

## **BZA MINUTES**

**MARCH 22, 2022**

Members present: Jim Hufford, Tim Hart, Bill Davis, Don Calhoun, Jason Hawley, Jon Peacock

Absent: Drew Cleveland

Legal Representation: Jason Welch, absent

Staff present: Randy Abel, Executive Director, Debra Johnting, Recording Secretary

Others present: Ed Thornburg, Claudia Thornburg, Tom Chalfant, Jennifer Jones, Mike Nunley, Nick A. Tilleman, Eva Farmer, Jeff Thompson, Greg Beumer, David Hermance, Bill Johnting, Jeff Ison, Cale Johnson, Kim Johnson, Brian Moreland, Tina Moreland, Janet Cates, Randy Cates, Grace Minkis, Monte Burrows, Chris Retter, Eric Retter, Andy Fahl, Charlie Nicholson, Missy Williams, Robert Smith, Chris Beasley, Gardiner Dennis, Bennett Fuson, Sherry M. Traglor, Matt Price, Zachary Cummings, Kate Thornburg, others but writing was illegible. Sorry to the folks with terrible handwriting.

Chairman Hawley: All right, all right, it's slightly after seven on March 22<sup>nd</sup>, 2022 I'd like call this meeting of the Board of Zoning Appeals to order. First on the agenda is the approval of minutes from February 22<sup>nd</sup> of 2022. Has everybody chance on the board to look over those minutes?

B. Davis: I make a motion to approve as presented.

J. Hufford: I'll second.

Chairman Hawley: We have a first and second motion verbal confirmation. All those in favor of accepting the minutes as presented, say aye. Aye. All those opposed. Okay, motion has passed. Next, we have, since we've got a lot of folks here, it's been asked that we do introduction of board members. My name is Jason Hawley. I am the Chairman of the Board of Zoning Appeals for this calendar year of 2022.

B. Davis: My name is Bill Davis I'm co-chair this year.

D. Calhoun: Don Calhoun, I'm a representative from the Area Planning Board.

J. Hufford: Jim Hufford, I'm also representing the Area Planning Board.

T. Hart: Tim Hart, representing Winchester.

J. Peacock: Jon Peacock, representing myself. And the Commissioners.

Chairman Hawley: All right, moving on, let's try to, let's start off with BZA2022-14-V, RTS Orchards, LLC. Taco Bell proposal. Is there anyone here representing this proposal?

E. Thompson: Yes, my name is Ed Thompson. I'm with A-plus Signs, 920 Progress Drive, Richmond, Indiana, 47374, acting as agent for RTS Orchards, LLC, Taco Bell and KMAC Enterprises Incorporated.

Chairman Hawley: Have you received Article V, Code of Conduct?

E. Thompson: Don't think so, have I got it in here?

D. Johnting: Yes, I gave it to you, it only applies if we only have four people.

E. Thompson: Sorry, first time at a BZA, I've never been asked that.

Chairman Hawley: Well, why don't you tell us about what you have planned and we'll see what we can do tonight, okay?

E. Thompson: We're here to represent our package to re-image the Taco Bell on Greenville Pike, up here next to Walmart. As you can see they're in the process of remodeling the store. They want to take the signs on the building, all signs are legally permitted, legal nonconforming signs. We're wanting to re-image all these signs with new brand standards. There are two signs that are new in the package they are parking directional signs that we've been told we're just slightly too tall on those. Taco Bell has agreed to lower those signs if need be. Would prefer not to because the signs at the height requested meet ADA guidelines at a minimum of 60 inch baseline height. Every other sign, as I say, are legal nonconforming signs. We're just looking to basically maintain those signs and re-image everything.

D. Calhoun: So, basically, these two signs are the only thing you are changing?

E. Thompson: The only thing that is new are the two parking directional signs. Everything else is existing. The new ordinance, or the ordinance that was put into effect in 2019 states that freestanding signs can only be 15 feet tall. I believe that's why we're here. I just I don't understand exactly why I'm here as to all these signs are legal, non-conforming use. We're not modifying structure, we're not changing sign size, or anything like that. We're just trying to get this approved for the corporation.

J. Peacock: So, question, the current sign, the taller sign is how tall?

E. Thompson: Twenty-five feet I believe. And I've got all the permits from 2010 where they were granted and installed.

D. Johnting: It was legal when it was put in.

J. Peacock: My understanding is signs can be replaced at the same height. Is that right?

R. Abel: No.

E. Thompson: And we're not replacing the sign. We're just changing...

R. Abel: In order to be brought back into conformance, any sign that's changed needs to be brought back to the current standard. That's why he's in here asking for a variance.

E. Thompson: But we're not actually changing the sign. We're only changing the sign plastic. Just the brand. The sign itself is not changing.

R. Abel: It's a technicality, so if your sign's damaged, say, in a storm or something, obviously that's never going to damage the pole, never going to change. So the way the ordinance, in order to bring every company or every business back into conformance, the only way the APC has to bring everybody back to an even playing field is to say when you change the sign out you need to come back to conformance. And so that's the 15 foot and that's what it will be in the future if we adopt the amendment, all the signs will be in proportion to the facade of the buildings, and that's what the

amendment currently is that's being looked at by the legislative bodies of Randolph County, which is 11 of them. So, it was my recommendation in this letter that you received, I hope everybody got and read. That until that sign ordinance is considered by all the legislative bodies, I think we should turn this down and table it until that's either adopted by the county or not. There's never been a sign height variance granted ever.

E. Thompson: Where?

R. Abel: Ever.

E. Thompson: Where?

R. Abel: Ever, in this county.

E. Thompson: In this county. Yeah, okay, there's been a lot of height variances.

R. Abel: So, I'm telling you, you grant the variance, and they adopt this ordinance, the amendments to the ordinance and under the current ordinance it's 15 feet. What we're under right now is 15 feet. They will have the only sign in the county that can stay at 25 feet for the rest of the eternity. No other sign will be required to come down.

E. Thompson: These signs are all legally permitted.

R. Abel: They are non-conforming signs.

E. Thompson: And they're legally non-conforming signs.

R. Abel: It's the legally established, which means at the time when they were permitted, the ordinance stated 25 foot. So, it's like, and I gave the example several times before, it's like, so I'm putting on a new roof. So, is it going to cost you more money to put a new roof on by new code? Yes it is. So if you take the roof today.

E. Thompson: But money is not an option.

R. Abel: You gotta take off the two layers and you gotta put a new roof on. You gotta put drip edge on you gotta put special flashing on for the gutters, there's a myriad of things you gotta do to bring stuff back up to code. The only time to bring stuff back to code obviously is when there's damage or when you have to fix something. This is when the sign is being replaced. When a roof is being replaced, that's the time to bring it back to code. Otherwise there's just going to be an endless, endless list of people coming in here wanting variances.

E. Thompson: But you say when we fix or maintain, so are you telling me that if that sign has lights go out, or that sign needs repainted, or that sign gets a cracked sign face, you're going to make that customer tear that sign down and rebuild it to new code? On a legal non-conforming sign?

R. Abel: Yes, that's the rule. That's the way it is. How else are you going to bring stuff back to conformance?

E. Thompson: I've been doing this for 36 years. And I've never been in a community that doesn't recognize legal non-conforming signs. Never.

R. Abel: Unless you have to change something, right? If it's damaged, you get it.

E. Thompson: If you modify structure, size, shape or position. Never a branding change, never a maintenance issue. This summer you just let us do that Walmart without a permit. You said it was considered maintenance, when we changed every sign on Walmart.

R. Abel: This is not a maintenance issue, and at that time we were not looking at a new ordinance.

E. Thompson: That new ordinance has nothing to do with this meeting. That new ordinance has not been signed into law.

R. Abel: No, it hasn't. So under the old one, you are in violation, you need to conform to the new one that's current, which is 15 feet.

E. Thompson: The old ordinance does not say, it says if you modify the structure. I believe it says, legal non-conforming. The sign met the old regulations and is allowed to remain, but cannot be expanded or replaced. We are not expanding or replacing that sign. And we are under the current ordinance, not a proposed ordinance.

R. Abel: Line number 7, I think, right?

E. Thompson: No, I think it looks like K2. Under legal nonconforming.

R. Abel: Okay, I got it in here somewhere. Anybody see in that part where it's red?

E. Thompson: I mean, you bring up the monetary issue, this isn't a monetary issue for Taco Bell. They don't mind, you know the monetary issue for me is, I make more money if you make us lower it. You know, so it's, that would be great for me. But my argument is this is a legal non-conforming sign. These signs have legal protection.

R. Abel: Well, what kind of legal protection? Because you still have to bring it to conformance.

E. Thompson: There's case studies. You bring new signs to conformance.

R. Abel: Okay, the ordinance states a sign permit is required for all permanent signs located, erected, constructed, reconstructed, moved and altered unless otherwise stated in this section.

E. Thompson: But go back to your legal nonconforming. It's in your ordinance.

R. Abel: Yes, and it depends how you interpret the ordinance.

E. Thompson: It's in writing right here. It's not, it's not up to interpretation.

R. Abel: It's being changed.

E. Thompson: But this is the law. But it isn't changed.

R. Abel: It is changed.

E. Thompson: It has not changed, it's not signed into law, correct?

R. Abel: You're changing the sign right?

E. Thompson: We are changing the sign face, yes. The brand.

R. Abel: And nowhere in here does it say changing the sign face is exempted.

E. Thompson: It says, cannot be expanded or replaced. We're not replacing the sign.

R. Abel: Okay, you're replacing the face.

E. Thompson: We are replacing the face, the plastic.

R. Abel: And later on, it says if you replace over fifty percent of the face, is the face over fifty percent of the sign?

E. Thompson: No.

R. Abel: Well, it is, volume wise. Square footage it is easily 50% of the sign.

E. Thompson: This has nothing to do with structure. I mean, you gave a hypothetical...

R. Abel: But your structure will never, your structure will never go bad, will it?

E. Thompson: You just gave a hypothetical, you change your building ordinance. You have a grain silo sixty feet tall. Your new ordinance says you if you build a new grain silo it has to be forty foot tall.

R. Abel: Agriculture is exempt from the height of structures. They conform.

B. Davis: Jon, did you have a question?

J. Peacock: I have a question. Okay, when we were talking about Casey's sign a while back, and it was brought up that there are three businesses that have taller signs.

R. Abel: Yes.

J. Peacock: East of 27.

R. Abel: Yes.

J. Peacock: Okay, and if one of those signs was damaged, I'm just trying to make sure I recall correctly. If one of those signs is damaged. How tall could they put it back?

R. Abel: Fifteen foot. That's out of the current ordinance.

J. Peacock: That was not my understanding during those discussions. I'm just trying to make sure...

R. Abel: Was it under the old ordinance or under the current ordinance?

D. Calhoun: It would have been under the old one.

J. Peacock: It was what we were discussing if trying to...

R. Abel: See Casey's put theirs up under the old ordinance in 2019. We hadn't passed the new ordinance yet. So, in 2019, before the new ordinance was passed, which was when Casey's was, it would have been allowed to be 25 foot. The new ordinance is the one that is 15 foot being discussed at all, the incorporated towns right now so it has not been legally passed.

D. Johnting: The original ordinance that most of these signs were passed under ran from '99 to '19, was 25 feet. McDonald's, Burger King, all those taller signs were in before that, in the 80's.

E. Thompson: And they all have legal, nonconforming status.

D. Johnting: So, in 2019 we were obligated to change the residential sign code, and that got changed as well to 15 feet. Since 2019 to now it says 15. It says 15 right now, and the new ordinance that we're talking about with the towns also says 15. So it's 15 now.

R. Abel: So, the interpretation is, in order to keep an even playing field how do you bring everybody back to the same code? And the only way to bring them back to the same code is that when you change out your signs, you need to bring it back down to conform to everybody, every other businesses size or it will never change.

E. Thompson: But you're putting all of these businesses at a hardship when you do that.

R. Abel: Not really, because you're doing it at Taco Bell, and it's not going to cost them much more at all.

E. Thompson: It's not about cost, it's about advertisement and visibility. It's not about cost.

R. Abel: So you don't think you'll be able to see your sign from where?

E. Thompson: Well, the one Taco Bell sign they'll never see if you lower it to 15 feet because one, the reader board would have to go away because that gives us 3 foot of pole.

R. Abel: Yep,

E. Thompson: We have a four foot reader board. The dumpster enclosure that the sign sits behind will block half of the sign. It's 6 feet tall. So that sign is out of the ditch.

R. Abel: Can you see the reader board from 27?

E. Thompson: No.

R. Abel: Yes, you can. I could sit right in the intersection and read your reader board and that would be...your sign would be bigger than that and you can read the reader board from 27.

E. Thompson: But the reader board will not be there if the sign goes down.

R. Abel: I'm just saying that this sign was where the reader board was you could see the sign.

E. Thompson: No, half of the sign will be there. The top half. The bottom will be 3 feet off the ground.

R. Abel: Why?

E. Thompson: Because the signs 12 feet tall, itself.

R. Abel: Your sign is too big. You understand you're only, under the new ordinance it will only allowed to be...

E. Thompson: But it's a legal nonconforming sign that is legally permitted.

R. Abel: Okay, right now you're allowed, how many how many square footage of space do you have along your approach range. I think I figured, I think you're allowed what a 40 square foot sign by the new one? Your 98 square feet is over the size also.

E. Thompson: But it's legally permitted, it's a legal nonconforming sign.

R. Abel: But your size is too big, you understand you need to bring the height and the sign down.

E. Thompson: But, if we don't if we don't touch the sign face. That sign doesn't get torn down, correct?

R. Abel: Yeah, don't touch the sign face. Don't touch any part of the sign, you can leave it like it is. You don't touch it, it gets left.

E. Thompson: But, it's too big, you are saying.

R. Abel: Not until you don't, you change it. That's what I'm saying, don't change it.

E. Thompson: I can't change light bulbs. I can't paint my sign. So that sign is going to get left in a state of dilapidation because people aren't going to fix the lights if they have to tear their sign down.

R. Abel: It's not the lights not part of it.

E. Thompson: You just said that 10 minutes ago.

R. Abel: No, you said it. I did not say that.

E. Thompson: You agreed with it.

R. Abel: No, I did not. I said the lights aren't part of it. The sign face has got to be over 50% of the sign.

E. Thompson: Okay, you agreed.

R. Abel: That requires you to come back to conformance if you change that out, how else are we going to get any signs back to conformance to 15 feet?

E. Thompson: All of your new signs will be the conformance. Legal non-conforming signs are protected by the state.

R. Abel: So you're saying every sign that's 60 foot every sign that's 25 foot in town, is going to stay forever?

E. Thompson: Unless it gets taken out to where it's totally damaged, it can't be replaced. Not for a rebrand.

R. Abel: Until it's replaced. That's what we go by your replacing the sign.

E. Thompson: We are not replacing the sign.

R. Abel: You are replacing the sign.

E. Thompson: We're rebranding the face of this sign.

R. Abel: That's replacing the sign. That's the technicality I think. How else are you going to bring every sign back to conformance and bring it down to 15 feet? Otherwise these 25 foot signs will stay there forever.

E. Thompson: So you start tearing down all your business's signs in this town down to 15 feet, and you won't have much business left, I can tell you that.

R. Abel: And I can tell you we got the same threat from the last sign company, and Casey's told us the very same thing...

E. Thompson: It's not threat, I'm just telling you.

R. Abel: Oh no, Casey's won't come if we don't get the sign and guess what? There they are. And they can be seen perfectly.

E. Thompson: Another example. You've got next to Walmart's property adjoining this. You have a multi-tenant facility. That facility, the Walmart sign has sign panels for that facility in it. If that facility has a tenant move out and a new tenant move in, are they not allowed to change their sign face, or will you require Walmart to tear their sign down?

R. Abel: That's a gateway sign. We'll decide that when it comes.

E. Thompson: What does your ordinance say?

R. Abel: We don't have anything specifically for gateway signs.

E. Thompson: But it's for signs in general and for height. Correct?

R. Abel: It is.

E. Thompson: Okay, so to answer that question, does Walmart have to tear that sign down if they have a tenant reface their sign?

R. Abel: That time will come when we make the decision when we get there.

B. Davis: Gentlemen, I think we could argue all night here. I think we should move on. Any other questions by the board?

T. Hart: So just clarification on the recommendation that no variance should be issued until the decisions of the legislative bodies. I guess I don't quite understand that.

R. Abel: I think we're liable to go under to a new ordinance within a month or two, I'm not sure. I'm just saying I wouldn't be granting any variances, so in order to grant a variance, there may be certain requirements made. Does this apply to other businesses down the road, or is this unique to their business? If you look at my example in here, I've got an example that would qualify for a height variance. Is everybody familiar with the CAT business down in Richmond? So, that business topographically sits lower than US 40. My point is, if you're asking for a variance because of that, it's because of the topographical or special consideration. There's no topographical, you know, reasoning here why you should be having a taller sign. In Richmond, obviously you're well below the bed of the US 40, and if they ask for a variance, I would say that would sound reasonable because topographically, they're 10 to 15 feet below the bed of the roadbed of 40. In order for the westbound to see the sign, yeah I would say that would be a reasonable request, or a reasonable variance to grant because of the topographical reasoning. And that would not generally apply to other businesses because of the special conditions.

E. Thompson: Height variances were granted for Nissan, for Toyota, for Chevrolet and for numerous businesses on US 40 due to brand standard requirements of sign height and standard sign packages, every one of those were given variances, and granted for height.

R. Abel: I don't know what the requirements are in Richmond.

E. Thompson: But you're referencing Richmond.



J. Peacock: One more point to clarify, I would like our APC members to explain why it is 15 feet?

B. McCoy: Jim, you were on board when that happened. Bob McCoy, Winchester Mayor.

J. Hufford: I was.

B. McCoy: And, did you realize that you were passing fifteen feet?

J. Hufford: I believe so, yeah.

J. Peacock: So, my second question is, why 15 feet?

E. Thompson: And do you realize, what 15 feet actually looks like?

J. Hufford: I can't even remember now what that was a recommendation of the boards.

J. Peacock: Because I do understand this gentleman wanting to advertise his business. But. we have a 15 foot sign limit, height limit, for a reason, what is that reason?

J. Hufford: I really don't remember. Randy, do you remember who was on that committee and why they made that decision?

R. Abel: I do not, it's been a while back. I can't remember it's been so long, but, partially I'd say it's probably got a little bit to do with being a small country county, or small county, and they figured that those types of signs really weren't maybe aesthetical or required, or you could advertise easily without going to 25 feet.

B. Davis: I think we need to use some common sense here, and it's not going to hurt anyone. If it's not no big deal, I think it's a just a big waste of time here I think. I'm ready to take a vote. Right?

B. McCoy: Bob McCoy, Winchester Mayor, and I'd like to say something. I voiced these concerns to Randy the other night at the Area Planning meeting. What's going on now as far as what you guys or what the legislative bodies will be voting on has nothing to do with it, with this right now as far as I'm concerned. The 15 foot, I don't know where it comes from because, when the ordinance was changed, all I had to do with was a lawsuit that happened and somehow that 15 foot showed up. I truthfully think it ought to be 25 foot, and that's something that you know could be changed later. But my concern is again, Taco Bell has money, he has no problem lowering it. But what about the businesses that are struggling that we're going to hurt? And if again, windstorm comes along, then your sign comes down. Sorry you have to lower it to 15 foot. I just really struggle with the loss of business right now and losing more because of something like this that could actually put somebody to the point where they're going, you know, we're done. That's all I've got to say.

A. Fahl: Andy Fall, 6194 South US 27, Lynn. Vice president of the APC. I think I can answer your question Jon.

J. Peacock: Please.

A. Fahl: As I remember we had discussion that signs were being lowered. It was more of a trend. We used McGalliard in Muncie as an example that is more down to eye level. The day of the tall sign on the interstate, the tallest caught your eye, is in the past and we also had discussion that if a person wants to find a Taco Bell or any business that they're on their phone, and they're on the dash of their

car, so it's more of a change in timing, times that we're experiencing. That's the discussion that I remember.

R. Abel: I think the thing also we need to remember is that the APC is like the legislative body in the state that makes the laws. We are like the jurist, the judicial branch that makes the decisions based upon what's written in the code. So, all we need to base our decision on is what is the code say, what's the height requirements, and what's the demand of you to say the variance is acceptable. So you need to look through your ballots and if you have to check anything no, then you have to deny it. Is it applicable to other places? I mean, now there's a whole list of things in the ballot there that you need to read down through to make sure you answer. And again, I'll say if it's decided to leave it at 15 foot, then you'll have one sign in the whole county that can stay at 25 forever. If you decide to go to the legislative bodies and move it back to 25 feet, which is an option, and I'm perfectly fine with that. I don't have a problem with the 25 foot sign. I have a problem with giving variances to 25 when the code says 15 and then you're only going to have one person in the county that's accepted to that rule. If you want to give 25, go to the APC and change the code.

E. Thompson: But we should not even be here for a variance for this 25 feet because these signs are legal nonconforming signs. We should not even be here for a variance. We should be here for the two directional signs and that is it, because they are new signs. And Taco Bell has agreed to lower those, if that is what is requested.

Chairman Hawley: Anybody else got any questions for or against or comments, questions, concerns? Alright, I motion that we have a vote.

B. Davis: Second.

D. Johnting: Jon Peacock, no.

M. Williams: Can you tell us what the yes or no is for?

J. Peacock: I said no.

M. Williams: So is that for or against the sign?

R. Abel: We're voting now, you can ask questions later. Thank you.

E. Thompson: Does this not open up to public opinion?

R. Abel: Well, not while we are voting, you can have comments later.

B. McCoy: So, a no is a vote not to grant the variance?

J. Peacock: I agree with his point but I don't know how I can vote yes. With the way this is written. So, he could wait?

R. Abel: Yes. Absolutely.

E. Thompson: But if I wait, what is going to change?

J. Peacock: It would be up to the APC to change the 25 feet? How soon could that happen if he decided to do that?

J. Hufford: Would that have to be sent to all the cities after we've done it?

R. Abel: Yeah, it would have to be a proposed amendment to the APC. And it would be next month and then it would, if it was approved or denied and then be sent out to all the legislative bodies again to approve or deny again. Probably a few months.

E. Thompson: But can it be explained to me why I actually need a variance for a legal, nonconforming sign?

R. Abel: Because it's being removed.

E. Thompson: It's not being removed.

R. Abel: Are you taking the sign face off?

E. Thompson: I'm taking the sign face off the existing sign.

R. Abel: Thank you. Okay.

M Williams: Can I ask a question?

R. Abel: Yes.

M. Williams: So, if a lawnmower hits a sign, they throw a rock up and it breaks the sign. You have to cut it down to 15 feet?

R. Abel: Or if a tornado comes along and blows it over. It's damaged. The ordinance says 50%.

J. Peacock: So, the way it is right now I don't see how I can do anything but vote no. Just so you know.

B. Davis: Jon, I'm like, I'm like you, I mean, you go strictly off this, you have to vote no, but when it gets to me, you'll hear what I vote.

D. Johnting: Should I continue?

B. Davis: I'd continue.

D. Johnting: Don Calhoun, yes, Jim Hufford, yes, Jason Hawley, no, Bill Davis, yes, Tim Hart, no. That is not approved.

R. Abel: Make sure you fill your balance out on all the dockets please.

Chairman Hawley: Alright, next on the docket, we have BZA2022-12-SP. AEP. Indiana Michigan Electric, DBA American Electric Power. Requesting permission for public utility expand existing substation equipment. Is there any representatives for that project? Would you please come up and state your name and your address for the record. Tell us what you're trying to get accomplished?

M. Neely: Mark Neely, Black and Veatch Corporation representing AEP, Winchester Area Upgrades Project. Would you like my home address or working address, I am an out of stater? Our construction trailer is at 200 Inks Drive, Winchester, Indiana.

Chairman Hawley: And what are you looking to do?

M. Neely: Basically this is looking at the ILP, expanding 2 existing AV substations. Modoc and Lynn. The Modoc station is basically about 1.6 acres expansion to the existing yard. The Lynn is about one

tenth of a mile. These are all area upgrades, new equipment installs, replacing equipment. Basically upgrading the two existing yards.

Chairman Hawley: Now, just so I'm on board, are we rolling two of them into one? Are we rolling the Lynn project into the Modoc project?

M. Neely: Definitely not.

Chairman Hawley: Okay, I just wanted to make sure that there is Lynn and Modoc and I just wanted to make sure.

R. Abel: We are on the on the one on 36.

Chairman Hawley: Okay, there we go, sorry about that, that was my confusion.

M. Neely: But, basically, that's it in the nutshell, the upgrades to the existing yards limited expansion, in my opinion, but will increase reliability, and will give them the added value of being able to switch segment lines for outage purposes, maintenance, for restoration. The bottom line, the old equipment is starting to fail, and it just needs to be upgraded. The substation will stay active, during construction of the new yard, we will build basically a shoo fly around the existing yard, and tap back into the transformer, and that will allow the expansion site to be worth de-energized, get everything put in new. And we'll remove that temporary, and dead end everything into the new equipment.

R. Abel: So, technically when we're dealing with utilities in this kind of a situation on this special exception, we're really not able to deny anything against this utility placement unless we can show that there's a better place for it to go. And I don't think I don't think you're going to show any better place to go than this 16 acres right beside an existing substation. So this is, I would say more of a formality than not because I don't think there's anybody that can point out a better place to put it. The expansion.

M. Neely: I agree.

Chairman Hawley: Are there any questions from the board? Anyone from the public that would like to speak for or against the proposal? I move that we have a vote for the variance.

B. Davis: So moved.

D. Calhoun: Second.

D. Johnting: Don Calhoun, yes, Jim Hufford, yes, Jason Hawley, yes, Bill Davis, yes, Tim Hart, yes, Jon Peacock, yes, and Drew Cleveland is absent, and for the record he was absent for the last vote. Motion approved.

Chairman Hawley: Alright, so the motion has passed. Next, on the docket we have BZA2022-13-SP. AEP, Indiana and Michigan Electric Power Company. DBA American Electric Power, requesting permission for public utility expansion in Lynn. Once again, would you say your name and address? Just trying to keep things legal.

M Neely: Mark Neely, Black and Veatch, Field Manager representing AEP, 200 Inks Drive, Winchester. Construction site area. It is basically the same situation again. Under the same umbrella, the whole project Modoc, and Lynn would be expanded. In this case, in Lynn, same situation, old equipment. We're basically going through new shoo fly, remove the old, put in brand new upgrade switching capabilities. That's all there is to it.

Chairman Hawley: Okay.

D. Johnting: So, the gentleman who lives right across the street came into the office, and said the guys came over and talked to him. He's fine with it. His property is not affected.

R. Abel: Mr. Thornburg. And these hearings just give the neighbors an option to come and speak up.

Chairman Hawley: Anybody else who'd like to speak for or against this proposal. I motion we take a vote.

D. Calhoun: So moved.

B. Davis: Second.

D. Johnting: Jim Hufford, yes, Jason Hawley, yes, Bill Davis, yes, Tim Hart, yes, Jon Peacock, yes, Don Calhoun, yes, and Drew Cleveland is absent. Motion approved.

Chairman Hawley: Thank you very much, Sir.

M. Neely: Thank you.

Chairman Hawley: Alright, last one on our docket BZA2022-10-SP EDP Renewables/River Start Solar Park. Is there someone that would like to speak on behalf of this project. If so, please state your name.

C. Beasley: Yes, there is.

D. Calhoun: I would like to talk a little bit of what APC done to come up with this solar ordinance before we ever get started, if that's alright.

B. Davis: You want to go ahead and announce who you are?

D. Calhoun: Yes, go ahead and announce who you are and then we'll go from there.

Chairman Hawley: If you'd give your name and address for the record if you'd be so kind.

C. Beasley: Chris Beasley, representing River Start Solar Park III, LLC. Address is 537 Jefferson Avenue, Indianapolis, IN 46201.

G. Minkis: Grace Minkis, here representing EDPR, 129 E Market Street, Indianapolis, 46204.

D. Calhoun: Since I'm a representative of the APC board, I felt like I needed to discuss what we went, or the process we went through to come up with the solar ordinance. So, to start off with, we had several, before the committee, it was brought up to the APC meeting that we needed to come up with a solar ordinance. A committee was formed. I think there were seven people that was one the committee. We had several committee meetings. In the process of that, it was brought back to the APC meetings and if there was things that we talked about at the APC that needed to change, it went back to the committee meetings and talked about it, changed it, tried to come up with something that was, something that everybody could live with. So, the APC is just a recommending committee. So we either give it a favorable recommendation or a non favorable recommendation. So when it was brought to a vote at the Area Planning Meeting, we gave it a favorable recommendation, then, when we give it a favorable recommendation, it goes out to the Commissioners. the incorporated towns. Which that would be Winchester, Union City, Lynn, Modoc, Losantville, Farmland, Parker City and Ridgeville, is that right?

R. Abel: There's Saratoga. Is there 11? I think there's 11 of them.

D. Johnting: There's 10. Nine towns and the Commissioners.

D. Calhoun: So, it goes to them, in their town boards, and they discuss it, and they either sign it and send it back to us signed. Or, if they want something changed, they can come back to us and we can see about changing it. So, we sent it to all the bodies, the commissioners signed it, Winchester, Union City and Lynn signed it. It came back to us signed. So, you take Modoc, Farmland, Parker, Ridgeville, Losantville and Saratoga, we never heard anything from them. State law is that after 90 days, after they've had the opportunity to sign it or not sign it within 90 days. After 90 days we assume it's okay with them and that's how it become our ordinance. So, part of the issues that we talked about, property rights, how far can my rights expand on to somebody else's property? We talked about setbacks, you know we talked about that considerable. How far is far enough? How far is too close? There was, yeah, a lot of different things, what type of trees, what type of ground cover? If it happens to be abandoned what to do with the solar panels? There's a bond that's going to take care of that, that was agreed upon. There was a lot of work that went into coming up with this solar ordinance. That's how we came up with it. We tried to make something that would work for everybody.

B. Davis: Don, I think the APC, I'm not a member of the APC Board, but I know they put a lot of time and effort back and forth with everybody. One question I had last month with this case here, was if somebody could further explain not only to me, but to the most in the audience what this one mile buffer is, that seemed to be popping up last month. That was the question that I really need further explanation on. And if you are responding to that give us for those in Winchester an example how it would affect that mile buffer for this area.

D. Calhoun: Okay, basically, the mile buffer originated with confined feeding. That's where it came from. I don't remember how or why the solar ordinance came up with that mile buffer, but it is what it is. So anything beyond that mile buffer is ag intensive. So our ordinance, if the solar company can meet all the requirements that we put in place in the ag intensive, then they can build in the ag intensive. So, in AG limited, I'm trying to remember how it needs to go.

R. Abel: It's just a zoning district, just like residential, just like Commercial 1, 2 and 3. To really understand them, you have to look at the permitted uses under those zoning districts. So if you look under C-1, you can see it's more neighborhood commercial, C-2, so it's the same way with ag intensive, so you look at the uses that are listed under permitted uses that kind of gives you an idea of what goes into ag intensive and what goes into ag limited.

B. Davis: Okay.

R. Abel: Because different uses that are permitted in those and one of the, like he said when it first started out, the intensive agriculture is more listed into the ag intensive district. Ag limited is more milder, I would say uses, milder than like CAFOs or something like that. So, if you look under your different district uses in permitted uses, you'll see a lot of the same in both actually. I mean everything that's allowed in ag limited is going to be allowed in ag intensive.

B. Davis: There's a lot of technical terms to me, but my question is, give me a mile buffer for Winchester. What would the what would the buffer be if this case was brought to Winchester, where does the mile start? Does it start at the courthouse?

R. Abel: It starts at the city limits and goes a mile around the city limits.

B. Davis: It goes a mile around the city limits.

R. Abel: Yes.

B. Davis: So, we'd be looking maybe at south of the golf course.

R. Abel: Yes, that's the city limits. So, it could go right across the street if it was permitted, but it's not, it's a special exception. A special exception is just like the utility company that just came up here, if you can prove all the points in your ballot, then it's a permitted use by through special exception. And again, the reason you have special exceptions is to give the people who live in that ag limited area an option to come in and voice their opinions, and then it allows the company to come in and voice their interest in that area. But the whole thing comes down to the ballot and answering the ballot.

A. Fahl: Alright, two things Bill I think will help. The mile radius, I think the intentions was for a Winchester to have an area for those permitted uses to expand. If Winchester wanted to expand into that area, so it's basically a buffer zone where AG and the town comes together. The town could expand. Here's an example where someone wants to come from the ag side. If that makes sense.

B. Davis: It does.

A. Fahl: And the other thing is if I'm telling you accurately, it's all the incorporated towns in the county. So in this example, Headwaters II is in the Huntsville area, which is not incorporated. Modoc is, so that's why you have this variance.

B. Davis: Okay, so, with this case tonight, as it was last month, is my understanding is, if it's even voted no, it can still happen. They would just have to move their...

R. Abel: Into ag intensive.

B. Davis: Right, for those who can see out there this little pink area, I think that's the there's a little section is up there that says they're asking for the variance. So if this gets voted no, it could still happen, they've just got to move it, the area.

R. Abel: Solar is permitted in ag intensive.

B. Davis: All right, I just want to clarify that so everybody knows, so that I know. I'm done.

D. Calhoun: Does any other board members have any questions tonight?

B. Davis: Thanks, Tom.

D. Calhoun: Jim?

J. Hufford: No, I just like to say that you know when this ordinance was passed, there was a lot of research went into this beforehand. We got a lot of feedback and with other counties and other places that on how they wrote their ordinances and everything, and then problems they came up with and we tried to get those out of our way, you know, so we wouldn't have those same problems. I think we've got a pretty good ordinance.

B. Davis: I will have one more thing, I think before that, at last month's meeting we asked this group to come back to be able to better answer some questions. Is that right? So I think if you can start off,

maybe summarize, very summarize what you're doing, because there's a few that wasn't here and then maybe respond to and answer some of those questions that the audience have.

G. Minkis: Sure, we took the notes from last month's meeting and all the questions and went through the minutes and pulled the questions that were asked of the from the board and from the audience. And we've reformatted our presentation to hopefully address all of those comments and questions. And so we can begin our presentation and then of course should the board still have questions for us we can answer them after the presentation at that time.

C. Beasley: And before we begin, we'd like to introduce a few people that will be speaking during the presentation.

D. Hermance: Hi, my name is David Hermance, 736 South 153rd Circle, Omaha, Nebraska.

N. Tillema: My name is Nick Tillema and my address is 9247 N Meridian Street, Indianapolis.

G. Minkis: And we'll call upon those gentlemen as we go through our presentation, but we wanted to do an introduction for them first. Thank you all for being here this evening, we're happy to be here before you again asking for a special exception request. To begin, I'd like to clarify that river Start Solar Park III LLC is a subsidiary of EDP Renewables. We will discuss both entities today, but I wanted to be sure that we understood the relationship between those two as we go through this presentation. First, we'll give a quick overview to our company EDP Renewables, and then explain to date the relationship we have with Randolph County. Then we'll go through the special exception request and sort of explain what Mr. Calhoun here mentioned previously. We'll walk through that again and we'll have some visuals as well. And then we'll wrap the presentation up by going through the special exception ballot with you, and why we fit the criteria for the request to be granted. I'm sure you're all familiar with the ballot, but I put the three points here. I won't read them now as I will read them throughout the presentation. But just so that they're fresh in our minds, I put them at the beginning. There are six ballot points in total. And we plan to speak to these at the end of the presentation. Okay, Mr. Beasley.

C. Beasley: Thank you Grace. So, to give an overview on EDP Renewables. EDP Renewables is a global developer, owner and operator of utility scale renewable energy facilities, including wind, solar and storage. We've been operating in North America for over 15 years, and in that time have developed a fleet of over fifty-eight wind farms and nine solar parks. This map demonstrates the locations of those facilities red dots signifying projects and stars signifying local offices. Through the operation of these facilities, EDP Renewables have amassed more than 250 million hours of operational experience which lends to our ability to safely and reliably operate wind and solar parks. Over the years EDP Renewables has partnered with counties throughout Indiana and today is the state's largest owner and operator of renewable energy facilities with over 1400 megawatts of operating capacity. Focusing in on Randolph County, this map demonstrates the locations of our facilities within the county. The purple boundary demonstrates the border between Randolph County with neighbors Henry and Wayne and from west to east the towns you'll see here are Losantville, Modoc and Lynn. The first project I will bring to discuss is the Headwaters Wind Farm, built in 2014 with the wind turbine signified with these green nodes. At the same time a transmission line was built to transmit the power from that project to the grid, and that is shown with this orange dashed line running west to this Losantville switchyard. This transmission line was also sized to be able to transmit power from future solar projects to the grid. The next project I'll note is the Riverstart Solar Park, built in 2021. And this part is



just northeast of Modoc and northwest of Lynn. And then finally the Headwaters II Wind Farm, also built in 2021, sited north of Losantville with the turbines once again delineated with the green nodes. Today's point of discussion is the Riverstart III Solar Park shown in the green box, just northeast of Modoc. So, with regards to community benefits at EDPR, we take pride in forging strong relationships with our community partners. To date our operational projects have contributed over \$9.4 million dollars to county and local government through permitting fees, taxes and economic development dollars. Looking forwards, an additional 22.2 million dollars will be distributed between now and 2032. EDP Renewables has also created 26 permanent jobs in the county for renewable energy managers, technicians and administrators. And indirectly has created a network of employment opportunities at the local vendor shops which support our operations. That brings us to today's special exception request. We will now provide insight on the solar ordinance, why we're here today, and then we'll speak on the project itself. The Randolph County Solar Ordinance began development in June of 2018, and after more than two years of research and discussion was adopted on July 22<sup>nd</sup> of 2020. At the passing of the solar ordinance this room was totally full and there were 32 people in the audience. The solar ordinance and meeting minutes are available online for review at the link shown on the slide. Throughout the development of the solar ordinance, there is extensive research and discussion around appropriate setbacks, safety requirements, visual screening and noise considerations. With the feedback from many public hearings, the solar committee generated the ordinance to answer questions from both the land owners and developers as to what an acceptable development should look like. These standards are found in section 19-7 of the solar ordinance as shown here. The solar ordinance also stipulates where a solar park can be located. In general, solar is a permitted use on agricultural ground designated as A-I in this chart. On agricultural ground within one mile of an incorporated town designated as AG-L on this chart. These facilities require a special exception. Today we bring the case of a project that is within one mile of the town of Modoc. With that I will pass it to Grace.

G. Minkis: Thank you. Here on this screen is a map showing the one mile radius requiring the special exception. This buffer shapefile was provided to EDPR by the Area Planning Commission Office and is just overlaying here on satellite imagery. We note here in pink this is the incorporated area boundary of Modoc. And from this incorporated area boundary is where the one mile radius is made. And I'll just orient you quickly, here is US Highway 36, Modoc being in the center and as we move further west, this is Losantville. Now I'll show the location of the special exception request shown here in blue. This is the approximate layout of our panels and substation location. The development impact in the special exception area is approximately 200 acres of fenced solar facility. The remaining solar facility, outside of the gray area located here is permitted use. And again, I'll just draw a box denoting where we're asking for the special exception. This development at its closest is .35 miles from Main Street in Modoc. It's notable to mention that when discussing development with the town of Modoc, the town expressed that there were no plans for expansion to the north of town under or near these high voltage transmission lines. When asked where they saw residential expansion in the future, the town indicated this would occur south of the zoned area and that any commercial or business growth would be expected to be to the east or to the west. I'll now move on to discussing why we chose to site this project where we did. First, I'll orient you again as we've zoomed in from the last map. Here is the one mile radius denoted with the gray shaded area. Modoc, and US 36. So there are a few elements we look for when looking to develop a new renewable energy project, and I've just boiled them down to these three points today. The location of the transmission line is the first component we consider when looking to site a project. This Headwaters Gen Lead Line, shown here in orange, was constructed in

2013 to carry power from Headwaters Wind Farm I to the Losantville switchyard. Reusing existing infrastructure minimizes the development of impact on the land. This location also minimizes the development impact by using ground that is adjacent to a landfill. This is Bex landfill up here in the north, and it's under three already existing above ground transmission lines. Because of these three above ground high voltage lines that exist on this land already this is a prime location for commercial development rather than residential. Second, we consider land constraints such as setbacks from wind turbines, topography of the land, flood plains, forested lots and more. As we're looking at this layout here, you'll see some gaps and that is for [inaudible] lots. We do not clear cut the forested areas to develop on solar. When looking to the east of the project, there is a large floodplain. Solar parks should not be built in a floodplain, so this constricted the project boundary there to the west. On the eastern portion we see wind turbines. Siting a solar park outside of a wind farm allows for a more compact layout. So that restricted our boundary on the eastern side. To the north as I mentioned previously, we have Bex landfill and to the south we have the town of Modoc and a pocket of residential homes. This made our layout just under two square miles and fairly impact. The final element, once we've considered transmission and land constraints, is landowner participation. And this is land that we found where landowners wished to participate in the project by leasing their land with us. Now, I'll just do a quick overview of the project and discuss the project specs, Riverstart Solar Park III is a 100 MW solar facility, packed neatly into approximately two square miles. We have 1,300 acres under lease and of that 1,300 acres, just 670 are fenced and housing the solar facility. Inside the fenced area is where we will plant native grasses and pollinator seed mix. As shown here in the picture taken from Riverstart I, we are required to keep invasives out of this area, and the vegetation planted in the facility will not impact agriculture land outside of that. It's notable to mention that everything outside of the fenced area is and can be farmed business as usual. Now we'll just quickly glance over the project timeline, located at the end of this slide. Work here now in spring of 2022, before the board. If we look forward to fall, this is when construction is slated to begin in earnest. Following a calendar year from there fall of 2023. Completion of construction, and early 2024 is when the park will be fully operational. And I want to speak to community engagement. In the beginning stage of development for this project we wanted to provide transparency to the county and those living locally. So in August of 2021, we presented a preliminary layout to councilors and commissioners at the weekly public meetings, just to let them know of future development plans. It's around this time that the Riverstart III team which is Chris and I and a few land agents also began meeting with neighbors in the area and we had one on one meetings with them. At these meetings, we sat down with a map and showed them their part of their parcel, birdseye view and then approximately where the panels would be. We explained that this project would need to go before the BZA and we opened the floor for questions or comments. We also offered neighbor agreements at this time. And as a result of these meetings, the Riverstart III team was willing to listen and negotiate on desired setbacks. These one on one meetings occasionally resulted in us changing our layout because we want to work with our neighbors to reach a compromise. Following these meetings, we began to attend the town of Modoc board meetings. After meeting with the board of Modoc, they suggested engaging with folks in the area, and from that we decided to do the Riverstart Holiday Open House, which was on December 11th of last year, hosted at the local Modoc Diner. We sent out mailers to folks that lived in the area and then posted flyers and this was just a time for folks in the area to come in and learn more about the project, meet EDPR employees and ask them any questions about future development or projects that were being built or had been built. From there, we wanted to reach just a few more people, so we developed a mailer to stuff in the Losantville and Modoc water bill. On one side it had information about our community funds and on the other it had a

layout of the project with an invitation to come to the Modoc Diner for a Q and A on February 18th. We had a morning slot and an evening slot that folks could come and ask questions again. This portion of the presentation we will discuss the six ballot points found on the special exception ballot.

C. Beasley: Ballet point one. The establishment, maintenance or operation of the special exception use will not be detrimental to or endanger the public health, safety, morals or general welfare of the community. With regards to public health and safety on the equipment point, the US EPA and Indiana Department of Environmental Management are the regulatory bodies that control the use of hazardous materials considering their potential impact on nearby communities. These agencies deem solar panels that pass the TCLP to be non-hazardous. The example TCLP tests reported to the board is from our first phase of solar to demonstrate the makeup of the solar panels and comes from an international company with headquarters in Germany. TUVSUD is the company and it is one of the three independent labs that tests just about everything in the world for safety to make sure they meet the regulations and so on. David Hermance an environmental scientist from Tetra Tech, will further expand upon the composition and safety of solar panels to address any potential concerns.

D. Hermance: Thank you, I'm going to talk about a few things today. Just a quick presentation. We're going to talk about solar panel construction. We will talk about the design and purpose of the toxicity characteristic leaching procedure also known as the TCLP or TClip. And we're going to understand the results of the TCLP that was presented at the last meeting. And we will also talk about the emerging, or I'm sorry, Emergency Planning and Community Right to Know Act specifically discussing it for solar facilities. So, my name David Hermance, I'm an environmental scientist for, with Tetra Tech, Inc. I essentially have 24 years experience in environmental, health and safety. I spent the first two years with the State Regulatory Agency in their Hazardous Waste Division. Spent 9 1/2 years as an environmental health and safety manager in a metals fabrication operation. And then the last 12 1/2 years I've spent with Tetra Tech as an environmental scientist. I have conducted, led or reviewed way more than 200 phase one environmental site assessments. These are assessments that try to identify, recognize environmental conditions associated with hazardous substances in soil and groundwater, that sort of thing. Also, my professional career has been focused on Clean Air Act compliance, Clean Water Act compliance, Resource Conservation and Recovery Act compliance. That's the waste rules essentially. Emergency Planning and Community Right to Know Act, or EPCRA as well as Comprehensive Environmental Response Compensation and Liability Act, that is CERCLA, that is getting into cleanups and so on and so forth. As well as the Endangered Species Act. And so, as well as the state varieties of all those federal regulations in many states, including Indiana. So, typical look of a solar panel here, already installed in Randolph County. These panels are enclosed in glass and solid state, there's no liquid in them, they are enclosed in glass, and then there's a I believe it's aluminum edging or framing around it if you will. So we can jump into the toxicity characteristics leaching procedure or the TClip and I really have to express that this is a very extreme test and it's specific to simulate a waste going into an unlined municipal landfill, and that's really what it's about. I'm going to describe that test a little bit to you. So essentially, for a solar panel, because it's all solid, the process in preparation of the sample, it's not just taking a sample and putting it into an instrument that measures something. It's not that at all. To simulate that landfill situation they're taking this material, it's going through a sieve, it's being crushed into tiny particles. It's then having acidic acetic acid added to it, and then after the acetic acid is added to it, it's put into an agitation, a rotating agitation situation for 18 hours. They then extract the liquids out of that, of that agitator and then that sample is prepared essentially. And then it goes into that instrumental analysis at that point. The idea, the whole idea is to

simulate these, you know unlined municipal landfill conditions. And that's really the case. So, here's the real key here is that this test does not represent the panels during operating conditions, even including those conditions of broken panels. Such extreme conditions simulated by the TCLP will never be experienced in dirt during operation of a solar project, but even with that said, the numerical limits for the toxicity characteristic leaching procedure that TCLP the limits that say something hazardous or non-hazardous, those were designed and developed through research. Basically, say you know if you're under that limit, and these are the, this is the words of the US EPA. If you're under these limits, then you're protective of that groundwater that's below that unlined landfill. Okay? So that's really the key thing there. The US EPA and Indiana Department of Environmental Management enforces the TCLP. It's the standard test to determine whether or not a material is a hazardous waste when you're talking about toxicity, okay? What the results of the TCLP show us is that even in the case of every solar panel crushed into the ground and exposed to weather conditions, the groundwater below the panels will not be a threat to human health in the environment. That's essentially what the TCLP says. The results. And so you know that that's, it really is sort of a non issue you know when you look at those, at that testing result. So Emergency Planning and Community Right to Know Act is or EPCRA was enacted by Congress as a national legislation on community safety and designed to help the local communities, protect public health, safety and the environment of from chemical hazards. So, there's several parts to this, the two parts that come to mind are the reporting and so there's reporting and then there's the chemical hazards portion of it. There's a listing of chemicals that need to be reported, so for solar panels, nothing in these solar panels is listed. The Emergency Planning and Community Right to Know Act does not address these and the solar panel itself is an article not covered. These agencies looked into this, they're not really interested from the standpoint of the Emergency Planning and Community Right to Know Act. For these types of panels. So, based on what we looked at, all the available information, including you know, public domain information based on these types of panels, commercially provided specifications and data. The TCLP test, for example, the regulatory investigation, research over decades that the agencies have done as well as the environmental law associated with it. We conclude the components for the operation of solar panels do not create an environmental hazard for the underlying soil, groundwater surface water, within the surrounding region of a solar farm.

B. Davis: So, in summary, you're saying just your last sentence that you...

D. Hermance: Yeah.

B. Davis: You don't see any issues with this.

D. Hermance: That's correct. With those panels.

B. Davis: Thank you. I think that was a question that was brought up last month.

G. Minkis: Thank you David.

C. Beasley: Thank you. Moving on to public health and safety with regards to operations. Solar facilities are safe facilities. In the unlikely event that there is an onsite emergency, we have these standard practice in place. These facilities are monitored 24/7. And our local operations team is trained in emergency response. In February EDPR hosted the Lynn, Modoc, Losantville and White River fire stations for an information sharing session to discuss emergency response as it pertains to solar facilities. We will continue to work with the first responders of Randolph County, to ensure that there

are no safety concerns moving forward. With regards to the morals and general welfare of the community. The first point that I'd like to speak to is the Economic Development funding that the Riverstart Solar Park III will unlock. When we commit to building these projects, we also commit to paying economic development dollars to the county. These funds are unique in that they are flexible community development dollars and they've been used in the past to fund schools, roads, highways, bridges and emergency services via the purchase of a new ambulance, and also a vehicle for the sheriff's department. Today, \$1.25 million of these funds have been loaned to the towns of Modoc and Losantville for a sewage improvement and expansion project. And to date over \$6 million dollars of these funds have been deployed into Randolph County. The second point pertains to the taxes. The tax base is really important. It's what funds schools, roads, emergency services and township assistance programs. In 2024, the county will see the first \$112 million dollar contribution to the tax base from the Headwaters Windfarm. And by 2034 our developments are projected to be responsible for almost 25% of the county tax base and will more than double the Union Township tax base leading to an increase in funding opportunities and a decrease in personal and business taxes. This contribution will spur economic growth in the community. Finally, a discussion on our three community programs that are focused on Union Township and Modoc. EDP Renewables wants to see Union Township thrive. Considering our presence in the township and being within the mile buffer of the town of Modoc, we wanted to go above and beyond our regular contributions. Through working with the Community Foundation of Randolph County and the local leaders of Modoc. we built three programs to support the community in the near term and to promote growth in the long term. The first program, the Union Township Utility Fund will come in the form of a one hundred \$100,000 fund allocated to the township to be used for supporting those in need with paying utility bills. The second program, the Union Township Endowment Fund is intended to last in perpetuity. It will be funded by \$360,000 of payments and is intended to support town beautification initiatives, emergency services and community events in Union Township, which could include holiday fireworks shows, Christmas lights and the like. The third and final program focuses on our host community of Modoc. We understand that Modoc has seen hardship in the form of excessively high sewage bills over the last decade. We want to help cure this issue and have committed to on a monthly basis, paying down a portion of each Modocian sewage bill. The funds allocated to this reimbursement totaled \$100,000. In all we are committing millions of dollars to the county in economic development funds and tax revenue, and over half a million dollars to Union Township and Modoc in the form of targeted programs that we believe will provide support where it is needed most. We believe that the establishment, maintenance and operation of the special exception use will improve the public health, safety, morals and general welfare of this community.

G. Minkis: Ballot point two of the special exception use will not be injurious to or diminish the use, value and enjoyment of other property in the immediate vicinity for the purposes already permitted. First, I want to speak to noise. Solar parks are very quiet facilities. The panels themselves make no noise. The inverters which are located central to the project could make up approximately to 50 decibels, which is about the modern dishwasher or modern refrigerator sound. The sound will dissipate the further you are from it, and will likely not be heard outside of a fenced area. Additionally, per the solar ordinance, any inverter shall be a minimum of 250 feet away from any dwelling. This requirement shall not be waived. So, the likelihood that an inverter will be heard is very low. Moving on to setbacks, the ordinance stipulates that if you are surrounded by a solar farm, the buffer for residents and public buildings on the first and second side of the property should be 40 feet. If it

surrounds the third or fourth side that buffer is increased to 100 feet. As we go through the next slides and I show you some Riverstart III setbacks, you'll notice that all the setbacks in this area or more than double the minimum. After last month's meeting the Riverstart III team wanted to provide folks with an idea of what the park would look like given the setbacks from Highway 36. We worked with a company who specializes in visual simulation. So, we supply them pictures, the panel layout as well as the height, model and orientation of the panels, the topography of the land, elevation, and coordinate points from where the pictures were taken. This company then has software which is listed here on the screen that can place the panels in line for pictures and it can simulate the view of the solar park. As we go through these setback examples I'll point you out to where the pictures were taken so I can orient you, so that we can look at the visual simulation. Additionally, this report DMV at the top is the report for the visual simulation. I'll now walk through a handful of setbacks and discuss the negotiations with adjacent property owners. Let's start from the small setback and work our way to the largest. I'd like to first just orient you. Here is US 36 running east to west and on the eastern portion is Indian Trail. So now we'll look at this zoomed in. Home number one is the first visual sim that we took. Note that these were taken from the car in the public right of way, and this just serves as an objective standard for all the photos. So here we are taking this picture we are on Indian trail and we'll be facing west. So again, to orient you we're on Indian Trail facing west to the south is the adjacent property, residential property. So here is the visual simulation at zero years, meaning there's no vegetative barrier planted. We do, however, we'll notice here that there's not going to be any screening across the street from here there are no homes. We do, however, present the vegetative screening plan to the nearby residents near the end of the construction for approval at its location, and it's at this time that the screening can be negotiated. So here we'll show the visual simulation just shows the row trees. This is at year three simulating the height of the trees and at year seven. Moving next to home number two. I'll note out this row of trees here, as that would be something to orient us in the next picture, but the picture is taken off of 36 facing north. Here we are facing north, again this is the row of trees I pointed out previously. And in the horizon here you can see the panels. This is at year zero with no vegetative screening. At year three we began to see the trees. And year seven. We'll now move to the middle portion. At our last meeting we had an array of panels here. Just 200 feet, which is the setback from highways. After hearing the complaints from our concerned land owners, we wanted to work on a compromise and so we created a no build area here. So now this setback has been pushed to the edge of this property line. This area will now not contain above ground solar equipment and can be farmed business as usual. EDPR wants to work with folks in the area of the communities that we develop in. Whether it's just assessing the town's needs and proposing funds or simply creating larger setbacks for the adjacent property owners. I'll now orient you this start here, again facing north from US Highway 36. Here's what the original layout previous to our setback would look like. This is with no vegetative screening. And now with our new setback at year zero, you can see the panels here at the very edge. At year three. And year seven. It's notable that all of this land here will still be farmed as usual. And finally, we'll move on to our largest setback. This is again just moving west on 36. Originally, our solar layout also had this 12 acre lot housing above ground solar equipment. After one of our one on one meetings we agreed to remove this layout. These panels from the layout and so that created the over 1,100 feet barrier or excuse me, setback. And the 800 feet setback here. Pictures taken again facing north. Because of the topography and elevation of this land, it's very difficult to see the simulation in this picture. They are here in the horizon. At year three. And year seven. I'd now like to invite to the floor Nick Tillema, who's going to speak on property value. I'd also like to mention that the Kirkland Appraisals report was handed to the board earlier. Nick will summarize this report.

N. Tillema: Good evening, my name again is Nick Tillema. I'm at 9247 N Meridian Street, Indianapolis. I am a real estate appraiser and I'm also an attorney and have been acting as the real estate consultant for a little over 20 years, I started appraising in 1978 and I have started a firm with my son Jason at the Access valuation. We do a lot of appraisals every year. He generally does the residential work and I do the commercial work and the unusual kind of thing that we have something like this. As a real estate consultant we typically find a niche for ourselves and that my niche if there is one here is that I do value impact kind of studies. The first one we did was with the Indianapolis White River fish kill. If you remember in 1999 we had a total fish kill, 52 mile fish kill and we were asked to do a value analysis for the homeowners that were on both sides of the White River. Since then we've done a number of similar types of properties and continue to do so today. I was retained by EDP Renewables to review an impact study that had already been taken place. The reason that I'm sure that they didn't call on me to do this impact study is that the gentleman that they did have do it specializes in this type of work. He's done work all over the United States with this type of solar kind of farms and what happened to the value of properties around them. My job as a real estate reviewer, appraisal reviewer is determined both generally by the appraisal standard board, or the Uniform Standard Professional Appraisal Practice Use Path details exactly what I have to do at the real estate reviewer. And generally, there are two things to do. One is to make the determination of, in this case, that Mr. Kirkland did the analysis correctly as we would do in the industry. Secondly, I'm to double check his numbers and his data and finally in this case to come up with a value opinion of my own. So, what ends up happening here is that you have the expert witnesses of two appraisers, one who specializes in this type of concerns and another who specialized generally in this type of concerns. The appraisal that was prepared here by Mr. Kirkland was completed correctly. Generally, what happens in this situation is the appraiser outlines the general conditions of the market, outlines the specifics of each of the properties being affected, which he did in this case. And then determines the issue at hand. In this case, the issue is does the existence of this creating kind of value impact and his approach to do that was pretty well defined by what was going on in the in the industry. So, if I was to be doing this I would have looked to see in the real estate manuals and textbooks about proper process. He did that and then once that proper process is outlined and he filled in the data and does the work in order to come up with his conclusion. In this case, Mr. Kirkland looked at research solar farms. Specifically, there were six of those, he looked at in peer reviewed written articles there were four of those. There were two university studies that talked about this impact process. There were two masters theses that he read. Their county assessor interviewed. He interviewed 55 county assessors to see what they felt in terms of this kind of analysis and in that process looked at over 23 of the Indiana solar farms. In each of those cases, he was looking specifically for different types of information, but generally the market was, he was trying to find what we call matched pairs in the industry. A matched pair is we try to find a house that would be affected here. Change it to the solar farm and see what it sells for, and then we take that, the same characteristics of that property and find another one away from this area and see if there's any difference in the value and if we can, we try to attribute that value to, back to the solar farm. Obviously there are other things that might affect that value, and so we eliminate those numbers and come up with it. The report itself was 76 pages long and I should also tell you that my son Jason and I have a second operation called Education Resources, which is a school for continuing education for real estate appraisers and real estate brokers. And in the process Jason and I both write articles or right courses and write and teach in that operation. But both of us also teach for the Appraisal Institute and I have written seminars for the Appraisal Institute, including The Introduction to Environmental Issues for Real Estate Appraisers. I've taught that around the world. I've taught it both in Austria and in China, in

Beijing. As I read Mr. Kirkland's appraisal, I agreed with his process and I agreed with his outcome and generally his outcome if I might read it to you, said "the matched paired analysis shows no impact on home values due to abutting or adjoining a solar farm as well as no impact to a abutting or its joining vacant residential or agricultural land where the solar farm is properly screened and buffered. The criteria that typically correlates with downward adjustment on property values such as noise, odor, traffic, all indicate that a solar farm is compatible used for rural residential transition areas and that it would be a function in a harmonious manner with this area. Data from the University Study Brokers comments other appraisal studies supported finding of "no impact on the property value in joining a solar farm with proper setbacks and landscaping buffers." And I agree with that. Be happy to take questions.

G. Minkis: Thank you very much.

R. Cates: Randy Cates, 7587 W US 36 Modoc. I'd say, that's your opinion and his.

N. Tillema: Yes, sir.

R. Cates: I live real close to where this is going in and I certainly don't feel like that will enhance the value in my property. If I would want to sell it, do you think I'd say, hey, my property is next to the solar farm, you think that'll make them want it more? Increase the value? Decrease the value?

N. Tillema: I'm not saying nor is Mr. Kirkland saying that it will enhance the value. We don't think it will have any impact on value. In other words, that's my opinion, but, if that wasn't there and somebody would be coming to buy your property, yes, would there be, what additional things would factor into their decision to buy after this is put in? And it might be that they're going to come to this community because of some of the benefits that EDP has provided for this community. It might be that you know, if where you live is now easier to say, I live next to such and such, than it was on 36, so there are extenuating circumstances on both sides.

R. Cates: I understand that. I am just saying it's not necessarily 100% of what your expert opinion is.

N. Tillema: You're right, sir.

B. Davis: I just want to go on the record for the board here that of the six issues we've got to address, that was my main one right there, how it's going to affect the property values if you are adjacent or anywhere near close to it. And honestly, you probably have 20 different views, and you're going to get 20 different answers. You're gonna have some research that says it will be detrimental, and you'll have some research, that says it won't be. Who do you go with? I think you're very knowledgeable, I think your record speaks for itself. Your history, your knowledge, your training. I think you answered my questions.

N. Tillema: If I might, one other thing. Is that, in the real estate world, there are a number of advocates. If you are a real estate broker and you are representing a buyer, you are going to advocate for the best position to the buyer. If you are a seller, you're going to advocate for the best position for the seller. And if you are a mortgage broker you want to again, advocate for a specific person, and even if you are an attorney, you are bound to advocate for somebody. Real estate appraisers are bound to be objective. We have to be independent and objective and I, which means in my case that I have both worked for plaintiffs and defendants in these type of cases. Doesn't matter which side I'm on, my job is to determine what I think is right.



Chairman Hawley: Yeah, because I was with you Bill, about the value but the other one that I had was the enjoyment of property. I'm not sure how you put a stipulation on does this impede someone's enjoyment of their property by adding this next door? And that's just kind of where my head was on this.

R. Abel: We might want to just go ahead and let them finish their presentation and then have the other side speak.

Chairman Hawley: Sure.

R. Abel: I mean it seems to be the most reasonable thing, rather than getting into to a big back and forth.

G. Minkis: Ballot point #3 is the special exception use will not impede the normal and orderly development and improvement of surrounding properties for uses permitted by right and the zoning district of surrounding property. We have already discussed noise and lack thereof. The negotiated setbacks, EDPR and adjacent land owners worked on and vegetative screening for this project. Given the rules set in place by the Randolph County Solar Ordinance and negotiations with adjacent property owners, we believe the Solar Park will not impede the normal and orderly development and improvement of surrounding property for the uses already permitted.

C. Beasley: Ballet point #4. Adequate utilities, access roads, drainage and other necessary facilities are being provided. Utilities for River Start include backup power and a fiber optic Internet connection. Backup power shown with the green line will be provided by AEP via distribution level power lines running along Hwy 1. The fiber optic connection shown with the orange line will be provided by a last mile provider, similar to what has been done for our previous builds. Access roads will be distributed throughout the facility and we are expecting to have over 7 points of entry to accommodate three technicians daily activities. And finally, we are expanding and protecting drainage systems. A local contractor has GPS located in tile mains and county drains, allowing us to protect them from construction activities, and, we have also identified 5 locations shown in blue where we can now upgrade the existing drainage system to ensure that our construction and operations do not impact local drainage. Note that the county drains shown in red are entirely outside of our facility with a setback buffer of 60 feet or greater in all cases. And Ballot point 5, adequate measures will be taken to provide ingress and egress, so designed to minimize traffic congestion and the public streets. For the purposes of this special exception, we consider the operational phase of the project. During operations three technicians will access the site during normal working hours. Over seven access growth spread throughout the facility. This facility is unique in that it brings a massive economic package to the community and county without altering the way of life of the neighbors whereas a similar data center or warehouse would radically change traffic patterns and culture. Although outside of the purpose of this special exception, I want to briefly touch on the temporary construction impacts to traffic congestion. Construction traffic will be limited to the designated county roads and state highways shown in green and orange, respectively, to mitigate congestion and promote traffic safety, a traffic engineer will generate plans for safety signage and lower construction speed limit, pull off lanes and one-way traffic flow.

G. Minkis: The final ballot point #6. All construction and development is in conformance with the development standards applicable in the zoning district of the property included in the request. By being here today making this special exception request we are in conformance with standards set in

place by the Randolph County Solar Ordinance. By increasing setbacks to more than double of that stipulated in the ordinance, we feel that this solar park has met or exceeds construction and development standards. Additionally, the reason for this special exception is because we are developing within the one mile buffer of the incorporated town. We worked with the town to gain their support and we believe that this will be a successful partnership. This concludes our presentation.

B. Davis: I would like to ask the board or the, I guess if there's anyone in the audience that would like to speak on behalf of supporting this in any, representation of the Commissioners or County Council or anyone that this might be a good opportunity to come forward.

Chairman Hawley: Okay, state your name and address for the record, please.

A. Fahl: Andy Fahl, 6194 South US 27, Lynn. I'm here to read a letter as a member of the Randolph County United Board and the RCU Board of Directors. This letter is to show Randolph County United support for the development of renewable energy in the county. "Renewable energy is a growing industry, provides an opportunity for diversifying economic development, revenue streams in rural communities. The RCU Board does not feel it's in its place to speak for or against the ordinance exception tonight. That's up to you guys. However, the RCU Board does want to speak to the positive economic impact of renewable energy projects. To date, 6.3 million of renewable energy funds have been given to the county, and they've been used to support needed equipment and improvements across the entire county. Over the next ten years the county is looking at approximately \$22 million to come in. This has researched and verified numbers. This is a factual letter maybe to clear up some of the misconceptions of February's meeting. So that money in a summary is we've got improvements, the ditches and drains in the county \$405,000. A new HVAC system at the County Courthouse 1.7 million. Economic Development got \$441,000, 400 of that was used for broadband towers in the county. Funding for cities and towns is a little over \$2,000,000, Ridgeville \$76,000, Parker City, \$100,000, Lynn at \$246,000, Farmland of \$100,000, Union City and Winchester both at \$150,000 to be used for new housing projects infrastructure. Modoc \$500,000. Losantville just recently got \$750,000. These Modoc and Losantville funds enabled the towns of funding they needed to apply for and leverage against additional grants for their joint sewage projects. This would not have happened without renewable money. The Highway Department \$1.375 million to support bridge repairs and needed equipment and staffing. Public safety and emergency services, \$316,000 for a new ambulance and vehicles for the sheriff's department. Randolph County United understands and respects that not everyone in the county supports the development of economic energy. It's changed the landscape of our county. And the backyards and the skies of many of our residents. It's the board's hope that by investing the funds received for renewable projects in the future it would be future growth for the county. Current and future residents will visually see the positive impact when renewable energy can have on economic development of Randolph County." This letter was written by Ceann Bales, President & CEO and is on behalf of the Randolph County United Board of Directors. While I'm up here, I'm going to turn personal. So, I'm a lifelong resident of Randolph County. Since renewables came into this county, I've been involved. With corn, wind and solar. And I was one of the people Don spoke to, that helped write the ordinance that's in front of the board tonight. And I want to speak with confidence to all of you that the intent of the ordinance was to entertain renewable energy into this county. It was a new industry. It was a new business that this county needed. And also, it was our intention to protect the residents and the land owners in this county also. So that being said, we all live and work in this county. We raise our families. We go to work to pay our bills, there should be a

compromise here. No one person's agenda, no one company agenda is probably not going to work here tonight. I'll say it again, no one person's agenda, no one company agenda is probably not going to work here tonight. So, I would encourage everyone in this room to have an open mind, be willing to negotiate and figure out what will work for everyone. So hopefully, if you walked in here tonight with a neighbor and a friend, when the meeting is over you'll be able to walk out with that neighbor and friend. Thank you.

Chairman Hawley: Deb, you had a request?

D. Johnting: I have some letters, Grace asked me if I would read these for them. Bear with me. I have letters of support, from Andrew Dragoo. "The solar farm hasn't taken away my way of life at this time I do not see any problems." From Robert Cole on 500 W in Modoc, "the Solar Park has not affected my ability to enjoy my property at all." Jeremy Dalton on State Street in Modoc, we have lived in the middle of Riverstart solar project the whole time, it's been a little to no inconvenience at all. There were days that roads were busy, but everyone was respectful. They worked regular shift hours, no noise late at night, no Sunday work. It also has its financial benefits. I would recommend this to any community considering this project." Connie Witt, on 400 W Lynn, Indiana. The Solar Park has not caused me any issues and I'm still able to enjoy and use my property as before. From Jeff Rodefer, the International Brotherhood Electrical Workers, Local Union 855. To whom it may concern, EDP Renewables is a valued part of the electrical industry. Economic investments of a working jurisdiction IBW Local Union 855 not only represents local electricians in Randolph County, but also in the surrounding counties of Wayne, Henry, Delaware and Jay. EDP has a proven record of using local skilled electricians for their project. When doing this EDP is not only as they state fostering community growth and creating real financial benefits for Randolph County, but they are also directly impacting the lives and families of tradesmen in Randolph County and the surrounding counties. Local labor takes these wages and reinvests them back into the local economy of our merchants and schools. Our industry is on the leading edge of a nationwide reinvestment in the electrical grid and our ability to produce sustainable clean renewable energy, EDP Renewables and the IBW hope that you will join us in the future of energy production. This is from Erica Hoffman, land agent. I first wanted to preface this letter, by apologizing for not being able to attend the hearing tonight, I'm out of state for our family spring break. I've had the pleasure of working with EDP Renewables in Randolph County for approximately 2 years now. I've watched their renewable projects grow. I'm a self-contracted land agent. The purpose of my work is to be a liaison between the company and landowner. I'm typically one of the first people to contact the landowners. I explain the project and help deliver documents. I am a notary public, which makes the process of document signing a lot easier for the landowner. Throughout this two year period, EDP Renewables has extended the option for a landowner who was within a project area to sign a neighbor agreement. The neighbor agreement was meant to help clarify expectations, discuss the sometimes unavoidable impacts of construction and post construction/operation of the project. I have worked with landowners in the wind farm project areas as well as the solar park areas. A landowner is never pressured or forced to sign these agreements. They are transparent and not changed on a case by case basis. I am not an attorney so I do not prepare these documents or provide legal counsel. I can answer most questions, but always explain that EDPR will reimburse the landowner for legal fees. These legal fees will be paid when the neighbor agreement has been signed. The benefit for both parties is that it leaves communication open and sets expectations for the people involved. The landowner is compensated each year after the project has been in operation for one year. This amount is always a set amount. We do not change it from one person to the next.

This keeps it civil and unbiased for all. I want to clarify a few things about the interactions pertaining to the neighbor agreement. This document is very different from a release. This document does not allow anything to be built on or transported through the property. After a landowner has the time to review the document, then we schedule an appointment to discuss any questions. Then we sign and notarize the document. It isn't uncommon for the question to come up about placement of a wind turbine or solar panels. We do not distribute maps because the project can change based on many different factors. The engineers are always working to help develop successful placement and installation. A lot of times the current plan can be shown to the landowner with the knowledge that this may not be the final plan. I would like to look at how this all pertains to the BZA hearing. I started working with the project known as Riverstart III in the spring of 2021. The project has progressed and a special exception was going to be requested. There were calls made to the land owners in the project area to explain the upcoming hearing on February 22nd, 2022 at 7:00 PM as well as alert them of a letter and map that would be arriving in the upcoming week. The map showed the projected panel placement in the vicinity around their property. The letter explained the need for an exception and alerted them of the option of attendance. It did clarify that attendance was not mandatory. If they were unable to attend, a statement could be made. I would like to state for the record, that signing the neighbor agreement and the special exception are two different things. The neighbor agreement is signed. It does not affect the request for a special exception. I hope this helps clarify the neighbor agreement as well as my involvement with this project. I really enjoy meeting the people in this area and look forward to a long relationship with the county. And that was Erica Hoffman.

B. Davis: Deb, I'm sorry, but do we really need to go through all that?

D. Johnting: They asked me to read these.

B. Davis: Does it apply our six ballot questions?

D. Johnting: I am just doing what I was asked to do. I'm sorry.

C. Beasley: I think there's, are there any more testimonials?

Z. Cummings: I got one. I'll get it real quick please.

Chairman Hawley: Well, state your name and address for the record.

Z. Cummings: Yes, hello everybody. I'm Zachary Cummings, 7391 West US Highway 36, Modoc, Indiana. And I worked out here at Riverstart and I'm going to tell you that as a young guy, I'm 42 years old, you gotta go 20, 40 minutes to go find work anywhere and EDPR was nice enough to throw a solar park in my backyard. I was six minutes away. And it's great because I didn't spend all that gas and everything and I'll tell you what. I met a lot of nice people along the way too...people...

B. Davis: Sir, I am going to interrupt you here again, does this apply to the six ballots that we're in judgment here? I don't think so. If not, let's get somebody up here that's going to talk to us. If not, we're gonna be here till 10:00 o'clock.

Z. Cummings: Yes, Sir, and I don't want to take up anymore your time so I just wanted to let me be known. Thank you, you have a great night.

B. Davis: Board, I'm sorry but I've come to my answer here, I've put two hours in.

R. Abel: I think we need to hear opposition.

[Unknown speaker] I am president of the Modoc Board. 307 S Main Modoc, Indiana. I was on the fence on this deal, but I'm kind of leaning towards it today now, after everything that's happened. Modoc's [Inaudible]. They have stepped up to the plate, put money down to help us pay our bills to keep my residents bills lower than what they are right now, which means a lot to me so you know. I'm 100% for them because they have stepped up to try to help us and they're an outside source that don't have to do that and they have.

B. Davis: I understand, but Randy, my point was last month when we tabled this, for answers they provided the answers. The group had chance to support or disagree with it.

R. Abel: I haven't heard any opposition yet.

B. Davis: Not tonight, but we did last month.

R. Abel: So, I'm just saying if we're going to hear further information on property values and such, and you know, I think it's only fair to hear both sides before you make your decision. I don't want this being appealed, I don't think anybody does. So, if you don't want to hear both sides, that's fine, but I don't know what the opposition is going to do or say.

B. Davis: I'm saying that we heard that last month. It was tabled to answer the questions that were here last month, and they have answered them.

R. Abel: That's fine.

L. Rowles: I have one more in support for Ballot Point 2. For the Community welfare piece. My name is Luke Rowles, 222 South Meridian and Winchester on here on behalf of the Community Foundation of Randolph County, myself as the program officer and Lisa Jennings as the executive director have had the pleasure of working with EDP over the past few months and they are going above and beyond what's needed as far as community welfare goes. At the commencement of this project, if it does get the special exemption, they are wanting to set up two funds. One of them is an endowment fund specifically for Union Township. An endowment means that that money is going to be there forever. I know there's been a lot of concern what happens when EDP leaves? And here's an answer to that. So over the next 15 years, they'll contribute a total of \$360,000 to that fund and that fund will not be eaten into. That's only going to be invested and grows. So a Randolph County example, we have the Union City Community fund that started with an initial gift of \$420,000 and has since grown to \$850,000 at the same time that it's doubled in size, it's also been able to grant out \$450,000 to Union City. So, they're wanting us to set up a fund that will do the same thing for Union Township. So that's just general benefit to the community. On the other side they want to set up the Utility Assistance Fund, which has direct impact to individuals in that area helping them pay for bills. And I guess on the personal side. Whether or not you agree with this project or not, it's hard to deny that they have met and exceeded in answer to the 6 ballot points. So, that's all I have to say.

Chairman Hawley: Is there anyone that would like to speak in opposition of the points being established, maintenance of the operation, diminish the use of value, enjoyment of property, normal and orderly deployment of improvement in their surrounding property, adequate utility access road drainage, provide ingress or egress, or in conformance to development standards applicable in the zoning district property included in the request. So, anybody would like to speak against those points?

R. Cates: Hey, I'm Randy Cates again 7587 West US 36, Modoc.

J. Cates: And I am Janet Cates. I live at 7587 West US Highway 36, Modoc. And I might add that we live in rural Modoc and not in the town. So, I don't know what my limits are, so if you please tell me what my limits are? Because I feel like I can address the general welfare, the diminish part of use, the value and the enjoyment. I'm not repeating what I did last time, I've got some other things that I wanted to add, but from what you just said, your minds are made up, you're ready to vote without hearing what we have to say, is that correct?

J. Peacock: No.

Chairman Hawley: I mean I, I would like you to have the opportunity to state what you need to.

J. Cates: Okay. What I have to say is windy, but I will read very quickly. And I know that everybody's ready to get out of here. And what I'm about to say is not intended to be personal to anyone here, but it is personal to me, and this is my opinion. I'm starting out with a quote, the solar park complements the areas agricultural resources with a stable weather resistant cash crop in the form of landowner lease payments. This was taken from the Riverstart fact sheet, in other words, I will repeat from last meeting, farmers are being paid not to farm. It's solar versus grain. On page 35 of EDP's petition under solar and property value harmony with nearby residential and agricultural property appearance, quote "large solar projects have similar characteristics to a greenhouse or single story residence, usually no more than 10 feet high, Solar farms are often enclosed by fencing and or landscaping to minimize visual effects." Is this what you envision as you drive by the solar fields, whether it be on Hwy 36, going to the Indianapolis airport, or traveling east on Interstate 70 at the Richmond Highway 40 exit? But as to the fencing minimizing the visual impact to me it looks like many prison fences with warning signs. What happens when the trees that are planted die? It is said they will be replaced. The trees that died surrounding the substation on County Road West were never replaced. Also included on this same page is an aerial picture of a solar field out in the middle of nowhere. It appears to be surrounded by forested terrain and no residential areas that I can see. This is not what these fields are going to look like around here. Residents are being impacted. From our front window we can easily see a mile to the north. From our second story from which 3 bedrooms face you can actually see for two miles. This will be covered in black panels. And I hope there is no glare. This was not addressed anywhere in their printouts, although I did see it on like the second slide that they had. I hope there is no glare. I have read that even though the panels are photovoltaic panels, referred to as PV panels, glare may be caused by reflections from low sun, which is likely to occur in the morning and in the evening after sunrise and before sunset. A claim that PV glare cannot occur because solar panels are designed to absorb light is not always true. And to add to that, some of our neighbors will also have a good view of the substation which light up the sky at night. From EDP's perspective, they have a product they need to find a site for and deep pockets from which to draw monetarily. Their spin is to promote a wonderful vision of nature, the good this is going to do and all the money. Yes, the money. It is said they target poor counties, poor communities where it becomes difficult to say no to when the golden carrot is dangled. I am not against solar. I am against taking thousands of acres of farm ground, especially acreage designed for agriculture. Instead of using vast acres of farm ground, let homeowners choose to put solar panels on the roof of their own home. The Amish are even doing this. The government could use a tax cut as an incentive and it would actually reduce our own electric bills. In EDP's petition it is stated that Riverstart III "generation will be equivalent to the average consumption of more than 19,000 Indiana homes." It says equivalent, not actually furnishing it to Indiana homes. Where is it going? And it's not affecting our bill. Going to last month's meeting, it was stated that "there were open

meetings during the organization that anyone could come to. They were publicized in the paper.” Most people present said they do not take the paper. I was able to find one article through the Google search June 16th, 2020 that announced the coming of solar to the southwest corner of Randolph County in the local newspaper and to my knowledge there has never been any more effort to inform residents, especially rural. From the very beginning the southwest corner of the county was the target for wind turbines. Why Modoc? I now realize that the development of the windmills has set the stage for us to be a target for solar. We have become ideal. I asked at the last meeting why there was not a referendum. While I asked knowing the answer. There's too much money at stake to take a chance of people voting it down. I believe the lack of informing county residents was intentional. This has been very low key. Riverstart III began last year making deals with land owners, going house to house pitching their good neighbor policy. And making residents think the solar fields across from them beside them and in back of them was inevitable. A done deal. They better sign and get something out of it monetarily, as was testified to at the last meeting. They made residents feel helpless and again dangled that golden carrot. Isn't this an example of misinformation? My spin, EDP wants no opposition. Get the land owners on board, get neighbors to sign their rights away. Give them something to make them feel better about it, go through the formality of rezoning without any opposition, and all will be well and we will all live happily ever after. In our plea of respecting the existing boundaries, I wish you to keep in mind that our family has served this county. Randy's grandfather moved to the farm where we now reside in 1950. He served his community as Township trustee and was instrumental in getting Union School established. Randy's father served as County Commissioner for four terms. His brother served on Union School board for several terms. I taught high school for 28 years at Union and have served this county on committees, boards and organizations. EDP is here to do a job and then they will leave. We will be staying here to live with solar as our landscape for the rest of our lives. It is said that we just don't like change. I am for positive change, not adverse change that directly affects myself, my family, my neighbors. Some of my neighbors will be surrounded, it's not going to look like the pictures that was in this booklet. In 2009, the Area Planning Commission, established a buffer for a one-mile radius of any incorporated town in Randolph County. The land was designated ag limited. It is my understanding that this was done as a compromise to protect towns from CAFOS. Please respect the existing boundaries that the Planning Commission established. You are tonight given the task of preserving the land that was so designated. Our county commissioners have opened a Pandora's box. It's my understanding that Randolph County is open for solar. When Modoc/Losantville get used up, where will they target? I'm not just talking about EDP, but all the others who want in. At the last meeting I said we have been contacted by two other companies. What happens when farmers start leasing out around Winchester? The golf course maybe? How about solar fields connecting Winchester and Union City? How about across from Monroe Central? I would like for EDP sometime this evening to address how many phases they have planned for Randolph County. Could there be a moratorium and then a referendum to find out what Randolph County residents want? Should solar be limited? I have many friends who live in and around Winchester that do not like what is happening to their county. This is a quick fix for a county trying to figure out how to attract more businesses and people. You can help rectify what our Commissioners have done and start saying no to already existing ag limited farm ground. Where does this end? When the county has no farm ground left? By saying yes, you are welcoming more companies to approach our agricultural county. By saying no, you are deterring them. We are asking that you leave the ag limited designation that is within a one mile radius of Modoc, an incorporated town which will greatly affect the surrounding residents as well as the school. Please don't make this

type of vote just a formality. Put yourself in our place. How many of you want the solar farm as your landscape? How much quality would you get from looking at it every time you look out your window or stepped outside. It was stated at the last meeting “property values don't go down. There are many studies about that.” It is a fact that the value of farm ground is going up, regardless of solar. Is that what these studies are based on, or are they based on residential properties that are surrounded by solar? In using common sense how many of you desire to buy a home near a solar field? Is that what realtors will be using to lure buyers? If you can't get a buyer, and depending on how badly you want to sell, you'll lower the asking price to devalue the property. I asked at the last meeting if any board members have been compromised with EDP. Let me define conflict of interest. A situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity. It is my understanding that a county Commissioner may fall into this situation. Now I want to address each of those questions to you. Keep in mind that I do not know where any one of you reside, whether in town or out. By living in the town, you could still own property. So, I would like to address these questions and then you answer yes or no please. Okay, have you, number one, signed the lease or good neighbor agreement with EDP or anyone else for wind or solar and I'm going alphabetically. Mr. Calhoun?

D. Calhoun: Yes.

J. Cates: Mr. Davis?

B. Davis: No.

J. Cates: Mr. Hart?

T. Hart: No.

J. Cates: Mr. Hawley?

Chairman Hawley: No.

J. Cates: Mr. Hufford?

J. Hufford: No.

J. Cates: Mr. Peacock?

J. Peacock: No.

J. Cates: Okay, number two, have you ever been contacted by EDP? If so, please expand. Mr. Calhoun?

D. Calhoun: Yes.

J. Cates: Did you want to expand on that?

D. Calhoun: I signed my farm up for wind.

J. Cates: Mr. Davis?

B. Davis: No.

J. Cates: Mr. Hart?



T. Hart: No.

J. Cates: Mr. Hawley?

Chairman Hawley: No.

J. Cates: Mr. Hufford?

J. Hufford: No.

J. Cates: Mr. Peacock?

J. Peacock: Yes. And I will tell you I mentioned to them that they are not supposed to talk with me, and I was never contacted again, so, it was fine.

J. Cates: Okay, number three, have you ever been contacted by another company for wind or solar? Mr. Calhoun?

D. Calhoun: No.

J. Cates: Mr. Davis?

B. Davis: No.

J. Cates: Mr. Hart?

T. Hart: No.

J. Cates: Mr. Hawley?

Chairman Hawley: No.

J. Cates: Mr. Hufford?

J. Hufford: No.

J. Cates: Mr. Peacock?

J. Peacock: Would you repeat the question please?

J. Cates: Have you ever been contacted by another company for wind or solar?

J. Peacock: Yes.

J. Cates: Okay, number 4, and there's only six. Have you in any way benefited financially, Mr. Calhoun?

D. Calhoun: Yes.

J. Cates: Mr. Davis?

B. Davis: No.

J. Cates: Mr. Hart?

T. Hart: No.

J. Cates: Mr. Hawley?

Chairman Hawley: No.

J. Cates: Mr. Hufford?

J. Hufford: No.

J. Cates: Mr. Peacock?

J. Peacock: No.

J. Cates: Do you have any future plans to enter an agreement with EDP or another company for wind or solar?

D. Calhoun: Yes.

J. Cates: Mr. Davis?

B. Davis: No.

J. Cates: Mr. Hart?

T. Hart: No.

J. Cates: Mr. Hawley?

Chairman Hawley: No.

J. Cates: Mr. Hufford?

J. Hufford: No.

J. Cates: Mr. Peacock?

J. Peacock: It's not been decided yet.

J. Cates: Last one, have you spoken with a Randolph County Commissioner regarding this issue for tonight or for the last meeting? Mr. Calhoun?

D. Calhoun: Yes.

J. Cates: Mr. Davis?

B. Davis: No.

J. Cates: Mr. Hart?

T. Hart: No.

J. Cates: Mr. Hawley?

Chairman Hawley: No.

J. Cates: Mr. Hufford?

J. Hufford: No.

J. Cates: Mr. Peacock?

J. Peacock: No.

J. Cates: Okay, does anybody feel that they are biased in their decision? As they vote? That you can give a fair and unbiased decision? Just to end this just as an FYI, at last month's meeting after leaving the room and going into the hallway an EDP rep introduced herself and asked me if she could have my notes in order to answer my questions. I did not oblige. She then asked me to meet with her or anyone else to go over my questions. I felt at this point that everything could be done before the BZA.

R. Cates: Okay, I've just got a couple things to add and I'm gonna keep it short because I know everyone's been here probably thinking long enough and you have a tough decision, but I'd like to thank all of you on the board for listening to us. Public service is not really reimbursed as much as it should be. I don't know if you guys make anything. But that's irrelevant. You've solved a lot of people's problems and a lot of different arguments. I respect your opinions. Got some other things written down but actually Janet covered. But there's one thing I'm still really concerned about was the fact that my neighbor was told by a representative that I had signed the good neighbor policy. That is not true. It had not happened and it won't happen. I didn't know what that purpose was, why they were told that, but that really kind of sticks in my craw. So again, thanks, we appreciate your time and consideration.

J. Cates: Thank you for hearing us.

Chairman Hawley: Would you like to speak, Sir, concerning?

S. Fisher: I'll keep it short.

Chairman Hawley: Please come state your name and address for the record.

S. Fisher: My name is Scott Fisher, I reside at 9866 West US 36 Modoc. I've lived in Randolph County, and that part of the county my entire life. I've been a contractor for 35 years. In that community. I've worked for all these property owners. I've work for the county, I've worked for the town of Modoc and the town of Losantville. I also sit on the Economical Development Board, so I see first hand what the economical impact is to this community, this county. And I have to tell you. This county would be dead. The communities down there would be dead if it wasn't for EDP and this economical development money. Myself personally, I grew my business over the last, keep in mind, I've been in business for 35 years. Two years ago I started working for EDP on their Headwaters II, and Riverstart I and II. I've grown my business from four people to 40 in two years. Our payroll, annual payroll has went from \$200,000 a year, to two and a half million dollars a year. We provided \$1,000,000 in employee benefits last year. We also invested several million dollars in equipment the last two years that Randolph County will be collecting property taxes for years and years and years. So, the economical impact to that part of the county is way more than most people can even imagine. I personally know you've already heard from Andy's letter, the projects that Randolph County has been able to do over the last eight years. But it goes a lot farther than that, the town of Losantville and the town of Modoc, would be dead if it wasn't for these funds. My payroll, 70% of them people live right here in Randolph County. That money stays here. They were high paying jobs. So this project is more valuable than most people realize. And I just, I want to, I can see some of the landowners or some of the homeowners concerns about their property values, but I also know this community is going to die if we don't continue to grow it. And EDP is, has been great for this county. Great for the town of Modoc, great for the town of Losantville. That's all I got to say.

Chairman Hawley: Is there anyone else who would like to speak in opposition to the proposal?

C. Johnson: I've just got two quick questions, my name is Cale Johnson, 7490 South Indian Trail, Modoc. I was here last time. I believe there is an environmentalist here? On this TCLP there's no, it doesn't even show, I mean, it says LONGi Green Energy Technology, it says that's what they're testing. But there is not a single panel description.

D. Hermance: That's right.

C. Johnson: On your testing report to the landfill, all it says is manufacturer, you guys don't have a test subject like a model number. For the panels, there are several 100 panels.

D. Hermance: That's right, and so, so that is that's for the, that's actually for several of their models.

C. Johnson: So, there's several models, but this is for our solar farm.

D. Hermance: Right, they're all using the same technology. Essentially it's the PERC cell and the bifacial PERC cell, and those are the main key components.

C. Johnson: But why didn't they put the model numbers that it would refer to on there, instead of just Longghee...

D. Hermance: I don't know. I didn't prepare it. It was prepared by the laboratory.

C. Johnson: Very good, and then it was done in Germany, right?

D. Hermance: I'm not quite sure exactly where it was done.

C. Johnson: TUV PS SHA chemical lab in China.

D. Hermance: Right so the laboratory that actually does it, is like a lot like, you've heard of UL,

C. Johnson: Yeah, right.

D. Hermance: It's a global organization that does test this.

C. Johnson: But if it was tested in Germany, why does it say it was tested in China, right down here on your TCLP, right? TVSUD

D. Hermance: That's the company that did the testing.

C. Johnson: Right.

D. Hermance: And again, it was they did the TCLP

C. Johnson: TUV PS SHA, Shanghai. Okay, so there's one in China

D. Hermance: Yeah, I would believe that.

C. Johnson: Well you guys keep saying Germany which is not where it was done.

D. Hermance: The company that does the testing is corporately held or corporately, probably not right in Germany. It's a German company that, is a global company.

C. Johnson: And right, but the test was done in China.

D. Hermance: That's correct and they followed the TCLP method test Method 1311, which is the same wherever you do it.

C. Johnson: Okay, also can I just ask a question and have a quick return response not..yes, thank you very much. The recycling company, what's the name of that? You guys were talking about that at the last meeting. You said you guys are investing knowledge into the recycling. And then you gave me a TCLP for a landfill. Yeah, you guys remember that right? The ones that were here? They said they were looking into a recycling company. Yeah, yeah. You're not going to recycle? You're going to go to a landfill? Modoc landfill?

C. Beasley: Oh, no no no no.

C. Johnson: The TCLP was for landfill.

D. Hermance: The standards for a landfill was much more stringent than what you see in operational.

C. Johnson: Yeah, well I get that but you guys said you were investing into a recycling?

D. Hermance: That's right, that's just the same.

C. Johnson: This is just for landfill, the TCLP is.

D. Hermance: Right, and that's the standard that was used.

C. Johnson: Right, for landfill approval.

D. Hermance: No no no.

C. Johnson: This will get you into a landfill, right? This TCLP will get you into a landfill, right?

D. Hermance: Because it demonstrates that it doesn't have any impact...

C. Johnson: Because it doesn't have any heavy metals?

D. Hermance: That's a separate issue then, right?

C. Johnson: So are these little going to landfills when they are done or what we recycle? Are they going to recycle?

G. Minkis: I can speak to recycling. We haven't finalized the company that we are recycling with, we're still looking at those so I don't know.

C. Johnson: Who is that? Because we would need to know in the decommissioning fund if we had to ship them and it would cost a ton of money to ship them if you go a long distance, right?

G. Minkis: Right, we don't know the name of that yet.

C. Johnson: As far as the Modoc landfill, they're not accepting any solar panels.

D. Hermance: Well, they wouldn't necessarily go there.

C. Johnson: Well, I know, but I'm just saying like this isn't acceptable waste for a landfill. I'm sorry, I'm almost done, last point. Right?

D. Hermance: I think that's a misrepresentation of what this TCLP is for. It's a test that is designed to show that even in the circumstances that a panel would have in the landfill.

C. Johnson: Right?

D. Hermance: It would not be toxic and therefore in operational conditions it's not. So that is...

C. Johnson: Right, but this is what they're looking for in a landfill approval. When you go through a landfill approval, they'll run it through an ICP, and they'll check for heavy metals. And there are eight of them, right? And they go through that. And that's not the only thing that gets you in, but that is the baseline, this one gets you to into this landfill. We check for more after that.

D. Hermance: Yeah, you know what you're saying Cale is accurate. That you will need a TCLP to get in.

C. Johnson: Right?

D. Hermance: But you don't necessarily do the TCLP strictly to get in, and so the TCLP in this particular case, was done really to look at the toxicity of materials themselves, not necessarily as a process to get in, get their material, their waste materials into the landfill.

C. Johnson: Right, so you gave us the 8 metals, and there's 118, where's the other 110 elements? Is there any other elements?

D. Hermance: That's correct. And so there are no other elements associated with those panels. Again, it's all solid materials. In looking at that, my experience with solar panels is the only thing you're looking at is the 8 river metals.

C. Johnson: Okay, okay, these were tested and good?

D. Hermance: The other, 110 materials that would go into a TCLP analysis are typically solvents. They're liquid materials.

C. Johnson: Okay, I'm done.

Chairman Hawley: All right, anyone else who would like to speak in opposition? Alright, so.

J. Hufford: I call for a roll call vote.

Chairman Hawley: I'll second that motion.

D. Johnting: Jason Hawley, yes, Bill Davis, yes, Tim Hart, yes, Jon Peacock yes, Don Calhoun, yes, Jim Hufford, yes. And Andrew Cleveland is absent. Motion approved.

Chairman Hawley: Okay, is there any old business for the board to discuss?

D. Johnting: We do have a hearing next month.

Chairman Hawley: Reports on officers, committees and staff. Can I have a motion to adjourn? We have a second, all those in favor of adjourning, say I. We are adjourned. Thank you ladies and gentlemen, please don't forget to turn your ballots in.

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Jason Hawley, Chairman

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Debra Johnting, Recording Secretary

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Bill Davis, Vice Chairman