

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PROVIDENCE, SC. BARRILLVILLE ZONING BOARD

*** * * * ***
IN RE:
INVENERGY THERMAL DEVELOPMENT, LLC, APPLICANT,
and
ALGONQUIN GAS TRANSMISSION, LLC, OWNERS
OF PROPERTY LOCATED ON WALLUM LAKE ROAD
IN THE VILLAGE OF PASCOAG

APPLICATION FOR AN ADVISORY OPINION PER THE
RHODE ISLAND ENERGY FACILITY SITING BOARD
RELATIVE TO THE CLEAR RIVER ENERGY CENTER
*** * * * ***

HEARD before the Burrillville Zoning Board at
the Burrillville High School Auditorium,
425 East Avenue, Harrisville, Rhode Island
on August 30, 2016 at 7:00 p.m.

ZONING BOARD MEMBERS PRESENT

ALSO PRESENT

Mr. Ray Cloutier, Chairman
Ms. Michele Carboni
Mr. George Keeling
Mr. Ken Johnson
Mr. John Patriarca
Ms. Sandra Cooney, 1st Alt.
Mr. Jeremy Page, 2nd Alt.

Mr. Joseph Raymond,
Building Official

Mr. Thomas Kravitz,
Planning Director

APPEARANCES

OLEG NIKOLYSZYN, ESQUIRE . . . TOWN SOLICITOR

ELIZABETH M. NOONAN, ESQUIRE . . FOR INVENERGY
THERMAL DEVELOPMENT,
LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

<u>WITNESS</u>	<u>PAGE</u>
CYNDY LUSSIER	14
ROBERT WOODS.	17
STEPHANIE SLOMAN.	19
THOMAS KRAVITZ.	26
KENNETH W. PUTNAM, JR..	29
DENISE POTVIN	34
JEREMY BAILEY	35
KATHRYN SHERMAN	36
FRANK SILVA	40

JOINT EXHIBITS

C. Stenographic transcript of the Planning Board hearing dated 8/15/16.	6
D. Stenographic transcript of the Planning Board hearing dated 8/22/16.	6
E. Department of Health Advisory dated 8/9/16.	7
F. Memo from McMahon Engineers Dated 7/29/16.	7
MOTION ON ADVISORY OPINION.	61

1 IN RE: BURRILLVILLE ZONING BOARD HEARING ON

2 ADVISORY OPINION PER THE EFSB

3 ON

4 INVENERGY THERMAL DEVELOPMENT, LLC'S

5 CLEAR RIVER ENERGY CENTER

6 AUGUST 30, 2016

7 (Meeting commenced at 7:08 p.m.)

8 MR. CLOUTIER: Calling tonight's -- calling
9 tonight's meeting of the Zoning Board to order.
10 I'm going to let Oleg explain the procedure tonight.
11 It's going to be quite a bit different than our
12 normal Zoning Board hearing; but with us tonight,
13 Members of the Board: George Keeling, Sandra Cooney,
14 Michele -- excuse me, who is there? -- Jeremy Page,
15 John Patriarca, Ken Johnson; our legal counsel,
16 Oleg Nikolyszyn; myself; our Building Official,
17 Mr. Joe Raymond. Joe is doing double, triple duty
18 tonight. We've had turmoil in the office at the
19 Building Department. There's a family crisis.
20 Pauline Hopkins will not be here. We wish her well,
21 whatever happens over there; and we have our court
22 reporter, Mr. Andy D'Angelo.

23 Like I said, procedure is totally different, and
24 with us is representatives from Invenergy led by Beth
25 Noonan, their attorney.

1 I'm going to let Oleg explain what the process
2 is going to be tonight.

3 MR. NIKOLYSZYN: Ladies and gentlemen, we had
4 previously conducted the hearings, heard the
5 testimony, heard public comments from everyone, and
6 we continued this hearing 'till tonight to see the
7 advisory opinion from the Planning Board to the
8 Zoning Board. That is the sole purpose for which
9 this hearing was continued. So, there won't be any
10 more testimony or public hearings.

11 The order sent to us by the Energy Facility
12 Siting Board was for the Zoning Board to consider
13 three issues. One is whether the facility would meet
14 the requirements of our respective Zoning Ordinances
15 and whether any variance should be granted. Now, I
16 interpret that to mean that this facility is to be
17 located in an F-5 zone, and this facility needs a
18 Special Use Permit;

19 Item Number 2: Whether a Special Use Permit
20 should be granted to exempt the facility from
21 construction hour restrictions;

22 And, 3, whether Invenergy would be able to be
23 compliant with our Town Noise Ordinance during
24 construction and operation and, if not, whether a
25 variance should be granted.

1 I have previously prepared a memorandum which I
2 have given to the Board outlining what the law
3 provides as to under what conditions a Special Use
4 Permit is to be granted. I've outlined the Supreme
5 Court cases on the issue; and, basically, what it
6 provides for, in a nutshell, that a Special Use
7 Permit -- that a decision by the zoning authority
8 granting or denying a Special Use Permit must be
9 based on a finding that the proposed use is in accord
10 with the public convenience and welfare; and,
11 explaining what those terms mean, the Supreme Court
12 went on to describe certain criteria. One of them is
13 that there must be hardship established; and hardship
14 is also defined by the Supreme Court in various
15 phraseology, one of which is that, "The granting of
16 the requested variance will not alter the general
17 character of the surrounding area or impair the
18 intent or purpose of the Zoning Ordinance or the
19 Comprehensive Plan upon which the ordinance is
20 based."

21 We have recently received the Planning Board
22 advisory opinion which is approximately 26 pages in
23 length. The Planning Board's advisory opinion that's
24 addressed to us, the Zoning Board, is I believe on
25 Page 24 through 26; and it makes specific

1 recommendations, and that's why we are here.

2 Before we proceed, however, I understand that
3 Invenergy would like to add to the record some
4 documents, which are transcripts of what happened in
5 front of the Planning Board, which is something that
6 I would want on behalf of the Zoning Board as well.
7 I want to rely upon what happened at the Planning
8 Board. So, Ms. Noonan, would you like to describe
9 what it is that you're presenting.

10 MS. NOONAN: Yes, certainly. Good evening,
11 Mr. Chairman, Members of the Board. Again,
12 Elizabeth Noonan, on behalf of Invenergy. As we did
13 at the last hearing, we are introducing the
14 transcripts from the Planning Board hearings that
15 have been held since we last met on July 12th; and so
16 I have provided each of you with a copy of these, and
17 I would like to ask that they be marked as our next
18 Exhibits D and E. D would be the August 15th
19 Planning Board transcript, and E would be the
20 August 22nd Planning Board transcript.

21 MR. NIKOLYSZYN: I have no objection on behalf
22 of the Board to the admittance of these transcripts
23 to the record.

24 MS. NOONAN: Thank you. Mr. Chairman, thank
25 you.

1 We do have two other items that have been in the
2 public record. They've been up on the website.
3 They've been all part of this process. The first one
4 that I would like to add in, because there was a
5 question raised earlier, these are the responses of
6 Invenergy to the Rhode Island Department of Health
7 opinion; and, again, this has been out in the public
8 for a while; but I just -- it came up I think at the
9 last meeting, the advisory opinion from the
10 Department of Health; and if you could make that
11 Exhibit F. And that is our, again, Invenergy's
12 responses to the Department of Health's advisory
13 opinion, and those are dated August 9th, 2016.

14 MR. RAYMOND: Which one is Exhibit F? This is
15 Exhibit F.

16 MS. NOONAN: And then the final one is
17 Exhibit G, which is again something that's been out
18 in the public domain; but, since our last meeting,
19 this is dated July 29th, 2016, and it's a memo from
20 McMahan, who are the transportation engineers,
21 addressed to me addressing various issues; but one in
22 particular that was raised at the last Zoning Board
23 meeting dealt with alternate truck routes. So, I
24 would ask that that be marked as Exhibit G.

25 MR. NIKOLYSZYN: No objections.

1 MS. NOONAN: And that's all we have to present.

2 MR. NIKOLYSZYN: Mr. Chairman, if I may ask a
3 couple of questions before we proceed?

4 MR. CLOUTIER: Certainly.

5 MR. R. TRINQUE: Mr. Chairman, at this time,
6 representing Keep Burrillville Beautiful, I would
7 like to ask a point of clarification. Seeing this is
8 a continuation of a meeting that began on July 12th,
9 at that meeting it was stated that if time permits
10 there would be additional public comment.

11 My question is -- my clarification point is:

12 (A) Why were there no written agendas available to
13 the people that are here this evening? And (B) Are
14 we going to go through with what we said at the
15 beginning of this meeting, which was, if time
16 permits, there will be public comment? Thank you.

17 (Pause.)

18 MR. CLOUTIER: Our attorney has said that if
19 it's something that hasn't been revealed, if it's
20 something that is not in any of this pile of
21 documents, if it's something brand new to the case,
22 we'll give you two minutes.

23 WOMAN FROM THE AUDIENCE: How do we know that?
24 The letter was dated the 29th. Today is the 30th.
25 So, in the two days we had a chance to review it, I

1 mean how would we know?

2 MR. NIKOLYSZYN: I think you have a good point.
3 This was just given to us as well, and this deals I
4 believe with the traffic. Maybe Ms. Noonan can
5 summarize what it says.

6 WOMAN FROM THE AUDIENCE: Well, why didn't we
7 get the chance to talk? I don't get it. We pay the
8 taxes here.

9 MR. NIKOLYSZYN: Sorry.

10 WOMAN FROM THE AUDIENCE: What gives her the
11 right to talk?

12 MS. NOONAN: If I may, those items were included
13 mainly because they supplement the Planning Board
14 record that we have made part of this hearing in
15 accordance with how we did it last time. So, what
16 that report goes into from McMahon is a discussion
17 about alternate truck routes that was raised; and,
18 again, this was part of the Planning Board hearing on
19 August 15th and the questions that were raised there,
20 and also at the Zoning Board. What it goes through,
21 and again this has been part of the record for a
22 period of time, and it was a review of alternate
23 truck routes and a determination by McMahon about the
24 use of the routes and that there really wasn't any
25 viable alternate route for the trucks than what was

1 already proposed. That's it. That was part of the
2 Planning Board record. If it's going to cause a
3 problem, I'll withdraw it because this is nothing new
4 to the Planning Board, and it has been part of the
5 record for a month.

6 MR. NIKOLYSZYN: It's part of the Planning
7 Board's record?

8 MS. NOONAN: It is.

9 MR. NIKOLYSZYN: I don't see a problem with
10 that.

11 MS. NOONAN: Both items were, so --

12 MR. CRAIG: Mr. Chair, my name is Barry Craig,
13 180 Maroney Road, Pascoag. We do have a person here
14 who has expertise and is prepared to testify on low
15 octave vibrations. She prepared a written report.
16 If you have that written -- that written report was
17 submitted to the Planning Board. If you have that
18 written report and you considered it, then her
19 testimony would not be necessary; but, if not, we'd
20 appreciate two minutes for her to be able to tell
21 what her findings were.

22 MR. NIKOLYSZYN: My understanding is everything
23 that has transpired in front of the Planning Board is
24 part of the record with the Zoning Board. So, if it
25 was admitted --

1 MR. CRAIG: I'd like a specific assurance, or
2 maybe you can spare the two minutes, counsel, and let
3 her talk.

4 MR. NIKOLYSZYN: Do you know who that person is?

5 MS. SLOMAN: Stephanie Sloman. Ray, you have a
6 copy of that. I put it in your mailbox.

7 MR. CLOUTIER: This report was discussed with
8 Mr. Hessler at length. Mr. Hessler disregards this
9 report that Mrs. Sloman wrote. He rebuts what she
10 wrote. He distances himself from the facts of that
11 report, and he -- his finding -- Mr. Hessler, who is
12 the Town's consultant, the Town's professional,
13 expert, paid-for consultant, said that the bottom
14 line is the low octave is within -- is not negotiable
15 here. That's Mr. Hessler's --

16 MAN FROM THE AUDIENCE: What do you mean "not
17 negotiable"; what does that mean, please?

18 MR. CLOUTIER: It means -- it's all in the
19 report where the noise experts -- I'll read it in our
20 summary later on. It's in the Planning Board.
21 It's all in the Planning Board where the low
22 octave -- as a matter of fact, the Planning Board
23 recommends that we grant the waiver for the low
24 octave because -- (Noise from the audience.)
25 We're not going to get anywhere by trying to shout me

1 down or anybody else down. I'm just telling you --
2 I'm telling you what's in the Planning Board report.
3 We just said if we don't -- if you want to submit
4 something new, that's all well and good; but, as far
5 as the noise goes, it's all detailed in the Planning
6 Board report from testimony that they got; and that
7 testimony (noise from the audience) -- please,
8 please.

9 WOMAN FROM THE AUDIENCE: Could I make a point
10 of order?

11 MR. CLOUTIER: Come down. State your name,
12 please, and spell it. State your name and spell it,
13 please.

14 MR. CRAIG: May I finish, and I'll turn the
15 podium over to her. I'll state my name again.
16 My name is Barry Craig, C-R-A-I-G, 180 Maroney Road,
17 Pascoag, Rhode Island 02856. My question is whether
18 that document has been submitted to the members of
19 the Planning Board -- I'm sorry, the Zoning Board;
20 and, if not, will you entertain two minutes to listen
21 to what she has to say?

22 MR. CLOUTIER: I'm sorry, sir. I didn't hear
23 your question. Would you repeat it.

24 MR. CRAIG: Sure. Can you hear me now?
25 All right. What I'm asking you to do is give

1 discretion to the person who wrote that report to
2 explain to the Zoning Board why she believes that the
3 low octave decibel levels are levels that can be
4 controlled. Now, I know you say that the Town's
5 expert disagrees, but the Town's experts have
6 disagreed with a lot of things, including information
7 that has been submitted by Invenergy. So, it seems
8 to me only fair that the Zoning Board, since that is
9 one of the major bones of contention in the Planning
10 Board report, that the Zoning Board spend two
11 minutes, two minutes, to listen to what she has to
12 say.

13 MR. CLOUTIER: Okay. Under these conditions, as
14 you've stated, so we'll give two minutes, and with
15 the understanding that this witness is not a sound
16 expert, is not a sound professional, in any way,
17 shape or form.

18 MR. CRAIG: The Zoning Board can listen to her
19 professional qualifications.

20 MR. CLOUTIER: I said we'll listen to her with
21 those conditions. I think that's fair.

22 MAN FROM THE AUDIENCE: Barry was going to say
23 she's going to list her credentials.

24 MR. CRAIG: She is entitled I think to present
25 her credentials.

1 MR. CLOUTIER: Yes, she is, and we're going to
2 listen to her.

3 MR. CRAIG: Okay, thank you, sir.

4 MS. LUSSIER: Hi. My name is Cyndy Lussier,
5 L-U-S-S-I-E-R, 150 Old Wallum Lake Road.

6 MR. CLOUTIER: Would you raise your right hand,
7 please.

8 MS. LUSSIER: Honestly?

9 MR. CLOUTIER: Yes, honestly.

10 MS. LUSSIER: Okay.

11 **CYNDY LUSSIER**, first having been duly
12 sworn, testified as follows:

13 MS. LUSSIER: My question is: Will other people
14 be similarly sworn?

15 MR. CLOUTIER: Are we going to have to go
16 through this? We said if it's brand new and if it's
17 something that has not been submitted to the Planning
18 Board or the Zoning Board.

19 MS. LUSSIER: I just had a point of order, sir.
20 I'm not submitting any -- I have a point of order.
21 I understand that you have a copy of the Planning
22 Board opinion, advisory opinion that's been supplied
23 to you this evening, correct?

24 MR. CLOUTIER: That's --

25 MS. LUSSIER: You've had time to review it and

1 read it and --

2 MR. CLOUTIER: It was not supplied to us this
3 evening. It was supplied to us again this evening,
4 but we have had it.

5 MS. LUSSIER: So, I had made a request to have a
6 copy of that opinion when it was prepared and ready
7 to be shared, and I was denied that. So, I'm
8 wondering why, when it's -- you know, like, it's
9 really hard to be sitting here and not have had the
10 same -- I don't know how we're expected to either
11 reflect, understand, agree or disagree, if we're not
12 allowed to have the information. So, I'm wondering
13 in your role as Chairman if you will order that to be
14 disbursed and made available to the general public,
15 since it is a public document.

16 MR. CLOUTIER: That's beyond my realm, ma'am.
17 To whom did you make your request?

18 MS. LUSSIER: I made a request to the Planning
19 Board Chairman.

20 MR. NIKOLYSZYN: If I may clarify, I spoke to
21 Mr. McElroy, my assistant, today, this morning,
22 requesting information. The decision or the opinion
23 has been written. It's 26 pages long, but attached
24 to that is going to be an index. It's going to have
25 all the reports from all the experts. It's going to

1 have comments from everyone attached, and it
2 literally is going to be a three-ring binder that
3 stands about five to seven inches tall; and it's
4 being printed and bound, and I understand it should
5 be ready tomorrow; and we need 10 copies to be
6 submitted to the Energy Facility Siting Board; and,
7 of course, it will be put on the web page of the Town
8 as well. It just hasn't been manually compiled yet,
9 but the 26-page opinion that they wrote which is
10 supported by all that other documentation --

11 MS. LUSSIER: Uh-huh.

12 MR. NIKOLYSZYN: -- has been prepared and given
13 to all the members; and, most likely, tomorrow it
14 will probably be posted on the web page.

15 MS. LUSSIER: I didn't want the five-inch
16 loose-leaf binder. I want the same 26-page report
17 that you all have had the opportunity to look at.

18 MR. NIKOLYSZYN: You are entitled to it,
19 absolutely.

20 MS. LUSSIER: Could you advise Mr. Wood of that,
21 please?

22 MR. NIKOLYSZYN: Absolutely.

23 MS. LUSSIER: Thank you.

24 MS. LUBY: I just have a quick question.
25 I'm Jan Luby.

1 MR. CLOUTIER: Are you going to be testifying?

2 MS. LUBY: No, I just have a question.

3 MR. CLOUTIER: Let's let the person testify that
4 we agreed to have him up here.

5 MS. LUBY: This is a very short question.
6 What was just submitted to you by Invenergy from the
7 Department of Health, was that the draft opinion, or
8 was that a final draft?

9 MR. NIKOLYSZYN: I know the answer to that.
10 The Department of Health has so far presented only
11 the draft. I understand that within a week --

12 MS. LUBY: That will be finalized from them.

13 MR. NIKOLYSZYN: -- the Department of Health
14 will have a final version of that, but I don't have
15 that. Nobody has it yet.

16 MS. LUBY: Okay, thank you.

17 MR. WOODS: Mr. Chairman, just a quick point of
18 order. The Noise Ordinance --

19 MR. CLOUTIER: Would you raise your right hand,
20 please.

21 **ROBERT WOODS**, first having been duly
22 sworn, testified as follows:

23 MR. CLOUTIER: Would you state your name,
24 please, and spell it for us.

25 MR. WOODS: Robert Woods, R-O-B-E-R-T, Woods,

1 W-O-O-D-S, with an "S". The Noise Ordinance is in
2 the Municipal Code. It's not in the Zoning
3 Ordinance. The Zoning Board gets its authority from
4 the enabling legislation which is part of the General
5 Laws. So, even though the Energy Siting Board has
6 asked you to give an advisory opinion on that, it has
7 as much weight as asking me or anyone else in this
8 audience because you don't have the authority to
9 answer that question.

10 MR. CLOUTIER: Your point being?

11 MR. WOODS: My point being is that it's a moot
12 point, so move on to the next item on the agenda and
13 forget entertaining that question.

14 MR. CLOUTIER: So, sir, you want me to disregard
15 whoever has an opinion or a question on noise
16 tonight, is that what you're saying?

17 MR. WOODS: What I'm saying is that, if you're
18 going to entertain anything on the noise, you should
19 have a conversation with the Town Council and ask how
20 to handle that because you're not the authority to
21 make that assumption.

22 MR. CLOUTIER: Thank you for the advice, sir.

23 MR. WOODS: Weigh it heavily.

24 MR. CLOUTIER: Would you raise your right hand,
25 please.

1 **S T E P H A N I E S L O M A N**, first having
2 been duly sworn, testified as follows:

3 MR. CLOUTIER: State your name, please, and
4 spell it for us.

5 MS. SLOMAN: Stephanie Sloman,
6 S-T-E-P-H-A-N-I-E, S-L-O-M-A-N. I feel very badly
7 that you guys didn't get a copy of this report.
8 I feel badly that when I was at the Planning Board,
9 obviously, the Planning Board members didn't get a
10 copy of this report. I know I have only two minutes.
11 Let me just read a couple of things from this report.
12 You have the report. You read it. On Page 97 of
13 Invenergy's application concerning low frequency
14 octave bands, and I can tell you what they are; and
15 the fact that Burrillville's Ordinance is among the
16 stringent we have seen in the United States, it
17 states on that page, and I quote, "This is
18 particularly relevant since low frequency emissions
19 are generally more difficult to mitigate than are
20 high frequency noise emissions." This statement in
21 their application proves that it is indeed possible
22 to mitigate low octave, low frequency noise that
23 Invenergy's proposed power plant will produce. So,
24 if it's possible, then why give them the variance is
25 my point.

1 I talk about how bad low frequency noise is for
2 people, and then I go into the negative effects on
3 wildlife, farm animals, etcetera. I just wanted to
4 read one section, and I'm going to, you know, read
5 right off here. So, if I go too fast, let me know.
6 Important: Okay, I want to admit that I emailed
7 Mr. Hessler anonymously concerning combined cycle
8 natural gas power plants and low frequency noise.
9 I know: Me bad. This is a quote from his email.
10 "For critical sites with nearby houses and/or very
11 low permissible noise limits, the plate thickness on
12 this part of the HRSG is increased from a standard
13 one-quarter inch thickness to one-half inch," and
14 then, in parentheses, I have, "I believe that
15 Invenergy is already doing this to mitigate the dBA
16 limit of Burrillville's Noise Ordinance." He
17 continued, however, "When more of a reduction is
18 required, an external shroud is often used which
19 consists of metal panels forming barrier walls on the
20 sides or a complete enclosure with a roof over the
21 HRSG . . ." metal on the interior face -- I'm sorry,
22 ". . . transition duct. These panels are typically
23 20 gauge steel on the exterior, four inches of
24 fiberglass insulation and 24 gauge perforated metal
25 on the interior face. The exterior sheet resists the

1 penetration of noise to the outside, and its
2 acoustically-absorptive lining prevents noise from
3 reflecting back and building up inside the noise
4 enclosure."

5 Mr. Hessler continues, "Another source of
6 moderate low frequency noise in a combined cycle
7 plant are the fans in the cooling tower or . . .",
8 cooling, which Invenergy doesn't have cooling towers,
9 ". . . or air-cooled condensors, ACC, as the case may
10 be. When needed . . .", this is still quoted from
11 the email. "When needed, which is often, low noise
12 fans are used instead of standard fans which usually
13 produce significant noise in the 125 to 250 Hz octave
14 bands. Low noise fans typically rotate at a slower
15 speed which leads to much less noise, and these
16 blades have a very wide width, or chord, that allows
17 them to move more air at a slower speed." One more
18 sentence. He continues, "The very quietest fans, the
19 Model SX made by Howden Fans in the Netherlands, are
20 extremely wide to the point where there is almost no
21 open area in the fan wheel." And, basically, as you
22 can see above, Mr. Hessler has relayed to me other
23 ways that Invenergy is not including in its noise
24 mitigation low frequency noise, and it is possible
25 for Invenergy to reduce the low octave band levels in

1 its proposed design.

2 MR. NIKOLYSZYN: Mr. Chairman, can I ask a
3 question? Did the Planning Board have that letter
4 from Mr. Hessler?

5 MS. SLOMAN: I gave it to Mr. Hessler. He's
6 here. He can verify it. I emailed him this report
7 as an attachment. What he told me was that he had,
8 and you can verify this, he emailed it to the
9 attorney and -- I can't remember if you told me that
10 the Chairperson of the Planning Board, and it was
11 ignored.

12 MR. NIKOLYSZYN: Can you give the date of that
13 letter, please.

14 MS. SLOMAN: I -- I emailed it to Mr. Kravitz on
15 Sunday night, on the 21st.

16 MR. NIKOLYSZYN: No, Mr. Hessler's letter to
17 you, what's the date of that letter?

18 MS. SLOMAN: Well, I could give you a guess.
19 It was the week before. I can give it to you, if you
20 want. I have a copy of it. I would say it was the
21 Friday; so, let's see, the 22nd, 20 -- I would say
22 the 18th or 19th.

23 MR. NIKOLYSZYN: Of what month? I'm sorry.

24 MS. SLOMAN: Of August.

25 MR. NIKOLYSZYN: Because the Planning Board

1 lists the dates of certain letters from Mr. Hessler.
2 I believe there are three dates from August that
3 Mr. Hessler wrote letters that are included in the
4 Planning Board's opinion, which should also be
5 attached to the Planning Board's opinion as an
6 exhibit. So --

7 MS. SLOMAN: So, the email that Mr. Hessler sent
8 me, is that what you're saying?

9 MR. NIKOLYSZYN: That was my question. Did that
10 letter or that email --

11 MS. SLOMAN: What I just -- yes, I did.
12 I emailed him anonymously because I knew if I said
13 who I was or where I was from he was going to -- do
14 tell. You want to speak? Okay, anyway, I sent him a
15 letter anonymously because I knew if I told him who I
16 was and where I was from, he would just take his
17 report that he submitted to the Town Council, and he
18 would just say exactly the same thing. However, I
19 did more research on it. So, I knew that there were
20 ways that they could reduce -- the power plant could
21 reduce the low frequency noise which is dangerous to
22 human beings and wildlife, farm animals; dairy cows
23 would produce less milk; chickens will produce less
24 eggs. I can go on. It's an 11-page report. I spent
25 the whole week prior to that meeting on this.

1 MR. NIKOLYSZYN: If I may --

2 MS. SLOMAN: Yes.

3 MR. NIKOLYSZYN: -- get to the point? According
4 to the opinion from the Planning Board, the Planning
5 Board lists numerous recommendations to the Siting
6 Board, asking the Siting Board adopt as conditions,
7 in the event they choose to grant the permit, as
8 conditions the recommendations made by Mr. Hessler;
9 and then it lists Mr. Hessler's recommendations
10 contained in the letters. I'm going to give you the
11 dates of those letters. Maybe it coincides with what
12 you're reading. The letters -- the memoranda dated
13 May 26, July 12, August 8, August 10, August 16, and
14 August 22nd. So, if what you're referring to is
15 already in there, then it's been considered.

16 MS. SLOMAN I don't have a copy of it with me.

17 MR. NIKOLYSZYN: Well --

18 MS. SLOMAN: But I mean I have --

19 MR. NIKOLYSZYN: Your email.

20 MS. SLOMAN: I have it at home. I save
21 everything.

22 MR. NIKOLYSZYN: Well, what you just read from,
23 is that a copy of the email from Mr. Hessler?

24 MS. SLOMAN: That is excerpts. I didn't want to
25 put the whole email in here. I did think about

1 attaching it, but --

2 MR. NIKOLYSZYN: Well, I don't know whether or
3 not the Planning Board has that or not. So, I can't
4 comment.

5 MS. SLOMAN: Yeah, I do know that Mr. -- you
6 know, Mr. Kravitz had it, and I believe that he told
7 me that he had given it to Mr. McElroy, --

8 MR. KRAVITZ: Yes.

9 MS. SLOMAN: -- the attorney.

10 MR. KRAVITZ: And Mr. Hessler.

11 MS. SLOMAN: And Mr. Hessler. And I don't know,
12 so you can --

13 MAN FROM THE AUDIENCE: Stephanie, could you
14 just give us your credentials.

15 MS. SLOMAN: Well, I have a BS in biology and a
16 minor in chemistry, and I'm a retired environmental
17 engineer. So, there -- I mean I -- you know, I'm not
18 an expert in noise, but you don't have to be because
19 you have the internet. You can learn from, you know,
20 not only other noise experts. I mean I was -- I was
21 back and forth with Noise Solutions in Canada; and I
22 explained everything that I knew about the plant, and
23 they were willing to say, hey, we can do -- we can
24 take care of this. This is a problem, and we can
25 take care of it. So, I have that whole email

1 conversation with them. So, they can do it. So,
2 this is my point. If they can do it, it's possible.
3 Even if they have to go to the Netherlands to get the
4 damn fans, why should we allow them the variance for
5 a low octave band? (Applause.) They admitted it on
6 Page 27 of the application, the original application.
7 They admit it. But it's -- you know, maybe it will
8 cost a little more money. Come on. This is a
9 multi-million dollar corporation. They can afford
10 it, and we poor slobs are over here fighting amongst
11 ourselves; and this is part of the game plan. That's
12 all I have to say.

13 MR. CLOUTIER: Thank you. I asked, and he
14 kindly agreed, our Town Planner, to possibly address
15 this. Would you raise your right hand, please, sir.

16 **T H O M A S K R A V I T Z**, first having been
17 duly sworn, testified as follows:

18 MR. CLOUTIER: State your name, please, for us.

19 MR. KRAVITZ: Thomas Kravitz. The only
20 clarification I can provide is that the Planning
21 Board did not, in fact, see that report that was
22 prepared by Ms. Sloman; but I did, as soon as I got
23 it, I forwarded it right away to McElroy and Hessler
24 to confirm as to what, you know, what the findings
25 are. I asked Hessler to give us some feedback. This

1 was happening by email because it was very close to
2 the Planning Board's meeting, and Hessler -- Hessler,
3 when he saw who it was from, Ms. Sloman, he fell back
4 on his position -- without getting into the specifics
5 of the facility she was describing, he fell back on
6 the position that the low octave bands, and this is
7 on Page 19 of the advisory opinion of the Planning
8 Board, that, "CREC won't substantially change or
9 increase the low frequency sound in any meaningful
10 way. That means that any potential impact on
11 wildlife from the low frequency noise, if there is
12 one, is already present from the existing Spectra
13 turbine." So, his position has always been that he
14 said the facility will not add to what Spectra
15 is already doing. So, that's what the Planning
16 Board has. The last paragraph on this Page 19 of
17 the section, says, "Accordingly, it is our
18 opinion . . .", and that is the opinion of the
19 Planning Board, ". . . that the CREC facility will be
20 able to comply with our Noise Ordinance provided the
21 Zoning Board of Review grants Invenenergy a
22 waiver/special use permit exempting the CREC from the
23 octave band limits of the Ordinance." So, they're
24 really just throwing it on you guys.

25 MR. CLOUTIER: Thank you. Thank you for that,

1 too. I'm going to read this into my advisory opinion
2 later on; but his opinion, I'll read to you what the
3 advisory that the Planning Board sent to us on this
4 matter; but also remember that when we make our
5 advisory opinion, we can put a condition on it that,
6 if this noise is not -- these noise standards are not
7 met, that the plant permit be revoked. We'll make
8 that one of the conditions of our advisory opinion.

9 MAN FROM THE AUDIENCE: Just say no. Just say
10 no.

11 MR. CLOUTIER: I will put that in as a condition
12 on our advisory opinion to the EFSB; but here's what
13 the Planning Board told us, and the Planning Board --
14 I mean I have to believe that the Planning Board did
15 extensive studies on everything, and here's what they
16 said to us. "As to the requested octave band review
17 Special Use Permit, we are of the opinion that the
18 evidence, especially the testimony of the Town's
19 noise consultant, has shown that the octave band
20 limits are unreasonably restrictive. The waiver will
21 not increase the low frequency noise already present
22 in the area due to the Spectra Algonquin Facility,
23 and there will be no adverse effect on residents or
24 wildlife if the waiver is granted. We, therefore,
25 recommend to the Zoning Board that the waiver should

1 be approved, if the conditions set forth in Paragraph
2 3 on Page 20 are strictly complied with," which
3 basically they're saying the same thing. If they
4 don't comply with all the noise, it will be rejected.

5 WOMAN FROM THE AUDIENCE: How do we know if
6 they're going to comply? It's already going to be
7 built. Come on, guys.

8 MR. PUTNAM: Can I just say a couple of words?

9 MR. CLOUTIER: You have something new, sir?

10 MR. PUTNAM: Yes, I do. My name is Kenneth W.
11 Putnam, Jr.

12 MR. CLOUTIER: Raise your right hand.

13 **K E N N E T H W. P U T N A M, J R.**, first
14 having been duly sworn, testified as follows:

15 MR. CLOUTIER: Let's hear something new, sir, or
16 we'll stop it now.

17 MR. PUTNAM: Well, I don't know if it's new or
18 not, but --

19 MR. CLOUTIER: I asked you, and you said it was
20 new.

21 MR. PUTNAM: Well, to me, everything here is
22 pretty new to me.

23 MR. CLOUTIER: Well, you've been to all the
24 hearings, sir.

25 MR. PUTNAM: I have been to all of them, yes.

1 Believe me, I've been to all of them. One thing I
2 want you to know. You folks are like us. You live
3 here in town, right; and I'm only going to give you
4 common sense. I don't have that college degree, but
5 I'm going to tell you, there's so many things that's
6 wrong with this. This woman that came in that said
7 these trucks could come up through Pascoag without
8 any problems, she was shot down up there. She didn't
9 even know. She never traveled the road or anything.
10 They hit her with that. But here's the other thing
11 here. You have to realize that this noise up there,
12 DEM has not come out in the zoning -- and the other
13 Board said they weren't going to make any decisions
14 on it until DEM come out and said something about it,
15 about the wild animals that are going to -- they
16 haven't, and they came out after that and said they
17 don't want to give a report until after the first of
18 the year. Well, how can we give a report if they're
19 not going to give a report? We shouldn't give them a
20 report. We should hold it down and say no, unless
21 they can come up and say, oh, hey, DEM says it's not
22 going to interfere with the animals. They're the
23 experts here. We aren't here. DEM is the experts,
24 right. Why am I the experts? They should be given
25 us that opinion before you guys here should be voting

1 on that and giving them any variance whatsoever for
2 that project. (Applause.)

3 And you guys here, this is our home. I would
4 like to tell you something new here, too. You see,
5 there's not many people here, but do you know how
6 many people are interested in this in this Town?
7 There's so many people. And, if you just ride around
8 the back roads, you'll see it. A lot of people
9 can't, and they're scared to even come to these
10 meetings. A lot of them work late. They can't get
11 here, and they're counting on us; and that's why we
12 here are counting on you folks up there to hold up
13 this for us. That's all I can say.

14 MR. CLOUTIER: Thank you, sir. A couple of
15 phrases that you used, Mr. Putnam, make an awful lot
16 of sense, common sense. As you know, we're going to
17 try our best here; but, as you know from attending
18 the Planning Board meetings, the Chairman of the
19 Planning Board stated frequently, many, many times,
20 that they don't have all the information they need.
21 We don't have (noise from the audience) -- shouting
22 me down is not going to help matters. I agree if
23 things were done in an orderly manner the way they
24 should be done, we would, all of us, have all the
25 facts necessary to make an informed decision.

1 However, that's not how this works. So, we're going
2 to do as the Planning Board did. We're going to do
3 our due diligence. We're going to do the best we
4 can. We're going to give some kind of an advisory
5 opinion with what we have, but we're limited. We're
6 constrained. We have time limits. We have all kinds
7 of limits. We have deadlines. This is the way it
8 is. And we can yell, shout, curse, get mad at each
9 other, raise our tempers, raise our voices; none of
10 it is going to matter. None of it is going to help.
11 We have to do what we have to do. We're going to get
12 through this. We're going to give our advisory
13 opinion. Some of you I'm sure will not agree with
14 it. Hopefully, people will agree with what we're
15 doing. As Mr. Putnam just so eloquently stated, we
16 are also Town residents. We're not here to harm the
17 Town. Give me a break. So, you know, we're going to
18 do the best we can with what we have is basically the
19 best way that I can put this, but shouting at each
20 other is not going to help anybody; and repeated,
21 repeated, repeated the same things over and over
22 again is not going to drive home any points that have
23 not been made. So, you know, I mean if you want to
24 waste more of our time and your time, feel free.
25 I guess it's the way it's going to be, but,

1 you know, --

2 MR. NIKOLYSZYN: I'd like to add to that.

3 Mr. Putnam raised a very good point. We do not have
4 all the information that we would like. There are
5 other agencies that are doing their work. They will
6 not do or finish their job, most likely -- let's take
7 DEM, for an example. They probably won't finish
8 their job for another year. Under the law, we have a
9 responsibility to give us -- give the Siting Board
10 our opinion; and they gave us a certain time limit,
11 and that time limit is not arbitrary. It's written
12 into the law. That time limit provides that, if we
13 do not provide our opinion as to what we want,
14 whether we think something should be done or
15 something should not be done by a certain date, and
16 that date happens to be, I believe, September 12th
17 because it falls on a Monday; if we don't provide
18 them with our advisory opinion by that date, we waive
19 our right to have our voices heard. So, if we don't
20 like what Invenergy is doing and we don't provide our
21 opinion to the Siting Board by that date, they ignore
22 it. We waive our right to be heard. So, we have to
23 do what we can by that date. We would love to hold
24 back and wait for everybody to finish their job to
25 our satisfaction and then render an opinion; but, if

1 we don't have that, we still should be heard.
2 We should tell the Siting Board what we want or don't
3 want, or we just waive our right. Your voices will
4 not be heard. So, please allow us to do what we can
5 with what we have.

6 MS. POTVIN: I just have a brief statement.

7 MR. CLOUTIER: Raise your right hand, please, so
8 I can swear you in.

9 **D E N I S E P O T V I N**, first having been duly
10 sworn, testified as follows:

11 MR. CLOUTIER: State your name, please.

12 MS. POTVIN: Denise Potvin from Harrisville.
13 Most of us in this room have raised children or are
14 in the process of raising children. I have three
15 that are in their 20's. If they come to me and they
16 ask me to go out to a party with their friends, and I
17 ask them whose house, who is going to be there, is
18 there going to be alcohol, who is driving, if they
19 can't answer those questions to me, the answer is?

20 SEVERAL VOICES FROM THE AUDIENCE: No.

21 MS. POTVIN: Your advisory opinion, we
22 understand. We want our voices heard. We know that
23 you're part of our family in some ways. Our voices
24 are telling you, if you don't have enough information
25 or you have conflicting information, just say no.

1 MR. CLOUTIER: Raise your right hand, please.

2 J E R E M Y B A I L E Y, first having been duly
3 sworn, testified as follows:

4 MR. CLOUTIER: State your name, please.

5 MR. BAILEY: Jeremy Bailey, J-E-R-E-M-Y,
6 B-A-I-L-E-Y. I'd like to address the letter that
7 I've heard read at several different meetings from
8 Mr. Hessler, and I'm deeply disturbed by it; and, to
9 paraphrase what you just read, was that since
10 Invenergy -- since Spectra is already making the
11 noise, then we're not making it any worse.

12 I'm going to make a little analogy for you. If
13 I tell my kids, "Be quiet, it's time to go to bed,"
14 and I go upstairs and I find two of my children
15 making noise, and one of them says, "Yeah, but,
16 daddy, she was making more noise," guess what?
17 They're both in trouble. They're both being
18 disciplined. How dare Mr. Hessler take it upon
19 himself to say, "You know what? Spectra is already
20 putting these low frequencies in; so, why not let
21 somebody else?" As a matter of fact, you may or may
22 not be aware, but our Town, this, our Town, has
23 already written a letter to FERC addressing those low
24 frequency noises and those low frequency vibrations
25 that we're getting, and they're -- they're strongly

1 worded, I believe Oleg wrote it, that they need to
2 mitigate it. They need to change the turbines. They
3 need to do something to fix it. So, the excuses that
4 you're going to allow or advise that they waive any
5 type of our Noise Ordinance because someone else is
6 already violating it is wrong; and, to
7 Mrs. Potvin's -- (Applause.) And, to Mrs. Potvin's
8 point, your job in this case is to just say no.

9 And I'd like to finish with this: I'd like to,
10 by a show of hands, how many people on our Zoning
11 Board live within one mile of the proposed site of
12 this power plant, please?

13 (Whereupon, Mr. Johnson and Mr. Keeling raised their
14 hands.)

15 MR. BAILEY: One, two. Thank you. So, there's
16 two of you up there that do. Thank you, that's it.

17 MR. CLOUTIER: Raise your right hand, please.

18 **KATHRYN SHERMAN**, first having been
19 duly sworn, testified as follows:

20 MR. CLOUTIER: State your name, please.

21 MS. SHERMAN: Kathryn Sherman, K-A-T-H-R-Y-N,
22 S-H-E-R-M-A-N. I'd like to thank the Board for being
23 here tonight. I know this is difficult for you, just
24 as it is for us. I'd like to address the data that
25 came in today, specifically, the letter from Hankard

1 Environmental addressing the octave band noise levels
2 on the site. First of all, if the octave band noise
3 levels that we have here in Burrillville are
4 extremely low, they must be low for a reason because
5 good men and women like you set that limit; and, if
6 you want to do business in this Town, like any other
7 business, you have to adhere to the rules. We
8 hear -- we have to adhere to the rules. You've asked
9 us to comply with your rules. That's our octave band
10 level, and there's no reason why we should have to
11 submit a waiver.

12 My second point, again with Mr. Putnam's common
13 sense, I'd like to know who asked for this waiver.
14 That property is owned by Spectra. There's only an
15 intent to purchase it by Invenergy. They don't even
16 own the land. So, if the octave band level is going
17 to be granted and it's going to be granted to
18 Spectra, they're non-complying anyway. So, you
19 wouldn't provide a waiver to a non-complying
20 property. So, if it's a non-complying entity that's
21 asked for the waiver, then they don't have standing.
22 If it's Invenergy that asked for the waiver, they
23 don't own the property. So, there's your out with
24 common sense. (Applause.)

25 Secondly, in this document from Hankard

1 Environmental, on the second page, the first sentence
2 states that, "The site of the proposed CREC facility
3 is within an industrial-zoned parcel next to the site
4 of a natural gas compressor station." It's not an
5 industrial-zoned site. It's an F-5 site, an F-5.
6 (Applause.) F-5 is farming, and what do we have on
7 farms? We have animals on farms. So, if the octave
8 band level disrupts wildlife, or any life, it's a
9 little unfortunate that maybe my human life isn't as
10 important as some animal life, but I'll go with
11 anything right now. If the octave band level is
12 going to negatively impact farm life, that's the
13 zone. That's the zone for that property. Again, if
14 Invenergy cannot live within the rules, then they
15 shouldn't be granted a waiver. (Applause.)

16 One last point in Mr. Hankard's letter. He did
17 literature review because he's not an expert in noise
18 for octave band levels and the impacts on animals;
19 and, to quote, "The literature I have read does not
20 speak in terms of absolute levels," and the phrases,
21 "data lacking" and "needs more study" are frequent.
22 That sounds like Invenergy's application to me.
23 Thank you.

24 MR. CLOUTIER: We've heard from you, sir.

25 MR. WOODS: Yeah, but --

1 MR. CLOUTIER: We've heard from you, sir.

2 MR. WOODS: You didn't hear about this.

3 MR. CLOUTIER: No, it's okay, just once.

4 MR. WOODS: Just once?

5 MR. CLOUTIER: No, no, no.

6 MR. WOODS: Just the process. Granting a
7 variance before you grant the special exception is
8 out of order because, if you're granting a variance,
9 why would you grant a variance to something that it
10 might not fit? If it fits, you're allowed by
11 Superior Court -- Supreme Court case, Oleg, which I'm
12 sure you know, is City of Newport vs. Lloyd; and what
13 it says is that a variance cannot be given to someone
14 looking for a special exception until the special
15 exception is approved because, by nature of a
16 variance or a waiver, it says that it does not fit.
17 It does not meet all the requirements. It is not in
18 harmony with the ordinance. So, it has to be
19 approved first or at least given a consent for a
20 special exception before you can entertain a variance
21 or a waiver.

22 MR. CLOUTIER: You are way over your two minutes
23 please.

24 MS. SLOMAN: I just want to answer.

25 MR. CLOUTIER: Is there someone else?

1 MS. SLOMAN: I just wanted to answer Oleg.

2 MR. CLOUTIER: You have been way, way over your
3 two minutes.

4 MS. SLOMAN: Mr. Oleg, my -- the email that I
5 received from Mr. Hessler, the letter that I
6 received, the email that I received back from
7 Mr. Hessler was on Sunday, the 21st of August.

8 MR. CLOUTIER: Raise your right hand.

9 **FRANK SILVA**, first having been duly
10 sworn, testified as follows:

11 MR. CLOUTIER: State your name, please.

12 MR. SILVA: Frank Silva, F-R-A-N-K, S-I-L-V-A.
13 With regards to Spectra, Mr. Hessler mentioned that
14 the low octave band would basically be hiding what
15 Invenergy's output would be from their low octave
16 band, is that correct?

17 MR. CLOUTIER: State your case, sir.

18 MR. SILVA: No, I'm just asking you.

19 MR. CLOUTIER: We're not answering questions
20 from the audience. State your case, please.

21 MR. SILVA: All right. So, what I'm getting at
22 is right now Spectra is applying before the FERC to
23 do some more expansion. This whole octave band is
24 not going to go away; and, believe me, this whole
25 audience is really interested in this sound and

1 getting it mitigated. So, at some point, there's a
2 very good chance that Spectra is going to bring down
3 those low octave bands; and, if you give them a
4 waiver, where's their octave bands going to be? That
5 sound is just going to be radiating all the way
6 through. You get my picture? You can't give them a
7 waiver, all right. Thank you.

8 MR. CLOUTIER: Okay, thank you. That concludes
9 the public portion of the hearing. Public portion is
10 closed.

11 MR. NIKOLYSZYN: Mr. Chairman, I do have one
12 question to Ms. Noonan. Since this application was
13 filed and since we last met, the project envisioned
14 the use of water from Pascoag Well Number 3-A, which
15 I understand Pascoag and Harrisville both have now
16 retracted their commitment to do so. Can you shed
17 any light to this Board as to what your proposal now
18 will be with respect to use of water?

19 SEVERAL VOICES FROM THE AUDIENCE: Swear her in.

20 MS. NOONAN: In response to that question, the
21 issue is the water, obviously. We are in discussions
22 to obtain an alternate source that's not related in
23 any way to Well 3-A. Those discussions are
24 progressing, but there's nothing that we can provide
25 or state publicly at this time. So, those are --

1 obviously, the water is essential to the project;
2 but, at this time, as I said, we can't disclose those
3 negotiations. We will as soon as we can make it
4 public.

5 MR. CLOUTIER: Are you in active negotiations
6 with a water source?

7 MS. NOONAN: We are, yes.

8 MR. CLOUTIER: And you're not going to divulge
9 any source at all?

10 MS. NOONAN: I can't at this point except to
11 tell you it's not 3-A.

12 MR. CLOUTIER: I think I'll give you my -- also,
13 I find it a little unfair we were given this report,
14 and correct me if I'm wrong, but we had no advance
15 warning that there was going to be any alternate
16 truck routes being submitted to us tonight.

17 MS. NOONAN: They are -- as I said, the report
18 submitted previously had been provided. I had spoken
19 with the Solicitor this morning. If it causes a
20 problem, I can retract them; but they are already a
21 public record. I didn't know what the Zoning Board
22 had access to. They were part of the Planning Board
23 record, and I provided them to supplement the
24 transcripts that are admitted as part of the record.

25 MR. PATRIARCA: Ms. Noonan, I have a question

1 for you. Please explain to me why you think we
2 should grant you a waiver on the octave band waiver.
3 Why do you think you should get that? Because I have
4 a problem with that.

5 MS. NOONAN: Certainly.

6 MR. PATRIARCA: Hold on. Number 2, where do you
7 plan on getting --

8 VOICE FROM THE AUDIENCE: Use the mike.

9 MR. PATRIARCA: Sorry. Where do you plan on
10 getting your water from? I would like to know that
11 because I also have a problem with that. What are
12 you doing with traffic control, road construction,
13 everything? I just have a big problem with the
14 octave band waiver.

15 WOMAN FROM THE AUDIENCE: Can she please be
16 sworn in like everyone else.

17 VOICE FROM THE AUDIENCE (different voice):
18 She's a lawyer.

19 MS. NOONAN: Mr. Patriarca, were you present?
20 You weren't present at the last Zoning Board hearing?

21 MR. PATRIARCA: No, but I can still ask
22 questions.

23 MS. NOONAN: Oh, no, no, that wasn't my point.
24 The point I am going to is the issue of traffic and
25 construction. We did go through all that. In fact,

1 I had McMahon. We went through all that.

2 MR. PATRIARCA: I understand; but, since you
3 have changed your plans on the water, since you can't
4 get it from Pascoag and Harrisville, you have to get
5 it from somewhere else. So, this will all change
6 going forward also.

7 MS. NOONAN: All right. Well, let me answer
8 your questions sort of in the order they came
9 through. On the octave band waiver, it is our
10 request for the waiver; and it is, in fact, the
11 entire reason why your Zoning Board exists is to give
12 variations and approvals that are not directly in
13 accordance with the letter of the law. So, our
14 request for that is based on the science of sort of
15 the noise frequencies; and, from our expert and from
16 Mr. Hessler, the fact that the Ordinance: (1) is
17 unreasonably restrictive; and, secondly, that,
18 effectively, it does not relate to a translatable
19 issue or problem, really, is what it is.

20 The question that came before the -- the
21 question that came before the Planning Board had to
22 do with effects on wildlife, and that was the
23 follow-up question from the last meeting; and, again,
24 you know, our expert looked at it, and Hessler did,
25 saying that they did not believe that there would be

1 an impact. The questions were just brought up about,
2 you know, if Spectra reduces its, if it does reduce
3 its, what impact that will be. Mind you, Spectra is
4 already allowed to be at the higher dB level.

5 I don't know if --

6 (Noise from the audience.)

7 MR. CLOUTIER: Please, you may not agree, but
8 you've got to give her a chance to respond.

9 MS. NOONAN: So, that's the point on the octave
10 is that there was no effect upon -- on the wildlife.
11 That's the position; and, if Spectra does reduce it,
12 as I say, they are allowed to have a higher dB level
13 per FERC. They are above the Town's limits. We're
14 down to 43. What impact, you know, a change or
15 something will have on the low octave, we don't have
16 that information at this point; but we're basing it
17 on the science from both our expert and on the Town's
18 that the low octave band waiver is appropriate in
19 this case, as waivers are granted by this Board on
20 many other occasions.

21 MR. PATRIARCA: That's fine. I understand we're
22 a Board here, and we need -- (noise from the
23 audience) we operate -- we're a Zoning Board here,
24 and we grant variances and special use permits when
25 we have the proper information. If we don't have

1 that information, how can we grant this stuff? So, I
2 have a big problem with that. (Applause.)

3 MS. NOONAN: I do believe that we have provided
4 as much evidence as we can on this through expert
5 testimony, and you have the benefit of the peer
6 review from your Town. I honestly don't know what
7 else could be provided. This topic has been
8 exhaustively, exhaustively reviewed (noise from the
9 audience). People, really, I'm trying to address the
10 Board member. Can you just give me a little quiet.
11 I don't speak when you speak (further noise from the
12 audience).

13 MR. CLOUTIER: Please, please. We've got to get
14 through this. I mean why would you want to drown
15 somebody's voice that's giving us an answer? I mean
16 I would think we're better than that. I mean I'm
17 sorry.

18 MS. NOONAN: Apparently not.

19 MR. CLOUTIER: I'm not in the business of
20 admonishing people, but we got to let people answer
21 our questions. We're all talking about how we don't
22 have answers; and somebody wants to give us an
23 answer, we shout them down? Is that the right thing
24 to do? Okay, we're done.

25 MAN FROM THE AUDIENCE: We apologize,

1 Mr. Chairman.

2 MR. CLOUTIER: Thank you. All right, Oleg.

3 MR. NIKOLYSZYN: The Board should --

4 MR. CLOUTIER: We're up for discussion between
5 ourselves, amongst ourselves.

6 MR. NIKOLYSZYN: You should make some sort of a
7 motion and open it up for discussion.

8 MR. CLOUTIER: Anybody have anything to discuss?

9 MS. COONEY: I'm confused about something.

10 I don't remember Spectra coming before us. Did we
11 not have anything to do with them? I mean that's a
12 different issue, but --

13 MR. CLOUTIER: Joe?

14 MR. RAYMOND: The Energy Facility Siting Board
15 only addresses the power creation. Spectra Energy is
16 under a Federal program, regulated by the Federal --
17 the FERC. So, they don't come to us, unless the FERC
18 requests them to. Sometimes they do. They actually
19 did in the case of the smaller compressor that was
20 put on over at the Narragansett Electric Ocean State
21 Power facility from Tennessee Gas back about 10 years
22 ago; but, normally, they don't do that.

23 MS. COONEY: I have one other question.

24 MR. CLOUTIER: Bottom line on that type of
25 question, that question, we had no input then either.

1 MS. COONEY: Okay.

2 MR. RAYMOND: We actually had to --

3 MS. COONEY: I think I recall, in fact, that
4 Ocean State Power is doing some upgrades, is that
5 true? We don't know that for a fact either? Because
6 if, in fact, they are, they might be coming up to the
7 same level as the Invenergy project; but I have been
8 told or thought I read somewhere that they were doing
9 extensive upgrades.

10 MR. RAYMOND: If they are, that will be in front
11 of the Energy Facility Siting Board also.

12 MS. COONEY: Okay. So, that's -- there's
13 nothing official about that or nothing that's been
14 said?

15 MR. RAYMOND: We haven't been notified of
16 anything.

17 MS. COONEY: Okay. You know the rumour mill.
18 I'm trying to weed it all out.

19 MR. NIKOLYSZYN: If I may answer that question?
20 I was involved with the litigation with Ocean State,
21 and we're in the process of litigating and
22 negotiation on a settlement. An awful lot was
23 discussed regarding the cost versus the benefit of
24 expanding or keeping the plant operating. They were
25 even considering building a separate unit, in

1 addition to what they have now because the usefulness
2 of the present machinery is running out; and the cost
3 of renovating one particular generator was somewhere
4 around 40 million dollars, and they weren't sure
5 whether or not they were going to keep it operational
6 or put more money into it; and they weren't sure how
7 much longer it was going to last. So, that happened
8 approximately six or eight months ago.

9 MS. COONEY: So, I'm not cracking up. I did
10 read in here about that --

11 MR. NIKOLYSZYN: You did read about it.

12 MS. COONEY: -- potential expansion.

13 MR. NIKOLYSZYN: We discussed it at length. We
14 discussed it for months. I don't know what's going
15 to happen going forward.

16 MS. COONEY: Okay.

17 MR. CLOUTIER: George, you got to have
18 something.

19 MR. KEELING: Yeah. Based on all the testimony,
20 I --

21 VOICE FROM THE AUDIENCE: Use the mike.

22 MR. KEELING: Based on the testimony that I've
23 heard from everybody tonight and how we conduct our
24 own affairs, until I get more facts, my answer is no,
25 because -- (Applause.) -- because there's just too

1 much left out, too much reading between the lines
2 here. I want to know where that water is coming
3 from. (Applause.)

4 MS. COONEY: Okay, another question, and it goes
5 to something that was testified to down here
6 regarding whether a waiver was a legal way to handle
7 it, whether we were allowed to give a waiver
8 according to the law that was discussed by one of the
9 gentleman down here. Can you address the legalities
10 of the waiver?

11 MR. NIKOLYSZYN: Yes. The first question that
12 should be addressed is whether or not a Special Use
13 Permit is going to be granted or not; but, once
14 again, you do not make that decision. All you can do
15 is submit an opinion to the Advisory Board -- I mean
16 to the Siting Board. They can ignore your opinion;
17 they can modify your opinion; they can come up with
18 their own reasoning. But, with respect to the normal
19 process, let's say this is not a Siting Board
20 situation but it's a regular application that you are
21 about to make a decision upon; you would first have
22 to make a decision on whether or not to grant a
23 Special Use Permit before you address the issue of
24 the variance.

25 MS. COONEY: Thank you.

1 MR. CLOUTIER: Thank you. You have to remember
2 there are too many people practicing law.

3 MAN FROM THE AUDIENCE: Especially with the
4 right answers.

5 MR. CLOUTIER: Michele.

6 MS. CARBONI: Come back.

7 MR. CLOUTIER: Good. Jeremy?

8 MR. KEELING: She said come back to her.

9 MS. CARBONI: Come back to me.

10 MR. PAGE: Well, I guess this is just a
11 question, but it is a concern I have is: With
12 regards to the water issue, if the plant goes through
13 beyond our control and water is not coming from a
14 local source, say, like Pascoag or any other place
15 locally, if it's trucked in or if it's brought in
16 through some other way, the added fuel to move the
17 water around would also be a concern because you're
18 burning fuels to get the water, burning more fuel for
19 energy, sort of like an added fact. So, not so much
20 a question, just a topic of discussion here.

21 MR. CLOUTIER: Would you like to ask Ms. Noonan
22 the question or --

23 MR. PAGE: What is --

24 MS. NOONAN: We are not contemplating trucking
25 the water in.

1 MR. PAGE: Okay, I guess that was my question.
2 Would that be a source in any situation, I suppose,
3 or --

4 MS. NOONAN: I don't suppose I can say any
5 situation, not knowing -- you know, I mean I know
6 there are situations where it's occurred here; but
7 it's not our plan to truck in water for the daily
8 uses of that plant.

9 MR. PAGE: Okay, thank you.

10 MR. KEELING: Would it be your plan to dig up
11 our roads and pipe it in?

12 MS. NOONAN: I said at this point we don't
13 have -- I said we're not trucking it in. So, water
14 only comes in so many ways, but we don't have -- we
15 don't have that fixed yet, due to the changes from
16 where we were before.

17 MR. KEELING: Will you provide us with that
18 information?

19 MS. NOONAN: As soon as we have it and we can do
20 it, we will.

21 MR. KEELING: If we give an advisory opinion
22 tonight, we'll have to give it without that.

23 MS. NOONAN: Sir, I understand. I wish I had
24 that for you.

25 MR. KEELING: Okay.

1 MS. CARBONI: I have a question. What will
2 happen to the fill while they're building this, as
3 they're constructing --

4 VOICE FROM THE AUDIENCE: Can't hear her.

5 MS. CARBONI: I said what will happen to the
6 fill as they're building this project?

7 MS. NOONAN: As I sit here, I don't --

8 MS. CARBONI: Where is that going?

9 MS. NOONAN: I don't have those plans in front
10 of me. We do have -- we have an ordinance in town on
11 this type of thing. We have to comply with that
12 ordinance. So, again, I haven't -- I don't have the
13 details on where the fill would be; but the building
14 permits will be issued, and that will be monitored
15 and will have to be in accordance with law; but I
16 don't have the information tonight.

17 MS. CARBONI: Shouldn't you already have these?

18 MS. NOONAN: The way the process works I know
19 seems cumbersome, and it's different than the normal
20 procedure; but we're going into hearings before the
21 Energy Facility Siting Board, and things are
22 developed in a certain way. So, we do not have fully
23 designed plans, as almost any project that comes
24 before you does not have fully designed plans; and,
25 certainly, the cuts and fills for the --

1 MS. CARBONI: That's not so. Most projects that
2 come before us do have a full set of plans.

3 (Applause.)

4 MS. NOONAN: I don't know how Burrillville's
5 practice is. I have been doing this for 25 years.
6 I don't present construction plans to a Zoning Board.
7 On the Planning Board we'll have some of that
8 information, but that detail frequently gets in on
9 the building plan and later, later on with the
10 building permit. The actual plans for construction
11 are different than the plans for zoning, in my
12 experience. Burrillville may be different, and I
13 understand that; but, in my experience, construction
14 plans differ from zoning and planning submissions.
15 So, my short answer is I do not have that.

16 MR. CRAIG: Mr. Chair, if counsel is going to
17 testify, --

18 MR. KEELING: Sir, the public part of the
19 testimony has been closed.

20 MR. CRAIG: She has to be sworn in.

21 MR. CLOUTIER: The person testifying -- the
22 person testifying for Invenergy is an attorney.

23 VOICE FROM THE AUDIENCE: Swear her in then.

24 MR. CLOUTIER: Excuse me.

25 MR. CRAIG: I was an attorney, and they insisted

1 that I be sworn in.

2 MR. CLOUTIER: Sir, I did not know you were an
3 attorney.

4 MR. CRAIG: I am an attorney. I will concede I
5 am not licensed in Rhode Island.

6 MR. CLOUTIER: I apologize, sir. I did not know
7 that. You did not identify yourself as an attorney.

8 MS. NOONAN: For those that don't know, it is
9 the practice in the State of Rhode Island that
10 attorneys are not sworn under oath. We are officers
11 of the Court. That is our obligation.

12 MR. CLOUTIER: Jeremy, you all set?

13 MR. PAGE: Yes.

14 MR. CLOUTIER: John? Michele, you done?

15 MS. CARBONI: Yes, I think so.

16 MR. JOHNSON: Mr. Chairman, maybe I'm missing
17 something here. The application that we have in
18 front of us refers to a Special Use Permit and a
19 height variance; am I correct in assuming that's why
20 they're in front of the Board, a Special Use Permit,
21 obviously, and the height variance?

22 MR. CLOUTIER: Correct.

23 MR. JOHNSON: Now, just going by the way the
24 Board normally does business, obviously, this is a
25 little different than the way we normally conduct our

1 hearings; but, generally, we have construction
2 documents in front of us showing -- let's just go to
3 the variance for the height on the structures, on the
4 super structures, the chimneys and whatnot that
5 you're asking relief from. Generally, we have
6 diagrams showing the structure itself. A lot of
7 times when we were dealing with a tower issue in
8 Town, years back, some of you remember that, when the
9 tower companies wanted to come in, they basically had
10 testing in the area. Where they were going to put
11 the tower, they would either put up a big balloon or
12 some sort of something to give the residents of the
13 Town an idea of what they would be looking at, once
14 this thing was built; and I find it hard to make any
15 sort of recommendation, never mind an advisory
16 opinion, on something that I've seen pictures of.
17 I don't have any particular concerns. Our documents
18 in our Zoning Ordinance specifically ask, if you want
19 a Special Use Permit, establish detailed record,
20 submissions of drawings, maps, plats, specifications
21 that can be put in front of this Board to be able to
22 make some sort of a rational decision on whether we
23 want to move forward on something like this.

24 Now, I understand from our Solicitor that there
25 is information from, basically, the Army Corp of

1 Engineers, Department of Environmental Management, a
2 number of other agencies that have not come forward
3 with their information. I understand that's not
4 available to us; but some of this basic information
5 that we normally see on a general, everyday basis
6 from somebody that comes to us if they have a garage
7 that's going to be a little bit taller than it needs
8 to be, they show me a drawing. They give me an idea
9 of where it's going to go on their property. I get a
10 picture of their house, a picture of what it's going
11 to look like, so that I can make some sort of a
12 determination on whether -- I mean if in the off
13 chance that this gets approved, we, you know, as
14 residents of the Town and this Board, we would like
15 to know specifically what this thing is going to look
16 like sticking up out of the ground over there. So, I
17 know this is closed to the public, and we're speaking
18 amongst ourselves; but I have a problem, basically,
19 trying to come to any sort of conclusion here.
20 I have a lot of papers. I have a lot of papers.

21 MS. NOONAN: Do you have the plan sets that were
22 submitted?

23 MR. JOHNSON: I have a lot of information, but
24 it's -- you know, it's not very explicit, and it's
25 not very -- I mean, from what we're looking at and

1 from what I have to look at, and I'm in the
2 construction field, I don't see anything that's going
3 to make me feel comfortable with making any sort of a
4 decision here tonight or in the future, you know,
5 without some of this information as a Board that we
6 normally receive.

7 MS. NOONAN: You have the plans, the set of
8 plans.

9 MR. JOHNSON: I have a set of plans, very small
10 set of plans, with no detail to them whatsoever.
11 If you want to -- if you're stating -- and I'm not
12 trying to -- I don't know if you can see that, that
13 little picture there, but that's the plant right
14 there (indicating); and I have a problem with that,
15 because I can see that you're going to put a plant,
16 but I don't see the detail. (Applause.)
17 I apologize. I see that the plant is going there;
18 but, normally, when we as a Board gather to make any
19 sort of determination, whether it be advisory or not,
20 we generally have more information; and I'm not
21 asking for the Army Corp of Engineers to give me
22 something. I'm not asking for DEM to give me
23 something. I know what they're -- I know the height
24 of a house. I just want to see how it's going to
25 reflect, if this thing gets approved. So, as a Board

1 member, I have a problem with it on the most basic
2 level, that we don't have a lot of the information.
3 I think Invenergy should have had a little bit more
4 information supplied to us just on the plan itself,
5 just on what you're going to do up there. I mean
6 never mind that you don't own the land. I'm not even
7 going to get into that. I don't have anything here
8 in front of me that tells me that this is going to be
9 what it's going to be, which I don't know what it's
10 going to be. I can't make that determination, as a
11 Zoning Board member. I guess, getting to that point,
12 it's going to be hard for me to make any sort of a
13 rational decision here.

14 MS. NOONAN: I mean that is the submittal that
15 we have.

16 MR. JOHNSON: I understand that, and you've got
17 to understand where I'm coming from, too.

18 MS. NOONAN: I understand.

19 MR. JOHNSON: If you were sitting here and I
20 showed you something of this small a scale on
21 something that's going to be so big, --

22 MS. NOONAN: Well, those are the size that we
23 were asked to produce. I could have given you full
24 sheets, if that's what you wanted, but I don't think
25 that's your point.

1 MR. JOHNSON: No, but this is what I was
2 supplied with. I mean you can have --

3 MS. NOONAN: Right, I could blow it up.

4 MR. JOHNSON: You could have put them on the big
5 screen here and showed them to me; but nobody has,
6 and nobody showed me anything. So, I just have a
7 problem with, if you're going to do a project this
8 size and spend this kind of money, you would think
9 that you'd have something a little bit more detailed
10 for me to look at, so -- (Applause.) Thank you.

11 MR. CLOUTIER: Thank you for mentioning that.
12 I thought it was my age, but, really -- and, correct
13 me if I'm not mistaken, but didn't the Planning Board
14 ask you to submit larger plans if they could?

15 MS. NOONAN: I know that they had asked for a
16 larger copy of the survey, and we provided that.

17 MR. CLOUTIER: Okay, Michele, you want to get
18 back to you?

19 MS. CARBONI: I'm sorry?

20 MR. CLOUTIER: You want me to get back to you?

21 MR. JOHNSON: Are you all set?

22 MS. CARBONI: No, I'm okay right now.

23 MR. CLOUTIER: You're okay. Because we're at
24 the point now where we're going to entertain a
25 motion. Remember, it's --

1 MR. JOHNSON: Motion for?

2 MR. CLOUTIER: Denial or approval of our
3 advisory opinion of why you can't approve of this in
4 your -- remember, we're not making a decision. We're
5 only issuing an advisory opinion; and, for the
6 record, something I didn't mention earlier tonight,
7 just a little deviation from our normal voting:
8 We had one member, Mr. Patriarca, missed one meeting;
9 so he's not -- while he's very eligible to
10 participate in all phases, he's not eligible to vote
11 tonight. So, our first alternate, Sandra Cooney,
12 will be voting. Right, are you ready?

13 MAN FROM THE AUDIENCE: Why can't he vote?

14 MR. CLOUTIER: Thank you all so much for your
15 help in conducting this meeting tonight.

16 MR. TRINQUE: Mr. Chairman, everybody that sits
17 up on the stage is not -- and everybody that sits in
18 the audience is not an idiot.

19 MR. CLOUTIER: That's okay, we understand.

20 MR. TRINQUE: I'll throw myself out. Thank you,
21 sir.

22 (Long Pause.)

23 MR. CLOUTIER: We're hopefully going to give you
24 a very detailed advisory opinion. We're going to
25 make a motion through the Chair.

1 Due to the almost total lack of concrete
2 information, we, and the Planning Board before us,
3 have asked in several different ways, several
4 different times, for concrete information from this
5 company; and they've either ignored our questions or
6 evaded them or answered in a very vague manner, where
7 we've gotten no definite answers on, as far as I can
8 tell, anything.

9 They are looking for a Special Use Permit in an
10 F-5 zone. There's no way that I can see that that --
11 that that goes with our Comprehensive Plan and fits
12 in with the land uses of this Town. And I'm going to
13 be quoting a lot from the Planning Board advisory
14 opinion.

15 We lack -- we are lacking an engineering design.
16 As Ken was alluding to a few minutes ago, we have no
17 plans, nothing that we can read.

18 The big question, and we've asked this over and
19 over and over again, available water supply. There
20 is no water supply. As a matter of fact, they've
21 been denied any water from anybody in this Town; and,
22 if they were to attempt to drill a well and draw from
23 the groundwater, it would seriously deplete the
24 aquifer in the whole Town. It would (Applause.) --
25 it would stop any further development. It would

1 cripple the Town from developing anything further
2 after this. And, who knows? There's no guarantees
3 that there's enough water for them. I've heard it's
4 up to a million gallons of water per day demand at
5 times for this plant. That's totally irresponsible.

6 Now, again tonight they answered us very vaguely
7 about a potential water source from somewhere else,
8 but we have no information at all.

9 Part of the Natural and Cultural Resources
10 chapter of our Comprehensive Plan is to maintain and
11 improve the existing quality of drinking water and to
12 reduce and encourage measures which reduce air
13 pollution levels. This certainly does not do that.

14 Our Economic Development. We do have economic
15 development. For those who think that this Town is
16 just a rural town, it's just woods and animals, there
17 is an Economic Development Plan. And "Chapter VII,
18 Policies: Maintain industrial and commercial sector
19 growth at a rate adequate to support the population."
20 This does not do that.

21 "Chapter VIII, Recreation, Conservation,
22 Open Space." VII.2.a.1. (sic. - should be
23 VIII.2.a.1.) "Work toward prevention or mitigation
24 of adverse impacts of human activities on wildlife
25 habitat." As we heard tonight from the testimony

1 from the audience, no one knows how the noise is
2 going to affect our animals which are very important
3 to us.

4 "IX.5.b. Minimize the adverse impacts of power
5 generation and transmission facilities on the
6 environment." This certainly does not do that.

7 And, again, the most important is the public
8 water. The Town will be facing a public water
9 moratorium on future village growth if this is
10 approved. It's unbelievable that we would even
11 consider that.

12 This goes on to say, and I will quote the
13 Planning Board. By the way, I commend the Planning
14 Board for all the hard work and diligence that they
15 did; and that meant starting with and ending with our
16 Town Planner, who did an exceptional job with all of
17 this project.

18 One point I will respectfully disagree with the
19 Planning Board: They recommend that the Zoning Board
20 grant the octave band waiver, Special Use Permit from
21 the octave band limits of the Noise Ordinance.

22 They do say that we should grant that, provided all
23 the conditions set forth in Paragraph 3 are strictly
24 complied with, which is what I mentioned earlier,
25 that we could put a condition on this that, if they

1 didn't meet all our conditions, then the plan would
2 be rejected; but I feel better just not granting it
3 in the first place. (Applause.)

4 For the record, the reason for that is that
5 we've heard too much testimony. We heard from a
6 witness tonight, who did a tremendous amount of
7 research where the octave band can be controlled, can
8 be limited, can be mitigated; and I'm not sure of the
9 source, but the person has quoted several sources
10 that I believe to be legit. So, that's the way I'm
11 going with that.

12 The big problem I have is with their -- and they
13 testified to this, but, of course, there is an
14 existing access road to Algonquin Gas now. They
15 refuse or are unable to come to an agreement with
16 Algonquin Gas, where they insist that they have to
17 build their own access road which would put two
18 access roads, some of which are going through
19 wetlands in very close proximity to each other.
20 I would like -- I do not feel the need for that, why
21 they can't get together with their neighbor.

22 I think maybe I've exhausted everything that I
23 have to put into this, but I want to thank you for
24 your attention and your cooperation at this meeting.
25 It's not easy on anybody, and I thank you for that.

1 Okay, would you pass that down to our members,
2 please.

3 MR. JOHNSON: All right, in regards to the
4 motion being made by the Chairman, I'm going to vote
5 to deny, and I'm going to give you just a couple of
6 reasons why. I think I've spoken to it a little bit
7 tonight: Lack of detail, lack of information to the
8 Board. Also, I -- it's striking, the application,
9 and I can understand why they propose it the way they
10 do, but that this will not alter the general
11 characteristics of the surrounding area is beyond me.
12 (Applause.) So, with that, I vote to deny.

13 MR. PATRIARCA: Mr. Chairman, I would just
14 like to put this on record, even though I do not
15 vote, . . . I wish I could . . . I am extremely
16 insulted that you're very vague on everything we have
17 asked you. I take that personally as an insult.
18 I think the people of this Town take that as an
19 insult. (Applause.) If I were voting, I would vote
20 no; but I'm not, but I just wanted to put that on
21 record.

22 MS. CARBONI: Essentially, this does not fit in
23 with the Town's Comprehensive Plan; and, as members
24 of this Board, we're here to protect the Town,
25 protect the Comprehensive Plan, and this just is too

1 vague. For that reason I'm voting to deny.

2 MS. COONEY: I would just like to say that
3 dealing with this has been very confusing, all the
4 contradictory testimony coming from all sides. You
5 know, everybody can be very effective in presenting
6 their own cases, and it's very confusing and
7 difficult; but we did have to come to a decision.
8 I concur with everything the Chairman said. One
9 thing that wasn't brought up was I think that
10 Invenergy hasn't really proven that the electricity
11 they would generate, that they would be able to sell
12 it and use it so it would be worthwhile to be there;
13 but, as other people have stated, I really am
14 concerned about the water issue and the environment
15 and the animals. So, I vote to deny.

16 MR. KEELING: Well, all the reasons for denial
17 have been made, so I won't add to it. You already
18 know how I feel. I vote to deny.

19 MR. PAGE: Mr. Chairman, I don't have a vote in
20 this as an alternate, but I am skeptical of the
21 relief from the octave band; and I do respect our
22 Town's consultant, Mr. Hessler's opinion; but I am
23 skeptical of having a full relief on it. I'm also
24 skeptical of, in the past hearings from the beginning
25 of the summer, there was heavy reliance on the sound

1 in the start-up and the shutdown, on the contractors
2 for the valve -- there was a heavy reliance from
3 Invenergy on the contractors for making the sound
4 decibels low enough for the valves to make it where
5 they were relying on the contractors to make that
6 happen; and I don't know whether or not that's still
7 the case, but it all falls under the Invenergy
8 envelope or umbrella, ultimately; but it's just
9 another layer of -- that is my chief concern; and I
10 would vote no, if I had to vote tonight.

11 MR. CLOUTIER: Everybody good? Joe, would you
12 like to add any testimony at all to this? Any
13 concerns that you have as the Building Official or
14 Zoning Official? You don't have to, if you don't
15 want to.

16 MR. RAYMOND: I don't think it's necessary.
17 I have an advisory opinion of my own that I have to
18 respond to, and I can do it then.

19 MR. CLOUTIER: Very good. Okay, so, we've heard
20 how you feel. We need to take a formal vote. How
21 are you voting, Ken?

22 MR. JOHNSON: To deny.

23 VOICE FROM THE AUDIENCE: Is there a second to
24 the motion, so we can follow Roberts Rules?

25 MR. CLOUTIER: Okay.

1 MR. NIKOLYSZYN: There is no decision here to be
2 made.

3 MR. CLOUTIER: We're not making a decision.
4 We're only forming an advisory opinion. Your vote on
5 the advisory opinion is?

6 MR. JOHNSON: Is to deny the the Special Use
7 Permit which goes along with the variance.

8 MR. CLOUTIER: Michele.

9 MS. CARBONI: Voting to deny.

10 MR. CLOUTIER: Sandra.

11 MS. COONEY: Deny.

12 MR. CLOUTIER: George.

13 MR. KEELING: Deny.

14 MR. CLOUTIER: And, of course, the Chair will
15 also vote to deny. It's denied unanimously.

16 (Applause.) It doesn't meet any of the standards of
17 our Comprehensive Plan. We all set? Motion to
18 adjourn?

19 MR. KEELING: I will make a motion that we
20 adjourn.

21 MS. CARBONI: I'll second it.

22 MR. CLOUTIER: All in favor?

23 (Whereupon all the Members of the Board responded by
24 saying, "Aye.")

25 MR. CLOUTIER: Opposed?

1 (Whereupon none of the Members of the Board
2 responded.)

3 MR. CLOUTIER: We're adjourned.

4 (The meeting adjourned at 8:49 p.m.)

5 * * * * *

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I do hereby certify the foregoing pages to
be a complete, true and accurate transcript,
according to my stenographic notes, of the hearing
IN RE: HEARING ON ADVISORY OPINION ON INVENERGY
THERMAL DEVELOPMENT, LLC'S CLEAR RIVER ENERGY CENTER,
heard before the Burrillville Zoning Board at the
Burrillville High School Auditorium,
425 East Avenue, Harrisville, Rhode Island, on
August 30, 2016 at 7:00 p.m.

Andrew J. D'Angelo
Andrew J. D'Angelo
Court Reporter

(Signed Electronically)