

**In The Matter Of:**  
*McLEAN COUNTY ZONING BOARD OF APPEALS*

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*WIND FARM*  
*January 30, 2018*

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**Min-U-Script® with Word Index**

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1                   McLEAN COUNTY ZONING BOARD OF APPEALS  
 2                   MEETING  
 3                   DELIBERATIONS  
 4                   TUESDAY, JANUARY 30, 2018  
                       7:00 P.M.  
 5                   at  
 6                   McLean County Government Center  
                       115 East Washington Street  
                       Bloomington, Illinois  
 8                   Case Number SU-17-11  
 9  
 10                  BOARD MEMBERS PRESENT:  
                       Brian Bangert  
 11                  Chris Carlton - 1st Alternate  
                       Rick Dean  
 12                  James Finnigan - Chairman  
                       Michael Kuritz  
 13                  Mary Beth Taylor - 2nd Alternate  
                       Julia Turner  
 14                  Drake Zimmerman  
 15  
 16                  ALSO PRESENT:  
 17                  Philip Dick, Director of Building and Zoning  
                       Samantha Walley, Assistant State's Attorney  
                       Jerry Stokes, County Engineer  
 18  
 19                  Holly Wingstrom, RPR, CRR, CSR #84-03888  
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 22  
 23  
 24

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1                   (COMMENCING AT 6:02 P.M.)  
 2                   **CHAIRMAN FINNIGAN:** We are going to call  
 3 the McLean County Zoning board open.  
 4 Will the secretary call the roll call?  
 5                   **MR. DICK:** Judd?  
 6                   Bangert?  
 7                   **MR. BANGERT:** Here.  
 8                   **MR. DICK:** Kuritz?  
 9                   **MR. KURTIZ:** Here.  
 10                  **MR. DICK:** Dean?  
 11                  **MR. DEAN:** Here.  
 12                  **MR. DICK:** Turner?  
 13                  **MS. TURNER:** Here.  
 14                  **MR. DICK:** Zimmerman?  
 15                  **MR. ZIMMERMAN:** Here.  
 16                  **MR. DICK:** Finnigan?  
 17                  **CHAIRMAN FINNIGAN:** Here.  
 18                  **MR. DICK:** Carlton?  
 19                  **MS. CARLTON:** Here.  
 20                  **MR. DICK:** Taylor?  
 21                  **MS. TAYLOR:** Here.  
 22                  **CHAIRMAN FINNIGAN:** We have a quorum plus  
 23 one. Actually, a quorum for us is five. But at all  
 24 these meetings you'll notice we've had eight

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1 members, and just in case somebody got sick we would  
 2 have at least seven at closing. So, Mary Beth has  
 3 done very well. She hasn't asked any questions and  
 4 been here observing. But we had to have her if we  
 5 wanted to have seven at the end possibly. I just  
 6 wanted to make that point to you.  
 7                   **MR. ZIMMERMAN:** Thank you, Mary Beth.  
 8                   **CHAIRMAN FINNIGAN:** Yeah, thank you for  
 9 coming and thank you for being here.  
 10                  Last night we kind of got out of order a  
 11 little bit with clapping and stuff. We do not allow  
 12 that here. I didn't say too much to you last night  
 13 because I just didn't want to make a big deal out of  
 14 it, but tonight -- we have been very respectful to  
 15 you. You have told us all your information. We  
 16 will be deliberating tonight on this case, and the  
 17 audience has to be quite. We have to hear what we  
 18 are doing. If it gets out of hand, we will do  
 19 something more to take care of the problem. I don't  
 20 want to do that, but we are prepared to. So just  
 21 let us talk, and we'll get to a point here  
 22 eventually.  
 23                  So we were at the point last night  
 24 everything was closed and we are down to

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1 deliberation, if you haven't been here.  
 2                  I am going to open it up to the board to  
 3 bring out points that they want to talk about, and I  
 4 think there might be a few questions.  
 5                  **MS. TURNER:** I have a couple of questions  
 6 of staff, if I could put those out there.  
 7                  Are there any current wind farms that are  
 8 truant on taxes or behind on taxes?  
 9                  **MR. DICK:** No. They are all paid up  
 10 today.  
 11                  **MS. TURNER:** Okay. At this point have --  
 12 I don't think the wind farms have been around long  
 13 enough, and I am not even sure that we handle any  
 14 decommissioning money, but do we have any  
 15 decommissioning money in escrow?  
 16                  **MR. DICK:** In the previous wind farm  
 17 cases, the escrow was handled by the property owners  
 18 themselves and the county was not involved.  
 19                  **MS. TURNER:** Okay. But due to the new  
 20 agricultural agreement, we are involved in this one?  
 21                  **MR. DICK:** Correct.  
 22                  **MS. TURNER:** In the past, was it necessary  
 23 -- I know under our current agricultural agreement  
 24 we have to be -- the county has to be notified if a

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1 wind farm is sold. In the past, have we been  
 2 notified if a wind farm is sold?  
 3 **MR. DICK:** Our office has not been  
 4 notified when they sold, when it sold a wind farm.  
 5 **MS. TURNER:** And then is there any need --  
 6 when a wind farm is sold, the decommissioning funds,  
 7 I assume that that transfers to the new company; but  
 8 is that understood in the contract or is there a  
 9 need for us to stipulate when it's sold?  
 10 **MR. DICK:** Well, in our ordinance they are  
 11 required to pass with the property. So if it gets  
 12 sold or it gets assigned to someone else, the  
 13 obligation goes with it.  
 14 **MS. TURNER:** Thank you.  
 15 **MR. ZIMMERMAN:** I had one, too. On the  
 16 archeology, somebody brought up the archeology  
 17 somewhere along the way, and I think that's assumed  
 18 in our statute that, if there is a significant  
 19 archeological site that is discovered in the area,  
 20 they have -- part of the plan that is really outside  
 21 of what we do is part of the overall process, you  
 22 have an archeologist submit a report. If there is a  
 23 significant site, they just basically have to ignore  
 24 that site; is that correct?

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1 I am trying to figure out if it's  
 2 something that we have to say or, if there were  
 3 something like that, that it's just automatic.  
 4 **MR. DICK:** It has to do with the historic  
 5 preservation report, and they are under a  
 6 consultation with them, and they have to continue  
 7 that as part of -- that would be one of the  
 8 conditions that were attached to it that they  
 9 continue their consultation of historic preservation  
 10 and satisfy that requirement.  
 11 **CHAIRMAN FINNIGAN:** Yeah. That's one of  
 12 the requirements that really is outside of -- we  
 13 don't have to discuss that here because, if they  
 14 don't pass it, it doesn't -- it wouldn't work.  
 15 **MR. DICK:** Yes.  
 16 **CHAIRMAN FINNIGAN:** Of the two wind farms  
 17 that are already in McLean County, has there been  
 18 any complaints, since they have been running, one  
 19 way or another? I mean any kind of thing on record?  
 20 **MR. DICK:** We did have issues with them  
 21 during construction, and you didn't really ask about  
 22 that. And we would deal with the contractors if  
 23 there were issues with transportation or if  
 24 somebody's road was messed up or somebody's driveway

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1 wasn't accessible, we would work with the  
 2 contractors to try to get them help, get the owners  
 3 help with that regard.  
 4 But with respect to complaints of the wind  
 5 farm since they have been operational, we received  
 6 complaints about the transformers at the transform  
 7 station with the wind farm out east, but we have not  
 8 received noise complaints from the turbines  
 9 themselves.  
 10 **CHAIRMAN FINNIGAN:** Thank you.  
 11 **MR. DEAN:** How many township roads are  
 12 affected with this project?  
 13 **MR. STOCKS:** I don't know the exact number  
 14 on township roads. I think at one time it was like  
 15 70 miles of township roads, and we are looking at  
 16 like 21 miles of county highways.  
 17 **MR. DEAN:** How many commissioners are  
 18 involved?  
 19 **MR. STOCKS:** Five.  
 20 **MR. DEAN:** Are they all up to speed with  
 21 the agreements in place and they have all signed off  
 22 on them?  
 23 **MR. STOCKS:** The township road agreement  
 24 has not been submitted or signed off on by the road

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1 commissioners at this time. I think the applicant  
 2 has reached out to the majority of the road  
 3 commissioners, but there has been no agreement in  
 4 place.  
 5 **MR. DEAN:** Is that coordinated through the  
 6 county or is that individual on their own?  
 7 **MR. STOKES:** They are individuals on their  
 8 own, but we are offering any advice or any  
 9 suggestions that we might have.  
 10 **MR. ZIMMERMAN:** Went spent like 17  
 11 hearings going over our new rules back in November.  
 12 I think it was 17. I've repressed the memory  
 13 because I think I was leading that. And then we had  
 14 it given back to us and we went over a bunch more.  
 15 We have these new, our own use regulations, and that  
 16 is what we are basing any analysis on? That's  
 17 correct, we don't have any outside standards beyond  
 18 our own ordinances and what we referenced?  
 19 **MR. DICK:** We, in the past, have not had  
 20 such specific regulations and basically recommended  
 21 more stipulations based on testimony and what we  
 22 found at the public hearing and based on what we had  
 23 experienced in the past and recommendations from  
 24 what was then known as the Chicago Legal Clinic, but

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1 some of the standards that were in the staff report  
 2 were thought to be added to what was actually  
 3 required in the ordinance.  
 4 **MR. ZIMMERMAN:** So the 17 nights that we  
 5 put in has shortened this from -- maybe one of the  
 6 last ones was much longer than this. So we haven't  
 7 actually had maybe had some benefit from this.  
 8 We'll see how many -- if anything, comes through,  
 9 we'll see how many stipulations we have here. I  
 10 think it was 37 stipulations for the last one,  
 11 something like that. So we'll see how well our  
 12 ordinance works.  
 13 **MR. DEAN:** One thing I would like to do  
 14 this evening, Chairman, is go through the DNR  
 15 report. Does the staff have that in front of them?  
 16 **MR. DICK:** Yes.  
 17 **MR. DEAN:** Can we go through those one by  
 18 one and talk about that and the response? Does  
 19 everyone have that as well?  
 20 **CHAIRMAN FINNIGAN:** We've got that.  
 21 **MR. DICK:** Did you want to go through the  
 22 recommendations? Is that what you are thinking?  
 23 **MR. DEAN:** Actually, I am a little fuzzy  
 24 on -- I have Invenergy's reply to the

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1 recommendations, and I think Invenergy has modified  
 2 their recommendations as we moved along here  
 3 somewhat, so I want to get clear on what Invenergy  
 4 has modified and what they haven't.  
 5 **MR. DICK:** I think what their final  
 6 recommendation was or agreement was included in that  
 7 set of stipulations that Mr. Griffin submitted  
 8 yesterday I believe it was, and I think you have a  
 9 copy of that.  
 10 **MR. DEAN:** Yep. I'll find it.  
 11 **MR. DICK:** If you need, we can make  
 12 additional copies.  
 13 **MR. DEAN:** I was thinking maybe we could  
 14 just go over that document. I don't have the one  
 15 from last night.  
 16 **MS. WALLEY:** It's Exhibit 20 I think.  
 17 **MS. TURNER:** So it's point number 6 on  
 18 Exhibit 20 that we are looking at?  
 19 **MR. DEAN:** Yes.  
 20 **MS. TURNER:** So they have agreed to slow  
 21 the turbines for the bats on recommendation  
 22 number 1, to curtail turbine operations below wind  
 23 speeds of 5 meters per second during the period from  
 24 July 15 to October 15 to conserve endangered,

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1 threatened, and non-endangered bats? They have  
 2 agreed to that?  
 3 **MR. DEAN:** Correct. Uh-huh.  
 4 And then, on recommendation number 5,  
 5 where it's 500 feet from perennial stream, they have  
 6 one tower that is closer than that. Am I correct in  
 7 thinking that way?  
 8 **MR. DICK:** Yes. It's Number 91, and it is  
 9 approximately 300 feet.  
 10 **MR. KU RITZ:** Our ordinance, from what I  
 11 read, said that basically, unless there was --  
 12 unless the applicant presented evidence as to why  
 13 they shouldn't follow the IDNR recommendations, that  
 14 our ordinance says that they should follow them.  
 15 So just because they can't move and get it  
 16 into the proper location because of FAA and the  
 17 1500-foot setback and everything, I would say that  
 18 Number 91 needs to go away.  
 19 **MS. TURNER:** I would agree with  
 20 eliminating 91. It's right on the edge of the  
 21 floodplain, it's near Heinlein Creek, and it's one  
 22 that is contributing to a nearby home's energy level  
 23 that is in the top five there. So I just think  
 24 eliminating that one would solve a lot of issues

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1 there.  
 2 **MR. ZIMMERMAN:** I would agree with that.  
 3 **MR. BANGERT:** We have another one that is  
 4 on the edge of the DB, too. Is it Number 90.  
 5 **CHAIRMAN FINNIGAN:** Was that something  
 6 that staff was going too look into, whether it was  
 7 really a DB or not?  
 8 You wouldn't be able to build on a DB  
 9 anyway. Correction that is 99.  
 10 **MR. DICK:** Any of them that are in the  
 11 floodplain, we would have to verify. You couldn't  
 12 really tell it with the scale of the map that they  
 13 have whether they are in the DB or not; and we would  
 14 require them to verify that it's not in the  
 15 floodplain before we issue a permit.  
 16 **MR. KURITZ:** But 91 is only 300 feet from  
 17 one of the perennial streams. That would be  
 18 Number 91. That would be why I would recommend that  
 19 it if it can't be -- if it can't be moved because of  
 20 the other regulations, then it should be moved, too,  
 21 because it can't comply with the IDNR  
 22 recommendations.  
 23 **MR. ZIMMERMAN:** Yeah, I think we -- our  
 24 rules are that we have to hear credible evidence.

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1 And I am not sure we heard any evidence other that  
 2 it's really tough to move, and I don't consider that  
 3 credible evidence, why we would keep it.  
 4 It's close to the Heinlein Creek, which we  
 5 have evidence that is part of the -- part of the --  
 6 well, part of the IDNR recommendation, that goes for  
 7 one. Plus, we've got evidence that it's part of the  
 8 Illinois Natural Areas inventory as a really  
 9 high-quality area. So I don't see -- the credible  
 10 evidence that we got is that we don't want to have a  
 11 turbine within 500 feet of that or disturbing the DB  
 12 in any way. So I think eliminating it makes good  
 13 sense.  
 14 **MS. TURNER:** And I think we are a little  
 15 ahead of the game there as far as, should we approve  
 16 this, it would be eliminated.  
 17 **CHAIRMAN FINNIGAN:** That was the point I  
 18 want to make. We are talking about this. We are  
 19 only talking about it if it was actually approved.  
 20 This is the recommendation if it went to the  
 21 approval process, and we kind of need to separate  
 22 that out. We haven't gone through our standards  
 23 yet.  
 24 **MS. TURNER:** And then the only other

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1 recommendation that they are not in complete  
 2 compliance with, if 91 would be eliminated, would be  
 3 on number 2 they have agreed to study for one year  
 4 rather than three.  
 5 And, again, I am in agreement. If we are  
 6 going to -- if we say meet the regulations, I don't  
 7 feel that they have provided any actual proof. They  
 8 have said that, through their experience, this is  
 9 what they have found; but I haven't seen any studies  
 10 that show that.  
 11 **MR. ZIMMERMAN:** Yeah. They brought  
 12 experts in, and we don't have any credible evidence.  
 13 Like, what gives? If you want to do something, give  
 14 us evidence. And, otherwise, follow -- if we were  
 15 to approve this, we want to follow the IDNR  
 16 regulations.  
 17 Also, part of the reason we as a board are  
 18 able to call people up to get a little more  
 19 information -- and we called up Dr. Angelo  
 20 Capparella. Well, he's a bird man, and maybe not a  
 21 bat man, if I dare say that. He said the studies  
 22 don't cost that much to do. It's not a huge burden,  
 23 on them, so it's like why protest something if it's  
 24 not going to cost you much?

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1 In fact, if this were to be approved, I  
 2 would suggest that we rather insist and maybe  
 3 specify that they do a three-year study on whatever  
 4 wild life is necessary there because (1) it's not  
 5 going to cost them a whole lot, and (2) it will show  
 6 everybody yea or nay, and they'll find a bunch of  
 7 recommendations and all the researchers will get a  
 8 bunch of papers to print and publish while they are  
 9 at it. So very little burden and a whole lot of  
 10 gain for all concerned if we went ahead and approved  
 11 that. I see no credible evidence to not study this.  
 12 **CHAIRMAN FINNIGAN:** It kind of seemed  
 13 like, too, that maybe we might see some ISU students  
 14 looking for a project and maybe it wouldn't cost  
 15 much to get this done. I would like to seem them  
 16 get together and maybe help each other in that  
 17 regard.  
 18 **MR. KURITZ:** So, to basically simplify it,  
 19 to go forward, they have agreed to everything else  
 20 and we are basically saying that they have to concur  
 21 with or they have to follow all of the IDNR  
 22 regulations?  
 23 **CHAIRMAN FINNIGAN:** We can make that, if  
 24 that is the board's choice, to be part of the final

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1 thing.  
 2 **MR. ZIMMERMAN:** And I think we have the  
 3 cart in front of the horse, but it's important to go  
 4 through whatever we want to go through here.  
 5 **CHAIRMAN FINNIGAN:** Well, we got to start  
 6 somewhere, and it's up to you guys to start wherever  
 7 you want to start. It's kind of what we talked  
 8 about, is people talk about what they have had. I  
 9 think Drake has something he wants to talk about  
 10 possibly and then maybe everybody just join in.  
 11 **MR. BANGERT:** I would like to discuss some  
 12 of Dr. Schomer's findings and some of his testimony  
 13 about setbacks and the research that is incredibly  
 14 dated.  
 15 I know that there's an ordinance in place  
 16 for setbacks, but at some point it's like any  
 17 document, every once in a while they need to be  
 18 updated, and at what point can we make that happen  
 19 because that could drastically change some of the  
 20 locations.  
 21 **MS. TURNER:** Are you talking about the  
 22 Illinois Pollution Control Board recommendations as  
 23 far as sound goes and sound limitations? Is that  
 24 what you are talking about?

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1 **MR. BANGERT:** And ZBA.  
 2 **MS. TURNER:** Okay. But we were just  
 3 talking about we went through those and we did  
 4 update ours in the last -- you know, in the last  
 5 year. We sat down and went through that.  
 6 Dr. Schomer talked about the Illinois  
 7 Pollution Control Board being -- their limits being  
 8 done in 1968 and that they didn't know that there  
 9 were going to be windmills at that time.  
 10 My feeling there -- is that what you  
 11 wanted to talk about?  
 12 **MR. BANGERT:** Yeah.  
 13 **MS. TURNER:** My feeling there is that  
 14 there are windmills now, a lot of windmills, in  
 15 Illinois. The Illinois Pollution Control Board is  
 16 still in existence, and they haven't done anything  
 17 to change those.  
 18 We just went through saying that IDNR are  
 19 the experts where this is concerned and that we're  
 20 bowing to what they recommend.  
 21 I have trouble. I am not saying I  
 22 couldn't be convinced, but I have trouble based upon  
 23 what I've heard so far overriding the Illinois  
 24 Pollution Control Board's recommendations and

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1 stipulations thereto.  
 2 As much as I've gone through Dr. Schomer's  
 3 testimony and his paper that we've received, I  
 4 haven't heard anything conclusive and I haven't seen  
 5 anybody grab hold of it and change regulations from  
 6 it. He said there needs to be more studies done on  
 7 these things, and I am not saying there shouldn't  
 8 be, but I just didn't see any real information that  
 9 would change my mind, but I am very willing to  
 10 listen.  
 11 **MR. ZIMMERMAN:** I think we set out the  
 12 Illinois Pollution Control Board standards as our  
 13 standard, and I think there is a case for somebody  
 14 to go before the Illinois Pollution Control Board  
 15 and say, hey, reset these standards or do whatever  
 16 it is, and I think as we get information we can  
 17 adjust even our own standards here like -- I forgot,  
 18 but I could pull out what section it is -- this says  
 19 our McLean County Board standard is the Illinois  
 20 Pollution Control Board. I mean I am sorry if that  
 21 is really wrong, but we worked our butts off to get  
 22 our -- to find out what the right standard was and  
 23 that is what we adopted. Yeah, there may be new  
 24 information out here, both on -- that may not be

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1 right, maybe too high, maybe too low.  
 2 The other thing that is coming out and we  
 3 are right on the cutting edge of all this is that  
 4 they are the low-trailing edge or whatever it is of  
 5 things. Our old standards were lower -- lower what?  
 6 Lower megawatt and smaller turbines, and we didn't  
 7 have these low-noise blades. And with all these  
 8 innovations coming out, we may have to adjust at  
 9 some point. So I am willing to adjust on the fly as  
 10 we go through this. But we are sort of -- yes, both  
 11 you guys have really valid points here. And if we  
 12 do find they don't fit, we can adjust our findings  
 13 accordingly, if we get that far.  
 14 **MR. KURITZ:** I don't disagree with the  
 15 Illinois Pollution Control Board standards as they  
 16 sit. I guess what I had an issue with was  
 17 Mr. Hankard's report. He explained to us why he did  
 18 the 2-decibel deduction. He never gave us any data  
 19 that said, hey, look, I had this farm, this farm,  
 20 and this farm that I did after or went back and  
 21 verified and found that we were -- that my model was  
 22 2 decibels or 3 decibels too high. He just said, in  
 23 my experience, and basically trust me that we ought  
 24 -- that he was going to take that out.

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1 So my thoughts are that we need to take  
 2 those 2 decibels and put them back in, because we  
 3 have had no credible evidence, and have them  
 4 recalculate with the 2 decibels back in. And  
 5 anything that doesn't match the IDNR decibels --  
 6 **MR. DEAN:** The Pollution Control Board?  
 7 **MR. KURITZ:** Yes. I get too many of the  
 8 acronyms.  
 9 Anyway, the Pollution Control Board  
 10 standards. And basically in that 1500 megahertz is  
 11 where most of it is happening.  
 12 I went through the revised report this  
 13 afternoon and basically, if you add 2 back in, then  
 14 there's 32 sites that will be at 40 decibels or over  
 15 at the foundation.  
 16 Now, one other area that we have a problem  
 17 between our -- between our standards and the  
 18 Illinois Pollution Control Board is the Illinois  
 19 Pollution Control Board says that you do it at the  
 20 property line. Our standards say that we do it at  
 21 the foundation line. And I think their standard for  
 22 at nighttime is 41 decibels. I may be wrong. I am  
 23 suggesting that anything below it has to be 40 or  
 24 below. That would take into consideration some of

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1 that area between their standard and our standard  
 2 and be a little more conservative.  
 3 The other thing we heard was that the ISO  
 4 that they are using on this model, that it was plus  
 5 or minus 3 decibels on that. So, if it's that  
 6 wishy-washy, I think we need to err on the  
 7 conservative side towards the nonparticipating or  
 8 non-compensated public.  
 9 **MR. ZIMMERMAN:** We are arguing about a  
 10 model to boot. It wasn't like we went out and could  
 11 do this. So what we are talking about is a model of  
 12 a model and our arguments with the model one way or  
 13 another. So we get a bunch of academics in here and  
 14 we would have a pretty good time here getting  
 15 entertained by Dr. Schomer and the other folks going  
 16 over this, but I am not sure -- we got to make some  
 17 decisions on the data.  
 18 **MR. KURITZ:** Like I said, the 32 sites  
 19 that would be over 40, and if you go to 41 there is  
 20 7. So it's not like it's half of the turbines even.  
 21 It's not even -- doesn't even get to a third of  
 22 them. It comes close.  
 23 **CHAIRMAN FINNIGAN:** Kind of makes you  
 24 wonder if you went through all low -- the other

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1 blades, whatever you call them, the acronym for it,  
 2 but the low-trailing blades that are quieter, would  
 3 it change the noise level to a point? It seemed  
 4 like they were resistant to put those in. I don't  
 5 know for sure if they are not as efficient of a  
 6 blade. It doesn't really matter. But if they used  
 7 all of those, would they meet a standard better?  
 8 One of my thoughts was, if it would be  
 9 approved, you know, just the same thing as you are  
 10 saying, possibly to err on the side of being more  
 11 conservative but making sure that they used all of  
 12 the best blades we could get.  
 13 **MR. KURITZ:** Unfortunately, the data that  
 14 we were given does not relate to where the receptor  
 15 is. You don't know which turbines are there, so you  
 16 can't go back and see if they have got the trailing  
 17 or the low-trailing noise blades figured for those  
 18 or not.  
 19 **MR. ZIMMERMAN:** Do they have any low-noise  
 20 trailing edges in there?  
 21 **MR. KURITZ:** Yes. I think there is only  
 22 27 that don't have.  
 23 **MR. ZIMMERMAN:** Then there are only 27 in  
 24 this A10 whatever up to 500. It was really hard to

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1 figure out which blade they were talking about.  
 2 **MR. KURITZ:** The other thing is, is the  
 3 other alternative is go to the 2.3 because it comes  
 4 down a little in height and in blade diameter or the  
 5 blade length. So, it seems as though the  
 6 information on it says that it's a little quieter  
 7 just itself. So I mean there is more than one way  
 8 to skin this cat it looks like to me.  
 9 **MR. ZIMMERMAN:** I think main society would  
 10 object to cats.  
 11 **MS. TURNER:** I did think -- I just want to  
 12 make sure that we are representing it correctly. I  
 13 did think Mr. Hankard put forth the California Ridge  
 14 Wind Energy Project as an example of where he  
 15 measured and where he used that to justify his  
 16 lowering it by 2 on the 1000 hertz, megahertz.  
 17 **MR. KURITZ:** Mr. Luetkehans, he used the  
 18 exact same study to show you that it didn't work,  
 19 and both of them make sense to some extent. None of  
 20 us are acoustic experts. And, again, that's why I  
 21 believe that we owe it to the public to err on the  
 22 conservative side here.  
 23 **MR. ZIMMERMAN:** On the California Ridge, I  
 24 don't remember that having the low-noise trailing

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1 edge blades out there. Do they?  
 2 And so the other thing -- well, aside from  
 3 finding it highly entertaining, it took them several  
 4 months in to say there is a 3-decibel variation on  
 5 this thing. It took them a long time to bring that  
 6 up.  
 7 If we have -- I don't know what the load  
 8 noise -- what the load-noise trailing edge blades  
 9 cut it down. Is it a little or a lot?  
 10 And then I thought the models that he ran  
 11 were from flat surfaces. Assuming flat surfaces,  
 12 not assuming porous surfaces, if anybody has been to  
 13 a gym or been on the river, I mean Mark Twain  
 14 commented and Huck Finn, in other stories, about how  
 15 noise travels over water or any hard surface. So as  
 16 far as erring on the thing of saying, gee, there is  
 17 going to be more noise, I think we might have --  
 18 might want to look at this and say, oh, it will be  
 19 on the low edge of that noise. And I don't know.  
 20 **MS. TURNER:** So are you saying you feel  
 21 Mr. Hankard was conservative?  
 22 **MR. ZIMMERMAN:** Yeah. I think he was  
 23 conservative because if it is a rough surface it's  
 24 going to dampen the noise quite a lot. Is quite a

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1 lot 3 decibels or 1 decibel? I really can't tell.  
 2 I am not a -- I am a financial analyst, but I am not  
 3 an engineer like that.  
 4 So I think that was conservative. But if  
 5 you have porous -- he said porosity -- but if you  
 6 got rough surfaces, it's going to dampen the noise.  
 7 The other thing is that, if we could  
 8 stipulate that instead of 1500 feet away from  
 9 someplace, like our statute said, we might specify a  
 10 longer distance, if we are going to mitigate that.  
 11 **MR. KURITZ:** He said that he used the flat  
 12 or the hard surfaces. I agree with that, and that  
 13 was his reason behind it. But he also stated that  
 14 that put him about 3 decibels ahead, 3 decibels more  
 15 conservative. He made that statement. I heard  
 16 that; it registered. So, if there is plus or minus  
 17 3 on the test to begin with, that baby zeroed out  
 18 anyway. So, if he's right on --  
 19 **MS. TURNER:** Or it's negative 6. I mean  
 20 it goes both ways, above or below.  
 21 **MR. KURITZ:** I understand it goes both  
 22 ways, but --  
 23 **MS. TURNER:** Right.  
 24 **MR. KURITZ:** But we have to be -- I think

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1 we have to look at worst case scenario, not best  
 2 case scenario, and the best case scenario would be  
 3 go to the minus. The worst would be to go to the  
 4 plus 3 and then you take off 2, and all of a sudden  
 5 you are at plus 5.  
 6 **MS. TURNER:** Could we examine the  
 7 California Ridge Energy Project, the information  
 8 where they were in disagreement where Mr. Hankard  
 9 said? And I don't remember. That is why I am  
 10 asking exactly where that was. Yours is all marked  
 11 up, Drake. I am hoping you have it in there.  
 12 **MR. ZIMMERMAN:** Uh-huh.  
 13 **MS. TURNER:** Where they pointed to the  
 14 evidence that they pointed to as to why they could  
 15 and why they could not use that as a reason to  
 16 reduce.  
 17 **MR. ZIMMERMAN:** Number 7 on page 44, in  
 18 summary note -- this is this big one, SOG 3. "Big  
 19 honker" is our technical term.  
 20 In summary: Note: Turbine-only noise  
 21 level exceeds the IPCB, Illinois Pollution Control  
 22 Board, standards or limits. And the average of the  
 23 turbine-only noise levels measured when turbine  
 24 operations were at or near maximum, which is greater

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1 or equal to 14 RPMs and at 75 percent power or 45  
 2 decibels in the 500 hertz range, octave range, and  
 3 39 decibels in the 1000 hertz octave range. So none  
 4 of them exceed the 39 on the one and 45 on the  
 5 other. These levels are 2 decibels below the limits  
 6 of 47 and 41. So, if the limits are 47 and 41, I  
 7 don't know that is what that was.  
 8 **MR. KURITZ:** 47 is the daytime and 41 is  
 9 the night. I did some studying. Okay? Is it 28?  
 10 There was a chart on page 28 and 29. No, that is  
 11 not it. They are both on 28, and if you -- that was  
 12 running behind the line. They had drawn a line from  
 13 41 straight across there. I think that is where we  
 14 are at.  
 15 Anyway, if you draw a line that is  
 16 straight across from the 41 at the 1000 hertz,  
 17 you've got this whole group of them up there on the  
 18 right-hand side that are up in the 47, 48 range, and  
 19 that was what they were saying how does it tell you  
 20 to take 2 off.  
 21 **MR. ZIMMERMAN:** Now, there are 11 over  
 22 there, and that was at when the wind speeds are  
 23 above 5 meters per second. I don't know how that  
 24 relates in miles per hour.

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1 **MR. KURITZ:** I don't have that either.  
 2 Also, if you looked at the left, there is  
 3 at least one or two, if you take that 41 line  
 4 straight across, there's a few of them to the left  
 5 side where you've got the small that are over the 41  
 6 also. So that was -- that was their point, was that  
 7 this doesn't really prove not all of them are under.  
 8 So why would you take 2 away?  
 9 **CHAIRMAN FINNIGAN:** Well, if I remember  
 10 right, when he did his study on this one, he used  
 11 some of that information to try to verify it. But  
 12 he also said he does a model on everything he does,  
 13 and every model is tweaked the next time, for lack  
 14 of a word, to make sure that it gets better as it  
 15 goes. I don't know if that goes into this  
 16 information or not, but I think they are trying to  
 17 do the best they can. I am not sure. I mean I am  
 18 like you. We always have to err on the side of  
 19 safety. That has always been our policy, but I  
 20 don't want to do something that isn't right either.  
 21 It's a gray area.  
 22 **MS. TURNER:** I just want to point out that  
 23 on page 44, number 7, the written summary says: In  
 24 summary, no turbine-only noise levels exceed the

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1 IPCB level.  
 2 And what you -- what we just looked at is  
 3 turbines with residual traffic and wind. The blue  
 4 dots are not turbine-only noise levels. They  
 5 include the residual noise also.  
 6 I think there is one in here that includes  
 7 just the turbine, but that one is not it. We are  
 8 not comparing what he is talking about in .7 on this  
 9 chart and what I am looking at.  
 10 **MR. ZIMMERMAN:** Yeah. On page 28 there  
 11 are several yellow boxes. I am surprised they  
 12 didn't point to these things saying that non-turbine  
 13 noises on both of these charts are almost as high or  
 14 in the high range of the decibels that they are  
 15 trying to get. So a lot of them are close to the  
 16 around the 41 decibel range for both of them. So  
 17 just the non-turbine noise is in there that is  
 18 higher. If we were to put it together, that  
 19 non-turbine noise, like the truck going by and the  
 20 wind and the like.  
 21 And then they have turbine residual  
 22 traffic and wind, those they don't combine, but that  
 23 is where the blue dots come in. The blue dots are  
 24 everything combined apparently.

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1 Refresh my memory. How far away were  
 2 these studies done from the turbines?  
 3 **CHAIRMAN FINNIGAN:** I don't know.  
 4 **MR. KURITZ:** Somewhere in there, there is  
 5 a map that shows. I think one said like 1750 and  
 6 1300. And I am just pulling from memory because I  
 7 saw it this afternoon.  
 8 **MR. ZIMMERMAN:** They don't give the  
 9 distances.  
 10 **MS. TURNER:** It's they are measuring it  
 11 from the complainant's home. It doesn't state the  
 12 distances, but it is from the complainant's home. I  
 13 am sure it does state the distances somewhere, but I  
 14 have not seen it.  
 15 On page 11, it shows primary 1, primary 2.  
 16 Those are the locations that they are talking about,  
 17 the homes that they are talking about. And then it  
 18 lists the distance to the nearest turbine in feet.  
 19 **MR. ZIMMERMAN:** Which is 1400 feet to the  
 20 nearest turbine, primary 1, and 1500 feet to the  
 21 primary 2. So our standard is minimum 1500 feet.  
 22 **MS. TURNER:** What we are trying to decide  
 23 is was it a legitimate deduction of 2 decibel points  
 24 based upon -- this is one of the studies, and it may

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1 not be enough. I am not -- you know, I am not  
 2 saying that it is, but I just want to make sure we  
 3 are representing it correctly as we are talking  
 4 about it.  
 5 Mr. Hankard referenced this study as one  
 6 of the reasons that he took that off, so just based  
 7 upon that. But making sure that we are reading  
 8 everything correctly, we need to decide whether that  
 9 was legitimate or not.  
 10 **MR. DEAN:** If I recall, he was basing it  
 11 on this study, others, and his experience.  
 12 **MS. TURNER:** Correct.  
 13 **MR. ZIMMERMAN:** Yeah. The other part of  
 14 this study is that they have two turbines going off  
 15 at the same time, prime 1 and prime 2. So this is  
 16 not one turbine alone. This is two turbines. We  
 17 heard evidence that when you add turbines you  
 18 increase the noise.  
 19 So this particular study had higher --  
 20 would logically and would register from noise from  
 21 two turbines. So, therefore, it would be higher,  
 22 logically, and it does appear to be a little higher  
 23 there. So 41, that is two turbines together.  
 24 **MR. KURITZ:** Agreed.

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1 And this is discussion for another time,  
 2 not for this case, but maybe we need to have a  
 3 minimum distance and meet a decibel criteria at the  
 4 same time for future.  
 5 **MS. TURNER:** But we do have that. We have  
 6 a minimum distance as well as the Illinois Pollution  
 7 Control Board. And everything that he has presented  
 8 here they have used those guidelines to position  
 9 their current windmills.  
 10 What we need to decide is the model -- if  
 11 the model that they have used to position those is  
 12 what we feel is a legitimate model based upon what  
 13 he has told us, which is he felt he was conservative  
 14 because he used hard surface and, in addition, on  
 15 the 500 he subtracted 1. So I don't think anyone,  
 16 the opposition didn't even -- he added 1 on that,  
 17 and they didn't argue about that at all. It was the  
 18 1000 megahertz where he subtracted 1 -- subtracted  
 19 2, and whether that was legitimate or not.  
 20 **MR. KURITZ:** Once they threw in the plus  
 21 or minus 3 last night, that is when I kind of  
 22 changed my mind. Before that I was, okay, we were  
 23 on the conservative side because we figured the hard  
 24 surface and all that. But then, when I heard there

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1 was the plus or minus 3 and then there was also  
 2 another plus or minus that he agreed was in there  
 3 also. So, at that point in time, you know, we got  
 4 one study out of all these years and all these  
 5 studies and results, we got one, and both sides used  
 6 it and I can -- I don't know -- I am not 100 percent  
 7 qualified to say that I am reading this exactly  
 8 100 percent correctly either.  
 9 So, again, I am just saying, if they had  
 10 showed me two or three reports and said, here, look  
 11 at each of these times and not just one, I'd fall in  
 12 line and say it was good and let's move on.  
 13 But at this point in time I just don't  
 14 feel comfortable with it. So it depends on what the  
 15 rest of the board thinks.  
 16 **MR. BANGERT:** On page 43 there, the bottom  
 17 paragraph talks about an expanded uncertainty of 4  
 18 decibels. So I can read that paragraph or, if you  
 19 guys all would like to read along there, it's  
 20 talking about two individuals going out with the  
 21 same equipment measuring at the same time and with  
 22 95 percent certainty they measured a level of 40  
 23 decibels, for example, which is between 43 and 51,  
 24 which is even --

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1 **MS. TURNER:** And a level of 47, right?  
 2 **MR. BANGERT:** Right, the range.  
 3 **MS. TURNER:** Right.  
 4 **MR. KURITZ:** That is just an example. It  
 5 could have been the 41, and the 41 it would have  
 6 about 46 and 35. Again, you have a 4 DB whoops  
 7 factor going either way. My feeling is that we have  
 8 to err on the side of the people we are supposed to  
 9 protect. There is just too many ifs, ands and  
 10 butts. I think you go with straight data and you  
 11 don't change it.  
 12 **MS. TURNER:** And I can go either way on  
 13 this. I just want to make sure that what we are  
 14 looking at is a model that he's working with. He's  
 15 an expert who is working with the model who has done  
 16 this often, and this is his career, and I didn't  
 17 hear from anyone else who was an expert that this is  
 18 a bad thing to do.  
 19 **MR. KURITZ:** Except Dr. Schomer, and he  
 20 has 200-and-some books on this, and he said you  
 21 ought to be at 3,000 -- 3250 feet, was it?  
 22 **MS. TURNER:** Right. He said he thought  
 23 that, but he didn't have any studies to show that.  
 24 **CHAIRMAN FINNIGAN:** He also said, too,

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1 when he was asked the question, what do you think of  
 2 Mr. Hankard's testimony, and he said he's a good boy  
 3 and he thought it was credible; and I think that was  
 4 a very honest answer on his part. I think what he  
 5 was trying to tell us is that his report was  
 6 probably right.  
 7 We had asked him -- I think you might have  
 8 asked him -- somebody asked him: Would you do a  
 9 report for us? And he said, no, I couldn't do that.  
 10 How long would it take? Maybe that is correct. And  
 11 he said it would take me forever, so but he said  
 12 Mr. Hankard could probably do it in two days.  
 13 So you know, he -- I think Mr. Schomer was  
 14 very knowledgeable, but he just gave us his opinion  
 15 what he thought it ought to be.  
 16 **MS. TURNER:** Right.  
 17 **CHAIRMAN FINNIGAN:** The only expert  
 18 opinion we had, unfortunately, is that applicant.  
 19 You can take it as face value or you can analyze it.  
 20 **MR. KURITZ:** Well, also, when he was  
 21 asked, he said he wouldn't have taken the 2 decibels  
 22 off.  
 23 **MS. TURNER:** Schomer said that.  
 24 **MR. KURITZ:** Schomer said he wouldn't have

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1 taken the 2 decibels off. So between that and, like  
 2 I say, erring on the conservative side, that is  
 3 where I got to where I am at.  
 4 **MR. ZIMMERMAN:** We can discount any  
 5 information we've got, expert, nonexpert, applicant,  
 6 anybody else. So that's there.  
 7 It seemed like Dr. Schomer was wanting to  
 8 get the Illinois Pollution Control Board changed,  
 9 which is outside the scope of what we are doing. We  
 10 already set our standard as the Illinois Pollution  
 11 Control Board, and we can adjust our findings by  
 12 adding 250 feet or something like that or raising  
 13 them higher or setting a higher standard now. It is  
 14 totally within our prerogative here.  
 15 I think Schomer -- while I love  
 16 Dr. Schomer's testimony, I like what he was saying.  
 17 He was basically saying -- Hankard said I think, in  
 18 his words, he's a good boy, always definitely a man,  
 19 and he's pretty reliable at that. And Dr. Schomer  
 20 seemed to say, hey, I would like the noise levels to  
 21 be lower across the board. That is almost as a  
 22 general statement.  
 23 **CHAIRMAN FINNIGAN:** To give Mr. Schomer --  
 24 that is something he would be taking up at state

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1 level and brought back to us, and all we did was  
 2 adopt the rules. Now, whether we are interpreting  
 3 them right, I don't know. You know, that is what  
 4 you saying. We want to err on -- and we always do.  
 5 So I don't have a problem with what you are saying.  
 6 I am not sure that it's warranted, but I don't know.  
 7 **MR. ZIMMERMAN:** There might be some stuff  
 8 we can do like that, whatever those load noises late  
 9 are and maybe some other add a few feet, add  
 10 250 feet just.  
 11 **MR. KURITZ:** If you are going to add  
 12 distance to cause them to move the turbines where  
 13 they are at anyway, that's basically the same thing  
 14 I just said because, if you take those 2 or -- those  
 15 2 decibels off, to get 40, it affects 32. To  
 16 actually to get to 41 -- and if you want -- and 41  
 17 is the number, it's only seven turbines. It's only  
 18 seven turbines that they would -- with the two added  
 19 back in, there is only seven turbines out of that  
 20 revised list that would have to be changed in any  
 21 way, shape, or form. So there is seven turbines  
 22 that are, with the two added back in, that are out  
 23 of compliance.  
 24 **CHAIRMAN FINNIGAN:** There is a possibility

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1 that those can be put in as a low-impact blade.  
 2 **MR. KURITZ:** I can't tell because I can't  
 3 tell you which turbines they are. I can tell you  
 4 which receptors they are.  
 5 **MR. ZIMMERMAN:** And how far are those from  
 6 the residences to -- these suggest here maybe far  
 7 away from houses as Dr. Schomer was saying.  
 8 **MR. KURITZ:** I am assuming that they are  
 9 close or they are stacked one or two or three in a  
 10 row to where --  
 11 **MR. ZIMMERMAN:** And I think that is a safe  
 12 assumption here, and we are trying to protect  
 13 people.  
 14 **MR. KURITZ:** So, if you stay with 41,  
 15 which is what the Illinois Pollution Control Board  
 16 says, then there is only seven of them that they  
 17 have to deal with.  
 18 There's another 25 that are above 40,  
 19 which is 1 decibel's difference there. But there  
 20 are seven that are over when you add it back.  
 21 **MS. TURNER:** There are seven households  
 22 that are over. We don't know how many -- we don't  
 23 know how many turbines that would affect, but we  
 24 know it affects seven households.

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1 **MR. KURITZ:** Seven receptors. Seven  
 2 residences.  
 3 **MS. TURNER:** Right, and I agree with that.  
 4 I see no problem doing that. I am all for making  
 5 sure that, you know, we keep them in erring on the  
 6 conservative side. I just want to make sure that we  
 7 are all clear and we are doing it for the right  
 8 reasons and understanding what the study says and  
 9 making a legitimate reason for doing it.  
 10 **MR. ZIMMERMAN:** If we get that far, can we  
 11 identify the seven receptors so we can name like  
 12 turbines XY and YZ and the others?  
 13 **MR. KURITZ:** It's any of them in there on  
 14 that revised report that say that are in the 1000 or  
 15 39 or above.  
 16 **CHAIRMAN FINNIGAN:** So we've kind of come  
 17 to a consensus on that issue, or do we want to talk  
 18 about it some more?  
 19 I am okay with what you are saying. What  
 20 do you think?  
 21 **MR. DEAN:** I concur as well.  
 22 **MR. BANGERT:** I would like to identify any  
 23 of those that are on the list that were brought up  
 24 from people that testified as well. If that

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1 included any of those, if we can figure that out.  
 2 **MS. TURNER:** I can tell you it does, at  
 3 least two. I have been keeping track of the people  
 4 who come up as I marked them, and it does. It does  
 5 take at least two into consideration.  
 6 **MR. BANGERT:** Yeah, because I would be in  
 7 favor more of lowering the DB and/or removing.  
 8 **MR. DEAN:** Was 32 one of those?  
 9 **MS. TURNER:** Turbine 32? Yeah, it was.  
 10 Well, keep in mind we are talking  
 11 receptors, so we are talking households. But  
 12 turbine 32 was close to one of those households.  
 13 **MR. DEAN:** Thank you.  
 14 **CHAIRMAN FINNIGAN:** Do you want to sound  
 15 in on this, Chris?  
 16 **MS. CARLTON:** No. I am fine.  
 17 **CHAIRMAN FINNIGAN:** You are kind of quiet.  
 18 We want to hear from you.  
 19 What's next?  
 20 **MR. ZIMMERMAN:** We heard a bunch of  
 21 testimony on taxes. While it may be positive or  
 22 negative or short-term, long-term, whatever, I don't  
 23 remember anything in our statute saying we are here  
 24 to drum up money for the county. I just think that

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1 -- not that it's irrelevant in a very large scheme,  
 2 but it's not what we are here to do. That isn't  
 3 part of our deal.  
 4 **CHAIRMAN FINNIGAN:** As long as they pay  
 5 their taxes it's their problem.  
 6 **MS. TURNER:** And I think it is -- you  
 7 know, it is important for us to state what our main  
 8 modus operandi or reason for being here is. You  
 9 know, we like to help make sure that what people  
 10 want to do with their land is safe for people. And,  
 11 in addition, we want to make sure we are using all  
 12 of our natural resources wisely.  
 13 **MR. KURITZ:** Speaking to that point, I  
 14 know that there were some concerns about taking  
 15 farmland out of production. With Phil and his  
 16 report, it basically states the project area should  
 17 remain farmland, and wind energy developments are  
 18 opportunity to preserve farmland and agricultural  
 19 heritage.  
 20 Basically, if you've got an 80-acre or  
 21 160-acre or 320-acre or larger farm, and you take 1  
 22 acre out and out of crop production but you don't  
 23 take it out of farm production, and that 1 acre is  
 24 probably going to be most -- it's going to be the

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1 most consistent acre you've got on the farm for  
 2 revenue. And, in all likelihood, with crop prices  
 3 the way they are and have been, it's probably going  
 4 to be the most profitable.  
 5 So, you know, I am sure that given the  
 6 same circumstances, most would recognize that losing  
 7 at maximum 1 acre isn't a big issue, at least it  
 8 isn't for me.  
 9 **MR. BANGERT:** I would like to chime in on  
 10 that. You know, as land use managers, we are trying  
 11 to utilize this farmland in ways that don't reduce  
 12 productivity; and if you take 10 of these 100  
 13 turbine farms, you just took 1000 acres out of  
 14 production, then those little dots start to add up.  
 15 And we are not placing them necessarily on the least  
 16 productive land. It's some of the most productive  
 17 land.  
 18 So I agree, on this project, it doesn't  
 19 seem like much, but we start to lose sight of that  
 20 because we start to dot the whole map.  
 21 You know, if we could have done a better  
 22 -- if there was a way that these would be put on  
 23 less desirable land, that land will always be able  
 24 to produce food, whereas now, you know, it will not.

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1 Now, I believe in clean energy, and I  
 2 believe in, you know, moving forward with projects  
 3 like this when it makes sense to. It's just there  
 4 was a comment made about it, and I just -- land is  
 5 important.  
 6 **MR. ZIMMERMAN:** We heard at the very end  
 7 about easements, and we didn't hear much about  
 8 easements beyond that.  
 9 Is there some provision about easements?  
 10 If someone is in the area, they can apply for that?  
 11 I don't remember anything in our statute that has to  
 12 do with this, but it was a curiosity I just wanted  
 13 to ask about.  
 14 **MR. DICK:** Could you clarify that  
 15 question, please?  
 16 **MR. ZIMMERMAN:** There was some mention  
 17 that, if someone who lives there, and they are a  
 18 nonparticipating member, and wanted to grant an  
 19 easement, there was an application process whereby  
 20 they get paid for granting that easement, and it  
 21 seemed like something that was almost hidden  
 22 information in here.  
 23 **MR. DICK:** Are you talking about applicant  
 24 or the wind farm developer paying impacted property

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1 owners since they are being impacted?  
 2 **MR. ZIMMERMAN:** I think that's what the  
 3 easement was. I do not have enough information to  
 4 go on. What it seemed to me is that there was a  
 5 method by claiming that you wanted to grant an  
 6 easement, that someone who is not participating in  
 7 the area but who is affected in the area, so they  
 8 had a house in the area but they weren't getting  
 9 something, had an opportunity to apply for this  
 10 easement and apply for money, basically.  
 11 **MR. DICK:** That is done by some wind farm  
 12 developers, but this wind farm developer does not do  
 13 it.  
 14 **MS. TURNER:** That is for \$2,000 that you  
 15 were talking about. That was brought up in the  
 16 closing last night.  
 17 **MR. ZIMMERMAN:** So it was brought up in  
 18 the closing at 2,000. Is it available in this farm?  
 19 **MR. DICK:** It is not.  
 20 **MR. ZIMMERMAN:** Okay. I would like to  
 21 also go to the notice. It seems like this is an  
 22 area where there was a wind farm application a few  
 23 years back, and I think it would be really nice if  
 24 everybody gets notice that some people didn't.

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1 And it's pretty obvious that this area has  
 2 been subject to some wind farm discussions. We have  
 3 had a full fledged hearing on the wind farm from  
 4 before. And so a lot of people talk about not  
 5 getting notice of wind farms. I believe that our  
 6 statute and zoning board provides public notice for  
 7 this.

8 Number 2, there was some sort of Invenergy  
 9 office in Lexington, and there was a bunch of people  
 10 talk about it. So there might be a way in our  
 11 statute or something else that we might ensure a  
 12 broader notice goes out, but I am not sure that the  
 13 notice went out or the information that went out was  
 14 -- I don't think anybody had much reason to not know  
 15 about it, not know that there was a wind farm in the  
 16 grooming on this.

17 **MR. DICK:** The wind farm special use  
 18 application is similar to many other's special use  
 19 applications that we have, and the public or  
 20 applicants rely on confidentiality until an  
 21 application is actually submitted, so that once it's  
 22 submitted we have to have -- it's notice to the  
 23 paper at least 15 days prior to the public hearing,  
 24 so that's why we would have our deadlines at such

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1 and such a time. So, if somebody submits an  
 2 application, whether it's for a variance or whether  
 3 it's for a wind farm or for a special use for agg,  
 4 tourism, whatever it may be, we can't necessarily  
 5 change our deadline to have 90 days because then all  
 6 of a sudden it makes everybody in a difficult  
 7 situation.

8 So what we are faced with is, at that  
 9 time, then we have to send out the notices, and with  
 10 this one I think there may have been 400 notices  
 11 that we sent out, and we have to send them out by  
 12 the deadline, that we send them out on a Friday.  
 13 And then the notice is put in the Pantograph or  
 14 newspaper that is circulating throughout the county.  
 15 If that comes in the Saturday paper, then it's two  
 16 weeks and three days later we have the zoning  
 17 hearing. In this case we notified the drainage  
 18 districts as well as the township supervisors and  
 19 the road commissioners, but we don't send notices to  
 20 everybody in the township or the county.

21 **MR. ZIMMERMAN:** But sending out 400 within  
 22 this area, especially to all the news outlets and  
 23 all of the major government bodies that were  
 24 involved, which is essentially everyone, you've got

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1 a pretty heavy blanket of notices going out, even if  
 2 it is fairly soon before -- potentially soon before  
 3 the hearing, so you have a fairly large amount of  
 4 notice going out.

5 **MR. DICK:** Yes.

6 **MR. KURITZ:** One idea. People don't take  
 7 the Pantograph like they used to. I mean I heard  
 8 lots and lots of people say, well, I don't take the  
 9 Pantograph or any of that kind of stuff.

10 And someone said tonight that we were  
 11 talking and there is one of these big lighted signs  
 12 like you see on the highway that says "Notice:  
 13 Construction Ahead," that someone has out in one of  
 14 the areas talking/advertising about vote no or  
 15 whatever on some of the wind farm hearings. I  
 16 believe the county probably has some of those signs  
 17 in our possession out there on the east side of town  
 18 maybe. And those -- when you put that notice out,  
 19 if you took and pulled one of those out by that  
 20 community and put that notice up and it went  
 21 flashing across, then I don't think anybody would  
 22 have really any excuse that they didn't know at  
 23 least that amount of time in front of it.

24 **MR. BANGERT:** On the application, this is

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1 a publication cost around \$18,000 for a touchover.  
 2 Can you -- how was that used? Was that all  
 3 Pantograph, or is that staff or wages? Or how was  
 4 that?

5 **MR. DICK:** I think it was four full pages  
 6 in the legal notice in the Pantograph.

7 **MR. ZIMMERMAN:** Four?

8 **MR. DICK:** Something like that.

9 **MS. TURNER:** Could we talk through the  
 10 standards? At this point are we ready to walk  
 11 through the standard? Does anybody else have  
 12 anything?

13 **MS. CARLTON:** I don't know that 400  
 14 letters for this large of an area is that much. I  
 15 didn't know anything about it until I saw it in the  
 16 Pantograph; but I never got a letter, and most of my  
 17 neighbors didn't get a letter either.

18 **MR. DEAN:** Can you help me understand why  
 19 they were wanting a one-year extension on the  
 20 two-year allotted time?

21 **MR. DICK:** Generally what they are  
 22 required to do is they are required to get their  
 23 first permit within two years. Sometimes things  
 24 change in the economy or with their business, but

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1 every wind application that we've taken so far has  
 2 made this request and at least one of them expired  
 3 anyway. But it means that they don't have to go  
 4 through the tremendous publication costs and that  
 5 kind of a thing to have another public hearing if  
 6 they don't get it started within three years. But  
 7 it's somewhat typical for what we've had with the  
 8 previous wind farms.  
 9 **MR. DEAN:** Okay. Thank you.  
 10 **MR. KURITZ:** I thought they -- we did  
 11 answer that question like the first night out at the  
 12 -- we talked at that time about the amount of time  
 13 that it took to sign up people to buy the  
 14 electricity, and that was part of what it was as I  
 15 remember.  
 16 **CHAIRMAN FINNIGAN:** Before we get to the  
 17 standards, I handed out the nuisance disclaimer, and  
 18 I thought we might have Phil read that to us. He  
 19 agreed to do that.  
 20 If you live in the county, what is your --  
 21 what the nuisance disclaimer is.  
 22 **MR. DICK:** This is a statement that  
 23 requires a signature so that it starts off with:  
 24 I certify that I am the owner of the

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1 property for this building permit to construct a  
 2 single-family dwelling located in agricultural  
 3 district.  
 4 I certify that I have read the following  
 5 Agricultural Nuisance Disclaimer to the Agricultural  
 6 District Regulations contained in the McLean County  
 7 Zoning Ordinance and that I understand that there  
 8 are permitted uses and many special uses allowed in  
 9 the agricultural district that may not be compatible  
 10 with a residential use in the agricultural district.  
 11 I further understand that residential uses in the  
 12 agricultural district are not given the same  
 13 provision of services, amenities, and protection  
 14 from other land uses which are afforded to  
 15 residential uses by regulations of the residence  
 16 districts and that the agricultural district  
 17 regulations are not intended to afford such  
 18 services, amenities, and protections to residential  
 19 uses located therein.  
 20 So this is the disclaimer: Properties  
 21 within the agricultural district are located in an  
 22 area where land is used for commercial agricultural  
 23 production. Owners, residents and other users of  
 24 property in the agricultural district or neighboring

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1 property may be subjected to inconvenience,  
 2 discomfort, and the possibility of injury to  
 3 property and health arising from normal and accepted  
 4 agricultural practice and operations, including but  
 5 not limited to noise, odors, dust, the operation of  
 6 machinery of any kind, including aircraft, the  
 7 storage and disposal of manure, the application of  
 8 fertilizers, soil amendments, herbicides and  
 9 pesticides. Therefore, owners, occupants, and users  
 10 of property within the agricultural district should  
 11 be prepared to accept such inconveniences,  
 12 discomfort, and possibility of injury from normal  
 13 agricultural operations and are hereby put on  
 14 official notice that the state Right-to-Farm Law may  
 15 bar them from obtaining a legal judgment against  
 16 such normal agricultural obligations.  
 17 And then it says: I understand that I  
 18 established a residential use in the agricultural  
 19 district and that such land use has no additional  
 20 rights granted to it than is granted to other uses  
 21 allowed by either permit or by express use in the  
 22 agricultural district, and I certify that I have  
 23 been given a copy of this attachment.  
 24 **CHAIRMAN FINNIGAN:** Thank you. I just

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1 thought we ought to put that on the record because  
 2 that's what people sign when they come in and build  
 3 a house in the county.  
 4 **MR. DEAN:** How long has that practice been  
 5 going on?  
 6 **MR. DICK:** This was adopted in 1974.  
 7 **MR. DEAN:** Thank you.  
 8 **CHAIRMAN FINNIGAN:** So we are at the point  
 9 we can start talking about the standards.  
 10 **MR. DEAN:** Let's give us a couple minutes  
 11 before we go to that.  
 12 **CHAIRMAN FINNIGAN:** Well, the thing, too,  
 13 it's about 8:30. I don't know how long this is  
 14 going to take, but we are going to take a break.  
 15 **MS. TURNER:** Now would be a good time.  
 16 **CHAIRMAN FINNIGAN:** I got to talk to my  
 17 counsel here. She has been talking in my ear, but I  
 18 can't hear her, so I might need a break.  
 19 **MS. TURNER:** Perfect.  
 20 **MR. ZIMMERMAN:** Ten minutes.  
 21 **CHAIRMAN FINNIGAN:** I think we are going  
 22 to take ten minutes.  
 23 (BREAK TAKEN.)  
 24 **CHAIRMAN FINNIGAN:** Questions of the

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1 board, how do we want to handle the standards? I  
 2 thought maybe Phil could read it to us, not his  
 3 whole report, but start out and then we all get a  
 4 chance to hear rather than me read them. I would  
 5 like to hear, too. And then we'll address the  
 6 standard.  
 7 **MR. DICK:** You want me to read the first  
 8 standard?  
 9 **CHAIRMAN FINNIGAN:** Yes.  
 10 **MR. DICK:** The proposed special use will  
 11 not be detrimental to or endanger the health,  
 12 safety, morals, comfort, or the welfare of the  
 13 public.  
 14 **CHAIRMAN FINNIGAN:** The next phrase in  
 15 there says the standard can be met if the permit or  
 16 everything is done right. So, I think that is what  
 17 we are here to decide.  
 18 **MR. KURITZ:** I believe that statement that  
 19 it can be met, I think that what a lot of the issues  
 20 that we have been discussing about the sound and  
 21 setbacks and following IDNR recommendations has all  
 22 been about, but that's the only way that it can be  
 23 met. As I see it right now, without some changes  
 24 and ensuring that we feel confident that the noise

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1 levels are going to be within the standards, I  
 2 wouldn't think -- I wouldn't believe they have been  
 3 met.  
 4 **MR. ZIMMERMAN:** I am not sure I follow the  
 5 last part of that. You were saying that you think  
 6 it has been met or with those, with some adjustments  
 7 in there?  
 8 **MR. KURITZ:** That is what I -- I believe  
 9 that it can be met as long as the adjustments that  
 10 we had been discussing before are stipulated and  
 11 made to happen.  
 12 **MR. ZIMMERMAN:** Yes. I agree with that,  
 13 that it can be met if we put some stipulations in  
 14 here, and that might even exceed some of our own  
 15 original regulations or own proposed standards  
 16 because we have got at least some question in there  
 17 that we might need some adaption in the low-noise  
 18 trailing edge blades. For example, I think  
 19 Mr. Finnigan suggested that we require those of all  
 20 of the blades, of all of the turbines, and that they  
 21 had put them already on a whole bunch of them.  
 22 Would that be one of the things that you would  
 23 suggest we do?  
 24 **MR. KURITZ:** Yes that and my thing about

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1 adding the 2 DB back in so that those seven are  
 2 recalculated and moved or brought into line.  
 3 **MR. ZIMMERMAN:** Or eliminated, bottom  
 4 line?  
 5 **MR. KURITZ:** Bottom line, yeah. But  
 6 hopefully they can -- that some kind of minor  
 7 adjustment could be made to make those viable. You  
 8 know, I don't want to be in a position of taking  
 9 them away from landowners either. They have rights  
 10 also.  
 11 **MR. ZIMMERMAN:** Right.  
 12 **MR. DEAN:** I don't know that requiring  
 13 them to put the noise-reducing blades on every  
 14 installation would be necessary. There are several  
 15 of these that are well underneath the 40, so I am  
 16 not sure that we would have to go there at all  
 17 because of the efficiency and other factors.  
 18 **MR. ZIMMERMAN:** Okay.  
 19 **CHAIRMAN FINNIGAN:** Well, we might be able  
 20 to counter it by what Mr. Kuritz said, just to put  
 21 the DB level at a level and we have to adjust their  
 22 blades at that point or whatever they have to do,  
 23 eliminate, move, whatever it has to be.  
 24 **MR. ZIMMERMAN:** Our statute allows wind

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1 farms so long as they meet the health standards, the  
 2 morals, comfort, welfare standards and that, and so  
 3 our function has been for a lot of this hearing to  
 4 see how they are going to meet that health standard.  
 5 We raised questions about, hey, it's  
 6 really noisy. And, okay, well how do you reduce the  
 7 noise? And just what you are saying, it reduces  
 8 that noise to where it meets the standards of the  
 9 code, Section 350, that we put in there.  
 10 So I agree with you, and there are several  
 11 adaptations or whatever you call it that can -- that  
 12 may need to be in there. That may be just 9, but I  
 13 think it might be a little more than that.  
 14 **MR. KURITZ:** There are the adjustments  
 15 that they have already worked out that Mr. Schertz  
 16 and Mr. Hankard on moving and eliminating so that,  
 17 the two airports in the area, people can land  
 18 without flying into one of these things. I mean  
 19 there is a lot of things that have been discussed  
 20 and agreed to.  
 21 **MS. CARLTON:** I have questions about the  
 22 two airports. What were the final decisions on the  
 23 turbines there?  
 24 **CHAIRMAN FINNIGAN:** I think we got a

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1 report last night on that. I mean but -- that told  
 2 which ones they were going to move.  
 3 **MS. CARLTON:** I think didn't think they  
 4 moved or I mean I didn't think they eliminated them  
 5 all, and I thought both airports requested that for  
 6 safety reasons. No?  
 7 **MR. DEAN:** What I recall is they moved  
 8 them out of the way and the airport operators were  
 9 comfortable with it or they accepted that. Maybe  
 10 they didn't.  
 11 **MS. CARLTON:** One of them was not  
 12 comfortable with it, I would not say.  
 13 **MR. DEAN:** Well, he came up here and  
 14 testified that he -- I am going to make sure what  
 15 his wording was -- but he testified that he was --  
 16 -- he recognized that they had done something.  
 17 **MS. CARLTON:** He was not satisfied. I  
 18 took notes on what he said. He was not satisfied.  
 19 **CHAIRMAN FINNIGAN:** Do we know that?  
 20 **MR. DICK:** Mr. Schertz said that this may  
 21 mitigate some risk, is what he said. He negotiated  
 22 with Invenergy the moving of two of those turbines.  
 23 **MS. TURNER:** That's what he said.  
 24 **CHAIRMAN FINNIGAN:** And I think they

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1 lowered the tallest one at the end of the runway.  
 2 They made it a shorter turbine there and moved some.  
 3 And Mr. Thacker's, I think that they probably did  
 4 what he asked, if I remember right.  
 5 **MS. CARLTON:** I have that he eliminated  
 6 one of them but the other one was moved, and he  
 7 wasn't satisfied with that.  
 8 **MS. TURNER:** When you say he, are you  
 9 talking Mr. Schertz?  
 10 **MS. CARLTON:** Mr. Thacker.  
 11 **MS. TURNER:** Mr. Thacker provided us a  
 12 letter, didn't he?  
 13 **MR. ZIMMERMAN:** Yeah.  
 14 **MS. CARLTON:** Yeah, and I've got it here  
 15 someplace.  
 16 **MR. BANGERT:** The January 17 letter?  
 17 **MS. CARLTON:** This is what my letter says:  
 18 Of course, elimination of Turbine 23 is the best  
 19 interest of Thacker Airport.  
 20 **MS. TURNER:** What is the date of that?  
 21 **MS. CARLTON:** This was handed out on  
 22 Thursday, January 25. The date on the letter was  
 23 the 17th.  
 24 I want to see if I can find my note from

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1 what he said.  
 2 **MR. DEAN:** Phil, can you tell us what the  
 3 agreement last night said? Quote it.  
 4 **MR. KURITZ:** I've got the letter dated the  
 5 18th.  
 6 **MS. CARLTON:** 18th?  
 7 **MR. KURITZ:** The January 18th, to the  
 8 McLean County Zoning Board of Appeals, Applicant's  
 9 Exhibit Number 18. It says that Mr. Thacker and  
 10 Mr. Gray have reached an agreeable solution to  
 11 maintain a safe operating area near Thacker Airport.  
 12 Invenergy has offered to remove Wind Turbine 22  
 13 completely from project and move Wind Turbine 23 to  
 14 the total distance of 2700 feet from the east side  
 15 of the runway. Mr. Thacker has indicated this plan  
 16 would be a workable solution for flight operations  
 17 around the airport. AOPA supports this resolution  
 18 but would also ask for future consideration be given  
 19 to removing Turbine 23.  
 20 That was AOPA, not Mr. Thacker.  
 21 **MS. CARLTON:** So your letter is not  
 22 written by Mr. Thacker, is what you are saying?  
 23 **MR. KURITZ:** No. This is from AOPA.  
 24 **MS. CARLTON:** Right. And this letter is

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1 written by Mr. Thacker, and then he testified I  
 2 thought last night.  
 3 **MR. KURITZ:** No. That was Mr. Schertz.  
 4 **MR. ZIMMERMAN:** That was Schertz.  
 5 **MS. CARLTON:** Okay.  
 6 **MR. ZIMMERMAN:** I think fundamentally he  
 7 can't be too enthusiastic about that, about saying  
 8 -- I don't think that anybody who is operating an  
 9 airport will say that eliminates all risk because  
 10 saying that on record in a public forum, having been  
 11 sworn in, might have legal implications. He is  
 12 never going to -- I don't think he -- he is never  
 13 going to say, oh, that is going to take all the  
 14 risks out of flying, especially in those  
 15 circumstances. So I think that may have been the  
 16 circumstance. I think he reached an agreement, but  
 17 he didn't come in here and say, oh, it's taking away  
 18 all the risk.  
 19 **MR. KURITZ:** He did say, though, in that  
 20 letter on 17, that, of course, elimination of  
 21 Turbine 23 is in the best interest of Thacker  
 22 Airport in that letter, too.  
 23 **MS. CARLTON:** And I personally feel that  
 24 that is very important. It's an airport.

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1       **CHAIRMAN FINNIGAN:** I think we asked the  
 2 question when that came up, has an agreement been  
 3 made, and the answer was yes. So that was my  
 4 understanding, that the agreement was made and he  
 5 was satisfied with that; but I might be mistaken,  
 6 but that is my recollection.  
 7       **MR. DICK:** We have it in writing that  
 8 Mr. Thacker is okay with the compromise.  
 9       **MR. KURITZ:** Mr. Chairman, should we start  
 10 listing for what we are saying needs to be done?  
 11       **CHAIRMAN FINNIGAN:** We are going to have  
 12 to do it at sometime. If we want to do it or have  
 13 staff do it for us. In the past Phil has been  
 14 agreed to interpret what we say, and then we can  
 15 acknowledge it at the end if that is right. Would  
 16 you be in agreement with that?  
 17       **MR. DICK:** I'll do what you request.  
 18       **CHAIRMAN FINNIGAN:** That wasn't the answer  
 19 I thought you were going to tell me. I am not sure  
 20 now if you want to do it.  
 21       Okay. We got a volunteer right here, so  
 22 Samantha is going to do that for us. I think it  
 23 just frees us up to do other things. Somebody can  
 24 -- and she will read back things to us and we can

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1 agree with it. It might sound differently when she  
 2 reads it back, right?  
 3       **MR. ZIMMERMAN:** If she has kept you in  
 4 this long, I think we can rely on her.  
 5       **MR. KURITZ:** So that my two items I guess  
 6 are (1) that they will comply with all of the IDNR  
 7 recommendations, which includes deletion of -- which  
 8 will mean that Turbine 91 has to disappear.  
 9       And my second issue is that the 2 decibels  
 10 needs to be added back on to the report, and that  
 11 the 7 receptors that have a DB value of over -- of  
 12 41 or more need to be dealt with so that they are in  
 13 compliance with the IDNR standard.  
 14       **MS. TURNER:** You mean 40 or more, correct?  
 15       **MR. KURITZ:** It's actually 41. The IPCB  
 16 -- in that California report in there it says 41 is  
 17 the nighttime maximum range.  
 18       **MS. TURNER:** Okay. So what you are saying  
 19 is once they add those two back in, any that are  
 20 over 41?  
 21       **MR. KURITZ:** 41 or over need to be revised  
 22 to be less than 41.  
 23       **CHAIRMAN FINNIGAN:** And we are not going  
 24 to tell them how to do that. We are going to tell

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1 them it just has to be that way.  
 2       **MR. KURITZ:** Yes.  
 3       **MR. ZIMMERMAN:** On the -- the Illinois DNR  
 4 said they want to have three-year studies, and I  
 5 think that is a reasonable request, too. I would  
 6 like to make sure that that gets done. This is not  
 7 a big burden and it would solve a lot of -- it will  
 8 save a lot of time in the future, if we adapted it  
 9 all. But I want to underline that.  
 10       **CHAIRMAN FINNIGAN:** Did you have something  
 11 else, Chris?  
 12       **MS. CARLTON:** No. I am looking something  
 13 else up.  
 14       **MS. TURNER:** I think the other thing we  
 15 need to -- on down it mentions the decommissioning  
 16 guidelines, and just make sure that those prices are  
 17 updated to indicate going to 5 feet, which I think  
 18 is the \$52,000 figure.  
 19       **CHAIRMAN FINNIGAN:** We have a number right  
 20 here.  
 21       **MS. TURNER:** I had it, too.  
 22       **MR. ZIMMERMAN:** 52,809 per turbine, and I  
 23 believe they adapted -- that number is 52,809 per  
 24 turbine and our statute is 35,000. So it's

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1 significantly above, and we are stating in this that  
 2 it can be adapted upward, adjusted upward as needed,  
 3 should that be found in the future.  
 4       I think that the applicant has already  
 5 stipulated that that is in their proposal, but we  
 6 will make sure it gets in there by having Samantha  
 7 write it down.  
 8       **MS. TURNER:** And I would also like to  
 9 align -- I don't know if this is the place to do it  
 10 or later -- but align the agricultural agreement as  
 11 stipulations in ours and defer to the agricultural  
 12 agreement. I think theirs was 11 years and ours  
 13 stated 12 years that they would start putting money  
 14 into an escrow or getting a surety bond, whatever  
 15 that was.  
 16       **MS. WALLEY:** Are you talking about the  
 17 requirements for the AIMA.  
 18       **MS. TURNER:** Yes, AMA.  
 19       **MS. WALLEY:** What I can tell you is AIMA  
 20 is state law, and the same, we would defer. The  
 21 state law -- I don't want to say trump, but it will  
 22 control. So if AMA is 11 years, 11 years will be  
 23 the trigger point, and they will then by default  
 24 because it's a year earlier.

1 **MS. TURNER:** That would -- there just  
2 isn't -- in many in different places it's differing,  
3 so I just want to make sure that we have that clear.

4 **MS. WALLEY:** So do you want language that  
5 adheres specifically to AMA or that they start with  
6 the decommissioning procedures in accordance with  
7 AMA? How do you want that?

8 **MS. TURNER:** That is fine. Strictly with  
9 AMA.

10 **MS. WALLEY:** Okay.

11 **MR. KURITZ:** I did have one thought or  
12 issue with the decommissioning dollars. I agree,  
13 when you look at the total proposal, it's, instead  
14 of the 5 million 200 thousand or whatever it is,  
15 it's 11 million and change when you add in the --  
16 when you add in the dollars that are captured from  
17 selling off the metals and the turbine parts. So I  
18 think that, when you factor that in, that these  
19 costs are appropriate; however, if they only went to  
20 decommission one or two, there are setup costs that  
21 are divided out amongst those, including erecting  
22 these huge cranes and getting this equipment there,  
23 and that \$52,000 won't come close to covering it.  
24 So I don't know how we would handle that, but any

1 they gave to the local emergency and fire  
2 procedures, fire districts and that. That is not  
3 much money, and it may not be enough to provide the  
4 local fire districts and the local emergency  
5 services. May they never be used, but I would like  
6 to have some more assurances on that front. I am  
7 not sure exactly how to get that and how to put it  
8 into the wording, but I would like to have more  
9 support for local fire and emergency services come  
10 in there.

11 **CHAIRMAN FINNIGAN:** Is that within our  
12 power to put?

13 **MS. WALLEY:** I would tell you, you have to  
14 be able to point to an ordinance or a statute or  
15 something of that nature. And I am looking at the  
16 standards in the special use, looking at the  
17 specific ordinance that we have with regard to wind  
18 farms. I guess you -- I am not seeing anything that  
19 would allow for that. I understand the concern, but  
20 unless someone can point to something specific, in  
21 my review, I don't see anything that would give the  
22 board that authority.

23 **MR. ZIMMERMAN:** Yeah, that's unfortunate.  
24 They have coordination with local -- we have

1 partial decommissioning might be an issue.

2 **MS. TURNER:** The decommissioning money  
3 only comes into consideration due to the surety  
4 bond. That only comes in if they abandon it without  
5 doing it. So they are paying whatever it costs to  
6 decommission those. And we get the bond just in  
7 case they abandon it so that we can go in and pay.

8 And according to AMA we are allowed to  
9 have that estimated again at 10 years before it  
10 kicks in at the 11, and they have to provide a  
11 surety bond on that new estimate at 10 years.

12 **MR. KURITZ:** What if they only abandon a  
13 portion of them?

14 **MS. TURNER:** We have the whole bond.

15 **MR. ZIMMERMAN:** And in the health, safety  
16 -- we are in the health/safety issue. The applicant  
17 said they will, on number 11 of the stipulation, the  
18 applicant will coordinate and provide aid to local  
19 fire districts and to promote safety and emergency  
20 response procedures. Yes, that is good. I am  
21 saying I would like to have provide aid set to some  
22 dollar amount. In the first hearing they said,  
23 well, it was a few hundred million dollars for the  
24 overall organization. There is only \$29,000 that

1 coordination with local fire department and submit  
2 to local fire department's copy of the site plan and  
3 a few other things and they have to comply with  
4 that. I guess it's a point that we would like them  
5 to cooperate. We can't really put it in as a  
6 stipulation, so too bad.

7 **MR. STOCKS:** There is coordination that  
8 happens between the emergency services and the  
9 townships. Usually they hold a meeting beforehand,  
10 and there is a mass e-mail that gets sent out  
11 usually on a daily basis on a project like this.

12 **MR. ZIMMERMAN:** Okay. And I am not sure  
13 what additional equipment needs to be purchased, if  
14 anything. And who is buying that equipment if we  
15 don't have it? We haven't heard testimony to that  
16 effect. I just don't want to burden the local fire  
17 and police departments, especially since many of  
18 them are volunteers, to come up with a bunch of new  
19 equipment when there is multi-hundred-million-dollar  
20 projects going on that they are going to have to  
21 deal with. I hope they don't have to deal with  
22 anything. But if a tornado or something goes  
23 through there, I want everybody to be well prepared  
24 for that.

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1       **MR. STOCKS:** Sure. And I cannot answer  
 2 what additional equipment they would need as well.  
 3       **MR. ZIMMERMAN:** I guess, by mentioning it,  
 4 I would hope that the applicants are hearing our  
 5 concerns for that.  
 6       **MR. BANGERT:** We also heard from the crowd  
 7 when these other wind farms that went up there was  
 8 some concerns as to emergency -- if there was an  
 9 emergency, how could they have gotten to some of  
 10 these homes. There was not a communication  
 11 necessarily that the road was going to be blocked.  
 12       Maybe, Jerry, you can help out with that,  
 13 if there is an avenue of communication, that there  
 14 can be some assurance that these people aren't going  
 15 to be left in the cold should this take place. Is  
 16 there some way to communicate to these people or at  
 17 least some assurance that they will have another  
 18 route?  
 19       **MR. STOCKS:** Yeah, I agree with that, with  
 20 some of the testimony that was given about that. I  
 21 don't know circumstances of where that gentleman  
 22 lived and where the access road was and why he was  
 23 cut off from his residence, but we do routinely see  
 24 that they have access at all times. We do close the

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1 road down on certain periods of time for crane  
 2 crossings and other things, for equipment to get  
 3 delivered, but it should not impede the access to  
 4 the residents.  
 5       And so, yeah, I think there needs to be  
 6 some better communication there on a daily basis.  
 7 Like I said, I don't know the circumstances. I  
 8 never did hear too much on previous wind farms that  
 9 there had been an issue as far as people not being  
 10 able to get to their home. But that is all I can --  
 11 we know, with that gentleman's testimony, that is  
 12 the first thing I heard anything like that.  
 13       **MR. KURITZ:** Couldn't 911 operators be  
 14 clued into the loop on these conversations on a  
 15 daily and know that there is going to be a roadblock  
 16 issue? Because there is such a thing as Life  
 17 Flight, if you had to fly a helicopter in to pick  
 18 somebody up, somebody having a heart attack or  
 19 something like that. If the 911 operator knew that  
 20 the road was blocked they could go right straight to  
 21 that.  
 22       **CHAIRMAN FINNIGAN:** I mean you hear road  
 23 blockages in Bloomington all the time for sewer  
 24 repair and all this, and that is on WJBZ first thing

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1 in the morning. You know, I am not saying this  
 2 would be that simple but it would be a way of  
 3 communicating through the radio or somewhere and  
 4 would be helpful.  
 5       But, also, this was completely blocked.  
 6 Most times a rescue would go through a field to get  
 7 to a house. I mean I've not seen it. They won't  
 8 spend any time messing around. They do what they've  
 9 got to do.  
 10       **MR. ZIMMERMAN:** And with that e-mail going  
 11 out every time, they probably include EMTs and other  
 12 emergency services saying we are working in such and  
 13 such section and it would be very useful if the  
 14 people involved knew that these five people were  
 15 there and had known of any special circumstances  
 16 there. Just, I would rather have people be  
 17 over-prepared and never have to use that.  
 18       And this may be just a word to the wise  
 19 that we would really like the applicants to have  
 20 that kind of coordination going on with the local  
 21 health and safety people, that I think there are a  
 22 lot of messages coming through here, but we are very  
 23 concerned about the health and safety.  
 24       **CHAIRMAN FINNIGAN:** I'll ask the question:

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1 Are we satisfied that we can move on from standard 1  
 2 or do you want to talk about it some more?  
 3       **MR. KURITZ:** Is everyone satisfied about  
 4 the airport, that the airports are in good shape? I  
 5 mean both of them responded that they had an  
 6 agreement and that they were happy with one part but  
 7 they still each had one turbine that they would like  
 8 to see go away.  
 9       **MS. TURNER:** I feel the airports have been  
 10 addressed, and I am okay with moving on.  
 11       **MR. ZIMMERMAN:** Uh-huh.  
 12       **CHAIRMAN FINNIGAN:** I got a nod from  
 13 Chris. She is the one that addressed that. Is your  
 14 question answered?  
 15       **MS. CARLTON:** No. I am still not  
 16 satisfied. I think airports are very important, and  
 17 both gentlemen initially were dissatisfied. The  
 18 wording in the letter is, you know, it sounds like,  
 19 well, I have to accept this but I am not really  
 20 satisfied. So, I mean, I am only one person, but  
 21 that is how I feel.  
 22       **CHAIRMAN FINNIGAN:** Everybody's voice is  
 23 important in this, so we want you to say what you  
 24 want to say.

1 **MR. BANGERT:** Yeah. If they moved off of  
2 center and agreed to compromise, because I didn't  
3 hear any mention of expansion, which this would  
4 eliminate the potential for expansion I am guessing  
5 for them if they compromised on what we see before  
6 us.

7 **CHAIRMAN FINNIGAN:** What I am seeing is I  
8 think maybe we ought to move to standard 2.

9 Phil, would you read that to us?

10 **MR. DICK:** Could I read this? Maybe -- I  
11 don't think you maybe -- are you reading the letter  
12 from Bill Thacker from January 17?

13 **MS. CARLTON:** Yeah.

14 **MR. DICK:** And you think that he's still  
15 not satisfied?

16 **MS. CARLTON:** Yeah. I think when he says  
17 it's not in the best interest of Thacker Airport, I  
18 don't think that sounds like he's satisfied. And,  
19 you know, there's a very long letter that he wrote  
20 to us prior to that.

21 And I just, again, I think if we are  
22 talking about safety issues, we don't want our  
23 airplanes crashing because of a wind farm being in  
24 the way.

1 what the testimony I heard.

2 **MR. ZIMMERMAN:** What was interesting,  
3 again, this being the fourth wind turbine project  
4 I've heard, too, is the number of complaints in the  
5 various counties where -- not only ours but in other  
6 places where they have had wind farms, and there  
7 haven't been dramatic -- there haven't been hardly  
8 any complaints at all, and the few that were there  
9 -- there were a couple in one county that were  
10 dismissed, and they didn't have the changes in  
11 property assessment values or anything like that.  
12 So, we heard some evidence on that and I don't  
13 think -- we have been looking for this because we  
14 are all concerned about it. We heard a lot of  
15 people saying I am worried about my property value;  
16 but we haven't found that that has been true over a  
17 very long, over a long period of time. Short-term,  
18 absolutely can happen mostly from fear I suppose.

19 **MS. TURNER:** And I think, you know, it's  
20 easy to dismiss that unless you are trying to sell  
21 your house in that short term, and then it's very  
22 hard to dismiss.

23 And what we're allowing here, what has  
24 been asked is that we give them three years on this.

1 **MS. TURNER:** I feel that Mr. Thacker would  
2 have come back and talked to us or at least given in  
3 closing or verbalized that he wasn't happy if, in  
4 fact, he wasn't. And after that agreement was  
5 reached, we didn't hear from him again after they  
6 submitted that.

7 **MS. CARLTON:** Well, that is all I have to  
8 say.

9 **MR. DICK:** The proposed special use will  
10 not be injurious to the use and enjoyment of other  
11 property in the immediate vicinity for purposes  
12 already permitted or substantially diminish property  
13 values in the immediate area.

14 **MR. KURITZ:** This is my fourth wind farm  
15 hearing, and this is -- the devaluation of property  
16 has been a big issue on all four of them and a big  
17 worry, and it's understandable; but to this point in  
18 time the only information, other than my gut and the  
19 people's gut feelings, people found the only data  
20 and the only studies show that it really doesn't  
21 affect residential prices, at least in the  
22 long-term, and, if anything, if you've got a wind  
23 turbine on your property, and you are selling your  
24 farm, it actually increases the value of the land is

1 And my only question is -- it's truly a question --  
2 is three years -- that's three years of uncertainty  
3 potentially for them to complete the project. Is  
4 that something that we should allow or should we  
5 stick to the two years?

6 **MR. DEAN:** I think it's three years from  
7 the start of the project. Is that correct?

8 **MR. DICK:** That's correct.

9 **MS. TURNER:** Right. So they have -- it  
10 could be more than three years?

11 **MR. DEAN:** Would you say the other wind  
12 farms typically have been built within a year?

13 **MR. DICK:** I can't really say. One of  
14 them was never built and one of them got delayed  
15 about a couple years because of issues. But they  
16 conceivably -- the reason these both are kind of in  
17 a hurry is because they think they might be able to  
18 get started right away, but you really can't tell  
19 because there's still variables.

20 **CHAIRMAN FINNIGAN:** I know it's not the  
21 same, but a lot of times we will give people that  
22 come in for a special use or a variance or whatever,  
23 special use for a house in a county, a little extra  
24 time because there's a lot of variables in it, you

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1 know. This is more important; I know that. But  
 2 it's not something that they are asking for that we  
 3 won't do.  
 4 **MS. TURNER:** How long after it is approved  
 5 by the county board are they allowed to continue to  
 6 change the location of the turbines after that  
 7 point?  
 8 **MR. DICK:** They are allowed to move them  
 9 certain distances so long as they still meet the  
 10 setback requirements. If they move them, they would  
 11 have to meet the sound requirements as well.  
 12 **MS. TURNER:** My only thought is, if  
 13 someone is trying to sell their house, that they  
 14 would be at least able to show what the plan is.  
 15 That is why I am asking that. But if they are able  
 16 to adjust the plan dramatically, that wouldn't be of  
 17 any help.  
 18 **MR. DICK:** They are not really allowed to  
 19 adjust it dramatically.  
 20 **MR. KURITZ:** And I believe I heard  
 21 Mr. Monroe say, when he was talking to Mr. Schwass,  
 22 that, once construction started, that the  
 23 uncertainty, you know, they are going to build it,  
 24 went away, and that is when things started

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1 recovering. It was that point from when they  
 2 introduce it until we have the hearings and until  
 3 they start it where the uncertainty really lied.  
 4 **MS. TURNER:** Right, and that's my point,  
 5 is we are talking about giving them more time. We  
 6 are talking about giving them three years of  
 7 uncertainty for these people because they had three  
 8 years to apply for it. I am not saying that is  
 9 wrong, but I am saying we need to realize what we  
 10 are impacting if we make that decision.  
 11 **MR. DEAN:** I am comfortable with that. I  
 12 think it's something what we have done before.  
 13 **MR. ZIMMERMAN:** I am not sure this is an  
 14 absolute standard that will not be injurious to the  
 15 use and enjoyment of other people's property. That  
 16 is not saying it's not going to have any impact  
 17 whatsoever, but it's not such a dramatic impact that  
 18 it isn't already -- that it isn't acceptable with  
 19 this range. It is not 100 percent standard. So, I  
 20 am okay with number 2.  
 21 **CHAIRMAN FINNIGAN:** Standard 1 and  
 22 standard 2 are the main ones that we need to get  
 23 past. So if we need to talk about these a little  
 24 more, we need to do it; but they are the ones that,

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1 if the board says it meets this standard, we're kind  
 2 of moving through with the rest of them.  
 3 **MR. KURITZ:** The injurious to the use and  
 4 enjoyment of property and the immediate vicinity for  
 5 purposes already permitted, that part of it, I think  
 6 that our changes to the decibel levels are going to  
 7 help that.  
 8 There were lots of people talking about  
 9 being out in their yards and in their property, and  
 10 our standards say that you measure at the house or  
 11 the foundation, or the Illinois Pollution Board  
 12 standards say at the property line, so that kind of  
 13 leaves out the yards. So hopefully, by being more  
 14 conservative, we'll take care of that yard noise to  
 15 some extent.  
 16 **MR. ZIMMERMAN:** You can do a little math.  
 17 On the normal lot, assuming it's a 5-acre lot, and  
 18 assuming the house is in the absolute center of that  
 19 lot, if you add 220 feet, give or take a couple  
 20 feet, that is the difference between to the house  
 21 itself and to the property line difference. So the  
 22 state standard versus our standard is not a  
 23 gigantically different length of space. If it were  
 24 in a middle of an 80-acre lot, that's very -- but

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1 people don't have 80-acre house lots. A normal  
 2 house lot is maximum like 5 acres, so a couple  
 3 hundred feet solves that.  
 4 **MR. KURITZ:** Unfortunately, there were a  
 5 couple of them that testified that did have 20- and  
 6 30-acre timbers or area that had some timbers and  
 7 those type of things on them, too.  
 8 **MR. ZIMMERMAN:** And the timbers and the  
 9 other things also mitigate the sound. So, assuming  
 10 we have a flat, straight area and a flat line, a  
 11 couple hundred feet, and we've already specified  
 12 that they adjust the turbines accordingly in terms  
 13 of noise which should take care of that.  
 14 **MR. KURITZ:** Yeah. That's what I was  
 15 advocating, that our changes -- that our  
 16 stipulations for standard 1 also are going to take  
 17 care of those issues on 2.  
 18 **MR. ZIMMERMAN:** Well, advocating is like  
 19 required I think, that this isn't just a suggestion  
 20 that you put out there.  
 21 **MR. BANGERT:** On the bottom there, it says  
 22 McLean County has not yet received the presiding  
 23 study. Have you gotten that?  
 24 **MS. TURNER:** Yeah.

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1       **MR. DEAN:** That was the IDNR thing that we  
2 dealt with. Did that include the 10-mile eagle  
3 survey?  
4       **MR. DICK:** That wasn't included as a  
5 stipulation of IDNR.  
6       **MR. BANGERT:** Okay. Does anyone know any  
7 more about the rule that exists on that, what that  
8 actually should be?  
9       **MR. DEAN:** The wind companies are required  
10 to do a 10-mile?  
11       **MR. ZIMMERMAN:** I don't know, but  
12 Dr. Angelo Capparella has been doing raptor surveys  
13 and he didn't bring it up as a big point. I think  
14 if anybody was going to bring it up, this is like  
15 his flagship item; and I didn't hear him mention it  
16 even, even when I brought him back up and said, hey,  
17 what are you doing with the raptor surveys.  
18       So I think it's important to have the  
19 distance requirements and the other things from the  
20 Heinlein Creek and from whatever the other  
21 perennial-flow creeks or whatever they call that,  
22 which I think we stipulated in the first one. That  
23 is the in the IDNR thing. So I think that is going  
24 to help out.

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1       **MR. BANGERT:** I was looking at Neutral  
2 Exhibit Number 8. On the second-to-last page it  
3 says in 2016 eagle rule PEIS language requires a  
4 wind company to provide a 10-mile eagle nest survey  
5 around the project for a permit.  
6       **MR. ZIMMERMAN:** That is part of our  
7 ordinance, so it's in there.  
8       **MR. BANGERT:** Okay.  
9       **MR. ZIMMERMAN:** So we are covered on that  
10 one I think, and the number is  
11 350-point-something-04.  
12       **MS. TURNER:** Has it been done? I realize  
13 it's part of the stipulation, but has it been done?  
14       **MR. KURITZ:** We did one in 2016, but they  
15 eliminated it in 2017. So I guess we need one for  
16 2017 it sounds like.  
17       **MR. ZIMMERMAN:** Or '18.  
18       **MR. KURITZ:** Or '18 now.  
19       **MR. PHIL:** We haven't received that.  
20       **MR. ZIMMERMAN:** What is that?  
21       **MR. DICK:** We haven't received the  
22 presiding statement. The only thing we received is  
23 in the application about some of the data about the  
24 eagles' nests.

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1       **CHAIRMAN FINNIGAN:** I guess what I see  
2 from the board is, is that we are ready to move on  
3 to 3.  
4       **MS. CARLTON:** I was just going to say the  
5 eagles' nest study is in our binder dated -- I don't  
6 know if that is the date that we have received it,  
7 but it says November 15, 2007. The report is done  
8 in 2016. There's all kinds of stuff in there.  
9       **MR. ZIMMERMAN:** That is number 5 in the  
10 first set of numbers.  
11       **MR. DICK:** What section is that again?  
12       **MR. ZIMMERMAN:** Number 5 in the first one.  
13       **MR. DEAN:** Brian, I think there is one  
14 here that shows it at 10 miles in the left survey  
15 area, page --  
16       **MS. CARLTON:** There is a nice big map.  
17       **MR. DEAN:** Page 4.  
18       **CHAIRMAN FINNIGAN:** My recollection is I  
19 think there was one study made and then they didn't  
20 do it. They dropped the distance back or something.  
21 And the second one didn't include the same  
22 information as the first one. That is my  
23 recollection.  
24       **MS. TURNER:** That is what was testified

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1 to. I don't know that it has been verified. Can we  
2 state that it be verified that we have that and move  
3 on?  
4       **CHAIRMAN FINNIGAN:** I think we can do  
5 that. Is everybody in agreement?  
6       We are ready to go to -- are we checking  
7 these off as we go? We are not going to go back  
8 through the standards again.  
9       **MR. ZIMMERMAN:** Yeah.  
10       **MR. KURITZ:** Yes.  
11       **CHAIRMAN FINNIGAN:** We are admitting  
12 standard 1, and now standard 2. So let's move on to  
13 standard 3.  
14       Phil, could you read that to us?  
15       **MR. DICK:** The proposed special use will  
16 not impede the orderly development of the  
17 surrounding property for uses permitted in the  
18 district.  
19       **CHAIRMAN FINNIGAN:** Anyone want to climb  
20 in on that one?  
21       **MR. ZIMMERMAN:** I think this one is set.  
22 It's an agricultural district and they can still do  
23 that.  
24       **MR. KURITZ:** I agree.

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1       **CHAIRMAN FINNIGAN:** We'll move on to  
 2 standard 4.  
 3       Did you have something, Brian?  
 4       **MR. BANGERT:** Yeah, ordinarily we see  
 5 LEESA scores on these. Is it because of the  
 6 partials and the actual size of the turbines that  
 7 they did not have LEESA scores on these?  
 8       **MR. DICK:** We haven't usually done LEESA  
 9 scores for the wind farms.  
 10       **MR. BANGERT:** Thank you.  
 11       **MR. ZIMMERMAN:** And back to Chris's point,  
 12 this is where the airstrip issues come in. And they  
 13 have adjusted the turbines to minimize the adverse  
 14 effects of that, so I am good with 3.  
 15       **CHAIRMAN FINNIGAN:** So we have a consensus  
 16 on 3?  
 17       **MS. TURNER:** Yep.  
 18       **CHAIRMAN FINNIGAN:** Let's go to number 4.  
 19       **MR. DICK:** Adequate utilities, access  
 20 roads, drainage, or other necessary facilities have  
 21 been or will be provided.  
 22       **MR. ZIMMERMAN:** We heard the one person  
 23 testify that his basement filled up after some drain  
 24 tile got fixed, and then they sold the wind farm to

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1 somebody else and got it fixed. I don't know how we  
 2 can make sure that issue gets solved if it were to  
 3 come up, but I would want to make sure that nobody's  
 4 basement get flooded because of some broken drain  
 5 tile.  
 6       **MR. BANGERT:** Well, the other side of that  
 7 was, when it was sold, there was no recourse. It  
 8 needs to be transferrable if there is a situation  
 9 that hasn't been resolved.  
 10       **CHAIRMAN FINNIGAN:** I agree with what you  
 11 are saying there because they need some protection  
 12 in that, and there is a lot of underground wires  
 13 that go in and you don't see that you broke a tile  
 14 until it maybe shows up a year or two later. So I  
 15 am not sure how we address it, but we ought to put  
 16 something in there for that.  
 17       **MR. KURITZ:** Especially when you are doing  
 18 some of the boring type wire installations under  
 19 roads and things where you don't trench. If you  
 20 trench, you ought to see it, especially if it was  
 21 clay tile. I mean most of it is the black  
 22 corrugated now, but you run into some of the old  
 23 ones. But when they are doing that bore and they  
 24 just shove it under there, they can disrupt stuff

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1 like that and never even know it.  
 2       **MR. ZIMMERMAN:** We want to keep a lot of  
 3 this from disturbing the surface, but the problem is  
 4 you do that in a dry year and one, two, three years  
 5 later you come up with a bunch of water problems.  
 6 Whether you are a farmer or whether a landholder or  
 7 something else, we want to make sure there is a  
 8 recourse against somebody there so that whoever has  
 9 a problem can get that fixed.  
 10       **CHAIRMAN FINNIGAN:** I am not sure how we  
 11 address it. I mean it's -- we could ask our counsel  
 12 to see if there was something there that she can  
 13 think of that we can put in that.  
 14       **MR. DEAN:** I was pretty confident that  
 15 there was already protection for the landowners for  
 16 these kind of issues in past wind farms.  
 17       **MR. DICK:** I think it's important for the  
 18 applicant to provide a phone number and contact  
 19 person to deal with problems, when they come up, and  
 20 be encouraged to contact them. And if those people  
 21 won't help them, they should call our office. But  
 22 the applicant should provide help for those folks.  
 23       **CHAIRMAN FINNIGAN:** What if it goes a year  
 24 or two after it is built? I mean like this, it got

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1 sold, or something unforeseen happened, where do  
 2 they get their -- how do they get help?  
 3       **MR. DICK:** When they sell it to somebody  
 4 else, they have to sell that idea that they need to  
 5 provide the same help to the customers.  
 6       **CHAIRMAN FINNIGAN:** I think we need to put  
 7 that in some kind of writing, I mean in some kind.  
 8       **MS. TURNER:** Is that covered by the AIMA  
 9 report or AIMA standards?  
 10       **MR. DICK:** I think it's covered in our  
 11 ordinance where, you know, when property gets  
 12 transferred, the responsibilities go with it as well  
 13 as the assignees or the new owners.  
 14       I'll read that part to you.  
 15       **MR. BANGERT:** So, therefore, there would  
 16 be no statute of limitations on one of these  
 17 projects if the company were to sell?  
 18       **MR. DICK:** It goes something like this  
 19 with regard to it, the decommissioning plan shall be  
 20 binding upon the owner or wind operator or any of  
 21 his successors, assignees, or heirs.  
 22       But we should have that in there for the  
 23 persons who are experiencing problems so that that  
 24 gets transferred with it.

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1       **CHAIRMAN FINNIGAN:** Well, we have to get  
 2 that from day one, not twelve years later as a  
 3 demission. It would have to be as the project is  
 4 ongoing somehow.  
 5       **MR. DICK:** Yeah.  
 6       **CHAIRMAN FINNIGAN:** I know she wants to  
 7 say something, so we are going to let her.  
 8       **MS. WALLEY:** The statute of limitations on  
 9 property damage is ten years from the discovery.  
 10       **MR. ZIMMERMAN:** From discovery gives them  
 11 a pretty good running, gives us a good timeframe.  
 12       **MS. WALLEY:** Well, I mean there is a lot  
 13 of case law and known, should have known, things  
 14 like that, but the general rule of thumb is a  
 15 10-year statute of limitations.  
 16       **MR. BANGERT:** And burden of proof?  
 17       **MS. WALLEY:** I am sorry?  
 18       **MR. BANGERT:** And burden of proof.  
 19       **MS. WALLEY:** I mean, if you are talking  
 20 about in a court of law, yeah, there would be a  
 21 burden of proof. If you are talking about bringing  
 22 it to the attention of the wind farm operator, I  
 23 mean I think that could be done any time. But if  
 24 you are talking about for legal purposes or for

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1 purpose of litigation, yeah, I mean there would be  
 2 -- the onus would be on the individual to show, and  
 3 then there is different burdens and things that go  
 4 with it, but to show that the property damage should  
 5 be repaired or whatever.  
 6       **MS. TURNER:** And AIMA definitely does set  
 7 out requirements of the company for landowners, and  
 8 it also states that they have to give notice if  
 9 there is a change of ownership.  
 10       **CHAIRMAN FINNIGAN:** It kind of sounds like  
 11 it's already covered, but I guess that I would  
 12 suggest this: If our counsel would look into that  
 13 -- and she knows what we are talking about here, our  
 14 concerns, and if it's not taken care of, we would  
 15 like to have that done, and I guess it's kind of  
 16 important.  
 17       **MS. WALLEY:** Let me make sure I understand  
 18 what you are indicating. Are you wanting then a  
 19 stipulation as part of standard 4 that the applicant  
 20 provide a specific individual or contact information  
 21 in the event that there is an issue? Is that what  
 22 you are asking for?  
 23       **CHAIRMAN FINNIGAN:** With somebody that is  
 24 going to take care of the problem, somebody is going

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1 to mitigate their problem, yeah.  
 2       **MS. WALLEY:** Okay.  
 3       **CHAIRMAN FINNIGAN:** If you don't get in  
 4 contact with them, they are not going to take care  
 5 of it.  
 6       **MS. WALLEY:** So you are looking for a  
 7 direct line of access someone in particular?  
 8       **CHAIRMAN FINNIGAN:** (Nodding.)  
 9       **MS. WALLEY:** Okay.  
 10       **MR. ZIMMERMAN:** If they don't take care of  
 11 the issue, what is the redress?  
 12       **MR. DEAN:** Can you pull the permit and say  
 13 shut down this or these utilities, these wind  
 14 turbines?  
 15       **MR. DICK:** Well, we would want them to, if  
 16 they can't get satisfaction from complaining to the  
 17 applicant or the owner, to contact us and then we  
 18 would treat it as a zoning enforcement issue.  
 19       **MR. ZIMMERMAN:** That makes sense. And  
 20 historically the zoning enforcement issue can be  
 21 very gentle up to a point and then quite insistent.  
 22       **MS. WALLEY:** Well, I don't think that is  
 23 necessarily the only issue that is here. Like  
 24 Mr. Bangert had said, there are property rights at

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1 issue here, landowner rights, whether it's where the  
 2 property where the turbine sits or it's an adjoining  
 3 landowner's property, they have the right to sue,  
 4 they have the right to seek compensation, and that  
 5 is why he was asking about the statute of  
 6 limitations.  
 7       So, although I understand the concern  
 8 about addressing the issue with the applicant, they  
 9 have -- the individual landowners have means beyond  
 10 simply contacting them. If it doesn't meet a  
 11 satisfactory end, they do have legal rights and  
 12 legal options under the law that they can pursue as  
 13 well.  
 14       **CHAIRMAN FINNIGAN:** Another main -- at the  
 15 bottom of that, it also talks about erosion around  
 16 roadways, waterways. Who actually is going to  
 17 enforce that? Is that something that the county  
 18 will check into, Dick?  
 19       **MR. STOCKS:** If erosion occurs on the  
 20 right-of-way or township right-of-way, the county  
 21 highway with respect to township would cover it.  
 22       **CHAIRMAN FINNIGAN:** How about if an access  
 23 road goes through a waterway, who takes care of  
 24 that? The landowner?

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1       **MR. DICK:** The landowner has certain  
 2 rights and responsibilities, but we pretty much have  
 3 to have it reported to us as far as the erosion  
 4 because, otherwise, we are not going to really see  
 5 it. But if it comes to our attention then we will  
 6 bring it to their attention, and that is why we  
 7 would like to have a stipulation in there that they  
 8 are required to do that erosion control and to deal  
 9 with the issues with the waterway before they deal  
 10 with accessing or installing the actual road.  
 11       **MR. KURTIZ:** Don't the state's laws take  
 12 care of that? Where you have to put -- where you  
 13 have to put the silt fence up. I mean it's a  
 14 construction project, and we always had to comply  
 15 with that and put a -- I used to know what it stood  
 16 for, but we had to put together a plan and we had to  
 17 monitor the silt fence and all that kind of stuff  
 18 anywhere you were close to a waterway.  
 19       **MS. TURNER:** Phil, what you are asking  
 20 here is that we put in a stipulation to install  
 21 vegetated strips along the upstream side of access  
 22 roads that are prone to washing out? So you are  
 23 asking we need to put that stipulation in there?  
 24       **CHAIRMAN FINNIGAN:** I think we just got to

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1 have some kind of adequate verbiage that says that,  
 2 if erosion happens, they are going to do something  
 3 to mitigate it. And it's maybe already in there.  
 4 But somebody's idea of mitigating and another guy's  
 5 is something else.  
 6       **MS. TURNER:** That is why I think here they  
 7 are saying put it on every one of them, vegetated  
 8 strips along the upstream side of access roads. So  
 9 make sure there is a vegetated strip on the upstream  
 10 side of access roads.  
 11       **CHAIRMAN FINNIGAN:** Sounds reasonable.  
 12       **MS. TURNER:** I think so, too. I think it  
 13 is written well there.  
 14       And then, also, the next one says, to  
 15 minimize erosion along access roads, waterways  
 16 should be improved before access roads are  
 17 installed.  
 18       **CHAIRMAN FINNIGAN:** That was some of my  
 19 questions, is who is going to look this over because  
 20 it's on private property. A lot is -- I mean a lot  
 21 of these access roads are on private property.  
 22       **MR. BANGERT:** So this is going to be a  
 23 complaint-driven system?  
 24       **CHAIRMAN FINNIGAN:** It sounds like there

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1 is enough wordage in there that we can get it taken  
 2 care of. I am satisfied if everybody else is.  
 3       **MR. ZIMMERMAN:** We heard some comments on  
 4 different places that they couldn't -- the wind  
 5 farms couldn't produce a log of certain things like  
 6 how many times they went out to a different place  
 7 for the Department of Natural Resources studies and  
 8 for the bird studies and some other things.  
 9       I was thinking about what about a master  
 10 log for complaints. I don't think it would be too  
 11 -- if they are getting the complaints, they can  
 12 compile them and that could be a publicly accessible  
 13 record as well.  
 14       As I see our attorney reaching for her  
 15 button, so --  
 16       **MS. WALLEY:** Sorry. I was asking for  
 17 clarification. You want the log to be kept by the  
 18 applicant?  
 19       **MR. ZIMMERMAN:** Yeah. Who should keep the  
 20 log? By the applicant? Would it be appropriate for  
 21 the applicant to keep such a log, logging  
 22 complaints, and make it available, say, annually to  
 23 the zoning board?  
 24       **MS. WALLEY:** Is that something that -- and

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1 maybe I missed the beginning of your statement. Are  
 2 you identifying this as part of the ordinance or one  
 3 of the review standards?  
 4       **MR. ZIMMERMAN:** No, as a stipulation that  
 5 would be added to this.  
 6       **MS. WALLEY:** Okay.  
 7       **MR. ZIMMERMAN:** Because if we have a  
 8 complaint-driven system -- building on Brian's  
 9 item -- and there happen to be complaints, how are  
 10 you going to know and how, if it is a pattern where  
 11 there is a whole bunch of complaints, how is the  
 12 zoning board ever going to find out about this?  
 13       **MS. WALLEY:** Okay. I want to make sure I  
 14 understand because I am taking it down here. So you  
 15 want a log of complaints kept by the applicant made  
 16 available on an annual basis, or made public at any  
 17 time?  
 18       **MR. ZIMMERMAN:** I am not sure what the  
 19 appropriate way to report it would be. If there are  
 20 a whole bunch of complaints coming in, how is  
 21 anybody going to know about it?  
 22       **MS. TURNER:** So I want to know what the  
 23 point of this is because I think Phil has already  
 24 stated that, if they don't get it taken care of

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1 there, they come to the county at that point and  
 2 complain, and then we know to take care of it then.  
 3 But if they are complaining to the  
 4 applicant and they are taking care of it, do you  
 5 want record of all those complaints?  
 6 **MR. ZIMMERMAN:** What is appropriate? What  
 7 I want is participants and the community are --  
 8 participants, being the landholders, and the  
 9 waterways and all of the other what we would call  
 10 environmental areas are being taken care of and not  
 11 being run roughshod over. So, if there is a pattern  
 12 of complaints, that it would come to the attention  
 13 of the zoning board.  
 14 **MS. WALLEY:** I can't tell what you is  
 15 appropriate or inappropriate. I can tell you what  
 16 you have the legal authority to do. That is kind of  
 17 a fact question for you guys to determine. So if  
 18 you tell me that you believe that that is part of  
 19 one of the use standards or part of the ordinance  
 20 and as such, you need a stipulation, I am more than  
 21 happy to record that; but I can't tell you what is  
 22 appropriate and what is not. That is for you guys.  
 23 **MR. DEAN:** We probably had this covered  
 24 through the complaint system that is already in

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1 place.  
 2 **MR. KURITZ:** The other thing is the people  
 3 with the access roads are the ones that have  
 4 turbines and have a contract, and we don't know what  
 5 -- it may be covered in their contract with  
 6 Invenergy.  
 7 **CHAIRMAN FINNIGAN:** Good point. Okay.  
 8 Are we satisfied with stip 4?  
 9 Let's move on to 5.  
 10 **MR. DICK:** Adequate measures have been or  
 11 will be taken to provide ingress and egress as  
 12 designed as to minimize traffic congestion in the  
 13 public streets.  
 14 **MS. TURNER:** Based upon the plan that they  
 15 have submitted and the fact that it sounds like they  
 16 have a system set up for communication on a regular  
 17 basis, I think this is met.  
 18 **MR. KURITZ:** I agree.  
 19 **MR. ZIMMERMAN:** Uh-huh.  
 20 **CHAIRMAN FINNIGAN:** I think we have a  
 21 consensus on 5.  
 22 Let's go to 6.  
 23 **MR. DICK:** The establishment, maintenance,  
 24 and operation of the special use will be in

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1 conformance with the intent of the district in which  
 2 the special use is proposed to be located.  
 3 **CHAIRMAN FINNIGAN:** I think, if you read  
 4 father, it says that they are compatible; and I do  
 5 believe that, no matter what you think, wind farms  
 6 are -- there is another form of farming on your  
 7 property, using of your property, so I think it does  
 8 fall within that intent. I don't know what anybody  
 9 else thinks.  
 10 **MR. KURITZ:** I think 6 is met.  
 11 **CHAIRMAN FINNIGAN:** We have got 7 left.  
 12 **MR. DICK:** The proposed special use, in  
 13 all other respects, conforms to the applicable  
 14 regulations of the agricultural district.  
 15 **CHAIRMAN FINNIGAN:** I am getting nodding  
 16 of heads.  
 17 So, at this point, I guess we are probably  
 18 ready for a motion, unless you have something else  
 19 you want to talk about.  
 20 **MR. ZIMMERMAN:** Can we make sure that all  
 21 the stipulations on the last page here, that we've  
 22 covered all of them just to make sure?  
 23 **CHAIRMAN FINNIGAN:** I think we are going  
 24 to have Counsel read everything to us along with the

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1 additions.  
 2 **MS. WALLEY:** Okay. I am going to read the  
 3 stipulations I have identified based on what you've  
 4 stated. If I am correct, let me know.  
 5 Under standard 1, Mr. Kuritz requested  
 6 that the 2 DB be added back in to make sure that all  
 7 the turbines are below the IPCB nighttime standards.  
 8 Is that correct?  
 9 **MR. KURITZ:** Correct.  
 10 **MS. WALLEY:** To adopt all IDNR  
 11 recommendations which would result in the removal of  
 12 Turbine 91 and in particular require the three-year  
 13 study.  
 14 Adopt the decommissioning rate as proposed  
 15 by the applicant at the rate of \$52,809 per turbine.  
 16 Require compliance with all requirements  
 17 in AIMA.  
 18 And this was batted around, and I don't  
 19 know if it was agreed upon or not: Require LNTE or  
 20 low-noise trailing edged blades on all.  
 21 **MS. TURNER:** We took that out because we  
 22 said the they just had to meet the noise  
 23 requirements.  
 24 **MS. WALLEY:** Okay. Standard 2 and 3,

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1 there were no stipulations added.  
 2 Standard 4: Identify a specific contact  
 3 information for problems and issues made available  
 4 from Applicant to the public.  
 5 And then there was language: Vegetated  
 6 strips along the upstream side of access road to  
 7 avoid erosion.  
 8 And there were no stipulations added to  
 9 standard 5, 6 or 7.  
 10 **MS. TURNER:** Okay. And then, in addition  
 11 to those, I think we have the ones that are listed  
 12 on the staff report and the ones that weren't  
 13 covered in what you read are:  
 14 Number 1, which is the written road  
 15 agreement with the county.  
 16 And then number 2: Written road use  
 17 agreement with the townships, that they have to  
 18 follow the plans and documents submitted. That is  
 19 number 3.  
 20 And then number 4 we covered because there  
 21 were changes in that.  
 22 And number 5 also covered there, but that  
 23 5 feet changed because it's a larger tower. Didn't  
 24 it?

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1 **MR. KURITZ:** It's still 5 feet below.  
 2 **MS. TURNER:** Oh, but they did the  
 3 estimate. That's right. Sorry about that.  
 4 **MR. ZIMMERMAN:** I thought 4 and 5 were  
 5 decommissioning.  
 6 **MS. TURNER:** Correct.  
 7 **MR. ZIMMERMAN:** And we just upped those  
 8 standards.  
 9 **MS. TURNER:** Right.  
 10 **CHAIRMAN FINNIGAN:** And upped the value.  
 11 **MS. TURNER:** Right. Right.  
 12 Number 6, the presiding study, we've got  
 13 that except we need to double check on the eagle,  
 14 the 10-mile eagle.  
 15 7 needs to stand.  
 16 8 needs to stand.  
 17 9 also, 10 also, and 11 also.  
 18 **MS. WALLEY:** I just marked down generally  
 19 to adopt all stipulations not previously identified  
 20 in the staff report.  
 21 **MS. TURNER:** Okay.  
 22 **MR. KURITZ:** I move to recommend to  
 23 approval of SU-17-11 with all the amendments and  
 24 stipulations.

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1 **MR. ZIMMERMAN:** Second.  
 2 **CHAIRMAN FINNIGAN:** We have a motion by  
 3 Kuritz and a second by Zimmerman with the  
 4 stipulations we talked about, and I think we are  
 5 ready for roll call vote.  
 6 **MR. DICK:** Bangert?  
 7 **MR. BANGERT:** Yes.  
 8 **MR. DICK:** Kuritz?  
 9 **MR. KURITZ:** Yes.  
 10 **MR. DICK:** Dean?  
 11 **MR. DEAN:** Yes.  
 12 **MR. DICK:** Turner?  
 13 **MS. TURNER:** Yes.  
 14 **MR. DICK:** Zimmerman?  
 15 **MR. ZIMMERMAN:** Yes.  
 16 **MR. DICK:** Finnigan?  
 17 **CHAIRMAN FINNIGAN:** Yes.  
 18 **MR. DICK:** Carlton?  
 19 **MS. CARLTON:** Yes.  
 20 **CHAIRMAN FINNIGAN:** Seven. So that's a  
 21 unanimous yes decision. Our part is done, and we  
 22 thank you for coming.  
 23 And, Phil, I don't think he has any  
 24 follow-up what goes on with here.

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1 **FEMALE IN AUDIENCE:** I hope you people  
 2 can't sleep at night. You have done nothing to  
 3 respect the people you are supposed to.  
 4 And I am glad, Little Miss Glasses, with  
 5 the fake blonde hair, I am glad you think it's  
 6 funny. I am glad you think that my livelihood and  
 7 my children's wellbeing is funny.  
 8 You know what? Screw you all because you  
 9 did nothing for the people that you are supposed to  
 10 protect. Screw you all.  
 11 (MEETING ADJOURNED AT 9:43 P.M.)  
 12  
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 24

CERTIFICATE OF REPORTER

I, Holly Wingstrom, CRR, RPR, CSR #84-003888,  
reported in machine shorthand the proceedings had in the  
above-entitled cause and transcribed the same by  
computer-aided transcription, which I hereby certify to  
be a true and accurate transcript of the proceedings had.

---

Holly Wingstrom, CRR, RPR, CSR #84-003888  
Official Court Reporter

Dated: February 14, 2018

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