

**MINUTES OF THE
LEE COUNTY ZONING BOARD OF APPEALS**

**Regular Meeting
Monday, March 14, 2022, at 6:00 p.m.**

**County Board Room
Old Lee County Courthouse, Dixon, Illinois**

**Zoom Video- & Tele-conferencing
Meeting ID: 91539239154
Password: 209840**

**YouTube
<https://www.youtube.com/watch?v=fLVXriuYXB0>**

Board Members

Bruce Forster, Chair
Craig Buhrow, Vice Chair
Mike Pratt, Member
Gene Bothe, Member
Glen Hughes, Member
Rex Meyer, Alternate Member

Staff

Dee Duffy, Zoning Administrator
Charles Boonstra, Lee County State's Attorney
Alice Henkel, Clerk

At 6:00 p.m., Chair Bruce Forster called the meeting to order, and roll was called.

Members present: Forster, Buhrow, Bothe, Pratt, Meyer

Members absent: Hughes (arrived at 6:14 p.m.)

Staff present: Duffy, Henkel, Boonstra

Staff absent: None

Chair Forster turned the hearing over to Retired Judge Timothy J. Slavin who, at the previous meeting, was appointed the facilitator *pro tem* for the hearing on Petition No. 21-P-1586 by Petitioner Sauk Valley Hydrogen, LLC. The parcel identification number is 15-07-29-300-008, commonly known as 1311 Nelson Rd., Rock Falls, Illinois. The parcel is located in Nelson Township and is approximately 130.70 acres in size. The parcel is zoned I-3, Heavy Industrial District. Petitioner is requesting a special use in a C-3, General Business District, for the purpose of an 845-kW solar energy system to supply electricity to a co-located hydrogen energy system.

Judge Slavin gave a brief introduction and explained the procedures and rules for this hearing, including public participation via Zoom and public observation via YouTube.

Judge Slavin noted the following persons as personally present at the hearing: Chair Forster, Vice Chair Buhrow, Member Bothe, Member Pratt, Member Hughes, Alternative Member Meyer, Zoning Administrator Dee Duffy, Renewable Energy Coordinator and ZBA Clerk Alice Henkel,

State’s Attorney Charley Boonstra, three (3) representatives for the Petitioner, IT Jonathan Hendrickson, one (1) interested party, Court Reporter Callie Bodmer, and Facilitator Judge Slavin. Petitioner’s Attorney Mike Blazer, and two (2) representatives for the Petitioner were present via ZOOM.

Attorney Michael Blazer proceeded with giving an open statement on behalf of Petitioner Sauk Valley Hydrogen, LLC.

Following his opening statement, Attorney Blazer called Steven Lill to testify on behalf of the petition. Mr. Lill is the Sauk Valley Hydrogen Project Manager. On behalf of that company, he committed to being bound by all representations made in the Application and statements made under oath by representatives of that entity during the ZBA hearing. He went on to give a general overview of the proposed SES- the “big picture” of its physical footprint, the proposed equipment to be installed, a pending power exchange accommodation with ComEd, decommissioning and the ways in which the Applicant will meet the requirements of other provisions of the Lee County Ordinances.

At the conclusion of Mr. Lill’s testimony, Judge Slavin called for a brief recess at 7:00 p.m. The hearing resumed at 7:10 p.m.

Once the hearing resumed, the following persons cross examined Mr. Lill:

- Charley Boonstra, State’s Attorney
- Dee Duffy, Lee County Zoning Administrator
- Alice Henkel, Renewable Energy Coordinator
- Bruce Forster, Chair
- Craig Buhrow, Vice Chair
- Mike Pratt, Member
- Glen Hughes, Member
- Judge Slavin, Facilitator *pro tem*
- Rex Meyer, Alternate Member

There was no redirect by Attorney Blazer.

Mr. Lill was excused as a witness.

At 8:18 p.m., Judge Slavin called for recess until March 16, 2022, at 6:00 p.m.

MARCH 16, 2022, at 6:00 p.m.

At 6:00 p.m., Judge Slavin called out of recess, the hearing on Petition No. 21-P-1586 by Petitioner Sauk Valley Hydrogen, LLC. He gave a brief introduction and explained the procedures for public participation via Zoom and public observation via YouTube.

Judge Slavin noted the following persons as personally present at the hearing: Chair Forster, Vice Chair Buhrow, Member Bothe, Member Pratt, Member Hughes, Alternative Member Meyer,

Renewable Energy Coordinator and ZBA Clerk Alice Henkel, State’s Attorney Charley Boonstra, two (2) representatives for the Petitioner, IT Jonathan Hendrickson, Court Reporter Callie Bodmer, and Facilitator Judge Slavin. Petitioner’s Attorney Mike Blazer and Zoning Administrator Dee Duffy present were via ZOOM. No interested parties were present, either in person or by ZOOM.

Attorney Blazer called Joel Schroeder to testify on behalf of the petition. Mr. Schroeder, a Senior Vice-President of Invenergy, LLC, provided more specifics of the proposed Project- such things as requested waivers, the lack of communication interference maximum solar panel height, water use, a fence setback, historic site survey and possible real estate valuation consequences.

The following persons cross examined Mr. Schroeder:

- Alice Henkel, Renewable Energy Coordinator
- Craig Buhrow, Vice Chair
- Mike Pratt, Member
- Glen Hughes, Member
- Judge Slavin, Facilitator *pro tem*

Mr. Schroeder was excused as a witness.

There was no presentation of evidence by the zoning office.

There was no presentation of evidence by interested parties.

Attorney Blazer gave a closing statement on behalf of the petition. Based on the evidence produced, he urged the Lee County ZBA to recommend to the Lee County Board that Sauk Valley Hydrogen, LLC’s Petition be approved, and the Special Use Permit issued, along with the waivers requested.

No other closing statements/public comments were given.

At 6:56 p.m., Judge Slavin called for recess until March 21, 2022, at 6:00 p.m.

MARCH 21, 2022, at 6:00 p.m.

At 6:00 p.m., Judge Slavin called out of recess, the hearing on Petition No. 21-P-1586 by Petitioner Sauk Valley Hydrogen, LLC. He gave a brief introduction and explained the procedures for public participation via Zoom and public observation via YouTube.

Judge Slavin noted the following persons as personally present at the hearing: Chair Forster, Vice Chair Buhrow, Member Bothe, Member Pratt, Member Hughes, Alternative Member Meyer, Zoning Administrator Dee Duffy, Renewable Energy Coordinator and ZBA Clerk Alice Henkel, State’s Attorney Charley Boonstra, two (2) representatives for the Petitioner, Court Reporter Callie Bodmer, and Facilitator Judge Slavin. Petitioner’s Attorney Mike Blazer was present via ZOOM. No interested parties were present, either in person or by ZOOM.

The Board commenced its finding of fact.

Glen Hughes made a motion that the Lee County Zoning Board of Appeals (hereinafter “ZBA” or “Zoning Board”) finds that, on December 21, 2021, Invenergy Hydrogen, LLC filed a Petition with the Lee County IL Zoning Administration Office, which is numbered 21-P-1586, requesting a Special Use Permit to construct and operate a 845 KW_{AC} Solar Energy System (hereinafter “SES,” “solar farm,” “Project,” “Facility” or “Development”)- on one parcel of real estate totaling 5.13 acres, owned by Invenergy Nelson LLC, and zoned I-3 (Heavy Industrial) within Nelson Township- adjacent to the west edge of Nelson Road approximately a mile south of the Village of Nelson and less than a half of a mile north of Interstate 88. Subsequently, on March 2, 2022, an Amended Petition (with the only amendment being the new party-in-interest, Sauk Valley Hydrogen LLC, hereinafter the “SVH,” “Applicant,” “Petitioner,” Developer” or “Sauk Valley”) named as the Applicant, and affiliate of Invenergy LLC- was filed.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that following the submission of the initial Application,

- proper notice of the filing of the Petition and of an impending ZBA Hearing was published in the Sauk Valley News on February 11, 2022; and
- furthermore, United States Post Service First-Class mailings of the same Notice were sent to adjacent real estate property owners who would be within 1000 feet of the proposed Project’s boundary; and
- Zoning Administrator Dee Duffy published the hearing information on her department’s pages of the Lee County website and physically posted the same where the proposed development would be located.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that

- the impending Hearing was initially announced by Chairman Bruce Forster on the evening of Thursday, March 3, 2022 at about 7:30 p.m. in the “main courtroom” on the third floor of the Old Lee County Courthouse; and
- under the authority provided by its own rules, prior to actually initiating the hearing, the ZBA engaged the services of Tim Slavin, a retired circuit court judge, as the Facilitator for the proceedings; and
- due to time constraints, Judge Slavin simply introduced himself, gave remarks explaining the process, gathered future available dates and set the next session for March 9, 2022 which was then continued on that evening to March 14, 2022.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that the first stage of the public hearing regarding the Petition for the Special Use Permit was for your Lee County ZBA to accept

testimony, hear arguments and receive public comments. As suggested above, the evidentiary and comments portion of the hearing began on March 14, 2022 and concluded on March 16, 2022, consisting of two total sessions- both beginning at 6:00 p.m. in that former “main courtroom” on the third floor of the Old Lee County Courthouse. The totality of these sessions of the first stage comprised, in total, approximately 3 ½ hours of hearing time.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that, throughout the hearing process,

- no longer were there any State of Illinois or Lee County COVID-19 safety measures in place for public gatherings such as the ZBA hearing; but
- attendees were encouraged to wear masks and maintain a reasonable social distance within the hearing room; and
- there were never more than two Interested Parties that personally appeared within the hearing room; and
- additionally, through the auspices of the Lee County IT Department and Lee County Zoning Officer, Ms. Dee Duffy, Interested Parties were also given the opportunity to remotely and virtually participate in the process by video or teleconferencing on the ZOOM platform through the use of a computer, cell phone or similar device at a location of their choosing; but there were never any Interested Parties that availed themselves of that protocol; and
- furthermore, Interested Parties could remotely view and listen to the proceedings in real time, or later in the recorded mode, on a YouTube feed- also courtesy of the Lee County IT Department and Ms. Duffy; and
- lastly, the entirety of the proceedings was taken down by a certified shorthand reporter and subsequently transcribed. Those transcripts of all testimony, arguments, public comments and ZBA debate were, and continue to be, available, on the Zoning and Planning web pages within the Lee County web site.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that, over the course of the first stage, everyone– the Petitioner and Interested Parties, were given a complete and fair opportunity to be heard. Each was given the chance to present evidence, including witnesses and exhibits, cross-examine the witnesses of others and to present a closing argument, statement or public comment- either orally or in writing.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that we, the members of the Lee County Zoning Board of Appeals, find that we heard all of the evidence produced and examined each of the exhibits.

A second was discerned. Mr. Hughes debated on amended this motion based on the fact that Pet. #6 was submitted that evening; however, he chose not to amend the motion as the exhibit had been

received and was in the possession of the zoning office. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County Zoning Board of Appeals finds that two people took the witness stand, were placed under oath or affirmation and testified. Those witnesses, in order of their appearance, with a very brief summary of what they had to say, were as follows:

- Mr. Steven Lill, offered by the Applicant, is the Sauk Valley Hydrogen Project Manager. On behalf of that company, he committed to being bound by all representations made in the Application and statements made under oath by representatives of that entity during the ZBA hearing. He went on to give a general overview of the proposed SES- the “big picture” of its physical footprint, the proposed equipment to be installed, a pending power exchange accommodation with ComEd, decommissioning and the ways in which the Applicant will meet the requirements of other provisions of the Lee County Ordinances.
- Mr. Joel Schroeder, offered by the Petitioner and a Senior Vice-President of Invenergy, LLC, provided more specifics of the proposed Project- such things as requested waivers, the lack of communication interference maximum solar panel height, water use, a fence setback, historic site survey and possible real estate valuation consequences.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County Zoning Board of Appeals finds that the following exhibits were admitted into evidence by the Facilitator and considered by the Board:

Petitioner’s Exhibits

- Pet #1: hard copy of witness, Steven Lill’s, Power Point presentation;
- Pet #2: Petitioner’s bound Application;
- Pet #3: the filed Amended Petition for SUP;
- Pet #4: The Illinois Secretary of State’s corporate “Certificate of Good Standing” for Sauk Valley Hydrogen, LLC;
- Pet #5: the written easement documents from Invenergy Nelson, LLC to Sauk valley Hydrogen, LLC.
- Pet #6: Stormwater Management Study for Nelson Energy Center.

No other party introduced any exhibits.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County Zoning Board of Appeals finds that following the close of the testimonial phase, the Board heard what could be characterized as closing arguments or public comment, from

- Michael Blazer, Attorney for the Applicant, who urged, based on the evidence produced, the Lee County ZBA to recommend to the Lee County Board that Sauk

Valley Hydrogen, LLC's Petition should be approved and the Special Use Permit issued, along with the waivers requested.

- No other parties made any public comments.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that, through both its Application and the testimony of two of its agents, that the proposed SES is part of a small-scale research and development project to demonstrate the efficacy of running a Hydrogen Energy System (HES) with solar power.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that any hydrogen related equipment placed within the boundaries of the proposed SES would already conform to the I-3 zoning classification and fit within the "power plant" SUP granted Invenergy Nelson in 2007.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that, through both its Application and the testimony of two of its agents,

- any limited amount of power generated from the SES not utilized by the HES would be fed onto the grid by a direct connection to a nearby ComEd distribution line which ComEd has verbally indicated is available;
- but there would be no Power Purchase Agreement (PPA) for that excess power, because, due to the exchange of incoming and limited outgoing power from the grid, there would be instead a net usage arrangement between Invenergy and ComEd.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that, through both its Application and the testimony of one of its agents that the components of the SES would be

- support pilings and racks
- all along a north-south axis; and
- the support pilings would be simply driven into the ground without any further stabilization; and
- approximately 1200 LONGi bi-facial solar panels measuring approximately 7.4 feet long, 3.7 feet wide and 1.4 inches thick all on an east-west axis;
- arranged in a "string" series of 23 panels; with
- nine 353-foot-long full rows of 4 "strings"; and
- eight half-rows of 2 "strings"; and
- NEXTracker racks and solar panel trackers for all panels; and

- end row power panels; and
- end row optimizers; and
- inverters; and
- DC combiner boxes; and
- switchgears; and ComEd transformers.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that, through both its Application and the testimony of two of its agents there is an existing access road- the only one that the Petitioner, in its Application, proposes.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that, through both its Application and the testimony of one of its agents there are no plans for either an O & M building or “lay down” yard.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds

- that as noted above, the initial Petition for a Special Use Permit for the Project was initially filed with the Lee County Zoning Office on December 21, 2021; and
- about a month prior to that time, on November 18, 2021, the Lee County Board Chairman signed into law the newest SES ordinance passed by the County Board, #11-21-005 which would then be the provisions most specifically applicable to the Petition at issue; and
- also in place at the time the Petition was filed certain provisions of the Lee County Ordinance, “Performance Standards” (§10-15-1 et seq.) and “Special Exceptions, Variations and Nonconforming Uses” (§10-2B-1 et seq.), which, unless suspended by the new SES ordinance, would also be applicable.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that the Petitioner promised in its Application that, if its Petition for a SUP is granted, the foundations within the Project would be designed and stamped by a Professional Engineer.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that the Petitioner presented in its Application

- that it would adhere to applicable local, state and federal regulatory standards pertaining to electricity generation and transmission and the National Electrical Code; but
- that the trackers and optimizers are not yet Underwriters Laboratories listed; and
- the “ForgeSolar Glare Report” included in the Application indicates that the solar panels would contain “AR coating” which is the abbreviation for “Anti-Reflective.”

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that, in its Application and/or through its witness testimony, the Petitioner stated that the power cabling to connect and route the output of each “string” to the end row optimizer would be hung beneath the modules in a cable tray known as a CAB system which allows for

- less ground disturbance; and
- quicker system upgrading; and
- lower installation cost; and
- easier maintenance; and
- that the connection cabling from those optimizers to a DC “combiner box” and from the DC “combiner boxes” to an inverter station and pad transformer will be underground; and
- from an inverter station and pad transformer, the power would flow underground to the “switchgear” where it would either be used by HES electrolyzer or, when surplus power exists, connected underground to a new ComEd transformer and, from it, directly to the existing ComEd distribution line on the same side of Nelson Road as the proposed Project;

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that, based on representations made in its Application and in the testimony of its agent, the Developer promised that no ground mounted system, equipment or structure (except for transmission lines, utility poles, or any poles or piece of equipment connecting a ground-mounted piece of equipment to an electric transmission line) within the proposed Development would exceed twenty (20) feet in height, and, in fact, at their maximum tilt (60 degrees) the solar panels would not exceed 10 feet in height.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that the Petitioner represented in its Application

- that the existing fence that surrounds the proposed Project site, and will continue to be utilized is over six (6) feet tall capped by barbed wire; and

- that it would affix signage in accordance with NESC, AANSI and OSHA standards and regulations to that fence; and
- that it would maintain the fence to prevent the growth of woody vegetation and noxious weeds along and within it.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

A brief recess was taken at 7:00 p.m., and the hearing resumed at 7:10 p.m.

Mike Pratt made a motion that the Lee County ZBA finds that the Applicant averred in its Application or through its testimony produced that the nearest non-participating dwelling would be more than 1200 feet away and on the opposite side of Nelson Road, and that

- as to equipment, the Petitioner promised in its Application that all ground mounted SES components would not be
- within 15 feet of any property line; nor
- within 400 feet from the foundation of any adjacent non-participating primary dwelling; nor
- within 60 feet from the centerline of Nelson Road; nor
- within 400 feet of any property line of a platted subdivision; nor
- within 500 feet from an inverter, transformer or storage equipment to the foundation of any adjacent, non-participating primary dwelling.
- as to fencing, by inference from the above, that
- the existing east fence of the proposed project site is on or outside the right-of-way for Nelson Road; and
- the nearest dwelling is outside the Dwelling Exclusion Zone; and
- there is no platted subdivision within 400 feet; and
- that the fence on the south side of the proposed project site is at least 3 feet from the common boundary with the non-participating owner.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that the Petitioner has

- indicated through the testimony of one of its agents that there will be remotely monitored security cameras located within the proposed Development, but that they would be directed inward such that they could not capture any sights from the adjoining parcels or roadways; and
- presented in its produced testimony that “Knox Boxes” containing keys to the gate(s) would be provided at the entrance(s) for emergency personnel access.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that the Petitioner has promised in its Application and through the testimony of one of its agents that any lighting at the proposed SES Development would be minimized- including being shielded and downcast.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that, in its Application, the Petitioner submitted a February, 2022 commissioned noise analysis by Hankard Environmental which concluded that any noise produced by the proposed development would be well below the night time standards of the Illinois Pollution Control Board and the Lee County Ordinance in that, at worst, it would be

- 14 dB below at the nearest residential property line; and
- 18 dB below at the nearest residential dwelling.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that the foregoing noise level may be exceeded during the construction phase.

A second was discerned. Mr. Hughes debated whether any evidence regarding this fact was provided. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that the Petitioner

- submitted “Solar Glare Report” by ForgeSolar which concluded that there would be zero minutes of yellow or green glare on two nearby roadways, one railroad track and one discrete observation point; and
- asserted that, if there was any reported glare, it would implement appropriate mitigation measures.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA further finds that, due to the engineering and business focus on capturing as much solar energy as possible, the array is designed to minimize glare so as not to waste any available sunlight.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that

- there is no evidence of any nearby platted subdivisions; and
- as noted, the only non-participating Dwelling is across Nelson Road and some 1200+ feet away; and

- therefore, the Ordinance’s screening provisions are not applicable.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that the Petitioner has stated in its Application that the proposed site, as it presently exists, has adequate storage- such that anything not directly supporting the operation and maintenance of the SES would be stored within the Nelson Energy Center (NEC) storage areas.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that, in its Application and during the testimony it produced, the Petitioner has stated that, if approved,

- construction of the proposed SES development would take between three and six months to complete during the year 2022; and
- the proposed construction activity would occur between the hours of 6:00 a.m. and 9:00 p.m.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that, in its Application, the Petitioner wrote that

- it hosted a community meeting on January 13, 2022 from 6:00 p.m. to 8:00 p.m. within the Old Lee County Courthouse;
- after notifying all Lee County Board members, Lee County Zoning staff, the Nelson Township Board and all entities owning real estate within 1000 feet of the proposed Project.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that the Petitioner has submitted in its Application a schematic survey and prose site plan for the proposed Sauk Valley Hydrogen SES with existing conditions showing, or that includes, the following of, or for, the proposed Development property:

- existing property lines from the exterior boundaries including the names of adjacent property owners and the current use of those properties; and
- the existing public roads, Nelson Road showing pavement width and any associated easements- including its right-of-way; and
- the topography at one-foot (1’) intervals; and
- recites that the existing vegetation is grass along with gravel coverage; and

- recites that there are no waterways, streams and rivers within the proposed Project site; and
- a copy of the most current FEMA FIRM map of the proposed Project site; and
- communications from the Lee County Soil & Water Conservation District that an I-3 Zone does not require a Natural Resource Inventory- presumably including a mapped Lee County Soil Survey; and
- surface water drainage patterns and that the Developer is unaware of the presence of any subsurface drainage tiles; and
- existing pipelines and utilities.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that the Petitioner has submitted an SES Plan in its Application and, to some degree, its testimony, which shows or explains the following for the proposed Development property:

- the planned location and spacing of the proposed solar panels; and
- the planned location of the existing access road; and
- the existing permanent galvanized steel chain link fence topped with barbed wire; and
- that there would be no interconnection into a building or substation but would directly connect to the ComEd distribution line located immediately to the east of the proposed Project site; and
- the proposed Development’s planned new electrical equipment:
 - 1.67 MWAC inverter;
 - a 480 VAC MCC;
 - a fuse disconnect switch;
 - a 480AC/12kVAC pad mount transformer;
 - appropriate metering; and
 - that it will plant native grass seed, flowers and other soil protection vegetation from a provided table which should be considered an “acceptable weed/grass control plan.”

A second was discerned. Mr. Hughes does not agree that the vegetation list should be considered and “acceptable weed/grass control plan.” The Petitioner was asked, during the hearing, to provide a formalized weed/grass control plan that has not yet been provided. Mr. Buhrow concurred. A vote was taken, and the ayes prevailed. Motion passed, 4-1 (Dissent – Member Hughes; Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that the Petitioner has, in its Application, submitted the manufacturer’s specifications for the solar panels, trackers (including racks and poles), inverters, and transformers.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that, as a result of the routing, pathways and associated equipment described in its Application, there will be no electrical connections to any substation or building.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds, based on representations made in its Application and through the testimony of one of its agents, that, according to the Federal Aviation Administration's (FAA) Notice Criteria Tool, the proposed Project would be in proximity to the Whiteside County Airport. Accordingly, the Developer

- produced FAA "Determination(s) of No Hazard to Air Navigation" for six (6) different aspects of the proposed project; and
- included in its Application a December, 2021 ForgeSolar "Glare Analysis" that concluded there would be
- no annual glare impacting any of 4 runways at that airport; and no yellow glare received by any flight path receptors.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that, in its Application and on the testimony heard, the Petitioner

- submitted the "Fire Protection and Prevention Plan" that it wrote is presently in use for the Nelson Energy Center of which, impliedly, the proposed Project would be a part; and
- promised that it would host a "plant walk-down" for the personnel of the Sterling and Rock Falls Fire Departments.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that the Developer, as shown in its Application and through its produced testimony,

- initiated a review consultation with the Illinois Department of Natural Resources (IDNR) through the Department's EcoCAT Program which results indicated no record of any state listed threatened or endangered species, Illinois Natural Inventory sites, dedicated Illinois Nature Preserves or registered Land and Water Reserves in the vicinity of the project location"; and
- there was no IDNR "flag" for any historic sites within the proposed Project's boundary and that, when the adjacent Invenergy Nelson plant was originally zoned, there was a historic investigation procedure undertaken and no such issues were identified.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that the Petitioner asks in its Application that the Lee County Ordinance requirement for one or more executed Road Use Agreements be waived, and, in so doing, alleged

- in its Application and/or testimony that as it relates to this particular proposed Project
- there would be only 25-35 truckloads of material delivered to the site of the proposed Project over the whole of its construction duration; and
- that none of these truckloads would be either overweight or over dimensional; and
- that the route for those trucks would be Interstate 88 to the Route 30 East exit (#44), +/- two miles to Nelson Road and then +/- 1.1 miles to the NEC main entrance; and
- urges more generally in its Application that the following factors warrant a waiver of the Road Use Agreement Ordinance:
 - The condition of Route 30 and of Nelson Road; and
 - The small scope of the proposed Project construction; and
 - The existing relationship between Invenergy, Lee County and Nelson Township; and
 - construction is occurring, or has occurred, at NEC involving
 - a larger number of shipments than would be involved in this proposed Project; and
 - involved some overweight or over dimensional truckloads.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that, in its Application or through its testimony:

- as to storm water, the Petitioner promised
- to “apply best storm water prevention practices”; and
- before filing for a building permit, submitting a “Notice of Intent General Storm Water Permit for Construction Site Activities” to the Illinois Environmental Protection Agency; and
- the whole of the Invenergy Nelson property is already covered by a “Storm Water Management Plan,”; but
- cannot comply with any AIMA standards because, due the I-3 Zone, there is no applicable AIMA; and
- as to topsoil
- there would be no topsoil taken from the proposed Project site; and
- in fact, during the testimony of one of its agents, it allowed the reversed- that, if needed, topsoil may be brought in to assist the growth of grass vegetation once the gravel on the present parking lot is scraped away; and
- the provisions applicable to minimizing damage to Prime Farmland are inapplicable as the site of the proposed Project is zoned I-3.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that the 505 ILCS 147/15 AIMA requirement for commercial renewable energy facilities located on agricultural land is inapplicable as to this proposed Project because it is zoned I-3 and there is no evidence of it being located on Prime Farmland.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that, the Petitioner stated that it is unaware of any subsurface drainage tiles in the proposed Project area. However, through the testimony of one of its agents,

- it did commit to contacting any drainage districts which area includes the location of the proposed SES to confirm that they were unaware of any such tiles; and
- if any were found and subsequently damaged, to repair the same within three months.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that

- the Petitioner did not produce a communication interference analysis; but,
- did, through the testimony of one of its engineer witnesses, aver that there would be no such interference; and
- given the relatively small scale of the proposed Project, it is unlikely to cause any such interference; and
- if there were to be any such interference, the Petitioner promised in its Application to “make commercially reasonable efforts to mitigate any interference problems on a case-by-case basis.”

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that in its Application and testimony the Petitioner

- requested an exemption be granted for any future Special Use Permits for changes occasioned by technological advances; and
- explained both in its Application and through its testimony that
- natural precipitation is almost wholly the process upon which an SES depends on to keep the solar panels clean, but
- if unusual climatological conditions created the need to otherwise clean the modules, it would use no more than a gallon of water per panel to clean them.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that in its Application, the Petitioner promised

- to remove all solid waste related to the construction, operation and maintenance of the proposed SES and to dispose of the same in accordance with all federal, state and local laws; and
- to remove all hazardous materials related to the construction, operation and maintenance of the proposed SES;

- but did explain in its testimony that it did not believe there would be any hazardous materials involved in the construction, operation and maintenance of the proposed SES.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that

- in its Application, Sauk Valley Hydrogen wrote that as a condition of the issuance of a building permit, to comply with the decommissioning requirements set forth in the Lee County Ordinance; and
- that a possible decommissioning plan is part of that Application.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that, if its Petition is granted, the Petitioner has committed in its Application to maintain insurance as follows:

- a general liability policy
- naming Lee County, its officers and employees as additional insureds; and
- with an extended reporting period for all “claims-made” policies; and
- no more than a 30-day notice of cancellation; and
- covering bodily injury and property damage with minimum
- limits of at least five million dollars (\$5,000,000) per occurrence; and
- five million dollars (\$5,000,000) in the aggregate; and
- a Commercial Auto policy
- of at least one million dollars (\$1,000,000); and
- naming Lee County, its officers and employees as additional insureds; and
- Workman’s Compensation Insurance in the amounts of
- one million dollars (\$1,000,000) per accident; and
- An Occupational Disease benefit of one million dollars (\$1,000,000) per employee; and
- Pollution Liability insurance of five million dollars (\$5,000,000) per policy.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds, that, between the mail from the Lee County SWCD included in the Application and Lee County Ordinance §10-3.1B.1., a LESA Score for the Zone I-3 property on which the proposed Development would be constructed and operated is not required.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that, based on the testimony heard, other than, perhaps, during construction, there would be no detectable vibration associated with this solar development.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that, based on the testimony heard, other than, perhaps, during construction, there would be no air pollution or emissions associated with this solar development.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that, based on testimony heard, other than, perhaps, during construction, there would be no odor associated with this solar development.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that, based on testimony heard, the Petitioner claims that there would be no electromagnetic fields created by the operation of the proposed SES.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that, based on testimony heard, other than, perhaps, during construction, there would be insignificant heat associated with this solar development that affects adjoining properties.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that, while hydrogen is a flammable gas, the storage tanks for the same are not a part of the requested SUP, based on the Application and testimony heard,

- there would be no particularly identifiable fire or explosion hazards associated with this proposed solar development; and
- as a further ancillary pre-caution, the next-door Invenergy Nelson facility is staffed 24/7; and
- regardless of the requested SUP not being applicable to the contemplated HES, concerns about the safety of the hydrogen production and storage may be ameliorated by
- it being created and stored outdoors; and
- water being the best method for extinguishing a hydrogen fire, the presence of fire hydrants on-site; and
- the hydrogen storage containers would be protected by bollard posts; and

- those storage vessels are “rated” for appropriate pressure; and
- have pressure relieving valves.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that, based on testimony heard,

- human waste would be addressed by already existing restrooms within the existing Invenergy Nelson plant or, during construction, by the use of port-a-potties; and
- other than that, there would be no particularly identifiable toxic or noxious materials generated by this solar development.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that based on testimony heard,

- there would be no storage batteries used as part of the proposed SES’s operation; and
- there would be no particularly identifiable hazardous materials escaping any structures associated with this solar development.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that the character of the land within the footprint of the proposed Sauk Valley Hydrogen, LLC Development is industrial.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA cannot find that any evidence was presented that the proposed SES development would or would not have a negative impact on property values within the area of the proposed project.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

At 8:28 p.m., Judge Slavin called for recess until March 22, 2022, at 6:00 p.m.

MARCH 22, 2022, at 6:00 p.m.

At 6:02 p.m., Judge Slavin called out of recess, the hearing on Petition No. 21-P-1586 by Petitioner Sauk Valley Hydrogen, LLC. He gave a brief introduction and explained the procedures for public participation via Zoom and public observation via YouTube.

Judge Slavin noted the following persons as personally present at the hearing: Chair Forster, Vice Chair Buhrow, Member Bothe, Member Pratt, Member Hughes, Alternative Member Meyer, Zoning Administrator Dee Duffy, Renewable Energy Coordinator and ZBA Clerk Alice Henkel, State's Attorney Charley Boonstra, Court Reporter Callie Bodmer, and Facilitator Judge Slavin. Petitioner's Attorney Mike Blazer and two (2) representatives for the Petitioner were present via ZOOM. No interested parties were present, either in person or by ZOOM.

The Board resumed its finding of fact.

Glen Hughes made a motion that the Lee County ZBA finds, based on testimony received, that the proposed project would increase area employment during the construction phase, but, during its operation, it appears that there would be, at best, a nominal benefit to area employment.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds, based on testimony received, whether or not that, perhaps due to some marginal increase in property valuation, it cannot be presently determined whether the proposed SES would result in an increased tax revenue for local taxing bodies.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that the Applicant's agent testified that the Applicant would be open to hosting educational opportunities to students of Sauk Valley College who are budding engineers.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that, regardless of any possible economic benefits, its decision to recommend or not recommend approval of the Petition is not based on an increase or decrease in revenue for taxing bodies but, rather, the criteria in the Lee County Ordinance.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that there was testimonial evidence that the photovoltaics of this proposed SES development are safe and would not affect the health of life surrounding it.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that an agent for Sauk Valley Hydrogen, LLC testified under oath or affirmation that the Petitioner would be bound by any and all proposals, promises, statements and representations in its Application for a SUP or made under

oath at the public hearing before the Lee County ZBA- even if not expressly specified herein or therein.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that the SVH proposed Special Use would not have any effect on the character of the neighborhood and the surrounding properties.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that the proposed Special Use would not impose any negative effects on public health, public safety and/or general welfare.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds that the proposed Special Use would not have a material effect on traffic conditions.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA finds that the proposed Special Use would not have much of an effect on public utility facilities, but it might marginally increase the source of electric power on the grid.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA finds that the proposed SVH SES project does not carry with it any apparent environmental concerns.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA recommends to the Lee County Board that Sauk Valley Hydrogen, LLC's Petition for Special Use be approved.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA recommends to the Lee County Board that, if the Petition for Special Use is contemplated, it grant the Applicant's request to waive any Road Use Agreement for the proposed Project.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA recommends to the Lee County Board that, if the Petition for Special Use is allowed, the Lee County Board grant waivers to obtain an SUP solely for subsequent modifications or substitutions of any one of more of the following as long as each remain Lee County Ordinance, or otherwise existing Special Use, compliant:

- solar trackers
- solar panels
- power panels
- optimizers

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA recommends to the Lee County Board that, if the Petition for Special Use is contemplated, no LESA score be required in order to grant this SUP.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA recommends to the Lee County Board that, if the Petition for Special Use is allowed, any developmental equipment contemplated for the proposed Project need not be UL Listed when installed, but that, before a building permit is granted, it must be shown that the UL listing process for any such developmental equipment is underway.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA does not recommend to the Lee County Board that, if the Petition for a Special Use is allowed, a condition of such Permit be that any developmental equipment not having attained a UL listing when installed, whether as original equipment, replacement, modification, substitution thereof or addition thereto, be documented with the Office of the Zoning Administrator, and that, upon receipt of a UL listing for any such equipment, that documentation be provided to the Office of the Zoning Administrator.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA recommends to the Lee County Board that, if the Petition for Special Use is contemplated, no executed AIMA be required in order to grant this SUP.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA recommends to the Lee County Board that, if the Petition for Special Use is contemplated, the Petitioner not have to conform to farmland

stormwater management, retention of topsoil and minimization to prime farmland regulations because the proposed project is not zoned for agriculture and there is no evidence it could otherwise be prime farmland.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA recommends to the Lee County Board that, if the Petition for Special Use is allowed, a building permit may be issued without the need for the Applicant to produce an agreement to sell any power produced.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA recommends that, if the Petition for Special Use is allowed, a condition of the Permit be that construction activities shall commence no earlier than 6 AM and shall be discontinued no later than 9 PM on Monday through Friday within 1 mile of a non-participating residence.

A second was discerned. Following some discussion, Craig Buhrow made a motion to amend so that the motion states, "The Lee County ZBA recommends that, if the Petition for Special Use is allowed, a condition of the Permit be that construction activities shall commence no earlier than 6 AM and shall be discontinued no later than 9 PM on Monday through Saturday within 1 mile of a non-participating residence." A vote was taken, and the ayes prevailed. The motion to the amend the original motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion to approve the amended motion. A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA recommends that, if the Petition for Special Use is allowed, a condition be that, within ten (10) working days after being notified, the Developer will respond to any complaint from a property owner within a one (1) mile radius around the project boundary related to interference with local broadcast television or radio signals and will use commercially reasonable efforts to mitigate any problems on a case-by-case basis.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Glen Hughes made a motion that the Lee County ZBA recommends a condition be that, if the Petition for Special Use is allowed, the Developer directly pay, or reimburse, Lee County, any engineering consultant and legal fees incurred during the duration of the Project from conception to completion.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Mike Pratt made a motion that the Lee County ZBA recommends to the Lee County Board that, if the Petition for a Special Use is allowed and it is found that any subsurface drainage tile is damaged within the proposed site, such damage be repaired to the same or better condition within 4 weeks.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

Craig Buhrow made a motion that the Lee County ZBA finds/cannot find that, thereafter, your ZBA considered its findings of fact and recommendations over the course of 2 sessions- on March 21, 2022, and March 22, 2022, lasting about 3.5 hours in total.

A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. Motion passed, 5-0 (Alternate Member Meyer did not vote).

The finds of facts and recommendations by the ZBA concluded.

This matter will go before the Lee County Board on April 21, 2022, at 6:00 p.m., with a recommendation to approve and with conditions.

Judge Slavin announced his duties as Facilitator *pro tem* had concluded and he turned the meeting back over to Chair Forster.

The Board moved to recess this matter until after the April 21, 2022 meeting of the Lee County Board.

Respectfully submitted,

/s/ _____
Alice Henkel