

In The Matter Of:

*McLEAN COUNTY DEPARTMENT OF BUILDING AND ZONING
PUBLIC HEARING*

December 3, 2019

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1
2 McLEAN COUNTY DEPARTMENT OF BUILDING AND ZONING
3 PUBLIC HEARING
4
5 Tuesday, December 3, 2019
6 7:30 p.m.
7 at
8 McLean County Government Center
9 115 East Washington Street
10 Bloomington, Illinois
11
12 Case Number SU-19-13
13
14 BOARD MEMBERS PRESENT:
15 James Finnigan - Chairman
16 Michael Kuritz
17 Ruth Novosad
18 Julia Turner
19 Ryan Scritchlow
20 Drake Zimmerman
21
22 ALSO PRESENT:
23 Philip Dick, Director of Building and Zoning
24 Trevor Sierra, Civil State's Attorney
Jerry Stokes, County Engineer

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1 (Commencing at 8:11 p.m.)
2 **CHAIRMAN FINNIGAN:** We're going to come
3 back to order. Will the secretary call the next
4 case?
5 **MR. DICK:** This is Case Number SU-19-13,
6 application of Moraine Solar, LLC, by Cypress Creek
7 Renewables to amend special use Case Number SU-18-05
8 for a special use to allow a solar power generating
9 facility in the agriculture district on property in
10 the northeast corner of Section 10, Township 22
11 North, Range 3 East of the Third Principal Meridian
12 located in Downs Township immediately west of 2200
13 East Road approximately three-fifths of a mile north
14 of 600 North Road. Public notice of this hearing
15 was published in the Pantagraph on November 16,
16 2019, as provided by law. All the other required
17 notifications have been made and the applicant has
18 paid the publication costs.
19 At your spot, I passed a large site plan
20 that is one of the exhibits. It's also in the large
21 application too, but if you want to use that also,
22 that's Attachment 2.
23 And there's another attachment I will show
24 you. That this is a -- this has the drain tile plan

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1 showing where the drain tile is under the field.
2 And communication from the applicant
3 regarding who the persons are -- who the responsible
4 persons are that we would put on the legal notice.
5 And a plat map showing where this property
6 is located, and a zoning map that shows this
7 property's located in the agriculture district.
8 And a communication from the IDNR about
9 endangered species that I referenced in the staff
10 report, and a LESA report for the Soil and Water
11 Conservation District. And a communication from the
12 health department indicating that they're okay with
13 the proposed use.
14 And a communication -- I spoke to the
15 Downs Township Road Commissioner today, Rodney Lush.
16 He indicated that he's working with the county
17 engineer and Cypress Creek on a contract that he's
18 already sent to the -- his attorneys, and so they're
19 working together on that project.
20 And a communication from the Historic
21 Preservation Agency indicating that they signed off
22 on the proposed application.
23 Before I read the staff report, I want to
24 show you the photos. And this is -- this is right

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1 next to I-74 to the southeast of Downs.
2 And this is -- you can see I-74 on this
3 property here to see where this is located. The
4 property is accessible on this road 2200 E. And
5 this is township road 2200 E and facing north. And
6 facing south and you can see the overpass there.
7 That's where it goes over I-74. And this is along
8 the north side of the property. And then at the
9 northeast corner facing southwest. So that's the
10 field, that's the solar farm, essentially the whole
11 field there.
12 And this is at the north edge of the
13 property facing south along the public road. And
14 this is at the north edge of the property facing
15 relatively close to west but a little bit to the
16 south -- I mean to the northwest. And this is what
17 used to be a township road but now is just a
18 driveway, but it is, it does -- is used for
19 accessing farm properties to the west. And this is
20 the driveway immediately north. It serves a
21 recreation, family recreation next to a borrow pit
22 that has a pond in it that is to the right. And
23 then this is back toward the north again across the
24 subject property.

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1 The topography is relatively flat. The
2 drainage is to the northwest. The vegetation is
3 crop production. The public road is an 18-foot
4 oil-and-chip road. It's surrounded by property in
5 the agriculture district. The land use to the north
6 is crop production, to the south a pond in part and
7 Interstate I-74 in part, and to the east and west is
8 crop production.

9 For the Land Evaluation and Site
10 Assessment, it has a score of 95.9 out of a maximum
11 of 100 points, and for soil score, 162 points out of
12 200, giving it a total LESA score of 257.9. The
13 LESA report indicates that a score of 230 points and
14 above means that the property is of high value for
15 agricultural land protection.

16 The analysis of the seven standards as
17 they relate to this project is as follows:

18 The proposed special use will not be
19 detrimental to or endanger the health, safety,
20 morals, comfort or welfare of the public, and this
21 standard is met. The applicant applied for and
22 received approval for a special use for a solar farm
23 in Case SU-18-05 by the McLean County Board on
24 February 20, 2018. Since that special use will

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1 expire on February 20, 2020, the applicant wants to
2 amend that special use to allow construction to
3 begin after February 20, 2020, if necessary.

4 The applicant proposes to establish a
5 2-megawatt solar power generating facility on this
6 property which will meet all of the county's setback
7 requirements and use standards for a solar power
8 generating facility.

9 The application indicates that this
10 facility will contain rows of photovoltaic cell
11 panels mounted on posts set in the ground. These
12 rows of panels are referred to as solar arrays.
13 Cypress Creek Renewables will mount the solar arrays
14 in one of two ways: on a fixed tilt or a tracking
15 system which allows them to follow the sun
16 throughout the day. After site specifics and design
17 components are more fully developed for this solar
18 farm, Cypress Creek will determine which system is
19 more appropriate for the site. The solar arrays
20 will be designed with an anti-reflective coating and
21 will be no more than 12 feet in height.

22 The applicant submitted a communication
23 from the Illinois Department of Natural Resources
24 which states that the Illinois Natural Heritage

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1 Database contains no record of state-listed,
2 threatened or endangered species, Illinois Natural
3 Area Inventory sites, dedicated Illinois Nature
4 Preserves, or registered Land and Water Reserves in
5 the vicinity of the project, and that the
6 consultation is terminated.

7 The applicant has submitted a
8 communication from the Illinois Historic
9 Preservation Agency indicating that no significant
10 historic, architectural or archaeological resources
11 are located within the proposed project area.

12 2. The proposed special use will not be
13 injurious to the use and enjoyment of other property
14 in the immediate vicinity for purposes already
15 permitted or substantially diminish property values
16 in the area. This standard is met. Nearby property
17 that is currently in crop production will continue
18 to be desirable for such use. A pond and recreation
19 area is located immediately south of the subject
20 property along Interstate 74 that was originally
21 built as a borrow pit for the construction of I-74
22 in the '70s. The proposed fence along the south
23 side of the subject property will be located at
24 least 10 feet from the north edge of the roadway or

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1 30 feet from the south property line of the subject
2 property, whichever is greater. This recreation
3 area will not likely be negatively impacted by the
4 proposed solar farm.

5 3. The proposed special use will not
6 impede the orderly development of the surrounding
7 property for uses permitted in the district, and
8 this standard is met. Nearby property that is
9 currently in crop production will continue to be
10 desirable for such use. A pond and recreation area
11 is located immediately south of the subject property
12 along Interstate 74 that was originally built as a
13 borrow pit for the construction of I-74 in the
14 1970s, and this recreation area will not likely be
15 negatively impacted by the proposed solar farm.

16 Adequate utilities, access roads, drainage
17 or other necessary facilities have been or will be
18 provided, and this standard is met. The property
19 has approximately 467 feet of frontage on the west
20 side of 2200 East Road. The Downs Fire Protection
21 District will provide fire protection for the
22 subject property. Predevelopment drainage patterns
23 will be retained as much as possible. The applicant
24 will provide certified plans for storm water

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1 detention/retention before permit is issued for the
2 proposed solar power generating facility. The
3 applicant has submitted a field tile study of the
4 subject property. The applicant will need to have
5 all field tile damaged in the construction process
6 repaired by a competent contractor with experience
7 in such repair during the life of the solar farm.
8 Adequate measures have been or will be
9 taken to provide ingress or egress so designed as to
10 minimize traffic congestion in the public streets.
11 This standard is met. It appears that safe site
12 distance can be provided at the proposed entrance.
13 The applicant has been in conversation with the
14 Downs Township Road Commissioner and will need to
15 obtain an entrance permit from him before
16 construction permit will be issued.
17 The establishment, maintenance and
18 operation of the special use will be in conformance
19 with the intent of the district in which the special
20 use is located, and this standard is met. The
21 preamble states "provide for the location and govern
22 the establishment and operation of land uses which
23 are compatible with agriculture and are such a
24 nature that their location away from residential,

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1 commercial and industrial areas is most desirable."
2 The proposed special use in all other
3 respects conforms to the applicable regulations of
4 the district in which it is located, and this is
5 standard is met. According to the Zoning Ordinance,
6 the Land Evaluation and Site Assessment System has
7 been designed to provide a rational process for
8 assisting local officials in making farmland
9 conversion decisions through the local zoning
10 process. Although this property has a high LESA
11 score, the use of the property for a solar farm will
12 preserve the prime soils. The applicant will need
13 to maintain native shade tolerant grass or other
14 vegetation on the site for the purpose of soil
15 stabilization as long as the solar farm is
16 operational. After the subject property is returned
17 to its original condition as required by the Zoning
18 Ordinance, the land can be returned to crop
19 production. It has been reported that up to 35
20 percent of corn grown in McLean County is used to
21 make ethanol. Harvesting the sun to produce
22 electricity in the agriculture district with solar
23 farms is similar and another way to produce
24 significant value from farmland in addition to

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1 producing crops.
2 In conclusion, staff recommends that this
3 application meets all standards set forth in the
4 county code, provided the following stipulations:
5 1, an entrance permit is obtained from the
6 Downs Township Road Commissioner before construction
7 permit is issued;
8 2, the applicant shall provide certified
9 plans for storm water detention before a
10 construction permit is issued;
11 3, a contact person will need to be kept
12 on file with the Department of Building and Zoning
13 for issues/complaints;
14 And 4, the applicant shall have all field
15 tile damaged in the construction process repaired by
16 a competent contractor with experience in such
17 repair during the life of the solar farm;
18 And 5, development shall follow the plans
19 and documents submitted with the application with
20 Zoning Regulations including Article VI of the
21 county code.
22 And as an attachment to this, I've
23 attached the solar power generation facilities
24 ordinance as you reviewed and approved and the

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1 county board approved, and so there isn't as many
2 stipulations as were in the old solar farms, and
3 that concludes my report.
4 **CHAIRMAN FINNIGAN:** Okay. Will all four
5 of you be giving testimony?
6 **MR. STREICKER:** Yes, Mr. Chairman.
7 **CHAIRMAN FINNIGAN:** Okay.
8 **MR. STREICKER:** Potentially at least.
9 **CHAIRMAN FINNIGAN:** All right, we're just
10 going to swear you in all at once. Is it okay if
11 you be sworn in?
12 **ALL:** Yes.
13 (Mr. David Streicker, Mr. Scott Novack,
14 Mr. Matthew Kauffman and Mr. Nate Groff were duly
15 sworn.)
16 **CHAIRMAN FINNIGAN:** And we'll just start
17 right with you.
18 **MR. STREICKER:** All right, thank you.
19 Members of the ZBA --
20 **CHAIRMAN FINNIGAN:** No, you've got to
21 state your name and address.
22 **MR. STREICKER:** Yes. My name is David
23 Streicker. My address is 150 North Riverside Plaza
24 in Chicago, Illinois. I am counsel to Moraine

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1 Solar, the applicant.
2 **MR. NOVACK:** My name is Scott Novack with
3 Cypress Creek Renewables. We are a solar developer
4 located at 18 South Michigan Avenue, Chicago,
5 Illinois, 60603.
6 **CHAIRMAN FINNIGAN:** You'll have to turn
7 them off as you go.
8 **MR. KAUFFMAN:** Green is on, right? Okay,
9 is the light on? Matt Kauffman, 100 Main Street,
10 Tiskilwa, Illinois, 61368, and I'm the project
11 developer from Cypress Creek Renewables for this
12 project.
13 **MR. GROFF:** Nate Groff with Kimley Horn
14 Associates, 2521 Jackson Drive in Woodridge,
15 Illinois. I'm the civil engineer.
16 **CHAIRMAN FINNIGAN:** Did you get them?
17 **MR. DICK:** I don't have to because we have
18 the court reporter.
19 **CHAIRMAN FINNIGAN:** Did you get them all?
20 **COURT REPORTER:** (Nods head).
21 **CHAIRMAN FINNIGAN:** You're good. All
22 right, whoever wants to start, make an opening
23 statement.
24 **MR. STREICKER:** Thank you, Mr. Chairman.

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1 Again, this is David Streicker, counsel for the
2 applicant. Thank you to staff members of the ZBA
3 and counsel for being here this evening. As Phil
4 mentioned, we're here for hopefully a simple
5 amendment to the existing SUP application, and
6 hopefully this is a good hearing. We're happy to be
7 before you again to talk about Moraine because we
8 have the advantage this time, unlike we did over a
9 year ago, that this project has been selected by the
10 Illinois Power Agency to proceed through the program
11 and will be constructed.
12 We're here tonight because this was one of
13 the original projects that we sought to get approval
14 for here in McLean County and we did. At this
15 point, while we're hopefully looking very good and
16 very aggressive on our construction schedule, there
17 is the potential that we may not be able to be ready
18 to apply for our permit by the current cut-off in
19 February, so we're asking with this application that
20 that date be extended.
21 As I know the members of the ZBA are
22 already familiar with, one, Cypress Creek Renewables
23 and, two, how we develop projects and in some
24 respects this project specifically, we have prepared

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1 an abbreviated presentation tonight.
2 To my left is Scott Novack. As Scott
3 introduced himself, he's with Cypress Creek. Scott
4 is available to talk about the project and the
5 specifics of this and will make a very brief, I
6 think one slide, presentation about that. What we
7 thought might be of most interest to the board in
8 general is where the state is with these type of
9 solar projects, so we prepared a couple slides on
10 that, and are happy to answer questions about this
11 project and about where things are going with the
12 community solar projects in Illinois because I know
13 you probably, speaking for McLean County, had a
14 number of applications that came through.
15 To Scott's left is Matt Kauffman. As Matt
16 mentioned, he's the direct developer on this project
17 and he's had a lot of the interactions with the
18 local officials, such as the road use agreements, et
19 cetera, and will briefly touch on that.
20 Nate Groff is to Matt's left. Nate is a
21 civil engineer. We've always thought it helpful to
22 bring a civil engineer to these presentations in
23 case members of the ZBA had some specific questions
24 regarding the site, and we always know drainage is a

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1 specific issue of concern. So Nate is here to
2 address those questions if they come up from the
3 board. He does not have any prepared comments.
4 Just a couple of more things before I turn
5 it over to Scott. Again, we are always appreciative
6 of the analysis that Phil provides and happy to have
7 staff's recommendation that we meet the criteria and
8 I won't go through those again. One thing we did
9 want to clarify with the board is that the initial
10 approval for this project was in February of 2018.
11 We had a number of conditions as Phil mentioned, one
12 of which was Condition 6 that talks at least
13 specifically about decommissioning and also
14 Condition 11 which links up with the county use
15 standards for solar generating facilities.
16 It does appear from the standards that
17 were attached to the briefing points for this
18 amended application that there was at least one
19 material amendment passed on November 20th with
20 regard to decommissioning and specifically
21 decommissioning security that had to be posted. We
22 would note for you that we've modelled the project
23 based on the decommissioning requirements from
24 February of 2018 and we will also be entering into

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1 an Agricultural Impact Mitigation Agreement with the
2 Illinois Department of Agriculture, this will happen
3 prior to pulling the building permit, and there are
4 specific decommissioning requirements in that
5 agreement. This will be bilateral between us and
6 the state that will have to be met. So, Phil, that
7 was one of the issues that we wanted to clear up
8 with the board on which specific decommissioning
9 requirements would apply to this.

10 With that, Scott, I'll turn it over to
11 you.

12 **MR. NOVACK:** Okay. All right, thanks.
13 Darryl, if you want to advance. So again, my name
14 is Scott Novack and I am the lead developer in
15 Illinois for Cypress Creek Renewables. I won't
16 spend a whole lot of time diving into, you know, who
17 we are because we obviously went over that a number
18 of times.

19 We've grown since the last time I sat in
20 this chair, which is nice, we're now up to over 3.2
21 gigawatts of developed solar across the country, and
22 you can see just a spattering of states where we're
23 actively developing property and they're highlighted
24 there in either blue or in yellow. Blue represents

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1 states where we're in development and yellow
2 represents areas where we're either in development
3 and have existing solar facilities that have been
4 completed.

5 Like Dave mentioned, I thought it might be
6 helpful to give you guys kind of an update, kind of
7 how we've gotten here and what's next as far as
8 community solar in Illinois. As you guys know I'm
9 sure, there was a whole lot of demand from
10 developers based on the way the program was
11 structured. And if we date back to '16, that's the
12 year in which the Future Energy Jobs Act was passed
13 into law. 2017 is when Governor Rauner signed the
14 bill and that's when the Illinois Power Agency began
15 constructing a program, what's known as the
16 Adjustable Block Program.

17 And through '18 and into '19, developers
18 have been securing land and have been presenting to
19 various boards such as yourselves for land use
20 permits while doing other various development
21 activities, all in preparation to be entered into
22 what was coined a solar lottery, which is exactly
23 what it was. All of the developments that met a
24 certain threshold, which is mainly to exhibit an

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1 interconnection agreement with a utility; site
2 control, so a signed lease to be able to install a
3 solar farm; and also a land use permit, so a special
4 use permit. As long as your site had all three of
5 those things, you would be eligible to receive a REC
6 award in this lottery.

7 The lottery happened in April of 2019. 34
8 projects in the Ameren territory were pulled out,
9 one of which, as I'm sure you guys know, is in
10 McLean County, and fortunately for us that is our
11 project, that's Moraine Solar, which is what we're
12 here to talk about today.

13 I just have some other stats. Comm Ed, in
14 case you guys are curious, 78 projects in the
15 northern third of the state, bigger territory as far
16 as repairs and customers there. Cypress Creek had
17 15 projects that were pulled out of the lottery in
18 that territory, and we had two -- we had one other
19 in Ameren as well. So 17, that makes us the
20 largest, and I'm not trying to gloat, just trying
21 to, you know, give you guys a sense of scale, that
22 makes us the largest developer in the state which
23 we're quite proud of. So that happened in April
24 '19.

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1 Since then, the projects that were
2 selected are advancing beyond. And on the next
3 slide, which I don't want to advance to quite yet,
4 sorry, Darryl, I'll talk about what we've done since
5 that happened. But before we advance, I also want
6 to talk about looking forward because there's a
7 number of projects both in McLean County and then
8 all over the state that were obviously left without
9 a REC award after this lottery happened. In McLean
10 I think there's over 10 projects probably, a number
11 of which are Cypress Creek's.

12 And the intent, and I can speak for
13 Cypress Creek, I'm sure other developers feel the
14 same, is to, you know, keep those projects alive
15 while the state works on additional funding. And so
16 I know me personally and a lot of my colleagues,
17 both at Cypress Creek but also in the industry, have
18 been spending the last eight, nine months really
19 down in Springfield working with working groups
20 trying to ensure that there's another Future Energy
21 Jobs Act, basically, you know, people call that
22 FEJA, like a FEJA 2.0 that will create more funding,
23 that will create an opportunity for more of these
24 developments to receive REC contracts and get off

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1 the ground, and that's what I think everybody wants
2 to see.
3 Timing for that is a little bit less
4 clear. The bill could happen in 2020, the spring of
5 2020. That's the hope. It could also happen in the
6 fall of 2020. And then there's a whole period after
7 that where the Illinois Power Agency has to
8 determine a whole set of rules and create that
9 program, and then we can get to the point where
10 we're at now with Moraine and get these projects a
11 little bit more advanced. So I thought I would dive
12 into that in a little bit.
13 Darryl, you can move forward. And just to
14 zero in on the project we're talking about here -- I
15 mean I'm actually not going to say much on this
16 because Phil covered it really extensively. Go
17 ahead to the next slide.
18 Okay, so what's happened? So April 2019
19 was the lottery. Moraine was selected. Since then,
20 a number of advancements in our development cycle
21 have occurred. For one, we had an interconnection
22 agreement previously because that was a requirement
23 to enter into the lottery, but after the lottery,
24 Ameren basically restudied all the lottery winners

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1 to give them a more accurate picture of what the
2 situation was at each of these sites, and that
3 resulted in an updated interconnection agreement
4 which was signed back in June.
5 We also advanced development steps, such
6 as performing an ALTA survey, getting a drain tile
7 investigation as Phil had mentioned. Those were
8 both done in June. We went and refreshed our Phase
9 1 ESA, or Environmental Site Assessment. That
10 happened in October. Really the whole half of this
11 year since understanding that this project would be
12 moving forward we've been preparing for design work,
13 engineering procurement and construction activities,
14 and we remain with an estimated construction start
15 date in spring after the thaw, the spring of 2020.
16 I believe that's all I have prepared, but
17 can you please advance? Yeah, so as Dave mentioned,
18 we do have a few other folks who are available to
19 answer questions. I don't know that we need to
20 really involve them in the presentation unless
21 you're biting your tongue? Okay, so --
22 **MR. STREICKER:** Just mention --
23 **MR. NOVACK:** There is an appendix to this
24 presentation. We don't have to go through it. What

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1 I did was I threw some pictures in really of what I
2 had previously presented to your body, and we can
3 reference them if needed, but I don't think, Darryl,
4 that you need to click through them, but they are in
5 front of you and I think printed out, so thank you.
6 **MR. STREICKER:** And that concludes our
7 prepared remarks.
8 **CHAIRMAN FINNIGAN:** These guys didn't get
9 to talk at all.
10 **MR. STREICKER:** Maybe, Matt, if you want
11 to touch on the road use.
12 **MR. KAUFFMAN:** Yeah, actually I will just
13 say we had a really, I think, productive meeting
14 with Mr. Stokes and Phil about a month ago where we
15 particularly had some discussion about the road use
16 agreement, and I really want to commend the county
17 for being proactive in developing a template
18 document that we could use with the local township.
19 So we're now working with Mr. Lush in Downs Township
20 on that template agreement and he's having it
21 reviewed. So I think that really helped us to move
22 that process forward.
23 And as you know, township roads are
24 critical to these projects, so we're going to have,

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1 you know, very little impact compared to other
2 larger scale projects in the area. So we're very --
3 we believe that's going to be able to be completed
4 in the next month or so. So thanks for your time
5 this evening.
6 **CHAIRMAN FINNIGAN:** Questions?
7 **MEMBER KURITZ:** Are there -- excuse me,
8 are there any changes to the project other than
9 changing the date from the original approval?
10 **MR. NOVACK:** No, I would say no. I mean I
11 think, and as I think I mentioned the last time,
12 when the permit set is issued to the county for
13 review, it will likely be a smaller, a little bit of
14 a smaller land area than what's presented on this
15 zoning site plan that's before us, but that's in
16 line with what we had envisioned previously. And
17 Dave might have something that I'm forgetting.
18 **MR. STREICKER:** No, I -- oh, sorry, I
19 would say outside of the physical aspects of the
20 project that Scott mentioned, the only thing in my
21 mind would be potential financial aspects with
22 regard to decommissioning which is what led to my
23 comment at the end of the opening.
24 **MEMBER TURNER:** So let's talk about those

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1 differences because we had stated 25,000, is that
2 correct, in our initial? And what has the state --
3 what did the state land on? We hadn't -- they
4 hadn't landed on anything yet when we were there.
5 **MR. STREICKER:** I believe the initial was
6 in February 2018. When the county board originally
7 approved the project with the conditions, the
8 \$25,000 figure you referenced I believe was not
9 enacted by the board yet. That looks to me like it
10 comes in in November of 2018 which is after this
11 permit was issued.
12 **MEMBER TURNER:** Okay, so what did we agree
13 to with you guys then?
14 **MR. STREICKER:** Well, what it says I
15 believe in Condition 6 is that the applicant shall
16 submit a revised decommissioning plan certifying
17 proposed decommissioning costs that provides
18 financial assurance to the county after year 12 of
19 the operation of the facility that this financial
20 assurance shall be similar to what is required of
21 wind farms in the Agricultural Impact Mitigation
22 Agreement that wind farms have with the Illinois
23 Department of Agriculture. There is now a specific
24 state law and a boilerplate on IDOA's website of a

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1 solar specific AIMA.
2 **MEMBER NOVOSAD:** And what is it?
3 **MEMBER TURNER:** Okay, and where are we at
4 compared to then?
5 **MR. NOVACK:** Yes, the boilerplate language
6 on the IDOA's website doesn't reference a specific
7 dollar amount per megawatt. It references a
8 decommissioning, certified decommissioning plan
9 which is what I think we had envisioned last time.
10 I will just add, while that would be preferable, I
11 think the reason we brought this up today was less
12 so about the dollars per megawatt and more so about
13 the timing of the posting of the bond, the letter of
14 credit, which in the new solar ordinance from
15 November of 2018 it references that -- and actually
16 it's a letter of credit or cash escrow -- be
17 submitted at the time of building permit application
18 rather than at year 12 which is when it was before.
19 Now, the AIMA references a phased-in
20 approach. 10 percent would be at the first
21 anniversary of the commercial operation date and
22 then the balance kind of over time until I think
23 year 10 or 12. I don't recall exactly.
24 And then Dave's reminding me that just --

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1 and I didn't mention in this presentation, I think I
2 may have in presentations previously, but the REC
3 contract that was awarded as part of this solar
4 lottery through the state is a 15 year contract,
5 yeah.
6 **MEMBER TURNER:** And just to refresh, we
7 talked about the fact that you guys are putting
8 these in, you obviously want to keep them going for
9 at least 15 years, and that they have a 20 to 30
10 year life span is what you're really looking at
11 beyond the 15 years. And therefore your argument I
12 believe at the time to request that money upfront is
13 rather moot because if you're putting them up, then
14 you certainly want them to keep going. You're not
15 going to let them sit there not working after
16 they're in.
17 **MR. NOVACK:** Yes, that's right.
18 **MEMBER TURNER:** And should -- I guess, you
19 know, our question of course is always how reliant
20 are they on government subsidies to continue to be
21 maintained and that type of thing, and I think we
22 talked about that also and that you said they're
23 expensive enough that once we get them up we would
24 keep doing them regardless of government subsidies.

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1 Am I correct there?
2 **MR. NOVACK:** Right, so the big investment
3 is on day one and then there's very little
4 maintenance throughout the useful life which, yeah,
5 could be 20, 30 years, up to 40 really. You know,
6 that's to be determined.
7 **MEMBER TURNER:** So aside from the date,
8 extending the date, we do have to decide on the
9 decommissioning amount and which agreement we're
10 going to go with, whether we stick with what we've
11 got with you guys now or whether we go with the
12 state's, which is what we talked about in November I
13 think.
14 **MEMBER SCRITCHLOW:** Or we could also go
15 with our county's requirements.
16 **MEMBER TURNER:** Correct, correct.
17 **MEMBER SCRITCHLOW:** Okay, I've got a
18 question for you. How big of a burden to the
19 project is following our county's requirements as
20 opposed to the state or some other request?
21 **MR. NOVACK:** Right, meaning that the
22 requirement to post this on day, well, sub day
23 one --
24 **MEMBER SCRITCHLOW:** Right.

1 **MR. NOVACK:** -- on the building permit
 2 application. Hard to quantify how big of a burden
 3 that is. Truthfully would it kill the project? No,
 4 no, I don't think it would. It's more along the
 5 lines of it's not at a time typically when financing
 6 is in place at that point, so it kind of messes
 7 around with the order of operations. And also then
 8 there's just, due to the contract that exists, just
 9 the question of the necessity for it at that time,
 10 to be holding money or a letter of credit for just
 11 an unnecessary amount of time.
 12 **MEMBER SCRITCHLOW:** Thank you.
 13 **MEMBER ZIMMERMAN:** On a slightly different
 14 topic, how much more efficient are solar panels now
 15 than they were two years ago?
 16 **MR. NOVACK:** I believe two years ago we
 17 were projecting that we'd be using 385 watt panels
 18 here, which is what we are still projecting. There
 19 has been improvements over the last couple years,
 20 namely now what's called bifacial panels are more
 21 prevalent. These are double-sided panels that
 22 actually take a tiny bit of -- they increase
 23 efficiency by absorbing sunlight on the bottom half
 24 of the panel as well. However, the determination

1 change the decommissioning requirements to match our
 2 codes, could they still operate under the original
 3 what passed a year ago even though we've passed
 4 this, or does this now supercede that?
 5 **MR. SIERRA:** My interpretation of this
 6 application is that it's asking for an amendment of
 7 the existing special use.
 8 **MEMBER SCRITCHLOW:** Okay.
 9 **MR. TREVOR:** So we could just amend the
 10 date as the date they requested. If ZBA chooses to
 11 also change the -- or the county board chooses to
 12 change the decommissioning terms, those would then
 13 apply regardless of when it's built.
 14 **MEMBER SCRITCHLOW:** Thank you.
 15 **MEMBER KURITZ:** So on the decommissioning,
 16 if they put up -- they put up the bond and then we
 17 have the same scenario as has happened with the wind
 18 farms, that once they get them constructed they find
 19 a new buyer and they sell them off, where does that
 20 put us?
 21 **MR. SIERRA:** I don't think that changes
 22 the responsibility, I mean of whichever entity owns
 23 the farm, the solar farm or the wind farm, they
 24 still have to abide by the terms of the special use

1 hasn't been made yet on this site whether those
 2 panels will be used, but while there's been
 3 tremendous amount of leaps in technology, a lot of
 4 it is driving costs down. There's also leaps in
 5 terms of efficiency, but we were projecting this
 6 type of efficiency back when we first proposed the
 7 project.
 8 **MEMBER TURNER:** And obviously our
 9 relationship with China has changed a bit since
 10 then. Does that have any impact on this because I
 11 know most of these were coming from China?
 12 **MR. NOVACK:** Again, I would say it's to be
 13 determined exactly which panel manufacturer or
 14 module manufacturer is selected for this project.
 15 Yeah, I mean nobody in our industry is a fan of the
 16 tariffs I would say. Projects will still be able to
 17 be built with modules that do come from overseas,
 18 but it really depends on a number of variables what
 19 kind of impact it has on each project.
 20 **CHAIRMAN FINNIGAN:** Any other questions?
 21 **MEMBER SCRITCHLOW:** I've got a question.
 22 And it would be directed at staff. So if we were to
 23 approve this and then they were to still pull
 24 permits before the original deadline, if we were to

1 permit. So regardless, whoever is holding it either
 2 in 12 years or now, there's still going to have to
 3 be that security in place.
 4 **MEMBER KURITZ:** So even though they sell
 5 it, the new person contractually has to -- or by
 6 code has to pick up that bond.
 7 **MR. SIERRA:** That's correct, yes, sir.
 8 **MEMBER KURITZ:** Okay.
 9 **MEMBER TURNER:** Okay, so I understand
 10 contractually that's the case, but do we know if
 11 they do realistically?
 12 **MR. DICK:** We have -- we're working with
 13 Twin Grove, which is owned by a different company
 14 than built it back in the day, and actually they
 15 have to come up with an escrow or -- in February of
 16 2020, and so we're dealing with them on it now, and
 17 so they know they still have to do it.
 18 **MEMBER TURNER:** Okay, so we do know, okay.
 19 **MR. DICK:** For your information, we do
 20 have copies of -- we have copies of the findings of
 21 fact in the old case if you want to see what was
 22 approved back when. And I did meet with them and
 23 they made this request, and what they -- they were
 24 willing to apply or they would have to meet the

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1 AMI -- AIMA agreement anyway, and that is -- that
2 might be in some instances a little bit stiffer than
3 this.
4 **MEMBER TURNER:** Yes.
5 **MR. DICK:** But they -- conceivably they're
6 just amending the special use which means they're
7 just continuing it so it doesn't expire.
8 **MEMBER TURNER:** Right.
9 **MR. DICK:** If you would agree and
10 recommend, you could stick with these
11 recommendations.
12 **MEMBER ZIMMERMAN:** So to repeat what you
13 just said, you would agree we would recommend -- we
14 would just stay with these recommendations from the
15 earlier findings of fact?
16 **MR. DICK:** I don't have a problem with
17 that since they will have that AIMA agreement signed
18 by the time they apply for a permit.
19 **MEMBER TURNER:** And just to clarify, the
20 AIMA is the state level one.
21 **MEMBER SCRITCHLOW:** Correct. So does this
22 reflect the new county ordinance that was passed
23 just --
24 **MR. DICK:** It does not.

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1 **MEMBER SCRITCHLOW:** Does not, okay.
2 **MR. DICK:** This was approved six or eight
3 months before the county ordinance was approved.
4 **MEMBER SCRITCHLOW:** All right, thank you.
5 **CHAIRMAN FINNIGAN:** Any other questions?
6 **MEMBER TURNER:** I have one more question
7 for staff. Do we know of any others that have been
8 approved, any other projects in McLean County that
9 have been approved?
10 **MR. DICK:** This is the only one that --
11 **MEMBER TURNER:** I should say through the
12 lottery.
13 **MR. DICK:** -- won the lottery.
14 **MEMBER TURNER:** Okay, that's what I meant.
15 **MEMBER ZIMMERMAN:** I guess a technical
16 question. Since we've already gone through the
17 facts and the statement, do we even need to go
18 through the standards?
19 **CHAIRMAN FINNIGAN:** Does staff have
20 questions of the applicants?
21 **MR. DICK:** No.
22 **CHAIRMAN FINNIGAN:** Would anyone in the
23 audience have questions of the applicants? Would
24 anyone in the audience want to give testimony in the

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1 case? Seeing none, I think we're ready for a
2 closing statement.
3 **MR. STREICKER:** Thank you again to staff
4 especially for helping us through this process and
5 members of the committee and counsel. Again, we're
6 very happy to present this project to you and look
7 forward to turning it into reality. And thank you
8 for your support throughout this process. That's
9 it.
10 **CHAIRMAN FINNIGAN:** Okay, thank you very
11 much. This part of the hearing is closed and we can
12 talk about this.
13 **MEMBER KURITZ:** I move that we concur with
14 the -- that all the standards have been met.
15 **MEMBER ZIMMERMAN:** I second that.
16 **MEMBER SCRITCHLOW:** I don't know when the
17 appropriate time would be. I would like to make it
18 they have to abide by our current code that was
19 passed on November of '18 for the decommissioning
20 portion.
21 **CHAIRMAN FINNIGAN:** Let's see, I think we
22 have a -- let's rule on this before we can rule on
23 you. So I think we've got to have a consensus of --
24 we've got a motion right now. You kind of -- you

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1 should have said that just a couple minutes ago.
2 **MEMBER SCRITCHLOW:** Oh, I'm sorry I didn't
3 realize we were to that point.
4 **CHAIRMAN FINNIGAN:** Well, Mr. Kuritz made
5 a motion to approve and I --
6 **MEMBER ZIMMERMAN:** I seconded it.
7 **CHAIRMAN FINNIGAN:** And Mr. Zimmerman
8 seconded that, so --
9 **MEMBER NOVOSAD:** No.
10 **MEMBER KURITZ:** No.
11 **MEMBER SCRITCHLOW:** Is there an
12 opportunity for discussion then?
13 **MEMBER KURITZ:** No, we're going to talk
14 about it.
15 **MEMBER SCRITCHLOW:** Okay.
16 **MEMBER NOVOSAD:** He just --
17 **CHAIRMAN FINNIGAN:** Well, that's what you
18 were talking about, I mean which standard rules.
19 **MEMBER KURITZ:** My motions were to concur
20 that the standards had been met or that we agreed
21 that the standards had been met.
22 **MEMBER ZIMMERMAN:** So we don't have to --
23 so we just spent more time talking about this.
24 **MEMBER KURITZ:** Yeah, I'm just trying to

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1 shorten it for you.
2 **CHAIRMAN FINNIGAN:** But we only do that
3 when we're ready for a vote.
4 **MEMBER TURNER:** Yeah.
5 **MEMBER KURITZ:** Okay.
6 **CHAIRMAN FINNIGAN:** So I mean --
7 **MEMBER KURITZ:** I'll withdraw it.
8 **CHAIRMAN FINNIGAN:** -- that's why --
9 **MEMBER KURITZ:** With the permission of
10 second.
11 **MEMBER TURNER:** Withdrawn.
12 **CHAIRMAN FINNIGAN:** Okay, it's been
13 withdrawn, so now you can bring that up.
14 **MEMBER SCRITCHLOW:** Okey-doke. So I would
15 like to have our county requirements that were
16 passed in November be the requirement for
17 decommissioning, and then if there's a more
18 stringent state one, then that gets added on top,
19 but I don't -- if they would like to not have those,
20 what is our current code, then they should get their
21 permits done by whenever this expires here in
22 February. If it -- but since we just worked on this
23 not even a year ago, I kind of feel like this is a
24 current set of ordinances we have, so we should

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1 probably follow them as opposed to one that's a
2 20-year-old something that somebody pulled out of a
3 closet. So I would like to see that be part of
4 this, thank you.
5 **MEMBER TURNER:** And I understand that.
6 Usually that's the way I go too except, you know, we
7 came to this agreement with them initially and
8 they're coming back and asking only for an
9 extension. I can go either way, but I understand
10 where they're coming from. It is -- whether we
11 honor our original agreement is essentially what
12 we're looking at. And again, I can go either way on
13 that. I don't -- since this is the only one at this
14 point and they were kind of the first ones through
15 here that kind of taught us what all this was about,
16 and we've listened to 20 at least different ones,
17 some of them 'til after midnight unfortunately --
18 was it this one by the way? I hope it wasn't.
19 **MR. STREICKER:** I don't think so. This
20 one originally went through with two others, so --
21 **MEMBER TURNER:** Okay.
22 **MR. STREICKER:** And we were behind a wind
23 farm that night.
24 **MEMBER TURNER:** Yeah. Oh God.

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1 **CHAIRMAN FINNIGAN:** Blow you away?
2 **MR. STREICKER:** No, we had to come back
3 the next night though.
4 **MEMBER TURNER:** I don't know how everybody
5 else feels about it.
6 **MEMBER KURITZ:** Yeah, I -- I agree that we
7 made a deal and it's not that old, and as far as the
8 standards, we were kind of making the standards or
9 negotiating the standards for these as they came up,
10 so this wasn't something 20 years old or whatever.
11 And so, you know, if we negotiated them and staff is
12 comfortable with them, I am.
13 **CHAIRMAN FINNIGAN:** What are you looking
14 at me for?
15 **MEMBER SCRITCHLOW:** I thought if other
16 people have opinions.
17 **MEMBER ZIMMERMAN:** I think Mr. Scritchlow
18 brought up the statement that we would stipulate now
19 that we would either have the more stringent of our
20 county standards or the state standards. I don't
21 want to spend a lot of time parsing the differences
22 from there, but we would -- the new motion I would
23 suggest has phrasing to the extent that we want the
24 more stringent of either one of those standards.

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1 **MEMBER TURNER:** They have to do the AIMA,
2 I mean that's not an option, so what Mr. Scritchlow
3 is asking is that they also do the county on top of
4 the AIMA.
5 **CHAIRMAN FINNIGAN:** Well, if you're going
6 to want to get it, now is the time because they've
7 already been approved, you know, they want this, but
8 I don't know if that's the right thing to do because
9 they're just asking for an extension and that's I
10 think what they came here tonight for, not to have
11 us change the rules, asking for the extension, but I
12 guess they would have the option to move it up and
13 go by the old rules is what you're saying. So I
14 don't know. I mean it's like we kind of might go
15 back on our word here.
16 **MEMBER NOVOSAD:** Well, how different is
17 our county rule versus the state rule?
18 **CHAIRMAN FINNIGAN:** It's a money thing I'm
19 pretty sure.
20 **MEMBER NOVOSAD:** Of significance? It's
21 just a timing of the --
22 **MEMBER TURNER:** It's timing. We're asking
23 for \$25,000 up front.
24 **MEMBER NOVOSAD:** Up front rather than --

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1 **MEMBER TURNER:** Right.
2 **MEMBER NOVOSAD:** -- over a staggered --
3 **MEMBER TURNER:** Over a staggered period,
4 right, and which is -- you know, we're asking for
5 that money before they go through financing, because
6 they have to have a building permit that's approved
7 before they can get financed on this type of stuff.
8 This is all things we learned as we went along,
9 so --
10 **MEMBER NOVOSAD:** Well, I am a little
11 nervous that, you know, like the county board has
12 approved these ordinances and then we're just --
13 we're kind of at the first crack out of the box,
14 we're setting them aside, but I think this is a
15 special case. But as long as we're comfortable that
16 we are protected, then I would have no problem with
17 the original agreement.
18 **MEMBER KURITZ:** Well, technically the
19 county board approved this agreement.
20 **MEMBER NOVOSAD:** Yeah.
21 **MEMBER KURITZ:** And then they came -- and
22 then we put together recommendations and a -- and
23 the zoning was changed to the current rules. So the
24 county board has agreed with the agreement that's in

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1 place as we sit right now, so we're not really
2 countermending what they've already agreed to in my
3 opinion.
4 **MEMBER ZIMMERMAN:** Another aspect is that
5 if we go to 25,000 or whatever and this a \$4 million
6 project, we're talking about two-thirds of 1 percent
7 versus the fractional difference is not maybe
8 two-thirds of 1 percent but maybe five-eighths of 1
9 percent, so we're not talking -- we're not talking
10 about a very big difference here. This isn't pocket
11 change even.
12 **MEMBER SCRITCHLOW:** If memory serves me
13 correct, the reason that this got approved first and
14 then we came up with our ordinances is we didn't
15 have robust ordinances that had to do with this, so
16 things were happening faster than we could put the
17 tools in place, so I kind of feel like now that
18 we've got the tools we probably should use them,
19 thank you.
20 **CHAIRMAN FINNIGAN:** I think I have a
21 feeling that we might have more of these come up
22 because, you know, they were all on a two year deal,
23 right?
24 **MR. DICK:** Yeah, the special use expires

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1 after two years.
2 **CHAIRMAN FINNIGAN:** So what we do tonight
3 is going to make a difference from now on.
4 **MEMBER TURNER:** Yes and no, because the
5 chances of the lottery happening before that two
6 years is up --
7 **CHAIRMAN FINNIGAN:** Well, if the lottery
8 is approved though.
9 **MEMBER TURNER:** I think they'll have to do
10 the whole process again.
11 **CHAIRMAN FINNIGAN:** But more than likely
12 if they know a lottery is coming up they're going to
13 come back and not let this permit run out, so
14 they're going to be coming back stepping up at two
15 years, you know, ahead of that. So I think even if
16 they don't have a lottery, they're not going to want
17 to give up their permits.
18 **MEMBER NOVOSAD:** So how many permits do we
19 have outstanding?
20 **MR. DICK:** In the neighborhood of 15.
21 **MEMBER ZIMMERMAN:** As far as the permits,
22 they can go ahead and do the project, it's just they
23 don't get the subsidy, isn't that it?
24 **MR. DICK:** Yes.

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1 **MEMBER ZIMMERMAN:** I think so. So you can
2 do a project, you can do a project even if you
3 didn't win the lotto I believe. I can't address
4 them probably. But the problem is is that you don't
5 want to do it because you don't get the tax subsidy.
6 Like all the wind farms, they would typically get
7 the permits because they could get the tax credits.
8 **MEMBER KURITZ:** Yeah, but you've got to
9 have a deal with Ameren or somebody to sell the
10 electricity to.
11 **MEMBER ZIMMERMAN:** Got to make money or
12 you're not going to get financing.
13 **MEMBER KURITZ:** Yeah, and without --
14 without a contract, how are you going to build them?
15 **CHAIRMAN FINNIGAN:** I think they have --
16 they're going to have to deal with Ameren before
17 they come to us.
18 **MEMBER ZIMMERMAN:** Yeah.
19 **CHAIRMAN FINNIGAN:** So I mean that's -- I
20 mean they've got to know they can sell this
21 electricity.
22 **MEMBER TURNER:** But the real question is
23 do we want them all to be consistent and go with the
24 \$25,000 when they apply, you know, when we give them

1 the permit, or do we want to honor our initial
2 agreement as they got it approved and deal with the
3 differences as they come? That's what we're looking
4 at. We can't predict the future on who's going to
5 come and who's not, but do we want to update
6 everything to the 25,000, which would include this
7 one, or do we want to honor our initial agreement?
8 That's the question.

9 **MEMBER SCRITCHLOW:** I don't think we're
10 not honoring our initial agreement. They just need
11 to pull their permit and get rolling by February
12 which was our initial agreement. We're not changing
13 the original agreement on them. If they do what's
14 in it, we held up our end and so did they.

15 **CHAIRMAN FINNIGAN:** They're the ones that
16 asked for an extension. They didn't -- they weren't
17 able to fulfill it within the time frame allotted.

18 So you're right, I mean it's --

19 **MEMBER TURNER:** Okay.

20 **MEMBER ZIMMERMAN:** I'm up for the new
21 standard the county has. I think that's --

22 **CHAIRMAN FINNIGAN:** I think the more you
23 think through this thing --

24 **MEMBER ZIMMERMAN:** Yeah.

1 **CHAIRMAN FINNIGAN:** -- that is probably --

2 **MEMBER ZIMMERMAN:** Not much different.

3 **CHAIRMAN FINNIGAN:** -- that is probably
4 the way to go. I mean I wasn't that way a minute
5 ago, a few minutes ago, but I'm being drug in a
6 direction; that I think that it's nice to have a
7 county board member, ex-county board member here to
8 tell us what happened, you know, so I appreciate
9 what you did there. You know, you went to a lot of
10 work. Were you on that committee?

11 **MEMBER SCRITCHLOW:** (Nods head).

12 **CHAIRMAN FINNIGAN:** Yeah, so it's like a
13 slap in his face if we don't do this.

14 **MEMBER ZIMMERMAN:** And I think we have a
15 new standard. So a couple years ago we didn't have
16 that standard, now we have this standard, so I think
17 we've got to meet the new county standard, sorry.
18 If the old deal was there, whether it's better or
19 worse, whatever, we have to meet the new standard
20 because we're here in 2019 at the end of the year,
21 so we now have a new standard. For better or for
22 worse, I think we have to apply that new standard to
23 this.

24 It's essentially the same deal, yeah, with

1 the extension. Yeah, I like the extension, I liked
2 what we were doing before, and now we've got a
3 slightly new standard, and the difference is not
4 really very big.

5 **MEMBER TURNER:** So now we just need a
6 motion and then we'll vote on what people feel with
7 that.

8 **MR. NOVACK:** It wouldn't be appropriate
9 for me to talk at this point in time?

10 **MEMBER TURNER:** No.

11 **CHAIRMAN FINNIGAN:** We'd have to reopen
12 the case. I don't know, if you think it's
13 appropriate. There's nobody here. It's not going
14 to take a big thing to do that. What -- how do we
15 go through that?

16 **MEMBER ZIMMERMAN:** Ask Trevor.

17 **MR. DICK:** I don't think you want to do
18 it.

19 **CHAIRMAN FINNIGAN:** He says we can't do
20 it.

21 **MR. NOVACK:** Okay, that's fine, I was just
22 curious.

23 **CHAIRMAN FINNIGAN:** Okay. So I don't
24 know, I mean we've already talked about the

1 standards, I don't think -- I'm like you, I don't
2 think we need to go through the standards. The
3 standards have already been met once. So now we're
4 talking about the extension and stipulation on the
5 extension. I believe that's the way the motion
6 would be; is that right?

7 **MR. DICK:** Yeah.

8 **MEMBER ZIMMERMAN:** I move that we
9 extend -- that we approve Case Number SU-19-13 with
10 the new standard for the remediation.

11 **MEMBER SCRITCHLOW:** I'll second that.

12 **CHAIRMAN FINNIGAN:** So we have a motion by
13 Zimmerman, second by Scritchlow. Can we have a roll
14 call vote?

15 (Roll call taken with all board members
16 responding affirmatively.)

17 **CHAIRMAN FINNIGAN:** Okay, I think Phil can
18 tell you what happens from here out.

19 **MR. DICK:** It goes to the county board for
20 a final decision two weeks from tonight.

21 **MR. STREICKER:** Thank you.

22 **MR. NOVACK:** Thanks.

23 (Adjourned at 9:08 p.m.)

24

1 STATE OF ILLINOIS)
2 COUNTY OF FORD)SS
3)

4 I, June Haeme, a Notary Public in and for
5 the County of Ford, State of Illinois, do hereby
6 certify that the following public hearing was taken
7 at the McLean County Government Center, 115 East
8 Washington Street, Bloomington, Illinois, on
9 December 3, 2019.

10 That the said public hearing was taken
11 down in stenograph notes and afterwards reduced to
12 typewriting under my instruction and that the
13 transcript is a true record of the testimony given.

14 I do further certify that I am a
15 disinterested person in this cause of action; that I
16 am not a relative, or otherwise interested in the
17 event of this action, and am not in the employ of
18 the attorneys for either party.

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand and affixed my notarial seal this 9th day of
21 December, 2019.

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JUNE HAEME, CSR
NOTARY PUBLIC

"OFFICIAL SEAL"

June Haeme
Notary Public, State of Illinois
My Commission Expires:
September 28, 2020

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