

Burrillville

Bugle



Special Edition: Power Plant Proposal

Message from the President

Dear Neighbors,

This special edition of the Burrillville Bugle focuses on one of the most important issues that the Town is facing – a proposed new Invenergy power plant. Over the past several months your elected officials, volunteers who sit on our boards, Town staff, dozens of residents, and our expert consultants have spent countless hours examining this issue.

As a Town Council, we are working with our experts to present advisory opinions on topics such as water use, noise pollution, air quality, property values, and traffic changes. The Council will be presenting the Town's position to the EFSB this fall. We will definitely be raising our concerns about the impact of a new power plant.

The siting process involves many more meetings before this is resolved. This special Bugle edition is designed to provide a comprehensive status report on the proposal. In addition, we have dedicated a special page on our Town website that provides the latest information. The Council is also available to answer questions through social media accounts and in person.

- <http://www.burrillville.org/invenergy>
- <https://www.facebook.com/BurrillvillePowerPlant/>
- https://twitter.com/burrillville_pp

As always, the Council encourages everyone's participation in the process of sorting through this significant issue facing our beloved Burrillville.

Sincerely,

John F. Pacheco III
Burrillville Town Council President

Town's Role in New Businesses

While the decision making process for the proposed new Invenergy power plant is a bit of an anomaly, when it was initially mentioned the Town followed the same protocols it does for any new venture.

Whether it's a high profile company or a small business – the first step is generally a very broad inquiry. Burrillville may be one of several communities a business is considering.

Many inquiries end at this first step. Those that proceed are coordinated by the Town Manager and his staff who further assess the viability of projects, the economic and lifestyle ramifications, and whether there are obstacles that would prevent the projects from proceeding, including compliance with planning and zoning ordinances.

Normally, a project must be vetted by the Planning and Zoning Boards. It may not fit in with the Town's Comprehensive Plan. It may jeopardize our environment or quality of life.

After the Energy Facility Siting Board receives the opinions they've ordered, there will be a formal hearing. The Town understands that hearing will include many sessions. The hearing is expected to be held in October, November and December. Dates, times and location will be set by the EFSB and the hearing will be open to the public. That information will be posted on the Town's website.

While we are continuing to apply our stringent vetting process to the Invenergy power plant, in this particular circumstance, the Town can only give an advisory opinion on whether we want the plant here. The decision is not in our hands.

We do intend to make our case as strongly as possible to EFSB. And should EFSB allow the plant in our Town, we intend to demand the strongest protection for Burrillville.

Town Council's Position

The Town Council will be presenting the Town's position on the proposed power plant at the Energy Facility Siting Board (EFSB) final hearing this fall.

Neutrality

The Town Council will maintain a neutral position so as not to taint the credibility of advisory opinions being developed by our experts.

A neutral position doesn't show support for the project. It puts the Town in a position to have a strong, meaningful voice at the EFSB hearings.

Awareness of Concerns

The consulting experts have raised several areas of concern in regards to noise, water, air quality, and traffic after careful review of hundreds of pages of information & dozens of requests for data from Invenergy.

The Energy Facility Siting Board (EFSB) which has the final decision on permitting the proposed power plant held two public hearings at three sessions (March 31, May 10 & May 23, 2016) in Burrillville. There will be two more: September 21, 2016 at Tolgate High School and October 3, 2016 at Burrillville High School. [Follow this link for details of the time, date & location.](#) As of now, this proposal is still in the public hearing phase: the EFSB is taking public comment, which can be submitted in writing to the EFSB.

Capability Going Forward

The Town Council does have the power to demand Invenergy sign tax agreements that will provide a financial insurance policy in the event the EFSB allows the plant to proceed. The Council will aggressively pursue agreements that include up to \$180 million in payments to the Town, compensation for property abutters, and a decommissioning plan* for the plant.

* See below for more information on these plans.

Orders of the Energy Facility Siting Board

The Energy Facility Siting Board (EFSB) ordered a number of state and local entities to provide advisory opinions relative to Invenergy. The following excerpt from the Preliminary Decision and Order spells out the information required from local authorities by the EFSB.

The Burrillville Zoning Board of Review is directed to render an advisory opinion as to (i) whether the Facility would meet the requirements of its respective zoning ordinances, and whether any variance should be granted; (ii) whether a special use permit should be granted to exempt the Facility from construction hour restrictions; and (iii) whether Invenergy will be able to be compliant with the Burrillville Noise Ordinance during construction and operation and, if not, whether a variance should be granted.

The Burrillville Building Inspector is directed to render an advisory opinion as to (i) whether the work proposed in the municipality as part of the Facility's construction and operation is subject to the municipality's Erosion and Sediment Control Ordinance and, if so, whether Invenergy's Erosion and Sediment Control Plan would conform to the Ordinance, and (ii) whether the Facility would meet the requirements

of other municipal ordinances.

The Burrillville Planning Board shall render an advisory opinion as to (i) whether the Facility would be a land use consistent with its respective comprehensive plan pursuant to the Comprehensive Planning and Land Use Act, R.I. Gen. Laws §45-22.2-1; and (ii) whether Invenergy will be able to comply with the Burrillville Noise Ordinance during construction and operation.

The Burrillville Tax Assessor shall render an advisory opinion as to the Facility's impact on property values in the Town and on the abutters.

The Pascoag Utility District shall render an advisory opinion on the impacts of the facility on the water supply and use in the District as well as an explanation about how the water in the well proposed for use will be remediated as stated by the Applicant. In particular, the Pascoag Utility District should review and comment on Sections 3.10, 6.2, and Appendix C of the application.

Advantages of a Tax Agreement

Special Legal Counsel Michael R. McElroy, was asked to comment on the reasons for placing the Invenergy power plant on a long-term tax agreement instead of on the Town tax roll. Mr. McElroy provided an opinion that a reasonable and fair tax agreement protects the best interests of the Town in the event the EFSB approves the power plant. He listed the following reasons:

- Guaranteed Revenue Stream
- Avoids costly litigation that is the usual result of companies appealing their property valuations each and every year
 - Eliminates Volatility in Future Valuation
 - Eliminates Costly Appraisals
 - Eliminates Conflicting Appraisals
- Protects against most future court decisions and legislation that might impact facilities that are on the tax roll vs a tax agreement
- Guarantee of Full Taxability
- Binding on Possible Future Owners

What are the expected revenues?

\$91,960,767 minimum tax payments - \$182,324,993 maximum

\$2,925,000 Additional Up-Front Fees

- Placing the facility on the tax roll could negatively impact State Aid (school aid)
- The Town could lose leverage to negotiate if the plant is permitted by the Energy Facility Siting Board (EFSB) and no tax agreement is in place
- The Taxation must be reasonable and cannot be arbitrary

Mr. McElroy's full explanation of these facts is available on the Town website as well as in the Town Clerk's office and at the Jesse M. Smith Memorial Library.

Also, the Town Council will hold a hearing for the public to comment on the tax agreement before it is publicly voted.

Property Value Agreement

There's been a lot of discussion of the Town of Burrillville negotiating an abutter's agreement but it may not be clear exactly what that means. A strict legal definition of **abut** is: "To join at a border or boundary; to share a common boundary with". So, calling the agreement an "abutter's agreement" is incorrect.

What is actually being negotiated is a **property value agreement**. Any proposed agreement will include an area negotiated between the parties and will be defined in the agreement.

- The property value agreement will cover more properties than those that are physically joined to the proposed power plant site.
- It will also exceed the 200 foot area set by law for legal notice of public hearings.

"As we have said before, we are focusing on ensuring the Town gets the best financial deal we can for the entire community, requiring the company to commit to

the Town for the long term, and construct a generic property value agreement for use by some of the abutters to protect property values.”

Council President John F. Pacheco III

The reason the area hasn’t been publicly announced is because the Town and Invenergy haven’t come to an agreement yet. It’s a tough negotiation but the Town believes that holding the line is important, even if that means negotiations go on longer than expected.

The purpose is to provide a model property value agreement for nearby property owners, as defined in the agreement, to negotiate with Invenergy on the sale of their property if they decide to sell. Basically, it will represent the minimum that Invenergy will have agreed to. Individual property owners may try to privately negotiate a better contract.

The question of whether or not to sell the property always remains with the property owners themselves.

Decommissioning

Power plants are generally expected to last for a limited time. The Town believes that now is the time to begin planning for the closing of the Invenergy power plant if it is in fact sited in Town by the Rhode Island Energy Facility Siting Board.

The Town is in negotiations with Invenergy to plan in advance for the decommissioning, which is defined as removing the power plant from service. It’s important to plan now to ensure that the plant does not sit vacant and unattended for when it is no longer in service.

A decommissioning agreement does a number of things. It provides binding legal assurances that the physical site of the power plant will be returned to its natural state when it ceases to operate, or the Town can agree to a reuse of the property solely at the Town’s discretion. It provides financial surety that money is available to execute the decommissioning project.

There are required updates to the Town on a number of things such as the cost to perform the decommissioning project as costs change over time and new or revised regulations

affect the cost of performing the work; or if the plant is physically altered over the term of the agreement that is covered in the updates. It addresses things like transferring/ selling the facility to a different owner, potential bankruptcy and other legal issues that could come up over the life of the agreement.

The official website of the Town of Burrillville has sections dedicated to the proposed power plant that are updated regularly. Visit the website to subscribe to the updates: www.burrillville.org/subscribe

Not online? If you would like to review information related to the proposed plant but do not have access to the internet, many of the reports and documents are available at the Town Building and the Jesse M. Smith Library for review.

Contact the Town Clerk's Office at 568-4300, Ext. 2

Data Requests

When the Town of Burrillville hired a team of expert consultants in early 2016, they were directed to scrutinize the original Invenergy application to construct the Invenergy power plant in Burrillville and all subsequent submissions and responses. The on-going result of that analysis is a series of data requests. As of now, there have been 16 sets of data requests comprised of more than 175 detailed questions.

In keeping with the Energy Facility Siting Board rules, the Town, as intervenors, submitted their data requests through the EFSB to the applicant, Invenergy. In some cases, the responses have raised additional questions which also have been submitted for more information.

Not on-line? Copies of all the data requests are available in paper format at the Town Clerk's office, 105 Harrisville Main St., Harrisville and at the Jesse M. Smith Memorial Library, 100 Tinkham Lane, Harrisville.

It's been noted before that the EFSB has posted the data requests and the related responses as they are received. They're available on the EFSB website:

http://www.ripuc.org/efsb/2015_SB_6.html

Now the Town's technical team has compiled the data requests and data responses by subject. The Town is publishing the questions and answers on the Town website by topic. You can find them here: <http://www.burrillville.org/data-requests>. These will be updated as the process continues to evolve. We will continue to post as time allows.

It's important to note that the "responses" are not the Town's work product. They are the answers provided by Invenergy and are subject to further investigation by Town consultants. It's the consultants' views of the proposal and the responses by Invenergy that will be the basis for their reports and recommendations to the Burrillville Planning and Zoning boards and ultimately to the EFSB.

Role of Consultants

Shortly after the Energy Facility Siting Board (EFSB) issued orders for advisory opinions, the Town of Burrillville hired a team of expert consultants to work with and for the Town on the proposal. State law requires that the applicant provide up to \$100,000 to the Town to conduct these studies. The Town asked for and received \$100,000, which has paid for some of the professional services.

Experts representing the Town include:

- DK Communications LLC— Communication consultant
- Fuss and O'Neil – Air emissions (quality) consultant
- Hessler Associates, Inc. – Noise consultant
- CDR Maguire – Traffic, environmental, storm water (water quality), utilities (water and sewer), and hazardous materials
- George E. Sansoucy – Regulatory process and general consulting; evaluating the impact on property values near the proposed plant and town wide

These professionals were hired to consult in several ways:

- Their role includes educating members of the Burrillville Planning and Zoning Boards in anticipation of the formal hearings.
- They are available to answer questions of Burrillville officials and Board Members.

- They were directed to review the proposed Invenergy power plant, as contained in the application to the EFSB
- They took part in developing many of the data requests submitted to Invenergy through the EFSB, reviewing the responses and framing follow up requests.
- They will be available to Town officials throughout the EFSB process to ensure that Burrillville's message is strong and clear.
- They will be available to testify and to challenge questionable information under consideration at the final EFSB hearing.

The process is a long way from complete. The experts hired to watch over the Town's interests will continue to do so through the end of the process, advising on the best ways to achieve the Town's ultimate goals.

Timetable

Clearly, the public process for investigating a power plant proposal is extensive. The Governor first announced the proposed power plant in August 2015. Invenergy submitted their application to the Energy Facility Siting Board (EFSB) in October 2015 with preliminary hearings and meetings held in January 2016.

The first public hearing at which public comment was heard by the EFSB was in March. It was followed by two additional sessions.

The Rhode Island Energy Facility Siting Board staff has prepared a flyer with information on Board Process and the proposed Invenergy power plant in Burrillville. The, intended for general information purposes only, can be found on their website at <http://www.ripuc.org/efsb/efsb/CRECFAQ.pdf>

Meanwhile, several agencies that have been ordered to submit advisory opinions, including the Burrillville Planning Board and Zoning Board of Review, the Rhode Island Public Utilities Commission, the Rhode Island Department of Health and the Rhode Island Office of Energy Resources, also conducted public hearings in June, July and August 2016.

After advisory opinions are submitted, the EFSB convenes the final hearing. The dates of

the hearing have tentatively been set for 13 dates between October 12, 2016 and December 9, 2016.

It is at this hearing that Burrillville, as a legal intervenor in this process, has the opportunity to officially address the EFSB. The Town's formal position will be presented. Our professional team will submit the Town's concerns, needs and requirements for the EFSB to weigh in making their final determination. The Burrillville Town Council believes that the final hearing is the Town's best opportunity to achieve the outcome we need.



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