is any interest in that. He said that the Board saw he had prepared the finding to go either way, and even then, he wanted to provide the County Board with the flexibility to go either way without remanding. He said as Mr. DiNovo made it clear tonight, there is not a lot of information out there about this; if the County Board

decides they want something different than what the ZBA recommends, he does not really see what good remanding would do.

Mr. DiNovo said that he agrees, and he would like to have a vote on the escrow account, and maybe the Board needs to vote on the schedule as well.

Mr. DiNovo moved, seconded by Ms. Griest, that the Board approve the financial guarantee that does not include an escrow account requirement, only a letter of credit.

Mr. Passalacqua stated, to clarify, the motion is for an instrument with no escrow account.

Ms. Capel stated right, it is just to require a letter of credit.

Mr. Passalacqua asked for clarification on how the Board did this for the wind ordinance, because he believes we did have both.

Mr. Hall stated yes, by year 13 it had to all be escrow. He told Mr. Passalacqua that he knows he is not impressed by the warranty provisions on the panels, but as far as Mr. Hall knows, the warranties on wind turbines are a few years at best, so to him that means there is a real difference there.

Mr. Passalacqua stated that we were not really relying on them for the wind turbines, so is he understanding it correctly that Mr. Hall is justifying the split for the financial instrument because the wind turbine warranty is known to be bad.

Mr. Hall stated yes, the industry sees a real difference there, but nobody warrants a wind turbine for more than two years.

Mr. DiNovo stated that after the issue was raised last time, he went back and read over a couple of those warranties that were provided in the materials, and he was impressed by the fact that, except for technical questions, it allowed for litigation in the warranty; you did not have to go to arbitration. He said that he thought that was a positive feature. He said that he is suspicious that arbitration works in the interest of buyers. He said that most of the companies, and we will determine this on a case-by-case basis, are not going to be mom and pop operations; there are going to be contractors who build these things, but the people who come to actually have the beneficial interest in them are probably going to be relatively large players. He said furthermore, in Illinois, the law creates this approved vendor concept, which is another layer of finance types that are going to aggregate these individual projects. He said the vendors are actually going to market blocks of projects to the utilities, and he thinks that part of the reason was to simply reduce the number of contracts to be written. He said that these vendors are also going to be in the position of supervising their contractors, because they have the financial commitments to meet with the utilities.

Mr. Hall asked Mr. DiNovo if that has any bearing at all on warranty provisions.

Mr. DiNovo stated no.

The motion failed by voice vote, due to a tied vote.

Mr. DiNovo moved, seconded by Mr. Passalacqua, to approve a version that does require an escrow

account. The motion carried.

Ms. Griest stated that now the Board is at the moment of determining when an escrow account comes into play. She said that she thinks Mr. Passalacqua made some valid points about manufacturer warranty, and said she is sure that everyone has dealt with a manufacturer who has claimed one warranty and delivers much less. She said that there is no evidence about this product that it would be that way or not that way, so she thinks that warranty is a very indefinite factor.

Ms. Capel said that warranties are sort of like salvage value.

Ms. Griest said yes, they are another unknown.

Ms. Capel said that the first question in the scheduling is in the proposed annotated amendment on page 29. She said that 6.1.5 Q.(4)a.(a) states, "No Zoning Use Permit to authorize construction of the SOLAR FARM shall be authorized by the Zoning Administrator until the SOLAR FARM owner shall provide the County with Financial Assurance to cover {12.5% / 25% / 50%} of the decommissioning cost as determined in the independent engineer's cost estimate to complete the decommissioning work described in Sections 6.1.1 A.4.a. and 6.1.1 A.4.b. and 6.1.1 A.4.c. and otherwise compliant with Section 6.1.1 A.5." She said that this is just for the project to begin and asked if someone would like to make a motion on that item.

Mr. DiNovo moved to use the 12.5% amount in 6.1.5 Q.(4)a.(a).

Mr. Passalacqua asked for clarification about whether this statement is for years 1 through 5.

Ms. Capel stated yes.

Mr. Passalacqua asked if 6.1.5 Q.(4)a.(b) addresses year 6 on.

Ms. Capel stated yes.

Mr. Passalacqua asked if that was in keeping with Mr. DiNovo's theory that the developer has a huge incentive from all directions to be productive in the first five years.

Mr. DiNovo stated that he thinks the risk is extraordinarily low.

Mr. Passalacqua said that he would buy that in the first five years.

Mr. DiNovo said that he would accept a second on his motion.

Mr. Passalacqua seconded Mr. DiNovo's motion to use the 12.5% amount in 6.1.5 Q.(4)a.(a).

Ms. Lee asked if that amount would also be included in the language above, stating "letter of credit as follows."

Mr. Hall stated that this part of the ordinance talks only about the letter of credit. He said that part 5 is where we get into the escrow.

Ms. Capel said that we have a motion and a second on the floor and asked if everyone was clear on what

they were voting on.

With no requests for clarification, **the motion carried by voice vote.**

Ms. Capel stated that the next question has to do with the schedule for moving from a letter of credit to an escrow account.

Mr. Hall stated that would be on page 32, paragraph E of the annotated amendment. He said that at the time it was drafted, we were basically looking at years 20 through 25, but it can be any range of years that the Board wants. He said he knows that some Board members had concerns about waiting that long in the lifetime of the solar farm to have a 100% escrow account.

Mr. DiNovo moved to adopt the text in 6.1.5 Q.(4)e. as written in the June 7th version of the annotated proposed amendment, with the 20th through the 25th years language: "The applicant or PV SOLAR FARM owner shall gradually pay down the value of the irrevocable letter of credit by placing cash deposits in an escrow account in equal annual installments over the first 13 years of the PV SOLAR FARM operation except that if the SOLAR PV modules have an unlimited warranty of at least 10 years and also have a limited power warranty to provide not less not than 80% nominal power output up to 25 years and proof of that warranty is provided at the time of Zoning Use Permit approval, the applicant or SOLAR FARM owner may gradually pay down the value of the irrevocable letter of credit by placing cash deposits in an escrow account in equal annual installments over the 20th through the 25th years of the SOLAR FARM operation…"

Mr. Hall asked if he could make one change. He said that his understanding is that years 20 through 25 is actually 6 years, and asked Mr. DiNovo if he wanted to change his motion to include years 21 through 25.

Mr. DiNovo accepted Mr. Hall's recommended change.

Mr. Passalacqua agreed with Mr. Hall's recommended change.

Mr. Passalacqua seconded Mr. DiNovo's motion, with the recommended change. The motion carried by voice vote.

Ms. Capel referred to section 5.a. on page 3 of the annotated version dated June 7, 2018 and asked if the 150% amount should be 125%.

Mr. DiNovo stated that this section of the Zoning Ordinance applies to any non-convertible structure. He said that the reason it says "unless specified elsewhere in this Ordinance" is because we use different numbers for solar farms and different numbers for wind farms. He said that for other than those two things, it is 150%.

Mr. Hall stated that he believes that those are all of the decision points that needed to be determined. He said that he has a list of proposed edits from Mr. Geil that he needs to discuss tonight prior to final determination. He said that they are all good and useful, and that we could run through those very quickly. He referred to the handout at the Board members' desks and said that he found two places where he would like to insert the underlined words. He said in regard to fencing on lots five acres or more in area, it should say "otherwise the perimeter fencing shall be a minimum of 10 feet." He said that going back to the idea of

being 250 feet away from the dwelling or principle structure, but otherwise it is just 10 feet from the property line. He said that the second item on the handout is about the recommendation to require solar equipment to be not less than 26 feet from the property line on lots greater than 5 acres in area; that should be for solar equipment other than inverters.

Ms. Griest referred to Supplemental Memo #14, Attachment J, page 27 of 49, item h. She said that some of the language gives her a bit of pause. She said that there may be a desire to do this, but she does not know that the Board ever discussed it and she thinks this is kind of putting words in their mouths. She said that item h. states, "If the County Board adopts the alternative decommissioning, it should also consider revising the existing decommissioning requirements for a wind farm using a similar approach, although warranties provided for wind farm turbines are nothing like the warranties available for this better class of PV modules." She said that she does not recall the Board making that recommendation, and she does not know that she is in support of saying that the Board should reconsider the decommissioning requirements for wind turbines.

Mr. Hall said yes, that is a very general statement, and in particular he is going to suggest that the County Board could go back and change the 210% requirement to 125%, because that is in fact how often we look at and reevaluate the decommissioning costs. He said that the 210% is a carryover from when we never did that, and we just didn't think to change it when we adopted this review on a 3 or 2 year basis.

Mr. Passalacqua stated that now we have newer, up to date, real data.

Mr. Hall said yes, so we don't have to inflate it that much.

Mr. DiNovo asked if this is in the Finding of Fact, not the ordinance.

Mr. Hall stated yes, it is in the Finding of Fact, and the edits from Mr. Geil are included in the Finding of Fact as well.

Ms. Griest stated that she had no objection to Mr. Hall making that recommendation, although she did not want it to appear that the Board was making that recommendation, because she really does not think that the Board delved into that too deeply to make that kind of a recommendation.

Mr. Hall asked if the Board wanted that paragraph stricken.

Mr. Passalacqua said that he thinks it is just fine without it.

Ms. Lee said that it is fine without it.

Mr. DiNovo said that he does not think it is necessary for the Board to weigh in on that, and that Mr. Hall's opinion would carry as much weight as the Board's. Mr. DiNovo said that he would like to discuss the materials he submitted prior to moving to the Findings of Fact, because it is only relevant to the Finding of Fact.

Ms. Capel said that she had one edit on page 7 of 39, item 6.1.5 B.(2)a.(a) in the annotated ordinance dated June 7, 2018, where it states, "a separation of one-half mile from the proposed PV solar farm" and asked if it should say "a PV solar farm" instead of "the proposed PV solar farm."

Mr. Hall stated that replacing "the" with "a" would be fine. He offered to review other proposed edits to the ordinance as follows:

- Page 2, paragraph (4)a. at the bottom, there is an unnecessary comma after "and."
- Page 5, paragraph d. at the top, add "not" before "specifically."
- He said that the State's Attorney is adamant that we no longer use the term "reclamation agreement;" we no longer do "reclamation agreements," we do "Decommissioning and Site Reclamation Plans."
- Page 5, paragraph 10, third line, insert "into" after "entered."
- Page 5, paragraph 11.a. last line, "non-adaptable" instead of "non-adaptive."
- Page 19, paragraph v. last line, "street" should be "streets."
- Page 26, the name for section 6.1.5 Q. should be "Standard Condition for Decommissioning and Site Reclamation Plan."
- Page 33, paragraph (5)b. first line, there should be an "or" inserted between "farm" and "any."
- Page 35, paragraph U.(1)a(a) last line, add "and" before "the potential equipment manufacturer(s)."

Mr. Hall noted that this concludes all of the minor edits.

Mr. DiNovo asked, when we use the phrase "potential equipment manufacturers," is the intent that if there are two inverters to choose from, that the Board would get specification and warranty information for both of those inverter types, but do we know the universe of possible vendors. He said it would seem to him that the Board would want to know.

Mr. Hall said that we are going to have to eventually know what the decommissioning and site reclamation plan is based on in terms of the manufacturer of the panels, and we are absolutely going to have to know that.

Mr. DiNovo said that he is trying to understand; say we are at the front end of the process at the application stage, and we are asking for ideas about who the manufacturer will be, but they will not necessarily have to have chosen a particular manufacturer at that stage.

Mr. Hall stated that he knows they are going to want to put that off as long as they can.

Ms. Griest said that she had a few other minor edits:

- Page 26 of 39, in the title where Mr. Hall struck "plan," that phrase appears in four other spots in that section – B, D, E, and F.

Mr. Hall stated that the change should be made in the other sections as well. He said that he recommends changing the title of 6.1.1 A. on page 2 to Decommissioning and Site Reclamation Plan because both of these sections talk about decommissioning and site reclamation.

Ms. Lee referred to page 7 item 6.1.5 B.(2)a.(c) where it states, "the Environment and Land Use Committee and the County Board." She asked why the Zoning Board of Appeals is not listed there.

Mr. Hall stated that under the by-laws, we already have to send out notice of the ZBA meetings, but we do not have to specify when those other meetings are.

Ms. Capel asked if the Agricultural Impact Mitigation Agreement is going to be required.

Mr. Hall said yes, and restated that, if by the time the County Board adopts this, and the State's Attorney says it cannot be an escrow agreement, then there will not be an escrow agreement.

Ms. Capel asked if the Board wanted to include the same wording about not remanding it.

Mr. DiNovo said that we are talking about the ordinance but are shifting off to the Finding of Fact. He recommended that before we switch to the Finding of Fact, we should finish up the ordinance.

Ms. Capel said that this is about the ordinance.

Mr. DiNovo said that you would not put language about remand in the ordinance.

Ms. Capel said that is true.

Ms. Lee said that Mr. Hall previously stated that if the State's Attorney does not want the escrow account, then it is not going to have an escrow account.

Mr. Hall stated that his actual statement was that, if the State's Attorney finds out that we are not authorized under state law to require an escrow agreement, and his presumption is that the County Board would no longer require an escrow agreement.

Ms. Capel asked Mr. DiNovo if he would like to review his distributed evidence.

Mr. DiNovo stated that he did not expect the information to be persuasive, except that is relevant to the findings that the Board has to make, and he would like to make a pitch for including it in the finding of fact. He said that he distributed copies of a document titled, "Potential Economic Benefits of Solar Farms," and he put this document together to address several Board member's questions regarding what Champaign County will gain in having the solar farms. He said he does not intend to suggest that because there are economic benefits, that those benefits should override every other consideration. He said that the Board has spent a lot of time talking about downsides, and he was afraid that the Board was losing sight of the fact that there are positive aspects to weigh in the balance and everyone will weigh that balance differently. He said that given these benefits, in whether the Board thinks they are plausible or significant, and given the fact the projects are very competitive, the Board needs to keep in mind that the Board rarely sees proposals for this scale of private investment in Champaign County that gets as far as a permit application. He said that when there were rumors that there was going to be an automobile plant constructed along the Norfolk-Southern Railroad, or the cookie factory on North Market Street, neither of those things went as far as applying for a special use permit. He said that the Board should keep in mind that there is a risk during this process by which the Board may not be able to realize benefits. He said he calculated the totals in terms of the proposals that are in front of the Board, and it is likely that not all of those will materialize, so the most important numbers are the per megawatt or per acre figures. He said that the evidence could be broken into two parts: one-time benefits and recurring benefits. He said that the first one is the investment in construction, and it is very substantial, because if the Baywa-r.e. project is realized, he has no reference point, and he could not remember any project that was that large in Champaign County. He said that the project would involve local employment, sourcing and supply and materials, concrete, fencing, plant materials for screening, and potentially $21 million in wages. He said that there are significant employment opportunities and most of the

workers who install these projects are not from Champaign County, and if all proposed solar farms materialized, there are not enough electricians in our county to do the work. He said that he can imagine fence contractors would be brought in from too far of a distance. He said that the subscribers to community solar projects can use their share of the community solar project to claim a 30 % federal tax credit, so if these materialize before 2020, he would assume that half of the subscribers would be residential, and half would be commercial, and 90% of the residential would be inside Champaign County, and half of the commercial would be outside of Champaign County. He said that regarding recurring land leases, the Board has received testimony indicating that the landowners are receiving three times the amount paid for cash rent for row crop farming, and news reports indicate that offers of $500 to $1,200 per acre, and multiple reports of $800 per acre, which is approximately three times the amount of cash rent. He said that we use $800 and take out $271 for cash rent, then increment would overall be $740,000, with $52,000 for the community. He said that regarding the bill credits, he thought that if he subscribed to a community solar project and used 9 megawatt hours per year, he would be able to receive credits to his power bill, but that is not how it works. He said that the standard that has been kicked around in models is that, subscribers to community solar get a 10% discount on their electricity, although they get all if it credited to their electric bill and then pay the project developer 90% of what is indicated on their electric bill, so it is not that big of a deal to the subscribers, and the upside is that it is virtually costless to subscribe. He said that this is one of the few ways that local Ameren customers have of recovering any of the money that they are paying. He said that state law has already established what the tax revenue will be for solar projects, and like farmland, it is not subject equalization, it's a formula. He said that it starts out at $199,000 per megawatt and is inflated by the consumer price index, less a depreciation, based on the length of time for 25 years. He said that since it is depreciated, he took the inflation adjusted figure for the tenth year as representative of what the likely tax revenues would be over a twenty year span. He said that it will start out with more and then decline, but the law put a floor of 30%, so we know it would never go below the equivalent of 30% of $199,000. He said that those numbers are substantial, especially for the Unit 7 school district, because they would receive the bulk of the benefit should this project move forward. He noted that in our minds, the Board should be netting out the lost agricultural production, but he could not find a good number that seemed relevant, although he does think that a significant amount of the lost agricultural production is captured by netting out the cash rent. He said that the Board should make a note with respect to Goal 3, Objective 3.1 regarding Business Climate regarding these benefits. He distributed his proposed additions to the Finding of Fact for item 8, on page 7, regarding Goal 3, Objectives 3.1, 8.8 and 9.1.

Mr. DiNovo stated that the County has policies that discuss air quality and greenhouse gases, and the Board should be cognizant of the significance of these projects. He said that USEPA has a model on their website that is available to use for estimating what the policy consequences would be in reducing air pollution and greenhouse gas emissions. He said that he put in 1 megawatt of renewable energy for the upper Midwest region, and for each megawatt we would be reducing the solar dioxide emissions by 2,830 pounds, nitrous oxide by 2,000 pounds, carbon dioxide by 1,500 tons, and particulates by 130 pounds. He said that there are air quality benefits that are relevant to Objective 8.8, Air Pollutants and Objective 9.1, Reduce Greenhouse Gases. He said that 1,500 tons of greenhouse gas reduction is equivalent to burning 153,120 gallons of gasoline, or 1,488,815 pounds of coal.

Ms. Lee stated that the USDA does not require someone to provide each year's cash rent, so they are forced to use older numbers. She noted that the cash rent numbers may be a lot less than what the actual may be.

Mr. DiNovo stated that there is a local agency that conducts the annual USDA survey, and the numbers that he used are the most recent numbers from the 2017 survey.

Ms. Capel stated that Dr. Gary Schnitkey, who is a farm management specialist in the Department of Agricultural and Consumer Economics, University of Illinois, would have accurate information regarding cash rent.

Ms. Lee stated that the numbers presented in Mr. DiNovo's document are based upon USDA figures, but the USDA figures are not compiled every year from every farm. She said that Mr. DiNovo's numbers may be close but are not accurate for each year, because there could be some farms that have not completed the survey and their current cash rent amounts are not reflected in the survey.

Mr. Hall stated that this evidence will be added to the Finding of Fact and staff will revise the Summary Finding accordingly, because staff did not have any text under Goal 3.

Ms. Lee stated that she is not comfortable with Mr. DiNovo's evidence, because it is something that he came up with.

Ms. Capel stated Mr. DiNovo's evidence is no different than anyone else's evidence, and the Board has the right to decide what does and does not go into the Finding of Fact.

Mr. DiNovo stated that this is a crucial part of the Board's job, and the Board should not be putting things that they do not agree with in the Finding of Fact. He said that part of the Board's job is to parse testimony and evidence that the Board finds probable and credible from the testimony and documents received. He said that the Board should not be throwing everything but the kitchen sinks into the Finding of Fact, and if part of the Board does not believe that the evidence is probable or credible, then it should not be included in the Finding of Fact.

Mr. Passalacqua stated that Mr. DiNovo's information should be regarded as testimony, and even though he believes that the testimony has merit, it is variable.

Ms. Capel stated that the Board should include Ms. Lee's testimony as well, as part of the evidence.

Mr. Passalacqua stated that this is mathematical guessing and its potential, so he takes it as testimony.

Ms. Griest stated that it is a mostly reasonable estimate, although she does agree with Ms. Lee's comments about the cash rent being lower than what she has seen reported by the Illinois Farm Bureau, as well as the Champaign County Farm Bureau, particularly in the area on that type of soils, but the soils are not taken into account. She said that Champaign County's cash rent is variable based on the type of soils of the parcel, but the area of concern does include some of the better soils found in Champaign County, and the cash rent is probably on the higher side. She said that Mr. DiNovo's evidence is a good estimation of what it might or could be and she would have no issue with it being included in the Findings as evidence, with a footnote that there was some discussion of the estimates utilized for cash rent. She said that Ms. Lee is correct in that not every farmer receives the survey every year and it is not on every parcel of ground; therefore, it is not a comprehensive assessment each year.

Mr. DiNovo stated that the National Agricultural Statistic Survey (NASS) is a statistical sample and is not like the Census of Agriculture which, in theory, is supposed to be 100%. He said that this is a statistical sampling for the whole county for non-irrigated land.

Mr. Hall asked the Board to vote to be clear if they want Mr. DiNovo's evidence added to the Finding.
Ms. Griest moved, seconded by Mr. Passalacqua, to add Mr. DiNovo's evidence to the Finding of Fact. The motion carried with two opposing votes and one abstention.

Mr. DiNovo asked the Board if anyone had issue with the proposed text in the Findings.

Mr. Hall stated that the Board just voted on the findings.

Mr. DiNovo stated that the vote was only to add his evidence into the Finding of Fact.

Ms. Capel stated that her motion was to add Mr. DiNovo's evidence to the Findings, as enumerated in the memorandum.

Ms. Capel stated that the Board can either continue to the Finding of Fact or accept testimony from the witnesses.

Ms. Lee stated that the Board should allow the witnesses to testify.

Mr. Hall requested that the Board finalize the Finding of Fact prior to taking testimony.

Mr. DiNovo recommended that the Board tentatively adopt the Finding of Fact so that if anyone objects to it they would have the opportunity to state that objection.

Ms. Griest asked Mr. DiNovo if the Board should adopt the Finding of Fact when the witnesses could present additional testimony.

Mr. DiNovo stated absolutely, because the witnesses will either convince the Board to revise the Finding of Fact or they won't, but either way the Finding of Fact should be adopted prior to adjournment.

Ms. Griest agreed, but not before witness testimony.

Mr. DiNovo stated that the Board could formalize it any way necessary by having a motion including the following: pending any subsequent amendments thereto, we hereby approve it. He said that he believes that the Board will get to the point where everyone agrees to the language in the Finding, and the members of the audience need to know which language the Board supports.

Mr. Hall asked Mr. DiNovo if by stating the word "language," does he mean the amendment that Mr. DiNovo presented to the Board.

Mr. DiNovo stated yes, and any other necessary changes.

Mr. Hall stated that he could present minor edits. He asked the Board if they had any additional substantive discussion regarding the Finding.

Ms. Capel asked the Board if there were any decision points left.

Ms. Griest stated that she had all of her decision points marked off as finalized.

Ms. Lee asked if the Board will be referring to the Finding of Fact in Supplemental Memorandum #14, Attachment J, pages 1-49.

Mr. Hall stated yes.

Ms. Burgstrom stated that all of the decision points that are in the Finding of Fact were based on the decision points from the amendment. She said that Supplemental Memorandum #14 listed those separately but are a match to what was decided in the amendment.

Ms. Lee asked Mr. Hall why he does not want the testimony from the public to occur prior to adoption of the Finding of Fact.

Mr. Hall stated that he would like to see the Board work through the Finding of Fact prior to accepting testimony, and if the Board hears testimony which requires changing the Finding of Fact, then that could be done. He noted that he was not implying that the Board should take final action prior to accepting testimony.

Ms. Burgstrom stated that the Summary Finding of Fact, as expanded, is Attachment B to Supplemental Memorandum #15 dated June 14, 2018.

Ms. Capel stated that Mr. DiNovo's comments will be added to the Summary Finding of Fact.

Mr. Hall stated that on page 5 of 7 in the Summary Finding of Fact, subparagraph (5) had been revised in tonight's memorandum to reflect the decisions that the Board went through earlier tonight. He said that the Board agreed to accept the 12.5% of the decommissioning costs in years 1-5, and conversion from letter of credit to escrow account to be made in years 21-25.

Ms. Griest asked if staff would go back into the Finding of Fact and amend the wording regarding the decommissioning plan.

Mr. Hall stated yes.

Ms. Lee stated that staff also needs to revise "applicant" to be "applicant and successors" throughout the Finding of Fact.

Mr. Hall agreed.

Ms. Capel asked staff if there were new Documents of Record.

Mr. Hall stated that the following items should be added to the Documents of Record: #19: Supplemental Memorandum #15 dated June 14, 2018, with attachments; #20: Supplemental Memorandum #16 dated June 21, 2018, with attachments; #21: Supplemental Memorandum #17 dated June 28, 2018, with attachments; #22: Handout on Potential Economic Benefits of Solar Farms, submitted by Frank DiNovo on June 28, 2018; #23: Handout on proposed additions to the Finding of Fact by Frank DiNovo on June 28, 2018; #24: Handout by staff with two proposed minor revisions on June 28, 2018; #25: Screen Shots of the Model Run of the USEPA Avert Model estimating displaced air pollution emissions; and #26: Output of running the

USEPA Greenhouse Gas Equivalency Calculator on 1,500 tons of CO^2.

Ms. Lee asked if one of the Documents of Record records her submission of pages from the Plat Books for various years.

Mr. Hall stated that they are listed as Documents of Record #16.

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

Mr. Randol moved, seconded by Mr. DiNovo, to adopt the Summary of Evidence, Documents of Record, and Finding of Fact, as amended.

Mr. DiNovo asked the Board to clarify which version of item i. on page 27 of 49 of the Finding of Fact dated June 14, 2018, that the Board chose.

Ms. Lee stated that the Board eliminated item h.

Ms. Burgstrom stated Supplemental Memorandum #17 dated June 28, 2018, indicates the Board's direction in new items e. and f.

Ms. Capel entertained a motion to table the motion on the floor until public testimony has been received.

Mr. DiNovo moved, seconded by Ms. Griest, to table the motion on the floor until public testimony has been received. The motion carried by voice vote.

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 called Phillip Geil to testify.

Mr. Geil had left the meeting.

Ms. Capel called Ted Hartke to testify.

Mr. Ted Hartke, who resides at 1183 CR 2300E, Sidney, stated that he had additional evidence to present to the Board. He submitted an email between Julie Newhouse, a resident from Boone County, Illinois, and Melissa Silva, an Illinois EPA Bureau of Land employee. Ms. Newhouse's email states the following: "ponder this for a minute, if the solar industry is right and Illinois is going to develop 3,000 megawatts of solar in the next three years, for over 3,000 panels per megawatt, there will be 9 million panels at 50 pounds each, which will be 450 million pounds of panels headed to our landfills. If panels are about three tenths cubic yard each, that is about 2.7 million cubic yards, plus you add eight inverters per megawatt, which is about 150 pounds each, that is 3.6 million pounds. Ms. Newhouse asked that for a 20 year source of electricity what is the cost for our environment." Ms. Silva replied as follows: "Thank you for the article below, I found it very informative and I have passed it on to the other IEPA Region 5 states, and you are right, we need to be thinking about this renewable energy waste stream." Mr. Hartke stated that everyone

should wonder what will done with all of this stuff when the 20-year lease is over.

Mr. Hartke stated that he had a few comments regarding how the Board changed the one and one-half mile setback requirement. He said that previously the Board said that the municipality had to have a resolution of non-opposition submitted when the solar developer came before this Board, and he can remember a lot of Sidney residents who went away and stopped attending the meetings because they believed that was in there. He said that the Board slipped in the new text and pulled the rug out from under the Sidney residents, and he is not sure if any of those residents realized it. He asked the Board if they informed Mahomet that they were safe at one-half mile, but at 0.51 miles, which is 2,800 feet, they could have a 15,000 acre solar farm. He said that he does not believe that Mahomet would agree to that. He asked the Board if they told the City of Champaign, the fastest growing municipality in Illinois, because he does not believe that they would want to be blocked in at one-half mile, and he believes that the Board should reconsider the change in the ordinance.

Mr. Hartke stated that computer modeling is required for noise levels for the operation of a solar farm that is within 1,500 feet, and he suggested that a map be attached indicting decibels of noise within certain distances away from the panels within 1,500 feet of the edge of it. He said that a contour interval should also be added, and instead of having a blanket contour interval where it shows 30 decibels, 40 decibels to 50, those are huge differences, and a contour interval indicating 35 decibels, 37 decibels, 39 decibels, 41 decibels, 43 decibels, and 45 decibels, so that we know which houses are going to be within the health impact zone of anything that hits 40 decibels.

Mr. Hartke stated that in his previous testimony there are some very minor corrections, and he would hand those corrections to the clerk at the end of his presentation. He said that on page 7 of the Attachment B. Finding of Fact, there is a note that talks about testimony received encouraging the County to adopt noise regulations that are stricter than the IPCB noise regulations. He said that an excuse to not do this is that there is no other methodology available to measure the noise. He said that he is totally cool with using the IPCB noise regulations and the methodology for measuring noise, because they measure octave band limits, and they measure at the property line, which is the correct thing to do. He said that what he is not good with is the excuse that we cannot go down to the safe level because there was no other measurement methodology. He said that we want a safe level and follow the IPCB regulations on how to measure it, because the only thing that he wants to be able to do is sleep in his house and sleep in on Sunday mornings until 8 or 9 a.m., and not 6 a.m. like Mr. Brown wants us to do. He said that 45 decibels at 6 a.m. is unacceptable. Mr. Hartke stated that this Board has the easy ability to lower the limits and he knows that they need to be lowered because he abandoned his home because the IPCB limits were too high, and Mr. Hall knows it too because he admitted to it. Mr. Hartke said that he would have stopped attending these meetings if the Board would have fixed the noise limits.

Mr. Hartke stated that he had items of evidence for the Board's review, and if the Board desires, they could insert this evidence into the Finding of Fact as a Hail Mary thing to do. He said that a USDA-FSA notice regarding reporting solar panels on farmland indicates that producers who are having solar panels constructed on their farm should contact their local USDA-FSA office, and any area that is no longer considered suitable as cropland, which produces perennial or annual crops, should be designated in the FSA's records and aerial photography maps. When the base acreage of a farm is converted to non-ag, industrial or commercial use, the total base acreage on the farm must be reduced accordingly; non-cropland areas for solar panels impact payments calculated using base acreages, such as ag risk coverage, price loss coverage, and Conservation Reserve Programs (CRP) annual rent payment. He submitted the newsletter that includes this article, and at the end they discuss this issue for solar panels and wind farms. He recommended

that the Board not vote on anything until they have the chance to review this information.

Mr. Hartke stated that a lady who is involved with the Farm Bureau in northern Illinois explained in an article in *Farm Week Magazine*, a magazine with the Farm Bureau, that once the acreage that is under today's program is lost it cannot be added back in, so once those acres are lost, they are lost. Mr. Hartke read the article as follows: The National Farm Service Agency determined that land with solar energy panels is not agricultural land and is not eligible as part of a farm crop acreage base. The determination on land with solar panels was made in June 2017, and in addition to land use for solar panels FSA non-agriculture land uses include: commercial development, permanent structures including agricultural structures, golf courses and other recreational facilities. Land controlled under agricultural risk coverage and price risk coverage contract must be used for an agricultural activity and not for a non-agricultural, commercial or industrial use. The article encourages producers to contact their local USDA-FSA office.

Mr. Hartke stated that the Illinois Farm Bureau has been kicking around a lot of stuff about solar and he has a PowerPoint presentation that is being given in Boone and Winnebago counties and a lot of the quotes are officially from the Illinois Farm Bureau, and he will attempt to keep them separate from the northern Illinois farmers who have some serious concerns about what is happening. He said that Farm Bureau stated: "They are not against solar, but they want it done well, and they do not want solar farms on tillable farmland until all other sites have been utilized, and they want solar to have the least impact on rural families, and they do not want the county to bear any of the risk." He said that one of the things that the Farm Bureau commented about is that they oppose siting solar farms on tillable prime farmland, because the applicants do not attempt to seek underused ground, brown fields, or abandoned commercial or industrial sites. He said that Champaign County has awesome farm ground, but it also has some unawesome vacant ground that is not used, and perhaps there should be a barrier indicating that for every acre of prime farmland that is taken out of production, they have to place solar on top of homes or the cap of a landfill. He said that information from Boone County indicates that solar industrial electrical generation is not compatible with rural life and agriculture unless there are three conditions met: 1. The solar site must and should not be indefinite; 2. Fully funded and complete decommissioning is possible; and 3. Neighbors' right to safety and welfare not impacted without just compensation. He said that there will be noisy inverters with the solar farms; therefore, the ordinance should include the possibility to sign a good neighbor agreement and let them negotiate their own tolerance level for noise, or their tolerance level regarding how much screening is allowed, or whatever tolerance level they have. He said that he would not sign off on noise, and he does not believe that this group has his permission to give it away and make him wake up at 6 a.m. on a Sunday.

Mr. DiNovo stated that there is a clearly established principal of law for zoning indicating that local governments cannot give vetoes to neighboring landowners, and if the state hasn't provided for it, then the county cannot do it.

Mr. Hartke asked if the State of Illinois provides this Board the ability to establish setbacks based on where a house is located on his property. He said that he believes that the County can impose setbacks based on the property line, but apparently not where his house sits today as he could build it somewhere else tomorrow.

Mr. DiNovo stated certainly, but the Board can't require that the neighbor approves, otherwise the project is automatically denied.

Mr. Hartke stated that he is a landowner and he owns all of the land to each of his property lines and he does not approve that the Board imposes a setback just because his house sits in the middle of the field versus the

edge of his field. He said that this Board does not have State of Illinois permission to establish a setback based on where his house sits on the property. He said that the Board does not have permission from the State of Illinois to establish a setback based on the noise from where his house is located, and it is in the IPCB code that it has to be at the property line, so stop jamming these things up against my house and jam them up at the property line where there is a safe noise limit.

Mr. Hartke stated that security decommissioning is for more than just the county taxpayer in general and is for the landowner so that they are not stuck with solar panels because they leased their land to a bad company, or one that goes bankrupt. He said that the decommissioning is also for the neighbors so that they do not have to look at a honeysuckle or rose that grows up into an abandoned solar farm that takes a while to clean up, and it is also for the county. He said that the Board discussed the decommissioning and indicated that the solar panels had a 20-year warranty, but hope is not a strategy and the Board is working on total speculation. He asked if the solar company would continue to make their payments if the subsidies disappear, because the solar companies are totally dependent upon their subsidies, FEJA and Renewable Credits, and the county is totally dependent upon the solar company owner and their bank that backs them, as well as land ownership. He said that some of the land leases that the landowners are signing give the solar company the first right to purchase the land if it is ever sold. He said that the county is speculating that none of the solar panels are hazardous, or non-toxic, because some of them are so bad that no landfill in the State of Illinois can legally accept them. He suggested that they crush up the display panel in the meeting room, place it in a bottle and feed it to a baby, because we have had so many people state that these are benign, safe and non-toxic, yet they are so dirty that they cannot be accepted into a landfill. He said that the developer has indicated that the solar panels would be recycled and repurposed in another country, or somewhere that people are poorer than us, but he believes that the county will be stuck with either landfilling them or recycling, and he does not see a positive money flow for any of the salvage.

Mr. Hartke stated that previously he only complained about inverters because they were noisy, but he found a manual for a Chinese inverter, and it states the following regarding disposal of the inverter: "The system owner and the operations and maintenance company are responsible for the disposal of the inverter, and parts and devices within the inverter, such as LED indicator panels, batteries, the modules, and other components that may cause environmental pollution. Disposal of the inverter must comply with related local regulations to avoid pollution. He said that today a recycling center for an inverter would charge $1.29 per pound. If a solar farm had 16 inverters, and some of the proposed solar farms have more, each inverter weighs 158.7 pounds, which equals $3,275 per inverter to get rid of it at Dynamics Recycling in Wisconsin. He said that the Board's proposed decommissioning prices are incorrect.

Mr. Hartke stated that the applicant's words are not the same as evidence or promise. He said that the Farm Bureau's stance on protecting the landowner in the county is that the Farm Bureau believes that cash escrow protects the landowner and the county the best. He said that there was discussion about this subject tonight and he is not sure that he agrees with the Farm Bureau's stance. He said that in Boone County, they require that the solar farms comply with Title 35 of the Environmental Protection subtitle h. Noise Chapter One of the Pollution Control Board Part 9.1 Sound Emissions standards and limitations for property line noise sources: "In no instance shall a decibel level increase by a decibel level of three decibels at the property line of existing neighboring homesteads." He said that if Boone County, Illinois can do it, then Champaign County could do it as well. He said that the Chinese Sungrow Inverter Manual is for inverters included in an application submitted in northern Illinois, and it states the following: "Do not install the inverter near residential areas; noise can be produced during inverter operation which may affect daily life." He said that the Finding of Fact for this case should indicate that inverters should not be placed near residential areas

because they can affect daily life.

Mr. Hartke stated that Boone County desires a property guarantee, even though professionals have testified that property values are not affected by solar farms. He said that Boone County has inserted a safety clause indicating that an appraiser chosen by the applicant from Boone County and licensed within the State of Illinois indicates no loss in property value as a result of a bona fide third party sale; the applicant would make up the difference between the price and the base line valuation. He said that if this language was included in the Champaign County Ordinance, it would make a lot of people feel a lot safer that their property value is cared about, because currently there is no such language in the ordinance. He said that if solar companies desire to be good agricultural neighbors and they agree to any special conditions, there should not be a problem. He said that the solar companies could ensure that the noise does not exceed 40 decibels at the property line, and they should have no problem with using noise shields, like he has previously suggested, or agreeing with a cash escrow for decommissioning if it is not a problem.

Mr. Hartke stated that Boone County suggested a conditional approval indicating sufficient design installation and guidelines regarding light and noise setbacks, and to set 40 dBA noise limits as to not impact neighbors, rural family's health, safety and welfare. Mr. Hartke stated that such a statement would be pretty easy to include in the ordinance. He informed the Board if they are getting tired of hearing him, then they should institute the 40 dBA rule for noise limits and he would stop busting the Board's chops on this subject.

Mr. Hartke asked the Board and staff if the presentation that Mr. DiNovo provided tonight had been distributed to the public prior to this meeting.

The Board and staff indicated no.

Mr. Hartke stated that he did not have a chance to fully review the information presented by Mr. DiNovo and call out anything that he did not agree with, but he believes that the Board should retract their approval of including the information in the Finding of Fact, because none of the information was checked by anyone. He said that the Board fell on their own faces in accepting it.

Mr. DiNovo stated that he completed all of the research and prepared the document himself.

Mr. Hartke asked Mr. DiNovo that since he personally prepared the document, did anyone check it.

Mr. DiNovo stated that he ran some of the numbers past knowledgeable people.

Mr. Hartke asked Mr. DiNovo to indicate who those knowledgeable people were.

Mr. DiNovo stated that he is not going to disclose the names of the people who reviewed the document.

Mr. Hartke stated that since these people are going to stay anonymous, they were knowledgeable people who checked the information that was presented by the Board.

Mr. DiNovo stated that only some of the numbers were reviewed.

Ms. Capel noted that no one checks Mr. Hartke's documents either.

Mr. Hartke stated that he provided supporting documents to all of his statements.

Mr. DiNovo agreed with Ms. Capel.

Mr. Hartke stated that he will not debate this subject because he does not want to wear out his welcome, but Mr. DiNovo's presentation indicated that subscribers receive a 10% discount on their power bill, but it costs little or nothing for subscribers to invest in the community solar garden. He said that the cost is to the people who live within one-half mile of Sidney, because the proposed solar farm will totally change their life. He said that Mr. DiNovo described how lucrative it is for the solar company, but he believes that the solar farm could afford a larger setback.

Mr. DiNovo stated that he never characterized anything as being lucrative for anyone.

Mr. Hartke stated that Mr. DiNovo discussed how much money the solar farms would bring to Champaign County and its schools.

Mr. DiNovo stated that it is not lucrative for the solar company but was an estimate of what might happen.

Mr. Hartke stated that it would be lucrative for some people because they would receive 10% off their power bill.

Mr. DiNovo stated that is actually 10% off the energy supply portion of the power bill, so it is only a 5% savings on the overall power bill.

Mr. Hartke stated that Mr. DiNovo discussed how many electrician jobs were going to be created in Champaign County and how the proposed solar farms would help with employment. He said that personally, he does not know any unemployed electricians, because it is difficult to get one at your home. He said that Mr. DiNovo also spoke about the big investments that the county would miss out on, but just because there have been some close calls doesn't mean that this one is the one. He said that he does not believe that losing some of the industries that were described is a reason to hurt families next door to a solar farm. He said that Mr. DiNovo discussed all of the jobs that would be created which would not affect the others, but what about the seed and fertilizer sales incomes, or seed and fertilizer employees who no longer spray the acreages, detasseling crews, etc., and he could think of others although these were the only ones that he wrote down while Mr. DiNovo presented his one-sided, biased solar lobbyist presentation.

Mr. DiNovo objected to Mr. Hartke's characterization and requested that his comments be stricken from the minutes. He said that he is also finding Mr. Hartke's line of testimony burdensome, and if Mr. Hartke could point to an error, then it would be constructive and helpful if he could indicate which of those numbers may in fact be wrong, but simply declaring them to be irrelevant is not helpful.

Mr. Hall stated to Chair Capel that this line of questioning is not doing any good for the amendment and Mr. Hartke is actually repeating many things that he has already said during previous hours of testimony. He said that he understands that Mr. Hartke wants to provide a certain point of view that he wants to make perfectly clear, but he has to ask if this is effective testimony.

Mr. Hartke stated that Mr. DiNovo asked him to indicate an area that may have been incorrect, and he could indicate that error and wrap up his testimony shortly.

Mr. Hall stated that would be great.
Mr. Hartke stated that Mr. DiNovo indicated that solar would offset gas and coal, and this information was entered into the Finding of Fact without being double checked. He said that he is 99% sure that Mr. DiNovo stated that solar power would offset emissions from gasoline.

Mr. DiNovo stated no. He clarified that what the USEPA's Avert Model indicated was that for each megawatt of installed capacity of solar energy would offset the production of 1,500 tons of carbon dioxide in the upper Midwest region, and 1,500 tons of carbon dioxide was equivalent to burning 153,000 gallons of gasoline. He said that this was just a way to illustrate the magnitude of 1,500 tons of carbon dioxide. He said that he also indicated that it would be equivalent to 1,444,000 pounds of coal, but it is in the Avert Model which looks at all of the relevant power plants in the relevant region, and it is a black box from his perspective, but they assign reductions presumably on costs to the various power plants in the region and on that basis, they calculate the offset initiatives.

Mr. Hartke asked if that includes the loss of carbon dioxide changing all of the crops that are not being grown.

Mr. DiNovo stated that actually, since there is a permanent vegetative cover underneath the solar panels, it will sequester more carbon dioxide than crops, but it is not included in the calculations. He said that there would be some uncalculated benefit from it, but he does not know how much, and it isn't worth talking about.

Mr. Hartke stated that it is worth talking about, because it is a subject that is totally debatable.

Ms. Capel stated that it is time for the Board to move on.

Mr. Hartke thanked the Board for allowing him to put his comments on record.

Ms. Capel called Tiffany McElroy-Smetzer to testify.

Ms. Tiffany McElroy-Smetzer, whose address is PO Box 1005, St. Joseph, stated that her mother owns her family's trust on farmland in an area being considered for the solar farm. She said that she will not repeat everything that she said at the last meeting, but there are some things that she believes are very important. She said that the farmland and the farmers are important to her mother, but there are a lot of things that she has a problem with, such as people thinking that they can tell her mother what she can and cannot do with her land. She said that Mr. Hartke had such a reasonable request regarding taking steps to buffer the sound, and she and her mother are in favor of that, because the solar farm should be a good neighbor. She said that her mother has not signed up for the solar farm because she isn't sure what she wants to do either, but it is a good opportunity for her, because she is a widow for 22 years and she has kidney failure, and this is a chance to gain income that she would never have another chance for in securing her future. She said that they know what it is like to have bad neighbors, because her mother's home is over 100years old and she has lived there for over 50 years. She said that within the last few years, four houses have been torn down and a Jack Flash Gas Station was constructed across the street from her, and if you want to talk about bad neighbors, she could discuss that issue with you. She said that her mother would like to be a good neighbor and hopes that if the Board allows the solar farm that the Board would help mitigate the effect on everyone. She said that nobody has perfect neighbors and her mother is very sensitive to it, because other people have junk cars,

don't cut their grass, etc. and no one is guaranteed anything. She said that the argument about the land being best prime farmland is not a good argument, because nothing is being taken out of the soil and it is being preserved. She said that the only thing that she and her mother would ask from the Board is that the requirements are not so stringent that the property owners and developers find it unreasonable and impossible to proceed with any plans. She asked the Board to remember that each foot that they add to the setbacks is income away from the property owners. She said that she heard complaints about the noise, and she completely understands it, but this is a really noisy area where her mother's land is located, because there are two busy rail lines, the Village of Sidney, the Frito-Lay Plant close by and seasonal farm equipment. She said that she did listen to Mr. Hartke and what he is requesting could easily be done without taking huge amounts of land, and just do it right by the noise.

Ms. McElroy-Smetzer stated that she heard one Board member and many people in the audience say that the property owners were making a lot of money off this, but that is irrelevant to the regulations that should be discussed. She said that she and her mother would not ask the Board, staff, or anyone else how much money they make at their jobs, and they wouldn't tell them that they could not take a higher paying job, because it is the property owner's business exclusively. She said that she tries to help her mother and has been asking some people about cash rent prices, and one of them told her that asking such a question was very rude because it wasn't anyone's business what they made from cash rent on their land, and she was right. Ms. Smetzer stated that it should not matter how much anyone is making from the leases and the regulations should be the regulations regardless of the amount of money that is made by the landowner or the developer.

Ms. Smetzer stated that as far as how the property looks, her mother wants to be a good neighbor, but some of the comments have been overbearing. She said that her mother does not go to every property owner and tell them how to cut their grass, paint their homes, or how many cars and pieces of equipment that they can have on their property. She said that her mother's land has been her property and has been in the family for 100 plus years, so doesn't that entitle her and the other property owners the right to make some decision about what should be done with it. She said that in the end it is her mother's decision what to do about signing or not signing with the company, and their only request is that the County thinks of the property owners as individuals, not a big nasty company, because the property owners will use this income in many different ways. She said that they would like the regulations to be fair enough so that if her mother chooses to enter into a contract, that it would be beneficial to her and to the developers. She thanked the Board and staff for the huge amounts of time that they have spent on all of these meetings; it is greatly appreciated.

She closed by saying that no one should care who her mother cash rents, leases, or sells her property to; it is her land and it is no one else's business. She asked if the County is responsible for cleaning up the solar farm at the end of the leases.

Ms. Capel stated that the reason for the decommissioning plan is so that if the company fails to clean up the solar farm at the end of the leases, the County has the funds to it.

Ms. Smetzer stated that she is in favor of that, but it is still the property owner who is going to be hurt, because as much as she hates to see old school buses parked on properties, it is still that property owner's business and it is not her place to interfere. She said that if her mother chooses to be involved in the USDA-FSA programs or CRP, then that is her business and not anyone else's, especially not the neighbors. She said that hopefully the regulations meet a happy medium where adjacent neighbors are protected, but provide the landowners the chance to be involved if they so choose to do so.

Ms. Capel called Charles White to testify.

Mr. Charles White, who resides at 309 S. Bryan, Sidney, stated that there have been reports indicating that solar farms do not harm adjacent property values, but he has a family member who has a lot for sale near one of the proposed solar farm sites and once a perspective buyer discovered that the lot could be near a proposed solar farm, they were no longer interested. He said that he believes that property values will be hurt regardless of the reports that indicate otherwise. He said that when the meetings began, he had someone ask him about the Village of Sidney's Comprehensive Plan, because somehow staff could not find it. He said that he filed the Village of Sidney's Comprehensive Plan again, but it was originally filed June 30, 2000. He said that he wishes that the Board would limit how many solar farms could be near a municipality. He said that he has received notice that another special use permit for a solar farm will be submitted to the county from Westwood, a company from Texas that desires to construct a solar farm in the same area but will not be as big. He said that one area will be flooded with solar farms, which is not right, because some of the solar farms could be placed either on the other side of Sidney or near another substation in the county. He said that he heard a Board member state that he would have no problem living near a solar farm, and that member will probably have the chance to purchase one of the houses that will probably be for sale if this comes to fruition.

Ms. Capel called Mary White to testify.

Ms. Mary White, who resides at 11414 CR 2300E, Sidney, stated that when the solar company representative came to the Village of Sidney, he indicated that 599,292 panels would be installed in the proposed solar farm. She asked the Board if there was any information in the ordinance regarding the security of the large solar farm and requiring tie downs. She said that she is concerned about tornados, straight winds, etc., because she is just down the road from the proposed solar farm and she could see the panels being blown her way. She asked if something could be inserted into the ordinance regarding her concern, or is it off the table.

Mr. Hall stated that the current ordinance regulations do not have any king of provisions for high winds, and his sense is that the solar company would construct a solar farm that would stand up to heavy winds, but they probably cannot construct a solar farm that could sustain the winds of a tornado. He said that he does not know if any structure could be constructed that could stand up to a tornado.

Ms. White stated that there are guidelines and restrictions that could be inserted to help to do this, and the solar company has admitted that they have never put anything like this in this part of the land. She said the Sidney area is unique versus the area that the solar company is coming from due to our straight winds, which are regular winds, but when her family in Texas gets 25 mile per hour winds they are in panic mode, yet to us that is everyday wind. She said that anyone who comes into this county should be aware that there are special accommodations that must be made for this area. She requested clarification of the height of the required fence.

Mr. Hall stated that the fence only has to be seven feet high, which is for a solar farm that has a maximum height of eight feet for the panels. He said that if a solar farm would have taller panels, then the Board could require taller fence.

Ms. White stated that it is her opinion that the proposed solar farm is very ugly because she loves seeing the crops. She said that the solar farms are very dangerous in the area that they are being placed, because they will be out in the country where there are intersections and corn planted every other year, and we all have

heard the police reports requesting that people stop at all rural intersections to assure clearance before continuing forward. She said that the solar farm will be a permanent structure on the land for 20-years and the intersections will be extremely dangerous due to poor visibility. She said that there was a picture in the *County Star* with a caption indicating a truck amongst the solar panels, and she had to look at the picture three times before she could finally see a panel truck. She said that her son drives a Ford Focus and she is concerned that while he travels the rural roads that he is not going to be seen, because it is already dangerous at these intersections and the addition of the solar farm is not going to help. She said that she does not know if there is anything that can be done at this point.

Mr. Passalacqua noted that every intersection in the county will have a stop sign.

Ms. White asked for clarification regarding the process once this amendment leaves this Board.

Mr. Hall stated that if the amendment is adopted tonight, it will be reviewed by the Environment and Land Use Committee in one week from tonight and will stay at the Environment and Land Use Committee until August 9th, when they will hopefully make a recommendation to the County Board. He said that the County Board will then consider it on August 23rd.

Ms. White asked if it is at that point when the applications for special use permits are heard.

Mr. Hall stated that there is a solar farm special use permit case scheduled for August 30th based on whatever the County Board approves, and staff will contact the applicant regarding any changes that are required for their application.

Ms. Lee stated that a young man testified at one of the previous meetings that the solar panels could withstand 50 mile per hour winds and one-inch hail.

Ms. Capel asked the audience if anyone else desired to sign the witness register and present testimony regarding this case.

Ms. Capel entertained a motion to extend the meeting to 10:30 p.m.

Mr. DiNovo moved, seconded by Ms. Griest, to extend the meeting to 10:30 p.m. The motion carried by voice vote, with two opposing votes.

Ms. Capel called Daniel Herriott to testify.

Mr. Daniel Herriott, who resides at 30 Dunlap Woods, Sidney, stated that looking at the proposed ordinance, page 9 of 39 of Supplemental Memorandum #14, Attachment H. discusses setbacks and lot sizes, and the Board debated whether it should be a five, ten, or forty acre property. He requested that the five acre be changed to ten acres, because there are properties that are west of Sidney which are six and one-half acres in size, and once you take out the road front it would still be over five acres. He said that his brother owns a property with a house that has been there for over 100 years and the lot is over 900 feet long and 300 feet wide, and even though there is not a solar farm proposed near them now, there could be in the future. He said that if one was proposed in the area of his brother's home, it could be completely around his house and on one side it would be 100 feet from the property line and 240 feet from his house, thus becoming totally boxed in. He said that he agrees that there should be some type of limit because there are homes that sit on

40 acres and perhaps it should not be more than 240 feet, but he believes that it should be more than five acres.

Ms. Griest asked if the Board could deal with individual parcels that might exceed five acres during the special use permit process.

Mr. Hall stated yes.

Ms. Griest stated that she understood Mr. Herriott's concern, but due to the uniqueness of his brother's property, it would be better addressed during the special use permit process if it were impacted as adjacent to a potential site.

Mr. Passalacqua asked if Ms. Griest is she meant to say special conditions rather than special use.

Ms. Griest stated no, she meant special use permit for a siting of a solar facility.

Ms. Lee agreed with Mr. Herriott's suggestion of ten acres in lieu of the currently proposed five acres.

Mr. Herriott stated that a parcel owner desired the solar farm to be closer to them, then it would be easier to have them sign a waiver with the solar company waiving the setback requirement than it is for that individual to come to the meetings and request it.

Ms. Capel asked if five acres was the standard lot size.

Mr. Hall stated that it is a typical lot size but is not the standard lot size.

Mr. Herriott stated that at the last meeting, five acres was discussed because there was a lot that would be directly affected by one of the proposed solar farm and it barely slid under the five acres and taking out the road frontage protected that landowner. He said that if the requirement was ten acres, it would make it easier for everyone.

Ms. Capel called Vincent Koers to testify.

Mr. Vincent Koers, who resides at 603 West Woodlawn, Danville, stated that we have heard that the Board cannot do things that are not empowered by state law, and that is absolutely correct. He said that there is a whole plethora of state and federal regulations that impact upon what the Board discussed tonight. He said that he just attended a meeting that dealt with soil conservation service inspections that go on, and we are paying the federal employees to drive around and look at the property and the soil to verify that it is being the same way as it was in the past. He said that he did not specifically ask what they would do if they found a solar panel there, but he thinks he knows what their answer would be, because testimony from these meetings has indicated that the presence of the solar panel would change the classification of the land and how much compensation is received. He said that he wonders how many farmers who are looking at the revenue stream that they believe they are going to receive have taken that into consideration, and it is not the ZBA's responsibility to tell them about it, but he does hope that it is someone's responsibility to make sure that it is part of the equation and what people are getting into.

Mr. Koers stated that the ZBA is empowered to do things about signage and visibility and is just as responsible for the visibility at the rural intersections. He said that the gentleman who sat next to him

chuckled when one of the Board members indicated that stop signs would be placed at every intersection in the county, but he knows how the farm boys stop at the intersections and with the tall corn, that is why there is so much carnage at the rural intersections. He said that it makes sense to have a setback from an intersection as part of the rules for where the solar farms are located.

Mr. DiNovo stated that there are provisions in the Zoning Ordinance that apply, and it is called the visibility triangle at intersections. He asked how the visibility triangle would be applied to a chain link fence; he presumes that it would cover the location of the panels, and given the fact that there are required setbacks, the panels would not interfere with the visibility triangle anyway. He asked if a chain link fence would be allowed inside the visibility triangle, and suppose that the visibility triangle fell into the stretch which required screening.

Mr. Hall stated that he would assume that the required screening would still be required, except that you cannot install screening within any visibility triangle, so it would push everything else back, and the chain link fence itself is transparent and would not be a problem.

Mr. Koers stated that the concept of declassifying the best prime farmland being irreversible will be important to farmers and he hasn't heard that generally discussed, and it should be. He said that if a farmer believes that he can switch to solar farms and then switch back to prime farmland in the future and makes any decision based on that belief, he needs to be informed and corrected.

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

Ms. Capel closed the witness register.

Mr. Hall stated that the following items should be added the Documents of Record: #27: Handout submitted by Ted Hartke on June 28, 2018; and #28: Written statement by Tiffany McElroy-Smetzer submitted on June 28, 2018.

Ms. Lee moved, seconded by Mr. DiNovo, to revise items a. and b. on page 9 of 39, in Attachment H. of Supplemental Memorandum #14 dated June 14, 2018, from five acres to ten acres. The motion carried, with on opposing vote.

Ms. Capel entertained a motion to remove the approval of the Finding of Fact from the table.

Mr. DiNovo moved, seconded by Ms. Griest, to remove the approval of the Finding of Fact from the table. The motion carried by voice vote.

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

Ms. Griest moved, seconded by Mr. DiNovo, to adopt the Summary of Evidence, Documents of Record, and Findings of Fact, as amended. The motion carried with one opposing vote.

Ms. Capel entertained a motion to move to the Final Determination for Case 895-AT-18.

Ms. Griest stated that she would like to thank everyone who has taken the effort to attend the ZBA meetings, which has been a very contentious process for many, and it is difficult for the audience members and witnesses to understand how the Board incorporates the testimony that is provided. She said that she understands the witnesses' passion and different points of view, and the Board intensely strives to find a quality balance to protect the rights of all landowners, whether it be those who are the petitioner or those who are being impacted by whatever is being proposed. She said that there has been a lot of harsh criticism sparred back and forth and some directed toward the Board, but she wants the public to understand that this Board does not take comments lightly and the Board really does listen to concerns and have made many revisions to the proposed ordinance based upon the time and effort that the public has put into it.

Ms. Griest moved, seconded by Mr. DiNovo, to move to the Final Determination for Case 895-AT-18.

Mr. DiNovo stated that he strongly disagrees with a number of things that are included in the draft, but he intends to vote for the motion because a lot of those things are policy matters that this Board cannot resolve. He said that the ZBA cannot decide what kind of risk the County Board is willing to take, so this Board has to recommend this text amendment to them so that they can confront that issue. He said that this Board could go around and around forever without coming to a consensus, so it has to be forwarded to the County Board where they can deal with it.

Mr. Passalacqua stated that this ordinance does not start building solar farms, but only begins the process of building an ordinance. He said that in order to build a solar farm, the ZBA will have a case after submission of an application, so all is not lost or gained yet, and who knows what the County Board will do with this ordinance. He said that he is concerned about a lot of things as well, but a recommendation tonight does not mean that shovels are going to be out tomorrow.

Mr. Randol stated that he agrees with his fellow Board member's comments. He said that this Board has to vote on this case, but that vote does not mean that construction will begin tomorrow. He said that there are many things in this ordinance that he personally is not in favor of, and it begins at the bottom and continues to the top of it, but the process has to move forward.

Ms. Lee stated that she still does not believe that the required setback is adequate.

The motion carried.

Ms. Capel informed the petitioner that currently the Board has one member absent; therefore, it is at the petitioners' discretion to either continue Case 895-AT-18 until a full Board is present or request that the present Board move to the Final Determination. He informed the petitioner that four affirmative votes are required for approval.

Mr. John Hall, Zoning Administrator, requested that the present Board move to the Final Determination for Case 895-AT-18.

Final Determination for Case 895-AT-18:

Mr. DiNovo moved, seconded by Ms. Griest, that pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County

determines that:

The Zoning Ordinance Amendment requested in Case 895-AT-18 should BE ENACTED by the County Board in the form attached hereto.

Ms. Capel requested a roll call vote.

The roll was called as follows:

DiNovo – yes

Ms. Griest stated that she is not in favor of everything that is in the ordinance, and she is very opposed to taking best prime farmland out of production, and to her, this constitutes production, but she will vote in favor of the ordinance.

Griest – yes **Lee – no** **Passalacqua – yes**
Randol – no **Capel – yes**

6. New Public Hearings - None

7. Staff Report - None

8. Other Business
A. Review of Docket

Mr. Randol noted that he would be absent from the July 26th meeting.

Ms. Capel stated that she would be absent from the July 12th meeting.

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

None

10. Adjournment

Ms. Capel entertained a motion to adjourn the meeting.

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

The meeting adjourned at 10:15 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals